

THE EARNEST JUDGE'S MANUAL ON

ABUSIVE

AND

VEXATIOUS

PRO SE

LITIGANTS

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“The misery of man proceeds not from any single
crush of overwhelming evil, but from small
vexations continually repeated.”

THE BEAUTIES OF SAMUEL JOHNSON, LL.D.
(London: C. And G. Kearsley 1787), p. 181

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Introduction.

The starting point for dealing with abusive and vexatious litigants is that the state's legitimate and overriding interest in the preservation of judicial and administrative resources means that no litigant in any circumstances has a license to abuse the legal system.

Abusive and vexatious litigation—such as frivolous lawsuits or groundless claims designed to harass—carries enormous direct and collateral consequences for opposing litigants and their attorney, and the court. Frivolous and repeated filings clog court dockets, leading to massive trial delays that deny timely justice to individuals with legitimate legal claims. Courts are forced to dedicate valuable administrative and judicial resources to reviewing repetitive motions, leaving fewer resources to address actual disputes, and victims are compelled to expend resources that would otherwise go to other endeavors.

Abusive and vexatious litigants often use strategic delays, excessive discovery requests, and repeated filings to emotionally and financially wear down victims (a tactic frequently seen in domestic violence or civil harassment disputes). The worst of these litigants sometimes also compound the victimization of opposing parties and counsel, and the presiding judge, slanderous *ad hominem* attacks in their court filings at the trial and appellate court levels. Sometimes, these litigants will file frivolous bar complaints against counsel for the opposing parties and complaints to the Judicial Qualifications Commission against their presiding judges. In some cases, such litigants can pose a physical danger to those they disagree with, necessitating the imposition of special security measures.

The terms “abusive litigant” and “vexatious litigant” encompass similar behaviors that disrupt the judicial process and impose unnecessary burdens on the courts and other parties. The terms are often used interchangeably, but they have distinct legal definitions and implications. A vexatious litigant is specifically defined by statute and case law, while the term “abusive litigant” is more general and less formally defined.

The primary difference between an abusive litigant and a vexatious litigant lies in the formal recognition and specific criteria associated with the latter. Vexatious litigants are identified through statutory definitions and are subject to specific statutory consequences, such as prefiling orders and the requirement to furnish security for costs. In contrast, the term “abusive litigant” is more descriptive and can apply to a broader range of misconduct by represented and self-representative litigants without the same formal legal framework.¹ An abusive litigant can,

¹E.g., “Abusive litigation entails the misuse of legal proceedings to harass, intimidate, or financially exhaust the other party. It manifests in various forms, including frivolous lawsuits, strategic delays, and excessive discovery requests. While litigation inherently involves conflict, abusive litigation takes it to an extreme, employing tactics that serve no legitimate legal purpose other than to inflict harm.” Yvonne Chin, “Exposing the Legal Bully: How Abusive

for example, include a lawyer or a person represented by counsel, while a vexatious litigant is normally defined by statute as a pro se individual.

It is important for a judge to know the differences between abusive and vexatious litigants because, while there is overlap, there are distinct differences in the ways of effectively dealing with each. Whereas, for instance, the court has the inherent authority to sanction an *abusive* litigant, a *vexatious* litigant is a specific legal designation and a class that must be dealt with in accordance with the statutory requirements of section 68.093, Florida Statutes. In addition, designation as a vexatious litigant has some long-term consequences not shared by litigants who are merely abusive, such as going on a list of vexatious litigants maintained by the state and available to the public.

Litigation Undermines Justice,” *National Crime Victim Law Institute* (May 20, 2024), accessed on May 6, 2025 at <https://ncvli.org/exposing-the-legal-bully-how-abusive-litigation-undermines-justice/>.

Chapter 1. Abusive Litigants and the Court's Inherent and Statutory Authority.

The term “abusive litigant” gets its meaning from case law and is not defined by statute. It generally refers to individuals who misuse the legal system through various forms of misconduct. This can include filing frivolous lawsuits, engaging in harassment through legal actions, engaging in delaying tactics,² using litigation as a tool for personal vendettas, and overlitigation.³

Over time, the Florida Legislature and the Florida Supreme Court have given the courts of the state the following procedural tools to deal with abusive litigants:⁴

– Section 57.105, Florida Statutes, requires that the judge in a civil proceeding shall award a reasonable attorney’s fee, including prejudgment interest, to be paid to the prevailing party in equal amounts by the losing party and the losing party’s attorney on any claim or defense at any time during a civil proceeding or action in which the court finds that the losing party or the losing party’s attorney knew or should have known that a claim or defense when initially presented to the court or at any time before trial: (a) was not supported by the material facts necessary to

²An example of abusive unnecessary delay is repeated improper removal of a state court action to federal court. See *Ex Parte Bon Secours-St. Francis Xavier Hospital, Inc.*, 393 S.C. 590, 713 S.E. 2d 624 (S.C. 2011) (defendant’s second removal of a defamation and civil conspiracy action to federal court — filed three hours before trial was set to begin — constituted vexatious, sanctionable conduct); *Kinney v. Clark*, 12 Cal. App. 5th 724, 219 Cal. Rptr. 3d 247 (Ct. App. Cal. 2d Dist. 2017) (imposing expanded state court pre-filing order after federal district court declared party a vexatious litigant based in part on five removal attempts resulting in sanctions); also *In re Deville*, 280 B.R. 483 (9th Cir. B.A.P. 2002) (improper filing of bankruptcy-related notices of removal in attempt to delay trial of state court action).

³A party overlitigates, or overtries, a lawsuit by expending excessive time, effort, and other resources to explore minutiae, especially to present more evidence than the trier of fact can assimilate, the result often being that the party gains arguing points by disputing the minutiae. See Black’s L. Dict. (12th ed. 2024). “Overtrial” is a doctrine that courts employ when one party’s approach to litigation is unreasonable and causes the other party to incur unnecessary expense. It may also involve the abuse of judicial resources through the unnecessary overutilization of those resources. A party’s approach to litigation is unreasonable if it results in unnecessary proceedings or unnecessarily protracted proceedings, together with attendant preparation time. When a finding of overtrial is made, a court may order the offending party to pay the opposing party’s attorney fees. *In re Attorney Fees in Yu v. Zhang*, 248 Wis. 2d 913, 924, 637 N.W.2d 754, 760 (Ct. App. Wis. 2001). See also *Wagner v. Estate of Sobczak*, 338 Wis. 2d 92, 808 N.W. 2d 167 (Ct. App. Wis. 2011); *Allstate Ins. Co. v. Baer*, 334 So. 2d 135 (Fla. 3d DCA 1976) (accusation of overtrial in automobile insurance case).

⁴The judicial power of the state is vested in the courts, but the authority to make laws is in the legislature of the state. While the state supreme court has the power to make rules of practice which shall have the force of law, it cannot make rules inconsistent with the law. *Keen v. State*, 89 Fla. 113, 115, 103 So. 399, 400 (Fla. 1925).

establish the claim or defense;⁵ or (b) would not be supported by the application of then-existing law to those material facts.⁶

– Section 120.595, Florida Statutes, authorizes the award of attorney fees to the prevailing party in an administrative proceeding where the nonprevailing adverse party has been determined by the administrative law judge to have participated in the proceeding primarily to harass or to cause unnecessary delay or for frivolous purpose or to needlessly increase the cost of litigation, licensing, or securing the approval of an activity for an improper purpose.⁷

– As specifically pertains to incarcerated litigants, under section 944.279, Florida Statutes, a prisoner who is found by a court to have brought a frivolous or malicious suit, action, claim, proceeding, or appeal in any court of this state or in any federal court, which is filed after June 30, 1996, or to have brought a frivolous or malicious collateral criminal proceeding, which is filed after September 30, 2004, or who knowingly or with reckless disregard for the truth brought false information or evidence before the court, is subject to disciplinary procedures pursuant to the rules of the Department of Corrections.⁸

– Under section 944.28(2), Florida Statutes, all or any part of the gain-time earned by a prisoner according to the provisions of law is subject to forfeiture if such prisoner is found by a court to have brought a frivolous suit, action, claim, proceeding, or appeal in any court.⁹

– Florida Rule of Civil Procedure 1.140(f), Florida Probate Rule 5.025(d)(2), and Family Law Rule of Procedure 12.140(f) authorize a party to move to strike or the court to *sua sponte* strike redundant, immaterial, impertinent, or scandalous matter from any pleading at any time.

– Florida Rule of Civil Procedure 1.150(a), Florida Probate Rule 5.025(d)(2), and Family Law Rule of Procedure 12.150(a) authorize a party to move to strike a pleading or part thereof if a party deems any pleading or part thereof filed by another party to be a sham.¹⁰

⁵§ 57.105(1)(a), Fla. Stat.

⁶§ 57.105(1)(b), Fla. Stat.

⁷§ 120.595(c) & (e)(1)

⁸§ 944.279(1), Fla. Stat.

⁹§ 944.28(2)(a), Fla. Stat.

¹⁰Fla. R. Civ. P. Rule 1.150(a); Fla. Probate Rule 5.025(d)(2); Fam. Law R. P. Rule 12.150(a).

– Pursuant to Florida Rule of Appellate Procedure 9.410, an appellate court may impose sanctions for any violation of the rules of appellate procedure, or for the filing of any proceeding, motion, brief, or other document that is frivolous or in bad faith, and that such sanctions may include reprimand, contempt, striking of briefs or pleadings, dismissal of proceedings, costs, attorneys’ fees, or other sanctions.¹¹

– Florida Bar Rule 4-3.1 provides that a lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification, or reversal of existing law.¹²

A necessary complement to constitutional and statutory authority is a court’s inherent power to manage its own affairs.¹³ The inherent power of a court to manage its dockets and cases by the imposition of sanctions to prevent undue delays in the disposition of pending cases is of ancient origin, having its roots in judgments of nonsuit and non prosecution entered at common law and dismissals for want of prosecution of bills in equity.¹⁴ That power may be expressly recognized by rule or statute, but it exists independently of either and arises because of the control that must necessarily be invested in courts in order for them to be able to manage their own affairs so as to achieve an orderly and expeditious disposition of cases. Stated otherwise, every court has the inherent power to do all things that are reasonably necessary for the administration of justice within the scope of its jurisdiction, subject to, or not in conflict with, valid existing laws and constitutional provisions.¹⁵ An important caveat is that, because this inherent power is shielded from direct democratic controls, it must be exercised with restraint and discretion.¹⁶

¹¹Fla. R. App. P. Rule 9.410(a).

¹²R. Regulating Fla. Bar, Rule 4-3.1.

¹³There is nothing in the U.S. Constitution or the Florida Constitution which excludes incidental or implied powers in the courts. The incidental or implied powers of a court follows the grant of the principal power. Implied and resulting powers from a general grant of jurisdiction are those powers which are necessary and indispensable to the exercise of that jurisdiction. They are coextensive with the jurisdiction to which they are essential, and are as legitimate as if expressly given. *U.S. v. Hill*, 1 Brock 156 (1809); also *State v. Gleason*, 12 Fla. 190 (Fla. 1868).

¹⁴See *Matter of Presnick*, 19 Conn. App. 340, 563 A. 2d 299 (App. Ct. Conn. 1989), citing 3 Blackstone, *Commentaries* (1768), 295-296, 451. See also *Link v. Wabash R. Co.*, 370 U.S. 626, 630, 82 S. Ct. 1386, 1388, 8 L. Ed. 2d 734 (1962).

¹⁵*U.S. v. Hudson*, 11 U.S. (7 Cranch) 32, 34, 3 L. Ed. 259 (1812); *State ex rel. Davis v. City of Avon Park*, 117 Fla. 565, 577, 158 So. 159, 164 (Fla. 1934).

¹⁶*Roadway Express, Inc. v. Piper*, 447 U.S. 752, 764, 100 S. Ct. 2455, 2463, 65 L. Ed. 2d 488 (1979).

As regards Florida state courts, their inherent power is granted generally via the Florida Constitution by article II, section 3 (“The powers of the state government shall be divided into legislative, executive, and judicial branches.”); article V, section 1 (“The judicial power shall be vested in a supreme court, district courts of appeal, circuit courts, and county courts.”); article V, section 2(a) (“The supreme court shall adopt rules for the practice and procedure in all courts including the time for seeking appellate review [and] the administrative supervision of all courts ...”); and article V, section 3(b) (granting the supreme court jurisdiction over appeals from lower courts).¹⁷

This inherent authority includes the authority to prevent abuses of process.¹⁸

After due consideration of a litigant’s history of abuse, a court may be justified in using its inherent power to impose restrictions on a pro se abusive litigant such as the following:¹⁹

- Require the litigant to accompany future pleadings with an affidavit certifying under penalty of perjury that the allegations are true to the best of the litigant’s knowledge, information, and belief.
- Direct the litigant to attach to future complaints a list of all cases previously filed involving the same, similar, or related cause of action.
- Direct that future pleadings will be stricken if they do not meet the requirements that a pleading must contain a short and plain statement of the claim showing that the pleader is entitled to relief and that each averment of a pleading shall be simple, concise, and direct.²⁰
- Require the litigant to state clearly and concisely at the beginning of a motion the relief requested.
- Require the litigant to provide specific page citations to documents alleged by the litigant to support an argument or position.
- Limit the litigant’s ability to request reconsideration and to file repetitive motions.

¹⁷*Jimenez v. Bondi*, 259 So. 3d 722, 725 (Fla. 2018).

¹⁸*Snow v. State*, 352 So. 3d 529, 535 (Fla. 1st DCA 2022).

¹⁹These suggestions are derived from *Zavodnik v. Harper*, 17 N.E. 3d 259, 268-269 (Ind. 2014) and *Procup v. Strickland*, 792 F. 2d 1069, 1072-1073, 1073 n. 9 (11th Cir. 1986). Note that threats of monetary sanctions do little to deter abusive pro se litigants who are essentially judgment-proof.

²⁰Note that, in cases controlled by the Florida Rules of Civil Procedure a pleading must contain “a short and plain statement of the ultimate facts showing that the pleader is entitled to relief,” and that “[a]ll averments of claim or defense be made in consecutively numbered paragraphs.” Fla. R. Civ. P. Rule 1.110(b)(2) and (f). Similarly, a family law pleading must contain “a short and plain statement of both the relief requested and the ultimate facts showing that the pleader is entitled to that relief,” and that “[i]n the answer a pleader must state in short and plain terms the pleader’s answers to each claim asserted.” Fla. Fam. L. R. P. Rule 12.110(b)(2) and (c).

