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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

BARBARA DONAHUE, Plaintiff and Appellant, v. CHARLES BOYCE, Defendant and Respondent.	B282386 (Los Angeles County Super. Ct. No. BD324370)

APPEAL from an order of the Superior Court of Los Angeles County, Rolf M. Treu, Judge. Affirmed with directions.

Barbara Donahue, in pro. per., for Plaintiff and Appellant.

No appearance for Defendant and Respondent.

Barbara Donahue (Donahue) appeals from an order dismissing her action to enforce an out-of-state judgment dissolving her marriage to Charles Boyce (Boyce). The trial court dismissed the action because the parties' out-of-state judgment had not been properly registered with the court.

On appeal, Donahue contends that the trial court erred because the out-of-state judgment had in fact been properly registered when she first filed suit in June 2000. On the record before us, it appears that Donahue did in fact take the necessary initial steps in June 2000 to register the out-of-state judgment. However, the record before us does not indicate whether the registration was ever completed by operation of law or deemed completed by trial court order. Since Donahue has failed to meet her burden of showing a prejudicial error by the trial court, we affirm. However, because the court's order did not indicate whether the case was to be dismissed with or without prejudice, and because Donahue substantially complied with the registration requirements, we direct the trial court to amend its order so that the dismissal is without prejudice. In the event Donahue tries to re-register the divorce judgment in California, we further direct the trial court, for reasons set forth below, to allow her to strike item number 9 on Form EJ-105, "Application for Entry of Judgment on Sister-State Judgment."

BACKGROUND

Donahue and Boyce married in August 1983. They had two sons: the first born in 1986; the second in 1993. In March 1998, pursuant to the parties' stipulated divorce agreement, the Superior Court of Connecticut for the Judicial District of

Stamford/Norwalk entered a judgment dissolving the marriage (the judgment). Among other things, the judgment provided Donahue with sole legal custody of the children, provided Boyce with certain limited visitation rights, and required Boyce to pay Donahue $2,000 per month in child support.

I. Donahue Attempts to Register the Judgment

In 1999, Donahue moved from Connecticut to California. Shortly thereafter, Donahue took steps to register in California a restraining order from Connecticut and the judgment.

A. *Registering the Out-of-state Restraining Order*

In February 2000, in an action separate from the one below, Donahue, proceeding as a self-represented litigant, sought from the Los Angeles Superior Court (No. BD317665) the registration of a domestic violence restraining order against Boyce issued by the Connecticut Superior Court (the restraining order proceeding).[1] Concurrent with her petition, Donahue filed with the Connecticut Superior Court a motion to notify, advising that court that "California has now taken jurisdiction."

On February 29, 2000, Donahue filed in the California restraining order proceeding a notarized "motion for immediate jurisdiction," which summarized her relationship with Boyce, the status of the parties' children, and her move to California following the divorce. On that same day, the court in the restraining order proceeding granted Donahue's petition to register the Connecticut restraining order in California.

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[1] Although the record before us contains a copy of Donahue's application to register the Connecticut restraining order in California, it does not contain a copy of the Connecticut order. As a result, we do not know when or under what circumstances the order was issued.

Donahue subsequently provided the Connecticut Superior Court "with proof of her California jurisdiction"—that is, she sent the Connecticut Superior Court a copy of the order registering the restraining order in California.

On April 19, 2000, the trial court in the restraining order proceeding issued a new restraining order, which among other things prohibited Boyce from contacting Donahue or either son in person, by phone, fax, mail, or email.

B. *Registering the Judgment*

In June 2000, Donahue, again proceeding as a self-represented litigant, initiated the proceedings below by filing a pre-printed "Petition to Establish Parental Relationship." On the petition's first page, Donahue had the opportunity to identify the petition's purpose from several pre-selected options: "Child Support"; "Child Custody"; "Visitation"; or "Other." Donahue checked the box for "Other" and handwrote the following: "Complaint to establish foreign judgment." In a signed statement attached to her petition, Donahue stated as follows: "I, Barbara Donahue, . . . am hereby registering both my divorce decree dated March 23, 1988, . . . and my Certificate of Dissolution . . . ." Also attached to the petition were the following documents: a Certificate of Dissolution of Marriage, dated May 26, 2000, from the Connecticut Superior Court; a certified copy of the judgment; and a copy of the parties' divorce stipulation. Donahue's petition was stamped with the following notification: "No summons issued."

