

Defendant and Cross-Complainant *pro se*

1 **WHEREAS**, this proceeding has been assigned to Department 78; and

2 **WHEREAS**, Defendant has filed a Judicial Council Form MC-701 and supporting exhibits; and

3
4 **WHEREAS**, Plaintiff has opposed the filing of Defendant's proposed compulsory cross-
5 complaint; and

6
7 **WHEREAS**, the Presiding Judge of the Los Angeles County Superior Court, sitting in
8 Department 1, must first consider and rule upon the request to file new litigation; and

9
10 **WHEREAS**, some of the papers submitted to the court in relation to the pending request have
11 been "filed," others "lodged," and some perhaps are not in Department 1 where it is understood
12 they should be at this time; and

13 **WHEREAS**, the Request to File New Litigation would now appear to be fully briefed and ready
14 for ruling;

15
16 **NOW THEREFORE** the Defendant and proposed Cross-Defendant provides Departments 1 and
17 78 with this list of documents either filed or lodged herein and in the order they should be
18 assembled:

- 19
20 1. **Complaint** to enforce judgment filed January 5, 2010;
- 21
22 2. **Request and Order to File New Litigation** by Vexatious Litigant lodged February 16, 2010;
- 23
24 3. **Unverified Answer and Verified Compulsory Cross-Complaint** filed February 16, 2010;
- 25
26 4. **Defendant and Cross-Complainant's Appendix No. I** of Exhibits and R.F.J.N. filed 2/16/10;
- 27
28 5. **Defendant and Cross-Complainant's Appendix No. II** of Exhibits and R.F.J.N. filed
2/16/10;

1 **6. Defendant and Cross-Complainant's Appendix No. III** of Exhibits and R.F.J.N. filed
2 2/16/10;

3 **7. Defendant and Cross-Complainant's Appendix No. IV** of Exhibits and R.F.J.N. filed
4 2/22/10;

5
6 **8.** Defendant and Cross-Complainants Reply in support of request re Moxon opposition received
7 late Saturday 2/20/10 but not filed by Plaintiff and superseded by Plaintiff's
8

9 **9. Opposition to Vexatious Litigant's Request to File New Litigation** filed February 22, 2010;

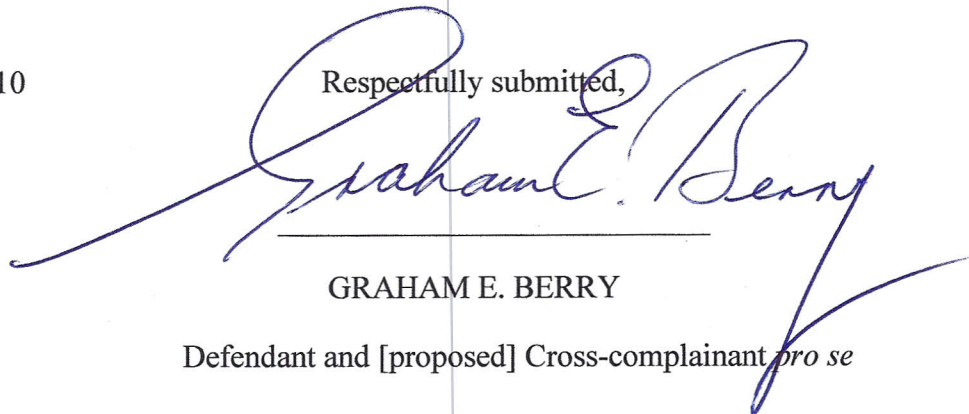
10
11 **10. Defendant and Cross-Complainant's Revised Reply** in Support of Request to File New
12 Litigation and Rebuttal Exhibits.

13
14 Copies of the conformed caption pages of each of the above documents are attached hereto
15 as Exhibit A.

16
17 If any of the above-listed documents are not with Department 1, as the Request to File
18 New Litigation requires, Defendant and proposed cross-complainant Graham E. Berry will gladly
19 deliver a conformed copy at the court's request.

