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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

JANETTA SCONIERS,

Plaintiff,

v.

JUDICIAL COUNCIL OF CALIFORNIA,
et al.,

Defendants.

CASE NO. 1:11-cv-00113-LJO-SMS
APPEAL NO.

ORDER RECOMMENDING DENIAL OF
PLAINTIFF’S REQUEST TO FILE
APPEAL *IN FORMA PAUPERIS*

(Doc. 75)

Plaintiff has requested waiver of the filing fee for an appeal in the above-captioned case. Without evaluating the merits of Plaintiff’s arguments on appeal, the Court acknowledges that Plaintiff may reasonably challenge the order declaring her a vexatious litigant. Nonetheless, the Court recommends denial of Plaintiff’s motion to file *in forma pauperis* in light of her failure to provide the financial information required by the Federal Rules of Appellate Procedure and of her previously demonstrated ability to pay the filing fee.

I. Procedural Background

On January 21, 2011, Plaintiff, by her attorney, Ralston L. Courtney, filed a 569-page complaint against 67 named defendants and 50 “John Doe” defendants alleging numerous causes

1 of action and seeking multiple forms of relief. The District Court struck the complaint, which
2 Courtney had failed to sign, and directed Plaintiff and Courtney to carefully review F.R.Civ. P. 8
3 and 11 before re-filing the complaint. On March 10, 2011, Plaintiff responded by re-filing the
4 original complaint, ostensibly signed by Attorney Courtney, and filing the first three of numerous
5 motions challenging the jurisdiction and integrity of the District Court and its judges.
6

7 On March 14, 2011, the Magistrate Judge issued the first of three Orders to Show Cause
8 Why the Complaint Should Not Be Dismissed for Failure to Comply With F.R.Civ.P. 8 and 11.
9 Plaintiff responded to the first two Orders to Show Cause by filing interlocutory appeals to the
10 Ninth Circuit Court of Appeals. The Circuit Court dismissed the first appeal for failure to comply
11 with the court's order and denied the second appeal. Plaintiff and her attorney failed to appear to
12 answer the third Order to Show Cause on November 16, 2011. As a result, the Magistrate Judge
13 filed Findings and Recommendations recommending that the complaint be dismissed for
14 Plaintiff's failure to follow court rules, that Plaintiff be declared a vexatious litigant, and that
15 Plaintiff's attorney, Ralston L. Courtney, be reprimanded and sanctioned for his failure to comply
16 with F.R.Civ.P. 11(b). The District Court entered an order adopting the Findings and
17 Recommendations on December 13, 2011.
18
19

20 **II. Ralston L. Courtney**

21 Plaintiff purports to bring this appeal *in propria persona* on behalf of both herself and her
22 former attorney Ralston L. Courtney. Because Plaintiff is not an attorney, she may not represent
23 Mr. Courtney in this appeal.
24

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26 ///

1 **III. Recommendation to Require Plaintiff's Payment of Filing Fee**

2 Plaintiff's motion to appeal *in forma pauperis* did not include an affidavit in the form set
3 forth as Form 4 in the Appendix of Forms to the Federal Rules of Appellate Procedure. The
4 motion submitted cannot be considered tantamount to Form 4 since it fails to provide the
5 financial information required by Form 4.
6

7 Plaintiff has demonstrated to this Court that she has the means to pay the fee when
8 payment suits her own purposes. Beginning with her filing of *Sconiers v. Whitmore, et al.* (1:09-
9 cv-02168-OWW-SKO), Plaintiff has paid the filing fee for her District Court cases, arguing that
10 the Court could not then screen her *pro se* complaints, as provided by the general orders of this
11 district, since she was not proceeding *in forma pauperis*.
12

13 Accordingly, the Court recommends that, having demonstrated the financial ability to pay
14 the filing fee, Plaintiff be required to pay the filing fee.
15

16
17 IT IS SO ORDERED.

18 **Dated:** January 11, 2012

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE