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IN THE SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
Civil Division

CLOSE IT! TITLE SERVICES INC., et al Plaintiffs v. MICHAEL S. NADEL, et al. Defendants.	Case No. 2018 CA 5391 B Judge William M. Jackson Next Court Date: October 26, 2018 Event: Initial Scheduling Conference

OPPOSITION TO SPECIAL MOTION TO DISMISS

Plaintiffs Close It! Title Services Inc. d/b/a Federal Title & Escrow Company ("Federal Title") and Todd Ewing ("Ewing"), by and through undersigned counsel, pursuant to Superior Court Rule of Civil Procedure 12-I, hereby submit this Opposition to Defendants Sean Smith and Erin Wrona's ("Smith and Wrona") Special Motion to Dismiss pursuant to the District of Columbia's Anti-SLAPP Act. ("Motion"). Smith and Wrona's Motion is frivolous as it ignores that the defamatory statements giving rise to this lawsuit are commercially motived statements expressly excluded from the types of speech protected under the Act. Accordingly, Plaintiffs respectfully request that the Court deny Defendants' Motion and award Plaintiffs their reasonable attorney's fees and costs. A statement of points and authorities is submitted herewith.

STATEMENT OF POINTS AND AUTHORITIES

I. Background

This action arises out of false and defamatory statements to the media by Smith and Wrona's attorney, Defendant Michael S. Nadel ("Nadel"), that have caused and continue cause massive financial and reputational damage to Plaintiffs. Smith and Wrona chose

Federal Title to provide settlement services in connection with a private residential real estate transaction. *Compl.* ¶10. Smith and Wrona then wired the majority of the purchase price to a company named JMZ Equities, LLC. *Compl.* ¶11. After learning that these funds were not in Federal Title's possession, Smith and Wrona retained Nadel to file a lawsuit against Federal Title, Ewing, and other defendants "to recover about $1.6 million…which was stolen before the closing of the purchase." *Motion* at p.2. Shortly after filing that lawsuit,[1] Nadel stated to the media that "Federal Title either caused our money to be stolen or stole it, and we need our money back." *Compl.* ¶17. These statements were published both on-air and online by radio station WAMU 88.5 and also by Nadel's law firm, Defendant McDermott Will & Emery ("McDermott"), on its website. *Compl.* ¶¶17-18.

Federal Title and Ewing quickly notified the Defendants that the statements made by Nadel on behalf of Smith and Wrona were false and defamatory and requested that they be retracted. *Compl.* ¶22. Defendants refused, and in fact continued to publish the statements on McDermott's website. *Compl.* ¶24. Plaintiffs therefore commenced the instant lawsuit, which seeks financial compensation for the damages caused and a retraction of all false and defamatory statements.

II. Legal Standard

"Under the District's Anti–SLAPP Act, the party filing a special motion to dismiss

[1] At the time the defamatory statements were made, Smith and Wrona had filed a federal lawsuit alleging that Federal Title formed an enterprise with other defendants that engaged in a pattern of racketeering activity for the purpose of defrauding Smith and Wrona in violation of the Racketeering Influenced and Corrupt Organizations Act ("RICO"). On June 21, 2018, the Federal Court dismissed the RICO count for failure to state a claim and dismissed all remaining counts. Smith and Wrona did not attempt to re-plead their RICO count, but instead filed the presently pending case before Judge Rigsby in this Court.

must first show entitlement to the protections of the Act by 'mak[ing] a prima facie showing that the claim at issue arises from an act in furtherance of the right of advocacy on issues of public interest.'" *Competitive Enter. Inst. v. Mann*, 150 A.3d 1213, 1227 (D.C. 2016) (*citing* D.C. Code § 16–5502 (b)). The Anti-SLAPP Act defines "issue of public interest" as "an issue related to health or safety; environmental, economic, or community well-being; the District government; a public figure; or a good, product, or service in the market place. *The term "issue of public interest" shall not be construed to include private interests, such as statements directed primarily toward protecting the speaker's commercial interests rather than toward commenting on or sharing information about a matter of public significance.*" D.C. Code Ann. § 16-5501(3) (emphasis added). An anti-SLAPP motion that fails to establish any issue of public interest must be denied. *Newmyer v. Sidwell Friends Sch.*, 128 A.3d 1023, 1043 n.17 (D.C. 2015); *Doe No. 1 v. Burke, 91* A.3d 1031, 1043 (D.C. 2014) (noting that commercial motivation is "disqualifying" and that such motivation may be apparent from the content of the speech).

