



1 WSBA and the State of Washington, based on an alleged conspiracy “to kill by cutting off the  
2 oxygen, life blood of the Law Office of Brenda [J. Little] and to illegally attempt to disgorge  
3 Little from the ranks of licensed attorneys by unlawfully and dishonestly taking her law license.”  
4 Little v. State of Washington, C11-1387JLR (Dkt. # 16 at 2). When the State of Washington  
5 asserted its Eleventh Amendment immunity, plaintiff dismissed all claims against that defendant  
6 with prejudice. C11-1387 (Dkt. # 32). The claims against the WSBA were dismissed by the  
7 court for failure to comply with Fed. R. Civ. P. 8(a) and Bell Atl. Corp. v. Twombly, 550 U.S.  
8 544 (2007). Plaintiff timely filed an amended complaint,<sup>1</sup> but it was again found to be deficient.  
9 Plaintiff’s claims were dismissed with prejudice, and the dismissal was affirmed on appeal. The  
10 Ninth Circuit Court of Appeals declined to consider arguments regarding an alleged violation of  
11 the Americans with Disabilities Act that plaintiff raised for the first time on appeal. C11-  
12 1387JLR (Dkt. # 85).

13 Two months after the Ninth Circuit’s mandate issued, plaintiff filed the above-  
14 captioned matter. Plaintiff again sued the State of Washington and named the WSBA’s Board of  
15 Governors and three WSBA employees as defendants. The primary factual allegation is that the  
16 Washington State Supreme Court adopted regressive and discriminatory procedures for  
17 assessing lawyers with disabilities, procedures that were used by the WSBA defendants to  
18 “illegally confiscate[] property, law license”. Dkt. # 1 at 2 and 19. Plaintiff’s claims against the  
19 moving defendants have now been dismissed, primarily on res judicata and immunity grounds.<sup>2</sup>

20 Although plaintiff has refashioned her claims and expanded the list of defendants  
21 over the past two years, all three suits clearly arise from the same transactional nucleus of facts  
22 and were or should have been litigated in the earlier suit(s). Plaintiff’s successive litigations,  
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24 <sup>1</sup> The First Amended Complaint identified Kenneth Muscatel as a defendant for the first time.  
25 C11-1387JLR (Dkt. # 51).

26 <sup>2</sup> The claims against defendant Henry Richards were dismissed solely on quasi-judicial  
immunity grounds because he had not been sued before.

1 despite a prior dismissal with prejudice, constitute litigation misconduct: the subsequent actions  
2 against the State of Washington and the WSBA defendants are frivolous and harassing. In  
3 addition, the cases filed in this district have placed a significant burden on this court. Given that  
4 plaintiff has filed three actions in the past two years, there is no reason to believe that plaintiff  
5 will discontinue her frivolous and meritless filings without judicial intervention.

#### 6 FRIVOLOUSNESS

7 Plaintiff Brenda J. Little has now filed three federal lawsuits regarding the  
8 procedures used during the disciplinary proceeding that resulted in her transfer to disability  
9 inactive status. After the second action against the State, the WSBA, and Muscatel was  
10 dismissed with prejudice, plaintiff was clearly on notice that any further attempts to hold these  
11 defendants liable for wrongs allegedly occurring in the disciplinary process would be fruitless.  
12 Nevertheless, plaintiff filed the above-captioned matter against the same defendants. This third  
13 action was frivolous to the extent it sought to hold the same defendants, or those with shared  
14 interests, liable for the same events.<sup>3</sup>

#### 15 IMPROPER PURPOSE

16 Plaintiff Brenda J. Little clearly believes that the procedures utilized by defendants  
17 to investigate and adjudicate complaints against her were unfair, biased, and/or discriminatory  
18 and that she has been unjustly deprived of her ability to practice law. Nevertheless, her blank  
19 refusal to conform her conduct to the clear and binding determinations of the reviewing courts,  
20 her insistence on filing lengthy, convoluted, desultory memoranda, and her unfounded and  
21 vitriolic accusations against opposing counsel suggest that she is using frivolous litigation as a  
22 tool of harassment directed at anyone and everyone involved in her disciplinary proceedings.  
23 Having been told that her claims for recovery against the State, the WSBA, and defendant  
24 Muscatel arising out of the disciplinary proceedings have been dismissed with prejudice, and

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26 <sup>3</sup> Plaintiff's claims against Kenneth Burton have survived a motion to dismiss and Harish Bharti has not yet appeared. This bar order has no effect on the pending causes of action.

