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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

LARRY SCARBOROUGH,

Plaintiff and Appellant,

v.

MARISSA GRANT,

Defendant and Respondent.

B236051

(Los Angeles County  
Super. Ct. No. SC107329)

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

Larry Scarborough, in pro. per., for Plaintiff and Appellant.

McClagherty & Associates, Jay S. McClagherty and Thomas F. McNamara for  
Defendant and Respondent.

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Larry Scarborough in propria persona appeals from the judgment following the jury's determination by special verdict in favor of Marissa Grant. Scarborough seeks reversal of the judgment, contending that he should have prevailed on his claim for negligence against Grant arising from an automobile collision. We affirm.

### BACKGROUND

This action arose from an automobile collision involving Scarborough and Grant. Our recitation of the facts is limited because Scarborough did not provide a reporter's transcript of the jury trial, and the clerk's transcript fails to include the operative complaint or any other documents from which we can determine the circumstances surrounding the collision. We also cannot rely on the facts presented in Grant's brief because she failed to comply with the rules requiring citation to the record. (Cal. Rules of Court, rule 8.204(a)(1)(C); see *Duarte v. Chino Community Hospital* (1999) 72 Cal.App.4th 849, 856 ["If a party fails to support an argument with the necessary citations to the record, that portion of the brief may be stricken and the argument deemed to have been waived."].)

The court's minute order indicates the jury unanimously concluded by special verdict that Grant was not negligent. Judgment was entered, and Scarborough appealed.<sup>1</sup>

### DISCUSSION

Scarborough appears to contend that the jury reached an erroneous conclusion based upon the evidence presented at trial. It is not, however, entirely clear whether Scarborough's recitation of the "facts" in his opening brief was evidence actually presented to the jury. Assuming the jury heard the facts as Scarborough represents in his briefs, we reject his argument for the following reasons.

First, although Grant is convinced that Scarborough is challenging the sufficiency of the evidence to support the judgment, we are not. It appears to us that Scarborough would like this court to retry the case, contending that Grant was negligent in "not yielding the right of way on her left [hand] turn on a green light [because] we both had a

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<sup>1</sup> The complaint apparently was filed on behalf of Larry Scarborough and Joan Scarborough. Only Larry Scarborough appeals from the judgment.

green light.” (Capitalization omitted.) It is not our role as an appellate court to retry the case. (*Blye v. Affonso* (1960) 185 Cal.App.2d 241, 243 [“ ‘ “It is, of course, the responsibility of the trier of fact to evaluate the credibility of the witnesses and the weight to be given their testimony.’ ”].)

Second, to the extent Scarborough’s argument is a challenge to the sufficiency of the evidence to support the judgment, he has waived that argument. An appellant that has not provided this court with a reporter’s transcript cannot challenge the sufficiency of the evidence on appeal because it is presumed that the unreported trial testimony would demonstrate the absence of error. (See *Estate of Fain* (1999) 75 Cal.App.4th 973, 992.)

Third, Scarborough has failed to cite legal authority to support the arguments he has made. When a brief fails to contain a legal argument with citation of authorities, we may treat the arguments as waived or abandoned. (*Ellenberger v. Espinosa* (1994) 30 Cal.App.4th 943, 948.)

Fourth, given the uncertainty of Scarborough’s claim of error, we note that an appellant may not obtain a reversal simply by pointing out error. He must show the claimed error is prejudicial. (*In re Marriage of McLaughlin* (2000) 82 Cal.App.4th 327, 337.) Absent such argument, we must presume any errors were harmless.

As for any irregularities in the trial court proceedings, we have considered Scarborough’s contentions and find no basis to reverse the judgment.

DISPOSITION

The judgment is affirmed. No costs are awarded.

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ALDRICH, J.

We concur:

KLEIN, P. J.

KITCHING, J.