No._____

In the Supreme Court of the United States

WALTER LANCASTER
Petitioner

-v-

BEATS ELECTRONICS et al
Respondent

On Petition for Writ of Certiorari to

State of California

Second District Court of Appeals Division Four

APPENDIX OF EXHIBITS

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(Petitioner)

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INDEX OF APPENDICES

Appendixed A

State of California Second District Court of Appeals Division

Four Unpublished Opinion

Filed 9/27/22 Lancaster v. Beats Electonics CA2/4

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

WALTER LANCASTER, Plaintiff and Appellant, v. BEATS ELECTRONICS LLC, et al., Defendants and Respondents.	B298792 (Los Angeles County Super. Ct. No. BC687998)

APPEAL from a prefiling order of the Superior Court of Los Angeles County, Judge Dennis J. Landin. Affirmed.

Walter Lancaster, in pro. per., for Plaintiff and Appellant.

Morrison & Foerster, Bita Rahebi and James R. Sigel for Defendants and Respondents.

Appellant, Walter Lancaster, appearing in propria persona, appeals from an order designating him a vexatious litigant and prohibiting him from

* Amended Cite ↑ Appellant Appealed from the entire case

filing any new litigation without first obtaining permission from the presiding judge or justice pursuant to Code of Civil Procedure section 391.7.[1] The trial court entered the prefiling order after appellant filed a series of redundant motions challenging the trial court's dismissal of his lawsuit against respondents Apple Inc. and Beats Electronics LLC. In this appeal, appellant also seeks to challenge the orders relating to the dismissal of his lawsuit.

We conclude that the only order properly before this court is the prefiling review order entered by the trial court against appellant as a vexatious litigant. We further conclude that appellant has failed to identify any reversible error with regard to that order. Accordingly, we affirm the trial court's prefiling order.

FACTUAL AND PROCEDURAL BACKGROUND

A. *Appellant's Lawsuit Against Respondents and Trial Court's Order Granting Respondents' Motion for Judgment on the Pleadings*

Over a decade ago, music artist Andre Young (aka Dr. Dre) and record executive Jimmy Iovine decided to bring new headphones to the market. The result of their efforts was Beats, a company that has sold millions of headphones and other audio products. Apple acquired Beats in 2014.

In December 2017, appellant brought suit against Apple and Beats (hereinafter respondents) setting forth multiple causes of action, based on the assertion that he was responsible for the "Beats by Dre" headphone line that launched in 2009. In support of this assertion, appellant alleged that in

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[1] Subsequent statutory references are to the Code of Civil Procedure unless otherwise indicated.

either 1990 or 1991, [redacted] told Dr. Dre that "in the FUTURE the way YOU SOUND in the STUDIO is going in this car a (Mbz 190e), this phone a (Panasonic) and the Sony Walkman," and Dr. Dre had responded "GOTTTDUHAYMmm!!!! (God Damn)." Appellant further alleged that he had made a similar statement to Iovine in either 1996 or 1997 and Iovine had responded, "SURE THING!"

On August 1, 2018, the trial court granted respondents' motion for judgment on the pleadings.[2] The court concluded that appellant's claims accrued more than three years before he filed his December 2017 complaint and were therefore barred by the statute of limitations. The court further found that even if it were to accept appellant's position that his claims did not accrue until the date he subjectively believed the defendants had wronged him, appellant's opposition confirmed he believed that date was in May 2014. As such, his December 2017 complaint would still be untimely.[3]

B. *Appellant's Pre and Post-Judgment Motions Challenging Trial Court's Dismissal Order*

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[2] Earlier, on April 25, 2018, the court struck two claims from appellant's complaint following an anti-SLAPP (strategic lawsuit against public participation) motion filed by respondent and granted by the trial court. The struck claims were based on statements made by appellant to defendants during the course of other lawsuits involving the headphones.

[3] The court found appellant's reliance on the "continuous accrual doctrine," misplaced as he failed to "identify claims that involve 'a recurring obligation[,]'" and had instead asserted claims that involve "a single fraud [with] continuing damages."

Appellant filed his first in a series of reconsideration motions on August 13, 2018, arguing that the trial court had "arbitrarily, capriciously and whimsically" chosen "May 2014" as the "start date" for his claims and that his claims are actionable under the "Doctrine of Continuing Violations." The trial court denied appellant's reconsideration motion on October 25, 2018, concluding appellant's argument regarding the continuing violations doctrine was "not new law," and had been "explicitly considered and rejected" in the court's August 1, 2018 ruling.