20
21 Dated: February 25, 2010

Respectfully submitted,

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25 GRAHAM E. BERRY
26 Defendant and [proposed] Cross-complainant *pro se*
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EXHIBIT A

1 Kendrick L. Moxon, State Bar No. 128240
2 MOXON & KOBRIN
3 kmoxon@earthlink.net
4 3055 Wilshire Boulevard, Suite 900
Los Angeles, California 90010
Telephone: (213) 487-4468
Facsimile: (213) 487-5385

5 Attorney for Plaintiff
6 Pro se

CONFORMED COPY
OF ORIGINAL FILED
Los Angeles Superior Court

JAN 05 2010

John M. Clarke, Executive Officer/Clerk
By A.E. LaFleur-Clayton, Deputy

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF LOS ANGELES

10 KENDRICK MOXON

11 Plaintiff,

12 vs.

13 GRAHAM BERRY,

14 Defendant.

BC 429217

Case No. _____

COMPLAINT TO ENFORCE
JUDGMENT

18 INTRODUCTION

19
20 1. This is an action to enforce a judgment against defendant Graham Berry,
21 issued and assessed against him for acts of bad faith litigation. This action is brought
22 pursuant to California Code of Civil Procedure §683.020 et seq.

23 PARTIES

24 2. Plaintiff, Kendrick Moxon ("Moxon"), is an attorney, licensed to practice law
25 in all state and federal courts of the State of California, and the District of Columbia.
26 He is a resident of Los Angeles County.
27
28

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Graham E. Berry SB No. 128503 3384 McLaughlin Avenue Los Angeles, CA 90066-2005		FOR COURT USE ONLY
TELEPHONE NO.: (310) 745-3771 FAX NO. (Optional): (310) 745-3771 E-MAIL ADDRESS (Optional): grahamberry@ca.rr.com ATTORNEY FOR (Name): Defendant and cross-complainant pro se		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles STREET ADDRESS: 111 N. Hill Street MAILING ADDRESS: CITY AND ZIP CODE: Los Angeles, CA 90012 BRANCH NAME: Central		
PLAINTIFF/ PETITIONER: Kendrick Moxon DEFENDANT/ RESPONDENT: Graham Berry OTHER: And related compulsory cross-complaint		
REQUEST AND ORDER TO FILE NEW LITIGATION BY VEXATIOUS LITIGANT		CASE NUMBER: BC429217
Type of case: <input checked="" type="checkbox"/> Limited Civil <input type="checkbox"/> Unlimited Civil <input type="checkbox"/> Small Claims <input type="checkbox"/> Family Law <input type="checkbox"/> Probate <input checked="" type="checkbox"/> Other		

1. I have been determined to be a vexatious litigant and must obtain prior court approval to file any new litigation in which I am not represented by an attorney. Filing new litigation means (1) commencing any civil action or proceeding, or (2) filing any petition, application, or motion (except a discovery motion) under the Family or Probate Code.
2. I have attached to this request a copy of the document to be filed and I request approval from the presiding judge of the above court to file this document (name of document):
Unverified answer and verified compulsory cross-complaint; Appendix No. I-III of documents filed to demonstrate the merits thereof & filed in connection with the responsive pleading & the pre-filing order.
3. The new filing has merit because (give reasons):
Hurtado (Ex.A) and Cipriano (Ex.E) evidence unavailable at time of relevant underlying matters; Exs A-J show that absent criminal conduct by officer of court Moxon in underlying cases plaintiffs would have prevailed. Vexatious litigant order is erroneous upon face of Cts record. Matters in verified cross-complaint.
4. The new filing is not being filed to harass or to cause a delay because (give reasons):
New filing is an answer and verified compulsory cross-complaint filed defensively and to vacate "unjust judgments" obtained through "extrinsic fraud and/or mistake" by an officer of the court.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: February 11, 2010

Graham E. Berry, SB # 128503

(TYPE OR PRINT NAME OF DECLARANT)

(SIGNATURE OF DECLARANT)

ORDER

Approval to file the attached document is:

- a. ☐ Granted
b. ☐ Denied
c. ☐ Other:

☐ Attachment to order. Number of pages _____.

