IN THE UTAH COURT OF APPEALS

OREM CITY, Plaintiff / Appellee, **v.** **DAVID AMMON JAKEMAN,** Defendant / Appellant	Appellate Court Case No. 20260698-CA Trial Court Case No. 221300408, 221300553, 231300069, 231300079, and 231300162

BRIEF OF APPELLEE

ON APPEAL FROM A MAY 20, 2026 RULING ON AN ORDER TO SHOW CAUSE REGARDING VEXATIOUS LITIGANT FINDINGS FROM MAY 20, 2026 AND AN APRIL 15, 2026 RULING ON VARIOUS REQUEST BY DEFENDANT AND VEXATIOUS LITIGANT FINDINGS BY THE HONORABLE JUDGE JARED ELDRIDGE OF THE FOURTH JUDICIAL DISTRICT COURT, UTAH COUNTY, STATE OF UTAH.

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ORAL ARGUMENTS AND PUBLISHED OPINION NOT REQUESTED

LIST OF ALL PARTIES

This is an appeal from criminal and post-judgement proceedings. The Appellant/Defendant is David Ammon Jakeman (Jakeman"), and throughout the criminal and post-judgement proceedings Jakeman has been represented by multiple attorneys, but now appears *Pro Se*.

The City of Orem, by and for the State of Utah, is the Appellee/Plaintiff and is represented by D. Jacob Summers and Aliisa N. Leon. There are no other parties to the proceeding.

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INTRODUCTION

This appeal arises from criminal and post-judgement proceedings in which Appellant David Jakeman ("Jakeman") was convicted of Child Abuse, Domestic Violence, and Protective Order Violations. Throughout the underlying trial and subsequent post-judgment proceedings, Jakeman engaged in a persistent pattern of abusive and burdensome litigation, inundating the Fourth District Court with voluminous filings—some exceeding 300 pages—while repeatedly attempting to relitigate settled issues, seeking review of non-actionable matters, and exhausting judicial and clerical resources. Jakeman has sought appellate review and extraordinary relief from numerous adverse rulings, including his underlying convictions, the entry of a continuous protective order, and various post-judgment decisions, yet he has not prevailed in any instance.

Faced with this chronic pattern of unmeritorious, redundant, and burdensome filings in a closed criminal matter, the district court properly looked to Utah R. Civ. P. 83 which it incorporated via Rule 81(f) to manage the abuse. Following repeated warnings and four vexatious litigant strikes, the district court found by clear and convincing evidence that Jakeman was a vexatious litigant who had no reasonable probability of prevailing on his claims.

To protect the machinery of justice, the court entered narrowly curbing orders requiring Jakeman to obtain legal counsel before proceeding on current or filing future claims, directing notice of a prefiling order to the Administrative Office of the Courts, restricting direct burdens on court staff, and striking pro se papers that were filed with the court after the vexatious litigant finding.

Because the district court correctly applied the governing rules, acted within its discretion, and supported its findings with clear and convincing evidence, this Court should affirm the district court's vexatious litigant findings and orders in their entirety.

Moreover, in light of Jakeman's extensive history of filing frivolous and duplicative proceedings before both the trial court and this Court, the Court of Appeals should adopt the district court's orders pursuant to Utah Rule of Appellate Procedure 40A(a)(2) and Utah Rule of Civil Procedure 83(j), or independently enter vexatious litigant restrictions under Utah Rule of Appellate Procedure 40A(a)(1) and 40A(b) to curb his continued abuse of the appellate process.

STATEMENT OF ISSUES

ISSUE 1: Is a formal written request presented to the district court, such as a motion or pleading, a "claim" as defined Utah R. Civ. P. 83(a)(2) for the purposes of a Utah R. Civ. P. 83(c)(1)(B) claim probability analysis?

STANDARD OF APPELLATE REVIEW:

In a review of a vexatious litigant order the ultimate conclusions and subsidiary legal conclusions are reviewed under a correction of error standard. *Vashisht-Rota v. Howell Mgmt. Servs.*, 2021 UT App 133, ¶ 16.

PRESERVATION OF ISSUE:

Preserved.

ISSUE 2: Where the Utah Rules of Criminal Procedure do not provide a comprehensive framework to manage a chronic pattern of abuse or impose prospective filing restrictions

on an abusive litigant, may a district court import the civil vexatious litigant rule, Utah R. Civ. P. 83, into a criminal or post-judgment proceeding via Utah R. Civ. P. 81(f)?

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ISSUE 3: Is an order that a vexatious litigant obtain counsel before filing any future claims for relief a prefiling order restricting the filing of future claims which requires notice be sent to the Administrative Office of the Courts pursuant to Utah R. Civ. P. 83(f)(1)?

STANDARD OF APPELLATE REVIEW:

A determination as to the type and amount of sanctions to be imposed in a vexatious litigant order is reviewed under an abuse of discretion standard. *Vashisht-Rota v. Howell Mgmt. Servs.*, 2021 UT App 133, ¶ 16. In a review of a vexatious litigant order the ultimate conclusions and subsidiary legal conclusions are reviewed under a correction of error standard. *Vashisht-Rota v. Howell Mgmt. Servs.*, 2021 UT App 133, ¶ 16.

