

FILED

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

KM ENTERPRISES, INC., an Illinois
corporation, and RODNEY KRIS
MORGAN,

Plaintiffs-Appellants,

v.

GLOBAL TRAFFIC TECHNOLOGIES,
LLC, a Delaware limited liability
company, and GLOBAL TRAFFIC
TECHNOLOGIES, INC., a Delaware
corporation,

Defendants-Appellees.

No. 15-15865

D.C. No. 3:14-cv-04906-VC

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Vince G. Chhabria, District Judge, Presiding

Argued and Submitted March 15, 2017
San Francisco, California

Before: FERNANDEZ, MURGUIA, and WATFORD, Circuit Judges.

* This disposition is not appropriate for publication and is not precedent
except as provided by Ninth Circuit Rule 36-3.

1. The district court did not err by granting defendants' motion to dismiss.

Defendants argued that plaintiffs' action was barred by the doctrine of claim preclusion, based on an earlier judgment entered against plaintiffs by the District Court for the District of Minnesota. In support of that argument, defendants identified several allegations supporting plaintiffs' claims in this case that overlapped with the allegations asserted by plaintiffs in the Minnesota case.

Defendants also argued that to the extent plaintiffs had not brought the claims previously, plaintiffs could have brought their antitrust claims in the Minnesota litigation, and that this also had equivalent claim-preclusive effect. Plaintiffs did not meaningfully contest defendants' claim preclusion arguments in their opposition to the motion to dismiss and, on their face at least, defendants' arguments appeared meritorious.

2. The district court did not abuse its discretion by denying plaintiffs' motion to alter or amend the judgment. In their motion, plaintiffs asserted for the first time a potentially valid response to defendants' arguments that claim preclusion applied. But plaintiffs offered no explanation for failing to assert that response in their opposition to the motion to dismiss. As a result, the district court was under no obligation to entertain their untimely post-judgment arguments. *See Ramona Equipment Rental, Inc. v. Carolina Casualty Insurance Company*, 755

F.3d 1063, 1070 (9th Cir. 2014); *see also Beech Aircraft Corp. v. United States*, 51

F.3d 834, 841 (9th Cir. 1995) (appellate court has no obligation to consider arguments on appeal that could have been raised below but were not).

AFFIRMED.

Plaintiffs' motion to strike portions of defendants' supplemental excerpts of record is DENIED.