

APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CA9 No. 17 -16586

No: 02-17 –CV- 0751 GEB – DB PS

SAN JOAQUIN GENERLA HOSPITAL

Plaintiff – Appellee,

v.

FARZANA SHEIKH M.D. and REHAN SHEIKH

Defendants - appellants

Jan 22, 2018

ORDER

REINHARDT, TROTT, HURWITZ, Circuit Judges.

A review of the record and the response to the August 15, 2017 order indicates that the questions raised in this appeal are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (stating standard).

Accordingly, we summarily affirm the district court's judgment.

AFFIRMED.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CA9 No. 17 -16586
No: 02-17 –CV- 0751 GEB – DB PS

SAN JOAQUIN GENERLA HOSPITAL
Plaintiff – Appellee,
v.
FARZANA SHEIKH M.D. and REHAN SHEIKH
Defendants - appellants

May 23, 2018

ORDER

Before: TROTT and HURWITZ, Circuit Judges.

We treat Sheikh’s petition for rehearing en banc (Docket Entry No. 7) as a motion for reconsideration en banc, and deny the motion on behalf of the court. *See* 9th Cir. R. 27-10; 9th Cir. Gen. Ord. 6.11.

No further filings will be entertained in this closed case.

APPENDIX B

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CA9 No. 16-15692
No: 2:15-cv-01773-TLN-AC

FARZANA SHEIKH M.D.
Plaintiff – Appellee,
v.
LESLIEY D. HOLLAND, Presiding Judge San
Joaquin County Court; et al.
Defendants - appellants

Oct 19, 2017

ORDER

Before: THOMAS, Chief Judge, and CANBY, Circuit Judge.

Appellant's petition for initial hearing en banc (Docket Entry No. 13) is denied on behalf of the court. *See* 9th Cir. R. 27-10; 9th Cir. Gen. Ord. 6.11. All other requests contained in Docket Entry No. 13 are denied.

Briefing is complete.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CA9 No. 16-15692
No: 2:15-cv-01773-TLN-AC

FARZANA SHEIKH M.D.
Plaintiff – Appellee,
v.
LESLIEY D. HOLLAND, Presiding Judge San
Joaquin County Court; et al.
Defendants - appellants

Jun 27, 2017

ORDER

Before: THOMAS, Chief Judge, and CANBY, Circuit Judge.

Appellant's emergency motion to stay state court proceedings (Docket Entry No. 11) is denied.

Appellant's motion for an extension of time to file the opening brief (Docket Entry No. 9) is granted in part. Appellant's motion to correct court docket (Docket Entry No. 10) is denied.

The opening brief is due July 25, 2017. As there is no appearance by appellees, briefing will be complete upon the filing of the opening brief.

APPENDIX C

The Ninth Circuit Order – Jan 13, 2015

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CA9 No. 14-17322

No: 2:14-cv-01509-MCE-AC

SAN JOAQUIN GENERLA HOSPITAL

Plaintiff – Appellee,

v.

FARZANA SHEIKH M.D.

Defendants - appellants

Jan 13, 2015

ORDER

Before: GRABER, CALLAHAN, and CHRISTEN, Circuit
Judges.

A review of the record demonstrates that this court lacks jurisdiction over this appeal because the order challenged in the appeal is not reviewable. *See* 28 U.S.C. § 1447(d); *Kunzi v. Pan Am. World Airways, Inc.*, 833 F.2d 1291, 1293 (9th Cir. 1987) (order remanding a removed action to state court for lack of subject matter jurisdiction is not reviewable). Consequently, this appeal is dismissed for lack of jurisdiction.

DISMISSED.

APPENDIX D

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CA9 No. 10 -17908
D.C. No: 02-10 –CV- 0213 FCD–GGH

FARZANA SHEIKH M.D.
Plaintiff – Appellee,
v.
MEDICAL BOARD OF CALIFORNIA;
STATE OF CALIFORNIA
Defendants - appellants

Mar 13, 2012

MEMORANDUM *1
Submitted March 6, 2012 **2

Before: B. FLETCHER, REINHARDT, and
TASHIMA Circuit Judges.

