

October 20, 2015

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

MOMS FOR LABELING,

Appellant,

v.

NO ON 522,

Respondent.

No. 45761-0-II

UNPUBLISHED OPINION

MAXA, P.J. — The parties filed a stipulated motion for dismissal of this appeal. In addition, the parties requested that we vacate a trial order awarding \$10,000 to No on 522 pursuant to RCW 4.24.525, the anti-SLAPP statute. We remand this matter to the trial court with instructions to vacate the \$10,000 award.

Moms for Labeling filed a lawsuit against No on 522, alleging that No on 522 violated campaign finance laws. The trial court granted No on 522’s motion to strike Moms for Labeling’s complaint pursuant to the anti-SLAPP statute, and awarded attorney fees plus \$10,000 to No on 522. CP 216. Moms for Labeling appealed.

On May 28, 2015, our Supreme Court held that the anti-SLAPP statute violates the right to trial by jury under article 1, section 21 of the Washington Constitution. *Davis v. Cox*, 183 Wn.2d 269, 294, 351 P.3d 862 (2015). On August 25, 2015, the parties filed a stipulated motion for dismissal of the appeal, requesting “an order stating that the award of \$10,000 is invalid pursuant to *Davis v. Cox* and dismissing the case without costs to either party.” Stipulated Motion for Dismissal at 2. A commissioner of this court lifted a previously-imposed stay and granted the stipulated motion to dismiss with respect to the appeal of the trial court’s decision

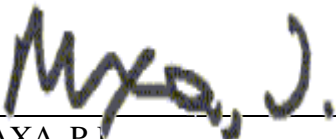
granting the motion to strike. However, the stipulated motion with respect the \$10,000 award required invalidating the trial court's order. Therefore, the commissioner denied the motion and referred this matter to a panel of judges for consideration.

Because the anti-SLAPP statute is unconstitutional, it “no longer provides grounds for any award of damages.” *Akrie v. Grant*, ___ Wn.2d ___, 355 P.3d 1087, 1088 (2015).

Accordingly, we vacate the \$10,000 award to No on 522. *Akrie*, 355 P.3d at 1088.

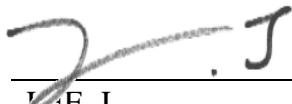
We reverse and remand to the trial court to vacate the \$10,000 award. Because the parties request that we not award costs to either party, no costs are awarded.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record in accordance with RCW 2.06.040, it is so ordered.

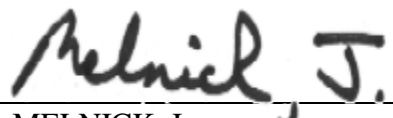


MAXA, P.J.

We concur:



LEE, J.



MELNICK, J.