APPEAL NO. 22-12038 and 22-12411

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

WILLIAM M. WINDSOR,
Plaintiff – Appellant,

versus

JAMES N. HATTEN, et al,
Defendants

Appeal from the United States District Court
for the Northern District of Georgia, Atlanta Division
D.C. Docket No. 1:11-CV-01923-TWT
Judge Thomas Woodrow Thrash

APPELLANT'S PETITION FOR REHEARING

AND EN BANC DETERMINATION

APPENDIX 21

William M. Windsor
5013 S Louise Avenue PMB 1134, Sioux Falls, South Dakota 57108
Phone: 352-661-8472, Email: windsorinsouthdakota@yahoo.com

PRO SE FOR PLAINTIFF/ APPELLANT, WILLIAM M. WINDSOR

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA

WILLIAM WINDSOR,

CASE NO. 2018-CA-010270-O

Plaintiff,

vs.

ROBERT KEITH LONGEST, an individual, and BOISE CASCADE BUILDING MATERIALS DISTRIBUTION, L.L.C., a Foreign Limited Liability Company,

Defendants.

MEMORANDUM OF LAW

1. William M. Windsor ("Windsor") files Memorandum of Law in support of his Response to the Defendants' Motion to Dismiss. Windsor has researched "filing restrictions" referencing the three key federal precedents in every federal circuit court. There has never been one single appellate decision that disagrees with the three cases -- ***Baum v. Blue Moon Ventures, LLC***, 513 F.3d 181, 191-92 (5th Cir. 2008); ***Sieverding v. Colo. Bar Ass'n***, 469 F.3d 1340, 1344 (10th Cir. 2006); and ***Martin-Trigona v. Lavien***, 737 F.2d 1254, 1263 (2d Cir. 1984). Windsor has attempted to review every federal appellate decision regarding filing restrictions. He can find NO CASE to support the frivolous Motion to Dismiss filed by the Defendants. Emphasis has been added in the use of bold face and yellow highlight.

FEDERAL COURTS MAY NOT ISSUE FILING RESTRICTIONS THAT ARE BINDING ON STATE COURTS

2. Federal case law establishes that a federal judge has no jurisdiction over state courts, and a federal order for filing restrictions cannot apply to state courts.

3. This Court has been previously asked to take judicial notice of ***Baum v. Blue Moon Ventures, LLC***, 513 F.3d 181, 191-92 (5th Cir. 2008). [EXHIBIT 532.]

A district court has jurisdiction to impose a pre-filing injunction to deter vexatious, abusive, and harassing litigation. *Farguson v. MBank Houston, N.A.*, 808 F.2d 358, 360 (5th Cir. 1986) (recognizing the district court's inherent power to protect its jurisdiction and judgments and to control its own dockets); *Day v. Allstate Ins. Co.*, 788 F.2d 1110, 1115 (5th Cir. 1986) (holding that a district court may impose a pre-filing injunction, which would bar a litigant from filing any additional actions without first obtaining leave from the district court, to deter vexatious filings) (citing *Martin-Trigona v. Lavien* (*In re Martin-Trigona*), 737 F.2d 1254, 1261-62 (2d Cir. 1984)). A pre-filing injunction "must be tailored to protect the courts and innocent parties, while preserving the legitimate rights of litigants." *Farguson*, 808 F.2d at 360. This Court will review the district court's decision to grant or modify an injunction under the abuse of discretion standard. *Newby v. Enron Corp.*, 302 F.3d 295, 301 (5th Cir. 2002) (grant of injunction); *ICEE Distribs., Inc. v. J&J Snack Foods Corp.*, 445 F.3d 841, 850 (5th Cir. 2006) (modification of injunction). A district court clearly has the power to impose a pre-filing injunction in the appropriate factual circumstances. *Farguson*, 808 F.2d at 360; see also *Collum v. Edwards*, 578 F.2d 110, 112 (5th Cir. 1978) ("The Judge's broad and flexible equitable powers govern the granting and dissolution of permanent as well as temporary injunctions.").

Notice and a hearing are required if the district court sua sponte imposes a pre-filing injunction or sua sponte modifies an existing injunction to deter vexatious filings. In *Western Water Management, Inc. v. Brown*, the defendants complained of the district court's sua sponte modification of a permanent injunction, which imposed additional restrictions on the defendants. 40 F.3d 105, 109 (5th Cir. 1994). Without addressing whether the district court had the authority to sua sponte modify the injunction, we vacated the injunction as an abuse of discretion because the modification "was not preceded by appropriate notice and an opportunity for hearing." Id. Brown implies that the district court may sua sponte modify a permanent injunction if the parties are given prior notice and an opportunity for hearing.

A district court's modification of an injunction is reviewed for an abuse of discretion. *ICEE Distribs.*, 445 F.3d at 850. "Modification of an injunction is appropriate when the legal or factual circumstances justifying the injunction have changed." Id. Federal courts have the power to enjoin plaintiffs from future filings when those plaintiffs consistently abuse the court system and harass their opponents. See *Farguson*, 808 F.2d at 359-60. However, an "injunction against future filings must be tailored to protect the courts and innocent parties, while preserving the legitimate rights of litigants." Id. at 360. Based on this principle, this Court previously limited the December 2002 Injunction to only enjoin Baum from filing any additional claims against the Mortenson defendants and related parties. However, this Court cautioned Baum that "[i]f the Baums persist in a widespread practice that is deserving of such a broad injunction, then [a broader] injunction could be appropriate." *Mortenson*, 93 F. App'x at 655.

The District Court Abused its Discretion in Extending the Pre-Filing Injunction to Filings in State Courts, State Agencies, and This Court. Baum argues that the district court abused its discretion in extending the injunction to prohibit Baum from filing any claims in state courts or with state agencies. Baum argues that even if the injunction is proper for federal courts, "[a]buse of state judicial process is not per se a threat to the jurisdiction of Article III courts and does not per se implicate other federal interests." *Martin-Trigona*, 737 F.2d at 1263. **In Martin-Trigona, the Second Circuit concluded that the district court "erred in its blanket extension of the [pre-filing] injunction to state courts,"** but it upheld those provisions of the injunction requiring Martin-Trigona to alert state courts of his history of vexatious filings in the federal courts. Id. Blue Moon does not cite to any authority that upholds a federal court's pre-filing injunction against state court and state agency filings. Furthermore, in Baum's prior appeal, this Court noted that "a broader injunction, prohibiting any filings in any federal court without leave of that court may be appropriate." *Mortenson*, 93 F. App'x at 655 (emphasis added). Recently, the Tenth Circuit held that (1) a district court's pre-filing injunction may extend to filings in lower federal courts within the circuit that the issuing court is located, (2) a district court's pre-filing injunction may not extend to filings in any federal appellate court, and (3) **a district court's pre-filing injunction may not extend to filings in any state court**. *Sieverding v. Colo. Bar Ass'n*, 469 F.3d 1340, 1344 (10th Cir. 2006). Based on the facts of this case, we find that the district court abused its discretion in extending the pre-filing injunction to filings in state courts, state agencies, and this Court. In the words of Sieverding, "those courts [or agencies] are capable of taking appropriate action on their own." Id. We uphold those provisions of the pre-filing injunction that prevent Douglas Baum from filing claims in federal bankruptcy courts, federal district courts, and federal agencies in the state of Texas without the express written permission of Judge Hughes.

...it was an abuse of discretion for the district court to extend the injunction to filings in state courts, state agencies, and this Court. The pre-filing injunction is amended as follows: Douglas Baum is enjoined from directly or indirectly filing claims in federal bankruptcy courts, federal district courts, and federal agencies in the state of Texas without the express written permission of Judge Lynn N. Hughes.

4. This Court has been previously asked to take judicial notice of ***Sieverding v. Colo. Bar Ass'n***, 469 F.3d 1340, 1344 (10th Cir. 2006). [EXHIBIT 533.]

"[T]he right of access to the courts is neither absolute nor unconditional and there is no constitutional right of access to the courts to prosecute an action that is frivolous or malicious." *Tripati v. Beaman*, 878 F.2d 351, 353 (10th Cir. 1989) (citations omitted) (per curiam). Federal courts have the inherent power "to regulate the activities of abusive litigants by imposing carefully tailored restrictions under the appropriate circumstances." Id. at 352 (quoting *Cotner v. Hopkins*, 795 F.2d 900, 902-03 (10th Cir. 1986)). We agree with the district court that filing restrictions were appropriate in this case. We conclude, however, that **the restrictions were not carefully tailored as required by our case law and that a portion of the filing restrictions order must be modified**.

The substance of the filing restriction states: Kay Sieverding and David Sieverding are hereafter prohibited from commencing any pro se litigation in any court in the United States on any subject matter unless they meet the requirements of Paragraph 2 below.

R., Vol. I, Doc. 788 at 7 ¶ 1. Paragraph 2 explains that the Sieverdings must seek approval from the District of Colorado before commencing any pro se litigation in any court in the United States on any subject matter. Id. at ¶ 2. The order does not apply if the Sieverdings are represented by a licensed attorney. Id. at ¶ 3.

This filing restrictions order is unlike other filing restrictions orders that have been reviewed by this court because it extends to any court in this country as opposed to being limited to the jurisdiction of the court issuing the order. The order thereby includes every state court, every federal district court and every federal court of appeal. Appellees cite to only one case that involved similarly broad filing restrictions, *Martin-Trigona v. Lavien*, 737 F.2d 1254 (2d Cir. 1984), to support their argument that the breadth of the district court's order was appropriate.

In *Martin-Trigona*, the Second Circuit was reviewing an order imposing restrictions that enjoined the filing of any action in any state or federal court in the United States arising out of plaintiff's bankruptcy proceedings, unless certain conditions were met. The order did, however, include an exception for certain types of filings, including filings in the federal appellate courts. See id. at 1259 ("Nothing in this order shall be construed as denying [plaintiff] access to the United States Courts of Appeals."). The Second Circuit upheld the portion of the filing restrictions order that prohibited the plaintiff from filing an action in any federal district court in the country without prior permission. See id. at 1262. **The court determined, however, that the district court erred by extending the filing restrictions to include state courts**, although the court left intact the requirement that Mr. Martin-Trigona notify the state courts regarding his prior litigation history. See id. at 1262-63.

We disagree with the Second Circuit's decision to uphold the broad filing restriction limiting access to any federal district court in the country and we will not uphold such a broad filing restriction in this case. We think it is appropriate for the District of Colorado to impose filing restrictions that include other federal district courts within the Tenth Circuit, but that it is not appropriate to extend those restrictions to include federal district courts outside of this Circuit. It is not reasonable for a court in this Circuit to speak on behalf of courts in other circuits in the country; those courts are capable of taking appropriate action on their own.

We agree with the Second Circuit's determination that it is not appropriate for a federal district court to restrict access to the state courts. The district court erred in this case by imposing filing restrictions limiting access to any court in the country. Finally, we note that the district court's broad order, unlike the order at issue in *Martin-Trigona*, fails to include an exception for filings in the federal appellate courts. This was error. **It is unreasonable for the District of Colorado to attempt to limit access to this**

court or any other court of appeal. We are capable of deciding if filing restrictions are appropriate in this court.

Finally, we conclude that the district court's decision to restrict Ms. Sieverding's filings on any subject matter and as to any defendant is overbroad. The district court's M arch 2004 filing restrictions order was properly limited by subject matter and defendant because it prohibited filings based on the series of transactions described in that initial federal action, case number 02-cv-1950. Given Ms. Sieverding's continued filings after that restriction was entered, the district court was justified in expanding the scope of the filing restrictions, but there is no apparent basis for extending the restriction to include any subject matter and any party. Ms. Sieverding has not filed litigation against random persons or entities. Instead, she has focused her efforts on filing actions against the persons, entities, counsel, and insurance companies of the parties involved in 02-cv-1950. We believe the district court's intention, to restrict further abusive filings by Ms. Sieverding, is best accomplished by modifying its order to create a carefully-tailored restriction limiting her ability to file actions against those persons and entities, but without limitation to subject matter. See, e.g. *Martin-Trigona v. Lavien*, 737 F.2d at 1263 (instructing district court on remand to craft injunction restricting abusive litigant from filing any actions against parties, counsel, and court personnel involved in prior litigation).

For the foregoing reasons, we affirm the district court's order as modified by this opinion. **The portion of the order that states "Kay Sieverding and David Sieverding are hereafter prohibited from commencing any pro se litigation in any court in the United States on any subject matter," R., Vol. I, Doc. 788 at 7 ¶ 1, is modified to prohibit the Sieverdings from commencing any pro se litigation in any federal district court within the Tenth Circuit against the persons, entities, counsel, and insurance companies of the parties involved in 02-cv-1950**. The district court's order is MODIFIED IN PART, and, as modified, is AFFIRMED. All outstanding motions are DENIED.

5. This Court has been previously asked to take judicial notice of ***Martin-Trigona v. Lavien***, 737 F.2d 1254 (2d Cir. 1984): [EXHIBIT 534]

We regard the restrictions placed upon Martin-Trigona's bringing of new actions in all federal district courts as necessary and proper. The district court is part of the federal judicial system and has an obligation to protect and preserve the sound and orderly administration of justice throughout that system. The order does not prohibit Martin-Trigona from seeking access to other federal district courts; it merely requires that he inform the court in question of pertinent facts concerning the action he seeks to bring, including the existence of the injunction order and of outstanding litigation against the named defendants, and that he obtain leave of that court to file the action. These conditions are hardly unreasonable.

However, the protection of federal jurisdiction does not necessarily require extension of each provision of the injunction to actions brought in state courts. **It is our independence from other branches of government which is the source of our power to enjoin Martin-Trigona, but that very independence militates against extension of the terms of the injunction to state courts. Abuse of state judicial processes is not per se a threat to the jurisdiction of Article III courts and does not per se implicate other federal interests. We therefore believe that the district court erred in its blanket extension of the injunction to state courts.**

... "**federal courts have both the inherent power and the constitutional obligation to protect their jurisdiction from conduct which impairs their ability to carry out Article III functions.**"

6. ***Tso v. Murray***, 19-1021, 19-1352 (10th Cir. 07/22/2020):

"Federal courts have the inherent power to regulate the activities of abusive litigants by imposing carefully tailored restrictions under appropriate circumstances." *Andrews v. Heaton*, 483 F.3d 1070, 1077 (10th Cir. 2007). A filing restriction is appropriate when (1) "the litigant's abusive and lengthy history is properly set forth"; (2) the court provides guidelines as to what the litigant "must do to obtain the court's permission to file an action"; and (3) the litigant receives "notice and an opportunity to oppose the court's order before it is instituted." *Tripati v. Beaman*, 878 F.2d 351, 353-54 (10th Cir. 1989) (per curiam). The district court satisfied these conditions.

It was not an abuse of discretion to conclude that Mr. Tso's federal litigation history establishes a sufficiently abusive pattern to merit filing restrictions. *See Andrews*, 483 F.3d at 1073, 1077 (affirming filing restrictions where the plaintiff filed three federal suits involving the same circumstances). **Further, the district court sufficiently tailored the restrictions. They apply only in the United States District Court for the District of Colorado**, *see Sieverding v. Colo. Bar Ass'n*, 469 F.3d 1340, 1344 (10th Cir. 2006); they address only the subject matter of Mr. Tso's previous federal suits, *see Ford v. Pryor*, 552 F.3d 1174, 1181 (10th Cir. 2008); *Sieverding*, 469 F.3d at 1345; they allow Mr. Tso to file suit if he is represented by a licensed attorney or if he obtains the court's permission to proceed pro se; and they explain the steps that he must take if he does wish to proceed pro se, *see Ketchum v. Cruz*, 961 F.2d 916, 921 (10th Cir. 1992). Mr. Tso's objections to the order-that it is impermissibly ex post facto; that the district court was required (and failed) to find that he acted in bad faith; that his filings were not so numerous as to be abusive; and that the district court should have imposed some less restrictive means-are meritless.

"Federal courts have the inherent power to regulate the activities of abusive litigants by imposing carefully tailored restrictions in appropriate circumstances." *Andrews v. Heaton*, 483 F.3d 1070, 1077 (10th Cir. 2007) (citing *Sieverding v. Colo. Bar Ass'n*, 469 F.3d 1340, 1343 (10th Cir. 2006)).

7. ***Andrews v. Heaton***, 483 F.3d 1070, 1077 (10th Cir. 2007):

Federal courts have the inherent power to regulate the activities of abusive litigants by imposing carefully tailored restrictions in appropriate circumstances. See *Sieverding v. Colo. Bar Ass'n.*, 469 F.3d 1340, 1343 (10th Cir. 2006); *Tripati v. Beaman*, 878 F.2d 351, 352 (10th Cir. 1989). Specifically, injunctions restricting further filings are appropriate where the litigant's lengthy and abusive history is set forth; the court provides guidelines as to what the litigant may do to obtain its permission to file an action; and the litigant receives notice and an opportunity to oppose the court's order before it is implemented. See *Tripati*, 878 F.2dat 353-54.

As part of his order dismissing Mr. Andrews's consolidated lawsuit, Judge Downes enjoined Mr. Andrews from filing any further lawsuits pro se in the Western District of Oklahoma without first obtaining permission of the Chief Judge; the order, by its terms, does not affect Mr. Andrews's right to pursue actions of any kind with the benefit of counsel. Still, although it is beyond cavil that Mr. Andrews has a history of vexatious pro se filings and the district court provided a mechanism by which Mr. Andrews may receive approval for future pro se filings, we are inclined to think the district court's order might be more narrowly tailored, at least in the first instance. Mr. Andrews's abusive pro se filing history is limited to pleadings filed in relation to state, and then federal, court proceedings regarding the care and custody of his child(ren), and against state and federal government officials and private attorneys related to these matters. This history does not (at least as yet) suggest that Mr. Andrews is likely to abuse the legal process in connection with other persons and subject matters and thus does not support restricting Mr. Andrews's access to the courts in all future pro se proceedings pertaining to any subject matter and any defendant. See, e.g., *Sieverding*, 469 F.3d at 1345 ("[T]here is no apparent basis for extending [a similar advance review of pro se filings] restriction to include any subject matter and any party [because] Ms. Sieverding has not filed litigation against random persons or entities."). **The filing restrictions imposed on Mr. Andrews by the district court are therefore modified to cover only filings in these or future matters related to the subject matter of Mr. Andrews's three federal lawsuits**. See id. (approving of similar restrictions as a first response to abusive filings); see also generally *Van Sickle v. Holloway*, 791 F.2d 1431, 1437 (10th Cir. 1986) (prohibiting the filing of complaints that "contain the same or similar allegations as those set forth in his complaint in the case at bar"); *Shuffman v. Hartford Textile Corp.* (*In re Hartford Textile Corp.*), 681 F.2d 895, 897-98 (2d Cir. 1982) (barring further pleadings in that case or in future litigation with regard to the same claims or subject matter); *Judd v. Univ. of N.M.*, 149 F.3d 1190, 1998 WL 314315, at * 5 (10th Cir. June 2, 1998) (unpub.) ("[T]his court will not accept any further appeals or original proceedings relating to the parties and subject matter of this case filed by appellant.").

8. ***Gaiters v. City of Catoosa***, No. 06-5168 (10th Cir. 05/22/2007):

We have examined the filing restrictions and note that they are not unreasonable, nor do they prevent the filing of meritorious pleadings. Further, they pertain only to further pleadings in this case, which was dismissed by the parties with prejudice in 2004. We hold that the district court did not abuse its discretion in imposing these narrowly-tailored restrictions.

9. ***Punchard v. United States Government***, No. 08-2041 (10th Cir. 08/25/2008):

The order does not specify whether the enjoinment applies only to filings in the district court of New Mexico or to other courts. It is settled in this circuit, however, that **a district court can only limit access to its court**. See *Sieverding v. Colo. Bar Ass'n*, 469 F.3d 1340, 1344 (10th Cir. 2006).

10. ***Ford v. Pryor***, 552 F.3d 1174 (10th Cir. 12/19/2008):

This court has ordered comprehensive filing restrictions on litigants who have repeatedly abused the appellate process. See, e.g., *Winslow v. Hunter* (*In re Winslow*), 17 F.3d 314, 316 (10th Cir. 1994) (per curiam) (noting Winslows had filed seventeen matters in appellate court, imposing blanket filing restriction unless specified conditions met). But a distinction has been made between indiscriminate filers and those who have limited their repetitive filings to a particular subject. See, e.g., *Sieverding v. Colo. Bar Ass'n*, 469 F.3d 1340, 1345 (10th Cir. 2006). Under those circumstances, the filing restrictions have been limited to the subject matter of the previous lawsuits. See *Andrews*, 483 F.3d at 1077 (noting appellant filed five frivolous appeals in three separate cases, restricting plaintiff from filing future matters related to the subject matter of his earlier federal lawsuits). In *Andrews*, this court determined that the plaintiff-appellant's litigation history did not "(at least as yet) suggest that [he was] likely to abuse the legal process in connection with other persons and subject matters and thus does not support restricting [his] access to the courts in all future pro se proceedings pertaining to any subject matter and any defendant." Id. In *Sieverding*, this court noted that the plaintiff-appellant "has not filed litigation against random persons or entities," and **modified the filing restrictions to apply only to the subject matter of her previous litigation**. *Sieverding*, 469 F.3d at 1345.

11. ***Hutchinson v. Hahn***, No. 09-5144 (10th Cir. 11/24/2010):

We have repeatedly held that **a district court has the discretion to enter narrow, carefully tailored filing restrictions to prevent repetitive and abusive filings, all after notice and an opportunity to respond**. See *Sieverding v. Colo. Bar Ass'n*, 469 F.3d 1340, 1343 (10th Cir. 2006); *Stafford v. United States*, 208 F.3d 1177, 1179 (10th Cir. 2000); *Winslow v. Hunter* (*In re Winslow*), 17 F.3d 314, 315-16 (10th Cir.1994) (per curiam); *Tripati v. Beaman*, 878 F.2d 351, 354 (10th Cir. 1989).

12. ***Blaylock v. Tinner***, 13-3151 (10th Cir. 11/04/2013):

The district court's imposition of filing fees is reviewed for abuse of discretion. *Tripati v. Beaman*, 878 F.2d 351, 354 (10th Cir. 1989). Injunctions that assist the district court in curbing a litigant's abusive behavior "are proper where the litigant's abusive and lengthy history is properly set forth." *Id.* at 353; *In re Winslow*, 17 F.3d 314, 315 (10th Cir. 1994). But **the injunction must be carefully tailored and may not be so burdensome**

as to deny the litigant meaningful access to the courts. *Sieverding v. Colo. Bar Ass'n*, 469 F.3d 1340, 1343 (10th Cir. 2006); *Tripati*, 878 F.2d at 352.

The restrictions apply only in the United States District Court for the District of Kansas, *Sieverding v. Colorado Bar Association*, 469 F.3d at 1344, and they are not excessively burdensome because they allow Tinner to file suit if he is represented by a licensed attorney or receives the court's permission. The district court even lays out the steps that Tinner must take in order to obtain permission to proceed. *Tripati*, 878 F.2d at 354. Thus, the filing restrictions imposed here are the type of carefully tailored restrictions that the district court may rely on to protect the justice system from abuse by vexatious litigants, and we will not disturb them.

13. ***Lundahl v. Halabi***, 773 F.3d 1061, 90 Fed.R.Serv.3d 261 (10th Cir. 12/03/2014):

The district court did not abuse its discretion in concluding that Ms. Lundahl's history of litigation establishes a sufficiently abusive pattern to merit filing restrictions. We also conclude that **the restrictions crafted by the district court were sufficiently tailored. The restrictions apply only in the United States District Court for the District of Wyoming**, *see Sieverding v. Colo. Bar Ass'n*, 469 F.3d 1340, 1344 (10th Cir. 2006); they are not excessively burdensome, because they allow Ms. Lundahl to file suit if she is represented by a licensed attorney; and they explain the steps that Ms. Lundahl must take if she does wish to proceed pro se, *see Ketchum v. Cruz*, 961 F.2d 916, 921 (10th Cir. 1992).

14. This Court has been previously asked to take judicial notice of ***In re Martin-Trigona***, 737 F.2d 1254 (2nd Cir. 06/18/1984). [EXHIBIT 534.]

15. ***Midamines SPRL Ltd. v. KBC Bank N.V.***, 16-1048 (L), 16-3427 (Con) (2d Cir. 12/06/2017):

Judge Sullivan then entered an order enjoining Abbas from "making any future filings in this Court in this case or in any action involving the allegations set forth in the related *Midamines* Action" without leave. *Id.* When Abbas sought leave to file the declaratory judgment asserting possession of the disputed bank funds in his original action, the district court denied the request:

The district court did not abuse its discretion in enforcing its own injunction. *See Truskoski v. ESPN, Inc.*, 60 F.3d 74, 77 (2d Cir. 1995)(per curiam). It is the duty and power of district courts to enforce filing injunctions against plaintiffs that "abuse the process of the Courts to harass and annoy others with meritless, frivolous, vexatious or repetitive" litigation. *In re Martin-Trigona*, 737 F.2d 1254, 1262 (2d Cir. 1984).

16. ***Armatas v. Maroulleti***, 16-2507 (2d Cir. 05/17/2017):

"We review a district court's decision to impose sanctions under its inherent powers for abuse of discretion." *Wilson v. Citigroup, N.A.*, 702 F.3d 720, 723 (2d Cir. 2012). A district court may, in its discretion, impose a filing injunction if confronted with "extraordinary circumstances, such as a demonstrated history of frivolous and vexatious litigation or a failure to comply with sanctions imposed for such conduct." *Milltex Indus. Corp. v. Jacquard Lace Co.*, 55 F.3d 34, 39 (2d Cir. 1995) (citation and internal quotation marks and alteration omitted). A district court may issue such sanctions pursuant to its inherent authority, even if there are other procedural rules available. *Chambers v. NASCO, Inc.*, 501 U.S. 32, 49-50 (1991); *see also In re Martin-Trigona*, 737 F.2d 1254, 1261 (2d Cir. 1984).

We consider the following factors when reviewing a lower court's filing injunction: (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 would be adequate to protect the courts and other parties. *Safir v. U.S. Lines, Inc.*, 792 F.2d 19, 24 (2d Cir. 1986).

As discussed above, Armatas has repeatedly attempted to relitigate his claims of fraud in both this Court and the district court. Those claims have been repeatedly rejected. At this point, Armatas cannot have any objective good faith expectation of prevailing. And as the district court correctly observed, despite repeated warnings, Armatas continued undeterred to file motions raising the same issues. **Accordingly, we conclude that the district court's limited filing injunction, which enjoined Armatas only from filing new papers in this case, did not exceed the bounds of its discretion.**

17. ***In re Neroni***, 14-4765 (2d Cir. 12/18/2015):

Neroni also argues that the filing injunction orders him to provide a "full-blown background check" every time he files a pleading in the Northern District and is therefore overbroad and unduly burdensome. To be sure, the injunction requires Neroni to furnish the District Court with a good deal of information - including his litigation history, a description of his involvement in each of his lawsuits, and a statement indicating whether he is attempting to sue a party who was involved in one of his earlier cases - whenever he files a pleading. But the decision to impose these requirements was not an "abuse of discretion." They are tailored to address the types of lawsuits Neroni has filed in the past and are no broader than is necessary to protect the Court and would-be defendants from similar vexatious litigation in the future. Furthermore, **the injunction is limited to filings in the Northern District; it covers neither any other federal district nor any state court.** *See Iwachiw*, 396 F.3d at 529 ("The District Court's injunction is measured; it does not extend to filings in other federal district courts or the New York state courts."). (That said, we do not foreclose the possibility that the injunction can be broadened to include additional jurisdictions, including all United States courts. *See In re Martin-Trigona*, 737 F.2d 1254, 1262 (2d Cir. 1984) (approving filing injunction that required

the enjoined party to obtain leave of court before filing an action in any federal district). We also do not foreclose the possibility that the District Court may, in the exercise of its informed discretion, amend or modify its injunction in the light of changed circumstances or a felt need to streamline or expand its requirements. *See id.* at 1262-63 (requiring vexatious litigant to attach to any complaint filed in federal or state court a copy of the Court's injunction).)

18. ***In re Martin-Trigona***, 763 F.2d 140 (2nd Cir. 06/04/1985):

Appeal from a September 13, 1984, order of the District Court for the District of Connecticut (Jose M. Cabranes, Judge), upon remand from this Court, 737 F.2d 1254, issuing a revised injunction imposing restrictions on a pro se litigant's opportunity to file pleadings and other documents in federal courts and other forums, 592 F. Supp. 1566, and an April 23, 1984, ancillary order concerning files in the office of the District Court Clerk. Injunction and ancillary order affirmed.

This appeal returns to this Court the efforts of the District Court for the District of Connecticut to protect the adjudication process from the relentless efforts of a pro se litigant to disrupt the process by vexatious and harassing litigation. A year ago this Court substantially affirmed an injunction issued by Judge Cabranes barring Anthony R. Martin-Trigona from initiating litigation in federal courts except in compliance with specified conditions. *In re Martin-Trigona*, 737 F.2d 1254 (2d Cir. 1984). We remanded to the District Court for modifications of the injunction. Upon remand, the District Court, on September 13, 1984, vacated the original injunction and entered a new injunction, which is the principal subject of this appeal. *In re Martin-Trigona*, 592 F. Supp. 1566, 1569-76 (D. Conn. 1984) (text of injunction). The appeal also seeks review of an ancillary order, entered April 23, 1984, concerning maintenance of files in the office of the Clerk of the District Court in connection with papers sought to be filed by Martin-Trigona. We affirm the September 13 order of injunction and the April 23 order concerning court files.

