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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

NINA RINGGOLD, ESQ. as named  
Trustee of the Aubry Family  
Trust and named Executor  
under the will of Robert  
Aubry on behalf of the trust  
and estate and all similarly  
situated entities and/or  
persons; et al.;

Plaintiffs,

v.

JERRY BROWN in his Individual  
and Official Capacity as  
Governor of the State of  
California and in his  
Individual and Official  
Capacity as Former Attorney  
General of the State of  
California; et al.;

Defendants.

No. 2:12-CV-00717-JAM-JFM

**ORDER DISMISSING CASE FOR LACK  
OF JURISDICTION**

Plaintiffs in this matter are Nina Ringgold, Esq., Justin Ringgold-Lockhart, and the Law Offices of Nina Ringgold and all current clients thereof (the "Law Office Clients"). Defendants are California Governor Jerry Brown, California Attorney General Kamala Harris, and California State Auditor Elaine Howle. The

1 current matters pending before the Court are Plaintiffs' Amended  
2 Motion for Preliminary Injunction (Doc. # 32, errata at Doc. #  
3 34); Defendants Brown and Harris's Motion to Dismiss (Doc. # 13)  
4 and their Motion for Sanctions (Doc. # 17); and Defendant Howle's  
5 Motion to Dismiss (Doc. # 42).<sup>1</sup> In support of their motions,  
6 each party filed separate Requests for Judicial Notice (Doc. ##  
7 14, 42-2, 45). Each substantive motion is fully briefed with  
8 Plaintiffs also opposing and seeking to strike both of  
9 Defendants' Requests for Judicial Notice (Doc. # 45). Plaintiffs  
10 also filed a subsequent Motion for Accommodation (Doc. # 61),  
11 which is discussed below.

#### 12 13 I. BACKGROUND

14 This matter arises from Plaintiff's dissatisfaction with the  
15 administration of the state courts of California and with several  
16 orders related to a revocable trust issued by the California  
17 Probate Court. In order to challenge adverse outcomes in the  
18 state courts, Plaintiffs bring the present litigation in federal  
19 court claiming violation of their constitutional rights, the  
20 American with Disabilities Act, and the California Constitution  
21 among other causes of action. In total, Plaintiffs allege 20  
22 causes of action in their First Amended Complaint ("FAC") (Doc. #  
23 5).

24 The gist of Plaintiffs' theory is that all California  
25 Superior Court judges operating in Los Angeles County resigned  
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27 <sup>1</sup> The motions were determined to be suitable for decision without  
28 oral argument. E.D. Cal. L.R. 230(g). The hearing for all  
motions was originally scheduled for January 9, 2013.

1 their positions by accepting employment benefits from the County  
2 of Los Angeles prior to a state court decision eliminating the  
3 practice. See Sturgeon v. Cnty. of L.A., 84 Cal. Rptr. 3d 242  
4 (Ct. App. 2008). Accordingly, Plaintiffs take the position that  
5 all state court decisions adverse to Plaintiffs, and presumably  
6 anyone at all, prior to the Sturgeon decision are void, including  
7 those related to the aforementioned revocable trust. This is not  
8 the first time that Plaintiffs' existential challenge to the  
9 state judicial system has been raised in federal court.

10 Prior to the present lawsuit, Plaintiffs Ringgold and  
11 Ringgold Lockhart litigated the validity of state court decisions  
12 related to the revocable trust in state court. They were each  
13 declared vexatious litigants pursuant to California Code of Civil  
14 Procedure § 391, et seq., by California trial and appellate  
15 courts. Failing in state court, Plaintiffs turned to federal  
16 court where they were also declared vexatious litigants.  
17 Ringgold-Lockhart v. Cnty. of L.A., No. 11-1725-R, Doc. # 122  
18 (C.D. Cal. Dec. 6, 2011) (the "December 6, 2011 Order"). In the  
19 federal case in the Central District of California, District  
20 Court Judge Real enjoined Plaintiffs Ringgold-Lockhart and  
21 Ringgold from filing any action related to the Aubry Revocable  
22 Family Trust ("Aubry Trust") or the administration of state  
23 courts without first obtaining permission from Judge Real. Id.  
24 at 7.

