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8
9 **UNITED STATES BANKRUPTCY COURT**
CENTRAL DISTRICT OF CALIFORNIA
10 **LOS ANGELES DIVISION**

11 In re
12 J.T. THORPE, INC.
13 and
14 THORPE INSULATION COMPANY,
15 Debtors.

Case Nos. 2:02-bk-14216-BB and 2:07-bk-
19271-BB

Chapter 11

Adv. Case Nos. 2:12-ap-02182-BB and 2:12-
ap-02183-BB

16 J.T. THORPE SETTLEMENT TRUST and
17 THORPE INSULATION COMPANY
18 ASBESTOS SETTLEMENT TRUST,

19 Plaintiffs,

20 v.

21 MICHAEL J. MANDELBROT and
THE MANDELBROT LAW FIRM,

22 Defendants.
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**NOTICE OF MOTION AND MOTION OF
J.T. THORPE SETTLEMENT TRUST
AND THORPE INSULATION COMPANY
ASBESTOS SETTLEMENT TRUST FOR
ENTRY OF AN ORDER STRIKING
DOCKET NOS. 1804, 1806, AND 1808 AND
GRANTING RELATED RELIEF**

Date: November 28, 2018

Time: 10:00 a.m.

Place: Courtroom 1539
255 E. Temple St.

Los Angeles, CA 90012

Judge: Honorable Sheri Bluebond

1 **TO THE HONORABLE SHERI BLUEBOND, UNITED STATES BANKRUPTCY JUDGE**
2 **AND DEFENDANT MICHAEL J. MANDELBROT:**

3 **PLEASE TAKE NOTICE** that J.T. Thorpe Settlement Trust and Thorpe Insulation
4 Company Asbestos Settlement Trust, plaintiffs in the above-referenced adversary proceedings (the
5 “**Trusts**”) hereby move for entry of an order (i) striking the *Special Notice of Judicial Misconduct*
6 *to U.S. Trustee* [Bk. Dkt. No. 1804] (the “**Special Notice**”), *Beneficiaries Request for Judicial*
7 *Notice re Justice Department Statement of Interest; Presiding Judge Sheri Bluebond’s Insider*
8 *Dealing and Bad Faith; Misappropriation of Trust Funds to Insider Gary Fergus* [Bk. Dkt. No.
9 1806] (the “**First Judicial Notice Request**”), and *Beneficiaries Request for Judicial Notice re*
10 *Objection of the United States Trustee to Debtors’ Motion for an Order Appointing Futures*
11 *Asbestos Claimants Representative; J.T. Thorpe, Inc.’s Future Representative Gary Fergus*
12 *Conflicts of Interest, Misappropriation of Trust Funds, Improper Disclosures* [Bk. Dkt. No. 1808]
13 (the “**Second Judicial Notice Request**,” and together with the First Judicial Notice Request, the
14 “**Judicial Notice Requests**” and, collectively with the First Judicial Notice Request and the
15 Special Notice, the “**Mandelbrot Notices**”) filed in Case No. 2:02-bk-14216-BB¹ by attorney
16 Michael J. Mandelbrot (“**Mandelbrot**”) and (ii) granting related relief to suspend Mandelbrot’s
17 admission to appear, file pleadings, or otherwise practice before this Court, on behalf of himself or
18 any other person or entity, in connection with the above-captioned cases and all related cases in
19 this Court and to revoke Mandelbrot’s CM/ECF login and password.

20 **PLEASE TAKE FURTHER NOTICE** that this Motion is based on this Notice of
21 Motion, the attached Memorandum of Points and Authorities, all judicially-noticeable facts, all
22 other admissible evidence properly before the Court, the entire record of the above-captioned
23 cases, and any arguments to be presented at the hearing.

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26 ¹ References to (i) Bk. Dkt. No. are to the docket in Case No. 2:02-bk-14216-BB and (ii) Adv.
27 Dkt. No. are to the docket in Adv. Case No. 2:12-ap-02182-BB. The Trusts concurrently file
28 this Motion in Case No. 2:02-bk-14216-BB and Adv. Case No. 2:12-ap-02182-BB, given that
Mandelbrot improperly filed the First Judicial Notice Request in both proceedings.

1 **PLEASE TAKE FURTHER NOTICE** that the hearing on the Motion will take place
2 before the Honorable Sheri Bluebond on **November 28, 2018 at 10:00 a.m.**, in Courtroom 1539,
3 Roybal Federal Building, 255 East Temple Street, Los Angeles, California 90012.

4 **PLEASE TAKE FURTHER NOTICE** that the Motion has been filed with the Clerk of
5 the United States Bankruptcy Court and may be viewed at the Clerk's Office located at 255 East
6 Temple Street, Room 940, Los Angeles, California 90012, and/or online through the Court's
7 CM/ECF system (<https://ecf.cacb.uscourts.gov/>). A copy of the Motion may also be obtained by
8 contacting counsel to the Trusts directly at the above-listed address and telephone number.

9 **PLEASE TAKE FURTHER NOTICE** that all oppositions to the Motion must be in
10 writing and filed with the Court and served on counsel to the Trusts at the above-listed address at
11 least 14 days before the hearing, *i.e.*, **no later than November 14, 2018** per L.B.R. 9013-1(f) and
12 this Court's *Order Setting Briefing Schedule and Hearing on Motion to Strike* (the "**Scheduling**
13 **Order**") [Bk. Dkt. No. 1814; Adv. Dkt. No. 378].

14 **PLEASE TAKE FURTHER NOTICE** that **your rights may be affected.** You should
15 read the Motion and accompanying documents carefully and discuss them with your attorney, if
16 you have one. If you do not have an attorney, you may wish to consult one.

17 **WHEREFORE**, the Trusts respectfully request that the Court enter an order striking the
18 Mandelbrot Notices from the record and granting related relief to suspend Mandelbrot's admission
19 to practice before this Court in connection with the above-captioned cases and all related cases in
20 this Court and to revoke Mandelbrot's CM/ECF login and password and such other relief as may
21 be just and proper.

22

23 DATED: November 7, 2018

Respectfully submitted,

24

/s/ Daniel J. Bussel

25

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26

Thomas E. Patterson (State Bar No. 130723)

27

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. PRELIMINARY STATEMENT**

3 By this Motion, the Trusts request that the Court (i) strike the Mandelbrot Notices from the
4 record pursuant to FRBP 7012(f) and 9014 (incorporating FRCP 12(f)) and remove them from this
5 Court’s docket because the allegations contained therein and the materials appended thereto
6 constitute in their entirety “redundant, impertinent, immaterial and scandalous matter” bearing no
7 relationship to any pending matter properly before this Court and (ii) suspend Mandelbrot’s
8 admission to practice before this Court in connection with the above-captioned cases and all
9 related cases in this Court and revoke Mandelbrot’s CM/ECF login and password on the basis that
10 the Mandelbrot Notices, taken together with his past course of misconduct as established by the
11 record of these proceedings, constitute an abuse of process and unprofessional conduct violating
12 established rules and standards of practice governing attorneys practicing in this Court.