PRESERVATION OF ISSUE:

This issue was not preserved. "An issue is preserved for appeal when it has been presented to the district court in such a way that the court has an opportunity to rule on it." *Vashisht-Rota v. Howell Mgmt. Servs.*, 2021 UT App 133, ¶ 18. "Appellate courts consider three factors when determining whether an issue was properly raised before the district

court: (1) the issue must be raised in a timely fashion; (2) the issue must be specifically raised; and (3) a party must introduce supporting evidence or relevant legal authority." *Id*. "When a party fails to raise and argue an issue in the district court, it has failed to preserve the issue, and an appellate court will not typically reach that issue absent a valid exception to preservation." *State v. Johnson*, 2017 UT 76, ¶ 15. Further, "[w]hen a party fails to raise and argue an issue on appeal, or raises it for the first time in a reply brief, that issue is waived and will typically not be addressed by the appellate court." *Id*. This court has recognized three distinct exceptions to preservation: plain error, ineffective assistance of counsel, and exceptional circumstances. *Id.* at ¶ 19. Jakeman has not identified an exception to the preservation rule that would allow the Court of Appeals to review this matter.

ISSUE 4: Was the district court within its discretion to strike all pro se pleadings filed after April 15, 2026, and require they only be refiled by qualified counsel where such orders are authorized by Utah R. Civ. P. 83(b) (6) and Utah R. Crim. P. 33?

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ISSUE 5: Did the district court abuse its discretion when it imposed a prohibition on Jakeman making requests of the court clerks pursuant to Utah R. Crim. P. 83(b)(6)?

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A determination as to the type and amount of sanctions to be imposed in a vexatious litigant order is reviewed under an abuse of discretion standard. *Vashisht-Rota v. Howell Mgmt. Servs.*, 2021 UT App 133, ¶ 16.

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ISSUE 6: Is a district court legally required to identify the source, scope, duration, or exceptions to a vexatious litigant order requiring the vexatious litigant obtain counsel, or to explicitly tie findings to the order for the order to be valid, where the court correctly found by clear and convincing evidence that the litigant was vexatious, and did not have a reasonable probability of prevailing on their claims?

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In a review of a vexatious litigant order the ultimate conclusions and subsidiary legal conclusions are reviewed under a correction of error standard. *Vashisht-Rota v. Howell Mgmt. Servs.*, 2021 UT App 133, ¶ 16.

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ISSUE 7: If the district court correctly determined Jakeman was vexatious and that he did not have a reasonable probability of prevailing on his claims, should the Court of Appeals adopt the district court findings and orders as it did in *Vashisht-Rota v. Howell Mgmt. Servs.* as authorized by Utah. R. Civ. P. 83(j) and Utah R. App. P. 40A(a)(2) or even make

vexatious litigant findings and orders pursuant to Utah R. App. P. 40A(a)(1) based on Jakeman's history of filing frivolous, redundant, immaterial, impertinent, and scandalous materials in the district court and Court of Appeals?

STANDARD OF APPELLATE REVIEW:

In a review of a vexatious litigant order, ultimate conclusions and subsidiary legal conclusions are reviewed under a correction of error standard. *Vashisht-Rota v. Howell Mgmt. Servs.*, 2021 UT App 133, ¶ 16. The trial court's findings of fact are reviewed under a clearly erroneous standard. *Id*.

Whether the Court of Appeals should adopt the district court vexatious litigant findings or orders or impose its own is governed by Utah R. App. P. 40A and Utah R. Civ. P. 83(j).

PRESERVATION OF ISSUE

This is a matter which is raised for the first time before the Court of Appeals as authorized by Utah R. App. P. 40A and Utah R. Civ. P. 83(j).

STATEMENT OF CASE

STATEMENT OF FACTS AND PROCEDURAL HISTORY

On May 21, 2022, Appellant David Ammon Jakeman ("Jakeman") was arrested for Child Abuse and Violation of a Protective Order. R0010–0011. [1] Following an August 22, 2023 bench trial, Judge Jared Eldridge found Jakeman guilty on both counts. R0197–0202.

[1] For purposes of clarity and to reduce redundancy, where this appeal handles the same issues for multiple concurrent criminal cases, Appellee will cite only to the Public Record in Criminal Case 221300408.

Jakeman filed a motion for a new trial which was denied. R0957. Jakeman unsuccessfully appealed that conviction. R2916-2940, *Orem City v. Jakeman*, 2025 UT App 107, ¶ 2, cert. denied. Jakeman was also convicted of seven other domestic violence and violation of a protective order charges in Fourth District Court Case Nos. 221300553, 231300069, 231300079, and 231300162. R3741-3746.

On November 3, 2023, the trial court sentenced Jakeman and entered a Sentencing Protective Order ("SPO"). R0355–0367. Jakeman moved to modify the SPO; the court denied Jakeman's motion and issued a Continuous Protective Order ("CPO"). R1842–1849. Jakeman unsuccessfully appealed the issuance of the CPO. *Orem City v. Jakeman*, 2025 UT App 187, cert. denied. On July 8, 2025, Jakeman filed a Request for a Hearing to Modify Continuous Protective Orders. R2913. The court denied that request. R3286–3288. Jakeman unsuccessfully appealed that denial. Order dated Aug. 31, 2026, Utah Ct. App. 20250896-CA.

During a post-judgment hearing on March 28, 2025, Judge Eldridge accepted Jakeman's waiver of his right to counsel and permitted him to represent himself. R2231–2242. During this same hearing, Judge Eldridge warned Jakeman about potential vexatious litigant findings due to his litigation conduct. R3510–3536. Following the March 28, 2025 warning, Jakeman filed a "Response to Statements Made During the Hearing," which exceeded 300 pages. R2465–2786.

Judge Eldridge subsequently issued a "Ruling on Various Motions Raised by Defendant" on June 30, 2025. R2896–2902. In that ruling Jakeman was admonished for a second time not to file papers with the court that were burdensome, irrelevant, immaterial,

scandalous, or uncivil. R2900. The district court also found that the 300-plus page "Response to Statements Made During the Hearing" constituted an instance of vexatious litigation as described in Utah R. Civ. P. 83." R2901. Jakeman appealed the vexatious litigant strike and was again unsuccessful. Order dated Aug. 31, 2026, Utah Ct. App. 20250896-CA. The Court of Appeals ruled that the district court properly determined the document was irrelevant and immaterial. *Id*. The Court of Appeals also found that "[b]ecause the court found that the document was immaterial, the filing of the document came within the plain language of [Utah R. Civ. P. 83(a)(1)(C)(ii)]." *Id*.

