

No. \_\_\_\_\_

---

---

IN THE  
SUPREME COURT OF THE UNITED STATES

---

JAMES MACDONALD — PETITIONER

vs.

MARTIN DORI SINGER, et al. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO  
COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT  
DIVISION THREE

---

PETITION FOR WRIT OF CERTIORARI

JAMES MACDONALD

(Your Name)

7095 Hollywood Blvd, #327

(Address)

Los Angeles, CA, 90028

(City, State, Zip Code)

323-906-7561

(Phone Number)

## QUESTION(S) PRESENTED

1) California's SLAPP Law, was written to protect LAWFUL petitioning activities. However, it is now protecting UNLAWFUL petitioning activities. In this case, an attorney filed a lawsuit without the consent of the client, used known associates of organized crime to threaten and extort the celebrity owners and celebrity control group during their TV Show. Attorney then sued the control group of the alleged client by using the abusive discovery obtained, falsely claiming to represent their company. Attorney then filed a false oath stating his petition was true and correct, even though he was forced to withdraw as counsel. The California Appeals Court has stated this is now lawful, in both MacDonald v. Singer (unpublished) and the related Malin v. Singer, (published). The SLAPP law was used to deny Plaintiff discovery rights to attack the fraud. The U.S. Supreme Court is asked to declare this action unconstitutional since it has major ramifications for Attorney-Client Rules of Professional Conduct, denies due process under the law, denies Plaintiff the right to petition the government unabridged, and denies his right to fair trial by jury.

2) SLAPP law was declared unconstitutional in the States of Washington Minnesota, as a violation of due process resulting from substantial abuses of the law. This has resulted in unequal protection of due process between the States. The U.S. Supreme Court is asked to intervene and remedy this unequal treatment in California and between the states.

3) MacDonald was denied due process and a fair trial. His motion for limited discovery to determine the truthfulness of Defendants' Declarations was denied. MacDonald then obtain supporting declarations from his expert witness, a former California Supreme Court Justice, who opinioned that Attorney's action was a crime and unconstitutional, as well as supporting declaration from the control group, stating that Attorney was never authorized to represent the company nor to file the lawsuit. The U.S. Supreme Court is asked to review this case as a complete abuse of the SLAPP law, a violation of due process, and declare the California SLAPP law as unconstitutional.

4) Martin Singer, Esq. has a long and public history of threatening his opponents of his Hollywood clients with organized crime tactics and unethical legal practices. In the related Malin v. Singer case, the Trial Court ruled that "the activities that gave rise to the complaint were extortion as a matter of law." Singer and Defendants filed false declarations and used them in the California Appeals Court to overturned the trial court. MacDonald uncovered the fraud in his case, resulting in Singer withdrawing as counsel. However, the Court cited Malin, a published opinion, to grant Defendants' SLAPP motions. The U.S. Supreme Court has an interest in overseeing the processes of inferior courts to ensure they are administered fairly and equitably and to prevent fraud-on-the-court by attorneys and to promote Rules of Professional Conduct and is asked to review this case.

## LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

- 1) Defendant, Respondent Martin D. Singer, an Individual
- 2) Defendant, Respondent LAVELY & SINGER, a Professional Corporation
- 3) Defendant, Respondent Andrew Brettler, an Individual

Counsel for Martin D. Singer, LAVELY & SINGER, a Professional Corporation, and Andrew Brettler:

Jonathan B. Cole, Esq., Michael McCarthy, Esq., Mark Schaeffer, Esq.  
NEMECEK & COLE  
16255 Ventura Blvd Ste 300  
Encino, CA 91436-2300  
(818) 788 9500, (818) 501 0328 Fax

- 4) Defendant, Respondent, Paul Barressi

Counsel for Paul Barressi:

Stephen Kernan, Esq.  
9663 Santa Monica Blvd #450  
Beverly Hills, California 90210  
(310) 490-9777, (310) 861-0503 Fax

- 5) Defendant, Respondent Shereen Arazm, an Individual
- 6) Defendant, Respondent Oren Koules, an Individual

Counsel for Shereen Arazm and Oren Koules:

Louis E. Kempinsky  
Kempinsky Law Ltd.  
11111 Santa Monica Blvd.  
Suite 1700  
Los Angeles, CA 90025  
(424) 901-6690, (424) 901-1433 Fax

Hyura Eunhyul Choi, Esq.  
Cypress, LLP  
11111 Santa Monica Blvd  
Ste 500  
Los Angeles, CA 90025  
(424) 901-0141, (424) 750-5100 Fax

## TABLE OF CONTENTS

QUESTIONS PRESENTED.....	i
LIST OF PARTIES.....	iii
OPINIONS BELOW .....	4
JURISDICTION.....	5
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED .....	6
STATEMENT OF THE CASE.....	9
REASONS FOR GRANTING THE WRIT .....	10
CONCLUSION.....	28

## INDEX TO APPENDICES

APPENDIX A DECISION OF STATE COURT OF APPEALS.....	APP.1
APPENDIX B DECISIONS OF STATE TRIAL COURT.....	APP 34
APPENDIX C DECISION OF STATE SUPREME COURT DENYING REVIEW.....	APP117
APPENDIX D ORDER OF STATE COURT OF APPEALS DENYING REHEARING.....	APP 119
APPENDIX F CALIFORNIA SUPREME COURT CLERK NOTICE REFUSING REQUEST TO DEPUBLISH MALIN V. SINGER.....	APP 121

