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Appellant in Pro Se

FILED

APR 23 2025

Bowen Greenwood  
Clerk of Supreme Court  
State of Montana

**IN THE SUPREME COURT OF THE STATE OF MONTANA**

LARRY KENNETH GAY,	)	
	)	
Plaintiff / Appellant,	)	Case No. DA 25-0208
	)	Appealing: DV-24-132
v.	)	
	)	OPPOSITION TO MOTION TO
RONALD JAMES ADAMSON,	)	DISMISS
	)	
Defendant / Appellee.	)	

**PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION TO DISMISS**

COMES NOW Plaintiff Larry Kenneth Gay, appearing pro se, and hereby submits this Opposition to Defendant Ronald James Adamson's Motion to Dismiss Appeal and Impose Sanctions.

**INTRODUCTION**

Defendant's Motion to Dismiss should be denied on both procedural and substantive grounds. First, the motion fails to comply with the mandatory procedural requirements for motions to dismiss appeals in Montana. Second, even if properly

filed, the motion lacks merit, as Defendant relies on a fraudulent document submitted to this Court, misidentifies the case on appeal, and presents arguments regarding an appeal bond that are currently pending before the District Court.

## ARGUMENT

### I. DEFENDANT'S MOTION FAILS TO COMPLY WITH MANDATORY PROCEDURAL REQUIREMENTS

Defendant's Motion to Dismiss Appeal should be denied outright because it fails to comply with the procedural requirements established by the Montana Rules of Appellate Procedure. Specifically:

1. **Improper Format and Content:** Under Rule 16 of the Montana Rules of Appellate Procedure, a motion to dismiss an appeal must be "submitted as a single document... limited to 1,250 words if proportionately spaced or 5 pages if prepared in a monospaced typeface or typewritten." The motion must include "a succinct statement of the issue or problem," "a brief argument with a list of supporting authority," and "a succinct statement of the relief sought." Defendant's motion fails to adhere to these formatting requirements.
2. **Lack of Required Supporting Brief:** Under Rule 2 of the Montana Rules of Appellate Procedure, a supporting brief must accompany the motion. Defendant has failed to provide such a brief, which, according to established caselaw, may be grounds for treating the motion as "without merit." *Comm'r of Political Practices for Mont. v. Baman*, 2015 MT 220.

These procedural deficiencies alone warrant denial of Defendant's motion. The Montana Supreme Court has consistently enforced procedural rules governing appellate practice, as demonstrated in *In re Marriage of McMahon*, 2002 MT 198, where the Court dismissed an appeal for failure to comply with the Montana Rules of Appellate Procedure.

## **II. THE APPEAL PRESENTS SUBSTANTIAL LEGAL ISSUES REGARDING FRAUD UPON THE COURT**

Even if the Court were to overlook the procedural defects and consider the motion on its merits, it should still be denied because the appeal raises substantial questions regarding the proper application of the legal standard for fraud upon the court.

The District Court erroneously classified Defendant's alleged actions as merely "intrinsic fraud" rather than applying the "totality of circumstances" analysis required by *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238 (1944) and *In re Marriage of Doyle*, 280 Mont. 429 (1996). This Court has recognized that fraud upon the court encompasses "the most egregious conduct that subverts the integrity of the judicial process," including fabrication of evidence and improper attempts to influence the court.

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The evidence presented to the District Court demonstrated a systematic scheme that included:

- Creating fraudulent online content under Plaintiff's name
- Filing numerous false police reports
- Contradictory testimony where Defendant admitted Plaintiff did not have a Google account while simultaneously accusing him of using such an account.

#### **IV. DEFENDANT'S BOND ARGUMENTS ARE PREMATURE AND PROCEDURALLY IMPROPER**

Defendant's arguments regarding an additional \$5,000 bond are procedurally improper for two key reasons:

1. The issue of bond is currently pending before the District Court and has not been ruled upon, making Defendant's request to this Court premature.
2. I have already agreed to post the standard \$500 costs bond in compliance with Mont. R. App. P. 7.

In *In re Marriage of Weber*, 2004 MT 211, ¶ 19, this Court held that courts must balance concerns about litigation against the fundamental right of access to courts. As a recipient of Social Security disability benefits based on psychological harm caused by Defendant's actions, an excessive bond would effectively deny my constitutional right to appeal.

V. THE VEXACIOUS LITIGANT DESIGNATION WAS AN ABUSE OF DISCRETION

This Court has established a five-factor test for determining whether a party should be designated a vexatious litigant. *Motta v. Granite County Comm'rs*, 2013 MT 172, ¶ 17. A court abuses its discretion when it "acts arbitrarily without employment of conscientious judgment or exceeds the bounds of reason resulting in substantial injustice." In *Wallace v. Law Offices of Bruce M. Spencer, PLLC*, 2021 MT 253, ¶ 24, this Court emphasized that a vexatious litigant designation requires "a comprehensive analysis of all relevant factors, balancing the litigant's constitutional right of access to courts against the need to prevent abuse of the judicial system."

The District Court failed to conduct this required balancing, particularly in light of substantial evidence supporting Plaintiff's claims of fraud upon the court. 6 As established in *In re Marriage of Weber*, 2004 MT 211, ¶ 19, courts must balance concerns about abusive litigation against the fundamental right of access to courts. The District Court's failure to adequately consider Plaintiff's substantial evidence of being the victim of fraud upon the court constituted an abuse of discretion that warrants reversal.