Date:

(PRESIDING JUDGE)

1 GRAHAM E. BERRY, Bar No.128503
2 Attorney at Law
3 3384 McLaughlin Avenue
4 Los Angeles, California 90066-2005
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8 Defendant and Cross-Complainant *pro se*

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OF ORIGINAL FILED
Los Angeles Superior Court

FEB 16 2010

John A. Clarke, Executive Officer/Clerk

By:  Deputy
NANCY ALVARES

9 **SUPERIOR COURT OF CALIFORNIA**
10 **COUNTY OF LOS ANGELES**
11 **CENTRAL DISTRICT**

12 **KENDRICK MOXON**

13 Plaintiff,

14 v.

15 **GRAHAM BERRY,**

16 Defendants.

17 **GRAHAM E. BERRY**, an individual;

18 Cross-Complainant,

19 v.

20 **KENDRICK L. MOXON**, an individual;

21 Cross-Defendant.

Case No. BC 429217

**UNVERIFIED ANSWER AND VERIFIED
COMPULSARY CROSS-COMPLAINT TO
SET ASIDE ORDERS AND JUDGMENTS.**

Action filed: January 5, 2010

Filed concurrently with:

- (1) Judicial Council Form MC-701;
- (2) Appendix No. I of Exhibits (Ex. A);
- (3) Appendix No. II of Exhibits (Ex. B-D);
- (4) Appendix No. III of Exhibits [Ex. E-J].

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Defendant and Cross-Complainant *pro se*

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Superior Court of California
County of Los Angeles

FEB 16 2010

John A. Glavin, Executive Officer, Clerk
By Glorietta Robinson, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CENTRAL DISTRICT

KENDRICK MOXON

Plaintiff,

v.

GRAHAM BERRY,

Defendants.

Case No. BC429217

**DEFENDANT AND CROSS-
COMPLAINANT'S APPENDIX NO. I
OF EXHIBITS AND REQUEST FOR
JUDICIAL NOTICE FILED AS PART OF
THE UNVERIFIED ANSWER AND
VERIFIED COMPULSARY CROSS-
COMPLAINT HEREIN.**

Action filed: January 5, 2010

GRAHAM E. BERRY, an individual;

Cross-Complainant,

v.

KENDRICK L. MOXON, an individual;

Cross-Defendant.

[Filed concurrently with: (1) Judicial Council
of California Form MC-701 (C.C.P. §391.7;
(2) Appendix No. II of Exhibits [Exhibits B-
D]; (4) Appendix No. III of Exhibits
[Exhibits E-J] ; Unverified answer and
verified cross-complaint]

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4 Defendant and Cross-Complainant *pro se*

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Superior Court of California
County of Los Angeles

FEB 16 2010

John A. Clarke, Executive Officer, Clerk
By GLORIETTA ROBINSON Deputy

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF LOS ANGELES
10 CENTRAL DISTRICT

11 **KENDRICK MOXON**

12 Plaintiff,

13 v.

14 **GRAHAM BERRY,**

15 Defendants.

16 **GRAHAM E. BERRY**, an individual;

17 Cross-Complainant,

18 v.

