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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS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 FOUR

GEORGE M. HALIMI, Plaintiff and Appellant, v. UNITED STATES LIABILITY INSURANCE COMPANY, et al. Defendants and Respondents.	B286527 (Los Angeles County Super. Ct. No. BC617621)

APPEAL from orders of the Superior Court of Los Angeles County, Elizabeth R. Feffer, Judge. Affirmed.

George M. Halimi, in pro. per., for Plaintiff and Appellant.

Parker Ibrahim & Berg, Andrew S. Hollins and Brieanna M. Dolmage, for Defendants and Respondents.

In the underlying action, the trial court ordered Isaac Kyle and his attorney, appellant George Halimi, to pay monetary discovery sanctions to respondents United States Liability Insurance Company (USLI) and Abram Interstate Insurance Services, Inc. (Abram). We reject appellant's challenges to the sanctions and affirm.

RELEVANT FACTUAL AND PROCEDURAL BACKGROUND

In April 2016, Kyle initiated the underlying action. Kyle's first amended complaint, filed May 31, 2016, asserted claims against respondents for breach of contract, breach of the implied covenant of good faith and fair dealing, concealment, and breach of fiduciary duties. The complaint alleged the following facts: In 2014, Kyle leased commercial property in order to operate his tax business, and later applied for a USLI insurance policy through Abram. Respondents issued the policy without informing Kyle that he was ineligible for the policy due to a bankruptcy petition he had filed. After a fire destroyed Kyle's place of business, respondents refused to pay policy proceeds and rescinded the policy on the ground that Kyle allegedly failed to disclose his bankruptcy. Kyle also asserted claims against other defendants.

During the period November 2016 to July 2017, the trial court issued four orders directing Kyle and appellant to pay respondents monetary discovery sanctions; each order was for an amount less than $5,000. On November 17, 2017, after granting respondents' motion for summary judgment, the trial court entered judgment in favor of respondents and against Kyle. On

November 27, 2017, appellant noticed this appeal from the sanctions orders.[1]

DISCUSSION

Appellant challenges the monetary sanctions orders, contending (1) that sanctions were not warranted, and (2) that the trial court erred in awarding sanctions, rather than granting Kyle's requests for a stay of the action. As explained below, we disagree.[2]

A. *Governing Principles*

"California discovery law authorizes a range of penalties for conduct amounting to 'misuse of the discovery process,'" including monetary sanctions, evidentiary sanctions, issue sanctions, and terminating sanctions. (*Doppes v. Bentley Motors, Inc.* (2009) 174

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[1] Because none of the orders imposed sanctions exceeding $5,000, we issued an order to show cause why the appeal should not be dismissed for want of an appealable order (see Code Civ. Proc., § 904.1, subd. (a)(11) & (12)). In response, appellant provided us with a copy of the final judgment in the action, which had not been included in the record. We conclude that the rulings identified in the notice of appeal are reviewable as "[s]anctions orders . . . of five thousand dollars . . . or less against . . . an attorney" in an appeal taken "after entry of final judgment in the main action." (Code Civ. Proc., § 904.1, subd. (b).)

[2] Although appellant, as Kyle's counsel, lacks standing to assert a direct challenge on appeal to the denials of Kyle's requests for a stay (*Life v. County of Los Angeles* (1990) 218 Cal.App.3d 1287, 1292), we examine them for reversible error because they are "so interwoven" with the sanctions orders. (See *Estate of McDill* (1975) 14 Cal.3d 831, 840; *Blache v. Blache* (1951) 37 Cal.2d 531, 538; Code Civ. Proc., § 906.)

Cal.App.4th 967, 991, quoting Code Civ. Proc., § 2023.030.)[3] "The discovery statutes thus 'evince an incremental approach to discovery sanctions, starting with monetary sanctions and ending with the ultimate sanction of termination.'" (*Lopez v. Watchtower Bible & Tract Society of New York, Inc.* (2016) 246 Cal.App.4th 566, 603-604, italics omitted.) Misuses of the discovery process include the following: "(d) Failing to respond or to submit to an authorized method of discovery. [¶] . . . [¶] (g) Disobeying a court order to provide discovery." (§ 2023.010.)

