

SUPREME COURT
FILED

Court of Appeal, First Appellate District, Division Five - No. A175990

JUN 24 2026

S297025

Jorge Navarrete Clerk

Deputy

IN THE SUPREME COURT OF CALIFORNIA

En Banc

DANIEL J. FELDMAN, Plaintiff and Appellant,

v.

LINDA STEINHOFF HOLMES, Defendant and Respondent.

The petition for review and application for stay are denied.

GUERRERO

Chief Justice

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FIVE

DANIEL J. FELDMAN,
Plaintiff and Appellant,

v.

LINDA STEINHOFF HOLMES,
Defendant and Respondent.

A175990

(City & County of San Francisco
Super. Ct. No. CGC21594129)

BY THE COURT:*

On March 9, 2026, appellant Daniel J. Feldman filed a notice of appeal purporting to appeal from a September 8, 2025 minute entry regarding defendant's motion to dismiss the action pursuant to Code of Civil Procedure section 581, subdivision (b)(5) for Feldman's failure to appear.

On April 6, 2026, we notified the parties that we were considering dismissing this appeal for lack of an appealable order or judgment. We requested appellant file with this court a signed dismissal or judgment, or submit supplemental briefing, by April 27, 2026. We stated that failure to comply with the order could result in the dismissal of the appeal.

"Appellate courts have jurisdiction over a direct appeal, like the present one, only where there is an appealable order or judgment." (*Katzenstein v. Chabad of Poway* (2015) 237 Cal.App.4th 759, 765 (*Katzenstein*)). "The existence of an appealable judgment or order 'is a jurisdictional prerequisite to an appeal.'" (*In re Marriage of Deal* (2022) 80 Cal.App.5th 71, 77–78.) An appellate "court, on its own motion, must dismiss an appeal from a nonappealable order." (*Art Movers, Inc. v. Ni West, Inc.* (1992) 3 Cal.App.4th 640, 645.) Appellant bears the burden of establishing the appealability of such orders. (*Brown v. Upside Gading, LP* (2019) 42 Cal.App.5th 140, 144.)

* Simons, Acting P.J., Burns, J., and Chou, J. participated in the decision.

Appellant did not comply with our April 6, 2026 order. By failing to respond to this court's order, appellant has not carried his burden of demonstrating the existence of an appealable order.

Moreover, the challenged minute entry, without a signed order or judgment, is not effective as a judgment of dismissal and is not appealable. (Code of Civ. Proc., § 581d; *Powell v. County of Orange* (2011) 197 Cal.App.4th 1573–1578 [unsigned minute order dismissing complaint for lack of prosecution under Code of Civil Procedure section 581, subdivision (b)(4) not appealable].)

Since the minute entry appellant purports to appeal is not appealable and appellant has not provided an appealable order or judgment, we dismiss the appeal. No costs are awarded. (Cal. Rules of Court, rule 8.278(a)(5).)

Dated: 05/01/2026

Simons, J., Acting P. J.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FIVE

DANIEL J. FELDMAN,
Plaintiff and Appellant,

v.

LINDA STEINHOFF HOLMES,
Defendant and Respondent.

A175990

(City & County of San Francisco
Super. Ct. No. CGC-21-594129)

Appellant Daniel Feldman's notice of appeal, filed March 9, 2026, purports to appeal from a September 8, 2025 minute entry regarding defendant's motion to dismiss the action for failure to appear pursuant to Code of Civil Procedure section 581, subdivision (b)(5). No signed order or judgment dismissing the action has been entered in the trial court.

"The existence of an appealable judgment or order 'is a jurisdictional prerequisite to an appeal.'" (*In re Marriage of Deal* (2022) 80 Cal.App.5th 71, 77–78.) "A corollary of this rule is that an appeal from a judgment or order that is not appealable must be dismissed." (*Id.* at p. 78.)

A minute entry, without a signed order or judgment, is not effective as a judgment of dismissal and therefore is not appealable. (Code Civ. Proc., § 581d ["All dismissals ordered by the court shall be in the form of a written order signed by the court and filed in the action and those orders when so filed shall constitute judgments and be effective for all purposes"]; *Powell v. County of Orange* (2011) 197 Cal.App.4th 1573, 1577–1578 [unsigned minute order dismissing complaint for lack of prosecution pursuant to Code of Civil Procedure section 581, subdivision (b)(4) not appealable].)

Accordingly, the court is considering dismissing this appeal for lack of an appealable order or judgment.

Within 21 days of the date of this order, appellant must file with this court the trial court's signed dismissal order or judgment. If an appealable

judgment or order is timely filed with this court, we will construe the appeal to have been taken from the appealable judgment or order. (*Brehm v. 21st Century Ins. Co.* (2008) 166 Cal.App.4th 1225, 1234, fn. 5; see also *Maria D. v. Westec Residential Security, Inc.* (2000) 85 Cal.App.4th 125, 129, fn. 1.)

Alternatively, if appellant is unable to file with this court the trial court's signed dismissal order or judgment, including because he is unable to secure entry in the trial court of such an order, appellant shall submit within 21 days of this order a letter brief on whether the September 8, 2025 minute entry is appealable. If appellant submits such a brief, respondent may serve and file a reply within seven (7) days after appellant's brief is served and filed. The parties' briefs must be in letter form and no longer than five (5) single-spaced pages. Factual assertions in the parties' letter briefs must be supported by an evidentiary showing, e.g., a declaration attaching documents reflecting those assertions.