13 Congress facilitated the creation of section 524(g) trusts to redress the tort system’s
14 inability to deliver timely and economical justice to asbestos victims. To fulfil the statutory aims,
15 Congress approved the adoption of streamlined claim procedures. To remain cost-effective, these
16 procedures must to some extent rely on the integrity and reliability of claim submissions. Because
17 any systematic abuse of these procedures goes to the heart of the Trusts’ ability to function as
18 Congress intended, the Trusts devoted resources to investigating and remediating Mandelbrot’s
19 claim-filing practices, and ultimately established that Mandelbrot engaged in a pattern and practice
20 of filing unreliable claims against the Trusts. Mandelbrot attempted to frustrate the Trusts’ efforts
21 at every turn, responding to the Trusts’ efforts with increasingly vitriolic, and unsubstantiated *ad*
22 *hominem* attacks. His abuse of process continues with the Mandelbrot Notices. Despite being
23 barred from representing claimants against the Trusts and having agreed not to challenge these
24 Trusts’ fiduciary decisions, he improperly purports to represent the interests of the Trusts’
25 beneficiaries in repeating these *ad hominem*, impertinent, unfounded and already-rejected

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1 allegations of misconduct by the Trusts’ Fiduciaries and Staff² and this Court. The Trusts
2 reluctantly file this Motion because Mandelbrot’s persistent misuse of Trust and judicial processes
3 as a bulletin board for personal attacks crosses the line of permissible professional conduct and
4 threatens to interfere with the Trusts’ statutory purpose of efficiently delivering justice to victims.

5 II. BACKGROUND

6 A. Factual and Procedural History

7 The Trusts are section 524(g) trusts responsible for administering the legacy asbestos
8 liabilities of former debtors J.T. Thorpe, Inc. and Thorpe Insulation Co. Mandelbrot and his law
9 firm formerly submitted claims against the Trusts on behalf of claimants alleging asbestos-related
10 injuries. Mandelbrot’s claims-filing abuses are described in great detail in the record of these
11 proceedings. After an extensive audit of Mandelbrot-filed claims conducted pursuant to the court-
12 approved Trust Distribution Procedures (“TDPs”), the Trusts determined that Mandelbrot was
13 unreliable and had engaged in a pattern or practice of submitting unreliable evidence to the Trusts.
14 After advising Mandelbrot of the audit findings, the Trusts moved for instructions from this Court.

15 At trial in January 2014, the Trusts supplied the Court with numerous examples of audited
16 Mandelbrot claims suffering from a host of forms of unreliability, including some supporting
17 strong inferences of outright fraud. *See e.g. Declaration of Laura Paul* [Adv. Dkt. No. 152-1].
18 Mandelbrot sought to cast the Trusts’ investigation and the trial as an elaborate pretext designed
19 by the Trusts’ Fiduciaries and Staff to retaliate against Mandelbrot and mask their own
20 misconduct. *See, e.g., Adv. Dkt. No. 171 (the “2013 Declaration”)* at ¶¶ 27, 33, 39, 41, 45
21 (alleging the Trusts used the audit “to retaliate against me for my complaints,” which “spawned
22 the backlash now exhibited in these Adversary Proceedings,” and that the Trusts’ Fiduciaries and
23 Staff “encouraged the Trusts to retaliate against me”). On the third day of trial, Mandelbrot and

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25 ² In this Motion, “Trusts’ Fiduciaries and Staff” refers to the Trustees, Stephen M. Snyder,
26 Sandra R. Hernández, M.D., and John F. Luikart; the future claims representative; the members
27 of the Trust Advisory Committee for each of the Trusts; outside legal counsel to the Trusts;
28 legal counsel to the future claims representative; Executive Director Sara Beth Brown; Outside
General Counsel Jeanine Donohue; and Claims Manager Laura Paul.

1 his counsel entered into a detailed stipulation on the record admitting the allegations against him
2 and consenting to the relief sought by the Trusts. *See* Adv. Dkt. No. 235 (the “**2014 Findings**”) at
3 Part II, ¶ 3; *see also* Adv. Dkt. No. 195 (Hr’g Tr. Jan. 23, 2014) at 2:9–16:15.

4 Mandelbrot agreed, among other things, (i) that the Trusts’ investigation and audit and the
5 remedy imposed by the Trusts were reasonable, “were and are consistent with the trusts’ fiduciary
6 duties, were conducted pursuant to a valid trust purpose, were not done in bad faith and were not
7 an abuse of discretion,” (ii) that Mandelbrot would not file any new claims against the Trusts on
8 behalf of claimants and that he would transfer his clients to new counsel, and (iii) that Mandelbrot
9 would “have no standing to challenge the fiduciary decisions or conduct of those trusts, with
10 respect to the rights of those claimants.”³ 2014 Findings at Part II, ¶ 3(a), (b), (d), (e), (i).

11 Mandelbrot subsequently tried to renege on the stipulation, declining to execute a written
12 agreement memorializing its terms and refusing to perform. 2014 Findings at Part II, ¶ 19. The
13 Trusts then sought to enforce the stipulation. Adv. Dkt. No. 208. In response, Mandelbrot again
14 made unsupported assertions that the Trusts’ Fiduciaries and Staff acted improperly to advance
15 their personal interests and retaliate against Mandelbrot. *See, e.g.*, Adv. Dkt. No. 216 (the “**2014**
16 **Declaration**”) at ¶¶ 4, 7, 14, 26, 28–33 (alleging “this lawsuit was prompted ... by [the] Trusts’
17 Executive Trustee Stephen Snyder’s bad faith, capriciousness, and clear desire to harass the
18 Mandelbrot Firm and put it out of business” and accusing the Trusts’ Fiduciaries and Staff of
19 “criminal coverup,” “conflicts of interest,” and “perjury and fraud”). The Court considered and
20 expressly rejected these allegations, *see, e.g.*, 2014 Findings at Part II, ¶ 17(a); *id.* at Part III, ¶ 7(c)

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24 ³ Prior to litigating with Mandelbrot, the Trusts sought to cooperate with Mandelbrot to remediate
25 the deficiencies in his claim-filing practices, but Mandelbrot rejected the Trusts’ proposals. As
26 part of their settlement with Mandelbrot, the Trusts nevertheless determined not to assess the
27 costs of the audit and related proceedings against Mandelbrot as the Trusts’ TDPs permitted. In
28 this Motion, the Trusts continue to seek only protection from Mandelbrot’s abuses, not to levy
punishment or monetary sanctions on Mandelbrot. The Trusts reserve the right, however, to
seek monetary compensation and sanctions from Mandelbrot if his abuse of the Court’s
processes and the Trusts’ own administrative processes persists further.

1 & (e); Adv. Dkt. No. 230 (Hr’g Tr. Mar. 27, 2014) at 39:11–40:12, and ruled that the stipulation
2 was valid, binding, and enforceable. *See generally* Adv. Dkt. Nos. 232–235.