## TABLE OF AUTHORITIES CITED

### Cases

Bulloch v. United States, 763 F.2d 1115, 1121 (10th Cir. 1985) .....	24
<i>Demjanjuk v. Petrovsky</i> , 10 F.3d 338, 348 (6th Cir. 1993) .....	13
<i>Hazel-Atlas Glass Co. v. Hartford-Empire Co.</i> , 322 U.S. 238, 64 S.Ct. 997 (1944) .....	13
<i>Hazel-Atlas</i> , 322 U.S. at 244 .....	13
<i>Kenner v. C.I.R.</i> , 387 F.3d 689 (1968); 7 .....	13
<i>Kenner v. Comm'r of Internal Revenue</i> , 387 F.2d 689, 691 (7th Cir. 1968) .....	13
Malin v Singer Cal Appeals Court B237804, July 2013 .....	9
Minnesota Supreme Court ( <i>Leiendecker, et al. v. Asian Women United of Minnesota, et al.</i> , May 24, 2017) .....	10
Pusey, Estate of, 57 Cal Dec, 467,181 Pac. 648 .....	12
Supreme Courts of Washington ( <i>Davis v Cox, NO. 90233-0, May 28 2015</i> ) .....	10

### Statutes

<u>ABUSIVE DISCOVERY TACTICS - EVIDENCE CODE § 956</u> .....	24
<u>California SLAPP Law, California Civil Procedure 425.16</u> .....	6
<u>CBPC § 6104 FALSE APPEARANCE</u> .....	22
CBPC §6068 .....	10
CBPC §6128 Attorney Deceit .....	10
<u>CCC § 1608 ILLEGAL CONTRACTS ARE VOID</u> .....	22
CPC §115 (filing a false petition) .....	10
CPC §132 (preparing false evidence) .....	10
CPC §134 (offering false evidence) .....	10
<u>CRIMINAL SOLICITATION: (CPC § 653)</u> .....	24
<u>ELECTRONIC COMMUNICATIONS PRIVACY ACT (17 U.S.C. §§ 2511, 2520)</u> .....	23
<u>State Bar Act -Rules Of Professional Responsibility – Organization As A Client</u> .....	22

### Other Authorities

<i>Moore's Federal Practice</i> , 2d ed., p. 512, ¶ 60.23 .....	13
New Complete Digest of the Decisions of the Supreme Courts, Volume 1, Page 1028 .....	12
United States Constitution, First Amendment .....	6
United States Constitution, Fourteenth Amendment .....	6
United States Constitution, Seventh Amendment .....	6

### Rules

California Rules of Court 8.1125(a) (4) .....	12
<u>RULE 3-600 (E) JOINT REPRESENTATION</u> .....	23
<u>RULE 3-600(A) HIGHEST AUTHORITY</u> .....	23
<u>RULE 3-600(B) ATTORNEY MUST NOT BETRAY CLIENT CONFIDENCE</u> .....	23
<u>RULE 5-200 and CBPC§ 6068(d) DUTY OF CANDOR</u> .....	22

IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix — to the petition and is

reported at \_\_\_\_\_ ; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

The opinion of the United States district court appears at Appendix — to the petition and is

reported at \_\_\_\_\_ ; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

reported at \_\_\_\_\_ ; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

The opinion of the Los Angeles Superior Court to review the merits appears at Appendix B to the petition and is

reported at \_\_\_\_\_ ; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

## JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was \_\_\_\_\_

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_

An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. \_\_\_ A \_\_\_\_

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was January 23, 2018, A copy of that decision appears at Appendix A.

A timely petition for rehearing was thereafter denied by the Appeals court on the following date: February 15 2018, and a copy of the order denying rehearing appears at Appendix D.

A petition for review with the California Supreme Court was thereafter denied on the following date: April 18, 2018, and a copy of the order denying review appears at Appendix C.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

- 1) United States Constitution, First Amendment, the right to petition is guaranteed by the First Amendment to the United States Constitution, which specifically prohibits abridging "the right of the people...to petition the Government for a redress of grievances".
- 2) United States Constitution, Fourteenth Amendment and Equal Protection. The 14th Amendment affords equal protection. Under the 14th Amendment, 'all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws'.
- 3) United States Constitution, Seventh Amendment to the United States Constitution. This amendment codifies the right to a jury trial in certain civil cases.
- 4) United States Supreme Court supervisory powers over State Courts.
- 5) California SLAPP Law, California Civil Procedure 425.16.
  - (a) The Legislature finds and declares that there has been a disturbing increase in lawsuits brought primarily to chill the valid exercise of the constitutional rights of freedom of speech and petition for the redress of grievances. The Legislature finds and declares that it is in the public interest to encourage continued participation in matters of public significance, and that this participation should not be chilled through abuse of the judicial process. To this end, this section shall be construed broadly.
  - (b) (1) A cause of action against a person arising from any act of that person in furtherance of the person's right of petition or free speech under the United States Constitution or the California Constitution in connection with a public issue shall be subject to a special motion to strike, unless the court determines that the plaintiff has established that there is a probability that the plaintiff will prevail on the claim.
  - (2) In making its determination, the court shall consider the pleadings, and supporting and opposing affidavits stating the facts upon which the liability or defense is based.
  - (3) If the court determines that the plaintiff has established a probability that he or she will prevail on the claim, neither that determination nor the fact of that determination shall be admissible in evidence at any later stage of the case, or in any subsequent action, and no burden of proof or degree of proof otherwise applicable shall be affected by that determination in any later stage of the case or in any subsequent proceeding.

(c) (1) Except as provided in paragraph (2), in any action subject to subdivision (b), a prevailing defendant on a special motion to strike shall be entitled to recover his or her attorney's fees and costs. If the court finds that a special motion to strike is frivolous or is solely intended to cause unnecessary delay, the court shall award costs and reasonable attorney's fees to a plaintiff prevailing on the motion, pursuant to Section 128.5.

