

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Binn v. Abbe

No. 19-3137-cv, United States Court of Appeals for the Second Circuit (September 3, 2020)

SUMMARY

The Second Circuit vacated and remanded a district court order denying leave to pursue Rule 11 sanctions under the Private Securities Litigation Reform Act (PSLRA), 15 U.S.C. § 78u-4(c)(1). The district court's one-sentence order referencing a party's letter was insufficient because the PSLRA requires specific findings regarding compliance with Rule 11(b) as to each claim, party, and attorney. The court held that a remand is necessary to permit the district court to make the required statutory findings.

CASE DETAILS

COURT	United States Court of Appeals for the Second Circuit
WRITING FOR THE COURT	Rosemary S. Pooler; Peter W. Hall; Denny Chin
JURISDICTION	Federal
DECIDED	September 3, 2020
DOCKET	19-3137-cv
DISPOSITION	vacated
PROCEDURAL POSTURE	Appeal from a district court order denying leave to file a motion for Rule 11 sanctions.
PRECEDENTIAL VALUE	Unpublished
PARTIES	Richard K. Abbe v. Moreton Binn and Marisol F, LLC

TOPICS

[securities fraud](#)[sanctions](#)[appellate procedure](#)[civil procedure](#)[statutory interpretation](#)

PRACTICE AREAS

[Securities Litigation](#)[Appellate Procedure](#)

QUESTIONS PRESENTED

- Whether the district court's one-sentence order denying leave to file a Rule 11 sanctions motion complied with the requirement under the Private Securities Litigation Reform Act (PSLRA) that the

court make specific findings regarding compliance with Rule 11(b) of the Federal Rules of Civil Procedure.

HOLDINGS

1. The district court's order did not comply with the PSLRA because it did not make specific findings as to each claim, each party, and each attorney; a mere reference to a letter is insufficient.

KEY QUOTATIONS

“For substantially the reasons set forth in plaintiffs [sic] August 12, 2019 letter, this application is denied.”

“As the [PSLRA] require[s] the district court to make findings, we have no choice but to remand in order to permit it to do so.”

FACTUAL BACKGROUND

Appellant Richard K. Abbe sought leave to file a motion for Rule 11 sanctions against plaintiffs in a securities action. The district court denied the motion in a one-sentence order referencing plaintiffs' opposition letter.

PROCEDURAL HISTORY

The district court denied Abbe's application for leave to file a motion for Rule 11 sanctions in a one-sentence order referencing plaintiffs' letter. Abbe appealed.

DISPOSITION

vacated

REMAND INSTRUCTIONS

For further proceedings consistent with this order, specifically to make the required findings under the PSLRA.

CASES CITED

- Gurary v. Winehouse, 190 F.3d 37, 47 (2d Cir. 1999)
- Thompson v. RelationServe Media, Inc., 610 F.3d 628, 638-39 (11th Cir. 2010)

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