

Hart v Cappa
2018 NY Slip Op 31602(U)
January 9, 2018
Supreme Court, New York County
Docket Number: 156732-2016
Judge: David B. Cohen
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: PART 58

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PENNY F. HART,

Plaintiff,

Index No: 156732-2016

-against-

DECISION AND ORDER

Motion sequence number 001

THOMAS V. CAPP, A

Defendant.

-----X

David B. Cohen, J.S.C.

This action involves a dispute between plaintiff Penny F. Hart and defendant Thomas V. Cappa, who were lovers before they broke off their romantic relationship in or about 2012. Plaintiff's amended complaint¹ asserts four causes action: partition and sale of a cooperative apartment; declaratory judgment that plaintiff may retain all gifts defendant gave her in the course of their relationship; rescission under Civil Rights Law § 80-b; and conversion. In response, defendant filed an amended answer asserting various affirmative defenses and fifteen counterclaims. Pursuant to the instant motion (sequence number 001), plaintiff moves to dismiss many of such counterclaims, and to strike certain portions of defendant's answer that allegedly contain scandalous and prejudicial statements, as discussed below. Defendant opposes plaintiff's motion to dismiss and to strike. For the reasons set forth herein, the various reliefs requested in plaintiff's motion are granted or denied, as applicable, to the extent stated below.

Background

The Complaint alleges that plaintiff and defendant were, at one point, "romantically involved" but "not ever intending to marry," and that plaintiff eventually "called off the

¹ The amended complaint will simply be referred to hereinafter as the Complaint, unless otherwise specified.

relationship” and returned the engagement ring to defendant. Complaint, ¶¶ 4-5.² During their romantic involvement, the parties acquired a cooperative apartment located at 383 Grand Street, New York City (Apartment), as joint tenants with rights of survivorship. *Id.*, ¶ 6. After their relationship ended, plaintiff “no longer wishes to remain tied to Defendant in any way,” and has asked defendant to either buy out her interest in the Apartment or to sell the Apartment and split the proceeds, but defendant has refused to agree to either option. *Id.*, ¶¶ 8-10. Because physical partition of the Apartment would “unduly prejudice the parties,” and because their relationship has “suffered a breakdown impinging on their ability to enjoy peacefully their occupancy rights,” plaintiff asserts that she is entitled to “partition and sale” of the Apartment. *Id.*, ¶¶ 18-21.

The Complaint also alleges that during their relationship, the parties exchanged gifts for birthdays and holidays, but plaintiff “made clear” to defendant that she would not marry him, and that defendant understood her. *Id.*, ¶¶ 23-26. Nevertheless, defendant asked plaintiff to wear an “engagement style ring” to signal she was “off the market,” and when their relationship ended, plaintiff returned the ring to defendant. *Id.*, ¶¶ 26-27. Because defendant has demanded that plaintiff return other gifts that he gave her throughout the course of their relationship, plaintiff seeks a declaratory judgment that she may retain all such other gifts. *Id.*, ¶¶ 28-29.

The Complaint further alleges that, if the court finds that the parties’ exchanged gifts were given in contemplation of marriage, plaintiff is entitled to the return of cash and other gifts she gave to defendant, pursuant to Civil Rights Law § 80-b, in an amount of no less than \$1.169 million, to be proven at trial. *Id.*, ¶¶ 31-34.

² The original complaint, however, alleged that plaintiff and defendant were once “romantically involved, and in fact were engaged to be married.” Original complaint, ¶ 4.

The Complaint additionally alleges that, during the course of their relationship, plaintiff deposited \$825,000 in a retirement account held in defendant's name, the intent of which was to fund the parties "mutual retirement," but not to be a gift to defendant. *Id.*, ¶¶ 36-37. Because defendant has refused to return the funds in the account to plaintiff, despite demand, plaintiff is "entitled to a judgment in the amount of \$825,000," plus interest and any appreciation of such funds in the account, based on the legal theory of conversion. *Id.*, ¶¶ 38-39.³

In response to the Complaint, defendant filed an answer which asserts various affirmative defenses and counterclaims. The defenses include: complaint's failure to state a cause of action; unclean hands; unjust enrichment; equitable estoppel; waiver; breach of contract; and equitable relief of partition barred because there is adequate remedy at law and because plaintiff has agreed that defendant could reside in the Apartment for the rest of his life. The counterclaims, which mirror the defenses to a substantial extent, include: constructive trust; breach of contract; fraud; unjust enrichment; and a Civil Rights Law §80-b cause of action. The answer, in addition to setting forth certain "background facts" that are not in the Complaint, contains allegations relating to plaintiff's sexual conduct and drug use (as discussed below), which, according to plaintiff, are scandalous and prejudicial and must be stricken. NYSCEF #6.

