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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

MITCHELL ANTHONY
PRODUCTIONS, LLC et al.,

Plaintiffs and Appellants,

v.

BROOKLYN LAVIN et al.,

Defendants and Respondents.

B262105

(Los Angeles County
Super. Ct. No. BC489787)

APPEAL from an order of the Superior Court of Los Angeles County, Rita J. Miller, Judge. Affirmed.

Orland Law Group, James J. Orland and Kevin Yeam; Joel S. Poremba for Plaintiffs and Appellants.

Lewis, Brisbois, Bisgaard & Smith, Jon P. Kardassakis, Deborah F. Sirias, Jeffrey A. Miller, Jonna D. Lothyan for Defendant and Respondent Brooklyn Lavin.

Manning & Kass Ellord, Ramirez, Trester, Shari L. Rosenthal, Steven J. Renick, Paul Hanna for Defendants and Respondents Bloc Talent Agency Talent Agency, Inc., McDonald Selznick Associates, Inc., Candice Coke, Deirdre Barnes, Julie Schmid, Amy Edwards, Erica Kiehl Jenkins, Alyssa Marquez, and Donna Hood.

Fox Rothschild, Lincoln D. Bandlow, Rom Bar-Nissim for Defendants and Respondents Tim O'Brien, Tim O'Brien & Associates doing business as Clear Talent Group, Tyne Stecklein, Rachel Markarian, and Francesca Kintz.

I. INTRODUCTION

Plaintiffs, Mitchell Pletcher and Mitchell Anthony Productions, LLC, appeal from orders entered in response to their motions to tax costs following entry of a summary judgment in favor of defendants: Tim O'Brien; Tim O'Brien and Associates doing business as Clear Talent Group; Rachel Markarian; Tyne Stecklein; Francesca Kintz; Bloc Talent Agency, Inc.; McDonald-Selznick Associates, Inc.; Candice Coke; Deirdre Barnes; Julie Schmid; Amy Edwards; Erica Kiehl Jenkins; Alyssa Marquez; Donna Hood; and Brooklyn Lavin. After the trial court entered judgment in defendants' favor, they filed a cost memorandum. Plaintiffs moved to tax costs. Plaintiffs' motions to tax costs as to some defendants were denied. Plaintiffs' motions to tax costs were denied in part as to Ms. Lavin. The orders under review are affirmed because plaintiffs provided an inadequate record on appeal.

II. BACKGROUND

The trial court granted defendants' summary judgment motions on May 27, 2014. On July 2, 2014, the trial court entered judgment in favor of defendants and against plaintiffs. Defendants also filed their cost memoranda pertaining to the action.

On July 23, 2014 and August 8, 2014, Mr. Pletcher moved to strike and tax costs against all defendants. Mitchell Anthony Productions, LLC joined in Mr. Pletcher's motions on December 11, 2014. Defendants did not object to the joinder filed December 11, 2014. On December 15, 2014, following a hearing, plaintiffs' motion to tax costs was denied as to certain defendants. The trial court granted the motion to tax costs in part as to Ms. Lavin. The trial court taxed costs in the sum of \$247.32 as to Ms. Lavin. The trial court otherwise denied plaintiffs' motion.

III. DISCUSSION

Granting or denying a motion to tax costs is reviewed for an abuse of discretion. (*Chaaban v. Wet Seal, Inc.* (2012) 203 Cal.App.4th 49, 52; *Jewell v. Bank of America* (1990) 220 Cal.App.3d 934, 941.) On appeal, a judgment or final order is presumed correct. (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564; *Cahill v. San Diego Gas*

& Electric Co. (2011) 194 Cal.App.4th 939, 956.) All intendments and presumptions are made to support the judgment or final order on matters as to which the record is silent. (*Denham v. Superior Court, supra*, 2 Cal.3d at p. 564; *Cahill v. San Diego Gas & Electric Co., supra*, 194 Cal.App.4th at p. 956.) In an order filed August 14, 2015, we asked the parties to brief the adequacy of the record on appeal.

Here, there is no reporter's transcript of the motion hearing. Plaintiffs have failed to provide any adequate substitute for a reporter's transcript such as a settled or agreed statement of the hearing. In numerous situations, appellate courts have refused to reach the merits of an appellant's claim because no reporter's transcript of a pertinent proceeding or a suitable substitute was provided. (*Maria P. v. Riles* (1987) 43 Cal.3d 1281, 1295-1296 [attorney fee motion hearing]; *Great Western Bank v. Converse Consultants, Inc.* (1997) 58 Cal.App.4th 609, 615 [motion to tax costs].) These courts have refused to reach the merits of an appellant's claim absent a reporter's transcript or a suitable substitute because error is not presumed. (*Null v. City of Los Angeles* (1988) 206 Cal.App.3d 1528, 1532; *Rossiter v. Benoit* (1978) 88 Cal.App.3d 706, 712.) An appellant must affirmatively establish error by an adequate record. (*Foust v. San Jose Const. Co., Inc.* (2011) 198 Cal.App.4th 181, 187; *Osgood v. Landon* (2005) 127 Cal.App.4th 425, 435; *Park Place Estates Homeowners Assn. v. Naber* (1994) 29 Cal.App.4th 427, 433; *Null v. City of Los Angeles, supra*, 206 Cal.App.3d at p. 1532.) In other words, it is an appellant's burden to provide an adequate record on appeal. (*Ballard v. Uribe* (1986) 41 Cal.3d 654, 574-575; *Foust v. San Jose Const. Co., Inc., supra*, 198 Cal.App.4th at p. 187; *Null v. City of Los Angeles, supra*, 206 Cal.App.3d at pp. 1532-1533.)

As noted, we review orders in connection with cost disputes for an abuse of discretion. In the absence of an adequate record, we are unable to find an abuse of discretion on the trial court's part. Because plaintiffs have failed to provide an adequate record on appeal, the cost orders should be affirmed.

IV. DISPOSITION

The orders regarding plaintiffs' motions to tax costs are affirmed. Plaintiffs, Mitchell Pletcher and Mitchell Anthony Productions, LLC, are to pay the appellate costs of defendants: Tim O'Brien; Tim O'Brien and Associates doing business as Clear Talent Group; Rachel Markarian; Tyne Stecklein; Francesca Kintz; Bloc Talent Agency, Inc., McDonald-Selznick Associates, Inc.; Candice Coke; Deirdre Barnes; Julie Schmid; Amy Edwards; Erica Kiehl Jenkins; Alyssa Marquez; Donna Hood; and Brooklyn Lavin.

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TURNER, P. J.

We concur:

KRIEGLER, J.

BAKER, J.