SO ORDERED.

SIGNED this 3 day of April, 2025.

Austin E. Carter

Austin E. Carter
Chief United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF GEORGIA
ATHENS DIVISION

In re:	)	
	)	Case No. 24-30325-AEC
David James Farnham,	)	
	)	Chapter 7
Debtor.	)	
	)	
Linda Creviston and Marissa Creviston,	)	
	)	
Movants,	)	
	)	
v.	)	Contested Matter
	)	
Francis X. Moore and FXM Law, P.C.,	)	
	)	
Respondents.	)	

OPINION AND ORDER ON MOTION FOR RULE 9011 SANCTIONS AGAINST FRANCIS X. MOORE AND FXM LAW, P.C.

Federal Rule of Bankruptcy Procedure ("Rule") 9011 deters litigation abuse and unnecessary filings. It establishes that upon presenting a writing to the court, a party certifies that such writing was made, and is presented, for a legitimate purpose. Similarly, under the same rule, a party presenting a writing certifies that to the best of their knowledge, information, and belief, and after a reasonable inquiry into the circumstances, the allegations therein are well grounded in law or

in fact. This contested matter concerns whether an attorney violated Rule 9011 by filing documents alleging, and later advocating, that a pair of creditors colluded with the Debtor to obtain a sham judgment in furtherance of a conspiracy to defraud other creditors of the Debtor and the Court. The Court finds the attorney violated Rule 9011.

Before the Court is the *Motion for Rule 9011 Sanctions against Francis X. Moore and FXM Law, P.C.* (Doc. 85), filed by Linda Creviston and Marissa Creviston (collectively, the "Crevistons").

The hearing on the motion was held January 13, 2025, at 10:00 a.m. (Doc. 111).[1] For the Movants, Linda Creviston and her attorney, William Ney, appeared. No one appeared on behalf of the Respondents Francis X. Moore and FXM Law, P.C. Respondents filed no response to the motion.[2]

The Court has jurisdiction over this matter under 28 U.S.C. §§ 1334 and 157, and the Amended Standing Order of Reference of the United States District Court for this District dated February 21, 2012, referring all cases filed under title 11 to the bankruptcy court. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

I. Background

A. The Crevistons

Linda Creviston and the Debtor, David James Farnham (the "Debtor" or "Farnham"), were involved in a personal relationship between 2018 and 2019, and at some point during this period, the Debtor represented Marissa Creviston in a lawsuit.[3] Both personal and professional relationships soured. Since 2020, the

[1] The matter was originally scheduled to be heard in December 2024 but was continued by agreement of the parties. An *Amended Notice of Hearing* was filed and served on December 17, 2024, which rescheduled the hearing for January 13, 2025. (Doc. 111).

[2] Counsel for the Debtor likewise appeared but exited the hearing before its conclusion.

[3] The Debtor was dismissed from this representation in April 2019.

Crevistons and the Debtor have had no substantive communications, other than through counsel in legal proceedings.

The Crevistons hold a judgment totaling $967,940.00 against the Debtor. The judgment was entered in July 2023, after nearly two years of litigation. The litigation began in 2021, after the Crevistons filed a lawsuit against the Debtor in the Superior Court of Fannin County, alleging fraud and legal malpractice. The allegations included that the Debtor had feigned a romantic interest in Linda Creviston in order to bilk her out of funds. The litigation was hostile—the Crevistons filed several motions to compel and sought sanctions against the Debtor. As a result, the Debtor was held in contempt of discovery orders. The Debtor was ultimately found liable after the court struck the Debtor's pleadings due to his violation of discovery orders.

The matter was then set for trial and presented to a jury to determine damages. After the parties presented their cases, the jury awarded to the Crevistons $967,940.00 for compensatory and punitive damages, and attorney's fees (the "Fannin County Judgment"). Upon entry of the Fannin County Judgment, the Crevistons obtained a Fi.Fa. against the Debtor.

The Debtor moved to set aside the judgment but failed to post a supersedeas bond. The Crevistons began the foreclosure process on real property of the Debtor located in Fannin County. The foreclosure sale was scheduled for December 5, 2023.

To stop the Crevistons' foreclosure, the Debtor filed a chapter 13 case in this Court on December 4, 2023, which case the Debtor voluntarily dismissed on May 17, 2024. (Case No. 23-30610) ("Farnham I"). Following dismissal of Farnham I, the

Crevistons resumed their attempt to foreclose on the Debtor's real property. To stop this foreclosure, the Debtor filed a second chapter 13 case[4] on June 28, 2024.

In Farnham I, the Crevistons filed several pleadings adversarial to the Debtor. In particular, the Crevistons moved to dismiss the bankruptcy case and objected to confirmation of the Debtor's chapter 13 plan. Farnham I, Case No. 23-30610, Docs. 18, 21, 37, 49. There, the Crevistons argued, among other things, that the Debtor's bankruptcy case was "filed in bad faith for the sole purpose of delaying and obstructing the Crevistons' collection efforts." Farnham I, Doc. 37 at 2.

In the instant case, the Crevistons have likewise moved to dismiss and objected to confirmation of the Debtor's plan on the grounds of bad faith. (Docs. 12, 52, 60, 105). Further, the Crevistons, on September 4, 2024, conducted a Rule 2004 Examination of the Debtor at which they sought information regarding the Debtor's finances and assets. The Crevistons have also sought substantial discovery of other financial records, including records from the Debtor and from online servicing platforms.

Linda Creviston has appeared, in-person, before this Court in both Farnham I and in the instant case. In particular, Linda Creviston traveled from Florida to Georgia for several hearings, including hearings in November 2024 and January 2025.