3 Mandelbrot appealed and unsuccessfully sought a stay pending appeal in both this Court
4 and the District Court. *See* Adv. Dkt. No. 283 at 3:1–2; Dist. Dkt. No. 27 at 7–8.⁴ In seeking that
5 stay before this Court, Mandelbrot again rehashed his claim that the entire case against him was
6 fabricated by the Trusts to retaliate against Mandelbrot and to advance the personal interests of the
7 Trusts’ Fiduciaries and Staff. *See, e.g.*, Adv. Dkt. No. 273 (the “**2014 Brief**”) at 1:4–18, 3:17–26,
8 6:21–25 (alleging that “[i]n retaliation for Mandelbrot accusing the Trusts, Trustees, and
9 Fiduciaries of corruption, bad faith, and misappropriation of funds, the Trustees made the wholly
10 unreasonable determination to seek instruction from the Court with regards to Mandelbrot claims”
11 and that the “entire Thorpe case against Mandelbrot was a complete fraud”). Mandelbrot also
12 made claims of judicial bias by the Court in favor of the Trusts’ Fiduciaries and Staff. *See, e.g.*,
13 2014 Brief at 3:27–4:18 (asserting that “Judge Bluebond made every ruling for her friends ... and
14 clearly showed a judicial bias”). No admissible evidence supported these charges and the Court
15 expressly considered and rejected all of Mandelbrot’s allegations. *See, e.g.*, Adv. Dkt. No. 281
16 (Hr’g Tr. May 27, 2014) at 3:6–4:4, 10:13–22, 21:7–26:14, 26:25–27:1, 28:4–35:25. Mandelbrot
17 repeated his unsupported allegations of retaliation, bad faith, and impropriety by the Trusts’
18 Fiduciaries and Staff and this Court in pleadings he filed with the District Court, including by
19 refiling his 2014 Declaration therein. *See* Dist. Dkt. No. 18 & 19. The District Court likewise
20 considered and rejected these allegations in denying a stay pending appeal. *See* Dist. Dkt. No. 27
21 at 4, 6 (rejecting Mandelbrot’s arguments that the Trusts’ evidence was perjury “prepared by those
22 with interests adverse to the Trusts who should be removed,” finding “no good cause to deny
23 judicial notice of [the Trusts’] documents,” and denying a stay). Thereafter, the District Court
24 affirmed this Court’s orders enforcing and upholding the stipulation. Dist. Dkt. No. 35.
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27 ⁴ References to Dist. Dkt. No. are to the docket in Mandelbrot’s District Court appeal, Case No.
28 2:14-cv-03383-VAP.

1 Mandelbrot appealed to the Ninth Circuit, which remanded for further proceedings in light
2 of an intervening Ninth Circuit decision in another case. *Mandelbrot v. J.T Thorpe Settlement*
3 *Trust*, 870 F.3d 1121 (9th Cir. 2017). On remand in this Court, Mandelbrot yet again recapitulated
4 his allegations of retaliation, bad faith, and impropriety by the Trusts’ Fiduciaries and Staff and
5 the Court, including by refiled, among other things, the 2013 Declaration and yet another 2014
6 declaration Mandelbrot had filed in *In re Western Asbestos Co.* (the “**Western Declaration**”).⁵
7 *See, e.g.*, Adv. Dkt. No. 325 at Exh. 1 (the 2013 Decl.), ¶¶ 27, 33, 39, 41, 45 & Exh. 3 (the
8 Western Decl.), ¶¶ 6, 10, 16, 17. He also raised the same unfounded allegations in other filings on
9 remand and made reference to Mandelbrot’s judicial complaint and personal smears against this
10 Court. *See, e.g.*, Adv. Dkt. No. 309 (the “**FCR Objection**”) (accusing counsel to the future claims
11 representative and the Trustees of a “patently offensive and unjust alliance” and the “the yearly
12 misappropriation of millions in Trust funds” to “interested parties”); Adv. Dkt. No. 326 (the “**2018**
13 **Declaration**”) at ¶¶ 61 n.1, 71, 76; Adv. Dkt. No. 334 (the “**Findings Objection**”) at n.4, ¶¶ 9–11,
14 13, 15, 17, 18, 27; Adv. Dkt. No. 335 (the “**Judgment Objection**”) at 1:19–20, 2:23–26, 3:15–16,
15 5:12–13 (alleging “the Court improperly ruled ... based on favoritism, fraud and lack of
16 impartiality”). Just as it has before, the Court considered and rejected Mandelbrot’s allegations.
17 Adv. Dkt. No. 344 (the “**2018 Findings**”) at 2:20–23, ¶¶ 11, 12, 20, 27, 29(a), 36, 37; Adv. Dkt.
18 No. 345 (the “**2018 Judgment**”) at 2:4–26, 3:4–5, ¶¶ 1, 2, 4; Adv. Dkt. No. 353 (Hr’g Tr., Feb. 1,
19 2018) at 8:24–9:4, 17:8–25, 41:7–45:22, 58:20–60:8, 91:17–92:7.

20 Mandelbrot appealed the 2018 Findings and the 2018 Judgment to the District Court. Adv.
21 Dkt. No. 354. Prior to the submission of briefing, however, Mandelbrot and the Trusts entered
22 into a joint stipulation dismissing the appeal, and the District Court entered an order approving
23 that joint stipulation and dismissing the appeal with prejudice. Adv. Dkt. No. 375; 2nd Dist. Dkt.
24

25 _____
26 ⁵ The Western Declaration was originally filed in Case No. 13-31914-TC as Dkt. No. 1811 in
27 support of Mandelbrot’s objection to that trust’s *Tenth Annual Report and Accounting*. The
28 court in that case overruled Mandelbrot’s objection. Case No. 13-31914-TC, at Dkt. No. 1826.
Nevertheless, Mandelbrot included the objection as an exhibit to both Judicial Notice Requests.

1 Nos. 11 & 12.⁶ This Court’s orders enforcing Mandelbrot’s stipulation consenting to the relief
2 originally sought by the Trusts are final and unappealable. Mandelbrot is barred from representing
3 claimants against the Trusts and from challenging the conduct of the Trusts’ fiduciaries, and there
4 is no matter among the Trusts and Mandelbrot pending before this Court or any other court.

5 **B. The Mandelbrot Notices**

6 The Mandelbrot Notices reiterate Mandelbrot’s familiar refrain of retaliation, bad faith,
7 and impropriety by the Trusts’ Fiduciaries and Staff and the Court. For example, the Special
8 Notice alleges that the Trusts pursued a “sham lawsuit” against Mandelbrot, that the Trusts’
9 Fiduciaries and Staff have “misappropriated” funds, and that the Court has “obtain[ed] special
10 treatment for friends working for the Trusts” while “[r]etaliating” against Mandelbrot. Although
11 not styled as a motion, the Special Notice suggests that it was filed on behalf of thousands of Trust
12 beneficiaries and requests that the Court recuse itself from all matters concerning the Trusts and
13 preserve any communications between the Court and certain persons associated with the Trusts.⁷

14 The Special Notice accuses the Trusts’ Fiduciaries and Staff and the Court of retaliating
15 against Mandelbrot and advancing the personal interests of parties associated with the Trusts, and
16 reiterates baseless personal attacks against this Court. The attachments to the Special Notice
17 include extraneous materials and a copy of Mandelbrot’s judicial complaint (which itself contains
18 the same accusations of retaliation and favoritism). The Judicial Notice Requests repeat the same
19 allegations of “insider dealing,” “bad faith,” “fraud,” “judicial bias,” “misappropriation,”
20 “fiduciary fraud,” and “mismanagement,” and reattach another copy of Mandelbrot’s judicial
21 complaint, the FCR Objection, the 2013 Declaration, the Western Declaration, and several other
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25 ⁶ References to 2nd Dist. Dkt. No. are to the docket in Mandelbrot’s second District Court appeal
in 2018, Case No. 2:18-cv-01451-VAP.

