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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

AVA NAEINI,

Plaintiff and Appellant,

v.

CONFLUENT INC.,

Defendant and
Respondent.

B340756

(Los Angeles County
Super. Ct. No. 22STCV21275)

APPEAL from a judgment of the Superior Court of Los Angeles County, Douglas Stern and Stephen P. Pfahler, Judges. Affirmed.

Ava Naeini, in pro. per., for Plaintiff and Appellant.

Littler Mendelson, Alecia W. Winfield, Anthony G. Ly and Hider J. Al-Mashat for Defendant and Respondent.

* * * * *

Ava Naeini (appellant), who appears in propria persona, appeals from a judgment entered against her after the trial court sustained without leave to amend her fourth amended complaint against her former employer, Confluent Inc. (respondent). As appellant fails to show error, we affirm the judgment.

BACKGROUND

An appellant's brief must contain a summary of significant facts, limited to matters in the record. (Cal. Rules of Court, rule 8.204(a)(2)(C); see *LA Investments, LLC v. Spix* (2022) 75 Cal.App.5th 1044, 1061.) Appellant's briefs contain no citations to the record, therefore her factual and procedural assertions are completely unsupported and are forfeited on appeal. (Cal. Rules of Court, rule 8.204(a)(1)(C) [each brief must "[s]upport any reference to a matter in the record by a citation to the volume and page number of the record where the matter appears"]; see *Fernandes v. Singh* (2017) 16 Cal.App.5th 932, 942–943.) Appellant's status as a self-represented appellant does not exempt her from the rules of appellate procedure. (*Nwosu v. Uba* (2004) 122 Cal.App.4th 1229, 1247 [appellant "is not exempt from [appellate] rules because he is representing himself on appeal in propria persona"].) As respondent has provided citations to relevant background, we provide a brief description of the case history.

First three complaints and demurrers

On June 29, 2022, appellant filed her original complaint, asserting 15 causes of action. She alleged it was a personal injury civil case. It was assigned to Judge Michael E. Whitaker.

On August 29, 2022, appellant filed a 93-page first amended complaint for damages, removing four causes of action and adding four new causes of action. On September 28, 2022, respondent demurred and moved to strike appellant's first amended complaint.

On October 6, 2022, the superior court vacated all pending dates because appellant's case was not a personal injury case. On October 10, 2022, the case was reassigned to the independent calendar of Judge Douglas W. Stern. On October 25, 2022, respondent refiled its demurrer and motion to strike. Appellant did not oppose respondent's demurrer or motion to strike. On November 23, 2022, the court sustained respondent's demurrer as to all causes of action and granted respondent's motion to strike with leave to amend. The court noted appellant "makes a lot of irrelevant or conclusory statements that do not prove the elements of each cause of action," and the first amended complaint was "generally ambiguous and unintelligible." The motion to strike was granted on the ground appellant made statements that were "irrelevant or improper" and included "personal attacks against other employees" of respondent.

On November 30, 2022, appellant filed a 92-page second amended complaint that identified six causes of action in the caption but included in the body of the complaint 14 causes of action previously alleged. On February 17, 2023, respondent again demurred. Respondent also moved to strike the second amended complaint because it contained the same irrelevant and improper allegations as the first amended complaint. Appellant did not oppose the demurrer or motion to strike the second amended complaint.

On March 21, 2023, the trial court sustained without leave to amend respondent's demurrer to the following causes of action: economic duress; rescission of contract; intentional infliction of emotional distress; negligent infliction of emotional distress; failure to prevent discrimination, harassment and retaliation in violation of Government Code section 12940 et seq.; negligence; and negligent hiring and supervision of employees. The motion to strike was granted, in part, without leave to amend.

The court sustained respondent's demurrer with leave to amend as to the following causes of action: harassment, retaliation, wrongful constructive retaliation, discrimination, defamation, breach of covenant of good faith and fair dealing, and workplace harassment. The court noted the second amended complaint was substantially similar to the first amended complaint and was "exceedingly confusing" and "devoid of the necessary factual allegations to properly plead a claim."

Continuances

On March 17, 2023, appellant filed an ex parte application for a 120-day continuance of calendared hearings due to claimed unavailability. The ex parte application was placed off calendar by the court due to lack of a declaration of notice. However, the court considered the application on March 21, 2023, the same day as the hearing on respondent's demurrer, and granted appellant an approximately 165-day continuance.

On July 12, 2023, the court granted appellant's second ex parte application for a continuance of calendared hearings.

Third amended complaint and demurrer

On September 24, 2023, appellant filed an 87-page third amended complaint that alleged seven causes of action for (1) harassment in violation of Government Code section 12940 et

seq., (2) retaliation in violation of Government Code section 12940 et seq., (3) wrongful constructive termination in violation of public policy, (4) discrimination in violation of Government Code section 12940 et seq., (5) defamation, (6) breach of covenant of good faith and fair dealing, and (7) workplace harassment.

