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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

TELESAURUS VPC, LLC, a Delaware
Limited Liability Company, currently
known as Verde Systems, LLC,

Plaintiff - Appellant,

v.

RANDY POWER, an individual;
RADIOLINK CORPORATION,

Defendants - Appellees.

No. 12-16399

D.C. No. 2:07-cv-01311-NVW

MEMORANDUM*

TELESAURUS VPC, LLC, a Delaware
Limited Liability Company, currently
known as Verde Systems, LLC,

Plaintiff - Appellant,

v.

RANDY POWER, an individual;
RADIOLINK CORPORATION,

Defendants - Appellees.

No. 12-16984

D.C. No. 2:07-cv-01311-NVW

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

Appeal from the United States District Court
for the District of Arizona
Neil V. Wake, District Judge, Presiding

Argued and Submitted September 11, 2014
San Francisco, California

Before: WALLACE, SCHROEDER, and W. FLETCHER, Circuit Judges.

Plaintiff-Appellant Telesaurus VPC appeals from the district court's orders granting summary judgment to the defendants and imposing sanctions under Federal Rule of Civil Procedure 11. We affirm.

This appeal is the latest chapter of long-running litigation between Telesaurus and RadioLink over the use of certain radio frequencies. In an earlier appeal, we affirmed the district court's dismissal of all of Telesaurus' claims, but remanded to the district court to permit Telesaurus an opportunity to amend the complaint to state a claim under 47 U.S.C. § 206 against a common carrier. *Telesaurus VPC, LLC v. Power*, 623 F.3d 998 (9th Cir. 2010).

On remand, Telesaurus amended its complaint to assert, using only the conclusory language of the statute, that RadioLink was a common carrier within the applicable definition. The district court then granted RadioLink's motion for summary judgment, concluding that, on the record before it, there was no basis for any finding that RadioLink was a common carrier.

Telesaurus' principal argument throughout the litigation to support common carrier status has been that RadioLink was using frequencies presumptively reserved for common carriers. This court has previously rejected that argument. *Telesaurus*, 623 F.3d at 1005. The record contains no support for Telesaurus' continuing contention that RadioLink service was made available to the public.

The district court imposed sanctions on Telesaurus under Rule 11, in the amount of \$107,797.50 in fees and \$5,346.02 in costs. The record supports the district court's conclusion that Telesaurus, rather than its counsel, was responsible for the multiplication of baseless proceedings in the litigation. There was no material violation of the safe harbor provisions of Rule 11, and the record contains no basis for disturbing the district court's calculation of the amount of the fees. There was no abuse of discretion.

AFFIRMED.