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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

YEHORAM UZIEL, Plaintiff and Appellant, v. EMPLOYMENT LAWYERS GROUP et al., Defendants and Respondents.	B287207 (Los Angeles County Super. Ct. No. PC057843)

APPEAL from a judgment of the Superior Court of Los Angeles County, Melvin D. Sandvig, Judge. Affirmed.

Yehoram Uziel, in pro. per., for Plaintiff and Appellant.

Reif Law Group, Brandon S. Reif and Marc S. Ehrlich for Defendants and Respondents.

Appellant Yehoram Uziel appeals from the trial court's dismissal of his complaint against respondents Employment Lawyers Group, Karl

Gerber, and Eric Palmer (collectively, "ELG") under the anti-SLAPP statute, Code of Civil Procedure section 425.16.[1] From June 2014 to April 2017, ELG represented Christian Kepler in an employment lawsuit (the Kepler case) against DC Partners Inc. (DC Partners). Appellant is the CEO of DC Partners. Following a bench trial in which the trial court issued a tentative ruling in Kepler's favor (entitling him to attorney fees), and following settlement negotiations between the attorneys for both sides, appellant paid $8,000 in exchange for a dismissal of the case with prejudice. Representing himself, appellant then sued ELG, Gerber, and Palmer in the present case for malicious prosecution and other claims arising out of ELG's advocacy in the Kepler case. ELG filed a motion to strike under section 425.16, contending that all of the acts alleged in the complaint arose out of constitutionally protected advocacy, and that appellant could not show a probability of prevailing on the merits. The trial court agreed and granted the motion. We affirm.

BACKGROUND

1. *The Kepler Action*[2]

Christian Kepler was employed for a short time by DC Partners. As a condition of his employment, he signed an arbitration agreement

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[1] All section references are to the Code of Civil Procedure unless otherwise indicated.

[2] Our summary of the evidence of proceedings in the Kepler action is based on ELG's evidence in support of its special motion to strike.

to submit employment-related claims to arbitration. The agreement did not allocate the costs of arbitration between the parties.

On June 12, 2014, on Kepler's behalf, ELG filed the complaint in the Kepler case against DC partners (appellant, DC partners' CEO, was not a defendant) alleging wage claims under the Labor Code, as well as claims for wrongful termination and intentional infliction of emotional distress.

In July 2014, pursuant to the parties' stipulation, the trial court ordered the Kepler Action to binding arbitration before ADR services. The arbitrator's initial bill of $1,225 for the arbitration management conference, payable in advance, was sent to DC Partner's attorney, Steven Simons, in January 2015, with the notation that "counsel, not the represented party, has contracted for the neutral's services," and that "[a]ll counsel are jointly and severally liable for . . . payment." The invoice did not bill ELG or its counsel for any portion of the fees.

A dispute arose between the parties (also involving ADR) as to who was responsible for the arbitration fees. DC Partners (through appellant and attorney Simons) refused to pay any fees, asserted that Kepler and ELG should pay the fees, and that in any event, the only proper forum for the case (despite the stipulation to arbitrate) was before the Labor Commissioner. Kepler and ELG asserted that under *Armendariz v. Foundation Health Psychcare Services, Inc.* (2000) 24 Cal.4th 83 (*Armendariz*), DC Partners was responsible for the fees.[3]

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[3] *Armendariz* held, among other things, "that a mandatory employment arbitration agreement that contains within its scope the arbitration of FEHA

Given the dispute over which party was responsible for the fees, in December 2015, ELG filed a motion in the trial court to remand the case to superior court. The trial court granted the motion. DC Partners then filed a motion to compel a new arbitration (the record does not contain the motion or the court's ruling). Once again, when appellant refused to pay any arbitration fees, ELG filed a motion to remand the Kepler case to superior court, which the trial court granted in January 2016.

More than a year later, the Kepler case proceeded to a bench trial, and on February 22, 2017, the trial court issued a Tentative Statement of Decision finding in favor of Kepler on his wage claims and constructive termination claim and awarding him $5,117.11 in damages and interest. Following the calculation of damages, the tentative decision included the notations "Costs (per memorandum of costs)" and "Attorney fees (per motion)." DC Partners filed objections to the Tentative Statement of Decision.

