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7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 FOR THE COUNTY OF SAN DIEGO – CENTRAL DIVISION
9

10 CHRISTOPHER WILLIAMS,

11
12 Plaintiff,

13 v.

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

16 Defendants.

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

) Judge: Hon. Judith F. Hayes
) Dept: C-68

) **MEMORANDUM OF POINTS AND**
) **AUTHORITIES IN SUPPORT OF**
) **DEFENDANT DAVID ARAMBULA'S**
) **MOTION TO STRIKE PORTIONS OF**
) **THE COMPLAINT**

) (*Notice of Motion and Motion,*
) *Declaration of Emily M. Straub, and*
) *[Proposed] Order filed concurrently*
) *herewith)*

) **Hearing**

) Date: October 10, 2018
) Time: 10:30 a.m.
) Dept.: C-68

) Trial Date: Not Set

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I.

INTRODUCTION

Plaintiff Christopher Williams (“WILLIAMS”) asks this Court to award punitive damages against Defendant David Arambula (“ARAMBULA”), but he does not meet the threshold pleading requirements necessary to maintain this request. WILLIAMS also improperly asks this Court to award him all of the court costs and legal expenses he incurs during the life of this case, but the law does not authorize such relief. These two categories of requested relief are improper and are otherwise not pleaded for in conformity with California law. ARAMBULA’s Motion to Strike should therefore be granted.

II.

FACTUAL BACKGROUND

This is a personal injury lawsuit arising out of a physical altercation between WILLIAMS and ARAMBULA on July 15, 2017. The incident took place at ARAMBULA’s residence in the City of Lemon Grove. WILLIAMS alleges ARAMBULA assaulted and battered him during a visit to ARAMBULA’s home. The claimed purpose of this visit was to discuss WILLIAMS’ applications to open medical marijuana dispensaries in the City of Lemon Grove. WILLIAMS contends ARAMBULA was acting in his capacity as a council member of the City of Lemon Grove during the course of the visit.

WILLIAMS filed a Complaint on May 11, 2018, against ARAMBULA and the City of Lemon Grove. WILLIAMS sued ARAMBULA in his capacity as an individual and as a council member of the City of Lemon Grove. The Complaint advances the following causes of action against both defendants: (1) assault and battery, (2) intentional infliction of emotional distress, and (3) negligence. WILLIAMS seeks punitive damages from ARAMBULA under the first two of these causes of action. WILLIAMS supports his prayer for punitive damages with conclusory allegations ARAMBULA acted with malice and oppression, and intended to cause WILLIAMS emotional distress. (*See* Complaint at 3:21-22, 3:26-27, 4:4-6.) WILLIAMS also improperly seeks to recover, among other things not at issue in this motion, all court costs and legal expenses incurred during the course of his lawsuit. (*Id.* at 4:21-22.) The parties met and conferred regarding

1 ARAMBULA’s observed deficiencies with WILLIAMS’ prayer for punitive damages, court costs,
2 and legal expenses. (Declaration of Emily M. Straub at ¶¶ 4-9.) WILLIAMS is not willing to
3 amend his Complaint to remove his requests for the relief in question. (*Id.* at ¶ 9.) ARAMBULA
4 must therefore seek a Court order striking this language from the Complaint.

5 **III.**

6 **AUTHORITY FOR MOTION**

7 A defendant may, within the time allowed for answering a complaint, challenge the content
8 of such pleading via a motion to strike. (Code Civ. Proc. § 435, subd. (b).) Such motion authorizes
9 the Court to strike the following portions of a complaint: (1) “irrelevant, false, or improper matter,”
10 and (2) any portion of the complaint “not drawn or filed in conformity with the laws of this state, a
11 court rule, or an order of the court.” (Code Civ. Proc. § 436, subs. (a) and (b).)

12 **IV.**

13 **WILLIAMS DID NOT PLEAD FACTS SUFFICIENT TO MAINTAIN A PUNITIVE**
14 **DAMAGES CLAIM**

15 Punitive damages should be stricken from a complaint where the plaintiff fails to allege
16 facts sufficient to establish malice, fraud, or oppression. (Civ. Code § 3294; *Turman v. Turning*
17 *Point of Central California, Inc.* (2010) 191 Cal.App.4th 53, 63-64.) Mere characterization of
18 conduct as being malicious, fraudulent, or oppressive does not satisfy a plaintiff’s pleading
19 requirements. (*Brousseau v. Jarrett* (1977) 73 Cal.App.3d 864, 872; *G.D. Searle & Company v.*
20 *Superior Court* (1975) 49 Cal.App.3d 22, 23-29.) The plaintiff must plead ultimate facts that
21 demonstrate: (1) the defendant’s malicious, fraudulent and/or oppressive conduct, **and** (2) that the
22 defendant possessed the specific intent to vex, injure, or annoy plaintiff in executing such conduct.
23 (*Grieves v. Superior Court* (1984) 157 Cal.App.3d 159, 166; *Ebaugh v. Rabkin* (1972) 22
24 Cal.App.3d 891, 894.)

25 Here, the Complaint does not set forth facts that satisfy either of the two above-referenced
26 pleading requirements. Instead, the Complaint merely provides conclusory allegations that
27 ARAMBULA: (a) “assaulted and battered Plaintiff with malice and oppression” (*See* Complaint at
28 3:21]; (b) somehow “caused Plaintiff to suffer substantial emotional distress with malice and

1 oppression” [*Id.* at 4:4-6]; and (c) “physically attacked Plaintiff with the intent to inflict emotional
2 distress.” (*Id.* 3:26-27.) Such allegations are nothing more than conclusions of law. These
3 allegations do not demonstrate ARAMBULA exhibited malicious, fraudulent, or oppressive
4 conduct. Likewise the allegations do not demonstrate ARAMBULA possessed the specific intent
5 to vex, injure, or annoy WILLIAMS. As such, WILLIAMS has not satisfied the threshold pleading
6 requirements necessary to maintain his prayer for punitive damages. All references to punitive
7 damages should therefore be stricken from the Complaint.

8 V.

9 **THE PRAYER FOR ALL COSTS AND LEGAL EXPENSES IS IMPROPER AS A**
10 **MATTER OF LAW**

11 Attorney fees are not recoverable by a prevailing party unless such fees are provided for by
12 contract or statute. (Code Civ. Proc. § 1021.) Prevailing party costs are otherwise limited to those
13 listed under Code of Civil Procedure § 1033.5.

14 In the Complaint at issue, WILLIAMS improperly prays for “[a]ny and all court costs and
15 other legal expenses.” (*See* Complaint at 4:21-22.) WILLIAMS does not plead any contractual or
16 statutory grounds for the recovery of attorneys’ fees. Furthermore, should WILLIAMS prove to be
17 the prevailing party in this lawsuit, he could only collect the prevailing party costs authorized by
18 statute – not all of his costs. WILLIAMS request for *all* court costs and legal expenses is not
19 authorized by law. Such request should therefore be stricken from the Complaint in its entirety.

20 VI.

21 **CONCLUSION**

22 The motion should be granted for all the following reasons. Arambula respectfully requests
23 the Court grant his motion and enter an order striking the pleading language at issue.

24 Dated: June 29, 2018

TYSON & MENDES LLP

25
26 By: 

Susan L. Oliver, Esq.

Emily M. Straub, Esq.

Attorneys for Defendant DAVID ARAMBULA