

APPENDIX A

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

In re the Marriage of FIDA MHANNA and
GHASSAN HAGE.

H045077
(Santa Clara County
Super. Ct. No. 2013-6-FL010520)

FIDA MHANNA,

Respondent,

v.

GHASSAN HAGE,

Appellant.

In this marital dissolution proceeding, Fida Mhanna brought a motion pursuant to Code of Civil Procedure section 391¹ to declare her former husband, appellant Ghassan Hage, a vexatious litigant. The court granted the motion after a lengthy hearing.

Hage contends on appeal that the trial court erred because it (1) permitted Mhanna's counsel, David A. Yomtov, to introduce exhibits notwithstanding counsel's failure to provide copies to Hage prior to the hearing, and (2) denied Hage's request for a continuance of the hearing. Finding no error, we will affirm.

¹ All further unspecified statutory references are to the Code of Civil Procedure.

I. PROCEDURAL HISTORY

A judgment of dissolution was filed on October 23, 2014.

On January 19, 2017, Mhanna filed a request for order (the request) finding Hage to be a vexatious litigant pursuant to section 391. The request—which was under penalty of perjury and contained a detailed recitation of the alleged facts upon which it was based and an attachment listing 24 motions filed by Hage over a period of approximately two years—was accompanied by a memorandum of points and authorities and a declaration of counsel, Yomtov.

In the request, Mhanna alleged that the dissolution proceeding was resolved after a settlement conference on July 28, 2014, and her attorney accordingly substituted out of the case. Since the entry of judgment in October 2014, Hage had filed 24 separate requests for orders (hereafter motions). Mhanna included as an attachment to the request a summary that included each motion's filing date, requested relief, hearing date, outcome, and related order filed. Mhanna stated that all of Hage's motions "caused [her] to incur legal fees that [she could not] afford to pay." She stated that her attorney had expended more than 140 hours to address Hage's motions and to enforce Hage's child support obligations. The legal fees incurred since the July 2014 settlement were in excess of \$45,000.

Mhanna described from her perspective in the request the nonmeritorious nature of Hage's motions. She stated that four of the motions were combined into a single hearing on February 26, 2015, at which time all four were denied by the court. She declared that a number of the motions were duplicative. Specifically, there were two motions to correct the judgment, four motions to prohibit Mhanna's travel, two motions to release police records, two motions to modify attorney fee awards, and two custody modification motions. In several instances—including Hage's motions seeking release of Mhanna's immigration application file and to "issue a 'defamation' judgment against [Mhanna's] counsel"—the court specifically found Hage's motions to be frivolous. Mhanna declared

that only two of the motions—a motion to correct judgment that was granted in part and denied in part and a motion to permit Hage to take the parties' children to Lebanon, to which Mhanna ultimately stipulated—were meritorious. Mhanna stated in her summary that 15 of Hage's motions were specifically denied by the court. Mhanna stated that one motion—pertaining to religious matters—was not served upon her and “was deemed **frivolous** and outside of the court's jurisdiction.” (Original emphasis.)

Mhanna addressed a custody modification motion in which Hage sought “‘seventy[-]nine percent custody.’” After Mhanna requested pendente lite fees, Hage withdrew the custody request, only to refile it several months later, stating “his withdrawal had been made ‘conditionally.’”

Another motion by Hage concerned his request to amend a prior order in which Mhanna had been awarded \$5,000 attorney fees, calling for payment to be deferred to 2016 and payable in \$1,000 installments. Mhanna described Hage's motion as one seeking to modify the order so that Hage could “put [paying the fees] off for a few years, but [he] offered no new evidence or law to support this request.” The court denied Hage's motion; Hage had “still fail[ed] and refuse[d] to comply with this [attorney fee] order.”

Mhanna also identified a motion by Hage to require Mhanna to pay one-half of private school tuition. She stated the issue had been addressed in Hage's prior motion to modify judgment; dissatisfied with the court's decision then, Hage brought the new motion, “offer[ing] no new evidence, no changes in law, [and] no legal authorities.” The motion was denied.

In addition to the foregoing, Mhanna noted that Hage had threatened to file applications seeking contempt orders against her, notwithstanding the matters concerned issues for which no orders existed. Further, Hage filed a small claims action against Mhanna's attorney, Yomtov, related to the family court proceedings, which complaint was denied.

In the points and authorities filed on Mhanna's behalf in support of the request, Mhanna argued that Hage's conduct ran afoul of the vexatious litigant statute in two respects. First, Hage's filing of 24 motions since entry of judgment constituted being a vexatious litigant under section 391, subdivision (b)(1) which provides: "In the immediately preceding seven-year period has commenced, prosecuted, or maintained in propria persona at least five litigations other than in a small claims court that have been (i) finally determined adversely to the person. . . ." Second, Mhanna argued, Hage's conduct was that of a vexatious litigant as defined under section 391, subdivision (b)(3) as follows: "In any litigation while acting in propria persona, repeatedly files unmeritorious motions, pleadings, or other papers, conducts unnecessary discovery, or engages in other tactics that are frivolous or solely intended to cause unnecessary delay."

Hage submitted points and authorities in opposition to the request. Based upon the record before us, he submitted no declaration under penalty of perjury responding to the facts alleged in the request. In Hage's points and authorities, he countered that he should not be found a vexatious litigant, "but [the court should find Mhanna's] Attorney David Yomtov as corrupted lawyer and [Mhanna] to be found as arrogant disobedient of the law supported by her lawyer. [Sic.]" (Original underscoring.) In Hage's opposition, he did not dispute that he had filed the 24 motions enumerated in the request. And he concurred with Mhanna that, as to a number of the motions, the court had denied them. Hage also asserted in his opposition that he had filed three complaints in court against Yomtov (two of which also named Mhanna), three complaints with the California State Bar against Yomtov, and an accusation with the California Supreme Court against Yomtov.

On June 22, 2017, the court held a lengthy evidentiary hearing on the request. On August 1, 2017, the court filed an amended order granting the request.² The court found

² The record does not include any initial order concerning the request, which would have presumably preceded the August 1, 2017 amended order.

that although Hage had partial success with a number of his motions, “[o]n balance . . . , the meritless or unnecessary motions far outweigh[ed] those that had merit.” The court thus concluded that Mhanna had “met her burden of proof and established . . . that [Hage met] the criteria for being declared a vexatious litigant pursuant to Code of Civil Procedure § 391, subdivision (b) et seq.” The court therefore ordered, *inter alia*, that Hage was barred from filing any further litigation while representing himself without his first obtaining leave of court from the presiding judge.

Hage filed a timely notice of appeal from the order.³

II. DISCUSSION

A. Vexatious Litigant Statutes

As the California Supreme Court has explained: “The vexatious litigant statutes (§§ 391–391.7) are designed to curb misuse of the court system by those persistent and obsessive litigants who, repeatedly litigating the same issues through groundless actions, waste the time and resources of the court system and other litigants. [Citation.]”

(*Shalant v. Girardi* (2011) 51 Cal.4th 1164, 1169 (*Shalant*).) Under section 391, subdivision (b), a “[v]exatious litigant” is “a person who has, while acting in propria persona, initiated or prosecuted numerous meritless litigations, relitigated or attempted to relitigate matters previously determined against him or her, repeatedly pursued unmeritorious or frivolous tactics in litigation, or who has previously been declared a vexatious litigant in a related action.” (*Shalant, supra*, at pp. 1169-1170.)

Subdivision (b)(3) of section 391 is the provision here that the trial court cited in finding

³ This court issued an order to show cause on October 20, 2017, directing Hage to advise by letter brief why the case should not be dismissed as being an appeal from a nonappealable order. Hage filed a letter brief, and Mhanna filed a responsive letter brief. Having considered this issue, the order to show cause is dissolved, as we conclude that the appeal from the order is proper. (See *In re Marriage of Rifkin & Carty* (2015) 234 Cal.App.4th 1339, 1347 (*Rifkin*) [order declaring party vexatious litigant and imposing a prefiling requirement for any new filing in propria persona under § 391.7 is an injunction and therefore appealable].)

