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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

NATALIE MALL,

Plaintiff and Appellant,

v.

CHAD ROSE et al.,

Defendants and Respondents.

B268237

(Los Angeles County
Super. Ct. No. PS017201)

CHAD ROSE et al.,

Plaintiffs and Respondents,

v.

NATALIE MALL,

Defendant and Appellant.

B268304

(Los Angeles County
Super. Ct. No. PS017232)

APPEAL from orders of the Superior Court of Los Angeles County, Lloyd Loomis, Judge. Affirmed.

Shaghzo & Shaghzo, Armen Shaghzo, for Appellant Natalie Mall.

Law Offices of Margaret A. Chidester & Associates,
Margaret A. Chidester and Steven Chidester, for Respondents
Chad Rose and the Newhall School District.

Natalie Mall (Mall) appeals the trial court's rulings on two restraining order petitions. The first ruling granted Chad Rose (Rose), the former principal at a school attended by Mall's youngest son, a workplace violence restraining order against Mall. The second ruling denied Mall's petition for a civil harassment restraining order against Rose. We are asked to decide whether the trial court should have continued the restraining order hearing even though Mall did not request a continuance, whether the trial court erroneously excluded certain declarations proffered by Mall at the hearing, whether substantial evidence supports the trial court's rulings on the dueling restraining order requests, and whether the trial court abused its discretion in denying Mall's motion for reconsideration.

I. BACKGROUND

Mall filed a request for a civil harassment restraining order against Rose, pursuant to Code of Civil Procedure section 527.6,¹ on July 13, 2015. In a declaration attached to her request, Mall alleged that Rose followed her in his car while she was driving on July 10, 2015, and that Rose had groped and made lewd comments to her in an incident at her son's school on June 2, 2015. Rose and his employer at the time, the Newhall School District (District), filed a request for a workplace violence restraining order against Mall, pursuant to section 527.8, on July 22, 2015. In an attached declaration, Rose alleged a series of

¹ Undesignated statutory references that follow are to the Code of Civil Procedure.

interactions with Mall, beginning in January 2015, that placed him in fear for his and his family's safety.

The trial court granted temporary restraining orders in both cases until a contested hearing could be held. At that hearing, which proceeded over the course of two days, the trial court heard testimony from Rose, Mall, and Mall's 17-year-old son Alain. When viewed in the light most favorable to the trial court's orders, the evidence established the following facts.

A. Facts Relating to the Grant of a Workplace Violence Restraining Order Against Mall

On January 23, 2015, Mall requested a meeting with Rose in his office at Meadows Elementary School to discuss her eight-year-old son Eric's educational needs. According to Rose, Mall "confessed her fantasy that [he] had personal or romantic feelings for her" during this meeting. Rose told Mall he was "sorry [she] fe[lt] that way," and clarified his only interest in her was professional. After this encounter, Rose felt "extremely uncomfortable, concerned, and afraid to interact with [Mall]." He emailed his supervisor seeking guidance, and was advised not to meet Mall alone, not to have one-on-one conversations with her, not to remain behind closed doors with her, and to document the meeting in writing.

Six days later, Mall entered Rose's office and started yelling at Rose about Eric's eating habits. Rose asked Mall to leave the office door open but Mall closed it, and she told him "[she] need[ed] to have an uncomfortable conversation with [him]." Rose again requested that Mall open the door, and he told Mall the office manger should be present for the conversation. In response, Mall said, "No. You want me to go to

the District Office?” Rose informed Mall he had reported the January 23 incident to his supervisors, and had been advised not to be alone with her; he again asked Mall to open the office door to allow another staff member to witness the conversation. After Mall again failed to comply, Rose told Mall that she needed to leave the office.² Mall then called him “a pig” and “stormed out.” Rose testified the interaction left him “trembling” and “very scared.” He reported this incident to his supervisor as well.

Rose thereafter asked to be transferred to another school in the District because “[he] wanted to be away from . . . Mall.” Rose’s transfer request was granted and he began his new assignment at Stevenson Ranch Elementary School in July 2015. Rose and his family live in the Stevenson Ranch neighborhood.

On July 10, 2015, as Rose was driving home after work, he saw Mall driving in her car at an intersection adjacent to his new school. Mall was initially travelling in the opposite direction, but when Rose looked in his rearview mirror, he saw Mall “slam on her breaks and make a U-turn.” Rose was afraid for his safety because he believed Mall had “no apparent reason to be near [his] school site or residential neighborhood.”³

² Mall denied she closed the door to Rose’s office, that she had yelled at Rose, or that he asked her to leave his office, during this January 29 encounter.

