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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

**REQUEST FOR FINDING OF
CONTEMPT AGAINST GRAHAM
BERRY PURSUANT TO C.C.P. §391.7(a)
FOR FILING OF AMENDED CROSS-
COMPLAINT**

Dept: 58

Date: No hearing scheduled

As addressed in plaintiff's pending Opposition to Vexatious Litigant's Request for Leave to File Action and Request For Finding of Contempt Against Graham Berry, Mr. Berry's Cross-complaint was filed before he received leave from the court to do so, in violation of C.C.P. §391.7(c) and the ruling finding him to be a vexatious litigant.

That Opposition noted that his failure to acquire leave of court prior to filing the cross-complaint, is punishable with contempt under §391.7(a).

1 In response, Mr. Berry did not withdraw his cross-complaint. He amended it.
2 The Amended Cross-complaint is nearly twice as long, with 63 pages of
3 incomprehensible allegations going back 33 years, claiming conspiracies against him
4 by many litigants, witnesses, lawyers and jurists. And, like its predecessor, the
5 Amended Cross-complaint seeks to re-litigate each of the many final judgments issued
6 from 1998 through 2000, in which Mr. Berry was sanctioned and admonished for filing
7 the frivolous actions. One of those actions includes the case in which he was ultimately
8 found to be vexatious litigant.

9 Although Mr. Berry was informed that leave of court is required before he may
10 file any action, the Amended Cross-complaint was also filed without such leave being
11 sought or granted.

12 The Amended Cross-complaint seeks to re-litigate before this Court, five
13 different lawsuits which Mr. Berry lost before five different jurists and appellate courts,
14 each of which was final a decade ago, and each of which was found to warrant the
15 imposition of sanctions against him. The Amended Cross-complaint is more of the
16 same harassing and vexatious litigation conduct that caused Mr. Berry to be declared a
17 vexatious litigant in the first place and caused him to be suspended from the practice of
18 law for 18 months. A random review of nearly any paragraph of the Amended Cross-
19 complaint easily confirms this.

20 Moreover, because plaintiff notified the Court and the clerk on February 22,
21 2010, of Mr. Berry's failure to acquire leave of court prior to the filing of the action,
22 the action was automatically stayed pursuant to C.C.P. §391.7(c). Thus, neither Mr.
23 Berry nor his new co-counsel possessed the authority to file the Amended Cross-
24 complaint.¹ Mr. Berry was also apprised of the stay before the new pleading was filed.
25

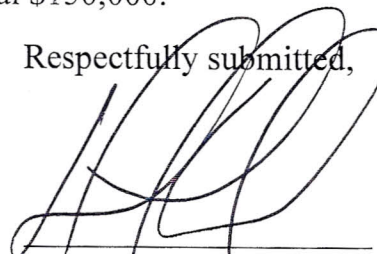
26 ¹ Mr. Berry's inclusion of co-counsel to the Amended Cross-complaint in
27 addition to himself as counsel pro se, does not alter the requirements of C.C.P.
28 §391.7(a) that he acquire leave of court before filing the action on his own behalf.

1 The Amended Cross-complaint and Cross-Complaint should accordingly be
2 stricken, and Mr. Berry held in contempt for further violation of C.C.P. §391.7(a) as
3 authorized by that section.

4 In the event this Court would permit Mr. Berry to file the Amended Cross-
5 complaint and require the plaintiff/cross-defendant to defend these allegations yet
6 again, it should condition the filing upon Mr. Berry's posting of a security bond
7 pursuant to §391.7(b), in the amount of the underlying judgment sought to be renewed
8 of \$48,000, plus the reasonable fees and costs in defending the Amended Cross-
9 complaint, in the amount of an additional \$150,000.

10 Dated: March 11, 2010

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Kendrick Moxon', is written over a horizontal line.

Kendrick Moxon
Counsel pro se
MOXON & KOBRIN

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PROOF OF SERVICE

I am employed in Los Angeles County, California, at Moxon & Kobrin, 3055 Wilshire Blvd., Ste. 900, Los Angeles, CA, 90010.

On March 11, 2010, I served by First Class Mail, postage prepaid the following document:

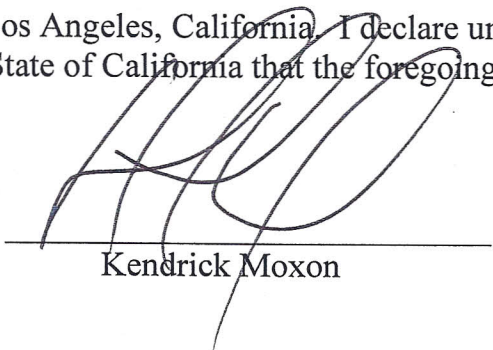
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PURSUANT TO C.C.P. §391.7(a) FOR FILING OF AMENDED CROSS-
COMPLAINT**

on the following persons:

Graham Berry
3384 McLaughlin Ave.
Los Angeles, CA 90066

Barry Van Sickle
1079 Sunrise Ave.
Roseville, CA 95661

Executed on March 11, 2010, in Los Angeles, California, I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.



Kendrick Moxon