

1 +

2

3

4

5

6

7

UNITED STATES DISTRICT COURT

8

FOR THE EASTERN DISTRICT OF CALIFORNIA

9

BRIAN DAWE; FLAT IRON
MOUNTAIN ASSOCIATES, LLC,
formerly known as FLAT
IRON MOUNTAIN ASSOCIATES,
a Partnership,

12

NO. CIV. S-07-1790 LKK/EFB

13

Plaintiffs,

14

v.

O R D E R

15

CORRECTIONS USA, a California
Corporation; CALIFORNIA
CORRECTIONAL PEACE OFFICERS'
ASSOCIATION, a California
Corporation; JAMES BAIARDI,
an individual; DONALD JOSEPH
BAUMANN, an individual,

19

Defendants.

20

AND CONSOLIDATED ACTIONS &
RELATED COUNTERCLAIMS

21

22

On June 21, 2010, the court heard numerous motions in limine.

23

Defendants raised a question as to what evidence may be properly

24

considered to prove malice under the California privileges in

25

defamation. This question must be resolved to prepare jury

26


instructions for trial. The court is inclined to adopt the standard

1 of proof of malice set forth in Lytel v. Simpson, No. 05-01937-FJ,
2 2006 WL 2263943 (N.D. Cal. Aug. 8, 2006). For this reason, the
3 court refers the parties to this opinion. They are encouraged to
4 discuss whether application of this case is proper in their trial
5 briefs. No additional briefing is requested.

6 IT IS SO ORDERED.

7 DATED: July 13, 2010.

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26


LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT