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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

CHRISTINA POPPY,

Plaintiff and Appellant,

v.

THE CINEFAMILY et al.,

Defendants and Respondents.

B293610

(Los Angeles County
Super. Ct. No. BC682306)

APPEAL from a judgment of the Superior Court of Los Angeles County. William F. Fahey, Judge. Affirmed.

Law Offices of James P. Wohl and James P. Wohl for Plaintiff and Appellant.

Manning & Kass, Ellrod, Ramirez, Trester, Robert P. Wargo and Steven C. Amundson for Defendants and Respondents The Cinefamily and Hadrian Belove.

Defendants The Cinefamily and Hadrian Belove demurred to Christina Poppy’s complaint. Rather than file an opposition to the demurrer, Poppy objected that defense counsel failed to comply with the meet and confer requirements found in Code of Civil Procedure section 430.41.¹ The trial court overruled the objection and sustained the demurrer without leave to amend. Poppy appealed, and we affirm.

FACTUAL AND PROCEDURAL BACKGROUND²

In 2014, Poppy filed a complaint against The Cinefamily and Belove (together, Defendants), asserting claims for, among other things, sexual harassment, discrimination, and wrongful termination. Poppy dismissed the case after the parties reached a settlement, under which they agreed not to make disparaging remarks about one another.

In 2015, Poppy filed a new complaint against Defendants for breach of settlement agreement and intentional infliction of emotional distress. About a year later, the parties reached another settlement, which provided the first settlement agreement remained in full force and effect.

¹ All further statutory references are to the Code of Civil Procedure.

² Poppy seeks judicial notice of several demurrers filed by defense counsel in unrelated cases, which she contends establish defense counsel has a “pattern of tactics” to avoid the requirements of section 430.41. Whether defense counsel avoided the requirements of section 430.41 in unrelated cases, however, is not relevant to whether counsel did so in this case. Accordingly, we deny the request for judicial notice. (See *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1135, fn. 1 [matter to be judicially noticed must be relevant].)

In 2017, Poppy initiated the present action against Defendants. In the operative first amended complaint (FAC), she alleged Defendants breached the parties' settlement agreements by making disparaging remarks about her in numerous articles and social media posts, which she attached to the complaint. In relief, she sought damages and rescission of the second settlement agreement.

On August 9, 2018, Defendants filed a demurrer to the FAC asserting, for various reasons, Poppy failed to state a claim. Defense counsel attached to the demurrer a declaration regarding his efforts to meet and confer with Poppy's counsel prior to filing the demurrer. According to the declaration, defense counsel sent a "meet and confer" letter to Poppy's counsel on August 3, 2018, setting forth the defects in the FAC. At the end of the letter, defense counsel urged Poppy's counsel to contact him by the close of business on August 8, 2018, to "meet and confer" regarding those defects. Defense counsel filed the demurrer when Plaintiff's counsel did not contact him.

Poppy did not file an opposition to the demurrer. Instead, she objected to the demurrer on the basis that Defendants failed to abide by the meet and confer requirements under section 430.41.³ According to Poppy, Defendants "continued to engage in

³ Section 430.41 requires that, before a demurrer is filed, the parties meet and confer in person or by telephone to try to resolve the issues raised in the demurrer. (§ 430.41, subd. (a).) It also requires the demurring party file and serve with the demurrer a declaration stating either of the following: (1) "The means by which the demurring party met and conferred with the party who filed the pleading subject to demurrer, and that the parties did not reach an agreement resolving the objections raised in the demurrer"; or (2) "That the party who filed the pleading subject

the avoidance of good faith meet and confer, by refusing to respond to Plaintiff's request to narrow the issues."

She requested the court allow her to amend the FAC or file an opposition "[s]hould any further questions arise."

Poppy attached to her objection a letter her counsel sent to defense counsel in response to the meet and confer letter.

The letter, dated August 3, 2018, states, in full: "Dear [Defense counsel]: [¶] Your August 2, 2018 letter was received. Unfortunately, it suffers from the same procedural failing as your first meet and confer letter. Rather than repeat, I suggest that you review the applicable statute that has been previously cited to you. [¶] Very truly yours, [¶] /s/ [¶] [Plaintiff's counsel] [¶] DICTATED BUT NOT READ"

The court sustained Defendants' demurer without leave to amend. It noted that Poppy failed to address the defects of the FAC, and the court refused to "do counsel's work and attempt to resuscitate plaintiff's case." The court also found Poppy's objection was "not well-taken," explaining: "The record shows that, on August 2, 2018, defense counsel sent a detailed letter to plaintiff's counsel setting forth the defects in the FAC. The letter also politely asked plaintiff's counsel to contact defense counsel to further the 'meet and confer' requirements. Rather than call or ask to meet defense counsel, plaintiff's counsel lead attorney Wohl sent a perfunctory and somewhat rude letter on August 3, 2018 which failed to address any of the substantive arguments in defense counsel's letter. In the face of such a response, defense counsel had no additional obligation to seek an in person or

to demurrer failed to respond to the meet and confer request of the demurring party or otherwise failed to meet and confer in good faith." (§ 430.41, subd. (a)(3)(A), (B).)

telephonic meeting with obstinate counsel.”

