

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

MARCO MORANTE,
Plaintiff,

vs.

Case No. _____

Division: _____

ERIKA GIRARDI aka ERIKA JAYNE,
LAIA RIBATALLADA and
MICHAEL MINDEN,
Defendants.

Jury Trial Demanded

COMPLAINT

Plaintiff, MARCO MORANTE ("MORANTE"), sues the Defendants, ERIKA GIRARDI aka ERIKA JAYNE, (hereinafter "Erika"), LAIA RIBATALLADA, (hereinafter "Ribatallada"), and MICHAEL MINDEN (hereinafter "Minden") for tortious interference with business relationships, tortious interference with contracts, defamation, defamation by implication, and conspiracy to tortiously interfere with Plaintiff's business relationships and to defame Plaintiff; and, as grounds, state:

JURISDICTION

1. Plaintiff seeks damages in excess of \$300,000 against each Defendant.
2. Defendants committed tortious acts and conspired to commit tortious acts in Florida; thereby subjecting themselves as non-residents to the jurisdiction of Florida courts. *See Execu-Tech Bus. Sys., Inc. v. New Oji Paper Co.*, 752 So.2d 582, 584 (Fla. 2000), *cert. denied*, 531 U.S. 818, 121 S.Ct. 58, 148 L.Ed.2d 25 (2000).

3. Defendants' tortious acts and conduct interfered with Plaintiff's business and business expectancy that Defendant enjoyed with dozens of Florida persons and companies residing, primarily, in Hillsborough, Orange and Miami-Dade Counties. Further, in tortiously interfering with Morante's business and his reasonable expectation of doing business, Defendants personally defamed, libeled, and slandered Morante by accusing him of felonious crimes and by failing to tell the truth when confronted by Morante's business associates. Thus, Plaintiff Morante's causes of action accrued here in Florida.

4. Section 48.193 (1)(a), Fla. Stat. makes non-residents of Florida subject to the jurisdiction of Florida courts if they, or their agents or personal representatives, operate, conduct, engage in, or carry on a business or business venture in Florida and if they commit tortious acts within this state.

5. Section 48.193 (6) Fla. Stat. subjects non-residents to the jurisdiction of Florida courts if they cause injury to persons within Florida arising out of acts or omissions by Defendants outside this state, if, at or about the time of the injury, defendants were engaged in solicitation or service activities within this state.

6. At all times pertinent, Defendants and their agents and personal representatives operated, conducted, engaged in, solicited, and carried on an entertainment business in Florida, particularly in Hillsborough, Orange, and Miami-Dade Counties, entertaining and selling merchandise in those counties beginning in 2012, and continuing to the present.

VENUE

7. The damages inflicted by Defendants upon Plaintiff occurred, primarily, in Hillsborough, Orange, and Miami-Dade Counties. Thus, this action occurred in Hillsborough, Orange, and Miami-Dade Counties. *Edelstein v. Marlene*, 961 So. 2d 368, 371-72 (Fla. 4th DCA

2007).

PARTIES AND KEY PRINCIPALS, INCLUDING UN-SUED CO-CONSPIRATORS

8. Plaintiff Morante is one of the founding partners of Marco Marco, LLC, now known as Marco Squared, LLC (“MSQ”). Morante is a resident of the State of California but has been commercially and professionally connected to Florida business through Marco Marco’s garment business and by designing and manufacturing specialty and custom products for Florida companies and customers, both through Marco Marco and independently as himself; and by consulting with Florida companies and customers on creative concepts to further the business welfare and successes of those Florida companies and customers beginning no later than 2010.

9. Christopher Psaila is the other co-founder of Marco Marco, LLC; and was at all times pertinent, closely associated with Morante as his partner in Marco Marco and as a collaborator on special projects that Morante undertook as a creative consultant. In the industry niche in which Morante and Psaila operated, Morante and Psaila were viewed as a closely-knit team.

10. Erika Girardi aka Erika Jayne (“Erika”) is an entertainer, social media influencer, model, and businesswoman residing in Los Angeles County, California. Erika began her performance career as a second or third tier novelty act but gained considerable fame and recognition as an entertainer as one of the Real Housewives of Beverly Hills, which role she began in 2015 and continues to the present. During times relevant herein, Erika performed her musical/dance act at venues in Hillsborough, Orange, and Miami-Dade Counties. In 2014, Erika, by herself and through her assistants Ribatallada and Minden, began to order costumes from Marco Marco and develop creative and business relationships with Psaila and Morante that lasted through 2016.

11. Defendant Ribatallada commenced employment with Erika Girardi in 2013 and was appointed as Erika Girardi's ("Erika") personal assistant in 2014. In this close personal and professional role, Ribatallada supported Erika in all facets of her career and income-generating enterprises. This included coordinating with Marco Marco, Psaila, Morante, and Erika on all matters related to the design, production, and supply of costumes for Erika's performances, as well as consulting Morante for creative input beyond the scope provided by Marco Marco.
12. The relationship was so close that in a 2018 Instagram post, Ribatallada publicly declared, in reference to Erika on her birthday, that she would "bury a body for you for free" if Erika ever committed a murder (**See Exhibit 1**). Considering their historical pattern of fraudulent behavior, it is reasonable to infer that Ribatallada was likely boasting about their successful deception of Special Agent Henderson. Both Ribatallada and Girardi reportedly informed Henderson that they could not locate any text messages to justify seven charges on the Girardi Amex card, despite the existence of 281 text messages.
13. Defendant Michael Minden "Minden" at all relevant times herein was employed by Erika as her creative director for all her performances. Like Ribatallada, Minden's relationship was both personal and professional. Minden is a resident of Los Angeles County. As Erika's creative director he coordinated the selection, design and provision of costumes and services of Marco Marco as well as choreographing her dance performances, which relied heavily on Marco Marco costumes, and, like Ribatallada consulted with Plaintiff Morante on virtually every creative concept.

Facts Common to All Claims

14. By 2015, after being selected to appear on "The Real Housewives of Beverly Hills," Erika's career as an entertainer began to flourish. She had married renowned torts attorney Tom Girardi, the sole owner of Girardi & Keese, in 1999 after meeting him in a restaurant. Tom Girardi, who was approximately 35 years older than Erika, financed her career from that point through 2020. Among other means of support, Girardi directed his law firm to provide Erika with an American Express ("Amex") credit card, issued in her name, to purchase costumes, products, and services for her entertainment career. This included costumes and products for herself as well as for her troupe of dancers and supporting entertainers. Erika also used the Girardi & Keese funds and credit card to compensate the defendants.

15. Erika also benefited by having the Girardi law firm pay her Amex card, which in turn was used to pay Marco Marco and Morante for their services and products. She did this by giving her Amex Card number to Psaila/Marco Marco with instructions to charge the card as charges for products and services became due in the normal course of business. At one point, this card expired and the long-time legal assistant to Tom Girardi, Shirlene Fujimoto, called Psaila to make sure Psaila had the right, updated Amex card to continue Erika's quest for reality show stardom.

16. By 2016, however, Attorney Tom Girardi's financial and professional world was crumbling as several civil investigations into Girardi's many years of secretly embezzling client trust funds from his law firm progressed. Thus, by 2016 Girardi was finding it more and more difficult to hide his embezzlements, finance Erika's lavish lifestyle, and fund the expenses for Erika's "posse" of personal attendants, led, managed, and supervised by Defendants.

17. Thus, Girardi embarked on a series of schemes in 2016 to raise money and hide his malfeasance from his law firm colleagues, their clients, and, of course, law enforcement authorities. In one of these schemes, Girardi enlisted Defendants to lie about the Amex credit card purchases made by them from Marco Marco.

18. At the beginning of Defendants' business relationship with Morante and Psaila, Erika informed Plaintiffs and Defendants that Marco Marco should charge her Amex credit card in lieu of the more standard invoice and payment process. Erika directed her co-Defendants (and co-conspirators), Ribatallada and Minden, to monitor and regulate purchases from Marco Marco and to consult Morante on creative issues. However, in 2016, Defendants accused Morante and Psaila of credit card fraud by criminally charging Erika's Amex card with almost \$800,000 for unauthorized or non-existent products and services that Defendants had not received.

19. Defendants' scheme to recover \$787,117.88 in purchases from Amex, while likely hatched by Girardi, involved making false reports to law enforcement officials that Psaila and Morante had fraudulently charged Erika's Amex card with the product/services that they supplied to Erika, Ribatallada, and Minden for the years 2015- 2016.

20. While making their false claims to federal law enforcement officials, Defendants knew that their claims were false. However, because Defendants livelihoods and incomes depended on Girardi's financial support, Defendants agreed to lie about the credit card charges on Erika's Amex card and Psaila and Morante's roles in using Erika's Amex card to compensate Morante, Psaila, and Marco Marco.