On or about November 4, 2016, plaintiff filed the instant motion requesting entry of an order dismissing certain counterclaims, and striking certain paragraphs of the answer, pursuant to CPLR 3024. NYSCEF ## 7-12. On or about December 22, 2016, defendant filed his opposition

³ Notably, plaintiff filed a motion seeking a preliminary injunction against defendant's withdrawal of funds from the account (sequence number 002). That motion was denied by a decision of this court, dated September 19, 2017, on the basis that plaintiff failed to establish irreparable harm, as this action is for money damages. NYSCEF #49.

to the motion and related pleadings. NYSCEF ##16-23. On or about January 4, 2017, plaintiff filed her reply brief in further support of her motion to dismiss and to strike. NYSCEF #24.

Applicable Legal Standards

The standards for determining whether a motion to dismiss should be granted or denied are well-established. "The motion must be denied if from the pleading's four corners, factual allegations are discerned which taken together manifest any cause of action cognizable at law [internal quotation marks omitted]." *Richbell Info. Servs., Inc. v Jupiter Partners*, 309 AD2d 288, 289 (1st Dept 2003), quoting *511 W. 232nd Owners Corp. v Jennifer Realty Corp.*, 98 NY2d 144, 151-152 (2002). The pleading is to be afforded a "liberal construction," and the court is to "accord [the pleading's proponent] the benefit of every possible favorable inference." *Leon v Martinez*, 84 NY2d 83, 87 (1994). However, while factual allegations should be accorded a favorable inference, "bare legal conclusions" and "inherently incredible" facts are not entitled to preferential consideration. *Matter of Sud v Sud*, 211 AD2d 423, 424 (1st Dept 1995). Moreover, "[w]hen the moving party offers evidentiary material, the court is required to determine whether the proponent of the [pleading] has a cause of action, not whether [he or] she has stated one". *Asgahar v Tringali Realty, Inc.*, 18 AD3d 408, 409 (2nd Dept 2005). Further, if the pleading's allegations consist of bare legal conclusions, but "documentary evidence flatly contradicts the factual claims, the entitlement to the presumption of truth and the favorable inference is rebutted." *Scott v Bell Atl. Corp.*, 282 AD2d 180, 183 (1st Dept 2001).

Analysis

In essence, plaintiff's motion seeks to dismiss all counterclaims in defendant's answer except the fourth, seventh, tenth and thirteenth counterclaims. Therefore, this order and decision

will address only the counterclaims that are subject to plaintiff's motion to dismiss, which are, as follows: the first, second and third, fifth and sixth, eighth and ninth, eleventh and twelfth, and fourteenth and fifteenth counterclaims, as discussed below.

The First, Second and Third Counterclaims

In this action, the first (imposition of a constructive trust), second (breach of contract) and third (fraud) counterclaims in defendant's answer pertain to the Apartment. The answer alleges that, in or about 2003, defendant purchased the Apartment in plaintiff's name, because he believed that he and plaintiff were in a romantic and committed relationship, and that plaintiff agreed to hold the Apartment in trust for him. Answer, ¶¶ 70-90. The answer also alleges that in reliance upon plaintiff's promise, he renovated and maintained the Apartment at a cost in excess of \$900,000. *Id.* The answer further alleges that, after he became aware of plaintiff's multiple sexual affairs, he demanded that she transfer the Apartment's ownership back to him, but she refused. *Id.* The answer acknowledges, however, that in or about September 2013, plaintiff transferred one-half of the Apartment's ownership to him as a joint tenant with the right of survivorship, and that plaintiff promised him that he could continue to live in the Apartment for the rest of his life. *Id.* In addition, the answer alleges that plaintiff made false representations to defendant in obtaining the Apartment, with the intent to deceive him, and that he justifiably relied upon her misrepresentations. *Id.*⁴

⁴ Defendant states in his affidavit that he bought the Apartment from his mother and placed it in plaintiff's name because, at that time, he "would have been unable to obtain Co-op board approval" due to his prison record. Cappa affidavit, ¶ 4. Defendant attached certain documents to his affidavit, as exhibits, which purport to show that he paid for the purchase of the Apartment and expended funds to renovate it. However, the attached document is a deed of trust agreement for the Simak family members, who have no relationship to the parties here. The NYSCEF-filed documents, however, appear to generally comport with defendant's statement.

