

F I L E D

Clerk of the Superior Court

SEP 17 '07

By: PATRICIA LEAPART, Clerk

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO NORTH COUNTY DIVISION**

P.O.P. ENTERPRISES, INC., a California corporation,

Plaintiff,

vs.

RILEY J. LIVELY, and DOES 1 through 25, inclusive.

Defendants.

Case No.: GIN 048514
Judge: Hon. Michael B. Orfield

[Proposed] JUDGMENT IN FAVOR OF PLAINTIFF

This action came on regularly for trial the jury on May 29, 2007 in Department 28 of the above entitled Court, the honorable Michael B. Orfield, Judge presiding. Plaintiff P.O.P. Enterprises, Inc. through its corporate designees Philip and Elizabeth Paccione and was represented by and through its counsel of record Shawn A. McMillan, Esq. of The Law Offices of Shawn A. McMillan, APC. Defendant Riley J. Lively appeared in person and was represented by James S. Marinos, Esq. and Benjamin Seecof, Esq. A jury of twelve persons was impaneled and sworn to try case. Witnesses were sworn and testified.

After hearing the evidence and arguments of counsel, the jury was duly instructed by the Court and the case was submitted to the jury with directions to return their verdict on the matters submitted. The jury deliberated and thereafter returned into court with its verdicts consisting of the special issues submitted to the jury and the answers given thereto by the jury, which said verdicts were filed with the clerk and entered upon the minutes. True and correct copies of the jury's verdicts are attached hereto as **Exhibit A**, and are incorporated herein by this reference.

1 It appearing that by reason of said special verdicts: Plaintiff P.O.P. Enterprises, Inc. is
2 entitled to judgment against defendant Riley J. Lively in the amount of \$452,784.00, said amount
3 consisting of \$150,000 in compensatory damages, and \$302,784 in punitive damages, interest is
4 to accrue thereon as allowed by law from the date of the last verdict.

5 **NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:**

6 That, in accordance with the jury's verdicts, plaintiff P.O.P. Enterprises, Inc. have
7 judgment against defendant Riley J. Lively for the sum of \$452,784.00 with interest to accrue
8 thereon at the rate of 10% per annum beginning June 19, 2007.

9 P.O.P. Enterprises, Inc. shall recover its costs of suit including reasonable attorney's fees,
10 if any, as may be allowed pursuant to statute. The Court retains jurisdiction to determine such
11 amounts, if any. Plaintiff is to file its memorandum of costs within the time prescribed by
12 statute. The issue of prevailing party attorney's fees shall be determined by noticed motion.

13
14 IT IS SO ORDERED

MICHAEL B. ORFIELD

Michael B. Orfield, Judge of the Superior Court

Date: SEP 17 2007

EXHIBIT A

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F I L E D

Clerk of the Superior Court

JUN 14 '07

By: PATRICIA LEAPART, Clerk

**Superior Court of the State of California
County of San Diego, North County Division**

P.O.P. ENTERPRISES, INC.,

Plaintiff,

v.

RILEY J. LIVELY,

Defendant.

) **CASE NO. GIN048514**

) **SPECIAL VERDICT**

) **VF-2202. INTENTIONAL INTERFERENCE
WITH PROSPECTIVE ECONOMIC
RELATIONS**

VF-2202. Intentional Interference With Prospective Economic Relations

We answer the questions submitted to us as follows:

1. Did P.O.P. Enterprises and Louis Rodriquez have an economic relationship that probably would have resulted in an economic benefit to P.O.P. Enterprises?

Yes

No

12-0

If your answer to question 1 is yes, then answer question 2. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

2. Did Riley J. Lively know of the relationship?

Yes

No

12-0

If your answer to question 2 is yes, then answer question 3. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

3. Did Riley J. Lively intend to disrupt the relationship?

Yes

No

111 9-3

If your answer to question 3 is yes, then answer question 4. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

4. Did Riley J. Lively engage in wrongful conduct through defamatory statements against the plaintiff?

Yes

No

12-0

If your answer to question 4 is yes, then answer question 5. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

5. Was the relationship disrupted?

Yes

No

12-0

If your answer to question 5 is yes, then answer question 6. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

6. Was Riley J. Lively's wrongful conduct a substantial factor in causing harm to P.O.P. Enterprises?

11-1

Yes No

If your answer to question 6 is yes, then answer question 7. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

7. What are Plaintiff's damages? \$ 100.000⁰⁰

11-1

If you answered question 7 with any amount, answer question 8. If you answered question 7 with \$0, answer no further questions, and have the presiding juror sign and date this form.

8. Was the conduct that you found occurred in Question 4 done with malice or fraud?

Yes No

11 10-2

Signed: [Signature]
Presiding Juror

Dated: 06/14/2007

After all verdict forms have been signed, deliver this verdict form to the Bailiff.

F I L E D

Clerk of the Superior Court

JUN 14 '07

By: **PATRICIA LEAPART**, Clerk

Superior Court of the State of California
County of San Diego, North County Division

P.O.P. ENTERPRISES, INC.,

Plaintiff,

v.

RILEY J. LIVELY,

Defendant.

) **CASE NO. GIN048514**

) **SPECIAL VERDICT**

) **VF-2203. NEGLIGENT INTERFERENCE**
) **WITH PROSPECTIVE ECONOMIC**
) **RELATIONS**

VF-2203. Negligent Interference With Prospective Economic Relations

We answer the questions submitted to us as follows:

1. Did P.O.P. Enterprises and Louis Rodriguez have an economic relationship that probably would have resulted in an economic benefit to P.O.P. Enterprises?

