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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS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 SEVEN

VERONICA FLORES, Plaintiff and Appellant, v. RANDELL SENTER et al., Defendants and Respondents.	B279859 (Los Angeles County Super. Ct. No. BC539406)

APPEAL from an order of the Superior Court of Los Angeles County, Mark V. Mooney, Judge. Affirmed.

Frederick Barak for Plaintiff and Appellant.

Calendo Puckett Sheedy, C.M. Sheedy and Arnold S. Levine for Defendants and Respondents.

Veronica Flores appeals from the trial court's denial of her second motion to vacate the order of dismissal of her complaint against her former landlords Randall Senter, Lynn Prince, and Senter/Prince Trust 2002 (collectively Senter/Prince) for damages she allegedly suffered from mold contamination in her apartment. After the trial court sustained Senter/Prince's demurrer with 20 days leave to amend, Flores failed to file an amended complaint, and the court dismissed the complaint under Code of Civil Procedure section 581, subdivision (f)(2).[1] The trial court denied Flores's first motion to vacate the order of dismissal, finding no excusable neglect under section 473, subdivision (b).

Flores filed a second motion to vacate the order of dismissal after learning that 13 months after the dismissal the State Bar Court ordered her prior attorney ineligible to practice law following initiation of disciplinary proceedings arising from his conduct in a different case. Flores contends the trial court should have granted her relief from the order of dismissal based on extrinsic fraud or mistake as a result of the State Bar Court's action and the failure of opposing counsel to inform her that her attorney had been rendered ineligible to practice law. Because the State Bar Court did not order Flores's prior attorney ineligible to practice law until after dismissal of her complaint, the trial court properly denied Flores's second motion to vacate the order of dismissal. We affirm.

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[1] All statutory references are to the Code of Civil Procedure unless otherwise indicated.

FACTUAL AND PROCEDURAL BACKGROUND

A. *The Complaint and Dismissal*

On March 14, 2014, through her attorneys Matthew P. Krupnick and Stephanie E. Story of Krupnick & Krupnick, Flores filed a complaint for damages against Senter/Prince, alleging nine causes of action relating to flooding and mold contamination in her rental unit.[2] On December 10, 2014 Senter/Prince demurred to five of the nine causes of action alleged in Flores's complaint. Flores's attorney did not file an opposition or appear at the February 27, 2015 hearing, at which the trial court sustained the demurrer with 20 days leave to amend. Senter/Prince gave Flores's counsel notice of the court's ruling.

On April 17, 2015 Senter/Prince filed an ex parte application for an order dismissing the entire action based on Flores's failure to file an amended complaint within 20 days. (§ 581, subd. (f)(2) ["The court may dismiss the complaint as to that defendant . . . [¶] . . . [¶] . . . after a demurrer to the complaint is sustained with leave to amend, the plaintiff fails to amend it within the time allowed by the court and either party moves for dismissal]; Cal. Rules of Court, rule 3.1320(h) ["A motion to dismiss the entire action and for entry of judgment after expiration of the time to amend following the sustaining of a demurrer may be made by ex parte application to the court under [Code Civ. Proc., §] 581[, subd.] (f)(2)"].) Senter/Prince gave

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[2] Flores alleged claims for breach of contract, breach of the implied warranty of habitability, breach of the covenant of quiet enjoyment, fraud, negligence, toxic tort, negligent infliction of emotional distress, intentional infliction of emotional distress, and failure to return her full rental deposit.

notice of the ex parte application by calling Krupnick's office the day before the hearing, leaving a voice mail message, and faxing written notice to Krupnick's office.

Flores's attorney did not file an opposition or appear at the hearing on the ex parte application. On April 17, 2015 the trial court granted the application and ordered the complaint dismissed with prejudice.[3] On April 21, 2015 Senter/Prince served Flores through Krupnick.[4]

B. *Flores's First Motion To Vacate the Order of Dismissal*

On October 14, 2015 Flores, representing herself, filed a motion to set aside and vacate the order of dismissal based on excusable neglect (§ 473, subd. (b)).[5] Flores supported her motion

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[3] Because Flores did not appeal the order dismissing her complaint, she has forfeited any error by the trial court in dismissing the complaint after the court sustained the demurrer as to only five of the nine causes of action. (See § 906 ["The provisions of this section do not authorize the reviewing court to review any decision or order from which an appeal might have been taken"]; *In re Baycol Cases I & II* (2011) 51 Cal.4th 751, 761, fn. 8 ["if an order is appealable, appeal must be taken or the right to appellate review is forfeited"]; see also *City of Los Angeles v. City of Los Angeles Employee Relations Bd.* (2016) 7 Cal.App.5th 150, 157 [order of dismissal entered after the plaintiff fails to amend following an order sustaining a demurrer is appealable].)