Failure to comply with this order may result in the dismissal of the appeal.

Dated: 04/06/2026

Jackson, P.J., P. J.

2025-09-08

(***DISMISSED***) REMOVED FROM MASTER COURT CALENDAR SET FOR SEP-08-2025 - NO APPEARANCE FOR SELF-REPRESENTED PLAINTIFF, DANIEL FELDMAN, PH.D. APPEARANCE BY MS. JO ANNE FELDMAN, MOTHER OF THE PLAINTIFF, VIA ZOOM FOR SCHEDULING PURPOSES. APPEARANCE BY ATTY. ADRIANNE C. DUNCAN AND ATTY. JUDITH S. MCAULAY FOR DEFENDANT. COURT REPORTER VANESSA CLAYTON, CSR #13112, APPEARED VIA ZOOM. DEFENDANT'S COUNSEL MADE AN ORAL MOTION TO DISMISS THIS CASE PURSUANT TO CCP 581(B)(5). DEFENDANT ALSO REQUESTED TO DECLARE PLAINTIFF, DANIEL FELDMAN, PH.D, A VEXATIOUS LITIGANT AND REQUESTED PLAINTIFF TO POST A BOND OF \$10,000.00 PURSUANT TO CCP 391. MS. JOANNE FELDMAN OPPOSED DEFENDANT'S ORAL MOTION AND REQUESTED A CONTINUANCE OF THE TRIAL DATE FOR 120 DAYS. THE COURT DENIED MS. FELDMAN'S REQUEST FOR A CONTINUANCE OF THE TRIAL DATE. THE COURT GRANTED DEFENDANT'S ORAL MOTION TO DISMISS WITHOUT PREJUDICE THE COMPLAINT PURSUANT TO CCP 581. REASONS FOR THE GRANTING OF THE MOTION IS AS STATED ON THE RECORD. THE COURT DENIED DEFENDANT'S ORAL MOTION TO DECLARE PLAINTIFF A VEXATIOUS LITIGANT. (SEE MINI-MINUTES.) JUDGE: ROCHELLE EAST; CLERK: D. LOK; COURT REPORTER: VANESSA CLAYTON, CSR #13112, VANESSA.CLAYTONCSR@HOTMAIL.COM (206)

Haapala, Thompson & Abery LLP
Attorneys at Law
Park Plaza Building
1939 Harrison St., Suite 800
Oakland, California 94612
Telephone: 510-763-2324
Facsimile: 510-273-8534

STEVEN S. ABERN, SBN 148690
JODY STRUCK, SBN 121097
HAAPALA, THOMPSON & ABERN, LLP
1939 Harrison Street, Suite 800
Oakland, California 94612
Telephone: (510) 763-2324
Facsimile: (510) 273-8534
E-Mail: sabern@htalaw.com
E-Mail: jstruck@htalaw.com

NOLAN S. ARMSTRONG, SBN 241311
McNamara, Ambacher, Wheeler, Hirsig & Gray, LLP
3480 Buskirk Avenue, Suite 250
Walnut Creek, CA 94523
Telephone: (925) 939-5330
Facsimile: (925) 939-0203
E-Mail: nolan.armstrong@mcnamaralaw.com

Attorneys for Defendant
LINDA STEINHOFF HOLMES

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO

UNLIMITED JURISDICTION

DANIEL FELDMAN, Ph.D.,

Plaintiff,

v.

LINDA STEINHOFF HOLMES, an
individual; and DOES 1-10, inclusive,

Defendants.

Case No. CGC-21-594129

~~PROPOSED~~ ORDER GRANTING IN
PART AND DENYING IN PART
DEFENDANT'S MOTION FOR
SUMMARY ADJUDICATION

Date: February 1, 2024
Time: 9:30 a.m.
Dept.: 501

Complaint filed: July 28, 2021

On February 1, 2024, Defendant LINDA STEINHOFF HOLMES's motion for summary adjudication came on regularly for hearing in Department 501 of the above-entitled Court. Having considered all papers submitted by the parties and good cause appearing, the Court adopts its tentative ruling as follows:

DEFENDANT LINDA STEINHOFF HOLMES' MOTION FOR SUMMARY ADJUDICATION is GRANTED in part and DENIED in part. Motion is granted as to issue 1 on the second cause of action. Moving party shifted its burden and the plaintiff failed to create a triable issue of material fact. Motion is denied as to issue 2 regarding the purported claim for

FILED
San Francisco County Superior Court

MAR 11 2024

CLERK OF THE COURT
By: *[Signature]*
Deputy Clerk

Haapala, Thompson & Abern LLP
Attorneys at Law
Peik Plaza Building
1839 Harrison St., Suite 800
Oakland, California 94612
Telephone: 510-763-2324
Facsimile: 510-273-8534

1 treble damages in the third cause of action. Motion for Summary Adjudication is framed by the
2 pleadings. Moving party fails to point to any part of the third cause of action claiming treble
3 damages by paragraph or page/line number. The Court took judicial notice of the Complaint and
4 could not locate any request for treble damages within the third cause of action, pages 12:15-
5 13:1.

6 Accordingly, IT IS HEREBY ORDERED that judgment be entered in favor of
7 Defendant HOLMES on Plaintiff's second cause of action for damages pursuant to the San
8 Francisco Residential Rent Stabilization and Arbitration Ordinance.

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10 DATED: 3/11/24

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12 JUDGE OF THE SUPERIOR COURT

13 RONALD E. GUIDACHAY
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