

A franchisee sued a franchisor in a federal court in State A for breach of contract. The franchisee is domiciled in State B, and the franchisor's headquarters and principal place of business are in State A. The franchisee's complaint included one line about subject-matter jurisdiction that stated: "The court has subject-matter jurisdiction over this suit." In response, the franchisor filed a motion to dismiss for lack of subject-matter jurisdiction.

Upon reviewing the motion and the complaint, the judge issued an order to show cause to the franchisee's attorney to explain why the attorney should not be sanctioned for failing to adequately plead subject-matter jurisdiction. At the show-cause hearing, the franchisee's attorney arrived with an amended complaint to substitute for the original complaint. The judge accepted the amended complaint and denied the franchisor's motion to dismiss. The judge also imposed sanctions against the franchisee's attorney in the amount of \$2,000, payable to the court.

The case proceeded, the jury returned a verdict in favor of the franchisee, and the judge issued a final judgment consistent with the verdict.

The franchisee's attorney then filed an appeal related to the court's imposition of sanctions.

What is the appellate court's likely response?

- A. Affirm the order imposing sanctions.
- B. Vacate the order imposing sanctions, because the judge accepted the amended complaint.
- C. Vacate the order imposing sanctions, because the judge acted sua sponte.
- D. Vacate the order imposing sanctions, because the judge failed to allow 21 days to pass before imposing sanctions.

Explanation:

Representations to court

(FRCP 11(b))

Every pleading, motion, or other document filed must be signed by attorney (or unrepresented party), thereby certifying that:

1. document is presented for proper purpose—not to harass, cause unnecessary delay, or needlessly increase cost of litigation
1. claims, defenses & legal contentions are warranted by existing law or by nonfrivolous argument for revising or establishing law
2. factual assertions have or will have evidentiary support *and*
3. factual denials are warranted by evidence or reasonably based on belief/lack of information

FRCP = Federal Rule of Civil Procedure.

A court can impose **sanctions** on a law firm (default), attorney, or party if the court finds that they violated one of the provisions of Federal Rule of Civil Procedure (FRCP) 11(b)—shown above. Sanction proceedings can be initiated by:

- an **opposing party's motion** – which **requires** that party to serve the motion on the violator but **refrain from filing** it with the court for **21 days** to allow the violation to be corrected (ie, **safe-harbor rule**) *or*
- on the **court's own initiative** (ie, sua sponte) – which requires the judge to issue an order to show cause on the violator but does **not require** the judge to apply the **safe-harbor rule**.

Here, the franchisee's complaint simply alleged that the federal court "has **subject-matter jurisdiction** over this suit." The complaint did not include the *grounds* supporting this assertion as required by FRCP 8—eg, by providing the facts that established subject-matter jurisdiction. This means that the franchisee's jurisdictional claim was not warranted by law and violated FRCP 11(b)(2). As a result, the judge had the authority to initiate sanction proceedings sua sponte and impose sanctions after the show-cause hearing (**Choices C & D**).

Such sanctions should be sufficient to deter the violator's conduct in the future—eg, a \$2,000 fine payable to the court (as seen here). However, the sanctions order can be appealed. The appellate court will then review the sanctions order for **abuse of discretion**, thereby giving great deference to the trial court's ruling and only reversing that ruling if it was unreasonable or arbitrary. Therefore, the appellate court will likely affirm the order imposing sanctions.

(Choice B) The judge's acceptance of the amended complaint does not negate the judge's power to sanction the attorney for his deficient original complaint.

Educational objective:

A court can impose sanctions for violating Federal Rule of Civil Procedure 11(b). Sanction proceedings can be initiated by (1) an opposing party, who must give the violator 21 days to correct the violation, or (2) the court, which need not give the violator time to do so.

References

- Fed. R. Civ. P. 11(c) (sanctions for violating this rule).
- Cooter & Gell v. Hartmarx Corp., 496 U.S. 384, 405 (1990) (establishing that abuse of discretion is appropriate appellate standard of review for Fed. R. Civ. P. 11 sanctions).

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