(2) A defendant who prevails on a special motion to strike in an action subject to paragraph (1) shall not be entitled to attorney's fees and costs if that cause of action is brought pursuant to Section 6259, 11130, 11130.3, 54960, or 54960.1 of the Government Code. Nothing in this paragraph shall be construed to prevent a prevailing defendant from recovering attorney's fees and costs pursuant to subdivision (d) of Section 6259, or Section 11130.5 or 54960.5, of the Government Code.

(d) This section shall not apply to any enforcement action brought in the name of the people of the State of California by the Attorney General, district attorney, or city attorney, acting as a public prosecutor.

(e) As used in this section, "act in furtherance of a person's right of petition or free speech under the United States or California Constitution in connection with a public issue" includes: (1) any written or oral statement or writing made before a legislative, executive, or judicial proceeding, or any other official proceeding **authorized by law**, (2) any written or oral statement or writing made in connection with an issue under consideration or review by a legislative, executive, or judicial body, or any other official proceeding **authorized by law**, (3) any written or oral statement or writing made in a place open to the public or a public forum in connection with an issue of public interest, or (4) any other conduct in furtherance of the exercise of the constitutional right of petition or the constitutional right of free speech in connection with a public issue or an issue of public interest.

(f) The special motion may be filed within 60 days of the service of the complaint or, in the court's discretion, at any later time upon terms it deems proper. The motion shall be scheduled by the clerk of the court for a hearing not more than 30 days after the service of the motion unless the docket conditions of the court require a later hearing.

(g) All discovery proceedings in the action shall be stayed upon the filing of a notice of motion made pursuant to this section. The stay of discovery shall remain in effect until notice of entry of the order ruling on the motion. The court, on noticed motion and for good cause shown, may order that specified discovery be conducted notwithstanding this subdivision.

(h) For purposes of this section, "complaint" includes "cross-complaint" and "petition," "plaintiff" includes "cross-complainant" and "petitioner," and "defendant" includes "cross-defendant" and "respondent."

(i) An order granting or denying a special motion to strike shall be appealable under Section 904.1.

(j) (1) Any party who files a special motion to strike pursuant to this section, and any party who files an opposition to a special motion to strike, shall, promptly upon so filing, transmit to the Judicial Council, by e-mail or facsimile, a copy of the endorsed, filed caption page of the motion or opposition, a copy of any related notice of appeal or petition for a writ, and a conformed copy of any order issued pursuant to this section, including any order granting or denying a special motion to strike, discovery, or fees.

(2) The Judicial Council shall maintain a public record of information transmitted pursuant to this subdivision for at least three years, and may store the information on microfilm or other appropriate electronic media.

## STATEMENT OF THE CASE

MacDonald was denied due process, denied any rights to discovery, and trial by jury, while the attorney and defendants were allowed to falsely file documents in court, the attorney was allowed to falsely appear as counsel of record in the underlying case (BC466696), falsely issue summons for a client without the client's approval in the underlying case, falsely file a lawsuit without the permission of a client, attorneys stole client information in the underlying case and used it to extort their alleged client's control group. Defendants used criminal threats, false pretense and intimidation to extort a settlement.

MacDonald v Singer and Malin v Singer Cal Appeals Court B237804, July 2013 give attorneys absolute immunity from their crimes, including attorneys who file false evidence as true and correct in subsequent hearings on the matter, which is a violation of the US Constitution.

There are three groups of defendants (1) Singer, Brettler and Lavelly and Singer PC (hereinafter "Singer Attorneys" (2) Barressi and (3) Arazm & Koules (who are wife and husband). MacDonald appealed the following categories:

- 1) Slapp Motion and Demurrer: Arazm and Koules
- 2) Slapp Fee Awards: Arazm and Koules and Singer Attorneys
- 3) Motion to Vacate for Fraud (Hearing 1): Arazm and Koules for both Slapp Motions and Demurrs and Slapp Fee Awards
- 4) Motion to Vacate for Fraud (Hearing 2): Singer Attorneys and Barressi for both Slapp Motions and Demurrs and Slapp Fee Awards
- 5) Fee Awards Granted after Motions to Vacate for Fraud, granted under

SLAPP 426.15: Arazm and Koules, Singer Attorneys and Barressi

## **REASONS FOR GRANTING THE PETITION**

SLAPP laws have been declared unconstitutional, as a violation of due process, by the State of Washington and Minnesota. The state Supreme Courts of Washington (*Davis v Cox, NO. 90233-0, May 28 2015*) and Minnesota Supreme Court (*Leiendecker, et al, v. Asian Women United of Minnesota, et al., May 24, 2017*) have declared their SLAPP laws as un-Constitutional, as a violation of due process, violation of trial by jury.

Review is warranted because the California Court of Appeal's analysis under prong one of the anti-SLAPP statute is inconsistent with this U.S. Supreme Court's rulings under a number of other cases, as well as numerous violations of California law by an attorney, including CPC §115 (filing a false petition), CPC §132 (preparing false evidence), and CPC §134 (offering false evidence), CBPC §6128 Attorney Deceit, and CBPC §6068, as well as a number of other penal code violations as detailed below.

