

**at; ‘UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA’
‘TAMPA DIVISION’ - U.S.A.**

‘FEDERAL TRADE COMMISSION’
‘600 Pennsylvania Avenue, NW
Washington, DC 20580’

[‘ Plaintiff’]

-v-

‘Start Connecting SAS; [Hamlet Garcia II]; *et al.*
a [“*real party in interest*”]

[Civil] Action
‘No. 8:24-cv-01626-KKM-AAS’

[Judge] Kathryn K. Mizzle
Hon. Amanda A. Sansone
(*verified*)

i: [a] man claim; all herein be true;

NOTICE OPPOSING PRE-FILING INJUNCTION

COMES NOW, Hamlet Garcia II, appearing as the real party in interest, and formally opposing any pre-filing injunction, demanding strict adherence to procedural integrity and due process. The Court’s basis for restriction rests on unverified allegations, procedural contradictions, and selective enforcement of judicial discretion. [*Cf.* Fla. Const. art. I, § 21 (Bars undue restrictions)].

I. DISCUSSION

A Docket No. 139 improperly asserts that Movant has engaged in excessive filings and improper communications, yet offers no record citations, evidentiary support, or judicial findings under Rule 11(b). Meanwhile, Docket No. 3, an ex parte filing spanning 27 pages with exhibit(s) exceeding 1,200 pages, was permitted without a motion for leave. Court Mizzle cannot uphold inconsistent procedural enforcement while condemning Movant’s measured filings. ¹

¹ *Cf.* Fla. Stat. § 57.105 (Frivolous Litigation Sanctions); § 60.08 (Injunctions Sought by State).

1 Assertion that judicial resources are being “diverted from meritorious claims”
2 improperly assumes a gatekeeping function, preemptively dictating legitimacy
3 before adjudication. Jurisdiction and standing are matters of law, not discretion.
4 Moreover, the claim of “over 25 emails” remains unsupported by clerk records,
5 documented responses, or proper service. No court may impose restrictions based
6 on off-record statements, unverifiable allegations, or retaliatory measures for
7 procedural inquiries. [Cf. Florida Vexatious Litigant Law (§ 68.093, Fla. Stat.)].

8 Accordingly, any pre-filing injunction would be procedurally defective and
9 unconstitutional, as it would rest on:

- 10 ✦ Unsubstantiated judicial allegations lacking record support.
- 11 ✦ Contradictory enforcement of procedural rules favoring selective parties.
- 12 ✦ A prior restraint on court access in violation of fundamental rights.

13 II. LEGAL STANDARD

14 1. Pre-Filing Injunctions Require Specific Findings of Abuse ²

15 A pre-filing injunction demands clear evidence of persistent frivolous filings.
16 *Martin v. D.C. Ct. of Appeals*, 506 U.S. 1, 3 (1992) (requiring documented abuse
17 before imposing restrictions); *Procup v. Strickland*, 792 F.2d 1069, 1074 (11th Cir.
18 1986) (injunctions must be precise and preserve court access).

² A pre-filing injunction is an extraordinary remedy that requires: (i) Specific Findings of Vexatious Conduct: The Court must identify a pattern of frivolous or harassing litigation; (2) Narrow Tailoring: Any injunction must be carefully crafted to address the specific abuse without unduly restricting access to the courts.(3) Adequate Notice and Opportunity to Be Heard: The affected party must receive proper notice and a chance to present their case.<flsenate.gov>

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2 No such findings exist here. Not one order cites a single frivolous filing.

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4 **2. Restrictions Cannot Be Imposed Based on Off-Record Allegations**

5 Judicial action must be transparent, reviewable, and based on the record.
6 *Gonzalez v. Thaler*, 565 U.S. 134, 141 (2012) (“Due process violations cannot be
7 justified by procedural mischaracterization.”) [*Cf.* Fla. Stat. § 120.569(2)(b)].

8 Allegations regarding “25+ emails” lack:

- 9 ♦ Clerk documentation.
10 ♦ PACER records.
11 ♦ Any response acknowledging improper communication.

