

No S258498

In the

Supreme Court

of the

State of California

JANE DOE,

Plaintiff, Cross-defendant, and Respondent,

v.

CURTIS OLSON,

Defendant, Cross-complainant, and Appellant.

AFTER THE UNPUBLISHED OPINION AFFIRMING
AND REVERSING ANTI-SLAPP ORDERS BY THE
SECOND DISTRICT COURT OF APPEAL, DIVISION EIGHT
No B286105

HON. MARIA E. STRATTON, ASSOCIATE JUSTICE;
HON. TRICIA A. BIGELOW, PRESIDING JUSTICE; AND
HON. ELIZABETH A. GRIMES, ASSOCIATE JUSTICE

LOS ANGELES COUNTY SUPERIOR COURT
No SC126806
HON. CRAIG D. KARLAN, JUDGE

SUPPLEMENTAL BRIEF

Robert M. Dato, 110408 | Eric Michael Kennedy, 228393

*Robert Collings Little, 182396 | Paul Augusto Alarcón, 275036

BUCHALTER

A PROFESSIONAL CORPORATION

1000 Wilshire Blvd, Suite 1500 | Los Angeles, CA 90017-1730
(213) 891-0700 | FAX (213) 891-6000 | rlittle@buchalter.com

Attorneys for Defendant, Cross-complainant, and Appellant

CURTIS OLSON

**CERTIFICATE OF INTERESTED
ENTITIES OR PERSONS**

Defendant, Cross-complainant, and Appellant Curtis Olson identifies himself and Plaintiff, Cross-defendant, and Respondent Jane Doe as the interested parties to this review.

Respectfully submitted,

October 22, 2021

By: /s/ Robert M. Dato

Robert M. Dato

BUCHALTER

A PROFESSIONAL LAW CORPORATION

Los Angeles, California

Attorneys for Defendant,

Cross-complainant, and Appellant

CURTIS OLSON

TABLE OF CONTENTS

	Page
Supplemental Brief	5
Certificate of Compliance	8
Service List	9

TABLE OF AUTHORITIES

	Page(s)
<i>Action Apt. Assn., Inc. v. City of Santa Monica</i> (2007) 41 Cal.4th 1232	5
<i>Feldman v. 1100 Park Lane Associates</i> (2008) 160 Cal.App.4th 1467	6
<i>Navellier v. Sletten</i> (2003) 106 Cal.App.4th 763	6
<i>Silberg v. Anderson</i> (1990) 50 Cal.3d 205.....	6
<i>Weeden v. Hoffman</i> (Oct. 13, 2021, D078112) __ Cal.App.5th __	5, 6

SUPPLEMENTAL BRIEF

Appellant Curt Olson wishes to bring to this Court's attention the recent Court of Appeal decision in *Weeden v. Hoffman* (Oct. 13, 2021, D078112) __ Cal.App.5th __ [2021 Cal. App. Lexis 849, 2021 WL 4771458]. In *Weeden*, the Court of Appeal held that the litigation privilege does not apply to non-tort claims, as argued in Olson's answering brief on the merits.

The facts of *Weeden* are somewhat complex, but essentially defendant Hoffman filed and recorded a fraudulent abstract of judgment and then threatened the Weedens that he would foreclose on their property, in which he had an extinguished interest. In response, the Weedens sued Hoffman for quiet title, cancellation of an instrument, and slander of title. Hoffman obtained dismissal of all three claims through an anti-SLAPP motion. A key component of the trial court's ruling was that the Weedens "could not demonstrate a probability of prevailing because the litigation privilege applies to bar all three causes of action." (*Weeden, supra*, __ Cal.App.5th at p. __ [typed opn. at p. 9].)

The Court of Appeal reversed in part, finding that the litigation privilege does not apply to non-tort claims (which in that case were quiet title and cancellation of an instrument). The *Weeden* court began its analysis by quoting from this Court's decision in *Action Apartment Assn., Inc. v. City of Santa Monica* (2007) 41 Cal.4th 1232, 1241: "The principal purpose of [the litigation privilege] is to afford litigants and witnesses [citation] the utmost freedom of access to the courts without fear of being harassed subsequently *by derivative tort actions.*" (*Weeden, supra*,

__ Cal.App.5th at p. __ [typed opn. at p. 19], italics added by *Weeden* court.) The court also quoted from *Silberg v. Anderson* (1990) 50 Cal.3d 205, 212: “Although originally enacted with reference to defamation [citation], the privilege is now held applicable to any communication, whether or not it amounts to a publication [citations], and *all torts except malicious prosecution.*” (*Weeden, supra*, __ Cal.App.5th at p. __ [typed opn. at p. 19], italics added by *Weeden* court.)

The *Weeden* court also relied on the same authorities as those relied on by Olson in holding that “the litigation privilege precludes liability for damages in tort, *and generally is not extended to liability based on a claim for breach contract*, for example.” (*Weeden, supra*, __ Cal.App.5th at p. __ [typed opn. at p. 20], citing *Navellier v. Sletten* (2003) 106 Cal.App.4th 763, 773 and *Feldman v. 1100 Park Lane Associates* (2008) 160 Cal.App.4th 1467, 1486.)

