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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

AARON HASHIM et al.,
Plaintiffs and Appellants,

v.

MALIA M. COHEN, as State
Controller, etc., et al.,

Defendants and
Respondents.

A161478

(San Francisco City &
County Super. Ct. No. CGC-
13-531294)

Plaintiffs filed this purported class action lawsuit in 2013, alleging that the State Controller¹ (the Controller or defendant) violated their constitutional rights with respect to property governed by the Unclaimed Property Law (UPL) (Code Civ. Proc.², § 1500 et seq.). Among other allegations, they asserted causes of action under 42 United States Code section 1983 claiming that the Controller violated their rights under the

¹ Plaintiffs originally named John Chiang as the Controller when they filed their operative third amended complaint. In January 2023, Malia M. Cohen was sworn into office as Controller, replacing Mr. Chiang's predecessor.

² All further statutory references are to the Code of Civil Procedure unless otherwise stated.

takings and due process clauses of the United States Constitution.

After many years of litigation, the trial court sustained defendant's demurrer to plaintiffs' third amended complaint without leave to amend and entered the judgment at issue. Because plaintiffs have failed to satisfy their burden of demonstrating reversible error, we affirm.

BACKGROUND

Plaintiffs' lawsuit stems from the Controller's allegedly unconstitutional treatment of plaintiffs' property under the UPL. Plaintiffs alleged that they were the owners of certain unclaimed property—specifically, money in an amount less than \$50. Plaintiffs also alleged that the Controller does not request owner-identifying information for unclaimed property with a value of less than \$50, violating the UPL and effecting a permanent deprivation and taking of their property without constitutional “*Mullane*-style”³ notice. They asserted causes of action for: (1) declaratory relief; (2) deprivation of the constitutional right to procedural due process in violation of 42 United States Code section 1983⁴; (3) unconstitutional taking of personal property in

³ *Mullane v. Cent. Hanover Bank & Trust Co.* (1950) 339 U.S. 306 (*Mullane*).

⁴ This statute provides, “Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in

violation of 42 United States Code section 1983; (4) violation of the UPL; and (5) breach of fiduciary duty. The court sustained a demurrer with leave to amend as to plaintiffs' first, second, and fourth causes of action, and without leave to amend as to their third and fifth causes of action.

Plaintiffs filed a first amended complaint, then a second amended complaint following defendant's successful demurrer and motion to strike.

The court sustained defendant's demurrer to plaintiffs' second amended complaint without leave to amend on the claim that the Controller violated the UPL by failing to request identifying information for owners of unclaimed property valued at less than \$50. The court granted plaintiffs leave to amend their remaining claims for declaratory relief and deprivation of procedural due process under 42 United States Code section 1983. With respect to the latter claim, the court found that plaintiffs could not state a claim against the Controller individually due to the doctrine of qualified immunity, but it granted plaintiffs leave to amend as they "may be able to amend the [second amended complaint] to state a cause of action against the State directly to the extent they seek damages equal to the amount of the property held in trust only or an injunction."

equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable." (42 U.S.C. § 1983.)

Plaintiffs filed a third amended complaint (TAC) in December 2014 against the Controller in his official capacity, alleging claims for declaratory relief and deprivation of procedural due process in violation of 42 United States Code section 1983. Defendant demurred to the TAC and moved to strike it for noncompliance with the order allowing plaintiffs leave to amend. The trial court granted defendant's motion to strike and ruled that the demurrer was moot. In an unpublished opinion, this court reversed the judgment that followed the trial court's grant of defendant's motion to strike, but we did not pass on the merits of defendant's demurrer to the TAC in light of the trial court's ruling that the demurrer was moot. (*Hashim v. Yee* (Sept. 4, 2019, A147670) [nonpub.])

On remand, defendant demurred to the TAC. Prior to the demurrer hearing, plaintiffs filed a motion for a temporary restraining order (TRO) and preliminary injunction. The trial court denied plaintiffs' motion and it subsequently sustained defendant's demurrer without leave to amend. In its order sustaining the demurrer, the court reviewed federal decisions in similar litigation initiated by plaintiffs' counsel challenging the constitutionality of the UPL (the *Taylor* decisions discussed, *post*), and it found that the claims in the TAC had been previously rejected in its own prior decisions and those of the Ninth Circuit. Plaintiffs timely appealed from the subsequent judgment.