- Limit the number of pages or words of pleadings, motions, and other filings.
- Limit the length of the title that may be used for a filing.
- Limit the amount or length of exhibits or attachments that may accompany a filing.
- Instruct the clerk to reject, without return for correction, future filings that do not strictly comply with applicable rules of procedure and conditions ordered by the court.²¹
- Prohibit the litigant from filing any new pro se civil actions in Florida state courts without first obtaining leave of the court where the litigation is to be filed.²²

Note that Florida state courts cannot require a litigant to furnish security absent statutory authority as they do not have inherent authority to impose such requirements.²³

The mandate of Article I, section 21 of the Florida Constitution protects the right of access to the courts. Because the judicial process is the recognized dispute-settlement method, access to courts should not be placed beyond the reach of any citizen, including those who choose to represent themselves. The constitutional right of access to the courts also does not include the unlimited ability to appear pro se.²⁴ Self-represented litigants must follow all rules of court procedure.²⁵ A person abuses the right to pro se access by filing repetitious and frivolous pleadings, thereby diminishing the ability of the courts to devote their infinite resources to the consideration of legitimate claims.²⁶ However, when any person, by his or her activities, upsets the normal procedure of the court so as to interfere with the causes of other litigants and diminish the ability of the court to devote its finite resources to the timely consideration of legitimate claims, that court has the inherent authority, and indeed the duty, to sanction the abusive litigant.

²¹In this regard, one sanction for abuse of the legal system by a pro se litigant is to direct the clerk of the court not to accept any further petitions or complaints from the litigant until he or she pays the required docketing fee and submits the petition or complaint in compliance with the applicable rules, even if the litigant is proceeding *in forma pauperis*. See *Martin v. District of Columbia Court of Appeals*, 506 U.S. 1, 113 S. Ct. 397, 121 L. Ed. 2d 305 (1992).

²²See *In re Prefiling Order Declaring Vexatious Litigant*, 164 Idaho 771, 435 P. 3d 1091 (Idaho 2019).

²³See *Weinberg v. Siemens Financial Services, Inc.*, 88 So. 3d 220, 222-223 (Fla. 4th DCA 2011). This particular issue is one of the issues addressed by Florida's Vexatious Litigant Law. § 68.093(3), Fla. Stat.

²⁴*Clark v. Baney*, 355 So. 3d 976, 978 (Fla. 1st DCA 2023).

²⁵Fla. Standard Prac. & Judicial Admin. Rule 2.150.

²⁶*State v. Spencer*, 751 So. 2d 47, 48 (Fla. 1999).

Thus, when a person, by his or her activities, upsets the normal procedure of the court so as to interfere with the causes of other litigants, it is necessary to exercise restraint upon that person.²⁷

As such, abuse of the legal system can also result in the forfeiture of the litigant's ability to proceed pro se, and a requirement that the pro se litigant be represented by counsel, and that all future pleadings in the case be signed by a member of The Florida Bar in good standing.²⁸ In practice, a party's litigious disposition and lack of legal training resulting in the court being inundated with voluminous and incomprehensible documents that require the court to expend an unreasonable amount of time and effort attempting to decipher the pleadings can be enough to require that future pleadings in the case be signed by a properly licensed attorney.²⁹ Note, however, that injunctive relief requiring the litigant to file future lawsuits only through an attorney may be deemed overbroad where it could reasonably have the effect of imposing an unconstitutional absolute bar against the litigant from filing any suit.³⁰

Under appropriate circumstances, it may also be permissible for a court to enter a sanctions order in the nature of injunctive relief that prohibits pro se filings in other and future cases. Such prefilings restrictions must be entered sparingly and appropriately and with respect for due process. Before imposing such a prefilings restriction, the pro se litigant must be provided notice of the possibility of such broad-reaching sanctions and the opportunity to be heard on the extent of those sanctions if the court intends to impose such.³¹

To achieve the best balance of a litigant's right of access to courts and the need of the courts to prevent repetitious and frivolous pleadings, it is important for courts to first provide

²⁷*Clark v. Baney*, 355 So. 3d 976, 978 (Fla. 1st DCA 2023); *Platel v. Maguire*, 436 So. 2d 303 (Fla. 5th DCA 1983). See also *In re McDonald*, 489 U.S. 180, 184, 109 S. Ct. 993, 996, 103 L. Ed. 2d 158 (1989) ("Every paper filed with the Clerk of Court, no matter how repetitious or frivolous, requires some portion of the institution's limited resources. A part of the Court's responsibility is to see that these resources are allocated in a way that promotes the interests of justice. The continual processing of petitioner's frivolous requests for extraordinary writs does not promote that end.").

²⁸*Lussy v. Fourth Dist. Court of Appeal*, 628 So. 2d 1026 (Fla. 2002); *Clark v. Baney*, 355 So. 3d 976, 978 (Fla. 1st DCA 2023) (order requiring any future filings be signed by a Florida Bar member in good standing); *Sapp v. State*, 238 So. 3d 875 (Fla. 5th DCA 2018); *Brinson v. State*, 215 So. 3d 1260 (Fla. 5th DCA 2017); *Platel v. Maguire*, 436 So. 2d 303 (Fla. 5th DCA 1983) (requirement that pleadings be accompanied by an attorney's signature is a restraint that does not amount to a complete denial of access to the court).

²⁹*Platel v. Maguire*, 436 So. 2d 303 (Fla. 5th DCA 1983).

³⁰See *Procup v. Strickland*, 792 F. 2d 1069, 1071 (11th Cir. 1986).

³¹See *Contreras v. Bourke*, 556 P. 3d 291 (Ct. App. Ariz. 2024). A *sua sponte* order barring a pro se litigant from filing any further pro se pleadings or papers violates due process. *Harris v. Gattie*, 263 So. 3d 829 (Fla. 2d DCA 2019).

notice and an opportunity to respond before preventing that litigant from bringing further repetitious and frivolous litigation. Notice and an opportunity to respond through an order to show cause also serves to generate a more complete record.³²

³²*State v. Spencer*, 751 So. 2d 47, 48-49 (Fla. 1999).

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Chapter 2. Vexatious Litigants and What the Court Can Do About Them.

“Vexatious litigant” is a relatively narrow term which is defined by most vexatious litigation statutes as a pro se person who repeatedly prosecutes legal disputes having no sound basis in law with the intent of harassing, bothering, and inconveniencing another person.³³ A vexatious litigant can, for example, be a plaintiff who, within a statutorily defined period, has commenced, prosecuted, or maintained a set minimum number of civil actions that were either finally determined adversely to the plaintiff or unjustifiably permitted to remain pending for a statutory minimum period of time without being brought to trial or hearing, or someone who, after litigation has been resolved against them, relitigates or attempts to relitigate the same issues in bad faith, files unmeritorious motions, or engages in other frivolous tactics, or someone who has been previously declared a vexatious litigant by any state or federal court.³⁴ Under some statutory schemes, a pro se litigant’s attempts to relitigate a decided issue is not required to occur in a pending case for the court to find the litigant vexatious based on the litigant’s history in other lawsuits.³⁵ The purpose of vexatious litigant statutes is to prevent abuse of the legal system by individuals who habitually file lawsuits without reasonable grounds, thereby clogging court dockets and wasting judicial resources and under the various state statutes and rules, courts may impose prefilings orders on vexatious litigants or require them to obtain leave of the court before filing new litigation or to post security, or prohibit a vexatious litigant from proceeding pro se.³⁶

Great Britain and Alexander Chaffers.

Modern legislation to control vexatious litigants began with the enactment by the British Parliament of the Vexatious Actions Act 1896, which was inspired, in large part, by the actions of a former solicitor, Alexander Chaffers (1821-1899).

³³See generally Black’s L. Dict. (12th ed. 2024).

³⁴Vexatious litigation is similar to, but a step beyond, the archaic *vitiligation*, wherein a litigator prosecutes a legal dispute merely from quarrelsome motives and carries on in an unduly contentious, wrangling way. See also *Sieverding v. American Bar Ass’n*, 466 F. 2d 224 (D.D.C. 2006) n. 4.

³⁵See *Strand v. Nupetco Associates, LLC*, 835 Utah Adv. Rep. 82, 397 P. 3d 724 (Ct. App. Utah 2017).

³⁶See, e.g., Ariz. Rev. Statutes § 12-3201; California Code of Civil Procedure § 391; Hawai’i Revised Statutes § 634J-1; Idaho Courts Administrative Rule 59; Ohio Rev. Code § 2323.52; Texas Civil Practice & Remedies Code § 11.054; Utah R. Civ. P. 83. Note that lawsuits filed by an attorney do not count in the vexatiousness equation: The Code of Professional Responsibility, particularly Florida Bar rules 3-7.17 and 4-3.1, and statutes such as section 57.105, Florida Statutes, adequately screen against frivolous lawsuits when an attorney is involved in the filing decision.

The vexatious litigation of Chaffers spanned over thirty years, during which time he filed 48 proceedings against a number of the most prominent people in British society, including the Prince of Wales, the Archbishop of Canterbury, the Speaker of the House of Commons, Lord Chancellors, and several judges and magistrates, losing in all but one case (in which he was awarded one pound for work done copying an affidavit). Costs were awarded against Chaffers in most of the other cases, but he never paid. In 1867 he was tried and convicted *in absentia* in the City Court of Berlin for “insulting a Prussian civil servant in the exercise of his duty” after accusing the official of taking a bribe relating to a railway construction contract, in what appears to have been an attempt by Chaffers to extort the official into paying off the debt of one of his clients. Subsequently, on May 8, 1868, Chaffers was pardoned by the King of Prussia after it was discovered that the accusation against the official was made outside the court’s jurisdiction, and that the date of Chaffers’ actions qualified him for an amnesty declared by the king on September 20, 1866.³⁷

In the 1872 Twiss libel case, Chaffers was privately prosecuted for criminal libel with intent to extort money after he publicly accused the wife of a leading lawyer (Sir Travers Twiss, QC) of having been a prostitute with whom Chaffers had slept. Although Lady Twiss appeared and testified, and denied all the accusations, the trial fell apart just before Chaffers opened his defense when Lady Twiss fled London, resulting in dismissal of the charges. Chaffers also assisted in the generation of massive amounts of additional vexatious litigation through his involvement with several notorious lawyers and litigants in person, including the infamous litigant in person Georgina Weldon.³⁸

Britain’s legal establishment finally sought to abate the nuisance caused by Chaffers and others with passage by Parliament on August 14, 1896 of the Vexatious Actions Act, which provided in relevant part:

It shall be lawful for the Attorney-General to apply to the High Court for an order under this Act, and if he satisfies the High Court that any person has habitually and persistently instituted vexatious legal proceedings without any reasonable ground for instituting such proceedings, whether in the High Court or in any inferior court, and whether against the same person or against different persons, the court may, after hearing such person or giving him an opportunity of being heard, after assigning counsel in case such person is unable on account of poverty to retain counsel, order that no legal proceedings shall be instituted by that person in the High Court or any

³⁷Michael Taggart, “Alexander Chaffers and the Genesis of the Vexatious Actions Act 1896,” *Cambridge Law Journal*, 63(3), November 2004, pp. 656-684; James Morton, “A Vexatious Litigant and a Vanishing Lady,” *Times* (UK), May 7, 2025; Greg Taylor, “Alexander Chaffers Before the Courts of Berlin,” (January 2005), accessed at https://www.researchgate.net/publication/388438522_Alexander_Chaffers_before_the_courts_of_Berlin.

³⁸Michael Taggart, “Alexander Chaffers and the Genesis of the Vexatious Actions Act 1896,” *Cambridge Law Journal*, 63(3), November 2004, pp. 656-684; James Morton, “A Vexatious Litigant and a Vanishing Lady,” *Times* (UK), May 7, 2025.

other court, unless he obtains the leave of the High Court or some judge thereof, and satisfies the court or judge that such legal proceeding is not an abuse of the process of the court, and that there is a prima facie ground for such proceeding. A copy of such order will be published in the London Gazette.³⁹

Almost as soon as the Act was passed, Attorney-General Richard Webster moved for an order applying it against Chaffers. Chaffers opposed the application, arguing that the Act was not retrospective and so did not apply to any actions taken prior to its passage, and that the actions had to be addressed to the same issue to be vexatious, and that his actions concerned different issues. He later argued on appeal that the Act was oppressive and unconstitutional. The Court of Appeal rejected these arguments and Chaffers became the first person in British history designated to be a habitual vexatious litigant, unable to file anything without court permission.⁴⁰

Federal Courts

Federal courts derive their authority to declare a party a vexatious litigant and impose pre-filing restrictions from judicial interpretation of the All Writs Act, 28 U.S.C. § 1651(a), which provides that all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions. Courts have interpreted this statute to include the power to issue pre-filing injunctions against vexatious litigants. Under this authority, district courts have inherent power to enter pre-filing orders against vexatious litigants to protect the court and parties from abusive, groundless, and harassing litigation.⁴¹ Before entering such an order, courts generally require: (1) notice and an opportunity to be heard; (2) an adequate record documenting the litigation history; (3) substantive findings that the party's conduct was frivolous or harassing; and (4) a narrowly tailored order that fits the specific abuse encountered.⁴²

Regarding the third and fourth of these factors, in determining whether to enter a pre-filing order, the court looks at five other factors: (1) The litigant's history of litigation; (2) the litigant's motive in pursuing the litigation (*e.g.*, whether the litigant has 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

³⁹*Vexatious Actions Act*, 1896 (U.K.) 59 & 60 Vict., c. 51.

⁴⁰Michael Taggart, "Alexander Chaffers and the Genesis of the Vexatious Actions Act 1896," *Cambridge Law Journal*, 63(3), November 2004, pp. 656-684.

⁴¹*Molski v. Evergreen Dynasty Corp.*, 500 F. 3d 1047 (9th Cir. 2007); *In re Cashion Family Trust*, 676 B.R. 193 (9th Cir. B.A.P. 2025).