21. Upon information and belief Girardi had secret and felonious relationships with federal law enforcement officials because, upon information and belief, Girardi assured

Defendants that he would “cover for them” and shield them from consequences for instigating a wrongful criminal investigation into Marco Marco’s business operations.

22. Based on Defendants’ false testimony that Psaila and Morante fraudulently charged Erika’s Amex card with \$787,117.88 in purchases, federal prosecutors indicted Psaila in April 2017 on several counts of fraud. If convicted, Psaila could have been imprisoned for over 100 years. By the successful implementation of Girardi’s and Defendants’ fraudulent scheme, Amex refunded to Girardi over \$787,117.88. Plaintiff Morante has no understanding of why he was not indicted because, in the niche marketplace in which he operated, he was viewed as inextricably tied to Psaila.

23. In fact, Defendant Minden, as Erika’s creative and dance director, approved every costume or product or consultation charged to the Amex card, conferred with Psaila and Morante regularly – weekly and often daily – and instructed Ribatallada to arrange for fittings, track delivery schedules, inspect costumes and products, and otherwise coordinate with Plaintiff, Psaila, and Plaintiff’s staff.

24. As a “real housewife,” singer, personality, and entertainer, from 2016 to the present, Erika, aided and abetted by Minden, and Ribatallada, have given numerous interviews and public presentations about their ordeals dealing with Girardi’s malfeasance and criminal indictments, but have never attempted to confess their own roles in framing Plaintiffs, falsely accusing Plaintiffs of credit card fraud, or defaming Plaintiffs as felonious crooks. As recently as February 9, 2023, Erika told the *Los Angeles Times*: “In no way did I pull a scam to get \$760,000 to help anybody get this money [referring to the money Erika accused Psaila and Morante of feloniously charging to Erika’s Amex credit card].”

25. In that same *Los Angeles Times* article, Girardi maintained in an interview that she remained certain that Psaila falsely billed her for hundreds of thousands of dollars of merchandise. (See exhibit 2) This is more likely than not an intentional falsehood which can easily be seen in the District Court ruling by the Honorable Michael Fitzgerald in his opinion in which he determined that Psaila met the burden of likely prevailing on his claim for malicious prosecution. (See exhibit 3)

26. These intentional falsehoods in the *Los Angeles Times* article mentioned above have never been withdrawn, denied or retracted by any of the Defendants.

27. In support of Erika's accusations that Psaila and Morante committed credit card fraud, Defendants informed Morante's customers, suppliers, and other persons in the entertainment industry (performers, booking agents, managers of venues, etc.) that the Erika Jayne performing group would not be doing business with Morante, Psaila, or Marco Marco.

28. At all times pertinent herein, Defendants knew that Erika's influence with her Florida fans, entertainment venues and suppliers (many of whom/which were Plaintiffs' customers, as well), and retail outlets selling Erika-related or endorsed products, would affect Plaintiff's business reputations and his ability to do business in Florida. Defendants' motive in defaming Plaintiff, and causing Plaintiff to lose Florida customers, was to aid and abet Girardi's scheme to hide his malfeasance and to ensure that Erika would have sufficient income for herself and to pay Ribatallada and Minden for the work they did for Erika. Indeed, without Erika, Ribatallada and Minden would have lost significant income and status in the entertainment industry. Without Ribatallada and Minden, Erika would not have been able to perform or keep her troop together.

29. From 2016 to the present, Plaintiff suffered lost income and other compensatory damages exceeding \$1,000,000 due to the total loss of his Florida customers after Erika's charges and Psaila's indictment became public. Only after Defendants' lies were exposed in September 2021 was Plaintiff able to begin a comeback in his formerly favorable Florida market. In fact, Defendants' interference and defamatory statements against Plaintiff continues to the present day as Defendants continue to avoid responsibility for their criminal conspiracies with Girardi.

30. Erika and her husband Tom Girardi, the notorious disbarred plaintiff attorney along with Ribatallada and Minden initiated a corrupt investigation by American Express and the United States Secret Service that resulted in Psaila's indictment and in April 2017 that destroyed the Plaintiff's business and business reputation in Florida.

31. Prior to Defendants defamations, Plaintiff's business and status as a designer grew proportionately with Erika's fame and popularity because "Erika Jayne" endorsed Morante, Psaila, and Marco Marco as Erika's primary creative talents behind, and supplier of, her costumes and those of her dancers. Florida entertainment venues would often feature Morante and Psaila along with Erika at entertainment and entertainment-related events. Florida, in essence, became Morante's second most important market.

32. In retrospect, Florida was such an important market that Morante himself spent months at a time in Florida in person. In fact, Morante was leased an apartment in Bradenton to support a client involving the Barnum Circus.

33. As of the point in 2016 when Defendants began their conspiracy with Girardi, Morante had business relations with well over one-hundred Florida clients, retailing brands, men's underwear and athleisure apparel, as well as costumes and specialty clothing items. As a creative consultant, Morante likewise conferred with customers, suppliers, and even competitors in Florida.

Prior to Defendants conspiring to sacrifice Morante to Girardi's scheme, Morante's designs and products were grossing over \$300,000 a year from Florida customers. This amount accounted for over 30 percent of all Marco Marco sales. After Psaila's indictment and Marco Marco's business collapse, Morante simply could not find work in Florida for himself, for his designs, or for his products. Likewise, his days after the indictment were consumed with the actions and activities it took to finally prove to federal authorities that they had been duped by Girardi and Defendants, who were, in fact, the real crooks.

34. After Defendants put their scheme to defraud American Express into play, Morante ceased being invited to entertainment venues. However, Erika and Defendants continued to entertain in Florida and to purchase Morante's designs that remained in the inventories of Morante's former customers. In fact, Defendants urged Florida suppliers to emulate Morante's style and versatility as Defendants sought out companies to replace Morante's goods and services.

35. Defendants purposefully spread their false accusations in Florida even while knowing the importance of the Florida market to Erika and Defendants. On information and belief, more than 35 percent of Erika's video and social media sales are made in Florida. Upon information and belief, some of Erika's recording and business activities are supported and financed in Hillsborough County, including but not limited to bank accounts established by and with money from famed attorney Jim Wilkes. Thus, in publishing Defendants' defamatory statements about Plaintiff being a perpetrator of credit card fraud, Defendants used telephones, emails, text messaging, and other phone based social media, to assure Florida companies and persons that Erika and her entourage would "survive" the fraud that Psaila and Morante had visited upon them, and that Erika would honor her business and entertainment commitments in Florida.

36. The purpose of the defamatory campaign was to so completely ruin Morante and Psaila that they would never be able to expose the conspiracy hatched by Girardi and carried out by Defendants.

37. As a result of the intense social media “chatter” about Morante and Psaila’s alleged crime and Psaila’s subsequent indictment, as perpetrated by Erika, Ribatallada and Minden through their personal contacts and industry media, Defendants destroyed Morante’s professional reputation in Florida markets.

38. The entertainment industries in Hillsborough, Orange, and Miami-Dade Counties are intricately intertwined with the entertainment industry in California. For all practical business purposes, the entertainment venues and support structures (like recording and video production studios) in Hillsborough, Orange, and Miami-Dade Counties are as connected to “Hollywood” as if those venues were “down the street and around the block” from the creative talents, like Plaintiff Morante, who provide the products and services that allow entertainers like Erika and their support staffers, like Ribatallada and Minden, to thrive.

39. Thus, from 2016 to September 28, 2021, when the federal government moved to dismiss Psaila’s indictment, Morante was “on the ropes” professionally, i.e., unable to do business in Florida (and elsewhere) and totally involved in trying to defend himself and Psaila and to confront federal law enforcement officials with the truth. In fact, Morante was out of business for all practical purposes and survived only because he knew the truth, believed that truth would eventually win out, and because key entertainers remained loyal, knowing that Morante was trustworthy and would not defraud customers.

40. Indeed, Girardi’s corrupt influence, aided and abetted by Defendants, was so great over the federal law officers that federal prosecutors only dismissed charges against Psaila after

Morante and Psaila hired a well-known (and expensive) criminal defense attorney who forced federal investigators to confront the facts that no credit card fraud had been committed by Morante or Psaila, and that Defendants and Erika had lied in order to aid and abet Girardi, who was Defendants' primary source of financing and without whom Defendants' income, lifestyle, and entertainment careers were imperiled.

41. On September 29, 2021, the Honorable Fernando M. Olguin, United States District Judge for the Central District of California dismissed the indictment against Psaila in Case No. 2:17-cr-00257, vacated all hearings and deadlines, exonerated Psaila's bond, and terminated all pre-trial conditions.

42. On January 31, 2023, the United States Grand Jury for the Central District of California indicted Tom Girardi in Case No. 2:23-cr-00047. In the indictment, the federal government alleged that Girardi's scheme to defraud clients went back to 2010. Among the reasons for Girardi's fraudulent scheme, the federal government alleged, was to pay the Girardi's law firm's "American Express Card bills encompassing charges for defendant Girardi's [] personal expenses." This was the same credit card account which Defendants had used to pay Marco Marco.

