

Case NO. 13LF-CV00461

William M. Windsor Petitioner

IN THE CIRCUIT COURT

V.

15TH JUDICIAL CIRCUIT

Allie Loraine Yager Overstreet,

Mark Supanich, Brenda Williamson.

And John Does 1-1000

LAFAYETTE COUNTY MISSOURI

Mark Supanich Pro Se

1826 Lucky Strike road

Helena Montana 59602

MOTION FOR THIS COURT TO TAKE JUDICIAL NOTICE

Defendant Mark Supanich Requests this court to take judicial notice of Previous court cases that have determined William Windsor to be a **litigious vexatious litigant filing many frivolous motions and claims. This court has already been notified in** Case NO. 13LF-CV00289 and moves this court to also take judicial notice of case NO. 13LF-CV00289. Plaintiff Windsor filed many motions in that case which were denied and his cross claim withdrawn. As in

Klay, 376 F.3d

at 1099 (quoting 28 U.S.C. § 1651(a)). The Act allows courts "to safeguard not only ongoing proceedings, but potential future proceedings, as well as already-issued orders and judgments." *Id.* (footnotes omitted). This includes the power to enjoin litigants who are abusing the court system by harassing their opponents. *Harrelson v. United States*, 613 F.2d 114, 116 (5th Cir. 1980). A "court has a responsibility to prevent single litigants from unnecessarily encroaching on the judicial machinery needed by others," and a litigant "can be severely restricted. A party seeking to obtain an All Writs Act injunction "must simply point to some ongoing proceeding, or some past order or judgment, the integrity of which is being threatened by someone else's action or behavior." *Klay*, 376 F.3d at 1100.

Summary of one such case.

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 10-10139

Non-Argument Calendar

D.C. Docket No. 1:06-cv-00714-ODE

denying/dismissing 62 post-judgment motions he filed in 2009, dismissing a complaint of professional misconduct he filed in 2009, and issuing an injunction restricting Windsor from filing any further motion, pleading, or other paper in relation to the instant civil action, and any new lawsuit(8) permanently enjoining Windsor and those acting in conjunction with him from filing further pleadings.. In light of our September 9, 2009, dismissal of Windsor's prior appeal as frivolous,

Klay, 376 F.3d

at 1099 (quoting 28 U.S.C. § 1651(a)). The Act allows courts "to safeguard not only ongoing proceedings, but potential future proceedings, as well as already-issued orders and judgments." *Id.* (footnotes omitted). This includes the power to enjoin litigants who are abusing the court system by harassing their opponents. *Harrelson v. United States*, 613 F.2d 114, 116 (5th Cir. 1980). A "court has a responsibility to prevent single litigants from unnecessarily encroaching on the judicial machinery needed by others," and a litigant "can be

severely restricted. A party seeking to obtain an All Writs Act injunction "must simply point to some ongoing proceeding, or some past order or judgment, the integrity of which is being threatened by someone else's action or behavior." *Klay*, 376 F.3d at 1100.

imposing the injunction on Windsor based on his litigious behavior that undermined the integrity of the judgments and orders in this case. Although the case is closed, Windsor has repeatedly filed unsubstantiated, duplicative pleadings, many after the district court issued an order denying them..

The two cases cited here are attached as exhibit A and exhibit B

Submitted this 11TH day of June 2013

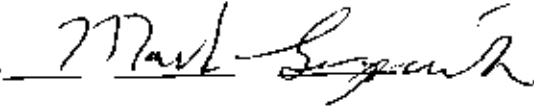
Mark Supanich 

Exhibit A

[DO NOT PUBLISH]
IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 10-10139

Non-Argument Calendar

D.C. Docket No. 1:06-cv-00714-ODE
MAID OF THE MIST CORPORATION,
MAID OF THE MIST STEAMBOAT COMPANY, LTD.,
Plaintiffs - Counter-
Defendants - Appellees,
versus
ALCATRAZ MEDIA, LLC,
ALCATRAZ MEDIA, INC.,
Defendants -
Counter-Claimants,
WILLIAM M. WINDSOR,
Defendant - Counter-
Claimant - Appellant.

Appeal from the United States District Court
for the Northern District of Georgia

(July 23, 2010)

Before DUBINA, Chief Judge, PRYOR and ANDERSON, Circuit Judges.
PER CURIAM:

In March 2006, plaintiffs Maid of the Mist Corporation and Maid of the Mist Steamboat Company ("Maid"), which operated boat tours of Niagara Falls, filed a complaint against Alcatraz Media, LLC, Alcatraz Media, Inc. ("Alcatraz"), and William M. Windsor, who participated in the management of Alcatraz, seeking an injunction against Alcatraz for future ticket sales for Maid of the Mist boat tours. The case was assigned to United States District Judge Orinda Evans, who granted summary judgment in favor of Maid and entered judgment accordingly in October 2007.