On June 13, 2000, the trial court in the proceedings below, pursuant to a request by Donahue, issued to Boyce an order to show cause (OSC) for contempt. On the preprinted form requesting the OSC, Donahue checked the box for violation of

"[d]omestic violence restraining orders and child custody and visitation orders" and hand wrote the following: "1/99 arrested for violation of RSO (to be presented)."

On July 19, 2000, the date set for the OSC hearing, the trial court issued a bench warrant for Boyce after he failed to appear.

II. Donahue's Efforts to Enforce the Judgment

A. *Request for Order*

On November 18, 2016, Donahue, still proceeding as a self-represented litigant, filed a request for order (RFO) enforcing the terms of the judgment and seeking reimbursement of legal fees, and payment of alimony, medical bills, and insurance premiums. In support of her request, Donahue directed the trial court to a motion seeking the same relief filed a month earlier in a separate proceeding in Los Angeles Superior Court (No. BC578154).

On January 10, 2017, the trial court denied the RFO, finding that "the out-of-state judgment has not been properly registered with this court," and ordering on its own motion that the case be dismissed. The trial court, however, did not indicate whether the dismissal was with or without prejudice.

B. *Motion to Vacate*

On January 17, 2017, Donahue filed a motion to vacate the order of dismissal, arguing that in June 2000 she "register[ed] her Connecticut divorce settlement with the [c[ourt" and "duly notified" Boyce, his counsel and "the Connecticut Superior Court at the time of all proceedings and rulings." Donahue further argued that "perhaps today there is another form required" for registering an out-of-state judgment, but in 2000 she "filed what she was instructed to file by the [c]ourt." In her motion, Donahue, in conclusory fashion, referred to rulings in other,

related cases that purportedly demonstrated that the judgment had been properly registered in California.

On February 27, 2017, after listening to Donahue's testimony, the trial court denied the motion to vacate.

C. *Motion for Reconsideration*

On March 16, 2017, Donahue filed a motion for reconsideration. In her motion, Donahue apologized to the trial court for having previously assumed that "case files could be cross-referenced" and expressed her appreciation for the trial court's indulgence in allowing her to appear multiple times on a "matter that should have been adjudicated on the first date." In support of her claim that the judgment had been properly registered in 2000, Donahue discussed rulings in other matters (such as the ruling on her motion to register the Connecticut restraining order) that purportedly evidenced the fact of the judgment's registration. However, Donahue did not produce any orders expressly finding that the judgment had been duly registered.

On April 19, 2017, after once more listening to Donahue's testimony, and after reviewing previous orders in the instant case, the trial court denied the motion for reconsideration, finding that Donahue had "not shown any new or different facts, circumstances or law."

Donahue timely appealed.[2]

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[2] In the designation of the record for her appeal, Donahue identified 25 exhibits from her RFO and her subsequent motions to be included in the clerk's transcript, including a "CA Registration of divorce." The clerk of the superior court subsequently advised Donahue that all 25 exhibits, including the "CA Registration of divorce," were not in the court file or in the

DISCUSSION

I. Standard of Review

Donahue's central contention on appeal is that when the trial court denied her RFO and subsequent motions, it was operating under the false assumption that her attempt at registering the judgment in June 2000 was somehow ineffective. Specifically, Donahue claims that "in the 1999-2000 time frame, [she] registered her divorce with the State of California, exactly as instructed."

Since Donahue's principal claim is that the trial court misunderstood or misinterpreted the statute governing the

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custody of the court. The clerk further advised Donahue that if she possessed conformed copies or originals of the missing exhibits, she could provide them to the clerk by a certain date, and the clerk would then include them in the clerk's transcript. Donahue elected not to provide the missing documents to the superior court clerk. Instead, in April 2018, following our notice of Boyce's failure to file a timely respondent's brief, Donahue "lodged"—that is, directly transmitted to us—a three-ring binder of exhibits. (See generally Cal. Rules of Court, rule 8.224.)

In addition, Donahue filed a request that we take judicial notice of the fact that she has "re-registered her Divorce Decree, effective August 22, 2017." Attached to her request was a copy of a document filed in the trial court entitled "additional registration of divorce documents." Purportedly attached to that document were certified copies of her and Boyce's divorce stipulation, the judgment, and the Connecticut court's certificate of dissolution. We granted her request on April 5, 2018.

Donahue also moved to augment the record with a copy of a minute order from the proceedings below, dated July 19, 2000, issuing a bench warrant for Boyce. We granted her motion on April 4, 2018.

registration of out-of-state dissolution judgments as it existed in June 2000, we apply a de novo standard of review. (*California Teachers Assn. v. San Diego Community College Dist*. (1981) 28 Cal.3d 692, 699 [interpretation of statute]; *People v. Brimmer* (2014) 230 Cal.App.4th 782, 790 [same].)

