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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

DONALD FREDRICKSON, Plaintiff and Appellant, v. ALBERT GERSH, Defendant and Respondent.	B266204 (Los Angeles County Super. Ct. No. BP125612)

APPEAL from an order of the Superior Court of Los Angeles County, David J. Cowan, Judge. Affirmed.

James Ellis Arden for Plaintiff and Appellant.

Law Offices of Savin & Bursk, Bonnie Marie Bursk and Lindsay Lupe Savin for Defendant and Respondent.

Donald Frederickson (Frederickson) appeals an order that denied his petition under Probate Code section 850 to determine title to a 1969 Ford Shelby (the car) as his sole property, granted a competing petition by Albert Gersh (Gersh or the Trustee), successor trustee of the Craig Gersh Trust dated July 11, 2002 (the Trust), and determined that the car and its disassembled parts belong one-half to Frederickson and one-half to the Trustee.

The essential issue presented is whether the trial court erred in determining that Frederickson and Craig Gersh (decedent) did not own the car as joint tenants with right of survivorship, and that as a consequence, Frederickson and the Trustee now share ownership of the car. We perceive no error and affirm the order.

FACTUAL AND PROCEDURAL BACKGROUND[1]

1. *Facts*.

Decedent and Frederickson became high school friends in the 1970's. In 1980, decedent was involve in a motorcycle accident that rendered him a quadriplegic. Despite his disability, decedent achieved success as an investment manager, until his physical condition precluded him from continuing to work. Decedent was able to sign his name to important documents by using a mouth pen. As for Frederickson, he worked in various automobile businesses, although not as a mechanic, and he had some experience in motorcycle repair.

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[1] The appellant's opening brief states "[n]o issue is taken regarding the court's factual findings, which are not in dispute," and that the appeal is confined to the trial court's legal conclusions and statutory interpretation. Therefore, we summarize the factual background largely from the trial court's statement of decision.

In 1991, Frederickson purchased the subject vehicle, an inoperable 1969 Shelby GT500, a classic "muscle" car. The purchase price was $2,000, according to the application for title. Frederickson did nothing with the car for 13 years.

In 2004, Frederickson and decedent entered into a joint venture with respect to the car. Prior to that, they had not spoken in three years. They orally agreed that decedent would pay for what it would take to restore the car to showroom condition, with Frederickson to perform the physical labor needed to do so. There was no specific deadline for completion of the project. Thereafter, Frederickson brought the car to decedent's home and parked it in the garage where the work could be done.

In June 2004, Frederickson submitted a title application to the Department of Motor Vehicles (DMV) for registration of Frederickson and decedent as the owners of the car. The title application was purportedly signed on decedent's behalf by one of his then caregivers, "Otto Gonzalez P.O.A.," but there was no evidence that Gonzalez had a power of attorney.[2] [3]

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[2] Judith Stephens, a vehicle verifier who came to decedent's home and assisted with the paperwork, did not testify at trial.

[3] Decedent's sister, Kimberly Wilson (Wilson), testified that Gonzalez worked for decedent for "just a few months." Wilson stated that she never saw Gonzalez sign decedent's name. According to Wilson, decedent's main caregiver was R.J., who worked for decedent from the mid-1990's until decedent's death in 2010, and decedent never allowed R.J. to sign his name either. Similarly, another caregiver, Remigio Pena, Jr. (Pena), testified he had worked for decedent longer than anyone else, starting in 1985, and decedent never gave him a power of attorney. According to Gersh, decedent "only gave one power of attorney his

On June 25, 2004, the DMV issued a title certificate showing Frederickson "or" decedent as the registered owners of the car.[4] Notwithstanding the use of the word "or," neither the title application nor the certificate of title specifically stated that Frederickson and decedent were owners as joint tenants.

Thereafter, Frederickson disassembled the car and took voluminous notes and photographs of the parts for purposes of later reassembly. Decedent, in turn, spent about $40,000 for parts. The project dragged on for years, the work on the car was sporadic and it was never completed.

In 2007, decedent amended the living trust he created in 2002 (before decedent acquired an interest in the car), leaving his estate to his brother, Gersh, and their sister, Wilson. At the same time, decedent signed a pour-over will which left his assets to the Trust. In connection therewith, decedent specified in writing that the car was part of his personal property to be assigned to the Trust.

On January 9, 2010, decedent died.

In February 2010, Frederickson caused the car's registration to be changed. The new title certificate showed Frederickson as the sole owner. Thereafter, Frederickson caused

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entire life, and that was a medical advance directive, durable power of attorney for medical, and he gave that to our mother."

