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UNITED STATES BANKRUPTCY COURT
DISTRICT OF ALASKA

In re:

MARGARET A. BERTRAN,

Debtor.

Case No. F12-00501-FC

MEMORANDUM DECISION RE:
1) TRUSTEE’S MOTION TO
DECLARE DONALD A. TANGWELL
A VEXATIOUS LITIGANT; AND
2) TANGWALLS’ MOTION TO FIND
ALL JUDGMENTS, ORDERS, AND
MEMORANDUM VOID AB INITIO

THIS MATTER came before the court¹ on April 5, 2017 for a hearing on (1) the Chapter 7 Trustee’s Motion to Declare Donald A. Tangwall, a Vexatious Litigant and Require Pre-Filing Order for Him or His Entities to File any Pleadings; and to Vacate Lis Pendens (“Trustee’s Motion”) [ECF Nos. 229-232, 235, 249 and 250] and Mr. Tangwall’s opposition to the Trustee’s Motion [ECF Nos. 233 and 247]; and (2) Donald and Barbara Tangwall’s Motion to Find All Judgments,

¹ This matter was assigned to Frederick P. Corbit, United States Bankruptcy Judge for the Eastern District of Washington, pursuant to the Administrative Order Reassigning Case entered on March 20, 2017 [ECF No. 237].

1 Orders, and Memorandum Void Ab Initio (“Tangwall Motion”) [ECF Nos. 245, 246
2 and 251] and the Chapter 7 Trustee’s response thereto [ECF No. 248]. At the
3 hearing, the court heard argument of (1) Donald and Barbara Tangwall; (2) Cabot
4 Christianson, attorney for the Chapter 7 Trustee; (3) Larry D. Compton, the Chapter
5 7 Trustee; (4) Erik LeRoy, attorney for the Barbara and William Wacker; and
6 (5) Jason Crawford, attorney for debtor Margaret A. Bertran. After hearing from the
7 parties, the court continued the hearing until April 14, 2017 to allow Mr. Tangwall
8 additional time to prepare for the hearing and supplement the record. Prior to the
9 continued hearing, Mr. and Mrs. Tangwall filed supplemental materials [ECF Nos.
10 254, 256 and 260] and the Chapter 7 Trustee filed his responses to the supplemental
11 materials [ECF Nos. 257 and 258].

12 At the continued hearing, the court heard argument of the parties referenced
13 above and took the matters under advisement.

14 After reviewing the record, the arguments presented, and the applicable law,
15 these matters are ready for decision. This court has original and exclusive
16 jurisdiction of this bankruptcy case pursuant to 28 U.S.C. § 1334(a). This
17 memorandum decision includes the court’s findings of fact and conclusions of law.
18 For the reasons set forth below, the court finds Mr. Tangwall is a vexatious litigant
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1 and contemporaneously with this memorandum decision will enter an order granting
2 the Trustee's Motion and denying the Tangwall Motion.²

3 **PROCEDURAL AND FACTUAL HISTORY**

4 Mr. Tangwall has a history of filing frivolous documents, cases, and appeals.
5 Mr. Tangwall's history with the courts began more than twenty years ago and spans
6 essentially the entire United States. The procedural and factual history of this case is
7 long and often convoluted due, in the most part, to Mr. Tangwall filing multiple
8 motions, cases, and appeals on the same issue to different courts. Because the parties
9 are familiar with the facts and procedural history, the court does not need to restate
10 them in detail here except as necessary to explain its decision.³

11 Debtor, Margaret Bertran and her daughter, Barbara Tangwall, owned a parcel
12 of property in Roundup, Montana ("the Ranch"). Donald Tangwall, Barbara
13 Tangwall's husband, sued William and Barbara Wacker ("the Wackers") in Montana
14 state court over a dispute concerning a trucking enterprise and a cattle trailer. The
15 Wackers filed a third party complaint in that action against Ms. Bertran, the
16 Tangwalls, and others to recover on a debt. While that suit was pending, Ms. Bertran
17 and Ms. Tangwall transferred the Ranch, and Ms. Tangwall transferred a

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19 ² Unless otherwise indicated, all chapter, section and rule references are to the Bankruptcy Code,
11 U.S.C. §§ 101-1532, and to the Federal Rules of Bankruptcy Procedure, Rules 1001-9037.

