

APPENDIX

Order of Supreme Court of
California
(March 30, 2022)

SUPREME COURT
FILED

MAR 30 2022

Court of Appeal, Second Appellate District, Division Three - No. B307926

Jorge Navarrete Clerk

S272859

Deputy

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re the Marriage of ANTHONY A. PATEL and SONYA BHATIA.

ANTHONY A. PATEL, Appellant,

v.

SONYA BHATIA, Respondent.

The petition for review is denied.

The request for an order directing publication of the opinion is denied.

CANTIL-SAKAUYE

Chief Justice

Opinion of California Court of
Appeal
(December 14, 2021)

FILED

Dec 14, 2021

DANIEL P. POTTER, Clerk

R. Cervantes Deputy Clerk

Filed 12/14/21

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS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(a). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115(a).

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

In re the Marriage of ANTHONY
and SONYA PATEL.

B307926

ANTHONY A. PATEL,

Los Angeles County
Super. Ct. No. BD585163

Appellant,

v.

SONYA BHATIA,

Respondent.

APPEAL from orders of the Superior Court of Los Angeles
County, Bruce Iwasaki, Judge. Affirmed.

Anthony A. Patel, in pro. per, for Appellant.

Boren, Osher & Luftman and Jeremy J. Osher for
Respondent.

INTRODUCTION

This appeal stems from a contentious marital dissolution case. After the parties entered into a stipulated judgment on reserved issues, the trial court declared appellant Anthony A. Patel a vexatious litigant and prohibited him from filing in propria persona any new litigation in the courts of this state without first obtaining leave of the presiding judge or justice of the court in which he proposes to file the litigation.¹ The court also imposed \$5,000 in sanctions against him under Family Code section 271, payable to his ex-wife, respondent Sonya Bhatia.²

Patel contends the court lacked jurisdiction to enter these orders because the case had already been settled. Alternatively, he argues, he lacks the ability to pay the sanctions, and the court should not have second-guessed his abusive tactics because they worked: Bhatia agreed to settle. We affirm.

BACKGROUND

The parties married on October 27, 2006. They have two minor children. Patel filed a petition for dissolution of marriage on July 8, 2013.

A partial stipulated judgment dissolving the marriage and disposing of certain property was entered on January 31, 2017. In September 2019, the court initially set the matter for trial on March 19, 2020.

¹ Patel is a former member of the California State Bar.

² Although respondent is designated in part of the case title as Sonya Patel, she has reassumed her unmarried name, Sonya Bhatia, and we refer to her as such. Bhatia's request for judicial notice, filed July 30, 2021, is denied.

In the first two months of 2020, however, Patel filed 10 separate ex parte applications in three courts.³ All of them were denied. In denying one of the applications, the court noted that “Patel’s papers often veered into incoherency, calling [Bhatia] a ‘dummy,’ describing judges in this case as ‘dumb,’ and discussing past and future national presidential elections.” In denying another, the Supervising Judge of the Family Court concluded that the applications were “without merit and [were] being interposed for the purpose of delay and to vex” Bhatia.

On March 3, 2020, when denying one of the ex parte applications, the court issued an order to show cause (OSC) why Patel should not be sanctioned up to \$2,000 under Family Code section 271; the court set the OSC for the close of trial. On March 9, 2020, when denying another application, the court issued an order to show cause why Patel should not be sanctioned up to \$5,000 under Family Code section 271 and Code of Civil Procedure sections 128.5 and 128.7. The court also set an order to show cause why Patel should not be declared a vexatious litigant under Code of Civil Procedure section 391 et seq. The court set both OSCs for the close of trial.

On March 12, 2020, Patel filed a response to the court’s orders.⁴ The court described the filing this way: “Stating that he

³ Patel has not included any of these ex parte applications in the record on appeal. He has also omitted the orders denying these applications, although one is included in the Respondent’s Appendix. In addition, the record does not contain many of the other filings listed on the Register of Actions. As such, our discussion is limited to those portions of the ex parte applications that the court quoted in its minute orders of March 9, 2020, and August 3, 2020.

⁴ Patel’s responsive papers were not included in the appellate record.

has 'learned his lesson,' [Patel] asked the Court to reduce the sanctions contemplated to \$200 for the first infraction and \$500 for the 'subsequent mistake,' arguing these amounts will 'deter the repetition of the conduct.' Finally, he stated that the sanctions would impose a significant financial burden on him. With respect to the vexatious litigant issue, Petitioner stated that he had ceased further filings and conceded that he 'may have confused' matters and 'may have been wrong.' "

But a few days later, Bhatia's response "stated that Mr. Patel's contrite tone in his March 12 submission contrasted sharply with his email to her the day before, a lengthy, threatening, and insult-filled screed, which included: 'Look forward to the kids being with me when you pass away, which will be soon unless I had sole custody of them this week.' 'Sign the Papers or Just Shut the F**K Up Forever.' 'I don't give an F* if God is the judge next week instead of Lance Ito's twin brother.' 'Translation: Sign the fucking paperwork, idiot. You're too dumb for your own detriment, just like you noted that I'm too smart for my own good.' " (Capitalization and grammar original.) Bhatia also noted that Patel had filed seven civil actions against her and members of her family in state and federal court.

