

# Fredrikson

& BYRON, P.A.

November 17, 2017

VIA EFILE

The Honorable Kevin W. Eide  
Judge of the District Court  
Carver County Justice Center  
604 East 4th Street  
Chaska, MN 55318

Re: *In re the Estate of Prince Rogers Nelson*  
Court File No. 10-PR-16-46

Dear Judge Eide:

We write on behalf of Comerica Bank & Trust, N.A. in its role as Personal Representative of the Estate of Prince Rogers Nelson in response to the letter filed by Rodney H. Dixon on November 9, 2017.

As Your Honor knows, Mr. Dixon submitted a claim in this action in April 2016. The claim was based on a license that Mr. Dixon purportedly granted Prince for \$1 billion. On October 24, 2016, the Court found that none of Mr. Dixon's many filings established a claim against the Estate. The Court further found that Mr. Dixon is a frivolous litigant, and that any further filings by Mr. Dixon would not be addressed by the Court. Mr. Dixon appealed, and the Minnesota Court of Appeals affirmed.

On February 24, 2017, Mr. Dixon filed a nearly identical claim against the Personal Representative in the United States District Court, Central District of California. *See Dixon v. NPG Music Publishing, LLC*, 2017 WL 2469352 (C.D. Cal., June 6, 2017), copy enclosed. The Estate moved to dismiss the complaint, and moved to declare Mr. Dixon a vexatious litigant under federal and California law. *See id.* Judge Otis Wright granted both motions, and entered an order prohibiting Mr. Dixon from filing similar claims against the Personal Representative without prior written authorization. *See id.* at \*8. Judge Wright's order restrains Mr. Dixon from "initiating a new action" against the Personal Representative that is related to "a contract, of any type, to which Prince was a party." *See id.*

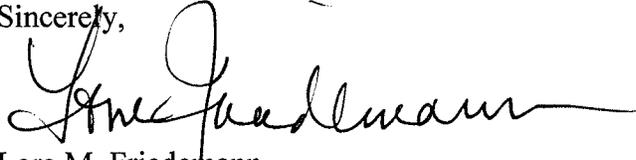
Notwithstanding the two orders restraining Mr. Dixon from bringing claims against the Estate, Mr. Dixon filed a letter asking this Court to allow him to pursue a claim alleging a "cancelled agreement with Prince Rogers Nelson." Mr. Dixon's request to pursue a claim against the Estate should be denied based on this Court's prior ruling and the federal court order restraining Mr. Dixon from re-litigating this claim.

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The Honorable Kevin W. Eide  
November 17, 2017  
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Sincerely,

A handwritten signature in black ink, appearing to read "Lora M. Friedemann". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Lora M. Friedemann  
**Direct Dial:** 612.492.7185  
**Email:** lfriedemann@fredlaw.com

# ATTACHMENT

Dixon v. NPG Music Publishing, LLC  
WL2469352 (C.D. Cal. June 6, 2017)



## I. INTRODUCTION

1  
2 This is one in a series of actions brought by pro se Plaintiff Rodney Herachio  
3 Dixon against Prince Rogers Nelson (“Prince”), entities related to Prince, and  
4 successors-in-interest to Prince, claiming that he authored all of Prince’s songs and is  
5 owed a billion or more dollars under a licensing agreement. Before the Court are  
6 Defendants NPG Music Publishing, LLC (“NPG Publishing”), NPG Records Inc.  
7 (“NPG Records”), and Comerica Bank and Trust’s (“Comerica”) (collectively  
8 “Defendants”) motions to dismiss and to deem Plaintiff a vexatious litigant. (ECF  
9 Nos. 30, 39.) For the following reasons, the Court **GRANTS** both motions.

## II. FACTUAL BACKGROUND

10  
11 Plaintiff is a self-described songwriter and “producer of musical compositions.”  
12 (First Am. Compl. (“FAC”) ¶ 1, ECF No. 26.) According to Plaintiff, he authored or  
13 jointly authored all or substantially all of Prince’s songs, including songs on Prince’s  
14 popular Purple Rain, Around the World in Day, Sign O’ The Times, and  
15 Emancipation albums. (*Id.* ¶¶ 9, 13, 65.) Plaintiff alleges that he initially gave Prince  
16 a license to his works “for three (3) years beginning in the year 1982” in exchange for  
17 one million dollars at a later date. (*Id.* ¶ 33.) He then extended that license for nine  
18 years in exchange for one billion dollars payable in 1994. (*Id.*) In 1995, Plaintiff  
19 claims that he extended the license for the remainder of Prince’s life, receiving one  
20 dollar as consideration for the extension from Prince’s lawyer Jerry Edelstein. (*Id.*)  
21 The license terminated upon Prince’s death on April 21, 2016. (*Id.*) This license  
22 prohibited “anyone other than Prince from usage” of Plaintiff’s songs. (*Id.* ¶ 76.)

23 On April 4, 2014, Prince transferred the publishing rights to all or substantially  
24 all of his songs (965 songs) to NPG Publishing, of which he was the member-  
25 manager. (*Id.*, Ex. I.) This transfer of rights was recorded with the United States  
26 Copyright Office on February 4, 2016. (*Id.*) Since NPG Publishing took “possession”  
27 of the songs, Defendants have allegedly exploited Plaintiff’s songs by copying them,  
28

1 distributing them, and selling them “to consumers around the world” without  
2 Plaintiff’s permission. (*Id.* ¶ 61.)

