INHERENT FEDERAL COURT SANCTIONS FOR EXTRATERRITORIAL CIVIL LITIGATION CONDUCT

*Jeffrey A. Parness**

INTRODUCTION

In *Keyes Law Firm, LLC v. Napoli*, the U.S. Court of Appeals for the Fourth Circuit provided some guidance on the inherent sanctioning authority of Article III on federal courts for related civil litigation misconduct undertaken elsewhere, as well as on the

* Professor Emeritus, Northern Illinois University College of Law, B.A., Colby College; J.D. The University of Chicago.

factors for determining related attorney fee awards.[1] In doing so, it determined that some problematic New York state court and New York federal court conduct impacting pending Maryland federal civil litigation could prompt inherent Maryland federal court sanctions.[2] Further, it ruled that any related fee award norms should differ from those generally employed in fee-shifting statutes.[3] Yet, the *Keyes* ruling leaves important questions left unaddressed.

One set of questions involves the types of federal civil litigation conduct undertaken elsewhere that are subject to inherent sanctioning authority. Does the place where the conduct occurred or the degree of conduct culpability matter? A second set of questions involves who is susceptible to sanctions. Do those eligible include not only attorneys and parties but also witnesses, court personnel, law firms, and nonparty litigation participants? A third set of questions encompasses the guidelines for choosing between competing sanction laws in multijurisdictional settings. A fourth set of questions involves the types of sanctions available. Which sanctions are preferred and which are discouraged? A final set of questions involves the guidelines attending judicial assessments of sanctions. Should fee awards under the inherent sanctioning authority be assessed differently than fee awards under prevailing party fee-shifting laws?

---

[1] Keyes L. Firm, LLC v. Napoli (*Keyes II*), 120 F.4th 139, 143-45 (4th Cir. 2024); *accord* Taser Int'l, Inc. v. Phazzer Elecs., Inc., No. 16-cv-366-PGB, 2025 WL 2396756, at *6 (M.D. Fla. June 26, 2025) (magistrate judge's report applying *Keyes*). For excellent reviews of the doctrine of inherent federal court powers, including sanctioning authority for civil litigation misconduct, see Charles M. Yablon, *Inherent Judicial Authority: A Study in Creative Ambiguity*, 43 CARDOZO L. REV. 1035, 1038 (2022) (opining that the ambiguity in the doctrine "is not a bug but a feature" where "there are probably good institutional reasons" supporting the ambiguity); Robert J. Pushaw, Jr., *The Inherent Powers of Federal Courts and the Structural Constitution*, 86 IOWA L. REV. 735 (2001); Thomas E. Baker, *The Inherent Power to Impose Sanctions: How a Federal Judge Is Like an 800-Pound Gorilla*, 14 REV. LITIG. 195 (1994).

[2] *Keyes II*, 120 F.4th at 144-45. On the extraterritorial application of a state's criminal laws to out-of-state conduct, see, for example, Matthew P. Cavedon, *Constitutional Federalism's Limits on State Criminal Extraterritoriality*, 57 ARIZ. ST. L.J. (forthcoming 2025).

[3] *Keyes II*, 120 F.4th at 144-45. This 2024 ruling was preceded by a 2022 Fourth Circuit ruling that essentially sustained a judgment for Keyes on the merits upon a December 19, 2019, jury verdict. *Id.* at 142 (noting that the 2022 ruling affirmed the 2019 verdict "with a minor adjustment to the post-judgment interest rate").

Beyond these inherent power questions, the *Keyes* ruling prompts important and beguiling questions about the Article III federal courts' sanctioning authorities for civil litigation conduct within and outside their territories. Sanctioning powers arise not only inherently but also via rules (general and local), statutes, and common law precedents. These powers contain diverse approaches to such issues as who is subject to sanction, what degree of culpability is required, which sanctions are available, and which sanctions are preferred. These issues are challenging because the rationales underlying the differences are often blowing in the wind. Further, because sanctioning authorities are typically not exclusive, multiple powers utilized in several courts can be employed to address the same litigation conduct. There is little written or case law guidance to date, leaving relatively unfettered discretion to federal bankruptcy, magistrate, district, and circuit judges.[4]

I. THE *KEYES* RULING

In *Keyes*, a Maryland federal district court sanctioned the Napoli Law firms and Paul J. Napoli individually[5] for "abuse of process" involving two lawsuits that began in a New York state court—one of which was removed to a New York federal court.[6] The defendants had been sued by the Keyes Law firm in the

[4] For a critique of federal court use of inherent sanctioning authority to incarcerate persons found in contempt (both in civil and criminal proceedings), see generally Ryan Lee Scott, *Contempt: The Original Judicial Cheat Code*, 129 DICK. L. REV. 181 (2024).

[5] There were numerous law firm defendants, including several iterations of a law firm founded by Paul J. Napoli and Marc Bern; these firms were described as NBRS, a now-inactive New York Law firm, eleven Legacy Defendants, and four Napoli Firm Defendants. Keyes L. Firm, LLC v. Napoli Bern Ripka Shkolnik, LLP (*Keyes I*), No. 20-2092, 2022 WL 3099848, at *1 n.1 (4th Cir. Aug. 4, 2022) (upholding district court's judgment on fee-splitting pacts, which was based on jury verdict; one "small" error was found regarding application of Maryland's ten percent post judgment interest rate law). Herein, the defending entities, or any one of them, are characterized as the Napoli law firms or Napoli Law. The single individual defendant was Paul J. Napoli. *Id.* at *1 n.2.

[6] Keyes L. Firm, LLC v. Napoli Bern Ripka Shkolnik, LLP (*Keyes Abuse Findings*), No. JRR-17-2972, 2023 WL 3604741, at *5 (D. Md. May 22, 2023). The findings and recommendations in this opinion by U.S. Magistrate Judge Copperthite were adopted in their "entirety" by the U.S. district judge. Keyes L. Firm, LLC v. Napoli Bern Ripka Shkolnik, LLC (*Keyes Abuse Adoption*), No. 17-CV-02972, 2023 WL 11960982, at *2 (D. Md. July 11, 2023).

Maryland court for breach of contract and related claims involving failures to share earned contingency fees.[7] The Napoli Law firms represented the defendants. The contract and related claims were resolved upon a jury trial.[8] In the New York cases, the defending parties in Maryland sued to enjoin the Maryland proceeding.[9] Each New York case was voluntarily dismissed.[10]

The district court awarded Keyes a total of $1,050,872 in fees and costs under the federal civil procedure rule on discovery abuse and under its inherent judicial authority.[11] The fees and costs were based on both discovery abuse in the Maryland proceeding and on misconduct in pursuing the New York actions.[12] The

[7] *Keyes II*, 120 F.4th at 142. A successor to the originally named Napoli firm unsuccessfully sought insurance coverage for its defense in the *Keyes* suit. Napoli Shkolnik, PLLC v. Greenwich Ins. Co., 142 N.Y.S.3d 810, 811 (N.Y. App. Div. 2021) ("The Keyes action was premised on actions taken by plaintiff as a business, not in its professional capacity as a law firm.").