26 ⁷ Recusal is a matter committed to the sound discretion of the Court. *Stewart Enterprises, Inc. v.*
27 *Horton (In re Horton)*, 621 F.2d 968, 970 (9th Cir. 1980). The Trusts are prepared to proceed
28 with this Motion before this Court or such other court to which this Court may, in its discretion,
elect to refer the matter.

1 documents that Mandelbrot has previously filed in these adversary proceedings and in related and
2 other bankruptcy cases in this and other districts.

3 III. JURISDICTION

4 This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is
5 a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper pursuant to 28 U.S.C.
6 §§ 1408 and 1409. The predicates for the relief sought herein are Rule 12(f) of the Federal Rules
7 of Civil Procedure (the “**FRCP**”), made applicable herein by Rules 7012(b) and 9014 of the
8 Federal Rules of Bankruptcy Procedure (the “**FRBP**”); section 105(a) of title 11 of the United
9 States Code (the “**Bankruptcy Code**”), Rule 2090-2 of the Local Bankruptcy Rules for the United
10 States Bankruptcy Court for the Central District of California (the “**Local Bankruptcy Rules**”);
11 Rule 83-3 of the Local Rules for the United States District Court for the Central District of
12 California (the “**Local District Rules**”); the *Fourth Amended General Order 96-05* of the United
13 States Bankruptcy Court for the Central District of California (“**Order 96-05**”); Rule 3.2(d) of the
14 Court Manual for the United States Bankruptcy Court for the Central District of California (the
15 “**Court Manual**”); Section 6068 of the California Business and Professions Code; Rule 3-200 of
16 the California Rules of Professional Conduct (as of November 2, 2017); and Rule 8.2 of the
17 Revised California Rules of Professional Conduct (effective Nov. 1, 2018).

18 IV. ARGUMENT

19 A. The Court Should Strike the Mandelbrot Notices from the Record

20 Rule 12(f) of the FRCP authorizes a court to “strike from a pleading an insufficient defense
21 or any redundant, immaterial, impertinent, or scandalous matter.”⁸ The trial court “possesses
22
23

24 ⁸ Rule 12(f) provides in full:

25 *Motion to Strike.* The court may strike from a pleading an insufficient defense or any
26 redundant, immaterial, impertinent, or scandalous matter. The court may act:

27 (1) on its own; or

28 (2) on motion made by a party either before responding to the pleading or, if a response is
not allowed, within 21 days after being served with the pleading.

(FOOTNOTE CONTINUED)

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1 considerable discretion in disposing of a Rule 12(f) motion to strike redundant, impertinent,
2 immaterial, or scandalous matter.” 5C CHARLES ALAN WRIGHT & ARTHUR R. MILLER, FED. PRAC.
3 & PROC. § 1382 (3d ed. 2004). For purposes of this rule, redundant matter “consists of allegations
4 that constitute needless repetition of other averments,” immaterial matter “is that which has no
5 essential or important relationship to the claim for relief or the defenses being pleaded,” and
6 impertinent matter “consists of statements that do not pertain, and are not necessary, to the issues
7 in question.” *Id.* Courts have also struck pleadings “that are not germane to any issue in the
8 action” and “allegations that adversely reflect on persons who are not parties [or] that seek to
9 interject issues exclusively committed to the jurisdiction of another court.” *Id.* When the matter is
10 “highly objectionable, particularly when it is scurrilous or impugns the integrity of the court, the
11 courts have been willing, in appropriate circumstances, to strike it from the record of the case.” *Id.*

12 Here, the Mandelbrot Notices should be stricken from the record and removed from the
13 dockets in *toto* because they consist entirely of redundant, immaterial, and impertinent matter. *Cf.*
14 *Cairns v. Franklin Mint Co.*, 24 F. Supp. 2d 1013, 1038 (C.D. Cal. 1998) (striking as “immaterial
15 and impertinent” language that “has no bearing whatsoever on the legal issues presented” and
16 “serves only to fan the flames” in a heated dispute). *First*, there is currently no matter among the
17 Trusts and Mandelbrot that is pending in the above-captioned adversary proceedings or
18 bankruptcy cases. The only recent matter, Mandelbrot’s appeal of the 2018 Findings and the 2018
19 Judgment, was dismissed by the District Court with prejudice in May 2018. Adv. Dkt. No. 375;
20 2nd Dist. Dkt. No. 12. Accordingly, there is no pending claim for relief to which the Mandelbrot
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23 Because the Mandelbrot Notices were not filed and set for hearing in accordance with the Local
24 Bankruptcy Rules, no response deadline has been set. The Mandelbrot Notices do not appear to
25 be filings to which “a response is not allowed,” as nothing in this Court’s rules prohibit parties
26 from responding to them. Accordingly, the 21-day time limit set forth in Rule 12(f)(2) should
27 not apply to this Motion, and this Motion, which is filed on the timeframe fixed by this Court’s
28 Scheduling Order, is timely. Regardless, “[t]he authority given the court by the rule to strike
[matter] on its ‘own initiative at any time’ has been interpreted to allow the [trial] court to
consider untimely motions to strike and to grant them if doing seems proper.” WRIGHT &
MILLER, *supra*, at § 1380.

1 Notices could conceivably relate.⁹ The allegations contained in the Mandelbrot Notices are thus
2 immaterial and impertinent because they have no relationship to any claim for relief being pleaded
3 and do not pertain to any issues that are properly before the Court at this time.

4 **Second**, the allegations in the Mandelbrot Notices are redundant of allegations Mandelbrot
5 has previously advanced and materials Mandelbrot has previously filed in these proceedings. For
6 example, in the Special Notice, Mandelbrot accuses the Court of “judicial misconduct which
7 includes ... [u]sing the Judge’s office to obtain special treatment for friends working for the
8 Trusts,” “exclud[ing] nearly all of [Mandelbrot’s] underlying evidence, creat[ing] ‘bad law’ to
9 benefit your ‘buddies,’” and using “your position of power to benefit your friends” and “‘favored’
10 parties.” The Judicial Notice Requests similarly allege “judicial bias.” As discussed above,
11 Mandelbrot has made precisely the same allegations on numerous occasions before.¹⁰ Moreover,

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14 ⁹ In addition, certain of the attachments to the Judicial Notice Requests do not relate to the Trusts
15 at all. For example, the first attachment to the Second Judicial Notice Request is an objection to
16 the appointment of Lawrence Fitzpatrick as future claims representative in a New Jersey
17 bankruptcy involving Duro Dyne National Corp. That objection was overruled, *see* Case No.
18 18-27963-MBK at Dkt. No 191, which ruling is presently on appeal, and neither Mr. Fitzpatrick
19 nor the debtor in that case has anything to do with these cases.