DISCUSSION

As best we can glean from plaintiffs' briefing, plaintiffs seek to challenge the trial court's rulings that they did not state a claim under 42 United States Code section 1983 for violations of the takings and due process clauses of the United States Constitution.⁵

"Our standard of review is well established. We accept as true the well-pleaded allegations in the operative complaint. [Citation.] ' " "We treat the demurrer as admitting all material facts properly pleaded, but not contentions, deductions or conclusions of fact or law. [Citation.] We also consider matters which may be judicially noticed." [Citation.] Further, we give the complaint a reasonable interpretation, reading it as a whole and its parts in their context. [Citation.]' " [Citation.] We likewise accept facts that are reasonably implied or may be inferred from the complaint's express allegations. [Citations.] " " "A demurrer tests the legal sufficiency of the complaint" [Citations.] On appeal from a dismissal after an order sustaining a demurrer, we review the order de novo, exercising our independent judgment about whether the complaint states a cause of action as a matter of law.' " " " (*Amiodarone Cases* (2022) 84 Cal.App.5th 1091, 1100.)

⁵ The pertinent ruling sustaining the demurrer without leave to amend on plaintiffs' claims arising from alleged violations of the takings clause is the order on defendant's first demurrer, and the pertinent ruling with respect to the claims for alleged violation of the due process clause is the demurrer to the TAC.

“Although our review is de novo, it is plaintiffs’ burden to affirmatively demonstrate that [a ruling on] demurrer was erroneously sustained as a matter of law, which means that plaintiffs must show that they pleaded facts sufficient to establish each element of each cause of action.” (*Amiodarone Cases, supra*, 84 Cal.App.5th at pp. 1100–1101.)

A. The UPL

Because this lawsuit involves the UPL, we begin with a discussion of that statutory scheme. “The UPL establishes the conditions under which certain unclaimed personal property escheats to the state. The UPL is not a permanent or “true” escheat statute. Instead, it gives the state custody and use of unclaimed property until such time as the owner claims it. Its dual objectives are “to protect unknown owners by locating them and restoring their property to them and to give the state rather than the holders of unclaimed property the benefit of the use of it, most of which experience shows will never be claimed.” ’ ” (*Azure Limited v. I-Flow Corp.* (2009) 46 Cal.4th 1323, 1328.)

Title to certain categories of unclaimed property escheats to the state when the conditions of non-use specified by statute occur. (See, e.g., §§ 1300, subd. (c), 1510–1511, 1513–1520.) Prior to escheat, and subject to an exception not relevant here⁶, the holder of certain properties “shall make reasonable efforts” to notify property owners by mail, or, if the owner has consented to

⁶ The exception to the requirement of mailed notice is that the holder need not mail notice to an owner whose address the holder’s records disclose to be inaccurate. (E.g., § 1513.5, subd. (a).)

electronic notice, electronically, that the owner's property will escheat. (§§ 1513.5, subds. (a)–(c) [notice for property valued at \$50 or more for deposit, account, shares, or other interest in banking or financial organization]; 1514, subds. (a), (b) [notice for safe deposit box or repository]; 1516, subds. (a), (b), (d) [notice for dividends and securities]; 1520, subds. (a), (b) [notice for tangible and other intangible personal property valued at \$50 or more].)

The holder of property must also report to the Controller “the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of value of at least twenty-five dollars (\$25) escheated under this chapter.” (§ 1530, subd. (b)(2).)⁷ The statute mandates specific dates, depending on the property's classification, by which a holder must report the escheated property to the Controller. (§ 1530, subd. (d).)

After the holder has reported the property under section 1530, but before the property is given to the Controller, “[t]he Controller shall mail a notice to each person having an address listed in the report who appears to be entitled to property of the value of fifty dollars (\$50) or more escheated under this chapter.” (§ 1531, subd. (b).)⁸ The Controller's notice must state

⁷ Prior to July 1, 2014, these reporting requirements existed for property with a value of at least \$50. (§ 1530, subd. (b)(1).)

