

IN THE UNITED STATES DISTRICT
COURT WESTERN DISTRICT OF
ARKANSAS FAYETTEVILLE
DIVISION

CURTIS J.
NEELEY, JR.

PLAINTIFF

v.

Case No. 5:14-CV-05135

5 FEDERAL COMMUNICATIONS
COMMISSIONERS; FCC CHAIRMAN TOM
WHEELER , et. al.; U.S.
REPRESENTATIVE STEVE WOMACK;
U.S. REPRESENTATIVE/ SENATE
CANDIDATE TOM COTTON; U.S.
SENATOR MARK PRYOR; U.S.
ATTORNEY GENERAL ERIC HOLDER;
HONORABLE JIMM LARRY HENDREN;
DIANA E. MURPHY; PASCO
M. BOWMAN II; ROGER LELAND
WOLLMAN ; KERMIT EDWARD BYE;
STEPHEN BREYER; STEVEN M.
COLLTON; ANTONIN SCALIA ; RUTH B.
GINSBERG; DENNY CHIN; ANTHONY
KENNEDY; SAMUEL AUTO; RAYMOND W
. GRUENDER ; MICROSOFT
CORPORATION; and GOOGLE , INC.

DEFENDANTS

O R D E R TO APPEAR AND SHOW CAUSE

Now on this 16th day of May, the Court enters this Order, *sua sponte*, on Plaintiff Curtis J. Neeley Jr.'s Complaint (Doc. 1) filed on May 6, 2014 , (hereafter the "Current Complaint") . Plaintiff is ORDERED to APPEAR before the Court on May 27, 2014, at 1:30 pm, and SHOW CAUSE why he should not be held in Contempt or otherwise Sanctioned for the repeated willful violation of the Court's orders, and Sanctioned pursuant to Fed. R. Civ. P. 11 for his filing of the Complaint herein, and for why the present Complaint should not be summarily dismissed with prejudice.

Plaintiff has previously filed numerous meritless complaints alleging the same or substantially similar facts and claims for relief, most of which have been dismissed by the Court with prejudice. On February 15, 2013, this Court enjoined Plaintiff from the filing of any further complaints related to these same claims, without obtaining the Court's permission. See Doc. No. 58 in Case No. 5:12-cv-05208, which is attached hereto as Exhibit 1, and incorporated herein by reference (hereafter the "Court's Prior Order"). The Court's Prior Order chronicles the history of Plaintiff's prior lawsuits, allegations, and claims for relief, including the complaints, as amended, in Case Nos. 5:9-cv-05151 and 5:12-cv-05074 (hereafter the "Plaintiff's Previous Litigation")¹.

The Court's Prior Order enjoined Plaintiff from filing another complaint related to the Plaintiff's Previous Litigation without first obtaining permission of the Court. Plaintiff's appeal of the Court's Prior Order was affirmed by the Eighth Circuit. *Neeley v. Fed. Comm'n Comm'n, et al.*, No. 13-1506 (8th Cir. Aug. 15, 2013). Plaintiff's Petition for *Certiorari* to the Supreme Court was denied. *Neeley v. F.C.C.*, 134 S. Ct. 496, (Oct. 21, 2013).

On November 8, 2013, Plaintiff sought permission to file a Complaint. (See Doc. No. 3 in Case No. 5:13-mc-00066). The Court denied Plaintiff's request on November 14, 2013, and likewise denied Plaintiff's Motion for Reconsideration on December 12, 2013, finding the proposed Complaint to be essentially identical to complaints that had been previously dismissed. These orders are attached hereto as Exhibits 2 and 3, respectively.

¹ The Complaint in Case No. 5:12-cv-05074 was dismissed without prejudice, however, the Complaints in Case No. 5:9-cv-05151 and 5:12-cv-05208 were dismissed with prejudice. Thus, subsequent filings of the same claims are barred-among other reasons-by *res judicata*.

