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Protecting High Profile Reputations - Brownstein's \$19 Million Verdict Stands After Appeal

In the modern age of the Internet where “news”—whether or not it’s true—spreads worldwide in an instant, high-profile corporate and individual reputations are under attack every day from business adversaries, disgruntled employees, dissatisfied customers and others. First Amendment protections sometimes leave the targets of these assaults with no meaningful remedy. But, even the First Amendment has its limits. When these attacks consist of provably false statements, the target often has a valid defamation claim, even when no actual harm to reputation can be proved.

Such was the case in *Stephen Wynn v. Joseph Francis*. On June 23, 2014, the California Court of Appeal upheld a \$19 million jury verdict that Brownstein’s Entertainment and Defamation Litigation Group secured on behalf of Steve Wynn in his slander suit against Girls Gone Wild founder Joe Francis. Wynn filed the lawsuit after Francis falsely accused Wynn of threatening his life. Francis first blurted out (literally) the accusation in court during a hearing in an unrelated debt collection proceeding. Outside the courtroom, he repeated the accusation to a reporter who had witnessed the in-court outburst, and he confirmed that it was “absolutely true.”

At trial and on appeal, Francis argued that his accusations were privileged. Both the trial court and the court of appeal disagreed. The court of appeal explained that, although the law provides a broad privilege for statements made in court, the privilege does not extend to statements that have “no logical relation” to the proceeding—speakers who are using the courtroom as a venue for public mudslinging cannot do so with impunity. The appellate court also upheld the trial court’s ruling that Francis’s out-of-court statements to the media were not privileged. The court observed that, while the law protects “fair and accurate” reports to the media about proceedings in court, it does not protect reports that alter the gist of the proceedings.

Beyond the basic lesson that even high-profile individuals and businesses still have the right to protect their reputations, this case also should provide a cautionary lesson—when dealing with the press in relation to a lawsuit, parties are well advised to seek input from counsel well-versed in the law of defamation so as not to make statements that go beyond the protections of any applicable privilege.

This document is intended to provide you with general information regarding the Stephen Wynn v. Joseph Francis case. The contents of this document are not intended to provide specific legal advice. If you have any questions about the contents of this document or if you need legal advice as to an issue, please contact the attorneys listed or your regular Brownstein Hyatt Farber Schreck, LLP attorney. This communication may be considered advertising in some jurisdictions

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