⁸ If the holder's report includes an owner's Social Security number, the Controller shall request the Franchise Tax Board (FTB) to provide an address for the owner. (§ 1531, subd. (b).) If the FTB provides an address different from that provided by the

that property is being held, name the addressee who may be entitled to it, and give the name and address of the holder. (§ 1531, subd. (c).) The notice must also include “[a] statement that, if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the notice, the property will be placed in the custody of the Controller and may be sold or destroyed pursuant to this chapter, and all further claims concerning the property or, if sold, the net proceeds of its sale, must be directed to the Controller.” (§ 1531, subd. (c)(3).)

If the owner fails to timely establish his or her right to receive any property specified in the section 1530 report to the satisfaction of the holder, then the property must be transferred to the Controller in the time specified by the statute. (§ 1532, subds. (a)–(b).) As noted, the transferred property does not “permanently escheat to the state.” (§ 1501.5, subd. (a).) Rather, the Controller assumes custody of the property, and the owner “‘may file a claim to the property or to the net proceeds from its sale.’” (*Azure Limited v. I-Flow Corp.*, *supra*, 46 Cal.4th at p. 1330; see § 1540, subd. (a) [any person claiming ownership of property paid or delivered to Controller under UPL may file a claim on form prescribed by Controller].)

In addition to mailing notice as required under section 1531, subdivisions (b) and (c), the Controller is required to “cause a notice to be published in a manner that the Controller

holder, the Controller sends notice to the FTB address. (*Ibid.*) Otherwise, the Controller mails notice to the address provided by the holder. (*Ibid.*)

determines to be reasonable, which may include, but not be limited to, newspapers, Internet Web sites, radio, television, or other media.” (§ 1531, subd. (a).)⁹ And after taking custody of the escheated property, the Controller is required to “conduct a notification program designed to inform owners about the possible existence of unclaimed property received pursuant to this chapter.” (§ 1531.5, subd. (a).)

The Controller may sell escheated property with commercial value (§ 1563), but such sale may not occur sooner than 18 months after the final date for filing the section 1530 report. (See §§ 1563, subds. (a) & (b) [sale no sooner than 18 months and no later than 20 months for securities].) Money received by the Controller is deposited into an Unclaimed Property Fund, and claims are paid out of this fund. (§ 1564, subds. (a) & (b)(1).) Any person aggrieved by the Controller’s claim decision or the Controller’s failure to timely render a claim decision may commence an action to establish the claim in court. (§ 1541.)

B. The Taylor Decisions

Given the reliance of the trial court and the parties on the Ninth Circuit’s *Taylor* decisions, we briefly review them. In *Taylor v. Westley* (9th Cir. 2005) 402 F.3d 924, 926 (*Taylor I*), two people sued the Controller after their shares of stock escheated under the UPL and the Controller sold the shares. They asserted

⁹ Prior to 2018, the Controller was required to provide notice “in a newspaper of general circulation which the Controller determines is most likely to give notice to the apparent owner of the property.” (Former § 1531, subd. (a).)

claims for violation of the due process and takings clauses of the United States Constitution. (*Taylor I*, at p. 929.) The district court dismissed the case on Eleventh Amendment grounds, and *Taylor I* reversed (*Taylor I*, at p. 936), but the Ninth Circuit found that no takings claim could be maintained by the plaintiffs given the custodial, nonpermanent nature of the transfer of plaintiffs' property under the UPL. (*Taylor I*, at p. 936.)

Taylor II issued after the district court denied the plaintiffs' motion for a preliminary injunction challenging the adequacy of the notice provided prior to transfer of unclaimed property to the Controller. (*Taylor v. Westley* (9th Cir. 2007) 488 F.3d 1197, 1201 (*Taylor II*)). The Controller argued that the UPL provided constitutionally adequate notice by requiring that: (1) the state place newspaper advertisements stating that people concerned about possible escheat may check a website to see if their names or property are listed; (2) the state mail written notice to some, but not all, individuals whose property has been escheated; and (3) corporations, banks and other holders of property provide notice to individuals. (*Taylor II*, at p. 1201.) The Ninth Circuit disagreed. (*Ibid.*) Emphasizing the Controller's practice of immediately selling transferred and escheated property, the court found that the plaintiffs had a strong likelihood of success on the merits. (*Id.* at pp. 1200–1201.) The court questioned the constitutionality of the newspaper ad, and it noted that the ad and the Controller's mailings "[did] not respond to the requirement that notice be given *before* an individual's control of his property is disturbed." (*Id.* at p. 1201.)

