

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
BAY CITY**

IN RE: Kevin W. Kulek

Chapter 7 Petition
16-21030-dob
Honorable Daniel Opperman

_____/

RANDALL L. FRANK, TRUSTEE,
Plaintiff,

Adversary Case Number
17-02002-dob
Honorable Daniel Opperman

V

PAUL B. MALETICH
VIRTUAPIN CABINETS, INC.,
Defendants.

_____/

Keith M. Nathanson, P41633
Special Litigation Counsel to Randall L. Frank, Trustee
Attorney for Plaintiff
Keith M. Nathanson, PLLC
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Peter J. Philpott, P48078
Attorney for Defendants
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_____ /

F.R.BANK.P. 9011 MOTION FOR SANCTIONS

NOW COMES Plaintiff, Randall L. Frank, Trustee, by and through his attorneys,
Keith M. Nathanson, PLLC, and for motion for sanctions pursuant to B.R. 9011, states as
follows:

1. Defendants have filed a motion, through Counsel, to seek to set aside the default and/or default judgment entered in the instant action.

2. Defendant's Counsel has proffered the position that service of an adversary complaint can only be done by personal service and/or in accordance with state court rules of civil process service.

3. Defendant's Counsel has also represented the Bank.R.Civ.P. 7004 does not allow for service of process by mail, despite clear, unequivocal language that service by mail is an acceptable form of service of process..

4. Defendant's Counsel has violated F.R.Civ.P. 11 and Bank.R.Civ.P. 9011 by making patently false representations which are unsupported by the Court Rules, case law or common law.

5. Plaintiff's Counsel has served this motion on Defendants' Counsel on April 4, 2017 in order to allow Defendants' Counsel to withdraw the offending pleading, and Defendants' Counsel was authorized to accept service of this motion on his Clients' behalf.

WHEREFORE Plaintiff moves this Honorable Court to enter an order pursuant to F.R.Bank.P. 9011 that:

a. Finds Defendant's Counsel in violation of F.R. Bank.P. 9011 and F.R.Civ.P. Rule 11;

b. Grants costs and attorney fees to Plaintiff's Counsel of \$2,500.00 to be paid forthwith;

c. Strike Defendants' motion as a nonmonetary directive;

d. Grant such other relief as may be equitable.

Respectfully submitted,

/s/ Keith M. Nathanson

Keith M. Nathanson, P41633

Special Litigation Counsel for the Chapter 7 Trustee

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Dated: May 4, 2017