

Karla J. Kraft, State Bar No. 205530
kkraft@stradlinglaw.com
Sean Thomas Lobb, State Bar No. 324213
stlobb@stradlinglaw.com
STRADLING YOCCA CARLSON & RAUTH,
A Professional Corporation
660 Newport Center Drive, Suite 1600
Newport Beach, CA 92660-6422
Telephone: (949) 725-4000
Facsimile: (949) 725-4100

Attorneys for Defendant
ANN C. MOORMAN, Judge of the Superior
Court of California, County of Mendocino

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

COYOTE VALLEY BAND OF POMO
INDIANS, a federally recognized Indian tribe,

Plaintiff,

vs.

ROBERT FINDLETON, doing business as
Terre Construction and On-Site Equipment;
ANN C. MOORMAN, Judge of the Superior
Court of Mendocino County, California, in her
official capacity; SAVINGS BANK OF
MENDOCINO COUNTY, a California
corporation; JOHN AND JANE DOES 1-10;
ABC CORPORATIONS 1-10; and XYZ LLCs
1-10,

Defendants.

Case No. 4:22-cv-00607-JST
Assigned to Hon. Jon S. Tigar

**DEFENDANT JUDGE MOORMAN'S
REPLY IN SUPPORT OF MOTION TO
DISMISS PLAINTIFF'S FIRST
AMENDED COMPLAINT**

(Related to ECF No. 56)

Date: May 26, 2022
Time: 2:00 p.m.
Judge: Hon. Jon S. Tigar
Location: Remote via ZOOM
<https://cand-uscourts.zoomgov.com/j/1619067542?pwd=YktBS2VoNm1JYW9xMS91dk9rUzZudz09>
Webinar ID: 161 906 7542
Password: 959588

Complaint Filed: January 31, 2022
Trial Date: Not set

1 Plaintiff's short Opposition Brief (ECF No. 61 ("Opp.")) fails to address the core
 2 arguments in Judge Moorman's Motion to Dismiss and entirely fails to address the deficiencies
 3 in the First Amended Complaint. Instead, Plaintiff includes yet another summary of the facts
 4 of the case and points to its preliminary injunction briefing. (Opp. at 2-5.) As Judge Moorman
 5 demonstrated in detail in her opening brief, Plaintiff's First Amended Complaint must be
 6 dismissed with prejudice for lack of subject-matter jurisdiction under Federal Rule of Civil
 7 Procedure 12(b)(1).

8 In opposition to Judge Moorman's Motion to Dismiss, Plaintiff leans heavily and
 9 dependently on a case from another circuit, *Ute Indian Tribe of the Uintah & Ouray*
 10 *Reservation v. Lawrence*, No. 18-4013, 2022 U.S. App. LEXIS 416 (10th Cir. Jan. 6, 2022), in
 11 arguing that "the facts and issues in this case are substantially the same in all material respect
 12 [sic]" and that this case should not be dismissed. (Opp. at 3-4.) But the *Ute Indian Tribe* case
 13 is simply inapposite. The appellees in *Ute Indian* did not raise the many doctrines and bars
 14 that are applicable in this case: the *Rooker-Feldman* doctrine, *Younger* abstention, the
 15 *Colorado River* doctrine, judicial immunity, the Eleventh Amendment, and the Anti-Injunction
 16 Act. *Ute Indian*, 2022 U.S. App. LEXIS 416, at *27 n.17. Further, the facts of that case are
 17 substantially different. There, after a state court judge denied the tribe's motion to dismiss the
 18 state court action, the tribe waited one year to file its federal case. *Id.* at *4. Here, Plaintiff
 19 waited a decade after the state court litigation started to file this case in federal court, all the
 20 while committing "flagrant, repeated, and continuous" violations of state court orders. *See*
 21 *Findleton v. Coyote Valley Band of Pomo Indians*, 69 Cal. App. 5th 736, 740 (2021).

