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Steven D. Grierson
CLERK OF THE COURT

OPPC
BENJAMIN B. CHILDS, SR, ESQ.
State Bar # 3946
[redacted]
nts
BENJAMIN CHILDS
LAW OFFICE OF BENJAMIN B. CHILDS

DISTRICT COURT
CLARK COUNTY, NEVADA

LUBA DACE Plaintiff v. MELVIN GRIMES; BENJAMIN CHILDS; LAW OFFICE OF BENJAMIN B. CHILDS; MARY PERRY Defendants	CASE NO. A-25-922833-C DEPT. NO. 29 Hearing : 10/9/2025 09:00

DEFENDANTS BENJAMIN CHILDS AND LAW OFFICE OF BENJAMIN B. CHILDS' OPPOSITION TO PLAINTIFF'S MOTION TO FILE AMENDED COMPLAINT

COUNTERMOTION TO STRIKE AMENDED COMPLAINTS TWO ONWARD

DEFENDANTS BENJAMIN CHILDS and LAW OFFICE OF BENJAMIN B. CHILDS' [Childs herein] oppose Plaintiff's Motion to File Fourth Amended Complaint. The issue is partially addressed in Childs' Motion to Dismiss being filed in the case simultaneously.

A review of the Court's docket [Exhibit A] discloses that the initial Complaint was filed on July 9, 2025. [ECF[1] # 2] An Amended Complaint was filed on July 10, 2025. [ECF # 3] A Second Amended Complaint was filed on July 10, 2025. [ECF # 4] A Third Amended Complaint was filed August 4, 2025. [ECF #13] Now the instant motion seeks permission to file a Fourth Amended Complaint; this and the Third Amended Complaint added Family Court Judge Mary Perry as a defendant.

[1] Electric Case File

LAW

a. AMENDED PLEADINGS

Rule 15. Amended and Supplemental Pleadings

(a) Amendments Before Trial.

(1) Amending as a Matter of Course. A party may amend its pleading once as a matter of course within:

(A) 21 days after serving it; or

(B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.

(2) Other Amendments. In all other cases, a party may amend its pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires.

b. DECLARATORY RELIEF

The Court has inherent power, in fact is required, to enforce the rules of procedure.

30.040. Questions of construction or validity of instruments, contracts and statutes.
1. Any person interested under a deed, written contract or other writings constituting a contract, or whose rights, status or other legal relations are affected by a statute, municipal ordinance, contract or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract or franchise and obtain a declaration of rights, status or other legal relations thereunder.

c. SELF-REPRESENTED PARTIES HAVE TO FOLLOW THE RULES

While much is made by Plaintiff about her self-represented status, that does not create any special application of procedural or substantive rules. There is no legal basis for the Court to grant pro per parties leniency in following all applicable rules in proceedings because they have chosen to represent themselves. A party proceeding as a self-represented litigant must comply with all applicable court rules and procedures. See Rodriguez v. Fiesta Palms, LLC, 134

Nev. 654, 659, 428 P.3d 255, 258-59 (2018) (noting procedural rules cannot be applied differently to pro se litigants). See, also, Bonnell v. Lawrence, 128 Nev. 394, 282 P3d 712 (2012).

d. COURT HAS INHERENT AUTHORITY TO ENFORCE RULES

A district court has "inherent power to protect the dignity and decency of its proceedings and to enforce its decrees, and thus it may issue contempt orders and sanction or dismiss an action for litigation abuses." Halverson v. Hardcastle, 123 Nev. 245, 261, 163 P.3d 428, 440 (2007). Furthermore, when the district court's exercise of inherent authority is part of its "day-to-day functioning or regular management of its internal affairs," the court may rely on that authority despite the existence of an applicable rule or statute. City of Sparks v. Sparks Mun. Court, 129 Nev. 348, 363-64, 302 P.3d 1118, 1129 (2013).

e. JUDICIAL IMMUNITY

Judicial immunity is immunity from suit, not just from ultimate assessment of damages." Mireless v. Waco, 502 U.S. 9, 11 (1991). "Absolute immunity is a broad grant of immunity not just from the imposition of civil damages, but also from the burdens of litigation." State v. Second Judicial Dist., 118 Nev. 609, 615, 232 P.3d 420, 424 (2002). Judicial immunity serves "as a device for discouraging collateral attacks and thereby helping to establish appellate procedures as the standard system for correcting judicial error[.]" Forrester v. White, 484 U.S. 219, 225 (1998).

ARGUMENT

NRCP 15 allows the plaintiff to file one amended complaint before responsive pleading is filed. Plaintiff is now asking the Court for permission to file a fourth amended complaint. No statute or rule allows filing a complaint other than NRCP 15, and that restricts filing an amended complaint, without court

permission or the consent of the opposing parties, to one time.