B. Moore's Pleadings and Argument

Moore[5] has taken several actions that relate to the Crevistons' complaints in their motion. For example, Moore, at the § 341(a) Meeting of Creditors, on August 8,

[4] The instant case is the Debtor's second filing—the case was converted from chapter 13 to chapter 7 by order of the Court on January 8, 2025 (Doc. 113).

[5] Moore has filed a proof of claim which he contends represents $20 million owed him by the Debtor. (Claim No. 22-1). Despite the provisions of Rule 3001(a), the proof of claim consists solely of a copy of a civil complaint filed by Moore against the Debtor and others in Fannin County Superior Court (alleging primarily defamation), which complaint Moore represents was dismissed by that court and is no longer pending. Moore's law firm has also filed a proof of claim which Moore contends

2024, alleged that the Crevistons conspired with the Debtor to defraud other creditors of the estate. Moore also asserted that the Crevistons' proof of claim was false.

On September 11, 2024, in response to the Chapter 13 Trustee's motion to dismiss the case, Moore filed the *Moore Creditors' Opposition to Chapter 13 Trustee's Dismissal Motion and Cross Motion to Strike Same* (Doc. 36). In this pleading, Moore maintains that the "Debtor ginned up and concocted fake claims as part of a scheme to dissipate or distribute his assets to his prior girlfriends or clients and get a discharge of the debts Debtor owes to the Moore Creditors and other legitimate creditors – not all of which may be listed by Debtor." (Doc. 36 at 15). Further, Moore states that he

> repeatedly advised the Chapter 13 Trustee that: . . . . (3) the Malpractice Creditors[6] are sham claimants; . . . . (6) that Debtor's deceitful procurement of the Dismissal Order followed almost immediately by the levy and attempted sale of a valuable property by the Crevistons was inimical to the Debtor's estate and was evidence of illegal collusion between Debtor and the Malpractice Claimants.

Id. at 17.

Finally, in that motion Moore asserts that dismissal of the Debtor's case is an inadequate remedy. *See id*. He contends that dismissal "most certainly benefits the sham Malpractice Claimants as they have already won the race to the Courthouse by colluding with the Debtor to create sham claims or judgments." *Id*. at 22.

Then, on September 18, 2024, Moore filed *Moore Creditors' Objection to Claims of Malpractice Claimants* (Doc. 54). There, Moore objected to the Crevistons' proof of claim, as well as the proofs of claims of Lori Andre and Rebecca Hughson.

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represents $10 million owed by the Debtor. Despite Rule 3001(a) and notwithstanding that Moore's law firm is not shown as a party in the Fannin County civil action, this proof of claim consists only of a copy of the same complaint filed as Moore's proof of claim. (Claim No. 23-1). The Debtor has objected to allowance of each claim (Docs. 38, 39), but a new proof of claim deadline has been fixed under Rule 1019 due to the conversion of the case.

[6] Moore in his pleadings often refers to the Crevistons as the "Malpractice Creditors" or "Malpractice Claimants."

(*See* Doc. 54). In that claim objection, Moore asserts that the "Debtor entered conspiracies with Linda Creviston and Marissa Creviston, Lori Andre, and possibly Rebecca Hughson whereby they have ginned up and filed false proofs of claim in Debtor's bankruptcy cases for the purposes of hindering, delaying, and defrauding Debtor's legitimate creditors including the Moore Creditors." (Doc. 54 at 4). Further, Moore asserts that "Debtor ginned up and concocted fake claims as part of a scheme to dissipate or distribute his assets to his prior girlfriends or clients and get a discharge of debts Debtor owes to the Moore Creditors and other legitimate creditors[.]" *Id*. at 7.

Moore acknowledges in his claim objection that the Crevistons attempted to conduct a foreclosure sale on the Debtor's real property located in Fannin County. *Id*. Indeed, Moore includes language from the advertisement and Notice of Sheriff's Sale. *Id*. Additionally, Moore details the litigation between the Debtor and the Crevistons, averring:

> In July 2023, following a jury trial in Fannin County Superior Court a [j]udgment in favor of the Crevistons for approximate [sic] $1 million was entered against Farnham and his personal injury business, Appalachian Accident Injury Lawyers, LLC. Following the trial, however, Farnham filed a motion for new trial. That motion remains pending. The Crevistons filed a motion for a bond which was granted. Farnham failed to post the bond.

Id. at 7 n.6.

In a section of the claim objection titled "THE CREVISTON/FARNHAM FAKE-SHAM TRIAL," Moore includes exact language from the pretrial order of the Fannin County jury trial, and further outlines, in great detail, the years of litigation between the Crevistons and the Debtor. *See id*. at 8–17. Moore admits that he attended at least part of the Fannin County jury trial. *Id.* at 18. Although he acknowledges he has read neither the closing arguments nor the jury instructions, he opines that the numbers awarded in the Fannin County Judgment "make no sense." *Id*. Further, Moore contends that the Debtor's attorneys—both of whom

Moore knows as "local lawyers"—performed a "complete lay-down." *Id.* Moore believes that both attorneys, one a County Attorney, and the other a Probate Court Judge, engage in "shady" criminal activity. *See id.*[7]

Ney sent to Moore two emails requesting Moore retract his statements. In those emails, Ney warned Moore of Ney's intent to seek sanctions under Rule 9011 if Moore failed to retract the statements. (Docs. 85-3, 85-4). Ney sent the first email on Friday, August 9, 2024, following the § 341 Meeting. (Doc. 85-3). Ney's email responded to an email from Moore, which he titled "RE:341 Follow Up." (Doc. 85-2). In this email, which was directed to the Chapter 13 Trustee, Moore recounted that at the § 341 Meeting Moore argued that dismissal was in the best interests of creditors and further declared: "When I say 'creditors,' I am not talking about the phony/sham 'Malpractice Creditors.'" *Id.* In his response, Ney denied Moore's allegations regarding the judgment of the Crevistons, and likewise denied Moore's allegations that the Crevistons, through Ney, colluded with the Debtor. *Id.* In closing, Ney wrote: "If you make that representation to the Court again, I will seek Rule 11 sanctions against you and your law firm." *Id.*

