Filed 10/4/18 Thomas R. v. Tonja V. 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**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**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

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| THOMAS R.,<br><br>Plaintiff and Respondent,<br><br>v.<br><br>TONJA V., et al.,<br><br>Defendants and Appellants. | B280834<br><br>(Los Angeles County Super. Ct. No. PF003745) |

APPEAL from an order of the Superior Court of Los Angeles County, Diana Gould-Saltman, Judge. Affirmed as modified.

Tonja V., in pro. per. for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

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Appellant Tonja V. is the maternal grandmother of Conner R. When Conner was born in 2007, he and his mother, Ashlee J., lived with appellant and her fiancé (now husband), Darrell V. After several years of litigation in family court, primary custody of Conner was given to his father, Thomas R. (Father). Father's entitlement to custody was confirmed by a dependency court when it asserted jurisdiction over Conner, along with Ashlee's two younger children by another father. Appellant and Darrell, together and separately, filed multiple motions and instituted several special proceedings seeking to have appellant and/or Darrell recognized as having parental status with respect to Conner or to compel Father to permit grandparent visitation. In 2016, after multiple motions had been denied and multiple proceedings litigated to finality, appellant filed two additional motions in family court seeking grandparent visitation. Father moved to have appellant declared a vexatious litigant. The family court granted the motion.

Appellant contends that she did not engage in sufficient litigation to meet the statutory criteria for a vexatious litigant, that the court used the wrong criteria to make its findings, and that the court abused its discretion in imposing a requirement that appellant obtain leave of court and post a $10,000 bond before any future filings.[1] We conclude the court had no power to require appellant to post a bond before any future filings, as the

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[1] No respondent's brief was filed. The rule we follow in such circumstances is "to examine the record on the basis of appellant's brief and to reverse only if prejudicial error is found. [Citations.]" (*Votaw Precision Tool Co. v. Air Canada* (1976) 60 Cal.App.3d 52, 55; accord, *Carboni v. Arrospide* (1991) 2 Cal.App.4th 76, 80, fn. 2.)

governing statute places the responsibility for determining whether a vexatious litigant must post a bond on the judicial officer who decides whether the litigant will be permitted to file any new actions or motions. We therefore strike the part of the order requiring the $10,000 bond. We otherwise affirm.

## FACTUAL AND PROCEDURAL BACKGROUND

A. *The Paternity Action*

In November 2007, when Conner was eight months old, Father filed a petition to establish paternity and his right to visitation and joint legal custody. (*T.R. v. A.J.* (L.A.S.C. case no. PF003745) (the Paternity Action).)

In November 2008, appellant and Ashlee joined in filing a motion to disqualify the judicial officer who had presided over the case from its inception -- Commissioner Alan Friedenthal -- under Code of Civil Procedure section 170.1, claiming he was biased against them.[2] When the motion was denied, appellant and Ashlee, then represented by counsel, petitioned for a writ of mandate, seeking reversal of the denial and for an order vacating all orders issued by Commissioner Friedenthal from June 18, 2008 onward. The petition was denied.

In December 2011, Father was awarded primary physical custody of Conner. At the hearing, the court described the Paternity Action as "'marked by acrimony, bitterness, voluminous filings, and . . . accusations,'" an "'ongoing war waged by [Ashlee],

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[2] Undesignated statutory references are to the Code of Civil Procedure.

but chiefly by [appellant].'"[3] The court further stated: "It's clear that [appellant] is financing this case and backing the ongoing war of estrangement against [Father]. And it's become very clear that the goal of [Ashlee] and [appellant] is to make [Father] give up and go away." Ashlee filed an appeal from the order, which

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[3] The summary of pleadings and motions filed by appellant acting in her own name does not adequately describe the litigiousness emanating from appellant's family in the Paternity Action, which began with the first ruling in January 2008, granting Father visitation: Ashlee filed a petition for writ of mandate, which was denied. In November 2011, Ashlee filed two petitions for writ of mandate, claiming among other things that that the judicial officer then presiding over the Paternity Action -- Judge Elizabeth Feffer -- was biased and prejudiced against her and appellant. The petitions were denied. Shortly thereafter, Ashlee filed a statement of disqualification, seeking removal of Judge Feffer, which the court struck. That was the subject of a December 2011 writ petition, also denied. Another statement of disqualification was filed and stricken in January 2012, leading Ashlee to file yet another writ petition in February 2012, also denied.