The Court should order that amended complaints two and three are rogue pleadings which were filed without the Court's permission as required by NRCP 15(a), as set forth above.

As to the proposed Fourth Amended Complaint, it names a sitting district court judge, Mary Perry, and seeks relief based on actions taken when Judge Perry was acting in her judicial capacity. This is prohibited under Nevada law.

CONCLUSION

Plaintiff's Motion for Leave to File Fourth Amended Complaint should be denied. Defendant Judge Mary Perry, has complete judicial immunity, both from liability and also from being named a party to a lawsuit such as Plaintiff has stated in the proposed Fourth Amended Complaint.

The Second and Third Amended Complaints were filed by Plaintiff without the Court's permission, in violation of NRCP 15. Therefore, the Court should enter an order that the Second and Third Amended Complaints are expressly stricken and void ab initio.

/s/ Benjamin B. Childs
BENJAMIN B. CHILDS
Nevada Bar # 3946
Attorney for Defendants
BENJAMIN CHILDS
LAW OFFICE OF BENJAMIN B. CHILDS

CERTIFICATE OF SERVICE

This DEFENDANTS BENJAMIN CHILDS AND LAW OFFICE OF BENJAMIN B. CHILDS' OPPOSITION TO PLAINTIFF'S MOTION TO FILE AMENDED COMPLAINT, with Exhibit, was served through the electronic filing system to Plaintiff and all parties on the Court's eservice list at filing. Electronic service is in lieu of mailing.

/s/ Benjamin B. Childs, Sr.
BENJAMIN B. CHILDS, Sr.ESQ.
NEVADA BAR # 3946

EXHIBIT A

EXHIBIT A

Case Information

A-25-922833-C | Luba Dace, Plaintiff(s) vs. Melvin Grimes, Defendant(s)

Case Number A-25-922833-C	Court Department 29	Judicial Officer Reynolds, Jacob A.
File Date 07/09/2025	Case Type Legal Malpractice	Case Status Open

Party

Plaintiff
Dace, Luba

Address
[redacted]

Active Attorneys
Pro Se

Defendant
Grimes, Melvin

Address
1888 Fairfield Terr
[redacted]

Defendant
Law Office of Benjamin B Childs

Defendant
Perry, Mary

Defendant
Childs, Benjamin

Events and Hearings

07/09/2025 Application

Application - APPL (CIV)

Comment
[1] Application to Proceed in Forma Pauperis

07/09/2025 Complaint

Complaint - COMP (CIV)

Comment
[2] Complaint for Legal Malpractice, Civil Conspiracy, Breach of Fiduciary Duty, Fraud/Intentional Misrepresentation, Concert of Action

07/10/2025 Amended Complaint

Amended Complaint - ACOM (CIV)

Comment
[3] AMENDED COMPLAINT FOR LEGAL MALPRACTICE

07/10/2025 Amended Complaint

Amended Complaint - ACOM (CIV)

Comment
[4] Second Amended Complaint For Legal Malpractice, Civil Conspiracy, Breach Of Fiduciary Duty, Fraud/Intentional Misrepresentation, Concert Of Action

07/10/2025 Summons Electronically Issued - Service Pending

Comment
[5] SUMMONS SERVICE PENDING

07/11/2025 Application

Application - APPL (CIV)

Comment
[6] CORRECTED DISTRICT COURT APPLICATION FROMA PAUPERIS

07/11/2025 Application

Application - APPL (CIV)

Comment
[7] CORRECTED DISTRICT COURT APPLICATION FROMA PAUPERIS

07/14/2025 Application

Application - APPL (CIV)

Comment
[8] FINAL CORRECTED APPLICATION FOR FEE WAIVER

07/14/2025 Notice

Notice - NOTC (CIV)

Comment
[9] Notice Of Demand For Jury Trial

07/14/2025 Order to Proceed In Forma Pauperis

Comment
[10] Order to Proceed In Forma Pauperis

07/30/2025 Motion

Motion - MOT (CIV)

Comment
[11] Motion for Request for Alternate Service and Appointment of Guardian Ad-Litem

07/31/2025 Clerk's Notice of Nonconforming Document

Clerk's Notice of Hearing - CNOC (CIV)

Comment
[12] Clerk's Notice of Noncoforming Document

08/04/2025 Third Amended Complaint

Amended Complaint - ACOM (CIV)

Comment
[13] Third Amended Complaint for Legal Malpractice, Breach of Fiduciary Duty, Fraud/Intentional Misrepresentation, Concert of Action, Violation of Civil Rights Under 42 U.S.C. 1983, Judicial Misconduct, Abuse of Authority, and Two Counts of Civil Conspiracy

08/05/2025 Motion

Motion - MOT (CIV)

Comment
[14] Motion for Request for Alternate Service, Request for Expedited Deposition and Appointment of Guardian ad Litem

