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DEC - 9 2019

By: R. Cersosimo, Clerk

7 Attorneys for Defendant DAVID ARAMBULA

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN DIEGO – HALL OF JUSTICE

10
11 CHRISTOPHER WILLIAMS,

12 Plaintiff,

13 v.

14
15 DAVID ARAMBULA; CITY OF LEMON
16 GROVE; and DOES 1 through 1,000,

17 Defendants.

Case No. 37-2018-00023369-CU-PO-CTL
[Complaint Filed: May 11, 2018]

Judge: Hon. Richard S. Whitney
Dept: C-68

**DEFENDANTS' MOTION IN LIMINE TO
PRECLUDE CARA ANDERSON FROM
TESTIFYING AT TRIAL, AND REQUEST
FOR EVIDENCE CODE § 402 HEARING IN
THE ALTERNATIVE; DECLARATION OF
EMILY M. STRAUB**

[Defense MIL No. 23]

Trial Date: December 13, 2019

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21 **TO THE COURT, ALL PARTIES, AND THEIR COUNSEL OF RECORD:**

22 PLEASE TAKE NOTICE that Defendant David Arambula hereby moves the Court, on
23 behalf of the defense, for an order precluding Cara Anderson from testifying at trial. In the
24 alternative, Mr. Arambula requests a hearing, pursuant to Evidence Code § 402, to address the
25 admissibility of Ms. Anderson's testimony.

26 This motion is based on the supporting memorandum of points and authorities, the
27 declaration of Emily M. Straub, the pleadings and papers on file in this action, and upon such
28 argument and evidence as may be presented prior to or at the hearing of this matter.

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1 **I. INTRODUCTION**

2 It was not until the late afternoon of December 5, 2019 (the day before motions in limine
3 were otherwise due to be filed), that Defendants David Arambula and the City of Lemon Grove
4 learned for the first time Plaintiff Christopher Williams intends to call non-party Cara Anderson to
5 testify at trial. (See Declaration of Emily M. Straub (“Straub Decl.” at ¶¶ 4-6.)) Ms. Anderson was
6 not deposed in this case, or otherwise disclosed as a witness in plaintiff’s discovery responses. (*Id.*
7 at ¶ 7.) Ms. Anderson has no personal knowledge of the physical altercation at issue or the meeting
8 preceding the physical altercation. As such, her trial testimony has no probative value, and it would
9 result in an undue consumption of time that would only confuse and mislead the jury. Her testimony
10 would otherwise be unduly prejudicial to the defense. The Court should preclude Ms. Anderson
11 from testifying at trial for all of these reasons.

12 **II. AUTHORITY FOR MOTION**

13 A motion *in limine* is the appropriate method “to preclude the presentation of evidence
14 deemed inadmissible and prejudicial by the moving party.” (*Blanks v. Seyfarth Shaw, LLP* (2009)
15 171 Cal.App.4th 336, 375.) The important purpose served by such motion is “to avoid the
16 obviously futile attempt to “unring the bell” in the event a motion to strike is granted in the
17 proceedings before the jury.” (*Hyatt v. Sierra Boat Co.* (1978) 79 Cal.App.3d 325, 337.)

18 **III. THE TESTIMONY SHOULD BE EXCLUDED BECAUSE MS. ANDERSON**
19 **LACKS PERSONAL KNOWLEDGE OF ANY MATTERS AT ISSUE**

20 The testimony of any non-expert witness “concerning a particular matter is inadmissible
21 unless he has personal knowledge of the matter.” (Evid. Code § 702, subd. (a).) “To testify, a witness
22 must have personal knowledge of the subject of the testimony, based on the capacity to perceive and
23 recollect.” (*People v. Montoya* (2007) 149 Cal.App.4th 1139, 1150.) Without personal knowledge,
24 a witness cannot provide competent testimony. (*Alvarez v. State of California* (1999) 79 Cal.App.4th
25 720, 727.)

26 Here, Ms. Anderson has no personal knowledge of (a) the physical altercation between
27 plaintiff and Mr. Arambula, or (b) the meeting at Mr. Arambula’s home that preceded the physical
28 altercation. She merely wrote salacious, one-sided articles about these events for *Candid Chronicle*,

1 which is owned by none other than plaintiff. (See Exhibits 1 and 2 to Straub Decl.) While Ms.
2 Anderson may have spoken with one or more individuals who were present at the afore-mentioned
3 events, it does not give her personal knowledge of those events. The only testimony Ms. Anderson
4 could provide would be inadmissible hearsay.