³ Mall testified she was in the area of Stevenson Ranch Elementary School to hand out business cards to promote her child care business. She claimed that Rose followed her after seeing her at the intersection, that she tried to avoid him by driving away, that he followed her “relentlessly,” and that she was not aware of Rose’s home address at the time of the incident.

Rose did not want Mall to learn the location of his residence, so he pulled onto a side street to let her car pass. When Mall's car had passed, he pulled out behind her vehicle and began driving home. Rose noted that Mall was driving in the same direction, and she turned into the residential development where Rose lived. Rose drove through his neighborhood twice to prevent Mall from learning the exact location of his residence; he went home only after observing Mall exiting the neighborhood.

Upon returning home, Rose immediately contacted his supervisors to report the incident. In his declaration and his later testimony at the contested hearing, he explained why Mall's actions—particularly her decision to drive to his neighborhood—left him “extremely fearful” for his and his family's safety: “Driving around campus, making strange U-turns, and speeding and running stop signs where there's kids crossing or runs into a parent, you know [*sic*]. I'm concerned about my home. I'm concerned for my family. I'm concerned with her delusions and lies trying to ruin my reputation, and I'm concerned about the safety of my wife and children especially.”

B. Facts Relating to the Denial of Mall's Request for a Civil Harassment Restraining Order against Rose

During the contested hearing, Mall presented evidence of five incidents that in her view justified the issuance of a civil harassment restraining order.

The first incident cited by Mall as evidence of inappropriate behavior by Rose occurred when Mall went to Rose's office after Meadows Elementary School let out because her son Eric had become upset after class. Mall's son Alain was also present in Rose's office at the time. According to Mall, during this

interaction Rose “was looking at [her] body up and down” while he was attempting to calm Eric down. Alain similarly claimed Rose’s eyes “were darting to the side” to look at his mother while Rose was attempting to calm Eric down.⁴

The next cited incident occurred when Mall and her family went to an event at the school. Mall stated Rose “follow[ed] her around” and “wouldn’t leave her alone” during the event; she ended up walking away from him.

The third incident occurred when Mall scheduled a meeting with Rose at his office. According to Mall, she wanted to discuss Rose’s inappropriate behavior towards her as well as her concern over Eric not eating his lunch at school. Rose responded to her concerns by saying “so you think because you and I got close I’m not watching over Eric like before?”

Regarding the fourth alleged incident, Mall said she was driving with Alain when she passed Rose’s car at an intersection close to the school. According to Alain, Rose rolled down his car window, said “Hey, Baby” to Mall, and asked her if she missed him. Rose also allegedly said that he “wanted what was between [Mall’s] legs” and that his back was strong.⁵

In the fifth asserted incident, Rose “began to follow” Mall after she dropped Eric off at school. According to Mall, Rose said the following to her: “Hi babe, I missed you. My back is strong

⁴ Rose acknowledged he looked at Mall during this interaction but asserted his purpose was “for affirmation that it was okay to help [Eric].”

⁵ Rose testified he passed Mall’s car at an intersection that day but was on the phone with his wife at the time and did not speak to Mall during the incident.

and ready for you. Are you going to give me what's between your legs?" Mall told Rose to stop and Rose then grabbed Mall's buttocks as she walked away.

C. The Trial Court's Rulings

The trial court granted the petition for workplace violence restraining order filed by the District and Rose against Mall. The court found "the testimony of . . . Rose to be credible as to the allegations that . . . Mall intentionally followed . . . Rose" and that "under the circumstances of this case such actions by . . . Mall constitute civil harassment." The court issued a restraining order against Mall for a period of two years.

The trial court denied Mall's request for a restraining order against Rose, finding there was "insufficient credible evidence to support her claims of civil harassment." The court found Mall's testimony was "not credible." The trial court further found there was "no showing of possible irreparable harm to . . . Mall, if the restraining order was not granted" since the credible evidence presented related to events that occurred at Meadows Elementary School, and Rose no longer worked there.

Mall moved for reconsideration of both rulings, contending the trial court should consider certain additional declarations she sought to introduce and that service of the District/Rose restraining order petition against her had been untimely. The court denied Mall's motion for reconsideration, ruling "there has been no showing of new or different facts or a change in the law."