Gerber of ELG and Simons, counsel for DC Partners, then engaged in negotiations regarding settlement. On March 2, 2017, Gerber wrote to Simons, asking him to "advise whether Defendant [DC Partners] will pay a total of $8,000.00 to satisfy all judgments and costs." Gerber

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claims impliedly obliges the employer to pay all types of costs that are unique to arbitration. Accordingly, we interpret the arbitration agreement in the present case as providing, consistent with the above, that the employer must bear the arbitration forum costs. The absence of specific provisions on arbitration costs would therefore not be grounds for denying the enforcement of an arbitration agreement." (*Armendariz, supra*, 24 Cal.4th at p. 113.)

stated that "[t]he court has suggested Plaintiff [Kepler] should bring a motion for attorney fees," which, he noted, were "mandatory for unpaid wages under California Labor Code Section 1194.3 . . . regardless of the amount of the judgment." Gerber also noted that, even if the trial awarded minimal damages for the Labor Code violations, "costs are mandatory, so are fees, and I believe the court will award a minimum of $25,000 in attorney fees and possibly full value of the time spent for every hour [at] $300-350.00 an hour [for] my [colleague] Mr. Palmer."

Settlement discussions continued. On April 3, 2017, Simons emailed Gerber, enclosing a proposed "Release and Settlement Agreement" and a copy of a check for $8,000. Simons stated that "[y]ou are authorized to negotiate the check once you file the Request for Dismissal with the Court and provide a conformed copy to my office." Simons emailed Gerber again later that day and attached a revised settlement agreement. Simons stated that, because appellant was "not as interested in the signed agreement as he is in having the case dismissed with prejudice," Simons would send a hard copy of the revised agreement, and a settlement check via overnight delivery.

Kepler signed the settlement agreement, in which he agreed to dismiss his case in exchange for a personal check from appellant for $8,000. Appellant did not sign the agreement (either personally or on behalf of DC Partners), but did provide a personal check with the notation "Dismissal of BC548528," the case number of the Kepler case. Gerber received the $8,000 settlement check, and, on April 6, 2017 he filed a Request for Dismissal.

2. *The Current Lawsuit*

On June 30, 2017, following dismissal of the Kepler case, appellant (representing himself) filed the instant case against ELG, Palmer, and Gerber. He alleged five causes of action purporting to state claims for "conspiracy to breach Kepler's agreement to arbitrate," "conspiracy to extort money," fraud, malicious prosecution, and an accounting.

Appellant alleged that in April 2014, he hired Kepler at DC Partners as a manufacturing engineer, which required that Kepler have a Bachelor of Science degree in engineering. Kepler executed all necessary employment agreements on April 21, 2014, including an agreement to submit claims arising from his employment to arbitration. However, although he represented that he would produce evidence of his engineering degree, he never did. On May 7, 2014, Kepler received an $800 loan from the company against his first paycheck. On May 12, 2014, DC Partners paid Kepler for his time from April 21 to May 8, 2014, but deducted the $800 loan. Kepler did not communicate with DC Partners again until ELG filed the Kepler case in June 2014, which alleged, among other things, that DC partners forced Kepler to sign the loan agreement, constructively discharged him, and violated the Labor Code.

Appellant alleged that although ELG entered a stipulation with DC Partners' counsel, Simons, to submit the case to arbitration, ELG never intended to arbitrate. According to appellant (apparently

referring to the dispute over payment of the arbitration fees), Simons informed ELG that his firm "is not a party to any dispute and that DC insists on meeting the terms spelled out in the Arbitration Agreement and conduct the arbitration with DC represented by its CEO Uziel." After the trial court granted ELG's motion to remand the case to superior court on the ground that DC Partners had refused to arbitrate (according to appellant, a false claim), ELG then made a "ransom demand of $125000 [*sic*] . . . in return for dismissal of [the Kepler case]." Appellant alleged that there was no evidence to support the demand or Kepler's claims, and that the demand was "based on winning a large judgment against DC regardless of evidence or any witness." Appellant alleged that "[e]ventually [he] succumbed to [the] ransom demand" and sent a personal check in the sum of $8,000 in return for dismissal of the Kepler case, which was cashed.

Based on these allegations, in the first cause of action (conspiracy to breach Kepler's agreement to arbitrate), appellant alleged that ELG conspired with Kepler to breach the arbitration clause in his employment agreement with DC Partners in order to "extort ransom money from Uziel." In the second cause of action (conspiracy to extort), he alleged that ELG "conspired" with Kepler to extort money from him based on false evidence. In the third cause of action (fraud), appellant alleged that ELG intentionally and negligently misrepresented to the trial court that appellant refused to arbitrate, and that appellant relied on this misrepresentation in "conced[ing] to ELG['s] demand for ransom money in order to avoid litigation." He further alleged that ELG

participated with Kepler to manufacture false evidence, including a false timesheet and statements relating to damages.

