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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

PARVANEH SOLAYMANPOUR,

Plaintiff and Appellant,

v.

MANSOUR SABOROUGH et al.,

Defendants and Respondents.

B267583

(Los Angeles County  
Super. Ct. No. BC499954)

APPEAL from a judgment of the Superior Court of  
Los Angeles County, Charles F. Palmer, Judge. Affirmed.

Parvaneh Solaymanpour, in pro. per., for Plaintiff and  
Appellant.

Zinder, Koch & McBratney, Darren T. McBratney for  
Defendants and Respondents.

## **INTRODUCTION**

Plaintiff Parvaneh Solaymanpour, in propria persona, appeals from the entry of judgment against her following a bench trial. She argues that the trial court erred in granting her former counsel's request to withdraw prior to trial and subsequently allowing plaintiff only a limited trial continuance. Plaintiff contends these errors prevented her from securing another attorney and left her unable to properly present her claims at trial. We find no error and affirm the judgment.

## **FACTUAL AND PROCEDURAL HISTORY**

Plaintiff filed her complaint on January 25, 2013 against defendants Mansour Saborough, Jessica Varela, and Robert Cruzen.<sup>1</sup> She alleged causes of action for negligence and declaratory relief arising out of an automobile accident that occurred on January 27, 2011. According to the complaint, at the time of the accident, plaintiff was the passenger in a 2003 Chevy Impala driven by Saborough and owned by Varela. As they drove eastbound, Saborough began to make a left turn; as he did so, the Impala collided with an oncoming westbound vehicle driven by Cruzen. Plaintiff was injured as a result of the accident.

Trial was set initially for July 28, 2014. Pursuant to stipulations by the parties, it was continued on June 25, 2014 and again on September 24, 2014. On March 27, 2015, plaintiff's attorney Shawn Dargahi filed a motion to be relieved as counsel, citing "irreconcilable differences." The motion listed the hearing date of April 22, 2015, as well as the trial date of July 20, 2015. Dargahi filed a proof of service stating he served plaintiff with

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<sup>1</sup> Cruzen is not a party to this appeal. Varela was erroneously named as "Pvarela" in the complaint. We refer to Saborough and Varela collectively as "defendants."

the notice of motion and accompanying documents by overnight mail on March 27, 2015.

Plaintiff and Dargahi both appeared at the hearing on April 22, 2015 before Judge Teresa Beaudet. According to the court's minute order, "after reading and considering all moving party papers and finding no opposition," the court granted the motion to relieve Dargahi as counsel for plaintiff. Dargahi served plaintiff with the court's order granting his motion by mail the following day. Subsequently, he filed a notice of lien for \$6,667.97 in attorney fees incurred in the case.

On July 6, 2015, the court entered an order pursuant to stipulation by the parties, continuing the trial from July 20 to August 3, 2015. At the final status conference on July 27, 2015, plaintiff made an oral motion to continue the trial. Judge Beaudet granted the motion, continuing the trial a fourth time, to September 9, 2015.<sup>2</sup>

Plaintiff filed a peremptory challenge to Judge Beaudet on August 27, 2015, which was accepted, and the case was reassigned to Judge Michael Raphael. On September 9, 2015, the date set for trial, plaintiff orally moved for another continuance. Judge Raphael denied that request, and the case was assigned to Judge Charles Palmer for trial. Plaintiff renewed her request for

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<sup>2</sup> Although the record indicates plaintiff made an oral motion for a continuance, she also filed a written statement on July 27, 2015, in which she requested a "brief 3 month continuance" in order to "secure an attorney." Plaintiff indicated she was "working on several good leads," and also noted that "with time possibly the case can settle." Plaintiff further stated that there had been no prior trial continuances in the case.

a trial continuance before Judge Palmer. He denied the request and the case proceeded to trial.<sup>3</sup>

Trial commenced on September 9, 2015 with plaintiff representing herself. The following narrative regarding the trial proceedings is taken from the certified settled statement issued by the court pursuant to California Rules of Court, rule 8.137.<sup>4</sup> Plaintiff called herself as the only witness in her case in chief. She “never informed the court that she had served a subpoena on any witness,” or that “she had designated any expert witnesses.”

Plaintiff testified, in response to her own questions, regarding the accident and her injuries she contended were caused by the accident. Defendants’ objections “to these questions as being without foundation, calling for expert medical opinion, and calling for hearsay were sustained. Plaintiff presented no admissible evidence that the accident was a

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<sup>3</sup> Plaintiff also cites to three other documents she contends were additional motions for a trial continuance: (1) a letter addressed to “Carolyn Kuhl, Presiding Judge” dated August 27, 2015; (2) a handwritten declaration filed on September 3, 2015, stating that she needed a two to three month continuance; and (3) a document filed September 8, 2015, addressed to Judge Raphael and entitled “Status of my case.” There is no indication in the record that any of these requests were ruled upon, apart from the denials issued on September 9, 2015 by Judges Raphael and Palmer.

