

UNITED STATES DISTRICT COURT  
DISTRICT OF IDAHO

8 IN RE:  
9 CHARLES LEE GILLENWATER

NO: 1:17-cv-00493-SAB  
1:17-cv-00511-SAB  
2:17-cv-00478-SAB  
2:17-cv-00484-SAB

**ORDER DECLARING  
CHARLES LEE  
GILLENWATER A VEXATIOUS  
LITIGANT; SETTING UP  
MISCELLANEOUS FILE**

By previous Order, the Court directed Charles Lee Gillenwater to Show Cause as to why he should not be declared a vexatious litigant.<sup>1</sup> Mr. Gillenwater filed a timely response to the Show Cause Order.<sup>2</sup>

Here, the Court finds it is appropriate to impose pre-filing restrictions. A review of Mr. Gillenwater's recent filings demonstrate that he is in the habit of filing harassing and duplicative lawsuits for which he does not have an objective good faith expectation of prevailing and his actions are placing an unnecessary burden on the court staff.

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<sup>1</sup> 2:17-cv-00478-SAB, ECF No. 15; 2:17-cv-00484-SAB, ECF No. 15; 1:17-cv-00493-SAB, ECF No. 15; 1:17-cv-00511-SAB, ECF No. 12.

<sup>2</sup> 2:17-cv-00478-SAB, ECF No. 17; 2:17-cv-00484-SAB, ECF No. 16; 1:17-cv-00493-SAB, ECF No. 16; 1:17-cv-00511-SAB, ECF No. 13.

**ORDER DECLARING CHARLES LEE GILLENWATER A VEXATIOUS LITIGANT; SETTING UP MISCELLANEOUS FILE ~ 1**

1                   **1:17-cv-00433-SAB**

2                   Gillenwater v. Candy W. Dale

3                   In this case, Mr. Gillenwater sought monetary damages in the amount of  
4                   \$100 million. He accused Magistrate Judge Dale of committing criminal acts  
5                   “when she abused her discretion, by failing to employ rule of reason analysis prior  
6                   to issuing an order which could be reviewed for abuse of discretion.” ECF No. 2.  
7                   He asserts that Magistrate Judge Dale demonstrated “a deliberate and willful  
8                   determination to use Congressional statutes to deprive fundamental constitutional  
9                   rights or peripheral due processing rights,” violating certain criminal statutes. Id.  
10                  He asked that he be assigned “to act as the prosecution in all future criminal trials  
11                  of [M]agistrate Judge Dale, related to these accusations.” At the same time, he  
12                  filed the following motions: (1) Motion to Acknowledge the Complaint is a  
13                  Petition to the Government for the Redress of Grievances, ECF No. 3; (2) Motion  
14                  to Employ the Rule of Reason, ECF No. 4; (3) Motion for the Court to Inform the  
15                  Plaintiff of its Consideration of Any Presumption of Constitutionality of Any  
16                  Statute or Court Rule Which Mandate or Delegates Discretionary Power to  
17                  Dismiss This Case under Any Circumstances, ECF No. 5; and (4) Motion for the  
18                  Judge to Acknowledge the Attached Affidavit as a Written Statement Containing  
19                  the Essential Facts of the Offenses Charged, ECF No. 7.

20                  This case was dismissed prior to being served.

21                   **1:17-cv-00468-SAB**

22                  Gillenwater v. Senior Judge Lodge

23                  In this case, Mr. Gillenwater sought monetary damages in the amount of  
24                  \$100 million. He accused Senior Judge Lodge of the same conduct that he  
25                  accused Magistrate Dale, specifically, of violating the criminal statutes “when he  
26                  abused his discretion and acted while a conflict of interest existed, failing to  
27                  employ rule of reason analysis prior to issuing an order which can be reviewed for  
28                  abuse of discretion.” ECF No. 2. He filed the same motions, see ECF Nos. 3, 4, 5,

1 7; and he also filed a Motion Requesting an Evidentiary Hearing to Establish  
2 Subject-matter Jurisdiction, Personal Jurisdiction and the Appropriateness of the  
3 Venue. ECF No. 6.

4 The case was dismissed prior to being served.

5 **2:17-cv-00478-SAB**

6 Gillenwater v. Judge Bastian

7 In this case, Mr. Gillenwater again sought monetary damages in the amount  
8 of \$100 million. He also accused this Court of the same conduct as alleged in the  
9 two prior cases, as well as failing to employ “the Sherbet test, the Turner test,  
10 undue burden doctrine, or conduct an inquiry into allegations of substantial  
11 governmental interference.” ECF No. 2. He also filed the same motions. See ECF  
12 Nos. 5, 6, 7, 8, and 9.

