

No. A173244

**IN THE COURT OF APPEAL OF THE  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT, DIVISION FOUR**

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MAURY BLACKMAN,

Plaintiff and Appellant,

v.

SUBSTACK, INC.; JACK POULSON; TECH INQUIRY, INC.,

Defendants and Respondents.

---

Appeal from an Order of the Superior Court, County of San Francisco  
The Hon. Christine Van Aken  
Case No. CGC24618681

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**APPELLANT'S APPENDIX**

**VOLUME 4 OF 4 – PAGES AA0715-1031 OF AA1031**

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Deputy Clerk

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

20 MAURY BLACKMAN, an individual,  
21 *Plaintiff,*  
22 v.  
23 SUBSTACK, INC., a Delaware  
24 Corporation; AMAZON WEB SERVICES,  
25 INC., a Delaware corporation; JACK  
26 POULSON, an individual; TECH  
27 INQUIRY, INC., a Delaware corporation;  
28 DOES 1-25, inclusive,  
*Defendants.*

Case No.: CGC-24-618681  
**PLAINTIFF'S OPPOSITION TO  
DEFENDANT POULSON'S MOTION TO  
STRIKE UNDER THE ANTI-SLAPP  
STATUTE (CCP § 425.16)**

**REDACTED**

**Date: February 4, 2025**  
**Time: 9:30 AM**  
**Dept.: 301**  
**Judge: Hon. Joseph M. Quinn**

**PUBLIC**

**REDACTS MATERIALS PURSUANT TO COURT'S JANUARY 7, 2025 ORDER**

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**PLAINTIFF'S OPPOSITION TO  
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1 **I. INTRODUCTION**

2 Plaintiff commenced this action because Defendants continue to engage in illegal conduct.  
3 They are in receipt and possession of and continue to disseminate a sealed arrest report that did not  
4 result in a conviction. California criminal and civil laws and public policy safeguard the rights of  
5 individuals arrested without a conviction. These Defendants, however, refuse to comply with the law.  
6 The First Amendment does not protect them, and a motion under the anti-SLAPP statute is not  
7 appropriate in light of Defendants’ illegal activities. Plaintiff incorporates by reference and joins in  
8 his concurrently filed oppositions to the Defendants’ anti-SLAPP motions. For all the reasons stated  
9 in the memoranda, Plaintiff respectfully requests that the Court deny Defendant’s motion.

9 **II. STATEMENT OF FACTS**

10 **A. Defendants’ Illegal Dissemination of A Sealed Report**

11 This case arose from Defendants’ ongoing dissemination of a document and information  
12 contained in it (the “Sealed Report”) that was subject to an uncontested sealing order entered by San  
13 Francisco Superior Court Judge Carolyn Gold dated February 17, 2022. (Compl. ¶19; see Declaration  
14 of Plaintiff, dated January 14, 2025 (“Plaintiff Decl.”) ¶16, Exh. A (“Sealing Order”)) California law  
15 “deemed the arrest not to have occurred.” See Sealing Order; Pen. Code § 851.91(e). In addition to  
16 the protections afforded by the Sealing Order, Pen. Code §§ 851.92(b)(5) and (c) prohibit and  
17 criminalize the unauthorized dissemination of such a Sealed Report. Pen. Code § 11143 and Labor  
18 Code § 432.7(g)(3) prohibit the receipt and possession of these documents and information. At no  
19 time has any person or entity challenged Judge Gold’s Sealing Order. (Plaintiff Decl. ¶17)

19 **B. Defendant’s Arrest Was Never Newsworthy**

20 Plaintiff was the CEO of Premise Data, a private company, in December 2021 when he had an  
21 encounter with the San Francisco Police Department at his residence. (*Id.* ¶¶4, 9) Although the matter  
22 was public between December 2021 and February 2022, no media reported on these events. (*Id.* ¶¶18-  
23 20) After the charges were quickly dismissed, at which time Plaintiff was petitioning the Court under  
24 Cal. Pen. Code §851.91 to have the record sealed, no media reported on the events and no third  
25 parties challenged the Sealing Order. (*Id.*) Nineteen months later, in September 2023, Poulson  
26 publicly disseminated the Sealed Report, and at that time, no media reported on Poulson’s blog posts.  
27 (*Id.* ¶20) In December 2023, Poulson reported that the Premise Data Board demanded Plaintiff’s  
28 termination in substantial part because of Plaintiff’s ██████████ and no media  
reported on the termination. (Declaration of Jack Poulson In Support of Special Motion to Strike

1 dated December 6, 2024 (“Poulson Decl.”) Exhs. D, H; Plaintiff Decl., ¶20) In fact, between  
2 December 2021 and October 3, 2024 (when this Complaint was filed), no one other than Defendants  
3 publicly disseminated the Sealed Report or reported on it. (*Id.*)

4 In addition, between 2019 and 2024, Premise Data was involved in a lawsuit against former  
5 employees in Santa Clara County (the “Santa Clara Litigation”). No one other than Poulson reported  
6 when this case was filed, during the litigation, or when it settled. (Plaintiff Decl. ¶35)

7 Not only was Plaintiff unknown, but also Premise Data – and the use of technology  
8 surveillance by the U.S. Special Operations Forces – was not in the public interest. (Declaration of  
9 Cameron Scherer dated January 14, 2025 (“Scherer Decl.”) ¶6; Plaintiff Decl. ¶4) Poulson admitted  
10 that “there appears to be little appetite in the U.S. media to interrogate the roles of Premise Data and  
11 Two Six Technologies in ongoing U.S. information operations.” (Poulson Exh. A; Exh. I) According  
12 to Poulson, “[d]espite journalist Byron Tau using primary sources to expose the California-based gig-  
13 work information gathering company Premise Data in 2021 as a covert front for intelligence  
14 gathering for U.S. Special Operations Forces around the globe, the reporting never captured broad  
15 public attention.” (Poulson Exh. I)

16 **C. Poulson’s Blog Posts Create False Implications of Facts.**

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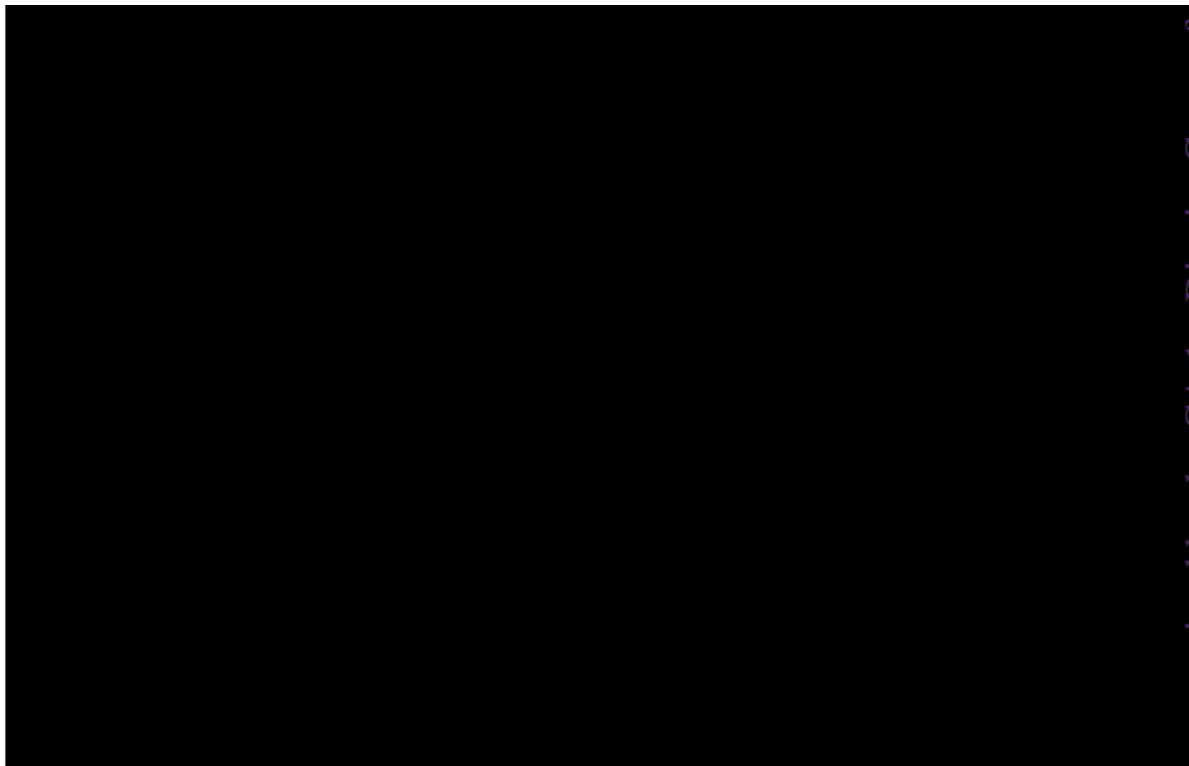
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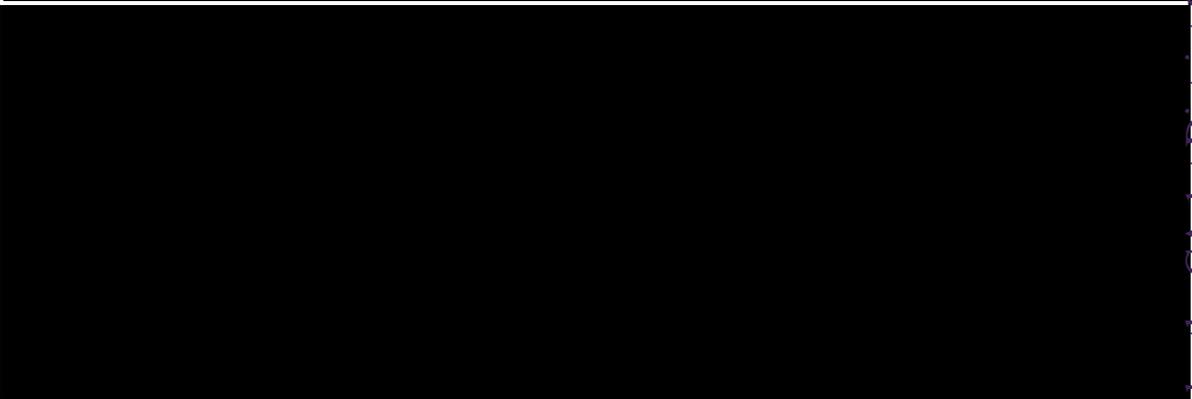
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**D. Plaintiff's Efforts To Remove The Sealed Report; Plaintiff Suffered Damages.**

Since Plaintiff learned Defendants were disseminating the Sealed Report, he and San Francisco City Attorney made repeated, unsuccessful requests to Defendants to remove the Sealed

1 Report and related information. (*Id.*, ¶¶49-69) Defendants continue to disseminate the Sealed Report  
2 and information contained in it, long after Plaintiff’s employment terminated. (*Id.*)

3 As a result of Defendants’ ongoing dissemination of the Sealed Report and Poulson’s blog posts,  
4 Plaintiff has suffered severe financial and non-financial injuries. (*Id.* ¶¶74-76)

5 **III. ARGUMENT**

6 **A. The Anti-SLAPP Statute Does Not Apply.1**

7 “The anti-SLAPP law was enacted to protect nonprofit corporations and common citizens  
8 ‘from large corporate entities and trade associations’ in petitioning governments.” *FilmOn.com Inc. v.*  
9 *DoubleVerify Inc.*, 7 Cal.5th 133, 143 (2019) (internal citations omitted). Therefore, this statute has  
10 no bearing on these claims arising from Defendants’ ongoing conduct that violates multiple sections  
11 of the Penal and Labor Codes and failure to abide by a valid, unchallenged Sealing Order.

12 **1. Illegal Activities Fall Outside the Protection of Anti-SLAPP.**

13 Speech that is “illegal as a matter of law” is not constitutionally protected and falls outside the  
14 protection of the anti-SLAPP statute. *Flatley v. Mauro*, 39 Cal.4th 299, 320 (2006). Defendants’  
15 ongoing conduct from which the Complaint arises – including, receiving, possessing, and  
16 disseminating the Sealed Report and the information contained in it – is illegal because it violates  
17 California Penal Code §§ 851.91, 851.92, 11143, and 166. Specifically, Sections 851.92 (b)(5) and  
18 851.92(c) make it illegal for an unauthorized person to disseminate a sealed record or information  
19 related to it. Defendants do not dispute that they possessed, disseminated, and continue to  
20 disseminate the Sealed Report and the information contained in it. Section 11143 makes it a  
21 misdemeanor for any person “who, knowing he is not authorized by law to receive a record or  
22 information obtained from a record, knowingly buys, receives, or possesses the record or  
23 information”. Defendants do not dispute that they were not authorized by law to receive the Sealed  
24 Report or the information contained in it. Section 166(a) makes it unlawful to disregard a court order.  
25 Defendants do not dispute that a valid Sealing Order existed prohibiting disclosure of the Sealed

26 <sup>1</sup> Code of Civ. Proc. §425.16(c) also mandates that a prevailing plaintiff on a SLAPP motion “shall”  
27 recover attorney’s fees and costs upon the successful dismissal of Defendant’s frivolous motion to  
28 strike the entire Complaint. Here, Defendants’ decision to bring a SLAPP motion despite their  
blackletter violations of the law, renders the motion frivolous. *See Moore v. Shaw*, 116 Cal.App.4th  
182, 199 (2004), *as modified* (Mar. 26, 2004) (applying substantive standards of section 128.5 in  
awarding attorney fees to prevailing Plaintiff under the anti-SLAPP statute). If the Court denies the  
Motion, then Plaintiff will file a separate fee motion and memorandum of costs.

1 Report. Any argument by Defendants that these statutes are unconstitutional must be rejected for the  
2 reasons addressed herein.

3 **2. The Anti-SLAPP Provisions Do Not Apply to the Challenged Speech.**

4 Defendants bear the initial burden of demonstrating that the conduct alleged in the complaint  
5 is arising from protected activity within the meaning of the broadly constructed statute that is  
6 nonetheless not intended to apply to purely private individuals. *Navellier v. Sletten*, 29 Cal.4th 82, 88  
7 (2002); *see also Weinberg v. Feisel*, 110 Cal.App.4th 1122 (2003) (complaint relating to false  
8 allegations of criminal conduct against party who is not public figure nor has thrust himself into a  
9 public issue is a private matter not subject to anti-SLAPP statute). If Defendants fail to meet this  
10 burden, the motion must be denied. *Blackburn v. Brady*, 116 Cal.App.4th 670 (2004).

11 **a. Poulson’s Substack Posts Do Not Fall Under § 425.16(e)(2).**

12 Section 425.16(e)(2) “does not accord anti-SLAPP protection to suits arising from any act  
13 having any connection, however, remote, with an official proceeding.” *Paul v. Friedman*, 95  
14 Cal.App.4th 853, 866 (2002) (rejecting application of (e)(2) where statements simply mention or refer  
15 to official proceedings without connection with an issue under review in that proceeding.); *see also*  
16 *Maranatha Corr., LLC v. Dep’t of Corr. & Rehab.*, 158 Cal.App.4th 1075, 1085 (2008) (finding  
17 matter under consideration if kept “before the mind” and given “attentive thought, reflection,  
18 meditation.”) Thus, the statute contemplates an “ongoing—or, at the very least, immediately  
19 pending—official proceeding.” *Rand Res., LLC v. City of Carson*, 6 Cal. 5th 610, 627 (2019)  
20 (collecting cases denying application of 425.16(e)(2) when no official proceeding was pending at the  
21 time of the speech); *see also Cole v. Patricia A. Meyer & Assoc.*, 206 Cal.App.4th 1095, 1120 (2012)  
22 (rejecting speech as protected when published after the issue was no longer under consideration by a  
23 judicial body). The court disposed of Plaintiff’s matter 18 months prior to Poulson’s first  
24 dissemination of the Sealed Report, thus, no expression could be “made in connection with an issue  
25 under consideration or review.” *See Rand*, 6 Cal. 5th at 627. Poulson relies on inapposite cases where  
26 the investigation was ongoing or the matter was still under consideration. (Poulson Motion, p. 12)

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**b. Poulson’s Substack Posts Are Not Protected by § 425.16(e)(3) or (4).**

Section 425.16(e)(3) and (4) only protect speech that concerns an “issue of public interest”.<sup>2</sup> Defendants must establish, first, that the speech at issue implicated an issue of public interest, and then, if it did, the existence of a “functional relationship ... between the speech and the public conversation about some matter of public interest.” *FilmOn.com Inc.*, 7 Cal.5th at 145 (denying anti-SLAPP protection for speech that bore some relationship to issues of public interest was nonetheless private as between parties and “never entered the public sphere”). Here, the challenged speech is not an issue of public interest, and, even if it is, has no functional relationship with the public conversation on such issue.

“The most commonly articulated definitions of ‘statements made in connection with a public issue’ focus on whether (1) the subject of the statement or activity precipitating the claim was a person or entity in the public eye; (2) the statement or activity precipitating the claim involved conduct that could affect large numbers of people beyond the direct participants; and (3) whether the statement or activity precipitating the claim involved a topic of widespread public interest.” *Wilbanks v. Wolk*, 121 Cal.App.4th 883, 898 (2004) (internal citations omitted), *see also Weinberg*, 110 Cal.App.4th at 1131-32 (“a ‘public controversy’ does not equate with any controversy of interest to the public”), citing *Time, Inc. v. Firestone*, 424 U.S. 448, 454 (1976) (holding that a divorce action between two well-known people may have piqued the public’s interest but was not a public controversy); *see also Rand*, 6 Cal.5th at 616-9.

Using this analysis, Poulson’s blog posts concerning and disseminating the Sealed Report and information contain in it – the challenged speech – do not concern an issue of public interest. Cases that have been found to address a person in the public eye refer to celebrities or nationally known figures or entities. *See Sipple v. Found. for Nat’l Progress*, 71 Cal.App.4th 226, 239 (1999) (“nationally known figure”); *Jenni Rivera Enter., LLC v. Latin World Entm’t Holdings, Inc.*, 36

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<sup>22</sup> An “issue of public interest” as that phrase is used in § 425.16(e)(3) and (4) is broader than “matter of public significance” as that phrased in used in Supreme Court jurisprudence on the First Amendment. *See Bartnicki v. Vopper*, 532 U.S. 514, 528 (2001); *See also* Section 425.16(e); *Briggs v. Eden Council for Hope & Opportunity*, 19 Cal.App.4th 1106, 1117-1120 (1999) (“Where different words or phrases are used in the same connection in different parts of a statute, it is presumed the Legislature intended a different meaning.”). Thus, even if the Court found that Defendants’ speech constituted “an issue of public interest”, the speech still is not a “matter of public significance”.

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1 Cal.App.5th 766, 797-98 (2019) (speech about a “celebrity”). Plaintiff is not in the public eye.<sup>3</sup> See  
2 *Dyer v. Childress*, 147 Cal.App.4th 1273, 1281 (2007) (rejecting defendants’ argument that public  
3 interest requirement can be met even when the plaintiff is not a public figure if the underlying issue is  
4 of widespread interest) Poulson used the phrases, *without any evidentiary support*, “high-profile tech  
5 entrepreneur” to argue Plaintiff was in the public eye. (Poulson Motion, p. 16) In fact, Plaintiff was  
6 an unknown CEO of an unknown private company that Poulson admits was not in the public interest.  
7 (Plaintiff Decl. ¶¶1,2; Poulson Decl., Exh. I; Scherer Decl. ¶6) No one reported on Plaintiff’s public  
8 [REDACTED] or when Premise Data replaced Plaintiff as the CEO; or when  
9 Poulson repeatedly disseminated the Sealed Report; and no one reported on the Santa Clara  
10 Litigation. (Id. ¶18-20; 35)

11 Defendants do not argue that the challenged speech directly affected a large number of people.

12 Further, the challenged speech does not concern a topic of widespread, public interest. See  
13 *World Fin. Grp., Inc. v. HBW Ins. & Fin. Servs., Inc.*, 172 Cal.App.4th 1561, 1570 (2009), as  
14 *modified* (May 7, 2009) (requiring consideration of the specific nature of the speech and the context).  
15 Cases that fall into this category include *M.G. v. Time Warner, Inc.*, 89 Cal.App.4th 623 (2001)  
16 (concerning media coverage that featured a coach, who pled guilty to child molestation, in a story  
17 “about adult coaches who molest youths playing team sports); *Carney v. Santa Cruz Women Against*  
18 *Rape*, 221 Cal.App.3d 1009, 1021 (1990) (“content, form and context” of the speech “portray a  
19 publication dedicated to addressing the general topic of sexual assault and harassment,” including “a  
20 list of certain [counseling and defense] services provided by SCWAR”); or *Sipple*, 71 Cal.App.4th at  
21 239 (article protected because it focused on domestic abuse by a nationally known person who was  
22 involved in the national debate on domestic violence). See e.g., *Dyer*, 147 Cal.App.4th at 1281. Here,  
23 the challenged speech concerns the dissemination of the Sealed Report and the information contained  
24 in it published nearly two years after the occurrence. See *Jeppson v. Ley*, 44 Cal.App.5th 845 (2020)  
25 (dispute between private people, even if it made an appearance on the internet and defendant argued it  
26 had “lofty justifications,” was not transformed into an issue of public interest); *Rivero v. Am. Fed’n of*

26 <sup>3</sup> Plaintiff is neither a public nor a limited purpose public figure. See *Gertz v. Robert Welch, Inc.*, 418  
27 U.S. 323, 351(1974); see also *Copp v. Paxton*, 45 Cal.App.4th 829, 845-46 (1996) (elements to  
28 characterize a limited purpose public figure are: a public controversy regarding an issue debated  
publicly with foreseeable and substantial ramifications for nonparticipants; plaintiff’s voluntary act  
through which he sought to influence resolution of that public issue; and that statements are germane  
to the plaintiff’s participation in the controversy.”).

1 *State, Cty. and Mun. Emp., AFL-CIO*, 105 Cal.App.4th 913, 924-26 (2003) (speech accusing public  
2 employee of illegal activity, including “soliciting bribes” at a publicly financed institution, was not an  
3 issue of public interest); *Abuemeira v. Stephens*, 246 Cal.App.4th 1291 (2016) (publicizing a dispute  
4 between private people did not transform the dispute into an issue of public interest).

5 Contrary to Defendants’ arguments, the challenged speech was not about the issue of  
6 domestic violence or violence against women within the tech and start-up community. (Poulson  
7 Motion, pp. 14-15); *FilmOn*, 7 Cal.5th at 150 (statute “demands ‘some degree of closeness’ between  
8 the challenged statements and the asserted public interest”). Indeed, *FilmOn* instructs that the Court  
9 must look at the context of the speech – “including the audience, speaker, and purpose”. *Id.* Poulson’s  
10 blogposts do not concern or even reference issues of domestic violence, violence against women, or  
11 the treatment of women in the workplace or in the technology industry. (Poulson Decl., Exhs. A-E,  
12 H-J) Whereas Poulson’s lawyer (at p. 15) refers to “Take Back the Night protests,” “Domestic  
13 Violence Awareness Month,” and statistics from the Centers for Disease Control on domestic  
14 violence to argue that Poulson was actually writing about this issue, Poulson himself referred to no  
15 such things. Poulson admits he wrote a blog about the technology surveillance industry<sup>4</sup>

16 In fact, Poulson suggests that the public interest in the Sealed Report arises from his  
17 assumption, without any evidence or access to the record, that Plaintiff was ██████ (Poulson Motion,  
18 p. 7) Although Plaintiff was not charged with felony domestic violence and all charges against him  
19 were dismissed, Poulson, in writing about the Sealed Report to this Court, suggested that Plaintiff  
20 was actually guilty by offering, for no legal reason, that although charges against Plaintiff were  
21 dismissed “70 percent of domestic violence cases [are dismissed], due to the difficulty of prosecuting  
22 even meritorious cases.” (*Id.*) The obvious, inappropriate implication of this statement, that Plaintiff  
23 was actually ██████  
24 ██████ does not, and cannot, convert the illegal dissemination into a public interest.

25 Defendants also argue that Poulson’s speech is automatically an issue of public interest  
26 because it concerned “criminal activity”. (Poulson Motion, p. 13) The court rejected the idea that

27 <sup>4</sup> These facts also make this case easily distinguished from *Terry v. Davis Community Church*. In that  
28 case, the court ruled that church members had an interest in knowing about an investigation that  
determined a youth program leader engaged in an inappropriate relationship with a minor. 131  
Cal.App.4th 1534, 1547 (2005). There, however, the issue was that this speech with closely related to  
the public issue, which directly affected the members of the church community. Here, the Sealed  
Report and the information contained in it does not concern Premise Data or the tech surveillance  
community at large.

1 “criminal activity is always a matter of public interest,” *Weinberg*, 110 Cal.App.4th at 1134, and here  
2 there was no finding of any criminal activity, as the charges were dismissed. Defendants cannot  
3 credibly compare these facts to those in *Lieberman v. KCOP Television, Inc.*, 110 Cal.App.4th 156  
4 (2003) *Lieberman* involved reporting on a doctor who was allegedly *presently* prescribing controlled  
5 substances without a legitimate medical purpose. *Id.*; see also *Du Charme v. Int’l Bhd of Elec.*  
6 *Workers*, 110 Cal. App. 4th 107, 119 (2003) (“protected activity must, at a minimum, occur in the  
7 context of an ongoing controversy, dispute or discussion”). Here, the challenged speech occurred 21  
8 months after the arrest and 18 months after the charges were dismissed.

9 Defendants also argue that Poulson’s speech is about “the unethical conduct of companies that  
10 sell surveillance systems to governments”. (Poulson Motion p. 15) Indeed, Poulson claimed he  
11 disseminated the Sealed Report because he was reporting on Premise Data’s “ethics” and the “willful  
12 ignorance of the safety of its gig workers.” (*Id.* p. 9) However, the challenged speech is not connected  
13 to these issues whatsoever. Defendants suggest that Plaintiff’s arrest without conviction “bears on the  
14 trustworthiness” or “ethics” of Premise Data or the false claim that Premise Data failed to protect the  
15 safety of its workers.<sup>5</sup> (*Id.* p. 15) However, California rejects this argument. See Lab. Code § 432.7  
16 (prohibiting employer from taking adverse action against an employee arrested without a conviction);  
17 Penal Code § 851.91. Further, the challenged speech makes no connection between the Sealed Report  
18 and Poulson’s issues with Premise Data, and Defendants provided no evidence that there was public  
19 interest Premise Data, a company Poulson admitted that public was not interested in.

20 Defendants also argue that the challenged speech “was part of Poulson’s work exposing the  
21 surveillance tech industry, its shadowy relationships with governments and its general  
22 untrustworthiness and accountability”. (Poulson Motion, p. 16) But Defendant cannot offer any  
23 legitimate argument that connects the Sealed Report and these audacious claims about this industry,  
24 and Defendant provided no evidence that there was public interest in Poulson’s fringe theories.

25 <sup>5</sup> This malicious claim that Plaintiff failed to address the safety of Premise Data employees resulted in  
26 Tech Inquiry, where Poulson is Executive Director and Founder, making the outrageous false  
27 contention in its motion and amended motion that Poulson decided to disseminate the Sealed Report  
28 because Plaintiff failed to prevent the deaths of 19 Premise Data employees were executed on the side  
of the road in Iraq. (Tech Inquiry Motion, p. 7-8, citing Poulson Declaration) This statement is an  
outrageous misrepresentation that Poulson and Tech Inquiry use it to justify Poulson’s decision to  
disseminate the Sealed Report. Further, Poulson’s statement in his Declaration (¶16) that Plaintiff was  
“eager” to do business with a company, who had an owner, whose previous company allegedly failed  
to prevent the deaths of its employees in Iraq was offered as evidence that Plaintiff was willfully  
ignorant about the safety of his workers. The statement is misleading and irrelevant.

1           Moreover, Poulson’s continued dissemination of the Sealed Report and the information  
2 contained in it after Premise Data terminated Plaintiff’s employment undermines the argument that  
3 the speech was of widespread interest in “high-powered tech CEO” or Premise Data. *See Cole*, 206  
4 Cal.App.4th at 1121 (speech about *defunct* company not an issue of widespread public interest).

5           Indeed, even if the Court finds that the challenged speech concerned an issue of public  
6 interest, Defendants still cannot satisfy the second prong under *FilmOn*. Defendants would need to  
7 establish that Poulson’s speech “participated in, or furthered, the discourse that makes an issue one of  
8 public interest.” *FilmOn* at 151. Here, Poulson’s blog posts and the dissemination of the Sealed  
9 Report do not engage in a discussion or analysis of violence against women. Rather, Poulson  
10 demonstrated a total disregard for the woman by publishing her identifying characteristics,  
11 infantilizing her by repeated comments about her and Plaintiff’s age, and suggesting without evidence  
12 that she lied to the police. (Poulson Decl., Exh. C) Further, the challenged speech does not further the  
13 discourse about the technology surveillance industry’s shadowy relationships with governments. As  
14 an initial matter, by Poulson’s own admission, there was no such discourse; the public had no  
15 “appetite” for reporting on Premise Data. (Poulson Decl., Exh. I) But, even if there was such a  
16 discourse, Plaintiff’s arrest that did not lead to conviction for issues that had nothing to do with the  
17 tech surveillance industry cannot possibly be in furtherance of that discourse.

18           **B. Plaintiff Has a Probability of Success on His Claims**

19           If Defendants demonstrate the challenged claims arise from protected activity, the burden  
20 shifts to Plaintiff to show a probability he will prevail on the merits. *City of Santa Monica v. Stewart*,  
21 126 Cal.App.4th 43, 71 (2005), *as modified on denial of reh’g* (Feb. 28, 2005). Under an anti-SLAPP  
22 motion, a plaintiff is required to demonstrate only a minimal level of sufficiency and triability of the  
23 claim. *Lin v. City of Pleasanton*, 176 Cal.App.4th 408 (2009); *Jarrow Formulas, Inc. v. LaMarche*,  
24 31 Cal.App.4th 728 (2003) (complaint not stricken if supported by prima facie showing of facts).

25           **1. The First Amendment Does Not Immunize Defendants.**

26           Poulson’s primary argument is that his violations of the Penal Code, Labor Code, and  
27 Plaintiff’s privacy are immunized by the First Amendment because “[t]he First Amendment protects  
28 the right to publish lawfully obtained, truthful, newsworthy information.” (Poulson Motion, p. 18-19).  
*See Bartnicki*, 532 U.S. at 535; *The Florida Star v. B.J.F.*, 491 U.S. 524, 533 (1989). Poulson’s  
illegal conduct is not protected by the First Amendment because (i) Defendants continue, without  
obtaining an unsealing order, to disseminate the Sealed Report; (ii) Poulson’s speech was not a

1 “matter of public significance,” (iii) Poulson’s speech was not “truthful;” (iv) Poulson did not  
2 lawfully receive the Sealed Report; and (v) California has an interest of the highest order to safeguard  
3 sealed information concerning an arrest that did not lead to a conviction. Indeed, no Defendant  
4 identified any case where the First Amendment protected a party from disseminating a court ordered  
5 sealed document, particularly when statutes expressly prohibit such conduct.

6 **a. Defendants Are Publicly Disseminating The Sealed Report.**

7 The Sealing Order granted pursuant to Section 851.91 remains in effect, unchallenged. *See*  
8 Rules of Court, rules 2.550 and 2.551 (establishing a standard and procedure for courts to use when  
9 request is made to seal a record, recognizing the First Amendment right of access to documents).  
10 Rule 2.551(h)(2) has a mechanism to challenge the Sealing Order, but Defendants never did so and  
11 could not meet that high burden. Accordingly, as this court has already recognized, the Sealed Report  
12 and the material contained in it cannot be publicly without first obtaining an unsealing order from  
13 Judge Gold. Order Granting Plaintiff’s Motion to Seal, January 7, 2025. *See Phillips ex rel. Estates of*  
14 *Byrd v. G.M. Corp.*, 307 F.3d 1206, 1210 (9th Cir.2002) (recognizing that if there is a right of access  
15 to a document subject to a protective order it would “would surely undermine, and possibly  
16 eviscerate, the broad power of the district court to fashion protective order.”).

17 **b. Defendants’ Speech Is Not A “Matter Of Public Significance.”**

18 The Supreme Court recognized that the First Amendment provides greater protection to  
19 speech that is “newsworthy” and “a matter of public significance.” *See Bartnicki*, 532 U.S. 514 at  
20 528, citing to *New York Times Co. v. United States*, 403 U.S. 713 (1971) (upholding the right of the  
21 press to publish “information of great public concern” like the Pentagon Papers)<sup>6</sup>; *see also Snyder v.*  
22 *Phelps*, 562 U.S. 443, 452 (2011) (noting less rigorous First Amendment protections for matters of  
23 purely private significance which do not implicate the same constitutional concerns as matters of  
24 public concern) *citing Dun & Bradstreet v. Greenmoss Builders*, 472 U.S. 749, 758-759 (1985)  
(recognizing not all speech is of equal First Amendment importance and “speech on public issues  
occupies the highest rung of the hierarchy of First Amendment values”).

25 *Bartnicki* plainly dealt with “newsworthy” matters. *Bartnicki*, 532 U.S. at 518 (involving  
26 publication of illegally recorded conversation where union President made threatening comments to  
27 School Board President during a highly publicized public union negotiation that “would have been

28 <sup>6</sup> Poulson rejected the comparison of his posts to the Pentagon Papers as an “an exaggerated claim.”  
(Baskin Decl., Exh. 5, p. 3/7)

1 newsworthy” had they “been made in a public arena”). The *Bartnicki* Court refused to determine  
2 broadly that truthful publication may never be punished, but it held that, after weighing the First  
3 Amendment interests against the competing interests in that matter, the interests served by the law at  
4 issue did not justify restricting a journalist’s “truthful” speech on a “matter of public significance.” *Id.*  
5 The speech in *Bartnicki*, unlike Defendants’ dissemination of the Sealed Report, was an unsealed,  
6 newsworthy matter of public significance that concerned public issues; use of public funds; and  
7 ongoing threats of violence against members of the public School Board. That Court concluded that  
8 had the statements been made in a public arena they would have been “newsworthy,” whereas here  
9 the arrest was initially public and then illegally made public again by Poulson’s September 2023 post  
10 but was not newsworthy. Far from a public entity, Poulson admits that the public had no interest in  
11 Premise Data. And there was no suggestion of ongoing threats to members of a public board.

11 **c. Defendants’ Speech Was Not “Truthful”.**

12 In determining truthfulness, the “pertinent question” is whether a “reasonable fact finder”  
13 could conclude that the statements “as a whole, or any of its parts, directly made or sufficiently  
14 implied a false assertion of defamatory fact that tended to injure” plaintiff’s reputation. *James v. San*  
15 *Jose Mercury News, Inc.*, 17 Cal.App.4th 1, 13 (1993); *see also Wilbanks*, 121 Cal.App.4th at 902  
16 (speech is not truthful if “a reasonable trier of fact could conclude that the published statements imply  
17 a provably false factual assertion.”). Where a speaker states “incomplete” facts, the statements may  
18 imply a false assertion of fact. *Id.* at 903. Further, where the speaker “implies a knowledge of facts  
19 which may lead to a defamatory conclusion,” the implied facts may constitute defamation. *Eisenberg*  
20 *v. Alameda Newspaper, Inc.*, 74 Cal.App.4th 1359 (1999). Here, Poulson’s statements falsely imply  
21 that Plaintiff was guilty of having engaged in [REDACTED] and state falsely that the  
22 arrest was deemed to have occurred. (Scherer Decl. ¶¶10-13; Plaintiff Decl. ¶¶30-31)

22 **d. Defendants Did Not Legally Receive The Sealed Report.**

23 Defendants did not – and could not – lawfully receive the Sealed Report, when doing so was  
24 unlawful under Penal Code § 11143 and Labor Code § 432.7(g)(3). *See Loder v. Municipal Court*, 17  
25 Cal.3d 859, 868 (1976) (comparing the sealed report to “contraband”). *See also Bartnicki*, 532 U.S. at  
26 548 (dissent) (Scalia, A. dissenting) (recognizing that, even without an express prohibition on receipt,  
27 “knowingly receiving and disclosing” the protected speech is “hardly ... law-abiding”). Further, the  
28 First Amendment does not protect illegal conduct in connection with newsgathering, and the press is

1 not “immune from liability for crimes and torts committed in news gathering activities.” *Nicholson v.*  
2 *McClatchy Newspapers* (1986) 177 Cal.App.3d 509, 513.

3 **e. The Ability to Seal an Arrest Record Serves a Compelling Interest.**

4 Even if Defendants obtained truthful information lawfully, imposing liability for the  
5 dissemination of a Sealed Report serves the need to further state interest of highest order – i.e., giving  
6 meaning to the Legislature’s decision to enact laws that allow for individuals who have suffered  
7 arrest without conviction to seal their records and giving meaning to an order by a court of competent  
8 jurisdiction. Section 851.91 and 851.92 provide specific parameters for who and how records can be  
9 sealed. The restriction of disseminating sealed information is not a content-based restriction because  
10 the restriction is not based on the topic discussed or the idea or message expressed. *See Loder*, 17  
11 Cal.3d at 868. Moreover, the Supreme Court has recognized explicitly “California could decide not  
12 to give out arrestee information at all without violating the First Amendment.” *See Los Angeles*  
*Police Dep’t v. United Reporting Pub. Corp.*, 528 U.S. 32, 40 (1999) .

13 **2. Plaintiff Is Entitled To Injunctive Relief Against All Defendants.**

14 As this Court recognized, “[a]ny party seeking to publicly disclose material from the Incident  
15 Report must first obtain an unsealing order from Judge Gold.” (Order Granting Plaintiff’s Motion to  
16 Seal) Further, Defendants have not made any arguments that would warrant unsealing the Sealing  
17 Order and therefore lack a basis to contest Plaintiff’s request for injunctive relief at this time.  
18 Moreover, the California Supreme Court has recognized that “[a]n injunction may properly issue to  
19 prohibit the repetition or continuation of speech that the court has found to be unlawful. Such an  
20 injunction does not constitute an invalid prior restraint of speech.” Cal. Prac. Guide Civ. Pro. Before  
21 Trial Ch. 9(II)-A [9:708], citing *Aguilar v. Avis Rent A Car System, Inc.*, 21 Cal.4th 121, 140-142  
22 (1999). The *Aguilar* Court found that “once a court has found that a specific pattern of speech is  
23 unlawful, an injunctive order prohibiting the repetition, perpetuation, or continuation of that practice  
24 is not a prior restraint of speech.” *Id.*; *see also In re Tiffany G.*, 29 Cal.App.4th 443, 452-53 (1994)  
25 (rejecting argument of invalid prior restraint when court prohibited parties from disseminating legally  
received confidential documents sealed by court order and statute prohibiting dissemination).

26 **3. 42 U.S.C. §230 Does Not Immunize Poulson.**

27 Plaintiff’s claims against Poulson arise from Poulson’s own blog posts on Substack and Tech  
28 Inquiry, in addition to the illegal possession and dissemination of the Sealed Report. *Barrett v.*  
*Rosenthal*, 40 Cal.4th 33, 59 (2006) – the only case cited by Poulson – does not stand for the

1 proposition that Section 230 immunizes an individual for all of the content he posts online. *See Phan*  
2 *v. Pham*, 182 Cal.App.4th 323, 326 fn. 5 (2010) (“the term development ... refer[s] not merely to  
3 augmenting the content generally, but to materially contributing to the alleged unlawfulness.”)  
4 (internal citations omitted). Moreover, Section 230 does not immunize any of the Defendants for  
5 their unlawful receipt and possession of the Sealed Report. *See Calise v. Meta Platforms, Inc.*, 103  
6 F.4th 732, 739 (9th Cir. 2024) *citing Barnes v. Yahoo!, Inc.*, 570 F.3d 1096, 1100 (9th Cir. 2009) (no  
7 “general immunity from liability deriving from third-party content”).

#### 8 **4. Plaintiff’s Tort Claims Have A Probability Of Success.**

9 Even if Poulson’s blog posts and dissemination of the Sealed Report were protected by the First  
10 Amendment, Poulson can still be found liable for various torts. *See Cohen v. Cowles Media Co.*, 501  
11 U.S. 663, 670 (1991) (“[i]t is ...beyond dispute that ‘[t]he publisher of a newspaper has no special  
12 immunity from the application of general laws. He has no special privilege to invade the rights and  
13 liberties of others.’”). “It is well established that defamation of an individual is not protected by the  
14 constitutional right of free speech.” *Weinberg*, 110 Cal.App.4th at 1131, *citing Beauharnais v. Illinois*,  
15 343 U.S. 250, 254-256 (1952). Poulson did not argue that Plaintiff did not have a probably of success on  
16 his defamation claims. Plaintiff pled that Defendants’ defamation arises principally from two false  
17 statements: (i) Defendants stated that the arrest was deemed to have occurred, when, as an unequivocal  
18 matter of law, it was deemed not to have occurred; and (ii) Poulson’s blog posts falsely imply that  
19 Plaintiff was [REDACTED]  
20 [REDACTED] (Compl., ¶¶ 140; 144) As discussed herein, a series of truthful facts  
21 that imply a defamatory connection between them can create a defamatory implication. *See Weller*, 232  
22 Cal.App.3d at 1003-1004; *Wilbanks*, 121 Cal.App.4th at 902. Here, Poulson’s blog posts – by their  
23 context, tone, omissions, and juxtapositions – create the false implication that Plaintiff was or might  
24 found guilty of domestic violence. (Scherer Decl. ¶¶10-13; Plaintiff Decl. ¶¶30-31) Moreover, it is  
25 undisputed that the arrest was deemed not to have occurred, so any statement that it was deemed to have  
26 occurred is false and defamatory. Plaintiff has also pled a false light claim. (Complaint, ¶¶ 108-118)

27 “False light is a species of invasion of privacy, based on publicity that places a plaintiff before  
28 the public in a false light that would be highly offensive to a reasonable person, and where the  
defendant knew or acted in reckless disregard as to the falsity of the publicized matter and the false  
light in which the plaintiff would be placed.” *Price v. Operating Engineers Local Union No. 3*, 195  
Cal.App.4th 962, 970 (2011). Here, Plaintiff pled that the Defendants knew the speech, including the

1 dissemination of the Sealed Report, would create a false impression about Plaintiff or Defendant  
2 acted with reckless disregard for the truth, [REDACTED]

3 [REDACTED]<sup>7</sup>  
4 Poulson also fails to make arguments that Plaintiff's claims for negligence, interference, and  
5 infliction of emotional distress – all of which arise from Poulson's conduct that is in violation of the  
6 Penal Code and Labor Code. In California a "[v]iolation of a statute embodying a public policy is  
7 generally actionable even though no specific remedy is provided in the statute<sup>8</sup>; any injured member  
8 of the public for whose benefit the statute was enacted may bring an action." *Castillo v. Friedman*,  
9 197 Cal.App.3d Supp. 6, 14 (1987) citing *Wetherton v. Growers Farm Labor Assn.*, 275 Cal.App.2d  
10 168, 174 (1969); *Czap v. Credit Bureau of Santa Clara Valley*, 7 Cal.App.3d 1, 6 (1970); 4 Witkin,  
11 Summary of Cal. Law (8th ed. 1974) Torts, § 7, pp. 2307-2308 (In California a "[v]iolation of a  
12 statute embodying a public policy is generally actionable even though no specific remedy is provided  
13 in the statute; any injured member of the public for whose benefit the statute was enacted may bring  
14 an action."). All of Plaintiff's claims arise from Defendants' ongoing illegal or unlawful conduct.