Generally, "'[t]he power to impose discovery sanctions is a broad discretion subject to reversal only for arbitrary, capricious, or whimsical action.'" (*Do It Urself Moving & Storage, Inc. v. Brown, Leifer, Slatkin & Berns* (1992) 7 Cal.App.4th 27, 36.) When the trial court's exercise of its discretion relies on factual determinations, we examine the record for substantial evidence to support them. (*Waicis v. Superior Court* (1990) 226 Cal.App.3d 283, 287; see *Miranda v. 21st Century Ins. Co.* (2004) 117 Cal.App.4th 913, 929.) In this regard, "the power of an appellate court begins and ends with the determination as to whether, on the entire record, there is substantial evidence, contradicted or uncontradicted, which will support the determination [of the trier of fact]." (*Bowers v. Bernards* (1984) 150 Cal.App.3d 870, 873-874, italics omitted.)

Here, our focus is on monetary discovery sanctions. Subdivision (a) of section 2023.030 provides: "The court may impose a monetary sanction ordering that one engaging in the misuse of the discovery process, or any attorney advising that conduct, or both pay the reasonable expenses, including

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[3] All further statutory citations are to the Code of Civil Procedure.

attorney's fees, incurred by anyone as a result of that conduct. . . . If a monetary sanction is authorized by any provision of this title, the court shall impose that sanction unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust." Ordinarily, requests for monetary discovery sanctions under that statute are resolved by declaration. (*Doe v. United States Swimming, Inc.* (2011) 200 Cal.App.4th 1424, 1436 (*Doe*).)

Although a moving party usually has the burden of proving the facts necessary for the requested relief (*Corns v. Miller* (1986) 181 Cal.App.3d 195, 200-201 (*Corns*)), in two situations parties opposing sanctions under the statute above are assigned the burden of proof regarding particular facts. The first situation arises when the party potentially subject to sanctions alleges the existence of a "'substantial justification.'" Because that fact constitutes a defense, after the party seeking sanctions offers a sufficient showing of a misuse of the discovery process, the burden shifts to the party opposing sanctions to demonstrate that it acted with substantial justification. (*Doe*, *supra*, 200 Cal.App.4th at p. 1436.)

The second situation arises when sanctions are sought against an attorney. Under the statute, an attorney may be penalized only for counseling a misuse of the discovery process; "[i]t is not enough that the attorney's actions were in some way improper." (*Corns, supra,* 181 Cal.App.3d at p. 200; see also *id*. at pp. 200-201.) Nonetheless, because an attorney's advice to a client is "peculiarly within [his or her] knowledge," the attorney has the burden of showing that he or she did not counsel discovery abuse. (*Id*. at p. 200.) Thus, when the party seeking sanctions against an attorney offers sufficient evidence of a

misuse of the discovery process, the burden shifts to the attorney to demonstrate that he or she did not recommend that conduct. (*Ibid*.)

We will affirm sanctions against a party assigned the pertinent burden of proof, provided the trial court had reasonable grounds to find that the party did not carry that burden. A party may fail to discharge its burden by offering no showing whatsoever. Thus, in *Corns*, the appellate court affirmed sanctions against an attorney who filed no opposition to the sanctions motion and failed to appear at the hearing on the motion. (*Corns*, *supra*, 181 Cal.App.3d at p. 201.) However, even when the party opposing sanctions offers evidence, the trial court may properly decline to credit that showing, as long as there is a reasonable basis for doing so. In *Doe*, the party potentially subject to sanctions tried to show a substantial justification for the heavy redactions in its discovery responses by offering declarations from its counsel, who asserted that the redactions reflected privacy considerations. (*Doe*, *supra*, 200 Cal.App.4th at pp. 1434-1439.) In affirming the sanctions, the appellate court concluded that the trial court reasonably found no credible privacy rationale for the redactions in the declarations. (*Ibid*.)

