Filed 8/21/26 Manzo v. Newrez, LLC CA2/4

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

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 This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.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

SIDNEY L. MANZO, Plaintiff and Appellant, v. NEWREZ, LLC et al., Defendants and Respondents.	B351820 (Los Angeles County Super. Ct. No. 25NNCV00767)

APPEAL from a judgment and postjudgment order of the Superior Court of Los Angeles County, Ian C. Fusselman, Judge. Appeal from judgment dismissed; postjudgment order affirmed.

Sidney L. Manzo, in pro. per., for Plaintiff and Appellant.

Klinedinst, Ian A. Rambarran, Brandon J. Mika and Robert M. Shaughnessy for Defendants and Respondents.

INTRODUCTION

We have no jurisdiction to hear untimely appeals. We conclude that Plaintiff Sidney L. Manzo's appeal of a judgment is untimely. We cannot hear it.[1]

Manzo also appeals a postjudgment order awarding attorneys' fees and costs. Manzo's appeal of that order is timely. But Manzo's only argument for reversing that order is his assertion that the underlying judgment was improper. Since we cannot review the underlying judgment, we cannot reverse the order awarding fees and costs.

Thus, we dismiss the appeal of the judgment. We affirm the trial court's order awarding fees and costs.

BACKGROUND

This appeal hinges on whether a notice of appeal was timely filed. Our discussion of the record is accordingly limited.

The dispute involves a home owned by Manzo in Pasadena, California. The home was subject to a loan, secured by deed of trust.[2] As alleged in Manzo's pleading, the deed of trust was assigned several times between several entities, including a 2018 assignment between Mortgage Electronic Registration Systems, Inc. (MERS) and Ditech Financial LLC (Ditech).

Defendant Newrez is a loan servicing company. Newrez was responsible for collecting payments on the loan on Manzo's Pasadena

---

[1] Defendant Newrez filed a motion for partial dismissal of appeal on March 6, 2026, seeking dismissal of the appeal of the judgment. We now grant that motion.

[2] Because this appeal comes to us following the trial court's sustaining of a demurrer without leave to amend, this discussion assumes the truth of the factual allegations in Manzo's pleading.

property. Manzo alleged that Newrez lacked authority to service the loan on his property. This was so, according to Manzo, because the 2018 assignment from MERS to Ditech was void.

Manzo brought causes of action against Newrez and related Defendants for violation of the federal Fair Debt Collection Practices Act (FDCPA) and its California equivalent, for quiet title, and for declaratory relief. All of Manzo's claims were based on his argument that the 2018 assignment was void. Manzo filed a second amended complaint, and Newrez demurred to it.

The trial court sustained the demurrer without leave to amend. It found that Manzo's FDCPA and related California causes of action failed because Newrez was not a debt collector within the meaning of these statutes. It further found that those causes of action failed because Manzo lacked standing to challenge the validity of the assignment of the deed of trust. It found that the quiet title cause of action could not be asserted because Manzo had not paid the outstanding debt on the mortgage or deed of trust. And it found that the declaratory relief cause of action failed along with the other causes of action.

The trial court heard and sustained the demurrer without leave to amend on August 29, 2025. It entered a judgment of dismissal in favor of Newrez on September 16, 2025. Notice of entry of that judgment of dismissal was served on Manzo on September 18, 2025.

Manzo did not file the notice of appeal of that judgment until December 11, 2025, more than 80 days later.

Meanwhile, Newrez moved to recover its attorneys' fees and costs, based on a clause in the deed of trust and Civil Code section 1717. The trial court granted that motion in Newrez's favor on November 21, 2025. The trial court awarded $62,738.46 in fees and costs and ordered that amount to be

added to Manzo's outstanding loan balance. Notice of entry of order for the award of fees and costs was served on December 10, 2025. Manzo's December 11, 2025 notice of appeal also appealed from the November 21, 2025 order awarding fees and costs.

Later, on March 2, 2026, the trial court entered an "Amended Judgment of Dismissal." That amended judgment simply restates and combines the September 18, 2025 judgment dismissing the underlying action and the November 21, 2025 order awarding attorneys' fees and costs, combining the two into a single document.

DISCUSSION

A. *We Cannot Hear the Untimely Appeal*

"The time for appealing a judgment is jurisdictional; once the deadline expires, the appellate court has no power to entertain the appeal." (*Van Beurden Ins. Services v. Customized Worldwide Weather Ins. Agency* (1997) 15 Cal.4th 51, 56.) A notice of appeal must be filed within 60 days of service of notice of entry of the appealable judgment for which review is sought. (Cal. Rules of Court, rule 8.104(a)(1), (2).) Here, Manzo was served with notice of entry of judgment of dismissal on September 18, 2025. The notice of appeal was filed on December 11, 2025. That is more than 60 days. Thus, on its face, the appeal of the judgment is untimely.

Manzo argues that the appeal is timely because of the March 2, 2026 "Amended Judgment of Dismissal." As noted, that amended judgment restates the September 18, 2025 judgment dismissing the underlying action and the November 21, 2025 order awarding attorneys' fees and costs, and combines them into one document. Manzo argues that "This amended judgment did not merely add costs to an existing judgment; it merged the fee

determination into a single, final adjudicatory document." Although Manzo's notice of appeal was not from the March 2, 2026 Amended Judgment (nor could it have been, since the Notice of Appeal was filed in Dec. 2025) Manzo argues that the March 2, 2026 judgment constituted a separately appealable judgment, making his appeal ultimately timely.

