

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
WESTERN DIVISION**

DWIGHT ELLIS BROOKS

PLAINTIFF

v.

No. 4:13CV00352 JLH

STACEY E. MCCORD; DANIEL A.  
APPLEGATE; SUSAN WEBBER WRIGHT;  
KRISTINE G. BAKER; BRIAN S. MILLER;  
WILLIAM RILEY; RICHARD PENCE, JR.;  
D.P. MARSHALL, JR.; and ERIC HOLDER

DEFENDANTS

**OPINION AND ORDER**

Dwight Ellis Brooks brings this action against two Assistant United States Attorneys (Stacey E. McCord and Richard Pence, Jr.), one attorney for the U.S. Department of Justice, Tax Division (Daniel A. Applegate), the Attorney General of the United States (Eric Holder), four judges of this court (Susan Webber Wright, Kristine G. Baker, Brian S. Miller, and D.P. Marshall, Jr.), and the Chief Judge of the United States Court of Appeals for the Eighth Circuit (William Riley). Although the precise basis for Brooks' claims cannot be ascertained from reading the complaint, it is clear is that he is suing the judges for ruling against him in prior litigation, and he is suing the lawyers for representing the government in prior litigation against him.

Brooks has a lengthy history of filing similar cases. *See Brooks v. Regions Bankcard Ctr., Louis Whit Light, David B. Bogard, and Trudy Jacobson*, E.D. Ark. No. 4:00CV00713-GH (suing a state court judge and the judge's case coordinator, as well as an attorney, for actions taken in a previous lawsuit that Brooks lost); *Brooks v. LHR, Inc., Wayne Lewis, Joel D. Boyd, Paul A. Prater, and Milas Hale, III*, E.D. Ark. No. 4:05CV00645-SWW (suing a state court judge who ruled against him in a prior lawsuit, along with two lawyers for the party that prevailed against him); *Brooks v. District of Columbia Bar Board of Governors, Gladys Kessler, Harry T. Edwards, Nancy Mayer*

*Whittington, Ricardo M. Urbina, and Emmet G. Sullivan*, E.D. Ark. No. 4:06CV00198-GTE (suing the District of Columbia Board of Bar Examiners, after a previous complaint making the same allegations was dismissed in the District of Columbia, and a senior judge of the Court of Appeals for the District of Columbia, three judges of the district court for the District of Columbia, and the clerk of that court); *Brooks v. LHR, Inc., Milas Hale, III, Arkansas Judicial Discipline and Disability Comm'n, and Susan Webber Wright*, E.D. Ark. No. 4:06CV00342-JLH (adding Judge Wright as a defendant after she ruled against Brooks in case No. 4:05CV00645-SWW); *Brooks v. LHR, Inc., Milas Hale, III, Arkansas Judicial Discipline and Disability Comm'n, Susan Webber Wright, James A. Badami, J. Leon Holmes, and Chris Piazza*, E.D. Ark. No. 4:06CV00662-GH (adding as defendants the undersigned judge and Pulaski County Circuit Court Judge Chris Piazza after they ruled against Brooks); *Brooks v. LHR, Inc., and State of Arkansas*, E.D. Ark. No. 4:08CV00254-JLH (continuing to litigate against LHR, Inc., after previous cases had been dismissed and attempting to add the State of Arkansas as a defendant); *Brooks v. Stacey E. McCord, Daniel A. Applegate, and Susan Webber Wright*, E.D. Ark. 4:12CV00348-KGB (complaining about the defendants' conduct in a previous case that Brooks filed against the IRS in Pulaski County Circuit Court, which was removed to this Court, and then dismissed by Judge Wright); *Farmers and Ranchers Cooperative Ass'n, Inc. and Dwight Ellis Brooks v. Tom Vilsack, Secretary, Department of Agriculture, Kristine G. Baker, William Riley, Eric Holder, Susan Webber Wright, Richard Pence, Jr., Brian S. Miller, and D.P. Marshall, Jr.*, E.D. Ark. No. 4:12CV00409-BSM (a case in which Brooks attempted to represent a corporation, even though he is not a lawyer, and then repeatedly amended the complaint to add as defendants the judges who presided over the case); and *Brooks v. Stacey E. McCord*,

*Daniel A. Applegate, Susan Webber Wright, William Riley, and Kristine G. Baker*, E.D. Ark. No. 4:12CV00784-DPM (more of the same).<sup>1</sup>