In his fourth cause of action (malicious prosecution), appellant alleged that ELG brought the Kepler case "for the sole purpose of extorting ransom money," and that ELG knew that the allegations were false and based on "fabricated evidence" and "misrepresentations" created by Kepler and ELG. Appellant alleged that there was no agreement to settle the case, and that DC Partners never admitted wrongdoing and "play[ed] no part in the agreement of Uziel to pay Gerber ransom money for dismissal." Because the Kepler case was dismissed with prejudice, appellant claimed that it was terminated on the merits and in favor of DC Partners.

In his fifth cause of action, appellant sought an accounting to "ascertain the true financial agreement between Kepler and Defendants ELG, Palmer, Gerber and . . . the monies wrongfully paid and/or retained by Defendants and to assess a proper punitive damages against Defendants."

3. *Special Motion to Strike*

ELG filed a special motion to strike under section 425.16. ELG argued that Uziel's claims arose from acts in furtherance of the right of free speech or petition, i.e., "protected activity" (§ 425.16, subd. (b)(1)), namely, its representation of Kepler in the Kepler case. ELG argued that appellant's complaint rested on two categories of protected activity: ELG's written and oral statements and writings in a "judicial

proceeding, or any other official proceeding authorized by law" (§ 425.16, subd. (e)(1)), and writings and oral statements made in connection with an issue under consideration or review in a judicial proceeding (§ 425.16, subd. (e)(2)).

ELG also argued that appellant could not establish a probability of prevailing on the merits of any of his claims. ELG argued generally that its communications in furtherance of Kepler's interests were protected by the litigation privilege, thus barring all of appellant's claims. (Civ. Code, § 47, subds. (b)(2)-(4).) ELG also argued that each cause of action failed independently for particular reasons.

His first cause of action alleging "conspiracy" to breach the arbitration agreement failed because conspiracy is not an independent cause, and in any event, appellant had no standing to press such a claim because he was not a party to the arbitration agreement (nor was ELG), which was between DC Partners and Kepler. Appellant's second cause of action for "conspiracy" to extort failed because there is no cause of action for conspiracy, and because ELG's initial demand for $125,000 to settle Kepler's claims was a pre-litigation settlement communication immunized by the litigation privilege.

ELG argued that appellant's third cause of action for fraud was fatally defective because it was predicated on ELG's communications during judicial proceedings, which were protected by the litigation privilege. Moreover, appellant could not establish the essential element of reliance for intentional or negligent misrepresentation because he did not rely on any of ELG's alleged misrepresentations.

The fourth cause of action failed because Uziel could not establish the essential elements of malicious prosecution. Specifically, DC Partners, not appellant, was the party sued in the Kepler Action, and, further, the Kepler Action did not terminate in DC Partners' favor. Finally, the fifth cause of action failed because appellant could not establish the elements of an accounting, as he had no business relationship with ELG, and he could not establish any ascertainable "balance due."

4. *Opposition*

Appellant filed an opposition. He produced no independent evidence, and relied on the allegations of his complaint. As here relevant (and as best we can construe his arguments), he argued generally that: (1) ELG's communications during their representation of Kepler were "extortion" under *Flatley v. Mauro* (2006) 39 Cal.4th 299 and therefore not "protected activity"; (2) Gerber did not dismiss the Kepler action pursuant to a settlement agreement, and the sole purpose of the special motion to strike was to prevent discovery of evidence that would demonstrate that fact and the absence of evidence to support the Kepler action; and (3) the complaint did not rely on communications in judicial proceedings, but rather fraudulent misrepresentations.

With respect to each cause of action, he argued: (1) the first cause of action for conspiracy to breach the arbitration agreement, and the second cause of action for conspiracy to extort, were supported by defendant's "use of their law license . . . as a weapon to extort money by

threatening costly litigation" and to avoid arbitration; (2) the third cause of action for fraud was amply supported by the allegations of the complaint; (3) the fourth cause of action for malicious prosecution was established because ELG had voluntarily dismissed the Kepler Action after "the receipt of the ransom money from Uziel"; and (4) the fifth cause of action for an accounting was proper because he was entitled to an accounting of, among other things, "[t]he flow of money that relates to the conspiracy and money extortion."

