



CV-24-003155 – WESTERN HILLS WATER DISTRICT vs WORLD INTERNATIONAL LLC

– Defendant’s Motion for Sanctions Pursuant to CCP 128.7 – **DENIED.**

By way of this motion, Defendants World International, LLC, Three60 LLC, Guillermo Marrero, Carmen Kearney, and Douglas Kearney (collectively, the “World Defendants”) seek sanctions against Plaintiff Western Hills Water District and its attorneys of record for the filing of the complaint in this case—a complaint that the World Defendants contend is frivolous and legally unsupportable. Specifically, the World Defendants argue (1) under governing case law interpretation of the applicable statutory language, a public entity (absent certain categorical exceptions) may not bring a California False Claims Act (“CFCA”) *qui tam* action; (2) the individual persons named as defendants in this action (Defendants Marrero, Carmen Kearney, and Douglas Kearney) are not proper defendants; and (3) Plaintiff’s second cause of action fails to state a claim for relief against the Individual Defendants. The Court clarifies that it has not yet issued its final ruling on the demurrer, but for the purposes of this motion, it will assume that the World Defendants’ theories on demurrer are true.

The Court has broad discretion to grant or deny a motion for sanctions under Code of Civil Procedure § 128.7. “Under Code of Civil Procedure section 128.7, a court may impose sanctions for filing a pleading if the court concludes the pleading was filed for an improper purpose or was indisputably without merit, either legally or factually. [Citation.] ... A claim is factually frivolous if it is ‘not well grounded in fact’ and it is legally frivolous if it is ‘not warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law.’ [Citation.] In either case, to obtain sanctions, the moving party must show the party’s conduct in asserting the claim was objectively unreasonable. [Citation.] A claim is objectively unreasonable if “any reasonable attorney would agree that [it] is totally and completely without merit.” [Citations.]” (*Peake v. Underwood* (2014) 227 Cal.App.4th 428, 440, *as modified on denial of reh’g* (July 17, 2014).)

Here, the Court DENIES the motion for sanctions for the reasons set forth below.

To the extent that the motion is brought against Plaintiff itself, the motion is improper and cannot be granted. Section 128.7 is directed toward *attorneys or unrepresented parties* who sign the document at issue. (See Code Civ. Proc., §§ 128.7(a) [“Every pleading,

petition, written notice of motion, or other similar paper shall be signed by at least one *attorney of record* in the attorney's individual name, *or, if the party is not represented by an attorney, shall be signed by the party....*” [emphases added]; 128.7(b) [“By presenting to the court, whether by signing, filing, submitting, or later advocating, a pleading, petition, written notice of motion, or other similar paper, *an attorney or unrepresented party* is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, all of the following conditions are met....”] [emphasis added].) It does not authorize sanctions directly against a represented party.

The Court notes the irony here because that irony demonstrates one of the reasons why the Court is denying this motion: the World Defendants contend that sanctions are warranted because Plaintiff was not authorized by law to bring the complaint at all (or, alternatively, to bring it against certain defendants), and so the World Defendants move for sanctions against Plaintiff *pursuant to a statute that clearly does not authorize sanctions against it*. Should the Court then consider sanctioning the World Defendants for filing this motion directly against the Plaintiff? No, it would not. The World Defendants simply made a legal mistake. And not every such mistake merits sanctions. Indeed, the vast majority do not.

Had Mark Kovich or another member of the Western Hills Water District’s board brought the complaint in his or her individual capacity, there would be no similar dispute regarding the propriety of the complaint as a whole. As for the fact that the law may not authorize or support the causes of action against the Individual Defendants, see the Court’s point *supra*.

The fact that the Court took the demurrer under submission instead of ruling on it immediately should have signaled to the World Defendants that the Court saw some issue worthy of further consideration, and therefore, perhaps the complaint was not as frivolous or legally unsupportable as they initially thought. In any case, the pleading does not warrant sanctions under Code of Civil Procedure § 128.7.