3 Over the past twenty-three years, Plaintiff has filed a number of actions seeking  
4 to recover the billion dollars he is allegedly owed under the licensing agreement.  
5 Plaintiff filed the first such action in California Superior Court for the County of Los  
6 Angeles on September 23, 1994, against Warner Brothers Records and Prince.  
7 (Tavernier Decl., Ex. G, ECF No. 30-2.)<sup>1</sup> He alleged two causes of action in the  
8 complaint: (1) fraudulent transfer, and (2) conspiracy. (*Id.* ¶¶ 1–16.) The complaint  
9 was largely nonsensical, referring to Plaintiff as the Messiah, discussing the twenty-  
10 eight signers of the Declaration of Independence, and mentioning an “educational  
11 system” known as “The Game.” (*See e.g., id.* at 266, 268–269.) On February 6, 1995,  
12 the court dismissed Warner Brothers Records after its successful demurrer and  
13 Plaintiff’s subsequent failure to amend the complaint. (*Id.*, Ex. I.) The case could not  
14 proceed against Prince because he had not been properly served. (*See id.*, Ex. H at  
15 275.)

16 On March 24, 1995, Plaintiff filed a nearly identical action against Prince in  
17 California Superior Court for the County of San Bernardino. (*See id.*, Exs. K, L.)  
18 However, Plaintiff again failed to properly serve Prince. (*Id.*, Ex. K.) Accordingly,  
19 the case was dismissed without prejudice on November 29, 1995. (*Id.*)

20 On April 26, 2016, Plaintiff filed a petition in Carver County District Court (a  
21 Minnesota state court) against Prince’s estate asserting ownership of “all” of Prince’s  
22 songs and seeking the one billion dollars owed under the licensing agreement.<sup>2</sup> (*Id.*,  
23

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24 <sup>1</sup> Defendants have filed two requests for judicial notice asking the Court to take into account various  
25 state court decisions and briefs filed in connection with those decisions. (ECF Nos. 31, 40.)  
26 Plaintiff has not opposed Defendants’ requests. As Defendants’ requests concern documents not  
27 subject to reasonable dispute that are directly relevant to the pending motions, the Court grants  
28 Defendants’ requests. *Trigueros v. Adams*, 658 F.3d 983, 987 (9th Cir. 2011) (taking judicial notice  
of state court orders and briefing filed in connection with state court proceedings).

<sup>2</sup> Plaintiff filed a second petition in the Minnesota action titled “Petition Restraining Special  
Administrator Bremer Trust from Selling Assets of the Estate.” (Tavernier Decl., Ex. 21, ECF 39-

1 Ex. A at 7, 12.) Shortly thereafter, The Bremer Trust<sup>3</sup> filed a motion to dismiss  
 2 Plaintiff's petition. (Tavernier Decl., Ex. 16, ECF No. 39-2.) The Carver County  
 3 court found that Plaintiff "failed to establish that he ever had a [licensing agreement]  
 4 with [Prince]." (Tavernier Decl., Ex. D at 251, ECF No. 30-2.) Specifically, the court  
 5 found that there were no allegations to corroborate the existence of such a licensing  
 6 agreement or to suggest that there had been adequate consideration for the agreement.  
 7 (*Id.*) Plaintiff subsequently appealed the court's decision. (Order, ECF No. 35). On  
 8 April 19, 2017, the Minnesota Court of Appeals affirmed the Carver County court's  
 9 decision finding that Plaintiff failed to "sufficiently allege an implied-in-fact contract  
 10 claim." (*Id.*)

11 Around the same time, on January 19, 2017, Plaintiff attempted to revive the  
 12 long dormant 1994 Superior Court proceeding against Prince by substituting in The  
 13 Bremer Trust. (Tavernier Decl., Ex. H at 275, ECF No. 30-2.) However, the court  
 14 granted The Bremer Trust's motion to dismiss for failure to prosecute, finding that  
 15 Plaintiff had not timely served Prince with the complaint. (*Id.* at 275–276.) A  
 16 February 7, 2017 order dismissed the action in its entirety. (*Id.*) Plaintiff  
 17 subsequently appealed that order. (*See* Vexatious Lit. Mot. at 13 n.3, ECF No. 39-1.)

18 Plaintiff filed this action on February 24, 2017. (ECF No. 1.) On April 5,  
 19 2017, Plaintiff filed a first amended complaint alleging: (1) copyright infringement;  
 20 (2) breach of contract; and (3) intentional interference with contractual relations.  
 21 (FAC ¶¶ 64–87.) On April 19, 2017, Defendants filed the pending motion to dismiss.  
 22 (ECF No. 30.) On April 27, 2017, Defendants filed the pending motion to deem  
 23  
 24  
 25

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26 2.) However, this second petition was clearly not meant to take the place of the operative petition in  
 27 that action.

28 <sup>3</sup> The Bremer Trust acted as the Special Administrator for Prince's estate after his death. (*See*  
 Tavernier Decl., Ex. D at 249, ECF No. 30-2.) Defendant Comerica has since assumed those  
 responsibilities as Personal Representative of the Estate. (Tavernier Decl. ¶ 2, ECF No. 30-2.)