[8] *Keyes I*, 2022 WL 3099848, at *1. The 2022 Fourth Circuit ruling affirmed the district court judgment upon a nine-day jury trial (except that it remanded for application of the federal rate of prejudgment interest); the jury addressed "how much money was owed to Keyes" under fee-splitting agreements. *Id.* That trial was preceded by "numerous withdrawals of counsel representing the various Defendants[,]" but in February 2019, four lawyers and their law firm were not permitted by the district judge to withdraw "[i]n light of the history of th[e] case." Keyes L. Firm, LLC v. Napoli Bern Ripka Shkolnik, LLP (*Lawyer Withdrawal Denial*), No. RDB-17-2972, 2021 WL 461751, at *1-2 (D. Md. Feb. 9, 2021).

[9] *Keyes Abuse Findings*, 2023 WL 3604741, at *6.

[10] *Id.* at *5. The voluntary dismissal of the New York state case came after a special referee was appointed and was given the power to hear and determine all issues related to "a settlement agreement under a New York state court Order" involving disputes between Paul J. Napoli and Marc J. Bern. Keyes L. Firm, LLC v. Napoli Bern Ripka Shkolnik, LLP, No. RDB-17-2972, 2019 WL 6341343, at *5 (D. Md. Nov. 27, 2019). The complaining parties in the two New York cases differed. *Keyes Abuse Findings*, 2023 WL 3604741, at *5 (noting a different Napoli entity was involved in the second New York suit, as was a Napoli entity as a defendant). For information on the defendant law firms sued in Maryland, see *supra* note 5 and accompanying text.

[11] *Keyes Abuse Findings*, 2023 WL 3604741, at *10. The trial court employed the discovery sanction provisions of FRCP 37 in finding all defendants "knowingly, willfully, and intentionally violated" the court orders related to discovery. *Id.* at *5. It employed its inherent power to sanction in reviewing "misconduct that occurred in New York." *Id.* The court rejected any attempt to utilize the statute on sanctioning unreasonable and vexatious litigation conduct, 28 U.S.C. 1927, as it applies only to counsel and not to parties, and as there was "insufficient evidence to find by clear and convincing evidence that any of the Defendants[,]" including Mr. Napoli, Ms. Napoli, or law firm entities, "contributed to the misconduct while acting in a counsel capacity." *Id.* at *7.

[12] *Keyes Abuse Findings*, 2023 WL 3604741, at *10.

district judge "accept[ed] and adopt[ed] in its entirety" the magistrate judge's report and recommendation.[13] On appeal to the Fourth Circuit, "Napoli Law contest[ed] the sanctions award[ed] . . . in light of the Napoli firm's abuse of process in two lawsuits filed in the State of New York."[14]

The Fourth Circuit noted that the New York filings constituted part of a pattern of "intentional misconduct" designed to harass Keyes, "disrupt the [Maryland] litigation," and waste the Maryland federal court's time and resources.[15] In addressing the New York filings, the Fourth Circuit stated, "It is hard to imagine a more flagrant challenge to the district court's authority or a more obvious spur to litigation hither and yon."[16] In imposing the sanction for the New York conduct, the court rejected Napoli's argument that the fee shifting provisions (for civil rights claims) of 42 U.S.C. § 1988 should be employed.[17]

In sustaining the use of inherent authority, the Fourth Circuit rejected the argument that inherent federal court sanctioning power was limited to instances of conduct "in direct defiance of a discrete court order."[18] The appeals court reasoned that sanctions were available since Napoli's actions in the New York court threatened the Maryland district court's "own judicial authority or proceedings," and was thus in "direct defiance of the sanctioning [district] court."[19] Napoli urged the New York court to find the Maryland district court proceeding "frivolous and malicious."[20] The appeals court said such pleas were only proper in a federal appeals court.[21]

---

[13] *Keyes Abuse Adoption*, No. 17-CV-02972, 2023 WL 11960982, at *2 (D. Md. July 11, 2023).

[14] *Keyes II*, 120 F.4th 139, 141 (4th Cir. 2024).

[15] *Id.* at 142. The magistrate's findings, adopted by the district judge, were utilized by the Fourth Circuit. *Id.* at 142 n.1.

[16] *Id.* at 144. Neither judge in the district court noted that the related New York proceedings may have violated the common law rule against claim splitting. *See, e.g.*, Pace v. Cirrus Design Corp., No. 22-CV-685-KHJ-MTP, 2025 WL 819006, at *6 (S.D. Miss. Mar. 13, 2025).

[17] *Keyes II*, at 144-46.

[18] *Id.* at 143.

[19] *Id.* at 144 (quoting FDIC v. Maxxam, Inc., 523 F.3d 566, 591, 593 (5th Cir. 2008)).

[20] *Id.* at 144.

[21] *Id.* ("If Napoli finds fault . . . [i]ts recourse lies with the Fourth Circuit . . . .").

In rejecting the use of 42 U.S.C. § 1988, which encompasses a consideration of "the degree of success obtained" by a prevailing party in a civil rights suit, the appeals court said its inquiry was to determine "whether there is a sufficient causal link between the sanctioned misconduct and the fees awarded," noting the "causal test reflects the remedial nature of sanction awards," with a focus "on making the victim whole."[22] This focus on recoveries by *Keyes* differs from a chief focus of Section 1988 and comparable fee shifting laws which are designed to promote greater enforcement opportunities for those having certain enumerated claims, often involving civil rights.

II. WRITTEN LAWS ON SANCTIONING CIVIL LITIGATION CONDUCT IN FEDERAL COURTS

Before exploring the lessons learned from, and the issues raised by, the ruling on inherent authority sanctioning in *Keyes*, it is important to explain the written laws, including court rules and statutes, on federal court sanctions for civil litigation conduct by law firms, lawyers, witnesses, jurors, and others. These written laws might trump, be trumped by, or operate concurrently[23] with inherent sanctioning authority. Even where these written laws do not operate, as found in *Keyes* with civil litigation conduct outside a federal district court action which threatens that action, the policies of these laws might be found germane to uses of inherent sanctioning authority. As the Fourth Circuit ruling in *Keyes* embodied both district and circuit court conduct for which

---

[22] *Id.* at 144-45 (quoting Brodziak v. Runyon, 145 F.3d 194, 196 (4th Cir. 1998)) (citing Goodyear Tire & Rubber Co. v. Haeger, 581 U.S. 101, 108 (2017)).

