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 25

William M. Windsor
5013 S Louise Avenue PMB 1134, Sioux Falls, South Dakota 57108
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PRO SE FOR PLAINTIFF/ APPELLANT, WILLIAM M. WINDSOR

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF GEORGIA -- ATLANTA DIVISION

WILLIAM M. WINDSOR, Plaintiff	)	
v.	)	CIVIL ACTION NO.
James N. Hatten, Anniva Sanders, J. White, B. Gutting, Margaret Callier, B. Grutby, Douglas J. Mincher, Jessica Birnbaum, Judge William S. Duffey, Judge Orinda D. Evans, Judge Julie E. Carnes, John Ley Judge Joel F. Dubina, Judge Ed Carnes, Judge Rosemary Barkett, Judge Frank M. Hull, Defendants.	)	1:11-CV-01923-TWT

NOTICE OF APPEAL

1. Notice is hereby given that William M. Windsor ("Windsor" or "Plaintiff") in the above-named case hereby appeals to the United States Court of Appeals from the ORDER issued on 6/30/2022 in Civil Action No. 1:11-CV-01923-TWT ("ORDER"). [EXHIBIT 2293.]

2. This appeal is necessary due to the violation of Windsor's Constitutional rights and the rights of acquaintances of WINDSOR by Judge

Thomas Woodrow Thrash ("JUDGE THOMAS W. THRASH"), abuse of discretion, denial of due process, errors of law, violation of statutes, errors of fact, violations of various statutes, extreme bias, and more.

THE COURT OF APPEALS HAS JURISDICTION OVER THIS APPEAL.

3. The Court of Appeals has jurisdiction pursuant to 28 U.S.C. § 1292(a)(l) because the district court's ORDER (1) imposed an injunction; or (2) had the practical effect of an injunction; or (3) worked a modification of an injunction. The ORDER denies rights to WINDSOR and his acquaintances and implicitly enjoins WINDSOR and his acquaintances from future exercise of rights.

4. Injunctions are appealable pursuant to 28 U.S.C. § 1292(a). A court order prohibiting someone from doing some specified act is an injunction. The ORDER prohibits WINDSOR from filing a civil rights complaint against Texas state court personnel who have denied WINDSOR the right to pursue legal actions in regard to his attempt to obtain guardianship of an elderly disabled woman. The ORDER prohibits people who are acquainted with WINDSOR from filing their own personal legal motions and actions. The ORDER prohibits 83-year-old disabled Wanda Dutschmann from filing motions for judicial review of instruments filed by her sons purporting to create a lien on her property. The

bogus basis claimed was "the well-documented history of frivolous filings by William Windsor and his abuse of the federal judicial system." [EXHIBIT 2293.]