#### 14 IV. CONCLUSION

15 For the reasons stated herein and in conjunction with arguments set forth in Plaintiff's  
16 Opposition to Defendants Tech Inquiry, Substack, and AWS's Motions to Strike, Defendant  
17 Poulson's Motion to Strike Plaintiff's entire Complaint must be denied.

18 Dated: January 14, 2025

Respectfully submitted,

THE MAREK LAW FIRM, INC.

20 By: David Marek  
21 David Marek  
22 Attorney for Plaintiff

23 <sup>7</sup> Even where constitutional limitations apply, courts permit recovery on defamation claims with a  
24 showing of malice. "Blameworthy disregard for truth dissolves your constitutional shield." *Collins v.*  
25 *Waters*, 92 Cal.App.5th 70, 73 (2023), as modified on denial of reh'g (June 5, 2023), review denied  
26 (Aug. 9, 2023). Plaintiff can establish malice. Evidence in this litigation demonstrates Poulson's  
27 apparent disdain for Plaintiff as well as Poulson's reckless disregard for truth or falsity when it comes  
28 to his portrayal of Plaintiff.

<sup>8</sup> That statutes provide for criminal penalties for violations does not preclude a private cause of  
action. *Castillo v. Friedman*, 197 Cal.App.3d Supp. at 15 citing *Montalvo v. Zamora*, 7 Cal.App.3d  
69, 76 (1970) ("[V]iolations of public policy statutes ... have been declared justiciable in civil actions.  
This is true notwithstanding that criminal sanctions are provided."); see also *United Farm Workers of*  
*America v. Superior Court*, 47 Cal.App.3d 334, 343 (1975).

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16 **SUPERIOR COURT OF STATE OF CALIFORNIA**  
17 **COUNTY OF SAN FRANCISCO**  
18 **[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

**DECLARATION OF CAMERON SCHERER**

**REDACTED**

Date: February 4, 2025  
Time: 9:30 AM  
Dept: 301  
Judge: Hon. Joseph M. Quinn

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

**PUBLIC**

**REDACTS MATERIALS PURSUANT TO COURT'S JANUARY 7, 2025 ORDER**

ELECTRONICALLY  
**FILED**  
Superior Court of California,  
County of San Francisco  
**01/14/2025**  
Clerk of the Court  
BY: JEFFREY FLORES  
Deputy Clerk

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28 *Defendants.*

Case No.: CGC-24-618681

**DECLARATION OF CAMERON SCHERER**

I declare under penalty of perjury and state as follows:

1. I make this declaration based on facts set forth herein that are true to my own personal knowledge, and if called upon to testify thereto, I could and would competently do so under oath.

2. I am a resident of San Francisco, California. I am over 18 years old and fully competent to submit this affidavit.

3. I worked at Premise Data 2017 until 2024.

1           4.       My last position was Director of Operations, reporting to the Chief Operating  
2 Officer, who reported to the CEO.

3           5.       During the time that Maury Blackman and I both worked at Premise Data, from  
4 2017 until the end of 2023, I observed Mr. Blackman work on nearly a daily basis.

5           6.       Premise Data was not a well-known company.

6           7.       I had various insights into the business of Premise Data based on my position.

7           8.       I did not observe Mr. Blackman act in a manner that was reckless, unethical, or  
8 untrustworthy.

9           9.       Mr. Blackman was not responsible for pivoting the business of Premise Data, and he  
10 did not turn Premise Data into a secret military surveillance company.

11          10.       I did not observe Mr. Blackman neglect the safety of Premise Data employees.

12          11.       I am not aware of any instances when Premise Data employees were executed on the  
13 side of the road in Iraq.

14          12.       I am not aware of any Premise Data employees being physically harmed as a result  
15 of performing their job.

16          13.       In or around September 2023, I read a blog published by Jack Poulson on Substack  
17 that reported that Mr. Blackman [REDACTED]

18          14.       Mr. Poulson's blog was written in such a way that I believed Mr. Blackman had  
19 [REDACTED]

20          15.       I spoke with several colleagues at Premise Data about Mr. Poulson's blog post  
21 around the time his blog post was first published. Every colleague with whom I discussed these  
22 issues believed based on Mr. Poulson's blog posts that Plaintiff had [REDACTED]  
23 [REDACTED]

24          16.       Mr. Poulson also reported that Premise Data's Board made Mr. Blackman leave the  
25 Company because of [REDACTED] This made me believe that Mr. Blackman was either guilty of the  
26 conduct described by Mr. Poulson or that these legal matters were still ongoing because the Board  
27 would not have removed him as a result of an arrest if he was [REDACTED]  
28 [REDACTED]

          17.       After Mr. Blackman left Premise Data, I was involved in several conversations with  
colleagues about Mr. Poulson's blog posts. These people said that they also thought Mr. Blackman  
[REDACTED] based on what they read in Mr. Poulson's blog posts.

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I declare under penalty of perjury to the laws of the State of California that the foregoing facts are true and correct.

Executed on January 14, 2025  
San Francisco, California.

/s/ Cameron Scherer  
Cameron Scherer (Jan 14, 2025 09:34 PST)  
Cameron Scherer

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**01/28/2025**  
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BY: JEFFREY FLORES  
Deputy Clerk

7 *Attorneys for Defendant Jack Poulson*

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **COUNTY OF SAN FRANCISCO**

10  
11 MAURY BLACKMAN, an individual,  
12 Plaintiff,  
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14 SUBSTACK, INC., a Delaware  
15 Corporation; AMAZON WEB SERVICES,  
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17 POULSON, an individual; TECH  
INQUIRY, INC., a Delaware corporation;  
DOES 1-25, inclusive,  
18 Defendants.

Case No.: CGC-24-618681

**REPLY MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF  
DEFENDANT JACK POULSON’S SPECIAL  
MOTION TO STRIKE (CCP § 425.16)**

DATE: February 4, 2025  
TIME: 9:30 a.m.  
DEPT: 301

Judge:

Action Filed: October 3, 2024  
Trial Date:

19

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1 **INTRODUCTION**

2 Plaintiff Maury Blackman’s Opposition to Defendant Jack Poulson’s Special Motion to  
3 Strike makes clear that each of his claims is based on Poulson’s publication of truthful information  
4 about a matter of public interest that he obtained legally, and which has now been part of the public  
5 record for many months. Poulson’s reporting of Blackman’s arrest is protected by the First  
6 Amendment and Blackman has otherwise done little to show that he can prove the elements of any  
7 of his claims. Poulson’s anti-SLAPP motion must be granted.

8 Blackman admits that he was arrested for felony domestic violence on December 21, 2021,  
9 and that he was charged with unspecified crimes, though not felony domestic violence, which were  
10 later dismissed. [Blackman Decl. ¶¶ 9, 14; Opp. 14]

11 Blackman produced no evidence that Poulson knew the Incident Report was sealed and no  
12 evidence that the San Francisco Police Department effectuated the sealing as required by law.  
13 Section 851.92(b)(3) requires all copies of a sealed arrest report to “be stamped ‘ARREST  
14 SEALED: DO NOT RELEASE OUTSIDE THE CRIMINAL JUSTICE SECTOR,’” and “note next  
15 to the stamp the date the arrest was sealed and the section pursuant to which the arrest was sealed.”  
16 It is undisputed that neither the mandatory marking, nor any other indication of sealing, appears on  
17 the copy of incident report received by Poulson. [Poulson Decl. Ex. G] Nor did SFPD inform  
18 Poulson that the report was sealed when he called them to verify its authenticity.<sup>1</sup> [*Id.*, ¶ 15]

19 **ARGUMENT**

20 **I. THE ANTI-SLAPP STATUTE BARS ALL OF BLACKMAN’S CLAIMS.**

21 The protections of the anti-SLAPP statute are not limited to specific types of plaintiffs and  
22 defendants. Indeed, the California Supreme Court rejected the very argument that Blackman makes  
23 here, that the statute “does not apply to events that transpire between private individuals.” *Briggs v.*  
24 *Eden Council for Hope & Opportunity*, 19 Cal. 4th 1106, 1116 (1999).

25 \_\_\_\_\_  
26  
27 <sup>1</sup> Poulson did not fabricate or misrepresent any facts regarding the safety of Premise employees in  
28 support of this Motion. [*Contra* Opp ¶ 15] Poulson never reported (or claimed to have reported) that  
Blackman’s employees were killed on duty; he did report that a different security contractor’s  
employees had been killed, but did not state or imply that any Premise employees were killed in  
connection with these events. [Poulson Decl. ¶ 16; 2d Poulson Decl. ¶ 6]



1 arrest report was “under consideration or review.” The Incident Report did not indicate that no  
2 charges were pending or that the arrest had been sealed. Moreover, the statute of limitations was  
3 still running for both potential criminal and civil claims. *See* Cal. Civ. Proc. Code § 340.15  
4 (providing three-year statute of limitations for domestic violence civil litigation); Cal. Penal Code §  
5 801 (providing three-year statute of limitations for various felonies). And even when an arrest  
6 record is ordered sealed, Penal Code § 851.92(b)(6) permits numerous uses of it within the criminal  
7 justice system. Moreover, Judge Gold’s sealing order indicates, as required by Penal Code §  
8 851.91(e)(2)(B)(i), that the arrest is still under review because the “sealed arrest may be pleaded and  
9 proved” in a later prosecution of other offenses. [Blackman Decl. Ex. A] The arrest thus may still be  
10 said to be “a matter under consideration,” that is, “one kept ‘before the mind’, given ‘attentive  
11 thought, reflection, meditation,’” and a “matter under review is one subject to ‘an inspection,  
12 examination.’” *Braun v. Chron. Publ’g Co.*, 52 Cal. App. 4th 1036, 1049 (1997) (citing *Oxford*  
13 *English Dictionary*, 769, 830 (2d ed. 1989)). The cases cited by Blackman either deal with  
14 statements made before the existence of any proceeding, *Rand Res., LLC v. City of Carson*, 6 Cal.  
15 5th 610, 627 (2019), or after a lawsuit had been fully and finally concluded, *Cole v. Patricia A.*  
16 *Meyer & Assocs., APC*, 206 Cal. App. 4th 1095, 1120 (2012).

17 **2. Poulson’s journalism satisfies subsections (e)(3) and (e)(4) because**  
18 **Poulson’s reporting was in connection with an issue of public interest.**

19 The anti-SLAPP statute applies to all of Blackman’s claims because they each arise from  
20 public news reporting of the police investigation of a domestic violence incident and an arrest on  
21 suspected felony domestic violence, an issue “in which the public takes an interest.” *See Nygård,*  
22 *Inc. v. Uusi-Kerttula*, 159 Cal. App. 4th 1027, 1040-42 (2008). Such issues need not be  
23 “significant,” merely interesting, *id.*, “to the public at large.” *Sonoma Media Invs., LLC v. Sup. Ct.*,  
24 34 Cal. App. 5th 24, 36 (2019). Police response to emergency calls of suspected domestic violence,  
25 investigations conducted on the scene, and arrests made are commonly covered in news media; no  
26 reasonable reader would be surprised to see an article in a newspaper reporting on such an event,  
27 even if it only involved private figures. *See Integrated Healthcare Holdings, Inc. v. Fitzgibbons*,  
28 140 Cal. App. 4th 515, 524 (2006) (quoting *Du Charme v. Int’l Bhd. of Elec. Workers*, 110 Cal.  
App. 4th 107, 117 (2003)) (alterations original) (“issues concerning domestic violence” are “matters

1 ‘of widespread public interest’” because they “involve ‘private conduct [which]...impacts a broad  
2 segment of society’”).

3         Contrary to Blackman’s argument, courts have only sought to exclude off-hand, unofficial  
4 assertions of criminal activity from the protection of the anti-SLAPP statute, not reports of actual  
5 law enforcement or criminal justice activity. Thus, *Weinberg v. Feisel*, 110 Cal. App. 4th 1122,  
6 1134 (2003), relied on by Blackman, distinguished *Baughman v. State*, 58 Cal. App. 4th 182, 190  
7 (1995), because in *Weinberg*, the plaintiff was not subject to any official action, whereas in  
8 *Baughman* a search warrant was executed. And *Weinberg* distinguished *Dove Audio, Inc. v.*  
9 *Rosenfeld, Meyer & Susman*, 47 Cal. App. 4th 777, 780,784 (2003), because the statements in *Dove*  
10 arose from a complaint to the attorney general. *Weinberg*, 110 Cal. App. 4th at 1135. Blackman’s  
11 other authority, *Rivero v. AFSCME*, 105 Cal. App. 4th 913, 924-25 (2003) (citing *M.G. v. Time*  
12 *Warner, Inc.*, 89 Cal. App. 4th 623, 629 (2001)), acknowledged that serious crimes like child abuse  
13 were issues of “widespread, public interest”; crimes that were not of public interest were things like  
14 “below some threshold level of significance” such as “the theft of a single pencil.”

15         It does not matter, as Blackman argues, [Opp., 15] that Poulson’s reporting was not  
16 contemporaneous with the police response. The California Supreme Court rejected such a temporal  
17 limitation in *Gates v. Discovery Communc’ns, Inc.*, 34 Cal. 4th 679, 693-96 (2004), in the context  
18 of reports from public court files, but explained that its holding was based also on *Bartnicki*. An  
19 “ongoing controversy,” is only required only if the issue is not of interest to the public at large.  
20 *Sonoma Media*, 34 Cal. App. 5th at 36.

21         Nor does it matter that Poulson’s reporting of Blackman’s arrest was in the context of his  
22 reporting on Premise and not on other domestic violence incidents. The First Amendment right to  
23 publish newsworthy information is not limited to those who have published similar information in  
24 the past. And logically, Poulson, who had reported on Premise in the context of his surveillance-  
25 industry reporting, would also report on alleged criminal activity by its CEO.

26         Contrary to Blackman’s assertion, more than celebrities and “nationally known figures or  
27 entities,” [Opp. at 12] may be of public concern for purposes of the anti-SLAPP statute. *See, e.g.*,  
28 *Cross*, 197 Cal. App. 4th at 374-75 (neighbor), *Terry v. Davis Cmty. Church*, 131 Cal. App. 4th

1 1534, 1548 (2005) (local youth group leader); *Mendoza*, 182 Cal. App. 4th at 1653 (job seeker).

2 And although not required, the public issue finding is buttressed by the fact that both Blackman and  
3 Premise were “in the public eye,” or at least publicly represented themselves as such. Blackman  
4 himself averred that Premise’s work—if performed irresponsibly—“could compromise national  
5 security” and “directly endanger” lives “around the world.”<sup>2</sup> [RJN, Ex. A]

6 The public has a special interest in domestic violence incidents involving executives. Public  
7 reporting has previously scrutinized prosecutors’ failure to pursue felony domestic violence  
8 convictions against tech CEOs, sparking “public outrage,” a “major outcry,” and protest.<sup>3</sup>

9 Moreover, executives who identify themselves—or are identified by others—as leaders  
10 within their community and attempt to capitalize on their influence to shape public opinion, are “in  
11 the public eye” for anti-SLAPP purposes. *See Hoang v. Tran*, 60 Cal. App. 5th 513, 527 (2021);  
12 *Summit Bank v. Rogers*, 206 Cal. App. 4th 669, 694 (2012). Blackman’s claims that Poulson lacks  
13 “any evidentiary support” that shows his influence within the technology sector, [Opp. at 13  
14 (emphasis in original)] are belied by his own words and the public accolades he has received, as set  
15 forth in Poulson’s opening brief. [See Mot. 7-8, 16; Noble Decl. Exs. B, C] And since that filing,  
16 Blackman has continued to publicly describe himself as “a recognized innovator and advisor,” [2d.  
17 Noble Decl. Ex. A] and “thought leader” in the tech sector. [*Id.*, Ex. B]

18 **II. BLACKMAN HAS NOT SHOWN A PROBABILITY OF PREVAILING ON HIS**  
19 **CLAIMS AGAINST POULSON.**

20 To defeat an anti-SLAPP motion, the plaintiff must overcome substantive defenses and  
21 make a prima facie showing, supported by “competent and admissible evidence,” that each claim is

---

22  
23 <sup>2</sup> Contrary to Blackman’s assertions, [Opp. 8, 13], Poulson’s reporting does *not* concede that  
24 Premise’s conduct is a not matter of public interest. To the contrary, in the two articles that  
25 purportedly “admitted” this, Poulson noted Premise was receiving *too much* press, noncritically,  
when it should have received more scrutiny like the *Wall Street Journal* exposés. [2d Poulson Decl.  
¶¶ 1-5; Poulson Decl. Exs. A, I]

26 <sup>3</sup> *See, e.g., CBS San Francisco*, “San Francisco-Based RadiumOne Fires CEO after Girlfriend  
27 Beating, Plea Deal,” <https://www.cbsnews.com/sanfrancisco/news/san-francisco-based-radiumne-fires-ceo-gurbaksh-chahal-after-girlfriend-beating-plea-deal-outrage-sf-anger-attack-video-recording-taped/> (Apr. 28, 2014); Janine de La Vega, “Outcry over Silicon Valley CEO’s Domestic  
28 Violence Plea Deal,” *ABC 7 News*, <https://abc7news.com/silicon-valley-ceo-domestic-violence-abhishek-gattani-neha-tastogi/2105003/> (June 15, 2017).

1 legally sufficient. *Comstock v. Aber*, 212 Cal. App. 4th 931, 948, 953 (2012).

2 Blackman has failed to carry that burden in his opposition brief.

3 **A. Blackman Fails to Establish that Any of His Claims Overcome First**  
4 **Amendment Protections.**

5 Poulson’s journalism is protected by the First Amendment because the information he  
6 published was legally acquired by him, truthful, and pertained to a matter of public interest, and  
7 there is no countervailing interest of a highest order. *See Bartnicki*, 532 U.S. at 527-28; *see also*  
8 *N.Y. Times v. United States*, 403 U.S. 713, 714 (1971). Civil wrongs arising from “routine reporting  
9 techniques” do not nullify *Bartnicki*’s protections. *Jenni Rivera Enters., LLC v. Latin World Ent.*  
10 *Holdings, Inc.*, 36 Cal. App. 5th 766, 798 (2019).

11 Poulson legally obtained the Incident Report, even if, as in *Bartnicki*, his source or his  
12 source’s source illegally obtained it. He did not know it was sealed when he received it and it lacked  
13 the statutorily required markings. [Poulson Decl. ¶¶ 14-15]; Cal. Penal Code. § 851.92(b)(3). As  
14 explained above, no law criminalizes the unknowing receipt of a sealed arrest record by a journalist.  
15 And Judge Gold’s order, the only court order in effect when Poulson received the Incident Report  
16 and of which he was not aware, has no non-possession provision. [Blackman Decl. Ex. A].  
17 *Bartnicki* itself involved violations of state and federal wiretapping statutes, which prohibit both  
18 illegally intercepting a communication and disseminating its contents. *Bartnicki*, 532 U.S. at 523-  
19 24. Yet the Supreme Court found that the First Amendment protected journalists from liability for  
20 repeatedly broadcasting a recording of a call received from a source. *Id.* at 524-25, 535. And unlike  
21 Poulson, the journalists in *Bartnicki* knew (or had reason to know) the information they published  
22 was illegally obtained. *Id.* at 517-18.

23 Poulson’s publication was truthful. He accurately reported the contents of the Incident  
24 Report, attributed his reporting to the Incident Report, and included a copy of the Incident Report in  
25 the article. Poulson reported that the alleged victim “subsequently recant[ed] her initial statements  
26 and t[old] the police that nothing happened.” [Poulson Decl. Ex. C] He confirmed the accuracy of  
27 the Incident Report with the SFPD before reporting on it. [*Id.* ¶ 15]

28 Blackman admits that he was arrested for felony domestic violence. [Blackman Decl. ¶ 9]  
He wrongly claims that this admitted truth is actionably false because by sealing the Incident

1 Report, the Court erased these events from history. [Opp. 20]]; *see also* Cal. Pen. Code. §§ 851.91  
2 (a) & (c)(1). But that legal fiction does not make public reporting of the arrest false. *Martin v.*  
3 *Hearst Corp.*, 777 F.3d 546, 551 (2d Cir. 2015). (“[T]he statute does not render historically accurate  
4 news accounts of an arrest tortious merely because the defendant is later deemed as a matter of legal  
5 fiction never to have been arrested.”); *Hynes v. N.H. Democratic Party*, 175 N.H. 781, 798 n.3  
6 (2023) (collecting cases).

7 Blackman argues that Poulson’s true statement that Blackman was arrested for felony  
8 domestic violence, unaccompanied by a statement that the charges were dropped and sealed, implies  
9 that he was guilty or “might” be convicted of that crime. [Blackman Decl. ¶ 9; Opp. 18, 20-21] But  
10 simply reporting on an arrest does not imply that charges were filed—let alone that the defendant  
11 was found guilty—especially when the reporting documents the key witness’s recantation. *See, e.g.,*  
12 *Monterey Plaza Hotel v. Hotel Emps. & Rest. Emps.*, 69 Cal. App. 4th 1057, 1065-66 (1999), *as*  
13 *modified* (Feb. 4, 1999) (reporting on National Labor Relations Board complaint did not imply that  
14 employer had been found guilty of unfair labor charges). “Reasonable readers understand that some  
15 people who are arrested are guilty and that others are not. Reasonable readers also know that in  
16 some cases individuals who are arrested will eventually have charges against them dropped.”  
17 *Martin*, 777 F.3d at 553. And in domestic violence cases, assuming that an arrest implies guilt or  
18 conviction is particularly *unreasonable*; in 70 percent of such, no charges are ever filed. [Mot. 7]

19 And Blackman’s argument that Poulson’s “narrative” account “suggests first-hand  
20 knowledge” of the incident, [Opp. 8-9] is not a reasonable reading. The articles merely report the  
21 contents of Officer Jackson’s “NARRATIVE” in the incident report and do not support the belief  
22 that Poulson was in Blackman’s apartment during the incident.

23 Poulson’s articles concerned a matter of public interest for the reasons described above.  
24 Blackman’s claim that *Bartnicki* has a more demanding standard than “matters of public interest” in  
25 the anti-SLAPP and other contexts must be rejected. The *Bartnicki* Court found that the wiretapped  
26 recording was “newsworthy,” 532 U.S. at 525, and used five other terms throughout its opinion to  
27 describe the standard: the Court used to newsworthy matters: “public issue,” “public concern,”  
28 “public significance,” “public interest,” or “public importance.” *Id.* at 517, 525, 528, 529, 534.

1 There is no indication the Court intended to limit its rule as Blackman suggests.

2 Lastly, Blackman’s contention that the relief he seeks satisfies *Bartnicki* because the penal  
3 code provisions advance a compelling state interest, [Opp. 19] must be rejected. The  
4 constitutionality of the arrest record sealing provisions is not at issue, no more so than was the  
5 constitutionality of the wiretap statutes at issue in *Bartnicki*. The only question before this Court is  
6 whether liability can be imposed on an innocent recipient of such records once they publish them.  
7 Whether California may constitutionally deny access to records in the first instance is a much  
8 different question than whether it may restrict their possession and publication once they have been  
9 lawfully obtained. Moreover, the California Supreme Court has rejected that similar privacy  
10 interests are the “interest[s] of the highest order” necessary to satisfy *Bartnicki*. *Gates*, 34 Cal. 4th at  
11 693 & n.6. (“state interest in protecting for rehabilitative purposes the long-term anonymity of  
12 former convicts falls similarly short” of meeting the *Bartnicki* standard).

13 **B. Section 230 Bars Plaintiffs’ Claims.**

14 To evaluate whether a defendant is eligible for Section 230(c)(1) immunity, California  
15 courts apply a “three-factor test.” *Delfino v. Agilent Tech., Inc.*, 145 Cal.App.4th 790, 805 (2006).

16 First, Poulson is a “user of an interactive computer service,” *i.e.* Substack and Tech Inquiry.  
17 *See id.; Barrett v. Rosenthal*, 40 Cal.4th 33, 59, 62 (2006) (“Congress has comprehensively  
18 immunized republication by individual Internet users.”). Both Substack and Tech Inquiry enable  
19 multiple users to access their servers and provide software that “transmit[s]” or “display[s]” content.  
20 *See* 47 U.S.C. § 230(f)(2); 47 U.S.C. § 230(f)(4)(C). *See also Bennett v. Google, LLC* (D.C. Cir.  
21 2018) 882 F.3d 1163, 1167 (owner of Blogger platform is an “interactive computer service”).

22 Second, Plaintiff’s claims treat Poulson “as a publisher or speaker of information.” *See*  
23 *Delfino*, 145 Cal.App.4th at 806. All of Plaintiff’s claims are based on state law and are premised on  
24 Poulson publishing the Incident Report and discussing the information contained within it. Section  
25 230 provides immunity against state law claims. 47 U.S.C. § 230(e)(3).

26 Third, “the information at issue [was] provided by another information content provider.”  
27 *See Delfino*, 145 Cal.App.4th at 807. It makes no difference that Poulson posted the PDF of the  
28 Incident Report and discussed information from the Report in his articles—he has immunity for

1 both. Section 230(c)(1) protects the sharing of “any information” provided by someone else,  
2 *Hassell v. Bird*, 5 Cal.5th 522, 539 (2018), including “actively selected and republished  
3 information.” *Barrett*, 40 Cal.4th at 62. Section 230(c)(1) also immunizes the publication of third-  
4 party material preceded by the defendant’s own language, where the defendant did not “materially  
5 contribute” to the third-party material itself. *Phan v. Pham*, 182 Cal.App.4th 323, 326 (2010). While  
6 Poulson discussed the Incident Report in his articles, he did not “materially contribute” to the  
7 contents of the report—that information was solely provided by a third party.

8 All of Blackman’s claims against Poulson arise from Poulson’s publication of this third-  
9 party content and are thus barred by Section 230.

10 **C. Plaintiff Failed to Make a Prima Facie Case to Support His Claims**

11 Blackman failed to carry his burden to make a “prima facie showing of facts” to support his  
12 claims. *Matson v. Dvorak*, 40 Cal. App. 4th 539, 548 (1995). Indeed, Blackman fails to even  
13 individually address the elements of his claims; he never discusses some at all. [Opp. 20-21].

14 **Claims 1 (Negligence) and 2 (Gross Negligence)** fail because Blackman alleges a duty of  
15 care and lack of reasonable care based on alleged statutory violations that fail as explained above,  
16 and an alleged violation of Section 166(a), which also fails as Poulson lacked knowledge of Judge  
17 Gold’s order, *see People v. Sorden*, 65 Cal. App. 5th 582, 593 (2021) *as modified* (June 15, 2021).

18 **Claims 3, 4, and 5 (Interference)** fail for the same reasons, and because Blackman did not  
19 identify contractual or prospective economic relationships that Poulson knew of and interfered with.

20 **Claims 9 (IIED) and 10 (NIED)** fail for the same reasons.

21 **Claims 7 (False Light) and 11 (Defamation)** fail because Poulson’s reporting was factual  
22 and Blackman failed to carry his burden to “present clear and convincing evidence of actual  
23 malice.” *Colt v. Freedom Commc’ns, Inc.*, 109 Cal. App. 4th 1551, 1560-61 (2003).

24 **Claims 6 (Public Disclosure of Private Facts), 8 (Intrusion), and 13 (Cal. Const., Sec. 1)**  
25 fail because Blackman did not discuss them at all, let alone establish a prima facie showing.

26 **Claims 14 (Sec. 851.92) and 15 (Sec. 11143)** fail for the reasons explained above.

27 **CONCLUSION**

28 For the foregoing reasons, Defendant Poulson’s Motion to Strike should be GRANTED.

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DATED: January 28, 2025

ELECTRONIC FRONTIER FOUNDATION

/s/ David Greene

David Greene

Victoria Noble

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **COUNTY OF SAN FRANCISCO**

10 MAURY BLACKMAN, an individual,  
11

12 Plaintiff,

13 v.

14 SUBSTACK, INC., a Delaware  
Corporation; AMAZON WEB SERVICES,  
15 INC., a Delaware Corporation; JACK  
16 POULSON, an individual; TECH  
INQUIRY, INC., a Delaware corporation;  
17 DOES 1-25, inclusive,  
18

Defendants.

Case No.: CGC-24-618681

**DECLARATION OF VICTORIA NOBLE IN  
SUPPORT OF REPLY**

**DATE: February 4, 2025**

**TIME: 9:30 a.m.**

**DEPT: 301**

Judge:

Action Filed: October 3, 2024

Trial Date: (Date or Unassigned)

19  
20 **DECLARATION OF VICTORIA NOBLE**

21 I, VICTORIA NOBLE, declare as follows:

- 22 1. I am an attorney licensed to practice in the State of California and am counsel for  
23 Defendant Jack Poulson in the above-captioned action. I have personal knowledge of  
24 the facts stated here, and if called upon to do so, could and would testify competently  
25 as follows:  
26  
27 2. Attached as **Exhibit A** is a true and correct copy of the article "As Fauci Falls,  
28 Bhattacharya Rises: Business Lessons from the COVID Leadership Circus," by

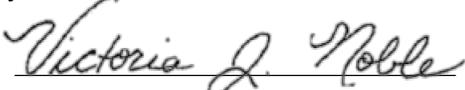
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Maury Blackman, published on the KTSM website, as downloaded from <https://www.ktsm.com/business/press-releases/ein-presswire/769608257/as-fauci-falls-bhattacharya-rises-business-lessons-from-the-covid-leadership-circus/> on January 24, 2025.

3. Attached as **Exhibit B** is a true and correct copy of the article “Maury Blackman Challenges America to Rekindle Its Innovation Leadership in Article on Brain Drain and Immigration Reform,” by Maury Blackman, published on the EINPresswire website, as downloaded from <https://www.einpresswire.com/article/772999058/maury-blackman-challenges-america-to-rekindle-its-innovation-leadership-in-article-on-brain-drain-and-immigration-reform> on January 24, 2025.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge.

Executed this 28<sup>th</sup> day of January 2025 in San Francisco, California.

  
Victoria J. Noble

# EXHIBIT A

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44°

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## **As Fauci Falls, Bhattacharya Rises: Business Lessons from the COVID Leadership Circus**

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Dec 17, 2024, 2:59 AM ET

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*Leadership dynamics during the COVID-19 pandemic offer critical takeaways for business leaders navigating polarized markets and public trust.*

SAN FRANCISCO, CA, UNITED STATES, December 17, 2024 /[EINPresswire.com](https://www.einpresswire.com/)/ -- In his latest thought-provoking article, entrepreneur and business leader [Maury Blackman](#) analyzes the shifting leadership landscape exposed during the COVID-19 pandemic. Titled “As Fauci Falls, Bhattacharya Rises: Business Lessons from the COVID Leadership Circus,” the piece dives into the public trajectories of Dr. Anthony

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Fauci and Dr. Jay Bhattacharya, extracting invaluable leadership lessons applicable to organizations and executives operating in polarized, high-pressure environments.

Blackman, drawing from decades of experience leading high-growth technology companies, uses the pandemic's most prominent figures to underscore key leadership principles: the importance of trust, transparency, and adaptability. As public sentiment toward Dr. Fauci has evolved, Dr. Bhattacharya's steady rise serves as a case study in courageous leadership, particularly when challenging prevailing narratives.

“At the height of COVID-19, public leaders faced an unprecedented blend of crisis management and communication challenges,” Blackman writes. “The divergence in Fauci's and Bhattacharya's leadership styles highlights lessons that every CEO or entrepreneur can leverage when balancing innovation, dissent, and public trust.”

Key insights from the post include:

- Authenticity and Transparency Build Trust: Leaders who lean into hard truths—despite potential backlash—ultimately garner greater long-term respect.
- Questioning Consensus Drives Innovation: Challenging established ideas fosters progress, even in the face of resistance.
- Credibility Is Earned, Not Given: Consistency, courage, and clarity are vital for any leader in the public or private sector.

Through these themes, Blackman urges business leaders to embrace intellectual honesty and adaptability, encouraging organizations to foster internal cultures that invite debate and fresh perspectives—key ingredients for navigating today's complex business environment.

The full article is available on Maury Blackman's website at

<https://www.mauryblackman.com/post/as-fauci-falls-bhattacharya-rises-business-lessons-from-the-covid-leadership-circus>

About Maury Blackman:

Maury Blackman has over 25 years of experience leading high-growth technology companies. A recognized innovator and advisor, he has a proven track record of scaling businesses and driving transformational change. As the Managing Director of Pierpoint Ventures, Blackman invests in and mentors early-stage companies.

For more information, visit [www.mauryblackman.com](http://www.mauryblackman.com).

Maury Blackman

Pierpoint Ventures

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# EXHIBIT B

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1B visa program. Blackman, an outspoken advocate for innovation and American

**America’s strength has always been its ability to attract the best and brightest,” “It’s time to rediscover that strength and ensure the innovations of tomorrow are made in America.” — Maury Blackman**

competitiveness, argues that attracting global talent is not only essential for the country’s economic growth but aligns perfectly with the ethos of “America First.”

Blackman revisits the 1960s, when the U.S. positioned itself as the global hub for talent by welcoming scientists, engineers, and innovators from around the world. This approach fueled milestones such as the moon landing and the rise of Silicon Valley. Drawing a sharp contrast to the present day, he highlights how today’s immigration policies, including restrictive caps on H-1B visas and bureaucratic delays, are stifling innovation and pushing top talent to countries like Canada, Germany, and China.

“The moon landing wasn’t powered by isolationism—it was powered by collaboration,” Blackman writes. “If we don’t fix the broken

[Maury Blackman Challenges America to Rekindle Its Innovation Leadership in Article on Brain Drain and Immigration Reform](#)  
([/article/772999058/maury-blackman-challenges-america-to-rekindle-its-innovation-leadership-in-article-on-brain-drain-and-immigration-reform](#)).

[Maury Blackman Advocates for Urgent H-1B Visa Reform to Strengthen America’s Innovation Economy](#)  
([/article/772645286/maury-blackman-advocates-for-urgent-h-1b-visa-reform-to-strengthen-america-s-innovation-economy](#)).

[As Fauci Falls, Bhattacharya Rises: Business Lessons from the COVID Leadership Circus](#)  
([/article/769608257/as-fauci-falls-bhattacharya-rises-business-lessons-from-the-covid-leadership-circus](#)).

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immigration system and embrace global talent, we're handing the future of innovation to other countries.”

Blackman also makes a compelling case for how reforming the H-1B program aligns with the principles of “America First.” By expanding opportunities for skilled immigrants to contribute to the U.S. economy, he argues, America can secure its position as a global leader in artificial intelligence, biotechnology, and other transformative industries. The essay emphasizes the vital role of small businesses and startups, which often lack the resources to compete with Big Tech for access to H-1B talent.

#### Elon Musk as a Modern Example

Blackman spotlights Elon Musk, an immigrant from South Africa, as a quintessential example of how welcoming talent can transform industries and fuel economic growth. Musk’s companies—Tesla, SpaceX, and Neuralink—are reshaping the world from American soil, a legacy that might never have happened if outdated immigration policies had stood in the way.

“Imagine if Elon Musk had been told there was no room for ambitious South Africans here,” Blackman quips. “Would we have Tesla revolutionizing clean energy or SpaceX putting Mars on the dinner-table agenda? Unlikely.”

#### A Call to Action

Maury Blackman challenges policymakers to act with urgency, proposing actionable reforms to modernize the H-1B system, streamline green card processes, and prioritize small businesses in visa allocations. He argues that the lessons of the 1960s brain drain should serve as a blueprint for the future, demonstrating how welcoming talent isn't just a kindness—it's a strategic imperative.

"America's strength has always been its ability to attract the best and brightest," Blackman states. "It's time to rediscover that strength and ensure the innovations of tomorrow are made in America."

Maury Blackman has led high-growth tech companies for over 25 years, including his tenure as CEO of Premise Data and Accela. His extensive experience in technology and public policy gives him a unique perspective on the intersection of immigration, innovation, and economic growth.

The article is available at

<https://www.mauryblackman.com/post/america-first-but-smarter-lessons-from-the-brain-drain-and-the-h-1b-mess>  
(<https://www.mauryblackman.com/post/america-first-but-smarter-lessons-from-the-brain-drain-and-the-h-1b-mess>)

About Maury Blackman

Maury Blackman is a technology executive, investor, and thought leader with more than 25 years of experience driving innovation and

growth in high-stakes industries. A former U.S. Army officer, Blackman has been recognized with numerous accolades, including EY's Entrepreneur of the Year award for Northern California. He is passionate about creating pathways for technology to improve society and strengthen America's global leadership.

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## **Maury Blackman Challenges America to Rekindle Its Innovation**

# Leadership in Article on Brain Drain and Immigration Reform

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7 *Attorneys for Defendant Jack Poulson*

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **COUNTY OF SAN FRANCISCO**

10 MAURY BLACKMAN, an individual,  
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12 Plaintiff,

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14 SUBSTACK, INC., a Delaware  
Corporation; AMAZON WEB SERVICES,  
15 INC., a Delaware Corporation; JACK  
POULSON, an individual; TECH  
16 INQUIRY, INC., a Delaware corporation;  
DOES 1-25, inclusive,  
17

18 Defendants.

Case No.: CGC-24-618681

**DECLARATION OF DEFENDANT JACK  
POULSON IN SUPPORT OF REPLY**

**DATE: February 4, 2025**

**TIME: 9:30 a.m.**

**DEPT: 301**

Judge:

Action Filed: October 3, 2024

Trial Date: (Date or Unassigned)

19  
20  
21 **DECLARATION OF JACK POULSON**

22 I, JACK POULSON, declare as follows:

- 23 1. Contrary to Blackman's assertions, my reporting on Premise Data demonstrates that  
24 the public was very interested in the company. Blackman identifies two of my  
25 articles that he claims admitted a lack of public interest in my reporting on Premise:  
26 "Pollster for Niger coup support is a surveillance platform for U.S. Special  
27 Operations Forces," attached to my first declaration as Exhibit A, and "California-  
28 based covert surveillance firm attempted to criminalize this publication and unmask

1 its sources, court filings reveal,” attached to my first declaration as Exhibit I. In fact,  
2 these articles show the opposite.

3 2. When I published these articles, Premise had been conducting a public relations  
4 campaign, which was successful in producing simplistic and positive coverage of the  
5 company. That is why I noted that a major news publication uncritically made use of  
6 Premise’s marketing materials. One purpose of my reporting was to underline  
7 Premise’s intelligence collection relationship with the U.S. military, which the  
8 company does not incorporate into its press campaigns.

9 3. One way that Premise lands high-profile placements in prestigious publications is by  
10 conducting political polls in other countries—often in conflict zones—and providing  
11 the data to journalists, who present it as a reliable gauge of public sentiment, and  
12 attribute the information to Premise, raising its profile. Without access to in-depth  
13 reporting on Premise’s operations in the region and financial relationships with  
14 militaries, however, the public cannot properly evaluate the reliability of the polling  
15 results.

16 4. In my article “Pollster for Niger coup support is a surveillance platform for U.S.  
17 Special Operations Forces,” I reported that Premise has marketed its ability to  
18 provide surveillance services to U.S. military combatant commands on multiple  
19 continents. The article noted that the prominent publication *The Economist* published  
20 the results of polls conducted by Premise regarding public opinion in regions where  
21 Premise has advertised its intelligence collection services to U.S. Special Operations  
22 Command. This creates a potential conflict of interest for the company’s polling in  
23 conflict zones and is therefore important context.

24 5. My article, “California-based covert surveillance firm attempted to criminalize this  
25 publication and unmask its sources, court filings reveal,” reported in relevant part  
26 that, even four years into Premise’s litigation against a large number of former  
27 employees, including an alleged whistleblower, Premise’s PR efforts continued to  
28 produce surface-level, uncritical coverage in prestigious outlets, while an exposé on

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- Premise published in the *Wall Street Journal* received comparatively little attention.
6. I never reported that Premise employees were executed while performing military work for Premise in Iraq. Rather, I was reporting on a completely different company. In the article, “California-based covert surveillance firm attempted to criminalize this publication and unmask its sources, court filings reveal,” I reported on messages exchanged between Blackman and another Premise executive about a potential business partnership in Syria with John P. DeBlasio’s “international development contractor,” DT Global, with which Premise publicly announced a partnership for information gathering in Mosul, Iraq on April 12, 2018. My article noted that DeBlasio’s previous company, the private security contractor Sallyport, had been mired in fraud litigation between DeBlasio and his former business partner. As reported in my article, the litigation revealed that 19 employees of Sallyport were pulled off a bus in Iraq and executed on the side of the road while performing work as part of the company’s military contracts. My reporting does not state or suggest that any Premise employees were killed during this incident or that Premise was responsible for these deaths in any way.
7. When I published and reported on the Incident Report, I wholeheartedly believed that the report was authentic, and accurately reflected the police activity reported in it. I verified the report with the SFPD, which confirmed that every pertinent detail in the report was true. When I published the incident report, and my articles reporting on the incident report, I believed that everything I reported was true, and I continue to believe this now, with the exception of a minor error relating to the name of one of the police officers present during the arrest which was corrected as soon as it was discovered.
8. I never reported or implied that Blackman was charged with or convicted of any crime. Indeed, to the contrary, I reported that the alleged victim recanted her statements to the SFPD on the scene.

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge.

Executed this 28<sup>th</sup> day of January 2025 in Philadelphia, Pennsylvania.

  
\_\_\_\_\_  
Jack Poulson

Document received by the CA 1st District Court of Appeal.

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15 *Attorneys for Plaintiff*

16 **SUPERIOR COURT OF STATE OF CALIFORNIA**  
17 **COUNTY OF SAN FRANCISCO**  
18 **[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

**DECLARATION OF PLAINTIFF**

**REDACTED**

Date: February 4, 2025  
Time: 9:30 AM  
Dept: 301  
Judge: Hon. Joseph M. Quinn

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

**PUBLIC**

**REDACTS MATERIALS PURSUANT TO COURT'S JANUARY 7, 2025 ORDER**

ELECTRONICALLY  
**FILED**  
Superior Court of California,  
County of San Francisco

**01/28/2025**  
**Clerk of the Court**  
BY: JEFFREY FLORES  
Deputy Clerk

Document received by the CA 1st District Court of Appeal.

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15 *Attorneys for Plaintiff*

16 **SUPERIOR COURT OF STATE OF CALIFORNIA**  
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21 v.

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**DECLARATION OF PLAINTIFF**

Date: February 4, 2025  
Time: 9:30 AM  
Dept: 301  
Judge: Hon. Joseph M. Quinn

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

I declare and state as follows:

1. I make this declaration based on the facts set forth herein that are true to my own personal knowledge, and if called upon to testify thereto, I could and would competently do so under oath.

