S S235735

IN THE
SUPREME COURT OF CALIFORNIA

RAND RESOURCES, LLC et. al.,

Plaintiffs and Appellants,

v.

CITY OF CARSON, et. al.,

Defendants and Respondents.

SUPREME COURT
FILED

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Deputy

AFTER A DECISION BY THE COURT OF APPEAL, SECOND APPELLATE DISTRICT, DIVISION ONE CASE No. B264493

2nd PETITION FOR REVIEW

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PETITION FOR REVIEW

ISSUES PRESENTED

Following the improper filing on November 17, 2014, by Rand Resources LLC (Rand) of a complaint, even though it was a suspended corporation as it had been for nearly two years before and then filing a First Amended Complaint (FAC) which now included a new Plaintiff, Carson El Camino LLC (El Camino) who solely derived its rights as alleged in the FAC as an assignee by suspended Rand, Respondents Leonard Bloom and U.S. Capital LLC. (collectively referred to as Bloom) filed an Anti-Slapp Motion pursuant to *Code of Civil Procedure* 425.16. Bloom challenged the three causes of action alleged against him which were for 4) Fraud; 5) Intentional Interference with

Contract; and 6) Intentional Interference with Prospective Business Advantage (which are misnumbered as 3rd 4th and 5th causes of action in the FAC).

On May 7, 2015, the Trial Court found that "an action for breach of an exclusive commercial development with a public entity (containing causes of action for inducing breach of contract, intentional and negligent interference and Business and Professions Code section 17200) is subject to anti-SLAPP on the basis of rights of petition and free speech in connection with a public issue." *Tuchscher Development Enterprises Inc. v. San Diego Unified Port District*, 106 Cal. App. 4th 1219, 1232-11235 (2003)."

The Trial Court further determined "[a]s stated in *Tuchscher*, communications involving the proposed development of such commercial property fall into the 'matter of public interest' portion of the [anti-SLAPP] statute and, as such, they need not be made in connection with an issue under consideration or review by a legislative, executive, or judicial body. *Code of Civil Procedure section 425.16 (e)(4)*; *Id.* 106 Cal App 4th at 1233; *Ludwig v. Superior Court,* 37 Cal App 4th 8, 17 (1995). Therefore both these defendants meet their initial burdens and the burned shifts to the Plaintiffs."

In a published opinion, the Court of Appeal reversed. The Opinion only addressed the first "prong" of section 425.16. In doing so however the Opinion misapplied section 425.16 by narrowly and incorrectly focusing on the premise that "[t]he identity of the City's representative is not a matter of public interest." Hence the Anti-Slapp protections therefore do not

apply. The Opinion raises serious questions about the meaning and application of "Public Interest" in a commercial development negotiation between the Public entity and private sector. *Tuchscher Development Enterprises Inc. v. San Diego Unified Port District*, 106 Cal. App. 4th 1219, 1232-1235 (2003).

It creates or exacerbates conflicts among Court of Appeal decisions regarding the significance to be accorded Public entities to seek private developers to join with the Public entity in large scale Public Interest developments. Tying the hands of both the Public Entity (in this case the City of Carson and then Mayor Dear collectively (City)), and the Private developer Bloom who were in talks, not at all related to being the City agent with attempts to have the NFL locate to City, presents the following questions for review by this Court:

1. How should a Court of Appeal interpret and apply the "Public Interest" standard under section 425.16?

2. Should a suspended California corporation be allowed standing to prosecute a State Court lawsuit contrary to well established law?