> See Black's Law Dictionary 784 (6th ed. 1990) (defining "injunction" as "[a] court order prohibiting someone from doing some specified act or commanding someone to undo some wrong or injury"). *(Nken v. Holder,* 129 S.Ct. 1749, 173 L.Ed.2d 550 (U.S. 04/22/2009).) (See also *KPMG, LLP v. SEC,* 289 F.3d 109, 124 (D.C. Cir. 2002); *Lundberg v. United States,* No. 09-01466 (D.D.C. 07/01/2010).)
>
> "... we have jurisdiction under 28 U.S.C. § 1292(a)(l) (1982), which permits an immediate appeal from the issuance of a new or modified injunction. *Szabo v. US. Marine Corp.,* 819 F.2d 714, 718 (7th Cir. 1987); see also *I.A.M Nat'l Pension Fund Benefit Plan Av. Cooper Indus.,* 252 U.S. App. D.C. 189, 789 F.2d 21, 23-24 (D.C. Cir.), cert. denied, 479 U.S. 971, 107 S. Ct. 473, 93 L. Ed. 2d 417 (1986). Accordingly, we have jurisdiction over Eastern's appeal under 28 U.S.C. § 1292(a) (1)." (06/07/88 *International Association v. Eastern Airlines, Inc.,* No. 88-7079, UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT.)
>
> Under 28 U.S.C. § 1292(a)(l), the court has jurisdiction to review "[i]nterlocutory orders of the district courts of the United States ... granting, continuing, modifying, refusing, or dissolving injunctions, or refusing to dissolve or modify injunctions .... "28 U.S.C. § 1292(a)(l). Although the provision is typically invoked to appeal preliminary injunctions, it can be invoked to appeal permanent injunctions that are interlocutory in nature. *Smith v. Vulcan Iron Works,* 165 U.S. 518 (1897); see also *Ty, Inc. v. Publ'ns Int'l Ltd.,* 292 F.3d 512, 516 (7th Cir. 2002), cert. denied, 123 S. Ct. 892 (2003); *Cohen v. Bd. Of Trs. of Univ. of Med. & Dentistry,* 867 F.2d 1455, 1464 n.7 (3d Cir. 1989); *CFTC v. Preferred Capital Inv. Co.,* 664 F.2d 1316, 1319 n.4 (5th Cir. 1982); 16 Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure §* 3924 (2d ed. 1996). *(National Railroad Passenger Corporation v. ExpressTrak, L.L.C.,* 330 F.3d 523 (D.C.Cir. 06/06/2003).)
>
> Under 28 U.S.C. § 1292(a)(l), circuit courts have jurisdiction to review "[i]nterlocutory orders ... granting, continuing, modifying, refusing or

> dissolving injunctions." Regardless of how the district court may choose to characterize its order, **section 1292(a)(l) applies to any order that has "the practical effect of granting or denying an injunction,"** so long as it also "might have a serious, perhaps irreparable, consequence, and ... can be effectually challenged only by immediate appeal." *I.A.M Nat'l Pension Fund Benefit Plan Av. Cooper Indus., Inc.,* 789 F.2d 21, 23-24 (D.C. Cir. 1986) (internal quotation marks omitted). **[emphasis added.]**

5. WINDSOR has never filed anything frivolous, and he has not abused the federal judicial system.

THE DISTRICT COURT'S ORDER IS VOID AND INVALID.

6. JUDGE THOMAS W. THRASH's ORDER is void. The U.S. Supreme Court has stated that if a court is "without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void; and form no bar to a recovery sought, even prior to a reversal in opposition to them." *(Elliot v. Piersol,* 1 Pet. 328, 340, 26 U.S. 328, 340 (1828).)

7. It is well-established law that a judge must first determine whether the judge has jurisdiction before hearing and ruling in any case. JUDGE THOMAS W. THRASH failed to do so when he issued a purported injunction on 7/15/2011 and failed to address the 6/14/11 MOTION TO DENY REMOVAL. [DOCKET 7.]

8. The ORDER of JUDGE THOMAS W. THRASH is void. *(Adams v. State,* No. 1 :07-cv-2924-WSDCCH (N.D.Ga. 03/05/2008).) *(See Steel Co. v.*

Citizens for a Better Env't, 523 U.S. 83, 94 (1998); see also *University of S. Ala. v. The Am. Tobacco Co.,* 168 F.3d 405,410 (11th Cir. 1999) ("[O]nce a federal court determines that it is without subject matter jurisdiction, the court is powerless to continue."). *(Jean Dean v. Wells Fargo Home Mortgage,* No. 2:10-cv-564-FtM-29SPC (M.D.Fla. 04/21/2011).) *(Taylor v. Appleton,* 30 F.3d 1365, 1366 (11th Cir. 1994).)

9. The ORDER issued by JUDGE THOMAS W. THRASH is invalid. It was not issued under seal or signed by the Clerk of the Court in violation of 28 U.S.C. 1691.

