

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2016 FEB 19 P 3: 52

CLERK DISTRICT COURT
DEFINITY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KENNETH J. AND DEANNA BARRETT,
Individually and as husband and wife,

Defendants.

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CASE NO. CV 2015-1066

AMENDED FINDINGS AND
ORDER DESIGNATING MARY
E. PANDREA A VEXATIOUS
LITIGANT

2016 APR 21 AM 11:39

RECEIVED
IDAHO SUPREME COURT
COURT OF APPEALS

IT IS HEREBY ORDERED that Mary E. Pandrea be designated as a vexatious litigant. Ms. Pandrea may not file any new litigation in the courts of this state pro se without first obtaining leave of a judge of the court where the litigation is proposed to be filed.

The court finds sufficient facts in the record to conclude Ms. Pandrea has repeatedly filed unmeritorious motions and other papers, and has engaged in other tactics that are frivolous or solely intended to cause unnecessary delay. As such, the Court finds that Ms. Pandrea is a vexatious litigant pursuant to I.C.A.R. 59(d)(3). The facts supporting this finding are laid out below.

I. Standard

I.C.A.R. 59 governs the designation of vexatious litigants and states in relevant part:

(d) An administrative judge may find a person to be a vexatious litigant based on a finding that a person has done any of the following:

...

(3) In any litigation while acting pro se, repeatedly files unmeritorious motions, pleadings, or other papers, conducts unnecessary discovery, or engages in other tactics that are frivolous or solely intended to cause unnecessary delay.

II. Bonner Co. Case No. 13-835 – *Pandrea v. Clark*; the partition action

Ms. Pandrea and her sister Clark were tenants in common in land they owned in the Pack River Valley. Ms. Pandrea filed an action to partition the property. After a two-day court trial, the Court issued its decision and directed Ms. Pandrea to submit a final judgment including a legal description of the property and the location of an easement across Ms. Pandrea's parcel to Clark's parcel.

Ms. Pandrea submitted a final judgment that gave her the land near the river and gave Clark land on a steep hillside. The judgment also did not document an easement. Clark objected to this judgment. The Court adopted a division proposed by Clark and consistent with its decision.

Ms. Pandrea either ran out of money or disagreed with her attorney. Her attorney withdrew, and she proceeded pro se. Ms. Pandrea filed a motion for reconsideration of the Court's April 26, 2013 decision. The Court denied Ms. Pandrea's motion to reconsider. Ms. Pandrea then filed a motion to amend the complaint more than a year after the Court made its

decision. The Court denied Ms. Pandrea's motion to reconsider. The Court issued its decision on Ms. Pandrea's motion to amend the complaint. The Court stated:

Pandrea's motion appears to be an effort to simply delay entry of the judgment of partition. While the Court's decision in this case may not have favored all of Pandrea's accounting claims the court adopted her proposed partition of the real property. Nevertheless, Pandrea attempted to submit a more favorable final judgment for the Court's signature and then sought reconsideration. Now she seeks to add claims related to a transfer by Clark that Pandrea was well aware of at the time she pursued her original claims at trial . . . It appears she was not happy with her lawyer and now appears as a pro se litigant seeking the liberal indulgence of the Court to allow her to essentially start over.

The Court entered its revised judgment and order of partition. Ms. Pandrea filed a motion for reconsideration of the final judgment. The Court denied that motion for reconsideration and stated that Ms. Pandrea:

has been dissatisfied by the determination by the Court that Clark was granted an easement for ingress and egress across the Ms. Pandrea parcel. The Court is sympathetic to Ms. Pandrea's concerns regarding the impact of a servant restriction on her property; however, these considerations have been taken up by the Court, considered and decided in earlier rulings.

Ms. Pandrea appealed and the appeal is pending.

A. Findings related to *Pandrea v. Clark*

Ms. Pandrea's motion to amend the complaint was meritless, frivolous, and/or appears to be intended solely to cause unnecessary delay. Ms. Pandrea's motion to amend the complaint was filed more than a year after the court had decided the case after a bench trial. That motion sought to add claims Ms. Pandrea could have added before the trial. Ms. Pandrea filed this frivolous motion to amend because she was unhappy that Clark was awarded an easement across

3. Ms. Pandrea's motion to amend the judgment between Clark and Thornton;
4. Ms. Pandrea's motion to reconsider denying Ms. Pandrea a hearing;
5. Ms. Pandrea's motion to reconsider granting summary judgment in favor of Clark;
6. Ms. Pandrea's motion to void the judgment between Clark and Thornton;
7. Ms. Pandrea's appeal of the judgment between Clark and Thornton; and
8. Ms. Pandrea's motion to stay pending appeal of the summary judgment between Clark and Thornton.

