

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 16-21199-CIV-ALTONAGA/O'Sullivan

ANDREA ROSSI, et al.,

Plaintiffs,

v.

THOMAS DARDEN, et al.,

Defendants.

ORDER

THIS CAUSE came before the Court on Plaintiffs, Andrea Rossi and Leonardo Corporation's (collectively, "Plaintiffs[']") Motion for Rule 11 Sanctions ("Motion") [ECF No. 108], filed January 10, 2017. The relief Plaintiffs seek is evident from the title of the Motion.

"A court confronted with a motion for Rule 11 sanctions must first determine whether the claims raised are objectively frivolous and, if they are, whether the signer of the pleadings should have been aware of their frivolous nature." *Lee v. Mid-State Land & Timber Co., Inc.*, 285 F. App'x 601, 608 (11th Cir. 2008) (citation omitted). The Advisory Committee Notes make clear Rule 11 should not be used to "test the legal sufficiency or efficacy of allegations in the pleadings [as] other motions are available for those purposes." FED. R. CIV. P. 11 advisory committee's notes (1993 Amendments) (alteration added).

By Order dated October 14, 2016 [ECF No. 67], the Court granted in part and denied in part Plaintiffs' Motion to Strike in Part Defendants' Second Amended Answer . . . [ECF No. 54]. On November 16, 2016, the Court entered an Order [ECF No. 76], denying Plaintiffs' Motion to Dismiss Defendants' Amended Counterclaims . . . [ECF No. 56]. Considering the outcomes on these previous motions and given Plaintiffs have not subsequently filed a motion for judgment on

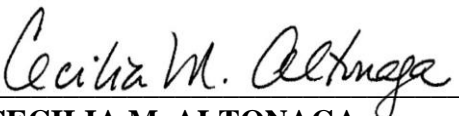
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the pleadings, the present Motion is premature.

Being fully advised, it is

ORDERED AND ADJUDGED that the Motion [ECF No. 108] is **DENIED without prejudice.**

DONE AND ORDERED in Miami, Florida this 11th day of January, 2017.



CECILIA M. ALTONAGA
UNITED STATES DISTRICT JUDGE

cc: counsel of record