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APPENDIX A

**FILED
(STAMP)
OCT 17, 2018**

**Court of Appeal, Fourth Appellate District,
Division**

Three-No G055133

S251212

IN THE SUPREME COURT OF CALIFORNIA

En Banc

TIMOTHY L. RANDALL,
as Trustee, etc., Plaintiff and Respondent,

HAYES MILLIMAN,
Defendant and Appellant.

The petition for review is denied.

Corrigan, J, was absent and did not participate.

CANTIL-SAKAUYE
Chief Justice

APPENDIX B

**IN THE COURT OF APPEAL OF THE STATE
OF CALIFORNIA FOURTH APPELLATE
DISTRICT
DIVISION THREE**

[Filed August 24, 2018]

**TIMOTHY L. RANDALL, as Trustee, etc.,
Plaintiff and Respondent,**

v.

**HAYES MILLIMAN,
Defendant and Appellant.**

G055133

(Super. Ct. No. 30-2016-00837866)

O R D E R

The petition for rehearing is DENIED.

GOETHALS, J.

WE CONCUR:

O'LEARY, P. J.

BEDSWORTH, J.

APPENDEIX C

**NOT TO BE PUBLISHED IN OFFICIAL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 This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.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 FOURTH APPELLATE
DISTRICT DIVISION THREE**

[Filed August 7,2018]

TIMOTHY L. RANDALL, as Trustee, etc.,

Plaintiff and Respondent,

v.

HAYES MILLIMAN,

Respondent and Appellant

No G055133 (Super. Ct. No. 302016 00837866)

O P I N I O N

**Before GOETHALS, J. WE CONCUR: O'LEARY, P.
and J. BEDSWORTH, J**

Appeal from a judgment of the Superior Court of Orange County, Gerald G. Johnston, Judge. Affirmed. Hayes Milliman, in pro. per.; Law Offices of Michael J. Bond and Michael J. Bond for Defendant and Appellant. Baker & Baker, William E. Baker, Jr. and Brook John Changala for Plaintiff and Respondent. Hayes Milliman appeals from a judgment after a bench trial in which the trial court granted the petition by the trustee of the Barbara Tucker Trust to confirm the trust's validity. In doing so, the trial court ruled that Milliman's cousin, as the trust settlor, did not name Milliman as a beneficiary in either the original trust or any amendments, and therefore Milliman lacked standing to attack the trust or the disposition of trust assets.

The trial court also found the trust valid, thereby excluding Milliman as a potential beneficiary of his aunt's estate as an intestate heir if the trust had been invalid. As we explain, to the extent we are able to decipher Milliman's arguments in his opening brief challenging the trial court's rulings, we find no merit in any of them. Retained counsel's assertion in the reply brief that Milliman "is entitled to a full hearing on the validity of" the trust and amendments, based on Milliman's claim of "[a] massive amount of fraud" in amending the trust, fails for two reasons.

First, invalidating the amendments does nothing to aid Milliman, an omitted relation under the original trust. Second and more fundamentally, the record reflects Milliman had a “full hearing”—indeed, a full trial—on these issues below. While he disagrees with the result, under the governing standard of review, we cannot second-guess the credibility and factual findings made by the trial court, which resolved all issues raised by Milliman against him. We therefore affirm the judgment. First, invalidating the amendments does nothing to aid Milliman, an omitted relation under the original trust. Second and more fundamentally, the record reflects Milliman had a “full hearing”—indeed, a full trial—on these issues below.

While he disagrees with the result, under the governing standard of review, we cannot second-guess the credibility and factual findings made by the trial court, which resolved all issues raised by Milliman against him. We therefore affirm the judgment.

FACTUAL AND PROCEDURAL BACKGROUND

The facts of this case are at best convoluted. Because Milliman failed to include as part of the record the reporter’s transcript of the bench trial which is the basis for his appeal, we summarize the proceedings as best we can. Fortunately, the court kept detailed minutes of the trial, which aids our review. Milliman refers to Tucker as his cousin rather than his aunt; the exact family relation is unclear, but in any event has no bearing on the appeal.

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In December 2001, Barbara Tucker executed the “Declaration of Trust of Barbara Tucker,” creating a living trust in which she was the grantor and original trustee. Her sister, Lucille Lambert, was both the successor trustee and beneficiary of a trust to be established for her if she beneficiary of a trust to be established for her if she survived Tucker Lambert was entitled to specify the disposition of assets remaining in the trust at her death. Tucker’s trust instructions listed a number of contingent beneficiaries in the event Lambert predeceased Tucker or failed to appoint successor beneficiaries. Tucker’s contingent beneficiaries included appellant Milliman’s sister, “Sylvia Hollis Milliman, born, November 11, 1961.”

