

**SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY**

IN THE MATTER OF PROHIBITING
PETER STROJNIK FROM FILING ANY
CIVIL LAWSUIT IN MARICOPA COUNTY
WITHOUT OBTAINING PRIOR
PERMISSION FROM THE COURT

ADMINISTRATIVE ORDER
No. 2022-001

This matter was referred by the Honorable Sara J. Agne to consider issuing an administrative order declaring Peter Strojnik a vexatious litigant. Upon review of other matters filed in this Court, and considering all the matters presented, the Court makes the following findings and orders.

Pursuant to A.R.S. § 12-3201, the Presiding Judge of the Superior Court may designate a pro se litigant who engages in vexatious conduct as a vexatious litigant. In addition, courts “possess inherent authority to curtail a vexatious litigant’s ability to initiate additional lawsuits.” *Madison v. Groseth*, 230 Ariz. 8, 15, 279 P.3d 633, 639 (App. 2012). The filing excesses of vexatious litigants interfere with the orderly administration of justice by diverting judicial resources from those cases filed by litigants willing to follow court rules and those meritorious cases that deserve prompt judicial attention. See *Acker v. CSO Chevira*, 188 Ariz. 252, 934 P.2d 816 (App. 1997). A.R.S. § 12-3201(E) defines vexatious conduct to include repeated filing of court actions solely or primarily for the purpose of harassment, filing claims unreasonably expanding or delaying court proceedings, bringing court actions without substantial justification, and filing claims or requests for relief that have been the subject of previous rulings by a court in the same litigation.

Judge Agne’s referral is a result of defendants CGD Tempe, LP; Driftwood Hospitality Management, LLC; and Hilton Worldwide Holdings, Inc. filing a motion to declare Mr. Strojnik a vexatious litigant in the case of *Peter Strojnik v. CGD Tempe, LP, et. al.*, Superior Court case number CV2021-050418. The defendants’ motion stems from a number of lawsuits filed by Mr. Strojnik, including against the defendants, and other various hotels, in which Mr. Strojnik attempts to assert claims under the Arizona Americans with Disabilities Act that the hotels contain architectural features that make them inaccessible for him in light of his disability. This follows numerous lawsuits brought by Mr. Strojnik under the federal Americans with Disabilities Act resulting in the United States District Court for the District of Arizona declaring Mr. Strojnik a vexatious litigant for “harassing attempts to unjustly enrich himself through frivolous ADA claims.” See *Strojnik v. Driftwood Hosp. Mgmt., LLC (“Driftwood”)*, 2021 WL 50456, *11 (D. Ariz. Jan. 6, 2021).

After notice to Mr. Strojnik to provide him an opportunity to respond to the defendants’ motion, Mr. Strojnik filed a 91-page objection to the motion. On November 1, 2021, Judge Agne issued findings of fact and conclusions of law that are adopted and

incorporated herein in this Administrative Order. (See minute entry dated November 1, 2019 in *Peter Strojnik v. CGD Tempe, LP, et. al.*, which is attached to this Administrative Order as "Attachment A".)

As noted in Judge Agne's findings of facts and conclusions of law, Mr. Strojnik has previously been found to be a vexatious litigant in two federal courts in California and in the Arizona District Court for filing excessive ADA claims that the federal courts have found frivolous and harassing. Barred in January of 2021 from bringing ADA claims in Arizona District Court without first seeking leave of the court, Mr. Strojnik now brings actions in Superior Court under the Arizonans with Disabilities Act ("AzDA"), thus avoiding removal to the federal court. For example, in 2021, Mr. Strojnik has filed at least nineteen cases in the Arizona Superior Court asserting AzDA claims:

Pima County

C20211644	<i>Strojnik v. Marriott International, Inc., et al.</i>
C20211528	<i>Strojnik v. Radisson Hotels International, Inc., et al.</i>

Coconino County

S0300CV202100007	<i>Strojnik v. Light Stone Lodging, LLC, et al.</i>
S0300CV202100235	<i>Strojnik v. Little America Hotels & Resorts, Inc.</i>

Maricopa County

CV2021-050024	<i>Strojnik v. Little America Hotels & Resorts, Inc.</i>
CV2021-050035	<i>Strojnik v. Stainslaw Szaflarski et al.</i>
CV2021-050399	<i>Strojnik v. New Crescent et al.</i>
CV2021-050418	<i>Strojnik v. CGD Tempe LP et al. (this action)</i>
CV2021-050607	<i>Strojnik v. Mohit Developers LLC et al.</i>
CV2021-050758	<i>Strojnik v. Best Western International, Inc.</i>
CV2021-050873	<i>Strojnik v. Hyatt Hotels Corporation et al.</i>
CV2021-051171	<i>Strojnik v. Sunil Patel et al.</i>
CV2021-051277	<i>Strojnik v. Hyatt Hotels Corporation</i>
CV2021-051298	<i>Strojnik v. IHG Franchising LLC et al.</i>
CV2021-051539	<i>Strojnik v. Scott Barsellotti et al.</i>

CV2021-051558	<i>Strojnik v. Marianne Krasson</i>
CV2021-051576	<i>Strojnik v. Tomichi Village Inn Group LLC et al.</i>
CV2021-051844	<i>Strojnik v. Ashford Scottsdale LP et al.</i>
CV2021-051917	<i>Strojnik v. Light Stone Lodging LLC et al.</i>
CV2021-052131	<i>Strojnik v. Accor Management US Inc</i>