43. After the federal government dismissed its criminal indictments against Psaila, Defendants continued to disparage Morante, failed to recant their fraudulent misrepresentations made to the corrupt law enforcement officers, and continued to express to persons and businesses in Plaintiff's industry that what they had told federal law officers was true. At no time from 2016 to the present have Defendants made any attempt to correct the record or take responsibility for their corrupt actions.

Count I: Tortious Interference with Business Relationships

44. Plaintiffs incorporate paragraphs 1- 41 herein as if fully pled.

45. Prior to the actions taken by Defendants, and their co-conspirators, Plaintiff had business relationships with over one hundred (100) customers and suppliers (not parties hereto) in the State of Florida. While many goods and services were billed by Marco Marco, Morante provided creative consultation to Florida customers separate and apart from Marco Marco and was correctly viewed in the industry as the creative force behind Marco Marco.

46. Because of Defendants' actions and inactions (torts of commission and omission), Defendants caused Plaintiff's Florida business colleagues to cease doing business with Plaintiffs; and, further, Defendants actions drained Plaintiff's financial and business resources, thus, disabling Plaintiff from effectively confronting Defendants' tortious acts in Florida.

47. To protect themselves from the loss of Girardi's financial support, Defendants steered customers away from Plaintiff and his business in the hopes that Plaintiff would succumb to the stresses of financial and professional collapse; and, thus, be unable to confront the falsehoods that Defendants spread, and allowed to be spread, about Plaintiff being a felonious credit card scammer.

48. In making the disparaging comments about Psaila, Morante and Marco Marco, and under the guise of feigned shock and disbelief, Defendants improperly sacrificed Plaintiff's business and business relationships to save their own livelihoods and status in the entertainment industry. In short, Defendants repeatedly made intentionally false and misleading statements from 2016 to the present to induce Plaintiff's business associates (customers and suppliers) to disassociate themselves from Plaintiff as Marco Marco or as himself.

49. At all times pertinent herein, Defendants had actual knowledge of who Morante's business colleagues and associates were, the wrongfulness of their actions, and that there was a high probability of injury or damage to Plaintiff Morante when they made their felonious statements. Despite that knowledge, Defendants intentionally pursued their wrongful complaints against Morante, and the continuing cover-up of the wrongfulness of those statements, by denying that the credit card charges made to Erika's Amex credit card were authorized, lawful, made in the normal course of business, and in the agreed upon amounts. Defendants' conduct was – and continues to be – so reckless or wanting in care that Defendants' torts of omission and commission constitute a conscious disregard or indifference to Plaintiff's life and rights.

50. Plaintiff seeks damages in excess of \$300,000.

Count Two: Tortious Interference by Slander Per Se and Slander Per Se

51. Plaintiff incorporate paragraphs 1- 41 and 43-47 herein as if fully pleaded.

52. Defendants' communications, whether oral, written, or electronic, to Plaintiff's business colleagues imputed criminal activity to Plaintiff. Credit card fraud is incompatible with the proper exercise of Plaintiff's business, trade, and profession and accusing Plaintiff of such conduct – or failing to correct another's misconception about Plaintiff – is, in fact and law, slander and libel per se.

53. The Defendants allowed the false, deceptive, fraudulent, and defamatory accusations that Plaintiff committed credit card fraud to spread subsequent to receiving news that the federal government had dropped all charges against Psaila. Defendants were actors and participants in the dissemination of false and defamatory information about Plaintiff in a negligent manner without reasonable care as to whether their defamatory accusations were true or false.

54. As a result of Defendants' tortious conduct and slander per se, Plaintiffs have been

damaged in excess of \$300,000.

Count Three: Defamation and Defamation by Implication

55. Plaintiff incorporates paragraphs 1-41, 43-47, and 50-51 herein as if fully pleaded.

56. At all times pertinent herein, Defendants knew that whatever they said about Psaila or Marco Marco would be imputed to Morante. Thus, even if Defendants did not directly accuse Morante of the alleged felonious acts for which Psaila was indicted, Defendants knew that the persons active in the entertainment markets, in which Morante and Defendants lived and worked, would assume that Morante was part and parcel of the criminal conduct. In short, the market would “paint Morante with the same brush” that Defendants used to “paint” Psaila the color of felon.

57. Thus, Defendants published statements (acts of commission) and failures to tell the truth (acts of omission) about Psaila from 2016 to the present and in doing so, defamed Morante by implication, and caused Morante great harm because a significant majority of Morante’s customers, contacts, and business prospects disassociated themselves from Morante, as a consulting creative advisor and designer and as a person who could generate the manufacture of designs and products.

Count Four: Conspiracy to Tortiously Interfere and to Commit Slander Per Se

58. Plaintiffs incorporate paragraphs 1-41, 43-47, 50-51, and 54-55 herein as if fully pleaded.

59. In agreeing among themselves, the Defendants, Tom Girardi, and Girardi’s corrupt federal law enforcement contacts, etc., to support Girardi in his successful, but fraudulent, recovery of the charges made to Erika’s Amex credit card, Defendants knew to a legal certainty that they had no legal or factual bases for the fraudulent accusations. Thus, their agreement constituted a conspiracy to tortiously interference with Plaintiff’s business relationships and to consciously and

intentionally slander Plaintiff by accusing him and Psaila of a series of felonious wrongdoing.

60. Defendants' defamatory statements (oral, written, and electronic) sought to harm and did harm Plaintiff, his livelihood and reputation, by causing the entertainment community from which Plaintiff earned his living and sought business and personal purpose and meaning, to disassociate themselves from Morante. Further, Defendants' efforts to destroy Morante to save themselves, subjected Morante to hatred, ridicule, and the contempt of his colleagues, customers, suppliers, and the general public that became obsessed with the story of the Housewife (Erika) and the Hustler (Girardi).

61. Plaintiff seeks damages in excess of \$300,000.

DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial on all issues triable by right.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court:

- (a) Award damages in the amount of or being greater than \$300,000.00;
- (b) Award exemplary and punitive damages;
- (c) Order Defendants to pay Plaintiff's seasonable attorney's fees and costs incurred in connection with this action;
- (d) Award prejudgment interest; and
- (e) Enter any other orders or further relief as the Court may deem proper.

*****REMAINDER OF PAGE INTENTIONALLY BLANK*****

Respectfully submitted,

THE GARMON LAW FIRM, PLLC

By: _____

Jenna Garmon, Esq.
Florida Bar No. 1002531
502 Harmon Ave
Panama City, Florida 32401
Tel. (850) 238-3201
Fax (850) 252-1015
E-Mail: Jenna@GarmonLawPC.com
Secondary E-Mail:
eService@GarmonLawPC.com
Attorney for Plaintiff

I understand that I am swearing or affirming under oath to the truthfulness of the claims made in this petition and that the punishment for knowingly making a false statement includes fines and/or imprisonment.

Dated: 7/31/2024

Marco A. Morante

MARCO MORANTE,
Plaintiff

EXHIBIT 1





'Real Housewives' >

Who is Tom Girardi?

Another legacy for Girardi

Girardi complaints

CALIFORNIA

EXHIBIT 2

The Girardis, the Secret Service and wire fraud claims that nearly ruined a Hollywood designer



Chris Psaila, right, was charged by federal prosecutors in 2017 with swindling \$800,000 from Erika Girardi, left. Psaila said the accusations were false and nearly destroyed his business and devastated him personally. (Wally Skalij; Francine Orr/ Los Angeles Times)

By Matt Hamilton and Harriet Ryan

In the fall of 2016, two influential men in Los Angeles faced money troubles.

The head of the L.A. office of the U.S. Secret Service, Lorenzo Robert Savage III, thought he was being shortchanged in a lawsuit over a defective braking system in his family's Volkswagen minivan.

And Tom Girardi, then at the height of his power, was [borrowing heavily to fund his law firm](#) and increasingly upset about the size of his wife's American Express bill.

To address their respective problems, Savage and Girardi and their spouses turned to each other.

Girardi agreed to represent Savage and his wife for free in a bid to extract a larger cash settlement in the minivan case. When his efforts failed, Girardi dug into his own pocket to pay the family at least \$7,500.

The same month, Savage arranged for Secret Service agents from a financial crimes squad [to meet with Erika Girardi](#) about what she said were excessive charges to her credit card by a Hollywood costume firm.



Tom Girardi, then-LAPD Chief Charlie Beck and Secret Service Agent Lorenzo Robert Savage III at a Super Bowl party hosted by Girardi in 2015. (Handout)

Agents under Savage aggressively pursued the case, ending in a federal wire fraud indictment of the company's co-owner in 2017 and, for Tom Girardi, an American Express refund of about \$787,000 at a time when he was swimming in debt.