12 Unverified judicial statements cannot be the basis for restriction. *Mathews v.*
13 *Eldridge*, 424 U.S. 319 (1976) demands:

- 14 ♦ Notice.
15 ♦ A meaningful opportunity to be heard.
16 ♦ Evidence supporting any restriction.

17
18 **3. Pre-Filing Injunctions Cannot Violate Constitutional Rights**³

19 Litigants cannot be barred from filing absent a compelling justification. *Bill*
20 *Johnson’s Rests., Inc. v. NLRB*, 461 U.S. 731, 743 (1983).

³ **Simeon v. Simeon, 903 So. 2d 1014 (Fla. 2005):** Pre-filing injunctions are a last resort, used only when lesser measures fail to stop abuse.

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2 A federal court cannot issue restrictions while denying Movant’s standing.
3 *Steel Co. v. Citizens for a Better Env’t*, 523 U.S. 83, 94 (1998) (“Jurisdiction must
4 be confirmed before adjudication.”). If Movant is “not a party,” then the Court lacks
5 authority to enjoin his filings. If Movant is a party, he retains the unrestricted right
6 to petition the Court. [*Cf. Lee v. Fla. Dep’t of Corr.*, 873 So. 2d 489 (Fla. 2004)].

7
8 **III. ARGUMENT**

9 **1. No Pattern of Frivolous Filings Exists**

10 The Court cannot impose a pre-filing injunction absent a consistent history of
11 meritless and harassing litigation. See *Tucker v. U.S. Ct. of App. for the 11th Cir.*,
12 817 F. App’x 760, 761 (11th Cir. 2020) (requiring repeated, baseless filings to justify
13 restriction). Here, the Court has made no findings of bad faith or vexatious conduct,
14 nor has it identified any filing that was legally frivolous under Fed. R. Civ. P. 11(b).⁴

15 **2. Court’s Own Rulings Contradict Any Justification for an Injunction**

16 If Movant is not a party, then the Court lacks jurisdiction to enjoin him from
17 filing. If Movant is a party, then he retains the right to file motions and seek redress.
18 The Court cannot simultaneously deny Movant standing while imposing restrictions
19 that only apply to parties. See *Gonzalez v. Thaler*, 565 U.S. 134, 141 (2012) (due
process violations cannot be justified by procedural mischaracterization).

⁴ *Platel v. Maguire*, 436 So. 2d 303 (Fla. 1983): Courts may impose injunctions for vexatious litigation, but only with clear evidence of judicial process abuse.

3. **Court’s Own Rulings Contradict Any Justification for an Injunction**

The Court’s orders (Docs. 126, 138, 139) have raised substantive legal and procedural concerns. A pre-filing injunction cannot be used to obstruct appellate oversight of those rulings. See e.g., *State v. Spencer*, 751 So. 2d 47 (Fla. 1999); *In re Oliver*, 682 F.2d 443, 445 (3d Cir. 1982) (“Judicial displeasure with a litigant’s persistence does not justify restricting access to higher review.”)

4. **Blocking Access to the Courts Would Violate Constitutional Rights**

A broad pre-filing restriction would constitute an unconstitutional prior restraint on speech and petitioning rights. See *Bill Johnson’s Rests., Inc. v. NLRB*, 461 U.S. 731, 743 (1983) (litigants cannot be barred from courts absent compelling justification). Federal courts must leave open an avenue for legitimate grievances and cannot impose blanket restrictions that eliminate access altogether.

III. RELIEF DEMANDED

For the foregoing reasons, Movant respectfully demand that the Court:

- A. Deny any pre-filing injunction absent specific findings of abuse supported by the record. [Florida Statutes § 86.011]
- B. Clarify that pre-filing restrictions cannot extend beyond the scope of legitimate judicial oversight.
- C. Confirm that any restriction imposed must be tailored, leaving an avenue for reasonable court access.

Recognized in Full Authority, Mandated Without Contestation;

/s/ Hamlet Garcia II
a real party in interest