1 Plaintiff a vexatious litigant. (ECF No. 39.) Both motions are now fully briefed and  
2 ready for decision. (ECF Nos. 36, 42, 44, 45.)<sup>4</sup>

### 3 III. LEGAL STANDARD

4 A court may dismiss a complaint pursuant to Federal Rule of Civil Procedure  
5 12(b)(6) for lack of a cognizable legal theory or insufficient facts pleaded to support  
6 an otherwise cognizable legal theory. *Balistreri v. Pacifica Police Dep't*, 901 F.2d  
7 696, 699 (9th Cir. 1988). To survive a motion to dismiss, a complaint need only  
8 satisfy the minimal notice pleading requirements of Rule 8(a)(2)—a short and plain  
9 statement of the claim. *Porter v. Jones*, 319 F.3d 483, 494 (9th Cir. 2003). The  
10 factual “allegations must be enough to raise a right to relief above the speculative  
11 level.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). That is, the complaint  
12 must “contain sufficient factual matter, accepted as true, to state a claim to relief that  
13 is plausible on its face.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (internal  
14 quotation marks omitted).

15 The determination of whether a complaint satisfies the plausibility standard is a  
16 “context-specific task that requires the reviewing court to draw on its judicial  
17 experience and common sense.” *Id.* at 679. A court is generally limited to the  
18 pleadings and must construe all “factual allegations set forth in the complaint . . . as  
19 true and . . . in the light most favorable” to the plaintiff. *Lee v. City of Los Angeles*,  
20 250 F.3d 668, 688 (9th Cir. 2001) (internal quotation marks omitted). But a court  
21 need not blindly accept conclusory allegations, unwarranted deductions of fact, and  
22 unreasonable inferences. *Sprewell v. Golden State Warriors*, 266 F.3d 979, 988 (9th  
23 Cir. 2001).

24 Generally, a court should freely give leave to amend a complaint that has been  
25 dismissed, even if not requested by the party. *See* Fed. R. Civ. P. 15(a); *Lopez v.*  
26 *Smith*, 203 F.3d 1122, 1130 (9th Cir. 2000) (en banc). However, a court may deny  
27 leave to amend when it “determines that the allegation of other facts consistent with

28 \_\_\_\_\_  
<sup>4</sup> The Court held a June 5, 2017 hearing on the motions.

1 the challenged pleading could not possibly cure the deficiency.” *Schreiber Distrib.*  
2 *Co. v. Serv-Well Furniture Co.*, 806 F.2d 1393, 1401 (9th Cir. 1986).

#### 3 IV. DISCUSSION

##### 4 A. Motion to Dismiss

##### 5 1. Copyright Infringement

6 “A plaintiff may not bring an action for infringement unless *he . . . has . . .*  
7 registered the [relevant] work with the U.S. Copyright Office.” *Jim Marshall*  
8 *Photography, LLC v. John Varvatos of Cal.*, No. C-11-06702 DMR, 2013 WL  
9 3339048, at \*5 (N.D. Cal. June 28, 2013) (citing 17 U.S.C. § 411(a)) (emphasis  
10 added); *see also Exist, Inc. v. Shoreline Wear, Inc.*, No. LACV1408358JAKRZX,  
11 2015 WL 12781409, at \*3 (C.D. Cal. Mar. 17, 2015) (citing *Reed Elsevier, Inc. v.*  
12 *Muchnick*, 559 U.S. 154, 158 (2010)). In other words, registration is a “precondition  
13 to suit” for copyright infringement. *Epikhin v. Game Insight N. Am.*, 145 F. Supp. 3d  
14 896, 902 (N.D. Cal. 2015) (citing *Reed Elsevier*, 559 U.S. at 166).

15 Defendants argue that Plaintiff has not established registration of the relevant  
16 works. (Mot. 13–14, ECF No. 30-1.) In an attempt to establish the requisite  
17 registration, Plaintiff has attached several documents from the United States  
18 Copyright Office to his complaint. One of these documents is a registration for  
19 “Rameses XII; Merc [S]upertext; a handy manual for the serious student of  
20 spirituality” by Rameses America Mercury. (FAC, Ex. K.) However, this registration  
21 does not reference any of the works at issue in this action. *See Kema, Inc. v.*  
22 *Koperwhats*, No. C09-1587MMC, 2010 WL 726640, at \*3 (N.D. Cal. Mar. 1, 2010)  
23 (registration must pertain to the work(s) in question).

24 The other Copyright Office documents Plaintiff has attached to the complaint  
25 relate to the February 4, 2016 recordation of an April 4, 2014 transfer of rights for the  
26 relevant works from Prince to NPG Publishing. (*See* FAC, Exs. H, I.) Plaintiff  
27 alleges that this recordation somehow caused all 965 of the transferred works to  
28 become “part of [the] Merc Supertext” referenced in the previous paragraph. (*Id.*

¶¶ 32, 60.) However, this notion is *entirely* unsupported by the documents themselves. The recordation documents make no reference to Plaintiff, Plaintiff’s alias, or the Merc Supertext. (*Id.*, Ex. H at 62, Ex. I at 65–67.) Likewise, the “Exclusive Songwriter Agreement” underlying these Copyright Office recordation documents makes no reference to Plaintiff, Plaintiff’s alias, or the Merc Supertext. (*Id.*, Ex. I at 68–73.)