13 The case was dismissed prior to being served.

14 **2:17-cv-00484**

15 Gillenwater v. P.J Dennis

16 In this case, Mr. Gillenwater is seeking monetary damages in the amount of  
17 \$100 million. He is accusing P.J. Dennis, his supervising Probation Officer, of  
18 violating criminal statutes “when he abused his discretion while usurping the  
19 domain of the impartial civilian grand jury, willfully and intentionally knowing  
20 that his actions violated criminal statutes.” ECF No. 2. He filed almost identical  
21 motions as in the prior cases. See ECF Nos. 3, 4, 5, 6, and 7, as well as a Motion  
22 Pursuant to Rule 16 Federal Rules of Civil Procedure. ECF No. 12 and a Petition  
23 for Emergency Writ of Peremptory Mandamus. ECF No. 14.

24 The case was dismissed prior to being served.

25 **1:17-cv-00493-SAB**

26 Gillenwater v. Stephen W. Kenyon

27 In this case, a significant portion of Mr. Gillenwater’s Complaint contains  
28 the exact same language he presented in his case against Mr. Dennis and he also

1 filed the same motions. ECF Nos. 2, 3, 4, 5, 6, and 7.

2 The case was dismissed prior to being served.

3 **1:17-cv-00511-SAB**

4 Gillenwater v. Tommy Rosser, U.S. Probation

5 In this case, Mr. Gillenwater accuses Mr. Rosser, a supervising U.S.  
6 Probation Officer, of violating criminal statutes “when he abused his discretion by  
7 assigning a probation officer with a conflict of interest to this petitioner’s case,  
8 while usurping the domain of the impartial civilian grand jury by permitting his  
9 officers to conduct illegal searches and seizures in accordance with  
10 unconstitutional and unlawful court orders, he did so willfully and intentionally  
11 knowing that his actions violated criminal statutes. ECF No. 2. He is seeking \$100  
12 million. He also filed the same motions as the prior cases. See ECF Nos. 3, 4, 5, 6,  
13 7, and 8.

14 The case was dismissed prior to being served.

15 The above-summary of the cases demonstrate that Mr. Gillenwater is filing  
16 duplicitous lawsuits against Court personnel, who for the most part, are immune  
17 from suit. The fact that in each of these suits he is asking that he be given  
18 permission “to act as the prosecution in all future criminal trials” against the  
19 named-defendants highlights the frivolous nature of Mr. Gillenwater’s  
20 Complaints. Each of these Complaints were dismissed before the named-  
21 Defendant was served and Mr. Gillenwater’s Applications to Proceed In Forma  
22 Pauperis were denied because the Court concluded the Complaints were frivolous.  
23 Based on the frequency of the filing of the Complaints, as well as the fact that the  
24 filed Complaints are virtually identical, except for different named-Defendants,  
25 the Court concludes that Mr. Gillenwater is abusing the judicial process. As a  
26 result, Mr. Gillenwater is prohibited from filing any new or subsequent civil  
27 Complaints in the District of Idaho. These sanctions are necessary in order to  
28 protect the court staff and court personnel from being named as defendants in

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LITIGANT; SETTING UP MISCELLANEOUS FILE ~ 4**

1 frivolous lawsuits as well as relieving the court staff from the unnecessary burden  
2 that is a result of Mr. Gillenwater's abuse of the judicial process.

3       **Accordingly, IT IS HEREBY ORDERED:**

4       1. Charles Lee Gillenwater is prohibited from filing any new or subsequent  
5 civil Complaints in the District of Idaho without first obtaining permission from  
6 the Court.

7       2. The District Court Executive is directed to create and maintain a  
8 miscellaneous file, assigned to the undersigned judge, with the general title "In  
9 the matter of Charles Lee Gillenwater." This miscellaneous file shall serve as the  
10 repository of this Order and all documents proffered for filing by Mr. Gillenwater  
11 for which authority to file has not been granted. If the Clerk's Office receives a  
12 filing from Mr. Gillenwater for which authority has not been granted, the District  
13 Court Executive is directed to file the document in the miscellaneous file and no  
14 further action is required. The District Court Executive is not required to return  
15 the documents to Mr. Gillenwater.

16       **IT IS SO ORDERED.** The Clerk of Court is directed to enter this Order  
17 and forward a copy to Mr. Gillenwater.

18       **DATED** this 6th day of February 2018.

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22       Stanley A. Bastian  
23       United States District Judge  
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