As Judge Agne's findings point out, the AzDA contains provisions requiring a person allegedly aggrieved by an architectural defect resulting in "inaccessibility" to provide a business entity with a written notice and opportunity to cure *prior* to filing a lawsuit against the business entity. See A.R.S. § 41-1492.08(E) (providing a 30 day cure period). Mr. Strojnik has repeatedly failed to follow this requirement before filing a lawsuit. Additionally, the law allows any aggrieved person who is subjected to discrimination in violation of section 41-1492.02 (prohibition of discrimination by public accommodations and commercial facilities) to institute a civil action "for preventative or mandatory relief, including an application for a permanent or temporary injunction, restraining order or other order." A.R.S. § 41-1492.08(A). While the court may award such other relief as the court considers appropriate, including monetary damages to aggrieved persons, punitive damages are not available. A.R.S. § 41-1492.09(B)(2). Nevertheless, as set forth in Judge Agne's findings, numerous courts have found that Mr. Strojnik's motives in filing his complaints is to habitually seek thousands of dollars in settlements with the defendants in exchange for a stipulated dismissal with prejudice that relates only to the property in question. He does not allege how he has been personally aggrieved by the defects, and has demonstrated a history of promising not to visit a defendant's other hotels in exchange for an additional settlement price.

The Court finds that Mr. Strojnik has filed multiple lawsuits for the purpose of harassment of defendants in order to seek settlement amounts from them. He has filed claims under the AzDA that fail to comply with the requirements of A.R.S. §41-1492 and has brought multiple court actions without substantial justification. For the reasons above, and the reasons enumerated at great length in Judge Agne's findings of fact and conclusions of law, the Court finds that Mr. Strojnik is engaging in vexatious conduct as defined in A.R.S. § 12-3201.

The Court may issue an order limiting such a litigant's ability to file future lawsuits, motions, and requests for relief to the extent necessary to curtail the improper conduct. The Court finds the orders set out below to be the least restrictive orders that will adequately address Mr. Strojnik's established pattern of abuse. Therefore,

IT IS ORDERED as follows:

1. Mr. Strojnik may not file any new causes of action after the date of this order without leave of the Civil Presiding Judge or his/her designee.

2. Mr. Strojnik may not file any further pleading or motion in any of his current lawsuits without first seeking leave from the judicial officer assigned to that lawsuit.
3. Any motion for leave to file any lawsuit, pleading or motion shall be captioned "Application Pursuant to Court Order Seeking Leave to File." Mr. Strojnik must either cite this order in his application, or attach as an exhibit a copy of this order.

If approval for filing a new action by Mr. Strojnik is granted, the Clerk of Court may accept subsequent filings in that cause number from Mr. Strojnik. This Administrative Order does not preclude Mr. Strojnik from filing a Notice of Appeal or a Notice of Cross-Appeal in accordance with Arizona Rules of Civil Appellate Procedure Rule 8(a) and (b). This Administrative Order only applies to Mr. Strojnik in his capacity as a *pro per* litigant, and not to any future legal counsel that might be retained by Mr. Strojnik.

Dated this 6th day of January, 2022.

/s/ Joseph C. Welty
Honorable Joseph C. Welty
Presiding Judge

Original: Clerk of the Superior Court

Copies: Hon. Jeffrey Fine, Clerk of the Superior Court
Hon. Pamela Gates, Civil Department Presiding Judge
Hon. Sara J. Agne, Superior Court Judge
Raymond L. Billotte, Judicial Branch Administrator
Keith Kaplan, Civil Department Administrator
Monica M. Ryden, Jackson Lewis P.C.
Alejandro Perez, Jackson Lewis P.C.
Peter Strojnik

Attachment A

Hon. Sara Agne's November 1, 2021 Minute Entry

Monica M. Ryden (State Bar No. 023986)
 Alejandro Pérez (State Bar No. 030968)
JACKSON LEWIS P.C.
 2111 East Highland Avenue, Suite B-250
 Phoenix, AZ 85016
 Telephone: (602) 714-7044
 Facsimile: (602) 714-7045
monica.ryden@jacksonlewis.com
alejandro.perez@jacksonlewis.com

Attorneys for Defendants

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

PETER STROJNIK,
 Plaintiff,

v.

CGD TEMPE, LP; DRIFTWOOD
 HOSPITALITY MANAGEMENT, LLC;
 HILTON WORLDWIDE HOLDINGS,
 INC. DIRECTLY OR THROUGH
 FRANCHISING SUBSIDIARY,
 Defendants.

Case No.: CV2021-050418

**FINDINGS OF FACT AND
 CONCLUSIONS OF LAW**

Defendants CGD Tempe, LP and Driftwood Hospitality Management, LLC
 (“Defendants”) submitted proposed Findings of Fact and Conclusions of Law in
 accordance with the Court’s July 22, 2021 Order; the Court enters its findings below:

FINDINGS OF FACT¹

1. Before Plaintiff Peter Strojnik (“Strojnik”) was an ADA litigant, he was a
 serial ADA litigator known for his “extortionate” and “pervasive” lawsuits. *See Advocs.*
for Individuals with Disabilities, LLC v. MidFirst Bank (“MidFirst”), 279 F. Supp. 3d
 891, 893 (D. Ariz. 2017).