> The word "process" at 28 U.S.C. 1691 means a court order. See *Middleton Paper Co. v. Rock River Paper Co.,* 19 F. 252 (C.C. W.D. Wisconsin 1884); *Taylor v. U.S.,* 45 F. 531 (C.C. E.D. Tennessee 1891); *U.S. v. Murphy,* 82 F. 893 (DCUS Delaware 1897); *Leas & Mc Vitty v. Merriman,* 132 F. 510 (C.C. W.D. Virginia 1904); *U.S. v. Sharrock,* 276 F. 30 (DCUS Montana 1921); *In re Simon,* 297 F. 942, 34 ALR 1404 (2nd Cir. 1924); *Scanbe Mfg. Co. v. Tryon,* 400 F.2d 598 (9th Cir. 1968); *and Miles v. Gussin,* 104 B.R. 553 (Bankruptcy D.C. 1989).

10. JUDGE THOMAS W. THRASH has no authority to deny acquaintances of WINDSOR the right to file their own legal actions. These nice people have their own legal issues, and they are doing nothing in consort with WINDSOR to file things for him. These people are being unlawfully enjoined. There is no legal basis for what JUDGE THOMAS W. THRASH is doing.

WINDSOR AND HIS ACQUAINTANCES WERE DENIED PROCEDURAL DUE PROCESS.

11. There was no basis for issuing INJUNCTIONS because the only evidence and the only facts before JUDGE THOMAS W. THRASH were from WINDSOR. There wasn't a single affidavit or word of testimony from the Defendants. The INJUNCTION fails to set forth any valid reasons (as there are none). There was no notice or an opportunity to be heard. There is no legal basis for a federal judge to interfere with a state guardianship effort. Statutes and case law firmly establish that federal judges have no jurisdiction over state court matters and may not deny a party the right to appeal.

> The requirements for a valid injunction are found in Rule 65(d) of the Federal Rules of Civil Procedure, which provides, so far as pertinent here, that "every order granting an injunction ... shall set forth the reasons for its issuance; shall be specific in terms; shall describe in reasonable detail, and not by reference to the complaint or other document, the act or acts sought to be restrained." *(International Longshoremen's Ass 'n v. Philadelphia Marine Trade Ass'n,* 389 U.S. 64, 74-76 (1967); *Schmidt v. Lessard,* 414 U.S. 473 (1974) (per curiam); *PMC, Inc. v. Sherwin-Williams Co.,* 151 F.3d 610, 619-20 (7th Cir. 1998); *Project B.A.S.J.C. v. Kemp,* 947 F.2d 11, 16 (1st Cir.1991); *Imageware, Inc. v. US. West Communications,* 219 F.3d 793 (8th Cir. 07/25/2000); *Sanders v. Air Line Pilots Ass 'n, Int'l,* 473 F.2d 244,247 (2d Cir. 1972); *EFS Marketing, Inc. v. Russ Berrie & Co.,* 76 F.3d 487,493 (2d Cir. 1996) (internal quotation marks omitted).)
>
> Amendment V of the U.S. Constitution provides: "No person shall be ... deprived of life, liberty, or property, without due process of law .... "Article l of the Georgia Constitution provides: "No person shall be deprived of life, liberty, or property except by due process of law."

12. JUDGE THOMAS W. THRASH improperly foreclosed WINDSOR's access to courts and the access of people with whom he is acquainted. JUDGE THOMAS W. THRASH issued an injunction without giving WINDSOR the opportunity to be heard at a hearing. 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).)

13. Meaningful access to the courts is a Constitutional right that has been denied by JUDGE THOMAS W. THRASH, and his ORDER denies significant rights.

> (See *Procup v. Strickland,* 792 F.2d 1069, 1072 (11th Cir. 1986) (per curiam) (en bane); *Christopher v. Harbury,* 536 U.S. 403,415 & n.12, 122 S.Ct. 2179, 2187 & n.12, 153 L.Ed.2d 413 (2002).)

14. There was no Show Cause order issued to WINDSOR or his acquaintances as required by Eleventh Circuit law. Neither WINDSOR nor his acquaintances had proper notice.

