

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
EVA McCLINTOCK, CLERK

DIVISION 8

Los Angeles County Superior Court

BAT WORLD SANCTUARY,
Plaintiff and Respondent,
v.
MARY CUMMINS,
Defendant and Appellant.
B327355
Los Angeles County Super. Ct. No. BS140207

*** REMITTITUR ***

I, Eva McClintock, Clerk of the Court of Appeal of the State of California, for the Second Appellate District, do hereby certify that the attached is a true and correct copy of the original order, opinion or decision entered in the above-entitled cause on June 18, 2025 and that this order, opinion or decision has now become final.

Respondent shall recover his costs on appeal.

Witness my hand and the seal of the Court
affixed at my office this **Sep 08, 2025**

EVA McCLINTOCK, CLERK

by: M. Figueroa,
Deputy Clerk

cc: All Counsel
File



FILED

Jun 18, 2025

EVA McCLINTOCK, Clerk

mfigueroa

Deputy Clerk

Filed 6/18/25

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California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

BAT WORLD SANCTUARY et
al.,

Plaintiffs and Respondents,

v.

MARY CUMMINS,

Defendant and Appellant.

B327355

(Los Angeles County
Super. Ct. No. BS140207)

APPEAL from orders of the Superior Court of Los Angeles County. Kristin S. Escalante, Judge. Affirmed.

Mary Cummins, in pro.per., for Defendant and Appellant.

Stillman & Associates and Philip H. Stillman for Plaintiff and Respondent Konstantin Khionidi, as Trustee, etc.

No appearances for Plaintiffs and Respondents Bat World Sanctuary and Amanda Lollar.

Mary Cummins appeals the denial of her motion to vacate the renewal of a judgment against her and the denial of her motion to reconsider that denial. We affirm the orders.

FACTUAL AND PROCEDURAL BACKGROUND

In 2012, Bat World Sanctuary and Amanda Lollar applied for a sister state judgment in California based on a judgment they had obtained in Texas. On November 9, 2012, the court entered judgment in California in favor of Lollar in the amount of \$ 6 million, plus interest and filing fees.

In 2017, Lollar assigned the judgment to Konstantin Khionidi, as trustee of the Cobbs Trust. On September 1, 2022, Khionidi applied for the renewal of the judgment. The trial court renewed the judgment on September 19, 2022.

Cummins filed a motion to vacate the renewal on the grounds that Khionidi does not exist; the assignment and renewal of judgment were not filed legally, properly or timely; and the amount of the judgment was incorrect.

The trial court denied the motion. Regarding Khionidi's existence and standing to sue, the court stated, "The issue of the creditor's standing has already been conclusively and finally resolved in the creditor's favor in an adversary bankruptcy proceeding. That ruling has collateral estoppel effect here and is binding on Ms. Cummins." The court ruled the application for renewal of the judgment was timely, as it was filed within 10 years of the date the sister-state judgment was entered; and it was properly served. Last, the court held the interest was correctly calculated.

Cummins's motion for reconsideration was denied on January 31, 2023. Cummins appeals.

DISCUSSION

Many of Cummins's arguments are not confined to the point raised in the heading, which is a violation of court rules. (Cal. Rules of Court, rule 8.204(a)(1)(B).) “And many of the same arguments are repeated throughout the brief under various headings. Although we address the issues raised in the headings, we do not consider all of the loose and disparate arguments that are not clearly set out in a heading and supported by reasoned legal argument. [Citation.] Moreover, once we have discussed and disposed of an issue it will not necessarily be considered again in connection with other claims.” (*Provost v. Regents of University of California* (2011) 201 Cal.App.4th 1289, 1294–1295.)

I. *Allegations of Unfair Proceedings*

Cummins presents allegations against the trial court that she believes prove she did not receive a “fair trial.” “The Due Process Clause entitles a person to an impartial and disinterested tribunal.’” (*In re M.V.* (2025) 109 Cal.App.5th 486, 516 (M.V.).) “On appeal, we assess whether any judicial misconduct or bias was so prejudicial that it deprived defendant of ‘‘a fair, as opposed to a perfect, trial.’’” (*People v. Guerra* (2006) 37 Cal.4th 1067, 1112, overruled on another ground in *People v. Rundle* (2008) 43 Cal.4th 76, 151.) “The appellate court’s role is not to examine whether the trial judge’s behavior left something to be desired, or whether some comments would have been better left unsaid, but to determine whether the judge’s behavior was so prejudicial it denied the party a fair, as opposed to a perfect, trial.’” (M.V., at p. 517.) “[T]he burden of proof is on appellant as the party claiming bias to establish facts

supporting her position.’” [Citation.] We review allegations of bias on the basis of the entire record and with the presumption the trial court acted in good faith. [Citations.] We presume the honesty and integrity of those serving as judges.” (*Id.* at pp. 517–518.) Based on our review of the record,¹ we conclude Cummins has failed to establish she was deprived of her constitutional right to a fair and impartial tribunal.