2. I am a resident of San Francisco, California. I am over 18 years old and fully competent to submit this affidavit. I make this statement based on my personal knowledge of the events described herein.

1 **I Am Not A Public Figure**

2 3. I have never been a public figure or a person of fame. While I have worked with  
3 government entities, my roles have been limited in scope and did not involve policy creation,  
4 decision-making authority, or public advocacy. I have not engaged in public controversies, debates,  
5 or sought attention or recognition in the public sphere. I am not widely known, renowned, or  
6 famous in any capacity.

7 4. From December 2017 through December 2023, I worked as the CEO of Premise  
8 Data (referred to as “Premise Data” or “Employer”). Premise Data is a private company with no  
9 more than 100 employees. Premise Data was a relatively unknown company.

10 5. Like many people, I have a personal webpage that receives limited engagement. My  
11 webpage was created in 2016 to help in my job search at the time.

12 6. For four months in September 2022, while I worked at Premise Data, I hosted five  
13 episodes of a podcast in which we paid guests. The podcast never had more than 200 listeners. The  
14 podcast was stopped because there was very little interest.

15 7. I am one of more than 1 million U.S. citizens who hold a security clearance. My  
16 clearance is the lowest level available, and I have never visited the Pentagon or the headquarters of  
17 SOCOM (U.S. Special Operations Command).

18 8. I have never been involved in any public discussions or debate on issues of domestic  
19 violence.

20 **On February 17, 2022, Judge Gold Of San Francisco Superior Court Sealed The Arrest  
21 Report and Related Information**

22 9. I was involved in an incident on December 21, 2021 that resulted in my being  
23 arrested for alleged felony domestic violence.

24 [REDACTED]

25 [REDACTED]

26 [REDACTED]

27 [REDACTED]

28 [REDACTED]

14. By no later than February 17, 2022, the charges against me were dismissed.

15. Pursuant to Penal Code section 851.91, I successfully petitioned the trial court in a  
public court proceeding to seal the arrest report and its contents.

1           16.     On February 17, 2022, pursuant to California Criminal Code section 851.91, San  
2 Francisco Superior Court Judge Carolyn Gold entered an order sealing law enforcement agency  
3 report number 210844280 (the “Sealing Order”) related to Court case number 21012755. (A copy  
4 of the redacted “Sealing Order” issued by Judge Gold is attached hereto as “Exhibit A”.)

5           17.     No party has ever challenged or sought to unseal the Sealing Order.

6           **These Events Were Not Newsworthy**

7           18.     Between December 2021 and February 17, 2022, when the incident and report were  
8 public record, no media reported on this incident or Judge Gold’s Sealing Order.

9           19.     Between February 17, 2022, and September 14, 2023, during which time the SFPD  
10 released the unredacted Sealed Report to an attorney, Newton Oldfather (discussed below), no  
11 media reported on this incident or the Sealing Order.

12           20.     On September 14, 2023, Jack Poulson initially disseminated the Sealed Report and  
13 his own detailed description of the events. In December 2023, Poulson blogged about Premise  
14 Data’s termination of my employment, which Poulson wrote occurred because he disseminated the  
15 Sealed Report. In January and February 2024, Poulson blogged about Premise Data settling a  
16 lawsuit against former employees pending in Santa Clara County Superior Court. Yet, between  
17 September 14, 2023 and October 3, 2024 (when this lawsuit was filed), no media covered the  
18 incident, the termination of my employment, or the lawsuit that was pending in Santa Clara County  
19 Superior Court. In Poulson’s April 25, 2024 blog post, he falsely stated that the Sealed Report was  
20 sealed retroactively, attempting to mislead readers and insinuate that the sealing was done in an  
21 unscrupulous and improper manner.

22           21.     A review of Poulson’s posts shows minimal engagement on this matter.

23           **Poulson’s Substack Blog Posts Disseminate The Sealed Report**

24           22.     Shortly before September 14, 2023, Poulson contacted by phone the woman  
25 involved in the incident and made her feel threatened that he was going he was going to disseminate  
26 the Sealed Report which included information that identified her.

27           23.     On September 14, 2023, Poulson disseminated the Sealed Report and his own  
28 description of the events set forth in the Sealed Report.

          24.     Poulson disseminated the Sealed Report and/or a description of the events in the  
Sealed Report on several instances after September 14, 2023, including on October 13, 2023,  
November 20, 2023, December 19, 2023, January 6, 2024, April 25, 2024, and June 6, 2024.

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[REDACTED]

27. Poulson did not indicate that the arrest report had been sealed until his blog post on April 24, 2024.

28. Poulson created and disseminated an “artistic rendition” of my apartment in connection with his blog posts that imply falsely I was [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

31. Since September 14, 2023, many people with whom I have discussed Poulson’s blog posts have told me that they understood, based on Poulson’s posts, that I was [REDACTED]

[REDACTED]

32. In his posts, Poulson disseminated my name, address, and picture. He also disseminated identifying information of the woman referred to in the report, including her address, date of birth, age, hair color, eye color, height, and relationship to me.

33. Even after Substack instructed Poulson to remove certain identifying information, such as my home address, Poulson did not do so.

34. Poulson’s claim that “*anyone could obtain the police report themselves*” is untrue. The report in question is a court-ordered sealed document, protected by law and inaccessible to the public.

**The Santa Clara County Litigation**

35. In 2019, Premise Data, but not me personally, commenced a lawsuit in Santa Clara County Superior Court against former employees who allegedly breached contracts and committed torts aimed at harming Premise Data. No media other than Poulson’s blog post reported on the Santa Clara County Litigation; not when the case was filed, during the litigation, or when it settled.

Document received by the CA 1st District Court of Appeal.

1           36.     The former employees were represented by, among other lawyers, Newton  
2 Oldfather, an attorney at Lewis & Llewellyn, LLP, and Kenneth Nabity, an attorney at Delfino  
3 Madden.

4           37.     Prior to joining Lewis & Llewellyn, LLP, Oldfather served as an attorney for the San  
5 Francisco City Attorney's Office and the Department of Policy Accountability from November  
6 2012 until April 2021. After September 14, 2023, when I became aware of Poulson's post through  
7 Lewis & Llewellyn's use of the post and the Sealed Report in the Santa Clara County Litigation, I  
8 reached out to the City of San Francisco in an effort to learn how Oldfather and Poulson became in  
9 receipt and possession of the Sealed Report. Through these efforts, I was provided documents from  
10 the City that establish the facts set forth below regarding the disclosure of the Sealed Report.

11           38.     On May 3, 2022, Oldfather requested a copy of the sealed Incident Report by the  
12 unique report number from the San Francisco Police Department ("SFPD") indicating that he had  
13 accessed my file. In making this request, Oldfather responded to the inquiry, "Describe your  
14 interest in this Report", by stating "Attorney Investigator."

15           39.     Prior to getting a response from the SFPD with respect to his initial request on May  
16 3, on May 9, 2022, at 1:00 AM, Oldfather made a second request to the SFPD for the Sealed  
17 Report. In making this second request, Oldfather left blank the response to the inquiry to "Describe  
18 your interest in this Report."

19           40.     On May 16, 2022, Diane Bryan, of the SFPD, wrote to Oldfather: "We have  
20 received your report request, but due to the nature of the report we must route the request to the  
21 investigative unit for final release/approval. Please be patient as this may add several days to our  
22 processing time."

23           41.     On May 17, 2022, Diane Bryan wrote to Oldfather that the SFPD received his  
24 request dated May 9, 2022, that his request has been processed, and that the documents he  
25 requested have been made available via the San Francisco Public Records Portal. The Sealed  
26 Report that the SFPD provided to Oldfather had a unique watermark identifier.

27           42.     On July 21, 2022, after the SFPD had already provided Oldfather with the Sealed  
28 Report pursuant to his May 9 request, Daniel Leung sent an email to Oldfather in connection with  
Oldfather's initial request on May 3 for the Sealed Report that read: "Dear Newton Oldfather: We  
have received your request for Incident Report No. [XXX]. In order to process the request, please  
provide authorization from the party named in the report. Your request will be processed upon  
receipt." Oldfather did not provide or have authorization from me.

1           43.     During the Santa Clara County Litigation, Oldfather never disclosed that he was in  
2 receipt and possession of the Sealed Report.

3           44.     Before Jack Poulson unlawfully disseminated the Sealed Report and published his  
4 Substack blog post describing its contents on September 14, 2023, the former employees had made  
5 no attempt to introduce the Sealed Report into the Santa Clara County litigation. Despite having  
6 possession of the Sealed Report since March 2022, they did not propound any discovery requests  
7 related to it, nor did they raise it during my multi-day deposition. However, just two hours after  
8 Poulson’s blog post was published, the former employees’ counsel suddenly served a flurry of  
9 discovery requests directly referencing the Sealed Report and asserted its supposed relevance to the  
10 litigation. This abrupt and calculated shift underscores the coordinated misuse of the Sealed Report  
11 as a litigation tactic, weaponizing illegally obtained and disseminated information to gain an unfair  
12 advantage.

13           45.     The version of the Sealed Report that Poulson published on September 14, 2023  
14 contained the same unique watermark identifier as the copy of this report that the SFPD provided to  
15 Oldfather.

16           46.     According to records provided by the SFPD, as of October 3, 2023, five requests had  
17 been made to the SFPD for the release of this report (including the two requests by Oldfather). The  
18 SFPD only released the report two times: once to me in December 2021 and once to Oldfather in  
19 May 2022. The SFPD never released the report to a journalist. Neither Poulson nor Byron Tau  
20 ever submitted a request to the SFPD for release of the report, and the SFPD never released the  
21 report to either Poulson or Tau.

22           47.     By no later than September 25, 2023, counsel representing my Employer in the  
23 Employee Litigation, Dhaivat Shah of Grellas Shah LLP, notified Oldfather and Nabity that the  
24 Sealed Report had been sealed by Court Order pursuant to Section 851.91.

25           48.     Nabity admitted that he sent the Sealed Report to Byron Tau.

26 **I Made Efforts To Get The Sealed Report Removed**

27           49.     In November 2023, I notified Substack that the Sealed Report that was in its  
28 possession and being disseminated on Poulson’s blog had been sealed by a Court Order, and I  
requested that Substack give up possession of the Sealed Report and immediately take down all  
content describing or related to the Sealed Report, which was required by California law and  
Substack’s Acceptable Use Policy, which prohibits illegal content.

1           50.     Substack remained in receipt and possession of the Sealed Report and did not  
2 remove Poulson’s posts.

3           51.     On November 28, 2023, counsel representing my Employer in the Employee  
4 Litigation filed a motion with respect to the Sealed Report seeking to keep the Sealed Report and its  
5 contents sealed and confidential pursuant to a protective order. The documents filed with the Court  
6 in connection with the Employee Litigation referenced that the Sealed Report that Poulson had  
7 published on Substack had been sealed pursuant to a court order dated February 17, 2022.

8           52.     On April 26, 2024, my counsel, Binall Law Group, sent correspondence to Substack  
9 requesting the immediate removal of the Sealed Report and its contents.

10          53.     In June 2024, Police Accountability referred the matter to SFPD Internal Affairs

11          54.     On June 3, 2024, Police Accountability informed me that they had referred the  
12 matter to SFPD internal affairs.

13          55.     On June 20, 2024, after not hearing from them, I reached out directly to internal  
14 affairs.

15          56.     On June 25, Lt. Chris Beauchamp #561 reached out and informed me I would need to  
16 wait until department head Lt. Lisa Springer returned on July 7, 2023.

17          57.     On June 23, 2024, I sent an email to Substack requesting the immediate removal of  
18 the Sealed Report and its contents due to the sealed nature of the report and violations of California  
19 law. Substack did not respond.

20          58.     In August 2024, Lt Springer notified me that the department would conduct an  
21 investigation into the release of the Sealed Report.

22          59.     In September 2024, the woman involved in this matter and I together met with Sgt.  
23 Degand, the investigator, to express our joint concerns regarding the release of the Sealed Report.  
24 We urged him to take some action to stop the illegal dissemination of the Sealed Report.

25          60.     On September 13, through my counsel, I again contacted Substack to request that  
26 Substack immediately remove the Sealed Report because Substack was in violation of California  
27 law and Substack’s Acceptable Use Policies.

28          61.     On September 13, 2024, through counsel, I contacted Amazon Web Services, which  
hosts Substack, and requested that it remove the Sealed Report and its contents because AWS was  
in violation of California law and AWS’s Acceptable Use Policy.

1           62.     On September 16, 2024, through counsel, I contacted Poulson and Tech Inquiry and  
2 requested that they remove the Sealed Report and related information because Poulson and Tech  
3 Inquiry were in violation of California law.

4           63.     On September 19, 2024, the San Francisco City Attorney sent a letter to Substack  
5 that, pursuant to Section 851.92(c) and Substack’s Acceptable Use Policy, requested that Substack  
6 “immediately remove the Sealed Report and its contents from your website and ensure that the  
7 index to postings no longer allows for the Sealed Report to be viewed or downloaded” by  
8 September 23, 2024, and “refrain from publishing this material in the future.” (A copy of the letter  
9 from the SF City Attorney is attached hereto as “Exhibit C.”)

10           64.     On September 23, 2024, through my counsel, I forwarded a copy of the letter the  
11 San Francisco City Attorney had sent to Substack to AWS.

12           65.     On September 23, 2024, Substack’s counsel, Wilson Sonsini, responded to my  
13 September 13, 2024 on behalf of Substack, indicating that Substack would not remove the Sealed  
14 Report.

15           66.     On September 25, 2024, Joshua Stokes, of Berry, Silberberg, & Stokes, sent a letter  
16 to my lawyer on behalf of Poulson. In this letter, Poulson’s lawyer indicated that Poulson would  
17 not remove the Sealed Report or its contents.

18           67.     On October 3, 2024, the San Francisco City Attorney sent letters to each Substack  
19 and Poulson. (Copies of the letter from the San Francisco City Attorney are attached as “Exhibit  
20 D” and “Exhibit E.”) In these letters, the San Francisco City Attorney instructed Substack and  
21 Poulson to remove the Sealed Report and related information pursuant to California law and  
22 Substack’s Acceptable Use Policy.

23           68.     The Sealed Report has not been taken down and remains in receipt and possession of  
24 all Defendants.

25           69.     On October 3, 2024, I filed this lawsuit as John Doe to protect my privacy, and all  
26 Defendants were immediately notified.

**The San Francisco Chronicle Covered This Lawsuit**

27           70.     On October 29, 2024, a reporter from the San Francisco Chronicle, who had  
28 knowledge that the report had been sealed by Court Order, published an article online titled “Tech  
exec sues journalist for \$25M for publishing his sealed arrest report,” that referred to the Sealed  
Report and its contents, as well as my name. The article mistakenly confused what was in the

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1 demand letter I had sent to Poulson and Tech Inquiry with the actual Complaint, thereby showing  
2 that Poulson was the source for this article.

3 71. Prior to October 29, 2024, the San Francisco Chronicle never reported on me, the  
4 arrest, the Sealing Order, Poulson’s Substack blog posts that disseminated the Sealed Report, the  
5 termination of my employment, or the Santa Clara County Litigation.

6 72. I called the reporter and asked where he learned of the lawsuit, and he informed me  
7 Susan Seager, Tech Inquiry’s attorney, had contacted him.

8 **Defendants’ Conduct Has Caused Me Damage**

9 73. I am a private individual, and the events described in the Sealed Report are intensely  
10 personal and private to both me and the woman involved. The events described in the Sealed  
11 Report have no relevance to any matter of public significance or issue of public interest. Any  
12 interest into these events would constitute nothing more than a morbid and sensational prying into  
13 my private life for its own sake.

14 74. The continued and ongoing dissemination of the Sealed Report has caused and will  
15 continue to cause both monetary and irreparable harm, including but not limited to the  
16 stigmatization that comes with public dissemination of the Sealed Report and the arrest, particularly  
17 when Poulson often failed to indicate the disposition of the arrest.

18 75. While my arrest was not itself newsworthy, people and entities interested in hiring  
19 me will become aware of it by conducting a basic Google search of my name.

20 Tech Inquiry’s Website

21 **False And Misleading Statement In Defendants’ Filings**

22 76. Tech Inquiry filed a brief and an amended brief, both of which falsely asserted “Mr.  
23 Poulson decided to report on Plaintiff’s Incident Report because Plaintiff was a controversial and  
24 apparently reckless CEO [because among other things, Plaintiff] “failed to prevent the deaths of  
25 many of [Premise Data’s] employees, including 19 who were pulled off a bus in Iraq and executed  
26 on the side of the road while performing as part of [Premise Data’s] secretive military contracts.”

27 77. No Premise Data employees were executed in Iraq (or anywhere else) while  
28 performing as part of [Premise Data’s] secretive military contracts. I did not fail to prevent the  
deaths of any Premise Data employees.

78. Tech Inquiry also represented falsely that I “accidentally publicly revealed [Premise  
Data’s] classified work with U.S. government agencies in his public court declarations.” This is  
untrue.

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79. Tech Inquiry also represented falsely that when I was the CEO of Premise Data, Premise Data “hired gig workers who unknowingly performed high-risk intelligence work overseas.”

I declare under penalty of perjury to the laws of the State of California that the foregoing facts are true and correct.

Executed on January 14, 2025  
San Francisco, California.

Maury Blackman  
/s/ Maury Blackman (Jan 14, 2025 16:15 PST)  
Plaintiff Delwin Maurice Blackman III

Document received by the CA 1st District Court of Appeal.

# EXHIBIT A

Document received by the CA 1st District Court of Appeal.

**CR-410****Order to Seal Arrest and Related Records (Pen. Code, §§ 851.91, 851.92)**

Clerk stamps date here when form is filed.

① Name: BLACKMAN DELWIN M  
Last First Middle

Mailing address: 360 RITCH ST. #201

SAN FRANCISCO CA 94107  
City State Zip

FEB 17 2022

② The court finds that the petitioner is eligible for the following requested relief and makes the following order:

- The court **GRANTS** the petition. The record of arrest in the following matter shall be sealed under the provisions of section 851.91, and the arrest deemed not to have occurred:

Law enforcement agency report number: 210844280

Prosecuting agency report number: \_\_\_\_\_

Court case number: 21012755

Other: \_\_\_\_\_

Petitioner may answer any question relating to the sealed arrest as though it did not happen, and petitioner is released from all penalties and disabilities resulting from the arrest, except as follows:

- The sealed arrest may be pleaded and proved in any later prosecution of the petitioner for any other offense, and will have the same effect as if it had not been sealed.
- The sealing of an arrest under section 851.91 does not relieve the petitioner of the obligation to disclose the arrest, if otherwise required by law, in response to any direct question contained in a questionnaire or application for public office, for employment as a peace officer, for licensure by any state or local agency, or for contracting with the California State Lottery Commission.
- The sealing of an arrest under this section does not affect petitioner's authorization to own, possess, or have in his or her custody or control any firearm, or his or her susceptibility to conviction under Chapter 2 (commencing with section 29800) of Division 9 of Title 4 of Part 6, if the arrest would otherwise affect this authorization or susceptibility.
- The sealing of an arrest under this section does not affect any prohibition from holding public office that would otherwise apply under law as a result of the arrest.

- ③  The court **DENIES** the petition (check one):
- a.  The petition does not meet the requirements listed in Penal Code section 851.91(b)(1).
  - b.  Petitioner's arrest does not qualify under Penal Code section 851.91(a).
  - c.  The court finds that sealing the arrest would not serve the interests of justice under Penal Code section 851.91(c)(2).
  - d.  Other: \_\_\_\_\_

Date: FEB 15 2022

Hon. Carolyn Gold  
 Signature of judicial officer

**This is a Court Order.**

# EXHIBIT B

Document received by the CA 1st District Court of Appeal.

CITY AND COUNTY OF SAN FRANCISCO



DAVID CHIU  
City Attorney

OFFICE OF THE CITY ATTORNEY

JENNIFER CHOI  
Deputy City Attorney

Direct Dial: (415) 554-3887  
Email: jennifer.choi@sfcityattty.org

September 19, 2024

**Via U. S. Mail and Electronic Mail**

Substack  
111 Sutter Street, 7th Flr.  
San Francisco, CA 94104  
"tos@substackinc.com"

Re: Notice of Publication of Sealed Document

Dear Substack:

It has come to our office's attention that San Francisco Police Department incident report number 210844280 ("Incident Report") as well as its contents have been published in multiple postings on your website.<sup>1</sup> The Incident Report was previously sealed by court order. A copy of the court order sealing the report is attached.

Pursuant to California Penal Code section 851.92(c) and your own "Acceptable Use Policy," we expect that you will immediately remove the Incident Report and its contents from your website and ensure that the index to postings no longer allows for the Incident Report to be viewed or downloaded. Please alert us when the documents and its contents have been taken down from your website by no later than September 23, 2024. Finally, please refrain from publishing this material in the future.

If you would like to discuss further, please let us know. Thank you.

Very truly yours,

DAVID CHIU  
City Attorney

JENNIFER E. CHOI  
Deputy City Attorney

Encl.

<sup>1</sup> See [https://jackpoulson.substack.com/p/the-covert-gig-work-surveillance?utm\\_source=%2Fsearch%2Fmaury%2520blackman&utm\\_medium=reader2](https://jackpoulson.substack.com/p/the-covert-gig-work-surveillance?utm_source=%2Fsearch%2Fmaury%2520blackman&utm_medium=reader2). See also [https://jackpoulson.substack.com/p/fraudulent-dmca-takedown-submitted?utm\\_source=%2Fsearch%2Fmaury%2520blackman&utm\\_medium=reader2](https://jackpoulson.substack.com/p/fraudulent-dmca-takedown-submitted?utm_source=%2Fsearch%2Fmaury%2520blackman&utm_medium=reader2). See also [https://jackpoulson.substack.com/p/ceo-of-gig-work-surveillance-firm?utm\\_source=%2Fsearch%2Fmaury%2520blackman&utm\\_medium=reader2](https://jackpoulson.substack.com/p/ceo-of-gig-work-surveillance-firm?utm_source=%2Fsearch%2Fmaury%2520blackman&utm_medium=reader2). See also [https://jackpoulson.substack.com/p/california-based-covert-surveillance?utm\\_source=%2Fsearch%2Fmaury%2520blackman&utm\\_medium=reader2](https://jackpoulson.substack.com/p/california-based-covert-surveillance?utm_source=%2Fsearch%2Fmaury%2520blackman&utm_medium=reader2).

**CR-410**

**Order to Seal Arrest and Related Records (Pen. Code, §§ 851.91, 851.92)**

*Clerk stamps date here when form is filed.*

FEB 17 2022

1 Name: BLACKMAN DELWIN M  
*Last First Middle*

Mailing address: 360 RITCH ST. #201  
*Street*  
SAN FRANCISCO CA 94107  
*City State Zip*

2 The court finds that the petitioner is eligible for the following requested relief and makes the following order:

The court **GRANTS** the petition. The record of arrest in the following matter shall be sealed under the provisions of section 851.91, and the arrest deemed not to have occurred:

Law enforcement agency report number: 210844280  
Prosecuting agency report number: \_\_\_\_\_  
Court case number: 21012755

Other: \_\_\_\_\_  
Petitioner may answer any question relating to the sealed arrest as though it did not happen, and petitioner is released from all penalties and disabilities resulting from the arrest, except as follows:

- The sealed arrest may be pleaded and proved in any later prosecution of the petitioner for any other offense, and will have the same effect as if it had not been sealed.
- The sealing of an arrest under section 851.91 does not relieve the petitioner of the obligation to disclose the arrest, if otherwise required by law, in response to any direct question contained in a questionnaire or application for public office, for employment as a peace officer, for licensure by any state or local agency, or for contracting with the California State Lottery Commission.
- The sealing of an arrest under this section does not affect petitioner's authorization to own, possess, or have in his or her custody or control any firearm, or his or her susceptibility to conviction under Chapter 2 (commencing with section 29800) of Division 9 of Title 4 of Part 6, if the arrest would otherwise affect this authorization or susceptibility.
- The sealing of an arrest under this section does not affect any prohibition from holding public office that would otherwise apply under law as a result of the arrest.

- 3  The court **DENIES** the petition (*check one*):
- a.  The petition does not meet the requirements listed in Penal Code section 851.91(b)(1).
  - b.  Petitioner's arrest does not qualify under Penal Code section 851.91(a).
  - c.  The court finds that sealing the arrest would not serve the interests of justice under Penal Code section 851.91(c)(2).
  - d.  Other: \_\_\_\_\_

Date: FEB 15 2022

Hon. Carolyn Gold  
*Signature of judicial officer*

**This is a Court Order.**

Document received by the CA 1st District Court of Appeal.

# EXHIBIT C

Document received by the CA 1st District Court of Appeal.



Page 2

Please alert us when the Incident Report and its contents have been taken down from Substack's platform. As stated previously, please also refrain from publishing this material in the future.

Thank you.

Very truly yours,

DAVID CHIU  
City Attorney



JENNIFER E. CHOI  
Deputy City Attorney

**CR-410**

**Order to Seal Arrest and Related Records (Pen. Code, §§ 851.91, 851.92)**

*Clerk stamps date here when form is filed.*

① Name: BLACKMAN DELWIN M  
*Last First Middle*

Mailing address: 360 RITCH ST. #201  
*Street*  
SAN FRANCISCO CA 94109  
*City State Zip*

FEB 17 2022

② The court finds that the petitioner is eligible for the following requested relief and makes the following order:

The court **GRANTS** the petition. The record of arrest in the following matter shall be sealed under the provisions of section 851.91, and the arrest deemed not to have occurred:

Law enforcement agency report number: 210844280  
Prosecuting agency report number: \_\_\_\_\_  
Court case number: 21012755

Other: \_\_\_\_\_  
Petitioner may answer any question relating to the sealed arrest as though it did not happen, and petitioner is released from all penalties and disabilities resulting from the arrest, except as follows:

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- ③  The court **DENIES** the petition (*check one*):
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  - Petitioner's arrest does not qualify under Penal Code section 851.91(a).
  - The court finds that sealing the arrest would not serve the interests of justice under Penal Code section 851.91(c)(2).
  - Other: \_\_\_\_\_

Date: FEB 15 2022

Hon. Carolyn Gold  
*Signature of judicial officer*

*Clerk fills in the name and street address of the court.*

**Superior Court of California, County of SAN FRANCISCO, 850 BRYANT STREET, SAN FRANCISCO, CA 94107**

*Clerk fills in the number and name of the case.*

**Trial Court Case Number:**  
21012756

**Trial Court Case Name:**  
*People of the State of California*  
**v. BLACKMAN**

**This is a Court Order.**

# EXHIBIT D

Document received by the CA 1st District Court of Appeal.

CITY AND COUNTY OF SAN FRANCISCO



DAVID CHIU  
City Attorney

OFFICE OF THE CITY ATTORNEY

JENNIFER CHOI  
Deputy City Attorney

Direct Dial: (415) 554-3887  
Email: jennifer.choi@sfcityattorney.org

October 3, 2024

**Via U. S. Mail and Electronic Mail**

Joshua C. Stokes  
Berry, Silberberg, & Stokes  
11600 Washington Place, Suite 202C  
Los Angeles, CA 90066  
"jstokes@berrysilberberg.com"

Re: Notice of Publication of Sealed Document

Dear Mr. Stokes:

It has come to our office's attention that San Francisco Police Department incident report number 210844280 ("Incident Report") as well as its contents have been published in multiple postings on Substack by your client Jack Poulson.<sup>1</sup> The Incident Report was previously sealed by court order. A copy of the court order sealing the report is attached.

Pursuant to California Penal Code section 851.92(c) and Substack's "Acceptable Use Policy," we expect that you will immediately remove the Incident Report and its contents from Substack and ensure that the index to postings no longer allows for the Incident Report to be viewed or downloaded. Please alert us when the documents and its contents have been taken down from your website. Finally, please refrain from publishing this material in the future.

Thank you.

Very truly yours,

DAVID CHIU  
City Attorney

JENNIFER E. CHOI  
Deputy City Attorney

Encl.

<sup>1</sup> See [https://jackpoulson.substack.com/p/the-covert-gig-work-surveillance?utm\\_source=%2Fsearch%2Fmaury%2520blackman&utm\\_medium=reader2](https://jackpoulson.substack.com/p/the-covert-gig-work-surveillance?utm_source=%2Fsearch%2Fmaury%2520blackman&utm_medium=reader2). See also [https://jackpoulson.substack.com/p/fraudulent-dmca-takedown-submitted?utm\\_source=%2Fsearch%2Fmaury%2520blackman&utm\\_medium=reader2](https://jackpoulson.substack.com/p/fraudulent-dmca-takedown-submitted?utm_source=%2Fsearch%2Fmaury%2520blackman&utm_medium=reader2). See also [https://jackpoulson.substack.com/p/ceo-of-gig-work-surveillance-firm?utm\\_source=%2Fsearch%2Fmaury%2520blackman&utm\\_medium=reader2](https://jackpoulson.substack.com/p/ceo-of-gig-work-surveillance-firm?utm_source=%2Fsearch%2Fmaury%2520blackman&utm_medium=reader2). See also [https://jackpoulson.substack.com/p/california-based-covert-surveillance?utm\\_source=%2Fsearch%2Fmaury%2520blackman&utm\\_medium=reader2](https://jackpoulson.substack.com/p/california-based-covert-surveillance?utm_source=%2Fsearch%2Fmaury%2520blackman&utm_medium=reader2).

**CR-410**

**Order to Seal Arrest and Related Records (Pen. Code, §§ 851.91, 851.92)**

*Clerk stamps date here when form is filed.*

① Name: BLACKMAN DELWIN M  
*Last First Middle*

Mailing address: 360 RITCH ST. #201  
*Street*  
SAN FRANCISCO CA 94109  
*City State Zip*

FEB 1 / 2022

② The court finds that the petitioner is eligible for the following requested relief and makes the following order:

The court **GRANTS** the petition. The record of arrest in the following matter shall be sealed under the provisions of section 851.91, and the arrest deemed not to have occurred:

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Prosecuting agency report number: \_\_\_\_\_

Court case number: 21012755

Other: \_\_\_\_\_

Petitioner may answer any question relating to the sealed arrest as though it did not happen, and petitioner is released from all penalties and disabilities resulting from the arrest, except as follows:

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- a.  The petition does not meet the requirements listed in Penal Code section 851.91(b)(1).
  - b.  Petitioner's arrest does not qualify under Penal Code section 851.91(a).
  - c.  The court finds that sealing the arrest would not serve the interests of justice under Penal Code section 851.91(c)(2).
  - d.  Other: \_\_\_\_\_

Date: FEB 15 2022

Hon. Carolyn Gold  
*Signature of judicial officer*

**This is a Court Order.**

1 JOSHUA A. BASKIN, State Bar No. 294971  
THOMAS R. WAKEFIELD, State Bar No. 330121  
2 WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation  
3 One Market Plaza  
Spear Tower, Suite 3300  
4 San Francisco, CA 94105-1126  
Telephone: (415) 947-2000  
5 Facsimile: (866) 974-7329  
Email: jbaskin@wsgr.com  
6 Email: twakefield@wsgr.com

7 Attorney for Defendant  
SUBSTACK, INC.  
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ELECTRONICALLY  
**FILED**  
Superior Court of California,  
County of San Francisco  
**01/28/2025**  
Clerk of the Court  
BY: ERNALYN BURA  
Deputy Clerk

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
14 FOR THE COUNTY OF SAN FRANCISCO

15 MAURY BLACKMAN, an individual, )  
16 Plaintiff, )  
17 v. )  
18 SUBSTACK, INC., a Delaware corporation; )  
AMAZON WEB SERVICES, INC., a Delaware )  
19 corporation; JACK POULSON, an individual; )  
TECH INQUIRY, INC., a Delaware corporation; )  
20 DOES 1-25, inclusive, )  
21 Defendants. )  
22 )  
23 )  
24 )  
25 )  
26 )  
27 )  
28 )

CASE NO.: CGC-24-618681

**DEFENDANT SUBSTACK INC.'S  
REPLY BRIEF IN FURTHER  
SUPPORT OF SPECIAL MOTION  
TO STRIKE PLAINTIFF'S  
COMPLAINT AND REQUEST FOR  
ATTORNEYS' FEES**

Date: February 4, 2025  
Time: 9:30 AM  
Dept.: 301  
Before: Hon. Christine Van Aken

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

REPLY IFSO DEFENDANT SUBSTACK'S SPECIAL MOTION TO STRIKE

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1 **I. INTRODUCTION**

2 This lawsuit is Plaintiff Maury Blackman’s attempt to silence Substack for operating a  
3 platform that enables independent journalism. Blackman complains that a journalist used the  
4 platform to publish articles that he does not like, though he does not seriously contest the truth  
5 of those articles. Blackman’s Complaint offers a paradigmatic example of a Strategic Lawsuit  
6 Against Public Participation (SLAPP), which the Legislature passed the anti-SLAPP statute to  
7 combat. Blackman’s case should end here, and Substack should be awarded its fees.

8 Blackman sued because he is upset with Jack Poulson’s reporting. He argues his arrest  
9 for domestic violence was not a matter of public interest. But case after case holds otherwise.  
10 Poulson’s reporting fell within the public interest, including because at the time Blackman was  
11 the CEO of a technology company and a security-cleared government contractor, and because  
12 there was documentation that he engaged in domestic violence—apparently without any negative  
13 impact on his employment or security clearance. Poulson does not cite a single case holding that  
14 discussion of domestic violence was *not* a matter of the public interest.

15 Since Blackman’s arrest was a matter of public interest, the anti-SLAPP statute requires  
16 that he establish a probability of success on the merits. Blackman’s argument reduces to this: the  
17 California statutes that criminalize the possession or dissemination of a sealed arrest report trump  
18 the free speech and free press values at the heart of this case. That argument does not overcome  
19 decades of binding First Amendment and Section 230 precedent.

20 Blackman is the only interested party clinging to the claim that Substack has done  
21 anything wrong here. Blackman’s Complaint is replete with references to Substack’s refusal to  
22 comply with the San Francisco City Attorney’s demand that Substack remove the Arrest Report  
23 from its platform.<sup>1</sup> But the City Attorney has since abandoned any effort to enforce Penal Code,  
24 § 851.92(c) under these circumstances. Following Substack’s filing of its anti-SLAPP motion,  
25 the California Attorney General and the San Francisco City Attorney entered into a stipulation  
26

27  
28 <sup>1</sup> This is the same report referred to in the opening brief as the “Incident Report” and in  
Blackman’s Opposition as the “Sealed Report.”

1 expressly agreeing not to enforce Penal Code, § 851.92(c) as to Blackman’s Arrest Report.<sup>2</sup>

2 That the government has declined to defend the constitutionality of the statute Blackman  
3 seeks to enforce against Substack speaks volumes. Yet Blackman continues to assert his frivolous  
4 claims against Substack. Blackman’s campaign to suppress Poulson’s speech—hosted on  
5 Substack’s platform—should be rejected, and Substack awarded its fees.<sup>3</sup>

6 **II. ARGUMENT**

7 **A. SUBSTACK HAS ESTABLISHED THE FIRST PRONG OF THE ANTI-**  
8 **SLAPP STATUTE.**

9 Blackman does not dispute that Substack’s online platform and Poulson’s newsletter is a  
10 public forum. (Opening Br. at 15.) Thus, for the anti-SLAPP statute to apply, Substack need only  
11 show that publication of the Arrest Report and associated articles were in connection with a  
12 matter of public interest. (See Code Civ. Proc., § 425.16(e)(3); Opening Br. at 14-16.)

13 **1. Blackman Cannot Sidestep Anti-SLAPP Simply By Branding**  
14 **Substack’s Conduct As “Unlawful”.**

15 According to Blackman, because “receiving, possessing, and disseminating” the Arrest  
16 Report is allegedly unlawful under Penal Code, § 851.92, the anti-SLAPP statute categorically  
17 does not apply.<sup>4</sup> (Opp’n Br. at 10 [citing *Flatley v. Mauro* (2006) 39 Cal.4th 299, 320].) But

---

19 <sup>2</sup> (Baskin Reply Decl. Ex. 9 [Stipulation and Order for Entry of Preliminary Injunction ¶ 1,  
20 *First Amendment Coalition v. David Chiu* (N.D.Cal., Dec. 19, 2024) No. 3:24-cv-08343-RFL,  
21 ECF No. 34]; see also Baskin Reply Decl. Ex. 7 [Complaint ¶ 2, *First Amendment Coalition v.*  
22 *David Chiu* (N.D.Cal., Nov. 22, 2024) No. 3:24-cv-08343-RFL, ECF No. 1; Baskin Reply Decl.  
23 Ex. 8 [Redacted Preliminary Injunction Mot., *First Amendment Coalition v. David Chiu*  
24 (N.D.Cal., Nov. 25, 2024) No. 3:24-cv-08343-RFL, ECF No. 11-4].)

25 <sup>3</sup> Additionally, Substack joins in the evidentiary objections being filed today by Defendant  
26 Amazon Web Services, Inc.

27 <sup>4</sup> Blackman also throws in references to Penal Code, §§ 11143 and 166 for this same  
28 argument. (Opp’n at 10.) Section 11143 is just a less-specific version of § 851.92 that applies to  
a broader range of records, and is unconstitutional as applied here for the same reasons. And  
Section 166 is not relevant at all—it is simply a contempt-of-court statute that prohibits “[w]illful  
disobedience of [any] ... order, lawfully issued by a court.” (Penal Code, § 166(a)(4).) Substack  
was never ordered to take down Poulson’s journalism, nor is Substack guilty of contempt of the  
order that sealed the Arrest Report, an order that does not name Substack. (See *People v. Moses*  
(1996) 43 Cal.App.4th 462, 468 [Punishment for ... contempt [under § 166(a)(4)] can rest only  
upon a clear, intentional violation of a specific, narrowly drawn order. Specificity of the order is  
an essential prerequisite of the contempt citation.”].)

1 courts have uniformly rejected Blackman’s proposed bright-line rule that conduct otherwise  
2 protected by the anti-SLAPP statute “lose[s] its coverage simply because it is alleged to have  
3 been unlawful or unethical.” (See, e.g., *San Diegans for Open Gov’t v. San Diego State Univ.*  
4 *Research Found.* (2017) 13 Cal.App.5th 76, 106.) Were it otherwise, the anti-SLAPP statute  
5 would be a dead letter, as strategic actions against public participation *necessarily* target speech  
6 that is alleged to be unlawful or unethical. (See *ibid.* [“The mere fact the plaintiff alleges the  
7 defendant engaged in unlawful conduct does not cause the conduct to lose its protection under  
8 the anti-SLAPP statute.”].) Moreover, the *Flatley* case relied on by Blackman held only that  
9 speech that is “unprotected by constitutional guarantees of free speech and petition”—  
10 specifically, “criminal extortion”—cannot enjoy the benefits of the anti-SLAPP statute. (*Flatley*,  
11 39 Cal.4th at 305 [“extortionate speech is not constitutionally protected”].) Nothing like extortion  
12 happened here. Rather, this case arises from Poulson’s reporting about the violent history of a  
13 powerful man in a position of responsibility—a case within the heartland of First Amendment  
14 protection (see Opening Br. at 16; *ante*, at pp. 4-5), so much so that the State of California and  
15 City Attorney have agreed not to enforce Penal Code, § 851.92 in connection with the Arrest  
16 Report. (Baskin Reply Decl. Ex. 9 ¶ 1.)

17 **2. Poulson’s Article Was Connected With A Matter of Public Interest.**

18 Blackman also argues that the events depicted in the Arrest Report are “purely private  
19 transactions” that do not implicate “an issue of public interest.” (Opp’n Br. at 10.) That does not  
20 reflect the law, which has embraced an expansive construction of the statute that protects  
21 journalism on a range of topics. (*Lieberman v. KCOP Television, Inc.* (2003) 110 Cal.App.4th  
22 156, 164; *Sipple v. Found. for Nat’l Progress* (1999) 71 Cal.App.4th 226, 235.) Blackman argues  
23 his story is not of public interest because: he is not a “nationally known” celebrity; Poulson’s  
24 articles did not “directly affect[] a large number of people”; the Arrest Report was two years old  
25 when it was publicized; and Poulson supposedly focused more on the issue of criminal activity  
26 by the CEO of a technology company than on women’s issues. (Opp’n Br. at 11-13.) But the  
27 anti-SLAPP analysis is not as blinkered as Blackman would have it.

28

1 Courts have held that the anti-SLAPP statute encompasses a broad range of matters as  
2 “public interests,” including “not only governmental matters,”—though the arrest of a contractor  
3 with a security clearance implicates those—“but also private conduct that impacts a broad  
4 segment of society.” (*Damon v. Ocean Hills Journalism Club* (2000) 85 Cal.App.4th 468, 479.)  
5 To that end, courts have repeatedly held that domestic violence is a matter of widespread public  
6 interest, regardless of whether the public is acquainted with the identities of those involved. (See,  
7 e.g., *M.G. v. Time Warner, Inc.* (2001) 89 Cal.App.4th 623, 629 [noting that domestic violence  
8 is “significant and of public interest”]; *Carney v. Santa Cruz Women Against Rape* (1990) 221  
9 Cal.App.3d 1009, 1021 [stating “sexual harassment and violence against women is of pressing  
10 public concern”]; *Coleman v. Grand* (E.D.N.Y. 2021) 523 F.Supp.3d 244, 259 [finding that  
11 “sexual impropriety and power dynamics in the music industry, as in others, were indisputably  
12 an issue of public interest”], appeal filed (2d Cir., Mar. 26, 2021) No. 21-800; cf. *Time, Inc. v.*  
13 *Firestone* (1976) 424 U.S. 448 [no public interest arose solely from the fact that public figures  
14 were involved in a salacious divorce].) Tellingly, Blackman never denies that domestic violence  
15 is a matter of public interest and avoids citing the likes of *Coleman* at all. As for *Sipple*, Blackman  
16 attempts to distinguish the case by pointing out that it involved a “nationally known figure.”  
17 (Opp’n at 11 [citing *Sipple*, 71 Cal.App.4th at 239].) But the case did not turn on that point: the  
18 court held that “[d]omestic violence is an extremely important public issue in our society,” and  
19 emphasized that the anti-SLAPP statute protected an article with the “theme that rich and  
20 powerful men may use the legal system to their advantage over women who may have been  
21 abused by them.” (*Sipple*, 71 Cal.App.4th at 239.)

22 Consequently, even if a person is not a public figure, his conduct and any subsequent  
23 reporting thereon may concern a matter of public interest. Indeed, the Opposition includes several  
24 cases in which the public interest was implicated despite public figures not being involved. In  
25 *M.G.*, the protected speech concerned coverage of several local baseball coaches as well as  
26 minors who had suffered sexual abuse. (89 Cal.App.4th 623.) Likewise, in *Carney*, the dispute  
27 centered on a local organization’s coverage of a private figure accused of rape. (221 Cal.App.3d  
28 1009.) The *Carney* court’s analysis “focused on the broad topic of the newsletter in general,

1 dealing with matters of sexual harassment and assault, rather than the specific accusation that a  
2 private individual committed a specific crime, as a basis for determining that this newsletter  
3 constitutes a matter in the public concern.” (*Id.* at 1021.) It is striking that Blackman cannot cite  
4 a single case where domestic violence was deemed *not* to be a matter of public interest.

