

NO.

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IN THE SUPREME COURT OF THE UNITED STATES

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WAYNE R. REINER

PETITIONER

V.

COX COMMUNICATIONS CALIFORNIA LLC Inc.

RESPONDENT

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APPENDIX TO THE PETITION FOR A WRIT OF CERTIORARI

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WAYNE R. REINER

*Petitioner*

4301 Jamboree Road #245

Newport Beach, Ca 92660

808 936 5035

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APR 28 2021

Court of Appeal, Fourth Appellate District, Division Three - No. G058487

Jorge Navarrete Cle

S267377

Deputy

**IN THE SUPREME COURT OF CALIFORNIA**

**En Banc**

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WAYNE R. REINER, Plaintiff and Appellant,

v.

COX COMMUNICATIONS CALIFORNIA, LLC, Defendant and Respondent.

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The petition for review is denied.

CANTIL-SAKAUYE

*Chief Justice*

**APPENDIX A**

①

**NOT TO BE PUBLISHED IN OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION THREE

WAYNE R. REINER,

Plaintiff and Appellant,

v.

COX COMMUNICATIONS  
CALIFORNIA, LLC,

Defendant and Respondent.

G058487

(Super. Ct. No. 30-2019-01063705)

OPINION

Appeal from an order of the Superior Court of Orange County, Layne H. Melzer, Judge. Affirmed. Motion to Augment. Granted. Request for Judicial Notice. Denied.

Wayne R. Reiner, in pro. per., for Plaintiff and Appellant.

Coblentz Patch Duffy & Bass, Richard P. Patch and Philip D.W. Miller for  
Defendant and Respondent.

\* \* \*

APPENDIX B

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## INTRODUCTION

Plaintiff Wayne R. Reiner appeals from the prefiling order issued against him after the trial court found him to be a vexatious litigant under Code of Civil Procedure section 391, subdivision (b)(1). (All further statutory references are to the Code of Civil Procedure.) Reiner contends he did not meet section 391, subdivision (b)(1)'s vexatious litigant definition because he had not commenced, prosecuted, or maintained, in propria persona, at least five "litigations" that were determined adversely to him.

We affirm. Substantial evidence shows Reiner commenced at least 10 actions that qualify as litigations under section 391, subdivision (b)(1); the court did not err by finding Reiner a vexatious litigant and issuing the prefiling order accordingly.

## FACTS AND PROCEDURAL HISTORY

Defendant Cox Communications California, LLC (Cox) filed a motion in the trial court seeking an order declaring Reiner a vexatious litigant, a vexatious litigant prefiling order, and an order requiring Reiner to post a bond in the lawsuit Reiner filed against it. Cox filed a request for judicial notice identifying 16 litigations filed by Reiner that it contended had been adversely decided against him. Reiner opposed the motion.<sup>1</sup>

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<sup>1</sup> The clerk's transcript does not contain (1) any pleading filed by Reiner in this action; (2) any of Cox's moving papers seeking an order declaring Reiner a vexatious litigant, a prefiling order, and an order requiring Reiner to post a bond; (3) Cox's request for judicial notice in support of its motion; or (4) Reiner's oppositions to Cox's motion and Cox's request for judicial notice.

Cox filed a motion to augment the appellate record with its request for judicial notice filed in support of its motion for a prefiling order and order to require Reiner to post a bond. Reiner opposed the motion to augment. Augmentation is proper because the request for judicial notice was filed before the hearing on the motion for a prefiling order and could have been included in the clerk's transcript. (Cal. Rules of Court, rules 8.122(a), (b)(3)(A), 8.155(a)(1)(A).) We grant the motion and deem the exhibits attached to the motion to augment to be in the clerk's transcript.

On September 13, 2019, the trial court issued a prefiling order under section 391.7, having found Reiner qualified as a vexatious litigant. The trial court denied Cox's motion seeking an order requiring Reiner to post a bond under section 391.3.

In its minute order setting forth its ruling on the motion, the trial court stated: "[Cox] contends [Reiner] falls within the statutory definition of a vexatious litigant because he 'has commenced sixteen cases in *pro per* that have been finally determined adversely to him (apart from approximately 30 small claim cases).'" The court continued: "The judicially-noticed matters confirm that, within the 'immediately preceding seven-year period,' [Reiner] 'has commenced, prosecuted, or maintained in propria persona at least five litigations,' other than in a small claims court, which 'have been finally determined adversely to [him]' within the meaning of [section 391]. These cases include, but are not limited to, case numbers: 30-2016-00877358; 30-2016-00874725; 30-2016-00884386; 30-2017-00899959; 30-2017-00901550; 30-2017-00932838; . . . 30-2018-00979988; 30-2018-00983950; 30-2018-00989229; and 30-2018-01005671. [¶] As such, [Reiner] falls within the statutory definition of a vexatious litigant."

The trial court rejected Reiner's argument that there "has been no action adversely determined against [him]" because he has either accepted 'an apology', has a pending appeal (note: the appealed cases are not included above), or 'has obtained a monetary settlement to compensate[] his out of pocket expenses.'" Citing *Luckett v. Panos* (2008) 161 Cal.App.4th 77, 92 the trial court stated: "[T]he fact that some of the litigation which [plaintiff] has brought resulted in settlement proves nothing, because some defendants may have paid token amounts to make the litigation go away."

The court further explained its rationale for granting Cox's motion for a prefiling order because: "In the past three years, [Reiner] has brought, and voluntarily dismissed, well-above the statutory five case minimum to be a vexatious litigant."