[23] The *Keyes* appeals court noted that conduct constituting either "direct defiance of a discrete court order" or threats to a court's "own judicial authority or proceedings" could prompt inherent power sanctions. *Id.* at 143-44 (quoting *FDIC*, 523 F.3d at 593). Similar conduct is governed by some federal statutes. *See, e.g.*, 18 U.S.C. § 401 (allowing U.S. courts to "punish by fine or imprisonment, or both, at its discretion, such contempt of its authority, and none other, as—(1) Misbehavior of any person in its presence or so near thereto as to obstruct the administration of justice; (2) Misbehavior of any of its officers in their official transactions; (3) Disobedience or resistance to its lawful writ, process, order, rule, decree, or command"); 18 U.S.C. § 402 (explaining that "contempts constituting crimes" involving willful disobedience of district court order or the like can be prosecuted); 18 U.S.C. § 3285 (explaining criminal contempt under 18 U.S.C. § 402 can "be instituted against any person, corporation or association" within a year of the date of the relevant act).

sanctions were imposed or just considered, the written laws on sanctioning civil litigation conduct in each of the courts will be summarized.

A. District Court Conduct

Sanctionable litigation conduct in a case before a federal district court, beyond inherent court authority, is addressed in both statutes and rules. Beyond its written laws on criminal contempt,[24] Congress has enacted laws allowing civil contempt proceedings against witnesses subpoenaed in foreign countries who fail to appear or to produce requested documents or things[25]—as well as against recalcitrant trial or grand jury witnesses.[26] Further, there is a statute authorizing an award of "excess costs, expenses, and attorneys' fees reasonably incurred" against an attorney or a "person admitted to conduct cases" in a U.S. court who was responsible for unreasonable and vexatious multiplication of proceedings.[27]

The Federal Rules of Civil Procedure ("FRCP") are not only more numerous, but also differ in their approach to what constitutes sanctionable conduct in various settings (i.e., pleading and discovery abuses); on who is subject to sanction (i.e., parties, lawyers and law firms); and on what sanctions are preferred (i.e., privately-secured attorneys' fees and fines payable to the court). Highlights of these FRCP differences follow.

Rule 11 speaks to sanctions for presenting "a pleading, written motion, or other paper[,] whether by signing, filing, submitting, or later advocating," that has an "improper purpose," was not preceded by "an inquiry reasonable under the

---

[24] *See* 18 U.S.C. § 402 (willful disobedience of lawful district court order, rule, writ, process decree or command which constitutes a federal or state criminal offense); *see also* 18 U.S.C. § 401 (punishment of contempt by fine or imprisonment).

[25] 28 U.S.C. § 1784(a)-(b), (d) (upon a finding of disobedience, fine of no more than $100,000 can be ordered).

[26] 28 U.S.C. § 1826(a) (authorizing coercive contempt involving confinement until witness willing to comply).

[27] 28 U.S.C. § 1927 (also available against person "other" than an attorney who is "admitted to conduct" a case in any U.S. court). On the application of the statute, see, for example, *Roadway Express, Inc. v. Piper*, 447 U.S. 752, 757-64 (1980). On the circuit court disputes over the power to sanction law firms under 28 U.S.C. § 1927, see, for example, *Kaas L. v. Wells Fargo Bank, N.A.*, 799 F.3d 1290, 1293-95 (9th Cir. 2015).

circumstances," was not "warranted by existing law" (with exception), or has no "evidentiary support" (or will not likely have such after "further investigation or discovery").[28] Unlike its original predecessor in 1938, no willfulness need be proven.[29] Those subject to sanction include "any attorney, law firm, or party that violated the rule or is responsible for . . . a violation committed by its partner, associate, or employee."[30] The sanction imposed "must be limited to what suffices to deter repetition[;]" the sanction can be "an order to pay a penalty into court," "nonmonetary directives," or an award of "reasonable attorney's fees" and expense if "warranted for effective deterrence."[31] Rule 11 expressly recognizes sanctions may be considered "[o]n the [c]ourt's [i]nitiative" as well as upon a motion for sanctions.[32]

Rule 16 speaks to sanctions for pretrial conference failures, including "fail[ing] to appear," appearing though "unprepared to participate," failing to "participate in good faith," and "fail[ing] to obey a scheduling or other pretrial order."[33] "[T]he party, its attorney, or both"[34] are subject to forms of sanction, which include many of the sanctions authorized for discovery abuse.[35] However, a court "must" include an order "to pay the reasonable expenses—

---

[28] FED. R. CIV. P. 11(b).

[29] *See id.* Originally, Rule 11 spoke to the striking of pleadings "signed with intent to defeat the purpose of th[e] rule," with signors including "at least one attorney of record in his individual name" or an unrepresented party; the rule declared further that "an attorney may be subjected to appropriate disciplinary action" for "a wilful [sic] violation." FED. R. CIV. P. 11 (1938). The original Rule 11 operated from 1938 to 1983 when there was instituted on expanded lists of sanctionable litigation papers (i.e., beyond pleadings) and of those subject to sanction (i.e., "appropriate sanction" for the person who signed, a represented party, or both). *Id.* On the changes to the original rule in 1983, see, for example, Jeffrey A. Parness*, Groundless Pleadings and Certifying Attorneys in the Federal Courts*, 1985 UTAH L. REV. 325. On the later 1993 amendments altering the 1983 version of FRCP 11 to what it is now, see, for example, Georgene M. Vairo, *The New Rule 11: Past as Prologue?*, 28 LOY. L.A. L. REV. 39 (1994). The 1993 rule change authorized sanctions for unreasonable inquiries before presenting, for example, motions or pleadings, but only after being afforded a safe harbor period within which to correct allegedly unreasonable litigation papers. FED. R. CIV. P. 11(c)(2) advisory committee's notes to 1993 amendments.

[30] FED. R. CIV. P. 11(c)(1).

[31] FED. R. CIV. P. 11(c)(4).

[32] FED. R. CIV. P. 11(c)(2)-(3).

[33] FED. R. CIV. P. 16(f)(1)(A)-(C).

[34] FED. R. CIV. P. 16(f)(2).

[35] FED. R. CIV. P. 16(f)(1).

including attorney's fees—incurred because of any noncompliance with this rule, unless the noncompliance was substantially justified or other circumstances make an award of expenses unjust."[36] Rule 16 is quite different from Rule 11 in what is sanctionable, who is sanctionable, and what are the preferred sanctions.

Rule 37 speaks to sanctions for discovery failures which can involve, *inter alia*, failures to respond;[37] "evasive or incomplete" conduct;[38] failures to comply with court orders;[39] failures to supplement earlier discovery responses;[40] and failures to preserve certain electronically stored information.[41] Depending on the type of failure, those sanctionable include "a party or a party's officer, director, or managing agent—or a witness[;]"[42] "a party[;]"[43] and "the party failing to act, the attorney advising that party, or both . . . unless the failure was substantially justified or other circumstances make an award of expenses unjust."[44] While there is usually no requirement of bad faith acts or intentional misconduct, certain discovery sanctions involving failures to preserve electronically stored information require that a "party acted with the intent to deprive another party of the information's use in the litigation."[45] As for available sanctions, they "may" address such private interests as involuntary dismissals, default judgments, evidentiary bars and reasonable expense awards—as well as the public interest in certain contempt proceedings.[46]

---

[36] FED. R. CIV. P. 16(f)(2).

