

1  
2  
3  
4  
5  
6  
7  
8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA  
10

11 SAGE HOME MORTGAGE, LLC,  
12 Plaintiff,  
13 v.  
14 JAMES R. ROOHAN; DOES 1-10,  
15 inclusive,  
16 Defendants.

Case No.: 17-cv-1613-AJB-JMA

**ORDER:**

**(1) IMPOSING PRE-FILING  
RESTRICTIONS ON DEFENDANT  
AS A VEXATIOUS LITIGANT; AND**

**(2) DENYING PLAINTIFF'S EX  
PARTE APPLICATION**

(Doc. No. 8)

19  
20 On September 20, 2017, the Court held an order to show cause (“OSC”) hearing on  
21 its tentative August 29, 2017 ruling classifying Defendant James R. Roohan (“Roohan”) as  
22 a vexatious litigant. (Doc. No. 6.) The OSC hearing was set based on Roohan’s pattern of  
23 abusive litigation tactics in repeatedly attempting to remove his unlawful detainer action  
24 to this district court despite the Court’s orders. As explained more fully below, the Court  
25 deems Defendant James R. Roohan a vexatious litigant, and **DENIES** Plaintiff’s ex parte  
26 application. (Doc. No. 8.)

27 ///

28 ///

## BACKGROUND

1  
2 For clarity, the Court specifically illustrates the specific events that led to the initial  
3 OSC hearing:

4 (1) On February 10, 2017, Roohan filed his first notice of removal in this Court—  
5 17-cv-00272. On February 14, 2017, Judge John A. Houston sua sponte remanded  
6 the action to state court and denied as moot Roohan’s motion to proceed in forma  
7 pauperis (“IFP”).

8 (2) On July 12, 2017, Roohan filed his second notice of removal on the same  
9 complaint —17-cv-1409. On July 27, 2017, the Court again sua sponte remanded  
10 the action for lack of subject matter jurisdiction and denied as moot his IFP motion  
11 and Plaintiff Sage Home Mortgage’s (“Sage”) motion to remand. Within this  
12 motion, the Court warned Roohan that any further filings in the district court  
13 regarding his unlawful detainer action would result in the initiation of proceedings  
14 to hold him in contempt of court. Thereafter, on August, 10, 2017, Roohan filed a  
15 notice of appeal, which was dismissed by the Ninth Circuit on September 12, 2017.

16 (3) On August 10, 2017, Roohan then filed his third notice of removal in the present  
17 case. Based on his previous filings, the Court set an order to show cause hearing.  
18 (Doc. No. 4.) During this hearing Roohan failed to appear. (Doc. No. 6 at 2.) At the  
19 end of the hearing, the Court again sua sponte remanded the action and denied as  
20 moot Roohan’s IFP motion. (*Id.*) The Court then stated that it found that Roohan’s  
21 repeated notices of removal suggested bad faith. Thus, the Court found it proper to  
22 impose pre-filing restrictions on him as a vexatious litigant in this district court. (*Id.*)  
23 Roohan was given a chance to respond and the Court set a hearing on the matter for  
24 September 20, 2017. (*Id.* at 3.) Additionally, the Court ordered Roohan to pay a  
25 \$1,000.00 sanction to defendant for failing to follow the Court’s previous orders.

26 (4) On September 14, 2017, Roohan then filed his fourth notice of removal—17-cv-  
27 1875. During the September 20 hearing, the Court again sua sponte remanded the  
28 action and denied as moot his IFP motion.

1 DISCUSSION

2 During the OSC hearing, both parties were present to discuss the Court’s tentative  
3 ruling classifying Roohan as a vexatious litigant. Roohan asserted that it was his belief that  
4 his case should be in federal court as federal laws were allegedly broken in the sale of his  
5 house.<sup>1</sup> Despite Roohan’s arguments, the Court reiterated that an unlawful detainer action  
6 is under the jurisdiction of the superior court.

7 Most importantly, based on Roohan’s continued removal of his complaint, despite  
8 the three clear orders explaining to Roohan that his case did not belong in federal court and  
9 warning him that any further filings would result in contempt, the Court was alarmed to  
10 see that Roohan filed a fourth notice of removal of the exact same complaint only six days  
11 prior to the OSC hearing. This fourth removal is being transferred to this Court under the  
12 low number rule, and it will be dismissed *sus sponte* in short order. Thus, based on these  
13 actions and Roohan’s failure to show cause, the Court concluded that Roohan’s incessant  
14 and frivolous filings(including removal petitions) of state court matters in this district court  
15 warranted a finding that he be deemed a vexatious litigant. *See Bravo v. Ismaj*, 99 Cal.  
16 App. 4th 211, 221 (2002) (illustrating that vexatious litigants are those “persistent and  
17 obsessive” litigants who file “groundless actions”); *see also De Long v. Hennessey*, 912  
18 F.2d 1144, 1148 (9th Cir. 1990) (finding that before a district court issues a pre-filing  
19 injunction against a pro se litigant, it must make a finding that the litigant’s actions were  
20 “frivolous” and “harassing in nature”).

21 Accordingly, based on the discussions on the record, the Court **ORDERS** that:

22 Defendant James R. Roohan is hereby enjoined from filing any  
23 future actions or papers, including removal orders, in this district  
24 court that relate to his unlawful detainer action against Sage, the  
25 alleged unlawful sale of his home, or against any of the

---

26 <sup>1</sup> The Court notes that Roohan filed a complaint against Nationstar Mortgage, Clear Recon  
27 Corporation, Sage Home Mortgage, and Rachael Callahan alleging the unlawful sale of his  
28 property. (17-cv-1876-JAH-JLB.)

1 Defendants listed in case 17-cv-1875 without first obtaining  
2 leave of the general duty judge of this court.

3 The Court makes this ruling taking into account that the Ninth Circuit has stated that  
4 pre-filing restrictions must be “narrowly tailored to closely fit the specific vice  
5 encountered.” *De Long*, 912 F.2d at 1148. Additionally, the Court is conscious that pre-  
6 filing orders should rarely be filed. *Id.* at 1147. However, as Roohan was given the right to  
7 respond, that a hearing was held on this matter for the issue to be discussed further, and  
8 finding that Roohan failed to show cause, the Court finds that it has addressed all steps to  
9 properly and lawfully impose pre-filing restrictions on Roohan. *See id.*, 912 F.2d at 1147–  
10 49 (holding that prior to ordering pre-filing restrictions a litigant must be given notice, an  
11 opportunity to oppose the order, that the Court must create an adequate record for review,  
12 and that the Court must make a finding of frivolousness).


13 Next, as to Sage’s ex parte application to enforce the Court’s orders, (Doc. No. 8),  
14 the Court found it unsuitable to hold Roohan in criminal contempt at that time. This was  
15 based on Roohan’s statements that he did not receive notice about the first OSC hearing,  
16 thus explaining his absence. Consequently, the Court **DENIES** Sage’s ex parte application,  
17 as well as eliminates the \$1000.00 sanction fine imposed on Roohan at the August OSC  
18 hearing.

19 **CONCLUSION**

20 As explained more fully above, the Court deems James R. Roohan a vexatious  
21 litigant and imposes pre-filing restrictions on him. Additionally, Sage’s ex parte application  
22 is **DENIED**. (Doc. No. 8.) This action is ordered remanded back to the San Diego Superior  
23 Court, forthwith.

24 **IT IS SO ORDERED.**

25 Dated: September 22, 2017

26   
27 Hon. Anthony J. Battaglia  
28 United States District Judge