Farzana Sheikh, M.D., appeals pro se from the district court's judgment dismissing her 42 U.S.C. § 1983 action alleging due process violations. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Telesaurus VPC, LLC v. Power*, 623 F.3d 998, 1003 (9th Cir. 2010). We affirm.

The district court properly dismissed Sheikh's procedural due process claim because the process

¹ * This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

² ** The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Sheikh was afforded, which included a full hearing before an administrative law judge, and the California statutory scheme under which she was afforded that process, provided a meaningful opportunity to be heard. *See Matthews v. Eldridge*, 424 U.S. 319, 333 (1976) (“The fundamental requirement of due process is the opportunity to be heard ‘at a meaningful time and in a meaningful manner.’”(citation omitted)).

Sheikh’s remaining contentions, including those concerning the authority of the magistrate judge, are unpersuasive.

We do not consider Sheikh’s arguments that were not raised before the district court, including that the medical board proceedings violated the Eighth Amendment and that she was improperly removed from her residency program. *See Cold Mountain v. Garber*, 375 F.3d 884, 891 (9th Cir. 2004) (an appellate court will not consider arguments not raised before the district court absent exceptional circumstances).

The district court did not mention Sheikh’s petition for writ of review in the order granting the motion to dismiss. We deem that the district court denied supplemental jurisdiction over the petition for writ of review.

Sheikh’s motion for judicial notice over the Medical Board membership list and Sheikh’s letter to the Medical Board is denied.

AFFIRMED

APPENDIX E

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

No: 02-17 –CV- 0751 GEB – DB PS

SAN JOAQUIN GENERLA HOSPITAL
Plaintiff

v.

FARZANA SHEIKH and REHAN SHEIKH
Defendants,

Jul 17, 2017

ORDER

This case was removed from state court by a Defendant proceeding in propria persona. The matter was referred to a United States Magistrate Judge pursuant to Local Rule 302(c)(21).

On June 8, 2017, the magistrate judge filed findings and recommendations herein which were served on defendants and which contains notice to defendants that any objections to the findings and recommendations were to be filed within fourteen days after service of the findings and recommendations. The fourteen-day period has expired, and neither defendant has filed any objections to the findings and recommendations.

The court has reviewed the file and finds the findings and recommendations to be supported by the record and by the magistrate judge's analysis.

Accordingly, this case remanded to the Superior Court of California in San Joaquin County and the federal action shall be closed.

Dated: July 7, 2017

Garland E. Burrell
Senior United States District Judge

APPENDIX F

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

No: 2:14-cv-1509-MCE-AC PS

SAN JOAQUIN GENERLA HOSPITAL
Plaintiff

v.

FARZANA SHEIKH
Defendants,

Oct 29, 2014

ORDER

Defendant is proceeding in this action in pro per. The matter was referred to a United States Magistrate Judge pursuant to Local Rule 302(c)(21).

On September 15, 2014, the magistrate judge filed findings and recommendations herein, ECF No. 19, which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within fourteen days. Defendant filed objections to the findings and recommendations, ECF No. 20, and Plaintiff filed a reply, ECF No. 23.

On September 29, 2014, Defendant filed a Motion for Leave to File a Fourth Amended Notice of Removal. ECF No. 21. Because there is no good cause to grant Defendant a fourth opportunity to

demonstrate that federal jurisdiction exists, Defendant's Motion, ECF No. 21, is DENIED.

As to the remaining matters before the Court, in accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, the Court has conducted a de novo review. The Court finds the findings and recommendations are supported by the record and by proper analysis.

