

APPENDIX A

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KIMBERLY COX,

Plaintiff,

v.

LAW OFFICES OF LES ZIEVE, et al.,

Defendants.

Case No. 20-cv-04418-VC

**ORDER GRANTING MOTION TO
DISMISS**

Re: Dkt. No. 5

The motion to dismiss is granted. Cox's claims are barred as *res judicata* because they rely entirely on claims and issues already adjudicated to finality in previous litigation against the same defendants (or, parties in privity with the current defendants). *Cox v. Old Republic National Title Insurance Company*, No. 15-cv-02253-BLF, 2016 WL 4180429 (N.D. Cal. Aug. 8, 2016). Indeed, the complaint appears frivolous to the point of being sanctionable. And the opposition to the motion to dismiss is indecipherable.

For these reasons, the case is dismissed with prejudice.

IT IS SO ORDERED.

Dated: September 18, 2020


VINCE CHHABRIA
United States District Judge

APPENDIX B

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KIMBERLY COX,

Plaintiff,

v.

LAW OFFICES OF LES ZIEVE, et al.,
Defendant.

20-cv-04418-VC

JUDGMENT

The Court, having dismissed this case with prejudice, now enters judgment in favor of the defendants and against the plaintiff. The Clerk of Court is directed to close the case.

IT IS SO ORDERED.

Dated: September 23, 2020


VINCE CHHABRIA
United States District Judge

APPENDIX C

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KIMBERLY COX,

Plaintiff,

v.

LAW OFFICES OF LES ZIEVE, et al.,

Defendants.

Case No. 20-cv-04418-VC

**ORDER DENYING MOTION TO
ALTER ORDER AND VACATE
JUDGMENT**

Re: Dkt. No. 53

The motion to reconsider the Court's order (Dkt. No. 50) and judgment (Dkt. No. 51) is denied. Denial of the motion to remand was implied in the order granting dismissal for *res judicata* where the prior judgment necessarily involved questions of federal law.

IT IS SO ORDERED.

Dated: October 22, 2020


VINCE CHHABRIA
United States District Judge

APPENDIX D

NOT FOR PUBLICATION

FILED

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

NOV 17 2021

**MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS**

KIMBERLY COX,

No. 20-17264

Plaintiff-Appellant,

D.C. No. 3:20-cv-04418-VC

v.

NEWREZ LLC; et al.,

MEMORANDUM*

Defendants-Appellees.

**Appeal from the United States District Court
for the Northern District of California
Vince Chhabria, District Judge, Presiding**

Submitted November 8, 2021**

Before: CANBY, TASHIMA, and MILLER, Circuit Judges.

Kimberly Cox appeals from the district court's judgment dismissing her action alleging claims regarding a home loan and denying her motion to remand to state court. We have jurisdiction under 28 U.S.C. § 1291. We review de novo issues of subject matter jurisdiction and denials of motions to remand.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Ritchey v. Upjohn Drug Co., 139 F.3d 1313, 1315 (9th Cir. 1998). We affirm.

The district court properly denied Cox's motion to remand because the district court had subject matter jurisdiction under 28 U.S.C. § 1331, and the action was properly removed under 28 U.S.C. § 1441. *See Rivet v. Regions Bank of La.*, 522 U.S. 470, 475 (1998) (to establish jurisdiction under § 1331, a federal question must be "presented on the face of the plaintiff's properly pleaded complaint" (citation and internal quotation marks omitted)); *Lippitt v. Raymond James Fin. Servs., Inc.*, 340 F.3d 1033, 1042 (9th Cir. 2003) ("[T]he artful pleading doctrine allows federal courts to retain jurisdiction over state law claims . . . when . . . the right to relief depends on the resolution of a substantial, disputed federal question." (citations omitted)); *see also Destfino v. Reiswig*, 630 F.3d 952, 957 (9th Cir. 2011) (explaining that consent to removal is not required from defendants who were not properly served).

The district court did not abuse its discretion by denying Cox's motion to alter or amend the judgment under Federal Rule of Civil Procedure 59(e) because Cox failed to demonstrate any basis for relief. *See Sch. Dist. No. IJ, Multnomah County, Or. v. ACandS, Inc.*, 5 F.3d 1255, 1262-63 (9th Cir. 1993) (setting forth standard of review and grounds for relief under Rule 59(e)).

We reject as meritless Cox's contention that the district court lacked jurisdiction to rule on the motion to dismiss because it did not first explicitly deny

the motion to remand.

Cox's motion to strike (Docket Entry No. 32) and motion for judicial notice (Docket Entry No. 33) are denied.

Cox's request to file supplemental briefs, set forth in the opening brief, is denied.

AFFIRMED.

APPENDIX E

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

MAR 3 2022

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

KIMBERLY COX,

No. 20-17264

Plaintiff-Appellant,

D.C. No. 3:20-cv-04418-VC
Northern District of California,
San Francisco

v.

NEWREZ LLC; et al.,

ORDER

Defendants-Appellees.

Before: CANBY, TASHIMA, and MILLER, Circuit Judges.

The panel has voted to deny the petition for panel rehearing.

The full court has been advised of the petition for rehearing en banc and no judge has requested a vote on whether to rehear the matter en banc. *See* Fed. R. App. P. 35.

Cox's petition for panel rehearing and petition for rehearing en banc (Docket Entry No. 45) are denied.

Cox's motion for judicial notice (Docket Entry No. 46) is denied.

No further filings will be entertained in this closed case.