20 ³ See previous court summaries: ECF Nos. 37, 128, and 238.

1 commercial property (“Montana Properties”) by warranty deed to a purported trust
2 called the Toni 1 Trust. On May 17, 2011, the Wackers obtained a judgment against
3 Ms. Tangwall and Ms. Bertran in the Montana case (the “2011 Judgment”), in the
4 amount of \$137,551.47.⁴ The Wackers then brought a fraudulent transfer suit in
5 Montana state court under the Montana Uniform Fraudulent Transfer Act against the
6 Toni 1 Trust. On May 7, 2012, the Montana state court entered an order, which held
7 that the transfers of the Properties to the trust were fraudulent, set them aside, and
8 permitted the Wackers to execute on the Properties (the “2012 Judgment”).⁵ The
9 2012 Judgment also expressly authorized the Wackers to sell the Properties at public
10 auction and apply the proceeds to the judgment. No appeal was taken from either
11 judgment. On July 17, 2012, the County Clerk for the Montana state court issued a
12 writ of execution, and a notice of sale of the Properties by public auction was sent to
13 Ms. Bertran and Ms. Tangwall. Debtor and Ms. Tangwall then filed a motion to
14 quash the execution of the writ and a motion to set aside the 2012 Judgment with the
15 Montana state court. The Montana state court denied both motions.

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18 ⁴ See ECF No. 37; the Judgment, Case No. DV-07-93, attached as exhibit to *Mot. for Relief from Stay* (ECF No. 20-1) at pp. 1-2.

19 ⁵ See ECF No. 37; a copy of the Judgment entered in *Wacker v. Toni 1 Trust*, Case No. DV-11-66
20 (Mont. 14th Dist. Ct., Musselshell County), is attached as an exhibit to the debtor’s *Mot. to Avoid Judicial Lien* (ECF No. 23-1) at pp. 3-5.

1 Both Ms. Bertran and the Tangwalls filed individual Chapter 7 bankruptcies in
2 the District of Alaska in an attempt to regain/retain possession of the Montana
3 Properties. Larry Compton was appointed as the Trustee in both cases. Relying on
4 the Montana fraudulent transfer judgment, Trustee Compton asserted ownership of
5 the two parcels in Montana in the Bertran case. Mr. Tangwall opposed the motion.
6 Mr. Tangwall, as trustee of the Toni 1 Trust, initiated an adversary proceeding
7 against the Trustee and the Wackers in the Alaska Bankruptcy Court (the
8 “Adversary Action”). Among other claims, Mr. Tangwall argued that service of
9 process on the Toni 1 Trust in the 2012 Montana fraudulent transfer case was so
10 defective as to make the 2012 Judgment against the Toni 1 Trust void. The
11 bankruptcy court agreed there might be concerns as to proper service on the trust.
12 Therefore, on June 12, 2013, Trustee Compton filed his own fraudulent transfer
13 counterclaim against Toni 1 Trust based on federal fraudulent transfer law instead of
14 attempting to convince the bankruptcy court that the Toni 1 Trust had been validly
15 served in the Montana lawsuit. During the pendency of the fraudulent conveyance
16 litigation in the bankruptcy court, Mr. Tangwall was ordered to produce the alleged
17 trust documents. The court also held that the Toni 1 Trust was required to appear
18 through an attorney and Mr. Tangwall could not file pro per papers or pleadings on
19 behalf of the Toni 1 Trust. Mr. Tangwall did not produce the trust documents,
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1 additionally, he continued to file and appear on behalf of the trust.⁶ After many
2 hearings, the court held that “the two real property transfers [in Montana] were made
3 to keep the property out of the hands of the Wackers, who were on the verge of
4 obtaining a \$137,000 judgment against the debtor,” and that the real property
5 transfers thereby violated 11 U.S.C. § 548(a)(1)(A). Accordingly, the court entered a
6 final judgment holding that Ms. Bertran’s conveyances of her interest in the
7 Properties were fraudulent and that the trustee’s rights to Ms. Bertran’s interest in
8 the Properties was superior to those of both Mr. Tangwall, as trustee of the Toni 1
9 Trust, and the Toni 1 Trust itself (the “2013 Final Judgment”).⁷ The 2013 Final
10 Judgment also dismissed the Adversary Action and held that Ms. Bertran’s interest
11 in the Properties became the property of her bankruptcy estate. Mr. Tangwall, in his
12 capacity as trustee of the Toni 1 Trust, appealed this decision. He filed two appeals
13 to the Bankruptcy Appellate Panel (“BAP”) on November 18, 2013, and on
14 December 2, 2013. The BAP dismissed both appeals as untimely. Mr. Tangwall then
15 appealed to the Ninth Circuit, which dismissed one of the appeals for failure to
16 perfect the appeal and one for being frivolous.

