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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

JULIET SARAEE,

Plaintiff and Appellant,

v.

STARLINE TOURS OF
HOLLYWOOD, INC.,

Defendant and Respondent.

B269120

(Los Angeles County
Super. Ct. No. BC503883)

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

Valor, Ramin Kermani-Nejad, Mohamad Ahmad, and B. Makoa Kawabata for Plaintiff and Appellant.

Lex Opus, Mohammed K. Ghods and Jeremy A. Rhyne for Defendant and Respondent.

Plaintiff, Juliet Saraee, appeals from a summary judgment. Plaintiff submitted an appendix for the appellate record. Plaintiff omitted seven declarations submitted by defendant, Starline Tours of Hollywood, Inc. in support of its summary judgment motion. Defendant argues the record was inadequate and the judgment should be affirmed. In reply, plaintiff contends that she had submitted all the necessary documents on appeal. Plaintiff argues that because all reasonable inferences are drawn in favor of the non-moving party, the only relevant material facts come from documents she submitted in opposition. Plaintiff asserts that if defendant wanted to rely on other documents in its appellate brief, it should have submitted its own appendix.

Appealed judgments and orders are presumed correct, and the appellant has the burden of overcoming this presumption by affirmatively showing error on an adequate record. (*Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1140-1141; *Stasz v. Eisenberg* (2010) 190 Cal.App.4th 1032, 1039.) The Court of Appeal has held: “The California Rules of Court require an appellant who elects to proceed by appendix to include, among other things, any document filed in the trial court which ‘is necessary for proper consideration of the issues, including . . . any item that the appellant should reasonably assume the respondent will rely on.’” (*Jade Fashion & Co., Inc. v. Harkham Industries, Inc.* (2014) 229 Cal.App.4th 635, 643, quoting Cal. Rules of Court, rule 8.124(b)(1)(B).) All intendments and presumptions are made to support the judgment or final order on matters as to which the record is silent. (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564; *Cahill v. San Diego Gas & Electric Co.* (2011) 194 Cal.App.4th 939, 956.) “A necessary corollary to this rule [is] that a record is inadequate . . . if the appellant predicates error

only on the part of the record he [or she] provides the trial court, but ignores or does not present to the appellate court portions of the proceedings below which may provide grounds upon which the decision of the trial court could be affirmed.’ [Citation.]” (*Osgood v. Landon* (2005) 127 Cal.App.4th 425, 435; accord, *Jade Fashion Co., Inc. v. Harkham Industries, Inc.*, *supra*, 229 Cal.App.4th at p. 644.) “‘The absence of a record concerning what actually occurred at the trial precludes a determination that the trial court [erred].’ [Citation.]” (*Oliveira v. Kiesler* (2012) 206 Cal.App.4th 1349, 1362.)

Here, plaintiff intentionally omitted from the record on appeal documents relied upon by the trial court in its decision granting summary judgment. The record is inadequate. We therefore must affirm the judgment. (See *Oliveira v. Kiesler*, *supra*, 206 Cal.App.4th at p. 1362; *Osgood v. Landon*, *supra*, 127 Cal.App.4th at p. 435.) We need not discuss any of the parties’ remaining arguments.

The judgment is affirmed. Defendant, Starline Tours of Hollywood, Inc., may recover its appellate costs from plaintiff, Juliet Saraee.

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TURNER, P. J.

We concur:

KRIEGLER, J.

BAKER, J.