1 given her legal training and background, the most likely explanation for plaintiff's continued  
2 attempts to assert meritless claims against these defendants is an improper purpose to harass.

### 3 SANCTIONS

4 Litigation misconduct is sanctionable under the Court's inherent powers, General  
5 Rule 3(d), and Fed. R. Civ. P. 11. See Fink v. Gomez, 239 F.3d 989, 991 (9th Cir. 2001). The  
6 Court has the inherent authority "to sanction a party . . . if it acts in 'willful disobedience of a  
7 court order . . . or when the losing party has acted in bad faith, vexatiously, wantonly, or for  
8 oppressive reasons,' as well as for 'willful[ ] abuse [of the] judicial processes.'" Gomez v.  
9 Vernon, 255 F.3d 1118, 1133-34 (9th Cir. 2001) (citing Roadway Express, Inc. v. Piper, 447  
10 U.S. 752, 766 (1980)). The Court has authority under Local General Rule 3(d) to sanction a  
11 party who "presents to the court unnecessary motions or unwarranted opposition . . . , or who  
12 otherwise so multiplies or obstructs the proceedings in a case as to increase the cost thereof  
13 unreasonably and vexatiously." GR 3(d); Cf. 28 U.S.C. § 1927. Rule 11 also provides a basis  
14 for sanctions where "a filing is frivolous, legally unreasonable, or without factual foundation, or  
15 is brought for an improper purpose." Estate of Blue v. County of Los Angeles, 120 F.3d 982,  
16 985 (9th Cir. 1997). When faced with litigation abuses by a *pro se* party, a court "cannot . . .  
17 decline to impose a sanction, where a violation has arguably occurred, simply because plaintiff is  
18 proceeding *pro se*." Warren v. Guelker, 29 F.3d 1386, 1390 (9th Cir. 1994).

19 Contrary to plaintiff's primary argument, the imposition of a bar order in the  
20 circumstances presented here would not work a deprivation of plaintiff's right to petition the  
21 courts. Plaintiff has had multiple opportunities to assert her claims: the issue is whether she can  
22 continue to do so when their lack of merit has been established. Plaintiff has provided no  
23 argument or evidence that would justify her seemingly wilful failure to credit the earlier district  
24 and appellate court determinations. While perseverance is often counted as a virtue, it must be  
25 tempered by reason and experience. Having been told that claims related to her disciplinary  
26 proceedings were dismissed with prejudice, plaintiff's continued efforts to hold defendants liable

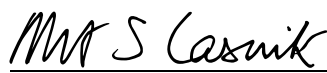
1 are harassing and cannot continue. For all of the foregoing reasons, it is hereby ORDERED that:

2 Any *pro se* complaint submitted for filing in this district in which Brenda J. Little  
3 is a named plaintiff or purports to act as party representative shall be subject to review by the  
4 Court prior to issuance of summons or service of process. The following review provisions shall  
5 apply, except in cases where Ms. Little is represented by an attorney licensed to practice law in  
6 this district:

7 § The court will review the proposed complaint to determine whether good cause  
8 exists to permit the action to proceed in light of the claims raised therein and Ms. Little's  
9 past litigation abuses. The proposed complaint shall comply with Fed. R. Civ. P. 8(a) and  
10 provide a clear statement of the factual and legal basis for each claim asserted and  
11 specifically identifying each defendant against whom the claim is asserted. The proposed  
12 complaint shall be accompanied by a signed statement explaining, on a claim-by-claim  
13 basis, (a) whether each claim was raised in any prior action (with an appropriate citation)  
14 and (b) why each claim is not barred by the doctrine of *res judicata* and/or the applicable  
15 immunity.

16 § If the court determines that good cause has not been shown, the action will be  
17 dismissed sua sponte without further notice. If the court also determines that sanctions  
18 are appropriate, those shall be imposed at the same time the action is dismissed. Ms.  
19 Little shall have an opportunity to explain why sanctions should not be imposed in a post-  
20 judgment motion for reconsideration filed within ten days of the judgment.

21 Dated this 12th day of December, 2013.

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24 Robert S. Lasnik  
25 United States District Judge  
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