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Superior Court of California, County of Alameda
Rene C. Davidson Alameda County Courthouse

BARRETT Plaintiff/Petitioner(s) VS. CLARK Defendant/Respondent(s) (Abbreviated Title)	No. <u>C-833021</u> Order Motion for order req. plaint. to file an undertaking to secure cost Granted
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The Motion for order req. plaint. to file an undertaking to secure cost was set for hearing on 05/02/2007 at 09:00 AM in Department 31 before the Honorable Winifred Y. Smith. The Tentative Ruling was published and has not been contested.

IT IS HEREBY ORDERED THAT:

The tentative ruling is affirmed as follows: The Motion of Defendant and Judgment Creditor Ilena Rosenthal ("Defendant") for Order Requiring Plaintiffs to File an Undertaking to Secure an Award of Costs and Attorneys' Fees Which May Be Awarded is **GRANTED IN PART**.

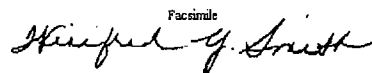
As to Plaintiffs Terry Polevoy, M.D. and Stephen J. Barrett, M.D., the motion is granted. Plaintiffs do not dispute that they reside out of state. (See Code Civ. Proc., § 1030(b).) There is a "reasonable possibility" that Defendant will obtain judgment for attorney's fees and costs expended since October 5, 2001 in connection with Defendant's special motion to strike under Code of Civil Procedure section 425.16. (Id.)

The amount of the undertaking is \$264,311.68 (\$263,211.68 + \$1,100) as to Plaintiff Polevoy, and \$169,404.25 (\$168,304.25 + \$1,100) as to Plaintiffs Polevoy and Barrett. Defendant relies on Code of Civil Procedure section 917.1 for the proposition that the undertaking shall be increased, but that statute applies only to undertakings filed in connection with appeals.

The Court denies Defendant's request for an order requiring plaintiff Christopher Grell to post a bond pursuant to the Court's inherent powers, Code of Civil Procedure section 187, or Code of Civil Procedure section 391.1.

Defendant shall file and serve notice of entry of the Order on Plaintiffs within 10 days of receipt of the Court's Order. Plaintiffs Polevoy and Barrett shall file the undertaking no later than 30 days after service of the Court's order. (See Code Civ. Proc., § 1030(d).)

Dated: 05/02/2007

Facsimile


Judge Winifred Y. Smith

SHORT TITLE:

BARRETT VS CLARK

CASE NUMBER:

C-833021

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