UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

Aug.18, 2017

Molly C. Dwyer, Clerk

U.S. Court of Appeals

In re: YAN SUI, Respondent	No. 17-80091 ORDER

Before: SCHROEDER, HAWKINS, and N.R. SMITH,

Circuit Judges

On May 31,2017, this court issued an order directing the respondent to show cause why the following pre-filing review order should not be entered, restricting his future filing in this court. Upon review of respondent's response to the order to show cause (Docket Entry No. 3), we hereby direct the Clerk to enter the following pre-filing review order.

No motions for reconsideration, rehearing, clarification, or any other submissions relating to this order shall be filed or entertained in this closed docket.

Respondent's failure to comply with the order shall result in any new appeal(s) or petition he seeks to file being dismissed or not being filed and other sanctions being levied against respondent, such as a monetary judgment or a judgment of contempt, as the court may deem appropriate.

Pre-Filing Review Order

(1) This pre-filing review order shall apply to all notices of appeal and petitions filed by respondent, in whole or in part, if he proceeds pro se. This order shall not apply to appeals in which respondent has counsel or where the district court has expressly certified in its order that the appeal is not frivolous. Should respondent fail to comply with any of the provisions of this pre-filing review order, the Clerk shall not file the document and shall return the document to respondent, informing him of the deficiencies and granting him 14 days to correct the deficiency.

(2) Each notice of appeal and petition filed by respondent shall comply with the requirement of the Ninth Circuit Rules and the Federal Rules of Civil and Appellate Procedure, especially Federal Rule of Civil Procedure 54(b) and Federal Rule of Appellate Procedure 4(a), and shall contain the following sentence in capital letters "FILED SUBJECT TO PRE-FILING REVIEW ORDER No. 17-80091" in the body of the notice of appeal or petition.

(3) Each of respondent's future notices of appeal and petitions shall include a copy of the order(s) of the district court from which he is appealing, if applicable, a short and plain statement of the factors or law on which he will rely for the purposes of the appeal or petition, and a statement that he has not previously appealed this order or raised this issue in a prior appeal or petition.

(4) If respondent's future notices of appeal and petitions are submitted in compliance of this order, the Clerk shall file the notice of appeal or petition and accompanying documents in a new docket. The court will review respondent's submissions to determine whether they merit further review and whether they will be allowed to proceed. *See In re Thomas,* 508 F. 3d 1225 (9th Cir. 2007). No briefing schedule will be set in the new docket, and no motions will be entertained, unless the court deter-mines that the appeal or petition will be allowed to proceed.

(5) This pre-filing review order shall remain in effect until further order of this court. Respondent may, no earlier than June 1, 2019, petition the court to lift this pre-filing review order, setting forth the reasons why the order should be lifted."

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED
May.31, 2017
Molly C. Dwyer, Clerk
U.S. Court of Appeals

In re: YAN SUI, Respondent	No. 17-80091 ORDER

Before: Peter L. Shaw, Appellate Commissioner.

"This court's records reflect that, since 2012, respondent Yan Sui has initiated the following litigation in this court:

12-55704 - dismissed for lack of jurisdiction;

12-56313 - affirmed;

12-56939 - affirmed;

13-55879 - affirmed;

13-56181 - reversed and remanded;

13-60020 - affirmed;

13-60068 - affirmed;

13-60069 - affirmed;

13-60070 - affirmed;

14-55758 - reversed;

14-56244 - dismissed for lack of jurisdiction;

14-56929 - affirmed;

15-55706 - affirmed;

15-55708 - affirmed;

15 - 56130 - affirmed;

15- 60065 - affirmed;

15 - 70189 - petition for writ of mandamus denied;

16 - 60038 - dismissed for lack of jurisdiction;

16 - 60049 - affirmed;

16 - 60081 - affirmed

17 - 60008 - dismissed for lack of jurisdiction; and,

17-71237 - petition for writ of mandamus denied.

Respondent's practice of burdening this court with meritless litigation justifies careful oversight of respondent's future litigation in this court.

The Supreme Court has recognized that "every paper filed with the Clerk of this Court, no matter how repetitious or frivolous, requires some portion of the institution's limited resources. A part of the [c]ourt's responsibility is to see that these resources are allocated in a way that promotes the interest of justice. The continual processing of the [appellants'] frivolous requests... does not promote that end." *In re McDonald,* 489 U.S. 180, 184 (1989). This court faces the same problems of limited resources in handling its large volume of appellate litigation.

Therefore, the respondent, Yan Sui, shall respond and show cause within 21 Days after the date of this order why this court should not enter the following pre-filing review order. *See Visser v. Cali-fornia,* 919 F. 2d 113, 114 (9th Cir. 1990) ("This court has the inherent power to restrict a litigant's ability to commence abusive litigation"); *see also Wolfe v. George,* 486 F. 3d 1120 (9th Cir. 2007) (finding no constitutional right to file frivolous litigation, upholding California Vexatious litigant statute). If respondent fails to file a timely response to this order, the Clerk shall forthwith enter the pre-filing review order regardless of further filing by respondent.

Should the pre-filing review order be entered, respondent's failure to comply with the order shall result in any new appeal(s) or petition(s) he seeks to file being dismissed or not being filed and other sanctions being levied against respondent, such as a monetary judgment or a judgment of contempt, as the court may deem appropriate.

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9th Circuit Civil No. 17-80091

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

In re: YAN SUI

Respondent

Yan Sui

Appellant

v.

Richard A. Marshack

Appellee

RESPONDENT YAN SUI'S CAUSE WHY THE PRE-FILING REVIEW ORDER SHOULD NOT BE ENTERED

Yan Sui
P. O. Box 4732
Mission Viejo
CA92690
Tel: 949-903-6378
Email:dancalm@sbcglobal.net
Respondent in pro se

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Petitioner Yan Sui ("Sui") received an Order by Appellate Commissioner, Peter L. Shaw ("Order"). The Order was filed on 5/31/2017 but not received until 6/7/ 2017 after Sui mailed a notice of appeal from BAP decision under CC-16-1252/ 1284 /1310, went to collect mail from the postal mail box afterwards.

The Order captioned "In re Yan Sui, Responddent" and states as follows:

"This court's records reflect that, since 2012, respondent Yan Sui has initiated the following litigation in this court:

12-55704 - dismissed for lack of jurisdiction;

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The Supreme Court has recognized that "every paper filed with the Clerk of this Court, no matter how repetitious or frivolous, requires some portion of the institution's limited resources. A part of the [c]ourt's responsibility is to see that these resources are allocated in a way that promotes the interest of justice. The continual processing of the [appellants'] frivolous requests... does not promote that end." *In re McDonald,* 489 U.S. 180, 184 (1989). This court faces the same problems of limited resources in handling its large volume of appellate litigation.

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A careful review of the following facts will show that the Order identified the wrong issue. It is not warranted both factually and legally. The following facts are not presented to this Court to comment, or to modify the prior rulings based on such. They are presented to show why this non-asset Chapter 7 could last for six years without a foreseeable end.

