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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS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 SEVEN

STEPHANIE PRICE, Plaintiff and Appellant, v. 7-ELEVEN, INC. et al., Defendants and Respondents.	B212597 (Los Angeles County Super. Ct. No. SC098387)

APPEAL from a judgment of the Superior Court of Los Angeles County, Jacqueline A. Connor, Judge. Affirmed.

Barrera & Associates, Patricio T.D. Barrera and Ashley A. Davenport for Plaintiff and Appellant.

Payne & Fears, Daniel L. Rasmussen, Daniel F. Lula; Welter Law Firm and Eric A. Welter for Defendant and Respondent 7-Eleven, Inc.

Law Offices of Cynthia E. Fruchtman and Cynthia E. Fruchtman; Welter Law Firm and Eric A. Welter for Defendants and Respondents Gene Jones and Richard O'Keefe.

Tangalakis & Tangalakis, Phillip L. Tangalakis; Law Offices of Roger S. Senders and Roger S. Senders for Defendant and Respondent Herb Domeno.

INTRODUCTION

Plaintiff Stephanie Price appeals from a judgment against her issued after the trial court granted a motion to strike and sustained the demurrers of defendants 7-Eleven, Inc., Gene Jones, Richard O'Keefe, and Herb Domeno. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND[1]

Defendant Gene Jones (Jones) was the owner of a franchise from defendant 7-Eleven, Inc. (7-Eleven) for a 7-Eleven store on Wilshire Boulevard in Santa Monica (the Store). Plaintiff Stephanie Price (Price) worked for him at the Store from 1984 to 1994. In 1996, Jones's health began to deteriorate and he asked Price to return to manage the Store. After Price returned to manage the Store, she also began assisting with Jones's personal affairs and continued to do so for the next decade. Price's registered domestic partner, Lee Ann Harris (Harris), began providing personal services in the areas of bookkeeping and record-keeping at the Store and Jones's home. Harris was paid through the Store.

In late 2006, Jones placed his assets in a trust and named Price as his successor trustee. He and Price worked with an attorney to draft an Agreement for Store Purchase (Agreement) based upon Jones's wishes to sell the franchise to Price upon his death.

In the Agreement, the recitals stated that Price "has been [Jones's] valued and trusted employee for many years and is the manager of the Store. [¶] [Jones] wishes for [Price] to have the opportunity to purchase the Store in the event of his death. [¶] . . . [¶] [Jones] and [Price] have agreed upon a purchase price for the Store under those

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1 In reviewing an order sustaining a demurrer, we must view the facts in the allegations of the complaint as true. (*Aubry v. Tri-City Hospital Dist.* (1992) 2 Cal.4th 962, 966-967.) Hence, the statement of facts presents a summary of the factual allegations in the complaint, and is followed by a summary of the procedural background.

circumstances." The introductory statement to the terms and conditions of the Agreement provides that the parties agree to them "based upon the promises made in this Agreement."

Section 1 of the agreement stated that "[Jones] and [Price] agree that in the event of [Jones's] death, [Price] may purchase the Store from the Trust . . . ." Section 2 specified that the price for the store would be $500,000 for the year 2007 and thereafter, annually, Jones and Price would agree on the price for the next calendar year or, if they were unable to agree, the price would be determined by a "formula: the average net profit of the Store for the prior ten years times three (3)." Section 4 provided that Jones would execute a 7-Eleven form designating Price as the first designee to succeed to the store franchise.

The Agreement stated that "[Price] to Remain Store Manager. Throughout the term of this Agreement, [Price] agrees to be and remain the Store manager and to operate the Store in conformance with [Jones's] wishes."

Section 8 of the Agreement was an integration clause stating that the Agreement contained "all of the agreements between the parties with respect to purchase of the Store" and "no other agreement not contained in this Agreement shall be valid or binding." The clause stated further that the Agreement superseded any and all other agreements between the parties. Another provision required that any modification must be in writing signed "by the party to be charged."