> Upon these findings and **consistent with Eleventh Circuit law, this Court required Plaintiff to show cause within ten days ... why a Martin Trigona injunction should not be entered.** (See *Procup v. Strickland,* 792 F.2d 1069 (11th Cir. 1986); *Torres v. McCoun,* No. 8:08-cv-1605-T-33MSS (M.D.Fla. 09/10/2008); *Western Water Management, Inc. v. Brown,* 40 F.3d 105, 109 (5th Cir. 1994).) **[emphasis added.]**

15. WINDSOR will suffer irreparable harm if the ORDER is allowed to stand and WINDSOR and his acquaintances lose legal rights.

16. The courthouse doors have been closed to WINDSOR and his acquaintances in violation of extensive case law. WINDSOR and his acquaintances have been denied the right to petition the government for redress of grievances. WINDSOR and his acquaintances have been denied rights pursuant to the Constitution and Bill of Rights.

17. JUDGE THOMAS W. THRASH issued an ORDER that had immediate and irreparable impact on WINDSOR and his acquaintances.

THERE WAS NO FACTUAL BASIS FOR THE ORDER.

18. The basis for the ORDER was alleged "the well-documented history of frivolous filings by William Windsor and his abuse of the federal judicial system." But there was no evidence presented in this matter to support such a statement in the ORDER, the 6/30/2022 INJUNCTION, or previously.

THE ORDER IS VAGUE, AND IT IS TOO BROAD.

19. The order is vague. It is not specific as required by law.

20. The ORDER does not identify how JUDGE THOMAS W. THRASH's orders are binding on state court judges or how a judge can deny third parties the right to pursue their own legal matters.

21. The basis for the 7/15/2011 INJUNCTION, the 2/18/2018 MODIFIED INJUNCTION, and the 5/26/2022 INJUNCTION was alleged "abuse of the federal judicial system" by "repeatedly filing frivolous, malicious and vexatious lawsuits against the judges assigned to his many cases .... "

22. The alleged basis was lawsuits against federal judges, but the ORDER encompasses the filing of anything on any matter in state or federal court.

23. Federal Circuit Court decisions state again and again that filing restrictions must be very limited. They must be narrowly tailored. (See *Blaylock v. Tinner,* 13-3151 (10th Cir. 11/04/2013).)

> 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). *(Henry* v. *United States,* No. 09-2398 (7th Cir. 01/14/2010).)
>
> 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,* 17 F .3d 314, 315-16 (10th Cir.1994) (per curiam); *Tripati* v. *Beaman,* 878 F.2d 351,354 (10th Cir. 1989). *(Hutchinson* v. *Hahn,* No. 09-5144 (10th Cir. 11/24/2010).)

JUDGE THOMAS W. THRASH MUST NOT BE ALLOWED TO ISSUE ORDERS ON STATE COURT MATTERS.

24. Meaningful access to the courts is a Constitutional right that has been denied by the ORDER. The ORDER must be declared VOID as it violates every federal appellate decision ever issued.

25. 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. EXHIBIT 2294 is a Memorandum of Law that WINDSOR prepared in 2020 addressing these three federal opinions and 140 others.

26. WINDSOR has gone through the time-consuming process to obtain

approval of federal courts for the filing of civil actions. In a defamation action in Missouri, federal judge Fernando J. Gaitan approved WINDSOR's filing of a petition against Allie Overstreet. A federal court ruling in Missouri rejected an attempt to deny WINDSOR the right to pursue a civil action when Overstreet's attorney tried to claim JUDGE THOMAS W. THRASH's order prohibited it. A federal court ruling in Montana granted WINDSOR the right to pursue a civil action for defamation while expressing that the federal judge may not have jurisdiction to issue such an approval. A federal judge in Kansas refused to issue an order granting leave for WINDSOR to file a defamation action because she said she did not have jurisdiction over state court matters. It took almost a year to obtain an email from the judge's clerk stating that she did not have jurisdiction to grant leave to file in a state court. A federal judge in Texas granted leave to file a negligence action but expressed doubts as to jurisdiction to do so. A state court judge in Texas ordered that WINDSOR's defamation case could proceed despite the failure of federal judges there to respond to requests for leave. Judge Bob Carroll stated in an order that this Court's INJUNCTION was overly broad in applying to state courts and was not necessary to protect federal courts. Judge Carroll also noted that it was overly broad in containing no exception for allowing WINDSOR to defend himself in a criminal action or seeking affirmative relief and