In March 2014, Darrell filed an action seeking parental status with respect to Conner. The judge to whom his case was assigned ordered it consolidated with the Paternity Action. Darrell used that opportunity to peremptorily challenge the judge then presiding over the matter (Judge Silverman) under Code of Civil Procedure section 170.6. The supervising judge for the family court vacated the consolidation order, denied Darrell's challenge as moot, and returned the Paternity Action to Judge Silverman. Ashlee, joined by Darrell, filed four writ petitions in April and May 2014, seeking to have the order vacating the consolidation order reversed. All were denied. Ashlee and Darrell sought review in the Supreme Court of one of the writ denials, which was also denied.

she subsequently dismissed. In December 2012, appellant, acting in propria persona (pro per), filed a motion to join or intervene in the appeal in order to vacate the dismissal and continue to prosecute the appeal on her own behalf. Her motion was denied December 17, 2012.

In 2012, appellant and Darrell filed a petition in the Paternity Action, seeking joinder and grandparent visitation. On March 27, 2013, the family court found no statutory basis for the joinder, and denied their request for grandparent visitation. In April 2013, acting in pro per, appellant filed an appeal. This court affirmed in *T.R. v. A.J.* (Sept. 4, 2014, B247965). With respect to the petition for joinder, we stated that under the governing statute (the Uniform Parentage Act, Fam. Code, § 7600 et seq.), "[n]o provision is made for a grandparent to be joined in the action." With respect to the denial of grandparent visitation, we observed that appellant had sought to undermine Father's relationship with Conner by, among other things, having the boy refer to her and Darrell as "mom and dad" and to Father by his first name. We affirmed the family court's determination that "ordering visitation . . . would interfere with [F]ather's constitutionally protected parental rights, and that such interference outweighed the benefit to the child from court-ordered visitation."

In February 2013, appellant and Darrell filed an ex-parte motion seeking emergency visitation with Conner while their petition for joinder in the Paternity Action was still pending. The motion was denied. In November 2016, appellant again requested grandparent visitation in the Paternity Action. The request was denied. Appellant almost immediately filed another

request, which was pending when the motion to declare her a vexatious litigant was filed.[4]

B. *The Dependency Proceeding*

After her relationship with Father ended, Ashlee had two children with another father. In late 2012, when Ashlee and the two younger children were living with appellant and Darrell, and Conner was regularly visiting, appellant and the children's daycare provider noticed bruises and pinch marks on the children. The Department of Children and Family Services (DCFS) initiated a proceeding -- *In re Jonathan H., Jr., et al.* (L.A.S.C. case no. CK96368). Conner was detained by DCFS and released to Father, and the dependency court subsequently issued a family law order terminating dependency jurisdiction over the boy.

In November 2012, before jurisdiction over Conner had been terminated, appellant and Darrell filed in the dependency proceeding a petition for de facto parent status with respect to Conner and Ashlee's two other children. The dependency court denied that petition on December 19, 2012. In the petition, appellant and Darrell sought to have all three children placed with them. The court declined to do so, and in addition issued a no contact order. In January 2013, appellant and Darrell filed a pro per appeal, and Division Seven of this District affirmed. (See

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[4] The request for visitation was denied on January 31, 2017, the same day the motion to deem appellant a vexatious litigant was heard. When she filed the current appeal, appellant initially sought reversal of the order denying grandparent visitation, but is currently seeking review only of the order declaring her a vexatious litigant.

*In re Jonathan H., Jr., et al*. (March 19, 2014, B246776).) With respect to Conner, the court observed: "[Welfare and Institutions Code] [s]ection 361.3's preference for relative placement is not superior to a parent's right to custody. Under these circumstances placement of Conner with anyone but [Father] would have been an abuse of the court's discretion." With respect to the no contact order, the court stated: "Noncustodial grandparents of dependents of the juvenile court . . . have 'no substantive due process right to free association with the minors, or to maintain a relationship with them'" (quoting *In re Brittany K.* (2005) 127 Cal.App.4th 1497, 1508), and "[t]he court's no contact order is essentially an order that the grandparents do not have a right to visitation, which is clearly within the purview of the court."