¹ Pursuant to Ariz. R. Evid. 201(b), the Court may judicially notice a fact that is
 not subject to reasonable dispute because it: “(1) is generally known within the trial
 court’s territorial jurisdiction; or can be accurately and readily determined from sources
 whose accuracy cannot reasonably be questioned.”

1 2. In April 2020, the United States District Court for the Central District of
2 California declared *pro se* Plaintiff Strojnik a vexatious litigant. *Strojnik v. SCG Am.*
3 *Constr. Inc. ("SCG")*, 2020 WL 4258814, *8 (C.D. Cal. Apr. 19, 2020). That court
4 reviewed Strojnik's extensive ADA litigation history and noted that "countless courts
5 have questioned Strojnik's motives in pursuing the litigation and whether he has a good
6 faith basis for his claims." *Id.* at *7. The court recognized that although Strojnik is a
7 *pro se* litigant, he is "also a former attorney with vast knowledge and experience in the
8 realm of ADA cases" and yet continues to file "near identical lawsuits." *Id.* The court
9 accordingly entered a pre-filing order enjoining Strojnik from filing ADA cases in the
10 Central District of California without first obtaining certification from the Chief Judge
11 of that district that his claims are not frivolous or asserted for an improper purpose.
12 *Id.* at *8.

13 3. In June 2020, the United States District Court for the Northern District of
14 California declared *pro se* Plaintiff Strojnik a vexatious litigant. *Strojnik v. IA Lodging*
15 *Napa First LLC ("IA Lodging")*, 2020 WL 2838814, *13 (N.D. June 1, 2021). The
16 court found that Strojnik's litigation tactics are "frivolous and harassing." *Id.* The court
17 accordingly entered a pre-filing order enjoining Strojnik from filing ADA cases in the
18 Northern District of California without first obtaining certification from the general duty
19 judge that his claims plausibly allege Article III standing. *Id.*

20 4. In January 2021, the United States District Court for the District of
21 Arizona declared *pro se* Plaintiff Strojnik a vexatious litigant. *See Strojnik v. Driftwood*
22 *Hosp. Mgmt., LLC ("Driftwood")*, 2021 WL 50456, *11 (D. Ariz. Jan. 6, 2021). The
23 court found that the "wrongful behavior here is Strojnik's harassing attempts to unjustly
24 enrich himself through frivolous ADA claims." *Id.* at *10. The court accordingly
25 entered a pre-filing order enjoining Strojnik from filing ADA cases in the District of
26 Arizona without first obtaining leave of the court. *Id.* The order further provides that
27 the court will "automatically review Mr. Strojnik's complaints to determine whether it
28 is frivolous or asserted for an improper purpose in any ADA action brought by Mr.

1 Strojnik in state court and subsequently removed to the Arizona District Court.” *Id.*
2 Finally, the court’s order precisely addresses the root of the wrongful behavior—
3 Strojnik’s financial incentives—and requires that Strojnik post a bond for ADA cases in
4 the amount of \$10,000. *Id.* at *11.

5 5. In so ruling, the Arizona District Court’s order noted that “Mr. Strojnik is
6 the master of all of his claims, and if he wanted to avoid federal jurisdiction then he
7 could have crafted a complaint that exclusively relies on state law.” *Id.* at *10.

8 6. Now, Strojnik brings these actions under the Arizonans with Disabilities
9 Act (“AzDA”), instead of the Americans with Disabilities Act (“ADA”), thus avoiding
10 removal to the federal court. *Compare Strojnik v. Little America Hotels & Resorts, Inc.*,
11 CV2021-050024, Complaint filed 1/5/2021 (asserting ADA and AzDA claims) and
12 *Strojnik v. Stainslaw Szaflarski et al.*, CV2021-050035, Complaint filed 1/5/2021
13 (asserting ADA and AzDA claims) *with Strojnik v. New Crescent et al.*, CV20201-
14 050399, Complaint filed 2/9/2021 (asserting AzDA claims only).

15 7. In this year alone, Strojnik has filed at least nineteen cases in the Arizona
16 Superior Court:

17 **Pima County**

18 C20211644 *Strojnik v. Marriott International, Inc., et al.*

19 C20211528 *Strojnik v. Radisson Hotels International, Inc., et al.*

20 **Coconino County**

21 S0300CV202100007 *Strojnik v. Light Stone Lodging, LLC, et al.*

22 S0300CV202100235 *Strojnik v. Little America Hotels & Resorts, Inc.*

23 **Maricopa County**

24 CV2021-050024 *Strojnik v. Little America Hotels & Resorts, Inc.*

25 CV2021-050035 *Strojnik v. Stainslaw Szaflarski et al.*

26 CV2021-050399 *Strojnik v. New Crescent et al.*

27 CV2021-050418 *Strojnik v. CGD Tempe LP et al. (this action)*

28 CV2021-050607 *Strojnik v. Mohit Developers LLC et al.*

1	CV2021-050758	<i>Strojnuk v. Best Western International, Inc.</i>
2	CV2021-050873	<i>Strojnuk v. Hyatt Hotels Corporation et al.</i>
3	CV2021-051171	<i>Strojnuk v. Sunil Patel et al.</i>
4	CV2021-051277	<i>Strojnuk v. Hyatt Hotels Corporation</i>
5	CV2021-051298	<i>Strojnuk v. IHG Franchising LLC et al.</i>
6	CV2021-051539	<i>Strojnuk v. Scott Barsellotti et al.</i>
7	CV2021-051558	<i>Strojnuk v. Marianne Krasson</i>
8	CV2021-051576	<i>Strojnuk v. Tomichi Village Inn Group LLC et al.</i>
9	CV2021-051844	<i>Strojnuk v. Ashford Scottsdale LP et al.</i>
10	CV2021-051917	<i>Strojnuk v. Light Stone Lodging LLC et al.</i>
11	CV2021-052131	<i>Strojnuk v. Accor Management US Inc</i>

12 8. The Complaint filed in this action is typical of Strojnuk complaints:
13 According to his Complaint, Strojnuk is disabled. (Compl. ¶ 2.) He claims that
14 architectural features at the hotel are “inaccessible.” (Compl. ¶ 17.)

