

Stadtmauer & Assoc. v Lieberman
2022 NY Slip Op 31804(U)
June 7, 2022
Supreme Court, New York County
Docket Number: Index No. 155772/2021
Judge: Willam Perry
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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. WILLIAM PERRY PART 23

Justice

-----X

STADTMAUER & ASSOCIATES, MARC STADTMAUER

Plaintiff,

INDEX NO. 155772/2021

MOTION DATE 01/06/2022

MOTION SEQ. NO. 001

- v -

MITCHELL LIEBERMAN,

Defendant.

**DECISION + ORDER ON
MOTION**

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 001) 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23

were read on this motion to/for STRIKE PLEADINGS

Plaintiffs Marc Stadtmauer and his firm Stadtmauer & Associates (collectively, "Plaintiff") bring this action against Defendant Mitchell Lieberman, an attorney who represented Plaintiff's wife in their divorce proceeding, alleging that Defendant, inter alia, "poisoned the pool water at Plaintiff's home with muriatic acid[.]" (NYSCEF Doc No. 8, Complaint, at ¶ 22.) In motion sequence 001, Defendant moves to strike paragraphs 7, 8, 12, 15, and 20 from the complaint, arguing that they are prejudicial and unnecessary.

Background

During the divorce proceeding, Plaintiff alleges that Defendant threatened him, "churned the [case] file," "dominated, intimidated, and controlled Client 1," and by using her as a "proxy,"

(a) gained access to plaintiff's office computer system, WiFi (both home and office) and cellphone to monitor and copy plaintiff's records and his communications with his clients and counsel (including records of medical treatment of plaintiff and plaintiff's clients),

(b) monitored plaintiff's automobile location via GPS device (installation of which involved the dismantling of the heat shield under plaintiff's car, endangering the safety of the vehicle), and

(c) filed at least three false police reports (on or about January 12, 2020, April 25, 2020, and May 30, 2020).

(Complaint at ¶ 14.) Client 1 was later revealed by Defendant to be Plaintiff's ex-wife, who Defendant represented in her divorce proceeding from Plaintiff.

Plaintiff sets forth three causes of action against Defendant for: 1) concerted action assault and battery; 2) conspiracy to assault and batter (in connection with "Client 1", later identified by Defendant as Plaintiff's ex-wife); and 3) compensatory damages on behalf of Plaintiff's firm stemming from Plaintiff's injuries.

Defendant moves to strike the following paragraphs from the complaint:

- (a) Paragraph #7. Lieberman flatters himself as "one of New York's most well-regarded trial lawyers."
- (b) Paragraph #7 has attached as exhibit A a photograph of defendant with a resume of his legal cover, referencing some cases he handled and personal information.
- (c) Paragraph #8. The reality, however, is very different from this fantasy.
- (d) Paragraph 12. During this time, in an apparent effort to increase his own compensation by churning the file in the Lawsuit, Lieberman dominated, intimidated and control client 1, yelled at her, promised her that his exorbitant, exaggerated and unjustified legal fees would be paid by someone else, and repeatedly threatened to fire her as a client, leaving her with unjustified debt to him, notwithstanding the provisions of Rule 1.16(d) of the Rules of Professional Conduct and CPLR 321(b)(2).
- (e) Paragraph #15. Frustrated with lack of progress despite the unlawful acts as set forth above, Lieberman became unhinged and went even further.
- (f) Paragraph #20. These acts and conduct complained of were pursuant to a recognized business system of Lieberman, warranting an award of punitive damages.

See Exhibit B: "Run away from this Attorney. He will tell you that he does things 'his way', intimidate you and take all your money and accomplish nothing. Once you run out of money or if you question his methods, he will be done with your case. If you have children, please go elsewhere. I have spoken with other mothers he has represented and all have had the same experience.

Please for the sake of your children, finances and dignity, consider other Attorneys."

"Awful attorneys who took on my divorce case, didn't send me a bill for over 17 months, and DID NOT accomplish anything in my divorce action after 2 years and charged me over \$100,000 in fees, yes, you are reading that number correctly, over one hundred thousand dollars in fees. When I confronted him about his shortcomings he yelled and screamed, ranted and raved and ultimately came off of my case. Run as fast as you can, he is abusive and especially preys on female clients."

"Mitch Lieberman is a dishonest crook who will bill you to death in legal fees, lie, scream and yell not only to his staff by his clients."

(NYSCEF Doc No. 12, Def.'s Affirmation, at ¶ 5.)

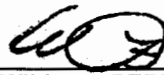
Discussion

Pursuant to CPLR 3024[b] ("Motion to correct pleadings"), "[a] party may move to strike any scandalous or prejudicial matter unnecessarily inserted in a pleading." "In reviewing a motion pursuant to CPLR 3024(b) the inquiry is whether the purportedly scandalous or prejudicial allegations are relevant to a cause of action." (*Soumayah v Minnelli*, 41 AD3d 390, 392 [1st Dept 2007].) "Motions to strike scandalous or prejudicial matter from pleadings are generally disfavored [and] ... [are] left to the discretion of the trial court." (*Pisula v Roman Cath. Archdiocese of New York*, 201 AD3d 88, 97 [2d Dept 2021].)

Here, the court finds that the above allegations are neither sufficiently scandalous or prejudicial to Defendant, and that they are otherwise relevant to Plaintiff's causes of action. Thus, it is hereby

ORDERED that Defendant's motion sequence 001 to strike certain paragraphs from the complaint is denied; and it is further

ORDERED that the parties are directed to meet and confer and electronically file a proposed Preliminary Conference Order which can be found on Justice Perry's Judicial Assignments Page, for the court's review and signature, within thirty (30) days.

<u>6/7/2022</u>					
DATE			WILLIAM PERRY, J.S.C.		
CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	
	<input type="checkbox"/>	GRANTED	<input checked="" type="checkbox"/>	DENIED	<input type="checkbox"/>
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/>
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	SUBMIT ORDER	<input type="checkbox"/>
			<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>
					<input type="checkbox"/>
					REFERENCE