

1                                    IN THE UNITED STATES DISTRICT COURT  
2                                    FOR THE NORTHERN DISTRICT OF CALIFORNIA

3  
4 PAUL BOSCHETTI,

No. C 13-2706 CW

5                                    Plaintiff,

ORDER RESOLVING  
MISCELLANEOUS  
MOTIONS (Docket  
Nos. 35, 38)

6                                    v.

7 DANIEL O'BLENIS,

8                                    Defendant.  
\_\_\_\_\_ /

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10                                    On December 12, 2013, Defendant Daniel Everett, named herein  
11 as Daniel O'Blenis, filed an administrative motion seeking  
12 clarification of this Court's pre-filing order against him.  
13 Specifically, he sought to clarify whether the pre-filing order,  
14 which requires pre-filing review of "[a]ll notices of removal  
15 filed by Defendant" pertaining to San Francisco County Superior  
16 Court Case No. CUD 12-642905, applies to notices of removal to  
17 bankruptcy court. See Docket No. 23, Pre-Filing Order, at 2.

18                                    Plaintiff contends that the Court lacks jurisdiction to  
19 decide this motion because there is no case or controversy  
20 currently pending before the Court. However, as the Ninth Circuit  
21 has explained, a district court always has "jurisdiction to  
22 determine its own jurisdiction." Herman Family Revocable Trust v.  
23 Teddy Bear, 254 F.3d 802, 807 n.3 (9th Cir. 2001) (citing United  
24 States v. Van Cauwenberghe, 934 F.2d 1048, 1059 (9th Cir. 1991)).  
25 Because Defendant seeks clarification of the scope of this Court's  
26 own pre-filing order, the Court has jurisdiction to provide the  
27 limited relief that he seeks.  
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1 Turning to the merits of Defendant's motion, the Court finds  
2 that the pre-filing order applies to all notices of removal which  
3 Defendant files in San Francisco County Superior Court seeking to  
4 remove Case No. CUD 12-642905 to federal court. This includes  
5 notices of removal to any federal bankruptcy court in this  
6 district. The Court issued the pre-filing order to ensure that  
7 further judicial resources would not be wasted on Defendant's  
8 frivolous attempts to use the federal courts in this district to  
9 avoid enforcement of a state court judgment against him. See  
10 Docket No. 22, Order Remanding Case and Granting in Part Motion  
11 for Sanctions, at 4-6 (describing Defendant's past abuses of  
12 removal process). Requiring pre-filing review of Defendant's  
13 notices of removal to federal bankruptcy court is not only  
14 consistent with the terms of the pre-filing order but also  
15 necessary to achieve its basic purpose.

16 Accordingly, Defendant's administrative motion for  
17 clarification (Docket No. 35) is GRANTED. Any future notice of  
18 removal that Defendant files in San Francisco County Superior  
19 Court seeking to remove Case No. CUD 12-642905 to federal district  
20 court or federal bankruptcy court in the Northern District of  
21 California shall be subject to pre-filing review. Because the  
22 pre-filing order did not refer specifically to notices of removal  
23 to bankruptcy court, however, Plaintiff's request for contempt  
24 sanctions based on Defendant's past notices of removal to  
25 bankruptcy court is denied.<sup>1</sup> If Defendant seeks to remove this  
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27 <sup>1</sup> Plaintiff requested sanctions in a letter delivered to the  
28 Court on November 5, 2013 but failed to file this request in the  
docket.

1 case to bankruptcy court in this district in the future, he may be  
2 subject to contempt sanctions.

3 Defendant's motion for leave to correct the wording of the  
4 motion for clarification (Docket No. 38) is DENIED as moot.

5 IT IS SO ORDERED.

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7 Dated: 2/12/2014

  
CLAUDIA WILKEN  
United States District Judge

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