in failing to state an exception for allowing WINDSOR access to appellate courts. *(Windsor v. Joeyisalittlekid,* et al, Case #88611, Ellis County Texas, Trial Court Order No. 1 dated August 11, 2014). (Exhibit 4, P.5.)

27. Federal case law provides that such an injunction may not apply to state court cases. *Sieverding v. Colorado Bar Association,* 469 F.3d 1340 (2006); *Deel en v. City of Kansas City, Missouri,* No. 06-1896 (8th Cir. 10/19/2007); *Martin-Trigona v. Lavien,* 737 F.2d 1254 (2d Cir.1984). In *Martin-Trigona,* the Second Circuit concluded that the district court "erred in its blanket extension of the [pre-filing] injunction to state courts ...."

> " ... 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 prefiling injunction to filings in state courts, state agencies, and this Court.* fn3 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." *(Baum v. Blue Moon Ventures, LLC,* 513 F.3d 181 (5th Cir. 01/03/2008).)

JUDGE THOMAS W. THRASH MUST NOT BE ALLOWED TO ISSUE ORDERS DENYING LEGAL RIGHTS TO

ACQUAINTANCES OF WINDSOR.

28. Judge Thomas W. Thrash has no jurisdiction over acquaintances of WINDSOR. Yet he enjoined them.

29. WINDSOR has hundreds of thousands of acquaintances. Each has his or her own legal and Constitutional rights. The ORDER is an outage to one and all.

Submitted, this 14th day of July, 2022.

William M. Windsor

William M. Windsor
5013 S Louise Ave #1134
Sioux Falls, South Dakota 57108
352-661-8472
Bill@BillWindsor.com

CERTIFICATE OF COMPLIANCE

As required by Local Rule 7.1D, N.D. Ga., I hereby certify that this pleading has been prepared in Times New Roman 14-point font, one of the font and point selections approved by this Court in Local Rule 5.lB, N.D. Ga.

This 14th day of July, 2022.

William M. Windsor

William M. Windsor
5013 S Louise Ave #1134
Sioux Falls, South Dakota 57108
352-661-8472
Bill@BillWindsor.com

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing NOTICE OF APPEAL by email and addressed as follows:

CHRISTOPHER J. HUBER
ASSISTANT U.S. ATTORNEY, Georgia Bar No. 545627
600 Richard B. Russell Federal Bldg.
75 Spring Street, S.W. -- Atlanta, Georgia 30303
Telephone: (404) 581-6292 -- Facsimile: (404) 581-6181
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This 14th day of July, 2022,

William M. Windsor
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Sioux Falls, South Dakota 57108
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EXHIBIT 2293

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

WILLIAM M. WINDSOR,
Plaintiff,
v.
B. GRUTBY, et al.,
Defendants.

CIVIL ACTION FILE
NO. 1:11-CV-1923-TWT

ORDER

This is a pro se civil action. It is before the Court on the Motion for Leave to File Motions [Doc. 269], Motion for Leave to File [Doc. 270] and Motion for Leave to File Civil Rights Complaint [Doc. 271] which are DENIED based upon the well-documented history of frivolous filings by William Windsor and his abuse of the federal judicial system.

SO ORDERED, this 30th day of June, 2022.

Thomas W. Thrash

THOMAS W. THRASH, JR.
United States District Judge

EXHIBIT 2294

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

WILLIAM WINDSOR,

Plaintiff,

vs.

CASE NO. 2018-CA-010270-O

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 [redacted]

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):