

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

MAN AGAINST XTINCTION,  
*as Citizen Prosecutor*

Plaintiff,

V.

Neil Jacobs, et al.,

Defendants.

Civil Action No.: 1:25-cv-10377-WGY

**DEFENDANTS MASSACHUSETTS LOBSTERMEN’S ASSOCIATION, INC. AND ARTHUR  
SAWYER’S MEMORANDUM IN SUPPORT OF MOTION FOR PRE-FILING INJUNCTION  
AGAINST PLAINTIFF**

Defendants Massachusetts Lobstermen’s Association, Inc. (“MLA”) and Arthur Sawyer hereby move the Court to issue a pre-filing injunction against Plaintiff Man Against Xtinction (“M.A.X.”), consistent with the proposed Order and Injunction filed herewith. Said motion is based on the file, records, and proceedings herein, as well as the Points and Authorities, *infra*, and the oral argument of counsel.

## INTRODUCTION

Three things are certain in life: death, taxes, and M.A.X. bringing frivolous claims against the MLA and its President, Arthur Sawyer. On February 8, 2025, M.A.X. filed *Man Against Xtinction*, 1:25-cv-10377-WGY (D. Mass. 2025), his latest in a long-line of harassing, vexatious lawsuits. M.A.X. has filed over twenty lawsuits with the alleged

purpose of protecting the northern right whale, but with the actual goal of harassing persons involved with ensuring responsible commercial fishing on the east coast, including Sawyer and the MLA.

Through this decades long campaign of terror, M.A.X. has verbally attacked judges, clerks, court staff, the Court as an institution, defendants, lawyers, and basic concepts of decency. This has resulted in the Court limiting M.A.X. from accessing the Court's ECF system without approval from the Court, and specific warnings that continued abuse will lead to a pre-filing injunction. These steps have failed. Respectfully, this Court should not permit M.A.X. to further abuse the judicial system under the guise of purported noble intentions. M.A.X.'s continued indecorous abuse does disservice to the courts, those M.A.X. has targeted, our system of justice, and the legitimate efforts of others to protect marine life and reasonably harmonize all actors in our precious ecosystem.

Therefore, pursuant to well-established case law in the District of Massachusetts and First Circuit, MLA moves this Court for a nationwide pre-filing injunction against M.A.X., or in the alternative, for a pre-filing injunction in the Federal District Courts within the First and D.C. Circuits.<sup>1</sup>

### **FACTUAL BACKGROUND**

To understand the imminent necessity of the present motion, this Court must understand M.A.X.'s litigious history, both in this Action and in dozens of related actions,

---

<sup>1</sup> Including, the Districts of Massachusetts, New Hampshire, Maine, Puerto Rico, Rhode Island, and D.C.

which have been filed using a variety of names including Richard Max Strahan and Man Against Xtinction, a/k/a/ “Max” or “M.A.X.” as pseudonyms.

### **A. M.A.X.’S TWENTY LAWSUITS**

M.A.X. is no stranger to the Federal court system. Since 1995, M.A.X. has filed at least twenty suits in the Federal courts that relate (often obliquely) to the northern right whale.<sup>2</sup> This is of course only counting the allegedly whale-related actions; M.A.X. has filed numerous other cases in the Federal courts against various defendants on a range of theories.<sup>3</sup>

### **B. M.A.X.’S LAWSUITS AGAINST SAWYER AND THE MLA**

---

<sup>2</sup> See *Strahan v. Cox, et al.*, 127 F.3d 155 (1st Cir. 1997); *Strahan v. Linnon*, 967 F.Supp. 581 (D. Mass. 1997); *Northern Right Whale, et al. v. Governor, ME., et al.*, No. 1:00-CV-00087 (D. Me. 2000); *Strahan v. New England Aquarium, et al.*, 25 Fed.Appx. 7 (D. Mass. 2002) (combining Dockets No. 00-2363, 0-2361); *Strahan v. Herzfelder, et al.*, No. 05-10140-NMG, 2006 WL 8458283 (D. Mass. Apr. 19, 2006); *Strahan v. Pritchard, et al.*, 473 F.Supp.2d 230 (D. Mass. 2007); *Strahan v. Bowles*, No. 05-10140-NMG, 2008 WL 11510858 (D. Mass. July 23, 2008); *Strahan v. Holmes*, 510 F.Supp.2d 161 (D. Mass. 2007); *Strahan v. Holmes*, 686 F.Supp.2d 129 (D. Mass. 2010); *Strahan v. Diodati*, 755 F.Supp.2d 318 (D. Mass. 2010); *Strahan v. Roughead*, 910 F.Supp.2d 358 (D. Mass. 2012); *Strahan v. Nat. Oceanic and Atmospheric Admin.*, No. 18-cv-752-LM, 2018 WL 11266497 (D.N.H. Oct. 11, 2018); *Strahan v. Sec’y, Mass. Exec. Off. of Energy and Env’t Aff.*, 458 F.Supp.3d 76 (D. Mass. 2020); *Man Against Xtinction v. Comm. Maine Dept. Mar. Res.*, 478 F.Supp.3d 67 (D. Me. 2020); *aff’d sub nom. Man Against Xtinction v. Keliher*, No. 20-1873, 2020 WL 8815382 (1st Cir. Dec. 21, 2020); *Strahan v. Pentony*, No. 1:21-cv-01131-TJK, (D.D.C. 2021); *Man Against Xtinction v. Mass. Port Auth.*, No. 21-cv-10185-DJC, 2022 WL 344560 (D. Mass. Feb. 4, 2022); *MAN AGAINST XTINCTION, as Citizen Attorney General aka Richard Maximus Strahan v. Cocsco Container Lines Amerika Inc.; Mediterranean Shipping Company (USA) Inc.; CMA CGM (AMERICA) LLC*, 1:22-cv-10722 (D. Mass. June 14, 2022); *Man Against Xtinction v. McKiernan et al.*, No. 1:22-CV-10364-IT (D. Mass. Mar. 8, 2022).