B. *Underlying Proceedings*

1. *November 22, 2016 Sanctions Order*

In October 2016, USLI submitted three motions to compel responses to discovery it propounded on July 15, 2016. The motions concerned USLI's first set of requests for admissions, first set of requests for production of documents, and several sets of interrogatories. Each motion contended no responses had been made to the pertinent discovery requests despite several extensions, and sought $730.25 in monetary sanctions against Kyle and appellant. According to the motions, in response to

USLI's inquiries, appellant repeatedly replied that Kyle's eyes had required medical treatment in a hospital, and that Halimi expected to respond to the discovery soon. When USLI requested evidence of Kyle's hospitalization and medical condition, appellant supplied none.

No opposition to the motions was filed, and neither Kyle nor appellant appeared at the November 22, 2016 hearing on the motions. The trial court granted the motions to compel and ordered Kyle and appellant to pay monetary discovery sanctions totaling $1,965.75.

2. *February 1, 2017 Sanctions Order*

On December 13, 2016, Abram submitted three motions to compel responses to discovery it propounded on October 18, 2016. The motions concerned Abram's first set of requests for admissions, first set of requests for production of documents, and several sets of interrogatories. The motions sought monetary sanctions totaling $2,250 against Kyle and appellant.

Each motion contended that when Kyle failed to respond by the due date (November 22, 2016), Abram granted appellant's request for additional time to complete the responses, but Kyle never answered the discovery. In a supporting declaration, respondents' counsel Brieanna M. Dolmage stated: "On November 28, 2016, after not receiving any responses . . . , I sent a letter to [appellant] requesting full and complete responses . . . within the next ten days. [¶] . . . On December 2, 2016, I received a call from [appellant], who requested that I refrain from filing discovery motions for one week. I agreed and expressed that should responses not be provided by December 9, 2016 . . . , I would file motions to compel . . . . Thereafter, [appellant] expressed that the discovery responses were completed, but not approved by [Kyle]. He indicated that [Kyle]

was in the process of obtaining new counsel who would need time to review the responses with [Kyle]."

No oppositions were filed to the motions to compel. On February 1, 2017, the date set for the hearing on the motions, Kyle filed an ex parte application for a stay of the action, contending he was unavailable due to illness. Supporting the application was appellant's declaration, which stated: "[Kyle] has been declared legally blind. In addition, [Kyle] has recently encountered what appear[s] to be . . . kidney failure and . . . blood infection. As a result, [Kyle] is unable to function properly to pursue his action . . . . [¶] . . . Due to the illness of [Kyle], I have been unable to communicate with [him] properly within the past . . . few months. I have had communications with [Kyle] from hospitals in Arizona[,] . . . Riverside, . . . and . . . Los Angeles. [¶] . . . My last communication with [Kyle] was on January 25, 2017. [Kyle] informed me that he had returned home. However, he is unable to walk and to perform any act due to his illness."

Also accompanying the application was a letter dated January 18, 2017 from a medical social worker employed at a hospital in West Hills. The letter stated: "Kyle is presently hospitalized and unable to attend to outside personal and business matters. This letter is to verify this. He was admitted on January 15, 2017 and remains here at this time."[4]

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[4] Respondents submitted a written opposition to the ex parte application. The supporting declaration from attorney Dolmage stated that in October 2016, appellant told her that although Kyle had been hospitalized in Arizona for eye treatment, appellant expected to complete responses to USLI's discovery in a week. Later, in mid-December 2016, appellant requested a stay, stating

At the hearing on the motions to compel, appellant appeared on behalf of Kyle, who was not present. The trial court asked why appellant had filed an ex parte application for a stay, but no opposition to the motions. Appellant replied, "[M]y goal was to get a stay in all the proceedings . . . rather than filing opposition to every issue every time a motion is filed or a hearing is set . . . ."