Further, [Reiner] confirms he targets 'large corporate entities for their reputation.' Although [Reiner] believes he is simply 'standing up to the bullies,' the incredible number of actions he has brought (and dismissed), 'is nevertheless a burden on the target of the litigation and the judicial system.'"

The trial court thereafter issued a vexatious litigant prefiling order prohibiting Reiner, unless represented by counsel, from filing any new litigation in the courts of California without approval of the presiding justice or presiding judge of the court in which the action was to be filed.

On September 18, 2019, Reiner filed an application under section 391.8 for an order to vacate the prefiling order and remove him from the Judicial Council Vexatious Litigant list. The trial court denied the application.

Reiner appealed.

## DISCUSSION

### I.

#### OVERVIEW OF THE VEXATIOUS LITIGANT STATUTES AND STANDARD OF REVIEW

"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. . . . [¶] 'Vexatious litigant' is defined in section 391, subdivision (b) as 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. Section 391.1 provides that in any litigation pending in a California court, the defendant may move for an order requiring the plaintiff to furnish security on the ground

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the plaintiff is a vexatious litigant and has no reasonable probability of prevailing against the moving defendant.” (*Shalant v. Girardi* (2011) 51 Cal.4th 1164, 1169-1170.)

“In 1990, the Legislature enacted section 391.7 to provide the courts with an additional means to counter misuse of the system by vexatious litigants. 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. [Citation.] The presiding judge may also condition the filing of the litigation upon furnishing security as provided in section 391.3. (§ 391.7, subd. (b).)’ [Citation.] [¶] Section 391.7 did not displace the remedy provided in sections 391.1 to 391.6 for defendants in pending actions; by its terms it operates ‘[i]n addition to any other relief provided in this title . . . .’ (§ 391.7, subd. (a).) Rather, it added a powerful new tool designed ‘to preclude the initiation of meritless lawsuits and their attendant expenditures of time and costs.’” (*Shalant v. Girardi, supra*, 51 Cal.4th at p. 1170.)

““A court exercises its discretion in determining whether a person is a vexatious litigant. [Citation.] We uphold the court’s ruling if it is supported by substantial evidence. [Citations.] On appeal, we presume the order declaring a litigant vexatious is correct and [infer] findings necessary to support the judgment.” [Citation.] Questions of statutory interpretation, however, we review de novo.” (*Fink v. Shemtov* (2010) 180 Cal.App.4th 1160, 1169 (*Fink*).)

## II.

### SUBSTANTIAL EVIDENCE SUPPORTS THE TRIAL COURT’S FINDING REINER IS A VEXATIOUS LITIGANT.

Section 391, subdivision (b) provides four alternative definitions of a vexatious litigant. (*Fink, supra*, 180 Cal.App.4th at pp. 1169-1170.) Here, the trial court found applicable section 391, subdivision (b)(1) which provides a vexatious litigant is one who “[i]n the immediately preceding seven-year period has commenced, prosecuted,

(6)

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 or (ii) unjustifiably permitted to remain pending at least two years without having been brought to trial or hearing.”

Reiner does not challenge the court’s finding that he commenced, prosecuted, or maintained the 10 litigations cited in the court’s minute order within the statutorily prescribed time frame and he acknowledges that all 10 litigations were dismissed by the trial court. He solely challenges the finding that the dismissals entered in five of those 10 litigations qualified as having been adversely determined against him within the meaning of section 391, subdivision (b)(1).

In *Tokerud v. Capitolbank Sacramento* (1995) 38 Cal.App.4th 775, 779-780 (*Tokerud*), the appellate court addressed whether an action that has been dismissed qualifies as a litigation under the vexatious litigant statutory scheme. The court explained: “Plaintiff’s contention a voluntarily dismissed action cannot be counted for purposes of the vexatious litigant statute is contrary to the underlying intent of that legislation. ‘The vexatious litigant statutes were enacted to require a person found a vexatious litigant to put up security for the reasonable expenses of a defendant who becomes the target of one of these obsessive and persistent litigants whose conduct can cause serious financial results to the unfortunate object of his attack.’ [Citation.] ‘The constant suer for himself becomes a serious problem to others than the defendant he dogs. By clogging court calendars, he causes real detriment to those who have legitimate controversies to be determined and to the tax payers who must provide the courts.’” (*Id.* at p. 779.)

The appellate court in *Tokerud, supra*, 38 Cal.App.4th at page 779 further stated: “An action which is ultimately dismissed by the plaintiff, with or without prejudice, is nevertheless a burden on the target of the litigation and the judicial system, albeit less of a burden than if the matter had proceeded to trial. A party who repeatedly

files baseless actions only to dismiss them is no less vexatious than the party who follows the actions through to completion. The difference is one of degree, not kind. [¶] In the comparable context of a malicious prosecution action, a voluntary, unilateral dismissal of the underlying dispute is generally considered a termination in favor of the defendant."

Here, Cox showed at least 10 litigations were dismissed and thus qualify as litigations determined adversely to Reiner. Substantial evidence therefore supported the trial court's prefiling order.

In his appellate opening brief, Reiner argues that in each of those 10 litigations, dismissal was entered because Reiner succeeded in obtaining a settlement and/or an apology from the defendant. He cites *Tokerud* for the proposition: "Only where the dismissal leaves some doubt regarding the defendant's liability, as where the dismissal is part of a negotiated settlement, will the dismissal not be deemed a termination favorable to the defendant." (*Tokerud, supra*, 38 Cal.App.4th at pp. 779-780.)