[37] FED. R. CIV. P. 37(a)(3)(B).

[38] FED. R. CIV. P. 37(a)(4).

[39] FED. R. CIV. P. 37(b).

[40] FED. R. CIV. P. 37(c).

[41] FED. R. CIV. P. 37(e) (emphasizing information that "cannot be restored or replaced through additional discovery").

[42] FED. R. CIV. P. 37(b)(2)(A) (failure to obey a discovery order).

[43] FED. R. CIV. P. 37(c)(1) (failure to disclose per Rule 26(a) or to supplement per Rule 26(e)).

[44] FED. R. CIV. P. 37(d)(3) (emphasizing the possible sanctions for failure to attend one's own deposition, to answer interrogatories, or to respond to requests to admit); *see also* FED. R. CIV. P. 37(b)(2)(c) (failure to comply with court orders).

[45] FED. R. CIV. P. 37(e)(2) (detailing the possible remedies available to a court when a party acts with intent to deprive another of information, which include evidentiary presumptions, jury instructions, dismissals, and defaults).

[46] FED. R. CIV. P. 37(b)(2).

Rule 56 speaks to sanctions for certain litigation failures in summary judgment proceedings. Reasonable expense recoveries can be assessed for "an affidavit or declaration . . . submitted in bad faith or solely for delay" against "the submitting party."[47] Additionally, "[a]n offending party or attorney may also be held in contempt or subjected to other appropriate sanctions."[48]

Rule 70 speaks to sanctions for failing to perform an act required to be done by a judgment. Here, "[a] court may order the act to be done—at the disobedient party's expense—by another person appointed by the court."[49] Further, "[a] court may also hold the disobedient party in contempt."[50]

B. Circuit Court Conduct

As for sanctionable litigation conduct in a case before a U.S. court of appeals, the aforenoted federal statute on unreasonable and vexatious multiplication of proceedings is available as it covers conduct "in any court of the United States" in its authorization against "[a]ny attorney or other person admitted to conduct cases" of awards of "excess costs, expenses, and attorneys' fees reasonably incurred."[51] As well, there is Federal Rule of Appellate Procedure 38, which authorizes an award to an appellee of "just damages and single or double costs to the appellee" for a frivolous appeal.[52] And for awards to an appellant (as well as to an appellee), there is another federal statute declaring that when a court of appeals affirms a judgment, "the court in its discretion may adjudge to the prevailing party just damages for his delay, and single or double costs."[53]

---

47 FED. R. CIV. P. 56(h).

48 *Id.*

49 FED. R. CIV. P. 70(a).

50 FED. R. CIV. P. 70(e). Under the rule, contempt proceedings may be pursued for either, or both, coercing compliance and compensating for losses sustained. *See, e.g.*, Utica Coll. v. Gordon, 389 F. App'x 71, 74-75 (2d Cir. 2010). Where a judgment "may be enforced against a nonparty," the nonparty is subject to similar enforcement and sanction norms. FED. R. CIV. P. 71.

51 28 U.S.C. § 1927.

52 FED. R. APP. P. 38.

53 28 U.S.C. § 1912.

III. QUESTIONS ARISING FROM THE *KEYES* RULING

As previously mentioned, the *Keyes* ruling raises many questions. One set of questions involves the types of civil litigation conduct subject to inherent court sanctions. A second set involves who is susceptible to such sanctions. A third set involves the guidelines for choosing between competing sanction laws in multijurisdictional cases. A fourth set involves the types of available sanctions. A final set involves the judicial guidelines for assessing sanctions.

A. Sanctionable Conduct

In *Keyes*, the Fourth Circuit found "intentional misconduct" designed to harass Keyes constituted "direct defiance" of the Maryland district court authority through the New York litigation, even though there was no "direct" defiance of any Maryland court order.[54] Understandable enough. But the finding raises questions about how related, factually and/or legally, an outside court (or agency) proceeding must be in order to prompt "direct" defiance of a court's authority.

Perhaps a reference to distinctions between direct and indirect civil contempt would help to better understand how New York state and federal court conduct[55] could be subject to Maryland federal court authority due to "direct" defiance of the Maryland court's authority. Alternatively, perhaps a reference to the related state criminal court authority existing over extraterritorial acts would help to clarify the "direct" defiance standard used when imposing federal civil litigation sanctions.[56]

---

[54] *Keyes II*, 120 F.4th 139, 142, 144 (4th Cir. 2024). "[D]istrict courts are not powerless to act in the face of contumacious conduct so expressly designed to undercut, and even sabotage, their adjudicative authority." *Id.* at 143.

[55] One of the two New York state court cases was removed to a New York federal district court. *See generally Keyes I*, No. 20-2092, 2022 WL 3099848 (4th Cir. Aug. 4, 2022).

[56] *See, e.g.*, Matthew P. Cavedon, *Constitutional Federalism's Limits on State Criminal Extraterritoriality*, 57 ARIZ. ST. L.J. (forthcoming 2025) (manuscript at 36) (available on SSRN) (outlining the precedents on state prosecutions of extraterritorial crimes where the conduct involves "special state interests"); Mark D. Rosen, *"Hard" or "Soft" Pluralism?: Positive, Normative, and Institutional Considerations of States' Extraterritorial Powers*, 51 ST. LOUIS U. L.J. 713, 717-23 (2007).

In *Keyes*, sanctioned parties were found to have engaged in intentional misconduct in both Maryland and New York.[57] But were intentional acts needed to prompt sanctions? Could certain Napoli acts constituting unreasonable, but not intentional, misbehavior have prompted sanctions? As noted, current Federal Rule of Civil Procedure 11 authorizes sanctions for mere violations, including unreasonable acts,[58] and does not require, as in the 1938 version of the rule, "wilful" conduct.[59] By contrast, as noted, the federal statute permitting sanctions for multiplication of proceedings requires both unreasonable and vexatious conduct.[60] Further, sanctionable discovery abuses include varying failures that need not be intentionally undertaken,[61] though certain sanctions for certain discovery abuses require intentional acts.[62] And sanctionable pretrial conference failures require no findings of intentional acts,[63] nor unreasonable or vexatious acts as demanded in the multiplication of proceedings statute.[64]

U.S. Supreme Court precedent supports the sole use in *Keyes* of inherent sanctioning authority. In *Chambers v. NASCO, Inc.*, the court found that if all of a litigant's conduct is deemed sanctionable, where such conduct sanctionable under rules is intertwined with conduct that is only sanctionable under inherent powers, a trial court need not first apply rules and statutes on sanctioning to discrete occurrences before invoking the inherent power to address remaining acts.[65]

---

[57] *Keyes II*, 120 F.4th at 142.

