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How to Use the “Wall of Wrong” to Determine if a Proposed Defamation Case is a SLAPP -- *Shaheen Sadeghi v. Delilah Snell*

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Here is a tale of a SLAPP that should have been spotted a mile away.

The tale starts with an article in *OC Weekly*. The article was about a guy named **Shaheen Sadeghi**. The article was extremely favorable to Sadeghi, referring to him as the “Curator of Cool” and discussing his amazing success in Orange County. *OC Weekly* even put his visage on the cover of the paper. Truly, it was a positive article that most business people would kill for.

But everyone has their detractors, and Sadeghi’s was a woman named **Delilah Snell**. After disclosing that Snell happens to be the girlfriend of a *OC Weekly* editor, the article reports on a dustup between Snell and Sadeghi, as told by Snell. Here is what the article said:

“Still, some say Sadeghi will do whatever it takes to succeed. Delilah Snell, owner of Road Less Traveled, a shop in Santa Ana that sells environmentally friendly gifts and home goods, met with him in 2008 to discuss an opportunity to move to the Camp. (Full disclosure: Snell is the girlfriend of OC Weekly editor Gustavo Arellano.) She says the rent rate he gave was way too high, at least triple what she was paying, and she declined the offer. Then, she claims, he made a threat. ‘He basically said to me, ‘If you don’t move into my center, I will copy your business,’ she says.

Snell, co-founder of the Patchwork Indie Arts & Crafts Festival and a pioneer in Orange County’s eco-movement, believes her store is the model for the Camp’s SEED People’s Market, an airy, 12,000-square-foot gallery-type outlet that sells sustainable products and handmade crafts. Sadeghi owns the store with his wife, Linda. Snell claims that SEED has approached many of the vendors featured at Road Less Traveled and even used a photo of her shop in a promotional email sent out to customers. (The Weekly has a copy of the email.)”

The article then goes on to tell Sadeghi’s side of the story:

“Of Snell’s accusations, Sadeghi responds, ‘I think she’s full of it.’ He says his business plan for SEED was dated ‘five years before she developed a business

plan.’

‘It’s a whole different store, whole different vibe,’ he says, ‘and it has nothing to do with Road Less Traveled.’”

The article then returns to singing the praises of Sadeghi, providing examples of how he is beloved by his tenants at his business centers like The Lab in Costa Mesa.

But Sadeghi took exception with this mild criticism, and sued Snell in Orange County Superior Court, alleging in his complaint that Snell “orally accused Mr. Sadeghi of threatening to copy Ms. Snell’s business idea and plan if Ms. Snell did not move into Plaintiff’s retail center.”

Sadeghi then alleged causes of action for (1) slander, (2) slander per se, (3) libel, (4) libel per se, (5) invasion of privacy/false light, (6) intentional interference with economic prospective advantage (sic), (7) negligent interference with economic prospective advantage (sic), (8) unfair competition, and (9) injunctive relief. Whew! All arising from the statements Snell allegedly made to the *OC Weekly*, claiming that Sadeghi had said “If you don’t move into my center, I will copy your business.” Snell responded with an anti-SLAPP motion. (Go to anti-SLAPP.com for more information on SLAPPs and anti-SLAPP motions.)

A quick aside to discuss the “Wall of Wrong”.

A potential client will call me, and during the call will tell me about 20 evil deeds committed by the defendant. In their mind, they have been horribly wronged, and they want to sue. Fair enough, but for a legal action each wrongful deed must be viewed independently to determine if it is actionable. I call the wrongful acts the “Wall of Wrong”, and each wrongful act is an item on that wall. (I considered calling it the Shelves of Wrong, but that didn’t seem as catchy.) I explain to the client that to determine if there is a case, we must walk up to the wall, take down each item and examine it independently to see if it will support an action. If not, it is tossed away never to be discussed again.

The reason this exercise is so important is because the client groups all the perceived wrongdoing together, and views it as a single act that certainly must support an action. But when all the conduct that does not support the action is stripped away, the client will often see that there is no action or that what is left remaining is pretty petty.

One more point to keep in mind in the defamation context is that just because something is false does not mean it is defamatory.

So let’s take Mr. Sadeghi to the Wall of Wrong to see if he has a case. An anti-SLAPP analysis can be very sophisticated, especially since the law is constantly evolving, but in the case of a defamation action you must first make the very fundamental determination as to whether the statements are defamatory. Here, there are only two items to examine: **(1)** the claim that he was going to copy Snell’s business, and **(2)** that he pressured Snell to lease space in his center with the aforesaid threat. Let’s take those items off the shelf one at a time and decide if they will support a suit.

“I will copy your business.”

Sadeghi alleged that he never said he was going to copy Snell’s business. So, is it defamatory to falsely claim that someone said he was going to copy your business? **Of course not.** That statement, whether true or false, does not accuse Sadeghi of any wrongdoing. Imitation is the sincerest form of flattery. As the court put it in granting the anti-SLAPP motion, “Pepsi copies Coke. Gimbel’s Copies Macy’s. This is the nature of business.” Mr. Sadeghi, take that statement from the Wall of Wrong and never speak of it again.

Pressuring Snell to lease space.

Is it wrong to pressure someone to lease space in a mall? **Of course not.** But let’s refine that a little. Is it wrong to say you will copy someone’s business if they don’t lease space from you? Sometimes creating an analogous fact pattern makes it easier to analyze. If a shopping center owner went to McDonald’s and said, “If you don’t put in a McDonald’s, I’ll rent to Burger King instead,” would that be illegal? No, that’s just good, old-fashioned competition, even though the Burger King will compete with other nearby McDonald’s.

So it is with the alleged conversation here. Even if the alleged statement was really made, it would just mean that Sadeghi liked Snell’s business so much he wanted one just like it. Sure, he would be pressuring her to rent the space with the “threat” of opening a competitor, but as you can see there’s nothing wrong with that. Mr. Sadeghi, take that statement from the Wall of Wrong and never speak of it again.

So we are left with nothing on the Wall of Wrong, meaning that there is no case to pursue. This case should never have been filed, and the court properly granted the anti-SLAPP motion.

A SLAPP is not saved by numerous legal theories.

The other essential takeaway from this case is that nine causes of action do not a case make if the basis for the action is defective. In other words, if it was not defamatory for Snell to claim that Sadeghi said “If you don’t move into my center, I will copy your business,” then those words will not support any other legal theories like intentional infliction of emotional distress or unfair competition.