<sup>3</sup> See e.g., *Strahan v. Frazier*, 156 F.Supp.2d 80 (D. Mass. 2001) *aff’d Strahan v. Frazier*, 62 Fed.Appx. 359 (1st Cir. 2003); *Strahan v. Simon Property Group, et al.*, No. 08-cv-10764-NG (D. Mass. 2008); *Strahan v. Kelly, et al.*, No. 17-cv-00163-JL, 2017 WL 2982956 (D.N.H. July 12, 2017); *Strahan v. Mann, et al.*, No. 1:17-CV-00163 (D.N.H. Oct. 19, 2017); *Strahan v. Nielsen, et al.*, No. 18-cv-161-JL, 2018 WL 3966318 (D.N.H. Aug. 17, 2018).

In 2019, M.A.X. began his rampage against Sawyer and the MLA by filing *M.A.X. v. MEOEEA*, cv-22-1225-IT (D. Mass. 2019) (“MEOEEA”), a lawsuit against Sawyer, in his personal and official capacity as the “chief executive officer” of the MLA.<sup>4</sup> After that case was dismissed due to lack of standing, M.A.X. initiated a new suit in the District of D.C.- *Strahan v. Pentony et al.*, 1:21-cv-01131-TJK (D.D.C. 2021). *See* [*Pentony* Dkt. 71, Declaration of Arthur Sawyer (“Sawyer Dec.”), Ex. A ¶ 8, *Pentony* Dkt. 87.2.] In virtually identical complaints at issue in *Pentony* and *MEOEEA*, M.A.X.’s verified amended complaints alleged, *inter alia*, that Sawyer had, through his use of vertical buoy ropes (“VBR”) fishing equipment, engaged in takings in violation of the Endangered Species Act (“ESA”), § 1538(a) and (g),<sup>5</sup> and that said behavior constituted a public nuisance claim under Massachusetts state law. [*Pentony* Dkt. 71 – Ex. A ¶¶ 64-72, 102-103, Dkt. 87.2.]

#### 1. MAX’s Vexatious Conduct in Pentony

On July 1, 2021, M.A.X. filed a motion seeking an ECF password and threatened to file a lawsuit against District of D.C. Court personnel seeking \$1,000,000 in damages if the Court did not grant such motion. [*Pentony* Dkt. 15.] After the *Pentony* court reminded M.A.X. to conduct himself with civility, courtesy, and respect, M.A.X renewed his attempt to obtain an ECF password and, in a pattern no doubt familiar to this Court, threatened the

---

<sup>4</sup> Sawyer was and is the President of the Massachusetts Lobstermen’s Association, not its chief executive officer. The Massachusetts Lobstermen’s Association does not have a chief executive officer position.

<sup>5</sup> Regarding the Amended Complaint at issue in the instant motion, M.A.X. asserts Endangered Species Act (“ESA”) § 9 takings against Sawyer. This should be understood to be a takings claim under 16 U.S.C. § 1538(a) and (g), which is an ESA § 9 takings claim. *See* ESA § 9(a)(1), 16 U.S.C. § 1538(a)(1)(B).

Honorable Judge Kelly and the Chief Judge with a civil rights action if his request was not granted. [*Pentony* Dkt. 26 (“A draft of the complaint has been prepared. I am ready to file it immediately after Kelly denies the instant motion. I can hardly wait to make history.”)]. The *Pentony* court again reminded M.A.X. of his obligation to show appropriate civility, courtesy, and respect. [*Pentony* 10/02/21 Min. Order.)

However, M.A.X. persisted. [*See e.g., Pentony* Dkt. 26 (“[Judge Kelly] possesses a hateful bigotry toward pro se petitioners” and “in his individual capacity Kelly can be a defendant in a *Bivens* action.”); *Pentony* Dkt. 34 (“I was RAPED by the court as my constitutional right to control of my filings and pleadings,” and “[t]he Court’s 26 October 2021 order – either by Kelly’s own poisoned penned or by the barf of one of his RETARD clerks . . .”); *Pentony* Dkt. 70 (“You can go to Hell judge Kelly if you believe that I will comply with your unconstitutional act of bigotry towards me.”).] *Pentony* Dkt. 15 (“I hereby certify that I POINTLESSLY emailed a PRE-FILING copy to the shysters for the whale killing government on 1 July 2021 . . . OMG! IS THAT F\*\*\*ING OBVIOUS FROM THE START.”); *Pentony* Dkt. 34 (“This is REALITY no matter what Kelly wants to order otherwise. That is OUTSIDE the bounds of his judicial authority,” and “I decline to accept as legally binding Kelly’s or his RETARD clerk’s 7 & 26 October 2021 orders.”); *Pentony* Dkt. 70 (“Even if a shyster made such a complaint, ‘who cares?’” and “I can state in affirmative that my compliance with this order is not going to happen.”).]