[4] Although Krupnick did not file a notice of change of address, Senter/Prince mailed notice to Krupnick at the address Krupnick later used in the State Bar proceeding. Flores does not contend this was an incorrect address.

[5] Section 473, subdivision (b), provides, "The court may, upon any terms as may be just, relieve a party or his or her legal

with her declaration, emails she sent to her attorney, and a proposed first amended complaint. In her declaration, Flores stated that she had participated in a mediation with Senter/Prince on November 10, 2014, and when the mediation was unsuccessful, "Krupnick told his assistant to go serve [Senter/Prince] some papers." Flores stated she had provided Krupnick with the information he requested to prepare a complaint, but she did not know the complaint had been filed and served.

According to her declaration, Flores attempted to call Krupnick after the mediation and sent him emails, but she did not hear back from him. On February 16, 2015 Flores sent Krupnick an email, stating, "Hey! [¶] Are you alive and well?? [¶] Holler back!" On February 19, March 2, and March 24, Flores wrote additional emails to Krupnick, asking him about the status of her case, and stating that she was unable to reach him. In her March 24 email she requested that "if for some reason you are not able to continue with my case, please be straight with me." In her final email on April 8, she wrote, "I have yet to reach you by phone, email, [or] text, it has been nearly 4 months now. And now, [a]ll of your contact numbers are off. [¶] I have looked up information on the lacourt.org website (since I didn't even know my case #)[.] [¶] I have discovered that there have been a few failure to appears [*sic*]. [¶] I NEVER knew of any court dates, nor ever received any information nor [sic] correspondence from you. [¶] What is going on?? [¶] This is unacceptable. [¶] If I don't hear from you by the end of [the] business day Friday

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representative from a judgment, dismissal, order, or other proceeding taken against him or her through his or her mistake, inadvertence, surprise, or excusable neglect. . . ."

April 10th, 2015[,] I will have NO choice but to terminate our contractual agreement."

Flores stated in her declaration as to Krupnick, "His telephones are all disconnected and his [m]other tells me that he is very ill but does not provide me with any way to contact him." "I made a very diligent effort through phone books, the California State Bar and social medias [*sic*] to no avail." In her memorandum of points and authorities, Flores added that Krupnick informed her of the April 17, 2015 hearing at which her case was dismissed, and that she attended the hearing. She stated further, "After attending the hearing, I was assured that we would meet he [*sic*] would remedy my case being dismissed . . . ." However, after the hearing Krupnick disappeared.

Senter/Prince argued in opposition to the motion that Flores had failed to show excusable neglect because her pleadings were inconsistent and she was not diligent in seeking to vacate the dismissal. Senter/Prince emphasized that Flores was aware of the April 17, 2015 dismissal because she attended the hearing, but she did not go to the superior court to review her file until September 2015.

Flores represented herself at the November 19, 2015 hearing on the motion. In its December 10, 2015 order, the trial court denied Flores's motion "on the ground[] that her neglect in prosecuting the action was not excusable."

C. *Flores's Motion for Reconsideration*

On December 9, 2015 Flores filed a motion for reconsideration under section 1008, subdivision (a), based on argued new facts, including records of her purported texts with

Krupnick. However, the motion was never served on Senter/Prince. On July 14, 2016 the trial court denied Flores's motion for reconsideration as untimely.[6]

D. *Flores's Second Motion To Vacate the Order of Dismissal*

On October 14, 2016 new counsel for Flores filed a second motion to vacate the dismissal, entitled, "Notice of Motion and Motion To Restore Case to Civil Active List and Permit Filing of First Amended Complaint."[7] Flores requested that the court set aside the dismissal based on extrinsic fraud, citing to the State Bar Court order providing that Krupnick was ineligible to

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[6] The appellate record only contains Senter/Prince's notice of ruling.

