

TABLE OF CONTENTS.

PAGE #1

CALIFORNIA CODE OF CIVIL PROCEDURE ARTICLE # # 358.

PAGE # 2.

CERTIFICATION OF ONE OF MY DISABLE DISEASE THAT I WAS AND I AM WHEN THE SUPERIOR COURT MADE THE SUMMARY JUDGMENT AGAINST MI.

PAGE # 3.

CERTIFICATION OF ONE ANOTHER DISABLE DISEASE THAT I WAS AND I AM WHEN THE SUPERIOR COURT MADE THE SUMMARY JUDGMENT AGAINST MI.

PAGE # 4

CERTIFICATIONS OF FINAL RECOMMENDATIONS OF THE LICENCIAD PHYSICAL THERAPIST M. RODRIGUES AND OF DOCTOR R. BLANDON SPECIALIST IN TRAUMATOLOGY AFTER 6 YEARS OF THE PROFESSIONAL CARE TOMI.
(ON THE BACK OF THE PAGE) CERTIFICATIONS MEDICAL ASSOCIATION AND OF UNITED STATES OF AMERICA CONSUL.)

PAGE #5.

TRANSLATION TO ENGLISH OF THE #4 DOCUMENT.

PAGE #6

CERTIFICATION MY MEDICAL CONDITION AND THE REASON FOR : CARBON MONOXIDE INTOXICATION SEVERE NEUROLOGICAL DAMAGE SEQUEL.
(ON THE BACK OF THE PAGE CERTIFICATIONS MEDICAL ASSOCIATION AND OF UNITED STATES OF AMERICA CONSUL.)

PAGE # 7

TRANSLATION TO ENGLISH OF #6 DOCUMENT.

PAGE # 8.

BEGINNING OF THE LAST YEAR OF TREATMENT AND REHABILITACION WITH ONLY FIVE DAYS EVERY FOUR MONTHS AT THE BEGINNING WAS FIFTEEN DAYS EVERY TWO MONTHS THEN TEN DAYS EVERY THREE MONTHS.

(ON THE BACK OF THE PAGE IS THE CERTIFICATION OF THE DIRECTOR OF MEDICAL ASSOCIATION FOR THE DOCTOR ROBERTO BLANDON DIAS AND DEPARTMENT OF FOREIGN RELATION.)

PAGE #9.

TRANSLATION TO ENGLISH OF # 8 DOCUMENT.

PAGE # 10

DIAGNOSTIC FOR THE DOCTOR R. MORRALES UJETA NEUROLOGIST FROM UNIVERSITY OF PARIS FRANCE. CLINICALLY IT CAN BE ESTABLISHED A RELATION CAUSE EFFECT WITH NEUROLOGICAL PROBLEMS AND THE CARBON MONOXIDE EXPOSURE, THE CURRENT SEQUEL ARE DUE TO SUCH INTOXICATION.

PAGE #II.

BOARD CERTIFIED IN NEUROLOGY THOMAS P. DI JULIO M,D, DIAGNOSTIC SEQUEL FROM CARBON MONOXIDE EXPOSURE.

PAGE # 12

DIAGNOSTIC OF R, IBARRA M.D. MR SANCHO DID SUFFER A SIGNIFICANT CARBON MONOXIDE POISONING AND IS NOW DEALING WITH THE RESIDUAL NEUROLOGICAL SEQUEL OF THIS CONDITION.

TABLE OF CONTENTS.