The trust’s terms regarding contingent beneficiaries provided for a further contingency, namely that if “any of the above named [contingent beneficiaries] shall die before the termination of this trust, the descendants of such deceased individual shall receive that portion of said trust estate to which his or her parent was entitled.” (*Italics added.*) Tucker’s trust further specified that, absent surviving descendants, a contingent beneficiary’s portion “shall go” to the surviving contingent beneficiaries or their descendants.

Lambert did not predecease Tucker. Both sisters lived into their nineties, with Tucker dying in October 2014; Lambert died in August 2015. In June 2011, Milliman’s sister, Sylvia, predeceased both Tucker and Lambert—apparently without Sylvia having

issue or other descendants. Before Tucker died, she amended her trust twice, including in 2010, while Sylvia was still alive. The 2010 amendment added other contingent beneficiaries, but with the same language providing for their contingent status dependent upon Lambert predeceasing Tucker (which did not occur) or failing to nominate successor beneficiaries, and further specifying the contingent beneficiaries' interests passed to their descendants, if any (which Sylvia did not have). In any event, Tucker amended the trust again in April 2013, more than a year before she died, omitting Sylvia from the list of contingent beneficiaries, presumably because Sylvia had died. The trust's other contingent beneficiaries remained the same as in the 2010 amendment.

More significantly for the contingent beneficiaries—although not for Milliman because he was not among them—the 2013 amendment provided that Tucker's "house and real property" would be "sold and distributed in equal shares, outright and free of trust" to a subset of 10 of the contingent beneficiaries upon Tucker's death. The 2013 amendment also named an attorney, Timothy Randall, as the trustee, and "Wells Fargo" as the successor trustee. After Tucker died, Randall, as the trustee, provided the requisite notice to beneficiaries and filed a "Petition to Determine Validity of Trust and Amendments under Probate Code Section 17200" in February 2016. In October 2016, Randall sent Milliman a copy of the Notice to Beneficiaries by fax and certified mail. Randall claimed the notice was accepted by someone with a signature resembling that of Milliman's wife, Admiranda Maxwell.

In December 2016, Milliman filed a "Response" to the trustee's validation petition, alleging a "land grab against my family." Referring to Tucker and Lambert as his cousins, he noted they "lived their lives on the Lambert Ranch in Orange land that was originally 15,000 acres that [was] now incorporated into the City of Irvine," while he "believe[d] the trust in this case today regards a few acres where their ranch house is located." According to Milliman's response, he had "no idea what occurred with the remainder of the [cousins'] property," but stated "[t]hey [had] expressed serious concerns to [him] that the people who were handling the real estate transactions were not acting in their best interest."

Milliman's response explained further that an attorney who "was Milliman acknowledges in the record that Tucker and Lambert paid for Sylvia's funeral expenses, though he also suggests in a cryptic fashion that her death occurred under "suspicious" circumstances; he did not explain how this vague accusation was relevant to the trust proceedings. investigating my family concerns for me came across the Baker and Baker law firm through real estate legal documents filed with the Orange County Recorder's Office, so he [the attorney] contacted the firm, resulting in my notification about this matter." Milliman filed a declaration consistent with the allegations in his response.

Over the course of the litigation he and his wife, Maxwell, filed many other declarations for the trial court's consideration. For example, in December 2016, Maxwell filed a declaration stating that "[numerous attorneys] are working together on a conspiracy to execute [a] land grab against my husband's family." Similarly, in January 2017, soon after his initial response to the petition, Milliman filed a declaration stating: "Private detectives who worked for my cousins, Lucille Lambert and Barbara Tucker[,] said the trust before the court is a result of persons committing crimes against them. A reporter working as an investigator said he was writing a book about this case and used articles he had investigate [sic] to find that my cousins were coerced to sign documents about their estates by violent acts against them.

The private detective and the reporter stated that Barbara Tucker and her sister never wanted new trusts created from the original trust they had lived on for their lives. They told us that Barbara Tucker or Lucille Lambert never appointed Timothy Randall or Wells Fargo as the trustee of their estates." Milliman added in his declaration, "[t]he detective said that attorneys Baker and Randall strategized together to file restraining orders against my wife to prevent her from appearing in court when they are in court about this case strategized together to file restraining orders against my wife to prevent her from appearing in court when they are in court about this case."