Outside of these documents and related allegations, the complaint does not otherwise allege any registration of the works at issue in this action—let alone any of the specifics of their registration. *See Cosmetic Ideas, Inc. v. IAC/Interactivecorp.*, 606 F.3d 612, 621 (9th Cir. 2010) (allowing an infringement case to move forward where the plaintiff alleged that the Copyright Office received its application for the relevant copyright *and* provided the date on which the application was received). Therefore, the Court finds that Plaintiff has not met the registration prerequisite for filing an infringement claim and **GRANTS** Defendants’ motion to dismiss as to Plaintiff’s first cause of action. As there is no indication that Plaintiff can remedy this deficiency, the dismissal is without leave to amend.

## **2. Breach of Contract and Intentional Interference with Contractual Relations**

Defendants argue that Plaintiff’s breach of contract claim and intentional inference with contract claims are precluded by the doctrine of res judicata based on the Minnesota court’s August 29, 2016 decision. (Mot. 11–13.) “Res judicata, or claim preclusion, bars relitigation of claims in a subsequent action between the same parties or their privies if a final judgment has been entered on the merits.” *Herrera v. Cnty. of L.A.*, No. CV097359PSGCWX, 2013 WL 12122287, at \*2 (C.D. Cal. Apr. 15, 2013) (citing *In re Schimmels*, 127 F.3d 875, 881 (9th Cir. 1997)). When, as here, a party requests that a federal court give preclusive effect to a state court decision, the federal court must look to the law of the state that rendered the decision to determine whether res judicata applies. *Migra v. Warren City Sch. Dist. Bd. of Educ.*, 465 U.S.

1 75, 81 (1984) (“It is now settled that a federal court must give to a state-court  
2 judgment the same preclusive effect as would be given that judgment under the law of  
3 the State in which the judgment was rendered.”). Although typically raised as an  
4 affirmative defense, res judicata may be “addressed at the motion to dismiss stage of  
5 litigation, and in so doing, the court can take judicial notice of the earlier proceedings  
6 that give rise to the defense.” *Torn Ranch, Inc. v. Sunrise Commodities, Inc.*, No. C  
7 09-02674 MHP, 2009 WL 2834787, at \*3 (N.D. Cal. Sept. 3, 2009).

8 Defendants request that the Court give preclusive effect to the Minnesota  
9 court’s decision. Therefore, the Court must apply Minnesota law in evaluating  
10 whether Plaintiff’s claims are barred by res judicata. *See Migra*, 465 U.S. at 80. In  
11 Minnesota, res judicata bars subsequent claims “when (1) the earlier claim involved  
12 the same set of factual circumstances; (2) the earlier claim involved the same parties  
13 or their privies; (3) there was a final judgment on the merits; [and] (4) the estopped  
14 party had a full and fair opportunity to litigate the matter.” *Hauschildt v. Beckingham*,  
15 686 N.W.2d 829, 840 (Minn. 2004).

16 Defendants argue that the Minnesota decision/action satisfies the four elements  
17 necessary to invoke res judicata. (Mot. 12–13.) Defendants first assert that Plaintiff’s  
18 petition in the Minnesota action sought recovery based on the same licensing  
19 agreement or agreements that Plaintiff now seeks to recover on in the current action.  
20 (*Id.* at 12.) Defendants next assert that the Minnesota action was commenced against  
21 the same parties or parties in privity—Comerica has assumed the position of The  
22 Bremer Trust and NPG Music and NPG Records are, as they were then, wholly-  
23 owned and operated by the estate’s representative. (*Id.*; FAC ¶ 83 (noting that  
24 Defendants act as the sole members of NPG Publishing and NPG Records); Tavernier  
25 Decl. ¶ 3, ECF No. 30-2.) Defendants also assert that the Minnesota decision was  
26 final and on the merits.<sup>5</sup> (Mot. 12.) Lastly, Defendants assert that Plaintiff had a full

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28 <sup>5</sup> There is no indication that Plaintiff has successfully docketed an appeal with the Minnesota  
Supreme Court.

1 and fair opportunity in the Minnesota action to litigate this matter, filing “four  
2 declarations, two petitions, various objections and legal memoranda, and hundreds of  
3 pages of documentation.” (*Id.* at 13.)

4 Plaintiff’s sole argument in opposition is that the Minnesota court considered  
5 only the 1982 licensing agreement, which was not supported by adequate  
6 consideration and not the 1995 agreement, which was supported by adequate  
7 consideration in rendering its decision. (*See* Opp’n 15–16, 42, ECF No. 36.) Plaintiff  
8 misreads the Minnesota court’s decision.