18 ⁶ The court notes that Mr. Tangwall appeared pro se, both on behalf of himself and the trust. The
19 reason was not because he could not get an attorney because none were available, but rather,
because Mr. Tangwall believed he could not find a “competent lawyer who understands a common
law trust.” *See* Adversary 12-90037; ECF Nos. 42 and 62.

20 ⁷ *See* Adversary Case No. 12-90037; ECF No. 68.

1 The Trustee then filed a motion seeking an order permitting him to sell the
2 bankruptcy estate's half interest in one of the Montana Properties (Ranch property).
3 The Wackers joined in the motion, so that the entire Ranch property was the subject
4 of the motion. A hearing on the motion was held on June 6, 2016. The Tangwalls,
5 the Trustee, and his attorney, and attorney Eric LeRoy for the Wackers all attended
6 the hearing. On June 7, 2016, the bankruptcy court granted the Trustee's motion (the
7 "Order Approving Sale") and made the following findings: (1) the bankruptcy court
8 has subject matter jurisdiction over the trustee's motion as it constitutes a core
9 proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (N); (2) the bankruptcy court
10 has personal jurisdiction over Donald Tangwall, both in his individual capacity and
11 as the "alleged trustee of the Toni 1 Trust"; (3) the bankruptcy court has personal
12 jurisdiction over the Toni 1 Trust; (4) the bankruptcy court has personal jurisdiction
13 over Barbara Tangwall and Margaret Bertran; (5) the trustee may sell the bankruptcy
14 estate's 50% undivided interest in the Ranch by auction; (6) because the Wackers
15 joined in the trustee's motion, the sale of the Ranch shall be for the Ranch as a
16 whole; (7) proper notice of the motion had been given to all parties involved in the
17 Bertran bankruptcy proceedings, and all persons claiming through them; and (8) the
18 sale of the Ranch would be free and clear of the claims and liens of all persons who
19 received notice of the motion.⁸

20 ⁸ See ECF No. 109.

1 On June 13, 2016, the Tangwalls filed a Notice of Appeal from the
2 Bankruptcy Court’s Order Approving Sale. [ECF No. 115]. On June 20, 2016, the
3 Tangwalls filed a request for an evidentiary hearing, in which they asserted that the
4 bankruptcy court lacked jurisdiction “over the Toni 1 Trust.” They also maintained
5 that all “orders, memorandum and judgments entered by [the Bankruptcy] Court
6 should be deemed null and void.” [ECF No. 118]. The bankruptcy court denied the
7 motion because it lacked jurisdiction due to the notice of appeal filed on June 13,
8 2016. [ECF No. 119]

9 Ms. Bertran and the Tangwalls then moved to stay the execution of the Order
10 Approving Sale. The bankruptcy court denied the motion. Ms. Bertran and the
11 Tangwalls then appealed to the district court, which also denied the motion to stay.

12 It is clear just from the brief history summarized above that Ms. Bertran and
13 the Tangwalls continue to litigate issues even after they have exhausted all of their
14 lawful remedies. Indeed, Mr. Tangwall made it clear to the court that he plans to
15 continue to litigate issues related to the fraudulent conveyance of the Ranch until
16 “hell freezes over!”⁹ Contrary to Mr. Tangwall’s assertions, this is *not* the standard
17 allowed by law and due process. Thus, it is the history of frivolous litigation initiated
18 by Mr. Tangwall, and Mr. Tangwall’s assurance to the court that he will never stop
19 litigating properly resolved issues that forces the court to find Mr. Tangwall is

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⁹ See ECF No. 262.