Hage to be a vexatious litigant. It provides that a vexatious litigant is a person “[i]n any litigation [who,] while acting in propria persona, repeatedly files unmeritorious motions, pleadings, or other papers, conducts unnecessary discovery, or engages in other tactics that are frivolous or solely intended to cause unnecessary delay.” (§ 391, subd. (b)(3).)

There are two “sets of remedies” provided in the vexatious litigant statutes. (*Rifkin, supra*, 234 Cal.App.4th at p. 1345.) First, sections 391.1 through 391.6, enacted in 1963, provide “a means of moderating a vexatious litigant’s tendency to engage in meritless litigation. [Citations.] Under these sections, a defendant may stay pending litigation by moving to require a vexatious litigant to furnish security if the court determines ‘there is not a reasonable probability’ the plaintiff will prevail. Failure to produce the ordered security results in dismissal of the litigation in favor of the defendant. [Citations.]” (*Bravo v. Ismaj* (2002) 99 Cal.App.4th 211, 221 (*Bravo*)). The second aspect of the statutes, enacted in 1990, is the prefiling order requirement of section 391.7, which is the remedy relevant in this case. (*Shalant, supra*, 51 Cal.4th at p. 1170.) Section 391.7 “ ‘ ‘operates beyond the pending case’ and authorizes a court to enter a ‘prefiling order’ that prohibits a vexatious litigant from filing any new litigation in propria persona without first obtaining permission from the presiding judge.’ ” (*Shalant, supra*, at p. 1170.) In general under the vexatious litigant statutes, “ ‘ “[l]itigation” ’ means ‘any civil action or proceeding, commenced, maintained or pending in any state or federal court.’ (§ 391, subd. (a).) The statute governing prefiling orders, however, provides an additional definition of the term: “for purposes of section 391.7, ‘ ‘litigation” includes any petition, application, or motion other than a discovery motion, in a proceeding under the Family Code or Probate Code, for any order.’ (§ 391.7, subd. (d).)” (*Rifkin, supra*, at pp. 1345-1346.)

“The trial court exercises its discretion in determining whether a person is a vexatious litigant. Review of the order is accordingly limited and the Court of Appeal

will uphold the ruling if it is supported by substantial evidence.” (*Golin v. Allenby* (2010) 190 Cal.App.4th 616, 636; see also *Bravo, supra*, 99 Cal.App.4th at p. 219.)

B. Standard of Review

Hage’s two challenges concern (1) the court’s admission of evidence presented by Mhanna at the hearing in support of the request, and (2) the court’s denial of Hage’s request to continue the hearing by extending the proceedings to a second day.⁴

A trial court’s ruling on the admissibility of evidence is reviewed for abuse of discretion. (*People v. Harris* (2005) 37 Cal.4th 310, 337; *Christ v. Schwartz* (2016) 2 Cal.App.5th 440, 446-447.) Similarly, an appellate court reviews a ruling granting or denying a request for judicial notice under an abuse of discretion standard.

(*Washington v. County of Contra Costa* (1995) 38 Cal.App.4th 890, 901 (*Washington*); see also *In re Social Services Payment Cases* (2008) 166 Cal.App.4th 1249, 1271.) An abuse of discretion occurs where it is shown that “ ‘the trial court exercised its discretion in an arbitrary, capricious, or patently absurd manner that resulted in a manifest miscarriage of justice [citation].’ [Citation.]” (*People v. Carrington* (2009) 47 Cal.4th 145, 195.)

A trial court’s decision to grant or deny a continuance will not be disturbed on appeal except upon a clear showing of an abuse of discretion. (*Lazarus v. Titmus* (1998) 64 Cal.App.4th 1242, 1249.) Likewise, “[w]e review the trial court’s imposition of time limits [in judicial proceedings] for abuse of discretion. [Citation.]” (*People v. ConAgra Grocery Products Co.* (2017) 17 Cal.App.5th 51, 148 (*ConAgra*).) It is the appellant’s burden of showing from the record the existence of such an abuse of discretion. (*Forthmann v. Boyer* (2002) 97 Cal.App.4th 977, 984-985.)

⁴ Hage does not present a challenge to the order finding him to be a vexatious litigant on the ground that it was not supported by substantial evidence. Accordingly, we will not address any substantive challenge to the order.

C. The Court Did Not Err

I. *Hage's Argument*

Hage argues on appeal that the court erred. As this court understands Hage's argument, it is that there were two interrelated errors that were prejudicial to his case.

First, Hage contends the trial court erred when it accepted two binders of documents submitted by Mhanna at the hearing, notwithstanding the fact that her counsel, Yomtov, failed to provide copies to Hage prior to the hearing. He contends that Mhanna was required by a prior court order to submit to Hage a specified number of days prior to the hearing all exhibits she intended to rely upon in support of her request. The prior court order was filed on July 12, 2016, after the court, on June 6, 2016, had vacated a hearing on Mhanna's prior motion to have Hage declared a vexatious litigant. In the July 12, 2016 order—issued by a different superior court judge who had presided over numerous earlier hearings in the dissolution proceeding—the court required that, in the event Mhanna refiled her motion, she was to (1) indicate that it was a long-cause matter, and (2) “[s]ubmit all exhibits to the court and to [Hage] no later than ten days prior to the hearing.”

Second, Hage contends that the trial court erred in refusing to continue the hearing after Hage requested additional time to complete his case in opposition to the request. He argued that the court “failed to keep its agreement with [Hage] of having the [v]exatious litigant long[-cause] trial to be more than one day to cover 4 years.” Instead, the court concluded the hearing after one day of proceedings.

2. *Background Concerning Claims of Error*

The hearing on the request commenced on the morning of June 22, 2017, and concluded after 5:00 p.m. that day. The length of the reporter's transcript demonstrates the court devoted a full day to hearing the case.⁵ After a discussion concerning pending

⁵ The reporter's transcript consists of 220 pages.

proceedings in the case other than the request to declare Hage a vexatious litigant, Mhanna's counsel Yomtov gave an opening statement. At the conclusion of Hage's opening statement, Hage advised the court that he believed the hearing should take multiple days to complete. Hage stated: "Your Honor, it's a long cause, it's going to be three days. But Your Honor, you said we'll do one day and then we'll continue, and I accept all this."⁶

Yomtov provided the court and Hage with two binders containing copies of court records with 34 separate tabs. As represented by Yomtov, the majority of the documents were ones that had been authored by Hage. Yomtov requested that the court take judicial notice of these filings. None of the tabbed documents was marked or introduced as an exhibit on behalf of Mhanna.

Yomtov spent a large segment of the morning's proceedings reviewing the documents of which he was requesting judicial notice, and, by offer of proof, explaining to the court why he believed the documents supported a vexatious litigant finding. The documents in the two binders were largely the supporting documents for Hage's 24 separate motions identified in the request and as detailed in the attachment to the request, discussed *ante*. The presentation at the hearing included documents pertaining to some proceedings not identified in the request, including motions by Hage filed May 4, 2015, March 13, 2017, March 21, 2017, and March 25, 2017, a small claims complaint by Hage, a civil complaint by Hage, and a second civil complaint by Hage. It was noted by Yomtov and confirmed by the court that there were specific findings by the court in written orders that two of Hage's motions were frivolous. One motion concerned a motion filed March 23, 2016, and the second involved a motion by Hage filed April 29, 2016.

⁶ The court did not confirm Hage's assertion, and there is nothing in the record to suggest that the court advised the parties that it anticipated conducting a multiple-day hearing.