INTRODUCTION

The Opinion erodes the "Public Interest" protections afforded under section 425.16 to the Public Entity and Private sector in commercial development negotiations. *Tuchscher Development Enterprises Inc. v. San Diego Unified Port District*, 106 Cal. App. 4th 1219, 1232-1235 (2003). The

Opinion ruled that unverified claims in the FAC were legally and factually tenable to overcome and prevent the very statutory protections afforded under Anti-Slapp even though (a) the statute does not provide a definition for "an issue of public interest" and (b) Three general categories of cases have been held to concern an issue of public interest or a public issue: "(1) The subject of the statement or activity precipitating the claim was a person or entity in the public eye. [Citations.] [¶] (2) The statement or activity precipitating the claim involved conduct that could affect large numbers of people beyond the direct participants. [Citations.] [¶] (3) The statement or activity precipitating the claim involved a topic of widespread public interest." *Commonwealth Energy Corp. v. Investor Data Exchange, Inc.* (2003) 110 Cal.App.4th 26, 33.

The Trial Court in reading the FAC and the Opinion both agree that factually the City was the subject of the activity, the activity of potentially building an NFL stadium in the City was conduct that would affect large numbers of people beyond the direct participants, and the this activity involved a topic of widespread public interest. Yet the Opinion sought to carve out an exception by claiming if there is an alleged fraud or interference claimed in a complaint (even if just alleged and unverified in the complaint) then the Anti-Slapp protections no longer exist.

This Court should grant review in this case for two reasons:

First, the Court of Appeal has not only created an otherwise non-existent exception to the protections of Anti-Slapp, it should grant review to resolve the conflict the Opinion

creates with the decision in *Tuchscher Development Enterprises Inc. v. San Diego Unified Port District*, 106 Cal. App. 4th 1219, 1232-1235 (2003). (Tuchscher). *Tuchscher* held that, "Commercial and residential development of a substantial parcel of bayfront property, with its potential environmental impacts, is plainly a matter of public interest."

The Opinion holds, instead, that if there is an alleged fraud or interference claimed in a complaint (even if just alleged and unverified in the complaint) then the Anti-Slapp protections no longer exist as such actions are not a matter of public interest. This approach undercuts the protection afforded by the broad interpretation of "an issue of public interest". The Opinion also encourages civil actions in any case where an individual or entity does not have a public contract renewed and then they can decide to sue the public entity and the party awarded the new contract (not the case presently) to create delay and unnecessary expense.

Second, this Court should grant review to uphold the law of this state that when a corporation is suspended, it has lost all rights and privileges as a corporation *and cannot legally operate.* A suspended corporation is required to close its business and stop all business related activity. *Moreover, a suspended corporation cannot sue or defend any action in court.* Furthermore, a suspended corporation that provides a service, or goods, to third parties while suspended may not be able to collect payment for such services or goods since the suspended corporation technically was not permitted to engage in any business transactions. *Grell v. Laci Le Beau Corp.*, 73 Cal. App. 4th 1300,

1306 (1999). *See Cal. Rev. & Tax. Code* § 23302; In this matter the Exclusive Agency Agreement (EAA) *is voidable*. *Cal. Rev. & Tax. Code* § 23304.1 (a) (d).

Few questions could call more urgently for this Court's review and guidance.

STATEMENT OF THE CASE

A. Factual Background

i. The Alleged Exclusive Agency Agreement

In 2008, Rand, on behalf of Rand and the City's ex-redevelopment agency entered into an alleged exclusive negotiating agreement, whereby Rand was provided with the exclusive right to negotiate a $100 million dollar mixed-use retail project on the property subject to this lawsuit. (AA:I:2:28-29 ¶¶ 23-24, 26). The redevelopment agency was dissolved by Governor Brown and due to the dissolution, the City and Rand allegedly entered into an EAA. (AA:I:2:29 ¶ 30).

Under the EAA, Rand "would become the exclusive agent of the City for the purpose of 'coordinating and negotiating with the NFL for the designation and development of an NFL football stadium in the City." (AA:I:2:29-30¶ 31). This football stadium would involve a "new, state-of-the-art sports and entertainment complex within the City" where "one of more National Football League ("NFL") franchises" would "play its home games."