MEMORANDUM OF POINTS AND AUTHORITIES

I. RELEVANT FACTS AND FACTUAL ARGUMENTS

a. The Non- Asset Chapter 7 and the Discharge

On 4/22/2011,Petitioner Yan Sui ("Sui" or "Petitioner" where content requires) paid $10,812. 41under protest as a lien that 2176 Pacific Home-owners Association ("HOA") placed on Sui's real property, commonly known as: 2176 Pacific Ave., #C, Costa Mesa, CA92627 ("house").

On 7/27/2011, Sui filed a Chapter 7 with un-secured personal debt totaling $23,841.30 (*See* CC-13-1572 memo, p. 2: 15-25). On 11/1/2011, Hon. Robert Kwan deemed that Sui's Chapter 7 is a non-asset case (*See* Transcript of hearing on Sui's motion to dismiss bankruptcy case; Exh. 1, p. 4: 5). Hon. Kwan ordered Chapter 7 Trustee, Richard A. Mar-shack ("Marshack") to investigate the case (Exh. 1, p. 8: 13; p. 9 : 2).

By 3/28/2012, Sui paid off all Chapter 7 debts. On 5/7/2012, Marshack made an unnoticed appearance at state court where Sui was prosecuting a lawsuit against HOA. Marshack stated to judge that he settled Sui's claims against HOA and requested that Sui be dismissed. The request was made without an order by bankruptcy court. After Sui was dismissed, Yang was left alone. She does not speak English and was not represented. Yang lost to HOA in a defense verdict. On 8/17/2012, Marshack dismissed Sui from three other state court actions against HOA. One of them is a final judgment in Sui's favor against HOA. Sui lost about over $100,000 estate because of the dismissals.

On 2/20/2013, BAP deemed Sui's asset secured by the Wells Fargo Mortgage Co., "not the asset of the estate" (*See* Transcript of DC, BAP Nos. CC-12-1223; CC-12-1366; CC-12-136, Exh. 2, p.8 : 23). On 3/29/2013, Sui was discharged under 11 *U.S.C.* §727.

Between 7/27/2011 and 3/29/2013, Marshack didn't investigate the case and report to United States Bankruptcy Court ("BC") whether the Chapter 7 is a non-asset case. On 6/13/2013, Sui invited Marshack to file for his admin fees. Mar-shack declined to do so and stated that: "While it is true you have received a discharge, the trustee still has a duty to liquidate your assets and pay your creditors in full - the two are not tied together and the entry of your discharge does not relieve the trustee of his obligations. As a result, we are a long way from a completion of your bankruptcy case" (Exh. 3).

On 11/10/2014, BAP deemed the Chapter 7 a "bare-bones" petition and Marshack didn't provide clear record to show that Sui is the current or former spouse of Pei-yu Yang ("Yang") (*See* BAP CC-13-1572 memo, p. 2:15-25).

Still, Marshack wouldn't let go of the non-asset Chapter 7. During 3/28/2012 and 10/10/2014, Mar-shack continued to administer and caused these appeals to be filed: 13 - 60020 (BAP's dismissal of Sui's appeal from BC order approving his settlement of Sui's claims against HOA); 13 - 60068 (BAP's dismissal of Sui's appeal from BC order approving his admin fees); 13- 60069 (BAP's dismissal of Sui's appeal from BC order approving his former counsel's admin fees); 13 - 60070 (BAP's affirmance of the BC order of reconversion to Chapter 7).

On 4/22/2015, Trustee moved BC for an order to authorize the sale of the house. Trustee had no Chapter 7 debt or claim to pay from the sale. Sui opposed and BC granted. Sui appealed. BAP dismi-ssed it after the house was sold on "mootness." Sui appealed to Court under 16-60065. Court affirmed the dismissal based on "mootness."

b. Factual Argument

During 11/1/2011 and 3/29/2013, Marshack should have finished the investigation and find no asset and close Chapter 7. When Sui's unsecured debt is less than the California's wild card for $75,000, there was no bankrupt asset. *California Civil Code* § 3439.01(a) (1) & (2) deems that Sui's asset secured by the mortgage loan is not part of bankrupt asset and Sui's debt is exempted by non-bankruptcy law of $75,000 homestead exemption and not part of bankrupt asset. Therefore, Marshack has no authority to touch the non-bankrupt asset of Sui.

Marshack evidently didn't want to go away, Marshack and his attorneys filed for more than $20,000 admin fees for the period of 7/27/2011 to 1/13/2012 and caused Sui to appeal. When BAP tossed out such fees, but affirmed the reconversion, Sui had to appeal to prevent an adverse *res judicata* because Sui never agreed to be back to Chapter 7.

Marshack and his attorneys should have understood that they are not entitled to get paid without disbursement and not to file their improper interim fees. When Chapter 7 is non-asset, his settlement with HOA reached into Sui's surplus estate. Sui had to sue him and HOA to protect such estate. The lawsuit is a civil way to protect the surplus and non-bankrupt estates of Sui. It is an appropriate way to redress unlawful acts of Marshack et al.

When district court dismissed, Sui had to appeal under 15-55708. Had Sui not appealed, the dismissal could be binding and become a *res judicata.* Had Sui not appealed, Marshack's contempt sanction of $30,319.50 would be binding. But because of the appeal, Court didn't affirm the contempt sanction of $30,319.50. That means that appeal under15-55708 has merit.

Although Court affirmed the dismissal on "Barton doctrine," that only pertains to trustee. Non-defendants subject themselves to an inquiry under discharge injunction. That caused Court to deem in Sui's appeal under16-60038 as a sanction motion in "on-going litigation." Following on such logic, "on-going litigations" could possibly mean the lawsuit dismissed and appealed from under 15-55708 and the one dismissed and appealed under 15-56130.

Although Court affirmed in 16-60065 based on "mootness," Court didn't state that Marshack had standing to collect for Wells Fargo Home Mortgage. Court didn't state that Marshack had the authority to sell.

Had Sui not appealed under 16-60038, Court couldn't use "on-going litigations" for Sui to seek sanctions against non-trustee Defendants. At the same time, the violation of discharge injunction by non-Defendants subject them to be sued and be sanctioned under such lawsuits. That logically means that appeals under 15-55708, 15-56130 and 16-60038 have merits. If the appeals have merit, the under-lying lawsuits have merits. Otherwise, why didn't Court dismiss the appeals based on "frivolity?" These facts simply mean that lawsuits were improperly dismissed as against all Defendants under the current rulings of Court.

