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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

MALIBU ESCROW CORPORATION, INC., Plaintiff, v. JEANNE SALAMON et al., Defendants and Appellants; REMINGTON CHASE, Defendant and Respondent.	B286748 (Los Angeles County Super. Ct. No. BC591488)

APPEAL from an order of the Superior Court of Los Angeles County. Ernest M. Hiroshige, Judge. Affirmed.

Law Offices of Thomas A. Nitti and Thomas A. Nitti for Defendants and Appellants.

Law Offices of Mark E. Saltzman and Mark E. Saltzman for Defendant and Respondent.

In this appeal, Jeanne Salamon (Salamon) challenges a trial court ex parte order reaffirming a prior court order made pursuant to a settlement and redirecting interpleaded funds to Remington Chase (Chase). Her arguments are confusing and incomplete and offer no grounds to reverse the trial court's order granting Chase's ex parte application. Accordingly, we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

As best as we can glean from the parties' briefs and appellate record, Salamon, Chase, and others were part of some sort of failed real estate transaction around 2005. At that time, funds were deposited into escrow with Malibu Escrow Corporation, Inc. (Malibu Escrow), as follows: Salamon deposited $450,000 and Chase deposited $50,000. After expenses were paid, there was a $497,500 balance.

At least two lawsuits followed. First, on September 9, 2005, Salamon brought an action against Chase. Chase's default was entered in 2006. In 2014, Salamon obtained a default judgment against Chase, for $450,000, plus prejudgment interest. On October 6, 2017, Salamon obtained a writ of execution for her money judgment against Chase.

Second, on August 14, 2015, Malibu Escrow filed the underlying interpleader action so that $497,500 could be appropriately distributed. At some point, the parties in this action settled. In relevant part, the parties agreed that $50,000

would be released to Malibu Escrow, $50,000 would be released to Chase's attorney, directly to his client trust account, and the remaining $397,500 would be released to Salamon. On October 23, 2017, the trial court ordered distribution of the interpleaded funds pursuant to the terms of the parties' settlement.

But, the $50,000 designated to Chase was intercepted by the Los Angeles County's Sheriff's Department pursuant to the writ of execution prior to distribution.

On November 29, 2017, Chase brought an ex parte application, asking the trial court to order the Sheriff to redirect the $50,000 to Chase's attorney's client trust account. Chase argued that when the parties stipulated to settle the interpleader action, Salamon "[o]bviously . . . contemplated that Chase [would] receive the $50,000, even with the default judgment in place." Chase further argued that the $50,000 did not belong to him; it belonged to people who loaned him the money. Chase's attorney needed that money to repay the persons who previously provided money to Chase. Finally, Chase argued that Salamon's default judgment (for $450,000, plus interest) "was for the same $450,000 which was the subject of the current action. She cannot collect her money [] twice."

Salamon opposed Chase's ex parte request. In her written opposition, she argued that (1) Chase was required to file and

serve a regularly noticed motion to recall and quash the writ of execution, pursuant to Code of Civil Procedure section 699.010; and (2) the monies could not be deposited into Chase's attorney's client trust account for Chase's attorney's benefit. On November 29, 2017, without hearing oral argument, the trial court granted Chase's ex parte motion. In so ruling, the trial court found that (1) its October 23, 2017, order was valid and enforceable; (2) that order was made pursuant to the parties' stipulation, which "was made to disburse the funds, regardless of any other obligations which may have existed between the parties"; (3) "[c]redible evidence indicates that the $50,000[] allocated" to the client trust account was for Chase's benefit; and (4) "[i]t was improper for a writ of attachment from another case, in favor of . . . Salamon and against . . . Chase, to be delivered to divert the interpleaded funds to . . . Salamon, even after . . . Salamon expressly agreed to have the funds sent to . . . Chase's attorney."

Salamon's timely appeal ensued.