20 ¹⁰ *See, e.g.*, 2014 Brief at 4:1–18 (alleging “a ‘close and intimate connection’ between Bluebond
21 and [former attorneys for the Trusts]” and asserting that “Judge Bluebond made every ruling for
22 her friends ... and clearly showed a judicial bias”); Hr’g Tr. May 27, 2014, at 25:25–26:4
23 (alleging “[the Court] had a bias and a prejudice against me ... there was a close personal
24 relationship between you and [former attorneys for the Trusts] so that there was a bias and
25 prejudice against me”); Western Declaration at ¶ 6 (alleging “[former attorneys for the Trusts]
26 and Judge Bluebond clearly were friends and Bluebond clearly had a ‘close and personal’
27 connection to [them]” and “Judge Bluebond clearly had a bias for [them] and prejudice against
28 [Mandelbrot]”); 2018 Declaration at ¶ 60 n.1, (alleging “that Judge Sheri Bluebond had a ‘close
and personal’ connection to the Trusts’ lawyers”); Findings Objection at n. 4, ¶¶ 9, 10, 27
(alleging “Judge Sheri Bluebond, close and personal friends of the Plaintiff [Trusts], excluded
Mandelbrot’s admissible evidence to ‘assist her buddies,’” “the “case was tried before the Court
(the Plaintiff’s close friend),” “Bluebond, to benefit her close and personal Plaintiff friends,
denied Mandelbrot’s right to a Trial),” the Court made “law to help the Judge’s buddies”);
Judgment Objection at 1:19–20, 2:23–24, ¶¶ 3, 4 (alleging the Court is “a close and personal
friend of Plaintiff Trusts,” “[the Trusts] ‘buddy,’ Judge Bluebond [] improperly exclude[d]
Mandelbrot’s evidence,” “the Court improperly ruled” in “an effort to benefit her close and
personal friends ... based on favoritism, fraud and lack of impartiality”); Hr’g Tr., Feb. 1, 2018,
at 41:7–14, 60:2–6, 91:18 (accusing the Court of “ruling against me since the moment I stepped

(FOOTNOTE CONTINUED)

1 the Court has expressly considered and rejected these claims.¹¹ *See, e.g.*, Hr’g Tr. May 27, 2014,
2 at 3:9–20 (“My factual findings here are not a function of the fact that everybody at [the Trusts’
3 former law firm] is a good buddy of mine or that there was any kind of conspiracy. I did have
4 several days of trial. ... I then made some factual findings which I would have made on my own,
5 based on the record as the state that it was.”); Hr’g Tr., Feb. 1, 2018, at 17:6–25 (“I believe you’ve
6 also raised that, the notion that I should have recused myself in a misconduct proceeding that was
7 ... not resolved in your favor on those very same grounds. So this is *res judicata*.”); 2018
8 Findings at ¶¶ 27, 36, 37 (expressly finding Mandelbrot’s objections to be without merit).¹²

9 Similarly, the Special Notice recapitulates the allegation that the trial regarding
10 Mandelbrot’s claim-filing abuse was a “sham lawsuit” designed by the Trusts’ Fiduciaries and
11 Staff to retaliate against Mandelbrot. This is redundant of claims Mandelbrot has made many
12 times before,¹³ and which this Court has also considered and rejected. *See, e.g.*, 2014 Findings at

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15 in this courtroom,” “excluding evidence that’s clearly admissible, creating more money, more
bills for the pseudo-Nazis,” “working with your buddies” and “conspiring with them”).

16 ¹¹ The Special Notice and the Judicial Notice Requests also repeat personal smears Mandelbrot has
17 directed at this Court on multiple occasions regarding retired Judge Kozinski. *See, e.g.*,
18 Judgment Objection at 2:25–26 (alleging Mandelbrot’s judicial complaint was “reviewed by
19 Bluebond’s ‘close and personal’ friend former Judge Alex Kozinski”). The accusations
20 Mandelbrot has levied against this Court are highly objectionable and should be stricken. *Cf.*
21 *Theriault v. Silber*, 574 F.2d 197 (5th Cir. 1978) (striking appellant’s notice of appeal on motion
of appellee because the notice contained vile and insulting references to the trial judge), *cert.*
denied 440 U.S. 917; *Skolnick v. Hallett*, 350 F.2d 861 (7th Cir. 1965) (dismissing complaint
and striking complaint from the record where complaint against state court judge and an
attorney contained scurrilous, offensive, and objectionable allegations).

22 ¹² Mandelbrot’s allegations of judicial misconduct are also redundant of his judicial misconduct
23 complaint against this Court. By repeating these allegations in the Mandelbrot Notices,
24 Mandelbrot flouts the established rules and procedures regarding judicial misconduct or
disability complaints and seeks to interject into these cases issues that are exclusively committed
to another forum to be addressed therein in accordance with specialized rules and procedures.

25 ¹³ *See, e.g.*, 2013 Declaration at ¶¶ 27, 33, 39 (alleging “the Thorpe Trusts’ use[d] Section 5.7(a)
26 of the TDP to retaliate against me for my complaints,” “my complaints spawned the backlash
27 now exhibited in these Adversary Proceedings,” Trust fiduciaries “encouraged the Trusts to
28 retaliate against me”); 2014 Declaration at ¶ 4 (alleging “this lawsuit was prompted not by my
offices [*sic*] claim filing practices ... but by completely unrelated events including ... [the]
Trusts’ Executive Trustee Stephen Snyder’s bad faith, capriciousness, and clear desire to harass

(FOOTNOTE CONTINUED)

1 Part II, ¶ 17 (“It seems that defendants are [c]ontending that, but for bias on the plaintiffs’ part, no
2 investigation or audit of defendants’ claims would have been commenced. None of the evidence
3 offered by defendants has any tendency to suggest that such bias existed.”); 2014 Findings at Part
4 III, ¶ 7(e) (the “investigation of Mandelbrot and the determinations and the remedy imposed on
5 Mandelbrot were and are consistent with the trusts’ fiduciary duties, conducted pursuant to a valid
6 trust purpose, not done in bad faith, and not an abuse of discretion”); Hr’g Tr., Feb. 1, 2018, at
7 8:24–9:4 (“Much of the supplemental declaration was ‘Here’s why these people want me out of
8 business,’ ... alleged facts that don’t bear on the specific issue.”); 2018 Findings at ¶ 20 (“The
9 Trusts’ decision to bar Mandelbrot was ... entirely motivated by the results of the audit and the
10 documented record of Mandelbrot’s misconduct.”); 2018 Findings at ¶¶ 27, 36, 37 (expressly
11 finding Mandelbrot’s objections to be without merit).