Our prior decision directed two basic changes in the original injunction. First, we determined that the requirement that Martin-Trigona seek leave of the court in which he wishes to file new actions should not apply to suits initiated in state courts; however, the requirement that Martin-Trigona append to his state court pleadings pertinent informational materials alerting state courts to his prior history of vexatious litigation was to be retained in the revised injunction. 737 F.2d at 1262-63. Second, because we narrowed the limitations upon litigation in state court, we instructed the District Court to include a new provision designed to afford protection against harassing litigation in any courts to litigants and their lawyers, families, and associates who have encountered Martin-Trigona in litigation in the District of Connecticut or this Court. Id. at 1263. We also made clear that our decision was not to be construed as limiting the power of the District Court "to prevent harassing and vexatious conduct by Martin-Trigona." Id.

The revised injunction complies faithfully with our prior decision. Though somewhat more elaborate and precise than the original injunction, the new injunction contains no provision that is not fully warranted in light of the litigation history of Martin-Trigona. We turn, then, to the specific claims advanced on this appeal.

19. ***United States v. Martin-Trigona***, 759 F.2d 1017 (2nd Cir. 04/03/1985):

On appeal we noted that Judge Cabranes' findings as to the adverse effects of Martin-Trigona's tactics on the administration of justice were "abundantly supported by the record," *In re Martin-Trigona*, 737 F.2d 1254, 1260 (2d Cir. 1984), and held that in taking steps to deal with abuses of the judicial system federal courts act "in defense of the means necessary to carry out [their] constitutional function. In such circumstances, the power to act against vexatious litigation is clear." Id. at 1262. **Except for a restriction on Martin-Trigona's ability to file lawsuits in any state court without prior permission, we affirmed Judge Cabranes' order**, broadening it to encompass relief against his multiplication of appeals. The district court then issued a new order of Permanent Injunction in accord with our ruling, see *In re Martin-Trigona*, 592 F. Supp. 1566 (D. Conn. 1984), after receiving several uncontradicted affidavits setting forth "Martin-Trigona's well-documented practice of abusing his imagined enemies through legal process." Id. at 1569.

20. ***Mac Truong v. Hung Thi Nguyen, Alphonse Hotal Corp., Elaine***, No. 11-3248 (2d Cir. 11/20/2012):

We also conclude that the district court's leave-to-file injunction--which bars Truong from filing any lawsuit on any claim in any court against any party without first obtaining, in writing, the express permission of the court in which he wishes to proceed--is too broad. See *Bd. of Managers of 2900 Ocean Ave. Condo. v. Bronkovic*, 83 F.3d 44, 45 (2d Cir. 1996) (per curiam) ("[Filing] injunctions must be appropriately narrow."); see also *In re Martin-Trigona*, 737 F.2d 1254, 1262-63 (2d Cir. 1984).

Finally, "[i]mposition of [financial] sanctions under a court's inherent powers requires a specific finding that [a party] acted in bad faith." *Wolters Kluwer Fin. Servs., Inc. v. Scivantage*, 564 F.3d 110, 114 (2d Cir. 2009). "Moreover, inherent-power sanctions are appropriate only if there is clear evidence that the conduct at issue is (1) entirely without color and (2) motivated by improper purposes." Id. "A finding of bad faith, and a finding that conduct is without color or for an improper purpose, must be supported by a high degree of specificity in the factual findings." Id. Additionally, "when a court awards defendants attorney's fees, it must take into account the financial circumstances of the plaintiff." *Sassower v. Field*, 973 F.2d 75, 81 (2d Cir. 1992). Here, the district court did not make a specific finding of bad faith. Moreover, although the district court explained that Truong had a history of contempt for court orders, it neither explicitly found that Truong had brought the current suit for any improper purpose nor identified the "clear evidence" of such a purpose. Furthermore, the district court did not consider, as it should have, Truong's financial circumstances when imposing attorney's fees. See id. These

procedural errors require us to vacate and remand the district court's order. But we leave to the sound discretion of that court the question of whether leave-to-file and monetary sanctions are appropriate here upon proper notice and an opportunity to be heard. For the foregoing reasons, the orders of the district court are hereby VACATED and the proceeding is REMANDED.

21. ***Anthony Viola v. United States of America***, 481 Fed.Appx. 30 (2d Cir. 09/28/2012):

Following an independent review of the record, we find that the district court did not abuse its discretion in imposing a leave-to-file sanction. As this Court has noted previously in this case, the "procedure for imposing leave-to-file sanctions involves three stages: (1) the court notifies the litigant that future frivolous filings might result in sanctions; (2) if the litigant continues this behavior, the court orders the litigant to show cause as to why a leave-to-file sanction order should not issue; and (3) if the litigant's response does not show why sanctions are not appropriate, the court issues a sanctions order." See *Viola v. United States*, 307 F. App'x 539, 539 (2d Cir. 2009) (Summary Order). The record reveals that, after this Court's January 2009 order remanding to the district court, the district court: (1) held a hearing in May 2009, at which Viola was notified that future frivolous filings could result in sanctions; (2) entered an order in August 2009, instructing Viola to show cause why leave-to-file sanctions should not be imposed; (3) received Viola's response to the order to show cause; (4) held a conference in April 2010 to discuss Viola's response to the order to show cause; and (5) entered an order, in March 2011, imposing leave-to-file and monetary sanctions. Consequently, the record establishes that the district court properly followed the procedure for imposing leave-to-file sanctions. Further, in light of Viola's frequent filings in the district court, many of which sought to upset the district court's 2004 judgment, it cannot be said that the district court abused its discretion in imposing a leave-to-file sanction. See *In re Martin-Trigona*, 737 F.2d 1254, 1261 (2d Cir. 1984) ("**Federal courts have both the inherent power and the constitutional obligation to protect their jurisdiction from conduct which impairs their ability to carry out Article III functions**."); see also *Shafii v. British Airways, PLC*, 83 F.3d 566, 571 (2d Cir. 1996) (stating that a district court may "impose sanctions against litigants who abuse the judicial process").

With respect to the imposition of a monetary sanction, however, a review of the record reveals that Viola was not provided with notice or an opportunity to be heard until after this sanction was imposed. Specifically, a review of the record reveals that, in its August 2009 order, the district court directed Viola to "show cause . . . why leave-to-file sanctions should not be imposed," and did not mention the possibility of a monetary sanction. **Such an order provided no notice that the district court contemplated imposing monetary sanctions against Viola**. Moreover, because Viola had no reason to address the possibility of monetary sanctions, his response to the August 2009 order cannot qualify as an opportunity to be heard on that possibility. Finally, because the district court's March 2011 order did not cite to any statute or rule providing for the imposition of monetary sanctions, this Court cannot determine whether the district court

"invoked and set forth" the source of its authority in its earlier communications with Viola. See *Schlaifer Nance & Co.*, 194 F.3d at 334. Consequently, to the extent the district court's March 2011 order imposed a monetary sanction, that portion of its order is vacated. Id. We have considered Viola's remaining arguments and find them to be without merit. The judgment of the district court is therefore AFFIRMED in part and VACATED in part and the case is REMANDED for further proceedings in accordance with this order.

22. ***Charles Robert v. Department of Justice, et al***, No. 09-4684-cv (2d Cir. 09/06/2011):

"A district court may, in its discretion, impose sanctions against litigants who abuse the judicial process." *Shafii v. British Airways, PLC*, 83 F.3d 566, 571 (2d Cir. 1996); see also *In re Martin- Trigona*, 737 F.2d 1254, 1261 (2d Cir. 1984) ("**Federal courts have both the inherent power and the constitutional obligation to protect their jurisdiction from conduct which impairs their ability to carry out Article III functions**."). However, a district court "may not impose a filing injunction on a litigant . . . without providing the litigant with notice and an opportunity to be heard." *Iwachiw v. N.Y. State Dep't of Motor Vehicles*, 396 F.3d 525, 529 (2d Cir. 2005) (quoting *Moates v. Barkley*, 147 F.3d 207, 208 (2d Cir. 1998)). We review for abuse of discretion a district court's decision to impose a filing injunction, or "leave-to-file" sanctions, under the All Writs Act, 28 U.S.C. § 1651. See *United States v. Int'l Bhd. of Teamsters*, 266 F.3d 45, 49 (2d Cir. 2001) (injunction under the All Writs Act reviewed for abuse of discretion); *Gollomp v. Spitzer*, 568 F.3d 355, 368 (2d Cir. 2009) (imposition of sanctions reviewed for "abuse of discretion"); cf. *Sims v. Blot*, 534 F.3d 117, 132 (2d Cir. 2008) (explaining term of art "abuse of discretion").

Here, the District Court did not err or abuse its discretion in enjoining Robert from filing further complaints raising FOIA claims without leave of the court, given Robert's history of filing vexatious, burdensome, and meritless FOIA complaints. See *Safir v. United States Lines, Inc.*, 792 F.2d 19, 24 (2d Cir. 1986) (describing the factors district courts should consider in determining whether to restrict a litigant's future access to the courts). To the extent that Robert argues that he did not receive sufficient notice and an opportunity to be heard, his argument is belied by the record. Robert was explicitly placed on notice of the possibility of a filing injunction during a pre-motion conference, was served the defendants' motion to impose a filing injunction, and responded to the defendants' motion. There is no support for Robert's argument that he was entitled to an evidentiary hearing and an opportunity to cross-examine witnesses.

However, we appreciate Robert's concern that the December 2005 non-final "judgment" entered by the Clerk of Court subsequent to the District Court's filing injunction could be construed as inconsistent with that injunction. Although the District Court's opinion of December 12, 2005, ordered that "[a]ny future FOIA complaint(s) by Robert . . . must be submitted to my attention as a Motion for Leave to File," *Robert*, 2005 WL 3371480, at *16 (E.D.N.Y. Dec. 12, 2005), ECF No. 16 (emphasis added), the subsequent order

entered by the Clerk of Court granted defendants' motion "to enjoin plaintiff from further FOIA request [sic] without prior leave of the Court," Clerk's Judgment, id. (E.D.N.Y. Dec. 15, 2005), ECF No. 22 (emphasis added).

It is clear that the District Court intended only to enjoin Robert from filing further FOIA complaints without leave of the court and not to enjoin Robert from filing FOIA requests with appropriate government agencies or officials. Therefore, we exercise our authority under 28 U.S.C. § 2106 to modify the District Court's final judgment, dated October 13, 2009, to clarify that the filing injunction entered on December 15, 2005, applies only to complaints raising FOIA claims filed in district court, and not to FOIA requests directed to a government agency or official. In doing so, we do not address, much less preclude or comment upon, any requests that may be made in the future, upon an appropriate record, to broaden the reach of the District Court's injunction to include matters other than FOIA complaints (including, inter alia, FOIA requests directed to government agencies or officials). We have considered Robert's other arguments on appeal and have found them to be without merit. Accordingly, the judgment of the District Court is hereby MODIFIED, and, as modified, is AFFIRMED.

23. ***Lipin v. Sawyer***, No. 09-3961-cv (2d Cir. 10/12/2010):

We have already dismissed Lipin's previous appeal from the imposition of the August 2008 filing injunction pursuant to our inherent authority to dismiss an appeal that "presents no arguably meritorious issue for our consideration." *Pillay v. INS*, 45 F.3d 14, 17 (2d Cir. 1995); see *Lipin v. Hunt*, No. 08-1514-cv (2d Cir. Nov. 14, 2008). In this appeal, however, Lipin challenges the application of the district court's filing injunction to a lawsuit she filed in state court that was removed to federal court. In *In re Martin-Trigona*, 737 F.2d 1254 (2d Cir. 1984), **we held that the district court erred in issuing a filing injunction to the extent it included a "blanket extension of the injunction to state courts," because "[a]buse of state judicial processes is not per se a threat to the jurisdiction of Article III courts and does not per se implicate other federal interests."** Id. at 1263. We upheld the injunction to the extent it required Martin-Trigona "to append pertinent informational materials to pleadings in state courts" and recommended that the district court fashion an injunction prohibiting Martin-Trigona from bringing new actions in any tribunal without leave from the district court against persons who have encountered him in any capacity in litigation in the District of Connecticut or in this court, including, but not necessarily limited to, court personnel, counsel, and the families and professional associates of such persons.

24. ***Lee v. City of New York***, No. 05-6255 (2d Cir. 05/11/2006):

The record reflects that Lee is a profligate filer of pro se complaints eventually dismissed for failure to state a claim or for other, similar defects. See id. at *1 (collecting examples). Nothing in the record suggests that the District Court erred in finding that Lee has yet again filed a complaint worthy of dismissal. The District Court's injunction should prevent needless further litigation-with its accompanying expense for the defendants-until such time as Lee presents the District Court with cause to grant him

leave to file. See generally, e.g., *In re Martin-Trigona*, 737 F.2d 1254, 1264 (2d Cir. 1984) (affirming similar, broader, injunction imposing "leave to file" requirement upon serial filer of frivolous litigation).

25. ***Horoshko v. Citibank, N.A.***, 373 F.3d 248 (07/01/2004):

We further instruct the District Court to provide the Horoshkos with a reasonable opportunity to show cause as to why a filing injunction should not be imposed against them, and if the District Court deems such action warranted, to fashion an appropriate injunction. That injunction might, for example, prohibit the Horoshkos from filing any future complaints related to, or arising out of, their foreclosure action in any United States District Court without first obtaining leave from the District Court below. See *Malley v. New York City Bd. of Educ.*, 112 F.3d 69, 69 (2d Cir. 1997); *Safir v. U.S. Lines, Inc.*, 792 F.2d 19, 24 (2d Cir. 1986) (outlining five factors for district court to consider in determining whether to impose a filing injunction); *In re Martin-Trigona*, 737 F.2d 1254 (2d Cir. 1984).

26. ***Wynn v. AC Rochester General Motors Corp.***, No. 03-7358 (2d Cir. 05/11/2004):

Wynn further contends that the district court abused its discretion by issuing an injunction barring him from further litigation against AC Rochester and Whiteside. We disagree.

The district court identified relevant facts, as set forth in *Safir v. United States Lines, Inc.*, 792 F.2d 19, 24 (2d Cir. 1986), showing that Wynn, despite his pro se status, should be subject to an injunction against further litigation. See *Bridgewater Operating Corp. v. Feldstein*, 346 F.3d 27, 30 (2d Cir. 2003); *In re Martin-Trigona*, 737 F.2d 1254, 1261-62 (2d Cir. 1984) (affirming an injunction limiting a litigant's access to the federal courts and imposing a notice requirement on a litigant's access to state courts in light of a record of repetitious litigation). We therefore affirm the imposition of the permanent injunction that requires Wynn to seek leave from the court before commencing any lawsuit against AC Rochester General Motors Corporation, General Motors Corporation or its subsidiaries or any agent or employee of those entities concerning Wynn's layoff and subsequent separation from General Motors in 1986-1987. Accordingly, for the foregoing reasons, the judgment of the district court is hereby AFFIRMED.

27. ***Lipko v. Christie***, No. 02-9099 (2d Cir. 04/06/2004):

Plaintiff's history of litigation against defendant eventually incited defendant to file suit against plaintiff in Connecticut state court, which yielded (1) a permanent injunction prohibiting plaintiff from filing further litigation delaying resolution of the probate of his father's estate, and (2) a damages judgment for vexatious litigation. See *Christie v. Lipko*, No. CV96 0053297S (Conn. Super. Ct. Aug. 17, 1997).

In view of plaintiff's history of vexatious litigation, and the fact that he has not been deterred from further filings in the District Court and this court by our earlier judgments declaring our lack of jurisdiction to review state court decisions, at oral argument of this matter we ordered plaintiff to show cause by letter to the Court why he should not be prohibited from pursuing any further appeals before this Court without first obtaining leave of the Court. See, e.g., *In re Martin-Trigona*, 737 F.2d 1254, 1264 (2d Cir. 1984); *In re Bill Saunders*, No. 02-3097 (2d Cir. Mar. 20, 2003); *Tsimbidaros v. Goettel*, No. 96-6169 (2d Cir. Nov. 12, 1998). Because plaintiff has failed to show cause why he should not be subject to such an order, and because existing injunctions and sanctions in state court have not deterred him from initiating frivolous complaints and appeals in the federal courts, we now impose a leave-to-file requirement in the Court of Appeals for the Second Circuit.

It is hereby ORDERED that the Clerk refuse to accept for filing any further submission signed by the plaintiff unless he first obtains the leave of the Court to file such papers. See, e.g., *In re Martin-Trigona*, 737 F.2d at 1264; *In re Bill Saunders*, No. 02-3097 (2d Cir. Mar. 20, 2003); *Tsimbidaros*, No. 96-6169 (2d Cir. Nov. 12, 1998); see also *In re Martin-Trigona*, 9 F.3d 226 (2d Cir. 1993) (upholding the Court's power to impose "leave-to-file" requirements).

28. ***Bridgewater Operating Corp. v. Feldstein***, 346 F.3d 27 (2d Cir. 10/02/2003):

Plaintiffs also challenge the District Court's issuance of a permanent injunction prohibiting them and their affiliates from (i) pursuing further federal litigation concerning the Premises without first obtaining the authorization of the District Court, and (ii) pursuing further state litigation with respect to the Premises without appending the District Court's opinion and order of injunction to their first filings. The District Court identified facts demonstrating that plaintiffs possess all five indicators set forth by this Court in *Safir v. United States Lines, Inc.*, 792 F.2d 19, 24 (2d Cir. 1986), for determining whether a plaintiff should be subject to an injunction against further litigation. See *Ulysses I & Co.*, 2002 WL 1813851, at *13-14. We agree with the District Court that these factors establish that plaintiffs are "likely to continue to abuse the judicial process and harass other parties." See id. at *13 (quoting *Safir*, 792 F.2d at 24) (internal quotation marks omitted); see also, e.g., *In re Martin-Trigona*, 737 F.2d 1254, 1261-62 (2d Cir. 1984) (affirming an injunction limiting a litigant's access to the federal courts and imposing a notice requirement on a litigant's access to state courts in light of a record of repetitious litigation). Therefore, for substantially the reasons stated by the District Court, we affirm the District Court's imposition of a permanent injunction requiring plaintiffs (i) to seek authorization from the United States District Court for the Southern District of New York before pursuing further federal litigation with respect to the Premises, and (ii) to inform all state courts in which they file claims regarding the Premises of the Court's judgment and injunction.

29. ***Lau v. Meddaugh***, 229 F.3d 121 (2d Cir. 10/05/2000):

The district courts have the power and the obligation to protect the public and the efficient administration of justice from individuals who have a "history of litigation entailing `vexation, harassment and needless expense to [other parties]' and `an unnecessary burden on the courts and their supporting personnel.'" *In re Martin-Trigona*, 737 F.2d 1254, 1262 (2d Cir. 1984) (quoting *Matter of Hartford Textile Corp.*, 681 F.2d 895, 897 (2d Cir. 1982)). The issuance of a filing injunction is appropriate when a plaintiff "abuse[s] the process of the Courts to harass and annoy others with meritless, frivolous, vexatious or repetitive . . . proceedings." *In re Hartford Textile Corp.*, 659 F.2d 299, 305 (2d Cir. 1981) (per curiam); see also *Malley v. New York City Bd. of Educ.*, 112 F.3d 69, 69 (2d Cir. 1997) (per curiam) (filing injunction may issue if numerous complaints filed are based on the same events).

However, "[t]he unequivocal rule in this circuit is that **the district court may not impose a filing injunction on a litigant sua sponte without providing the litigant with notice and an opportunity to be heard**." *Moates v. Barkley*, 147 F.3d 207, 208 (2d Cir. 1998) (per curiam). The "chance to respond is an empty opportunity if the party is not given adequate time to prepare his response." *Schlesinger Inv. Partnership v. Fluor Corp.*, 671 F.2d 739, 742 (2d Cir. 1982) (reversing sua sponte dismissal entered without prior notice).

In advance of the pretrial conference at which the injunction was considered, Lau was entitled to notice sufficient to allow him to prepare a response. See *Weitzman v. Stein*, 897 F.2d 653, 658 (2d Cir. 1990) (holding that, in absence of notice prior to hearing at which district court issued sua sponte order freezing party's assets, the order was entered in violation of due process).

30. ***Moates v. Barkley***, 147 F.3d 207 (2d Cir. 06/22/1998):

The unequivocal rule in this circuit is that the district court may not impose a filing injunction on a litigant sua sponte without providing the litigant with notice and an opportunity to be heard. See *Moates v. Rademacher*, 86 F.3d at 15; *Board of Managers of 2900 Ocean Ave. Condominium v. Bronkovic*, 83 F.3d 44, 45 (2d Cir. 1996) (per curiam); *In re Martin-Trigona*, 737 F.2d 1254, 1260 (2d Cir. 1984); *In re Hartford Textile Corp.*, 613 F.2d 388, 390-91 (2d Cir. 1979) (per curiam). Indeed, we strictly enforced this rule when a district court in our circuit had earlier imposed a filing ban on this very litigant without providing him with notice or a hearing. See *Moates v. Rademacher*, 86 F.3d at 15.

Judge Glasser, in his order imposing the injunction on future challenges by Moates to his 1975 conviction, recognized the existence of this rule, but nonetheless chose not to comply with it because "[t]he observance of a requirement, in this case, that Moates be given notice and an opportunity to be heard would only compound the abuse of the judicial process and further needlessly tax the resources of the court." *Moates v. Barkley*, 927 F. Supp. at 598. But since such sanctions are, by hypothesis, imposed on litigants whom the court believes have a penchant for filing frivolous or vexatious claims, the rule requiring a hearing must be designed for precisely those cases. If we were to hold that the

danger that a litigant will misuse his or her opportunity to be heard excuses the district court's failure to respect the litigant's right to such a hearing, the exception would swallow the rule.

As we stated in our decision reversing the earlier ban on filings by Moates, "Moates has clearly abused the judicial process, and we sympathize with [the district court's] attempt to prevent any misconduct by Moates in the future. However, Moates was not given notice or an opportunity to be heard before the injunction against further filings was imposed." *Moates v. Rademacher*, 86 F.3d at 15. We therefore held that the imposition of the injunction could not stand.

The case now before us is similar. We share Judge Glasser's obvious frustration at the duplicative and frivolous filings by Moates, and we think it is extremely likely that, had the correct procedures been followed, sanctions of the sort imposed would have been entirely proper under the standards enunciated by this court in *Safir v. United States Lines, Inc.*, 792 F.2d 19, 24 (2d Cir. 1986). **But, under governing precedents, this fact does not absolve the district court of its responsibility to afford Moates the procedural safeguards due him.**

31. *In re Martin-Trigona*, 737 F.2d 1254, 1262 (2d Cir. 1984*); In re Hartford Textile Corp.*, 613 F.2d 388, 390 (2d Cir. 1979) (per curiam). But we have ruled that such an **injunction must be vacated if it was entered without notice and an opportunity to oppose**. Id.

32. ***In re Martin-Trigona***, 9 F.3d 226 (2nd Cir. 11/05/1993):

As a result of an extraordinary pattern of vexatious and harassing litigation pursued over several years by Martin and Sassower as pro se litigants, each was enjoined by this Court from filing any papers in this Court unless leave of court was first obtained. See *In re Martin-Trigona*, 737 F.2d 1254, 1263-64 (2d Cir. 1984) (preliminary injunction), injunction made permanent, 795 F.2d 9, 12 (2d Cir. 1986), modified sub nom. *Martin-Trigona v. Cohen*, 876 F.2d 307, 308 (2d Cir. 1989); *Sassower v. Sansverie*, 885 F.2d 9, 11 (2d Cir. 1989) (warning of injunction); *Sassower v. Mahoney*, No. 88-6203 (2d Cir. Dec. 3, 1990) (permanent injunction).

Thereafter, the Court determined the procedure that would be followed for considering applications for leave to file pursuant to these and all other injunctions imposing "leave to file" requirements. The procedure has several components: (1) all applications of any sanctioned litigant who is subject to a "leave to file" requirement are submitted for decision by one Judge of this Court; (2) a particular Judge is assigned to consider all the applications submitted by any one sanctioned litigant; (3) the Judge to whom applications from a particular sanctioned litigant are assigned is selected by a procedure related to the seniority of the Judges, further details of which will not be disclosed for reasons set forth in this opinion; and (4) the ruling of the assigned Judge granting or denying leave to file

is entered by the Clerk as an order of the Court, without disclosure of the identity of the Judge who made the ruling.

33. ***Polur v. Raffe***, 912 F.2d 52 (2nd Cir. 08/22/1990):

Judge Stanton enjoined Polur from filing further suits in the federal courts against Schneider and FKMF relating to the matters at bar. "The equity power of a court to give injunctive relief against vexatious litigation is an ancient one which has been codified in the All Writs Statute." *In re Hartford Textile Corp.*, 681 F.2d 895, 897 (2d Cir. 1982) (per curiam), cert. denied, 459 U.S. 1206, 75 L. Ed. 2d 439, 103 S. Ct. 1195 (1983); see 28 U.S.C. § 1651(a) (1988). "The traditional standards for injunctive relief, i.e. irreparable injury and inadequate remedy at law, do not apply to the issuance of an injunction against a vexatious litigant." *In re Martin-Trigona*, 737 F.2d 1254, 1262 (2d Cir. 1984); see *Hartford Textile*, 681 F.2d at 897. Although sanctioned by Judge Lowe in FKMF II, Polur has continued to file frivolous, repetitious suits. Judge Stanton's order was proper, since the imposition of other sanctions has failed to impress upon Polur the impropriety of his actions. See *Martin-Trigona*, 737 F.2d at 1262; Hartford Textile, 681 F.2d at 897.

Our only concern is that the parameters of the injunction are not adequately defined. We therefore modify the order to enjoin Polur from filing without leave of the district court further suits in the federal district courts of New York against FKMF, its attorneys or employees arising out of or relating to the dissolution and receivership of Puccini Clothes, Ltd. The order does not have the effect of denying Polur complete access to the New York federal district courts. Similar orders have been imposed by this court to maintain the integrity of the judicial process. See *Martin-Trigona*, 737 F.2d at 1262-63; *Sassower v. Sans verie*, 885 F.2d 9, 10-11 (2d Cir. 1989) (per curiam).

34. ***Richardson Greenshields Securities Inc. v. Lau***, 825 F.2d 647 (2nd Cir. 07/30/1987):

Absent extraordinary circumstances, such as a demonstrated history of frivolous and vexatious litigation, see *In re Martin-Trigona*, 737 F.2d 1254, 1261-62 (2d Cir. 1984), or a failure to comply with sanctions imposed for such conduct, *Johl v. Johl*, 788 F.2d 75 (2d Cir. 1986)(per curiam), a court has no power to prevent a party from filing pleadings, motions or appeals authorized by the Federal Rules of Civil Procedure. The actions of the district court effectively prevented the Laus from filing a motion for leave to amend. The refusal to permit a motion to be filed without a prior conference, followed by a failure to hold such a conference until nearly five months after one was first requested, and then by a denial of the motion for having been filed too late, are actions so "at odds with the purpose and intent of [the Federal Rules]," *Padovani v. Bruchhausen*, 293 F.2d 546, 548 (2d Cir. 1961), as to warrant mandamus relief.

35. ***Safir v. United States Lines***, 792 F.2d 19 (2nd Cir. 05/27/1986):

That the district court possessed the authority to enjoin Safir from further vexatious litigation is beyond peradventure. 28 U.S.C. § 1651(a); *Abdullah v. Gatto*, 773 F.2d 487, 488 (2d Cir. 1985) (per curiam); *In re Martin-Trigona*, 737 F.2d 1254, 1262 (2d Cir. 1984); *In re Hartford Textile Corp.*, 681 F.2d 895, 897 (2d Cir. 1982) (per curiam), cert. denied, 459 U.S. 1206, 75 L. Ed. 2d 439, 103 S. Ct. 1195 (1983); *Ward v. Pennsylvania New York Central Transportation Co.*, 456 F.2d 1046, 1048 (2d Cir. 1972). "A district court not only may but should protect its ability to carry out its constitutional functions against the threat of onerous, multiplicitous, and baseless litigation." *Abdullah*, 773 F.2d at 488 (citing *Martin-Trigona* 737 F.2d at 1262).

As our prior cases have indicated, the district court, in determining whether or not to restrict a litigant's future access to the courts, should consider the following factors: (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 would be adequate to protect the courts and other parties. Ultimately, the question the court must answer is whether a litigant who has a history of vexatious litigation is likely to continue to abuse the judicial process and harass other parties.

Accordingly, we hold that the district court was fully justified in permanently enjoining Safir from instituting further vexatious, harassing or repetitive proceedings arising out of the 1965-1966 pricing practices of defendants.