C. *Appellant's Request for Parental Status with Respect to Conner*

In April 2016, after the petition for joinder in the Paternity Action and request for de facto parent status in the dependency proceeding had been denied and the denials affirmed on appeal, appellant filed a new action seeking parental status with respect to Conner: *Van Roy v. Reagan, et al*. (L.A.S.C. case No. BF056226).[5] On July 11, 2016, the family court found that

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[5] Family Code section 7612, subdivision (c) provides that "[i]n an appropriate action, a court may find that more than two persons with a claim to parentage under this division are parents if the court finds that recognizing only two parents would be detrimental to the child." In February 2016, several months before appellant filed the action, the family court had denied Darrell's similar 2014 petition for parental status because he had not established that "'recognizing only two parents would . . . be

appellant's lack of parental status had been determined in the other proceedings, and quashed appellant's parentage action. Appellant petitioned for a writ of mandate, which was denied August 24, 2016. Appellant filed a notice of appeal in August 2016, but dismissed the appeal in December 2017.

D. *Motion to Find Appellant a Vexatious Litigant*

On December 5, 2016, Father filed a motion asking the court to declare appellant a vexatious litigant under section 391. Father based his motion on the following motions, proceedings and actions initiated by appellant: (1) the 2012 motion to join in Ashlee's appeal from the 2011 order granting primary physical custody of Conner to Father and to vacate the dismissal of the appeal; (2) the 2012 petition for joinder and grandparent visitation in the Paternity Action; (3) the appeal of the denial of the petition for joinder and grandparent visitation in the Paternity Action; (4) the February 2013 request for grandparent visitation; (5) the 2012 petition for de facto parent status and grandparent visitation in the dependency proceeding; (6) the appeal of the orders denying de facto parent status and grandparent visitation in the dependency proceeding; (7) the 2016 separate action seeking parental status with respect to Conner; (8) the 2016 writ petition seeking reversal of the dismissal of her action seeking status as Conner's parent; (9) the 2016 separate appeal of the dismissal of her action seeking status as Conner's parent; (11) the November 2016 request for grandparent visitation; and, (13) the request for grandparent

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detrimental to the child.'" Darrell filed an appeal of the order and an opening brief, but dismissed the appeal at the end of 2017.

visitation then pending. Father further requested that should appellant be found to be a vexatious litigant, she be required to post security pursuant to section 391.3 if she continued to pursue relief in the Paternity Action, and that the court issue a pre-filing order under section 391.7, prohibiting appellant from filing new litigation in pro per without first obtaining leave of court.

At the hearing on the motion, appellant contended she could not be found to be a vexatious litigant because she had not filed any frivolous or meritless pleading or motions, and had had some success. The court "disagree[d] with [her] assessment" and granted the motion.[6] Its order stated that appellant "is a vexatious litigant" and that "she is prohibited from any further filings without first receiving a clearance from Department 1 and posting a $10,000 undertaking." This appeal followed.

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[6] Appellant contends the family court based the vexatious litigant finding solely on (1) her litigation of the petition for joinder and grandparent visitation in the Paternity Action; (2) her appeal of the denial of the petition for joinder and grandparent visitation in the Paternity Action: (3) her separate action (referred to by appellant as a "motion") seeking parental status with respect to Conner; and (4) the then-pending motion for grandparent visitation. The court referenced those proceedings during the portion of the hearing dedicated to the request for grandparent visitation, citing them to explain its reasons for denying the request, and its conclusion that the "statutory presumption against visitation [could not] be overcome based on [appellant's] own version of the facts." The court observed that since the rulings in the referenced proceedings -- all unfavorable to appellant -- appellant's relationship with Conner had become "more, not less attenuated." When the court turned to consideration of the vexatious litigant motion, it referenced no particular motion or proceeding.

