

NOTE: This order is nonprecedential.

**United States Court of Appeals  
for the Federal Circuit**

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**GARLAND E. WILLIAMS,**  
*Plaintiff-Appellant*

v.

**UNITED STATES,**  
*Defendant-Appellee*

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2022-1095

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Appeal from the United States Court of Federal Claims  
in No. 1:21-cv-01632-EMR, Judge Eleni M. Roumel.

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Before MOORE, *Chief Judge*, DYK and STOLL, *Circuit  
Judges.*

PER CURIAM.

**ORDER**

In response to this court's November 18, 2021 show cause order, the United States urges dismissal of this appeal. Garland E. Williams opposes dismissal.

Mr. Williams' claims against the United States are still pending before the United States Court of Federal Claims. On October 7, 2021, the Court of Federal Claims denied Mr. Williams' motion for sanctions, rejecting, inter alia, Mr. Williams' arguments that government counsel was

ineligible to practice and had improperly entered an appearance. On October 13, 2021, the Court of Federal Claims docketed a submission construed as a notice of appeal from Mr. Williams and transmitted it to this court.

This court's jurisdiction is generally limited to appeals "from a final decision of the United States Court of Federal Claims." 28 U.S.C. § 1295(a)(3). A "final" decision "ends the litigation on the merits and leaves nothing for the court to do but execute the judgment." *Coopers & Lybrand v. Livesay*, 437 U.S. 463, 467 (1978) (quoting *Catlin v. United States*, 324 U.S. 229, 233 (1945)). Orders imposing or denying sanctions fail to end the litigation on the merits and are not final judgments. See *Princeton Digit. Image Corp. v. Off. Depot Inc.*, 913 F.3d 1342, 1350 (Fed. Cir. 2019). Because the trial court has not issued any decision currently subject to our jurisdiction, the court agrees with the government that this appeal must be dismissed.

Accordingly,

IT IS ORDERED THAT:

- (1) The appeal is dismissed.
- (2) Each party shall bear its own costs.

FOR THE COURT

January 25, 2022  
Date

/s/ Peter R. Marksteiner  
Peter R. Marksteiner  
Clerk of Court

## In the United States Court of Federal Claims

GARLAND E. WILLIAMS,

Plaintiff,

v.

THE UNITED STATES,

Defendant.

No. 21-cv-1632

Filed: October 7, 2021

### ORDER

On July 28, 2021, Plaintiff *pro se* filed a complaint asserting a host of claims. *See* Complaint (ECF No. 1). Though somewhat difficult to decipher, Plaintiff's complaint appears to contain tort, due process, equal protection, criminal, tax, and state law claims. *See id.* ¶¶ 20-22, 24, 29, 30. Defendant timely moved to dismiss Plaintiff's complaint for lack of subject matter jurisdiction and for failure to state a claim pursuant to Rules 12(b)(1) and 12(b)(6) of the Rules of the United States Court of Federal Claims (Rules or RCFC). *See* Defendant's Motion to Dismiss (ECF No. 11) (Def. Mot.).

The day after Defendant filed its motion to dismiss, Plaintiff filed the following motion: "Leave of Affidavit Motion for Opposing Counsel Sanction Request: Certificate of Service as Counsel to These Foregoing Legal Actions Duly Contest Under Penalty of Perjury First Class Mail/CM/ECF Email Transmission Service of All Legal Documents; Entered [sic] on this 30TH Day of September in Year 2021: [sic]." <sup>1</sup> Plaintiff's Motion for Sanctions Under Rule 11 (ECF

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<sup>1</sup> On the following page, Plaintiff uses a different title for the motion: "Leave of Affidavit Noticed Adjoined Corrected Motion for Opposing Counsel's Unauthorized Consent for Counsel Enrolling

No. 14) (Pl. Mot.) at 1.<sup>2</sup> Based on the competing titles and content of the motion, the Court construed Plaintiff's motion as one for sanctions pursuant to Rule 11. *See* Order Granting Leave to File (ECF No. 13). Plaintiff invokes Rule 83.1 as the basis of his sanctions motion. Specifically, Plaintiff contends that sanctions are appropriate because (1) Defendant's counsel is purportedly ineligible to practice in this Court, (2) Defendant's counsel is allegedly not admitted to this Court, (3) Defendant's counsel allegedly improperly entered a notice of appearance, and (4) Defendant's counsel of record purportedly does not have the right to conduct this suit because he is not the Attorney General of the United States. Pl. Mot. at 9, 12, 14. Since Plaintiff's motion cites a fulsome list of subsections of Rule 83.1, this Order addresses all subsections under that Rule given the Court's duty to liberally construe *pro se* filings. *See Erickson v. Pardus*, 551 U.S. 89, 94 (2007); *Haines v. Kerner*, 404 U.S. 519, 520-21 (1972).

