

VERMONT SUPERIOR COURT
Windham Unit
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www.vermontjudiciary.org



CIVIL DIVISION
Case No. 26-CV-01521

Jeffrey Rivard v. Vermont Department of Corrections, et al.

**DECISION AND ORDER
REGARDING
THE TOWN OF BRATTLEBORO'S MOTION FOR SANCTIONS (# 7)**

Plaintiff Jeffrey Rivard is self-represented in this matter in which he has sued or is attempting to sue the Town of Brattleboro, various town officials, the Vermont Department of Corrections and various named and unnamed correctional officers. Pending before the court are multiple motions. This order addresses and resolves Defendant Town of Brattleboro's (the Town's) motion for sanctions – particularly, a motion for a pre-filing injunction. The record in this matter, other matters involving Plaintiff in the Windham Unit of the Vermont Superior Court, and appeals to the Vermont Supreme Court establish that Plaintiff is a vexatious litigant. He is singularly unable to abide by applicable procedural rules, relentlessly disrespectful of the courts, and utterly unwilling to accept adverse rulings from courts. The Town's motion is GRANTED.

I. Procedural history in this matter¹

Plaintiff filed the complaint in this matter on March 9, 2026. The named Defendants in the complaint were the Town, John Does # 1 & # 2,² Walter Holmes,³ and the Vermont Department of Corrections. Plaintiff's summary of the complaint asserted that "this action concerns events that occurred on December 4–5, 2024, including Plaintiff's arrest, transport by Windham County Sheriff, intake, and detention at Southern State Correctional Facility ("SSCF")." Statement of Complaint at 1.⁴ Plaintiff further asserted that "these events were not litigated, raised, or decided in Plaintiff's prior case, *Jeffrey Rivard v. Town of Brattleboro*, Docket No. 24-CV-04975" *Id.* As noted below and in

¹ The court has relied on its own records – including the case summary and the parties' filings – in making its findings regarding the relevant procedural history in this matter. If either party objects to the court taking such notice, a written objection must be filed within five days of this order. V.R.E. 201(e).

² Asserted to be shift supervisors at Southern State Correctional Facility (SSCF).

³ A correctional officer at SSCF.

⁴ Plaintiff filed two documents captioned as "Complaint." To limit confusion, this court has used the name assigned to the document in its electronic filing system rather than the caption used by Plaintiff.

this court's orders granting pending motions to dismiss in this matter, the events *were* or *should have been* litigated in that prior proceeding.

Presently pending before the court are the following motions:

- Plaintiff's Motion for Early Limited Discovery (# 2);⁵
- The Town's Motion to Dismiss (# 3);⁶
- Plaintiff's Motion for Leave to Supplement Opposition to Motion to Dismiss (# 4);⁷
- Defendant Walter Holmes' Motion to Dismiss (# 5);⁸
- Plaintiff's Motion for Leave to File Supplemental Amended Complaint (# 6);⁹
- The Town's Motion for Sanctions (# 7);¹⁰
- Plaintiff's Motion to Strike Scandalous and Impertinent Material (# 8);¹¹
- Defendant Walter Holmes Motion to Dismiss – Res Judicata (# 9);¹² and,
- Defendant Walter Holmes' Motion to Enlarge Discovery Deadline (# 10).¹³

This order addresses motion # 7 – the Town's Motion for Sanctions. The Town's motion first outlines the factual and procedural history of various matters including, particularly, *Rivard v. Town of Brattleboro, et al*, Docket No. 24-CV-04975.¹⁴ Motion at 2-4. The Town then outlined the applicable legal standard, including Rule 11 and Vermont Supreme Court precedent, and cited the applicable standard for imposing a sanction of a prefiling injunction. *Id.* at 4-8. The Town then reviewed that standard as applied to Plaintiff, *id.* at 8-13, and concluded

[Plaintiff] has a long history of bringing meritless claims against the Town of Brattleboro, its officials, and related entities, losing, and refileing the same claims, over and over again. Undaunted, [Plaintiff] continues on his quest to “invoke the court's jurisdiction to adjudicate free-floating grievances untethered from any law.” *Rivard v. Town of Brattleboro*, No. 22-CV-03222, 2023 WL 8719882, *4 (Vt. Super. Ct. Dec. 07, 2023), *aff'd* 2024 WL 1012380 (2024), *cert denied*, 144 S. Ct. 2611 (2024). This

⁵ Filed March 9, 2026.

⁶ Filed April 13, 2026.

⁷ Filed April 15, 2026. Plaintiff had filed an initial memorandum in opposition within five hours of the filing of the Town's motion to dismiss.

⁸ Filed May 4, 2026.

⁹ Filed May 16, 2026.

¹⁰ Filed May 18, 2026.

¹¹ Filed June 1, 2026, and seeking to strike certain portions of the Town's Opposition to the Motion to Amend the Complaint.

¹² Filed June 1, 2026.

¹³ Filed July 9, 2026.

¹⁴ The matter was dismissed by this court on July 31, 2025. *Rivard v. Town of Brattleboro*, No. 24-CV-4975 (Vt. Super. Ct., Windh. Civ. Div. July 7, 2025) (Malone, Supr. J.), *affirmed*, *Rivard v. Town of Brattleboro*, No. 25-AP-282, 2025 WL 3124895 (Vt. Nov. 7, 2025) (unpub. mem.), and *Rivard v. Town of Brattleboro*, No. 26-AP-065, 2026 WL 1831335 (Vt. June 5, 2026) (unpub. mem.).

present matter is no exception. [Plaintiff] has already sued Defendants for a precisely identical cause of action, which included a false imprisonment claim related to the issuance of no trespass orders against [Plaintiff], and that Complaint was dismissed. [Plaintiff] re-filed that Complaint and voluntarily dismissed it. Now, he has yet again, filed the same lawsuit. [Plaintiff] continues to demonstrate a concerted pattern of abusing the judicial system to harass the Town, its employees, and its counsel. The interest of judicial efficiency and justice demand this Court sanction Plaintiff pursuant to V.R.C.P. Rule 11.

Id. at 13. The requested relief included a request that this court “[p]rohibit Plaintiff from filing any further complaints or filings with this Court unless the filings are first approved by the Court; [and] [o]rder Plaintiff to pay the Defendants’ attorney’s fees incurred in addressing Plaintiff’s latest Complaint pursuant to V.R.C.P. Rule 11(c)(2)...” *Id.*

Within a matter of hours of the Town’s filing Plaintiff filed responsive pleadings. As this court noted

Plaintiff has filed a memorandum in opposition to the motion [for sanctions] disputing the factual basis of Defendants motion and arguing that Defendants misstate or misapply Vermont precedent among other grounds. Plaintiff seeks costs asserting that Defendants’ motion is improper. Plaintiff has also filed a document captioned “Bench Memorandum.” It is unclear to the court exactly what this document is intended to be. The Rules of Civil Procedure do not appear to recognize or authorize such a pleading. V.R.C.P. 7(b)(4).

May 19, 2026, Entry Regarding Motion. The Town filed a reply to Plaintiff’s pleadings.¹⁵

II. The standard for imposition of sanctions including prefilings injunctions

“Although self-represented litigants receive some leeway from the courts, they are nonetheless bound by our rules of procedure, including the obligations of Rule 11 and sanctions for noncompliance.” *Mary Zigman v. Sarah Goodwin*, 2026 WL 1292289, at *4 n. 3 (Vt. May 8, 2026) (unpub. mem.) (citation omitted). See also *Rivard v. Windham State Att’y*, 2025 WL 3498177, at *2 (Vt. Dec. 5, 2025) (unpub. mem.). By filing a pleading with the court an attorney or self-represented litigant is

certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:
(1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

¹⁵ Filed May 22, 2026.

- (2) the claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
- (3) the allegations and other factual contentions have evidentiary support, or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and
- (4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

V.R.C.P. 11(b). See also *Cover v. Tyrell*, 2026 WL 2049313, at *5 n. 3 (Vt. July 10, 2026) (unpub. mem.); *O'Donnell v. Clough*, 2026 WL 2049716, at *3 (Vt. July 10, 2026) (unpub. mem.); *Zigman v. Goodwin*, 2026 WL 1292289, at *4 n. 3 (Vt. May 8, 2026) (unpub. mem.). The court may impose sanctions for a violation of Rule 11(b). V.R.C.P. 11(c). “A sanction under Rule 11(c) must ‘be limited to what is sufficient to deter repetition of such conduct’ and ‘may consist of, or include, directives of a nonmonetary nature.’” *Fox v. Fox*, 2022 VT 27, ¶ 34 (quoting V.R.C.P. 11(c)(2)). The type of sanction to impose,

must be carefully tailored based on the facts before the Court. The Advisory Committee Notes accompanying the 1993 Amendments to Rule 11 include factors to be considered when determining whether sanctions are warranted and, if so, the type and degree of any sanction that should be imposed. Those factors include: (1) [w]hether the improper conduct was willful, or negligent; (2) whether it was part of a pattern or activity, or an isolated event; (3) whether it infected the entire pleading, or only one particular count or defense; (4) whether the person has engaged in similar conduct in other litigation; (5) what effect it had on the litigation process in time or expense; (6) whether the responsible person is trained in the law; (7) what amount, given the financial resources of the responsible person, is needed to deter that person from repetition in the same case.

Vasile v. Dean Witter Reynolds Inc., 20 F. Supp. 2d 465, 505–06 (E.D.N.Y. 1998), *aff'd*, 205 F.3d 1327 (2d Cir. 2000) (addressing analogous Federal rule). Thus, for example, courts have imposed requirements that vexatious litigants post a bond when filing new matters.

Such bonding requirements fall within the broad array of monetary sanctions and nonmonetary injunctions that District Courts use to deter repetition of conduct violating Rule 11. Bond requirements for newly filed cases are particularly appropriate in cases where nearly identical claims have been litigated before multiple courts, and where a plaintiff's specific history of nearly identical litigation provides a concrete basis for finding that there is a sufficiently high probability of harassing, frivolous litigation to justify a pre-filing approval order (and bond requirement) in a new

case. However, the bond requirement represents a significant barrier to access to the courts, and so must be narrowly tailored to the specific circumstances, resources, and conduct of the sanctioned party.

Wirs v. Republican Nat'l Comm., 2021 WL 5822995, at *8 (E.D. Pa. Dec. 8, 2021). Trial courts have considerable discretion in imposing sanctions to address the conduct of vexatious or abusive litigants. *Procup v. Strickland*, 792 F.2d 1069, 1074 (11th Cir. 1986).

Numerous courts have recognized the authority of a trial court to issue a prefiling injunction as a sanction to deter a vexatious litigant. “The law is well established that it is proper and necessary for an injunction to issue barring a party ... from filing and processing frivolous and vexatious lawsuits.” *Gordon v. U.S. Dep't of Just.*, 558 F.2d 618, 618 (1st Cir. 1977). See also *Abdullah v. Gatto*, 773 F.2d 487, 488 (2d Cir. 1985) (“[a] district court not only may but should protect its ability to carry out its constitutional functions against the threat of onerous, multiplicitous, and baseless litigation”); *Spickler v. Key Bank of S. Maine*, 618 A.2d 204, 207 (Me. 1992) (“[i]t is well-settled that a court may enjoin a party from filing frivolous and vexatious lawsuits”). This authority is derived from multiple sources including the common law and Rule 11. *Vasile*, 20 F. Supp. 2d at 506; *Riffin v. Cir. Ct. for Baltimore Cnty.*, 985 A.2d 612, 618 (Md. Ct. Spec. App. 2010).