9 Rather than viewing each successive licensing agreement as separate, the  
10 Minnesota court appears to have analyzed the successive agreements together as part  
11 of a larger agreement that was “consummated” in 1995. (Tavernier Decl., Ex. D at  
12 250–252, ECF No. 30-2.) That the Minnesota court addressed the successive  
13 agreements together does not mean that it failed to adequately consider the 1995  
14 agreement or aspect of the agreement. The Minnesota court explicitly referenced the  
15 1995 consummation of the agreement in its decision and considered Plaintiff’s  
16 petition and supporting documents that discuss the 1995 agreement in reaching its  
17 decision. (*See id.* at 249 (listing the documents on which the Minnesota court relied);  
18 *see also* Tavernier Decl., Ex. A ¶ 24; Tavernier Decl. Ex. 17 ¶ 7, ECF No. 39-2;  
19 Tavernier Decl. Ex. 20 at 20, ECF No. 39-2.) Further, the critical language of the  
20 decision does not limit the court’s holding to a specific agreement: “[Plaintiff] fails  
21 . . . to establish that he *ever* had a valid contract with [Prince].” (Tavernier Decl., Ex.  
22 D at 251, ECF No. 30-2.)

23 The Court also notes that the portion of Plaintiff’s argument relating to  
24 consideration is misleading. Plaintiff’s Minnesota petition does not appear to have  
25 contained the allegation about receiving consideration from Jerry Edelstein that the  
26 present pleadings now contain. Therefore, the Minnesota court was correct in stating  
27 that the agreement or agreements (depending on how one views them) were not  
28 supported by adequate consideration. (*See* Tavernier Decl. Ex. D at 251.) Finding

1 that the four elements of res judicata are met for the reasons described by Defendants,  
2 and finding Plaintiff's argument unavailing, the Court holds that Plaintiff's breach of  
3 contract claim is barred by the doctrine of res judicata.<sup>6</sup>

4 The Court also finds that Plaintiff's intentional interference with contract claim  
5 is barred by the doctrine of res judicata. Although Plaintiff did not seek to recover  
6 from the estate on this basis during the Minnesota action, Plaintiff *could have* done so:  
7 the estate owns the entities accused of interference, Minnesota courts hearing probate  
8 matters have general jurisdiction to hear claims related to estates, and Minnesota  
9 recognizes an analogous cause of action. (FAC ¶ 83 (noting that the estate's personal  
10 representative acts as the sole member of NPG Publishing and NPG Records);  
11 Tavernier Decl. ¶ 3, ECF No. 30-2; *see also In re RIJ Revocable Trust Agreement*  
12 *Dated Mar. 16, 2006*, No. A13-1305, 2014 WL 684698, at \*5 (Minn. Ct. App. Feb.  
13 24, 2014) (explaining that probate courts in Minnesota were consolidated with district  
14 courts and as a result have general jurisdiction over matters involving estates); Minn.  
15 Stat. Ann. § 524.1-302 (noting that probate courts have jurisdiction "over all subject  
16 matter relating to estates"); *Sysdyne Corp. v. Rousslang*, 860 N.W.2d 347, 351 (Minn.  
17 2015) (recognizing tortious interference with contract as a cause of action and  
18 outlining the elements). When a claim could have been brought in the previous  
19 proceeding, it is subject to the doctrine of res judicata. *Laase v. Cty. of Isanti*, 638  
20 F.3d 853, 856 (8th Cir. 2011). Therefore, the Court also holds that Plaintiff's

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23 <sup>6</sup> The fact that the Minnesota action was a probate proceeding based on a petition without formal  
24 causes of action and not a traditional civil proceeding based on a complaint with formal causes of  
25 action makes no difference for purposes of res judicata. *See Hauschildt*, 686 N.W.2d at 840 (noting  
26 that res judicata does not turn on the way that the plaintiff chooses to title or frame his causes of  
27 action but rather on whether the plaintiff previously sought recovery based on the same underlying  
28 nucleus of facts); *see also Bengtson v. Setterberg*, 227 Minn. 337, 347–48, 35 N.W.2d 623, 628  
(1949) (noting that probate proceedings may have res judicata effect); *In re Pearson*, No. C5-99-  
1397, 2000 WL 519246, at \*1 (Minn. Ct. App. May 2, 2000) ("The district court's decision in a  
probate case is res judicata and binding unless reversed or modified on appeal or in a direct  
proceeding.").

1 intentional interference with contractual relations claim is barred by the doctrine of res  
2 judicata.

3 The Court notes in closing that this case presents a textbook example of why  
4 the doctrine of res judicata is necessary. The doctrine of res judicata was created to  
5 “protect [parties] from the expense and vexation attending multiple lawsuits, to  
6 conserve judicial resources, and to foster reliance on judicial action by minimizing the  
7 possibility of inconsistent decisions.” *Americana Fabrics, Inc. v. L & L Textiles, Inc.*,  
8 754 F.2d 1524, 1529 (9th Cir. 1985). Plaintiff has maintained cases against Prince,  
9 entities related to Prince, and Prince’s successors-in-interest for nearly a quarter of a  
10 century based on essentially the same claims without ever getting past the motion to  
11 dismiss stage, in the process wasting hundreds of hours of court time and causing  
12 opponents to incur significant expense in preparing responses to meritless, and at  
13 times nonsensical, pleadings and briefs. Plaintiff will not be allowed to avoid the  
14 consequences of his previous actions in this proceeding—the Court **GRANTS**  
15 Defendants’ motion to dismiss as to Plaintiff’s second and third causes of action  
16 without leave to amend.

