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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

THE BISHOP OF THE PROTESTANT EPISCOPAL CHURCH IN LOS ANGELES,

Plaintiff and Respondent,

v.

GRIFFITH COMPANY,

Defendant and Appellant.

G053344

(Super. Ct. No. 30-2015-00795665)

O P I N I O N

Appeal from an order of the Superior Court of Orange County, David R. Chaffee, Judge. Reversed and remanded with directions.

Law Office of Timothy L. Joens, Timothy Lea Joens, Matthew J. Joens; RB Pierce and Ronald B. Pierce, for Defendant and Appellant.

Allen Matkins Leck Gamble Mallory & Natsis, K. Erik Friess and Brian R. Bauer, for Plaintiff and Respondent.

Griffith Company (Griffith) appeals from an order denying its special motion to strike a cause of action for slander of title alleged against it pursuant to Code of Civil Procedure section 425.16 (the anti-SLAPP law). The cause of action, filed by the Bishop of the Protestant Episcopal Church in Los Angeles (the Bishop),[1] arises out of a letter written by Griffith to the Bishop, challenging the Bishop's right to sell church property originally donated to the church by Griffith. The letter pointed out that while Griffith had previously released a restriction limiting the property's use to "church purposes" on three of the four parcels donated, it had not released the restriction on the fourth parcel. The letter asserted Griffith's continued right to enforce the restriction.

The special motion to strike asserted that Griffith's letter was protected by the anti-SLAPP law because it qualified as both speech in connection with a matter of public interest, and in connection with anticipated litigation. The trial court denied the motion, concluding the letter was not protected under the anti-SLAPP law and that even if it were, the Bishop had demonstrated a likelihood of success on the merits of the claim.

We reverse. The letter was written in connection with the contentious dispute over whether the property should be sold and developed into condominiums, which was an issue of significant public concern in the community and was under consideration by the city council. The letter was consequently protected under the anti-SLAPP law, and the fact Griffith's particular interest in that issue might not be exactly the same as others involved in the dispute does not affect the analysis.

Moreover, there was no probability the Bishop could succeed on the merits of the slander of title claim. Griffith's letter was protected by the absolute litigation privilege, which precludes tort liability (other than a claim of malicious prosecution) based on communications made in connection with litigation. That privilege is broadly applied, and covers witnesses as well as the litigants themselves; thus it is immaterial that

[1] According to the complaint, the Bishop is a corporation.

Griffith may not have intended to involve itself *as a party* in any litigation when the letter was sent. The litigation contemplated by those seeking to halt the sale of the church property—filed less than 10 days later—was sufficient.

And finally, the fact the Bishop's complaint also alludes (albeit in vague and conclusory fashion) to other allegedly slanderous communications by Griffith is of no moment. The only evidence of other potentially slanderous communications demonstrates they were essentially duplicative of the letter and were made to persons interested in the dispute. We agree with the trial's determination those alleged communications were of no separate significance.

FACTS

This dispute concerns the Episcopal church property on Lido Isle in Newport Beach. The property has a rich litigation history involving a dispute between the prior congregation and the Bishop over which owned the property, after the two parted ways on a doctrinal matter. Ultimately, the Supreme Court determined that earlier dispute did not arise out of activity protected by the anti-SLAPP law, and that the Bishop, rather than the local congregation, owned the property. (*Episcopal Church Cases* (2009) 45 Cal.4th 467 (*Episcopal Church Cases*).)

Following resolution of *Episcopal Church Cases*, the Bishop formed a new congregation on the property. However, for reasons that are disputed (and irrelevant for our purposes), the Bishop later decided to sell the property. It informed the congregation of that decision in May 2015, approximately a month before the sale transaction was scheduled to close on June 24, 2015. The proposed sale was to a developer, Legacy Partners Residential, LLC (Legacy Partners), which planned to build condominiums on the site.

Members of the local congregation, headed by Robert Voorhees, the husband of the congregation's vicar, immediately formed a group dedicated to saving the church property, and began investigating ways to stop the sale. The group's investigation

revealed that the property included four parcels which Griffith had donated to the church with a restrictive covenant limiting the property's use to "church purposes." They also learned that in 1984, Griffith had executed a quitclaim deed releasing that restriction, but only as to three of the four parcels originally donated.