PAGE #13
FROM LONG BEACH MEMORIAL RADIOLOGY:REPORT ,DAMAGE PARTIAL OF THE BASAL GANGLIA
PAGE # 14.
FROM UNIVERSITY OF CALIFORNIA LOS ANGELES RADIOLOGY THIRTEEN TEAR LATER
APPEAR A OLD LACUNAR INFARCTIN THE LEFT PERIVENTRICULAR WHITE MATTER.
PAGE # 15.
OPEN BRIEF FIRST PRESENTATION DEC/7 /2018.
PAGE #16.
OPEN BRIEF SECOND PRESENTATION JAN/10/2019.
PAGE # 17.
AFTER THREE MOTION FOR OVER SIZE BIEF PRESETATION ,I WAS OBLIGED TO MADE TWO
PIECES ONE AS OPEN BRIEF AND THE OTHER AS A MOTION. THIRD PRESENTATION JAN/ 28/19
PAGE #18.
2019/JAN/28MOTION TO REMOVAL SUPERIOR JUDGE FROM MY RETRIAL/SECUND PART OF OPEN/B
PAGE # 19.
THE COURT APPELLANT"S MOTION HAS BEEN DEFERRED TO A PANEL ONCE MATTER IS FULLY
BRIEF. (THAT LEAVE ME WITHOUT CAN USE THE MATERIAL OF MY SECOND PART OF MY
OPEN BRIEF ON THE REPLY BRIEF.
PAGES # 20 AND PAGE #21.
EVEN SO MY REPLY BRIEF WAS MORE VERY SHORT OF THE REGULATION THE COURT MADE
ME TO MADE TWO PIECES ONE AS REPLY BRIEF AND ANOTHER AS MISCELLANEOUS (ORDER)
RECEIVED BUT NOT FILED.
PAGE # 22.
NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS. FIRST CASE RELATE BUT NOT THE
SAME OPINION FILED ON SEP/13/2004. . WAS USED AS A ESTABLISH PRECEDENT CITED
AS AUTHORITY TO SUPPORT THE COURT ARGUMENT BY SECOND APPEAL /DIVISION EIGHT.
PAGE #23.
NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS SECOND CASE RELATE BUT NOT THE
SAME OPINION FILED ON OCT/10/2007. WAS USED AS A ESTABLISH PRECEDENT CITED AS
AUTHORITY TO SUPPORT COURT ARGUMENT BY SECOND APPEAL /DIVISION EIGHT.
PAGE #24.
COURT OF APPEAL SIXTH APPELLATE DISTRICT IN SAN JOSE CALIFORNIA NEVER USED
UNPUBLISHED OPINION. REVIEW OF APPELLATE DECISION OF COURT OF APPEAL ARE
SUBJECT TO DISCRETIONARY REVIEW BY U.S.SUPREME COURT BASED ON THE U.S.
CONSTITUTION AND FEDERAL STATUTES.
PAGES#25 -26- 27-27-28-29.
OPINION OPPOSE ME BY APPEAL COURT SECOND DISTRITO DIVITIONEIGTH
OF CALIFORNIA. USED TWO DIFERENT CASES AND TWO DIFERT UNPUBLISHES OPINION.
PAGE #30
PETITION FOR REHEARING DENIED ON LIME TWO ATTORNEYS AND THREE JUEZES.
PAGE #31.
PETITION FOR REVIEW. IN THE SUPREME COURT OF CALIFORNIA#S2605II.
IT WAS ONLY 29 PAGES.
PAGE #32.
IT WAS SENDED BACK TO ME WITH A LETTER WITH COPY TO THE COURT OF APPEAL.
PAGE #33.
AS THEY COMMAND ISENDED BACK WITH THE LETTER TO THE CHIEF OF JUSTICE OF CA
PAGE #34.
I GAT IT BACK WITH ANOTHER LETTER PETITION FOR DEFUAL DENIED PETITION DENIED.
PAGE #35
LETTER TO THE CLERK OF THE APPEAL COURT REQUIRE INCIDENCE.
PAGE #36.
REMITTITUR.....
PAGE #37.
LETTER FROM APPEAL COURT APPEAL IS NOW FINAL.
PAGES # 38-39-40.
ORDER GRANTING MOTION FOR SUMMARY JUDGMENT.

DIVISION 8

COURT OF APPEAL CASE NUMBER B288261

COURT OF APPEAL - SECOND DIST.

FILED

Dec 11, 2019

DANIEL P. POTTER, Clerk

Richard Cardenas

Deputy Clerk

Filed 12/11/19

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT

DIVISION EIGHT

ALFREDO MASIS SANCHO,

Plaintiff and Appellant,

v.

WOLFGANG EBNER et al.,

Defendants and Respondents.

B288261

(Los Angeles County
Super. Ct. No. BC633324)

APPEAL from a judgment of the Superior Court of Los Angeles County. Marc D. Gross, Judge. Affirmed.

Alfredo M. Sancho, in pro. per., for Plaintiff and Appellant.

Clark Hill, Richard H. Nakamura Jr. and Dean A. Olson for Defendants and Respondents.

DIVISION 8

COURT OF APPEAL CASE NUMBER B288261

Alfredo M. Sancho appeals from a summary judgment entered in favor of the Ebner Family Trust, Wolfgang Ebner, and Anne Lene Ebner (collectively, the Ebners). We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Sancho rented an apartment from the Ebners in 1996. He claims he was exposed to carbon monoxide and suffered from carbon monoxide poisoning due to a defective thermostat and heater on November 1, 2000. He filed a complaint for medical and general damages against the Ebners and others on October 17, 2001. Summary judgment was entered in favor of the defendants. The trial court found Sancho could not establish a triable issue of fact that the Ebners were aware of the defect prior to the time Sancho discovered it. They performed necessary checks and repairs to the apartment prior to Sancho moving in and they took immediate action after he alerted them of the problem. Division Seven of this court affirmed the summary judgment on appeal, (*Sancho v. Ramirez* (Sept. 13, 2004, B172227) [nonpub. opn.] (*Sancho I*)).

