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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

WALTER LANCASTER,

Plaintiff and Appellant,

v.

SEAN BARRY et al.,

Defendants and Respondents.

B282752

(Los Angeles County
Super. Ct. No. BC585422)

APPEAL from a judgment of the Superior Court of
Los Angeles County. Daniel S. Murphy, Judge. Affirmed.

Walter Lancaster, in pro. per., for Plaintiff and Appellant.

Sherman Law Corporation, Lisa Gail Sherman, and
Benjamin Possick for Defendants and Respondents.

Plaintiff and appellant Walter Lancaster purports to appeal from a judgment entered after an order granting the summary judgment motion of defendants and respondents Sean Barry and The Ticket Clinic, PLC.

FACTUAL AND PROCEDURAL BACKGROUND

As set forth in the first amended complaint (FAC), plaintiff retained defendants to represent him in defending against a traffic citation. The FAC contained six causes of action: legal malpractice, breach of fiduciary duty, fraud/deceit, negligence/negligent representation, ineffective assistance of counsel, and deceptive advertising. After the hearing on defendants' demurrer, only two causes of action remained, legal malpractice and breach of fiduciary duty.

On June 2, 2016, defendants moved for summary judgment. The hearing was scheduled for August 22, 2016. The caption page of the motion indicates that trial was set for 29 days later, September 20, 2016.

On June 6, 2016, defendants filed an ex parte application, seeking a one-day trial continuance, to September 21, 2016. The application was based on plaintiff's representations that he could not comply with discovery timely and because defendants' previously filed motion for summary judgment needed to be heard 30 days (not 29 days) before trial.

The trial court granted defendants' ex parte application for good cause shown and continued trial to November 22, 2016.

On August 22, 2016, the trial court granted defendants' motion for summary judgment. In so ruling, the trial court noted that plaintiff did "not oppose the motion or dispute any fact submitted by [d]efendants."

Judgment was entered, and this timely appeal ensued.

DISCUSSION

“A judgment or order of the lower court is *presumed correct*. All intendments and presumptions are indulged to support it on matters as to which the record is silent, and error must be affirmatively shown. This is not only a general principle of appellate practice but an ingredient of the constitutional doctrine of reversible error.” (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.) Thus, in challenging a judgment, the appellant must raise claims of reversible error or other defect, and “present argument and authority on each point made.” (*County of Sacramento v. Lackner* (1979) 97 Cal.App.3d 576, 591; accord, *In re Marriage of Ananeh-Firempong* (1990) 219 Cal.App.3d 272, 278.) “[F]ailure of an appellant in a civil action to articulate any pertinent or intelligible legal argument in an opening brief may, in the discretion of the court, be deemed an abandonment of the appeal justifying dismissal.” (*Berger v. Godden* (1985) 163 Cal.App.3d 1113, 1119.)

Plaintiff failed to meet his burden on appeal. While he provides us with record citations and citations to legal authority, he offers no cogent legal argument compelling reversal. He offers no argument that compels reversal of the trial court’s order sustaining defendants’ demurrer without leave to amend to four of the causes of action in the FAC. And, he offers no triable issue of material fact or legal argument that supports reversal of the order granting defendants’ motion for summary judgment. Nor could he. He failed to oppose the underlying motion for summary judgment. In short, he failed to demonstrate reversible error. (*Sprague v. Equifax, Inc.* (1985) 166 Cal.App.3d 1012, 1050.)

Since the issues as raised in plaintiff’s opening brief are not properly presented or sufficiently developed to be cognizable, we

decline to consider them and treat them as waived. (*People v. Stanley* (1995) 10 Cal.4th 764, 793; *People v. Turner* (1994) 8 Cal.4th 137, 214, fn. 19; *In re David L.* (1991) 234 Cal.App.3d 1655, 1661.) Notably, his election to act as his own attorney on appeal does not entitle him to any leniency as to the rules of practice and procedure; otherwise, ignorance unjustly is rewarded. (*Rappleyea v. Campbell* (1994) 8 Cal.4th 975, 984–985; *Lombardi v. Citizens Nat’l Trust & Sav. Bank* (1955) 137 Cal.App.2d 206, 208–209; *Gamet v. Blanchard* (2001) 91 Cal.App.4th 1276, 1284; *Nwosu v. Uba* (2004) 122 Cal.App.4th 1229, 1246–1247.)

At best for plaintiff, he is arguing that the trial court erred in granting defendants’ request to continue trial, so that their motion for summary judgment would be timely heard at least 30 days before trial. (Code Civ. Proc., § 437c, subd. (a)(3).) But, the trial court found good cause to grant defendants’ ex parte application, and on appeal plaintiff does not argue or otherwise demonstrate that good cause did not exist.

Finally, plaintiff urges us to reverse on the grounds that defendants “fraudulent[ly] imposter[ed]” themselves as plaintiff. Plaintiff seems to be directing us to typographical errors in some of the underlying papers in which defendants mistakenly identified themselves as the plaintiff in the underlying action. These obvious identification errors did not confuse the trial court or any of the parties. Plaintiff was not prejudiced by these de minimis mistakes. (Cal. Const., art. VI, § 13 [“No judgment shall be set aside . . . in any cause . . . for any error as to any matter of . . . procedure, unless, after an examination of the entire cause, including the evidence, the court shall be of the

opinion that the error complained of has resulted in a miscarriage of justice”].)

DISPOSITION

The judgment is affirmed. Defendants shall recover their costs on appeal.

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_____, J.
ASHMANN-GERST

We concur:

_____, P. J.
LUI

_____, J.
CHAVEZ