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2 **UNITED STATES DISTRICT COURT**

3 **DISTRICT OF ARIZONA**

4 **Gregory Best,** )

5 **Plaintiff,** )

6 **vs.** )

7 **State of Arizona, et al.,** )

8 **Defendants.** )

9 **2:16-CV-839 JWS**

10 **ORDER AND OPINION**

11 **[Re: Motion at docket 28]**

12 **I. MOTION PRESENTED**

13 At docket 28, defendant City of Phoenix (“City”) asks the court to enter an order  
14 declaring plaintiff Gregory Best (“Best”) to be a vexatious litigant who should be  
15 required to obtain leave of court prior to “filing any further lawsuits in Federal Court  
16 against the City, the City’s employees and the City’s attorneys concerning his alleged  
17 property development efforts in the South Country Development, which have been the  
18 subject of five different lawsuits he previously filed in Arizona state courts and this court,  
19 as detailed below.”<sup>1</sup> At docket 30, defendants Berke Law Firm, PLLC, Lori Berke, and  
20 Jody Corbert join in the City’s motion, saying only that the motion is well taken. The  
21 other defendants—the State of Arizona, Arizona Attorney General Mark Brnovich, and  
22 several state court judges have not filed any papers relating to the motion. Best, who is  
23 proceeding *pro se*, has not responded.  
24

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26  
27  
28 <sup>1</sup>Doc. 28 at p. 1.

1 **II. DISCUSSION**

2 Best’s complaint in essence asked this court to review decisions made in and  
3 affirmed in the state courts of Arizona. In their motion at docket 12, various defendants,  
4 including the State of Arizona, moved to dismiss Best’s complaint for lack of subject  
5 matter jurisdiction, pointing out that Best’s claims were “in effect, appeals of adverse  
6 state court orders.”<sup>2</sup> The moving defendants argued convincingly that “[t]here is neither  
7 diversity nor federal question jurisdiction.”<sup>3</sup> Best did not oppose the motion to dismiss.  
8 Upon review, this court found merit in the motion to dismiss and dismissed the lawsuit  
9 for lack of subject matter jurisdiction.  
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12 City correctly points out that in certain circumstances federal courts have the  
13 authority to enter orders requiring screening of complaints filed by persons determined  
14 to be vexatious litigants.<sup>4</sup> City’s motion goes on to explain why, in the City’s view, the  
15 requirements pertinent to a determination that Best is a vexatious litigant are met.  
16 However, City does not address how this court can enter an order of any kind in a case  
17 in which the court lacks subject matter jurisdiction.<sup>5</sup> The motion at docket 28 is  
18 DENIED.  
19

20 DATED this 23d day of November 2016.

21 /s/ JOHN W. SEDWICK  
22 SENIOR JUDGE, UNITED STATES DISTRICT COURT

23  
24 <sup>2</sup>Doc. 12 at p. 1.

25 <sup>3</sup>*Id.* at p. 2.

26 <sup>4</sup>*Molski v. Evergreen Dynasty Corp.*, 500 F.3d 1047, 1057 (9th Cir. 2007).

27 <sup>5</sup>In each of the cases cited by City there was subject matter jurisdiction.