Most of Cummins’s allegations concern the motion for reconsideration of the denial of her motion to vacate the renewal. Cummins contends the trial court erroneously denied her request for a court reporter at this hearing. Cummins alleges the court intentionally deprived her of a court reporter and lied both orally and in its written order when it said Cummins had not filed the appropriate fee waiver. Cummins claims the trial court was biased against her as a female pro se litigant, and the court said and did whatever it wanted in the mistaken belief that it would not be held accountable. The record, however, shows only the erroneous denial of a court reporter, and without more, we may

¹ It appears Cummins recorded the hearing on the motion for reconsideration without the permission of the trial court, in violation of California Rules of Court, rule 1.150(d). We have augmented the record on appeal to include this recording. We do not sanction recording of trial court proceedings without advance approval by the court. However, under the extremely specific circumstances presented here, in which (1) the absence of a reporter’s transcript is due to judicial error and not attributable to the appellant, and (2) on appeal both parties rely on appellant’s record of the hearing, we consider the recording of the hearing on equitable grounds and only for the limited purpose of reviewing Cummins’s claim she was denied a fair hearing on the motion for reconsideration.

not attribute bias and improper motive to an incorrect ruling. (*M.V., supra*, 109 Cal.App.5th at pp. 517–518; *Rosenfield v. Vosper* (1948) 86 Cal.App.2d 687, 694 [“in the absence of a showing to the contrary we must assume that the trial judge performed his duty without bias or prejudice”].)

Cummins alleges, as evidence of an unfair proceeding, that the court rudely cut off her oral argument on the motion for reconsideration and refused to permit her to submit a text copy of her oral argument. Neither the court’s words nor its tone were rude, and the court did not err by limiting oral argument and declining further written argument. Cummins’s motion for reconsideration was insufficient as a matter of law because it did not include an affidavit setting forth the new or different facts, circumstances, or law she claimed warranted reconsideration of the court’s prior ruling. (Code Civ. Proc.,² § 1008, subd. (a) [“[t]he party making the application shall state by affidavit what application was made before, when and to what judge, what order or decisions were made, and what new or different facts, circumstances, or law are claimed to be shown”].) It was not an abuse of discretion to limit argument on a defective motion. “A trial court has the inherent authority and responsibility to fairly and efficiently administer the judicial proceedings before it. [Citations.] This authority includes the power to supervise proceedings for the orderly conduct of the court’s business and to guard against inept procedures and unnecessary indulgences that tend to delay the conduct of its proceedings. [Citation.] In this vein, the court has the power to expedite proceedings which, in the court’s view, are dragging on too long without significantly

² All statutory references are to the Code of Civil Procedure.

aiding the trier of fact.” (*California Crane School, Inc. v. National Com. for Certification of Crane Operators* (2014) 226 Cal.App.4th 12, 22, footnote omitted.) We review for abuse of discretion a court’s exercise of its authority to control proceedings (*People ex rel. Reisig v. Acuna* (2017) 9 Cal.App.5th 1, 23–24), and find no abuse of discretion in the court’s limitation of oral argument and refusal to accept Cummins’s written argument at the hearing.

Cummins alleges that in addition to the incorrect statement in the court’s order regarding the fee waiver for the court reporter, the order denying reconsideration included additional errors, but she fails to provide any argument as to how these purported errors prejudiced her or demonstrated the proceeding was unfair. “We need not address points in appellate briefs that are unsupported by adequate factual or legal analysis.” (*Placer County Local Agency Formation Com. v. Nevada County Local Agency Formation Com.* (2006) 135 Cal.App.4th 793, 814.)

Cummins’s remaining allegations, entitled “Record on Appeal, Order Strike Transcript,” pertain to events after the filing of the notice of appeal and are largely outside the scope of this appeal. We note Cummins alleges the court destroyed an order, but the order is included in the clerk’s transcript. She also claims she was prevented from appealing properly because she did not have a reporter’s transcript, but we have not declined to consider any of her arguments on the ground that a reporter’s transcript was not provided.

II. *Khionidi's Legal Standing*

Cummins asserts that Khionidi “is not a real person, does not exist,” and therefore has no standing to sue or litigate.

(§ 367.) In past court proceedings Cummins has unsuccessfully alleged Khionidi has no standing because he does not exist. (*In re Cummins-Cobb* (Bankr. C.D.Cal. Feb. 10, 2020, No. 2:17-bk-24993-RK) 2020 Bankr. LEXIS 358, pp. *39–*41; *Cummins-Cobb v. Khionidi* (*In re Cummins-Cobb*) (C.D.Cal. Dec. 28, 2021, No. 2:21-cv-04671-AB) 2021 U.S. Dist. LEXIS 247738, p. *2.) The trial court correctly concluded that the issue of Khionidi’s standing has already been conclusively and finally resolved in Khionidi’s favor in an adversary bankruptcy proceeding.

