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5 **UNITED STATES DISTRICT COURT**  
6 **EASTERN DISTRICT OF CALIFORNIA**  
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8 **SALMA H. AGHA-KHAN,**

9 **Plaintiff,**

10 **v.**

11 **UNITED STATES OF AMERICA, et. al.,**

12 **Defendants.**  
13

**CASE NO. 1:15-CV-00042-AWI**

**ORDER ON MOTION TO DECLARE  
PLAINTIFF A VEXATIOUS LITIGANT**

**(Docs. 99-100)**

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15 Plaintiff Agha-Khan filed the present action in United States Bankruptcy Court in the  
16 Eastern District of California on December 31, 2014 against roughly 58 named defendants and  
17 100 Doe defendants. Doc. 1. The case was reassigned to this Court for all further proceedings.  
18 Doc. 4. The core of the complaint in this case and in several related lawsuits is that the defendants  
19 allegedly acted improperly before, during, and after Agha-Khan's Chapter 7 bankruptcy case filed  
20 in the Bankruptcy Court for the Eastern District of California, Case No. BK 10-161183. Doc. 1.  
21 On September 29, 2015, this Court granted seven motions to dismiss filed by various defendants  
22 and consequently dismissed with prejudice 51 defendants from the case. Doc. 134. Previously, on  
23 May 14, 2015, Defendants CitiMortgage, Inc., CitiBank, N.A., Wolfe & Wyman LLP, Brian H.  
24 Gunn, Andrew A. Bao, and Heather S. Kim ("the Moving Defendants") had filed a motion to  
25 declare plaintiff a vexatious litigant. Docs. 99-100. The motion seeks a pre-filing review order  
26 against Agha-Khan and a security to cover the Moving Defendants expenses in litigating the  
27 action. Id. at 17:1-10. On June 16, 2015, the Moving Defendants filed a notice of non-opposition  
28 to the motion to declare plaintiff a vexatious litigant as an opposition had not been timely filed by

1 its deadline on June 8, 2015. Doc. 121. Agha-Khan subsequently filed an opposition on August  
2 17, 2015. Doc. 123. The Moving Defendants replied. Doc. 126. No oral arguments have been  
3 held and the matter has been decided on the papers.

#### 4 **Agha-Khan's Litigation History**

5 Plaintiff has brought at least five prior actions involving the same residential mortgage  
6 loan and same real property as this matter against CitiMortgage, Inc. and dozens of other  
7 defendants:

- 8 1. Khan v. CitiMortgage, Inc., No. S-1500-CV-278192 (Super. Ct. Cal.) (voluntarily  
9 dismissed without prejudice).
- 10 2. Khan v. CitiMortgage, Inc., No. 1:12-cv-02056, Doc. 11 (E.D. Cal. Feb. 7, 2013)  
11 (voluntarily dismissed without prejudice).
- 12 3. Khan v. CitiMortgage, Inc., No. 1:13-cv-01378, Doc. 7 (E.D. Cal. Sept. 30, 2013)  
13 (granting motion to dismiss with prejudice and judgment in favor of CitiMortgage, Inc.  
14 and Wilmington Trust Company).
- 15 4. Agha v. CitiMortgage, Inc., et. al., No. 13-01086-B, Doc. 264 (E.D. Cal. Feb. 19,  
16 2015) (granting motion to dismiss without prejudice to debtor's right to pursue  
17 non-bankruptcy claims in a court of proper jurisdiction).
- 18 5. Salma Agha-Khan v. United States of America, et al., No. 2:14-cv-03490, Doc. 218  
19 (C.D. Cal. April 20, 2015) (granting motions to dismiss with prejudice).

20 Agha-Khan filed the instant action on December 31, 2014 in United States Bankruptcy  
21 Court for the Eastern District of California before the matter was reassigned to this Court. Since  
22 the matter was assigned here, Agha-Khan has filed a multitude of motions:

- 23 1. Doc. 43: Added Request to Impose Sanctions on Defendants for Violating 28 U.S.C. §  
24 1927, Rule 11 for Misrepresentations and Filing Papers with this Court in Bad Faith.
- 25 2. Doc. 44: Added Request for Sanctions Against These Defendants Misrepresentations in  
26 their Filings Submitted in Bad Faith.
- 27 3. Doc. 53: Ex Parte Motion/Application to Transfer the Action Herein from Eastern  
28 District to Central District Due to Conflict of Interest with Plaintiff's Second Notice of