5 Here, Poulson’s coverage in an open forum centered on ethical issues in a secretive  
6 industry that is flush with public dollars. (See Opening Br. at 10.) This differentiates Blackman  
7 from other cases, which involved reporting on issues of relevance to a small subset of individuals.  
8 (See *FilmOn.com Inc. v. DoubleVerify Inc.* (2019) 7 Cal.5th 133, 140 [defendant’s reports, which  
9 stated plaintiff’s websites hosted pornography and copyright infringement, were not in the public  
10 interest because they were “generated for profit, exchanged confidentially, [and] without ... any  
11 attempt to participate in a larger public discussion”];<sup>5</sup> *Du Charme v. Int’l Bhd of Elec. Workers*  
12 (2003) 110 Cal.App.4th 107, 119 [statements were of interest only to those affiliated with a local  
13 union].) Poulson’s reporting on Blackman’s arrest for felony domestic violence addressed not  
14 only the prevalent societal ill of violence against women by powerful men, but also the issues  
15 attendant to recipients of major federal defense contracts.

16 In addition, Poulson’s reporting is on a matter of public interest because it relates to  
17 executive conduct at a company with significant government contracts, which is a matter of  
18 public interest. (See generally *Henry v. Lake Charles Am. Press, L.L.C.* (5th Cir. 2009) 566 F.3d  
19 164, 181.) Substack raised this point in its opening brief (at 15), and Blackman simply ignores  
20 it.

21 Poulson’s reporting was not the result of a private spat with Blackman, nor was it intended  
22 to “gather ammunition for another round” of some personal dispute with Blackman, further  
23 distinguishing a raft of cases in the Opposition. (Cf. *Jeppson v. Ley* (2020) 44 Cal.App.5th 845,  
24 855 [“neighborhood row” about a dead cat became the subject of one neighbor’s post on  
25

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26 <sup>5</sup> Blackman cites *FilmOn* to claim that defendants invoking the anti-SLAPP statute “must  
27 establish ... the existence of a ‘functional relationship ... between the speech and the public  
28 conversation.’” (Opp’n Br. at 11 [quoting *FilmOn.com*, 7 Cal.5th at 149-50].) But *FilmOn.com*  
only applies that requirement to Section 425.16(e)(4) of the statute, the catch-all provision. Here,  
Substack relies only on Section 425.16(e)(3), and because the speech here was made in “a public  
forum” (§ 425.16(e)(3)), it is clear that the speech is connected to the public conversation.

1 Nextdoor.com about another neighbor]; *Abuemeira v. Stephens* (2016) 246 Cal.App.4th 1291,  
2 1298 [road-rage incident among neighbors where video of incident was shown to “gather  
3 ammunition” for private dispute]; *Weinberg v. Feisel* (2003) 110 Cal.App.4th 1122 [allegation  
4 of theft of token by one collector against another circulated among coterie of token-collecting  
5 hobbyists]; *Rivero v. Am. Fed’n of State, Cnty., & Mun. Emps., AFL-CIO* (2003) 105 Cal.App.4th  
6 913, 924 [allegation of theft and favoritism by eight janitors against their supervisor.] Rather, it  
7 was a continuation of Poulson’s previous reporting on Blackman’s company and industry—all  
8 of which concerned issues of public interest. (See Opening Br. at 10.) The anti-SLAPP statute  
9 plainly applies.

10 **B. BLACKMAN HAS FAILED TO DEMONSTRATE A PROBABILITY OF**  
11 **PREVAILING ON ANY OF HIS CLAIMS.**

12 Because Substack has made its threshold showing under the first prong of the anti-SLAPP  
13 statute, “the burden shifts to the plaintiff to demonstrate the merit of the claim by establishing a  
14 probability of success.” (*Baral v. Schnitt* (2016) 1 Cal.5th 376, 384.) The Opposition does not  
15 come close to carrying that burden.

16 **1. The First Amendment Bars Blackman’s Claims.**

17 Binding Supreme Court precedent holds that Blackman’s claims cannot survive because  
18 they arise from Poulson “lawfully obtain[ing] truthful information about a matter of public  
19 significance” and then “publi[shing] ... the information” on Substack’s platform. (*Florida Star*  
20 *v. B.J.F.* (1989) 491 U.S. 524, 533; Opening Br. at 17-21 [collecting cases].) Consequently,  
21 Blackman cannot maintain his claims unless they are “need[ed] to further a state interest of the  
22 highest order.” (*Florida Star*, 491 U.S. at 533.) Blackman tries to dodge *Florida Star* (Opp’n Br.  
23 at 15) with makeweight arguments that Substack did not lawfully obtain the Arrest Report, that  
24 Poulson’s articles citing and linking to the Arrest Report are not truthful, and that they are not  
25 about a matter of public significance (Opp’n Br. at 15-18).

26 But *Florida Star* is directly on point. There, as here, the defendant was accused of  
27 breaking state law. There, as here, the defendant was a journalist publishing information obtained  
28 through routine newsgathering. And there, as here, the plaintiff argued that a countervailing

1 interest in privacy justified silencing the press. Blackman offers no reason why a sealed court  
2 document should be treated any differently from the name of a minor victim of sexual assault  
3 (*Florida Star*, 491 U.S. at 533), a rape-murder victim (*Cox Broad. Corp. v. Cohn* (1975) 420  
4 U.S. 469, 495), or the name of a juvenile criminal offender (*Smith v. Daily Mail Publ'g Co.*  
5 (1979) 443 U.S. 97; *Okla. Publ'g Co. v. Okla. Cnty. Dist. Ct.* (1977) 430 U.S. 308). If anything,  
6 those cases were more difficult on the equities: they involved *victims* of heinous crimes or *minors*  
7 charged with offenses, whereas Blackman is an adult who was arrested as the *perpetrator* of  
8 domestic violence. Tellingly, Blackman does not even attempt to distinguish most of the cases  
9 in this line. Substack cited *Oklahoma Publishing*, 430 U.S. 308; *Smith*, 443 U.S. at 97; *Landmark*  
10 *Communications, Inc. v. Virginia* (1978) 435 U.S. 829; *Gates v. Discovery Communications, Inc.*  
11 (2004) 34 Cal.4th 679; and *Jean v. Massachusetts State Police* (1st Cir. 2007) 492 F.3d 24, none  
12 of which were mentioned in Blackman's overlength brief.

13       Indeed, Blackman's own authorities hold that the state cannot punish reporters like  
14 Poulson who lawfully publish information, much less platforms like Substack that have no role  
15 other than to provide a platform for independent journalists. (See *Los Angeles Police Dep't v.*  
16 *United Reporting Publ'g Corp.* (1999) 528 U.S. 32, 40-41 [rejecting facial constitutional  
17 challenge to a statute that was "nothing more than a governmental denial of access to  
18 information" because there was no threat of prosecution or cutoff of funds, and therefore "[no]  
19 possibility that protected speech will be muted"]; *Nicholson v. McClatchy Newspapers* (1986)  
20 177 Cal.App.3d 509, 519-20 ["While the government may desire to keep some proceedings  
21 confidential and may impose the duty upon participants to maintain confidentiality, it may not  
22 impose criminal or civil liability upon the press for obtaining and publishing newsworthy  
23 information through routine reporting[.]"]. Finally, *Phillips ex rel. Estates of Byrd v. G.M. Corp.*  
24 (9th Cir. 2002) 307 F.3d 1206, 1213-14, cited by Blackman, is irrelevant because it did not reach  
25 the First Amendment question.

26       There is no coherent argument that Substack obtained the Arrest Report through unlawful  
27 means. (See Opp'n Br. at 17.) Blackman concedes that Poulson obtained the Arrest Report from  
28 a confidential source then published its contents on Substack. (Compl. ¶ 14; Blackman Decl.

1 [Jan. 14, 2025] ¶¶ 41-42.) He provides no evidence that Poulson, let alone Substack, obtained the  
2 Arrest Report unlawfully.

3 Blackman also fails to present any serious argument that Poulson’s reporting was not  
4 truthful. (See Opp’n Br. at 16-17.) He has never argued that the detailed, percipient account  
5 presented by the officer who drafted the Arrest Report is false, or even misleading.<sup>6</sup> Instead,  
6 Blackman lodges two implausible complaints in his statement of facts. First, he claims that the  
7 articles “falsely imply that Plaintiff was guilty of having engaged” in violent domestic abuse.  
8 (Opp’n Br. at 17.) An implication of guilt might arise whenever a person is arrested for an  
9 offense, but that does not render untruthful the reporting on the undisputed fact that an arrest was  
10 made. Blackman resorts to editorial criticisms of Poulson’s writing style, including Poulson’s  
11 supposed use of “narrative prose” and his failure to present Blackman’s preferred account.  
12 (Opp’n Br. at 8-9.) Ultimately, Blackman’s problem is not with the particulars of Poulson’s  
13 writing; it is that the *concededly accurate* Arrest Report contains many facts that imply his guilt,  
14 like the noises heard by his neighbor, his girlfriend’s initial statements to police, and the blood  
15 the police found on her pillowcase. (*Ibid.*)

16 “[P]unishing truthful publication in the name of privacy” is an “extraordinary measure.”  
17 (*Florida Star*, 491 U.S. at 540.) The State may have some interest in shielding ordinary citizens  
18 from opprobrium for their criminal history, but it cannot rise to an “interest of the highest order.”  
19 (*Bartnicki v. Vopper* (2001) 532 U.S. 514, 545.) Far greater interests than a CEO damaging his  
20 own reputation, such as encouraging survivors to report domestic violence, fall short of this high  
21 bar.

22 **2. Section 230 Bars Blackman’s Claims Against Substack.**

23 All of Blackman’s claims against Substack arise from Poulson’s upload of the Arrest  
24 Report and related articles to Substack’s online service. Substack’s decision not to remove those  
25 user-uploaded materials is a classic example of the claims barred by Section 230(c)(1). (See  
26 Compl. ¶¶ 27-35, 49; Opening Br. at 21-24.) Blackman does not dispute that Substack is an

27 \_\_\_\_\_  
28 <sup>6</sup> *James v. San Jose Mercury News, Inc.* (1993) 17 Cal.App.4th 1, does not help Blackman. There the implied negative facts were held not to be provably false, and summary judgment for the defendant was affirmed. (See Opp’n Br. at 16.)

1 “interactive computer service” (47 U.S.C. § 230(c)(1)), and that if Section 230 applies, it would  
2 bar all his claims against Substack (Opp’n Br. at 18-21). To evade Substack’s federal immunity  
3 and preserve his claims, Blackman offers two arguments. Neither is consistent with case law.

4 **First**, Blackman asks this Court to set aside binding precedent and ignore the broad  
5 consensus among courts regarding Section 230.<sup>7</sup> As a general interpretive matter, he opines that  
6 Section 230(c)(1) is “a narrow limitation on liability,” “[c]ontrary to the approaches taken by  
7 many courts.” (Opp’n Br. at 18.) Blackman fails to mention that the “many courts” include the  
8 California Supreme Court (see, e.g., *Hassell v. Bird* (2018) 5 Cal.5th 522), the California Court  
9 of Appeals (see, e.g., *Doe II v. MySpace Inc.* (2009) 175 Cal.App.4th 561, 573), the U.S. Court  
10 of Appeals for the Ninth Circuit (see, e.g., *Fair Hous. Council of San Fernando Valley v.*  
11 *Roommates.com, LLC* (9th Cir. 2008) 521 F.3d 1157, 1170-71 (en banc)), and the federal district  
12 courts of California (see, e.g., *Coffee v. Google, LLC* (N.D.Cal., Feb. 10, 2021, No. 20-cv-03901-  
13 BLF) 2021 WL 493387, at \*8). Ignoring the case law in Substack’s opening brief, Blackman  
14 announces—without authority—that Section 230 applies only to a few “specific circumstances.”  
15 (Opp’n Br. at 19.)

16 Not so. “[A]ny activity” by an interactive computer service provider “that can be boiled  
17 down to deciding whether to exclude material that third parties seek to post online is perforce  
18 immune under section 230” (*Roommates.com*, 521 F.3d at 1170-71), and this bars a broad range  
19 of claims regardless of their labels (Opening Br. at 22-23 [collecting cases]).

20 **Second**, Blackman argues that the issue is not actually the publication of the Arrest  
21 Report, but rather Substack’s *possession* of it, which he spins as an independent basis of liability  
22 that is not barred by Section 230. According to Blackman, Substack’s only relevant duty is not  
23 to violate statutes like Penal Code, § 851.92(c) that forbid Substack from “being in receipt and  
24 possession of the Sealed Report.” (Opp’n Br. at 20.) Blackman’s possession theory does not strip  
25 Substack of its Section 230 protection. (*Doe #1 v. Twitter, Inc.* (9th Cir., May 3, 2023, No. 22-  
26 15103) 2023 WL 3220912, at \*2 [“[T]he district court correctly ruled that section 230 precluded  
27

28 <sup>7</sup> It is revealing that Blackman resorts to reliance on the *dissent* in *Hassell*—not the opinion  
of the court—in an effort to escape Section 230. (Opp’n Br. at 21.)



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Dated: January 28, 2024

WILSON SONSINI GOODRICH & ROSATI  
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County of San Francisco  
**01/28/2025**  
Clerk of the Court  
BY: ERNALYN BURA  
Deputy Clerk

8  
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 COUNTY OF SAN FRANCISCO

11  
12 MAURY BLACKMAN, an individual, ) CASE NO.: CGC-24-618681  
13 Plaintiff, )  
14 v. ) **REPLY DECLARATION OF JOSHUA**  
15 ) **A. BASKIN IN FURTHER SUPPORT OF**  
16 ) **REPLY TO PLAINTIFF'S OPPOSITION**  
17 ) **TO SPECIAL MOTION TO STRIKE**  
SUBSTACK, INC., a Delaware corporation; ) **PLAINTIFF'S COMPLAINT AND**  
18 ) **DEFENDANT'S DEMURRER TO**  
AMAZON WEB SERVICES, INC., a ) **COMPLAINT**  
19 )  
20 )  
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22 )  
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24 )  
25 )  
26 )  
27 )  
28 )  
Defendants. )  
Date: February 4, 2025  
Time: 9:30a.m.  
Dept: 301  
Before: Hon. Christine Van Aken  
Action Filed: October 3, 2024  
Trial Date: None Set

BASKIN REPLY DECLARATION IN FURTHER SUPPORT OF DEFENDANT'S SPECIAL MOTION TO STRIKE AND DEFENDANT'S DEMURRER TO COMPLAINT

Document received by the CA 1st District Court of Appeal.

1 I, Joshua A. Baskin, declare and state as follows:

2 1. I am a Partner at Wilson Sonsini Goodrich & Rosati, Professional Corporation  
3 (“WSGR”), counsel for Defendant Substack, Inc. (“Substack”) in this litigation. I make this  
4 declaration of my personal knowledge obtained in my capacity as attorney of record for Substack  
5 and, if called as a witness, I could and would competently testify thereto.

6 2. I submit this declaration in support of Defendant’s Reply to Plaintiff’s Oppositions  
7 to the Special Motion to Strike Plaintiff’s Complaint and Defendant’s Demurrer to Complaint,  
8 which are being concurrently filed with this Declaration.

9 3. Attached as Exhibit 7 is a true and correct copy of the Complaint in *First*  
10 *Amendment Coalition v. David Chiu* (N.D. Cal. Dec. 19, 2024) Case No. 3:24-cv-08343-RFL, Dkt.  
11 No. 1.

12 4. Attached as Exhibit 8 is a true and correct copy of the Redacted Preliminary  
13 Injunction Motion in *First Amendment Coalition v. David Chiu* (N.D. Cal. Nov. 25, 2024) Case  
14 No. 3:24-cv-08343-RFL, Dkt. No. 11-4.

15 5. Attached as Exhibit 9 is a true and correct copy of the Stipulation and Order for  
16 Entry of Preliminary Injunction in *First Amendment Coalition v. David Chiu* (N.D. Cal. Dec. 19,  
17 2024) Case No. 3:24-cv-08343-RFL, Dkt. No. 34.

18 I declare under penalty of perjury under the laws of the State of California that the  
19 foregoing is true and correct and that this declaration was executed on January 28, 2025 in  
20 Burbank, California.

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WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation

By: /s/ Joshua A. Baskin  
Joshua A. Baskin  
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Attorney for Defendant  
Substack, Inc.

# EXHIBIT 7

Document received by the CA 1st District Court of Appeal.

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25 *Attorneys for Plaintiffs*  
26 \* Pro hac vice application forthcoming

27 **UNITED STATES DISTRICT COURT**  
28 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

FIRST AMENDMENT COALITION,  
VIRGINIA LAROE, and EUGENE  
VOLOKH,

Plaintiffs,

v.

DAVID CHIU, in his official capacity as  
City Attorney of San Francisco; and  
ROB BONTA, in his official capacity as  
Attorney General of California,

Defendants.

Civil Case No. 3:24-cv-08343

**COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF FOR  
CIVIL-RIGHTS VIOLATIONS**

**INTRODUCTION**

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1. California Penal Code § 851.92(c) prohibits almost any person—whether journalist, advocate, activist, lawyer, victim, or witness—from disseminating any information “relating to” a sealed arrest record.

2. In doing so, Penal Code § 851.92(c) forbids speaking or writing about information from sealed arrest records even by those who learn of that arrest through lawful means, like reading records the government provides, reading about the arrest in the newspaper, or even witnessing the arrest.

3. But the First Amendment does not permit the government to punish a speaker for conveying information of public concern the speaker already lawfully possesses.

4. The First Amendment prohibits such punishment even if the information might be embarrassing to an influential member of the community.

5. Penal Code § 851.92(c), California’s anti-dissemination statute, ignores those clear First Amendment limits, imposing a civil penalty of up to \$2,500 for each utterance—a penalty the Attorney General or any City Attorney can enforce.

6. By itself, the anti-dissemination statute threatens a host of protected speech on important public issues.

7. Presently, the San Francisco City Attorney is using the anti-dissemination statute to chill journalists and publishers from reporting on the arrest of the now-former CEO of a controversial tech company. After the San Francisco Police Department shared that information in response to a public record request, the CEO enlisted the City Attorney in a joint effort to try to put the horse back in the barn by having the City Attorney’s office repeatedly send letters, “pursuant to” the anti-dissemination statute, demanding censorship of articles about the arrest.

8. Plaintiffs are a First Amendment advocacy group that champions press rights, its director of public advocacy, and the publisher of a well-known legal blog who frequently writes about censorship campaigns like the one now being undertaken by the CEO and City Attorney. Plaintiffs credibly fear the City Attorney will enforce the anti-dissemination

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1 statute’s civil penalty against them for publishing the same materials the City Attorney has  
2 targeted in recent weeks.

3 9. Plaintiffs therefore bring this action to enjoin Defendants from enforcing the  
4 anti-dissemination statute against speech the First Amendment undoubtedly protects.

5 **THE PARTIES**

6 ***Plaintiffs***

7 10. Plaintiff First Amendment Coalition (“FAC”) is a San Rafael-based,  
8 nonpartisan, public-interest nonprofit dedicated to protecting and promoting a free press,  
9 freedom of expression, and the people’s right to know.

10 11. FAC advocates for expressive freedom, including through public commentary  
11 and open letters.

12 12. Plaintiff Virginia LaRoe is FAC’s Advocacy Director, known professionally as  
13 Ginny LaRoe. In that role, LaRoe and other staff speak in the press about current threats to  
14 the free press, including through policies like the anti-dissemination statute.

15 13. Plaintiff Eugene Volokh is a Senior Fellow at the Hoover Institution at  
16 Stanford University, and a Professor of Law Emeritus at UCLA School of Law. He specializes  
17 in the First Amendment and related topics, and routinely publishes and comments on access  
18 to government records, defamation, and anonymous litigants.

19 14. For over 20 years, Volokh has edited and written a legal blog, *The Volokh*  
20 *Conspiracy*, which is now hosted by *Reason Magazine* at <https://reason.com/volokh>.

21 ***Defendants***

22 15. Defendant David Chiu is the elected City Attorney for the City and County of  
23 San Francisco. In this role, he “[r]epresent[s] the City and County in legal proceedings.” S.F.  
24 Charter § 6.102(1). Additionally, “[w]henever a cause of action exists in favor of the City and  
25 County,” he must “commence legal proceedings when such action is within [his] knowledge  
26 . . . or when directed to do so by the Board of Supervisors, except for the collection of taxes  
27 and delinquent revenues.” *Id.* § 6.102(3); *see also* Cal. Gov. Code § 41803.  
28

1 16. Defendant Chiu is a final policymaker for the City of San Francisco, which has  
2 made the purposeful decision to enforce California Penal Code § 851.92(c).

3 17. Defendant Rob Bonta is the elected Attorney General of California. Under  
4 Article 5, Section 13 of the California Constitution, he is the “chief law officer of the State,”  
5 with the duty to “see that the laws of the State are uniformly and adequately enforced.” This  
6 provision grants him “direct supervision over every district attorney and sheriff and over  
7 such other law enforcement officers as may be designated by law.” *Id.*; see Cal. Gov’t Code  
8 §§ 12524, 12560.

9 18. California Penal Code § 851.92(c) provides that its civil penalty may be  
10 imposed by “a city attorney, district attorney, or the Attorney General,” authorizing each of  
11 the Defendants to seek a civil penalty against any of the Plaintiffs for their intended speech.

12 19. All Defendants are sued in their official capacities only.

13 **JURISDICTION**

14 20. This action arises under the First and Fourteenth Amendments to the United  
15 States Constitution. It is brought under the Civil Rights Act of 1871, 42 U.S.C. §§ 1983 and  
16 1988, and the Declaratory Judgments Act, 28 U.S.C. §§ 2201–02.

17 21. Plaintiffs seek declaratory and injunctive relief against the Defendants.

18 22. Accordingly, this Court has subject-matter jurisdiction under 28 U.S.C. § 1331  
19 and § 1343(a)(4).

20 23. Venue is proper in the Northern District of California under 28 U.S.C.  
21 § 1391(b)(1) because at least one of the Defendants resides in this District and all Defendants  
22 reside in California.

23 24. Venue is also proper in this judicial district under 28 U.S.C. § 1391(b)(2)  
24 because a substantial part of the events and omissions giving rise to Plaintiffs’ claims  
25 occurred within this District.

26 **DIVISIONAL ASSIGNMENT**

27 25. Assignment to the San Francisco Division is appropriate under Civil Local Rule  
28 3-2(c)–(d) because a substantial part of the events giving rise to this action, including the

1 San Francisco City Attorney’s threats to enforce the anti-dissemination statute, occurred in  
2 the City and County of San Francisco.

3 **FACTUAL ALLEGATIONS**

4 ***California’s anti-dissemination statute.***

5 26. California Penal Code § 851.92 specifies certain measures that take effect when  
6 arrest records are sealed pursuant to other statutes.

7 27. When a court grants a petition to seal records, the statute requires criminal  
8 justice agencies to stamp arrest records with the words “ARREST SEALED: DO NOT  
9 RELEASE OUTSIDE THE CRIMINAL JUSTICE SECTOR.” Cal. Penal Code § 851.92(b)(3).

10 28. Criminal justice agencies are permitted to continue to “furnish” the record to  
11 other criminal justice agencies and to discuss “in open court and in unsealed court filings”  
12 the information relating to a sealed arrest. Cal. Penal Code § 851.92(b)(6).

13 29. The statute broadly defines “criminal justice agency” to include agencies  
14 involved in law-enforcement, courts, and individuals within the criminal justice system,  
15 including police, investigators, and other law-enforcement officers. Cal. Penal Code  
16 § 851.92(d)(4).

17 30. Section 851.92(c) provides for a civil penalty against any entity or person other  
18 than a “criminal justice agency or the person whose arrest was sealed” that disseminates  
19 information relating to a sealed arrest, by providing that:

20 Unless specifically authorized by this section, a person  
21 or entity, other than a criminal justice agency or the  
22 person whose arrest was sealed, *who disseminates*  
23 *information relating to a sealed arrest* is subject to a  
24 civil penalty of not less than five hundred dollars  
25 (\$500) and not more than two thousand five hundred  
26 dollars (\$2,500) per violation. The civil penalty may be  
27 enforced by a city attorney, district attorney, or the  
28 Attorney General. This subdivision does not limit any  
existing private right of action. A civil penalty imposed  
under this section shall be cumulative to civil remedies  
or penalties imposed under any other law.

Cal. Penal Code § 851.92(c) (emphasis added).

1 **Media coverage of a tech CEO at the center of a controversy over**  
2 **involvement with U.S. intelligence agencies.**

3 31. A San Francisco-based company developed a phone app that allowed  
4 companies to pay users around the globe to collect information.

5 32. After the company hired a new CEO, it began to market its services and app to  
6 military and intelligence agencies in Washington, D.C., as a means of gathering intelligence  
7 in foreign countries and hostile areas through crowdsourcing (*i.e.*, gathering information  
8 from a significant number of users, often unpaid or marginally compensated).

9 33. The CEO and the company drew significant public attention due to this  
10 practice, including news reports from national media outlets in the United States and the  
11 United Kingdom.

12 34. A book about the intersection of intelligence agencies and Silicon Valley,  
13 published in 2024 by one of the largest publishers in the United States, dedicated a chapter  
14 to the CEO and the company.

15 35. The CEO has a security clearance issued by the United States Department of  
16 Defense.

17 36. Persons with a security clearance are required to self-report any arrest, as  
18 embarrassing arrests can be exploited by other states' intelligence agencies to gain access to  
19 sources and information. Nat'l Security Adjudicative Guidelines, Security Exec. Agent  
20 Directive 3, at G(2)(c) (effective June 8, 2017), [https://www.dni.gov/files/NCSC/  
21 documents/Regulations/SEAD-3-Reporting-U.pdf](https://www.dni.gov/files/NCSC/documents/Regulations/SEAD-3-Reporting-U.pdf).

22 **After the San Francisco Police Department releases an arrest report in**  
23 **response to a public record request, the CEO takes action to suppress a**  
24 **journalist's reporting.**

25 37. In or about February 2022, the CEO petitioned a California state court to seal  
26 an arrest report documenting his arrest.

27 38. The California state court granted the CEO's petition to seal the arrest.

28 39. Nevertheless, the San Francisco Police Department subsequently released the  
arrest report in response to a public record request under the California Public Records Act.

1 40. On information and belief, the San Francisco Police Department failed to mark  
2 the arrest report with the stamp required by California Penal Code section 851.92(b)(3):  
3 “ARREST SEALED: DO NOT RELEASE OUTSIDE THE CRIMINAL JUSTICE SECTOR.”

4 41. In the fall of 2023, a journalist posted a report on his website disclosing the  
5 arrest, sharing a redacted copy of the San Francisco Police Department arrest report.

6 42. The journalist received the arrest report unsolicited from a confidential source.

7 43. The journalist had repeatedly written about the company and its CEO, and  
8 their relationships with intelligence agencies, before writing about the arrest report.

9 44. On information and belief, the journalist does not reside in the City of San  
10 Francisco.

11 45. Before publishing his report, the journalist contacted the San Francisco Police  
12 Department, which confirmed the arrest report as genuine.

13 46. The San Francisco Police Department did not inform the journalist that the  
14 arrest report had been sealed.

15 47. The arrest report the journalist published did not bear the “ARREST SEALED”  
16 stamp required by California Penal Code section 851.92(b)(3).

17 48. Several weeks after the journalist wrote about the arrest report, the CEO  
18 resigned from the company.

19 49. After the journalist published his report, he also reported that a person  
20 claiming to act on behalf of the CEO:

- 21 a. Offered to pay the journalist to remove his reporting in exchange for  
22 money;
  - 23 b. Contacted a company hosting the journalist’s website, claiming the  
24 posts violated the host’s policies; and
  - 25 c. Sent a Digital Millennium Copyright Act notice claiming a copyright in  
26 the San Francisco Police Department arrest report and demanding its  
27 removal.
- 28

1 50. More than one year after the journalist’s report, the now-former CEO filed a  
2 pseudonymous state court action against the journalist and two companies that host his  
3 website.

4 ***At the CEO’s behest, the San Francisco City Attorney repeatedly pressures***  
5 ***the journalist and his webhost, citing the anti-dissemination statute.***

6 51. Shortly before the now-former CEO filed his lawsuit, an attorney acting on his  
7 behalf contacted the office of the San Francisco City Attorney.

8 52. On September 19, 2024, a Deputy City Attorney sent a letter to one of the  
9 companies hosting the journalist’s website.

10 53. The deputy sent the September 19 letter “[p]ursuant to California Penal Code  
11 section 851.92(c).”

12 54. The September 19 letter stated that “we expect you will immediately remove  
13 the Incident Report and its contents from your website.”

14 55. The September 19 letter demanded that the company “alert us when the  
15 documents [sic] and its contents have been taken down from your website by no later than  
16 September 23, 2024.”

17 56. The September 19 letter instructed the company to “refrain from publishing  
18 this material in the future.”

19 57. When the company did not do so, the former CEO personally contacted the  
20 Deputy City Attorney to solicit “continued efforts in notifying” the company.

21 58. On October 3, 2024, an attorney for the former CEO sent a letter to the City  
22 Attorney, Defendant David Chiu.

23 59. That same day, Chiu’s deputy sent a second letter to the company.

24 60. The second letter to the company complained that the company’s “inadequate”  
25 response fell short of what “court orders” required, namely removal of both the arrest report  
26 and also “posts related to” the arrest report.

27 61. On that same day, the Deputy City Attorney sent a third letter concerning the  
28 matter to an attorney for the journalist.

1 62. The Deputy City Attorney sent the third letter “[p]ursuant to” the anti-  
2 dissemination statute.

3 63. In the third letter, the Deputy City Attorney warned that “we expect” removal  
4 of “this material” from the internet “immediately.”

5 64. On October 4, 2024, the ex-CEO’s attorney emailed the Deputy City Attorney,  
6 sharing his “hope that your office will continue to help us in our efforts to enforce these  
7 various laws designed to protect” the ex-CEO.

8 ***The anti-dissemination statute is chilling The First Amendment Coalition’s***  
9 ***efforts to protect freedom of the press through public advocacy and***  
10 ***commentary.***

11 65. Plaintiff FAC and its Director of Advocacy, Plaintiff Virginia “Ginny” LaRoe,  
12 engage in public advocacy to defend the First Amendment rights of the press and public.

13 66. FAC and LaRoe frequently share their analyses of current events and policies  
14 with the public, including through writing about these issues on FAC’s own website or in  
15 opinion pieces published in media outlets, in open letters, and in position papers.

16 67. FAC is based in San Rafael and primarily focuses its advocacy efforts on threats  
17 to expressive freedom and transparency in California.

18 68. On behalf of FAC, LaRoe co-authored an opinion piece critical of the CEO’s  
19 censorship campaign and the City Attorney’s participation in it.

20 69. The opinion piece contains information about the sealed arrest record, which  
21 has been reported on publicly, both by the journalist and at least one other news outlet.

22 70. A San Francisco newspaper published the opinion piece.

23 71. FAC and LaRoe’s intended audience is primarily based in the Bay Area, and  
24 San Francisco residents make up a substantial portion of the readership of the opinion piece  
25 and their similar future commentary.

26 72. FAC and LaRoe are concerned that they will be subject to a civil penalty for  
27 their published opinion piece.  
28

1 73. FAC and LaRoe are also concerned that they will be subject to a civil penalty  
2 (whether for the first time or in addition to a penalty due to their published piece) for future  
3 speech.

4 74. FAC and LaRoe are further chilled from republishing or commenting on the  
5 CEO's censorship campaign and the City Attorney's participation in it because the anti-  
6 dissemination statute provides for a civil penalty for each dissemination. Cal. Penal Code  
7 § 851.92(c).

8 75. On behalf of FAC, LaRoe has drafted and would like to send a public letter to  
9 San Francisco City Attorney David Chiu and to other officials criticizing the existence of and  
10 application of California Penal Code section 851.92(c) to the journalist.

11 76. FAC and LaRoe intend for the drafted letter to reach a wider audience in San  
12 Francisco and California more broadly.

13 77. The letter LaRoe drafted includes more detailed information about the sealed  
14 arrest report that was not included in the opinion piece previously published, emphasizing  
15 the manner in which the statute frustrates reporting on matters of public concern.

16 78. FAC and LaRoe are similarly situated to the journalist who reported on the  
17 CEO's censorship campaign, in that they have published and intend to again publish the  
18 same information that drew multiple demand letters from the City Attorney.

19 79. But for the anti-dissemination statute, FAC and LaRoe would send and publish  
20 the open letter to the San Francisco City Attorney, as well as publish additional information  
21 and content on their website, in media outlets, and on social media, containing information  
22 about the sealed arrest report and directed to a San Francisco audience.

23 80. FAC and LaRoe are also concerned that they will be asked for comment on the  
24 First Amendment issues raised by the dispute and will be unable to provide their accurate  
25 opinion as to the facts and the law.  
26  
27  
28

1 ***The anti-dissemination statute prevents Volokh from publishing articles and***  
2 ***the sealed arrest report.***

3 81. Plaintiff Volokh publishes an online legal blog, the *Volokh Conspiracy*, which  
4 is affiliated with *Reason Magazine*.

5 82. Volokh frequently writes about the First Amendment and public access to  
6 court records. Among other topics, he frequently covers in particular:

- 7 a. Efforts to remove content from the internet through the use of court  
8 orders, copyright takedown notices, and similar complaints;
- 9 b. Anonymous or pseudonymous litigation (*i.e.*, suits brought by John or  
10 Jane Does);
- 11 c. Defamation lawsuits involving peculiar or dubious theories; and
- 12 d. The use of civil harassment injunctions to suppress speech directed to  
13 the public.

14 83. Volokh routinely posts and links to source documents to inform his readers  
15 and to assure them that his accounts are accurate and credible.

16 84. Plaintiff Volokh thus frequently writes about, and posts source documents  
17 relating to, matters like the actions of the ex-CEO and the City Attorney described in this  
18 Complaint.

19 85. Volokh wants to write in detail about the lawsuit and controversy related to the  
20 journalist's publication about the CEO, including the CEO's name and details from the  
21 arrest.

22 86. Consistent with his past practice, Volokh wants to link to the publicly available  
23 arrest report, or to publish it in the event it is removed from other sources.

24 87. But for the anti-dissemination statute, Volokh would have already written  
25 about the events described in this Complaint and shared a copy of the publicly available  
26 arrest report.

27 88. A substantial number of readers of the *Volokh Conspiracy*, where Volokh  
28 intends to disseminate this information, reside in the City of San Francisco.

1 89. Volokh’s commentary will criticize the conduct of San Francisco officials in  
2 threatening to enforce the anti-dissemination statute.

3 90. But Volokh is not publishing anything about the lawsuit, controversy, or arrest  
4 report, because he is concerned that he may be subject to the anti-dissemination statute’s  
5 civil penalty.

6 91. Moreover, because Volokh is a California attorney, he does not want to violate  
7 the California Penal Code, particularly considering Rule 8.4(d) of the California Rules of  
8 Professional Conduct, which makes it “professional misconduct” to “engage in conduct that  
9 is prejudicial to the administration of justice.”

10 92. While Volokh believes that disclosing lawfully obtained sealed arrest records  
11 is protected by the First Amendment and consistent with the administration of justice, the  
12 anti-dissemination statute appears to embody the contrary view. Volokh wishes to challenge  
13 the law before it is enforced rather than being required to risk enforcement as the sole means  
14 of seeking relief.

15 **INJURY TO PLAINTIFFS AND TO THE PUBLIC**

16 93. Plaintiffs are chilled from writing, publishing, or speaking about matters of  
17 public concern arising from the CEO’s censorship campaign and the City Attorney’s support  
18 of that campaign.

19 94. Because of the anti-dissemination statute and the City Attorney’s credible  
20 threats to enforce the statute, each Plaintiff has refrained from publishing articles or  
21 information about the arrest (and related controversy) or otherwise limited their public  
22 comments on the matter despite wanting to publish materials that contain information  
23 relating to the sealed report.

24 95. That chill inures to the detriment of not only Plaintiffs but also the general  
25 public, which benefits from the informed commentary of scholars and advocates, like  
26 Plaintiffs, with expertise in these matters of public concern.

27 96. The chill also extends to others who wish to disseminate lawfully obtained  
28 information about sealed arrests, including the sealed arrest at issue here. Journalists, crime

1 victims and their advocates, commentators on court proceedings, and criminal justice  
2 researchers are just some of the many who engage in the protected speech the anti-  
3 dissemination statute threatens.

4 97. The statute’s complete lack of constitutional guardrails vests unfettered  
5 discretion in officials like Defendants to enforce the statute’s civil penalties, creating a tool  
6 for officials to wield those penalties to silence unfavorable facts about the government or  
7 those with whom it works, as the City Attorney’s efforts here show.

8 98. That risk is illustrated by the City Attorney’s efforts to suppress information  
9 that has been publicly available for some time and, among other things, (a) reveals that the  
10 San Francisco Police Department (an agency for which the City Attorney provides legal  
11 representation) mishandled information in violation of a court order and state law; and (b) is  
12 embarrassing to a local executive.

13 99. That threat of arbitrary enforcement only deepens the statute’s chilling effects  
14 on a range of reporting on matters about sealed arrests, as members of the public are left to  
15 guess whether they will face financial penalties for truthfully reporting newsworthy facts that  
16 they lawfully acquire.

17 100. The statute’s chill, which the City Attorney’s threats have amplified, is  
18 currently causing irreparable harm. News reporting concerns *current* events, and the time  
19 to litigate the constitutionality of the statute through trial, if necessary, will continue to chill  
20 Plaintiffs, and others like them, from reporting on developments in this or similar disputes.

21 **CLAIMS**

22 **FIRST CLAIM**

23 **First Amendment Violation—Content-Based Speech Regulation**  
24 **(42 U.S.C. § 1983)**  
25 **(Facial and As-Applied Challenge Against All Defendants in their Official**  
26 **Capacities)**

27 101. Plaintiffs re-allege and re-incorporate the preceding paragraphs as though  
28 fully set forth herein.

1 102. The First Amendment generally prohibits state statutes that target speech  
2 based on the speech’s content.

3 103. By imposing civil penalties for “disseminating information,” the statute targets  
4 speech—and only speech.

5 104. And by prohibiting speech that is “related to a sealed arrest report,” Cal. Penal  
6 Code § 851.92(c) penalizes speech based on its content, targeting the subject matter of the  
7 speech and requiring reference to the speech’s content to determine whether it falls within  
8 the statute.

9 105. Because this content-based restriction penalizes the “dissemination” of  
10 lawfully obtained “information related to a sealed arrest report,” it targets an expansive  
11 range of speech about matters of public concern, all of which the First Amendment protects.

12 106. Cal. Penal Code § 851.92(c) is presumptively unconstitutional on its face and  
13 subject to strict scrutiny, to the extent it regulates disseminating lawfully obtained  
14 information about sealed arrests. The statute violates the First Amendment in all of its  
15 applications to that range of expressive activity.

16 107. Likewise, Cal. Penal Code § 851.92(c) is presumptively unconstitutional as  
17 applied to each Plaintiff.

18 108. The statute threatens Volokh’s protected speech because he intends to publish  
19 commentary on a pending civil lawsuit and controversy based on a sealed arrest report  
20 involving a defense contractor with a federal security clearance, consistent with his regular  
21 commentary on disputes involving government records, the First Amendment, and lawsuits  
22 targeting exercises of free speech. Volokh intends to include a lawfully obtained copy of the  
23 sealed arrest report that exists in the public domain and to discuss the report’s contents.

24 109. The statute threatens FAC’s and LaRoe’s protected speech, because they intend  
25 to publish and comment on the same civil lawsuit and controversy as part of their regular  
26 advocacy for the First Amendment, press freedoms, and government transparency. As part  
27 of their publication and commentary, FAC and its staff may need to share a publicly available  
28 copy of the sealed arrest report and will need to be able to discuss its contents.

1 110. Cal. Penal Code § 851.92(c) fails strict scrutiny.

2 111. The State has no compelling governmental interest in penalizing the  
3 dissemination of lawfully obtained information about a sealed arrest that involves a matter  
4 of public concern.

5 112. Nor is the statute the least restrictive means of achieving any government  
6 interest.

7 113. Alternatively, if the State’s interest lies in regulating how consumer reporting  
8 agencies share sealed arrest information, as asserted in the statute’s legislative history, a  
9 blanket penalty on *anyone* who shares that information—including the press, scholars,  
10 advocates, and crime watchdogs—is far from the least restrictive means of achieving that  
11 interest.

12 114. If the State’s interest lies in protecting the reputation of arrestees, it has  
13 already passed and enforced regulations requiring government officials to safeguard sealed  
14 information. Yet with Cal. Penal Code § 851.92(c), the State exempts those officials from civil  
15 penalty when they breach their duty.

16 115. Cal. Penal Code § 851.92(c) is not the least restrictive means to advance any  
17 governmental interest, let alone narrowly tailored to address that interest. For instance, the  
18 statute lacks any element requiring intent to use sealed arrest information for unlawful  
19 means, and it lacks any exception for journalistic and similarly protected activities centered  
20 on publishing or sharing lawfully acquired information about sealed arrests.

21 116. Because Cal. Penal Code § 851.92(c) fails strict scrutiny in every or almost  
22 every application to the dissemination of lawfully acquired sealed arrest information, it is  
23 facially unconstitutional as to that range of First Amendment protected activity.

24 117. Because Cal. Penal Code § 851.92(c) fails strict scrutiny as applied to Plaintiffs’  
25 protected First Amendment activities, it also violates the First Amendment as applied to  
26 each of them.

27 118. There is a substantial threat that Defendants will enforce Cal. Penal Code  
28 § 851.92(c) now and in the future.

1 119. Because California Penal Code § 851.92(c) is a content-based regulation on  
2 protected speech, Plaintiffs are suffering and will continue to suffer irreparable injury,  
3 including loss of their First Amendment right to publish lawfully gathered information on  
4 matters of public concern and their due process right to have sufficient notice of the statute’s  
5 reach.

6  
7 **SECOND CLAIM**  
8 **First Amendment Violation—Facial Overbreadth**  
9 **(42 U.S.C. § 1983)**  
10 **(Against All Defendants in their Official Capacities)**

11 120. Plaintiffs re-allege and re-incorporate the preceding paragraphs as though  
12 fully set forth herein.

13 121. Cal. Penal Code § 851.92(c) prohibits a substantial amount of protected  
14 expression, under the pain of civil penalty.

15 122. Cal. Penal Code § 851.92(c) prohibits “any person or entity” from  
16 “disseminat[ing] information relating to a sealed arrest.”

17 123. Cal. Penal Code § 851.92(c) does not include an intent, recklessness, or  
18 negligence requirement.