M.A.X. was not content to attack the court; he continued attacking Sawyer. [*See e.g., Pentony* Dkt. 34 (“Department of Injustice ‘DOI’ shyster” with continued reference to the DOI); *Pentony* Dkt. 70 (“worm tongued shysters”); *Pentony* Dkt. 76.3 (“Your buddy

and coconspirator Gross Bitch will be joining you as a defendant.”); *Pentony* Dkt. 76.1 (“You and the DOJ are parasites and the Public Bad. . . You represent the worst kind of [sic] worm tongue, corrupt government employment.”); *Pentony* Dkt. 76.2 (“You fucked up. Bye-Bye.”).]

On February 3, 2022, the *Pentony* court granted Sawyer’s Motion to Dismiss, dismissing each claim with prejudice. [*Pentony* Dkt. 71 – Sawyer Dec., Ex. C, *Pentony* Dkt. 87.4.] The *Pentony* court then closed the action and ultimately denied Sawyer’s motion for a pre-filing injunction. [*Pentony* Dkt. 96 (“True, Plaintiff’s conduct in this case was also unacceptable.”).]

## 2. M.A.X.’s Vexatious Conduct in McKiernan

Undeterred, M.A.X. immediately brought the exact same claims against Sawyer in *M.A.X. v. McKiernan, et al*, 1:22-cv-10364-IT (D. Mass. 2022). [*McKiernan* Dkt. 35 at ¶ 14.] M.A.X. attempted to consolidate *MEOEAA* with *McKiernan*, stating in filings: (1) that the Honorable Judge Talwani has a bias against him such that he is “just a lying sack of shit of a working-class man that should not even be allowed in the courthouse unless I wear an orange jumpsuit while in chains.” [*Id.* at (2) “Talwani is just a judicial coward who refuses to obey his oath . . .” He then stated that Judge Talwani “personally owe[d] him the \$1,600,000 [in pro bono legal fees]. I need you to pay me to get some new top flight shysters to represenmt [sic] me in my new ESA prosecution *against the same defendants.*” [*Id.* at 2,4,7 (emphasis added).]

M.A.X.’s motion was denied and Sawyer once again obtained dismissal with prejudice. [*McKiernan Dkt.* 56.] Prior to this, on June 27, 2022, M.A.X. filed his tenth

motion to extend time to serve defendants in this action, titling his motion, *inter alia*, “. . . And He Is Not Required to Supply Any Phone Number to the Evil Talwannas Staff Since This Criminal Nazi Has Unlawfully Ordered Staff Not to Communicate With Him Telephonically.” [McKiernan, Dkt. 27.] The same day, he filed his tenth motion for recusal, titled “M.A.X. Petition for Shyster Tawwanna-Nazi to Recuse Itself For Refusing to Let Him Prosecute The Fishing Industry In the Court and Since It Will Be a Defendant For Violating His First Amendment Right to Petition The Courts – And to Piss Off!” [*Id.*, Dkt. 28.]

After Judge Talwani appropriately denied M.A.X.’s tenth motion for recusal, M.A.X. escalated his rhetoric, filing a Motion titled “Judge Indira Talwani Is A ‘Whale Killing Bastard’” [*Id.*, Dkt. 33.] This vitriol-filled screed assaults Judge Talwani repeatedly, most risibly accusing her of being appointed to the court “based on ethnic and sexual discrimination as a willing soldier in the current cultural wars over woke and retributinal [sic] racism.” [*Id.* at 3.]

Sawyer and the MLA attempted again to have M.A.X. put under a pre-filing injunction order. The McKiernan court ultimately denied that request as effectively moot:

While relief appears to be warranted, Sawyer has not filed any cross-complaint for abuse of process (or any other independent legal claim). Where the court is dismissing Plaintiff’s complaint for lack of service and Sawyer has not yet filed a responsive pleading, Sawyer’s motion for pre-filing injunction is denied without prejudice.

[McKiernan Dkt. 56.]

### **LEGAL STANDARD**

The courts “plainly possess discretionary powers to regulate the conduct of abusive litigants.” *Cok v. Fam. Ct. of Rhode Island*, 985 F.2d 32, 34 (1st Cir. 1993). In addition to Fed. R. Civ. P. 11, “[a] district court has the power to enjoin a party from filing frivolous and vexatious lawsuits.” *Id.* (citing *Azubuko v. MBNA America Bank*, 396 F.Supp.2d 1,7 (D. Mass. 2005)). “While *pro se* pleadings are viewed less stringently, a petitioner who elects to proceed *pro se* must comply with the applicable procedural and substantive rules of law.” *Aung v. Prettenhoffer*, 544 F. Supp. 3d 173, 188 (D. Mass. 2021) (citing *Lefebvre v. Comm’r*, 830 F.2d 417, 419 (1st Cir. 1987)). Thus, the court is empowered to “enjoin a party – even a *pro se* party – from filing frivolous and vexatious motions.” *United States v. Gomez-Rosario*, 418 F.3d 90, 101 (1st Cir. 2005) (citing *Sires v. Fair*, No. 96–1454, 1997 WL 51408 (1st Cir. Feb.10, 1997) (unpublished)).

“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) (collecting cases). In considering whether to grant a pre-filing injunction, courts look “to the degree to which indicia supporting such a comprehensive ban are present in the record.” *Cok*, 985 F.2d at 34-35 (citing *Pavilonis v. King*, 626 F.2d 1075, 1079 (1st Cir. 1980)). Generally, a pre-filing injunction “should not be considered absent a request by the harassed defendants.” *Pavilonis*, 626 F.2d at 1079. However, courts “have not hesitated to uphold injunctions that were narrowly drawn to counter the specific offending conduct.” *Cok*, 985 F.2d at 36.