But prosecutors quietly dropped the case a year and a half ago, after [Girardi's law firm collapsed](#), and questions are only emerging now about the origin of the case and whether there was enough evidence to support criminal charges in the first place.

The connections between Girardi and the Secret Service's L.A. chief were recently uncovered by The Times. Their relationship was not disclosed to the costume firm co-owner, Christopher Psaila, who was facing the prospect of years in prison, or his defense counsel. Nor were they informed of the payment Girardi made to the Savages during the investigation, they told The Times.

Psaila told The Times that after his arrest, he scrutinized every charge his costume company, Marco Marco, made on Erika Girardi's credit card and determined they were all legitimate. He said the unfounded accusations nearly destroyed his business and devastated him personally. The costs, he said, included being turned away when he and his husband attempted to adopt children.



CALIFORNIA

Escorts, kickbacks and a Tesla: New details in scandal and fraud at Tom Girardi's law firm

Nov. 17, 2022

"I lost complete trust in the justice system," Psaila said. He pointed to the sway that Tom Girardi held in the legal and political worlds and the important people he counted as friends. "That was what I was up against, and that is terrifying."

Erika Girardi said in an interview that she remained certain that Psaila falsely billed her for hundreds of thousands of dollars and cited a conversation surreptitiously recorded by the Secret Service in which he acknowledged some overbilling.

"In no way did I pull a scam to get \$760,000 to help anybody get this money," she said. She said she feared that the public would believe any bad thing said about her given the disgrace surrounding her estranged husband and his law firm.



Tom and Erika Girardi on “Real Housewives of Beverly Hills” (Bravo)

“The truth needs to be told here. And it’s not some great fabulous story where I pulled a rabbit out of a hat for money.”

Savage, who retired in 2018, denied any exchange of favors, saying the credit card complaint and his minivan case were “completely unrelated.” The Secret Service and the U.S. attorney’s office declined to answer detailed questions about the case.

Tom Girardi was indicted last week on federal wire fraud charges, which accuse him of swindling more than \$18 million from clients from 2010 to 2020. He is in a court-ordered conservatorship following [his diagnosis of Alzheimer’s disease](#) and unavailable for comment.

Secret Service agents in helmets and body armor burst through the doors of Marco Marco's studio at dawn with guns drawn. Ordering seamstresses outside, about 10 officers rifled through the premises, sending feathers, crystals and bolts of silk, sequins and leather to the ground and scattering hand-drawn sketches of couture designs for ballerinas, circus performers, drag queens and stars like Britney Spears, Mariah Carey, Cardi B, Katy Perry and contestants on "RuPaul's Drag Race."

In addition to protecting the president, the Secret Service has the authority to investigate certain financial crimes, including credit card fraud. Those probes often involve large-scale criminal rings targeting numerous victims, cases that comport with the agency's stated plan to combat "criminal schemes that pose the greatest risk to U.S. economic prosperity and national security."

During the January 11, 2017, raid, the agents informed Psaila and his business partner, designer Marco Morante, that they were looking into \$800,000 in allegedly fraudulent charges to Erika Girardi's American Express card.

"We couldn't even fathom that. It just seemed insane to us," recalled Morante, who then counted the "Real Housewives of Beverly Hills" star as both a customer and friend.



CALIFORNIA

As Tom Girardi skated, California State Bar went after Black attorneys

Dec. 16, 2022

Psaila, who handled the business side, said he was so confident that the claim was false that he helped agents log into the company's accounting software, reasoning, "Let's solve this here and now."

By the time of the 2017 raid, Erika Girardi had been a client for about three years. She'd been introduced to them by their mutual publicist, who said she was in her

early 40s, trying to become a pop star and had a rich husband to foot the bill.

Working with Marco Marco, Psaila said, was part of a plan to “go the gay route” in her pursuit of fame.

“We were already a household name in queer households because of our underwear brand and exposure on ‘RuPaul’s Drag Race,’” said Psaila, who had started Marco Marco with Morante in 2002 after meeting as students at California Institute of the Arts.

At the time, Erika Girardi wasn’t yet appearing on [“Real Housewives”](#) and had, Morante recalled, just 800 followers or so on Instagram. But, he said, her over-the-top sexuality and blonde bombshell looks as “Erika Jayne” gave her a potential appeal to a gay audience — “the ultimate Barbie doll.”

Girardi told The Times she went to Marco Marco because their outfits were cheaper than at Silvia’s, a venerable costumer on Hollywood Boulevard.

“They didn’t help me accelerate my presence in the gay community. That is done through hard work, making records, doing shows,” she insisted.



Designer Marco Morante, left, and business partner Chris Psaila of Marco Marco. (Francine Orr / Los Angeles Times)

At her first fitting, Psaila tried to present her with an invoice, but she waved him off, saying the paperwork wasn't necessary and to keep her credit card on file, he and Morante said.

"It never happens that someone would just dismiss the invoice and not look at it at all. That was bizarre," Psaila said.

It would be years before the absence of invoices came up again, and by then the Secret Service was getting involved.

The relationship between the business and the performer blossomed between 2014 and 2016. Marco Marco designed outfits for Girardi and her backup dancers to wear in nightclub shows in Denver and Miami, circuit parties in Palm Springs,

performances on “Real Housewives,” and music videos for songs such as “How Many F—ks” and “XXpen\$ive,” according to the company owners. Her go-to look was a skintight catsuit encrusted with crystals — “always Swarovski,” Psaila said. On one “Real Housewives” episode, Morante was shown squeezing a nearly nude Girardi into a sheer black bodysuit after she jokingly ordered him to “get my fat a— into this thing.”



Subscribers get exclusive access to this story

We’re offering L.A. Times subscribers special access to our best journalism. Thank you for your support.

[Explore more Subscriber Exclusive content.](#)

Soon other celebrities were asking for versions of their own.

“When Paula Abdul came into our studio, she said, ‘I want the Erika Jayne catsuit,’” Psaila said.

The company had bigger accounts, including Spears’ Las Vegas residency and Ringling Bros. and Barnum & Bailey Circus, but Girardi’s costumes provided steady work, month after month and year after year, the owners said. At its peak, Psaila said, she accounted for between 20% and 30% of the business.

Weekdays, Tom Girardi held court at Morton’s steakhouse in downtown L.A. For decades, he was an almost unstoppable force in California. One of the nation’s most

esteemed trial lawyers and an important Democratic donor, he hobnobbed with Supreme Court justices, judges, governors, police chiefs and real estate developers.

Few knew then that his reputation as a champion of the little guy was largely a lie. His firm was pervaded by fraud and he was routinely stealing from clients.



CALIFORNIA

Former State Bar employees must answer questions about Tom Girardi, judge rules

Nov. 23, 2022

It would be years before those revelations became public. In 2016, politicians, business leaders and law enforcement officials were still happy to be seen with him at Morton's, where they could count on a free meal and gossip.

One of those was Rob Savage, who had become special agent in charge of the Secret Service's L.A. field office the previous year.



He struck up a friendship with Girardi at a Chamber of Commerce dinner about a decade ago, but his wife's family had known the lawyer for decades longer, with two relatives interning at Girardi's firm in the 1990s. He was a regular at Girardi's annual Super Bowl parties, where police chiefs, judges and top attorneys — almost all men — downed cocktails while wearing football jerseys over tuxedos.

In response to written questions, Savage said that he “occasionally dined with Mr. Girardi always as a friend and within ethics guidelines” for the agency: “Many times he paid and I treated him a few times, as I customarily do with my friends.”

Savage and his wife, Michelle, had joined a lawsuit against Volkswagen in 2015 concerning braking problems in their used minivan. The couple had signed a written acknowledgment of the settlement that provided for free repairs and a \$7,500 payout for plaintiffs like the Savages whose names had been used in the case, according to court filings.

But as the finalization drew near in the fall of 2016, Rob Savage worried that the settlement was too small and had been reached “without holding Volkswagen adequately responsible,” he recalled.

He went to Girardi, who agreed to intervene. Girardi burst into the litigation in November 2016 — in the same period Erika Girardi had started raising concerns about the charges on her American Express card. Her husband began lobbing expletive-laced attacks on the attorneys for the minivan owners, who had spent a year and a half negotiating the settlement, according to a status report in the case and other court records. He accused them of deceit, a particular offense, he said in one filing, given Savage's stature as “head of the State's Secret Service” with “massive integrity, clearly.”

Savage bolstered Girardi's accusations with a sworn affidavit in which he wrote that his former lawyers had "totally mislead [sic] the Savage family all during the litigation." The lawyers countered that the affidavit was rife with falsehoods, but Girardi kept pressing for a better settlement for the Savages and making sure his opponents knew his clout. In one filing ostensibly about scheduling, Girardi managed to inform the judge of an array of career achievements, including serving as a trustee at the Library of Congress, receiving "the Elite Trial Lawyers Award" from the National Law Journal and the erection of a Times Square billboard proclaiming him "Top Attorney of the Year."