These facts simply mean that the sale violated the discharge injunction. Had Sui not appealed from the sale order, lower courts' order could be binding on lack of appeal. But with the appeal, Sui reserves the right to contest against future adverse ruling based on Court's holding that Marshack et al should be sanctioned under discharge violation.

c. No Creditor after the Discharge

Marshack has been making misleading and false statements to Court to achieve his personal agenda, to wit: to earn unwarranted fees in a non-asset and non-creditor Chapter 7. It is his agenda that cause all appeals that Sui had to file with Court. Sui would cite to these statements to Commissioner's attention:

In 13-60070, he argued to Court that reconver-sion to Chapter 7 served the best interest of creditor when he actually knew that there was no such after 3/28/2012. By that date, Sui had paid everybody. This fact has been presented and affirmed by BAP (*See* Hon. Taylor's comments in argument under CC-13-1572, Exh. 4, p. 9:12). Marshack does not dispute the fact, but he continued to administer.

d. Factual Argument

When Marshack knew that there was no creditor after the discharge, he switched gear to argue "administrative creditor," which means Marshack and his attorneys (*See* Marshack argu-ment in Sui's motion to hold Marshack et al in viola-tion of discharge injunction in 8:11-bk-01448-CB, Exh. 5, p. 14: 21). When he made such statement, there is no affirmed order awarding him a penny. Hon. Bauer knew that fact. She picked up this term readily (Exh. 5, p. 21:15).

Under the existing fact, Marshack is not entitled to any fee under 11 *U. S. Code* § 326. BAP deemed the bankruptcy court fee awarding order as a "snap judgment" (Exh. 2, p. 14:6). BAP cautioned him to that [trustee's fees are a commission... There is no fee] (*See* Exh. 2, p. 16:4). Marshack agreed to go based on that section [Exh. 2, p. 16: 6]. BAP further cautioned Marshack that [326 controls here, no disbursement, no commission] (Exh. 2, p. 19:4).

As to his paralegals, BAP cautioned that [para-legal fees and that sort of fees would be subsumed by trustee - utilized by trustee into the trustee's fees under 326] (Exh. 2, p. 21: 21).

As to his attorneys, BAP cautioned that [Number one, assuming that we are dealing with final awards... wouldn't those be pursuant to 330 and don't we need a reasonableness finding...] (Exh. 2, p.13:16); [We also have a game-changer, don't we, with 330(A) (7) where in fact Chapter 7 trustee under 330 are looking back to 326 on a commission basis?] (Exh. 2, p.19:9); [Well, let's not lump them together because the professionals and the trustee's fees are based on two different provisions of Section 330, sir] (Exh. 2, p. 20:22). Marshack replied that: "Under-stand" (Exh. 2, p. 20:23). BAP warned Marshack that [I think that it's an inappropriate interim award with respect to the trustee fees] (Exh. 2, p. 17: 3). BAP him and his attorneys opportunity to file for fees at conclusion of Chapter 7 (*See* BAP memo CC-12-1223; CC-12-1366; CC-12-1367, p. 19:18).

The above comments of BAP could factually deem that Marshack and his attorneys are not entitled to any fees. When they are not entitled to any fees, they couldn't become "administrative creditors."

Marshack and his attorneys evidently didn't wish to go away. They filed for more than $340,000 "first interim fees" in spite of BAP's prior admonish-ment. Such interim fees were not affirmed. Still, Marshack demanded payment of such on 12/4/2014. After Sui refused to pay, Marshack evicted Sui and family members.

That caused the lawsuits filed, dismissed and appealed under 15-55708 and 15-56130. When there had been no Chapter 7 creditor, Marshack impro-perly reconverted and caused Sui to appeal under 13-60070; Marshack improperly settled and caused Sui to appeal under 13-60020.

Under the current facts, Marshack and his attorneys defended their tossed-out admin claims. Facts are clear that he moved bankruptcy court for an order to sell the house. He didn't have any Chapter 7 debt from the proceeds. He meant to get paid for his admin fees, whose entitlement and amount is unknown. That proves that his ultimate purpose of administering the non-asset Chapter 7 is his tossed out fees. It was such purpose that caused all the appeals.

e. Sui's Property Settlement Agreement with Yang and Marshack's First Complaint to Avoid Sui's Quitclaim

On 6/10/2009, Sui recorded a quitclaim in the house to exchange for Yang's property rights in China. Sui discharged his debt under the mortgage loan to Yang, who took it over and had been timely paying on it. The agreement was filed at and granted by California Family Court. Agreement was not challenged and fully executed by Sui/Yang outside of bankruptcy.

On 8/22/2011, Marshack caused his "proposed general counsel," David M. Goodrich to file his first complaint to avoid Sui's quitclaim to Yang recorded on 6/10/2009 ("Yang I"). Yang answered and challen-ged Goodrich's standing to sign and file. Marshack didn't correct his signature error. Yang contended in later bankruptcy court proceedings that "Yang I" is invalid because it must be striken under *F. R. Civ. Proc.*, Rule 11(a). Yang argued that "Yang I" was untimely under 11 *U. S. Code* § 544, 548 and 550 (*See* Yang's OB to Court under 13-55956). Later, Petitioner stated to Ninth Circuit that *California Civil Code §*3439.04; § 3439.05 and § 3439.07 didn't support Yang I because *California Civil Code §*3439. 01(a) (2) deems no bankrupt asset with the Chapter 7 filing because the debt of $23,814. 30 was less than $75,000 homestead exemption of *California Code of Civ. Proc. §* 704.730(a)(3). *California Civil Code §*3439.01(a) (1) deems no bankrupt asset because the mortgage loan secures the house.

Yang objected Marshack's discovery on the invaliddity. Marshack moved for summary adjudica-tion in Yang I. Yang provided BC with record from California Family Court that Sui/Yang were never legally married to make a community property of the house.

f. Marshack's Second Complaint for Turnover and Sale of the House

On 7/27/2013, Marshack filed his second

complaint of 8:13-ap-01246-CB ("Yang II") against Yang after Sui's discharge on 3/29/2013 ("Yang II"). Yang II had no Chapter 7 debt or claim. It was based on the DC order granting his summary adjudication in Yang I. Yang moved to dismiss based on invalidity of Yang I and based on discharge injunction. Yang moved to strike. BC denied both and issued sche-duling order. Pursuant to that order, Yang filed three dispositive motions at BC. These motions were barred from filing due to a pre-filing order. Sui/Yang successfully appealed to BAP and caused the order vacated and case remanded. Before the vacatur, Marshack took default of Yang because Yang refused to file an "answer" in "Yang II." Trustee moved for default judgment in Yang II and BC granted over Yang's opposition on 10/6/2014. Yang appealed to BAP. Pending appeal, Marshack moved BC for a writ of assistance to U.S. Marshals to aid the eviction. Sui/Yang opposed, but BC issued the writ.

On 12/3/2014, Sui/Yang asked Marshack how to avoid the eviction and the sale of the house. On 12/4 /2014, Marshack replied and requested payments of claims which had been tossed out through Sui's appeals; objected and claimants failed to respond to Sui's objections and Well Fargo Home Mortgage's ("WF") unpaid loan balance. Sui/Yang rejected the demand. Marshack proposed to settle and requested Sui/Yang to pay his and his attorneys fees in six-figure amount. Sui/Yang rejected and urged Mar-shack not to proceed or to face lawsuit, in which bankruptcy court judge personally would be sued.

Yang appealed from the default order. BAP dismissed after the house was sold on "mootness."

