

No. B284239

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT, DIVISION ONE

R. LEWIS CHAPMAN, JR.,

Appellant,

v.

DANIEL DUNBAR,

Respondent.

Proceedings of the Los Angeles County Superior Court
Case No. 17TRRO00048, Hon. Gary Tanaka, Judge Presiding

**APPELLANT'S MOTION FOR SANCTIONS;
DECLARATIONS OF JEFFREY LEWIS
AND R. LEWIS CHAPMAN**

Jeffrey Lewis, Bar No.183934
609 Deep Valley Drive, Suite 200
Rolling Hills Estates, CA 90274
Tel: (310) 935-4001 | Fax (310) 872-5389
E-Mail: Jeff@JeffLewisLaw.com

Attorney for
R. Lewis Chapman, Jr.

TABLE OF CONTENTS

TABLE OF CONTENTS 2

TABLE OF AUTHORITIES 3

ARGUMENT..... 4

 I. Argument 4

CONCLUSION 7

DECLARATION OF JEFFREY LEWIS 8

DECLARATION OF R. LEWIS CHAPMAN 10

PROOF OF SERVICE..... 12

TABLE OF AUTHORITIES

CASES

Huschke v. Slater
(2008) 168 Cal.App.4th 1153 4

In re S.C.
(2006) 138 Cal.App.4th 396 5

STATUTES

Business & Professions Code, section 6068 5

RULES

Rules of Court, Rule 8.276 4

ARGUMENT

I. Argument

Appellant R. Lewis Chapman (“Bob”) respectfully requests that the Court impose monetary sanctions against Respondent Daniel Dunbar (“Dan”) and his attorney Casey Olsen.¹ Sanctions are authorized by California Rules of Court, Rule 8.276. (See also *Huschke v. Slater* (2008) 168 Cal.App.4th 1153, 1162.) This motion is a separate request from the previous motion filed by Bob with this Court on January 8, 2019. This motion for sanctions is based on the January 23, 2019 brief filed by Dan in opposition to Bob’s motion to augment. More specifically, this motion for sanctions is based on Dan’s repeated false statements of fact contained within that January 23, 2019 brief stating that Bob purportedly posted disparaging statements or information about Cynthia Dunbar (“Cindy”) on a website. (January 23, 2019 Brief, pp. 4, 6, 7.) Dan argued in three separate places in his January 23, 2019 Brief that Bob posted disparaging statements or information about Cindy on a website and that such conduct formed the basis for a pending criminal prosecution against Bob. (January 23, 2019 Brief, pp. 4, 6, 7.) Dan’s January 23, 2019 Brief is not supported by any declaration or other evidence. Nor is it

¹ As was the case in the opening and reply briefs, first names are used to avoid confusion between multiple parties and witnesses with the same surname. No disrespect is intended.

supported by appropriate citations to the appellate record. (Nor could there be citations to the appellate record because there is no support for that assertion).

An attorney has a duty to avoid intentionally misrepresenting the facts. (Bus. & Prof. Code, § 6068, sub. (d) [providing for duty of attorney “never to seek to mislead the judge or any judicial officer by an artifice or false statement of fact or law”]; *In re S.C.* (2006) 138 Cal.App.4th 396, 419-20 [violation of Bus. & Prof. Code, § 6068, subd. (d), for appellant’s counsel to misrepresent record in the opening brief].) Dan, through Casey Olsen, violated that duty of candor by thrice representing to this Court on January 23, 2019 that Bob posted disparaging statements or information about Cindy on a website. For example, Dan, through Casey Olsen, stated in his brief that Chapman violated a CHRO by “posting ‘disparaging’ information about Cynthia on a website.” (January 23, 2019 Brief, p. 4).

In the CHRO proceedings below, no evidence was offered that Bob ever posted negative information about Cindy on any website whatsoever of the ‘social media’ variety (e.g., Facebook, Nextdoor, Instagram, Twitter) or otherwise. (Chapman Decl., ¶ 3.) In the criminal proceedings against Bob for violation of the CHRO, he is alleged to have sent a private email directly and

only to Brian Cochran, a “lead”² for the social media website, NextDoor.com. (Chapman Decl., ¶ 4.) The Los Angeles District Attorney’s office has never argued in the pending criminal proceedings that Bob has ever posted anything about Cindy online. (Chapman Decl., ¶ 4.)

In assessing whether to impose sanctions for this conduct, Bob respectfully requests that the Court also consider the conduct giving rise to Bob’s January 23, 2019 motion for sanctions and Part V of Appellant’s Reply Brief detailing numerous misstatements or omissions of relevant facts.

The amount of time needed to address these demonstrably false statements contained within Dan’s January 23, 2019 opposition brief warrants the imposition of at least \$595 in sanctions. (Lewis Decl., ¶ 5.)

² NextDoor.com “leads” are individuals enlisted by NextDoor.com to adjudicate disputes over content posted on NextDoor. Notably, the email relevant to the criminal complaint was sent privately to a single person, Brian Cochran, a NextDoor lead, as a result of Cindy *herself* posting multiple, critical comments about Bob and his wife Jennifer on NextDoor.com for neighborhood public viewing. NextDoor.com reviewed Cindy’s critical comments about Bob and Jennifer and resultingly suspended her account. (Chapman Decl., ¶ 4, Ex. A).

