

# Striking a Balance: Exploring Legal Consequences of Frivolous Claims

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Attorneys often find themselves navigating the delicate balance between advocating for their clients' interests and upholding the integrity of the judicial system. The recent decision by the First Department in the case of *13 E. 124 v. J&M Realty Services et al.*, 222 A.D.3d 446, 202 N.Y.S.3d 31 (2023), issued on Dec. 12, 2023, sheds light on the risks and challenges associated with representing clients with potentially frivolous or nonviable claims.

The case underscores attorneys' duties to exercise due diligence in evaluating the merit of their clients' claims not only before initiating legal proceedings, but at each step in the legal process. In *13 E. 124 v. J&M Realty Services et al.*, the plaintiffs moved by way of order to show cause for a preliminary injunction directing the defendants to cooperate with a change in property management, as required by the parties' property management contract. The defendants, who sought to resolve the matter immediately upon receiving the plaintiffs' order to show cause application, agreed to all of the plaintiffs' requested relief and attempted to resolve the matter by drafting a proposed stipulation of settlement to that effect.



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But the plaintiffs refused to withdraw their motion, and instead represented that their goal was to “make [the defendant-company’s president] cry, pay \$500,000 in legal fees and then only agree to discontinue the action when [the president] agrees to reimburse [p]laintiffs’ legal fees.” 222 A.D.3d at 447-48 (third alteration in original).

The defendants cross-moved for sanctions on grounds that the plaintiffs’ failure to discontinue the action was frivolous, at which point the plaintiffs finally discontinued the action pursuant to CPLR 3217. They also opposed the defendants’

application for sanctions on grounds that their voluntary discontinuance divested the court of jurisdiction to impose sanctions based on their pre-discontinuance conduct.

The Supreme Court granted the defendants' application and ordered the plaintiffs to reimburse the defendants for their attorneys' fees and costs pursuant to 22 NYCRR 130-1.1. On appeal, the First Department affirmed, holding that courts have jurisdiction to impose sanctions irrespective of the status of the underlying case. The First Department held that the Supreme Court had "providently exercised its discretion" in finding that the plaintiffs acted in bad faith, as they "refused to consent to a stipulation which would have granted them all the relief they were seeking."

Notably, the court reiterated that the goal of Rule 130 sanctions is not only to "punish past conduct," but also to "deter[] future frivolous conduct," including the use of "vexatious litigation and dilatory or malicious litigation tactics," both by the specific parties to the case and by members of the Bar at large (citation omitted).

This decision serves as a stark reminder of the potential consequences to a litigant engaging in frivolous conduct and the role of attorneys to counsel their clients regarding such conduct.

One of the primary risks associated with filing frivolous lawsuits, applications or continuing such actions is the imposition of legal sanctions. These sanctions, which can be imposed even after the lawsuit's resolution, range from monetary penalties to adverse judgments against the party responsible for the frivolous claim. In extreme cases, attorneys may face disciplinary action for their involvement in pursuing baseless claims.

Frivolous litigation not only wastes valuable judicial resources, but also undermines the credibility of the legal profession as a whole. When attorneys

fail to uphold their duty to promote the fair and efficient administration of justice, they erode public trust in the legal system and perpetuate a culture of litigation abuse.

Frivolous claims can also have significant financial implications for both clients and attorneys. Clients may incur substantial legal fees and expenses only to find their claims dismissed or subject to sanctions. Attorneys, on the other hand, risk tarnishing their professional reputations and facing potential malpractice claims for providing inadequate representation.

In light of these risks and consequences, attorneys have a duty to exercise caution and prudence in their representation of clients, both at the commencement of the action and with every step during the entire legal process. This includes conducting thorough legal research, consulting with experts where necessary, and candidly advising clients on the viability of their claims, including when and when not to pursue litigation. By encouraging a more responsible approach to legal proceedings, attorneys can help prevent the proliferation of frivolous litigation and promote the efficient resolution of disputes.

The decision in *13 E. 124 v. J&M Realty Services et. al., supra*, serves as a reminder of the importance of upholding ethical standards and promoting the integrity of the legal profession. By striking the appropriate balance between zealous advocacy and adherence to procedural rules and ethical obligations, attorneys can simultaneously fulfill the duties they owe to their clients and the justice system as a whole.

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