II. Registering an Out-of-state Judgment in California

In 1997, the Legislature, as a condition of receiving federal child support enforcement funds, adopted the Uniform Interstate Family Support Act (UIFSA). (See Fam. Code, § 5700.101, subd. (b);[3] 42 U.S.C. § 666(f); *In re Marriage of Crosby & Grooms* (2004) 116 Cal.App.4th 201, 206.) "UIFSA was designed to ensure that only one state at a time would have jurisdiction to make and modify a child support order. '[T]he central jurisdictional feature of UIFSA is the concept of continuing, exclusive jurisdiction. Under UIFSA, a court that makes a valid child support order retains exclusive jurisdiction to modify the order as long as the requirements for continuing, exclusive jurisdiction remain fulfilled. The court of another state may enforce a child support order registered in that state, but may not modify it unless the decree state has lost its continuing, exclusive jurisdiction.' [Citations.]" (*Knabe v. Brister* (2007) 154 Cal.App.4th 1316, 1319.)

Under UIFSA, if there is a support order in place from another state, the support order may be registered in California by the filing of the support order in any California superior court

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[3] As originally enacted, UIFSA was found at section 4900, et seq. of the Family Code. Effective January 1, 2016, UIFSA was renumbered. (See Stats. 2015, ch. 493, § 5.)

All further statutory references are to the Family Code, unless otherwise indicated

in which enforcement is sought. (See § 5700.102, subd. (21) [formerly § 4901, subd. (n)].) A petitioner seeking to register an out-of-state child support order must file a petition or pleading, which must be accompanied by a copy of the order issued by the other state's tribunal. (See § 5700.311, subd. (a) [formerly § 4925, subd. (a)].) The petition "must conform substantially" with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency." (§ 5700.311, subd. (b) [formerly § 4925, subd. (b)].)

UIFSA provides that whenever an out-of-state support order is filed, "the registering tribunal shall . . . notify the nonregistering party." (§ 5700.605, subd. (a) [formerly § 4954, subd. (a)].) The notice "must inform the nonregistering party: [¶] (1) that a registered support order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state; [¶] (2) that a hearing to contest the validity or enforcement of the registered order must be requested within 20 days after notice . . . ; [¶] (3) that failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages; and [¶] (4) of the amount of any alleged arrearages." (§ 5700.605, subd. (b) [formerly § 4954, subd. (b)].) "If the nonregistering party fails to contest the validity or enforcement of the registered support order in a timely manner, the order is confirmed by operation of law" (§ 5700.606, subd. (b) [formerly § 4955, subd. (b)]), and such confirmation "precludes further contest of the order with respect to any matter that could have been asserted at the time of registration" (§ 5700.608 [formerly § 4957]).

III. No Error by the Trial Court

A. *Deficiencies in Donahue's Appellate Submissions*

Donahue's appellate submissions suffer from a number of deficiencies. First, the record is incomplete in a number of respects. (*Parker v. Harbert* (2012) 212 Cal.App.4th 1172, 1178 ["appellant must affirmatively show error by an adequate record"].) For example, Donahue asserts that the trial court made various statements at the hearings on her motions. However, she failed to include a reporter's transcript of those hearings. (*Aguilar v. Avis Rent A Car System, Inc*. (1999) 21 Cal.4th 121, 132 [appellant's claim rejected due to the lack of a reporter's transcript].) Similarly, Donahue refers to the attachments that purportedly accompanied her June 13, 2000 OSC request, but no such attachments were included in the record. Second, her appellate brief contains no proper citations to the record—that is, Donahue refers to various documents submitted in support of her appeal but does not provide any page citations to those documents; she does not provide any page citations because she did not number any of those supporting documents. (*Nielsen v. Gibson* (2009) 178 Cal.App.4th 318, 324 [argument is forfeited if the appellant fails to provide proper citations to the record].) Finally, Donahue fails to refer to, let alone discuss, the applicable law, UIFSA. (*Keyes v. Bowen* (2010) 189 Cal.App.4th 647, 656 ["[i]t is the appellant's responsibility to support claims of error with citation and authority"].) A party is not exempt from the rules of appellate practice, including the requirement that briefs contain arguments supported by proper citations to the record and to legal authority, because the party is representing himself or herself in propria persona. (*Nwosu v. Uba* (2004) 122 Cal.App.4th 1229, 1247 ["as is the case with

attorneys, pro. per. litigants must follow correct rules of procedure"].)