Vermont courts possess such authority. “The court under V.R.C.P. 11 has the authority to impose pre-filing limitations on individuals whose filings continue to abuse the judicial process and harass other parties.” *S H-T (a Minor Child) v. O'Neill*, 2025 WL 4673430, at *2 (Vt. Super. Ct., Wash. Civ. Div. Oct. 08, 2025) (Richardson, Supr. J.). See also *Knapp v. Dasler*, 2024 VT 65, ¶ 26, *cert. denied*, 145 S. Ct. 2738 (2025) (Rule 11 “provides that the court may issue sanctions if Rule 11(b) has been violated, which ... may include prefiling restrictions”). In *Zorn v. Smith*, the Court noted that

[t]he Second Circuit offers a useful summary of factors employed by courts in judging whether a prefiling injunction against a litigant is warranted:

(1) the litigant's history of litigation and in particular whether it entailed vexatious, harassing or duplicative lawsuits; (2) the litigant's motive in pursuing the litigation, e.g., does the litigant have an objective good faith expectation of prevailing?; (3) whether the litigant is represented by counsel; (4) whether the litigant has caused needless expense to other parties or has posed an unnecessary burden on the courts and their personnel; and (5) whether other sanctions would be adequate to protect the courts and other parties.

Zorn, 2011 VT 10, ¶ 18 (citing *Safir v. U.S. Lines, Inc.*, 792 F.2d 19, 24 (2d Cir.1986)). As the Court has noted, “[t]hese factors attempt to strike a balance between a litigant's right to court access and the need to protect the court and other parties from wasting resources.” *Fox v. Fox*, 2022 VT 27, ¶ 35.

The court considers whether Plaintiff is a vexatious litigant and whether his litigation practices warrant sanction – and, particularly, whether a pre-filing injunction is appropriate.

III. Judicial notice of other proceedings involving Plaintiff

With respect to the pending motion for sanctions this court issued an order on June 3, 2026, regarding judicial notice. The order stated that

Pursuant to V.R.E. 201, the court provides notice to the parties that it may take judicial notice of Plaintiff's filings, related court orders and related docket entries in the following matters:

1. Matters in the Windham Civil Division filed by Plaintiff, including: 21-CV-01373, 22-CV-03222, 22-CV-04364, 23-CV-00255, 23-CV-01280, 23-CV-02763, 23-CV-03803, 23-CV-04956, 24-CV-01669, 24-CV-03163, 24-CV-04322, 24-CV-04575, 24-CV-04975, 25-CV-00894, 25-CV-00895, 25-CV-00954, 25-CV-02411, 25-CV-02939, 25-CV-03119, 25-CV-03140, 25-CV-03257, 25-CV-03802, 26-CV-00001, 26-CV-00740, 26-CV-00931, 26-CV-01741;
2. State v. Rivard, No. 1370-11-19 Wmcr, State v. Rivard, No. 20-CR-00471, State v. Rivard, No. 21-CR-04088, State v. Rivard, No. 21-CR-04101, State v. Rivard, No. 22-CR-02211, State v. Rivard, No. 24-CR-12633/6/9; and,
3. Any appeals to the Vermont Supreme Court from the matters referred to in paragraphs 1 and 2.

Entry Regarding Motion at 2, dated June 3, 2026 (footnotes omitted). Plaintiff objected to the court's "expansion of judicial notice into sealed, expunged, deferred, and pending criminal dockets." Plaintiff's Response at 1.¹⁶ Plaintiff argued that

While Vermont Rule of Evidence 201 allows a court to take judicial notice of the *existence* of its own records, it cannot "blindly absorb" past files or treat disputed records as absolute truth. *In re L.B.*, 147 Vt. 39, 510 A.2d 1319 (1986). Furthermore, judicial notice cannot be used as an investigative tool to circumvent statutory protections for sealed or expunged records. When a judge steps out of the role of a neutral arbiter and begins scanning unrelated criminal dockets to gather negative evidence against a pro se litigant, the judge violates Judicial Canon 2.2

¹⁶ Not atypically Plaintiff filed multiple responses to the court's June 3, 2026, Entry Regarding Motion. See Plaintiff's Response to Entry Order Regarding Judicial Notice and Order to Show Cause filed June 3, 2026; Plaintiff's Response to Entry Order Regarding Judicial Notice and Order to Show Cause filed June 4, 2026; and, Addendum to Attach to Objection filed June 4, 2024 (sic).

(requiring fairness, equity, and impartiality) and commits a misfeasance and nonfeasance.

Id. The cited case does not exist at the cited location and the pin cites are to matters that address neither V.R.E. 201 nor judicial notice generally. See section VIII, *infra*. The Town does not object to the court taking judicial notice of the listed matters.

Courts may take judicial notice of facts that are “capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.” V.R.E. 201(b). This “includes records of court proceedings between the same parties in the same court.” *State v. Hill*, 2021 WL 5412918, at *2 (Vt. Nov. 19, 2021) (unpub mem.). See also *Fletcher v. Menard Corr. Ctr.*, 623 F.3d 1171, 1173 (7th Cir. 2010) (“[w]e can take judicial notice of prior proceedings in a case involving the same litigant”). Additionally, “[a] court may take judicial notice of the docket entries in a separate, related case.” *Doe v. Camacho*, 2024 VT 72, ¶ 2, n.1. And multiple courts have noted that orders entered in state courts are subject to judicial notice. See, e.g., *Levy v. Ohl*, 477 F.3d 988, 991–92 (8th Cir. 2007); *Singh v. Cnty. of Hendricks, Indiana*, No. 1:24-CV-01077-TWP-TAB, 2024 WL 3637477, at *1 n. 2 (S.D. Ind. Aug. 2, 2024) (quoting *In re Lisse*, 905 F.3d 495, 496 (7th Cir. 2018)). More specifically, “[c]ourts routinely rely on both state and federal litigation histories when issuing filing injunctions” *Rivard v. Town of Brattleboro, et al.*, No. 2:24-CV-875, 2026 WL 2070307, at *5 (D. Vt. July 17, 2026).

While a court may take judicial notice of an order, that notice does not generally encompass notice of findings of fact in another matter. As a treatise has noted,

The writers try to encapsulate what we have been discussing by distinguishing between noticing the “existence” of a statement of fact in court records and noticing the “truth” of that fact. As one court put it, the court cannot notice a party’s income based on a document that he filed with the court; but it can notice that he claimed to have a particular income. Saying that a court cannot notice the truth of hearsay found in court files, however, only takes us so far. If taken as a universal principal, it would mean that a court could not notice the truth of a fact even though the court record is a source of indisputable accuracy for that fact. For example, if the question is when a particular lawyer began representing a client, the clerk’s time stamp on a motion filed by that lawyer for the client is a source of reasonably indisputable accuracy as to the date on which the motion was filed. But while court records can be noticed to show that a person was convicted of a crime, the court cannot notice that fact for the purpose of inferring that the person committed the crime. To notice a judicial finding in order to infer the fact found would circumvent the principle that a court cannot notice the truth of facts asserted in its records.

Wright and Miller, 21B Fed. Prac. & Proc. Evid. § 5106.4 Facts Judicially Noticeable; Indisputability—“Ascertainable Facts”— Court Records (2d ed.). Thus, in the context of taking notice of the contents of the filings in another matter a court has stated,

Unlike in *In re Lisse*, which rejected a request to take judicial notice of a motion filed in another case because it was “not evidence of an adjudicative fact,” 905 F.3d at 497, here it is evidence of the claims Rexing asserted in *Rexing I*, which are adjudicative facts in the context of Rembrandt's Motion to Dismiss. In other words, while *In re Lisse* rejected the tendered brief because it was not offered “just to show that it had been filed,” *id.*, here that is precisely the reason Rembrandt requests that the Court take judicial notice of Rexing's filings from *Rexing I*. This flows directly from the text of Rule 201(b) because the claims and arguments set forth in *Rexing I* are “not subject to reasonable dispute” and may be “accurately and readily determined” from the filings in that case. Fed. R. Evid. 201(b); *see also NuCal Foods, Inc. v. Quality Egg LLC*, 887 F. Supp. 2d 977, 984-85 (E.D. Cal. 2012) (“While the court cannot accept the veracity of the representations made in the documents [filed in a related state-court proceeding], it may properly take judicial notice of the existence of those documents and of the representations having been made therein.” (Internal quotation omitted)).

Rexing Quality Eggs v. Rembrandt Enters., Inc., 392 F. Supp. 3d 965, 968 n. 2 (S.D. Ind. 2019), *aff'd*, 953 F.3d 998 (7th Cir. 2020). Plaintiff's filings in other public matters¹⁷ are subject to judicial notice of the fact and contents of those filings – not for the truth of the contents of those filings.

IV. Other matters involving Plaintiff

The Superior Court has repeatedly admonished Plaintiff for the volume and content of his filings. For example, on May 19, 2025, the Criminal Division issued an order in the matter of *State v. Rivard*, No. 21-CR-04088, denying a motion to withdraw a guilty plea. The court noted that

[Plaintiff] – a self-represented litigant – has engaged in a relentless series of motion filings and petitions directed at the various criminal matters that have been filed against him by the Windham County State's Attorney's

¹⁷ Thus, the court will not take judicial notice of filings in matters that have been expunged. The court would only take judicial notice of filings in matters that are sealed if a relevant exception in 13 V.S.A. § 7607(c) applied. Where, however, Plaintiff's filings in Civil Division proceedings include documents from matters subject to orders to seal or expunge in the Criminal Division, judicial notice of the filings in the Civil Division may be made notwithstanding the orders in the Criminal Division. *Rivard v. Windham County State's Attorney Office*, No. 23-CV-03108, 2026 WL 1641327, (Vt. Super. Ct., Windh. Civ. Div. May 13, 2026). In Criminal Division matters where certain counts are sealed and others are not the case file remains publicly accessible. 13 V.S.A. § 7607(d)(2).

Office. ... The Vermont Supreme Court has yet to “delineate the precise point at which the state’s interest in finality and administrative ease” outweighs a defendant’s interests in challenging a conviction. *In re Chandler*, 2013 VT 10, ¶ 24. [Plaintiff]’s pattern of filing prolix, repetitive and barely comprehensible pleadings is a misuse of limited judicial resources. An attorney making such filings could have engaged in misconduct. *In re Dobbie*, 305 A.3d 780, 810 (D.C. 2023).

State v. Rivard, No. 21-CR-04088, at 2 n. 4 (Vt. Super. Ct., Windh. Crim. Div. May 19, 2025). In the matter of *State v. Rivard*, No. 1370-11-19 Wmcr, the Criminal Division declined to accept multiple waivers of counsel filed by Plaintiff. In an Entry Order on June 25, 2025, the court noted that

[Plaintiff] has filed a waiver of counsel. The right to self-representation is not unbounded. As the Windham Criminal Division noted in denying self-representation in the matter of *State v. Knutson*, No. 21-CR-07478 and 21-CR-07593,

the defendant has repeatedly shown that he will not comply with the court’s most basic procedural rules that would enable him to represent himself. He is unable to listen to and take direction from the trial judge, and therefore has waived his right to represent himself. *State v. Burke*, 2012 VT 50, ¶ 27, 192 Vt. 99. ... The court is also guided in this decision by the policy stated by the Vermont Supreme Court in *In re: G.G.*, 2017 VT 10, ¶ 15, 204 Vt. 148, citing to [*Faretta v. California*, 422 U.S. 806, 95 S.Ct. 2525, 45 L. Ed. 2d 562 (1975)], and reminding the trial courts that:

[T]he Constitution permits judges to take realistic account of the particular defendant's mental capacities by asking whether a defendant who seeks to conduct his own defense at trial is mentally competent to do so.

In this instance, although the defendant has twice been found competent to assist his counsel and to participate in the trial process, he has not been found competent to represent himself. Only the court can make that decision. As the court stated at the hearing on March 6, 2023, the court concludes that the defendant's fixed mental state and beliefs are an insuperable obstacle to his being able to represent himself in these matters. The court therefore refuses to permit him to do so.