Nevertheless, **the injunction, which precludes Safir from instituting any action whatsoever, is overly broad**. Although we are unable to divine any relief still available to Safir arising out of, or relating to, those events, we do not wish to foreclose what might be a meritorious claim. Consequently, we modify the injunction to provide that Safir is prevented only from commencing additional federal court actions relating in any way to defendants' pricing practices or merchant marine subsidies during the 1965-1966 period without first obtaining leave of the district court. Cf. ***Abdullah***, 773 F.2d at 488; *Martin-Trigona*, 737 F.2d at 1262.

36. ***Nathaniel Abdullah v. Joan Gatto and Georgeanne White,*** 773 F.2d 487 (10/04/85):

A district court not only may but should protect its ability to carry out its constitutional functions against the threat of onerous, multiplicitous, and baseless litigation. *In re Martin-Trigona*, 737 F.2d 1254 (2d Cir. 1984).

We believe that the district court was within its discretion in limiting Abdullah's ability to bring in forma pauperis actions at will. We believe, however, that the order is overbroad in effectively blocking any action whatsoever relating to his arrest, conviction

and imprisonment in that it precludes Abdullah from filing even a meritorious claim. Whatever overbreadth exists, however, can be easily cured by modifying the injunction to require Abdullah to seek leave of the district court before filing such actions.

37. ***United States v. Martin-Trigona***, 756 F.2d 260 (2nd Cir. 02/28/1985):

The events leading up to the issuance of the injunction have been fully detailed, see *In re Martin-Trigona*, 737 F.2d 1254 (2d Cir.), on remand, 592 F. Supp. 1566 (D. Conn. 1984) (injunction issued), aff'd, 763 F.2d 140 (2d Cir. 1985), and need not be repeated here, except to say that appellant's unprecedented abuse of the legal system to attack and harass whoever crosses his path necessitated this injunction to limit his interference with the fair and efficient administration of justice within the federal system. 737 F.2d at 1261-64.

38. ***United States v. Gracia***, 755 F.2d 984 (2nd Cir. 02/14/1985):

Indeed, courts have a "constitutional obligation" to protect themselves from conduct that impairs their ability to carry out Article III functions, *In re Martin-Trigona*, 737 F.2d 1254, 1261 (2d Cir. 1984), and this obligation implies the power to set appropriate sentences for contempt.

39. ***Malley v. New York City Board of Education***, 112 F.3D 69 (2d Cir. 04/23/1997):

Malley has amply demonstrated that neither the lack of success of his actions nor the warnings of the district court will cause him to cease his abuse of the judicial process. We therefore affirm the injunction as granted. See *In Re Martin-Trigona*, 737 F.2d 1254, 1261 (2d Cir. 1984) (injunction is appropriate where plaintiff "abuse[s] the process of the Courts to harass and annoy others with meritless, frivolous, vexatious or repetitive . . . proceedings" (internal quotation and citation marks omitted)).

Appellees advise us that Malley has filed two other actions of the same nature in the District of New Jersey, although they were subsequently withdrawn. They also inform us that Malley, faced with the injunction issued in the instant case, has now filed yet another repetitious action, but this time in the Eastern District of New York. They ask us to broaden the injunction beyond the Southern District to all federal courts. We see no barrier to a broader injunction in light of the warnings previously issued to Malley and of his persistence in pursuing the same meritless claims wherever his papers are accepted by a clerk of court. See id. at 1262 (approving injunction restricting new actions in all federal courts). However, we believe that such an order should be considered and fashioned in the first instance by the district court. We therefore remand the request to broaden the injunction.

40. ***Moates v. Rademacher***, 86 F.3D 13 (2d Cir. 06/03/1996):

On February 15, 1995, Judge Arcara dismissed Moates's action with prejudice and ordered the Clerk of the Court not to accept for filing "any complaint by or on behalf of

Robert Moates unless such complaint is accompanied by an affidavit of Robert Moates stating that he investigated the matter and that the representations made in the complaint are true and correct." The judge also warned Moates that any similar misconduct in the future would result in "an order enjoining him from filing any further lawsuits in this District against the New York State Department of Corrections or any of its employees or prison officials." Thereafter, apparently not in response to any further filing by Moates and without notice to him, Judge Telesca sua sponte entered the order, dated March 28, 1995, that occasioned this appeal. The order directed the Clerk of the Court "to not accept for filing any further complaints, pleadings or documents [from Robert Moates] unless he first obtains leave to file from a judge in this district." Moates then appealed to this court, challenging Judge Arcara's dismissal order and Judge Telesca's injunction against filings. In November 1995, this court granted Moates in forma pauperis status for the limited purpose of appealing Judge Telesca's injunction and dismissed the remainder of the appeal as untimely. II.

While a district court may impose, sua sponte, an injunction on a party who abuses the judicial process, such a party must be given notice and an opportunity to respond. *In re Martin-Trigona*, 737 F.2d 1254, 1260 (2d Cir. 1984); *In re Hartford Textile Corp.*, 613 F.2d 388 (2d Cir. 1979), cert. denied, 447 U.S. 907 (1980). Moates has clearly abused the judicial process, and we sympathize with Judge Telesca's attempt to prevent any misconduct by Moates in the future. However, Moates was not given notice or an opportunity to be heard before the injunction against further filings was imposed.

41. ***Cook v. Baca***, 14-2075 (10th Cir. 08/26/2015):

Though we affirm the use of filing restrictions to deter Mr. Cook from abusing the court system, these restrictions must be "carefully tailored." *Sieverding v. Colorado Bar Ass'n*, 469 F.3d 1340, 1343 (10th Cir. 2006) (internal quotation marks omitted). The district court's order is overbroad in two respects.

First, the order is overly broad in terms of subject-matter. The district judge prohibited "Mr. Cook, individually, as a representative of Yolanda Cook, deceased, as representative of any corporate entity . . . or as successor in interest to Philip J. Montoya, the Chapter 7 Trustee in Mr. Cook's bankruptcy case . . . from filing any pleadings, motions, or other documents against any of the parties named as defendants in Case No. 11 CV 1173 JP/KBM or in Case No. 13 CV 669 JP/KBM in the United States District Court for the District of New Mexico without the signature of an attorney licensed to practice before the Court." R. at 2161. This restriction entails an outright bar on pro se litigation against these defendants, unlimited by subject-matter.

The scope of this bar is not justified by the findings concerning Mr. Cook's abusive filings regarding the subject-matter of the current dispute. Therefore, we remand with instructions to modify the filing restrictions order to prohibit Mr. Cook's pro se filings against these defendants with respect to the subject-matter of these cases. *See Sieverding*, 469 F.3d at 1345 (holding that a filing restriction was too broad in restricting filings on any subject-matter); *see also Andrews v. Heaton*, 483 F.3d 1070, 1077 (10th Cir. 2007)

(modifying filing restrictions to cover only filings in future cases relating to the subject-matter of the federal suits).

Second, the order is overbroad in terms of the individuals and entities that Mr. Cook is restricted from suing. The district judge enjoined Mr. Cook "from filing *any* pleadings, motions, or other documents *pro se* in the United States District Court for the District of New Mexico without leave of court." R. at 2161 (emphasis added). This broad restriction against filing any further pro se pleadings against anyone without court permission is not justified by the district court's findings concerning Mr. Cook's abusive filings against the parties named as defendants in this case. *See Sieverding*, 469 F.3d at 1345 (holding that a filing restriction was too broad in restricting future filings as to any defendant).

For both reasons, **we remand to the district court to limit the filing restrictions to claims against the parties who were defendants in Case No. 11 CV 1173 JP/KBM and Case No. 13 CV 669 JP/KBM**. But the district court can continue to serve as a gatekeeper for pro se filings by Mr. Cook against these defendants, even where such filings are ostensibly unrelated to the current dispute.

42. ***Lornes v. No Named Defendant***, 17-1315 (10th Cir. 11/24/2017):

The district court is able to control its own docket and to impose filing restrictions as appropriate. "Federal courts have the inherent power to regulate the activities of abusive litigants by imposing carefully tailored restrictions in appropriate circumstances." *Andrews v. Heaton*, 483 F.3d 1070, 1077 (10th Cir. 2007) (citing *Sieverding v. Colo. Bar Ass'n*, 469 F.3d 1340, 1343 (10th Cir. 2006)). Plaintiff may not make an end-run around the filing restrictions by appealing the district court order and then arguing the merits of his appeal. Further, Plaintiff had ample opportunity to contest the filing restrictions before the district court imposed them, but he never did.

43. ***Pinson v. Oliver***, 14-1260 (10th Cir. 02/12/2015):

"The right of access to the courts is neither absolute nor unconditional and there is no constitutional right of access to the courts to prosecute an action that is frivolous or malicious." *Sieverding v. Colo. Bar Ass'n*, 469 F.3d 1340, 1343 (10th Cir. 2006) (brackets omitted) (internal quotation marks omitted). We "have the inherent power to regulate the activities of abusive litigants by imposing carefully tailored restrictions under the appropriate circumstances." *Id.* (internal quotation marks omitted). "Even onerous conditions may be imposed upon a litigant as long as they are designed to assist the court in curbing the particular abusive behavior involved, except that they cannot be so burdensome as to deny a litigant meaningful access to the courts." *Landrith v. Schmidt*, 732 F.3d 1171, 1174 (10th Cir. 2013) (per curiam) (ellipsis omitted) (internal quotation marks omitted), *cert. denied*, 134 S.Ct. 1037 (2014). Litigiousness by itself is insufficient to warrant filing restrictions, but restrictions are appropriate where we (1) set forth a litigant's abusive and lengthy history; (2) provide guidelines for what the litigant must do to obtain our permission to file an action; and (3) give the litigant notice and an opportunity to oppose our filing-restrictions order before it is instituted. *Id.*

Based on Mr. Pinson's filing history, we conclude that filing restrictions are necessary to curb abuse of the appellate process. Mr. Pinson is therefore restricted from filing any further pro se § 2241 appeals or original proceedings concerning § 2241 applications, unless he (1) is represented by an attorney who is admitted to practice before this court or (2) obtains permission to proceed pro se.

44. ***Springer v. Internal Revenue Service***, No. 05-6387 (10th Cir. 05/01/2007):

Federal courts have the inherent power under 28 U.S.C. § 1651(a) to regulate the activities of abusive litigants by imposing carefully tailored restrictions under appropriate circumstances. See ***Winslow v. Hunter (In re Winslow)***, 17 F.3d 314, 315 (10th Cir. 1994) (per curiam); *Tripati v. Beaman*, 878 F.2d 351, 352 (10th Cir. 1989) (per curiam). Injunctions restricting further filings are appropriate where (1) the litigant's lengthy and abusive history is set forth; (2) the court provides guidelines as to what the litigant may do to obtain its permission to file an action; and (3) the litigant receives notice and an opportunity to oppose the court's order before it is implemented. See *Tripati*, 878 F.2d at 353-54.

Our filing restrictions must be narrowly tailored. See *Tripati*, 878 F.2d at 352. But as our review indicates, Springer has not limited the scope of his baseless attacks to the tax arena or a particular set of defendants. Thus, Springer's litigation history does not present circumstances similar to those we recently considered in *Sieverding v. Colorado Bar Association*, 469 F.3d 1340, 1345 (10th Cir. 2006), where we modified a district court's filing restrictions by limiting them to filings against only those persons and entities against whom the plaintiff had a history of proceeding, without regard to subject matter. Therefore, subject to Springer's opportunity to object, as described below, we propose the following reasonable filing restrictions on future filings by Springer "commensurate with our inherent power to enter orders 'necessary or appropriate' in aid of our jurisdiction." *Winslow*, 17 F.3d at 315 (quoting 28 U.S.C. § 1651(a)).

Springer is ENJOINED from proceeding in this court as a petitioner in an original proceeding or as an appellant in a civil matter (except in these combined appeals) unless he is represented by a licensed attorney admitted to practice in this court or unless he first obtains permission to proceed pro se.

45. ***Ombe v. State of New Mexico***, 18-2031 (10th Cir. 11/08/2018):

In his briefing and other supplementary materials, Mr. Ombe has provided us with a great deal of information concerning his autism disorder and depression and how both affect his cognitive functions, and we appreciate his efforts to inform the court on these subjects. We also note that Mr. Ombe provided much of this information to the district court as well in an effort to educate it on his conditions. But Mr. Ombe is mistaken in believing that the district court was required to disregard the legal rules that govern civil lawsuits in response to his cognitive and mental health issues or his pro se status. *See* ***James B. Beam Distilling Co. v. Georgia***, 501 U.S. 529, 543 (1991) ("The applicability

of rules of law is not to be switched on and off according to individual hardship."); ***Garrett***, 425 F.3d at 840 ("[T]his court has repeatedly insisted that pro se parties follow the same rules of procedure that govern other litigants." (internal quotation marks and brackets omitted)). These rules are not mere technicalities or legal nonsense, as Mr. Ombe contends, but rather serve to bring order, consistency, and predictability to legal proceedings. And while Mr. Ombe insists that the district court was required to modify or ignore otherwise applicable procedural and substantive rules as an accommodation to his cognitive and mental health issues, he cites no legal authority that supports this proposition and we are aware of none. Nor was it "the proper function of the district court to assume the role of advocate" for Mr. Ombe, as he apparently assumes. *See* ***Garrett***, 425 F.3d at 840 (internal quotation marks omitted). In short, Mr. Ombe's report that he "[s]imply . . . could not handle" the applicable legal rules as a result of his autism and severe depression does not make the district court's adherence to them "completely wrong or unfair" as Mr. Ombe claims. Opening Br. at 23 & n.60; *cf. Sieverding v. Colo. Bar Ass'n*, 469 F.3d 1340, 1343 (10th Cir. 2006) ("[T]he right of access to the courts is neither absolute nor unconditional." (internal quotation marks omitted)).

46. ***Medical Supply Chain, Inc. v. Neoforma, Inc.***, 322 Fed.Appx. 630 (10th Cir. 04/23/2009):

Turning to Mr. Lipari's appeal of the court's order sanctioning him by prohibiting him from submitting any further pro se filings in the 2005 Case, we note that "[f]ederal courts have the inherent power to regulate the activities of abusive litigants by imposing carefully tailored restrictions under the appropriate circumstances." *Sieverding v. Colo. Bar Ass'n*, 469 F.3d 1340, 1343 (10th Cir. 2006) (quotation omitted). We review a district court's imposition of filing restrictions for an abuse of discretion. *Tripati v. Beaman*, 878 F.2d 351, 354 (10th Cir. 1989) (per curiam).

47. ***Norman v. Social Security Administration***, No. 10-1192 (10th Cir. 08/20/2010):

Because Mr. Norman's filings before the district court failed to comply with the district court's filing-restriction order, we conclude the district court properly dismissed Mr. Norman's current civil actions. "[T]he right of access to the courts is neither absolute nor unconditional and there is no constitutional right of access to the courts to prosecute an action that is frivolous or malicious." *Sieverding v. Colo. Bar Ass'n*, 469 F.3d 1340, 1343 (10th Cir. 2006) (alternation in original) (internal quotation marks omitted). Thus, when a litigant repeatedly abuses the judicial process, the district court possesses the inherent power to impose filing restrictions necessary to aid **its jurisdiction**, as it did in these cases. Id. "This court approves restrictions placed on litigants with a documented lengthy history of vexatious, abusive actions, so long as the court publishes guidelines about what the plaintiff must do to obtain court permission to file an action, and the plaintiff is given notice and an opportunity to respond to the restrictive order." *Werner v. Utah*, 32 F.3d 1446, 1448 (10th Cir. 1994) (per curiam).

Here, we need not reach the merits of Mr. Norman's arguments because the district court's filing restrictions barred him from bringing these actions. Mr. Norman makes no argument as to why the filing restriction in fact does not bar his complaints. Rather, his briefs on appeal focus on the merits of his claims. Because he does not dispute this independent basis for the district court's decision, his appeal is frivolous, and there is no reason to reverse the district court. See *Cedrins v. U.S.C.I.S.*, No. 10-2048, 2010 WL 2511543, at *1--2 (10th Cir. June 23, 2010) (dismissing an appeal as frivolous when an IFP litigant ignored the district court's filing restrictions); *Greenlee v. U.S. Postal Serv.*, 351 F. App'x 263, 265 (10th Cir. 2009) (same).

48. ***De Long v. Hennessey***, 912 F.2d 1144 (9th Cir. 08/30/1990):

Steven M. De Long, an in forma pauperis litigant, appeals from a sua sponte order of the district court which enjoined De Long from filing any further actions or papers with the federal district court without first obtaining leave of the court's general duty judge.

However, we vacate the order enjoining further filings and remand for reconsideration of that order because: (1) the record does not show that De Long was provided with an opportunity to oppose the order before it was entered; (2) the district court did not create an adequate record for review; (3) the district court failed to make a substantive finding as to the frivolous or harassing nature of De Long's actions; and (4) the district court's order was overly broad.

We recognize that "there is strong precedent establishing the inherent power of federal courts to regulate the activities of abusive litigants by imposing carefully tailored restrictions under the appropriate circumstances." *Tripati v. Beaman*, 878 F.2d 351, 352 (10th Cir. 1989). Under the power of 28 U.S.C. § 1651(a) (1988), enjoining litigants with abusive and lengthy histories is one such form of restriction that the district court may take. Id. See also *In re Oliver*, 682 F.2d 443, 445 (3d Cir. 1982) (scope of All Writs Act includes district court's issuance of order restricting meritless cases); *In re Hartford Textile Corp.*, 681 F.2d 895, 897 (2d Cir. 1982) (§ 1651(a) empowers court to give injunctive relief against vexatious litigant), cert. denied 459 U.S. 1206, 75 L. Ed. 2d 439, 103 S. Ct. 1195 (1983).

Nonetheless, we also recognize that such pre-filing orders should rarely be filed. See, e.g., Oliver, 682 F.2d at 445 (an order imposing an injunction "is an extreme remedy, and should be used only in exigent circumstances"); *Pavilonis v. King*, 626 F.2d 1075, 1079 (1st Cir.) ("The use of such measures against a pro se plaintiff should be approached with particular caution."), cert. denied, 449 U.S. 829, 66 L. Ed. 2d 34, 101 S. Ct. 96 (1980); In re Powell, 271 U.S. App. D.C. 172, 851 F.2d 427, 431 (D.C. Cir. 1988) (per curiam) (such orders should "remain very much the exception to the general rule of free access to the courts") (quoting *Pavilonis*, 626 F.2d at 1079).

Keeping in mind the particular caution with which such orders should be issued, we remand this case to the district court to apply the guidelines we set forth below before ordering pre-filing restrictions.

The first problem we see with the instant order is that De Long was not provided with an opportunity to oppose the order before it was entered. See, e.g., *Oliver*, 682 F.2d at 446 (concluding that the district court has the power to issue such injunctive pre-filing orders in appropriate cases, but remanding so that the district court could provide plaintiff with notice and an opportunity to be heard in opposition to the order); *Powell*, 851 F.2d at 431 (before issuing a pre-filing injunction, the plaintiff should be provided with an opportunity to oppose the entry); *Martin-Trigona v. Lavien*, 737 F.2d 1254, 1260 (2d Cir. 1984) (plaintiff's assertion that he was denied due process by the district court's issuance of a pre-filing injunction against his litigation activities was upheld when the party was given adequate notice and opportunity to be heard at a hearing on issuance of the pre-filing injunction).

"Due process requires notice and an opportunity to be heard." *Powell*, 851 F.2d at 431. Here, the record does not indicate that De Long was provided with adequate notice and a chance to be heard before the order was filed. Therefore, we remand so the court can provide De Long with an opportunity to oppose the entry of the order.

Next, we find that before a district court issues a pre-filing injunction against a pro se litigant, it is incumbent on the court to make "substantive findings as to the frivolous or harassing nature of the litigant's actions." *Powell*, 851 F.2d at 431; see also ***Sires v. Gabriel***, 748 F.2d 49, 51 (1st Cir. 1984) (pre-filing injunction could not stand because magistrate stated that "petitioner has been a constant litigator" but failed to state that petitioner's claims were frivolous or brought in bad faith). To make such a finding, the district court needs to look at "both the number and content of the filings as indicia" of the frivolousness of the litigant's claims. *Powell*, 851 F.2d at 431. See also *Moy*, 906 F.2d at 470 (A pre-filing "injunction cannot issue merely upon a showing of litigiousness.").

49. ***Kent Norman, A/K/A Robert Ketchum, A/K/A Robert H. Ketchum, A/K/A R. v. Dr. Primer, Md; Six Other Unknown Physicians, Does One Through Six***, No. 10-1191 (10th Cir. 01/18/2011):

> In this case, Mr. Norman failed to comply with the 1991 filing restriction, and the district court dismissed the action for his failure to comply with its prior order. We conclude the district court's dismissal was proper. "[T]he right of access to the courts is neither absolute nor unconditional and there is no constitutional right of access to the courts to prosecute an action that is frivolous or malicious." *Sieverding v. Colo. Bar Ass'n*, 469 F.3d 1340, 1343 (10th Cir. 2006) (alteration in original) (internal quotation marks omitted). We "approve restrictions placed on litigants with a documented lengthy history of vexatious, abusive actions, so long as the court publishes guidelines about what the plaintiff must do to obtain court permission to file an action, and the plaintiff is given notice and an opportunity to respond to the restrictive order." *Werner v. Utah*, 32 F.3d 1446, 1448 (10th Cir. 1994).

Mr. Norman's only argument disputing any basis for the filing restriction is a citation to ***Ketchum v. City of West Memphis***, 974 F.2d 81 (8th Cir. 1992), in which the Eighth Circuit allowed one of Mr. Norman's complaints to survive a motion to dismiss.

50. ***Cok v. Family Court of Rhode Island***, 985 F.2d 32 (1st Cir. 02/09/1993):

To determine the appropriateness of an injunction barring a litigant from bringing without advance permission any action in the district court, we look to the degree to which indicia supporting such a comprehensive ban are present in the record. We have said that the use of broad filing restrictions against pro se plaintiffs "should be approached with particular caution." *Pavilonis*, 626 F.2d at 1079. We have also required, like other jurisdictions, that in such situations a sufficiently developed record be presented for review. See, e.g., Castro, 775 F.2d at 409 & n.11; see also *De Long v. Hennessey*, 912 F.2d 1144, 1147-48 (9th Cir.), cert. denied, 498 U.S. 1001, 111 S. Ct. 562, 112 L. Ed. 2d 569 (1990); *In re Powell*, 271 U.S. App. D.C. 172, 851 F.2d 427, 431 (D.C. Cir. 1988).

An initial problem with the present injunction is that Cok was not warned or otherwise given notice that filing restrictions were contemplated. She thus was without an opportunity to respond before the restrictive filing order was entered. Adequate notice may be informal but should be afforded. For example, in *Pavilonis*, 626 F.2d at 1077, a magistrate's report recommended that the district court impose filing restrictions and the plaintiff filed objections to that report. In *Castro*, 775 F.2d at 402, the defendants tried to enjoin the plaintiffs from relitigating matters arising out of the case at hand or any earlier litigation between the parties. Where recommendations or requests like this do not come first, courts have issued show cause orders to errant pro se litigators, *Cofield v. Alabama Pub. Serv. Comm.*, 936 F.2d 512, 514 (11th Cir. 1991), or have entered a cautionary order to the effect that filing restrictions may be in the offing in response to groundless litigation. See, e.g., *Martin v. District of Columbia Court of Appeals*, 121 L. Ed. 2d 305, 113 S. Ct. 397, 398 (1992); *Ketchum v. Cruz*, 961 F.2d 916, 918 (10th Cir. 1992); *Winslow v. Romer*, 759 F. Supp. 670, 678 (D. Colo. 1991) (plaintiff repeatedly "informed" that a litigant may not collaterally attack a state court judgment or order in federal court, or unilaterally declare such judgments or orders void, and then use that proclamation as the basis for an action against court or government officials, attorneys, or other parties). Here, as in *Sires*, 748 F.2d at 51, the defendants did not seek an injunction nor did they maintain that they had been harassed by Cok's conduct. We think, therefore, that Cok should have been given an opportunity by the court to oppose the entry of so broad an order placing restrictions on court access. Accord *De Long*, 912 F.2d at 1147; *Tripati v. Beaman*, 878 F.2d 351 (10th Cir. 1989); *In re Powell*, 851 F.2d at 431; *Gagliardi v. McWilliams*, 834 F.2d 81, 83 (3d Cir. 1987); *In re Hartford Textile Corp.*, 613 F.2d 388, 390 (2d Cir. 1979), cert. denied, 447 U.S. 907, 64 L. Ed. 2d 856, 100 S. Ct. 2991 (1980) (district court, in entering sua sponte order curtailing pro se litigant's future access to the courts, must give notice and allow litigant to be heard on the matter).

A second question is whether the record is sufficiently developed to show that an injunction as sweeping as this one is warranted. Plaintiff is enjoined, inter alia, from "commencing any actions in this court, pro se, without prior approval. . . ." It would have been helpful had the court identified what previously filed frivolous cases or other abuses caused it to issue this injunction. See, e.g., *Castro*, 775 F.2d at 409 n.11; see also *Martin*, 113 S. Ct. at 397 nn.1 & 2; *In re Sindram*, 498 U.S. 177, 112 L. Ed. 2d 599, 111 S. Ct. 596 n.1 (1991); *De Long*, 912 F.2d at 1147-48; *Tripati*, 878 F.2d at 353; *In re Martin-Trigona*, 737 F.2d 1254, 1264-74 (2d Cir. 1984) (reciting history of extensive filings).

We emphasize that it is the breadth of the instant order that causes us some concern. Had the court, after notice and opportunity to respond, merely enjoined Cok from further frivolous removals from the family court, we would have doubtless approved. The present record supports such a limited order. We have not hesitated to uphold injunctions that were narrowly drawn to counter the specific offending conduct. Castro, 775 F.2d at 410; cf. *Pavilonis*, 626 F.2d at 1079 (upholding issuance of injunction but narrowing its scope). But this order is not limited to restricting improper conduct of the type which the present record indicates plaintiff has displayed in the past. If the "specific vice" sought to be curtailed is simply the appellant's propensity, as here and in 1984, to attempt improper removals to federal court of matters based on her state divorce proceeding, the district court may, after notice, wish to enter an order limiting such conduct. See *Castro*, 775 F.2d at 410. On the other hand, if the court means to issue a more generalized injunction aimed at preventing the bringing of any and all unpermitted pro se actions in the district court, it must develop a record showing such widespread abuse of the judicial system as to warrant such a broadcast prohibition. Id. at 410 n.13.

Plaintiff's appeal from the remand order is dismissed for lack of jurisdiction. The order as now worded enjoining the plaintiff, pro se, from removing family court matters and commencing any actions in the district court, pro se, without prior approval, is vacated and remanded to the district court for further proceedings not inconsistent with this opinion.

51. ***Tempelman v. Beasley***, 43 F.3d 1456 (1st Cir. 12/21/1994):

We think it obvious, under the circumstances, that the district court intended to restrict the filing of any new actions against the IRS or its agents (as indicated in the oral order), rather than to restrict court access across the board (as suggested in the written order). Even as so construed, the injunction raises several concerns. An initial problem is that plaintiffs were not "warned or otherwise given notice that filing restrictions were contemplated," and thus were not afforded "an opportunity to respond" before entry thereof. *Cok*, 985 F.2d at 35. In *Cok*, just as in the instant case, the court entered an injunction on a sua sponte basis at the close of a motion hearing. We noted that where the plaintiff had been deprived of even "informal" notice--such as might be provided by way of a defendant's request for an injunction or a magistrate's recommendation thereof--the customary route was to issue a show cause order or a "cautionary" edict. Id. Nothing of the sort occurred here.

Second, we are unconvinced that the circumstances here--at least as developed on the present record--were as yet so "extreme" as to warrant such a measure. ***Castro***, 775 F.2d at 408.

Finally, several aspects of the injunction as drafted give us pause. **The restriction on state court filings is problematic, inasmuch as "abuse of state judicial processes is not per se a threat to the jurisdiction of Article III courts."** *In re Martin-Trigona*, 737 F.2d 1254, 1263 (2d Cir. 1984) (vacating extension of injunction to state courts); accord, e.g., *Anderson v. Mackall*, 128 F.R.D. 223, 226 (E.D. Va. 1988). We understand that plaintiffs' propensity to sue in state court, combined with the automatic right of removal available to the United States and its employees, provided the impetus for such a measure. Yet as other courts have indicated, a narrower restriction ordinarily should suffice. See, e.g., *Sassower v. Abrams*, 833 F. Supp. 253, 271, 274 (S.D.N.Y. 1993) (issuing injunction directing that, upon removal to federal court of any case brought by plaintiff, leave of court would be required before action could continue). We also observe that no guidelines have been provided explaining what plaintiffs must do to obtain permission to file, see, e.g., *Werner v. State of Utah*, 32 F.3d 1446, 1448 (10th Cir. 1994)--a matter worthy of note here given the broad category of actions embraced by the injunction.

The dismissal of plaintiffs' complaint is affirmed, as is the imposition of monetary sanctions. The injunction barring further court filings is vacated.