On November 9, 2018, appellant filed a second motion for reconsideration, seeking reconsideration of the October 25, 2018 order denying the first reconsideration motion. Appellant argued that the October 25, 2018 order was "void" because "the Judge failed to cite any controlling or persuasive authority in support of it's [*sic*] decision." Appellant reiterated his argument that his claims were actionable and timely under the "Doctrine of Continuous Violations."

On December 12, 2018, while appellant's second motion for reconsideration was pending, the court entered final judgment in favor of respondents. On January 31, 2019, the trial court vacated the judgment to "consider, adjudicate and issue a formal ruling on Plaintiff's Second Reconsideration Motion." It then denied the motion because it did not "conform to the requirements of a Motion under California Rules of Court, rule 3.1110" and "present[ed] no new facts or authority to justify a new conclusion on the same matter the Court ruled on in October 25, 2018." That same day, the court reentered judgment in favor of respondents and the superior court clerk served a notice of entry of the judgment on the parties.

On February 15, 2019, appellant filed a purported "motion to vacate" the judgment.[4] In substance, appellant's motion repeated the same argument made in his prior reconsideration motions, asserting that the August 1, 2018 order granting judgment on the pleadings had misapplied the continuing violations doctrine. The trial court denied appellant's motion on April 4, 2019, explaining that "'a motion to vacate lies only where a 'different judgment' is compelled by the *facts* found," and judgments on the pleadings do not turn on triable facts. As such, appellant's purported section 663 motion was "procedurally defective."

On April 15, 2019, appellant filed a third motion for reconsideration. This version sought reconsideration of the April 4, 2019 order denying appellant's motion to vacate the judgment. The motion once again renewed appellant's same arguments about the August 1, 2018 order. Citing *APRI Ins. Co. v. Superior Court* (1999) 76 Cal.App.4th 176, 180, the trial court denied the motion on May 16, 2019 as "procedurally improper" because "[j]udgment was already entered on January 31, 2019 in favor of Defendants on all causes of action."

C. *The Vexatious Litigant Finding and Prefiling Review Order*

On May 16, 2019—the same day the trial court denied appellant's third reconsideration motion—the court, on its own motion, entered a prefiling order against Lancaster as a vexatious litigant under section 391.7. In the order denying appellant's reconsideration motion, the court explained that it found that appellant "falls under the definition of a vexatious litigant"

[4] Section 663 authorizes motions to vacate when there is an "[i]ncorrect or erroneous legal basis for the decision, not consistent with or not supported by the facts." (§ 663, subd. (1).)

because he "repeatedly attempts to relitigate in pro per the validity of the determination against the same Defendant as to whom the litigation was finally determined." The court accordingly prohibited appellant "from filing any new litigation in the courts of this state in pro per without first obtaining leave of the presiding justice or presiding judge of the court where the litigation is proposed to be filed."

On May 22, 2019, respondents served file-stamped copies of the court's May 16, 2019 orders on appellant.

D. *Appellant's Notice of Appeal*

On May 28, 2019, appellant filed a "request to file new litigation by vexatious litigant" in the trial court, seeking the trial court's leave to file a notice of appeal. The trial court issued no order granting this request and appellant did not make any such request of this Court. Nevertheless, on June 25, 2019, appellant filed a notice of appeal. The notice of appeal indicated that appellant was appealing an "order after judgment under Code of Civil Procedure § 904.1(a)(2)." In addition, the notice of appeal lists the dates of the "judgment or order" appealed from as April 25, 2018, August 1, 2018, December 12, 2018, January 31, 2019, April 4, 2019, and May 16, 2019.

E. *This Court's Denial of Respondents' Motion to Dismiss*

Respondents moved to dismiss this appeal for lack of jurisdiction. Respondents argued that appellant's challenges were untimely and sought review of nonappealable orders. Respondents further argued that appellant, as a vexatious litigant, had failed to secure this court's permission to appeal. On July 1, 2020, we denied the motion, stating that the May 16, 2019 order declaring appellant to be a vexatious litigant was an appealable injunction,

"with no requirement to first obtain a prefiling order before filing the notice of appeal." We further found that appellant's notice of appeal was timely with respect to the May 16, 2019 vexatious litigant/prefiling order, but made clear that our "ruling is without prejudice to respondent arguing in its briefing on appeal that other rulings appellant may seek to raise in his appellant's opening brief are not cognizable on appeal."