5 **IV. THE TESTIMONY SHOULD BE EXCLUDED PURSUANT TO EVIDENCE**
6 **CODE SECTION 352**

7 Evidence Code Section 352 provides:

8 The court, in its discretion, may exclude if its probative value is
9 substantially outweighed by the probability that its admission will
10 (a) necessitate undue consumption of time or (b) create substantial
11 danger of undue prejudice, of confusing the issues, or of misleading
the jury.

12 The term “prejudicial” means “evoking an emotional response that has very little to do with the issue
13 on which the evidence is offered.” (*Rufo v. Simpson* (2001) 86 Cal.App.4th 573, 597.) Importantly:

14 [E]vidence should be excluded as unduly prejudicial when it is of such
15 nature as to inflame the emotions of the jury, motivating them to use
16 the information, not to logically evaluate the point upon which it is
17 relevant, but to reward or punish one side because of the jurors'
18 emotional reaction. In such a circumstance, the evidence is unduly
prejudicial because of the substantial likelihood the jury will use it for
an illegitimate purpose.

19 (*People v. Branch* (2001) 91 Cal.App.4th 274, 286 (quoting *Vorse v. Sarasy* (1997) 53 Cal.App.4th
20 998, 1008-1009 (internal quotation marks omitted).)

21
22 As discussed *supra*, Ms. Anderson has no personal knowledge of the events in question. As
23 such, her testimony has no probative value. Moreover, Ms. Anderson’s testimony would
24 (a) necessitate undue consumption of time, and (b) create a substantial danger of undue prejudice,
25 of confusing the issues, and of misleading the jury. Ms. Anderson’s articles are very telling of her
26 bias in favor of plaintiff. She should not be permitted to taint the jurors’ minds with such bias.

27 ///

28 ///

1 **V. DEFENDANTS REQUEST AN EVIDENCE CODE SECTION 402 HEARING IN**
2 **THE ALTERNATIVE**

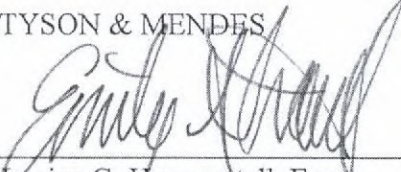
3 Upon request, “[t]he court may hear and determine the question of the admissibility of
4 evidence out of the presence or hearing of the jury...” (Evid. Code § 402, subd. (b).) Should the
5 Court choose to postpone ruling on this motion, or otherwise deny the motion, the defense hereby
6 requests an Evidence Code § 402 hearing outside the presence of the jury to determine the
7 admissibility of Ms. Anderson’s testimony before she is permitted to testify in front of the jury, if
8 at all.

9 **VI. CONCLUSION**

10 For the foregoing reasons, Mr. Arambula respectfully requests the Court grant this motion
11 and issue and order precluding Cara Anderson from testifying at trial.

14 Dated: December 9, 2019

TYSON & MENDES

15
16 By: 
17 _____
18 Jessica G. Heppenstall, Esq.
19 Emily M. Straub, Esq.
20 Attorneys for Defendant DAVID ARAMBULA

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DECLARATION OF EMILY M. STRAUB

I, Emily M. Straub, Esq., declare as follows:

1. I am an attorney at law duly licensed to practice in all courts of the State of California.

2. I am a counsel of record for Defendant David Arambula, and offer this declaration in support of the corresponding motion *in limine*.

3. The following facts are based on my own personal knowledge, and if called upon I could and would testify competently thereto.

4. In the late afternoon of December 5, 2019, counsel for Plaintiff Christopher Williams disclosed his list of witnesses for the joint trial readiness conference brief.

5. Plaintiff's witness list includes, among others, Cara Anderson, a non-party.

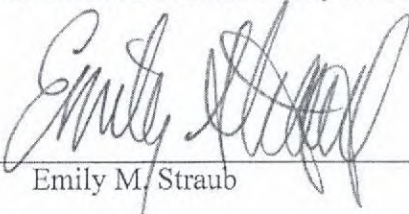
6. This was the first time I learned of Ms. Anderson being called to testify at trial, as my office was never served with a trial subpoena requiring her attendance at trial.