## **ARGUMENT**

M.A.X. continues to inundate Sawyer, the MLA, and the District Courts for the Districts of Massachusetts' and Columbia's dockets with repetitive lawsuits and numerous, meritless, and harassing motions. This assault shows no signs of abating. Moreover, M.A.X. continues to exhibit a blatant, bad faith disregard for this Court's Orders. He repeatedly fails to meet deadlines, files derogatory, baseless motions to harass the Court and defendants, and directly ignores this Court's orders by so filing. The Court must grant Sawyer's request for a pre-filing injunction that prevents M.A.X. from filing any further actions against Sawyer, the MLA, or MLA's counsel in Federal District Courts nationwide, or in the alternative, for the District Courts within the First and D.C. Circuits to prevent M.A.X.'s gross abuse of the judicial process from continuing.

### **A. A PRE-FILING INJUNCTION IS NECESSARY TO PREVENT M.A.X.'S VEXATIOUS FILINGS.**

M.A.X. has barraged the MLA/Sawyer, and the courts, with repetitive lawsuits and incoherent filings while throwing procedural rules to the wayside. This Court must end M.A.X.'s abusive conduct.

The current complaint is particularly frivolous because it falsely alleges MLA and Sawyer conspired to implement the Wedge Area Rule, despite MLA and Sawyer's well-documented opposition to this regulation before this Court in *Mass. Lobstermen's Ass'n, Inc. v. Nat'l Marine Fisheries Serv.*, Civil Action No. 1:24-cv-10332-WGY. This misrepresentation, coupled with the lack of specific evidence tying Sawyer's fishing activities to ESA § 9 violations, underscores the baseless nature of M.A.X.'s claims

1. *M.A.X. Continues to Harass Sawyer with Numerous, Frivolous Lawsuits and Filings, which Are Virtually Identical in Regurgitating Baseless or Barred Claims.*

M.A.X. sued Sawyer in his official and/or personal capacity three times in the last five years for the same claims, even after his first lawsuit was dismissed against Sawyer with prejudice. Now, Sawyer and the MLA are once again expending time and resources defending against another meritless suit by M.A.X., this time asserting that they are responsible for killing whales because the federal government closed parts of the water MLA members fish in – a closure which the MLA specifically challenged in this Court in *Mass. Lobstermen’s Ass’n, Inc. v. Nat’l Marine Fisheries Serv.*, Civil Action No. 1:24-cv-10332-WGY. This is absurd. And enough is enough. Because of his malicious and frivolous intentions, and his wasteful litigation tactics, M.A.X. is deserving of the vexatious litigant title and corresponding pre-filing injunction.

In *Castro v. United States*, the Court entered a pre-filing injunction against the plaintiff who had filed multiple actions that were only intended to “harass, contain virtually identical allegations, and were personally insulting to defendant and its counsel.” *Otis Elevator Co. v. Int’l Union Of Elevator Constructors*, Loc. 4, 408 F.3d 1, 10 (1st Cir. 2005) (citing *Castro v. United States*, 775 F.2d 399, 408 (1st Cir.1985) (abrogated on other grounds by *Stevens v. Dep’t of the Treasury*, 500 U.S. 1 (1991))). Similarly, in *Rudnicki v. McCormack*, the seminal case in this circuit on pre-filing injunctions, the court entered a pre-filing injunction against the plaintiff who had filed “baseless, vexatious, and repetitive” suits against judges, judicial officers, and attorneys to relitigate cases that had already been dismissed. 210 F. Supp. 905, 909 (D.R.I. 1962) (“the records of this Court reveal a pattern

of conduct . . . in which [plaintiff] has persistently attempted to relitigate cases dismissed . . . by commencing new suits against those judges and against the government attorneys who represented them[.]”). More recently, in *Aung*, the court issued a pre-filing injunction where the plaintiff “repeatedly refiled the same harassment and workplace retaliation claims against [defendant] over the past ten years across a variety of state and federal judicial and administrative fora, including twice before this Court, and once before the Suffolk County Superior Court and the Massachusetts Appeals Court.” *Aung*, 544 F.Supp. 3d at 188-189 (“this sustained refusal to engage on the issue of res judicata or acknowledge any practical way that her access to the Courts is not limitless warrants establishing two procedural mechanisms to deter future frivolous filings.”).

Here, M.A.X. fits well within the sordid legacy of vexatious litigants before him. As stated earlier, in the last thirty years, M.A.X. has filed at least twenty complaints against a variety of defendants in the Districts of Massachusetts, D.C., Maine, and New Hampshire, and in state courts, all which name government officials in some capacity and, through a variety of insufficient legal theories, have the purported purpose of protecting the northern right whale. *See Kaufman v. I.R.S.*, 787 F.Supp.2d 27, 29–30 (D.D.C. 2011) (issuing a pre-suit injunction where *pro se* plaintiff had filed fifteen suits over ten years). Indeed, since 2018, M.A.X. has increased his litigation activity, filing ten different lawsuits, for similar violations of law for the alleged purpose of saving the northern right whale from extinction.<sup>6</sup> M.A.X. has been named as a defendant in four of these post-2018 suits,

---

<sup>6</sup> This number is a best estimate because M.A.X. uses a variety of pseudonyms or alterations of his name in his filings, e.g., Richard Maximus Strahan, Richard Max Strahan, M.A.X., Man

including the present one. *See Strahan v. Sec’y, Mass. Exec. Off. of Energy & Envtl. Affairs*, 558 F.Supp.3d 76 (D. Mass. 2019); *Strahan v. Pentony, et al.*, No. 1:21-CV-01131 (D.D.C. Apr. 27, 2021); *Man Against Xtinction v. McKiernan et al.*, No. 1:22-CV-10364-IT (D. Mass. Mar. 8, 2022). M.A.X.’s recent uptick in litigation (ten suits in six years), exceeds the rate of lawsuits in *Kaufman*, demonstrating the necessity of a pre-filing injunction in this action. 787 F.Supp.3d at 29-30 (fifteen suits in ten years).

