

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

**IN AND FOR THE COUNTY OF MOHAVE**

**HONORABLE DOUG CAMACHO, JUDGE**

**DIVISION 8**

**DATE: APRIL 6, 2026**

**\*al**

**COURT NOTICE / ORDER / RULING**

**MARK BERRY,**

**Plaintiffs,**

**vs.**

**WARREN J. ERRINGTON, et. al.,**

**Defendants.**

**NO. CV-2024-00290**

This matter came before the Court on a motion for the Court reconsider a prior ruling that declined to find that the Plaintiff is a vexatious litigant.

**THE PLAINTIFF'S LITIGATION HISTORY**

In a ruling in case number CV-2024-01536, that was made on November 26, 2024, the Honorable Judge Gordon made findings that in case number CV-2024-00546 (which had already been dismissed) the Plaintiff had filed unauthorized pleadings. If the Court had not already dismissed the action, these filings could have unreasonably expanded or delayed the proceedings. Judge Gordon also found that the Plaintiff had brought CV-2024-01536 without substantial justification, and that it constituted a filing of a request for relief that had been the subject of a prior ruling in case number CV-2024-00546.

In PB-2024-00456, the Plaintiff was Ellen Hart Berry. A Motion to Dismiss was filed for lack of jurisdiction. An Opposition to that Motion was filed. In an Order Dated August 16, 2024, Judge Gordon noted that the Response appeared to have been filed by Ellen Berry's husband, Mark Berry (the Plaintiff in this matter). Judge Gordon was concerned that the Plaintiff was not authorized to file the document because he was not a party, not an attorney, and not a licensed paraprofessional. Judge Gordon also noted that the Opposition Mr. Berry filed cited to a rule

violation that did not apply. The fact that this Response was filed by the Plaintiff, indicates that Judge Gordon had found that the Plaintiff had filed a document that he was not authorized to file.

In CV-2024-01075, the Plaintiff brought a civil action against the same defendant that was named in PB-2024-00456. Both actions were filed about the same time. Judge Gordon noted the same that the Plaintiff cited to the same inapplicable rule violation that was cited in PB-2024-00456. Judge Gordon found that this civil action had the same jurisdictional issue, and dismissed the action. This indicated that this action was brought without substantial justification.

### **PROCEDURAL HISTORY OF THIS CASE**

On September 6, 2024, the Defendants filed a Motion for Determination of Vexatious Litigant. In an Order dated November 26, 2024, Judge Gordon found that the Plaintiff had engaged in numerous acts of vexatious conduct in this case, and, referring to CV-2024-01536, another case pending before the Court. Judge Gordon believed at the time that it was due to a lack of understanding rather than because of deliberate harassment. For those reasons, Judge Gordon declined to designate the Plaintiff as a vexatious litigant, but added a warning that if future vexatious conduct occurred, the Court would consider designating the Plaintiff as a vexatious litigant.

Since the November 26, 2024 Order, the following relevant occurrences have taken place. On January 28, 2025, the Plaintiff filed what was titled a Joint Report of a Settlement Conference and Proposed Scheduling Order. The Report claimed that the Plaintiff had made multiple requests to have a joint conference and that the Plaintiff had proposed several dates for that conference. On February 10, 2025, Defendants filed a Verified Motion to Strike Plaintiff's "Joint" Report of Settlement Conference and Proposed Scheduling Order and Third Motion to Dismiss and Motion to Re-Urge Determination of Vexatious Litigant. In the filing, the Defendants alleged that the Joint Report contained false information, including the assertion that the Plaintiff had made several requests for a conference. On February 24, 2025, the Plaintiff filed Plaintiff's Combined Response in Objection to Defendant's Motion to Strike Plaintiff's Joint Report and Plaintiff's Response to Defendant's Third Motion to Dismiss, and Plaintiff's Response to Defendant's Motion to Re-Urge Vexatious Litigant. This filing admitted that the only communication that had actually taken place was one e-mail on January 24, 2025. The Plaintiff said that he had attempted to call Defendant's attorney on January 27, 2025, but did not leave a message. The Plaintiffs filed a Reply to these Motions. On March 21, 2025, the Plaintiff filed "Plaintiff's Supplemental Motion in Opposition to Defendants' Motion Urging Reconsideration of the Vexatious Litigant Motion." The Defendant's filed a Motion to Strike "Plaintiff's Supplemental Motion in Opposition to Defendants' Motion Urging Reconsideration of the Vexatious Litigant Motion." On April 4, 2025, the Honorable Megan McCoy granted the Motion to Strike "Plaintiff's Supplemental Motion in Opposition to Defendants' Motion Urging Reconsideration of the Vexatious Litigant Motion."

