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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

MITCHELL ANTHONY PRODUCTIONS, LLC, Plaintiff and Appellant, v. BROOKLYN LAVIN et al., Defendants and Respondents.	B284244 (Los Angeles County Super. Ct. No. BC599526)

APPEAL from a judgment of the Superior Court of Los Angeles County, Alan S. Rosenfield, Judge. Affirmed.

Orland Law Group and James John Orland for Plaintiff and Appellant.

Lewis Brisbois Bisgaard & Smith, Jeffry A. Miller, Tracy D. Forbath, Jon P. Kardassakis, Deborah F. Sirias, and Griffen J. Thorne for Defendants and Respondents.

Mitchell Pletcher formed Mitchell Anthony Productions, LLC (LLC). Pletcher was president and the sole member of LLC. He was in charge of it. After he wrote a show called Beautiful, Pletcher wanted a promotional video he called a sizzle reel. Pletcher and LLC sued Brooklyn Lavin, Jennifer Hamilton, and many others about why they were to blame for this sizzle reel's failure. This suit went to trial and resulted in a loss for Pletcher and LLC. The Court of Appeal affirmed. (*Pletcher v. Lavin* (Oct. 13, 2016, B257009) [nonpub. opn.].)

Pletcher and LLC filed a second suit about the failed sizzle reel while the first case was on appeal. This second suit involved identical plaintiffs. The second suit again named defendant Brooklyn Lavin. Instead of Jennifer Hamilton, however, Pletcher and LLC sued Abrams Artists Agency. Pletcher alleged Abrams was the company representing Hamilton.

The trial court sustained a demurrer against the second suit on the ground that Pletcher's first suit barred it. LLC appealed.

The factual allegations in both suits are about Pletcher's show Beautiful and how the defendants supposedly are to blame for the sizzle reel's failure. And the claims in both suits are materially identical. Each suit alleged four counts: inducing breach of contract, negligent interference with prospective economic advantage, intentional interference with prospective economic advantage, and interference with contract. The 2016 appellate decision examined each claim and affirmed.

LLC claims the second suit is different than the first suit in two ways. First, LLC now has substituted Abrams for Hamilton. Second, LLC now has an email it did not have in the first case.

LLC claims this email is new evidence showing it is right and should win this time around.

These two differences make no difference.

Substituting Abrams for Hamilton makes no difference. Abrams had no liability apart from Hamilton and Lavin, according to LLC's latest complaint. In this situation the first suit bars the second. (*DKN Holdings LLC v. Faerber* (2015) 61 Cal.4th 813, 827–829.)

The new email makes no difference. One cannot sue, lose, and then sue again about the same thing simply by announcing newly discovered evidence. (See *Pico v. Cohn* (1891) 91 Cal. 129, 133 [a decree will not be vacated merely because it was obtained by forged documents or perjured testimony and the reason is litigation must end someday].) LLC cites no precedent for its tactic, which invites litigation that never ends.

LLC condemns the trial court's refusal to allow it an opportunity to amend its initial complaint. It is the plaintiff's burden to show leave to amend would be worthwhile. (*Careau & Co. v. Security Pacific Business Credit, Inc.* (1990) 222 Cal.App.3d 1371, 1381.) LLC cannot show this because it decided against paying for a court reporter for the demurrer hearing and thus cannot establish it gave the court good reason for leave to amend. Its opening brief in this court asserts it could "clarify the nature of the agency relationship between Defendants and Hamilton," as well as correct other errors. Even assuming LLC did present these points to the trial court, none would suffice to allow it to relitigate blame about the failed sizzle reel. The trial court did not abuse its discretion in bringing this saga to finality.

LLC argues res judicata cannot apply to it because it decided not to participate when the trial court in its first suit

ordered the claims against Hamilton into arbitration. LLC says it decided not to enter into arbitration "as the discovery in arbitration was insufficient [Pletcher] felt for [Pletcher and LLC] to litigate" the case. LLC cites no authority in this argument. We know of none. We reject this argument.

LLC also argues it had standing to sue. This is irrelevant. The fatal problem with LLC's second suit is the judgment against LLC in the first suit barred the second suit.

LLC has forfeited arguments about peremptory challenges. In its opening argument, which goes from page 20 to page 28, LLC does not mention peremptory challenges. There it deploys neither logic nor legal authority on this topic. Having thus deprived opposing counsel of notice and an opportunity to be heard on this issue, LLC has forfeited it.

DISPOSITION

The judgment is affirmed. Costs to Lavin and Abrams.

WILEY, J.

WE CONCUR:

BIGELOW, P. J.

STRATTON, J.