The City's Economic Development Commission

reviewed and voted to extend the EAA. (AA:I:2:32¶39). However, the City independently reviewed the EAA and voted "within the sole and unfettered discretion of the City" in 2014 to not extend the EAA. (AA:2:32, 39 ¶¶ 40-41, 49).

ii. Allegations of Fraud

Rand and its alleged assignee, another suspended corporation El Camino, filed the FAC after the original Complaint which only named Leonard Bloom (AA:1:1) added U.S. Capital LLC and City as co-defendants. The FAC alleges against Bloom three causes of action against for 4) Fraud; 5) Intentional Interference with Contract; and 6) Intentional Interference with Prospective Business Advantage (which are misnumbered as 3rd 4th and 5th causes of action in the FAC). The Cause of Action for Fraud includes City as co-defendants. (AA:I:2:23-49).

Rand's tortious interference and fraud claim is based on the alleged communications between Defendant Bloom and certain unnamed NFL officials, and between certain unnamed Carson officials, including Carson Mayor James Dear in connection with the City and Dear's communications relating to whether the EAA should be extended. (AA:2: 37-38 ¶¶ 63-68).

Even though Rand asserts that Bloom and/or the City should have disclosed such communications to Rand, Rand nowhere identifies what duty Bloom had to Rand, what statute this duty is based on, or even alleges that either had such a duty or plead facts in support that such a duty existed. That is

because the law is to the contrary, notwithstanding the immunity provided under Civil Code §47 (b).

B. Procedural Background –Trial Court

On April 9, 2015, Bloom filed the anti-SLAPP Motion to Strike, which was set for hearing on May 7, 2015. (AA:7:430-454). Bloom moved to strike all Three causes of action alleged against him. The City filed its separate Motion to Strike which was also set to be heard on the same date.

On May 7, 2015, the Trial Court, after hearing oral argument from all parties, granted the motion in its entirety. (AA:IV:24:1116-1126). The Trial Court found that "an action for breach of an exclusive commercial development with a public entity (containing causes of action for inducing breach of contract, intentional and negligent interference and Business and Professions Code section 17200) is subject to anti-SLAPP on the basis of rights of petition and free speech in connection with a public issue." *Tuchscher Development Enterprises Inc. v. San Diego Unified Port District*, 106 Cal. App. 4th 1219, 1232-11235 (2003)."

The Trial Court further determined "[a]s stated in Tuchscher, communications involving the proposed development of such commercial property fall into the 'matter of public interest' portion of the [anti-SLAPP] statute and, as such, they need not be made in connection with an issue under consideration or review by a legislative, executive, or judicial body. *Code of Civil Procedure* section 425.16 (e)(4); *Id.* 106 Cal App 4th at 1233; *Ludwig v. Superior Court*, 37 Cal App

4th 8, 17 (1995). Therefore both these defendants meet their initial burdens and the burned shifts to the Plaintiffs." (AA:IV:24:1123).

Although the Trial Court found Rand a suspended corporation had standing (not conceded by Bloom herein), it went on to find as it related to statements that were alleged to constitute the fraud that they were made "in connection with a legislative proceeding" as used in the anti-SLAPP context, "[t]hus the statements in this case were made in connection with a legislative proceeding. Such statements are protected by Civil Code Section 47 (b). Plaintiffs have not posed objections to the moving parties evidence and are precluded from presenting contrary evidence. For this reason, the Bloom defendants' motion to strike the fraud cause of action is granted." (AA:IV:24:1123).

The Trial Court then determined Rand failed to meet their burden of presenting competent admissible evidence substantiating the probability that they will prevail at trial regarding the causes of action for intentional interference with contract and intentional interference with prospective business advantage, In part based on the ruling on the objections. Rand did not file any objections to Blooms evidence, and the court ruled on the Bloom's objections to Rand's alleged evidence. (AA:24:1141-1160).