The court ruled that it was taking judicial notice of the court's file; it requested that Yomtov "more particularly explain what parts of the file that the Court [was] taking judicial notice of." The court also took judicial notice of (1) a small claims complaint filed by Hage against Yomtov and a judgment entered in that action, (2) a limited jurisdiction civil suit filed by Hage against Mhanna and Yomtov, and (3) an unlimited civil suit filed by Hage against Mhanna and Yomtov.

Hage repeatedly objected to the documents referenced in the binders submitted by Mhanna. His objections, however, were not based upon whether judicial notice should be taken of the documents. Rather, Hage's objections were in the nature of responding substantively to whether the documents—generally, court filings by Hage and orders on motions made by Hage—supported the request that Hage be declared a vexatious litigant. The court advised Hage repeatedly that such arguments concerning the substance of the documents were not proper objections, and that he should reserve such comments for the time when he presented his case.

Hage presented his case for the balance of the morning session and nearly the entire afternoon session.⁷ As the court broke for lunch, Hage advised: "I want to also ask the Court to keep in mind that this will need to be continued because there are items to—." The court responded: "This case is not going to be continued. We're hearing this case today. You have until 4:45 today." The court later reiterated to Hage while he was presenting his case that the hearing would be concluded at 4:45 p.m. that day.⁸

⁷ The reporter's transcript shows that Hage's responsive presentation consumed more than double the time of Yomtov's presentation of Mhanna's case in chief.

⁸ Toward the end of the day while he was still presenting his case, Hage again suggested to the court that the case needed to be continued. The court rejected the request: "No, I'm finding that you spent a lot of time, Mr. Hage, on a bunch of exhibits that I'm not sure are very relevant. But after several times to try to direct you to what you're doing now in the last 20 or 30 minutes of this case, unfortunately you didn't do that earlier."

During the afternoon session, while Hage was presenting his case, identifying a number of exhibits in doing so, he objected to the fact that Yomtov did not provide the two binders of documents for which he sought judicial notice five days before the hearing, but instead only provided them when the hearing commenced. The court overruled this objection, stating: “Mr. Hage, the time for you to tell the Court that you had an objection to any of Mr. Yomtov’s exhibits was at 9:00 o’clock this morning when the Court sat down with these binders and we started this case. You didn’t say a word about that. [¶] . . . [¶] I’m just saying if you had an objection to Mr. Yomtov’s exhibits—and by the way, all of his exhibits are just the Court file.” The court later reiterated that it was overruling Hage’s procedural objection because he had failed to make it during the presentation of the two binders of court documents by Yomtov.

After hearing argument from both parties, the court submitted the matter. On August 1, 2017, the court filed an amended order declaring Hage a vexatious litigant under section 391, subdivision (b).

3. *Discussion of Claims of Error*

We initially address Hage’s contention that the court erred by accepting two binders of documents submitted by Mhanna at the hearing, which had not been provided to Hage at least 10 days prior to the hearing in alleged contravention of the court’s prior order of July 12, 2016. This claim fails for three reasons.

First, Hage’s objections were untimely. As was noted by the trial court, Yomtov presented the two binders of court-filed documents in Mhanna’s case in chief *without procedural objection* raised by Hage. This presentation by Yomtov consumed most of the morning of the hearing and, although (as discussed, *ante*), Hage asserted “objections” to many of the documents, his comments were uniformly a response attempting to rebut the claim that the documents showed him to be a vexatious litigant. “An objection to evidence must generally be preserved by specific objection at the time the evidence is

introduced.” (*People v. Demetrulias* (2006) 39 Cal.4th 1, 22.) Hage failed to preserve his procedural objection to the documents submitted on behalf of Mhanna at the hearing.

Second, Hage’s argument is based upon the false premise that the two binders of tabbed documents presented by Yomtov at the hearing were, in fact, exhibits, and were thus subject to the court’s July 12, 2016 order that they be exchanged in advance of the hearing. None of the tabbed documents was marked or introduced as an exhibit on behalf of Mhanna. Instead, Yomtov requested that the court take judicial notice of these court filings. The court—without objection from Hage that it was procedurally improper to judicially notice the documents—granted the request for judicial notice. Hage’s failure to timely assert a procedural objection to the documents notwithstanding, the court’s order judicially noticing the documents was not in contravention of its prior July 12, 2016 order concerning the advance exchange of exhibits.

Third, even were we to construe Hage’s challenge here as being the assertion that the court erred in granting judicial notice of the documents submitted by Mhanna, such a claim lacks merit. The court may take judicial notice of the “[r]ecords of (1) any court of this state . . .” (Evid. Code, § 452, subd. (d).) Thus, unquestionably, a “court may judicially notice its own records and proceedings in the same case. [Citations.]” (*City etc. of San Francisco v. Carraro* (1963) 220 Cal.App.2d 509, 527 (*Carraro*).) The documents of which Mhanna requested judicial notice were almost entirely motions and orders filed in this proceeding that were judicially noticeable under *Carraro*. The remaining documents—the small claims documents and the complaints in the two civil suits filed by Hage in the Santa Clara County Superior Court—were likewise the proper subjects of judicial notice under Evidence Code section 452, subdivision (d)(1). Indeed, any argument by Hage to the contrary would be inconsistent with his conduct at the hearing. Hage himself requested that the court take judicial notice of certain court-filed documents, including documents filed in this proceeding and one of his civil complaints. Further, his contention that he was prejudiced by the court’s taking judicial notice of the

documents is without merit. As noted, the documents were not exhibits identified and introduced by Yomtov. Moreover, the vast majority of the documents in the two binders submitted by Mhanna related to motions filed by Hage and rulings of the court thereon that were identified specifically in the request—and, in particular, in the two-page summary of motions that was part of the request. The request was filed *more than five months before the hearing*. The court below did not abuse its discretion by granting the request for judicial notice. (See *Washington, supra*, 38 Cal.App.4th at p. 901.)

Hage's second claim of error is that the court, despite Hage's request and a purported agreement of the court to conduct a multiple-day hearing, denied his request to continue the hearing to a second day. He asserts that the “[c]ourt failed to keep its agreement with [him] of having the [v]exatious litigant long [cause] trial to be more than one day to cover 4 years.” He reiterates his assertion that the court did not “keep its agreement . . . of continuing the trial for more than one day.” Hage provides no citation to the record in support of any “agreement” by the court to hold a multiple-day hearing on the request. “When an appellant's brief makes no reference to the pages of the record where a point can be found, an appellate court need not search through the record in an effort to discover the point purportedly made. [Citations.] We can simply deem the contention to lack foundation and, thus, to be forfeited. [Citations.]” (*In re S.C.* (2006) 138 Cal.App.4th 396, 406-407.)

As best we can ascertain, we believe Hage's assertion that he was entitled to more than one day for the hearing on the request is founded upon his incorrect understanding of the meaning of “long cause” and upon the language in the court's July 12, 2016 order that, in the event Mhanna chose to refile the request for a determination that Hage was a vexatious litigant, she was required to indicate that it was a long-cause matter. As defined by Superior Court of Santa Clara County, Family Local Rules, rule 5H—of which we take judicial notice (Evid. Code, §§ 451, 459; see *Reynolds v. City of Calistoga* (2014) 223 Cal.App.4th 865, 870, fn. 5)—“[a] ‘long cause’ hearing is any hearing other

than a trial that will take longer than 30 minutes.” To the extent that the court’s July 12, 2016 order constituted an “agreement” that Mhanna’s request be heard as a long cause matter, the hearing, which consumed an entire day, was consistent with the order that the hearing take more than 30 minutes to conclude.