The district court closed Jakeman's criminal cases on November 20, 2025. R5309. However, Jakeman continued to file documents with the district court. R5303. Between the case closing on November 2, 2026, and May 20, 2026, there were 88 new docket entries. R5303. The district court also counted 410 entries after sentencing as of May 20, 2026. R5303. The district court found "[w]hile Defendant is not responsible for all of those entries, it is a fair representation that he is responsible for most of them." *Id*.

On April 15, 2026, the district court issued a Ruling on Various Requests by the Defendant and Vexatious Litigant Findings. R5331-5342. The district court held that Jakeman's Rule 59 Motion to Alter or Amend Order Denying His Request for a Hearing to Modify Continuous Protective Orders constituted a second vexatious litigant strike against Jakeman because "as the arguments in this motion are duplicative, and even identical, to the arguments made in other motions filed by Defendant, many of which were already reviewed and ruled on by the Court, it is unmeritorious, redundant, and burdensome." R5333.

The district court also held that Defendant's Motion to Alter or Amend Order Denying His Motion to Correct the Record and Second URAP Rule 11(f) Motion to Correct the Record by Including the Supporting Declaration He Submitted Simultaneously with His Motion to Withdraw Guilty Pleas constituted a third vexatious litigant strike against Jakeman because Jakeman had submitted the same request for relief and attachments in three separate filings to the court. R5336. The district court found that the repeated requests were unmeritorious, redundant, and burdensome. R5336-5337.

The district court further held that Defendant's Motion to Alter or Amend Order Finding his Response to Statements Burdensome constituted a fourth vexatious litigant strike because it was "in essence a request for the Court to reconsider facts and issues it has already considered and adjudicated, irrelevant because the argument the Defendant opposed had no impact on the Court's ruling, and immaterial because the Defendant failed to cite any legal authority demonstrating he has a right to have his objections, filed after the hearing itself, on the record." R5339.

The district court then made a finding by clear and convincing evidence that Jakeman was a vexatious litigant pursuant to Utah R. Civ. P. 83(a)(1)(C) because he "filed unmeritorious pleading or other papers and/or filed pleading or other papers that contained redundant, immaterial, impertinent or scandalous matter more than three times." R5341.

A hearing was held regarding the vexatious litigant findings on May 20, 2026. R5322. The district court held that Utah R. Civ. 83 could be imported via Utah R. Civ. P. 81(f) into the criminal and post-judgment proceedings because there was no governing criminal rule. R5324. The district court rejected Jakeman's argument that Utah R. Crim.

P. 33 governed because "it provided no comprehensive framework to manage a chronic pattern of abuse or impose prospective filing restrictions." R5324.

The district court also rejected Jakeman's argument that there was no claim pending as defined by Utah R. Civ. P. 83(a)(2) and identified Jakeman's various filings and motions as claims. R5325. The district court then found by clear and convincing evidence that Jakeman was a vexatious litigant and that there was no reasonable probability Jakeman would prevail on the claims because they either "failed to identify a request for relief, sought to relitigate a matter the court already ruled on, or raised issues that were moot." R5327.

The district court then issued vexatious litigant orders requiring Jakeman obtain legal counsel before proceeding further in any pending action, obtain legal counsel before filing any future claim for relief, and precluded Jakeman from making request directly to the court's clerks. R5329. The order also directed the clerk of the court to notify the Administrative Office of the Courts that a pre-filing order had been entered. R5330. Finally, the district court struck all pleadings filed after the April 15, 2026, vexatious litigant order. *Id*.

Jakeman now appeals the May 20, 2026, and April 15, 2026, orders.

SUMMARY OF ARGUMENT

The Court of Appeals should deny Jakeman's appeal and affirm the district court's vexatious litigant findings and orders.

First, the district court correctly determined that Jakeman's formal written motions and filings qualified as "claims" under Utah R. Civ. P. 83(a)(2) for purposes of the

probability-of-prevailing analysis under Utah R. Civ. P. 83(c)(1)(B). Utah courts prioritize substance over form, and under the plain language of the rule, a petition is a formal written request for court action. If Utah R. Civ. P. 83 only applied to original complaints as Jakeman argues, any vexatious litigant could endlessly file meritless post-judgment motions, motions to reconsider, and 300-page "responses" with total impunity thus creating a result so absurd that no rational rule drafter could have intended it to operate that way.

Second, the district court properly imported Utah R. Civ. P. 83 into these proceedings via Utah R. Civ. P. 81(f). While Utah R. Crim. P. 33 permits the striking of individual nonconforming filings, it provides no prospective mechanism or comprehensive framework to curb chronic patterns of abusive litigation. Because no criminal rule addresses ongoing vexatious conduct or authorizes prospective filing restrictions, R.81(f) authorized the court to apply R.83.

Third, Jakeman failed to preserve his appellate challenges to the specific terms of the district court's orders including the notice to the Administrative Office of the Courts, the order striking post-April 15, 2026 pro se filings, the restriction on contacting court clerks, and the requirement to obtain counsel. Because these issues are raised for the first time on appeal and Jakeman has established no recognized exception to the preservation rule, they are waived.

Fourth, even if reviewed on the merits, the district court acted well within its discretion. The requirement to notify the Administrative Office of the Courts was mandated under Utah Rule of Civil Procedure 83(f) because the counsel requirement operates as a pre-filing restriction. Striking pro se filings and restricting direct demands

upon court staff were reasonable measures directly authorized by Utah R. Civ. P. 83(b)(6), Utah R. Crim. P. 33, and the court's inherent authority to manage its docket.