In 2007, at Jones's request, Price helped him find and move to a suitable assisted living facility for his own care. In July 2007, Jones's physician signed a Determination of Incapacity, activating a durable power of attorney granted by Jones to Price.

In August 2007, a 7-Eleven representative, Mike Austin (Austin), informed Price that it was unlikely that 7-Eleven would renew Jones's franchise agreement, given that Jones's physical health problems would prevent him from being able to participate actively in the operation of the Store. On August 30, 2007, however, in a meeting requested by Jones at his residence in the assisted living facility, Austin informed Jones, in Price's presence, that his franchise agreement would be renewed. After the meeting,

Price was served with documents by defendant Richard O'Keefe (O'Keefe), supposedly a friend of Jones's, stating that he was revoking the durable power of attorney granted to Price by Jones and replacing it with a power of attorney which had as its sole and exclusive purpose the management of the Store. Price remained as manager of the Store.

When Price arrived at the Store for work on December 5, 2007, Austin was in the Store. He introduced a man who came shortly thereafter as 7-Eleven's loss prevention official. The official asked Price questions about the Store's finances and she answered. After the official left, Austin and O'Keefe met with Price. O'Keefe informed Price that her employment was being terminated, effective immediately. He did not tell her that he was acting on behalf of, or at the direction of, Jones. O'Keefe told Price that defendant Herb Domeno (Domeno), a franchisee of several other 7-Eleven stores in the area, was taking over the management of the Store. As Price was leaving the premises as requested, she encountered Domeno's employees waiting outside to take over operations.

Price also later obtained a hearing from the California Employment Development Department, resulting in a finding that she did not engage in misconduct and was, therefore, entitled to receive unemployment benefits. At the hearing, Domeno admitted he had known about the Agreement and that Price was going to be terminated, he had discussed a management agreement with some or all of the defendants, and he wanted to obtain the franchise for the Store.

On May 28, 2008, Price filed the instant action. In the general allegations common to all causes of action, Price alleged that 7-Eleven, O'Keefe and Domeno conspired to manufacture a reason to terminate her "in an effort to terminate the terms of the . . . Agreement so that defendants, not [Price], would have the ability to control, and profit from, the sale of the Store upon the passing of defendant Jones." She alleged that the three defendants "lacked the authority to terminate [her] and interfered with the employment provision of the . . . Agreement by giving notice to [her] of her termination," in an effort "to wrestle control of the Store away from [Price] and interfere with [her] right to purchase the Store under the Agreement."

Price attached a copy of the Agreement as Exhibit A to the complaint. She incorporated her factual allegations regarding the Agreement by reference in each cause of action.

The first through fourth causes of action are against Jones. The first cause of action, for declaratory relief, seeks a declaration that Price is entitled to purchase the Store "upon the event of [] Jones' death in conformance with the . . . Agreement."

The second cause of action, for declaratory relief, seeks a declaration that Price is "entitled to remain Store Manager . . . in conformance with the . . . Agreement." The third cause of action is for breach of contract, specifically, the employment portion of the Agreement.

The fourth cause of action is for breach of the implied covenant of good faith and fair dealing by terminating Price's employment under the Agreement and depriving her of the right to purchase the Store upon the event of Jones's death.

The remaining causes of action are against all defendants and also are based on alleged wrongs arising from defendants' failures to abide by or act in accordance with the Agreement. The remaining causes of action are intentional interference with contractual relations (5th cause), intentional interference with prospective economic relations (6th cause), negligent interference with contractual relations (7th cause), negligent interference with prospective economic relations (8th cause), unfair competition (9th cause) and injunctive relief to restrain defendants from selling the store to anyone but Price (10th cause).[2]

Defendants demurred to the complaint. 7-Eleven moved to strike the cause of action for injunctive relief.[3]

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[2] Ultimately, Price withdrew the seventh cause of action, negligent interference with contractual relations.