Moreover, Hage’s challenge to the court’s denial of his request that the hearing extend into a second day ignores the broad discretion with which the trial court is vested in providing for the efficient and orderly administration of justice. “A trial court has the inherent authority and responsibility to fairly and efficiently administer the judicial proceedings before it. [Citations.] This authority includes the power to supervise proceedings for the orderly conduct of the court’s business and to guard against inept procedures and unnecessary indulgences that tend to delay the conduct of its proceedings.” (*California Crane School, Inc. v. National Com. for Certification of Crane Operators* (2014) 226 Cal.App.4th 12, 22, fn. omitted (*California Crane*); see also Code Civ. Proc., § 128, subd. (a)(3) [every court has the power “[t]o provide for the orderly conduct of proceedings before it”].) “In particular, courts have the authority to request time estimates and enforce time limits, as long as the limits are reasonable and the court remains ‘mindful that each party is entitled to a full and fair opportunity to present its case.’ [Citations.]” (*In re Harley C.* (2019) 37 Cal.App.5th 494, 513, conc. opn., Segal, J., quoting *California Crane*, *supra*, at p. 21.) Here, the trial court—allowing Hage to present his defense to the request for a portion of the morning session and the entire afternoon session of the hearing—afforded Hage a full and fair opportunity to present his case. The court did not abuse its discretion by denying Hage’s request that the hearing be extended into a second day. (See *ConAgra*, *supra*, 17 Cal.App.5th at p. 148.)

III. DISPOSITION

The August 1, 2017 order declaring appellant Ghassan Hage to be a vexatious litigant is affirmed.

15a

BAMATTRE-MANOUKIAN, J.

WE CONCUR:

PREMO, ACTING P.J.

MIHARA, J.

Mhanna v. Hage
H045077

16a
APPENDIX B

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FILED

AUG 01 2017

Superior Court of CA County of Santa Clara
BY: *[Signature]* R. Belligan DEPUTY

SUPERIOR COURT, STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

In re the Marriage of:)
FIDIA MHANNA,) Case No.: 2013-6-FL-010520
Petitioner,) AMENDED ORDER FOLLOWING
and) HEARING ON PETITIONER'S MOTION
GHASSAN HAGE,) FOR ORDER DECLARING RESPONDENT
Respondent.) GHASSAN HAGE VEXATIOUS LITIGANT
) PURSUANT TO CCP § 391 AND FOR
) ORDER PROHIBITING THE FILING OF
) NEW LITIGATION PURSUANT TO CCP§
) 391.7(a)
) DEPARTMENT 76
) HON. Christopher G. Rudy
) DATE: 06/22/17

The above matter was heard on the above date in Department 76 before the Honorable Christopher G. Rudy. David A. Yomtov, Esq., appeared with and for Petitioner. Respondent appeared on his own behalf. Witnesses having been sworn and heard, documentary evidence having been admitted and the argument of counsel and the parties having been considered, the court makes the following findings and orders:

I. Background

This action arises out of a dissolution and custody matter. The Parties were married five years and one month. There are two children of the marriage (Marie-Therese 11/11/09 and Clara

1 9/25/11). The case has been remarkable for the level of discord between the parties and the
2 amount of post judgement litigation over issues related to support and parenting. Petitioner
3 contends that Respondent has been the driving force behind the vast majority of the litigation.
4 Petitioner further contends that, for the most part, Respondent's motions have been meritless or
5 improper attempts to re litigate questions that have already been decided. Petitioner seeks an
6 order declaring Respondent a vexatious litigant.

7 **II. Discussion**

8 Code of Civil Procedure §391, subdivision (b) provides, in relevant part, ““Vexatious
9 litigant’ means a person who does any of the following: [¶] ... [¶] (3) In any litigation while
10 acting in propria persona, repeatedly files unmeritorious motions, pleadings, or other papers,
11 conducts unnecessary discovery, or engages in other tactics that are frivolous or solely intended
12 to cause unnecessary delay.” Subsection (b)(3) of section 391 does not define “repeatedly” or
13 “unmeritorious.” The determination is left to the trial court’s discretion. (Morton v. Wagner
14 (Morton) (2007) 156 Cal.App.4th 963, 971; Bravo v. Ismaj (Bravo) (2002) 99 Cal.App.4th 211,
15 219; Holcomb v. U.S. Bank Nat. Assn. (2005) 129 Cal.App.4th 1494, 1505–1506.)

16 That a motion fails does not necessarily make it "unmeritorious." "The repeated motions
17 must be so devoid of merit and be so frivolous that they can be described as a
18 'flagrant abuse of the system,' have 'no reasonable probability of success,' lack 'reasonable or
19 probable cause or excuse' and are clearly meant to 'abuse the processes of the courts and to
20 harass the adverse party ...'" (Morton, *supra*, 156 Cal.App.4th at p. 972; see also, Wolfgram v.
21 Wells Fargo Bank (1997) 53 Cal.App.4th 43, 58.)

22 The vexatious litigant statutes were established “to curb misuse of the court system by
23 those acting in propria persona who repeatedly relitigate the same issues.” (Bravo, *supra*, 99
24 Cal.App.4th at p. 221, citing *In re Bittaker* (1997) 55 Cal.App.4th 1004, 1008.) “These
25 ‘persistent and obsessive’ litigants would often file groundless actions against judges and other

1 court officers who made adverse decisions against them. Their abuse of the system not only
2 wastes court time and resources, but also prejudices other parties waiting their turn before the
3 courts." (Bravo, *supra*, 99 Cal.App.4th at p. 221 [internal citation omitted].)

4 In addition to protecting the courts, the statutes also serve to protect the litigant who
5 suffers the financial burden of responding to someone who files numerous, meritless actions.
6 (Morton, *supra*, 156 Cal.App.4th at p. 970-971.) In order to establish that a litigant is vexatious,
7 "the trial court must conclude that the litigants['] actions are unreasonably impacting the objects
8 of [his] actions and the courts as contemplated by the statute." (Id., at p. 971.)

9 At the hearing of this matter the Court received evidence that Respondent, in space of just
10 thirty four months, filed thirty four (34) separate requests for orders (hereinafter motions). Many
11 of Respondent's motions sought to "correct" or modify prior Family Court orders. Respondent
12 also filed three (3) civil complaints that either name Petitioner or her attorney as defendants.

13 Among the requests made by Respondent were the following: Two motions to prevent
14 Petitioner from traveling with the children to Los Angeles that were denied. Two motions to
15 "release" police records which had no apparent legal basis and were denied. A motion that the
16 children not to be exposed to their maternal uncle Hicham Mhanna that was denied. A motion
17 for orders that Petitioner take domestic violence classes that was denied. A motion that
18 Petitioner take "motherhood counseling classes" that was denied. A motion regarding school
19 choice, to compel respondent to obtain a driver's license and purchase a car that was denied. A
20 motion to compel the children to attend religious training that was denied. Two motions
21 involving requests to either bar information or release information regarding VAWA that were
22 not only denied but also deemed to have been without any legal basis and frivolous.

23 Respondent filed multiple motions to reconsider prior orders without providing new facts
24 or relevant law that were all denied. (Although it was not a part of the evidence heard at the
25 hearing of this matter, since the date of the hearing on the instant motion Respondent has filed

1 another motion for reconsideration of the Court's rulings.)

2 It is also worth noting that Respondent filed at least fifteen of his motions on an ex parte
3 basis requesting orders shortening time. In April of 2016 alone Respondent filed three ex parte
4 motions in three weeks' time. On at least ten occasions the Court denied the order shortening
5 time outright. The additional burden on the Court system and Petitioner for having to process
6 and respond to serial and largely unnecessary ex parte requests is relevant to the Court's
7 determination as to whether or not Respondent meets the standard for declaring him a vexatious
8 litigant.

9 Also relevant to the Court in making its determination are the three (3) complaints filed
10 by Respondent against Petitioner or her attorney outside of the Family Court division.