Plaintiff argues that each of these three counterclaims is barred by the Statute of Frauds, because New York law requires that conveyances or contracts relating to real property, including shares of stock and proprietary leases in cooperative apartments, be made in writing and signed by the party to be charged. Plaintiff's brief at 3, citing Gen. Oblig. L. § 5-703 (3); *Pristker v Kazan*, 132 AD2d 507 (1st Dept 1987) (statute of frauds applies to interest in co-op apartment). Because defendant does not allege that the purported agreements and/or representations were reduced to writing, plaintiff asserts that these counterclaims must be dismissed. *Id.* at 4.

Defendant counters that, while an agreement to convey an interest in real property must be in writing, as provided in GOL § 5-703, the courts may equitably impose a constructive trust as an exception to the Statute of Frauds. Defendant's opposition at 10, citing, inter alia, *Poupis v Brown*, 90 AD3d 881, 882 (2d Dept 2011) (triable issues of fact surrounding conveyance of an interest in real property precluded the dismissal of defendant's counterclaim). The four elements for the imposition of a constructive trust are: a confidential or fiduciary relationship; a promise; a transfer in reliance; and unjust enrichment. *Id.* Also, a constructive trust may be imposed when property is acquired in circumstances that "the holder of legal title may not in good conscience retain the beneficial interest." *Id.* (internal quotation marks and citations omitted). Here, defendant's answer alleges these four elements. Moreover, the proprietary lease for the Apartment, which comprises of units M2003 and M2004, evidences in writing that plaintiff and defendant share a legal interest in the Apartment, as shareholders and joint tenants with the right of survivorship. While the exhibit documents supplied by defendant show that he purchased from his mother only unit M2004, plaintiff admits that both units, M2003 and M2004, were merged into one Apartment after their acquisition by the parties. Further, even though plaintiff

argues that there is no equitable basis for imposing a constructive trust upon her one-half interest in the Apartment (plaintiff's reply at 1), she does not refute defendant's allegations, that he has spent more than \$900,000 renovating and maintaining the Apartment and that she has promised to let him reside in the Apartment until his death, which allegations bolster his claim for the imposition of a constructive trust.⁵ Because issues regarding how the Apartment should be partitioned or how the parties should share in the proceeds of its sale (so as to avoid unjust enrichment) are not before the court, the constructive trust counterclaim survives dismissal at this point, unless it can be dismissed based upon an alternative theory, as discussed below.

Alternatively, plaintiff argues that the constructive trust counterclaim should be dismissed because, based upon defendant's own allegations, plaintiff's wrongful act in obtaining ownership of the Apartment, by fraudulently inducing him to place the Apartment in her name, occurred in or about 2003, and his belated assertion in 2016 of the constructive trust counterclaim, which has a statute of limitations of six years, is time-barred.⁶ Plaintiff's brief at 4, citing *Auffermann v Distl*, 56 AD3d 502 (2d Dept 2008) (statute of limitations begins to run upon occurrence of the wrongful act giving rise to duty of restitution and not from the time when fraud was discovered). Defendant contends that the wrongful act occurred in September 2013, when he learned of plaintiff's "abhorrent conduct and betrayal" and "demanded that she transfer the Apartment into his sole name[,] at which time she refused and only transferred one-half of the property to him."

⁵ While this counterclaim appears to demand that plaintiff "disgorge her alleged ownership of the Co-op Apartment," (answer, ¶ 80), defendant's opposition brief does not make such an assertion, which seems to indicate defendant's realization of his overreach.

⁶ The exhibit documents submitted by defendant appear to show that the Apartment was purchased from his mother in or about 2007, rather than 2003. The discrepancy, however, is immaterial in light of the statute of limitations argument made by defendant discussed below.

