

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 28 2019

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

KEVIN DANIEL QUILLINAN,

No. 18-16163

Plaintiff-Appellee,

D.C. No. 4:17-cv-00077-KAW

v.

MEMORANDUM*

RUSSELL AINSWORTH; et al.,

Defendants-Appellants.

Appeal from the United States District Court
for the Northern District of California
Kandis A. Westmore, Magistrate Judge, Presiding**

Submitted February 19, 2019***

Before: FERNANDEZ, SILVERMAN, and WATFORD, Circuit Judges.

Defendants appeal from the district court's order denying their motion for sanctions in Quillinan's civil Racketeer Influenced and Corrupt Organizations Act

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The parties consented to proceed before a magistrate judge. *See* 28 U.S.C. § 636(c).

*** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2). Defendants' request for oral argument, set forth in their opening brief, is denied.

(“RICO”) action. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion. *Winterrowd v. Am. Gen. Annuity Ins. Co.*, 556 F.3d 815, 819 (9th Cir. 2009). We affirm.

The district court did not abuse its discretion by denying defendants’ motion for sanctions because defendants failed to develop the record sufficiently to demonstrate that sanctions were warranted. *See Christian v. Mattel, Inc.*, 286 F.3d 1118, 1127 (9th Cir. 2002) (factors to consider in determining whether to impose sanctions under Federal Rule of Civil Procedure 11); *De Long v. Hennessey*, 912 F.2d 1144, 1147-48 (9th Cir. 1990) (factors to consider in determining whether to declare an individual a vexatious litigant and order pre-filing restrictions).

Quillinan’s motion to take judicial notice (Docket Entry No. 13) is denied as unnecessary.

AFFIRMED.