

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 11/29/11

DEPT. 32

HONORABLE Mary H. Strobel

JUDGE

D. Beltran

DEPUTY CLERK

HONORABLE
4

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

C. Caterio/C.A.

Deputy Sheriff

R. Norberg (CSR 9265)

Reporter

8:30 am

BC466547

Plaintiff

Counsel

Barry P. King

(x)

MIKE MALIN

VS

Defendant

MARTIN DORI SINGER ESQ ET AL

Counsel

Mark Goldowitz

(x)

Martin D. Singer

(x)

Andrew B. Brettler

(x)

REL WITH BC466696

NATURE OF PROCEEDINGS:

1. PLAINTIFF'S APPLICATION TO FILE DOCUMENT UNDER SEAL;

2. MOTION OF DEFENDANTS' TO STRIKE PLAINTIFF'S NOVEMBER 1, 2011 FILINGS FOR FAILURE TO EFFECT SERVICE ON DEFENDANTS;

3. DEFENDANTS' SPECIAL MOTION TO STRIKE THE COMPLAINT AS A MERITLESS SLAPP (C.C.P. SECTION 425.16);

4. CASE MANAGEMENT CONFERENCE;

***** RELATED WITH CASE NO. BC466696*****

The matters are called for hearing.

Judge Mary Strobel discloses to the Parties that about (20) years ago, while working for the City Attorney's Office, the Judge represented the City of Santa Monica and Mr. Robert H. Bisno had a development agreement that was being negotiated (Mr. Bisno was on the other side of the business deal). This will not affect, in any way, the Court's ability to be fair and impartial in this case.

No objection is made by any Party.

As more fully reflected within the notes of the

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official Court reporter, which are incorporated herein by reference, the Motions are heard and argued.

For the reasons stated on the record in open court this date, the Court rules as follows:

1. MOTION TO SEAL

The above Motion to Seal GRANTED.

Defendants' objections to Plaintiff's evidence on the Motion to Seal SUSTAINED.

The Court finds that there exists an overriding interest that overcomes the right of public access to the records. The Court finds that the document in question, the "demand letter", includes a name or names of 3rd parties allegedly engaged in sexual relations with Plaintiff. The allegations of sexual misconduct by Plaintiff are tangential at best to the lawsuit, which involves Plaintiff's alleged embezzlement or mismanagement of partnership assests. The interest of third parties in matters of a sexual nature are core privacy interests. The Court finds that there is a substantial probability that the overriding interest will be prejudiced if the record is not sealed. Further, the Court finds that the sealing can be more narrowly tailored, and orders Plaintiff to file a new redacted copy of the demand

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letter which redacts only that material as is reflected on page 2 of Plaintiff's Opposition to the Anti Slapp Motion, and no less restrictive means exists to achieve the overriding interest.

The Court orders the document to be sealed, but only to the extent that is reflected on page two of Plaintiff's opposition to the Anti-S.L.A.P.P. Motion and orders Plaintiff to file a redacted version which mirrors the one contained on page 2, as discussed in open Court this date, by 11/30/11, directly in Department 32.

The Court finds it is necessary for the Court to consider the document in order to be able to rule on the Anti S.L.A.P.P. Motion

2. MOTION TO STRIKE

Defendant's request to Strike the declarations and request for Judicial Notice filed 11/02/11 are GRANTED, as the documents were untimely. Furthermore, even if it were considered, Plaintiff's request for Judicial Notice of Wikipedia articles is DENIED.

3. ANTI-S.L.A.P.P. MOTION

Defendants' Objections to Plaintiff's Evidence: Objections 9, 16 through 23, 34, 35, 36, and 39: OVERRULED. Remaining Objections: SUSTAINED.

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NATURE OF PROCEEDINGS:

The above Defendants' Special Motion to Strike the Complaint as a Meritless SLAPP is heard, argued and DENIED for the reasons stated in open Court this date.

The Court finds that the activities giving rise to the claims in the Complaint are illegal as a matter of law as extortion, and as allegations of illegal wiretapping (See Flatley v. Mauro (2006) 39 Cal.4th 299 and Gerbosi v. Gaims (2011) 193 Cal.App.4th 435). Activity which is illegal as a matter of law is not protected under C.C.P. Section 425.16, so the Court does not reach the second step of whether Plaintiff has shown a likelihood of success on the merits.

4. CASE MANAGEMENT CONFERENCE

The above Case Management Conference continued to 03/13/12 at 8:30 am. in Department 32.

Counsel for Plaintiff is directed to give notice and to serve and submit to the Court a Proposed form of Order, directly to Department 32 by 12/05/11.