

HONORABLE RICHARD A. JONES

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JO ANN CURRIE,

Plaintiff,

v.

mitsubishi chemical holdings
america, inc.,

Defendant.

CASE NO. C17-1253 RAJ

ORDER

I. INTRODUCTION

This matter comes before the Court on Defendant’s Motion to Dismiss and Motion for Entry of a Vexatious Litigant Order. Dkt. # 14. Plaintiff opposes the Motion. Dkt. # 17. For the reasons set forth below, the Court **GRANTS in part and DENIES in part** Defendant’s Motion. Dkt. # 14.

II. BACKGROUND

The following is taken from Plaintiff’s Complaint, which is assumed to be true for the purposes of this motion to dismiss. *Sanders v. Brown*, 504 F.3d 903, 910 (9th Cir. 2007). The Court also takes judicial notice of the court records submitted by Defendant

1 in support of its Motion. *Lee v. City of Los Angeles*, 250 F.3d 668, 689 (9th Cir. 2001);
2 see also *Bennett v. Medtronic, Inc.*, 285 F.3d 801, 803 n. 2 (9th Cir. 2002).

3 This is the seventh complaint filed by *pro se* Plaintiff Jo Ann Currie regarding
4 injuries she allegedly sustained while visiting two plasma centers in Everett, Washington.
5 Plaintiff's first six complaints were filed against Alpha Therapeutics Corporation
6 ("Alpha"). Two of the six complaints were filed in this District. Dkt. # 15 Exs. 21, 28.
7 All six of Plaintiff's complaints were dismissed. Dkt. # 15. In one of the cases filed in
8 this District, the Court granted Alpha's motion for a vexatious litigant order against
9 Plaintiff. Dkt. # 15 Ex. 27. On August 4, 2017, Plaintiff filed this Complaint, her
10 seventh, against Defendant Mitsubishi Chemical Holdings America, Inc. Dkt. # 1.
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12 Defendant is a wholly-owned subsidiary of Mitsubishi Chemical Holdings
13 Corporation. Dkt. # 12. Mitsubishi Chemical Holdings Corporation also owns
14 approximately 56.34% of Mitsubishi Tanabe Pharma Corporation. *Id.* Mitsubishi
15 Tanabe Pharma Corporation owns Welfide International Corporation. Welfide
16 International Corporation owns Alpha. *Id.*
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18 Plaintiff's Complaint contains very few factual allegations. Plaintiff alleges that
19 she "sustained physical injuries both to body and mind" as a result of Defendant's
20 conduct as described in the Complaint and "appeals brief 74007-5". Dkt. # 1. The Court
21 will assume that this refers to the brief Plaintiff filed in the Court of Appeals of the State
22 of Washington, Cause No. 74007-5-I. Dkt. # 5 Ex. 32. The brief also contains very little
23 description of the events that led Plaintiff to file this lawsuit. Plaintiff's Response to
24 Defendant's Motion alleges that Plaintiff was injured at a plasma center operated by
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1 Alpha. She also alleges that her right to privacy was violated when Alpha allowed
2 another employee on to the floor without warning. Plaintiff then returned to the center in
3 1997, said nothing and left. In 1999, Plaintiff went to another plasma center that was not
4 operated by Alpha. A nurse asked Plaintiff a personal question, so Plaintiff left. Plaintiff
5 then went to another plasma center and was assaulted. Dkt. # 17 at 2-3. Plaintiff alleges
6 that this conduct constituted negligence, violation of the HIPAA Act, and a violation of
7 Defendant's duty to provide reasonable care. Dkt. # 1. Plaintiff states that she is
8 bringing this case against Defendant because she was told that Alpha does not exist
9 anymore. *Id.*

12 III. DISCUSSION

13 Fed. R. Civ. P. 12(b)(6) permits a court to dismiss a complaint for failure to state a
14 claim. The rule requires the court to assume the truth of the complaint's factual
15 allegations and credit all reasonable inferences arising from those allegations. *Sanders v.*
16 *Brown*, 504 F.3d 903, 910 (9th Cir. 2007). A court "need not accept as true conclusory
17 allegations that are contradicted by documents referred to in the complaint." *Manzarek v.*
18 *St. Paul Fire & Marine Ins. Co.*, 519 F.3d 1025, 1031 (9th Cir. 2008). A complaint fails
19 to state a claim if it does not "state a claim to relief that is plausible on its face." *Bell Atl.*
20 *Corp. v. Twombly*, 550 U.S. 544, 568 (2007).

23 Plaintiff's Complaint contains almost no factual allegations regarding Defendant.
24 Plaintiff alleges only that she called Defendant and sent them documents because she
25 found out that Alpha was no longer in business. If not for Defendant's corporate
26 disclosure statement and the facts alleged in Defendant's Motion, the Court would have
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1 no basis from which to make the connection between Defendant and the alleged actions
2 in the Complaint. The only connection between Defendant and Alpha is that they are
3 both subsidiaries of the same corporation: Mitsubishi Chemical Holdings Corporation.
4 Plaintiff refers to Defendant as “Defendant” and attributes several actions to the
5 “Defendant” but makes no factual allegations showing that this particular Defendant
6 engaged in, or was responsible for, any of the conduct that gave rise to Plaintiff’s claims.
7 Plaintiff does not allege that Defendant operates any of the plasma centers mentioned in
8 her Complaint, nor does she allege a connection between Alpha and Defendant such that
9 Defendant would be responsible for Alpha’s actions. Even taking Plaintiff’s allegations
10 as true and construing them liberally, the Complaint does not state a claim for relief that
11 is plausible on its face¹. Therefore, Defendant’s Motion to Dismiss is **GRANTED**.