[4] By statute, the use of the word "or" denotes joint tenancy. "A vehicle may be registered in the names of two (or more) persons as coowners in the alternative *by the use of the word 'or.'* A vehicle so registered in the alternative shall be deemed to be held in *joint tenancy*." (Veh. Code, § 4150.5, subd. (a), italics added; see also, Veh. Code § 5600.5, subd. (a).)

the title certificate to be further amended to reflect he held a lien on the vehicle.

Frederickson did not tell Gersh that he had changed the title certificate to show himself as the sole owner. Frederickson continued to come to decedent's home occasionally to work on the car.

In March 2010, Frederickson and Gersh met to discuss the car. Frederickson was aware that Gersh believed he was a part owner of the car, but Frederickson did not disclose to Gersh that he had changed the title to designate himself the sole owner.

On November 10, 2010, the Trustee filed a petition seeking a determination that decedent's home was an asset of the Trust, and that the car was also a Trust asset. The Trustee did not serve Frederickson with notice of the petition.[5] By order entered on April 1, 2011, the trial court granted the Trustee's petition.

In October, 2011, Frederickson and Wilson met to discuss the car. Wilson and Gersh were frustrated that Frederickson still had not completed restoration of the vehicle. Wilson told Frederickson that the Trust owned the car and Frederickson advised her that the DMV certificate showed he was the owner.

The following month, while at decedent's house, Frederickson saw a copy of the April 2011 order determining the car was an asset of the Trust. Frederickson summoned the police, who declined to be involved in a civil dispute. Thereafter, Gersh denied Frederickson access to the garage where the car was housed.

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[5] The Trustee later argued that his intent in bringing that petition was merely to convey to the Trust the half share of the car that belonged to decedent. However, neither the petition nor the order made that clear.

2. *Proceedings.*

a. *Pleadings.*

On January 26, 2012, Frederickson filed a petition against the Trustee for determination of ownership of the car, for double damages, and to recover possession of the car. Frederickson contended that he and decedent had owned the car in joint tenancy prior to decedent's death, and that Frederickson now was its sole owner. The Trustee denied that the car had been held in joint tenancy and asserted that he, as Trustee, owned a one-half interest in the car, with Frederickson owning the other half.

On July 11, 2012, the Trustee filed a petition against Frederickson for fraud, dependent adult abuse (contending that decedent was at all relevant times a dependent adult within the meaning of the Welfare and Institutions Code), and for a determination that he held a one-half ownership interest in the car, by reason of the April 1, 2011 order. The Trustee further alleged that decedent entered into the agreement with Frederickson to make a profit and as an investment, and that "the joint venture agreement between [decedent] and Frederickson was to have title to the [car] as *tenants in common*, and not joint tenancy." (Italics added.)

On February 19, 2015, Frederickson filed a motion to vacate that part of the order of April l, 2011 determining that the car was transferred from decedent's estate to the Trust. On March 10, 2015, the trial court granted the motion, subject to the stipulation that if ultimately the court were to deny Frederickson's petition, one-half of the car would be deemed to be an asset of the Trust as opposed to part of decedent's estate.

b. *Trial and statement of decision*.

After the trial court denied a motion by Frederickson for summary judgment, the petition and cross-petition proceeded to trial. On April 30, 2015, the trial court determined the car was *not* held in joint tenancy. It issued a statement of decision which provided in relevant part:

"[Frederickson's] claim rests solely on the DMV application and the resulting title registration. [He] contends that by the DMV certificate showing ownership as either [Frederickson] 'or' [decedent], joint tenancy ownership (as opposed to tenancy in common) is '*presumed*' under Vehicle Code sec. 4150.5. (In turn, under Vehicle Code sec. 5910.5(a), on the death of one joint tenant, the interest of the decedent passes to the survivor.) [Citation.] However, here, the registration was invalid from the start where there was no evidence that the short term caregiver had a power of attorney – as indicated on the application. . . . [¶] On the basis of a lack of a power of attorney, [Frederickson] fails to meet his burden of proof to establish the validity of the certificate (that was upon the application). Hence, no presumption arises in this case."