5. *The Trial Court's Ruling*

On December 19, 2017, the trial court granted ELG's anti-SLAPP motion, largely agreeing with ELG's arguments, and dismissed the case. The court's order declared that, as the prevailing parties, defendants were entitled to attorney fees. Appellant filed a timely notice of appeal from the judgment of dismissal.

6. *Attorney Fees*

ELG later moved for attorney fees related to the anti-SLAPP motion. In opposition, appellant filed a document which purported to be a combined opposition to the motion for attorney fees and a request for reconsideration of the ruling on the anti-SLAPP motion. Attached to the combined opposition and request was a declaration by appellant in which he reviewed the history of Kepler case and his present lawsuit up to the ruling on the anti-SLAPP motion. On April 20, 2018, the trial court granted ELG's motion for attorney fees and costs, awarding

$14,000 in fees plus $120 in costs. As for appellant's attempt to obtain reconsideration, the court ruled that appellant could not seek reconsideration of the ruling granting the anti-SLAPP motion by way of opposing the motion for attorney fees.

DISCUSSION

Appellant contends that the trial court erred in granting ELG's anti-SLAPP motion. We disagree. The gravamen of appellant's complaint relied on ELG's protected activity in prosecution of the Kepler action, and, as a matter of law, appellant cannot prevail on any of his claims.[4]

"Courts analyze anti-SLAPP motions using a familiar two-step analysis. In step one, ""the court decides whether the defendant has made a threshold showing that the challenged cause of action is one "arising from" protected activity [under section 425.16, subdivision (e)]."" [Citation.] Although the anti-SLAPP statute does not actually use the term 'protected activity,' that is the shorthand phrase adopted

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[4] ELG contends that appellant has forfeited his contentions on appeal by providing an inadequate record and failing to adequately articulate his contentions. While we agree that some of appellant's contentions are not adequately articulated, we are able to reasonably discern and consider those that we discuss in this opinion. Further, it is true that appellant initially failed to provide an adequate record. However, this court ultimately granted his motion to augment the record on appeal, and also granted ELG's motion to augment and its request for judicial notice. While we are aware that ELG was put to the expense of adding to the record when it was not its burden to do so, we decline to find that appellant has forfeited his contentions on appeal.

in the case law to describe speech or petitioning activities. [Citations.] . . . [¶] If a court concludes the activity at issue is protected by section 425.16, subdivision (e), it turns to the second step: ""it then must consider whether the plaintiff has demonstrated a probability of prevailing on the claim."" [Citation.] 'The court """accept[s] as true the evidence favorable to the plaintiff [citation] and evaluate[s] the defendant's evidence only to determine if it has defeated that submitted by the plaintiff as a matter of law."""" [Citation.] Courts 'do not resolve the merits of the overall dispute, but rather identify whether its pleaded facts fall within the statutory purpose, "to prevent and deter 'lawsuits . . . brought primarily to chill the valid exercise of the constitutional rights of freedom of speech and petition for the redress of grievances."" [Citation.] . . . [¶] On appeal, we review the trial court's ruling on Defendants' anti-SLAPP motion de novo. [Citation.] And in doing so, we follow the same two-step analysis (outlined above) as the trial court: "'[W]e neither 'weigh credibility [nor] compare the weight of the evidence. Rather, . . . [we] accept as true the evidence favorable to the plaintiff [citation] and evaluate the defendant's evidence only to determine if it has defeated that submitted by the plaintiff as a matter of law."" [Citation.]" (*Area 51 Productions, Inc. v. City of Alameda* (2018) 20 Cal.App.5th 581, 592-594.)

1. *Protected Activity*

Here, the trial court correctly concluded that ELG met its threshold burden of establishing that the entirety of appellant's

complaint arises out of protected activity. "To determine whether a cause of action arises from protected activity, we disregard its label and instead examine its gravamen 'by identifying "[t]he allegedly wrongful and injury-producing conduct . . . that provides the foundation for the claim"' [citation], i.e., "'the acts on which liability is based,"' not the damage flowing from that conduct. [Citation.] '[T]he defendant's act underlying the plaintiff's cause of action must itself have been an act in furtherance of the right of petition or free speech.' [Citation.] Mere 'collateral or incidental allusions to protected activity will not trigger application of the anti-SLAPP statute.' [Citation.]" (*Wilson v. Cable News Network, Inc.* (2016) 6 Cal.App.5th 822, 831-832.)