DISCUSSION

In his opening brief, appellant appears to seek review of: (1) the April 25, 2018 anti-SLAPP ruling; (2) the August 1, 2018 order granting judgment on the pleadings; (3) the subsequently vacated December 12, 2018 judgment; (4) the January 31, 2019 judgment; (5) the April 4, 2019 denial of appellant's motion to vacate; (6) the May 16, 2019 order denying reconsideration; and (7) the separate May 16, 2019 order designating appellant as a vexatious litigant. Respondent counters that the only order properly the subject of this appeal is the trial court's May 16, 2019 vexatious litigant designation/prefiling order. Respondent further argues that the latter ruling was supported by substantial evidence, and that appellant has failed to otherwise demonstrate any reversible error with regards to the trial court's order.[5] We agree with respondent on both points.

I. *The Vexatious Litigant Statutes*

"The vexatious litigant statutes (§§ 391-[391.8]) 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

[5] Appellant's "motion to quash" service of respondent's brief and his "motion to strike" respondent's brief (filed on July 8, 2022) are both denied.

time and resources of the court system and other litigants." (*Shalant v. Girardi* (2011) 51 Cal.4th 1164, 1169 (*Shalant*).) "'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." (*Id.* at pp. 1169–1170.)

"[O]ur vexatious litigant statutes provide courts and nonvexatious litigants with two distinct and complementary sets of remedies." (*Shalant, supra,* 51 Cal.4th at p. 1171; see *In re Marriage of Rifkin & Carty* (2015) 234 Cal.App.4th 1339, 1345 (*Rifkin*); *Golin v. Allenby* (2010) 190 Cal.App.4th 616, 633–635 (*Golin*).) "First, in pending litigation, 'the defendant may 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.' (*Shalant, supra,* 51 Cal.4th at p. 1170; § 391.1.) . . . Failure to provide the security is grounds for dismissal. (§ 391.4.)" (*Rifkin,* at p. 1345; see *Shalant,* at p. 1171; *Golin,* at p. 634.) The second and additional remedy is a prospective "prefiling order" under section 391.7, which states: "In addition to any other relief . . ., the court may, on its own motion or the motion of any party, enter a prefiling 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 justice or presiding judge of the court where the litigation is proposed to be filed." (§ 391.7, subd. (a); see *Shalant, supra,* 51 Cal.4th at p. 1170.)

II. *Scope of Appeal*

The existence of an appealable judgment or order "is a jurisdictional prerequisite to an appeal" (*Jennings v. Marralle* (1994) 8 Cal.4th 121, 126), as is the filing of a timely notice of appeal. (*Conservatorship of Townsend* (2014) 231 Cal.App.4th 691, 701.) Accordingly, "it is [this Court's] duty to consider the question of appealability" in every case. (*Winter v. Rice* (1986) 176 Cal.App.3d 679, 682.)

A. *The Trial Court's Prefiling Order Is An Appealable Order*

As indicated in our July 1, 2020 order, the trial court's prefiling order against appellant as a vexatious litigant is appealable with no requirement that appellant first obtain a prefiling order before filing the notice of appeal. This is so for two reasons.

First, "[w]hile an order declaring a person to be a vexatious litigant is not itself appealable [citation], such an order may be reviewed 'in conjunction with an appeal from some subsequent otherwise appealable judgment or order.' [Citation.]" (*In re Marriage of Deal* (2020) 45 Cal.App.5th 613, 618–619 (*Deal*).) Relevant here, an order requiring a person to obtain permission from the presiding judge or justice before filing "new litigation" in propria persona (§ 391.7) "is injunctive in nature and therefore appealable under section 904.1, subdivision (a)(6)." (*Deal, supra*, 45 Cal.App.5th at p. 619; see also *Luckett v. Panos* (2008) 161 Cal.App.4th 77, 90 [stating same].)

Second, appellant was entitled to bring an appeal of the prefiling order without prior approval from the presiding justice because he did not initiate the vexatious litigant/section 391.7 proceeding below. (*Deal, supra*, 45 Cal.App.5th at p. 618, citing *John v. Superior Court* (2016) 63 Cal.4th 91, 99.)