### 17 **B. Motion to Deem Plaintiff a Vexatious Litigant**

18 In bringing their vexatious litigant motion, “Defendants seek an order that,  
19 absent prior leave of the presiding judge of the Central District of California, Mr.  
20 Dixon shall be prohibited from filing any new actions relating to the same set of facts  
21 or legal claims as the present action against any of the following parties: Comerica  
22 Bank and Trust, N.A. as Personal Representative for the Estate of Prince Rogers  
23 Nelson, NPG Music Publishing, LLC, NPG Records, Inc., and any other entity  
24 controlled by the Personal Representative.” (Not. of Vexatious Lit. Mot. 2, ECF No.  
25 39.)

26 “Federal courts can ‘regulate the activities of abusive litigants by imposing  
27 carefully tailored restrictions under . . . appropriate circumstances.’” *Ringgold-*  
28 *Lockhart v. Cnty. of L.A.*, 761 F.3d 1057, 1061 (9th Cir. 2014) (quoting *De Long v.*

1 *Hennessey*, 912 F.2d 1144, 1147 (9th Cir. 1990)); *see also* C.D. Cal. Local Rule 83-8  
2 (governing vexatious litigants). When district courts seek to impose pre-filing  
3 restrictions, they must: (1) give litigants notice and “an opportunity to oppose the  
4 order before it [is] entered”; (2) compile an adequate record for appellate review,  
5 including “a listing of all the cases and motions that led the district court to conclude  
6 that a vexatious litigant order was needed”; (3) make substantive findings of  
7 frivolousness or harassment; and (4) tailor the order narrowly so as “to closely fit the  
8 specific vice encountered.” *Ringgold-Lockhart*, 761 F.3d at 1062 (quoting *De Long*,  
9 912 F.2d at 1148). The Court considers each factor in turn.

### 10 **1. Notice and an Opportunity To Be Heard**

11 Defendants filed a noticed motion to deem Plaintiff a vexatious litigant on April  
12 27, 2017, approximately six weeks before the scheduled hearing on the motion. (*See*  
13 ECF No. 39.) Plaintiff filed a timely fifty-page opposition to that motion which the  
14 Court has duly considered. (ECF No. 42.) The Court held a hearing on the motion on  
15 June 5, 2017. Therefore, Plaintiff has had adequate notice and an opportunity to be  
16 heard. *See Ringgold-Lockhart*, 761 F.3d at 1063 (finding the notice and opportunity  
17 to be heard element satisfied where Plaintiff had an opportunity to file an opposition  
18 and the court held a hearing on the motion).

### 19 **2. Adequate Record for Review and Substantive Frivolous Findings**

20 In their motion to deem Plaintiff a vexatious litigant, Defendants provided a  
21 detailed record of Plaintiff’s filings in the 1994 Superior Court action, the 1995  
22 Superior Court action, and the 2016 Carver County District Court action. (Vexatious  
23 Lit. Mot. 2–7, ECF No. 39.) In doing so, Defendants have clearly described the  
24 bizarre statements contained in Plaintiff’s submissions, the voluminous nature of those  
25 submissions, and the repetitive quality of the successive proceedings. (*Id.*) The Court  
26 finds Defendants’ procedural history to be highly accurate and well organized. (*Id.*)  
27 However, due to its length, the Court must resort to a summary of that procedural  
28 history here.

1                   **a. Plaintiff's Bizarre Statements**

2           A court may consider the content of a party's submissions in making a  
3 vexatious litigant determination. *See De Long*, 912 F.2d at 1148 (noting the "content"  
4 of a party's filing may serve as "indicia" of vexatiousness). As Defendants point out,  
5 Plaintiff's submissions have at times left behind reality in addition to sound legal  
6 theory. For instance, the complaint in the 1994 action includes the following  
7 statements: (1) "Rameses America Mercury became the first person in America to be  
8 subject to The Higher Authority," (2) "on July 13, 1994 . . . [Prince] became subject to  
9 the Messiah, and sealed thereof of the First Amendment, The Emancipation  
10 Proclamation, The Declaration of Independence, The State of California, and The  
11 Holy Bible," and (3) "[Plaintiff has a] master plan . . . to teach Prince[], as well as the  
12 rest of society a valuable lesson about suppression, submission and faith." (Tavernier  
13 Decl., Ex. 2 ¶¶ 3, 11, ECF No. 39-2.) The declarations supporting the complaint and  
14 Plaintiff's briefs continue in a similar vein. For instance, one of Plaintiff's  
15 declarations indicates that he is "Pharaoh of the World," includes lengthy biblical  
16 passages, refers to Judge Aurelio Muñoz as "Scorpio," and explains that Plaintiff is  
17 pursuing a parallel petition to "change his name from Rameses America Mercury to  
18 Love." (Tavernier Decl., Ex. C (Declaration of Pharaoh Rameses America Mercury,  
19 Pharaoh of the World), Introduction, ¶¶ 1, 10, ECF No. 30-2.) In another of his  
20 declarations from the 1994 action, Plaintiff refers to himself as a "son of God" and  
21 quotes biblical passages without any mention whatsoever of facts pertinent to the case.  
22 (Tavernier Decl., Ex. 12 at 95–99, ECF No. 39-2.) Plaintiff also includes other bizarre  
23 supporting documentation, such as a fax he sent to Janet Jackson discussing the  
24 concept of "Cosmic Hopscotch to Self-realization," Egyptian gods, and his desire for  
25 her to participate in a music video for his song "Queen Hottie." (Tavernier Decl., Ex.  
26 C at 83–85, ECF No. 30-2.)