Ney sent his second email on September 11, 2024. (Doc. 85-4). Ney sent this email in response to Moore, who forwarded to Ney, Debtor's counsel, Douglas Lenhardt, the Chapter 13 Trustee, and attorney for Rocket Mortgage, LLC, Lisa Caplan, by email a copy of *Moore Creditors' Opposition to Chapter 13 Trustee's Dismissal Motion and Cross Motion to Strike Same*. *Id.* (*See also* Doc. 36). Like the first email, Ney in the second email refers to Moore's allegations of collusion and the

[7] Rather than offer any evidence in support of his claim objection, Moore "demands strict proof of each and every fact upon which the Crevistons rely in support of their proof of claim." (Doc. 54 at 19). Despite such demand, the burden is on Moore as the objecting party to rebut the presumption of validity and amount of the Crevistons' proof of claim. *See In re Crutchfield*, 492 B.R. 60, 69 (Bankr. M.D. Ga. 2013) ("'[A] proof of claim executed and filed in accordance with [the Bankruptcy Rules] shall constitute prima facie evidence of the validity and amount of the claim,' which creates a presumption in favor of allowance." (citing *In re LJL Truck Ctr., Inc.*, 299 B.R. 663, 666 (Bankr. M.D. Ga. 2003) and Fed. R. Civ. P. 3001(f)).

judgment of the Crevistons. *Id.* Ney reminded Moore of his intent to seek remedial action, stating: "I previously warned you about making these unfounded allegations which are simply untrue[,]" and asked that Moore retract the false allegations from his pleading. *Id.* Ney added that failure to do so would result in a motion for Rule 11 sanctions. *Id.*

Moore did not retract any statement after receiving Ney's emails. To the contrary, he continued making similar allegations, again without supporting evidence. On October 11, 2024, Moore amended his objection to the Crevistons' proof of claim via his *Moore Creditors' Supplement to their Objection to Claim Number 16 Filed by Crevistons for $1,092,061.57* (Doc. 79). There, Moore again recites allegations made by the Crevistons in their Fannin County Superior Court action that the Debtor defrauded Linda Creviston through a "sham romantic relationship." *Id.* at 2. Moore also alleges that "Linda [Creviston] aided and abetted the commission of fraud and other crimes committed and being committed by [the Debtor]." *Id.* at 6.

After serving the Motion and affording Moore the requisite twenty-one days to withdraw or appropriately correct the offending statements in his Pleadings, Ney filed the Crevistons' Motion on October 15, 2024. Moore filed no response.

The Court held a hearing on November 13, 2024, which lasted through November 14, 2024 (the "November Hearing").[8, 9] Although Moore failed to take a

[8] The hearing related to several matters: (1) the Crevistons' *Motion to Dismiss* (Doc. 12); (2) the Chapter 13 Trustee's *Motion to Dismiss with Prejudice for a Period of 180 Days* (Doc. 24); (3) the *Moore Creditors' Special Appearance Motion for Declaration of Debtor's Ineligibility to Proceed as a Chapter 13 Debtor and for Conversion to Chapter 7* (Doc. 31, amended at 34); and (4) responses to these motions (Docs. 36, 51, and 52). (*See* Doc. 78).

[9] On second day of the hearing, November 14, Moore arrived to Court more than one hour late. As an explanation, Moore offered that he encountered traffic delays due to rain and an accident, which he labeled "an act of God." He apologized but then declared that he would take no responsibility for his tardiness. The Court reminded Moore that he was more than forty minutes late to a previous hearing on September 18, 2024, and warned him that the Court would no longer delay its hearings based on his inability to timely appear.

Rule 2004 examination or deposition of either Linda Creviston or the Debtor in advance of the November Hearing, at the hearing Moore examined Linda Creviston, the Debtor, and even Ney in an attempt to elicit testimony to support his allegations of fraud and collusion.

In his examination, Moore asked the Debtor about his trial strategy in the Fannin County litigation. Moore questioned the Debtor regarding his failure to obtain a supersedeas bond, and the Debtor explained that he attempted to obtain a loan to procure a bond but was unable to do so. Moore's questions resulted in no testimony that the Court found supported his allegations of fraud and collusion, and Moore offered no other evidence at the hearing to support his allegations.

Moore also questioned the Debtor about his relationship with Linda Creviston. The Debtor admitted he had a personal relationship with Linda Creviston. In response to an objection to Moore's line of questioning, Moore explained he was "demonstrating bad faith" and stated that part of his demonstration of bad faith is showing "the judgment in favor of the Crevistons is a complete sham and a fraud."

Moore, in his direct examination of Ney, raised questions related to the claim of Lori Andre, to which the Court interjected. The Court questioned the relevance of Moore's questions as they related to the pending motions. Moore responded, "the allegation that I am making is that the Malpractice Claimants are [asserting] fraudulent claims." Moore explained to the Court that he intended to show collusion between the Debtor and Ney's clients, including the Crevistons. Moore insisted that Ney's filings proved that Ney, the Debtor, and the Crevistons were co-conspirators engaged in a scheme to defraud creditors. Further, Moore asked Ney if he has taken "any action to aid or assist Mr. Farnham in the presentation of any claim the basis for which was either none or was fraudulent or was contrived or was anything other than lawful." Ney responded that he had never done so and added

that he brought legitimate claims on behalf of the Crevistons. Ney asserted that Moore's allegations are baseless and that he previously advised Moore of same.