B. *The Trial Court's Orders Relating to the Dismissal of Appellant's Lawsuit Against Respondents Are Not Cognizable in this Appeal*

Even where a Court of Appeal has jurisdiction to review one appealable order identified in a notice of appeal, an appellant must independently satisfy the jurisdictional requirements for the other challenged orders. (See, e.g., *Sole Energy Co. v. Petrominerals Corp.* (2005) 128 Cal.App.4th 212, 240.) Here, appellant cannot satisfy this requirement as to any of the additional orders identified in his notice of appeal.

A notice of appeal from a judgment must be filed on or before the earliest of (1) 60 days after the trial court's mailing of the notice of entry of judgment, (2) 60 days after a party's service of the notice of entry of judgment, or (3) 180 days after entry of judgment. (Cal. Rules of Court, rule 8.104(a)(1)–(3).)[6]

Appellant's June 25, 2019 notice of appeal is untimely with regard to both the April 25, 2018 anti-SLAPP ruling and the January 31, 2019 final judgment entered by the trial court.[7] (§ 425.16, subd. (i); rule 8.104(a)(1)(A) & (C), (e)(2).) Moreover, neither appellant's February 15, 2019 motion to vacate the judgment nor the April 15, 2019 motion for reconsideration filed by appellant served to toll or delay the time to appeal the January 31, 2019 judgment.

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6 All further references to a "rule" are to the California Rules of Court.

7 The August 1, 2018 order granting judgment on the pleadings is not independently appealable; instead, a litigant may seek review through a timely appeal from the final judgment. (*Campbell v. Jewish Com. for P. Service* (1954) 125 Cal.App.2d 771, 773.) The vacated December 12, 2018 judgment is also not appealable as there can be no valid appeal from a judgment that has been set aside. (*Lantz v. Vai* (1926) 199 Cal. 190, 193; *Matera v. McLeod* (2006) 145 Cal.App.4th 44, 58.)

First, only a "*valid* motion . . . to vacate the judgment" extends the time to appeal. (Rule 8.108(c), italics added.) Appellant's filing of a motion to vacate a judgment on the pleadings would not qualify as a "valid" motion for tolling purposes. (*Payne v. Rader* (2008) 167 Cal.App.4th 1569, 1574–1575 [motion to vacate judgment does not lie to vacate judgment following erroneous ruling on demurrer], disapproved on other grounds by *Ryan v. Rosenfeld* (2017) 3 Cal.5th 124, 135, fn. 4; cf. *Bezirdjian v. O'Reilly* (2010) 183 Cal.App.4th 316, 321–322 [noting that standard for granting a motion for judgment on the pleadings is essentially the same as that applicable to a general demurrer]; cf. *Doe v. Regents of University of California* (2020) 80 Cal.App.5th 282, 292 (UCSB.)[8] Appellant's April 15, 2019 motion for reconsideration also did not qualify as a "valid" motion for tolling purposes because it was filed after final judgment was entered. (*Ten Eyck v. Industrial Forklifts Co.* (1989) 216 Cal.App.3d 540, 545.)

We note, however, that our high court in *Ryan v. Rosenfeld, supra,* 3 Cal.5th 124 (*Ryan*) held that a motion to vacate filed under section 663 is separately appealable (*id.* at pp. 134–135) and here there is no indication that the court's order denying appellant's section 663 motion was served on appellant—which would render his appeal from the section 663 denial (and

[8] Even if appellant's motion to vacate had been "valid," appellant's attempted appeal from the January 31, 2019 judgment would be untimely. Rule 8.108(c) extends the time to appeal to "the earliest of: [¶] (1) 30 days after the superior court clerk or a party serves an order denying the motion or a notice of entry of that order; [¶] (2) 90 days after the first notice of intention to move—or motion—is filed; or [¶] (3) 180 days after entry of judgment." (Rule 8.108(c).) Because appellant filed his motion to vacate on February 15, 2019 and the trial court denied it on April 4, 2019, his notice of appeal was due on May 16 at the latest—90 days from when he filed the motion in February.

by extension the reconsideration motion from that denial), timely. (Rule 8.104(a).)