[3] At the hearing on the demurrers and motion to strike, counsel for Domeno noted that although Domeno filed an answer, it included a general demurrer in the first affirmative defense. Counsel requested the trial court to consider that as a joinder to the demurrers brought by the other defendants and that the court's ruling as to those matters

After a hearing on the demurrers on October 6, 2008, the trial court adopted its tentative ruling as its final ruling and issued an order granting the motion to strike and sustaining the demurrers without leave to amend. The trial court ruled that the Agreement was an unenforceable option contract made without consideration, and, therefore, the first cause of action failed as a matter of law. As to Price's allegations in the second cause of action that the Agreement guaranteed Price employment as the Store manager for the term of the Agreement, the trial court ruled that Price's employment was at will and terminable at any time by either party to the contract. The court reasoned that, because the Agreement did not define its term, it essentially would be a permanent employment contract, which contracts are terminable at will by either party.

Having determined the Agreement was unenforceable, the court ruled that the third and fourth causes of action for breach of contract and breach of the covenant of good faith and fair dealing failed as a matter of law. The trial court's ruling on the fifth through the tenth causes of action was essentially that they were not viable, in that no duty arose from the unenforceable Agreement, and thus there was no injury as the result of nonperformance of any duty.

The trial court issued an order of dismissal and judgment against Price on October 10, 2008.[4]

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also pertain to Domeno. Counsel for Price did not object. The court granted Domeno's oral motion for joinder.

[4] Jones and O'Keefe filed a request for judicial notice of documents filed in *In re Gene Jones*, Los Angeles Superior Court Case No. SP007701, pursuant to Code of Civil Procedure section 430.70, Evidence Code sections 451, 452 and 453, and California Rules of Court rule 3.1306(c). No opposition to the request was filed. As a reviewing court, we take judicial notice of records of the courts of this state, and, thus, we take judicial notice of the existence of the documents. (Evid. Code, §§ 452, 453, 459.) We do not rely on the documents, however, in making our decision on appeal. (Cf. *Schifando v. City of Los Angeles* (2003) 31 Cal.4th 1074, 1089, fn. 4; *Windham at Carmel Mountain Ranch Assn. v. Superior Court* (2003) 109 Cal.App.4th 1162, 1173, fn. 11.)

DISCUSSION

Price appeals from a judgment dismissing the action after the trial court sustained demurrers without leave to amend. A demurrer is a test of the legal sufficiency of the complaint and, therefore, an order sustaining a demurrer presents a question of law on appeal. (*Cantu v. Resolution Trust Corp.* (1992) 4 Cal.App.4th 857, 879.) We first review the complaint de novo to determine whether it alleges facts sufficient to state a cause of action under any legal theory. (*Aubry v. Tri-City Hospital Dist.*, *supra*, 2 Cal.4th at p. 967; *Blank v. Kirwan* (1985) 39 Cal.3d 311, 318.) We must assume the truth of the complaint's properly pleaded or implied factual allegations and give the complaint a reasonable interpretation, reading it as a whole and its provisions in context. (*Blank*, *supra*, at p. 318.) We do not, however, assume the truth of contentions, deductions or conclusions of law. (*Zelig v. County of Los Angeles* (2002) 27 Cal.4th 1112, 1126.) The plaintiff has the burden to demonstrate that the facts pleaded are sufficient to establish every essential element of the cause of action, and if any element is not established, we will affirm the order sustaining the demurrer. (*Cantu*, *supra*, at pp. 879-880.)

