

Staying Alive: Travolta's SLAPP Motion Fails to Halt Lawsuit

A lawsuit by John Travolta's former pilot to determine if a confidentiality agreement bars the pilot from telling all about his personal relationship with the movie star is staying alive after a California appellate court affirmed the denial of Travolta's SLAPP motion.

Douglas Gotterba was an airplane pilot for Alto, Inc., which provided Travolta with air transport for six years in the 1980s. When Gotterba left Alto's employ, he entered into a termination agreement. The question in the lawsuit is whether the termination agreement is a three-page unsigned agreement or a four-page signed agreement. The four-page agreement includes a confidentiality provision that bars the pilot from disclosing any personal information about Travolta acquired during his tenure with Alto.

Gotterba wants to "tell the story of his life and those involved in it," including his personal relationship with Travolta, the appellate court noted in its opinion. When Alto heard about the potential book, its attorney sent a letter to Gotterba's attorney pointing out the confidentiality provision of the termination agreement and threatening legal action. Gotterba's attorney asked for clarification. Instead of answering Gotterba's attorney, Alto's attorney sent a letter to American Media, Inc. (AMI), the publisher of the National Enquirer, warning it not to publish any of Gotterba's statements regarding his relationship with Travolta.

Gotterba filed for declaratory judgment, asking the court to determine whether the three-page or the four-page termination agreement was the controlling document. Travolta and Alto filed a motion to strike the complaint under the California SLAPP (strategic lawsuits against public participation) law, arguing that the lawsuit was based on the contents of the attorney's letters and thus should be dismissed. The trial court denied the motion and the appellate court affirmed.

The appellate court agreed that communication preparatory to litigation is protected by the SLAPP statute. However, the court found that the declaratory judgment action by Gotterba is not based on the attorney's demand letters but rather seeks to determine which of the two termination agreements is valid. "Gotterba's complaint does not seek a declaration regarding Alto's communication with AMI or a declaration that any specific conduct by Gotterba or Alto is permitted or not permitted by the termination agreement. The lawsuit also does not seek to curtail Alto's right to send demand letters."

"If the threats of litigation were removed from Alto's demand letters, the same dispute would exist regarding the terms of the termination agreement, i.e., Gotterba seeks to publish a book concerning his relationship with Travolta. The demand letters do not form the 'actual controversy upon which to base a claim for declaratory relief,' but are merely evidence that a controversy between the parties exists," the appellate court wrote. "Acceptance of Alto's arguments would lead to the absurd result that a person receiving a demand letter threatening legal action for breach of contract would be precluded from seeking declaratory relief to determine the validity of the contract.

Declaratory relief would be limited to situations where the parties have not communicated their disagreement regarding an asserted breach of contract.”

Gotterba v. John Travolta et al., Calif. Court of Appeals, Second Dist. No. B247518, issued July 22, 2014.