Four days later, on December 16, 2013 , Plaintiff filed a new Complaint without seeking advance permission from the Court-in violation of the injunction-in which he made the same or substantially similar allegations as Plaintiff's Previous Litigation. (Case No. 5: 13-cv-05293, Doc. 1). The Court granted separate orders dismissing the defendants. (*Id.* at Docs. 12 and 16), which are attached hereto as Exhibits 4 and 5, respectively. The Plaintiff moved for reconsideration, contending that the Court was mistaken in finding that the Complaint was related to events previously litigated. On March 7, 2014 , the Court denied reconsideration , starting that it had conducted a "side-by-side comparison" with the Second Amended Complaint in *Neeley v. Federal Communications Commission, et al.*," (Case No. 5:12-cv-5208 (Doc. 53-3), and found that the claims were "identical in almost every respect." (Case No. 5:13-cv-05293 , Doc. 25).

Less than two months later, on May 6 , 2014 , Plaintiff filed his Current Complaint-once again without seeking advance permission from the Court. The Court has reviewed Plaintiff's Current Complaint and finds the facts , issues, and claims for relief to be the same or substantially similar to Plaintiff's Previous Litigation. The Court finds Plaintiff's Current Complaint to be frivolous and without merit on its face , and, had advance permission for filing been sought-it would have been denied .

Plaintiff's Current Complaint continues a troubling pattern of open, willful, and deliberate disregard of the Court's Prior Order and Injunction. Although Plaintiff has added new Defendants to the present suit , to include judges , justices , and certain members of the United States Congress , the Current Complaint raises essentially the same issues alleged in Plaintiff's Previous Litigation. The actions against the "new" Defendants are not

actionable claims. Judges enjoy immunity from suit when acting in their official capacity. *Mireles v. Waco*, 502 U.S. 9, 11 (1991)(citing *Mitchell v. Forsyth*, 472 U.S. 511 , 526 (1985)). Likewise, legislative officials have immunity from suit. *Bogan v. Scott-Harris*, 523 U.S. 44, 54 (1998). Further, in regard to the legislative officials, the Court has no authority to order Congress to introduce and/or pass legislation.

"Frivolous, bad faith claims consume a significant amount of judicial resources, diverting the time and energy of the judiciary away from processing good faith claims." *In re Tyler*, 839 F.2d 1290, 1292 (8th Cir. 1988). This imposes unnecessary burdens on court resources. *Id.* Abusive litigation results in prolonged, repetitive harassment of defendants, causing frustration and unreasonable expenditures of time and money defending against unfounded claims. *Id.* at 1293. Defendants have a right to be free from harassing , abusive , and meritless litigation, and federal courts have a clear obligation to exercise their authority to protect litigants from such behavior. *Id.*

The Court's Prior Order barred Plaintiff from re-litigating the same frivolous claims that he had alleged in prior suits. The Court found that it was "becoming increasingly obvious that Mr. Neeley feels compelled to pursue these baseless accusations until he is ordered to stop." (Case No. 5:13-cv-05208, Doc. 58, p.11). Further, the Court held that Plaintiff violated Fed. R. Civ. P. 11 by filing repeated, frivolous lawsuits regarding the same facts and circumstances and enjoined him from filing further motions, pleadings, or *pro se* complaints related to events previously litigated without obtaining the permission of the Court. Plaintiff's Current Complaint is yet another willful , blatant, and intentional disobedience of this Court's Orders.

IT IS THEREFORE ORDERED that the Plaintiff, Curtis J. Neeley, Jr., APPEAR before the Court on May 27, 2014, at 1:30 pm, and SHOW CAUSE as to: (1) why he should not be held in Contempt or otherwise Sanctioned for the deliberate and willful violation of the Court's Prior Order and Injunction; (2) why he should not be sanctioned pursuant to Fed. R. Civ. P. 11 for his filing of the Current Complaint; and
(3) why his Current Complaint should not be summarily dismissed.

IT IS FURTHER ORDERED that the Defendants named in this action may, at their discretion, enter an appearance for further notification purposes only, but otherwise the Defendants need not appear or file any responsive pleadings.

IT IS FURTHER ORDERED that the Clerk of the Court is directed to mail this Order to the Plaintiff at his last known address, via certified mail, return receipt requested, and to file the receipt signature card in the record.

IT IS SO ORDERED this 16th day of May, 2014 .

TIMOTHY L. BROOKS
U.S. DISTRICT JUDGE