### **VIOLATION OF DUE PROCESS, A FAIR TRIAL ON THE EVIDENCE, TRIAL BY JURY, AND MACDONALD'S UNABRIDGED RIGHT TO PETITION THE COURTS:**

The U.S. Supreme Court should review this case since due process, including a trial by jury, discovery, an unabridged right to petition the courts, and a fair trial of the evidence used in a SLAPP motion are being violated by the California SLAPP law. In the related published case, *Malin v. Singer*, Malin did not timely motion for limited

discovery, and thus was barred from uncovering Singer's fraud-on-the-court. However, in MacDonald v. Singer, MacDonald did file a timely request for limited discovery but was denied, with the court citing Malin v Singer.

The dangerous new precedent that was established in California SLAPP law in Malin v. Singer, which was then cited in MacDonald v. Singer and the U.S. Supreme Court should intervene.

This is one of the rare cases in which United States Supreme Court review is warranted. The California Supreme Court has a duty to declare judgments resulting from fraud-on-the-court as VOID, including the MacDonald v. Singer and Malin v. Singer. The California Courts failed in their duties. The California Supreme Court has failed in this case in its constitutional obligation to supervise members of the Bar and to protect the public from abuse. Therefore, the United States Supreme Court is asked to supervise these courts and bring them back into good standing. The United States Supreme Court is urged to uphold the Constitution and declare California's SLAPP law as unconstitutional, as a violation of due process (14<sup>th</sup> Amendment) and a violation of the right to a fair trial and an unabridged right to petition the courts (1<sup>st</sup> Amendment).

MacDonald requested that the Malin v. Singer Published Opinion be depublished as part of his appeal since it was based on the same fraud on the court used in his case. The Appeals Court stated in its opinion (Appendix A) that only the California Supreme Court can depublish the OPINION once published. The Appeals

Court then sited and relied on Malin v. Singer to deny MacDonald's appeal, despite the fraud uncovered by MacDonald, and despite MacDonald's expert witness, a former California Supreme Court Justice, Cruz Reynoso, who provided the following expert opinion relevant to both the SLAPP and Extrinsic Fraud Motions, *[CT:Vol.12-p.2828-2831]*.

"With respect to the issue of whether it is unethical and unlawful for counsel to file an action without the client's consent, I am of the opinion that such a filing is unethical, is a crime and is not a constitutionally protected activity. I note that two declarants, Mike Malin and Lonnie Moore declare that counsel has filed an action without consent of the client. I am also of the opinion that it is unethical and unlawful for an attorney to continue to falsely assert he had authority to file the action in subsequent hearings on the matter, when client did not grant consent."

MacDonald filed a separate request to depublish Malin v. Singer, however, the California Supreme Court Clerk would not accept the request under California Rules of Court 8.1125(a) (4), citing "*The request must be delivered to the Supreme Court within 30 days after the decision is final in the Court of Appeal.*" - see Appendix F. However, the OPINION violates the United States Supreme Court case law, that state it is not final since there was extrinsic fraud on the court by an officer of the court in the Second Appeals Court and Trial Court.

"A judgment which is void may be attacked directly or collaterally either by parties or strangers - Pusey, Estate of, 57 Cal Dec, 467,181 Pac. 648." See New Complete Digest of the Decisions of the Supreme Courts, Volume 1, Page 1028.

"The fabrication of evidence by a party in which an attorney is implicated, will

constitute a fraud on the court." *Id.* at 1338 (citing to *Hazel-Atlas Glass Co. v.*

*Hartford-Empire Co.*, 322 U.S. 238, 64 S.Ct. 997 (1944)).

"Fraud upon the court" has been defined to "embrace that species of fraud which does, or attempts to, defile the court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery cannot perform in the usual manner its impartial task of adjudging cases that are presented for adjudication." *Kenner v. C.I.R.*, 387 F.3d 689 (1968); 7 *Moore's Federal Practice*, 2d ed., p. 512, ¶ 60.23. The 7th Circuit further stated "a decision produced by fraud upon the court is not in essence a decision at all, and never becomes final." It is also clear and well-settled law that any attempt to commit "fraud upon the court" vitiates the entire proceeding.

There is no statute of limitations for bringing a fraud upon the court claim.

*Hazel-Atlas*, 322 U.S. at 244. "A decision produced by fraud on the court is not in essence a decision at all and never becomes final." □ *Kenner v. Comm'r of Internal Revenue*, 387 F.2d 689, 691 (7th Cir. 1968).

Sixth Circuit, *Demjanjuk v. Petrovsky*, 10 F.3d 338, 348 (6th Cir. 1993) This standard recognizes that fraud upon the court, unlike perjury, need not be based on affirmative misstatements, but may be based on nondisclosures, and need not be based on proof of subjective knowledge of falsity, but may be founded on a showing of willful blindness or reckless disregard for the truth.

## BACKGROUND

BACKGROUND: In the MacDonad v. Singer, et al and the related Malin v.

Singer, et al. cases. Malin originally sued Singer, Arazm, Koules, et al, for extortion, invasion of privacy, and other causes for threatening to expose sex secrets and alleged crimes of Malin, et al. The defendants threatened to ruin Malin and MacDonald, et al, in the middle of Malin's TV show, Famous Foods, filmed at Geisha House, a Hollywood restaurant co-owned by many celebrities. Arazm and her husband, Koules, were in a bitter feud with Malin, et al, after Koules was kicked out of his talent management company a month before in June 2011. They blamed Malin and Ashton Kutcher, et al, co-owners of Geisha House, LLC for their problems and vowed revenge. On July 25, 2011, Singer sent in his long-time mob enforcer, gay porn actor, and notorious gay tabloid scandal monger, Paul Barressi, (aka "Pelicano's Enforcer", aka "Hollywood's Bagman") with two separate letters which he hand delivered to Malin and Macdonald, which threatened to expose alleged crimes, sex secrets using stolen sex emails, and threatened to ruin those accused. Arazm demanded a million dollars to stay quiet or she and her henchmen would ruin everyone using her husband's connections with the media and she would close Geisha House and make sure all of its employees were out on the street. Koules also called and threatened MacDonald that he would use his henchmen to deal with MacDonald and others if the money was not paid. When the money was not paid, they then did exactly what they said they would do.