Other than "the DMV application and registration, there was little evidence to support [Frederickson's] contention that the [car] was to be held in joint tenancy: [Frederickson's] testimony was not helpful to his case in his acknowledging that he and [decedent] did not go into any detail relating to the agreement. . . . . Indeed, it was unlikely [decedent] and [Frederickson] would have discussed what would happen if one of them died as at least [decedent] did not expect that the project would last very long and then they would sell the [car]. As of 2004, [decedent's] health was also not in the significantly poorer condition as it

would later become. [¶] What seems more likely was the intent of both [parties] in registering the [car] with the DMV was merely to protect their respective investments: As [Frederickson] himself acknowledged, [decedent] had reason to have his name on the registration because he was going to be putting significant money into the project. Similarly, [Frederickson] testified he wanted to protect the value of the time he had devoted to the project in the event [decedent] passed. That both persons may have wished to protect their respective contributions, however, does not also mean they were showing an intent as to who would own the [car] after either of them might pass. . . . .

"In addition, the certificate does not state they were holding title as joint tenants – as is true in the more usual situation for joint tenancy where . . . real property deed[s] state that persons are holding title in joint tenancy. Unlike a deed stating joint tenancy, here the document did not use those words. The use of the word 'or' would not necessarily connote to a reasonable person that there is a joint tenancy as opposed to joint venture. . . .

"Hence, where the Court does not find that [Frederickson] has proved a joint tenancy by lack of a verifying power of attorney, there is no presumption arising from title that [the Trustee] is required to rebut by clear and convincing evidence. Moreover, even if there was a joint tenancy, by virtue of Vehicle Code sec. 4150.5, the Court finds [the Trustee] has established clear and convincing evidence to rebut the presumption of title arising from the certificate: Even leaving aside all of the foregoing surrounding circumstances which cause the Court to put little weight in the DMV application and certificate, [decedent] showed a contrary intent to put his interest in the

[car] in the Trust, and for [Gersh] and [Wilson] to be the beneficiaries of the Trust. [Decedent's] intent to put his ownership interest in the [car] in the Trust (which he did in his own handwriting) is a far clearer showing of his intent than the title application. [Decedent] wanted his one-half interest to go to his family rather than to [Frederickson].

"Further, where the title certificate was sent to [Frederickson], not [decedent], and there was no evidence of any certificate ever having gone to [decedent], it is not clear that [decedent] would even have known how title was held precisely or that as a result of how title was held that the DMV treated such as joint tenancy.

"Where the Court does not find there ever was a joint tenancy, the Court does not need to address the further issue of if there was a joint tenancy, whether it was rendered invalid by reason of [Frederickson] having later contended he had a lien. Notwithstanding the foregoing, however, [Frederickson] may not now permissibly claim a lien or title to the [car]. [His] petition did not make such claim. Moreover, [Frederickson] presented no evidence that [decedent] ever agreed he could have a lien. [Frederickson's] interest in the [car] is only by way of his one half ownership interest."

The trial court further found: the Trustee did not defraud Frederickson by obtaining the April 1, 2011 order without giving notice to Frederickson; and Frederickson did not defraud the Trustee by failing to tell him after decedent died that Frederickson had changed the DMV registration. However, Frederickson committed dependent adult abuse by trying to obtain a right of survivorship to the car by way of an invalid DMV application. Although decedent did not suffer any damage

resulting from said financial abuse, the Trustee was still entitled to recover attorney fees under Welfare and Institutions Code section 15657.5, subdivision (a).

c. *The order determining title to the car*.

On May 19, 2015, the trial court entered an order declaring the car was not held in a joint tenancy, but rather, pursuant to a joint venture agreement between Frederickson and decedent. Therefore, the car and its disassembled parts belong one half to the Trustee and one half to Frederickson, and the Trustee was authorized to file with the DMV the necessary documents to show the proper ownership of the vehicle. The order also stated that the Trustee "may file a motion for attorney's fees and costs—which issue the Court bifurcated at trial."

Following denial of Frederickson's motion for new trial, he filed a timely notice of appeal from the May 19, 2015 order. (Cal. Rules of Court, rule 8.108(b).)[6]

CONTENTIONS

Frederickson contends: the trial court erred in finding a power of attorney was required to apply for a certificate of title, and in finding that Frederickson and decedent did not own the car as joint tenants, and the court abused its discretion in invalidating the DMV's 2004 and 2010 title certificates which

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[6] An order of the probate court determining title to personal property is appealable. (Prob. Code, §§ 850, 1300; *In re Estate of Redfield* (2011) 193 Cal.App.4th 1526, 1534, fn. 4.) Probate Code section 1300 states in relevant part: "In all proceedings governed by this code, an appeal may be taken from the making of, or the refusal to make, any of the following orders: [¶] . . . [¶] (k) Adjudicating the merits of a claim made under Part 19 (commencing with Section 850) of Division 2."

were issued for the car. Frederickson also contends the trial court erred in awarding attorney fees to the Trustee, and in denying Frederickson's motion for summary judgment and motion for new trial.