19 **KENDRICK L. MOXON**, an individual;

20 Cross-Defendant.

Case No. BC429217

**DEFENDANT AND CROSS-
COMPLAINANT'S APPENDIX NO. II
OF EXHIBITS AND REQUEST FOR
JUDICIAL NOTICE FILED AS PART OF
THE UNVERIFIED ANSWER AND
VERIFIED COMPULSARY CROSS-
COMPLAINT HEREIN.**

Action filed: January 5, 2010

[Filed concurrently with: (1) Judicial Council
of California Form MC-701 (C.C.P. §391.7;
(2) Appendix No. I of Exhibits [Exhibit A];
(4) Appendix No. III of Exhibits [Exhibits
E-J] ; Unverified answer and verified cross-
complaint]

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8 Defendant and Cross-Complainant *pro se*

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Superior Court of California
County of Los Angeles

FEB 16 2010

John A. Clarke, Executive Officer/Clerk
By [Signature] Deputy
GLORIETTA ROBINSON

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF LOS ANGELES
11 CENTRAL DISTRICT

12 KENDRICK MOXON

13 Plaintiff,

14 v.

15 GRAHAM BERRY,

16 Defendants.

17 GRAHAM E. BERRY, an individual;

18 Cross-Complainant,

19 v.

20 KENDRICK L. MOXON, an individual;

21 Cross-Defendant.

Case No. BC429217

DEFENDANT AND CROSS-
COMPLAINANT'S APPENDIX NO. III
OF EXHIBITS AND REQUEST FOR
JUDICIAL NOTICE FILED AS PART OF
THE UNVERIFIED ANSWER AND
VERIFIED COMPULSARY CROSS-
COMPLAINT HEREIN.

Action filed: January 5, 2010

[Filed concurrently with: (1) Judicial Council
of California Form MC-701 (C.C.P. §391.7;
(2) Appendix No. I of Exhibits [Exhibit A];
(4) Appendix No. II of Exhibits [Exhibits B-
D] ; Unverified answer and verified cross-
complaint]

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8 Defendant and Cross-Complainant *pro se*

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Los Angeles Superior Court

FEB 22 2010

John A. Clarke, Executive Officer/Clerk

PAUL SANCHEZ

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF LOS ANGELES

11 CENTRAL DISTRICT

12 KENDRICK MOXON

13 Plaintiff,

14 v.

15 GRAHAM BERRY,

16 Defendants.

Case No. BC429217

DEFENDANT AND CROSS-
COMPLAINANT'S APPENDIX NO. IV
OF EXHIBITS [K-Z] AND REQUEST FOR
JUDICIAL NOTICE FILED AS PART OF
THE UNVERIFIED ANSWER AND
VERIFIED COMPULSARY CROSS-
COMPLAINT HEREIN.

Action filed: January 5, 2010

17 GRAHAM E. BERRY, an individual;

18 Cross-Complainant,

19 v.

20 KENDRICK L. MOXON, an individual;

21 Cross-Defendant.

[Filed concurrently with Reply in Support of
Request to file Compulsory Cross-
Complaint by Judicial Council of California
Form MC-701 (C.C.P. §391.7) and Exhibits
A-J therewith.]

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OF ORIGINAL FILED
Los Angeles Superior Court

FEB 22 2010

John A. Clarke, Executive Officer/Clerk
By VICTOR SINO-CRUZ, Deputy

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5 Los Angeles, California 90010
6 Telephone: (213) 487-4468
7 Facsimile: (213) 487-5385

8 Attorney for Plaintiff
9 Pro se

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES**

KENDRICK MOXON

Plaintiff,

vs.

GRAHAM BERRY,

Defendant.

Case No. BC429217

**OPPOSITION TO VEXATIOUS
LITIGANT'S REQUEST TO FILE
NEW LITIGATION;**

**REQUEST FOR FINDING OF
CONTEMPT AGAINST GRAHAM
BERRY;**

**NOTICE OF FILING OF
IDENTIFICATION OF VEXATIOUS
LITIGANT PURSUANT TO C.C.P.
§391.7(C) AND AUTOMATIC STAY**

Dept: 78
Date: N/A

INTRODUCTION

In 1999, Graham Berry, was found to have violated Rule 11, F.R.Civ.P., and 28 U.S.C. §1928, through the filing of a frivolous and bad faith action against attorney, plaintiff Kendrick Moxon, and was appropriated monetarily sanctioned. Thereafter, in light of this and other bad faith litigation Mr. Berry pursued and lost, he was found to be a "vexatious litigant" pursuant to C.C.P. §391, et seq. Mr. Berry never paid the

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8 Defendant and Cross-Complainant *pro se*

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Los Angeles Superior Court

FEB 22 2010

John A. Clarke, Executive Officer/Clerk

BY Raul Sanchez Dept.