52. ***In re Chapman***, 328 F.3d 903 (7th Cir. 05/08/2003):

The matter numbered as 02 C 6581, entitled *In the Matter of Lamar Chapman III*, is not a new civil suit, as Mr. Chapman contends, but rather is an administrative file created by the district court as a repository for his submissions deemed unacceptable for filing, as well as any further orders issued by the Committee. Indeed, the Committee's action, rather than being a new civil lawsuit commenced against Mr. Chapman, is nothing but an extension of one of his numerous civil suits (which subjected him to the personal jurisdiction of the court) and an exercise of the court Committee's inherent power to manage and control the litigation coming before the district court. See *In re McDonald*, 489 U.S. 180, 184 n.8 (1989) (" 'Federal courts have both the inherent power and constitutional obligation to protect their jurisdiction from conduct which impairs their ability to carry out Article III functions.' " (quoting *In re Martin-Trigona*, 737 F.2d 1254, 1261 (2d Cir. 1984))); *Perry v. Pogemiller*, 16 F.3d 138, 140 (7th Cir. 1993); *Davis*, 878 F.2d at 212-13. The Executive Committee, like an individual district judge, has the power to enter judicial orders, *Palmisano*, 70 F.3d at 485, such as injunctions, see *Steele* 323 U.S. at 207. We hold that the Committee was acting within its power to impose filing restrictions against Mr. Chapman, and his challenge to the Committee's jurisdiction is without merit.

Mr. Chapman also appears to assert that the Committee's order violates his right to access the courts. However, the right of access to the federal courts is not absolute, *United States ex rel. Verdone v. Circuit Court for Taylor County*, 73 F.3d 669, 674 (7th

Cir. 1995); rather, an individual is only entitled to meaningful access to the courts, see *Lewis v. Casey*, 518 U.S. 343, 351 (1996). Here, the Committee's order does not bar the courthouse door to Mr. Chapman but, rather, allows him meaningful access while preventing repetitive or frivolous litigation. The order provides that the Committee will only deny Mr. Chapman leave to file "new civil cases" that "are legally frivolous or are merely duplicative of matters already litigated;" it does not affect his ability to defend himself in civil lawsuits brought against him. The order further provides that it is not to be construed to affect Mr. Chapman's ability to defend himself in a criminal action, to file a habeas corpus petition or other extraordinary writ, or to access this court or the Supreme Court of the United States. We have previously upheld an order imposing almost identical restrictions on a frequent filer, see *Davis*, 878 F.2d at 212-13, and Mr. Chapman has offered no reason to believe that the injunction will impede his ability to file non-frivolous suits in the district court.

53. ***Chapman v. Executive Committee of the United States District Court for the Northern District of Illinois***, No. 08-2781 (7th Cir. 03/31/2009):

On appeal, Chapman generally challenges this order, characterizing it as an absolute filing bar that denies him meaningful access to the courts. The Committee's order is judicial rather than administrative, and so we have jurisdiction to review it. *In re Chapman*, 328 F.3d at 904. We review a district court's filing restrictions for an abuse of discretion. See *Miller v. Donald*, 541 F.3d 1091, 1096 (11th Cir. 2008); *Baum v. Blue Moon Ventures, LLC*, 513 F.3d 181, 187 (5th Cir. 2008); *Cromer v. Kraft Foods N. Am., Inc.*, 390 F.3d 812, 817 (4th Cir. 2004); *DeLong v. Hennessey*, 912 F.2d 1144, 1146 (9th Cir. 1990).

As we noted in Chapman's appeal of the Executive Committee's earlier filing bar, the right of access to federal courts is not absolute. *In re Chapman*, 328 F.3d at 905; see also *United States ex rel. Verdone v. Cir. Ct. for Taylor County*, 73 F.3d 669, 674 (7th Cir. 1995). Courts have ample authority to curb abusive filing practices by imposing a range of restrictions. See *In re Anderson*, 511 U.S. 364, 365-66 (1994); *Baum*, 513 F.3d at 187; *Andrews v. Heaton*, 483 F.3d 1070, 1077 (10th Cir. 2007); *Support Sys. Int'l v. Mack*, 45 F.3d 185, 186 (7th Cir. 1995); *In the Matter of Davis*, 878 F.2d 211, 212 (7th Cir. 1989); *Procup v. Strickland*, 792 F.2d 1069, 1071 (11th Cir. 1986). A filing restriction must, however, be narrowly tailored to the type of abuse, see *Miller*, 541 F.3d at 1096-1100; Andrews, 483 F.3d at 1077; *Support Sys. Int'l*, 45 F.3d at 186, and must not bar the courthouse door absolutely, see *Ortman v. Thomas*, 99 F.3d 807, 811 (6th Cir. 1996); ***Davis***, 878 F.2d at 212; *Procup*, 792 F.2d at 1071. Courts have consistently approved filing bars that permit litigants access if they cease their abusive filing practices. See *Molski v. Evergreen Dynasty Corp.*, 500 F.3d 1047, 1061 (9th Cir. 2007), cert. denied, 129 S.Ct. 594 (2008) (upholding order that prevented plaintiff from filing complaints under the ADA without prior approval from district court); *Riccard v. Prudential Ins. Co.*, 307 F.3d 1277, 1299 (11th Cir. 2002) (approving district court's order that enjoined plaintiff from filing suits against a particular defendant without first obtaining leave from court); *Davis*, 878 F.2d at 212-13 (upholding order restricting

plaintiff from filing any suit without permission from district court); see also *Support Sys. Int'l*, 45 F.3d at 186 (noting that "perpetual orders are generally a mistake" and enjoining plaintiff, with some exceptions, from filing papers until he paid sanctions). On the other hand, **courts have rejected as overbroad filing bars in perpetuity**. See *Miller*, 541 F.3d at 1096-99 (injunction permanently preventing plaintiff from obtaining in forma pauperis status was overbroad); *Cromer*, 390 F.3d at 819 (striking down as overbroad order preventing plaintiff from ever again filing documents in a particular case); *Ortman*, 99 F.3d at 810-11 (order permanently preventing plaintiff from filing civil suits arising from same facts as current suit was overbroad); *Cok v. Fam. Ct. of Rhode Island*, 985 F.2d 32, 34-35 (1st Cir. 1993) (finding overbroad injunction preventing plaintiff from ever again filing pro se suits); *Delong*, 912 F.2d at 1148 (order permanently preventing plaintiff from filing any papers in a particular district court was overbroad); *Procup*, 792 F.2d at 1071 (injunction preventing plaintiff from filing suits pro se in perpetuity was overbroad).

Reviewing the Committee's order deferentially, we believe that its filing bar-albeit more restrictive than the bars we have previously examined, see *Chapman*, 328 F.3d at 905-06; *Davis*, 878 F.2d at 212-is in line with bars approved by other courts. Under the Committee's order, Chapman may request review of the filing bar in six months. The order is thus not an absolute bar, since it contains a provision under which the restriction may be lifted. See, e.g., *Support Sys. Int'l*, 45 F.3d at 186 (barring plaintiff from filing new suits unless he paid sanctions and permitting him to request review of filing bar in two years); *Verdone*, 73 F.3d at 674-75 (same). The filing bar is also narrowly tailored to Chapman's abuse of the courts. The Committee was justified in imposing a more restrictive filing bar because previous, less stringent filing restrictions have failed to deter Chapman from filing frivolous and repetitive lawsuits. See *Baum*, 513 F.3d at 188 (sua sponte modification of filing injunction was permissible where litigant continued to engage in abusive litigation practices after initial injunction was issued); Riccard, 307 F.3d at 1298-99 (district court properly expanded scope of injunction where plaintiff had tried to evade filing restrictions). We therefore conclude that the Executive Committee did not abuse its discretion in imposing a more restrictive filing bar.

54. ***Deelen v. City of Kansas City, Missouri***, No. 06-1896 (8th Cir. 10/19/2007):

Van Deelen also appeals the district court's order imposing sanctions for his conduct during trial of the matter. We affirm, but we modify the sanctions order. We find that the district court did not abuse its discretion in imposing the monetary sanction of $6,000. See *Bass v. Gen. Motors Corp.*, 150 F.3d 842, 851 (8th Cir. 1998) (standard of review of court's sanctions under inherent authority); *MHC Investment Co. v. Racom Corp.*, 323 F.3d 620, 624 (8th Cir. 2003) (standard of review for sanctions under Fed. R. Civ. P. 11). After finding that Van Deelen had filed the lawsuit maliciously to vex and annoy the City, the court also enjoined Van Deelen from filing any future pro se litigation against the City, or its agents and employees, and ordered him to obtain counsel within 30 days in any pending litigation against the City or its agents and employees arising out of his termination or any related matter, or to dismiss the matter. While we agree with the district court that some filing restrictions were appropriate, see *Ruderer v. United*

States, 462 F.2d 897, 899 (8th Cir. 1972) (per curiam), **we modify the injunction to apply only to actions filed in federal district courts within this circuit**. See *Sieverding v. Colorado Bar Ass'n*, 469 F.3d 1340, 1344-45 (10th Cir. 2006) (district court erred in placing filing restrictions on federal district courts outside Tenth Circuit, state courts, and courts of appeals).

55. ***Clemmons v. United States***, No. 08-4012 (6th Cir. 05/05/2010):

We first observe that we reject the Government's argument that "[r]efusal to permit a particular motion to be filed, due to filing restrictions, is not itself a final, appealable order" under 28 U.S.C. § 1291, and conclude that this post judgment order is appealable because it "disposes of all issues raised in the motion." *Thomas v. Blue Cross & Blue Shield Ass'n*, 594 F.3d 823, 829 (11th Cir. 2010); see also *Solis v. Current Dev. Corp.*, 557 F.3d 772, 776 (7th Cir. 2009) ("[A]n order that addresses all the issues raised in the motion that sparked the post judgment proceedings is treated as final for purposes of section 1291."); *United States v. Gonzales*, 531 F.3d 1198, 1202 (10th Cir. 2008) (although finding of contempt not "final" pre-judgment, it is "final" post-judgment); *Roose v. Patrick*, 98 F. App'x 719, 723 (10th Cir. 2004) (where district court order struck documents from docket for not complying with filing restrictions, there was "no question that the order fully disposed of all the issues raised in [the] motion.").

The district court imposed filing restrictions because it found Clemmons had "abused the judicial process by his repeated meritless filings and refusal to comply with the clear directions of the Court and applicable statutes, as well as, the Rules of Civil Procedure." The filing restrictions the district court imposed required Clemmons to obtain prior approval of the court for "further filings under this case number in collateral attack upon his conviction and/or sentence." This description encompasses the Rule 36 motion Clemmons sought to file here.

56. ***In re Phillips***, 19-1635 (7th Cir. 07/30/2019):

Courts have ample authority to curb abusive and repetitive litigation by imposing filing restrictions, so long as the restrictions are narrowly tailored to the nature and type of abuse. *See In re Anderson,* 511 U.S. 364, 365-66 (1994). The Executive Committee's filing restriction does not preclude or unduly burden Phillips from submitting new, nonfrivolous filings. *See Davis,* 878 F.2d at 213. It requires merely that the Clerk's Office screen her new civil filings. And it allows her to defend herself in criminal actions, file a habeas corpus petition or other extraordinary writ, or appeal to this court or the Supreme Court of the United States. *See, e.g., Chapman,* 328 F.3d at 905-06; *Support Sys. Int'l, Inc. v. Mack,* 45 F.3d 185, 186 (7th Cir. 1995). Given Phillips's past litigation history, her misconduct after the Executive Committee's 2011 order, *see Phillips,* 18-2164, and the absence of any assurance that her misconduct will stop, we see no flaw with the Committee's 2019 decision to reject Philip's motion to lift these filing restrictions.

57. ***Stebbins v. Stebbins***, 14-1845 (8th Cir. 09/26/2014):

David Stebbins appeals following the district court's[1] pre-service dismissal of his pro se action, in which he alleged that defendants, his parents, improperly listed him as a dependant on their tax returns.

In dismissing Stebbins's complaint, the district court concluded that Stebbins had a history of frivolous litigation and had abused the privilege of proceeding in forma pauperis; the court thus imposed restrictions on Stebbins's future filings. Specifically, the court limited the number of cases that Stebbins could file in the Western District of Arkansas to no more than one case every three months, and only upon payment of a $50 bond, refunded if the complaint was adjudged not frivolous. The court added that nothing in its order prohibited Stebbins from proceeding with counsel, from defending himself in a lawsuit brought against him, or from filing a claim in which he alleged immediate, extraordinary, and irreparable physical harm. Stebbins challenges the dismissal of the action, and the imposition of filing restrictions.

Upon careful de novo review, *see Moore v. Sims*, 200 F.3d 1170, 1171 (8th Cir. 2000) (per curiam), we conclude that the district court properly dismissed the complaint for failure to state a claim. We also conclude that the court did not abuse its discretion in imposing the filing restrictions, because it is undisputed that Stebbins has proceeded in forma pauperis on at least sixteen complaints that proved meritless, and has filed numerous frivolous motions, since May 2010; and he had the opportunity to, and did, file objections to the magistrate judge's report recommending the restrictions. *See Day v. Day*, 510 U.S. 1, 2 (1993) (per curiam) (court may impose filing restrictions where individual has filed numerous frivolous pleadings); *In re Tyler*, 839 F.2d 1290, 1293-94 (8th Cir. 1988) (per curiam) (standard of review); *Peck v. Hoff*, 660 F.2d 371, 374 (8th Cir. 1981) (in imposing pre-filing review procedure, appellant's opportunity to respond to materials and arguments was sufficient). Further, in these circumstances, we conclude that the restrictions are not unduly harsh. *Cf. Tyler*, 839 F.3d at 1292-93 (affirming order that prospectively limited plaintiff to filing one in forma pauperis complaint per month); *Green v. White*, 616 F.2d 1054, 1055 (8th Cir. 1980) (per curiam).

58. ***Phox v. Virtuoso Sourcing Group, LLC***, 17-3254 (8th Cir. 07/02/2018):

Given Phox's history of filing frivolous lawsuits, we also find no abuse of discretion in the district court's imposition of the filing restrictions. *See In re Tyler,* 839 F.2d 1290, 1290-95 (8th Cir. 1988) (per curiam) (noting that courts have discretion to place reasonable restrictions on litigant who abuses judicial process); *see also Peck v. Hoff,* 660 F.2d 371, 374 (8th Cir. 1981) (per curiam) (reviewing filing restriction for abuse of discretion).

59. ***Akins v. Nebraska Court of Appeals and Supreme Court Justices***, 15-1247 (8th Cir. 06/18/2015):

Samar Akins appeals the district court's[1] preservice dismissal of his pro se complaint, and the district court's imposition of filing restrictions. Upon careful review, we conclude

that the dismissal of Akins's complaint was proper because, among other reasons, he failed to state a claim upon which relief may be granted. *See Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009) (although legal conclusions can provide framework of complaint, they must be supported by factual allegations that plausibly give rise to entitlement to relief); *see also Moore v. Sims*, 200 F.3d 1170, 1171 (8th Cir. 2000) (per curiam) (28 U.S.C. § 1915(e)(2)(B)(ii) dismissal is reviewed de novo). We further conclude that the district court did not abuse its discretion by imposing the filing restrictions. *See In re Tyler*, 839 F.2d 1290, 1290-91, 1294 (8th Cir. 1988) (per curiam) (affirming restrictions that limited litigant to single monthly pro se filing, and required him to provide certain documentation related to other filings); *see also Bass v. Gen. Motors Corp.*, 150 F.3d 842, 851 (8th Cir. 1998) (imposition of sanctions under court's inherent authority is reviewed for abuse of discretion). Accordingly, we affirm. *See* 8th Cir. R. 47B. We also deny Akins's pending motion.

60. ***Henry v. United States***, No. 09-2398 (7th Cir. 01/14/2010):

Courts have ample authority to curb abusive and repetitive litigation with the imposition of a number of filing restrictions, so long as the restrictions imposed are narrowly tailored to the nature and type of abuse and do not pose an absolute bar to the courthouse door. See *In re Anderson*, 511 U.S. 364, 365-66 (1994); *Miller v. Donald*, 541 F.3d 1091, 1096-98 (11th Cir. 2008); *In re Chapman*, 328 F.3d 903, 905 (7th Cir. 2003); In re Davis, 878 F.2d 211, 212-213 (7th Cir. 1989). We review filing restrictions under the abuse of discretion standard. *Miller*, 541 F.3d at 1096. In this case, the Executive Committee issued an order that was narrowly tailored to prevent Henry from continuing to file suits regarding his 1999 tax liability and stop his repetitive abusive conduct in the Northern District. Furthermore, the order is not an absolute bar as it also provides a provision under which the restriction may be lifted. Without this order, it is clear that Henry would continue to file new lawsuits regarding his 1999 tax liability as evidenced by the factual situation presented. "[T]he right of access to the federal courts is not absolute; rather, an individual is only entitled to meaningful access to the courts." *In re Chapman*, 328 F.3d at 905 (internal citations omitted). Thus, the court properly exercised its discretion in restricting Henry's ability to file and the trial judge correctly applied the order in dismissing this case.

61. ***Stone v. Roseboom***, 19-3093 (7th Cir. 03/19/2020):

On appeal, Stone argues that the filing restriction is unreasonable and violates his right to due process because he "cannot file any more lawsuits" or conduct "any business" in the Northern District of Indiana. We will put to the side whether Stone has forfeited a challenge to the merits of the filing restriction by forgoing his earlier appeal; he loses anyway. On the merits, *meaningful* access to the courts is the only legal interest he may invoke. *See Lewis v. Casey*, 518 U.S. 343, 351 (1996). And courts have ample authority to restrict meaningless-that is, frivolous-suits through filing restrictions, *see In re Anderson*, 511 U.S 364, 365-66 (1994); *see also Support Sys. Int'l, Inc.*, 45 F.3d at 186, as long as the restrictions are narrowly tailored to the litigant's conduct and do not bar the litigant from the courthouse completely. *See In re Chapman*, 328 F.3d 903, 906 (7th Cir.

2003); *see also* 45 F.3d at 186. That qualification is met here. The filing restriction arose because three warnings failed to deter Stone from ignoring the court's order to desist from frivolous filings, it is time-limited, and it excludes appeals, criminal actions, or other filings necessary to contest imprisonment or confinement.

62. ***Williams v. Preckwinkle***, 19-2214 (7th Cir. 11/04/2019):

The Executive Committee of the Northern District of Illinois designated Williams as a restricted filer after she filed 10 lawsuits in that district between June 19, 2018 and July 31, 2018. The order enjoined Williams from filing *pro se* any new civil cases in the district without first obtaining leave. The order set forth clear instructions for how Williams could obtain permission to file a new lawsuit and explained that leave would not be granted to file a legally frivolous complaint or one that duplicated existing cases. Williams appealed, but her appeal was dismissed for failure to prosecute. She continued to file lawsuits in the Northern District, and the Executive Committee eventually modified its order to require that her filings be returned to her unopened.

63. ***Mustafa v. NSI International Inc.***, 16-4270 (7th Cir. 05/15/2017):

The district court also granted the defendants' motion for sanctions. It reasoned that Mustafa's claims were frivolous and likely intended to harass the defendants. After Mustafa mailed Monopoly money to the court as "payment" for the sanctions, the defendants also moved to enjoin her from initiating further litigation. The district court referred the defendants' motion to the district court's Executive Committee, which granted the motion and barred her from filing new civil suits without its prior approval.

Mustafa also challenges the constitutionality of the Executive Committee prohibition against filing new civil actions without prior approval. We repeatedly have rejected constitutional challenges to filing restrictions so long as the restriction does not "bar the courthouse door" entirely. *See In re Chapman*, 328 F.3d 903, 905-06 (7th Cir. 2003). Because the restriction here merely requires Mustafa to receive court approval before launching a new suit, the courthouse door remains open to her.

64. ***Hurt v. Ferguson***, 15-2814 (7th Cir. 01/20/2016):

Tyrone Hurt, a resident of Washington, D.C., is a serial filer of frivolous and indecipherable lawsuits. In this latest illegible complaint, Hurt has sued a swath of defendants, including the cities of Ferguson, Missouri; Cleveland, Ohio; and Baltimore, Maryland; "forty-seven (47) states"; the federal government; and "all law enforcement officials within this nation." The district court screened Hurt's complaint under 28 U.S.C. § 1915(e)(2) and dismissed the case as frivolous. After noting that Hurt previously had filed eight other frivolous suits in the Southern District of Indiana and been warned that further frivolous filings risked sanctions, the court imposed a bar prohibiting Hurt from filing any new cases in the district without prepaying the filing fee. The district court noted that other courts had also imposed filing restrictions on Hurt. *See, e.g., Hurt v. Soc.*

Sec. Admin., 544 F.3d 308, 311 (D.C. Cir. 2008); *Hurt v. United States*, 2013 WL 6489951 (D. Mass. Dec. 5, 2013).

This appeal is frivolous. We agree with the district court's dismissal in this case and think the imposition of sanctions against Hurt was proper. In addition to the eight frivolous lawsuits filed in the Southern District of Indiana, Hurt also has filed two suits in the Western District of Wisconsin and ten appeals to this court.

65. ***Kolosky v. State of Minnesota***, No. 06-2182 (8th Cir. 12/06/2007):

We also conclude that the imposition of filing restrictions on Kolosky was warranted, see *In re Tyler*, 839 F.2d 1290, 1290-95 (8th Cir. 1988) (per curiam)....

66. ***In re Taylor***, 417 F.3d 649 (7th Cir. 07/29/2005):

In a third action filed that day, Taylor sued two of the same defendants-Paul Logli and the City of Rockford- and added Gloria Lind, Winnebago County Clerk, and a state judge, Judge Penniman, as defendants. Taylor claimed that Lind and Judge Penniman participated in the marriage scam created by Paul Logli. Judge Reinhard dismissed the case as frivolous and malicious under 28 U.S.C. § 1915A. He also held that Taylor had used up his allotted three strikes under 28 U.S.C. § 1915(g) and would be subject to future filing restrictions.

67. ***McPherron v. District Attorney of County of Chester***, 14-4336, 15-1415 (3d Cir. 07/29/2015):

We will also vacate the filing restrictions. By way of further background, McPherron has filed six other actions in the District Court, five of which are summarized in the margin.[4] In E.D. Pa. Civ. No. 2-13-cv-04477, McPherron filed another habeas petition along with a series of motions virtually identical to those at issue here. By order entered September 23, 2013, the District Court summarily dismissed that petition and directed McPherron to show cause "why he should not be hereafter enjoined from filing further complaints in this Court without first obtaining Court approval." (ECF No. 11.) McPherron filed a response, but the District Court took no action on the show cause order at that time and has taken none in that case. McPherron did not appeal from that ruling.

After McPherron continued to file motions in this proceeding, the District Court then imposed the two filing restrictions at issue here. The District Court ordered its Clerk "to reject and return any and all future filings which Plaintiff endeavors to file in this matter." (ECF No. 147 at 2.) The District Court also ordered that "Petitioner is now HEREBY ENJOINED FROM FILING ANY new action or proceeding in the [District Court] without first obtaining leave of this Court in accordance with the procedures specified hereafter[.]" (*Id.*)

Filing injunctions "are extreme remedies and should be . . . sparingly used." *In re Packer Ave. Assocs.*, 884 F.2d 745, 747 (3d Cir. 1989). They are not appropriate "absent exigent circumstances, such as a litigant's continuous abuse of the judicial process by filing meritless and repetitive actions." *Brow*, 994 F.2d at 1038. Such injunctions require prior notice and "must be narrowly tailored to fit the particular circumstances of the case before the District Court." *Id.* We assume for present purposes that the order to show cause entered over one year earlier in E.D. Pa. Civ. No. 2-13-cv-04477 gave McPherron adequate notice that he faced imposition of a filing injunction for his conduct in this case. Under the circumstances, however, neither restriction can stand.

Taking them in reverse order, McPherron has been an abusive litigant in the relatively small number of actions he has filed thus far, but his institution of those actions does not warrant a restriction on his ability to file future actions of any kind. The District Court appears to have concluded that it does because McPherron repeatedly raised "matters that have been fully and finally adjudicated to conclusion in this Court in this Civil Action and in Civil Action Nos. 10-3851, 10-4125, 13-4010, 13-4477, 14-1177, 14-4010 and 14-4125." (ECF No. 147 at 1.)

The District Court's reliance on most of these actions, however, was misplaced. McPherron's habeas proceeding at No. 13-4477 was indeed duplicative of this case because it sought to assert the same habeas claims, but those claims have not been "fully and finally adjudicated to conclusion." All that has been "fully and finally adjudicated to conclusion" is that McPherron may not proceed with his habeas claims without first exhausting his state-court remedies, and several of McPherron's motions were based on new developments in state court legitimately suggesting that the exhaustion requirement should be deemed satisfied. Thus, these circumstances do not warrant a blanket restriction on his ability to file any future actions of any kind. *See Chipps v. U.S. Dist. Ct.*, 882 F.2d 72, 73 (3d Cir. 1989).[6]

Nor is there a basis to preclude McPherron from filing any further documents in this proceeding because, in light of our remand, he may be entitled to file additional documents depending on how the District Court elects to proceed. We recognize that, some legitimate arguments regarding exhaustion aside, his motions appear largely delusional and incoherent. Their number and repetitive nature also make them vexatious and abusive. We certainly do not condone McPherron's repetitive filings, and we understand both the District Court's frustration and its need to ensure that he ceases to consume an inordinate amount of its time. Now that we are remanding, however, the District Court will need to reconsider how best to do so. McPherron is cautioned that, if he persists in filing repetitive motions on remand, the District Court may well be within its discretion in imposing future filing restrictions.[7]

68. ***In re Judd***, No. 05-8000 (3d Cir. 07/20/2007):

In a case in the Fifth Circuit imposing monetary sanctions against Mr. Judd for failing to comply with filing restrictions, the Court ordered, "The clerk of this court and the clerks of all the district courts within this Circuit are hereby DIRECTED to refuse to file any

action, appeal, motion, or pleading by Judd unless Judd submits proof of the satisfaction of his monetary sanctions." *Judd v. Winn*, 81 Fed. Appx. 479, 480 (5th Cir. 2003). We will impose a similar restriction on Mr. Judd's ability to file any type of complaints, motions, pleadings, amendments, appeals, petitions, applications or any other type of action or filings in the courts of this Circuit until such time that the monetary sanction for his contempt has been paid.

69. ***Cowhig v. West***, 181 F.3d 79 (1st Cir. 04/02/1999):

Having scrutinized the record and the parties' submissions, we affirm the order of dismissal and the injunction against further filings essentially for the reasons recited by the district court. We add only the following comments.

It is well established that courts have the power to issue injunctions "barring a party ... from filing and processing frivolous and vexatious lawsuits." *Gordon v. United States Dep't of Justice*, 558 F.2d 618, 618 (1st Cir. 1977) (per curiam). While such measures are "the exception to the general rule of free access to the courts," *Pavilonis v. King*, 626 F.2d 1075, 1079 (1st Cir. 1980), the district court was justified here in concluding that injunctive relief was warranted. Plaintiff has now filed five meritless actions in the District of Massachusetts, and at least two others elsewhere, pertaining to the same incident--his 1962 discharge from the Army. Where a litigant has demonstrated a "propensity to file repeated suits ... involving the same or similar claims" of a "frivolous or vexatious nature," a bar on further filings is appropriate. *Castro v. United States*, 775 F.2d 399, 409 (1st Cir. 1985) (per curiam); accord, e.g., *Pavilonis*, 626 F.2d at 1078 (noting that "plaintiffs bent on reopening closed cases" fit into "classic mold" for injunctive relief).

Nor does the injunction here suffer from any of the deficiencies that have been cited in other cases. **Plaintiff was given ample "notice that filing restrictions were contemplated."** ***Cok v. Family Court of Rhode Island***, 985 F.2d 32, 35 (1st Cir. 1993) (per curiam). **The court made adequate findings demonstrating the need for an injunction, and the record was "sufficiently developed" to support those findings.** Id. **And the injunction was "narrowly drawn to fit the specific vice encountered."** Castro, 775 F.2d at 410. For example, **it pertains only to filings in the local district court**, brought against the United States or an agency or employee thereof, involving the 1962 discharge. And it allows plaintiff, with leave of court, to make new filings upon a showing that they are not barred by res judicata.

70. ***In Re: Jerome***, No. 10-1993 (4th Cir. 02/28/2011):

Jerome Julius Brown, Sr. appeals the district court's standing order imposing pre-filing restrictions on Brown. We have reviewed the record and find no abuse of discretion or reversible error. Accordingly, we affirm for the reasons stated by the district court. See *In re Jerome Julius Brown*, No. 3:10- mc-00010-REP (E.D. Va. July 28, 2010).
In re Ross, 15-2222 (3d Cir. 06/08/2017):

Here, three aspects of the filing injunction, none of which were explained by the Bankruptcy Court, together suggest the Bankruptcy Judge abused his discretion in issuing the broad and indefinite filing injunction. First, **the filing injunction went beyond what AmeriChoice requested**. AmeriChoice only asked that the Bankruptcy Court either restrict Raymond's filings for 180 days or bar the application of the automatic stay to AmeriChoice's attempts to sell the Rosses' property. The Bankruptcy Court, however, barred Raymond from making any bankruptcy filings anywhere for the indefinite future-there was no temporal or geographic limitation-except when the court grants its express permission.

We will vacate the Bankruptcy Court's filing-injunction order and remand the case to the Bankruptcy Court for further proceedings consistent with this opinion.

