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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS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 THREE

WINDSOR MANGO WAY LLC, Plaintiff and Appellant, v. FRANCIS JAMES TAYLOR et al., Defendants and Respondents; RICHARD J. SULLIVAN, Objector and Appellant.	B268967 (Los Angeles County Super. Ct. No. BC453450)

APPEAL from an order of the Superior Court of Los Angeles County, Rafael A. Ongkeko, Judge. Affirmed.

Richard J. Sullivan, in pro. per., for Plaintiff and Appellant.

No appearance for Defendants and Respondents.

Attorney Richard J. Sullivan appeals the trial court's October 15, 2015 order denying his motion to vacate an October 18, 2012 sanctions order requiring him to pay $2,500 pursuant to Code of Civil Procedure section 128.7.[1] He contends that because the underlying lawsuit had been ordered to arbitration at the time the trial court issued the sanctions order, it lacked jurisdiction over the matter and the sanctions award was void. We disagree, and therefore affirm.

FACTUAL AND PROCEDURAL BACKGROUND

In 2006, Windsor Investments, Inc. purchased vacant land in Brentwood from defendants and respondents Taylor Living Trust, Francis James Taylor, and Dolores Kelley Taylor (hereinafter Taylor), for $1,200,000. The purchase agreement included an arbitration provision. In 2007, Windsor Investments defaulted. In 2008, Windsor Investments conveyed the property to Windsor Mango Way, LLC.[2] Windsor filed a Chapter 7 bankruptcy petition. After the bankruptcy court granted relief from an automatic stay, on February 14, 2011 the property was sold in a foreclosure sale.

In January 2011, Windsor sued Taylor in Los Angeles County Superior Court, alleging fraud and unjust enrichment.[3]

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[1] All further undesignated statutory references are to the Code of Civil Procedure.

[2] We hereinafter refer to Windsor Investments, Inc. and Windsor Mango Way, LLC as "Windsor."

[3] An amended complaint followed in February 2011. Neither complaint has been made a part of the record. For purposes of this appeal, we accept Sullivan's representation regarding the nature of the complaint.

Windsor was not initially represented by Sullivan. In November 2011, Windsor recorded a notice of pendency of action (lis pendens) against the property. Thereafter, on November 29, 2011, the trial court granted Taylor's motion to compel contractual arbitration of the lawsuit. According to Sullivan, the trial court stayed the lawsuit pursuant to section 1281.4, but " 'carved out an exception' " to the stay to allow Taylor to move to expunge the lis pendens. In January 2012, Taylor successfully moved to expunge the lis pendens.[4]

In approximately April 2012, Sullivan began acting as Windsor's counsel.

On September 10, 2012, Windsor, represented by Sullivan, moved for sanctions against Taylor in Los Angeles County Superior Court pursuant to section 128.7.[5] Windsor alleged that

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[4] The trial court also ordered Windsor to reimburse Taylor for attorney fees and costs. That ruling is not at issue here. The trial court issued an amended order, with no substantive change, in July 2012.

[5] Section 128.7 requires that all pleadings filed with the court be signed by an attorney of a represented party. "The signing of a filed pleading constitutes a certification by the person signing it that after a reasonable inquiry, the pleading (1) is not being presented for an improper purpose; (2) contains positions that are not frivolous; (3) alleges factual matter having evidentiary support; and (4) contains denials of factual allegations, which denials have evidentiary support." (*Optimal Markets, Inc. v. Salant* (2013) 221 Cal.App.4th 912, 919 (*Optimal Markets, Inc.*).) A court may impose sanctions upon attorneys, law firms, or parties who have improperly certified a pleading in violation of subdivision (b) of section 128.7. (*Optimal Markets, Inc.*, at pp. 919-920.)

Taylor had refused to participate in the arbitration, evaded service of process, refused to respond to discovery, and otherwise "abused the processes of the trial court." At the same time, Windsor filed an "objection" to the trial court's grant of the motion to expunge the lis pendens and for attorney fees and costs, and a discovery motion. Taylor opposed the motions and countered with a request for $3,500 in sanctions against Windsor and Sullivan pursuant to section 128.7, subdivision (c)(1), on the ground that Windsor's motion was brought solely to harass defendants and cause unnecessary delay. Taylor argued that Windsor's motion lacked merit for a variety of reasons and was improper in light of the fact that the matter had already been ordered to arbitration.