If a prima facie showing is made, "the burden shifts to the nonmoving party, usually the plaintiff, who must "'demonstrate[ ] that the claim is likely to succeed on the merits.'" *Mann*, 150 A.3d at 1227 (*citing* D.C. Code § 16–5502 (b)). "The court evaluates the likely success of the claim by asking whether a jury properly instructed on the applicable legal and constitutional standards could reasonably find that the claim is supported in light of the evidence that has been produced or proffered in connection with the motion." *Id.* at 1233. Thus, properly respecting the constitutional right to a jury trial, the claim may be dismissed "only if the court can conclude that the claimant could not prevail as a matter of

law, that is, after allowing for the weighing of evidence and permissible inferences by the jury." *Id.* at 1236.

III. Argument

A. The Defamatory Statements are not Protected Speech

The Anti-SLAPP Act provides no protection for false defamatory statements made to the media concerning a private commercial dispute. The plain language of the Act excludes "statements directed primarily toward protecting the speaker's commercial interests rather than toward commenting on or sharing information about a matter of public significance." D.C. Code Ann. § 16-5501(3). Smith and Wrona concede that their underlying lawsuit is designed to protect their commercial interests: they filed it "to recover about $1.6 million…which was stolen before the closing of the purchase." *Motion* at p.2. On their face, Nadel's false defamatory statements are directed toward the "need to get our money back." *Compl.* ¶17. Smith and Wrona's Motion is frivolous.

Recent cases interpreting the Anti-SLAPP Act confirm that it has no bearing on this lawsuit. "A 'SLAPP' (strategic lawsuit against public participation) is an action "filed by *one side of a political or public policy debate aimed to punish or prevent the expression of opposing points of view*." *Mann*, 150 A.3d at 1226 (*citing* Council of the District of Columbia, Report of Committee on Public Safety and the Judiciary on Bill 18–893, at 1 (Nov. 18, 2010) ("Comm. Report") (emphasis added). SLAPPs therefore "'masquerade as ordinary lawsuits,' but a SLAPP plaintiff's true objective is to use litigation as a weapon to chill or silence speech." *Doe No. 1*, 91 A.3d at 1033 (internal citations omitted).

The instant lawsuit does not relate to any political or public policy debate, nor are the parties on opposing sides of any political or public policy matter. It does not aim to

chill or silence political speech, or any speech at all. Plaintiffs have not sued WAMU or any other media outlet that simply commented on the underlying lawsuit. Plaintiffs have sued Defendants to obtain financial compensation for the damage caused when Defendants falsely and publicly accused Federal Title of criminal conduct.[2] Similarly, Defendants' underlying lawsuit does not relate to politics or public policy. It simply seeks money for damages allegedly incurred in a private real estate transaction. Smith and Wrona cannot meet their burden to establish protection under the Act, and their Motion must be denied.

To avoid this clear result, Smith and Wrona attempt to manufacture an issue of public interest by claiming that the subject matter of their underlying lawsuit "concerns matters of great interest to the public that are discussed in the public forum daily: fraud, deception, cybersecurity and malicious computer hacking." *Motion* at p.4. By this logic, virtually every lawsuit would concern matters of public interest, rendering the statute's private interest exception a nullity.[3] But that is not the case, as the Court of Appeals affirmed that a lawsuit containing analogous claims of professional malpractice and negligence did not concern any issue of public interest despite significant media attention.