The court entered judgment in favor of Defendants, and Poppy timely appealed.

DISCUSSION

Poppy frames her argument on appeal as follows: Defendants’ “[t]actics” and “lack of candor” “prevented [her] from being able to secure the advantages afforded by § 430.41,” resulting in a violation of her constitutional rights to due process. As best we can tell, her primary contentions are this: (1) defense counsel’s meet and confer letter did not comply with section 430.41; (2) defense counsel made misrepresentations in his declaration attached to the demurrer; (3) defense counsel did not provide sufficient time to meet and confer before filing the demurrer; and (4) section 430.41 mandated a 30-day extension before the demurrer could be filed. We are not persuaded by any of her arguments.

On the first point, Poppy suggests defense counsel’s letter failed to comply with section 430.41’s requirement that the meet and confer occur in person or by telephone. (See § 430.41, subd. (a).) Defense counsel’s letter, however, was not intended to be the sole meet and confer. Rather, it contemplated further discussions—explicitly referred to as a “meet and confer”—regarding the issues raised in the letter, which presumably would have occurred by telephone or in person. Those discussions never took place, however, due to Poppy’s counsel’s frivolous procedural objection. His refusal to engage in a good faith meet and confer absolved Defendants of their obligations under section 430.41. (See § 430.41, subd. (a)(3)(B).)

Poppy next contends defense counsel misled the court by failing to disclose her counsel's responsive letter dated August 3, 2018. Poppy, however, has failed to show this purported misrepresentation was prejudicial. (See *Sargent Fletcher, Inc. v. Able Corp.* (2003) 110 Cal.App.4th 1658, 1674 ["Only prejudicial error results in reversal of a judgment."].) The court, after all, was aware of the responsive letter, which it referred to in its order sustaining the demurrer. Given this, Poppy's insistence that the trial court "believed [defense counsel's] untruths" is, simply stated, preposterous.

Poppy's next contention is equally meritless. Using logic that escapes us, she insists that by demanding a response to his letter no later than August 8, 2018, defense counsel violated section 430.41's requirement that the "parties shall meet and confer at least five days before the date the responsive pleading is due." (§ 430.41, subd. (a)(2).) As Poppy acknowledges, the responsive pleading was not due until August 27, 2018. Thus, there was ample time to meet and confer before the deadline imposed under section 430.41. To the extent Poppy is arguing section 430.41 requires a defendant wait five days after the meet and confer to file a demurrer, her contention finds no support in the statutory language, or anywhere else for that matter.

The same is true of Poppy's passing argument concerning a 30-day extension to file a demurrer. The argument is premised on section 430.41, subdivision (a)(2), which provides, "If the parties are not able to meet and confer at least five days prior to the date the responsive pleading is due, the demurring party shall be granted an automatic 30-day extension of time within which to file a responsive pleading" Contrary to Poppy's suggestions, this provision does not require the demurring party

wait an additional 30 days to file a demurrer if the parties have not met and conferred. Moreover, there was no need for such an extension given Poppy’s counsel’s refusal to meet and confer in good faith. (See § 430.41, subd. (a)(3)(B).)

Poppy’s appellate briefing is littered with numerous other half-baked arguments made in passing.⁴ Because they are not supported by cogent analysis or relevant authority, we need not discuss them further. (See *Badie v. Bank of America* (1998) 67 Cal.App.4th 779, 784–785 [“When an appellant fails to raise a point, or asserts it but fails to support it with reasoned argument and citations to authority, we treat the point as waived.”]; *Loranger v. Jones* (2010) 184 Cal.App.4th 847, 858, fn. 9; *People v. DeSantis* (1992) 2 Cal.4th 1198, 1240, fn. 18.) Moreover, to the extent Poppy purports to challenge the merits of the trial court’s order sustaining the demurrer, she has forfeited the arguments by failing to assert them below. (See *Bell v. American Title Ins. Co.* (1991) 226 Cal.App.3d 1589, 1602 [a party’s failure to effectively oppose a motion in the trial court waives any objections to the resulting order].)⁵

⁴ As just one example, Poppy contends the order should be reversed “based upon the failure of the [T]rial [C]ourt to either follow the proper procedure for exercising its discretion, e.g. when the [T]rial [C]ourt failed to follow the proper procedure for exercising its discretion.”

⁵ In her reply brief, Poppy requests we sanction Defendants for a lack of candor on appeal. The request is both procedurally defective and lacking substantive merit. (See Cal. Rules of Court, rule 8.276.) Accordingly, the request is denied.

DISPOSITION

The judgment is affirmed. The Cinefamily and Belove are awarded costs on appeal.

BIGELOW, P. J.

WE CONCUR:

GRIMES, J.

WILEY, J.