

WEIN LAW GROUP

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June 25, 2021

Jeffrey Reeves, Esq.
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Re: Mohamed Hadid – Retraction Demands
Hillsides Against Hadid.Org

Dear Jeff:

Thank you for your email correspondence dated June 21, 2021 setting forth five demands for retraction (plus an apology) that Hillsides Against Hadid.org (“HAH”) must apparently post to avoid the expense of being sued for defamation by Mr. Hadid.

As an initial matter, you have still not identified a single fact published that is false, much less defamatory. Nor, have you explained how Mr. Hadid intends to produce clear and convincing evidence of malice given his public figure status. Nevertheless, and notwithstanding the obvious lack of merit of Mr. Hadid’s claims, we have repeatedly stated we are willing to resolve the matter by a negotiated public statement. This because HAH is a small neighborhood group and has no money for an expensive legal battle with a wealthy celebrity land developer.

In that spirit, I was hoping that our discussions would result in us meeting somewhere in the middle between your June 16, 2021 proposal and mine offered the same day. Instead of meeting in the middle, the five new retraction demands (and new demand for apology) in your June 21, 2021 correspondence are a complete departure from our previous discussion and unfortunately, a non-starter. Our response to the five new retraction demands is set forth below.

Retraction Demand No. 1:

Mr. Hadid pled *nolo-contendere* to three misdemeanor charges stemming from repeated building code violations and was sentenced by a Superior Court for these crimes. The plea of *nolo-contendere* results in a criminal conviction in California. These are facts known world-wide through widely circulated (and still publicly available) copies of the misdemeanor complaint, sentencing memorandum and subsequent motion for probation violations. As also widely reported, Mr. Hadid (supposedly) performed community service as his punishment for breaking the law and committing those crimes.

As much as Mr. Hadid would like sweep all of this under the rug and make it disappear, these facts have been reported in the worldwide press, are true and did not originate with

HAH. Accordingly, HAH's statements are neither false, nor defamatory. Retraction Demand No.1 is respectfully rejected.

Thank you for informing us that Mr. Hadid quietly got his three convictions for building code crimes expunged by way of performing community service and completing probation as per the sentence imposed to punish him. We were not unaware of those facts. As a courtesy, HAH will reference the expungement of the court record if HAH publishes anything about Mr. Hadid's criminal convictions, sentence or punishment in the future as historical facts.

Retraction Demand No. 2:

You appear to have a flawed understanding of the Friends of Hastain Trail decision which you have cited repeatedly and upon which Mr. Hadid's defamation case rests entirely.

First, HAH did not coin the term "Hastain Trail." To the contrary, the name Hastain Trail has been used for decades to describe the hiking trail in Franklin Canyon Park and the name has been used and published worldwide. See. e.g. <https://www.alltrails.com/trail/us/california/hastain-trail>. Even the Court of Appeal in the Friends of Hastain Trail case observed that it was "*undisputed the Hastain Trail [runs] atop the Hastain Fire Road.*" Thus, the Hastain Fire Road (and Hastain Trail "atop" of it) do in fact run through Mr. Hadid's property.

Second, the Court ruled the Hastain Fire Road is a "public easement" and at the time it was created: "*the property owners and the public could reasonably contemplate it would be used by hikers.*" Since its creation, nothing has altered the status of it being a public easement and indeed, the Court ruled that when Mr. Hadid purchased the property, he "*took [the land] subject to whatever easements and encumbrances had been created by prior owners . . . [T]he public easement must be respected.*" Whether Mr. Hadid likes it or not, a public easement for hiking presently runs through his property.

Third, the Court ruled that the public easement marked by the Hastain Fire Road could *and would* "enlarge" by way of "development" over time. As an example, in 2004, Mr. Hadid inadvertently enlarged the public easement over his land by development, even though an enlargement of the easement was never his intention.

This occurred when Mr. Hadid illegally graded a road from Coldwater Canyon Drive (at Royalton) to the plateau of what was formerly known as the Peak Trail. Mr. Hadid did this to gain access to the top for heavy construction equipment.

In 2011, Hadid then illegally flattened the top of the plateau of the Peak Trail to develop the site building pad, prompting the Friends of Hastain Trail lawsuit. This later work enhanced and embellished the connected Hastain Fire Road and thereafter enabled the Fire Department to gain access to areas of his property which were not previously accessible, thus, enlarging the existing public easement to include the plateau area and opening it to the Fire Department, as well as to hikers.

Fourth, according to the two Justices deciding the case, the Hastain Fire Road (inclusive of the public easement) and the Hastain Trail (which runs “atop” of it) may be removed by the owner. However, the Court stated removal is limited to “*when [the Fire Road] is no longer needed for fire protection.*” Arguably, that decision rests within the sole and exclusive discretion of the Los Angeles Fire Department, not the whim of Mr. Hadid.