On December 10, 2024, Moore filed *Moore Creditors' Second Supplemental Brief Supporting Objections to Crevistons' Claim #16* (Doc. 107; together with Docs. 54 and Doc. 79, the "Pleadings"). There, Moore adds in a footnote: "The Moore Creditors do not waive or relinquish their arguments, positions, claims, or objections to the Crevistons' Claim #16. The Moore Creditors continue to believe that such claim is fake, a sham, and should be disallowed in its entirety." (Doc. 107 at 3 n.2). Further, Moore maintains:

> The Crevistons and Farnham colluded and conspired together to create and prosecute a fake and fraudulent lawsuit designed to deliver to the Crevistons (Linda being one of Farnham's former lovers) what they all expected and wanted to be a huge multi-million-dollar verdict and judgment against Farnham.

Id. at 4.

Finally, in that supplemental pleading, Moore avers that "Debtor has violated his own stay to benefit the Crevistons and their attorney! Such facts, alone, are damning evidence of collusion." *Id*. at 6.

C. The January 13, 2025 Hearing on the Rule 9011 Motion

In the days before the January 13 hearing, some parts of Georgia were affected by inclement weather. This weather impacted Court operations on Friday, January 10. Accordingly, the Court was closed to the public, but Court staff worked remotely. At some point during these days leading up to the hearing, Moore asked Ney to agree to a continuance, but Ney declined. During these communications, Ney twice (on both January 10 and 11) offered to pick Moore up and drive him to Athens for the hearing, but Moore responded to neither offer.

On the day before the hearing, Sunday, January 12, Moore sent several emails to Ney concerning the weather in Moore's area and advising Ney that Moore

would not be attending the hearing. Copied on Moore's emails to Ney were the above-signed judge's courtroom deputy, another Court employee, the Debtor's counsel Douglas Lenhardt, and the Chapter 7 Trustee.

Moore filed no motion requesting that the Court continue the January 13 hearing. Moore likewise failed, in his email correspondence with Ney on which Court staff was copied, to request that the Court continue the hearing. Nor did he telephone the Court to request a continuance.[10] In addition, Moore did not request to appear at the hearing by telephone or by video conference.[11]

The hearing was scheduled to begin at 10:00 a.m. on January 13, 2025. However, because Moore was not present, the Court delayed the start time of the hearing until 10:50 a.m. Even with the delayed start, the Court received no communications that morning from Moore. When the hearing commenced, Ney and Lenhardt likewise reported that they had not heard from Moore on the morning of the hearing.

The Court took a recess and further delayed the start of the hearing. Following that recess, the Court began substantively to hear the Motion at 11:42 a.m., but even with the extra time afforded by the delays, Moore made no request to the Court for a continuance or to appear at the hearing by telephone or by video conference.

D. Requested Relief

In their motion, the Crevistons seek monetary sanctions and an Order from this Court (1) admonishing Moore, (2) striking the offending statements from the Pleadings and finding that there exists no evidence of collusion or an attempt to

[10] Even if Moore was prevented by inclement weather from filing a pleading, he demonstrably had email capability, yet he failed to request a continuance from the Court either by email or by telephone.

[11] The Court has established protocols for appearances by telephone and video conference. These protocols are on the Court's website and in Administrative Order No. 145. Indeed, Moore has appeared via telephone at prior hearings in this case.

defraud creditors, and (3) awarding reasonable attorneys' fees and expenses incurred in this matter.[12]

II. Analysis

A. Legal Framework of Rule 9011[13]

Rule 9011 establishes that a party certifies that their representations to the court, to the best of their knowledge and after "an inquiry reasonable under the circumstances," meet four conditions. *See* Fed. R. Bankr. P. 9011(b). First, that the writing or argument "is not presented for any improper purpose such as to harass, cause unnecessary delay, or needless increase in the cost of litigation[.]" Fed. R. Bankr. P. 9011(b)(1). Second, that "the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law, or the establishment of new law[.]" Fed. R. Bankr. P. 9011(b)(2). Next, that "the allegations and other factual contentions" made "have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery[.]" Fed. R. Bankr. P. 9011(b)(3). Finally, that "the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief." Fed. R. Bankr. P. 9011(b)(4).

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[12] As of the January 13 hearing, the Crevistons have incurred attorney's fees totaling $7,070.00 for Ney's work on the Rule 9011 challenge. This amount is derived from the 20.2 hours Ney spent working on this matter, at an hourly rate of $350.00, which is lower than Ney's usual rate.

[13] The Court recites the language of Federal Rule of Bankruptcy Procedure 9011 which was in effect on October 15, 2024, the date the instant motion was filed. A new version of Rule 9011 became effective on December 1, 2024; however, the "changes are intended to be stylistic only" and do not impact the Court's analysis. *See* Advisory Committee Notes on 2024 Amendments ("The language of Rule 9011 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules.").

Where a party violates Rule 9011(b), a court may impose sanctions. Fed. R. Bankr. P. 9011(c).[14] Before a court considers an alleged violation, the challenged attorney must be afforded notice and an opportunity to respond and must be allowed to withdraw or amend the challenged writing. *See* Fed. R. Bankr. P. 9011(c)(1)(A). Specifically, Rule 9011(c)(1)(A) requires that a party raising a violation of Rule 9011(b) by motion must provide the challenged attorney twenty-one days after service of the motion to correct the violative writings before that party may present any such motion to the court. Fed. R. Bankr. P. 9011(c)(1)(A). Thus, a challenged attorney may "avoid sanctions by withdrawing or correcting the challenged document or position after receiving notice of the alleged violation." *Gwynn v. Walker (In re Walker)*, 532 F.3d 1304, 1308 (11th Cir. 2008).

