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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SANDRA C.L. MANAOIS, aka SANDY
LANE, JERRY W. HILBISH, and
ELIZABETH ROBERTS,

Plaintiffs,

v.

PAUL ROBERTS, and ERIN BREYMAN,
Defendants.

Case No. 2:08-cv-02442-JAM-GGH

ORDER GRANTING DEFENDANTS'
MOTION FOR JUDGMENT ON THE
PLEADINGS AND DENYING
DEFENDANTS' MOTION FOR
SANCTIONS

_____ /

This matter is before the Court on Defendants Paul Roberts and Erin Breyman's motion for sanctions against the Plaintiffs Sandra C.L. Manaois, Jerry W. Hilbish, Elizabeth Roberts and their attorney of record James Ireijo pursuant to Federal Rule of Civil Procedure 11. (Doc. # 26.) Defendants' motion for Rule 11 sanctions is essentially a motion for judgment on the pleadings pursuant to Federal Rule of Civil Procedure 12(c). As such, the Court will first consider whether to grant Plaintiffs'

1 motion for judgment on the pleadings pursuant to Rule 12(c) and
2 then will evaluate Defendants' motion to impose Rule 11
3 sanctions on Plaintiffs and their attorney, James Ireijo.¹
4

5 I. FACTUAL AND PROCEDURAL BACKGROUND

6 The claims for relief in the present action arise from the
7 same events and transactions related to Probate Case No:
8 PP20060081, Estate of Robert E. Roberts, El Dorado Superior
9 Court, State of California. On March 19, 2006, Robert E.
10 Roberts passed away. The Plaintiff, Elizabeth Roberts, is the
11 surviving spouse of the decedent Robert E. Roberts ("Roberts").
12 The Defendants, Paul Roberts and Erin Breyman, are the surviving
13 children of the decedent. Defendants were appointed personal
14 representatives of the Estate of Roberts. Roberts left a will
15 that was admitted to probate, in which he left Elizabeth a
16 conditional life estate in their home (hereinafter "Residence"),
17 as long as she lived in the Residence and paid all the bills on
18 it. Elizabeth moved out of the Residence on or about May 21,
19 2006. On or about May 30, 2006 Elizabeth Roberts sent a letter
20 to Defendant Paul Roberts indicating she had vacated the
21 Residence and was returning the keys to Paul Roberts.
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28 ¹ Because oral argument will not be of material assistance,
the court orders this matter submitted on the briefs. E.D. Cal.
L.R. 78-230(h).

1 In relation to Probate Case No: PP20060081, Estate of
2 Robert E. Roberts, Elizabeth filed a Petition to Determine
3 Succession to real and personal property. On or about October
4 26, 2006, Defendant Paul Roberts went to the Residence to check
5 on the home and discovered all the locks had been changed and a
6 "No Trespassing" sign had been placed on one of the doors.
7 Based on his observations, Paul Roberts filed a police report
8 with the El Dorado County Sheriff's Office.
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11 On April 13, 2007, Elizabeth entered into an agreement with
12 the Estate of Roberts to settle the Petition to Determine
13 Succession. The settlement agreement required dismissal of
14 Elizabeth's Petition to Determine Succession with prejudice,
15 waiver of any and all rights in the personal property, except as
16 to any community property claims she may have in the Residence.
17 In addition, the parties agreed "never to commence, aid,
18 prosecute, or cause to be commenced or prosecuted against the
19 other any action or proceedings based directly or indirectly
20 upon any of the matters referred to in the lawsuit." (Doc. #
21 26, Ex. A.)
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24 In the present case, Plaintiffs' Amended Complaint asserts
25 four causes of action against Defendants for: (1) Intentional
26 Infliction of Emotional Distress; (2) Slander, Libel,
27 Defamation, and/or Invasion of Privacy; (3) Conversion; and (4)
28 Interference with Contract. In the instant motion Defendants