[7] Although Flores appeals from the trial court's denial of this motion, she has not included the motion, the request for judicial notice, Senter/Prince's opposition, or the trial court's order denying the motion in appellant's appendix. Neither has she included other central documents, including Senter/Prince's complete ex parte application. Flores as the appellant has the burden of providing an adequate record. (*Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1140-1141; *Randall v. Mousseau* (2016) 2 Cal.App.5th 929, 935; Cal. Rules of Court, rule 8.124(b)(1)(B).) In response to our March 7, 2017 order directing Flores to file a copy of the order from which she appealed, Flores only filed Senter/Prince's notice of ruling, documents related to the State Bar disciplinary proceedings, and a March 20, 2017 declaration in which she stated that Senter/Prince's counsel did not inform her that Krupnick had been ordered ineligible to practice law. However, Senter/Prince has filed a respondent's appendix, which includes most of the relevant documents. In addition, we obtained the superior court file to facilitate our review. (See Cal. Rules of Court, rule 8.155(a)(1)(A).)

practice law and Senter/Prince's failure to give her notice of the State Bar Court's order.

In support of her motion, Flores filed a request for judicial notice of the State Bar disciplinary proceeding filed against Krupnick on February 29, 2016, the May 23, 2016 State Bar Court "order of involuntary inactive enrollment" stating that Krupnick was no longer eligible to practice law, and Flores's October 2015 declaration in support of her first motion to set aside the dismissal. The disciplinary proceeding was initiated with respect to Krupnick's failure to obey a court order and appear at a hearing on March 16, 2015 in a federal district court case, *Romero v. County of Los Angeles*, case No. 2:14-cv-08360-DSF-SH. According to the State Bar Court record, the allegations were not adjudicated; rather, Krupnick's counsel requested a continuance of the State Bar proceeding "based on the stated inability of [Krupnick] to assist counsel in the defense of [the] [State Bar proceeding] due to issues of [Krupnick's] mental incompetence," and the parties agreed the State Bar Court would enter an order making Krupnick inactive and ineligible to practice law. The May 23, 2016 State Bar Court order states that effective three days after service of the order, Krupnick was "inactive and ineligible to practice [law]."

Senter/Prince responded that the motion was untimely, Flores did not act diligently, her pleadings were inconsistent, and Krupnick's negligence did not constitute extrinsic fraud. Senter/Prince also argued that section 286 did not apply because the State Bar did not initiate proceedings against Krupnick until February 29, 2016—long after the April 17, 2015 dismissal of Flores's complaint.

Neither Flores nor her attorney appeared at the November 17, 2016 hearing on Flores's motion. The trial court denied the motion, stating, "No good cause is shown, no points and authorities filed, no declaration filed and the motion is untimely."

Flores timely appeals from the November 17, 2016 order.

DISCUSSION

Flores contends the trial court's November 17, 2016 order denying her motion to vacate the order of dismissal and restore the case to the civil active list must be reversed because Krupnick on May 23, 2016 became ineligible to practice law and Senter/Prince did not give her notice of Krupnick's inactive status pursuant to section 286, which requires an attorney to give notice to an opposing party when the attorney for the party dies or is suspended from practicing law.[8] She contends that, as a result, she was denied due process, and invokes the court's inherent equity power to set aside an order entered because of extrinsic fraud or mistake under *Aldrich v. San Fernando Valley Lumber Co.* (1985) 170 Cal.App.3d 725 (*Aldrich*).

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[8] Flores also cites to California Rules of Court, rule 9.20, as a basis for her appeal. Rule 9.20 requires an attorney who is disbarred or suspended to notify his or her own client and opposing counsel of this fact. It does not impose any obligation on opposing counsel. (Cal. Rules of Court, rule 9.20(a), (b).) Accordingly, rule 9.20 does not apply here, and we only consider whether Senter/Prince was required to give notice under section 286.

A. *Standard of Review*

We review a trial court's order granting or denying a motion to vacate an order of dismissal under section 473, subdivision (b), for an abuse of discretion. (*Zamora v. Clayborn Contracting Group, Inc.* (2002) 28 Cal.4th 249, 257; *Austin v. Los Angeles Unified School Dist.* (2016) 244 Cal.App.4th 918, 929.) We review a trial court's order on a motion to vacate an order of dismissal or entry of a default judgment on equitable grounds pursuant to the same abuse of discretion standard. (*Rappleyea v. Campbell* (1994) 8 Cal.4th 975, 981 (*Rappleyea*) [default judgment]; *Pulte Homes Corp. v. Williams Mechanical, Inc.* (2016) 2 Cal.App.5th 267, 276 [same]; *Aldrich*, *supra*, 170 Cal.App.3d at pp. 740-741 [order of dismissal].)