Respondents acknowledge that *Ryan* held "the denial of a section 663 motion is, by statute, an appealable order regardless of the issues raised" but maintain that appellant's motion is non-appealable for the same reason it could not serve as a tolling motion under rule 8.104(a)—i.e., it was not a genuine or "valid" section 663 motion.[9] The *Ryan* court briefly touched on this issue by stating that the question whether Ryan "filed a proper section 663 motion" could be addressed by the appellate court on remand (*id.* at p. 128, fn. 2), but provided no further explication of the issue. (Cf. *UCSB, supra,* 80 Cal.App.5th at p. 292 [order challenged on appeal was not appealable as motion to vacate where appellant "did not purport to file her motion under section 663" and relief sought was "not afforded by section 633"].)

In any event, we need not belabor the point because the fact remains that appellant was subject to a prefiling order that prohibited him from filing any "new litigation" in propria persona absent permission from the presiding justice of the relevant forum. (§ 391.7; *Bravo v. Ismaj* (2002) 99 Cal.App.4th 211, 221 (*Bravo*).) Under the statutory scheme, "litigation" means any civil action or proceeding, "commenced, maintained or pending in any state or federal court" (§ 391, subd. (a)), and it includes any appeal or writ proceeding.

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[9] Respondents also argue that allowing a separate appeal of a section 663 motion would have the effect of allowing "two appeals from the same ruling." However, the *Ryan* court rejected the same argument by acknowledging "the general rule that postjudgment motions should not substitute for appeals of the final judgment" and then explaining that it "had no reason to address the long-standing exception to this rule for *statutory* motions to vacate." (*Ryan, supra,* 3 Cal.5th at p. 134.)

(*McColm v. Westwood Park Assn.* (1998) 62 Cal.App.4th 1211, 1216–1217, 1219 (*McColm*) overruled on other grounds by *John v. Superior Court, supra,* (2016) 63 Cal.4th 91.) Given that appellant's section 663 motion failed to set forth any viable basis for relief under that section—and merely sought to relitigate the same issues addressed in the underlying order granting judgment on the pleadings—we have no difficulty in concluding that the administrative presiding justice of this court would not have granted appellant permission to appeal the denial of his purported section 663 motion.[10] (*McColm, supra,* 62 Cal.App.4th at p. 1217; § 391.7, subd. (b) [presiding judge or justice shall permit filing of new litigation "only if it appears that the litigation has merit and has not been filed for the purposes of harassment or delay"].)

Thus, the only issue remaining before us is whether the trial court properly issued the prefiling order.

III. *The Prefiling Order*

As previously indicated, the trial court declared appellant a vexatious litigant due to his repeated attempts to relitigate the validity of the determination against him. Under subdivision (b)(2) of the vexatious litigant statute, a vexatious litigant is one who "repeatedly relitigates or attempts to relitigate, in propria persona, either (i) the validity of the determination against the same defendant" or "(ii) the cause of action, claim, controversy, or any of the issues of fact or law, determined or concluded by the final determination against the same defendant." (§ 391, subd. (b)(2).) Appellant's filing of frivolous and redundant motions also implicates subdivision (b)(3)

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10 In any event, even if we were to review the motion in this appeal, we would affirm the trial court for these same reasons.

vexatious litigant as one who "while acting in propria persona, repeatedly files unmeritorious motions, pleadings, or other papers, conducts unnecessary discovery, or engages in other tactics that are frivolous or solely intended to cause unnecessary delay." (§ 391, subd. (b)(3).)

In his opening brief, appellant does not argue that the trial court's vexatiousness finding is unsupported by sufficient evidence.[11] We must therefore presume that the trial court's finding on this point is correct. (*Garcia v. Lacey* (2014) 231 Cal.App.4th 402, 407; *Deal, supra*, 45 Cal.App.5th at p. 621.)

The sole contention raised by appellant is that the trial court's order is "void" because section 391.7 entitled him to an oral hearing before the trial court entered the prefiling order.[12] Although the statute is silent on the issue, the court in *Bravo, supra,* 99 Cal.App.4th 211—cited by appellant—held that an individual subject to a prefiling order is entitled to both notice and a hearing before entry of the order. (*Bravo, supra,* 99 Cal.App.4th at p. 225.) However, *Bravo* proceeded to find any error harmless where the litigant failed to identify what evidence he would have presented that might have led to a different outcome. (*Id.* at p. 227.) The same holds true here. The trial court was aware of the motions and papers filed by appellant

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[11] Appellant also fails to counter respondents' argument on the point in his reply brief. (See *Rudick v. State Bd. of Optometry* (2019) 41 Cal.App.5th 77, 90 [concluding appellants made an implicit concession by "failing to respond in their reply brief to the [respondent's] argument on th[at] point"].)