Yes

No

12-0

If your answer to question 1 is yes, then answer question 2. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

2. Did Riley J. Lively know or should he have known of the relationship?

Yes

No

12-0

If your answer to question 2 is yes, then answer question 3. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

3. Did Riley J. Lively know or should he have known that this relationship would be disrupted if he failed to act with reasonable care?

Yes

No

12-0

If your answer to question 3 is yes, then answer question 4. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

4. Did Riley J. Lively fail to act with reasonable care?

Yes

No

12-0

If your answer to question 4 is yes, then answer question 5. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

5. Did Riley J. Lively engage in wrongful conduct through defamatory statements against the plaintiff?

Yes

No

12-0

If your answer to question 5 is yes, then answer question 6. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

6. Was the relationship disrupted?

120

Yes

No

If your answer to question 6 is yes, then answer question 7. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

7. Was Riley J. Lively's wrongful conduct a substantial factor in causing harm to P.O.P. Enterprises?

11-1

Yes

No

If your answer to question 7 is yes, then answer question 8. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

8. What are Plaintiff's damages?

\$ 50,000.00

11-1

If you answered question 8 with any amount, answer question 9. If you answered question 8 with \$0, answer no further questions, and have the presiding juror sign and date this form.

9. Was the conduct that you found occurred in Question 5 done with malice or fraud?

Yes

No

11-1

Signed:

[Signature]
Presiding Juror

Dated:

06/14/2007

After all verdict forms have been signed, deliver this verdict form to the Bailiff.

F I L E D

Clerk of the Superior Court

JUN 19 '07

By: **PATRICIA LEAPART, Clerk**

**Superior Court of the State of California
County of San Diego, North County Division**

P.O.P. ENTERPRISES, INC.,

Plaintiff,

v.

RILEY J. LIVELY,

Defendant.

) CASE NO. GIN048514

) JURY CLARIFICATION

The Jury delivered a verdict for \$100,000 for Intentional Interference with Prospective Economic Advantage.

The Jury delivered a verdict for \$50,000 for Negligent Interference with Prospective Economic Advantage.

The two sums added together equal \$150,000.

Did the Jury decide that the \$50,000 was separate damage from the \$100,000 in damages, or did the Jury decide that all or part of the \$50,000 verdict was included in the \$100,000 verdict?

Please answer the following question:

What was the total amount of damages that you awarded in this case?

\$ 150,000⁰⁰

Dated: 09/19/2007 Signed:

Mark Curtis

Foreperson

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F I L E D
Clerk of the Superior Court
JUN 19 '07
By: PATRICIA LEAPART, Clerk

Superior Court of the State of California
County of San Diego, North County Division

P.O.P. ENTERPRISES, INC.,

Plaintiff,

v.

RILEY J. LIVELY,

Defendant.

) CASE NO. GIN048514

) VERDICT FORM—PUNITIVE DAMAGES

Punitive Damages

We answer the question submitted to us as follows:

1. What amount of punitive damages, if any, do you award P.O.P Enterprises?

\$ 302,784.⁰⁰

Signed:


Presiding Juror

Dated:

06/19/2007

After it has been signed, deliver this verdict form to the Bailiff.

F I L E D
Clerk of the Superior Court
SEP 04 '07

PROOF OF SERVICE

P.O.P. Enterprises. v. Lively

By: **PATRICIA LEAPART, Clerk**

San Diego County Superior Court, North County Division Case No. GIN 048514

I am employed in the County of San Diego, State of California. I am over 18 years of age and am not a party to this action. My business address is 4955 Via Lapiz, San Diego, California 92122.

On August 31, 2007, I served the foregoing documents described as:

- [Proposed] JUDGMENT IN FAVOR OF PLAINTIFF

on the interested parties in this action addressed as follows:

James S. Marinos, Esq.
THE LAW OFFICE OF JAMES S. MARINOS, APC
111 Elm Street, Suite 300
San Diego, CA 92101-2682
Tel: 619-236-1717
Fax: 619-236-9086

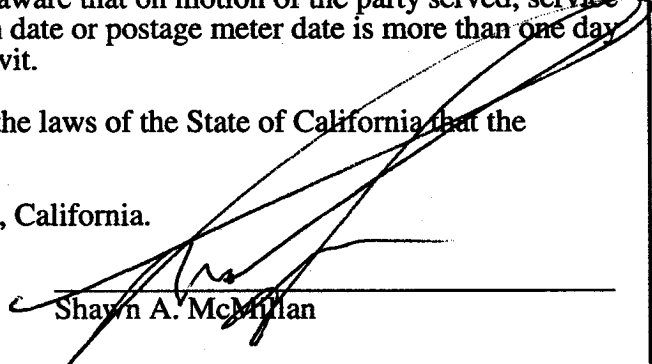
Benjamin R. Seecof, Esq.
KESSLER & SEECOF, LLP
2254 Moore Street, Suite 201
San Diego, CA 92110
Tel: 619-325-0795
Fax: 619-325-0796

XX **(BY FACSIMILIE)** By faxing a true copy thereof from facsimile number (206) 600-4582 in San Diego, California, to the facsimile number indicated above. Said document was transmitted by facsimile transmission, which was reported as complete and without error.

XX **(BY MAIL)** I placed a true and correct copy of the original thereof in a sealed envelope addressed as indicated above, and I caused such envelope to be deposited in the mail at San Diego, California. The envelope was mailed with postage thereon fully prepaid. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the deposit for mailing in the affidavit.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed August 31, 2007, at San Diego, California.



Shawn A. McMillan

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