

Penn Dings Bing

by Josh Grossberg

Jun 24, 2003, 10:15 AM PT

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Sean Penn got the sweet and lowdown in court.

The actor scored an early victory in his ongoing battle with multimillionaire producer Steve Bing over a movie deal gone wrong when a Los Angeles judge dismissed some of the core complaints in Bing's \$15 million suit against Penn.

In his ruling, Superior Court Justice Irving Feffer said Bing couldn't sue Penn for extortion because the actor had not actually been paid anything. But he did allow Bing's attorney, Martin Singer, a chance to amend his three claims and refile them.

"He's giving us 30 days to amend the complaint to further plead our case...and we feel confident that ultimately the jury will hear the complaint for extortion," Singer said.

Bing, known best for fathering Elizabeth Hurley's son, is the well-heeled grandson of real-estate magnate Leo Bing and heir to the family's \$400 million fortune. He also has Hollywood aspirations, working as a writer-producer (his credits include the script for *Kanagaroo Jack* and executive producing the Sylvester Stallone bomb *Get Carter*).

He and Penn were supposed to tag team on the comedy *Why Men Shouldn't Marry*, which the 37-year-old Bing was supervising under his Shangri-La Entertainment banner. But in February, Penn filed a \$10 million breach-of-contract suit claiming he was fired by Bing because of his vocal stand against the U.S.-led war on Iraq.

In court documents, Penn blasted Bing for "borrowing a page from the dark era of Hollywood blacklisting" by dropping the actor from the project because of his highly publicized visit to Baghdad last December.

Penn said Bing reneged on the pair's pay-or-play deal--a standard Tinseltown business arrangement whereby the actor gets paid whether or not the movie gets made--and violated his First Amendment rights by punishing him for speaking out against the war.

Bing quickly countersued, asserting money, not politics was the real issue. He denied the two had agreed to a pay-or-play clause and instead blamed Penn for trying to extort big bucks for a role that he never intended to play in the first place.

Singer said the "shakedown" claim was based on an alleged threat made by Penn to go public with an embarrassing audiotape of Bing unless the producer met the actor's demands and pony up \$10 million.

Bing--who generated tabloid headlines last year over his nasty paternity spat with Hurley--also accused Penn of breaking an agreement to forego script approval so the producer could lure Woody Allen to direct the project.

Singer said Bing tried to close the deal with the *I Am Sam* star, but to no avail.

"My client still tried approximately 20 to 30 times through his lawyers to close a deal with them, and they couldn't close the deal. So this claim of a First Amendment issue is nonsense."

Bing is also seeking damages to cover preproduction costs on the film as well as payments made to Allen. Those claims were not tossed out Monday.

Penn's camp declined to comment, letting Feffer's ruling speak for itself.

Judge Feffer earlier rejected a request by Bing's attorney to dismiss Penn's complaint of wrongful termination, failure to pay guaranteed compensation and labor code violations.

If the judge does accept the amended extortion claims, a trial could get underway sometime next year. Another hearing has been scheduled for July 3.

As for Penn, the ex-Jeff Spicoli hasn't backed down from his criticism of the Iraq war and President Bush's foreign policy.

Last month, he took out a 4,000-word open letter in the front section of the *New York Times* defending his visit to Baghdad and continuing to refute the administration's contention that the invasion of Iraq was necessary, especially since weapons of mass destruction have not been found.