1 request that the Court dismiss the Amended Complaint with
2 prejudice, order Plaintiffs to refrain from filing future
3 identical actions and impose monetary sanctions sufficient to
4 compensate Defendants for their attorneys' fees estimated to be
5 \$17,000.00 and to serve the other goals of Rule 11. (Doc. #
6 26.) Plaintiffs oppose the motion. (Doc. # 32). For all of
7 the reasons stated below, Defendants' motion for judgment on the
8 pleadings is GRANTED with prejudice and Defendants' motion for
9 Rule 11 sanctions is DENIED.
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12 II. OPINION

13 A. Legal Standard

14 1. Judgment on the Pleadings

15 Rule 12(c) of the Federal Rules of Civil Procedure
16 provides: "After the pleadings are closed - but early enough not
17 to delay trial - a party may move for judgment on the
18 pleadings." See Fed. R. Civ. P. 12(c). For purposes of a
19 motion under Rule 12(c), the allegations of the non-moving party
20 must be accepted as true, and the allegations of the moving
21 party that have been denied are presumed false. See Hal Roach
22 Studios v. Richard Feiner & Co., 896 F.2d 1542, 1550 (9th Cir.
23 1990). Judgment on the pleadings is appropriate only when the
24 moving party clearly establishes on the face of the pleadings
25 that no material issue of fact remains to be resolved and that
26 it is entitled to judgment as a matter of law. See Enron Oil
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28

1 Trading & Transportation Co. v. Walbrook Ins. Co. Ltd., 132 F.3d
2 526, 529 (9th Cir. 1997). Judgment may be granted only when the
3 pleadings show beyond doubt that the plaintiff can prove no set
4 of facts in support of her claims that would entitle her to
5 relief. See id. The Ninth Circuit has held that "the principal
6 difference between motions filed pursuant to Rule 12(b) and Rule
7 12(c) is the time of filing" and that "because the motions are
8 functionally identical, the same standard of review applicable
9 to a Rule 12(b) motion applies to its Rule 12(c) analog." See
10 Dworkin v. Hustler Magazine, Inc., 867 F.2d 1188, 1192 (9th Cir.
11 1989).

14 2. Motion for Sanctions

15 A party may make a motion for sanctions under Federal Rule
16 of Civil Procedure 11. Rule 11 provides, in pertinent part:
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18 (b) By presenting to the court a pleading, written motion,
19 or other paper . . . an attorney or unrepresented party
20 certifies that to the best of the person's knowledge,
information, and belief, formed after an inquiry reasonable
under the circumstances:

- 21 (1) it is not being presented for any improper purpose,
22 such as to harass, causes unnecessary delay, or
23 needlessly increase the cost of litigation;
- 24 (2) the claims, defenses, and other legal contentions are
25 warranted by existing law or by a non-frivolous
26 argument for extending, modifying, or reversing
27 existing law or for establishing new law;
- 28 (3) the factual contentions have evidentiary support or,
if specifically so identified, will likely have
evidentiary support after a reasonable opportunity for
further investigation or discovery; and
- (4) the denials of factual contentions are warranted on
the evidence or, if specifically so identified, are

1 reasonably based on their belief or lack of
2 information.

3 Fed. R. Civ. P. 11(b). If the Court concludes that Rule 11 has
4 been violated, it may impose appropriate sanctions. Fed. R.
5 Civ. P. 11(c).
6

7 The central purpose of Rule 11 is to deter baseless
8 filings. Newton v. Thomason, 22 F.3d 1455, 1463 (9th Cir.
9 1994). Courts apply an objective test in determining whether
10 Rule 11 has been violated. Yagman v. Republic Ins., 987 F.2d
11 622, 628 (9th Cir. 1993). A violation of the rule does not
12 require subjective bad faith. Id.
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14 B. Plaintiffs' First Cause of Action for Intentional Infliction
15 of Emotional Distress
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17 Plaintiffs' first cause of action for intentional
18 infliction of emotion distress is based on Defendants' filing of
19 an allegedly "false police report," which made "false
20 accusations" against Plaintiffs. Amended Complaint ¶ 5.
21 Defendants assert Plaintiffs' claim for intentional infliction
22 of emotional distress is based on communications made by
23 Defendants to law enforcement officials and any liability for
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1 such communications is barred by the litigation privilege
2 pursuant to Cal. Civ. Code § 47.²