William M. Windsor appeals the district court's December 22, 2009, order denying/dismissing 62 post-judgment motions he filed in 2009, dismissing a complaint of professional misconduct he filed in 2009, and issuing an injunction restricting Windsor from filing any further motion, pleading, or other paper in relation to the instant civil action, and any new lawsuit in any court involving claims arising from the same factual predicate or nucleus of operative facts as in the instant case. Specifically, Windsor argues that the district court abused its discretion by: (1) refusing to recuse from this case; (2) denying Windsor's Rule 60 motions for relief from judgment; (3) denying Windsor's motions for sanctions

against Maid, its officers, and its attorneys; (4) denying Windsor's motions for a

hearing or conference; (5) denying Windsor's motion to waive the requirement that Alcatraz be represented by counsel; (6) denying Windsor's motion to lift a seal from a document and by dismissing his motion to compel discovery; (7) dismissing Windsor's complaint of professional misconduct; and (8) permanently enjoining Windsor and those acting in conjunction with him from filing further pleadings.

After thorough review of the record and consideration of the parties' briefs, we summarily affirm the district court's December 2009 order in all respects. In light of our September 9, 2009, dismissal of Windsor's prior appeal as frivolous, we will address only the injunction issue.

"In reviewing the district court's decision to grant an injunction, including an injunction under the All Writs Act, we apply an abuse-of-discretion standard." *Klay v. United Healthgroup, Inc.*, 376 F.3d 1092, 1096 (11th Cir. 2004). "A district court abuses its discretion if it applies an incorrect legal standard, follows improper procedures in making the determination, or makes findings of fact that are clearly erroneous." *Id.* (internal quotation marks omitted).

"Federal courts have both the inherent power and the constitutional obligation to protect their jurisdiction from conduct which impairs their ability to

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

We conclude from the record that the district court did not abuse its

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discretion in imposing the injunction on Windsor based on his litigious behavior

that undermined the integrity of the judgments and orders in this case. Although the case is closed, Windsor has repeatedly filed unsubstantiated, duplicative pleadings, many after the district court issued an order denying them. Moreover, his pleadings are long and repetitive, and the volume of his filings poses a burden to clerical and judicial operations and is an impediment to the administration of justice. Windsor's filings also have been costly and burdensome to Maid, who has repeatedly defended itself against unfounded accusations concerning a case in which it prevailed and which has been closed for over two years.

For the aforementioned reasons, we affirm the district court's December 22, 2009, order denying/dismissing all of Windsor's motions, dismissing his complaint of professional misconduct, and imposing a filing injunction upon him.
AFFIRMED.

Exhibit B

[DO NOT PUBLISH]
IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

Nos. 10-11758, 10-11981, 10-12515, 10-12516
Non-Argument Calendar

D.C. Docket No. 1:06-cv-00714-ODI
MAID OF THE MIST CORPORATION,
MAID OF THE MIST STEAMBOAT COMPANY, LTD.,
Plaintiffs
Counter Defendants
Appellees.

versus
ALCATRAZ MEDIA, LLC,
ALCATRAZ MEDIA, INC.,
Defendants
Counter Claimants.
WILLIAM M. WINDSOR,
Defendant
Counter Claimant
Appellant.

Appeals from the United States District Court

for the Northern District of Georgia

(October 31, 2011)

Before EDMONDSON, WILSON and KRAVITCH, Circuit Judges.

PER CURIAM:

In 2005, Maid of the Mist Corporation and Maid of the Mist Steamboat Company, LTD. (collectively, “Maid of the Mist”) sued William Windsor and two business entities in state court for interfering with business operations. After removal and much litigation, the district court granted summary judgment and entered a consent final order and judgment resolving all claims in the case. Despite agreeing to the final order, Windsor continues to submit filings in this matter.¹

This opinion addresses four consolidated appeals brought by Windsor. In a previous order we determined that any appeal he files must first pass a frivolity screening. After numerous notices of appeal, we decided that Windsor could seek review of four of the district court’s orders: (1) its April 9, 2010 order imposing

¹ In addition to numerous orders, this Court has issued two opinions in this litigation. *Maid of the Mist Corp. v. Alcatraz Media, LLC*, 294 F. App’x 463 (11th Cir. 2008) (per curiam) (“*Maid I*”); *Maid of the Mist Corp. v. Alcatraz Media, LLC*, 388 F. App’x 940 (11th Cir. 2010) (per curiam) (“*Maid II*”).

attorneys’ fees against Windsor; (2) its April 26, 2010 order finding Windsor in contempt of a December 22, 2009 order; (3) its April 30, 2010 order imposing additional attorneys’ fees against Windsor; and (4) its May 4, 2010 denial of reconsideration of the April 9, 2010 order. Our analysis will focus on those orders, and we disregard Windsor’s countless remaining attacks on the district court proceedings.

I.

The district court— on Maid of the Mist’s motion for post-judgment attorneys’ fees and expenses—ordered Windsor to pay \$192,377.87 for his postjudgment

litigation actions, pursuant to its inherent authority, *inter alia*. It concluded that the dozens of motions filed by Windsor after his first Rule 60(b) motion were “totally frivolous,” “filed in bad faith,” “objectively unreasonable,” and served to “vexatiously and unreasonably multipl[y] the proceedings in this closed case . . . in which [Maid of the Mist] prevailed on the merits nearly three years ago.”