On March 13, 2025, the Defendants issued a Subpoena. On April 24, 2025, Plaintiff filed “Plaintiff’s Motion for Protective Order, to Limit Scope of Discovery; and to Quash or Modify Subpoena Duces Tecum; Memorandum of Points and Authorities in Support.” This Motion argued that the Subpoena should be quashed, at least partially because the subpoena had not been served upon him. He also argued that the requested documents were not relevant. On May 2, 2025, the Plaintiff filed “Defendants’ Opposition to Plaintiff’s Motion for Protective Order, to Limit Scope of Discovery, and to Quash or Modify Subpoena Duces Tecum and Motion to Compel Disclosure and Motion to Continue Evidentiary Hearing.” Judge McCoy denied the Plaintiff’s Motion for a protective order on May 2, 2025. Judge McCoy also ordered compelling the Plaintiff to produce items that are listed in the subpoena within twenty-one days. On May 12, 2025, the Plaintiff filed a Motion for Reconsideration of Order Denying Motion for Protective Order. This filing reiterated the argument that service had not been completed. He also argued that the information requested was not relevant. On May 15, 2025, Judge McCoy denied the Motion for Reconsideration. The Defendants filed a Motion to Dismiss on February 28, 2026, which alleges that the Defendant still has not disclosed the items that were ordered by Judge McCoy on May 2, 2025 and May 15, 2025. In a Response to the Motion to Dismiss, filed on March 12, 2026, the Plaintiff argued, again, that he had no obligation to honor the Subpoena because it had not been served. The Defendant also argued, again, that the documents that the Court had ordered him to produce are not relevant.

On June 2, 2025, the Defendants filed a Motion to Continue an evidentiary hearing on the Vexatious Litigant issue. One basis for the requested continuance was that the Plaintiff had not provided the items that had been ordered to be produced on May 2, 2025. Judge McCoy granted the Motion to Continue on June 4, 2025. On June 11, 2025, which was after the Order continuing the hearing had already been granted, the Plaintiff filed “Plaintiff’s Opposition to Defendants’ Verified Motion to Continue Evidentiary Hearing.”

After several continuances of the evidentiary hearing, the Court held a hearing on March 2, 2026 on the issue of whether the Plaintiff was a vexatious litigant. The Court took the matter under advisement.

## ANALYSIS

In analyzing the issue of whether the Plaintiff is a vexatious litigant, the Court considers the November 26, 2024 Order. Because Judge Gordon previously declined to designate the Plaintiff as a vexatious litigant, the Court will not consider any actions that took place prior to November 26, 2024 in determining whether vexatious conduct has occurred. However, if the Court does find that vexatious conduct has occurred after November 26, 2024, the Court will consider the Plaintiff’s actions prior to November 26, 2024 in determining whether to formally designate the Plaintiff a vexatious litigant.

“A pro se litigant is a vexatious litigant if the court finds the pro se litigant engaged in vexatious conduct.” A.R.S. § 12-3201(C).

For the purposes of Section 12-3201:

1. "Vexatious conduct" includes any of the following:
  - (a) Repeated filing of court actions solely or primarily for the purpose of harassment.
  - (b) Unreasonably expanding or delaying court proceedings.
  - (c) Court actions brought or defended without substantial justification.
  - (d) Engaging in abuse of discovery or conduct in discovery that has resulted in the imposition of sanctions against the pro se litigant.
  - (e) A pattern of making unreasonable, repetitive and excessive requests for information.
  - (f) Repeated filing of documents or requests for relief that have been the subject of previous rulings by the court in the same litigation.

A.R.S. § 12-3201(E). The Court will consider each relevant subdivision of this statute.

**1. Unreasonably expanding or delaying court proceedings.**

As indicated above, on April 24, 2025, Plaintiff filed "Plaintiff's Motion for Protective Order, to Limit Scope of Discovery; and to Quash or Modify Subpoena Duces Tecum; Memorandum of points and authorities in Support." This Motion argues that the Subpoena should be quashed, at least partially because the subpoena had not been served upon him. He also argued that the requested documents were not relevant. Judge McCoy denied the Motion on May 2, 2025 and ordered compelling the Plaintiff to produce the items that are included the Subpoena within twenty-one days. On May 12, 2025, the Plaintiff filed a Motion for Reconsideration of Order Denying Motion for Protective Order that reiterated the same argument about service and the relevance of the requested documents. On May 15, 2025, Judge McCoy denied the Motion for Reconsideration. The February 28, 2026 Motion to Dismiss alleged that the Defendant still had not disclosed the items that were ordered by Judge McCoy. In the March 12, 2026 Response to the Motion to Dismiss, the Plaintiff argued, again, that he had no obligation to honor the subpoena because it had not been served. The Defendant again argued that the documents that the Court had ordered that him to produce are not relevant.