State v. Kristopher Knutson, No. 21-CR-07478 and 21-CR-07593, at 5-6 (Vt. Super. Ct., Windh. Crim. Div. Mar. 28, 2023) (Hayes, Super. J.). [Plaintiff]’s filings demonstrate to this court that he cannot properly represent himself in this probation violation proceeding. [Plaintiff] lacks the ability to meaningfully appreciate the nature and scope of the specific

criminal proceedings he is the subject of. [Plaintiff] is and has been involved in multiple matters in the Windham Criminal Division. His pleadings veer across many of these matters - open and closed. Additionally, [Plaintiff]'s pleading style and practices – *for which he has been repeatedly warned by the court* – are disrespectful, vexatious and wasteful of limited judicial resources.

State v. Rivard, No. 1370-11-19 Wmcr, at 1-2 (Vt. Super. Ct., Windh. Crim. Div. June 25, 2025) (emphasis supplied).

a. 24-CV-04975, 25-CV-03257, and this matter

The orders of this court granting the Town's motion to dismiss and the Defendant Holmes' motion to dismiss – both on res judicata grounds – recount the procedural history of this matter and a prior related matter.

On December 5, 2024, Plaintiff filed a complaint in the matter of *Rivard, et al v. Town of Brattleboro, et al*, Docket No. 24-CV-04975. Plaintiff alleged false imprisonment, illegal detention, illegal seizure, deprivation of rights under color of law, and parental rights and due process violations. In a statement filed with the court in conjunction with the complaint in that matter, Plaintiff outlined some of the alleged facts giving rise to his claims:

On December 4 2024 Brattleboro police pursued investigation of an improperly issued no trespass request from March 2024 a complaint I had given an over friendly school employee at Academy school the middle finger one day. It was obvious to officers she lied about observing an offense against Lieutenant Adam Petlock.

Rivard v. Town of Brattleboro, No. 24-CV-4975, Pl.'s Statement Attached to Complaint at 1. Plaintiff referenced various alleged incidents involving Brattleboro Police Department officers from November 2019 and from 2024. *Id.* at 1-4. Plaintiff specifically noted, regarding the December 4, 2024, interaction with police officers that:

Rather than hold me over night in the police station cell for arraignment and at that point without other charge or VOPO^[18] on 12/04/2024 gathered Windham Sheriff transport to take me to a correctional facility where without any history there of drug use or any possession history was demanded for a search of my cavity (mouth) and upon denial was issued a disciplinary report. I experienced chest pains and was not provided antibiotics for an infection of my ear.

My entire family is frightened, my student and I are terrorized, we have all lost faith in the local authorities and 1 day of detention of myself caused

¹⁸ Presumably Plaintiff means "violation of probation."

losses for all of the household I am incredibly concerned that I may have been taken in by a correctional facility without qualifying for entry

Rivard v. Town of Brattleboro, No. 24-CV-4975, Pl.'s Statement Attached to Complaint at 3-4. The matter was dismissed by this court on July 31, 2025. *Rivard v. Town of Brattleboro*, No. 24-CV-4975 (Vt. Super. Ct. Windh. Civ. Div. July 7, 2025) (Malone, Supr. J.). That decision was affirmed on appeal by the Vermont Supreme Court. *Rivard v. Town of Brattleboro*, No. 25-AP-282, 2025 WL 3124895 (Vt. Nov. 7, 2025) (unpub. mem.).¹⁹

On August 1, 2025 – the day after the prior proceeding was dismissed in the trial court – Plaintiff filed a complaint in the matter of *Rivard v. Town of Brattleboro, et al.*, No. 25-CV-03257. The complaint asserted various claims against the Town and its personnel. Plaintiff also filed a motion for preliminary injunction that was identical to a motion previously filed on July 20, 2025, in *Rivard v. Town of Brattleboro*, No. 24-CV-04975. The motion for preliminary injunction asserted that

On December 4, 2024, Plaintiff was unlawfully arrested for a single instance of remaining on land felony Unlawful Trespass onto the Academy School grounds to transport out of necessity a minor student from a designated public right of way at 900 Western Ave., a lawful purpose.

Immediately after that arrest, Chief Norma Hardy issued a “no trespass” notice barring Plaintiff from station property with no explanation beyond per Chief of Police, Norma Hardy’s “wanted it” Order.

On December 04th, 2025, Officer Cody Evans approached Plaintiff in the intake area and after service of the No Trespass After Warning (NTO) stated, “If you return here for any valid business in the lobby area, you will be arrested”, this is evidenced from his own bodycam. This suggests an intent to deny US Constitutional 1st Amendment Right and even Vermont’s common law rights to public records.

Plaintiff submitted a written appeal to the Town Manager on December 06th, 2025, requesting a hearing, but received no acknowledgement or response, this offends the United States Constitutional 14th Amendment Right to Due Process.

¹⁹ The Court summarized the proceedings in the trial court.

Plaintiff raised several claims against the Town of Brattleboro and various state and municipal employees related to two trespass orders issued by Brattleboro police officers. The first trespass order barred plaintiff from the premises of the private school his child attended; the second prohibited him from going onto the property of the Brattleboro Police Department. Defendants moved to dismiss plaintiff’s complaint, and the court granted their request.

Rivard v. Town of Brattleboro, 2025 WL 3124895, at *1.

No one else arrested for a one-time trespass under similar circumstances has been barred from station entry, demonstrating selective, arbitrary enforcement.

Motion at 1-2. The Town moved to dismiss and for sanctions. On September 6, 2025, Plaintiff gave “notice of his voluntary dismissal **with prejudice** of claim for preliminary injunction against all Defendants in the above-captioned action.” Notice at 1 (emphasis in original).

On January 16, 2026, Plaintiff sought relief from judgment pursuant to V.R.C.P. 60(b) in *Rivard v. Town of Brattleboro*, No. 24-CV-04975. The motion was denied on February 17, 2026.

Plaintiff's motion is without merit. He seeks relief asserting “new” facts while failing to establish how this was evidence he could not previously discovered. He also makes arguments that could have been but were not raised before judgment was entered on the merits. In sum, Plaintiffs motion lacks merit and is of a piece with much of his litigation practice in this Unit.

Entry Regarding Motion, date February 17, 2026. The denial of the motion was affirmed on appeal. *Rivard v. Town of Brattleboro*, No. 26-AP-065, 2026 WL 1831335 (Vt. June 5, 2026) (unpub. mem.).²⁰

On March 9, 2026 – less than three weeks after the motion for relief from judgment in *Rivard v. Town of Brattleboro*, No. 24-CV-04975, was denied in this court – Plaintiff filed this matter. Plaintiff asserted that on December 4, 2024, he was arrested by the Brattleboro Police Department and transported to SSCF. There, he “was held on a misclassified ‘felon’ hold, despite having no qualifying felony charge under Vermont law.” Complaint at 2. Plaintiff argued that the Department of Corrections (“DOC”) intake staff demanded a mouth cavity search, which he declined, resulting in DOC staff issuing a disciplinary report. He asserted that while there, he experienced chest pains, and he had an ear infection for which he was prescribed antibiotics which DOC staff did not allow him to take. Plaintiff contended that he was held for 24 hours, which caused “a

²⁰ The Court summarized the proceedings in the trial court leading up to the prior appeal.

In December 2024, plaintiff filed a complaint against the Town of Brattleboro and various state and municipal employees alleging claims related to two trespass orders issued by Brattleboro police officers. The first order barred plaintiff from the premises of the school his child attended; the second prohibited him from going onto the property of the Brattleboro Police Department. The trespass orders stated that recipients could appeal an order of trespass by calling the town manager within fourteen days and provided a phone number for this purpose. Plaintiff alleged that he called the number and advised that he wanted to appeal but the town manager did not respond. Plaintiff alleged that the Town and its town manager violated his due-process rights under the Fourteenth Amendment to the U.S. Constitution by not responding to his appeals of the trespass orders.

Rivard v. Town of Brattleboro, 2026 WL 1831335, at *1.

loss of liberty, emotional distress, and physical discomfort.” *Id.* He also argued that this resulted in “harm to his household, including missed medical appointments, lost work, and emotional distress to his child.” *Id.* Additionally, Plaintiff believed he was wrongfully detained at SSCF because he did not meet the legal requirements for a felony hold or DOC detention. In the complaint Plaintiff first brought a claim of false imprisonment against the Town, arguing he was detained without lawful authority, intentionally confined without legal justification, and suffered loss of liberty, emotional distress, and physical harm. Second, Plaintiff brought a claim of negligent infliction of emotional distress against the town, contending that the Town’s conduct caused fear, anxiety, humiliation and distress which was serious and foreseeable. With respect to the claims against DOC and DOC personnel, Plaintiff first brought claims of negligence, contending that as a DOC staff member, Defendant Holmes owed Plaintiff a duty of reasonable care during intake and detention. He asserted that Defendant Holmes breached that duty by “[a]dmitting Plaintiff without legal authority; [f]ailing to provide medication and medical care; and [i]ssuing an unnecessary disciplinary report.” Statement of Complaint at 3. Plaintiff argued that these events caused him to suffer physical and emotional harm. Second, Plaintiff brought a claim of negligent infliction of emotional distress, contending that Defendant Holmes’ conduct caused fear, anxiety, humiliation and distress which was serious and foreseeable. Finally, Plaintiff brought a claim of intentional infliction of emotional distress, arguing that Defendant Holmes’ actions of demanding a cavity search without cause, denying medical care, and detaining Plaintiff unlawfully constituted extreme and outrageous conduct. He asserted that Defendant Holmes intended to cause distress or acted with reckless disregard, and as a result, Plaintiff suffered emotional distress. Plaintiff asserted that DOC intake staff demanded a mouth cavity search, which he declined, resulting in DOC staff issuing a disciplinary report. While at SSCF, he experienced chest pains, and he had an ear infection for which he was prescribed antibiotics which DOC staff did not allow him to take. Plaintiff contended that he was held for 24 hours, which caused “a loss of liberty, emotional distress, and physical discomfort.” *Id.* He also argued that this occurrence resulted in “harm to his household, including missed medical appointments, lost work, and emotional distress to his child.” *Id.* Additionally, Plaintiff asserted he was wrongfully admitted to SSCF because he did not meet the legal requirements for a “felony hold” or DOC detention. Against the DOC Doe defendants, Plaintiff brought claims of false imprisonment, negligence, negligent infliction of emotional distress, and intentional infliction of emotional distress. Against the DOC, he brought a claim of negligent supervision, arguing it failed to train and supervise its staff.

In sum, Plaintiff has repeatedly sought relief related to alleged wrongs associated with his arrest for unlawful trespass by the Brattleboro Police Department on December 4, 2024, and subsequent detention at SSCF. The relief sought in this matter is barred by final judgments on the merits in the earlier matter. See Orders regarding Motions # 3, # 5, # 6 and # 9 issued on this date in this matter.

b. 22-CV-03222 and 23-CV-04956

On September 14, 2022, Plaintiff filed a complaint in the matter of *Rivard v. Town of Brattleboro*, No. 22-CV-03222. The complaint made various claims related to an

automobile accident in Brattleboro on February 2, 2022, and the investigation of that incident by Brattleboro Police Department Officers Ryan Washburn and Tyler Law. “Plaintiff’s amended complaint included allegations about the Brattleboro Police Department’s response to a February 2022 automobile collision involving plaintiff, its handling of various citizen complaints he filed, and its role in his December 2019 removal from a shelter.” *Rivard v. Town of Brattleboro*, 2024 WL 1012380, at *1 (Vt. Mar. 8, 2024), *cert. denied*, 144 S. Ct. 2611 (2024). In subsequent filings – but not in the original or amended complaint – Plaintiff alleged that Officer Law took an envelope that belonged to Plaintiff and Plaintiff sought “its return, an equivalent envelope, or an estimated twenty cents in damages.” *Id.*, at *3. This court granted summary judgment for Defendant Town on all of Plaintiff’s claims. See Entry Regarding Motion, dated November 7, 2023. On appeal, the Vermont Supreme Court affirmed the trial court’s decision. Plaintiff’s petition for a writ of certiorari to the United States Supreme Court was denied on June 3, 2024.