[58] FED. R. CIV. P. 11(c)(1) (explaining there are two forms of unreasonable acts, encompassing prefiling conduct and post-filing conduct, which can trigger sanctions upon notice of concerns and upon failure to correct the problem); *see also* Parness, *supra* note 29, at 359; Vairo, *supra* note 29, at 53-55.

[59] *See* FED. R. CIV. P. 11 (1938).

[60] 28 U.S.C. § 1927.

[61] *See* FED. R. CIV. P. 37(b)-(d).

[62] FED. R. CIV. P. 37(e)(2) (explaining findings of intended deprivations of certain (i.e., irreplaceable) discoverable electronically stored information are necessary before there can be sanctions involving, e.g., adverse jury instructions, dismissals, or defaults).

[63] FED. R. CIV. P. 16(f)(1).

[64] 28 U.S.C. § 1927.

[65] 501 U.S. 32, 51 (1991) (holding that sanctions do not thwart Federal Rule of Civil Procedure 11 or 26 and cautioning against "extensive and needless satellite litigation"). For literature on inherent sanctioning authority, see *supra* note 2 and accompanying text.

The interference with including defiance of a federal district court civil proceeding through related litigation elsewhere also prompts questions involving the limits, and discretionary use, of federal (supplementary or ancillary)[66] subject matter jurisdiction by the district court whose proceeding was subject to interference from the outside through other judicial proceedings.

The supplemental jurisdiction requires any added "claims" be "so related to [diversity or federal question] claims in the action . . . that they form part of the same case or controversy under Article III of the United States Constitution."[67] Sanction proceedings often do not present new "claims" with independent subject matter jurisdiction.[68] However, these proceedings often involve requests by parties for (or sua sponte considerations of) relief for actions that are factually-related in some ways to claims (whether then pending or earlier presented but no longer pending).[69]

The U.S. Supreme Court has long held, by precedents untethered to statute, there is subject matter jurisdiction, via the inherent Article III judicial power, to sanction certain civil litigation conduct. In *Kokkonen v. Guardian Life Insurance Co. of America*,[70] the Court recognized "ancillary jurisdiction" in a federal district court not only over "claims that are, in varying respects and degrees, factually interdependent" with claims under

---

[66] Pendent jurisdiction seems unavailable as a motion for sanctions based on litigation misconduct, as in *Keyes*, would not be appended to any claim within a pleading. *See, e.g.*, FED. R. CIV. P. 11(c)(2) (motion for sanctions); FED. R. CIV. P. 7(a)-(b) (distinguishing pleadings from motions).

[67] 28 U.S.C. § 1367(a). An excellent review of the entire supplemental jurisdiction statute appears in Wendy C. Perdue, *Supplemental Jurisdiction and § 1367: The Good, the Bad, and the Ugly*, 85 U. PITT. L. REV. 549 (2024). The statutory exemptions for supplemental jurisdiction exercise in general diversity cases, 28 U.S.C. § 1332(b), seem generally inapplicable to sanction requests, which are done usually by motion—though sua sponte proceedings are sometimes possible, as under FED. R. CIV. P. 11(c)(3) ("show cause" order).

[68] These requests are not often pleaded but rather presented via motion. *But see* ILL. SUP. CT. R. 137(b) (requiring that a proceeding on an alleged defective signed litigation paper "be considered a claim within the same civil action").

[69] At least one court has suggested separate analyses into factual relatedness and case or controversy are required under the supplemental jurisdiction statute, urging consideration of whether an attorney fee request constitutes a case or controversy. *See* Riva Techs., Inc. v. Zack Elecs., Inc., No. 01 C 1390, 2002 WL 1559584, at *6-7 (N.D. Ill. July 15, 2002). *But see* ILL. SUP. CT. R. 137(b) (stating a request for fees as a sanction for an improper pleading or motion is treated as a claim).

[70] 511 U.S. 375 (1994).

the court's original jurisdiction (i.e., diversity or federal question claims), but also over matters that "enable a court to function successfully, that is, to manage its proceedings, vindicate its authority, and effectuate its decrees."[71]

Discretionary limits on sanction authority may be gleaned from the supplementary jurisdiction statute. That law recognizes a court can decline to exercise supplemental jurisdiction where, *inter alia*, "the claim raises a novel or complex issue of State law,"[72] "the claim substantially predominates over" original jurisdictional claims, or all the claims over which there is original jurisdiction have been dismissed.[73] As with supplemental jurisdiction, exercises of ancillary or pendent or inherent jurisdiction should also be discretionary.[74]

---

[71] *Id.* at 379-80 (first citing its own precedent on judicial power, Chambers v. NASCO, Inc., 501 U.S. 32 (1991), to order payment of opposing party's attorney's fees as a sanction for misconduct; and then citing its own precedent on judicial "contempt power to maintain order during proceedings," United States v. Hudson, 11 U.S. (7 Cranch) 32, 34 (1812)).

[72] 28 U.S.C. § 1367(c)(1). In the *Keyes* litigation, there appear novel or complex state law issues. Consider the New York state and federal court practices; perhaps only in New York (including in New York state or federal court proceedings with licensed New York lawyers), but not in Maryland, may law firms be subject to independent disciplinary proceedings instituted by legal profession regulators on behalf of the New York high court. By contrast, under Federal Rule of Civil Procedure 11, but perhaps not under New York civil procedure rules and statutes, law firms may be vicariously liable for pleading, motion, and other presentations taken by their lawyers. *See, e.g.*, FED. R. CIV. P. 11(c)(1) ("Absent exceptional circumstances, a law firm must be held jointly responsible for a violation committed by its partner, associate, or employee."); N.Y. COMP. CODES R. & REGS. tit. 22, § 1200.8.4 (2023) (defining misconduct by a law firm to include "knowingly assist[ing] or induc[ing] another" to violate the Professional Conduct rules or "do[ing] so through the acts of another"); *see also* Ted Schneyer, *Professional Discipline for Law Firms?*, 77 CORN. L. REV. 1, 28-29 (1991).

On the professional responsibility challenges facing lawyers involved in civil litigation touching upon two or more jurisdictions, see, for example, Ronald A. Brand, *Professional Responsibility and Privilege in the Cross-Border Practice of Law*, 43 J.L. & COM. 281 (2025). On general federal governmental liability for fees caused by bad faith acts in litigation, see 28 U.S.C. § 2412(b) as applied in *Su v. Bowers*. *See* Su v. Bowers, 89 F.4th 1169, 1180-86 (9th Cir. 2024) (Collins, J., concurring in part and dissenting in part) (reviewing cases under Equal Access to Justice Act).

[73] 28 U.S.C. § 1367(c)(2).

