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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KAMLESH BANGA,
Plaintiff,
v.
PRASAD GUNDUMOLGULA, et al.,
Defendants.

No. 2:13-cv-0667 MCE CKD PS

ORDER AND
FINDINGS AND RECOMMENDATIONS

Pending before the court is a motion to have plaintiff declared a vexatious litigant and to require plaintiff to post security before proceeding on any claims against defendants Gundumolgula and Anolik. Plaintiff has dismissed the moving defendants, thereby mooting defendants' request to have plaintiff post security. To the extent defendants seek an order prohibiting plaintiff from filing any actions in the courts of this state in propria persona without first obtaining leave of court, the court finds such an expansive order is not sufficiently tailored or appropriate under the circumstances presented in this action. See De Long v. Hennessey, 912 F.2d 1144, 1147-1148 (9th Cir.1990) (pre-filing review orders, in which a complainant is required to obtain approval from a United States Magistrate Judge or District Judge prior to filing a

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1 complaint, can be appropriate in certain occasions but “should rarely be filed” and must be
2 narrowly tailored).¹ The vexatious litigant motion will therefore be denied.²

3 The court has previously recommended that defendant Emirates Airlines be dismissed
4 with prejudice. ECF No. 30. Defendant Emirates Airlines removed this action from state court
5 under the Foreign Sovereign Immunities Act (“FSIA”), 28 U.S.C. § 1603. With dismissal of
6 defendant Emirates Airlines and dismissal of defendants Gundumolgula and Anolik, the only
7 remaining claims are state law claims against defendant Sheen Travel.³ The court will therefore
8 recommend that the exercise of supplemental jurisdiction be declined under 28 U.S.C. § 1367(c)
9 and the action be remanded to state court.

10 Accordingly, IT IS HEREBY ORDERED that defendants’ vexatious litigant motion (ECF
11 No. 13) is denied without prejudice; and

12 IT IS HEREBY RECOMMENDED that:

- 13 1. The court decline to exercise supplemental jurisdiction under 28 U.S.C. § 1367(c); and
- 14 2. This action be remanded to the Superior Court of California, County of Solano, Vallejo
15 Branch.

16 These findings and recommendations are submitted to the United States District Judge
17 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
18 after being served with these findings and recommendations, any party may file written
19 objections with the court and serve a copy on all parties. Such a document should be captioned
20 “Objections to Magistrate Judge’s Findings and Recommendations.” Failure to file objections

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22 ¹ The court notes, however, that plaintiff’s litigation history appears to demonstrate that she
23 meets the definition of a vexatious litigant. E.D. Cal. Local Rule 151(b); Cal. Code Civ. Proc. §
24 391(b)(1).

25 ² Plaintiff’s dismissal of the moving defendants was without prejudice. Plaintiff is cautioned
26 that should she re-file the claims against the moving defendants, the court may recommend that
27 plaintiff be declared a vexatious litigant and that she be required to post security before
28 proceeding on any claims against the dismissed defendants.

³ Defendant Sheen Travel has not appeared in this action and there is no indication on the docket
that this defendant has been served with summons.

1 within the specified time may waive the right to appeal the District Court's order. Martinez v.
2 Ylst, 951 F.2d 1153 (9th Cir. 1991).

3 Dated: August 23, 2013



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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