B. *Flores's Motion Was Untimely Under Section 473, Subdivision (b)*

Senter/Prince's contention on appeal, citing to *Beresh v. Sovereign Life Ins. Co.* (1979) 92 Cal.App.3d 547, is that Flores's second motion to vacate the order of dismissal was untimely under section 473, subdivision (b), because she filed the motion more than six months after service of the April 17, 2015 order of dismissal. (See § 473, subd. (b) ["Application for this relief . . . shall be made within a reasonable time, in no case exceeding six months, after the judgment, dismissal, order, or proceeding was taken"].) The court in *Beresh* held that a party may file a second motion for relief from a judgment after denial of the first motion, but "because such a motion is considered a *renewal* of the previous motion, the subsequent motion must also meet the requirements of section 473. 'A motion for relief from a judgment, renewed after denial of a prior motion for similar

relief, must be made within the six-month statutory period prescribed by section 473. [Citation.]' [Citation.]" (*Beresh*, *supra*, at pp. 554-555.)

Flores's second motion to vacate the order of dismissal, filed almost 18 months after dismissal of her complaint, was therefore untimely under section 473, subdivision (b). "This six-month time limitation is jurisdictional; the court has no power to grant relief under section 473 once the time has lapsed." (*Austin v. Los Angeles Unified School Dist.*, *supra*, 244 Cal.App.4th at p. 928; accord, *Rappleyea*, *supra*, 8 Cal.4th at p. 980.)

C. *The Trial Court Did Not Abuse Its Discretion in Concluding That Flores Did Not Prove Extrinsic Fraud or Mistake*

1. *A trial court has the equitable power to grant relief from an order of dismissal based on extrinsic fraud or mistake.*

A trial court has the equitable power to vacate an order of dismissal or entry of a default or default judgment where the motion for relief is made more than six months after entry of the order or judgment. (*Rappleyea, supra,* 8 Cal.4th at p. 981 [reversing trial court's denial of motion to set aside default filed more than one year after entry of default based on extrinsic mistake of incorrect advice from court clerk as to filing fee, leading to rejection of timely answer]; *Bae v. T.D. Service Co. of Arizona* (2016) 245 Cal.App.4th 89, 97 (*Bae*) [affirming trial court's grant of relief from entry of default and default judgment where the motion was filed more than two years after entry of the judgment based on the extrinsic mistake of the court clerk entering the default even though the defendant filed an unchallenged declaration of nonmonetary status to avoid liability

in a foreclosure action]; *Aldrich, supra,* 170 Cal.App.3d at p. 737 [affirming trial court's grant of relief from an order of dismissal based on a discovery violation where the motion was filed more than three years after the dismissal, finding equitable mistake based on abandonment by the party's attorney].)

With respect to extrinsic fraud, "'"[t]he court may grant relief under its inherent equity power if, because of the fraud of his opponent, the aggrieved party was prevented from presenting his claim or defense to the court. [Citations.] 'Two essential conditions are found in a classic case in equity which seeks to set aside a judgment: first, the judgment is one entered against a party by default under circumstances which prevented him from presenting his case; second, these circumstances result from extrinsic fraud practiced by the other party or his attorney."'" (*Rodriguez v. Cho* (2015) 236 Cal.App.4th 742, 750 [concluding there was no extrinsic fraud in service of complaint, but default judgment was void under § 473, subd. (d), because the damages exceeded the amount demanded in the complaint]; accord, *Kulchar v. Kulchar* (1969) 1 Cal.3d 467, 471; *Bae*, *supra*, 245 Cal.App.4th at p. 97].)

By contrast, extrinsic mistake occurs "'"when circumstances extrinsic to the litigation have unfairly cost a party a hearing on the merits.'" [Citation.]" (*Pulte Homes Corp. v. Williams Mechanical, Inc.*, *supra*, 2 Cal.App.5th at p. 275 [concluding trial court abused its discretion in finding extrinsic mistake supported relief from default judgment where agent for service of process accepted service on behalf of dissolved corporation]; accord, *Rappleyea, supra,* 8 Cal.4th at p. 981; *Bae*, *supra*, 245 Cal.App.4th at pp. 97-98.)

"'"Reliance on an attorney who becomes incapacitated, or incompetence of the party without appointment of a guardian ad litem, are examples of extrinsic mistake. [Citation.]'" [Citation.]" (*Moghaddam v. Bone* (2006) 142 Cal.App.4th 283, 290; see also *Kulchar v. Kulchar*, *supra*, 1 Cal.3d at pp. 471-472 [listing examples of extrinsic mistake, including "when there is reliance on an attorney who becomes incapacitated to act"]; *Aldrich*, *supra*, 170 Cal.App.3d at p. 738 ["in a case where the client is relatively free from negligence, and the attorney's neglect is of an extreme degree amounting to positive misconduct, the attorney's conduct is said to obliterate the existence of the attorney-client relationship"].)