If we affirm, we then review whether the trial court abused its discretion by not granting plaintiff leave to amend the complaint. (*Zelig v. County of Los Angeles*, *supra*, 27 Cal.4th at p. 1126.) If we determine there is a reasonable possibility that the defect in the complaint can be cured by amendment, the trial court has abused its discretion and we reverse; otherwise, we affirm. (*Ibid.*) The plaintiff bears the burden of proving such reasonable possibility exists. (*Ibid.*)

The substance of Price's allegations underlying all of the causes of action is that the Agreement is enforceable and requires that the Store be sold to her in the event of Jones's death and that, until that time, her employment as Store manager is guaranteed. If the Agreement does not constitute a contract or is otherwise unenforceable in the manner Price contends, at least one essential element of each cause of action will not be present, and we must affirm the order sustaining the demurrers. (*Cantu v. Resolution Trust Corp.*, *supra*, 4 Cal.App.4th at pp. 879-880.)

The relationship between the allegations in Price's causes of action is such that, if the demurrers as to the first and second causes of action are sustained, then the demurrers to the remaining causes of action must also be sustained. The first cause of action is for declaratory relief that "Price is entitled to purchase the [Store] upon the event of [Jones's] death in conformance with the [Agreement]." The second cause of action is for declaratory relief that "Price is entitled to remain Store Manager of the [Store] in conformance with the [Agreement]."

Relevant to our review are legal principles applicable to contract formation and interpretation. The essential elements to the existence of a contract are competent parties, mutual consent, a contract objective that is not illegal, and sufficient consideration. (Civ. Code, § 1550; 1 Witkin, Summary of Cal. Law (10th ed. 2005) Contracts, § 3, p. 61.) A contract must be construed according to the "ordinary and popular" meaning of its language. (Civ. Code, § 1644; *Bank of the West v. Superior Court* (1992) 2 Cal.4th 1254, 1265.) Generally, "if the meaning a layperson would ascribe to contract language is not ambiguous, we apply that meaning." (*AIU Ins. Co. v. Superior Court* (1990) 51 Cal.3d 807, 822.) If the contract language is unambiguous, the court may not consider parol, or extrinsic, evidence offered by a party as to the interpretation of the contract. (Code Civ. Proc., § 1856[5]; *Appleton v. Waessil* (1994) 27 Cal.App.4th 551, 554.)

We first address the enforceability of the Agreement as a contract for Store purchase. We agree with the trial court's interpretation that the Agreement was an option contract. An agreement is an option contract if one party, in exchange for consideration, agrees to sell property to another party, who retains the option to purchase the property or

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5 Code of Civil Procedure section 1856 provides in pertinent part: "(a) Terms set forth in a writing intended by the parties as a final expression of their agreement with respect to such terms as are included therein may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement. [¶] (b) The terms set forth in a writing described in subdivision (a) may be explained or supplemented by evidence of consistent additional terms unless the writing is intended also as a complete and exclusive statement of the terms of the agreement."

not. (See *Allen v. Smith* (2002) 94 Cal.App.4th 1270, 1279.) Similarly, the Agreement provides that Jones agrees to sell the Store to Price, who "*may*" (but is not required to) purchase it, in the event of Jones's death.

To be enforceable, however, an option must be exercised or must require the optionee to provide consideration in order to bind the optionor from revoking the option. "[A]n option without consideration is not binding on either party until actually exercised, and is not a contract in the traditional sense, nor is it a contract under section 1550 of the Civil Code. In short, '[i]t is essential to the existence of a contract that there be sufficient cause or consideration, for a promise unsupported by consideration has no binding force. . . .' [Citations.] . . . Thus, until exercised such an option is merely 'a continuing offer which may be revoked at any time.' (*Kelley v. Upshaw*[(1952)] 39 Cal.2d 179, 191 . . . ; *Thomas v. Birch*[(1918)] 178 Cal. 483 . . . ; *Henry v. Lake Mill Lbr. Co.*[(1956)] 139 Cal.App.2d 620 . . . .)" (*Torlai v. Lee* (1969) 270 Cal.App.2d 854, 858-859.)

