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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 This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.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

SECOND APPELLATE DISTRICT

DIVISION FIVE

SHAWN DAMON BARTH,

Plaintiff and Appellant,

v.

DMITRY YUZEK GUROVICH et al.,

Defendants and Respondents.

B262371

(Los Angeles County
Super. Ct. No. BC550590)

APPEAL from a judgment of the Superior Court of Los Angeles County, Michael L. Stern, Judge. Affirmed.

Shawn Damon Barth, in pro. per., for Plaintiff and Appellant.

No appearance for Defendants and Respondents.

Plaintiff, Shawn Damon Barth, appeals from a December 23, 2014 judgment of dismissal entered against him for failure to prosecute within the statute of limitations. Plaintiff has not demonstrated proper service on the California Supreme Court under California Rules of Court, rules 8.44(b)(1) and 8.212(c)(2)(C). Plaintiff was previously warned of the defective service as to his original opening brief when we ordered it stricken. (*Barth v. Gurovich* (Sep. 28, 2015, B262371) [nonpub order].) On this ground alone, we have the authority to dismiss plaintiff's appeal. (*Berger v. Godden* (1985) 163 Cal.App.3d 1113, 1118 [“[N]othing in the rules precludes dismissal for failure to file a brief substantially in compliance with the rules after the appellate court has made an order striking one nonconforming brief with leave to file a new brief.”]; see *Lester v. Lennane* (2000) 84 Cal.App.4th 536, 557.)

Even if we were to ignore plaintiff's noncompliance with the court rules and address the merits of his appeal, he has waived all argument. Plaintiff's opening brief consists of his complaint. The opening brief does not address the judgment of dismissal. It makes no citation to the record. Thus, plaintiff has waived all argument on appeal as to the merits of the judgment of dismissal. (*Haley v. Casa Del Rey Homeowners Assn.* (2007) 153 Cal.App.4th 863, 867, fn. 1 [appellants waived issue on appeal by failing to develop argument or cite any legal authority]; *Mansell v. Bd. Of Admin. Of Pub. Employees' Retirement System* (1994) 30 Cal.App.4th 539, 545 [same].)

The judgment of dismissal is affirmed. No costs are awarded in connection with this appeal.

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TURNER, P. J.

We concur:

KRIEGLER, J.

BAKER, J.