

1 Rule 83. Vexatious litigants.

2 (a) Definitions.

3 (a)(1) "Vexatious litigant" means a person, including an attorney acting pro se,
4 who, without legal representation, does any of the following.

5 (a)(1)(A) In the immediately preceding seven years, the person has filed at
6 least five claims for relief, other than small claims actions, that have been finally
7 determined against the person.

8 (a)(1)(B) After a claim for relief or an issue of fact or law in the claim has been
9 finally determined, the person two or more additional times re-litigates or
10 attempts to re-litigate the claim, the issue of fact or law, or the validity of the
11 determination against the same party in whose favor the claim or issue was
12 determined.

13 (a)(1)(C) In any action, the person three or more times does any one or any
14 combination of the following:

15 (a)(1)(C)(i) files unmeritorious pleadings or other papers,

16 (a)(1)(C)(ii) files pleadings or other papers that contain redundant,
17 immaterial, impertinent or scandalous matter,

18 (a)(1)(C)(iii) conducts unnecessary discovery or discovery that is not
19 proportional to what is at stake in the litigation, or

20 (a)(1)(C)(iv) engages in tactics that are frivolous or solely for the purpose
21 of harassment or delay.

22 (a)(1)(D) The person purports to represent or to use the procedures of a court
23 other than a court of the United States, a court created by the Constitution of the
24 United States or by Congress under the authority of the Constitution of the United
25 States, a tribal court recognized by the United States, a court created by a state
26 or territory of the United States, or a court created by a foreign nation recognized
27 by the United States.

28 (a)(1)(E) The person has been found to be a vexatious litigant within the
29 preceding seven years.

30 (a)(2) “Claim” and “claim for relief” mean a petition, complaint, counterclaim,
31 cross claim or third-party complaint.

32 **(b) Vexatious litigant orders.** The court may, on its own motion or on the motion of
33 any party, enter an order requiring a vexatious litigant to:

34 (b)(1) furnish security to assure payment of the moving party’s reasonable
35 expenses, costs and, if authorized, attorney fees incurred in a pending action;

36 (b)(2) obtain legal counsel before proceeding in a pending action;

37 (b)(3) obtain legal counsel before filing any future claim for relief;

38 (b)(4) abide by a prefiling order requiring the vexatious litigant to obtain leave of
39 the court before filing any paper, pleading, or motion in a pending action;

40 (b)(5) abide by a prefiling order requiring the vexatious litigant to obtain leave of
41 the court before filing any future claim for relief; or

42 (b)(6) take any other action reasonably necessary to curb the vexatious litigant’s
43 abusive conduct.

44 **(c) Necessary findings and security.**

45 (c)(1) Before entering an order under subparagraph (b), the court must find by
46 clear and convincing evidence that:

47 (c)(1)(A) the party subject to the order is a vexatious litigant; and

48 (c)(1)(B) there is no reasonable probability that the vexatious litigant will
49 prevail on the claim.

50 (c)(2) A preliminary finding that there is no reasonable probability that the
51 vexatious litigant will prevail is not a decision on the ultimate merits of the vexatious
52 litigant’s claim.

53 (c)(3) The court shall identify the amount of the security and the time within which
54 it is to be furnished. If the security is not furnished as ordered, the court shall dismiss
55 the vexatious litigants claim with prejudice.

56 **(d) Prefiling orders in a pending action.**

57 (d)(1) If a vexatious litigant is subject to a prefiling order in a pending action
58 requiring leave of the court to file any paper, pleading, or motion, the vexatious

59 litigant shall submit any proposed paper, pleading, or motion to the judge assigned
60 to the case and must:

61 (d)(1)(A) demonstrate that the paper, pleading, or motion is based on a good
62 faith dispute of the facts;

63 (d)(1)(B) demonstrate that the paper, pleading, or motion is warranted under
64 existing law or a good faith argument for the extension, modification, or reversal
65 of existing law;

66 (d)(1)(C) include an oath, affirmation or declaration under criminal penalty that
67 the proposed paper, pleading or motion is not filed for the purpose of harassment
68 or delay and contains no redundant, immaterial, impertinent or scandalous
69 matter;

70 (d)(2) A prefiling order in a pending action shall be effective until a final
71 determination of the action on appeal, unless otherwise ordered by the court.

72 (d)(3) After a prefiling order has been effective in a pending action for one year,
73 the person subject to the prefiling order may move to have the order vacated. The
74 motion shall be decided by the judge to whom the pending action is assigned. In
75 granting the motion, the judge may impose any other vexatious litigant orders
76 permitted in paragraph (b).

77 (d)(4) All papers, pleadings, and motions filed by a vexatious litigant subject to a
78 prefiling order under this paragraph (d) shall include a judicial order authorizing the
79 filing and any required security. If the order or security is not included, the clerk or
80 court shall reject the paper, pleading, or motion.

81 **(e) Prefiling orders as to future claims.**

82 (e)(1) A vexatious litigant subject to a prefiling order restricting the filing of future
83 claims shall, before filing, obtain an order authorizing the vexatious litigant to file the
84 claim. The presiding judge of the judicial district in which the claim is to be filed shall
85 decide the application. In granting an application, the presiding judge may impose in
86 the pending action any of the vexatious litigant orders permitted under paragraph
87 (b).

88 (e)(2) To obtain an order under paragraph (e)(1), the vexatious litigant's
89 application must:

90 (e)(2)(A) demonstrate that the claim is based on a good faith dispute of the
91 facts;

92 (e)(2)(B) demonstrate that the claim is warranted under existing law or a good
93 faith argument for the extension, modification, or reversal of existing law;

94 (e)(2)(C) include an oath, affirmation, or declaration under criminal penalty
95 that the proposed claim is not filed for the purpose of harassment or delay and
96 contains no redundant, immaterial, impertinent or scandalous matter;

97 (e)(2)(D) include a copy of the proposed petition, complaint, counterclaim,
98 cross-claim, or third party complaint; and

99 (e)(2)(E) include the court name and case number of all claims that the
100 applicant has filed against each party within the preceding seven years and the
101 disposition of each claim.

102 (e)(3) A prefiling order limiting the filing of future claims is effective indefinitely
103 unless the court orders a shorter period.

104 (e)(4) After five years a person subject to a pre-filing order limiting the filing of
105 future claims may file a motion to vacate the order. The motion shall be filed in the
106 same judicial district from which the order entered and be decided by the presiding
107 judge of that district.

108 (e)(5) A claim filed by a vexatious litigant subject to a prefiling order under this
109 paragraph (e) shall include an order authorizing the filing and any required security.
110 If the order or security is not included, the clerk of court shall reject the filing.

111 **(f) Notice of vexatious litigant orders.**

112 (f)(1) The clerks of court shall notify the Judicial Council that a pre-filing order has
113 been entered or vacated.

114 (f)(2) The Judicial Council shall disseminate to the clerks of court a list of
115 vexatious litigants subject to a prefiling order.

116 **(g) Statute of limitations or time for filing tolled.** Any applicable statute of
117 limitations or time in which the person is required to take any action is tolled until 7 days
118 after notice of the decision on the motion or application for authorization to file.

119 **(h) Contempt sanctions.** Disobedience by a vexatious litigant of a pre-filing order
120 may be punished as contempt of court.

121 **(i) Other authority.** This rule does not affect the authority of the court under other
122 statutes and rules or the inherent authority of the court.

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