At about the same time, attorneys at the Baker law firm obtained a restraining order against Maxwell, based in part on threatening phone calls and letters allegedly received from Maxwell. The trustee's petition proceeded to trial in May 2017. Apparently, there were other objectors to the petition; but the trial court's minutes for the trial date ref that "a settlement ha[d] been reached" with those objectors and, therefore, "the remaining issue is whether Hayes Milliman has standing." A court reporter transcribed the hearing, but Milliman does not provide a copy of the trial transcript as part of the record on appeal. (See *People v. Barton* (1978) 21 Cal.3d 513, 519 [appellant's duty to provide record of proceedings].)

Nevertheless, the court's detailed minutes reflect the court conducted a bench trial at which Milliman appeared, gave an opening statement, testified, cross-examined the other two witnesses (Randall, who was the trustee, and the trustee's attorney, Paige Baker), and gave a closing argument. The parties offered numerous exhibits, including the original trust and contested amendments, which the trial court admitted and considered, after considering and admitted and considered, after considering and overruling Milliman's objections to the documents. At the close of the trial, the court entered a minute order finding "Hayes Milliman is not a trust beneficiary and has no interest in this trust." Milliman filed a motion for reconsideration, which the trial court considered at a hearing attended by Milliman in June 2017.

The court denied the motion and entered a final order granting the trustee's petition. The court expressly found "the Trust and amendments valid," that Milliman received notice of the proceedings "in a timely manner," that Milliman "is not a named beneficiary" of Tucker's trust, nor "a descendant of a predeceased named beneficiary," and therefore he "lacks standing to make or assert claims" against the trust. The court further found that because "the Trust is valid," Milliman "is not entitled [to] pursue any claim of intestate succession." The trustee provided notice of the judgment, and Milliman now appeals.

DISCUSSION

Under California Rules of Court, rule 8.204(a)(1)(B), the appellant's opening brief must state each contention under a separate heading summarizing the point. We do not address random assertions in a brief that ignore the well-established rules requiring parties to identify their claims. (*Roberts v. Lomanto* (2003) 112 Cal.App.4th 1553, 1562.) These precepts apply equally to parties appearing in propria persona. (*First American Title Co. v. Mirzaian* (2003) 108 Cal.App.4th 956, 958, fn. 1; *Bianco v. persona*. (*First American Title Co. v. Mirzaian* (2003) 108 Cal.App.4th 956, 958, fn. 1; *Bianco v. California Highway Patrol* (1994) 24 Cal.App.4th 1113, 1125-1126.) Briefs presenting no more than a "rambling and disjointed series of

accusations” forfeit those claims. (*Singh v. Lipworth* (2014) 227 Cal.App.4th 813, 817.) Here, Milliman raises a single argument in a single heading in his table of contents, contending, “The court found Hayes Milliman have received [sic] the Trustee[']s Notification to Beneficiaries including copies of all three clearly fabricating [sic] documents, in a timely manner.” To the extent we are able to discern an argument in this heading, it appears Milliman is asserting his disagreement with the trial court’s finding that he received notice of the trust proceedings. Yet elsewhere in the brief and the record, he acknowledges receiving actual notice of the proceedings. In fact, he appeared for and participated in the trial.

Although it is not our role to piece together a party’s argument (*City of London v. Barringer* (2002) 102 Cal.App.4th 1211, 1239 & fn. 16), it appears from Milliman’s brief—read in conjunction with the entry in his table of contents mentioning notice—that one of his principal claims is that his wife never signed the trustee’s certified mail notice of the proceedings.

If true, many different inferences could be drawn from this fact, including that someone else innocently signed for the notice. In any event, however, even assuming the signature was not Maxwell’s, that does not amount to Prejudicial error committed by the trial court requiring reversal of the judgment. (Cal. Const., art. VI, § 13; *Denham v. Superior Court* (1970) 2 Cal.3d 557, 566 [lower court judgments are presumed

correct; appellant must demonstrate prejudicial error].) Despite the alleged issue with the certified mailing, Milliman had notice of, and participated in, the trial on the trustee's petition. The essence of due process is notice and an opportunity to be heard. (Mathews v. Eldridge (1976) 424 U.S. 319, 348.)

The record shows Milliman received both. Milliman suggests in a quote for which he provides no attribution that "prejudice is not an element of fraud on the court [and] Fraud on the court occurs when the misconduct harms the integrity of the judicial process, regardless of whether the opposing party is prejudiced." Even if we were to accept these quotations as authoritative, they do not aid Milliman on appeal. He references in regard to these quotations "the certified mail receipt that allegedly]was signed by my wife" and "Trust, two (2) Amendment, Power and original Will." Elsewhere in his brief, Milliman complains opposing counsel's "fraud on the court consisted of concocting and misrepresenting evidence to obtain and enforce a patent," though no patents were at issue; that the trial amounted to no more than a "pageantry of fraud," and that the "[s]uperior court discarded from its analysis each instance of fraud I managed to uncover ."Our role on appeal is not to conduct a retrial or provide a second opportunity for an appellant to make his or her case.