Sui's appeal under 16-60065 is directly related to Yang's appeal. Had Sui/Yang not appealed, Sui/Yang couldn't possibly obtain the benefit from Court's holding that Marshack et al violated the discharge injunction.

g. Marshack I

Sui sued Marshack, HOA and Office of United States Trustees in district court under 8:13-cv-01607-JAK (AJW) ("Marshack I") because of "Yang II." In Marshack I, Sui contended that Marshack violated the discharge injunction; collected null and void proof of claim for WF, and targeted at the surplus estate of Sui. Marshack moved to dismiss based on "Barton doctrine." District court granted the dismissal and dismissed. Sui appealed and the dismissal was affirmed by Court. Marshack I was deemed proper by BAP judge, Taylor because Sui didn't want to lose the home (Exh. 4, p. 9:12).

In Jan. 2015, Marshack initiated a contempt motion in Marshack I because Sui sued Marshack, bankruptcy judge personally, WF et al without leave of bankruptcy court. 3/3/2015, district court granted Marshack's contempt motion and awarded him $30,913.50. Sui appealed from both the dismissal and the fee order. Marshack defended the dismissal and not the fee order. Court affirmed the dismissal and didn't affirm the contempt fee order in 15-55708.

h. Marshack II

Sui sued Marshack, bankruptcy judge, WF, et al in district court under 8:15-cv-00059-JAK (AJW) ("Marshack II"). Marshack II alleged violations of 42 *U.S. Code* § 1983; § 1985; 1988; Fifth, Seventh Amendment; 11 *U.S. C.* § 704 (a) (1); 28 *U. S. Code* §

1738, among other federal statutes and state law claims. Marshack stayed the prosecution of Mar-shack II pending outcome of his contempt motion against Sui in Marshack I. Marshack II was filed after Marshack requested United States Marshals to evict Sui and family members from the house. The eviction was not avoided because Sui/Yang refused Marshack's demand to pay the claims which were objected, baseless and tossed-out. Marshack also demanded payment of the non-delinquent mortgage loan balance. Sui/Yang refused his request also. Marshack proceeded with the eviction and got sued together with the bankruptcy judge, his attorneys, WF et al. District court order Marshack II be dismissed and Sui/Yang appealed to Panel, who affirmed on 5/8/2017.

i. Factual Argument

The appeal of 15-55708 has apparently persuaded Court to acknowledge the invalidity of "Yang I" because Court didn't state that Sui/Yang's contention is unpersuasive like it did in 14-55956. As a result, the mandatory requirement of *F.R.Civ. Proc.* Rule 11(a) to strike "Yang I" has been advocated. At the same time, proceedings at bankruptcy court based on "Yang I" have been proven legally void and the resultant orders have been proven legally void. Sui/Yang has aided Court in deeming these facts and laws are working. One of them is that bankruptcy judge lost immunity. Sui/Yang has proven a real example of violating 42 *U.S. Code* § 1983 by a bankruptcy judge. The appeal caused Court not to assert that the bankruptcy judge has the absolute immunity in 15-56130. "Terminating sanctions" is irrelevant to the judge in Court's eyes. Court only referred to the dismissal based on "Barton doctrine" relevant to Marshack and real estate agents.

II. "SANCTIONS IN ON-GOING LITIGATIONS" VINDICATE APPEALS

In Sui's appeal under 16-60038, Court held that Sui's motion to hold Marshack et al in violation of discharge injunction to be considered as sanction in "on-going litigations." Such holding has actually vindicated all appeals relevant to acts of Marshack after the date of 3/29/2013. An appellate court like this Court could not possibly make such statement unless Court firmly believed that Marshack et al did violate the discharge injunction. That being said, Marshack's second adversary action to demand the turnover and sale of the house violated the discharge injunction. Therefore, Sui/Yang's first lawsuit against him, HOA and Office of United States Trustee is warranted. Sui/Yang's appeal under 15-55708 has merit. For the same token, Sui/Yang's second lawsuit against him, bankruptcy judge, Office of United States Trustee, United States Marshals et al is warranted and the dismissal is not proper. Sui/Yang's appeal under 15-56130 has merit. Marshack acted to reconvert converted Chapter 13 to Chapter 7 served the improper purpose to collect discharged debt after 3/29/2013. Sui's appeal under 13-60070 is proper. Marshack sold the house to pay Wells Fargo Home Mortgage. Such act violated the discharge injunction because Sui's personal debt in the mortgage has been discharged under California case of *In re the Marriage of Delila Louise and Herbert Gardner* (1984) 157 Cal. App. 3d 1215, providing in pertinent part:

> " It is now firmly established in California law that certain types of debts arising from a division of community property on dissolution are properly dischargeable in bankruptcy. As the court stated in *Smalley v. Smalley* (1959) 176 Cal. App.2d 374 [1 Cal. Rptr. 440]:"[An] alimony judgment or a Judgment which can properly be construed as being for alimony is not affected by a discharge in bankruptcy. However, it has been squarely held in California that, where the parties have entered into a property settlement agreement whereby payments are thereafter to be made to the wife, not for support but in settlement of property rights, the discharge in bankruptcy of the husband discharges the debt."

Sui's appeal under 16-60038 has merit to over-come the BAP order appealed from. The Panel incorrectly and misconstrued it as a sanction motion in on-going litigation on anticipation that all those "on-going litigations" would be dismissed or thrown out. Sui has at least achieved the goal that Court couldn't deem Marshack et al didn't violate the discharge injunction. Under the facts and laws, they did violate the injunction. The appeal keeps the open for Sui for remedy under discharge injunction violation.

Court's decision in 15-60065 does not change the result that Sui's debt has been discharged in a property settlement agreement with Yang. Court's decision in 15-60065 does not change the holding of

Pavelich v. McCormick, Barstow, Sheppard, Wayte & Carruth LLP and State Center Plaza 229 B.R. 777 (9th Cir. BAP 1999) to bar Marshack to collect such discharged debt. Court's decision in 15-60065 does not lift the ban under 11 *U. S. Code* § 524 (a) (2) to prohibit Marshack from collecting the discharged debt. In the decision of 15-60065, Court didn't state and decide the relationship between "mootness" and discharge injunction. Court didn't state that a technical "mootness" could overcome the mandate set forth under 11 *U. S. Code* § 524 (a) (2). Sui's appeal under 15-60065 has merit. It is the Court who chose not to look at the substance. The affirmance in this appeal is on label only.

When Sui petitioned Court for a writ of man-damus under 15-70189 based on discharge injunction, Court denied because Court didn't want to consider discharge injunction. After all the harms have been done to Sui and family, Court acknowledges that the acts of Marshack et al have violated discharge injunction and directed Sui to seek remedy as a sanction in "on-going litigation." Had Court looked at the substantive rights provided to Sui under the 11 *U. S. Code* § 524 (a) (2), Court should stay the eviction pending further briefing. Sui's petition under 15-70189 has merit and Court didn't wish to look at it. It could be true that lay-person's pleading has defects. Defects don't mean unmeritorious or frivolous. Now, it turns out to be the fact that Court could not reconcile the rulings which had been made on shifting grounds. Court's recent ruling has proven that Court's prior rulings were incorrect. Court's prior rulings could not sustain the test of facts and laws.