The party seeking sanctions bears the initial burden of making a prima facie case, and the burden then shifts to the challenged attorney to show a legitimate purpose for their filing. *Lester v. Edgewood Food Mart, Inc. (In re Edgewood Food Mart)*, 664 B.R. 893, 900 (Bankr. N.D. Ga. 2024) (citations omitted). Courts evaluate violations of Rule 9011 under an objective reasonableness standard. *See In re Johnson*, 662 B.R. 538, 542 (Bankr. D.S.C. 2024) (citing *In re Kersner*, 412 B.R. 733, 743 (Bankr. D. Md. 2009) (quoting *In re Sargent*, 136 F.3d 349, 352 (4th Cir. 1998))).

Under Rule 9011, there exist two grounds for sanctions: "(1) the papers are frivolous, legally unreasonable, or without factual foundation, or (2) the pleading is filed in bad faith or for an improper purpose." *Glatter v. Mroz (In re Mroz)*, 65 F.3d 1567, 1572 (11th Cir. 1995) (citation omitted).

[14] Rule 9011(c)(1)(A) provides that, absent exceptional circumstances, law firms are jointly responsible for an attorney's violation of Rule 9011(b). Fed. R. Bankr. P. 9011(c)(1)(A).

1. *Frivolous Pleading*

In its evaluation of a motion for sanctions under Rule 9011, a court first determines whether "'the party's claim is objectively frivolous' and, second, 'whether the person signing the document should have been aware that it was frivolous.'" *Nicholson v. Wells Fargo Bank, N.A. (In re Nicholson)*, 579 B.R. 640, 649 (Bankr. S.D. Ga. 2017) (quoting *In re Mroz*, 65 F.3d at 1573)). Thus, a court must decide whether a reasonable inquiry would have alerted the challenged attorney that the claim was frivolous. *Id*.

A factually frivolous pleading is one which "the party 'has absolutely no evidence' to support its position." *Id*. Similarly, a legally frivolous pleading is one in which "it is 'clear under existing precedents that there is no chance of success and no reasonable argument to extend, modify or reverse the law as it stands.'" *Id*. (quoting *Mareno v. Rowe*, 910 F.2d 1043, 1047 (2d Cir. 1990)). If the challenged attorney provides "some plausible basis, even a weak one, supporting the litigant's position, imposition of sanctions is inappropriate." *Id*. at 649–50 (citing *United Nat. Ins. Co. v. R&D Latex Corp.*, 242 F.3d 1102, 1117 (9th Cir. 2001)). On the other hand, "'[i]f the attorney failed to make a reasonable inquiry, then the court must impose sanctions despite the attorney's good faith belief that the claims were sound.'" *In re Robertson*, No. 23-61014-JWC, 2024 Bankr. LEXIS 1853, at *22 (Bankr. N.D. Ga. Aug. 7, 2024) (quoting *McGuire Oil Co. v. Mapco, Inc.*, 958 F.2d 1552, 1563 (11th Cir. 1992)).

2. *Pleading Filed for an Improper Purpose*

The second basis for sanctions, the "improper purpose" clause, "prohibits the filing of a pleading for an improper motive such as delay, harassment, or causing expense, even if the filing relates to a claim that is otherwise colorable or supported by some evidence and some legal authority." *In re Am. Telecom Corp.*, 319 B.R. 857, 872 (Bankr. N.D. Ill. 2004) (citations omitted). Thus, the improper purpose clause

requires a court examine a party's litigation practices and papers filed, with the "focus . . . on *why* the [challenged attorney] filed the pleading at issue." *In re Edgewood Food Mart*, 664 B.R. at 901 (citing *Am. Telecom Corp. v. Siemens Info. & Comms. Network, Inc.,* 2005 U.S. Dist. LEXIS 19633, at *4 (N.D. Ill. Sept. 7, 2005)) (emphasis in original). "[T]he court must inquire whether the pleading was filed to vindicate the party's rights or for some other purpose." *In re Nicholson*, 579 B.R. at 650 (citing *In re Kunstler*, 914 F.2d 505, 518 (4th Cir. 1990)). Direct evidence of the challenged attorney's subjective purpose is "'rarely available,'" so a court relies on an objective inquiry. *In re Edgewood Food Mart*, 664 B.R. at 901 (quoting *In re Nicholson*, 579 B.R. at 650). "Courts may infer the purpose of a filing from the consequences of the motion, such as delaying the proceedings or creating "a persistent pattern of clearly abusive litigation." *In re CK Liquidation Corp.*, 321 B.R. 355, 365 (B.A.P. 1st Cir. 2005) (citation omitted).

3. *Sanctions*

Where a court finds a party has violated Rule 9011(b), sanctions may be ordered. The purpose of such a sanction "is to deter litigation abuse and unnecessary filings." *In re MPX Technology, Inc.*, 310 B.R. 453, 459 (Bankr. M.D. Fla. 2004). "[T]he nature of the sanction is within the Court's discretion." *In re Edgewood Food Mart*, 664 B.R. at 901. However, under Rule 9011(c)(2), any sanction ordered "shall be limited to what is sufficient to deter repetition of such conduct or comparable conduct by others similarly situated." Fed. R. Bankr. P. 9011(c)(2). A court may impose monetary sanctions or nonmonetary sanctions. *In re Edgewood Food Mart*, 664 B.R. at 901. To fashion an appropriate sanction, a court may consider various factors such as:

> [w]hether the improper conduct was willful, or negligent; whether it was part of a pattern of activity, or an isolated event; whether it infected the entire pleading, or only one particular count or defense; whether the person has engaged in similar conduct in other litigation; whether it was

> intended to injure; what effect it had on the litigation process in time or expense; whether the responsible person is trained in the law; what amount, given the financial resources of the responsible person, is needed to deter that person from repetition in the same case; [and] what amount is needed to deter similar activity by other litigants.

In re Nicholson, 579 B.R. at 656 (citation omitted).