II. DISCUSSION

Mall advances several arguments to obtain reversal of the trial court's orders, but none of the arguments is persuasive. The

trial court did not err in proceeding with the contested hearing as scheduled because Mall did not ask for a continuance before or during the hearing even though she had been served with the District and Rose’s restraining order petition less than five days before the hearing. Next, and contrary to Mall’s suggestion on appeal, the trial court considered the various declarations she submitted from non-testifying individuals, and the court committed no prejudicial error in excluding the single declaration it did. In addition, we hold that sufficient evidence supports the trial court’s rulings on both restraining orders, and that the court did not abuse its discretion in denying Mall’s later motion for reconsideration.

A. *Standard of Review*

“We review issuance of a protective order for abuse of discretion, and the factual findings necessary to support the protective order are reviewed for substantial evidence. (*Gdowski v. Gdowski* (2009) 175 Cal.App.4th 128, 135 [95 Cal.Rptr.3d 799] [restraining order under the Elder Abuse Act]; *USS–Posco Industries v. Edwards* (2003) 111 Cal.App.4th 436, 444 [4 Cal.Rptr.3d 54].) ‘We resolve all conflicts in the evidence in favor of respondent, the prevailing party, and indulge all legitimate and reasonable inferences in favor of upholding the trial court’s findings. [Citation.] Declarations favoring the prevailing party’s contentions are deemed to establish the facts stated in the declarations, as well as all facts which may reasonably be inferred from the declarations; if there is a substantial conflict in the facts included in the competing declarations, the trial court’s determination of the controverted facts will not be disturbed on appeal.’ (*Bookout v. Nielsen* (2007) 155 Cal.App.4th 1131, 1137–

1138 [67 Cal.Rptr.3d 2].) Whether the facts are legally sufficient to constitute civil harassment within the meaning of section 527.6 is a question of law reviewed de novo. (*R.D. v. P.M.* (2011) 202 Cal.App.4th 181, 188 [135 Cal.Rptr.3d 791].)” (*Parisi v. Mazzaferro* (2016) 5 Cal.App.5th 1219, 1226; see also *City of San Jose v. Garbett* (2010) 190 Cal.App.4th 526, 538 [reviewing court, in determining whether the trial court’s factual findings are supported by substantial evidence, “resolve[s] all factual conflicts and questions of credibility in favor of the prevailing party”] (*City of San Jose*).)

B. Mall Cannot Obtain Reversal by Arguing the Trial Court Should Have Granted a Continuance She Did Not Request

1. Procedural facts

Rose and the District filed their petition for a restraining order on July 22, 2015. The registered process server made seven attempts to serve the restraining order on Mall, finally succeeding eight days later, on July 30, 2015. The contested evidentiary hearing commenced on August 3, 2015, which meant Mall had only three calendar days’ notice (or one business days’ notice) from the time of service until the hearing.

2. Analysis

Mall contends that the trial court should have granted her a continuance due to the late service of the petition for a restraining order against her. Generally, a trial court’s decision to grant or deny a hearing continuance is reviewed for abuse of discretion (*Freeman v. Sullivan* (2011) 192 Cal.App.4th 523, 527), but we need not reach the merits of Mall’s contention. Her

failure to request a continuance before or during the contested hearing in the trial court operates as a forfeiture of the contention.

Section 527.8, subdivision (m), as it read at the time of the contested restraining order hearing, provided in relevant part: “Upon filing of a petition for an injunction under this section, the respondent shall be personally served with a copy of the petition, temporary restraining order, if any, and notice of hearing of the petition. Service shall be made at least five days before the hearing.”

Mall represented herself at the contested hearing and we see no indication in the record that she requested a continuance before the hearing commenced.⁶ Nor did Mall object to the untimely service of the District and Rose’s petition for a restraining order either prior to or during the hearing. Rather, the most the record reveals is that Mall at one point requested a 10-minute recess during her cross-examination of Rose, which the court granted.⁷

This is insufficient to preserve the claim she now advances: a party cannot be heard to complain on appeal about the failure to receive a continuance that the party did not request in the trial

⁶ Mall’s briefs on appeal include no record citation to the contrary.

