

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

STEAVEN WADE,

Plaintiff,

v.

DCS FINANCIAL, INC.,,

Defendant.

CASE NO. C16-5398BHS

ORDER GRANTING IN PART
AND DENYING IN PART
DEFENDANT’S MOTION FOR
SANCTIONS

This matter comes before the Court on Defendant DCS Financial, Inc.’s (“DCS”) motion for sanctions (Dkt. 14). The Court has considered the pleadings filed in support of and in opposition to the motion and the remainder of the file and hereby grants in part and denies in part the motion for the reasons stated herein.

I. PROCEDURAL HISTORY

On May 25, 2016, Plaintiff Steaven Wade (“Wade”) filed a complaint against DCS alleging violations of the Fair Debt Collections Practices Act (“FDCPA”), 15 U.S.C. § 1692 *et seq.* Dkt. 1. Wade alleged that DCS’s “debt collection efforts attempted and/or directed towards Plaintiff violate various provisions of the FDCPA, including but not limited to 15 U.S.C. §§ 1692g, 1692d, 1692e(2), 1692e(4), 1692e(10), 1692e(11), 1692f and 1692f(6).” *Id.*, ¶ 20.

On August 4, 2016, DCS’s counsel sent Wade’s counsel a letter demanding that the complaint be withdrawn within 21 days and attached a draft of a motion for summary

1 judgment. Dkt. 14-2. On August 25, 2016, DCS filed a motion for judgment on the
2 pleadings or for summary judgment. Dkt. 9. Wade filed an untimely response on
3 September 15, 2016 and contested only part of the motion. Dkt. 10. On October 26,
4 2016, the Court granted the motion and ordered the Clerk to enter judgment in DCS's
5 favor. Dkt. 12.

6 On November 3, 2016, DCS filed the instant motion requesting sanctions in the
7 amount of its reasonable attorney's fees for defending this action. Dkt. 14. On
8 November 16, 2026, Wade filed an untimely response. Dkt. 16. On November 16, 2016,
9 DCS replied. Dkt. 17.

10 **II. DISCUSSION**

11 Rule 11(b) of the Federal Rules of Civil Procedure requires that in all
12 representations to the court an attorney conduct "an inquiry reasonable under the
13 circumstances." If, after notice and a reasonable opportunity to respond, the court
14 determines that Rule 11(b) has been violated, the court may impose an appropriate
15 sanction on any attorney, law firm, or party that violated the rule or is responsible for the
16 violation. Fed. R. Civ. P. 11(c)(1).

17 In this case, the Court finds that at least some of Wade's claims were frivolous.
18 For example, DCS contended that Wade's complaint asserted only two claims. Dkt. 9 at
19 1. Wade failed to contest this assertion and failed to contest DCS's motion for summary
20 judgment on the "mini-Miranda" claim. Dkt. 12 at 7. Although this failure alone does
21 not show that Wade's claim was frivolous, DCS's attorney sent Wade's attorney a draft
22 motion specifically detailing how the claim was frivolous in light of the facts of this case.

1 Dkt. 14-3. Instead of conceding this claim, Wade forced DCS to file the motion and
2 failed to respond to the relevant portion of the motion. The Court finds that these actions
3 not only needlessly increase the costs of litigation but also show a failure to adequately
4 investigate the claim before filing the complaint. Therefore, the Court grants DCS's
5 motion on this claim.

6 With regard to Wade's overshadowing claim, DCS has failed to show that Wade's
7 claim was not well founded. Although Wade ultimately lost on this claim, the Court is
8 unable to conclude that a reasonable attorney would refrain from filing this claim or
9 contesting it on a dispositive motion. Therefore, the Court denies DCS's motion on this
10 issue.

11 Regarding an appropriate sanction, the Court concludes that half of the requested
12 fee is reasonable and warranted. Moreover, this amount shall be payable by Wade's
13 attorney because she is responsible for the violation.

14 III. ORDER

15 Therefore, it is hereby **ORDERED** that DCS's motion for sanctions (Dkt. 14) is
16 **GRANTED in part** and **DENIED in part**. DCS is awarded \$2535 against Wade's
17 attorney.

18 Dated this 21st day of December, 2016.

19
20 

21 BENJAMIN H. SETTLE
22 United States District Judge