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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

DERRICK HOWARD,	)	Case No. CV 12-01068 DDP (JCx)
	)	
Plaintiff,	)	<b>ORDER DENYING DEFENDANTS' MOTION</b>
	)	<b>FOR ORDER DEEMING PLAINTIFF A</b>
v.	)	<b>VEXATIOUS LITIGANT</b>
	)	
FARMERS INSURANCE COMPANY,	)	[Dkt. No. 105]
INC.; MID-CENTURY INSURANCE	)	
COMPANY; et al.,	)	
	)	
Defendants.	)	
_____	)	

Presently before the Court is Defendants' Motion for Order Deeming Plaintiff Derrick Howard a Vexatious Litigant. (Dkt. No. 105.) The Motion was opposed. (Dkt. Nos. 115, 116, 117.)

District courts have the inherent power and discretion to enter orders deeming a party a "vexatious litigant." See Molski v. Evergreen Dynasty Corp., 500 F.3d 1047, 1056-57 (9th Cir. 2007). This is considered "an extreme remedy that should rarely be used" because "such sanctions can tread on a litigant's due process right of access to the courts." Id. at 1057. To balance the concerns of due process against potential abuse of the judicial process, courts examine four factors: (1) notice and opportunity to be heard by the

1 potentially vexatious litigant; (2) creation of an adequate record  
2 to review; (3) substantive findings by the district court of the  
3 "frivolous or harassing nature of the plaintiff's litigation"; and  
4 (4) narrow tailoring of any vexatious litigant order. Id.

5 Here, the Court declines to exercise its discretion and name  
6 Plaintiff a vexatious litigant. Most importantly here, the Court  
7 cannot determine that this suit – or any of the other alleged suits  
8 – are "frivolous or harassing." This is a merits question, and it  
9 does not appear that the merits of this suit, rather than  
10 procedural or other non-substantive issues, have been addressed by  
11 a court with jurisdiction. Therefore, Defendants' Motion is  
12 DENIED.

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14 IT IS SO ORDERED.

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17 Dated: February 25, 2016

  
18 DEAN D. PREGERSON  
19 United States District Judge  
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