By then, the Secret Service was actively investigating Marco Marco. When Girardi and the Savages arrived for a court hearing in the minivan case on Dec. 13, 2016, things did not go their way. The judge could barely contain his fury at Girardi.

"This whole sequence of events is extremely problematic," U.S. District Judge Haywood S. Gilliam Jr. said, according to a recording of the hearing. "I have a really uneasy feeling about the way that this has gone down in terms of respecting and following my orders, and I can't tolerate that."



CALIFORNIA

FOR SUBSCRIBERS

Tom Girardi's epic corruption exposes the secretive world of private judges

Aug. 4, 2022

Girardi seemed taken aback that anyone would question his integrity and announced a solution that left the courtroom stunned: The Savages would dismiss their case against Volkswagen and he, Girardi, would pay the couple more than 10 times the value of their settlement.

"If the court thinks I intentionally did something wrong or tried to do anything inappropriate, that doesn't work with me, so I personally would pay him \$100,000,"

Girardi said. The judge sought confirmation from him that the offer was real, and Girardi repeated the plan two more times.

The following day, he filed papers dismissing Savage's claims against Volkswagen. Asked about the hearing, Savage said, "This was a very embarrassing situation to witness and was not what I anticipated from my expectations of his formidable legal reputation as a premier plaintiff's attorney at that time."

Savage said he never received the \$100,000 payout, but at a Christmas party two to three weeks later, "Tom handed me a check written for \$7,500, the exact amount of the Volkswagen Class Action Settlement."

"My wife and I were happy that we received what we would have received if we had remained in the [lawsuit]," Savage said.

A few months before Girardi got involved in the minivan case, he began complaining to his wife about her spending habits.

"Tom comes home and says, 'Your Amex charges are really out of control,'" she recalled in an interview. Though few knew it, Girardi was in precarious financial straits, borrowing millions of dollars from a slew of high-interest lenders using his future legal fees as collateral.

Erika Girardi, who has said she knew nothing about her husband's business and thought he was flush, said that she didn't have access to her credit card statements and asked him to explain what had upset him. He blew her off, but then confronted her the next month, once again offering no details, she said.

She said she called American Express for help installing an app on her phone that allowed her to see every new charge. In Texas for a performance, she saw a \$5,000 charge from Marco Marco that she said she had not approved. She called and said Psaila agreed to reverse the charge, but it later happened again, leading her and two employees to begin reviewing years of account statements. She said they found hundreds of thousands of dollars in charges that seemed to far outpace the number of costumes in her closet and decided to go to law enforcement.



Erika Girardi at her home in 2015. (Wally Skali/Los Angeles Times)

She called her husband's friend, Savage.

Erika Girardi was familiar with the Secret Service's jurisdiction over financial crimes, including credit card fraud, she said, because around 2009, she and several

celebrities — including Anne Hathaway and Jennifer Aniston — had been defrauded by a Beverly Hills aesthetician who placed phony charges on their cards.

Savage invited her to the agency's office in downtown L.A. He along with a task force supervisor and two agents listened as she laid out her allegations against Marco Marco with help from her creative director and her personal assistant.

One issue was that Girardi didn't have many of her invoices. Psaila had provided some after she initially complained, but there were others for legitimate work that she didn't have, making it difficult to establish whether a charge was erroneous.

Savage said he handed the case off to his underlings and never discussed the probe directly with Tom Girardi. On the day after the hearing in the minivan case, Secret Service agents equipped Erika Girardi with a hidden microphone for a meeting that Psaila said he had initiated to discuss the disputed charges.

The conversation lasted about 26 minutes and produced what Girardi saw as incontrovertible evidence that Marco Marco had cheated her. Psaila, however, said the conversation only proved how panicked he was to be accused of wrongdoing by one of the company's best clients and how difficult it was to reconstruct years of billing records.



CALIFORNIA

A judge's affair with Tom Girardi, a beachfront condo and a \$300,000 wire from his firm

Aug. 31, 2022

After presenting Girardi with more invoices he had tracked down, he acknowledged “excess billing” of “just over \$100,000” that he blamed on a bookkeeper who he said, falsely, had been responsible for running the cards, according to a recording reviewed by The Times.

“In terms of getting this money back to you, Marco and I do take full liability and responsibility for it and we will make it happen,” Psaila said, adding that he planned to get a loan to repay the debt.

“I fear this has happened to other people too,” he said.

Girardi told him the actual amount taken from her was \$800,000.

“\$800,000?” a stunned-sounding Psaila replied, adding, “I don’t know how that would even be possible.”

Girardi said she found the situation “heartbreaking.”

“There’s a million dollars, well, eight hundred, nine hundred thousand, well, whatever, of my husband’s money that is gone,” she told Psaila. “That is very hard for me to take and it is very difficult for me to explain to him and, you know, all he’s doing is being good to me and all you’ve done is taken my money.”

When agents met up with Girardi after the meeting, she recalled, “they asked me to raise my right hand because they wanted to deputize me because I did so well.”

Psaila said he regrets implicating the bookkeeper, who had nothing to do with the charges, and saying that he had found \$100,000 in incorrect charges.

“I was so desperate and panicky,” he said. “I did not want to lose her as a customer.”

Morante at first thought it possible that the company accidentally overcharged Girardi’s credit card a small amount. But he said he never believed Psaila, his partner of 20 years and a “rule follower” who refused to jaywalk in college, had stolen hundreds of thousands of dollars.

When he heard the recording, he said, “It infuriated me because I was like, ‘Chris, you just patsied yourself.’ But I also know Chris, and Chris is very, very nonconfrontational.”

The next month, agents raided the premises.



Chris Psaila holds up a red costume. Psaila was charged by federal prosecutors in 2017 with swindling \$800,000 from Erika Girardi, the wife of Tom Girardi. Psaila contends that Erika Girardi wrongfully accused him. (Francine Orr / Los Angeles Times)

Psaila and Morante sat on the curb outside their studio on Cherokee Avenue. The headquarters of World of Wonder, which produces “RuPaul’s Drag Race,” was across the street, and employees they knew watched from the windows as agents carted away their computers and other potential evidence.

“It was one of the most humiliating moments among many,” Psaila recalled.

Meanwhile, Girardi and her employees were sorting through her costumes with the Secret Service, matching the invoices she had with the outfits in her closet and the charges on her card.

The criminal charges came four months after the raid: a nine-count indictment on aggravated identity theft, wire fraud and use of an unauthorized access device against Psaila alone. He had never before been arrested or charged with a crime and said he cried as an agency supervisor and two agents handcuffed him. The trio seemed unfamiliar with how to book a suspect in the federal detention center in downtown L.A., calling colleagues from the car and then getting lost in the wrong parking structure, he said.

“They didn’t really know...where they were going,” Psaila said. The lead agent did not respond to messages seeking comment. His supervisor did not respond to written questions.

Though the indictment described a “scheme” that cost American Express “losses in excess of \$700,000,” the wire fraud counts were based on only seven charges from 2015 and 2016 that totaled less than \$63,000.

One explanation for the discrepancy was that American Express had already lost \$787,177, largely on the word of the Secret Service. After being contacted by agents, the card company had reimbursed Tom Girardi in early 2017 with credits to his account and a check sent to his office. The company sent the money without performing its own independent investigation or questioning Psaila or Morante. It never filed suit against the pair to recoup the money and never cut off Marco Marco from charging its credit cards.



CALIFORNIA
FOR SUBSCRIBERS

Tom Girardi gave millions to Democratic politicians. Was the money stolen from clients?

American Express declined to answer detailed questions about the case. A spokesman, Andrew Johnson, said in a statement that the company “followed our regular processes and procedures throughout this investigation as we dealt with law enforcement.”

He added, “We did not play any role in the criminal investigation of Mr. Psaila or his business other than responding to inquiries from law enforcement.”

There was also the question of why Morante, an equal partner in the business, had not been charged or even interviewed by agents. He said he came to believe that Psaila, who worked largely in the background, was an easier target.

“I have a following, and I’m loud,” Morante said. “And I have a lot of very, very famous, loud, not-white friends who would love to grill absolutely anybody.”

Weeks after Psaila got released from custody, he drove to Fresno to tell his parents in person. He said he was so nervous that on the way, he vomited along the highway.

The case decimated their business, the owners said. Investors pulled out, longtime customers distanced themselves and employees quit en masse.

“I’m a shell of a human now.”

— Chris Psaila

Morante, whose designs continued to be in celebrity demand, said he never thought about abandoning Psaila, whom he considered instrumental in his success.

“I would be working in a bar or something” without their partnership, he said. “I would have rather gone to do all that jail time for Chris than let that woman or any of

these people change reality.”

The case was delayed for years, at first for scheduling reasons and later, disruptions from the pandemic. Erika Girardi remained eager to testify.

“Mrs. Girardi told me she had nothing scheduled in March and is still willing to testify to ‘f— Chris,’” a Secret Service agent noted in October 2017.

