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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

RODNEY E. AKINS,

Plaintiff and Appellant,

v.

SAN DIEGO COMMUNITY COLLEGE
DISTRICT,

Defendant and Respondent.

D059552

(Super. Ct. No. 37-2010-00090244-
CU-PO-CTL)

APPEAL from a judgment of the Superior Court of San Diego County, John S. Meyer, Judge. Affirmed.

In this action for sexual harassment and related claims, Rodney E. Akins, in propria persona, appeals a judgment of dismissal entered in favor of the San Diego Community College District (the District) after the trial court sustained the District's unopposed demurrer without leave to amend to the first amended complaint's (FAC) three causes of action against the District. Akins concedes the court properly sustained the District's demurrer and dismissed the action as to the District. Akins, however,

contends the court erred by dismissing the entire action, as three additional causes of action were directed to individual defendants not included in the District's demurrer. We conclude Akins's appeal is unmeritorious as the judgment of dismissal can only be reasonably interpreted to apply to the causes of action against the District. We affirm the judgment.

PROCEDURAL BACKGROUND¹

In September 2010 Akins, in propria persona, filed his FAC. It included causes of action against the District for "[i]ntentional [i]ndifference" (fourth), personal injury (fifth), and sexual harassment (sixth). It also included causes of action against several individuals for assault (first), battery (second), and intentional infliction of emotional distress (third).² The FAC alleged that between 2004 and 2009 Akins attended the District's Mesa College and City College, and during that time employees of the District and fellow students, the individual defendants, harassed him by various means because of his sexual orientation.

The District demurred to the FAC's fourth through sixth causes of action on the grounds they contained insufficient allegations to state a claim, lacked statutory support, failed to comply with mandatory provisions of the Government Claims Act, and were at

¹ On our own motion, we have taken judicial notice of the entire superior court file in this case to fully determine the procedural history and status. (Evid. Code, § 452, subd. (d); *Frisk v. Superior Court* (2011) 200 Cal.App.4th 402, 407, fn. 2; *In re Marriage of Wilson & Bodine* (2012) 207 Cal.App.4th 768, 770, fn. 1.)

² The individual defendants were Rita Cepeda, Lynn Neault, Adela Jacobs, Jerry Mason, Shavon Martin, Victor Charles, Michael Wyatt, Karen Owen, and Virginia Escalante.

least in part barred by the res judicata doctrine based on an earlier action for harassment Akin brought in 2009. Akins neither filed a written opposition to the demurrer nor appeared at the hearing. The superior court file includes no special or general appearance by any of the individual defendants, and it is unclear whether they were actually served with the original complaint or the FAC in accordance with the law.³

The court sustained the District's demurrer without leave to amend, explaining in its February 18, 2011, judgment: "The court finds Plaintiff's allegations to be confusing, convoluted, and often incomprehensible. Plaintiff was provided the opportunity to amend his pleadings to overcome the same issues raised by Defendant in the instant demurrer, however, the pleadings still fail to allege facts to constitute any cause of action." The judgment also states, "The ruling on the demurrer . . . effectively serves to dismiss this action."

DISCUSSION

Akins does not challenge the trial court's sustaining of the District's demurrer on the fourth through sixth causes of action against the District, or the judgment of dismissal in favor of the District. His only contention is that we must reverse the judgment because

³ Atkins filed his original complaint against the District and the same individual defendants in April 2010. On June 24, 2010, Akins filed a Certificate of Service that stated all defendants named in the complaint had been properly and timely served. Atkins signed the form.

the court erred by also dismissing the first through third causes of action against the individual defendants.⁴ We conclude his theory lacks merit.

We must interpret a trial court's judgment in a reasonable manner. (See, e.g., *Rohrback v. Workers' Comp. Appeals Bd.* (1983) 144 Cal.App.3d 896, 902; *City and County of San Francisco v. Evankovich* (1977) 69 Cal.App.3d 41, 49.) The court's judgment here can only be reasonably interpreted to dismiss the fourth through sixth causes of action against the District. The District was the only party that demurred, and its demurrer was directed only to the fourth through sixth causes of action. The District sought a dismissal "as to the District." The demurrer had nothing to do with the individual defendants or the first three causes of action. Thus, the judgment's statement that the "ruling on the demurrer . . . effectively serves to dismiss this action" necessarily refers only to the fourth through sixth causes of action against the District. Perhaps the court clarified the matter at the hearing, but Akins elected not to provide us with a reporter's transcript.

The premise of Akins's appeal is unsound. His only claim pertains to the individual defendants, and the judgment on appeal does not concern them. Since Akins does not challenge the District's dismissal, there is no available relief against the District. " 'An appealed-from judgment or order is presumed correct. [Citations.] Hence, the appellant must make a challenge. In so doing, he must raise claims of reversible error or

⁴ In his reply brief Akins attempts to raise an issue as to the propriety of the District's dismissal. He forfeited appellate review of any such issue, however, by not addressing it in his opening brief. (*Baugh v. Garl* (2006) 137 Cal.App.4th 737, 746.)

other defect [citation] and "present argument and authority on each point made" [citations]. If he does not, he may, in the court's discretion, be deemed to have abandoned his appeal.' " (*County of Kern v. Dillier* (1999) 69 Cal.App.4th 1412, 1425.)⁵

DISPOSITION

The judgment for the District is affirmed. The District is entitled to costs on appeal.

McCONNELL, P. J.

WE CONCUR:

O'ROURKE, J.

AARON, J.

⁵ The District asserts the court's February 18, 2011, order sustaining the demurrer is a nonappealable order under the one final judgment rule. "Ordinarily, a trial court judgment that fails to dispose of all pending causes of action is not immediately appealable: Under the 'one final judgment rule,' the appeal must await final judgment in the *entire* action." (Eisenberg et al., Cal. Practice Guide: Civil Appeals and Writs (The Rutter Group 2012) ¶ 2.69, p. 2-41.) The rule does not apply, however, when a judgment is final as to a party, as is the situation here. (*Id.*, ¶ 2.76, p. 2-45.) The February 18, 2011, order is signed and file-stamped, and is thus a final judgment of dismissal for the District. (Code Civ. Proc., § 581(d).) Before filing its respondent's brief, the District moved to dismiss the appeal on the ground it was premature under the one judgment rule, and thus we lacked jurisdiction to consider it. We denied the motion because, as discussed, there was a final judgment for the District. The District's motion was not based on the opening brief's lack of challenge to the ruling in the District's favor.