Duplicitous and vexatious – that is the only way to describe M.A.X.’s latest lawsuits, which are for an identical purpose, request similar relief, and are asserted against a laundry list of government officials or related professional organizations that conduct, regulate, or steward commercial fishing in the eastern coastal waters. This pattern of litigation, of “repeatedly refil[ing] the same [] claims against [Sawyer] . . . across a variety of . . . federal judicial” courts, “including twice before this Court” is harassing to Sawyer and the MLA and grounds for a pre-filing injunction. *Aung*, 544 F.Supp. 3d at 188-189. Indeed, this is made even more egregious given that M.A.X. is bringing claims that this Court already dismissed with prejudice. *Id.*

This Court has the power to prevent M.A.X. from further harassing Sawyer, his counsel, and the MLA, and wasting Sawyer’s, his counsel’s, the MLA’s, and the Court’s resources, by imposing a pre-filing injunction on M.A.X. *See Aung*, 544 F.Supp. 3d at 188-189 (pre-filing injunction where plaintiff’s “egregious and excessive filing in this case has

---

Against Xtinction, to name the ones Sawyer is aware of. In addition, M.A.X. has at filed at least twenty-seven (27) actions in federal district courts since 1995, which allege misconduct by government officials but do not have the alleged purpose of protecting whales.

consumed a good deal of the Court's and the [p]laintiff's limited resources[.]"); *Castro*, 775 F.2d at 409. Indeed, where the current complaint and previous lawsuits are substantially similar, a pre-filing injunction is necessary. *Pavilonis v. King*, 626 F.2d at 1078, n.7 (1st Cir. 1980) (collecting cases). Here, M.A.X. has harassed Sawyer and the MLA by filing four lawsuits, with the same or similar claims against Sawyer and the MLA (and different government agencies and/or its agents).<sup>7</sup> Even though M.A.X. may be naming new parties and government officials, the crux of the complaints are the same: requesting injunctive relief to protect the northern right whale from fisherman who use the VBR rope system (without any proof that VBR rope harms the northern right whale in any way). Sawyer and the MLA have now found themselves a part of these serial lawsuits for the fourth time in six years and are once again exposed to M.A.X.'s aggressive, harassing litigation scheme.

Within M.A.X.'s last six years of litigation against Sawyer and the MLA, his manipulative procedural rampage is apparent through the quantity and quality of his filings. He has repeatedly and willfully impeded the orderly and expeditious administration of

---

<sup>7</sup> M.A.X. has sued the Massachusetts Executive Officer of Energy and Environmental Affairs Secretary, the Director of Massachusetts Department of Fish & Game, the Director of Massachusetts Division of Marine Fisheries, as well as the Administrator of the National Oceanic and Atmospheric Administration, Administrator of the National Marine Fisheries, Atlantic States Coastal Marine Fisheries Commission, Defenders of Wildlife, New England Aquarium. *Strahan v. Pentony*, No. 1:21-cv-01131-TJK, (D.D.C. 2021); *Strahan v. MEOEEA*, No. 1:19-cv-10639-IT (D. Mass. 2019). In actions unrelated to Sawyer, M.A.X. has also brought similar allegations to purportedly protect whales against the Governor of Maine, the United States Coast Guard, the Secretary of Commerce, Dept. of Homeland Security, Navy, and others. See *Northern Right Whale, et al. v. Governor ME, et al.*, No. 1:00-CV-00087 (D. Me. 2000); *Strahan v. New England Aquarium*, 25 Fed.Appx. 7 (1st Cir. 2002); *Strahan v. Linnon*, 967 F.Supp. 581 (D. Mass. 1997); *Strahan v. Roughead*, No. 08-cv-10919-MLW, 2010 WL 4827880 (D. Mass. Nov. 22, 2010).

justice by burdening the Court and parties with numerous, confusing filings. In just *Strahan v. Secretary, Mass.* alone, the Court and Sawyer endured approximately two hundred (200) motions and filings from M.A.X. 558 F.Supp.3d 76 (D. Mass. 2019); *see also Hart v. U.S.*, No 92-1801, 1994 WL 89442 (1st Cir. 1994) (granting pre-filing injunction against pro se plaintiff who filed sixty-six motions). In *Pentony*, M.A.X. filed numerous amended complaints, refusing to accede to the *Pentony* court's orders regarding which complaint is operative. *See* [*Pentony* Dkt. 34 (“My OFFICIAL operating complaint is NOW the original complaint I served . . . I will recognize no other. . .”); *Pentony* Dkt. 73 (“Amended Petition for Relief”); *Pentony* 3/11/2022 Min. Order (striking ECF No. 73); *Pentony* Dkt. 87.3).]