12 Yet another redundant allegation in the Special Notice and Judicial Notice Requests is
13 Mandelbrot’s claim that Trusts’ Fiduciaries and Staff have acted improperly, “misappropriate[d]
14 Trust funds,” and committed “fraud” and “perjury” to advance their personal interests at the
15 expense of Trust beneficiaries. This is a recapitulation of accusations Mandelbrot has raised in the
16 past,¹⁴ and that this Court has already considered and rejected. *See, e.g.*, 2014 Findings at Part III,

18 the Mandelbrot Firm and put it out of business”); Hr’g Tr. Mar. 27, 2014, at 39:11–16 (alleging
19 an “abuse of discretion in coming after me in the first place, [t]hey’re trying to wipe out the one
20 clean guy, ... [t]hat is the reason they’re coming after me”); 2014 Brief at 1:4–18, 3:17–26
21 (alleging that “[i]n retaliation for Mandelbrot accusing the Trusts, Trustees, and Fiduciaries of
22 corruption, bad faith, and misappropriation of funds, the Trustees made the wholly unreasonable
23 determination to seek instruction from the Court with regards to Mandelbrot claims” with “the
24 clear goals” to “maliciously attack the Mandelbrot firm,” the “entire Thorpe case against
25 Mandelbrot was a complete fraud” and the “study of Mandelbrot claims [was] done to achieve
26 the results the Trusts desired”); Hr’g Tr. May 27, 2014, at 25:1–17 (alleging Trust fiduciaries
27 are “out to get me” because “I accused [them] of corruption”); Western Declaration at ¶ 16
28 (alleging “implementation of settlement agreement by the [Trusts] is retaliatory”); 2018
Declaration at ¶ 76 (alleging Trust fiduciaries are “participants in sham litigation”); Findings
Objection at ¶ 9, 10 (alleging “the Trustees ... ‘blackball’ Mandelbrot in bad faith,” “Plaintiff’s
entire audit was a sham designed to benefit Snyder, Fergus, and Brayton”).

¹⁴ *See, e.g.*, 2014 Declaration at ¶¶ 4, 7, 8, 26, 28–33 (alleging “Snyder’s criminal coverup” and
“conflicts of interest,” “perjury and fraud,” “the Trust maliciously concealed ... evidence,”
“concealment fraud and corruption by ... Brayton, Stephen Snyder and extensive perjury by

(FOOTNOTE CONTINUED)

1 ¶ 7(c) (“[T]he conduct of all trust fiduciaries, trust staff, counsel for the fiduciaries and staff, and
2 counsel for the trusts, and the three trusts themselves ... was in every respect, reasonable, not an
3 abuse of discretion, and was authorized and appropriate.”); Hr’g Tr., Feb. 1, 2018, at 44:15–20
4 (“We already had hearings on and I already made rulings on whether there would be a trust, who
5 would administer the trust, the propriety of different professionals being employed, not being
6 employed. None of that – none of that is before me now.”); 2018 Findings at ¶¶ 27, 36, 37
7 (expressly finding Mandelbrot’s objections to be without merit).

8 In sum, the Mandelbrot Notices repeat prior averments made in multiple places in the
9 dockets in these adversary proceedings and related and other bankruptcy cases.¹⁵ Having already
10 rejected these allegations, the Court need not re-examine them. *See, e.g., United States v. Jingles*,
11 702 F.3d 494, 499 (9th Cir. 2012) (“Under the ‘law of the case’ doctrine, a court is ordinarily
12 precluded from reexamining an issue previously decided by the same court, or a higher court in
13 the same case.”). In addition to being redundant, they have no relevance to any claim for relief
14

15 Plaintiffs to cover up and conceal said fraud,” “breached [] fiduciaries [*sic*] duties,” “extensive
16 fraud by the Trusts, Trust lawyers, Trust staff,” “cover up of [] documents by the Trusts,”
17 “attempt by the Trust to mislead this Court”); 2014 Brief at 1:4–18, 3:17–26 (accusing “the
18 Trusts, Trustees and Fiduciaries of corruption, bad faith, and misappropriation of funds,”
19 “concealment and coverup of fraud by the Trust and its fiduciaries”); Hr’g Tr. May 27, 2014, at
20 21:7–23:4 (alleging Trust fiduciaries have “an unethical and corrupt adverse interest” to
21 beneficiaries); Western Declaration at ¶ 17 (alleging “perjury, the misappropriation of funds,”
22 and “criminally unethical pattern of fraud” by the Trusts’ Fiduciaries and Staff); FCR Objection
23 at 5:3–13 (alleging “yearly misappropriation of millions in Trust funds”); Findings Objection at
24 ¶ 5 (alleging a Trust fiduciary “used the Trusts as his personal ‘piggy bank’ ... to pay for his
25 wedding”); Hr’g Tr., Feb. 1, 2018, at 41:22–43:20 (comparing the Trust fiduciaries overseeing
26 asbestos trusts to “allow[ing] a bunch of Nazis to oversee” the “Holocaust [] victims’ funds” and
27 alleging “millions of dollars in victims’ funds [have been] misappropriated”).

28 ¹⁵ The many record citations in this Motion to documents in which Mandelbrot has repeated the
allegations discussed herein are not intended to be exhaustive. In fact, Mandelbrot has repeated
these allegations in countless filings in these bankruptcy cases and in bankruptcy cases
involving other section 524(g) trusts, including repeatedly in meritless, immaterial, and
impertinent objections to the annual reports filed by such trusts and related declarations. *See,*
e.g., Bk. Dkt. Nos. 1730 & 1733 (objecting to the *Eighth Annual Report and Accounting* of the
J.T. Thorpe, Inc. Settlement Trust); *In re Pacific Insulation Co.*, Case No. 2:07-bk-20016-BB, at
Dkt. Nos. 61 & 62 (repeating the same objection *verbatim* as to the *Fourth Annual Report and*
Accounting of the Thorpe Insulation Co. Asbestos Settlement Trust).

1 being pleaded and are not necessary to any issues pending before this Court. Accordingly, the
2 Mandelbrot Notices should be stricken in their entirety as redundant, immaterial, and impertinent.