In the instant case, the factual allegations of appellant's complaint on which he purports to establish ELG's liability largely overlap. They all necessarily rely on ELG's filing of the Kepler action, their development of evidence to support the action, their obtaining orders from the trial court remanding the case back to superior court after DC Partners refused to pay for arbitration, their proceeding to trial and tentatively prevailing, their engaging in settlement negotiations, and their dismissal of the suit in exchange for appellant's payment of $8,000. All of this conduct is based on either written or oral statements made to the judge presiding over the case, which are covered by section 425.16, subdivision (e)(1) ("any written or oral statement or writing made before a . . . judicial proceeding, or any other official proceeding authorized by law"), or are based on statements made in settlement negotiations concerning the potential outcome of the Kepler case, which

are protected by section 425.16, subdivision (e)(2) ("any written or oral statement or writing made in connection with an issue under consideration or review by a . . . judicial body, or any other official proceeding authorized by law" (subd. (e)(2)). (See, e.g., *Navellier v. Sletten* (2002) 29 Cal.4th 82, 90 [claim for relief filed in court protected under subd. (e)(1)]; *Summerfield v. Randolph* (2011) 201 Cal.App.4th 127, 136 [statements to nonparties protected by subdivision (e)(2) if made in connection with pending litigation]; *Suarez v. Trigg Laboratories, Inc.* (2016) 3 Cal.App.5th 118, 123-124 [settlement discussions constitute protected activity, even if promises are fraudulent].)

To the extent appellant contends that ELG's conduct constituted illegal extortion or fraud, and therefore is not protected under the holding of *Flatley v. Mauro, supra,* 39 Cal.4th at page 320, he is mistaken. *Flatley* held that "where a defendant brings a motion to strike under section 425.16 based on a claim that the plaintiff's action arises from activity by the defendant in furtherance of the defendant's exercise of protected speech or petition rights, *but either the defendant concedes, or the evidence conclusively establishes*, that the assertedly protected speech or petition activity was illegal as a matter of law, the defendant is precluded from using the anti-SLAPP statute to strike the plaintiff's action." (*Ibid.,* italics added; see *City of Montebello v. Vasquez* (2016) 1 Cal.5th 409, 424 ["We made it clear in *Flatley* that conduct must be illegal as a matter of law to defeat a defendant's showing of protected activity. The defendant must concede the point, or

the evidence conclusively demonstrate it, for a claim of illegality to defeat an anti-SLAPP motion at the first step"].) Here, not only does ELG dispute the illegality of its conduct, it produced evidence (undisputed by any evidence produced by appellant) that its conduct was perfectly legal in the course of its representation of Kepler in the Kepler case. Thus, ELG has met its burden on the first step of the anti-SLAPP analysis, shifting the burden to appellant to show a probability of prevailing on the merits of his claims.

2. *Probability of Prevailing*

To meet the burden of establishing a probability of prevailing on the merits, the plaintiff is required to ""'show . . . there is admissible evidence that, if credited, would be sufficient to sustain a favorable judgment." [Citation.] "The plaintiff may not rely solely on its complaint, even if verified; instead, its proof must be made upon competent admissible evidence.'" [Citation.]" (*Area 51 Productions, Inc. v. City of Alameda, supra,* 20 Cal.App.5th at p. 593.)

In the present case, in his opposition to the anti-SLAPP motion, appellant produced no evidence to prove a probability of prevailing on the merits. Rather, he relied on the allegations of his complaint. For that reason alone, he has forfeited any claim that the trial court erred in finding he failed to meet his burden to prove a likelihood of success.

In his opening brief on appeal, he cites to the declaration he filed in connection with his purported combined request for reconsideration and opposition to ELG's motion for attorney fees. He appears to

contend that the trial court erred in failing to consider his declaration. Of course, the declaration was not before the trial court when it ruled on the anti-SLAPP motion, and thus it is irrelevant to our review of that ruling.

To the extent appellant is contending that the trial court erred in ruling that he could not seek reconsideration in the guise of an opposition to ELG's motion for attorney fees, his contention has no merit.[5] The request was procedurally defective, made as part of an opposition to attorney fees, and the court had no duty to consider it. Further, even if it could be construed to be a cognizable request for reconsideration, it was not based on new evidence that could not have been discovered by reasonable diligence, but on the same corpus of facts known to appellant from the beginning of his lawsuit. (See *Garcia v. Hejmadi* (1997) 58 Cal.App.4th 674, 690 [motion for reconsideration must be based on new evidence not previously available by reasonable diligence].) Thus, the request was meritless on its face.

