

**LAW & MOTION
DEPT. 47
NOVEMBER 5, 2008
NO.**

**BC 390 789
JON CARPENTER
V.S.
SUN REAL ESTATE INV LLC ET AL**

AND RELATED CROSS-ACTION

**SPECIAL MOTION TO STRIKE
CROSS-COMPLAINT PURSUANT
TO CCP §425.16**

The special motion to strike is denied. First of all, the cross-complaint is not subject to the special motion to strike because cross-complainants have demonstrated that the actions of the cross-defendants were and are illegal. (See *Flatley v. Mauro* (2006) 39 Cal.4th 299, 324 *et. seq.*) Thus, the cross-complaint is not subject to the provisions of section 425.16, the anti-SLAPP statute. Additionally, the cross-complaint is brought on behalf of the general public, seeks no greater relief than that which would be available to the general public and, if successful, would enforce an important public right. (See CCP §425.17.) Thus, section 425.17 also precludes the use of section 425.16 to strike the cross-complaint.