3 **B. The Mandelbrot Notices Constitute an Abuse of Process and Unprofessional Conduct**
4 **that Warrant Suspension of Mandelbrot’s Privileges to Appear and File in this Court**

5 Bankruptcy courts have “the inherent authority to regulate the practice of attorneys who
6 appear before them” and “also have authority under the [Bankruptcy] Code and the [Federal]
7 Rules [of Bankruptcy Procedure] to sanction attorneys, including disbarment or suspension from
8 practice.” *In re Thao Tran Nguyen*, 447 B.R. 268, 281 (B.A.P. 9th Cir. 2011) (“[B]ankruptcy
9 courts have the inherent authority to run their courtrooms and to supervise the attorneys who
10 appear before them.”). Indeed, under Bankruptcy Code section 105(a), “the bankruptcy court may
11 discipline or suspend attorneys who practice before the courts in its district in order to protect the
12 integrity of the bankruptcy process.”¹⁶ *Id.* at 281–82 (affirming bankruptcy court order enjoining
13 an attorney from filing any bankruptcy petitions or schedules unless the attorney first satisfied
14 certain conditions, temporarily suspending the attorney from practicing in the district, and
15 referring the matter to the appropriate disciplinary committee for further proceedings); *see also*
16 *Caldwell v. Unified Capital Corp. (In re Rainbow Magazine)*, 77 F.3d 278, 284 (9th Cir. 1996)
17 (“By providing that bankruptcy courts could issue orders necessary ‘to prevent an abuse of
18 process,’ Congress impliedly recognized that bankruptcy courts have the inherent power to
19 sanction ... vexatious conduct presented before the court.” (citing 11 U.S.C. § 105(a)).

20 Local Bankruptcy Rule 2090-2(b) provides that “[a]n attorney appearing in this court
21 submits to the discipline of the court” and moreover that “[i]f a judge has cause to believe that an
22 attorney has engaged in unprofessional conduct, the judge may,” among other things, “[r]efer the
23 matter to the appropriate disciplinary authority of the state or jurisdiction in which the attorney is

24
25 ¹⁶ Bankruptcy Code section 105(a) provides in full:

26 The court may issue any order, process, or judgment that is necessary or appropriate to carry
27 out the provisions of this title. No provision of this title providing for the raising of an issue
28 by a party in interest shall be construed to preclude the court from, *sua sponte*, taking any
action or making any determination necessary or appropriate to enforce or implement court
orders or rules, or to prevent an abuse of process.

1 licensed to practice;” “[r]efer the matter pursuant to the procedures set forth in Local Civil Rule
2 83-3¹⁷ or General Order 96-05;”¹⁸ or “[i]mpose other appropriate sanctions.”¹⁹ As an additional
3 measure, Rule 3.2(d) of the Court Manual expressly provides that “[t]he court may suspend or
4 revoke an CM/ECF User’s password and, therefore, his or her authority and ability to
5 electronically file documents for,” among other things, “failure to comply with the provisions of
6 the [Local Bankruptcy Rules] or Court Manual;” “other misuse of the CM/ECF system;” or “a
7 sanction ordered by the court after notice and opportunity for hearing.”²⁰

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10 ¹⁷ Local District Rule 83-3 provides, among other things, that “[m]isconduct of any attorney in the
11 presence of a court or in any manner in respect to any matter pending in a court may be dealt
12 with directly by the judge in charge of the matter.” Local District Rule 83-3.2.7. The Local
13 District Rule further provides that “[w]hen alleged attorney misconduct is brought to the
14 attention of the Court, whether by a Judge of the Court, any lawyer admitted to practice before
15 the Court, any officer or employee of the Court, or otherwise, the Court may, in its discretion,
16 dispose of the matter through the use of its inherent, statutory, or other powers; refer the matter
17 to an appropriate state bar agency for investigation and disposition’ refer the matter to the
18 Standing Committee on Discipline; or take any other action the Court deems appropriate. These
19 procedures are not mutually exclusive.” Local District Rule 83-3.1.

20 ¹⁸ To the extent the Court, in its discretion, determines Mandelbrot’s persistent misconduct in
21 these cases warrants district-wide suspension of his admission to practice in this Court, General
22 Order 96-05 requires that the matter be referred to a three judge panel by a *Statement of Cause*
23 from the referring judge. *See* Gen. Order 96-05 (“This general order establishes a process for
24 court wide discipline of attorneys in the bankruptcy court. These procedures shall apply when
25 any judge of this court wishes to challenge the right of an attorney to practice before this court
26 or recommends the imposition of attorney discipline intended to apply in all bankruptcy cases in
27 this court. Nothing in this general order is intended to limit or restrict the authority of any judge
28 to impose sanctions on any attorney in any case or cases assigned to that judge.”).

¹⁹ In determining an appropriate sanction, courts may, but are not required to, consider the ABA
standards: “(1) whether the duty violated was to a client, the public, the legal system, or the
profession, (2) whether the attorney acted intentionally, knowingly or negligently, (3) the
seriousness of the actual or potential injury caused by the attorney’s misconduct, and (4) the
existence of aggravating and mitigating factors.” *In re Thao Tran Nguyen*, 447 B.R. at 277–78.

²⁰ The Court also has authority, under Ninth Circuit precedent interpreting the All Writs Act, 28
U.S.C. § 1651(a), to prohibit Mandelbrot from filing documents *pro se* without leave of court by
declaring Mandelbrot to be a vexatious litigant. *See, e.g. Molski v. Evergreen Dynasty Corp.*,
500 F.3d 1047, 1057–62 (9th Cir. 2007) (affirming district court’s entry of an order declaring
plaintiff a “vexatious litigant” and banning plaintiff from filing matters without first obtaining
leave of court). Such a ban is warranted where (1) the litigant was given notice and a chance to
be heard prior to entry of the order, (2) the court compiles an adequate record for review, (3) the

(FOOTNOTE CONTINUED)

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1 The Mandelbrot Notices, filled with redundant, immaterial, impertinent, and scandalous
2 matter, not only constitute an abuse of process and unprofessional conduct that violate Rule 12(f),
3 they also violate the terms of Mandelbrot’s settlement with the Trusts. Specifically, pursuant to
4 that settlement, “Mandelbrot agreed that Mandelbrot shall have no standing to challenge the
5 fiduciary decisions or conduct of those trusts, with respect to any rights of [] claimants to future
6 payments for the J.T. Thorpe Trust, the Thorpe Insulation Trust and the Western Trust.” 2014
7 Findings, at Part II, ¶ 3(d). Mandelbrot also agreed not to represent claimants in filing claims
8 against the Trusts. 2014 Findings, at Part II, ¶ 3(a) & (b). Accordingly, this Court ordered that
9 “Mandelbrot is permanently barred, effective immediately, from filing new claims” with the
10 Trusts and that “Mandelbrot shall have no standing to challenge the fiduciary decisions or conduct
11 of those trusts.” 2014 Findings, at Part III, ¶ 6 (a) & (c). Nevertheless, Mandelbrot represents that
12 the Special Notice is filed on behalf of “thousands of Beneficiaries of the Thorpe Insulation and
13 J.T. Thorpe, Inc. Settlement Trusts”—beneficiaries he is plainly barred from representing with
14 respect to their claims against the Trusts—and Mandelbrot purports to challenge the fiduciary
15 decisions and conduct of the Trusts—challenges which he is plainly barred from asserting.

