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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

CORNELL MITCHELL,

B280124

Plaintiff and Appellant,

(Los Angeles County  
Super. Ct. No. MC025967)

v.

21st CENTURY CASUALTY  
COMPANY,

Defendant and Respondent.

APPEAL from the judgment of the Superior Court of Los Angeles County. Randolph A. Rogers, Judge. Affirmed.

Cornell Mitchell, in pro. per., for Plaintiff and Appellant.

Haight Brown & Bonesteel, Denis J. Moriarty and  
Christopher Kendrick for Defendant and Respondent.

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Vexatious litigant Cornell Mitchell appeals from the judgment of dismissal for his failure to obtain a prefiling order permitting him to file the instant action. Because his appellate briefs shed little light on the basis of the claimed errors, plaintiff has not satisfied his burden on appeal. Accordingly, we affirm.

### **FACTUAL AND PROCEDURAL BACKGROUND**

Plaintiff sued defendants 21st Century Insurance, 21st Century Casualty Company, and Farmers Insurance Company, Inc., alleging causes of action for breach of contract and breach of the implied covenant of good faith and fair dealing. Plaintiff made an insurance claim for vandalism to his vehicle, and the adjuster from 21st Century Casualty issued a check to plaintiff for \$461.14 (the estimated cost to fix the damage, after his \$1,000 deductible). When plaintiff attempted to have the vehicle repaired, the estimates to repair it were significantly higher than the adjuster's estimate. Plaintiff demanded that 21st Century Casualty pay to fix the vehicle, but the adjuster concluded that the proposed repairs in the higher estimate were not warranted. The complaint included a copy of the declaration's page from plaintiff's insurance contract with 21st Century Casualty, among other documents.

21st Century Insurance moved to quash service of the summons and complaint, arguing that 21st Century Insurance is not a legal entity, and therefore could not be subject to the court's jurisdiction. 21st Century Casualty answered the complaint, admitting that it insured plaintiff's vehicle. Farmers, demurred to the complaint, arguing it did not issue the policy giving rise to the causes of action.

The trial court granted the motion to quash, finding that the policy was issued by 21st Century Casualty, and that

“21st Century Insurance” was not a separate legal entity. The court also sustained Farmers’ demurrer, *with leave to amend*, reasoning that the complaint failed to allege any legal basis, such as agency, for Farmers to be held responsible for 21st Century Casualty’s conduct, but that “it appears that Plaintiff can theoretically allege such liability.” Plaintiff filed a first amended complaint, omitting both Farmers and 21st Century Insurance as defendants.

Five months after the first amended complaint was filed, 21st Century Casualty informed the court that plaintiff had been declared a vexatious litigant in 2013, and that he had not obtained a pre-filing order to litigate this case pursuant to Code of Civil Procedure section 391.7. Plaintiff filed a request to allow the action to proceed, claiming he “forgot that he had been branded as a vexatious litigant.” 21st Century Casualty opposed the request, arguing that the action should be dismissed, outlining several instances of misconduct by plaintiff in the proceedings.

The trial court denied plaintiff’s request for an order permitting the filing of the action, and dismissed the case with prejudice. 21st Century Casualty filed a memorandum of costs. The judgment of dismissal was filed on December 2, 2016, awarding 21st Century Casualty costs of \$5,136.25.

Plaintiff filed a notice of appeal, purporting to appeal from the December 2, 2016 order, identifying the order as one made under “CCP Section 391.7.”<sup>1</sup> Notwithstanding the basis for the

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<sup>1</sup> We initially stayed plaintiff’s appeal, as plaintiff did not seek leave to prosecute it. We subsequently granted plaintiff’s request to proceed with the appeal.

appeal, plaintiff's notice designating the record on appeal did not include any of the filings related to his status as a vexatious litigant. However, we granted 21st Century Casualty's motion for leave to augment the record to include these filings.

### DISCUSSION

Plaintiff's appellate briefs do not contain a single legal citation or any legal analysis. He argues, instead, that "the court close [*sic*] its eye to the fact that defendants 21st Century Insurance and 21st Casualty Company are owned by defendant Farmers" and that "Farmers pays the bills for its agents." He contends he was ordered to amend his complaint to "delet[e] defendants 21st Century Insurance and Farmers" and that this order was "unlawful" and "constitutes a malfeasance [*sic*] act." He asks that we reverse the judgment and allow him to file new litigation "pursuant to CCP 391.7." He also contends that it was "unethical, immoral, unlawful, and unconstitutional for [the court] to order [plaintiff] to remove Farmers . . . and 21st Century Insurance from his initial pleading" and then to give them a monetary judgment.

21st Century Casualty contends that plaintiff did not provide an adequate record to permit review, that his briefs are deficient, and that the appeal fails on the merits. We agree.

Plaintiff's appeal is gravely deficient. Plaintiff purports to appeal from the judgment of dismissal based on his status as a vexatious litigant, but failed to include in his designation of the record the filings relating to the court's order. (See, e.g., Cal. Rules of Court, rule 8.124(b)(1)(B) [record must contain "[a]ny item . . . necessary for proper consideration of the issues"]; see *Denham v. Superior Court* (1970) 2 Cal.3d 557, 566 [it is appellant's burden to provide an adequate record to establish

prejudicial error]; *Altman v. Poole* (1957) 151 Cal.App.2d 589, 593 [same].)

Moreover, plaintiff's briefs contain absolutely no legal analysis. "[E]very brief should contain a legal argument with citation of authorities on the points made. If none is furnished on a particular point, the court may treat it as waived, and pass it without consideration." [Citation.] (*McComber v. Wells* (1999) 72 Cal.App.4th 512, 522; see also Cal. Rules of Court, rule 8.204(a).) These rules are the same for self-represented litigants. (*McComber*, at p. 522.)

And, in any event, plaintiff's claims fail on their merits. Plaintiff does not contend this case was improperly dismissed because he is a vexatious litigant, nor could he. (See Code Civ. Proc., § 391.7, subd. (c) ["The litigation shall be automatically dismissed unless the plaintiff . . . obtains an order . . . permitting the filing of the litigation . . ."].) His only claims of error are that the trial court erroneously granted the motion to quash as to 21st Century Insurance, sustained the demurrer as to Farmers, and awarded these parties a judgment of costs in their favor. Plaintiff has grossly misread the record. The trial court granted plaintiff leave to amend his complaint to add additional facts supporting Farmers' liability. Instead, plaintiff omitted Farmers as a defendant in his amended pleading. Also, the court awarded costs only to 21st Century Casualty Company, and not the other parties. Lastly, plaintiff cannot show prejudice regarding the motion to quash. 21st Century Casualty answered his complaint, admitting it was his insurer, and made an offer to compromise to settle the case for the estimated repair costs. (Cal. Const., art. VI, § 13.)

**DISPOSITION**

The judgment is affirmed. Respondent is awarded its costs on appeal.

GRIMES, J.

WE CONCUR:

RUBIN, Acting P. J.

GOODMAN, J.\*

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