DISCUSSION

In addressing an appeal, we begin with the presumption that a judgment or order of the trial court is presumed correct and reversible error must be affirmatively shown by an adequate record. (*Ballard v. Uribe* (1986) 41 Cal.3d 564, 574; *Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.) The appellant must "present argument and authority on each point made" (*County of*

Sacramento v. Lackner (1979) 97 Cal.App.3d 576, 591; Cal. Rules of Court, rule 8.204(a)(1)(B)) and cite to the record to direct the reviewing court to the pertinent evidence or other matters in the record that demonstrate reversible error. (Cal. Rules of Court, rule 8.204(a)(1)(C); *Guthrey v. State of California* (1998) 63 Cal.App.4th 1108, 1115.) It is not our responsibility to comb the appellate record for facts, or to conduct legal research in search of authority, to support the contentions on appeal (*Del Real v. City of Riverside* (2002) 95 Cal.App.4th 761, 768) and an appellant's "[f]ailure to provide an adequate record on an issue requires that the issue be resolved against [the appellant]. [Citation.]" (*Hernandez v. California Hospital Medical Center* (2000) 78 Cal.App.4th 498, 502.) If the appellant fails to cite to the record or relevant authority, we may treat the issue as forfeited. (*Mansell v. Board of Administration* (1994) 30 Cal.App.4th 539, 545–546.)

Salamon did not meet her appellate burden here. Her appellate brief is confusing. She offers no statement of appealability. (Cal. Rules of Court, rule 8.204(a)(2)(B).) She provides us with no appropriate standard of review. And, she failed to set forth adequate legal authority in support of her arguments.

In spite of these flaws, we have attempted to reach the merits of Salamon's appeal. Each of her arguments fails.

First, she claims that the trial court's order violates Code of Civil Procedure section 1008. In essence, she argues that by redirecting the $50,000 monies from the Sheriff back to Chase, the trial court improvidently granted reconsideration of the previously-issued writ of execution. The trial court's order did no such thing. All the trial court did was enforce the settlement. Code of Civil Procedure section 1008 was not implicated.

Second, Salamon argues that the trial court's order violates Code of Civil Procedure section 720.230. Salamon could have, but failed to, raise this argument in the trial court. Therefore, we deem it forfeited on appeal. (*Dietz v. Meisenheimer & Herron* (2009) 177 Cal.App.4th 771, 799–800.)

Regardless, on the merits, Salamon's argument fails. Code of Civil Procedure section 720.230 sets forth the procedure for a third party claim. A "Third-party claim" is defined in Code of Civil Procedure section 720.210, subdivision (a): "Where personal property has been levied upon under a writ of execution . . . a third person claiming a security interest in or lien on the personal property may make a third-party claim under this chapter if the security interest or lien claimed is superior to the creditor's lien on the property." Salamon has not demonstrated how Chase is a third party claimant and/or why he had to follow the procedures for third party claims in order to seek

enforcement of the settlement in the underlying interpleader action.

Finally, Salamon asserts that her rights were violated because the trial court granted Chase's ex parte request without an oral hearing. Salamon offers no legal authority in support of her claim that she was entitled to such a hearing. (*Benach v. County of Los Angeles* (2007) 149 Cal.App.4th 836, 852.) And, while she neglected to cite to the California Rules of Court governing ex parte applications (Cal. Rules of Court, rules 3.1200 through 3.1207), we have reviewed them and determine that they did not entitle Salamon to an oral hearing to address the court. She was given notice of the ex parte application and an opportunity to oppose Chase's ex parte application. In fact, she filed a written opposition and raised two grounds upon which she argued that Chase's ex parte application should be denied. It follows that her due process rights were not violated by the trial court's election to grant Chase's ex parte application without an oral hearing. (See *Titmas v. Superior Court* (2001) 87 Cal.App.4th 738, 742.)

DISPOSITION

The order is affirmed. Chase is entitled to his costs on appeal.

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_____, Acting P. J.
ASHMANN-GERST

We concur:

_____, J.
CHAVEZ

_____, J.
HOFFSTADT