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[2] District of Columbia law "has long sought to provide the defamed Plaintiff a maximum standard of protection" to protect the important reputational interests of its citizens. *Phillips v. Evening Star Newspaper Co.*, 424 A.2d 78, 87 (D.C. 1980).

[3] Smith and Wrona's Motion ignores the private interest exception in the Act entirely. *Motion* at p.4. Under Smith and Wrona's theory, any personal injury case would relate to "health and safety" under the Act, and any breach of contract case would relate to a "good, product, or service in the market place." But the Act is targeted to preventing the chill of political or public policy debate, and expressly exempts private commercial interests from the Act for that reason. In addition, even if the underlying lawsuit could somehow be construed to be an issue of public interest, Nadel's false defamatory statements are expressly directed toward commercial interests, rather than any comment on policy matters.

See Newmyer, 128 A.3d at 1043 n.17 (noting that "issue of public interest as defined in Act shall not be construed to include private interests").[4]

Put simply, the D.C. Council enacted the Anti–SLAPP Act "to protect the targets of SLAPPs and encourage "engag[ement] in political or public policy debates.'" *Doe No. 1*, 91 A.3d at 1036 (quoting Comm. Report at 4). But it is not intended to provide protection for those "who commit tortious acts and then seek refuge in the immunity conferred by the [Act]." *Mann*, 150 A.3d at 1239 (quoting with approval an Illinois court commenting on their similar statute). Smith and Wrona's motion is a frivolous attempt to shield themselves from liability for tortious acts, and their motion should be denied.

B. Plaintiffs Are Likely to Succeed on the Merits

For the reasons set forth above, the Motion should be denied as Defendants cannot meet their burden to establish they are entitled to protection under the Anti-SLAPP Act. Alternatively, the Motion should be denied as Plaintiffs can demonstrate that their claims are likely to succeed on the merits. *See* D.C. Code Ann. § 16-5502(b).

1. Defamation

"To succeed on a claim for defamation, a plaintiff must prove '(1) that the defendant made a false and defamatory statement concerning the plaintiff; (2) that the defendant published the statement without privilege to a third party; (3) that the defendant's fault in publishing the statement [met the requisite standard]; and (4) either that the statement was

[4] The cases relied on by Smith and Wrona which do fall under the Act's protection are easily distinguishable from this matter. *See, e.g. Order, TS Media Inc., et al. v. Public Broadcasting Service*, Case No. 2018 CA 001247 B (D.C. Super. Ct. May 15, 2018) (applying Act's protections to statements concerning public figure who hosted television show); *Mann*, 150 A.3d at 1227 (applying Act's protections to statements concerning the public debate over the existence and causes of global warming).

actionable as a matter of law irrespective of special harm or that its publication caused the plaintiff special harm.'" *Mann*, 150 A.3d at 1240 (internal citations omitted). Plaintiffs can establish they are likely to succeed on each element of this claim.

a. False and Defamatory Statements

A statement is defamatory "if it tends to injure [the] plaintiff in his trade, profession or community standing, or lower him in the estimation of the community." *Mann*, 150 A.3d at 1241 (*citing Guilford Transp. Indus., Inc. v. Wilner,* 760 A.2d 580, 594 (D.C. 2000). "[T]o constitute a libel it is enough that the defamatory utterance imputes any misconduct whatever in the conduct of the [plaintiff's] calling." *Guilford*, 760 A.2d at 600 (*citing* Restatement (Second) of Torts § 569, cmt. (e) (1977)).

Ewing is the Founder and Chief Executive Officer of Federal Title, the largest independently owned and operated title and escrow company in the Washington, DC area. *See Exhibit A, Declaration of Todd Ewing* ("Ewing Decl.") ¶¶2-3. As an escrow agent, one of Federal Title's primary functions is to hold and disburse funds on behalf of its customers. *See Ewing Decl.* ¶4. Thus, it is axiomatic that Nadel's statement that "Federal Title either caused our money to be stolen or stole it, and we need our money back" is defamatory as it directly imputes criminal misconduct in Plaintiffs' calling.[5] *See Guilford*, 760 A.2d at 600; *Franklin v. Pepco Holdings, Inc.* (PHI), 875 F. Supp. 2d 66, 75 (D.D.C. 2012) (defamation as a matter of law includes false statements that impute to the subject a crime, or a matter adversely affecting the person's ability to work in a profession).

