

Date: March 11, 2024
To: Christine Heather Long
CA SBN: 199676
Address: Berliner Cohen, 10 Almaden Blvd STE 1100, San Jose, CA 95113-2270

Instructions to Ms. Long:

Responses, or related discussion, should be directed to attorney Douglas Vining. Other discussion between you and the author should be held for the time being. However, in due course, you'll have the opportunity, as will members of the public and news media, to offer background information and perspectives on events.

Technical notes to Ms. Long:

You should have received 8 printed pages, counting this cover page.

The case reference in part 1.13 isn't a proper citation. It's there simply to identify a case. The part related to disclaimers is in, it's believed, discussion of a related appeal.

This document, aside from this cover page and page information in the header and footer, should be identical to electronic and/or physical copies that Mr. Vining is expected to forward to you.

For your convenience, this document and other materials should appear in Google in the short term and as things proceed.

Instructions to process server:

1. If possible, please deliver this document placed flat in a 9" by 12" envelope.
2. If possible, this document is to be delivered directly to Ms. Long and not, except as a final resort, to other parties who may offer to take delivery.
3. Formal, i.e., filed, proof of service isn't needed. However, an emailed description of delivery is requested.
4. Don't agree to relay a comment or statement by Ms. Long to me. If she has comments or statements, they should be sent to Douglas Vining.
5. Ms. Long is an impressive figure in more than one respect. You should have little difficulty in identifying her.

7 document pages, numbered page 2 to page 8, follow.

Ms. Long, good day.

Responses to this letter, or related discussion, should be directed to attorney Douglas Vining.

This letter is in connection with our current civil, i.e., defamation, case. It references the related but now-closed WVRO cases as “the WVRO cases”.

As a minor advisory, this letter will be posted online. I note that, as the civil case proceeds, additional case materials will be posted and distributed and will appear in Google. This is in the interests of transparency.

A settlement is proposed. This letter lists (a) points that you and others should consider in the decision and (b) the elements of a settlement proposal.

As the WVRO cases have recently concluded, after you presented all of your evidence, it’s sensible to discuss settlement at this time.

1. Points to consider in the decision.

1.01. In the WVROs, both cases, you have relied upon an alleged, self-serving and largely non-existent, “investigation” by Ally Financial as evidence that fraud hadn’t occurred in Brian Martin’s 2020 truck transaction.

In fact, as Kamal Sayed Hashimi and Anna Vierra will be able to explain, the type of fraud which is alleged in the case of Mr. Martin’s transaction doesn’t require the participation of, or even knowledge of, a financial institution.

In December 2020, Fremont Toyota is believed to have used an undisclosed market adjustment combined with loan parameters that were different than those that had been discussed with Mr. Martin and with an intent to defraud him.

A salesperson showed Mr. Martin a worksheet referred to as a Four-Square and then destroyed the Four-Square in front of Mr. Martin. Hugo Alcantar later took loan papers physically away from Mr. Martin and left a room with the papers for no clear purpose. Mr. Martin believed that papers which were later returned to him were not the same.

This is in addition to the unusual manner in which Mr. Alcantar cajoled Mr. Martin into returning to the dealership so that he [Alcantar] could take the loan papers from Martin. As you’re aware, text messages related to that issue exist.

These two points, the Four-Square issue and Hugo Alcantar's actions, indicate that there was more to the fraud, in Mr. Martin's case, than simply printing a copy of Mr. Martin’s signature onto what seems to be a fake market adjustment agreement form, though, it should be noted, the document in question doesn’t even purport to be one.

You personally have read Mr. Martin’s posted statement line by line. This was clear in the February 08, 2024 WVRO hearing. You’ve reviewed the text message screenshots and other materials included in the

statement. You're aware that fraud not only occurred but was so clumsy and obvious that it can be made clear to a child. You understand, as well, that Ally Financial wouldn't necessarily have known about any of this.

1.02. Additionally, your focus on the Martin transaction is misdirection to begin with as you are aware of ex-employee Sam Pawar's allegations of "millions and millions of dollars" of mass fraud against the general public that was perpetrated by Fremont Toyota. Ally Financial didn't investigate those allegations. Or did it happen to do such an investigation?