1 II. OPINION

2 A. Requests for Judicial Notice

3 1. Defendants' Motions

4 Defendants ask the Court to take judicial notice of  
5 documents filed in prior litigation involving Plaintiffs Ringgold  
6 and Ringgold-Lockhart (Doc. ## 14, 16-2). Plaintiffs oppose the  
7 request on the grounds that the documents are incomplete and they  
8 contain inadmissible hearsay.

9 Generally, a court may not consider material beyond the  
10 pleadings in ruling on a motion to dismiss. The exceptions are  
11 material attached to or relied on by the complaint so long as  
12 authenticity is not disputed, or matters of public record  
13 provided that they are not subject to reasonable dispute. E.g.,  
14 Sherman v. Stryker Corp., 2009 WL 2241664 at \*2 (C.D. Cal. Mar.  
15 30, 2009) (citing Lee v. City of Los Angeles, 250 F.3d 668, 688  
16 (9th Cir. 2001) and Fed. R. Evid. 201).

17 In this case, the items provided by Defendants were all  
18 filed in prior litigations, making them the proper subject of  
19 judicial notice. Plaintiffs are correct that the Court may not  
20 consider filings made by parties in other lawsuits for the truth  
21 of the matter asserted in them, but that limitation does not  
22 extend to orders issued by other federal courts.

23 2. Plaintiffs' Motion

24 Plaintiffs seek judicial notice of a series of documents  
25 filed in previous litigation. As discussed with respect to  
26 Defendants' motions, the Court may take judicial notice of such  
27 documents, but not the truth of the matter asserted in them.  
28 This limitation does not extend to orders issued by other Courts.

1 Plaintiffs also seek judicial notice of news articles, but the  
2 articles are inadmissible hearsay and will not be considered.  
3 Accordingly, Plaintiffs' motion is granted in part and denied in  
4 part.

5 B. Subject Matter Jurisdiction

6 1. Legal Standard

7 Dismissal is appropriate under Rule 12(b)(1) when the  
8 District Court lacks subject matter jurisdiction over the claim.  
9 Fed. R. Civ. P. 12(b)(1). When a defendant brings a motion to  
10 dismiss for lack of subject matter jurisdiction pursuant to Rule  
11 12(b)(1), the plaintiff has the burden of establishing subject  
12 matter jurisdiction. Rattlesnake Coal. v. U.S. E.P.A., 509 F.3d  
13 1095, 1102, n.1 (9th Cir. 2007) ("Once challenged, the party  
14 asserting subject matter jurisdiction has the burden of proving  
15 its existence.").

16 There are two permissible jurisdictional attacks under Rule  
17 12(b)(1): a facial attack, where the court's inquiry is limited  
18 to the allegations in the complaint; or a factual attack, which  
19 permits the court to look beyond the complaint at affidavits or  
20 other evidence. Savage v. Glendale Union High Sch., 343 F.3d  
21 1036, 1039 n.2 (9th Cir. 2003). "In a facial attack, the  
22 challenger asserts that the allegations contained in a complaint  
23 are insufficient on their face to invoke federal jurisdiction,  
24 whereas in a factual attack, the challenger disputes the truth of  
25 the allegations that, by themselves, would otherwise invoke  
26 federal jurisdiction." Li v. Chertoff, 482 F.Supp.2d 1172, 1175  
27 (S.D. Cal. 2007) (internal citations omitted).

28 If the moving party asserts a facial challenge, the court

1 must assume that the factual allegations asserted in the  
2 complaint are true and construe those allegations in the light  
3 most favorable to the plaintiff. Id. at 1175 (citing Warren v.  
4 Fox Family Worldwide, Inc., 328 F. 3d 1136, 1139 (9th Cir.  
5 2003)). If the moving party asserts a factual attack, a court  
6 may resolve the factual disputes by "look[ing] beyond the  
7 complaint to matters of public record, without having to convert  
8 the motion into one for summary judgment, and a court "need not  
9 presume the truthfulness of the plaintiff's allegations." White  
10 v. Lee, 227 F.3d 1214, 1242 (9th Cir. 2000).

## 11 2. Discussion

12 Defendants in this action seek dismissal of Plaintiffs'  
13 claims pursuant to Federal Rule of Civil Procedure 12(b)(1) on  
14 the grounds that Plaintiffs did not seek and receive pre-filing  
15 approval from Judge Real in violation of the December 6, 2011  
16 Order. Defendants argue that Judge Real's order is in actuality  
17 an injunction and this Court does not have jurisdiction to hear a  
18 challenge to that injunction nor the power to ignore it.