Malin v Singer was published on July 16, 2013, reversing the Trial Court, that ruled that Singer, et al. committed extortion as a matter of law. However, Singer's fraud on the Appeals Court resulted in a reversal, with devastating consequences to

Malin including his filing bankruptcy from the \$300k plus in SLAPP legal fees awarded to Singer, et al and the collapse of his businesses from the allegations and bad press. MacDonald, outraged at the Appeal's Court OPINION which reversed the trial court and allowed Singer to get away with his heinous crimes, and filed his own lawsuit on July 24, 2013. During his litigation, MacDonald obtained declarations from the Geisha House, LLC control group, which include a signed copy of the Geisha House, LLC Operating Agreement, with list of approximately 40 members and managers. The declarations stated that Singer filed a false pre-petition and false petition on behalf of Geisha House, LLC without permission from its control group, namely Malin and Moore, and provided substantial evidence of Defendants other unlawful pre-litigation activities, as well as several expert witness declarations.

SINGER FORCED TO WITHDRAW AS COUNSEL: In December, 2014, Singer was forced to withdraw as counsel in the underlying case *Arazm v. Malin* (BC466696) after MacDonald provided the declarations from the Geisha House, LLC control group and he exposed Singer's ethics conflicts in the original co-representation. MacDonald exposed Singer since it is against public policy and against the California State Bar Act for Arazm to have authorized Singer to jointly represent herself and Geisha House, LLC, citations below. Further, MacDonald exposed Singer since even if Singer represented Geisha House per Arazm's authorization, Singer would still have been obligated to report to the Geisha House control group (Moore and Malin), not Arazm, a minority owner (18.5%), and a minority voting manager (33.3%). Geisha House had

three managing members and approximately 40 plus members.

GRAVAMENT OF THE COMPAIN DISMISSED: MacDonald was voluntarily dismissed from the SHAM complaint (BC466696) in December 2015. However, after Singer withdrew in disgrace in Dec. 2014, Arazm's new counsel, Kempinsky, dismissed the sexual misconduct claims against Malin because MacDonald exposed the fact that Arazm and her organized crime associates stole the private sex emails from personal phones and company servers and did not have the authority of Geisha House, LLC or Dolce Group, LLC, to have these stolen documents, a felony violation of the federal Electronic Communications Privacy Act. The Malin v. Singer OPINION stated the threats to expose Malin's sexual misconduct was the "gravamen of the case" and therefore was protected. In hind sight, this was not the gravamen of the complaint, but part of the threat to ruin Malin, et al with illegally obtained emails, via abusive discovery tactics.

EXTRINSIC FRAUD COMMITTED BY ATTORNEY SINGER: In the draft lawsuit dated July 25, 2011 and the original filed lawsuit of August 2, 2011 (BC466696), and in a phone call to MacDonald on July 29, 2011, Singer falsely claimed to be the attorney of Geisha House, LLC, falsely claimed to co-represent Arazm and Geisha House, LLC, and falsely claimed to have the authority of Geisha House, LLC to authorize a settlement in Arazm's favor. Singer's own letter includes the Subject as *Shereene Arazm, et al. v Michael Malin, et al.* and a second letter, *Shereene Arazm, et al. v Lonnie Moore, et al.* However, Singer admits in the first line that his client is

Arazm, while attaching the lawsuit claiming to represent Arazm and Geisha House, LLC. July 25, 2011 – First of two letters sent with False Draft Petition

JOHN H. LAVELY, JR.  
MARTIN D. SINGER  
BRIAN D. WOLF  
LYNDA B. GOLOMAN  
MICHAEL D. HOLTZ  
WILLIAM J. BRIGGS, II  
PAUL N. BORRELL  
MICHAEL E. WEINSTEIN

**LAVELY & SINGER**  
PROFESSIONAL CORPORATION  
ATTORNEYS AT LAW  
SUITE 2400  
2049 CENTURY PARK EAST  
LOS ANGELES, CALIFORNIA 90067-2906  
TELEPHONE (310) 556-3801  
TELECOPIER (310) 556-2616  
[www.lavelysinger.com](http://www.lavelysinger.com)

EVAN H. SPIEGEL  
TODD STANFORD ZAGAN  
HENRY L. SELF, III  
MATTHEW E. PANAGIOTIS  
JESSICA G. DARRICK  
ANDREW B. BRETTLER  
  
ALLISON B. HART  
KEVIN JAMES  
OF COUNSEL

July 25, 2011

**BY HAND:**

Mr. Michael Malin  
100 South Doheny Drive  
Penthouse 10  
Los Angeles, California 90048

Re: Shereene Arazm, et al. v. Michael Malin, et al.  
Our File No.: 5065-2

Dear Mr. Malin:

I am litigation counsel to Shereene Arazm. I am writing to you with respect to your outrageous, malicious, wrongful and tortious conduct. As a result of your embezzlement, conversion and breach of fiduciary duty, you have misappropriated more than a million dollars from my client. As a result thereof, my client intends to file the enclosed lawsuit against you.

July 25, 2011 – False Draft Petition sent under FALSE PRETENSE claiming to rep.

