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

**AMY LIU,**

**Plaintiff and Appellant,**

**A144127**

**v.**

**(Alameda County  
Super. Ct. No. RG14-743455)**

**GREGORY S. WALSTON,**

**Defendant and Appellant.**

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Plaintiff Amy Liu sued her former attorney, defendant Gregory S. Walston. The trial court granted Walston's unopposed special motion to strike (Code Civ. Proc., § 425.16)<sup>1</sup> and denied Liu's motion for reconsideration. Liu appeals in propria persona. She contends the court erred by granting the special motion to strike because her complaint does not arise from protected petitioning activity and she demonstrated a probability of prevailing on the merits. We affirm.

**FACTUAL AND PROCEDURAL BACKGROUND**

Until 2009, Liu worked for the Regents of the University of California (Regents). After her termination, she filed a complaint with the California Department of Industrial Relations (DIR) alleging retaliation. The DIR rejected Liu's complaint and she retained

<sup>1</sup> All further statutory references are to the Code of Civil Procedure.

the law firm of Walston Cross (the firm) to appeal. Walston appealed on Liu's behalf, but the director of the DIR affirmed, concluding "[t]here was no substantial evidence" corroborating Liu's allegations. With Liu's approval, Walston filed a petition for writ of mandate in the superior court to set aside the DIR's decision on appeal. The DIR demurred, and Walston opposed the demurrer on Liu's behalf. Following a hearing, the court sustained the demurrer without leave to amend and dismissed Liu's writ petition.

Walston met with Liu to explain the court's ruling and to advise her the dismissal of her writ petition ended the firm's representation because her legal services agreement with the firm excluded "post-judgment litigation," and because an appeal would likely be unsuccessful. Liu became "very agitated" and accused Walston of taking bribes from the Regents. She "started pounding on the table and walls while screaming unintelligible things about 'conspiracies' by the 'guys in black suits[.]'" Eventually, Liu left Walston's office. Walston advised Liu about the deadline to appeal, and provided her with a copy of her file.

Liu filed a form complaint against Walston in propria persona alleging claims for "(1) intentional fraud and planning event (misconduct)[;] (2) professional negligence (dishonesty)[;] (3) breach of contract intentionally [;] (4) corrupted with the other side of attorney to cheat me and try to ruin and delay my case[;] (5) unfair business practices and services[;] [and] (6) violation of [ ] civil right[s] in the court." In an accompanying attachment, entitled "Breach of Contract, Intentional Fraud as An Attorney[,]" Liu alleged Walston failed to communicate with her, lied in court filings, and "ruined [her] case altogether." Liu also alleged Walston "did everything in the court and outside the court by himself without [her] consent and knowledge."

Walston filed a special motion to strike (§ 425.16). He argued Liu's claim that he filed "fraudulent statements in court documents" to "'ruin' her" life arose from protected activity, and that Liu could not demonstrate a probability of prevailing on her fraud and breach of contract claims because, among other things, the complaint did not plead fraud with particularity and Liu contracted with the firm, not with Walston. Liu did not oppose the motion. The court granted the special motion to strike, concluding Walston "met his

initial burden of demonstrating that [Liu]’s Complaint contains causes of action arising from an act in furtherance of [his] right of petition or free speech. . . . Moreover, [Liu] failed to establish a probability that she will prevail on her claims. . . . Put another way, [Liu] did not oppose this motion and has not demonstrated by competent evidence a sufficient prima facie showing of facts to sustain a favorable judgment if the evidence submitted by her is credited.” The court later denied Liu’s motion for reconsideration.

#### DISCUSSION

Our review of an order granting a special motion to strike under section 425.16 is well established. Trial and appellate courts determine whether the defendant has demonstrated a challenged cause of action arises from protected activity and then whether the plaintiff has demonstrated a probability of prevailing on the cause of action.

(*Navellier v. Sletten* (2002) 29 Cal.4th 82, 88; § 425.16, subs. (b)(1), (e).)

Liu contends the court erred by granting Walston’s special motion to strike because her complaint does not arise from protected petitioning activity and because there is a probability she will prevail on her claims. Liu has forfeited these arguments by failing to oppose Walston’s special motion to strike. (*Bell v. American Title Ins. Co.* (1991) 226 Cal.App.3d 1589, 1602 [“[f]ailure to register a proper and timely objection to a ruling or proceeding in the trial court waives the issue on appeal”]; cf. *Platypus Wear, Inc. v. Goldberg* (2008) 166 Cal.App.4th 772, 781 [no forfeiture where the plaintiff “filed a written opposition . . . and orally urged the court not to grant” the defendant’s application to file a special motion to strike].)

Liu’s in propria persona status did not relieve her of the requirement to oppose the special motion to strike. “A party proceeding in propria persona ‘is to be treated like any other party and is entitled to the same, but no greater consideration than other litigants and attorneys.’ [Citation.] Indeed, “the in propria persona litigant is held to the same restrictive rules of procedure as an attorney.” [Citation.]” (*First American Title Co. v. Mirzaian* (2003) 108 Cal.App.4th 956, 958, fn. 1; *Rappleyea v. Campbell* (1994) 8 Cal.4th 975, 984-985.) Because Liu did not oppose Walston’s special motion to strike, she has forfeited her challenge to the order granting the motion. (Weil & Brown, Cal.

Practice Guide: Civil Procedure Before Trial (The Rutter Group 2015) ¶ 9:101.2, p. 9(1)-79; *Roman v. BRE Properties, Inc.* (2015) 237 Cal.App.4th 1040, 1056 [by not raising argument in opposition to summary judgment, appellants forfeited argument on appeal.]

#### DISPOSITION

The order granting Walston's special motion to strike (§ 425.16) is affirmed. Walston is entitled to costs on appeal. (Cal. Rules of Court, rule 8.278(a)(2).)

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Jones, P.J.

We concur:

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Needham, J.

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Bruiniers, J.

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