[5] A true and correct copy the article found at https://wamu.org/story/17/08/08/hackers-allegedly-steal-1-5-million-d-c-couple-home-buying-phishing-scheme/ is attached hereto as Exhibit B. *Ewing Decl.* ¶5.

To avoid this result, in their contemporaneously filed motion to dismiss for failure to state a claim ("12(b)(6) Motion"), Smith and Wrona attempt to argue that this statement is not defamatory because it could be interpreted as simply opinion, could be interpreted simply as relating alternative legal theories in a lawsuit, or is somehow privileged. *See 12(b)(6) Motion* at p.3-5. These arguments fail for several reasons.

First, in deciding the instant motion, the Court is not deciding "the merits of the case," but may only dismiss the claims if Plaintiffs cannot "prevail as a matter of law." *Mann*, 150 A.3d at 1236, 1240. As long as a statement is capable of bearing a defamatory meaning, then whether that statement is in fact "defamatory and false [is a question] of fact to be resolved by the jury." *See Guilford*, 760 A.2d at 594-5. As set forth above, the statements at issue plainly meet this test.

Second, the statement "Federal Title either caused our money to be stolen or stole it" is not a protected expression of Nadel's opinion, but is one of fact because it can be proved false. *See Mann*, 150 A.3d at 1245 (noting the distinction between objective assertions about deception and misconduct that are defamatory assertions outright, as opposed to language normally used to convey opinions such as such as "in my view," or "in my opinion," or "I think"). Nadel's subsequent comment confirms that he expressed an objective statement of fact, as he refers to the alleged lack of "evidence" of hackers that could prove or disprove his statement. *See Exhibit B*.

Moreover, even if Nadel was expressing a statement of opinion, "[s]tatements of opinion can be actionable if they imply a provably false fact, or rely upon stated facts that are provably false." *Mann,* 150 A.3d at 1241 (noting that "In my opinion, Jones is a liar" is actionable if the statement is false). At a minimum, Nadel's statement implies provably

false facts. Federal Title did not steal Smith and Wrona's money. *See Ewing Decl.* ¶6. Federal Title did not cause[6] Smith and Wrona's money to be stolen because it had no knowledge of Smith and Wrona's payment to JMZ equities and never conducted any business, communicated with or even knew about JMZ Equities or Jeff Zorbo before Smith and Wrona notified Ewing of the situation. *See Ewing Decl.* ¶¶7-8. After learning of the incident from Smith and Wrona, Ewing immediately called the FBI. *See Ewing Decl.* ¶9. Thus, whether read as a single statement, or read as two separate facts, one of which is true, a reasonable jury would find these false accusations of professional misconduct defamatory. *Mann*, 150 A.3d at 1243.

Third, Nadel's subsequent statements in the article do not provide protection against the defamatory character of his accusations of criminal conduct. Nadel states, "[s]o if they weren't responsible for helping steal the money, it certainly seems like they knew well in advance of that closing that the money was gone. Their conduct shows that." *See Exhibit B*. These statements are by themselves defamatory, as they imply a provably false fact (Plaintiffs knew well in advance of that closing that the money was gone) that imputes misconduct in the conduct of Plaintiffs profession. *See Guilford*, 760 A.2d at 600. Notably, the author of the article interpreted all of Nadel's statements taken together as communicating facts that established that Federal Title was "involved in the scheme."[7] A

[6] Caused, when used as a verb, means "to make something happen, especially something bad." *See, e.g.* https://dictionary.cambridge.org/dictionary/english/caused. *See also Guilford*, 760 A.2d at 594 (statements at issue should not be interpreted by extremes, but should be construed as the average or common mind would normally understand them).
[7] Smith and Wrona correctly point out that the Complaint mistakenly attributed the statement "involved in the scheme" to Nadel.

reasonable jury would reach the same conclusion that all of these statements are defamatory.