“She also inquired about why Psaila hadn’t pled guilty in the case. I told Mrs. Girardi that Psaila was facing multiple years of jail time for his actions which may be why he hasn’t pled guilty yet.”

After his father’s death in 2020, Psaila used a life insurance payout to hire a veteran criminal-defense attorney.

Stanley Greenberg, a former federal prosecutor who has practiced in L.A. since the 1970s, said he found it odd that the Secret Service, which frequently partners with other law enforcement agencies on sprawling financial investigations with many victims and millions of dollars in losses, had taken on a “garden variety fraud case.”

A task force supervisor and another agent claimed to have extracted a partial confession from Psaila after the raid, but they hadn’t recorded the conversation or taken notes and he denied making the statements.

“The Secret Service just seemed to have a very intimate role in this whole thing and it included getting money for [Tom Girardi] and not bothering to question one of the main witnesses,” Greenberg said, referring to Morante. “Everything just reeks of the fact that they were doing some kind of favor.”

Psaila had assembled evidence for prosecutors that he said corroborated more than 100 disputed charges, including text messages with Erika Girardi’s employees, social

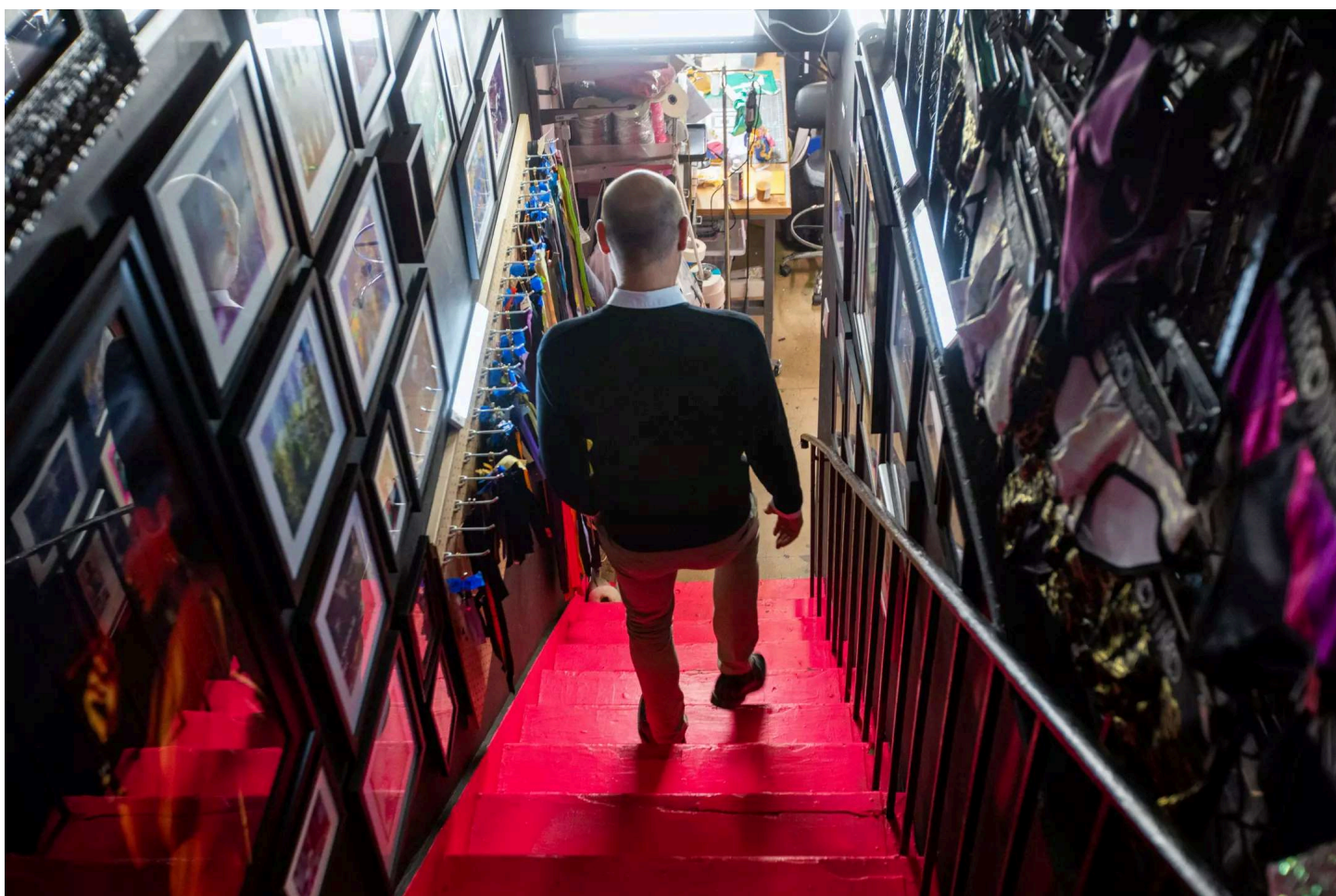
media posts of her outfits, television clips and invoices.

“I realized that there wasn’t a discrepancy at all,” Psaila said. “Everything I came across was documented.”

Though almost every criminal case ends in a plea agreement, Greenberg said he told the prosecutor he was taking the case to trial.

“I had reached the point where I said I’m not going to let him plead guilty,” Greenberg said.

He said he informed the prosecutor in late September 2021 that he planned to call both Girardis as witnesses in the trial. By then the Girardi Keese firm had collapsed and Girardi had been exposed for stealing client funds. It was unclear whether the lawyer would or could testify given the conservatorship. Greenberg moved ahead anyway, saying he wanted answers about the Girardis’ financial situation and their contacts with the Secret Service.



Chris Psaila, CEO of Marco Marco, walks down the stairs at his Hollywood business. (Francine Orr/Los Angeles Times)

Shortly after he started sending subpoena notices, Greenberg said, he received a call from the prosecutor informing him they were dismissing the charges. Why, he asked.

“She said, ‘We just took another look at the case,’” he said.

Erika Girardi learned of the dismissal on Twitter. Savage was no longer at the agency, but she placed an irate call to the main case agent.

“I said, ‘How could you do this to me? I am at a terrible point in my life. ... This makes me look like a liar,’” she recalled. She said he apologized and mentioned his relative inexperience at the time of the investigation.

A spokesman for the U.S. attorney's office in L.A. issued a brief statement implying lapses on the part of the Secret Service.

"We ultimately determined that law enforcement evidence preservation issues undermined our ability to prosecute the case and the interests of justice supported dismissal," the statement said.

Greenberg, the defense attorney, scoffed at the explanation. He said that the prosecutor never informed him of any missing evidence.

"It's an absence of evidence, because they did a sloppy job in the first place," Greenberg said.

Psaila said he still struggles with the emotional impact: "I'm totally a shell of a human now."

He and Morante have slowly rebuilt the company, with Marco Marco receiving an Emmy last year for costume design in the HBO reality series "We're Here."

"We really were forced to start from scratch," Morante said.

Erika Girardi is gearing up for a new season of "Real Housewives" while fighting off numerous lawsuits stemming from the misuse of money at her husband's firm.

She said she was appalled that Marco Marco's owners were suggesting she had betrayed them.

"Now that my reputation is in the toilet and Tom's in a home ... of course, [they are saying] she did this," she said. "There was no reason for me to do this."

Tom Girardi no longer picks up the Morton's bill for Savage or other officials. Asked whether he had any regrets about his dealings with the disgraced lawyer, Savage told The Times that it was up to others "to hold him accountable for any wrongdoing he may or may not have committed."

"While we were friends I was unaware of any allegations of misconduct, as were many other local, state and federal officials," he said.

Watch L.A. Times Today at 7 p.m. on Spectrum News 1 on Channel 1 or live stream on the Spectrum News App. Palos Verdes Peninsula and Orange County viewers can watch on Cox Systems on channel 99.

More to Read

Tom Girardi used client money to fund his wife's entertainment career, prosecutors say

June 22, 2024



A thief stole his identity, but nobody believed him. He spent nearly 2 years locked up

April 9, 2024



FOR SUBSCRIBERS

Tom Girardi left dozens of voicemails for The Times and a reporter investigating him. Was it a ploy?

Feb. 12, 2024



Matt Hamilton

Matt Hamilton is a reporter for the Los Angeles Times. He won the 2019 Pulitzer Prize for investigative reporting with colleagues Harriet Ryan and Paul Pringle and was part of the team of reporters that won a Pulitzer Prize for its coverage of the San Bernardino terrorist attack. A graduate of Boston College and the University of Southern California, he joined The Times in 2013.