It was impossible for Price to exercise the option. Her acceptance of the option offer was subject to the contingencies of Jones's death and his retention of Store ownership until that time. Jones, however, was living at the time he caused Price's employment to be terminated and arrangements to be made for transfer of the Store to someone else.

We agree with the trial court that there is no mention of consideration in the Agreement. Price contends that her uncompensated efforts in handling Jones's personal affairs constitute the consideration and whether consideration was sufficient is a question of fact that cannot be decided on demurrer. We disagree with Price's contentions.

The Agreement makes no mention of Price's uncompensated efforts. There is, for example, no recital to the effect that Jones intended the Agreement as payment to Price for her efforts. The Agreement language is clear and unambiguous. (Cf. *AIU Ins. Co. v. Superior Court*, *supra*, 51 Cal.3d at p. 822.) Although Price argues that extrinsic evidence shows the uncompensated efforts constitute the consideration, use of such evidence to alter the clear language of the Agreement is not permissible. (*Appleton v. Waessil*, *supra*, 27 Cal.App.4th at p. 554.) The Agreement's integration clause expressly

limits the terms of the Agreement to those set forth in the document. Pursuant to the parol evidence rule (Code Civ. Proc., § 1856), therefore, the court may not consider evidence proffered by Price to show that the consideration was her uncompensated efforts in assisting Jones with his personal affairs. (See *Bionghi v. Metropolitan Water Dist.* (1999) 70 Cal.App.4th 1358, 1364.)

Price claims that the trial court could not decide the consideration issue by demurrer, in that sufficiency of consideration is a question of fact. (See *Estate of Thomson* (1913) 165 Cal. 290, 296.) We agree that would probably be the case if the Agreement recited any consideration. However, where, as here, the absence of consideration is apparent from the words of the Agreement and the Agreement is alleged in the complaint as an element of a cause of action, demurrer is a proper procedure for contesting the cause of action. (See *McCarty v. Beach* (1858) 10 Cal. 461, 464.)

Price does not dispute the court's finding that there was no mention of consideration in the Agreement. Nor does she address the integration clause or otherwise advance any legal basis for admitting parol evidence on the issue. Accordingly, she has waived these issues with respect to the enforceability question by not raising them in her opening brief. (See *Elnekave v. Via Dolce Homeowners Assn.* (2006) 142 Cal.App.4th 1193, 1199; *Shade Foods, Inc. v. Innovative Products Sales & Marketing, Inc.* (2000) 78 Cal.App.4th 847, 894-895, fn. 10.)

In summary, the Agreement lacks consideration, an essential element for the existence of a contract. (Civ. Code, § 1550.) As a result, the option for purchase of the Store could only be enforced if Price had exercised it, but that was impossible, in that the contingency for exercising it, the event of Jones' death, has not occurred. (*Torlai v. Lee*, *supra*, 270 Cal.App.2d at pp. 858-859.) We conclude that the Agreement was not an enforceable contract giving Price the right to purchase the Store.[6]

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[6] In her reply brief, Price claims that defendants waived any claim that the Agreement was unenforceable by requesting attorney's fees based on the attorney's fees clause in the Agreement. She cites the maxim from Civil Code section 3521 that "[h]e who takes the benefit must bear the burden." We disagree. Price included attorney's fees

The Agreement is also unenforceable as to the second cause of action for a declaration of Price's right to remain employed as the Store manager. The employment provision in the Agreement is brief. It provides that Price "agrees to be and remain the Store Manager and to operate the store in conformance with [Jones's] wishes," "[t]hroughout the term of this Agreement."