1 Related Action Pending in Central District.

- 2 4. Doc. 71: Motion re: Plaintiff's Request for Disclosure of Actual Names of Judges  
3 Making the Recommendation and Signing the "Internal Transfer" Order of her Eastern  
4 District Bankruptcy Related Adversary Case No 14-01155 to Eastern District Case No  
5 15-00042-AWI, Ignoring Conflict of Interest and Plaintiff's Ex Parte to Transfer and  
6 Merge it with Related Case Pending in Central District; and
- 7 5. Doc. 75: Motion for Order Returning Possession of her Home, Real Property Located  
8 at 11622 Harrington Street, Bakersfield, CA 93311 to Disqualify Defendant Counsel  
9 from Representing Defendant Trustee Vetter for Conflict of Interest: Violation of Law.
- 10 6. Doc. 107: Motion for Order re: Disqualifying the Eastern District from Her Case and  
11 All its Related Matters.

12 On September 29, 2015, this Court denied all of Agha-Khan's pending motions, granted  
13 seven motions to dismiss filed by various defendants, and consequently dismissed with prejudice  
14 51 defendants, including the Moving Defendants, from the case. Doc. 134.

15 **Authority of the Court**

16 The Moving Defendants seek a pre-filing order that Agha-Khan must obtain this Court's  
17 approval prior to (i) filing any further papers in this action, (ii) filing any future actions against  
18 Moving Defendants, (iii) adding Moving Defendants to any action Plaintiff may have filed, and  
19 (iv) transferring any of Plaintiff's purported choses in action to any third party or parties causing  
20 said parties to file future actions against Moving Defendants. Doc. 100, 17:2-7. Federal courts  
21 are vested with the discretion to enjoin certain litigants from engaging in frivolous litigation. See  
22 28 U.S.C. § 1651; Clinton v. United States, 297 F.2d 899 (9th Cir. 1961). As stated by the Ninth  
23 Circuit, "[f]lagrant abuse of the judicial process cannot be tolerated because it enables one person  
24 to preempt the use of judicial time that properly could be used to consider the meritorious claims  
25 of other litigants." De Long v. Hennessey, 912 F.2d 1144, 48 (9th Cir. 1990); see also O'Loughlin  
26 v. Doe, 920 F.2d 614, 618 (9th Cir. 1990). Indeed, a court may restrict litigants with abusive and  
27 lengthy histories from submitting future filing of actions or papers provided that it: (1) gives the  
28 litigant an opportunity to oppose the order before it is entered, i.e., notice; (2) creates an adequate

1 record for review; (3) makes substantive findings as to the frivolous or harassing nature of the  
2 litigant's actions; and (4) drafts a sufficiently detailed order. De Long, 912 F.2d at 1145–48; see  
3 also Molski v. Evergreen Dynasty Corp., 500 F.3d 1047 (9th Cir. 2007). The Ninth Circuit has  
4 explained that “orders restricting a person’s access to the courts must be based on adequate  
5 justification supported in the record and narrowly tailored to address the abuse perceived.”  
6 DeLong, 912 F.2d at 1149. A court must make detailed findings sufficient to support its  
7 conclusion that the plaintiff’s court actions are frivolous or harassing. Id. at 1148; see also Cramer  
8 v. Target Corp., 2010 WL 95851, at \*3 (E.D. Cal. Jan. 6, 2010). Making such findings requires  
9 the court to examine both the number and content of the plaintiff’s filings for frivolity, bad faith,  
10 or harassment. De Long, 912 F.2d at 1148.

11 Courts, however, should rarely issue orders requiring the review of a litigant’s pleadings  
12 before their filing. De Long, 912 F.2d at 1147, quoting Tripathi v. Beaman, 878 F.2d 351, 352  
13 (10th Cir. 1989). Because a pre-filing order such as the one the Moving Defendants advocate for  
14 interferes with the constitutional right of court access, it is “an extraordinary remedy that should  
15 be narrowly tailored and rarely used.” See Moy v. United States, 906 F.2d 467, 470 (9th Cir.  
16 1990). A pre-filing order “cannot issue merely upon a showing of litigiousness.” Id. The review  
17 of the plaintiff’s claims must establish that they were both numerous and without merit. Id.

