

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
CEDAR RAPIDS DIVISION**

MERLE RICHARD SCHMIDT,

Plaintiff,

vs.

DAVID F. SEABA and SUELLEN  
SEABA,

Defendants.

No. 09-CV-57-LRR

**ORDER**

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For the reasons stated therein, Defendants' Motion to Dismiss (docket no. 3) is **GRANTED**. Plaintiff's "Complaint for Ejectment at Law" (docket no. 1) is patently frivolous and is **DISMISSED WITH PREJUDICE**. Plaintiff's Motion to Strike (docket no. 10) is **DENIED**.

The court finds the instant lawsuit is yet another bad faith attempt by Plaintiff to use the federal court system to harass Defendants and increase the costs of this already settled dispute. As the Iowa Court of Appeals recently observed:

Merle Schmidt is a prolific pro se litigant. Schmidt represents himself under the appellation "Merle Richard Schmidt R." He, personally and on behalf of the River Valley Family Trust, has filed numerous actions in state and federal courts contending the River Valley Family Trust, for which he is a trustee, holds an allodial title to certain property in Iowa County under a federal land patent or grant. His theory has been uniformly and repeatedly rejected by the courts. He frequently includes public officials, such as county attorneys, sheriffs, and judges, as defendants in his suits.

\* \* \*

Other than this lawsuit, Merle Schmidt (Merle) has individually or through an alter ego filed at least nine lawsuits in state and federal court that the courts dismissed. Schmidt named David Seaba (Seaba) as a defendant in at least six of

these lawsuits. The respective courts have determined that Schmidt's lawsuits were without merit or frivolous.

\* \* \*

Those lawsuits had a central theme—the ownership of land once Merle's that Seaba purchased through a tax sale. As the district and appellate courts' decisions in both the state and federal systems have demonstrated, Merle has a distorted, misguided, and wrong belief in the scope of proprietary rights versus the authority of a duly constituted governmental entity. To say that Merle's belief system is not main-stream is a gross understatement. This has resulted in the myriad of frivolous lawsuits Merle has filed.

*Schmidt v. Seaba*, 2009 WL 142539, \*1 (Iowa Ct. App. Jan. 22, 2009) (per curiam); *see, e.g., Schmidt v. Iowa County, Iowa*, No. 03-CV-41-LRR (filed May 5, 2003); *River Valley Family Trust v. Seaba*, No. 05-CV-68-EJM (filed Apr. 6, 2005).

Plaintiff's flagrant and repetitive abuse of the judicial process stops here. Defendants' Motion for Sanctions (docket no. 4), to which Plaintiff had an opportunity to resist but neglected to do so, is **GRANTED IN PART**. Fed. R. Civ. P. 11; *see, e.g., King v. Hoover Group, Inc.*, 958 F.2d 219, 223 (8th Cir. 1992) (holding district court abused its discretion in failing to award Rule 11 sanctions, where plaintiff filed and maintained a frivolous lawsuit that was, among other things, barred by res judicata). On or before July 31, 2009, Defendants may file with the court evidence in support of their request for attorneys' fees and costs. Plaintiff shall have until August 14, 2009, to file any reply to the evidence that Defendants submit and to contest the amount of Defendants' requested award. The court also permits Plaintiff one last opportunity to show cause why he should not be sanctioned. Defendants shall have until August 22, 2009 to file a reply.

For the reasons stated in the Motion for Sanctions, Plaintiff is **ENJOINED** from filing further frivolous actions against Defendants regarding this long-settled land dispute. Plaintiff is hereby given notice that the filing of further frivolous actions may result in additional monetary penalties and/or a finding of contempt of court.

**IT IS SO ORDERED.**

**DATED** this 13th day of July, 2009.

A handwritten signature in black ink, appearing to read "Linda R. Reade", written over a horizontal line.

LINDA R. READE  
CHIEF JUDGE, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF IOWA