Finally, it found that the holder's obligation to provide notice did not satisfy the State's obligation to give notice. (*Ibid.*)

On remand, the district court issued a preliminary injunction, and, in 2007, the Legislature "eliminated the statutory and administrative procedure that [the Ninth Circuit] had determined to be unconstitutional" and "promulgated an entirely new statutory procedure addressing escheat." (*Taylor v. Westly* (9th Cir. 2008) 525 F.3d 1288, 1289 (*Taylor III*)). After the district court dissolved the injunction, the plaintiffs appealed. *Taylor III* rejected the plaintiffs' facial challenge to the UPL, finding, "On its face, the new procedure complies with the due process standard established by the Supreme Court in *Mullane v. Cent. Hanover Bank & Trust Co.* [(1950)] 339 U.S. 306], and *Jones v. Flowers* [(2006)] 547 U.S. 220 []." (*Taylor III*, at p. 1289; accord, *Suever v. Connell* (9th Cir. 2009) 579 F.3d 1047, 1054, fn. 4 [amended version of UPL is facially constitutional].)

In *Taylor V*, the Ninth Circuit upheld the dismissal of the plaintiffs' as-applied due process claim. (*Taylor v. Yee* (2015) 780 F.3d 928, 931 (*Taylor V*)). There, plaintiffs asserted that the Controller failed to provide constitutionally adequate notice before the transfer of unclaimed property to her custody because she did not take additional steps to locate and notify property owners by consulting available government databases. (*Id.* at pp. 935, 937.) The court confirmed that *Taylor III* had held that the new UPL provided constitutionally adequate notice on its face (*Taylor V*, at pp. 934–935), and it rejected plaintiffs' as-applied challenge, finding that the due process clause did not require the

Controller to search for owner addresses on available government databases. (*Taylor V*, at pp. 938–939.)

C. Analysis

1. The 42 United States Code Section 1983 Claims for Violation of the Takings Clause

Turning first to plaintiffs’ allegations premised on the takings clause, the Fifth Amendment prohibits the taking of private property for public use without just compensation. (See *Texaco, Inc. v. Short* (1982) 454 U.S. 516, 523 & fn. 11.) Plaintiffs do not establish reversible error with respect to the trial court’s ruling on this claim.

First, and importantly, plaintiffs do not cite to the operative pleading or set forth its allegations in their briefing. As such, they fail to demonstrate any reversible error in the ruling below. (See *Rakestraw v. California Physicians’ Service* (2000) 81 Cal.App.4th 39, 43 (*Rakestraw*) [plaintiff bears burden of demonstrating trial court erroneously sustained demurrer as a matter of law and must show complaint alleges facts sufficient to establish every element of each cause of action].) The judgment may be affirmed on this basis alone.

When we dig through the record to locate and then parse plaintiffs’ allegations, we find that their takings claims are substantively deficient. Plaintiffs alleged that they held a protected property right in money in amounts under \$50. They also alleged that the Controller holds unclaimed property in custody for the true owner, and the Controller is required to return property transferred upon the owner’s claim. Plaintiffs’ money is in the custodial Unclaimed Property Fund (§ 1564,

subd. (a)¹⁰). Plaintiffs’ allegations establish knowledge that their property is held in custody, yet plaintiffs do not allege that they sought return of their property from the Controller or that the Controller denied their requests. Based on plaintiffs’ allegations, the trial court was correct in finding that plaintiffs have not alleged that the government took a property interest. (*Taylor I, supra*, 402 F.3d at p. 936 [rejecting takings claim because plaintiffs’ property under UPL “has not been taken at all, but has merely been held in trust for them by the Controller”].)