19 Plaintiffs respond that Defendants' argument is frivolous.  
20 Plaintiffs contend that the December 6, 2011 Order only bars  
21 actions brought by Plaintiff Ringgold in propria persona, but not  
22 in her capacity as an attorney, and that the present action is  
23 brought by Plaintiff Ringgold only in her capacity as an  
24 attorney. In reply, Defendants point out that the FAC  
25 unambiguously seeks personal relief for Plaintiff Ringgold, and  
26 the pre-filing order also applies to Plaintiff Ringgold-Lockhart,  
27 who is named as a plaintiff in this matter. Defendants argue  
28 that Plaintiff Ringgold included the clients of her law office in

1 this action in order to circumvent the December 6, 2011 Order,  
2 but that merely including additional parties does not give the  
3 Court subject matter jurisdiction in light of the vexatious  
4 litigant order.

5 District Courts have the inherent power to restrain the  
6 filings of vexatious litigants through a pre-filing order.  
7 Weissman v. Quail Lodge, Inc., 179 F.3d 1194, 1197 (9th Cir.  
8 1999). "Such pre-filing orders may enjoin the litigant from  
9 filing further actions or papers unless he or she first meets  
10 certain requirements, such as obtaining leave of the court or  
11 filing declarations that support the merits of the case." Id.  
12 Appellate jurisdiction over Federal District Court decisions  
13 rests with the United States Courts of Appeals. 28 U.S.C.  
14 § 1291.

15 It is clear that Plaintiffs' FAC violates the letter and  
16 spirit of the December 6, 2011 Order. Plaintiffs' argument that  
17 Plaintiff Ringgold appears only in a representative capacity is  
18 at best disingenuous. The FAC clearly seeks personal relief for  
19 Plaintiff Ringgold related to the Aubry Trust and property of the  
20 trust.<sup>2</sup> Plaintiff Ringgold's argument that she is named only in  
21 a representative capacity for the Aubry Trust fails because she  
22 was removed as trustee by the California Probate Court.  
23 Additionally, the December 6, 2011 Order also applies to  
24 Plaintiff Ringgold-Lockhart, and he is clearly participating in  
25 this lawsuit in his personal capacity. Finally, the December 6,  
26 2011 order also enjoins both Plaintiffs Ringgold and Ringgold-

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28 <sup>2</sup> See FAC ¶¶ 5-6, 44, 144(a), 144(e), 145(b), 220, 235.

1 Lockhart from filing actions challenging the administration of  
2 state courts. The FAC is, overall, such a challenge and it  
3 violates the December 6, 2011 Order for this reason as well.  
4 Accordingly, this Court lacks jurisdiction to hear Plaintiff  
5 Ringgold and Ringgold-Lockharts' claims because Plaintiffs failed  
6 to obtain pre-filing authorization under the December 6, 2011  
7 Order, and jurisdiction to review that order rests only in the  
8 United States Courts of Appeals.

9 Also included in this litigation are all of the clients of  
10 Plaintiff Ringgold's law office. After reviewing the FAC in  
11 detail, the Court is unable to determine how the claims brought  
12 on behalf of Plaintiff Ringgold's law office meaningfully differ  
13 from those asserted on behalf of Plaintiffs Ringgold and  
14 Ringgold-Lockhart. As Defendants meritoriously argue, the  
15 inclusion of Plaintiff Ringgold's clients as additional  
16 plaintiffs appears to be an attempt to avoid the consequences of  
17 the December 6, 2011 Order. For instance, in paragraph 235 of  
18 the FAC, Plaintiffs allege that all plaintiffs "owned or had a  
19 right to possession of property of the [Aubry] trust." The fact  
20 that Plaintiffs fail to distinguish between the claims related to  
21 the trust and the claims generally challenging the administration  
22 of the state courts indicates that the true purpose of this  
23 litigation relates to Plaintiffs Ringgold and Ringgold-Lockhart's  
24 rejected claims to the Aubry Trust. As a result, Plaintiffs  
25 Ringgold and Ringgold-Lockhart's claims are indistinguishable  
26 from the Law Office Client claims. Dismissing one without the  
27 other would make the FAC nonsensical because significant portions  
28 of the FAC request relief specific to the Aubry Trust, but there



1 is no allegation that the Law Office Clients have any cognizable  
2 interest in the trust.