[74] *See, e.g.*, *Kokkonen*, 511 U.S. at 381-82 (holding that the trial court's retention of civil case settlement enforcement authority lies within the court's discretion where there is no independent statutory subject matter jurisdiction per diversity or federal question authority). Beyond discretionary jurisdiction over civil claim settlement enforcement, consider discretionary jurisdiction of a single court over attorney fee disputes between lawyers and clients for work done for that court's proceeding,

B. Sanctionable Individuals and Entities

In the caption, the *Keyes* court listed Paul J. Napoli as an individual defendant.[75] Yet it failed to describe in its ruling whether its focus on his troublesome conduct involved Napoli's work as a lawyer acting in defense of a Napoli firm, as a manager of lawyers or others in a Napoli firm or in another firm, or both.[76] In the Maryland district court order on related conduct in New York that was subject to Fourth Circuit review, there was also no mention of individuals beyond Paul Napoli whose efforts in New York amounted to "direct defiance" of Maryland district court authority.[77] Seemingly not a full commitment to reformative effect by the Fourth Circuit as others surely acted in concert with Paul Napoli.

So, questions arise as to who else may be subject to sanction in Maryland for New York conduct. Does Rule 11, which authorizes sua sponte judicial oversight of meritless litigation presentations by attorneys, law firms and parties,[78] allow the Maryland court itself to inquire into disruptive acts by firms or individuals in New York that were not pursued by Keyes? Perhaps not, especially as to firms or individuals whose actions only took place in New York, though impacting (if not directly defying) a Maryland federal court.[79] But Rule 11 does prohibit presentations

although the related work was scattered in several jurisdictions. *See, e.g.*, Cluett, Peabody & Co. v. CPC Acquisition Co., 863 F.2d 251, 257 (2d Cir. 1988) ("It would have been wasteful and duplicative, under the circumstances, to require a bifurcated procedure in which part of the fee dispute would be resolved by a federal court in Manhattan and another part by a state court in Sacramento, California."). Discretion should perhaps be exercised differently, as in *Keyes*, where fees are sought in Maryland from law firms and attorneys who only provided legal services in New York, though in defiance of Maryland federal court authority.

[75] *Keyes II*, 120 F.4th 139 (4th Cir. 2024). Earlier opinions indicate there were no other individual defendants, including Marc Bern who headed several law firms with Paul J. Napoli during the pendency of the *Keyes* litigation. *See supra* text accompanying note 3.

[76] *Keyes II*, 120 F.4th at 144.

[77] *Id.*

[78] FED. R. CIV. P. 11(c)(1).

[79] Amongst the obstacles are personal jurisdiction limits (assuming the allegedly culpable firms and individuals in the New York cases had not participated in the Maryland case); concerns for the greater authority of the New York trial courts regarding civil litigation abuses in their proceedings; and the regulatory interests of

for "improper purpose[s], such as to harass . . . or needlessly increase the cost of litigation."[80] Could that rule be applied to those solely presenting in a New York federal court proceeding where their intentions were to harass Keyes and to waste federal court resources in Maryland?

Further, as to law firms as distinct from their partners, associates and employees, liability may be vicarious or may be founded on some independent firm culpability, as with firm policies that fail to oversee properly law firm personnel after having been given notices of concerns over individual litigation conduct on behalf of the firm. Consider again Rule 11, which holds, "[a]bsent exceptional circumstances, a law firm must be held jointly responsible for a violation committed by its partner, associate, or employee."[81] Here, a firm and its personnel may avoid sanction during the twenty-one-day safe harbor period, within which all those responsible have time to amend or withdraw written litigation papers that have been challenged by an adversary.[82] Should a firm be sanctioned following this period, it may be due to its failure to prompt the amendment or withdrawal of the paper later found to be frivolous, presented for an improper purpose, or otherwise deficient.[83] As to the aforenoted federal vexatious litigation statute,[84] the federal courts are split on its application to the liability of law firms for their own independent acts or for the acts of firm agents.[85] In circuits where law firms are beyond the statutory reach, is the use of inherent authority violative of congressional desires?

Of course, a civil action in a Maryland federal district court can prompt a deposition subpoena served in the United States, but

State of New York (and perhaps other jurisdictions) in the behaviors of the firms and individuals licensed there).

[80] FED. R. CIV. P. 11(b)(1).

[81] FED. R. CIV. P. 11(c)(1).

[82] FED. R. CIV. P. 11(c)(2).

[83] *See* FED. R. CIV. P. 11(c)(1).

[84] 28 U.S.C. § 1927.

[85] *See, e.g.*, Jayanth K. Krishnan, *The Costs of the Vexatious Lawyer: Who Bears Responsibility?*, 52 FLA. ST. U. L. REV. (forthcoming 2025) (urging the need for considering the liability of other entities beyond private law firms while also urging there be no law firm liability). Yet as noted, the statute speaks to an "attorney or other person." 28 U.S.C. § 1927.

outside of Maryland.[86] Service can then prompt witness obligations, including oral testimony and document production.[87] Failures regarding these obligations can prompt contempt proceedings.[88] Only in some ways are nonparty and non-Maryland witnesses in a Maryland case like nonparty and non-Maryland lawyers and law firms operating outside of Maryland in contemptuous defiance of a Maryland court. For deposition witness failures in New York that are part of a Maryland federal court case, the contempt proceeding would normally occur in the New York court which ordered the deponent to answer a proper deposition question.[89]

C. Choice of Sanction Laws in Multijurisdictional Cases

The *Keyes* case had multijurisdictional elements as the alleged sanctionable conduct in New York involved, in the words of the ruling, "direct defiance" of a Maryland trial court's authority, though no "direct defiance of a discrete court order of the Maryland court."[90] In such a case, whose sanction law should the Maryland trial court apply? In a *Keyes* setting, should federal sanction laws operating in the Maryland district court govern as the case was pending in Maryland; should Maryland sanction state laws govern as the relevant conduct was directed by Maryland law firms and lawyers; or should the sanction laws of both the relevant New York federal court and the New York state court govern because the sanctionable acts occurred in New York court proceedings, though defying an ongoing Maryland proceeding?

The question would be more challenging if the New York proceedings had been involuntarily, rather than voluntarily, dismissed. Then, far more significant New York judicial resources would have been expended. What if such involuntary dismissals were each founded on judicial findings that the claimants'

---

[86] *See* FED. R. CIV. P. 45(b)(2).

[87] FED. R. CIV. P. 30(b)(1)-(2).

[88] FED. R. CIV. P. 37(b)(1).

[89] *See* FED. R. CIV. P. 37(b)(1). If a deposition-related motion is transferred by the New York court to the Maryland court, contempt proceedings can occur in New York or Maryland.

[90] *Keyes II*, 120 F.4th 139, 144 (4th Cir. 2024).

presentations were made for "improper purpose[s]" designed "to harass, cause unnecessary delay, or needlessly increase the cost of litigation?"[91] Here, there would have been far more significant defiance of New York courts and far more significant fees and other expenses expended by Keyes in New York than actually occurred.