After several delays caused by the Covid-19 pandemic, the parties were set to begin trial on July 30, 2020, to resolve the reserved issues.⁵ That day, the parties announced a settlement of all remaining financial issues in the case, including property division, attorney fees, and Patel's agreement to dismiss all pending civil actions against Bhatia and members of her family.

⁵ Patel did not provide us with a reporter's transcript, or a suitable substitute, of the July 30, 2020 proceedings.

After further discussions, the parties also agreed to award Bhatia sole legal and physical custody of the children. No visitation order was made, and the parties agreed that the custody order was not a final judicial determination of custody. The court entered the stipulated judgment on reserved issues on July 30, 2020. That judgment did not reference the pending March 2020 orders to show cause.

On August 3, 2020, after receiving briefing and oral argument from the parties, the court declared Patel a vexatious litigant, imposed a prefiling order on him, and imposed \$5,000 in sanctions under Family Code section 271. The court also determined that the “sanctions and vexatious litigant issues that had been deferred to the conclusion of trial” were not resolved by the July 2020 stipulated judgment.

Patel filed a timely notice of appeal.

DISCUSSION

Although Patel’s arguments are difficult to discern, he appears to contend: the trial court did not have the authority to deem him a vexatious litigant and impose sanctions after the parties resolved their dispute through a stipulated judgment; the court abused its discretion by declaring him a vexatious litigant and sanctioning him because his actions achieved his desired outcome; and the court abused its discretion by imposing \$5,000 in sanctions because he lacks the ability to pay.

1. The court had jurisdiction to declare Patel a vexatious litigant and impose sanctions.

Patel contends the court exceeded its jurisdiction by declaring him a vexatious litigant, imposing a prefiling order, and sanctioning him under Family Code section 271 several days

after it entered the parties' stipulated judgment on reserved issues. We disagree.

Whether settlement of the case deprived the court of jurisdiction to enter the vexatious litigant and sanctions orders is a "question[] of statutory interpretation subject to de novo review. [Citation.]" (*Bravo v. Ismaj* (2002) 99 Cal.App.4th 211, 219 (*Bravo*)). "We review an award of attorney fees and costs under [Family Code] section 271 for abuse of discretion. [Citation.] ... '[W]e will overturn such an order only if, considering all of the evidence viewed most favorably in its support and indulging all reasonable inferences in its favor, no judge could reasonably make the order. [Citations.]' [Citation.] We review any factual findings made in connection with the award under the substantial evidence standard." (*In re Marriage of Fong* (2011) 193 Cal.App.4th 278, 291.)

As a preliminary matter, and as indicated by the court in its August 3, 2020 minute order, the July 2020 stipulated judgment on reserved issues did not address the March 2019 orders to show cause regarding sanctions and vexatious litigant issues. To be sure, the judgment required each party to bear his or her own attorney fees and costs, and required Bhatia to agree not to pursue fees and costs associated with Patel's dismissal of certain enumerated cases and appeals. The judgment, however, doesn't mention sanctions under Family Code section 271, or resolution of the OSC to declare Patel a vexatious litigant. To the extent that payment of \$5,000 in attorney fees as a sanction or Patel's potential vexatious litigant status were discussed at the July 30, 2020 hearing, Patel did not provide us with a transcript, or a suitable substitute, of that proceeding. (See Cal. Rules of

Court, rules 8.134 & 8.137.) Accordingly, based on the inadequate record before us, we cannot address the merits of Patel's claim.

In any event, and as a general matter, we disagree with Patel that the parties' settlement of their dispute deprived the court of jurisdiction to deem him a vexatious litigant or to impose sanctions against him. In *Pittman*, our colleagues in Division Seven held that the voluntary dismissal of an action did not deprive the trial court of jurisdiction to rule on a pending vexatious litigant motion. (*Pittman v. Beck Park Apartments Ltd.* (2018) 20 Cal.App.5th 1009 (*Pittman*).) And, *Pittman* explains, the rule for sanctions is the same, for the same reasons. (See *Day v. Collingwood* (2006) 144 Cal.App.4th 1116, 1125–1126 [courts retain jurisdiction to decide sanctions motions after entry of judgment].)

A “plaintiff's voluntary dismissal of an action generally deprives the court of jurisdiction in the case. [Citations.] Accordingly, most orders entered after the dismissal are void and have no effect. [Citations.] [¶] Notwithstanding this general principle, ‘courts have carved out a number of exceptions to this rule in order to give meaning and effect to a former party's statutory rights.’ [Citation.] When a postdismissal or postjudgment motion involves collateral statutory rights, then the court may retain jurisdiction to determine and enforce those rights. [Citations.] One frequent example of postdismissal or postjudgment retention of jurisdiction occurs when courts hear motions related to attorney fees and costs. [Citations.] Courts have likewise held jurisdiction is retained postdismissal and postjudgment to decide motions for sanctions. [Citations.]” (*Pittman*, *supra*, 20 Cal.App.5th at pp. 1022–1023.)