B. Rule 9011 Violation

The Court finds that Moore violated Rule 9011(b)(1) and (3). The Crevistons, through Ney, twice warned Moore and requested he retract his statements asserting fraud and collusion, and that the Fannin County Judgment was a sham. The Crevistons also served Moore with a copy of the Motion more than twenty-one days before filing it. Thus, Moore was afforded the requisite safe harbor period under Rule 9011(c), but took no corrective action.

The Pleadings, and later Moore's argument and representations to the Court at the November Hearing repeating the allegations contained within the Pleadings, were both frivolous and made for an improper purpose.[15]

1. *Moore's Pleadings were Frivolous*

Moore's allegations are factually frivolous.[16] Moore has "absolutely no evidence" to support his allegations that the Crevistons colluded with the Debtor to concoct a sham judgment and defraud other creditors or this Court, and the Court finds none in the record of this case. *See In re Nicholson*, 579 B.R. at 649. Likewise, the record reveals no inquiry—reasonable or otherwise—into the accuracy of

[15] The Court finds Rule 9011 inapplicable to Moore's comments at the § 341 Meeting of Creditors, which Ney referenced at the January 13 hearing. Moore's comments were not made in a writing, and further, even if Rule 9011 applied, Moore was not offered the requisite 21-day safe harbor under Rule 9011(c).

[16] "Sanctions under Rule 11 are not limited to instances in which a pleading as a whole is frivolous, but may be imposed for improper allegations even though at least one non-frivolous claim has been pled...." *Indep. Contractors of Maverick Transp., LLC v. Great W. Cas. Co.*, No. 4:24-CV-338 HEA, 2025 U.S. Dist. LEXIS 51486, at *21 (E.D. Mo. Mar. 20, 2025) (citation omitted).

Moore's factual assertions.[17] In the Pleadings, Moore relies on conjecture and piecemeal observations. (*See* Doc. 54 at 18 ¶ 28).[18] Rather than offer any evidence to support his theories, Moore requests that the Crevistons supply to him "strict proof of each and every fact" underlying the Fannin County Judgment. (Doc. 54). Accordingly, the Court finds Moore's allegations factually frivolous.

Next, the Court considers whether Moore could have, upon reasonable inquiry, discovered that his allegations were frivolous. Here, Moore's behavior is egregious. Moore included in the Pleadings a detailed account of the hostile relationship between Linda Creviston and the Debtor. Moore likewise included a comprehensive overview of the aggressive litigation. Further, Moore not only knew of the week-long jury trial which led to the Fannin County Judgment, but in his Pleadings, he admitted to attending and observing part of the trial. Moore conducted no discovery, and further, was warned several times by the Crevistons' counsel to cease making allegations of conspiracy or collusion. Reasonable inquiry aside, Moore knew or should have known that his allegations were frivolous.

Further, at the November Hearing, Moore examined the Debtor, Linda Creviston, and Ney. In his examination, Moore asked the Debtor about his trial

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[17] After making the offending statements in Docs. 54 and 79, Moore questioned the Debtor, Linda Creviston, and Ney at the November Hearing, but the resulting testimony provided no support for Moore's allegations.

[18] For example, Moore recites the amount awarded to the Crevistons by the jury, and adds, "I haven't read the jury instructions, nor have I read the closing argument, however, these numbers make no sense." (Doc. 54 at 18). Further, Moore, after observing portions of the trial, opines that the proceeding was "a complete lay-down by Farnham and his lawyers." *Id*.

In addition, Moore in a supplemental brief filed in December 2024, contends that the Fannin County Judgment was "a fake and fraudulent lawsuit designed to deliver to the Crevistons (Linda being one of Farnham's former lovers) what they all expected and wanted to be a huge multi-million-dollar verdict and judgment against Farnham." (Doc. 107 at 4). Moore adds that Farnham's bankruptcy petition was a "second phase of the scheme." *Id*. In the same document, Moore states "Debtor has violated his own stay to benefit the Crevistons and their attorney! Such facts, alone, are damning evidence of collusion." *Id.* at 6.

Importantly, the Debtor testified at the November Hearing that he filed both Farnham I and the instant case in response to imminent foreclosure of his property by the Crevistons—yet Moore persisted in his allegations regarding conspiracy and collusion.

strategy in the Creviston litigation. Moore questioned the Debtor regarding the supersedeas bond, and the Debtor explained that he attempted to obtain a loan to procure a bond but was unable to do so. Through this line of questioning, Moore attempted to elicit testimony supporting this contention that the Debtor colluded with the Crevistons to obtain the Fannin County Judgment, but he was unsuccessful. Likewise, at the November Hearing, Moore represented to the Court that through his line of questioning related to the Debtor's relationship with Linda Creviston, Moore intended to show bad faith and that the Fannin County Judgment is "a complete sham and a fraud." Moore asked Ney, on direct examination, whether he had ever taken any action to assist or aid the Debtor in presenting any fraudulent or unlawful claim.

Moore expressed to the Court that he intended to show the Malpractice Claimants "are [asserting] fraudulent claims," and that he anticipated proving a collusive arrangement between the Debtor and Ney's clients, including the Crevistons, through his examination of witnesses. Moore averred that Ney, the Debtor, and the Crevistons were co-conspirators engaged in a scheme to defraud creditors. Thus, Moore, at the November Hearing, advocated his frivolous positions.

Undeterred, on December 10, Moore filed his second supplemental brief supporting his objections (Doc. 107). There, Moore referenced several times his contention that the Fannin County Judgment was a sham and that Linda Creviston colluded with the Debtor.

Accordingly, the Court finds Moore violated Rule 9011 by filing frivolous Pleadings, Docs. 54, 79, and 107, and by later advocating the positions taken in those Pleadings.

