



Strojnuk v. Driftwood Hospitality Management LLC et al

2021 | Cited 0 times | D. Arizona | June 16, 2021

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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

Peter Strojnuk,

Plaintiff, v. Driftwood Hospitality Management LLC, et al.,

Defendants.

No. CV-20-01532-PHX-DJH ORDER

There are several Motions pending before the Court. Here, the Court will address pro se to Amend his Complaint (Doc. 65). Defendants have filed Responses in opposition to the

Motion for New Trial (Docs. 57; 58; 59), and Mr. Strojnuk has filed a Reply (Doc. 60). Mr. Strojnuk brings his Motion under Federal Rule of Civil Procedure 59(a) and (e), which deals with motions for a new trial or altering judgment. There has never been a trial in this case, so the Court will construe his Motion as one for reconsideration. See *Estelle v. Gamble*, 429 U.S. 97, 106 (1976) (noting that pro se With regards to s have filed a Response in opposition (Doc. 67), and Mr. Strojnuk filed a Reply (Doc. 69). I. Background

The Court set forth the factual and procedural background to this case in its prior Order. (Doc. 49 at 4 for lacking standing, and it declared him to be a vexatious litigant. The Order established

d that if (Id. at 20). Mr. Strojnuk argues that the prior Order

erred because it failed to remand the entire matter to state court pursuant to 28 U.S.C. § 1447(c). (Doc. 51). II. Legal Standard

showing of manifest error or a showing of new facts or legal authority that could not have

III. Analysis



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Mr. Strojnuk correctly notes 28

U.S.C. § 1447(c). He does not mention that the Ninth Circuit acknowledges an exception to this Bell v. Kellogg, 922 F.2d 1418, 1425

(9th Cir. 1991). This exception has been invoked in this District before in one of Mr. See Advocs. for Individuals With Disabilities LLC v. MidFirst Bank 279 F. Supp. 3d 891, 894 (D. Ariz. 2017).

The Court failed to explicitly find that remand would be futile. But a review of the record shows that there can be no serious doubt, and the Court so finds, that remand in this instance would be a futile and inefficient use of judicial resources. See Bell, 922 F.2d at 1424 We do not believe Congress intended to ignore the interest of efficient use of judicial resources.

defects in the filings Mr. Strojnuk has made in this case and myriad others, which are the Court is certain that remand would prove futile. (See Doc. 40 at 11, 17). Mr. Strojnuk would surely fail to meet the ng See Advocs. for Individuals With Disabilities

LLC, 279 F. Supp. 3d at 897 (quoting Fernandez v. Takata Seat Belts, Inc., 108 P.3d 917, 919 (Ariz. 2005)). Nothing on the record indicates that state court, or any court, would See Bell, 922 F.2d at 1425.

However, because the Court cannot declare all future lawsuits filed by Mr. Strojnuk in state court and removed to federal court as futile, it will amend its prior order such that, if Mr. Strojnuk fails to demonstrate standing or otherwise meet federal pleading requirements, the Court shall dismiss or remand the case. Ultimately, the Court reaffirms its decision to dismiss this case with prejudice. Motion to Amend his Complaint. (Doc. 65).

Accordingly, IT IS HEREBY ORDERED for a New Trial (Doc. 51) is granted in part and denied in part as set forth in this Order.

IT IS FURTHER ORDERED (Doc. 49), page 20, line 23, is amended to insert or remand the case.

IT IS FURTHER ORDERED tion to Amend his Complaint (Doc. 65) is denied.

Dated this 15th day of June, 2021.

Honorable Diane J. Humetewa United States District Judge

