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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

CEDRIC MOORE,

Plaintiff and Appellant,

v.

HOUSING AUTHORITY OF  
THE CITY OF LOS ANGELES,

Defendant and  
Respondent.

B278008

(Los Angeles County  
Super. Ct. No. BS156088)

APPEAL from a judgment and orders of the Superior Court  
of Los Angeles County, James C. Chalfant, Judge. Dismissed.

Cedric Moore, in pro. per., for Plaintiff and Appellant.

Joseph L. Stark & Associates and Joseph L. Stark for  
Defendant and Respondent.

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Appellant Cedric Moore appeals from a trial court judgment as well as orders denying motions for reconsideration and to vacate the judgment. We dismiss the appeal as untimely.<sup>1</sup>

### **BACKGROUND**

On June 15, 2015, appellant filed a petition for a writ of administrative mandate in Los Angeles Superior Court challenging a decision by respondent Housing Authority of the City of Los Angeles to terminate appellant's Section 8 housing.<sup>2</sup>

Following a hearing on March 22, 2016, the trial court issued a minute order denying the petition and directing respondent to prepare a proposed judgment. On April 4, 2016, appellant filed a motion to reconsider the March 22 order under Code of Civil Procedure section 1008.

Judgment was entered on April 21, 2016, and the court clerk served the parties with a copy of the judgment on that date. Appellant filed a motion to vacate the judgment under Code of Civil Procedure section 473, subdivision (d) on May 23, 2016. The motion asserted that the trial court lacked subject matter jurisdiction over what appellant claimed was a federal question and that the judgment was void because respondent had acted beyond its statutory powers "under guise of its rulemaking power."

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<sup>1</sup> The court requested additional briefing on this issue. Appellant submitted a brief, respondent did not.

<sup>2</sup> "The housing assistance program commonly known as Section 8 is funded by the United States Department of Housing and Urban Development (HUD) to provide rental assistance to senior citizens, disabled or handicapped persons and very low income tenants." (*Apartment Assn. of Los Angeles County, Inc. v. City of Los Angeles* (2006) 136 Cal.App.4th 119, 122-123.)

Appellant's motion for reconsideration was denied on June 9, 2016. Appellant's motion to vacate was denied on August 23, 2016, on the basis that appellant had failed to include a proof of service with his motion and had not explained what federal question allegedly was at issue. Notice of the denial was served on September 2, 2016. Appellant filed his notice of appeal on September 22, 2016.

### DISCUSSION

"The time for appealing a judgment is jurisdictional; once the deadline expires, the appellate court has no power to entertain the appeal." (*Van Beurden Ins. Services, Inc. v. Customized Worldwide Weather Ins. Agency, Inc.* (1997) 15 Cal.4th 51, 56.) Normally, a notice of appeal must be filed within 60 days after the appellant has been served a copy of the judgment or appealable order, either from the court or from another party. (Cal. Rules of Court, rule 8.104(a)(1)(A), (B).) The filing of motions to vacate or reconsider can extend the time to appeal from a judgment or order to the *earliest* of three possible deadlines: (1) 30 days after notice is served that the motion has been denied, (2) 90 days after the motion is filed, or (3) 180 days after the original judgment. (*Id.*, rule 8.108(c), (e).)

Here, appellant filed his notice of appeal on September 22, 2016, more than 60 days after he received notice of the judgment on April 21, 2016, and more than 90 days after he filed the motion for reconsideration on April 4, 2016,<sup>3</sup> and the motion to

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<sup>3</sup> The motion for reconsideration pertained to the earlier order denying the writ petition and directing respondent to prepare a proposed judgment, from which appellant did not appeal. But even if we deemed the motion as pertaining to the judgment, it would not render the appeal timely.

vacate on May 23, 2016. Thus, the appeal from the judgment is untimely. A denial of a motion for reconsideration is not separately appealable from the order for which reconsideration is sought, and therefore the appeal from that denial is also untimely. (Code Civ. Proc., § 1008, subd. (g).)

An order denying a motion to vacate under Code of Civil Procedure section 473 is independently appealable. (*Shisler v. Sanfer Sports Cars, Inc.* (2008) 167 Cal.App.4th 1, 5.) But appellant raises no challenges to that order in his opening or reply brief; indeed, the briefs do not mention the motion to vacate at all. Nor do the briefs address any of the bases of the motion to vacate, including subject matter jurisdiction or the voiding of judgments based on improper use of rulemaking authority. Instead, the briefs appear to challenge the original judgment, from which appellant has not timely appealed.

#### **DISPOSITION**

The appeal is dismissed. Respondent is entitled to its costs on appeal.

HALL, J.\*

WE CONCUR:

RUBIN, Acting P. J.

GRIMES, J.

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\* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.