Less than a month after this court granted the defendants’ motion for summary judgment – and while the appeal was pending – Plaintiff filed a complaint in the matter of *Rivard v. Town of Brattleboro*, No. 23-CV-04956. The complaint

appears to primarily stand as a testament to Plaintiff’s dissatisfaction with how Brattleboro Police Department Officers Ryan Washburn and Tyler Law handled a [February 2, 2022] car accident involving Plaintiff and another driver. Specifically, Plaintiff alleges that Officer Law “did not return an envelope,” which he suggests constitutes “a petit larceny or theft,” and that Officer Washburn incorrectly, or insufficiently, reported the details of the accident, which Plaintiff suggests constitutes a breach of an officer’s “simple duty.”

Entry Regarding Motion at 1, dated July 2, 2024. The complaint, thus, addressed the same incident as *Rivard v. Town of Brattleboro*, No. 22-CV-03222. On July 2, 2024, this court granted summary judgment for Defendant Town on res judicata grounds. The court addressed res judicata noting that the doctrine

“bars the litigation of a claim or defense if there exists a final judgment in former litigation in which the ‘parties, subject matter and causes of action are identical or substantially identical.’” *Berlin Convalescent Ctr., Inc. v. Stoneman*, 159 Vt. 53, 56 (1992) (quoting *Berisha v. Hardy*, 144 Vt. 136, 138 (1984)). “The doctrine does not require that claims must have been actually litigated in an earlier proceeding; rather, res judicata ‘bars parties from litigating claims or causes of action that were or should have been raised in previous litigation.’” *Merrilees v. Treasurer*, 159 Vt. 623, 624 (1992) (mem.). “Claim preclusion flows from the fundamental precept that a final judgment on the merits ‘puts an end to the cause of action, which cannot again be brought into litigation between the parties upon any ground whatever.’” *Faulkner v. Caledonia Cnty. Fair Ass’n*, 2004 VT 123, ¶ 8. The doctrine

advances the efficient and fair administration of justice because it serves (1) to conserve the resources of courts and litigants by protecting them against piecemeal or repetitive litigation; (2) to prevent vexatious litigation; (3) to promote the finality of judgments and encourage reliance on judicial decisions; and (4) to decrease the chances of inconsistent adjudication.

Id. ¶ 9 (cleaned up).

Entry Regarding Motion at 3. The court then addressed the elements of res judicata with respect to Plaintiff's claims. Regarding the third element and in conclusion, this court noted

Finally, res judicata requires that the claim has been, or could have been, fully litigated in the prior proceeding. In examining this third element, the Vermont Supreme Court has considered whether a party "could have, and should have" raised his or her claims "in a prior proceeding, ... failed to do so[,] ... and there was no impediment in raising them." *Iannarone*, 2011 VT 91, ¶ 22. The claims in the instant matter and in 22-CV-03222 all stand on one common, in fact identical, foundation. They both stem from the same event: Plaintiff's accident on February 2, 2022. In both proceedings, the substantive claims stem from, according to Plaintiff, Brattleboro Police Department, in some shape or form, violating Plaintiff's rights in the aftermath of the accident. It is therefore apparent that Plaintiff could have, and in fact should have, raised the claims he alleges in the instant matter during the course of the prior proceeding. After all, it appears there was no impediment at the time of the prior proceeding that would prevent Plaintiff from raising the claims. As such, the third element of res judicata is thus present.

The instant matter satisfies the elements of res judicata and Plaintiff is thus barred from reasserting the claims, whether ultimately characterized as new (that Officer Washburn improperly or inaccurately summarized the events in the Incident Report) or old (that Officer Law committed larceny by taking from Plaintiff "[one] small envelope.>").

Id., at 4. Plaintiff filed a motion to reconsider²¹ and the motion was denied on July 26, 2024. Plaintiff did not appeal from the final judgment in this matter. Plaintiff was

²¹ In denying the motion this court noted, it is difficult to discern exactly what Plaintiff is arguing. The court understands that the gist of the argument is that the court erred in finding that Plaintiff's claim in this matter "has been or could have been litigated in the prior proceeding." *Iannarone v. Limoggio*, 2011 VT 91, ¶ 15 (citing *In re St. Mary's Church Cell Tower*, 2006 VT 103, ¶ 3 (mem.)). Plaintiff's argument, however, appears to avoid actually considering whether the claim or claims could have been raised and instead asserts that they are somehow and in some undefinable way different. This is not the standard to be applied by this court.

certainly aware of the doctrine of res judicata and was aware that the doctrine barred attempts to relitigate claims that had been or should have been raised in earlier proceedings.

c. 23-CV-03108, 25-CV-02411 and 25-CV-02939

In *Rivard v. Windham County State's Attorney's Office et al.*, No. 23-CV-03108, Plaintiff filed

claims against multiple State Defendants. In Count 1, Plaintiff asserts a claim of malicious prosecution against the Windham County Deputy State's Attorney Nevins. In Count 2, Plaintiff asserts that the Vermont Department of State's Attorneys and Sheriffs ... failed to provide oversight over prosecutorial activities of DSA Nevins.

Entry Regarding Motion at 1, dated November 15, 2023. This court dismissed the matter on motion. *Id.* at 9. Plaintiff appealed the “order dismissing his claims of malicious prosecution and failure to prosecute on the grounds that the claims were barred by prosecutorial immunity and that the pleading failed to state a claim.” *Rivard v. Windham Cnty. State's Att'y Off.*, 2024 WL 1012374, at *1 (Vt. Mar. 8, 2024) (unpub. mem.). The Court affirmed. *Id.* Plaintiff was certainly aware of prosecutorial immunity and the bar to actions seeking relief against the State or prosecutors engaged in core prosecution functions. That knowledge did not prevent Plaintiff from repeatedly attempting to seek redress under circumstances where relief is unequivocally barred.

On September 27, 2025, Plaintiff filed a motion captioned as Motion to Seal or Redact Confidential Information. The motion sought to seal or redact various filings and documents in *Rivard v. Windham County State's Attorney's Office et al.*, No. 23-CV-03108. In denying the motion, this court noted

Plaintiff ... moves pursuant to the Vermont Rules for Public Access to Court Records to seal or redact various filings that *he* made and various filings of Defendants referencing *his* filings. This matter is one of a series of matters filed by Plaintiff in the Windham Civil Division in which he asserted wrongdoing on the part of various people and, particularly, members of the Windham County State's Attorney's Office. Plaintiff's complaints purport to “invoke the court's jurisdiction to adjudicate free-floating grievances untethered from any law.” *Rivard v. Town of Brattleboro*, No. 22-CV-03222, 2023 WL 8719882, *4 (Vt. Super. Ct., Windh. Civ. Div. Nov. 07, 2023) (Barra, Supr. J.), *aff'd* 2024 WL 1012380 (Vt.), *cert. denied*, 144 S. Ct. 2611 (2024). Plaintiff's actions have uniformly been dismissed and, where appealed, the judgments of this court have been affirmed.

Entry Regarding Motion at 2, dated July 26, 2024.

Having failed to prevail in this proceeding Plaintiff now seeks to shield his actions in litigating this matter from public scrutiny. Plaintiff alleged wrongdoing on the part of state officials in criminal proceedings. The public's interest in any proceeding related to such allegations is necessarily at a peak. Plaintiff's filings are not exempt from disclosure under the Rules, he has failed to establish exceptional circumstances and good cause for sealing his voluntary and intentional filings with the court, *and* failed to overcome the presumption of public access to records of this proceeding.

Rivard v. Windham County State's Attorney Office, 2026 WL 1641327, at *1 (Vt. Super. Ct., Windh. Civ., Div. May 12, 2026) (emphasis in original and footnote omitted). Plaintiff moved to reconsider and that motion was denied. See Entry Regarding Motion dated May 15, 2026.

On June 4, 2025, Plaintiff filed an action against defendants including the Windham County State's Attorney "for abuse of legal process and malicious prosecution for their role in prosecuting him for unlawful trespass" in the matter of *Rivard v. Windham State's Attorney, et al.*, No. 25-CV-02411. Entry Regarding Motion at 1, dated August 4, 2025. The court dismissed the matter with prejudice on various grounds noting that

dismissal is also warranted for lack of jurisdiction, as the claims against the Windham County State's Attorney, Steven Brown, and Assistant State's Attorney, Johns Congdon, are barred by prosecutorial immunity. Plaintiff claims that he has suffered harm because Defendant Congdon brought criminal charges against him and wrongfully 1) argued for conditions of release that were later modified to be less restrictive, 2) misrepresented to the Court the school's interest in continued prosecution of the charges, 3) withheld exculpatory evidence, and 4) failed to dismiss the charges despite learning that Defendant's conduct was not criminal and the criminal charges violated Defendant's constitutional rights. Plaintiff argues that Defendant Brown, as Defendant Congdon's supervisor, is also liable. These actions all fall within Defendant Congdon's authority as an assistant state's attorney and therefore Defendant Congdon, and by extension Defendant Brown, have absolute prosecutorial immunity. See *O'Connor v. Donovan*, 191 Vt. 412, 425 (Vt. 2012) (citing *Levinsky v. Diamond*, 151 Vt. 178, 186-87 (Vt. 1989)).

Id. at 5. Plaintiff subsequently moved to vacate the judgments in favor of the defendants and the motion was denied. Plaintiff appealed from the denial of the motion. The Vermont Supreme Court affirmed noting that "[t]he trial court properly dismissed these claims because the facts as alleged show that defendants were immune from suit." *Rivard v. Windham State Att'y*, 2025 WL 3498177, at *2 (Vt. Dec. 5, 2025) (unpub. mem.).

On January 15, 2026, Plaintiff filed a motion in this court seeking relief from judgment. This court noted that Plaintiff's motion "fail[ed] to address Defendants' absolute immunity from suit" and denied the motion noting

Acts for which prosecutors are absolutely immune include the filing of charges, discovery, pre-trial litigation and plea bargaining. As the Court explicitly stated in affirming the dismissal of this matter Defendants are immune from suit. Plaintiff's motion changes nothing.

Entry Regarding Motion at 2 and 4, dated February 17, 2026. Plaintiff sought reconsideration which was denied. Plaintiff appealed to the Vermont Supreme Court. In affirming, the Court stated

The trial court acted within its discretion in denying plaintiff's motion for relief from judgment. As the court explained, under Vermont law prosecutors have absolute immunity from state-law claims arising from acts within the general scope of their authority. *O'Connor v. Donovan*, 2012 VT 27, ¶¶ 20-22. The acts alleged by plaintiff in his motion were all related to defendants' decision to file and prosecute criminal charges and therefore were protected by absolute immunity. *Id.*; see *Levinsky v. Diamond*, 151 Vt. 178, 186-87 (1989) (holding that prosecutorial decisions to file criminal charges, seek fugitive warrant, subpoena records in connection with investigation, and allegedly direct other prosecutors to lie at bail hearing were "within [prosecutor's] general scope of authority" and "shielded absolutely from any civil liability").