1 vexatious and enter an order requiring him to get this court’s approval before filing
2 anymore documents related to this case.

3 DISCUSSION

4 **I. The Court has Authority to Impose Filing Restrictions on Litigants.**

5 Under the All Writs Act, 28 U.S.C. § 1651(a), the court has the authority to
6 impose filing restrictions, such as a pre-filing order, on abusive litigants. *Ringgold-*
7 *Lockhart v. Cnty. of Los Angeles*, 761 F.3d 1057, 1061 (9th Cir. 2014) (citing
8 *DeLong v. Hennessey*, 912 F.2d 1144, 1147 (9th Cir. 1990)). However, because such
9 orders constrain a litigant’s fundamental right of access to the courts, they should
10 rarely be used, and only if courts comply with certain procedural and substantive
11 requirements. *Id.* at 1062 (quoting *DeLong*, 912 F.2d at 1147). The court must:
12 (1) give litigants notice and “an opportunity to oppose the order before it [is]
13 entered”; (2) compile an adequate record for appellate review, including “a listing of
14 all the cases and motions that led the [court] to conclude that a vexatious litigant
15 order was needed”; (3) make substantive findings of frivolousness or harassment;
16 and (4) tailor the order narrowly so as to “closely fit the specific vice encountered.”
17 *Id.* (quoting *DeLong*, 912 F.2d at 1147-48).

18 The first two requirements are procedural, while the latter two are substantive,
19 designed to help the court define “who is, in fact, a ‘vexatious litigant’ and construct
20 a remedy that will stop the litigant’s abusive behavior while not unduly infringing

1 the litigant’s right to access the courts.” *Ringgold-Lockhart*, 761 F.3d at 1062
2 (quoting *Molski v. Evergreen Dynasty Corp.*, 500 F.3d 1047, 1058 (9th Cir. 2007)).

3 **a. Notice and the Opportunity to Oppose.**

4 In this case, the first requirement – notice and an opportunity to oppose – has
5 been satisfied. Mr. Tangwall was given notice of the hearing and when
6 Mr. Tangwall expressed concern as to whether notice was proper, the court granted
7 Mr. Tangwall the continuance he requested.¹⁰ Additionally, pursuant to
8 Mr. Tangwall’s request, Mr. Tangwall was given the opportunity to supplement the
9 record.

10 **b. Adequate Record of Cases and Motions.**

11 The second requirement is providing an adequate record for appellate review,
12 including a listing of the cases and motions that led it to conclude that a vexatious
13 litigant order is needed. At the very least the record “needs to show ... that the
14 litigant’s activities were numerous or abusive.” *See Molski* 500 F.3d at 1057,
15 quoting *De Long*, 912 F.2d at 1147. The court notes that the Trustee’s Motion
16 provides a detailed recitation of the Mr. Tangwall’s numerous filings in this

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18 ¹⁰ At the April 5, 2017, Mr. Tangwall expressed concerns about proper notice (Mr. Tangwall
19 alleged that he only received six days’ notice instead of the required seven days). The court offered
20 to grant Mr. Tangwall a continuance until April 14, 2017. Mr. Tangwall agreed that continuing the
hearing until April 14 would rectify any due process issues. The court also discussed
Mr. Tangwall’s assertions that the Trustee’s Motion included court documents that were
incomplete. The court explained to Mr. Tangwall that he could supplement the record prior to the
continued hearing.

1 bankruptcy case.¹¹ The Trustee's Motion also describes Mr. Tangwall's conduct in
2 various other proceedings across the nation and notes that this is not the first time
3 Mr. Tangwall has abused the judicial system. Indeed, Mr. Tangwall has been
4 declared to be a vexatious litigant by at least two other courts.¹² It appears there is a
5 pattern to Mr. Tangwall litigious past. Most of Mr. Tangwall's cases involve
6 Mr. Tangwall fraudulently conveying assets to other entities [frequently to a trust to
7 which he is the trustee] and then attempting to protect the fraudulent transfers by
8 filing countless documents and appeals that lack merit and legal or factual support;
9 Mr. Tangwall representing trust or corporate entities without a license to practice
10 law; and Mr. Tangwall raising the ire of the courts because of his frequent and
11 baseless filings.

