

J.N. et al., v. Jeffrey GOLDBERG

(2026) No. B345334

Court of Appeal, Second District, California

Section 128.7 sanctions motion was defective for failing to specify a hearing date due to CRS limitations on reserving dates within the 21-day safe harbor period.
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FACTS/PROCEDURE

Plaintiffs brought a lawsuit alleging financial elder abuse, fraud or undue influence, and intentional misrepresentation, seeking attorney fees under relevant statutes. After the complaint was filed, Defendant sought sanctions under Code of Civil Procedure section 128.7, arguing the complaint was frivolous and legally barred. Under section 128.7, a moving party must serve a notice of motion reflecting when the motion will be heard, observe a 21-day safe harbor period, and then file the motion, allowing the opposing party an opportunity to withdraw the challenged pleading to avoid sanctions. However, due to limitations imposed by the Los Angeles County Superior Court's electronic Court Reservation System (CRS), requiring motions to be filed within three business days of the day the reservation is secured, Defendant served his notice of motion for sanctions on October 25, 2024, without specifying a hearing date, then later filed and served motion papers with a hearing date on November 20, 2024, after the required 21-day safe harbor period. In other words, Defendant prepared his sanctions motion, served it on Plaintiffs with a blank hearing date (because he could not get one yet), and then after the 21 days expired, he filed and served the motion with the noticed hearing date.

The trial court considered the sanctions motion and found the complaint to be both factually and legally frivolous. It rejected Plaintiffs' argument that the notice of motion was defective for not including a hearing date, reasoning that the CRS's requirements made strict compliance impossible. The trial court awarded Defendant \$19,285 in fees and costs, concluding that statutory notice requirements had been satisfied despite the procedural omission. Plaintiffs appealed the trial court's judgment, which was entered following the order granting sanctions.

HOLDING/DISCUSSION

The Second District Court of Appeal reviewed the case de novo with respect to the statutory notice requirement and held that Defendant's notice of motion was fatally defective because it did not specify when the motion would be made, as required by sections 128.7 and 1010 and as clarified by *Galleria Plus, Inc. v. Hanmi Bank*, which holds that compliance is mandatory, not permissive. The Court of Appeal reasoned that although *Galleria Plus* was decided almost a decade before the Los Angeles Superior Court adopted CRS, the case did not address the manner in which a hearing date could be obtained or the resources available to a party to secure a date. Instead, *Galleria Plus* addressed whether the statutory provisions require that a notice of a sanctions motion indicate "when the motion would be made," and, if so, the consequence of omitting that information. The Court of Appeal concluded that compliance with the statutory notice and safe harbor provisions is mandatory, and that failure to comply invalidates the sanctions award. Accordingly, the Court of Appeal reversed the order awarding sanctions and the judgment, and remanded the case for further proceedings.