In early June 2015, Voorhees contacted Tom Foss, the chief executive officer (CEO) of Griffith, and Jaime Angus, its president, to inquire as to Griffith's understanding of the status of the property's title. On June 9, Voorhees informed them of his group's discovery that Griffith had released the restrictive covenant on only three of the four parcels, and sought information about why Griffith had done that.

Meanwhile, public interest and concern about the proposed sale was swelling. In addition to the group that formed to stop the sale, there were several newspaper and magazine articles about the proposed sale in late May and early June. The issue was discussed at a meeting of the Newport Beach City Council on June 9. According to the minutes of that meeting, people "spoke in objection to the sale of the church and the building of condominiums in its place," and "in opposition to it being sold." They also expressed concerns about adding high density housing to an area which already suffered from too-limited parking and the need to "protect the Peninsula." They vowed resistance to any change in the city's zoning that would allow the property to be used for residential, rather than church use.

On June 15, an informal "Town Hall" meeting was held in the "old city hall council chambers of Newport Beach" to discuss the issue, and a crowd of what Voorhees estimated to be 200 people attended. At the June 23 meeting of the Newport Beach City Council, several council members stated their own concerns about the proposed sale and its affect on the community, in remarks listed in the minutes of the meeting as "Matters Which Council Members Have Asked To Be Placed On A Future Agenda."

In the midst of all that, on June 10 (one day after Voorhees pointed out to Griffith's president and CEO that it had released the restrictive covenant on only three of

the four parcels donated to the church), Griffith's general counsel wrote the letter which forms the basis of the Bishop's slander of title claim. The letter, addressed to the Bishop, reminds it of the original covenant restricting the property's use to "church purposes exclusively" and points out the restriction was lifted as to three of the parcels only, to allow their use for parking. The letter states the restriction was intentionally maintained on the remaining parcel which was described as the "central church building lot." The letter concludes by stating "Griffith . . . continues [to] assert[] any and all of its rights, title, and interests in the property." Griffith shared a copy of the letter with Voorhees, the day after it was sent to the Bishop. Voorhees then published it on the Web site of the group working to stop the sale.

The Bishop responded to Griffith on June 15, followed by a letter from its attorney to Griffith's general counsel on June 17. Both letters disputed, vehemently, Griffith's claim that the restrictive covenant had been intentionally maintained on one of the parcels, and claimed instead the failure to include that parcel in the quitclaim deed which lifted the restriction was simply a mistake. They explained Griffith's theory about using three of the parcels for parking, while maintaining a restrictive covenant on the parcel under the church building, was inconsistent with the layout of the property.

The attorney's letter to Griffith's general counsel concluded with the statement that "your June 10, 2015, letter has created a cloud on the Church's title to the Property and is impeding the current sale. To remove this cloud and avoid substantial monetary damages to the Church, the Church requests that Griffith . . . execute appropriate documents to clear title. We request that Griffith . . . confirm it will do so. We look forward to Griffith['s] prompt response."

The Bishop felt compelled to share Griffith's letter with Legacy Partners, and did so.

On June 18, the day after the letter sent by the Bishop's attorney, the group working to stop the sale of the church was formally incorporated. Four days after that,

the group filed its lawsuit against the Bishop to stop the sale. And two days after that, the Bishop filed its own lawsuit against Griffith.

The Bishop's complaint against Griffith alleged causes of action for quiet title, declaratory relief, and slander of title. The slander of title cause of action alleges that although Griffith had "released the Use Restriction [which] is unenforceable and invalid," it has "disparaged the Bishop's exclusive valid title to the Property by and through statements made in the June 10 Letter and, on information and belief, other publications made by defendants to third parties that the Use Restriction has not been released from the Property and remains enforceable . . . ."

Griffith moved to strike the cause of action for slander of title, based on the anti-SLAPP law. It argued that specific cause of action was based on the June 10 letter, which qualified as protected activity because (1) the Bishop's contemplated sale of the church property was a public issue or an issue of public interest, and (2) the letter was written in furtherance of the right of petition. It also argued the Bishop had no probability of prevailing on its cause of action because (1) the June 10 letter was protected by the absolute litigation privilege (Civ. Code, § 47, subd. (b)(2)), and (2) the Bishop was not damaged by the letter, which merely pointed out an *existing* flaw in its title to the property but did not create one.

