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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 TANYA GRACE MCDANIEL,

12 Plaintiff,

13 v.

14 THE UNITED STATES, et al.,

15 Defendants.
16

No. 2:15-cv-2627-KJM-EFB PS

ORDER

17 On June 16, 2017, the court adopted the magistrate judge's findings and
18 recommendations and dismissed the complaint with prejudice. ECF No. 12. The court also
19 ordered plaintiff to show cause why the court should not declare her a vexatious litigant, citing six
20 of plaintiff's cases that this court has dismissed for failure to state a claim or as frivolous within
21 the last two years. *Id.* Plaintiff filed a timely response to the order to show cause. ECF No. 14.
22 Although plaintiff also filed a notice of appeal, ECF No. 15, the Ninth Circuit determined the
23 appeal was ineffective and held in abeyance the appellate proceedings until this court resolves the
24 pending order to show cause, ECF No. 18. The court resolves the pending matter here.

25 Eastern District Local Rule 151(b) adopts California's "vexatious litigant" laws.
26 *See* L.R. 151(b) (adopting Cal. Civ. Proc. Code §§ 391–391.8). Those laws are "designed to curb
27 misuse of the court system by those persistent and obsessive litigants who, repeatedly litigating
28 the same issues through groundless actions, waste the time and resources of the court system and

1 other litigants.” *Shalant v. Girardi*, 51 Cal. 4th 1164, 1169 (2011). As relevant here, the statute
2 defines “vexatious litigant” to mean a person who “[i]n the immediately preceding seven-year
3 period has commenced, prosecuted, or maintained in propria persona at least five litigations other
4 than in a small claims court that have been [] finally determined adversely to the person . . .” Cal.
5 Civ. Proc. Code § 391(b)(1). If person is declared a vexatious litigant, the court may impose a
6 pre-filing order that limits a plaintiff’s ability to file any new case in propria persona. Cal. Civ.
7 Proc. Code § 391.7. If a plaintiff subject to a pre-filing order somehow files a new case in propria
8 persona without the presiding judge’s permission, the case may be dismissed. *Id.* A court’s
9 vexatious litigant declaration is also reported to the state Judicial Council, which maintains a list
10 of “vexatious litigants.” Cal. Civ. Proc. Code § 391.7(f); *see also* Vexatious Litigant List,
11 available at <http://www.courts.ca.gov/documents/vexlit.pdf> (last viewed Aug. 29, 2017).

12 Here, as the magistrate judge first raised and a review of the court’s docket
13 confirms, plaintiff has filed numerous cases that have been dismissed for failure to state a claim
14 or as frivolous. *See McDaniel v. United States Department of Justice*, No. 2:15-cv-1664- JAM-
15 AC (E.D. Cal. Nov. 20, 2015); *McDaniel v. United States of America*, No. 2:15-cv-0937-MCE-
16 KJN-PS (E.D. Cal. Aug. 11, 2015); *McDaniel v. The Secretariat*, No. 2:15-cv-0828-GEB CKD-
17 PS (E.D. Cal. Aug. 19, 2015); *McDaniel v. United States*, No. 2:15-cv-1113-TLN-AC (E.D. Cal.
18 Aug. 18, 2015); *McDaniel v. Powell*, No. 2:13-cv-2653 MCE AC (E.D. Cal. July 29, 2015). Each
19 of the five cases were brought within the last seven years, maintained in propria persona, and
20 finally determined against plaintiff. Cal. Civ. Proc. Code § 391(b)(1). The court’s order
21 dismissing the complaint in this case adds a sixth case that fits the criteria under subsection
22 391(b)(1). *See* ECF No. 12. In her response, plaintiff does not dispute any of these findings, but
23 instead argues they do not support sanctions. ECF No. 14 at 4–5 (“Plaintiff has only been filing
24 lawsuits since Dec. 26, 2013-2017. Therefore, being only 3 ½ years does not even qualify for a
25 ruling of a vexatious litigant.”). Plaintiff’s argument that her lawsuits must span more than seven
26 years is contradicted by the plain language of the statute. Cal. Civ. Proc. Code § 391(b)(1)
27 (covering a litigant who commences five litigations “[i]n the immediately preceding seven-year
28 period”). Thus, there is sufficient basis to declare plaintiff a vexatious litigant.

1 After a review of plaintiff's filings and previous cases, and careful consideration of
2 the appropriate restrictions in light of plaintiff's conduct, the court makes the following rulings:

3 1. The court DECLARES plaintiff Tanya Grace McDaniel to be a "vexatious litigant" as
4 defined under California law.

5 2. The court ORDERS the following:

6 a. Plaintiff Tanya Grace McDaniel shall not initiate any further action as a self-
7 represented plaintiff in this court unless the pleadings initiating the action,
8 which must be submitted in hard copy, are accompanied by a declaration under
9 penalty of perjury that explains why plaintiff believes she has meritorious
10 claims. The declarations shall include a list of all previous actions plaintiff has
11 filed in this or any court, identifying named defendants and all claims made in
12 the previous actions. Plaintiff shall certify that the defendants named in the
13 proposed action have never been sued by plaintiff, or alternatively that any
14 claims against previously sued defendants are not related to previous actions.
15 The declaration shall also state that the claims are not frivolous or made in bad
16 faith, and that plaintiff has conducted a reasonable investigation of the facts
17 and the investigation supporting his claim or claims. Finally, a copy of this
18 order shall be attached to any application;

19 b. The Clerk shall not accept any action submitted by plaintiff Tanya Grace
20 McDaniel as a self-represented plaintiff unless it is accompanied by the
21 required declaration and copy of the instant order; any incomplete filings shall
22 be returned to plaintiff without further action of the court; and


23 c. If plaintiff Tanya Grace McDaniel submits an action as a self-represented
24 plaintiff accompanied by the required declaration, the Clerk shall open the
25 matter as a miscellaneous case to be considered by the General Duty Judge of
26 this court. The judge will issue necessary orders after making a determination
27 whether the case is in fact related to a previous case filed by plaintiff, and
28 whether it is non-frivolous.

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3. The court INSTRUCTS the Clerk of the Court provide a copy of this Order to the state
Judicial Council.

IT IS SO ORDERED.

DATED: August 29, 2017.



UNITED STATES DISTRICT JUDGE