3 Accordingly, once Plaintiffs Ringgold and Ringgold-  
4 Lockhart's claims are dismissed, the Law Office Clients' claims  
5 must also be dismissed. Any other result would require the Court  
6 to rewrite substantial portions of the FAC and the prayer for  
7 relief, but stating a valid claim and the relief sought is  
8 Plaintiffs' burden. Fed. R. Civ. P. 8(a)(2)-(3).

9 C. Motions to Dismiss

10 Based on the Court's holding that it lacks subject matter  
11 jurisdiction over the present action, Defendants' motions to  
12 dismiss Plaintiffs claims on other grounds are denied as moot.

13 D. Motion for Sanctions

14 Defendants Harris and Brown contend that sanctions pursuant  
15 to Federal Rule of Civil Procedure 11 are appropriate. They  
16 argue that Plaintiffs Ringgold and Ringgold-Lockhart violated the  
17 December 6, 2011 Order by filing this action and that Nina  
18 Ringgold in her capacity as Plaintiffs' Counsel violated her duty  
19 under Rule 11 by filing this action. Defendants Harris and Brown  
20 seek an award of sanctions in the amount of \$10,030 to reimburse  
21 their attorney's fees and an award of \$10,000 to the Eastern  
22 District of California to deter further baseless filings by  
23 Plaintiffs. Plaintiffs respond by arguing that the December 6,  
24 2011 Order does not apply to this litigation for the same reasons  
25 previously discussed in this order.

26 Even though a court may lack subject matter jurisdiction  
27 over a complaint, it may still impose Rule 11 sanctions where  
28 such sanctions are warranted because the imposition of sanctions

1 is a collateral matter that does not go to the merits of the  
2 underlying claim. Willy v. Coastal Corp., 503 U.S. 131, 137-38  
3 (1992). Rule 11 requires that pleadings and motions contain  
4 allegations and factual contentions which "have evidentiary  
5 support," and the claims and other legal contentions must be  
6 "warranted by existing law or by a nonfrivolous argument." Fed.  
7 R. Civ. P. 11(b)(2)-(3). Additionally, Rule 11 prohibits filings  
8 made "for any improper purpose, such as to harass, cause  
9 unnecessary delay, or needlessly increase the cost of litigation.  
10 . . ." Fed. R. Civ. P. 11(b)(1). When, as here, a "complaint is  
11 the primary focus of Rule 11 proceedings, a district court must  
12 conduct a two-prong inquiry to determine (1) whether the  
13 complaint is legally or factually baseless from an objective  
14 perspective, and (2) if the attorney has conducted a reasonable  
15 and competent inquiry before signing and filing it." Christian  
16 v. Mattel, Inc., 286 F.3d 1118, 1127 (9th Cir. 2002) (internal  
17 quotations and citation omitted). The word "frivolous" is used  
18 "to denote a filing that is both baseless and made without a  
19 reasonable and competent inquiry." In re Keegan Management Co.,  
20 Securities Litigation, 78 F.3d 431, 434 (9th Cir. 1996). Rule 11  
21 requires that the party moving for sanctions notice the motion  
22 and give the other party at least 21 days to withdraw the  
23 pleading at issue. Fed. R. Civ. P. 11(c)(2).

24 Defendants Brown and Harris notified Plaintiffs on July 20,  
25 2012 that they would seek Rule 11 sanctions. The motion itself  
26 was filed on August 17, 2012 and originally noticed for hearing  
27 on September 19, 2012. Accordingly, Defendants complied with  
28 Rule 11's notice procedures.

