United States Court of Appeals
For the Second Circuit

August Term 2025

Argued: May 18, 2026
Decided: September 1, 2026

Nos. 25-1606 (L), 25-1833 (XAP)

ARROWHEAD CAPITAL FINANCE, LTD.,

Plaintiff-Appellee-Cross-Appellant,

v.

PICTURE PRO LLC,

Intervenor-Appellant-Cross-Appellee,

SEVEN ARTS ENTERTAINMENT, INC., AND SEVEN ARTS FILMED ENTERTAINMENT LOUISIANA LLC,

Defendants.*

Appeal from the United States District Court
for the Southern District of New York
No. 1:14-cv-06512, Katherine Polk Failla, *Judge*.

* The Clerk of Court is respectfully directed to amend the official case caption as set forth above.

Before: WESLEY, SULLIVAN, and BIANCO, *Circuit Judges*.

Intervenor Picture Pro LLC ("Picture Pro") appeals from two orders of the district court (Failla, *J.*) that (i) asserted jurisdiction over Picture Pro; (ii) denied Picture Pro's request for a protective order; and (iii) ordered Picture Pro to turn over certain assets to Arrowhead Capital Finance, Ltd. ("Arrowhead"). In its opposition brief, Arrowhead argues that we should dismiss Picture Pro's appeal without reaching the merits because Picture Pro failed to comply with sanctions imposed by the Ninth Circuit under Federal Rule of Appellate Procedure 38 in a related matter involving the same parties.

We have long recognized our inherent power to dismiss appeals or prohibit future ones due to a litigant's failure to pay sanctions within our Circuit. *See, e.g.*, *Schiff v. Simon & Schuster, Inc.*, 766 F.2d 61, 62 (2d Cir. 1985); *Johl v. Johl*, 788 F.2d 75, 76 (2d Cir. 1986); *Zerman v. Jacobs*, 814 F.2d 107, 109 (2d Cir. 1987). Today, we hold that we may also dismiss an appeal due to a litigant's nonpayment of sanctions in a sister circuit. In doing so, we adopt the rule that the D.C. Circuit articulated in *Maxwell v. Snow*, 409 F.3d 354, 357 (D.C. Cir. 2005), which allows courts to dismiss such appeals when a litigant has failed to pay sanctions imposed in an action "involving the same parties and the same or similar subject matter." *Id.* We adopt this well-reasoned rule because it upholds the integrity of the judicial process, deters litigants from filing frivolous appeals, and fulfills our commitments to our sister circuits. Accordingly, because Picture Pro has not complied with sanctions in the Ninth Circuit, we dismiss its appeal here.

DISMISSED.

PHILIP H. STILLMAN, *pro hac vice*, Miami Beach, FL, *for Intervenor-Appellant*.

BARRY L. GOLDIN, Allentown, PA, *for Plaintiff-Appellee*.

PER CURIAM:

Intervenor Picture Pro LLC ("Picture Pro") appeals from two June 26, 2025 orders of the district court. In the first (the "Jurisdiction Order"), the district court concluded that it possessed personal jurisdiction over Picture Pro and denied Picture Pro's request for a protective order. App'x at 231. And in the second (the "Turnover Order"), the district court directed Picture Pro to turn over several classes of assets to Arrowhead Capital Finance, Ltd. ("Arrowhead"), based on a judgment previously entered against Seven Arts Entertainment, Inc., and Seven Arts Filmed Entertainment Louisiana LLC (collectively, "Seven Arts"). App'x at 222–26. For its part, Arrowhead argues that we should dismiss Picture Pro's appeal without reaching the merits because Picture Pro failed to comply with sanctions imposed by the Ninth Circuit under Federal Rule of Appellate Procedure 38 in a related matter involving the same parties. *See Arrowhead Cap. Fin. v. PicturePro, LLC*, No. 21-56063, 2023 WL 109722, at *2 (9th Cir. 2023); Suppl. App'x at 134. We agree with Arrowhead and therefore dismiss this appeal.