19 124. Thus, Cal. Penal Code § 851.92(c) applies to an expansive range of speech that  
20 addresses a matter of public concern, without regard to the speaker’s state of mind or  
21 whether the speaker lawfully obtained the information disseminated.

22 125. If Cal. Penal Code § 851.92(c) has any plainly legitimate sweep, it is  
23 exceedingly narrow, applying to:

- 24 a. persons who obtain information through independently unlawful  
25 conduct like theft or blackmail, then disseminate it; and
- 26 b. the few non-exempt government employees who obtain information  
27 through their employment and then disseminate it.

28 126. By excluding “criminal justice agencies” from the statute’s reach, the statute  
excludes government employees and contractors who fail to safeguard sealed arrest

1 information from the statute’s civil penalties, in turn excluding potentially constitutional  
2 applications from the statute’s sweep.

3 127. Cal. Penal Code § 851.92(c) exempts from the civil penalty (1) “the person  
4 whose arrest was sealed” or (2) a “criminal justice agency,” defined to include:

- 5 a. Any “agency at any level of government that performs, as its principal  
6 function, activities relating to” criminal law-enforcement  
7 (§ 851.92(d)(4));
- 8 b. California state courts (§ 851.92(d)(4)(A));
- 9 c. Police officials, police officers, probation officers, parole officers  
10 (§ 851.92(d)(4)(B), (F), (G) & (J));
- 11 d. Any person employed by the investigation division of the Department  
12 of Consumer Affairs or the state Dental Board (§ 851.92(d)(4)(B) &  
13 § 830.3(a));
- 14 e. Prosecutors, including district attorneys and city attorneys  
15 (§ 851.92(d)(4)(C)–(E));
- 16 f. Criminal defense attorneys, including public defenders  
17 (§ 851.92(d)(4)(H)); and
- 18 g. Investigators employed by prosecutors or defense attorneys  
19 (§ 851.92(d)(4)(I)).

20 128. Whatever legitimate sweep the statute has—if any—does not approach the  
21 number of the statute’s abundant unconstitutional applications, which vastly outweigh the  
22 lawful applications.

23 129. The statute ensnares not only Plaintiffs’ protected speech, but also the  
24 protected speech of other members of the press, criminal justice and government  
25 transparency advocates, academics, legal commentators, community watchdogs, witnesses,  
26 victims, and anyone else who lawfully obtains information about a sealed arrest and wishes  
27 to share it. And as the crime and courts pages of any California newspaper or online news  
28 source show, publishing information about arrests is a routine occurrence in California and  
elsewhere.

130. The statute is so unbounded that it prohibits sharing information about a  
sealed arrest that has made its way into the public domain.

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131. By way of example, the statute’s plain language would (and does) reach:

- a. Plaintiffs’ republication or description of an arrest report obtained from public reporting;
- b. A journalist’s publication of a sealed arrest report negligently provided to her by a police department in response to a public record request;
- c. The republication (for example, by LexisNexis or Westlaw) of a published decision of an appellate court concerning the underlying arrest;
- d. A newspaper’s editorial about a political figure whose arrest was widely publicized before it was sealed;
- e. Statements by a victim of or witness to a crime to friends, family, or a mental health professional concerning the circumstances of the now-sealed arrest;
- f. Statements by a victim or a witness to a crime to a journalist, and the journalist’s publication of that account, concerning the circumstances of the now-sealed arrest; and
- g. A social media user’s post sharing an article concerning the circumstances of a sealed arrest.

132. California’s choice to deliberately shrink the potentially legitimate sweep of the statute underscores how that sweep pales in comparison to the swath of protected speech the statute prohibits.

133. In sum, Cal. Penal Code § 851.92(c) serves chiefly to penalize and chill protected speech and lacks any plainly legitimate sweep.

134. Because of California Penal Code § 851.92(c)’s unconstitutional overbreadth, Plaintiffs are suffering and will continue to suffer irreparable injury, including being deprived of their First Amendment right to publish lawfully gathered information on matters of public concern.

Document received by the CA 1st District Court of Appeal.

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**THIRD CLAIM**  
**First and Fourteenth Amendment Violation—Void for Vagueness**  
**(42 U.S.C. § 1983)**  
**(Against All Defendants in their Official Capacities)**

135. Plaintiffs re-allege and re-incorporate the preceding paragraphs as though fully set forth herein.

136. California Penal Code § 851.92(c) punishes any person or entity who “disseminates information related to a sealed arrest,” but in doing so fails to provide ordinary persons with fair notice of what the statute prohibits.

137. For example, the statute requires reasonable people to guess whether “information” is “related to” an arrest, including whether it encompasses, among other things:

- a. The facts and circumstances of the arrest, as known to the witnesses who reported it;
- b. The facts and circumstances of the arrest, as known to people who learned of them—from witnesses, victims, or media reports—before the report was sealed;
- c. The facts and circumstances of the arrest, as known to people who learned of them—from witnesses, victims, or media reports—after the report was sealed;
- d. Information disclosed “in open court and in unsealed court filings” by prosecutors, court staff, or a judge, as the statute permits (Cal. Penal Code § 851.92(b)(6));
- e. Information voluntarily made public by the arrestee (Cal. Penal Code § 851.92(c) (exempting dissemination by “the person whose arrest was sealed”));
- f. Information disclosed in open court proceedings, such as in the civil action filed by the CEO;
- g. Information inadvertently or purposefully disclosed to the public by government officials in contravention of the statute; or
- h. The existence of a sealed report.

138. What’s more, “disseminates information related to a sealed arrest” invites Defendants, and other district attorneys and city attorneys, with unbridled discretion to

1 impose civil penalties on the press, scholars, concerned citizens, and many others—and in  
2 arbitrary and discriminatory ways.

3 139. In its vagueness, California Penal Code § 851.92(c) violates the First  
4 Amendment and the Due Process Clause of the Fourteenth Amendment.

5 140. And because California Penal Code § 851.92(c) targets speech, its vagueness  
6 only heightens its chilling effects on protected speech, including the freedom to publish  
7 lawfully obtained information on matters of public concern.

8 141. The statute also fails to define the operational term “related to a sealed arrest,”  
9 which is broad, ambiguous, and lacks objective meaning.

10 142. To that end, “disseminates information related to a sealed arrest” also lacks  
11 objective meaning. Instead, it is subject to open-ended interpretation, as ordinary people  
12 can disagree on what it means.

13 143. As City Attorney Chiu’s threats to enforce California Penal Code § 851.92(c)  
14 show, Defendants can and will enforce the statute in arbitrary and discriminatory ways,  
15 including against those who may lawfully gain access to and publish sensitive or  
16 embarrassing newsworthy information about the government or about powerful figures  
17 having sway over government officials.

18 144. Having no way to discern the limits of California Penal Code § 851.92(c) or its  
19 enforcement, Plaintiffs, and others like them, face a no-win choice: risk civil penalty by  
20 exercising their First Amendment rights, or self-censor to avoid those penalties.

21 145. In all cases, the chill on protected speech from the statute’s vagueness, and the  
22 unfettered discretion it gives Defendants and other authorized officials, are substantial and  
23 ongoing.

24 146. Because of California Penal Code § 851.92(c)’s unconstitutional vagueness,  
25 Plaintiffs are suffering and will continue to suffer irreparable injury, including being  
26 deprived of their First Amendment right to publish lawfully gathered information on matters  
27 of public concern and their due process right to have sufficient notice of the statute’s reach.  
28

**PRAYER FOR RELIEF**

Plaintiffs respectfully request this Court enter judgment against Defendants and issue the following relief:

- A. Declare California Penal Code § 851.92(c) unconstitutional, facially and as applied to Plaintiffs, under the First and Fourteenth Amendments;
- B. Issue a preliminary injunction and permanent injunction enjoining Defendants (including all of their officers, agents, servants, employees, attorneys, and other persons in active concert or participation with Defendants) from enforcing California Penal Code § 851.92(c) as applied to Plaintiffs’ speech;
- C. Issue a preliminary injunction and permanent injunction enjoining Defendants (including all of their officers, agents, servants, employees, attorneys, and other persons in active concert or participation with Defendants) from enforcing California Penal Code § 851.92(c) against the dissemination of any lawfully obtained information about a sealed arrest record;
- D. Award Plaintiffs their attorneys’ fees under 42 U.S.C. § 1988;
- E. Award Plaintiffs their costs; and
- F. Award such other relief as the Court deems appropriate.

DATED: November 22, 2024

Respectfully submitted,

By: /s/ Adam Steinbaugh

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*\* Pro hac vice application  
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# EXHIBIT 8

Document received by the CA 1st District Court of Appeal.

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27 **UNITED STATES DISTRICT COURT**  
28 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

29 FIRST AMENDMENT COALITION,  
30 VIRGINIA LAROE, and EUGENE  
31 VOLOKH,

32 Plaintiffs,

33 v.

34 DAVID CHIU, in his official capacity as  
35 City Attorney of San Francisco; and ROB  
36 BONTA, in his official capacity as  
37 Attorney General of California,

38 Defendants.

Civil Case No. 3:24-cv-08343-TSH

**PUBLIC – REDACTED**

**PLAINTIFFS’ NOTICE OF MOTION  
AND MOTION FOR PRELIMINARY  
INJUNCTION**

Date: January 2, 2025  
Time: 10:00 A.M.  
Dept.: Courtroom E – 15th Floor

1 **TO THE COURT, THE PARTIES, AND ALL ATTORNEYS OF RECORD:**

2 Under Fed. R. Civ. P. 65 and Civ. L.R. 7-1, PLAINTIFFS FIRST AMENDMENT  
3 COALITION, VIRGINIA LAROE, and EUGENE VOLOKH move for a preliminary  
4 injunction. This motion will be heard at the date and time above or as soon as the Court may  
5 hear it.

6 Plaintiffs ask this Court to issue a preliminary injunction prohibiting Defendants  
7 David Chiu and Rob Bonta, in their official capacities, from enforcing California Penal Code  
8 section 851.92(c), which prohibits any person from “disseminat[ing] information relating to  
9 a sealed arrest,” including information lawfully obtained from public sources. Each violation  
10 is subject to a civil penalty of up to \$2,500.

11 There is good cause to grant the motion. In recent weeks, the San Francisco City  
12 Attorney has repeatedly threatened to enforce the provision against those who publish or  
13 discuss the contents of a sealed incident report documenting the arrest of a high-profile tech  
14 CEO—a report the CEO claims the San Francisco Police Department made public by  
15 releasing it in response to a public records request. Plaintiffs—a First Amendment advocacy  
16 group, its advocacy director, and a legal commentator—want to engage in protected  
17 expression barred by the statute, including public advocacy and publication of articles  
18 concerning efforts by the CEO and government officials to suppress the publication of  
19 information about his arrest.

20 The statute is a content-based restriction on speech, failing strict scrutiny because it  
21 is not narrowly tailored to advance a compelling government interest. The statute obligates  
22 the public—including journalists, commentators, victims of crime, and witnesses—to keep  
23 the government’s secrets. The First Amendment forbids that result, and the Court should  
24 enjoin Defendants from enforcing the provision.

25 DATED: November 25, 2024

Respectfully submitted,

26 By: /s/ Adam Steinbaugh  
27 Adam Steinbaugh  
28 FOUNDATION FOR INDIVIDUAL  
RIGHTS AND EXPRESSION  
Attorney for Plaintiffs

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**INTRODUCTION**

1  
2 Time and again, the Supreme Court has struck down states’ misguided attempts to  
3 forbid publishing lawfully obtained information about matters of public concern. When the  
4 “State attempts the extraordinary measure of punishing truthful publication in the name of  
5 privacy,” the First Amendment requires the government to show it is justified by an interest  
6 of the “highest order.” *Fla. Star v. B.J.F.*, 491 U.S. 524, 533, 540 (1989). That tall order is  
7 not satisfied even by weighty considerations like encouraging rape victims to contact police  
8 or discouraging wiretapping. *See, e.g., id.* at 534 (name of a rape victim); *Bartnicki v.*  
9 *Vopper*, 532 U.S. 514, 534–35 (2001) (broadcast of phone call known to have been recorded  
10 unlawfully); *Landmark Commc’ns, Inc. v. Virginia*, 435 U.S. 829, 838 (1978) (information  
11 about the investigation of a judge). Once a publisher has obtained information in a lawful  
12 manner, even if a source obtained it unlawfully, the government may not “punish the  
13 ensuing publication of that information based on a defect in the chain.” *Bartnicki*, 532 U.S.  
14 at 528.

15 Cal. Penal Code § 851.92(c) is another such law that ignores the Court’s First  
16 Amendment precedents. The content-based statute prohibits almost anyone from  
17 “disseminat[ing] information” in any way “relating” to sealed arrest reports, on pain of civil  
18 penalty. Journalists, free speech and transparency advocates, crime victims, and witnesses  
19 are just some of the many persons and entities that Section 851.92(c) manages or threatens  
20 to silence.

21 Recently, the City Attorney of San Francisco has wielded Section 851.92(c) to deter  
22 accurate reporting on ██████████, a prominent tech executive closely tied to  
23 ██████████. After a journalist lawfully obtained a sealed police report about  
24 ██████████, the tech CEO enlisted the San Francisco City  
25 Attorney to help suppress reporting on it. At his behest, the City Attorney is threatening to  
26 enforce Section 851.92(c) against those who publish or discuss the police report.

27 Those threats have forced commentators and publishers to self-censor. One of those  
28 is Plaintiff Eugene Volokh, a legal commentator and journalist who publishes the *Volokh*

1 *Conspiracy*, a well-read blog covering the First Amendment, court system abuses, and public  
2 access to court records. Volokh wants to republish the arrest report and write about █████  
3 █████'s lawsuit against the journalist, which necessarily includes “information relating to” the  
4 sealed arrest. The issue is also within the wheelhouse of Plaintiffs First Amendment  
5 Coalition (“FAC”) and its Advocacy Director, Virginia “Ginny” LaRoe. FAC is a San Rafael-  
6 based nonprofit working to protect press freedom and the people’s right to know. FAC and  
7 LaRoe seek to advance FAC’s mission by discussing—in the press, on FAC’s own website,  
8 and in public letters to lawmakers or other officials—██████████’s efforts as an example of  
9 risks to press freedom and transparency. But Section 851.92(c) and the City Attorney’s  
10 threats have led or will lead each Plaintiff to self-censor.

11 At its core, Section 851.92(c) provides officials an unbounded tool to silence almost  
12 *anyone* sharing lawfully obtained information about newsworthy arrests. And as the City  
13 Attorney’s threats highlight, officials can enforce the statute to discriminate against those  
14 who publish sealed arrest information unkind to the government or influential persons. In  
15 all cases, stifling the exercise of a core First Amendment right is no compelling government  
16 interest. Strict scrutiny dooms this content-based law.<sup>1</sup>

17 Without an immediate injunction, Section 851.92(c) and the City Attorney’s threats  
18 will keep chilling not only Plaintiffs, but also journalists, advocates, scholars, victims,  
19 witnesses, and many others who publish and comment on arrests of public concern. For  
20 these reasons, the Court should enjoin Defendants from enforcing Section 851.92(c) with  
21 respect to the dissemination of lawfully obtained information about a sealed arrest.

22 **BACKGROUND**

23 California allows arrestees to petition state courts to seal records about arrests that  
24 cannot lead to a conviction due to acquittal, passage of time, or completion of a diversionary  
25 program. Cal. Penal Code § 851.92(a). That statute requires law-enforcement agencies to  
26

27 <sup>1</sup> In addition to the law’s inability to withstand strict scrutiny, alone enough to justify  
28 relief, it is also facially overbroad, reaching speech beyond any legitimate sweep. And it is  
hopelessly vague, leaving speakers to guess what information is secret or related to a sealed  
arrest.



1 and the *Daily Mail*.<sup>5</sup> And journalist ██████'s recent book on the intersection of Silicon  
2 Valley and ██████ dedicated a chapter to ██████'s transformation of  
3 ██████, which now draws most of its income from ██████.<sup>6</sup>

4 ***The San Francisco Police Department shares ██████'s sealed arrest report,***  
5 ***which ██████ attempts to suppress.***

6 ██████ also caught the attention of journalist and researcher Jack  
7 Poulson, who publishes on relationships between Silicon Valley and ██████.<sup>7</sup>  
8 Poulson covered ██████'s acknowledgment, during litigation against ex-employees, of its  
9 ██████ of ██████'s security clearance.<sup>8</sup> As  
10 with anyone else holding a security clearance, ██████ must self-report arrests because  
11 adversaries can threaten national security by exploiting embarrassing arrests.<sup>9</sup> In ██████  
12 ██████, Poulson reported that ██████ had been ██████

13 ██████<sup>10</sup>

15 \_\_\_\_\_  
16 <sup>5</sup> ██████, NBC News (Feb. 26, 2022),  
17 ██████; ██████, Wall St. J.,  
18 ██████  
19 ██████, Daily Mail,  
20 ██████

21 <sup>6</sup> ██████.  
22 <sup>7</sup> Sean Captain, *Meet the Ex-Googler Who's Exposing the Tech-Military Industrial*  
23 *Complex*, Fast Company, Oct. 8, 2021, <https://www.fastcompany.com/90682901/meet-the-ex-googler-whos-exposing-the-tech-military-industrial-complex>.

24 <sup>8</sup> Jack Poulson, ██████,  
25 ██████, All-Source Intelligence, ██████.

26 <sup>9</sup> See Nat'l Sec. Adjudicative Guidelines, Sec. Exec. Agent Directive 3 at G(2)(c)  
27 (effective June 8, 2017), <https://www.dni.gov/files/NCSC/documents/Regulations/SEAD-3-Reporting-U.pdf>.

28 <sup>10</sup> Jack Poulson, ██████,  
██████, All-Source Intelligence, ██████.

Document received by the CA 1st District Court of Appeal.

1 In doing so, Poulson published a redacted copy of the incident report, which he had  
2 obtained lawfully, “unsolicited from a confidential source.” (Decl. Steinbaugh ¶ 12, Ex. 8 at  
3 ¶ 5.) [REDACTED] alleges that the San Francisco Police Department released the report in  
4 response to a public records request. (*Id.* ¶ 10, Ex. 6 at ¶¶ 44–45.) Poulson had no reason to  
5 know the report was sealed. (*Id.* ¶ 12, Ex. 8 at ¶ 6.) He communicated with the San Francisco  
6 Police Department, which verified its authenticity, without informing him it was sealed. (*Id.*)  
7 And the report did not bear the mandatory stamp indicating it was sealed. (*Id.*; see Cal. Penal  
8 Code § 851.92(b)(3) (requiring agencies to stamp “SEALED: DO NOT RELEASE” on  
9 incident reports).)

10 After the San Francisco Police released the report and Poulson published it, [REDACTED]  
11 [REDACTED].<sup>11</sup> On October 3, 2024—over a year after Poulson’s publication—  
12 [REDACTED] anonymously sued Poulson and Substack, the company that hosts his website, in  
13 the San Francisco Superior Court. (Decl. Steinbaugh ¶ 10, Ex. 6.) [REDACTED] alleged Poulson  
14 violated the anti-dissemination statute both by publishing the report and by publishing a  
15 “description of” its “contents.” (*Id.* at ¶¶ 21, 25, 166–171.)

16 ***The San Francisco City Attorney repeatedly threatens to use California’s anti-***  
17 ***dissemination statute for sharing information about the arrest.***

18 [REDACTED] also enlisted the Office of the City Attorney of San Francisco, headed by  
19 Defendant David Chiu, to assist him. (Decl. Steinbaugh ¶¶ 5, 7, 11 & Exs. 1, 3, 7.) The Office  
20 of the City Attorney obliged, sending three letters demanding that Poulson and Substack  
21 censor any posts about the report under threat of enforcement of the anti-dissemination  
22 statute. (*Id.* ¶¶ 6, 8–9 & Exs. 2, 4–5.) The City Attorney first pressured Substack, which hosts  
23 Poulson’s publication, to remove posts about [REDACTED], sending a letter dated September  
24 19, 2024, stating it had “come to our office’s attention” that the arrest report “as well as its  
25 contents” was “published in multiple postings on your website.” (*Id.* ¶ 6, Ex. 2.) The letter  
26  
27

28 <sup>11</sup> Jack Poulson, [REDACTED] All-Source Intelligence,  
[REDACTED]

1 warned that the City Attorney “expect[ed]” the removal of “the document and its contents”  
2 within four days, “[p]ursuant to” the anti-dissemination statute. (*Id.*)

3       Soon, ██████ personally reached out to Deputy City Attorney Jennifer Choi to  
4 encourage “continued efforts in notifying Substack.” (*Id.* ¶ 7, Ex. 3 at 3.) On October 3, the  
5 same day ██████ sued Poulson and Substack, Choi sent Substack a second letter,  
6 complaining that its “inadequate” response fell short, again demanding removal of not only  
7 the incident report but also of “posts *related to* the Incident Report.” (*Id.* ¶ 9, Ex. 5 at 1.)  
8 (emphasis added). That same day, Choi also sent Poulson’s attorney a letter “[p]ursuant to”  
9 the anti-dissemination statute warning Poulson that “we expect” removal of the report “and  
10 its contents” from the internet “immediately.” (*Id.* ¶ 8, Ex. 4.) The next day, ██████’s  
11 attorney emailed Choi, sharing his “hope that your office will continue to help us in our  
12 efforts to enforce these various laws designed to protect Mr. ██████.” (*Id.* ¶ 11, Ex. 7 at 1.)

13 ***Plaintiffs, who regularly comment on censorship, intend to republish or***  
14 ***discuss the report—the same speech the City Attorney is targeting.***

15       Plaintiff First Amendment Coalition (“FAC”) is a San Rafael-based nonpartisan  
16 public-interest nonprofit dedicated to protecting and promoting a free press, freedom of  
17 expression, and the people’s right to know. (Decl. of Virginia LaRoe (“Decl. LaRoe”) ¶ 6.)  
18 FAC advocates—through public commentary and advocacy, such as letters to lawmakers and  
19 other officials—for expressive freedom. (*Id.* ¶¶ 7–8.) Plaintiff Virginia “Ginny” LaRoe, FAC’s  
20 Advocacy Director, wants to bring public attention to ██████’s campaign to censor  
21 coverage of his arrest. (*Id.* ¶¶ 3, 18–20, 24–26, 29–30, 33.) In addition to an opinion piece  
22 published in a San Francisco newspaper, FAC and LaRoe want to send public letters,  
23 including an open letter (which contains more information about the arrest report than the  
24 opinion piece) criticizing the San Francisco City Attorney. (*Id.* ¶¶ 24–25.) They also want to  
25 send public letters to lawmakers, post on social media, and comment in media interviews  
26 about the same information targeted by the San Francisco City Attorney. (*Id.* ¶ 26.)

27       Plaintiff Eugene Volokh is a Senior Fellow at Stanford University’s Hoover Institution  
28 and a Professor of Law Emeritus at UCLA School of Law. (Decl. of Eugene Volokh (“Decl.

1 Volokh”) ¶¶ 3–4.) He specializes in the First Amendment and related topics, and courts and  
2 academics frequently cite his commentary. (*Id.* ¶ 5.<sup>12</sup>) For over twenty years, he has  
3 published a legal blog, the *Volokh Conspiracy*, where he writes about First Amendment  
4 issues, particularly those relating to access to government records, defamation, and  
5 anonymous litigants. (*Id.* ¶¶ 6, 9–11.) He frequently documents efforts to “disappear”  
6 content from the internet using the legal system, including through court orders and  
7 defamation actions. (*See, e.g., id.* ¶¶ 9–11.) ██████████’s recent efforts—in league with the City  
8 Attorney of San Francisco—to suppress and sue over public information about his arrest are  
9 the sorts of things that Volokh would routinely write about. (*Id.* ¶ 13.)

10 The public benefits from informed commentary on the legal system and its use,  
11 particularly uses designed to frustrate public knowledge about influential figures. Yet Volokh  
12 —a California attorney who does not want to violate the Penal Code—cannot write about  
13 ██████████’s censorship campaign, or the San Francisco City Attorney’s support of it, let alone  
14 republish the publicly available report, without “disseminating” information “relating to”  
15 ██████████’s sealed arrest. (Decl. Volokh ¶¶ 23–27.) FAC and LaRoe face the same obstacle  
16 to discussing ██████████’s campaign, which is the type of censorship FAC exists to oppose.  
17 (Decl. LaRoe ¶¶ 18–20, 24–32.) In sum, the statute’s existence and the City Attorney’s  
18 threats to enforce it are both chilling each Plaintiff from expression they would ordinarily  
19 publish or speak.

20 **STATEMENT OF ISSUES TO BE DECIDED**

21 1. Are Plaintiffs entitled to a preliminary injunction prohibiting enforcement of  
22 California Penal Code § 851.92(c) on the basis that the law’s prohibition on the  
23 dissemination of any “information” related to a sealed arrest is a content-discriminatory  
24 measure that fails strict scrutiny?

25  
26  
27 <sup>12</sup> *See also, e.g., Janus v. AFSCME, Council 31*, 585 U.S. 878, 944 (2018) (Sotomayor, J.,  
28 dissenting); Aaron Tang & Fred O. Smith Jr., *Can Unions Be Sued for Following the Law?*,  
132 Harv. L. Rev. F. 24 (2018) (responding to William Baude & Eugene Volokh, *Compelled  
Subsidies and the First Amendment*, 132 Harv. L. Rev. 171 (2018)).

**ARGUMENT**

1  
2 The Court should grant Plaintiffs a preliminary injunction because (1) they are likely  
3 to succeed on the merits; (2) they will suffer irreparable harm absent injunctive relief; (3) the  
4 balance of equities tips in their favor; and (4) an injunction serves the public interest. *Winter*  
5 *v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). And in First Amendment cases, the  
6 balance shifts dramatically. Because Plaintiffs make “a colorable claim that [their] First  
7 Amendment rights have been infringed, or are threatened with infringement” under Penal  
8 Code Section 851.92, “the burden shifts to the government to justify the restriction on  
9 speech.” *Meinecke v. City of Seattle*, 99 F.4th 514, 521 (9th Cir. 2024)

10 But Defendants cannot show the content-based statute withstands First Amendment  
11 scrutiny. Without exception, the Supreme Court has invalidated government efforts to  
12 punish those who lawfully obtain and publish information of public concern the government  
13 deems sensitive. *E.g., Fla. Star*, 491 U.S. at 541; *Bartnicki*, 532 U.S. at 534–35. And because  
14 the anti-dissemination statute irreparably harms the First Amendment rights of Plaintiffs  
15 and others to publish information “related to” sealed arrests, those “serious First  
16 Amendment questions . . . alone compel[] a finding that the balance of hardships tips sharply  
17 in [Plaintiffs’] favor.” *Meinecke*, 99 F.4th at 526 (quotation marks omitted).

18 The Court should thus enjoin Defendants from enforcing Penal Code § 851.92(c).

19 **I. Plaintiffs Are Likely to Show the Anti-Dissemination Statute Violates the**  
20 **First Amendment.**

21 Both as applied to Plaintiffs and on its face as to everyone who disseminates lawfully  
22 obtained information about sealed arrests, the anti-dissemination statute violates the First  
23 Amendment as a presumptively unconstitutional content-based speech restriction that  
24 cannot withstand strict scrutiny. *Reed v. Town of Gilbert*, 576 U.S. 155, 163 (2015); *see also*  
25 *IMDb.com v. Becerra*, 962 F.3d 1111, 1120 (9th Cir. 2020) (prohibition on “dissemination of  
26 one type of speech: ‘date of birth or age information’” was a content-discriminatory  
27 restriction on a category of speech). This is all the more so given binding Supreme Court  
28 precedent protecting dissemination of lawfully obtained information, *see United States v.*

1 *Playboy Ent. Grp.*, 529 U.S. 803, 813 (2000) (citing *Sable Commc’ns of Cal., Inc. v. FCC*,  
2 492 U.S. 115, 126 (1989)), and holding that penalizing dissemination as pertains to sealed  
3 arrests is not the least restrictive means to achieve a compelling state interest. *See Smith v.*  
4 *Daily Mail Publ’g Co.*, 443 U.S. 97, 105 (1979) (other states had “found other ways of  
5 accomplishing the objective” of protecting the identity of juvenile offenders).

6 **A. The statute is a presumptively unconstitutional content-based**  
7 **restriction on speech.**

8 The anti-dissemination statute regulates speech in covering only “disseminat[ing]  
9 information” and is content-based in reaching only speech “relating to a sealed arrest.” Cal.  
10 Penal Code § 851.92(c). The “dissemination of information [is] speech within the meaning  
11 of the First Amendment.” *Sorrell v. IMS Health Inc.*, 564 U.S. 552, 570 (2011). That is  
12 especially so as to publishing lawfully obtained information about public issues, like a tech  
13 executive’s arrest that is relevant to the public debate about technology industry ethics, and  
14 that could even jeopardize national security interests. As the Supreme Court held decades  
15 ago, a state may not “punish publication” of “lawfully obtain[ed]” “truthful information  
16 about a matter of public significance,” such as information about an arrestee. *Daily Mail*  
17 *Publ’g Co.*, 443 U.S. at 101, 103; *see also, e.g., Worrell Newspapers of Ind. v. Westhafer*, 739  
18 F.2d 1219, 1221–25 (7th Cir. 1984) (striking down as overbroad a statute prohibiting any  
19 person from disclosing the existence of a sealed indictment before the defendant is arrested).

20 The anti-dissemination statute is an “obvious” content-based regulation. *Reed*, 576  
21 U.S. at 163–64. By barring “dissemination of information relating to a sealed arrest,” Cal.  
22 Penal Code § 851.92(c), it targets speech “by particular subject matter”—*i.e.*, information  
23 *about* the subject of an arrest record—and makes “reference to the content of the regulated  
24 speech” to determine the law’s application. *Reed*, 576 U.S. at 163–64 (quoting, in part, *Ward*  
25 *v. Rock Against Racism*, 491 U.S. 781, 791 (1989)). Plaintiffs’ chilled speech illustrates the  
26 statute’s operative focus on content. If Volokh publishes a blog post on any subject, the City  
27 Attorney must read its content to ascertain whether it shares “information relating to”  
28 ██████████’s sealed arrest. If FAC or LaRoe inform the public or government officials about

1 the free speech implications of ██████’s lawsuit, an official would have to determine  
2 whether the speech detailed anything “related to” the sealed arrest. Because the anti-  
3 dissemination statute is a content-based restriction on Plaintiffs’ speech, it is presumptively  
4 unconstitutional as applied to them. *See Reed*, 576 U.S. at 163.

5 It is also presumptively unconstitutional on its face. By its content-based terms, the  
6 statute penalizes disseminating lawfully obtained information about sealed arrests in an  
7 extensive number of its applications. True enough, the statute also covers those who  
8 disseminate information about sealed arrests they obtained through independently unlawful  
9 means. But more predominantly, the anti-dissemination statute punishes *only* what the  
10 First Amendment protects—publishing lawfully obtained information about matters of  
11 public concern. *See Daily Mail Publ’g Co.*, 443 U.S. at 104. And as detailed next, penalizing  
12 that range of protected expression cannot survive constitutional scrutiny because it is facially  
13 unconstitutional as to a substantial amount of the dissemination of lawfully obtained  
14 information. *See United States v. Stevens*, 559 U.S. 460, 482 (2010) (a law will be  
15 “invalidated as overbroad if ‘a substantial number of its applications are unconstitutional,  
16 judged in relation to the statute’s plainly legitimate sweep’” (citation omitted)).

17 **B. The statute fails strict scrutiny because California’s asserted**  
18 **interest in reputation does not serve a compelling interest.**

19 Being presumptively unconstitutional, the anti-dissemination statute triggers strict  
20 scrutiny, but Defendants cannot meet the heavy burden of showing the law is “narrowly  
21 tailored to serve compelling state interests.” *Reed*, 576 U.S. at 163 (citations omitted). First,  
22 as the statute “punishes publication” of “lawfully obtain[ed,] truthful information about a  
23 matter of public significance,” Defendants must show “a need to further a state interest of  
24 the highest order,” *Daily Mail Publ’g Co.*, 443 U.S. at 103, with a showing “far stronger than  
25 mere speculation about serious harms” or “[u]nusual” incidents. *Bartnicki*, 532 U.S. at 531–  
26 32 (citation omitted). And they must overcome the fact that the Supreme Court has never  
27 upheld a comparable regulation even where there were far weightier interests, such as  
28 encouraging rape victims to come forward and limiting publicity to the names of youthful

1 offenders, than those California identified in enacting the law. *Fla. Star*, 491 U.S. at 534  
2 (name of rape victim); *Daily Mail Publ'g Co.*, 443 U.S. at 99–104 (youthful offenders).

3 In enacting the statute, California sought to “remove barriers [to] employment and  
4 housing opportunities” that an arrest history might pose. (Decl. Steinbaugh ¶ 14, Ex. 10 at 7  
5 [California Senate Judiciary Committee legislative analysis].) Because “background checks  
6 conducted by consumer reporting agencies” are the primary “way information of arrests  
7 generally finds its way into the hands of potential employers, housing providers, and other  
8 decision makers,” the Legislature sought to “[p]rovid[e] restraints on consumer reporting  
9 agencies” by imposing the anti-dissemination statute’s civil penalty. (*Id.* at 9.)

10 But any governmental interest in remedying harm to an individual’s reputation—  
11 whether directly or because of economic reasons—takes a constitutional backseat to the First  
12 Amendment right to share truthful information of public concern. “[R]eputational interests”  
13 do not “justify the proscription of truthful speech.” *Butterworth v. Smith*, 494 U.S. 624, 634  
14 (1990). Likewise, the desire to prevent employment discrimination does not generally justify  
15 restricting truthful speech about people. *See IMDb.com*, 962 F.3d at 1125–26. Here, the anti-  
16 dissemination statute *targets* truthful statements—the fact of an arrest or the existence of a  
17 sealed record—to avoid downstream economic harm. But the First Amendment does not  
18 permit the State to privilege the reputation of a person—whether a public official, public  
19 figure, or purely private person—over the dissemination of truthful statements of public  
20 concern. *Landmark Commc'ns*, 435 U.S. at 841–42 (injury to “official reputation” of judges);  
21 *cf. N.Y. Times Co. v. Sullivan*, 376 U.S. 254, 279–80 (1964) (public officials must show falsity  
22 and actual malice); *Garrison v. Louisiana*, 379 U.S. 64, 72 & n.8, 74 (1964) (absolute defense  
23 of truth in connection with any “public affairs”).

24 The Supreme Court’s decision in *Florida Star v. B.J.F.* illustrates why California’s  
25 interests here fall short of being of the “highest order.” In *Florida Star*, the Supreme Court  
26 invalidated a finding of civil liability against a newspaper for publishing the name of a rape  
27 victim obtained from a publicly released police report. 491 U.S. at 526. The story concerned  
28 only the victim’s report, not an arrest or trial. *Id.* at 527, 532. The Court found that the First

1 Amendment protected the newspaper’s truthful report and that “investigation of a violent  
2 crime which had been reported to the authorities” was a “matter of public significance.” *Id.*  
3 at 536–37. In doing so, it recognized that “the privacy of victims of sexual offenses,” risks to  
4 their “physical safety . . . if their names become known to their assailants[,] and the goal of  
5 encouraging victims” to come forward were “highly significant interests”—but these  
6 interests did not amount to a compelling “need” to punish the publication. *Id.* at 537.

7 Compared to the privacy of a rape victim involuntarily thrust into the legal system,  
8 speculation about potential economic harm from disclosure of a sealed arrest rings hollow.  
9 That’s especially so here, where officials have rushed to the defense of a high-profile CEO.  
10 Because the anti-dissemination statute does not serve a compelling state interest, it cannot  
11 survive strict scrutiny, and the Court should enjoin it.

12 **C. The anti-dissemination statute fails strict scrutiny because it is not**  
13 **the least restrictive means or narrowly tailored.**

14 Even if the anti-dissemination statute served a compelling interest, it still fails strict  
15 scrutiny because Defendants cannot make the “exceptionally demanding” showing that it is  
16 the “least-restrictive means” to meet that interest. *Meinecke*, 99 F.4th at 525 (quoting *Holt*  
17 *v. Hobbs*, 574 U.S. 352, 364 (2015)). “If a less restrictive alternative would serve the  
18 Government’s purpose, the legislature must use that alternative.” *Playboy Ent. Grp.*, 529  
19 U.S. at 813 (citation omitted). Under strict scrutiny, “[e]ven if a state intends to advance a  
20 compelling government interest, we will not permit speech-restrictive measures when the  
21 state may remedy the problem by implementing or enforcing laws that do not infringe on  
22 speech.” *IMDb.com*, 962 F.3d at 1125.

23 The law is not narrowly tailored three times over: First, Supreme Court precedent  
24 forecloses the state from punishing those who publish lawfully obtained facts of public  
25 interest to reinforce the government’s interests in keeping its own confidences. Second, the  
26 statute is over-inclusive because its plain language reaches *any* speaker, not just those with  
27 an obligation to maintain a secret, and the State ignored obvious means of narrowing the  
28 law in manners that would protect journalists, publishers, and public commentators. Third,

1 it is under-inclusive because it exempts the government agencies and employees who *do*  
2 have an obligation to prevent the release of government records.

3 **i. In reaching lawfully obtained information, the law crosses**  
4 **clear lines set forth by the Supreme Court.**

5 The anti-dissemination statute cannot survive strict scrutiny because it empowers  
6 officials to sanction publication of lawfully obtained truthful information of public concern.  
7 Such regulation disregards the unbroken line of cases in which the Supreme Court  
8 repeatedly held that when a speaker “lawfully obtains truthful information about a matter of  
9 public significance then state officials may not constitutionally punish publication of the  
10 information absent a need . . . of the highest order.” *Bartnicki*, 532 U.S. at 527–28 (radio  
11 commentator’s broadcast of a recording of a telephone call, which he knew was unlawfully  
12 recorded by someone else, was protected by the First Amendment because the commentator  
13 obtained it lawfully); *see also, e.g., Worrell Newspapers of Ind.*, 739 F.2d at 1221–25  
14 (statutory prohibition on disclosing the existence of a sealed indictment before the  
15 defendant is arrested violated the First Amendment as applied to the media); *supra* cases  
16 cited at p. 1. The dissemination of lawfully obtained information about sealed arrests—  
17 including Plaintiffs’ intended speech—falls squarely within these cases.

18 Plaintiffs obtained information about ██████’s sealed arrest lawfully by reading  
19 Jack Poulson’s public report. (Decl. Volokh ¶ 14–15; Decl. LaRoe ¶ 9–11.) Poulson, too,  
20 obtained it lawfully. (Decl. Steinbaugh ¶¶ 10, 12; Ex. 6 at ¶¶ 44–45; Ex. 8 at ¶¶ 5–6.) Even if  
21 he had some indication his source had unlawfully obtained the report—which did not bear  
22 the mandatory stamp that would have indicated as much—the First Amendment protects its  
23 publication. *Bartnicki*, 532 U.S. at 528–30. Indeed, ██████’s own theory is that the San  
24 Francisco Police Department negligently shared the report in response to a public records  
25 request. (Decl. Steinbaugh ¶ 10, Ex. 6 at ¶¶ 44–46.) If so, the government is at fault—which  
26 may be why the San Francisco City Attorney is eager to deploy the anti-dissemination statute  
27 to put the horse back in the barn. *Fla. Star*, 491 U.S. at 534 (where government has “sensitive  
28

1 information” in its custody, it must take steps to “forestall or mitigate the injury caused by  
2 its release” short of penalizing publishers).

3 The information [REDACTED] wants to be suppressed involves matters of public  
4 concern. With respect to the underlying incident report, the “commission, and investigation,  
5 of a violent crime which has been reported to the authorities” is a “matter of paramount  
6 public import.” *Fla. Star*, 491 U.S. at 537; see also *Cox Broad. Corp. v. Cohn*, 420 U.S. 469,  
7 492 (1975) (“The commission of crime, prosecutions resulting from it, and judicial  
8 proceedings arising from the prosecutions . . . are without question events of legitimate  
9 concern to the public”). [REDACTED]’s arrest is of public concern not only because of his status  
10 as a controversial technology industry executive widely covered in the press but also because  
11 his arrest implicates his security clearance. So, too, are the circumstances of [REDACTED]’s  
12 successful petition to seal the arrest report of legitimate public interest. *Briggs v. Eden*  
13 *Council for Hope & Opportunity*, 969 P.2d 564, 571 (Cal. 1999) (every legal proceeding  
14 “possesses some measure of ‘public significance’”). And efforts by [REDACTED] and the City  
15 Attorney to suppress reporting about the arrest, including [REDACTED]’s lawsuit, are  
16 independently matters of public concern.

17 **ii. The statute is overinclusive, reaching beyond consumer**  
18 **reporting agencies and ignoring means to exempt publishers.**

19 The anti-dissemination statute is also not properly tailored because when “informa-  
20 tion is entrusted to the government, a less drastic means than punishing truthful publication  
21 almost always exists for guarding against the dissemination of private facts.” *Fla. Star*, 491  
22 U.S. at 534. Here, there are obvious ways the Legislature could have written the law while  
23 burdening less speech:<sup>13</sup>

24  
25 <sup>13</sup> Though Plaintiffs do not concede that such narrower laws would be constitutional,  
26 their potential availability shows that the current statute is unconstitutional. *Cf., e.g., Wal-*  
27 *Mart Puerto Rico, Inc. v. Zaragoza-Gomez*, 834 F.3d 110, 127 n.16 (1st Cir. 2016) (“In listing  
28 these possible alternatives, we do not decide that any of those particular alternatives are  
themselves sufficiently narrow to survive dormant Commerce Clause scrutiny. It suffices for  
our purposes to say that the availability of those less restrictive alternatives invalidates the  
AMT in its current form.”).

1 *Eliminating the ambiguous “relating to” language.* The statute is not only broad in  
2 *who* it restricts, but also in *what* they are prohibited from communicating. It prohibits not  
3 only the dissemination of particular documents but any information “relating” to them—a  
4 term so expansive it cannot be understood with reasonable clarity. *See San Diego Unified*  
5 *Sch. Dist. v. Yee*, 30 Cal. App. 5th 723, 733 (2018) (noting “broad” meaning of “relating to”  
6 as “to stand in some relation; to have bearing or concern; to pertain; refer; to bring into  
7 association with or connection with”) (quoting *Morales v. Trans World Airlines, Inc.*, 504  
8 U.S. 374, 383–84 (1992)). That ambiguity compounds its chilling effect, requiring speakers  
9 to guess whether their comments might relate to a sealed arrest—and exemplifying why the  
10 statute is not narrowly tailored. For example, Volokh must guess whether writing about  
11 ██████’s “John Doe” lawsuit may trigger liability, even if he does not use ██████’s  
12 name, because the litigation “relates to” the sealed record. (Decl. Volokh ¶¶ 23–25.) FAC and  
13 LaRoe similarly must guess whether they can discuss the basis of ██████’s lawsuit or  
14 ██████’s censorship campaign in their public advocacy. (Decl. LaRoe ¶¶ 27–28, 30–31.)

