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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT  
DIVISION THREE

SHAOXING BEIQI TEXTILE  
CO., LTD,

Plaintiff and Appellant,

v.

TOPSON DOWNS, INC.,

Defendant and Respondent.

B291726

Los Angeles County  
Super. Ct. No. BC679066

APPEAL from a judgment of the Superior Court of Los Angeles County, Elizabeth A. White, Judge. Affirmed.

George L. Young and Mark B. Hartzler for Plaintiff and Appellant.

Dapeer, Rosenblit & Litvak, Eric P. Markus, and William Litvak for Defendant and Respondent.

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## INTRODUCTION

Plaintiff Shaoxing Beiqi Textile Co., LTD (Shaoxing) appeals from a judgment of dismissal after the trial court sustained without leave to amend defendant Topson Downs, Inc.'s (Topson) demurrer. Shaoxing sued Topson for failing to pay for several orders of garments made by one of Topson's agents or, in the alternative, for breaching its guarantee to be responsible for the agent's debts. The operative first amended complaint asserts seven causes of action against Topson, ranging from breach of oral and written agreements to "agreement to answer for debts of others" and "reasonable value of goods." The court sustained Topson's demurrer to all seven causes of action because the claims were time-barred. We conclude Shaoxing failed to carry its burden of showing reversible error and affirm the judgment.

## DISCUSSION

It is well-settled that a judgment is presumed correct and all intendments and presumptions are indulged in favor of upholding the judgment. (Cal. Const., art. VI, § 13; *Dietz v. Meisenheimer & Herron* (2009) 177 Cal.App.4th 771, 799 (*Dietz*)). Accordingly, the appellant carries the burden of showing reversible error, even where review on appeal is de novo, as on demurrer. (*Smiley v. Citibank* (1995) 11 Cal.4th 138, 147; *Robbins v. Los Angeles Unified School Dist.* (1992) 3 Cal.App.4th 313, 318.) "An appellant must provide an argument and legal authority to support his contentions. ... It is not our place to construct theories or arguments to undermine the judgment and defeat the presumption of correctness. When an appellant fails to raise a point, or asserts it but fails to support it with reasoned

argument and citations to authority, we treat the point as waived. [Citation.]’ [Citation.]” (*Dietz*, at p. 799.)

On appeal, Shaoxing contends the court erred in finding all the company’s claims are time-barred because “there is no substantial evidence to support that finding.” Shaoxing also contends the court erred by taking judicial notice of certain facts or documents involving a prior lawsuit brought by Shaoxing. We conclude Shaoxing failed to carry its burden to affirmatively demonstrate error.

“To determine which statute of limitations governs a given cause of action, [an appellant] must first ‘ “identify the nature of the cause of action, i.e., the ‘gravamen’ of the cause of action.” [Citation.] The nature of the cause of action and the primary right involved, not the form or label of the cause of action or the relief demanded, determine which statute of limitations applies. [Citations.]’ [Citation.]” (*Austin v. Medicis* (2018) 21 Cal.App.5th 577, 585.) After identifying which statute of limitations applies to a given cause of action, an appellant must address when the cause of action accrued. (*Id.* at pp. 587–588.) “Generally speaking, a cause of action accrues at ‘the time when the cause of action is complete with all of its elements.’ [Citations.]” (*Fox v. Ethicon Endo-Surgery, Inc.* (2005) 35 Cal.4th 797, 806–807.)

In its order sustaining Topson’s demurrer, the court found Shaoxing’s causes of action were subject to different statutes of limitation since, for example, some of the claims are based on written agreements while others are based on oral agreements. (See Code Civ. Proc., §§ 337 [limitations period for written agreements] & 339 [limitations period for oral agreements].) Shaoxing, however, fails to address the specific elements of any of

its claims, let alone identify the statutes of limitations applicable to any of them.

By way of example, Shaoxing argues the court erred in sustaining the demurrer because the complaint alleges Topson executed a written guarantee to be responsible for its agent's debts, which can trigger the start of a new limitations period under Code of Civil Procedure section 360. Since the complaint does not allege when Topson executed the guarantee, Shaoxing contends the court could not conclude any statute of limitations barred Shaoxing's claim. But Shaoxing fails to explain which, if any, of its causes of action are based on Topson's execution of a written guarantee. And Shaoxing fails to identify any limitations period applicable to those causes of action. Likewise, by failing to address any of the individual causes of action asserted in the complaint, or any of the statutes of limitations applicable to those claims, Shaoxing has not shown how it was prejudiced by the court taking judicial notice of certain facts or documents.

In sum, Shaoxing did not address the nature of each cause of action or explain when the cause of action accrued. Shaoxing also did not identify which statute of limitations applies to a given cause of action. Because Shaoxing failed to carry its burden of showing reversible error, we affirm the judgment. (*Dietz*, *supra*, 177 Cal.App.4th at p. 799.)

## **DISPOSITION**

The judgment is affirmed. Topson shall recover its costs on appeal.

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LAVIN, J.

WE CONCUR:

EDMON, P. J.

EGERTON, J.