Plaintiff argues that absolute immunity only applies to "advocatory functions" and that the acts he alleged were investigative, citing *Imbler v. Pachtman*, 424 U.S. 409, 430 (1976), and *Buckley v. Fitzsimmons*, 509 U.S. 259, 269 (1993). As this Court explained in *Levinsky v. Diamond*, Vermont has not adopted the federal "functional analysis approach" for state-law claims against government officials. 151 Vt. at 186-87; see also *O'Connor*, 2012 VT 27, ¶ 21 n.4 (reaffirming *Levinsky* and overruling prior decisions to extent they limited state's attorney's absolute immunity in state tort actions to acts closely associated with litigation process). Even if we took this approach, however, we would conclude that the acts alleged by plaintiff were intimately associated with the core prosecutorial function, entitling defendants to immunity. See *Peay v. Ajello*, 470 F.3d 65, 67-68 (2d Cir. 2006) (holding, under federal approach, that absolute immunity barred claims that prosecutor conspired to fabricate evidence, withhold exculpatory evidence, and intimidate defendant into accepting plea).

Because defendants are absolutely immune from liability for the acts alleged by plaintiff, we need not address plaintiff's arguments that the "newly discovered" facts in his motion, combined with his original

complaint, are sufficient to state claims for malicious prosecution and abuse of legal process.

Rivard v. Windham State Att'y, 2026 WL 2031932, at *2 (Vt. July 10, 2026) (unpub. mem.).

On July 25, 2025, Plaintiff filed a complaint in the matter of *Rivard v. State of Vermont, Dana Nevins and Robert Plunkett*, No. 25-CV-02939, alleging malicious prosecution and abuse of process. This court dismissed the matter. The court noted that

the allegations relate to various criminal proceedings that are or were pending in the Windham and Bennington Units of the Criminal Division of the Vermont Superior Court. Plaintiff named Deputy State's Attorneys Dana Nevins and Robert Plunkett and the State of Vermont as Defendants.

Decision and Order at 1, dated September 9, 2025. In dismissing the matter, this court noted that

Plaintiff's nonconclusory claims against DSAs Nevins and Plunkett all relate directly to the initiation and pursuit of prosecutions of Plaintiff by the State of Vermont. The claims involve prosecutorial actions such as the filing of criminal charges, participation in discovery and pretrial litigation, plea bargaining, evidence presented at trial and sentencing, dismissal of proceedings, and responding to post-judgment motions. These are *all* core prosecution functions for which DSAs Nevins and Plunkett are immune from suit. *Nero v. Mosby*, 890 F.3d 106, 118 (4th Cir. 2018). Claims against the State for this conduct are similarly barred. *Huminski v. Lavoie*, 173 Vt. 517, 520 (2001).

Id. at 9. Plaintiff filed a motion to amend the judgment that was denied. See Entry Regarding Motion, dated September 12, 2025.

d. 25-CV-03119, 26-CV-01741 and 26-CV-03860²²

Plaintiff is subject to probation violation complaints in the matter of *State v. Rivard*, No. 1370-11-19 Wmcr. As noted above, Plaintiff repeatedly sought to file *pro se* motions in that matter despite being represented by counsel. Since July 25, 2025, Plaintiff has filed three separate matters in the Windham Civil Division related to and challenging his probation supervision and the probation violation complaints.

In *Rivard v. Dept. of Corrections*, No. 25-CV-03119, 2025 WL 3700253 (Vt. Super. Ct., Windh. Civ. Div. Dec. 10, 2025), *app. dismissed*, 25-AP-430 (Vt. Feb. 20, 2026), this court dismissed the complaint for lack of subject matter jurisdiction.

²² 26-CV-03860 is a matter filed by Plaintiff since the court issued its order regarding judicial notice. Any objection to the court taking judicial notice of the fact of and contents of Plaintiff's filing in that matter must be filed within five days of this order.

[Plaintiff] has engaged in a relentless series of challenges to [*State v. Rivard*, No. 1370-11-19 Wmcr] - for example, there are 10 Vermont Supreme Court docket numbers related to the matter. These challenges have included repeatedly filing pro se motions despite clear direction from the court that such motions are not cognizable because he is represented by counsel. [Plaintiff] now seeks to circumvent the ordinary, proper and orderly proceedings in the Criminal Division by seeking to invoke this court's authority under Rule 75 and the Declaratory Judgment Act. As the Court has stated,

“In general, as between two tribunals with concurrent subject matter jurisdiction, the one which first acquires such jurisdiction should exercise it, and the second in point of time should defer to the first.” *City of South Burlington v. Vermont Elec. Power Co.*, 133 Vt. 438, 443 (1975). There is an exception to this rule, however, where the second tribunal may offer relief not available in the first. *In re Pfenning*, 136 Vt. 92, 94 (1978).

Sec'y, Agency of Nat. Res. v. Upper Valley Reg'l Landfill Corp., 167 Vt. 228, 239-40 (1997). This matter is akin to *Unnamed Prisoners of Temp. Waterbury Corr. Facility v. Maranville*, 154 Vt. 279, 279 (1990), where the petitioners sought writs of habeas corpus in the superior court seeking release from detention without bail. The Court held that in the absence of evidence suggesting that the existing bail statutes were unavailable for relief invocation of the ancient writ was premature. *Id.*, at 283. Here, [Plaintiff] has a forum for relief- litigation in the pending probation violation proceeding.

The record before this court is clear. There is simply no evidence that [Plaintiff]'s counsel in the probation violation proceeding cannot seek (1) a speedy revocation hearing, or (2) move for dismissal pursuant to *Benjamin* and *Barker*. Again, the appropriate forum to address such claims is the court in which the probation violation complaints are pending. This court should defer to that tribunal and, thus, lacks subject matter jurisdiction over the instant matter.

Rivard v. Dept. of Corrections, 2025 WL 3700253, at *7 (footnote omitted). Plaintiff's appeal of this court's order dismissing the matter was dismissed by the Vermont Supreme Court. A motion to reconsider was denied. The Court noted that “[t]o the extent that [Plaintiff] is dissatisfied with the outcome of the probation-revocation hearing in the trial court, which remains pending, *he can pursue any challenges to the court's final judgment order in a new appeal.*” *Rivard v. Dept. of Corrections*, No. 25-AP-430 (Vt. Mar. 6, 2026) (emphasis supplied).

Less than two weeks later Plaintiff filed a complaint in the matter of *Rivard v. State of Vermont*, No. 26-CV-01741. The second amended complaint in the matter names the

State of Vermont, the Vermont Department of Corrections (DOC), the Brattleboro Probation and Parole Office and six named DOC employees as defendants and alleges causes of action for “Vermont Constitutional Tort (Due Process),” “Negligent Administrative Supervision” and “Negligent Infliction of Emotional Distress.” See Second Amended Complaint at 5-6. Plaintiff’s claims relate to his sentencing to probation in the Windham Criminal Division in the matter of *State v. Rivard*, No. 1370-11-19 Wmcr, and his subsequent supervision by DOC including pending probation violation complaints. The matter remains pending.

On July 12, 2026, filed a declaratory judgment action related to his probation supervision. *Rivard v. State of Vermont, et al.*, No. 26-CV-03860. In that matter he names the State of Vermont, the Agency of Human Services, the Vermont Department of Corrections and Brattleboro Probation and Parole as defendants. Plaintiff “seeks judicial clarification of his legal status and a declaration that the State’s continued enforcement of probation conditions and continued maintenance of Violation-of-Probation ... 4 within 1370-11-19 WMCR ... are unconstitutional and unlawful.” Complaint at 1. The matter remains pending.

The complaints in all three matters are intertwined with the pending probation violation proceedings in the Criminal Division. Plaintiff’s claims include claims directly related to the terms, interpretation and enforceability of conditions of probation, whether probation continued beyond the original term, and the status of VOP # 4. The issues presented are properly addressed in the probation violation proceeding and in any appeal from any final judgment in that proceeding. 28 V.S.A. § 302(b).

e. *State v. Rivard*, No. 1370-11-19 Wmcr

In November 2019, [Petitioner] was charged with one misdemeanor count of domestic assault based on allegations that he threw items at his wife, grabbed her arm and neck, and kicked her, causing her pain. ... [A] jury found [Petitioner] guilty of domestic assault. The court subsequently imposed a suspended sentence of six-to-twelve months.

State v. Rivard, 2024 WL 2131487, at *1–2 (Vt. May 10, 2024) (unpub. mem.). Petitioner was sentenced on August 8, 2023. The probation term was for a period of two years.²³ *State v. Rivard*, 2025 WL 1355839, at *1 (Vt. May 9, 2025) (unpub. mem.). As previously noted, Petitioner has engaged in a relentless series of challenges to that criminal proceeding – for example, there are 10 Vermont Supreme Court docket numbers related to the matter. Plaintiff challenges to his conviction and sentence have, to date, been uniformly unsuccessful. In the trial court, these challenges have included repeatedly filing pro se motions despite clear direction from the court that such motions are not cognizable because he is represented by counsel.

f. *State v. Rivard*, No. 20-CR-00471

²³ The term has been extended by order of the Windham Criminal Division. October 2, 2025, Entry Order. Additionally, probation violation complaints were and are pending.

On or about March 1, 2024, Plaintiff entered a plea of guilty by waiver to a charge of Violation of Conditions of Release and was filed \$ 100.00. The other counts in the docket were dismissed. Plaintiff has subsequently filed numerous pro se motions in the matter. These motions include various motions to seal or expunge. In an order of June 4, 2025, the Criminal Division addressed what it identified as a fourth motion to seal and noted that an order regarding a prior motion was on appeal.²⁴ Citing *Fox v. Fox*, 2022 VT 27, the court noted that

Defendant's pattern of filing in these matters is vexatious and duplicative. Given the court's prior rulings on the motions to seal the court concludes that Defendant *cannot* have an objective good faith expectation of prevailing on the motions to seal. Defendant is self-represented. Defendant's relentless filings in these and other dockets has imposed a substantial and unnecessary burden on the courts.

The court has yet to impose any sanction on Defendant for his meritless and repetitive filings. Should this pattern of vexatious litigation continue the court may consider sanctions such as monetary penalties or a requirement that Defendant obtain pre-filing approval from the court. See *Zorn v. Smith*, 2011 VT 10, ¶¶ 40-41 (discussing alternative sanctions) (Dooley, J., dissenting).

Entry Regarding Motion at 2, dated June 4, 2025. In the past year Plaintiff has filed a Motion to Correct Clerical Error in Judgment that was denied on September 16, 2025, a Motion for Nunc Pro Tunc Correction of Statutory Citation that was denied on September 18, 2025, a Motion to Seal Criminal History Record – that the court treated as a motion to seal the dismissed counts – that was granted on April 12, 2026, a Motion to Vacate that was denied on April 19, 2026, and a Motion to Reconsider that was denied on July 26, 2026. Pending is a Motion to Strike, Purge, Or in the Alternative Redact Unlawful Out-of-State Juvenile, Sealed, and Non-Indicted Felony Surplusage from Case Repository (sic). Plaintiff has appealed from the July 26, 2026, denial of the Motion to Reconsider.

g. *State v. Rivard*, No. 21-CR-04088

On or about March 1, 2024, Plaintiff entered a plea of guilty by waiver to a charge of Leaving the Scene of an Accident and the matter was referred to a Reparative Board. 13 V.S.A. § 7030(a)(2). A Reparative Board sentencing order was included in the case. On May 14, 2024, Plaintiff filed a motion to seal that was denied on July 11, 2024. On October 18, 2024, Plaintiff filed a motion asserting that the State had “failed to place

²⁴ Regarding the appeal the Vermont Supreme Court noted that “[t]he day after defendant filed his notice of appeal, he again moved to seal to expunge his record in these cases. The criminal division denied the motions on June 4, 2025.” *State v. Rivard*, 2025 WL 2589511, at *1 n. 2 (Vt. Sept. 5, 2025) (unpub. mem.).

[the] matter ... into non-conviction disposition.” The Criminal Division issued an order denying Plaintiff relief.

On March 1, 2024, the court accepted Defendant's plea by waiver in this matter. Pursuant to the plea agreement Defendant entered a plea of guilty and there was a direct referral to a community reparative program pursuant to 13 V.S.A. § 7030(a)(2). On April 22, 2024, the court was informed that Defendant had successfully completed a reparative panel program in April 16, 2024.