I. Background

A. Litigation in this Circuit

The underlying dispute in this case traces back to 2006, when three film and entertainment companies – all related to the Seven Arts entities in this case – signed a promissory note, under which they owed Arrowhead $1,000,000; the note was secured by various film rights, film proceeds, and other assets.[1] *Arrowhead Cap. Fin. v. Seven Arts Ent., Inc.*, No. 14-cv-6512 (KPF), 2016 WL 4991623, at *1–3 (S.D.N.Y. Sept. 16, 2016), *opinion withdrawn in part on other grounds on reconsideration*, No. 14-cv-6512 (KPF), 2017 WL 1653568 (S.D.N.Y. May 2, 2017), *and aff'd*, 739 F. App'x 701 (2d Cir. 2018). After the three film companies defaulted on the note, Arrowhead sued them in a New York state court, obtaining a judgment for approximately $2.5 million in 2012. *Id.* at *3–4.

But by the time the judgment was entered, all of the defaulting companies' assets had been assigned to the defendants here. *Id.* at *4. Accordingly, Arrowhead filed a new suit in 2014 against Seven Arts, which Seven Arts promptly removed to federal court. *Id.* In 2018, the district court found in Arrowhead's

[1] Although the promissory note was originally issued to Arrowhead Consulting Group, it was later reassigned to Arrowhead Capital Finance, Ltd. (the plaintiff here). *See Arrowhead Cap. Fin., Ltd. v. Seven Arts Ent., Inc.*, No. 14-cv-6512 (KPF), 2016 WL 4991623, at *1–4 (S.D.N.Y. Sept. 16, 2016).

favor, holding the defendants liable for the state court judgment, plus interest. Sp. App'x at 13–14. We affirmed. *See Arrowhead*, 739 F. App'x at 703–04.

Arrowhead then attempted to collect on *that* judgment, including by filing an application with the district court to compel post-judgment discovery from Seven Arts and related entities. *See* App'x at 88–89, 348. Seven Arts filed no opposition. Appellant here, Picture Pro, nevertheless filled the void and appeared as an "[i]ntervenor," moving to quash subpoenas that Arrowhead had served upon it and another entity. *Id.* at 66–67. Then, more than four years later, Arrowhead moved for an order requiring Seven Arts to turn over its membership interests in Picture Pro. Picture Pro again opposed the motion "as [an] intervenor" based on Arrowhead's purported failure to serve or to comply with Colorado law. *Id.* at 348. In February 2025, the district court rejected Picture Pro's objections and granted Arrowhead's motion for turnover. *See id.* at 357. Two months later, Arrowhead moved for another turnover order, this time for additional classes of assets held by Picture Pro. Picture Pro objected once more. Finally, in its June 26, 2025 orders, the district court concluded that it possessed personal jurisdiction over Picture Pro, denied Picture Pro's request for a protective order, and directed Picture Pro to turn over certain assets to Arrowhead. *Id.* at 222–26, 231.[2]

B. Litigation in Other Circuits

As litigation proceeded in the Second Circuit, Arrowhead and Picture Pro were also embroiled in lawsuits in the Fifth and Ninth Circuits. In the Ninth Circuit, Picture Pro challenged the validity of a subpoena that Arrowhead had served upon it. The subpoena was designed to facilitate Arrowhead's collection of its multi-million-dollar judgment against Seven Arts. *Arrowhead*, 2023 WL 109722, at *1. In January 2023, the Ninth Circuit upheld the subpoena, as well as sanctions the district court had imposed on Picture Pro for its noncompliance and obstruction of process. *Id.* In addition, the Ninth Circuit imposed *new* sanctions on Picture Pro for making "largely frivolous" arguments on appeal. *Id.* at *2.