Feel free, by the way, to review the video clip where Mr. Pawar makes the "millions and millions of dollars" allegation. For your convenience, a copy of that clip is expected to appear on YouTube in the near term. In the interim, it's on the current cases website.

1.03. Note that the declaration which Mr. Pawar signed recently is dated after the declaration which you obtained from him.

Note, too, that Mr. Pawar has now alleged, under penalty of perjury, that the declaration which you obtained from him was obtained through witness intimidation, up to and including the creation of a non-existent "judge". Threats towards a witness based on the statements of a "judge" who doesn't exist are considered to be ethically questionable at the least.

1.04. In the WVRO cases, you attempted to conflate me with Brian Martin in a nonsensical manner. Brian Martin is not responsible for my actions and I am not responsible for Brian Martin's actions.

1.05. You listened to me testify under oath, in the WVRO cases, that writing in progress is under a Creative Commons license. You're aware, as well, that license notices to this effect have been posted prominently on every website related to the current matter.

You may wish to learn at least the basics of the issues involved before you attempt to claim commercial intent.

1.06. The initial inclusion of a dead man in the plaintiffs list is evidence of malicious prosecution regardless of the filing of an amended complaint.

Interestingly enough, it appears that I may be entitled to initiate a malicious prosecution action at this time in connection with that issue and it may not be necessary for me to wait for the resolution of the remaining civil action.

Dropping Hank Torian as a Plaintiff from the First Amended Complaint operated as a dismissal as to him. See *Fireman's Fund Ins. Co. v. Sparks Construction, Inc.* (2004) 114 Cal. App. 4th 1135, 1142 ["It has long been the rule that an amended complaint that omits defendants named in the original complaint operates as a dismissal as to them."]; *Schlake v. MacConnell* (1924) 69 Cal. App. 207, 209 ["The filing of an amended complaint, omitting a defendant named in the original complaint, operates as a dismissal of the action as to such defendant"].

A voluntary dismissal — not resulting from a settlement — will, in general, constitute a favorable termination. (*Sycamore Ridge Apartments LLC v. Naumann* (2007) 157 Cal. App. 4th 1385, 1401.) "[A] voluntary dismissal, even one without prejudice, may be a favorable termination which will support an action for malicious prosecution. 'In most cases, a voluntary unilateral dismissal is considered a term-

ination in favor of the defendant in the underlying action” (Fuentes v. Berry (1995) 38 Cal. App. 4th 1800, 1808.) In many instances the dismissal “may be an implicit concession that the dismissing party cannot maintain the action and may constitute a decision on the merits.” (Eells v. Rosenblum (1995) 36 Cal. App. 4th 1848, 1855.)

You’d have the option of reiterating your argument in the Notice of Errata “that Hank Torian is not a party to this action” and “Hank Torian’s name was inadvertently included in the CAPTION only.” The argument isn’t compelling as the Notice of Errata was filed more than 19 months after the Complaint was filed and Torian was referenced throughout the Complaint and in each of the causes of action in the Complaint.

1.07. In the event of a loss by your side in the remaining civil action, I may, of course, have the option of initiating a malicious prosecution action independently of the Hank Torian issue. Perhaps your across-the-board loss of four significant actions since November 2023 – two cases and two fees motions – calls for reflection on the possible outcome.

While I believe that you’re skilled in a few specific areas, the areas don’t include cross-examination or impressing the Court. I note you dabbed at your eyes as you made a dramatic but pointless statement and believed that the Court would care about the play-acting. The cross-examination that you conducted was, more importantly, at the level of a middle-school Drama Club play. It did not seem as though you knew what you were doing.

I feel that you should consider ending this litigation.

1.08. Testimony by witnesses for your side is going to be awkward in places.

Naqib Halimi and others may need to explain statements such as “Mother Fucker you can’t call us brother because you aren’t Muslim”. Hate speech about the “Hindu god” and how minorities are supposedly “smelly” as well.

Raffi Hashemi and others may need to testify regarding their alleged thefts of payments to Sam Pawar.