12 Below are several of Mr. Tangwall's many cases.¹³

14 ¹¹ Importantly, Mr. Tangwall did not dispute the accuracy or authenticity of the documents or court
15 decisions attached to the Trustee's Motion.

16 ¹² (1) Michigan federal court in 1992 [Order entered January 6, 1992 in *Borock v. Dalby, et al.*,
17 Case No. 91-CV-76364 DT in the United States District Court for the Eastern District of Michigan,
Southern Division; and (2) Montana state court in 2011 [Order entered May 10, 2011 in *Tangwall*
v. Edwards, et al., Case CV-11-08 in the Montana Fourteenth Judicial District Court, Musselshell
County]. The decisions were attached as exhibits to the Trustee's Motion.

18 ¹³ The court does not attempt to list all of the cases in which Mr. Tangwall has participated.
19 Indeed, the court's brief search on his name resulted in 77 case listings. The court notes that
20 documents on file in federal or state courts are proper subjects of judicial notice because they are
capable of accurate and ready determination by resort to sources whose accuracy cannot
reasonable be questioned. *See* Fed. R. Evid. 201(b); *see also O'Rourke v. Seaboard Surety Co. (In*
re E.R. Fegert, Inc.), 887 F.2d 955, 957-58 (9th Cir.1989). Importantly, some of the older records

- 1 • *Borock v. Dalby, et al.*, Case No. 91-cv-76364; 90-71433-DT; Michigan;
- 2 Adversary action arising out of a 1988 bankruptcy case concerning title to real
- 3 property. The federal court entered an order enjoining several parties, including
- 4 Mr. Tangwall, from filing any additional suits relating to that bankruptcy case, or
- 5 the real property in question.
- 6 ○ Mr. Tangwall appealed, *Dalby v. Borock*, 976 F.2d 733 (6th Cir. 1992).
- 7 The Sixth Circuit remanded the attorney fee and sanctions portion of the
- 8 Order, but affirmed the balance of the Order in all respects.
- 9 ○ Mr. Tangwall also appealed multiple other decisions; *In re Dalby*, 956
- 10 F.2d 268, 1992 WL 36112 (6th Cir. 1992) (unpublished), *cert. denied*
- 11 *Tangwall v. Borock*, 506 U.S. 1006 (1992); Consolidated appeal from four
- 12 separate district court orders affirming bankruptcy court's entry of default
- 13 judgments in cases filed by a bankruptcy trustee against Tangwall-
- 14 controlled trusts (WED Family Preservation Trust and others) to avoid
- 15 fraudulent conveyances.
- 16 • *Tangwall (Donald), a/k/a Nilssin (Donald) v. Dougherty*, 1991 WL 408005 (D.N.
- 17 Mar. 1, 1991); Mariana Islands; Mr. Tangwall, as trustee of WED Family
- 18 Preservation Trust, sued in Northern Mariana Islands federal district court to

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20 and decisions are not available on PACER, however, at the hearing Mr. Tangwall stated that he did not dispute the accuracy or authenticity of the court decisions attached to the Trustee's Motion.

1 attack the Michigan decision concerning the Michigan real property. The
2 Mariana Federal Court dismissed the case, finding that Mr. Tangwall failed to
3 make any connection whatsoever between the defendants and the Northern
4 Mariana Islands.

5 • *In re Owners Family Preservation Trust*, 1991 WL 408009 (D.N. Mar. 1, 1991);
6 Mariana Islands; Court dismissed Mr. Tangwall’s Chapter 11 case, filed by
7 Mr. Tangwall as trustee of Owners Family Preservation Trust. The court noted
8 that the filing was suggestive of bad faith and vexatious litigation.

9 • *Tangwall v. Robb*, 2003 WL 23142190 (E.D. Mich., 2003); Mr. Tangwall filed a
10 malpractice action against his lawyers in Michigan federal district court. The
11 court dismissed the case with prejudice.