7. Ms. Anderson was not deposed in this case or disclosed as a witness in plaintiff's discovery responses.

8. Attached hereto as Exhibit 1 is a true and correct copy of a Candid Chronicle article by Ms. Anderson, dated March 9, 2018, which I printed from the Candid Chronicle website.

9. Attached hereto as Exhibit 2 is a true and correct copy of a Candid Chronicle article by Ms. Anderson, dated June 19, 2018, which I printed from the Candid Chronicle website.

I declare under penalty of perjury under the laws of the State of California, that the foregoing is true and correct and that this declaration was executed this 9th day of December, 2019, at La Jolla, California.



Emily M. Straub

EXHIBIT 1

News Newswire Facebook Know Your Candidate Councilman Accused of Assaulting Applicant (candidchronicle.com/candidnewspaper) Automatically pardon past cannabis-cr (https://www.instagram.com/candidchronicle/)



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Lemon Grove councilman Arambula accused of assaulting dispensary applicant (https://candidchronicle.com/lemon-grove-councilman-assaulting-dispensary-applicant/)

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David Arambula, a Lemon Grove city councilman, has been accused of drunkenly assaulting a medical marijuana dispensary applicant. Chris Williams claims he was brutally hit on the head with a champagne bottle, punched, kicked, strangled, and bitten by councilman Arambula.