27           Declarations made in the course of the Minnesota action likewise include some  
28 "far out" statements, including mentions of Plaintiff's dealings with Saudi Arabian

1 royalty, his attempt to be legally adopted as a “Son of God and Earth,” and his  
2 creation of “The Game,” which involves a Las Vegas mail order contest, themes of  
3 ancient Egypt, and safety deposit boxes that hold “answers.” (Tavernier Decl. Ex. 18,  
4 at 162, 166, 167, 184, ECF No. 39-2.)

5 Plaintiff’s filings in this action also raise red flags. For instance, Plaintiff seeks  
6 an opportunity for evidentiary discovery in part “to dive deeper into his relationship  
7 with Prince and their mothers respectively.” (Opp’n to Vexatious Lit. Mot. 22, ECF  
8 No. 42.) Plaintiff also continues to cite biblical passages. (*Id.* at 25.) Further,  
9 Plaintiff attempts to equate or tie in a finding of legal vexatiousness with racism,  
10 including statements such as “Impoverished African-American’s are not considered  
11 ‘vexatious’ for believing in themselves, or standing up for their rights.” (*Id.* at 23.)

12 After reviewing Plaintiff’s submissions, the Court finds much of their content  
13 irrelevant, if not deeply troubling. The content of Plaintiff’s submissions weighs in  
14 favor of deeming Plaintiff a vexatious litigant.

### 15 **b. Voluminous Nature of Plaintiff’s Submissions**

16 In addition to considering the content of a party’s submissions, the Court may  
17 also consider the quantity and length of those submissions. *See De Long*, 912 F.2d at  
18 1148 (number of submissions); *Ringgold-Lockhart*, 761 F.3d at 1063 (noting with  
19 seeming approval the district court’s discussion of page lengths). Plaintiff has filed  
20 numerous, lengthy, unsolicited submissions inappropriate for the motion to dismiss  
21 stage of proceedings in this and the previous three relevant actions.<sup>7</sup> The following is  
22 a partial summary of the submissions that fall within this category.

23 One week after filing his complaint in the 1994 Superior Court action, Plaintiff  
24 submitted what appears to have been an unsolicited declaration. (Tavernier Decl., Ex.  
25

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26 <sup>7</sup> Generally, only documents attached to the complaint or referenced therein may be considered in  
27 connection with a motion to dismiss. *See Lee*, 250 F.3d at 688 (motion to dismiss review typically  
28 limited to complaint); *Hsu v. Puma Biotech., Inc.*, No. SACV150865AGJCGX, 2016 WL 5859000,  
at \*3 (C.D. Cal. Sept. 30, 2016) (discussing instances where review may be expanded beyond  
complaint).

1 3, ECF No. 39-2.) Plaintiff then submitted what appears have been another  
2 unsolicited declaration on July 9, 1996, after Judge Aurelio Muñoz granted Warner  
3 Brothers Records' demurrer. (*Id.*, Ex. 12.)

4 Two months after filing his initial petition in the 2016 Minnesota action,  
5 Plaintiff filed what appears to have been an unsolicited 179 page case summary. (*Id.*,  
6 Ex. 19.) Approximately, two weeks later, Plaintiff filed what appears to have been  
7 unsolicited declaration. (*Id.*, Ex. 20.) Plaintiff then submitted an unsolicited fifty-  
8 three page memorandum after Judge Kevin Eide entered an order dismissing the case.  
9 (*Id.*, Ex. 27.)

10 In this proceeding, Plaintiff grossly exceeded the relevant page limit in both of  
11 his opposition briefs (each brief was fifty pages long) and filed an unsolicited fifty-  
12 page declaration after briefing was complete. (*See* ECF Nos. 36, 42, 47; *see also* Civil  
13 Standing Order.)

14 These unsolicited and inappropriate declarations, memoranda, and supporting  
15 documents have caused this Court, previous courts, and Defendants many hours of  
16 unnecessary review. As such, the voluminous nature of Plaintiff's submissions  
17 weighs in favor of deeming Plaintiff a vexatious litigant.

### 18 **c. Repetitive Quality of the Successive Proceedings**

19 As outlined in the res judicata section above, Plaintiff has essentially filed the  
20 same action with minor variations on four separate occasions: all actions concerned  
21 the same licensing agreement/agreements and sought recovery of a billion or more  
22 dollars based on that agreement. While the Ninth Circuit has strongly implied that the  
23 filing of two successive actions would not be sufficient to warrant the imposition of a  
24 vexatious litigant designation, it has not opined on whether four successive actions, as  
25 here, would be sufficient. *Ringgold-Lockhart*, 761 F.3d at 1065 (noting that it would  
26 be "extremely unusual" to make a vexatious litigant finding on the basis of two  
27 successive actions).

28

1           However, as Defendants point out, another court in this district has found that  
2 four successive removals of an unlawful detainer action *were* a sufficient basis for a  
3 vexatious litigant finding. *See Schneider v. Roberts*, No. CV 14-1668-UA, 2014 WL  
4 1891416, at \*6 (C.D. Cal. May 9, 2014). The Court finds that the four successive  
5 actions here are sufficiently repetitive and numerous to serve as the foundation for a  
6 vexatious litigant claim.

