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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FIVE

ROBERT C. CUMMINS,

Plaintiff and Appellant,

v.

CREATIVE ILLUMINATIONS, INC. et
al.,

Defendants and Respondents.

A142386

(San Mateo County
Super. Ct. No. CIV514665)

Plaintiff Robert C. Cummins (“Cummins”) obtained a default judgment against Javier Alvarez and his company, Creative Illuminations, Inc. (jointly, “respondents”). Cummins appeals from the trial court’s order setting aside the default judgment because the service of process on respondents was defective. We affirm.

BACKGROUND

Appellant Cummins purchased a house in San Carlos in 2009. Respondents built the house. Respondent Creative Illuminations, Inc. (“Creative”) is a California corporation listed on the Secretary of State’s website. During the relevant time period, the website identified respondent Javier Alvarez (“Alvarez”) as Creative’s agent for service of process and listed 2505 Lincoln Avenue in Belmont, California as the address of both Creative and Alvarez. Alvarez also has done business under the business name of Craft & Company and/or Craft Electric (“Craft”). Craft’s website lists as its address 734 El Camino Real, San Carlos, California.

In June 2012, Cummins filed suit against respondents for damages resulting from the defective design and construction of his San Carlos home. Respondents did not file an answer, and, in September 2012, Cummins requested entry of respondents' default. The process server's "Declaration of Diligence" ("Declaration") described her efforts to serve Alvarez. She attempted service on him at the El Camino address on seven occasions and left four voicemails at the office there. She confirmed with the owner and a neighbor business that Alvarez rented space at that location.

Subsequently, the process server attempted service at the 2505 Lincoln Avenue address. On July 22, 2012, the process server left copies of the summons and complaint with a person at that address, later determined to be Alvarez's mother. Alvarez's mother told the process server that Alvarez "doesn't live or receive mail here" and there was no forwarding address. A copy of the summons and complaint were mailed to the same address on July 26.

On September 14, 2012, the trial court entered respondents' default. In February 2014, judgment was entered in favor of Cummins in the amount of \$73,584.00, plus interest, based on the cost of repairing and replacing defective floors in his San Carlos home. In May 2014, respondents moved to set aside the default judgment. In June 2014, the trial court granted the motion. This appeal followed.

DISCUSSION

"[C]ompliance with the statutory procedures for service of process is essential to establish personal jurisdiction. [Citation.] Thus, a default judgment entered against a defendant who was not served with a summons in the manner prescribed by statute is void." (*Dill v. Berquist Construction Co.* (1994) 24 Cal.App.4th 1426, 1444.) Under section 473, subdivision (d) of the Code of Civil Procedure,¹ a trial court may "set aside any void judgment or order." We review de novo a trial court's order setting aside a judgment as void. (*Talley v. Valuation Counselors Group, Inc.* (2010) 191 Cal.App.4th 132, 146.)

¹ All undesignated statutory references are to the Code of Civil Procedure.

Cummins contends service of process was proper under section 415.20. Section 415.20, subdivision (a) provides that “[i]n lieu of” the procedures otherwise specified in section 416.10 for service of process on a corporation,² “a summons may be served by leaving a copy of the summons and complaint during usual office hours in his or her office . . . , with the person who is apparently in charge thereof, and by thereafter mailing a copy of the summons and complaint by first-class mail, postage prepaid to the person to be served at the place where a copy of the summons and complaint were left.” Section 415.20, subdivision (b) provides that, “If a copy of the summons and complaint cannot with reasonable diligence be personally delivered” under section 416.90,³ “a summons may be served by leaving a copy of the summons and complaint at the person’s dwelling house, usual place of abode, usual place of business, or usual mailing address . . . , in the presence of a competent member of the household or a person apparently in charge of his or her office, place of business, or usual mailing address . . . , who shall be informed of the contents thereof, and by thereafter mailing a copy of the summons and of the complaint by first-class mail, postage prepaid to the person to be served at the place where a copy of the summons and complaint were left.”

Cummins argues that leaving the summons and complaint with Alvarez’s mother at the Lincoln Avenue address was sufficient to comply with section 415.20, subdivision (a) as to the *corporate* defendant Creative, because at the time of service that address was the address listed with the Secretary of State both for Creative and for Alvarez, as Creative’s agent for service of process. He also appears to argue that leaving the summons and complaint with Alvarez’s mother at the Lincoln Avenue address was sufficient to comply with section 415.20, subdivision (b) as to the *individual* defendant Alvarez, because that was the address listed for him with the Secretary of State.

² Section 416.10 specifies various methods for service on a corporation, including “by delivering a copy of the summons and the complaint . . . [¶] (a) To the person designated as agent for service of process”

³ Section 416.90 provides, “A summons may be served on a person not otherwise specified in this article by delivering a copy of the summons and of the complaint to such person or to a person authorized by him to receive service of process.”