While that litigation proceeded in the Ninth Circuit, Arrowhead also endeavored to collect on its judgment against Seven Arts in the Fifth Circuit. In particular, Arrowhead filed a claim for unpaid rents that Picture Pro owed Royal Alice Properties ("Royal Alice") – yet another affiliate of Seven Arts – after Royal

[2] The district court later stayed the enforcement of its June 26, 2025 orders, and Arrowhead cross appealed from that stay order. A motions panel of this Court later vacated the stay entered by the district court, and we accordingly dismiss Arrowhead's cross appeal (No. 25-1833) as moot.

Alice filed for bankruptcy. *See* Suppl. App'x at 155; *In re Royal Alice Props., LLC*, No. 24-30732, at 3 (5th Cir. Apr. 15, 2025) (unpublished order). A bankruptcy court granted Arrowhead's motion for summary judgment, from which Picture Pro appealed to the district court and, eventually, the Fifth Circuit. The Fifth Circuit determined that Picture Pro had failed to pay the sanctions imposed on it by the Ninth Circuit in 2023; that the parties in both suits were the same; and that the legal issues were substantially similar, since both involved "Arrowhead's attempts to collect on the judgment Arrowhead received in New York" against Seven Arts and affiliate entities. *In re Royal Alice*, No. 24-30732, at 2–3. Adopting the D.C. Circuit's holding in *Maxwell v. Snow*, 409 F.3d 354 (D.C. Cir. 2005), the Fifth Circuit then invoked its "inherent powers" to dismiss the appeal due to Picture Pro's failure to pay sanctions in a sister circuit. *In re Royal Alice*, No. 24-30732, at 1–2 (citation omitted).

Following the June 26, 2025 orders in the Southern District of New York, Picture Pro appealed to this Court. It has yet to pay the sanctions imposed in the Ninth Circuit.

II. Discussion

Arrowhead asks us to follow the Fifth Circuit in adopting the *Maxwell* rule and to dismiss this appeal due to Picture Pro's ongoing failure to pay the Ninth Circuit's sanctions. Although we have not yet had occasion to endorse that rule in this Circuit, we do so today. We hold that it is within our "inherent power[s]" to dismiss an appeal when a litigant fails to pay sanctions in a sister circuit, *Schiff v. Simon & Schuster, Inc.*, 766 F.2d 61, 62 (2d Cir. 1985) (internal citation omitted), so long as the sanctions were incurred "in [a] prior action[] involving the same parties and the same or similar subject matter," *Maxwell*, 409 F.3d at 357. As the D.C. Circuit observed, this rule is necessary "for sanctions against frivolous appeals under [Federal Rule of Appellate Procedure] 38 to be made effective," and it "helps protect the courts from abuse." *Id.*

The rule also follows logically from our precedent. In *Zerman v. Jacobs*, we prohibited an appellant from filing any future papers in this Court until he provided "adequate proof of compliance with the sanctions" imposed in earlier Second Circuit proceedings, 814 F.2d 107, 109 (2d Cir. 1987); we did the same in *Johl v. Johl*, 788 F.2d 75, 76 (2d Cir. 1986). And in *Schiff*, we dismissed an appeal and permitted the appellant to apply for reinstatement only once he presented "this Court with proof of compliance with the Rule 38 sanctions." 766 F.2d at 62–63. As we explained there, "[d]amages awarded for frivolous appeals are not part of a running account between a vexatious litigant and his adversary, to be balanced out if and when his vexatious litigation finally runs its course." *Id.* at 62. Rather, "[t]hey are sums to be paid promptly upon imposition as a penalty for having taken a frivolous appeal." *Id.*