71. ***Robinson v. State of New Jersey Mercer County Vicinage-Family Division***, 13-2357, 13-3638 (3d Cir. 04/04/2014):

We also conclude that the District Court did not abuse its discretion in enjoining Robinson from filing any new case, proceeding, motion, or other litigation document without written permission. A District Court has broad power under 28 U.S.C. § 1651 to issue an injunction to restrict the filing of meritless pleadings. But **such an injunction is an extreme measure that must "be narrowly tailored and sparingly used**." *Matter of Packer Ave. Assoc.*, 884 F.2d 745, 747 (3d Cir. 1989); *In re Oliver*, 682 F.2d 443, 445 (3d Cir. 1982). Accordingly, we have held that "[t]he broad scope of the District Court's power . . . is limited by two fundamental tenets of our legal system—the litigant's rights to due process and access to the courts." *Brow v. Farrelly*, 994 F.2d 1027, 1038 (3d Cir. 1993). Neither of those tenants has been abridged here. In the order entered on April 23, 2013, the District Court noted that, in the two months following our remand, Robinson had filed at least seven motions.[3] In addition, the District Court recognized a letter from the defendants, which stated that they could not "present a complete cross-motion for summary judgment when Robinson bombards this Court and defendants with motions that would clearly have an impact on a motion for summary judgment." Notably, the District Court later clarified, and effectively narrowed, its April 23, 2013 order, stating that it was intended "to allow Defendants an opportunity to respond to pending motions and file a cross-motion for summary judgment." The District Court also specifically provided that Robinson was not "preclude[d] . . . from filing opposition or reply papers in accordance with the Federal Rules of Civil Procedure." Thereafter, Robinson opposed the filing injunction, as well as the defendants' cross-motion for summary judgment. Under the circumstances, we are satisfied that there has been no abuse of discretion.

72. ***Tommie H. Telfair; Catrina R. Gatling v. Office of the U.S. Attorney, Agent(S) For the Government, and***, No. 10-4193 (3d Cir. 09/01/2011):

Tommie Telfair appeals pro se and in forma pauperis from the United States District Court for the District of New Jersey's dismissal of his cause of action, the denial of his

motion for reconsideration, and the issuance of limitations on his right to file documents and future civil actions in the District Court. For the reasons that follow, we will summarily affirm the District Court's August 9, 2010 order. We will also summarily affirm the October 10, 2010 order to the extent that it denies Telfair's motion for reconsideration, but we will vacate the filing restrictions and remand for further proceedings on that issue.

We also consider the District Court's decision to restrict Telfair's right to file documents and future suits in the District of New Jersey. Orders restricting the filing of documents from certain litigants are within a district court's power under the All Writs Act, 28 U.S.C. § 1651. In re Oliver, 682 F.2d 443, 445 (3d Cir. 1982). A "district court has authority to require court permission for all subsequent filings once a pattern of vexatious litigation transcends a particular dispute. "*Chipps v. U.S.D.C. for the M.D. of Pa.*, 882 F.2d 72, 73 (3d Cir. 1989) (emphasis omitted). We have, however, held that a district court must comply with certain procedural requirements before issuing this type of injunction against a pro se litigant. Significantly for purposes of this case, we have explained that "the District Court must give notice to the litigant to show cause why the proposed injunctive relief should not issue." *Brow v. Farrelly*, 994 F.2d 1027, 1038 (3d Cir. 1993) (citations omitted).

We agree with the District Court that Telfair's litigation practices likely constitute an abuse of the judicial system, warranting a limitation on his access to the courts. However, Telfair is entitled to notice before such an injunction is issued so that he may have an opportunity to show cause why he should not be enjoined. See id. Given the absence of proper notice here, we will vacate the injunction imposed and remand so that Telfair can be afforded an opportunity to respond.

73. ***Steven Jude Hoffenberg v. Judge Renee Marie Bumb Named Defendant, In Prospective Injunctive***, No. 11-1268 (3d Cir. 06/09/2011):

Steven Jude Hoffenberg, proceeding pro se and in forma pauperis, appeals the District Court's sua sponte dismissal with prejudice of his fourth amended complaint. The District Court also imposed limitations upon Hoffenberg's right to file future civil actions in the District Court for the District of New Jersey. For the reasons set forth below, we will summarily affirm the dismissal of the fourth amended complaint, but we will vacate the filing restrictions and remand for further proceedings on that issue.

District Court did not afford notice of the particular order that it intended to enter placing restrictions upon Hoffenberg's right to file suit. As a result, Hoffenberg did not have an opportunity to object before the order was entered. As we have explained, "[i]f the circumstances warrant the imposition of an injunction, the District Court must give notice to the litigant to show cause why the proposed injunctive relief should not issue. This ensures that the litigant is provided with the opportunity to oppose the court's order before it is instituted." *Brow v. Farrelly*, 994 F.2d 1027, 1038 (3d Cir. 1993) (citation omitted, emphasis added); see In re Oliver, 682 F.2d at 446 (concluding that a

remand was warranted where the district court failed to provide litigant with notice and an opportunity to oppose an order restricting future filings).

Given the absence of proper notice here, we will vacate the injunction imposed and remand so that Hoffenberg can be afforded an opportunity to respond. We express no view on whether Hoffenberg's conduct, in this case or in the others cases cited by the District Court, would support entry of an order restricting his right to file future litigation. That issue is best left to the District Court in the first instance, in the sound exercise of its discretion, after it considers Hoffenberg's objections and weighs them against the record and the need to curtail potentially abusive future litigation.

74. ***Sires v. Fair***, 107 F.3D 1 (1st Cir. 02/10/1997):

In respect to the injunction, federal courts do "possess discretionary powers to regulate the conduct of abusive litigants." *Cok v. Family Court of Rhode Island*, 985 F.2d 32, 34 (1st Cir. 1993). Accordingly, "in extreme circumstances involving groundless encroachment upon the limited time and resources of the court and other parties, an injunction barring a party from filing and processing frivolous and vexatious [motions] may be appropriate." *Castro v. United States*, 775 F.2d 399, 408 (1st Cir. 1984). Nevertheless, any bar must be "narrowly tailored." *Sires v. Gabriel*, 748 F.2d 49, 51 (1st Cir. 1984), lest it "impermissibly infringe upon a litigator's right of access to the courts," Castro, 775 F.2d at 410. Such an injunction must "remain very much the exception to the general rule of free access to the courts" and must be used with particular caution against a pro se plaintiff. *Pavilonis v. King*, 626 F.2d 1075, 1079 (1st Cir. 1980). This court reviews entry of such injunctions for abuse of discretion. Id. at 408.

The injunction in this case is more problematic. Sires was not "warned or otherwise given notice that filing restrictions were contemplated," *Cok*, 985 F.2d at 35; he had not been afforded "an opportunity to respond" before entry of the injunction, see id.; and there was no request from the defendants for such an order, see *Pavilonis*, 626 F.2d at 1079 ("Generally, this kind of order should not be considered absent a request by the harassed defendants."). While no one of these factors, standing alone, would necessarily invalidate the injunction, they are fatal here because it is unclear that the record supports the injunction. Denial of routine access to the courts is an "extreme" measure, and "[l]itigiousness alone will not support [such] an injunction." Id. Here, however, the district court made no findings that Sires' filings had been frivolous, vexatious, or otherwise of a type and kind that would justify injunctive relief. Therefore, the fairest course here is to vacate the injunction and remand the case for such further proceedings, if any, as the district court desires to undertake.

75. ***Cok v. Forte***, 69 F.3D 531 (1st Cir. 11/07/1995):

We are also persuaded that the imposition of a narrow, well-defined injunction against plaintiff Cok was justified. The basis for the injunction is well supported in the record. The filing restrictions set out in the order are grounded in a comprehensive history of Cok's ten-years of litigation, were entered after notice, hearing and the opportunity to

object, and are unambiguously "tailored to the specific circumstances presented." *Cok v. Family Court of Rhode Island*, 985 F.2d 32, 34 (1st Cir. 1993).

76. ***Hart v. United States***, 21 F.3d 419 (1st Cir. 03/22/1994):

Hart alleges a violation of his due process rights by virtue of the fact that the injunction was not requested by the government, but was entered by the court sua sponte. Sua sponte entry of such an injunction, however, is improper only where the plaintiff is "not warned or otherwise given notice that filing restrictions were contemplated." Id. at 35. Here, by contrast, Hart was given ample notice of the issue and ample opportunity to respond before the court finalized the injunction on June 23, 1992.

77. ***Dinardo v. Palm Beach County Circuit Court Judge***, 199 Fed.Appx. 731 (11th Cir. 07/18/2006):

To the extent the Dinardos are contending that the dismissal was erroneous by contesting the validity of the injunctive order, under the All Writs Act, "[t]he Supreme Court and all courts established by an Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." 28 U.S.C. § 1651(a). A court's power to protect its jurisdiction under this Act includes: the power to enjoin a dissatisfied party bent on re-litigating claims that were (or could have been) previously litigated before the court from filing in both judicial and non-judicial forums, as long as the injunction does not completely foreclose a litigant from any access to the courts. *Riccard v. Prudential Ins. Co.*, 307 F.3d 1277, 1295 n.15 (11th Cir. 2002) (citing *Procup v. Strickland*, 792 F.2d 1069, 1079 (11th Cir. 1986) (en banc)); see also *Klay v. United Healthgroup, Inc.*, 376 F.3d 1092, 1099-1102 (11th Cir. 2004) (discussing in detail the All Writs Act).

In issuing the instant injunctive order, the prior federal court explained that the order was in response to "the history of facially deficient complaints filed by the pro se plaintiffs in the federal district court for the Southern District of Florida." The Dinardos have not challenged the court's finding in the injunctive order that the Dinardos, appearing individually or in combination, had filed seven different pro se lawsuits in the District Court for the Southern District of Florida against various public officials and judicial officers over the preceding year, including a suit arising out of their disagreement with a property-foreclosure judgment entered by the defendant in the instant case.

Furthermore, although the Dinardos are asserting that this injunctive order exceeded the issuing court's powers under the All Writs Act by depriving them of their First Amendment right to access the courts, and they are contending that their access is blocked because the district court generally does not review pleadings in unopened cases, they have failed to cite to supporting authority for this argument. To the contrary, in *Prokup*, we explained, in an en banc decision, that, although the district court's injunction at issue in that case was overbroad, district courts generally have "[c]onsiderable discretion" in designing these injunctions, including authority to impose serious

restrictions on a defendant bringing matters before the court without an attorney, as long as the defendant is not completely foreclosed from "any access to the courts." See Prokup, 792 F.2d at 1073-74. Thus, we have upheld dismissals of pro se actions where the plaintiffs, who were frequent litigators, violated injunctions prohibiting them from filing or attempting to initiate any new lawsuits in any federal court without first obtaining leave of the court. See Martin-Trigona v. Shaw, 986 F.2d 1384, 1387-88 (11th Cir. 1993) (listing cases where this Court has upheld pre-filing restrictions on litigious plaintiffs). Because the injunctive order the Dinardos are challenging similarly did not completely foreclose them from "any access to the courts," the prior court had authority under the All Writs Act to issue it and the district court did not err in relying on this order in dismissing the instant act.

78. ***In re Lloyd***, No. 03-20710 (5th Cir. 02/12/2004):

This appeal is the latest in a series of frivolous filings by Appellants Claude Hugh Lloyd and Cassondra Jean Lloyd. Over the past several years, Mr. and Mrs. Lloyd have burdened this court and the district court with numerous motions and briefs apparently designed to obstruct the seizure of their real property for nonpayment of property taxes. This strategy finally forced the district court to dismiss all pending cases filed by the Lloyds in the bankruptcy and district courts of the Southern District of Texas and to impose pre-filing restrictions requiring the Lloyds to obtain the court's permission before filing any new letters or pleadings. A panel of this court affirmed that order, dismissed the Lloyds' appeal as frivolous, and imposed sanctions. The panel also ordered the clerk not to accept any further filings from the Lloyds until they had paid the sanctions. Although the Lloyds have failed to pay the sanctions, the clerk's office accepted the Lloyd's latest brief and motions because they had filed the notice of appeal in the present appeal prior to the imposition of sanctions.

79. ***In re Erde***, CC-18-1321-FLS, Bk. 2:18-bk-20200-VZ (9th Cir. 06/06/2019):

The Ninth Circuit has held that, before courts can declare a litigant vexatious and impose pre-filing restrictions, they must:

(1) give litigants notice and "an opportunity to oppose the order before it [is] entered"; (2) compile an adequate record for appellate review, including "a listing of all the cases and motions that led the district court to conclude that a vexatious litigant order was needed"; (3) make substantive findings of frivolousness or harassment; and (4) tailor the order narrowly so as "to closely fit the specific vice encountered."

Ringgold-Lockhart, 761 F.3d at 1062 (quoting *De Long v. Hennessey*, 912 F.2d 1144, 1147-48 (9th Cir. 1990)). In evaluating the final two factors, courts must consider: (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 would be adequate to protect the courts and other parties. *Id.* (quoting *Molski v. Evergreen Dynasty Corp.*, 500 F.3d 1047, 1058 (9th Cir. 2007).

80. ***In re Erde***, CC-19-1022-GTaS, CC-19-1139-GTaS, Bk. 2:18-bk-20200-VZ (9th Cir. 12/03/2019):

> The Ninth Circuit has held that, before courts can declare a litigant vexatious and impose pre-filing restrictions, they must:
>
> (1) give litigants notice and "an opportunity to oppose the order before it [is] entered"; (2) compile an adequate record for appellate review, including "a listing of all the cases and motions that led the district court to conclude that a vexatious litigant order was needed"; (3) make substantive findings of frivolousness or harassment; and (4) tailor the order narrowly so as "to closely fit the specific vice encountered."
>
> *Ringgold-Lockhart*, 761 F.3d at 1062 (quoting *De Long v. Hennessey*, 912 F.2d 1144, 1147-48 (9th Cir. 1990)). In evaluating the final two factors, courts must consider: (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 would be adequate to protect the courts and other parties. *Id.* (quoting *Molski v. Evergreen Dynasty Corp.*, 500 F.3d 1047, 1058 (9th Cir. 2007).
>
> The bankruptcy court gave Mr. Erde notice and an opportunity to oppose the vexatious litigant order by issuing the order to show cause and conducting a hearing. It also compiled a list of prior actions initiated by Mr. Erde against the Bodnar Parties and attached two rulings which meticulously described his litigation history.
>
> The bankruptcy court then made substantive findings that Mr. Erde's litigation was frivolous and harassing because Mr. Erde's effort to obtain 50% of the alleged partnership assets had been previously ruled upon in several prior cases and was barred by claim preclusion.
>
> Finally, the bankruptcy court limited its pre-filing order to causes of action against the Bodnar Parties and permitted Mr. Erde to obtain permission to file actions that were demonstrably not vexatious and not barred by claim preclusion or issue preclusion.

81. ***Caruso v. Washington State Bar Association 1933***, 18-35557 (9th Cir. 03/19/2019):

> The district court gave Eugster notice and an opportunity to be heard, created an adequate record for review, and made substantive findings as to the frivolous or harassing nature of

Eugster's prior actions. However, the district court's order is not narrowly tailored to Eugster's abuses because it imposes pre-filing restrictions on lawsuits "against the WSBA, its employees, or agents" and facial challenges to "Washington State's attorney bar system," without limiting the types of claims or challenges to those that Eugster had been filing vexatiously. *See Ringgold-Lockhart v. County of Los Angeles*, 761 F.3d 1057, 1061-67 (9th Cir. 2014) (discussing procedural and substantive standards for a federal pre-filing order based on a vexatious litigant determination). We vacate entry of the pre-filing order and remand for the district court to enter a pre-filing order that is narrowly tailored to the claims that Eugster has previously brought.

82. ***Hiramanek v. Judicial Council of California***, 16-17119 (9th Cir. 02/22/2019):

The district court did not abuse its discretion by declaring Hiramanek a vexatious litigant and imposing pre-filing restrictions because the district court gave Hiramanek notice and the opportunity to oppose the pre-filing order, created a record adequate for review, made substantive findings of frivolousness, and tailored the order narrowly to prevent the abusive conduct. *See Molski v. Evergreen Dynasty Corp.*, 500 F.3d 1047, 1056-58 (9th Cir. 2007) (setting forth standard of review and factors a district court must consider before imposing a pre-filing restriction on a vexatious litigant). Contrary to Hiramanek's contention, the district judge did not lack authority to impose pre-filing restrictions on Hiramanek after issuing an order to show cause.

83. ***Moore v. Wells Fargo Bank, N.A.***, 18-55768 (9th Cir. 01/23/2019):

The district court did not abuse its discretion in declaring Moore to be a vexatious litigant and imposing pre-filing restrictions **because the district court gave Moore notice and the opportunity to oppose the pre-filing order, created a record adequate for review, made substantive findings of frivolousness, and tailored the order narrowly to prevent the abusive conduct.** *See Molski*, 500 F.3d at 1056-58 (setting forth factors a district court must consider before imposing a pre-filing restriction on a vexatious litigant). Contrary to Moore's contentions, the magistrate judge did not act without jurisdiction because the district judge entered the final order, *see* 28 U.S.C. § 636(b)(1); *Estate of Conners by Meredith v. O'Connor*, 6 F.3d 656, 658 (9th Cir. 1993) (discussing scope of magistrate judge's authority under § 636(b)(1)(B)), and the district court's pre-filing restrictions on Moore's future filings are specific and clear.

84. ***In re Hunt***, 15-56225 (9th Cir. 07/05/2017):

The district court did not abuse its discretion in declaring Hunt a vexatious litigant and imposing pre-filing restrictions because **the court gave Hunt notice and the opportunity to oppose the order, created a record adequate for review, made substantive findings of frivolousness, and tailored the order narrowly to prevent the abusive conduct.** *See Molski*, 500 F.3d at 1057.

85. ***Little v. State of Washington***, 14-35815 (9th Cir. 11/07/2016):

The district court did not abuse its discretion by declaring the Maxwells vexatious litigants and entering a pre-filing order against them after **providing them with notice and an opportunity to be heard, developing an adequate record for review, making substantive findings regarding their frivolous litigation history, and tailoring the restriction narrowly**. *See id.* at 1057, 1058-61 (discussing factors to consider before imposing pre-filing restrictions).

86. ***Maxwell v. Moab Investment Group, LLC***, 14-17334 (9th Cir. 01/28/2016):

The district court did not abuse its discretion by declaring the Maxwells vexatious litigants and entering a pre-filing order against them after **providing them with notice and an opportunity to be heard, developing an adequate record for review, making substantive findings regarding their frivolous litigation history, and tailoring the restriction narrowly**. *See id.* at 1057, 1058-61 (discussing factors to consider before imposing pre-filing restrictions).

87. ***Ringgold-Lockhart v. County of Los Angeles***, 761 F.3d 1057 (9th Cir. 08/04/2014):

Out of regard for the constitutional underpinnings of the right to court access, " pre-filing orders should rarely be filed," and only if courts comply with certain procedural and substantive requirements. *De Long*, 912 F.2d at 1147. **When district courts seek to impose pre-filing restrictions, they must: (1) give litigants notice and " an opportunity to oppose the order before it [is] entered" ; (2) compile an adequate record for appellate review, including " a listing of all the cases and motions that led the district court to conclude that a vexatious litigant order was needed" ; (3) make substantive findings of frivolousness or harassment; and (4) tailor the order narrowly so as " to closely fit the specific vice encountered**." *Id.* at 1147-48.

88. ***Arthur Scott West, I, State Ex Rel v. Marti Maxwell; et al***, No. 10-35909 (9th Cir. 09/25/2012):

The district court did not abuse its discretion by ordering pre-filing restrictions against West based on his history of bringing frivolous and harassing litigation. See *Molski v. Evergreen Dynasty Corp.*, 500 F.3d 1047, 1056-57 (9th Cir. 2007) (per curiam) (setting forth standard of review and discussing four factors for ordering pre-filing restrictions)

89. ***In re Erde***, BAP CC-19-1043-LSTa, Bk. 2:18-bk-20200-VZ (9th Cir. 11/15/2019):

Before a court can declare a litigant vexatious and impose pre-filing restrictions, it must: (1) give the litigant notice and "an opportunity to oppose the order before it [is] entered"; (2) compile an adequate record for appellate review, including "a listing of all the cases

and motions that led the district court to conclude that a vexatious litigant order was needed"; (3) make substantive findings of frivolousness or harassment; and (4) tailor the order narrowly so as "to closely fit the specific vice encountered." *Ringgold-Lockhart*, 761 F.3d at 1062 (quoting *De Long v. Hennessey*, 912 F.2d 1144, 1147-48 (9th Cir. 1990)).

In evaluating the final two factors, courts must consider: (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 would be adequate to protect the courts and other parties. *Id.* (citing *Molski*, 500 F.3d at 1058).

90. ***Bernier v. Travelers Property Casualty Insurance Co.***, 18-55146 (9th Cir. 08/22/2018):

The district court did not abuse its discretion by declaring plaintiffs vexatious litigants and imposing a pre-filing order against them because it gave plaintiffs notice and an opportunity to be heard, developed an adequate record for review, made findings regarding their frivolous litigation history, and narrowly tailored the restrictions in the pre-filing order. *See Molski*, 500 F.3d at 1056-61 (discussing factors to consider before imposing pre-filing restrictions).

91. ***In re Bertran***, BAP AK-17-1139-LBF, Bk. 4:12-bk-501-FC (9th Cir. 04/06/2018):

The All Writs Act, 28 U.S.C. § 1651(a) provides: "The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." The Ninth Circuit Court of Appeals has not explicitly held that bankruptcy courts are "courts established by Congress" such that they are authorized to issue writs under the All Writs Act. But it is beyond dispute that federal courts, including district courts, "have the inherent power to file restrictive pre-filing orders against vexatious litigants with abusive and lengthy histories of litigation." *Weissman v. Quail Lodge, Inc.*, 179 F.3d 1194, 1197 (9th Cir. 1999); *see also De Long v. Hennessey*, 912 F.2d 1144, 1146 (9th Cir. 1990) ("We recognize that there is strong precedent establishing the inherent power of federal courts to regulate the activities of abusive litigants by imposing carefully tailored restrictions under appropriate circumstances."). Relying on these authorities, bankruptcy courts in the Ninth Circuit have concluded that they have the power to regulate vexatious litigation under § 105(a) and 28 U.S.C. § 1651(a). *See Stanwyck v. Bogen (In re Stanwyck)*, 450 B.R. 181, 200 (Bankr. C.D. Cal. 2011); *Goodman v. Cal. Portland Cement Co. (In re GTI Capital Holdings, LLC)*, 420 B.R. 1, 11 (Bankr. D. Ariz. 2009).

This power includes the power to issue restrictive pre-filing orders against vexatious litigants.

Because such orders constrain a litigant's fundamental right of access to the courts, they should rarely be used, and only if courts comply with certain procedural and substantive requirements. *Ringgold-Lockhart v. Cnty. of L.A.*, 761 F.3d 1057, 1062 (9th Cir. 2014). Therefore, before imposing pre-filing restrictions, the court must: (1) give litigants notice and an opportunity to oppose the order before it is entered; (2) compile an adequate record for appellate review, including a listing of all the cases and motions that led the district court to conclude that a vexatious litigant order was needed; (3) make substantive findings of frivolousness or harassment; and (4) tailor the order narrowly so as to closely fit the specific vice encountered. *Id.* (quoting *DeLong*, 912 F.2d at 1147-48). The bankruptcy court made explicit findings as to all of the relevant factors, and Mr. Tangwall does not contend that any of those findings were erroneous. Taking each in turn: The bankruptcy court's order was narrowly tailored. The bankruptcy court found that an appropriate order was one which required Mr. Tangwall to obtain leave of the court before filing any further documents in this court other than a notice of appeal of this memorandum decision and the related vexatious litigant order. The court assures Mr. Tangwall that it will approve for filing any complaint, pleading or other document if such document adequately demonstrates a basis in law, and conforms to the federal and local rules.

92. ***Williams v. National Default Servicing Corp.***, 17-15152 (9th Cir. 12/26/2017):

The district court did not abuse its discretion in declaring plaintiffs to be vexatious litigants and imposing pre-filing restrictions because the court gave plaintiffs notice and the opportunity to oppose the order, created a record adequate for review, made substantive findings of frivolousness, and tailored the order narrowly to prevent the abusive conduct. *See Molski v. Evergreen Dynasty Corp.*, 500 F.3d 1047, 1056-58 (9th Cir. 2007) (setting forth standard of review and factors a district court must consider before imposing a pre-filing restriction on a vexatious litigant).

93. ***Hampton v. Steen***, 14-36025 (9th Cir. 05/12/2017):

We vacate the pre-filing order entered against the plaintiffs. "When district courts seek to impose pre-filing restrictions, they must: (1) give litigants notice and an opportunity to oppose the order before it is entered; (2) compile an adequate record for appellate review, including a listing of all the cases and motions that led the district court to conclude that a vexatious litigant order was needed; (3) make substantive findings of frivolousness or harassment; and (4) tailor the order narrowly so as to closely fit the specific vice encountered." *Ringgold-Lockhart v. Cty. of L.A.*, 761 F.3d 1057, 1062 (9th Cir. 2014) (citation, alterations, and internal quotation marks omitted). The district court entered the order without giving the plaintiffs notice and an opportunity to oppose. In addition, the order made no substantive findings of frivolousness or harassment, and was insufficiently tailored to the perceived vice, because it applied to all filings by the plaintiffs against

Trackwell, and not merely those arising out Trackwell's allegedly harassing "debt collection" efforts.

94. ***Stephens v. Multnomah County***, 12-35672 (9th Cir. 02/23/2017):

The district court did not abuse its discretion by entering a pre-filing review order because the court gave plaintiffs notice and an opportunity to be heard, developed an adequate record for review, made findings regarding their frivolous litigation history, and narrowly tailored the restrictions in the order. *See Molski v. Evergreen Dynasty Corp.*, 500 F.3d 1047, 1056-57 (9th Cir. 2007) (per curiam) (standard of review; factors to consider before imposing pre-filing restrictions).

95. ***Leon v. Boeing Co.***, 14-17009 (9th Cir. 10/05/2016):

The district court did not abuse its discretion by declaring Leon a vexatious litigant and imposing a pre-filing order against him because it gave Leon notice and an opportunity to be heard, developed an adequate record for review, made findings regarding his frivolous litigation history, and tailored the restrictions in the pre-filing order narrowly. *See Molski v. Evergreen Dynasty Corp.*, 500 F.3d 1047, 1056-61 (9th Cir. 2007) (setting forth standard of review and discussing factors to consider before imposing pre-filing restrictions). However, to the extent that Leon wishes to apply for in forma pauperis status for any "future filings in the United States District Court for the District of Arizona" or seeks to file a claim "for relief under Title VII, the ADA, or the FCA", we direct the district court to add the following sentence to its order: If Leon wishes to file an action alleging claims under the False Claims Act, the Americans with Disabilities Act, or Title VII, or seeks in forma pauperis status for future filings in this District, Leon may seek permission from the magistrate judge.

96. ***Hernandez v. Federal Home Loan Mortgage Corp.***, 14-56309 (9th Cir. 08/25/2016):

The district court did not abuse its discretion by imposing a pre-filing restriction against appellants after giving them notice and an opportunity to be heard, developing an adequate record for review, making findings regarding their frivolous litigation history, and tailoring the restriction narrowly. *See Molski v. Evergreen Dynasty Corp.*, 500 F.3d 1047, 1056-61 (9th Cir. 2007) (setting forth standard of review and discussing factors to consider before imposing pre-filing restrictions).

97. ***Cunningham v. Singer***, 15-15166 (9th Cir. 08/04/2016):

The district court did not abuse its discretion by declaring Cunningham a vexatious litigant and entering a pre-filing order against Cunningham after providing him with notice and an opportunity to be heard, developing an adequate record for review, making substantive findings regarding his frivolous litigation history, and tailoring the restriction narrowly. *See Molski v. Evergreen Dynasty Corp.*, 500 F.3d 1047, 1056-61 (9th Cir.

2007) (setting forth standard of review and discussing factors to consider before imposing pre-filing restrictions).

98. ***Endsley v. State***, 14-56902 (9th Cir. 12/17/2015):

The district court did not abuse its discretion by declaring Endsley a vexatious litigant and entering a pre-filing order against him. *See Molski*, 500 F.3d at 1057-61 (discussing factors for imposing pre-filing restrictions). Provision (6) of the pre-filing order is not consistent with the requirement that a pre-filing order be narrowly tailored, and we hereby excise it. As construed without provision (6), the pre-filing order is narrowly tailored, and the district court did not abuse its discretion in entering it.

99. ***In re Melcher***, NC-14-1573-TaDJu (9th Cir. 12/07/2015):

In this respect, in order to impose pre-filing restrictions, a federal court must: (1) give the litigant notice and "an opportunity to oppose the order" prior to its entry; (2) compile an adequate record for appellate review, including "a listing of all the cases and motions that led the [] court to conclude that a vexatious litigant order was needed"; (3) make substantive findings of frivolousness or harassment; and (4) tailor the order narrowly so as "to closely fit the specific vice encountered." *Id.* at 1062. The first two requirements are procedural in nature; the third and fourth, constitute "substantive considerations." *Id.* In addition, a "pre-filing order[] must be narrowly tailored to the vexatious litigant's wrongful behavior."