On October 16, 2023, respondent demurred to the third amended complaint. Respondent argued appellant should not be granted leave to amend because she exhausted the three-amendment limit set forth in Code of Civil Procedure section 430.41, subdivision (e)(1). Respondent moved to strike repetitive irrelevant and improper allegations. Appellant did not oppose respondent's motion to strike.

On November 14, 2023, the court sustained respondent's demurrer with leave to amend as to all of appellant's causes of action except the defamation claim. The demurrer to the defamation claim was sustained without leave to amend. Respondent's motion to strike was granted in part. The court noted, "[m]any of these causes of action are the same as or very similar to [appellant's] previous iterations of these causes of action."

Case reassignment and motion to challenge the judge

On January 10, 2024, the superior court notified appellant that her action, previously assigned to Judge Stern, was now assigned to Judge Stephen P. Pfahler for all purposes.

On April 22, 2024, appellant filed a motion to disqualify Judge Pfahler pursuant to Code of Civil Procedure section 170.6. The motion was denied as untimely.

On April 24, 2024, appellant filed a motion to disqualify Judge Pfahler for cause. Appellant's motion was based on her disagreement with the court's ruling on her initial motion to

disqualify. The court denied the motion because appellant “disclose[d] no legal grounds for disqualification.” Appellant did not seek a writ of mandate from the Court of Appeal within 10 days.

Appellant’s fourth amended complaint and demurrer

On January 16, 2024, appellant filed the operative fourth amended complaint, asserting six causes of action for (1) harassment in violation of Government Code section 12940 et seq., (2) retaliation in violation of Government Code section 12940 et seq., (3) wrongful constructive termination in violation of public policy, (4) discrimination in violation of Government Code section 12940 et seq., (5) breach of covenant of good faith and fair dealing, and (6) workplace harassment. Instead of removing the dismissed causes of action and stricken allegations, she used graphical strikethroughs to cross out claims and allegations without renumbering her causes of action or the paragraphs of her fourth amended complaint.

On February 13, 2024, respondent filed a demurrer. Respondent argued appellant failed to state facts sufficient to constitute causes of action, pled causes of action that were barred by the applicable statute of limitations and/or failed because she did not exhaust administrative remedies, and alleged claims that were ambiguous and uncertain, among other things. Respondent further argued appellant’s unmodified complaint was an admission that she had stated her case as strongly as she could, that no facts could be alleged to cure the defects of her complaint, and that she had exhausted the three-amendment limit set forth in Code of Civil Procedure section 430.41, subdivision (e)(1). Respondent also filed a motion to strike, asserting appellant requested relief that was not supported by the allegations and

included irrelevant matters. Appellant did not initially file an opposition to the demurrer or motion to strike. On April 30, 2024, respondent filed its notice of nonopposition. Later the same day, appellant filed an untimely, 273-page “amended opposition” and then, on the same day, a 284-page “correction” to her “amended opposition.”

Appellant’s request for entry of default

On March 4, 2024, appellant filed a request for entry of default and judgment against respondent. The request was properly rejected by the court clerk because no default or judgment had been entered by the court.

Discovery motions

On February 27, 2024, respondent filed a motion for protective order to seek court relief from appellant’s 461 requests for admissions. The motion for protective order was scheduled for hearing on July 1, 2024, the trial court’s then earliest available date.

On May 7, 2024, appellant filed an untimely motion to compel responses to requests for production of documents that she served on January 19, 2024, and to which respondent responded on February 20, 2024. Appellant’s motion was scheduled for hearing on August 21, 2024. However, as set forth below, the discovery motions were rendered moot by the court’s May 9, 2024 order and June 28, 2024 judgment.

Trial court ruling on demurrer to fourth amended complaint and judgment

On May 9, 2024, the court sustained respondent’s demurrer to appellant’s fourth amended complaint without leave to amend. In a 15-page written ruling, the court carefully considered

appellant's allegations and concluded appellant failed to state facts constituting each cause of action.

The court noted that because of "both the quantity and lateness of the filings," it was permitted to disregard appellant's opposition documents. However, the court elected to consider appellant's filings.

As to appellant's cause of action for harassment in violation of Government Code section 12940 et seq., the trial court carefully evaluated appellant's allegations and concluded nothing in appellant's allegations supported a claim of direct sexual harassment.

As to appellant's cause of action for retaliation in violation of Government Code section 12940 et seq., after reviewing and quoting extensively from appellant's fourth amended complaint, the court concluded "the assumption of protected conduct lacks sufficient support." However, even assuming appellant had sufficiently alleged protected conduct, the court found a lack of any adverse employment action.