2. *Moore's Pleadings were Filed for an Improper Purpose*

Under the "improper purpose" clause, the Court must evaluate whether Moore filed the Pleadings with an improper motive or reason. The Court finds he did.

In a Rule 9011 analysis, improper motives or reasons include delay, harassment, or causing expense. *In re Am. Telecom Corp.*, 319 B.R. at 872; *see also Woodruff v. Kelley (In re Woodruff)*, 610 B.R. 707, 710–11 (Bankr. M.D. Ga. 2019) (Laney, J.) (finding Rule 9011 violation based in part on history of harassment and delay of litigation.). Because there exists no direct evidence of Moore's subjective purpose for filing the Pleadings, the Court relies on objective inquiry. *In re Edgewood Food Mart*, 664 B.R. at 901. The Court doubts whether Moore filed the Pleadings to vindicate his own rights.

Accordingly, the Court examines Moore's litigation practices and papers filed. *See id.*; *SouthState Bank v. Shibley (In re Shibley)*, Case No. 18-68584-LRC, 2024 Bankr. LEXIS 2215, at *17 (Bankr. N.D. Ga. Sep. 24. 2024) (finding party filed motion in bad faith and out of spite where party had history of misconduct in bankruptcy proceeding, knew motion had no legal basis when filed, and refused to withdraw motion).

Moore disregards completely the efforts of the Crevistons to recover funds from the Debtor. Moore likewise refuses to acknowledge the several motions the Crevistons filed adversarial to the Debtor. In particular, the Crevistons moved to dismiss and objected to plan confirmation in both Farnham I and the instant case. The Crevistons maintained that the Debtor's case was filed in bad faith and "for the sole purpose of delaying and obstructing the Crevistons' collection efforts." Farnham I, Case No. 23-30610, Doc. 32 at 2 ¶ 6 (Bankr. M.D. Ga. Apr. 12, 2024). The Crevistons sought discovery of financial records, including records from the Debtor and from several online platforms of the Debtor. The testimony of the parties,

coupled with the years of aggressive litigation between them, and the extensive requests for discovery, reveals the hostility between the Debtor and the Crevistons. Moore offers no rationale as to why the Crevistons contest vehemently the Debtor's bankruptcy efforts if they had colluded with the Debtor to fabricate a sham judgment and proof of claim to defraud the Court and other creditors.

Additionally, aside from the—no doubt substantial—attorneys' fees the Crevistons have incurred in the Debtor's two bankruptcy cases, Linda Creviston traveled from Florida to Georgia for several hearings. Moore turns a blind eye to these facts, which to a reasonable observer would reveal no collusion or other agreement between the Debtor and the Crevistons to defraud this, or any other court.

Moore, in his claim objection, demands "strict proof of each and every fact" the Crevistons (and two other creditors, also represented by Ney) rely upon to support their proofs of claim due to their collusion and fraud. (Doc. 54 at 19). Moore's request is overbroad and burdensome. Thus, the Court concludes Moore's allegations relating to sham judgment and collusion, and his request for "strict proof of every fact" was interposed to harass, cause unnecessary delay, and to increase the cost of litigation.

Further, the Court notes Moore's voluminous filings in the instant case[19] and in Farnham I. Moore's conduct shows a penchant for delaying proceedings and the progress of these cases, and for increasing the cost of litigation. The Court, in a prior order, cautioned Moore against raising frivolous and repetitive arguments. *In re Farnham*, 666 B.R. 693, 705 n.16 (Bankr. M.D. Ga. 2024) ("The Court expects that this will be the last time it addresses Moore's arguments against dismissal of this case, barring direction from a higher court. Unless and until that occurs, the

[19] Moore is responsible for more than twenty docket entries in this case.

Court considers appropriate a district court's remarks concerning a second motion to reconsider: 'A motion to reconsider a ruling denying a motion to reconsider has carried federal civil procedure to new levels of abuse. We trust this will be the last time we will be asked to opine on this matter.'") (citation omitted).[20]

The Court also entered an order limiting communication with Court employees due primarily to Moore's behavior. (Doc. 50). The Court, in its *Order Limiting Communications with Court Employees*, reminded the attorneys "of their duty under Standard of Conduct 4.a., to 'at all times be civil and courteous in communicating with other lawyers, whether in writing or orally.'" *Id*. at 2 n.2.

Moore, in his pleadings, has accused myriad parties of misconduct.[21] Throughout these cases, Moore "makes manifest the disdain" he has for those that disagree with him. *See In re Shibley*, 2024 Bankr. LEXIS 2215, at *17–*18.

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[20] The Court has previously cautioned Moore regarding his motion practice. (*See* Doc. 35 at 3 n.6). There, the Court denied Moore's request to consolidate the instant case with Farnham I, which had been dismissed four months earlier. *See id.* (*See also* Doc. 27). The Court warned: "The Court considers the Motion to Consolidate indicative of, at best, attorney inattention, and at worst, a frivolous pleading. Either way, the Court cautions the Moore Creditors against future filings of this nature that waste resources of the Court and parties in interest." (Doc. 35 at 3 n. 6).

Later, Moore attempted to cast blame on the Court's CM/ECF system for his misstep, implying that he would not have filed his motion to consolidate if the Court's Order denying his first motion to reconsider case dismissal had been served on him timely. *See* Farnham I, Doc. 99 at 5 n.3. However, in this Court's experience, orders are served via CM/ECF when entered on the docket. Moreover, even if CM/ECF service was delayed as Moore contends, a pending motion to reconsider a case dismissal does not reopen a dismissed case and render it capable of being consolidated with another case.