Like other Courts of Appeal that have ruled on this issue, *Weeden* is sound and should be followed. The litigation privilege does not apply to non-tort claims.

Respectfully submitted,

BUCHALTER

A PROFESSIONAL LAW CORPORATION

October 22, 2021

By: /s/ Robert M. Dato

ERIC MICHAEL KENNEDY

ROBERT COLLINGS LITTLE

Los Angeles, California

ROBERT M. DATO

PAUL AUGUSTO ALARCÓN

Irvine, California

Attorneys for Defendant,

Cross-complainant and Appellant

CURTIS OLSON

CERTIFICATE OF COMPLIANCE

(CAL. RULES OF COURT, rule 8.520(c))

I, the undersigned appellate counsel, certify this brief consists of 445 words, exclusive of the portions specified in California Rules of Court, rule 8.520(c)(1), relying on the word count of the Microsoft Word program used to prepare it.

Respectfully submitted,

October 22, 2021

By: /s/ Robert M. Dato

Robert M. Dato

BUCHALTER

A PROFESSIONAL LAW CORPORATION

Irvine, California

Attorneys for Defendant,

Cross-complainant, and Appellant

CURTIS OLSON

SERVICE LIST

SUPREME COURT OF CALIFORNIA

No S258498

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT, DIVISION EIGHT
No B286105

LOS ANGELES COUNTY SUPERIOR COURT
No SC126806

By TrueFiling

Mr. Jorge E. Navarrete,
Clerk/Executive Officer
SUPREME COURT OF CALIFORNIA
RONALD M. GEORGE STATE OFFICE
COMPLEX, THE EARL WARREN BUILDING
350 McAllister Street, Room 1295
San Francisco, California 94102-4738
(415) 865-7000

*Supreme Court of the
State of California*

By TrueFiling

Paul Kujawsky, Esq.
LAW OFFICES OF PAUL KUJAWSKY
5252 Corteen Place, Apartment No. 35
Studio City, California 91607-4225
(818) 389-5854
EMAIL <pkujawsky@caappeals.com>

*Co-Counsel for Plaintiff,
Cross-Defendant, Respondent,
and Petitioner*
JANE DOE

By TrueFiling

Mitchell Keiter, Esq.
KEITER APPELLATE LAW
THE BEVERLY HILLS LAW BUILDING
424 South Beverly Drive
Beverly Hills, California 90212
(310) 553-8533 | FAX (310) 203-9853
EMAIL <mitchell.keiter@gmail.com>

*Co-Counsel for Plaintiff,
Cross-Defendant, Respondent,
and Petitioner*
JANE DOE

SERVICE LIST

(CONTINUED)

By TrueFiling

Jean-Claude André, Esq.
BRYAN CAVE
LEIGHTON PAISNER LLP
120 Broadway, Suite 300
Santa Monica, California 90401-2386
(310) 576-2148 | FAX (310) 260-4148
EMAIL <jcandre@bclplaw.com>

*Co-Counsel for Plaintiff,
Cross-Defendant, Respond-
ent, and Petitioner*
JANE DOE

By TrueFiling

Eric Michael Kennedy, Esq.
Robert Collings Little, Esq.
BUCHALTER
A PROFESSIONAL CORPORATION
1000 Wilshire Blvd, Suite 1500
Los Angeles, California 90017-1730
(213) 891-0700 | FAX (213) 891-6000
EMAIL <ekennedy@buchalter.com>,
<rlittle@buchalter.com>

*Co-Counsel for Defendant,
Cross-Complainant, and
Appellant*
CURTIS OLSON

By TrueFiling

Robert M. Dato, Esq.
Paul Augusto Alarcón, Esq.
BUCHALTER
A PROFESSIONAL CORPORATION
18400 Von Karman Avenue, Suite 800
Irvine, California 92612-0514
(949) 224-6298 | FAX (949) 720-0182
EMAIL <rdata@buchalter.com>,
<palarcon@buchalter.com>

*Co-Counsel for Defendant,
Cross-Complainant, and
Appellant*
CURTIS OLSON

SERVICE LIST

(CONTINUED)

By TrueFiling

Alexis Susan Coll, Esq.
GOODWIN PROCTER LLP
601 Marshall Street
Redwood City, California 94063-1621
(650) 752-3234 | FAX (650) 853-1038
EMAIL <acollvery@goodwinlaw.com>

Co-Counsel for
Amici Curiae
FAMILY VIOLENCE
APPELLATE PROJECT;
CALIFORNIA
WOMEN'S LAW
CENTER, *et al.*

By TrueFiling

Arati Vasan, Esq.
Jennafer Dorfman Wagner, Esq.
Erin Canfield Smith, Esq.
FAMILY VIOLENCE
APPELLATE PROJECT
449 15th Street, Suite 104
Oakland, California 94612-2827
(510) 858-7358 | FAX (866) 920-3889
EMAIL <avasan@fvapl原因law.org>,
<jwagner@fvapl原因law.org>,
<esmith@fvapl原因law.org>