IV. Pandrea v. Barrett and Pandrea v. Barrett

Ms. Pandrea has now filed two separate suits against Barretts. Ms. Pandrea seeks to set aside the judgment in *Thornton v. Pandrea and Clark* and seeks a declaratory judgment that Barretts have no easement across Ms. Pandrea's property, which was previously decided in the partition action with her sister Clark.

Ms. Pandrea alleges in one of these current cases against Barretts (Bonner Co. CV-2015-1066) that the judgment in *Thornton v. Pandrea and Clark* is "invalid based on the res judicata affect [sic] of the prior judgment" in *Pandrea v. Clark* (the partition case, which is currently pending on appeal), is also "invalid as a result of fraud/fraud on the Court" (Clark's counterclaim against Thornton may contain some misstatements, but none of them are material to the *Thornton v. Pandrea and Clark* judgment because the reserved easement across Thornton's property benefitting Clark and Ms. Pandrea is extremely clear and the alleged misstatements seem to concern the easement across Ms. Pandrea's property, not the easements across Thornton's Property at issue in *Thornton v. Pandrea and Clark*), that Ms. Pandrea was adversely

affected by being excluded from defending her property rights in *Thornton v. Pandrea and Clark* (presumably based on being unable to participate in Clark's summary judgment proceedings against Thornton or to appeal that judgment, and being unable to deny Clark/Barrett the use of the easement across Ms. Pandrea's land by denying Clark/Barrett the use of the easement across Thornton's land that connects to the public road), and "that a cloud now exists on the judicial deed for Mary in the Bonner County Recorder's Office." Ms. Pandrea attempted to cover the end of the last quoted sentence with white-out, but it is legible and the relevant portion of the sentence reads "that a cloud now exists on the judicial deed for Mary in the Bonner County Recorder's Office as a result of the partition in Case No. 835."

A. Findings regarding *Pandrea v. Barrett*, Bonner Co. CV-2015-1066

Ms. Pandrea is again attempting to re-litigate the issues decided in *Pandrea v. Clark* (where her appeal is pending) and *Thornton v. Pandrea and Clark* (where her appeal was dismissed because she has no standing). To the extent these cases seek to re-litigate the issues decided in those cases and interfere with the easements across Ms. Pandrea's and Thornton's land, they are meritless and/or frivolous.

Dated Feb. 19, 2016.

Lansing L. Haynes
ADMINISTRATIVE DISTRICT JUDGE
LANSING L. HAYNES

CERTIFICATE OF SERVICE

I certify that on this 19 day of ^{February} ~~January~~, 2016, I caused a true and correct copy of this document to be served, with all required charges prepaid, by the method(s) indicated below, to the following person(s):

Joel P. Hazel
Laura L. Aschenbrener
608 Northwest Blvd., Ste. 300
Coeur d'Alene, Idaho
83814

- U.S. Mail
- Hand Delivered
- Overnight Mail
- Via Fax: (208) 667-8470
- E-mail:

Mary E. Pandera
4687 Upper Pack River Rd.
Sandpoint, Idaho
83864

- U.S. Mail
- Hand Delivered
- Overnight Mail
- Via Fax:
- E-mail:

By: *[Signature]*
Clerk of the Court

CC. Judge Christensen emailed

ADMINISTRATE DIRECTOR OF THE COURTS
IDAHO SUPREME COURT
P. O BOX 83720
BOISE ID 83720-0101

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2016 FEB 19 P 3:52

CLERK DISTRICT COURT
W
HEATH

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Individually and as husband and wife,

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) AMENDED FINDINGS AND
) ORDER DESIGNATING MAR
) E. PANDREA A VEXATIOUS
) LITIGANT
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DISTRICT COURT
CLERK OF DISTRICTS
2016 FEB 19 11:11 AM

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Ms. Pandrea submitted a final judgment that gave her the land near the river and gave Clark land on a steep hillside. The judgment also did not document an easement. Clark objected to this judgment. The Court adopted a division proposed by Clark and consistent with its decision.

