

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:14-CV-29-FL

GLENN HENDERSON,)
)
Plaintiff,)
)
v.)
)
SONY PICTURES ENTERTAINMENT;)
DAVID MCKENZIE; KIM RUSSO;)
SCHMID & VOILES; KATHLEEN)
McCOLGAN, ESQ.; ROSEN & SABA,)
LLP; JAMES ROSEN, ESQ.; and ADELA)
CARRASCO, ESQ.,)
)
Defendants.)

ORDER

This matter comes before the court on defendants’ motion for a pre-filing injunction be to entered against plaintiff (DE 13). For reasons given the court GRANTS IN PART and DENIES IN PART the motion for pre-filing injunction.

BACKGROUND

The court refers to, and incorporates by reference, its prior discussion of the case background contained in its order entered September 24, 2014, and briefly summarizes the same as follows. Plaintiff, proceeding *pro se*, initiated this case by complaint filed January 22, 2014, seeking declaratory relief regarding certain statements previously made, and complaining of alleged violations of his First, Second, and Fourth Amendment rights. Defendants responded with a motion to dismiss, and further moved for entry of a pre-filing injunction against plaintiff. The court granted the motion to dismiss by order entered September 24, 2014, holding open the matter for

consideration of defendants' motion for prefiling injunction, to which the court turns now.

COURT'S DISCUSSION

Defendants request that plaintiff be enjoined from filing any suit against them or against Sands Anderson PC (the law firm of defendant McKenzie) involving claims related to, or arising out of, Henderson's employment with defendant Sony, or any litigation related thereto, including all matters addressed in any prior North Carolina case, state or federal, without leave of court. The court maintains the authority under the All Writs Act, 28 U.S.C. § 1651, in exigent circumstances, to limit access to the courts by certain litigants. Cromer v. Kraft Foods N. Am., Inc., 390 F.3d 812, 817-18 (4th Cir. 2004). This remedy must be used sparingly, and access to the court should not be limited absent exigent circumstances, especially with respect to pro se plaintiffs. Id. "In determining whether a pre-filing injunction is substantively warranted," this court is required to

weigh all the relevant circumstances, including (1) the party's history of litigation, in particular whether he has filed vexatious, harassing, or duplicative lawsuits; (2) whether the party had a good faith basis for pursuing the litigation, or simply intended to harass; (3) the extent of the burden on the courts and other parties resulting from the party's filings; and (4) the adequacy of alternative sanctions.

Id. at 818. The court must narrowly tailor any injunction to fit the specific circumstances justifying the injunction. Id.

This court finds that the relevant circumstances in this case favor entry of a prefiling injunction. In considering the first factor, the court notes plaintiff's numerous lawsuits¹ have been

¹ Plaintiffs federal lawsuits include: Henderson v. Sony Pictures Entertainment, No. 02-CV-06081-DDP (C.D. Cal.); Henderson v. EEOC, et al., No. 03-CV-03208-DDP (C.D. Cal.); Henderson v. OPEIU, et al., No. 03-CV-08082-DDP (C.D. Cal.); Henderson v. Sony Pictures Entertainment, et al., No. 03-CV-08782-ABC (C.D. Cal.); Henderson v. Joanne Seltzer MD, No. 03-CV-05431-RSWL (C.D. Cal.); Henderson v. United States of America, et al., No. 04-CV-00138-ABC, (C.D. Cal.); Henderson v. Sony Pictures Entertainment et al., No. 04-CV-01346-ABC (C.D. Cal.); Henderson v. Sony Pictures Entertainment et al., No. 04-CV-08748-DDP (C.D. Cal.); Henderson v. United States of America, No. 05-CV-01434-DDP (C.D. Cal.); Henderson v. Robertson et al., No. 05-CV-05659-ABC (C.D. Cal.); Henderson v. Sony Pictures et al., No. 05-CV-09000-DDP (C.D. Cal.); Henderson v. Local 174 Union, OPEIU in NY et al., No. 07-CV-05100-PA (C.D. Cal.); Henderson v. Joe Hilberman et al., No. 07-CV-07714-ODW (C.D. Cal.);

largely duplicative. Plaintiff's claims frequently relate to his employment with, and termination from, defendant Sony, and/or out of his assertion that those involved in prior lawsuits regarding that employment and termination – either as defendants or judges – committed wrongs in the course of litigation. The court notes further that all of plaintiff's previous federal cases – save his first, which was settled – have been dismissed. Turning to the second factor, the court finds that plaintiff's efforts were not meant to harass. Indeed, the court has no indication that plaintiff does not sincerely believe in the merit of his cases. Nevertheless, plaintiff lacks objective good faith basis to continue to pursue his litigation strategy where a plaintiff may not re-litigate claims that have been finally adjudicated. As a result, turning to the third factor, this court, and a very large number of other parties, have been burdened by plaintiff's repetitive lawsuits.² Finally, looking to the fourth factor, alternative sanctions such as dismissal of these actions have proven inadequate to deter plaintiff's filings. Indeed, plaintiff himself has stated, "I need to be willing to die over this. They will have to kill me to stop me from fighting this." Henderson v. Town of Hope Mills, et al., No. 5:13-CV-00635-FL (E.D.N.C.), DE 98 at 2.

