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APPENDIX M

Appellant's Notice of and Reconsideration and / or a Motion for Error from Default and the Reinstating of Appeal Case E071535 Due to Filing Error CCP 473(b) Contains Entire Designation on Appeal

VOLUME III

APPENDIX N

Appellant's Notice of and Motion for Relief from Default and the Reinstating of Appeal Case E071535. Motion Ruled on February 19, 2019. This includes Entire Designation and All Transcripts submitted as record for appeal as Follows:

One

Transcript of August 22, 2017 Ex Parte Hearing, Appl/Cation Motion For 90 Day Continuance.

Two

Transcript of August 24, 2017 Ex Parte Hearing Regarding Application Motion for Leave to File A Second Amended Complaint

Three

Transcript of September 7, 2017 Communication with Court Call.

Four

Transcript 9 /7 /17 Motion Continued

Five

Transcript of September 12, 2017 Question of Association Jurisdiction and Plaintiffs' Request Dismissal of Case Without Prejudice

Six

Transcript of May 26, 2017 U. S. Ninth Circuit Court of Appeals
Court Clerk Delay of Interlocutory Appeal.

Seven

Transcript of Oct. 5, 2017 Plaintiffs Request Case is Dismissed
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VOLUME IV

APPENDIX O

Rejected on February 19, 2019. Appellant's Notice of
and Reconsideration and / or a Motion for Error from
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VOLUME V

APPENDIX P

Entire Amended Writ of Mandate S241696, with exhibit of
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VOLUME VI

APPENDIX Q

Complete judicial notice granted by the California Supreme
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VOLUME VII

APPENDIX R

Entire Petition for Review of State Bar Decision
with supplemental declarations filed in the California

SUPREME COURT
FILED

Court of Appeal, Fourth Appellate District, Division Two - No. E071535

MAY 15 2019

Jorge Navarrete Clerk

S254815

Deputy

IN THE SUPREME COURT OF CALIFORNIA

En Banc

MICHELLE STOPYRA YANEY et al., Plaintiffs and Appellants,

v.

REBECCA MASON et al., Defendants and Respondents.

The petition for review is denied.

CANTIL-SAKAUYE

Chief Justice

Appellate Courts Case Information

Supreme Court

[Change court ▾](#)

Court data last updated: 04/29/2019 06:53 PM

Case Summary

Supreme Court Case:	S254815
Court of Appeal Case(s):	Fourth Appellate District, Division Two E071535
Case Caption:	YANEY v. MASON
Case Category:	Review - Civil Appeal
Start Date:	04/09/2019
Case Status:	case initiated
Issues:	none
Case Citation:	none

Cross Referenced Cases:

No Cross Referenced Cases Found

[Click here](#) to request automatic e-mail notifications about this case.

APPENDIX
B

MICHELLE STOPYRA YANEY et al.,	
Plaintiffs and Appellants,	E071535
v.	(Super.Ct.No. CIVDS1518281)
REBECCA MASON et al.,	The County of San Bernardino
Defendants and Respondents.	

THE COURT

The court has considered the motion to recall the partial remittitur filed by Peter De Bellis (DeBellis) on February 19, 2019. The motion is DENIED.

This appeal was dismissed as to DeBellis on November 14, 2018, for appellant's failure to pay the statutory filing fee or to show cause why the fee should be waived. (Cal. Rules of Court, rule 8.100(c).) The partial remittitur issued on January 17, 2019. (Cal. Rules of Court, rule 8.272.)

As grounds for the motion DeBellis states that he has been suffering from depression and mental distress after the death of his mother and did not pursue his appeal, choosing to spend time with his family. He has now decided that this appeal is important to him. Appellant cites *People v. Ribero* (1971) 4 Cal.3d 55, 65 for the proposition that the appellate courts should liberally construe their power to grant relief from default to protect the right to appeal. While that rule may have applied prior to the issuance of the remittitur, DeBellis did not seek relief during that time.

The circumstances allowing this court to recall a remittitur are limited. (Eisenberg, et al., Cal. Practice Guide: Civil Appeals & Writs (The Rutter Group 2017) ¶ 14:36 et seq., p. 14-8 et seq.; *Pacific Legal Foundation v. California Coastal Com.* (1982), 165 (Pacific).) This court's dismissal of the appeal for appellant's failure to pay the required filing fee or to show cause why it should be waived (DeBellis does not dispute the fact that he had not done so), was authorized by the rules of court. (Cal. Rules of Court, rule 8.100(c)(3).) The court's action in dismissing the appeal, therefore, was not the product of "clerical error," "fraud," "mistake," "inadvertence," "oversight,"

“neglect,” or “accident” listed as the grounds for recall of the remittitur in *Pacific, supra* at p. 165. (See also *In re Gray* (2009) 179 Cal.App.4th 1189, 1195-1198.)

