

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

DWIGHT ELLIS BROOKS

PLAINTIFF

v.

No. 4:14CV00309 JLH

DENNIS HANSEN; J. LEON HOLMES;
BRIAN S. MILLER; JACOB LEW;
and RICHARD M. PENCE, JR.

DEFENDANTS

OPINION AND ORDER

Dwight Ellis Brooks commenced this action by filing a complaint in the Circuit Court of Pulaski County, Arkansas, on December 13, 2013, against Dennis Hansen, who is a Deputy Attorney General for the State of Arkansas; Jacob Lew, who is the Secretary of the Treasury; one Assistant United States Attorney (Richard M. Pence, Jr.); and two judges of this Court (the undersigned judge and Brian S. Miller). Judge Miller and Secretary Lew have not been served. Hansen has moved to dismiss the complaint. Pence removed the action to this Court and filed a motion to dismiss the complaint on his own behalf and on behalf of the undersigned judge.¹ He has also argued that the complaint should be dismissed as to Judge Miller and Secretary Lew for failure to serve summons and complaint. Brooks has responded to the motion filed on behalf of Hansen but not to the motion filed by Pence.

Although the precise basis for Brooks' claims cannot be ascertained from reading the complaint, it is clear 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,*

¹ Recusal is not required because this action is frivolous. *See Davis v. Kvalheim*, No. 6:07CV566-Orl-31KRS, 2007 WL 1602369, at *2 (M.D. Fla. June 1, 2007).

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); *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); *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; *Brooks v. 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*, E.D. Ark. No. 4:13CV00352-JLH; *Brooks v. JP Morgan Chase Bank National Association, State of Arkansas, and Internal Revenue Service*, E.D. Ark. No. 4:13CV00677-JLH; *Brooks v. Mike Beebe, Tim D. Fox, Chris Piazza, and J. Leon Holmes*, E.D. Ark. No. 4:13CV00728-BSM; *Brooks v. James M. Moody, Jr., Mike Beebe, J. Leon Holmes, and Sherra T. Wong*, E.D. Ark. No. 4:14CV00005-SWW; and *Brooks v. Mike Beebe and James M. Moody*, E.D. Ark. No. 4:14CV00023-SWW.

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

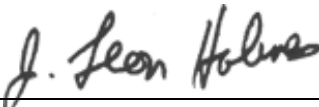
Columbia Dist. Ct. No. 1:02CV01928-GK (suing an Arkansas state court judge and his case coordinator, the United States, several judges of the district court and the court of appeals for the District of Columbia, as well as other judicial employees); *Brooks v. Gladys Kessler, Norma Holloway Johnson, 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 judges who have previously ruled against him and the lawyers who represented the adverse parties. 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 Pence and the undersigned were previously dismissed with prejudice, so those claims 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 those 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, Hansen and Pence 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).

For all of these reasons, the complaint is dismissed with prejudice as to Hansen, Pence, and Holmes and without prejudice as to Miller and Lew.

IT IS SO ORDERED this 16th day of June, 2014.



J. LEON HOLMES
UNITED STATES DISTRICT JUDGE