Furthermore, the court made all prerequisite findings under Utah R. Civ. P. 83(c)(1) by clear and convincing evidence, and ordering Jakeman to obtain legal counsel before proceeding on current claims or filing future claims is expressly authorized by Rules 83(b)(2) and (b)(3).

Finally, because the district court's findings are fully substantiated by the record, this Court should adopt those findings and orders as its own under Utah R. App. P. 40A(a)(2) and Utah R. Civ. P. 83(j), as it did in *Vashisht-Rota*.

Alternatively, this Court should independently find Jakeman to be a vexatious litigant under Utah R. App. P. 40A(a)(1) and enter restrictions under Utah R. App. P. 40A(b) because Jakeman has filed frivolous, redundant, and immaterial materials or documents on more than one occasion in the district court and the Court of Appeals—including multiple unsuccessful appeals and extraordinary writs — in violation of Utah R. App. P. 40A(a)(1).

ARGUMENT

I. THE COURT OF APPEALS SHOULD AFFIRM THE DISTRICT COURT VEXATIOUS LITIGANT FINDINGS AND ORDERS BECAUSE THE DISTRICT COURT CORRECTLY IDENTIFIED JAKEMAN'S WRITTEN FORMAL FILINGS ASKING THE DISTRICT COURT TO TAKE AN ACTION QUALIFY AS "CLAIMS" UNDER UTAH R. CIV. P. 83(a)(2) IN ITS UTAH R. CIV. P. 83(c)(1)(B) ANALYSIS.

Utah R. Civ. P. 83(c)(1) requires that a court make the following findings by clear and convincing evidence before entering a vexatious litigant curbing order. First the court must find that the party is a vexatious litigant. Utah R. Civ. P. 83(c)(1)(A). Then the court

must find that there is no reasonable probability that the vexatious litigant will prevail on the claim. Utah R. Civ. P. 83(c)(1)(B). Jakeman argues that this Court should adopt a narrow construction of the term "claim" which would exclude the filings and motions identified by the district court as the basis for its finding that there was no reasonable probability Jakeman would prevail on his claims because they either "failed to identify a request for relief, sought to relitigate a matter the court already ruled on, or raised issues that were moot." R5327.

Utah R. Civ. P. 83 is designed to protect courts and opposing parties from bad-faith, circular, and exhausting litigation tactics. See *Huynh v. Witte*, 2026 UT App 150, ¶ 44. A litigant cannot evade vexatious designation simply by disguising repeated frivolous attacks as routine "motions."

The absurdity doctrine applies when applying the plain language leads to results so overwhelmingly absurd no rational drafter could have intended it. *Utley v. Mill Man Steel, Inc.*, 2015 UT 75, ¶ 46. If Utah R. Civ. P. 83 only applied to original complaints as Jakeman argues, any vexatious litigant could endlessly file meritless post-judgment motions, motions to reconsider, and 300-page "responses" with total impunity thus creating a result so absurd that no rational rule drafter could have intended it to operate that way.

Jakeman's construction of the term "claim" is far narrower than the definition provided in Utah R. Civ. P. 83(a)(2) which defines "claim" as "a petition, complaint, counterclaim, crossclaim, or third-party complaint." Court rules are interpreted according to their plain language. *Strand v. Nupetco Assocs. LLC*, 2017 UT App 55, ¶ 4. According

to its plain language meaning, a "petition" is simply a "formal written request presented to a court." PETITION, Black's Law Dictionary (12th ed. 2024).

An appellate court may affirm a ruling on any ground apparent on the record. *State v. Rynhart*, 2005 UT 84, ¶ 10. In *Watson* —an unpublished decision cited by Jakeman in his opening brief — the Court of Appeals treated a vexatious litigant's frivolous sovereign citizen filings as claims even though the district court in that case did not make an explicit reasonable probability finding. *In Re Watson*, 2026 UT App 122, ¶ 22. In the cases before this Court, Judge Eldridge identified several claims and made an explicit reasonable probability finding.

The district court properly applied the Requirements of Utah R. Civ. P. 83(c)(1)(B). Under Utah law, courts look to the substance of a filing, not its title. *Trapnell & Associates., LLC v. Legacy Resorts, LLC,* 2020 UT 44, ¶ 55. The claims identified by the district court were each formal written requests for the court to take some action in Jakeman's cases. The Rule 59 Motion formally asked the district court in writing to alter or amend its June 30, 2025, order denying his motion to "correct the record" and to withdraw or vacate its denial to await a "Request to Submit for Decision." R3289. Jakeman's Motion to Reconsider asks the district court to "reconsider, alter, vacate, and reverse its denial of his Motion to Disqualify Judge Eldridge." Jakeman's Rule 11(f) Motions asked the district court to add transcripts of some audio recordings and copies of some motions to the record. R3569-3583.

Jakeman implies in his Brief that the motions identified by the district court as claims were papers that requested no relief. Appellant Brief at 25. However, this is directly

contradicted by Jakeman's calls for the district court to take action in each of the identified claims and by the "request for relief" found at the end of Jakeman's Rule 11(f) Motion. R3581-3582. Jakeman himself stated that the identified filings are "motions, record-correction filings, reconsideration filings, continuous-protective-order-review papers, and preservation filings" designations that denote a formal written request to the court to take an action. Appellant's Brief at 26.

As the motions were written requests for the district court to take some action, they are petitions which fall under the definition of "claim" set forth in Utah R. Civ. P. 83(a)(2). Thus, Judge Eldridge did not err when he identified them as such in his Utah R. Civ. P. 83(c)(1)(B) analysis and this Court should affirm the district court's vexatious litigant findings and orders.