In addition, in Farnham I, after the Court declined Moore's request to file a post-hearing brief, Moore filed a copy of his email correspondence with other parties, attached to which was substantive legal argument in the form of an article published by the Association of the Federal Bar of New Jersey. *See* Farnham I, Case No. 23-30610, Doc. 80. In response, the Court issued an Order which, among other things, provided: "What is more troublesome is that Moore has been advised that the Court declined his request (made the day after the conclusion of the July 30, 2024 hearing in this case) to file post-hearing briefs. The email correspondence that Moore has filed appears as a maneuver in disregard of the Court's direction not to file such briefs.") Farnham I, Doc. 83 at 2.

[21] For example, Moore accuses the Chapter 13 Trustee and the Court of misconduct. In *Moore Creditors' Opposition to Chapter 13 Trustee's Dismissal Motion and Cross Motion to Strike Same* (Doc. 36), Moore contends, "[t]he Chapter 13 Trustee has inexplicably denied her fiduciary and statutory duties and adopted an unwarranted and unseemly hostility to me." (Doc. 36 at 17). He goes on to argue "Ms. Hope should . . . quit placing her finger on the scales in a manner that is diametrically opposed to the express instructions given to her[.]" (*Id*. at 22).

Thus, the Court determines that Moore's repeated and intentional conduct supports its conclusion that Moore's statements related to collusion and sham judgment were made for an improper purpose. Based on Moore's prior conduct in this case and in Farnham I, and as he makes no argument to the contrary, the Court finds Moore filed the Pleadings with an improper motive or purpose.

Thus, the Court concludes that the Crevistons have met their burden, and Moore has failed to rebut.

3. Sanctions against Moore

The Court finds that Moore violated Rule 9011(b)(1) and (2), and that sanctions are warranted.[22] Moore has not challenged the type of sanction. Similarly, Moore has offered no argument as to why a cost-shift of reasonable attorney's fees would be more than necessary to deter him from repeating the offending conduct.

The Court has considered the relevant factors in determining sanctions as recited in *In re Nicholson*, referenced above, including that Moore's conduct was willful, that he has engaged in similar conduct in this case and Farnham I, the

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In Doc. 54, Moore asserts: "In entering the Dismissal Order, Judge Austin E. Carter disregarded the Code of Conduct for United States Judges of the Code [*sic*], his oaths, the United States Constitution, and the laws of the United States including statutes, rules, and other binding court decisions." (Doc. 54 at 5 ¶ 8). In another instance, Moore complains that the Court's characterization of his motion "is similar to Putin calling the invasion of Ukraine as a 'special military operation.'" Farnham I, Case No. 23-30610, Doc. 97 at 15 (Bankr. M.D. Ga. Sep. 20, 2024). This is despite the fact that the Court characterized Moore's motion in the identical manner as Moore himself had previously characterized it at a hearing. *See Id.*, Doc. 106 at 3 n.6.

On two occasions in September 2024, Moore emailed Court personnel suggesting that the above-signed judge should disqualify himself from the Debtor's case(s) due to "forfeit[ure of] the presumption of regularity in the performance of duties." One of those emails included Moore's assertion that the above-signed judge has "resorted to unwarranted threats and intimidation."

Moore likewise accuses the Debtor's former counsel of misconduct, declaring: "[Debtor] and Braswell brazenly, illegally, and unlawfully sought and obtained an order of dismissal of the 2023 Case that was entered the very next day[.]" (Doc. 54 at 5 ¶ 7). Additionally, Moore takes aim at the Debtor's former counsel from the Fannin County case. Moore alleges, "I have ample evidence of Lynn Doss committing crimes. Kiker has also engaged in very shady conduct – to put it charitably." (Doc. 54 at 18 ¶ 29).

[22] Under Rule 9011(c)(1)(A), Francis X. Moore and FXM, P.C. are jointly liable for the sanctions award.

delay and expense associated with Moore's conduct, Moore's legal training, and the amount needed to deter future similar activity. The Court determines that monetary and nonmonetary sanctions are appropriate. Accordingly, the Court finds that the least severe sanction adequate to deter future conduct is repayment of attorneys' fees and costs.[23]

Additionally, the Court admonishes Moore for making allegations with no factual support or reasonable investigation, and for filing pleadings for an improper purpose.

Finally, the Court strikes from the Pleadings the allegations of collusion, conspiracy, and of "sham judgment" from Docs. 36, 54, 79, and 107. In particular, the Court strikes allegations of "sham judgment," conspiracy, and collusion on pages 15, 17, and 22 of Doc. 36; pages 4, 7, 8, 10, 11, 18, and 19 of Doc. 54, pages 2 and 6 of Doc. 79, and pages 3, 4, and 6 of Doc. 107.

III. Conclusion and Order

For the above stated reasons, the Court finds Moore violated Rule 9011, warranting the imposition of sanctions. Thus, the Crevistons' Motion is GRANTED. The Court:

(1) Awards reasonable attorney's fees and DIRECTS the Crevistons to file, within fourteen days from the date of this Order, a verification or affidavit to support an explanation of the attorneys' fees incurred in this matter. Respondents shall have fourteen days from the date of the Crevistons' submission to object to the reasonableness of the fees, and if Respondents object, the Crevistons shall have fourteen days to reply. The Court shall consider all timely submissions;

(2) Admonishes Moore for making the baseless factual assertions; and

[23] Rule 9011 authorizes a court to award reasonable fees and expenses to the prevailing party. *In re Edgewood Food Mart*, 664 B.R. at 904-05 (citation omitted); Fed. R. Bankr. P. 9011(c)(2).

(3) Strikes references to "sham judgment," conspiracy, and to collusion as it relates to the Crevistons from Moore's pleadings filed at:

a. Doc 36: Pages 15, 17, and 22;

b. Doc. 54: Pages 4, 7, 8, 10, 11 18, and 19;

c. Doc. 79: Pages 2 and 6; and

d. Doc. 107: Pages 3, 4, and 6.

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