14 Defendant also requests that the Court enter an additional vexatious litigant order
15 against Plaintiff. A district court must consider the following factors when considering
16 whether to enter a vexatious litigant order: (1) whether the litigant has received notice
17 and an opportunity to be heard; (2) whether there is an adequate record for review; (3)
18 whether the litigant’s actions are frivolous or harassing; and (4) the order must be
19 narrowly tailored to prevent the litigant’s abusive behavior. *Molski v. Evergreen Dynasty*
20 *Corp.*, 500 F.3d 1047, 1058 (9th Cir. 2007). Here, Plaintiff received notice and an
21 opportunity to be heard with respect to Defendant’s Motion. *See id.* at 1058-59. While

25 ¹ Defendant also argues that Plaintiff’s Complaint should be dismissed pursuant to the 2012
26 vexatious litigant order issued by another court in this District. Dkt. # 15 Ex. 27. The Court
27 disagrees. The 2012 Order very specifically prohibits Plaintiff from filing any additional
28 pleadings or other filings against Alpha. Defendant cannot argue that they are completely
different entities in service of one argument and then argue that they are one and the same in
service of another argument.

1 she does not provide any substantive argument in response to Defendant's request for
2 entry of a vexatious litigant order, merely remarking that this is "not a frivolous case",
3 she had an opportunity to respond and did so. Dkt. # 17. There is also an adequate
4 record for review. While the Court will not list every case filed by Plaintiff, a thorough
5 summary of Plaintiff's many complaints and the disposition of those complaints is set out
6 in the 2012 Order (Dkt. # 27), and Defendant has submitted extensive documentary
7 evidence of Plaintiff's prior litigation and court filings. Dkt. # 15.

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9 The Court also finds that Plaintiff's claims are frivolous and without merit.
10 Plaintiff has filed the same claims based on the same allegations at least seven times. Six
11 of those cases were dismissed with prejudice. In addition to the 2012 vexatious litigant
12 order, Plaintiff has been barred from filing any additional pleadings against Alpha in both
13 King County Superior Court and Snohomish County Superior Court. Dkt. # 15 Exs. 9,
14 16. All of these claims, including this one, arise from the same general set of operative
15 facts. In fact, Plaintiff refers to her other cases in her Complaint as a reference for details
16 regarding her claim. While Plaintiff brings this particular claim against Defendant and
17 not Alpha, she makes it clear in her Complaint that she only brought this claim against
18 Defendant because she was told that Alpha was no longer in business. Plaintiff appears
19 to consider Alpha and Defendant as the same entity. Plaintiff also shows absolute
20 disregard for the ruling in the 2012 Order, attempting to "start over" by filing another
21 claim against Alpha, by filing this claim against Defendant. Dkt. # 1 at 3.

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23 A vexatious litigant order must be narrowly tailored to the vexatious litigant's
24 wrongful behavior. *Molski*, 500 F.3d at 1061. The Ninth Circuit has found that an order

1 that does not deny a plaintiff from filing any complaints, but subjects a plaintiff's
2 complaints to an initial screening review by a district judge is appropriately narrow. *Id.*
3 Therefore, the Court **GRANTS** Defendant's motion for entry of a vexatious litigant
4 order, but limits the order to any additional pleadings or other filings by Plaintiff against
5 Alpha, Defendant, or any of Alpha or Defendant's corporate affiliates, arising out of the
6 same transactions or set of operative facts described in her Complaint or the other
7 lawsuits referenced by Defendant in their Motion.
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9 Defendant also requests attorneys' fees from Plaintiff pursuant to 28 U.S.C. §
10 1927. Under 29 U.S.C. § 1927, any litigant who "multiplies the proceedings in any case
11 unreasonably and vexatiously" may be required to pay excess costs, expenses and
12 attorneys' fees incurred as a result of that conduct. 28 U.S.C. § 1927. "Sanctions
13 pursuant to section 1927 must be supported by a finding of bad faith." *New Alaska Dev.*
14 *Corp. v. Guetschow*, 869 F.2d 1298, 1306 (9th Cir. 1989). While sanctions would act as
15 a deterrent against future attempts by Plaintiff to bring this lawsuit again, the Court finds
16 that there is insufficient evidence to support a finding of bad faith. As such, Defendant's
17 request for attorneys' fees is **DENIED**.
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20 **IV. CONCLUSION**

21 For the reasons stated above, the Court **GRANTS** Defendant's Motion to Dismiss
22 and **GRANTS** Defendant's Motion for a Vexatious Litigant Order. Dkt. # 14.

23 Defendant's Motion for Attorneys' Fees is **DENIED**. Dkt. # 14. The Court further
24 **ORDERS** that Plaintiff shall not file any further complaints or other pleadings against
25 Defendant, Alpha, or any of Alpha or Defendant's corporate affiliates, that arise out of
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1 the same set of operative facts or transactions contained in any of Plaintiff's complaints
2 referenced in Defendant's Motion. **The Court DIRECTS that the Clerk of this Court**
3 **not accept for filing any further complaints by Plaintiff against Defendant, Alpha,**
4 **or any of Alpha or Defendant's corporate affiliates, until any such complaint has**
5 **been reviewed by a Judge of this Court for compliance with this Order.**
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7 DATED this 23rd day of July, 2018.
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11 The Honorable Richard A. Jones
12 United States District Judge
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