McKINSTRE
Acting P. J.

cc: See attached list

COURT OF APPEAL
STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION TWO

PARTIAL REMITTITUR

MICHELLE STOPYRA YANEY et al., Plaintiffs and Appellants, v. REBECCA MASON et al., Defendants and Respondents.	E071535 (Super.Ct.No. CIVDS1518281) The County of San Bernardino
--	--

I, KEVIN J. LANE, Clerk of the Court of Appeal, State of California, Fourth Appellate District, certify the attached is a true and correct copy of the original opinion or decision entered in the above entitled cause on November 14, 2018 and this opinion or decision has now become final as to appellant Peter DeBellis.



Witness my hand and seal of the Court
this January 17, 2019

Kevin J. Lane, Clerk/Executive Officer

By: S. Driller, Deputy Clerk

cc: All parties

Court of Appeal, Fourth Appellate District, Division Two
Kevin J. Lane, Clerk/Executive Officer
Electronically FILED on 11/14/2018 by B. Ramirez, Deputy Clerk

COURT OF APPEAL -- STATE OF CALIFORNIA
FOURTH DISTRICT
DIVISION TWO

ORDER

MICHELLE STOPYRA YANEY et al., Plaintiffs and Appellants, v. REBECCA MASON et al., Defendants and Respondents.	E071535 (Super.Ct.No. CIVDS1518281) The County of San Bernardino
--	--

THE COURT

The appeal is DISMISSED as to appellant Peter DeBellis for failure to pay the statutory filing fee or to show cause why the fee should be waived. (Cal. Rules of Court, rule 8.100(c).)

RAMIREZ

Presiding Justice

cc: See attached list

MAILING LIST FOR CASE: E071535
Michelle Yaney et al. v. Rebecca Mason et al.

Superior Court Clerk
San Bernardino County
8303 N. Haven Ave
Rancho Cucamonga, CA 91730

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La Quinta, CA 92253

Peter DeBellis
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Richmond, VA 23225

Omero Banuelos
Rimon PC
2029 Century Park East, 400 N
Los Angeles, CA 90067

Jayleen Biery
1022 Balsa Ave
Yucca Valley, CA 92284

I, Kevin J. Lane, Clerk of the Court of Appeal,
Fourth Appellate District, State of California, do
hereby Certify that the preceding and annexed is a
true and correct copy of the original on file in my
office.

WITNESS, my hand and the seal of the Court
this 1/17/19

KEVIN J. LANE, CLERK/ADMINISTRATOR

By Susie Driller
Deputy Clerk



Appellate Courts Case Information

4th Appellate District Division 2

[Change court ▼](#)

Court data last updated: 02/17/2020 08:27 PM

Docket (Register of Actions)

Michelle Yaney et al. v. Rebecca Mason et al.
Case Number E071535

Date	Description	Notes
10/29/2018	Notice of appeal	dtd Oct 24, 2018; Michelle Stoprya Yaney lodged/received.
10/29/2018	Notice of appeal	dtd Oct 25, 2018; Peter Debellis lodged/received.
10/29/2018	Default notice sent-	appellant Yaney appellant notified per rule 8.100(c).
10/29/2018	Default notice sent-	appellant DeBellis appellant notified per rule 8.100(c).
11/06/2018	Returned document for non-conformance	by Yaney-CCIS-Cannot be handwritten. Fee waiver must be sent separately. Omit first page, as this court does not accept faxes. First page must be the 1st page of the civil case information statement.
11/06/2018	Returned document for non-conformance	by Yaney-POS-Proof of service must be attached to document being served, not by itself
11/06/2018	Returned document for non-conformance	by Yaney-Letter heading with Kane County Sheriff's Office-Must have a cover page. Place document you are trying to submit all together with a cover page and proof of service as to last page.
11/06/2018	Returned document	by Yaney-POS-Document is upside down and a proof of service cannot be filed by itself.