Kamal Sayed Hashimi himself has, as you’re most likely aware, a cornucopia of interesting points in his background.

Hashimi’s acting ability – or, more accurately, inability – is worth noting as well. I acknowledge that I am less than polished myself. However, after watching Hashimi in Court, I see him as “God’s gift” to my side.

1.09. Even if Hashimi can be molded into the perfect witness, his background is going to remain part of the picture.

If you choose to make an issue of my attempts to communicate with Kathryn Campos, for example, this may open the door to questions related to fraud which Ms. Campos herself alleged in a Court filing against Kamal Sayed. Remember that Kamel Sayed’s own wife seems to have booted him out for suspected fraud and theft.

1.10. On a related note, if you feel the need to make a further issue of the Rachel Ghiringhelli thread, I’ll be prepared to respond. The related text message that I filed as an exhibit – and I did file a screenshot

version – isn't going to go away. I am curious as to whether or not Kamal Sayed would truly like you to call attention to the inability of any witness to explain away the screenshot.

1.11. I will be looking to bring in an Imam or similar expert. The expert would testify to the effect that the conduct of individuals on the Fremont Toyota side has been, quite literally, Jihadi.

It is suggested that you poll the individuals involved. What is their level of enthusiasm if they are required to discuss their conduct in the presence of somebody who will be prepared to explain the word "Jihadi" to the Court?

1.12. At the February 08, 2024 WVRO hearing, you asked a question similar to the following: "In the domain name fremonttoyota.org, there was nothing in the domain name itself to indicate the owner, was there?"

The question, and the take-away that you intended, disregard the entire body of U.S. trademark law including first principles. It is respectfully suggested that you familiarize yourself with trademark basics as well as ACPA, 15 U.S.C. § 1125(d).

1.13. The disclaimer below that I have prominently displayed on every website involved in the current matter will not simply be dismissed:

"Statements are based on belief and best understanding of facts and are not necessarily statements of fact except where this is explicitly stated. People with knowledge of facts that may be relevant to content are invited to suggest corrections or additions."

See *Hosszu v. Barrett*, 16-16571 (9th Cir. 2017).

1.14. Additionally, the following thread in the WVRO cases has been less than productive for you:

(a) In November 2023, you instructed Kamal Sayed Hashimi to literally shout the website title "Haggis Hell" with an emphasis on the word "Hell".

(b) Much has been made of my citation of a song titled "Devil Went Down to Georgia". In fact, as you're aware, the song is a humorous Christian ballad about the defeat and humiliation of the Devil in a contest. I suggest, by the way, that you watch the video again before you make a decision about how to proceed.

(c) And, of course, in the February 08, 2024 WVRO hearing, this moment occurred [this is a paraphrase]:

<Long> You cited a text message from Sam Pawar in which he referred to you as his angel.

<Kiraly> Yes.

<Long> Did you say, after that, "It's important to remember that Satan was an angel" ?

Ms. Long, three attempts to portray a down-to-earth engineer, somebody raised in a Billy Graham environment who has worked in anti-terrorism and anti-fraud, as a Satanist accomplished little other than to call your competence into question.

1.15. You're aware that California Evidence Code § 1152 will not necessarily bar discussion of the

events of the past two years. To the extent that the door is opened to discussion of such events, I look forward to going over them.

1.16. If statements that you made a few months ago are accurate, the final cost to your side of the litigation that you've initiated will probably end up in the range of \$250,000 to \$325,000.

This assumes that you stated the truth at the time. While veracity isn't your strongest point, the figures seem reasonable. The parties who you talked to at Hoge Fenton two years ago are believed to have billed their clients \$150,000 for far less time than you've billed so far, let alone for the rest of 2024. And you're billing at higher rates than Hoge Fenton charged a decade ago.

I'll add that I effectively won the Hoge Fenton cases despite being Pro Per part of the time. So, even the relatively low figure of \$150,000 proved to be a poor investment by the other side. In the current matter, an investment that is likely to be much larger will be seen in the end by your clients as a less than brilliant decision.

Total costs for the WVRO cases alone are well into the six figures and you have nothing to show for it. And your clients may not even have seen the final bill for those cases yet.