On October 18, 2012, the trial court denied Windsor's request for section 128.7 sanctions and for discovery sanctions. It treated Windsor's "objections" as a motion for reconsideration, which it likewise denied. It granted Taylor's request for monetary sanctions, reduced to $2,500, against "plaintiff and its counsel of record," pursuant to section 128.7, subdivision (c)(1).

At some point thereafter, Sullivan ceased serving as Windsor's counsel.

On May 8, 2015, the State Bar of California brought a disciplinary action against Sullivan. As relevant here, the notice alleged Sullivan had failed to comply with the October 18, 2012 sanctions order, in violation of Business and Professions Code section 6103, and had failed to report the sanctions to the State Bar, in violation of Business and Professions Code section 6068, subdivision (o)(3).

In September 2015, Sullivan, appearing for himself only, moved to vacate the order on the ground the trial court had

lacked jurisdiction to impose sanctions in 2012 because the matter had already been ordered to arbitration. Taylor opposed the motion, arguing the underlying case was closed; the motion was a frivolous motion for reconsideration; and the trial court had vestigial jurisdiction in October 2012 after the matter was ordered to arbitration. Thereafter, in a supplemental opposition, Taylor argued that the trial court had jurisdiction because it had retained jurisdiction over the lis pendens issue.

On October 15, 2015, the trial court denied Sullivan's motion. It rejected Taylor's argument that the trial court had jurisdiction because the sanctions order had been related to the lis pendens motion, because the sanctions had not been granted in regard to the lis pendens issue. Nonetheless, the trial court concluded there was no basis to set aside the 2012 sanctions order. "What Mr. Sullivan now asks the court to do is to set aside Judge Sohigian's[6] order against him when he himself requested sanctions in his and his client's own motion for sanctions. Plaintiffs' own motion for sanctions sought the court's intervention based on defendants' purported failure to comply with the court's order for arbitration, at defendants' own request. The court had continuing jurisdiction in this regard. CCP § 1292.6."

According to Sullivan, he thereafter resumed representation of Windsor in regard to another matter against the Taylor defendants. That matter was confidentially settled, and the $2,500 in sanctions owed by Sullivan was "waived" by Taylor. Nonetheless, he asserts that the "issue of whether or not

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6 By the time Sullivan brought the motion to vacate in 2015, the original trial judge, Ronald M. Sohigian, had retired.

the sanction[s] order was made in excess of the trial court's jurisdiction remains important" in regard to the pending State Bar disciplinary proceedings against him.[7]

On December 14, 2015, Sullivan timely filed a notice of appeal from the October 2015 order.

DISCUSSION[8]

Sullivan contends that the trial court's denial of his 2015 motion to set aside the October 18, 2012 sanctions order must be reversed because the trial court lacked jurisdiction to impose sanctions after the case had been ordered to arbitration, and therefore the court's 2012 order was void. He argues, based on *Titan/Value Equities Group, Inc. v. Superior Court* (1994) 29 Cal.App.4th 482 (*Titan*), cited by respondent below, that the trial court lacked jurisdiction to hear the substantive motions Windsor filed. Sullivan argues, moreover, that the October 15, 2015 order, which denied his motion to vacate the October 2012 sanctions order, is appealable. He is correct that the October 2015 order is appealable. However, he is not eligible for relief as the October 2012 sanctions order was not void, and thus the trial court properly denied the motion to vacate.

Section 473, subdivision (d) provides in pertinent part that a court may, upon noticed motion, "set aside any void judgment

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[7] Sullivan represents that the disciplinary charges have been abated pending the outcome of the instant appeal.

[8] Respondents have not filed a brief in this matter. We therefore decide the appeal on the basis of the record, the opening brief, and oral argument. (Cal. Rules of Court, rule 8.220(a)(2); *Nakamura v. Parker* (2007) 156 Cal.App.4th 327, 334.)

or order."[9] A denial of a section 473, subdivision (d) motion is appealable as a special order made after final judgment. (§ 904.1, subd. (a)(2); *Doppes v. Bentley Motors, Inc.* (2009) 174 Cal.App.4th 1004, 1008; see *Generale Bank Nederland v. Eyes of the Beholder Ltd.* (1998) 61 Cal.App.4th 1384, 1394.) Where the evidence is undisputed, we independently review a determination that a judgment is void. (*Cruz v. Fagor America, Inc.* (2007) 146 Cal.App.4th 488, 495-496.)