Following Court's logic in deeming Marshack et al violated the discharge injunction and subject them to sanctions, his act of objecting to Sui's homestead exemption in 16-60049 also violated the discharge injunction. The reason is straight forward: the sale was done violative of the discharge injunction. The sale proceeds produced through such violation are ill-gotten. Marshack is not legally entitled to claim a penny from it. What's the ground to object Sui's homestead exemption? Since the Court has acknowledged that Marshack et al violated the discharge injunction, why did Court affirm Marshack's objection? Did Court mean to signal Marshack that he could object although the proceeds were obtained in violation of the discharge injunction? Sui doesn't believe Court wants to send him this wrong message. Therefore, Sui's appeal under 16-60049 safeguarding the sale proceeds has merit. Following Court's logic in deeming Marshack et al violated the discharge injunction and subject them to sanctions, Sui properly requested the evidentiary hearing and to strike the unfounded claims. A determination on merit will safeguard the surplus estate of Sui after the discharge. Because Court has presumably deemed Marshack et al violated the discharge injunction, Sui's appeal under 16-60081 has merit.

Following Court's absence of asserting that bankruptcy judge is immunized from being sued under Marshack II, logical deduction is that she is being properly sued. Since she is being properly sued, she could not possibly be expected to have impartiality in conducting hearings. Sui's appeal under 17-60008 is merely technically infeasible but the pet tion for a writ of mandamus under 17-60008 has merit. The petition should be granted under the federal laws.

The Order apparently expects that layperson Sui to further explain, on top of the existing facts why she should be disqualified. Court didn't wish to make any logical and reasonable inference based on the existing facts and law that she has lost her impartiality.

Now, it is time for Court to go back to Marshack, a bankruptcy specialist, an attorney for more than 30 years and asked him to show cause why he should not be sanctioned for making false, baseless and frivolous arguments. Marshack caused 95% of the listed appeals coming to Court. He burdened this Court. Sui has the duty to protect the house and person from being harmed by Marshack et al. Sui is being unwarrantedly burdened to respond to this order. Still, Sui feels honored to discuss legal issues with Hon. Commissioner Shaw. Sui would honestly tell Com-missioner Shaw that: You are on the wrong side of the justice.

For the reasons discussed below, the underlying order is legally wrong.

III. LEGAL ARGUMENT

a. Court Fails to Prevent Unlawful Acts at Earlier Stage

Sui is not implying, suggesting or asking Court to reconsider its prior rulings. Court did fail the function to prevent unlawful acts of Marshack et al at earlier stage. In the appeal of 13-60020, Sui argued that there was no creditor to benefit from the settlement. Court didn't listen. In 13-60070, Sui argued that there was no Chapter 7 creditor to benefit from the reconversion. Court didn't listen. In 15-55708, Sui argued that Marshack's first action to avoid Sui's quitclaim is invalid *ab initio*. Court didn't act on it to deem that resultant orders of lower courts are void for purpose of pursuing the house. In 15-56130, Sui argued that lower court unwarrantedly over stretched the scope of "Trustee Defendants" and barred Sui's efforts to pursue non-Trustee Defen-dants. Court didn't rule on that. Court asserted a proper "terminating sanction" against Sui/Yang. In 15-60065, Sui argued to Court that the sale violated the discharge injunction. Court didn't rule on that. Court asserted the bankruptcy "mootness" and didn't state or decide why Marshack should not make that price difference of $160,000. In 15-60065, Sui urged Court to prevent the house from re-sale based on irreparable harm, Court denied without a state of decision. In 15-70189, Sui petitioned Court for an order to stay the eviction based on discharge injunction. Court denied on lack of jurisdiction. In 16-60038, Court refused to hold Marshack et al in contempt of discharge injunction. Court dismissed the appeal by misconstruing the appeal as a motion for sanction in "on-going litigation." In 16-60049, Court refused to redress Marshack's objection to Sui's homestead exemption to protect the ill-gotten sale proceeds not be disturbed by Marshack. In 16-60081, Court refused to order lower courts to conduct an evidentiary hearing to strike out unfounded claims. Court aided lower courts to hide those unfounded claims from being striken. In 17-71237, Court refused to give Sui the benefits of liberally construing the petition, giving facts reasonable inferences and deductions.

Court should have known that acts of Marshack et al are unlawful from 2013 if Court had been willing to do so. For example, in 13-60020, Marshack has no authority to appear at state court to dismiss Sui from on-going trial; no authority to settle Sui's surplus estate in this non-asset Chapter 7. In 13-60070, Marshack has no authority to reconvert the converted Chapter 13 to Chapter 7 when Chapter 7 itself is a non-asset case and all creditors were paid. In 15-55708, "Barton doctrine" was never intended to shield Marshack from lawsuit in district court when his acts fell within the exceptions for leave to sue. In 15-60065, "mootness" does not create a substantive right of Marshack to violate discharge injunction. Bankruptcy law has no superseding effect over common laws as Court stated in *In re Marshals* to the effect that constitutional rights could be violated if carrying out bankruptcy code exceeds the scope of boundary. In this case, Sui's substantive rights protected under common laws outweighs the "mootness." Court makes common laws not functioning before Marshack et al. In 16-60049, Court erroneously denied evidentiary hearing based on those claims whose resolution would aid the early termi-nation of Chapter 7. Court improperly prolongs the course of this Chapter 7, over which Marshack feels tired about it. Court unwarrantedly make itself open to more appeals on the way that this Order prevents to have. Court puts itself in a irreconcilable position and conflicts itself. In the same manner, Court denies Sui's petition to disqualify bankruptcy judge in 17-71237. It left open the door for the same judge to make erroneous orders which could certainly cause more appeals over which this Order prevent to have. The Order puts Court in an awkward position. The Order creates undue burden on victim Sui to redress those unlawful acts.

Court should reflect on itself to think why the situation exacerbates to the phase that Court does not want to face. If Court follows the logic, it was Marshack et al who did it. Sui exercised a citizen's rights to protect the interest of his own and of his family. Order points a wrong finger and barks at a wrong tree.

b. Underlying Order Inflicts Further Harm

The Underlying Order was greatly undermined by Panel's holding to the effect that Marshack et al contemnors subject to sanctions under discharge injunction violation. Under such holding, Sui properly sued him and others for his post-discharge acts. Panel didn't encourage such acts by affirming district court's contempt fee order against Sui/Yang. That impliedly proves that Sui/Yang lawfully protected the rights through lawsuits and appeals.

However, the underlying Order ignores such facts. It is not too late notify this Court that the eviction and the sale of the house are criminal acts. They were committed in a concerted manner by Marshack, bankruptcy judge, United States Marshals and Wells Fargo Home Mortgage. Such acts violate the provi-sions of Section 1175 of the Violence Against Women and Department of Justice Reauth-orization Act of 2005 (P.L. 109-162) under Public Law 109-162 preventing violence against women and elderly abuse.

