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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

ALFREDO MASIS SANCHO,

Plaintiff and Appellant,

v.

WOLFGANG EBNER et al.,

Defendants and Respondents.

B288261

(Los Angeles County
Super. Ct. No. BC633324)

APPEAL from a judgment of the Superior Court of Los Angeles County. Marc D. Gross, Judge. Affirmed.

Alfredo M. Sancho, in pro. per., for Plaintiff and Appellant.

Clark Hill, Richard H. Nakamura Jr. and Dean A. Olson for Defendants and Respondents.

Alfredo M. Sancho appeals from a summary judgment entered in favor of the Ebner Family Trust, Wolfgang Ebner, and Anne Lene Ebner (collectively, the Ebners). We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Sancho rented an apartment from the Ebners in 1996. He claims he was exposed to carbon monoxide and suffered from carbon monoxide poisoning due to a defective thermostat and heater on November 1, 2000. He filed a complaint for medical and general damages against the Ebners and others on October 17, 2001. Summary judgment was entered in favor of the defendants. The trial court found Sancho could not establish a triable issue of fact that the Ebners were aware of the defect prior to the time Sancho discovered it. They performed necessary checks and repairs to the apartment prior to Sancho moving in and they took immediate action after he alerted them of the problem. Division Seven of this court affirmed the summary judgment on appeal. (*Sancho v. Ramirez* (Sept. 13, 2004, B172227) [nonpub. opn.] (*Sancho I*)).

Sancho filed a second complaint against the Ebners on October 13, 2005, which added a new defendant, a plumber, and new facts related to an improperly installed chimney that allowed the carbon monoxide to recirculate in the apartment rather than ventilate out. The trial court sustained a demurrer without leave to amend on res judicata and statute of limitations grounds. Division Seven again affirmed on appeal. (*Sancho v. Ramirez* (Oct. 10, 2007, B189817) [nonpub. opn.] (*Sancho II*)).

Sancho filed a third complaint on September 9, 2016, which led to this appeal. In this latest complaint, he alleges a new injury resulting from the carbon monoxide exposure: he was diagnosed with Parkinson's disease in 2014. Summary judgment

was granted in favor of the Ebners on res judicata and statute of limitation grounds. The trial court held that res judicata applied regardless of whether Sancho's injuries worsened, but noted that Sancho claimed he had Parkinson's-like symptoms in *Sancho I*. Sancho timely appealed.

DISCUSSION

On appeal, Sancho acknowledges he has filed three lawsuits against the Ebners, each of which alleged the same occurrence of carbon monoxide poisoning resulted in injury to him. The first two pages of his opening brief consist of a recitation of the previous litigation with few citations to the record. Beyond these first two pages, however, his opening brief is largely incomprehensible. So far as we can tell, he contends he had no opportunity to dispute or oppose the summary judgment in *Sancho I* and the trial court failed to consider the new defendant or new evidence he presented in sustaining the Ebners' demurrer in *Sancho II*. He further contends res judicata does not bar this suit because he was diagnosed with Parkinson's disease in 2014, well after *Sancho I* and *Sancho II* were decided. He also argues the trial court abused its discretion in granting summary judgment and there was no substantial evidence for summary judgment.

Sancho, however, fails to present any coherent legal or factual argument to support his claims of error. The bulk of his opening brief is comprised of photocopies of pages from legal treatises and other secondary sources. The brief also includes a copy of what appears to be a filing in the trial court that is not a part of the clerk's transcript or listed in the case summary. Lastly, he has included a diagnosis of Parkinson's disease written

on a prescription pad by Rose Mary Berman, M.D., Ph.D.

The reply brief is much the same.

A judgment is presumed correct, and it is the appellant's burden to demonstrate prejudicial error. (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564, 566.) Sancho has wholly failed to bear his burden on appeal. As described above, Sancho's appellate briefs contain few citations to the record and no legal analysis to support their contentions. (Cal. Rules of Court, rule 8.204(a)(1)(B) [a brief must contain reasoned argument and legal authority to support its contentions]; Cal. Rules of Court, rule 8.204(a)(1)(C) [a brief must contain citations to the record]; *Nwosu v. Uba* (2004) 122 Cal.App.4th 1229, 1246 [we may disregard any claims when no appropriate reference to the record is furnished]; *Benach v. County of Los Angeles* (2007) 149 Cal.App.4th 836, 852.) We accordingly consider waived the issues Sancho seeks to raise in this appeal. (*Cahill v. San Diego Gas & Electric Co.* (2011) 194 Cal.App.4th 939, 956.)

Additionally, we deny Sancho's peremptory challenge of Judge Marc Gross under Code of Civil Procedure, section 170.6, filed in this court on January 28, 2019. Sancho contends he is entitled to Judge Gross's removal from his retrial. As an initial matter, the issue is moot given our affirmance of the summary judgment. (*MHC Operating Limited Partnership v. City of San Jose* (2003) 106 Cal.App.4th 204, 214.) Moreover, Sancho has presented no legal authority or factual argument to support the removal of Judge Gross. (*Duarte v. Chino Community Hospital* (1999) 72 Cal.App.4th 849, 856.)

DISPOSITION

The judgment is affirmed. Respondents to recover their costs on appeal.

BIGELOW, P. J.

We concur:

STRATTON, J.

WILEY, J.