The outcome of the civil case is expected to be similar. It will most likely be either a fifth embarrassing loss for you or a Pyrrhic victory.

In the unlikely event that you're awarded damages in the civil case, the damages won't cover the costs needed to obtain them. In fact, it seems unlikely that you'll be able to establish relevant financial damages at all without the use of false statements to the Court. My attorney and I will be watching for that. Noise will not suffice.

The only motivation that you have for continuing litigation, billable hours aside, is the hope of a gag order. This is a problem for you as nothing similar to what you've cited and misrepresented in the "hate speech" context has been online for over two years.

This fact will be made clear. In short, repeated chants of "Jihadi! Terrorist!" will not be effective. This is especially true as I can and will demonstrate, if it is necessary, that various individuals are, in fact, Jihadis.

Even sans the preceding, as I have explained to you previously, you can't obtain the type of gag order that you'd like in the manner that you've tried.

Every bit of the debacle is going to go into Google. This is exactly what Kamal Sayed Hashimi does **not** want.

There is no Court Order that can prevent the target from writing about the order itself or the legal cases involved. You're simply adding to the story and increasing the odds of Streisand Effect. The only way to obtain part of what you'd like to is to settle.

You should have done that before. You and your clients are now aware of this. The offer that is now possible is made below.

(continued on next page)

2. Key elements of a proposal:

(2a) I am to be paid \$25,000. If there is a desire to negotiate the number, I will resubmit the request for \$25,000 after the costs on your side have risen further. The amount requested may be increased at that point.

(2b) There will be no confidentiality clause or attorneys' fees clause or other clauses that apply to me and have similar effects.

(2c) You may submit a draft list of six (6) words, names, or phrases without spaces or punctuation. The only characters used should be English letters. Note: Upper vs. lower alphabetic case doesn't matter and can be disregarded.

Subject to my agreement to the final list, I, in perpetuity, will not register Internet domain names where the part to the left of the TLD [.com, etc.] is equal to or contains any of the words, names, or phrases.

For example, if the word "cheese" is on the final list, I will not register either "cheese.thief" or "cheesereview.com".

(2d) If it is requested, a clause will be added in which I agree to post online, for a specified period of time, an apology to a single individual, Raffi Hashemi, for a single action. Note: This is related to Raffi Hashemi and not to Kamal Sayed Hashimi.

The apology will not retract assertions related to conduct on Mr. Hashemi's part that has involved fraud, theft, or hatred of minorities. It will, however, state that the form which statements took was inappropriate. Your clients, including you yourself, all agents, and Mr. Hashemi will agree that they are prohibited from citing or otherwise making use of the apology as evidence or as an exhibit in any future formal action of any type.

(2e) Parties on your side have the option, which was always present, of communicating as writing proceeds to suggest clarifications or for other purposes. Such communication confers upon me the unquestioned and irrevocable right of response and waives any explicit or implied right on the part of the parties involved to non-communication.

(2f) Parties on your side are required to communicate with me prior to the initiation of any future litigation of any type. Communication in this context is to be through an attorney. The attorney is not to be a past or present associate of Berliner-Cohen at the time. A defamation or other demand letter prepared by the attorney is to be delivered in a manner to be set forth. I am to be permitted a reasonable amount of email exchange with the attorney. I am to be declared the victor in any litigation which does not meet these conditions.

(2g) No clauses from past settlement offers should be submitted. The time to accept my past settlement offers was before the loss by your side of both of the WVROs and both of the fees motions.

(2h) I may agree to additional concessions regardless, but only on a good faith basis. Subsequent to the WVRO cases, I will not agree, in general, to most conditions that require me to trust in good faith on your side.

(2i) All parties and their agents, including but not limited to you yourself, will waive, in perpetuity, the right to cite or claim as evidence, in any litigation or other formal venue, the past, present, or future use of any of the following three words by me or words derived from the following three words: Jihadi, Muslim, terrorist.

(2j) A violation by any party on your side of the terms of the final agreement will release me from the obligation to comply myself with the terms.

Regards, Robert Kiraly

(end of document)