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NOT TO BE PUBLISHED

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

PETER LYNCH, Plaintiff and Appellant, v. JASMIN MGRDICHIAN, et al., Defendants and Respondents.	B143599 (Super. Ct. No. BC144343)

APPEAL from a judgment of the Superior Court of Los Angeles County, Edward Ferns, Judge. Affirmed.

Sterling Norris for Plaintiff and Appellant.

Bryan & Cave and Howard O. Boltz, Jr. for Defendants and Respondents.

This is an appeal by plaintiff Peter Lynch from a superior court order of dismissal following the trial court's sustaining a demurrer without leave to amend appellant's third amended complaint.[1] We issued an Order to Show Cause (OSC) re Dismissal because appellant did not provide us with an adequate record. Since appellant still has not provided us with an adequate record, we affirm the trial court's judgment (order of dismissal).

STATEMENT OF THE CASE

Appellant filed suit in federal court asserting a shareholder's derivative action on behalf of the California Commerce Club, Inc. He alleged that other officers and directors were guilty of making improper political contributions from the corporation. Summary judgment was granted in favor of the defendants in the federal action, which was affirmed on appeal.

After filing the federal action, appellant filed the instant state action, which is identical to the federal action. The defendants named in the state complaint, Jasmine Mgrdichian, George Tumanjan, Harvey Ross and Haig Papaian, Jr. (respondents), demurred to appellant's third amended complaint, and the trial court sustained the demurrer without leave to amend the complaint. The court ordered the third amended complaint "dismissed without leave to amend in this action." Appellant now challenges the trial court's ruling.

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[1] We have no certified or conformed copy of plaintiff's purported notice of appeal.

Further, the attorney-prepared order which we have is entitled "ORDER GRANTING DEMURRER TO THIRD AMENDED COMPLAINT WITHOUT LEAVE TO AMEND." Page two of the order states that the trial court dismissed the third amended complaint "without leave to amend in this action."

On April 30, 2001, we issued an OSC re Dismissal of appellant's appeal because he did not include necessary documents within the record to determine the merits of his challenge of the trial court's ruling. We gave appellant 15 days to show cause why his appeal should not be dismissed, and defendants 10 days from date of service of appellant's letter brief to file a response. On May 10, appellant filed a timely response. Defendants have not filed a response.

DISCUSSION

As part of appellant's response to our OSC, he filed four exhibits containing uncertified and unconformed copies of purported trial court documents. It is appellant's duty to provide either certified or conformed documents. (*Estrada v. Ramirez* (1999) 71 Cal.App.4th 618, 620, fn. 1.) The "[w]illful or grossly negligent filing of an appendix containing nonconforming copies is an unlawful interference with the proceedings of the reviewing court, and subjects the counsel filing the brief, and the party represented, to monetary and any other appropriate sanctions." (Cal. Rules of Court, rule 5.1(i)(1).) An appellant's failure to provide an adequate record on appeal precludes an adequate review "and results in affirmance of the trial court's determination. [Citation.]" (*Estrada v. Ramirez*, *supra*, 71 Cal.App.4th at p. 620, fn. 1.)

Even assuming that the documents provided were properly certified or conformed, they do not provide us with an adequate record to review the matter. The issue on appeal is whether the trial court properly sustained respondents' demurrer to appellant's third amended complaint without leave to amend. While appellant has now provided us with copies of some of the demurrer-related papers, specifically a demurrer to appellant's first amended complaint, a reply in support of the demurrer to the third amended complaint and appellant's third amended complaint, appellant still has not provided us with copies of any opposition papers

filed in connection with the demurrer to the third complaint. As we explained in our OSC re Dismissal, appellant has the burden to provide an adequate record on appeal from which error can be demonstrated. (*Buckhart v. San Francisco Residential Rent etc., Bd.* (1988) 197 Cal.App.3d 1032, 1036.) An adequate record includes all papers relevant to the trial court's ruling contested on appeal. Therefore, the absence of appellant's opposition papers results in affirmance of the trial court's decision. (*Estrada v. Ramirez, supra*, 71 Cal.App.4th at p. 620.)

DISPOSITION

The judgment (order of dismissal) is affirmed.

NOT TO BE PUBLISHED

HASTINGS, J.

We concur:

VOGEL (C.S.), P.J.

CURRY, J.