II. THE COURT OF APPEALS SHOULD AFFIRM THE DISTRICT COURT'S VEXATIOUS LITIGANT FINDINGS AND ORDERS BECAUSE THE DISTRICT COURT CORRECTLY IMPORTED UTAH R. CIV. P. 83 VIA UTAH R. CIV. P. 81(f) AS THERE IS NO CRIMINAL RULE DESIGNED TO ADDRESS CHRONIC PATTERNS OF ABUSE OR IMPOSE PROSPECTIVE FILING RESTRICTIONS ON VEXATIOUS LITIGANTS.

Utah R. Civ. P. 81(f) establishes that civil rules "govern in any aspect of criminal proceedings where there is no other applicable statute or rule, provided that any rule so applied does not conflict with any statutory or constitutional requirement." Jakeman argues that because Utah R. Crim. P. 33 allows a court to strike or disregard pleadings, written motions or papers that are burdensome, irrelevant, immaterial, scandalous, or uncivil, criminal courts cannot use the civil vexatious litigant rule, Utah. R. Civ. P. 83, to curb vexatious behavior.

Although Utah R. Crim. P. 33 allows a court to strike individual papers containing immaterial, scandalous, or uncivil matters, it does not provide a comprehensive framework to manage a chronic pattern of abuse or impose prospective filing restrictions. Thus, Utah R. Crim. P. 33 does not adequately address "the burden on the machinery of justice" caused by baseless filing. *Vashisht-Rota v. Howell Mgmt. Servs*., 2021 UT App 133, ¶ 12.

Whereas the purpose of Utah R. Civ. P. 83 restrictive orders is to curb a vexatious litigant's vexatious conduct. *Vashisht-Rota v. Howell Mgmt. Servs*., 2021 UT App 133, ¶ 15. The restrictive order options enumerated in Utah R. Civ. P. 83(b) specifically address prospective behavior with prefiling restrictions on existing and future actions. Moreover, Utah R. Civ. P. 83(b)(6) explicitly states the purpose of the rule when it authorizes the court to take "any other action necessary to *curb the vexatious litigant's abusive conduct*." (*emphasis added*).

Given the inadequacies of Utah R. Crim. P. 33 to address patterns of chronic abuse like those engaged in by Jakeman, the district court correctly imported Utah R. Civ. P. 83 via Utah R. Civ. P. 81(f). Accordingly, the Court of Appeals should deny Jakeman's Appeal and affirm the district court's vexatious litigant finding and order.

III. JAKEMAN'S CLAIMS REGARDING THE DISTRICT COURT'S ORDERS IMPOSING VEXATIOUS LITIGANT RESTRICTIONS ARE NOT PRESERVED BECAUSE THEY ARE RAISED FOR THE FIRST TIME ON APPEAL AND NO PRESERVATION EXCEPTION WAS IDENTIFIED BY JAKEMAN THAT WOULD ALLOW THIS COURT TO ADDRESS THE CLAIMS.

Jakeman raises claims that the district court erred when it ordered that the Administrative Office of the Courts be notified that a prefiling order was issued, the

documents filed after the April 15, 2026 vexatious litigant finding be stricken, that Jakeman be prohibited from contacting the court clerks, and that Jakeman obtain counsel before proceeding on current or future matters. These claims are raised for the first time on appeal and thus have not been preserved.

"An issue is preserved for appeal when it has been presented to the district court in such a way that the court has an opportunity to rule on it." *Vashisht-Rota v. Howell Mgmt. Servs.*, 2021 UT App 133, ¶ 18. "Appellate courts consider three factors when determining whether an issue was properly raised before the district court: (1) the issue must be raised in a timely fashion; (2) the issue must be specifically raised; and (3) a party must introduce supporting evidence or relevant legal authority." *Id*. "When a party fails to raise and argue an issue in the district court, it has failed to preserve the issue, and an appellate court will not typically reach that issue absent a valid exception to preservation." *State v. Johnson,* 2017 UT 76, ¶ 15. Further, "[w]hen a party fails to raise and argue an issue on appeal, or raises it for the first time in a reply brief, that issue is waived and will typically not be addressed by the appellate court." *Id.* This court has recognized three distinct exceptions to preservation: plain error, ineffective assistance of counsel, and exceptional circumstances. *Id.* at ¶ 19. The record shows that Jakeman did not raise any of these issues found in his brief before the trial court with the sufficiency to preserve them for appeal. R5393-5423. Further, where Jakeman has not identified an exception to the preservation rule, these issues are waived and the Court of Appeals should decline to review them.

IV. THE COURT OF APPEALS SHOULD AFFIRM THE DISTRICT COURT VEXATIOUS LITIGANT RESTRICTIONS AND ORDERS BECAUSE IT DID NOT ABUSE ITS DISCRETION BECAUSE SUCH ORDERS ARE

PERMITTED OR REQUIRED BY UTAH R. CIV. P. 83(b), UTAH R. CIV. P. 83(f), AND UTAH R. CRIM. P. 33.

A. The District Court Correctly Notified the Administrative Office of the Courts That Jakeman was Subject to a Prefiling Order.

The district court issued vexatious litigant orders requiring Jakeman obtain legal counsel before proceeding further in any pending action, obtain legal counsel before filing any future claim for relief, and precluded Jakeman from making request directly to the court's clerks. R5329. The district court directed the Clerk of the Court to notify the Administrative Office of the Courts that a prefiling order was entered against Jakeman. R5330. Utah R. Civ. P. 83(f) states "The clerks of court shall notify the Administrative Office of the Courts ("AOC") that a pre-filing order has been entered." Jakeman again argues for the Court of Appeals to adopt a narrow construction of the term pre-filing order. Court rules are interpreted according to their plain language. *Strand v. Nupetco Assocs. LLC*, 2017 UT App 55, ¶ 4. A plain language interpretation of the term "pre-filing order" would include any order which imposes a restriction on future filings. Where the district court's order that Jakeman obtain legal counsel prior to filing imposes a pre-filing restriction on Jakeman, the notification was mandated by Utah R. Civ. P. 83(f).