		conformance
11/06/2018	Returned document for non-conformance	by Yaney -Fee waiver-Please resubmit request only, (first 2 pages). Please remove order, (last 2 pages).
11/07/2018	Application for waiver of filing fee filed.	Michelle Yaney
11/07/2018	Civil case information statement filed.	Michelle Yaney
11/07/2018	Appellant's notice designating record on appeal filed in trial court on:	re applt Yaney
11/07/2018	Order waiving filing fee.	Appellant Michelle Yaney
11/08/2018	Order filed.	Appellant Yaney to serve and file a copy of the signed, file-stamped judgment with the clerk of this court on or before 15 days from the date of this order. In addition, appellant Yaney to serve and file a letter memorandum explaining whether the order is appeal, also due in 15 days.
11/14/2018	To presiding justice for signature.	proposed order for appellant DeBellis
11/14/2018	Appeal dismissed per rule 8.100(c).	As to appellant Peter DeBellis.
11/21/2018	Returned document for non-conformance	Fee waiver by Yaney-already granted on Nov 7, 2018
11/21/2018	Returned document for non-conformance	Petition for writ of mandate (By Yaney). Must be filed under original proceeding not under this case number; must be paginated and bookmarked.

11/21/2018 Returned document for **Renewed motion to set aside case dismissal (by Yaney) 2 parts-Missing bookmarks.** Bookmarks must include all headings, subheadings and components. Any non-conformance exhibit/attachment must include the letter or number and a brief description of the conformance. exhibit/attachment. Please see order filed Nov 8, 2018. Do not include Facsimile transmission cover sheet, documents cannot be accepted at this court with this sheet and will be rejected.

11/26/2018 Returned document for **memorandum by appellant-Missing bookmarks.** Bookmarks must include all headings, subheadings and components. Any non-conformance exhibit/attachment must include the letter or number and a brief description of the conformance exhibit/attachment.

11/27/ 2018 Returned memorandum-Missing electronic bookmarks. Bookmarks must include all headings, document for subheadings and components. Any exhibit/attachment must include the letter or non-number and a brief description of the exhibit/attachment. Also, must submit as one conformance document, not 2 separate documents.

11/27/ 2018 Returned memorandum-Document is missing bookmarks. If you are unable to comply with the document for non-electronic requirements, you can mail in your conformance document.

11/30/ 2018 To court. copy of Nov 8, 2018 order re appellant has failed to comply.

11/30/ 2018 Returned memorandum-Missing bookmarks. Bookmarks must include all headings, document for subheadings and components. Any exhibit/attachment must for non-include the letter or number and a brief description of the exhibit/attachment. conformance

12/03/ 2018 Returned POS by appellant; should be attached to document-doc was rejected on Friday Nov document for non- 30, 2018 conformance

12/05/ 2018 Default Dtd Dec 4, 2018 notice received- appellant notified per rule 8.140(a)(1).

12/06/ 2018 Filed "Second corrected appellant's memorandum w/bookmarks, pagination, all orders an document entitled: motions heard on 6/29/18 and 8/22/18 mailed to court per docket instructions total pages 105"

12/06/ 2018 To court. Memo & Ntc of entry of default re designations.

12/21/ 2018 Dismissal no final judgment has been entered and appellant has failed to procure the record. A: order filed. requested in memorandum filed Dec 6, 2018, a copy of that filing has been placed for consideration w/the petn for writ of mandate filed in case number E071680.

12/28/ 2018 Mail order dtd Dec 21, 2018 addressed to Jayleen Biery; not deliverable as addressed, returned, unable to forward.

01/07/ 2019 Filed Appellant's notice of an request for clarification as a statement of decision on document jurisdiction of appeal and order of dismissal rendered on Dec entitled: 21, 2018 by this Court

01/07/ 2019 To court. request filed Jan 7, 2019 by appellant

01/16/ 2019 To presiding Proposed order justice for signature.

