

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

MATTHEW WEISS,

Plaintiff,

vs.

WESTLAKE SERVICES,
LLC,

Defendant.

Case No.

6:24-cv-2231-PGB-RMN

REPORT AND RECOMMENDATION

This matter is before the Court without argument on Defendant's Renewed Motion for Attorney's Fees, Sanctions, and Injunctive Relief (Dkt. 32), filed on February 10, 2025. Plaintiff has not filed a response in opposition, and the time to do so has expired. See Local Rule 3.01(c) (setting a 14-day period to respond to motions and stating "[i]f a party fails to timely respond, the motion is subject to treatment as unopposed"). On February 10, however, Plaintiff filed an "objection" to Defendant's previous version of the same motion, which is construed as a response to the pending motion. Dkt. 30. After careful consideration, I recommend that the Court grant in part and deny in part Defendant's motion.

I. BACKGROUND

On September 6, 2024, Plaintiff filed a *pro se* complaint in the County Court of the Ninth Judicial Circuit in and for Orange County, Florida, alleging violations of the Telephone Consumer Protection Act (“TCPA”), the Fair Debt Collection Practices Act (“FDCPA”), and the Florida Consumer Collection Practices Act (“FCCPA”). *See* Dkt. 1-1. On December 6, 2024, Defendant removed the action to this Court. Dkt. 1. On January 28, 2025, the Court dismissed the Complaint without prejudice and closed the case. Dkt. 20. The case remains closed.

Plaintiff is a prodigious litigant. This is one of nine federal court cases initiated by Plaintiff in 2023 and 2024, and one of 86 state court cases since December 2023.¹ *See* Dkt. 32-2 at 1–3 (list of state court cases from the Orange County Clerk’s Office). After filing a lawsuit, Plaintiff fails to appear at scheduled hearings, thereby resulting in his cases being dismissed for failure to prosecute, voluntarily dismisses his own claims, or has his cases dismissed. *See e.g.*, Dkt. 32-9 at 1 (federal court order to show cause), 2–3 (county court order granting motion to dismiss), 4–5 (federal court order to show cause), 6 (county court order dismissing case for lack of prosecution), 9 (county court order), 27–28 (county court order granting motion to dismiss), 29 (county court order dismissing case for noncompliance). As Defendant points out, Plaintiff fully

¹ This was an accurate count of Plaintiff’s state court cases as of February 10, 2025.

understands that this tactic—“file, dismiss, and refile”—imposes costs on litigants and, in fact, Plaintiff wields it as a threat.² *See* Dkt. 32-3 at 4 (“or do we refile the case and file some of the remaining 17+ cases?”), 5 (“I will refile the tcpa [sic] and if you waste \$400 to remove it, itll [sic] be dismissed and refiled”), 16 (“it will be in endless litigation in multiple litigation in multiple court jurisdictions, some pro se, some with counsel, some in fed [sic], some in state, some in small claims, some in florida [sic], some in ny”).

In pursuing his claims, Plaintiff also threatens real harm. For instance, he has told counsel “you will personally pay for that.” Dkt. 32-4 at 1–2. Plaintiff has said, “This can end, or be the most costly mistake of this corrupt banks history, making israel [sic] vs iran [sic], ukraine [sic] vs russia [sic] look peaceful.” *Id.* at 3. Plaintiff suggests or overtly threatens physical harm, stating, “If all else fails, i [sic] have one last solution to ensure justice gets served and lessons are taught that will be impossible to be forgotten [sic],” *id.* at 6, and “I think in the wake of vigilantes targeting corrupt people like united health care, researching the huge corruption at westlake [sic] and this

² Defendant also—rightfully so—questions the veracity of Plaintiff’s applications for determination of civil indigent status with the Clerk of various courts to avoid payment of filing fees. *See* Dkt. 32 at 9. Defendant states that Plaintiff’s various applications are inconsistent with each other in the income stated to secure a car loan in 2022 and do not disclose monetary amounts Plaintiff received from settlements of prior lawsuits. Defendant states that Plaintiff “get[s] the benefit of the judicial system’s limited resources without incurring financial consequences.” *Id.*

firm, that if your [sic] accidentally [sic] doxed, something news worthy may happen. Never know.” *id.* at 6.

II. ANALYSIS

A. Vexatious Litigant

Federal courts have broad authority to manage their dockets and curb vexatious litigation. *See Martin-Trigona v. Shaw*, 986 F.2d 1384, 1387 (11th Cir. 1993). Pursuant to the All Writs Act, the Court “may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of the law.” 28 U.S.C. § 1651. This Act authorizes courts to safeguard their judgments by enjoining a vexatious litigant from abusing the judicial process. *Riccard v. Prudential Ins.*, 307 F.3d 1277, 1295 n.15, 1298 (11th Cir. 2002); *see also Bernath v. Seavey*, No. 2:15-cv-358, 2017 WL 3602068, at *1 (M.D. Fla. Aug. 18, 2017).