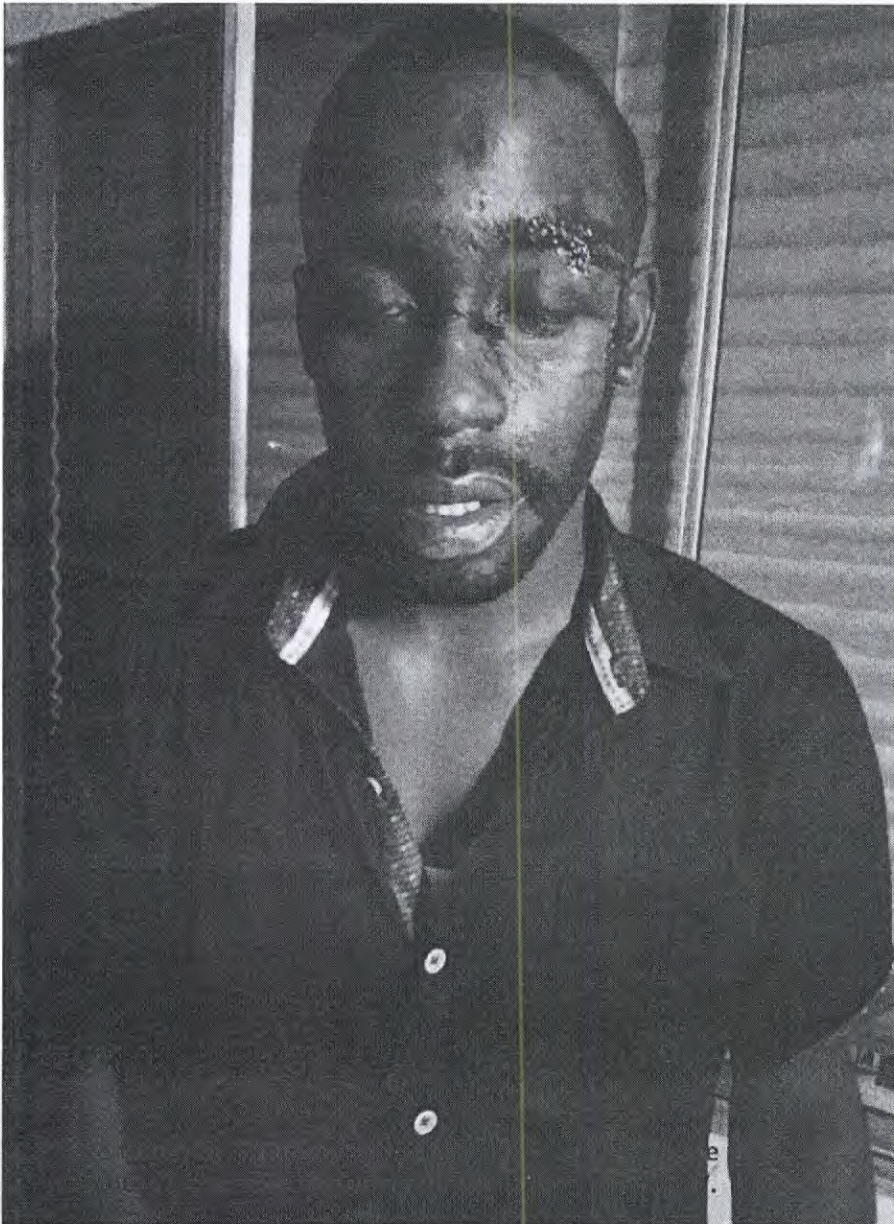


By Cara Anderson

IG: @carajojo

An assault claim was submitted to Lemon Grove on behalf of Chris Williams on January 11th, 2018. Williams' claim includes damages due to pain, suffering, lost work, and medical costs.

Williams sustained a laceration to his eyebrow, contusions to the back and front of his head, concussion, a fractured right rib, and bites to his forearm. Williams was treated at Alvarado Hospital Emergency Room for the injuries.



On February 20th, 2018, Lemon Grove City Council met in a closed session to review the assault claim. **Lemon Grove City Council has decided to formally deny the assault claim.** (<http://www.lemongrove.ca.gov/home/showdocument?id=4707>)

"I have never called the police in my life. That's not exactly something you're comfortable doing where I'm from. There was a lot at stake. I wondered what would people say, what would people do, what if people didn't believe me, and how would the city of Lemon Grove retaliate against my applications for speaking out?" – *Chris Williams*

Throughout the past year, the assault is just one of the issues Williams has faced in Lemon Grove. Shortly after the assault, one of Williams' properties was denied zoning clearance for being within 1,000 ft of an alleged school. The city still has yet to provide adequate fire reports proving the alleged school property is actually school grounds.

Only one of the three properties Williams applied with passed the required zoning clearance. Williams states, "I've been told I should shut up, be quiet, and be happy with the one that I got."

On July 14, 2017, Williams was invited to David Arambula's home for a business meeting concerning his dispensary applications. Mayor Racquel Vasquez was present at the gathering at some point as well.

Williams says he did not provoke the attack nor did he strike or attempt to strike Arambula during the attack. When asked, Williams claimed he still did not know Arambula's motive for the unexpected assault.

Williams wife, Kathleen McLean, vividly remembers when Williams returned home, "I thought he had been in a car accident when he got home, I saw blood all over his face and open wounds. I had no choice but to drive him to the hospital."

In the early hours of July 15th, 2017, McLean drove Williams to Alvarado Hospital Emergency Room to be treated for the sustained injuries. Williams' medical treatment included a cat scan, stitches, and a tetanus shot as a result of being bitten on his arm.

In an official report to San Diego County Sheriff's Office, Williams identified the assailant as "an elected official suffering from PTSD." According to the report, Williams did not explicitly identify the council member or who was in attendance at the meeting.

Williams said he was considering the safety of his family as well as the ramifications that reporting the assault would have against his dispensary applications.

"This has been a grueling process, both physically and emotionally. I will share the whole truth including photos, text messages, videos, emails at the appropriate time." – *Chris Williams*





Williams sustained bite wounds from the incident occurring at Arambula's house.

The accusation is not the first of its kind levied against Councilman Arambula. In May 2017, a **restraining order was requested against David Arambula by his former employer Dorinna Hirsch** (<https://www.10news.com/news/local-attorney-claims-lemon-grove-councilman-threatened-to-mess-her-up>), based on violent threats from Arambula. The restraining order was denied by a judge on July 6th, 2017, just a few days before the incident involving Arambula and Williams. In her request, Hirsch wrote, "He screamed that he would destroy my business and 'mess me up' if I crossed him."



Dorinna Hirsch told Candid Chronicle that she is afraid of David Arambula because she believes he has psychological problems. Hirsch describes Arambula as a "psychological terror," who she has seen go into a "manic rage."

"I don't think its a phase that David's going through. I've known him for twenty years. He does have a violent temper, it's just that it's coming out more." She added that she believes the assault on Williams did happen, adding "I know this man [David Arambula] and I know his temperament. I know he is so capable of doing this."