15 *Exempting publishers, including journalists.* California’s legislature frequently  
16 exempts people or entities defined in California Evidence Code Section 1070, which broadly  
17 protects people affiliated with media outlets, when it crafts statutes dealing with sensitive  
18 information.<sup>14</sup> It chose not to with this statute, instead leaving it to threaten journalists’ right  
19 to report on lawfully obtained information without risk of liability under the Penal Code.  
20 Indeed, while ██████ can file a civil suit against a journalist who reported on his arrest,  
21 other media outlets and commentators—like Volokh—risk a civil penalty if they write about  
22 that *unsealed* lawsuit, because doing so may disclose information related to the sealed arrest.

23 *Limiting the penalty to authorized persons who disclose information to*  
24 *unauthorized persons.* An earlier version of the bill would have made it a misdemeanor

25 \_\_\_\_\_  
26 <sup>14</sup> *See, e.g.*, Cal. Gov’t Code § 6208.1(b)(3) (in regulating the posting of addresses of  
27 victims of domestic violence, providing that the law “shall not apply to a person or entity  
28 defined in Section 1070 of the Evidence Code”); Cal. Gov’t Code § 6218(b)(3) (same, with  
respect to information pertaining to reproductive health care providers); Cal. Lab. Code  
§ 432.7(g)(3) (possession of criminal or juvenile records); Cal. Penal Code § 11143 (criminal  
history information).

1 offense for a “person who is authorized to have access to information relating to an expunged  
2 arrest [to] disseminate[] information relating to an expunged arrest to a person who is not  
3 authorized.” (See Decl. Steinbaugh ¶ 15, Ex. 11 at 5 (S.B. No. 393, as introduced, at proposed  
4 § 851.867(g)(1))). This narrowing language, although imperfect,<sup>15</sup> would have allowed the  
5 State to insist that its agencies and employees maintain secrecy *without* obligating every  
6 member of the public to do the same.<sup>16</sup> Yet the State chose not to adopt that narrower  
7 version.

8 *Including an intent requirement.* The statute could also be narrowed by requiring  
9 intent to disseminate the information for unlawful purposes, like identity theft or extortion.  
10 That would go far in providing breathing space for protected speech like publishing lawfully  
11 obtained sealed arrest information as part of the news, commentary, criticism, scholarship,  
12 and a host of other lawful purposes. See *Brandenburg v. Ohio*, 395 U.S. 444, 447 (1969)  
13 (requiring a showing of purposeful intent in incitement cases); see also *Counterman v.*  
14 *Colorado*, 600 U.S. 66, 74–82 (2023) (requiring recklessness standard for “true threats”  
15 statutes and explaining why requiring subjective intent helps preserves First Amendment  
16 breathing space). But instead, the law ensnares all those purposes, strangling the First  
17 Amendment and cementing why it fails strict scrutiny.

18 *Regulating discrimination based on arrest records.* Finally, if California is concerned  
19 with use of arrest records to deny employment or housing, it can prohibit discrimination on  
20 that basis. California, indeed, already does so to some extent, demonstrating that it can  
21 accomplish these goals without burdening speech. See, e.g., Cal. Gov’t Code § 12952(a)(3)(A)

22  
23 <sup>15</sup> The law would be clearer if it limited its application to persons authorized to have  
access by virtue of their employment by a law-enforcement agency.

24 <sup>16</sup> The legislative history also shows that lawmakers were concerned with the need to  
25 deter “consumer reporting agencies,” which are “generally” how “information of arrests . . .  
26 finds its way” into the public, from continuing to disclose information about sealed arrests.  
27 (Decl. Steinbaugh ¶ 14, Ex. 10 at 9.) The statute provides a definition of these agencies, and  
the Legislature could have simply barred a “[c]riminal history provider” from disseminating  
28 sealed records—a far narrower burden than prohibiting *any* “person or entity” from sharing  
truthful information. Cal. Penal Code § 851.92(c), (d)(3). But even this narrower measure  
would not survive First Amendment scrutiny. See *Sorrell*, 564 U.S. at 568–577 (striking  
down limits on information the speaker already possesses.)

1 (limiting employers’ consideration of an “[a]rrest not followed by conviction” in hiring  
2 decisions); 2 Cal. Code Regs. 12264, *et seq.* (regulations on the use of criminal history in  
3 housing).

4 **iii. The statute is underinclusive because it exempts those**  
5 **responsible for safeguarding sealed records.**

6 The anti-dissemination statute is also not properly tailored because it under-  
7 inclusively exempts the very people most likely to negligently (or purposefully) share sealed  
8 arrest information—government employees within the criminal justice system—“rais[ing]  
9 serious doubts” whether the law serves its asserted objective. *Fla. Star*, 491 U.S. at 540; *see*  
10 *also Republican Party v. White*, 536 U.S. 765, 780 (2002) (noting a “law cannot be regarded  
11 as protecting an interest of the highest order” when “it leaves appreciable damage to that  
12 supposedly vital interest unprohibited”).

13 Specifically, the statute exempts from its civil penalty every “criminal justice agency,”  
14 which it defines broadly to include law-enforcement agencies and individual officers,  
15 relieving them of a strong incentive to avoid mishandling sealed arrest records. Cal. Penal  
16 Code §§ 851.92(c), (d)(4). The government can insist that its employees maintain the  
17 confidentiality of sensitive records, and it can provide a civil remedy to persons affected  
18 when its employees fail to do so, but it cannot “enhance the guarantee of confidentiality” by  
19 burdening the public’s speech. *Landmark Commc’ns*, 435 U.S. at 841.

20 Because there are obvious means of narrowing the anti-dissemination statute to avoid  
21 burdening protected speech, Defendants cannot satisfy strict scrutiny. Both as applied to  
22 Plaintiffs and on its face as extended to disseminating lawfully obtained information about  
23 sealed arrests, the anti-dissemination statute violates the First Amendment.

24 **II. Plaintiffs Are Experiencing Irreparable Harm in the Absence of**  
25 **Preliminary Injunctive Relief.**

26 Without a preliminary injunction, Plaintiffs are experiencing irreparable harm. The  
27 “loss of First Amendment freedoms, for even minimal periods of time, unquestionably  
28 constitutes irreparable injury.” *Elrod v. Burns*, 427 U.S. 347, 373 (1976). Because a plaintiff  
need only show a “colorable” claim, “irreparable harm is relatively easy to establish in a First

1 Amendment case.” *CTIA – The Wireless Ass’n v. City of Berkeley*, 928 F.3d 832, 851 (9th  
2 Cir. 2019). Even just the “threat of enforcement” resulting in a “chill on . . . free speech  
3 rights . . . constitutes irreparable harm.” *Cuviello v. City of Vallejo*, 944 F.3d 816, 833 (9th  
4 Cir. 2019). Here, the statute and the City Attorney’s threats have only heightened that chill.  
5 They are deterring Plaintiffs from commenting on or writing about ██████’s apparent  
6 (and actual) efforts to suppress public discussion of the arrest in the same manner they  
7 would discuss the dispute in the statute’s absence. (Decl. LaRoe ¶¶ 24–32; Decl. Volokh  
8 ¶¶ 22–27.) A preliminary injunction is warranted to remedy that irreparable loss of  
9 constitutional rights.

10 **III. Injunctive Relief Serves the Public Interest and the Balance of Harms  
11 Tips in Plaintiffs’ Favor.**

12 The remaining factors similarly support grant of a preliminary injunction. When “the  
13 party opposing injunctive relief is a government entity, the third and fourth factors—the  
14 balance of equities and the public interest—‘merge.’” *Fellowship of Christian Athletes v. San  
15 Jose Unified Sch. Dist. Bd. of Educ.*, 82 F.4th 664, 695 (9th Cir. 2023) (en banc) (quoting  
16 *Nken v. Holder*, 556 U.S. 418, 435 (2009)). Because Plaintiffs raise “serious First  
17 Amendment questions” about the anti-dissemination statute, “that alone compels a finding  
18 that the balance of hardships tips sharply in [their] favor.” *Meinecke*, 99 F.4th at 526. And  
19 “it is always in the public interest to prevent the violation of a party’s constitutional rights,”  
20 *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012), as “all citizens have a stake in  
21 upholding the Constitution,” *Preminger v. Principi*, 422 F.3d 815, 826 (9th Cir. 2005).

22 Additionally, given the minimal impact on Defendants, the Court should not require  
23 a bond. The Court has discretion “as to the amount of security required, *if any*,” under  
24 Federal Rule of Civil Procedure 65(c), and it “may dispense with the filing of a bond when it  
25 concludes there is no realistic likelihood of harm to the defendant from enjoining [their]  
26 conduct.” *Johnson v. Couturier*, 572 F.3d 1067, 1086 (9th Cir. 2009) (citation and quotation  
27 marks omitted). Courts regularly waive the bond requirement in free speech cases because  
28

1 requiring a bond “would have a negative impact” on constitutional rights. *Baca v. Moreno*  
2 *Valley Unified Sch. Dist.*, 936 F.Supp. 719, 738 (C.D. Cal. 1997) (citation omitted).

3 **CONCLUSION**

4 The Court should grant a preliminary injunction prohibiting Defendants from  
5 enforcing California Penal Code Section 851.92(c) against Plaintiffs and against persons and  
6 entities who publish lawfully obtained information about sealed arrests.

8 DATED: November 25, 2024

Respectfully submitted,

9  
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\* Pro hac vice application  
pending.

Document received by the CA 1st District Court of Appeal.

# EXHIBIT 9

Document received by the CA 1st District Court of Appeal.

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 7 *Attorneys for Defendant Rob Bonta, in his official  
 capacity as Attorney General of California*  
 8

9 IN THE UNITED STATES DISTRICT COURT  
 10 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
 11 SAN FRANCISCO DIVISION  
 12

13 **FIRST AMENDMENT COALITION, et al.,**

Case No. 3:24-cv-08343-RFL

14 Plaintiffs,

15 v.

**STIPULATION AND ~~PROPOSED~~  
 ORDER FOR ENTRY OF  
 PRELIMINARY INJUNCTION AND TO  
 EXTEND TIME FOR DEFENDANTS TO  
 RESPOND TO COMPLAINT**

16 **DAVID CHIU, et al.,**

17 Defendants.

Date/Time: January 14, 2025 at 10:00 a.m.  
 Location: Courtroom 15, 18th Floor

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1 Pursuant to Civil Local Rule 6-1 and 7-12, the Parties, through their counsel of record, enter  
2 into the following stipulation.

3 **STIPULATION**

4 WHEREAS, Plaintiffs filed their Complaint on November 22, 2024 (Dkt. No. 1);

5 WHEREAS, Plaintiffs filed a Motion for a Preliminary Injunction on November 25, 2024  
6 (Dkt. No. 11-3), and re-noticed the Motion on December 11, 2024 (Dkt. No. 29);

7 WHEREAS, the Parties agree to resolve the Motion without the time, expense, and  
8 uncertainty associated with further litigation of the Motion;

9 THEREFORE, IT IS HEREBY AGREED AND STIPULATED, subject to the Court's  
10 approval and order, that:

- 11 1. Defendants, and all their officers, agents, servants, employees, attorneys, and other  
12 persons in active concert or participation with them, are preliminarily enjoined from  
13 enforcing California Penal Code § 851.92(c) against the dissemination by any  
14 person or entity of (a) information relating to any arrest report that the person or  
15 entity reasonably believes was obtained from the government through a public  
16 records request; or (b) information that is or has been at any time otherwise made  
17 publicly available and relates to any arrest report, including (but not limited to) the  
18 arrest report at issue in this case (described in the Complaint (Dkt. No. 1) at ¶¶ 41,  
19 47, 54–56, 63) and the contents thereof.
- 20 2. This stipulation resolves, subject to the rights reserved in paragraph (4), Plaintiffs'  
21 Motion for a Preliminary Injunction, and the January 14, 2025 hearing on the  
22 Motion is taken off calendar.
- 23 3. This stipulation is limited to California Penal Code § 851.92(c) and does not affect  
24 Defendants' right or ability to enforce any other law or provision.
- 25 4. This stipulation is without prejudice to any position that any party may take in the  
26 remainder of this case, including without limitation (a) Plaintiffs' seeking  
27 preliminary injunctive relief (beyond the scope of the relief the Court orders as a  
28 result of this stipulation) or permanent injunctive relief or (b) Defendants' arguing

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that no further preliminary injunctive relief and no permanent injunctive relief are warranted.

5. The time for Defendants to respond to Plaintiffs' Complaint is extended to February 14, 2025.

Dated: December 16, 2024

Respectfully submitted,

FOUNDATION FOR INDIVIDUAL RIGHTS & EXPRESSION

s/Adam Steinbaugh\*  
ADAM STEINBAUGH  
*Attorneys for Plaintiffs*

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ROB BONTA  
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s/Shiwon Choe  
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\* In accordance with Civil Local Rule 5-1(i)(3), the filer attests that all signatories have concurred in the filing of this document.

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~~PROPOSED~~ ORDER

The Court, having reviewed and fully considered the parties' stipulation, **ORDERS** the preliminary injunction and conditions to which the parties have stipulated.

Dated: December 19, 2024

  
\_\_\_\_\_  
THE HON. RITA F. LIN  
*United States District Judge*

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ELECTRONICALLY  
**FILED**  
Superior Court of California,  
County of San Francisco  
01/29/2025  
Clerk of the Court  
BY: JEFFREY FLORES  
Deputy Clerk

6  
7  
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **COUNTY OF SAN FRANCISCO**  
10

11 MAURY BLACKMAN, an individual,

12 Plaintiff,

13 v.

14 SUBSTACK, INC., a Delaware  
15 Corporation; AMAZON WEB SERVICES,  
16 INC., a Delaware Corporation; JACK  
POULSON, an individual; TECH  
17 INQUIRY, INC., a Delaware corporation;  
DOES 1-25, inclusive,

18 Defendants.  
19  
20  
21

Case No.: CGC-24-618681

**DEFENDANT TECH INQUIRY, INC.'S  
REPLY IN SUPPORT OF ITS SPECIAL  
MOTION TO STRIKE PLAINTIFF'S  
COMPLAINT; DECLARATION OF SUSAN  
E. SEAGER**

DATE: February 4, 2025  
TIME: 9:30 a.m.  
DEPT: 301

Judge:

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

22 **I. INTRODUCTION**

23 Tech Inquiry has met its burden of establishing that Plaintiff Maury Blackman's 14 claims  
24 against Tech Inquiry trigger the protection of C.C.P. § 415.16(e)(2), (e)(3), and (e)(4) of the anti-  
25 SLAPP statute because Tech Inquiry's speech about Plaintiff's arrest for domestic violence and  
26 career as a tech executive in the Bay Area qualify as speech in connection with official government  
27 proceedings, speech on public forum, and speech about police actions and domestic violence, which  
28 are matters of public concern. Plaintiff has failed meet his burden of presenting evidence

1 establishing a probability of prevailing on any of his claims. Plaintiff’s claims are barred by § 230  
2 of the Communications Decency Act, the California fair report privilege, and the First Amendment  
3 protection for news reports about lawfully obtained government records. This Court should  
4 therefore grant Tech Inquiry’s special motion to strike all of Plaintiff’s claims against Tech Inquiry.

5 **II. ARGUMENT**

6 **A. This Court Should Exercise Its Discretion to Hear Tech Inquiry’s Motion**

7 The anti-SLAPP “statute vests the trial court with discretion to entertain an anti-SLAPP  
8 motion proffered after expiration of the 60-day period.” *Hewlett-Packard Co. v. Oracle Corp.*, 239  
9 Cal. App. 4th 1174, 1186 (2015) (citing C.C.P. § 425.16(f) (“The special motion may be filed  
10 within 60 days of the service of the complaint or, in the court’s discretion, at any later time upon  
11 terms it deems proper.”)). This Court should exercise its discretion to accept Tech Inquiry’s anti-  
12 SLAPP motion because it was submitted to the Court’s e-filing vendor a few hours after the 60-day  
13 deadline. Tech Inquiry planned to file the anti-SLAPP motion on December 6, 2024, which was the  
14 60-day deadline after service on October 7, 2024, but encountered problems with the Court’s e-  
15 filing system. Declaration of Susan E. Seager, ¶¶ 2-3. Ms. Seager submitted the motion to the e-  
16 filing vendor for the Court on December 7, 2024 at approximately 2:40 a.m. and e-served Plaintiff’s  
17 counsel with the motion on December 7, 2024 at 2:49 a.m. *Id.* ¶ 2. Because December 7, 2024 was a  
18 Saturday, the filing was not accepted by the court clerk until the following Monday, December 9,  
19 2024. *Id.* Tech Inquiry’s counsel later told Plaintiff’s counsel, David Marek, about having problems  
20 filing the anti-SLAPP motion, and Mr. Marek commiserated that he also had problems e-filing his  
21 briefs with this Court. *Id.* ¶ 4.

22 Plaintiff misstates the facts in *Hewlett-Packard Co.*, 239 Cal. App. 4th 1174 (2015),  
23 asserting that the trial court declined to hear an anti-SLAPP motion that was “filed 23 days late.”  
24 Opp. p. 10. In fact, the defendant filed its anti-SLAPP motion *21 months* after the complaint was  
25 filed, in the middle of a two-phase trial. *Id.* at 1181-83. Plaintiff fails to mention that in *Platypus*  
26 *Wear, Inc. v. Goldberg*, 166 Cal. App. 4th 772 (2008), the defendant filed its anti-SLAPP motion  
27 “*more than two years* after [plaintiff] filed the complaint,” after discovery had begun. *Id.* at 774.  
28 The Court of Appeal held that the trial court abused its discretion by hearing the anti-SLAPP

1 motion because “[t]he delay was extreme, the reasons [defense counsel] offered ... for the delay in  
2 filing the motion were weak, ... and the potential prejudice to [plaintiff], given the lengthy delay  
3 occasioned by the appeal, is great.” *Id.* at 787. None of those facts are present here. Because the  
4 delay in filing was minimal, there is no prejudice to Plaintiff. This Court should exercise its  
5 discretion and hear Tech Inquiry’s motion.<sup>1</sup>

6 **B. The Anti-SLAPP Statute Applies to Tech Inquiry’s Speech**

7 **1. The *Flatley* Exception for Criminal Conduct Does Not Apply to Tech Inquiry**

8 Plaintiff contends – contrary to the evidence – that Tech Inquiry’s posting of Plaintiff’s  
9 arrest report is “illegal as a matter of law” and therefore falls outside the protection of the anti-  
10 SLAPP statute under *Flatley v. Mauro*, 39 Cal. App 4th 299, 320 (2006). *Opp.* p. 11. But *Flatley*  
11 requires a plaintiff to establish that the defendant concedes its criminality or provide  
12 “uncontroverted and conclusive” evidence of criminal conduct. *Safari Club Int’l v. Rudolph*, 845  
13 F.3d 1250, 1259 (9th Cir. 2017). Plaintiff has established neither. To the extent that Plaintiff alleged  
14 in his Complaint that Tech Inquiry’s actions constituted a misdemeanor under Penal Code  
15 § 11143, Comp. ¶ 174, the statute expressly exempts periodical publications protected by Evidence  
16 Code § 1070, which includes websites such as Tech Inquiry. *See O’Grady v. Sup. Ct.*, 139 Cal. App.  
17 4th 1423, 1456-66 (2006). Plaintiff also briefly alleged in his Complaint ((Comp. ¶ 69) that Tech  
18 Inquiry violated Labor Code § 432.7(g)(3), but did not include that statute in any cause of action;  
19 and even if he did, that statute also exempts news periodicals like Tech Inquiry.

20 Plaintiff also alleges in his Opposition that Tech Inquiry’s posting of the arrest report  
21 constitutes a misdemeanor under Penal Code §§ 851.91, 851.92, and 166(a), apparently on the  
22 grounds that the posting allegedly violated Judge Carolyn Gold’s order sealing the arrest report.  
23 Plaintiff did not allege these criminal violations in any cause of action in his Complaint and cannot  
24 add them now. Even if he had plead these violations, *Flatley* still does not apply. In *Assoc. for Los*  
25 *Angeles Cnty Deputy Sheriffs v. Los Angeles Times Comms., LLC*, 239 Cal. App. 4th 808 (2015)

26 \_\_\_\_\_  
27 <sup>1</sup> On January 10, 2024, Tech Inquiry filed an Amendment Memo of P’s and A’s in support of its  
28 December 9, 2024 Special Motion to Strike, correcting some summaries of the December 9, 2024  
Declaration of Jack Poulson, but later learned that the uncorrected version was filed. Tech Inquiry  
regrets this error and will submit Corrected Amended Memo of P’s and A’s.

1 (“ALADS”), the plaintiff asserted that the newspaper reporters’ possession of “confidential” deputy  
2 sheriff personnel files “constitutes the crime of receiving stolen property” in violation of Penal  
3 Code § 496(a) and sought the *Flatley* exception. The Court of Appeal held the *Flatley* exemption  
4 did not apply to the newspaper on two grounds: (1) the plaintiff “presented no evidence” that any  
5 reporters “received the files knowing they were stolen” and (2) a “wealth of both State and Federal  
6 case law” protect media defendants from criminal and civil liability for publishing government  
7 records that are “illegally obtained” by a third party where the reporters are passive recipients of the  
8 records. *Id.* at 819. The same conclusion is required here. Mr. Poulson has provided uncontroverted  
9 evidence neither he nor Tech Inquiry violated any criminal laws when Mr. Poulson passively  
10 accepted Plaintiff’s arrest report from a source, unaware it was sealed, and Tech Inquiry posted the  
11 report provided by Mr. Poulson. Jack Poulson Special Motion to Strike, Declaration of Jack  
12 Poulson, ¶¶ 13-15. Tech Inquiry also is protected by the First Amendment from any liability arising  
13 from posting the arrest report supplied by Mr. Poulson. *ALADS*, 239 Cal. App. 4th at 819.

14 Nor did Tech Inquiry violate Judge Gold’s sealing order because Tech Inquiry was not a  
15 party to that criminal case. Plaintiff ignores “[t]he general rule ... that a court order does not bind a  
16 non-party to the litigation in which the order is entered.” *State ex rel. Thomas v. Grant*, 222 Ariz.  
17 197, 201, 213 P.3d 346, 350 (Ct. App. 2009). “[I]t is a basic principle of law that a person who is  
18 not a party to an action is not bound by the judgment in that action.” *Id.* (quoting Restatement  
19 (Second) of Judgments (“Restatement”) § 62 cmt. a (1982)). Courts have repeatedly held that  
20 “when a non-party has come into possession of protected information through a means outside the  
21 litigation, a protective order does not prevent the non-party from disseminating the information” –  
22 including non-party media entities. *Id.*<sup>2</sup> The same rule applies here: because Tech inquiry was not a

23 \_\_\_\_\_  
24 <sup>2</sup> See *Roman Catholic Diocese of Lexington v. Noble*, 92 S.W.3d 740, 742 (Ky. 2002) (newspaper’s  
25 publication of information from sealed records does not constitute contempt when newspaper did  
26 not obtain information from court records or through court process); see also *Seattle Times Co. v.*  
27 *Rhinehart*, 467 U.S. 20, 34 (1984) (party subject to protective order is not precluded from  
28 disseminating “protected” information that party obtained other than through discovery); *In re*  
*Rafferty*, 864 F.2d 151, 155 (D.C.Cir.1988) (protective order may not restrict party’s use of  
information obtained before the litigation began); *Int’l Prods. Corp. v. Koons*, 325 F.2d 403, 408  
(2d Cir.1963) (court may not bar party from disseminating information obtained independent of  
discovery).

1 party to *People v. Blackman*, it was not bound by Judge Gold’s sealing order. Because Tech Inquiry  
2 lawfully obtained the arrest report, it did not violate any criminal laws. Tech Inquiry’s posting of  
3 the arrest report is also protected by the First Amendment because it lawfully obtained the report.

4 **2. Tech Inquiry’s Speech Is Protected by § 425.16(e)(2)**

5 Plaintiff does not dispute that his arrest by police and subsequent proceedings in criminal  
6 court are official government proceedings under § 425.16(e)(2), or that Tech Inquiry’s challenged  
7 speech about an official proceeding need not be related to a matter of public concern. Plaintiff’s  
8 only objection to the application of § (e)(2) to Tech Inquiry’s postings his contention that the  
9 official proceedings were finished at the time of publication on September 14, 2023 because Judge  
10 Gold had already sealed the arrest report on February 15, 2022. But Mr. Poulson and Tech Inquiry  
11 were unaware of the sealing order at the time of publication and did not know whether the criminal  
12 case against Plaintiff was ongoing at the time. Tech Inquiry should not be penalized when the  
13 proceedings were sealed away from public view, and the sealing order was entered only seven  
14 months before Tech Inquiry’s publication

15 **3. Tech Inquiry’s Speech Is Protected by § 425.16(e)(3) and (4)**

16 Plaintiff does not dispute that Tech Inquiry’s posts on its website about Plaintiff and his  
17 arrest report trigger the protection of § 425.16(e)(3) and (4) because Tech Inquiry’s posts qualify as  
18 news reporting activity by publishers or media defendants on a “public forum.” *Sipple v. Found. for*  
19 *Nat. Progress*, 71 Cal. App. 4th 226, 240 (1999); *Barrett v. Rosenthal*, 40 Cal. 4th 33, 41, n. 4  
20 (2006); *ComputerXpress, Inc. v. Jackson*, 93 Cal. App. 4th 993, 1006 (2001).

21 Plaintiff, however, contends that Tech Inquiry’s speech is not protected by § 425.16(e)(3) or  
22 (4) because Tech Inquiry’s speech about Plaintiff and his arrest report is not “an issue of public  
23 interest.” Opp. p. 12. But Plaintiff’s reliance on the facts of *FilmOn.com Inc. v. DoubleVerify Inc.*, 7  
24 Cal. 5th 133 (2019) is misplaced. In *FilmOn*, the California Supreme Court held that the  
25 defendant’s speech, even though it arguably concerned a matter of public interest, did not trigger the  
26 protection of § 425.16(e)(4) because its speech was “private” and “never entered the public sphere.”  
27 *Id.* at 145. The court noted that the defendant did not operate a public website or “issue[] its reports  
28 ... to the wider public ... but [issued its reports] privately, to a coterie of paying clients. Those

1 clients, in turn, use the information [that the defendant] provides for their business purposes alone.”  
2 *Id.* In contrast, Tech Inquiry operates a public website, which freely posts free news reports to the  
3 public, including its posts about Plaintiff’s arrest, summaries of news reports about Plaintiff and his  
4 former company Premise published by mainstream media such as the *Wall Street Journal*.<sup>3</sup> It can  
5 hardly be said that Tech Inquiry’s speech about Plaintiff, his role as a tech executive, and his arrest  
6 report is “private” and “never entered the public sphere,” as Plaintiff accurately asserts. There is  
7 nothing private about an arrest under California law; the facts of an arrest, including the arrestee’s  
8 name, reason for the arrest, and surrounding facts, must be disclosed under the Public Records Act,  
9 Government Code § 7923.610, and plaintiff’s arrest report was initially a public record.

10 Plaintiff contends that he is not a public figure as that term is defined in defamation law, but  
11 admits that he sought public attention by creating a personal website and has hosted several  
12 podcasts with paid guests. Redacted January 14, 2025 Declaration of Maury Blackman, ¶¶ 4-5; *see*  
13 *also* Jack Poulson’s Special Motion to Strike, Declaration of Sarah Noble; Exhibits A-I. The fact  
14 that Plaintiff says that he has not engaged in public discussions about domestic violence (Blackman  
15 1/14/25 Decl., ¶ 8) and is not a nationally known political figure like the plaintiff in *Sipple v.*  
16 *Found. for Nat’l Progress*, 71 Cal. App. 4th 226, 239 (1999), does not mean that Tech Inquiry’s  
17 posting of his arrest report and related news stories fall outside the zone of public interest.

18 Plaintiff agrees that that the actions of law enforcement or domestic violence are matters of  
19 public interest, but asserts that Tech Inquiry’s posts about Plaintiff did not analyze the actions of  
20 police or the impact of alleged domestic violence per se as matters of public interest. Opp. p. 14.  
21 But nothing in the anti-SLAPP statute requires the speaker to express why the topic is of public  
22 interest. The two-part “public interest” test outlined in *FilmOn* simply requires the trial court to  
23 “[f]irst, ask[s] what public issue or issue of public interest the speech in question implicates — a  
24 question we answer by looking to the content of the speech.” 7 Cal. 5th at 149-50 (internal  
25 quotations and brackets omitted). “Second, we ask what functional relationship exists between the  
26 speech and the public conversation about some matter of public interest. It is at the latter stage that

27 \_\_\_\_\_

28 <sup>3</sup> See <https://techinquiry.org/?text=maury%20blackman&guard=>;  
<https://techinquiry.org/?entity=premise%20data%20corporation&guard=>.

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1 context proves useful.” *Id.* (internal quotations and brackets omitted).

2 In this case, Tech Inquiry’s speech implicates two issues of public concern – the San  
3 Francisco police arrest of Plaintiff in response to an allegation of domestic abuse and the fact that  
4 Plaintiff, a top Bay Area tech executive, was arrested for “alleged felony domestic abuse.” January  
5 14, 2024 Blackman Decl., ¶ 9. There is legitimate public interest the actions of San Francisco  
6 police, especially when making arrests of suspected criminal actions. *Lieberman v. KCOP*  
7 *Television, Inc.*, 110 Cal. App. 4th 156 (2022). Even if Plaintiff is not nationally known figure,  
8 “[t]he ... topic of ... domestic abuse is [an issue of] significant and of public interest” under the  
9 anti-SLAPP statute. *M.G. v. Warner*, 89 Cal. App. 4th 623, 629 (2001); accord *Integrated*  
10 *Healthcare Holdings, Inc. v. Fitzgibbons*, 140 Cal. App. 4th 515, 524 (2006); *Du Charme v. Int’l*  
11 *Bhd of Elec. Workers*, 110 Cal. App. 4th 107, 117 (2003). The public interest is especially high  
12 when the person accused of domestic abuse is a powerful business executive in a large metropolitan  
13 area.

14 **C. Plaintiff Has Not Met His Burden to Prove a Probability of Prevailing**

15 **1. Plaintiff’s Claims Are Barred by 47 U.S.C. § 230**

16 Plaintiff contends that § 230 does not apply because “Tech Inquiry is just a website  
17 that publishes Poulson’s posts and thus publication of his posts does not constitute a third-party  
18 post.” Opp. p. 21. But this is more of a concession than anything. Plaintiff agrees that Tech Inquiry  
19 is a website that carried Mr. Poulson’s posts. Plaintiff cites no evidence that Poulson’s posts on  
20 Tech Inquiry are *not* third-party posts. *Id.* (citing Plaintiff Decl. at ¶ [sic] TK.) Lacking such  
21 evidence, and in the face of Mr. Poulson’s December 6, 2024 Declaration that “[w]hen Mr. Poulson  
22 posted the Incident Report and related Substack articles on Tech Inquiry, he did so in his capacity as  
23 a Substack writer, not an executive for Tech Inquiry,” Poulson 12/6/24 Decl. ¶¶ 2, 21, all of  
24 Plaintiff’s claims against Tech Inquiry are barred by § 230. *Perfect 10, Inc. v. CCBill LLC*, 488 F.  
25 3d 1102, 1118 (9th Cir. 2007).

26 **2. The Fair Report Privilege Protects Tech Inquiry’s Postings About Plaintiff**

27 Plaintiff contends that Tech Inquiry’s postings about Plaintiff’s arrest report fall outside the  
28 fair report privilege because the postings allegedly “breache[d]” Judge Gold’s “order” sealing the

1 arrest report. Opp. p. 19 (citing Civil Code § 47(d)(2)(B).) But Plaintiff cites no cases supporting his  
2 theory and ignores contrary authority directly on point. But Tech Inquiry did not “breach” Judge  
3 Gold’s sealing order because Tech Inquiry was not a party in *People v. Blackman*, the criminal  
4 court proceeding where Judge Gold sealed Plaintiff’s arrest report. As a non-party, Tech Inquiry is  
5 not bound by Judge Gold’s sealing order. “The general rule ... that a court order does not bind a  
6 non-party to the litigation in which the order is entered.” *Grant*, 213 P.3d at 350. “[I]t is a basic  
7 principle of law that a person who is not a party to an action is not bound by the judgment in that  
8 action.” *Id.* (quoting Restatement (Second) of Judgments (“Restatement”) § 62 cmt. a (1982); *see*  
9 *also id.* at 353 (because the state was not a party to a civil case and obtained a court record from that  
10 case outside of the litigation, it was “not bound by the protective order” in that case” and did not  
11 violate the protective order by disclosing the court record to the media). The same rule applies here:  
12 Tech inquiry was not a party to the criminal proceeding in *People v. Blackman* and is not bound by  
13 Judge Gold’s sealing order when Tech Inquiry obtained the arrest report outside of that proceeding.

14 Plaintiff fails to discuss, let alone distinguish, authorities applying California’s fair report  
15 privilege to news reports about official government proceedings and records required to be kept  
16 confidential by statute. *Reeves v. American Broadcasting Companies, Inc.*, 719 F.2d 602, 606 (2d  
17 Cir.1983) (California fair report privilege immunized press coverage of grand jury proceedings even  
18 though they were secret by law); *Crane v. The Arizona Republic*, 972 F.2d 1511, 1518-19 (9th  
19 Cir.1992) (California fair report privilege immunized press coverage of congressional investigation  
20 even though it was confidential); *Braun v. Chronicle Publ’g Co.*, 52 Cal. App. 4th 1036, 1052  
21 (1997) (California fair report privilege immunized news report about confidential government  
22 audit). Media reports about secret government proceedings and records are protected by the fair  
23 report privilege, whether secrecy is mandated by a statute or court order.

### 24 **3. Plaintiff’s Claims Are Barred by the First Amendment**

25 Plaintiff has not met his burden of show a probability of prevailing on his claims for the  
26 independent reason that the First Amendment prohibits this Court from applying civil liability to  
27 Tech Inquiry for posting lawfully obtained government records and information that is a matter of  
28 public interest, as here. Plaintiff does not attempt to distinguish *The Florida Star v. B.J.F.*, 491 U.S.

1 524 (1989), which similar to this case in many respects. In that case, the Supreme Court held that  
2 the First Amendment prohibited a newspaper from being held civilly for publishing an accidentally  
3 disclosed the name of a rape victim – even though the victim was a private figure and even though  
4 the publication of the rape victim’s name violated a Florida statute that made it unlawful to “print,  
5 publish, or broadcast ... in any instrument of mass communication” the name of the victim of a  
6 sexual offense. *Id.* at 527. The Supreme Court held that the newspaper did nothing wrong because it  
7 did not use improper methods to obtain the government information, the issue of the rape of a  
8 private citizen was a “matter of public significance,” and the First Amendment barred the use of the  
9 rape victim privacy statute to punish the newspaper in a civil proceeding. The court also held that  
10 the Florida statute barring the publication of the name of a rape victim was unconstitutional as  
11 applied to the newspaper. *Id.* at 541.

12 Nor does Plaintiff explain why this Court should ignore the numerous authorities holding  
13 that the state and federal constitutions bar civil liability against media defendants for publishing  
14 information about private citizens contained in lawfully obtained official government records and  
15 proceedings involving issues of public concern. *E.g., Cox Broadcasting Corp. v. Cohn*, 420 U. S.  
16 469 (1975) (First Amendment barred civil liability against a television station for broadcasting  
17 lawfully obtained name of a rape-murder victim in violation of a state statute); *ALADS*, 239 Cal.  
18 App. 4th at 819 (“While the government may desire to keep some [government records]  
19 confidential and may impose the duty upon [government employees] to maintain confidentiality, it  
20 may not impose criminal or civil liability upon the press for obtaining and publishing newsworthy  
21 information through routine reporting techniques.”) (citations and quotation marks omitted).

22 **4. Plaintiff’s Claim Based on Penal Code Section § 851.92(c) Fails Because the**  
23 **Statute Is Unconstitutional**

24 Plaintiff has failed to establish that Penal Code § 851.92(c) is constitutional on its face or as  
25 applied to news websites such as Tech Inquiry. The statute is a content-based restriction – it bars the  
26 disclosure of sealed arrest records – which means it is subject to strict scrutiny. *Kasky v. Nike*, 27  
27 Cal. 4th 939 (2002) The statute fails strict scrutiny because the statute is not the least restrictive  
28 means of achieving any government interest or narrowly tailored to address that interest. Plaintiff’s

1 cause of action for alleged violation for Penal Code § 851.91(c) fails because the statute is  
2 unconstitutional.

3 **III. CONCLUSION**

4 Because all 14 of Plaintiff's claims against Tech Inquiry arise from Tech Inquiry's exercise  
5 of its constitutional free speech rights under subsections 425.16(e)(2), (e)(3), and (e)(4), and  
6 because Plaintiff failed to establish a probability of prevailing on any of his claims, Plaintiff's  
7 claims against Tech Inquiry should be stricken without leave to amend.

8 DATED: January 29, 2025

LAW OFFICE OF SUSAN E. SEAGER

/s/ Susan E. Seager

Susan E. Seager

*Attorneys for Defendant Tech Inquiry, Inc.*

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Document received by the CA 1st District Court of Appeal.

1 **DECLARATION OF SUSAN E. SEAGER**

2 I, Susan E. Seager, declare:

3 1. I am an attorney licensed to practice law before the courts of the state of California  
4 and I am counsel of record for defendant Tech Inquiry, Inc. in this action. I submit this Declaration  
5 in support of Tech Inquiry’s Reply in Support of its Special Motion to Strike Plaintiff’s Complaint.  
6 The facts stated below are true to my personal knowledge, except those matters stated on  
7 information and belief, which I am informed and believe to be true.

8 2. I am a solo practitioner and I handle my own electronic filing. On the evening of  
9 December 6, 2024, I prepared to use San Francisco County Superior Court’s e-filing system to  
10 electronically file Tech Inquiry’s anti-SLAPP motion, which was within 60 days of Tech Inquiry  
11 being served on October 7, 2024, but I had problems formatting my motion and problems  
12 submitting the motion via the e-filing software. I was not able to complete my e-filing of the anti-  
13 SLAPP motion until approximately 2:40 a.m. on December 7, 2024. Shortly thereafter, at 2:49 a.m.  
14 on December 7, 2024, I e-served counsel for Plaintiff, including attorney David Marek, and  
15 counsel for the co-defendants with Tech Inquiry’s anti-SLAPP motion via email. I later received  
16 notification from the court clerk that Tech Inquiry’s anti-SLAPP motion was formally accepted as  
17 filed on Monday, December 9, 2024.

18 3. In the days prior to my filing of the anti-SLAPP motion, I had problems e-filing a  
19 joint stipulation with the court and my filing was repeatedly rejected, I was charged twice for my  
20 first appearance fee, and when my stipulation was finally accepted, it was listed as “filed” several  
21 days after I had submitted it for e-filing. I am informed and believe that many attorneys have had  
22 similar problems filing their briefs through the new e-filing vendor hired by the San Francisco  
23 County Superior Court, which was announced in the Court’s official press release on May 21, 2024  
24 stating that the Court had hired a new electronic filing vendor, File & ServeXpress, starting on  
25 June 3, 2024. See <https://live-jcc-sf.pantheonsite.io/system/files/news/news-release-fsx.pdf>. I have  
26 not experienced similar problems e-filing my court documents in Los Angeles County Superior  
27 Court.

1           4.     On December 23, 2024, during a telephone call with Mr. Marek, I informed him that  
2 I had problems e-filing my anti-SLAPP motion on December 6, 2025 and that I submitted it a few  
3 hours after midnight. Mr. Marek commiserated with me that he also had problems filing his briefs  
4 with the new e-filing vendor in San Francisco Superior Court.

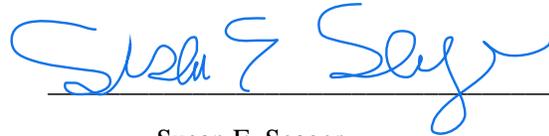
5           5.     Pursuant to this Court’s January 7, 2025 Order Granting Plaintiff’s Motion to Seal  
6 Documents, I participated in a videoconference on January 27, 2025 with Mr. Marek, counsel for  
7 Plaintiff Maury Blackman, and defense counsel for co-defendants Amazon Web Services, Inc.,  
8 Substack, Inc., and Jack Poulson to meet and confer regarding whether the defendants should file  
9 any portion of its Reply under seal.

10          6.     I informed Mr. Marek that I did not intend to file any portion of the Reply under seal  
11 because I would not cite the contents of Plaintiff’s Incident Report sealed by San Francisco County  
12 Superior Court Judge Carolyn Gold, although I would cite to the unredacted portions of Plaintiff’s  
13 Redacted January 14, 2025 Declaration filed in support of Plaintiff’s Opposition to Tech Inquiry’s  
14 anti-SLAPP Motion that describe the Incident Report, including, but not limited to, Paragraph 9 (“I  
15 was involved in an incident on December 21, 2021 that resulted in my being arrested for alleged  
16 felony domestic violence.”); Paragraph 14 (“By no later than February 17, 2022, the charges  
17 against me were dismissed.”); Paragraph 15 (“Pursuant to Penal Code section 851.91, I  
18 successfully petitioned the trial court in a public court proceeding to seal the arrest report and its  
19 contents.”); and Paragraph 16 (“On February 17, 2022, pursuant to Criminal Code section 851.91,  
20 San Francisco Superior Court Judge Carolyn Gold entered an order sealing law enforcement  
21 agency report number 210844280 (the ‘Sealing Order’) related to Court case number 21012755.”  
22 Mr. Marek said he would like to review my Reply to examine the context of my citations to  
23 Plaintiff’s declaration before filing but said he understood that was not practically possible.

24          7.     Mr. Marek did not meet and confer with me about filing his partially sealed  
25 (“Redacted” and “Unredacted”) Opposition to Tech Inquiry’s anti-SLAPP motion and partially  
26 sealed (“Redacted” and “Unredacted”) declarations of Plaintiff Maury Blackman and Cameron  
27 Scherer filed on January 14, 2025, despite this Court’s January 7, 2025 Order requiring counsel to  
28

1 meet and confer regarding any sealing/redactions of filings submitted to this Court after January 7,  
2 2025.

3 I declare under penalty of perjury under the laws of the State of California that the foregoing  
4 is true and correct, and that this Declaration was executed on the 28th day of January 2025, in  
5 South Pasadena, California.

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8 Susan E. Seager  
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5 *Attorneys for Defendant Tech Inquiry, Inc.*

ELECTRONICALLY  
**FILED**  
Superior Court of California,  
County of San Francisco  
**01/29/2025**  
Clerk of the Court  
BY: JEFFREY FLORES  
Deputy Clerk

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **COUNTY OF SAN FRANCISCO**  
10

11 MAURY BLACKMAN, an individual,  
12  
13 Plaintiff,  
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15 v.  
16  
17 SUBSTACK, INC., a Delaware  
18 Corporation; AMAZON WEB SERVICES,  
19 INC., a Delaware Corporation; JACK  
20 POULSON, an individual; TECH  
21 INQUIRY, INC., a Delaware corporation;  
22 DOES 1-25, inclusive,  
23  
24 Defendants.