3 Cal. Civ. Code § 47 established a privilege that bars
4 liability in tort for the making of certain statements.
5 Pursuant to Section 47(b), the privilege bars a civil action for
6 damages for communications made "[i]n any (1) legislative
7 proceeding, (2) judicial proceedings, (3) in any other
8 proceeding authorized by law, or (4) in the initiation or course
9 of any other proceeding authorized by law and reviewable
10 pursuant to [statutes governing writs of mandate]," with certain
11 statutory exceptions that do not apply to the present case. The
12 privilege established by this subdivision is often referred to
13 as an "absolute" privilege, and it bars all tort causes of
14 action except a claim for malicious prosecution. See Hagberg v.
15 California Federal Bank, 32 Cal. 4th 350, 360 (Cal. 2004). As
16 the California Supreme Court noted in Hagberg, "the overwhelming
17 majority of cases conclude that when a citizen contacts law
18 enforcement personnel to report suspected criminal activity and
19 to instigate law enforcement personnel to respond, the
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25 ² Neither party has addressed California's "governmental
26 interest analysis" or alleged that choice-of-law clauses exist
27 in any contract. Thus, having brought this action in this Court
28 under federal diversity jurisdiction, the Court must apply, as
the default, the substantive law of California to all claims.
Erie v. Tompkins, 304 U.S. 64, 58 (1938); Patton v. Cox, 276
F.3d 493, 495 (9th Cir. 2002).

1 communication also enjoys an unqualified privilege under section
2 47(b)." Id. at 364.

3 Here, Defendants' statements regarding the Plaintiffs'
4 suspected trespassing on real property of the Estate of Roberts
5 were made in the course of proceedings authorized by law to law
6 enforcement officials. Hagberg specifically held that such
7 communications to law enforcement officials are privileged when
8 the claim for relief is intentional infliction of emotion
9 distress. Hagberg, 32 Cal. 4th at 355. As such, Defendants'
10 statements are protected from suit by the litigation privilege
11 and cannot be used to support a claim for relief. Cal. Civ.
12 Code § 47(b).

13 Plaintiffs argue that they should be granted leave to amend
14 their Amended Complaint to include a claim for malicious
15 prosecution. As stated in Hagberg, statements made in a police
16 report "are privileged pursuant to Civil Code Section 47(b), and
17 can be the basis for tort liability *only* if the plaintiff can
18 establish the elements of the tort of malicious prosecution."
19 Id. at 355. Here, permitting Plaintiffs leave to amend their
20 complaint to add a claim for malicious prosecution would be
21 futile. The first element that must be satisfied for a
22 successful malicious prosecution claim is "the prior action was
23 commenced by or at the direction of the defendant and was
24 pursued to a legal termination in the plaintiff's favor."
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1 Bertero v. National General Corp., 13 Cal. 3d 43, 50 (Cal.
2 1974). Defendants have not commenced any action against
3 Plaintiffs. As such, the first element of a malicious
4 prosecution claim cannot be satisfied.
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6 Accordingly, even assuming all of Plaintiffs' factual
7 allegations in the Amended Complaint to be true, Plaintiffs'
8 have failed to allege a legally plausible cause of action for
9 intentional infliction of emotional distress. As such,
10 Defendants' motion for judgment on the pleadings as to
11 Plaintiffs' first cause of action is GRANTED with prejudice.
12