We disagree with Reiner, as did the trial court, that the extraction of a settlement in a lawsuit which leads to dismissal automatically exempts that litigation from counting as a qualifying litigation under the vexatious litigant law. As pointed out in *Lockett v. Panos, supra*, 161 Cal.App.4th at page 92, "the fact that some of the litigation which [the plaintiff] has brought resulted in settlement proves nothing, because some defendants may have paid token amounts to make the litigation go away—[the plaintiff] himself acknowledged that very fact at oral argument—or [the plaintiff] may have dismissed it as part of a settlement. Indeed, one legal commentator notes that settling suits brought by vexatious litigants has the effect of preventing judges *later on* from realizing just how frivolous those *earlier* suits might have been."

Here we do not reach the determination of whether any settlement leading to the dismissal of any of the litigations identified by the trial court constituted a token settlement by the defendant to make the litigation go away or a true negotiated settlement

based on potential liability because our record does not reflect the trial court had such information before it. "Generally, "when reviewing the correctness of a trial court's judgment, an appellate court will consider only matters which were part of the record at the time the judgment was entered." [Citation.] [Citations.] It is a fundamental principle of appellate law that our review of the trial court's decision must be based on the evidence before the court at the time it rendered its decision." (*California School Bds. Assn. v. State of California* (2011) 192 Cal.App.4th 770, 803.) Reiner has "not cited any exceptional circumstances that would justify a deviation from this rule in this appeal." (*Ibid.*)

Even if such information had been before the trial court, it is the appellant's burden to provide an adequate record to assess error and an appellant's failure to designate an adequate record on appeal warrants affirmance of the judgment. (*Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1140-1141.) As noted *ante* in footnote 1, the clerk's transcript does not include any of Cox's moving papers, or Reiner's opposing papers, much less show that *any* admissible evidence bearing on the merit of any of the 10 litigations identified by the trial court as qualifying litigations under the vexatious litigation statute was presented to the trial court in opposition to Cox's motion.<sup>2</sup> We

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<sup>2</sup> The clerk's transcript includes Reiner's form application for an order vacating the prefilng order under section 391.8. Attached to that application is Reiner's response to the prompt asking him to describe the material change in facts that had occurred since the prefilng order was issued and how the "ends of justice would be served by vacating the order" in which he discusses settlements he reached in various litigations. Reiner's response was not under penalty of perjury and, as it appears in the clerk's transcript, was not supported by any documentary evidence. In any event, the substance of his application was not before the trial court when it issued the prefilng order.

therefore do not consider Reiner's references to such purported evidence in his appellate briefs or the attachments to those briefs which he contends shows negotiated settlements of the subject litigations because, based on our record, such evidence was not before the trial court.<sup>3</sup>

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Reiner asserts that he submitted documentary evidence in support of his form application that was not included in the clerk's transcript. He asserts he was advised by a court clerk to "just attach" that evidence as exhibits. Attached to his appellate opening brief are documents identified as Exhibits B through G which appear to be parts of settlement agreements or correspondence referring to settlement agreements which are not included in the clerk's transcript. Even if those exhibits were properly before this court on appeal, Reiner admitted at oral argument that none of the exhibits had been presented to the trial court before it issued the prefilng order and are thus irrelevant to our review. Furthermore, the exhibits do not assist Reiner because they are unauthenticated and otherwise consist of such limited portions of settlement agreements that they do not show Reiner's underlying claims had sufficient merit to justify his adversaries from entering into anything other than token settlements with him.

<sup>3</sup> We deny Reiner's request filed on November 25, 2020 that we take judicial notice of (1) this court's two recent orders dismissing Reiner's appeals in other cases pursuant to the prefilng order issued in this case; and (2) this court's order in the instant case granting Reiner an extension of time to serve and file his appellate opening brief. The dismissal orders are irrelevant to the issues presented in this appeal, having necessarily been issued after the trial court issued the prefilng order in this case because they enforced it. The order granting Reiner an extension is already part of the appellate record in this case.

DISPOSITION

The order is affirmed. Respondent shall recover costs on appeal.

FYBEL, ACTING P. J.

WE CONCUR:

THOMPSON, J.

GOETHALS, J.

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SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF ORANGE  
CENTRAL JUSTICE CENTER

MINUTE ORDER

DATE: 09/05/2019

TIME: 02:00:00 PM

DEPT: C12

JUDICIAL OFFICER PRESIDING: Layne H. Melzer

CLERK: Lorena Mendez

REPORTER/ERM: None

BAILIFF/COURT ATTENDANT: Nestor Peraza

CASE NO: 30-2019-01063705-CU-BC-CJC CASE INIT DATE: 04/16/2019

CASE TITLE: Reiner vs. Cox Communications California LLC Inc.

CASE CATEGORY: Civil - Unlimited CASE TYPE: Breach of Contract/Warranty

EVENT ID/DOCUMENT ID: 73085285

EVENT TYPE: Motion - Other

MOVING PARTY: Cox Communications California LLC Inc.

CAUSAL DOCUMENT/DATE FILED: Motion - Other, 07/12/2019

EVENT ID/DOCUMENT ID: 73110230,108075141

EVENT TYPE: Case Management Conference

MOVING PARTY: Wayne R. Reiner

CAUSAL DOCUMENT/DATE FILED: Complaint, 04/16/2019

APPEARANCES

Wayne R. Reiner, self represented Plaintiff, present.

Philip DW. Miller, from Coblenz Patch Duffy & Bass LLP, present for Defendant(s) telephonically.

Tentative Ruling posted on the Internet .

The Court having fully considered the arguments of all parties, both written and oral, as well as the evidence presented, now confirms the tentative ruling as follows (*with the exception of the modifications*):

The motion by defendant Cox Communications California, LLC ("Defendant") for an order requiring plaintiff Wayne R. Reiner ("Plaintiff") to post a bond on the ground that Plaintiff is a vexatious litigant is granted in part and denied in part.