Case No.: CGC-24-618681

**DEFENDANT TECH INQUIRY, INC.'S  
CORRECTED AMENDED MEMORANDUM  
OF POINTS AND AUTHORITIES IN  
SUPPORT OF ITS SPECIAL MOTION TO  
STRIKE PLAINTIFF'S COMPLAINT**

DATE: February 4, 2025  
TIME: 9:30 a.m.  
DEPT: 301

Judge:

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

1 Defendant Tech Inquiry, Inc. respectfully submits this Corrected Amended Memorandum of  
2 Points and Authorities in support of its Special Motion to Strike Plaintiff Maury Blackman's  
3 Complaint.

4 An earlier version of this Memorandum of Points and Authorities was filed on January 10,  
5 2025 that was intended to correct the description of the Declaration of Jack Poulson on page 8, lines  
6 26-28 and page 9, lines 1-7 in response to a letter pointing out the errors from Plaintiff's counsel;  
7 update the hearing date and department; add Plaintiff's true name in the caption after the court  
8 signed Amendment to Complaint inserting his true name in the caption on December 20, 2024; and  
9 fix some pagination and formatting issues.

10 However, the version that was filed on January 10, 21025 did not contain the corrections to  
11 the description of the Poulson Declaration. This version contains the correct version.

12 DATED: January 29, 2025

LAW OFFICE OF SUSAN E. SEAGER  
*/s/ Susan E. Seager*  
Susan E. Seager  
*Attorneys for Defendant Tech Inquiry, Inc.*

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 This lawsuit is a SLAPP lawsuit. It seeks to chill defendant Tech Inquiry, Inc.’s speech  
4 about the official actions of San Francisco police, their police report describing the felony arrest of  
5 Plaintiff, a high-profile technology executive, for allegedly battering his girlfriend. Plaintiff alleges  
6 that Tech Inquiry should be held liable because journalist Jack Poulson posted a copy of Plaintiff’s  
7 arrest report and related articles on Tech Inquiry’s website in alleged violation of a new California  
8 statute that makes it unlawful to publish an arrest report after it has been sealed by a court, as  
9 Plaintiff’s arrest report was.

10 But Plaintiff’s claims and the statute, Penal Code § 851.92(c), are fatally flawed. All of  
11 Plaintiff’s claims against Tech Inquiry arise from Tech Inquiry’s speech about official police  
12 actions, Plaintiff’s official arrest report, and alleged domestic violence, which are matters of public  
13 concern. Plaintiff’s claims therefore trigger the protection of C.C.P. § 415.16(e)(2), (e)(3), and  
14 (e)(4) of the anti-SLAPP statute. Plaintiff cannot meet his burden of showing a probability of  
15 prevailing on any of his claims, as required by the anti-SLAPP statute. Plaintiff’s claims are barred  
16 by § 230 of the Communications Decency Act, the absolute California fair report privilege, and the  
17 First Amendment protection for news reports about lawfully obtained government records and bar  
18 against prior restraint. This Court should therefore grant Tech Inquiry’s special motion to strike all  
19 of Plaintiff’s claims against Tech Inquiry.

20 **II. FACTUAL BACKGROUND**

21 **A. Tech Inquiry Is a News Website That Passively Hosted the Incident Report**

22 Defendant Tech Inquiry, Inc. is a public website, <https://www.techinquiry.org>, that provides  
23 the public with government records, news articles, data, and other information investigating the  
24 intersection of surveillance and weapons companies with governments. Declaration of Jack Poulson  
25 (“Poulson Decl.”) ¶ 2 (attached to Mr. Poulson’s concurrently Special Motion to Strike). Tech  
26 Inquiry was founded by Mr. Poulson, who is the executive director of Tech Inquiry. *Id.* ¶ 2.

27 Mr. Poulson is an independent journalist focusing on the intersection of technology and  
28 national security who reports primarily through his periodic newsletter, *All-Source Intelligence*,

1 published through Substack. *Id.* ¶ 1. His newsletter is publicly available on the internet at  
2 <https://substack.com/@jackpoulson>. *Id.* ¶ 1. Mr. Poulson writes his Substack newsletter in his  
3 personal capacity and not as an officer of Tech Inquiry. *Id.* ¶¶ 2, 21.

4 One the companies that Mr. Poulson has been reporting about in his Substack newsletter is a  
5 tech company where Plaintiff worked as chief executive officer. *Id.* ¶ 4; Exhibit B. One of Mr.  
6 Poulson’s Substack articles, published on September 1, 2023, discussed Plaintiff’s accidental public  
7 confirmation of his company’s classified intelligence contracts in his declaration in a lawsuit. *Id.* ¶  
8 7; Exhibit B.

9 On September 14, 2023, Mr. Poulson posted a newsletters on Substack to report that  
10 Plaintiff, then-CEO of a tech company, had been arrested for alleged felony domestic abuse of his  
11 girlfriend in San Francisco, “The Covert Gig-Work Surveillance CEO Arrested for Felony  
12 Domestic Violence.” *Id.* ¶ 8; Exhibit C.

13 Mr. Poulson received the Incident Report through an unsolicited message on the end-to-end  
14 encrypted messaging platform Signal from a confidential source in early September 2023. *Id.* ¶ 13.  
15 Mr. Poulson had no prior relationship with the source and did not request or otherwise seek out the  
16 Incident Report. *Id.* ¶ 13. Mr. Poulson was unaware that the Incident Report was sealed by a San  
17 Francisco Superior Court when he received it, wrote about it, and posted it on Tech Inquiry. *Id.* ¶¶  
18 14-15. There were no markings on the Incident Report indicating it was sealed and when Mr.  
19 Poulson called the San Francisco Police Department’s Crime Information Services Unit, which  
20 confirmed the accuracy of the Incident Report, police did not inform Mr. Poulson the report was  
21 sealed. *Id.* ¶¶ 14-15.

22 When he posted his article about the Incident Report on Substack, Mr. Poulson included a  
23 link to a redacted version of the Incident Report, which he had posted on the Tech Inquiry website  
24 in his capacity as a Substack writer, not an executive of Tech Inquiry. *Id.* ¶ 21. Several months later,  
25 Mr. Poulson removed the arrest report from Tech Inquiry. *Id.* ¶ 21.

26 Mr. Poulson decided to report about Plaintiff’s Incident Report because Plaintiff was a  
27 controversial and apparently “reckless” CEO at his tech company, had “a security clearance [that]  
28 allows him to access sensitive national security information, placing him in a position of public

1 trust”; yet he had “accidentally” publicly revealed his company’s “covert military surveillance  
2 operations through a legal filing”; hired gig workers who unknowingly performed high-risk  
3 intelligence work overseas; whose company “secretly pivoted to performing military surveillance”;  
4 and worked with “high suspect business partners,” including one entity whose owner’s previous  
5 company, “a military contractor, failed to prevent the deaths of many of its employees, including 19  
6 who were pulled off a bus in Iraq and executed on the side of the road while performing as part of  
7 the company’s secretive military contracts.” *Id.* ¶¶ 7, 9, 16-17, 19

8 Mr. Poulson writes all of his Substack newsletters in his personal capacity, and not as an  
9 officer of Tech Inquiry. Tech Inquiry’s only role in this matter is that Mr. Poulson initially stored a  
10 redacted copy of Plaintiff’s Incident Report on Tech Inquiry’s server so that he could directly link  
11 to the document in his Substack article about Plaintiff’s arrest, although Mr. Poulson subsequently  
12 deleted the redacted Incident Report from Tech Inquiry’s server. *Id.* ¶ 21.

13 **B. Plaintiff Is a Public Figure Who Demanded that Tech Inquiry Remove the Incident**  
14 **Report and Related Articles from the Website**

15 Plaintiff has repeatedly sought public attention as an American technology executive,  
16 including by describing himself as a “prominent figure” in the industry; creating a personal website;  
17 hosting podcasts with high-profile guests, including former U.S. Treasury Secretary Larry  
18 Summers; creating a public LinkedIn profile; and working as a CEO at a company with U.S.  
19 government and foreign government contracts. Declaration of Sarah Noble in Support of Jack  
20 Poulson’s Special Motion to Strike; Exhibits A-I, concurrently filed.

21 On September 16, 2024, Plaintiff’s counsel sent a cease and desist letter and \$25-million  
22 damages demand to Tech Inquiry, demanding it remove the Incident Report from its website, “all  
23 references” to the Incident Report, and all “information related to the sealed Incident Report.”  
24 Compl. ¶ 41. On October 3, 2024, Plaintiff filed suit against Tech Inquiry, Mr. Poulson, Substack,  
25 and Amazon Web Services, Inc., alleging 14 claims against Tech Inquiry. Compl. ¶¶ 50-149, 157-  
26 176, and seeking injunctive relief. Compl. p. 22.

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28 ///

1 **III. ARGUMENT**

2 **A. The Anti-SLAPP Statute Is Designed to Protect News Websites Such as Tech Inquiry**  
3 **From Meritless Lawsuits Targeting Its Protected Speech**

4 The Legislature enacted Code of Civil Procedure § 415.16 to “provide[] a procedure for  
5 weeding out, at an early stage, meritless claims arising from protected activity” of speech and  
6 petitioning, known as SLAPP suits. *Baral v. Schnitt*, 1 Cal. 5th 376, 384 (2016). Special motions to  
7 strike brought under § 425.16 are designed to provide “a fast and inexpensive unmasking and  
8 dismissal” of lawsuits targeting protected speech or petitioning activity (*Wilcox v. Superior Court*,  
9 27 Cal. App. 4th 809, 819, 823 (1994)), allowing the defendant to “nip SLAPP litigation in the  
10 bud[.]” *Braun v. Chron. Publ’g Co.*, 52 Cal. App. 4th 1036, 1042 (1997)).

11 The statute permits a defendant to file a special motion strike any “cause of action against a  
12 person arising from any act of that person in furtherance of the person’s right of petition or free  
13 speech under the United States Constitution or the California Constitution in connection with a  
14 public issue.” C.C.P. § 425.16(b)(1). The statute “requires a court to engage in a two-step process”  
15 to analyze the defendant’s anti-SLAPP motion. *Jarrow Formulas, Inc. v. LaMarche*, 31 Cal. 4th  
16 728 (2003).

17 “First, the court decides whether the defendant has made a threshold showing that the  
18 challenged cause of action is one arising from protected activity.” *Navellier v. Sletten*, 29 Cal.4th  
19 82, 88 (2002) (citations omitted). A defendant meets this burden simply “by demonstrating that the  
20 act underlying the plaintiffs’ cause of action fits one of the categories spelled out in section 425.16,  
21 subdivision (e).” *Id* (citation omitted). The court is precluded during this first step from considering  
22 whether the speech violates a civil statute or common law because doing so would be “placing the  
23 cart before the horse.” *DuPont Merck Pharm. Co. v. Superior Ct.*, 78 Cal. App. 4th 562, 759 (2000).  
24 Instead, the court must wait to consider the merit of the plaintiff’s claims “in the second part of the  
25 analysis,” when deciding “whether there is a probability plaintiffs will prevail.” *Id*.

26 Second, if the court determines that the defendant has satisfied this first test, the burden  
27 shifts to the plaintiff to demonstrate “a probability of prevailing on the claim[s].” *Id*. at 88. The  
28 plaintiff must establish “that the complaint is legally sufficient and supported by a prima facie

1 showing of facts that, if proved at trial, would support a judgment in the plaintiff’s favor.” *Digerati*  
2 *Holdings, LLC v. Young Money Entm’t, LLC*, 194 Cal. App. 4th 873, 884 (2011). The motion must  
3 be granted if the “plaintiff fails to produce evidence to substantiate his claim or if the defendant has  
4 shown that the plaintiff cannot prevail as a matter of law.” *Siam v. Kizilbash*, 130 Cal. App. 4th  
5 1563, 1570 (2005).

6 The anti-SLAPP statute “may apply to *any* cause of action.” Burke, *Civil Litigation Series:*  
7 *Anti-SLAPP Litigation* (The Rutter Group 2023) § 4:1, p.212 (emphasis in original). “Nothing in the  
8 statute itself categorically excludes any particular type of action from its operation[.]” *Navellier*, 29  
9 Cal. 4th at 92 (quoting *Calif. Teachers Assn v. Governing Bd. of Rialto Unified School Dist.*, 14 Cal.  
10 4th 627, 633 (1997)). Courts have held that the anti-SLAPP statute applies to claims asserted by  
11 Plaintiff, including claims for defamation (*Wilcox*, 30 Cal. App. 4th at 809); *Lafayette Morehouse,*  
12 *Inc. v. Chronicle Publ’g Co.*, 37 Cal. App. 4th 855 (1995)); infliction of emotional distress  
13 (*Ketchum v. Moses*, 24 Cal. 4th 1122 (2001)); disclosure of confidential information (*Fox*  
14 *Searchlight Pictures, Inc. v. Paladino*, 89 Cal. App 4th 294 (2001)); interference with prospective  
15 economic advantage (*Sipple v. Found. for Nat. Progress*, 71 Cal. App. 4th 226 (1999)); invasion of  
16 privacy (*Seelig v. Infinity Broadcasting Corp.*, 97 Cal. App. 4th 798 (2002)); publication of private  
17 facts and intrusion (*Hall v. Time Warner, Inc.*, 153 Cal. App. 4th 1337 (2007)); false light (*Tamkin*  
18 *v. CBS Broadcasting, Inc.*, 193 Cal. App. 4th 133 (2011); negligence (*Birkner v. Lam*, 156 Cal.  
19 App. 4th 275 (2007)); and various statutory violations (*Blue v. Office of Inspector General*, 23 Cal.  
20 App. 5th 138 (2018) (alleged violation Penal Code § 6126.5)).

21 **B. Plaintiff’s Claims Arise from Tech Inquiry’s Speech Protected by § 425.16(e)**

22 “A claim arises from protected activity when that activity underlies or forms the basis for the  
23 claim.” *Park v. Bd. Of Trustees of Cal. State Univ.*, 2 Cal. 5th 1057, 1062 (2017). All of Plaintiffs  
24 claims against Tech Inquiry arise from the website’s speech protected by the anti-SLAPP statute.

25 **1. Tech Inquiry’s Speech Is Protected by § 425.16(e)(2)**

26 All of Plaintiff’s claims against Tech Inquiry arise from its hosting of Plaintiff’s official  
27 Incident Report by the San Francisco Police Department documenting Plaintiff’s arrest for alleged  
28 felony domestic violence and related articles, which is speech “made in connection with an issue

1 under consideration by a ... executive, or judicial body, or any other official proceeding authorized  
2 by law” protected by C.C.P. § 425.16(e)(2). Compl. ¶ 27 (“Tech Inquiry ... published the sealed  
3 Incident Report on the Tech Inquiry website”); ¶¶ 51, 58, 69 (negligence, gross negligence, and  
4 intentional interference claims arise from Tech Inquiry’s “possession and public dissemination of a  
5 sealed Incident Report and information related to the sealed Incident Report”); ¶ 100 (private facts  
6 claim arises from Tech Inquiry’s “publiciz[ing] private information concerning Plaintiff”); ¶ 110  
7 (false light claim arises from Tech Inquiry’s “publicly disclos[ing] information or material that  
8 showed Plaintiff in a false light”) ¶ 112 (intrusion claim arises from Tech Inquiry “publicly  
9 disseminat[ing] and refus[ing] to take down [from its website] “the sealed Incident Report and  
10 information related to the sealed Incident Report”); ¶ 170 (Penal Code § 851.92(c) claim arises from  
11 Tech Inquiry “disseminating the sealed Incident Report and information related to the sealed  
12 Incident Report”); *see also* Compl. ¶¶ 76, 87, 128, 135 (other claims “refer[] to and incorporate[]”  
13 the “allegations contained in the foregoing paragraphs” alleging that Tech Inquiry published  
14 Plaintiff’s Incident Report and related information on its website).

15 A “governmental investigation” into “potential criminal conduct” is an “official proceeding”  
16 under C.C.P. § 425.16(e)(2). *Comstock v. Aber*, 212 Ca. App. 4th 931, 943 (2012). The  
17 investigation is an “official proceeding” even if the suspect was never charged with a crime.”  
18 *Hansen v. Calif. Dept. of Corrections and Rehabilitation*, 171 Cal. App. 4th 1537, 1544 (2008).  
19 Here, the Incident Report was an official writing that documented an official proceeding by the San  
20 Francisco Police Department, and the Incident Report was also under consideration by the San  
21 Francisco County Superior Court, which later sealed the Incident Report. Subsection 425.16(e)(2)  
22 does not require a defendant to establish that its speech about an official proceeding is related to a  
23 matter of public concern. *See Briggs v. Eden Council for Hope & Opportunity*, 18 Cal. 4th 1106,  
24 1116 (1999).

## 25 **2. Tech Inquiry’s Speech Is Protected by § 425.16(e)(3)**

26 All of Plaintiff’s claims against Tech Inquiry arise from its hosting of Plaintiff’s official  
27 police arrest report for alleged felony domestic violence, which is a matter of public interest, on  
28 Tech Inquiry’s website, which is a public forum, all of which is speech protected by § 425.16(e)(3).

1 Compl. ¶¶ 27, 51, 58, 69, 76, 87, 100, 110, 112, 128, 135, 170. The California Supreme Court has  
2 held that “Web sites accessible to the public ... are ‘public forums’ for purposes of the ... SLAPP  
3 statute.” *Barrett v. Rosenthal*, 40 Cal. 4th 33, 41, n. 4 (2006). *See also ComputerXpress, Inc. v.*  
4 *Jackson*, 93 Cal. App. 4th 993, 1006 (2001) (same). Tech Inquiry publishes news to the public, an  
5 activity protected by the anti-SLAPP statute. “[T]he language of the statute [is] broad enough to  
6 cover news reporting activity,” “publishers,” and “media defendants” ... who regularly face libel  
7 litigation[.]” *Sipple*, 71 Cal. App. 4th at 240. *See also Braun*, 52 Cal. App. 4th at 1045 (news  
8 reporting is free speech and section 425.16 applies to media defendants in libel actions); *Assoc. for*  
9 *Los Angeles Cnty Deputy Sheriffs v. Los Angeles Times Comms., LLC*, 239 Cal. App. 4th 808, 816  
10 (2015) (“ALADS”) (plaintiff’s cause of action arising from newspaper’s newsgathering of deputies’  
11 confidential personnel files “[a]rises from the Times’s [p]rotected [a]ctivity: [n]ews [r]eporting”).

12 Media reports about the actions of law enforcement officers qualify as speech on a public  
13 forum about a matter of public interest protected by § 425.16(e)(3). “The public has a strong interest  
14 in the ... conduct of law enforcement officers.” *Id.* at 826. *See also Collondrez v. City of Rio Vista*,  
15 61 Cal. App. 5th 1039, 1050 (2021) (conduct of police officer is “undoubtedly” an issue of public  
16 interest pursuant to § 425.16(e)(3). *See generally Commission on Peace Officer Standards &*  
17 *Training v. Superior Court*, 42 Cal. 4th 278, 297, 300 (2007) (“POST”) (“Peace officers ‘hold one  
18 of the most powerful positions in our society; our dependence on them is high and the potential for  
19 abuse of power is far from insignificant.”) (citation and quotation marks omitted). News reports  
20 about suspected criminal activity are considered a matter of public interest. *Lieberman v. KCOP*  
21 *Television, Inc.*, 110 Cal. App. 4th 156 (2022). News reports about allegations of domestic abuse  
22 contained in official records involving public figures also qualify as free speech about a matter of  
23 public concern under the SLAPP statute. *Sipple*, 71 Cal. App. 4th at 238. “The ... topic of ...  
24 domestic abuse is [an issue of] significant and of public interest” under the anti-SLAPP statute.  
25 *M.G. v. Warner*, 89 Cal. App. 4th 623, 629 (2001).

26 Because all of Plaintiff’s claims against Tech Inquiry arise from its hosting of the Incident  
27 Report and related articles, which is speech on a public forum about matters of public interest, all of  
28 Plaintiff’s 14 claims against Tech Inquiry fall within the protection of § 425.16(e)(3).

1                   **3. Tech Inquiry Speech Is Protected by § 425.16(e)(4)**

2                   All of Plaintiff’s claims against Tech Inquiry arise from the website’s hosting of the Incident  
3 Report and related news reports, which are matters of public interest within the catch-all protection  
4 of § 425.16(e)(4). “The “free speech right to report the news” is protected by § 425.16(e)(4). *San*  
5 *Diegans for Open Gov’t v. San Diego State Univ. Rsch. Found.*, 13 Cal. App. 5th 76, 101 (2017)  
6 (citation omitted). The conduct of police officers is “undoubtedly” an issue of public interest.  
7 *Collondrez*, 61 Cal. App. 5th at 1050. News reports about suspected criminal activity are a matter of  
8 public interest. *Lieberman*, 110 Cal. App. 4th at 156. The arrest of a high-profile technology  
9 executive for alleged felony domestic violence is also a matter of public interest. *Sipple*, 71 Cal.  
10 App. 4th at 238; *M.G.*, 89 Cal. App. 4th at 629. Plaintiff’s 14 claims against Tech Inquiry therefore  
11 fall within the protection of § 425.16(e)(4).

12                   **C. Plaintiff Cannot Meet His Burden to Prove a Probability of Prevailing**

13                   Because Plaintiff’s claims fall within subsection 425.16(e)(2), (e)(3), and (e)(4), the burden  
14 shifts to Plaintiff “to establish[] that there is a probability that [he] will prevail” on each of his 14  
15 claims against Tech Inquiry. C.C.P. § 425.16(b)(1). Plaintiff “may not rely solely on [his]  
16 complaint, even if verified; instead, its proof must be made upon competent admissible evidence.”  
17 *Sweetwater Union High School Dist. v. Gilbane Building Co.*, 6 Cal. 5th 931, 940 (2019) (quotation  
18 marks and citation omitted). “Courts have long required that the evidence relied on by the plaintiff  
19 must be admissible at trial.” *Id.* at 946. Declarations “must reflect that they were made by  
20 competent witnesses with personal knowledge of the facts they swear to be true.” *Id.* at 945.

21                   **1. Plaintiff’s Claims Are Barred by 47 U.S.C. 230**

22                   The Communications Decency Act, 47 U.S.C. § 230, “expressly preempts any state law”  
23 claims arising from publication of third-party content on interactive computer service providers.  
24 *Perfect 10, Inc. v. CCBill LLC*, 488 F. 3d 1102, 1118 (9th Cir. 2007). Websites are interactive  
25 computer service providers. *Batzel v. Smith*, 333 F.3d 1018, 1031 (9th Cir.2003). The CDA  
26 “establishes broad federal immunity to any cause of action that would make service providers liable  
27 for information originating with a third-party user of the service.” *Id.* (internal quotation marks and  
28 citations omitted). The Ninth Circuit has noted that “courts construing § 230 have recognized as

1 critical in applying the statute the concern that lawsuits could threaten the ‘freedom of speech in the  
2 new and burgeoning Internet medium.’” *Id.* at 1027 (9th Cir.2003) (quoting *Zeran v. America*  
3 *Online, Inc.*, 129 F.3d 327, 330 (4th Cir.1997)). “Congress decided not to treat providers of  
4 interactive computer services like other information providers such as newspapers, magazines or  
5 television and radio stations, all of which may be held liable for publishing obscene or defamatory  
6 material written or prepared by others.” *Id.* at 1026 (citing *Blumenthal v. Drudge*, 992 F. Supp. 44,  
7 49 (D.D.C. 1998)).

8 Section 230 provides immunity for a broad variety of state law claims arising from allegedly  
9 tortious publications posted on websites and other ISPs by third parties, including claims for  
10 defamation (*Id.* at 1034-35; *Johnson v. Arden*, 614 F. 3d 785 (8th Cir. 2010); *Blumenthal v. Drudge*,  
11 992 F. Supp. 44, 49-53 (D.D.C. 1998); *Global Royalties, Ltd. v. Xcentric Ventures, LLC*, 544 F.  
12 Supp.2d 929 (D. Ariz. 2008); posting a false dating website profile (*Carafano v. Metrosplash.com,*  
13 *Inc.*, 339 F.3d 1119 (9th Cir. 2003)); posting incorrect stock information (*Ben Ezra, Weinstein &*  
14 *Co. v. America Online*, 206 F.3d 980, 984-985 (10th Cir. 2000)); negligence (*Doe v. America*  
15 *Online*, 783 So.2d 1010, 1013-1017 (Fl. 2001); infliction of emotional distress (*Doe One v. Oliver*,  
16 755 A.2d 1000, 1003-1004 (Conn. Super. Ct. 2000); tortious interference (*Nemet Chevrolet Ltd. v.*  
17 *ConsumerAffairs.com, Inc.*, 591 F.3d 250 (4th Cir. 2009); and alleged violations of state and federal  
18 statutes (*Voicenet Comms, Inc. v. Corbett*, No. 04-1318, 2006 WL 2506318 (E.D. Pa. Aug. 30,  
19 2006); *Doe v. Bates*, No. 5:05-CV-91-DF-CMC, 2006 WL 3813758 (E.D. Tex. Dec. 27, 2006)).

20 Tech Inquiry’s website is an interactive computer service provider protected by § 230. *See*  
21 *Batzel*, 333 F.3d at 1031. The challenged material hosted by the website – the Incident Report, a  
22 link to Mr. Poulson’s Substack article about the Incident Report, and links to articles by other  
23 authors about the Incident Report – were “written or prepared by others.” *Id.* at 1026. Tech Inquiry  
24 did not prepare the Incident Report, write Mr. Poulson’s Substack article about the Incident Report,  
25 or the other articles about the Incident Report by other authors. When Mr. Poulson posted the  
26 Incident Report and related Substack articles on Tech Inquiry, he did so in his capacity as a  
27 Substack writer, not an executive for Tech Inquiry. Poulson Decl. ¶¶ 2, 21. For all of these reasons,  
28 all of Plaintiff’s claims are barred by § 230.

1                   **2. Plaintiff’s Claims Are Barred by the California’s Fair Report Privilege**

2                   Plaintiff’s claims also are all barred by California’s statutory fair report privilege. Civil  
3 Code § 47(d) provides an absolute bar against all content-based claims arising from substantially  
4 accurate news reports about official government proceedings and documents. For example, in  
5 *Jennings v. Telegram-Tribune Co.*, 164 Cal. App. 3d 119 (1985), the Court of Appeal held that a  
6 newspaper story about a local architect’s tax evasion court case was protected by the fair report  
7 privilege and ordered the dismissal of the plaintiff’s causes of action for libel, invasion of privacy,  
8 intentional infliction of emotional distress, injurious falsehood, interference with contractual  
9 relations, interference with prospective economic advantage, and violation of Civil Code § 1708. *Id.*  
10 at 129. The fair report privilege immunizes news reports about arrest records. *Hayward v.*  
11 *Watsonville Register-Pajaronian and Sun*, 265 Cal. App. 2d 255 (1968) (“crime reports of a police  
12 department ... and upon which a criminal complaint is filed and a warrant of arrest is issued ... are  
13 privileged” under Civil Code § 47(d)). The fair report privilege “does not require the reporter to  
14 resolve the merits of the charges, nor does it require that he present the arrestee’s version of the  
15 facts.” *Rollenhagen v. City of Orange*, 116 Cal. App. 3d 414, 427 (1981) (news report about  
16 plaintiff’s arrest protected by fair report privilege). The fair report privilege is absolute and protects  
17 news reports even if the reporter or news organization published with ill will toward the plaintiff or  
18 published with constitutional actual malice. *McClatchy Newspapers, Inc. v. Superior Court*, 189  
19 Cal. App 3d 961, 974-75 (1987); *Howard v. Oakland Tribune*, 199 Cal. App. 3d 1124, 1128 (1988).

20                   California’s fair report privilege applies to news reports about official government  
21 proceedings and records that are confidential by law. *Reeves v. American Broadcasting Companies,*  
22 *Inc.*, 719 F.2d 602, 606 (2d Cir.1983) (California fair report privilege immunized press coverage of  
23 grand jury proceedings even though they were secret by law); *Crane v. The Arizona Republic*, 972  
24 F.2d 1511, 1518-19 (9th Cir.1992) (California fair report privilege immunized press coverage of  
25 congressional investigation even though it was confidential; “Citizens cannot monitor their  
26 government when it conducts business behind closed doors); *Braun*, 52 Cal. App. 4th at 1052  
27 (California fair report privilege immunized news report about confidential government audit).

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1 Here, California’s fair report privilege is an absolute bar to all of Plaintiff’s claims against  
2 Tech Inquiry. All of the claims arise from Tech Inquiry’s publication of an exact copy of the  
3 Incident Report, which provides far more than a substantially accurate summary of the arrest report.  
4 Plaintiff alleges that Tech Inquiry’s publication of the Incident Report and related “information”  
5 falsely imply that Plaintiff was convicted of domestic abuse, but Plaintiff does not cite any  
6 statements published by Tech Inquiry that contain that implication – because there are none.  
7 Journalists routinely report about police arrests; their reports do not imply a conviction.

8 **3. Plaintiff’s Claims Are Barred by the First Amendment Because Tech Inquiry**  
9 **Lawfully Obtained the Incident Report, a Matter of Public Interest**

10 Plaintiff cannot show a probability of prevailing on his claims for the independent reason  
11 that the First Amendment prohibits courts from punishing news organizations that have lawfully  
12 obtained government records or information that are a matter of public interest, as here. The  
13 Supreme Court’s decision in *The Florida Star v. B.J.F.*, 491 U.S. 524 (1989) is instructive. In that  
14 case, a local sheriff’s department mistakenly disclosed a rape victim’s name in a police report  
15 distributed to reporters, who published the name in violation of a Florida statute that made it  
16 unlawful to “print, publish, or broadcast ... in any instrument of mass communication” the name of  
17 the victim of a sexual offense. *Id.* at 527. The victim successfully sued the newspaper for  
18 negligently violating the statute by revealing her identity. *Id.* at 527, 529. The Supreme Court  
19 reversed, holding that “if a newspaper lawfully obtains truthful information about a matter of public  
20 significance then state officials may not constitutionally punish publication of the information,  
21 absent a need to further a state interest of the highest order.” *Id.* at 533 (quoting *Smith v. Daily Mail*  
22 *Publ’g Co*, 443 U.S. 97, 103 (1979)). The court also held that the Florida statute barring the  
23 publication of the name of a rape victim was unconstitutional as applied to the newspaper. *Id.* at  
24 541. The Supreme Court has repeatedly held that state laws barring the media from publishing  
25 information from lawfully obtained official government records and proceedings violate the First  
26 Amendment. *E.g.*, *Cox Broadcasting Corp. v. Cohn*, 420 U. S. 469 (1975) (finding unconstitutional  
27 a civil damages award entered against a television station for broadcasting the lawfully obtained  
28 name of a rape-murder victim in violation of a state statute); *Daily Mail*, 443 U. S. at 103 (finding

1 unconstitutional indictment of two newspapers for violating state statute forbidding newspapers to  
2 publish, without written approval of the juvenile court, lawfully obtained name of minor). *See also*  
3 *Bartnicki v. Vopper*, 523 U.S. 514, 535 (2001) (First Amendment barred liability against radio  
4 station for publishing illegal wiretaps of telephone calls on grounds that recordings were matter of  
5 public concern and reporter was a passive recipient of records); *ALADS*, 239 Cal. App. 4th at 819  
6 (“While the government may desire to keep some [government records] confidential and may  
7 impose the duty upon [government employees] to maintain confidentiality, it may not impose  
8 criminal or civil liability upon the press for obtaining and publishing newsworthy information  
9 through routine reporting techniques.”) (*quoting Nicholson v. McClatchy Newspapers*, 177 Cal.  
10 App. 3d 509, 519-20 (1986)).

11 **4. Plaintiff’s Claim Based on Penal Code Section § 851.92(c) Fails Because the**  
12 **Statute Is Unconstitutional**

13 Penal Code § 851.92(c) prohibits almost any person or entity – including news websites  
14 such as Tech Inquiry – from disseminating any information “relating to” a sealed arrest record. Penal  
15 Code § 851.92(c). Plaintiff alleges that Tech Inquiry violated the statute by hosting the sealed Incident  
16 Report and related “information.” Compl. ¶¶ 166-171. But the statute is unconstitutional, both facially  
17 and as applied to Tech Inquiry. The statute is a content-based restriction, which is subject to strict  
18 scrutiny. *Kasky v. Nike*, 27 Cal. 4th 939 (2002) (“a content-based regulation is valid under the First  
19 Amendment only if it can withstand strict scrutiny, which requires that the regulation be narrowly  
20 tailored (that is, the least restrictive means) to promote a compelling government interest”). The  
21 statute fails strict scrutiny because the state has no compelling governmental interest in penalizing the  
22 dissemination of lawfully obtained information about a sealed arrest report – an official government  
23 report – that involves a matter of public concern, as here. Nor is the statute the least restrictive means  
24 of achieving any government interest or narrowly tailored to address that interest. Plaintiff’s cause of  
25 action for alleged violation for Penal Code  
26 § 851.91(c) fails because the statute is unconstitutional.

27 ///  
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Document received by the CA 1st District Court of Appeal.

1                   **5. Plaintiff Cannot Overcome the Constitutional Bar Against a Prior Restraint**

2                   Plaintiff’s request for injunctive relief in his “Prayer for Relief,” ¶ 10, is barred by the First  
3 Amendment. For more than 100 years, California and federal courts have struck down court orders  
4 enjoining speech about a matter of public concern, known as prior restraints. The Supreme Court  
5 has described a court order barring the press from publishing information about matters of public  
6 concern “the essence of censorship.” *Near v. Minnesota*, 283 U.S. 713 (1931). “[P]rior restraints on  
7 speech and publication are the most serious and the least tolerable infringement on First  
8 Amendment rights.” *Nebraska Press Assn. v. Stuart*, 427 U.S. 539, 559 (1971). There is a “heavy  
9 presumption” against the “constitutional validity” of prior restraints on expression. *Organization for*  
10 *a Better Austin v. Keefe*, 402 U.S. 415, 419 (1971). Not even when the Nixon Administration  
11 warned that Daniel Ellsberg’s unauthorized disclosure to the press of the classified “Pentagon  
12 Papers” about the disastrous Vietnam War posed a “grave and immediate danger” to national  
13 security did the Supreme Court grant a prior restraint ordering the press to stop publishing the  
14 leaked documents. *New York Times Co. v. United States*, 403 U.S. 713, 714 (1971).

15                   Prior restraints are presumptively unconstitutional under the California Constitution. In  
16 *Wilson v. Superior Court*, 13 Cal. 3d 652, 658 (1975), the California Supreme Court held that a  
17 “preliminary injunction violated petitioner’s rights of freedom of expression under the United States  
18 Constitution, and for an independent ground, under the broader terms of the California  
19 Constitution.” *Id.* at 662. The court explained held the “state constitutional guarantee of the right of  
20 free speech and press” is a “protective provision more definitive and inclusive than the First  
21 Amendment.” *Id.* at 658. Section 2, Article 1(a) expressly provides that “[a] law may not restrain or  
22 abridge liberty of speech or press.” *Id.* at 658 (quoting Cal. Const., art. I, § 2(a)). In *Freedom Comm.*  
23 *v. Superior Court*, 167 Cal. App. 4th 160 (2008), the Court of Appeal noted that prior restraints are  
24 barred by the California Constitution because it “provides an even broader guarantee of the right of  
25 free speech and the press than does the First Amendment.” *Id.* at 154 (citation omitted). *Accord*  
26 *ALADS*, 239 Cal. App. 4th at 823 (California Constitution “provides an even broader guarantee of  
27 the right of free speech and the press than does the First Amendment”) (citation omitted). In  
28 *ALADS*, a labor union for rank-and-file deputies in the Los Angeles County Sheriff’s Department

1 asked a court to enjoin the *Los Angeles Times* from publishing confidential personnel files for 500  
2 deputies. *Id.* at 811-12. The newspaper filed an anti-SLAPP motion, asserting that the union could  
3 not establish a probability of prevailing because the requested injunction was a prior restraint that  
4 violated both the state and federal constitutions, and the trial court and the Court of Appeal agreed,  
5 with the latter affirming the dismissal of the lawsuit. *Id.* at 821, 824.

6 **IV. CONCLUSION**

7 The anti-SLAPP statute applies to all 14 of Plaintiff's claims against Tech Inquiry because  
8 all the claims arise from Tech Inquiry's exercise of its constitutional free speech rights under  
9 subsections 425.16(e)(2), (e)(3), and (e)(4). Plaintiff cannot show a probability of prevailing on any  
10 of his claims because they are barred by Section 230 of the Communications Decency Act;  
11 California's absolute fair report privilege; the First Amendment protection for the publication of  
12 lawfully obtained government records about a matter of public concern; and constitutional bars  
13 against prior restraints. Plaintiff's claims against Tech Inquiry should therefore be stricken without  
14 leave to amend because no amendments can cure the fatal flaws in Plaintiff's claims. *See Simmons*  
15 *v. Allstate Ins. Co.*, 92 Cal. App. 4th 1068, 1073 (2001).

16 DATED: January 29, 2025

LAW OFFICE OF SUSAN E. SEAGER

17 /s/ Susan E. Seager  
18 Susan E. Seager

19 *Attorneys for Defendant Tech Inquiry, Inc.*

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6  
7  
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **COUNTY OF SAN FRANCISCO**

11 MAURY BLACKMAN, an individual,  
12  
13 Plaintiff,  
14  
15 v.  
16  
17 SUBSTACK, INC., a Delaware  
18 Corporation; AMAZON WEB SERVICES,  
19 INC., a Delaware Corporation; JACK  
20 POULSON, an individual; TECH  
21 INQUIRY, INC., a Delaware corporation;  
22 DOES 1-25, inclusive,  
23 Defendants.

Case No.: CGC-24-618681

**DEFENDANT TECH INQUIRY, INC.'S  
ERRATA TO REPLY IN SUPPORT OF ITS  
SPECIAL MOTION TO STRIKE  
PLAINTIFF'S COMPLAINT;  
DECLARATION OF SUSAN  
E. SEAGER**

DATE: February 4, 2025  
TIME: 9:30 a.m.  
DEPT: 301

Judge:

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

23 Defendant Tech Inquiry, Inc., hereby submits the following errata to its Reply in Support of  
24 Its Special Motion to Strike Plaintiff's Complaint, dated January 28, 2025 ("Reply"). The affected  
25 sentence in the original Reply on Page 5, lines 12-14, "Tech Inquiry should not be penalized when  
26 the proceedings were sealed away from public view, and the sealing order was entered only seven  
27 months before Tech Inquiry's publication," has changed on Page 5, lines 13-14 to: "Tech Inquiry  
28 should not be penalized when the proceedings were sealed away from public view."

1 **I. INTRODUCTION**

2 Tech Inquiry has met its burden of establishing that Plaintiff Maury Blackman’s 14 claims  
3 against Tech Inquiry trigger the protection of C.C.P. § 415.16(e)(2), (e)(3), and (e)(4) of the anti-  
4 SLAPP statute because Tech Inquiry’s speech about Plaintiff’s arrest for domestic violence and  
5 career as a tech executive in the Bay Area qualify as speech in connection with official government  
6 proceedings, speech on public forum, and speech about police actions and domestic violence, which  
7 are matters of public concern. Plaintiff has failed meet his burden of presenting evidence  
8 establishing a probability of prevailing on any of his claims. Plaintiff’s claims are barred by § 230  
9 of the Communications Decency Act, the California fair report privilege, and the First Amendment  
10 protection for news reports about lawfully obtained government records. This Court should  
11 therefore grant Tech Inquiry’s special motion to strike all of Plaintiff’s claims against Tech Inquiry.

12 **II. ARGUMENT**

13 **A. This Court Should Exercise Its Discretion to Hear Tech Inquiry’s Motion**

14 The anti-SLAPP “statute vests the trial court with discretion to entertain an anti-SLAPP  
15 motion proffered after expiration of the 60-day period.” *Hewlett-Packard Co. v. Oracle Corp.*, 239  
16 Cal. App. 4th 1174, 1186 (2015) (citing C.C.P. § 425.16(f) (“The special motion may be filed  
17 within 60 days of the service of the complaint or, in the court’s discretion, at any later time upon  
18 terms it deems proper.”)). This Court should exercise its discretion to accept Tech Inquiry’s anti-  
19 SLAPP motion because it was submitted to the Court’s e-filing vendor a few hours after the 60-day  
20 deadline. Tech Inquiry planned to file the anti-SLAPP motion on December 6, 2024, which was the  
21 60-day deadline after service on October 7, 2024, but encountered problems with the Court’s e-  
22 filing system. Declaration of Susan E. Seager, ¶¶ 2-3. Ms. Seager submitted the motion to the e-  
23 filing vendor for the Court on December 7, 2024 at approximately 2:40 a.m. and e-served Plaintiff’s  
24 counsel with the motion on December 7, 2024 at 2:49 a.m. *Id.* ¶ 2. Because December 7, 2024 was a  
25 Saturday, the filing was not accepted by the court clerk until the following Monday, December 9,  
26 2024. *Id.* Tech Inquiry’s counsel later told Plaintiff’s counsel, David Marek, about having problems  
27 filing the anti-SLAPP motion, and Mr. Marek commiserated that he also had problems e-filing his  
28 briefs with this Court. *Id.* ¶ 4.

1 Plaintiff misstates the facts in *Hewlett-Packard Co.*, 239 Cal. App. 4th 1174 (2015),  
2 asserting that the trial court declined to hear an anti-SLAPP motion that was “filed 23 days late.”  
3 Opp. p. 10. In fact, the defendant filed its anti-SLAPP motion *21 months* after the complaint was  
4 filed, in the middle of a two-phase trial. *Id.* at 1181-83. Plaintiff fails to mention that in *Platypus*  
5 *Wear, Inc. v. Goldberg*, 166 Cal. App. 4th 772 (2008), the defendant filed its anti-SLAPP motion  
6 “*more than two years* after [plaintiff] filed the complaint,” after discovery had begun. *Id.* at 774.  
7 The Court of Appeal held that the trial court abused its discretion by hearing the anti-SLAPP  
8 motion because “[t]he delay was extreme, the reasons [defense counsel] offered ... for the delay in  
9 filing the motion were weak, ... and the potential prejudice to [plaintiff], given the lengthy delay  
10 occasioned by the appeal, is great.” *Id.* at 787. None of those facts are present here. Because the  
11 delay in filing was minimal, there is no prejudice to Plaintiff. This Court should exercise its  
12 discretion and hear Tech Inquiry’s motion.<sup>1</sup>

13 **B. The Anti-SLAPP Statute Applies to Tech Inquiry’s Speech**

14 **1. The Flatley Exception for Criminal Conduct Does Not Apply to Tech Inquiry**

15 Plaintiff contends – contrary to the evidence – that Tech Inquiry’s posting of Plaintiff’s  
16 arrest report is “illegal as a matter of law” and therefore falls outside the protection of the anti-  
17 SLAPP statute under *Flatley v. Mauro*, 39 Cal. App 4th 299, 320 (2006). Opp. p. 11. But *Flatley*  
18 requires a plaintiff to establish that the defendant concedes its criminality or provide  
19 “uncontroverted and conclusive” evidence of criminal conduct. *Safari Club Int’l v. Rudolph*, 845  
20 F.3d 1250, 1259 (9th Cir. 2017). Plaintiff has established neither. To the extent that Plaintiff alleged  
21 in his Complaint that Tech Inquiry’s actions constituted a misdemeanor under Penal Code  
22 § 11143, Comp. ¶ 174, the statute expressly exempts periodical publications protected by Evidence  
23 Code § 1070, which includes websites such as Tech Inquiry. *See O’Grady v. Sup. Ct.*, 139 Cal. App.  
24 4th 1423, 1456-66 (2006). Plaintiff also briefly alleged in his Complaint ((Comp. ¶ 69) that Tech  
25

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26  
27 <sup>1</sup> On January 10, 2024, Tech Inquiry filed an Amendment Memo of P’s and A’s in support of its  
28 Declaration of Jack Poulson, but later learned that the uncorrected version was filed. Tech Inquiry  
regrets this error and will submit Corrected Amended Memo of P’s and A’s.