15 9. Here is an example of his Strojnuk’s testing routine: In February of 2021,
16 he investigated the DoubleTree by Hilton Hotel. (Compl. ¶ 11.) First, Strojnuk
17 inspected the hotel’s website for information on its ADA accommodations. (Compl. ¶¶
18 12-16.) Then he visited the hotel where he discovery many alleged “misrepresentations”
19 about accessiblity. (Compl. ¶ 17.)

20 10. Strojnuk’s other Complaints show practically identical testing procedures,
21 and they contain practically identical allegations. *See, e.g., Strojnuk v. New Crescent et*
22 *al.*, CV2021-050399, Complaint filed 2/9/2021.

23 11. The Complaints typically allege that Defendants negligently misrepresented
24 their ADA compliance. *See, e.g., Strojnuk v. Marianne Krasson*, CV2021-051558,
25 Complaint filed 5/6/2021; *Strojnuk v. Scott Barsellotti et al.*, CV2021-051539,
26 Complaint filed 5/5/2021. Here, Strojnuk alleges that Defendants were involved in a
27 civil conspiracy to commit fraud by using the Hilton brand name. (Compl. at 11-12.)
28

1 Strangely, Strojnik requests attorney's fees. (Compl. at 5 and 14.) He does not explain
2 how the Court may grant a *pro se* litigant attorney's fees.

3 12. The Complaints demonstrate that Strojnik routinely ignores pre-filing
4 requirements. Specifically, under the AzDA, an aggrieved person may not demand or
5 collect money from the private entity before the end of the applicable time period under
6 subsections E and F. A.R.S. § 41-1492.08(H). Strojnik flouts the law, sending
7 purported notice and opportunity to cure letters after he has filed a lawsuit (Exhibit 3 to
8 Defendants' Motion to Declare Plaintiff a Vexatious Litigant) or not at all. *See, e.g.,*
9 *Strojnik v. W2005 New Century Hotel Portfolio, L.P. et al.*, No. CV2020-055501, First
10 Amended Complaint filed March 28, 2021 at ¶ 87 (challenging the statutory
11 requirement).

12 13. Strojnik is unconcerned whether he has entered into a prior settlement
13 agreement that would prevent a lawsuit. In *Strojnik v. W2005 New Century Hotel*
14 *Portfolio, L.P.*, No. CV2020-055501, the Arizona Superior Court found that a
15 settlement agreement covered the claims brought in a lawsuit, and that Strojnik was in
16 breach of contract in bringing the lawsuit against the defendants. *See* May 24, 2021
17 Minute Entry.

18 14. Strojnik harasses and coerces parties into agreeing to extortive settlements.
19 For example, in July of 2020, Driftwood was defending another action by Strojnik in the
20 Southern District of California. *See Strojnik v. 8757 Rio San Diego Mission Valley*
21 *Owner, LLC ("Mission Valley")*, 2020 WL 5544220 (S.D. Cal. Sept 16, 2020) (granting
22 Driftwood's motion to dismiss). When Driftwood filed a motion to dismiss, Strojnik
23 threatened to continue pursuit of frivolous claims against the subject property—and
24 others he had never visited—unless Driftwood paid him \$18,750 to release claims
25 related to the subject property and an additional \$1,500 per property, provided he had
26 not sent a "pre-litigation letter" or filed a complaint. Strojnik wrote:

27 We have now entered the standard ADA pattern: You filed a
28 Motion to Dismiss, I responded (see attached), you will reply
and then we wait.

1 If the case is ultimately dismissed in the District Court for
2 lack of standing, I will appeal, if I lose that, I will file the case
3 in the State Court that has different standing requirements....
I will also reviview and potential add claims....

4 All of this is very good for the litigation busienss; however,
5 your client is not in the litigation business, it is in the lodging
6 business, and this is very bad for the lodgin business.

7 What is good for the lodging business but not so good for the
8 legal business is settlement of claims.

9 *See* Exhibit 1 to Defendants' Motion to Declare Plaintiff a Vexatious Litigant. He then
10 made his demands. *Id.*

11 15. By this time, Strojnik had already visited the booking website for two
12 Driftwood's properties in Arizona—the day after Driftwood filed its motion to dismiss
13 in California—and filed a lawsuit against two Driftwood properties in the Arizona
14 Superior Court. *See Mission Valley*, No. 20cv0384 DMS (MSB), Motion to Dismiss
15 filed July 10, 2020 (Doc. 17); *Driftwood*, No. CV2020-054300, Complaint attached to
16 July 16, 2020 email (Exh. 1) at ¶¶ 25, 35, 41 (Strojnik visited the website on July 10,
2020 and visited the two properities on July 11, 2020).