Defendant now moves to dismiss this matter. The motion is DENIED. There is nothing to dismiss the matter is closed and completed as a result of Defendant's plea, the reparative board sentencing order and Defendant successful completion of the reparative panel.

See Entry Regarding Motion dated January 17, 2025. Plaintiff appealed from the denial of the motion. “On appeal, [Plaintiff] argue[d] that the criminal division should have dismissed his case upon his completion of a reparative program. We conclude that there were no grounds to dismiss the conviction to which [Plaintiff] pleaded guilty, and therefore affirm.” *State v. Rivard*, 2025 WL 1355890, at *1 (Vt. May 9, 2025) (unpub. mem.). The Court noted that Plaintiff’s “arguments contradict the plain meaning of both his plea agreement and the relevant statutes.” *Id.* at *2. On May 13, 2025, four days after the Vermont Supreme Court affirmed the denial of the motion to dismiss, Plaintiff filed a motion in the Criminal Division to withdraw his plea. The Criminal Division denied the motion on May 19, 2025. The court noted that

[Plaintiff] is a frequent and prolific litigator in the Windham Unit of the Vermont Superior Court and has regularly appealed from decisions of those courts. See *State v. Rivard*, 2025 WL 1355890 (Vt. May 9, 2025); *State v. Rivard*, No. 24-AP-319, 2025 WL 1355839, at *1 (Vt. May 9, 2025); *Rivard v. Town of Brattleboro*, 2025 WL 476300 (Vt. Feb. 7, 2025); *Rivard v. Smallheer*, 2024 WL 5215287 (Vt. Dec. 20, 2024); *Rivard v. Windham State Att’y*, 2024 WL 5215291 (Vt. Dec. 20, 2024); *State v. Rivard*, 2024 WL 4751846 (Vt. Nov. 8, 2024); *State v. Rivard*, 2024 WL 2131487 (Vt. May 10, 2024); *Rivard v. Smallheer*, 2024 WL 1481590 (Vt. Apr. 5, 2024); *Rivard v. Windham Cnty. State’s Att’y Off.*, 2024 WL 1012374 (Vt. Mar. 8, 2024); *Rivard v. Town of Brattleboro*, 2024 WL 1012383 (Vt. Mar. 8, 2024); *Rivard v. Town of Brattleboro*, 2024 WL 1012380 (Vt. Mar. 8, 2024), *cert. denied*, 1449. Ct. 2611 (2024); *Rivard v. Brattleboro Reformer*, 2023 WL 5994216 (Vt. Sept. 15, 2023), *cert. denied sub nom. Rivard v. Reformer*, 144 S.Ct. 590 (2024). “When a party appears pro se, the trial court should be cautious that the pro se litigant is not taken advantage of by strict application of rules of procedure. The court does not abuse its discretion where it enforces the rules of [] procedure equitably, even against a pro se litigant.” *In re Verizon Wireless Barton Permit*, 2010 VT 62, ¶ 22 (citations and quotations omitted). See also *Fox v. Fox*, 2022 VT 27, ¶ 39. [Plaintiff] is

reminded that he is subject to the same pleading requirements applicable to lawyers and that any filing must be “well grounded in fact and [] warranted by existing law or good faith argument for extension, modification or reversal of existing law, and that [] not interposed for any improper purpose, such as to harass or to cause unnecessary delay.” V.R.Cr.P. 49(d).

Decision and Order at 1 n. 1. On May 22, 2025, Plaintiff appealed to the Vermont Supreme Court from the denial of the motion. Six days later – on May 28, 2025, Plaintiff filed a motion to seal this and other matters in the Criminal Division. The motion to seal was denied on June 4, 2025, and the court noted that Plaintiff’s “pattern of filing ... is vexatious and duplicative.” Entry Regarding Motion, at 3; Section IV.f, *supra*. On September 5, 2025, the Court affirmed the denial of Plaintiff’s motion to withdraw his plea. *State v. Rivard*, 2025 WL 2589514, at *1 (Vt. Sept. 5, 2025) (unpub. mem.). On June 7, 2026, Plaintiff filed a Motion to Strike, Suppress, Or in the Alternative Redact Unlawful, Sealed, Expired and Prejudicial Criminal History Material from the Case File (sic). The motion is pending.

h. *State v. Rivard*, No. 21-CR-04101

On or about March 1, 2024, Plaintiff entered a plea of guilty by waiver to a charge of Violation of Conditions of Release and was filed \$ 100.00. The other count in the docket was dismissed. Plaintiff filed various motions to seal or expunge. In an order of June 4, 2025, the Criminal Division addressed what it identified as a fourth motion to seal and noted that an order regarding a prior motion was on appeal. Citing *Fox v. Fox*, 2022 VT 27, the court noted that

[Plaintiff]’s pattern of filing in these matters is vexatious and duplicative. Given the court’s prior rulings on the motions to seal the court concludes that [Plaintiff] *cannot* have an objective good faith expectation of prevailing on the motions to seal. [Plaintiff] is self-represented. [Plaintiff]’s relentless filings in these and other dockets has imposed a substantial and unnecessary burden on the courts.

The court has yet to impose any sanction on [Plaintiff] for his meritless and repetitive filings. Should this pattern of vexatious litigation continue the court may consider sanctions such as monetary penalties or a requirement that [Plaintiff] obtain pre-filing approval from the court. See *Zorn v. Smith*, 2011 VT 10, ¶¶ 40-41 (discussing alternative sanctions) (Dooley, J., dissenting).

Entry Regarding Motion at 2, dated June 4, 2025. In the past year Plaintiff has filed a Petition to Expunge Criminal History Record that was granted as to the dismissed count on November 11, 2025, a Motion to Correct Clerical Error in Judgement that was denied on September 16, 2025, a Motion for Nunc Pro Tunc Correction of Statutory citation that was denied on September 18, 2025, a Motion to Vacate that was denied on April 19, 2026, a Motion to Reconsider that was denied on July 26, 2026. Pending is a Motion to

Strike, Purge, Or in the Alternative Redact Unlawful Out-of-State Sealed, Expired and Surplusage Criminal History Material from the Case Repository (sic). Plaintiff has appealed from the July 26, 2026, denial of the Motion to Reconsider.

V. Plaintiff's pattern of non-compliance with court orders

The record in *State v. Rivard*, No. 1370-11-19 Wmcr, is instructive regarding Plaintiff's unwillingness to comply with orders of the court or accept the consequences of adverse rulings. On June 25, 2025, the court issued two orders. In one the court declined to accept a waiver of counsel.²⁵ In the other order the court noted, inter alia, that it would not accept *pro se* filings since Plaintiff was not self-represented. See *State v. Rivard*, No. 1370-11-19 Wmcr, Entry Regarding Motion to Modify Probation at 1 (Vt. Super. Ct., Windh. Crim. Div. June 25, 2025). The Criminal Division reaffirmed these decisions in an order issued on July 7, 2025, denying multiple additional *pro se* motions filed by Plaintiff. On July 11, 2025, Plaintiff *again* filed a *pro se* motion accompanied by a waiver of counsel. Plaintiff filed another *pro se* motion on July 31, 2025, and this court again denied the motion within a matter of days. On December 19, 2025, Plaintiff filed yet another *pro se* motion. In an order issued that same day, the Criminal Division noted

[Plaintiff] is represented by counsel. This court has *repeatedly admonished* [Plaintiff] for filing pro se pleadings in matters where he is represented by counsel. The court will not act on [Plaintiff]'s pleadings unless they are filed and signed by counsel. V.R.Cr.P. 49(d). See also Entry Regarding Motion dated July 9, 2025, July 15, 2025, and August 4, 2025.

Additionally, any objection to facts contained in a PSI must be submitted in writing to the court at least seven days prior to sentencing. V.R.Cr.P. 32(c)(4)(A). The PSI in this matter was filed with the court on November 30, 2022. [Plaintiff] was sentenced in this matter on August 8, 2023. [Plaintiff]'s motion is untimely.

[Plaintiff] has previously moved to seal or redact the PSI in this matter. The motion was denied. Entry Regarding Motion 43, 45 & 46 of June 8, 2024. [Plaintiff] has previously moved to correct the PSI. The motion was denied. Entry Regarding Motion 47 of June 8, 2024.

²⁵ The Criminal Division's order states

[Plaintiff's] filings demonstrate to this court that he cannot properly represent himself in this probation violation proceeding. [Plaintiff] lacks the ability to meaningfully appreciate the nature and scope of the specific criminal proceedings he is the subject of. [Plaintiff] is and has been involved in multiple matters in the Windham Criminal Division. His pleadings veer across many of these matters - open and closed. Additionally, [Plaintiff's] pleading style and practices - for which he has been repeatedly warned by the court - are disrespectful, vexatious and wasteful of limited judicial resources.

Entry Regarding Motion at 1-2, dated July 25, 2025.

Finally, the PSI is confidential. It is not a document to which the public has access. 28 V.S.A. § 204; V.R.P.A.C.R. 6(b)(1). To the extent there is any error, such error does not affect [Plaintiff]'s substantial rights and, thus, must be disregarded. V.R.Cr.P. 52(a).

See Entry Regarding Motion 70 (emphasis supplied) in *State v. Rivard*, No. 1370-11-19 Wmcr.

VI. Plaintiff's incomprehensible pleadings

Plaintiff's pleadings are frequently opaque to the point of incomprehensibility. In a motion to reargue filed in *State v. Rivard*, No. 24-AP-319, Plaintiff stated that

This Court failed to abide by responsibility in its oversight of lower Courts and the entry should serve to undermine trust and confidence in the Court except for the system wide surreptitious conduct and malarky shoveled under process at every step of the way and ignored. Even taken it's obvious application of the medication management and order into outpatient mental health treatment was an error and inapplicable in context where no jury instruction for mental health is given and no mental health information is presented for the Court in this matter or otherwise proffered amongst the Attorneys, even taken probatively the Voluntary Pre Trial Referral to Brattleboro Community Justice suggests resolution of the medical issue after long delay for disposition.

State v. Rivard, No. 24-AP-319, Motion to Reargue at 11-12 (filed May 9, 2025). On July 31, 2025, Plaintiff filed a motion seeking permission to file in the matter of *State v. Rivard*, No. 1370-11-19 Wmcr, asserting that he was subject "to a filing restriction under Vermont Supreme Court Administrative Order 49" – A.O. 49 expired on September 30, 2022, and is unrelated to "filing restrictions." Additionally, this court is aware of no such order from Vermont Supreme Court imposing filing restrictions on Plaintiff.²⁶ Plaintiff's motion asserted

New Evidence for use of forged material, pro se representation within one of those cases, jurisdiction bad act taken from expungement of matter to police abuse of discretion and marital privilege inviolate by Windham Vermont Court, evidence of actual innocence, delay of sentence causes prejudice, evidence of misuse of bad act from Dismissal with prejudice, typo suggesting tacit prejudice by Vermont Probation who did omit income and proof of education which are positive attributes which were not considered, use of juvenile material which was "sealed" and unconditionally discharged by Maine in 2025 and never transmitted as such for Dept of Corrections applicable usage, ineffective counsel-unprepared, failure to object or follow directive otherwise communicate

²⁶ As noted in Section X, *infra*, Plaintiff is subject to a prefilng injunction in the United States District Court for the District of Vermont.

with client observed upon withdrawal of Attorney Montgomery by Judge Treadwell. Judge Treadwell erred in applying pro se filing prohibited in a collateral attack of a disposed matter which is separate from much delayed violations of probation.

Plaintiff's Application for Permission to File at 2, dated July 31, 2025.

