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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

KATIE LITTLE,

Plaintiff and Respondent,

v.

ELMER CLARKE,

Defendant and Appellant.

B286841

(Los Angeles County Super. Ct.
No. BC584795)

APPEAL from a judgment of the Superior Court of Los Angeles County, Gregory Wilson Alarcon, Judge. Affirmed.
Patrick J. D'Arcy for Defendant and Appellant.
Thris Van Taylor for Plaintiff and Respondent.

Katie Little sued Elmer Clarke for swindling her out of real estate. Little alleged she was an 80-year-old widow and Clarke said he was a retired police officer she could trust. Little sued to recover her title. The jury awarded damages, including punitive damages, against Clarke, and returned title to Little.

The parties retained a court reporter for trial. Clarke gives us a partial Reporter's Transcript, but it is only two pages long.

We affirm because Clarke does not show he objected at trial to the jury instructions he appeals. The two pages of transcript he gives us do not show any objections to jury instructions. Moreover, we cannot judge the propriety of the instructions without a record demonstrating prejudicial error. We lack any record of a conference to settle the jury instructions.

It is the appellant's duty to present a complete record for appellate review. (*Foust v. San Jose Construction Co., Inc.* (2011) 198 Cal.App.4th 181, 186–187.)

Clarke thus has forfeited his objections to the jury instructions he would attack on appeal. (*Pearl v. City of Los Angeles* (2019) 36 Cal.App.5th 475, 488.) The rule can be different where the trial court inexplicably omits a stipulated instruction. (See *Green v. State of California* (2007) 42 Cal.4th 254, 266.) But Clarke's claims concern supposed errors of commission, not omission.

Failing to object to proposed jury instructions at trial forfeits an appeal of those instructions. This is common sense. Absent objection, the trial judge believes both sides agree to the proposed instructions and so moves on to the multitude of other chores required to get a case to an impatient jury. Conversely, an objection alerts the court and opposing counsel to an important issue demanding attention, here and now. The working group

then can respond with focus, research, and discussion, and possibly can develop some compromise acceptable to all. By thus addressing and attempting to fix the problem on the spot, before the jury deliberates, this process is more efficient, economical, and sensible than delaying the challenge for the months and years the appellate process can consume. The parties, and the court all benefit from this standard procedure. So too do jurors — both those in the first trial, which may have been a waste of time if fundamental instructional error corrupted the result, as well as potential jurors in a possible retrial of the matter after appellate review.

Forfeiture rules enforce desirable incentives. Otherwise silent counsel can gamble on the jury's decision and complain only if it turns out the bet was bad.

Clarke has forfeited his challenge to the jury instructions about which he now complains.

DISPOSITION

The judgment is affirmed. Little's motion to dismiss is denied as moot. Costs to Little.

WILEY, J.

WE CONCUR:

BIGELOW, P. J.

GRIMES, J.