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By: R. Cersosimo, Clerk

Attorneys for Defendant DAVID ARAMBULA

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

CHRISTOPHER WILLIAMS,

Plaintiff,

v.

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

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 MEDIA COVERAGE OF TRIAL

[MIL No. 15 of 22]

Trial Date: December 13, 2019

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

PLEASE TAKE NOTICE that Defendant David Arambula hereby moves the Court, on behalf of the defense, for an order precluding media coverage of trial.

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

FAXED

1 **I. INTRODUCTION**

2 It is anticipated requests for media coverage of trial proceedings will be filed in this case.
3 All such requests should be denied to protect defendants' right to a fair trial. There are no legitimate
4 competing interest that outweigh this right. Moreover, media access would adversely impact the
5 Court's ability to maintain orderly trial proceedings. The motion should therefore be granted.

6 **II. AUTHORITY FOR MOTION**

7 A motion *in limine* is the appropriate method "to preclude the presentation of evidence
8 deemed inadmissible and prejudicial by the moving party." (*Blanks v. Seyfarth Shaw, LLP* (2009)
9 171 Cal.App.4th 336, 375.) The important purpose served by such motion is "to avoid the
10 obviously futile attempt to "unring the bell" in the event a motion to strike is granted in the
11 proceedings before the jury." (*Hyatt v. Sierra Boat Co.* (1978) 79 Cal.App.3d 325, 337.)

12 **III. GRANTING REQUESTS FOR MEDIA COVERAGE WILL UNFAIRLY**
13 **PREJUDICE DEFENDANTS' ABILITY TO SELECT AND MAINTAIN A FAIR**
14 **AND UNBIASED JURY**

15 The California Rules of Court set forth numerous factors for the Court to consider in ruling
16 on a request for media coverage, such as "[t]he effect on the parties' ability to select a fair and
17 unbiased jury." (Cal. Rules of Court, rule 1.150(e)(3)(G).)

18 The mere presence of a reporter or camera in the courtroom will necessarily have an adverse
19 and prejudicial psychological impact on the jurors. First, such a media presence improperly suggests
20 to the jurors this case is a matter of significant importance – implicitly suggesting a large damages
21 award is appropriate. Moreover, media presence improperly suggests to the jurors the community is
22 interested in the outcome; the jurors are to serve as the conscience of the community; and that the
23 verdict is one by which to "send a message." Jurors will also likely be improperly influenced in
24 their deliberations for fear of having to explain any award to those who view the feed/recordings
25 and second-guess the jurors' decision. Further, jurors will likely be reluctant to render a modest
26 award, or award an amount lower than that requested by plaintiff for fear of appearing
27 unsympathetic.

28 Additionally, media filming could unnecessarily chill the jurors' full participation in the trial
process, including, sending up questions, reporting other jurors for misconduct, and/or disagreeing

1 with other jurors. The Court should not grant media coverage requests that will only lead to jurors
2 being distracted by a media circus rather than focusing on their job.

3 For all of the above reasons, good cause exists to exclude the media from trial proceedings.

4 **IV. GRANTING REQUESTS FOR MEDIA COVERAGE WILL RESULT IN WITNESS**
5 **INTIMIDATION AND ADVERSE INFLUENCE TO DEFENDANTS**

6 Another noteworthy factor for consideration in ruling on a request for media coverage is
7 “[t]he effect of coverage on the willingness of witnesses to cooperate....” (Cal. Rules of court, rule
8 1.150(e)(3)(K).)

9 The reporting and recording of trial will likely intimidate witnesses, thereby negatively
10 influencing witness participation in trial proceedings. It is anticipated that media sources will seek
11 to not only report on the outcome trial, but to also sensationalize the testimony of plaintiff and the
12 other individuals who testify at trial. Party and non-party witnesses are many times slightly nervous
13 and/or intimidated when testifying in court. The presence of media would necessarily enhance such
14 anxiety and intimidation. Such result could adversely influence witness testimony. For example,
15 witnesses will likely be concerned about appearing unsympathetic if they give honest testimony that
16 is potentially adverse to the plaintiff. Further, similar to the impact on the jury, media presence will
17 likely suggest to witnesses the case is deserving of a large award, thereby improperly influencing
18 testimony that is favorable to plaintiff and adverse to the defense. This is yet another reason why the
19 motion should be granted.

20 **V. GRANTING REQUESTS FOR MEDIA COVERAGE WILL NEGATIVELY**
21 **IMPACT THE COURT’S ABILITY TO MAINTAIN ORDERLY PROCEEDINGS**
22 **AND CONTROL WITNESS ACCESS TO TRIAL TESTIMONY BY OTHERS**

23 The Court’s ability to maintain the orderly conduct of trial proceedings is another important
24 factor for the Court’s consideration in determining whether to permit media access. (Cal. Rules of
25 Court, rule 1.150(e)(3)(R).) Such ability necessarily includes the power to control excluded
26 witnesses’ access to the testimony of witnesses who testify before they do during trial. The effect of
27 such access on excluded witnesses must also be taken in to considerations. (Cal. Rules of Court, rule
28 1.150(e)(3)(L).)

1 While trials are public, the public's access may be limited. The Court has significant
2 authority to regulate the proceedings before it, and to maintain the orderly conduct of the
3 proceedings. With the unfettered ability of online readers and televised news watchers to
4 immediately view any broadcast or reporting of this trial, there is a substantial danger witnesses who
5 have not yet testified will have access to the testimony of prior witnesses. The Court would be unable
6 to monitor and/or verify who the online readers are, or to prevent non-testifying readers from sharing
7 information with witnesses who have not yet testified in this case. Furthermore, this sort of access
8 could improperly influence the testimony of excluded witnesses. The media should therefore
9 necessarily be kept out of the courtroom during trial.

10 **VI. CONCLUSION**

11 For all of the foregoing reasons, Mr. Arambula respectfully requests the Court grant this
12 motion and issue and order precluding media coverage of trial proceedings, and denying any future
13 requests for media coverage pursuant to this order.

14
15 Dated: December 5, 2019

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17 By: _____

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