CONCLUSION

Based on the foregoing, Appellant respectfully requests that the Court grant the motion and award \$595 in sanctions based on Dan's misstatements of fact about Bob contained within the January 23, 2019 opposition to Bob's motion to augment.

Dated: March 14, 2019

By: _____
Jeffrey Lewis

Attorney for appellant

DECLARATION OF JEFFREY LEWIS

I, Jeffrey Lewis, declare as follows:

1. I am counsel for appellant R. Lewis Chapman.
2. I have personal knowledge of the truth and accuracy of the facts set forth herein, and if called upon as a witness, I could competently testify thereto. I do not intend to waive the attorney-client privilege or work product doctrine by making any statement herein.
3. I have been an attorney since December 1996 and have had primary briefing responsibility for over 125 appeals. I cannot recall ever having monetary sanctions sought against me or having sought monetary sanctions against an opposing counsel in an appeal. It is with great reluctance that I make this second request for monetary sanctions in this case against Respondent Daniel Dunbar and his attorney Casey Olsen.
4. I am a 1996 graduate of Loyola Law School. I have been admitted to the California State Bar continuously since 1996. I am also a Certified Specialist in Appellate Law by the State Bar of California Board of Legal Specialization.
5. I have spent at least one hour: a) reviewing the January 23, 2019 opposition brief by Daniel Dunbar to my client's motion to augment; and b) preparing this motion for sanctions. As of 2019, my normal and customary rate for appellate work is \$595 per hour. I am requesting monetary sanctions in the

amount of \$595 for the time spent devoted to the issues described in this motion.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct.

Executed this 14th day of March 2019, at Rolling Hills Estates, California.

Jeffrey Lewis

DECLARATION OF R. LEWIS CHAPMAN

I, R. Lewis Chapman, declare as follows:

1. I am the appellant herein.
2. I have personal knowledge of the truth and accuracy of the facts set forth herein, and if called upon as a witness, I could competently testify thereto. I do not intend to waive the attorney-client privilege by making any statement herein.
3. I was present for and represented myself during the CHRO proceedings below that are the subject of this appeal. In the papers filed by Respondent Daniel Dunbar leading up to the CHRO hearing and at the hearing itself, no one presented any evidence that I ever posted information about Cynthia Dunbar on any website whatsoever of the ‘social media’ variety (e.g., Facebook, Nextdoor, Instagram, Twitter) or otherwise. Not only was no evidence presented at the hearing on this point, but in fact, I have never posted any information about Cindy Dunbar on any website.
4. I am presently being criminally prosecuted by the Los Angeles District Attorney for an alleged violation of the CHRO at issue in this appeal. In those criminal proceedings, I am alleged to have sent a private email directly and only to NextDoor.com “lead” Brian Cochran, who is a resident of Palos Verdes Estates. I sent the email to Mr. Cochran as a result of Cindy herself posting multiple, critical comments on NexDoor.com for neighborhood

public viewing about me and my wife, Jennifer. NextDoor ended up suspending Cindy's NextDoor account as a result of her posts. A true and correct copy of an affidavit from NextDoor attesting to the suspension is attached hereto and incorporated herein as **Exhibit "A."** The Los Angeles District Attorney's office has never argued in the pending criminal proceedings that I have ever posted anything about Cynthia Dunbar online.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct.

Executed this 14th day of March 2019, at Palos Verdes Estates, California.

R. Lewis Chapman

PROOF OF SERVICE

Chapman v. Dunbar

Los Angeles County Superior Court Case No.: 17TRRO00048
Court of Appeal Case No.: B284239

I, Jason R. Ebbens, declare that I am over the age of 18 years, employed in the County of Los Angeles, and not a party to the within action; my business address is 609 Deep Valley Drive, Suite 200, Rolling Hills Estates, CA 90274.

On **March 14, 2019**, I served the foregoing: **APPELLANT'S MOTION FOR SANCTIONS AGAINST RESPONDENT DANIEL DUNBAR AND HIS ATTORNEY CASEY OLSEN** on the interested parties in this action by placing the original a true copy thereof, enclosed in a sealed envelope with postage pre-paid, addressed as follows:

*** See Attached Service List ***

- BY ELECTRONIC SERVICE. I served the foregoing document(s) on interested parties by using the electronic filing service TrueFiling to serve and file documents electronically as mandated by the California Court of Appeal, Second District. The documents were electronically transmitted to the e-mail addresses of the persons set forth the above.
- (STATE) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on **March 14, 2019**, in Rolling Hills Estates, California.

Jason R. Ebbens

SERVICE LIST

Page 1 of 1

Chapman v. Dunbar

Los Angeles County Superior Court Case No.: 17TRRO00048

Court of Appeal Case No.: B284239

VIA TRUEFILING

<p>LAW OFFICES OF OLSEN & OLSEN 2367 Torrance Blvd. Torrance, CA 90501 Tel: (310) 325-1515 Fax: (310) 328-1114</p> <p>Casey A. Olsen, Esq. Email: caseyaolsen@gmail.com</p>	<p><i>Attorneys for Respondent:</i></p> <p>Daniel Dunbar</p>
---	---