Sancho filed a second complaint against the Ebners on October 13, 2005, which added a new defendant, a plumber, and new facts related to an improperly installed chimney that allowed the carbon monoxide to recirculate in the apartment rather than ventilate out. The trial court sustained a demurrer without leave to amend on res judicata and statute of limitations grounds. Division Seven again affirmed on appeal. (*Sancho v. Ramirez* (Oct. 10, 2007, B189817) [nonpub. opn.] (*Sancho II*)).

Sancho filed a third complaint on September 9, 2016, which led to this appeal. In this latest complaint, he alleges a new injury resulting from the carbon monoxide exposure: he was diagnosed with Parkinson's disease in 2014. Summary judgment

DIVISION 8

COURT OF APPEAL CASE NUMBER B288261

was granted in favor of the Ebners on res judicata and statute of limitation grounds. The trial court held that res judicata applied regardless of whether Sancho's injuries worsened, but noted that Sancho claimed he had Parkinson's-like symptoms in *Sancho I*. Sancho timely appealed.

DISCUSSION

On appeal, Sancho acknowledges he has filed three lawsuits against the Ebners, each of which alleged the same occurrence of carbon monoxide poisoning resulted in injury to him. The first two pages of his opening brief consist of a recitation of the previous litigation with few citations to the record. Beyond these first two pages, however, his opening brief is largely incomprehensible. So far as we can tell, he contends he had no opportunity to dispute or oppose the summary judgment in *Sancho I* and the trial court failed to consider the new defendant or new evidence he presented in sustaining the Ebners' demurrer in *Sancho II*. He further contends res judicata does not bar this suit because he was diagnosed with Parkinson's disease in 2014, well after *Sancho I* and *Sancho II* were decided. He also argues the trial court abused its discretion in granting summary judgment and there was no substantial evidence for summary judgment.

Sancho, however, fails to present any coherent legal or factual argument to support his claims of error. The bulk of his opening brief is comprised of photocopies of pages from legal treatises and other secondary sources. The brief also includes a copy of what appears to be a filing in the trial court that is not a part of the clerk's transcript or listed in the case summary. Lastly, he has included a diagnosis of Parkinson's disease written

DIVISION 8

COURT OF APPEAL CASE NUMBER B288261

on a prescription pad by Rose Mary Berman, M.D., Ph.D. The reply brief is much the same.

A judgment is presumed correct, and it is the appellant's burden to demonstrate prejudicial error. (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564, 566.) Sancho has wholly failed to bear his burden on appeal. As described above, Sancho's appellate briefs contain few citations to the record and no legal analysis to support their contentions. (Cal. Rules of Court, rule 8.204(a)(1)(B) [a brief must contain reasoned argument and legal authority to support its contentions]; Cal. Rules of Court, rule 8.204(a)(1)(C) [a brief must contain citations to the record]; *Nwosu v. Uba* (2004) 122 Cal.App.4th 1229, 1246 [we may disregard any claims when no appropriate reference to the record is furnished]; *Benach v. County of Los Angeles* (2007) 149 Cal.App.4th 836, 852.) We accordingly consider waived the issues Sancho seeks to raise in this appeal. (*Cahill v. San Diego Gas & Electric Co.* (2011) 194 Cal.App.4th 939, 956.)

Additionally, we deny Sancho's peremptory challenge of Judge Marc Gross under Code of Civil Procedure, section 170.6, filed in this court on January 28, 2019. Sancho contends he is entitled to Judge Gross's removal from his retrial. As an initial matter, the issue is moot given our affirmance of the summary judgment. (*MHC Operating Limited Partnership v. City of San Jose* (2003) 106 Cal.App.4th 204, 214.) Moreover, Sancho has presented no legal authority or factual argument to support the removal of Judge Gross. (*Duarte v. Chino Community Hospital* (1999) 72 Cal.App.4th 849, 856.)

DIVISION 8

COURT OF APPEAL CASE NUMBER B288261

DISPOSITION

The judgment is affirmed. Respondents to recover their costs on appeal.

We concur:

BIGELOW, P. J.

STRATTON, J.

WILEY, J.

Alfredo Masis Sancho
125 W Market St.
Long Beach, CA 90805

Case Number B288261
Division 8

ALFREDO MASIS SANCHO
Plaintiff and Appellant,
v.
EBNER FAMILY TRUST,
Defendant and Respondent.