The Eleventh Circuit has held that district courts have “considerable discretion” to impose “serious restrictions” on a litigant’s attempts to “impair [the court’s] ability to carry out Article III functions.” *Procup v. Strickland*, 792 F.2d 1069, 1070, 1073–74 (11th Cir. 1986) (en banc). “The only restriction [the Eleventh Circuit] has placed upon injunctions designed to protect against abusive and vexatious litigation is that a litigant cannot be ‘completely foreclosed from *any* access to the court.’” *Martin-Trigona*, 986 F.2d at 1387 (quoting *Procup*, 792 F.2d at 1074).

The traditional standards applicable to the issuance of injunctions³ do not apply to those against vexatious litigants under the All Writs Act. *Klay v. United Healthgroup, Inc.*, 376 F.3d 1092, 1100–01 (11th Cir. 2004) (explaining that the Act codifies “a court’s traditional power to protect its jurisdiction”). Instead, a “history of litigation entailing ‘vexation, harassment and needless burden on the courts and their supporting personnel’ is enough.” *Ray v. Lowder*, No. 5:02-cv-316, 2003 WL 22384806, at *2 (M.D. Fla. Aug. 29, 2003) (quoting *In re Martin-Trigona*, 737 F.2d 1254, 1262 (2nd Cir. 1984)). In deciding whether a litigant’s conduct is sufficient to justify the entry of a “*Martin-Trigona*” order, courts consider several factors including:

- (1) the litigant’s history of litigation and in particular whether it entailed vexatious, harassing or duplicative lawsuits,
- (2) the litigant’s motive in pursuing the litigation, e.g. does the litigant have an objective good faith expectation of prevailing,
- (3) whether the litigant is represented by counsel,
- (4) whether the litigant has caused needless expense to other parties or has posed an unnecessary burden on the courts and their personnel, [and]
- (5) whether other sanctions

³ Typically, the party moving for equitable relief must demonstrate: (1) success on the merits; (2) a substantial threat that the movant will suffer irreparable injury if the injunction is not granted; (3) the threatened injury to the movant outweighs the threatened harm the injunction may cause the opposing party; and (4) granting the injunction will not disserve the public interest. See *Warren Publ’g., Inc. v. Microdos Data Corp.*, 115 F.3d 1509, 1516 (11th Cir. 1997).

would be adequate to protect the courts and other parties.

Id. (quoting *Safir v. United States Lines, Inc.*, 792 F.2d 19, 24 (2nd Cir. 1986), *cert. denied*, 479 U.S. 1099 (1987)).

As discussed in more detail below, after considering the *Martin-Trigona* factors, I conclude the Court should find that Plaintiff's meritless filings, harassing litigation tactics, and threats were made to harass, cause delay, and increase the cost of litigation on Defendant and others. I therefore respectfully recommend that the Court declare Matthew Weiss a vexatious litigant.

1. History and Motivation of Litigation

As discussed above, Plaintiff's litigation history is lengthy, and his motive is quite clear. Plaintiff states himself in emails that he wishes to burden Defendant and the federal and state courts with endless litigation. *See* Dkt. 32-3. Simply put, Plaintiff's history of litigation is overwhelmingly vexatious, harassing, and duplicative. He has not been successful in any of the nine federal court cases or 86 state court cases. He does not appear to have an objective good faith expectation of prevailing in any case he files. And this conclusion is reinforced by his repeated failure to appear at duly scheduled court hearings and abide by court orders. *See* Dkt. 32-9. I therefore find his motive in pursuing this litigation improper.

2. Representation by Counsel

In each case, Plaintiff appears to proceed without the advice and assistance of counsel. Although courts have a duty to construe

pro se litigants' filings liberally, see *Tennyson v. ASCAP*, 477 F. App'x 608, 609–10 (11th Cir. 2012) (per curiam),⁴ the Supreme Court has “never suggested that procedural rules in ordinary civil litigation should be interpreted so as to excuse mistakes by those who proceed without counsel.” *McNeil v. United States*, 508 U.S. 106, 113 (1993). Moreover, a *pro se* litigant “has no license to harass others and overload the court dockets with meritless or abusive litigation.” *In re Strickland*, 179 B.R. 979, 980 (Bankr. N.D. Ga. 1995) (citing *Ferguson v. MBank Houston, N.A.*, F.2d 358, 359 (5th Cir. 1986)).