B. The District Court Was Authorized by Utah R. Civ. P. 83(b)(6) and Utah R. Crim. P. 33 to Strike All Pro Se Pleadings Filed After April 15, 2026.

Jakeman argues that there is no rule which authorizes the district court to strike all the pro se pleadings he filed after April 15, 2026. However, the district court's actions were authorized by Utah R. Civ. P. 83(b)(6) which allows a court to take any action reasonably necessary to curb a vexatious litigant's abusive conduct. Additionally, this order is

permitted under Utah R. Crim. P. 33(a) which authorizes a court to disregard or strike any pleadings, written motions and other papers that are burdensome, irrelevant, immaterial, scandalous, or uncivil.

Generally, appellate courts grant "[a] trial judge ... broad discretion in determining how a [case] shall proceed in his or her courtroom." *Pratt v. Nelson*, 2005 UT App 541, ¶ 12. The district court has the inherent power to strike a party's pleading if the party engages in conduct that demonstrates a lack of merit. C*hen v. Stewart,* 2005 UT 68,¶ 43. Utah R. Crim. P. 33(a) states, "All pleadings, written motions and other papers must be free from burdensome, irrelevant, immaterial, scandalous, or uncivil matters. Filings that "are not in compliance may be disregarded or stricken, in whole or in part, and the court may impose sanctions against the offending party." Utah R. Crim. P. 33(a). The district court's ruling on a motion to strike a pleading will not be disturbed absent a clear abuse of discretion. *Gunnison Valley Bank v. Crotts*, 2012 UT App 308, ¶ 2.

Moreover, the restrictions imposed by the district court were not "terminating sanctions" as Jakeman claims. Terminating sanctions are sanctions that completely end a case or a party's involvement in it. This order was not a terminating sanction because the order did not completely end the case or Jakeman's involvement in it. In fact, the district court told Jakeman that counsel could refile the filings if appropriate. R5419-5420.

A determination as to the type and amount of sanctions to be imposed in a vexatious litigant order is reviewed under an abuse of discretion standard. *Vashisht-Rota v. Howell Mgmt. Servs*., 2021 UT App 133, ¶ 16. An abuse of discretion occurs only if it can be said that no reasonable person would take the view adopted by the district court.

State v. Valdovinos, 2003 UT App 432, ¶ 14. A reasonable person could adopt the view that documents filed while a vexatious litigant sanctions hearing was pending were burdensome, irrelevant, or immaterial. Moreover, an appellate court may affirm a ruling on any ground apparent on the record. *State v. Rynhart,* 2005 UT 84, ¶ 10.

C. The District Court Was Authorized by Utah R. Civ. P. 83(b)(6) to Restrict Jakeman's Requests to the Court Clerks.

A determination as to the type and amount of sanctions to be imposed in a vexatious litigant order is reviewed under an abuse of discretion standard. *Vashisht-Rota v. Howell Mgmt. Servs*., 2021 UT App 133, ¶ 16. The district court found that "Jakeman made numerous burdensome requests of the Court clerks…that has required the clerks to undertake and consume many clerk hours to satisfy his requests. R5419. Accordingly, the district court order precluded Jakeman from making requests directly to the court clerks. R5329. Utah R. Civ. P.83(b)(6) allows the court to take any other action reasonably necessary to curb the vexatious litigant's abusive conduct. The order issued by the district court is not an absolute bar, as Jakeman was not barred from making requests through counsel. The order was directly tied to abusive conduct and designed to stop the drain on clerk resources by filtering any requests through counsel.

D. The District Court Made the Requisite Vexatious Litigant Findings and Was Authorized by Utah R. Civ. P. 83(b)(2 & 3) to Require Jakeman Obtain Legal Counsel and Utah R. Civ. P. 83(b)(6) Which Grants the District Court Authority to Take Any Other Action Reasonably Necessary to Curb a Vexatious Litigant's Abusive Conduct.

The district court did not abuse its discretion when it ordered Jakeman to obtain counsel because it made the requisite findings pursuant to Utah R. Civ. P. 83(c) (1) and then issued orders expressly authorized by Utah R. Civ. P. 83(b).

A determination as to the type and amount of sanctions to be imposed in a vexatious litigant order is reviewed under an abuse of discretion standard. *Vashisht-Rota v. Howell Mgmt. Servs.*, 2021 UT App 133, ¶ 16. An abuse of discretion occurs only if it can be said that no reasonable person would take the view adopted by the district court. *State v. Valdovinos*, 2003 UT App 432, ¶ 14.

The district court made the prerequisite findings under Utah R. Civ. P. 83(c)(1). It found that Jakeman was vexatious after identifying four separate unmeritorious, redundant, or immaterial pleading or papers. R5341, R5325. Then it found there was no reasonable probability Jakeman would prevail on his claims because they either "failed to identify a request for relief, sought to relitigate a matter the court already ruled on, or raised issues that were moot." R5327.

Utah R. Civ. P. 83(b)(2&3) expressly authorizes the district court to require a litigant to obtain legal counsel before proceeding on any pending action or filing on any future claim for relief. Utah R. Civ. P. 83(b)(6) further grants the district court authority to take any other action reasonably necessary to curb a vexatious litigant's abusive conduct. Jakeman has provided no legal basis for his assertions that the district court was required to identify the source, scope, duration, or exceptions to a vexatious litigant order requiring the vexatious litigant obtain counsel and no such requirements exist within the four corners of the rule.