GH

1	MARTIN D. SINGER (BAR NO. 78166) ANDREW B. BRETTLER (BAR NO. 262928)	18	DRAFT
2	LAVELY & SINGER PROFESSIONAL CORPORATION 2049 Century Park East, Suite 2400	19	DATE: July ___, 2011
3	Los Angeles, California 90067-2906	20	LAVELY & SINGER PROFESSIONAL CORPORATION
4	Telephone: (310) 556-3501 <a href="mailto:mdsinger@lavelysinger.com">mdsinger@lavelysinger.com</a> <a href="mailto:abrettler@lavelysinger.com">abrettler@lavelysinger.com</a>	21	MARTIN D. SINGER
5	Attorneys for Plaintiffs,	22	ANDREW B. BRETTLER
6	SHEREENE ARAZM and GEISHA HOUSE, LLC	23	<b>DRAFT</b>
7	SUPERIOR COURT OF THE STATE OF CALIFORNIA	24	By: <u>MARTIN D. SINGER</u> Attorneys for Plaintiffs Shereene Arazm and Geisha House, LLC
8	FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICT		

August 2, 2011 – False Summons filed without the consent of the Geisha House, LLC control group.

**SUMMONS  
(CITACION JUDICIAL)**

NOTICE TO DEFENDANT: MICHAEL ROBERT CARRI a/k/a MICHAEL (AVSO AL DEMANDADO); ROBERT MALIN a/k/a MIKE BOOGIE a/k/a MIKE BOOGIE MALIN, an individual; LONNIE MOORE, an individual; 2HYPE PRODUCTIONS, INC., a California corporation; LTM CONSULTING, INC., a California corporation; MOORE & MALIN ENTERPRISES, LLC, a limited liability company; JAMES MCDONALD, an individual; ROBERT PAU, an individual; and DOES 1 through 20, inclusive,  
**YOU ARE BEING SUED BY PLAINTIFF: SHEREENE ARAZM, an (LO ESTÁ DEMANDANDO EL DEMANDANTE); individual; and GEISHA HOUSE, LLC, a limited liability company**

SUM-100	
FOR COURT USE ONLY (SOLO PARA USO DE LA CORTE)	
<b>FILED</b>	
SUPERIOR COURT OF CALIFORNIA COUNTY OF LOS ANGELES	
AUG 02 2011	
John A. Chang, Executive Officer/Clerk BY <i>[Signature]</i> Deputy <i>[Signature]</i>	

August 2, 2011 – False Petition filed without the consent of the Geisha House, LLC

control group.

<p>1 MARTIN D. SINGER (BAR NO. 78160)          2 ANDREW B. BRETTLER (BAR NO. 262928)          3 LAVELY &amp; SINGER PROFESSIONAL CORPORATION          4 2049 Century Park East, Suite 2400          5 Los Angeles, California 90067-2906          6 Telephone: (310) 556-3501          7 mdsinger@lavlysinger.com          abrettler@lavlysinger.com          Attorneys for Plaintiffs          SHEREENE ARAZM and GEISHA HOUSE, LLC</p>		<p align="center"><b>FILED</b>          SUPERIOR COURT OF CALIFORNIA          COUNTY OF LOS ANGELES          AUG 02 2011          John A. Chang, Executive Officer/Clerk          BY <i>[Signature]</i> Deputy  <i>[Signature]</i></p>	<p align="center"><b>JURY DEMAND</b></p> <p>Plaintiffs Shereen Arazm and Geisha House, LLC hereby demand a trial by jury.</p> <p>4 DATE: August 2, 2011</p> <p align="center">LAVELY &amp; SINGER          PROFESSIONAL CORPORATION          MARTIN D. SINGER          ANDREW B. BRETTLER          By: <i>[Signature]</i>          MARTIN D. SINGER          Attorneys for Plaintiffs Shereen Arazm          Geisha House, LLC</p>
--	--	--	--

Singer's False Declaration Sept 23, 2011 – Claiming the false documents above were

true

**DECLARATION OF MARTIN D. SINGER**

I, Martin D. Singer, declare:

I. I am an attorney licensed to practice before all the courts of the State of California and admitted to practice in this court in the above-captioned action, and a member of the law firm of Lavelly & Singer Professional Corporation, a defendant in the above-captioned matter. I have personal knowledge of the facts stated herein, and if called as a witness, I could and would competently testify thereto under oath.

8       2. On Monday, July 25, 2011, on behalf of my client, Shereene Arazm, I sent a pre-  
9 litigation demand letter attaching a draft complaint to Mike Malin a/k/a Michael Carri. I sent  
10 carbon copies of the pre-litigation demand letter and draft complaint to Ms. Arazm and to  
11 Andrew Brettler, an associate at my firm. I do not represent Ms. Arazm's husband, Oren  
12 Koules, in connection with Ms. Arazm's claims against Mr. Malin. Until Mr. Malin named Mr.  
13 Koules as a defendant in this action, Mr. Koules had no involvement in the underlying business  
14 dispute. A true and correct copy of the pre-litigation demand letter and draft complaint (as  
15 redacted by Plaintiff) attached to Mr. Malin's Complaint are attached hereto as Exhibits A  
16 and B, respectively.

Singer's False Declaration of Sept 23, 2011 · Page 4 · Excerpt

18 not assert in the complaint that was ultimately filed with the Superior Court. A true and correct  
19 copy of the Complaint filed in *Arazm v. Carri, et al.*, LASC No. BC 466696, on August 2, 2011,  
20 is attached hereto as Exhibit E.

Singer's False Declaration of Sept 23, 2011 · Page 6 · Excerpt

1 I declare under penalty of perjury pursuant to the laws of the State of California that the  
2 foregoing is true and correct.

Executed this 23rd day of September, 2011, in Los Angeles, California.