3. **Needless Expense on Parties or Unnecessary Burdens on Court**

“One of the most important factors that the Court must consider in determining whether to issue a *Martin-Trigona* order is whether the litigant's actions have caused needless expense to other parties or has posed an unnecessary burden on the Court and its personnel.” *Ray*, 2003 WL 22384806, at *3.

I find this factor satisfied here. Plaintiff has engaged in a pattern of filing lawsuits and failing to appear at hearings or failing to adequately prosecute his claims resulting in his cases being dismissed. For each case filed, Plaintiff requires a response from the Defendants and the Court. I therefore find Plaintiff has imposed needless expense on the Defendant and the courts.

⁴ “Unpublished opinions are not controlling authority and are persuasive only insofar as their legal analysis warrants.” *Bonilla v. Baker Concrete Const., Inc.*, 487 F.3d 1340, 1345 (11th Cir. 2007).

I find further that Plaintiff, in fact, purposefully and intentionally seeks to impose costs on litigants. Plaintiff's own statements reflect a willingness to resort to such improper tactics to pressure defendants to settle Plaintiff's frivolous lawsuits. *See* Dkt. 32-3 at 4, 5, 16.

4. Adequacy of Other Sanctions

Finally, the Court must evaluate whether other sanctions would be adequate to protect defendants and the court. Plaintiff's history with this and other courts demonstrates the inefficacy of lesser measures. Plaintiff's cases have been dismissed. He has been directed to pay defendants' costs and attorney's fees. Yet he is undeterred.

I have no doubt Plaintiff will continue use such these and other impertinent tactics without the Court's intervention.

B. An Injunction is Necessary to Prevent Further Abuse of Judicial Process

Should the Court find Plaintiff to be a vexatious litigant, it must turn to its broad authority—and obligation—to protect its jurisdiction from conduct that impairs its ability to carry out its Article III functions. *Cf. Procup*, 729 F.2d at 1069.

In keeping with this mandate, I respectfully recommend the Court should conclude that the record supports entry of an order placing limited restrictions on Plaintiff's ability to file additional papers in federal court. The Court should enjoin Plaintiff from making further filings related to or concerning the subject matter of

the present litigation, or violations of the Telephone Consumer Protection Act (“TCPA”); the Fair Debt Collection Practices Act (“FDCPA”); and the Florida Consumer Collection Practices Act (“FCCPA”) in the Middle District of Florida against Westlake Services, LLC. *See In re: Vexatious Litigants in the Orlando Division*, No. 6:23-mc-03-RBD (Doc. 1 at 3) (M.D. Fla. Jan. 18, 2023).

The Court should further restrict Plaintiff from filing a pleading to open a new case. The court should declare that any further pleading filed by Matthew Weiss in the Orlando Division of the Middle District of Florida will be assigned to and reviewed by the judges assigned to this case. *See In re: Vexatious Litigants in the Orlando Division*, No. 6:23-mc-03-RBD (Doc. 1 at 4) (M.D. Fla. Jan. 18, 2023).

These sanctions are recommended because they target Plaintiff’s wrongdoing. By limiting his filings in this and future cases involving the facts of this case, the Court prevents Plaintiff from continuing to bring the same frivolous claims again. By imposing a screening process on opening new cases, the Court thwarts Plaintiff’s tactic of filing repeated frivolous lawsuits, thereby increasing the burden on litigants and the courts.

C. Inherent Authority to Sanction Litigants

District courts “have the inherent authority to issue sanctions as punishment for bad-faith behavior in the proceedings before them.” *Higgs v. Costa Crociere S.P.A. Co.*, 969 F.3d 1295, 1304

(11th Cir. 2020) (citing *Chambers v. NASCO, Inc.*, 501 U.S. 32, 50 (1991)). A court's inherent power is "governed not by rule or statute but by the control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases." *Chambers*, 501 U.S. at 43 (citing *Link v. Wabash R.R.*, 370 U.S. 626, 630–31 (1962)). This power "must be exercised with restraint and discretion" and used "to fashion an appropriate sanction for conduct which abuses the judicial process." *Id.* at 44–45. A court may exercise this power "to sanction the willful disobedience of a court order, and to sanction a party who has acted in bad faith, vexatiously, wantonly, or for oppressive reasons." *Marx v. Gen. Revenue Corp.*, 568 U.S. 371, 382 (2013) (citing *Chambers*, 501 U.S. at 45–46). The dual purpose of this power is to vindicate judicial authority without resorting to a contempt of court sanction and to make the prevailing party whole. *See Chambers*, 501 U.S. at 46. The key to unlocking a court's inherent power is a finding of bad faith. *See Sciarretta v. Lincoln Nat'l Life Ins.*, 778 F.3d 1205, 1212 (11th Cir. 2015).