Furthermore, any property deprivation that may have occurred resulted from plaintiffs’ inattention to their property, not a government taking for which just compensation is due. In *Texaco, Inc. v. Short, supra*, 454 U.S. 516, the court rejected a takings challenge and approved a statute providing that mineral interests would revert to the surface owner when those interests had not been used by their owner in specified ways for twenty years, unless the owner recorded a claim before then. The court explained that states had long been authorized to terminate or transfer unexercised property interests considered abandoned, and it found the government was not required to pay compensation: “In ruling that private property may be deemed to be abandoned and to lapse upon the failure of its owner to take reasonable actions imposed by law, this Court has never required the State to compensate the owner for the consequences of his

¹⁰ “All money received under this chapter, including the proceeds from the sale of property under Section 1563, shall be deposited in the Unclaimed Property Fund in an account titled ‘Abandoned Property.’” (§ 1564, subd. (a).)

own neglect. . . . It is the owner's failure to make any use of the property—and not the action of the State—that causes the lapse of the property right; there is no 'taking' that requires compensation.”¹¹ (*Texaco*, at p. 530.)

Applying *Texaco*, courts have rejected takings claims for the interest earned by escheated property held by the Controller under the UPL, reasoning that California need not compensate the plaintiffs for the consequences of their neglect. (*Turnacliff v. Westly* (9th Cir. 2008) 546 F.3d 1113, 1119–1120; *Suever v. Connell*, *supra*, 579 F.3d at p. 1057; *Morris v. Chiang* (2008) 163 Cal.App.4th 753, 760.) This reasoning defeats plaintiffs' claims premised on violations of the takings clause.

2. The 42 United States Code Section 1983 Claims for Violation of Due Process

Nor are we persuaded that the court erred in sustaining defendant's demurrer to plaintiffs' claims based on alleged violation of their rights to due process. The due process clause requires the government to provide notice and a meaningful opportunity to be heard before finally depriving an individual of a property right. (*Mathews v. Eldridge* (1976) 424 U.S. 319, 333–334; *Mullane*, *supra*, 339 U.S. at p. 314 [“An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their

¹¹ Plaintiffs do not contest the Legislature's power to enact the UPL, nor do plaintiffs challenge the conditions upon which the UPL deems property interests to have escheated.

objections.”].) Due process is a flexible concept, calling for such procedural protections as a particular situation demands. (*Mathews*, at pp. 333–334.) The nature of the property deprivation itself determines what procedural protections the Constitution requires. (*Mathews*, at pp. 334–335.)

First, plaintiffs again fail to satisfy their burden to demonstrate that they pleaded valid claims under 42 United States Code section 1983 premised on the alleged violation of their due process rights because they entirely fail to cite to the operative pleading or set forth its allegations in their brief. (See *Rakestraw*, *supra*, 81 Cal.App.4th at p. 43.) As with plaintiffs’ takings challenge, this failing alone mandates affirmance of the judgment.

When we again scour the record and briefing in an effort to divine the basis of plaintiffs’ due process contentions, we find them wanting. We perceive plaintiffs to advance three main contentions. First, plaintiffs appear to argue that the Controller violated their rights to due process because the Controller does not search available databases for owner addresses to mail notices prior to transfer of escheated property under section 1531, subdivision (b). Second, plaintiffs contend that their rights to due process were infringed because the Controller does not collect owner information for property with a value of under \$50 in section 1530 reports, and the UPL does not require the Controller to mail a notice to owners of escheated property with a value of under \$50 before taking custody of the property. Plaintiffs also appear to argue that the failure to collect owner-identifying

information for escheated property valued under \$50 effected a permanent deprivation of their property in violation of due process. We find no cause to reverse the judgment for the reasons set forth below.

To the extent plaintiffs premise their claims on a lack of direct mail notice under the UPL before their property escheated to the Controller, they demonstrate no basis for reversal. Notably, plaintiffs concede in their appellate brief, as they did in their opposition to the demurrer below, that the UPL is facially constitutional. On its face, the UPL requires direct mail notice prior to transfer of escheated property from the holder to the Controller only for properties valued at \$50 *or more*. (§ 1531, subd. (b).) The necessary consequence of Plaintiffs' concession that the UPL is facially valid is a concomitant concession that the UPL is not constitutionally infirm for failing to require the Controller to provide pre-escheat direct mail notice to owners of property valued *under* \$50. Plaintiffs seem to have suggested below that they were pursuing an as-applied constitutional challenge, but in their appellate briefing, they do not point to any allegations in their complaint to attempt to establish that they have pleaded a valid claim that section 1531, subdivision (b), as applied, deprived them of due process.