M.A.X. abuses the judicial system by emphasizing his *pro se* status. For example, while M.A.X. struck his Second Amended Complaint pending against Sawyer in *Pentony*, he had also filed for, and was granted, an extra sixty days to reply to defendants' motions to dismiss.<sup>8</sup> [*Pentony* Dkt. 73.] Within this extended period of time, where M.A.X. had yet to file a response to Defendant's Motion to Dismiss, M.A.X. (1) filed his Second Amended Complaint adding relief against Sawyer without complying with Fed. R. Civ. P. 15; (2) filed for recusal of Judge Talwani in *MEOEAA*;<sup>9</sup> (3) commenced *McKiernan* against

---

<sup>8</sup> Defendant moved to dismiss the District of D.C. matter on, *inter alia*, the grounds of res judicata, as the same claim was pending and lost in the District of Massachusetts. [*Pentony* Dkt. 71.)

<sup>9</sup> *See* “Plaintiff's Petition to Recuse Shyster Talwani as a Bigot and for Unethical Conduct”, *Man Against Xtinction v. Mass. Exec. Off. of Energy & Envtl. Affairs*, (No. 19-cv-10639-IT).

Sawyer in the District of Massachusetts;<sup>10</sup> and (4) submitted an explicit filing to and against Judge Kelly.<sup>11</sup> M.A.X.'s actions continue to harass and burden the judicial system and delay the resolution of his baseless claims.

2. M.A.X.'s Lawsuits and Filings are Harassing and Disrespectful to Defendants and the Courts.

Even more egregiously, M.A.X. is explicitly harassing defendants, defendants' agents, the Court, and Court staff in the current matter via his complaints, subsequent slew of motions, and other communications. Despite the *Pentony* court *twice* ordering M.A.X. to act with civility, courtesy, and respect, M.A.X. continues to use vulgar language and accuse defendants of meritless claims. *See* [*Pentony* 07/02/21 Min. Order; *Pentony* 10/02/21 Min. Order; *cf. Pentony* Dkt. 76.1 ("You asshole. . . You lie to get gullible judges to let the government break its own laws."); *Pentony* Dkt. 76.2 ("I will be moving to have you disqualified for lying to the court and committing a fraud upon it."); *Pentony* Dkt. 76.3 ("Your buddy and coconspirator Gross Bitch will be joining you as a defendant.").] M.A.X.'s filings are riddled with crude names regarding defendants, including Sawyer, such as "shysters," "Department of Injustice," "worm tongued shysters," and "dim witted." [*Pentony* Dkts. 70, 78.] M.A.X. harassed defendants' agents, requiring the Honorable Judge Kelly to order that M.A.X. shall only talk to defendants' counsel, not their agents,

---

<sup>10</sup> Verified Complaint for Declaratory, Injunctive, and Other Relief and a Request for a Jury Trial, *Man Against Xtinction A/K/A "Max" v. Whale Killing Bastards, et al.*, (No. 1:22-cv-10364-IT).

<sup>11</sup> Man Against Xtinction to Judge Kelly: "Go to Hell", *Man Against Xtinction v. Pentony, et al.*, (No. 21-cv-01131-TJK).

to which M.A.X. responded with another explicit filing telling Judge Kelly to “Go to Hell.” [Pentony Dkt. 70.] And in *McKiernan*, he originally titled defendants, including Sawyer, as “Whale Killing Bastards.” [McKiernan Dkt. 1.]

This is only compounded by the unbelievable and unacceptable language M.A.X. has used against it and Judge Talwani’s law clerks. M.A.X. has proven himself incapable of approaching this Court with the decorum and basic human decency expected of any litigant, including a *pro se* litigant. In this Circuit, such egregious behavior towards judges, their clerks, and the court is grounds enough for a pre-filing injunction. *In re Murphy*, 598 F. Supp. 2d 121, 124 (D. Me. 2009) (granting pre-filing injunction where *pro se* plaintiff repeatedly sued the state and state officials on the same claims, and threatened to sue and actually sued federal judges who dismissed her claims); *Gordon*, 558 F.2d at 618 (pre-filing injunction where litigant filed complaints compromised of vituperative attacks against judges who had ruled against him); *Rudnicki*, 210 F. Supp. at 910 (D.R.I. 1962) (pre-filing injunction where plaintiff repeatedly sued the court and opposing party’s attorneys). While MLA applauds the District of Massachusetts’ exceeding patience with a *pro se* plaintiff, M.A.X.’s obvious antipathy toward the MLA, Sawyer and the Court must be acknowledged for what it is: harassment that goes well beyond a pattern of filing frivolous suits. It cannot be allowed to continue.

Indeed, M.A.X.’s harassing and abrasive attitude towards defendants and the Federal courts is not new. *See Strahan v. Coxe*, 939 F.Supp. 963, 967 (D. Mass. 1996) (noting that M.A.X. “is a highly aggressive and abrasive individual whose conduct has generated a number of complaints and requests by Defendants for sanctions against him.”);



*see also Strahan v. Adm’r Nat’l Oceanic & Atmospheric Admin. et al.*, No. 18-CV-752-LM, 2020 WL 8167476, at \*1 (D.N.H. Jan. 14, 2020) (noting that M.A.X. has “engaged in profane and abusive verbal harassment,” to the clerk’s office staff, and “filed documents referring to court personnel as ‘Nazis’ and drawn swastikas on the filings to underscore his points.”); [*MEOWEEA* District of Massachusetts Nov. 30, 2020 Findings of Fact and Conclusions of Law (finding an adverse inference instruction appropriate after M.A.X. asserted his Fifth Amendment right to remain silent after being questioned on whether he caused false information to be submitted to the court).] M.A.X.’s aggressive and disrespectful attitude toward MLA, Sawyer, MLA’s counsel, and defendants generally, further support that he intends to harass them in this and future litigation.