A judgment or order is void when the court lacks jurisdiction in a fundamental sense. (*People v. American Contractors Indemnity Co.* (2004) 33 Cal.4th 653, 660.) A " 'collateral attack on a final judgment may be made at any time when the judgment under challenge is *void* because of an absence of "fundamental jurisdiction." ' [Citation.]" (*Kabran v. Sharp Memorial Hospital* (2017) 2 Cal.5th 330, 339; *Torjesen v. Mansdorf* (2016) 1 Cal.App.5th 111, 116; *Dhawan v. Biring* (2015) 241 Cal.App.4th 963, 973 [a void judgment can be attacked at any time by a motion under section 473, subdivision (d)]; *Lee v. An* (2008) 168 Cal.App.4th 558, 563.)

On the other hand, if the court simply acts in excess of its jurisdiction, "the order is merely voidable, and it cannot be collaterally attacked once it is final, i.e., after the time to appeal has run." (*Torjesen v. Mansdorf*, *supra*, 1 Cal.App.5th at p. 116; *Lee v. An*, *supra*, 168 Cal.App.4th at p. 563.) Where a judgment

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[9] Although Sullivan's motion to vacate the sanctions order did not expressly reference section 473, subdivision (d), it is apparent this is the governing statute. (See *Sole Energy Co. v. Petrominerals Corp.* (2005) 128 Cal.App.4th 187, 193 [" 'The nature of a motion is determined by the nature of the relief sought, not by the label attached to it' "].)

is merely voidable, the trial court has authority to set aside the judgment under section 473, subdivision (b), within a six-month time limit. (*Dhawan v. Biring*, *supra*, 241 Cal.App.4th at p. 973.) Thus, a " 'motion to vacate a judgment, made after the expiration of the six-month period allowed in section 473 . . . is governed by the rules applicable to collateral attack. [Citations.] In the absence of extrinsic fraud or mistake [citation] a judgment so attacked cannot be set aside unless it is void on its face. [Citations.]' " (*Torjesen v. Mansdorf*, at p. 116.) The doctrines of waiver and estoppel apply to acts in excess of a court's jurisdiction. (*Law Offices of Ian Herzog v. Law Offices of Joseph M. Fredrics* (1998) 61 Cal.App.4th 672, 680.)

Sullivan's motion to vacate the 2012 sanctions order was filed on or about August 25, 2015, almost three years after the order was issued.[10] Because Sullivan has not demonstrated he

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[10] To the extent Sullivan intends to argue that this court can liberally construe his notice of appeal as a direct appeal of the 2012 sanctions order, he has failed to provide a sufficient record. (See *People v. Delgado* (2017) 2 Cal.5th 544, 563 & fn. 12 [party challenging the judgment has the burden of providing an adequate appellate record]; *Defend Bayview Hunters Point Com. v. City and County of San Francisco* (2008) 167 Cal.App.4th 846, 859-860.) Section 904.1, subdivision (b) governs appeals from sanctions orders. It provides that sanctions orders of less than $5,000 against a party or an attorney for a party may be reviewed on appeal after entry of final judgment in the main action, or, at the discretion of the court of appeal, upon a petition for an extraordinary writ. Once an attorney is no longer representing a party, even if judgment is not final in the underlying case, the attorney may appeal a sanctions order regardless of the amount. (*Barton v. Ahmanson Developments*, *Inc.* (1993) 17 Cal.App.4th 1358, 1361-1362; see *Rail-Transport Employees Assn. v. Union*

moved to vacate the 2012 order within six months, his entitlement to relief turns on whether the 2012 sanctions order was void or merely voidable. We turn to that question.

Jurisdictional errors "are of two types. 'Lack of jurisdiction in its most fundamental or strict sense means an entire absence of power to hear or determine the case, an absence of authority over the subject matter or the parties.' [Citation.] When a court lacks jurisdiction in a fundamental sense, an ensuing judgment is void, and 'thus vulnerable to direct or collateral attack at any time.' [Citation.] [¶] However, 'in its ordinary usage the phrase "lack of jurisdiction" is not limited to these fundamental situations.' [Citation.] It may also 'be applied to a case where, though the court has jurisdiction over the subject matter and the parties in the fundamental sense, it has no "jurisdiction" (or power) to act except in a particular manner, or to give certain kinds of relief, or to act without the occurrence of certain procedural prerequisites.' [Citation.] ' "[W]hen a statute authorizes [a] prescribed procedure, and the court acts contrary to the authority thus conferred, it has exceeded its jurisdiction." ' [Citation.] When a court has fundamental jurisdiction, but acts in excess of its jurisdiction, its act or judgment is merely voidable.