C. The Court of Appeal Decision.

The Opinion goes to great lengths to claim The Trial Court's reliance upon *Tuchscher*, supra, 106 Cal.App.4th 1219,

and *Ludwig v. Superior Court* (1995) 37 Cal.App.4th 8 is misplaced. The Opinion incorrectly fabricates a created distinction that communications pertaining to an actual planned development is not a "Public interest". The Opinion continues with the claim that the identity of the agent representing a party in negotiating matters that might lead to a development is not a matter of Public Interest and in *Tuchscher*, the plaintiff conceded that the development in controversy was an issue of public interest. The appellate court stated, "We need not consider whether respondents' communications were made with an issue under consideration or review by a legislative, executive or judicial body, because there appears to be no dispute that the proposed development of Crystal Bay is a matter of public interest, and thus respondent's statements and writings fall within subdivision (e) (4) of section 425.16." (106 Cal.App.4th at p. 1233.) Here, there is no such concession and the subject of the FAC is not communications pertaining to the actual development of real estate, but who represented the City in luring an NFL team to move to the City—a condition precedent to the development."

What the Opinion fails to recognize is that the FAC is also replete with all the references to City and Bloom discussing the commercial development of property for the purposes of building a multifunctional stadium. Obviously parties need to talk before any agreement is reached. Indeed there is no evidence that any agreement was ever entered into between Bloom and the City or that the City did not renew the EAA because of Bloom and as noted Rand at all times was a

suspended Corporation and could not legally operate nor even have the EAA renewed.

The Opinion continues on its analysis by claiming the holding in *Ludwig* was not applicable as in *Ludwig* it did not do an extensive analysis. "The Ludwig court summarily concluded, without analysis, that development of an outlet mall, 'with potential environmental effects such as increased traffic and impaction on natural drainage, was clearly a matter of public interest.'(37Cal.App.4th at p. 15.) Here, the FAC does not pertain to a real estate development project with such environmental or traffic effects, even though a redevelopment of contaminated land was an ultimate potential consequence of luring an NFL team to Carson. Thus, neither Tuchscher nor Ludwig supports, much less mandates, a conclusion that the subject matter of any cause of action in the FAC is a protected free speech or petitioning activity within the scope of section 425.16, subdivision (e)(4)."

And finally the Opinion goes on to "...also disagree with the City's contention that this cause of action (as well as each of Plaintiffs' other claims) alleges speech or conduct falling within the scope of section 425.16, subdivision (e)(2). The FAC alleges that the defendants' breach began soon after April 2013. The expiration, and thus the issue of renewal, of the EAA was more than one year away. Thus, the communications and conduct alleged in the cause of action were made solely in connection with the breach of the EAA, and not in connection with the issue of its renewal or any other issue under consideration or review by the City." The Opinion makes

multiple assumptions not supported by fact to draw these distinctions to preclude the application of Anti-Slapp.[1]

REASONS FOR GRANTING REVIEW

I. REVIEW SHOULD BE GRANTED BECAUSE THE COURT OF APPEAL'S DECISION HAS NOT ONLY CREATED AN OTHERWISE NON-EXISTENT EXCEPTION TO THE PROTECTIONS OF ANTI-SLAPP, IT SHOULD GRANT REVIEW TO RESOLVE THE CONFLICT THE OPINION CREATES WITH THE DECISION IN *TUCHSCHER DEVELOPMENT ENTERPRISES INC. V. SAN DIEGO UNIFIED PORT DISTRICT*, 106 CAL. APP. 4TH 1219, 1232-1235 (2003).

Although the Opinion begins its analysis with the broad and sweeping protections of Anti-Slapp as well as the expansive interpretation of "Public Interest", it concludes that so long as creative unsubstantiated and unverified pleadings allege fraud and interference, the Anti-Slapp Protections are lost. That is not the law.