1           In the present matter, it is apparent that Rule 11 Sanctions  
2 are warranted. Plaintiffs Ringgold and Ringgold-Lockhart do not  
3 dispute that they were aware of the December 6, 2011 Order.  
4 Instead, they argue that the order does not bar the present  
5 action. For the reasons already discussed, the Court disagrees.  
6 This lawsuit clearly seeks relief on behalf of Plaintiff Ringgold  
7 and Ringgold-Lockhart, who are subject to the December 6, 2011  
8 Order. Any contrary argument contradicts the plain terms of the  
9 FAC, the filing of which clearly violates the December 6, 2011  
10 order. Because the filing of the FAC was barred by the December  
11 6, 2011 Order, it had no chance of success and choosing to file  
12 it was plainly frivolous. Additionally, filing a pleading in  
13 violation of a direct order not to do so allows this Court to  
14 infer that the filing was made for an improper purpose, i.e., to  
15 circumvent the vexatious litigant order issued in the Central  
16 District of California. See Townsend v. Holman Consulting Corp.,  
17 929 F.2d 1358, 1365 (9th Cir. 1990) (holding that courts may be  
18 able to infer an improper purpose based on the frivolousness of a  
19 filing). Accordingly, Defendants Brown and Harris's Motion for  
20 Sanctions is granted.

21           In support of their motion for sanctions, Defendants Brown  
22 and Harris request an award of sanctions in the amount of their  
23 attorney's fees related to this action and the Rule 11 motion.  
24 After reviewing the affidavits submitted in support of the Rule  
25 11 motion, the Court finds that the requested hourly rate of \$170  
26 is reasonable. Additionally, the Court finds the 56 hours worked  
27 by Defendants' counsel on these matters to be reasonable.  
28 Defendants are not entitled to an award for three hours spent

1 attending a hearing on this matter because no hearing was held.  
2 Defendants are therefore entitled to an award in the amount of  
3 \$9,520.

4 E. Motion for Accommodation

5 The final motion pending before the Court is a motion made  
6 by Plaintiffs' counsel for an accommodation due to her physical  
7 disability. Plaintiff asks the Court to consider late-filed  
8 documents citing her physical disability and her currently heavy  
9 work load related to other litigation. Defendants have not  
10 responded to this motion.

11 The Court reviewed Plaintiffs' late-filed documents and  
12 determined that considering them for purposes of this order will  
13 not prejudice Defendants. The merits of Plaintiffs' claims were  
14 never reached due to the Court's lack of subject matter  
15 jurisdiction, making any possible advantage gained by Plaintiffs'  
16 late filings moot. Since the Court reviewed and considered the  
17 late-filed documents, Plaintiffs' motion for accommodation is  
18 denied as moot.

19 III. ORDER

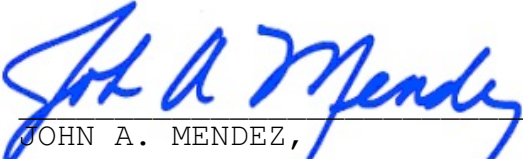
20 **Motion to Dismiss.** Defendants Brown, Harris, and Howle's  
21 Motions to Dismiss are GRANTED because the Court lacks subject  
22 matter jurisdiction over this action. The dismissal is without  
23 prejudice because the Court has not reached the underlying merits  
24 of this litigation. Leave to amend is denied with respect to  
25 Plaintiffs Ringgold and Ringgold-Lockhart unless they seek and  
26 receive pre-filing approval from Judge Real of the Central  
27 District of California. If such approval is obtained, Plaintiffs  
28 Ringgold and Ringgold-Lockhart may then move this Court for leave

1 to file another complaint. Since the pre-filing requirement does  
2 not apply to the Law Office Client Plaintiffs, they may file an  
3 amended Complaint within 21 days. Any amended filing must avoid  
4 claims related to the Aubry Trust or any other claim that seeks  
5 relief on behalf of Plaintiffs Ringgold and Ringgold-Lockhart.  
6 Counsel for the Law Office Clients is cautioned to carefully  
7 consider whether any such filing comports with Rule 11 prior to  
8 filing it and certifying it with her signature. If they do not  
9 wish to file an amended pleading, Plaintiffs should file a notice  
10 of dismissal.

11 **Motion for Rule 11 Sanctions.** Plaintiffs Ringgold and  
12 Ringgold-Lockhart are hereby ordered to pay or make arrangements  
13 to pay, jointly and severally, sanctions in the total amount of  
14 \$9,520.00 to the Office of the Attorney General of California  
15 within 21 days.

16 IT IS SO ORDERED.

17 Dated: January 22, 2013

  
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JOHN A. MENDEZ,  
UNITED STATES DISTRICT JUDGE

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