13 C. Plaintiffs' Second Cause of Action for Slander, Libel,
14 Defamation, and/or Invasion of Privacy

15 Plaintiffs' second cause of action for slander, libel,
16 defamation and/or invasion of privacy is also based on the
17 alleged "false police report" that was filed "on or about
18 October 21, 2006." Amended Complaint, ¶¶ 5-6. The statute of
19 limitations in California for slander, libel, and defamation is
20 one year. Cal. Code Civ. Proc. § 340. The Amended Complaint
21 was filed on April 27, 2009, nearly two and half years after the
22 incident took place. Even using the relation back date for the
23 original complaint, filed October 15, 2008, the statute of
24 limitations bars Plaintiffs' second cause of action.
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27 Moreover, the litigation privilege, as discussed above,
28 also precludes a slander, defamation, libel and/or invasion of

1 privacy cause of action from being brought against Defendants
2 when based upon statements made to law enforcement officers.
3 Hagberg, 32 Cal. 4th at 357. Here, Plaintiffs' second cause of
4 action is based on Plaintiffs' alleged "false police report" and
5 thus, is not legally cognizable. Accordingly, Defendants'
6 motion for judgment on the pleadings as to Plaintiffs' second
7 cause of action is GRANTED with prejudice.

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9 E. Plaintiffs' Third Cause of Action for Conversion

10 Plaintiffs' third cause of action alleges Defendants took
11 personal property belonging to them and "intentionally concealed
12 the conversion of said personal property to Plaintiffs' loss and
13 detriment." Amended Complaint ¶ 7. On April 3, 2007, Plaintiff
14 Elizabeth Roberts signed a settlement agreement waiving any
15 future claims relating to her interests arising out of the Last
16 Will of Robert E. Roberts, including personal property.

17 Defendants argue Plaintiff Elizabeth Roberts is barred from
18 raising a claim for conversion of said personal property by the
19 settlement agreement.

20 "[A] valid compromise agreement has many of the attributes
21 of a judgment and, in the absence of showing of fraud or undue
22 influence, is decisive of the rights of the parties thereto and
23 operates as a bar to the reopening of the original controversy."
24 Shriver v. Kuchel, 113 Cal. App. 2d 421, 425 (Cal. Ct. App.
25 1952). Here, there is no evidence of fraud or undue influence,
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1 thus the Court will enforce the settlement agreement and will
2 not permit Plaintiff Elizabeth Roberts to maintain any claim
3 relating to personal property arising out of the Last Will of
4 Robert E. Roberts. Notably, Plaintiffs do not dispute the terms
5 of the settlement agreement. Rather, Plaintiffs merely argue
6 that a 2005 tax refund did not pass through Robert E. Roberts
7 Last Will and thus, the alleged conversion of the tax refund for
8 tax year 2005 is not barred by the settlement agreement.
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11 Plaintiffs however, have not alleged in their Amended
12 Complaint any facts that suggest a federal tax refund for tax
13 year 2005 exists, nor have Plaintiffs alleged any facts that
14 suggest Defendants are withholding from Plaintiffs a tax refund.
15 Rather, the facts before the Court show that Defendants, acting
16 as co-executors of the estate of Robert E. Roberts, filed a tax
17 return for the decedent and paid taxes for the decedent, as
18 required by the IRS regulations. There are no facts to support
19 Plaintiffs' claim for conversion. The Court cannot assume that
20 the Plaintiffs "can prove facts which [they have] not alleged or
21 that the defendants have violated the . . . laws in ways that
22 have not been alleged." Associated Gen. Contractors of Calif.,
23 Inc. v. Calif. State Council of Carpenters, 459 U.S. 519, 526
24 (1983). Accordingly, the Court refuses to allow Plaintiffs to
25 maintain a conversion claim for personal property when no facts
26 supporting the claim exist. As such, Defendants' motion for
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1 judgment on the pleadings as to Plaintiffs' third cause of
2 action is GRANTED with prejudice.