[12] We note that appellant's briefing in this case is largely incoherent and noncompliant. The brief is devoid of the requisite headings for each point and instead consists of a series of undeveloped "bullet points" comprised of snippets of the court's rulings or oral statements and/or phrases from various legal opinions. (Rule 8.204; *Pizarro v. Reynoso* (2017) 10 Cal.App.5th 172, 179.) We address the argument identified above to the extent it is a discernible contention.

throughout the litigation, and appellant has failed to identify any evidence—or argument—he might have presented to counter the court's findings. Thus, even assuming the trial court erred in not holding a hearing on the issue, "[w]e are not required to remand this matter for an oral argument or an evidentiary hearing where there is no purpose shown for doing so." (*Ibid.*)

We therefore affirm the trial court's prefiling order.

DISPOSITION

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

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

WILLHITE, J.

We concur:

MANELLA, P. J.

CURREY, J.

Appendixed B

State of California Second District Court of Appeals Division

Four Petition for Rehearing Denial

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

WALTER LANCASTER,

Plaintiff and Appellant,

v.

BEATS ELECTRONICS LLC ET AL.,

Defendant and Respondent.

B298792

(Super. Ct. No. BC687998)
Los Angeles County

ORDER

THE COURT:*

The court has read and considered appellant's petition for rehearing. The petition for rehearing is denied.

*MANELLA, P.J. WILLHITE, J. CURREY, J.

Appendixed C

Los Angeles Superior Court Dept. 51 ***Substantially Modified***

Final Judgment

Superior Court of California

County of Los Angeles

Department 51

WALTER LANCASTER,

Plaintiff,

v.

BEATS ELECTRONICS, LLC, et al.,

Defendants.

Case No.: BC687998

Hearing Date: 5/16/19

Trial Date: None Set

RULING RE:

Motion for Reconsideration

MOVING PARTY: Plaintiff Walter Lancaster

OPPOSITION: Defendants Beats Electronics, LLC and Apple, Inc.

REPLY: Plaintiff Walter Lancaster

Background

Plaintiff Walter Lancaster sued Defendants Beats Electronics, LLC, Andre Young, Jimmy Iovine, Sean Bouldin, and Apple Corporation, Inc. for damages. Plaintiff alleges that Beats (as well as the other Defendants) misappropriated Plaintiff's idea and unjustly profited from it.

On December 22, 2017, Plaintiff filed a Complaint and on February 5, 2018, the operative First Amended Complaint ("FAC") for the following causes of action:

(1) civil conspiracy,
(2) intentional misrepresentation,
(3) misappropriation of trade secret,
(4) fraud deceit (against Andre Young),
(5) fraud deceit (against Jimmy Iovene),
(6) fraud deceit (against Sean Bouldin),
(7) fraudulent concealment,
(8) conversion,
(9) unjust enrichment,
(10) quantum meruit,
(11) negligent misrepresentations, and
(12) declaratory relief.

On April 25, 2018, the Court (Judge Raphael) granted an Anti-SLAPP motion brought by Defendants Beats and Apple (collectively, "Defendants") as to the second and seventh causes of action.

On August 1, 2018, the Court (Judge Raphael) granted Beats' Motion for Judgment on the Pleadings. The Court agreed with Beats' argument that all the remaining causes of action against

it (i.e., the first, third, and eighth through twelve causes of action) are barred by the statute of limitations.

On October 25, 2018, the Court denied Plaintiff's "Request for Reconsideration and in the Hybrid Petition for Rehearing", (which the Court deemed as a Motion for Reconsideration) as to the Court's ruling on the Motion for Judgment on the Pleadings.

On January 31, 2019, the Court denied Plaintiff's second "Request for Reconsideration and in the Hybrid Petition for Rehearing."

On April 4, 2019, the Court denied Plaintiff's Motion to Vacate Judgment.

On April 15, 2019, Plaintiff filed this third "Request for Reconsideration and in the Hybrid Petition for Rehearing."

The Court considered the moving papers, opposition, and reply and rules as follows.