⁴²*DeLong v. Hennessey*, 912 F. 2d 1144 (9th Cir. 1990); *Molski v. Evergreen Dynasty Corp.*, 500 F. 3d 1047 (9th Cir. 2007); *In re Cashion Family Trust*, 676 B.R. 193 (9th Cir. B.A.P. 2025).

their personnel; and (5) whether other sanctions would be adequate to protect the courts and other parties.⁴³

Federal courts have also directly declared corporations and other organizational entities to be vexatious litigants. The most extensively documented example involves Havensight Capital, LLC, a private equity company owned by attorney Benjamin Woodhouse. Multiple federal district courts declared Havensight itself—as a corporate entity—to be a vexatious litigant and imposed pre-filing conditions on it. For example, the Central District of California declared Havensight a vexatious litigant and imposed pre-filing conditions on the company’s ability to file any action related to its brand against Nike, Inc.⁴⁴ A subsequent district court declared Havensight a vexatious litigant again after it filed frivolous claims against Facebook, sanctioned Woodhouse under Rule 11, and required Havensight to deposit \$5,000 as security before filing future lawsuits.⁴⁵ The Ninth Circuit affirmed the vexatious litigant designation against Havensight.⁴⁶

Courts have also extended vexatious litigant orders to cover all entities controlled by a vexatious individual, recognizing that a determined litigant may attempt to use corporate forms to circumvent existing restrictions. In *Tangwall v. Compton*, the District of Alaska found that Donald Tangwall had used other individuals and entities to make filings on his behalf to circumvent an existing vexatious litigant order. The court declared each Tangwall Entity—defined to include any corporation, trust, or other legal entity directly or indirectly controlled by Tangwall—to be a vexatious litigant and permanently enjoined them from filing any complaints, pleadings, or other documents without prior written permission of the court. The court noted that other courts had entered similar orders, including the Bankruptcy Court for the District of Alaska, which had prohibited Tangwall and any entity directly or indirectly controlled by him from filing anything without prior express permission.⁴⁷

The treatment of law firms under the vexatious litigant doctrine involves an important distinction that the Ninth Circuit has carefully drawn. In *Weissman v. Quail Lodge, Inc.*, the Ninth

⁴³*Molski v. Evergreen Dynasty Corp.*, 500 F. 3d 1047, 1058 (9th Cir. 2007), citing *Safir v. United States Lines, Inc.*, 792 F. 2d 19, 24 (2d Cir. 1986).

⁴⁴*Benjamin Woodhouse v. The United States Government et al.*, 2021 WL 6333468 (C.D. Cal. 2021); *Woodhouse v. Meta Platforms Inc.*, 704 F. Supp. 3d 502 (S.D.N.Y. 2023).

⁴⁵*Havensight Capital, LLC v. Facebook, Inc.*, 2018 WL 6340757 (C.D. Cal. 2018); *Woodhouse v. Meta Platforms Inc.*, 704 F. Supp. 3d 502 (S.D.N.Y. 2023).

⁴⁶*Havensight Capital LLC v. Nike, Inc.*, 891 F. 3d 1167 (9th Cir. 2018).

⁴⁷*Tangwall v. Compton*, 2020 WL 2527930 (D. Alaska 2020).

Circuit held that an attorney appearing on behalf of a client cannot be sanctioned as a vexatious litigant because, by definition, the attorney is acting as an attorney and not as a litigant. The court reasoned that the vexatious litigant doctrine was never intended to control attorney conduct in the capacity of counsel, and that other mechanisms—including Rule 11 sanctions, 28 U.S.C. § 1927, and the court’s inherent power to sanction attorneys—are the appropriate tools for addressing attorney misconduct.⁴⁸ However, this principle does not immunize *law firms* from all pre-filing restrictions. In *Molski v. Evergreen Dynasty Corp.*, the Ninth Circuit affirmed a pre-filing order imposed on Thomas E. Frankovich, A Professional Law Corporation—a law firm—under the district court’s inherent power to sanction attorneys for abusive litigation conduct. The district court found that the Frankovich Group had filed at least 223 nearly identical ADA lawsuits in a single year, that the complaints contained contrived and false allegations of physical injury, and that the firm had engaged in coercive and misleading communications with unrepresented defendants. The Ninth Circuit upheld the pre-filing order as a sanction under the court’s inherent power—attorneys cannot be designated as vexatious litigants, which applies only to parties—requiring the firm to obtain leave of court before filing any further ADA claims in the Central District of California. The practical effect of the order was identical to a vexatious litigant designation, even if the doctrinal label differed.⁴⁹

The key distinction, therefore, is between a law firm acting as counsel (not subject to vexatious litigant designation in the Ninth Circuit) and a law firm subject to sanctions for its own abusive conduct as a participant in litigation (subject to equivalent pre-filing restrictions under inherent power). Outside the Ninth Circuit, no circuit has articulated a categorical rule protecting law firms from vexatious litigant designations, and the *Weissman* rule has not been universally adopted.

Florida Courts

Prior to the enactment of the Florida Vexatious Litigant Law, section 68.093, Florida Statutes (effective October 1, 2000), Florida courts addressed vexatious litigants primarily through three overlapping mechanisms: (1) the courts’ inherent judicial authority to restrict or prohibit pro se filings upon a showing of egregious abuse of the judicial process; (2) injunctive relief entered against repeat abusive filers; and (3) existing statutory and rule-based sanctions, most notably section 57.105, Florida Statutes, and Florida Rule of Civil Procedure 1.150. These pre-statutory tools, while recognized and applied by Florida courts for decades, were widely regarded as inadequate to address the full scope of the problem, particularly against judgment-proof or indigent litigants, which ultimately prompted the legislature to enact section 68.093.

⁴⁸*Weissman v. Quail Lodge, Inc.*, 179 F.3d 1194 (9th Cir. 1999).

⁴⁹*Molski v. Evergreen Dynasty Corp.*, 500 F. 3d 1047 (9th Cir. 2007).

The most significant pre-statutory mechanism was the courts' inherent authority to restrict or prohibit a litigant from filing further pro se pleadings. This power was recognized in Florida as early as 1964. In *Shotkin v. Cohen*, the Third District Court of Appeal held that a litigant who had interfered with the orderly process of judicial administration by filing pleadings containing irrelevant and scandalous allegations could be prohibited from representing himself in *propria persona*. This decision established the foundational principle that the right of pro se access to the courts is not absolute and may be curtailed when a litigant abuses it.⁵⁰

While Florida courts broadly recognized their inherent authority to restrict vexatious litigants, the Florida Supreme Court in *State v. Spencer* established a critical procedural safeguard: before a court could prohibit a litigant from filing further pro se pleadings, it was required to first provide notice and a reasonable opportunity to respond, typically through the issuance of an order to show cause. The Court held that to achieve the best balance of a litigant's right of access to courts and the need of the courts to prevent repetitious and frivolous pleadings, it is important for courts to first provide notice and an opportunity to respond before preventing that litigant from bringing further attacks on his or her conviction and sentence. The Court also recognized that providing such notice generates a more complete record, enhancing the ability of appellate courts to review whether the denial of access was an appropriate sanction⁵¹

However, pre-Vexatious Litigant Law methods of controlling frivolous lawsuits filed by vexatious litigants proved ineffective for a number of reasons. For example, the Florida Rules of Civil Procedure operate on the implied assumption that the parties are acting in good faith. Erring on the side of giving a plaintiff his day in court, case law has construed the rules of procedure in a way that makes it difficult to confront the frivolity of a lawsuit early in a case. For example, in *Gladstone v. Smith*, the court affirmed a circuit court order requiring a pro se litigant to file his eleventh amended complaint "through counsel." By the time of the order on appeal, the case had gone through multiple hearings with four trial judges.⁵² Statutes awarding costs and attorney's fees at the end of a case also have little effect on judgment-proof vexatious litigants, who may rely on their indigency to avoid even the filing fees.⁵³

⁵⁰*Shotkin v. Cohen*, 163 So. 2d 330 (Fla. 3d DCA 1964).

⁵¹*State v. Spencer*, 751 So. 2d 47 (Fla. 1999).

⁵²*Gladstone v. Smith*, 729 So. 2d 1002, 1003 (Fla. 4th DCA 1999).

⁵³*Smith v. Fisher*, 965 So. 2d 205 (Fla. 4th DCA 2007); *Kreager v. Glickman*, 519 So.2d 666, 667 (Fla. 4th DCA 1988).

The Florida Vexatious Litigant Law, section 68.093, Florida Statutes, was signed into law by the Governor on June 19, 2000.⁵⁴ The compelling state interest behind section 68.093 was, and remains, to prevent vexatious litigation from interfering with the business of the court system.⁵⁵

Vexatious litigation proceedings may be initiated by the court on its own motion, or by a party. The court has the authority to initiate proceedings on its own under both statutory provisions and inherent powers. Section 68.093(4) explicitly authorizes courts to act *sua sponte*, stating that “[t]he court in any judicial circuit may, on its own motion or on a motion of any party, enter a prefiling order prohibiting a vexatious litigant from commencing, pro se, any new action in the courts of that circuit without first obtaining leave of the court.”⁵⁶ This statutory framework demonstrates that courts need not wait for a party to file a motion before addressing vexatious litigant conduct.

Section 68.093, by its express terms, applies solely to proceedings in the trial courts. As such, appellate courts cannot certify that a person is a vexatious litigant. That limitation, however, does not affect an appellate court's authority to impose sanctions in accordance with Florida Rule of Appellate Procedure 9.140 and the court's inherent power to control its docket.⁵⁷

In its original form, the law was limited to civil actions governed by the Florida Rules of Civil Procedure and proceedings governed by the Florida Probate Rules, and did not include actions concerning family law matters governed by the Florida Family Law Rules of Procedure or any action in which the Florida Small Claims Rules applied.⁵⁸ The original version also limited the application of the vexatious litigant designation to plaintiffs and petitioners, and to persons previously declared to have been vexatious litigants pursuant to this law.⁵⁹

⁵⁴Ch. 2000-314, § 1, Laws of Florida, effective October 1, 2000.

⁵⁵*Smith v. Fisher*, 965 So. 2d 205, 209 (Fla. 4th DCA 2007), citing *Hoyt v. City of Danbury*, 69 Conn. 341, 37 A. 1051 (S. Ct. Err. Conn. 897) (“Every lawsuit looks to two results—to end a controversy, and to end it justly; and in the administration of human government the first is almost as important as the last.”); and *Florida Land Rock Phosphate Co. v. Anderson*, 50 Fla. 501, 512, 39 So. 392, 396 (Fla. 1905) (“Every lawsuit looks to two results—to end a controversy, and to end it justly; and the first is almost as important as the last.”).

⁵⁶§ 68.098(4), Fla. Stat.

⁵⁷*Pflaum v. Pflaum*, 974 So. 2d 579 (Fla. 1st DCA 2008).

⁵⁸§ 68.093(2)(a), Fla. Stat. (2000).

⁵⁹§ 68.093(2)(d), Fla. Stat. (2000).

The Vexatious Litigant Law was extensively amended in 2025.⁶⁰ Under the 2025 version of the law, effective July 1, 2025, a vexatious litigant is a person, as defined in section 1.01(3), Florida Statutes, proceeding pro se who:

1. In the immediately preceding 7-year period, has commenced, prosecuted, or maintained, pro se, five or more actions in any court that have been finally and adversely determined against such person, except that an action may not be included for purposes of this subparagraph if the court finds that the action was commenced, prosecuted, or maintained in good faith;⁶¹

2. After an action has been finally and adversely determined against the person, repeatedly relitigates or attempts to relitigate either the validity of the determination against the same party as to whom the action was finally determined or the cause of action, claim, controversy, or any of the issues of fact or law determined by the final and adverse determination against the same party as to whom the action was finally determined;⁶²

3. Repeatedly files pleadings, requests for relief, or other documents that have been the subject of previous rulings by the court in the same action;⁶³

4. Repeatedly files unmeritorious pleadings, requests for relief, or other documents; conducts unnecessary discovery; or engages in other tactics that are frivolous or solely intended to cause unnecessary delay in any action;⁶⁴ or

5. Has been previously found to be a vexatious litigant pursuant to this section or by another state court or a federal court.⁶⁵

Section 1.01(3) defines “person” as including “individuals, children, firms, associations, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or

⁶⁰Ch. 2025-128, § 1, Laws of Florida.

⁶¹§ 68.093(2)(c)1., Fla. Stat.

⁶²§ 68.093(2)(c)2., Fla. Stat.

⁶³§ 68.093(2)(c)3., Fla. Stat.

⁶⁴§ 68.093(2)(c)4., Fla. Stat.

⁶⁵§ 68.093(2)(c)5., Fla. Stat.

combinations.”⁶⁶ This means that non-human entities proceeding without counsel (*e.g.*, through non-attorney officers or agents) could, possibly, be designated as vexatious litigants under Florida law. One situation in which this could occur is in small claims court, where Florida Small Claims Rule 7.050 allows “[a] party, individual, or business entity recognized under Florida law who or which has no attorney handling such cause” to sign a statement of claim.⁶⁷ In contrast, it is unlikely that a corporation would attempt to appear pro se due to the longstanding common law rule that corporations must be represented in court by licensed attorneys and cannot appear in *propria persona*, and that pleadings by an unrepresented corporation are a nullity.⁶⁸

As used in section 68.093, the term “action” means an action: (1) governed by the Florida Family Law Rules of Procedure, the Florida Rules of Civil Procedure, rule 5.025 of the Florida Probate Rules, or the Florida Small Claims Rules; or (2) in another state court or federal court governed by rules of procedure that are comparable to the rules of procedure specified in section 68.093(2)(a)1.⁶⁹

Stated more precisely, an “action” in the sense of vexatious litigation is simply a judicial proceeding.⁷⁰ A “proceeding” is the regular and orderly progression of a lawsuit, including all acts and events between the time of commencement and the entry of judgment.⁷¹ A “complaint” or “petition” is the initial pleading that starts a civil, family, probate, or small claims action.⁷² The ordinary meaning of “action” is thus a single proceeding begun with a complaint or petition and continuing all the way through entry of judgment.⁷³ This means, for example, that a letter

⁶⁶§ 1.01(3), Fla. Stat.

⁶⁷Fla. Sm. Cl. Rule 7.050(3).

⁶⁸*Aktan v. Gotham Collection Services Corp.*, 305 So. 3d 632 (Fla. 3d DCA 2020); *Szteinbaum v. Kaes Conversiones y Valores, C.A.*, 476 So. 2d 247 (Fla. 3d DCA 1985); *Nicholson Supply Co. v. First Federal Sav. & Loan Ass’n of Hardee County*, 184 So. 2d 438 (Fla. 2d DCA 1966). See also *Osborn v. Bank of U.S.*, 22 U.S. 738, 9 Wheat. 738, 6 L. Ed. 204 (1824).