Further, such acts violated *California Penal Code* 422.6 (a), providing in pertinent part:

> "No person, whether or not acting under color of law, shall by force or threat of force, willfully injure, intimidate, interfere with, oppress, or threaten any other person in the free exercise or enjoyment of anyright or privilege secured to him or her by the Constitution or laws of this state or by the Constitution or laws of the United States in whole or in part because of one or more of the actual or perceived characteristics of the victim listed in subdivision (a) of Section 422.55."

Sui and family members had hoped that Panel can order that the house be back to Sui and family members and actors pay restitutions. Panel didn't. Panel uses the vehicle of bankruptcy "mootness" to bar Sui and family members to recover the house. Panel has impliedly vindicated such criminal acts and stood on the wrong side of justice. Panel had invoked injustice on top of the injustice done by lower courts. Now, the Order intended to tie up the hands of Sui from fighting back erroneous orders of lower courts. It puts undue burden on Sui in future to petition the Court to correct the lower courts for their erroneous orders in the future and to obtain restitution from these criminal offenders. The Order inflicts further harm. It is simply wrong.

c. Order Fails Court's Own Case on "Pre-Filing Order"

Although the Order is creatively labeled as a "pre-filing review" order, its substance reflects that of a "pre-filing order." On a careful comparison, Order fails the holding of *Ringgold-Lockhart v. County of Los Angeles*, 761 F.3d 1057, 1062 (9th Cir. 2014) [out of regard for the constitutional underpinnings of the right to court access, "pre-filing orders should rarely be filed," and only if courts comply with certain pro-cedural and substantive requirements].

Order didn't state that it is not bound by *Ring-gold, supra.* It didn't state that Order is except from the holding of *Ringgold, supra.* Order should fall under the four prongs of *Ringgold, supra,* providing:

> "Out of regard for the constitutional underpinnings of the right to court access, "pre-filing orders should rarely be filed," and only if courts comply with certain procedural and substantive requirements. *De Long,* 912 F.2d at 1147. When district courts seek to impose pre-filing restrictions, they must: (1) give litigants notice and "an opportunity to oppose the order before it [is] entered"; (2) compile an adequate record for appellate review, including "a listing of all the cases and motions that led the district court to conclude that a vexatious litigant order was needed"; (3) make substantive findings of frivolousness or harassment; and (4) tailor the order narrowly so as "to closely fit the specific vice encountered." *Id.* at 1147-48."

Order falls far short of the requirement set forth in *Ringgold, supra* because a notice to Sui only satisfies the noticing procedure. It fails the remaining three prongs for these reasons: (1) Sui was not deemed by any federal court as a "vexatious litigant." Prior Order of bankruptcy court to that nature has been vacated in CC-13-1572. Order fails the first pre-requisite on a "pre-filing order." Creating a "pre-filing review order" does not aid the Order because the end relief attempted by the Court is the same. (2) Order didn't compile an accurate record for Sui's relevant appeals concerning bankruptcy appeals which contain any baseless, unmeritorious or even frivolous argument that led Court to conclude that a "vexatious litigant order" is needed. In this respect, Order is woefully inadequate. Listing some appeal case numbers fails the test of *Ringgold, supra. Ringgold* case needs more than that. Order should have identified which of Sui's argument in the appeals sound baseless, unmeritorious or even frivolous. Order should have identified which of the appeal constituted a "harassing" Marshack.

As a matter of fact, *Ringgold* disapproved the Order with the holding that:

> "[B]efore a district court issues a pre-filing injunction ... it is incumbent on the court to make 'substantive findings as to the frivolous or harassing nature of the litigant's actions.'" *De Long,* 912 F.2d at 1148 (quoting *In re Powell,* 851 F.2d 427, 431 (D.D. Cir. 1988) (per curiam)). To determine whether the litigation is frivolous, district courts must "look at 'both the number and content of the filings as indicia' of the frivolousness of the litigant's claims." *Id.* (quoting same).

> While we have not established a numerical definition for frivolousness, we have said that "even if [a litigant's] petition is frivolous, the court [must] make a finding that the of complaints was inordinate." *Id.* Litigiousness alone is not enough, either: " 'The plaintiff's claims must not only be numerous, but also be patently without merit.'" *Molski,* 500 F.3d at 1059 (quoting *Moy,* 906 F.2d at 470)."

On the number of bankruptcy appeals, 11 in four years are not that many. On the number of civil appeals and petitions for writ of mandamus, 11 in five years are not that many. Order has no factual support for reason one. Order didn't list how many baseless, meritorious or frivolous arguments Sui made. Order has no factual support for reason two. The numbers of affirmance of Court don't necessarily prove that Sui's appeals are frivolous. Based on the record, Court affirmed on irrelevant merit and by avoiding the relevant merit Sui raised in those appeals. Had the merit Sui raised in those appeals be considered and decided on, reversals are warranted. Court's affirmance of most of the cases are mere wordplay. It can be inferred by the ultimate assumption that Marshack et al subject to sanction under discharge injunction.

Court couldn't randomly make assumption. Court wouldn't assume automatically without Sui's appeal under 16-60038. This appeal has proven that all-post discharge appeals have merits. The real problem is that Court didn't want to face them. Otherwise, why didn't Court exercise jurisdiction like BAP and decide that

Marshack et al didn't violate discharge injunction? (3) Order fails the third prong of "make substantive findings of frivolousness or harassment." While Marshack et al presumably subject them to sanction under discharge injunction, does Order imply that Sui's relevant appeals against those contemnors are frivolous and harassing? To whom?

Under the current facts and laws, it was Marhack, bankruptcy judge who harassed Sui and family members to the degree of criminally prosecutable. Marshack's arguments before Court have proven to be frivolous and the relevant orders issued by bankruptcy judge are not only unlawful, they are frivolous.

Order apparently made a wrong finger at a wrong person. Such finger should point to Marshack and bankruptcy judge. Innocent citizens should not be harassed by this Order. If Court refused to serve Marshack and bankruptcy judge the justice until now. There will be some courts won't refuse. Order better cure Marshack and bankruptcy judge first before coming down at layperson Sui. Order would set free Marshack and bankruptcy judge to inflict more harm on Sui and family members with less fear of breaking the laws.

Order fails the fourth prong that "(4) tailor the order narrowly so as "to closely fit the specific vice encountered." On its face, Order states: "This order shall not apply to appeals in which respondent has counsel or where the district court has expressly certified in its order that the appeal is not frivolous."

Apparently, Order targets at the purported "vice" of no attorney on the record.

First and foremost, attorney-client relationship is sacred. Sui does not need to disclose to anyone, including this Court how the attorney assists Sui. "It turns out that even when privilege has been used for abuse, California jurisdiction is highly unwilling to question the practice. In the case of *Dp Pham, LLC v. Cheadle*, a prima facie showing of privilege turned out to be one heck of a shield against disclosure." Court decides if lower courts erred through Sui's appeals. Court has no authority to stipulate how an attorney represents Sui. Order went an extra mile to require that Sui has a counsel to be on record for appeal. Order didn't show ground to justify. Order didn't even analyze how Sui's briefs would look different had an attorney's name was put on them.