Instead, in a bench trial, the trial court as “[t]he trier of fact is the sole arbiter of all conflicts in the evidence, conflicting interpretations thereof, and conflicting inferences which reasonably may be drawn therefrom; it is the sole judge of the credibility of the witnesses [and] may disbelieve them even though they are uncontradicted”(Pescosolido v. Smith (1983) 142 Cal.App.3d 964, 970-971.) These principles apply equally to declarations: the trial court must determine “which declarations have the ‘ring of truth’ and which do not.” (In re Marriage of Calcaterra & Badakhsh (2005) 132 Cal.App.4th 28, 38.) Put another way, “It has always been the rule that . . . [the] court and jury [if seated] are entitled to disbelieve the testimony if they choose (Market Street Ry. Co. v. George (1931) 116 Cal.App. 572, 576 [trier of fact is sole judge of witness partiality and weight to give testimony]; see Howard v. Owens Corning (1999) 72 Cal.App.4th 621, 631-633 [trier of fact may reject even uncontradicted expert testimony].)

Under these constraints, Milliman presents no basis in his opening brief to reverse the judgment. We may not second-guess the trial court’s credibility or evidentiary findings rejecting Milliman’s claims of fraud. The same is true for appellant’s reply brief. Counsel suggests “there is a mystery associated with authorship” in this case.

More specifically, counsel observes that no attorney “has taken credit for authorship of the 2010 and 2013 amendments” to Tucker’s trust. Counsel also notes inconsequential details such as a misspelled word (“forgoing”) in notarizations attached to the amendments, but correctly highlights under California law that “gifts to caregivers are presumptively the result of fraud or undue influence.” The reply brief suggests that in the “changes made [in the amendments] to the beneficiaries of the original trust,” “[i]t appears that blood relatives are eliminated in favor of adding a caregiver and her family, at least some of whom are also caregivers.

Although counsel points to no specific defect in the original trust, counsel finally asserts “the trust and its amendments have defects so severe that they are not valid,” concluding, therefore, that “[t]his case should be remanded for a full hearing on the issue of validity of the trust and its amendments.” As noted, however, that hearing was already held when the court conducted a full trial at which Milliman appeared, gave opening and closing statements, testified, and cross-examined witnesses.

DISPOSITION

The judgment is affirmed. Before oral argument, appellant’s counsel moved the court to withdraw as attorney of record for appellant. That request is denied. Respondent is entitled to costs on appeal.

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APPENDIX D

**UNITED STATES OF AMERICA BEFORE THE
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE**

**IN THE MATTER OF THE BARBARA TUCKER
TRUST DATED DECEMBER 18,2001**

CASE NO. 30-2016-00837866

Assigned for Trial before the judge Gerald Johnston
ORDER

TRIAL DATE : May 15,2017

TIME: 9:00 a.m.

DEPT: C-06

In the bifurcated Trial held on May 15,2017, in Department 6 before the Judge Gerald Johnston on the limited issue of the standing of Hayes Milliman to bring and assert claims of invalidity, fraud undue influence and illegality of the Barbara Tucker Revocable Intervivos Trust agreement or to make objections about and dispute the authenticity of the Trust Document of the Barbara Tucker Trust or to make claims regarding his right to inherit as a trust

or through intestacy, the Court considered the testimony of Timothy L. Randall, Hayes Milliman and Paige Baker. Upon review of the admitted evidence, the Court hereby enters its Order as follows:

As to Hayes Milliman, the Trustee's Petition to Determine Validity of the Barbara Tucker Revocable Intervivos Trust dated December 18,2001 as amendment on August 16,2010 and again on April 19,2013 is granted finding the Trust and amendment valid. Hayes Milliman is found to have receive Trustees Notification to

Beneficiaries including copies of all three Trust documents, in a timely manner. Milliman is not named beneficiary of the Barbara Tucker Revocable Intervivos Trust dated December 18,2001. Hayes Milliman is not a descendant of a predeceased named beneficiary. Therefore, Hayes Milliman lacks standing to make or assert claims against, nor is he entitled to benefit from, the Barbara Tucker Trust Dated December 18,2001.

Hayes Milliman is not entitled pursue any claim of intestate succession in that the Barbara Tucker Revocable Intervivos Trust held the Trust is valid

DTED 6/22/2017

JUDGE GERALD