As to the cause of action for wrongful constructive termination in violation of public policy, the court noted appellant "both alleges being actually fired, yet alleges constructive termination. The internal conflict renders the claim invalid." The court nevertheless considered appellant's allegations and found "no actual conduct related to a fundamental violation of public policy under the pled facts."

As to the cause of action for discrimination in violation of Government Code section 12940 et seq., the court quoted substantial portions of the fourth amended complaint and concluded, "assumptions and racial stereotyping of different ethnicities and opinions of alleged unfair treatment of immigrant

labor in no way demonstrates racially discriminatory conduct. The remainder of the conduct expresses displeasure with work assignments rather than factual articulation of wrongful conduct.”

As to the cause of action for breach of covenant of good faith and fair dealing, the court found the complaint lacked an allegation for “the fundamental basis of the claim—the contract.”

Finally, as to the claim of workplace harassment, the court found “the allegations appear to involve claims relating to personnel decisions for assignment and advancement without sufficient factual grounding to [appellant’s] gender, race or nationality as the basis for said harassment other than accusations of misogyny.”

The court found appellant “effectively concede[d] the inability to ple[a]d any and all of the subject claims after five prior attempts.” There had been no material changes to the underlying facts in the multiple grants of leave. Therefore, the demurrer to all causes of action was sustained without leave to amend.

Judgment was entered on June 28, 2024. On August 20, 2024, appellant filed her notice of appeal from the judgment.

DISCUSSION

I. Applicable law and standard of review

A trial court’s order sustaining a demurrer is reviewed de novo. (*Bower v. AT&T Mobility, LLC* (2011) 196 Cal.App.4th 1545, 1552.) We treat the demurrer as admitting all facts properly pleaded, but do not assume the truth of contentions, deductions or conclusions of law. (*Ibid.*) “In order to prevail on appeal from an order sustaining a demurrer, the appellant must

affirmatively demonstrate error. [T]he appellant must show that the facts pleaded are sufficient to establish every element of a cause of action and overcome all legal grounds on which the trial court sustained the demurrer.” (*Intengan v. BAC Home Loans Servicing LP* (2013) 214 Cal.App.4th 1047, 1052.) We will affirm the trial court’s ruling if it is correct on any theory, whether or not the trial court relied on proper grounds. (*Bower, supra*, at p. 1552.)

The trial court’s denial of leave to amend is reviewed for abuse of discretion. (*Blank v. Kirwan* (1985) 39 Cal.3d 311, 318.) Under this standard, we will not reverse the trial court’s decision unless there is a clear abuse of discretion and a miscarriage of justice. (*Id.* at p. 331.) To show an abuse of discretion, the appellant must demonstrate a reasonable possibility the pleading can be cured by amendment. (*Schifando v. City of Los Angeles* (2003) 31 Cal.4th 1074, 1081.)

A trial court judgment is presumed to be correct, and error must be affirmatively shown. (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.) “The appellate court is not required to search the record on its own seeking error. If a party fails to support an argument with the necessary citations to the record, the argument will be deemed waived.” (*LA Investments, LLC v. Spix, supra*, 75 Cal.App.5th at p. 1061.) To demonstrate error, the appellant must supply the reviewing court with some cogent argument supported by legal analysis and citation to the record. (*United Grand Corp. v. Malibu Hillbillies, LLC* (2019) 36 Cal.App.5th 142, 146.) If a party fails to meet these requirements, its claims are forfeited. (*Ibid.*)

Bearing these standards in mind, we review appellant's arguments below and conclude she has failed to show error in the trial court judgment.

II. Judicial bias and procedural violations

In her first argument, appellant claims Judge Stern struck causes of action without factual or legal basis, disregarded appellant's declaration and exhibits, sustained repeated demurrers without permitting amendment, and never set a date for a jury trial.

Appellant further argues Judge Pfahler denied her motions to disqualify "despite clear prejudice and lack of familiarity with the record or experience." Appellant claims in his final order Judge Pfahler used dismissive language and ignored over 300 pages of evidence without analysis or consideration of appellant's rights.

Appellant provides no citations to the record, no legal analysis, and no legal citations in support of these contentions. Her arguments are forfeited. (*United Grand Corp. v. Malibu Hillbillies, LLC, supra*, 36 Cal.App.5th at p. 146.)

III. Denial of jury trial

Appellant argues she paid jury fees in accordance with Code of Civil Procedure section 631. However, the court never scheduled the case for a jury trial. Appellant cites "*Green v. Casa Santa Fe* (2001) 94 Cal.App.4th 638" for the proposition that denial of a jury trial after statutory compliance is reversible error.

The case citation provided is not valid, and the court is unable to locate the purported legal authority cited. Appellant provides no citations to the record, no legal argument, and a single nonexistent case citation. Her argument is forfeited.

(*United Grand Corp. v. Malibu Hillbillies, LLC, supra*, 36 Cal.App.5th at p. 146.)

