

Lawyer-Investigators Recover Attorneys' Fees Following Successful Anti-SLAPP Motion

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Ross v. Seyfarth Shaw LLP, 96 Cal. App. 5th 722 (2023)

Plaintiff Natalie Operstein was a professor of linguistics at California State University, Fullerton, and plaintiff Craig Ross is her husband. In 2014, the university hired a law firm to investigate multiple accusations Operstein raised to her superiors about three of Operstein's colleagues. Defendant Colleen Regan, then a partner at the law firm, led the investigation. The investigation concluded that none of Operstein's allegations was well-founded.

In 2015, the university recommended termination of Operstein's employment purportedly due to her lack of progress towards tenure. Operstein filed a discrimination charge with the EEOC against the university and filed a separate lawsuit in federal court. All of her claims were dismissed on summary judgment. In April 2020, Operstein and Ross filed yet another lawsuit, this time against the law firm and Regan, alleging they conducted a biased investigation and that their findings were defamatory against Operstein. In response, the firm and Regan filed an anti-SLAPP motion to strike the complaint. The trial court issued a tentative ruling which would have struck multiple causes of action from the complaint, and the plaintiffs immediately voluntarily requested dismissal of their lawsuit. Subsequently, the lawyer investigators filed a motion to recover their attorney's fees, which the court granted in part. Both parties appealed the order.

The appellate court rejected the plaintiffs' attempt to challenge the earlier judgment, and instead held that the investigators were prevailing parties (even though the plaintiffs voluntarily withdrew their complaint), and thus entitled under the anti-SLAPP statute to all (not just a portion) of the attorney's fees they requested.

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