While pondering the questions on the choices by Maryland courts of competing sanction laws for New York conduct, assuming the laws differed,[92] consider as well whether it would have made sense for the Maryland court to determine that the issues of fees and expense recoveries incurred by Keyes in the New York cases should be determined by the New York courts.[93]

Some guidance on choice of sanction laws in cases of extraterritorial lawyer or law firm misconduct may be gleaned from the New York Rules of Professional Conduct. The rules delineate between conduct by New York licensed lawyers and law firms in and outside of court proceedings. One rule says that:

> For conduct in connection with a proceeding in a court before which a lawyer has been admitted to practice (either generally or for purposes of that proceeding), the rules to be applied shall be the rules of the jurisdiction in which the court sits, unless the rules of the court provide otherwise.[94]

Another rule says that for "other conduct" (i.e., not "in connection with a proceeding in a court before which [the] lawyer has been admitted to practice"):

If the lawyer is licensed to practice in this state and another jurisdiction, the rules to be applied shall be the rules of the admitting jurisdiction in which the lawyer principally practices;

---

[91] FED. R. CIV. P. 11(b); *see also* N.Y. C.P.L.R. 8303-a (McKinney 2025) (frivolous presentations in personal injury, property damage, and wrongful death claims).

[92] New York and Maryland federal district courts can have differing written laws, as by local court rules or standing orders, or can have differing precedents and/or customs regarding applications of the same general civil procedure laws. As well, New York state trial courts may operate under different norms than those applicable in Maryland trial courts.

[93] Further, it would have made sense to ask whether the Maryland federal court should only consider assessing sanctions for the conduct during the New York federal court proceeding. Consider, for example, 28 U.S.C. § 1367(c)(1) (discretion to not exercise supplemental jurisdiction, as where "novel or complex" state law issues).

[94] N.Y. COMP. CODES R. & REGS. tit. 22, § 1200.8.5(b)(1) (2023).

provided, however, that if particular conduct clearly has its predominant effect in another jurisdiction in which the lawyer is licensed to practice, the rules of that jurisdiction shall be applied to that conduct.[95]

D. Available Sanctions

As noted, there are a variety of general written laws on sanctioning litigation misconduct in the Maryland federal district courts which overlap with some, but not all, general written laws on sanctioning litigation misconduct in the Fourth Circuit.[96] There are also presumedly a variety of general written local laws and customs on sanctioning civil litigation misconduct in New York state and New York federal trial courts.[97] What can be said of the particular sanctions chosen by the Fourth Circuit for New York federal court and New York state court litigation misconduct impacting the Maryland federal court proceeding?

The Fourth Circuit in *Keyes* noted in 2024 that the trial court had chosen to award Keyes $316,873 in fees and costs for Napoli's defiance of federal court discovery orders—an award it did not review.[98] Yet that award, coupled with the million dollar plus award tied to the New York state court filings, makes one wonder what further public interest sanctions may have been, or should have been, considered, especially given the trial court's findings of "bad faith misconduct" and intentional misconduct designed, in

[95] N.Y. COMP. CODES R. & REGS. tit. 22, § 1200.8.5(b)(2)(ii) (2023). If the New York rule was followed, there could be disciplinary proceedings in one state court and sanction proceedings in another state court for the same conduct. *See, e.g.*, *In re* Discipline of Reade, 405 P.3d 105, 109 (Nev. 2017) (explaining that because the disciplinary proceeding could not result in the imposition of a fine, any fine would have to be levied by the trial court hearing the case in which the misconduct occurred).

[96] Not considered herein are any differences, as via precedents or local rules, between the sanctioning power, inherent or otherwise, in the federal district courts in Maryland and in New York, though sanctionable conduct related to the *Keyes* litigation occurred in each state.

[97] In *Keyes* there were no special sanction (including attorney fee recovery) laws. *See generally Keyes II*, 120 F.4th 139 (4th Cir. 2024). *Cf.* Int'l Painters & Allied Trades Indus. Pension Fund v. Fla. Glass of Tampa Bay, Inc., No. SAG-23-00045, 2025 WL 712965, at *2 (D. Md. Mar. 5, 2025) (in a fact pattern not unlike that in *Keyes*, which the court found "instructive," special attorney fee recovery law was used, 29 U.S.C. § 1132(g)(2)(D)).

[98] That award was earlier reviewed and essentially upheld by the Fourth Circuit. *Keyes II*, 120 F.4th at 142.

part, to "waste the time and resources of the court."[99] Public interest sanctions would involve making the court whole (e.g., fines payable to court to cover unnecessary judicial expenditures) or vindicating the court's authority (e.g., censure, reprimand, or disciplinary referral), rather than remedying harm to the victim.[100] Such sanctions would be imposed in the first instance by the Maryland district court.

As to public interest sanctions, the Maryland district court in *Keyes* seemingly could not employ the aforenoted vexatious litigation statute because it speaks to private fee and cost recoveries. But it could have spoken to the aforenoted Federal Civil Procedure Rule 11 as it expressly recognizes the general utility, and often preference for, public interest sanctions, which can include attorney reprimands, censures, bar disciplinary referrals, mandated continuing legal education, bars or limits on continuing legal practice before the sanctioning court, fines payable to the court, and apologies.[101] "[T]he purpose of Rule 11 sanctions is to deter rather than to compensate . . . ."[102]

As to the Rule 11 policy on public interest sanctions, recall that a New York federal district court, via removal, had before it a civil action pursued by a Napoli entity seeking to enjoin the

---

99 *Id.*

100 To level such a public interest sanction that was "punitive in nature," there would need be additional "procedural guarantees." Taser Int'l, Inc. v. Phazzer Elecs., Inc., No. 16-cv-366-PGB, 2025 WL 2396756, at *4 (M.D. Fla. June 26, 2025).

101 FED. R. CIV. P. (c)(4) (sanctions generally "limited to what suffices to deter repetition of the conduct or comparable conduct by others similarly situated;" if necessary for "effective deterrence," private party recoveries of fees and other expenses are permitted).

102 FED. R. CIV. P. 11(b)-(c) advisory committee's notes to 1993 amendment, para. 13. As the choice of the form of sanction is generally regarded as within the federal district court's discretion, consider whether state law preferences and prohibitions (hopefully coherent) should influence a federal court's choice of federal law sanctions. *See, e.g.*, *In re* Discipline of Reade, 405 P.3d 105, 107-09 (Nev. 2017) (concluding attorney discipline rules do not provide for the imposition of a fine in conjunction with attorney suspension or disbarment); NEV. R. CIV. P. 11(c)(4) (frivolous civil litigation papers can prompt orders "to pay a penalty into court"); *In re* Discipline of Errico, 428 P.3d 260, 260 (Nev. 2018) (Rule 102 "does not provide for restitution in conjunction with permanent disbarment," which creates incentives for victims of attorney malpractice not to urge permanent disbarment as the appropriate remedy so that "a civil action for damages" is unnecessary since restitution may then be had in a disciplinary proceeding).