Pacific Motor Freight (1996) 46 Cal.App.4th 469, 475, fn. 7.) Here, the record does not disclose when, if ever, a final judgment was entered in the underlying action or exactly when Sullivan ceased representing Windsor. Thus, Sullivan has failed to demonstrate his notice of appeal, dated December 14, 2015, was filed within the 60-day time limit set forth in California Rules of Court, rule 8.308. A timely notice of appeal is a prerequisite to appellate jurisdiction. (*Bourhis v. Lord* (2013) 56 Cal.4th 320, 330; *Drum v. Superior Court* (2006) 139 Cal.App.4th 845, 852.)

[Citations.] That is, its act or judgment is valid until it is set aside, and a party may be precluded from setting it aside by 'principles of estoppel, disfavor of collateral attack or res judicata.' [Citation.]" (*People v. American Contractors Indemnity Co.*, *supra*, 33 Cal.4th at pp. 660-661; *Kabran v. Sharp Memorial Hospital*, *supra*, 2 Cal.5th at pp. 339-340; *Torjesen v. Mansdorf*, *supra*, 1 Cal.App.5th at p. 117.)

To determine whether the October 2012 sanctions order was void or voidable, we must examine the nature of the trial court's role once a matter has been ordered to arbitration. "A party seeking to enforce contractual arbitration is statutorily entitled to a stay of pending legal actions. (§ 1281.4.)" (*Gaines v. Fidelity National Title Ins. Co.* (2016) 62 Cal.4th 1081, 1096.) Once a petition is granted and the lawsuit is stayed, "the action at law sits in the twilight zone of abatement with the trial court retaining merely a vestigial jurisdiction over matters submitted to arbitration." (*Brock v. Kaiser Foundation Hospitals* (1992) 10 Cal.App.4th 1790, 1796 (*Brock*); *Gaines v. Fidelity National Title Ins. Co.*, at p. 1096.) The court's role is "fairly limited." (*Titan*, *supra*, 29 Cal.App.4th at p. 487.) "It is the job of the arbitrator, not the court, to resolve all questions needed to determine the controversy." (*Ibid.*) The trial court "may not step into a case submitted to arbitration and tell the arbitrator what to do and when to do it: it may not resolve procedural questions, order discovery, determine the status of claims before the arbitrator or set the case for trial because of a party's alleged dilatory conduct. It is for the arbitrator, and not the court, to resolve such questions." (*Id.* at p. 489 [trial court exceeded its jurisdiction by, inter alia, making discovery orders and setting a completion date]; *Optimal Markets*, *Inc.*, *supra*, 221 Cal.App.4th

at pp. 922-924 [superior court may not, after a matter has been stayed and ordered to binding arbitration, impose section 128.7 sanctions for an attorney's advocacy of a client's meritless claim before the arbitrator].)

Nonetheless, it has been expressly recognized that after a matter is ordered to arbitration and stayed, the trial court does not lose fundamental jurisdiction over it. (See *Roberts v. Packard*, *Packard & Johnson* (2013) 217 Cal.App.4th 822, 841 [" 'The underlying [lawsuit] is stayed once arbitration begins . . . . However, the court retains jurisdiction over the matter' "]; *Mave Enterprises*, *Inc. v. Travelers Indemnity Co.* (2013) 219 Cal.App.4th 1408, 1427 ["although the superior court enforced the parties' stipulation to arbitrate their disputes, it did not lose jurisdiction of the matter"]; *Optimal Markets*, *Inc.*, *supra*, 221 Cal.App.4th at p. 924 [referring to trial courts' "limited jurisdiction" after a matter is stayed pending arbitration]; *Pinela v. Neiman Marcus Group*, *Inc.* (2015) 238 Cal.App.4th 227, 238 ["While it is correct as a general matter that the granting of a stay under . . . section 1281.4 places the proceedings before the trial court in 'the twilight zone of abatement' [citation], such a stay does not effect the 'ouster of the judicial power vested in the trial court of this state by our Constitution' "].)

