

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

COURT OF APPEAL – SECOND DIST.

DIVISION P

FILED

Aug 13, 2024

EVA McCLINTOCK, Clerk

Brian Millen Deputy Clerk

CHARLES A. SAFFORE,

Plaintiff and Appellant,

v.

KRYSTAL DRY et al.,

Defendants and Respondents.

B339544

(Super. Ct. No. 23STCV14486)
Los Angeles County

DISMISSAL ORDER

THE COURT:

On July 1, 2024, declared vexatious plaintiff Charles A. Saffore filed in propria persona a notice of appeal from a purported judgment of dismissal entered on May 1, 2024 after the sustaining of a demurrer. As a declared vexatious litigant, Saffore is subject to the prefiling order requirements of Code of Civil Procedure section 391.7, subdivision (a)^[1] and may not file 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. (Section 391.7, subd. (a).) New litigation filed in propria persona by declared vexatious litigants includes appeals for purposes of section 391.7, subdivision (a). (*John v. Superior Court* (2016) 63

¹ Further statutory references are to the Code of Civil Procedure.

Cal.4th 91, 93.) Thus, Saffore was required to seek leave of this court before he filed his notice of appeal in propria persona (section 391.7, subd. (a)), which he did not do.

Section 391.7, subdivision (c) provides in key part that if a clerk mistakenly files new litigation by a vexatious litigant subject to the prefiling order requirements of section 391.7, subdivision (a) without the litigant first obtaining an order from the presiding justice or presiding judge permitting the filing, any party may file with the clerk and serve notice on the plaintiff and parties stating that the litigant is a vexatious litigant subject to a prefiling order entered under section 391.7, subdivision (a). The presiding justice or presiding judge may also direct the clerk to file and serve notice under section 391.7, subdivision (a) stating that the litigant is a vexatious litigant subject to a prefiling order entered under section 391.7, subdivision (a). Per section 391.7, subdivision (c), the filing of the notice, whether by a party or by the clerk, automatically stays the matter pending either the litigant obtaining from the court an order allowing the litigation to proceed or the litigation being dismissed. (Section 391.7, subd. (c); *Andrisani v. Hoodack* (1992) 9 Cal.App.4th 279, 281.)

On July 30, 2024, defendant and respondent Krystal Dry filed notice pursuant to section 391.7, subdivision (c) notifying parties that Saffore is a vexatious litigant within the meaning of section 391.7, subdivision (a). On July 30, 2024, the clerk of this court sent notice to parties notifying them that the matter was stayed. (Section 391.7, subd. (c).) The clerk's notice requested Saffore to demonstrate in writing within 10 days of the date of the notice that his appeal has merit and was not filed for purposes of harassment or delay. (Section 391.7, subd. (b).) The notice invited Saffore to provide the appealed judgment with his response so the court might better ascertain what is

appealed. The notice also informed Saffore that failure to respond to the notice or demonstrate merit in the litigation would result in the dismissal of his appeal. (Section 391.7, subd. (c); *Andrisani v. Hoodack, supra*, 9 Cal.App.4th at p. 281.) To date, Saffore has not responded to the notice, and the time for responding has lapsed.

The appeal initiated by the notice filed on July 1, 2024 is dismissed. (Section 391.7, subd. (c); *Andrisani v. Hoodack, supra*, 9 Cal.App.4th at p. 281.)

A handwritten signature in black ink, appearing to read "Lui", is positioned above a horizontal line.

Elwood Lui, Administrative Presiding Justice