Maryland federal district court proceeding.[103] That New York court, notwithstanding the voluntary dismissal, perhaps upon a twenty-one-day safe harbor reexamination of the complaint,[104] seemingly could have imposed, upon a show cause hearing,[105] some public interest sanction, as when the court found the complaint was presented for an "improper purpose, such as to harass . . . or needlessly increase the cost of litigation."[106]

Relatedly, the Fourth Circuit in *Keyes* chose to decline to sanction any Napoli entity or Paul J. Napoli regarding the appeal of the million-dollar fee award in "hopes that the trial court's sanctions award will have a reformative effect" on future conduct.[107] Was the Fourth Circuit too optimistic, especially given the earlier discovery abuses by the Napolis in the Maryland federal district court? There are nonfee sanction devices available to U.S. circuit courts, like mandated CLE, that would help to ensure law firm and lawyer changes in conduct.[108]

E. Sanction Assessments

Procedural Due Process, as well as rules, statutes, and common law precedents, guides judicial assessments of sanctions. As noted, the *Keyes* ruling rejected the use of a civil rights statute on assessing a prevailing civil rights party's request for attorney's fees when hearing the fee recovery plea by Keyes. It held the proper focus was to be "on making the victim whole."[109] Yet whether the civil rights statute was or was not employed, a ruling on fees required the Maryland federal district court to consider the actual fees incurred by Keyes in the New York cases, given their connections to the Maryland case.[110] Recall that with the two New

---

[103] *Keyes Abuse Findings*, No. JRR-17-2972, 2023 WL 3604741, at *5-6 (D. Md. May 22, 2023) (the complaining Napoli parties in the two New York state cases, one of which was removed, differed).

[104] *See* FED. R. CIV. P. 11(c)(2).

[105] FED. R. CIV. P. 11(c)(3).

[106] FED. R. CIV. P. 11(b)(1).

[107] *Keyes II*, 120 F.4th 139, 146 n.2 (4th Cir. 2024).

[108] *See generally, e.g.*, Caputo v. Tungsten Heavy Powder, Inc., 96 F.4th 1111 (9th Cir. 2024) (supervising attorney is publicly reprimanded while other attorneys' conduct is referred to state bar disciplinary entities).

[109] *Keyes II*, 120 F.4th 139, 145 (4th Cir. 2024).

[110] *Keyes Abuse Findings*, No. JRR-17-2972, 2023 WL 3604741, at *5-7, *10 (D. Md. May 22, 2023) ("Fees and Costs for Bad Faith New York Actions").

York cases, one was in a state court and the other was started in a state court but was removed to a federal court.[111] The *Keyes* court did not consider whether any of the relevant New York courts were better able to assess, or should be the forum to assess, Keyes' losses arising solely in New York from the New York proceedings.[112] Both the New York state and federal trial courts could have assessed fees arising in New York due to frivolously presented cases therein.[113] For losses arising solely in Maryland from the New York proceedings, the Maryland forum is better suited. It is understandable, though, that the Maryland federal trial and appellate courts determined it was more efficient to litigate the issues of fee recoveries in a single proceeding.[114]

CONCLUSION

In *Keyes Law Firm, LLC v. Napoli*, the U.S. Court of Appeals for the Fourth Circuit provided some guidance on the inherent

---

[111] *See id.*; *see also supra* text accompanying note 6. *See generally Keyes Abuse Adoption*, No. 17-CV-02972, 2023 WL 11960982 (D. Md. July 11, 2023).

[112] *See generally Keyes Abuse Findings*, 2023 WL 3604741; *see also supra* text accompanying note 10.

[113] Federal Rule of Civil Procedure 11 can be employed in a New York federal district court, including in a case removed there. *See, e.g.*, Herron v. Jupiter Transp. Co., 858 F.2d 332, 335-36 (6th Cir. 1988). A New York trial court's sanctioning authority is addressed, inter alia, in N.Y. C.P.L.R. 8303-a (McKinney 2025) (personal injury, property damage, and wrongful death claims).

[114] Where there are fee and other expense disputes arising from work done in more than a single venue, courts sometimes resolve all money recovery issues in a single forum. *Compare* Cluett, Peabody & Co. v. CPC Acquisition Co., 863 F.2d 251, 257 (2d Cir. 1988) (in attorney-client fee dispute involving legal services in two jurisdictions, finding "[i]t would have been wasteful and duplicative . . . to require a bifurcated procedure" where parts of fee dispute would be resolved in two different courts in different states), *with* Riva Techs., Inc. v. Zack Elecs., Inc., No. 01 C 1390, 2002 WL 1559584, at *7 (N.D. Ill. July 15, 2002) (failing to find reason not to bifurcate when very little contested attorney work involved "in-court activity" and where current assigned judge took over the case and had no "familiarity" with the legal work done), *and* Chesley v. Union Carbide Corp., 927 F.2d 60, 67 (2d Cir. 1991) (declining to hear attorney fee application where payment would come from "settlement fund [that was] on deposit in India under the supervision of the Supreme Court of India"). A single forum is less understandable, where efficiency wanes, as when a Maryland court is asked to assess significant fees and expenses which were incurred in foreign fora, like New York, where necessary proofs would substantially encompass examinations of witnesses and documents in New York. *See Keyes Abuse Findings*, 2023 WL 3604741, at *10 (about $75,000 in fees and costs were incurred by Keyes for "Bad Faith New York Actions").

sanctioning authority of Article III federal courts for civil litigation conduct occurring extraterritorially. It determined that some problematic New York state court conduct and some problematic New York federal court conduct impacting a pending Maryland federal district court case could prompt inherent federal court sanctions by the Maryland courts.

Beyond the questions on available sanctions presented in this Article, the *Keyes* ruling raises broader questions about Article III federal court sanctioning authority. Sanctions for conduct in a single locale can be founded not only on inherent powers, but also on rules, statutes, or common law precedents. Authorized sanctions vary dramatically depending, *inter alia*, upon the form of conduct (i.e., pleading, discovery, or trial conduct); the degree of culpability (i.e., intentional, vexatious, negligent, or no-fault); and the type of sanction (i.e., public interest, like bar disciplinary referral, or private interest, like attorney fee recoveries). An overarching question raised by the *Keyes* ruling is whether the variations in federal civil litigation sanction laws rationally address the punishment, deterrence and/or compensatory goals[115] of these sanction laws.[116]

---

[115] Other, less mentioned, goals include streamlining court dockets and facilitating case management. *See, e.g.*, Wadsworth v. Walmart Inc., 348 F.R.D. 489, 497 (D. Wyo. 2025) (employing Federal Rule of Civil Procedure 11).

[116] It is beyond the scope of this article to explore how the U.S. Supreme Court might provide guidance (as through employing its supervisory power, assuming such power exists). On state high court uses of supervisory powers (recognized in all state constitutions), see generally Adam B. Sopko, *The Supervisory Power of State Supreme Courts*, 98 S. CAL. L. REV. 1543 (2025).