A. Anti-SLAPP Standard - Public Interest

California's Anti-SLAPP statute is designed to give defendants the ability to ensure the "prompt exposure and dismissal of SLAPP suits" designed to chill the exercise of free

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1 Although briefed and argued, the Opinion makes no mention of Rand's corporate suspension precluding any ability to contract or do business. Hence Rand at all times had no standing and no ability to file suit against Bloom or the City in the first place.

speech. *Ludwig v. Superior Court*, 37 Cal. App. 4th 8, 16 (1995) (Section 425.16 was intended to "provid[e] a fast and inexpensive unmasking and dismissal of SLAPPs."); *Code of Civil Procedure* § 425.16(b). The statute applies equally to amended pleadings. *Yu v. Signet Bank/Virginia*, 103 Cal. App. 4th 298, 313-15 (2002).

In order to prevail on its Motion, Bloom needed only make a prima facie showing that the acts or statements at issue were made "in furtherance of" its rights of free speech "in connection with a public issue." *Code of Civil Procedure* § 425.16(b)(1),(e); *Navellier v. Sletten*, 29 Cal. 4th 82, 88 (2002). A court may consider with the motion the pleadings, declarations, and matters that may be judicially noticed. *Brill Media Co., LLC v. TCW Group, Inc.*, 132 Cal. App. 4th 324, 329 (2005). In determining whether a prima facie showing has been made, the California Legislature expressly commanded that the statute be construed "broadly." *Code of Civil Procedure* § 425.16(a). This showing may be done through the pleadings or supporting affidavits." *Code of Civil Procedure* § 425.16 (b); *Navellier*, supra 29 Cal. 4th at 124.

An Exclusive Agency Agreement for the Development of an NFL stadium is a "public issue" and is an "issue of public interest"

The Trial Court correctly found that "an action for breach of an exclusive commercial development contract between a private developer and a public entity (containing causes of action for inducing breach of contract, intentional and negligent interference and Business and Professions Code section 17200)

is subject to anti-SLAPP on the basis of rights of petition and free speech in connection with a public issue." In support of its finding, the Superior Court relied on *Tuchscher Development Enterprises, Inc. v. San Diego Unified Port Dist.* 106 Cal.App.4th 1219, 1232-1235 (2003).

There can be little doubt that the real estate development alleged in the FAC meets the "broad" standard that it is a public issue or issue of public interest. The anti-SLAPP statute encompasses "any other conduct ... in connection with a public issue or an issue of public interest." *Code of Civil Procedure* § 425(e)(4). "The definition of 'public interest' within the meaning of the anti-SLAPP statute has been broadly construed to include ... private conduct that impacts a broad segment of society and/or that affects a community in a manner similar to that of a governmental agency." *Damon v. Ocean Hills Journalism Club*, 85 Cal. App. 4th 468, 479 (2000). Developmental projects such as a discount mall "with the potential environmental effects such as increased traffic and impact[s] on natural drainage [are] clearly a matter of public interest." *Ludwig v. Superior Court*, 37 Cal. App. 4th 8, 15 (1995); see also *Tuchscher Dev. Enters., Inc. v. S.D. Unified Port Dist.*, supra 106 Cal. App. 4th at 1234. ("[C]ommercial and residential development of a substantial parcel of bayfront property, with its potential environmental impacts, is plainly a matter of public interest.")

Here, the FAC clearly acknowledges the scale and impact of the contemplated developmental project. The EAA allegedly assigned exclusive agency to Rand "for the purpose

of 'coordinating and negotiating with the NFL for the designation and development of an NFL football stadium in the City." (AA:I:2:29-30¶ 31). This football stadium would involve a "new, state-of-the-art sports and entertainment complex within the City" where "one of more National Football League ("NFL") franchises" would "play its home games." (AA:I:2:24¶1). The impact of such a billion dollar plus project is one of national interest, let alone one of public interest for a city the size of Carson (population under 100,000), and would be unlike anything ever completed in the City. (AA:I-II:5:79-80 ¶¶ 3-6). Indeed, such a project not only would significantly impact the economics, infrastructure, and culture of the City, but because most of the property once operated as a landfill, the potential environmental undertaking will be daunting. (AA:I-II:5:80-81¶¶ 5-8).