## DISCUSSION

A. *Substantial Evidence Supported The Finding that Appellant Was a Vexatious Litigant Under All Three Subdivisions of the Governing Statute*

The vexatious litigant statute, section 391, et seq., was enacted to protect parties "'who become[] the target[s] of one of these obsessive and persistent litigants whose conduct can cause serious financial results to the unfortunate object of his attack.'" (*Tokerud v. Capitolbank Sacramento* (1995) 38 Cal.App.4th 775, 779 (*Tokerud*), quoting *First Western Development Corp. v. Superior Court* (1989) 212 Cal.App.3d 860, 867.) The provisions also prevent the "'constant suer'" from "'clogging court calendars,'" thereby causing "'real detriment to those who have legitimate controversies to be determined and to the taxpayers who must provide the courts.'" (*Tokerud*, *supra*, at p. 779, quoting *Taliaferro v. Hoogs* (1965) 237 Cal.App.2d 73, 74.) To be declared a vexatious litigant, a party must come within one of the definitions in section 391, subdivision (b). (*Goodrich v. Sierra Vista Regional Medical Center* (2016) 246 Cal.App.4th 1260, 1265.) Under subdivision (b)(1), a party may be deemed a vexatious litigant if he or she "[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." (§ 391, subd. (b)(1).) Under subdivision (b)(2), a party may be deemed a vexatious litigant if "[a]fter a litigation has been finally determined against the person," that person "repeatedly relitigates or attempts to relitigate, in propria persona, either (i) the validity of the determination against the same defendant or defendants as to whom the litigation was

finally determined 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 or defendants as to whom the litigation was finally determined." (§ 391, subd. (b)(2).) Finally, a person may be deemed a vexatious litigant if he or she "[i]n 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." (§ 391, subd. (b)(3).)

"'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.]'" (*Garcia v. Lacey* (2014) 231 Cal.App.4th 402, 407-408, quoting *Bravo v. Ismaj* (2002) 99 Cal.App.4th 211, 219.)

Appellant contends that she did not file a sufficient number of unsuccessful pleadings, motions or other actions to support the vexatious litigant finding, and that the court's finding was based on "incorrect criteria." We disagree. Before proceeding with our analysis, we observe that Father asked that appellant be found to be a vexatious litigant under "§ 391," and referenced all three subdivisions in his moving papers; the family court did not specify which subdivision applied or whether it relied on all three. Accordingly, we will consider whether the finding was supported under each subdivision.

1. *Subdivision (b)(1)*

A finding under section 391, subdivision (b)(1) requires evidence that within the seven-year period prior to the date the vexatious litigant motion was filed, the party against whom it is directed "commenced, prosecuted, or maintained in propria persona at least five litigations, other than in a small claims court . . . finally determined adversely to the person." Litigation is statutorily defined to mean "any civil action or proceeding, commenced, maintained or pending in any state or federal court." (*Id*., subd. (a).) It includes "an appeal or civil writ proceeding filed in an appellate court" and "special proceedings." (*McColm v. Westwood Park Assn*. (1998) 62 Cal.App.4th 1211, 1216, 1219, disapproved on another ground in *John v. Superior Court* (2016) 63 Cal.4th 91, 99, fn. 2; accord *Garcia v. Lacey*, *supra*, 231 Cal.App.4th at p. 406; *In re Kinney* (2011) 201 Cal.App.4th 951, 958; see, e.g., *In re Marriage of Falcone & Fyke* (2012) 203 Cal.App.4th 964, 1005-1006 [qualifying litigation included writ petitions summarily denied, appeal from a nonappealable order which was dismissed, appeal dismissed for failure to file opening brief, and appeals rejected on merits].) A litigation is "finally determined adversely" whenever a party is unsuccessful with respect to an action or proceeding he or she initiated, and includes actions or proceedings that are voluntarily dismissed by the party. (*Tokerud*, *supra*, 38 Cal.App.4th at p. 778; *In re Whitaker* (1992) 6 Cal.App.4th 54, 56.) "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." (*Tokerud*, *supra*, at p. 779.) An action is not "finally determined" until "all avenues

for direct review have been exhausted." (*Childs v. PaineWebber Incorporated* (1994) 29 Cal.App.4th 982, 992, 993.)