Defendant's request for entry of a "pre-filing order" under section 391.7 is granted. Defendant's request for Plaintiff to furnish security under section 391.3 is denied.

Defendant's request for judicial notice of Exhibits B through S is denied, because the copies of these exhibits filed by Defendant are illegible. Evid. Code § 453(b). However, the Court exercises its discretion to take judicial notices of the matters specified therein, i.e., the dockets sheets from this Court, in ruling on this motion. Evid. Code § 452(d); see also 1 Cal. Affirmative Def. § 13:3 (2d ed.) (collecting cases ("Judicial notice is an appropriate and economical means of establishing the relevant facts concerning the other litigation filed by the plaintiff when the motion is based on prior litigations.")).

Appendix B1

DATE: 09/05/2019

DEPT: C12

MINUTE ORDER

Page 1  
Calendar No

Plaintiff's request for judicial notice of an unrelated case against Defendant in San Diego Superior Court, which has no bearing on this motion, is denied. See *Gbur v. Cohen* (1979) 93 Cal.App.3d 296, 301 ("But judicial notice, since it is a substitute for proof, is always confined to those matters which are relevant to the issue at hand.").

#### Merits

Defendant contends Plaintiff falls within the statutory definition of a vexatious litigant because he "has commenced sixteen cases in *pro per* that have been finally determined adversely to him (apart from approximately 30 small claim cases)." (Mot. at 7.)

"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." *Shalant v. Girardi* (2011) 51 Cal.4th 1164, 1169.

CCP section 391 provides four definitions of a "vexatious litigation," including, a person who "[i]n 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 or (ii) unjustifiably permitted to remain pending at least two years without having been brought to trial or hearing." Code Civ. Proc. § 391(b)(1). A case has been "finally determined" when "all avenues for direct review have been exhausted." *Childs v. PaineWebber Incorporated* (1994) 29 Cal.App.4th 982, 992 (citation omitted).

Moreover, a plaintiff's voluntary dismissal may qualify as a "final determination of the action adverse to him." See *Tokerud v. Capitolbank Sacramento* (1995) 38 Cal.App.4th 775, 779 ("Plaintiff's contention a voluntarily dismissed action cannot be counted for purposes of the vexatious litigant statute is contrary to the underlying intent of that legislation.").

The judicially-noticed matters confirm that, within the "immediately preceding seven-year period," Plaintiff "has commenced, prosecuted, or maintained in propria persona at least five litigations," other than in a small claims court, which "have been finally determined adversely to [him]" within the meaning of the statute. These cases include, but are not limited to, case numbers: 30-2016-00877358; 30-2016-00874725; 30-2016-00884386; 30-2017-00899959; 30-2017-00901550; 30-2017-00932838; 30-2017-00932838; 30-2018-00979988; 30-2018-00983950; 30-2018-00989229; and 30-2018-01005671.

As such, Plaintiff falls within the statutory definition of a vexatious litigant.

Plaintiff contends that "there has been no action adversely determined against [him]" because he has either accepted "an apology", has a pending appeal (note: the appealed cases are not included above) or "has obtained a monetary settlement to compensate [sic] his out of pocket expenses." (Opp'n at 8) But, as noted by the appellate court, "the fact that some of the litigation which [plaintiff] has brought resulted in settlement proves nothing, because some defendants may have paid token amounts to make the litigation go away . . . or [plaintiff] may have dismissed it as part of a settlement. Indeed, one legal commentator notes that settling suits brought by vexatious litigants has the effect of preventing judges later on from realizing just how frivolous those earlier suits might have been." See *Lockett v. Panc* (2008) 161 Cal.App.4th 77, 92 (affirming denial of motion to lift a pre-filing order).

If a plaintiff is a vexatious litigant, the defendant has two remedies: (1) "move for an order requiring the plaintiff to furnish security on the ground the plaintiff is a vexatious litigant and has no reasonable



probability of prevailing against the moving defendant," or face dismissal; or, (2) move for an order 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." *In re Marriage of Rifkin & Carty* (2015) 234 Cal.App.4th 1339, 1345 (citing Code Civ. Proc. §§ 391.1, 391.7.) Defendant asks for both remedies.

The Court denies Defendant's request for an order to furnish security, because Defendant has not met its burden of showing that Plaintiff has "no reasonable probability of prevailing." Defendant has arguably met this standard as to the first cause of action for violation of the Cartwright Act and the sixth cause of action for Elder Abuse, but not with respect to the second, fourth and fifth causes of action. (The third and seventh causes of action have since been dismissed.)

Although the FAC is not a model of clarity, Plaintiff has sufficiently alleged facts that he contracted with Defendant for an "advertised rate," but was then charged an "additional \$19 per month." (FAC at ¶ 8.) His prior small claims action challenged Defendant's allegedly false advertising of rates for internet service, not cable service. (FAC at ¶ 6.) As for Plaintiff's fraud claims, the Court agrees they are not (currently) pled with the requisite particularity, but this defect is curable; thus, the Court cannot find Plaintiff has "no reasonable probability" of prevailing in this litigation.

Defendant's request for a "pre-filing order" is granted. As explained, above, the purpose of the vexatious litigant statutes is to "curb misuse of the court system" by "persistent and obsessive litigants." In the past three years, Plaintiff has brought, and voluntarily dismissed, well-above the statutory five case minimum to be a vexatious litigant. Further, Plaintiff confirms he targets "large corporate entities for their reputation." Although Plaintiff believes he is simply "standing up to the bullies," the incredible number of actions he has brought (and dismissed), "is nevertheless a burden on the target of the litigation and the judicial system." *Tokerud v. Capitolbank Sacramento* (1995) 38 Cal.App.4th 775, 779.

