

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

1 At a stated term of the United States Court of Appeals for the Second
2 Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in
3 the City of New York, on the 14th day of June, two thousand twenty-three.

4
5 PRESENT:

6 ROSEMARY S. POOLER
7 RICHARD C. WESLEY,
8 MICHAEL H. PARK,
9 *Circuit Judges.*

10 _____
11
12 The National Academy of Television Arts and
13 Sciences, Inc., Academy of Television Arts &
14 Sciences,

15
16 *Plaintiffs-Appellees,*

17 v.

22-592

18
19 Jason Goodman,

20
21 *Counter-Claimant-Counter-*
22 *Defendant-Appellant.**

* The Clerk is respectfully directed to amend the caption accordingly.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

FOR GOODMAN:

Jason Goodman, pro se, New York, NY.

FOR THE ACADEMIES:

Margaret A. Esquenet , B. Brett Heavner, Mary Kate Brennan, Finnegan, Henderson, Farabow, Garrett & Dunner, LLP, Washington, DC.

FOR AMICUS CURIAE:

D. George Sweigert, pro se, Box Elder, SD.

Appeal from a judgment of the United States District Court for the Southern District of New York (Caproni, J.).

UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the judgment of the district court is **AFFIRMED** and the motion to strike is **DENIED** as moot.

Appellant Jason Goodman, proceeding pro se, appeals from the district court’s sanctions order against him and denial of his motion to intervene. Appellees, the Academy of Television Arts & Sciences and the National Academy of Television Arts and Sciences, Inc. (together, the “Academies”), brought a copyright- and trademark-infringement suit against Multimedia System Design, Inc. (“MSD”). Goodman, the sole owner and employee of MSD, sought to intervene on his own behalf. The district court denied that motion and imposed sanctions on Goodman for willfully violating a

1 protective order by exposing a confidential email address. We assume the parties'
2 familiarity with the underlying facts, the procedural history of the case, and the issues on
3 appeal.

4 Pro se filings are liberally construed “to raise the strongest arguments they
5 suggest.” *McLeod v. Jewish Guild for the Blind*, 864 F.3d 154, 156 (2d Cir. 2017).

6 I. Sanctions

7 We review sanctions orders for abuse of discretion. *Wolters Kluwer Fin. Servs., Inc.*
8 *v. Scivantage*, 564 F.3d 110, 113 (2d Cir. 2009). “Imposition of sanctions under a court’s
9 inherent powers requires a specific finding that an attorney [or party] acted in bad faith”
10 and is “appropriate only if there is clear evidence that the conduct at issue is (1) entirely
11 without color and (2) motivated by improper purposes.” *Id.* at 114. Conduct is
12 “entirely without color when it lacks any legal or factual basis.” *Id.* “A finding of bad
13 faith, and a finding that conduct is without color or for an improper purpose, must be
14 supported by a high degree of specificity in the factual findings.” *Id.*

15 The district court did not abuse its discretion by ordering sanctions based on its
16 finding that Goodman acted in bad faith. Goodman knew of the protective order
17 prohibiting disclosure of confidential discovery material, understood that the
18 confidential email address was protected by that order, and decided to reveal the email
19 address anyway. The court determined that “Goodman’s violation of the Protective
20 Order was done willfully, with no legitimate purpose, to satisfy Mr. Goodman’s desire

1 to prove that Mr. Sweigert was behind the confidential email address,” and Goodman
2 willfully disregarded the authority of the district court in establishing a protective order.
3 Order at 5–6 , *Nat’l Acad. of Television Arts & Scis., Inc.*, No. 20-cv-7269 (S.D.N.Y. Feb. 22,
4 2022), ECF No. 156. Indeed, Goodman made clear that he understood his behavior could
5 have led to sanctions for an attorney but assumed he was protected from reprisal because
6 he was neither a pro se litigant nor represented by counsel. See Letter exhibit A at 2,
7 *Nat’l Acad. of Television Arts & Scis., Inc.*, No. 20-cv-7269 (S.D.N.Y. Aug. 26, 2021), ECF No.
8 113-1 (“Now that I don’t have an attorney whatever I do my attorney can’t get sanctioned
9 and I’m not even Pro Se so they could just yell at me and tell me not to do it again.”).
10 Moreover, at a show-cause hearing on the matter, the court rejected Goodman’s claim
11 that he did not realize the email address was subject to the protective order, specifically
12 finding that this explanation for his conduct was not credible. We afford the district
13 court’s credibility determinations significant deference, see *United States v. Iodice*, 525 F.3d
14 179, 185 (2d Cir. 2008), and the record fully supports the district court’s assessment of
15 Goodman’s bad faith.

16 Furthermore, the requirement to notify other courts of the order against Goodman
17 is not a particularly onerous sanction. “A district court may, in its discretion, impose
18 sanctions against litigants who abuse the judicial process,” including “an injunction
19 forbidding further litigation.” *Shafii v. Brit. Airways, PLC*, 83 F.3d 566, 571 (2d Cir. 1996).
20 Goodman has engaged in many lawsuits with Sweigert, including at least six others that

1 have reached this Court. *See* 2d Cir. 21-78, 21-2005, 21-3101, 22-40, 22-682, 22-1414. The
2 district court's order is limited to two years and serves only to notify other courts that
3 Goodman has previously violated a protective order. The order did not bar Goodman
4 from further litigation and so was less of an imposition than a filing injunction. *Cf. Shafii*,
5 83 F.3d at 571. And we have approved similar orders against attorneys who have been
6 sanctioned. *See Gallop v. Cheney*, 667 F.3d 226, 230-31 (2d Cir. 2012).

7 **II. Intervention**

8 "We review a district court's denial of a motion to intervene for abuse of
9 discretion." *In re Bank of N.Y. Derivative Litig.*, 320 F.3d 291, 299 (2d Cir. 2003). First, to
10 intervene as a matter of right under Fed. R. Civ. P. 24(a)(2), an applicant must "(1) timely
11 file an application, (2) show an interest in the action, (3) demonstrate that the interest may
12 be impaired by the disposition of the action, and (4) show that the interest is not protected
13 adequately by the parties to the action." *Id.* at 300. (cleaned up). "Failure to satisfy *any*
14 *one* of these requirements is a sufficient ground to deny the application." *Id.* (cleaned
15 up).

16 The district court did not abuse its discretion by finding that Goodman's motion
17 to intervene as of right was untimely, as it was filed a year and a half into the litigation
18 and only after Goodman realized MSD was at risk of a default judgment. Furthermore,

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.