The record established that within seven years of December 13, 2016, appellant commenced, prosecuted or maintained in pro per the following litigations, all of which had been finally determined adversely to her prior to the court's vexatious litigant ruling: (1) appellant's pro per motion to join Ashlee's appeal of the order awarding primary physical custody of Conner to Father and to vacate Ashlee's dismissal of the appeal (filed December 5, 2012; denied December 17, 2012); (2) appellant's pro per petition for joinder and grandparent visitation in the Paternity Action (filed December 3, 2012; denied March 27, 2013); (3) appellant's pro per appeal of the petition for joinder and grandparent visitation in the Paternity Action (filed April 9, 2013; remittitur issued November 4, 2014); (4) appellant's pro per petition for de facto parent status and grandparent visitation in the dependency proceeding (filed November 26, 2012; denied December 19, 2012); and (5) appellant's pro per appeal of the denial of the petition for de facto parent status and grandparent visitation in the dependency proceeding (filed January 9, 2013; remittitur issued May 20, 2014). These five filings met the statutory definition of "litigations," and were, therefore, sufficient to support the court's vexatious litigant finding under subdivision (b)(1).

2. *Subdivision (b)(2)*

Section 391, subdivision (b)(2) prohibits repeated relitigations or attempts to relitigate against the same "defendant or defendants" either the validity of a determination against a party or a cause of action, claim controversy or issue finally determined against the party. The record reflects that

appellant's attempt to join in the Paternity Action and obtain grandparent visitation, and the similar attempt to obtain de facto parental status with respect to Conner and custody of the boy in the dependency proceeding, were rejected by the family court and the dependency court in separate proceedings in 2012. Affirming the family court decision, this court said the governing statute had "[n]o provision" for grandparents to join in a paternity action. Affirming the dependency court decision, Division Seven said it would have been an "abuse of discretion" for the court to grant appellant's request for custody. Appellant nonetheless persisted, filing multiple motions in the Paternity Action seeking visitation and a separate action in April 2016 seeking to have herself declared a parent to Conner, notwithstanding that Darrell's similar action had been rejected a few months earlier. All these pleadings and motions were directed at Father, attempting to wrest custody of Connor from him or interfere with his right to determine the persons with whom his child would spend time. This constituted relitigating or attempting to relitigate against the same "defendant" the validity of determinations finally determined against her, meeting the criteria for being declared a vexatious litigant under subdivision (b)(2).

3. *Subdivision (b)(3)*

Finally, a person may be deemed a vexatious litigant if that person, in any single litigation, repeatedly files in pro per unmeritorious "motions, pleadings, or other papers," or "engages in other tactics that are frivolous or solely intended to cause unnecessary delay." (§ 391, subd. (b)(3).) "[A]s few as three motions might form the basis for a vexatious litigant designation where they all seek the exact same relief, which has already been

denied or all relate to the same judgment." (*Goodrich v. Sierra Vista Regional Medical Center*, *supra*, 246 Cal.App.4th at p. 1266.) Here, the record reflects that appellant sought grandparent visitation in the Paternity Action in November 2016, although her 2012 attempts to establish the right to grandparent visitation were rejected by the family court and the dependency court, whose decisions had been affirmed on appeal. As soon as the November 2016 request for visitation was denied, she filed another, which was determined adversely to her at the January 31, 2017 hearing before the court turned to consideration of the vexatious litigant motion. When, in her argument, appellant claimed she had made no frivolous, meritless or baseless motions, the court "disagree[d] with [her] assessment."[7] This was sufficient to support the court's vexatious litigant finding under subdivision (b)(3).

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[7] Although we agree with the court's implicit finding that appellant's repeated requests for grandparent visitation and to be accorded parental status with respect to Conner were frivolous and meritless, we note that the vexatious litigant statute does not require such a finding. A party may be found to be a vexatious litigant not only where individual findings are unmeritorious, but also where his or her "regular practice of revisiting issues and the volume of [his or her] supplemental and amended filings . . . cumulatively evidence[] a 'level of vexatiousness' [that] sp[eaks] to an improper motive to 'grind down the other side' or to keep them from 'being able to move forward' in the litigation." (*Golin v. Allenby* (2010) 190 Cal.App.4th 616, 639; accord, *In re Marriage of Rifkin & Carty* (2015) 234 Cal.App.4th 1339, 1348.)