1. Defendant's Counsel's Eligibility to Practice before this Court

Plaintiff states the "Presented Question" as:

Whether opposing counsel's written motion, or leave of affidavit for defendant's enrolling of representative counsel admission practice before this United States Court of Federal Claims, as entered; *Id.*, ECF., Doc., #10; at P. 1; without written procedural acquisitioned legal basis acquisitioning in compliance to RCFC 83.1 (a)(1)(A)(B)(C). (2)(A)(B); (b)(1)(2); (i)(I)(II)(III); (ii); (I)(II)(III)(IV)(V); (3); (c)(1), also without disclosed certified certificate of good standing, also a verified practicing member to the United States Court of Federal Claims' legal bar association license credentialing, and omitted consent of United States Attorney General authorization to conduct proceeding's litigation on behalf of the named defendant constitutes inconformity adherence of this United States Federal Claims Court's procedural rule; RCFC 7(b)(1)(A)(B)(C)(2) adjacent thereto Title 28; Ch., 31; U.S.C. § 518.

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Appearance; Adjacent Thereto Improper Admission's Motion Application Sanction Requests: [sic]." Pl. Mot. at 2.

<sup>2</sup> Plaintiff's motion is not consecutively paginated; therefore, the Court references the motion's CM/ECF-generated page numbers.

Pl. Mot. at 9 (emphasis in original). To the extent that Plaintiff's statement may be characterized as a challenge to the eligibility of Defendant's counsel to practice before this Court, Plaintiff's challenge lacks merit.

Pursuant to Rule 83.1(a), an attorney is eligible to practice before this Court if the attorney "is a member in good standing of the bar of the highest court of any U.S. state, territory, or possession or the District of Columbia; is a member in good standing of this court; or was a member in good standing of the bar of this court's predecessor, the United States Court of Claims." The Court has verified with the Clerk of Court that Defendant's counsel is a member of the Virginia State Bar and is admitted to practice before this Court. In his motion, Plaintiff has not pointed to any evidence or provided any plausible reason for challenging Defendant's counsel's eligibility to practice before this Court. Accordingly, sanctions are not warranted under Rule 83.1(a).

2. Defendant's Counsel's Admission to Practice in this Court

Plaintiff further alleges that he was prejudiced by Defendant's counsel's "erroneous admission enrolling violations." Pl. Mot. at 12. This Court construes Plaintiff's statement as an allegation that Defendant's counsel is not admitted to practice in this Court. Again, Plaintiff's argument lacks merit.

Rule 83.1(b) requires that any qualified person may be admitted to practice before this Court by (i) following one of the procedures outlined in Rule 83.1(b)(2), (ii) taking the oath proscribed in Rule 83.1(b)(3), and (iii) paying the fee set forth in Rule 83.1(b)(4). Plaintiff's motion does not provide any evidence even suggesting that Defendant's counsel fails to satisfy those requirements. Indeed, as noted, the Clerk of Court verified that Defendant's counsel is

admitted to practice before this Court. This is *prima facie* evidence that Defendant's counsel has satisfied the requirements of Rule 83.1(b). Thus, sanctions are not warranted under Rule 83.1(b).

3. Defendant's Counsel as Attorney of Record

Plaintiff additionally references issues with "the United States Attorney General's proceeding's entry of appearance and written leave of court's delegation or succeeding withdrawal substitution," Pl. Mot. at 12, and "enrolling without the United States Attorney General's delegation to conduct litigation hereunder current pending proceedings." *Id.* at 14. The Court construes this as an allegation that Defendant's counsel failed to comply with this Court's requirements for an attorney of record under Rule 83.1(c). This argument is similarly meritless.

Defendant complied with each provision of Rule 83.1(c). Only one attorney has appeared as an attorney of record. *See* Rule 83.1(c)(1). As noted, that attorney is admitted to practice in this Court. Defendant's attorney of record signed both documents filed on Defendant's behalf. *See* Notice of Appearance (ECF No. 10); Def. Mot. to Dismiss (ECF No. 11). Accordingly, there is no violation of Rule 83.1(c)(2). Defendant's counsel also complied with Rule 83.1(c)(3)(B), which requires attorneys of record for the United States to "promptly" file, after service of the complaint, a notice of appearance that contains the attorney's name, address, electronic mail address, and telephone number. Defendant's counsel's notice was timely and proper. Twenty days after this Court granted Plaintiff leave to file his complaint *in forma pauperis*, Defendant's counsel filed a notice of appearance, which preceded Defendant's timely response to Plaintiff's complaint. *See* Notice of Appearance; Def. Mot. That notice of appearance contained all the information required by Rule 83.1(c)(3)(B) and included the proper certificate of service pursuant to Rule 5.3(b). *See* Notice of Appearance.