Ringgold-Lockhart, 761 F.3d at 1066 (internal quotation marks and citation omitted). In *Ringgold-Lockhart*, the Ninth Circuit determined that the pre-filing order was too broad where the order provided that the district court would first deem the action "meritorious." The Ninth Circuit determined that by adding this qualifier, "the district court added a screening criteria that is not narrowly tailored to the problem before it, and is in fact unworkable." *Id.*

Here, the Pre-Filing Order provides that the bankruptcy court "will permit the filing of the pleading only if it appears that the pleading has merit and is not duplicative of matters previously ruled upon by this Court and/or an appellate court, and has not been filed for the purposes of harassment or delay." With one exception, we conclude that the order is not overly broad.

First, the screening criteria are substantively narrowly tailored. The order refers to criteria as: "not duplicative of matters previously ruled upon by" the bankruptcy court or an appellate court, and which has not been filed for the purposes of harassment or delay; these are appropriate screening criteria. The order, however, contains one form of inappropriate criterion: that the bankruptcy court will determine whether the pleading "appears to have merit." As stated in *Ringgold-Lockhart*, this type of criterion is overly broad for a pre-filing restriction. *See* 761 F.3d at 1066. Nonetheless, the offensive language may be stricken from the order without issue.

Second, the Pre-Filing Order is appropriately limited to actions involving the Trustee. Again, the record clearly shows that the Debtor has fought the Trustee at every step both in and out of the bankruptcy court, thereby exhausting significant estate assets and prejudicing the interests of creditors and the Debtor alike. There is no danger that this portion of the order could extend to factual scenarios entirely unrelated to the Trustee in his capacity as the estate representative.

100. ***Sconiers v. Judicial Council of California***, 12-15176 (9th Cir. 12/02/2015):

The district court did not abuse its discretion by entering a pre-filing order against Sconiers because she had notice and an opportunity to be heard, and the district court developed an adequate record for review, made findings regarding her frivolous litigation history, and narrowly tailored the restriction. *See De Long*, 912 F.2d at 1147-48 (discussing factors to consider before imposing pre-filing restrictions on a vexatious litigant).

101. ***Dydzak v. Cantil-Sakauye***, 12-56960 (9th Cir. 05/18/2015):

The district court did not abuse its discretion by entering a pre-filing order against Dydzak after providing him notice and an opportunity to be heard, developing an adequate record for review, making substantive findings regarding his frivolous litigation history, and tailoring the restriction narrowly. *See Molski v. Evergreen Dynasty Corp.*, 500 F.3d 1047, 1056, 1057-61 (9th Cir. 2007) (per curiam) (setting forth standard of review and discussing factors to consider before imposing pre-filing restrictions).

102. ***DeRock v. Sprint-Nextel***, 12-35849 (9th Cir. 03/12/2015):

Moreover, the pre-filing restriction that the district court entered against DeRock was not narrowly tailored to DeRock's vexatious filing of lawsuits regarding his rental dispute and his re-litigation of previously dismissed claims. *See De Long v. Hennessey*, 912 F.2d 1144, 1146–48 (9th Cir. 1990) (setting forth standard of review and discussing the four factors for imposing pre-filing restrictions). On remand, the district court may enter another pre-filing order consistent with this disposition.

103. ***Tyler v. Knowles***, 14-15480 (9th Cir. 02/27/2015):

The district court did not abuse its discretion by entering a pre-filing order against Tyler after providing him notice and an opportunity to be heard, developing an adequate record for review, making substantive findings regarding his frivolous litigation history, and tailoring the restriction narrowly. *See Molski*, 500 F.3d at 1057-61 (discussing factors for imposing pre-filing restrictions).

104. ***Shek v. Children Hospital Research Center in Oakland***, 14-15405 (9th Cir. 01/30/2015):

The district court did not abuse its discretion by declaring Shek a vexatious litigant and entering a pre-filing order against him after providing him notice and an opportunity to be heard, developing an adequate record for review, making substantive findings regarding Shek's harassing litigation history, and tailoring the restriction narrowly. *See Molski*, 500 F.3d at 1057-61 (discussing factors for imposing pre-filing restrictions).

105. ***Shalaby v. Bernzomatic***, 12-56415 (9th Cir. 08/01/2014):

The district court did not abuse its discretion by imposing a pre-filing restriction against Shalaby after giving him notice and an opportunity to be heard, developing an adequate record for review, making findings regarding his frivolous litigation history, and tailoring the restriction narrowly. *See Molski v. Evergreen Dynasty Corp.*, 500 F.3d 1047, 1056-61 (9th Cir. 2007) (per curiam) (setting forth standard of review and discussing the four factors for imposing pre-filing restrictions).

106. ***In re West***, 11-35918 (9th Cir. 01/02/2014):

The district court did not abuse its discretion by imposing a pre-filing restriction against West after giving him notice and an opportunity to be heard, developing an adequate record for review, making findings regarding his frivolous litigation history, and tailoring the restriction to the specific vices encountered. *See id.* at 1057-61 (discussing the four factors for imposing pre-filing restrictions).

107. ***Elonza Jesse Tyler v. Mike Knowles; Lori Johnson***, No. 11-16673 (9th Cir. 09/21/2012):

Although the district court found that Tyler met the definition of a vexatious litigant under California law and the local rules of court, see Cal. Civ. Proc. Code § 391(b)(1)(i) (West 2012); E.D. Cal. R. 65.1-151(b), federal law requires that pre-filing review orders imposed on vexatious litigants must be "narrowly tailored to the plaintiff's claimed abuses," and before entering such an order, the district court is required to make "explicit substantive findings as to the frivolousness or harassing nature of the plaintiff's filings." *O'Loughlin v. Doe*, 920 F.2d 614, 618 (9th Cir. 1990) (reversing pre-filing review order that was not narrowly tailored and where district court failed to make necessary findings). In this case, the pre-filing review order is not narrowly tailored; it requires Tyler to "seek leave of the presiding judge before filing new litigation." The record does not provide a sufficient basis to affirm either the imposition of such a broad pre-filing review order, or the district court's determination that plaintiff had no reasonable probability of prevailing in the context of imposing security. See *De Long*, 912 F.2d at 1147-49 (noting that pre-filing orders should be applied only in exigent circumstances, and setting forth procedural and substantive guidelines to apply before ordering pre-filing restrictions); *Moran v. Muraugh Miller Meyer & Nelson, LLP*, 152 P.3d 416, 418-19 (Cal. 2007) (security may be required if the trial court, after weighing the evidence, determines that there is no reasonable probability plaintiff will prevail).

Accordingly, we vacate the district court's imposition of a pre-filing review order and security, as well as its order of dismissal that was premised on Tyler's failure to provide security. We remand for the district court to make the requisite findings in the first instance.

108. ***Debbs v. California Workers' Compensation Appeals Board***, 87 F.3d 1318 (9th Cir. 06/14/1996):

The Debbses also contend that the district court erred by declaring them to be vexatious litigants. We review for abuse of discretion a district court's vexatious litigant order. *De Long v. Hennessey*, 912 F.2d 1144, 1146 (9th Cir.), cert. denied, 498 U.S. 1001, 111 S. Ct. 562, 112 L. Ed. 2d 569 (1990). Here, the district court warned the Debbses that any further attempts to relitigate their claims would constitute vexatious litigation. The district court created a record for review by listing all of the Debbses' previous cases which involved the same claims. The district court also made substantive findings on the frivolousness of their claims. Finally, the district court's order was narrowly tailored to the Debbses' specific situation. Accordingly, the district court did not abuse its discretion by declaring the Debbses to be vexatious litigants. Cf. id. at 1147-48 (setting forth guidelines regarding pre-filing restrictions).

109. ***Yakich v. Municipal Court of San Jose***, 992 F.2d 1221 (9th Cir. 04/27/1993):

We review for abuse of discretion the district court's order restricting Yakich from making future filings. See De Long v. Hennessey, 912 F.2d 1144, 1146 (9th Cir.), cert. denied sub nom., De Long v. American Protection Servs., 111 S. Ct. 562 (1990). Although district courts have the inherent power to restrict the filings of abusive litigants, pre-filing orders should rarely be issued. Id. at 1147. Before ordering pre-filing restrictions, a district court must apply certain guidelines: (1) the plaintiff must be given notice and the opportunity to oppose the order, (2) there must be an adequate record for review, (3) the court must make substantive findings of frivolousness, and (4) the order must be narrowly tailored to curb the abuses of the particular litigant. Id. at 1147-48.

Here, the district court's order provided: "The Clerk of the Court is instructed to accept no more papers from Mr. Yakich. Any papers that are filed will cost Mr. Yakich a fine in the amount of $50 per page." **The district court did not apply the De Long guidelines when the pre-filing order was issued. See id. Yakich was not given notice of the pre-filing order or an opportunity to oppose the order, and the order was not narrowly tailored. Accordingly, the order is not valid**. See id.

The district court's pre-filing order is vacated and the case is remanded so that the district court may address Yakich's habeas corpus petition.

110. ***Addleman v. Washington Sentencing Guidelines Commission***, 947 F.2d 949 (9th Cir. 10/28/1991):

> Addleman challenges the district court's order requiring Addleman in future actions to show good cause why he should be permitted to proceed in forma pauperis. We review the district court's order for an abuse of discretion. *O'Loughlin v. Doe*, 920 F.2d 614, 617 (9th Cir. 1990).
>
> A district court must adhere to the following guidelines before imposing on a plaintiff special conditions for filing future actions in forma pauperis:
>
> (1) a plaintiff must be given adequate notice to oppose a restrictive pre-filing order before it is entered; (2) a trial court must present an adequate record for review by listing the case filings that support its order; (3) the trial court must further make substantive findings as to the frivolousness or harassing nature of the plaintiff's filings; and (4) the order must be narrowly tailored to remedy only the plaintiff's particular abuses. Id. (citing DeLong v. Hennessey, 912 F.2d 1144, 1147-49 (9th Cir. 1990)).
>
> The record does not indicate that Addleman was given adequate notice and an opportunity to be heard before entry of the district court's order restricting his future filings. Accordingly, we remand to allow the district court to give Addleman the opportunity to oppose the order's filing.
>
> The district court's order presents an adequate record for review because it includes both (1) a list of Addleman's previously filed cases which led to its conclusions, and (2) explicit substantive findings as to the frivolousness or harassing nature of his filings. Finally, the district court's order is not narrowly tailored to the plaintiff's claimed abuses. Addleman's filings consisted of civil rights complaints and habeas corpus petitions. The district court order requires Addleman to show "good cause" before he makes "any future requests . . . to proceed in forma pauperis." To the extent this order encompasses more than future attempts by Addleman to file civil rights cases or habeas corpus petitions, it is overly broad. See id at 618. Accordingly, we remand to the district court on this issue as well.
>
> We affirm the district court's dismissal of Addleman's 42 U.S.C. § 1983 action as frivolous. We vacate and remand the district court's order imposing special conditions on future filings by Addleman so that the district court can review the order under the guidelines set forth in O'Loughlin. See id. at 617-18.

111. ***Procup v. Strickland***, 792 F.2d 1069 at 1072 - 1074 (11th Cir. 1986):

> We took this case en banc to consider the propriety of an injunction restricting Robert Procup, a Florida prisoner, from filing any case with the district court unless submitted by an attorney admitted to practice before the court. *Procup v. Strickland*, 567 F. Supp. 146 (M.D.Fla. 1983), rev'd., 760 F.2d 1107 (11th Cir. 1985), vacated, 760 F.2d 1116 (11th

Cir. 1985). The proceedings that brought the issue before this Court are set forth fully in those opinions.*fn1 **We hold that the district court's injunction was overbroad**, but that the district court has authority to impose serious restrictions on Procup's bringing matters before the court without an attorney. In this Court's judgment, however, the requirement that Procup file suits only through an attorney may well foreclose him from filing any suits at all. In *Procup*, we struck down an injunction imposed by the district court that prevented a litigant from filing any case with the district court unless the complaint was submitted by an attorney. *Procup*, 792 F.2d at 1070. We determined that the injunction was overbroad, because it would effectively prevent Procup from filing "any suits at all," based on Procup's track record with filing frivolous suits and the fact that many attorneys in the legal services office had already been named as defendants in Procup's suits. Id.

112. ***Procup v. Strickland***, 760 F.2d 1107 (11th Cir. 05/20/1985):

We do not question this finding, as the district court provides ample documentation for the conclusion that Procup is excessively litigious. Id. at 148-56. Our concern, instead, is with the overbroad remedy employed by the district court. No analogous precedent from this or any other circuit has affirmed such a restrictive injunction. Its unlimited scope denies Procup adequate, effective, and meaningful access to the courts. Moreover, inherent in a judicial ruling which completely*fn3 forecloses an individual's pro se access to federal court is an ominous abandonment of judicial responsibility, the import of which far exceeds the actual abuse attributable even to the exceptional prisoner litigant. The efficient operation of our judicial system does not require the issuance of an unlimited restriction on this pro se litigant's access to the courts. Existing federal rules governing pro se and in forma pauperis appearances and local rules when properly designed to streamline pleadings and ferret out abuse should suffice. The magnitude of Procup's abuse does not justify creating a rule that permits the judicial officer charged with the responsibility of reviewing prisoner complaints on a case-by-case basis to refuse to consider these claims altogether. To the contrary, the magnitude of Procup's abuse serves to emphasize the degree to which the pro se litigant's right of access to our courts retains its constitutional significance.

we hold that the injunction issued by the district court is overbroad. The unlimited scope of the injunction is without precedent, and it denies Procup adequate, effective, and meaningful access to our judicial system.

Appellate decisions in this and other circuit courts have affirmed the issuance of injunctions against abusive litigants, but none of the injunctions challenged in these cases have swept so broadly as to deny pro se appearances entirely. Where principles of res judicata and collateral estoppel have proven inadequate to deter abuse, litigants have been enjoined from relitigating specific claims or filing repetitive appeals from a particular adverse ruling. E.g., *Harrelson v. United States*, 613 F.2d 114, 116 (5th Cir.1980); *In re Green*, 598 F.2d 1126, 1128 (8th Cir.1979); *Hill v. Estelle*, 543 F.2d 754 (5th Cir.1976), aff'g *Hill v. Estelle*, 423 F. Supp. 690 (S.D.Tex.1976). Similarly motivated injunctions have required litigants who have abused the judicial process to accompany all future

pleadings with affidavits certifying that the claims being raised are novel. E.g., *Green v. Warden*, 699 F.2d 364, 370 (7th Cir.), cert. denied, 461 U.S. 960, 103 S. Ct. 2436, 77 L. Ed. 2d 1321 (1983); *In re Green*, 215 U.S. App. D.C. 393, 669 F.2d 779, 787 (D.C.Cir. 1981). Litigants have also been directed to attach to future complaints a list of all cases previously filed involving the same, similar, or related cause of action[*fn5] and to send an extra copy of every pleading filed to the law clerk for the chief judge of the district. E.g., *Green v. White*, 616 F.2d 1054, 1056 (8th Cir.1980).

Injunctions of a different sort have prohibited the clerk of the court from filing an abusive litigant's pleadings without leave of court. E.g., *Green v. Warden*, supra, 699 F.2d at 370; *In re Oliver*, 682 F.2d 443, 446 (3d Cir.1982); In re Green, supra, 669 F.2d at 787; *Pavilonis v. King*, 626 F.2d 1075, 1079 (1st Cir.), cert. denied, 449 U.S. 829, 101 S. Ct. 96, 66 L. Ed. 2d 34 (1980); *Gordon v. United States Department of Justice*, 558 F.2d 618 (1st Cir.1977). The clerk has also been instructed not to file pleadings that do not comply strictly with the applicable rules of civil and appellate procedure. E.g., *Carter v. Pettigrew*, No. 84-8411, slip op. at 5 (11th Cir. Aug. 24, 1984) (unpublished) (order authorizing clerk of appellate court to inspect documents received from certain litigants for compliance with Fed.R.App.P. 3 and to refuse to file the documents if the judgment or order appealed from is not specified).

All of these injunctions, by exposing the litigants to the possibility of being held in contempt for non-compliance, have created an added incentive for not abusing the judicial process. Yet, none of these decisions have completely curtailed a prisoner's pro se access to the courts. At most, the injunctions have created rebuttable presumptions of repetition, frivolity, or maliciousness. In none of the decisions have future non-frivolous and non-malicious claims been preemptively and conclusively foreclosed, as they have been in this case.

Two other appellate decisions have affirmed injunctions that permit an abusive prisoner litigant to file in forma pauperis only claims alleging actual or threatened physical harm. E.g., *In re Green*, No. 81-1186 (5th Cir. Apr. 27, 1981) (Unit A) (published as appendix to the opinion in *Green v. Carlson*, 649 F.2d 285, 286 (5th Cir.) (Unit A), cert. denied, 454 U.S. 1087, 102 S. Ct. 646, 70 L. Ed. 2d 623 (1981)); *Green v. White*, supra, 616 F.2d at 1055. Imposing this type of injunction creates, in effect, a conclusive presumption that future in forma pauperis claims not involving actual or threatened physical harm are ipso facto duplicative, frivolous, or malicious. Apart from whether such an injunction should ever be employed,[*fn6] even its scope does not extend as far as the injunction issued in the instant case. Here, the question is not solely a matter of precluding access to a non-repetitive, non-frivolous, and non-malicious claim which does not allege actual or threatened physical harm. Rather, the question is whether access can be denied to any non-repetitive, non-frivolous, and non-malicious claim when filed pro se.

The Injunction Denies Procup Adequate, Effective, And Meaningful Access To The Courts.

In short, the competitive market for legal services and the available non-profit legal assistance will not invariably provide adequate, effective, and meaningful representation for Procup's non-frivolous and non-malicious claims. Should these avenues of representation prove fruitless, Procup's only remaining option would require the purchase of legal aid with personal funds that he apparently does not have. Ultimately, then, the injunction may impose financial restrictions that operate to preclude Procup from filing a new and legitimate complaint. It is true that costs are a factor in every litigant's decision to pursue a claim, but here the costs of access to our judicial system have been increased for a specific indigent litigant to levels that may completely foreclose his future access to the courts.

The use of an injunction against a pro se litigant "should be approached with particular caution." *Pavilonis v. King*, supra, 626 F.2d at 1079; *In re Oliver*, supra, 682 F.2d at 445; *Hill v. Estelle*, supra, 423 F. Supp. at 695. Here, the operation of economic incentives and the limited extent of available legal assistance resources indicate that, even if injunctive relief were appropriate, it should be structured to ensure the fullest possible scope to Procup's constitutional right of access to the courts. The district court's unlimited injunction against pro se appearances produces the opposite effect. By prohibiting any pro se appearances, the injunction impermissibly burdens Procup's constitutional right to adequate, effective, and meaningful access to the courts.
The Injunction Is Unwarranted.

Here, the district court's express purpose in issuing the injunction was to have someone other than the court review Procup's claims and cull out the non-frivolous and non-malicious complaints. *Procup v. Strickland*, supra, 567 F. Supp. at 161 n. 17. Although the order as phrased prohibits pro se filings and is silent regarding requests for in forma pauperis status, it nonetheless was designed to shift the responsibility of the case-by-case review process away from the district court. We hold that the court may not by way of an injunction avoid the responsibility Congress has placed upon it to consider each prisoner complaint when filed. Whether a pro se complaint brought in federal court is properly drawn and whether it states a legitimate claim are questions for the district court alone to determine. Cf. *Ex Parte Hull*, 312 U.S. 546, 549, 61 S. Ct. 640, 641, 85 L. Ed. 1034 (1941) (holding invalid a state prison regulation that required all pro se legal pleadings to be approved by a prison official and then a special investigator for the parole board before being sent to the designated court).

113. ***Procup v. Strickland***, 792 F.2d 1069 (11th Cir. 07/02/1986):

We took this case en banc to consider the propriety of an injunction restricting Robert Procup, a Florida prisoner, from filing any case with the district court unless submitted by an attorney admitted to practice before the court. *Procup v. Strickland*, 567 F. Supp. 146 (M.D.Fla. 1983), rev'd., 760 F.2d 1107 (11th Cir. 1985), vacated, 760 F.2d 1116 (11th Cir. 1985). The proceedings that brought the issue before this Court are set forth fully in those opinions.[*fn1] We hold that the district court's injunction was overbroad, but that the district court has authority to impose serious restrictions on Procup's bringing matters before the court without an attorney.

In this Court's judgment, however, the requirement that Procup file suits only through an attorney may well foreclose him from filing any suits at all. A private attorney, knowing Procup's track record, might well be unwilling to devote the time and effort necessary to sift through Procup's generally frivolous claims to see if there is one of sufficient merit to undertake legal representation. A legitimate claim could well go undiscovered.

With the premise that Procup would simply be unable to get any attorney to represent him, the injunction then effectively enjoins Procup from filing any suit. The district court neither intended this result nor indicated in any way that such an absolute injunction would be appropriate. An absolute bar against a prisoner filing any suit in federal court would be patently unconstitutional. We, therefore, vacate the injunction and remand for consideration of such modification as will, as much as possible, achieve the desired purposes without encroaching on Procup's constitutional right to court access.

There should be little doubt that the district court has the jurisdiction to protect itself against the abuses that litigants like Procup visit upon it. **Federal courts have both the inherent power and the constitutional obligation to protect their jurisdiction from conduct which impairs their ability to carry out Article III functions**. *In re Martin-Trigona*, 737 F.2d 1254, 1261-62 (2d Cir. 1984), cert. denied, 474 U.S. 1061, 106 S. Ct. 807, 88 L. Ed. 2d 782 (1986).*fn10 The fact that Procup's complaint in this case may have failed to state a justiciable federal claim is of no impact on the court's power to enter injunctive relief against such a recalcitrant litigant. The court has a responsibility to prevent single litigants from unnecessarily encroaching on the judicial machinery needed by others. Were a frivolous lawsuit a bar to the court's inherent jurisdiction, the court would be powerless to act upon even a flood of frivolous lawsuits which threatened to bring judicial business to a standstill.

We do not here design the kind of injunction that would be appropriate in this case. Considerable discretion necessarily is reposed in the district court. Procup can be severely restricted as to what he may file and how he must behave in his applications for judicial relief. He just cannot be completely foreclosed from any access to the court. The injunction is vacated and the case is remanded for the district court to consider an appropriate substitute order.

114. ***Watkins v. Dubreuil***, 19-15131 (11th Cir. 07/17/2020):

We review for abuse of discretion the district court's decision to impose a filing injunction. *Miller v. Donald*, 541 F.3d 1091, 1096 (11th Cir. 2008). Likewise, we review for abuse of discretion the denial of an evidentiary hearing. *Menchise v. Akerman Senterfitt*, 532 F.3d 1146, 1149 (11th Cir. 2008). An abuse of discretion occurs if the court bases its decision on findings of fact that are clearly erroneous or "commits a clear error of judgment." *Gray ex rel. Alexander v. Bostic*, 613 F.3d 1035, 1039 (11th Cir. 2010).

"**Federal courts have both the inherent power and the constitutional obligation to protect their jurisdiction from conduct which impairs their ability to carry out Article III functions**." *Procup v. Strickland*, 792 F.2d 1069, 1073 (11th Cir 1986). In particular, "[t]he court has a responsibility to prevent single litigants from unnecessarily encroaching on the judicial machinery needed by others." *Id.* at 1074. To that end, the court may severely restrict a litigant's filings, but it cannot completely foreclose a litigant from any access to the courts. *Id.*

The district judge did not abuse his discretion by imposing sanctions. As the judge found, much of Watkins's prior litigation has been without merit. Of the thirty-six cases filed in the Southern District, twenty-two were dismissed for failure to state a claim[3] or as frivolous.[4] While a few have reached summary judgment[5] or trial, [6] Watkins has not prevailed in any of these cases.[7] Moreover, with one exception, where we vacated and remanded for further proceedings, [8] his appeals from these cases-roughly thirty-five in total-have fared no better. Six appeals were dismissed for want of prosecution (two such dismissals came after IFP was denied because the appeal was frivolous)[9], seven were dismissed for lack of jurisdiction[10], and sixteen resulted in affirmance of the judgment.[11] So despite prior courts' rare invocation of "frivolity," we agree with the district judge's assessment that Watkins has not only been hyperlitigious but his lawsuits have been largely, though not entirely, meritless.

we conclude that the district judge did not commit a clear error of judgment in finding that Watkins had a history of filing meritless and vexatious lawsuits that warranted the imposition of sanctions.

The court entered an order enjoining Watkins from filing any new lawsuits in the Southern District of Florida without prior court approval. Watkins would be required to file a motion for leave to file, attaching a copy of his proposed lawsuit and a reference to the sanctions order, at which point the court would review the lawsuit and decide whether it should be accepted by the clerk and filed. Unaccepted cases would be kept by the clerk for possible review on appeal. If Watkins failed to submit a motion for leave to file, "the Clerk of Court would be directed to close the case upon filing," and the defendants would not be required to make any response.

We have upheld injunctions with pre-filing screening restrictions on vexatious plaintiffs. *Martin-Trigona v. Shaw*, 986 F.2d 1384, 1387 (11th Cir. 1993); *Cofield*, 936 F.2d at 518. In *Martin-Trigona*, for example, we upheld as reasonable a broad filing injunction that prohibited the plaintiff "from filing or attempting to initiate any new lawsuit in any federal court in the United States . . . without first obtaining leave of that federal court." 986 F.3d at 1387. Likewise, in *Cofield*, we upheld an injunction requiring the plaintiff "to send all pleadings to a judge for prefiling approval" because the plaintiff would still be able to have colorable claims filed in federal court. 936 F.2d at 518. The pre-approval filing injunction in this case is comparable to the filing injunctions in both *Martin-Trigona* and *Cofield*. Like the injunctions in those cases, the injunction here does not completely foreclose Watkins's access to the courts, *see Procup*, 792 F.2d at 1073, so long as the court merely "screen[s] out the frivolous and malicious claims and

allow[s] the arguable claims to go forward." *Cofield*, 936 F.2d at 518. Watkins will be in a position not significantly "different from other in forma pauperis litigants." *Id.* "Should [Watkins] have a colorable claim he will be able to file his claim in federal court." *Id.* With this understanding, we conclude that the district court imposed a reasonable injunction that does not impermissibly foreclose Watkins's access to federal court. *See Procup*, 792 F.2d at 1074.

Finally, the district court did not abuse its discretion by refusing to hold an evidentiary hearing before imposing sanctions. Watkins was given notice and an opportunity to contest the court's rationale for imposing sanctions, and the decision did not depend on the resolution of material factual disputes or credibility determinations. *See McDonald's Corp. v. Robertson*, 147 F.3d 1301, 1312-13 (11th Cir. 1998) (explaining when evidentiary hearings are appropriate). The decision was based primarily on prior court records, which are not reasonably subject to dispute and which are available for our review. And Watkins primarily challenges the inferences the court drew from those records. *See, e.g.*, Br. of Appellant at 43 (indicating that his request was for a hearing "for *the court* to produce evidence to support its claims" (emphasis added)). Moreover, the court indicated that its decision would remain the same "even if all of Watkins' objections were valid," which suggests that any factual disputes were not material. In these circumstances, no evidentiary hearing was required before sanctions were imposed.

115. ***Cobble v. U.S. Government***, 19-10573, 19-10577, 19-10578, 19-10583, 19-10585, 19-10586, 19-10587, 19-10589, 19-10590 (11th Cir. 05/29/2020):

Prisoners have a constitutional right to access to the courts. *Bounds v. Smith*, 430 U.S. 817, 821, 97 S.Ct. 1491, 1494 (1977), *abrogated on other grounds by Lewis v. Casey*, 518 U.S. 343, 116 S.Ct. 2174 (1996). That right, however, "is neither absolute nor unconditional," and the right "may be counterbalanced by the traditional right of courts to manage their dockets and limit abusive filings." *Cofield*, 936 F.2d at 517 (quotation marks omitted). While courts may take creative action to discourage hyperactive litigators, they "cannot construct blanket orders that completely close the courthouse doors to those who are extremely litigious." *Id.* at 517.

For example, this court has upheld injunctions (1) requiring prefiling screening of claims, (2) requiring that the litigant obtain leave of the court before filing new actions against his former employer, and (3) directing the clerk to mark any papers submitted by a litigant as received and not to file them unless a judge approved them for filing. *Riccard*, 307 F.3d at 1295; *Cofield*, 936 F.2d at 518; *Copeland v. Green*, 949 F.2d 390, 391 (11th Cir. 1991). Conversely, **we have struck down injunctions** (1) prospectively denying IFP status for all claims, (2) barring the plaintiff from filing future lawsuits unless done through counsel, and (3) **applying to filings unrelated to the areas where the litigant had demonstrated a history of abusive litigation**. *Miller v. Donald*, 541 F.3d 1091, 1098 (11th Cir. 2008); *Cofield*, 936 F.2d at 518; *Procup v. Strickland*, 792 F.2d 1069, 1071, 1074 (11th Cir. 1986) (*en banc*). This case is akin to the cases in which we have upheld injunctions against litigants.