Finally, the fact that the article itself addresses claims made in the underlying lawsuit or links to the complaint does not mean that Nadel's statement is merely relating the alternative theories of his complaint. The same distinction applied by the *Mann* court between objective statements of fact and subjective statements of opinion applies to this argument, as on its face Nadel's statement does not refer to the lawsuit and does not qualify his statement as being as a summary of the theories in the lawsuit. *See, e.g. Think Before Speaking: Defamation Pitfalls for the Unwary Lawyer* (illustrating the distinction between actionable statements such as "[Defendant] stole my money" and potentially defensible statements such as "I sued [Defendant] for stealing my money).[8]

Smith and Wrona also argue, without any support, that Ewing's complaint fails because he has not alleged any statements "concerning him." *12(b)(6) Motion* at p.4. However, to satisfy the "'of and concerning' element, it suffices that the statements at issue lead the listener to conclude that the speaker is referring to the plaintiff by description, even if the plaintiff is never named." *Jankovic v. Int'l Crisis Grp.*, 494 F.3d 1080, 1088–89 (D.C. Cir. 2007). Thus, if "one person is solely in charge of corporate decision making, an attack on a corporation would vicariously attack the decision maker." *Id.; see also Caudle v. Thomason*, 942 F. Supp. 635, 638 (D.D.C. 1996) (denying motion to dismiss where reasonable listener could infer that CEO and President of corporation was responsible for or involved with alleged wrongdoings of company). Ewing is the founder, CEO and sole

[8] This article is published by CNA, which provides professional liability insurance to law firms, and is available at: https://www.gilsbarpro.com/News-Updates/Id/344.

owner of Federal Title and personally built virtually all of the company's referral network of real estate agents and lenders, who are all aware that Ewing controls the company. *See Ewing Decl.* ¶3. Defamatory statements accusing Federal Title of professional misconduct therefore defame Ewing. *See Croixland Properties Ltd. P'ship v. Corcoran*, 174 F.3d 213, 217 (D.C. Cir. 1999) (defamatory statements connecting company to crime defamed the owner even though he was never personally named). Thus, both Federal Title and Ewing have demonstrated they are likely to succeed on the first element of defamation.

b. Published Without Privilege

There is no dispute that Nadel's statements were published to the media. Yet Smith and Wrona argue, again without support, that Nadel's statements to the media are privileged because statements made in judicial proceedings are privileged. This argument is meritless. "While we agree that the contents of [a] civil complaint fall within this privilege, [defendant's] act of publicizing the complaint to media organizations immediately after filing does not. Publicizing the complaint was gratuitous and bears no relevance whatsoever to the judicial proceedings. We decline to attach a privilege to such conduct." *Newmyer,* 128 A.3d at 1042; *see also Armenian Assembly of Am., Inc. v. Cafesjian*, 597 F. Supp. 2d 128, 140 (D.D.C. 2009) (no privilege for defamatory statements made by attorney to the media). The second element is established.

c. Requisite Fault

The basic standard of care in the District of Columbia for defamation of private individuals is that of negligence. *See Kendrick v. Fox Television*, 659 A.2d 814, 821 (D.C. 1995) (applying negligence standard to defamation of private individual by both media and non-media defendants). Smith and Wrona do not, and cannot, allege that the heightened

actual malice standard for public figures applies in this case. *See 12(b)(6) Motion*. Thus, the negligence standard is appropriate.