DISCUSSION

1. *Trial court properly found that Frederickson and decedent did not create a joint tenancy and thus they owned the car as tenants in common.*

a. *The application for title that resulted in title being vested in joint tenancy was defective because there was no evidence that Gonzalez held a power of attorney; if joint tenancy fails, tenancy in common arises.*

The 2004 application for title or registration purportedly was signed on decedent's behalf by Gonzalez, one of decedent's caregivers; it was this application for title that resulted in the DMV's issuance of a certificate of title vesting ownership in Frederickson and decedent as joint tenants.

The trial court made a factual finding that decedent did not give Gonzalez a power of attorney. That finding is uncontested. Based on that finding, the trial court properly determined that the lack of a power of attorney invalidated the application for title in joint tenancy as well as the certificate of title in joint tenancy. We are mindful that a power of attorney is legally sufficient if it meets certain requirements,[7] and that third parties

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[7] "A power of attorney is legally sufficient if all of the following requirements are satisfied: [¶] (a) The power of attorney contains the date of its execution. [¶] (b) The power of attorney is signed either (1) by the principal or (2) in the principal's name by another adult in the principal's presence and at the principal's direction. [¶] (c) The power of attorney is either (1) acknowledged before a notary public or (2) signed by at

are entitled to rely on a power of attorney if certain conditions are met.[8] Here, however, there was no evidence that Gonzalez held a power of attorney, let alone that he presented it to anyone in connection with this transaction. Therefore, the application for title in joint tenancy, purportedly signed by Gonzalez pursuant to a power of attorney, does not establish that the parties intended to hold the car as joint tenants.

If the attempted creation of a joint tenancy fails, and the parties are neither husband and wife nor partners, a tenancy in common ordinarily results. (12 Witkin, Summary of Cal. Law (10th ed. 2005) Real Property § 40.) Tenancies in common are favored under California law. (*Wilson v. S.L. Rey, Inc*. (1993) 17 Cal.App.4th 234, 242.) "Every interest created in favor of several persons in their own right is an interest in common, unless acquired by them in partnership, for partnership purposes, or unless declared in its creation to be a joint interest, as provided in Section 683, or unless acquired as community property." (Civ. Code, § 686.)

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least two witnesses who satisfy the requirements of Section 4122." (Prob. Code, § 4121.)

[8] "A third person who acts in good faith reliance on a power of attorney is not liable to the principal or to any other person for so acting if all of the following requirements are satisfied: (1) The power of attorney is presented to the third person by the attorney-in-fact designated in the power of attorney. (2) The power of attorney appears on its face to be valid. (3) The power of attorney includes a notary public's certificate of acknowledgment or is signed by two witnesses." (Prob. Code, § 4303, subd. (a).)

Therefore, the trial court properly found the title application was ineffective to vest title in joint tenancy. As a result, Frederickson and decedent were tenants in common.

b. *Trial court properly found that even if a presumption of joint tenancy arose by virtue of the form of title, the Trustee established clear and convincing evidence to rebut the presumption of title arising from the certificate.*

As indicated, the trial court also found that even assuming "there was a joint tenancy, by virtue of Vehicle Code sec. 4150.5, the Court finds [the Trustee] has established clear and convincing evidence to rebut the presumption of title arising from the certificate: Even leaving aside all of the foregoing surrounding circumstances which cause the Court to put little weight in the DMV application and certificate, [decedent] showed a contrary intent to put his interest in the [car] in the Trust, and for [Gersh] and [Wilson] to be the beneficiaries of the Trust."

The "form of title presumption affects the burden of proof. [Citations.] That is, the party asserting that title is other than as stated in the deed [here, the Trustee] has the burden of proving that fact by clear and convincing evidence. [Citations.] The presumption can be overcome only by evidence of an agreement or understanding between the parties that the title reflected in the deed is not what the parties intended." (*In re Marriage of Brooks* (2008) 169 Cal.App.4th 176, 189, disapproved on other grounds by *In re Marriage of Valli* (2014) 58 Cal.4th 1396, 1405; see Evid. Code, § 662.)