In *Aldrich*, the trial court granted the defendant's motion to dismiss the case based on the plaintiff's failure to respond to discovery. The Court of Appeal affirmed the trial court's later grant of the plaintiff's motion for relief from the order of dismissal, concluding the failure of the attorney to take any action on the case during the 11 months after filing an amended complaint and the suspension of the attorney's right to practice law 32 days before the hearing on the defendant's motion to dismiss constituted "positive misconduct" by the attorney, supporting the trial court's grant of relief under its equitable powers based on extrinsic mistake. (*Aldrich*, *supra*, 170 Cal.App.3d at pp. 739-740.)

The courts have applied a "stringent" three-part test to determine whether a party has shown extrinsic mistake. (*Rappleyea, supra,* 8 Cal.4th at p. 982; *Bae*, *supra*, 245 Cal.App.4th at p. 100.) "'"First, the defaulted party must demonstrate that it has a meritorious case. Second[ ], the party seeking to set aside the default must articulate a satisfactory

excuse for not presenting a defense to the original action. Last[ ], the moving party must demonstrate diligence in seeking to set aside the default once . . . discovered.'" [Citation.]" (*Bae*, *supra*, 245 Cal.App.4th at p. 100, quoting *Rappleyea*, *supra*, at p. 982; accord, *Aldrich, supra,* 170 Cal.App.3d at p. 738.) The party seeking relief has the burden of establishing a right to relief. (*Austin*, *supra*, 244 Cal.App.4th at p. 928; see also *Rappleyea*, *supra*, 8 Cal.4th at p. 982 [a party seeking to set aside a default based on extrinsic mistake "must satisfy three elements"]; *Bae*, *supra*, 245 Cal.App.4th at p. 100 [same].)

Because Flores did not present evidence of the ""fraud of [her] opponent"" (*Rodriguez v. Cho*, *supra*, 236 Cal.App.4th at p. 750), we consider whether she met her burden to show extrinsic mistake based on the fact Krupnick became ineligible to practice law or the failure of Senter/Prince to give Flores notice of the State Bar Court order.[9]

2. *Flores did not show extrinsic mistake based on her attorney's ineligibility to practice law over a year after dismissal of the complaint.*

The trial court's order of dismissal was entered on April 17, 2015, with notice of entry of the order served on Krupnick by mail on April 21, 2015. However, Krupnick was not placed on

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[9] Although Flores focused on extrinsic fraud in her second motion to vacate the order of dismissal, on appeal she raises both extrinsic fraud and mistake. Because the right to relief for extrinsic fraud has "been extended to cases involving extrinsic mistake" (*Kulchar v. Kulchar*, *supra*, 1 Cal.3d at p. 471), we consider Flores's argument on appeal regarding the related concept of extrinsic mistake.

inactive status until May 23, 2016—more than a year after entry of the order of dismissal. Indeed, disciplinary proceedings were filed after the dismissal, on February 29, 2016.

Thus, there is no merit to Flores's argument that suspension of Krupnick's license to practice law as of May 23, 2016 supports relief from dismissal of her complaint one year earlier. Flores points to the fact that Krupnick's alleged failure to appear in the *Romero v. County of Los Angeles* case that was the subject of the State Bar disciplinary proceeding occurred on March 16, 2015, one month before the trial court dismissed her complaint in this case. However, whether Krupnick failed to appear in a separate case has no bearing on what happened in this case. Moreover, this fact was never adjudicated; rather, Krupnick agreed to become an inactive member of the bar due to "issues of . . . mental incompetence" at the time of the disciplinary proceeding in 2016. This does not mean that Krupnick lacked mental competence at the time of dismissal of Flores's complaint.

To the extent Flores contends the failure of Krupnick to act on her behalf was excusable neglect, this was the basis for her first motion to vacate the dismissal, which the trial court denied on December 10, 2015. Because Flores did not file a timely appeal from the trial court's order denying her first motion to vacate the order of dismissal, she forfeited any claim of error, and its validity is not properly before us. (See § 906; *In re Baycol Cases I & II, supra*, 51 Cal.4th at p. 761, fn. 8; see also *Austin v. Los Angeles Unified School Dist.*, *supra*, 244 Cal.App.4th at p. 928, fn. 6 ["An order denying relief from a judgment under [§] 473[, subd.] (b) is a separately appealable postjudgment order under . . . [§] 904.1, [subd.] (a)(2)"]; *Ryan v. Rosenfeld* (2017) 3

Cal.5th 124, 127 [denial of motion to vacate final judgment under § 663 is an appealable postjudgment order under § 904.1, subd. (a)(2), even though the party could have appealed the judgment].)