Defendant's opposition at 12, citing, inter alia, *Bodden v Kean*, 86 AD3d 524 (2d Dept 2011) (the statutory period begins to run upon the occurrence of the wrongful act giving rise to a duty of restitution). Because this action was commenced in 2016, which was only three years after the allegedly wrongful act of plaintiff, defendant asserts that this counterclaim is timely. *Id.* Notably, plaintiff fails to rebut or challenge defendant's assertion in her reply brief. Thus, the constructive trust counterclaim survives the statute of limitations defense raised by plaintiff.

With respect to the breach of contract (second) and fraud (third) counterclaims, the facts alleged in support of these counterclaims are substantially identical to those for the constructive trust (first) counterclaim. *See* Answer, ¶¶ 70-80 (constructive trust); ¶¶ 82-85 (breach of contract); ¶¶ 87-91 (fraud). Indeed, each of the "wherefore" clauses in the answer demands identical relief for these counterclaims: "a Constructive Trust be placed upon Plaintiff's stock and propriety lease for [the Apartment] . . . for the benefit of Defendant." Answer, pp. 23-24. Moreover, in his opposition to plaintiff's motion to dismiss, defendant relies almost exclusively on the same facts and legal arguments for all three counterclaims. Defendant's opposition at 10-11.

Because the breach of contract and fraud counterclaims are duplicative of the constructive trust counterclaim, the second and third counterclaims should be dismissed as redundant. *See Cronos Group Ltd. v XCOMIP, LLC*, __ AD3d __, 2017 NY Slip Op 06515 at 8-9, 2017 WL 4125643 at *6 (1st Dept 2017) (duplicative fraud claim should be dismissed because it sought the same damages as breach of contract claim); *Harvell Capital Enhanced Mun. Income Fund, LP v Citibank, N.A.*, 84 AD3d 588 (1st Dept 2011) (fraud claim that arises from the same facts as contract claim, seeks identical damages and does not allege breach of any duty independent of parties' agreement, is subject to dismissal as redundant); *Mansas v VMS Assoc., LLC*, 53 AD3d

451 (1st Dept 2008) (breach of contract and fraud claims were duplicative, and be dismissed, when the fraud alleged was that defendant was not sincere when it promised to perform).

The Fifth and Sixth Counterclaims

While the fourth counterclaim, which is based upon plaintiff's alleged violation of Civil Rights Law § 80-b and is not the subject of the instant motion to dismiss, the fifth (constructive trust/unjust enrichment) counterclaim is based upon substantially the same factual allegations as the fourth counterclaim. More specifically, defendant alleges that he provided plaintiff with "numerous and extravagant" jewelry in contemplation and on condition of marriage, but the parties did not marry, and despite his demands for the return of said jewelry or its value, plaintiff has refused. Answer, ¶¶ 93-104.

Plaintiff moves to dismiss the fifth counterclaim, arguing that "it is well settled that no cause of action lies for the return of any gifts given during a relationship, no matter what heartbreak, deceit or misconduct one jilted lover may allege against their former romantic partner, unless those gifts were given solely in contemplation of marriage." Plaintiff's brief at 5 (without citing caselaw in support for such proposition). Defendant contends, at least as to the fifth counterclaim, that his allegation for the return jewelry is "not duplicative" of the fourth counterclaim and is "not based on a return of a gift in connection with a breach of a promise to marry, but an action for constructive trust/unjust enrichment." Defendant's opposition at 13. Such contention is unavailing, because the factual allegations for these two counterclaims are almost identical, as discussed above. Furthermore, there is caselaw support, as pointed out by plaintiff, that a claim of unjust enrichment should be dismissed when unmarried parties, prior to the breakup of their relationship, provided gifts to or expended monies on each other. Plaintiff's

reply at 4, citing *Soderholm v Kosty*, 177 Misc 2d 403, 405 (Just. Ct., Cheumung County 1998) (unjust enrichment claim dismissed because where the “giving and receiving” of gifts between former unmarried lovers is based on love and affection, it “cannot be said that equity and good conscience cry out for fiscal adjustment”). Thus, the fifth counterclaim is dismissed.

As to the sixth counterclaim (fraud), defendant alleges, inter alia, that during their long-term romantic relationship, plaintiff made false representations that she was in a committed and exclusive relationship with him, he provided her with expensive jewelry in justifiable reliance on such representation, but he later found out that she had “numerous sexual affairs” with others to “carry out her scheme to defraud” him. Answer, ¶¶ 106-111. Plaintiff argues that the fraud counterclaim should be dismissed because it is “duplicative of Count 4” (plaintiff’s brief at 5) or that the fraud claim fails to “sufficiently plead the elements” of fraud (plaintiff’s reply at 4).