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decision. The Court denied Ms. Pandrea's motion to reconsider. The Court issued its decision on Ms. Pandrea's motion to amend the complaint. The Court stated:

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The Court entered its revised judgment and order of partition. Ms. Pandrea filed a motion for reconsideration of the final judgment. The Court denied that motion for reconsideration and stated that Ms. Pandrea:

has been dissatisfied by the determination by the Court that Clark was granted an easement for ingress and egress across the Ms. Pandrea parcel. The Court is sympathetic to Ms. Pandrea's concerns regarding the impact of a servant restriction on her property; however, these considerations have been taken up by the Court, considered and decided in earlier rulings.

Ms. Pandrea appealed and the appeal is pending.

A. Findings related to *Pandrea v. Clark*

Ms. Pandrea's motion to amend the complaint was meritless, frivolous, and/or appears to be intended solely to cause unnecessary delay. Ms. Pandrea's motion to amend the complaint was filed more than a year after the court had decided the case after a bench trial. That motion sought to add claims Ms. Pandrea could have added before the trial. Ms. Pandrea filed this frivolous motion to amend because she was unhappy that Clark was awarded an easement across

Ms. Pandrea's property. The motion to amend the complaint was a meritless and frivolous motion filed in an attempt to either relitigate the issues or to delay entry of the judgment.

Ms. Pandrea's motion for reconsideration of the final judgment was likewise meritless, frivolous, and/or appears intended solely to cause unnecessary delay. As the Court stated when denying her motion, this was another attempt to re-litigate the issue of Clark's easement, and Ms. Pandrea's "considerations have been taken up by the Court, considered and decided in earlier rulings."

III. Bonner Co. Case No. 13-1334 – Thornton v. Pandrea and Clark

Ms. Pandrea and Clark have easement rights across a neighboring landowner's (Thornton's) property created by a common reservation in a warranty deed¹ to Thornton. Thornton filed a quiet title action against Clark and Ms. Pandrea for a small piece of property where their well was located after having a survey completed. Clark filed a counterclaim alleging that Thornton had restricted her use of the easement across his land. Ms. Pandrea filed a motion to dismiss where she claimed she was not a proper defendant. Ms. Pandrea later filed a supplemental memorandum in support of motion to dismiss where she alleged that she has an easement across Thornton's property. Clark filed a motion for partial summary judgment against Thornton which pertained only to Thornton's claim against Clark and some elements of Clark's counterclaim against Thornton. Thornton filed a response. Ms. Pandrea filed a memorandum in

¹ Per the Court's Memorandum Decision and Order Granting Clark's Motions for Summary Judgment, the easement was reserved "in favor of: Mary E. Ms. Pandrea Wiltse, a married woman dealing in her sole and separate property; and Karl A. Clark, a single woman." It was plainly written on the deed to Thornton that the conveyance reserved an easement benefitting both Clark and Ms. Pandrea.

support of Thornton's response directed against her sister, Clark. Ms. Pandrea filed this memorandum against Clark, even though she and Clark had easement rights over Thornton's property created by the warranty deed from the same conveyance. Clark filed a motion to strike Ms. Pandrea's memorandum in support of Thornton's response, which was granted. Ms. Pandrea filed a motion to reconsider.

The Court granted Clark's motion for partial summary judgment against Thornton, denying Thornton's claims and granting partial summary judgment on Clark's claim for interference with her easement. Thornton and Clark stipulated to dismissing the remaining damage element of Clark's claim against Thornton.

Ms. Pandrea filed a motion to amend the judgment/motion to reconsider the order granting Clark's motion to strike, motion to reconsider denying Ms. Pandrea a hearing, and motion to reconsider granting summary judgment in favor of Clark (although, again, Ms. Pandrea was not involved in the motion for partial summary judgment between Clark and Thornton). Thornton voluntarily stipulated to dismiss his claims against Ms. Pandrea. Ms. Pandrea was dismissed from the suit. Ms. Pandrea nevertheless filed a motion to void the judgment related to the claims between Thornton and Clark. The Court denied Ms. Pandrea's motion to void the judgment.

Clark sold the property to Barretts. Ms. Pandrea appealed although the judgment between Clark and Thornton although it had nothing to do with her and she was previously dismissed from the suit when Thornton stipulated to dismissing all claims against her. Barretts filed a motion to dismiss Ms. Pandrea's appeal, which was denied. The case was instead