Under that standard, negligent publication is the "failure to observe an ordinary degree of care in ascertaining the truth of an assertion before publishing it to others." *Kendrick,* 659 A.2d at 821. Smith and Wrona do not challenge the negligent publication element, and Nadel's statements are at least negligent on their face. Nadel stated that "Federal Title either caused our money to be stolen or stole it, and we need to get our money back…We don't have any evidence that it happened because of hackers other than Federal Title's say-so." *Exhibit B*. Thus, Nadel expressly admits that Federal Title has denied the accusation and implicitly admits that he has no evidence that Federal Title did steal Smith and Wrona's money. Publicly accusing Federal Title of criminal conduct without evidence is plainly negligent.

d. Damages

As set forth above, Plaintiffs have established defamation actionable as a matter of law irrespective of special harm and this element is satisfied. *See Guilford*, 760 A.2d at 600; *Franklin*, 875 F. Supp. 2d at 75 (D.D.C. 2012) ("actionable as a matter of law irrespective of special harm" is another term for defamation *per se* or defamation as a matter of law, which terms all include false statements that impute to the subject a crime, or a matter adversely affecting the person's ability to work in a profession). Plaintiffs can also establish actual damages at trial, as Ewing and any testifying expert can detail the financial losses to Plaintiffs. *See Ewing Decl.* ¶10. Plaintiffs have established they are likely to prevail on each element of the defamation claim.

2. False Light

The intentional torts of defamation and false light contain similar elements. False light requires a showing of: (1) publicity (2) about a false statement, representation or imputation (3) understood to be of and concerning the plaintiff, and (4) which places the plaintiff in a false light that would be offensive to a reasonable person." *Blodgett v. Univ. Club*, 930 A.2d 210, 222 (D.C. 2007). Plaintiffs' false light claim rests on the same underlying factual allegations as their defamation claim. In cases such as these, the claims are analyzed in the same manner. *Id.*

As set forth above, Plaintiffs established they are likely to prevail on each element. Publicity is not disputed. Nadel's accusations of criminal and professional misconduct are false, are concerning both Federal Title and Ewing, and place Plaintiffs in a false light that would be offensive. *See Zimmerman v. Al Jazeera Am., LLC*, 246 F. Supp. 3d 257, 275 (D.D.C. 2017) (fourth element is satisfied if plaintiff is given unreasonable and highly objectionable publicity that attributes to him characteristics, conduct or beliefs that are false, and so is placed before the public in a false position).

Smith and Wrona cannot dispute that Ewing has demonstrated he is likely to prevail on his false light claim, and that claim should not be dismissed. As to Federal Title, Smith and Wrona contend that in the District of Columbia, corporations cannot bring suit for false light claims. *12(b)(6) Motion* at p.7 (*citing S. Air Transp., Inc. v. Am. Broad. Companies, Inc.*, 670 F. Supp. 38, 42 (D.D.C. 1987). While Smith and Wrona correctly cite this non-binding U.S. District Court opinion, the Court of Appeals has not definitively adopted this position and Plaintiffs could not find a single District of Columbia court that has cited this

30 year old case for that proposition. The Court should therefore permit Federal Title's claim to proceed as well.

3. Tortious Interference With Business Relations

"To make out a prima facie case of intentional interference with business relations, the plaintiff must prove: "(1) existence of a valid contractual or other business relationship; (2) the defendant's knowledge of the relationship; (3) intentional interference with that relationship by the defendant; and (4) resulting damages." *Onyeoziri v. Spivok,* 44 A.3d 279, 286 (D.C. 2012). Smith and Wrona claim that Plaintiffs' complaint lacks the detail needed to state this claim, particularly with respect to the knowledge element.

Under Superior Court Rules, a complaint need only provide "a short and plain statement of the claim showing that the pleader is entitled to relief." Super.Ct.Civ.R. 8(a)(2). Plaintiffs need not plead "detailed factual allegations," but simply allegations sufficient to raise a right to relief above the speculative level. *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). Importantly, malice, intent, knowledge, and other conditions of a person's mind may be alleged generally. *See* Super. Ct. Civ. R. 9.

