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Calif. Court Affirms Sanctions For SF Firm In Arbitration Row

By **Kali Hays**

Law360, New York (February 2, 2016, 5:43 PM ET) -- A California appeals court on Monday handed a victory to a property owner being sued by a partner in a Fresno mall over clean-up costs, after agreeing with a trial court that arbitrating a discovery dispute was not necessary and sanctions against San Francisco's Dimitriou & Associates PC were deserved.

California's Court of Appeal for the Fifth Appellate District affirmed a Fresno court's June 2014 finding that about \$6,500 in sanctions against Bob Vlahopoulos and his attorney Andrew Dimitriou, then of Dimitriou & Associates, were appropriate considering their contested actions during discovery of issues related to Vlahopoulos' suit against Vallarta Properties LLC over maintenance costs for common areas of a jointly owned shopping center.

The court went on to agree that Vallarta was not required to arbitrate any of its discovery-related complaints as Vlahopoulos had argued, because although a settlement of the central claims in the maintenance dispute already was being arbitrated by joint agreement, the discovery issues were not a direct result of that arbitration.

"The parties specifically agreed to refer to arbitration only the claims set forth in the current pleadings in this action," the appellate court said in a Monday opinion. "The discovery disputes in this case did not arise out of the arbitration. Thus, they were not required to be adjudicated in that forum."

Vallarta, which countered Vlahopoulos' late 2012 breach of contract complaint with its own claims in 2013, has accused Vlahopoulos and Dimitriou of working to disrupt the discovery process.

Their actions include Vlahopoulos objecting to a deposition the day before the it was scheduled and then failing to show because Dimitriou was supposedly unavailable and also refusing to provide verified discovery responses, despite multiple requests, according to Vallarta.

Considering this alleged behavior, Vallarta in spring 2014 filed motions with the trial court to compel discovery and to impose about \$20,000 in sanctions against Vlahopoulos and Dimitriou, along with a protective order to prevent the lawyer from "interfering with the conduct of the depositions," according to Monday's opinion.

In addition to his opposition of Vallarta's motions, Vlahopoulos told the court that the company was required under the terms of a proposed settlement, which was then being arbitrated separately, to also arbitrate the discovery issues and asked that the deal be enforced by the court.

The trial court denied these requests and granted those of Vallarta and imposed sanctions against Vlahopouliotis and his attorney totaling nearly \$6,500. However, the court did decide to stay the discovery-related litigation until arbitration of the underlying dispute was resolved, according to the appellate court.

The appellate court agreed Monday that the discovery issues had nothing to do with the ongoing arbitration, saying Vallarta had been "attempting to resolve [discovery] for months" and determined that the \$6,500 in sanctions was within "the bounds of reason," according to the opinion.

Dimitriou is currently suspended from practicing law by the California State Bar, according to bar records, for allegedly spending tens of thousands in settlement monies won for clients and using an attorney-client trust account for personal deposits and spending.

When his suspension took effect in May, Dimitriou told the state court that he was no longer with his namesake firm and removed himself from the action, without divulging his suspension, according to court records.

Counsel for Vlahopouliotis and Vallarta could not be reached Tuesday for comment.

Vlahopouliotis is represented in the appeal by Robert Smith.

Vallarta Properties is represented by Gail B. Price of Bronwen Price APC and John G. Michael and Diane E. Coderniz of Baker Manock & Jensen PC.

The case is Bob Vlahopouliotis v. Vallarta Properties, case number F069832, in the Court of Appeal of the State of California for the Fifth Appellate District.

The underlying case is Bob Vlahopouliotis vs. Vallarta Properties, case number 12CECG04030, in the Superior Court of California, County of Fresno.

— Editing by Ben Guilfoy.

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