The court declined to stay the action, concluding that Kyle had failed to show "exigent circumstances" supporting ex parte relief (Cal. Rules of Court, rule 3.1202(c)) or "health issues [that] interfere[d] with his ability to participate in a case that he filed." In so ruling, the court observed that there was no declaration from anyone with percipient knowledge of Kyle's condition, and that the medical social worker's letter was hearsay. The court granted the motions to compel and awarded sanctions totaling $2,250 against Kyle and appellant.

3. *March 9, 2017 Sanctions Order*

In January 2017, USLI submitted a motion for terminating sanctions or alternative relief, including $2,913.50 in monetary sanctions against Kyle and appellant. USLI contended that Kyle had not complied with the November 22, 2016 orders compelling responses to USLI's discovery, and had offered no reasonable explanation for that failure.

According to attorney Dolmage's supporting declaration, in early December 2016, appellant initially told her that he failed to

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that Kyle was unable to respond to discovery due to "an unidentified 'medical condition pertaining to his eyes.'" Dolmage responded that respondents would consider a stay if Kyle offered a doctor's note or other proof of his inability to participate in litigation and proposed a time period for the stay. According to Dolmage, Kyle provided neither item.

attend the November 22, 2016 hearing due to a calendaring error, but later admitted that he chose not to attend the hearing because he did not have time to prepare an opposition. Appellant further told her that he had prepared the discovery responses, but needed additional time in order to review them with Kyle. Later, in mid-December 2016, when appellant ascribed Kyle's failure to respond to discovery to an unspecified eye disorder, Dolmage offered to accommodate Kyle if he provided proof of his condition and a "definitive date" for the responses, but Kyle supplied neither item.

Kyle's opposition to the motion, filed February 23, 2017, attributed his failure to respond to USLI's discovery to ill health, and requested a stay of the action. Accompanying the opposition was a doctor's medical report of a January 15, 2017 medical examination of Kyle. The doctor described Kyle as "[a] well-developed, well-nourished 65-year-old gentleman in no distress." Under the caption "Impression," the doctor found "[c]hest pain, abdominal pain, back pain, and progressive weakness of unknown etiology," and recommended further investigation.

Also accompanying the opposition was appellant's declaration, which materially resembled the declaration he submitted in support of the ex parte application denied at the February 1, 2017 hearing. The declaration stated that Kyle was legally blind, that Kyle appeared to have developed kidney failure and a blood infection, that Kyle's illness hindered appellant's communication with him, that Kyle left the hospital sometime before January 25, 2017, and that upon returning home, Kyle was "unable to walk and to perform any act due to his illness." The declaration further stated: "I am a solo practitioner and unable to follow clients at their home and in the hospitals to assist them to respond to discover[y] . . . . [Kyle] has informed me that he is

seeking . . . attorneys [with that ability]. [¶] . . . [Kyle] has informed me that he intends to pursue his claims, and respond to all outstanding discover[y], as soon as his condition improves."

Additionally, appellant filed a motion to be relieved as Kyle's counsel. Appellant's supporting declaration asserted that Kyle's blindness and ill health – including his inability to walk – impaired appellant's ability to assist Kyle.

On March 9, 2017, Kyle and appellant appeared at the hearing on appellant's motion to withdraw as counsel and USLI's motion for sanctions. During the discussion of the motion to withdraw, appellant acknowledged that he was aware of Kyle's blindness when he undertook to represent him. The court also observed that Kyle walked into the courtroom without assistance, and stood up when addressed. In denying the motion to withdraw, the court stated that appellant's declaration failed to set forth sufficient facts, including whether appellant ever discussed the withdrawal with Kyle.