11 Respondent's first complaint was a small claims action decided in defendant's favor. The
12 second complaint was a limited jurisdiction matter and defendant's demurrer was sustained
13 without leave to amend. The third complaint is an unlimited civil matter still in litigation. The
14 Court reviewed the allegations in Respondent's complaints and it is clear that, in substance, they
15 seek redress for "damages" respondent claims to have suffered as the result of orders decided
16 against him in the Family Court case.

17 It is undeniable that Respondent did meet with partial success on a number of his
18 motions. On balance however, the meritless or unnecessary motions far outweigh those that had
19 merit. Having considered all of the evidence, the credibility of the witnesses, the moving and
20 opposing papers, the entire court file, the applicable law, the arguments of Counsel and
21 Respondent, the Court finds that Petitioner has met her burden of proof and established to this
22 Court's satisfaction that Respondent meets the criteria for being declared a vexatious litigant
23 pursuant to Code of Civil Procedure §391, subdivision (b) et seq.

24 **III. ORDERS**

25 For the above reasons, the court issues the following orders:

- 1 1. Respondent, GHASSAN HAGE, shall not file any further litigation, while in propria
- 2 persona, without first obtaining leave of the presiding Judge of the Superior Court of California,
- 3 County of Santa Clara.
- 4 2. Disobedience of the order by Respondent, GHASSAN HAGE, may be punished as a
- 5 contempt of court.
- 6 3. The Clerk of Court is enjoined from filing any litigation presented by Respondent,
- 7 GHASSAN HAGE, unless Mr. HAGE first obtains an order from the presiding judge permitting
- 8 the filing.
- 9 4. Should the Clerk mistakenly file litigation on Respondent, GHASSAN HAGE's behalf,
- 10 without an order from the presiding judge, then defendant or responding party in said case may
- 11 file with the clerk and serve, or the presiding justice or presiding judge may direct the clerk to
- 12 file and serve, on Mr. HAGE and other parties, a notice stating that Mr. HAGE has been found to
- 13 be a vexatious litigant subject to a pre-filing order. The filing of this notice shall automatically
- 14 stay Respondent GHASSAH HAGE's litigation. The litigation shall be automatically dismissed
- 15 unless Respondent GHASSAN HAGE, within 10 days of the filing of that notice, obtains an
- 16 order from the presiding judge permitting the filing of said litigation. If the presiding judge
- 17 issues an order permitting the filing, the stay of the litigation shall remain in effect, and
- 18 defendant or responding party in said case need not plead, until 10 days after either of them is
- 19 served with a copy of the order.
- 20 5. The Presiding Judge shall permit the filing of Respondent GHASSAN HAGE's litigation
- 21 only if it appears that the litigation has merit and has not been filed for the purposes of
- 22 harassment or delay and that it does not request relief that has already been denied by the court.
- 23 The Presiding Judge may condition the filing of the litigation upon the furnishing of security for
- 24 the Opposing Party's benefit, as provided in Section 391.3 of the Code of Civil Procedure.
- 25

21a

1 6. For purposes of this order, "litigation" includes any petition, complaint, application,
2 motion, request for orders, or order to show cause, other than a discovery motion, in a
3 proceeding under the Family Code or Probate Code.

4 Exhibits are released to the proffering parties.

5 IT IS SO ORDERED.

Dated: JUL 27 2017

Hon. Christopher G. Rudy
Judge of the Superior Court

22a
APPENDIX C

SUPREME COURT
FILED

Court of Appeal, Sixth Appellate District - No. H045077

APR 29 2020

Jorge Navarrete Clerk

S260845

Deputy

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re the Marriage of FIDA MHANNA and GHASSAN HAGE.

FIDA MHANNA, Respondent,

v.

GHASSAN HAGE, Appellant.

The petition for review is denied.

CANTIL-SAKAUYE

Chief Justice

23a
APPENDIX D

FL-340

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): DAVID A. YOMTOV 167097 Attorney At Law 111. North Market Street, Suite 910 San Jose, CA 95113 TELEPHONE NO.: (408) 993-0808 FAX NO. (Optional): (408) 271-9476 E-MAIL ADDRESS (Optional):</p> <p>ATTORNEY FOR (Name): FIDA MHANNA</p> <p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF Santa Clara STREET ADDRESS: 605 W. El Camino Real MAILING ADDRESS: CITY AND ZIP CODE: Sunnyvale, CA 94087 BRANCH NAME: Sunnyvale Branch</p> <p>PETITIONER/PLAINTIFF: FIDA MHANNA</p> <p>RESPONDENT/DEFENDANT: GHASSAN HAGE</p> <p>OTHER PARTY:</p>		<p>FOR COURT USE ONLY</p> <p>FILED</p> <p>2016 JUL 12 A 10:00</p> <p><i>[Signature]</i></p> <p>M. Mickela</p>
<p>FINDINGS AND ORDER AFTER HEARING</p>		<p>CASE NUMBER: 6-13-FL-010520</p>

1. This proceeding was heard
 on (date): 6/6/16 at (time): 1:30 p.m. in Dept.: 83 Room:
 by Judge (name): Mary Ann Grilli Temporary Judge
 On the order to show cause, notice of motion or request for order filed (date): 1/13/16 by (name): Fida Mhanna
 a. Petitioner/plaintiff present Attorney present (name): David A. Yomtov
 b. Respondent/defendant present Attorney present (name):
 c. Other party present Attorney present (name):

THE COURT ORDERS

2. Custody and visitation/parenting time: As attached on form FL-341 Other Not applicable
 3. Child support: As attached on form FL-342 Other Not applicable
 4. Spousal or family support: As attached on form FL-343 Other Not applicable
 5. Property orders: As attached on form FL-344 Other Not applicable
 6. Attorney's fees As attached on form FL-346 Other Not applicable
 7. Other orders: As attached Not applicable

8. All other issues are reserved until further order of court.

9. This matter is continued for further hearing on (date): at (time): in Dept.:
 on the following issues:

Date: 7/6/16

Approved as conforming to court order.

► Ghassan Hage

SIGNATURE OF ATTORNEY FOR PETITIONER/PLAINTIFF RESPONDENT/DEFENDANT OTHER PARTY

JUDICIAL OFFICER

Mary Ann Grilli

Page 1 of 1

Form Adopted for Mandatory Use
 Judicial Council of California
 FL-340 (Rev. January 1, 2012)

FINDINGS AND ORDER AFTER HEARING
 (Family Law—Custody and Support—Uniform Parentage)

www.courts.ca.gov

Mhanna

SHORT TITLE: Mhanna vs. Hage	CASE NUMBER: 6-13-FL-010520
---------------------------------	--------------------------------

1 The court vacated Petitioner's motion to have Respondent found to be a vexatious litigant off
2 calendar, with leave to re-file said motion. In the event that Petitioner re-files this motion, she shall:
3
4 a. Indicate that said motion is to be a long cause matter and calendar it as such, and
5
6 b. Submit all exhibits to the court and to Respondent no later than ten days prior to the hearing.
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25

26 (Required for verified pleading) The items on this page stated on information and belief are (specify item numbers, not line
numbers):

27 This page may be used with any Judicial Council form or any other paper filed with the court.

Page _____

25a
APPENDIX E

**DEPARTMENT 76 LONG CAUSE AND TRIAL POLICIES
JUDGE CHRISTOPHER RUDY**

For all matters set for a long cause hearing or trial in Department 76, the parties are required to comply with all applicable current California Rules of Court, and the Santa Clara County Superior Court Local Rules of Court.

The Court expects the parties and counsel to continually meet and confer in advance of and during the hearing, to attempt to resolve, narrow or limit the issues, and to streamline the procedure.

The Court shall be promptly notified of any complete or partial settlement, revised time estimates, scheduling issues, or any other matters which may affect the conduct and timing of the hearing.