3. *M.A.X. Continues to Disobey Court Orders and Procedural Rules in Defiance of the Judicial System.*

M.A.X.’s circumvention of Court orders shows his contempt for the justice system.

A non-exhaustive list of M.A.X.’s vexatious actions include:

- M.A.X., after being ordered to conduct himself with civility, courtesy, and respect, renewed his attempt to obtain an ECF password, and in the process threatened to sue two U.S. District Court judges. [*Pentony* Dkt. 26.]
- M.A.X. refused to accept the *Pentony* court’s order confirming the Amended Complaint as legally binding. [*Pentony* Dkt. 34 at 3.]
- After the *Pentony* court warned M.A.X. that he must respond to the motions to dismiss his first Amended Complaint by Dec. 6, 2021, M.A.X. filed a Second Amended Complaint without seeking leave of the Court or defendants’ consent on Nov. 25, 2021. [*Pentony* Dkt. 41.]
- M.A.X. filed a “Corrected Second Amended Complaint” on Feb. 28, 2022, without seeking leave of the *Pentony* court or defendants’ consent. [*Pentony* Dkts. 73, 74.]

- M.A.X. commenced this action, naming Sawyer as a defendant, on near-identical claims that were listed in all of M.A.X.'s District of D.C. filings, and his previous action in the District of Massachusetts. [*McKiernan* Dkts. 1, 35.]
- Threatening to sue Sawyer's counsel and attempt to get them disbarred for filing the motion for pre-filing injunction in *Pentony*. [*Pentony* Dkt. 87.7.]
- Threatening to sue Sawyer in Massachusetts Superior Court and once again threatening to disbar Sawyer's counsel [*Pentony* Dkt. 87.7.]
- Filing "JUDGE INDIRA TALWANI IS A 'WHALE KILLING BASTARD'" which contained, among numerous other inappropriate outbursts, a particularly racist, unjustified, and scary rant impugning the Honorable Judge Talwani's (and other jurists) qualifications and credibility grossly stating:
  - "Talwani's TOXIC and fugged up attitude towards the ESA is wholly based on her political beliefs that the Democratic Party should be allowed to do whatever it wasntbs to protect the marine fishing industry of Massachusetts as an ethnic culture. Talwani got appointed to the court based on ethnic and sexual discrimination as a willing soldier in the current cultural wars over woke and retributational racism. The Democratic Party in Massachusetts only wants to appoint to federal court female judges belonging to favored ethnic groups. The last three judicial appointments to the Massachusetts bench were ethnic women."
  - "JUDGE INDIRA TALWANI IS A "WHALE KILLING BASTARD."

[*McKiernan* Docket No. 33.]

- Filing "WORLD TO TALWANI: STOP YOUR INSANE VENDETTA AGAINST MAN AGAINST XTINCTION" [*McKiernan* Docket No. 40.]

Not only did M.A.X. circumvent the Federal Rules of Civil Procedure and the District of D.C. Local Rules by repeatedly filing similar amended complaints without consent or leave, but he has also repeatedly threatened to do it again. Further, in *McKiernan*, he repeatedly refused to provide an address despite court order to do so, has improperly tried to force Judge Talwani to recuse herself numerous times and has

threatened *Bivens* actions against the Court and its staff. M.A.X.’s pattern of contempt for defendants and both this Court and the District of D.C., shows that, if he could file unhindered, he will continue to do so, to harass and burden defendants. The efficient administration of justice will be the collateral victim of M.A.X.’s unhinged judicial vandalism.

**B. A PRE-FILING INJUNCTION WILL NOT INTERFERE WITH M.A.X.’S CONSTITUTIONAL OR STATUTORY RIGHTS.**

This Court must enjoin M.A.X. with the proposed pre-filing injunction to protect the orderly administration of justice for both M.A.X. and the MLA/Sawyer. *See De Long v. Hennessey*, 912 F.2d 1144, 1147 (9th Cir. 1990) (“[T]here is strong precedent establishing the inherent power of federal courts to regulate the activities of abusive litigants by imposing carefully tailored restrictions under the appropriate circumstances.”). District courts may enjoin where the complaints are found to “clearly fail to state a cognizable legal claim or be frivolous or vexatious” or where “plaintiff had filed many similar complaints against identical or similar defendants.” *Sires v. Gabriel*, 748 F.2d 49, 50-51 (1st Cir. 1984) (“We rejected [the] argument that enjoining litigation is unconstitutional) (citing *Pavilonis*, 626 F.2d 1075; *Rudnicki*, 210 F.Supp. at 908-901; *Wood v. Santa Barbara Chamber of Commerce, Inc.*, 705 F.2d 1515, 1523–1526 (9th Cir.1983), *cert. denied*, 465 U.S. 1081 (1984); *In re Oliver*, 682 F.2d 443 (3d Cir.1982)). Here, the proposed pre-filing injunction would require M.A.X. to seek leave from the Court

before filing a new complaint in District Courts nationwide, or alternatively, in the District Courts within the First and D.C. Circuits.