Co-Counsel for
Amici Curiae
FAMILY VIOLENCE
APPELLATE PROJECT

By TrueFiling

Amy Christine Poyer, Esq.
CALIFORNIA WOMEN'S
LAW CENTER
360 North Sepulveda Boulevard,
Suite 2070
El Segundo, California 90245-4429
EMAIL <amy.poyer@cwlc.org>

Co-Counsel for
Amici Curiae
CALIFORNIA
WOMEN'S LAW
CENTER

SERVICE LIST

(CONTINUED)

By TrueFiling

Aimee J. Zeltzer, Esq.
LAW OFFICES OF
AIMEE J. ZELTZER
P.O. Box 3172
Los Angeles, California 90021-3172
(310) 845-6406
EMAIL <zeltzerlaw@gmail.com>

Attorneys for Amici Curiae
JOHN K. MITCHELL;
and JACK R. GOETZ

By TrueFiling

Mr. Daniel M. Potter, Clerk
CALIFORNIA COURT OF APPEAL
SECOND APPELLATE DISTRICT
DIVISION EIGHT
RONALD REAGAN STATE BUILDING
300 South Spring Street
2nd Floor, North Tower
Los Angeles, California 90013-1230
(213) 830-7000

Court of Appeal

By TrueFiling

Frederick Raymond Bennett III, Esq.
Ms. Sherri R. Carter, Clerk for
Hon. Craig D. Karlan, Judge
LOS ANGELES COUNTY
SUPERIOR COURT
SANTA MONICA COURTHOUSE
1725 Main Street, Department N
Santa Monica, California 90401-3269
(310) 255-1856
E-MAIL <fbennett@lacourt.org>

Superior Court

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **JANE DOE v.
OLSON**

Case Number: **S258498**

Lower Court Case Number: **B286105**

1. At the time of service I was at least 18 years of age and not a party to this legal action.
2. My email address used to e-serve: **rdato@buchalter.com**
3. I served by email a copy of the following document(s) indicated below:

Title(s) of papers e-served:

Filing Type	Document Title
BRIEF	2021-10-22 Supplemental Brief - Olson

Service Recipients:

Person Served	Email Address	Type	Date / Time
Miguel Centeno Centeno Professional Services	miguelcentenosr@gmail.com	e-Serve	10/22/2021 10:17:10 AM
Paul Kujawsky Law Offices of Paul Kujawsky 110795	pkujawsky@caappeals.com	e-Serve	10/22/2021 10:17:10 AM
Jean-Claude Andre Bryan Cave Leighton Paisner 150628	jcandre@bclplaw.com	e-Serve	10/22/2021 10:17:10 AM
Jean-Claude Andre SIDLEY AUSTIN LLP 213538	jcandre@sidley.com	e-Serve	10/22/2021 10:17:10 AM
Jean-Claude Andre Bryan Cave Leighton Paisner	jcandre@bclplaw.comcom	e-Serve	10/22/2021 10:17:10 AM
Robert Dato Buchalter, A Professional Corporation 110408	rdato@buchalter.com	e-Serve	10/22/2021 10:17:10 AM
Alexis Coll Goodwin Procter LLP 212735	ACollVery@goodwinlaw.com	e-Serve	10/22/2021 10:17:10 AM
Amy Poyer California Women's Law Center 277315	amy.poyer@cwlc.org	e-Serve	10/22/2021 10:17:10 AM
Eric Kennedy Buchalter, A Professional Corporation 228393	ekennedy@buchalter.com	e-Serve	10/22/2021 10:17:10 AM
Paul Alarcon Buchalter 275036	palarcon@buchalter.com	e-Serve	10/22/2021 10:17:10 AM

John Mitchell The Law Offices of John K. Mitchell 182223	john.mitchell16@ca.rr.com	e-Serve	10/22/2021 10:17:10 AM
Aimee Zeltzer Law Offices of Aimee J. Zeltzer 309461	Zeltzerlaw@gmail.com	e-Serve	10/22/2021 10:17:10 AM
Flechelle Morin	flechelle.morin@live.com	e-Serve	10/22/2021 10:17:10 AM
Mitchell Keiter Keiter Appellate Law 156755	Mitchell.Keiter@gmail.com	e-Serve	10/22/2021 10:17:10 AM
Arati Vasan Family Violence Appellate Project 255098	avasan@fvaplaw.org	e-Serve	10/22/2021 10:17:10 AM
Robert Little Buchalter 182396	rlittle@buchalter.com	e-Serve	10/22/2021 10:17:10 AM

This proof of service was automatically created, submitted and signed on my behalf through my agreements with TrueFiling and its contents are true to the best of my information, knowledge, and belief.

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

10/22/2021

Date

/s/Rachel Moreno

Signature

Dato, Robert (110408)

Last Name, First Name (PNum)

Buchalter

Law Firm