⁶⁹§ 68.093(2)(a), Fla. Stat.

⁷⁰*BP America Production Co. v. Burton*, 549 U.S. 84, 92-93, 127 S. Ct. 638, 643-644, 166 L. Ed. 2d 494 (2006).

⁷¹See *Tucker v. Equifirst Corp.*, 57 F. Supp. 1347, 1354 (S.D. Ala. 2014).

⁷²Fed. R. Civ. P., Rule 3.

⁷³See *Tucker v. Equifirst Corp.*, 57 F. Supp. 1347, 1354 (S.D. Ala. 2014).

cannot be used to commence an “action.”⁷⁴ An action is generally defined as “pending” from the time it is filed or commenced until it reaches final disposition, including the exhaustion of appeals or the expiration of time to appeal.⁷⁵ An action is no longer considered to be “pending” for purposes of vexatious litigation if it has been effectively dismissed, discontinued, or otherwise terminated.⁷⁶

The bright line of five unsuccessful pro se actions within seven years identifies likely abusers of the court system, as the average citizen does not file five pro se civil, family, probate, or small claims lawsuits in a lifetime.⁷⁷

The phrase “finally and adversely determined” refers to a situation where a litigative or administrative determination has been entered against the party’s interest and no further judicial action is required.⁷⁸ Under this law, however, an action is not deemed to be “finally and adversely determined” if an appeal in that action is pending.⁷⁹

While “frivolous” is incapable of precise definition, established guidelines derived from Florida case law for determining when an action is frivolous include where the case is found: (a) to be completely without merit in law and cannot be supported by a reasonable argument for an extension, modification or reversal of existing law; (b) to be contradicted by overwhelming evidence; (c) as having been undertaken primarily to delay or prolong the resolution of the litigation, or to harass or maliciously injure another; or (d) as asserting material factual statements that are false.⁸⁰ More specifically, in order to state a claim on which relief can be granted, a complaint or petition must contain sufficient factual matter, accepted as true to state a claim to

⁷⁴Examples of federal and state cases holding that a letter cannot be used to commence an action include the following: *Birge v. Delta Airlines, Inc.*, 597 F. Supp. 448, 454 (N.D. Ga. 1984); *Williams v. Mississippi Action for Progress, Inc.*, 824 F. Supp. 621 (S.D. Miss. 1993); *In re Interest of Teela H.*, 3 Neb. App. 604, 609, 529 N.W. 2d 134, 137-138 ((Ct. App. Neb. 1995); *Independence Medical Supply, Inc. v. Montana Dept. Of Health & Human Services*, 391 Mont. 1, 8, 414 P. 3d 781, 786 (Mont. 2018).

⁷⁵See, e.g., *U.S. v. United Airlines, Inc.*, 216 F. Supp. 709, 719 (E.D. Wash., N.D. Nev. 1962); *Tonkiewicz v. Secretary of health and Human Services*, No Reported in Fed. Cl., 1993 WL 177928 (U.S. Ct. Fed. Cl. 1993).

⁷⁶See *Trapnell v. Hunter*, 785 S.W. 2d 426, 428 (Ct. App. Tex. 1990).

⁷⁷*Smith v. Fisher*, 965 So. 2d 205 (Fla. 4th DCA 2007).

⁷⁸See *In re Cook*, 168 Idaho 153, 161, 481 P. 3d 107, 115 (Idaho 2021); also *Schlimbaum v. Schlimbaum*, 394 So. 3d 1157, 1162 (Fla. 4th DCA 2024).

⁷⁹§ 68.093(2)(c), Fla. Stat.

⁸⁰*Visoly v. Security Pacific Credit Corp.*, 768 So. 2d 482 (Fla. 3d DCA 2000).

relief that is plausible on its face. A claim lacks an arguable basis in law when it is based on an indisputably meritless legal theory. A claim lacks an arguable basis in fact when it describes fantastic or delusional scenarios.⁸¹

An action “solely intended to cause unnecessary delay” is one that lacks merit and is motivated by an improper purpose. This can be established through various means, including showing a pattern of behavior that does not advance the case toward resolution,⁸² the absence of reasonable justification, or the presence of improper motives.

In any action pending in any court of Florida, any party may move the court, upon notice and hearing, for an order requiring an opposing party to furnish security.⁸³ “Security” in this sense means an undertaking by a vexatious litigant to ensure payment to a party in an amount reasonably sufficient to cover the party’s anticipated, reasonable expenses of litigation, including attorney fees and taxable costs.⁸⁴ By use of the word “undertaking,” the vexatious litigant statute contemplates a bond, cash or otherwise, that could be taxed at the conclusion of the case.⁸⁵ The motion is required to be based on the grounds, and supported by a showing, that the opposing party subject to the motion is a vexatious litigant and is not reasonably likely to prevail on the merits of the action against the moving party.⁸⁶

At the hearing for an order to post security, the court is required to consider any evidence, written or oral, by witness or affidavit, which may be relevant to the consideration of the motion. No determination made by the court in such a hearing will be admissible on the merits of the action or deemed to be a determination of any issue in the action. If, after hearing the evidence, the court determines that the opposing party subject to the motion is a vexatious litigant and is not reasonably likely to prevail on the merits of the action against the moving party, the court is required to order the vexatious litigant to furnish security to the moving party in an amount and within such time as the court deems appropriate.⁸⁷

⁸¹See *Ardis v. Dickey*, Not Reported in Fed. Supp., 2024 WL 5444303 (E.D.N.C. 2024).

⁸²An example of action that does not advance the case toward resolution is the filing of motions or notices without subsequent action. See *Heinz v. Watson*, 615 So. 2d 750 (Fla. 5th DCA 1993).

⁸³§ 68.093(3)(a), Fla. Stat.

⁸⁴§ 68.093(2)(b), Fla. Stat.

⁸⁵*Smith v. Fisher*, 965 So. 2d 205 (Fla. 4th DCA 2007), n. 5.

⁸⁶§ 68.093(3)(a), Fla. Stat.

⁸⁷§ 68.093(3)(b), Fla. Stat.

The language of section 68.093 regarding furnishing security upon a finding that the litigant is vexatious and is not reasonably likely to prevail on the merits is mandatory and does not require the court to consider the litigant's financial means when determining the amount of security. The requirement of security may be analogized to the statutory requirement of payment of a fee or the furnishing of security as a prerequisite to filing a complaint.⁸⁸ The requirement that a vexatious litigant furnish security also does not fall under any of the categories listed in section 57.081, Florida Statutes, when the litigant is proceeding *in forma pauperis*.⁸⁹

Inmates proceeding *in forma pauperis* are also subject to the requirement to furnish security. Florida's Prisoner Indigency Statute, section 57.085, requires indigent prisoners to defer the prepayment of court costs and fees rather than waiving them entirely. The statute mandates that indigent prisoners make an initial partial payment of court costs and fees, followed by monthly payments from their inmate trust accounts until the costs and fees are paid in full.⁹⁰ The statute also requires the court to screen inmate filings to determine whether the action is frivolous, malicious, or intended to harass, and to dismiss such claims if found to be so.⁹¹

If the vexatious litigant fails to post security required by an order of the court under section 68.093 and the vexatious litigant is:

1. A plaintiff or petitioner, the court shall immediately issue an order dismissing the action with prejudice as to the moving party for whose benefit the security was ordered;⁹² or
2. A defendant or respondent, the court may immediately issue an order imposing one or more of the following sanctions, as appropriate: (a) Denial of the vexatious litigant's request for

⁸⁸See *Moran v. Murtaugh Miller Meyer Nelson, L.L.P.*, 40 Cal. 4th 780, 152 P. 3d 416 (Cal. 2007) (statutes allowing trial court to require a vexatious litigant to post security before pursuing his or her claim do not unconstitutionally discriminate against vexatious litigants of "modest" means).

⁸⁹Those categories are limited to filing fees; service of process; certified copies of orders or final judgments; a single photocopy of any court pleading, record, or instrument filed with the clerk; examining fees; mediation services and fees; private court-appointed counsel fees; subpoena fees and services; service charges for collecting and disbursing funds; and any other cost or service arising out of pending litigation. § 57.081(1). See also Fla. R. App. P. Rule 9.430.

⁹⁰*Whited v. Florida Com'n on Offender Review*, 153 So. 3d 324 (2014).

⁹¹*Gastón v. NNN Investment Advisors*, 359 So. 3d 1195 (2023).

⁹²§ 68.093(3)(c)1., Fla. Stat.

relief;⁹³ (b) Striking of the vexatious litigant's pleading or other document or part thereof;⁹⁴ or (c) Rendition of a judgment by default against the vexatious litigant.⁹⁵

If the motion for an order to post security is filed before the trial in an action, the action will be automatically stayed and the moving party need not plead or otherwise respond to the vexatious litigant's complaint, pleading, request for relief, or other document until 10 days after the motion for an order to post security is denied. If the motion for an order to post security is granted, the moving party is required to respond or plead no later than 10 days after the required security has been furnished.⁹⁶

In addition to any other relief provided in section 68.293, the court in any judicial circuit may, on its own motion or on the motion of any party, enter a prefiling order prohibiting a vexatious litigant from commencing, pro se, any new action in the courts of that circuit without first obtaining leave of the court. Disobedience of such an order may be punished as contempt of court. Leave of court will be granted by the court only upon a showing that the proposed action is meritorious and is not being filed for the purpose of delay or harassment. The court may condition the filing of the proposed action upon the furnishing of security as provided in section 68.093(3)(b).⁹⁷

The clerk of the court may not file any new action by a pro se vexatious litigant against whom a prefiling order has been entered unless the vexatious litigant has obtained an order from the court allowing such filing. If the clerk of the court mistakenly allows a pro se vexatious litigant to file any new action in contravention of a prefiling order, any party to that action may file with the clerk and serve on the vexatious litigant and all other parties a notice stating that the vexatious litigant is subject to a prefiling order. The filing of such a notice will automatically stay the litigation against all parties to the action. The court is required to automatically dismiss the action with prejudice within 10 days after the filing of such notice unless the vexatious litigant files a motion for leave to file the new action. If the court issues an order granting leave, the pleadings or other responses to the complaint need not be filed until 10 days after the date of service by the vexatious litigant of a copy of the order granting leave.⁹⁸

⁹³§ 68.093(3)(c)2.a., Fla. Stat.

⁹⁴§ 68.093(3)(c)2.b., Fla. Stat.

⁹⁵§ 68.093(3)(c)2.c., Fla. Stat.

⁹⁶§ 68.093(3)(d), Fla. Stat.

⁹⁷§ 68.093(4), Fla. Stat.

⁹⁸§ 68.093(5), Fla. Stat.

The clerk of a court is required to provide copies of all prefiling orders to the Clerk of the Florida Supreme Court, who is required to maintain a registry of all vexatious litigants.⁹⁹

An automatic stay imposed under section 68.093 remains in effect until the court: (a) In its discretion, vacates the stay; (b) Rules, as applicable, on the motion for an order to post security under section 68.093(3)(d) or the motion for leave under section 68.093(5); or (c) Dismisses the action under section 68.093(5).¹⁰⁰

The relief provided under section 68.093 is cumulative to any other relief or remedy available under the laws of Florida or the rules of court, including, but not limited to, the relief provided under section 57.105, Florida Statutes.¹⁰¹

Section 68.093, Florida Statutes, expressly applies to pro se litigants regardless of whether they occupy the role of plaintiff/petitioner or defendant/respondent in a given action. The statute's text explicitly contemplates different consequences for vexatious litigants depending on their procedural posture—dismissal for plaintiffs/petitioners who fail to post required security, and denial of relief, striking of pleadings, or entry of default judgment for defendants/respondents who fail to do so. Florida appellate courts have consistently applied the vexatious litigant designation to plaintiffs who file serial, meritless pro se actions, and at least one reported decision affirmed the designation of a defendant/counterclaimant who engaged in abusive pro se litigation conduct. Courts have also exercised their inherent authority—separate from and in addition to the statute—to sanction both plaintiffs and defendants who engage in frivolous or excessive pro se filings.¹⁰²

A litigant who has been identified as a “vexatious litigant,” does not automatically stop being such at any point. However, the vexatious litigant designation can be challenged and

⁹⁹§ 68.093(6), Fla. Stat. The Florida Supreme Court maintains a publicly available statewide list of declared vexatious litigants in downloadable Excel spreadsheet form. This list can be accessed through the Clerk's Office portion of the Florida Supreme Court website, at <https://supremecourt.flcourts.gov/the-court/clerk/vexatious-litigants>.

¹⁰⁰§ 68.093(7), Fla. Stat.

¹⁰¹§ 68.093(8), Fla. Stat.

¹⁰²See, e.g., *Brown v. Miami-Dade County*, 319 So. 3d 81 (Fla. 3d DCA 2021) (plaintiff); *Knezevich v. Service Finance Company, LLC*, 375 So. 3d 941 (Fla. 2d DCA 2023) (plaintiff); *Rosen v. Tiffany of Bal Harbour Condominium Association, Inc.*, 353 So. 3d 1200 (Fla. 3d 2022) (defendant/counterclaimant); *Steinberg on behalf of Fiesta Homeowners Association, Inc. v. Cudak*, 429 So. 3d 2151 (Fla. 4th DCA 2026) (exercise of inherent and statutory authority in sanctioning vexatious litigant homeowner).

potentially overturned by the court if the litigant demonstrates that he or she is no longer engaging in vexatious conduct.¹⁰³

When imposing vexatious litigant restrictive orders, Florida courts should undertake a four-factor analysis to balance the various interests implicated by court-access restrictions:¹⁰⁴

First, the litigant must be provided reasonable notice and an opportunity to oppose the issuance of an order that restricts the litigant's access to the courts. This requirement protects the litigant's due process rights.

Second, the court must create an adequate record for review, including a list of all the cases and documents, or an explanation of the reasons, that led the court to conclude that a restrictive order is needed to curb the litigant's repetitive or abusive activities.¹⁰⁵ The judge issuing the restrictive order should rely only on observations obtained from cases to which he or she is assigned, and on actual rulings in other cases. Filings that have not been deemed frivolous or vexatious or otherwise resolved remain pending on the merits before the court to which they are assigned and should not be considered. While a restrictive order may be warranted based solely on documents before the court in the particular case in which the vexatious litigant order is issued, the court must identify those documents and explain how, by filing them, the litigant abused the court system. This documentation can also be helpful to future courts dealing with the same sort of abusive or vexatious activities by the same litigant.