Turning to the sanctions motion, the trial court stated that the unauthenticated medical record submitted by appellant did not explain Kyle's failure to respond to discovery, as it reflected only a brief hospital stay in January 2017. The following colloquy occurred:

> "The Court: . . . To ignore discovery is not a proper option for a plaintiff who's ill. Again, Mr. Kyle's here in court. He walked in. . . . [¶] . . . [¶]
>
> "[Appellant]: . . . The court must realize that the only reason and the only reason discovery was not responded [to] was because of his illness . . .
>
> "The Court: . . . [Y]ou are representing to this court . . . that each and every day from July 15, 2016,

> . . . your client has been so incapacitated that he should be relieved of his obligations to respond to discovery[?] . . .
>
> "[Appellant]: That's my client's representation. That was his representation to me that he is not capable of sitting down, reading these discoveries, responding to these discoveries, your Honor."

The trial court found no credible justification for Kyle's failure to respond to discovery, but declined to impose terminating sanctions, concluding that because Kyle was present, he and appellant could "go upstairs to the ninth floor cafeteria and go over [the] discovery and get the responses out tomorrow." The court did award monetary sanctions totaling $2,913.50 against Kyle and appellant.

4. *July 11, 2017 Sanctions Order*

In April 2017, appellant filed a second motion to withdraw as Kyle's counsel.[5] Later, in June 2017, respondents submitted a motion for terminating sanctions or alternative relief, including $2,913.50 in monetary sanctions against Kyle and appellant. The motion contended that Kyle had responded inadequately to discovery, and failed to complete his deposition. According to respondents, despite the orders to compel, Kyle answered only three of the nine sets of discovery requests propounded by USLI in August 2016 and February 2017, never answered any discovery requests propounded by Abram and the other defendants, and never paid the monetary discovery sanctions. Additionally, Kyle repeatedly failed to complete his deposition,

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[5] The record does not disclose the grounds for the second withdrawal motion.

asserting that sitting for the deposition caused him to suffer stress and dangerously high blood pressure.

Kyle filed no opposition to the sanctions motion. Shortly before the hearing on the motion, appellant informed the trial court of a potential settlement of the action.

On July 11, 2017, at the hearing on the sanctions motion, respondents reported that no settlement had been finalized. During the discussion of the sanctions motion, appellant stated that he filed no opposition because he believed that Kyle and respondents had agreed upon a settlement. Appellant further argued: "In regard to [the discovery requests], my client ha[s] responded to all the [requests] . . . propounded on him. The only issue [respondents] have is they don't like the responses." Later, appellant modified that assertion, stating: "I came to court this morning with an understanding that we have a settlement agreement. I have not even checked my responses to see what has been done. Because I understand there were two sets of discover[y], one by [USLI] and one by Abram, and one of them was fully responded [to], the other one I'm not really sure."

Although the trial court found "a pattern of noncompliance" by Kyle, it declined to impose terminating sanctions in view of the settlement discussions. The court imposed monetary sanctions totaling $2,900 against Kyle and appellant; additionally, the court denied appellant's motion to withdraw as Kyle's counsel.

C. *Analysis*

As explained below, we discern no error in the four orders imposing monetary discovery sanctions on appellant.

1. *November 22, 2016 Sanctions Order*

In seeking the first order, USLI offered evidence that Kyle had not responded to discovery it propounded on July 15, 2016, and that appellant never offered USLI any evidence that Kyle

had been hospitalized. In view of that showing, appellant had the burden of showing a substantial justification for Kyle's conduct or, alternatively, demonstrating that he did not counsel Kyle's discovery abuse. As appellant filed no opposition and did not appear at the hearing, he did not carry that burden. (*Corns*, *supra*, 181 Cal.App.3d at pp. 200-201.) Accordingly, the trial court did not abuse its discretion in imposing sanctions against appellant. (*Ibid*.)