MARTIN D. SINGER

## EVIDENCE OF FRAUD-ON-THE-COURT

MacDonald uncovered the fraud on the court by attorney Singer, et al, in his case. The control group of Geisha House stated that Singer was not authorized to represent Geisha House, LLC jointly with Arazm and was not authorized to send the

threatening letter with “draft lawsuit” nor file the lawsuit on behalf of Geisha House, LLC (the “protected” activity in *Malin v. Singer*). Further, Geisha House, LLC did not authorize a joint representation with Arazm and did not waive conflicts of Singer in this joint representation. Here are the citations to this evidence:

Respondents submitted “as true” the false claims that Singer Attorneys represented the client Geisha House, LLC together with Arazm in “Letter and Draft Lawsuit” dated July 25, 2011 (*1 CT 192-208*) and in the complaint filed on August 2, 2011 (BC466696) (*1 CT 84-89 false oath and 1 CT 132-151 false complaint*). Defendant Singer falsely signed an oath that the lawsuit was true and correct when filing the lawsuit and then Respondents submitted this false oath as true evidence in the MacDonald SLAPP motions (*Singer Attorneys Slapp Motion 1 CT 161-351, Barressi Slapp Motion 3 CT 532-545 and Arazm and Koules Slapp Motion 6 CT 1319 to 7 CT 1496*), motions to vacate (*11 CT 2456-2618 and 13 CT 3042-3058 and 13 CT 3003-3032*) and obtained the resulting fee awards. The majority of managers, i.e. control group, of Geisha House, LLC offered declarations from Moore and Malin, which included a signed copy the Geisha House, LLC Operating Agreement, in support of MacDonald’s Motions to Vacate for Fraud stating that Singer Attorneys did not have the authority of the alleged client Geisha House, LLC. (*Motion to Vacate (1) 10 CT 2406-2453 and Motion to Vacate (2) 12 CT 2833-2877*). Singer, et al, continue to falsely submit these materials as true, a crime.

## LEGAL ARGUMENT

### THE IMPOSSIBLE OPINIONS OF MACDONALD v. SINGER and MALIN v.

SINGER: MacDonald v. Singer and Malin v. Singer contradict so many laws, ethics rules and the Constitution, that the shear criminality of Singer's actions are only eclipsed by the legal impossibility of the OPINION:

### CRIMES AGAINST JUSTICE:

INTENT TO COMMIT CRIMES: Singer knew right from the first draft lawsuit delivered on July 25, 2011 that Arazm was a minority 18.5% owner of Geisha House, that Geisha House was a California Limited Liability Company, and that Arazm did not control Geisha House, LLC since he asserted these facts in his draft complaint. Singer also stated he knew that Moore and Malin were the controlling managers of Geisha House, LLC. Intent is further proven since Singer has continued with his crimes for the past seven years, Signer has lied in his SLAPP declarations and hearings, claiming the draft petition and filed lawsuit that he represented Geisha House, LLC were true and correct. Singer's crimes in the Malin case that negate the OPINION, include:

CPC § 115 – FILING A FALSE PETITION (a) Every person who knowingly procures or offers any false or forged instrument to be filed, registered, or recorded in any public office within this state, which instrument, if genuine, might be filed, registered, or recorded under any law of this state or of the United States, is guilty of a felony.

CPC § 132 – OFFERING FALSE EVIDENCE Every person who upon any trial,

proceeding, inquiry, or investigation whatever, authorized or permitted by law, offers in evidence, as genuine or true, any book, paper, document, record, or other instrument in writing, knowing the same to have been forged or fraudulently altered or ante-dated, is guilty of felony.

CPC § 134 – PREPARING FALSE EVIDENCE Every person guilty of preparing any false or ante-dated book, paper, record, instrument in writing, or other matter or thing, with intent to produce it, or allow it to be produced for any fraudulent or deceitful purpose, as genuine or true, upon any trial, proceeding, or inquiry whatever, authorized by law, is guilty of felony.

CBPC 6128(a) ATTORNEY DECEIT: Malin v. Singer violates California law prohibiting attorneys from deceiving any party, a misdemeanor.

CBPC § 6104 FALSE APPEARANCE - Malin v. Singer violates California law prohibiting attorneys from falsely appearing for a client. “anyone who [c]orruptly or wilfully and without authority [appears] as [an] attorney for a party to an action or proceeding [may be subject to] disbarment or suspension.” “An attorney may not even appear in a cause of action without some form of authority from the party in whose behalf he appears.” Loftberg v. Aetna Cas. & Sur. Co., 264 Cal. App. 2d 306, 308, 70 Cal. Rptr. 269, 270 (1968).

CCC § 1608 ILLEGAL CONTRACTS ARE VOID: Malin v. Singer violates the law of void contracts since it allows non-controlling member of a company to authorize joint representation with herself, a clear violation of Public Policy, CRPC 3-600(E).

#### State Bar Act -Rules Of Professional Responsibility – Organization As A Client

RULE 5-200 and CBPC§ 6068(d) DUTY OF CANDOR – Malin v. Singer violates duty of candor and duty to speak, extrinsic fraud. Kachig v. Boothe, [Civ. No. 11502. Cal, 4th Appellate District, Div.2 Two. 12/31/1971.]

RULE 3-600 (E) JOINT REPRESENTATION - Malin v. Singer violates rule 3-600(E) since Singer did not obtain permission from someone in Geisha House's management other than Arazm for the joint representation. In fact, only Moore and Malin could have authorized it, and Singer was suing both on behalf of Geisha House, LLC.

RULE 3-600(A) HIGHEST AUTHORITY - Malin v. Singer violates 3-600(A).