Finally, plaintiffs' claims also fail because they have not alleged facts showing that the Controller permanently deprived them of their property without due process. Plaintiffs rely on *Mullane's* rule that procedural due process must be provided for any proceeding to be accorded finality (*Mullane, supra*, 339 U.S.

at p. 314), and their due process claims ultimately appear founded on the premise that the Controller has permanently seized their property. But plaintiffs allege their property—sums of money under \$50—is in the Unclaimed Property Fund, and they allege that the Controller is required to return property transferred under the UPL upon the owner’s claim. While plaintiffs allege that “it is difficult, if not impossible,” for owners of property valued at less than \$50 to recover their property because the Controller allegedly does not maintain owner-identifying information therefor, at the same time, plaintiffs allege that the Controller gives verbal claim instructions to owners of property under \$50 for how to “prove up” their claims. Plaintiffs do not allege that they sought return of their property from the Controller, or that the Controller denied their claims. As such, plaintiffs have not sufficiently alleged that they suffered a permanent deprivation of their property.

3. Alleged “Underground” Regulations

Plaintiffs devote a section of their opening appellate brief to the argument that the Controller failed to promulgate regulations governing the claim process pursuant to California’s Administrative Procedure Act (Gov. Code, § 11340 et seq.) (APA)), but this contention does not assist plaintiffs in obtaining reversal. Without describing their content, plaintiffs contend that the Controller issued guidelines, bulletins, forms, and notices that constitute void “underground regulations.” But plaintiffs did not plead a stand-alone claim seeking to void the Controller’s alleged underground regulations for violation of the APA, and, as

discussed, *post*, they do not seek leave to amend their complaint. To the extent plaintiffs claim that the Controller's failure to promulgate regulations under the APA somehow violated their rights to procedural due process, they do not cite any authority supporting this bare proposition, nor do they allege any facts regarding the process provided by the alleged underground regulations. Indeed, plaintiffs do not even allege that they sought to recover their property through this process. Plaintiffs' argument regarding the APA thus does nothing to advance their cause.

4. Amendment

The party seeking to amend bears the burden of showing the defects in its complaint are capable of being cured by amendment. (*Schifando v. City of Los Angeles* (2003) 31 Cal.4th 1074, 1081.) "To satisfy that burden on appeal, a plaintiff 'must show in what manner he can amend his complaint and how that amendment will change the legal effect of his pleading.' [Citation.] The assertion of an abstract right to amend does not satisfy this burden." (*Rakestraw, supra*, 81 Cal.App.4th at p. 43.) The plaintiff must clearly and specifically state "the legal basis for amendment, i.e., the elements of the cause of action," as well as the "factual allegations that sufficiently state all required elements of that cause of action." (*Ibid.*) Because plaintiffs do not argue they are entitled to amend their complaint or that the trial court erred in denying leave to amend, they necessarily fail to provide any basis on appeal to grant leave to amend.

D. The Preliminary Injunction Ruling

Because plaintiffs request that we order the trial court to enter a preliminary injunction on remand, we briefly address, and deny, this request. Plaintiffs' notice of appeal indicates an appeal of the trial court's order denying the TRO and preliminary injunction, as well as an appeal from the judgment. The court clerk served the file-stamped, separately appealable order denying the TRO and preliminary injunction (§ 904.1, subd. (a)(6)) on May 14, 2020, so this court lacks jurisdiction over plaintiffs' untimely October 15, 2020 notice of appeal from that order. (Cal. Rules of Court, rule 8.104(a)(1)(A), (e) [notice of appeal must be filed 60 days after court clerk serves a filed-endorsed copy of an appealable order showing date of service].) In any event, an injunction is not warranted where, as here, plaintiffs have not established a viable claim for relief. "A preliminary injunction is an interim remedy designed to maintain the status quo pending a decision on the merits. [Citation.] It is not, in itself, a cause of action. Thus, a cause of action must exist before injunctive relief may be granted." (*MaJor v. Miraverde Homeowners Assn.* (1992) 7 Cal.App.4th 618, 623.)

DISPOSITION

The judgment is affirmed.

BROWN, J.

WE CONCUR:

POLLAK, P. J.
GOLDMAN, J.

Hashim v. Yee (A161478)