22 As detailed in Judge Moorman's Motion to Dismiss, this Court lacks jurisdiction over
 23 this dispute under the *Rooker-Feldman* doctrine, *Younger* abstention, the *Colorado River*
 24 doctrine, and judicial immunity. *See Matrai v. Hiramoto*, No. 20-cv-05241-MMC, 2020 U.S.
 25 Dist. LEXIS 234654, at *19 (N.D. Cal. Dec. 14, 2020) (dismissing case with prejudice under
 26 *Younger* abstention doctrine); *Gold Coast Search Partners LLC v. Career Partners, Inc.*, No.
 27 19-cv-03059-EMC, 2019 U.S. Dist. LEXIS 155317, at *2 (N.D. Cal. Sep. 11, 2019) (granting
 28 motion to dismiss under *Colorado River* doctrine); *Chabrowski v. Cretan*, No. C-12-4443

1 EMC, 2013 U.S. Dist. LEXIS 25588, at *6-7 (N.D. Cal. Feb. 21, 2013) (granting motion to
 2 dismiss based on judicial immunity, *Younger* abstention, and *Rooker-Feldman* doctrine).
 3 Additionally, Plaintiff's claims are barred by the Eleventh Amendment and the Anti-Injunction
 4 Act. *See Koshnick v. Lynott*, No. 20-cv-13818-JXN-ESK, 2021 U.S. Dist. LEXIS 199009, at
 5 *15 (D. N.J. Oct. 15, 2021) (holding that state court judges were "cloaked with Eleventh
 6 Amendment immunity" and dismissing claims asserted against the judges); *Safapou v. Marin*
 7 *Cty. of Cal.*, No. 15-cv-04603-JST, 2015 U.S. Dist. LEXIS 137106, at *3 (N.D. Cal. Oct. 7,
 8 2015) (dismissing case under Anti-Injunction Act where plaintiff failed to provide a basis for
 9 court to conclude an exception to the Act applied). Plaintiff fails to address, whatsoever, why
 10 these doctrines and bars do not warrant the dismissal of this case.

11 Notably, Plaintiff directly addresses one small portion of Judge Moorman's Motion to
 12 Dismiss in arguing that the Court should grant Plaintiff leave to amend to cure any possible
 13 deficiencies in the First Amended Complaint. (Opp. at 5-6.) But where, as here, "the plaintiff
 14 has previously filed an amended complaint . . . the district court's discretion to deny leave to
 15 amend is particularly broad." *UGG Holdings, Inc. v. Severn*, No. CV 04-1137-JFW, 2004 WL
 16 5458426, at *4 (C.D. Cal. Oct. 1, 2004) (quoting *Miller v. Yokohama Tire Corp.*, 358 F.3d 616,
 17 622 (9th Cir. 2004)). The allegations in the First Amended Complaint cannot be cured to
 18 properly allege subject-matter jurisdiction because of the *Rooker-Feldman* doctrine, *Younger*
 19 abstention, the *Colorado River* doctrine, judicial immunity, the Eleventh Amendment, and the
 20 Anti-Injunction Act. Thus, since filing a third version of this complaint would be futile,
 21 dismissal should be with prejudice. *See Ashelman v. Pope*, 793 F.2d 1072, 1075 (9th Cir.
 22 1986) (affirming district court's dismissal of amended complaint with prejudice where
 23 allegations against state court judge could not overcome lack of subject-matter jurisdiction).

24 ///

1 For each and all of these reasons, Judge Moorman respectfully requests that the Court
2 dismiss the First Amended Complaint with prejudice.

3
4 Dated: March 30, 2022

STRADLING YOCCA CARLSON & RAUTH, P.C.

5
6 By: /s/ Karla J. Kraft
7 Karla J. Kraft
8 Sean Thomas Lobb
9 Attorneys for Defendant Ann C. Moorman,
10 Judge of the Superior Court of California,
11 County of Mendocino
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28