01/17/ Remittitur 2019 issued.	Partial, as to appellant Peter DeBellis.
01/18/ Order filed. 2019	Applt's Jan 7, 2019 rqst for clarification is construed to be a mtn to vacate dismissa and the rqst is denied.
02/15/ Motion to 2019 vacate dismissal filed.	by appellant Yaney
02/15/ To court. 2019	mtn to vacate
02/19/ Filed 2019 document entitled:	Appellant DeBillis declaration and motion to recall partial remittitur and to reinstate appeal.
02/19/ Filed 2019 document entitled:	Appellant Yaney's Supplemental declaration in support of motion to reinstate appeal
02/19/ Filed proof of by appellant DeBillis re motion to reinstate appeal. 2019 service.	
02/19/ Filed proof of Motion to recall remittitur and reinstate appeal by appellant DeBillis. 2019 service.	
02/19/ Order on 2019 motion filed.	Apellant's Yaney's motion filed Feb 15, 2019, for relief from default & for reinstating appeal, & the supplemental declaration filed by appellant on Feb 19, 2019 is denied. There is no judgment to appeal & this court has no jurisdiction.
02/19/ Filed proof of Motion to recall remittitur and reinstate appeal by appellant DeBillis. 2019 service.	
02/20/ Returned 2019 document for non- conformance	supplemental motions submitted at 11:42 pm on 02/19/19 by Michelle Yaney; this court no longer has jurisdiction, motion was denied
02/25/ Returned 2019 document for non- conformance	Motion by Michelle Yaney-Lack of Jurisdiction.
02/25/ Remittitur 2019 issued.	
02/25/ Case 2019 complete.	
02/25/ Motion filed. 2019	Motion to recall remittitur by appellant Yaney
02/26/ To court. 2019	Motion to recall remittitur by appellant Yaney
03/07/ Order on 2019 motion filed.	The court has considered the motion to recall the partial remittitur filed by Peter DeBellis on February 19, 2019. The motion is denied.
03/11/ Returned 2019 document for non- conformance	Motion to recall remit by Peter DeBellis; Missing Proof of Service

03/11/ Motion filed 2019 Appellant DeBellis motion to recall remittitur entitled "Appellant's motion to stay the issuance of full remittitur and reinstating appeal case E071535 additionally appellant request this courts consideration of this as a petition for rehearing on appeal case E071535"

03/11/ Returned document 2019 for non-conformance Motion to recall remit by Peter DeBellis; duplicate

03/11/ To court. motion to recall remit by Peter DeBellis

2019

03/11/ Filed proof of re Appellant DeBellis motion to recall remittitur entitled 2019 service.

03/20/ Service copy by Peter DeBellis 2019 of petition for review received.

03/20/ Service copy by Michelle Yaney 2019 of petition for review received.

03/25/ Received: Letter dtd March 20, 2019 re: returning unfiled petition for review, lack of jurisdiction.

2019

03/28/ Received 2019 copy of Supreme Court filing. Petition for writ of certiorari by appellant Yaney

04/09/ Service copy by appellant Yaney 2019 of petition for review received.

05/21/ Petition for 2019 review denied in Supreme Court. dtd May 15, 2019; S254815

01/06/ Received 2020 copy of Supreme Court filing. appellants' petition for writ of certiorari

01/07/ Received 2020 copy of Supreme Court filing. appellants' petition for writ of certiorari (corrected copy)

01/07/ Received 2020 copy of Supreme Court filing. Appellants' declaration of timely filing of petition for writ of certiorari-S254815

01/13/ Returned 2020 document for non-conformance appellants' request for stay of issuance of remittitur; remittitur issued on Feb 25, 2019.

01/13/ Received 2020 copy of Supreme Court filing. Appellants' request to timely file petition for review, etc.

[Click here](#) to request automatic e-mail notifications about this case.

APPENDIX
C

APRIL BOELK
AUTOMOTIVE APPEALS SUPERVISOR



KAREN WARREN BUILDING
350 McALLISTER STREET
SAN FRANCISCO, CA 94102
(415) 863-5600

Supreme Court of California

JORGE E. NAVARRETE
CLERK AND EXECUTIVE OFFICER
OF THE SUPREME COURT

March 20, 2019

Michelle Stopyra Yaney
78365 Highway 11
La Quinta, CA 92253

Re: E071535 – Michelle Yaney et al. v. Rebecca Mason et al.

Dear Ms. Yaney:

We hereby returned unfiled your petition for review via Truefiling, which we received on March 19, 2019. A check of the Court of Appeal docket shows that a dismissal order was filed on December 21, 2018. This court lost jurisdiction to act on any petition for review on February 19, 2019. (See Cal. Rules of Court, rule 8.500(e).) Without this jurisdiction, this court is unable to consider your request for legal relief.

Very truly yours,

JORGE E. NAVARRETE
Clerk and
Executive Officer of the Supreme Court

A handwritten signature of Jorge E. Navarrete.