B. *The Court Did Not Abuse Its Discretion by Entering a Prefiling Order, but Erred in Imposing a Bond Requirement*

Once a person has been declared a vexatious litigant, the court may, on its own motion or the motion of any party, "enter a prefiling order which prohibits [the] 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).) As the Supreme Court has explained: "'The presiding judge shall permit the filing of that litigation only if it appears that the litigation has merit and has not been filed for the purposes of harassment or delay. . . .' Court clerks are directed not to file litigation from a vexatious litigant subject to a prefiling order without the presiding judge's order permitting the filing. If the clerk mistakenly does file the action, any party may seek dismissal through a notice that the plaintiff is subject to a prefiling order. 'The litigation shall be automatically dismissed unless the plaintiff within 10 days of the filing of that notice obtains an order from the presiding judge permitting the filing of the litigation as set forth in subdivision (b).' (§ 391.7, subd. (c)." (*Shalant v. Girardi* (2011) 51 Cal.4th 1164, 1170-1171.)

Appellant contends the court abused its discretion in issuing a prefiling order. Under the circumstances we have outlined, the court did not abuse its discretion in issuing the prefiling order to prevent appellant from persisting in compelling Father to defend his custody of Conner and his parental right to control visitation. Citing federal authority, appellant contends the court should have imposed less restrictive measures by deeming her a vexatious litigant with regard to the Paternity Action only or with regard to matters concerning Conner only.

The governing California statute does not provide for issuing limited rulings.

Appellant further contends the court abused its discretion in ordering her to post a bond prior to any further filing. Section 391.7 provides that "[t]he presiding justice or presiding judge" who determines whether the litigation proposed by the vexatious litigant may be filed "may condition the filing of the litigation upon the furnishing of security for the benefit of the defendants." (§ 391.7, subd. (b).) If and when appellant files her next motion, petition or action, the judge in Department 1 determining its merits may impose a bond. However, nothing in the statute permits the court making the vexatious litigant finding and entering the prefiling order to subject the litigant to a bond requirement in all future litigation.[8] Accordingly, that part of the order requiring the bond will be stricken.

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[8] Father based his request that appellant post a bond on provisions which have no current applicability. Section 391.1 permits "a defendant" to move the court "for an order requiring the plaintiff to furnish security" upon a showing that "the plaintiff is a vexatious litigant" and "there is not a reasonable probability that he or she will prevail in the litigation against the moving defendant." Section 391.3, subdivision (a) permits the court, after determining that "the plaintiff is a vexatious litigant and that there is no reasonable probability that the plaintiff will prevail in the litigation against the moving defendant" to order the plaintiff "to furnish, for the benefit of the moving defendant, security in such amount and within such time as the court shall fix." Once an order to furnish security under section 391.3 is issued, the action in which it was filed is automatically stayed from the time the motion was filed until 10 days after the vexatious litigant posts the required security. If the security is not posted, the action "shall be dismissed as to the defendant for

## DISPOSITION

The part of the court's January 31, 2017 order requiring appellant to post a $10,000 undertaking prior to any future filings is stricken. As modified, the order is affirmed.

Because no party other than appellant filed a brief or otherwise made an appearance on appeal, no costs are awarded on appeal.

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS.**

MANELLA, P. J.

We concur:

COLLINS, J. MICON, J.*

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

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whose benefit it was ordered furnished" under section 391.4. (See *Holcomb v. U.S. Bank Nat. Assn.* (2005) 129 Cal.App.4th 1494, 1499.) Here, there was nothing to stay or dismiss in the Paternity Action, as appellant's petition for joinder and grandparent visitation was long since dismissed, as were her various motions seeking grandparent visitation, and her only pending motion -- the most recent motion for grandparent visitation -- was denied at the vexatious litigant hearing.