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF LOS ANGELES
11 CENTRAL DISTRICT

12 KENDRICK MOXON)

13 Plaintiff,)

14 v.)

15 GRAHAM BERRY,)

16 Defendants.)

17 GRAHAM E. BERRY, an individual;)

18 Cross-Complainant,)

19 v.)

20 KENDRICK L. MOXON, an individual;)

21 Cross-Defendant.)

Case No. BC429217

DEFENDANT AND CROSS-
COMPLAINANT'S REPLY IN SUPPORT
OF REQUEST TO FILE NEW
LITIGATION AND REBUTTAL
EXHIBITS.

Action filed: January 5, 2010

[Filed concurrently with Appendix No. IV of
Exhibits (K-Z) and Request for Judicial
Notice.]

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OF ORIGINAL FILED
Los Angeles Superior Court

FEB 23 2010

John A. Clarke, Executive Officer/Clerk

[Signature]
SAUL SANCHEZ

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **COUNTY OF LOS ANGELES**

10 **CENTRAL DISTRICT**

11 **KENDRICK MOXON**

12 Plaintiff,

13 v.

14 **GRAHAM BERRY,**

15 Defendants.

16 **GRAHAM E. BERRY**, an individual;

17 Cross-Complainant,

18 v.

19 **KENDRICK L. MOXON**, an individual;

20 Cross-Defendant.
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) Case No. BC429217

) **DEFENDANT AND CROSS-**
) **COMPLAINANT'S REVISED REPLY IN**
) **SUPPORT OF REQUEST TO FILE NEW**
) **LITIGATION AND REBUTTAL**
) **EXHIBITS.**

) Action filed: January 5, 2010

1 PROOF OF SERVICE BY MAIL

2
3 STATE OF CALIFORNIA)

) ss.:

4 COUNTY OF LOS ANGELES)
5 *MOXON V. BERRY BC42917*

6 I am employed in the County of Los Angeles, State of California. I am over the age of 18
7 and not a party to the within action. My business address is 3384 McLaughlin Avenue, Los
8 Angeles, CA 90066

9 On February 25, 2010, I served on interested parties in said action the within:

10 NOTICE TO DEPARTMENTS 1 & 78

11 LIST OF DOCUMENTS EITHER FILED OR LODGED IN RELATION TO
12 DEFENDANT'S REQUEST TO FILE NEW LITIGATION-JUDICIAL COUNCIL FORM
13 MC 701.

14 By email, fax and

15 by placing a true copy thereof in sealed envelope(s) addressed as stated below.

16 Kendrick L. Moxon, Esq,
17 Moxon & Kobrin
18 3055 Wilshire Boulevard, Suite 900
19 Los Angeles, CA 90010

20 Telephone: (213) 487-4468
21 Facsimile: (213) 487-5385
22 Email: kmoxon@earthlink.net

23 I am readily familiar with this firm's practice of collection and processing correspondence
24 for mailing. Under that practice it would be deposited with the U.S. postal service on that same
25 day with postage thereon fully prepaid at Los Angeles, California, in the ordinary course of
26 business. I am aware that on motion of party served, service is presumed invalid if postal
27 cancellation date or postage meter date is more than 1 day after date of deposit for mailing in
28 affidavit.

Executed on February 25, 2010, at Los Angeles, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Graham E. Berry

(Type or print name)

(Signature)