By: K. Castro, Asst. Deputy Clerk

cc: Court of Appeal, Fourth Appellate District, Division 2
Omero Banuelos
Rec

Court of Appeal, Fourth Appellate District, Division Two
Kevin J. Lane, Clerk/Executive Officer
Electronically FILED on 2/19/2019 by S. DeLeon, Deputy Clerk

COURT OF APPEAL -- STATE OF CALIFORNIA
FOURTH DISTRICT
DIVISION TWO

ORDER

MICHELLE STOPYRA YANEY,

Plaintiff and Appellant,

v.

REBECCA MASON et al.,

Defendants and Respondents.

E071535

(Super.Ct.No. CIVDS1518281)

The County of San Bernardino

THE COURT

The court has reviewed the motion for relief from default and for reinstating of the appeal filed by appellant on February 15, 2019, and the supplemental declaration filed by appellant on February 19, 2019. The motion is DENIED.

As stated in this court's order filed January 18, 2019, denying appellant's motion to vacate the dismissal of her appeal, the appeal was dismissed on two separate grounds: (1) no final, appealable judgment exists; and (2) appellant failed to procure the record on appeal. (Cal. Rules of Court, rule 8.140(a).) While appellant describes her attempts to procure a record for this appeal and attaches transcripts as exhibits, in her motion and declaration appellant confirms once again that no final, appealable judgment yet exists. Therefore, there is no judgment to appeal and this court has no jurisdiction. (*Jennings v. Marralle* (1994) 8 Cal.4th 121, 126.)

FIELDS
Acting P. J.

cc: See attached list

Court of Appeal, Fourth Appellate District, Division Two
Kevin J. Lane, Clerk/Executive Officer
Electronically FILED on 12/21/2018 by B. Ramirez, Deputy Clerk

COURT OF APPEAL -- STATE OF CALIFORNIA
FOURTH DISTRICT
DIVISION TWO

ORDER

MICHELLE STOPYRA YANEY,

Plaintiff and Appellant,

v.

REBECCA MASON et al.,

Defendants and Respondents.

E071535

(Super.Ct.No. CIVDS1518281)

The County of San Bernardino

THE COURT

The court has reviewed the memorandum filed by appellant Michelle Stopyra Yaney on December 6, 2018, in response to this court's order filed November 8, 2018. That order requested appellant to provide a copy of the signed, file-stamped judgment underlying the order appealed purporting to deny vacating that judgment. Appellant indicates that no final judgment has been entered and that this court has no jurisdiction over the appeal. In addition, this court has received notice from the trial court, dated December 4, 2018, that appellant is in default for failing to procure the record. (Cal. Rules of Court, rule 8.140(a).) Consequently, the appeal is DISMISSED. As requested in her memorandum, a copy of that filing has been placed for consideration with the petition for writ of mandate filed in case number E071680.

McKINSTRE
Acting P. J.

cc: See attached list

COURT OF APPEAL
STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION TWO

REMITTITUR

MICHELLE STOPYRA YANEY et al., Plaintiffs and Appellants, v. REBECCA MASON et al., Defendants and Respondents.	E071535 (Super.Ct.No. CIVDS1518281) The County of San Bernardino
--	--

I, KEVIN J. LANE, Clerk of the Court of Appeal, State of California, Fourth Appellate District, certify the attached is a true and correct copy of the original opinion or decision entered in the above entitled cause on December 21, 2018, and this opinion or decision has now become final.

Respondent shall recover costs on appeal.

Witness my hand and seal of the Court
this February 25, 2019.

Kevin J. Lane, Clerk/Executive Officer

By: B. Ramirez, Deputy Clerk

cc: All parties



MAILING LIST FOR CASE: E071535
Michelle Yaney et al. v. Rebecca Mason et al.

Superior Court Clerk
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Omero Banuelos
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Los Angeles, CA 90067

Jayleen Biery
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Yucca Valley, CA 92284

I, Kevin J. Lane, Clerk of the Court of Appeal,
Fourth Appellate District, State of California, do
hereby Certify that the preceding and annexed is a
true and correct copy of the original on file in my
office.

WITNESS, my hand and the seal of the Court
this 2/25/19

KEVIN J. LANE, CLERK/ADMINISTRATOR

By Belinda Ramirez
Deputy Clerk



**Additional material
from this filing is
available in the
Clerk's Office.**