17 16. When Defendants removed the case to federal court, moved to dismiss,
18 and moved to declare Strojnik a vexatious litigant, Strojnik threatened to continue
19 pursuit of frivolous claims against Driftwood. Strojnik wrote:

20 The point of this letter is to let you knw that a sniveling sex
21 trafficer and recidivist segregationist must be cautious in
22 choosing his battles. He must not make foolish emotional
23 choices. He must not draw the battle lines without
24 understanding strategic principles of litigation. He must not
25 play checkers on a chess board. He must have a strategic
26 plan; I will bet you a collar to a doughnut that Driftwood has
no plan of action whatsoever. Remember, segregationists are
emotional, small minded individuals with limited intellectual
abilities and a compeley blind view of greater society.

27 So it looks like Driftwood and I will be joined at the hips until
28 each and every Driftwood portfolio is absolutely, 100% ADA
compliant. Any offers of settlement previously made are
withdrawn.

1 Have a great day!

2 See August 24, 2020 letter, attached as Exhibit 2 to Defendants' Motion to Declare
3 Plaintiff a Vexatious Litigant.

4 17. On January 6, 2021, the U.S. District Court for the District of Arizona
5 granted Driftwood's motion to dismiss and, as already discussed, declared Strojnik a
6 vexatious litigant. *Driftwood*, 2021 WL 50456, at *11; see also *Strojnik v. Driftwood*
7 *Hospitality Mgmt. LLC*, 2021 WL 2454049 (D. Ariz. June 16, 2021) (amending its order
8 such that if Strojnik "fails to demonstrate standing or otherwise meet federal pleading
9 requirements, the Court shall dismiss *or remand* the case" to the state court.)

10 18. On February 11, 2021, Strojnik filed the present action against Driftwood.
11 (Compl.)

12 19. On February 12, 2021, Strojnik sent a copy of the Complaint to
13 Driftwood's attorney with his congratulations. Strojnik wrote:

14 I must again congratulate you on your excellent work in th
15 eprior DoubleTree case. Well done!

16 But life goes on. Just two days ago I wanted to get away
17 from the stress of dealing with Arizona's excellent ADA
18 defense bar, so I booked an accessible room at the
19 DoubleTree. Unfortunately, the DoubleTree remains
woefully inaccessible. I felt it my civic obligation to file suit
in the Superior Court, attached....

20 See February 12, 2021 letter, attached as Exhibit 3 to Defendants' Motion to Declare
21 Plaintiff a Vexatious Litigant.

22 20. Strojnik has demanded \$13,985 to drop this lawsuit. See March 12, 2021
23 letter, attached as Exhibit 4 to Defendants' Motion to Declare Plaintiff a Vexatious
24 Litigant.

25 **CONCLUSIONS OF LAW**

26 21. "Arizona courts possess inherent authority to curtail a vexatious litigant's
27 ability to initiate additional lawsuits." *Madison v. Groseth*, 230 Ariz. 8, 14, 279 P.3d
28 633, 639 (App. 2012) (citing *Acker v. CSO Chevira*, 188 Ariz. 252, 254, 934 P.2d 816,

1 818 (App. 1997) (defining a court’s inherent authority as “such powers as are necessary
2 to the ordinary and efficient exercise of jurisdiction”); *De Long v. Hennessey*, 912 F.2d
3 1144, 1147 (9th Cir. 1990) (recognizing strong precedent establishing inherent authority
4 of federal courts “to regulate the activities of abusive litigants by imposing carefully
5 tailored restrictions under the appropriate circumstances”)). Because access to courts is
6 a fundamental right, *DeVries v. State*, 219 Ariz. 314, 321-22, ¶¶ 22-23, 198 P.3d 580,
7 587-88 (App. 2008), such orders must be entered sparingly and appropriately. *De Long*,
8 912 F.2d at 1147 (noting courts should rarely enter vexatious litigant orders, which serve
9 as exceptions to the general rule of free access to courts).

10 22. In *De Long v. Hennessey*, the Ninth Circuit set forth principles for courts
11 to observe when ordering pre-filing restrictions: (1) to satisfy due process, the litigant
12 must be afforded notice and an opportunity to oppose the order, (2) the court must create
13 an adequate record for appellate review that includes a listing of all cases and motions
14 leading the court to enter the order, (3) the court must make “substantive findings as to
15 the frivolous or harassing nature of the litigant’s actions,” and (4) the order “must be
16 narrowly tailored to closely fit the specific vice encountered.” *Id.* at 1147-48 (citation
17 omitted). Arizona courts adherence to these principles to ensure that a litigant’s access to
18 courts is not inappropriately infringed upon. *Madison*, 230 Ariz. at 14, 279 P.3d at 639
19 (adopting the principals set forth in *De Long*).

20 *A. Notice and Opportunity to be Heard*

21 23. This first step requires that the accused party have “an opportunity to
22 oppose the entry of the order.” *De Long*, 912 F.2d at 1147. This does not require a
23 hearing. See *Molski v. Evergreen Dynsasty Corp. (“Evergreen”)*, 500 F.3d 1047, 1058-
24 59 (9th Cir. 2007) (citing *Pac. Harbor Cap., Inc v. Carnival Air Lines, Inc.*, 210 F.3d
25 1112, 1118 (9th Cir. 2000) (finding that an opportunity to be heard only requires the
26 opportunity to brief the issue fully)); *IA Lodging*, 2020 WL 2838814, at *7 (same).