Defendant shall give notice of the ruling. Defendant shall submit the mandatory judicial council form, VL-100, for the prefiling order.

***Plaintiff dismisses the first cause of action for violation of the Cartwright Act and the sixth cause of action for Elder Abuse.***

***Plaintiff may amend the complaint although, the dismissal of the first and sixth causes of action eliminates the need to amend.***

***Defendant has 10 days to file a responsive pleading.***

**Case Management Conference continued to 10/18/2019 at 09:00 AM in this department.**

Court orders Clerk to give notice.

- 1 I have been determined to be a vexatious litigant and must obtain prior court approval to file any new litigation in which I am not represented by an attorney. Filing new litigation means (1) commencing any civil action or proceeding, or (2) filing any petition, application, or motion (except a discovery motion) under the Family or Probate Code.
- 2 I have attached to this request a copy of the document to be filed and I request approval from the presiding justice or presiding judge of the above court to file this document *(name of document)*  
PLAINTIFF FILED A NEW SMALL CLAIMS CASE AND REQUESTED PERMISSION AS A VEXATIOUS LITIGANT AND WAS DENIED
- 3 The new filing has merit because *(Provide a brief summary of the facts on which your claim is based; the harm you believe you have suffered or will suffer, and the remedy or resolution you are seeking)*  
PLAINTIFF PURCHASED A CHROME MOPED RAN FROM DEFENDANT WITHIN 30 DAYS THE CHROME RACK BEGAAN TO RUST AND DETERIORATE. THE RUST SPREAD TO PLAINTIFF'S MOPED
- 4 The new filing is not being filed to harass or to cause a delay because *(give reasons):*  
PLAINTIFF IS ASKING FOR A REFUD FOR A DEFECTIVE ITEM.

\_\_\_\_\_ declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date. JULY 13. 2020

WAYNE REINER

TYPE (OR PRINT) NAME:

## APPENDIX C

(SIGNATURE)

Page 1 of 1

Code of Civil Procedure § 391.7  
www.courts.ca.gov

Form Approved for General Use  
Federal Council of California

REQUEST TO FILE  
NEW LITIGATION BY VEXATIOUS LITIGANT

SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF ORANGE  
CENTRAL JUSTICE CENTER  
MINUTE ORDER

DATE: 07/07/2020

TIME: 02:22:00 PM

DEPT: C01

JUDICIAL OFFICER PRESIDING: Assistant Presiding Judge Erick L. Larsh

CLERK: L. Labrador

REPORTER/ERM: None

BAILIFF/COURT ATTENDANT:

CASE NO: 30-2020-01146975-CL-PT-CJC CASE INIT. DATE: 07/07/2020

CASE TITLE: **Reiner vs Airbnb Inc.**

CASE CATEGORY: Civil - Limited CASE TYPE: Petitions - Other

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EVENT ID/DOCUMENT ID: 73333357

EVENT TYPE: Chambers Work

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**APPEARANCES**

There are no appearances by any party.

The Court, having read and considered the Request to File New Litigation by Vexatious Litigant Wayne R. Reiner, now rules as follows:


Denied. The request does not meet the requirements of Section 391.7(b) of the *Code of Civil Procedure* – i.e., (1) have merit and (2) have not been filed for the purposes of harassment or delay.

The Request to Waive Court Fees is denied.

Court orders Clerk to give notice.

APENDIX D

(13)

ATTORNEY OR PARTY WITHOUT ATTORNEY		STATE BAR NUMBER	<b>FILED</b> SUPERIOR COURT OF CALIFORNIA COUNTY OF ORANGE CENTRAL JUSTICE CENTER  <b>JUL 06 2020</b>  DAVID H. YAMASAKI, Clerk of the Court  BY: <u></u> DEPUTY
NAME WAYNE REINER			
FIRM NAME			
STREET ADDRESS 1121 BACK BAY DRIVE #315			
CITY NEWPORT BEACH		STATE CA ZIP CODE 92660	
TELEPHONE NO 8089365-35		FAX NO	
E-MAIL ADDRESS			
ATTORNEY FOR (name)			
<input type="checkbox"/> COURT OF APPEAL, APPELLATE DISTRICT, DIVISION			
<input checked="" type="checkbox"/> SUPERIOR COURT OF CALIFORNIA, COUNTY OF			
STREET ADDRESS 700 CIVIC CENTER DRIVE			
MAILING ADDRESS			
CITY AND ZIP CODE SANTA ANA CA 92071			
BRANCH NAME			
PLAINTIFF/PETITIONER WAYNE REINER			
DEFENDANT/RESPONDENT AIRBNB INC ET AL			
OTHER			
<b>ORDER TO FILE</b> <b>NEW LITIGATION BY VEXATIOUS LITIGANT</b>			
Type of case: <input type="checkbox"/> Limited Civil		<input type="checkbox"/> Unlimited Civil	
<input type="checkbox"/> Family Law		<input type="checkbox"/> Probate	
		<input checked="" type="checkbox"/> Small Claims	
		<input type="checkbox"/> Other	
		CASE NUMBER	
		30-2626-01146975	

## ORDER

Approval to file the attached document is

- a. ☐ Granted
- b. ☒ Denied
- c. ☐ Other

☐ Attachment to order. Number of pages:

Date:

07/06/2020

APPENDIX E.