Standard

"A motion for reconsideration may only be brought if the party moving for reconsideration can offer 'new or different facts, circumstances, or law' which it could not, with reasonable diligence, have discovered and produced at the time of the prior motion. . . . A motion for reconsideration will be denied absent a strong showing of diligence." Forrest v. Department of Corporations (2007) 150 Cal.App.4th 183, 202, disapproved on another ground in Shalant v. Girardi (2011) 51 Cal.4th 1164, 1172, fn. 3); Baldwin v. Home Sav. of America (1997) 59 Cal.App.4th 1192, 1199 (noting that 1992 amendment to Code of Civil Procedure section 1008 tightened the diligence requirements).

Disagreement with a ruling is not a new fact that will support the granting of a motion for reconsideration. Gilberd v. AC Transit (1995) 32 Cal.App.4th 1494, 1500. Judicial error does not constitute a new fact or circumstance under Code of Civil Procedure section 1008. Jones v. P.S. Development Co., Inc. (2008) 166 Cal.App.4th 707, 724, disapproved on another ground in Reid v. Google, Inc. (2010) 50 Cal.4th 512, 532 fn. 7.

The court lacks jurisdiction to rule on a motion for reconsideration after entry of judgment. APRI Ins. Co. v. Sup. Ct. (Schatteman) (1999) 76 Cal. App.4th 176, 181; Branner v. Regents of Univ. of California (2009) 175 Cal.App.4th 1043, 1048.

Analysis:

This is a third Motion for Reconsideration from Plaintiff, and again, the Court finds that Plaintiff's "Request for Reconsideration and in the Hybrid Petition for Rehearing" is procedurally improper. The Court does not have jurisdiction to hear this matter, because Judgment was already entered on January 31, 2019 in favor of Defendants on all causes of action in the FAC. See APRI Ins. Co., supra, 76 Cal.App.4th 176, 180. The appropriate procedure for Plaintiff to seek relief from the Court's judgment is to file an appeal.

Since Plaintiff repeatedly attempts to relitigate in pro per the validity of the determination against the same Defendant as to whom the litigation was finally determined, the Court finds that Plaintiff falls under the definition of a vexatious litigant, pursuant to CCP §§ 391 et seq. The

Court enters a prefiling order that prohibits Plaintiff from filing any new litigation in the California courts in pro per without first obtaining leave of the presiding judge of the court where the litigation is proposed to be filed. Disobedience of the order may be punished as a contempt of court. CCP § 391.7(a); see In re Luckett (1991) 232 Cal.App.3d 107, 100.

Conclusion

Plaintiff Walter Lancaster's Motion for Reconsideration is DENIED.

The Court enters a prefiling order which prohibits Plaintiff Walter Lancaster from filing any new litigation in the courts of this state in pro per without first obtaining leave of the presiding justice or presiding judge of the court where the litigation is proposed to be filed.

Defendants Beats Electronics, LLC and Apple Corporation, Inc. to give notice.

Dated: MAY 16 2019

Dennis Landin
Superior Court Judge

* substantial modification without a hearing prior to entry

Appendixed D

State of California Supreme Court Petition for Review

Denial

Court of Appeal, Second Appellate District, Division Four - No. B298792

S277158

IN THE SUPREME COURT OF CALIFORNIA

En Banc

WALTER LANCASTER, Plaintiff and Appellant,

v.

BEATS ELECTRONICS LLC et al., Defendants and Respondents.

The petition for review is denied.

GUERRERO

Chief Justice

Appendixed E

State of California Supreme Court Petition for Rehearing Denial

Supreme Court of California

JORGE E. NAVARRETE
CLERK AND EXECUTIVE OFFICER
OF THE SUPREME COURT

EARL WARREN BUILDING
350 McALLISTER STREET
SAN FRANCISCO, CA 94102
(415) 865-7000

January 23, 2023

Walter Lancaster
P.O. Box 351821
Los Angeles, CA 90035

Re: **S277158 / B298792 — Lancaster v. Beats Electronics**

Dear Mr. Lancaster:

No action may be taken on your "petition for rehearing of petition for review," received January 23, 2023. The order of this court filed January 11, 2023, denying the above-referenced petition, was final forthwith and may not be reconsidered or reinstated. Please rest assured, however, that the entire court considered the petition for review, and the contentions made therein, and the denial expresses the court's decision in this matter.

Very truly yours,

JORGE E. NAVARRETE
Clerk and
Executive Officer of the Supreme Court

By: Robert R. Toy, Senior Deputy Clerk

cc: David Walsh
James Sigel