27 24. Here, Strojik has filed a Response to Defendants’ Vexatious Litigant
28 Motion, thus satisfying the due process requirement. On May 12, 2021, Strojnik filed a

1 91-page objection (with exhibits). The Court has already denied Strojnik's request for
2 an evidentiary hearing made in the Response because no further discovery, however
3 limited, or evidentiary hearing would assist the Court in making the required
4 determinations. See the Court's July 22, 2021 Minute Entry. Strojnik has had his
5 opportunity to be heard. He further reurged his request for a hearing in an August 20,
6 2021, filing; the Court **DENIES** that request; no new circumstances or evidence have
7 arisen showing good cause for the Court to hold an evidentiary hearing.

8 *B. An Adequate Record*

9 25. "An adequate record for review should include a listing of all the cases and
10 motions that led the [] court to conclude that a vexatious litigant order was needed." *De*
11 *Long*, 912 F.2d at 1147. At a minimum, the record must show that the "litigant's
12 activieis were numerous or abusive." *Id.*

13 26. The Court will take judicial notice of the fact that Strojnik has filed
14 thousands of ADA lawsuits across the western United States. See *Ariz. R. Evid. 201(b)*
15 (allowing courts to take judicial notice of "generally known" facts or accurate and
16 readily accessible facts from sources "whose accuracy cannot reasonably be
17 questioned"). See *Muscat by Berman v. Creative Innervisions LLC*, 244 Ariz. 194, n.2,
18 418 P.3d 967 (App. 2017) (we take judicial notice of other courts' records); see also *In*
19 *re Peasley*, 208 Ariz. 27, n.15, 90 P.3d 764 (2004) (same).

20 27. Defense counsel provided the Court with a list of cases filed by Strojnik in
21 the Arizona Superior Court in 2021 alone, and referenced another case filed by Strojnik
22 in 2020. The Court takes judicial notice of these cases. See *City of Phoenix v. Superior*
23 *Court*, 110 Ariz. 155, 157, 515 P.2d 1175 (1973) ("We take judicial notice of Superior
24 Court records.").

25 28. There is no doubt that Strojnik's history and his *modus operandi* are well
26 known. *Driftwood*, 2021 WL 50456, at *8 (citing *MidFirst*, 279 F.Supp.3d at 893
27 (describing attorney-Mr. Strojnik's ADA litigation tactics as "extortionate" and
28 "pervasive," which included pursuing "upwards of 160 cookie-cutter lawsuits in federal

1 court and, from early to later 2016, more than 1,700 such suits in Arizona state court”);
2 *Strojnuk v. Bakersfield Convention Hotel I, LLC*, 436 F. Supp. 3d 1332, 1336 (E.D. Cal.
3 2020) (“Plaintiff Peter Strojnuk . . . has filed thousands of disability discrimination cases
4 against hotel defendants in state and federal courts, and this is one of those cases.”);
5 *Strojnuk v. 1530 Main LP*, 2020 WL 981031, at *1 (N.D. Tex. Feb. 28, 2020) (noting
6 that Mr. Strojnuk, a pro se plaintiff, was disbarred partly for filing “thousands” of ADA
7 lawsuits); *Strojnuk v. Host Hotels & Resorts, Inc.*, 2020 WL 2736975, at *1 (D. Haw.
8 May 26, 2020) (same)).

9 29. Even without a license to practice law, Strojnuk continues to file ADA
10 lawsuits across the country. For example, in June 2020, the Northern District of
11 California found that Strojnuk had filed 114 pro se ADA cases in California district
12 courts, half of which eventually settled, and none of which have been tried on the merits.
13 *IA Lodging*, 2020 WL 2838814, *7. Those findings, which the Court takes judicial
14 notice of, were based on information provided by Strojnuk. *Id.*; see *Bias v. Moynihan*,
15 508 F.3d 1212, 1225 (9th Cir. 2007) (noting a court may take notice of proceedings in
16 other courts with direct relation to the matters at issue); *Lee v. City of Los Angeles*, 250
17 F.3d 668, 689-90 (9th Cir. 2001) (noting a court may take judicial notice of undisputed
18 matters of public record). In addition to a list of his cases filed in California, Strojnuk
19 told the Northern District of California Court that he had recovered a total of \$249,079
20 in settlement fees from those cases. *IA Lodging*, 2020 WL 2838814, *7. That recovery,
21 he claimed, was ultimately reduced by his claimed expense of \$55,960 in filing and
22 service fees, as well as \$58,000 in “investigative fees.” *Id.*

23 30. In January 2021, the Arizona District Court requested information from
24 Strojnuk on his ADA filings in Arizona. *Driftwood*, 2021 WL 50456, *8. As of
25 December 19, 2020, Strojnuk claimed to have filed 64 cases with ADA claims in the
26 Arizona Superior Court. *Id.* Of those, he had voluntarily dismissed fourteen and settled
27 thirteen. *Id.* None had been tried on their merits. *Id.*

1 31. The Arizona District Court also found that \$7,500 represents a reasonable
2 estimate of the average settlement for one of Strojnik's ADA cases. *Id.* Strojnik said that
3 of his ADA filing in Arizona, he has settled thirteen cases, which would amount to just
4 over \$100,000. *Id.* ("Even if the Court accepted Mr. Strojnik's claimed 'initial expenses'
5 beyond fees and service costs as legitimate, he would still be making about \$75,000.")