Jakeman claims that the district court denied him counsel. Appellant's Brief at 45. That is inaccurate, the court denied him *court appointed* counsel because the case was closed and the continuous protective order was the only open issue for which the district court could not appoint a public defender. R5422. Where Jakeman's criminal case was closed, he no longer faced a deprivation of liberty. As such, he was no longer entitled to pursue his frivolous claims at the taxpayer's expense. *Liender v. Harris,* affirmed a future-claim counsel requirement and held that financial impact alone did not make an otherwise authorized restriction excessive. 2025 UT App 2, ¶¶ 9–13.

V. THE COURT OF APPEALS SHOULD AFFIRM THE DISTRICT COURT VEXATIOUS FINDINGS AND ORDERS AND ADOPT THEM AS IT DID IN THE *VASHISHT-ROTA V. HOWELL MGMT. SERVS.* AS AUTHORIZED BY UTAH. R. CIV. P. 83(j) AND UTAH R. APP. P. 40A(a)(2) OR EVEN MAKE VEXATIOUS LITIGANT FINDINGS AND ORDERS PURSUANT TO UTAH R. APP. P. 40A(a)(1) BASED ON JAKEMAN'S HISTORY OF FILING FRIVOLOUS, REDUNDANT, IMMATERIAL, IMPERTINENT, AND SCANDALOUS MATERIALS IN THE DISTRICT COURT AND COURT OF APPEALS.

A. The Court of Appeals Should Affirm the District Court Vexatious Findings and Orders Because the District Court Correctly Determined that Jakeman was Vexatious and Did Not Have a Reasonable Probability of Prevailing on His Claims.

Utah R. Civ. P. 83(c)(1) requires that a court make the following findings by clear and convincing evidence before entering a vexatious litigant curbing order. First, the court must find that the party is a vexatious litigant. Utah R. Civ. P. 83(c)(1)(A). Then the court must find that there is no reasonable probability that the vexatious litigant will prevail on the claim. Utah R. Civ. P. 83(c)(1)(B).

A court may find a person to be a vexatious litigant if in any action they three or more times do any one or any combination of the following: file unmeritorious pleadings or other papers; file pleadings or other papers that contain redundant, immaterial, impertinent or scandalous matter; conduct unnecessary discovery or discovery that is not proportional to what is at stake in the litigation, or engage in tactics that are frivolous or solely for the purpose of harassment or delay. Utah R. Civ. P 83(a)(1)(C). The district court identified four specific instances of vexatious conduct but noted "The Court only singles out four instances of vexatious behavior, but a review of the record demonstrates many other instances. In the interest of judicial economy, the Court only addressed the four instances addressed in this ruling." R5325.

The first of the four examples was a 300 page response to statements made at a hearing. R5325. The district court found that this document was immaterial because Jakeman failed to request any relief and addressed moot issues related to an already granted request. *Id*. The district court also found that the excessive length constituted a tactic "solely for the purpose of harassment or delay" and that it contained immaterial matter. *Id*. Dumping voluminous, irrelevant material and exhibits without any request for relief burden the record and abuses court processes.

The second of the four examples was a Rule 59 Motion to alter or amend an order denying a CPO hearing. R5326. The court found that this motion was unmeritorious, redundant, and frivolous because Jakeman made identical arguments which were already reviewed and rejected. *Id.* Re-litigating rejected CPO arguments without demonstrating statutory grounds under Rule 59 is redundant and immaterial.

The third example actually constituted multiple vexatious acts because it involved the filing of multiple successive Utah R. App. P. 11(f) motions to correct the record regarding his withdrawn motion to withdraw guilty pleas. R5326. The district court found this series of motions redundant and burdensome, because the repeated requests asked for the same relief involving a moot issue. *Id*. Using record-correcting machinery to contest settled moot issues is an improper delay tactic.

The fourth example was a motion to reconsider a finding that a 300 page response was burdensome which the district court determined lacked merit because it ask the court to reconsider facts and issues that were already considered and adjudicated yet failed to cite to any legal authority demonstrating the original ruling was erroneous. *Id*. The district court stated "this persistent refusal to accept finality in the face of settled law constitutes an "unmeritorious" filing and a "frivolous tactic."' *Id*. Merely reasserting a disagreement with a prior order without offering new law or facts wastes judicial resources.

Jakeman claims that the court erred because the motions and responses were not stand alone "claims." Substance controls over form. Under Utah law, courts look to the substance of a filing, not its title. *Trapnell & Associates., LLC v. Legacy Resorts, LLC*, 2020 UT 44, ¶ 55. An unrepresented party cannot paralyze proceedings by constantly demanding affirmative relief (e.g., vacating orders, altering CPOs, striking rulings) inside non-pleading papers and then claim immunity because the paper was labeled a "response" or "motion." Filing a motion to reconsider a sanctions order without introducing new facts or legal authority is itself a textbook example of redundant, vexatious litigation under Rule 83(a)(1)(C).

Jakeman claims that clerical confusion (docket number discrepancies, mislabeled exhibits) deprive the court of clear and convincing evidence. Any minor discrepancies in docket numbering across orders (e.g., citing Dkt 385 and 386) are harmless clerical details. The record clearly demonstrates which substantive filings and topics were at issue. The district court did not sanction Jakeman for mere volume; it evaluated massive filings (such as 300-page exhibit dumps) as evidence of harassment, intent to burden the court system, and bad faith.

Jakeman argues that each of the predicate filings was a recognized, rule-authorized procedural step that simply lost on the merits yet authorized motions or arguments can still be vexatious. The fact that a rule exists (Rule 59, Rule 54(b), Rule 11) does not grant a litigant a blank check to abuse it. Using a valid procedural vehicle to repeatedly raise moot or dead issues without grounds constitutes vexatious conduct.