(1) PRE-TRIAL REQUIREMENTS

a. **Meet and Confer Requirement:** Prior to any mandatory settlement conference and scheduled trial or long cause hearing, attorneys or self-represented parties shall meet and confer to discuss and exchange trial exhibits and discuss the issues below. All parties and counsel are expected to make a good faith effort to resolve all issues, as required by California Rule of Court 5.98. The parties do not have to meet and confer if both parties are self-represented and there is a restraining order preventing contact between them.

i. The names of witnesses expected to be called at the hearing, (including expert witnesses), with the exception of rebuttal witnesses, any scheduling problems with any witness, and any witness testimony to be presented by offer of proof;

ii. Each party's list of exhibits, except rebuttal exhibits. Exhibit lists and copies of all exhibits to be used at trial shall be exchanged no later than the deadline for serving the Trial Brief;

iii. Objections to witnesses and exhibits; including any objections to proceeding by offer of proof; and

iv. Any proposed stipulations, including stipulating to the admission of exhibits or reports.

b. **Trial Brief:** The parties shall file and serve a Trial Brief in full compliance with California Rule of Court 5.394, which is set forth below:

Rule 5.394. Trial or hearing brief

(a) Contents of brief

For cases in which the judge orders each party to complete a trial or hearing brief or other pleading, the contents of the brief must include at least:

(1) The statistical facts and any disputes about the statistical facts. Statistical facts that may apply to the case could include:

- (A) Date of the marriage or domestic partnership;
- (B) Date of separation;
- (C) Length of marriage or domestic partnership in years and months; and
- (D) Names and ages of the parties' minor children;

(2) A brief summary of the case;

(3) A statement of any issues that need to be resolved at trial;

(4) A brief statement summarizing the contents of any appraisal or expert report to be offered at trial;

(5) A list of the witnesses to be called at trial and a brief description of the anticipated testimony of each witness, as well as name, business address, and statement of qualifications of any expert witness;

(6) Any legal arguments on which a party intends to rely; and

(7) Any other matters determined by the judge to be necessary and provided to the parties in writing.

(b) Service of brief

The parties must serve the trial or hearing brief on all parties and file the brief with the court a minimum of 5 court days before the trial or long-cause hearing.

Rule 5.394. adopted effective January 1, 2013.

The Trial Brief shall also include:

- i. An updated time estimate for the hearing;
- ii. Any stipulations that have been reached;
- iii. A list of any pretrial motions or motions in limine.

Any pretrial motions or motions in limine shall be submitted with the Trial Brief.

(2) TRIAL PROCEDURE

a. **Documents:** Documentary evidence should be offered by stipulation, to avoid the need for foundational witnesses. Parties shall provide to the clerk, on the day of trial before the case is called, three copies of a list of exhibits and three copies of each exhibit, with the exception of impeachment exhibits: one for the trial judge, one for the other party, and one to be marked at the trial or hearing. (*Please note for Department 76: the use of trial exhibit binders is strongly encouraged.*)

b. **Interpreters:** The party calling any witness needing an interpreter shall arrange in advance for the interpreter and shall pay his or her compensation.

c. **Failure to Appear:** If a party fails to appear at the trial or long cause hearing, the Court may take the matter off calendar, proceed in the absence of the party, or impose other sanctions.

d. **Trial Time Estimates:** The Family Law Division sets trials and long cause hearings based on the parties' reasonable time estimates. The time estimates will be strictly

27a

enforced, and failure to complete in time may result in a mistrial whenever the Court's calendar will be adversely affected by allowing excess time.

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APPENDIX F

1 COURT OF APPEAL OF THE STATE OF CALIFORNIA
2 IN AND FOR THE SIXTH APPELLATE DISTRICT
3

4 FIDA MHANNA,) Santa Clara County No.
5 Plaintiff-Respondent,) 2013-6-FL-010520
6 vs.) Appeal No. H045078
7 GHASSAN HAGE) Volume No. 1
8 Defendant-Appellant.) Pages 1 through 31/300
9

10
11 REPORTER'S TRANSCRIPT ON APPEAL
12 FROM THE JUDGMENT OF THE SUPERIOR COURT
13 OF THE STATE OF CALIFORNIA
14 IN AND FOR THE COUNTY OF SANTA CLARA

15 HONORABLE CHRISTOPHER G. RUDY, JUDGE

16
17 May 15, 2017

18 APPEARANCES:

19 FOR APPELLANT:

20 Ghassan Hage
21 2054 Montecito Avenue #10
22 Mountain View, CA 94043

23 FOR RESPONDENT:

24 David Alexander Yomtov, Attorney at Law
25 111 North Market Street, Suite 700
26 San Jose, CA 95113

27
28 Official Court Reporter: Tina M. White, CSR
29 License No. 9141

----oo---

1 THE COURT: And does your client enter a plea of
2 not guilty?

3 MR. YOMTOV: She enters a plea of not guilty,
4 Your Honor.

5 THE COURT: All right, the arraignment has been
6 taken care of. That matter can be set. What I'd like to
7 do is I believe we have -- wait while I click to the right
8 screen here.

9 MR. YOMTOV: We're set on June 6, Your Honor,
10 for vexatious litigant hearing. That's an all day matter.
11 We might be able to get a start with this at the end of
12 those proceedings.

13 MR. HAGE: I don't think so, Your Honor, because
14 the vexatious litigant needs at least one day and a half,
15 and you have said at that time that you will continue it,
16 so we need additional different day for this matter. At
17 least four hours, four to five hours.

18 MR. YOMTOV: Well, considering that every one of
19 the allegations in my humble opinion is based upon hearsay,
20 I think that it's going to go a lot faster than Respondent
21 expects. Plus I have to -- I can't stress this enough,
22 that this is extremely abusive. We have been in court,
23 there's not been a month that we have not been in court on
24 a motion filed by Mr. Hage.

25 MR. HAGE: Mr. Yomtov has committed perjury in
26 this court with his client.

27 THE COURT: Mr. Hage and Mr. Yomtov, I just want
28 to maintain a little bit of --

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APPENDIX G

1 COURT OF APPEAL OF THE STATE OF CALIFORNIA
2 IN AND FOR THE SIXTH APPELLATE DISTRICT
3

4 FIDA MHANNA,) Santa Clara County No.
5 Plaintiff-Respondent,) 2013-6-FL-010520
6 vs.) Appeal No. H045077
7 GHASSAN HAGE) Volume No. 3
8 Defendant-Appellant.) Pages 601 through 825/900
9

10
11 REPORTER'S TRANSCRIPT ON APPEAL
12 FROM THE JUDGMENT OF THE SUPERIOR COURT
13 OF THE STATE OF CALIFORNIA
14 IN AND FOR THE COUNTY OF SANTA CLARA

15 HONORABLE CHRISTOPHER G. RUDY, JUDGE

16
17 June 22, 2017

18 APPEARANCES:

19 FOR APPELLANT:

20 Ghassan Hage
21 2054 Montecito Avenue #10
22 Mountain View, CA 94043

23 FOR RESPONDENT:

24 David Alexander Yomtov, Attorney at Law
25 111 North Market Street, Suite 700
26 San Jose, CA 95113

27 Official Court Reporter: Tina M. White, CSR
28 License No. 9141

29
30 ---oo---

1 Mr. Yomtov and the Petitioner, denied that I petition her
2 for her immigration. She signed the papers, she signed
3 everything in the front of the lawyer. I provide all this
4 information in July 2015. I asked the Court to issue a
5 subpoena to bring Mr. Kennedy to the Court. He didn't show
6 up. I want him only to say that I am honest. I have a
7 documents to prove this is perjury, and also this is one of
8 the perjury that the Civil Court has this in the
9 proceeding.