Though the sanctions Picture Pro failed to pay were imposed by a different circuit, the same principles apply here. Permitting litigants to avoid paying sanctions by fleeing to sister circuits to file new actions and appeals would hollow out Rule 38, "undermin[ing] the integrity of the judicial process" both here and elsewhere. *Ransmeier v. Mariani*, 718 F.3d 64, 69 (2d Cir. 2013) (discussing "justifications for imposing [Rule 38 and 28 U.S.C. § 1927] sanctions"). The same logic lies at the heart of the fugitive disentitlement doctrine, which permits courts "to refuse to rule on the merits of a defendant's postconviction claims of trial error when the defendant has fled from justice." *United States v. Morgan*, 254 F.3d 424, 426 (2d Cir. 2001) (internal quotation marks omitted) (explaining that the doctrine serves four rationales: "1) assuring the enforceability of . . . decision[s] that may be rendered against the fugitive; 2) imposing a penalty for flouting the judicial process; 3) discouraging flights from justice and promoting the efficient operation of the courts; and 4) avoiding prejudice to the other side caused by the defendant's escape") (internal quotation marks omitted)); *see also United States v. Awadalla*, 357 F.3d 243, 246 (2d Cir. 2004) ("By imposing the sanction of disentitlement, that court can both protect the dignity of its proceedings and deter similarly situated parties from absconding."); *Empire Blue Cross & Blue Shield v. Finkelstein*, 111 F.3d 278, 280–82 (2d Cir. 1997) (applying the doctrine on appeal in a civil case).

Adjudicating the appeals of nonpaying litigants would also undoubtedly weaken the "deter[rent]" effect of Rule 38 sanctions, *Moore v. Time, Inc.*, 180 F.3d 463, 464 (2d Cir. 1999), clearing the way for litigants to "abuse" the "processes of a court . . . with impunity," *Schiff*, 766 F.2d at 62. And "[a]bsent the power to deter tactics" of noncomplying – but oft-appealing – parties, "a small number of litigants could paralyze this court" and thus "indirectly . . . obstruct other litigants asserting good faith claims." *In re Martin-Trigona*, 795 F.2d 9, 12 (2d Cir. 1986) (barring litigant from filing any further appeals until he paid sanctions imposed).

Finally, adopting this rule fulfills our commitments to our sister circuits, with whom we are "integral parts of a single nation," by helping them enforce their orders. *Milwaukee County v. M.E. White Co.*, 296 U.S. 268, 277 (1935); *see also*

Colby v. J.C. Penney Co., 811 F.2d 1119, 1123 (7th Cir. 1987) (noting that "[w]e have an . . . obligation to our sister federal courts of appeals."). This is true even though the Ninth Circuit's sanctions, of course, lack preclusive effect in our Circuit. *Cf. Baker v. Gen. Motors Corp.*, 522 U.S. 222, 236 (1998) (observing that sanctions are administered and enforced by the court that issued them).

We acknowledge, as Picture Pro asserts, that "dismissal is a harsh remedy." Reply Br. at 21 (quoting *Lucas v. Miles*, 84 F.3d 532, 535 (2d Cir. 1996)). But refusing to "accept . . . further papers" from a litigant until it has satisfied a sister circuit's sanction may sometimes be "the only way to make [a] sanction effective and protect the processes of this [C]ourt." *In re Martin-Trigona*, 795 F.2d at 12. And the "right to an appeal" does not include the right to "abuse[] the appellate process." *Horoshko v. Citibank, N.A.*, 373 F.3d 248, 250 (2d Cir. 2004) (internal citation omitted).

It is no wonder, then, that many of our sister circuits have permitted the dismissal of appeals by litigants that have failed to pay sanctions in a prior action or prohibited future appeals until a sanction is paid. *See, e.g.*, *Maxwell*, 409 F.3d at 357 (dismissing appeal in D.C. Circuit for nonpayment of sanctions in similar matter in Ninth Circuit); *Hymes v. United States*, 993 F.2d 701, 702 (9th Cir. 1993)

(“Courts have inherent power to dismiss actions for nonpayment of costs in prior actions.”); *Christensen v. Ward*, 916 F.2d 1485, 1585 (10th Cir. 1990) (“[Appellant] shall not be permitted to pursue further civil appeals . . . until he provides the court with adequate proof of compliance with the sanctions.”); *Stelly v. Comm’r*, 804 F.2d 868, 871 (5th Cir. 1986) (“[T]he Clerk of the Court should not accept any new filings [for appeals] until the sanctions we impose today are paid and proof of satisfaction of all prior judgments is provided.”); *Mohammed v. Prairie State Legal Servs., Inc.*, No. 20-2419, 2021 WL 4962988, at *2 (7th Cir. 2021) (noting that “nonpayment” of sanctions “would lead to a circuit-wide filing bar”).

