

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

MINUTE ORDER

DATE: 10/05/2018

TIME: 10:30:00 AM

DEPT: C-68

JUDICIAL OFFICER PRESIDING: Judith F. Hayes

CLERK: Richard Cersosimo

REPORTER/ERM: Not Reported

BAILIFF/COURT ATTENDANT: P.K. Beebe

CASE NO: **37-2018-00023369-CU-PO-CTL** CASE INIT.DATE: 05/11/2018

CASE TITLE: **Christopher Williams vs David Arambula [IMAGED]**

CASE CATEGORY: Civil - Unlimited CASE TYPE: PI/PD/WD - Other

EVENT TYPE: Demurrer / Motion to Strike

APPEARANCES

There are no appearances by any party.

The Court notes that all parties phoned on 10/4/2018 to submit to the Court's tentative ruling.

The Court CONFIRMS the tentative ruling as follows:

Defendant's Motion to Strike Portions of the Complaint is GRANTED, in part.

The California Supreme Court has stated "in order to justify the imposition of punitive damages the defendant "... must act with the intent to vex, injure, or annoy, *or with a conscious disregard of the plaintiff's rights.* [Citations.]"" (*Taylor v. Superior Court* (1979) 24 Cal.3d 890, 895 [Citation omitted].)

Here, Plaintiff alleges Defendant, a member of the Lemon Grove City Council, invited Plaintiff to his home to discuss the status of Plaintiff's medical marijuana dispensary ("MMD") applications. Plaintiff alleges that "[a]fter it became apparent that ARAMBULA was not prepared to discuss Plaintiff's MMD applications, Plaintiff decided to leave." (Complaint, ¶ 7.) "While Plaintiff was looking down at his phone [to schedule an Uber pick up], ARAMBULA hit Plaintiff in the head with a bottle and bit, kicked, punched, and choked him. This attack was entirely unprovoked." (Complaint, ¶ 7.) While Defendant asserts that sufficient facts have not been pled to show intent or awareness, pleadings are to be construed liberally. The allegations imply that Defendant consciously disregarded Plaintiff's rights when he hit him with a bottle on the head and bit, kicked, punched, and choked him. The lack of allegations of unconsciousness implies Defendant was conscious of what he was doing. The motion is denied as to punitive damages.

Plaintiff's prayer seeks, *inter alia*, "[a]ny and all court costs and other legal expenses incurred by Plaintiff

in connection with this proceeding." Plaintiff does not allege contractual or statutory grounds for the recovery of attorney's fees or all costs. Plaintiff, if successful, will be permitted to recover certain recoverable costs (CCP section 1033.5), but Plaintiff does not explain why he is justified in seeking all costs or any legal expenses. The prayer for "all court costs and other legal expenses" is hereby stricken.