Order is infeasible for the following reasons: Order is vague on "respondent has counsel." What does it mean? Does that mean Sui has counsel to sign the notice of appeal? Or, does that mean Sui has counsel to consult before appeal but in pro se capacity? If Order requires such counsel to sign the notice, does Order require that counsel to finish the complete course of appeal? Can such counsel resign from appeal? Does the resignation need Court's approval? Under what condition can counsel resign? What if Sui, as a client intends to fire the counsel for any reason, does Sui need Court's prior approval? What if the counsel decides to resign on his own motion, will Court approve?

If Court approves the resignation, can Sui continue the appeal in pro se? What if Sui cannot find a substitute counsel? Will Court designate one for Sui? So, what will be the deal after that? Will the Court put the appeal on hold until Sui finds an attorney? Order unwarrantedly increases burden on Sui and on Court alike.

Requesting the district court to certify that Sui's appeal is not frivolous is a vague requirement. Is Court issuing an order to district court or BAP to certify whether Sui's upcoming appeal would be frivolous? Court has such authority. Sui has no such authority. If Sui files such a motion, they can decline to do so on any reason. One of them is lack of statutory basis. How long should Sui wait for them to certify before filing a motion at Court to compel them to certify? Will the motion to certify toll the time to appeal?

Even if Sui moves district court or BAP to certify that Sui's appeal is not frivolous, can Court guarantee that it would certify in absence of an order from Court? Such back-and-forth will increase the work load on district court, on BAP and on Court itself. Hypothetically, if district court or BAP certifies that Sui's appeal would be frivolous in an order, is this order appealable? If Sui appeals from such order, Court would certainly dismiss on any ground. That would cost Sui money and Court's time. Contrary to the purpose the Court attempted to achieve - reducing the case load, the Order causes more work on top of the appeal itself. The reasons are as follows:

If the Order is entered and goes into effect, who is going to determine whether the appeal has merit? By a clerk or, commissioner or by a circuit judge? At what stage can merit be determined, with the notice itself, as the Order suggests that Sui cites some laws?

Can such merit be determined before hearing from the appellee? What if the appellee intended to have a summary reversal for any reason, such as the appealed order cannot be affirmed anyway, or if appeallee wants to save some money or time? How could somebody at Court determine merit by reading some laws cited on the notice of appeal. Would somebody predict what Sui was relying on from those cases? What if somebody incorrectly presumes Sui's upcoming argument in the briefs? How could merit be decided before hearing from both Sui and Appellee?

Order causes more problem than providing with a solution. It should not be issued and entered. On a practical level, it is unpractical for Court to issue such a catch-all pre-filing order to make practical sense. Hypothetically, if an Order was entered, will Court allow Sui's motion to modify its specific term? If Court does not allow, would such be an appealable order to be reviewed by Supreme Court of United States? Is Court wasting the valuable judicial resources for no good reason?

Order should go back to *Ringgold*, find a "vice" existed in Sui's previous brief and states to Sui which of those argument is a "vice." It would be futile for Order to identify any. At least, Sui's contention that Marshack's first complaint to avoid Sui's quitclaim is not disagreed by Court in 15-55708. *F.R.Civ. Proc.* Rule 11 (a) remains as controlling statute. Court didn't wish to conflicts it in 15-55708. Sui/Yang made such contention without attorney representing, what is the need to have an attorney on the record?

Sui is not suggesting that Court go back to 14-55956 *sua sponte* to delete the statement that "Yang's contention on timeliness and invalidity is unpersuasive." Court erred by ignoring the mandatory provision to strike Marshack's first adversary. Court couldn't correct its own legal error. A miscarriage of justice occurred. Does Court have the courage to correct its own error?

If Court lacks courage to correct its own error, on what ground to finger point at Sui? Did Sui do anything unlawful? Bring that out so that we can talk about it. Then, on what ground does Court presume that Sui's up-coming appeal need an attorney or need a verification from district court?

Sui can reasonably assume that district court is unhappy because Court has disapproved three of its fee awarding orders. Sui urges Court not to expose Sui to district court for a motion to verify that Sui's future appeal is non-frivolous. If Sui persists with such a motion, district court would sanction Sui with another order. And, if Sui appeals to Court, Court would affirm on any ground.

Apparently, Order started a round of trickery ruling game that Sui faced in 17-71237 where a bankruptcy court vacated a motion hearing without an order for Sui to appeal from. When Sui petitioned for a writ of mandate, BAP or district court dismissed for lack of appealable order. When Sui petitions this Court, Court denied on any ground because Sui's pleading always have defects. There could be no guarantee that such petition be granted when prepared by an attorney. Court is a court and has the final say.

d. Court Should Ask Marshack Questions

On the question of a representation of counsel, Court should go back to ask Marshack: why did he threaten Ken Liang from representing Sui. Attached as "Exh. 5" is an email that Marshack sent to Mr. Liang to coercively threaten Mr. Liang not to represent Sui in a motion for sanctions against him. Marshack of course is smart enough not to use "threaten," "sanction" toward Mr. Liang. But the tone carried with it is coercive enough to keep Mr. Liang away from putting his name on Sui's papers. Mr. Liang understood that Marshack represented big cast in his showdown with Sui: bankruptcy court. That explains why Marshack stated that he has "resources" in the email on 4/13/2015. A true and correct copy is hereby attached as "Exh. 6." His tone is coercive that "don't mess with me. I have courts on my side."

Marshack is partially right in his guess because Court couldn't always stand on his side. Court knows how to avoid a clear error be caught. It explains why Court disapproved the contempt fee order with no statement of decision. This is not enough for Marshack to draw a lesson. For the purpose of justice, Court should ask questions to Marshack.

These questions include, but not limited to: (1)why did he falsify evidence of an irrelevant deed of trust of a property in Manteca, California in 13-60070 to keep the non-asset Chapter 7 open; (2) why did he asked unlawful fees under 13-60068 and 13-60069; (3) why did he settle Sui's surplus estate in 13-60020; (4) why did he foreclosed on behalf of WF and got sued in 15-55708; (5) why didn't he desist his acts and caused him and a bankruptcy judge to be sued in 15-56130; (6) why did he attempt to surcharge through the objection in 16-60049; (7) why is he afraid of the evidentiary hearing to strike out unfounded claims in 16-60081?

Can Court state that Sui's arguments here are irrelevant to the Order? Can Court state that Marshack should not answer these questions? Can Court deem that Marshack didn't act beyond scope of his authority? Then, why did Court assume that Marshack subject to sanction under discharge injunction?

e. Cited Cases Make the Order Groundless

Although Order cites *In re McDonald,* 489 U.S. 180, 184 (1989) to infer "frivolous requests" to back it up, this case apparently does not support the Order for the above mentioned facts. Order cites nothing even remotely relevant between facts in *In re McDonald* and Sui's appeals.

In re McDonald dealt with a motion with Supreme Court of United States by McDonald to proceed *in forma pauperis,* who had 1971, made 73 other filings with Supreme Court of United States - including 19 for extraordinary relief -- all of which have been denied without recorded dissent. Clerk was directed not to accept any filing from him if he didn't pay the filing fees.