Third, the court must make substantive findings as to the frivolous, abusive, or vexatious nature of the litigant's actions. The restrictive order cannot issue merely on a showing of litigiousness: The litigant's filings must not only be repetitive or abusive, but also be without an arguable factual or legal basis, or filed with the intent to harass.

Finally, the order must be narrowly drawn to address the specific problem encountered by the court. Where a litigant's misuse of the legal system is pervasive, a restrictive order that broadly restricts a litigant from filing any new actions can be narrowly drawn. Constitutional considerations prohibit a complete ban on filings by pro se litigants if the ban prevents the litigant from proceeding in criminal cases and in original civil actions that sufficiently implicate a fundamental right. Since restrictive orders necessarily implicate future filings, which may involve

¹⁰³Florida House of Representatives Judiciary Committee Bill Analysis 2025-04-08, found at <https://www.flsenate.gov/Session/Bill/2025/1559/Analyses/h1559c.JDC.PDF>.

¹⁰⁴Adapted from *Jordan v. State ex rel. Department of Motor Vehicles and Public Safety*, 121 Nev. 44, 61-61, 110 P. 3d 30, 43-45 (Nev. 2005).

¹⁰⁵Understandably, the court's access to documents filed, and proceedings taken, in other courts may be limited.

criminal proceedings or fundamental rights, even broad restrictive orders should set an appropriate standard against which future filings will be measured.

The first prefiling order should be the least restrictive, *e.g.*, requiring the litigant to request and obtain permission from the court before the opposing party can be required to respond to any further filings. If that proves to be insufficient, a prefiling order can be issued that prohibits the abusive litigant from filing anything in the case at issue, or in any other litigation in Florida without first obtaining the permission of the presiding judge of the court where the litigant intends to file. The prefiling order can also contain a requirement that the litigant timely provide a copy of that order to the presiding judge of any court where the litigant intends to file. A prefiling order can also condition the filing of any new litigation on the furnishing of security for the benefit of the opposing party. This is a simpler and more efficient method than having the opposing party having to seek attorney fees and costs for having to respond to a frivolous submission. A vexatious litigant who violates a prefiling order can be punished for contempt of court by the judge who issued the prefiling order.

Prefiling orders are not a cure-all, however. A prefiling order prohibiting the vexatious litigant from filing new motions or litigation when representing himself or herself without first obtaining leave of the presiding judge of the court where the litigation is supposed to be filed will not necessarily curb the vexatious litigant's abuse of the judicial process, as the litigant may be inclined to file numerous requests to file new litigation, along with numerous other documents—each of which the court would be required to review and then decide whether or not to grant the request—and then appeal repeated denials of those requests. It may even necessitate the hiring of a senior judge or magistrate to screen each of the litigant's filings.¹⁰⁶

It is important here to be aware that sometimes a pro se litigant will take on the services of a lawyer, often in the form of a limited appearance or as “standby counsel.” Sometimes, such a formerly pro se litigant will appear before the court and not volunteer or otherwise indicate that he or she is now represented by counsel. It is for this reason that, prior to any conference of hearing, the judge should review the case docket to see if the litigant is now represented by counsel, lest the judge find himself or herself in a situation where the court is mistakenly proceeding without counsel being present.

It is also important that the judge be aware of how a vexatious litigant subject to a prefiling order may attempt to avoid the court's sanction.

Vexatious litigants subject to prefiling orders have developed a well-documented arsenal of evasion techniques that courts across federal and state jurisdictions have repeatedly identified

¹⁰⁶See *In re Marriage of Deal*, 80 Cal. App. 5th 71, 295 Cal. Rptr. 3d 415 (Ct. App. First Dist. Cal. 2022).

and rejected. These techniques fall into several broad categories: (1) filing under aliases, modified or alternate forms of names, or false identities;¹⁰⁷ (2) filing through proxy parties, including corporations, trusts, family members, and compliant attorneys;¹⁰⁸ (3) filing in different courts or jurisdictions not expressly covered by the original order;¹⁰⁹ (4) reframing barred claims under different legal theories or procedural vehicles;¹¹⁰ (5) exploiting procedural mechanisms such as habeas corpus petitions, mandamus writs, motions for reconsideration, and motions to disqualify,¹¹¹ and (6) exploiting gaps in the prefiling order.¹¹² Courts have responded with increasingly broad countermeasures, including expanded prefiling orders, nationwide injunctions, contempt sanctions, and application of the alter ego doctrine to pierce corporate and trust structures used as shields.¹¹³

¹⁰⁷See *In re Singh*, 551 B.R. 54 (Bankr. E.D. California 2016).

¹⁰⁸See *Hupp v. Solera Valley Greens Assoc.*, 12 Cal. App. 5th 1300, 220 Cal. Rptr. 3d 81 (Ct. App. 5th Cal. 2017).; *Kinney v. Clark*, 12 Cal. App. 5th 724, 219 Cal. Rptr. 3d 247 (Ct. App. 2d Dist. Cal. 2017); *In re Kinney*, 201 Cal. App. 4th 951, 135 Cal. Rptr. 3d 471 (Ct. App. 2d Div. Cal. 2012); *In re Shieh*, 17 Cal. App. 4th 1154, 21 Cal. Rptr. 2d 886 (Ct. App. 2d Dist. Cal. 1993); *Say & Say, Inc. v. Ebershoff*, 20 Cal. App. 4th 1759, 25 Cal. Rptr. 2d 703 (Cal. App. 2d Dist. 1993).

¹⁰⁹See *In re Fillbach*, 223 F.3d 1089 (9th Cir. 2000); *Justice v. Koskinen*, 109 F. Supp. 3d 142 (D.D.C. 2015).

¹¹⁰See *In re Singh*, 551 B.R. 54 (Bankr. E.D. California 2016); *In re Prefiling Order Declaring Vexatious Litigant, Pursuant to I.C.A.R. 59.*, 164 Idaho 586 (Idaho 2019).

¹¹¹See *In re Bittaker*, 55 Cal. App.4th 1004 (Ct. App. 1st Dist. Cal. 1997); *In re Johnson*, 390 S.W. 3d 584 (Ct. App. Tx. 2012).

¹¹²See *Woodhouse v. Meta Platforms Inc.*, 704 F. Supp. 3d 502 (S.D.N.Y. 2023)

¹¹³See *In re Shieh*, 17 Cal. App. 4th 1154, 21 Cal. Rptr. 2d 886 (Ct. App. 2d Dist. Cal. 1993); *Say & Say, Inc. v. Ebershoff*, 20 Cal. App. 4th 1759, 25 Cal. Rptr. 2d 703 (Cal. App. 2d Dist. 1993).

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Chapter 3. The Bounds of Judicial Notice and Independent Judicial Research.

In short form, it is permissible for judges to research, and take judicial notice of, a litigant's history in their own courts and foreign courts for purposes of determining whether or not the litigant should be designated as vexatious, but there are nuances.

Courts possess broad discretion to consider various types of information in factfinding, but this authority is constrained by constitutional due process requirements that protect litigants from being sanctioned based on materially inaccurate information without an opportunity to respond. While judges may conduct limited independent investigations and take judicial notice of certain facts, they must provide litigants with notice of extra-record information and a meaningful opportunity to challenge its accuracy before relying on it to impose sanctions. By analogy, under *Gardner v. Florida*,¹¹⁴ a sentencing judge who intends to use any information not presented in open court as a factual basis for sentencing must advise the defendant of what the information is and afford the defendant an opportunity to rebut it.¹¹⁵ Reduced to its lowest common denominator, a trial court, sitting as the trier of fact, may only consider knowledge acquired through the introduction of evidence or through judicial notice and may not rely on private knowledge outside the record.¹¹⁶ Independent investigation of adjudicative facts generally is prohibited unless the information is properly subject to judicial notice.¹¹⁷

Judicial notice is a court's acceptance, for purposes of convenience and without requiring a party's proof, of a well-known and indisputable fact; it is also the court's power to accept such a fact."¹¹⁸ Judicial knowledge is not limited by the knowledge of the particular judge or court. It is not essential that matters of judicial notice be actually known to the judge. If they are proper subjects of judicial knowledge, the judge is allowed to inform himself or herself in any way which may seem best in his or her discretion, and act accordingly.¹¹⁹

¹¹⁴*Gardner v. Florida*, 430 U.S. 349, 97 S. Ct. 1197, 51 L. Ed. 2d 393 (1977).

¹¹⁵*Gardner v. Florida*, 430 U.S. 349, 97 S. Ct. 1197, 51 L. Ed. 2d 393 (1977); *Vining v. State*, 827 So. 2d 201, 209 (Fla. 2002).

¹¹⁶*New York Life Ins. Co. v. Tedder*, 113 Fla. 649, 657-658, 153 So. 145, 148 (Fla. 1934).

¹¹⁷See, e.g., *Miller v. Anderson*, 2022 WL 3586857 (N.D. Ohio 2022).

¹¹⁸Black's L. Dict. (12th ed. 2024).

¹¹⁹*Amos v. Moseley*, 74 Fla. 555, 565, 77 So. 619, 621 (Fla. 1917).

A “fact” is something that actually exists; an aspect of reality.¹²⁰ In the context of judicial notice, facts can be divided into two categories:

(1) *Adjudicative Facts*. An “adjudicative fact” is a controlling or operative fact, rather than a background fact; a fact that is particularly related to the parties to a proceeding and that helps the tribunal determine how the law applies to those parties. For example, adjudicative facts include those that the jury weighs.¹²¹

(2) *Legislative Facts*. A “legislative fact,” in contrast, is a fact that explains a particular law’s rationality and that helps a court or agency determine questions of law, policy, and discretion. Legislative facts are not ordinarily specific to the parties in a proceeding.¹²² They are not normally developed through the presentation of evidence and when courts consider legislative facts relevant to constitutional challenges or statutory interpretation, they may draw on broader contextual knowledge without these limitations, recognizing that such facts inform legal policy rather than resolve case-specific disputes between parties. For these reasons, the ordinary limits on judicial notice have no application to legislative facts, leaving the court free to look beyond the evidentiary record developed in a particular case in order to uncover legislative facts.¹²³

The concept of judicial notice originated as a common law tradition that served to make fact-finding more efficient and accurate in an era of relatively limited sources of information by giving judges broad authority to “notice” facts that were not the subject of serious dispute.¹²⁴ As John Henry Wigmore explained more than a century ago:

The object of this rule is to save time, labor, and expense in securing and introducing evidence on matters which are not ordinarily capable of dispute and are not actually *bona fide* disputed, and the tenor of which can safely be assumed from the tribunal’s general knowledge or from slight research on its part. The foundation of the rule is that the opponent does not actually or *bona fide* dispute the fact, and that therefore the introduction of evidence would be a burdensome formality. Hence, on the one hand, the scope of the rule can afford to be very broad, in the absence of real dispute; and on the other hand, it must never be used to prevent the demonstration of the actual

¹²⁰Black’s L. Dict. (12th ed 2024).

¹²¹Black’s L. Dict. (12th ed 2024).

¹²²Black’s L. Dict. (12th ed 2024).

¹²³See *Minutello v. Hartford Life and Acc. Ins. Co.*, 964 F. Supp. 2d 491, 503 (W.D. Penn. 2013); *Moor v. Moore*, 173 Conn. 120, 122, 376 A. 2d 1085, 1086 (Conn. 1977) (legislative acts may be judicially noticed without affording the parties an opportunity to be heard).

¹²⁴See Jeffrey Bellin and Andrew Guthrie Ferguson, “Trial by Google: Judicial Notice in the Information Age,” *Northwestern U. L. Rev.*, Vol. 8, No. 4 (2014), 1142-1156.

incorrectness of the assumption, if by evidence the opponent is *bona fide* ready to attempt to do so. It thus becomes a useful expedient for speeding trials and curing informalities.¹²⁵

Judicial notice also gave judges authority to conduct their own investigations, within certain limits:

The judge may *investigate* or refresh his memory with any source of information, for the purpose of ruling whether a fact is suitable and safe to be noticed; and as a means, therefore, may consult materials furnished by the parties themselves. In determining that a fact should be judicially noticed the judge is not to consider any *information acquired from sources personal and private to his own experience* and not common to the parties and the public at large; such personal information can be availed of only by his taking the stand as a witness...¹²⁶

Judicial notice is thus an adjudicative device that substitutes the acceptance of a universal truth for the conventional method of introducing evidence.¹²⁷ Judicial notice is superior to evidence since, as it stands for proof, it fulfills the object which evidence is designed to fulfill, and makes evidence unnecessary.¹²⁸ It functions both as a substantive evidentiary rule defining what matters courts may accept as true without formal proof and as a procedural mechanism establishing how courts must implement that acceptance. This duality is embedded in Florida's Evidence Code, which prescribes both the scope of judicially noticeable matters and the mandatory procedures courts must follow when taking judicial notice.

Florida law grants the court broad discretion to judicially notice a wide variety of things, including records of any court of Florida or of any court of record of the United States or of any state, territory, or jurisdiction of the United States;¹²⁹ facts that are not subject to dispute because they are generally known within the territorial jurisdiction of the court;¹³⁰ and facts that are not subject to dispute because they are capable of accurate and ready determination by resort to

¹²⁵John Henry Wigmore, *A Pocket Code of the Rules of Evidence in Trials at Law*, § 2120 (Boston: Little, Brown, and Company 1910), 476.

¹²⁶John Henry Wigmore, *A Pocket Code of the Rules of Evidence in Trials at Law*, §§ 2125-2126 (Boston: Little, Brown, and Company 1910), 477.

¹²⁷*Gen. Elec. Cap. Corp. v. Lease Resol. Corp.*, 128 F. 3d 1074, 1081 (7th Cir. 1997).

¹²⁸*Brown v. Piper*, 91 U.S. 37, 43, 1 Otto 37, 43, 23 L. Ed. 200 (1875); *State v. Main*, 69 Conn. 123, 37 A. 80, 84 (Conn. 1897); *Amos v. Moseley*, 74 Fla. 555, 564, 77 So. 619, 623 (Fla. 1917).