“Like a motion for attorney fees or sanctions, a motion to declare a self-represented plaintiff a vexatious litigant deals with an ancillary issue and has no bearing on the finality of the judgment or dismissal. Retaining jurisdiction to decide a vexatious litigant motion is consistent with the purpose of the statutes, which 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.] A dismissal does not ... extinguish the court’s interest in deterring and punishing the waste of judicial resources. A contrary rule would allow a litigant to strategically escape a vexatious litigant finding altogether by dismissing a party or an action prior to a ruling on the vexatious litigant motion and then refiling his or her claims in a later proceeding. ... To fulfill the statute’s aim of protecting future potential litigants, the ability to declare an individual a vexatious litigant must survive even after the action has been dismissed. [Citation.]” (*Pittman, supra*, 20 Cal.App.5th at pp. 1024–1025.)

We agree with our colleagues’ reasoning and adopt their conclusion. Here, the court’s orders to show cause for attorney fees as a sanction and to declare Patel a vexatious litigant dealt with ancillary issues. Accordingly, the parties’ resolution of their dispute on reserved issues through a stipulated judgment did not deprive the court of jurisdiction to subsequently sanction Patel or deem him a vexatious litigant.

2. The court did not abuse its discretion by declaring Patel a vexatious litigant and sanctioning him.

As relevant here, a *vexatious litigant* is a person who: “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.” (Code Civ. Proc., § 391, subd. (b)(3).) Once a court has determined a person is a vexatious litigant, it may, “on its own motion or the motion of any party, enter a prefilng order which prohibits a vexatious litigant from filing any new litigation in the courts of this state in propria persona without first obtaining leave of the ... presiding judge of the court where the litigation is proposed to be filed. Disobedience of the order by a vexatious litigant may be punished as a contempt of court.” (*Id.*, § 391.7.) “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 imply findings necessary to support the judgment. [Citation.]” (*Bravo, supra*, 99 Cal.App.4th at p. 219.)

Family Code section 271 authorizes the court to award attorney fees as a sanction based on a party’s conduct. (§ 271, subd. (a).) The court may not, however, impose an attorney fees award under section 271 “that imposes an unreasonable financial burden on the party against whom the sanction is imposed.” (*Ibid.*)

Patel argues: “As the trial court (correctly) notes, the objective in family law cases is to try and reach a settlement between the parties. Here, Appellant achieved just that result in the divorce case on July 30, 2020. The trial court lacks either the basis or the ability to then second-guess how the settlement occurred over the past 7 years of this litigation.” And: “Appellant even went so far as to apologize for hurting the trial court’s

feelings as to the difficult nature of the war with China and the challenges ahead for all Americans in 2020 due to the toxic political climate. However, the trial court simply could not get over the fact that, despite all of the expletives and angry communications between Appellant and Respondent in early 2020, she (Respondent) eventually came around to Appellant's view and settled the case before trial."

In other words, Patel argues that the court's orders were an abuse of discretion because his tactics proved successful. He acknowledges that his emails and text messages to Bhatia were "[t]roubling ... to read," and his "litigious" behavior included "years of prior bad conduct," but insists that "normally a family law litigant who brings about a settlement before trial would not be considered to be vexatious for the conduct which resulted in that settlement."

We are not persuaded by Patel's arguments. Although the vexatious litigant statutes and Family Code section 271 exist in part to promote settlement, they are also "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.) "The constant suer ... 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 taxpayers who must provide the courts.'" (*In re Kinney* (2011) 201 Cal.App.4th 951, 958.)

Here, the court explained, Patel, in his filings, "rarely offered any evidence or legal analysis for his position. He sought

to relitigate issues and filed ex parte requests in at least four different courts on different days. Many of his papers were rants about national politics and his own sense of misdirected grievance.” Indeed, by Patel’s own account, he began this case in 2013 by presenting “24 affidavits and witness statements explaining to the trial court why all Americans would be best off if Appellant ran for Congress in 2014.”

Although the court noted that “[i]t is difficult to capture the quantity and ferocity of Mr. Patel’s intemperate and delusional court filings and communications,” the examples it did provide were chilling. For example, Patel tried repeatedly and unsuccessfully to disqualify judges in this matter by insulting and threatening them. He sought to disqualify the trial judge based on his belief “that Judge Iwasaki has a very strong bias against our political system. This prejudice stems from His Honor’s view that the internment of Japanese-Americans during [the] Second World War was the worst civil rights atrocity committed in the 20th Century by the U.S. Government.” He accused Judge Iwasaki of “condemn[ing] the minor children in this case” to punish Patel “for supporting our political system and the three branches of government” In his motion, Patel included photos of the judge’s wife, mother, and daughter.⁶

⁶ Patel’s attacks have not stopped. In his opening brief on appeal, he argues that the court’s imposition of sanctions “revealed its mean-spiritedness and pernicious desire to infect the American people with the psychological Chinese disease of hating the past 245 years. China need not fire a nuclear weapon at Americans when trial judges are nuking the very principles that 46 presidential administrations have supported in order to make the future brighter and better for all Americans. The trial court’s entire minute order ... speaks volumes to the court’s own hatred of its own subjects (citizens).”