Even setting aside appellant's failure to produce evidence, and considering appellant's claims as portrayed in his complaint, it is clear, as a matter of law, that he cannot prevail. Appellant's first three purported causes of action are barred by the litigation privilege. "'The litigation privilege, found in Civil Code section 47, subdivision (b)(2), "applies to any communication (1) made in judicial or quasi-judicial

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[5] We note that the denial of an application for reconsideration may be considered on appeal from the order from which reconsideration was sought. (§ 1008, subd. (g).)

proceedings; (2) by litigants or other participants authorized by law; (3) to achieve the objects of the litigation; and (4) that have some connection or logical relation to the action." [Citation.] The privilege "immunizes defendants from virtually any tort liability (including claims for fraud), with the sole exception of causes of action for malicious prosecution." [Citation.] In the anti-SLAPP context, the litigation privilege presents "a substantive defense a plaintiff must overcome to demonstrate a probability of prevailing." [Citation.] "Any doubt as to whether the privilege applies is resolved in favor of applying it. [Citations.]" [Citation.]'" (*Crossroads Investors, L.P. v. Federal National Mortgage Assn*. (2017) 13 Cal.App.5th 757, 785-786 (*Crossroads*).)

Appellant's first cause of action (conspiracy to breach Kepler's agreement to arbitrate), second cause of action (conspiracy to extort), third cause of action (fraud), are all based on ELG's communications which were made in judicial or quasi-judicial proceedings to achieve the objects of the Kepler case, and which had some connection or logical relation to the Kepler action. They are thus barred by the litigation privilege. (*Crossroads, supra*, 13 Cal.App.5th at pp. 785-786.)

Although appellant's fourth cause of action for malicious prosecution is not barred by the litigation privilege, it is meritless as a matter of law. A claim for malicious prosecution can be brought only by an individual or entity that was sued in the prior action and in whose favor the lawsuit ended. (See *Merlet v. Rizzo* (1998) 64 Cal.App.4th 53, 59 ["'The malicious commencement of a civil proceeding is actionable

because it harms the individual against whom the claim is made'"]; *Drummond v. Desmarais* (2009) 176 Cal.App.4th 439, 450 ["The termination must "'reflect on the merits,'" and be such that it 'tended to indicate [the former defendant's] innocence of or lack of responsibility for the alleged misconduct'"].) Here, appellant was not a defendant in the Kepler lawsuit; the defendant was DC Partners. Thus, having not been a defendant in the Kepler action, appellant cannot sue ELG for malicious prosecution, and cannot show (regardless of the circumstances of the voluntary dismissal) that the Kepler action was resolved on the merits in *his* (as opposed to DC Partner's) favor.

Appellant's fifth cause of action seeking an accounting fails because appellant had no relationship with ELG that requires an accounting. (See *Teselle v. McLoughlin* (2009) 173 Cal.App.4th 156, 179 ["A cause of action for an accounting requires a showing that a relationship exists between the plaintiff and defendant that requires an accounting, and that some balance is due the plaintiff that can only be ascertained by an accounting"].)

Appellant's remaining contentions are meritless. He appears to contend that the trial court should have permitted him to conduct discovery to oppose the anti-SLAPP motion. However, under section 425.16, subdivision (g), discovery is stayed upon the filing of the motion, and the court may order discovery only on "noticed motion and for good

cause shown."[6] Appellant never filed a noticed motion or provided a showing of good cause.

Appellant contends that the court should have stricken the anti-SLAPP motion under section 128.7 because it was not accompanied by an affidavit attesting, inter alia, that it was not being filed for an improper purpose. However, no such affidavit is required for a pleading "[e]xcept when otherwise provided by law." (§ 128.7, subd. (a).) Section 425.16 does not require an affidavit.

To the extent appellant may be raising additional issues, we find them forfeited by his failure to support them with reasoned argument and citations to relevant authority. (*People v. Stanley* (1995) 10 Cal.4th 764, 793.)

DISPOSITION

The order is affirmed. ELG shall recover its costs and attorney fees on appeal.[7]

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[6] Section 425.16, subdivision (g) provides: "All discovery proceedings in the action shall be stayed upon the filing of a notice of motion made pursuant to this section. The stay of discovery shall remain in effect until notice of entry of the order ruling on the motion. *The court, on noticed motion and for good cause shown, may order that specified discovery be conducted notwithstanding this subdivision.*" (Italics added.)

[7] ELG's request for sanctions is denied.

*Judge of the Los Angeles County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

WILLHITE, J.

We concur:

MANELLA, P. J.

MICON, J.*