

Dept 56 Jane Johnson

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FILED
LOS ANGELES SUPERIOR COURT

AUG 21 2008

JOHN A. CLARKE, CLERK
BY SHAUNYA WESLEY, DEPUTY

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICT

12 ANDRÉS MARTINEZ, an individual,
13 Plaintiff,
14 v.
15 KELLY MULLENS, an individual; and DOES
16 1 through 10, inclusive,
17 Defendants.

CASE NO. BC396722
COMPLAINT FOR NEGLIGENCE AND
PROMISSORY ESTOPPEL

ORIGINAL

CIT/CASE: BC396722 LEA/DEF#:
RECEIPT #: CCH465980090
DATE PAID: 08/21/08 01:31:16 PM
PAYMENT: \$320.00 0310
RECEIVED:
CHECK: 320.00
CASH:
CHANGE:
CARD:

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1 Plaintiff Andrés Martínez alleges as follows:
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3 **GENERAL ALLEGATIONS**
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5 1. Plaintiff is an individual currently residing in the District of Columbia. At all times
6 alleged herein, Plaintiff was a resident of Los Angeles County, California.
7

8 2. Plaintiff is informed and believes, and thereon alleges, that Defendant Kelly
9 Mullens ("Mullens") is, and at all times mentioned was, an individual residing and/or conducting
10 business in Los Angeles County, California.
11

12 3. The true names and capacities, whether individual, corporate or otherwise, of
13 defendants named as Does 1 through 10, inclusive, are unknown to Plaintiff at this time. Plaintiff
14 therefore sues these defendants by such fictitious names. Plaintiff will ask leave of Court to
15 amend this Complaint to show the true names and capacities of these defendants when, and if,
16 ascertained. Plaintiff is informed and believes, and thereon alleges, that defendants Does 1
17 through 20, inclusive, participated in all or some of the acts alleged and are liable to Plaintiff on
18 that basis.
19

20 4. Plaintiff is informed and believes, and on that basis alleges, that each of the
21 defendants, in engaging in the conduct alleged below, was acting as the principal, agent, servant,
22 or employee of each of the other defendants, was acting within the course and scope of such
23 agency, and was acting in concert with the other defendants.
24

25 **COMMON ALLEGATIONS**
26

27 5. Plaintiff is a successful and well-regarded journalist, having worked as a reporter
28 for The Pittsburgh Post-Gazette and the Wall Street Journal before becoming an editorial writer,

1 assistant editorial page editor and a member of the editorial board at The New York Times. In
2 2004, Plaintiff was a Pulitzer Prize finalist for editorial writing and was regarded as one of the
3 leading opinion journalists in the country.

4
5 6. In September 2004, Plaintiff joined The Los Angeles Times to run the editorial
6 page (then one of the most coveted jobs in American journalism). In September 2005, Plaintiff's
7 duties were expanded to include oversight of the opposite editorial ("op-ed") page and "Sunday
8 Current." Along with the paper's editor, Plaintiff reported directly to the publisher. Such a role
9 with a major metropolitan paper was unprecedented for someone of Plaintiff's age (then under
10 40).

11
12 7. At this same time, the Los Angeles Times was going through a great deal of
13 internal turmoil. In 2000 the Los Angeles Times was acquired by the (Chicago) Tribune
14 Company. Over the ensuing several years, the Tribune Company eliminated over 200 jobs at The
15 Los Angeles Times. In late 2006 or early 2007, the Tribune Company had fired the paper's
16 publisher, Jeff Johnson, and editor, Dean Baquet, and replaced them with people from Chicago
17 (including publisher David Hiller). This left Plaintiff as the only one of the top three persons at
18 the paper without a connection to the Chicago Tribune. Additionally, there was a growing rift
19 between the editorial and news staffs at the papers that had been created by the transfer of former
20 editorial board members to the newsroom and a change in the editorial page's political orientation.

21
22 8. In or about September 2005, Plaintiff became romantically involved with Mullens.
23 At this time, Mullens was employed by Sitrick and Company, a public relations firm. Within a
24 year's time, Mullens left Sitrick with her boss, Allan Mayer, and began working at Mayer's new
25 public relations firm, 42West, LLC. At all times described herein, Mullens was fully aware of the
26 internal turmoil at the Los Angeles Times as described above.

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1 9. In mid to late 2006, Plaintiff came up with an idea to use guest editors for the
2 Sunday Current approximately four times per year. The guest editor would decide what subjects
3 would be covered and match pieces with writers. Plaintiff wanted to use someone from
4 Hollywood and originally sought to have Steven Spielberg be the first guest editor. Other planned
5 guest editors included former Secretary of Defense Donald Rumsfeld, Melinda Gates, and Earvin
6 "Magic" Johnson.

7
8 10. In an effort to secure Spielberg as guest editor, Plaintiff contacted Mayer, who
9 represented Spielberg. Mayer informed Plaintiff that Spielberg could not do the project and
10 suggested that Plaintiff consider producer Brian Grazer. In January 2007, after discussing the idea
11 with Hiller, Plaintiff and deputy editorial page editor Michael Newman (who was aware of
12 Plaintiff's relationship with Mullens) and Nicholas Goldberg (editor of the "Current") pitched the
13 idea to Grazer. Because of Plaintiff's relationship with Mullens, whose boss (Mayer) had
14 suggested Grazer, Plaintiff wanted the impartial Newman and Goldberg involved in the decision
15 to avoid any impression that his judgment with respect to Grazer was not influenced by his
16 relationship with Mullens. Grazer agreed, and the target date for the Grazer-edited "Current" was
17 late March or early April 2007.