¹²⁹§ 90.202(6), Fla. Stat.

¹³⁰§ 90.202(11), Fla. Stat.

sources whose accuracy cannot be questioned.¹³¹ The Florida Supreme Court has recognized that “every court will take judicial notice of its own records appearing in the case before it for consideration.”¹³² Additionally, appellate courts may, when appropriate, take judicial notice of their own records in prior appeals.¹³³

Judicial notice of the matters listed in section 90.202 is discretionary. The court may take judicial notice of these matters, whether or not it is requested by a party to do so. However, if a party requests that judicial notice be taken and satisfies the requirements of section 90.203,¹³⁴ then judicial notice of these matters is mandatory.¹³⁵ A court is not required to take judicial notice without a proper request to do so. In any event, judicial notice cannot be extended to permit the introduction of new factual evidence not presented to the trial court.¹³⁶

In family cases, the court may take judicial notice of any matter described in section 90.202(6)¹³⁷ when imminent danger to persons or property has been alleged and it is impractical to give prior notice to the parties of the intent to take judicial notice. Opportunity to present evidence relevant to the propriety of taking judicial notice under section 90.204(1) may be deferred until after judicial action has been taken. If judicial notice is taken under section 90.204(4), the court is required to, within 2 business days, file a notice in the pending case of the matters judicially noticed. For purposes of section 90.204(4), the term “family cases” has the same meaning as provided in the Rules of Judicial Administration.¹³⁸

¹³¹§ 90.202(12), Fla. Stat.

¹³²*Elmore v. Florida Power & Light Co.*, 895 So.2d 475, 478 (Fla. 4th DCA 2005).

¹³³*Maccauley v. State*, 2026 WL 290920, — So. 3d — (Fla. 3d DCA 2026), n. 2; *Gulf Coast Home Health Services of Florida, Inc. v. Department of Health and Rehabilitative Services*, 503 So. 2d 415, 416 (1987).

¹³⁴§ 90.203, Fla. Stat. provides in its entirety: “A court shall take judicial notice of any matter in s. 90.202 when a party requests it and:

(1) Gives each adverse party timely written notice of the request, proof of which is filed with the court, to enable the adverse party to prepare to meet the request.

(2) Furnishes the court with sufficient information to enable it to take judicial notice of the matter.”

¹³⁵§ 90.202, Fla. Stat., Law Revision Council Note (1976).

¹³⁶See, e.g., *People v. Barham*, 272 Ill. Dec. 993, 337 Ill. App. 3d 1121, 1129, 708 N.E. 2d 297, 304 (App. Ct. Ill. 2003).

¹³⁷“Records of any court of this state or of any court of record of the United States or of any other state, territory, or jurisdiction of the United States.” § 90.202(6), Fla. Stat.

¹³⁸§ 90.204(2), Fla. Stat.

When a court determines upon its own motion that judicial notice of a matter should be taken or when a party requests such notice and shows good cause for not complying with section 90.203(1), the court is required to afford each party reasonable opportunity to present information relevant to the propriety of taking judicial notice and to the nature of the matter noticed.¹³⁹ In determining the propriety of taking judicial notice of a matter or the nature thereof, a court may use any source of pertinent and reliable information, whether or not furnished by a party, without regard to any exclusionary rule except a valid claim of privilege and except for the exclusions provided in section 90.20.¹⁴⁰ If a court resorts to any documentary source of information not received in open court, the court is required to make the information and its source a part of the record in the action and is required to afford each party reasonable opportunity to challenge such information, and to offer additional information, *before* judicial notice of the matter is taken.¹⁴¹ Judicial notice taken *sua sponte* is frowned upon, particularly upon the conclusion of fact-finding hearings, as doing so deprives the litigants of opportunity to challenge the accuracy and relevancy of the judicially noticed facts.¹⁴²

The required procedural safeguards of notice and a reasonable opportunity to be heard must be met *prior* to the court taking judicial notice; the most important prerequisite being notice to the parties.¹⁴³ When a court seeks to take judicial notice on its own motion, the proper procedure to be followed is for the court to issue an order to the affected party to show cause why the court should not take judicial notice of the matters specified in the order.¹⁴⁴

The fact that a *court record* may be judicially noticed does not render all that is in the record admissible; documents contained in a court file, even if that entire court file is judicially noticed, are still subject to the same rules of evidence to which all evidence must adhere.¹⁴⁵ The court's authority to take judicial notice of records cannot be used to justify the wholesale admission of hearsay statements within those court files, such as through police reports or

¹³⁹§ 90.204(1), Fla. Stat.

¹⁴⁰§ 90.204(2), Fla. Stat.

¹⁴¹§ 90.204(3), Fla. Stat. See also *Freeman v. Adkinson*, 90 So. 2d 109, 110 (Fla. 1956); *Atlas Land Corp. v. Norman*, 116 Fla. 800, 156 So. 885 (Fla. 1934).

¹⁴²See, e.g., *Dombalic v. J.C.*, 186 N.Y.S. 3d 545, 550, 78 Misc. 3d 625, 632 (Supreme Ct., Richmond Co., New York 2023).

¹⁴³*The Scripps Research Institute, Inc. v. The Scripps Research Institute*, 916 So. 2d 988, 990 (Fla. 4th DCA 2005); see also *People v. Tarkington*, 49 Cal. App. 5th 892, 263 Cal. Rptr. 3d 469 (Ct. App. 2d Dist. Cal. 2020), n. 11.

¹⁴⁴See *Clark v. Baney*, 355 So. 3d 976, 977 (Fla. 1st DCA 2023).

¹⁴⁵*Burgess v. State*, 831 So. 2d 137, 141 (Fla. 2002); *Stoll v. State*, 762 So. 2d 870, 877 (Fla. 2000).

letters.¹⁴⁶ A court cannot take judicial notice of hearsay allegations as being true, just because they are part of a court records or file.¹⁴⁷ Thus, while the court may take judicial notice of documents in a court file that were properly placed there, this notice would not make the contents of the documents admissible if they were subject to challenge, such as when a document is protected by privilege or constituted hearsay. To the contrary, documents contained in a court file, even if that entire court file has been judicially noticed, are still subject to the same rules of evidence to which all evidence must adhere.¹⁴⁸ Thus, taking judicial notice of an entire prior proceeding may be expeditious for the current proceedings, but it does not allow the substance of the underlying materials to be entered into evidence without compliance with the rules of evidence.¹⁴⁹

When a judge proposes to take judicial notice of *evidence* from another case, Florida law requires that “that evidence must be brought into the record of the case under consideration.”¹⁵⁰ As the Fourth District Court of Appeal explained in *Pan American Stone Co. v. Meister*, “the problem with a trial judge’s browsing through his own court records or calling upon his memory of other cases is that the appellate court is restricted to the record before it to reach its determination of the soundness of the decision below.”¹⁵¹

Independent judicial research, if done improperly, can also be a violation of the judicial canons. Canon 3 of the Florida Code of Judicial Conduct states, “A Judge Shall Perform the Duties of Judicial Office Impartially and Diligently.” Canon 3B(7) provides in relevant part: “A judge shall accord to every person who has a legal interest in a proceeding, or that person’s lawyer, the right to be heard according to law...” The Commentary to Canon 3B(7) explicitly provides that “A judge must not independently investigate facts in a case and must consider only the evidence presented.” This prohibition serves a fundamental purpose: preserving judicial neutrality and the adversarial process. As the Florida Third District Court of Appeal explained in *In re Guardianship of O.A.M.*, “a judge’s neutrality is destroyed when the judge himself

¹⁴⁶*Dufour v. State*, 69 So.3d 235, 253-254 (Fla. 2011).

¹⁴⁷1 Fla. Prac., *Evidence* § 202.6 (2026 ed.) (“Judicial notice cannot be utilized to justify the admission of hearsay statements in court files.”); *Stoll v. State*, 762 So. 2d 870, 876 (Fla. 2000) (“Although a trial court may take judicial notice of court records ... it does not follow that this provision permits the wholesale admission of all hearsay statements contained within those court records.”); see also *Milton v. State*, 429 So. 2d 804 (Fla. 4th DCA 1983), n. 4.

¹⁴⁸*Stoll v. State*, 762 So. 2d 870, 877 (Fla. 2000).

¹⁴⁹*Dufour v. State*, 69 So.3d 235, 253-254 (Fla. 2011).

¹⁵⁰*Pan American Stone Co., Inc. v. Meister*, 527 So.2d 275 (Fla. 4th DCA 1988).

¹⁵¹*Pan American Stone Co., Inc. v. Meister*, 527 So.2d 275 (Fla. 4th DCA 1988).

becomes part of the fact-gathering process.”¹⁵² In conducting its own independent research and going outside the record in order to arrive at its conclusions, a court unfairly deprives the parties of an opportunity to respond to the court’s factual findings in terms of the accuracy of those findings, the reliability and credibility of the court’s sources, and the propriety of the notice taken. Such conduct also usurps the role of counsel in an adversarial justice system and goes beyond the court’s judicial mandate of impartiality.¹⁵³ It is for these reasons that sentencing judges should always know and respect the important constraints that protect defendants’ due process rights regarding independent investigation.

¹⁵²*In re Guardianship of O.A.M.*, 124 So. 3d 1031, 1032 (Fla. 3d DCA 2013).

¹⁵³See, e.g., *DiGiovanni v. Deutsche Bank National Trust Company*, 226 So. 3d 984 (Fla. 2d DCA 2017) (after the parties had rested, taking a recess to search, without the parties’ knowledge, the internet for mortgagee bank’s institutional history, then informing the parties of the results of the search and inviting bank to reopen its case to admit this information); *In re Guardianship of O.A.M.*, 124 So. 3d 1031 (Fla. 3d DCA 2013) (interview of principal of ward’s school and obtaining bank records without involving the parties); *H.L.D. v. State*, 83 So. 3d 750 (Fla. 5th DCA 2011) (judge went outside presence of parties and had court reporter help judge to understand what was being said on recording of a telephone call that had been entered into evidence); *Albert v. Rogers*, 57 So. 3d 233, 236 (Fla. 4th DCA 2011) (investigative call to school was a fundamental denial of due process); *Beaman v. Beaman*, 2018 WL 5099778 (Ct. App. Tenn. 2018) (trial judge consulted social media platform, not subject to the standards of the adversarial process, in effort to resolve disputed facts surrounding how and when media organization obtained copy of wife’s trial brief); *Vent v. State*, 288 P. 752 (Ct. App. Alaska 2012) (independently researching and reviewing, without prior knowledge of the parties, how false-confession expert fared in other cases and using this information to conclude that counsel who had not been ineffective in failing to use the sample voir dire questions the expert had given counsel because those questions had not led to the admission of the expert’s testimony in cases where they were used); *Kiniti-Wairimu v. Holder*, 312 Fed. Appx. 907, 908 (9th Cir. 2009); *N.Y.C. Medical and Neurodiagnostic, P.C. v. Republic Western Ins. Co.*, 8 Misc. 3d 33, 798 N.Y.S. 2d 309 (Supreme Ct. App. Term New York 2004) (trial court conducted its own internet search in determining whether out-of-state insurer transacted business in New York and thereby went outside of the record in order to arrive at its conclusions); *State v. McCrary*, 676 N.W. 2d 116, 125 (S.D. 2004) (call to child victim’s therapist without the knowledge of the parties and asking therapist whether or not he had reason to believe child was not molested by father).

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Chapter 4. Ethical and Professional Considerations.

The ethical duties of a judge dealing with abusive or vexatious litigants are largely informed by Canons 2 and 3 of the Code of Judicial Conduct: A judge shall respect and comply with the law and act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.¹⁵⁴ A judge shall require order and decorum in proceedings before the judge.¹⁵⁵ A judge shall be patient, dignified, and courteous to litigants with whom the judge deals in an official capacity and shall require similar conduct of others subject to the judge's direction and control.¹⁵⁶ A judge shall perform judicial duties without bias or prejudice.¹⁵⁷ A judge shall accord to every person who has a legal interest in a proceeding the right to be heard according to law.¹⁵⁸ A judge shall dispose of all judicial matters promptly, efficiently, and fairly.¹⁵⁹

The right to be heard according to law has created the expectation that trial courts make great effort to identify the meritorious issues concealed in the submissions of a pro se litigant. Yet, the prevailing standard in Florida and other states is that pro se litigants must be treated with the same expectations as lawyers. Opposing this is the view on the part of many judges that the trial court's duty of "fairness" permits reasonable accommodation of the pro se litigant, so long as there is no prejudice to adverse parties. Some judges treat incarcerated pro se litigants with more or less flexibility, depending on the situation.

Not all pro se litigants are the same. Some are quite sophisticated, or have the benefit of *sub rosa* lawyers. Some do not understand the legal system in the slightest. Not extending special treatment to a pro se litigant who has deliberately and knowingly chosen to proceed without legal counsel can be justified and is overreaching when a judge takes undue advantage of a naive pro se litigant or allows opposing counsel to do so. Some pro se litigants abuse the court system, and some are downright vexatious. It is important, in this regard, that judges not conflate self-represented litigants with vexatious or abusive pro se litigants. The vast majority of pro se litigants are neither abusive nor vexatious, although some will "vex" the court with inappropriate or ineffective litigation born of ignorance or confusion about the law.

¹⁵⁴Fla. Code. Jud. Conduct, Canon 2A.

¹⁵⁵Fla. Code Jud. Conduct, Canon 3B(3).

¹⁵⁶Fla. Code Jud. Conduct, Canon 3B(4).

¹⁵⁷Fla. Code Jud. Conduct, Canon 3B(5).

¹⁵⁸Fla. Code Jud. Conduct, Canon 3B(7).

¹⁵⁹Fla. Code Jud. Conduct, Canon 3B(9).

A judge should treat an abusive litigant with strict enforcement of procedural rules while maintaining a calm, professional demeanor. Patience, charm, and civility can be effective tools when dealing with a litigant who is deliberately trying to distract and annoy the judge and sabotage the proceedings. This does not mean friendliness for its own sake, or weakness; it means controlled courtesy, tact, and emotional discipline.

As a practical matter, handling abusive or vexatious litigants in a trial court requires a delicate balance of maintaining access to justice, ensuring fairness, and protecting court resources from misuse. Below are some suggested best practices for trial court judges in such situations:

- **Knowledge.** Know what abusive litigation is and the definition of a vexatious litigant. Stay informed of legal developments. Regularly review appellate decisions on abusive and vexatious litigants to ensure compliance with due process and statutory compliance. Review appellate decisions and local rules for guidance on handling abusive or vexatious litigants. Consult colleagues or judicial training resources for strategies.

