

Fact Pattern:

Matt, who was just admitted to practice law and was unable to find a job at a law firm decided to hang his own shingle. On the first day that he was open, Peter came into his law office and stated that his wife Jane was involved in a terrible car accident. Peter stated that David was the driver of the car that he had hit Jane while she was parked at a red light. Peter also stated that Jane's medical bills for just 2 months of treatment totaled \$100,000.00. Matt accepted the truth of Peter's statements and prepared a Complaint against David stating the Jane had been permanently injured and was entitled to \$1,000,000.00 in damages.

Because he was a new attorney, Matt did not think of getting a copy of the police report. If Matt had obtained a copy of the policy report, he would have learned that Don, not David was the driver of the car. At trial, David's attorney introduced a copy of the police report and moved to dismiss the case. The Court granted David's motion to Dismiss.

Questions:

What if any further actions should David's attorney take now that he has prevailed?

Example Answer:

Move for Rule 11 sanctions. By signing a pleading to the court, an attorney or unrepresented party is certifying that "to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances," that the pleading is not being presented for any improper purpose, the claims and other legal contentions are warranted by existing law, the allegations and other factual contentions have evidentiary support. If there is a violation of the Rule, the Court may impose appropriate sanctions. Possible sanctions include an order to pay a penalty to the court.

The facts indicate that Matt had every reason to believe David. However, he did not make a reasonable inquiry as to the truth of David's statements. For example, he should have reviewed the police report to at least identify the true identity of the party who struck Jane.