In support of its motion, Griffith submitted a declaration from Voorhees, who described the circumstances giving rise to the sale dispute, the formation of the group to stop it, and the media, community, and city council interest in the proposed sale. Voorhees stated it was he who initiated contact with Foss and Angus at Griffith in early June, "inquiring about the history of its grant of the property of St. James the Great and the accompanying use conditions that members of the congregation discovered." He stated he also sent another e-mail to Voss and Angus pointing out that "lot 1199 (in the middle of the church) was not included in the 1984 quitclaim deed."

Griffith also offered the declaration of its general counsel, Ronald B. Pierce. He stated the controversy about the sale of the church property first came to his attention via an e-mail from Voorhees "on or about June 8, 2015." He received Voorhees's second e-mail on June 10, 2015, before he sent his letter to the Bishop.

Pierce explained, as a result of his "investigation into the situation with the subject property, [he] wrote [his] June 10, 2015 letter to [the Bishop] to demand that the church use condition on the property be kept and to advance any and all right, title and interest Griffith . . . had and has in the property. [He] anticipated that this matter would be headed to active litigation and was hopeful that perhaps [his] letter would allow [the Bishop] to reconsider his position relative thereto."

Before he wrote the letter, Pierce was aware "[the Bishop's] proposed sale of the property . . . had become a public issue and controversy [and] persons interested in St. James the Great were engaging in public advocacy aimed at preventing the sale of the church and the development of condominiums. [He] was also aware of media accounts and news stories being published about the controversy. He concluded "it was likely inevitable that litigation would be filed shortly."

Pierce acknowledged receiving responses from the Bishop on June 15, and from the Bishop's attorney on June 17. He notes the Bishop filed suit against Griffith on June 26, 2015, 16 days after he had sent his June 10 letter.

In its opposition, the Bishop argued Griffith's letter was not written in connection with an issue of public interest, because Griffith's claimed right to enforce a deed restriction was only tangentially related to the "broader City zoning issues and policy issues of the greater Episcopalian Church." It also relied on *Episcopal Church Cases* for the proposition that the anti-SLAPP law could not be applied to a cause of action which actually arises out of a dispute over property ownership.

Moreover, the Bishop contended it had demonstrated a probability of prevailing on its cause of action based on evidence suggesting the failure to include the

fourth parcel of church property in the quitclaim deed releasing the restrictive covenant had been a mere "scrivener's error," rather than an intentional decision, and "[a]s a result of Griffith's claims that the church-use restriction remains enforceable against the Church's property, the sale of the property did not close on June 24, 2015, and . . . has still not closed." Further, as a result of the failure to close, the Bishop has not obtained the $15 million purchase price and has continued to incur "substantial carrying costs associated with its continued ownership of the Church's property, including costs for maintenance, insurance and utilities."

The Bishop also claimed the litigation privilege did not apply to Griffith's June 10 letter because *Griffith itself* did not intend to litigate.

The trial court agreed with the Bishop, specifically concluding "[t]he facts here are not distinguishable from those in *Episcopal* [*Church Cases*]" because "[a]t it's core, this [is] an action about property—the scope of ownership." The court saw no distinction between the Bishop's cause of action for slander of title and its cause of action seeking to quiet title, stating it was inconsistent for Griffith to object to the former while saying it "welcome[d]" the latter. The court also reasoned the letter was not protected because it "did not concern zoning or some other public interest, but expressed private 'dismay' that a property restriction between the private parties wouldn't be honored."

The court also appeared to agree with the Bishop's assertion the June 10 letter was not covered by the litigation privilege, even though Pierce may have been anticipating litigation when he wrote it, because the litigation he thought might happen was between the Bishop and parishioners, not litigation initiated by Griffith.

Since the court denied the motion to strike, it did not consider Griffith's claim for an award of attorney fees, which is mandatory for a defendant which prevails on such a motion. (Code Civ. Proc., § 425.16, subd. (c)(1).)

I. The Anti-SLAPP Law and Standard of Review

The anti-SLAPP law states, in pertinent part, "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 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." (Code Civ. Proc., § 425.16, subd. (b)(1).) "As used in this section, 'act in furtherance of a person's right of petition or free speech under the United States or California Constitution in connection with a public issue' includes: (1) any written or oral statement or writing made before a legislative, executive, or judicial proceeding, or any other official proceeding authorized by law, (2) any written or oral statement or writing made in connection with an issue under consideration or review by a legislative, executive, or judicial body, or any other official proceeding authorized by law; (3) any written or oral statement or writing made in a place open to the public or a public forum in connection with an issue of public interest; or (4) *any other conduct in furtherance of the exercise of the constitutional right of petition or the constitutional right of free speech in connection with a public issue or an issue of public interest*." (*Id*., subd. (e), italics added.)