Appellant challenges those sanctions, arguing that respondents never alleged that he advised Kyle to misuse the discovery process, and that the trial court made no express finding regarding that issue. However, USLI's motions to compel – like the later motions relating to the remaining three monetary sanctions orders – specifically sought monetary sanctions under subdivision (a) of section 2023.030, and quoted the portion of that provision authorizing sanctions against an attorney who advises misuse of the discovery process.

Furthermore, we infer that the court made all findings necessary to support its order, provided those findings are supported by the record. (*Reedy v. Bussell* (2007) 148 Cal.App.4th 1272, 1292; see *Ghanooni v. Super Shuttle* (1993) 20 Cal.App.4th 256, 261(*Ghanooni*) ["[T]he discovery statutes do not require the court's order to 'recite in detail' the circumstances justifying the award."].) That requirement is satisfied here, as appellant's failure to offer evidence that he did not counsel Kyle's misconduct sufficed to support the imposition of sanctions. Accordingly, appellant has shown no error in the November 22, 2016 order.

2. *February 1, 2017 Sanctions Order*

In requesting the second sanctions order, Abram offered evidence that Kyle had not responded to discovery it propounded on October 18, 2016. Additionally, Abram's evidence showed (1)

that it repeatedly afforded Kyle additional time to respond, and (2) that in early December 2016, appellant told Abram's counsel that complete responses had been prepared, but Kyle needed more time in order to review those responses with the new attorney that he wished to hire. That showing was sufficient to shift the burden to appellant to show that sanctions against him were not warranted.

Although appellant filed no opposition to Abram's motions to compel, he submitted an ex parte application for a stay, which the trial court considered in ruling on Abram's request for sanctions. In support of the application, appellant provided his own declaration – which asserted that Kyle was too unwell to pursue his action – and a medical social worker's letter regarding Kyle's January 2017 hospitalization. Relying primarily on Evidence Code sections 412 and 413, the trial court declined to credit that evidence, and imposed sanctions on Kyle and appellant.

Appellant contends his showing in support of the ex parte application conclusively establishes that the sanctions against him were improper. We disagree. A trial court may reject even an undisputed showing, provided it does not act arbitrarily. (*Ortzman v. Van Der Waal* (1952) 114 Cal.App.2d 167, 171.) Evidence Code section 412 and 413 specifically authorize the finder of fact to "view[] with distrust" evidence offered by a party capable of providing "stronger and more satisfactory evidence," and to draw inferences against a party who fails to explain "evidence or facts in the case against him."

The record discloses ample grounds for the trial court's rejection of appellant's showing. As the court noted, although Abram's motions had been pending for a lengthy period, appellant provided no declaration from Kyle or a treating physician

regarding Kyle's medical condition; instead, appellant relied on his own declaration – which reflected no percipient knowledge of Kyle's medical condition – and the medical social worker's "hearsay" letter, which contained no specific information regarding that condition. We further observe that appellant's declaration did not explain why, in December 2016, he offered a different reason for Kyle's failure to approve what appellant then characterized as "completed" discovery responses, namely, that Kyle intended to hire new counsel. In light of these shifting explanations, the court reasonably found that appellant had not carried his burden of proof, thus justifying the imposition of monetary discovery sanctions against him.

Ghanooni, *supra*, 20 Cal.App.4th 256, upon which appellant relies, is distinguishable. There, the defendants sought an order to compel and monetary discovery sanctions against the plaintiff and her counsel after the plaintiff refused to complete an X-ray examination. (*Id*. at p. 259.) In opposition, the plaintiff's counsel submitted declarations stating that although the plaintiff viewed the examination as unnecessary and dangerous, she would submit to an examination conducted by her own doctor. (*Id*. at p. 259.) After the trial court ordered sanctions against the plaintiff and her counsel, the appellate court reversed the order with respect to counsel, concluding that the "unrebutted" declarations, together with the other evidence, conclusively demonstrated that the delay of the examination was not due to counsel's advice, and that counsel had, in fact, attempted to reach a compromise that would have allowed the examination to take place. (*Id*. at p. 261.) In contrast, as explained above, because appellant offered shifting, contradictory, and ill-supported accounts of Kyle's failure to respond to discovery, the trial court reasonably found that appellant had not carried his burden of proof.

