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## EpsteinBecker Sanctioned In Suit Over Topless Photos

By **Ben James**

Law360, New York (November 05, 2009) -- The New York Supreme Court has sanctioned EpsteinBeckerGreen for its role in lodging an allegedly retaliatory suit over topless photos in order to harass Thompson Wigdor & Gilly LLP, which represents two women who brought sexual harassment claims against EpsteinBeckerGreen client Titan Capital LLC.

EpsteinBeckerGreen co-founder Ronald Green called the judge's decision outrageous, and said an appeal was in the works.

However, Douglas Wigdor of Thompson Wigdor, which represents alleged harassment victims Danielle Pecile and Cristina Culicea, said the suit targeting Pecile, Culicea, Wigdor and his firm had given his clients an airtight retaliation claim.

New York Supreme Court Justice Walter B. Tolub on Wednesday dismissed Sandra Piedrabuena Abrams' complaint with respect to Thompson Wigdor, Wigdor and Culicea, but declined to throw out the claims against Pecile, holding that the allegations against Pecile were "barely sufficient" to withstand a motion to dismiss.

According to Green, Wigdor was holding topless photos of Sandra Abrams taken on her honeymoon —which Pecile stole from her former boss Russell Abrams, Sandra Abrams' husband — for ransom.

Sandra Abrams' amended complaint, which centered on the allegedly stolen photos, asked for damages and injunctive relief and included a claim for intentional infliction of emotional distress.

Culicea and Pecile filed discrimination charges with the U.S. Equal Opportunity Commission alleging sexual harassment against hedge fund Titan Capital.

One of the bases for Pecile's sexual harassment claim stems from her contention that Titan

Capital President Russell Abrams gave her two copies of a CD containing photos to print out a Duane Reade store.

Pecile said she was appalled to see topless images of Sandra Adams among the pictures when she inserted the CD into a machine to print the photographs out. According to Pecile, she printed out the pictures and gave them to Russell Abrams, who smirked and asked if Pecile liked the pictures.

Pecile held on to one of the CDs, a move she claimed was inadvertent.

In June, Wigdor allegedly offered to give the pictures back if Pecile and Culicea's claims were settled for \$2.5 million. The EEOC action was not settled, and Sandra Abrams' suit over the pictures, which was lodged in New York Supreme Court, soon followed.

"It is clear to the court that the complaint as to Ms. Culicea and Mr. Wigdor has no basis in law and fact and could only have been brought to harass Ms. Culicea and the Wigdor law firm," Justice Tolub said.

Wigdor and his firm are entitled to \$1,000 in sanctions because of the "frivolous claims" asserted against them, Justice Tolub concluded, also granting Culicea's motion for "reasonable attorneys fees."

According to Green, Sandra Abrams' lawsuit was vetted by prominent ethicist and Hinshaw & Culbertson LLP partner Hal R. Lieberman, who will be handling the appeal of the decision.

"You simply can't steal and condition the return of what you've stolen on some settlement demand being met," Green said.

Wigdor said that Justice Tolub had issued a well-reasoned analysis of the issues.

"I don't think there's really any possibility or likelihood that the court's decision would be overturned on appeal," he said. "This is complete overreaching on Mr. Green's part and the court saw it for what it was."

Wigdor also said he anticipated filing a lawsuit in federal court against those involved in bringing the "frivolous" state court suit.

The suit would include claims under Title VII, the New York State Human Rights Law and the New York City Administrative Code, and would target Green, Epstein Becker and Titan Capital, among others, he said.

Wigdor added that the photos were evidence of Russell Abrams' alleged unlawful activity, and that Pecile had a right to keep them to prove her harassment case.

Culicea worked at Titan as a receptionist, while Pecile was an executive assistant to Russell Abrams, Justice Tolub's decision said. Both women claim that sexual harassment permeated their work environment at the hedge fund.

Pecile and Culicea are represented by Thompson Wigdor & Gilly LLP.

Sandra Abrams is represented by EpsteinBeckerGreen.

That case is Sandra Piedrabuena Abrams v. Danielle Pecile et al., case number 110329/09, in the Supreme Court of the State of New York, New York County.

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