⁷ After the presentation of evidence and the trial court’s ruling on the restraining order requests, Mall did file a motion for reconsideration arguing for the first time that the trial court should have continued the hearing because of the late service of the restraining order petition. We discuss whether the trial court erred in denying the reconsideration motion in Part II.F, *post*.

court. (*In re Etherington* (1950) 35 Cal.2d 863, 867 [objection to lack of statutory notice of a hearing waived where, after court granted a one-day continuance, mother did not request a further continuance]; see also *People v. Riccardi* (2012) 54 Cal.4th 758, 810 [“Defendant also contends that the trial court erred by denying him a continuance to explore further the authenticity of the original tape. We discern in the record no defense request for a continuance to allow further evaluation of the original 1983 tape, and hence defendant has forfeited this claim”], disapproved on another ground in *People v. Rangel* (2016) 62 Cal.4th 1192; *Producers’ Hay Co. v. Harney* (1921) 54 Cal.App. 300, 301.) Moreover, by all apparent indications, Mall was not prejudiced by the contested hearing proceeding as scheduled: she offered evidence (including her own testimony), cross-examined Rose, and argued her case all without objection that she needed additional time (other than the 10-minute recess she sought and received). (*Freeman v. Sullivan*, *supra*, 192 Cal.App.4th at p. 528 [reversal of order on restraining order request unwarranted for failure to grant a continuance where nothing in the record suggested the complaining party was denied a fair hearing].)

C. *The Trial Court Did Not Exclude, but Considered, Nearly All of Mall’s Proffered Declarations*

1. *Procedural facts*

During the restraining order hearing, Mall directed the trial court’s attention to several declarations she had obtained from individuals who purportedly witnessed certain of her interactions with Rose. The District and Rose objected to the admission of the declarations, other than Mall’s own declaration, on hearsay, foundation, and relevance grounds. The trial court

stated it would reserve ruling on the admissibility of the declarations, and the presentation of live testimony continued.

Later in the hearing, during Mall's cross-examination of Rose, Mall in several instances attempted to impeach aspects of Rose's testimony by confronting him with statements made in the declarations of two other individuals (which she had proffered at the outset of the hearing). Counsel for Rose and the District objected. The trial court sustained counsel's objection to using one of the declarations in that manner. Mall then attempted to argue (while Rose was still on the witness stand) that a declaration from a mailman, Tae Lee, was some corroboration of her version of the events that occurred on July 10, 2015 (the date when, according to Rose, Mall made a U-turn and began following his car). The trial court stated Mr. Lee's declaration was not admitted into evidence.

Toward the end of the presentation of evidence, Mall asked the trial court whether her witness declarations had not been accepted. The court reiterated, "I reserve." Later, with the presentation of evidence concluded, the trial court ruled from the bench on the dueling restraining order requests and noted it had "viewed the declarations submitted by . . . Mall." Subsequent minute orders issued by the trial court to memorialize its rulings stated as follows: "The Court previously reserved ruling on [Mall's] Declarations. The Court notes that [it] has reviewed the declarations submitted by [Mall], except for the Mailman's declaration which was not admitted."⁸

⁸ Two minute orders were issued corresponding to the two restraining order requests. In an apparent typographical error, the minute order concerning the District and Rose's request for a restraining order states the "Mailman's declaration . . . was not

2. *Analysis*

Mall contends the trial court erred in excluding from evidence the declarations she proffered, and that this alleged failure amounts to prejudicial error. The contention fails for two reasons. First, the record reveals the trial court considered, and did not exclude, all of Mall's proffered declarations except one: (mailman) Lee's declaration.⁹ Second, as to that sole declaration, even if we assume the trial court somehow abused its discretion in excluding it, the observations related therein were of marginal relevance at best and exclusion of the declaration was not prejudicial. (Evid. Code, § 354; *Overhill Farms, Inc. v. Lopez* (2010) 190 Cal.App.4th 1248, 1271; *Benwell v. Dean* (1967) 249 Cal.App.2d 345, 355 [not reasonably probable that a more favorable result would have been reached if the offered declaration had been before the jury].)

D. The Trial Court Properly Granted the Restraining Order Against Mall

Mall contends the trial court erred in granting the section 527.8 restraining order against her because there was

submitted" (i.e., it substitutes the word "submitted" for the word "admitted"). In addition, the minute order denying Mall's request for a restraining order against Rose refers to "declarations" plural, while the order granting the District and Rose's request refers to "declaration" in the singular.

⁹ In her motion for reconsideration filed in the trial court, Mall conceded the trial court admitted all of the declarations except for the Lee declaration. It is only now on appeal that she reverses course and erroneously claims all the declarations were excluded.

insufficient evidence she engaged in unlawful violence or made a credible threat of violence against Rose.