7           After reviewing the papers submitted in support of this motion and all relevant  
8 evidence, the Court finds that there is an extensive record on which to base a  
9 vexatious litigant finding. The Court also finds that the bizarre statements made by  
10 Plaintiff and the repetitive quality of the successive actions provide a strong  
11 substantive foundation for such a finding.

### 12           **3. Narrow Tailoring**

13           As the Court finds that there is a basis for a vexatious litigant order, it must  
14 consider the appropriate breadth of that order. The Ninth Circuit has made clear that  
15 any vexatious litigant order must have defined boundaries and be “narrowly tailored to  
16 closely fit the specific vice encountered” so as not to deprive the litigant of more  
17 generalized access to the judicial system. *De Long*, 912 F.2d at 1148. Defendants  
18 request an order with the language “Mr. Dixon shall be prohibited from filing any new  
19 actions relating to the same set of facts or legal claims as the present action against  
20 any of the following parties: Comerica Bank and Trust, N.A. as Personal  
21 Representative for the Estate of Prince Rogers Nelson, NPG Music Publishing, LLC,  
22 NPG Records, Inc., and any other entity controlled by the Personal Representative.”  
23 (Not. of Vexatious Lit. Mot. 2.)

24           The Court believes the proposed order is too broadly worded. A more  
25 appropriate order focuses on the factual specifics: the contract and the intellectual  
26 property at issue. *See Azam v. Fed. Deposit Ins. Corp.*, No. CV 15-3930-JLS (ASX),  
27 2016 WL 4150762, at \*14 (C.D. Cal. July 19, 2016) (providing an example of a  
28

1 vexatious litigant order focusing on factual specifics). Therefore, the Court adopts the  
2 amended order below.

3  
4 Plaintiff, or any person acting on his behalf, must first obtain written  
5 authorization from a magistrate judge before initiating a new action against  
6 Comerica Bank and Trust, N.A. as Personal Representative for the Estate of  
7 Prince Rogers Nelson; NPG Music Publishing, LLC; NPG Records, Inc.; or any  
8 other entity controlled by the Personal Representative that is related to (1) a  
9 contract, of any type, to which Prince was a party, or (2) any of the 965 songs  
10 included in the April 4, 2014 transfer of rights (the “Exclusive Songwriter  
11 Agreement”). Plaintiff will be allowed to file a complaint if a magistrate judge  
12 finds that the proposed complaint is not frivolous and not duplicative of any  
13 claim Plaintiff has already filed in state or federal court. If the magistrate judge  
14 allows the filing but determines, based on the pleadings and any evidence  
15 provided by the parties, that there is no reasonable probability Plaintiff will  
16 prevail in the litigation, the magistrate may order Plaintiff to first post security  
17 in an appropriate amount to be determined by the magistrate.

#### 18 **4. Alternative Basis for Vexatious Litigant Finding: State Law Per Local Rule** 19 **83-8.4**

20 As an alternative to the analysis outlined above, Central District of California  
21 Local Rule 83-8.4 authorizes district courts to rely on the California state vexatious  
22 litigant statute codified in California Civil Procedure section 391 to make a vexatious  
23 litigant finding. *Williams v. Super. Ct. of L.A. Cnty.*, No. CV 13-7759 GW JCG, 2014  
24 WL 9923635, at \*5 (C.D. Cal. Dec. 18, 2014), *report and recommendation adopted as*  
25 *modified*, No. CV-13-7759-GW JCGX, 2015 WL 3866032 (C.D. Cal. June 19, 2015)  
26 (noting that there are two viable vexatious litigant tests, one based on case law and  
27 one based on California Code of Civil Procedural section 391). California Code of  
28 Civil Procedure 391(b)(4) allows for a vexatious litigant finding where a party was  
previously designated “a vexatious litigant by any state . . . court.” Here, the record  
clearly indicates that Plaintiff was declared a vexatious litigant by the Minnesota

1 court. (Tavernier Decl., Ex. E at 253–255, ECF No. 30-2.) Thus, the Court would  
2 also designate him a vexatious litigant on that basis.<sup>8</sup>

3 **V. CONCLUSION**

4 In light of the foregoing, the Court **GRANTS** Defendants’ motion to dismiss  
5 without leave to amend and **GRANTS** Defendants’ motion to deem Plaintiff a  
6 vexatious litigant. (ECF Nos. 30, 39.)

7  
8 **IT IS SO ORDERED.**

9 June 6, 2017

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12 **OTIS D. WRIGHT, II**  
13 **UNITED STATES DISTRICT JUDGE**

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<sup>8</sup> In reaching its decision to deem Plaintiff a vexatious litigant, the Court considered whether sanctions or other less restrictive methods might be effective in preventing Plaintiff from filing further actions. The Court finds that these methods would not be effective. Plaintiff has already been deemed a vexatious litigant in another court, has filed virtually the same case in multiple venues, and has previously filed for bankruptcy. (*See* Vexatious Lit. Mot. 9.) Further, the Court sees a thousand dollar fine as being of little import to a plaintiff seeking one billion dollars.