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Dogged 'Made in USA' Advocate is Vexatious, CVS Argues

Other defendants say he lacks standing to sue.

Amanda Bronstad, The National Law Journal

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A disbarred lawyer who has made it his mission to promote American-manufactured products is facing opposition that would block him from filing lawsuits in California.

Joel Joseph, chairman of the Made in the USA Foundation in Los Angeles who was disbarred in 2011 in Maryland, has continued to file suits as a pro se plaintiff against companies like Costco Wholesale Corp., Trader Joe's Co. and CVS Pharmacy Inc. over the labeling of ground meat and generic pharmaceuticals. The cases have been filed in California, where Joseph has used a private attorney general action under the state's consumer laws to assert the products were mislabeled in violation of the Tariff Act or other federal laws.

On March 1, Joseph goes to court in Santa Monica, California, to defend his case against CVS, which has filed a motion to declare him a vexatious litigant.

In the motion, CVS attorney Trenton Norris, a partner in Arnold & Porter's San Francisco office, cited 10 matters in the past seven years that Joseph lost, plus "repeated frivolous, misleading, and dilatory tactics" in other cases. He declined to comment about the motion. If Los Angeles Superior Court Judge Nancy Newman grants the motion, she could dismiss the CVS case and Joseph would be unable to file future suits in California without getting the approval of the presiding judge of that court.

In another case, a group of retailers and distributors of cashews have turned up the heat on Joseph, claiming in motions to dismiss that his crop of lawsuits should be stopped due to a lack of standing.

Joseph declined to comment on the vexatious-litigant motion, but in court papers denied the assertion, noting in an opposition paper he filed on Jan. 22 that many of the matters cited by CVS were petitions related to his law license. In that filing he wrote, "Plaintiff has never engaged in vexatious litigation and has never done anything dishonest. I have never brought a frivolous case."

A 1973 graduate of Georgetown University Law Center, he was [disbarred](#) in Maryland after that state's high court, the Court of Appeals, found that he "lacked candor" when misrepresenting his residence in an application to appear in court in California. He was "suspended indefinitely" in

Ohio the following year, and the District of Columbia Bar disbarred him in 2015.

Among his recent cases, Joseph voluntarily dismissed a lawsuit against Jennie-O and Trader Joe's. He said that he settled with Trader Joe's, which "changed their labeling."

Joseph has filed "a whole bunch of cases" since his disbarment, said Jacob Harper of Los Angeles-based TroyGould, which represents Ralphs Grocery Co., Nature's Best Distribution LLC and Sun Ridge Farms Inc. in the cashew case. Citing a 2014 ruling dismissing a case that Joseph brought against Costco, they are hoping to prevent him from bringing the same claims again.

"We want to make it so the buck stops here," Harper said.

A lawyer for a fourth defendant, a division of The Kraft Heinz Co., which filed a separate dismissal motion, did not respond to a request for comment.

U.S. District Judge André Birotte took the motions in the cashew case under submission on Wednesday.

In general, the defendants have argued that Joseph is not permitted to bring the actions because he has suffered no injuries. Joseph has cited the California Supreme Court's 2011 decision in [Kwikset Corp. v. Superior Court \(Benson\)](#), which found that consumers could sue over misleading labels even when they didn't suffer from economic damages or the product wasn't defective.

"We brought these cases to move some of the principles of the foundation forward," Joseph said. "Basically, we're trying to get companies to provide country-of-origin information that's required by law."

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