The Court recognizes that there have been other reasons for delays. However, the fact that the Defendant has refused to comply with Judge McCoy's May 2, 2025 Order compelling disclosure has contributed to the delay of these proceedings. One example is the continuance that was granted June 4, 2025 due to the refusal to disclose the documents ordered by the Court. The fact that the Plaintiff continues to make the same arguments after the Court has twice ruled against the Plaintiff on the issue shows that the Plaintiff's refusal to comply with the Court's Order is unreasonable.

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**THE COURT FINDS** that the Plaintiff's refusal to disclose the documents ordered by the Court has unreasonably delayed the Court proceedings.

An example of expanding the proceedings was the Plaintiff's "Joint Report" that was filed on January 28, 2025. As shown above, the report falsely stated that the Plaintiff had made multiple requests for a joint conference and had proposed several dates. This information was not accurate because, as the Plaintiff admitted in his February 24, 2025 Response, he had only made one request to hold a joint conference in an e-mail. The e-mail did not include several proposed dates to hold the joint conference. The Plaintiff stated in his Response that he called Defendant's attorney on January 27, 2025. However, he admitted that he did not leave a voicemail message. This filing with inaccurate statement has led to several filings that the Court has had to rule upon. This has caused delays.

**THE COURT FINDS** that the inaccurate information contained in the "Joint Report" that the Plaintiff filed unreasonably delayed the court proceedings.

**2. Repeated filing of documents or requests for relief that have been the subject of previous rulings by the court in the same litigation.**

As mentioned above, on June 4, 2025, Judge McCoy entered an order that granted the Defendant's Motion to Continue an evidentiary hearing. On June 11, 2025, the Plaintiff filed "Plaintiff's Opposition to Defendants' Verified Motion to Continue Evidentiary Hearing."

**THE COURT FINDS** that the June 11, 2025 "Plaintiff's Opposition to Defendants' Verified Motion to Continue Evidentiary Hearing" is a filing of a document that has been the subject of a previous ruling by the Court in the same litigation.

The Court incorporates its findings in the section titled "Unreasonably expanding or delaying court proceedings." The Plaintiff has repeatedly filed documents with the Court challenging whether he needs to disclose the documents that were included in the Subpoena Duces Tecum, and which were Ordered to be disclosed by the Court on May 2, 2025. In his March 12, 2026 Response to the Motion to Dismiss, the Plaintiff continued to make the same arguments that were rejected by Judge McCoy on May 2, 2025 and May 15, 2025.

**THE COURT FINDS** that the Plaintiff has repeatedly filed documents or requests for relief that have been the subject of previous rulings by the Court in the same action.

**CONCLUSION**

The Court has found that since November 26, 2024, the Defendant has unreasonably delayed the Court proceedings. The Court has also found that the Plaintiff has repeatedly filed documents or requests for relief that have been the subject of previous rulings by the Court in the

same action. Considering Judge Gordon's findings in the November 26, 2024 Order in this case, and Judge Gordon's findings in Orders made in CV-2024-00546, CV-2024-01075, CV-2024-01536 and PB-2024-00456,

**THE COURT FINDS** that the Plaintiff has engaged in vexatious conduct as defined in A.R.S. § 12-3201(E).

Therefore,

**THE COURT FINDS** that the Plaintiff is a vexatious litigant as defined in A.R.S. § 12-3201(C).

Pursuant to A.R.S. § 12-3201(B),

**IT IS ORDERED** that the Plaintiff may not file a new pleading, motion or other document without prior leave of the Court.

**IT IS ORDERED** that for any pleading, motion or document, the Plaintiff may file a Motion for Leave to File the document and a copy of the proposed pleading, motion, or document.

After receiving any Motion for Leave to File, the Court will consider the Motion for Leave to File and enter a ruling.

**DATED** the 6th day of April, 2026



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DOUG CAMACHO  
SUPERIOR COURT JUDGE

cc:

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