



court slapp's down appeal in favor of msk client

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A California Court of Appeal panel has sided with MSK securities-law attorney Mark Hiraide, ruling that his so-called anti-SLAPP motion was properly granted by a lower court judge, resulting in a victory for his client. The Sept. 7, 2016, published decision stated that California's anti-SLAPP (strategic lawsuit against public participation) statute protects litigation-related silence just as strongly as it protects actual statements litigants make during the course of their court cases. This ruling will set a legal precedent for future anti-SLAPP cases.

In Hiraide's case, his client, Trigg Laboratories, was sued by a business consultant who claimed Trigg management had concealed information about a possible sale of the company while Trigg and the consultant were negotiating the settlement of an earlier lawsuit. The consultant asserted that had he known about the possible sale, he would not have settled his first lawsuit against Trigg for the relatively small amount of money damages he agreed to. Hiraide filed a motion to have the second lawsuit dismissed, arguing that the information about a possible sale of Trigg was protected litigation-related speech as defined by the anti-SLAPP statute. The lower court granted the motion and awarded attorney's fees to Trigg.

The state appellate court agreed with the lower court, finding that, "This claim arises from (Trigg's) litigation activity—to keep this information within the attorney-client privilege for purposes of (the business consultant's) case. And it arises from (Trigg's) protected right of free speech—the right not to speak."

"The anti-SLAPP motion is an important legal defense tool because it can get a case dismissed right at the outset of the lawsuit and if successful, attorney fees are awarded," explained Hiraide. "Lawyers always assumed the law included protections for omissions of speech in the litigation setting but we hadn't heard from an appellate court on the question until now," Hiraide said.

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