Ms. Hirsch believes that there are other similar stories involving Arambula's threats and violence. Hirsch said in the years that she's known Arambula, there are at least four other instances she knows of where he "blew up" on people.

"He's not a good guy, and it took me many years to see that." – Dorinna Hirsch

As Lemon Grove has denied William's assault claim against councilman Arambula, it is likely that a lawsuit will ensue.

Williams stated, "I've never sued someone before, but if I have to, I will. When's enough, enough?"

David Arambula did not respond to a request for comment, Mayor Racquel Vasquez did not respond to a request for comment.

*Candid Chronicle has previously covered the tribulations of the dispensary application process in Lemon Grove. Read about Williams' **North Ave zoning clearance appeal overturn** (<http://candidchronicle.com/lemon-grove-overturms-city-staff/>) and the potential **blocked due process of black dispensary applicants in Lemon Grove** (<http://candidchronicle.com/welcome-to-the-dark-side-1/>).*

Chris Williams is a founder of Candid Chronicle.

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Hollywood could not write a more interesting script.

Chris Williams is a well-recognized face in the SoCal cannabis movement. As one of only a handful of black cannabis applicants in San Diego, he is a vocal advocate of equality, social equity, diversity, inclusion, and safe access. Williams is also the founder of Candid Chronicle, the only cannabis-focused news publication in the country.

Last summer, Chris says he was invited to the home of Lemon Grove Councilman David Arambula (D) to discuss his cannabis dispensary applications. All was well before the night took a strange turn, landing Williams in the Emergency Room.

Williams has filed a lawsuit against the city of Lemon Grove and Councilman Arambula which includes claims that the councilman attacked Williams with a champagne bottle, then punched, kicked, and bit Williams.

"We are now in an active lawsuit, I'm confident in the facts and legal system. I sleep like a baby. At the appropriate time, the truth will come out- who was there, what was said, who knew what and when," says Chris Williams.

Earlier, the meeting took place just a few days after a court ruled on a restraining order request against Arambula, by local San Diego attorney Dorinna Hirsch. Hirsch was seeking a permanent restraining order against Councilman Arambula. In her request, Hirsch claimed that Arambula tampered with legal documents, threatened her, and stole \$8,500; she wrote, "He [Arambula] screamed that he would destroy my business and 'mess me up' if I crossed him." A judge denied Hirsch's request on July 6, 2017.

On July 15, 2017, Williams was treated at Alvarado Hospital Emergency Room for a broken rib, concussion, stitches for lacerations, and bites to his forearms after his visit to Arambula's home. Days later, July 18, 2017, Williams was on the public agenda for a Lemon Grove City Council Meeting. Undeterred by a concussion, stitches, and broken rib, he was prepared to appeal for the zoning clearance of his 8260 Broadway medical marijuana dispensary application. The appeal hearing was pushed back, then ultimately denied.

Arambula has expressed different versions of the events. As reported by East County Magazine, the Councilman claimed "he did not call the Sheriff's department, hoping Williams would "sleep it off, apologize." According to the San Diego Union-Tribune, Arambula did not notify authorities because he was "trying to protect the mayor and the city's best interests."

Williams is represented by well-known litigator Cory Briggs and is seeking unspecified damages for assault and battery, intentional infliction of emotional distress, negligence, plus court and legal expenses.

"At this point, to me, it is much bigger than the Arambula incident, there is a culture of deceit, abuse of power, and discrimination and it starts from the top in Lemon Grove. I can no longer sit back and shut up to protect the one dispensary we were approved for, there is a much bigger responsibility. If I can empower just one person out there to stand up for themselves and their dreams, then it will all be worth it" - Chris Williams

Williams is continuing his pursuit to establish medical marijuana dispensaries at two of his previously denied locations, in addition to the one he was approved for. Williams stated, "The locations meet the zoning requirements set by the voters. I'm not going anywhere. Just because you deserve something, doesn't mean they'll give it to you. Sometimes you have to stand up for what's yours."

By Cara Anderson

IG: @carajojo (<http://instagram.com/carajojo>)

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Candid Chronicle

Cara is the Editor-in-Chief of Candid Chronicle. For all inquiries, please reach Cara at cara@candidchronicle.com

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