As Plaintiff has repeatedly been informed, motions must be accompanied by "a concise statement of the facts and law relied on." V.R.C.P. 7(b)(1); V.R.Cr.P. 47(a). Plaintiff's pleadings in this matter include a filing containing a 256-word sentence that is characteristic of Plaintiff's pleading style which is anything but concise.

The altered trespass form triggered a series of downstream events, including subsequent police interactions, about 24 hour detention which a Vermont Department of Corrections Intake Officer inquired, "what did you do", and mentioning the trespass was labeled a "felony" hold where I suffered very high blood pressure the whole time, missed a dose of antibiotics for an infection with my ear, and missed a dose of medication, where Officer Walter Holmes demanded a search of the inside of my mouth, where he then humiliated me by serving a grievance specifically at the point I was defecating and then gathered his supervisor over who made a disgusted face and where I was forced to sign Conditions of Release for a matter I knew wasn't a crime, where I was already aware of the Officer's and the Town's misconduct, and as usual suffered the usual chagrin of watching a case without Information to prove an event rubber stamped with probable cause which does cause stress too because Courts make errors all the time, several criminal charges dismissed with prejudice over a year later preventing me from collecting my student, the withholding of dispatch and other implicating records and having to waste time with that, the shameful denial of appeal hearings overlooking facts that could not be developed with such evidence, the misapplication of criminal procedure rules and the libelous harm that causes, and additional conduct by Officers Cooke and Evans, the latter there who also participated in a post-hoc alteration of the no trespass after warning affidavit himself.

Plaintiff's Reply to Defendant's Opposition to Motion to Amend at 3. "Judges are not like pigs, hunting for truffles buried in briefs." *United States v. Dunkel*, 927 F.2d 955, 956 (7th Cir. 1991). Plaintiff's incomprehensible pleadings are burdensome on the judiciary.

VII. Plaintiff's disrespect for the courts

Plaintiff's disrespect for the court is palpable and readily apparent in his filings. In a document filed on June 28, 2025, in *State v. Rivard*, No. 1370-11-19 Wmcr, and other matters, Plaintiff noted that he was filing the document "in response to Judge John Treadwell of Vermont entries on June 15, 2025, which are nothing more than his legal

narrative jargoned filth and pure slander.” Affidavit of Jeffrey Rivard filed June 28, 2025, at 1. Plaintiff further noted that

I would never have had to point out these improprieties had I actually been heard and effectively represented by counsel or if the seemingly nitwitted ... Judges of the Brattleboro Criminal Division had called out the Attorneys for the misconduct. I have harbored no dignity in this process, Judge John Treadwell may not be held to account by his peers for both his slanderous dicta or his advocacy of the State Attorney in his entries or his participation in inducing plea agreements but he is in fact no Philadelphian type legal scholar then, as described above, and this affiant has openly decried this Court as pathetic, corrupt, and willfully ignorant and question whether the incompetence was willful or ignorant at times so it may very well have been both having both blind eyes and deaf ears.

Id at 3. Plaintiff’s disrespect for the court appears in many of his pleadings and in multiple courts.

The lower court didn’t even bother to consider attempts to develop a falsified basis for the issuance of the trespass by narrative police report of Town of Brattleboro Officer Adam Petlock engaging in a similar pattern of holding their hands over their and closing their eyes and mumbling LALALALA, regarding facts which aren’t favorable for the municipality.

Rivard v. Town of Brattleboro, No. 25-AP-282, Appellant’s Motion to Recall the Mandate and Reopen the Appeal at 5 (filed May 29, 2026).²⁷ See also Addendum to Attach to Objection filed June 4, 2026, at 4 (characterizing the conduct of the court as “unscrupulous nonfeasance”). A recent filing by Plaintiff in this matter is best characterized as a puerile and vitriolic screed. See Plaintiff’s Response to the June 10, 2026, Order to Show Cause.

Plaintiff’s disrespect for the judiciary is not limited to the trial courts. In a motion to disqualify filed in the Vermont Supreme Court, Plaintiff stated “I can’t distinctly tell if that is plain ignorance by five State Supreme Court Justices or a condescending written entry.” *State v. Rivard*, No. 25-AP-185, Motion to Disqualify Justice, at 5 (filed June 7, 2025).

In sum, Plaintiff’s disrespect for the courts is further relevant evidence of his unwillingness and inability to abide by court rules and orders.

VIII. Plaintiff’s citation to non-existent authority

The Vermont Supreme Court and the trial courts have repeatedly admonished litigants for citing non-existent authority. The Court has noted that “[a] party’s citation to fake

²⁷ The motion was denied noting, “[n]o further motions to reconsider will be entertained.” *State v. Rivard*, No. 25-AP-185 (Vt. June 2, 2026).

authority to support an argument on appeal materially undermines the force of the argument, not to mention the credibility of the person submitting the brief.” *O'Donnell v. Clough*, 2026 WL 2049716, at *3 (Vt. July 10, 2026) (unpub. mem.). The Superior Courts have noted that such conduct violates Rule 11. The Lamoille Unit stated:

As one court has recently explained with respect to the analogous federal rule 11:

A fake opinion is not ‘existing law’ and citation to a fake opinion does not provide a non-frivolous ground for extending, modifying, or reversing existing law, or for establishing new law. Accordingly, the Second Circuit, as well as district courts across the country, have found the submission of nonexistent case citations in filings to the court to constitute sanctionable conduct under Rule 11(b)(2).

Ramirez v. Humala, No. 24-CV-242, 2025 WL 1384161, at *1 (E.D.N.Y. May 13, 2025) (quoting *Park v. Kim*, 91 F.4th 610, 613-16 (2d Cir. 2024) (other quotations omitted)); *see also Park*, 91 F.4th at 615 (“At the very least, the duties imposed by Rule 11 require that attorneys read, and thereby confirm the existence and validity of, the legal authorities on which they rely. Indeed, we can think of no other way to ensure that the arguments made based on those authorities are “warranted by existing law,” or otherwise “legally tenable.” (quoting F.R.C.P. 11(b)(2); *Cooter & Gell v. Hartmarx Corp.*, 496 U.S. 384, 393 (1990)).

Lafayette v. Abrami, No. 25-CV-00624, 2025 WL 3735172, at *3 (Vt. Super. Ct., Lam. Civ. Div. Dec. 18, 2025) (Battles, Supr. J.). More recently, the Chittenden Unit has stated

“A fake opinion [or quotation] is not ‘existing law’ and citation to a fake opinion [or quotation] does not provide a non-frivolous ground for extending, modifying, or reversing existing law, or for establishing new law.” *Mata v. Avianca, Inc.*, 678 F. Supp. 3d 443, 461 (S.D.N.Y. 2023). Moreover, “[a]n attempt to persuade a court or oppose an adversary by relying on fake opinions [or quotations] is an abuse of the adversary system.” *Id.* A “citation to fake, AI-generated sources ... shatters [] credibility with [the] Court” and “imposes many harms, including wasting the opposing party's time and money, the Court's time and resources, and reputational harms to the legal system (to name a few).” *Kohls v. Ellison*, No. 24-CV-3754 (LMP/DLM), 2025 WL 66514, at *4-5 (D. Minn. Jan. 10, 2025) (quotation omitted). As such, courts “do not, and should not, make allowances for a party who cites to fake, nonexistent, misleading authorities,” and the consequences for doing so may be “steep.” *Id.* at *5 (quotation omitted).

McClary v. University of Vermont Medical Center, No. 25-CV-2547, 2026 WL 1641239, at *5 (Vt. Super. Ct., Chitt. Civ. Div. May 12, 2026) (Shafritz, Supr. J.).

Plaintiff has himself been admonished by the Court for citing non-existent authority.

In his brief, plaintiff cited several purported decisions of this Court, including “*Slayton v. Willing*, 2010 VT 56, ¶ 14, 188 Vt. 216, 4 A.3d 1155,” “*Sorrell v. Wigginton*, 154 Vt. 301, 303 (1990),” “*Morrison v. City of Montpelier*, 2011 VT 9, ¶ 10,” “*Thrall v. Rowan*, 161 Vt. 451, 456 (1994),” and “*EcoScience Corp. v. United States*, 156 Vt. 185, 193 (1991),” among others. The Vermont Reports citations provided by plaintiff correspond to entirely different opinions than those named. We were unable to identify any existing case that corresponds to the citations provided in plaintiff’s brief.

We remind plaintiff that by presenting a document to this Court, he is certifying that:

to the best of [his] knowledge, information, and belief,
formed after an inquiry reasonable under the circumstances:
... (2) the claims, defenses, and other legal contentions
therein are warranted by existing law or by a nonfrivolous
argument for the extension, modification, or reversal of
existing law or the establishment of new law.

V.R.C.P. 11(b)(2); see V.R.A.P. 25(d)(2) (“By presenting a document to the Court—whether by signing, filing, submitting, or later advocating it—an attorney or self-represented party is making the certification provided by V.R.C.P. 11(b) as to that paper.”). Self-represented litigants “receive some leeway from the courts” but are nonetheless bound by the ordinary rules of procedure, “includ[ing] the obligations of Rule 11 and sanctions for noncompliance.” *Zorn v. Smith*, 2011 VT 10, ¶ 22, 189 Vt. 219. Plaintiff is warned that future conduct of this nature may result in sanctions. See V.R.A.P. 25(d)(3) (“If after notice and a reasonable opportunity to respond, the Court determines that V.R.C.P. 11(b) has been violated, the Court may, subject to V.R.C.P. 11(c), impose an appropriate sanction on those violating the rule or responsible for the violation.”).

Rivard v. Windham State Att’y, 2025 WL 3498177, at *1–2 (Vt. Dec. 5, 2025). This court has previously admonished Plaintiff for citing non-existent precedent in another matter. *Rivard v. Dept. of Corrections*, No. 25-CV-03119, 2025 WL 3700253, at *4–*5 (Vt. Super. Ct., Windh. Civ. Div. Dec. 10, 2025). These admonishments did not dissuade Plaintiff from citing on-existent precedent in *this* proceeding. See June 10, 2026, Order to Show Cause.

Plaintiff’s misrepresentation of the record extends to asserting that documents and records contain quotations that simply are not there. For example, Plaintiff’s Statement of Undisputed Material Facts in support of his Motion for Summary Judgment in the matter of *Rivard v. State of Vermont, et al.*, No. 26-CV-01741, makes various representations regarding the contents of materials submitted as support for his motion

as required by V.R.C.P. 56(c)(1). A number of these “quotations” are entirely spurious. For example, Plaintiff purports to quote from a VOP complaint identified as Plaintiff’s Exhibit B. The quoted language does not appear in the document. Similarly, Plaintiff asserts that another exhibit – Exhibit F – states that “there is no warrant currently active.” The relevant provision on the referenced document actually states, “I do not see an arrest warrant ... in Dkt # 1370-11-19 Wmcr.”

Plaintiff’s practice of citing to non-existent authority and misrepresenting the contents of court records is a waste of limited judicial resources, a waste of the resources of opposing parties and further evidence of his disrespect for the courts of this State.

IX. The resources of the courts are finite

The right of access to courts is a fundamental constitutional right. *Knapp v. Dasler*, 2024 VT 65, ¶ 35, *cert. denied*, 145 S.Ct. 2738 (2025). However, “this right is not unlimited ... and litigants are not ‘free to abuse the courts by inundating them with frivolous suits which burden the administration of the courts for no useful purpose.’” *Zorn*, 2011 VT 10, ¶ 16 (quoting *In re Lawsuits of Carter*, 510 S.E.2d 91, 93 (Ga. Ct. App. 1998)). “Every lawsuit filed, no matter how frivolous or repetitious, requires the investment of court time, whether the complaint is reviewed initially by a law clerk, a staff attorney, a magistrate, or the judge.” *Procup*, 792 F.2d at 1072.