Plaintiff’s arguments are unpersuasive. The fraud counterclaim is not based solely upon a promise to marry, nor do the pleadings fail to sufficiently plead the elements of fraud, as described above. Also, CPLR 3014 permits a party to plead alternative theories for a cause of action, and the fraud counterclaim is based upon different factual allegations and is sufficiently plead. Consequently, the sixth counterclaim survives plaintiff’s dismissal challenge.

The Eighth and Ninth Counterclaims

Defendant’s seventh (breach of contract), eighth (unjust enrichment) and ninth (fraud) counterclaims all pertain to the same transaction. Specifically, defendant alleges, inter alia, that in or about 2006, defendant loaned plaintiff \$850,000 for payment of attorneys’ fees incurred in connection with a litigation that involved plaintiff and her ex-husband, mother, father and brother over the ownership of a family-held insurance business wherein she later received a \$24 million

settlement, and she promised to repay defendant at a compound interest rate of 6%. Answer, ¶¶ 47, 62, 112-132. Defendant asserts that interest on the loan is \$363,000. *Id.*, ¶¶ 116, 124.

Plaintiff argues that the tort claims of unjust enrichment and fraud should be dismissed because they are either duplicative of the breach of contract claim, or if there was no agreement, the claims for payment are “based on things he did for his girlfriend while they were together,” and “the law does not allow such claims”. Plaintiff’s brief at 5-6.

The unjust enrichment counterclaim should be dismissed because the relief sought is duplicative of the breach of contract counterclaim, for the same reasons discussed above. Even assuming there is a valid contract between the parties for the repayment of the loan, as defendant alleges and as this court is required to assume in considering a motion to dismiss, defendant’s attempt to assert a quasi-contractual claim sounding in unjust enrichment is unwarranted under the circumstance. *Morone v Morone*, 50 NY2d 481, 488 (1980) (the courts generally decline to recognize an implied contract because an “attempt through hindsight to sort out the intentions of the parties and affix jural significance to conduct carried out within an essentially private and generally noncontractual relationship runs too great a risk of error”).

As to the fraud counterclaim, defendant alleges that he loaned the money to plaintiff justifiably relying on her representation that they were in a committed and exclusive relationship, but he later found out that she had sexual affairs with others, and that he would not have loaned the money if he had known of her infidelity, but for her fraudulent scheme. Answer, ¶¶ 127-132. Because this allegation is “collateral” to the contract, it is not duplicative of the breach of contract claim, and should not be dismissed at the pleading stage. *WIT Holding Corp. v Klein*, 282 AD2d 527, 528 (2d Dept 2001) (“a misrepresentation of material fact, which is collateral to

the contract and serves as an inducement for the contract, is sufficient to sustain a cause of action alleging fraud”). Thus, the ninth counterclaim survives.

The Eleventh, Twelfth, Fourteenth and Fifteenth Counterclaims

Defendant’s tenth (breach of contract), eleventh (quantum meruit) and twelfth (unjust enrichment) counterclaims arise in connection with his alleged rendition of services at the premises on East End Avenue, New York City, owned by plaintiff. Answer, ¶¶ 133-149. More specifically, defendant alleges that pursuant to an agreement with plaintiff, in which she would pay him 20% of the increase in value of the apartment, he renovated it at a cost of \$600,000 that increased its value by \$4 million, thereby entitling him to \$800,000 under the agreement, or \$1.1 million, representing the reasonable value of the services rendered. *Id.* The thirteenth (breach of contract), fourteenth (quantum meruit) and fifteenth (unjust enrichment) counterclaims relate to defendant’s alleged rendition of services at the triplex apartment on East 72nd Street, New York City owned by plaintiff. Answer, ¶¶ 150-168. Defendant alleges that plaintiff agreed, in exchange for his renovation and management services, to pay him a 20% share in the profit from the sale of that apartment, which was sold in 2015. He also alleges that she made a \$1.7 million profit, but has refused to pay him \$340,000 pursuant to the agreement. Alternatively, defendant alleges that the value of his services was \$2.4 million, but that she only paid \$1 million, entitling him to an extra \$1.4 million under his quantum meruit and unjust enrichment claims. *Id.*