Moreover, it is not at all clear that Bhatia agreed to settle this matter because of Patel's conduct rather than despite it. For example, in his request to strike Bhatia's list of property in dispute at trial—to which he had failed to contribute notwithstanding the court's order—Patel wrote that Bhatia “delays the inevitable ‘day of reckoning’ when judges who have been wrong for so long have to ultimately accept that Mrs. Clinton lost in 2016, being a woman alone in and of itself is not enough to always be right, and that message will become painfully clear for all dumb judges every time Senator Sanders and President Trump speak in 2020.” And: “But the point is that when it comes to her children, Respondent is nothing short of a dummy.” And: “Every interaction requires Petitioner practically needing to yell at Respondent, call her many disparaging names and behave like an insulting bully.”

In addition, the court observed, the “record includes many insulting emails from Petitioner Patel to Respondent Bhatia, which demonstrate that he was motivated by malice rather than an effort to resolve the case.” Once such email stated: “Once Trump is acquitted, Dumb People like you are not allowed to waste the time of Smart People like myself anymore just by giving birth twice and passing a bar exam on the third try. It's a great effort by you, but you're still DUMB. [¶] Seriously, it would actually be the BEST thing ever for your kids next week if you'd be willing to move on, since if you are not willing to do things My Way once Trump is Acquitted by the Senate, then the children are better off with you passing away by natural causes next week (since that's not against the Law) so that I can instead be in charge of their lives and not have to deal with you again. I assume if there is a God in the Universe, hopefully he or she or it

will reunite you with your own late father on or about February 5th if you still refuse to do things My Way.” (Capitalization original.)

We will not second-guess the court’s reasoned view that Patel’s “threats and insults were intended” not to promote settlement but instead “to destroy Ms. Bhatia’s mental calm.” That Bhatia managed to endure “years of dilatory and frivolous litigation conduct” does not mean that Patel’s conduct encouraged her to settle the case.

3. Patel has not established that he lacks the ability to pay the sanctions award.

“ ‘A judgment or order of the lower court is *presumed correct*. All intendments and presumptions are indulged to support it on matters as to which the record is silent, and error must be affirmatively shown. This is not only a general principle of appellate practice but an ingredient of the constitutional doctrine of reversible error.’ [Citations.]” (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.) Appellants not only bear the burden of proof on appeal but also bear the burden of assuring the appellate record is sufficient to resolve the issues they raise. (*Maria P. v. Riles* (1987) 43 Cal.3d 1281, 1295–1296.) Here, Patel contends there is no substantial evidence to support the court’s conclusion that he could afford to pay the \$5,000 sanctions award. But Patel cites no evidence in the record to support his claim that he is “suffering from financial troubles” and is “in no position to pay these funds.”⁷

⁷ The record does not contain any evidence to support his claim that his inability to pay rests on some combination of China, the Covid-19 pandemic, and federalism. Nor does the record contain Patel’s

Furthermore, as noted, the record before us does not include a reporter's transcript of the July 30, 2020 hearing on the order to show cause, a settled statement of what occurred at that hearing, or any other record of the oral proceedings. (See Cal. Rules of Court, rules 8.134 & 8.137.) As such, we do not know what arguments were advanced at the hearing about Patel's ability to pay. Based on the inadequate record before us, we cannot address the merits of Patel's claim. (See *Hearn v. Howard* (2009) 177 Cal.App.4th 1193, 1201 [lack of a reporter's transcript of the crucial proceedings requires us to "presume that what occurred at that hearing supports the judgment"]; *Pringle v. La Chapelle* (1999) 73 Cal.App.4th 1000, 1003 ["Without the proper record, we cannot evaluate issues requiring a factual analysis."].) Therefore, he has not carried his burden on appeal. (See *Parker v. Harbert* (2012) 212 Cal.App.4th 1172, 1178 [affirming sanctions award under Family Code section 271 where sanctioned party failed to provide reporter's transcript and reviewing court was unable to evaluate sufficiency of the evidence].)

opposition to the court's order to show cause regarding sanctions or the income and expense declaration he filed with it.

DISPOSITION

The orders are affirmed. Respondent Sonya Bhatia shall recover her costs on appeal.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

LAVIN, J.

WE CONCUR:

EDMON, P. J.

