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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

ALEXANDER KRAEMER,

Plaintiff and Appellant,

v.

SUPERIOR COURT OF THE STATE OF  
CALIFORNIA et al.,

Defendants and Respondents

B257451

(Los Angeles County  
Super. Ct. No. BC536176)

APPEAL from an order of the Superior Court of Los Angeles County,  
Kevin C. Brazile, Judge. Appeal dismissed.

Alexander Kraemer, in pro. per., for Plaintiff and Appellant.

Benton, Orr, Duval & Buckingham and Kevin M. McCormick for Defendants and  
Respondents.

## **INTRODUCTION**

Plaintiff Alexander Kraemer appeals from an order denying his ex parte application to consolidate and continue the hearing on Defendants' demurrer. The order is not an appealable order. The appeal is therefore dismissed.

## **FACTS AND PROCEDURAL HISTORY**

On February 13, 2014, Plaintiff filed a complaint against Defendants the Superior Court of California and certain unnamed employees of the Superior Court alleging Defendants engaged in improper conduct in prior unidentified civil actions in violation of Plaintiff's due process rights. Plaintiff sought declaratory and mandamus relief against the Superior Court and its personnel based on the alleged constitutional violations.

On May 8, 2014, Defendants filed a demurrer to the complaint, asserting, among other things, absolute judicial immunity as it related to the Superior Court's judicial officers and quasi-judicial immunity as it related to the Superior Court's personnel. (See Gov. Code, § 821.6.) The demurrer noticed a hearing date of July 9, 2014.

Plaintiff filed an ex parte application to consolidate the hearing on Defendants' demurrer with another hearing set for August 4, 2014, and to continue the demurrer hearing to that later hearing date. In support of the application, Plaintiff declared "additional sets [of] facts arose from [Defendants'] pattern of conduct" after he filed the complaint, and investigating those issues would take approximately a month to complete. On July 3, 2014, the trial court entered an order denying Plaintiff's ex parte application to consolidate and continue the demurrer hearing.

On July 8, 2014, Plaintiff filed a notice of appeal, stating "NOTICE IS GIVEN that Plaintiff Alexander Kraemer hereby appeals from the denial of [an] Ex-Parte Application For An Order to Consolidate and Continue two hearings at the later hearing date." Plaintiff attached his denied ex parte application to the notice of appeal.

On July 9, 2014, the trial court held the hearing on Defendants' demurrer.<sup>1</sup> In a written tentative decision prepared in advance of the hearing, the trial court concluded Plaintiff's claims against the Superior Court and its personnel were barred by the doctrine of judicial immunity. Consistent with its tentative decision, on August 26, 2014, the court entered an order sustaining Defendants' demurrer without leave to amend.

On October 6, 2014 the court entered judgment in favor of Defendants. On October 17, 2014, Defendants filed their notice of entry of judgment.

### **DISCUSSION**

"[T]he right to an appeal is entirely statutory; unless specified by statute no judgment or order is appealable." (*Garau v. Torrance Unified School Dist.* (2006) 137 Cal.App.4th 192, 198.) Further, because an appealable judgment or order is essential to appellate jurisdiction, the appellate court must consider the question of appealability sua sponte, and dismiss the appeal if the judgment or order is found to be nonappealable. (*Harrington-Wisely v. State of California* (2007) 156 Cal.App.4th 1488, 1494, 1498; *Caruso v. Snap-Tite, Inc.* (1969) 275 Cal.App.2d 211, 213.)

Code of Civil Procedure section 904.1 lists the judgments and orders that are appealable in unlimited civil cases. An order denying an application to consolidate or continue a hearing on a demurrer is not among the listed appealable orders. Nor is this a case where we have discretion to save a premature appeal by construing it as an appeal from the subsequent judgment. Here, Plaintiff's notice of appeal and opening brief can be construed only as a challenge to the nonappealable order. (Cf. *Gu v. BMW of North America, LLC* (2005) 132 Cal.App.4th 195, 202 [premature appeal from a nonappealable order sustaining a demurrer without leave to amend may be interpreted to apply to an existing judgment where it is " 'reasonably clear that the appellant intended to appeal from the judgment and the respondent would not be misled or prejudiced' "].) Accordingly, we have no jurisdiction to consider this appeal. It must be dismissed.

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<sup>1</sup> Plaintiff did not designate a transcript of the demurrer hearing as part of the record on appeal.

**DISPOSITION**

The appeal is dismissed.

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KITCHING, J.

We concur:

EDMON, P. J.

ALDRICH, J.