In a related contention, appellant maintains that the trial court improperly denied his ex parte application for a stay. That contention fails for two reasons. Ordinarily, an ex parte application for an order against a party entitled to oppose the order is not permitted, absent a "pressing necessity for immediate relief." (6 Witkin, Cal. Procedure (5th ed. 2008) Proceedings Without Trial, § 58, p. 484; Cal. Rules of Court, rule 3.1202(c).). As the trial court observed, appellant identified no exigent circumstances warranting ex parte relief. Furthermore, the court was not required to credit appellant's negligible showing that Kyle was too ill to prosecute his action. (See *Derkmann v. Von Blumenthal* (1924) 69 Cal.App. 606, 608 [trial court did not err in denying the defendant's request for continuance of trial as it had reasonable grounds for rejecting the defendant's showing that he was unwell].) In sum, the trial court did not abuse its discretion in issuing the February 1, 2017 sanctions order.

3. *March 9, 2017 Sanctions Order*

Regarding the third sanctions order, USLI contended that Kyle had not complied with the prior orders compelling responses to USLI's discovery, and had offered no reasonable explanation for that failure. Supporting USLI's motion was a declaration from its counsel, who stated that in December 2016, when appellant ascribed Kyle's conduct to an eye disorder, she offered to accommodate Kyle if he provided proof of the disorder and a date for the discovery responses, but appellant supplied neither. In view of USLI's showing, the burden shifted to appellant to show that sanctions against him were not warranted.

The trial court did not err in concluding that appellant's showing was inadequate. Appellant offered his own declaration – which asserted that Kyle was too unwell to walk or engage in other activities – and a medical report of Kyle's January 15, 2017

examination. The trial court reasonably declined to credit appellant's declaration, as it resembled the declaration he had submitted in support of the earlier ex parte application for a stay, and suffered from similar defects. Appellant's declaration reflected no percipient knowledge of Kyle's medical condition, and was unaccompanied by a declaration from Kyle or a treating physician; additionally, in the court's presence, Kyle walked into the courtroom without assistance. The court also reasonably found that the "unauthenticated" medical report regarding Kyle's brief hospital stay in January 2017 did not explain his failure to answer discovery propounded in July 2016. Accordingly, appellant has shown no error in the March 9, 2017 sanctions order.[6]

4. *July 11, 2017 Sanctions Order*

In seeking the fourth sanctions order, respondents submitted evidence that Kyle had responded inadequately to discovery, and had not completed his deposition. According to respondents' showing, notwithstanding the orders to compel, Kyle had responded to none of Abram's requests and less than half of USLI's discovery requests; additionally, Kyle repeatedly failed to complete his deposition because it purportedly caused him to feel excessive stress.

Respondents' showing was sufficient to shift the burden of proof to appellant regarding the propriety of sanctions, which he

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[6] To the extent appellant suggests that the trial court improperly denied the request for a stay contained in the opposition to USLI's sanctions motion, that contention fails for the reasons discussed above. Because there was an inadequate showing that Kyle was unable to participate in the action, the court reasonably declined to stay it (see pt. C.3., *ante*).

failed to carry. No opposition to respondents' motion was filed; furthermore, when appellant appeared at the hearing, he argued – without supporting evidence – that Kyle had responded fully to all the discovery propounded by at least one of the respondents. In view of appellant's failure to offer any credible evidence, the trial court did not abuse its discretion in ordering sanctions against him. (*Corns*, *supra*, 181 Cal.App.3d at pp. 200-201.)

DISPOSITION

The orders of the trial court are affirmed. Respondents are awarded their costs on appeal.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS.

MANELLA, P. J.

We concur:

WILLHITE, J.

DUNNING, J.*

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