

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

GROVE FRESH DISTRIBUTORS, INC.,)	
)	
Plaintiff,)	
)	
v.)	No. 89 C 1113
)	
EVERFRESH JUICE COMPANY and)	Judge Zagel
HUGO POWELL,)	
)	
Defendants.)	
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EVERFRESH INC.,)	
)	
Counter-plaintiff,)	
)	
v.)	
)	
GROVE FRESH DISTRIBUTORS, INC.,)	
)	
Counter-defendant.)	

DEFENDANTS' FIRST MOTION FOR
SANCTIONS AGAINST PLAINTIFF'S ATTORNEYS

Defendants, Everfresh Inc. and Hugo Powell, by their attorneys, move for sanctions against plaintiff's attorneys pursuant to Rule 11 of the Federal Rules of Civil Procedure. In support of this motion, defendants state:

1. Plaintiff's complaint in this lawsuit named Hugo Powell as one of the defendants and asserted claims against Mr. Powell "individually." Paragraph 3 of plaintiff's complaint stated in part:1

Defendant, Hugo Powell, is the President of Everfresh; however, this suit is brought against him individually and personally in that he exceeded his authority and committed multiple instances of fraud, as set forth hereinbelow.

2. Defendants denied the allegations against Mr. Powell. Nevertheless, plaintiff's attorneys persisted in keeping Mr. Powell in this lawsuit as a defendant.

3. Plaintiff's attorneys took the deposition of Mr. Powell over the course of two full days, further confirming that there was absolutely no basis for the complaint's allegations against Mr. Powell. Nevertheless, plaintiff's attorneys persisted in keeping Mr. Powell in this lawsuit as a defendant.

4. As further illustrated by the proposed "new complaint" that plaintiff's attorneys have prepared, there simply has never been any basis for the allegations against Mr. Powell in this lawsuit.

5. While plaintiff's attorneys now seem to concede that claims against Mr. Powell should not proceed beyond today's date, the fact remains that plaintiff's attorneys have acted improperly in the way their lawsuit has been conducted up until today's date. At the very least, plaintiff's attorneys have violated Rule 11 by persisting with the allegations against Mr. Powell and by refusing to dismiss the claims against Mr. Powell.

WHEREFORE, defendants make this request that appropriate sanctions be imposed against the plaintiff's attorneys pursuant to Rule 11 of the Federal Rules of Civil Procedure.

Respectfully submitted,

EVERFRESH INC. and
HUGO POWELL

By: Bruce H. Weitzman
One of their attorneys

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CERTIFICATE OF SERVICE

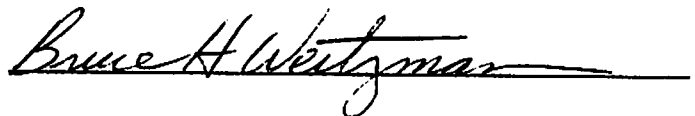
The undersigned, an attorney, certifies that he caused copies of the attached Defendants' First Motion for Sanctions Against Plaintiff's Attorneys to be hand delivered to:

John P. Messina
135 South LaSalle Street
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Rivkin, Radler, Bayh, Hart & Kremer
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Richard S. Wisner
Pretzel & Stouffer, Chartered
One South Wacker Drive
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on August 30, 1990.

A handwritten signature in cursive script, reading "Bruce H. Weitzman", is written over a horizontal line.