Accordingly:

1. Defendant's Motion for Leave to File a Fourth Amended Notice of Removal, ECF No. 21, is DENIED;

2. The findings and recommendations filed September 15, 2014, ECF No. 19, are ADOPTED IN FULL;

3. Plaintiff's Motion to Remand, ECF No. 4, is GRANTED;

4. Defendant's Motion for Declaratory Relief, ECF No. 12, is DENIED AS MOOT;

5. Defendant's Second Amended Motion for Declaratory Relief, ECF No. 17, is DENIED AS MOOT;

6. This case is REMANDED to the Superior Court of California, County of San Joaquin,

7. The Clerk of the Court is directed to CLOSE the case.

Dated: October 29, 2014

Morrison C. England Jr. Chief Judge
United States District Judge

APPENDIX G

Farzana Sheikh, MD
Rehan Sheikh
1219 W. El Monte Street
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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

SAN JOAQUIN GENERAL HOSPITAL,
a division of the County of San Joaquin

NOTICE OF REMOVAL

Petitioner,

v.

Farzana Sheikh, M.D.

Rehan Sheikh

Respondent(s)

Deprivation of Rights under color of Law, Conspiracy
against Rights

Civil Rights Jurisdiction

18 U.S.C. § 241, 18 U.S.C. § 242, 42 U.S.C. § 1983

28 U.S.C. § 1441 (B), 28 U.S.C. § 1443

San Joaquin County Court Cases;

Case No;STK-CV-LMP-2014-0005156

Case No: 39-2014-00311575 -CL-PT-STK

District Court Case(s);

Case No: 2:15 – CV – 1773 TLN

Case No: 2:10 – CV- 00213 FCD-GGH

To the CLERK OF THE ABOVE -ENTITLED COURT;
PLEASE TAKE NOTICE THAT Respondent Farzana Sheikh, MD (referred herein as Dr. Sheikh) and Rehan Sheikh (referred herein as Mr. Sheikh-owner) hereby removes the above referenced petition from County of San Joaquin Superior Court to the United States Court for the Eastern District of California based on the following facts and laws:

I. SUMMARY OF JURISDICTION

1. United States Courts have jurisdiction over Deprivation of Rights under color of Law and Conspiracy against Rights 18 U.S.C. § 241, 18 U.S.C. § 242.
2. Additionally United States Judges have personal Jurisdiction over the parties.
3. Plaintiff is entitled to a hearing before an Article III Judge.
4. This Court has original Jurisdiction of ERISA sections under 29 U.S.C. § 1132(E). Removal jurisdiction exists pursuant to 28 U.S.C. § 1441(b) and 28 U.S.C. § 1443.
5. This Court has Civil Rights Jurisdiction. The case presents federal question arising under 42. U.S.C. § 1983; The Court has jurisdiction under 28 U.S.C. § 1331 and 28 U.S.C. § 1343.
6. Venue is proper in this Court as defendants maintain offices within Jurisdiction of this Court. Pursuant to 28 U.S.C. § 1446(a) this action is properly assigned to the Sacramento Division.

II. Respondent is entitled to Jurisdictional Discovery

7. Plaintiff is entitled to Jurisdictional Discovery to demonstrate Jurisdiction of this Court.

III. Right to Article III Judge

8. Respondent exercise their Right to proceedings before an Article III Judge.

IV. Respondent Declines Jurisdiction of Magistrate Judge

9. Plaintiff hereby exercises her Right & declines jurisdiction of Magistrate Judge 28 U.S.C. § 636.
10. The Magistrate judges significantly bend and violate rules to provide substandard services, keeping the politically oppressed remain deprived of their Constitutional Rights while overlooking the mischiefs of the local and state government. The US Judges of the Eastern District Rush to rubber stamp resulting in little miscarriage of Justice.

V. Local Rule – UnConstitutional

11. The Local Rules of Eastern District of California that deny Constitutional Right to hearing before an Article III United States Judge to a particular politically oppressed class of individuals. Plaintiff seeks a declaratory relief that Local Rules 302, and 303 including but not limited to Local Rule 302 (c) (21) are unconstitutional.