KNILL, J.*

* Judge of the Orange County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Order and Opinion of the Superior
Court of California for the County
of Los Angeles
(August 3, 2020)

ATTORNEY OR PARTY WITHOUT ATTORNEY: (To be completed only if a party is making the motion) NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):		FOR COURT USE ONLY FILED Superior Court of California County of Los Angeles AUG 03 2020 Sherrin K. ... Associate Officer/Clerk By: <u>[Signature]</u> , Deputy VL both Done
<input type="checkbox"/> COURT OF APPEAL, APPELLATE DISTRICT, DIVISION <input checked="" type="checkbox"/> SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles STREET ADDRESS: 111 N. Hill Street MAILING ADDRESS: CITY AND ZIP CODE: Los Angeles, California 90012 BRANCH NAME:		
CASE NAME: Anthony Aanand Patel v. Sonya Bhatia		
PREFILING ORDER—VEXATIOUS LITIGANT		CASE NUMBER: BD585163

- Name and address of each plaintiff or cross-complainant or other party subject to this prefiling order:
 Anthony Aanand Patel
 5533 N. Pacific Coast Highway
 Suite B-522
 Redondo Beach, California 90277
- This prefiling order is entered pursuant to a motion made by ☒ the court ☐ party (name):
- The person or persons identified in Item 1, unless represented by an attorney, are prohibited 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 is to be filed.
- The clerk is ordered to provide a copy of this order to the Judicial Council of California by fax at 415-865-4329 or by mail at the address below.

Vexatious Litigant Prefiling Orders
 Judicial Council of California
 455 Golden Gate Avenue
 San Francisco, California 94102-3688

Date: August 3, 2020

[Signature]
 JUDICIAL OFFICER
 Bruce Iwasaki

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

**Family Division
Stanley Mosk Dept. - 46**

BD585163

ANTHONY AANAND PATEL VS SONYA BHATIA PATEL

**August 3, 2020
8:30 AM**

Honorable Bruce G. Iwasaki, Judge

Michelle Dorsey, Judicial Assistant

Not Reported, Court Reporter

NATURE OF PROCEEDINGS: Non-Appearance Case Review: Ruling on Order to Show Cause re Why Petitioner, Anthony Patel Should Not Be Deemed a Vexatious Litigant and Sanctioned

The following parties are present for the aforementioned proceeding:

No Appearances

Out of the presence of the Court Reporter

Ruling on order to show cause why Petitioner Anthony Patel should not be deemed a vexatious litigant and sanctioned.

On March 3, 2020, in denying Petitioner Father Anthony Patel's ex parte application, the Court issued an order to show cause for the close of trial why Petitioner should not be sanctioned up to \$2,000 under Family Code section 271. On March 9, 2020, denying another of Petitioner's ex parte applications, the Court issued another order to show cause set for the close of trial, to decide why Petitioner should not be sanctioned up to \$5,000 under Family Code section 271 and Code of Civil Procedure sections 128.5 and 128.7. The Court also set an order to show cause why Mr. Patel should not be declared a vexatious litigant under Code of Civil Procedure section 391.

Upon receiving briefing and oral argument from the parties, the Court concludes that Mr. Patel is a vexatious litigant, and that a prefilng order against him is warranted. The Court also concludes that under Family Code section 271, his litigation conduct merits imposition of sanctions against him in the amount of \$5,000.

Factual and procedural background.

Petitioner Patel is a former member of the California Bar; Respondent Bhatia is a member of the California Bar. As of the time of trial, they both represented themselves. This dissolution matter was filed in July 2013; a partial Judgment dissolving the marriage and disposing of certain property was entered on January 31, 2017. On July 30, 2020, following several pandemic induced delays, the parties were to commence trial on reserved issues. The parties announced a settlement of all financial issues in the case, including property division and attorney's fees. After further discussions, the parties also reached

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

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August 3, 2020

8:30 AM

agreement on child custody. They stipulated that Respondent Mother Sonya Bhatia be awarded sole legal custody and sole physical custody of the minor children. No visitation order was made. The parties agreed that this custody order was not a "final" judicial custody determination. The Court entered a Judgment that incorporated the parties' agreements.

Remaining were the sanctions and vexatious litigant issues that had been deferred to the conclusion of trial. In its March 3, 2020 order, the Court noted that Petitioner Patel's ex parte request lacked any factual or legal basis. In the request, Petitioner sought to vacate the Court's January 22, 2020 order that reiterated trial preparation deadlines that had been issued on September 6, 2019. Petitioner stated that the judges in this case have been "slow." "Most of them," he stated without specifying, "cannot even accept that the Republicans won back the Senate in November 2014 and that the time for people like Respondent to live in a fairy-tale actually expired back then, not on Super Tuesday 2020."

The day after this Court denied Petitioner's ex parte request, on March 4, 2020, the Supervising Judge of the Family Law division received Petitioner Patel's ex parte application that appeared to seek reconsideration of this Court's March 3, 2020 denial. The Supervising Judge noted that Petitioner had also given notice of further ex parte applications in a variety of courts on March 5, 6, 9, 10, and 11, 2020. The Supervising Judge's ruling on March 4, 2020 stated that Petitioner's "intended ex parte applications are without merit and are being interposed for the purpose of delay and to vex Respondent." Three of the ex parte applications were set in Department 46 for consideration on March 9, 2020.