As it existed at the time of the restraining order hearing, section 527.8, subdivision (a) provided: “Any employer, whose employee has suffered unlawful violence or a credible threat of violence from any individual, that can reasonably be construed to be carried out or to have been carried out at the workplace, may seek a temporary restraining order and an injunction on behalf of the employee” “A ‘credible threat of violence’ under section 527.8 is a ‘knowing and willing statement or course of conduct that would place a reasonable person in fear for his or her safety, or the safety of his or her immediate family, and that serves no legitimate purpose.’ (§ 527.8, subd. (b)(2).) ‘To obtain a permanent injunction under section 527.8, subdivision (f), a plaintiff must establish by clear and convincing evidence not only that a defendant engaged in unlawful violence or made credible threats of violence, but also that great or irreparable harm would result to an employee if a prohibitory injunction were not issued due to the reasonable probability unlawful violence will occur in the future.’ (*Scripps Health v. Marin* (1999) 72 Cal.App.4th 324, 335 [(*Scripps*)].)”¹⁰ (*City of San Jose, supra*, 190 Cal.App.4th at pp. 537-538.)

¹⁰ Section 527.8 defines a “course of conduct” as “a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose, including following or stalking an employee to or from the place of work; entering the workplace; following an employee during hours of employment; making telephone calls to an employee; or sending correspondence to an employee by any means, including, but not

Here, Rose—whom the trial court expressly found credible—testified the initial troubling interactions with Mall occurred in Rose’s office on school grounds. She entered Rose’s office (ostensibly to discuss Eric’s educational needs) and informed Rose she had a “fantasy” that he had romantic feelings for her. This encounter made Rose “extremely uncomfortable, concerned, and afraid to interact with [Mall,]” and he reported the incident to his supervisor. Less than a week later, Mall again entered Rose’s office. During this incident, Mall blocked Rose’s egress from the office, yelled at him, and ignored his repeated requests to open the office door that she had closed upon entering the office. Mall then effectively threatened to report Rose to the District if he continued to request that she open the door. This interaction left Rose “trembling” and “very scared.” Mall’s behavior led Rose to transfer to another school because he “feared for his safety.”

Mall’s course of conduct continued after Rose transferred schools. Rose witnessed Mall driving in the opposite direction at an intersection near his new school. After passing her, Rose noticed that Mall “slamm[ed] on her brakes and ma[de] a U-turn.” Rose pulled over, and witnessed Mall drive in the direction of his nearby residence. Rose was “extremely fearful” that Mall knew his “path of travel and the location of [his] home” following this incident.

These several instances, which occurred over a period of six months and involved several incidents at or near Rose’s workplace, are substantial evidence supporting the trial court’s

limited to, the use of the public or private mails, interoffice mail, facsimile, or computer email.” (§ 527.8, subd. (b)(1).)

factual findings. Mall argues, however, that reversal is nevertheless required because the trial court (in her view) applied the wrong legal standard. She points, in particular, to the following italicized statement by the trial judge when ruling from the bench, which we reproduce in its fuller context: “As to the workplace civil harassment claim of the school district, based upon the credible evidence presented to the court, the court finds that the testimony of Mr. Rose to be credible as to the allegations that Ms. Mall intentionally followed Mr. Rose under circumstances. And under the circumstances of this case, such actions by Ms. Mall *constitute civil harassment*.”

“Absent indication to the contrary, we must presume that the trial court followed the applicable law” (*Harris v. Stampolis* (2016) 248 Cal.App.4th 484, 500-501.) There is no such indication to the contrary in this case. The language of section 527.8 does not require the court to make a specific finding on the record that the respondent engaged in “unlawful violence” or a “credible threat of violence.” Nor does the trial court’s reference to “civil harassment” betray an incorrect legal understanding. The trial court earlier used the phrase “workplace civil harassment claim,” and although this phrasing was perhaps marginally imprecise, it indicates the trial court had the correct workplace standard of section 527.8 in mind. That the District and Rose filed a pre-hearing memorandum of points and authorities with their restraining order request that quoted the applicable language of section 527.8 only reinforces our view that there is no reason to believe the trial court failed to follow applicable law. Furthermore, the trial court expressly found Mall intentionally followed Rose, and that constitutes behavior establishing a credible threat of violence under the statute. (§

527.8, subd. (b)(1) [course of conduct includes following an employee to or from work or following an employee during hours of employment].)