Even if Cummins were not collaterally estopped from litigating this claim, her briefing on this topic is insufficient to present an issue for review. Any reference in an appellate brief to a matter in the record must be supported by a citation to the volume and page number of the record where that matter may be found. (Cal. Rules of Court, rule 8.204(a)(1)(C).) Cummins makes dozens of factual statements in this portion of her opening brief that are not supported by references to the record; and when she does cite to the record on appeal, most of her citations are to her briefing in the trial court rather than to admissible evidence. “ ‘[I]t is axiomatic that statements made in briefs are not evidence’ [citation] and that reviewing courts ‘do not consider’ unsupported ‘factual assertions’ in appellate briefs ‘that find no basis in the record.’ ” (*Turrieta v. Lyft, Inc.* (2024) 16 Cal.5th 664, 697 (*Turrieta*).) “To demonstrate error, appellant must present meaningful legal analysis supported by citations to authority and citations to facts in the record that support the claim of error.” (*In re S.C.* (2006) 138 Cal.App.4th 396, 408.)

III. *Alleged Procedural Deficiencies in the Renewal of Judgment*

Cummins argues the renewal was not filed legally or properly for six reasons. The first, that Khionidi does not exist, has been addressed above; we address the remaining claims.

A. Respondent's Counsel

Cummins asserts respondent's counsel did not substitute in as counsel in the case and therefore is not the attorney for Lollar, the original owner of the judgment, and he cannot represent Khionidi because Khionidi does not exist. Stillman made a general appearance as Khionidi's counsel when he filed the application for renewal of the judgment. Cummins does not provide any legal authority for her contention that this was insufficient to establish Stillman as counsel of record on the renewal application proceedings. “[A]n appellant is required to not only cite to valid legal authority, but also explain how it applies in his case.” (*Hodjat v. State Farm Mutual Automobile Ins. Co.* (2012) 211 Cal.App.4th 1, 10.) Cummins has forfeited this issue. (*Benach v. County of Los Angeles* (2007) 149 Cal.App.4th 836, 852.)

B. Renewal Application

The application for renewal of the judgment lists a date of May 6, 2013, as the date the judgment was recorded in Los Angeles. Cummins's entire argument, “Defendant never received a mandated copy of this recording whatever it was,” is insufficient to present an issue for review. “[T]o demonstrate error, an appellant must supply the reviewing court with some cogent argument supported by legal analysis and citation to the

record.” (*City of Santa Maria v. Adam* (2012) 211 Cal.App.4th 266, 286–287 (*Santa Maria*).

C. Service of Renewal of Judgment

Cummins makes multiple claims concerning deficient service and errors in the proof of service of the renewal of judgment. Not only are most of these assertions not supported by citations to admissible evidence supporting them, but in none of these arguments does Cummins provide legal argument supported by pertinent authority demonstrating that any of these alleged errors invalidates the renewal. (*Santa Maria, supra*, 211 Cal.App.4th at pp. 286–287.)

D. Texas Judgment

In this argument, Cummins makes multiple factual and legal claims that are not supported by citations to the record or legal authority, and she also argues a writ of execution apparently obtained in Texas in 2021 is void. No cognizable legal argument is presented by these assertions. (*Santa Maria, supra*, 211 Cal.App.4th at pp. 286–287.)

E. Unclean Hands

Cummins’s argument concerning unclean hands is devoid of citations to admissible evidence. The sole citation to the record is to her motion to vacate the renewal of judgment filed in the trial court. Neither a written motion nor statements in a motion constitute evidence. (*People v. Rios* (2011) 193 Cal.App.4th 584, 592, fn. 4; *Gilman v. Dalby* (2021) 61 Cal.App.5th 923, 940.) Reviewing courts do not consider unsupported factual assertions in appellate briefs that find no basis in the record. (*Turrieta, supra*, 16 Cal.5th at p. 697.) Cummins has not met her burden of

establishing error. (*Santa Maria, supra*, 211 Cal.App.4th at pp. 286–287.)

IV. ***Timeliness of Renewal Filing***

Cummins argues the renewal application was untimely pursuant to section 683.020 because it was not filed within 10 years of the date of entry of the judgment. Her argument is based on the date that the original judgment was entered in Texas, not the date of entry of the sister state judgment in California. The judgment that was renewed by the trial court, however, was the sister state judgment entered on November 9, 2012. The application for renewal of that judgment was filed less than 10 years later on September 1, 2022, and the renewal was entered on September 19, 2022. Cummins has not offered any authority to support her contention that the original Texas judgment entry date, as opposed to the date the sister state judgment was entered in California, is the relevant date for the renewal application, and she therefore has not demonstrated error in the ruling finding the renewal timely filed. (*Santa Maria, supra*, 211 Cal.App.4th at pp. 286–287.)

V. ***Interest on the Judgment***

Cummins claims post-judgment interest must be calculated at 5 percent because that is the rate specified in the original Texas judgment. Section 1710.25, subdivision (b) provides that once a sister state judgment is entered, “[f]rom the time of entry, interest shall accrue on the judgment so entered at the rate of interest applicable to a judgment entered in this state.” The interest rate for post-judgment interest in California is 10 percent. (§ 685.010, subd. (a).) The trial court did not err

when it ruled the post-judgment interest had been properly calculated.

DISPOSITION

The orders are affirmed. Respondent shall recover his costs on appeal.

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STRATTON, P. J.

We concur:

WILEY, J.

VIRAMONTES, J.