10 Your Honor, it's hard, it's hard for a man who has
11 to take care of children, being a responsible team leader
12 as an engineer and work days and night, and being able to
13 follow up on all those thing with Mr. Yomtov in Civil
14 Court, Family Court, State Bar of California, Small Claim.
15 And I will leave it to you, Your Honor, after going into
16 all those exhibits to show you some of the items.

17 It took 12, 14 months for the Judge Grilli to
18 validate what I'm saying. I filed motions, so when we
19 start the trial if you want to wish to proceed on this
20 trial, you're going to see evidence that prove every word
21 that I'm saying is correct. This is not only this. This
22 is why I ask you, Your Honor, it's a long cause, it's going
23 to be three days. But Your Honor, you said we'll do one
24 day and then we'll continue, and I accept all this. So --

25 THE COURT: All right, thank you.

26 Mr. Yomtov, are you ready to proceed?

27 MR. YOMTOV: I am, Your Honor.

28 THE COURT: Okay.

1 the 2/26 hearing, if you see the item, item number 1 from
2 the binder of Mr. Yomtov, there was a Court order listing
3 several items in it. Which is like travel, take the
4 children traveling, and also Father shall switch custody of
5 days was not to accommodate her taking a parenting class
6 because we had a Court order in 2014 for the Petitioner to
7 take a parenting class. Six months, six months --

8 THE COURT: I'm sorry, I didn't watch the clock.
9 It's gone to 12:01, we have to take our afternoon break.
10 Sorry about that, Mr. Hage.

11 MR. HAGE: I understand.

12 THE COURT: I didn't mean to interrupt you
13 there. But I'd like you to save your place so you know
14 where you left off. We're coming back at 1:30. So we'll
15 be in recess until then.

16 Mr. Yomtov, if you would over the lunch hour take a
17 look at Mr. Hage's exhibits and get an idea of what you
18 thought you'd object to admitting so the Court can
19 determine whether or not -- I'm not asking you to meet and
20 confer with Mr. Hage, I'm just asking you to have in mind
21 what objections you might have to some of these exhibits,
22 okay?

23 MR. YOMTOV: I'll do that.

24 MR. HAGE: I want to also ask the Court to keep
25 in mind that this will need to be continued because there
26 are items to --

27 THE COURT: This case is not going to be
28 continued. We're hearing this case today. You have until

1 4:45 today. So we'll be back at 1:30. That's why I'm
2 asking Mr. Yomtov to take a look at these exhibits so we
3 can streamline things if there's any rulings the Court's
4 going to have to make. All right, we're in recess now.

5 (Whereupon, Court recessed until 1:30 p.m. of the
6 same day.)

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1 Department because the incident happened in San Francisco.

2 THE COURT: Okay.

3 MR. HAGE: And they told me you have --

4 THE COURT: Mr. --

5 MR. HAGE: -- request an order from the Court.

6 When I went to the Court and file a motion they say we
7 cannot give it to you, and then this is why I left not
8 knowing what to do on this. But as a father I have the
9 right to protect our daughter. If our daughters say we're
10 abused, and we don't want to go to Los Angeles to see the
11 mother's sibling, so what should I do? Should I leave my
12 rights as a father? No, of course not. And this is why
13 I'm here. I'm here for the kids, I'm not here for myself.

14 Your Honor, to answer your question, Mr. Yomtov gave
15 me two binders. He gave me two binders now. If you're
16 asking me to go into one by one for him, I will do it later
17 after finishing my stuff. But you have a Court rule that I
18 got -- he has to provide me five days before the trial of
19 the exhibits that he wants to provide. Did he do it? No.
20 He gave it to me right now. And you're asking me now to do
21 it, to do it right away. And this --

22 THE COURT: Okay. So, so, Mr. Hage, the time
23 for you to tell the Court that you had an objection to any
24 of Mr. Yomtov's exhibits was at 9:00 o'clock this morning
25 when the Court sat down with these binders and we started
26 this case. You didn't say a word about that.

27 MR. HAGE: I'm positive, Your Honor, we want to
28 move in this, so --

1 THE COURT: I'm just saying if you had an
2 objection to Mr. Yomtov's exhibits -- and by the way, all
3 of his exhibits are just the Court file.

4 MR. HAGE: But I have to go and search for all
5 my list, and I did it through the -- during the lunch time.
6 I was quickly --

7 THE COURT: All right, Mr. Hage, I'll let you do
8 what you want. I was trying to help you go through each of
9 Mr. Yomtov's allegations against you so that you could
10 address them and refute them, but I'm going to let you do
11 whatever it is you think you need to do to convince this
12 Court that this motion shouldn't be granted. And I would
13 just like you to tell me in advance before you talk about
14 something what the exhibit is and we'll have it marked and
15 we'll just proceed from there.

16 MR. HAGE: Thank you, Your Honor.

17 THE COURT: Okay. All right, we have marked
18 three exhibits so far. We've marked B, C, and D.

19 MR. YOMTOV: No objection.

20 THE COURT: All right. Your next exhibit,
21 Mr. Hage?

22 MR. HAGE: Yes. Also there was no response from
23 Mr. Yomtov --

24 THE COURT: I'm sorry, what's the exhibit you're
25 looking at?

26 MR. HAGE: Yeah, now I'm Exhibit E.

27 THE COURT: All right. So you're looking at
28 Exhibit E.

APPENDIX H

APP-002

ATTORNEY OR PARTY WITHOUT ATTORNEY: NAME: GHASSAN HAGE FIRM NAME: STREET ADDRESS: 2054 MONTECITO AVENUE #10 CITY: MOUNTAIN VIEW TELEPHONE NO.: 650-5806274 E-MAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NO.: STATE: CA ZIP CODE: 94043 FAX NO.:	FOR COURT USE ONLY ENDORSED 2017 AUG 25 A 8:54 CLERK OF THE COURT SUPERIOR COURT OF CA COUNTY OF SANTA CLARA BY Sara Batrez DEPUTY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA STREET ADDRESS: 201 N. FIRST STREET MAILING ADDRESS: 191 N. FIRST STREET CITY AND ZIP CODE: SAN JOSE, CA, 95113 BRANCH NAME: FAMILY JUSTICE CENTER (FAMILY DIVISION)		
PLAINTIFF/PETITIONER: FIDA MHANNA DEFENDANT/RESPONDENT: GHASSAN HAGE		
<input checked="" type="checkbox"/> NOTICE OF APPEAL <input type="checkbox"/> CROSS-APPEAL (UNLIMITED CIVIL CASE)		CASE NUMBER: 20136 - FL-010520

Notice: Please read *Information on Appeal Procedures for Unlimited Civil Cases* (Judicial Council form APP-001) before completing this form. This form must be filed in the superior court, not in the Court of Appeal. A copy of this form must also be served on the other party or parties to this appeal. You may use an applicable Judicial Council form (such as APP-009 or APP-009E) for the proof of service. When this document has been completed and a copy served, the original may then be filed with the court with proof of service.

1. NOTICE IS HEREBY GIVEN that (name): GHASSAN HAGE

appeals from the following judgment or order in this case, which was entered on (date): 8/1/17 Order of Vexatious Litigant

- Judgment after jury trial
- Judgment after court trial
- Default judgment
- Judgment after an order granting a summary judgment motion
- Judgment of dismissal under Code of Civil Procedure, §§ 581d, 583.250, 583.360, or 583.430
- Judgment of dismissal after an order sustaining a demurrer
- An order after judgment under Code of Civil Procedure, § 904.1(a)(2)
- An order or judgment under Code of Civil Procedure, § 904.1(a)(3)-(13)
- Other CCP 657. The presiding Judge has violated a court order filed on 07/12/16 by a prior Judge (on retirement) who said "Submit all Exhibits to the court and to Respondent (Rsp) no later than ten days prior to the hearing. 34 Exhibits were submitted by petitioner's attorney to Rsp and to court on the morning of the trial in the Courtroom. Rsp objected to the Judge and

2. For cross-appeals only. requested 3 times to continue the trial but the Judge refused. Violation of Rsp's right. Violation of Judicial Code of Ethics.

