

1 JERRY R. DAGRELLA, Bar No. 219948
DAGRELLA LAW FIRM
2 11801 Pierce Street, 2nd Floor
Riverside, CA 92505
3 Telephone: (951) 710-3043
Facsimile: (951) 344-8372
4 Email: dagrella@lawyer.com

5 Attorney for Defendants Daniel Mock and Angel
Wayhang Kou and Cross-Complainant
6 Daniel Mock

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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF LOS ANGELES – CENTRAL DISTRICT
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12 MANUK MKHITARYAN,

13 Plaintiff,

14 v.

15 DANIEL MOCK, an individual; ANGEL
WAYHANG KOU, an individual; and
16 DOES 1-10, inclusive,

17 Defendants.

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19 DANIEL MOCK, an individual,

20 Cross-Complainant,

21 v.

22 MANUK MKHITARYAN, an individual;
DOES 1-10, inclusive,

23 Cross-Defendants.
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Case No. [REDACTED]
Judge: Hon. Yvette M. Palazuelos

**NOTICE OF MOTION AND MOTION OF
CROSS-COMPLAINANT DANIEL MOCK
FOR SANCTIONS AGAINST CROSS-
DEFENDANT MANUK MKHITARYAN
AND HIS ATTORNEYS ARTHUR S.
CHARCHIAN AND DANIEL A. CANTOR
PURSUANT TO CODE OF CIVIL
PROCEDURE SECTION 128.7**

Hearing:

Date: [REDACTED]

Time: [REDACTED]

Dept.: [REDACTED]

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TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on [REDACTED], at 8:30 a.m., or as soon as thereafter as the matter may be heard in Department 28 of the above-entitled Court, located at 111 North Hill Street, Los Angeles, California, Cross-Complainant Daniel Mock ("Mock") will move this Court to impose monetary sanctions in the form of reasonable attorneys' fees and costs, jointly and severally, against Cross-Defendant Manuk Mkhitarian ("Mkhitarian") and his attorneys, Arthur S. Charchian and Daniel A. Cantor, in the amount of \$3,375.00 as well as such other sum and/or sanction as the court may find just and reasonable.

This Motion is made pursuant to *Code of Civil Procedure* sections 1008(d) and 128.7 on the ground that Mkhitarian and his attorneys re-filed the same motion to strike that was previously denied by this Court as well as the same demurrer against the extortion cause of action to which this Court previously overruled. Mkhitarian has not cited any new facts or law in support of the renewed motion to strike and demurrer, nor has he complied with C.C.P. §1008 concerning renewed motions and motions for reconsideration. Mkhitarian's conduct in re-filing the same motion to strike and demurrer is abusive, grossly wasteful (to Mock, and the Court), and in direct violation of C.C.P. §1008(d) and §128.7.

This Motion will be based upon this Notice, Memorandum of Points and Authorities, the declaration of Jerry R. Dagrella, and the pleadings and records on file in this action, and upon such further documents and evidence as may be presented at the hearing of this motion.

Dated: July 17, 2014

DAGRELLA LAW FIRM

By: _____

JERRY R. DAGRELLA

Attorney for Defendants Daniel Mock and
Angel Wayhang Kou and Cross-Complainant
Daniel Mock

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

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3 **I. INTRODUCTION**

4 On November 22, 2013, this Court denied Cross-Defendant Manuk Mkhitarian
5 (“Mkhitarian”)’s motion to strike and overruled his demurrer to the extortion cause of action in
6 the cross-complaint of Cross-Complainant Dan Mock (“Mock”). On January 21, 2014,
7 Mkhitarian re-filed the same motion to strike that was previously denied as well as the same
8 demurrer against the extortion cause of action to which the demurer was previously overruled.

9 Mkhitarian has not cited any new facts or law in support of the renewed motion to strike
10 and demurrer, nor has he complied with C.C.P. §1008 concerning renewed motions and motions
11 for reconsideration. Mkhitarian’s conduct in re-filing the same motion to strike and demurrer is
12 abusive, grossly wasteful (to Mock, and the Court), and in direct violation of C.C.P. §1008(d) and
13 §128.7. Mock respectfully requests sanctions to reimburse his attorney’s fees and costs
14 associated with this motion and having to once again oppose the motion to strike and demurrer.

15 **II. STATEMENT OF FACTS**

16 On January 8, 2013, Mkhitarian filed a motion to strike paragraphs 12 through 14 of
17 Mock’s cross-complaint, which describe the alleged extortionate acts on the ground that said
18 assertions are protected by litigation privilege. (Dagrella Decl., ¶2.) On November 22, 2013, this
19 Court denied that motion to strike in its entirety. (*Ibid.*) No amendments were made to
20 paragraphs 12 through 14 of Mock’s cross-complaint, yet Mkhitarian has re-filed the same
21 motion to strike. (*Ibid.*)

22 In addition, Mkhitarian filed a demurrer to the extortion cause of action, which this court
23 overruled. (*Ibid.*) No amendments were made to the extortion cause of action, yet Mkhitarian
24 has re-filed the same demurrer against that cause of action. (*Ibid.*)

25 **III. LEGAL ANALYSIS**

26 Mkhitarian’s motion to strike and demurrer to the extortion cause of action are duplicates
27 of what this Court previously considered and denied. (Dagrella Decl., ¶2.) Thus, they are, in
28 essence, renewed motions or motions for reconsideration. *Code of Civil Procedure* section 1008

1 requires that a motion for reconsideration be brought "within 10 days after service upon the party
2 of written notice of entry of the order." Further, both renewed motions and motions for
3 reconsideration must be based upon new or different facts, circumstances, or law. "[I]t shall be
4 shown by affidavit what application was made before, when and to what judge, what order or
5 decisions were made, and what new or different facts, circumstances, or law are claimed to be
6 shown." (C.C.P. §1008(b).)

7 Mkhitaryan clearly missed the 10-day deadline by months and he has not shown by
8 affidavit what new or different facts or law exist. He has simply re-filed the same motion and
9 demurrer. In fact, comparing the table of contents on the previously denied motion to strike with
10 the table of contents on the pending motion to strike reveals that the content on both are exactly
11 the same, word for word.

12 Mkhitaryan is attempting to take a second bite of the apple by re-filing his motion to strike
13 and demurrer against the extortion cause of action without complying with section 1008. Section
14 1008, subdivision (d) provides that "a violation of this section may be punished as a contempt and
15 with sanctions as allowed by Section 128.7." In this case, it is proper to award sanctions against
16 Mkhitaryan and his attorneys to reimburse Mock's fees and costs associated with this motion and
17 in unnecessarily having to re-oppose the duplicate motion to strike and demurrer.

18 **IV. CONCLUSION**

19 Mock respectfully requests sanctions in the amount of \$3,375.00 as reimbursement of his
20 attorney's fees and costs associated with this motion and in opposing the duplicate motion to
21 strike and demurrer. (Dagrella Decl., ¶ 5.)

22 Dated: July 17, 2014

DAGRELLA LAW FIRM

23
24 By:

JERRY R. DAGRELLA

Attorney for Defendants Daniel Mock and
Angel Wayhang Kou and Cross-Complainant
Daniel Mock