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ORDER

Marc J. Randazza (NV Bar No.: 12265)
Ronald D. Green (Nevada Bar No. 7360)
Alex J. Shepard (Nevada Bar No. 13582)
RANDAZZA LEGAL GROUP, PLLC
3625 S. Town Center Drive, Suite 150
Las Vegas, NV 89135
Telephone: 702-420-2001
Facsimile: 305-437-7662
ecf@randazza.com

Attorneys for Defendant
TMZ Productions, Inc.

DISTRICT COURT**CLARK COUNTY, NEVADA**

DAN BRANDON BILZERIAN, an individual
Plaintiff,

vs.

DIRTY WORLD, LLC, a Delaware limited
liability company, d/b/a THEDIRTY.COM;
HOOMAN KARAMIAN, an individual,
d/b/a Nik Richie; TMZ PRODUCTIONS,
INC., a California Corporation; DOES I-X,
inclusive; and ROE BUSINESS ENTITIES I-X,
inclusive

Defendants.

Case No.: A-15-722801-C
Dept. No.: XXXII

[PROPOSED] ORDER**[PROPOSED] ORDER GRANTING DEFENDANT TMZ PRODUCTIONS, INC.'S SPECIAL
MOTION TO DISMISS UNDER NRS 41.660**

This matter, having come before the Court on Defendant TMZ
Productions, Inc.'s ("TMZ") Special Motion to Dismiss Under NRS 41.660, and it
appearing, upon argument of counsel and for good cause shown:

NRS 41.635 et seq., Nevada's Anti-SLAPP statute, creates a procedure for
early dismissal of cases, which are targeted at speech and conduct protected
by the First Amendment and that lack minimal merit. The statute creates a two-

1 step analysis for courts to follow in deciding whether to dismiss a case under its
2 provisions, and an Anti-SLAPP motion is treated as a motion for summary
3 judgment. First, under NRS 41.660(3)(a), the moving defendant has the burden
4 of showing, by a preponderance of the evidence, that the plaintiff's suit is
5 "based upon a good faith communication in furtherance of the right to petition
6 or the right to free speech in direct connection with an issue of public concern."
7 If the moving defendant meets this burden, the burden of proof then shifts to the
8 plaintiff to establish "by prima facie evidence a probability of prevailing on the
9 claim." NRS 41.660(3)(b). The plaintiff must introduce evidence establishing his
10 claims to satisfy this burden. As an Anti-SLAPP motion is treated as a motion for
11 summary judgment, the plaintiff can survive a special motion to dismiss by
12 establishing a genuine issue of material fact. If the plaintiff fails to do this, his
13 case must be dismissed.

14 **FINDINGS OF FACT**

- 15 1. In the August 1, 2015 publication that the Dirty World LLC ("Dirty World")
16 caused to be publicized, Defendant Jane Doe alleged that she had sex
17 with Mr. Bilzerian and that Mr. Bilzerian gave her the sexually transmitted
18 disease ("STD") chlamydia.
- 19 2. Mr. Bilzerian filed his initial complaint in this Court on August 7, 2015 against
20 Defendants The Dirty and Mr. Richie, claiming that the August 1, 2015
21 comment was false and defamatory.
- 22 3. This complaint did not specify the STD alleged in the comment on
23 <thedirty.com>.
- 24 4. On August 10, 2015, TMZ posted an article titled "Dan Bilzerian Sues
25 Website ... I Don't Have Any STDs!!!"
26
27

- 1 5. In this article, TMZ reports that Mr. Bilzerian "says he's clean as a whistle,
2 which is why he's suing a website for claiming he's riddled with an STD,"
3 and quotes the portion of the comment on <thedirty.com> specifying the
4 STD that Mr. Bilzerian allegedly transmitted.
- 5 6. On August 11, 2015, Bilzerian filed his amended complaint to include TMZ
6 as a defendant, alleging that TMZ's article is false and defamatory.
- 7 7. On October 12, 2015, TMZ filed an Anti-SLAPP motion under NRS 41.660

8 **CONCLUSIONS OF LAW**

- 9
- 10 1. TMZ has met its burden of proof under the first prong of Nevada's Anti-
11 SLAPP statute.
- 12 2. The parties stipulated at the hearing that Plaintiff Dan Bilzerian is a public
13 figure for purposes of this litigation. As TMZ's article was a report on a
14 lawsuit filed by a public figure, it is thus a communication based upon a
15 matter of public concern. If a public figure files a lawsuit then the media,
16 TMZ in this case, can report on it as a matter of public concern, as a
17 matter of fairness, and as a matter of Nevada law.
- 18 3. Although Mr. Bilzerian's complaint characterized the comment on
19 <thedirty.com> as alleging that he had an "STD" -- without specifically
20 identifying that STD as chlamydia -- a cursory investigation of the facts
21 underlying the complaint would reveal this fact, and TMZ's reporting on it
22 was accurate.
- 23 4. As there are no issues of material fact as to these issues, TMZ has satisfied
24 the first prong of the Anti-SLAPP statute.
- 25 5. Mr. Bilzerian fails to satisfy his burden of proof under the second prong of
26 the Anti-SLAPP statute.
- 27

1 6. TMZ is protected by Nevada's "fair report" privilege, which provides
2 absolute immunity from liability for fair reports of judicial proceedings.

