

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
CENTRAL**

MINUTE ORDER

DATE: 11/10/2022

TIME: 10:30:00 AM

DEPT: C-64

JUDICIAL OFFICER PRESIDING: John S. Meyer

CLERK: Herlinda Chavarin

REPORTER/ERM: Not Reported

BAILIFF/COURT ATTENDANT: S. Green

CASE NO: **37-2022-00020940-CU-DF-CTL** CASE INIT.DATE: 06/01/2022

CASE TITLE: **Ratekin VS San Diego Unified School District [IMAGED]**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Defamation

EVENT TYPE: Motion Hearing (Civil)

APPEARANCES

Nicholas Ratekin, self represented Plaintiff, present via remote video conference.

SAN DIEGO EDUCATION LAW GROUP, self represented Defendant, present via remote video conference.

All parties submit(s) on the Court's tentative ruling.

The Court CONFIRMS the tentative ruling as follows:

Defendant D.N. Brady Esq. d/b/a San Diego Education Law Group's ("SDELJ") unopposed anti-SLAPP motion to strike is **GRANTED**.

SDELJ's request for judicial notice is denied as unnecessary to the disposition of this motion.

Plaintiff Nicholas Ratekin alleges a single cause of action for defamation. The alleged defamation apparently consists of statements that Ratekin was a "criminal" for recording confidential communications in violation of Penal Code section 632. SDELJ argues that the complaint arises out of protectivity activity and the defamation claim lacks merit, and therefore filed an anti-SLAPP motion to strike.

"Resolution of an anti-SLAPP motion involves two steps. First, the defendant must establish that the challenged claim arises from activity protected by the statute. If the defendant makes the required showing, the burden shifts to the plaintiff to demonstrate the merits of the claim by establishing a probability of success." (*Murray v. Tran* (2020) 55 Cal.App.5th 10, 25.)

Protected Activity

"Under the first step of the anti-SLAPP analysis, the moving party must show the relief sought is based

on allegations arising from protected activity. In considering whether the moving party has met this burden, [courts] start with the pleadings and also consider the evidentiary submissions." (*Murray, supra*, 55 Cal.App.5th at p. 25.)

The complaint alleges three categories of defamatory statements: (1) those made to the State Bar in connection with its investigation into Ratekin's complaint; (2) those made to the San Diego County Bar Association in connection with Ratekin's fee arbitration; and (3) those made to Judge Sturgeon in connection with Ratekin's lawsuit against the University of San Diego. Brady and Pinder both declare that every statement they ever made about Ratekin to either the State Bar, SDCBA, or in court was part of a judicial proceeding, quasi-judicial proceeding, or other official proceeding authorized by law. As such, all three categories of defamatory statements arise from protected activity. (See Code Civ. Proc., § 425.16, subd. (e)(1)–(2); Bus. & Prof Code. §§ 6200–6206, 6075–6088; *Dorit v. Noe* (2020) 49 Cal.App.5th 458, 469–471; *Bergstein v. Stroock & Stroock & Lavan LLP* (2015) 236 Cal.App.4th 793, 803–813.)

Minimal Merit

"If the moving party on an anti-SLAPP motion makes the required showing on any one claim, the burden shifts to the opposing party to demonstrate the merit of that claim. . . . Although the opposing party need only show 'minimal merit' to satisfy the burden, the plaintiff cannot rely on the allegations of the complaint, but must produce evidence that would admissible at trial." (*Murray, supra*, 55 Cal.App.5th at p. 36.)

Ratekin did not file an opposition. There is no evidence that either Brady or Pinder made the alleged statements, that the alleged statements were untrue, or any of the other elements of a claim for defamation. As such, Ratekin has failed to meet his burden.

Conclusion

For the reasons set forth above, the anti-SLAPP motion to strike is granted. Attorney fees shall be resolved by separate motion.

SDELJ shall submit a proposed judgment within 10 days.

IT IS SO ORDERED:



Judge John S. Meyer