Moreover, "subdivision (e)(4) [of the anti-SLAPP law] applies to private communications concerning issues of public interest." (*Terry v. Davis Community Church* (2005) 131 Cal.App.4th 1534, 1546; *Wilbanks v. Wolk* (2004) 121 Cal.App.4th 883, 897 ["Section 425.16 . . . governs even private communications, so long as they concern a public issue"].) And because the anti-SLAPP law must be broadly construed (Code Civ. Proc., § 425.16, subd. (a)), courts have "broadly construed [public interest] to include not only governmental matters, but also private conduct that impacts a broad segment of society and/or that affects a community in a manner similar to that of a

governmental entity." (*Damon v. Ocean Hills Journalism Club* (2000) 85 Cal.App.4th 468, 479.)

Courts apply a two-pronged analysis to an anti-SLAPP motion, "First, the court decides whether the defendant has made a threshold showing that the challenged cause of action is one 'arising from' protected activity. [Citation.] If the court finds such a showing has been made, it then must consider whether the plaintiff has demonstrated a probability of prevailing on the claim." (*City of Cotati v. Cashman* (2002) 29 Cal.4th 69, 76.) "Only a cause of action that satisfies *both* prongs of the anti-SLAPP statute—i.e., that arises from protected speech or petitioning *and* lacks even minimal merit—is a SLAPP, subject to being stricken under the statute." (*Navellier v. Sletten* (2002) 29 Cal.4th 82, 89.)

We review an order granting or denying a motion to strike under Code of Civil Procedure section 425.16 de novo. (*Soukup v. Law Offices of Herbert Hafif* (2006) 39 Cal.4th 260, 269, fn. 3.) "This includes whether the anti-SLAPP statute applies to the challenged claim. [Citation.] Furthermore, we apply our independent judgment to determine whether [plaintiff's] causes of action arose from acts by [defendant] in furtherance of [defendant's] right of petition or free speech in connection with a public issue. [Citations.] Assuming these two conditions are satisfied, we must then independently determine, from our review of the record as a whole, whether [plaintiff has] established a reasonable probability that [they] would prevail on [their] claims. [Citation.]" (*Thomas v. Quintero* (2005) 126 Cal.App.4th 635, 645.)

2. First Prong Analysis

Griffith contends the trial court erred by concluding the June 10 letter was not protected by the anti-SLAPP law. We agree. Griffith's evidence established, beyond any doubt, the issue of whether the Bishop could sell the church property to a developer was a matter of significant public interest. The issue was discussed in numerous publications, before the city council, and at a well-attended community meeting.

In fact, the trial court actually found the issue *was* a matter of public interest, while simultaneously undermining the significance of that finding by noting "[i]t is, largely because the members of the Church have made it so." But the reasons *why* an issue has garnered significant public interest are of no moment. We agree with the trial court the proposed sale of the church property qualified.

However, we disagree with the trial court's (and the Bishop's) conclusion Griffith's letter was not written "in connection" with that issue. It clearly was. The fact Griffith's particular interest in the matter grew out of its relationship to the restrictive covenant—rather than an abstract opinion about preferred zoning plans, or the internal dynamics of the Episcopal church—does not change the fact that *the issue at hand* was whether the Bishop should be allowed to sell the church property for some use other than a church one. Griffith's letter could not be more directly connected to that issue.

Moreover, we reject the court's (and the Bishop's) reliance on *Episcopal Church Cases* as precedent for denying the anti-SLAPP motion in this case. While those cases were a battle about who owned the church property, this one is not. The Bishop's first two causes of action—for declaratory relief and quiet title—do arise out of that ownership dispute, and Griffith properly refrained from seeking to strike *those* causes of action under the anti-SLAPP law.

Episcopal Church Cases also did not include a cause of action for slander of title, which is a claim *for recovery of damages* caused by an allegedly slanderous *communication*. The cause of action arises *out of the communication*. While the Bishop's ability to prevail on the merits of the slander of title claim might be intertwined with the issue of whether it prevails in the ownership dispute, the basis of the claim remains the allegedly slanderous communication.