12 • *Tangwall v. Jablonski*, 111 Fed. Appx. 365 (6th Cir. 2004) (unpublished); A
13 Tangwall entity (“Tang-Tang Marketing”) sued the same defendant as
14 Mr. Tangwall, on the same cause of action. The court noted it had serious doubts
15 as to whether Tang-Tang Marketing existed as a separate entity from Tangwall
16 himself, or that the alleged assignment of rights ever took place.

17 • *Tangwall v. First State Bank of Princeton*, 1987 WL 16129 (N.D. Ill., 1987);
18 Tangwall, as trustee of a trust, sued Princeton Bank and its officers and directors
19 personally on a RICO action. The court dismissed the action for failure to state a
20 claim, but gave Tangwall 30 days to refile case if trust appeared through an

1 attorney. The court noted that “a trustee is not a proper pro se plaintiff. A trustee
2 may not properly risk trust assets on his own untutored legal skills. Moreover,
3 pro se plaintiffs place a particular burden on the court as the court must evaluate
4 difficult complaints without any substantial benefits of an advocate. In this action
5 the completely unhelpful response to the motion to dismiss is a case in point.”

6 (p. 2).

7 ○ Mr. Tangwall, as trustee of Lazy ‘L’ Preservation Trust, sued Princeton
8 Bank on same matters that the Trust lost in previous litigation; *Lazy ‘L’*
9 *Family Preservation Trust v. First State Bank of Princeton*, 521 N.E.2d
10 198 (Ill. App. 2 Dist., 1988). The case was dismissed.

11 ○ *People v. Tangwall*, 526 N.E.2d 649 (Ill. App. 2 Dist., 1988);

12 Mr. Tangwall was convicted of eavesdropping. The court noted that
13 Mr. Tangwall’s arguments were, for the most part, incoherent, with
14 numerous citations to cases entirely irrelevant to the issues at hand.

15 ● *Tangwall v. Looby*, 109 Fed. Appx. 12 (6th Cir. 2004); Mr. Tangwall claimed to
16 be a beneficiary of a trust (“BFPT”). Tangwall was removed as trustee for
17 allegedly stealing from BFPT. Nine days later, Mr. Tangwall filed bankruptcy in
18 Tennessee. Mr. Tangwall entered into a global settlement between himself, the
19 bankruptcy trustee, and BFPT. Although Mr. Tangwall willingly entered into the
20 settlement, he then sued the parties to the settlement. The case was dismissed on

1 grounds of judicial estoppel, with the court noting that Mr. Tangwall was
2 anything but ‘frank and fair’ in his dealings with the judicial system, that the
3 lawsuit contravened the settlement agreement he signed.

- 4 • *Huebner v. Tangwall*, 2006 WL 2238960 (M.D. Tenn. 2006) (“Huebner I”);
5 affirming the finding that Mr. Tangwall fraudulently transferred assets to other
6 entities including a trust.

- 7 ○ Mr. Tangwall appealed the decision; *Huebner v. Tangwall*, 2007 WL
8 2725243 (M.D. Tenn. 2007) [Aug 23, 2007] (“Huebner II”) and *Huebner v*
9 *Tangwall*, 2007 WL 2725244 (M.D. Tenn.) [Sept 17, 2007] (“Huebner
10 III”). The appeals were found to be untimely.

- 11 • In Montana, there were more than ten civil lawsuits involving Mr. Tangwall. In
12 the list below, Mr. Tangwall is a plaintiff in 9 out of the 10.

- 13 ○ *Tangwall v. Davis*, Cause No. DV-07-90, Fourteenth Judicial Court,
14 Musselshell County

- 15 ○ *Tangwall v. Wacker*, Cause No. DV-07-93, Fourteenth Judicial Court,
16 Musselshell County

- 17 ○ *Tangwall v. Lekse*, Cause No. DV-08-05, Fourteenth Judicial Court,
18 Musselshell County

- 19 ○ *Bertran and Tangwall v. Spears*, Cause No. DV-09-27, Fourteenth Judicial
20 Court, Musselshell County

1 ○ *Tangwall and Bertran v. Byron*, Cause No. DV-10-19, Fourteenth Judicial
2 Court, Musselshell County

3 ○ *Weitzell v. Tangwall*, Cause No. DV-10-62, Fourteenth Judicial Court,
4 Musselshell County

