

Filed 8/4/11

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

SANDRA CROSS,

Plaintiff and Respondent,

v.

STEPHEN COOPER et al.,

Defendants and Appellants.

H033164

(Santa Clara County
Super. Ct. No. CV104910)

**ORDER MODIFYING OPINION
AND DENYING REHEARING**

NO CHANGE IN JUDGMENT

THE COURT:

It is ordered that the opinion filed herein on July 11, 2011, be modified as follows:

1. On page 30, line 15, the sentence beginning “In her” and ending with “rent for August¹⁸” is deleted along with footnote 18 and the following sentence is inserted in its place:

In her declaration, Cross stated that she believed Cooper was threatening to tell prospective buyers that a registered offender lived nearby unless she waived rent for August or increased his property rights.

2. On page 30, line 19, the sentence beginning “However, the” and ending with “matter of law” is deleted and the following sentence is inserted in its place:

However, the evidence before the trial court did not conclusively establish attempted extortion as a matter of law.

3. On page 32, the first full paragraph, beginning “Clearly, the e-mails” is deleted and the following paragraph is inserted in its place:

Clearly, the e-mails that Cooper sent to Cross did not threaten to physically harm anyone or property, accuse anyone of a crime, or expose or impute to Cross some deformity or disgrace. Moreover, they do not, as a matter of law, explicitly or implicitly threaten to disclose the location of the registered offender unless Cross complied with his demands. And neither they nor Cross’s declaration conclusively establish that the emails were adapted to convey that message. The fact that Cross inferred as much and believed they conveyed an extortionate message does not establish that message or that Cooper’s intent to convey it as a matter of law.

Respondent’s petition for rehearing is denied.

There is no change in the judgment.

Dated:

RUSHING, P.J.

WE CONCUR:

PREMO, J.

ELIA, J.