Frederickson contends the Trustee failed to establish by clear and convincing evidence below that Frederickson and the decedent did not intend to own the car as joint tenants. We disagree.

Notwithstanding the heightened clear and convincing evidence standard that applied below, our role is only to determine whether there is substantial evidence to support a determination by that higher standard. (*Mike Davidov Co. v. Issod* (2000) 78 Cal.App.4th 597, 605-606; *Bowers v. Bernards* (1984) 150 Cal.App.3d 870, 873 [reviewing court looks to entire record to determine existence of substantial evidence].) The evidence showed:

Although Frederickson and decedent were longtime friends, they were not that close. Frederickson admitted that before he and decedent entered into this joint venture in 2004, they had lost contact with one another and had not spoken in three years. Decedent had numerous health problems, and by 2004 he had already exceeded his life expectancy. Decedent expected it would cost $40,000 to $60,000 to restore the car, and Pena, decedent's long-time caregiver, testified that if decedent were not on title "he [would] not go for it." Decedent wanted to protect his investment. Decedent expected the car would be worth as much as $150,000 once fully restored. Pena testified that decedent never told him that if decedent were to die, Frederickson would own the car in its entirety. Decedent was frustrated that Frederickson was "lollygagging" in his work on the car. As the project dragged on, decedent had to take on debt, drawing funds from his home equity line of credit to fund the project, and he was uncomfortable about having to make those payments. In 2007, when decedent nearly died, he updated his estate plan and specified that he wanted his investment in the car to go into the Trust, to benefit his family.

In view of the above, the trial court properly found by clear and convincing evidence that the parties did not contemplate

holding the car in joint tenancy. Decedent, who was likely to predecease Frederickson, intended to leave his valuable stake in the car to his family, not to his joint venturer.

c. *Frederickson's additional arguments are unpersuasive*.

Frederickson contends there is no legal requirement that Gonzalez hold a power of attorney when, standing next to decedent, and acting at decedent's direction, "Gonzalez acted merely as an *amanuensis* when he signed for [decedent], not as an attorney-in-fact."[9] There are at least two problems with this argument.

First, the face of the title application reflects that Gonzalez purportedly signed the title application as "Otto Gonzalez P.O.A.," as decedent's attorney-in-fact, not as his amanuensis.

Further, while Frederickson asserts that Gonzalez signed the title application at decedent's request, the statement of decision does not contain such a finding. To the contrary, the statement of decision indicates the trial court did not credit Frederickson's testimony in that regard. The statement of decision provides in relevant part: "[Frederickson] stated the DMV clerk told him to put his name in the title holder section when he went to the DMV (*after Mr. Gonzalez had already*

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[9] "Amanuensis" is defined as " 'one who copies or writes from the dictation of another.' " (*Estate of Stephens* (2002) 28 Cal.4th 665, 671, fn. 1.) The amanuensis rule "provides that where the signing of a grantor's name is done with the grantor's express authority, the person signing the grantor's name is not deemed an agent but is instead regarded as a mere instrument or amanuensis of the grantor, and that signature is deemed to be that of the grantor." (*Id.* at pp. 670-671.)

allegedly signed for [*decedent*])." (Italics added.) Thus, the trial court did not find that Gonzalez signed the title application at decedent's direction. Moreover, the trial court found that "[decedent] made a point of himself signing important documents with his mouth pen."

For these reasons, we reject Frederickson's attempt to recharacterize Gonzalez's role as decedent's amanuensis.

Frederickson also contends the trial court usurped the DMV's role by requiring a written power of attorney, despite the fact that in 2004 the DMV accepted the title application and issued title in conformity with the application.[10] Frederickson's claim that the trial court improperly required Gonzalez to have a written power of attorney is meritless. Gonzalez had to have a written power of attorney to sign the title application as decedent's attorney-in-fact not because the trial court was second-guessing the DMV's determination, but because the statute requires a power of attorney to be in writing. (Prob. Code, § 4121.) Further, Frederickson does not cite any authority for the proposition that the DMV's approval of an application for title is binding and conclusive in judicial proceedings.[11]

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[10] Vehicle Code section 1653 states: "The department shall examine and determine the genuineness and regularity of every application or document filed with it under this code and may require additional information or reject any such application or document if not satisfied of the genuineness and regularity thereof or the truth of any statement contained therein."