Local Rule 302 (c) (21) reads;

In Sacramento, all actions in which all the plaintiffs or defendants are proceeding in propria persona, including dispositive and non-dispositive motions and matters. Actions initially assigned to a Magistrate Judge under this paragraph shall be

referred back to the assigned Judge if a party appearing in propria persona is later represented by an attorney appearing in accordance with L.R. 180.

12. The Court has not shown any good cause for the above referenced local rule.
13. The rule denies Constitutional Right to a hearing before an Article III Judge.
14. The Local Rules are instructions of Governor Jerry Brown and his fellows to the Eastern District of California to provide sub-standard services, a scheme of deprivation of access to Justice and deprive a particular class of politically oppressed of their Constitutional Rights.
15. The excuse of lack of attorney given in the above referenced Local Rules to politically oppressed individuals are both unconstitutional and pretextual. If lack of attorney is a real reason, there are number of other solutions available to provide attorneys such as;
 - a. The attorneys who are given title of Magistrate Judge can be assigned to represent Pro Se and particular politically oppressed victims before the Article III judges.
 - b. Governor Jerry Brown assigned \$15 million and a number of cities under his purview assigned huge sum of money such as \$30,000 for each illegal aliens who are NOT lawfully present in the United States to seek a counsel and grant them access to an Article III Judges. It is both common sense and under the purview of Constitutional provision of Equal Protection that such services and money be provided to ordinary Americans to assist them exercising their Right to effective Judicial process.

VI. Injunction – San Joaquin County Sherriff – Need
a Judge's order for Eviction

16. Ordinary Gangs do not need an order from a Judge before taking one property. They can make a simple excuse, demonstrate over whelming power and rob one of his/her property. Likewise, the San Joaquin County believes that it does not need an order for a judge before occupying, or Robbing ordinary Americans of his/ her property. the County has a simple excuse; print a court form and place a stamp of their local court clerk; A number of such stamps are floating with county employees, office of County Counsel and County sheriff.
17. Respondent seeks an injunction that San Joaquin County Sherriff needs an order from a Judge, stating the reason for the eviction, before lawfully evicting an individual from his/her home.

VII. EVENTS

18. On or around May 19, 2010, County of San Joaquin and San Joaquin General Hospital (County Hospital) (referred herein as Petitioners) took possession of Dr. Sheikh¹'s cottage/Mobile Home^{2, 3} that was located on the County Hospital. Several cars and trucks from the Sheriff's office arrived, and changed the locks.

¹ Dr. Sheikh completed Medical Residency training from the San Joaquin County Hospital.

² Doctor's Mobile Homes are referred as Cottages in the Hospital.

³ Several Resident Physicians maintained possession of their Cottages for years after completion of their Residency training without objection from the County.

- a. Since May 2010, the Petitioners, County Sheriff and/or County of San Joaquin and/or San Joaquin General Hospital have possession of that Cottage.
 - b. Neither there was any Notice of hearing from the San Joaquin County Superior Court nor there was any hearing, yet the County of San Joaquin could easily manage to get a Writ of Execution and Judgment. On or around June 25, 2014, upon request, the County Counsel sent an electronic copy of the "*Issued Writ of Execution and Judgment*" dated May 2010 and stated; "*Those documents required you to vacate the County property*".
 - c. In a previous Petition before this Court, the issue of eviction by the County of San Joaquin was also documented (Farzana Sheikh MD v Medical Board of California, 2:10 – CV- 00213 FCD-GGH, Docket# 45).
 - d. Just before the County caused to issue the Writ for Execution for Eviction, Dr. Sheikh had submitted a Motion in this Court to Compel County of San Joaquin's compliance with the Judge's discovery orders, Docket# 33).
19. On or around February 7, 2014 the County sent a demand letter to Dr. Sheikh to authorize the County to destroy the cottage or remove the cottage by March 15, 2014.
- a. The letter from the County Counsel was postmarked on Mar 19, 2014. The letter included pictures of Dr. Sheikh's damaged cottage.
 - b. The letter revealed that the cottage was independently inspected by San Joaquin County Environmental Health Department and was determined to be uninhabitable.