ASST. PRESIDING JUDGE OR JUSTICE

ERICK L. LARSEN

PH

ATTORNEY OR PARTY WITHOUT ATTORNEY		STATE BAR NUMBER	JUL 15 2020		FOR COURT USE ONLY
NAME WAYNE REINER					
FIRM NAME					
STREET ADDRESS 1121 BACK BAY DRIVE					
CITY NEWPORT BEACH		STATE CA	ZIP CODE 92660		
TELEPHONE NO		FAX NO			
E-MAIL ADDRESS					
ATTORNEY FOR (name):					
<input type="checkbox"/> COURT OF APPEAL,		APPELLATE DISTRICT, DIVISION			
<input checked="" type="checkbox"/> SUPERIOR COURT OF CALIFORNIA, COUNTY OF					
STREET ADDRESS 700 CIVIC CENTER WAY					
MAILING ADDRESS					
CITY AND ZIP CODE SANTA ANA CA 92701					
BRANCH NAME					
PLAINTIFF/PETITIONER WAYNE REINER					
DEFENDANT/RESPONDENT:					
OTHER:					
REQUEST TO FILE					
NEW LITIGATION BY VEXATIOUS LITIGANT					
Type of case	<input type="checkbox"/> Limited Civil	<input type="checkbox"/> Unlimited Civil	<input checked="" type="checkbox"/> Small Claims		
	<input type="checkbox"/> Family Law	<input type="checkbox"/> Probate	<input type="checkbox"/> Other		
			CASE NUMBER	30-2020-01149147	

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE  
CENTRAL JUSTICE CENTER

JUL 16 2020

DAVID H. YAMASAKI, Clerk of the Court

BY: [Signature] DEPUTY

- I have been determined to be a vexatious litigant and must obtain prior court approval to file any new litigation in which I am not represented by an attorney. Filing new litigation means (1) commencing any civil action or proceeding, or (2) filing any petition, application, or motion (except a discovery motion) under the Family or Probate Code
- I have attached to this request a copy of the document to be filed and I request approval from the presiding justice or presiding judge of the above court to file this document (name of document):  
PLAINTIFFS CLAIM AND ORDER TO GO TO CSMALL CLAIMS COURT
- The new filing has merit because (Provide a brief summary of the facts on which your claim is based. the harm you believe you have suffered or will suffer; and the remedy or resolution you are seeking).  
PLAINTIFF PURCHASED A CHROME MOPED RAND FROM DEFENDANT. WITHIN 30 DAYS THE CHROME RACK BEGAAN TO RUST AND DETERIORATE. THE RUST SPREAD TO PLAINTIFF'S MOPED
- The new filing is not being filed to harass or to cause a delay because (give reasons).  
PLAINTIFF IS ASKING FOR A REFUD FOR A DEFECTIVE ITEM.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct

Date JULY 11, 2020

WAYNE REINER

TYPE OR PRINT NAME

[Signature]  
(SIGNATURE)

APPENDIX F

NEW LITIGATION BY VEXATIOUS LITIGANT

P.15

SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF ORANGE  
CENTRAL JUSTICE CENTER

MINUTE ORDER

DATE: 07/16/2020

TIME: 04:15:00 PM

DEPT: C01

JUDICIAL OFFICER PRESIDING: Assistant Presiding Judge Erick L. Larsh

CLERK: L. Labrador

REPORTER/ERM: None

BAILIFF/COURT ATTENDANT:

CASE NO: 30-2020-01149147-SC-SC-CJC CASE INIT.DATE: 07/16/2020

CASE TITLE: Reiner vs. Amazon.com Services, Inc

CASE CATEGORY: Small Claims

CASE TYPE: Small Claims

EVENT ID/DOCUMENT ID: 73338129

EVENT TYPE: Chambers Work

APPEARANCES

There are no appearances by any party.

The Court, having read and considered the Request to File New Litigation by Vexatious Litigant , Wayne R. Reiner, now rules as follows:

Denied. The request does not meet the requirements of Section 391.7(b) of the *Code of Civil Procedure* - i.e., (1) have merit and (2) have not been filed for the purposes of harassment or delay.

In light of the ruling stated above, fee waiver is moot.

Court orders Clerk to give notice.

APPENDIX G

p16

ATTORNEY OR PARTY WITHOUT ATTORNEY		STATE BAR NUMBER	JUL 15 2020	FOR COURT USE ONLY
NAME WAYNE REINER				<p><b>FILED</b></p> <p>SUPERIOR COURT OF CALIFORNIA COUNTY OF ORANGE CENTRAL JUSTICE CENTER</p> <p>JUL 16 2020</p> <p>DAVID H. YAMASAKI, Clerk of the Court</p> <p>BY: <u>Jul</u> DEPUTY</p>
FIRM NAME				
STREET ADDRESS 1121 BACK BAY DRIVE UNIT 315				
CITY NEWPORT BEACH		STATE CA ZIP CODE 92660		
TELEPHONE NO 808 9365035		FAX NO		
E-MAIL ADDRESS				
ATTORNEY FOR (name)				
<input type="checkbox"/> COURT OF APPEAL, APPELLATE DISTRICT, DIVISION <input checked="" type="checkbox"/> SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE		STREET ADDRESS 700 CIVIC CENTER DRIVE		
MAILING ADDRESS		CITY AND ZIP CODE SANTA ANA, CA 92701		
BRANCH NAME				
PLAINTIFF/PETITIONER, WAYNE REINER				
DEFENDANT/RESPONDENT				
OTHER:				
<p align="center"><b>ORDER TO FILE</b></p> <p align="center"><b>NEW LITIGATION BY VEXATIOUS LITIGANT</b></p>				
Type of case: <input type="checkbox"/> Limited Civil <input type="checkbox"/> Unlimited Civil <input checked="" type="checkbox"/> Small Claims <input type="checkbox"/> Family Law <input type="checkbox"/> Probate <input type="checkbox"/> Other				
			CASE NUMBER 30-2020-01149147	