B. The Communications Were Protected Free Speech

The gravamen of the fraud-based causes of action attacks are the communications between City and Bloom on the one hand, and between City and Rand on the other. However, each of these communications was "made in connection with a public issue." *Code of Civil Procedure* § 425.16(b)(1).

In *Tuchscher*, supra, the plaintiff-developer sued a city, public entity and its then-commissioner, and a rival developer, contending that the defendant public officials and rival developer interfered with the developer's exclusive negotiating agreement relating to the commercial development of certain bayfront property. This interference took place by means of

communications with other public officials and the rival developer, such as "closed door meetings, telephone calls and emails" designed to take away the exclusivity rights from the plaintiff-developer to the rival developer. *Id.* at 1228.

> The gist of [the plaintiff's] complaint was that respondents conspired with [the rival developer] to deprive [the plaintiff-developer] of the benefits of the negotiating agreement by disrupting the City's staff from negotiating the development agreement and inducing the City to cease negotiations. [The plaintiff-developer] alleged respondents furthered conspired by (1) communicating with the mayor and other agents and employees of the City ..., and (2) facilitating communications and meetings between [the rival developer] and a [city] representative, and that respondents' objective was to secure the rights to develop both the ... project and [the respondents'] own commercial property.... *Id.*

"Under these circumstances, the fact that the defendants ceased negotiations with a particular developer and sought advice from a rival developer was protected action under the anti-SLAPP statute." *Id.* at 1228, 1233-34.

The parallels between *Tuchscher* and here go beyond the mere fact that a developer under an exclusivity agreement is suing both a city and a rival developer for communications relating to negotiations of whether the current exclusivity arrangement should be extended. (AA:I:2:31¶ 36). Just as the communications that were the target in *Tuchscher* were "closed door meetings, telephone calls and emails," here, Rand alleges the communications that are the heart of the fraud claims

consisted of "clandestine meetings," "talk(s) by the phone or through text messages," and "confidential emails." (AA:I:2:31,35-37¶¶ 36, 54, 63). Moreover, the gist of the communications were designed to "induc[e] the City to cease negotiations" to end the exclusive negotiation agreement (in *Tuchscher* at 1228) just as they were designed here "to cause[] the City to breach its prior representations and agreement to extend the EAA" (AA:I:2:33¶42). Such communications are clearly encompassed by the anti-SLAPP statute per Tuchscher regardless of whether they were legitimate, or fraudulent as Rand and the Opinion contend. *Navellier*, supra, 29 Cal. 4th at 94 ("Any claimed illegitimacy of the defendant's acts is an issue which the plaintiff must raise and support in the context of the discharge of the plaintiff's secondary burden to provide a prima facie showing of the merits of the plaintiff's case.").

Here, in contract, the legislative process of determining whether to renew the EAA was not collateral to the allegedly improper communications, it was the very purpose of the alleged communications. Rand acknowledges that the EAA was the subject of legislative deliberation; after all, Rand requested the City Council to extend the EAA, and Rand complains the City Council did not extend it. (AA:2:32-33,35 ¶¶ 40-41,49.) Leading up to the decision about whether the City should continue to retain Rand, the City engaged in communications with Bloom about whether they could take over as agents once the EAA expired. (AA:I:2:31¶36). Even if the City was allegedly prohibited from actually engaging another agent to seek out an NFL stadium deal during the EAA

term, (not that this is conceded) nothing in the EAA prevented the City from communicating with others regarding possible future alternatives to the EAA once the EAA expired. (AA:I:2, 4-49).

This suit thus is tantamount to an attempt to freeze the City's right to explore these alternatives with third parties to fully inform itself prior to a very important decision about who should be the City's NFL agent after the EAA expires. Accordingly, the alleged wrongful communications were a necessary and essential part of the legislative process, activity that is protected under the anti-SLAPP statute. See *Briggs v. Eden Council for Hope & Opportunity*, 19 Cal. 4th 1106, 1115 (1999) (observing that communications preparatory to or in anticipation of official proceedings are protected).