While Plaintiff references “withdrawal substitution” in his motion, Defendant did not violate Rules 83.1(c)(4) or (5). *See* Pl. Mot. at 12. Defendant and its counsel have not filed any motions to substitute or withdraw counsel. Accordingly, Plaintiff’s allegations under Rule 83.1(c) entirely lack merit and do not warrant sanctions.

4. Defendant’s Counsel’s Ability to Conduct this Suit

Plaintiff further alleges that Defendant’s counsel has not complied with 28 U.S.C. § 518. Pl. Mot. at 12, 14. That statute provides that “[e]xcept when the Attorney General in a particular case directs otherwise, the Attorney General and the Solicitor General shall conduct and argue suits . . . in the United States Court of Federal Claims.” While Defendant’s attorney of record is not the United States Attorney General himself, he may still conduct this case on the Attorney General’s behalf. *See* 28 U.S.C. § 516 (“[T]he conduct of litigation in which the United States . . . is a party . . . is reserved to officers of the Department of Justice, under the direction of the Attorney General.”). Accordingly, Plaintiff’s allegations referencing 28 U.S.C. § 518 lack merit and do not warrant sanctions.

Issuing sanctions under Rule 11 is an extraordinary measure. Pursuant to Rule 11(c)(2), a movant seeking sanctions must describe “specific conduct” that violates the Rules. Even under an exceedingly liberal construction of Plaintiff’s motion, Plaintiff has failed to meet that burden. Plaintiff’s motion lacks any evidence or indication thereof to support his various allegations. Accordingly, Plaintiff’s Motion for Sanctions (ECF No. 14) is **DENIED WITH PREJUDICE**.

IT IS SO ORDERED.

s/ Eleni M. Roumel  
ELENI M. ROUMEL  
Judge

**US Court of Federal Claims**  
**United States Court of Federal Claims (COFC)**  
**CIVIL DOCKET FOR CASE #: 1:21-cv-01632-EMR**

WILLIAMS v. USA  
Assigned to: Judge Eleni M. Roumel  
Demand: \$469,000  
Cause: 28:1491 Tucker Act

Date Filed: 07/28/2021  
Jury Demand: None  
Nature of Suit: 528 Miscellaneous - Other  
Jurisdiction: U.S. Government Defendant

**Plaintiff****GARLAND E. WILLIAMS**

represented by **GARLAND E. WILLIAMS**  
6032 Silver Oak Dr.  
Slidell, LA 70461  
(985) 645-6231  
PRO SE

V.

**Defendant****USA**

<b>Date Filed</b>	<b>#</b>	<b>Docket Text</b>
07/29/2021	<u>5</u>	REISSUED AMENDED GENERAL ORDER No. 2 dated 3/3/2021 continuing the suspension of paper filing requirements in pro se cases: Consistent with this court's General Order issued on 3/18/2020, it is ordered that judges, special masters, the Clerk of Court, and counsel of record for the United States may file electronically in pro se cases using the court's Case Management/Electronic Case Filing (CM/ECF) system. Pro se litigants shall, absent extraordinary circumstances, submit all case filings via e-mail to ProSe_case_filings@cfc.uscourts.gov. Pro se litigants may, if feasible, receive notification by e-mail of all electronic filings by filing an E-Notification Consent Form, attached to the General Order. Signed by Chief Judge Elaine D. Kaplan. (sh) Service on parties made. (Entered: 07/29/2021)
07/29/2021	<u>4</u>	NOTICE of Non-ECF Case. (sh) (Entered: 07/29/2021)
07/29/2021	<u>3</u>	Notice of Random Assignment Pursuant to Rule 40.1(a) to Judge Eleni M. Roumel. (sh) (Entered: 07/29/2021)
07/28/2021	<del>2</del> <u>2</u>	MOTION for Leave to Proceed in forma pauperis, filed by GARLAND E. WILLIAMS. Service: 7/28/2021. Response due by 8/16/2021.(sh) (Entered: 07/29/2021)
07/28/2021	<u>1</u>	COMPLAINT against USA (VAR) (Copy Served Electronically on Department of Justice), filed by GARLAND E. WILLIAMS. Answer due by 9/30/2021. (Attachments: # <u>1</u> Civil Cover Sheet)(sh) (Entered: 07/29/2021)



IN THE UNITED STATES COURT OF FEDERAL CLAIMS

GARLAND E. WILLIAMS, )  
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Plaintiff, )  
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v. ) No. 21-1632 C  
) Judge Roumel  
THE UNITED STATES, )  
)  
)  
Defendant. )

**NOTICE OF APPEARANCE**

To the Clerk:

Please enter the appearance of Sean K. Griffin, as attorney of record  
for the United States. Service of all papers by opposing parties should be addressed as follows:

Sean K. Griffin  
Trial Attorney  
Commercial Litigation Branch  
Civil Division  
United States Department of Justice  
PO Box 480  
Ben Franklin Station  
Washington, D.C. 20044

/s/ Sean K. Griffin  
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Dated: August 31, 2021