On the other hand, the trial court reasoned that service was defective because the Lincoln Avenue address was not, at the time, Alvarez's actual address. That fact is apparent from the process server's Declaration, which relates that Alvarez's mother told her Alvarez did not live at or receive mail at the Lincoln Avenue address. Furthermore, the Declaration states the process server learned from two different sources that Alvarez *did* rent space at the El Camino address associated with Craft. On appeal, Cummins does not contend the Lincoln Avenue address was the actual business address of Creative in July 2012, or the actual business or residential address of Alvarez at that time. Accordingly, the Declaration itself indicates that Alvarez was not served at his home or office, as required under section 415.20, subdivisions (a) and (b).

Instead of arguing the Lincoln Avenue address was Alvarez's actual home or office, Cummins asserts he was "entitled to rely" on the address reported to the Secretary of State and "should not be penalized for" Creative's apparent failure to update its address with the Secretary of State. He further asserts, "Affirming the June 18 Order below would allow respondents to benefit from making false or misleading filings (or omissions) with the Secretary of State and would unfairly reward respondents for their deceptive practices." However, beyond those assertions regarding fairness, Cummins fails to support his contention that he may rely on the address on file with the Secretary of State even in the face of clear evidence that address is no longer accurate.⁴

It is unclear what argument Cummins intended to make. It may be he intended to argue that "office" in section 415.20, subdivision (a) and "dwelling house, usual place of abode, usual place of business, or usual mailing address" in section 415.20, subdivision (b) means the address provided to the Secretary of State, rather than the individual's

⁴ Cummins' counsel's declaration in opposition to the motion to vacate the default judgment provides no information about when the address provided the Secretary of State was last updated. A June 2014 screenshot gives a "date filed" of December 12, 2005. Although we do not condone Creative's failure to provide current information to the Secretary of State, neither is it reasonable for a party to rely on apparently old information on the Secretary of State's website in the face of the contrary information Cummins had received about Alvarez's address.

actual home or business address. Or it may be he intended to argue that the address provided to the Secretary of State is always sufficient, regardless of the meaning of the terms used in section 415.20 and what information a plaintiff learns about a defendant's actual address. In any event, neither of those arguments, nor any other argument, has been adequately articulated in Cummins's briefs on appeal. At a minimum, a properly developed argument would include an effort to interpret section 415.20 in light of (1) any provisions of the Corporations Code relevant to an analysis of the consequences of a corporation's failure to provide updated information to the Secretary of State;⁵ and (2) the actual notice provided to Cummins that the Lincoln Avenue address was no longer valid.

The trial court's order is presumed correct, and Cummins, as the appellant, has the burden of demonstrating error. (*Interinsurance Exchange v. Collins* (1994) 30 Cal.App.4th 1445, 1448.) Meeting this burden requires the presentation of reasoned argument with citations to supporting authorities; it is not this court's responsibility to conduct legal research in search of authority to support an appellant's claims on appeal. (*Ibid.*; *Alvarez v. Jacmar Pacific Pizza Corp.* (2002) 100 Cal.App.4th 1190, 1206, fn. 11 ["It is not our responsibility to develop an appellant's argument."]; Cal. Rules of Court, rule 8.204(a)(1)(B); see *Nelson v. Avondale Homeowners Assn.* (2009) 172 Cal.App.4th

⁵ Notably, the Corporations Code itself provides a means of service of process in a situation where the information in the Secretary of State's records is inaccurate. Section 1702, subdivision (a), of the Corporations Code provides: "If an agent for the purpose of service of process has resigned and has not been replaced *or if the agent designated cannot with reasonable diligence be found at the address designated for personally delivering the process*, or if no agent has been designated, and it is shown by affidavit to the satisfaction of the court that process against a domestic corporation cannot be served with reasonable diligence upon the designated agent by hand in the manner provided [in various sections of the Code of Civil Procedure], the court may make an order that the service be made upon the corporation by delivering by hand to the Secretary of State, or to any person employed in the Secretary of State's office in the capacity of assistant or deputy, one copy of the process for each defendant to be served, together with a copy of the order authorizing such service. Service in this manner is deemed complete on the 10th day after delivery of the process to the Secretary of State." (Italics added.) Given the existence of that procedure, it is not apparent why Cummins should have been entitled to serve Creative at an address which was no longer valid, nor why Cummins should be able to rely on that address in serving Alvarez in his individual capacity.

857, 862.) Appellant’s failure to meet his burden forfeits his argument on appeal. (*People v. Stanley* (1995) 10 Cal.4th 764, 793 [if a party fails to provide legal argument and citations to authority on a point, “ ‘the court may treat it as waived, and pass it without consideration’ ”]; accord *People v. Bryant, Smith and Wheeler* (2014) 60 Cal.4th 335, 363.)

Cummins has not demonstrated the trial court erred in granting the motion to vacate the default judgment.

DISPOSITION

The trial court’s order is affirmed. Costs on appeal are awarded to respondents.

SIMONS, J.

We concur.

JONES, P.J.

NEEDHAM, J.