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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

JENNIFER JACKSON,

Plaintiff and Appellant,

v.

CALIFORNIA HOSPITAL
MEDICAL CENTER,

Defendant and Respondent.

B276891

(Los Angeles County
Super. Ct. No. BC518740)

APPEAL from a judgment of the Superior Court of Los Angeles County, Stephen M. Moloney, Judge. Affirmed.

Jennifer L. Jackson, in pro. per., for Plaintiff and Appellant.

Fraser Watson & Croutch, Stephen C. Fraser and Daniel K. Dik for Defendant and Respondent.

Jennifer Jackson sued Dignity Health, doing business as California Hospital Medical Center (California Hospital), for medical malpractice. After a bench trial, the trial court found in the hospital's favor. On appeal, Jackson contends the hospital's trial attorney tampered with witnesses. We reject this contention and affirm the judgment.

BACKGROUND¹

In 2012, Jackson had knee surgery at California Hospital. During her hospitalization, she fell. She sued the hospital for medical malpractice and for premises liability² based on allegations her roommate's "raucous" visitors interfered with her rest and recuperation and that she had to get out of bed unassisted, falling in the process and hitting her head. Her fall necessitated further knee surgery and resulted in an injury to her neck.

The matter proceeded to a bench trial, after which the trial court issued a decision detailing what occurred at trial. Jackson, who was self-represented, testified that her hospital roommate's visitors were so loud they caused her "heart to tremble," so she pushed the call light. When the nurse did not come, she tried to get out of bed and fell. Had the bedrails been up, she would not have fallen. On cross-examination, Jackson admitted having heard voices in the past.

¹ Trial was not reported, and therefore the factual background is from the trial court's written decision after trial.

² Before trial, the court found this was a medical negligence case only.

According to the deposition testimony of Dennis Scott, a nursing assistant, he heard Jackson “hollering” and found her half on the floor and half on the bed, entangled by her gown on the bedrail. He untangled her and lowered her to the floor.

Nurse Adora Lynn Lima similarly testified she heard Jackson calling out and saw Jackson on the floor. Jackson told the nurse she had tried to go to the bathroom but fell. Jackson did not mention feeling like she was having a heart attack or complain about multiple visitors. Indeed, according to Lima, only one other patient was in the room with Jackson.

Both Jackson and the hospital presented expert testimony. Jackson’s expert doctor testified the hospital fell below the standard of care by failing to transfer Jackson to the orthopedic floor and by not responding to her call light. The hospital’s nursing expert testified the nursing care given to Jackson met the prevailing standard of care.

The trial court found Jackson failed to meet her burden to establish the hospital’s care provided by its nursing staff fell below the standard of care. The court expressly found Jackson’s evidence not to be credible and described Jackson’s testimony as “inconsistent.” In contrast, the court found Scott’s and Lima’s testimony to be credible.

The trial court therefore entered judgment in the hospital’s favor, and this appeal followed.

DISCUSSION

Jackson appears to raise two issues. First, California Hospital’s attorney tampered with witnesses. Second, the trial court erred in concluding the evidence did not support judgment in her favor. Neither contention has merit.

First, Jackson contends the hospital's trial attorney tampered with witnesses Patricia Vasquez and Lima by persuading them not to appear at trial. To support this contention, Jackson attaches to her opening brief on appeal emails between Jackson and the hospital's counsel. Those emails, which concern subpoenaing witnesses, are not properly before us. Assuming, we could consider them, they do not in any way support Jackson's accusation of attorney misconduct. Instead, the record shows that Jackson failed to subpoena the witnesses to testify at trial. Even so, Lima testified and was subject to cross-examination. Moreover, Vasquez and Lima had been deposed, and the trial court read their deposition testimony. The record therefore contains absolutely no evidence the hospital's attorney engaged in misconduct or that these witnesses were somehow withheld from Jackson.

Second, Jackson refers to her hospital bedrail being down, to nurses talking on cell phones and failing to answer call lights, and to loud visitors. To the extent Jackson intended by these references to challenge the judgment, we reject any such challenge. A judgment or order of a lower court is "presumed to be correct on appeal, and all intendments and presumptions are indulged in favor of its correctness." (*In re Marriage of Arceneaux* (1990) 51 Cal.3d 1130, 1133; see *Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.) "Where no reporter's transcript [or settled statement] has been provided and no error is apparent on the face of the existing appellate record, the judgment must be *conclusively presumed correct* as to *all evidentiary matters*. To put it another way, it is presumed that the unreported trial testimony would demonstrate the absence of error." (*Estate of*

Fain (1999) 75 Cal.App.4th 973, 992; see Cal. Rules of Court, rules 8.130, 8.134, 8.137.)

Here, the trial court found that Jackson did not satisfy her burden of proof and, moreover, made express findings of credibility against Jackson. Jackson neither explains why we should disturb the court's findings and conclusions nor does she present an adequate record to show error. We therefore reject any challenge to the sufficiency of the evidence.

DISPOSITION

The judgment is affirmed. California Hospital Medical Center is awarded its costs on appeal.

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DHANIDINA, J.

We concur:

LAVIN, Acting P. J.

EGERTON, J.