Although the district court's anti-filing injunction on Cobble's future filings is arguably overbroad, Cobble fails to demonstrate how it effects his substantial rights because the sanction does not completely close the courthouse doors to him. We note that the district court is very familiar with Cobble's history of frivolous and vexatious filings. The district court outlined the process by which Cobble's future filings will be considered. "[T]he clerk shall receive the papers that [Cobble] submits, open a miscellaneous case number, and forward the documents to the presiding District Judge to determine whether [Cobble] qualifies as indigent and whether he has stated a claim with any arguable merit. Upon receipt, the Court will read and consider [Cobble's] filings. Only if a given pleading alleges a plausible claim for relief will the Court allow it to be filed." (R. Doc. 54 at 6.) Because Cobble is not foreclosed entirely from filing future actions, and he is able to make proper application for a writ of habeas corpus and file defensive pleadings in criminal cases without any sanction or qualification, Cobble cannot show a deleterious effect on his substantial rights. Therefore, we discern no abuse by the district court in this regard.

Based on the foregoing, we affirm the district court's order dismissing with prejudice Cobble's actions filed pursuant to 28 U.S.C. §§ 2241, 2254, and 42 U.S.C. § 1983, as a sanction, and the district court's imposition of a **two-year anti-filing injunction** on future civil actions.

116. ***Annamalai v. Warden***, 18-10548 (11th Cir. 01/17/2019):

The district court also restricted how the Clerk was to handle papers received from Annamalai: "The Clerk is directed to file any papers received from the Petitioner. However, no papers are to be docketed as motions requiring action by the Court unless the Clerk receives my express consent."[3]

Lastly, Annamalai argues that the district court violated his due process rights by failing to notify him before ordering the clerk not to docket his filings as motions without the court's approval.[11]

Courts have the inherent power and the constitutional obligation to protect their jurisdiction from abusive litigation. *Procup v. Strickland*, 792 F.2d 1069, 1073-74 (11th Cir. 1986). Provided that the restrictions do not completely foreclose access to the courts, district courts have considerable discretion to impose even severe restrictions on what such individuals may file and how they must behave. *Id.* at 1074. District courts also have authority to control and manage their dockets. *Smith v. Psychiatric Sols., Inc.*, 750 F.3d 1253, 1262 (11th Cir. 2014).

Here, the district court did not abuse its discretion in imposing the restrictions as part of its authority to manage its docket. *See Smith*, 750 F.3d at 1262. As noted above, Annamalai has a history of frequent and abusive litigation. *See Procup*, 792 F.2d at 1073-74. Moreover, the district court did not completely foreclose Annamalai's access to the courts, as the order did not prohibit him from filing documents with the court. *See id.* at

1074. Rather, the district court's order directed the clerk to accept his filings and instructed how those filings were to be docketed. Also, the order did not prevent Annamalai's filings from being considered by the court. Instead, the district court screened his filings to determine whether any were motions that required action. Accordingly, the district court did not abuse its discretion in imposing the restrictions in Annamalai's § 2241 proceeding.

117. ***Bilal v. Fennick***, 17-12062 (11th Cir. 10/25/2018):

"Federal courts have both the inherent power and the constitutional obligation to protect their jurisdiction from conduct which impairs their ability to carry out Article III functions[,]" including a litigant's abuse of the judicial process. *Procup v. Strickland*, 792 F.2d 1069, 1073 (11th Cir. 1986) (*en banc*). Great deference is generally due the "the interpretation placed on the terms of an injunctive order by the court who issued and must enforce it." *Williams v. City of Dothan, Ala.*, 818 F.2d 755, 760 (11th Cir. 1987) (quotation marks omitted). But the interpretation of an injunction must be "reasonable," and the injunction "may not be expanded beyond the meaning of its terms absent notice and an opportunity to be heard." *Riccard v. Prudential Ins. Co.*, 307 F.3d 1277, 1296 (11th Cir. 2002).

Here, the district court denied Bilal's IFP motion on an erroneous ground. The court relied solely on the 1999 filing injunction, concluding that Bilal could not proceed IFP because he did not allege imminent danger of physical injury. But the filing injunction, by its terms, applied to only "new civil actions in the United States District Court for the Northern District of Florida." It did not purport to place any conditions or restrictions on new civil actions in other courts, including the Middle District of Florida, where Bilal filed this action. So the filing injunction cannot reasonably be interpreted to apply to Bilal's current action. *Cf. id.* at 1297 (concluding that language in an injunction prohibiting a litigant from filing in "state court, federal court or any other forum" was broad enough to be construed as prohibiting the litigant from filing complaints with federal and state administrative and executive agencies and departments). And the injunction cannot be "expanded beyond the meaning of its terms absent notice and an opportunity to be heard," which were not provided here. *Id.* at 1296.

118. ***Higdon v. Fulton County, Georgia***, USA, 17-11154 (11th Cir. 08/14/2018):

In the order on appeal, the district court denied Plaintiff's motion for leave to file a motion to amend the judgment to correct either clerical mistakes or mistakes arising from oversight or omission. Plaintiff was required to seek leave to file his substantive motion because the district court previously entered an order directing him not to file any additional motions or documents in the case unless he first obtained leave of court to do so. The district court imposed that requirement because Plaintiff had previously filed at least five post-judgment motions raising the same or similar arguments as to why he should be permitted to bring his claims in a new complaint. The district court specifically invoked "the interests of judicial economy and the preservation of judicial resources."

We review for abuse of discretion the district court's decision to enforce its earlier filing restriction by denying Plaintiff leave to file yet another post-judgment motion. *See, e.g.*, *Procup v. Strickland*, 792 F.2d 1069, 1074 (11th Cir. 1986) (*en banc*) (recognizing that federal courts "have both the inherent power and the constitutional obligation **to protect their jurisdiction** from conduct which impairs their ability to carry out Article III functions" and that "[c]onsiderable discretion necessarily is reposed in the district court" when it fashions a filing restriction).

The district court did not abuse its discretion in denying Plaintiff leave to file his proposed motion to amend the judgment. The arguments that Plaintiff sought to raise in his motion to amend are the same or similar to arguments that he has previously raised numerous times in these proceedings.

119. ***Rease v. AT&T Corp.***, 17-11665 (11th Cir. 02/14/2018):

We review for abuse of discretion the district court's decision to enforce its earlier filing restriction by denying Plaintiff leave to file yet another post-judgment motion. *See, e.g.*, *Procup v. Strickland*, 792 F.2d 1069, 1074 (11th Cir. 1986) (*en banc*) (recognizing that federal courts "have both the inherent power and the constitutional obligation to protect their jurisdiction from conduct which impairs their ability to carry out Article III functions" and that "[c]onsiderable discretion necessarily is reposed in the district court" when it fashions a filing restriction).

The district court did not abuse its discretion in denying Plaintiff leave to file his proposed motion to amend the judgment. The arguments that Plaintiff sought to raise in his motion to amend are the same or similar to arguments that he has previously raised numerous times in these proceedings. The district court has consistently rejected those arguments, and we have dismissed Plaintiff's three most recent appeals as frivolous. Under these circumstances, the district court did not abuse its discretion in denying Plaintiff leave to file yet another motion arguing that the dismissal of his four remaining claims with prejudice after the district court granted his motion to have the matter placed back on the trial docket was the result of a clerical error or mistakes arising from oversight or omission.

120. ***Klayman v. Deluca***, 16-13725 (11th Cir. 10/24/2017):

The court also enjoined Klayman. Citing his history of "vexatious conduct, " including the earlier cases against the Baker Defendants, the court enjoined Klayman from filing *pro se* actions against Baker & Hostetler or any of its attorneys in any court for claims arising out of the Ohio custody case. However, the court declined to require judicial prescreening of any suit filed by Klayman, instead imposing a requirement that he be represented by counsel in any future case.

"Federal courts have both the inherent power and the constitutional obligation to protect their jurisdiction from conduct which impairs their ability to carry out Article III functions." *Procup v. Strickland*, 792 F.2d 1069, 1073 (11th Cir. 1986) (en banc) (per

curiam). The All Writs Act is a codification of this inherent power and provides that **"[t]he Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions** and agreeable to the usages and principles of law." *Klay*, 376 F.3d at 1099; *see also* 28 U.S.C. § 1651(a). It allows courts "to safeguard not only ongoing proceedings, but potential future proceedings, as well as already-issued orders and judgments." *Klay*, 376 F.3d at 1099 (footnotes omitted). This includes the power "to enjoin litigants who are abusing the court system by harassing their opponents." *Harrelson v. United States*, 613 F.2d 114, 116 (5th Cir. 1980) (per curiam).[6] The court retains this power to sanction a party for abuse of the judicial process even when a case has been dismissed for lack of jurisdiction. *See Procup*, 792 F.2d at 1073-74 ("The fact that Procup's complaint in this case may have failed to state a justiciable federal claim is of no impact on the court's power to enter injunctive relief against such a recalcitrant litigant. . . . Were a frivolous lawsuit a bar to the court's inherent jurisdiction, the court would be powerless to act upon even a flood of frivolous lawsuits which threatened to bring judicial business to a standstill.").

Injunctions designed to protect against abusive and vexatious litigation cannot "completely foreclose[] . . . *any* access to the court." *Martin-Trigona v. Shaw*, 986 F.2d 1384, 1387 (11th Cir. 1993) (per curiam) (quotation omitted). When imposing injunctions for this purpose, **"courts must carefully observe the fine line between legitimate restraints and an impermissible restriction" on the right to access the courts**. *Procup*, 792 F.2d at 1072.

121. ***Patterson v. Sync***, 15-13209 (11th Cir. 04/05/2017): [Before Wilson, Jordan, and Jill Pryor.]

Here, the district court's injunction requiring Patterson to post a hefty bond before filing any future action against any bank, hospital, or governmental officer or entity amounts to a miscarriage of justice. A litigant's right of access to the courts is "unquestionably a right of considerable constitutional significance." *Miller v. Donald*, 541 F.3d 1091, 1096 (11th Cir. 2008). Courts may impose conditions on access, but they also must ensure that "indigent litigants are not completely prohibited from seeking judicial relief." *Id.* at 1096-97. The record here supports the conclusion that Patterson is indigent, with a monthly income of less than $800. Given his meager income, requiring a $10, 000 bond would have the effect of completely barring Patterson's access to federal court in cases against the federal and state governments or their officers, as well as hospitals and banks.

Our conclusion here is no repudiation of the district court's authority to manage its own docket. "In devising methods to attain the objective of curtailing the activity" of serial litigators, however, "courts must carefully observe the fine line between legitimate restraints and an impermissible restriction on [such an individual's] constitutional right of access to the courts." *Procup v. Strickland*, 792 F.2d 1069, 1072 (11th Cir. 1986) (en banc). We instruct the district court on remand that it may exercise its considerable discretion to take steps including any of the measures outlined in our *Procup*[3] opinion or

to impose any other restriction it deems appropriate, so long as such action also leaves Patterson with reasonable ability to access the federal courts.

We vacate the district court's injunction requiring Patterson to post a $10, 000 bond before filing future cases against certain persons or entities and remand the case for further proceedings consistent with this opinion.

122. ***Duwell v. Atlanta Medical Center***, 15-14510 (11th Cir. 05/10/2016):

Furthermore, the district court did not abuse its discretion in doing so here given that both plaintiffs had been forewarned. *See Moon v. Newsome*, 863 F.2d 835, 837 (11th Cir. 1989). In 2012, the District Court for the Northern District of Georgia entered the permanent injunction against Jones in a separate federal action in which both Jones and Duwell were co-plaintiffs. *See Duwell v. Home Bank*, No. 3:12-cv-00024-TCB (N.D. Ga. June 15, 2012) (unpublished). The injunction is clear that before filing any new civil action in any federal court, Jones, who has a history of vexatious litigation, and anyone "in active concert and participation with him" must first obtain the federal court's leave by submitting an "Application for Leave to File Pursuant to Court Order" that provides certain information, including a copy of the proposed complaint. Despite this notice, neither Jones nor Duwell submitted the required application before filing this new federal action in 2015.[3] Moreover, because Duwell was a party to the prior action with notice of the injunction, the district court did not abuse its discretion by dismissing the action as to both plaintiffs instead of dismissing only Jones

The district court's dismissal did not infringe Duwell and Jones' due process rights. *See Tazoe v. Airbus S.A.S.*, 631 F.3d 1321, 1336 (11th Cir. 2011). As a party to the previous action, Duwell was on notice that the injunction prohibited her from filing future federal actions in concert with Jones that violated the injunction's terms. The injunction gave further notice that dismissal of an action was a possible consequence of violating its terms.

Nor did the district court's dismissal infringe on their right to access to the courts. In order to protect court access for all litigants, the district courts may use injunctions to limit the ability of vexatious litigants such as Jones to access the courts as long as the injunction does not completely foreclose the litigant from any access to the courts. *Procup v. Strickland*, 792 F.2d 1069, 1074 (11th Cir. 1986) (en banc).

123. ***Brewer v. United States***, 13-15198 (11th Cir. 06/09/2015): [Before Hull, Rosenbaum, and Anderson.]

Kyle Michael Brewer, a federal prisoner, appeals the district court's entry, following our prior remand, of an amended anti-filing injunction upon denying his fourth Federal Rule of Civil Procedure 60(b) motion in his 28 U.S.C. § 2255 proceedings. That revised injunction provided that Brewer (1) could not appeal any judgment or bring any civil action *in forma pauperis* ("IFP") unless he was in imminent danger of serious physical

injury, (2) could not file further motions in his § 2255 case, (3) could not litigate any claim arising from the facts underlying that suit, and (4) needed to seek leave of court before filing pleadings. On appeal, Brewer argues that the district court abused its discretion in imposing the amended anti-filing injunction because its four terms were "inappropriately overbroad" and violated his constitutional right of access to the courts for matters unrelated to any abusive or repetitive filings he may have submitted in his § 2255 proceedings. He asserts that broad restrictions on his ability to file other pleadings IFP, without first demonstrating he is in imminent physical danger or obtaining leave of court, is not properly tailored and is unduly punitive.

We review an anti-filing injunction for abuse of discretion. *Miller v. Donald,* 541 F.3d 1091, 1095-96 (11th Cir. 2008). District courts have considerable discretion when designing an anti-filing injunction. *Procup v. Strickland,* 792 F.2d 1069, 1074 (11th Cir. 1986) (en banc). However, a court abuses its discretion when "it applies an incorrect legal standard, follows improper procedures in making the determination, or makes findings of fact that are clearly erroneous." *Sacred Heart Health Sys., Inc. v. Humana Military Healthcare Servs.*, Inc., 601 F.3d 1159, 1169 (11th Cir. 2010). A court may also abuse its discretion if it applies the law in an incorrect or unreasonable manner. *Id.* Further, "an abuse of discretion occurs if the district court imposes some harm, disadvantage, or restriction upon someone that is unnecessarily broad or does not result in any offsetting gain to anyone else or society at large." *Id.*

"[P]risoners have a constitutional right of access to the courts." *Bounds v. Smith,* 430 U.S. 817, 821, 97 S.Ct. 1491, 1494, 52 L.Ed.2d 72 (1977). That right, however, "is neither absolute nor unconditional." *Miller*, 541 F.3d at 1096. "Federal courts have both the inherent power and the constitutional obligation to protect their jurisdiction from conduct which impairs their ability to carry out Article III functions." *Procup*, 792 F.2d at 1073. "The court has a responsibility to prevent single litigants from unnecessarily encroaching on the judicial machinery needed by others." *Id.* at 1074. To counter this threat, courts are authorized to restrict access to vexatious and abusive litigants. *Miller*, 541 F.3d at 1096. While a court may severely restrict a litigant's filings, it cannot completely foreclose a litigant from any access to the courts. *Procup*, 792 F.2d at 1074. When devising methods to curtail the activity of particularly abusive prisoners, however, "courts must carefully observe the fine line between legitimate restraints and an impermissible restriction on a prisoner's constitutional right of access to the courts." *Id.* at 1072. An injunction is impermissible when it goes beyond what is sufficient to protect the court from a prisoner's repetitive filings and, considering its exceptions, fails to provide meaningful access to the courts. *See Miller*, 541 F.3d at 1098 (vacating an injunction that "[went] beyond what [was] sufficient to protect the . . . court's jurisdiction from [the prisoner's] repetitive filings related to the conditions of his confinement, and fail[ed] to uphold [the prisoner's] right of access to the courts, " and concluding that "[t]he . . . limited exceptions in the injunction, taken together, do not provide [the prisoner] with meaningful access.").

Among the reasonable measures that a court may employ to curtail repetitive and vexatious litigation are the following: (1) "enjoin[ing] prisoner litigants from relitigating

specific claims or claims arising from the same set of factual circumstances"; (2) "requir[ing] litigants to accompany all future pleadings with affidavits certifying that the claims being raised are novel, subject to contempt for false swearing"; (3) "direct[ing] the litigant to attach to future complaints a list of all cases previously filed involving the same, similar, or related cause of action, and to send an extra copy of each pleading filed to the law clerk of the chief judge of the district"; (4) "direct[ing] the litigant to seek leave of court before filing pleadings in any new or pending lawsuit"; and (5) "permitt[ing] abusive prisoner litigants to file *in forma pauperis* only claims alleging actual or threatened physical harm; and requiring payment of a filing fee to bring other claims." *Procup*, 792 F.2d at 1072. To the indigent, however, "a filing fee is a blunt instrument that cannot discriminate between valid and bogus claims, " and a blanket injunction prohibiting all IFP filings by a given person is overinclusive. *Miller*, 541 F.3d at 1096.

In *Procup*, we concluded that a prisoner engaged in "ridiculously extensive litigation" by filing 176 cases, most of which were *pro se* IFP civil rights actions brought under 42 U.S.C. § 1983. *Procup*, 792 F.2d at 1070. The district court enjoined the prisoner from filing any case with the court unless submitted by an attorney. *Id.* We held that the injunction was overbroad because the requirement that he file suits only through counsel could have foreclosed him from filing any suits at all, because private attorneys might be unwilling to sift through Procup's lengthy and generally frivolous claims to discern one that might have some merit. *Id.* at 1071.

In *Miller*, the district court enjoined a prisoner who had filed at least 30 cases against, for the most part, prison officials from "submitting further filings with the court, except in limited circumstances, without paying the unpaid filing fees he has accrued." *Miller*, 541 F.3d at 1094. The exceptions to this injunction were that the prisoner could file: "(1) papers in a criminal proceedings brought against him by the state, (2) a timely motion for reconsideration of the filing bar as applied, and (3) a pleading or paper demonstrating that he has been denied access to state court and has no recourse except to repair to the district court." *Id.* at 1095. We noted that there was no exception for a complaint alleging that the prisoner was in immediate danger of serious physical injury. *Id.* We concluded that this injunction was impermissibly overbroad because "a narrower injunction could target [the prisoner's] filings arising from the facts or transaction already raised and litigated in other cases." *Id.* at 1098.

In Cofield v. Alabama Public Service Commission, 936 F.2d 512, 513-14 (11th Cir. 1991), we considered an order requiring an "overly litigious" prisoner, who had brought 105 suits against various prison officials, as well as McDonald's, Burger King, and Coca-Cola, "to pay full filing fees and seek pre-filing approval of any complaints or papers." We held that requiring pre-filing screening of claims allowed for sufficient access to the courts, but, that, by prospectively denying IFP status for all claims, the court "could be prospectively shutting the courthouse door." *Id.* at 518.

Here, the district court abused its discretion in imposing the amended anti-filing injunction because the injunction, as crafted, was unnecessarily broad and went beyond

what was sufficient to protect the court from Brewer's repetitive filings related to his § 2255 proceedings. The injunction also functioned as an impermissible restriction on Brewer's constitutional right of access to the courts, for example, because it could prevent him from seeking future legitimate post-conviction relief or relief pursuant to a retroactive change to sentencing laws or guidelines.

"We do not here design the kind of inju[n]ction that would be appropriate in this case." *Procup*, 792 F.2d at 1074. As stated above, "[c]onsiderable discretion necessarily is reposed in the district court." *Id.* "The injunction is vacated and the case is remanded for the district court to consider an appropriate substitute order." *Id.*

124. ***Langermann v. Dubbin***, 14-15136 (11th Cir. 06/03/2015):

As a Rule 11 sanction, the district court imposed an injunction that barred Langermann from filing further pleadings against the Defendants unless he (1) notified the court of the order imposing the injunction; (2) gave the court an opportunity to pre-screen his proffered filing; and (3) obtained the court's leave to file the pleading based on a determination that the claims are neither frivolous nor barred by res judicata.

Rule 11 sanctions are warranted when a party files a pleading that (1) "has no reasonable factual basis"; (2) "is based on a legal theory that has no reasonable chance of success and cannot be advanced as a reasonable argument to change existing law"; or (3) "is filed in bad faith or for an improper purpose." *Worldwide Primates, Inc. v. McGreal*, 87 F.3d 1252, 1254 (11th Cir. 1996) (quotation omitted); *see also* Fed.R.Civ.P. 11(b), (c). Federal courts have the inherent power and a constitutional obligation to protect their jurisdiction from conduct that interferes with their functions. *Procup v. Strickland*, 792 F.2d 1069, 1073 (11th Cir. 1986) (en banc). Rule 11 sanctions should not go beyond what is necessary to deter the sanctioned conduct. Fed.R.Civ.P. 11(c)(4). "The only restriction this 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 v. Shaw*, 986 F.2d 1384, 1387 (11th Cir. 1993) (quotation omitted). We review Rule 11 sanctions only for abuse of discretion. *McGreal*, 87 F.3d at 1254.

125. ***De Souza v. JPMorgan Chase Home Lending Division***, 14-14861 (11th Cir. 04/24/2015):

Finally, De Souza challenges the district court's injunction ordering her to pay the full filing fee and post a $10, 000 cash bond if she files any future federal action relating to the attempted foreclosure of her home.

We have recognized that "[f]ederal courts have both the inherent power and the constitutional obligation to protect their jurisdiction from conduct which impairs their ability to carry out Article III functions." *Procup v. Strickland*, 792 F.2d 1069, 1073-74 (11th Cir. 1986) (*en banc*). District courts also have power under 28 U.S.C. § 1651(a) "to

enjoin litigants who are abusing the court system by harassing their opponents." *Harrelson v. United States*, 613 F.2d 114, 116 (5th Cir. 1980).[3] However, while severe restrictions may be imposed, litigants "cannot be completely foreclosed from *any* access to the court." *Procup*, 792 F.2d at 1074; *see Miller v. Donald*, 541 F.3d 1091, 1096-97 (11th Cir. 2008) (noting that financial restrictions on filing may be inappropriate where they would completely bar an indigent litigant's access to the courts).

Here, the district court's order is in the nature of an injunction issued to protect itself and others against abusive litigation, not a sanction under Rule 11, Fed. R. Civ. P., as De Souza suggests. *See Procup*, 792 F.2d at 1073-74; *Harrelson*, 613 F.2d at 116. We review the injunctive provisions for an abuse of discretion. *Miller*, 541 F.3d at 1096. A district court abuses its discretion if it "imposes some harm, disadvantage, or restriction upon someone that is unnecessarily broad or does not result in any offsetting gain to anyone else or society at large." *Klay v. United Healthgroup, Inc.*, 376 F.3d 1092, 1096 (11th Cir. 2004). We will also find an abuse of discretion if "neither the district court's decision nor the record provide sufficient explanation to enable meaningful appellate review." *See Cox Enters., Inc. v. News-Journal Corp.*, 510 F.3d 1350, 1360 (11th Cir. 2007) (concerning the refusal to award prejudgment interest).

We do not doubt that it was within the district court's discretion to impose some form of injunction against De Souza given the course of litigation, now spanning five years and four states, surrounding the foreclosure of De Souza's home. However, under the circumstances, we conclude that the district court abused its discretion in imposing the filing injunctions it did in this case.

First, the scope of the injunction sweeps more broadly than the facts or circumstances "already raised and litigated" in these cases. *Miller*, 541 F.3d at 1098; *cf. Traylor v. City of Atlanta*, 805 F.2d 1420, 1422 (11th Cir. 1986) (upholding injunction where it was clear that the district court intended only to prohibit party from "attempting to relitigate specific claims arising from the same set of factual circumstances that [had] been litigated and adjudicated in the past"). Rather, the court's order applies to "any future lawsuits . . . arising out of attempts to foreclose upon the property." Thus, the injunction could apply to facts or claims occurring after the district court's decision, which may not be barred by *res judicata*.

Second, the court offered no justification for its imposition of the specific injunctive provisions. In particular, the court did not explain its reasoning for, or make any factual findings in support of, the $10, 000 cash-bond requirement or how that requirement was tailored to De Souza and the specific facts of her history as a litigant in these cases.[4] Of course, the magistrate judge's report contains a thorough description of the four actions De Souza filed relating to the foreclosure of her home, and we view the district court's *sua sponte* injunctive order against that background. *See Cox Enters., Inc.*, 510 F.3d at 1360. It is also clear that the purpose of the bond requirement is to deter De Souza from filing another complaint related to the foreclosure. However, the record in this case alone is insufficient to allow this Court to meaningfully review the imposition of the cash-bond requirement or the specific amount set by the district court. *See id.*

Third, the court provided no notice of its intent to issue an injunction, nor was the issue discussed in the magistrate judge's report and recommendation. *See, e.g.*, *Brow v. Farrelly*, 994 F.2d 1027, 1038 (3d Cir. 1993) (providing that notice should be given to the litigant to show cause why injunctive relief should not issue); *cf.* Fed. R. Civ. P. 11(c)(1) (requiring notice and a reasonable opportunity to respond before sanctions may be imposed).

For these reasons, we vacate the injunctive provisions and remand this matter to the district court for further proceedings regarding whether and what form of injunctive relief should issue against De Souza.

126. ***Simmons v. Warden***, 14-10425 (11th Cir. 09/30/2014):

Injunctive restrictions on filings by abusive litigants are "necessary and prudent" in order to curb conduct that would impair the rights of other litigants and the courts' ability to carry out their Article III functions. *Procup v. Strickland*, 792 F.2d 1069, 1071, 1073 (11th Cir. 1986) (en banc) (per curiam). Therefore, district judges have considerable discretion to impose even severe restrictions on what such individuals may file and how they must behave, though the conditions must not have the effect of completely foreclosing access to the courts. *Id.* at 1074. Re-imposing filing fees on indigent litigants is one available restriction, although any injunction prohibiting IFP filings must be carefully tailored to minimize the exclusion of legitimate claims. *Miller v. Donald*, 541 F.3d 1091, 1096-97 (11th Cir. 2008) (discussing such restrictions in the non-habeas context).

The district judge's order directing the clerk not to not to accept *any* further filings from Simmons, absent our authorization, is too broad. *Procup*, 792 F.2d at 1074. The order requires Simmons to seek our permission to file any new pleadings in district court, even if Simmons is not statutorily required to seek our permission to invoke the district court's subject matter jurisdiction. Though the clerk likely understood the order to include only those pleadings brought under § 2255 and § 2241, we nevertheless remand with instructions for the district judge to limit the restriction on future filings to habeas petitions challenging Simmons's federal sentences for his underlying drug convictions.

127. ***Shell v. U.S. Dep't of Housing and Urban Development***, No. 09-12811 (11th Cir. 12/02/2009):

On April 27, 2009, the district court entered a Martin-Trigona injunction against Shell. It determined that Shell's numerous prior lawsuits based "on the singular issue of the termination of his Section 8 housing benefits" impaired "the Court's ability to efficiently carry out its functions." It noted that all of Shell's lawsuits had been filed in forma pauperis, and that none of the suits had led to a trial on the merits. The court specifically stated that it would not "curtail . . . Shell's overall access to the court" by "barr[ing him] from all litigation, nor even any litigation in regards to his Section 8 housing benefits." Instead, it barred Shell from filing any new lawsuits, actions, proceedings, or matters in

the Southern District of Florida in relation to his Section 8 housing benefits unless he was represented by an attorney.

128. ***Ajibola Taiwo Laosebikan v. the Coca-Cola Company***, No. 10-11312 (11th Cir. 02/24/2011):

> **"Federal courts have both the inherent power and the constitutional obligation to protect their jurisdiction from conduct which impairs their ability to carry out Article III functions."** *Procup v. Strickland*, 792 F.2d 1069, 1073 (11th Cir. 1986) (en banc) (per curiam). The All Writs Act allows courts "to safeguard not only ongoing proceedings, but potential future proceedings, as well as already-issued orders and judgments." *Klay*, 376 F.3d at 1099 (quoting 28 U.S.C. § 1651(a))(footnotes and citation omitted). This includes the power to enjoin litigants who are abusing the court system by harassing their opponents. *Harrelson v. United States*, 613 F.2d 114, 116 (5th Cir. 1980). A vexatious litigant does not have a First Amendment right to abuse the judicial processes with "baseless filings in order to harass someone to the point of distraction or capitulation." *Riccard*, 307 F.3d at 1298 (noting that requiring vexatious litigants to obtain leave of court before filing any further complaints does not violate the First Amendment (citing *Filipas v. Lemons*, 835 F.2d 1145, 1146 (6th Cir. 1987))).

129. ***In re USA***, No. 10-14535 (11th Cir. 10/28/2010):

> As we have explained, "[f]ederal courts have both the inherent power and the constitutional obligation to protect their jurisdiction from conduct which impairs their ability to carry out their Article III functions." *Martin-Trigona v. Shaw*, 986 F.2d 1384, 1386--87 (11th Cir. 1993) (quoting *Procup v. Strickland*, 792 F.2d 1069 (11th Cir. 1986) (en banc)). Thus, although compelling the Administrator to appear is extraordinary, it is in my view less so than the EPA's blatant unwillingness to abide by the court's commands.