The court also finds that the consistent pattern of lawsuits brought by plaintiff allow for a

Henderson v. Town of Hope Mills, et al., No. 13-CV-00635-FL; Henderson v. McKenzie, et al., No. 14-CV-00029-FL (E.D.N.C.) (the case at bar); and Henderson v. James Ammons et al., No. 5:14-CV-00210-H (E.D.N.C.).

Plaintiff's state court actions include: Henderson v. Sony Pictures Entertainment, BC270938 (SCLA 2001); Henderson v. Seltzer, SC078306 (SCLA 2003); Henderson v. Office & Professional Employees Int'l Union, EC037889 (SCLA 2003); Henderson v. Wright Institute of Los Angeles, EC037889 (SCLA 2003); Henderson v. United States, et al., BC304395 (SCLA 2004); Henderson v. Sony Pictures Entertainment, et al., SC079972 (SCLA 2003); Henderson v. Sony Pictures Entertainment, et al., SC085392 (SCLA 2005); Henderson v. Los Angeles County District Attorneys' Office, BC335920 (SCLA 2005); Henderson v. Local 174 Union (OPEIU), et al., EC042867 (SCLA 2008); Henderson v. Sony Pictures Entertainment, Hilberman, Boren, et al., SC090814 (SCLA 2006); Henderson v. Roger Boren, et al., 13 CVS 5248 (Cumberland County) removed to this court on September 13, 2013, and assigned case number 13-CV-635-FL (EDNC 2013).

² For example, in Henderson v. Town of Hope Mills, et al. No. 5:13-CV-00635-FL (E.D.N.C.), plaintiff named over 40 different entities and individuals as defendants on numerous different claims.

narrowly tailored pre-filing injunction. As previously noted, plaintiff's past federal lawsuits often involved allegations arising out of his employment with, and termination from, defendant Sony, or arising out of purportedly wrongful actions taken during the course of his prior litigation regarding the same. Accordingly, the court finds it appropriate to enter a pre-filing injunction forbidding plaintiff from filing any suit against these defendants or against Sands Anderson PC (the law firm of defendant McKenzie) which involves claims related to, or arising out of, Henderson's employment with and/or termination from defendant Sony, or any litigation related thereto, including all matters addressed in any prior North Carolina case, state or federal, without leave of court.

Defendants request that this injunction forbid plaintiff from filing such a suit in any federal district court. Multiple circuits that have held that district courts should not enter injunctions that extend to so broadly to courts in other circuits in the country. See Baum v. Blue Moon Ventures, LLC, 513 F.3d 181, 192 (5th Cir. 2008); Van Deelen v. City of Kansas City, Missouri, 262 F. App'x 723, 724 (8th Cir. 2007); Sieverding v. Colo. Bar Ass'n, 469 F.3d 1340, 1344 (10th Cir.2006); but see In re Martin-Trigona, 737 F.2d 1254, 1262 (2d Cir. 1984) (upholding the imposition of a pre-filing injunction applying to all federal district courts where the record before the court included "reported decisions involving Martin-Trigona in the courts of appeals of at least five circuits in recent years."). In this case, the court need not determine whether it has the power to enter a pre-filing injunction extending to all federal district courts where it finds that such a broad injunction is not appropriate here. Plaintiff's federal litigation has not had so wide a geographic sweep as in Martin-Trigona. Accordingly, plaintiff will be enjoined from filing in this district any suit against defendants and/or Sands Anderson PC related to, involving claims or arising out of, Henderson's

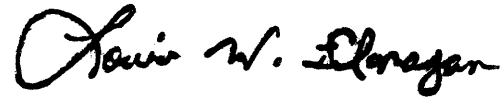
Sony employment and termination therefrom, or any litigation related thereto, including all matters addressed in any prior North Carolina case, state or federal, without leave of court.

Nothing in this order precludes plaintiff from filing an action on other subject matter (assuming a valid claim is stated), and nothing in this order shall be construed to preclude plaintiff from defending himself in any action brought against him in this court. However, to protect against abuses and any attempt to circumvent the injunction herein imposed, plaintiff must attach a copy of this order to any complaint or motion for leave to proceed *in forma pauperis* filed by him in this judicial district, regardless of the subject matter of such lawsuit. If the lawsuit is not one that is governed by this order, it will be allowed to proceed. Otherwise, it will be dismissed and sanctions may be imposed. Plaintiff is warned that failure to comply with the requirements of this order may result in monetary penalties and/or initiation of contempt proceedings.

CONCLUSION

Based on the foregoing, the court GRANTS IN PART AND DENIES IN PART defendant's motion for pre-filing injunction (DE 13). The court hereby ENJOINS plaintiff from filing in this district any lawsuit against Defendants Sony Pictures Entertainment Inc.; Kim Russo; Schmid & Voiles; Kathleen McColgan; James Rosen; Rosen Saba LLP; Adela Carasco; David McKenzie; and/or against Sands Anderson PC which lawsuit involves claims related to, or arising out of, Henderson's employment with and/or termination from defendant Sony, or any litigation related thereto, including all matters addressed in any prior North Carolina case, state or federal, without leave of court. Regardless of the subject matter of the lawsuit, plaintiff must attach a copy of this injunction to any complaint or motion for leave to proceed in forma pauperis filed in this judicial district. The clerk is DIRECTED to close this case.

SO ORDERED, this the 30th day of September, 2014.

A handwritten signature in black ink, reading "Louise W. Flanagan". The signature is written in a cursive style with a large initial "L".

LOUISE W. FLANAGAN
United States District Judge