- a. Date notice of appeal was filed in original appeal:
- b. Date superior court clerk mailed notice of original appeal:
- c. Court of Appeal case number (if known):

Irregularity in the proceedings of the court, abuse of discretion by which Respondent was prevented from having a pretrial rights, rights during the trial and post-trial rights. Judge Knowing the notice of unavailability of Respondent between 7/15/17 and 8/15/17 has delayed filing the order until when Respondent was unavailable to prevent him filing motion of reconsideration.

Date: August 25, 2017

GHASSAN HAGE

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY)

37a
APPENDIX I

1

1 COURT OF APPEAL OF THE STATE OF CALIFORNIA
2 IN AND FOR THE SIXTH APPELLATE DISTRICT

3
4
5 GHASSAN HAGE,)
6 PLAINTIFF/APPELLANT,) CASE NO.
7 VS.) 2013-6-FL-010520
8 FIDA MHANNA,) June 6, 2016
9 DEFENDANTS/RESPONDENTS.
10
11

12 APPEAL TO THE COURT OF APPEAL
13 FROM THE SUPERIOR COURT OF SANTA CLARA COUNTY
14 HON. MARY ANN GRILLI, JUDGE PRESIDING DEPT. 83
15

16 **VOLUME I**

17 Pages 1-300
18

19 APPEARANCES:

20 FOR THE PLAINTIFF/ GHASSAN HAGE
21 APPELLANT: IN PROPRIA PERSONA
22 FOR THE DEFENDANT/ DAVID YOMTOV
23 RESPONDENT: ATTORNEY AT LAW
24

25 STEPHANIE ESTES, CSR NO. 12452
26 OFFICIAL REPORTER
27
28

1 INDEX OF WITNESSES
2
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4 PETITIONER'S
5 WITNESSES: DIRECT CROSS REDIR. RECR.
6 GHASSAN HAGE 54-55
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11 INDEX OF EXHIBITS
12
13 PETITIONER'S
14 EXHIBITS: IDENTIFIED EVIDENCE
15 No. 1 two page document 10 11
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1 Hage's post --

2 THE COURT: So, have you given that to the clerk?

3 MR. YOMTOV: I have.

4 THE COURT: Okay.

5 MR. YOMTOV: And I ask that be marked Petitioner's
6 1.

7 THE COURT: All right. The document, which
8 appears to be a two page document, is going to be marked
9 for identification as Petitioner's Exhibit 1.

10 (Petitioner's Exhibit No. 1 was marked
11 for identification.)

12 MR. YOMTOV: And this is a demonstrative exhibit.
13 I ask the Court to take -- to review that for Court's
14 convenience as we go through --

15 THE COURT: Well, hang on a sec. Counsel, until
16 this is admitted it's not something I'm going to be able
17 to look at.

18 MR. YOMTOV: Well --

19 THE COURT: And you could lay the foundation and
20 you can do it that way.

21 MR. YOMTOV: The foundation is that this is
22 spreadsheet that is -- it indicates the various motions --

23 THE COURT: Who prepared it?

24 MR. YOMTOV: -- that Mr. Hage has filed --

25 THE COURT: No. Who prepared this?

26 MR. YOMTOV: I prepared this motion --

27 THE COURT: Okay.

28 MR. YOMTOV: -- after reviewing the voluminous

1 files --

2 THE COURT: Okay, hang on a sec.

3 Mr. Hage, are you objecting to this exhibit?

4 THE RESPONDENT: I didn't read it. I mean he just
5 drop it in front of me. I haven't had a chance to read
6 what is in it.

7 THE COURT: Okay. So, what we're going to do here
8 is I'm going to have the document admitted subject to a
9 motion to strike or other appropriate motion.

10 (Petitioner's Exhibit No. 1, previously marked for
11 identification, was received in evidence.)

12 THE COURT: And, counsel, are you asking to
13 proceed by offer of proof? How are you suggesting we
14 proceed?

15 MR. YOMTOV: Exactly, Your Honor. I don't believe
16 that this is a testimony centered type of motion.

17 THE COURT: Well, I would tell you that you may
18 need a hearing on some issues. Because it is your
19 obligation and that of your client to prove up the issues
20 that constitute a vexatious litigant finding.

21 MR. YOMTOV: Well, Your Honor, when I review
22 section 391 of the Civil Code it appears to me that --

23 THE COURT: Civil or Code of Civil Procedure?

24 MR. YOMTOV: I'm sorry?

25 THE COURT: CCP?

26 MR. YOMTOV: Yes, 3391 (SIC).

27 THE COURT: I think it's 391 --

28 MR. YOMTOV: Yes.

1 Odyssey system is -- is not going so smoothly from our
2 perspective.

3 THE COURT: So, Mr. Hage, what's your position on
4 whether or not we should continue this or require them to
5 refile?

6 THE RESPONDENT: Whatever you decide, Your Honor.
7 I object on -- on -- I object to continue it because
8 there's no reason to continue it. There's no information.
9 And I'm saying this is wrong. We stated for the first
10 one, Your Honor. There's some information I know and then
11 -- go in the number -- number 6 or 21 that Mr. Yomtov
12 is -- so, continuing is not my -- I don't accept it.

13 THE COURT: Don't accept what?

14 THE RESPONDENT: Continuing this.

15 THE COURT: Okay, here's what we're going to do,
16 with all due respect to everybody, I think this motion
17 needs to be refiled. So, I'll vacate the trial on this
18 motion without prejudice to your refiling. In the event
19 you elect to refile it will be a long cause matter, please
20 indicate that on the pleadings.

21 And reluctantly I say this, I want copies of any
22 documents that you intend to rely upon in that motion
23 attached or provided to the Court as exhibits and to Mr.
24 Hage as exhibits at least ten days in advance, ten court
25 days in advance, of the continued hearing. And --

26 MR. YOMTOV: And the exhibits to be provided to
27 the courtroom, Your Honor?

28 THE COURT: Yes, you can provide them either by

1 filing them as attachments to the motion --

2 MR. YOMTOV: I would not do that.

3 THE COURT: -- or as exhibits.

4 MR. YOMTOV: It would be far too much to give to
5 the file clerk.

6 THE COURT: So, then we'll do it as exhibits, but
7 at least ten calendar days before or court days, I'm
8 sorry.

9 MR. YOMTOV: And I want to indicate, Your Honor --

10 THE COURT: You'll need to resubmit the proposed
11 exhibits.

12 MR. YOMTOV: I will do that.

13 And I want to indicate two things. First of all,
14 the motion is not intended to live or die on this one
15 exhibit. This is just to make ease of understanding.

16 THE COURT: Well, counsel, I think for you to
17 proceed on a vexatious litigant motion at the very least I
18 need to see the paperwork that is the order that you're
19 seeking to, as part, to declare him vexatious.

20 MR. YOMTOV: Right. And, again, I'm suffering
21 from my own limitations here. I've brought a lot of
22 orders following motions to prove that they were denied
23 for lack of merit.

24 THE COURT: And again --

25 THE RESPONDENT: Objection.

26 THE COURT: -- you need to have those as exhibits

27 --

28 THE RESPONDENT: Objection, Your Honor.

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SUPERIOR COURT OF CALIFORNIA

COUNTY OF SANTA CLARA

In re the Marriage of
FIDA VOLTOV,
Petitioner,
and
CHRISTIAN HAAS,
Respondent.

Case No. 6-13-FL-010520

16 Petitioner's Exhibits
17 2 of 2
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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA
Case No. 6-13-FL-010520
12A MILBURN,
REED
Att.
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Petitioner's Exhibits

1 of 2