B. *No Evidence of Completed Registration*

Assuming, arguendo, that Donahue's opening brief was not materially deficient and she did not forfeit her issues on appeal, there is no evidence that the trial court misapplied or misinterpreted UIFSA.

In the record before us, there is no evidence that the judgment was properly registered. UIFSA requires that the trial court give notice to the nonregistering party of a petition to register an out-of-state judgment. (§ 5700.605, subd. (a) [formerly § 4954, subd. (a).]) There is nothing in the record before us indicating that Boyce was ever served with Donahue's June 2000 petition—in fact, the petition indicates on its face that a summons was not issued. Even more importantly, there is nothing in the record indicating that Boyce received notice from the court clerk advising him of the judgment's registration and the opportunity to contest the petition. In the absence of such documentation from the trial court, we cannot conclude that, under the UIFSA, the judgment's registration was completed and confirmed by operation of law. Furthermore, Donahue has not presented us with a copy of an order by the trial court expressly finding that the judgment was properly registered. In fact, the record indicates that there is no such order. According to the minute order denying the motion for reconsideration, the trial court reviewed all of the "previous orders made in this case" and found nothing in those orders to reverse its decision to dismiss the action.

Donahue argues that confirmation of the judgment's registration can be inferred from the July 19, 2000 order issuing

a bench warrant against Boyce for his failure to appear at the OSC hearing. However, according to the record before us, the OSC hearing was held due to Boyce's failure to comply with one or more unidentified domestic violence restraining orders, *not* with a failure to comply with the judgment.

Donahue also argues that the following orders indicate that California had jurisdiction over the judgment: the March 2000 order confirming registration of the Connecticut restraining order; the April 2000 issuance of a California restraining order; and a May 2000 order changing her sons' last names from Boyce to Donahue. While those orders, like the judgment itself, may relate generally to her marriage to Boyce, those orders do not directly concern registration of the judgment under UIFSA and they cannot provide evidence that the judgment was properly registered in California because each of those orders were made *before* Donahue sought to register the judgment in California.[4]

In a similar vein, Donahue argues that it can be inferred from a January 2004 restraining order issued against Boyce in another case (Los Angeles Superior Court, No. SQ001021) that the judgment was registered in California. Again, Donahue's

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[4] Donahue also claims that another OSC for contempt against Boyce issued by the trial court in December 2003 indicates registration of the judgment. However, we cannot evaluate Donahue's argument because the record is incomplete—only the initial page of the OSC is provided. In other words, the basis for Donahue's request for an OSC is unclear. From the record before us, we cannot tell if she was trying to hold Boyce in contempt for failing to adhere to the terms of the judgment or for failing to adhere to some other order, such as a restraining order. Moreover, Donahue has failed to provide us with a record showing the outcome of that OSC.

argument is undercut by a leap in logic—the fact that a California court issued a restraining order against Boyce does not mean necessarily that the judgment was registered in California; one can exist without the other.

Since Donahue has failed to meet her burden of demonstrating that the trial court prejudicially erred in denying her RFO, we affirm the order dismissing the action. However, because the order does not indicate whether the dismissal is to be with or without prejudice, and because it appears from the record before us that Donahue substantially complied with the registration requirements, we affirm the order but also direct the trial court to amend the order so that it indicates that the dismissal is without prejudice. In the event that Donahue elects to try once more to register the judgment in California, we further direct the trial court to allow Donahue to strike item number 9 on Form EJ-105.[5]

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[5] At oral argument, Donahue stated that the trial court had advised her that if she wanted to register the judgment she needed to use Form EJ-105. Item number 9 on that form asks the applicant to affirm that "[n]o action is pending and no judgment has previously been entered in any proceeding in California based upon the sister-state judgment." Donahue advised us that, because other trial courts in California have issued a variety of orders purportedly based on the judgment, she could not in good conscience affirm the statement in item number 9.

DISPOSITION

The order is affirmed. The trial court is directed to amend the order so as to indicate that the dismissal is without prejudice. In the event that Donahue elects to try once more to register the judgment in California, we further direct the trial court to allow Donahue to strike item number 9 on Form EJ-105, "Application for Entry of Judgment on Sister-State Judgment." The parties are to bear their own costs on appeal.

NOT TO BE PUBLISHED

JOHNSON, Acting P. J.

We concur:

BENDIX, J.

CURREY, 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.