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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

11 | VICTORIA PHIPPS,

Case No.: 21-cv-1514-DMS-MMP

Plaintiff/Counter-Defendant,

**ORDER TO SHOW CAUSE
DIRECTED TO PLAINTIFF
VICTORIA PHIPPS**

14 | v.

16 CAMP PENDLETON & QUANTICO
17 HOUSING, LLC; LPC PENDLETON
QUANTICO PM LP.

Defendants/Counter-Claimants:

21 This matter comes before the Court following Plaintiff's repeated unauthorized
22 filings in this action. Despite being represented by counsel, Plaintiff has called the Court,
23 submitted three separate documents for filing, and sent emails to the Court on her own
24 behalf, in contravention of Civil Local Rule 83.3, which provides:

Whenever a party has appeared by an attorney, the party may not afterwards

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26 whenever a party has appeared by an attorney, the party may not afterwards
27 appear or act in the party's own behalf in the action, or take any step in that
28 action, unless an order of substitution has first [] been made by the Court, after
notice to the attorney of such party, and to the opposite party; provided, that
the Court may in its discretion hear a party in open court, notwithstanding the

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1 fact that the party has appeared, or is represented by an attorney.

2 CivLR 83.3(f)(1).

3 Each of the three times Plaintiff has attempted to file documents on her own behalf,
4 the Court has stricken her submissions as improperly filed. [See ECF Nos. 121, 122, 123,
5 124, 126, 127.] As noted in the Court's previous Orders striking Plaintiff's submissions,
6 her unauthorized filings also violate Civil Local Rule 5.4(f), insofar as they do not comply
7 with the requirements for electronic filing set forth in the Court's CM/ECF Administrative
8 Policies and Procedures Manual ("CM/ECF Manual"). Per the CM/ECF Manual, all



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1 fact that the party has appeared, or is represented by an attorney.

2 CivLR 83.3(f)(1).

3 Each of the three times Plaintiff has attempted to file documents on her own behalf,
4 the Court has stricken her submissions as improperly filed. [See ECF Nos. 121, 122, 123,
5 124, 126, 127.] As noted in the Court's previous Orders striking Plaintiff's submissions,
6 her unauthorized filings also violate Civil Local Rule 5.4(f), insofar as they do not comply
7 with the requirements for electronic filing set forth in the Court's CM/ECF Administrative
8 Policies and Procedures Manual ("CM/ECF Manual"). Per the CM/ECF Manual, all
9 documents submitted for filing with the Court must be submitted electronically, through
10 the Case Management/Electronic Case Filing system. ECF LR 1.a. There are some
11 exceptions to the electronic filing rule, including that pro se litigants—that is, litigants who
12 are not represented by an attorney—may submit documents for filing "in legible, paper
13 form" to the Clerk's Office, and the Clerk's Office "will scan and electronically file the
14 document" on behalf of the pro se party. ECF LR 2.b. However, Plaintiff is represented by
15 counsel in this action and is not proceeding pro se. Therefore, Plaintiff is not permitted to
16 take advantage of the Clerk's Office procedures for assisting pro se litigants with electronic
17 filing. Moreover, the documents the Plaintiff attempted to file are inappropriate for filing
18 by any party given their nature and content.

19 The Court recognizes that Plaintiff's attorneys have filed a motion to withdraw as
20 her counsel in the case. [ECF No. 113.] However, that motion remains pending and is set
21 for hearing on January 4, 2024. [ECF No. 120.] At this juncture, Plaintiff remains
22 represented by counsel and is not permitted to act on her own behalf in the case. Although
23 the Court may in its discretion elect to hear Plaintiff in a formal hearing or a conference, it
24 will not consider any filings submitted by Plaintiff except through her attorneys unless she
25 is proceeding pro se.

26 On December 12, 2023, the Court admonished Plaintiff to cease contacting the Court
27 directly and noted that all concerns of the Plaintiff would be addressed at the Settlement

28 Disposition Conference (“SDC”) set for December 20, 2023. [See ECF No. 119.] At the

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1 December 20, 2023 SDC, the Court explained to Plaintiff the procedural rules for filing
2 documents with the Court, discussed why the documents were inappropriate for filing by
3 any party, and provided the Plaintiff an opportunity to be heard on all issues addressed in
4 the documents she attempted to file. Additionally, the Court directed Plaintiff to not file
5 any further documents with the Court and to not contact the Court directly on substantive
6 issues. The Court instructed Plaintiff if she wished to address future issues without the
7 assistance of her counsel, she was to contact the Court to request another SDC, and Plaintiff
8 was given a deadline of December 26, 2023 to correspond with her attorneys regarding
9 settlement issues. Despite those orders, Plaintiff filed another document on December 22,
10 2023, and made direct contact with the Court on December 26, 2023.