6 32. Finally, the Court takes judicial notice of the Case Search results listing
7 Strojnik's *pro se* cases before the Arizona Superior Court in Maricopa County. *See City*
8 *of Phoenix v. Superior Court*, 110 Ariz. 155, 157, 515 P.2d 1175 (1973) ("We take
9 judicial notice of Superior Court records."). By the Court's count, as of August 11,
10 2021, Strojnik has filed 65 civil cases.

11 *C. Substantive Findings*

12 33. Next the Court will make its "substantive findings as to the frivolous or
13 harassing nature of the litigant's actions." *De Long*, 912 F.2d at 1148 (quoting *In re*
14 *Powell*, 851 F.2d 427, 431 (D.C. Cir. 1998)).

15 34. Simply filing many claims, as Strojnik does, is not reason enough to find a
16 litigant is vexatious. *See* A.R.S. § 12-3201(E). But when a serial litigant repeatedly
17 files court actions solely or primarily for the purpose of harassment, that litigant become
18 vexatious. A.R.S. § 12-3201; *see also Evergreen*, 500 F.3d at 1062 ("The district court
19 could permissibly conclude that Molski used these lawsuits and their false and
20 exaggerated allegations as a harassing device to extract cash settlements from the
21 targeted defendants because of their noncompliance with the ADA.")

22 35. Like a plaintiff that brings numerous claims, there is nothing inherently
23 vexatious about settling a claim. Normally, Arizona courts encourage settlement to
24 promote efficiency. However, a plaintiff's attempt to settle may become coercive and
25 extortionate when he pursues a settlement amount well in excess of the actual personal
26 cost of his foregoing injunctive relief. In this later instance, a plaintiff uses the ADA
27 and AzDA not to vindicate the rights of disabled Arizonans, but rather, to unjustly enrich
28 himself.

1 36. The AzDA attempts to avoid such litigation tactics by requiring an
2 aggrieved person to provide written notice and opportunity to cure before filing a
3 lawsuit. *See* A.R.S. § 41-1492.08(E) (providing a 30 day cure period).

4 37. If the private entity is required to obtain a building permit or other similar
5 form of government approval to make the changes necessary to cure the violation or
6 comply with the law, the time is extended. *See* A.R.S. § 41-1492.08(F) (providing an
7 additional 60 days).

8 38. “When filing a civil action pursuant to A.R.S. § 41-1492.08, an aggrieved
9 person must file an affidavit, under penalty of perjury, that the aggrieved person has read
10 the entire complaint, agrees with all of the allegations and facts contained in the
11 complaint and, unless authorized by statute or rule, is not receiving and has not been
12 promised anything of value in exchange for filing the civil action.” A.R.S. § 41-
13 1492.08(G).

14 39. “An aggrieved person or the aggrieved person’s attorney may not demand
15 or collect money from the private entity before the end of the applicable time period
16 under subsections E and F of this section but may state that the private entity may be
17 civilly liable for a violation of this article.” *See* A.R.S. § 41-1492.08(H).

18 40. Strojnik did not give the required notice and opportunity to cure, and
19 demanded money from the outset. *See* February 12, 2021 letter, attached as Exhibit 3 to
20 Defendants’ Motion to Declare Plaintiff a Vexatious Litigant (sent one day after Strojnik
21 filed this action).

22 41. Even more important, Strojnik has demonstrated vexatious conduct.

23 42. Vexatious conduct, as defined by A.R.S. § 12-3201, may include any of
24 the following:

- 25 (a) Repeated filing of court actions solely or primarily for the
26 purpose of harassment.
- 27 (b) Unreasonably expanding or delaying court proceedings.
- 28 (c) Court actions brought or defended without substantial
 justification.

1 (d) Engaging in abuse of discovery or conduct in discovery
2 that has resulted in the imposition of sanctions against the
pro se litigant.

3 (e) A pattern of making unreasonable, repetitive and
4 excessive requests for information.

5 (f) Repeated filing of documents or requests for relief that
6 have been the subject of previous rulings by the court in
the same litigation.

7 43. Strojnik has repeatedly filed court actions solely or primarily for the
8 purpose of harassment.

9 44. There is no serious doubt that Strojnik exaggerates his injuries. The
10 Arizona District Court and many others have critiqued. Strojnik's "longstanding" failure
11 to show a "connection between a barrier and [his] disability." *IA Lodging*, 2020 WL
12 2838814, at *11. This is not news to Strojnik. And yet despite these admonishments, he
13 continues to file defective complaints. Faced with a blatant unwillingness to explain
14 how alleged non-conformities cause him injury, this Court can only conclude, and so
finds, that Strojnik habitually over-exaggerates his injuries.

15 45. Additionally, Strojnik has no financial incentive to bring a genuine
16 complaint or to try his cases on their merit. In other words, Strojnik has brought court
17 actions without substantial justification. Consider the settlement details provided by
18 Strojnik on his ADA cases in California and Arizona in which he asks for thousands of
19 dollars to dismiss the claim with prejudice and additional money to promise not to visit
20 other hotels. There is enough information to make the inference that Strojnik has been
21 making a large profit from the hundreds of ADA cases filed across the country, cases
22 that have never been tested on their merits.

