

FILED

OCT 29 2015

DAVID H. YAMASAKI  
Chief Executive Officer/Clerk  
Superior Court of CA County of Santa Clara  
BY David K. Walker DEPUTY

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA CLARA

CRAFTSMEN'S GUILD, INC.,

Plaintiff,

v.

ANIA MITROS, et al.

Defendants.

Case No.1-15-CV-283688

ORDER RE: SPECIAL MOTION TO  
STRIKE PURSUANT TO CODE OF  
CIVIL PROCEDURE § 425.16

Defendants Ania Mitros ("Mitros") and Seth LaForge's ("LaForge") (collectively, "Defendants") special motion to strike all claims asserted against them by plaintiff Craftsmen's Guild, Inc.'s ("Plaintiff") pursuant to Code of Civil Procedure section 425.16 came on for hearing before the Honorable William Elfving on October 29, 2015, at 9 a.m. in Department 3.

The matter having been submitted, the Court orders as follows:

Plaintiff's evidentiary objections are OVERRULED.

Defendants' special motion to strike pursuant to Code of Civil Procedure section 425.16 is GRANTED. Defendants have demonstrated that Plaintiff's claims against them arise from protected activity. (See Code Civ. Proc., § 425.16, subd. (e)(3); see also *Vivian v. Labrucherie* (2013) 214 Cal.App.4<sup>th</sup> 267 [holding that plaintiff's claims that defendant breached settlement agreement came within anti-SLAPP statute because plaintiff was seeking to impose

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PROCEDURE § 425.16

1 liability on defendant for protected communications].) Plaintiff, however, fails to demonstrate a  
2 probability of prevailing on the merits of its claims. First, Plaintiff fails to submit evidence

3 which establishes that any of the subject online posts were authored by LaForge.<sup>1</sup> Second,  
4 Plaintiff submits no evidence which demonstrates that it was damaged by the posts created by  
5 Mitros, specifically, rather than by any of the other negative coverage of its business practices  
6 that existed online on the same websites. Damages is a necessary element of a breach of contract  
7 claim. (See *Oasis West Realty, LLC v. Goldman* (2011) 51 Cal.App.4<sup>th</sup> 811, 821.)

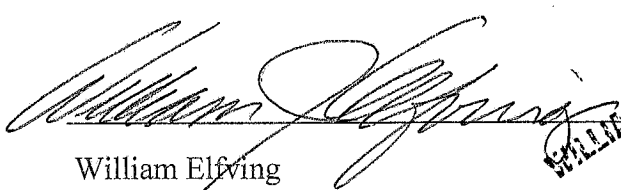
8  
9 Plaintiff also fails to make a prima facie evidentiary showing to sustain judgment in its  
10 favor on its claim for declaratory and injunctive relief. (See *Mission Springs Water Dist. v.*  
11 *Verjil* (2013) 218 Cal.App.4<sup>th</sup> 892, 909 [stating standard necessary to defeat anti-SLAPP motion  
12 directed at claim for declaratory relief].) The subject language in the Mediation Settlement  
13 Agreement between the parties (“Yelp and other online consumer review sites”) is not  
14 “reasonably susceptible” to the broad interpretation urged by Plaintiff. (*People ex rel. Lockyer v.*  
15 *R.J. Reynolds Tobacco Co.* (2003) 107 Cal.App.4<sup>th</sup> 516, 524.) Moreover, to read the agreement  
16 as Plaintiff suggests runs counter to the “plain meaning rule” and the court’s obligation to  
17 “indulge every reasonable presumption against waiver” of free speech rights in the absence of a  
18 clear relinquishment of those rights. (*Ferlauto v. Hamsher* (1990) 74 Cal.App.4<sup>th</sup> 1394, 1400.)  
19 Finally, Plaintiff’s focus on the subjective intent of its principal, Mike Amini, with regard to the  
20 interpretation of the Mediation Settlement Agreement is misplaced because “it is objective  
21 intent, as evidenced by the words of the contract, rather than the subjective intent of one of the  
22 parties, that controls interpretation.” (*Founding Members v. Newport Beach Club, Inc.* (2003)

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27 <sup>1</sup> Plaintiff requests that it be given an opportunity to conduct discovery as to Mitros’ claim of sole responsibility for  
28 the postings. If Plaintiff believed that further discovery was necessary to defeat Defendants’ motion, it was  
obligated to follow the procedure outlined in Code of Civil Procedure section 425.16, subdivision (g) [stating that all  
discovery proceedings are stayed upon the filing of an anti-SLAPP motion, however, the court “on noticed motion  
and for good cause shown,” may order specified discovery notwithstanding the stay]. It elected not to do so.

1 109 Cal.App.4<sup>th</sup> 944, 956.) While there is no question that Mr. Amini wanted the broadest  
2 prohibition possible, there is also no dispute over the fact that Defendants repeatedly rejected the  
3 broad language that he sought include in the parties' settlement agreement. (See Mitros Decl., ¶¶  
4 15-20 and Exhibits 5-11.)  
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6 Defendants' request for attorney's fees and costs is DENIED WITHOUT PREJUDICE  
7 subject to a noticed motion and attorney declaration supporting such an award.  
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10 Date: 10/29/15

  
11 William Elfving  
12 Judge of the Superior Court  
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WILLIAM ELFVING