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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Joseph McInerney,

NO. C 11-MC-80127 JW

Plaintiff,

**ORDER GRANTING PLAINTIFF'S
PETITION AND DIRECTING CLERK TO
FILE COMPLAINT**

v.

City of San Jose, et al.,

Defendants.

Presently before the Court is Plaintiff's Petition by Vexatious Litigant to File Action Against in Named Action in District Court.¹ Plaintiff seeks leave to file a Complaint against, *inter alia*, the City of San Jose, City and County of San Francisco and several private entities asserting various federal and state claims.² Plaintiffs' Complaint appears to be based primarily on allegations that Defendants engaged in unlawful surveillance of Plaintiff, disseminated Plaintiff's confidential information to the public and attempted to falsely portray Plaintiff as a sex offender.³

On October 14, 2003, Plaintiff was ordered not to file any new litigation *in propria persona* before the United States District Court for the Northern District of California without first obtaining

¹ (Docket Item No. 1.)

² Plaintiff asserts claims for violations of 42 U.S.C. §§ 1981, 1982, 1983, 1985, 1986, 1988, Invasion of Privacy, Conspiracy to Defame, Violation Regarding Government Records, Conspiracy to Falsely Impersonate Plaintiff, Identity Theft, Negligence, Intentional Infliction of Emotional Distress, Fraud, Unlawful Search and Seizure and various constitutional violations. (Docket Item No. 1-1 at 2.)


³ (Docket Item No. 1-1 at 6-7.)

1 leave of the Chief Judge.⁴ The Order stated that the prefiling review requirement was “[d]ue to
2 Plaintiff’s history of abusive and lengthy litigation, repeated filings concerning the same set of facts
3 and circumstances, and the harassing and frivolous nature of this and earlier lawsuits.”⁵ The action
4 in which the Order was filed was “for damages, declaratory relief and injunctive relief under Civil
5 Rights Act, 42 U.S.C. §§ 1983, 1985 and 1988, to address an alleged conspiracy against him by
6 numerous judges of the San Francisco Superior Court and the California Court of Appeal, as well as
7 the Judicial Council of California and various of its members and employees.”⁶ The Order stated
8 that “Plaintiff claims that the defendant judges and parties have conspired to have him declared a
9 vexatious litigant and subjected him to pre-filing review in state court.”⁷ The Order also stated that
10 “Plaintiff has brought no fewer than five previous lawsuits against members of the California
11 judiciary on the issue of the alleged publication of his psychiatric records and the alleged vast
12 judicial conspiracy against him.”⁸

13 Having reviewed Plaintiff’s Complaint, the Court finds that it does not fall within the scope
14 of the prefiling review Order. Plaintiff’s Complaint involves different Defendants and subject
15 matter than the case in which the prefiling review Order was entered.

16 Accordingly, the Court GRANTS Plaintiff’s request to file the Complaint. The Court
17 ORDERS the Clerk of Court to file Plaintiff’s Complaint as a new civil matter and to assign it to the
18 appropriate judge.

19
20 Dated: June 16, 2011



JAMES WARE
United States District Chief Judge

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22
23 ⁴ (See No. 02-05911 JSW, Docket Item No. 22.)

24 ⁵ (Id. at 4.)

25 ⁶ (Id. at 1.)

26 ⁷ (Id. at 1-2.)

27 ⁸ (Id. at 2.)

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2 Joseph McInerney
3 60 North Third Street #301
4 San Jose, CA 95112

5 **Dated: June 16, 2011**

Richard W. Wieking, Clerk

6 **By: /s/ JW Chambers**
7 **Susan Imbriani**
8 **Courtroom Deputy**

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