

United States District Court  
For the Northern District of California

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

SHANNON CAMPBELL,  
  
Plaintiff,  
  
v.  
  
FELD ENTERTAINMENT, INC., and  
MICHAEL STUART,  
  
Defendants.

Case Nos.: 12-CV-04233-LHK  
13-CV-00233-LHK

**ORDER RE OAKLAND FEDERAL  
INJUNCTION AND SPECIAL  
EVENTS PERMIT**

MARK ENNIS,  
  
Plaintiff,  
  
v.  
  
FELD ENTERTAINMENT, INC., and  
MICHAEL STUART,  
  
Defendants.

At the January 22, 2015 pretrial conference, the Court ordered the parties to file supplemental briefing on the relevance to Plaintiffs' remaining claims of the August 2009 federal injunction issued by Judge Patel and the special events permit Defendants obtained prior to the Oakland 2012 animal walk. ECF No. 285 at 3. Plaintiffs filed their briefs on January 27, 2015, ECF Nos. 289, 291, and Defendants responded on January 30, 2015, ECF Nos. 296, 297.

Having reviewed the parties' submissions, the Court rules as follows:

1 Federal Injunction

2 As to the federal injunction, the Court agrees with Plaintiffs that, assuming Plaintiffs can  
3 establish they knew it existed, the injunction could be relevant to Plaintiffs’ battery claims and  
4 Campbell’s assault claim. Knowledge of the injunction could be relevant to whether a reasonable  
5 person in Plaintiffs’ shoes would have found any of the alleged touchings or threatened touchings  
6 to be offensive during the Oakland 2012 animal walk. If Plaintiffs reasonably thought that the  
7 injunction gave them a legal right to walk where they were walking free from interference, then  
8 even the slightest touching or threat thereof might have been offensive to a reasonable person in  
9 their position. As such, the Court will offer to the jury a limiting instruction concerning evidence  
10 of the injunction. The Court will instruct the jury that an injunction was in place at the time of the  
11 Oakland 2012 animal walk, that Defendants were not legally bound by that injunction, and that the  
12 jury may only consider the injunction to the extent it may be relevant to whether a reasonable  
13 person would have found any of the alleged touchings or threatened touchings sustained by  
14 Plaintiffs to be offensive. Attached to this Order is a proposed limiting instruction. The parties  
15 may file any objections to the instruction’s wording only and state their positions on when the  
16 instruction should be given by February 6, 2015.

17 Special Events Permit

18 As to the special events permit, the Court agrees with Defendants that the permit is  
19 irrelevant to Plaintiffs’ remaining causes of action. On December 15, 2014, the Court granted  
20 summary judgment to Defendants on Plaintiffs’ Bane Act claim predicated on Defendants’ alleged  
21 violation of the special events permit obtained prior to the Oakland 2012 animal walk. ECF No.  
22 233 at 23-24. Plaintiffs have repeatedly failed to identify a single element of a single remaining  
23 cause of action for which evidence of the special events permit could be relevant. Unlike with the  
24 injunction, Plaintiffs do not allege that they even knew Defendants had obtained a permit for the  
25 Oakland 2012 walk, let alone what the scope of that permit might have been. Moreover, Plaintiffs’  
26 conclusory assertion that “[t]he permit is thus relevant to the elements of each of Plaintiffs’ claims”  
27 is unpersuasive. ECF No. 289 at 2. The Court will not allow a mini-trial on an irrelevant, or at  
28 most minimally probative, issue—i.e., the scope of the permit. Accordingly, the Court hereby

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excludes evidence of the special events permit under Rule 403 because any probative value such evidence might have is substantially outweighed by the danger of confusing the issues, undue delay, and wasting time.

The parties shall amend their witness list, exhibit list, deposition designations, and any other trial materials accordingly. The parties shall file amended witness and exhibit lists by February 6, 2015. The parties shall file amended deposition designations by February 7, 2015.

**IT IS SO ORDERED.**

Dated: February 5, 2015

  
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LUCY H. KOH  
United States District Judge