5 ○ *Tangwall v. Roundup Memorial Hospital*, Cause No. ADV-2010-1049,
6 First Judicial Court, Lewis and Clark County

7 ○ *Tangwall v. Edwards*, Cause No. DV-11-08, Fourteenth Judicial Court,
8 Musselshell County

9 ○ *Tangwall v. Olsen*, Cause No. DV-11-09, Fourteenth Judicial Court,
10 Musselshell County

11 ○ *Tangwall v. Spaulding*, Cause No. DV-11-18, Fourteenth Judicial Court,
12 Musselshell County

13 ● *Tangwall v. Spaulding*, Cause No. 1:11-CV-00039-RFC-CSO; United States
14 District Court for the District of Montana; Mr. Tangwall sought to enjoin various
15 Montana state court judges from making any further orders and voiding all of
16 their previous orders as to Mr. Tangwall.

17 ● *Don Tangwall and Margaret Bertran v. William J. Edwards, Larry J. Djernes,*
18 *Joel Marking, Lance Lundvall, Lon E. Sibley, and John Lapierre*; Case No. DV-
19 11-08; Musselshell County Montana: The court found Mr. Tangwall to be a
20 vexatious litigant.

- 1 o The Vexatious Litigant Order described 10 civil lawsuits filed by Tangwall
2 in the Montana courts, and 11 writs filed by Mr. Tangwall in the Montana
3 Supreme Court against officials for the counties of Musselshell County,
4 Lewis & Clark County, Golden Valley County, and the cities of Roundup
5 and Helena.

6 The court finds the second factor in the vexatious litigant analysis is met
7 based on the record in this court and the above summary of other cases involving
8 Mr. Tangwall.

9 **c. Substantive Findings of Frivolousness or Harassment.**

10 The third factor requires that the court to examine both the number and
11 content of the filings as indicia of the frivolous nature of the litigant's claims. The
12 record summarized above, as well as the record in this court, demonstrates
13 Mr. Tangwall's voluminous filings. The court finds that Montana State Court Judge
14 David Cybulski succinctly and accurately described Mr. Tangwall's vexatious
15 judicial history. According to Judge Cybulski,

16 Mr. Tangwall's . . . history of filing frivolous and patently
17 meritless lawsuits, and demonstrates that he has no intention of
 refraining from such practices without intervention of the Court.

18 . . .

19 Mr. Tangwall's history in other jurisdictions . . . demonstrates that
20 he has a long and storied history of vexatious ligation practice and
 procedure. He has been notified on numerous occasions that he is
 not allowed to represent corporate entities or other parties, but he
 continues to do so. Courts lament his lack of clarity, or his filings'
 lack of any basis in law or fact, or his bad faith, and yet such

1 actions continue. In all practicality, the only way to rein in
2 Mr. Tangwall's vexatious litigation is to require that he submit all
3 proposed filings to the Court for approval, and thereby wasting
4 large amounts of the Court's time - time that would be better
5 served on real cases.¹⁴

6 Even if the court looks solely to this bankruptcy case, there is ample evidence
7 to support a vexatious litigant order. Mr. Tangwall has made numerous, repetitive
8 and redundant filings that lack a basis in fact or law. Yet, each of Mr. Tangwall's
9 motions were duly heard by this court, and they have required numerous responsive
10 pleadings from the trustee. The court does not dispute that Mr. Tangwall had the
11 right and the ability to seek redress with the courts as to ownership of the Montana
12 Property. However, as noted below, Mr. Tangwall has had his day in court and now,
13 he steadfastly refuses to accept the courts' decisions.

14 The following is a glimpse of trial cases and appeals that are related to the
15 same issues:

- 16 • Case No. F11-00939-HAR
- 17 • Adv. No. F14-90016-HAR
- 18 • Adv. No. F14-90020-HAR
- 19 • Case No. 4:16-cv-00022
- 20 • Case No. 4:16-cv-00024

¹⁴ See ECF No. 230, Ex. B.