16 Furthermore, the Mandelbrot Notices are only the latest manifestation of a pattern of
17 abusive filing practices and unprofessional conduct that also violates the rules and standards set
18 forth for attorneys in the California Business and Professions Code and the California Rules of
19 Professional Conduct. In particular, California Business and Professions Code section 6068

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22 court makes substantive findings about the frivolous or harassing nature of the plaintiff’s
23 litigation, and (4) the order is narrowly tailored to closely fit the specific vice encountered. *Id.*
24 at 1057 (citing *De Long v. Hennessey*, 912 F.2d 1144 (9th Cir. 1990)). Other factors considered
25 by courts include the litigant’s history of litigation and in particular whether it entailed
26 vexatious, harassing or duplicative lawsuits; the litigant’s motive in pursuing the litigation (*i.e.*,
27 whether the litigant has an objective good faith expectation of prevailing); whether the litigant is
28 represented by counsel; whether the litigant has caused needless expense to other parties or has
posed an unnecessary burden on the courts and their personnel; and whether other sanctions
would be adequate to protect the courts and other parties. *Molski*, 500 F.3d at 1058. Consistent
with this precedent, the pattern of abusive filing practices and unprofessional conduct described
in this Motion also constitutes sufficient grounds for declaring Mandelbrot a vexatious litigant
and prohibiting him from filing *pro se* in this district unless he first obtains prior leave of court.

1 provides that “it is the duty of an attorney ... [t]o maintain the respect due to the courts of justice
2 and judicial officers” and “[t]o advance no fact prejudicial to the honor or reputation of a party or
3 witness, unless required by the justice of the cause with which he or she is charged.”²¹ Here,
4 Mandelbrot’s repeated personal smears of this Court demonstrate wanton disregard for this Rule.
5 The materials appended to the Special Notice and the Judicial Notice Requests republish already
6 rejected and still unsupported accusations of judicial impropriety aimed at undermining the respect
7 due to and the reputation of this Court. *See, e.g.*, Hr’g Tr. May 27, 2014, at 28:4–35:25 (alleging
8 that the Court’s rulings are biased in favor of attorneys for the Trusts because the Court’s
9 involvement with professional and educational organizations and programs puts her in proximity
10 to such attorneys and accusing the Court of being financially beholden to such attorneys).

11 Mandelbrot’s conduct also violates Rule 3-200 of the California Rules of Professional
12 Conduct, which prohibits a member from asserting a position in litigation “without probable cause
13 and for the purpose of harassing or maliciously injuring any person.” The Mandelbrot Notices and
14 the materials appended thereto contain false accusations against the Trusts’ Fiduciaries and Staff,
15 accusations that Mandelbrot has also repeated on the blog that he maintains.²² *See, e.g.*, 2014
16 Declaration at ¶¶ 14(b), 29–34; 2014 Brief at 1:4–18; Findings Objection at ¶ 9.

17 The Trusts submit that Mandelbrot has demonstrated a pattern of abusive filing practices
18 by which he has misused his filing privileges to litter this Court’s docket with redundant and
19 impertinent materials. The Mandelbrot Notices, which were not filed in compliance with the
20 Local Bankruptcy Rules, are the latest manifestation of this misuse of court process, and, without
21 appropriate response from this Court, this pattern of abuse will undoubtedly persist. As such,

22
23 ²¹ *See also* Rev. Cal. Rule Prof. Conduct 8.2 (effective Nov. 1, 2018) (“A lawyer shall not make a
24 statement of fact that the lawyer knows to be false or with reckless disregard as to its truth or
25 falsity concerning the qualifications or integrity of a judge or judicial officer.”). The comment
26 elaborates that “[t]o maintain the fair and independent administration of justice, lawyers should
defend judges and courts unjustly criticized. Lawyers also are obligated to maintain the respect
due to the courts of justice and judicial officers.” (citing Cal. Bus. & Prof. Code § 6068).

27 ²² Mandelbrot has also violated his professional obligations as a member of the bar in this Court
28 by using his blog (as well as this Court’s docket) to publish false accusations that denigrate the
reputations of the Trusts’ Fiduciaries and Staff and the Court.

1 ample cause exists (i) to suspend Mandelbrot’s admission to appear, file pleadings, or otherwise
2 practice before this Court, on behalf of himself or any other person or entity, in connection with
3 the above-captioned cases and all related cases in this Court and (ii) to revoke Mandelbrot’s filing
4 privileges, as expressly permitted by Rule 3.2(d) of the Court Manual.

5 **V. CONCLUSION**

6 For the reasons set forth above, the Trusts respectfully request that the Court enter an order
7 granting the relief requested herein and such other and further relief as may be just and proper.

8 DATED: November 7, 2018 Respectfully submitted,

9 /s/ Daniel J. Bussel
10 Daniel J. Bussel (State Bar No. 121939)
11 Thomas E. Patterson (State Bar No. 130723)
12 Sasha Gurvitz (State Bar No. 301650)
13 KLEE, TUCHIN, BOGDANOFF & STERN LLP

14 *Counsel for the J.T. Thorpe Settlement Trust and Thorpe*
15 *Insulation Company Asbestos Settlement Trust*
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PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is 1999 Avenue of the Stars, Thirty-Ninth Floor, Los Angeles, CA 90067.

A true and correct copy of the foregoing document entitled (*specify*): **NOTICE OF MOTION AND MOTION OF J.T. THORPE SETTLEMENT TRUST AND THORPE INSULATION COMPANY ASBESTOS SETTLEMENT TRUST FOR ENTRY OF AN ORDER STRIKING DOCKET NOS. 1804, 1806, AND 1808 AND GRANTING RELATED RELIEF** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) November 7, 2018 I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

SEE ATTACHED SERVICE LIST

Service information continued on attached page.

2. SERVED BY UNITED STATES MAIL:

On (*date*) _____, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page.

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR

EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) November 7, 2018, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

The Honorable Sheri Bluebond
U.S. Bankruptcy Court
Roybal Federal Building
Bin outside of Suite 1534
255 E. Temple Street
Los Angeles, CA 90012

Service information continued on attached page.

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

November 7, 2018

Date

Shanda D. Pearson

Printed Name

/s/ Shanda D. Pearson

Signature

ADDITIONAL SERVICE INFORMATION (if needed):

SERVICE BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF)

- Daniel J Bussel dbussel@ktbslaw.com
- David N Chandler courtdocsdncpc@gmail.com
- Dennis D Davis mvelasquez@gsdllaw.com
- Gary S Fergus gfergus@ferguslegal.com
- Gabriel I Glazer gglazer@pszjlaw.com
- Sasha M Gurvitz sgurvitz@ktbslaw.com
- Gregory K Jones gjones@afrc.com, CAcossano@dykema.com;DocketLA@dykema.com
- Eve H Karasik ehk@lnbyb.com
- Michael J Mandelbrot mandelbrot@asbestoslegalcenter.org, mjmandelbrot@yahoo.com
- Merle Meyers mmeyers@mlg-pc.com
- Danielle A Pham dpham@gordonsilver.com
- Marcy Railsback marcy@bovinorailsback.com, marcyrailsback@hotmail.com
- United States Trustee (LA) ustpreion16.la.ecf@usdoj.gov

SERVICE BY EMAIL

- Dirk Van Ausdall dirkvanausdall@gmail.com
- Michael Mandelbrot mandelbrot@asbestoslegalcenter.org