23 46. Rephrasing his ADA or AzDA claims as negligence or fraud claims only
24 exemplifies the abuse. Strojnik alleges claims for negligence and fraud, repeatedly
25 requesting relief for damages and punitive damages. Under the ADA, however, a party
26 may only seek injunctive relief to force non-compliant places of public accommodation
27 to remediate barriers to access, and recover attorneys' fees and costs if successful.
28 Damages are not available. *See Evergreen*, F.3d at 1061-62.

1 47. The AzDA largely mirrors the federal statute, and any aggrieved person
2 who is subjected to discrimination in violation of section 41-1492.02 (prohibition of
3 discrimination by public accommodations and commercial facilities) may institute a
4 civil action “for preventative or mandatory relief, including an application for a
5 permanent or temporary injunction, restraining order or other order.” A.R.S. § 41-
6 1492.08(A). While the court may award such other relief as the court considers
7 appropriate, including monetary damages to aggrieved persons, punitive damages are not
8 available. A.R.S. § 41-1492.09(B)(2).

9 48. Nevertheless, Strojnik habitually asks for thousands of dollars in damages
10 in exchange for a stipulated dismissal with prejudice that relates only to the property in
11 question. A promise not to visit a defendant’s other hotels comes at an additional price.
12 *See, e.g.,* Exhibits 1 and 4 to Defendant’s Motion to Declare Plaintiff a Vexatious
13 Litigant.

14 49. The district court found this tactic particularly troublesome:

15 Putting aside the fact that the ADA does not allow for
16 damages, the fact that he is requesting additional payment to
17 abstain from visiting hotels is plainly a request that unjustly
18 enriches him. It further undermines his professed purpose for
19 advancing his ADA claims. He has not incurred any damages
20 or costs related to these other hotels, and so payment to not
21 visit them is effectively a payment to prevent Mr. Strojnik
22 from self-inflicting further legal injury. These efforts to
23 “coerce settlement” are plainly “at odds with our system of
24 justice.” *Evergreen*, 500 F.3d at 1062. While the agreements
25 require the other party’s “[b]est efforts to remediate readily
26 achievable [ADA] remediations,” those efforts would not
27 cover the hotels Mr. Strojnik promises to avoid. And in some
28 settlements, this “best effort” is not required at all.

Driftwood, 2021 WL 50456, *10 (internal citations to record omitted).

50. This Court agrees that Strojnik’s professed purpose for advancing his
AzDA claims is undermined by his coercive settlement tactics.

51. In total, **THE COURT FINDS** Strojnik’s litigation tactics frivolous and
harassing. The Court recommends that the Presiding Judge for the Superior Court of

1 Arizona in and for Maricopa County designate Strojnik a vexatious litigant and enter an
2 order to enjoin further abuse.

3 *D. Narrowly Tailored Order Preventing Abuse*

4 52. This Order must be “narrowly tailored to the vexatious litigant’s wrongful
5 behavior.” *Evergreen*, 500 F.3d at 1061. It must add “a valuable layer of protection . . .
6 for the courts and those targeted” by Strojnik’s claims. *Id.* At the same time, it must not
7 deny Strojnik “access to courts on any ADA claim” or AzDA claim “that is not
8 frivolous.” *Id.*

9 53. “Arizona courts possess inherent authority to curtail a vexatious litigant’s
10 ability to initiate additional lawsuits.” *Madison*, 230 Ariz. At 14, 279 P.3d at 639.

11 54. In addition, A.R.S. § 12-3201 grants Arizona courts the power to designate
12 a *pro se* litigant a vexatious litigant.

13 55. The wrongful behavior here is Strojnik’s harassing attempts to unjustly
14 enrich himself through frivolous ADA and AzDA claims. This behavior, to say the
15 least, wastes “judicial time that properly could be used to consider the meritorious
16 claims of other litigants.” *De Long*, 912 F.2d at 1149. Already confronted with
17 Strojnik’s behavior, two federal courts in California and the Arizona District Court have
18 enjoined Strojnik from filing ADA claims in their respective districts without first filing
19 ADA claims in their respective districts without first obtaining leave of court. *See SCG*,
20 2020 WL 4258814, at *8; *IA Lodging*, 2020 WL 2838814, at *13; *Driftwood*, 2021 WL
21 50456, *11. This Court should follow suit and adopt a similar order.

22 Accordingly,

23 **IT IS ORDERED** referring this matter to the Presiding Judge for the Superior
24 Court of Arizona in and for Maricopa County designate Strojnik a vexatious litigant and
25 enter an order to enjoin further abuse.

26 **IT IS FURTHER ORDERED** granting Defendants’ Application for attorney’s
27 fees and awarding \$33,722 to Defendants for the same. Defendants may submit a
28

1 proposed form of fees judgment no later than twenty days after the entry of these
2 findings of fact, conclusions of law, and orders.

3 /s/ Sara J. Agne

4 Judge of the Superior Court

5
6 4822-0502-3988, v. 1

eSignature Page 1 of 1

Filing ID: 13549590 Case Number: CV2021-050418
Original Filing ID: 13238998

Granted with Modifications



/S/ Sara Agne Date: 10/29/2021
Judicial Officer of Superior Court

ENDORSEMENT PAGE

CASE NUMBER: CV2021-050418

SIGNATURE DATE: 10/29/2021

E-FILING ID #: 13549590

FILED DATE: 11/1/2021 8:00:00 AM

MONICA RYDEN

**PETER STROJNIK
7847 N CENTRAL AVE PHOENIX AZ 85020**