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IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

NO. _____ FILED 2:30
A.M. _____ P.M.

IN RE: MOTION TO DECLARE
PETROS ELIOPULOS A VEXATIOUS
LITIGANT

AUG 16 2016

CHRISTOPHER D. RICH, Clerk
By **KARI MAXWELL**
DEPUTY

Case No. CVOT 2016-05355

ORDER

In its proposed Findings and Order entered on May 5, 2016, this Court concluded, pursuant to I.C.A.R. 59(d)(1) and 59(d)(2), that Petros Eliopulos is a vexatious litigant and issued a proposed pre-filing order pursuant to I.C.A.R. 59(e). As provided by I.C.A.R. 59(e), the Court gave Mr. Eliopulos fourteen (14) days to file a written response to the Proposed Findings and Order. On May 19, 2016, Mr. Eliopulos filed a Response to Proposed Findings and Order, along with the Affidavit of Petros G. Eliopulos. In its discretion pursuant to I.C.A.R. 59(e), the Court granted a hearing on its Proposed Findings and Order, which was held on July 7, 2016. The Court's previous orders in this matter are incorporated herein by reference.

Mr. Eliopulos has raised several issues in his response, which the Court will address separately. As to the Court's determination that he is a vexatious litigant pursuant to I.C.A.R. 59(d)(1), first Mr. Eliopulos asserts that Ada County Case No. CVOC-2012-11617 was not determined adversely to him. See Eliopulos' Response to Proposed Findings and Order at 4. This is incorrect. In that case, Judge Norton dismissed the five causes of action for fraud pled in Mr. Eliopulos' counterclaim, finding that Mr. Eliopulos lacked standing to bring those claims. Summary judgment was granted in favor of Mr. Panagiotou as to Mr. Eliopulos' counterclaim in its entirety. See Ellis Affidavit, Exhibit 3. Judge Norton's order granting summary judgment was affirmed by the Idaho Court of Appeals. See Ellis Affidavit, Exhibit 4. Second, as to Ada County Case No. CVOC-2015-13863, Mr. Eliopulos asserts that his claim against Title Financial Corporation was not finally determined adversely to him, as the claim was dismissed without prejudice pursuant to I.R.C.P. 12(b)(6). See Eliopulos' Response to Proposed Findings and Order at

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1 7. With regard to the meaning of “finally determined” in the context of I.C.A.R. 59, the Idaho
2 Supreme Court has noted that a judgment is final where the issues have been disposed of and no
3 further judicial action by the court is required. See *Telford v. Nye*, 154 Idaho 606, 611, 301 P.3d
4 264, 269 (2013) (citations omitted). In Ada County Case No. CVOC-2015-13863, Mr. Eliopulos’
5 claim against Title Financial Corporation has been dismissed, and no further action is required by the
6 court. See Ellis Affidavit, Exhibit 10. Mr. Eliopulos also asserts that because that matter was
7 dismissed without prejudice, it should be treated no differently than Ada County Case Nos.
8 CVOC-2012-12552, CVOC-2013-14689, and CVOC-2014-23159, which the Court indicated were
9 not finally determined adversely to Mr. Eliopulos for purposes of I.C.A.R. 59(d)(1). See Eliopulos’
10 Response to Proposed Findings and Order at 7-8. Unlike the claim against Title One Financial
11 Corporation in Ada County Case No. CVOC-2015-13863, however, Ada County Case Nos.
12 CVOC-2012-12552, CVOC-2013-14689, and CVOC-2014-23159 were dismissed voluntarily or due
13 to lack of activity and, accordingly, there was no determination made in those cases as to the
14 sufficiency of the complaints or the claims alleged therein. For these reasons, the Court’s
15 determination that Mr. Eliopulos is a vexatious litigant pursuant to I.C.A.R. 59(d)(1) will stand. As
16 set forth in the Court’s Proposed Findings and Order, this determination is based upon the following
17 matters which were finally determined adversely to Mr. Eliopulos: Ada County Case No.
18 CVOC-2012-11617, the appeal of Ada County Case No. CVOC-2012-11617, and Ada County Case
19 No. CVOC-2015-13863.

20 Finally, as to the Court’s determination that he is a vexatious litigant pursuant to I.C.A.R.
21 59(d)(2), Mr. Eliopulos provides a detailed discussion of Gooding County Case No. CV-2010-658
22 and asserts that Mr. Ellis is using the decision in that case as a basis for alleging that Mr. Eliopulos is
23 a vexatious litigant for relitigating issues which have been finally determined adversely against him.
24 See Eliopulos’ Response to Proposed Findings and Order at 2-3. As the Court previously noted, the
25 documents provided concerning Gooding County Case No. CV-2010-658 indicate that Mr. Eliopulos
26 was not acting *pro se* when that matter was finally determined adversely to him. Accordingly, the
Gooding County case was not used as a basis for the Court’s determination that Mr. Eliopulos is a
vexatious litigant, either pursuant to I.C.A.R. 59(d)(1) or 59(d)(2). Rather, as the Court indicated
previously, its finding that Mr. Eliopulos is a vexatious litigant pursuant to I.C.A.R. 59(d)(2) was
based upon his attempt to relitigate the validity of claims of fraud and misconduct against
Mr. Panagiotou in Ada County Case No. CVOC-2015-13863 that were previously brought in

1 Mr. Eliopulos' counterclaims in Ada County Case No. CVOC-2012-11617. However, at the hearing
2 Mr. Eliopulos asserted that the validity of these claims has not been litigated, as the dismissal of the
3 fraud claims in Ada County Case No. CVOC-2012-11617 was based upon Mr. Eliopulos' lack of
4 standing to assert the claims. Mr. Eliopulos has clarified that in Ada County Case No. CVOC-2015-
5 13863, the fraud claims have now been brought by the proper party, Meglon Trust. See Ellis
6 Affidavit, Exhibit 9. Based on that clarification, the Court reverses its previous finding that
7 Mr. Eliopulos is a vexatious litigant pursuant to I.C.A.R. 59(d)(2). However, for the reasons set
8 forth above, the Court's finding that Mr. Eliopulos is a vexatious litigant pursuant to I.C.A.R.
9 59(d)(1) will stand. Accordingly, the Proposed Prefiling Order which was attached to the Proposed
10 Findings and Order entered on May 5, 2016, will issue. Pursuant to I.C.A.R. 59(f), Mr. Eliopulos is
11 hereby notified that such Prefiling Order may be appealed to the Idaho Supreme Court as a matter of
12 right.

13 IT IS SO ORDERED.

14 Dated this 16th day of August, 2016.

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TIMOTHY HANSEN
Administrative District Judge

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CERTIFICATE OF MAILING

I, Christopher D. Rich, the undersigned authority, do hereby certify that I have mailed, by United States Mail, on this 17th day of August, 2016, one copy of the ORDER as notice pursuant to Rule 77(d) I.C.R. to each of the attorneys of record in this cause in envelopes addressed as follows:

PETROS G. ELIOPULOS
2303 TABLE ROCK ROAD
BOISE, IDAHO 83712

ALLEN B. ELLIS
ELLIS LAW, PLLC
12639 W. EXPLORER DRIVE, SUITE 140
BOISE, IDAHO 83713

CHRISTOPHER D. RICH
Clerk of the District Court
Ada County, Idaho

By: _____

Deputy Clerk