[11] In ruling on the matter, the trial court explained, "Even if the certificate was valid for purposes of the DMV, this does not preclude this Court [from] finding it is [in]valid for purposes of creating a presumption. Unlike this Court, the DMV has not had an opportunity to consider the surrounding facts or have the

Frederickson also contends that if the DMV application and titles are invalid, then he remains the sole owner, as he was before the application for joint title was filed in 2004. Frederickson's assertion that he is the sole owner of the car is at odds with the joint trial statement, wherein Frederickson stipulated that in 2004, he and decedent "agreed to a joint venture to restore the [car]." Further, given the evidence adduced at trial, Frederickson's claim of sole ownership is meritless.

2. *Remaining issues.*

a. *Frederickson's contention the trial court erred in awarding attorney fees to the Trustee is not properly before this court; the trial court did not award any fees to the Trustee; review of the Trustee's entitlement to attorney fees must await a timely appeal from a postjudgment order awarding fees.*

Frederickson contends the trial court erred in awarding attorney fees to the Trustee under the financial abuse statute because the court expressly found that no financial abuse occurred,[12] and because decedent was not a dependent adult in 2004 when the title application was made.

Contrary to Frederickson's contention, attorney fees were *not* awarded in the instant proceeding. The May 19, 2015 order after trial, which is the subject of this appeal, states with regard to attorney fees only that "[decedent] was a dependent adult and that [Frederickson] committed dependent adult abuse, and that

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burden of determining what effect the certificate should have in a judicial proceeding."

[12] Actually, the trial court found there was financial abuse, but decedent "did not suffer any damage resulting from said financial abuse."

Albert Gersh as Trustee is entitled to attorney fees, under Welfare and Institutions Code sec. 15657(a), *to be brought as a separate motion pursuant to the previous bifurcation of the matter*." (Italics added.) Thus, the order did not award fees to the Trustee, but instead contemplated further proceedings to determine the amount of the fees to be awarded.

Consequently, the issue of the Trustee's entitlement to attorney fees is not reviewable at this juncture. "[I]f a judgment determines that a party is entitled to attorney's fees but does not determine the amount, that portion of the judgment is nonfinal and nonappealable." (*P R Burke Corp. v. Victor Valley Wastewater Reclamation Authority* (2002) 98 Cal.App.4th 1047, 1053 (*Burke*).) Here, "further judicial action [is] necessary to determine the *extent* of the [Trustee's] entitlement to attorney's fees. Indeed, the trial court could still [rule] that the amount of fees to which the [Trustee] [is] entitled [is] zero—if, for example, the [Trustee] fail[s] to submit adequate evidence of the amount." (*Id*. at p. 1054.) Therefore, "an order determining the entitlement to attorney's fees, but not the amount of the fee award, is interlocutory. This is true even if such an order is contained in what is otherwise an appealable judgment. It follows that, in an appeal from a postjudgment order awarding attorney's fees, we may review the entitlement to, as well as the amount of, the fees awarded." (*Id*. at p. 1055; see generally, Eisenberg, Cal. Prac. Guide: Civil Appeals & Writs (The Rutter Group 2016) § 2:156.2a, p. 2-100.) This rule is also "consistent with the policy against piecemeal appeals." (*Burke*, *supra*, at p. 1054.)

For these reasons, the trial court's determination that the Trustee is entitled to recover attorney fees is not reviewable on the instant appeal from the May 19, 2015 order.

b. *Frederickson's contentions relating to the denial of his motion for summary judgment and the denial of his motion for new trial are not developed and thus are waived.*

Lastly, Frederickson makes a cursory argument that the trial court erred in denying his motions for summary judgment and for new trial. The contentions are wholly undeveloped. Frederickson fails to discuss the showing that he made in seeking summary judgment and in seeking a new trial, let alone why his showing below entitled him to a grant of those motions. Frederickson has not supplied the necessary legal analysis, citation to authority, or citation to the record.

" ' "Appellate briefs must provide argument and legal authority for the positions taken. '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.] "We are not bound to develop appellants' arguments for them. [Citation.] The absence of cogent legal argument or citation to authority allows this court to treat the contention as waived." ' (*Cahill v. San Diego Gas & Electric Co.* (2011) 194 Cal.App.4th 939, 956.)" (*Holguin v. DISH Network LLC* (2014) 229 Cal.App.4th 1310, 1322-1323, fn. 5.)

Accordingly, Frederickson's contentions that the trial court erred in denying his motions for summary judgment and for new trial require no discussion.

DISPOSITION

The May 19, 2015 order is affirmed. Respondent shall recover costs on appeal.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

EDMON, P. J.

We concur:

ALDRICH, J.

LAVIN, J.