Mall additionally asserts there was insufficient evidence to support a finding that she poses a threat of future harm to Rose as required by section 527.8. A plaintiff seeking a restraining order pursuant to section 527.8 must show “that great or irreparable harm would result to an employee if a prohibitory injunction were not issued due to the reasonable probability unlawful violence will occur in the future.” (*Scripps, supra*, 72 Cal.App.4th at p. 335 [insufficient evidence appellant would repeat his violent conduct where there had only been a single incident between the parties and appellant had agreed not to return to the scene of the offending conduct].)

Here, and in contrast to *Scripps*, there were several incidents between Mall and Rose over a six month period. Mall’s conduct also continued after Rose began working at a new location. On the facts presented, there is ample reason to believe it was reasonably probable that Mall would repeat the offending conduct absent the restraining order. (*City of San Jose, supra*, 190 Cal.App.4th at pp. 542-543 [irreparable harm reasonably likely to occur in absence of restraining order where appellant appeared regularly at the scene of the offending conduct and had a history of threatening conduct against party seeking order].)

E. The Court Properly Denied Mall’s Request for a Section 527.6 Restraining Order

To obtain a civil harassment restraining order pursuant to section 527.6, “the plaintiff must show by clear and convincing evidence that he [or she] has been harassed, which is defined as

‘a knowing and willful course of conduct directed at a specific person which seriously alarms, annoys, or harasses the person, and which serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the plaintiff. “Course of conduct” is a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose.’” (*Grant v. Clappitt* (1997) 56 Cal.App.4th 586, 591.)

Mall argues the evidence presented at the contested hearing, coupled with the various declarations reviewed by the trial court, constitute sufficient evidence to establish “Rose’s pattern of harassment.” However, this argument amounts to an attempt to reargue factual issues decided against Mall by the trial court and is “contrary to established precepts of appellate review.” (*Hasson v. Ford Motor Co.* (1982) 32 Cal.3d. 388, 398-399.) The trial court expressly found Mall’s testimony “not credible,” and we give deference to that finding on appeal. (*Harris v. Stampolis, supra*, 248 Cal.App.4th at p. 498 “[T]he trial court stated that it did not find Stampolis’s testimony to be credible, and we must defer to the trial court’s determinations of credibility”]; see also *Robinson v. U-Haul Company of California* (2016) 4 Cal.App.5th 304, 328.) Considering this negative credibility assessment of Mall (one of the two principal witnesses at the hearing) and the trial court’s positive credibility assessment of Rose (the other principal witness), we see no basis to reverse the trial court’s denial of Mall’s request for a restraining order. (*Schild v. Rubin* (1991) 232 Cal.App.3d 755, 762 [“We resolve all factual conflicts and questions of credibility in favor of the prevailing party and indulge in all legitimate and

reasonable inferences to uphold the finding of the trial court if it is supported by substantial evidence which is reasonable, credible and of solid value”]; see also *Parisi v. Mazzaferro*, *supra*, 5 Cal.App.5th at p. 1226 [if there is a substantial conflict in the facts, the trial court’s determination of the controverted facts will not be disturbed on appeal].)

F. The Trial Court Properly Denied Mall’s Request for Reconsideration

Section 1008, subdivision (a) requires that a motion for reconsideration be based on new or different facts, circumstances, or law. “A party seeking reconsideration must provide a satisfactory explanation for the failure to produce the evidence at an earlier time.” (*New York Times Co. v. Superior Court* (2005) 135 Cal.App.4th 206, 212.) We review the trial court’s ruling on the motion for reconsideration for abuse of discretion. (*Glade v. Glade* (1995) 38 Cal.App.4th 1441, 1457.)

The trial court did not abuse its discretion in concluding neither of the grounds for reconsideration cited by Mall were based on new or different facts, circumstances, or law. First, Mall contended that the untimely service of the District and Rose’s petition for a restraining order constituted a new fact, but Mall had ample opportunity to raise this issue prior to or at the contested hearing and did not do so. Second, Mall submitted three new declarations (four if an additional declaration from Mall herself is included) with her motion and contended she could not submit these declarations in advance of the hearing because the late service of the petition for a restraining order against her deprived her of sufficient time to obtain them. The trial court ruled that “if the declarations submitted by Ms. Mall were to be

considered by the Court, the Court would not change the Court's rulings." We are convinced this was an appropriate exercise of its discretion. The declarations are largely cumulative and of at most limited relevance.

DISPOSITION

The judgment is affirmed. Chad Rose and the Newhall School District are to recover their costs on appeal.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

BAKER, J.

We concur:

TURNER, P.J.

KRIEGLER, J