130. ***Keira v. White***, No. 10-12000 (11th Cir. 10/14/2010):

> As we have recognized, federal courts have both the inherent power and the constitutional obligation to protect their jurisdiction from conduct which impairs their ability to carry out Article III functions, and have a responsibility to prevent single litigants from unnecessarily encroaching on the judicial machinery needed by others. *Procup v. Strickland*, 792 F.2d 1069, 1073 (11th Cir. 1986) (en banc). Additionally, a district court has the discretion to dismiss a complaint with prejudice as a sanction for a plaintiff's failure to comply with previously-ordered restrictions on filing lawsuits. *MartinTrigona v. Shaw*, 986 F.2d 1384, 1387 (11th Cir. 1993).

131. ***Maid of the Mist Corp. v. Alcatraz Media, LLC***, No. 10-10139 (11th Cir. 07/23/2010):

"Federal courts have both the inherent power and the constitutional obligation to protect their jurisdiction from conduct which impairs their ability to carry out Article III functions." *Procup v. Strickland*, 792 F.2d 1069, 1073 (11th Cir. 1986) (en banc). The All Writs Act is a codification of this inherent power and provides that "[t]he Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." *Klay*, 376 F.3d at 1099 (quoting 28 U.S.C. § 1651(a)). The Act allows courts "to safeguard not only ongoing proceedings, but potential future proceedings, as well as already-issued orders and judgments." Id. (footnotes omitted). This includes the power to enjoin litigants who are abusing the court system by harassing their opponents. *Harrelson v. United States*, 613 F.2d 114, 116 (5th Cir. 1980). A "court has a responsibility to prevent single litigants from unnecessarily encroaching on the judicial machinery needed by others," and a litigant "can be severely restricted as to what he may file and how he must behave in his applications for judicial relief." *Procup*, 792 at 1074. "[A litigant] just cannot be completely foreclosed from any access to the court." Id. A party seeking to obtain an All Writs Act injunction "must simply point to some ongoing proceeding, or some past order or judgment, the integrity of which is being threatened by someone else's action or behavior." *Klay*, 376 F.3d at 1100.

132. ***Smith v. United States***, No. 09-14173 (11th Cir. 07/09/2010):

We are guided instead by *Procup v. Strickland*, 792 F.2d 1069 (11th Cir. 1986) (en banc), a case in which the Eleventh Circuit considered a similar prospective injunction entered by a district court to restrict future filings from an overly litigious inmate. **Sitting en banc, this Court held that the inmate had standing to seek review of the injunction because he was "clearly affected" by the injunction and "might possibly be reached by contempt if he sought to file pleadings in violation thereof."** Id. at 1070 n.1. Smith is similarly affected by the district court's order in this case and may be subject to contempt if he files any motions in violation of the order. In light of *Procup*, Smith has standing to challenge the injunction.

Neither do we agree with the government's contention that this appeal should be dismissed due to Smith's delay in filing his motion for reconsideration. Although Smith did not specifically identify the legal basis for his motion, he alleged that he was given no warning before the district court entered its injunction. Numerous persuasive authorities support the idea that due process requires notice and a hearing before a court sua sponte enjoins a party from filing further papers in support of a frivolous claim. See *MLE Realty Assocs. v. Handler*, 192 F.3d 259, 261 (2d Cir. 1999) ("Even when such a sua sponte injunction is proper, however, and even when the district court's action is understandable in light of the vexatiousness of the litigation, such an injunction may not issue without notice to the party enjoined and an opportunity for that party to be heard."); *Brow v. Farrelly*, 994 F.2d 1027, 1038 (3d Cir. 1993) ("**If the circumstances warrant the imposition of an injunction, the District Court must give notice to the litigant to show cause why the proposed injunctive relief should not issue. This ensures that the litigant is provided with the opportunity to oppose the court's order before it is instituted.**" (citations omitted)); *De Long v. Hennessey*, 912 F.2d 1144, 1147 (9th Cir.

1990) (finding due process violation where plaintiff "was not provided with an opportunity to oppose the order before it was entered"); *In re Powell*, 851 F.2d 427, 431 (D.C. Cir. 1988) ("If a pro se litigant is to be deprived of such a vital constitutional right as access to the courts, he should, at least, be provided with an opportunity to oppose the entry of an order restricting him before it is entered."); see also *United States v. Powerstein*, 185 F. App'x 811, 813 (11th Cir. 2006) ("[A]ppellant was entitled to notice and an opportunity to be heard before the court imposed the injunctive order complained of.").

133. ***Miller v. Donald***, 541 F.3d 1091 (11th Cir. 08/29/2008):

Tracy Anthony Miller is an inmate in the Georgia prison system. He is a frequent litigant, as plaintiff, in the federal courts in Georgia. Since 1992, proceeding pro se and in forma pauperis, he has filed at least thirty cases in district court and has taken nearly as many appeals to this court. Filing restriction must, however, be narrowly tailored to the type of abuse. The injunction in this case likewise goes beyond what is sufficient to protect the district court's jurisdiction from Miller's repetitive filings related to the conditions of his confinement, and fails to uphold Miller's right of access to the courts. The three limited exceptions in the injunction, taken together, do not provide Miller with meaningful access. The first exception permits Miller to file only responsive papers in criminal cases brought against him. The second exception applies only to a "timely filed reconsideration motion," and obviously Miller may have a valid claim that arises after the ten-day period for moving the court to alter or amend a judgment has elapsed, see Fed. R. Civ. P. 59(e). The third exception, that Miller can file his complaint if he can demonstrate that he lacks access to the state courts, misses the point that the relevant right in question is access to the federal courts. the provision enjoining Miller's future filings is VACATED ; and the case is REMANDED for further proceedings.

134. ***United States v. Powerstein***, 185 Fed.Appx. 811 (11th Cir. 06/19/2006): [Before Tjoflat, Anderson, and Birch]

Appellant was released from prison and completed his term of supervised release in November 2001. Thereafter, he resumed his effort to obtain collateral relief in the district court and in this court.*fn1 On July 21, 2005, the district court held a hearing in which it reviewed the history of appellant's case. The court told appellant that he had exhausted every claim that might have merit and that it intended to enter an order barring him from filing additional pleadings attacking his convictions and sentences. The court gave appellant thirty days to brief his objections to the proposed ban. Appellant filed a brief challenging the court's authority to enter the proposed order. After the Government responded, and appellant filed an omnibus motion in opposition, the court entered an order barring appellant "from filing any other pleading or documents of any kind in this case, subject to the pains and penalties of contempt of court, unless this Court is ordered by the Eleventh Circuit . . . or the Supreme Court . . . to accept the filing." Appellant appeals that order.

Procedural due process requires notice and an opportunity to be heard before any governmental deprivation of a property or liberty interest. *Zipperer v. City of Fort Myers*, 41 F.3d 619, 623 (11th Cir. 1995). Meaningful access to the courts is a right of constitutional significance. See *Christopher v. Harbury*, 536 U.S. 403, 415 & n.12, 122 S.Ct. 2179, 2187 & n.12, 153 L.Ed.2d 413 (2002). Thus, appellant was entitled to notice and an opportunity to be heard before the court imposed the injunctive order complained of.

Courts, however, have the jurisdiction to protect themselves against abusive litigants. *Procup v. Strickland*, 792 F.2d 1069, 1073 (11th Cir. 1986) (en banc). "Federal courts have both the inherent power and the constitutional obligation to protect their jurisdiction from conduct which impairs their ability to carry out Article III functions. . . . The court has a responsibility to prevent single litigants from unnecessarily encroaching on the judicial machinery needed by others." Id. at 1073-74 (citation omitted). A litigant "can be severely restricted as to what he may file and how he must behave in his applications for judicial relief. He just cannot be completely foreclosed from any access to the court." Id. at 1074.

The district court did not abuse its discretion in entering the injunctive order before us. First, **to satisfy due process requirements, the court provided appellant with adequate notice and an opportunity to respond**. ... Further, the injunction's requirements are **within the scope of authority given to district courts**. This injunction **does not cut off access to the courts**; appellant **has the right to file pleadings in other cases**, and may also file additional pleadings in this case if he permitted by this court or the Supreme Court. Given that he completed his sentences almost five years ago, and has filed more than forty pleadings and fifteen appeals since then, he has already had the opportunity fully to litigate the validity of his convictions and sentences. Finally, as he is no longer being punished for the crimes to which he was adjudged guilty, the claims he raises are moot for there is nothing a court could do to provide relief.

135. ***United States v. Flint***, 178 Fed.Appx. 964 (11th Cir. 05/01/2006): [Before Birch, Dubina, and Hull]

"We review the district court's grant of injunctive relief for abuse of discretion, [and] must affirm unless we determine that the district court has made a clear error of judgment or has applied an incorrect legal standard. *SunAmerica Corp. v. Sun Life Assurance Co. of Canada*, 77 F.3d 1325, 1333 (11th Cir. 1996) (citations and internal quotations omitted). Meaningful access to the courts is a constitutional right. Procup v. Strickland, 792 F.2d 1069, 1072 (11th Cir. 1986) (per curiam) (en banc). Courts, however, have the jurisdiction to protect themselves against abusive litigants. Id. at 1073.

"**Federal courts have both the inherent power and the constitutional obligation to protect their jurisdiction from conduct which impairs their ability to carry out Article III functions**. . . . The court has a responsibility to prevent single litigants from unnecessarily encroaching on the judicial machinery needed by others." Id. at 1073-74

(citation omitted). A litigant "can be severely restricted as to what he may file and how he must behave in his applications for judicial relief. He just cannot be completely foreclosed from any access to the court." Id. at 1074. We have upheld lesser injunctive restrictions on frequent litigants, including pre-screening restrictions, *Copeland v. Green*, 949 F.2d 390, 391 (11th Cir. 1991) (per curiam), and restrictions of access to the United States Marshals for service of process, *Traylor v. City of Atlanta*, 805 F.2d 1420, 1421-21 (11th Cir. 1986) (per curiam).

We note that the district court was justified in restricting Flint's ability to file considering the number and often repetitive nature of his past filings in this case. **The district's injunction, however, is overbroad under *Procup***. In *Procup*, we held that a district court order restricting a prisoner from filing any case with the district court unless submitted by an attorney admitted to practice before the court was overbroad and denied the prisoner's constitutional right of access to the courts. *Procup*, 792 F.2d at 1070-71. The district court's order is arguably narrower here because it stated that the district court declined "to review any further motions or other pleadings filed by [Flint] in the instant criminal action" and ordered the clerk not to enter "any further pro se pleadings submitted by [Flint]." R10-512 at 4. Because Flint has not indicated that he wishes to file any pleadings outside of this action, the prohibition on any further pleadings in this case could deny Flint meaningful access to the courts. We, therefore, vacate this part of the order and remand for the district court to impose a lesser restriction on Flint's ability to file future pleadings in this action that will protect the court from abusive filings but **refrain from improperly infringing on Flint's right of access to the courts**.

See *Procup*, 792 F.2d at 1072-73 (discussing various restrictions imposed by courts on frequent litigants and listing cases).

136. ***Klay v. United Healthgroup, Inc.***, No. 02-1664) (11th Cir. 06/30/2004): [Before Tjoflat, Birch, and Goodwin]

a litigant cannot be 'completely foreclosed from any access to the court.

The final type of injunction is an injunction under 28 U.S.C. § 1651(a), the All Writs Act, which states, "The Supreme Court and all courts established by Act of Congress **may issue all writs necessary or appropriate in aid of their respective jurisdictions** and agreeable to the usages and principles of law." The Act does not create any substantive federal jurisdiction. See *Brittingham v. Comm'r*, 451 F.2d 315, 317 (5th Cir. 1971) ("It is settled that . . . the All Writs Act, by itself, creates no jurisdiction in the district courts. It empowers them only to issue writs in aid of jurisdiction previously acquired on some other independent ground."). Instead, it is a codification of the federal courts' traditional, inherent power to protect the jurisdiction they already have, derived from some other source. See *Procup v. Strickland*, 792 F.2d 1069, 1074 (11th Cir. 1986) (en banc) ("**Federal courts have both the inherent power and the constitutional obligation to protect their jurisdiction from conduct which impairs their ability to carry out Article III functions**."). In allowing courts to protect their "respective jurisdictions," the

Act allows them to safeguard not only ongoing proceedings, but potential future proceedings, as well as already-issued orders and judgments. See *Wesch v. Folson*, 6 F.3d 1465, 1470 (11th Cir. 1993) ("In addition, courts hold that despite its express language referring to 'aid . . . of jurisdiction,' the All-Writs Act empowers federal courts to issue injunctions to protect or effectuate their judgments.").

A court may grant a writ under this act whenever it is "calculated in [the court's] sound judgment to achieve the ends of justice entrusted to it," and not only when it is "'necessary' in the sense that the court could not otherwise physically discharge its . . . duties." *Adams v. United States*, 317 U.S. 269, 273, 63 S. Ct. 236, 239, 87 L. Ed. 268 (1942). Such writs may be directed toward not only the immediate parties to a proceeding, but to "persons who, though not parties to the original action or engaged in wrongdoing, are in a position to frustrate the implementation of a court order or the proper administration of justice, and encompasses even those who have not taken any affirmative action to hinder justice." *United States v. New York Tel. Co.*, 434 U.S. 159, 174, 98 S. Ct. 364, 54 L. Ed. 2d 376 (1977). It should be noted, however, that "[t]he All Writs Act is a residual source of authority to issue writs that are not otherwise covered by statute. Where a statute specifically addresses the particular issue at hand, it is that authority, and not the All Writs Act, that is controlling." *Pennsylvania Bureau of Corr. v. United States Marshal Serv.*, 474 U.S. 34, 43, 106 S. Ct. 355, 361, 88 L. Ed. 2d 189 (1985); see also *Clinton v. Goldsmith*, 526 U.S. 529, 537, 119 S. Ct. 1538, 1543, 143 L. Ed. 2d 720 (1999) (holding that an injunction under the All Writs Act is an extraordinary remedy that "invests a court with a power that is essentially equitable and, as such, not generally available to provide alternatives to other, adequate remedies at law").

One of the main exceptions to the district court's otherwise broad power to protect its jurisdiction is that, in general, it may not enjoin state court proceedings to protect its ability to render judgment in ongoing in *fn15 personam proceedings. The simple fact that litigation involving the same issues *fn16 is occurring concurrently in another forum does not sufficiently threaten the court's jurisdiction as to warrant an injunction under this act.

In in personam actions, federal courts may not enjoin pending state proceedings over the same subject matter. In fact, even if there is a danger that the state court might decide first and thereby deprive the federal judiciary from resolving the matter because of res judicata, injunctions of state court actions still are not allowed. Erwin Chemerinsky, Federal Jurisdiction § 14.2, at 842-43 (4th ed. 2003); see *fn17 also *Atlantic C.L.R. Co. v. Brotherhood of Locomotive Engineers*, 398 U.S. 281, 295, 90 S. Ct. 1739, 1747, 26 L. Ed. 2d 234 (1970) (where "state and federal courts ha[ve] concurrent jurisdiction . . . neither [i]s free to prevent either party from simultaneously pursuing claims in both courts"); *Kelly*, 985 F.2d at 1069 (holding that the desire to "prevent[] the piecemeal litigation that occurs when parties simultaneously assert claims in several forums" is insufficient to warrant an injunction under the All Writs Act).

If the injunction in this case is to be upheld, it must be under the All Writs Act. Having set forth the general principles governing injunctions under the Act, we now turn to each of the two types of arbitrations the district court enjoined.

... the district court's injunction, in its entirety, is REVERSED.

137. ***Riccard v. Prudential Insurance Co.***, 307 F.3d 1277 (11th Cir. 09/24/2002):

Approving district court's order that enjoined plaintiff from filing suits against a particular defendant without first obtaining leave from court. After holding Riccard in contempt, on Prudential's motion the district court modified the injunction to prohibit Riccard and anyone acting on his behalf from "filing any action, complaint, claim for relief, suit, controversy, cause of action, grievance, writ, petition, accusation, charge or any similar instrument . . . against Prudential, its present, former or future agents, representatives, employees, directors, officers, attorneys, parents, assigns, predecessors or successors . . . , in any court, forum, tribunal, self-regulatory organization or agency (including law enforcement), whether judicial, quasi-judicial, administrative, federal, state or local, including Bar disciplinary and/or grievance committees . . .whether for pecuniary advantage or otherwise, without first obtaining leave of this Court....This lawsuit and the lawsuit captioned *Riccard v. The Prudential Insurance Co. of Am.*, Case No. 6:99-CV-1266-ORL-31KRS, and any appeals from those suits, are the only Actions exempted from this Order."

138. ***Martin-Trigona v. Shaw***, 986 F.2d 1384 (11th Cir. 03/26/1993):

Appellant's son, Anthony Martin-Trigona, is a notoriously vexatious and vindictive litigator who has long abused the American legal system. A brief summary of his career in the courts up through 1983 can be found in *In re Martin-Trigona*, 573 F. Supp. 1245 (D.Conn.1983), aff'd in part and remanded in part, 737 F.2d 1254 (2d Cir.1984), on remand, 592 F. Supp. 1566 (P. Conn. 1984), aff'd, 763 F.2d 140 (1985), cert. denied, 474 U.S. 1061, 106 S. Ct. 807, 88 L. Ed. 2d 782 (1986). Nine years ago Anthony Martin-Trigona had already filed at least 250 civil suits throughout the United States, with the actual number far exceeding that conservative count. 573 F. Supp. at 1268-69; 737 F.2d at 1259 n. 4. Anthony Martin-Trigona and his mother, the appellant in this case, have filed more than two dozen appeals in the Eleventh Circuit alone since 1983. The Clerk also reports that a search of some, but not all, of the files of the United States District Court for the Southern District of Florida reveals that in just the past five years the Martin-Trigonas have filed, or attempted to file, at least thirteen lawsuits in that district court alone. We have no way of knowing how many lawsuits they have filed in other district courts, other circuit courts, and state courts around the country since the tabulation in the Connecticut injunction case eight years ago. Anthony Martin-Trigona has sued literally hundreds, if not thousands, of attorneys, judges, their spouses, court officials, and other human beings.

139. ***Copeland v. Green***, 949 F.2d 390 (11th Cir. 12/27/1991):

David Walter Copeland is a repeat litigant. In March 1990, he filed eight complaints with the district court, and he sought to proceed in forma pauperis in each of these lawsuits. On March 27, 1990, the district court dismissed the eight lawsuits as frivolous and ordered that any future complaints submitted by Copeland not be filed unless approved by a judge of the court. This order was the subject of a previous appeal to this court, which was dismissed for want of prosecution. Following the March 27, 1990, order, Copeland continued to deluge the district court with complaints and other papers. The district court entered an order requiring Copeland to appear and show cause why he should not be sanctioned for this abuse of his access to the court. Following a hearing at which Copeland appeared on his own behalf, the district court entered an order that (1) enjoined Copeland from entering the Hugo L. Black Courthouse in Birmingham, Alabama, until further order of the court; (2) directed Copeland to deliver any paper that he wished to file with the clerk of the district court through the United States Mail, rather than in person to the courthouse; and (3) directed that any paper thus received from Copeland be marked by the clerk, "Received," and not marked "Filed," unless and until the paper was first submitted by the clerk to a judge of the court and approved by the judge for actual filing. It is this order that is the subject of this appeal. There is no doubt that the district court had the power to devise an injunction to protect itself against Copeland's abuses.*fn1 We hold, however, that the provisions barring Copeland from entering the federal courthouse in Birmingham and from delivering documents to the Clerk of Court are impermissibly restrictive of his right to access to that court. In all other respects, the district court's order complies with constitutional mandates.

140. ***Cofield v. Ala. Public Service Commission***, 936 F.2d 512 (11th Cir. 07/22/1991):

"an overly litigious fellow" named Sir Keenan Cofield, an inmate in the Alabama prison system. Id. at 513. Cofield's obviously frivolous suits targeted defendants from prison officials to Burger King, Coca-Cola, and AT&T. See id. The district court for the Northern District of Alabama sua sponte dismissed all of Cofield's pending suits and barred him from filing further claims IFP; the court also required Cofield to obtain leave of court before filing any papers even after paying a fee. Id. at 514. On appeal, we agreed with the district court's factual conclusion that Cofield filed his meritless complaints out of spite and vanity. See id. at 516-17. As to the propriety of the court's injunction against Cofield, we affirmed the provision that required Cofield to obtain leave of court before filing, but reversed the provision denying IFP status in all future cases, holding that "[o]ur precedent condemns" the "prospective shutting [of] the courthouse door." See id. at 518.

FLORIDA CASE LAW RECOGNIZES FILING RESTRICTIONS ONLY WITH ABUSIVE INMATES.

141. There have been five appellate decisions in the history of the state of Florida regarding "fling restrictions." None of them provide any legal justification for the wrongful attempt to dismiss this personal injury case.

142. ***Woodson v. State***, SC18-201 (Fla. 04/26/2018):

This Court has exercised its inherent authority to sanction litigants who abuse the judicial process and burden its limited resources with repeated requests for relief that are either frivolous or devoid of merit. *E.g.*, *Hastings v. State*, 79 So.3d 739, 742 (Fla. 2011); *Johnson v. Rundle*, 59 So.3d 1080, 1081 (Fla. 2011). Through his persistent filing of frivolous or meritless requests for relief, Woodson has abused the judicial process and burdened this Court's limited judicial resources. Woodson's response to this Court's order to show cause failed to offer any justification for his abuse or to express regret for his repeated misuse of this Court's resources. Woodson does not appreciate or respect the judicial process or this Court's limited judicial resources. *See Pettway v. McNeil*, 987 So.2d 20, 22 (Fla. 2008) (explaining that this Court has previously "exercised the inherent judicial authority to sanction an abusive litigant" and that "[o]ne justification for such a sanction lies in the protection of the rights of others to have the Court conduct timely reviews of their legitimate filings"). We are therefore convinced that, if not restrained, Woodson will continue to abuse the judicial process and burden this Court with frivolous and meritless filings pertaining to case numbers 131996CF0051580001XX and 3D98-430.

Accordingly, the Clerk of this Court is hereby directed to reject any future pleadings or other requests for relief submitted by Carlos L. Woodson that pertain to case numbers 131996CF0051580001XX and 3D98-430, unless such filings are signed by a member in good standing of The Florida Bar. **Under the sanction herein imposed, Woodson may only petition this Court about case numbers 131996CF0051580001XX and 3D98-430 when such filings are signed by a member in good standing of The Florida Bar whenever such counsel determines that the proceeding may have merit and can be filed in good faith.**

143. ***Fails v. Jones***, SC17-327 (Fla. 06/15/2017):

This Court has exercised its inherent authority to sanction litigants who abuse the judicial process and burden its limited resources with repeated requests for relief that are either frivolous or devoid of merit. *E.g.*, *Hastings v. State*, 79 So.3d 739, 742 (Fla. 2011); *Johnson v. Rundle*, 59 So.3d 1080');">59 So.3d 1080, 1081 (Fla. 2011). Through his persistent filing of frivolous or meritless requests for relief, Fails has abused the judicial process and burdened this Court's limited judicial resources.[4] Fails' response to this Court's order to show cause failed to offer any justification for his abuse or to express regret for his repeated misuse of this Court's resources. His seven filings in addition to his response further indicate that Fails does not appreciate or respect the judicial process or this Court's limited judicial resources. We are therefore convinced that if not restrained, Fails will continue to abuse the judicial process and burden this Court with frivolous and meritless filings pertaining to circuit court case number 172004CF003733XXXAXX.

Accordingly, the Clerk of this Court is hereby directed to reject any future pleadings or other requests for relief submitted by Anthony J. Fails that pertain to case number

172004CF003733XXXAXX, unless such filings are signed by a member in good standing of The Florida Bar. **Under the sanction herein imposed, Fails may petition this Court about his convictions or sentences in case number 172004CF003733XXXAXX only when such filings are signed by a member in good standing of The Florida Bar whenever such counsel determines that the proceeding may have merit and can be filed in good faith.**

144. ***Blaxton v. State***, 187 So.3d 216, 41 Fla.L.Weekly S 14 (Fla. 01/21/2016):

Based on his substantial filing history, it is likely that, if left unrestrained, Blaxton will continue to inundate this Court with frivolous or meritless requests for relief. We therefore deny Blaxton's motion and conclude that he has failed to show cause why sanctions should not be imposed against him for his repeated misuse of this Court's limited judicial resources. We further conclude that the petition filed by Otis D. Blaxton in this case is a frivolous proceeding brought before this Court by a state prisoner. *See* § 944.279(1), Fla. Stat. (2015).

Accordingly, the Clerk of this Court is hereby directed to reject any future pleadings or other requests for relief submitted by Otis D. Blaxton that pertain to case numbers 99-CF-22563, 04-CF-2760, 06-CF-5189, and 11-CF-572A, unless such filings are signed by a member in good standing of The Florida Bar. **Under the sanction herein imposed, Blaxton may only petition the Court about his convictions or sentences in case numbers 99-CF-22563, 04-CF-2760, 06-CF-5189, and 11-CF-572A through the assistance of counsel whenever such counsel determines that the proceeding may have merit and can be filed in good faith.**

145. ***Green v. State***, 190 So.3d 1026, 41 Fla.L.Weekly S 81 (Fla. 03/10/2016):

Green filed a response to the order to show cause in which he reasserted the same attacks on the legality of his convictions and sentences that he has previously presented to this Court in his other filings. At no point in his response does Green offer any justification for his use or express any remorse for his repeated misuse of the Court's limited judicial resources. Based on his substantial filing history, it is likely that, if left unrestrained, Green will continue to inundate this Court with frivolous or meritless requests for relief. We therefore conclude that Green has failed to show cause why sanctions should not be imposed against him for his repeated misuse of this Court's limited judicial resources. We further conclude that the petition filed by Tommy L. Green, Sr., in this case is a frivolous proceeding brought before this Court by a state prisoner. *See* § 944.279(1), Fla. Stat. (2015).

Accordingly, the Clerk of this Court is hereby directed to reject any future pleadings or other requests for relief submitted by Tommy L. Green, Sr., that pertain to case number 2011-CF-182, unless such filings are signed by a member in good standing of The Florida Bar. **Under the sanction herein imposed, Green may only petition the Court about his conviction or sentence in case number 2011-CF-182 through the assistance of counsel whenever such counsel determines that the proceeding may have merit**

and can be filed in good faith. Further, because we have found Green's petitions to be frivolous, we direct the Clerk of this Court, pursuant to section 944.279(1), Florida Statutes, to forward a certified copy of this opinion to the Florida Department of Corrections' institution or facility where Green is incarcerated.

146. ***Casey v. State***, SC15-761 (Fla. 10/29/2015):

This Court has exercised its inherent authority to sanction litigants who abuse the judicial process and burden its limited resources with repeated requests for relief that are either frivolous or devoid of merit. *E.g.*, *Hastings v. State*, 79 So.3d 739, 742 (Fla. 2011); *Johnson v. Rundle*, 59 So.3d 1080, 1081 (Fla. 2011). Through his persistent filing of frivolous or meritless requests for relief, Casey has abused the judicial process and burdened this Court's limited judicial resources.[3]His filings clearly indicate that he lacks any understanding of the appellate process and that he is unwilling to gain an understanding of it. Casey did not timely respond to the order to show cause and, in so doing, has failed to offer any justification for his use or to express regret for his repeated misuse of this Court's resources. We are therefore convinced that if not restrained, Casey will continue to abuse the judicial process and burden this Court with frivolous and meritless filings pertaining to circuit court case numbers 10-CF-17674, 10-CF-19724, 10-CF-19726, and 10-CF-19945.

Accordingly, the Clerk of this Court is hereby directed to reject any future pleadings or other requests for relief submitted by Brian M. Casey that pertain to case numbers 10-CF-17674, 10-CF-19724, 10-CF-19726, and 10-CF-19945, unless such filings are signed by a member in good standing of The Florida Bar. Under the sanction herein imposed, Casey may only petition the Court about his convictions or sentences in case numbers 10-CF-17674, 10-CF-19724, 10-CF-19726, and 10-CF-19945 through the assistance of counsel whenever such counsel determines that the proceeding may have merit and can be filed in good faith.

This 18th day of August, 2020.

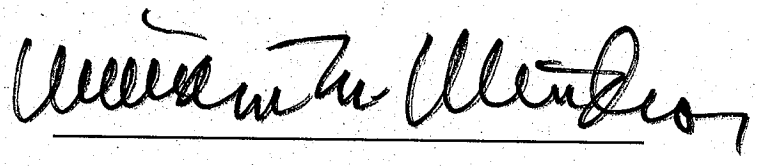
William M. Windsor
100 East Oak Terrace Drive, Unit B3
Leesburg, Florida 34748
352-577-9988
bill@billWindsor.com - billwindsor1@outlook.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by Electronic Mail to:

David I. Wynne
Law Offices of Scott L. Astrin
100 N. Tampa Street, Suite 2605
Tampa, Florida 33602
david.wynne@aig.com, tampapleadings@aig.com, emily.christopher@aig.com
813-526-0559
813-218-3110
Fax: 813-649-8362

This 18th day of August, 2020.



William M. Windsor