Windsor appeals from both the district court’s order awarding attorneys’ fees and its denial of his motion to reconsider that award. Those decisions are subject to abuse-of-discretion review. *See Cordoba v. Dillard’s, Inc.*, 419 F.3d 1169, 1179–80 (11th Cir. 2005) (“The abuse-of-discretion standard also applies to

the extent that the district court's order [awarding attorneys' fees] relies on 28 U.S.C. § 1927 or the court's inherent power."); *Cliff v. Payco Gen. Am. Credits, Inc.*, 363 F.3d 1113, 1121 (11th Cir. 2004) ("[W]e also review the denial of his motion for reconsideration for an abuse of discretion."). A federal court, acting under its inherent power, can assess attorneys' fees if a party "has acted in bad faith, vexatiously, wantonly, or for oppressive reasons." *Chambers v. NASCO, Inc.*, 501 U.S. 32, 45–46, 111 S. Ct. 2123 (1991) (internal quotation marks omitted).

The imposition of sanctions in this instance transcends a court's equitable power concerning relations between the parties and reaches a court's inherent power to police itself, thus serving the dual purpose of "vindicat[ing] judicial authority without resort to the more drastic sanctions available for contempt of court and mak[ing] the prevailing party whole for expenses caused by his opponent's obstinacy."

Id. at 46 (alterations in original) (quoting *Hutto v. Finney*, 437 U.S. 678, 689 n.14, 98 S. Ct. 2565 (1978)). "Because of their very potency, inherent powers must be exercised with restraint and discretion." *Id.* at 44.

Based on our review of the extensive record and the parties' briefs, the district court did not abuse its discretion by awarding the fees requested by Maid of the Mist. None of Windsor's arguments regarding the district court's ability to

award sanctions are persuasive and, accordingly, each is summarily dismissed. Furthermore, Windsor challenges neither Maid of the Mist's specific time or expense entries nor the specific hourly rates charged. Because the district court possessed the discretion to award attorneys' fees, and because Windsor did not challenge the attorneys' fees calculation, we affirm. Likewise, we conclude that the district court did not abuse its discretion in denying Windsor's motion for reconsideration of the attorneys' fees award.

II.

Windsor next appeals from the district court's order finding him in contempt of its filing injunction.

This court reviews the grant or denial of a motion for civil contempt under the abuse of discretion standard. Upon appellate review, a civil contempt order may be upheld only if the proof of the defendant's contempt is clear and convincing. "This clear and convincing proof must also demonstrate that 1) the allegedly violated order was valid

and lawful; 2) the order was clear, definite and unambiguous; and 3) the alleged violator had the ability to comply with the order.”

We previously upheld the district court’s order preventing Windsor from filing any motion, pleading, or other document in connection with the facts underlying the original lawsuit in this case. *Maid II*, 388 F. App’x at 942. Accordingly, all of Windsor’s arguments pertaining to the legitimacy of the filing injunction have previously been adjudicated.

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McGregor v. Chierico, 206 F.3d 1378, 1383 (11th Cir. 2000) (quoting *Jordan v. Wilson*, 851 F.2d 1290, 1292 n.2 (11th Cir. 1988) (per curiam)). “[T]he focus of the court’s inquiry in civil contempt proceedings is not on the subjective beliefs or intent of the alleged contemnors in complying with the order, but whether in fact their conduct complied with the order at issue.” *Doe v. Bush*, 261 F.3d 1037, 1047 (11th Cir. 2001) (quoting *Howard Johnson Co. v. Khimani*, 892 F.2d 1512, 1516 (11th Cir. 1990)).

In its December 22, 2009 order, which we previously upheld, the district court ruled that “Windsor is ORDERED not to file in *any* court any new lawsuit which involves claims arising from the same factual predicate or nucleus of operative facts as the instant case.” (emphasis in original). In February 2010, Windsor filed a complaint in the United States District Court for the District of Columbia arising out of the same operative facts at issue in the previous litigation. Windsor’s contempt is clear and convincing in this case. First, we previously determined that the December 22 order preventing future filings was valid and lawful. Second, the portion preventing Windsor from filing suit in any court could not have been clearer. Finally, Windsor could have complied with the provision prohibiting the filing of additional lawsuits by not filing additional lawsuits.

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Accordingly, we conclude that the district court did not abuse its discretion in granting the civil contempt motion.

III.

Finally, Windsor appeals the district court’s award of additional attorneys’ fees for the work completed outside of the time frame covered by the initial award. Windsor makes no discernible argument as to why the district court abused its discretion in awarding additional fees. Accordingly, his claims are summarily dismissed.

IV.

Based on the foregoing discussion, the district court’s orders are **AFFIRMED**.

Maid of the Mist’s motion for sanctions under Federal Rule of Appellate Procedure 38 is **DENIED**.