

FILED

NOT FOR PUBLICATION

MAR 21 2011

UNITED STATES COURT OF APPEALS

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

SEDGWICK CLAIMS MANAGEMENT
SERVICES, INC.,

Plaintiff - Appellant,

v.

ROBERT A. DELSMAN,

Defendant - Appellee.

No. 09-16809

D.C. No. 4:09-cv-01468-SBA

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Saundra Brown Armstrong, District Judge, Presiding

Submitted March 8, 2011**

Before: FARRIS, O'SCANNLAIN, and BYBEE, Circuit Judges.

Sedgwick Claims Management Services, Inc. appeals from the district court's order dismissing its action alleging, inter alia, defamation and trade libel.

We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Price v.*

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Stossel, 620 F.3d 992, 999 (9th Cir. 2010), and we affirm.

The district court properly dismissed Sedgwick's defamation and trade libel claims under California's anti-SLAPP statute because defendant Delsman's conduct was in furtherance of his free speech rights in connection with an issue of public interest, and Sedgwick did not meet its burden of establishing a probability of prevailing on its claims. *See* Cal. Civ. Proc. Code § 425.16; *Ruiz v. Harbor View Cmty. Ass'n*, 37 Cal. Rptr. 3d 133, 140-46 (Ct. App. 2005) (setting forth § 425.16 analysis, and concluding that defendant's letter containing rhetorical hyperbole was free speech in connection with an issue of public interest and that plaintiff did not establish a probability of prevailing on his libel claim).

Sedgwick's remaining contentions are unpersuasive.

AFFIRMED.