3 7. While Mr. Bilzerian's initial Complaint did not specifically identify the STD
4 the comment on <thedirty.com> asserted that Mr. Bilzerian had
5 transmitted, TMZ was entitled to investigate the underlying basis for Mr.
6 Bilzerian's allegations in the lawsuit and fairly report on them to the public,
7 which it did. Moreover, anyone at TMZ (or any member of the general
8 public) could perform a cursory investigation and discover the specific
9 allegations in the comment on <thedirty.com>.

10 8. There is no indication of malice on the part of TMZ. While TMZ may have
11 employed colorful language to describe Mr. Bilzerian's lawsuit, there is no
12 material difference between stating that Mr. Bilzerian has an STD, or
13 stating that he is "riddled" with an STD.

14 9. The record shows that TMZ performed a reasonable investigation after
15 learning of Mr. Bilzerian's initial Complaint and accurately reported on it.
16 Rather than exhibiting reckless disregard for the truth, TMZ should be
17 commended for doing its homework. In fact, the average reader might
18 have assumed that Mr. Bilzerian had a more serious STD than chlamydia
19 had TMZ confined its reporting to the allegations of an unspecified STD in
20 Mr. Bilzerian's complaint.

21 10. There is no issue of material fact on the question of whether TMZ enjoys the
22 fair report privilege. Mr. Bilzerian has thus failed to satisfy his evidentiary
23 burden under the second prong of Nevada's Anti-SLAPP statute, and his
24 claims against TMZ must thus be dismissed under the statute.

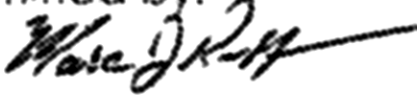
25 Accordingly, IT IS HEREBY ORDERED that TMZ's Motion is GRANTED. It is
26 ORDERED and adjudged that all Plaintiff's claims against Defendant TMZ
27 Productions, Inc. are hereby DISMISSED.

1 It is FURTHER ORDERED that, TMZ may provide separate briefing regarding
2 its entitlement to fees, costs, and damages under NRS 41.670(1)(a)-(b).

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4 Dated this 17 day of Dec, 2015

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7 
8 DISTRICT COURT JUDGE

9 Submitted by:

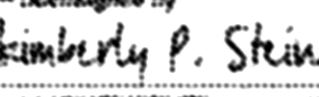
10 /s/ 

11 Marc J. Randazza (NV Bar No.: 12265)
12 Ronald D. Green (Nevada Bar No. 7360)
13 Alex J. Shepard (Nevada Bar No. 13582)
14 RANDAZZA LEGAL GROUP, PLLC
15 3625 S. Town Center Drive, Suite 150
16 Las Vegas, NV 89135
17 ecf@randazza.com

18 Counsel for Defendant
19 TMZ Productions, Inc.

20 **Approved as to form:**

21 Deauthorized by:

22 /s/ 

23 Brian W. Boschee, Esq.
24 Nevada Bar No. 7612
25 E-mail: bboschee@nevadafirm.com
26 Kimberly P. Stein, Esq.
27 Nevada Bar No. 8675
28 E-mail: kstein@nevadafirm.com
29 HOLLEY DRIGGS WALCH FINE WRAY
30 PUZEY & THOMPSON
31 400 South Fourth Street, Third Floor
32 Las Vegas, Nevada 89101

33 Counsel for Plaintiff Dan Blizerian

34 **Approved as to form and content:**

35 Deauthorized by:

36 /s/ 

37 Josh Cole Aicklen
38 Nevada Bar No. 00254
39 E-mail: Josh.Aicklen@lewisbrisbois.com
40 Paul A. Shpirt
41 Nevada Bar No. 010441
42 Paul.Shpirt@lewisbrisbois.com
43 LEWIS BRISBOIS BISGAARD & SMITH LLP
44 6385 S. Rainbow Boulevard, Suite 600
45 Las Vegas, Nevada 89118

46 Counsel for Defendants

47 Dirty World, LLC and Nik Lamas-Richie