The bottom line is the Friends of Hastain Trail decision does not stand for the proposition that Mr. Hadid’s property is free of any public easement. To the contrary, the Court ruled only that trial court erred by rendering the existing public easement, *permanent*. The entire reasoning of the Court makes no sense in absence of an existing public easement which cannot be terminated until the Fire Department deems the Hastain Fire Road no longer necessary for fire protection.

Accordingly, HAH's statements are neither false nor defamatory. Retraction Demand No. 2 is therefore respectfully rejected.¹

Retraction Demand No. 3:

See our remarks above regarding the Court of Appeal decision in Friends of Hastain Trail. Those remarks apply equally here.

¹ With regard to bulldozing, Hadid has asserted in court documents that he intends to develop all six of his parcels into homes. Such work has already involved bulldozers (i.e. grading at the plateau) and it is reasonable to assume will involve bulldozers again. Additionally, when Hadid states in court papers that he intends to turn his undeveloped land into homes, it also reasonable to assume that he intends to commence that activity when he installs gates to block the public easement. This is especially true because Mr. Hadid has a history of doing this, including grading without proper permits and/or exceeding the scope of permits and he has even been criminally prosecuted for breaking laws regulating such things. You should also be aware that within days of Hadid erecting fences on Hastain Trail, Hadid had a bulldozer and construction crew working at the Royalton site.

Curiously, you were not wrong about one thing. Having now reviewed the Friends of Hastain Trail decision again, HAH was definitely mistaken when it posted that Mr. Hadid could put up gates and terminate public access to his property any time he desired. He cannot because it would interfere with Fire Department access and the inextricably intertwined public easement for hiking.

Instead, Mr. Hadid must first obtain permission from the Fire Department which must make an independent finding that the Hastain Fire Road is no longer “necessary” for fire protection. Given the heightened wildfire danger due to years-long drought conditions, climate change effects and the absence of any burn in Franklin Canyon for decades, I believe the Fire Department will closely guard its fulltime access to these very high risk hillsides, ridgelines and undeveloped brush covered lands.

HAH’s statements are neither false nor defamatory. Accordingly, Retraction Demand No. 3 is respectfully rejected.

Retraction Demand No. 4:

See our remarks above regarding the Court of Appeal decision in Friends of Hastain Trail which are applicable here. HAH’s statements are neither false nor defamatory. Retraction Demand No. 4 is therefore respectfully rejected.

Retraction Demand No. 5:

HAH’s response to the hiker included in your June 16, 2021 cease and desist letter (and published on Facebook prior to the receipt of your letter) suffices as a publication of HAH’s unprompted position on the matter of trespass and vandalism. Your letter (including HAH’s timely response) has also been published on the HAH web portal. HAH’s statements are neither false nor defamatory. Retraction Demand No. 5 is therefore respectfully rejected.

Jeff, apart from failing to identify a single false, much less defamatory statement made by HAH (and never explaining how Mr. Hadid intends to show malice), you have also not stated how you intend to avoid the application of Civil Code Section 47b which clearly bars any claim, *even if HAH published defamatory statements*. As such, a complaint filed against HAH at this time would lack any objective legal merit or probable cause.

You and your client have already wasted many hours of my time responding to these far-fetched and baseless allegations against HAH. This time could have been spent on HAH's core mission; namely, stopping Mr. Hadid from destroying our hillsides, ridgelines and animal habitat by way of his illegally constructed and out-of-scale mega-mansions. You and your client's baseless attacks on me and HAH are therefore improper attempts to chill our Constitutionally protected speech and text-book SLAPP, justifying the harshest of sanctions:

“The paradigm SLAPP is a suit filed by a large land developer against environmental activists or a neighborhood association intended to chill the defendants' continued political or legal opposition to the developers' plans.”

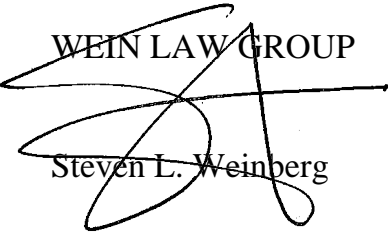
Wilcox v. Superior Court (1994) 27 Cal.App.4th 809, 815.

Until these claims are resolved, this letter shall serve as notice that you and your client are required to preserve and retain all documents and communications which relate to these matters. This letter and all statements made herein are written under threat of, or in contemplation of eminent litigation. Nothing in the foregoing shall constitute a waiver of any rights, claims, defenses or causes of action which are hereby expressly reserved.

Thank you.

Sincerely,

WEIN LAW GROUP



Steven L. Weinberg