

1 THE MAREK LAW FIRM, INC.
2 DAVID MAREK (CA Bar No. 290686)
3 david@marekfirm.com
4 AMI SANGHVI (CA Bar No. 331801)
5 ami@marekfirm.com
6 228 Hamilton Avenue
7 Palo Alto, CA 94301
8 (650) 460-7148

9 BERMAN NORTH LLP
10 Stacy Y. North (CA Bar No. 219034)
11 stacy@bermannorth.com
12 2001 Van Ness, Suite 300
13 San Francisco, CA 94109
14 (650) 463-9158

15 *Attorneys for Plaintiff*

16 **SUPERIOR COURT OF STATE OF CALIFORNIA**
17 **COUNTY OF SAN FRANCISCO**
18 **CIVIL UNLIMITED JURISDICTION**

19 MAURY BLACKMAN, an individual,

20 *Plaintiff,*

21 v.

22 SUBSTACK, INC., a Delaware
23 Corporation; AMAZON WEB SERVICES,
24 INC., a Delaware corporation; JACK
25 POULSON, an individual; TECH
26 INQUIRY, INC., a Delaware corporation;
27 DOES 1-25, inclusive,

28 *Defendants.*

Case No.: CGC-24-618681

**PLAINTIFF'S OPPOSITION TO
DEFENDANT TECH INQUIRY'S SPECIAL
MOTION TO STRIKE PLAINTIFF'S
COMPLAINT BASED ON FILINGS MADE
AFTER JANUARY 28, 2025**

DATE: February 4, 2025
TIME: 9:30 am
DEPT: 301

Action Filed: October 3, 2024
Trial Date: None set

ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco
01/31/2025
Clerk of the Court
BY: JEFFREY FLORES
Deputy Clerk

1 **I. INTRODUCTION**

2 Plaintiff files this Opposition to oppose Defendant Tech Inquiry, Inc.’s untimely and
3 inappropriate submissions to this Court made on or after January 29, 2025. Specifically, on January
4 29, 2025 – four court days before the February 4, 2025 hearing and without permission from the
5 Court – Defendant Tech Inquiry, an entity controlled by Defendant Jack Poulson, filed a “Corrected
6 Amended Memorandum of Points And Authorities In Support of Its Special Motion to Strike
7 Plaintiff’s Complaint” (the “January 29 Corrected Amended Memorandum”). The Corrected
8 Amended Memorandum supported Tech Inquiry’s Notice of Motion and Motion to Strike Under the
9 Anti-SLAPP Statute (CCP § 425.16) filed on December 9, 2024 (the “Anti-SLAPP Motion”), which
10 itself was untimely because it was filed more than 60 days after Plaintiff served its Complaint on
11 Tech Inquiry. *See* CCP § 425.16. Accordingly, under no set of circumstances did Tech Inquiry
12 properly and in compliance with the law file its Anti-SLAPP Motion. Indeed, as discussed herein,
13 Tech Inquiry had multiple chances and more than enough time to comply with the applicable statute
14 but failed to do so. Rather, Tech Inquiry repeatedly filed its papers late and with knowingly false
15 representations of fact. Accordingly, for the reasons set forth herein, and those addressed in Plaintiff’s
16 Opposition to Tech Inquiry’s Anti-SLAPP Motion filed on January 14, 2025, Tech Inquiry’s Anti-
17 SLAPP Motion should be denied and should not be considered.

18 **II. FACTS**

19 Plaintiff personally served Tech Inquiry with the Complaint on October 7, 2024 thereby
20 triggering Defendant’s 60-day statutory requirement to file an anti-SLAPP motion pursuant to CCP
21 §425.16(f) by December 6, 2024. *See* Plaintiff’s Mem. of Pts. and Auth. ISO Plaintiff’s Opposition to
22 Tech Inquiry’s Special Motion to Strike filed January 14, 2025 (“Plaintiff Opp.”) at p.10. Tech
23 Inquiry first attempted to file its Anti-SLAPP Motion on December 9, 2024 with a hearing date of
24 January 10, 2025. Thereafter, Tech Inquiry filed an “Amended Notice of Special Motion to Strike”
25 dated December 23, 2024 with a hearing date of February 4, 2025 supported by the Memorandum of
26 Points and Authorities previously filed on December 9, 2024 and other documents.

27 By letter dated January 7, 2025, Plaintiff notified Tech Inquiry that its anti-SLAPP Motion
28 violated Rules of Court, Rule 3.3(a)(1) and (3), which prohibit an attorney from making knowingly

