



Portfolio Media, Inc. | 860 Broadway, 6th Floor | New York, NY 10003 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Ex-Clippers Owner's Wife Aims To End \$10M Defamation Suit

By **Daniel Siegal**

Law360, Los Angeles (October 17, 2014, 5:05 PM ET) -- The wife of former Los Angeles Clippers owner Donald Sterling on Friday urged a California judge to toss the \$10 million defamation lawsuit brought against her by Sterling's paramour, arguing allegedly defamatory statements she made to news media are connected to pending litigation and thus protected by California free speech laws.

V. Stiviano alleges that Rochelle "Shelly" Sterling had defamed her in comments made to "local and national news media" by calling Stiviano a thief and accusing her of embezzling funds from Donald Sterling.

At a hearing on Shelly Sterling's motion to strike under California's law against lawsuits meant to curtail free speech, known as the anti-SLAPP statute, Pierce O'Donnell of Greenberg Glusker Fields Claman & Machtinger LLP, representing Sterling, urged Los Angeles Superior Court Judge Richard Fruin to reverse his tentative denial of the motion and dismiss the suit.

O'Donnell said that because Shelly Sterling's comments were made in connection with an ongoing lawsuit she is pursuing against Stiviano, the comments are protected by the statute, and thus the burden shifts to Stiviano to prove she has a probability of prevailing on her claim, which she cannot do because her complaint lacks specificity.

"My client is entitled to know what she said, who she said it to, when she said it, and that's not here," he said. "Under the statute ... once I establish the first prong, [Stiviano] has the burden, and she failed woefully. ... The statute protects my client from having to go forward on such skimpy, phantom evidence."

On March 7, Shelly Sterling sued Stiviano, alleging the mistress had seduced her husband in order to obtain money, property and other gifts that were community assets of the Sterling marriage, and seeking their return.

Shortly thereafter, on April 25, Stiviano released a series of recordings from September 2013 in which Donald Sterling makes a series of racist comments, including berating Stiviano for posing in a photo with former Los Angeles Laker great Magic Johnson.

NBA Commissioner Adam Silver responded swiftly, slapping Donald Sterling with a lifetime ban from the league and a \$2.5 million fine just days after the recording was released. In addition, Silver said that if he didn't sell the Clippers, the NBA would seize and auction the team.

In August, Shelly Sterling got **court approval** to remove Donald Sterling from the trust that owns the Clippers in order to authorize a \$2 billion sale of the team to former Microsoft CEO Steve Ballmer.

On Aug. 21, Stiviano filed a cross-complaint in Shelly Sterling's suit, alleging defamation and contending that the "slandorous statements" were made hundreds, if not thousands, of times in various television, radio and print outlets during the months after Shelly Sterling filed her suit to recover community property.

Stiviano contends that she was physically attacked on June 1 by a third party due to the "hatred" stirred up by Shelly Sterling with the slanderous statements, and seeks \$10 million in damages.

Judge Fruin severed the cross-complaint, however, so that Shelly Sterling's case against Stiviano can proceed apace to its March 2015 trial date without having to be stayed for the outcome of a potential appeal, should he grant the anti-SLAPP motion, according to O'Donnell.

On Friday, Judge Fruin said that he agreed with O'Donnell that Shelly Sterling's statements were made in connection with a public interest — the lawsuit — and thus are protected, and seemed to be reevaluating his tentative ruling that Stiviano had met her burden to plead sufficient evidence to support a prima facie case by identifying a statement made by former Clippers President Andrew Roeser in April stating Stiviano had embezzled \$1.8 million from the Sterlings.

Judge Fruin asked Mac Nehoray of Nehoray Legal Group, representing Stiviano, where in her complaint or her declaration in opposition to the anti-SLAPP motion she identifies the allegedly defamatory statements made by Shelly Sterling.

Nehoray said that the pleading and declaration clearly specify the statements were made to the "national media," and thus are easy to identify and provide.

"That may be, but I didn't hear it, and you don't quote it, you don't have a recording or a publication of something that's attributable to Mrs. Sterling," Judge Fruin responded. "I think issue really is, as far as I can understand, you have nothing more to offer."

Stiviano is represented by Mac E. Nehoray of Nehoray Legal Group.

Shelly Sterling is represented by Pierce O'Donnell, Stephen S. Smith and Caroline S. Heindel of Greenberg Glusker Fields Claman & Machtinger LLP; and Laura A. Wasser and Amy L. Rice of Wasser Cooperman & Carter PC.

The case is *V. Stiviano v. Rochelle H. Sterling et al.*, case number BC538659 in the Superior Court of the State of California, County of Los Angeles.

--Additional reporting by Michael Lipkin. Editing by Kelly Duncan.