Thus, the district court findings that Jakeman was a vexatious litigant were supported by clear and convincing evidence of a pattern of repetitive, burdensome, and unmeritorious pleadings.

The district court also correctly found by clear and convincing evidence that there was no reasonable probability that Jakeman will prevail on his claims. As discussed above, Jakeman's interpretation of the term claim invites an absurd result. If R. 83 only applied to original complaints, any vexatious litigant could endlessly file meritless post-judgment motions, motions to reconsider, and 300-page "responses" with total impunity. The district court did not confuse motions with claims. It correctly identified Jakeman's formal written request to the court as petitions that fell within the definition of claim set

forth in Utah R. Civ. P. 83(a)(2). The district court then went through four claims and identified why there was no reasonable probability Jakeman would prevail on those claims because they either (1) failed to identify a request for relief; (2) sought to relitigate a matter the court already ruled on; or (3) raised issues that were moot. R5327.

The district court also evaluated Jakeman's overarching requested relief—primarily attempting to overturn or alter protective orders—and properly concluded there was zero probability of success on the merits. Jakeman has repeatedly and unsuccessfully challenged these orders in district and appellate courts.

While prior opinions regarding the protective orders noted procedural defects (lack of preservation or invited error), the district court did not rely on them as an abstract bar to all future relief; it relied on them to show that the litigant was continually re-raising the exact same settled issues under new labels.

The district court correctly applied the rule, weighed the evidence, and made the requisite findings by clear and convincing evidence. As such the Court of Appeals should deny Jakeman's Appeal and affirm.

B. The Court of Appeals Should Adopt the District Court Vexatious Findings and Orders as Authorized by Utah R. Civ. P. 83(j) and Utah R. App. P. 40A(a)(2).

In *Vashisht-Rota*'s vexatious litigant appeal, the opposing party asked the Court of Appeals to issue relief and adopt the district court's vexatious litigant order. *Vashisht-Rota v. Howell Mgmt. Servs.*, 2021 UT App 133, ¶ 22. The Court of appeals granted that relief. *Id.* The City of Orem now moves the Court of Appeals to do the same, adopt the district

court's vexatious litigant finding, and impose vexatious litigant orders to curb Jakeman's abuses of the Judicial system. Utah R. Civ. P.83(j) states that "after a court has issued a vexatious litigant order, any other court may rely upon that court's findings and order its own restrictions against the litigant…" Utah R. App. P. 40A(a)(2) also allows the Court of Appeals to find a person to be a vexatious litigant if any other court has previously determined the party to be a vexatious litigant in a related matter. Where the district court's vexatious findings and orders are proper, this Court should now adopt those findings and orders.

C. **The Court of Appeals Should Find Jakeman a Vexatious Litigant and Issue Vexatious Litigant Orders as Authorized by Utah R. App. P. 40A(a)(1) Based on Jakeman's History of Filing Frivolous, Redundant, Immaterial, Impertinent, and Scandalous Materials in the District Court and Court of Appeals**.

There are sufficient grounds and evidence before the Court of Appeals to make vexatious litigant findings by clear and convincing evidence even without the previous determination. The appellate court may find a person to be a "vexatious litigant" if they do any of the following on more than one occasion: file a frivolous brief, motion, petition, or other document; file a brief, motion, petition, or other document that contains redundant, immaterial, impertinent, or scandalous material; engages in tactics that are frivolous or done solely for the purpose of harassment or delay; or purports to represent or to use the procedures of a court other than a court of the United States, a court created by the Constitution of the United States or by Congress under the authority of the Constitution of the United States, a tribal court recognized by the United States, a court created by a state

or territory of the United States, or a court created by a foreign nation recognized by the United States. Utah R. App. P. 40A(a)(1). Jakeman has filed over 30 separate appellate actions stemming from the subject cases and has yet to prevail on any of those actions. That record speaks for itself and is per se evidence of frivolity.

CONCLUSION

For the foregoing reasons, Appellee the City of Orem respectfully requests that this Court affirm the district court's April 15, 2026, and May 20, 2026, rulings and orders finding Appellant David Ammon Jakeman to be a vexatious litigant. The City of Orem further requests that this Court adopt the district court's vexatious litigant findings and orders as its own, pursuant to Utah R. App. P. 40A(a)(2) and Utah R. Civ. P. 83(j), or, in the alternative, independently find Appellant to be a vexatious litigant by clear and convincing evidence pursuant to Utah R. App. P. 40A(a) and 40A(c)(1) and enter appropriate restrictions under Utah R. App. P. 40A(b) to curb his ongoing abuse of the judicial process.

DATED this 30th day of October 2026.

/s/ Aliisa N. Leon
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CERTIFICATE OF COMPLIANCE

Counsel hereby certifies pursuant to Ut. R. App. P. 24(a)(11)(A) and (B) that the Brief of Appellee complies with the following:

1. UT. R. App. P. 24(g)(1) and (2) in that the brief contains 8513 words as determined by Microsoft Word used to prepare the *Brief of Appellee*, excluding the table of contents, table of authorities, certificates, and addendum.

2. UT. R. App. P. 24(a)(11) and UT. R. App. P. 21 in that the filing herein and addenda do not contain any non-public "information classified as private, controlled, protected, safeguarded, sealed, juvenile court legal or juvenile court social, or other information to which the right of public access is restricted by statute, rule, order or case law."

DATED this 30th day of October, 2026

/s/ Aliisa N. Leon
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CERTIFICATE OF SERVICE

I hereby certify that I e-filed, and emailed, a true and correct copy of the forgoing *Brief of Appellee* on this 30th day of October 2026, to the following, with hard copies to follow in accordance with UT. R. App. P. 26(b):

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