1 false statements to the court or offering evidence that the lawyer knows to be false. Specifically, in
2 Tech Inquiry’s Memorandum of Points and Authorities in Support of Defendant Tech Inquiry Inc.’s
3 Special Motion to Strike (CCP § 425.16) filed on December 9, 2024 (the “December 9
4 Memorandum”), Tech Inquiry, an entity of which Jack Poulson is the Executive Director and
5 Founder (Declaration of Jack Poulson dated December 6, 2024 “Poulson Decl.” at ¶2), asserted that
6 **Plaintiff**, as CEO of **Premise Data**, “failed to prevent the deaths of many of [Premise Data’s]
7 employees, including 19 who were pulled off a bus in Iraq and executed on the side of the road while
8 performing as part of [Premise Data’s] secretive military contracts.” December 9 Memorandum at pp.
9 7-8 citing Poulson Decl. at ¶¶ 16-17. These statements are knowingly false. Plaintiff did not fail to
10 prevent the deaths of any Premise Data employees. No Premise Data employees were pulled off a bus
11 in Iraq and executed on the side of the road. No Premise Data employees were executed while
12 working. (Declaration of Plaintiff, executed on January 14, 2025 at ¶77) Tech Inquiry provided no
13 basis for the statement and cannot justify such a statement because it is a complete fabrication. The
14 paragraphs of Poulson’s Declaration that Tech Inquiry cited as support for the statement categorically
15 do not support Tech Inquiry’s assertions. Poulson Del. at ¶16.

16 Tech Inquiry made these false representations to support its central argument that Plaintiff’s
17 private matters were an issue of public interest because “Plaintiff was a controversial and apparently
18 reckless CEO”. December 9 Memorandum at p. 7.

19 On January 10, 2025, in an apparent recognition that its Anti-SLAPP Motion contained false
20 representations to the Court, Tech Inquiry filed an “Amended Memorandum of Points and Authorities
21 in Support of its Special Motion to Strike” (the “January 10 Amended Memorandum”) which
22 purported to be a correction of Tech Inquiry’s misstatement in the Memorandum. However, Tech
23 Inquiry’s January 10 Amended Memorandum continued to repeat the same misstatement that was
24 contained in the December 9 Memorandum, and thus did not cure the gross, unsupportable
25 misstatement of fact. Tech Inquiry did not Amend its Notice of Motion at this time.

26 On January 14, 2025, Plaintiff filed his Opposition to Defendant Tech Inquiry’s Special
27 Motion to Strike, wherein Plaintiff argued, among other things, that Tech Inquiry’s Anti-SLAPP
28 Motion was in fact untimely and failed to contain evidentiary support. (*See* Plaintiff Opp. at 10.)

1 Then, on January 29, 2025, Tech Inquiry filed an untimely reply¹ in support of its untimely motion.
2 On that same day, after filing its Reply Memorandum, Tech Inquiry also filed the January 29
3 Corrected Amended Memorandum – the third iteration of Tech Inquiry’s Memorandum of Points and
4 Authorities in support of its Anti-SLAPP Motion – once again without seeking Court permission.
5 This Corrected Amended Memorandum was thus filed 54 days after Tech Inquiry’s statutory deadline
6 to file its anti-SLAPP Motion (December 6, 2024); 22 days after Plaintiff notified Tech Inquiry of its
7 defective anti-SLAPP Motion (January 7, 2025); 15 days after Plaintiff filed his Opposition to
8 Defendant’s anti-SLAPP Motion (January 14, 2025); and after Tech Inquiry’s statutory deadline to
9 file its Reply in Further Support of its anti-SLAPP Motion (January 28, 2025). More disturbing, is
10 that the Corrected Amended Memorandum continues to misrepresent the facts it purportedly cites and
11 changes its baseless allegation from Plaintiff having failed to prevent the death of 19 Premise Data
12 employees to the again incorrect fact that Plaintiff “worked with” an entity whose previous owner
13 failed to prevent such deaths. See Corrected Amended Memorandum at p.10 (citing to Poulson’s
14 Decl. which does not state that).

15 On January 30, 2025, Plaintiff again notified Defendant Tech Inquiry of another misstatement
16 of facts in its Reply In Support of its Special Motion to Strike Plaintiff’s Complaint (the “Reply”). In
17 its Reply, Tech Inquiry – while arguing falsely that Poulson’s dissemination of the Sealed Report
18 occurred relatively close to the date on which the Judge Gold entered the Sealing Order – wrote
19 “Tech Inquiry should not be penalized when ... the sealing order was entered only seven months
20 before Tech Inquiry’s publication.” Reply at p. 5 (emphasis added). The undisputed record
21 establishes that Poulson disseminated the Sealed Report approximately 19 months after Judge Gold’s
22 sealing order. On January 31, 2025 – two court days prior to the hearing – Defendant Tech Inquiry
23 filed an “errata” to its Reply, removing part of the incorrect sentence without acknowledging the
24 fallacy of its argument.

25 //

26 //

27 ¹ Pursuant to CCP §1005(b), with a hearing date of February 4, 2025, Defendant was required to file
28 its Reply by January 28, 2025 Tech Inquiry’s Reply was filed after midnight and thus executed and
filed on January 29, 2025.

1 **III. ARGUMENT**

2 Tech Inquiry's Anti-SLAPP Motion is made pursuant to § 425.16(e)(2), (e)(3), and (e)(4).
3 CCP §425.16(f) sets forth the 60-day timeline to file the Special Motion to Strike. Defendant did not
4 seek this court's permission to file its motion late nor has it presented a compelling reason to be
5 permitted to do so. Thus, Defendant's motion must have been made pursuant to CCP §425.16(f) by
6 December 6, 2024. Tech Inquiry made no such motion by this date and thus it has waived its ability
7 to seek relief under this statute.

