

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

DANIEL A. BERNATH,

Plaintiff,

v.

Case No: 2:15-cv-358-FtM-38CM

MARK CAMERON SEAVEY,

Defendant.

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**OPINION AND ORDER**<sup>1</sup>

This matter comes before the Court on United States Magistrate Judge Carol Mirando's Report and Recommendation. ([Doc. 255](#)). Judge Mirando recommends granting in part and denying without prejudice in part Defendants' Combined Motion to Declare Plaintiff Daniel Bernath a Vexatious Litigant ([Doc. 109](#)). Bernath, appearing *pro se*, has filed a Response to the Recommendation of the Magistrate Judge, which offers little information relevant to the Report and Recommendation. ([Doc. 256](#)). Instead, the Response accuses Defendants Mark Seavey and the American Legion of attempting to

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<sup>1</sup> Disclaimer: Documents filed in CM/ECF may contain hyperlinks to other documents or websites. These hyperlinks are provided only for users' convenience. Users are cautioned that hyperlinked documents in CM/ECF are subject to PACER fees. By allowing hyperlinks to other websites, this Court does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide on their websites. Likewise, the Court has no agreements with any of these third parties or their websites. The Court accepts no responsibility for the availability or functionality of any hyperlink. Thus, the fact that a hyperlink ceases to work or directs the user to some other site does not affect the opinion of the Court.

murder him. (Doc. 256).<sup>2</sup> Defendants have not responded to Bernath's response, and the time to do so has expired.

A district judge "may accept, reject, or modify in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). The district judge "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.* And "[t]he judge may also receive further evidence or recommit the matter to the magistrate judge with instructions." *Id.*

After examining the file carefully and independently, and upon considering Judge Mirando's findings and recommendations, the Court accepts and adopts the Report and Recommendation.

Accordingly, it is now

**ORDERED:**


- (1) The Report and Recommendation (Doc. 255) is **ACCEPTED and ADOPTED** and the findings incorporated herein.
- (2) Defendants' Combined Motion to Declare Plaintiff Daniel Bernath a Vexatious Litigant (Doc. 109) is **GRANTED in part and DENIED in part**. It is granted to the extent that the Court declares Bernath a vexatious litigant. But the motion is denied without prejudice as to Defendants' request for monetary sanctions and attorneys' fees and costs against Bernath.

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<sup>2</sup> A day after Bernath filed his response to the Report and Recommendation, he also filed a document titled, "additional attempts to harm Plaintiff and others July 2017, August 2017 Aircraft fuel pump sabotaged, Aircraft fuel tank sabotaged." (Doc. 258). This filing is equally immaterial to the Report and Recommendation.

(3) The Court imposes a pre-filing injunction requiring Bernath to (a) obtain leave of court before filing any new actions in this Court or any court in Florida; and (b) attach to future complaints a list of all cases previously filed involving the same, similar, or related cause of action.

**DONE** and **ORDERED** in Fort Myers, Florida this 5th day of September 2017.

  
**SHERI POLSTER CHAPPELL**  
**UNITED STATES DISTRICT JUDGE**

Copies: All Parties of Record