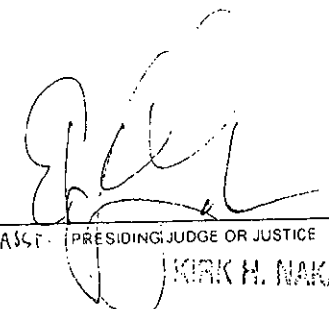
**ORDER**

Approval to file the attached document is:

- a. ☐ Granted
- b. ☒ Denied
- c. ☐ Other:

☐ Attachment to order Number of pages:

Date: 07-16-2020

  
 ASST. PRESIDING JUDGE OR JUSTICE  
 KIRK H. NAKAMURA  
 P17

**APPENDIX H**

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: WAYNE REINER FIRM NAME: STREET ADDRESS: 1121 back bay drive unit 315 CITY: Newport Beach STATE: ca ZIP CODE: 92660 TELEPHONE NO. 8089365035 FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name): self represented	FOR COURT USE ONLY
<input checked="" type="checkbox"/> COURT OF APPEAL, FOURTH APPELLATE DISTRICT, DIVISION THREE <input type="checkbox"/> SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: 501 W. SANT ANA BLVD MAILING ADDRESS: CITY AND ZIP CODE: Santa Ana CA 92701 BRANCH NAME:	
PLAINTIFF/PETITIONER: WAYNE REINER DEFENDANT/RESPONDENT: AMAZON SERVICES OTHER:	
<b>REQUEST TO FILE NEW LITIGATION BY VEXATIOUS LITIGANT</b>	
Type of case: <input type="checkbox"/> Limited Civil <input type="checkbox"/> Unlimited Civil <input checked="" type="checkbox"/> Small Claims <input type="checkbox"/> Family Law <input type="checkbox"/> Probate <input type="checkbox"/> Other	CASE NUMBER: 30-2020-01146975

1. I have been determined to be a vexatious litigant and must obtain prior court approval to file any new litigation in which I am not represented by an attorney. Filing new litigation means (1) commencing any civil action or proceeding, or (2) filing any petition, application, or motion (except a discovery motion) under the Family or Probate Code.
2. I have attached to this request a copy of the document to be filed and I request approval from the presiding justice or presiding judge of the above court to file this document (name of document):
3. The new filing has merit because (Provide a brief summary of the facts on which your claim is based; the harm you believe you have suffered or will suffer; and the remedy or resolution you are seeking):  
 APPELLANT MADE A RESERVATION WITH DEFENDANT ON APRIL 1, 2020. APPELLANT THEN CANCELLED THE RESERVATION THE SAME DAY. DEFENDANT REFUSED TO REFUND APPELLANTS RESERVATION AMOUNT.
4. The new filing is not being filed to harass or to cause a delay because (give reasons):  
 APPELLANT CANCELLED HIS RESERVATION WITHIN THE FULL REFUND TIME FRAME OF AIRBNB. INC

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: OCTONER 9, 2020

**APPENDIX I**

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(TYPE OR PRINT NAME)

(SIGNATURE)

Page 1 of 1



IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

WAYNE R. REINER,

Plaintiff and Appellant,

v.

AMAZON.COM SERVICES

Defendant and Respondent.

G059473

(Super. Ct. No. 30-2020-01149147)

O R D E R

Wayne R. Reiner is a vexatious litigant subject to a prefiling order. On September 21, 2020, Reiner filed a notice of appeal from the July 16, 2020 order of the assistant presiding judge of the superior court denying Reiner permission to file new litigation. Reiner must obtain permission to file this appeal in propria persona from the presiding justice of this court. Permission shall be granted only if the presiding justice determines that the proposed litigation has merit and is not being filed to harass or delay. (Code Civ. Proc., § 391.7, subd. (b).) The request shall demonstrate that the appeal has merit and is not being filed for purposes of harassment or delay. Reiner must support the request to file the appeal by providing "facts and legal authority telling the court with specificity why his appeal or petition has merit" (*In re R.H.* (2009) 170 Cal.App.4th 678, 708).

Reiner's notice of appeal was accompanied by his request to file this appeal, which states only that the assistant presiding judge of the superior court denied him permission to file a new small claims case seeking a refund for cancelled reservation.

An order of the superior court denying a request for permission to file a new litigation is not an appealable order. (See *Wolffgram v. Wells Fargo Bank* (1997) 53 Cal.App.4th 43, 61, fn. 11.) Additionally, Reiner has not demonstrated the proposed litigation has merit and is not being filed to harass or delay. Accordingly, permission to file or maintain the appeal is DENIED and the appeal is DISMISSED.

APPENDIX J

O'LEARY, P. J.

P19

COURT OF APPEAL - STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION THREE

WAYNE R. REINER,  
Plaintiff and Appellant,

v.

COX COMMUNICATIONS CALIFORNIA LLC INC.,  
Defendant and Respondent.

G058487

Sup. Ct. No.30-2019-01063705

REQUEST/WAIVER OF ORAL ARGUMENT

(Name of Party(s)) Wayne Reiner

☒ Appellant ☐ Respondent ☐ Petitioner ☐ Real Party

Name of Attorney who will be arguing, state bar number and e-mail address:  
(Please include secondary email address of assistant if applicable.)

Wayne Reiner  
Self Represented

The sequence of calendared appearances will be set according to time estimates indicated on the Request for Oral Argument.

☒ Requests Oral Argument ☐ Waives Oral Argument Time Estimate \_\_\_\_\_

Please list any dates you are unable to appear within the next 6 months. \_\_\_\_\_

Please indicate the case number(s) of any action in the Court of Appeal or Superior Court that would be considered a companion case to this action.

