

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
(Nevada)

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RICHARD EWALD,  
  
Plaintiff and Appellant,  
  
v.  
  
NATIONSTAR MORTGAGE, LLC,  
  
Defendant and Respondent.

C081760  
  
(Super. Ct. No. CU15-081043)

Plaintiff Richard Ewald, through counsel, timely appealed from a judgment following a successful defense motion for summary judgment.

Ewald’s counsel fails to articulate the standard of review on appeal, in and of itself a potentially fatal omission. “ ‘Arguments should be tailored according to the applicable standard of appellate review.’ [Citation.] Failure to acknowledge the proper scope of review is a concession of a lack of merit.” (*Sonic Manufacturing Technologies, Inc. v. AAE Systems, Inc.* (2011) 196 Cal.App.4th 456, 465.) More importantly, Ewald’s counsel fails to provide any legal authority to support her arguments. We repeatedly

have held that the failure to provide legal authorities to support arguments forfeits contentions of error. (See *In re S.C.* (2006) 138 Cal.App.4th 396, 408; *Akins v. State of California* (1998) 61 Cal.App.4th 1, 50; *In re Marriage of Nichols* (1994) 27 Cal.App.4th 661, 672-673, fn. 3.)

As respondent's counsel observes, Ewald's counsel does provide an accurate statutory citation in support of the proposition that the judgment is appealable (Code Civ. Proc., § 904.1, subd. (a)(1)), and in her statement of the case she cites a single case referenced by the trial court in its *tentative* ruling (*Nungaray v. Litton Loan Servicing, LP* (2011) 200 Cal.App.4th 1499). Putting aside the fact that Ewald's counsel both fails to cite that case properly and fails to provide an accurate citation to where the document citing that case can be found in the record on appeal, the trial court did not even cite to that case in the final ruling. Further, Ewald's counsel does not explain the holding of that case, nor does counsel explain why that case has any relevance to her claims on appeal, to the extent we can decipher them.

In the argument section of her brief, Ewald's counsel describes two causes of action, misrepresentation and breach of contract, and argues triable issues remain as to each. However, she does not describe the elements of either cause of action. Without a statement of the elements of a cause of action, supported by authority, counsel cannot establish whether triable issues of fact exist as to either cause of action.

In short, as respondent properly argues, the opening brief does not satisfy counsel's duty to provide adequate legal authority to support this appeal. Ewald's counsel did not file a reply brief, nor anywhere offer an explanation for failing to comply with her duty to properly brief this case. In light of counsel's egregious violations of basic appellate norms, we affirm the judgment without discussing the merits.

#### **DISPOSITION**

The judgment is affirmed. Appellant shall pay respondent's costs of this appeal. (See Cal. Rules of Court, rule 8.278(a).)



Filed 7/27/17

CERTIFIED FOR PUBLICATION

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ORDER CERTIFYING  
OPINION FOR  
PUBLICATION

The opinion in the above-entitled matter filed on June 28, 2017, was not certified for publication in the Official Reports. For good cause it now appears the opinion should be published in the Official Reports, and it is so ordered.

FOR THE COURT:

\_\_\_\_\_/s/  
Robie, Acting P. J.

\_\_\_\_\_/s/  
Butz, J.

\_\_\_\_\_/s/  
Duarte, J.

## EDITORIAL LISTING

APPEAL from a judgment of the Superior Court of Nevada County, Thomas M. Anderson, Judge. Affirmed.

Power Law and Stacie L. Power for Plaintiff and Appellant.

Severson & Werson, Elizabeth Holt Andrews and Jan T. Chilton for Defendant and Respondent.