Singer was required to report to the highest authority, namely a majority of the voting managers. Instead, Singer chose to only report to Arazm, that he knew was a minority voting manager (1/3), and a member with a minority interest (18.5%).

RULE 3-600(B) ATTORNEY MUST NOT BETRAY CLIENT CONFIDENCE -

Malin v. Singer violates 3-600(B). Singer stole emails from his alleged client Geisha House, LLC and uses his alleged discovery of wrong doing to extort Geisha House's control group, namely Malin and Moore and then Singer sues the control group of his alleged client.

ELECTRONIC COMMUNICATIONS PRIVACY ACT (17 U.S.C. §§ 2511, 2520) -

Malin v. Singer violates ECPA since Singer knowingly used stolen electronic communications, which are sighted in Singer's own draft complaint, which Singer did not have legal access to, since he was not the attorney for Geisha House.

FRAUD-ON-THE-COURT BY AN OFFICER OF THE COURT: Whenever any officer of the court commits fraud during a proceeding in the court, he/she is engaged in "fraud upon the court". In Bulloch v. United States, 763 F.2d 1115, 1121 (10th Cir.

1985), the court stated "Fraud upon the court is fraud which is directed to the judicial machinery itself and is not fraud between the parties ... It is where the court or a member is corrupted." See also citations listed above Pages 1-3.

ABUSIVE DISCOVERY TACTICS - EVIDENCE CODE § 956: Singer used his also claim to represent Geisha House, LLC to obtain prelitigation discovery and then extort the control group of Geisha House, LLC with this information. (a) *Malin v. Singer violates § 956: (a) "There is no privilege under this article if the services of the lawyer were sought or obtained to enable or aid anyone to commit or plan to commit a crime or a fraud."*

CRIMINAL SOLICITATION: (CPC § 653): *Malin v Singer* also violates CPC § 653 since it gives Singer immunity for this threat to MacDonald to cooperate or else. Also, Singer told MacDonald he had authority of Geisha House and he wanted funds sent to Arazm, when this was false pretense. *Malin v. Singer* was used to declare this activity lawful. \*\*\* There are other many crimes that were committed but this request is limited to 10 pages.

### APPEALS COURT OPINION ERRORS

The United States Supreme Court should also consider reviewing the case *Malin v. Singer* since it was used to deny MacDonald's case. In fact, the Appeals Court Opinion in *MacDonald v. Singer* quotes the *Malin v. Singer* letter, not the letter MacDonald received.

- a) The OPINION mistakenly relied upon Singer's declaration that the draft

petition and filed petition were "TRUE" when Singer did not represent Geisha House, LLC and neither opinions discuss this crime.

b) The Appeals Court did not properly address the fact that the letters included a draft complaint, which was jointly sent on Arazm and Geisha House, LLC's behalf. The letter "Subject - Arazm, et al. v. Malin et al." The draft lawsuit claims are all about embezzlement from Plaintiff Geisha House, LLC (primarily) and to a limited extent Plaintiff Arazm. Assuming Singer did send the letter ONLY on Arazm's behalf, then the draft petition and filing of the lawsuit falsely on behalf of Geisha House, using Geisha House privileged information, and the submitting these documents as TRUE and CORRECT in the SLAPP motion are a fraud on the court by an officer of the court.

c) Appeals Court did not consider the fact that Singer then filed the original complaint in Los Angeles Superior Court claiming to represent Geisha House, LLC, as well as Arazm. MacDonald has proven that SINGER NEVER REPRESENTED GEISHA HOUSE, LLC AND NEVER REPORTED TO ITS CONTROL GROUP.

d) The Appeals Court Opinion in MacDonald v Singer misapplied the SLAPP standard that the underlying lawsuit was contemplated in "good faith" and that the Singer's letter was LAWFUL. There was no good faith as the false pretense and false appearance was UNLAWFUL. Further, MacDonald was voluntarily dismissed from the SHAM lawsuit.

e) The Appeals Court Opinion in MacDonald v. Singer, as a result of Singer's

fraud on the Appeals Court and false evidence, did not apply the letter to the CALCRIM 518-526 standard correctly. If they do, they must conclude "that the activities that gave rise to the Complaint were illegal as extortion as a matter of law".

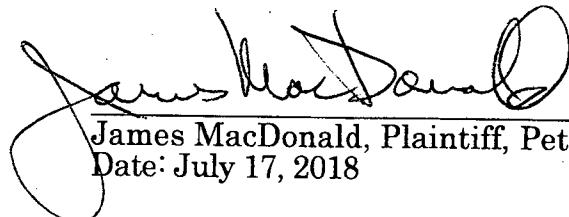
f) In the related Malin v Singer Appeals Court OPINION, Page 20: The Appeal's Court ignored the Trial Court's ruling regarding the ACTIVITIES. The published Malin v Singer opinion instead states that only the letter was not extortion. Excerpt from Minute Order Nov. 29, 2011 in the Malin Trial Court SLAPP motion:

The Court finds that the activities giving rise to the claims in the Complaint are illegal as a matter of law as extortion, and as allegations of illegal wiretapping (See Flatley v. Mauro (2006) 39 Cal.4th 299 and Gerbosi v. Gaims (2011) 193 Cal.App.4th 435). Activity which is illegal as a matter of law is not protected under C.C.P. Section 425.16, so the Court does not reach the second step of whether Plaintiff has shown a likelihood of success on the merits.

## CONCLUSION

Therefore, the petition for a writ of certiorari should be granted.

Respectfully submitted,



James MacDonald, Plaintiff, Petitioner  
Date: July 17, 2018