Notably, New York courts have recognized the enforceability of express contracts that reflect an explicit and structured understanding between unmarried persons living together, even though the contracts are not in writing, provided only that illicit sexual relations are not part of the consideration of such contracts. *Morone*, 50 NY2d at 486-488 (internal quotation marks and

citations omitted). Apparently, plaintiff is aware of the foregoing and does not seek a dismissal of the tenth and thirteenth counterclaims sounding in breach of contract. However, as to the tort counterclaims sounding in quantum meruit and unjust enrichment, plaintiff seeks to dismiss them on the basis that they are duplicative of the breach of contract counterclaims. Plaintiff's brief at 5-6. Defendant contends that the tort counterclaims should not be dismissed because each asserts an independently valid legal theory. Defendant's opposition at 16-17.

Defendant's argument is unavailing. To the extent that the oral agreements are deemed express contracts, as discussed above, the relief sought in the tort counterclaims are duplicative, even though the dollar amount of alleged damages suffered by defendant are different. *See e.g., Dipizio Constr. Co. v Niagara Frontier Transp. Auth.*, 107 AD3d 1565, 1567 (4th Dept 2013) (dismissing quantum meruit and unjust enrichment claims as duplicative of breach of contract claim). Thus, the eleventh, twelfth, fourteen and fifteenth counterclaims are dismissed.

The Motion to Strike

Plaintiff's motion also seek to strike portions of defendant's answer that allegedly contain scandalous and prejudicial matters regarding plaintiff's sexual affairs and drug use, arguing that they have no bearing on or relevance to his counterclaims, which, according to plaintiff, "turn solely on whether gifts were given in contemplation of marriage (Count 4), or on the alleged loan and services agreements underlying Counts 7, 10 and 13." Plaintiff's brief at 6.

Defendant contends that the allegations of sexual affairs and drug use by plaintiff during the course of the parties' committed and exclusive relationship are relevant to his counterclaims of fraudulent misrepresentation. Defendant's opposition at 17-18, citing, inter alia, *New York City Health and Hosps. Corp. v St. Barnabas Community Health Plan*, 22 AD3d 391 (1st Dept

2005) (motion to strike scandalous or prejudicial allegations from a pleading denied where allegations are relevant to a cause of action).

As discussed, the purportedly scandalous or prejudicial allegations, at least with respect to plaintiff's sexual affairs with others, are relevant to defendant's fraud counterclaims, which allege, among other things, that had defendant known of plaintiff's misconduct and fraudulent scheme to deceive him, he would not have loaned her the money for payment of attorneys' fees and/or given plaintiff the expensive jewelry. Also, while plaintiff asserts that scandalous or prejudicial allegations should be stricken from defendant's pleading, she alleges the following: "Cappa - a former member of a Colombo crime family 'hit man' who was convicted for his involvement in a murder plot" Plaintiff's reply at 3. Moreover, in her motion seeking injunctive relief (sequence number 002), plaintiff alleged, as follows: "Hart, a business woman, and Cappa, a former mafia hit man, were once romantically involved. During their relationship, Cappa was, essentially, a 'kept man,' as he did not have a steady or meaningful income, Hart provided him with money to pay his living expenses and buy her gifts" NYSCEF #36 at 1. As plaintiff engages in the same conduct in drafting her pleadings, she should not be heard to complain about the character of defendant's pleadings. Thus, the motion to strike is denied.⁷

Conclusion

For all of the foregoing reasons, it is hereby

ORDERED that plaintiff's motion to dismiss (sequence number 001) is granted only to the extent of granting a dismissal of the second, third, fifth, eighth, eleventh, twelfth, fourteenth and fifteenth counterclaims asserted in defendant's amended answer; and it is further

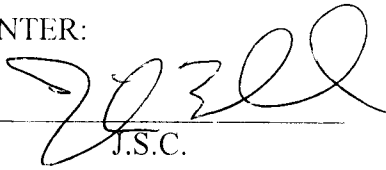
⁷ The parties are not precluded from bringing valid claims of defamation or slander.

ORDERED that plaintiff's motion to strike (sequence number 001) certain portions of defendant's amended answer that contain scandalous and prejudicial allegations is denied; and it is further

ORDERED that counsel for the parties are directed to appear for a status conference before this court on 1-10, 2018, at 9:30 AM.

Dated: 1-9, 2018

ENTER:



J.S.C.

HON. DAVID B. COHEN
J.S.C.