On March 9, 2020, the Court denied Mr. Patel's ex parte application seeking (1) to vacate a previous order precluding Petitioner from introducing non-impeachment exhibits for failure to comply with pretrial orders, (2) to vacate a previous order that the parties' children would not address the Court under Family Code section 3042, and (3) to transfer the case to another judge. In its ruling, the Court noted that in less than three months, Mr. Patel "has filed no fewer than seven ex parte applications in this Court (Department 46), in Department 2, and in the home court, Department 21. Each ex parte application Mr. Patel has filed – on January 6, January 23, January 30, February 10, February 21, March 3, and March 4, 2020 – has been denied." That did not count the ex parte considered on March 9, or Petitioner's two ex parte requests Department 2 also heard on March 9, 2020. (Department 2 ordered that Petitioner was restrained from proceeding with those two ex parte requests.) The Court also noted that Petitioner Patel's papers often veered into incoherency, calling Respondent a "dummy," describing judges in this case as "dumb," and discussing past and future national presidential elections. The March 9, 2020 order quoted from Petitioner Patel's papers:

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Family Division

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BD585163

ANTHONY AANAND PATEL VS SONYA BHATIA PATEL

August 3, 2020

8:30 AM

In his request to strike Respondent's list of property in dispute at trial – which, despite the Court's orders, Petitioner failed to contribute to – filed by Petitioner on February 24, 2020, he states: “[Respondent] delays the inevitable ‘day of reckoning’ when judges who have been wrong for so long have to ultimately accept that Mrs. Clinton lost in 2016, being a woman alone in and of itself is not enough to always be right, and that message will become painfully clear for all dumb judges every time Senator Sanders and President Trump speak in 2020.” “But, the point is that when it comes to her children, Respondent is nothing short of a dummy.” “Every interaction requires Petitioner practically needing to yell at Respondent, call her many disparaging names and behave like an insulting bully.”

An example of the messages Mr. Patel has sent to Ms. Bhatia – he blames her for his behaving like an insulting bully – include a passage from his January 31, 2020 email: “Once Trump is acquitted, Dumb People like you are not allowed to waste the time of Smart People like myself anymore just by giving birth twice and passing a bar exam on the third try. It's a great effort by you, but you're still DUMB. ¶ Seriously, it would actually be the BEST thing ever for your kids next week if you'd be willing to move on, since if you are not willing to do things My Way once Trump is Acquitted by the Senate, then the children are better off with you passing away by natural causes next week (since that's not against the Law) so that I can instead be in charge of their lives and not have to deal with you again. I assume if there is a God in the Universe, hopefully he or she or it will reunite you with your own late father on or about February 5th if you still refuse to do things My Way.”

On March 12, 2020, Petitioner Patel filed a response to the Court's orders to show cause. Stating that he has “learned his lesson,” Petitioner asked the Court to reduce the sanctions contemplated to \$200 for the first infraction and \$500 for the “subsequent mistake,” arguing that these amounts will “deter the repetition of the conduct.” Finally, he stated that the sanctions would impose a significant financial burden on him. With respect to the vexatious litigant issue, Petitioner stated that he had ceased further filings and conceded that he “may have confused” matters and “may have been wrong.”

On March 16, 2020, Respondent Bhatia filed her response as to why Petitioner should be declared a vexatious litigant. She stated that Mr. Patel's contrite tone in his March 12 submission contrasted sharply with his email to her the day before, a lengthy, threatening, and insult-filled screed, which included: “Look forward to the kids being with me when you pass away, which will be soon unless I had sole custody of them this week.” “Sign the Papers or Just Shut the F**K Up Forever.” “I don't give an F* if God is the judge next week instead of Lance Ito's twin brother.” “Translation: Sign

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the fucking paperwork, idiot. You're too dumb for your own detriment, just like you noted that I'm too smart for my own good."

Respondent Bhatia argued that the Court should declare Mr. Patel a vexatious litigant for, among other things, his eight failed ex partes in 2020. She also noted seven civil actions Petitioner filed in state and federal court against her and her family, as well as against two sitting judges. In August 2019, Mr. Patel moved to disqualify every United States District Court judge of the Central district on the ground that they are all discriminating against him because of his political beliefs. His motion was denied. (*Patel v. Miller* (C.D. Cal. Aug. 8, 2019, Case no. 2:19-cv-00080-CBM-AFMx)[“Plaintiff offers no evidence and only his declaration containing speculation alone”]; see also *Patel v. Robinson* (C.D. Cal. Jan. 8, 2020, Case No. CV 19-cv-02851-DOIC (DFM)[denying disqualification motion].)

