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Plaintiffs must pay defense attorney fees in franchise case

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SANTA ANA — A plaintiff showed “at minimum, a reckless disregard for the truth” in his handling of a false sexual misconduct claim against a franchisee of his martial arts studio brand, a federal judge ruled this week, sanctioning him with attorney fees after a bench trial that included pierced attorney-client privilege.

U.S. District Judge David O. Carter rejected terminating sanctions sought by defense attorney Daniel C. DeCarlo of Lewis Brisbois Bisgaard & Smith LLP, but he also determined the eight-claim lawsuit brought by Fortis LLP lacked all legal merit. And even if it didn’t, Carter said he’d side with defendants Kristopher Rinehart and Brent Murakami to punish United Studios of Self Defense founder Charles Mattera for his lies on the witness stand and other bad-faith conduct.

“The fraud on the court perpetuated by Mattera cannot go unpunished given the many people who have suffered from his actions, including Dr. Rinehart, Mr.

Murakami, and the various family members, friends, and loved ones who have been impacted by this litigation,” Carter wrote.

Carter said he had no adverse findings “on the actions of plaintiff’s counsel.”

The 29-page ruling, issued late Tuesday, caps a seemingly low-level franchising case that erupted into a showdown over attorney-client privilege. The saga included an actress with a so-called emotional support cat testifying in June before U.S. Magistrate Judge David F. McCormick about the false allegations against Rinehart as well as repeated Fifth Amendment pleas in November by the man she said paid her \$500 to pose as a victim.

At McCormick’s recommendation, Carter in September rejected a defense motion to pierce attorney-client privilege under the crime-fraud exception. But he changed his mind after hearing opening statements Oct. 29, authorizing questions about typically privileged discussions that proved pivotal to the defense.

DeCarlo, who worked with Lewis Brisbois associ-

ate Esther Y. Shin, told the Daily Journal he expects his fees to top \$1.4 million. He plans to ask Carter to multiply it “by some factor not yet determined based on the Lodestar enhancement principals.”

Mattera’s lawyers at Fortis, led by partner Matthew A. Berliner, acknowledged misdeeds by their client but said their claims against Rinehart, which centered on alleged violations of his franchising agreement with Mattera, still stood. They denied knowing the statutory rape allegation against Rinehart was false when they included it in an amended complaint, and DeCarlo said in his closing argument he doesn’t believe their conduct warranted terminating sanctions.

Amid incriminating recordings of Mattera urging a witness to lie in a deposition, Mattera described his lawyer as a “Boy Scout” while discussing ways to conceal a doctored police report about the fictitious statutory rape allegation. DeCarlo said Mattera masterminded a ruinous plan against Rinehart to strip him of his studios in Beverly Hills and Manhattan Beach, with the false sexual misconduct allegation

particularly useful leverage because it threatened Rinehart’s license as a physician.

While Carter concluded Mattera lied in testimony about issues such as his relationship with a witness, the judge said he couldn’t conclude Mattera lied when he testified he didn’t realize the allegation was false until a February 2019 deposition, five months after the amended complaint was filed. But Carter said Mattera showed “at minimum, a reckless disregard for the truth of the allegations given their extremely serious nature and given that Mattera was actively using the allegations as leverage to get Rinehart to settle the action.”

The case against Rinehart included two breach of contract claims and related claims of unfair business practices and false designation/unfair competition under the Lanham Act. But Carter determined Mattera’s contracts with Rinehart never were valid, so all claims were rejected. *United Studios of Self Defense, Inc., v. Rinehart, et al.*, CV18-1048 (C.D. Cal., filed June 13, 2018).

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