Finally, it is well settled a cause of action for slander of title is subject to the anti-SLAPP law. (See, e.g., *M.F. Farming, Co. v. Couch Distributing Co*. (2012) 207 Cal.App.4th 180, disapproved of on another ground in *Baral v. Schnitt* (2016) 1 Cal.5th

376, 387; *Alpha & Omega Development, LP v. Whillock Contracting, Inc.* (2011) 200 Cal.App.4th 656, 660, fn. omitted ["Alpha understandably conceded in the trial court and again on appeal that Whillock satisfied its burden to show the slander of title cause of action arose from its furtherance of rights of petition or free speech within the meaning of section 425.16, subdivisions (b)(1) and (e)"]; *La Jolla Group II v. Bruce* (2012) 211 Cal.App.4th 461, 471 ["as conceded by appellants in their opening brief, the challenged complaint for slander of title arose out of protected activity under section 425.16"].)

For all of these reasons, we conclude Griffith's June 10 letter was an act "in furtherance of the exercise of the constitutional right of petition or the constitutional right of free speech in connection with a public issue or an issue of public interest." (Code Civ. Proc., § 425.16, subd. (e)(4).) Therefore, it was protected under the anti-SLAPP law and Griffith made the showing required to satisfy the first prong.

3. Second Prong Analysis

Once the defendant or cross defendant satisfies the first prong on the anti-SLAPP analysis, the burden shifts to the pleader to demonstrate the "probability that the plaintiff will prevail on the claim." (Code Civ. Proc., § 425.16, subd. (b)(1); *Collier v. Harris* (2015) 240 Cal.App.4th 41, 49-50.)

"To satisfy the second prong, 'a plaintiff responding to an anti-SLAPP motion must "'state[] and substantiate[] a legally sufficient claim.'" [Citation.] Put another way, the 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."' [Citation.] 'We consider "the pleadings, and supporting and opposing affidavits . . . upon which the liability or defense is based." [Citation.] However, we neither "weigh credibility, [nor] compare the weight of the evidence. Rather, [we] accept as true the evidence favorable to the plaintiff [citation] and evaluate the defendant's evidence only to determine if it has

defeated that submitted by the plaintiff as a matter of law.'"'" (*Oasis West Realty, LLC v. Goldman* (2011) 51 Cal.4th 811, 820.)

Griffith asserts the Bishop's cause of action for slander of title had no probability of success because: (1) the June 10 letter was protected by the absolute litigation privilege of Civil Code section 47, subdivision (b) (section 47(b)); (2) the letter included no false statement; and (3) the Bishop failed to show it has suffered any cognizable damage as a result of the letter. We agree with Griffith's first assertion.

Section 47(b) provides that, with certain exceptions, a publication made in any judicial proceeding is privileged. Because of the vital purposes served by this privilege, it is absolute in nature and applies to all causes of action except malicious prosecution. "'The purposes of [section 47(b)] are to afford litigants and witnesses free access to the courts without fear of being harassed subsequently by derivative tort actions, to encourage open channels of communication and zealous advocacy, to promote complete and truthful testimony, to give finality to judgments, and to avoid unending litigation.'" (*Jacob B. v. County of Shasta* (2007) 40 Cal.4th 948, 955.) The privilege is applied broadly to further these important goals. (*Ibid*.)

"The usual formulation is that the privilege applies to any communication (1) made in judicial or quasi-judicial proceedings; (2) by litigants or other participants authorized by law; (3) to achieve the objects of the litigation; and (4) that have some connection or logical relation to the action." (*Silberg v. Anderson* (1990) 50 Cal.3d 205, 212.) Moreover, "[i]t is not limited to statements made during a trial or other proceedings, but may extend to steps taken prior thereto, or afterwards." (*Rusheen v. Cohen* (2006) 37 Cal.4th 1048, 1057.) It applies to "any publication required or permitted by law in the course of a judicial proceeding to achieve the objects of the litigation, even though the publication is made outside the courtroom and no function of the court or its officers is involved." (*Silberg*, at p. 212.)

