

PROFESSIONAL LIABILITY UPDATE

Anti-SLAPP

By John B. Sullivan

***Mendoza v. Hamzeh* (2013) 215 Cal.App.4th 799**

The Second District affirms denial of an anti-SLAPP motion because defendant's threat to report plaintiff to law enforcement coupled with a demand for money was extortion, not protected activity.

Attorney Reed Hamzeh represented Guy Chow in a dispute between Chow and his former employee, Miguel Mendoza. Hamzeh sent a demand letter to Mendoza's counsel, accusing Mendoza of fraud and threatening to report him to law enforcement if Mendoza did not cooperate with Hamzeh's investigation and pay damages.

Mendoza filed a complaint against Hamzeh, alleging the threat to report Mendoza to law enforcement was extortion. Hamzeh filed an anti-SLAPP motion, claiming the letter was a protected communication. The trial court denied the motion, concluding settlement communications which constitute criminal extortion are not covered by the anti-SLAPP statute.

The Court of Appeal held a threat to report criminal conduct coupled with a demand for money is criminal extortion as a matter of law. Although the letter did not list specific crimes and was less egregious than extortion threats in previous cases, it was still extortionate. There is a bright line rule precluding application of the anti-SLAPP statute to extortion. Hamzeh could not establish any cause of action in Mendoza's complaint arose from protected activity.

Comment: The case should serve as a reminder to attorneys that there are limits to zealous advocacy. An extortionate settlement demand can expose an attorney to a lawsuit, and it also violates California Rule of Professional Conduct 5-100(A).

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