Harriet Ryan

Harriet Ryan is an investigative reporter for the Los Angeles Times. Since joining the paper in 2008, she has written about high-profile people, including Phil Spector, Michael Jackson and Tom Girardi, and institutions, including USC, the State Bar of California, the Catholic Church, the Kabbalah Centre and Purdue Pharma, the manufacturer of OxyContin. Ryan won the Pulitzer Prize for Investigative Reporting with colleagues Matt Hamilton and Paul Pringle in 2019. She and Hamilton won the Collier Prize for State Government Accountability in 2023. She previously worked at Court TV and the Asbury Park Press. She is a graduate of Columbia University.

UNITED STATES DISTRICT COURT **EXHIBIT 3**
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES—GENERAL

Case No. CV 23-07120-MWF (SKx)

Date: February 27, 2024

Title: Christopher Psaila v. Erika Girardi et al

Present: The Honorable MICHAEL W. FITZGERALD, U.S. District Judge

Deputy Clerk:
Rita Sanchez

Court Reporter:
Not Reported

Attorneys Present for Plaintiff:
None Present

Attorneys Present for Defendants:
None Present

Proceedings (In Chambers): ORDER RE: DEFENDANT’S ANTI-SLAPP
MOTION [25]

Before the Court is a Motion to Strike the Complaint Pursuant to California Anti-SLAPP Statute (the “Motion”) filed by Defendants Erika Girardi, Michael Minden, Laia Ribatallada (collectively, the “EG Defendants”) on October 20, 2023. (Docket No. 25). Plaintiff Christopher Psaila filed an Opposition on November 20, 2023. (Docket No. 47). EG Defendants filed a Reply on December 5, 2023. (Docket No. 51).

The Court has read and considered the Motion and held a hearing on **December 18, 2023**.

The Motion is **DENIED**. Plaintiff has met his burden of establishing the “probability” of prevailing on the malicious prosecution claim, in the technical sense in which that term is used in anti-SLAPP litigation.

Additionally, because EG Defendants request judicial notice of matters of public record and documents not subject to reasonable dispute, EG Defendants’ Request for Judicial Notice is **GRANTED**. (Docket No. 25-21). Plaintiff’s Request for Judicial Notice is also **GRANTED** for the same reasons. (Docket No. 48).

I. BACKGROUND

Plaintiff’s Complaint alleges as follows:

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES—GENERAL

Case No. CV 23-07120-MWF (SKx)

Date: February 27, 2024

Title: Christopher Psaila v. Erika Girardi et al

Plaintiff was the managing partner of Marco Marco, a Hollywood, California-based celebrity costume design brand catering to the entertainment industries, including music, television, theater, and motion pictures. (Complaint, (Docket No. 1) ¶ 28). Girardi, having heard of the business success of Marco Marco, commissioned Marco Marco to design various outfits for her singing career and for her appearances on the television show, *The Real Housewives of Beverly Hills*. (*Id.* ¶ 29).

From 2014 to 2016, Girardi purchased numerous costumes and clothing items from Marco Marco for herself and for members of her performing entourage. (*Id.* ¶ 30). Girardi also had Marco Marco make alterations on department store purchased clothing and conduct repairs and maintenance on performance costumes and materials kits for her tours. (*Id.* ¶ 33). Between 2015 and 2016, and over the course of 132 transactions, Girardi purchased approximately \$934,000 worth of goods and services which were all charged to an AMEX card for which she was the authorized user. (*Id.* ¶¶ 35, 102).

In or around November or December of 2016, Girardi reported to the Secret Service that charges and transactions made to the AMEX card by Plaintiff and Marco Marco amounting to approximately \$800,000 were fraudulent and not authorized. (*Id.* ¶¶ 39, 51, 57). American Express eventually reimbursed \$787,117.88 to Girardi. (*Id.* ¶ 44).

On January 9, 2017, the government requested and received a search warrant to search Marco Marco's business premises, computers, and electronic devices, and seize all business records, computers, mobile devices and phones. (*Id.* ¶ 57).

On April 28, 2017, the government sought a grand jury indictment against Plaintiff. (*Id.* ¶ 75). Specifically, there were seven AMEX Marco Marco charges that were presented to the grand jury as fraudulent. (*Id.* ¶ 80). On September 28, 2021, the government moved to dismiss the indictment and the following day the indictment was dismissed. (*Id.* ¶ 110).

Plaintiff in his Complaint alleges that he was unjustifiably prosecuted on federal criminal charges (the "Underlying Action"). (*See generally* Complaint). He has sued

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES—GENERAL

Case No. CV 23-07120-MWF (SKx)

Date: February 27, 2024

Title: Christopher Psaila v. Erika Girardi et al

the EG Defendants for malicious prosecution and civil conspiracy. (*Id.* ¶¶ 128–36, 157–69).

The EG Defendants now seek an order striking the second claim for relief for malicious prosecution and the fourth claim for relief for conspiracy to commit malicious prosecution pursuant to California’s anti-SLAPP statute, Cal. Code Civ. Proc. § 425.16, on the ground that they are premised on the EG Defendants’ protected activity — their communications with law enforcement and participation in a criminal investigation of Plaintiff. (Motion at 23).

II. EVIDENTIARY OBJECTIONS

Along with the Reply, the EG Defendants filed a number of evidentiary objections. (Docket No. 51-1). The evidentiary objections are to Plaintiff’s, Morante’s, Bednarski’s, and Greenberg’s declarations. (Docket Nos. 47-1–47-6). The objections are unconvincing as they are largely boilerplate objections based on lack of foundation, lack of personal knowledge, best evidence rule, hearsay, and relevance that “are duplicative of the summary judgment standard itself.” *Sandoval v. County of San Diego*, 985 F.3d 657, 665 (9th Cir. 2021). Plaintiff filed a Response to EG Defendants objections. (Docket No. 53).

Furthermore, the Ninth Circuit has recognized that “a party does not necessarily have to produce evidence in a form that would be admissible at trial, as long as the party satisfies the requirements of Federal Rules of Civil Procedure 56.” *Block v. City of Los Angeles*, 253 F.3d 410, 418–19 (9th Cir. 2001); *see also Celotex Corp. v. Catrett*, 477 U.S. 317, 324 (1986) (“We do not mean that the nonmoving party must produce evidence in a form that would be admissible at trial in order to avoid summary judgment.”).

Ultimately, the Court declines to rule individually on each evidentiary objection, as it concludes below that it is largely able to evaluate the merits of the Motion without relying upon the challenged portions of the documents provided. To the extent the Court relies upon evidence to which the EG Defendants object, the objections

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES—GENERAL

Case No. CV 23-07120-MWF (SKx)

Date: February 27, 2024

Title: Christopher Psaila v. Erika Girardi et al

are **OVERRULED**. To the extent the Court does not, the objections are **DENIED as moot**.

III. LEGAL STANDARD

California's anti-SLAPP statute provides:

A cause of action against a person arising from any act of that person in furtherance of the person's right of petition or free speech under the United States Constitution or the California Constitution in connection with a public issue shall be subject to a special motion to strike, unless the court determines that the plaintiff has established that there is a probability that the plaintiff will prevail on the claim.

Cal. Code Civ. Proc. § 425.16(b)(1). The statute is based on the California legislature's finding that "it is in the public interest to encourage continued participation in matters of public significance, and that this participation should not be chilled through abuse of the judicial process." *Id.* § 425.16(a).

Therefore, "the anti-SLAPP statute requires a two-part analysis: (1) the defendant must make a *prima facie* showing that the suit arises 'from an act in furtherance of the defendant's rights of petition or free speech'; and (2) once the defendant makes this showing, 'the burden shifts to the plaintiff to demonstrate a probability of prevailing on the challenged claims.'" *Roberts v. McAfee, Inc.*, 660 F.3d 1156, 1163 (9th Cir. 2011) (quoting *Mindys Cosmetics, Inc. v. Dakar*, 611 F.3d 590, 595 (9th Cir. 2010)).

The plaintiff's burden to demonstrate a probability of prevailing on the challenged claims is a low bar. *Id.* To survive an anti-SLAPP motion to strike in California, a plaintiff must:

demonstrate that the complaint is both legally sufficient and supported by a sufficient *prima facie* showing of facts to sustain a favorable judgment if the evidence submitted by the plaintiff is credited. In

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES—GENERAL

Case No. CV 23-07120-MWF (SKx)

Date: February 27, 2024

Title: Christopher Psaila v. Erika Girardi et al

deciding the question of potential merit, the trial court considers the pleadings and evidentiary submissions of both the plaintiff and the defendant; though the court does not weigh the credibility or comparative probative strength of competing evidence, it should grant the motion if, as a matter of law, the defendant's evidence supporting the motion defeats the plaintiff's attempt to establish evidentiary support for the claim.

Manufactured Home Communities, Inc. v. Cnty. of San Diego, 655 F.3d 1171, 1176–77 (9th Cir.2011) (internal alterations and quotation marks omitted). “The plaintiff’s burden resembles the burden they would have in fending off a motion for summary judgment.” *Roberts*, 660 F.3d at 1163.