- **Training.** Participate in judicial education programs on managing difficult litigants. Ensure court clerks and staff are trained to identify and flag potentially vexatious filings for judicial review.

- **Streamline processes.** Implement case management systems to track litigant activity and expedite handling of repetitive filings.

- **Identification.** Look for patterns of conduct that burden the court or opposing parties without legal merit, such as repetitive, frivolous, or harassing filings, targeting specific individuals, using litigation to intimidate or exhaust opponents, or engaging in abusive courtroom behavior.

- **Maintain a proper judicial demeanor.** Remain calm, professional, and impartial, even in the face of disruptive or abusive behavior. Treat all parties with respect and ensure due process. Maintain proper detachment and objectivity. Do not take anything personally. Do not take the bait if offered.

- **Provide clear communication.** Explain rulings and procedures clearly to reduce misunderstandings that may fuel further filings.

- **Set boundaries.** Clearly outline acceptable behavior in court. If necessary, provide the litigants with a list of dos and don'ts.

- **Control proceedings.** Balance access to justice with protection of the court. Limit repetitive or irrelevant arguments by setting time limits or directing litigants to submit written

motions. Limit the page numbers and font size of such motions. Refuse to uphold objections in the form of questions or testimony. Use leading questions or prompts as necessary to remind the unrepresented litigant to provide evidence in a manner that conforms with the requirements of the Evidence Code.

- **Warn appropriately.** Provide clear and explicit warnings and opportunities to comply. Warn litigants about the consequences of continued misconduct, such as contempt of court, while specifying the conduct that must stop. Allow the litigant a chance to respond or correct their actions before imposing sanctions.

- **Maintain security.** If a litigant is threatening, coordinate with court security to ensure safety.

- **Respect due process.** Ensure the litigant has proper notice and an opportunity to be heard.

- **Keep records.** Maintain detailed records of a litigant’s abusive or vexatious actions, including specific instances of frivolous filings, harassment, or disruptive conduct, to establish a pattern of abusive or vexatious conduct. This is critical for justifying restrictions or sanctions.

- **Issue written findings.** When imposing restrictions, provide clear, written findings to support the decision, ensuring appellate review is straightforward.

- **Utilize inherent, statutory, and procedural tools.** Do not take shortcuts and do not try to make your own law.

- **Sanction wisely and appropriately.**¹⁶⁰ Impose sanctions to prevent frivolous or harassing filings, but use sparingly to avoid chilling legitimate claims. Apply sanctions progressively, starting with verbal admonishments, then contempt warnings, monetary fines, or restrictions on filings. For extreme behavior, and as a last resort, consider pre-filing (screening) orders requiring that all submissions be signed by an attorney licensed and in good standing with The Florida Bar, or court approval for new lawsuits or complaints, to ensure that only meritorious claims proceed. Graduated responses allow litigants to correct behavior while protecting the court’s resources.

¹⁶⁰Note that the results of a recent survey of Florida judges indicate that, when dealing with abusive or vexatious litigants, trial court judges are reluctant to grant motions to strike, impose attorney fees and costs or damages under section 57.105, and use their inherent authority because their rulings will not be sustained on appeal. Final Report and Recommendations, *Workgroup on Sanctions for Vexatious and Sham Litigation* (Florida Supreme Court, June 15, 2022), p. 23.

Avoid overreach. Tailor restrictions or orders to address specific abusive or vexatious behaviors, ensuring that the litigant maintains legitimate access to the courts for meritorious issues. Avoid blanket restrictions that deny legitimate claims and overbroad restrictions that risk violating constitutional rights to court access.

Consider alternatives. Before imposing pre-filing orders, consider less restrictive measures like consolidation of cases, dismissal of frivolous claims, or referral to mediation.

Address mental health considerations. Some abusive or vexatious litigants may have mental health issues. While judges are not clinicians, they can refer litigants to appropriate resources or appoint guardians ad litem if necessary.

Help pro se litigants who can be helped while maintaining neutrality. Provide direction or access to legal resources or pro se clinics to guide them toward proper procedures to reduce frivolous filings.

APPENDIX A:

Bench Checklist for Vexatious Litigants (Fla. Stat. § 68.093)

A. Identification (Before Motion Filed)

- ☐ Pattern of meritless filings against the same parties
- ☐ Relitigation of decided issues
- ☐ Frivolous motions/discovery/appeals/collateral attacks
- ☐ Harassment via process
- ☐ History of adverse determinations
- ☐ Prior designation as a vexatious litigant
- ☐ Clerk records and case histories
- ☐ Judicial notice of prior actions

B. Threshold Review (Before Hearing)

- ☐ Motion filed or court considering sua sponte
- ☐ Case history available (clerk records, prior filings)
- ☐ Identify litigant is pro se (statute applies to self-represented parties)

C. Statutory Criteria

- ☐ Has the litigant engaged in repeated filings?
- ☐ Do filings lack merit or show intent to harass/delay?
- ☐ Has the litigant relitigated issues already decided?
- ☐ Number of prior actions meets statutory threshold (confirm specifics)
- ☐ Pattern of conduct established (not isolated incidents)

D. Due Process Requirements

- ☐ Notice provided to litigant (motion/order to show cause)
- ☐ Opportunity to be heard (hearing scheduled)
- ☐ Litigant allowed to present evidence/argument
- ☐ Record reflects full and fair consideration

E. Evidence Review

- ☐ Judicial notice of prior actions taken (identify case numbers)
- ☐ Certified docket records or filings reviewed
- ☐ Opposing party evidence considered (if applicable)
- ☐ Findings based on competent, substantial evidence

F. Required Findings (For Order)

- ☐ Specific factual findings (not conclusory)
- ☐ Identify actions/cases demonstrating vexatious conduct
- ☐ Describe pattern (frequency, similarity, lack of merit)
- ☐ Cite statutory basis (§ 68.093)
- ☐ Explain why lesser sanctions are inadequate (best practice)

G. Scope of Restrictions

- ☐ Prefiling review required?
- ☐ Limited to certain parties or subject matter?
- ☐ Applies statewide or only within this county/circuit?
- ☐ Clear procedure for seeking leave of court
- ☐ Restrictions narrowly tailored (avoid overbreadth)

H. Implementation

- ☐ Clerk directed on handling future filings
- ☐ Mechanism for screening filings established
- ☐ Written order circulated to clerk's office
- ☐ Litigant clearly informed of restrictions

I. Enforcement

- ☐ Procedure for noncompliant filings defined
- ☐ Sanctions for violations identified
- ☐ Contempt or other remedies reserved if needed

J. Appellate Readiness

- ☐ Record includes all referenced cases and filings
- ☐ Hearing transcript preserved
- ☐ Order includes detailed findings for review
- ☐ Avoids vague or overly broad language

K. Final Check (Before Signing Order)

- ☐ Due process satisfied
- ☐ Statutory criteria clearly met
- ☐ Order is precise, specific, and enforceable
- ☐ Balance maintained: access to courts vs. abuse prevention

APPENDIX B:

**IN THE CIRCUIT COURT OF THE ____ JUDICIAL CIRCUIT
IN AND FOR _____ COUNTY, FLORIDA
FAMILY DIVISION**

In re: The Matter of	:	
XXXXX XXXXX,	:	
Petitioner/Former Husband,	:	Case No.: 00-000000-FD-00
	:	
and	:	
	:	
XXXXXXXX XXXXX,	:	
Respondent/Former Wife	:	
_____ /	:	

**ORDER DIRECTING {PARTY} TO SHOW CAUSE WHY HE/SHE
SHOULD NOT BE DECLARED A VEXATIOUS LITIGANT
PURSUANT TO SECTION 68.093, FLORIDA STATUTES**

THIS MATTER came before the Court *{on its own motion/on the motion of (Party)}*, requesting that the Court determine whether *{Party and Name}*, who appears pro se, should be declared a vexatious litigant pursuant to section 68.093, Florida Statutes. The Court, having reviewed the court file, considered the procedural history of this and other related cases, and being otherwise fully advised in the premises, finds that an Order to Show Cause is appropriate.

FINDINGS OF THE COURT

1. Section 68.093, Florida Statutes (2025), authorizes the Court to restrict future filings by a person found to be a vexatious litigant after providing that person notice and an opportunity to be heard.
2. Based on the filings and procedural history presently before the Court, it appears that *{Party/Name}*, may have engaged in conduct described in section 68.093(3), Fla. Stat.
3. Specifically, it appears that *{Party/Name}* qualifies as a vexatious litigant in that *{he/she}*, proceeding pro se: *{Check at least one and provide information as required.}*

- ☐ In the immediately preceding 7-year period, commenced, prosecuted, or maintained, pro se, five or more actions¹⁶¹ against {Name of Party or Parties} in {state/federal/state and federal} court that have been finally and adversely determined¹⁶² against {Party/Name}, to wit:¹⁶³

1.

2.

3.

4.

5.

{As to each, identify case style, court, nature of action, nature of the alleged vexatious act or acts, and date and nature of final adverse determination against alleged vexatious litigant, with the particularity of a complaint, information or indictment. It is acceptable, and may be preferable in the circumstances, to list and describe more than five separate actions.}

- ☐ After an action had been finally and adversely determined against {name of alleged vexatious litigant}, repeatedly relitigated or attempted to relitigate either

¹⁶¹§ 68.093(2)(a)1-2, Fla. Stat., defines “action” as an action (1) governed by the Florida Family Law Rules of Procedure, the Florida Rules of Civil Procedure, rule 5.025 of the Florida Probate Rules, or the Florida Small Claims Rules; or (2) in another state court or federal court governed by rules of procedure that are comparable to the Florida Family Law Rules of Procedure, the Florida Rules of Civil Procedure, rule 5.025 of the Florida Probate Rules, or the Florida Small Claims Rules.

¹⁶²The phrase “finally and adversely determined” refers to a situation where a litigative or administrative determination has been entered against the party’s interest and no further judicial action is required. See *In re Cook*, 168 Idaho 153, 161, 481 P. 3d 107, 115 (Idaho 2021); also *Schlimbaum v. Schlimbaum*, 394 So. 3d 1157, 1162 (Fla. 4th DCA 2024). Under this law, however, an action is not deemed to be “finally and adversely determined” if an appeal in that action is pending. § 68.093(2)(c), Fla. Stat.

¹⁶³An action may not be included for purposes of § 68.093(2)(a), Fla. Stat., if the court finds that the action was commenced, prosecuted, or maintained in good faith. § 68.093(2)(c)1, Fla. Stat.

the validity of the determination against the same party as to whom the action was finally determined or the cause of action, claim, controversy, or any of the issues of fact or law determined by the final and adverse determination against the same party as to whom the action was finally determined, contrary to § 68.093(2)(c)2., Fla. Stat., to wit:

{Describe the facts with particularity, including the style of the case, court, and the date and nature of the alleged vexatious conduct.}

- ☐ Repeatedly filed pleadings, requests for relief, or other documents that have been the subject of previous rulings by the court in the same action, contrary to § 68.093(2)(c)3., Fla. Stat., to wit:

{Describe the facts with particularity, including the style of the case, court, and the date and nature of the alleged vexatious conduct.}

- ☐ Repeatedly filed unmeritorious pleadings, requests for relief, or other documents; conducted unnecessary discovery; or engaged in other tactics that were frivolous or solely intended to cause unnecessary delay in any action, contrary to § 68.093(2)(c)4., Fla. Stat.

{Describe the facts with particularity, including the style of the case, court, and the date and nature of the alleged vexatious conduct.}

- ☐ Previously was found to be a vexatious litigant pursuant to section 68.093, or by another state court or federal court, in accordance with § 68.093(2)(c)5., Fla. Stat., to wit:

{Describe the facts with particularity, including the style of the case, court, and the date the litigant was previously found to be a vexatious litigant.}

The Court directs *{Name of alleged vexatious litigant}* to show cause on *{date and time}*, at *{specific courtroom, floor, courthouse, and street address}* or as soon thereafter as the matter may be heard, why the Court should not declare *{him or her}* to be a vexatious litigant pursuant to section 68.093, Florida Statutes.

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you,

to the provision of certain assistance. Within two (2) working days of your receipt of this Notice, please contact {name, address, telephone number, email address of the appropriate office, department, or agency}. The court does not provide transportation and cannot accommodate for this service. Persons with disabilities needing transportation to court should contact their local public transportation providers for information regarding disabled transportation services.

Failure to respond as directed or failing to explain why the above actions do not qualify {name of alleged vexatious litigant} as a vexatious litigant could result in the Court precluding {name of alleged vexatious litigant}, as a self-represented litigant, from commencing, pro se, any new action in courts of this Judicial Circuit, any court in the State of Florida, and any federal court without first obtaining leave of the Court. Disobedience of such an order may be punished by contempt of court. Leave of court will be granted by the Court only upon a showing that the proposed action is meritorious and is not being filed for the purpose of delay or harassment. The Court may also condition the filing of any proposed action upon the furnishing of security as provided in § 68.093, Fla. Stat., and impose other sanctions as provided by law.

DONE AND ORDERED at {City and County}, Florida on {date}.

HON. {NAME OF JUDGE}
{CIRCUIT/COUNTY} JUDGE

Copies furnished to:

{Name of alleged vexatious litigant}, Pro Se

{Name of counsel for opposing party}, Counsel for {Party}

APPENDIX C:

**IN THE CIRCUIT COURT OF THE ____ JUDICIAL CIRCUIT
IN AND FOR _____ COUNTY, FLORIDA
FAMILY DIVISION**

In re: The Matter of :
XXXXX XXXXX, :
Petitioner/Former Husband, : Case No.: 00-000000-FD-00
and :
XXXXXXXX XXXXX, :
Respondent/Former Wife :
_____/

**ORDER DESIGNATING {PARTY}
TO BE A VEXATIOUS LITIGANT AND IMPOSING SANCTIONS**

On: *must check at least one*

- ☐ The Court's own motion following a show cause order [DIN ____]; or
- ☐ {Movant's} motion to declare {Party} a vexatious litigant [DIN ____];

The Court finds that {Party} qualified as a vexatious litigant pursuant to section 68.093, Florida Statutes, in that {Party}: *Check at least one*

- ☐ In the immediately preceding 7-year period, commenced, prosecuted, or maintained, pro se, five or more qualifying actions that have been finally and adversely determined against {Party}, in violation of § 68.093(2)(c)1., Fla. Stat., to wit:
 - 1. {identity of case #1}.
 - 2. {identity of case #2}.
 - 3. {identity of case #3}.
 - 4. {identity of case #4}.