8 Additionally, even if this Court were, in its discretion, to excuse Defendant's untimely Anti-
9 SLAPP Motion, Defendant has failed to comply with basic motion requirements. CCP § 1005(b)
10 requires that all moving and supporting papers shall be served and filed at least 16 court days before
11 the hearing. A party filing a motion must serve and file a supporting memorandum with that motion.
12 See Cal. R. Ct. 3.1112(a). Accordingly, the motion is not "made" simply upon the filing of the notice
13 of motion. See *Weinstein v. Blumberg*, 25 Cal. App. 5th 316, 321 (2018) (finding motion untimely
14 where party filed notice of motion and motion to compel filed without the supporting papers). Here,
15 Defendant Tech Inquiry did not provide the required supporting paper of the Memorandum of Points
16 and Authorities in Support of the Special Motion until January 29, 2025 and the Reply Memorandum
17 of Points and Authorities until January 31, 2025, with a hearing date of February 4, 2025. This
18 renders the entire motion untimely pursuant to CCP §1005(b). Defendant cannot be permitted to
19 create an end run around the 60-day statutory timeframe to file a Special Motion to Strike pursuant to
20 CCP §425.16 by simply lodging a Notice of Motion and then repeatedly refileing its supporting
21 Memorandum of Points and Authorities after Plaintiff's Opposition was filed and up to two court days
22 before the hearing date. This end-run is particularly inappropriate here because, in part, Tech
23 Inquiry's late filings resulted from its repeatedly making false representations to the Court to bolster
24 its arguments.

25 Accordingly, even if the Special Motion is now deemed to have been "made" on January 29,
26 2025 – the latest date of the memorandum supporting the Special Motion – an amended notice of
27 motion with a later hearing date will not cure the fact that such a motion far exceeds the 60-day
28 statutory timeframe for filing a Special Motion to Strike without any justification.

1 **IV. CONCLUSION**

2 For the reasons addressed in Plaintiff's Opposition to Tech Inquiry's anti-SLAPP Motion and
3 herein, Tech Inquiry's anti-SLAPP Motion must be rejected because it is untimely and Tech Inquiry
4 has waived its ability to seek the relief it pursues.

5
6 Dated: January 31, 2025

Respectfully Submitted,

7 THE MAREK LAW FIRM

8 By: /s/ David Marek
9 DAVID MAREK
Attorneys for Plaintiff

PROOF OF SERVICE

I, Christina Yanacek, declare as follows:

I am over eighteen years of age and not a party to the within action. I am employed in San Francisco County, California. My business address is 2001 Van Ness Avenue, Suite 300, San Francisco, CA 94109.

On the date set forth below, I served a copy of the following:

- **PLAINTIFF'S OPPOSITION TO DEFENDANT TECH INQUIRY'S SPECIAL MOTION TO STRIKE PLAINTIFF'S COMPLAINT BASED ON FILINGS MADE AFTER JANUARY 28, 2025**


on the parties named below as follows:

- (X) **(BY EMAIL)** – by electronically mailing a true and correct copy through BERMAN NORTH LLP's electronic mail system to the email address(es) set forth below, or as stated in the attached service list per the parties' agreement.
- (X) **(BY E-SERVICE)** – by electronically serving the document(s) listed above and on the Transaction Receipt, which were e-filed with the San Francisco County Superior Court and e-served via the One Legal's electronic filing system, to the email address(es) of the party(ies) designated below in accordance with the San Francisco County Superior Court Local Rules.

I served the above document(s) on the following person(s):

SEE ATTACHED SERVICE LIST

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on January 31, 2025, at Long Beach, California.


Christina Yanacek

SERVICE LIST

Ambika Kumar
Sarah E. Burns
DAVIS WRIGHT TREMAINE LLP
50 California Street, 23rd Floor
San Francisco, CA 94111
Phone: (206) 757-8030
(415) 276-4892
Email: ambikakumar@dwt.com;
sarahburns@dwt.com
cc: ryanrubio@dwt.com

**Counsel for Defendant
Amazon Web Services, Inc.**

Susan E. Saeger
The Office of Susan E. Saeger
Phone: (310) 890-8991
Email: susanseager1999@gmail.com

**Counsel for Defendant
Tech Inquiry, Inc.**

Joshua A. Baskin
Thomas R. Wakefield
Wilson Sonsini Goodrich & Rosati
1 Market Plaza, Spear Tower, Suite 3300
San Francisco, CA 94105
Email: jbaskin@wsgr.com;
twakefield@wsgr.com;
Substack-Doe@wsgr.com
cc: rglynn@wsgr.com

**Counsel for Defendant
Substack, Inc.**

David Greene
Victoria Noble
Electronic Frontier Foundation
815 Eddy Street
San Francisco, CA 94109
Tel.: (415) 436-9333
Fax: (415) 436-9993
Email: davidg@eff.org;
tori@eff.org;
cc: victoria@eff.org

Counsel for Jack Poulson