08/07/2025 Clerk's Notice of Hearing

Clerk's Notice of Hearing - CNOC (CIV)

Comment
[15] Notice of Hearing

08/13/2025 Notice

Notice - NOTC (CIV)

Comment
[16] NOTICE OF WITHDRAWL OF COMBINED MOTION

08/15/2025 Motion

Motion - MOT (CIV)

Comment
[17] Plaintiff's Motion for Leave to File Fourth Amended Complaint

08/20/2025 Affidavit of Service

Affidavit of Service - AOS (CIV)

Comment
[18] AFFIDAVIT OF SERVICE FOR CHILDS COMPLAINT

08/20/2025 Motion for Order

Motion for Order - MODR (CIV)

Comment

[19] Plaintiff's Motion for Order Shortening Time on Motion to Amend Complaint

08/20/2025 Motion

Motion - MOT (CIV)

Comment
[20] Plaintiffs Motion For Expedited Deposition Of Defendant Melvin Grimes

08/20/2025 Clerk's Notice of Hearing

Clerk's Notice of Hearing - CNOC (CIV)

Comment
[21] Clerk's Notice of Hearing

08/20/2025 Clerk's Notice of Hearing

Clerk's Notice of Hearing - CNOC (CIV)

Comment
[22] Notice of Hearing

08/21/2025 Minute Order

Minute Order

Judicial Officer
Clark Newberry, Tara

Hearing Time
3:00 AM

Result
Minute Order - No Hearing Held

08/21/2025 Motion

ADR - Motion - STMOT (CIV)

Comment
[23] Plaintiff's Motion to Preserve and Compel Production of Communications

08/22/2025 Notice of Department Reassignment

Notice of Department Reassignment - NODR (CIV)

Comment
[24] Notice of Department Reassignment

08/22/2025 Notice

ADR - Notice - STNOTC (CIV)

Comment
[25] NOTICE OF WITHDRAWAL OF MOTION

08/22/2025 Ex Parte Motion

Ex Parte Motion - EXMT (CIV)

Comment
[26] Ex Parte Motion for Order Shortening Time

08/22/2025 Clerk's Notice of Hearing

Clerk's Notice of Hearing - CNOC (CIV)

Comment

[27] Clerk's Notice of Hearing

08/25/2025 Affidavit of Service

Affidavit of Service - AOS (CIV)

Comment
[28] AFFIDAVIT OF SERVICE GRIMES

09/25/2025 Motion

Judicial Officer
Reynolds, Jacob A.

Hearing Time
9:00 AM

Comment
Plaintiff's Motion for Request for Alternate Service, Request for Expedited Deposition and Appointment of Guardian ad Litem

10/09/2025 Motion for Leave

Judicial Officer
Reynolds, Jacob A.

Hearing Time
9:00 AM

Comment
Plaintiff's Motion for Leave to File Fourth Amended Complaint

10/09/2025 Motion for Order

Judicial Officer
Reynolds, Jacob A.

Hearing Time
9:00 AM

Comment
Plaintiff's Motion for Order Shortening Time on Motion to Amend Complaint

10/09/2025 Motion

Judicial Officer
Reynolds, Jacob A.

Hearing Time
9:00 AM

Comment
Plaintiffs Motion For Expedited Deposition Of Defendant Melvin Grimes

10/09/2025 Motion

Judicial Officer
Reynolds, Jacob A.

Hearing Time
9:00 AM

Comment
Plaintiff's Motion to Preserve and Compel Production of Communications

Financial

Dace, Luba

Total Financial Assessment	$270.00
Total Payments and Credits	$270.00

7/9/2025	Transaction Assessment	$270.00
7/9/2025	Fee Waiver	($270.00)

Documents

Application - APPL (CIV)
Complaint - COMP (CIV)
Amended Complaint - ACOM (CIV)
Amended Complaint - ACOM (CIV)
Application - APPL (CIV)
Application - APPL (CIV)
Application - APPL (CIV)
Notice - NOTC (CIV)
Motion - MOT (CIV)
Clerk's Notice of Hearing - CNOC (CIV)
Amended Complaint - ACOM (CIV)
Motion - MOT (CIV)
Clerk's Notice of Hearing - CNOC (CIV)
Notice - NOTC (CIV)
Motion - MOT (CIV)
Affidavit of Service - AOS (CIV)
Motion for Order - MODR (CIV)
Motion - MOT (CIV)
Clerk's Notice of Hearing - CNOC (CIV)
Clerk's Notice of Hearing - CNOC (CIV)
ADR - Motion - STMOT (CIV)
Minute Order
Notice of Department Reassignment - NODR (CIV)
ADR - Notice - STNOTC (CIV)
Ex Parte Motion - EXMT (CIV)
Clerk's Notice of Hearing - CNOC (CIV)
Affidavit of Service - AOS (CIV)