- c. In that letter the County informed Dr. Sheikh, *"You are the **owner** of a mobile home"*.
- 20. The damage to the cottage was disturbing as Dr. Sheikh had renovated that cottage during her Residency training. Out of 20 or so doctor's cottages at the County Hospital, Dr. Sheikh's cottage was in remarkably good condition. On or around April 28, 2014, Mr. Sheikh wrote an email note to the County Counsel and requested to preserve the evidence so that the **damage** to the property can be assessed. Mr. Sheikh also wrote the County Counsel to mutually discuss the issue⁴.
- 21. On or around May 5, 2014 the County sent another demand letter to Mr. Sheikh.
- 22. On or around May 27, 2014 the Petitioners initiated this Petition for Judgment of Abandonment in the County of San Joaquin Superior Court. County of San Joaquin's Petition in the County Court is based on the **assumption** *that the County of San Joaquin does not have the possession of the property* even though County took possession of that property in May 2010.
 - a. County's disguised Petition in the County Court only serves to conceal County's possession, and damage to Dr. Sheikh's property.
- 23. United States claims that a home is a man's castle and it has consistently granted protection to people's homes. Now County hospital improperly deprived Dr. Sheikh of her home without any

⁴ A few years ago, Dr. Sheikh had retained services of a law firm to represent her but the County of San Joaquin retained services of that law firm for the San Joaquin General Hospital.

Judicial process and United states should grant same protection to her home.

VIII. Conspiracy and Deprivation of Rights under Color of Law

24. In the name of the hospital numerous independent local and state agencies including but not limited to office of County Sheriff, office of County Counsel, local County Court, County hospital, office of state attorney general, Medical Board; engaged in a pattern of conspiracy, fraud, threats and obstruction of justice to deprive Respondent of her Rights, home, licenses, services and money etc. The office of County Counsel Mr. Mark Myles is one of the masterminds of conspiracy. When the County was asked to preserve evidence of crime, the County Board of supervisor authorized this action against Sheikh family. Their lawsuit on the Respondent Sheikh family is meant to destroy evidence of crimes while going before their own local county court. The local san Joaquin county court is a party in an action at this Court.

IX. CIVIL RIGHTS JURISDICTION

25. Respondents Remove this action to the United States Court exercising Civil Rights Jurisdiction. California Department of Justice and San Joaquin County, directly and indirectly via local and state agencies, have continued a campaign of **adverse actions** and/or **Retaliation** against Respondent Sheikh plaintiff's filed Civil Rights Complaint(s). Plaintiff is entitled to jurisdictional discovery.

26. Section 1983 provides:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress....

27. This Act, presently codified at 42 U.S.C. § 1983, provides for a broad and comprehensive civil rights jurisdiction, and was intended "to ensure that individuals whose federal constitutional or statutory rights are abridged may recover damages or secure injunctive relief."

28. Plaintiff was improperly deprived of her home by armed men working under color of state law without any of Judicial process. The United States enforces policies to ensure that sanctity of one's home is preserved at all times. Plaintiff asks the United States to exercise Jurisdiction and grant same protection to plaintiff's home.

29. Plaintiff was deprived of her fully paid home without any hearing and without any judicial opinion, without stating any reason and without any judge's signature. After depriving plaintiff of her property un the color of law, defendants 'throw' a piece of paper with stamp of one of their

own local county clerk. County Counsel and County sheriff have numerous such stamp in their possession and under their discretion. Local or State agencies, Robbed Respondent of home, trespassed, damaged the home, verified the damage and sent pictures of damaged home. Later filed this malicious action to cover up. Respondents removed this action as soon as they heard of the local court proceedings.