30-2019-01063705 30-2020-011  
49147-2

Dated: 1/1/20

(Signature)

(Print Name)

Address:

1111 1st St. N. # 315  
Chico, CA 95926

APPENDIX K

Please attach a proof of service indicating service on all parties.

P1820

1 W 23q4AYNE R. REINER  
1121 BACK BAY DRIVE #315  
2 NEWPORT BEACH, CA. 92660  
8089365035

3. Appellant PRO PER

4. IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA,  
5  
6 FOURTH APPELLATE DISTRICT  
7 DIVISION THREE

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11 WAYNE R. REINER  
PLAINTIFF, APPELLANT

Orange County Superior Court N

30-2019-0106375-

12 V

13 COX COMMUNICATIONS CALIFORNIA LLC, INC.  
14 DEFENDANT AND RESPONDENT

APPELLATE COURT CA  
G058487

15 -----  
On Appeal from the Judgement of the  
Honorable Layne Melzer, Orange County Superior Court

16 PLAINTIFF- APPELLANT'S JOINDER IN  
17 APPELLANTS BRIEFS

18 WAYNE R. REINER  
1121 BACK BAY DRIVE #315  
19 NEWPORT BEACH, CA. 92660  
8089365035

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24 APPENDIX L

P21



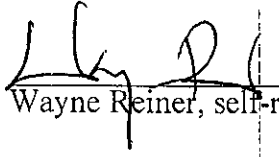
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**CERTIFICATE OF INTERESTED ENTITIES OR PERSONS**  
**(CAL RULES OF COURT, RULE 8.208)**

There are no interest entities or persons to list in this certificate. (Cal Rule of Court, rule 8.908 e 3)

Dated: September 9, 2020

Plaintiff- Appellant

  
Wayne Reiner, self-represented

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1. I am THE PLAINTIFF/APPELLANT in this matter.
2. The Appeal before this court G058487 contains a similar consequence as proposed in the two appeals filed in cases 30-2020-01149147 and 30-2020-01146976. Appellant is the appealing party in all three cases.

WAYNE R. REINER

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## POINTS AND AUTHORITIES IN SUPPORT

### I. JOINDER SHOULD BE ALLOWED

1. Appellant is the party in the current Appeal A1. Appellant is also an Appellant in A2 30-2020-01149147 and A3. 30-2020-01146975. Both small claims cases were filed and heard on different days by the same judge. After Appellant filing the required VL 1 in both cases, both cases were dismissed without a hearing, without posting security, and any notice.

2. A2 was for \$104.09 and A3 was for \$361. A description of the cause of action was provided.

3. Appellant timely appealed both orders dismissing the case. However, the Appeals clerk has refused to process the appeals. Exhibit A

4. Appellant discussed the cases with an Appellate lawyer, general lawyer, and the self-help small office. All were "confused" as to the whole situation and offered no path other than to proceed with A2 and A3 through the normal appellate process. Appellant is prepared to do this but is questioning how this can be an appropriate use of the Appeals Court resource.

5. Appellant used internet resources and google scholar to find direction for this situation but there was nothing involving small claims cases.

6. However, Appellant's search found an article by Benjamin G. Shatz a partner at Manatt Phelps Phillips. Appellant is not in a financial position, living on Social Security, to hire Manatt Phelps. Further, Appellant did not feel it was appropriate to ask Mr. Shatz to provide legal services pro bono.

7. Appellant is using the guidance of "Appellate me too!" from the Daily Journal July 2, 2019, as the only guidance Appellant could find. See attached Exhibit B

8. California Rule of Court 8.200 a 5 "expressly allows a party on appeal to 'join in or adopt by reference all or part of a brief in the same or a related appeal' as an alternative to filing a brief.

9. Specifically Rule 8.200 a 5 'instead of filing a brief or as part of its brief a party may join in the same party adopt by reference all or part of a brief in the same or related appeal. The same principles of joinder basically apply in federal court district court. As long as parties are similarly situated and independent filing would be redundant, joinder is generally allowed. Tatung Co. Ltd

2  
3 10. California Rule of Court 8.202 a 5 Parties briefs "(5) instead of filing a brief or as part of its  
4 brief, a party may join or adopt by reference all or part of a brief in the same or related matter."

5 11. Appellant is aware that in almost every case regarding Rule 8.200 a 5 there is usually two  
6 independent parties in the case. However here Appellant, with little guidance from anyone, is  
7 attempting to use the Rule 800.200 a 5 to efficiently use the court resources. It's not the matter of  
8 the amount of money involved, but the legal principle of denying a small claims case multiple  
9 times, as here, which Appellant disagrees with.

10 REQUEST

11 Appellant requests joinder with these two cases as they exactly the unconstitutional approach the  
12 court can take against an individual, the cases reflect the constitution discussion in AOB p. 16 and  
13 ARB 1.5-25  
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ORDER

Pursuant to Appellant's motion and good cause appearing, it is hereby ordered that:

The Appeals in Orange County Superior Court cases 30-2020-01149147, and 30-2020-01146976.  
Be joined with California Appellate case G058487.

Date

Presiding Justice

P24

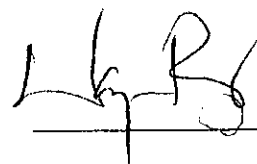


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**CERTIFICATE OF COMPLIANCE**

Pursuant to California Rules of Court rule 8.204 c. I hereby certify that this brief contains 782 words. In making this certification, I have relied on the word count of the computer program used to prepare this motion.

Wayne Reiner



Appellant self-represented

p25