<sup>4</sup> This settled statement was prepared at plaintiff’s request, as she filed a motion to use a settled statement on appeal instead of a reporter’s transcript. (See Cal. Rules of Court, rule 8.137(a).) However, plaintiff’s opening brief contains a recitation of her purported trial testimony without citation to (or support from) the settled statement, a reporter’s transcript of proceedings, or any other evidence in the record. We therefore rely on the certified settled statement as the record of the trial proceedings.

substantial factor in causing the injuries she claimed to have suffered. Plaintiff presented no admissible evidence that Saborough breached his duty of care.” Plaintiff did not mention Varela during her testimony or offer any evidence that Varela had an ownership interest in the vehicle driven by Saborough.

Plaintiff asked whether she could call her son to testify, but disclosed that he was not present in the courtroom or courthouse. She then requested a continuance to allow her time to secure her son’s presence and subpoena her treating physician. The court denied plaintiff’s request, noting that “the case had been continued previously and that plaintiff had substantial time to have arranged to subpoena any witnesses.”

Plaintiff attempted to introduce exhibits at trial, including her medical records and billing statements. Defendants objected that the exhibits were not authenticated, lacked foundation, and were hearsay. The court sustained these objections to each of plaintiff’s exhibits except two—an appointment reminder (Exhibit 110) and a minute order dated September 2, 2015, reflecting the peremptory challenge to Judge Beaudet and the reassignment of the case (Exhibit 120).

After plaintiff rested, defendants moved for judgment pursuant to Code of Civil Procedure section 631.8.<sup>5</sup> Defendants argued plaintiff “had failed to establish a prima facie case for negligence, had failed in her proof as to Saborough’s breach of the duty of care and medical causation for her injuries, and failed to introduce evidence that the defendants’ negligence was a substantial factor in causing harm to the plaintiff.” The court granted plaintiff’s request to reopen her case-in-chief to submit

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<sup>5</sup> All further statutory references are to the Code of Civil Procedure unless otherwise indicated.

additional evidence. Plaintiff “again asked herself questions concerning her injuries she said were caused by the accident.” Defendants renewed their motion for judgment, which the court granted. The court found “plaintiff had failed to establish a prima facie case of negligence against either defendant, that plaintiff had failed in her proof as to Saborough’s breach of the duty of care and medical causation for her injuries. In particular, plaintiff had failed to present admissible evidence that the accident was a substantial factor in causing the injuries plaintiff claimed to have suffered.”

The court entered judgment on October 1, 2015. Plaintiff timely appealed.<sup>6</sup>

## DISCUSSION

### I. No error to grant motion to withdraw as counsel

Plaintiff contends the trial court abused its discretion in granting the motion of her former counsel to withdraw from the case. We disagree.

With court approval, an attorney may withdraw from representing a client while an action is pending. (§ 284; Cal. Rules of Court, rule 3.1362.) “The determination whether to grant or deny a motion to withdraw as counsel lies within the sound discretion of the trial court.” (*Manfredi & Levine v. Superior Court* (1998) 66 Cal.App.4th 1128, 1133.) We review the trial court’s decision for an abuse of that discretion. (*Ibid.*) ““The appropriate test for abuse of discretion is whether the trial court exceeded the bounds of reason. When two or more

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<sup>6</sup> The challenged orders are not appealable, but are reviewable upon appeal from the judgment. (See Code of Civ. Proc., § 904.1; *Freeman v. Sullivant* (2011) 192 Cal.App.4th 523, 527; *Cooper v. Deon* (1943) 58 Cal.App.2d 789.)

inferences can reasonably be deduced from the facts, the reviewing court has no authority to substitute its decision for that of the trial court.” [Citations.]” (*In re Marriage of Rosevear* (1998) 65 Cal.App.4th 673, 682.) “The burden is on the complaining party to establish abuse of discretion. [Citations.]” (*Ibid.*)

California Rules of Court, rule 3.1362 governs motions to be relieved as counsel. It requires preparation of a notice of motion, motion, declaration, and proposed order, as well as service of those documents on the client. (See also § 284 [attorney “may be changed at any time” upon “the order of the court, upon the application of either client or attorney, after notice from one to the other”].) The order relieving counsel must “specify all hearing dates scheduled in the action or proceeding, including the date of trial, if known. . . . After the order is signed, a copy of the signed order must be served on the client and on all parties that have appeared in the case.” (Cal. Rules of Court, rule 3.1362(e).)

Plaintiff asserts her attorney withdrew “without notice.” The evidence in the record does not support this contention. The motion to withdraw as counsel was filed on March 27, 2015 and served by overnight mail on plaintiff the same day, at an address plaintiff has confirmed as hers. The moving papers listed the hearing date of April 22, 2015, as well as the scheduled trial date of July 20, 2015, and included the requisite notice of motion and motion, declaration, and proposed order. Plaintiff appeared at the April 22, 2015 hearing.