IV. Dismissal of fourth amended complaint

Appellant argues the trial court abused its discretion in sustaining the demurrer to the fourth amended complaint without leave to amend. Appellant cites *Gallin v. Poulou* (1956) 140 Cal.App.2d 638 for the proposition that the dismissal focused on exhibit length and redundancy instead of substance. However, appellant has failed to provide an analysis of the cited authority or explain how it is relevant to the trial court's dismissal of her case. She has also failed to provide citations to the record or legal argument. Her claim is forfeited. (*United Grand Corp. v. Malibu Hillbillies, LLC, supra*, 36 Cal.App.5th at p. 146.)

V. Ignorance of material evidence

Appellant has attached exhibits to her opening brief and claims the trial court "failed to consider or reference any of the submitted exhibits." Appellant describes some of the alleged acts in the exhibits, including an individual orchestrating a retaliatory improvement plan, an attack on appellant's manner of speech and firing her during her birthday week, unreasonable rejection of valid business expenses and timesheets, appellant's failure to receive recognition for a project and denial of a promised promotion. Appellant cites *Fisher v. San Pedro Peninsula Hospital* (1989) 214 Cal.App.3d 590 for the rule that "all pleaded and incorporated facts must be accepted as true." Appellant fails to provide a pin cite or explain the relevance of the case.

Appellant provides no other legal authority and no reasoned analysis explaining how the exhibits support any of her

causes of action. Appellant fails to discuss the elements of any cause of action or show how these facts support any cause of action.

The record shows the court carefully read and considered appellant's filing below, issuing a 15-page written order considering each of appellant's causes of action and the allegations supporting them. Appellant fails to reference the trial court's order or explain how any of the attached exhibits would change the court's ruling. Under the circumstances, appellant's argument is forfeited. (*United Grand Corp. v. Malibu Hillbillies, LLC, supra*, 36 Cal.App.5th at p. 146.)

VI. Discovery

Appellant contends she served valid discovery responses, which were never answered truthfully, and the court ignored her motion for sanctions. She further accuses respondent of engaging in destruction of evidence and faults the court for failing to compel responses. Appellant fails to provide a single citation to the record in support of these claims. She cites "*Cavaletto v. Wiesen* (1994) 25 Cal.App.4th 1169," in support of her argument. The case does not appear in the California reporters.

Appellant has provided no record citations, no reasoned argument, and no valid legal authority. Her claim is forfeited. (*United Grand Corp. v. Malibu Hillbillies, LLC, supra*, 36 Cal.App.5th at p. 146.)

VII. Ex parte denial

Appellant contends on March 16, 2023, she submitted two ex parte applications for a 90-day continuance due to scheduled brain surgery, which were compliant with the applicable statutes and were denied without legal justification. Appellant provides

no citation to the record showing such denials. The record reveals the trial court granted the two continuances filed.

Appellant provides no record citations, no legal authority, and no reasoned argument in support of her claim. It is therefore forfeited. (*United Grand Corp. v. Malibu Hillbillies, LLC, supra*, 36 Cal.App.5th at p. 146.)

VIII. Discrimination/retaliation

Appellant sets forth factual assertions she contends amount to a pattern of discrimination and retaliation. Appellant fails to support her factual contentions with citations to the record. She further fails to provide legal authority supporting her position that such actions constitute discrimination and retaliation under the law. She fails to provide legal analysis showing trial court error. For these reasons, the point is forfeited. (*United Grand Corp. v. Malibu Hillbillies, LLC, supra*, 36 Cal.App.5th at p. 146.)

IX. Perjury/litigation misconduct

In her final argument, appellant argues respondent's counsel repeatedly misrepresented facts to the trial court, and the court adopted these assertions without allowing her to respond. In support of her argument, appellant cites Penal Code section 118 and "*Green v. Casa Santa Fe* (2001) 132 Cal.App.4th 97," which does not appear to be a valid citation.¹

Appellant fails to support her contentions with citations to the record. She fails to provide valid legal authority or legal analysis showing trial court error. For these reasons, the point is

¹ We note this case has the same party names, but a different citation, as a case cited earlier in appellant's opening brief.

forfeited. (*United Grand Corp. v. Malibu Hillbillies, LLC, supra*, 36 Cal.App.5th at p. 146.)

Appellant has failed to show her allegations are sufficient to state claims and has failed to establish how she could have reasonably amended her fourth amended complaint to allege a viable cause of action. Instead, she attacks the judicial officers and her opponent and relies upon unsupported claims of procedural irregularity and misconduct. We find the appeal meritless.

DISPOSITION

The judgment is affirmed. Respondent is awarded its costs on appeal.

CHAVEZ, J.

We concur:

LUI, P. J.

SIGGINS, J.*

* Retired Presiding Justice of the Court of Appeal, First Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.