Price claims her employment could be terminated only for cause, in that the Agreement operated to overcome the presumption of at-will employment established by Labor Code section 2922.[7] "This section establishes a presumption that in the absence of an express oral or written agreement which specifies the length of employment or grounds for termination, the employment is at will." (*Sheppard v. Morgan Keegan & Co.* (1990) 218 Cal.App.3d 61, 65.) The Agreement does not specify the length of Price's employment. Although it provides that employment will be for the "term of the Agreement," no provision of the Agreement addresses the duration of the term. As "grounds for termination" (*ibid.*), Price points to the language in the Agreement that Price will provide services "in accordance with [Jones's] wishes." Price argues that this is analogous to the contractual language that the court in *Drzewiecki v. H & R Block, Inc.* (1972) 24 Cal.App.3d 695 held as constituting an employment contract which could not be terminated except for cause. (*Id.* at pp. 704-705.) We disagree.

The employment contract at issue in *Drzewiecki* expressly stated that the employer could terminate the employee "'only in the case of [the employee] improperly conducting the business.'" (*Drzewiecki v. H & R Block, Inc.*, *supra*, 24 Cal.App.3d at p. 700.) Thus,

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in her prayer for relief, presumably under the attorney's fees clause in the Agreement. Civil Code section 1717 provides for mutuality of remedies for recovery of attorney's fees under a contract provision authorizing them. "'To achieve its goal, the statute generally must apply in favor of the party prevailing on a contract claim whenever that party would have been liable under the contract for attorney fees had the other party prevailed.' [Citation.]" (*Scott Co. v. Blount, Inc.* (1999) 20 Cal.4th 1103, 1113-1114.)

[7] Labor Code section 2922 states: "An employment, having no specified term, may be terminated at the will of either party on notice to the other. Employment for a specified term means an employment for a period greater than one month."

according to the trial court, a third party could objectively verify whether an employer reasonably determined that the employee's conduct of the business was improper. (*Id.* at p. 701 & fn. 1.) The *Drzewiecki* court explained that, if the contract were terminable at will, the employer would not have included such language. (*Id*. at p. 705.) The court contrasted the clause with "such oblique terms as 'for life,' or 'for so long as the employer chooses,' or 'so long as the employee's work is satisfactory.'" (*Id.* at p. 704.) The *Drzewiecki* court explained that "authorities are in general agreement with the proposition that contracts which purport to give a person permanent employment through the use of such phrases . . . with nothing more, are for an indefinite period and are terminable at the will of either party." (*Id.* at p. 702.)

At first glance, the Agreement may appear to provide a condition of employment that would allow termination only for cause, i.e., because Price did not perform "in accordance with [Jones's] wishes." The "wishes" standard, however, is comparable to one of those "oblique terms as 'for life,' or 'for so long as the employer chooses,' or 'so long as the employee's work is satisfactory'" which the *Drzewiecki* court indicated was insufficient to require cause for termination. (*Drzewiecki v. H & R Block, Inc.*, *supra*, 24 Cal.App.3d at pp. 702, 704-705.) A more reasonable interpretation of the "wishes" provision is that Price will provide services so long as Jones wishes, a classic provision for at-will employment, allowing termination without cause. (*Agosta v. Astor* (2004) 120 Cal.App.4th 596, 604 ["By definition, . . . an express at-will contract allows an employer to sever the employment relationship with or without cause"].)

The *Drzewiecki* court acknowledged that, despite use of such oblique terms, an agreement purporting to establish a permanent employer-employee relationship could qualify as terminable only for cause if "it is based upon some consideration other than the employee's services." (*Drzewiecki v. H & R Block, Inc.*, *supra*, 24 Cal.App.3d at p. 703.) "'[W]here no . . . intent [that employment was to be permanent and not terminable except pursuant to its express terms] is clearly expressed and, absent evidence which shows other consideration [from the employee] than a promise to render services, the assumption will be that . . . the parties have in mind merely the ordinary business contract

for a continuing employment, terminable at the will of either party.'" (*Ibid.*) There is no provision in the Agreement for Price to give any other consideration than a promise to remain as the Store manager. Thus, the employment provision of the Agreement does not meet the criteria in *Drzewiecki* to be anything other than for employment terminable at the will of either the employee or the employer. (*Id.* at pp. 703-705.) Therefore, at most, the employment provision constituted an agreement for "at will" employment and, thus, no cause was required for Jones or his representative to terminate Price's employment.