Plaintiff does not expressly deny receiving Dargahi’s motion to withdraw. Instead, she claims she only learned of the April 22, 2015 hearing because she happened to call Dargahi the day before, and that, although present at the hearing, she was

unaware of his intent to withdraw until after the trial court had granted his motion. But these arguments are not supported by the record. (*Nwosu v. Uba* (2004) 122 Cal.App.4th 1229, 1246 [appellants must support contentions with reasoned argument and citations to authority and to the record; otherwise, contentions are forfeited]; *Badie v. Bank of America* (1998) 67 Cal.App.4th 779, 784-785.) Instead, the record demonstrates that Dargahi's motion complied with the statutory requirements, plaintiff was properly served, and did not oppose the motion either prior to or during the hearing. As such, it was well within the trial court's discretion to grant the motion relieving Dargahi as counsel.

Plaintiff also asserts that she was greatly prejudiced because the trial court permitted Dargahi to withdraw "only a few weeks prior to trial." Again, the record does not support this contention. Dargahi filed his motion to withdraw on March 27, 2015, four months prior to the date set for trial. The trial judge granted his motion on April 22, 2015, three months prior to the trial date. Ultimately, trial began on September 9, 2015, more than five months after Dargahi filed his motion to withdraw. Although plaintiff details the difficulties she faced in searching for another attorney and in attempting to litigate the case without counsel, she has provided no support for the claim that the court's order was an abuse of discretion. In addition, plaintiff alleges other misconduct by Dargahi (without record support), including his failure to pay the jury fees, his concealment of documents from her, and his pressure on her to accept a low settlement offer. But she does not suggest how any of this conduct, if true, would have provided a basis for the court to deny Dargahi's motion to withdraw, nor does she claim she raised any



of these issues with the trial court during the hearing on his motion. Accordingly, we find no error.

## **II. No error to limit and deny further trial continuances**

Plaintiff next points to a series of orders by the trial court that she contends denied her sufficient time to find a new attorney and prepare for trial: 1) the order by Judge Beaudet on July 27, 2015 granting her motion to continue the trial, but limiting the continuance to 37 days rather than the 90 plaintiff requested; 2) the order by Judge Raphael on September 9, 2015, denying her day-of-trial motion for a continuance; and 3) the order by Judge Palmer, also on September 9, 2015, denying her motion to continue the trial.

Trial dates are regarded as “firm.” (Cal. Rules of Court, rule 3.1332(a).) Trial continuances “are disfavored,” and may be granted “only on an affirmative showing of good cause requiring the continuance.” (*Id.*, (c).) In ruling on a continuance motion, the trial court must consider all relevant facts and circumstances, including the proximity of the trial date; prior continuances or delays; length of the continuance requested; availability of alternative means to address the problem giving rise to the request for a continuance; prejudice that parties or witnesses will suffer as a result of the continuance; the court’s calendar and the impact of granting a continuance on other pending trials; and whether the interests of justice are best served by a continuance, by trial or by imposing conditions on the continuance. (*Id.*, (d).) We review a decision denying a continuance for an abuse of discretion. (*Oliveros v. County of Los Angeles* (2004) 120 Cal.App.4th 1389, 1395; *Link v. Cater* (1998) 60 Cal.App.4th 1315, 1321.)

As an initial matter, plaintiff has incorrectly claimed, both before the trial court and in the instant appeal, that her request on July 27, 2015 was her first request for a trial continuance. In fact, the trial court continued the trial four times between June 2014 and July 2015, including twice while plaintiff was representing herself. The case had been pending since January 2013. Those circumstances alone would likely be a sufficient basis for the trial court to exercise its discretion to deny plaintiff's additional requests for continuances.

Moreover, while plaintiff argues on appeal that she needed additional time to retain a particular attorney and to subpoena her treating physicians as witnesses, the record does not support these claims. Nor has plaintiff established that these issues were presented to the trial court prior to trial.<sup>7</sup> Absent such support, we must presume the trial court's orders were correct. (See *Maria P. v. Riles* (1987) 43 Cal.3d 1281, 1295-1296, [the party appealing must provide adequate record demonstrating error]; *Estrada v. Ramirez* (1999) 71 Cal.App.4th 618, 620, fn. 1 [burden on the party appealing to provide accurate record on appeal to demonstrate error; failure to do so "precludes adequate review and results in affirmance of the trial court's determination"].) Indeed, plaintiff admits she was unable to retain new counsel in the more than four months between the withdrawal of her counsel and the start of trial, and she did not attempt to subpoena any witnesses until August 27, 2015, less than two weeks before trial. It was not an abuse of discretion for the trial

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<sup>7</sup> To the contrary, the certified settled statement states that plaintiff "never informed the court that she had served a subpoena on any witness," or that "she had designated any expert witnesses."

court to conclude that plaintiff failed to establish good cause for an additional continuance of the trial.

**DISPOSITION**

The judgment is affirmed. Defendants are awarded their costs on appeal.

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COLLINS, J.

We concur:

EPSTEIN, P. J.

WILLHITE, J.