IV. DISCUSSION

A. Whether the Claims Arise from Protected Activity

The parties dispute whether the EG Defendants have made a prima facie showing on the first prong. Plaintiff argues that Defendant Girardi’s petitioning activity was illegal as a matter of law and therefore the activity is not protected by the anti-SLAPP statute. (Opp. at 12).

The California Supreme Court has held that “a defendant whose assertedly protected speech or petitioning activity was illegal as a matter of law, and therefore unprotected by constitutional guarantees of free speech and petition, cannot use the anti-SLAPP statute to strike the plaintiff’s complaint.” *Flatley v. Mauro*, 39 Cal. 4th 299, 305, 46 Cal. Rptr. 3d 606 (2006). Specifically, the court in *Flatley* concluded that a defendant is precluded from bringing an anti-SLAPP motion when “either the defendant concedes, or the evidence conclusively establishes, that the assertedly protected speech or petition activity was illegal as a matter of law.” *Id.* at 320.

Here, the Court cannot determine whether the alleged petitioning activity was illegal as a matter of law. The EG Defendants have not conceded that they engaged in illegal conduct, and there is no uncontroverted and conclusive evidence of illegality.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES—GENERAL

Case No. CV 23-07120-MWF (SKx)

Date: February 27, 2024

Title: Christopher Psaila v. Erika Girardi et al

Because the Court cannot determine that the EG Defendants acted illegally as a matter of law, the Court will apply anti-SLAPP law.

B. Whether Plaintiff Has Stated a Valid Malicious Prosecution Claim

To succeed on a malicious prosecution claim under California law, a plaintiff must prove that the prior action: “(1) was commenced by or at the direction of the defendant and was pursued to a legal termination in his, plaintiff’s, favor; (2) was brought without probable cause; and (3) was initiated with malice.” *Paiva v. Nichols*, 168 Cal. App. 4th 1007, 1018, 85 Cal. Rptr. 3d (2008) (quoting *Bertero v. Nat’l Gen. Corp.*, 13 Cal. 3d 43, 50, 118 Cal. Rptr. 184 (1974)).

The EG Defendants argue that Plaintiff cannot meet his burden to show a favorable termination on the merits, an absence of probable cause, and that the EG Defendants acted with malice. (Motion at 24–28).

1. Termination in Plaintiff’s Favor

“Favorable termination is an essential element of the tort of malicious prosecution, and it is strictly enforced.” *Staffpro, Inc. v. Elite Show Servs., Inc.*, 136 Cal. App. 4th 1392, 1400, 39 Cal. Rptr. 3d 682 (2006). Whether the Underlying Action was terminated in Plaintiff’s favor under California law “is for the court to decide.” *Sierra Club Found. v. Graham*, 72 Cal. App. 4th 1135, 1149, 85 Cal. Rptr. 2d 726 (1999) (citing *Pattiz v. Minye*, 61 Cal. App. 4th 822, 826–27, 71 Cal. Rptr. 2d 802 (1998)). “The element of ‘favorable termination’ requires a termination reflecting the merits of the action and plaintiff’s innocence of the misconduct.” *Pattiz*, 61 Cal. App. 4th at 827.

“Where a proceeding is terminated other than on the merits, the reasons underlying the termination must be examined to see if the termination reflects the opinion of either the court or the prosecuting party that the action would not succeed.” *Pender v. Radin*, 23 Cal. App. 4th 1807, 1814, 29 Cal. Rptr. 2d 36 (1994). Such a circumstance may occur when the prosecutor “seeks dismissal of the prosecution of a criminal action for lack of evidence.” *Minasian v. Sapse*, 80 Cal. App. 3d 823, 827,

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES—GENERAL

Case No. CV 23-07120-MWF (SKx)

Date: February 27, 2024

Title: Christopher Psaila v. Erika Girardi et al

145 Cal. Rptr. 829 (1978) (citing *Jackson v. Beckham*, 217 Cal. App. 2d 264, 269–70, 31 Cal. Rptr. 739 (1963)).

This Court agrees with Plaintiff that “the AUSA’s voluntary dismissal supports the inference that the AUSA could not prove the case against Plaintiff” and the fact that the “U.S. Attorney’s Office told a reporter for the Los Angeles Times that the Indictment was dismissed due to ‘law enforcement evidence preservation issues’” demonstrates a “reasonable inference” that the “prosecutor could not successfully prove the case.” (Opp. at 14–15).

Plaintiff has therefore met his burden of establishing the probability of prevailing on the favorable termination element.

2. Probable Cause

“When . . . the claim of malicious prosecution is based upon the initiation of a criminal prosecution, the question of probable cause is whether it was objectively reasonable for the defendant . . . to suspect the plaintiff . . . had committed a crime.” *Ecker v. Raging Waters Groups, Inc.*, 87 Cal. App. 4th 1320, 1331, 105 Cal. Rptr. 2d 320 (2001). “[U]nder California law, the indictment itself created a prima facie presumption that probable cause existed for the underlying prosecution. Although the presumption may be rebutted if the indictment was based on false evidence.” *Roberts*, 660 F.3d at 1166 (internal citations and quotation marks omitted). There would be no probable cause “because, in such a case, the defendant would know of *no* facts that could provide reason to suspect the plaintiff of wrongdoing.” *Id.* at 1164 (emphasis in original).

“When the evidence bearing on the question of probable cause is in conflict, it is the province of the jury to determine whether facts exist which will warrant or reject an inference of probable cause.” *Greene v. Bank of Am.*, 216 Cal. App. 4th 454, 465, 156 Cal. Rptr. 3d 901(2013) (quoting *Centers v. Dollar Markets*, 99 Cal. App. 2d 534, 541(1950)). There is a conflict of evidence as to the facts known to Defendant Girardi when she contacted the Secret Service to report that charges and transactions made to

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES—GENERAL

Case No. CV 23-07120-MWF (SKx)

Date: February 27, 2024

Title: Christopher Psaila v. Erika Girardi et al

her AMEX card by Plaintiff and Marco Marco were fraudulent and not authorized. If she fabricated the entire predicate for her claim, she did not have probable cause.

Plaintiff argues that his evidence suggests that the EG Defendants fabricated the claim that Plaintiff defrauded Defendant Girardi by initiating unauthorized charges to her AMEX card. (Opp. at 17). Plaintiff provides a combination of invoices, order forms, text messages, emails, proof of delivery receipts, social media posts, and photographic evidence of both the seven transactions named in the indictment filed against him and 132 transactions between Defendant Girardi and Marco Marco. (Psaila Declaration (Docket No. 47-1) ¶ 57; Exhibit 1A (Docket No. 47-2); Exhibit 1B (Docket No. 47-3)).

Based on the evidence, a jury could decide that Defendant Girardi had access to text messages, email, and social media posts that would coincide with at a minimum the seven charges used in the indictment against Plaintiff. Therefore, a jury could find that the evidence establishes that Defendant Girardi relied upon facts which she “ha[d] no reasonable cause to believe to be true.” *Sangster v. Paetkau*, 68 Cal. App. 4th 151, 164, 80 Cal. Rptr. 2d 66 (1998).

Plaintiff has therefore met his burden of establishing the probability of prevailing on the probable cause element.

3. Malice

“Cases dealing with actions for malicious prosecution against private persons require that the defendant has at least sought out the police or prosecutorial authorities and falsely reported facts to them indicating that plaintiff has committed a crime.” *Holland v. City of San Francisco*, No. 19-CV-02545-SI, 2020 WL 1322925, at *2 (N.D. Cal. Mar. 21, 2020) (quoting *Sullivan v. County of Los Angeles*, 12 Cal. 3d 710, 720, 117 Cal. Rptr. 241 (1974)). “[I]f the defendant had no substantial ground for believing in the plaintiff’s guilt, but, nevertheless, instigated proceedings against the plaintiff, it is logical to infer that the defendant’s motive was improper.” *Greene*, 216 Cal. App. 4th at 464–65 (quoting 5 Witkin, Summary of Cal. Law (10th ed. 2005) Torts, § 485, p. 710). Plaintiff presented evidence which would allow a jury to find

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES—GENERAL

Case No. CV 23-07120-MWF (SKx)

Date: February 27, 2024

Title: Christopher Psaila v. Erika Girardi et al

that Defendant Girardi knew her allegations against Plaintiff were false, making her claims against Plaintiff improper. (*See* Exhibit 1A; Exhibit 1B).

Plaintiff has therefore met his burden of establishing the probability of prevailing on the malice element.

Accordingly, the Motion is **DENIED**.

The EG Defendants shall file an answer by **March 19, 2024**.

IT IS SO ORDERED.

eSignature Details

Signer ID:	2Hbp6ePE38WASJFzzEuRN8Vg
Signed by:	Marco Morante
Sent to email:	marco@marcomarco.net
IP Address:	75.83.29.54
Signed at:	Jul 31 2024, 10:49 am CDT