

Hearing Nears on \$63-Million Libel Suit

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LOS ANGELES, Nov. 9—In a Los Angeles courthouse, a massive file of documents, affidavits and depositions is being assembled. Its purpose is to help provide an answer to this question: Is a sprawling, multi-million dollar resort complex in Southern California a playground — and investment — of organized crime?

The documents are reaching deep into the history of crime in the United States. They are touching on subjects ranging from the Watergate scandals to television's wholesome series of family life, "The Waltons," and raising basic issues about investigative journalism and the rights of privacy.

The materials form the record of what is believed to be the largest libel suit ever filed in the United States—a claim for \$630 million in damages by four individuals and four corporations connected with Rancho la Costa, a 5,600-acre real estate-hotel development 80 miles south of here developed largely with loans from a pension fund of the International Brotherhood of Teamsters.

Former President Richard M. Nixon chose La Costa for his first major public appearance after leaving the White House in August 1974, when he played in a golf tournament Oct. 9 with Frank E. Fitzsimmons, president of the union.

'Syndicate in the Sun'

Defendants in the suit are Penthouse International Ltd., publisher of Penthouse magazine, and two freelance writers, Lowell Bergman, 30 years old, and Jeff Gerth, 32, who wrote an article for the magazine last April called "La Costa: Syndicate in the Sun."

The article asserted that the development was largely the brainchild of the racketeer Meyer Lansky, that it was financed by teamster loans made on questionable grounds, and that, in general, it was a haven for mobsters.

The principal officers of La Costa include Morris B. Dalitz, 76, former owner of the Desert Inn Hotel in Las Vegas, who was described by the Kefauver crime committee two decades ago as a long-time racketeer and associate of the late Lucky Luciano and Bugsy Siegel; Alard Roen, 54, a partner in the Dalitz Las Vegas Gambling investments, who was convicted in the United Chemical and Dye stock fraud scandals in New York, and Mervyn Adelson, 46, and Irwin Molasky, 48, who in addition to being

business partners with Mr. Dalitz in scores of corporations, are the principal officers of Lorimar Productions of Hollywood, which produces "The Waltons," and is currently making a movie, "Helter Skelter," based on the crimes of the Charles M. Manson family.

The La Costa owners have called on three law firms to handle the case. The team is led by Louis Nizer of New York and includes Thomas Sheridan of Los Angeles, who entered private practice after serving as the Justice Department's top specialist in organized crime on the West Coast, and whose law partner, William Simon, was formerly the Federal Bureau of Investigation's senior specialist in organized crime on the West Coast.

According to documents filed in the case, the plaintiffs hired two former F.B.I. agents to investigate the background of the authors and reported that one of them had been active in leftist politics in college. They also hired at \$3,000 a month, the services of a prominent California public relations firm that specializes in political affairs, Whittaker & Baxter, to handle public relations in the case.

on the West Coast. The two firms for its defense. The two authors are working full time as investigators for the law firms, traveling around much of the country in an effort to get evidence that they can use in the defense.

According to people close to the case, probably more than \$300,000 has already been spent in legal and investigation expenses.

The first court hearing is scheduled here Thursday, when Mr. Nizer and Alan M. Gelb, a New York attorney who represents Penthouse, will argue whether the four principal officers of La Costa are "public figures" in the legal sense and therefore exempt, in much the way that politicians are, from constitutional rights of privacy under the standards set in a Supreme Court decision in 1964.

If the court holds that they are "public figures," the La Costa officials will have to prove that the authors, "with malice," knowingly or with reckless disregard for the facts,

published inaccurate information.

The dispute has put on trial much of the literature and lore about organized crime going back more than 40 years—including the concept that decades ago, a so-called "syndicate" formed a loose alliance around the country to make illicit profits in gambling, prostitution and other criminal activities.

In a 78-page brief to support his motion for a judgment that the plaintiffs are public figures, Mr. Gelb has quoted at length from virtually all the books written on organized crime in recent years—30 volumes—as well as dozens of newspapers and magazine articles that purport to show alleged involvement of Mr. Dalitz and, to a lesser extent Mr. Roen, in criminal activities. He also cited in other documents what appears to be confidential Government wiretaps in Las Vegas that suggest possible illegal activities by the two men, activities they have denied.

'Criminal Elements'

He also quotes from an F.B.I. study of La Costa that says that, while Mr. Adelson and Mr. Molasky are real estate promoters without criminal records, "there's no doubt of their association with criminal elements."

"It would be difficult, if not impossible, to find living people associated with organized crime about whom more has been written in the form of books, magazines and newspaper articles and other publications than the four notorious personalities who have been and continue to be friends and associates of gangsters, allies and kingpins in the underworld, who are the four individuals in this case," Mr. Gelb said in his affidavit. "If they are not public figures, then that phrase has almost no meaning."

Mr. Nizer is expected to argue that the four men are private businessmen and not criminals, the victims of massive character assassinations. Although the Supreme Court decision of 1964 has since been broadened to include citizens other than politicians, such as certain sports figures, Mr. Nizer has maintained that a Supreme Court decision last year upholding a libel judgment against Robert Welch, founder of the John Birch Society, against a Chicago lawyer, Eller Gertz, sets a narrow standard for defining a "public figure."

"General fame or notoriety" is required, and the four men

in the La Costa case do not have such fame or notoriety, he maintained.

The four men dispute all the contentions about their alleged participation and criminal activities and contend that they are the victims of reckless and irresponsible investigative journalism.

In one document, Mr. Dalitz acknowledged knowing Meyer Lansky for more than 40 years, but maintained that they were only casual acquaintances.

"I have never had any involvement in organized crime," he said in another affidavit. "Mob money did not build La Costa." He added that he had been the subject of erroneous reporting for many years.

"There is a certain type of 'reporter' or 'crime writer' that makes a living out of organized crime fantasies of this sort, created out of rumor and innuendos," he said. "To the extent that they have used my name from time to time to fill a few of the pages of their books, they have created a completely fictional character that has no resemblances to me."

In one unusual aspect of the case, lawyers for Penthouse have asked the F.B.I., the Central Intelligence Agency, the Treasury Department and other Federal agencies to supply them with all records of the four individuals, and they urged the men to join with them in requesting the records under terms of the Federal Freedom of Information Act. But so far, the La Costa plaintiffs have refused to on advice of their lawyers.

During the Watergate investigation, it was reported that John W. Dean 3d and other White House officials had met at La Costa to discuss the coverage of the break-in at the Democratic national headquarters in Washington. Among exhibits filed in the court here are registration cards showing that the former White House aides under President Nixon, John D. Ehrlichman and H. R. Haldeman, stayed at La Costa a number of times during 1972 and 1973.

Penthouse has asked the plaintiffs to supply an enormous amount of detailed information about their business dealings and personal relationships, including those pertaining to any possible relationship with Mr. Nixon. The effort to secure such information suggests that the magazine is seeking to prompt the La Costa officials to drop their suit, but La Costa officials have said they intend to carry it forward.

Involving Coast Resort