X. PERSONAL JURISDICTION

30. The District Court has exercise personal jurisdiction over the County Hospital without any injury to the County Hospital. The essence of substantive due process is that it must not be *fundamentally unfair* for the court to exercise personal jurisdiction over the County Hospital.

XI. ERISA PREEMPTION AND ARTFUL PLEADING

31. This action is also removable to the Federal Court pursuant to 28 U.S.C. §§ 1331 and 1441. In the Petition, the County claims that "Petitioner has been damaged in the amount of \$15,255". The County of San Joaquin (Petitioner) has improperly withheld Dr. Sheikh's Flexible Spending Account (FSA) and ERISA benefits amounting more than \$2000 since 2008 (Exhibit - Benefits Check).

a. At the hearing before the district Court, the County admitted that it owes ERISA benefits. The County of San Joaquin would use those ERISA benefits to offset any judgment that the

County seeks from this Petition. Accordingly this Petition is for wrongful denial of ERISA benefits and involves administration of ERISA.

- b. This petition is also removable to the Court, pursuant to the complete preemption doctrine without regard to the well-pleaded complaint rule. *Metropolitan Life Ins. Co. V. Taylor*, 481 U.S. 58 (1987).
32. This action is also removable to the Federal Court pursuant to 28 U.S.C. §§ 1331 and 1441. This petition is also removable to the Court, pursuant to the complete preemption doctrine without regard to the well-pleaded complaint rule. *Metropolitan Life Ins. Co. V. Taylor*, 481 U.S. 58 (1987). Petitioners continue to withhold Petitioner ERISA benefits.
33. In order to determine whether petitioners are engaging in **artful pleading**, the court is permitted to examine the entire record. *Tortola Restaurants v. Kimberly-Clark Corp.*, 987 F. Supp. 1186, 1188 (N.D. Cal. 1997) (Illston, J.).
34. A party cannot avoid federal jurisdiction by "artfully" pleading his or her complaint to conceal the true nature of an action that actually asserts a federal claim under ERISA. *Clorox Company v. U.S. U.S. District Court for Northern District of California*. "The artful pleading' doctrine allows the removing court to look to the true nature of the plaintiff's complaint when the plaintiff attempted to avoid a federal cause of action by relying solely on state law in the complaint." *Lyster v. First Nationwide ank Financial Corp.*, 829 F.Supp. 1163, 1167 (N.D. Cal. 1993) (citing *Garibaldi v Lucky Food Stores, Inc.*, 726 F.2d 1367 (9th Cir. 1984).

A. ERISA Section 514(a) Preempts State Law
Claims Seeking Damages

35. Section 514(a) of ERISA, 29 U.S.C. §1144(A) the ERISA statute on state law. It provides that “this chapter [ERISA] shall supersede any and all state laws insofar as they may now or hereafter relate to any employment benefit plan.” A state law “relates to” a benefit plan if it has “a connection with or reference to” the plan, *Metropolitan Life Ins. Co. v. Massachusetts*, 471 U.S. 724 (1985). The County Hospital’s claim seeking damages relate to plaintiff’s ERISA benefits that the County Hospital has wrongfully denied.

XII. Motion for e-Filing Access

36. Plaintiff hereby asks the United States Court to issue an order enabling plaintiff to electronically file documents with the Court.

XIII. Right to Jury Trial

37. Respondents exercise their Right to Jury Trial.

XIV. PRAYER

38. Respondents ask for a court order mandating defendants to release ERISA benefits.
39. Respondents ask the Court to issue an order to San Joaquin county to preserve evidence.
40. Respondents ask the Court to strike Hospital’s lawsuit as a malicious action.

Respectfully Submitted;

Date: June 3, 2017

Rehan Sheikh,
Farzana Sheikh M. D.