18
19 11. After Plaintiff had lined up Grazer as a guest editor, Mullens told Plaintiff that
20 42West had been retained to do public relations work for Grazer's film, "American Gangster." At
21 that time, Plaintiff did not expect that 42West would be involved in the promotion of Grazer's
22 guest editorship and expected that The Los Angeles Times would do most or all of the promotion.
23 However, he recognized the potential for the appearance of impropriety if it came to light that he
24 had selected a client of his girlfriend's firm as the first guest editor – especially if she would end
25 up profiting personally. Accordingly, Plaintiff requested that Mullens recuse herself from any
26 involvement in promotion of Grazer's guest editorship, and Mullens expressly agreed. Mullens
27 repeated to Plaintiff her agreement not to become involved in promoting Grazer's guest editorship
28 and also assured Plaintiff that both Mayer and Michael Rosenberg of Imagine Entertainment (the

1 production company that Grazer owns with Ron Howard) understood the situation and agreed that
2 Mullens should not be involved.

3
4 12. Plaintiff is informed and believes, and on that basis alleges, that at all pertinent
5 times, Hiller was aware of both Plaintiff's relationship with Mullens and that Mullens worked as a
6 publicist for several prominent Hollywood personalities.

7
8 13. Plaintiff is informed and believes, and on that basis alleges, that as the date of
9 publication of the Grazer-edited section approached, Rosenberg determined that the project needed
10 more promotion than The Los Angeles Times was giving it and asked 42West to get involved.
11 Mullens informed Plaintiff of this development but again assured Plaintiff that she would not be
12 involved.

13
14 14. Despite Mullens' agreement with Plaintiff and her repeated assurances that she
15 would not become involved, about two weeks before the Grazer-edited section was to run, a draft
16 press release was circulated at The Los Angeles Times with Mullens listed as a contact.
17 Additionally, Plaintiff discovered that Mullens had concealed her presence from Plaintiff during a
18 conference discussing the section.

19
20 15. Upon seeing the press release and learning that Mullens had become involved in
21 the promotion of the Grazer-edited project, Plaintiff informed Nancy Sullivan, Director of
22 Communications for The Los Angeles Times, that it was a mistake to have Mullens's name on the
23 press release or otherwise involved in promotion of the Grazer section. Plaintiff also warned
24 Hiller that Mullens had become involved in promoting the piece. Hiller planned to include an
25 editor's note in the section disclosing the relationship between Plaintiff and Mullens.

26
27 16. About a week before the Grazer-edited "Current" was to run, Plaintiff learned of
28 additional involvement by Mullens in promoting the Grazer section. Mullens told Plaintiff that,

1 because of her work, both AP and Reuters had written positive pieces about Grazer's guest
2 editorship. Mullens told Plaintiff that she had to become involved because Imagine wanted
3 something done and Mayer was not available.
4

5 17. On March 20, 2007, Plaintiff was attending a conference. During a break, he spoke
6 with Mullens who asked him about setting up a radio interview with Grazer regarding the
7 "Current" section. Plaintiff told Mullens that he did not want to discuss the matter with Mullens,
8 that he did not want Mullens involved (as per her prior agreement), and that, if she was going to be
9 involved despite her prior agreement, he did not want to go ahead with a radio interview.
10

11 18. When Plaintiff returned to his office following the conference, he learned that a Los
12 Angeles Times reporter, Jim Rainey, was asking about Plaintiff's personal life, and eventually
13 discovered that the news department was working on a story concerning the Grazer-edited
14 "Current" and Plaintiff's relationship with Mullens. Plaintiff is informed and believes, and
15 thereon alleges, that the investigation by the news staff at The Los Angeles Times led to articles
16 about the situation on Internet blogs, including www.laobserved.com.
17

18 19. As a result, Hiller made the decision to cancel the Grazer section. As a further
19 result, Plaintiff was constructively discharged from his position with The Los Angeles Times. As
20 a further result, Plaintiff is informed and believes that Grazer fired 42West as his public relations
21 firm.
22

23 **FIRST CAUSE OF ACTION**
24 **NEGLIGENCE**
25 (As Against All Defendants)
26

27 20. Plaintiff refers to and incorporates the allegations stated in paragraphs 1 through
28 19.

1 25. Knowing that her involvement in promoting the Grazer-edited "Current" would
2 cause harm to Plaintiff, Mullens repeatedly promised that she would not become involved in such
3 promotion.

4
5 26. Plaintiff reasonably relied on the promises of Mullens by proceeding to have
6 Grazer serve as guest editor when he could have found someone else to participate in the project.

7
8 27. As a direct result of his reliance on the promises of Mullens and of the breach of
9 such promises by Mullens, Plaintiff has suffered great and irreparable harm by, among other
10 things, having his professional reputation damaged, by his constructive discharge from The Los
11 Angeles Times, and by the emotional distress and suffering that has resulted. The amount of
12 damages suffered by Plaintiff as a direct result of the conduct of Mullens is presently unknown
13 and will be subject to proof at the time of trial of this action.

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15 **WHEREFORE**, Plaintiff prays for judgment against Mullens as follows:

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17 1. For damages to Plaintiff's reputation in an amount according to proof;
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19 2. For general and compensatory damages in an amount according to proof;

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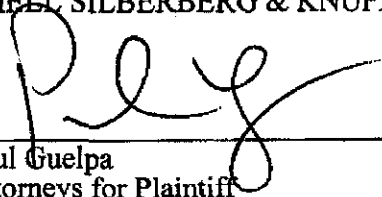
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3. For Plaintiff's costs of suit;

4. For such other and further relief as the Court may deem just and proper.

DATED: August 21, 2008

MITCHELL SILBERBERG & KNUPP LLP

By: 
Paul Guelpa
Attorneys for Plaintiff
Andrés Martínez

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