3 E. Plaintiffs' Fourth Cause of Action for Interference With
4 Contract

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6 Plaintiffs' fourth cause of action alleges that Defendants
7 filed "'dubious' 2005 calendar year tax returns with the
8 Internal Revenue Service and State of California, Franchise Tax
9 Board, which amounted to an interference with contract."
10 Amended Complaint ¶ 8. Defendants argue Plaintiffs have not and
11 cannot allege any evidentiary support for an intentional
12 interference with contract claim.
13

14 The essential elements of a claim for interference with
15 contract are: (1) a valid contract between plaintiff and a third
16 party; (2) defendant's knowledge of the contract; (3) defendant
17 acted intentionally to induce breach or disruption of the
18 contractual relationship; (4) an actual breach or disruption of
19 the contractual relationship; and (5) resulting damages.

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21 Pacific Gas & Electric Co. v. Bear Sterns & Co., 50 Cal 3d 1118,
22 1126 (Cal. 1990).

23
24 Here, Plaintiffs have not alleged that a contract existed
25 nor have they provided any legal authority for the proposition
26 that filing a tax return is a contract. Defendants filed a tax
27 return for the tax year 2005 with the IRS as required by Federal
28 Regulations and their duties as co-executors of the Estate of

1 Robert E. Roberts. Plaintiffs have failed to offer any factual
2 support or legal basis for a claim for interference with
3 contract. As such, the Court GRANTS Defendants' motion for
4 judgment on the pleadings as to Plaintiffs' fourth cause of
5 action with prejudice.
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7 F. Defendants' Rule 11 Motion for Sanctions

8 Pursuant to Federal Rule of Civil Procedure 11, Defendants
9 ask this Court to impose sanctions upon Plaintiffs and their
10 counsel, James Ireijo. Defendants argue that all four of
11 Plaintiffs' causes of action violate Rule 11 as they are brought
12 for an improper purpose. Fed. R. Civ. P. 11(b)(1). In
13 addition, Defendants argue all of Plaintiffs' claims for relief
14 violate Rule 11(b)(2) because the claims are not warranted by
15 existing law. Finally, Defendants ask for sanctions pursuant to
16 11(b)(3) with regard to Plaintiffs' fourth claim for
17 interference with contract because there is no legal basis for
18 relief based on the facts. (Doc. # 26.)
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21 Although the Court has decided to dismiss this action, it
22 does not find that Rule 11 sanctions are warranted in this case.
23 The Court finds that: (1) Plaintiffs' Amended Complaint was not
24 filed for an improper purpose; (2) Plaintiffs' claims were not
25 so frivolous as to justify an award of sanctions under Rule 11
26 (b)(2); and (3) While Plaintiffs' factual contentions were weak,
27 particularly with respect to the interference with contract
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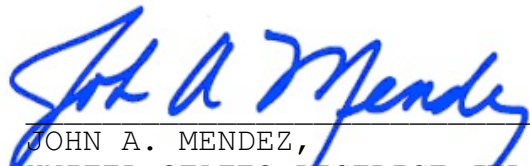
1 claim, Rule 11(b)(3) sanctions are also not appropriate in this
2 case. There is little doubt that this lawsuit did not have much
3 merit when it was filed and dismissal, in and of itself, under
4 Rule 12 (c) is a severe sanction. The Court sees no reason to
5 add an additional monetary sanction under Rule 11 and, therefore
6 declines to do so. As such, Defendants' motion for sanctions is
7 DENIED.
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11 III. ORDER

12 For the above reasons, Defendants' motion for judgment on
13 the pleadings is GRANTED with prejudice, and Defendants' motion
14 for sanctions is DENIED.

15 IT IS SO ORDERED.

16 Dated: December 18, 2009

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18 JOHN A. MENDEZ,
19 UNITED STATES DISTRICT JUDGE
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