18 The Court finds Agha-Khan has received notice of the motion to declare her a vexatious  
19 litigant as she has filed an opposition. The Court also finds that many of Agha-Khan’s filings in  
20 this matter are frivolous and without merit. The Court specifically noted this in denying her two  
21 motions for sanctions (docs. 43-44) against defendants in this matter. Doc. 134, 14:11-23. She  
22 has further brought complaints and motions in this Court, in the Central District, and in the  
23 Superior Court of California that are patently without merit and bordering on the ludicrous, such  
24 as motions for recusal of the entire Eastern District based upon an alleged bias of the entire  
25 judicial and court staff and claims where judicial immunity or other forms of immunity clearly  
26 apply. Indeed, her complaints in this Court and in other courts have revolved around a  
27 delusionary and fanciful massive conspiracy against her involving almost every single judge,  
28 attorney, and individual to have crossed her path. There seems to be no purpose in Agha-Khan’s

1 filings other than harassment, and she has obtained no relief, while causing immense strain on the  
2 court system and defendants who are required to respond to her frivolous allegations.

3 Nevertheless, while Agha-Khan's litigious activities have been growing rapidly, in  
4 reviewing cases where pre-filing orders have been issued the Court finds that typically the filings  
5 are even more numerous than here. See, e.g., Wood v. Santa Barbara Chamber of Commerce,  
6 Inc., 705 F.2d 1515, 1523, 1526 (9th Cir. 1983) (35 related complaints filed); In re Oliver, 682  
7 F.2d 443, 444 (3rd Cir. 1982) (over 50 frivolous cases filed); In re Green, 669 F.2d 779, 781 (D.C.  
8 Cir. 1981) (per curiam) (over 600 complaints filed). Furthermore, a pre-filing order is "an  
9 extraordinary remedy that should be narrowly tailored and rarely used." Moy, 906 F.2d at 470.  
10 Accordingly, the Court declines to issue a pre-filing order against Agha-Khan at this time.  
11 However, the Court strongly warns her that, if she continues her current conduct, she is rapidly  
12 approaching the day were such an order is issued against her.

13 The Moving Defendants also seek an order requiring Agha-Khan to post a security bond of  
14 at least \$25,000 to cover the costs of Moving Defendants being required to litigate this action.  
15 Doc. 100, 17:7-10. The inherent authority of the Court includes the authority to require the  
16 posting of a bond before allow a plaintiff to proceed further. See e.g., Simunet East Associates v.  
17 Ramada Hotel Operating Co., 812 F.3d 1116, 1121 (9th Cir. 1987); In re Merrill Lynch Relocation  
18 Management, Inc., 812 F.2d 1116, 1121 (9th Cir. 1987). This authority allows a court to have  
19 some control over the administration of a lawsuit. See Ilro Productions, Ltd. v. Music Fair  
20 Enterprises, 94 F.R.D. 76, 78 (S.D. N.Y. 1982), citing Leighton v. Paramount Pictures Corp., 340  
21 F.2d 859, 861 (2d Cir. 1965). Indeed, the applicable local rule states:

22 "(b) Security for Costs. On its own motion or on motion of a party, the Court may  
23 at any time order a party to give a security, bond, or undertaking in such amount as  
24 the Court may determine to be appropriate. The provisions of Title 3A, part 2, of  
25 the California Code of Civil Procedure, relating to vexatious litigants, are hereby  
26 adopted as a procedural Rule of this Court on the basis of which the Court may  
27 order the giving of a security, bond, or undertaking, although the power of the  
28 Court shall not be limited thereby."

L.R. 151.

The applicable California code provision states:

"In any litigation pending in any court of this state, at any time until final judgment

1 is entered, a defendant may move the court, upon notice and hearing, for an order  
2 requiring the plaintiff to furnish security. The motion must be based upon the  
3 ground, and supported by a showing, that the plaintiff is a vexatious litigant and  
4 that there is not a reasonable probability that he will prevail in the litigation against  
5 the moving defendant.”

6 Cal. Code Civ. Proc. § 391.1.

7 This Court, however, has already granted the Moving Defendants motion to dismiss and  
8 has dismissed the Moving Defendants from the case with prejudice. Doc. 134. Accordingly, since  
9 it seems unlikely that the Moving Defendants will accrue any substantial additional costs in  
10 litigating the present action, the Court declines at this time to order that a security bond be issued  
11 against Agha-Khan.

12 Accordingly, IT IS ORDERED:

- 13 1. Defendants’ Motion to Declare Plaintiff a Vexatious Litigant (Docs. 99-100) is  
14 DENIED without prejudice.

15 IT IS SO ORDERED.

16 Dated: November 10, 2015

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19 SENIOR DISTRICT JUDGE