Here, Plaintiffs allege that Federal Title and Ewing developed a large referral network of lenders, agents and other real estate professionals. After Nadel's defamatory statements were published, multiple lenders and agents terminated their business relationships with Plaintiffs. As one example, Ewing learned that a real estate agent was telling other agents that no one should refer business to Federal Title because they had been "accused of stealing a client's money." As another example, despite the dismissal of the federal court case, a lender informed Ewing that it could not approve any closing transaction with Federal Title unless it could clear itself of the "accusations." *See Ewing*

Decl. ¶10. These facts are more than sufficient to demonstrate interference with business relationships and damages, and to permit Plaintiffs to take discovery on Defendants knowledge and intent.

4. Liability for Smith and Wrona

Smith and Wrona's final argument is that Plaintiffs' complaint lacks the detail needed to establish vicarious liability for Nadel's intentional torts. Smith and Wrona concede that a client may be held vicariously liable for the attorney's conduct if the client "directed, controlled, authorized, or ratified the attorney's allegedly tortious conduct." *McDevitt v. Wells Fargo Bank, N.A.*, 946 F. Supp. 2d 160, 171 (D.D.C. 2013). At this early stage in the case, before any discovery has been conducted, Plaintiffs can already establish that Smith and Wrona ratified the conduct as Federal Title quickly put all Defendants on notice of potential claims against them and demanded that the defamatory statements be retracted. Defendants refused. *See Ewing Decl.* ¶11. Moreover, Nadel's defamatory statements to the media expressly refer to "our money," raising the plausible inference, which must be construed in Federal Title's favor, that Smith and Wrona directed, controlled and/or authorized the defamatory statements. *See Sundberg v. TTR Realty, LLC*, 109 A.3d 1123, 1129 (D.C. 2015). Accordingly, Smith and Wrona's Motion should be denied.

C. Alternatively, the Court Should Permit Discovery

As set forth above, this Motion should be denied as the anti-SLAPP Act is not applicable to these claims, and Plaintiffs have demonstrated that they are likely to succeed on the merits. In the event that the Court finds otherwise, Plaintiffs request that they be permitted to conduct discovery as set forth in D.C. Code Ann. § 16-5502(c)(2). Plaintiffs'

discovery would seek information including but not limited to: evidence relating to Defendants' knowledge of Plaintiffs' involvement (or lack thereof) in any criminal scheme at the time the defamatory statements were made; Smith and Wrona's knowledge, approval and participation in publishing the defamatory statements; Defendants' intent in publishing the defamatory statements; and Defendants knowledge of Federal Title and Ewing's business relationships. Plaintiffs would request additional briefing on discovery as needed.

CONCLUSION

For the foregoing reasons, Plaintiffs Close It! Title Services Inc. d/b/a Federal Title & Escrow Company ("Federal Title") and Todd Ewing ("Ewing") respectfully request that the Court deny Smith and Wrona's Special Motion to Dismiss.

Dated September 7, 2018

Respectfully submitted,

THE LAWRENCE LAW GROUP, PLLC

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IN THE SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
Civil Division

CLOSE IT! TITLE SERVICES INC., et al	)	
	)	
Plaintiffs	)	
	)	
v.	)	Case No. 2018 CA 5391 B
	)	Judge William M. Jackson
MICHAEL S. NADEL, et al.	)	Next Court Date: October 26, 2018
	)	Event: Initial Scheduling Conference
Defendants.	)	
	)	

ORDER

This matter is before the Court on Defendants Sean Smith and Erin Wrona's Special Motion to Dismiss and Plaintiff's Opposition thereto. After careful consideration of the Motion and the Opposition, Defendants' Motion is **DENIED**; and it is further

ORDERED, that Plaintiffs shall be awarded their reasonable attorney's fees and costs incurred for opposing this frivolous motion. Plaintiffs shall submit a Bill of Costs within fourteen days of this Order.

SO ORDERED.

September ___, 2018

_____
Judge William M. Jackson

Copies eserved to:

All Counsel listed on CaseFileXpress

CERTIFICATE OF SERVICE

I, Andrew J. Lawrence, hereby certify that on this 7th day of September, 2018, I caused to be served a true and correct copy of the foregoing Opposition on the persons listed below by electronic filing:

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