

**COURT OF COMMON PLEAS  
FOR THE STATE OF DELAWARE**

KENT COUNTY COURTHOUSE

38 THE GREEN

DOVER, DELAWARE 19901

PHONE: (302) 735-3910

CHARLES W. WELCH, III  
JUDGE

April 12, 2017

Ms. Nina Shahin  
103 Shinnecock Road  
Dover, DE 19904

Gary W. Alderson, Esq.  
Elzufon Austin Tarlov & Mondell, P.A.  
300 Delaware Avenue; Suite 1700  
P.O. Box 1630  
Wilmington, DE 19899-1630

RE: Nina Shahin v. United Parcel Service (UPS) Store, Inc., et al.  
C.A.No.: CPU5-14-000379

Plaintiff's Motion for Sanctions

Dear Ms. Shahin and Mr. Alderson:

As you know, the plaintiff, Nina Shahin, has filed a motion for sanctions against Mr. Alderson pursuant to Court of Common Pleas Civil Rule 11(b) alleging that the Motion to Strike Praecipe and Quash Summons and the Answer to Amended Complaint with Counterclaim that he has filed on behalf of his client, JKMR, Inc., were filed with the Court "for improper purpose to harass and intimidate the Plaintiff, who is a *pro se* national minority litigant, and his request to transfer the case to Superior Court for a hearing with twelve jurors was made for the improper purpose of needless increased cost of litigation and unnecessary delay for the case that has been dragging on for almost three years." Please be advised that the Court has carefully considered the plaintiff's motion for sanctions and it is DENIED.

In her motion, the plaintiff lists "specific charges" against the attorney and requests punitive damages in the amount of \$10,000.00 due to fraudulent acts. She also "asks" the Court "to sanction this attorney for his verbally abusive and factually

fraudulent fit of professional malfeasance and bar him from any further proceedings in this case to protect Plaintiff from his unwarranted harassment, verbal abuse, and commitment of intentional willful fraud.” In support of her motion, she lists factual allegations that had been made by Defendant JKMR, Inc., by and through its attorney, Mr. Alderson, and terms used in a new counterclaim that the defendant has filed for abuse of process.

Court of Common Pleas Civil Rule 11(b) provides that any attorney and unrepresented party filing a pleading, written motion, or other paper, with the Court is certifying, to the best of their knowledge, that the information they are providing, and belief formed after an inquiry reasonable under the circumstances, that:

- (1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;
- (2) the claims, defenses, and other legal contentions therein 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;
- (3) the allegations and other factual contentions have evidentiary support, or if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and
- (4) 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.

Paragraph (c) of Rule 11 provides that the Court may impose sanctions against any attorney, law firm, or party, that has violated paragraph (b) or are responsible for the violation.

The Comment to Rule 3.3 of The Delaware Lawyers’ Rules of Professional Conduct indicates that any lawyer acting as an advocate in an adjudicative proceeding “has an obligation to present the Client’s case with persuasive force.” It also provides that advocates are responsible for pleadings and other documents prepared for litigation, but, are not usually required to have personal knowledge of the matters asserted therein as litigation documents ordinarily present assertions by the client, or by someone on the client’s behalf and are not assertions being made by the lawyer.

The Court has reviewed the plaintiff's motion for sanctions and the documents and language of which she complains. It finds that there is nothing for which sanctions against Gary W. Alderson, Esquire are warranted. It can find no improper purpose or harassing language in his filings for his client. The language he uses is carefully tailored to support any claims that he is making on behalf of his client.

The Court would like to note that the language of which the plaintiff complains about as being harassing or taunting is nothing compared to the language that she has used in filings for the current action. The Court further notes that the Court has warned the plaintiff about the acceptable conduct for litigants and attorneys during a civil action in a decision on a Rule 59(d) Motion to Alter or Amend Judgment that was filed by the plaintiff in another case. See *Shahin v. Boney*, C.A. No.: CPU5-14-000682, at 5-6 (Del. Com. Pl. July 19, 2016)(ORDER). All parties who come before the Court must conduct themselves in a civil and courteous manner. Anyone refusing to do so may be subject to Court of Common Pleas Civil Rule 11 sanctions. The Court will not tolerate the use of abusive language and shows of disrespect towards the Court, other parties, or the attorneys representing them. Valid legal argument does not need to contain, and should not contain, slanderous, disrespectful or threatening comments.

**IT IS SO ORDERED.**

Sincerely,

A handwritten signature in black ink that reads "Charles W. Welch, III". The signature is written in a cursive, flowing style.

Charles W. Welch, III

CWW:mek