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## VI. ANSWERS TO ADAMSON'S ATTACHED EXHIBITS

1. Adamson submitted an Exhibit of a copy of an email message from "Larry Gay (Google+)" (Exhibit 1). As can be seen within the original Complaint, Adamson admitted under oath that I did not have a Google+ account to post anything on it, yet simultaneously accused me of using such an account to create YouTube videos (Exhibit H, Offering of portions of Adamson transcript, page 47, lines 15-16).
2. Adamson submitted a copy of a Motion in Flathead County Cause number DV-15-241C. That case was brought due to misconduct of the settlement master during mediation. The case was resolved with a Joint Stipulation of Dismissal. On page 2 of that document, under #2, it states, "It is the express intention of the Parties that dismissal to this stipulation will have no preclusive effect whatsoever on any future litigation that is based upon the alleged events, transactions, occurrence or recurrence of any claim, fact, or circumstance at issue in the present case of related to the present case." (Exhibit 2)
3. Adamson filed what he labeled as Exhibit 2. He has a handwritten note to the side that has nothing to do with that filing. That filing is a successfully completed chapter 11 re-structuring from over 30 years ago and has no bearing in this matter. The second page of Exhibit 2 shows a page from a wrongful discharge suit from over 30 years ago in which I received nearly \$20,000.00 in settlement.

4. The next page in Adamson's Exhibits appears to be a page of my personal medical records. It is dated December 15, 2004, and explains that I had been having virtually no libido for 2 – 3 years previously and a total testosterone level of only 258. It is notable that Adamson has accused me of raping his daughter and selling her online for sex during this exact time frame from over 20 years ago. He further has stated that I was running a prostitution ring, had many arrests for bar fights, and killed a man in a bar fight. All that with no libido and virtually no testosterone. The legal dispute spans several cases, each with critical procedural rulings that do not preclude the present action:

- o May 14, 2014 - I filed a Motion to Rescind the Settlement Agreement in DV-11-889-C, asserting that Adamson had failed to comply with the agreement by refusing to retract false statements.
- o The Flathead County District Court denied this motion, stating that the allegations and claims must be set forth in a separate Complaint (Exhibit 3 Order on DV-11-889-C, pg. 1 Order).
- o The ruling was procedural, not substantive, meaning the court never adjudicated the claim on the merits.
- o Because res judicata only applies to final adjudications, this ruling does not preclude my current claims. See *Lawlor v. National Screen Service Corp.*,

349 U.S. 322 (1955) (holding that res judicata does not apply when prior claims were dismissed on procedural grounds rather than on the merits).

- o 2016 Adamson initiated a new lawsuit in DV-16-83, alleging claims of defamation, libel, slander, religious persecution, and conspiracy to commit fraud against me.

- o I immediately counterclaimed, asserting that Adamson breached the Settlement Agreement by failing to retract his prior allegations.

- o This counterclaim was directly tied to the Settlement Agreement and was central to the legal proceedings.

- o Transfer and Consolidation -The case, DV-16-301C, was transferred to another jurisdiction where Adamson is a native and a local celebrity and consolidated into Cause No. DR-16-83 by the Judge, sua sponte.

- o The court ultimately dismissed the case on June 29, 2018, ruling that all the alleged acts took place before the execution of the Settlement Agreement in DV-11-889-C.

- o However, this ruling was erroneous, as my claims pertain to ongoing wrongful conduct occurring after April 1, 2014.

- o Adamson attached as Exhibit 4 my Motion to Alter, Amend, or Set Aside the Order of Dismissal - On July 25, 2018, I filed a Motion to Alter or

Set Aside the Order of Dismissal on the basis that the District Court's ruling contained clear errors. (Exhibit 4 Case Register item #73)

- o The motion was filed within 28 days of the court's judgment, as required under Montana Rules of Civil Procedure 59(e).

- o Despite the timely filing, the court failed to rule on the motion within a reasonable period.

- o On August 20, 2018, I filed a Motion for Immediate Ruling, emphasizing that his ability to appeal the decision was at risk. (Exhibit 4 Case Register item #74)

- o The court failed to issue a ruling until November 7, 2018--more than 30 days after the deadline to file an appeal had expired (October 28, 2018).

- o This procedural mishandling precluded myself from filing a timely appeal, effectively denying him due process.

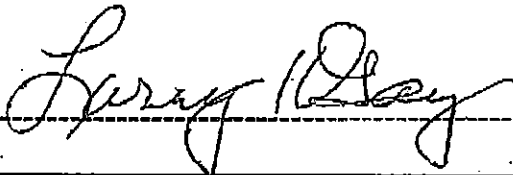
5. Adamson has attached his Exhibit 5 that is an Order setting a Show Cause hearing dated 12-16-19. That hearing was Vacated by the Court on 6-30-20. This is evidenced by my Exhibit 5 attached hereto. (Exhibit 5 items #80 and #88)

### CONCLUSION

For these compelling reasons, Adamson's Motion to Dismiss should be denied. The motion is procedurally defective, relies on fraudulent documentation

submitted to this Court, and lacks substantive merit. The appeal should proceed to allow proper review of the substantial questions regarding fraud upon the court and the District Court's designation of myself as a vexatious litigant.

Respectfully submitted



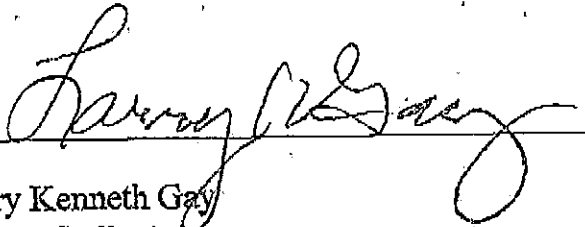
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**CERTIFICATE OF SERVICE**

I hereby certify that I have sent a true and correct copy of this Opposition to Defendant's Motion to Dismiss to Ronald James Adamson at his address of record at 185 Bald Eagle Rd., Libby, MT 59923. Service was made by United States First Class Mail on April 18, 2025.



4-21-25

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