Thus, for example, under its vestigial jurisdiction, a court may appoint arbitrators if the method selected by the parties fails. It may grant a provisional remedy on the ground the award may be rendered ineffectual without provisional relief. (*Titan*, *supra*, 29 Cal.App.4th at p. 487.) Absent an agreed upon completion date, a trial court may set a date by which the arbitration must be concluded. (*Bosworth v. Whitmore* (2006) 135 Cal.App.4th 536, 539, 545.) And, a court retains jurisdiction

to reconsider its order to arbitrate. (*Malek v. Blue Cross of California* (2004) 121 Cal.App.4th 44, 59; *Pinela v. Neiman Marcus Group, Inc.*, *supra*, 238 Cal.App.4th at pp. 237-238.) The court also retains separate, limited jurisdiction pursuant to section 1292.6, to " 'determine *any subsequent petition* involving the same agreement to arbitrate and the same controversy . . . in the same proceeding.' " (*Brock*, *supra*, 10 Cal.App.4th at p. 1796; *Cinel v. Christopher* (2012) 203 Cal.App.4th 759, 765 [prevailing party may petition the court to confirm the award, and the losing party may petition to modify or vacate the award entirely].) "Absent an agreement to withdraw the controversy from arbitration, however, no other judicial act is authorized." (*Titan*, at p. 487; see generally *Cinel v. Christopher*, at p. 769; *Brock*, at p. 1796.)

Accordingly, the fact that a trial court may not interfere with or reserve authority over the arbitration (see *Titan*, *supra*, 29 Cal.App.4th at p. 488) is not equivalent to a loss of fundamental jurisdiction. For example, in *Bosworth v. Whitmore*, *supra*, 135 Cal.App.4th at page 545, the defendant argued that the trial court lacked jurisdiction to set a deadline by which a contractual arbitration proceeding had to be concluded. Our colleagues in Division Four explained: "We construe [defendant's] argument that the trial court lacked 'jurisdiction' to be that the trial court lacked the power or authority to make certain orders, not that the court lacked subject matter jurisdiction. 'The principle of subject matter jurisdiction relates to a court's inherent authority to deal with the case or matter before it. In contrast, a court acts in excess of jurisdiction where, even though it has subject matter jurisdiction, it has no jurisdiction or power to act except in a particular manner, or to

give certain kinds of relief, or to act without the occurrence of certain procedural prerequisites. [Citation.]' [Citation.] Certainly, in this case the trial court had subject matter jurisdiction. The [plaintiffs] filed suit against [defendants] who responded by filing a petition to compel arbitration. In that light, [defendants'] true claim is that the trial court lacked the power to grant relief to the [plaintiffs] because the matter had been submitted to arbitration." (*Id.* at p. 545, fn. 9.)

The same is necessarily true here. The trial court retained vestigial jurisdiction and had jurisdiction over the parties and the lawsuit in the fundamental sense. As our Supreme Court has explained, " '[e]ven when a court has fundamental jurisdiction . . . the Constitution, a statute, or relevant case law may constrain the court to act only in a particular manner, or subject to certain limitations.' [Citation.] We have described courts that violate procedural requirements, order relief that is unauthorized by statute or common law, or otherwise ' "fail[] to conduct [themselves] in the manner prescribed" ' by law as acting ' "in *excess* of jurisdiction." ' [Citation.]" (*Kabran v. Sharp Memorial Hospital*, *supra*, 2 Cal.5th at pp. 339-340.) Even assuming arguendo that in 2012 the trial court acted in excess of its authority in awarding sanctions to Taylor (see *Optimal Markets, Inc.*, *supra*, 221 Cal.App.4th at pp. 922-924), its act was in excess of jurisdiction only. "Because a court that acts in excess of jurisdiction still has 'jurisdiction over the subject matter and the parties in the fundamental sense' [citation], any such act is 'valid until set aside, and parties may be precluded from setting it aside by such things as waiver, estoppel, or the passage of time' [citation]." (*Kabran v. Sharp Memorial Hospital*, at p. 340.) Because Sullivan has not demonstrated he timely appealed from

the 2012 sanctions order pursuant to section 904.1, subdivision (b), his only remedy was to move to set aside the order as void, pursuant to section 473, subdivision (d). However, because the 2012 sanctions order was not void, but only voidable if erroneous, relief under section 473, subdivision (d) was unavailable to Sullivan, and the trial court properly denied his motion to vacate.[11]