FILED

Sep 20, 2019

DANIEL P. POTTER, Clerk

cmortelliti Deputy Clerk

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

ALFRED M. SANCHO,

Plaintiff and Appellant,

v.

EBNER FAMILY TRUST,

Defendant and Respondent.

B288261

(Los Angeles County
Super. Ct. No. BC633324)

ORDER

On September 18, 2019, appellant Alfred Sancho attempted to file a document entitled, "Miscellaneous (Response to the Illegal Open Brief) from the Defendant." The document was received by this court, but not filed. Appellant seeks permission to file this document, which we deny.

Briefing in this matter is complete; appellant has filed an opening brief and a reply brief in addition to several motions currently pending before this court. Appellant fails to identify what issues are raised in this document that are not already addressed in the briefs and motions previously filed. Further, appellant has presented no authority to file this document and we are unable to find any in our independent research.

This document also fails to conform to the requirements specified in the California Rules of Court for filings made to this court.

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(Cal. Rules of Court, rules 8.18 [Documents violating rules not to be filed], 8.54 [Motions], 8.204 [Contents and form of briefs].)

Accordingly, permission to file the document entitled, "Miscellaneous (Response to the Illegal Open Brief) from the Defendant," received on September 18, 2019, is DENIED.



BIGELOW, P. J.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 977(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 977(b). This opinion has not been certified for publication or ordered published for purposes of rule 977.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION SEVEN

ALFREDO SANCHO,

B172227

Plaintiff and Appellant,

(Los Angeles County
Super. Ct. No. NC030937)

v.

KATHY RAMIREZ et al.,

Defendants and Respondents.

COURT OF APPEAL - SECOND DIST.

F I L E D

SEP 13 2004

JOSEPH A. LANE

Clerk

Deputy Clerk

APPEAL from a judgment of the Superior Court of Los Angeles County.
Tracy T. Moreno, Judge. Affirmed.

Alfredo Sancho, in pro. per., for Plaintiff and Appellant.

Calendo, Puckett, Sheedy & DiCorrado, Christopher M. Sheedy and
Christopher E. Dwyer, for Defendants and Respondents.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION SEVEN

ALFREDO Masis Sancho,

Plaintiff and Appellant,

v.

KATHY RAMIREZ et al.,

Defendants and Respondents.

B189817

(Los Angeles County
Super. Ct. No. NC037582)

FILED

OCT 10 2007

JOSEPH A. LANE

Clerk

Deputy Clerk

APPEAL from a judgment of the Superior Court of Los Angeles County. Joseph E. Di Loreto, Judge. Affirmed.

Alfredo Masis Sancho, in pro. per., for Plaintiff and Appellant.

Calendo, Puckett, Sheedy & DiCorrado and Christopher M. Sheedy; Morris Polich & Purdy, Dean A. Olson, Richard H. Nakamura, Jr. and Elizabeth Salinas for Defendants and Respondents Kathy Ramirez, Wolfgang Ebner and the Ebner Family Trust.

Law Offices of Linda M. Libertucci and Sarah Yoseloff for Defendant and Respondent Albano Plumbing.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT

DIVISION 8

COURT OF APPEAL - SECOND DIST.

F I L E D

Dec 27, 2019

DANIEL P. POTTER, Clerk

Richard Cardenas Deputy Clerk

ALFREDO MÁSIS SANCHO,
Plaintiff and Appellant,
v.
EBNER FAMILY TRUST,
Defendant and Respondent.

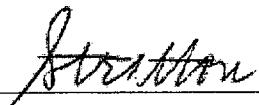
B288261
Los Angeles County Super. Ct. No. BC633324

THE COURT:

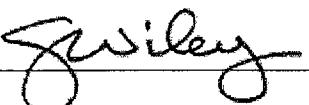
Petition for rehearing is denied.



BIGELOW, P.J.



STRATTON, J.



WILEY, J.

1000 30

APRIL BOELK
AUTOMATIC APPEALS SUPERVISOR



EARL WARREN BUILDING
350 McALLISTER STREET
SAN FRANCISCO, CA 94102
(415) 865-7000

Supreme Court of California

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

February 6, 2020

Alfredo Masis Sancho
125 West Market Street
Long Beach, CA 90805

Re: **S260511/B288261 - SANCHO v. EBNER**

Dear Mr. Sancho:

The court has considered your application for relief from default and petition for review. Your application for relief from default has been denied. (Cal. Rules of Court, rule 8.60(d).)

The court has directed that the petition for review be returned to you unfiled, and on this date.

Very truly yours,

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

By: T. Zhang, Deputy Clerk

cc: Court of Appeal, Second Appellate District
Rec:

000034