In addition, Brooks has filed three similar cases in the District of Columbia. *Brooks v. Regions Bankcard Ctr., Louis Whit Light, David B. Bogard, Trudy Jacobson, United States of America, Douglas Ginsburg, Gladys Kessler, Norma Johnson, Mark Langer, Marilyn Sargent, Harry Jackson, Nancy M. Mayer-Whittington, Haldance Robert Mayer, Diane C. Robert, Jane Horbaly, Timothy Muris, Leonidas Ralph Mecham, John L. Chastain, Alan J. Friedman*, Dist. of Columbia Dist. Ct. No. 1:02CV01928-GK (suing an Arkansas state court judge and his case coordinator, the United States, several judges of the district court and the court of appeals for the District of Columbia, as well as other judicial employees); *Brooks v. Gladys Kessler, Norma Holloway Johnson, Nancy M. Mayer-Whittington, Douglas H. Ginsburg, Harry T. Edwards, Mark J. Langer, William K. Suter, Jennifer Sutton, and United States of America*, Dist. of Columbia Dist. Ct. No. 1:03CV02528-RMU (an effort to continue the previous case against many of the same defendants); *Brooks v. Annice M. Wagner, Garland Pinkston, Jr., Elizabeth J. Branda, Joyce E. Peters, and Lawrence K. Bloom*, Dist. of Columbia Dist. Ct. No. 1:04CV01606-EGS (suing the Chief Judge of the District of Columbia Court of Appeals and the clerk of that court, as well as three attorneys for the District of Columbia Board of Professional Responsibility).

The present action is another instance of Brooks refusing to accept the finality of litigation that has been decided against him and attempting to continue the litigation, naming as defendants the

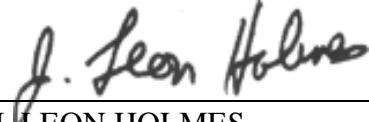
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<sup>1</sup> See also *Farmers and Ranchers Cooperative Ass'n, Inc., and Dwight Ellis Brooks v. Thomas J. Vilsack, Kristine G. Baker, Eric H. Holder, Jr., William Riley, Susan Webber Wright, Brian S. Miller, D.P. Marshall, Jr., and Richard Pence, Jr.*, E.D. Ark. No. 4:13CV00341-JMM (a pending case nearly identical to the present one).

judges who have previously ruled against him and the lawyers who represented the adverse parties. Brooks' complaint must be dismissed. As with Brooks' prior complaints, the complaint here recites terms such as obstruction of justice, fraud, deceit, perjury, malice, RICO, antitrust, unfair competition, equality before the law, and the like, but does so without coherent factual allegations. Accordingly, the first reason that Brooks' complaint must be dismissed is that it fails to include a short and plain statement of the claim showing that he is entitled to relief. Fed. R. Civ. P. 8(a)(2); *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555, 127 S. Ct. 1955, 1964, 167 L. Ed. 2d 929 (2007). Second, Brooks' claims against most of these defendants were previously dismissed with prejudice in case No. 4:12CV00409, so his claims against most if not all of the defendants are barred by the doctrine of *res judicata*. *Wedow v. City of Kansas City, Mo.*, 442 F.3d 661, 669 (8th Cir. 2006) (*res judicata* "operates to preclude a party from relitigating the same cause of action"). Third, Brooks' claims against the judges are based on their judicial acts in cases before them, so his claims are barred by judicial immunity. *Stump v. Sparkman*, 435 U.S. 349, 356-57, 98 S. Ct. 1099, 1105, 55 L. Ed. 2d 331 (1978) (judges are immune from suit for judicial acts so long as they do not act in the clear absence of all jurisdiction); *Robinson v. Freeze*, 15 F.3d 107, 108 (8th Cir. 1994) ("Judges performing judicial functions enjoy absolute immunity from § 1983 liability"). Fourth, the Department of Justice attorneys are at least qualifiedly immune from suit for actions taken in their capacities as public officials. *Bernini v. City of St. Paul*, 665 F.3d 997, 1002 (8th Cir. 2012) (public officials are immune from suit unless they violate clearly established rights of which a reasonable person would know); *Schatz Family ex rel. Schatz v. Gierer*, 346 F.3d 1157, 1159 (8th Cir. 2003) (at the 12(b)(6) stage, qualified immunity is determined from the face of the complaint). Fifth, the Court lacks personal jurisdiction over Chief Judge Riley and Attorney General Holder.

For all of these reasons, this action is dismissed with prejudice.

IT IS SO ORDERED this 1st day of August, 2013.

A handwritten signature in black ink that reads "J. Leon Holmes". The signature is written in a cursive style with a large initial "J".

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J. LEON HOLMES  
UNITED STATES DISTRICT JUDGE