Additionally, because the court's 2012 sanctions order was not void, waiver principles precluded Sullivan's effort to vacate it. (See *Kabran v. Sharp Memorial Hospital*, *supra*, 2 Cal.5th at p. 340 [waiver and estoppel principles may preclude setting aside an order in excess of jurisdiction]; *Law Offices of Ian Herzog v. Law Offices of Joseph M. Fredrics*, *supra*, 61 Cal.App.4th at p. 680.) Here, Sullivan, on Windsor's behalf, invoked the jurisdiction of the trial court when he moved for sanctions against Taylor. He and Windsor were content to have the trial court consider the issue of sanctions, despite the fact the case had been

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[11] The 2015 trial court concluded the 2012 court had jurisdiction to rule on Windsor's sanctions motion by virtue of section 1292.6. As we have stated, section 1292.6 provides that a court retains jurisdiction to "determine any subsequent petition involving the same agreement to arbitrate and the same controversy, and any such subsequent petition shall be filed in the same proceeding." Because the 2015 trial court's ruling was correct for the reasons we have discussed, we need not consider whether section 1292.6 provides an additional basis for upholding the order. (See *People v. Brooks* (2017) 3 Cal.5th 1, 39 [an appellate court reviews the trial court's order, not its reasoning, and if the ruling was correct on any ground, we affirm]; *Save Our Heritage Organisation v. City of San Diego* (2017) 11 Cal.App.5th 154, 162, fn. 4.)

ordered to arbitration, until the court ruled in Taylor's favor. Under these circumstances, Sullivan has waived any challenge to the trial court's sanctions order. (See *Lynch v. California Coastal Com.* (2017) 3 Cal.5th 470, 475 [waiver may exist based on conduct that is so inconsistent with an intent to enforce a right as to induce a reasonable belief that such right has been relinquished]; *Savaglio v. Wal-Mart Stores*, *Inc.* (2007) 149 Cal.App.4th 588, 598 ["waiver may . . . stem from conduct 'which, according to its natural import, is so inconsistent with an intent to enforce the right as to induce a reasonable belief that such right has been relinquished' "].)

Neither *Titan* nor *Becker v. S.P.V. Construction Co.* (1980) 27 Cal.3d 489 (*Becker*), cited by Sullivan, compels the result he seeks. In *Titan*, the trial court reasserted jurisdiction over a stalled arbitration, set an arbitration deadline, and issued discovery orders. By these actions, the court "exceeded its jurisdiction." (*Titan*, *supra*, 29 Cal.App.4th at p. 488.) *Titan* did not hold that the court lacked fundamental jurisdiction, however.

In *Becker*, the court "permitted a collateral attack based on factors other than a lack of 'fundamental' jurisdiction." (*Estate of Buck* (1994) 29 Cal.App.4th 1846, 1855, discussing *Becker*, *supra*, 27 Cal.3d 489.) In *Becker*, the trial court granted a default judgment in an amount greater than that requested in the complaint. The court "exceeded its jurisdiction" under section 580, which prohibited such an excess award, and therefore a portion of the judgment was void. (*Becker*, at p. 494.) But the instant matter does not involve a similar statutory violation, and as we have discussed, a court retains fundamental jurisdiction even when a matter is ordered to arbitration. Moreover, our Supreme Court has recently confirmed that "order[ing] relief that

is unauthorized by statute or common law" only amounts to an act in excess of jurisdiction. (*Kabran v. Sharp Memorial Hospital*, *supra*, 2 Cal.5th at pp. 339-340.) " '[E]rrors which are merely in excess of jurisdiction should be challenged directly . . . and are generally not subject to collateral attack once the judgment is final . . . .' " (*Id.* at p. 340.) Because the 2012 court's order was not void, the 2015 trial court correctly denied Sullivan's motion to vacate it.

DISPOSITION

The trial court's order is affirmed. Because Taylor did not participate in the appeal, no costs are awarded.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

BACHNER, J.*

We concur:

EDMON, P. J.

LAVIN, 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.