3. *Section 286 did not require Senter/Prince to give Flores notice that her attorney was ordered not eligible to practice law because the State Bar Court issued its order after the order of dismissal was entered.*

Section 286 provides, "When an attorney dies, or is removed or suspended, or ceases to act as such, a party to an action, for whom he was acting as attorney, must, before any further proceedings are had against him, be required by the adverse party, by written notice, to appoint another attorney, or to appear in person." We review the interpretation of a statute de novo. (*People v. Blackburn* (2015) 61 Cal.4th 1113, 1123; *Bonome v. City of Riverside* (2017) 10 Cal.App.5th 14, 21.)

Section 286, in using the language "ceases to act as such," only imposes an obligation on an attorney to give notice to an opposing party when "'by reason of death, disability, or other cause, [the party's attorney] has ceased to practice in the court,'" not where the attorney for another reason fails to act for the party. (*De Recat Corp. v. Dunn* (1926) 197 Cal. 787, 791, 794; *Gion v. Stroud* (1961) 191 Cal.App.2d 277, 279 [§ 286 "applies only when an attorney has died or ceased to be an attorney and not when he has ceased to act for his client in a particular case"].)

In *De Recat Corp.*, the Supreme Court affirmed the trial court's denial of a motion to set aside a default judgment, rejecting the argument that section 286 applied where the

attorney resigned as counsel for the defendant the day before trial. (*De Recat Corp.*, *supra*, 197 Cal. at p. 794; accord, *Gion v. Stroud*, *supra*, 191 Cal.App.2d at p. 279 [court affirmed judgment against the plaintiff, concluding that § 286 did not apply where the plaintiff's attorney withdrew as counsel for plaintiff a month before trial, and judgment was entered against the plaintiff after he failed to appear for trial].)

By contrast, "[w]hen an attorney is suspended from the practice of law, his authority to act as an attorney ceases, and he is no longer authorized to represent a party in litigation," triggering the notice provision in section 286. (*Aldrich*, *supra*, 170 Cal.App.3d at p. 741.) "The purpose of section 286 is to provide notice to a party who might otherwise be taken unaware. [Citation.]" (*Id.* at p. 742; accord, *Gion v. Stroud, supra,* 191 Cal.App.2d at p. 280.)

In *Aldrich,* the court held as a separate basis for affirming the trial court's grant of relief to the plaintiff that the trial court's dismissal of the action was "an act in excess of its authority and power to act" because opposing counsel did not give the plaintiff notice under section 286 that his attorney had been suspended from the practice of law. (*Aldrich*, *supra*, 170 Cal.App.3d at pp. 742-743.) The court concluded, "Section 286 means what it plainly says, ' . . . that no *proceedings* may be had against . . . [the now unrepresented party,] no judgment or order or other step in the action taken, until he appoints an attorney, unless the prescribed notice be first given.' [Citation.]" (*Id.* at p. 742.)

Unlike in *Aldrich*, Flores presented no evidence Krupnick had "ceased to act as [an attorney]" at any time before entry of the order of dismissal. Flores's complaint had been dismissed over a year before Krupnick was placed on inactive status on

May 23, 2016. Thus, no "proceedings" were initiated by Senter/Prince against Flores after Krupnick became ineligible to practice law. Indeed, by this time Flores was representing herself and had filed a motion to set aside the dismissal under section 473, subdivision (b), and for reconsideration under section 1008. Therefore, even if the Senter/Prince parties were aware of the State Bar Court order, they had no obligation to give notice to Flores. Accordingly, section 286 does not support reversal of the trial court's order denying relief.[10]

DISPOSITION

The order is affirmed. Respondents are to recover their costs on appeal.

FEUER, J.*

We concur:

ZELON, Acting P. J. SEGAL, J.

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[10] Because Flores cannot show extrinsic fraud or mistake that led to dismissal of her complaint, we do not reach whether she can satisfy the third element necessary for equitable relief, diligence in seeking to set aside the dismissal once she discovered that Krupnick was no longer eligible to practice law.

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