As the Supreme Court explained in *Rubin v. Green* (1993) 4 Cal.4th 1187 "[f]or well over a century, communications with 'some relation' to judicial proceedings have been absolutely immune from tort liability by the privilege codified as section 47(b). At least since then-Justice Traynor's opinion in *Albertson v. Raboff* (1956) 46 Cal.2d 375, California courts have given the privilege an expansive reach." (*Id*. at pp. 1193-1194.) Thus, following *Albertson v. Raboff,* numerous decisions have applied the privilege to prelitigation communications. (See, e.g., *Block v. Sacramento Clinical Labs, Inc*. (1982) 131 Cal.App.3d 386, 393 (*Block*) [privilege applies to communications with "'some relation to a proceeding that is actually contemplated in good faith and under serious consideration by . . . a possible party to the proceeding'"]; *Rosenthal v. Irell & Manella* (1982) 135 Cal.App.3d 121, 126 ["potential court actions"]; *Ascherman v. Natanson* (1972) 23 Cal.App.3d 861, 865 [privilege extends to "preliminary conversations and interviews" related to contemplated action]; *Pettitt v. Levy* (1972) 28 Cal.App.3d 484, 490 [meeting of parties and counsel to "marshal their evidence for presentation at the hearing"]; *Lerette v. Dean Witter Organization, Inc.* (1976) 60 Cal.App.3d 573, 577 [privilege extends to "steps taken prior" to judicial proceedings].)

Block, the first case cited by the Supreme Court in the quoted passage from *Rubin v. Green*, *supra*, 4 Cal.4th. 1187 is nearly on point to the circumstances of this case. In *Block*, the plaintiff's daughter died under mysterious circumstances. As part of its investigation into the cause of death, the district attorney submitted blood samples to the defendant, a toxicologist, for analysis. "[The] District Attorney's office [then] sought further information to determine whether criminal charges might be warranted. [Defendant] was requested to calculate the number of baby aspirin which plaintiff's child would have had to ingest to produce such a high concentration of salicylate in the baby's bloodstream. He performed the calculations and communicated them to the district attorney's office which used them as grounds for filing criminal murder and child neglect charges against plaintiff." (*Block*, *supra*, 131 Cal.App.3d at p. 388.) However, at the

preliminary hearing, it was revealed the defendant had made a mistake in his calculations, and the charges were dropped. (*Id.* at p. 439.) Thereafter, the plaintiff filed a lawsuit alleging negligence against the defendant.

The appellate court concluded the defendant's actions were protected by the absolute privilege of section 47(b). As the court explained, "[The defendant] performed and communicated the calculations upon the request of the office of the district attorney in furtherance of its investigation whether there was probable cause to initiate criminal charges relating to the infant's death. '[W]hen the communication has some relation to a proceeding that is actually contemplated in good faith and under serious consideration by . . . a possible party to the proceeding,' the communication is privileged." (*Block*, *supra*, 131 Cal.App.3d at p. 393.) The court noted "'[t]he function of witnesses is of fundamental importance in the administration of justice. The final judgment of the tribunal must be based upon the facts as shown by their testimony, and it is necessary therefore that a full disclosure not be hampered by fear of private suits for defamation. The compulsory attendance of all witnesses in judicial proceedings makes the protection thus accorded all the more necessary.'" (*Id.* at p. 394.)

In this case Griffith, like the toxicologist in *Block*, was a potential *witness*, not a potential litigant. Griffith was contacted by a party contemplating litigation, and asked for information relevant to the potential lawsuit. Griffith complied, and thereafter communicated with *both sides* in the prospective lawsuit about the status of the restrictive covenant—information that bore directly on the subject of the proposed litigation between the parties. And within two weeks of those communications, the group working to stop the sale of the church property initiated litigation based in part on what Griffith had said—which is exactly what happened in *Block.* And just as in *Block*, which was

cited with approval by the Supreme Court, we conclude that witness communication is protected by section 47(b).[2]

Moreover, the same analysis applies to Griffith's communication of the letter to the group seeking to stop the Bishop's sale of the church property, and to any other communications it had with these parties concerning the issues raised in the lawsuit filed by the group against the Bishop. We consequently conclude there is no potential merit to the Bishop's cause of action for slander of title against Griffith.

DISPOSITION

The order is reversed. The case is remanded to the trial court with directions to grant Griffith's special motion to strike a cause of action for slander of title and award Griffith attorney fees as the prevailing party in accordance with Code of Civil Procedure section 425.16, subdivision (c)(1). Griffith is to recover its costs on appeal.

THOMPSON, J.

WE CONCUR:

O'LEARY, P. J.

MOORE, J.

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[2] The fact Griffith's role in events underlying the Bishop's slander of title claim was that of a *witness*, rather than a potential *litigant*, renders moot the Bishop's entire argument about whether Griffith itself had any intention of initiating litigation with its general counsel wrote the June 10 letter. We consequently do not address it.