H. Paul Kondrick, A Professinal Corporation
Attn: Kondrick, H Paul
3130 Fourth Avenue
San Diego, CA 92103-5803

The Commission On Professional Competence

Superior Court of California, County of Alameda
Hayward Hall of Justice

Vranesh Plaintiff/Petitioner(s) VS. The Commission On Professional Competence Defendant/Respondent(s) (Abbreviated Title)	No. RG15786168 Order Motion for Sanctions Granted

The Motion for Sanctions was set for hearing on 10/13/2016 at 09:00 AM in Department 514 before the Honorable Andrew Steckler. The Tentative Ruling was published and was contested.

The matter was argued and submitted, and good cause appearing therefore,

IT IS HEREBY ORDERED THAT:

The motion of PUSD for sanctions under CCP 128.5 is GRANTED IN PART.

Procedurally, a motion under CCP 128.5 does not require the moving party to provide a safe harbor for withdrawing the motion. (San Diegans for Open Government v. City of San Diego (2016) 247 Cal.App.4th 1306, 1316-1317.)

Substantively, a party seeking sanctions under CCP 128.5 must show that the actions or tactics are frivolous as evaluated under an objective standard. "Although the objective standard of proof is easier to satisfy [than a subjective standard], the Legislature intended to "retain the extremely high proof required for such awards" with its applicability lying with "truly egregious behaviors."" (San Diegans for Open Government v. City of San Diego (2016) 247 Cal.App.4th 1306, 1318.) The court finds that Vranesh's counsel's filing of the separate statement and declaration on 7/29/16, had no basis in the law, but was not a "truly egregious behavior." In contrast the court finds that it was egregious for Vranesh's counsel to continue down that path after PUSD's counsel informed him that there was no basis for submitting the documents.

The court finds that H. Paul Kondrick, counsel for Vranesh, must pay to PUSD sanctions under CCP 128.5 in the amount of $1,000. Kondrick must pay the sanctions to PUSD on or before 12/16/16.

At the CMC, the parties and the court discussed a briefing schedule for the petition. It is ordered:

On or before 11/7/16, petitioner Vranesh may file a notice of motion and an opening brief of up to 35 pages. Petitioner must obtain a reservation number before filing the notice of motion.

On or before 11/7/16, petitioner Vranesh must lodge a complete copy of the administrative record on a flash drive. The flash drive lodged on 4/27/16 is not complete in light of the augmentation of the record.

On or before 12/9/16, respondent PUSF may file an opposition brief of up to 35 pages.

On or before 12/23/16, petitioner Vranesh may file a reply brief of up to 15 pages.

On or before 1/4/17, the parties are to provide the court with a joint binder with the key documents or excerpts of key documents. If a document is relatively short, the court requests the entire document so the court can read the key page or passage in context. If the document is long, the court requests the entire pertinent section of the document so the court can read the key page or passage in context. There are no hard and fast rules regarding what to include in the joint binder. The court will want ready access to the key documents that counsel referred to repeatedly in preparing the briefs. Counsel should not feel compelled to include a hard copy of every document referenced in the briefing, as the court will have access to the complete paper or electronic record.

The court will hear the petition at 9:00 am on 1/13/17 in Dept 514.

Case continued to 09:00 AM on 01/13/2017 in Department 514, Civil Law and Motion, Hayward Hall of Justice, 24405 Amador Street, Hayward.

Dated: 10/13/2016

facsimile

Judge Andrew Steckler

Superior Court of California, County of Alameda
Hayward Hall of Justice

Case Number: RG15786168
Order After Hearing Re: of 10/13/2016

DECLARATION OF SERVICE BY MAIL

I certify that I am not a party to this cause and that a true and correct copy of the foregoing document was mailed first class, postage prepaid, in a sealed envelope, addressed as shown on the foregoing document or on the attached, and that the mailing of the foregoing and execution of this certificate occurred at 24405 Amador Street, Hayward, California.

Executed on 10/18/2016.

Chad Finke Executive Officer / Clerk of the Superior Court

By Danika Moore digital

Deputy Clerk