Petitioner Patel also sought repeatedly and unsuccessfully to disqualify several judges in this matter. He sought to disqualify the trial judge based on Petitioner's belief “that Judge Iwasaki has a very strong bias against our political system. This prejudice stems from His Honor's view that the internment of Japanese-Americans during Second World War was the worst civil rights atrocity committed in the 20th Century by the U.S. Government.” Petitioner continued: “Apparently, in order to punish Petitioner for supporting our political system and the three branches of government, Mr. Iwasaki chooses to condemn the minor children in this case.” Petitioner's motion attached photos of the Judge Iwasaki's wife, mother, and daughter.

It is difficult to capture the quantity and ferocity of Mr. Patel's intemperate and delusional court filings and communications. A few examples must serve: Petitioner requested a “change of venue” in January 2020, because of “his experience with California judges presuming that they know the law better than President Trump and his judicial appointees. Trial cannot be expected to be fair in this State. Our current California Chief Justice...has expressed vitriol for President Trump....” In an exhibit he attached to papers filed January 29, 2020, Petitioner said: “California lawyers and judges are biased against me due to my higher than average level of mental intelligence which is being punished as an illness that does not exist.” In the same papers he stated that a judge would likely rule against him because “unfit moms MUST WIN in family courts like it is still July 2016 before Trump was the Republican Nominee....” In his brief filed on February 13, 2020, seeking to move with the children to another county, Petitioner asserted: “Because the County of Los Angeles continues to be mismanaged and Dumb Government rather than Smart Government, is what voters continue to opt for in Los Angeles, Petitioner's request to move-away to another county in this State or to one of the other 49 states (or District of Columbia) is directly attuned to improving the lives of the children.” He goes

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on: "In a perfect world, Petitioner would have been elected President in 2016, or 2020, and the playing field actually could have been 'equal' since neither moms nor dads should be punished by family courts...."

The record includes many insulting emails from Petitioner Patel to Respondent Bhatia, which demonstrate that he was motivated by malice rather than an effort to resolve the case. Exhibits attached to various court filings provide but a sample of the venom of his threats and his failure to offer any evidence or legal reasoning. (See Respondent's motion in limine filed February 7, 2020; Responsive Declaration filed February 21, 2020; Petitioner's Request to Strike filed February 24, 2020; and Petitioner's Reply filed February 13, 2020.)

In connection with this matter, Petitioner Patel sued Los Angeles Superior Court judges, his own former lawyers, and Respondent's lawyers. The case was dismissed, and the dismissal affirmed. (See *Patel v. DeCarolis* (9th Cir. July 3, 2017, No. 15-55660) [affirming dismissal of claims against Superior Court judge and lawyers in this family law case].)

Petitioner has filed other frivolous lawsuits. (See *Patel v. Robinson* (C.D. Cal. Jan. 10, 2020, Case No. CV 19-2851-DOC (DFMx)) [Mr. Patel alleged a conspiracy against him because of his intelligence, political ambition, and views; court denied his request for an injunction that he be placed on the ballot in all 50 states as a candidate for president].) He has filed cases against the University of California in state and federal court. They have been dismissed. (See *Patel v. Regents of the University of California* (July 6, 2020, B289869) [affirming a jury verdict against Mr. Patel]; *Patel v. Robinson* (C.D. Cal. Oct. 30, 2019, Case No. CV 19-2851-DOC (DFM)) [claims against Regents of University of California dismissed].)

In the trial proceedings on July 30, 2020, the parties reached a settlement of all issues, which the Court commended. Both parties conducted themselves professionally. Following entry of Judgment, the Court conducted a hearing set by the orders to show cause, regarding whether Petitioner should be deemed a vexatious litigant and ordered to pay sanctions. Petitioner Patel argued that he had received the message from the Court's order to show cause, and ceased filing further ex parte applications. He also contended that sanctions were not warranted. At least in the hearing, Petitioner did not advance any of the irrational claims, or heap upon Respondent any of the indecorous insults, that have filled his emails to Respondent and his declarations in this Court.

In urging that orders be imposed against Mr. Patel, Respondent Bhatia noted that although Petitioner agreed to dismiss his many civil suits, the toll of all of them during this seven-year

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proceeding has been enormous both financially and emotionally, including on the children. Based on Petitioner's past practice of filing at least twenty RFOs in this matter, Respondent argued that she needed more reliable protection than Petitioner's promise to refrain from further meritless requests.

Legal principles.

Vexatious litigant.

Code of Civil Procedure section 391, subdivision (b)(3) provides, as one definition of a "vexatious litigant," a person who: "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." Code of Civil Procedure section 391.7 authorizes a prefilming order against "new litigation": "(a) In addition to any other relief provided in this title, the court may, on its own motion or the motion of any party, enter a prefilming order which prohibits a vexatious litigant from filing any new litigation in the court of this state in propria persona without first obtaining leave of the . . . presiding judge of the court where the litigation is proposed to be filed. Disobedience of the order by a vexatious litigant may be punished as a contempt of court." New "litigation," under this section includes "any petition, application, or motion other than a discovery motion, in a proceeding under the Family Code...." (Code Civ. Proc., § 391.7, subd. (d).) The vexatious litigant statutes "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.)

Family Code section 271 sanctions.