Having adopted *Maxwell*’s rule, we now conclude that it applies with full force here. To begin, Picture Pro has failed to demonstrate that it satisfied the Ninth Circuit’s sanction award. *See Zerman*, 814 F.2d at 109 (stating that “proof of compliance” must be “adequate”). At best, Picture Pro has demonstrated that it wrote an uncertified check (uncashed by Arrowhead and since returned to Picture Pro) for the initial sanctions award. But it has nowhere demonstrated, or even claimed, that it has paid the thousands of dollars in interest that has accrued on that award.[3]

In addition, Picture Pro's attempt to distinguish this set of appeals from those in *Maxwell* is without merit. *First*, it is undisputed that Picture Pro's appeal here and its appeal in the Ninth Circuit involve "the same parties." *Maxwell*, 409 F.3d at 357. *Second*, both appeals involve "the same or similar subject matter," *id.* – namely, disputes between Picture Pro and Arrowhead over the latter's attempts to collect on the 2018 judgment, *see Arrowhead*, 739 F. App'x at 702–03. And though the objections Picture Pro raises here – regarding personal jurisdiction and the propriety of a turnover order – are distinct legal issues from the subpoena challenges in the Ninth Circuit, the common thread through all of them is Picture Pro's concerted effort to avoid turning over any assets to Arrowhead or otherwise allowing Arrowhead to collect on its judgment. Applying *Maxwell*, we have no

[3] As of February 2026, Picture Pro owed Arrowhead approximately $17,500 in sanctions from the Ninth Circuit, consisting of $15,408 from the original award plus roughly $2,100 in interest, a figure that has continued to climb. And at oral argument, counsel for Picture Pro conceded that (i) the check that Picture Pro had written to Arrowhead did not reflect this accrued interest, and (ii) Picture Pro had not received – or even sought – an order from the Ninth Circuit stating that it had satisfied the sanctions award, despite numerous protestations of compliance.

hesitation in concluding that the conditions for dismissing a litigant's appeal due to nonpayment of sanctions have been satisfied here.[4]

III. Conclusion

Because this appeal involves the same parties and a similar subject matter as the action in the Ninth Circuit, we exercise our "inherent power[]" to dismiss Picture Pro's appeal "for [its] nonpayment of" sanctions in our sister circuit. *Schiff*, 766 F.2d at 62 (internal citation omitted). Accordingly, Picture Pro's appeal is **DISMISSED WITH PREJUDICE**.

[4] Because Picture Pro has not claimed that it is financially unable to pay the sanction, "[w]e need not consider what course would be appropriate in the event that a litigant asserts indigency as the reason for nonpayment of Rule 38 sanctions." *Schiff*, 766 F.2d at 62 n.2. And while we have in the past given a litigant a certain interval to pay the sanction and have the appeal reinstated, *see id.* at 63, we decline to do so here. Picture Pro has long been on notice of the fact that it has not paid the Ninth Circuit's sanction and of the possible consequences of its defiance. *See In re Royal Alice Props.*, No. 24-30732, at 1–3. Like the litigants in *Maxwell*, Picture Pro has also ignored "repeated requests" to pay the sanctions, further justifying our decision to dismiss with prejudice. 409 F.3d at 357; *cf. United States v. Zedner*, 555 F.3d 68, 80 (2d Cir. 2008) (concluding that dismissal with prejudice was warranted because "any other course of action would dilute the sanction imposed for flouting the judicial process and reduce the deterrent effect of that sanction") (internal quotation marks omitted)).