11 Under the Court’s inherent power, the Court may levy sanctions for “willful
12 disobedience of a court order” or when a party has “acted in bad faith, vexatorily,
13 wantonly, or for oppressive reasons.” *Fink v. Gomez*, 239 F.3d 989, 991 (9th Cir. 2001)
14 (quoting *Roadway Express, Inc. v. Piper*, 447 U.S. 752, 776 (1980)). “The inherent powers
15 of federal courts are those that are necessary to the exercise of all others. The most common
16 utilization of inherent powers is a contempt sanction levied to protect the due and orderly

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3 any party, and provided the Plaintiff an opportunity to be heard on all issues addressed in
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15 of federal courts are those that are necessary to the exercise of all others. The most common
16 utilization of inherent powers is a contempt sanction levied to protect the due and orderly
17 administration of justice and maintain the authority and dignity of the court." *Primus Auto.*
18 *Fin. Servs., Inc. v. Batarse*, 115 F.3d 644, 648 (9th Cir. 1997) (internal quotations, citations,
19 and alterations omitted).

20 Because Plaintiff has repeatedly disregarded the Court's Orders striking her
21 unauthorized filings and the direct Orders provided at the December 20, 2023 SDC,
22 Plaintiff is **ORDERED** to **SHOW CAUSE** why the Court should not impose monetary
23 sanctions **of \$250 per each violation after the Court's first admonishment to Plaintiff**,
24 pursuant to Civil Local Rule 83.1, which vests the Court with authority to impose "any and
25 all sanctions authorized by statute or rule or within the inherent power of the Court" for the
26 failure of "any party[] to comply with these rules, with the Federal Rules of Civil or
27 Criminal Procedure, or with any order of the Court." Civil L.R. 83.1(e). The Court is not

27 Criminal procedure, or with any order of the Court.] CIVLR 83.1(a). The Court is not
28 contemplating imposition of fee-shifting sanctions; rather, if monetary sanctions are

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1 imposed, the Court will order Plaintiff to pay any such monetary sanctions directly to the
2 Miscellaneous Fines, Penalties, and Forfeitures, Not Otherwise Classified, fund of the
3 United States Treasury. CivLR 83.1(b).

4 The Court will hold a Show Cause Hearing on **January 2, 2024 at 10:00 a.m.** before
5 Magistrate Judge Michelle M. Pettit in Courtroom 2D at 221 W. Broadway, San Diego,
6 CA 92101. **Plaintiff and her attorneys of record are required to appear for the Show**
7 **Cause Hearing.** Because the Court is not contemplating fee-shifting sanctions, defense
8 counsel is permitted but not required to appear.

9 Plaintiff shall have the opportunity to be heard in open court during the hearing. If
10 Plaintiff wishes to submit a written response prior to the hearing, Plaintiff may submit a
11 written response to this Order to Show Cause **through her attorneys of record** no later
12 than **January 1, 2024**. The Court will not consider any response submitted by Plaintiff
13 except through her counsel of record.

14 Plaintiff's attorneys are **ORDERED** to give Plaintiff notice of this Order no later
15 than **December 29, 2023**, and to file proof of notice on the docket by the same deadline.

16 **IT IS SO ORDERED.**

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3 United States Treasury. CivLR 83.1(b).

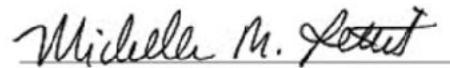
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11 written response to this Order to Show Cause **through her attorneys of record** no later
12 than **January 1, 2024**. The Court will not consider any response submitted by Plaintiff
13 except through her counsel of record.

14 Plaintiff's attorneys are **ORDERED** to give Plaintiff notice of this Order no later
15 than **December 29, 2023**, and to file proof of notice on the docket by the same deadline.

16 **IT IS SO ORDERED.**

17 Dated: December 28, 2023

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19 HON. MICHELLE M. PETTIT
20 United States Magistrate Judge
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