As explained above, my review of Plaintiff's significant litigation history, offensive and hostile correspondence with opposing counsel, and refusal to abide by court orders leads me to believe that additional sanctions are warranted and necessary. Plaintiff has failed to appear at duly scheduled hearings (*see, e.g.*, Dkt. 32-9 at 4, 11, 25, 34), filed numerous meritless lawsuits that were dismissed for frivolity (*see, e.g., id.* at 2, 11, 27), and has engaged

in other behavior that wasted the parties' and judicial resources (*see, e.g., id.* at 4, 6, 7, 11, 30, 34). In sum, I find that Plaintiff's actions were done willfully and in bad faith.

Not only has Plaintiff threatened defendants with frivolous and drawn-out litigation, but he has also threatened the lawyers and parties involved in this litigation. *See* Dkt. 32-4. No party or counsel should be required to endure threats from an opposing litigant. *See, e.g., Cameron v. Lambert*, No. 1:07-cv-9258, 2008 WL 4823596, at *4 (S.D.N.Y. Nov. 7, 2008) (remarking, in an order imposing case terminating sanctions, that a pro se party is "not entitled to any latitude when it comes to threatening and inappropriate conduct"); *see also Fathi v. Saddleback Valley United Sch. Dist.*, No. 8:20-cv-544, 2020 WL 7315462, at *7 (C.D. Cal. Oct. 28, 2020) at *6 (alteration in original) (quotation omitted). The Court should impose sanctions on Plaintiff to protect Defendant, its counsel, and future litigants from further threats of harm from Plaintiff.

For these reasons, I respectfully recommend the Court amend the judgment in this case to reflect it was dismissed with prejudice. I recognize the severity of a sanction of dismissal with prejudice. But given the intentional nature of Plaintiff's conduct and his use of threats, such a sanction is warranted.⁵

⁵ On January 28, 2025, the Court dismissed Plaintiff's Complaint without prejudice. Dkt. 20. The case remains closed.

III. RECOMMENDATION

Accordingly, I respectfully **RECOMMEND** the Court:

1. **GRANT in part and DENY in part** Defendant's Renewed Motion for Sanctions (Dkt. 32);
2. **DISMISS WITH PREJUDICE** Plaintiff's Complaint against Defendant Westlake Services, LLC;
3. **DESIGNATE** Matthew Weiss a vexatious litigant;
4. **DECLARE** that Matthew Weiss is enjoined from making any further filings related to the subject matter of this litigation, or violations of the Telephone Consumer Protection Act ("TCPA"); the Fair Debt Collection Practices Act ("FDCPA"); and the Florida Consumer Collection Practices Act ("FCCPA") in the Middle District of Florida against Westlake Services, LLC. *See In re: Vexatious Litigants in the Orlando Division*, No. 6:23-mc-03-RBD (Doc. 1 at 3) (M.D. Fla. Jan. 18, 2023);
5. **FURTHER DECLARE** that Matthew Weiss is hereby restricted from filing a pleading to open a new case. Any further pleading filed by Matthew Weiss in the Orlando Division of the Middle District of Florida will be assigned to and reviewed by the judges assigned to this case. *See In re: Vexatious Litigants in the Orlando Division*, No. 6:23-mc-03-RBD (Doc. 1 at 4) (M.D. Fla. Jan. 18, 2023); and
6. **DENY** the remainder of Defendant's Motion.

Notice to Parties

“Within 14 days after being served with a copy of [a report and recommendation], a party may serve and file specific written objections to the proposed findings and recommendations.” Fed. R. Civ. P. 72(b)(2). “A party may respond to another party’s objections within 14 days after being served with a copy.” *Id.* A party’s failure to serve and file specific objections to the proposed findings and recommendations alters review by the district judge and the United States Court of Appeals for the Eleventh Circuit, including waiver of the right to challenge anything to which no specific objection was made. *See* Fed. R. Civ. P. 72(b)(3); *see also* 28 U.S.C. § 636(b)(1)(B); 11th Cir. R. 3-1.

ENTERED in Orlando, Florida, on July 15, 2025.



ROBERT M. NORWAY
United States Magistrate Judge

Copies to:

Hon. Paul G. Byron

Matthew Weiss
3240 Solstice Drive, Apt. 114
Kissimmee, Florida 34746

Counsel of Record