Manzo cites no authority that has found an appeal to be timely in similar circumstances. We are aware of none. Rather, the law in this area is clear. As one court has explained: " 'The effect of an amended judgment on the appeal time period depends on whether the amendment substantially changes the judgment.... 'When the trial court amends a nonfinal judgment in a manner amounting to a *substantial modification* of the judgment (e.g., on motion for new trial or motion to vacate and enter different judgment), the amended judgment supersedes the original and becomes the appealable judgment (there can only be *one* "final judgment" in an action ...). Therefore, a new appeal period starts to run from notice of entry or entry of the *amended* judgment.' .... It is well settled, however, that '[w]here the judgment is modified merely to add costs, attorney fees and interest, the original judgment is not substantially changed and the time to appeal it is therefore not affected.' " (*Torres v. City of San Diego* (2007) 154 Cal.App.4th 214, 222, quoting Eisenberg et al., Cal. Practice Guide: Civil Appeals & Writs (The Rutter Group 2006) ¶¶ 3:56, 3:56.1, 3:56.1a, 3:56:3, pp. 3–24 to 3–26.)

Put differently, to determine whether a second judgment restarts the clock for an appeal, the key is whether the second judgment worked a "substantial modification" on the first judgment. (*Ellis v. Ellis* (2015) 235 Cal.App.4th 837, 842.) Generally, a "substantial modification" will be found only when there has been a "substantial change in the rights of the parties," such that an appeal from the first judgment alone would mean that the

parties would not be able to "contest [an] issue" in the second judgment in the Court of Appeal. (*Ibid.*) "In other words, if 'a party can obtain the desired relief from a judgment before it is amended, he must act—appeal therefrom—within the time allowed after its entry.' " (*Id.* at p. 843.)

Here, the March 2, 2026 amended judgment was not a substantial modification of the September 18, 2025 judgment. The March 2026 amended judgment restated the original September 2025 judgment. It did not alter it, at all. The March judgment did combine the original September 18, 2025 judgment with the December, 2025 award of fees and costs and merge the two into a single judgment document. But, as noted above, it is well-established that a post-judgment award of fees and costs is not a substantial modification of the judgment. (*Torres v. City of San Diego*, *supra*, 154 Cal.App.4th at p. 222.) Therefore, Manzo's time to appeal ran from the September 2025 judgment, and his notice of appeal was untimely.

Beyond his argument about the March 2, 2026 amended judgment, Manzo offers no justification for his untimely filing of the notice of appeal.[3] Accordingly, we conclude that Manzo's notice of appeal was untimely. We lack jurisdiction to consider the appeal of the judgment. Therefore, we grant Defendants' motion to dismiss the appeal of the judgment.

---

[3] Manzo also asserts (1) that "[s]trong public policy favors resolution of this appeal on the merits" and (2) that he is proceeding in pro se. Neither assertion is germane. "The time for appealing a judgment is jurisdictional; once the deadline expires, the appellate court has no power to entertain the appeal." (*Van Beurden Ins. Services v. Customized Worldwide Weather Ins. Agency, supra,* 15 Cal.4th at p. 56.) This court has no discretion to hear an untimely appeal regardless of the reason for the untimeliness. (Cal. Rules of Court, rule 8.60(d).)

B. *Manzo Has Provided No Basis For Overturning the Fee Award*

As defendants concede, Manzo's appeal from the trial court's award of attorneys' fees and costs is timely. However, Manzo's only argument as to why the award of attorneys' fees was improper is that "[t]he court awarded fees without standing" because of the "void assignment." In other words, Manzo's argument is that, because of the allegedly void assignment between MERS and Ditech—the same issue at the core of Manzo's second amended complaint—the trial court lacked the power to award contractual attorneys' fees.[4] Other than this collateral attack on the underlying judgment, Manzo asserts no basis for overturning the trial court's award of fees and costs.

But, as we just explained, Manzo cannot appeal the underlying judgment. He cannot use the appeal of the order of attorneys' fees and costs as a means of attacking the underlying judgment when that judgment is no longer properly appealable. "[A party] cannot … challenge the underlying judgment through the guise of appealing the order awarding attorney fees." (*Duff v. Jaguar Land Rover North America, LLC* (2022) 74 Cal.App.5th 491, 499, fn. 4 [rejecting use of an appeal of a fee award as a "collateral challenge to the underlying judgment"]; Code Civ. Proc., § 906 [explaining that the Court of Appeal's general powers of review of one order "do not authorize the reviewing court to review any decision or order from which an appeal might have been taken"].) For that reason alone, the Court cannot reverse the award of fees and costs, and must affirm it.

Moreover, an appellant has the burden of providing an adequate appellate record. (*Rossiter v. Benoit* (1979) 88 Cal.App.3d 706, 711–712.)

---

[4] It is not entirely clear what Manzo was referring to as the "void assignment," but the only logical inference is to construe the reference as being to the allegedly invalid assignment of the deed of trust in 2018 from MERS to Ditech, discussed *ante*.

Here, Manzo failed to include in the appellate record the moving papers, declarations, and supporting exhibits in support of the motion for attorneys' fees. He also failed to provide a reporter's transcript of the trial court's hearing on the motion, or any sufficient substitute for a reporter's transcript (e.g., a settled statement). We simply do not have enough information to evaluate the trial court's attorney's fees award. So, for that reason as well, we must affirm it. (*Id.* at p. 712 [no reporter's transcript fatal to appeal from demurrer]; *Foust v. San Jose Construction Co., Inc.* (2011) 198 Cal.App.4th 181, 186–187 [collecting cases].)

DISPOSITION

The appeal from the judgment is dismissed. The postjudgment order awarding attorney fees and costs is affirmed. Respondent NewRez, LLC shall recover its costs on appeal.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

DAUM, J.

We concur:

ZUKIN, P. J.

TAMZARIAN, J.