

1 legal issues,” and the blog is an ABA-recognized top blog website.<sup>47</sup> On his blog, he goes to great  
2 lengths to explain “why [he has] the audacity to believe that [he is] qualified to teach [others] a thing  
3 or two.”<sup>48</sup> He touts himself as having “experience and expertise in all areas of First Amendment and  
4 entertainment law matters.”<sup>49</sup> He boasts about “get[ting] to fight ‘the good fight’ – protecting all of  
5 our First Amendment freedoms,” and openly proclaims that he has “represented adult entertainment  
6 establishments against socially conservative communities.”<sup>50</sup>

7 By talking about his experience and the clients he represents, Mr. Randazza invites  
8 commentary on his work as an attorney and criticism from those who oppose the positions of his  
9 clients. Mr. Randazza may be perceived to have interjected himself into the public sphere by making  
10 television and radio guest appearances, giving quotes and interviews in newspapers, magazines, and  
11 other publications, appearing at speaking engagements, and having an ABA-recognized Top blog  
12 website, all as reflected on his résumé.<sup>51</sup> Considering his intentional and deliberate professional  
13 exposure and interjection into the public sphere and the accompanying decrease in his privacy  
14 interests, he has not demonstrated as a matter of law that he had an actual or reasonable expectation  
15 that he would not be criticized based on his work as an attorney or that he would not be thought  
16 about unfavorably by people in opposition to his work. As the Randazzas have failed to establish  
17 essential elements of this claim, summary judgment in their favor is simply not available.

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19 **6. *Genuine issues of material fact preclude summary judgment on claim 9 for Civil Conspiracy.***

20 Plaintiffs’ ninth claim alleges that Bernstein and Cox colluded to register the domain names  
21 containing the entirety or part of the Randazzas’ names to violate their rights. To state a valid claim

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23 <sup>47</sup> Docs. 75-11, 75-20.

24 <sup>48</sup> Doc. 75-12.

25 <sup>49</sup> *Id.*

26 <sup>50</sup> *Id.*

27 <sup>51</sup> Docs. 75-11, 75-20.

1 for civil conspiracy, a plaintiff must show: (1) defendants, by acting in concert, intended to  
2 accomplish an unlawful objective for the purpose of harming the plaintiff; and (2) the plaintiff  
3 sustained damages as a result.<sup>52</sup> “A civil conspiracy claim operates to extend, beyond the active  
4 wrongdoer, liability in tort to actors who have merely assisted, encouraged or planned the  
5 wrongdoer’s acts.”<sup>53</sup>

6 Genuine issues of material fact also preclude entry of judgment in the Randazzas’ favor on  
7 this theory. They have not demonstrated by admissible evidence that Cox and Bernstein acted in  
8 concert. The only admissible evidence on this point is a blog post purportedly written by Cox.  
9 Plaintiffs claim that Cox “states that Bernstein is her business partner.”<sup>54</sup> However, the proffered  
10 evidence does not compel that conclusion. The blog post refers in different places to the website  
11 MarcRandazza.me, that Bernstein is a co-defendant in this case, and that Cox and her business  
12 partner have been customers of Godaddy Inc. for several years.<sup>55</sup> The blog does not, as Plaintiffs  
13 suggest, identify or definitely reflect that Eliot Bernstein is the business partner Cox is referring to in  
14 the post. And, even if Bernstein were the partner Cox mentions, the post does not prove that  
15 Bernstein and Cox colluded to violate Plaintiffs’ rights. For that reason, summary judgment on this  
16 claim is also not available.

17 **C. Defendant Cox is not entitled to summary judgment on her claims.**

18 Cox has moved for summary judgment on her original “Counter-Complaint.”<sup>56</sup> That  
19 “Counter-Complaint” has since been stricken, and Cox was given leave to re-file an amended  
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22 <sup>52</sup> *Hilton Hotels Corp. v. Butch Lewis Prods., Inc.*, 862 P.2d 1207, 1210 (Nev. 1993) (citing  
23 *Collins v. Union Fed. Savings & Loan*, 662 P.2d 610, 622 (Nev. 1983)).

24 <sup>53</sup> *Flowers v. Carville*, 266 F. Supp. 2d 1245, 1249 (D. Nev. 2003) (quoting 16 Am.Jur. 2D  
25 Conspiracy § 57 (1998)).

26 <sup>54</sup> Doc. 75-1, at ¶ 29.

27 <sup>55</sup> *Id.*

28 <sup>56</sup> Doc. 79.