Court insisted that Sui pays the fees although Court already made up its mind to dismiss the appeal and refused to treat the payment as a credit in 15-55708. Sui has paid all filing order and owes Court nothing. It is Court owes Sui an explanation: why didn't Court stop the unlawful and criminal acts of Marshack et al.

Mostly distinguishable is that lower courts in *McDonald* case didn't issue orders in complete lack of jurisdiction. Supreme Court of United States didn't assume that the *McDonald's* opponents did anything unlawful.

Order is evidently groundless under the facts of *McDonald.*

Secondly, Order cites *Visser v. California,* 919 F. 2d 113, 114 (9th Cir. 1990) to impute Sui having "abusive litigation." It is totally groundless accusation. Order didn't prudently see the distinction. *Visser* case dealt with a discipline action at California Supreme Court against attorney. It is not a bankruptcy case or a civil rights case. *Visser* case demonstrated the following facts:

"On each of these five actions, pro se petitioner Henk Visser seeks a writ of mandamus, and requests that he be permitted to proceed in forma pauperis. For the reasons below, we deny petitioner leave to proceed in forma pauperis. In the last 16 months, Visser has filed eleven mandamus petitions with this court. All of Visser's petitions have been accompanied by a request to proceed in forma pauperis. Without recorded dissent, this court has denied each of the six petitions it has previously considered, and denied each of Visser's requests to proceed in forma pauperis as moot."

Sui didn't proceed or requested to proceed in forma pauperis. Sui has 22 appeals and petitions in the five years, a frequency far less than that in *Visser.* What is the Order talking about on "abusive litigation?"

For the same token, Order is futile to impute "frivolous litigation" against Sui under the facts of *Wolfe v. George,* 486 F. 3d 1120 (9th Cir. 2007) [finding no constitutional right to file frivolous litigation, upholding California Vexatious litigant statute].

On a review of the gist of *Wolfe* case, it is not even remotely relevant to situations facing Court. *Wolfe* case is not bankruptcy case. Court summarized it as follows: "We concluded that most of the defendants Wolfe had sued enjoyed sovereign immunity, but he nevertheless could, despite the Eleventh Amendment, seek declaratory and injunctive relief against both the Chief Justice of the California Supreme Court and the California official who administer vexatious litigant orders, 42 *U. S. C.* § 1983; *Cal. Code Civ. Proc.* §§ 391 *et seq. See District of Columbia Court of Appeals v. Feldman,* 460 U.S. 462, 103 S. Ct. 1303, 75 L. Ed. 2d 206 (1983); *Rooker v. Fid. Trust Co.,* 263 U. S. 413, 44 S. Ct. 149, 68 L. Ed. 362 (1932)."

Wolfe case didn't show state officials committing any unlawful acts that could be redressed under section 1983. In Sui's cases, Marshack, bankruptcy judge committed unlawful acts that could be redressed under section 1983. *Wolfe* case didn't show that state official waived their sovereign immunity. In Sui's cases, bankruptcy judge waived her absolute immunity because she issued orders from and under invalid complaint first filed by Marshack to avoid Sui's quitclaim. Marhack's master, Office of United States Trustee and Marshals waived their sovereign immunity under federal statutes of 11*U. S. Code* 106; 28 *U. S. Code* § 2409 (a); §2410 and §2674 for their specific acts of claiming unwarrantedly against the house and foreclosing on the house. Sui appropriately sued them after Marshack disregarded the warning of desist or to face lawsuit.

When these facts are complete different, it is futile for Court to impute "abusive litigation" on Sui? Does the Order want to say that Sui's appeals to fight off unlawful acts are "abusive litigation?" Sui has not seen worse absurdity. Order should be re-written to cite relevant authorities regarding a discharged debtor suing a Chapter 7 trustee, bankruptcy judge, a lender.

To the contrary, *Wolfe* case supports Sui's lawsuits against them. It supports Sui's motion to hold Marshack et al in contempt of discharge injunction. Order is grossly deficient as a matter of law. It fails to cite relevant California Vexatious Litigant Statutes. It created its own standard by piling up the numbers of the 20 appeals and 2 petitions. Order fails Court's own case on "pre-filing order" and *Wolfe* case. Order is void from a stand point that it intended to bar Sui's access to federal court when the appeal is non-frivolous.

IV. CONCLUSION

Appeals don't come in vacuum. The ultimate solution of the problem is that Marshack et al pay for the damages that Sui and family members suffered, close the Chapter 7, returned the house to Sui and family member. Court should cure the cause of the appeals and not target at Sui's upcoming appeals. This pre-filing review Order should not be entered as is. It should be modified and re-drafted after hearing from Marshack. Marshack should be issued such an order to limit his filings at bankruptcy court to relevant Chapter 7 and not beyond its scope.

DATED: June 15, 2017

Respectfully submitted,

By: / s / Yan Sui

YAN SUI,
Petitioner in pro se

DECLARATION OF YAN SUI

I, YAN SUI, declares as follows:

1. I am a discharged debtor in Chapter 7 since 2013. I don't owe any administrative claims that have been affirmed through appeal. The relevant lawsuits against Marshack et al pursue their civil liability and don't impact on bankrupt estate. I have personal knowledge about the facts alleged in this Cause. I can testify at open Court to the accuracy of facts and exhibits, if called upon.
2. All the factual statements are made with the best recollection of them as they occurred. These factual statements are true either by further evidence or by existing pleadings with Court. All legal arguments were made after consulting with attorney.
3. The cause is being prepared not for improper purpose to harass, to burden Appellee or Court. It was prepared and presented to Court for considering the totality of situations. A courtesy copy has been served on Appellee.
4. Layperson Sui doesn't know all sweet-sounding words and uses some lay perspective words. Their usage does not mean or imply disrespect to Court or to Commissioner Shaw.

I declare under the penalty of perjury under the laws of United States that the fore-going is true and correct. Executed on this 15th day of June, 2017 at city of Mission Viejo, California.

By: / s / Yan Sui

YAN SUI, Declarant

PROOF OF SERVICE

STATE OF CALIFORNIA)
) s.s.
COUNTY OF ORANGE)

I am a resident in the County of Orange, State of California. I am over the age of 18 and not a party of the action. My residence address is: 27694 Emerald, Mission Viejo, CA92691.

The following document described as "**RESPONDENT YAN SUI'S CAUSE WHY THE PRE-FILING REVIEW ORDER SHOULD NOT BE ENTERED**" will be served or was served on the interested parties in this action.

On June 16, 2017, I served the following person (s) and/or entities at the last known addresses in the bankruptcy case by placing a true and correct copy thereof in a sealed envelope in the United States Mail, first class, postage prepaid, addressed as follows.

Chad V. Haes
Marshack Hays LLP
870 Roosevelt Ave.
Irvine CA92620
General Counsel for Chapter 7 Trustee -
Richard A. Marshack (courtesy copy)

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 16th day of June, 2017, at Mission Viejo, CA92691.

By: / s / Cindy Sui
CINDY SUI