

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA

CASE NO: 1:10-cv-21951 Ungaro/Torres

Jesús Cabrera Jaramillo, in his individual capacity, and in his capacity as the personal representative of the estate of Alma Rosa Jaramillo,	)
	)
Jane Doe, in her individual capacity, and in her capacity as the personal representative of the estate of Eduardo Estrada, and	)
	)
John Doe, in his individual capacity,	)
	)
Plaintiffs,	)
	)
v.	)
	)
CARLOS MARIO JIMÉNEZ NARANJO, also known as “Macaco,” “El Agricultor,” “Lorenzo González Quinchía,” and “Javier Montañez,”	)
	)
Defendant.	)

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**PLAINTIFFS’ OPPOSITION TO DEFENDANT’S MOTION FOR SANCTIONS**

Defendant Carlos Mario Jiménez Naranjo’s (the “Defendant”) motion for sanctions is beyond frivolous and should be denied.<sup>1</sup>

- Defendant’s lawyer did not satisfy his meet and confer obligations before filing it. That, alone, is sufficient reason to deny it. *See* Local Rule 7.1(a)(3); *Karakis v. Gulfstream Park Racing Ass’n*, No. 08-61572-CIV, 2008 WL 4938406, at \*1 (S.D. Fla. Nov. 18, 2008) (holding that pursuant to Local Rule 7.1(a)(3) a motion should be

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<sup>1</sup> Plaintiffs Jesús Cabrera Jaramillo, Jane Doe and John Doe (collectively “Plaintiffs”) hereby incorporate all arguments in Plaintiffs’ Motion to Proceed Anonymously, the sealed declarations of Jane and John Doe, Plaintiffs’ Opposition to Defendant’s Motion for Reconsideration of Court’s Order on Plaintiffs’ Motion to Proceed Anonymously, and all documents filed in support of those pleadings. *See* Docket Nos. 23-27, 69-71.

denied where the movant failed to confer with opposing counsel prior to filing the motion).

- Defendant's lawyer did not satisfy his obligation under Rule 11 to serve the motion on Plaintiffs (and thereby allow them to fix any purported problem) before filing it with the Court. That, too, alone, is sufficient reason to deny it. *See* Fed. R. Civ. P. 11(c)(2); *Oceanside Lauderdale, Inc. v. Ocean 4660, LLC*, No. 10-60025-CIV, 2011 WL 1327379, at \*3 (S. D. Fla. Mar. 8, 2011) (“A litigant must also comply with the procedural requirements of Rule 11 (including the ‘safe harbor’ requirement) before obtaining a favorable sanctions order.”) (citation omitted).
- Defendant's motion is seeking sanctions for a pleading that is not alleged to be false and which resulted in Plaintiffs obtaining the relief they sought. That, again, alone, is sufficient reason to deny it. *See, e.g., Network Caching Technology, LLC v. Novell, Inc.*, No. C-01-2079-VRW, 2003 WL 21699799, at \*8 (N.D. Cal. Mar. 21, 2003) (holding that sanctions would be inappropriate where the motion has been granted).

It is hard to resist the urge to engage in tit-for-tat litigation and seek sanctions for the meritless sanctions motion filed in violation of important procedural requirements. Resisting that urge is made even harder by the fact that Defendant's lawyer has flouted the rules here before (filing his reply on his meritless motion to dismiss 30 days late). *See* Docket Nos. 64, 67. But resist we will – out of respect for the seriousness of this case and others on the Court's docket.

The motion for sanctions should be denied.

Dated: December 7, 2011

By: /s/ Julie C. Ferguson

Julie C. Ferguson, Florida State Bar #93858  
JULIE C. FERGUSON PA  
200 South Biscayne Blvd., Suite 3150  
Miami, FL 33131  
Telephone: (305) 358-0155  
Facsimile: (305) 358-0133  
Email: julie@jcfimmigration.com

Leo P. Cunningham (admitted *pro hac vice*)  
Lee-Anne Mulholland (admitted *pro hac vice*)  
Nema Milaninia (admitted *pro hac vice*)  
WILSON SONSINI GOODRICH & ROSATI P.C.  
650 Page Mill Road  
Palo Alto, CA 94304-1050

Telephone: (650) 493-9300  
Facsimile: (650) 565-5100  
Email: lcunningham@wsgr.com  
Email: lmulholland@wsgr.com  
Email: nmilaninia@wsgr.com

Kathy Roberts (admitted *pro hac vice*)  
CENTER FOR JUSTICE & ACCOUNTABILITY  
870 Market Street, Suite 682  
San Francisco, CA 94102  
Telephone: (415) 544-0444  
Facsimile: (415) 544-0456  
Email: kroberts@cja.org

*Attorneys for Plaintiffs*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Opposition to Defendant's Motion for Sanctions was served through the Court's CM/ECF System on December 7, 2011, on counsel or parties of record on the service list.

Hugo A. Rodriguez, Esq.  
1210 Washington Avenue, Suite 245  
Miami Beach, FL 33139  
Email: hugolaw@aol.com

/s/ Julie C. Ferguson  
JULIE C. FERGUSON