Generally, a pre-filing injunction is constitutional because, although it limits M.A.X.'s ability to freely file claims, he retains the ability to file complaints if they are made in good faith and are claims that have never been raised and disposed of on the merits by the courts. The proposed pre-filing injunction is constitutional, as it has been fashioned based on other pre-filing injunctions under similar circumstances in *Pavilonis*<sup>12</sup> and *Rudiniki*.<sup>13</sup> See also *Urban v. United Nations*, 768 F.2d 1497, 1500 (D.C. Cir. 1985);<sup>14</sup> *Mikkilineni v. Penn Nat. Mut. Cas. Ins. Co.*, 271 F. Supp. 2d 142, 143 (D.D.C. 2003).<sup>15</sup>

---

<sup>12</sup> The injunction in *Pavilonis* enjoined plaintiff Pavilonis “from filing new lawsuits without permission of a judge of the District Court of Massachusetts and order the clerk to refuse to file additional papers submitted to her without such permission.” 626 F.2d at 1077.

<sup>13</sup> The injunction in *Rudnicki* “perpetually enjoin[ed] and restrain[ed] the plaintiff, Chester Rudnicki, from continuing, instituting or prosecuting, without prior leave of court, this or any other legal proceedings in any court against any state or federal judge, officer or employee for actions taken in the course of their official duties as such judge, officer or employee.” 210 F.Supp. at 911.

<sup>14</sup> The injunction in *Urban* enjoined plaintiff Urban from “filing any civil action in this or any other federal court of the United States without first obtaining leave of that court. In seeking leave to file, Mr. Urban must certify that the claim or claims he wishes to present are new claims never before raised and disposed of on the merits by any federal court. He must also certify that the claim or claims are not frivolous or taken in bad faith. Additionally, the motion for leave to file must be captioned ‘Application Pursuant to Court Order Seeking Leave to File.’ Mr. Urban must either cite or affix a copy of today's order to that motion. Failure to comply strictly with the terms of this injunction will be sufficient grounds for denying leave to file.” 768 F.2d at 1500.

<sup>15</sup> The injunction in *Mikkilineni* required the following: Before filing any new complaints in the United States District Court for the District of Columbia, the plaintiff must seek and obtain approval from the Chief Judge of this court. To seek approval, the plaintiff must file a motion captioned “Application Pursuant to Court Order Seeking Leave to File.” The motion must include a copy of the court's March 31, 2003 order, the proposed complaint, and any complaints, dismissal orders, and injunctions filed in cases with related claims or the same defendants. The motion must also include certification by the plaintiff that the claims in the proposed complaint are new claims

Imposing a nationwide pre-filing injunction is entirely appropriate to prevent M.A.X.'s continued vexatious behavior. *See Rudnicki*, 210 F.Supp. at 911(imposing a nationwide pre-filing injunction on a vexatious plaintiff); *Urban*, 768 F.2d at 1500 (same). As M.A.X. has exhibited, he is intricately familiar with the federal court system and knows exactly how to use and abuse it. An injunction that enjoins M.A.X. in anything less than the entire federal district court system would only cause M.A.X. to move venues, as he has proved capable of doing by litigating in the Districts of D.C., Maine, Massachusetts, and New Hampshire for allegedly whale-related claims. For the reasons discussed herein, a nationwide pre-filing injunction, like *Rudnicki*, is necessary and tailored to M.A.X.'s pattern of abusive litigation.

Alternatively, MLA requests a pre-filing injunction smaller in size, such as enjoining M.A.X. from filing claims against Sawyer, the MLA, and MLA's counsel in the District Courts within the First and D.C. Circuits, as these Districts have been the most popular venues for M.A.X. to file his actions.<sup>16</sup> *See Mikkilineni*, 271 F.Supp. 2d at 142 (supporting a narrowed pre-filing injunction when the plaintiff was only active in that federal district, after the plaintiff was already subject to pre-filing injunctions in other states). While MLA fears this more narrowly tailored injunction may only act as a band-

---

never disposed of on the merits by any federal court and not pending in any federal court. The plaintiff must also certify that the claims are not filed in bad faith. 271 F. Supp. 2d at 149-50.

<sup>16</sup> However, should only a district-wide pre-filing injunction be granted, it is extremely likely that M.A.X. will simply return to the District of Columbia or find another east coast court to file in. A nationwide injunction is more appropriate.

aid for M.A.X.'s extremely harassing litigation, such action would still be welcomed to prevent at least some of M.A.X.'s behavior.

### **CONCLUSION**

Almost sixty years ago, the *Rudnicki* court proclaimed, "I have determined that the time has come when it is necessary and appropriate that an injunction issue, both for protection of these and other public officials against unwarranted harassment, and for the protection of the records of this and other courts against the filing of frivolous and unimportant papers." 210 F.Supp. at 908. That time has come once again.

WHEREFORE, Defendant Massachusetts Lobstermen Association Inc. respectfully requests this Court grant its Motion for Pre-Filing Injunction, incorporating Defendant's Proposed Order filed in conjunction with this present Motion, and grant such other relief which is just and equitable.

Respectfully submitted,

The Defendants, Massachusetts  
Lobstermen's Association, Inc.  
and Arthur Sawyer

By their attorney,

Dated: July 28, 2025

/s/ SAMUEL P. BLATCHLEY  
Samuel P. Blatchley (BBO# 670232)  
ECKLAND & BLANDO LLP  
555 Pleasant Street, Unit 3B  
New Bedford, MA 02740  
(617) 217-6936  
[sblatchley@ecklandblando.com](mailto:sblatchley@ecklandblando.com)

**CERTIFICATE OF SERVICE**

I hereby certify that on July 28, 2025, I electronically filed the within document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record. I also caused a physical copy to be mailed to Plaintiff.

/s/ SAMUEL P. BLATCHLEY  
Samuel P. Blatchley