5. {identity of case #5}.

- ☐ After an action had been finally and adversely determined against {Party}, repeatedly relitigated or attempted to relitigate either the validity of the determination against the same party as to whom the action was finally determined or the cause of action, claim, controversy, or any of the issues of fact or law determined by the final and adverse determination against the same party as to whom the action was finally determined, in case number *{identify case number}* in *{identify court}*, contrary to § 68.093(2)(c)2., Fla. Stat.
- ☐ Repeatedly filed pleadings, requests for relief, or other documents that have been the subject of previous rulings by the court in the same action, in case number *{identify case number}* in *{identify court}*, contrary to § 68.093(2)(c)3., Fla. Stat.
- ☐ Repeatedly filed unmeritorious pleadings, requests for relief, or other documents; conducted unnecessary discovery; or engaged in other tactics that were frivolous or solely intended to cause unnecessary delay in any action, in case number *{identify case number}* in *{identify court}*, contrary to § 68.093(2)(c)4., Fla. Stat.
- ☐ Previously was found to be a vexatious litigant pursuant to section 68.093, or by another state court or federal court, in case number *{identify case number}* in *{identify court}*, pursuant to § 68.093(2)(c)5., Fla. Stat.

The Court further finds that {Party's} actions have substantially interfered with the orderly process of judicial administration due to the judicial and clerical labor necessary to address them.

The Court further finds that {Party} has the following identifying information:

{identify as much known descriptive information, if any, e.g., birth date, social security number, sex, email address, etc.}

IT IS THEREFORE ORDERED AND ADJUDGED:

1. {Party} is declared to be a vexatious litigant pursuant to section 69.093(2)(c), Florida Statutes.

2. The Court imposes the following sanction(s): (check all that apply)

- Within _____ days of the date of this Order, {Party} ***in this case*** shall furnish security in the amount of \$_____ by posting a bond with the Clerk or depositing funds in the Registry of the Court to ensure payment to {specified party} in an amount reasonably sufficient to cover the party's anticipated, reasonable expenses of litigation, including attorney fees and taxable costs. Failure to comply with this directive may result in the Court dismissing that defendant with prejudice. *See* § 68.093(3)(c), Fla. Stat.

- {Party} is prohibited, as a self-represented litigant, from filing ***any new action*** in this Judicial Circuit without obtaining leave of the court. Disobedience of this order may be punishable as contempt of court. Leave of court shall be granted by the court only upon a showing that the proposed action is meritorious and is not being filed for the purpose of delay or harassment. For purposes of this directive, "action" is defined by section 68.093(2)(a) to mean an action governed by the Florida Family Law Rules of Procedure, the Florida Rules of Civil Procedure, Rule 5.025 of the Florida Probate Rules, or the Florida Small Claims Rules. Nothing in this Order prohibits an attorney in good standing with The Florida Bar from filing an action on behalf of {Party}. *See* § 68.093(4), Fla. Stat.

- A d d i t i o n a l sanctions: _____

See § 68.093(7), Fla. Stat.

3. If the Court prohibited {Party}, as a self-represented litigant, is prohibited from filing any new civil action:

- The Clerk(s) of this Court is/are directed not to file any future action {Party} attempts to file as a self-represented litigant in any Court within this Judicial Circuit unless {Party} has obtained an order from the court allowing such filing. If the clerk of court mistakenly allows {Party} to file any new action in contravention of this Order, any party to that action may file with the clerk and serve on {Party} and all other parties a notice stating that {Party} is subject to a prefiling order. The filing of such a notice shall automatically stay the litigation against all parties to the action. The Court shall automatically dismiss the action with prejudice within 10 days after the filing of such notice unless {Party} files a motion for leave to file the new action. If the Court issues an order granting leave, the pleadings or other responses to the complaint need not be filed until 10 days after the date of service by {Party} of a copy of the order granting leave. This

provision does not limit a defendant's ability to file contemplated by section 68.093(5).

- If {Party}, as a self-represented litigant, seeks to file a new action, {Party} shall file a motion with the Clerk of this Court entitled "Vexatious Litigant's Motion for Permission to File a New Action" and include a copy of this Order. The Clerk shall send that motion together with the proposed complaint or petition and this Order to this Court. The Court may condition the filing of the proposed action upon the furnishing of security as defined by § 68.093(2)(b).¹⁶⁴

4. The relief provided in this Order is cumulative to any other relief or remedy allowed by law. See § 68.093(8), Fla. Stat. {Party's} violation of this Order is punishable by contempt of court.

5. Pursuant to section 68.093(6), the Clerk of this Court is directed to provide a copy of this Order to the Clerk of the Supreme Court of Florida via email at tomasino@flcourts.org for inclusion on the registry of vexatious litigants.

DONE AND ORDERED at {City and County}, Florida on {date}.

HON. {NAME OF JUDGE}
{CIRCUIT/COUNTY} JUDGE

Copies furnished to:

{Name of vexatious litigant}, Pro Se

{Name of counsel for opposing party}, Counsel for {Party}

¹⁶⁴See § 68.093(3), Fla. Stat.

APPENDIX D:

The Vexatious Litigant Law (2025)

68.093 Florida Vexatious Litigant Law.—

(1) This section may be cited as the “Florida Vexatious Litigant Law.”

(2) As used in section, the term:

(a) “Action” means an action:

1. Governed by the Florida Family Law Rules of Procedure, the Florida Rules of Civil Procedure, rule 5.025 of the Florida Probate Rules, or the Florida Small Claims Rules; or

2. In another state court or federal court governed by rules of procedure that are comparable to the rules of procedure specified in subparagraph 1.

(b) “Security” means an undertaking by a vexatious litigant to ensure payment to a party in an amount reasonably sufficient to cover the party’s anticipated, reasonable expenses of litigation, including attorney fees and taxable costs.

(c) “Vexatious litigant” means a person, as defined in s. 1.01(3), proceeding pro se, who:

1. In the immediately preceding 7-year period, has commenced, prosecuted, or maintained, pro se, five or more actions in any court that have been finally and adversely determined against such person, except that an action may not be included for purposes of this subparagraph if the court finds that the action was commenced, prosecuted, or maintained in good faith;

2. After an action has been finally and adversely determined against the person, repeatedly relitigates or attempts to relitigate either the validity of the determination against the same party as to whom the action was finally determined or the cause of action, claim, controversy, or any of the issues of fact or law determined by the final and adverse determination against the same party as to whom the action was finally determined;

3. Repeatedly files pleadings, requests for relief, or other documents that have been the subject of previous rulings by the court in the same action;

4. Repeatedly files unmeritorious pleadings, requests for relief, or other documents; conducts unnecessary discovery; or engages in other tactics that are frivolous or solely intended to cause unnecessary delay in any action; or

5. Has been previously found to be a vexatious litigant pursuant to this section or by another state court or a federal court.

An action is not deemed to be “finally and adversely determined” if an appeal in that action is pending.

(3)(a) In any action pending in any court of this state, any party may move the court, upon notice and hearing, for an order requiring an opposing party to furnish security. The motion shall be based on the grounds, and supported by a showing, that the opposing party subject to the motion is a vexatious litigant and is not reasonably likely to prevail on the merits of the action against the moving party.

(b) At the hearing for an order to post security, the court shall consider any evidence, written or oral, by witness or affidavit, which may be relevant to the consideration of the motion. No determination made by the court in such a hearing shall be admissible on the merits of the action or deemed to be a determination of any issue in the action. If, after hearing the evidence, the court determines that the opposing party subject to the motion is a vexatious litigant and is not reasonably likely to prevail on the merits of the action against the moving party, the court shall order the vexatious litigant to furnish security to the moving party in an amount and within such time as the court deems appropriate.

(c) If the vexatious litigant fails to post security required by an order of the court under this section and the vexatious litigant is:

1. A plaintiff or petitioner, the court shall immediately issue an order dismissing the action with prejudice as to the moving party for whose benefit the security was ordered; or

2. A defendant or respondent, the court may immediately issue an order imposing one or more of the following sanctions, as appropriate:

a. Denial of the vexatious litigant's request for relief;

b. Striking of the vexatious litigant's pleading or other document or part thereof; or

c. Rendition of a judgment by default against the vexatious litigant.

(d) If the motion for an order to post security is filed before the trial in an action, the action shall be automatically stayed and the moving party need not plead or otherwise respond to the vexatious litigant's complaint, pleading, request for relief, or other document until 10 days after the motion for an order to post security is denied. If the motion for an order to post security is granted, the moving party shall respond or plead no later than 10 days after the required security has been furnished.

(4) In addition to any other relief provided in this section, the court in any judicial circuit may, on its own motion or on the motion of any party, enter a prefiling order prohibiting a vexatious litigant from commencing, pro se, any new action in the courts of that circuit without first obtaining leave of the court. Disobedience of such an order may be punished as contempt of court. Leave of court shall be granted by the court only upon a showing that the proposed action is meritorious and is not being filed for the purpose of delay or harassment. The court may condition the filing of the proposed action upon the furnishing of security as provided in this section.

(5) The clerk of the court may not file any new action by a pro se vexatious litigant against whom a prefiling order has been entered unless the vexatious litigant has obtained an order from the court allowing such filing. If the clerk of the court mistakenly allows a pro se vexatious litigant to file any new action in contravention of a prefiling order, any party to that action may file with the clerk and serve on the vexatious litigant and all other parties a notice stating that the vexatious litigant is subject to a prefiling order. The filing of such a notice shall automatically stay the litigation against all parties to the action. The court shall automatically dismiss the action with prejudice within 10 days after the filing of such notice unless the vexatious litigant files a motion for leave to file the new action. If the court issues an order granting leave, the pleadings or other responses to the complaint need not be filed until 10 days after the date of service by the vexatious litigant of a copy of the order granting leave.

(6) The clerk of a court must provide copies of all prefiling orders to the Clerk of the Florida Supreme Court, who must maintain a registry of all vexatious litigants.

(7) An automatic stay imposed under this section remains in effect until the court:

(a) In its discretion, vacates the stay;

(b) Rules, as applicable, on the motion for an order to post security under paragraph

(3)(d) or the motion for leave under subsection (5); or

(c) Dismisses the action under subsection (5).

(8) The relief provided under this section shall be cumulative to any other relief or remedy available under the laws of this state or the rules of court, including, but not limited to, the relief provided under s. 57.105.

Section 2. This act shall take effect July 1, 2025.

APPENDIX E: FLORIDA VEXATIOUS LITIGANT BENCH CARD (2025 UPDATE)

Statutory Authority: § 68.093, Fla. Stat. (as amended by Ch. 2025-128, Laws of Florida), Effective Date: July 1, 2025

1. KEY DEFINITIONS & SCOPE

- **“Action”** — Includes actions under the Florida Family Law, Civil, Probate (Rule 5.025), or Small Claims Rules, or similar rules in other state or federal courts. § 68.093(2)(a).
- **“Vexatious Litigant”** — A pro se litigant who within the past 7 years has engaged in five or more adverse actions, relitigated issues, filed repetitive or frivolous pleadings, or was previously declared vexatious. § 68.093(2)(c).
- **“Security”** — An undertaking ensuring payment of opposing party’s reasonable litigation expenses (including fees and costs). § 68.093(2)(b).

2. LEGAL TOOLS & REMEDIES

Tool / Remedy	Statutory Provision	Summary
Motion for Security	§ 68.093(3)(a)	Party may move for security if litigant is vexatious and unlikely to prevail.
Automatic Stay	§ 68.093(3)(d)	Case automatically stayed pending hearing on motion for security.
Failure to Post (Plaintiff)	§ 68.093(3)(c)(1)	Dismissal with prejudice as to moving party.
Failure to Post (Defendant)	§ 68.093(3)(c)(2)	Court may deny relief, strike pleadings, or enter default.
Prefiling Order	§ 68.093(4)	Court may bar pro se litigant from filing new actions without leave.
Clerk Restrictions	§ 68.093(5)	Clerk must reject unauthorized filings; notify parties.
Registry	§ 68.093(6)	Supreme Court Clerk maintains statewide registry of vexatious litigants.
Duration of Stay	§ 68.093(7)	Stay remains until court vacates stay, rules on motion or leave, or dismisses action.
Cumulative Remedies	§ 68.093(8)	Does not limit other sanctions under law or rules.

3. CHECKLIST FOR IDENTIFYING VEXATIOUS CONDUCT

- Five or more pro se adverse actions within 7 years. § 68.093(2)(c)1.
- Repeated relitigation of same claims or issues. § 68.093(2)(c)2.
- Filings duplicating prior rulings in same case. § 68.093(2)(c)3.
- Frivolous or delaying pleadings or discovery. § 68.093(2)(c)4.
- Prior vexatious designation (any jurisdiction). § 68.093(2)(c)5.
- Noncompliance with prefiling orders or sanctions.

4. PROCEDURAL ROADMAP

1. Motion filed or court acts *sua sponte*; provide notice and hearing.
2. Evaluate elements and make written findings with statutory citations.
3. Determine appropriate remedy: security, dismissal, or prefiling restriction.
4. Clerk enforces orders, forwards prefiling orders to Supreme Court registry.
5. Litigant may seek rescission upon changed circumstances.

5. TEMPLATE ORDER LANGUAGE

Order Declaring Vexatious Litigant:

“The Court finds that [Name], proceeding pro se, meets criteria under § 68.093 and is designated a vexatious litigant.”

Prefiling Restriction:

“The Clerk shall not accept new pro se filings by [Name] without leave of court. Leave may be conditioned on security.”

Security Requirement:

“The Court orders [Name] to post security of \$ _____ within ____ days. Failure results in dismissal or sanctions under § 68.093(3)(c).”

6. PRACTICAL NOTES

- Provide due process — notice and opportunity to be heard.
- Apply only to pro se litigants.
- Tailor prefiling orders narrowly to prevent abuse while preserving access.
- Ensure clerk compliance with § 68.093(5) & (6).
- Keep clear record of findings and prior litigation history.

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