Family Code section 271 provides in part that "the court may base an award of attorney's fees and costs on the extent to which the conduct of each party or attorney furthers or frustrates the policy of the law to promote settlement of litigation and, where possible, to reduce the cost of litigation by encouraging cooperation between the parties and attorneys. An award of attorney's fees and costs pursuant to this section is in the nature of a sanction." The party requesting an award under this provision is "not required to demonstrate any financial need for the award."

The purpose of section 271 is "to promote settlement and to encourage cooperation which will reduce the cost of litigation." (*Marriage of Quay* (1993) 18 Cal. App. 4th 961, 970.) "Family law litigants who flout that policy by engaging in conduct that increases litigation costs are subject to the imposition of attorneys' fees and costs as a sanction." (*Marriage of Petropoulos* (2001) 91 Cal. App. 4th 161, 177.) The

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Court may impose sanctions even if conduct is not frivolous. "Section 271 does not require that the sanctioned conduct be frivolous or taken solely for the purpose of delay. Rather the statute is aimed at conduct that frustrates settlement of family law litigation." (*Marriage of Tharp* (2010) 188 Cal. App. 4th 1295, 1318.) "Sanctions under section 271 are appropriate whenever a party's dilatory and uncooperative conduct has frustrated the policy of promoting settlement of litigation and cooperation among litigants." (*Id.* at p. 1317.)

Discussion

Petitioner Patel's conduct requires that a prefiling order be imposed for his vexatious litigation tactics.

Petitioner Anthony Patel is a vexatious litigant. His conduct fits squarely within the terms of Code of Civil Procedure section 391, et seq. Petitioner's repeated frivolous requests for orders – particularly the multiple ex parte applications in this case – unduly burdened the Court and caused unnecessary financial and emotional distress to Respondent. Petitioner rarely offered any evidence or legal analysis for his position. He sought to relitigate issues and filed ex parte requests in at least four different courts on different days. Many of his papers were rants about national politics and his own sense of misdirected grievance. Moreover, as defined by Family Code section 6320, the litigation tactics he directed against Respondent Bhatia were abusive. His threats and insults were intended to destroy Ms. Bhatia's mental calm. The Court will consider Mr. Patel's abuse in light of Family Code section 3044 if the issue of child custody should ever arise.

The Court is unpersuaded by Petitioner's insistence that he has learned his lesson and will not engage in such behavior again. Petitioner's years of dilatory and frivolous litigation conduct speak far more compellingly than his tardy acknowledgement. Petitioner is not barred from Court if he has a meritorious claim. The purpose of a prefiling order is that his matter be appropriately screened by the presiding judge to ensure it has merit and is not filed for the purpose of harassment or delay.

The Court issues a prefiling order against Petitioner Patel. The Court declines to order that Petitioner post a bond. Should Petitioner fail to abide by the terms of the orders and judgments already entered, a security bond sufficient to deter further violations and compensate Respondent may be imposed as a further remedy.

Petitioner is ordered to pay sanctions to Respondent Bhatia in the sum of \$5,000.

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A review of the multitude of frivolous motions Petitioner made in 2020 demonstrates a concerted pattern of dilatory and uncooperative conduct that frustrated the policy of promoting settlement and cooperation among litigants. Although the parties did reach a settlement on the morning of trial, Petitioner's conduct made the process unnecessarily time consuming and costly. The Court's two combined OSCs were for \$7,000.

Petitioner Patel has a law degree and works as a paralegal. On his Income and Expense declaration, he claims \$2,000 per month in income, but discloses over \$16,600 in monthly expenses. It appears that Petitioner has borrowed heavily from his friends and family – over \$800,000 – who appear to be providing him with support. He has not had to repay them in over four years. Through stipulation and orders, Petitioner received tens of thousands of dollars in precious metals that the parties acquired during the marriage. The Court concludes that Petitioner is reasonably likely to have the ability to pay a sanction order of \$5,000, and such a sanction will not impose an unreasonable financial burden on him. (Fam. Code, §§ 270, 271, subd. (a).)

The Court orders Petitioner Patel to pay to Respondent Bhatia, as and for sanctions under Family Code section 271, the sum of \$5,000 as follows:

\$2,000 shall be paid on or before September 1, 2020.

\$1,000 shall be paid on or before October 1, 2020.

\$1,000 shall be paid on or before November 1, 2020.

\$1,000 shall be paid on or before December 1, 2020.

If any installment is late by more than five days, the entire balance shall be immediately due and payable with interest at the legal rate.

So Ordered.

Dated: 8/3/2020



Judge of the Superior Court

Bruce Iwasaki

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**CLERK'S CERTIFICATE OF MAILING/
NOTICE OF ENTRY OF ORDER**

I, Sherri R. Carter, Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the Notice of Entry of the above minute order of August 3, 2020 upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States Mail at the courthouse in Los Angeles, California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

Dated: August 3, 2020

By: /s/ Michelle Dorsey

Michelle Dorsey, Deputy Clerk

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