In summary, we conclude that the Agreement was not an enforceable contract for sale of the Store to Price or guaranteeing Price long-term employment as Store manager. Either the sale provisions or the employment provision are the basis for Price's allegations in all of her causes of action. Therefore, one or more essential elements of each cause of action has been negated.[8] Accordingly, the trial court did not err in sustaining defendants' demurrers and granting the motion to strike.[9] (*Cantu v. Resolution Trust Corp., supra,* 4 Cal.App.4th at p. 880.)

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[8] In the opening brief, Price raises contentions and advances arguments only with regard to the first, second and eighth causes of action, the enforceability of the Agreement regarding the Store purchase and Price's employment and negligent interference with prospective economic relations based upon her allegations that the Agreement was enforceable. Price's contentions regarding the remaining causes of action are limited to her statement that the allegations "must be accepted as true, are properly alleged and sufficient to put defendants on notice of the claims against them and therefore, defendants' demurrers should have been overruled in their entirety." In view of Price's perfunctory statement, without legal argument or citation to authority, we treat the contentions regarding the remaining causes of action as waived. (Cal. Rules of Court, rule 8.204(a)(1)(B); *In re Marriage of Falcone & Fyke* (2008) 164 Cal.App.4th 814, 830.)

[9] Price claims that Domeno's oral joinder and the trial court's acceptance of it were in contravention of the notice of demurrer requirement in California Rules of Court, rule 3.1320. (See fn. 3, *ante*.) Accordingly, Price contends that the trial court erred in sustaining Domeno's demurrer. We disagree. Noncompliance with such a procedural rule does not prevent a court from hearing and disposing of the demurrer. (*Johnson v. Sun Realty Co.* (1934) 138 Cal.App. 296, 299.) "In absence of any showing to the

We next consider Price's contention that the trial court's denial of leave to amend constituted an abuse of discretion. (*Zelig v. County of Los Angeles*, *supra*, 27 Cal.4th at p. 1126.) Price has not met her burden of proving that a reasonable possibility exists that any defect in the complaint can be cured by amendment. (*Ibid.*)

Amendment of the complaint, as Price proposes, to add allegations of additional agreements is barred by the integration clause and the parol evidence rule. (Code Civ. Proc., § 1856; *Appleton v. Waessil*, *supra*, 27 Cal.App.4th at p. 554.) Price also claims she should have been given the opportunity to add facts to assert interference and conspiracy claims against Domeno with respect to the Store transfer. Since Price did not have any rights with respect to the Store transfer under the Agreement, adding any such facts would not have stated such causes of action against Domeno. Price claims that she should have been allowed to amend the complaint to add a cause of action that all the defendants committed an anticipatory breach of the Agreement. Inasmuch as the Agreement was not enforceable, there could be no such anticipatory breach.

Price claims further that she should have been allowed to amend to add a cause of action for discrimination on the basis of sexual orientation, which is prohibited under the Unruh Civil Rights Act (Civ. Code §§ 51, subd. (b), 51.8, subd. (a)). Price alleges that, in discovery, defendants questioned her with respect to her registered domestic partner. Subsequently, according to Price, a 7-Eleven representative told Price that he had never known of two women having their names listed together on a 7-Eleven franchise agreement. Again, this fails, in that Price had no rights under the Agreement to be listed on the franchise agreement or otherwise obtain an interest in the Store.

In summary, we conclude that the trial court did not abuse its discretion in denying Price leave to amend.

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contrary, it will be presumed that the court disregarded its rules for sufficient cause and to subserve the ends of justice, as it had the power to do." (*Ibid.*)

DISPOSITION

The judgment is affirmed. Defendants are awarded their costs on appeal.

JACKSON, J.

We concur:

PERLUSS, P. J.

ZELON, J.