In responding to a litigant’s voluminous and incomprehensible filings the Florida Supreme Court noted

This Court has a responsibility to ensure every citizen's right of access to the courts. To further that end, on occasion, this Court has had to limit the filings of individuals who have “deluged [the] Clerk's office with incomprehensible correspondence,” and filed multiple frivolous petitions. *Attwood v. Singletary*, 661 So.2d 1216, 1217 (Fla.1995). In limiting Attwood's filings, the Court noted that such action did not violate the constitutional right of access to the courts:

This order should not be construed as a diminution of our support for the principle of free access to the courts. To the contrary, this order furthers the right of access because it permits us to devote our finite resources to the consideration of legitimate claims of persons who have not abused the process.

Id. Like the individual in *Attwood*, Peterson has abused the processes of this Court with his constant meritless filings. A limitation on Peterson’s ability to file would further the constitutional right to access for other litigants because it would permit this Court to devote its finite resources to the consideration of legitimate claims filed by others. *See generally In re McDonald*, 489 U.S. 180, 184 (1989) (finding that “[e]very paper filed with the Clerk of this Court, no matter how repetitious or frivolous, requires some portion of the institution’s limited resources”).

Peterson v. State, 817 So. 2d 838, 840 (Fla. 2002). The Florida Court’s analysis applies to repetitive, meritless voluminous and incomprehensible filings across matters or *within* a particular proceeding. A court must manage its finite resources to ensure that all litigants have meaningful access. This may, indeed in certain cases it must, require the court to limit filings by litigants who abuse the right of access to courts. As the United States District Court for District of Vermont has noted, trial courts “have the power and the obligation to protect the public and the efficient administration of justice from individuals who have a history of litigation entailing vexation, harassment, and needless expense to other parties and an unnecessary burden on the courts and their supporting personnel.” *Rivard v. Town of Brattleboro*, No. 2:24-CV-875, 2025 WL 3215625, at *1 (D. Vt. Nov. 14, 2025) (quoting *Lau v. Meddaugh*, 229 F.3d 121, 123 (2d Cir. 2000)).

X. The federal court has imposed a pre-filing injunction

The United States District Court for the District of Vermont has issued a pre-filing injunction against Plaintiff. In *Rivard v. Town of Brattleboro*, No. 2:24-CV-875, Plaintiff filed “proposed Complaints in four separate cases based on his interactions with law enforcement in the Brattleboro, Vermont area.” *Id.*, 2025 WL 3215625, at *1 (D. Vt. Nov. 14, 2025). The District Court noted that

Plaintiff has filed several unsuccessful actions over the years, including five other cases in this court which were dismissed prior to service on the defendants for lack of subject matter jurisdiction or failure to state a claim. He has also filed multiple lawsuits in the Vermont Superior Court, where he was warned in relevant part:

This court cannot allow Mr. Rivard's attempts to relitigate the same dispute over and over....The court further provides notice to Mr. Rivard that any future attempts to relitigate claims based on the same incidents previously asserted in prior lawsuits may again result in dismissal due to claim preclusion, and reminds him of his obligations under Vermont Rule of Civil Procedure 11, and of the potential for sanctions for filing frivolous claims.

Rivard v. State of Vermont, 2024 WL 3274551, at *5 (Vt. Super. Ct. June 24, 2024); *see also Rivard v. Town of Brattleboro*, Case No. 23-cv-04956, slip op. at 2 (Vt. Super. Ct. July 2, 2024) (barring Plaintiff from reasserting claims because “Plaintiff filed a nearly identical complaint against, among others, the Town of Brattleboro in 22-[cv]-3222. That complaint addressed the exact same circumstances surrounding the exact same accident as that at issue here”).

This court previously warned Plaintiff on October 31, 2023, that “future multiplicitous filings in this District may result in a filing injunction, especially if Plaintiff has previously asserted the same claims in a previous

suit that has been dismissed.” *Rivard v. United States*, Case No. 2:23-cv-428 (Doc. 3 at 8) (D. Vt. Oct. 31, 2023) (emphasis omitted). The Vermont Supreme Court as recently as September 2025 concluded that similar claims to Plaintiff’s claims here were barred by claim preclusion and properly dismissed. *See Rivard v. Windham State Att’y*, 2025 WL 2589466, at *2 (Vt. Sept. 5, 2025). It stated in relevant part:

[Plaintiff]’s claim of defamation arose from the same transaction as his prior assertion of malicious prosecution because the facts were related in time, space, origin, and motivation. Both were related to [Plaintiff]’s conviction of domestic assault in August 2023 and the behavior of the Windham County State’s Attorney Office—Deputy State’s Attorney Nevins in particular—during that prosecution. In both, [Plaintiff] claims that false statements made about the case caused him harm. It would contravene the purposes of claim preclusion, including avoiding piecemeal litigation, conserving court resources, and promoting finality, to allow [Plaintiff] to pursue this suit. Because the action was barred by claim preclusion, dismissal was appropriate.

Id. (footnote omitted).

Rivard, 2025 WL 3215625, at *2–3. The court saw “no alternative but to bar Plaintiff from filing any new actions without first obtaining leave from the court.” *Id.*, at *3. Thus, the District Court ordered that

if Plaintiff wishes to commence an action in this court in the future, he must file with his proposed complaint a motion for leave to file. The motion will be reviewed by the court, and if it appears that the proposed action is repetitive, meritless, frivolous, malicious, intended to harass, or otherwise barred, leave to file will be denied.

For the reasons set forth above, Plaintiff is hereby ENJOINED from filing any new actions in this court without obtaining prior leave from the court.

Rivard, 2025 WL 3215625, at *3. Plaintiff subsequently sought to vacate or modify the pre-filing injunction. The motion was denied. *Rivard v. Town of Brattleboro, et al.*, No. 2:24-CV-875, 2026 WL 2070307, at *1 (D. Vt. July 17, 2026).

XI. Sanctions are appropriate and necessary in this matter.

Plaintiff is a prodigiously frequent litigator in the Windham Unit. Plaintiff regularly appeals trial court decisions. When subject to adverse rulings Plaintiff often simply files a new complaint regarding the same matters. See Section IV, *supra*. Plaintiff has been repeatedly warned about the possible consequences of continuing his litigation patterns and practices. These warnings have not been sufficient to dissuade Plaintiff from the conduct in question.

The court has detailed Plaintiff's filings in this matter, in other matters addressing the same underlying incidents and in other matters more generally. Plaintiff has been advised of the doctrine of res judicata. Plaintiff's prior matters include matters that have been dismissed on res judicata grounds. The court finds that the filing of this complaint was in willful disregard of the applicable bar to the claims. The only possible purpose of the filing is to harass the Town and the other defendants in this proceeding.

Additionally, the court finds that Plaintiff cannot have had a good faith basis for believing that his claims were warranted by existing or law or have factual support in light of the dismissal of the prior action involving the same underlying incident. In sum, the court finds that Plaintiff has violated V.R.C.P. 11(b) both through filing the complaint and in his manner of litigating this matter. *All* of Plaintiff's pleadings in this matter necessarily are in violation of the Rule because Plaintiff cannot have had any reasonable good faith belief in the potential merits of the matter given the res judicata bar arising from the dismissal of the earlier matter.

Plaintiff's litigation in this matter is consistent with his patterns of litigation in other matters. When Plaintiff is dissatisfied with the outcome he refiles. When Plaintiff disagrees with an applicable doctrine – such as res judicata or absolute prosecutorial immunity – he just asserts that it doesn't apply and pursues litigation. Plaintiff's conduct is enormously burdensome to the courts and to the defendants in these proceedings. While Plaintiff does not have legal training he is a frequent and voluminous litigator. Indeed, Plaintiff is a vexatious litigator.

Having concluded that Plaintiff is a vexatious litigator, the court considers potential sanctions. The court is not convinced that a financial sanction alone will deter Plaintiff from engaging in the prohibited conduct in the future. The court considers the *Safir* factors to determine whether a prefiling injunction is appropriate. *Zorn*, 2011 VT 10, ¶ 18.

- a. Plaintiff's history of litigation and in particular whether it entailed vexatious, harassing or duplicative lawsuits

Plaintiff's litigation history is replete with vexatious, harassing and duplicative lawsuits and replete with vexatious, harassing and duplicative filings within matters as well.

- b. Plaintiff's motive in pursuing the litigation, e.g., does the litigant have an objective good faith expectation of prevailing?

Plaintiff cannot have an objective good faith expectation of prevailing in this proceeding. Additionally, Plaintiff has filed matters that are obviously barred or without merit and repetitively files motions even when such motions have been denied and it has been explained why the motions were denied. The absence of good faith is further demonstrated by Plaintiff's pattern of citation to non-existent authority and misrepresentations as to the record in proceedings.

- c. whether Plaintiff is represented by counsel

Plaintiff is not represented by counsel in this matter. Representation by counsel has not been sufficient to deter Plaintiff from filing meritless motions in pending matters.

- d. whether Plaintiff has caused needless expense to other parties or has posed an unnecessary burden on the courts and their personnel

The filing of barred and meritless claims imposes a needless expense on the defendants in those proceedings. The volume and frequency of Plaintiff's filings is burdensome to the court and requires a substantial commitment of the time of court personnel. Given the lack of merit of Plaintiff's claims in this matter, for example, the filings are an unnecessary burden on the court.

- e. whether other sanctions would be adequate to protect the courts and other parties

Plaintiff has been repeatedly advised of the possibility that sanctions may be imposed based on his litigation practices. His behaviors have not changed. Plaintiff has been warned about potential sanctions for citing to non-existent authority. His behaviors have not changed. Plaintiff is aware of the consequences for refiling claims that have been resolved on the merits. His behaviors have not changed. The court is not satisfied that any other potential sanction would deter Plaintiff from continuing with his litigation practices that violate Rule 11.

The court concludes that there are no alternatives to a prefiling injunction as a necessary sanction. Given the history before the court, the court finds that no other sanction would deter Plaintiff.

XII. Order

Defendant's Motion for Sanctions (# 7) is GRANTED.

Plaintiff is hereby ENJOINED from filing any new actions in the Civil Division of the Vermont Superior Court without obtaining prior leave from the court.²⁸ Before commencing any new action in the Civil Division Plaintiff must request leave from the Court to file the complaint. Plaintiff must take all of the following steps:

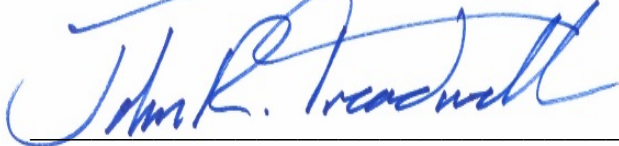
- (1) file with the proposed complaint a motion captioned, "Motion Pursuant to Court Order Seeking Leave to File;"

²⁸ The court excludes Petitions for Post-Conviction Relief pursuant to 13 V.S.A. § 7131 and Petitions for a Writ of Habeas Corpus pursuant to 12 V.S.A. § 3952 from this prefiling injunction.

- (2) attach to the filing either a declaration prepared pursuant to 4 V.S.A. § 27b or a sworn affidavit certifying that the complaint that he wishes to file is a new claim never before raised by him in any court;
- (3) provide in that filing a list of every matter he has previously brought in the Vermont Superior Court against any defendant to the proposed complaint that he wishes to bring;
- (4) attach to the filing a copy of each such complaint and any orders of the Vermont Superior Court disposing of the prior matter; and,
- (5) include in the filing a statement by Plaintiff that he is aware that he may be subject to sanctions, including monetary sanctions and the imposition of costs, if the Court concludes that the complaint request lacks merit.

If a court grants Plaintiff permission to file a complaint and allows the matter to proceed it may require Plaintiff to post a bond.

Electronically signed: 8/14/2026 12:16:58 PM pursuant to V.R.E.F. 9(d)



John R. Treadwell
Superior Court Judge