

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER**

MINUTE ORDER Amended on 09/17/2014

DATE: 09/17/2014

TIME: 11:07:00 AM

DEPT: C22

JUDICIAL OFFICER PRESIDING: Sheila Fell

CLERK: Rick Burns

REPORTER/ERM: None

BAILIFF/COURT ATTENDANT: Michelle Wang

CASE NO: **30-2014-00719593-CU-MC-CJC** CASE INIT.DATE: 04/29/2014

CASE TITLE: **Goss vs. Highwinds Network Group, Inc.**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Misc Complaints - Other

EVENT ID/DOCUMENT ID: 72027050

EVENT TYPE: Under Submission Ruling

APPEARANCES

No appearances.

The Court having reviewed the pleadings filed in this matter, having heard oral argument, having reviewed applicable law, and having taken Defendants', Highwinds Network Group, Inc. and Gourdes', Special Motion to Strike under submission on September 10, 2014, now rules as follows:

The Court declines to change its tentative ruling.

Defendants' Special Motion to Strike is denied.

Plaintiff's evidentiary objections to the declarations submitted are overruled.

Clerk will give notice. Entered: 17/SEP/2014

It appearing to the Court that through error or inadvertence, the minute order of this Court dated 9-17-14, does not properly reflect the order of the Court. Said minute order is ordered corrected Nunc Pro Tunc as of 9-17-14, as indicated below:

Court declines to Change its tentative ruling.

SPECIAL MOTIONS TO STRIKE: [Defendants Highwinds and Gourde]

Defendants lawsuit arises out of constitutionally protected activity; Burden thus shifts to Plaintiff to show that the underlying action terminated in favor of Plaintiff, that it was brought without probable cause and was initiated with malice;

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Neither the declaration of Julander nor the Castrogiovanni and Benowitz Depositions are sufficient to establish that Plaintiff had a favorable termination of the prior case; Defendants have presented evidence that the reason for the dismissal was economic; Plaintiff has not sustained his resulting burden to produce admissible evidence which creates a prima facie case for malicious prosecution;

The Julander declaration provides no evidence to support the needed showing of malice – the facts equally support a finding of economic justification for the dismissal; Plaintiff has not established that Defendants acted with malice with respect to the prosecution of the underlying case;

Grant.

Plaintiff's evidentiary objections to the declarations submitted are overruled.

Clerk will give notice. Entered: 17/SEP/2014

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE

Central Justice Center
700 W. Civic Center Drive
Santa Ana, CA 92702

SHORT TITLE: Goss vs. Highwinds Network Group, Inc.

CLERK'S CERTIFICATE OF SERVICE BY MAIL

CASE NUMBER:
30-2014-00719593-CU-MC-CJC

I certify that I am not a party to this cause. I certify that a true copy of the Minute Order was mailed following standard court practices in a sealed envelope with postage fully prepaid as indicated below.
The mailing and this certification occurred at Santa Ana, California on 09/17/2014

Clerk of the Court, by: Richard B. S., Deputy

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CLERK'S CERTIFICATE OF SERVICE BY MAIL