- 1 • Case No. 4:16-cv-00029-SLG
- 2 • Case No. 12-00501-HAR (multiple appeals)
 - 3 ○ Appealed to the U.S. District Court for Alaska, Case No. 4:16-cv-
 - 4 00022-SLG, affirmed the Bankruptcy Court's jurisdiction to enter the
 - 5 Order Approving the Sale of real property in Montana.
 - 6 ■ Appealed by Mr. Tangwall to the Ninth Circuit, No. 17-35334;
 - 7 appeal pending.
 - 8 ○ Appealed to the U.S. District Court for Alaska, Case No. 4:16-cv-
 - 9 00029-SLG; dismissed as untimely.
 - 10 ○ Appealed to the Ninth Circuit; Case No. 14-60011; dismissed for being
 - 11 frivolous.
 - 12 ○ Appealed to the Bankruptcy Appellate Panel; Case No. AK-13-1560
 - 13 ○ Appealed to the Bankruptcy Appellate Panel; Case No. AK-13-1573
- 14 • Case No. 14-60010
- 15 • Case No. 4:17-cv-00004 TMB
- 16 • Case No. 4FA-17-01675 CI
- 17 • Case No. 14-90016
- 18 • Case No.14-90019

19 The above summary leads the court to conclude that Mr. Tangwall has caused
20 needless expense to other parties and has posed an unnecessary burden on the court

1 and its personnel. The court shares the trustee's concerns that Mr. Tangwall will
2 continue to burden the bankruptcy estate's resources and the court. The vast majority
3 of Mr. Tangwall's filings have been meritless. The trustee and his counsel have been
4 burdened because they have had to respond not only to Mr. Tangwall's motions and
5 oppositions, but to the complaints Mr. Tangwall has made outside of this bankruptcy
6 case that attack the trustee's personal reputation and professional capacity.
7 Additionally, Mr. Tangwall's filings, which primarily sought to reargue matters
8 previously decided, have resulted in an overabundance of hearings before this court
9 on issues which are not germane to this bankruptcy. Thus, the court makes a
10 substantive finding of frivolousness and harassment as to Mr. Tangwall.

11 **d. Tailor the Vexatious Order Narrowly.**

12 The fourth and final factor is that the pre-filing order must be narrowly
13 tailored to the vexatious litigant's wrongful behavior. *See Wood*, 705 F.2d at 1523–
14 26 (plaintiff restricted from filing new actions paralleling the issues being litigated in
15 a case and preventing him from re-litigating issues decided in two cases). Narrowly
16 tailored orders are needed “to prevent infringement on the litigator's right of access
17 to the courts.” *Sires*, 748 F.2d at 51; *see also, Wood*, 705 F.2d at 1525 (if restrictive
18 orders are “used too freely or couched in overly broad terms, injunctions against
19 future litigation may block free access to the courts”). In this case, the court finds
20 that Mr. Tangwall is a vexatious litigant and that the proper order requires

1 Mr. Tangwall to obtain leave of the court before filing any further documents in this
2 court other than a notice of appeal of this memorandum decision and the related
3 vexatious litigant order. The court assures Mr. Tangwall that it will approve for
4 filing, any complaint, pleading or other document if such document adequately
5 demonstrates a basis in law, and conforms to the federal and local rules.

6 Based on the reasons and law set forth above, the court will enter a
7 contemporaneous order granting the Trustee's Motion.

8 Additionally, the court will enter an order denying the Tangwall Motion. The
9 court finds that the jurisdictional issues have already been litigated and decided and
10 that there are no facts presented to support Mr. Tangwall's claims of an alleged bias
11 of the court. Indeed, even if there were facts to support this allegation, the time to
12 present those arguments has long passed.

1 DATED this 3rd day of May, 2017.

2
3 /s/ Frederick P. Corbit
4 Frederick P. Corbit
United States Bankruptcy Judge

5 Serve: Jason Crawford, Esq. (for debtor Margaret Bertran)
6 Cabot Christianson, Esq. (for trustee Larry Compton)
Eric LeRoy, Esq. (for William and Barbara Wacker)
7 CBT Farm and Mine, Inc.
Donald Tangwall
Barbara Tangwall
8 Merton Musser
Barbara Trust
Toni 1 Trust
9 Trickle Down Trucking, LP
Trust Protectors of Alaska, LP
Larry Compton, Trustee
10 U.S. Trustee
Case Manager
J. Stafford, Clerk of Court