Alternatively, the FAC involves alleged conduct "made in connection with an issue under consideration or review by a legislative ... or any other official proceeding authorized by law." *Code of Civil Procedure* § 425(e)(2). The FAC concedes that the EAA and the project as a whole were the subject of multiple legislative and other official proceedings. The exclusive negotiating agreement that was the alleged predecessor to the EAA was entered into between the City's redevelopment agency and Rand. Multiple extensions were granted by the redevelopment agency. The EAA itself was entered into by City Council. More importantly, the City's Economic Development Commission reviewed and voted on whether to extend the EAA, and the City voted on whether to extend the EAA. (AA:I:2:24-34). Given each of these

circumstances, the property, agreement, and potential development at issue were all issues "under consideration or review by a legislative ... or ... other official proceeding," and thus properly encompassed by the anti-SLAPP statute. *Code of Civil Procedure* § 425(e)(2).2

II. REVIEW SHOULD BE GRANTED BECAUSE THE COURT OF APPEAL'S DECISION HAS NOT ADDRESSED HOW RAND COULD NOT PREVAIL ON ANY OF THEIR CAUSES OF ACTION BECAUSE RAND WAS A SUSPENDED CORPORATION AT ALL TIMES FROM 09/13/2012 (9 DAYS AFTER ENTERING INTO THE EAA) UP TO 3/19/2015 AND ASIDE FROM THIS MATERAL BREACH, THE EAA COULD NEVER HAVE BEEN EXTENDED AS A SUSPENDED CORPORATION CAN NOT TRANSACT ANY BUSINESS AND IS REQUIRED TO CLOSE ITS DOORS.

The California Secretary of State and Franchise Tax Board reveals that Rand Resources, LLC (Entity Number 199823610096) was a Suspended Corporation, as of *September 13, 2012* (*JUST NINE DAYS AFTER SIGNING THE EAA*) for all times thereafter and up and until March 19, 2015. (AA:III:19:1066-1071).

As such the claims in the FAC that there was any interference with a EAA by Bloom, the EAA should have been renewed (although clearly not a mandatory requirement based on a clear reading of the EAA and within the City's sole and absolute discretion) and Bloom committed a fraud by having meetings, all is a smoke screen alleged by Rand. In fact the

2 This reviewing court will note the FAC devotes nearly an entire page addressing how Appellants complied with the Government Claims Act. If there was no legislative purpose or government involvement in this matter, then why comply with the Government Claims Act ? (AA:I:2:27¶¶19-21).

only fraud committed is by Rand and its assignee El Camino as Rand could not assign sell or transfer anything (Partial or otherwise) to El Camino as it was suspended at all times, notwithstanding the lack of any evidence to show City approval or an exception to an assignment by Rand to some third entity. (*See Cal. Rev. & Tax. Code* § 23302 (West); The EAA *is voidable Cal. Rev. & Tax. Code* § 23304.1 (a) (d).

Clearly the impact of a corporation being placed in suspended status is substantial. When a corporation is suspended, it has lost all rights and privileges as a corporation *and cannot legally operate*. In that regard, technically a suspended corporation is required to close its business and stop all business related activity. Moreover, a suspended corporation cannot sue or defend any action in court. Furthermore, a suspended corporation that provides a service, or goods, to third parties while suspended may not be able to collect payment for such services or goods since the suspended corporation technically was not permitted to engage in any business transactions. *Grell v. Laci Le Beau Corp.*, 73 Cal. App. 4th 1300, 1306 (1999).

Rand had no legal authority to assign anything to anyone, do any business during the entire term of the EAA and under no circumstance would have been able to have the EAA renewed in September 2014 even if the City decided to do so as it has been suspended at all times up to March 19, 2015. Accordingly, Rand had no standing to assert any of the causes of actions found in the FAC and the appeal should have been dismissed on this ground as well.