Document received by the CA 1st District Court of Appeal.

1 Inquiry violated Labor Code § 432.7(g)(3), but did not include that statute in any cause of action;  
2 and even if he did, that statute also exempts news periodicals like Tech Inquiry.

3 Plaintiff also alleges in his Opposition that Tech Inquiry’s posting of the arrest report  
4 constitutes a misdemeanor under Penal Code §§ 851.91, 851.92, and 166(a), apparently on the  
5 grounds that the posting allegedly violated Judge Carolyn Gold’s order sealing the arrest report.  
6 Plaintiff did not allege these criminal violations in any cause of action in his Complaint and cannot  
7 add them now. Even if he had plead these violations, *Flatley* still does not apply. In *Assoc. for Los*  
8 *Angeles Cnty Deputy Sheriffs v. Los Angeles Times Comms., LLC*, 239 Cal. App. 4th 808 (2015)  
9 (“*ALADS*”), the plaintiff asserted that the newspaper reporters’ possession of “confidential” deputy  
10 sheriff personnel files “constitutes the crime of receiving stolen property” in violation of Penal  
11 Code § 496(a) and sought the *Flatley* exception. The Court of Appeal held the *Flatley* exemption  
12 did not apply to the newspaper on two grounds: (1) the plaintiff “presented no evidence” that any  
13 reporters “received the files knowing they were stolen” and (2) a “wealth of both State and Federal  
14 case law” protect media defendants from criminal and civil liability for publishing government  
15 records that are “illegally obtained” by a third party where the reporters are passive recipients of the  
16 records. *Id.* at 819. The same conclusion is required here. Mr. Poulson has provided uncontroverted  
17 evidence neither he nor Tech Inquiry violated any criminal laws when Mr. Poulson passively  
18 accepted Plaintiff’s arrest report from a source, unaware it was sealed, and Tech Inquiry posted the  
19 report provided by Mr. Poulson. Jack Poulson Special Motion to Strike, Declaration of Jack  
20 Poulson, ¶¶ 13-15. Tech Inquiry also is protected by the First Amendment from any liability arising  
21 from posting the arrest report supplied by Mr. Poulson. *ALADS*, 239 Cal. App. 4th at 819.

22 Nor did Tech Inquiry violate Judge Gold’s sealing order because Tech Inquiry was not a  
23 party to that criminal case. Plaintiff ignores “[t]he general rule ... that a court order does not bind a  
24 non-party to the litigation in which the order is entered.” *State ex rel. Thomas v. Grant*, 222 Ariz.  
25 197, 201, 213 P.3d 346, 350 (Ct. App. 2009). “[I]t is a basic principle of law that a person who is  
26 not a party to an action is not bound by the judgment in that action.” *Id.* (quoting Restatement  
27 (Second) of Judgments (“Restatement”) § 62 cmt. a (1982)). Courts have repeatedly held that  
28 “when a non-party has come into possession of protected information through a means outside the

1 litigation, a protective order does not prevent the non-party from disseminating the information” –  
2 including non-party media entities. *Id.*<sup>2</sup> The same rule applies here: because Tech inquiry was not a  
3 party to *People v. Blackman*, it was not bound by Judge Gold’s sealing order. Because Tech Inquiry  
4 lawfully obtained the arrest report, it did not violate any criminal laws. Tech Inquiry’s posting of  
5 the arrest report is also protected by the First Amendment because it lawfully obtained the report.

6 **2. Tech Inquiry’s Speech Is Protected by § 425.16(e)(2)**

7 Plaintiff does not dispute that his arrest by police and subsequent proceedings in criminal  
8 court are official government proceedings under § 425.16(e)(2), or that Tech Inquiry’s challenged  
9 speech about an official proceeding need not be related to a matter of public concern. Plaintiff’s  
10 only objection to the application of § (e)(2) to Tech Inquiry’s postings his contention that the  
11 official proceedings were finished at the time of publication on September 14, 2023 because Judge  
12 Gold had already sealed the arrest report on February 15, 2022. But Mr. Poulson and Tech Inquiry  
13 were unaware of the sealing order at the time of publication and did not know whether the criminal  
14 case against Plaintiff was ongoing at the time. Tech Inquiry should not be penalized when the  
15 proceedings were sealed away from public view.

16 **3. Tech Inquiry’s Speech Is Protected by § 425.16(e)(3) and (4)**

17 Plaintiff does not dispute that Tech Inquiry’s posts on its website about Plaintiff and his  
18 arrest report trigger the protection of § 425.16(e)(3) and (4) because Tech Inquiry’s posts qualify as  
19 news reporting activity by publishers or media defendants on a “public forum.” *Sipple v. Found. for*  
20 *Nat. Progress*, 71 Cal. App. 4th 226, 240 (1999); *Barrett v. Rosenthal*, 40 Cal. 4th 33, 41, n. 4  
21 (2006); *ComputerXpress, Inc. v. Jackson*, 93 Cal. App. 4th 993, 1006 (2001).

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23  
24 <sup>2</sup> See *Roman Catholic Diocese of Lexington v. Noble*, 92 S.W.3d 740, 742 (Ky. 2002) (newspaper’s  
25 publication of information from sealed records does not constitute contempt when newspaper did  
26 not obtain information from court records or through court process); see also *Seattle Times Co. v.*  
27 *Rhinehart*, 467 U.S. 20, 34 (1984) (party subject to protective order is not precluded from  
28 disseminating “protected” information that party obtained other than through discovery); *In re*  
*Rafferty*, 864 F.2d 151, 155 (D.C.Cir.1988) (protective order may not restrict party’s use of  
information obtained before the litigation began); *Int’l Prods. Corp. v. Koons*, 325 F.2d 403, 408  
(2d Cir.1963) (court may not bar party from disseminating information obtained independent of  
discovery).

1 Plaintiff, however, contends that Tech Inquiry’s speech is not protected by § 425.16(e)(3) or  
2 (4) because Tech Inquiry’s speech about Plaintiff and his arrest report is not “an issue of public  
3 interest.” Opp. p. 12. But Plaintiff’s reliance on the facts of *FilmOn.com Inc. v. DoubleVerify Inc.*, 7  
4 Cal. 5th 133 (2019) is misplaced. In *FilmOn*, the California Supreme Court held that the  
5 defendant’s speech, even though it arguably concerned a matter of public interest, did not trigger the  
6 protection of § 425.16(e)(4) because its speech was “private” and “never entered the public sphere.”  
7 *Id.* at 145. The court noted that the defendant did not operate a public website or “issue[] its reports  
8 ... to the wider public ... but [issued its reports] privately, to a coterie of paying clients. Those  
9 clients, in turn, use the information [that the defendant] provides for their business purposes alone.”  
10 *Id.* In contrast, Tech Inquiry operates a public website, which freely posts free news reports to the  
11 public, including its posts about Plaintiff’s arrest, summaries of news reports about Plaintiff and his  
12 former company Premise published by mainstream media such as the *Wall Street Journal*.<sup>3</sup> It can  
13 hardly be said that Tech Inquiry’s speech about Plaintiff, his role as a tech executive, and his arrest  
14 report is “private” and “never entered the public sphere,” as Plaintiff accurately asserts. There is  
15 nothing private about an arrest under California law; the facts of an arrest, including the arrestee’s  
16 name, reason for the arrest, and surrounding facts, must be disclosed under the Public Records Act,  
17 Government Code § 7923.610, and plaintiff’s arrest report was initially a public record.

18 Plaintiff contends that he is not a public figure as that term is defined in defamation law, but  
19 admits that he sought public attention by creating a personal website and has hosted several  
20 podcasts with paid guests. Redacted January 14, 2025 Declaration of Maury Blackman, ¶¶ 4-5; *see*  
21 *also* Jack Poulson’s Special Motion to Strike, Declaration of Sarah Noble; Exhibits A-I. The fact  
22 that Plaintiff says that he has not engaged in public discussions about domestic violence (Blackman  
23 1/14/25 Decl., ¶ 8) and is not a nationally known political figure like the plaintiff in *Sipple v.*  
24 *Found. for Nat’l Progress*, 71 Cal. App. 4th 226, 239 (1999), does not mean that Tech Inquiry’s  
25 posting of his arrest report and related news stories fall outside the zone of public interest.

26  
27  
28 <sup>3</sup> See <https://techinquiry.org/?text=maury%20blackman&guard=>;  
<https://techinquiry.org/?entity=premise%20data%20corporation&guard=>.

1 Plaintiff agrees that that the actions of law enforcement or domestic violence are matters of  
2 public interest, but asserts that Tech Inquiry’s posts about Plaintiff did not analyze the actions of  
3 police or the impact of alleged domestic violence per se as matters of public interest. Opp. p. 14.  
4 But nothing in the anti-SLAPP statute requires the speaker to express why the topic is of public  
5 interest. The two-part “public interest” test outlined in *FilmOn* simply requires the trial court to  
6 “[f]irst, ask[s] what public issue or issue of public interest the speech in question implicates — a  
7 question we answer by looking to the content of the speech.” 7 Cal. 5th at 149-50 (internal  
8 quotations and brackets omitted). “Second, we ask what functional relationship exists between the  
9 speech and the public conversation about some matter of public interest. It is at the latter stage that  
10 context proves useful.” *Id.* (internal quotations and brackets omitted).

11 In this case, Tech Inquiry’s speech implicates two issues of public concern – the San  
12 Francisco police arrest of Plaintiff in response to an allegation of domestic abuse and the fact that  
13 Plaintiff, a top Bay Area tech executive, was arrested for “alleged felony domestic abuse.” January  
14 14, 2024 Blackman Decl., ¶ 9. There is legitimate public interest the actions of San Francisco  
15 police, especially when making arrests of suspected criminal actions. *Lieberman v. KCOP*  
16 *Television, Inc.*, 110 Cal. App. 4th 156 (2022). Even if Plaintiff is not nationally known figure,  
17 “[t]he ... topic of ... domestic abuse is [an issue of] significant and of public interest” under the  
18 anti-SLAPP statute. *M.G. v. Warner*, 89 Cal. App. 4th 623, 629 (2001); accord *Integrated*  
19 *Healthcare Holdings, Inc. v. Fitzgibbons*, 140 Cal. App. 4th 515, 524 (2006); *Du Charme v. Int’l*  
20 *Bhd of Elec. Workers*, 110 Cal. App. 4th 107, 117 (2003). The public interest is especially high  
21 when the person accused of domestic abuse is a powerful business executive in a large metropolitan  
22 area.

23 **C. Plaintiff Has Not Met His Burden to Prove a Probability of Prevailing**

24 **1. Plaintiff’s Claims Are Barred by 47 U.S.C. § 230**

25 Plaintiff contends that § 230 does not apply because “Tech Inquiry is just a website  
26 that publishes Poulson’s posts and thus publication of his posts does not constitute a third-party  
27 post.” Opp. p. 21. But this is more of a concession than anything. Plaintiff agrees that Tech Inquiry  
28 is a website that carried Mr. Poulson’s posts. Plaintiff cites no evidence that Poulson’s posts on

1 Tech Inquiry are *not* third-party posts. *Id.* (citing Plaintiff Decl. at ¶ [sic] TK.) Lacking such  
2 evidence, and in the face of Mr. Poulson’s December 6, 2024 Declaration that “[w]hen Mr. Poulson  
3 posted the Incident Report and related Substack articles on Tech Inquiry, he did so in his capacity as  
4 a Substack writer, not an executive for Tech Inquiry,” Poulson 12/6/24 Decl. ¶¶ 2, 21, all of  
5 Plaintiff’s claims against Tech Inquiry are barred by § 230. *Perfect 10, Inc. v. CCBill LLC*, 488 F.  
6 3d 1102, 1118 (9th Cir. 2007).

## 7 **2. The Fair Report Privilege Protects Tech Inquiry’s Postings About Plaintiff**

8 Plaintiff contends that Tech Inquiry’s postings about Plaintiff’s arrest report fall outside the  
9 fair report privilege because the postings allegedly “breache[d]” Judge Gold’s “order” sealing the  
10 arrest report. Opp. p. 19 (citing Civil Code § 47(d)(2)(B).) But Plaintiff cites no cases supporting his  
11 theory and ignores contrary authority directly on point. But Tech Inquiry did not “breach” Judge  
12 Gold’s sealing order because Tech Inquiry was not a party in *People v. Blackman*, the criminal  
13 court proceeding where Judge Gold sealed Plaintiff’s arrest report. As a non-party, Tech Inquiry is  
14 not bound by Judge Gold’s sealing order. “The general rule . . . that a court order does not bind a  
15 non-party to the litigation in which the order is entered.” *Grant*, 213 P.3d at 350. “[I]t is a basic  
16 principle of law that a person who is not a party to an action is not bound by the judgment in that  
17 action.” *Id.* (quoting Restatement (Second) of Judgments (“Restatement”) § 62 cmt. a (1982); *see*  
18 *also id.* at 353 (because the state was not a party to a civil case and obtained a court record from that  
19 case outside of the litigation, it was “not bound by the protective order” in that case” and did not  
20 violate the protective order by disclosing the court record to the media). The same rule applies here:  
21 Tech inquiry was not a party to the criminal proceeding in *People v. Blackman* and is not bound by  
22 Judge Gold’s sealing order when Tech Inquiry obtained the arrest report outside of that proceeding.

23 Plaintiff fails to discuss, let alone distinguish, authorities applying California’s fair report  
24 privilege to news reports about official government proceedings and records required to be kept  
25 confidential by statute. *Reeves v. American Broadcasting Companies, Inc.*, 719 F.2d 602, 606 (2d  
26 Cir.1983) (California fair report privilege immunized press coverage of grand jury proceedings even  
27 though they were secret by law); *Crane v. The Arizona Republic*, 972 F.2d 1511, 1518-19 (9th  
28 Cir.1992) (California fair report privilege immunized press coverage of congressional investigation

1 even though it was confidential); *Braun v. Chronicle Publ'g Co.*, 52 Cal. App. 4th 1036, 1052  
2 (1997) (California fair report privilege immunized news report about confidential government  
3 audit). Media reports about secret government proceedings and records are protected by the fair  
4 report privilege, whether secrecy is mandated by a statute or court order.

### 5 **3. Plaintiff's Claims Are Barred by the First Amendment**

6 Plaintiff has not met his burden of show a probability of prevailing on his claims for the  
7 independent reason that the First Amendment prohibits this Court from applying civil liability to  
8 Tech Inquiry for posting lawfully obtained government records and information that is a matter of  
9 public interest, as here. Plaintiff does not attempt to distinguish *The Florida Star v. B.J.F.*, 491 U.S.  
10 524 (1989), which similar to this case in many respects. In that case, the Supreme Court held that  
11 the First Amendment prohibited a newspaper from being held civilly for publishing an accidentally  
12 disclosed the name of a rape victim – even though the victim was a private figure and even though  
13 the publication of the rape victim's name violated a Florida statute that made it unlawful to “print,  
14 publish, or broadcast ... in any instrument of mass communication” the name of the victim of a  
15 sexual offense. *Id.* at 527. The Supreme Court held that the newspaper did nothing wrong because it  
16 did not use improper methods to obtain the government information, the issue of the rape of a  
17 private citizen was a “matter of public significance,” and the First Amendment barred the use of the  
18 rape victim privacy statute to punish the newspaper in a civil proceeding. The court also held that  
19 the Florida statute barring the publication of the name of a rape victim was unconstitutional as  
20 applied to the newspaper. *Id.* at 541.

21 Nor does Plaintiff explain why this Court should ignore the numerous authorities holding  
22 that the state and federal constitutions bar civil liability against media defendants for publishing  
23 information about private citizens contained in lawfully obtained official government records and  
24 proceedings involving issues of public concern. *E.g.*, *Cox Broadcasting Corp. v. Cohn*, 420 U. S.  
25 469 (1975) (First Amendment barred civil liability against a television station for broadcasting  
26 lawfully obtained name of a rape-murder victim in violation of a state statute); *ALADS*, 239 Cal.  
27 App. 4th at 819 (“While the government may desire to keep some [government records]  
28 confidential and may impose the duty upon [government employees] to maintain confidentiality, it

1 may not impose criminal or civil liability upon the press for obtaining and publishing newsworthy  
2 information through routine reporting techniques.”) (citations and quotation marks omitted).

3 **4. Plaintiff’s Claim Based on Penal Code Section § 851.92(c) Fails Because the**  
4 **Statute Is Unconstitutional**

5 Plaintiff has failed to establish that Penal Code § 851.92(c) is constitutional on its face or as  
6 applied to news websites such as Tech Inquiry. The statute is a content-based restriction – it bars the  
7 disclosure of sealed arrest records – which means it is subject to strict scrutiny. *Kasky v. Nike*, 27  
8 Cal. 4th 939 (2002) The statute fails strict scrutiny because the statute is not the least restrictive  
9 means of achieving any government interest or narrowly tailored to address that interest. Plaintiff’s  
10 cause of action for alleged violation for Penal Code § 851.91(c) fails because the statute is  
11 unconstitutional.

12 **III. CONCLUSION**

13 Because all 14 of Plaintiff’s claims against Tech Inquiry arise from Tech Inquiry’s exercise  
14 of its constitutional free speech rights under subsections 425.16(e)(2), (e)(3), and (e)(4), and  
15 because Plaintiff failed to establish a probability of prevailing on any of his claims, Plaintiff’s  
16 claims against Tech Inquiry should be stricken without leave to amend.

17 DATED: January 31, 2025

18 LAW OFFICE OF SUSAN E. SEAGER  
19 /s/ Susan E. Seager  
20 Susan E. Seager  
21 *Attorneys for Defendant Tech Inquiry, Inc.*

Document received by the CA 1st District Court of Appeal.

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

Case No. CGC-24-618681

AA0983

Document received by the CA 1st District Court of Appeal.

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 reply<sup>1</sup> 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 <sup>1</sup> 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 refile its supporting  
21 Memorandum of Points and Authorities after Plaintiff’ 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.

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**IV. CONCLUSION**

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

Dated: January 31, 2025

Respectfully Submitted,  
THE MAREK LAW FIRM  
By: /s/ David Marek  
DAVID MAREK  
Attorneys for Plaintiff

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**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

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**SERVICE LIST**

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CLERK OF THE SUPERIOR COURT  
By Victoria Pa Pando  
Deputy

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Attorneys for Defendant  
JACK POULSON

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN FRANCISCO

MAURY BLACKMAN, an individual,  
  
Plaintiff,  
  
v.  
  
SUBSTACK, INC., a Delaware corporation;  
AMAZON WEB SERVICES, INC., a Delaware  
corporation; JACK POULSON, an individual;  
TECH INQUIRY, INC., a Delaware corporation;  
DOES 1-25, inclusive,  
  
Defendants.

CASE NO.: CGC-24-618681

~~PROPOSED~~ ORDER  
GRANTING MOTIONS TO STRIKE  
COMPLAINT BY SUBSTACK, INC.,  
AMAZON WEB SERVICES, INC.,  
JACK POULSON, AND TECH  
INQUIRY, INC.

Date: February 4, 2025  
Time: 9:00 AM  
Dept.: 301  
Before: Hon. Christine Van Aken

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

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1 Plaintiff Maury Blackman has filed a 15-count complaint against Substack, Inc.; Amazon  
2 Web Services, Inc. (AWS), Jack Poulson, and Tech Inquiry, Inc. Each of these defendants now  
3 makes a special motion to strike the complaint in its entirety pursuant to CCP 425.16.

4 The complaint and declarations submitted by parties establish that Blackman was arrested  
5 in December 2021 for domestic violence at a time when he was the CEO of Premise Data, a private  
6 company. (Blackman Dec. paras. 4, 9.) As is customary, police officers prepared a report  
7 (“Incident Report”) describing the incident and their encounters with Blackman and another person  
8 present. No charges were ultimately pursued against Blackman arising from the incident and the  
9 Superior Court entered an order sealing the arrest and related records under Penal Code sections  
10 851.91 and 851.92 on February 15, 2022. (Blackman Dec. paras. 18-20; Baskin Dec. Ex. 2.)

11 In September 2023, after the sealing order, Poulson published a blog post reporting the  
12 arrest and relating what was described in the Incident Report. (Blackman Dec. 20.) Poulson later  
13 reported on his blog that Blackman was terminated in part because of the incident. (Blackman Dec.  
14 para. 20; Baskin Dec. Ex. 6.) Poulson had previously published other blog posts about Premise  
15 Data, including concerning (according to those posts) its contracts with U.S. Special Operations  
16 Forces for intelligence collection, its contracts with the United States Department of Defense, and  
17 Blackman’s security clearance. (Poulson Dec. paras. 6-8; Baskin Dec. Exs. 3 and 4.)

18 Poulson’s post about the arrest appeared on his newsletter, published by Substack. He also  
19 posted a redacted version of the Incident Report on an eponymous website owned by Tech Inquiry.  
20 The Tech Inquiry website is a source of articles and data about surveillance, weapons companies,  
21 and public contracts. (Poulson Dec. para. 2.) Poulson is the founder and executive director of Tech  
22 Inquiry. (*Id.*) Defendant AWS provides web hosting services for Substack. (Complaint paras. 36,  
23 38.)

24 Blackman unsuccessfully attempted to have Poulson’s posts removed based on the sealing  
25 order. (Blackman Dec. paras. 49-62.) Blackman has submitted a declaration describing financial  
26 and nonfinancial injuries from Poulson’s blog posts. (Blackman Dec. paras. 74-76.) All of the  
27 claims asserted in the complaint relate to the blog posts and the effect of their publication on  
28 Blackman. The *San Francisco Chronicle* has covered Blackman’s lawsuit. (Baskin Dec. Ex. 7.)

1           The four named defendants have now brought separate anti-SLAPP motions. As the court  
2 grants them for largely the same reasons, the court discusses them in tandem.

3           “Resolution of an anti-SLAPP motion involves two steps. First, the defendant must  
4 establish that the challenged claim arises from activity protected by section 425.16. If the  
5 defendant makes the required showing, the burden shifts to the plaintiff to demonstrate the merit  
6 of the claim by establishing a probability of success.” (*Baral v. Schnitt* (2016) 1 Cal.5th 376, 384  
7 [internal citation omitted].)

8           To proceed with the first step: the anti-SLAPP statute reaches any “cause of action against  
9 a person arising from any act of that person in furtherance of the person’s right of petition or free  
10 speech . . . in connection with a public issue.” (CCP 425.16(b)(1).) CCP 425.16(e) provides that  
11 such a protected act includes, inter alia, “(2) any written or oral statement or writing made in  
12 connection with an . . . official proceeding . . . , (3) any written or oral statement or writing made  
13 in . . . a public forum in connection with an issue of public interest, or (4) any other conduct in  
14 furtherance of the exercise of . . . the constitutional right of free speech in connection with a public  
15 issue or an issue of public interest.” The moving defendants contend that the claims here arise from  
16 Poulson’s conduct as a journalist.

17           The court has little difficulty finding defendants succeed at the first step. Poulson was  
18 reporting on a blog post about Blackman, the CEO of a company with that Poulson had previously  
19 covered as part of his Substack newsletter, a public newsletter with at least 3,000 subscribers,  
20 concerning companies making surveillance technologies. (Poulson Dec. paras. 1, 4, 10.) This was  
21 a writing in a public forum. (*Wilbanks v. Wolk* (2004) 121 Cal.App.4th 883, 897 [“the Web, as a  
22 whole, can be analogized to a public bulletin board”].) And it concerned the character and conduct  
23 of the CEO of a company with government contracts in the security and intelligence arena.  
24 (Poulson Dec. paras 6, 7, 11.) The character and trustworthiness of members of the business  
25 community have been held to be of public significance where business leaders hold themselves  
26 out as trustworthy and advertise their businesses to members of the public (see *Chaker v. Mateo*  
27 (2012) 209 Cal.App.4th 1138, 1146); the court cannot see how the character and trustworthiness  
28 of the leader of a business with contracts with the U.S. government and a security clearance can

1 be of any less public significance. Thus, defendants succeed under 425.16(e)(3), and the court need  
2 not analyze the other prongs of step one.

3 Blackman contends that Poulson’s speech is outside the anti-SLAPP statute because it was  
4 illegal, regardless of its public significance. (Opp. to Poulson Mtn. to Strike at 10 [citing *Flatley*  
5 *v. Mauro* (2006) 39 Cal.4th 299, 320].) The speech at issue in *Flatley* was extortion, a threat to  
6 publicly accuse the plaintiff of rape unless the plaintiff paid money to the defendant. (*Id.* at 305,  
7 320.) *Flatley* holds that the question whether speech is illegal is a first-step inquiry under the anti-  
8 SLAPP statute, *id.* at 320, but the First Amendment issues that inform this analysis will also be  
9 relevant at the second step.

10 To assess the argument that Poulson’s speech was illegal, it is useful to review the law  
11 about sealing with some precision, because courts in California (and elsewhere) have recognized  
12 that there is a “continuum” of illegal acts by newsgatherers, and only wrongful conduct at the  
13 “extreme end” will overcome the First Amendment protection for reporting. (See *Jenni Rivera*  
14 *Enterprises, LLC v. Latin World Entertainment Holdings, Inc.* (2019) 36 Cal.App.5th 766, 798  
15 [*“Jenni Rivera Enterprises”*] [“ ‘At one extreme, routine ... reporting techniques, such as asking  
16 questions of people with information (including those with confidential or restricted information)  
17 could rarely, if ever, be deemed an actionable intrusion. [Citations.] At the other extreme, violation  
18 of well-established legal areas of physical or sensory privacy—trespass into a home or tapping a  
19 personal telephone line, for example—could rarely, if ever, be justified by a reporter’s need to get  
20 the story. Such acts would be deemed highly offensive even if the information sought was of  
21 weighty public concern; they would also be outside any protection the Constitution provides to  
22 newsgathering.’ ” [quoting *Shulman v. Group W Prods., Inc.* (1998) 18 Cal.4th 200, 237 [some  
23 internal quotation marks omitted]].) Thus, it is worth understanding the statutory scheme in  
24 greater detail.

25 The record of Blackman’s arrest was sealed pursuant to Penal Code section 851.91. That  
26 section permits “[a] person who has suffered an arrest that did not result in a conviction” to petition  
27 the court to have “arrest and related records sealed.” (*Id.*, subd. (a).) When the court grants relief,  
28 as the Superior Court did here, provisions of Penal Code section 851.92 then apply.

1 Specifically, “[a]rrest records” and the incident reports that document the arrest that are  
2 sealed “shall not be disclosed to any person or entity except the person whose arrest was sealed or  
3 a criminal justice agency.” (Penal Code 851.92(b)(5).) Once an arrest is sealed, it becomes  
4 unlawful for someone to “disseminate[] information relating to a sealed arrest.” (Penal Code  
5 851.92(c).) That provision is subject to a “civil penalty” enforceable by a public prosecutor, but  
6 not by the arrested person and not through criminal sanctions. (*Id.*) The arresting agency is  
7 supposed to stamp its digital or paper master copies of the incident report with stamped  
8 “ ‘ARREST SEALED: DO NOT RELEASE OUTSIDE THE CRIMINAL JUSTICE SECTOR.’ ”  
9 (*Id.* 851.92(b)(3).) In this case, either the arresting agency did not do so, or the copy of the Incident  
10 Report that Poulson received duplicated the master copy before the court issued its sealing order.  
11 It is undisputed that the copy of the Incident Report that Poulson received did not include any  
12 language indicating the arrest was sealed, and the police did not inform Poulson of this when he  
13 called to verify the authenticity of the report. (Poulson Dec. para. 15 & Ex. G.)

14 Blackman alleges that Poulson committed a misdemeanor by knowingly possessing the  
15 Incident Report, but he is incorrect even as to the period after Blackman made him aware that the  
16 arrest had been sealed. Penal Code 11143 makes it a misdemeanor for a member of the public to  
17 knowingly possess a “record.” Record is defined in that statute as “state summary criminal history”  
18 (*id.* 11140(a)), a summary of all criminal history related to a particular person maintained by the  
19 state, which is distinct from the Incident Report alleged to have been unlawfully disseminated here.  
20 In any event, this provision exempts journalists, as does Labor Code 432.7(g), another provision  
21 Blackman relies on. (See Penal Code 11143; Labor Code 432.7(g)(3); Evidence Code 1070.)

22 Nor is Blackman correct that Poulson committed a violation of Penal Code 166 by  
23 disseminating the Incident Report related to a sealed arrest; as relevant, that statute prohibits  
24 “[w]illful disobedience of the terms, as written, of a . . . court order.” (*Id.* subd. (a)(4).) The sealing  
25 order here (Blackman Dec. Ex. A) does not include written terms that, by themselves, create an  
26 obligation by Poulson or anyone else not to disseminate the Incident Report; those obligations are  
27 a legal consequence of granting relief pursuant to 851.91 and 851.92 but do not independently  
28 arise from the written terms of the Superior Court’s February 15, 2022 order.

1           Thus, to summarize, Poulson did not violate any law in obtaining the Incident Report.  
2 There is no evidence that Poulson and the other defendants had reason to believe the Incident  
3 Report was sealed when Poulson first published his September 2023 post reporting the incident.  
4 In disseminating the sealed Incident Report, the defendants' conduct violated Penal Code  
5 851.92(c), but no criminal liability attached to that conduct. Instead, civil penalties sought by the  
6 Attorney General or other public prosecutors were available, but there is no evidence that any  
7 public prosecutor ever sought penalties, although the San Francisco City Attorney did contact at  
8 least some of the defendants to request that they remove information about the Incident Report.  
9 Applying *Jenni Rivera Enterprises's* "continuum," the court finds here that the Poulson's conduct  
10 was not at the "extreme end" of bad newsgatherer behavior. Indeed, it was farther from the extreme  
11 end than the conduct at issue in *Bartnicki v. Vopper* (2001) 532 U.S. 514. That case involved a  
12 federal law prohibiting disclosure of intercepted communications for which civil or criminal  
13 penalties were available. (*Id.* at pp. 517-18, 524.) The Supreme Court nonetheless concluded that  
14 to apply it to a truthful publication of an intercepted conversation concerning a matter of public  
15 significance would violate the First Amendment. (*Id.* at 527-528.) In any event, "the Supreme  
16 Court's use of the phrase 'illegal' [in *Flatley*] was intended to mean criminal, and not merely  
17 violative of a statute." (*Mendoza v. ADP Screening & Selection Services, Inc.* (2010) 182  
18 Cal.App.4th 1644, 1654.)

19           Thus, to the extent Blackman claims that the speech was illegal and therefore did not satisfy  
20 the first prong of the SLAPP inquiry under *Flatley*, his claims are unpersuasive. Blackman's  
21 remaining contentions that the speech was unprotected by the First Amendment are better  
22 addressed at the second step.

23           The court now turns to that second step, where Blackman bears the burden of showing that  
24 his claims have a probability of success. At this stage, "[t]he court does not weigh evidence or  
25 resolve conflicting factual claims. Its inquiry is limited to whether the plaintiff has stated a legally  
26 sufficient claim and made a prima facie factual showing sufficient to sustain a favorable judgment.  
27 It accepts the plaintiff's evidence as true, and evaluates the defendant's showing only to determine  
28 if it defeats the plaintiff's claim as a matter of law." (*Baral v. Schnitt, supra*, 1 Cal.5th at pp. 384–

1 385 [internal citations omitted].) Blackman need only show that his claims have “minimal merit”  
2 at this stage to defeat the anti-SLAPP motions. (*Id.* at p. 385.)

3 This court is persuaded that the First Amendment’s protections for the publication of  
4 truthful speech concerning matters of public interest vitiate Blackman’s merits showing. In *Jenni*  
5 *Rivera Enterprises*, the court found no minimal merit in a lawsuit against Univision for  
6 broadcasting a program based on confidential information about a celebrity that was obtained  
7 through a breached non-disclosure agreement (“NDA”). The plaintiff in that case showed  
8 sufficient merit at step two to proceed with its claims against the former manager who breached  
9 the NDA, and the producers of the program who knowingly induced the breach. (*Supra*, 36  
10 Cal.App.5th at pp. 782-795.) But as to Univision, the court stated:

11 “It is uncontroverted Univision had no knowledge of the nondisclosure agreement at the  
12 time it entered into the license agreement with [the producers]. The evidence of Univision’s  
13 actions, after it learned of the nondisclosure agreement, that arguably contributed to [the former  
14 manager’s] continued breaches of the agreement consisted of continuing to pay license fees to [the  
15 producers] and promoting [the former manager’s] involvement with the Series. Even if those  
16 actions were sufficient to serve as the basis of liability for tortious interference, they are not  
17 sufficiently ‘wrongful’ or ‘unlawful’ to overcome the First Amendment newsgathering and  
18 broadcast privileges. See *Bartnicki v. Vopper*, *supra*, 532 U.S. at p. 535 . . .; *Nicholson* [*v.*  
19 *McClatchy Newspapers* (1986)] . . . 177 Cal.App.3d [509,] . . . 519 . . .) Therefore, the First  
20 Amendment protected Univision’s use and broadcast of the Series.” (*Id.* at p. 800.)

21 Similarly, in this case there is no evidence that Poulson and the other defendants knew the  
22 arrest was sealed before Poulson reported on it, and all defendants’ actions in not taking down the  
23 arrest information after Blackman informed them of the sealing order was not so wrongful or  
24 unlawful that they are not protected.

25 Blackman further contends that Poulson’s speech that he was arrested is false, and therefore  
26 not protected by the First Amendment, because an arrest is “deemed not to have occurred” when  
27 it is sealed. (Penal Code 851.91(e)(2)(B).) This contention is unpersuasive; the arrest occurred but  
28 Blackman has been exempted from some of the consequences of an arrest (although not all; law

1 enforcement officers, for instance, will still see the arrest if they run Blackman’s name through the  
2 state criminal history database). (Penal Code 851.92(b)(6).) “Deemed not to have occurred” is  
3 language that effectuates this exemption from some of the consequences of the arrest, but it cannot  
4 alter how past events unfolded.

5 Blackman also argues that Poulson’s speech is false because it misleadingly implied that  
6 Poulson was present and viewed the events instead of reporting observations by police officers,  
7 and further implied that Blackman was guilty of or convicted of a crime. This is not how falsity is  
8 assessed for purposes of First Amendment analysis; a journalist does not become subject to suit  
9 because he does not include every detail the subject of the piece would like him to include.  
10 Adopting Blackman’s frame of analysis would greatly expand the potential liability of the press  
11 and chill protected speech.

12 In sum, Poulson’s activity in writing about the Incident Report is directly protected by the  
13 First Amendment. AWS, Substack, and Tech Inquiry are publishers or aid in the publication of  
14 this protected activity. Each has shown that its conduct as described in the Complaint and the  
15 parties’ declarations arises out of protected activity under the First Amendment that cannot be  
16 subject to civil liability without compromising well established speech protections.

17 Tech Inquiry raises a further argument that Penal Code 851.92(c)’s prohibition on  
18 dissemination of information relating to sealed arrest records is an unconstitutional content-based  
19 restriction on speech, which fails the strict scrutiny test applicable to content-based restrictions.  
20 (Tech Inquiry opening brief at 19.) Because the court finds that the First Amendment as applied to  
21 Blackman’s claims defeats them, it has no occasion here to decide that the sealing statute is facially  
22 unconstitutional.

23 All defendants contend that the Communications Decency Act, 47 U.S.C. 230, immunizes  
24 claims arising from third-party content on interactive websites where the websites merely act as a  
25 publisher. The court finds that Blackman has not carried his burden of proving minimal merit as  
26 to AWS, Substack, and Tech Inquiry, which are immunized under the CDA. Blackman contends  
27 that these defendants’ possession of the Incident Report is unlawful, and therefore they are not  
28 merely publishers but are held liable for the actions they have taken. But it is not possession of the

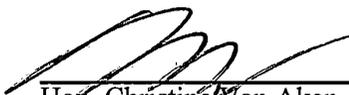
1 Incident Report that is prohibited by Penal Code 851.92; it is disclosure or dissemination, which  
2 is what the CDA immunizes. In any event, it is difficult to see how a publisher of a website could  
3 publish content without being in possession of it, and accordingly the court concludes that the  
4 conduct alleged in the complaint as to these defendants is immunized. As to Poulson, the complaint  
5 alleges that he is the creator of content, and thus the speaker rather than the publisher. The CDA  
6 does not immunize his conduct.

7 \* \* \*

8 The Court exercises its discretion to hear Tech Inquiry's special motion to strike outside  
9 of the 60-day limit because the motion presents the same issues as the timely filed motions of other  
10 defendants. (CCP 425.16(f).)

11  
12 SO ORDERED.

13  
14 Dated: 2/11/2025

15   
16 Hon. Christine Van Aken  
17 JUDGE OF THE SUPERIOR COURT  
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Document received by the CA 1st District Court of Appeal.

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**FILED**  
Superior Court of California,  
San Francisco  
02/24/2025  
Clerk of the Court  
BY: YOLANDA TABO  
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JACK POULSON

17  
18 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
19 COUNTY OF SAN FRANCISCO

20 MAURY BLACKMAN, an individual, )  
21 Plaintiff, )  
22 v. )  
23 SUBSTACK, INC., a Delaware corporation; )  
AMAZON WEB SERVICES, INC., a Delaware )  
24 corporation; JACK POULSON, an individual; )  
TECH INQUIRY, INC., a Delaware corporation; )  
25 DOES 1-25, inclusive, )  
26 Defendants. )  
27 )  
28 )

CASE NO.: CGC-24-618681  
**JOINT NOTICE OF ENTRY OF ORDER**  
Dept.: 301  
Before: Hon. Christine Van Aken  
Action Filed: October 3, 2024 Trial  
Date: None Set

Document received by the CA 1st District Court of Appeal.

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**TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

PLEASE TAKE NOTICE THAT on February 14, 2025, in Department 301 of the above-titled Court, located at Civic Center Courthouse, 400 McAllister Street, San Francisco, California 94102-4514, this Court entered an Order Granting Motions to Strike Complaint by Defendants Substack, Inc., Amazon Web Services, Inc., Jack Poulson, and Tech Inquiry, Inc. pursuant to Code of Civil Procedure § 425.16, striking the complaint in its entirety.

A copy of the Court’s February 14, 2025 Order is attached as Exhibit A.

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20 /s/ David Greene

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26 Attorneys for Defendant  
27 SUBSTACK, INC.

28 /s/ Joshua A. Baskin

# Ex. A - Order

FEB 14 2025

CLERK OF THE SUPERIOR COURT  
By Victoria Pa Pando  
Deputy

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Attorneys for Defendant  
JACK POULSON

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN FRANCISCO

MAURY BLACKMAN, an individual,  
  
Plaintiff,  
  
v.  
  
SUBSTACK, INC., a Delaware corporation;  
AMAZON WEB SERVICES, INC., a Delaware  
corporation; JACK POULSON, an individual;  
TECH INQUIRY, INC., a Delaware corporation;  
DOES 1-25, inclusive,  
  
Defendants.

CASE NO.: CGC-24-618681

**~~PROPOSED~~ ORDER  
GRANTING MOTIONS TO STRIKE  
COMPLAINT BY SUBSTACK, INC.,  
AMAZON WEB SERVICES, INC.,  
JACK POULSON, AND TECH  
INQUIRY, INC.**

Date: February 4, 2025  
Time: 9:00 AM  
Dept.: 301  
Before: Hon. Christine Van Aken

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

Document received by the CA 1st District Court of Appeal.

1 Plaintiff Maury Blackman has filed a 15-count complaint against Substack, Inc.; Amazon  
2 Web Services, Inc. (AWS), Jack Poulson, and Tech Inquiry, Inc. Each of these defendants now  
3 makes a special motion to strike the complaint in its entirety pursuant to CCP 425.16.

4 The complaint and declarations submitted by parties establish that Blackman was arrested  
5 in December 2021 for domestic violence at a time when he was the CEO of Premise Data, a private  
6 company. (Blackman Dec. paras. 4, 9.) As is customary, police officers prepared a report  
7 (“Incident Report”) describing the incident and their encounters with Blackman and another person  
8 present. No charges were ultimately pursued against Blackman arising from the incident and the  
9 Superior Court entered an order sealing the arrest and related records under Penal Code sections  
10 851.91 and 851.92 on February 15, 2022. (Blackman Dec. paras. 18-20; Baskin Dec. Ex. 2.)

11 In September 2023, after the sealing order, Poulson published a blog post reporting the  
12 arrest and relating what was described in the Incident Report. (Blackman Dec. 20.) Poulson later  
13 reported on his blog that Blackman was terminated in part because of the incident. (Blackman Dec.  
14 para. 20; Baskin Dec. Ex. 6.) Poulson had previously published other blog posts about Premise  
15 Data, including concerning (according to those posts) its contracts with U.S. Special Operations  
16 Forces for intelligence collection, its contracts with the United States Department of Defense, and  
17 Blackman’s security clearance. (Poulson Dec. paras. 6-8; Baskin Dec. Exs. 3 and 4.)

18 Poulson’s post about the arrest appeared on his newsletter, published by Substack. He also  
19 posted a redacted version of the Incident Report on an eponymous website owned by Tech Inquiry.  
20 The Tech Inquiry website is a source of articles and data about surveillance, weapons companies,  
21 and public contracts. (Poulson Dec. para. 2.) Poulson is the founder and executive director of Tech  
22 Inquiry. (*Id.*) Defendant AWS provides web hosting services for Substack. (Complaint paras. 36,  
23 38.)

24 Blackman unsuccessfully attempted to have Poulson’s posts removed based on the sealing  
25 order. (Blackman Dec. paras. 49-62.) Blackman has submitted a declaration describing financial  
26 and nonfinancial injuries from Poulson’s blog posts. (Blackman Dec. paras. 74-76.) All of the  
27 claims asserted in the complaint relate to the blog posts and the effect of their publication on  
28 Blackman. The *San Francisco Chronicle* has covered Blackman’s lawsuit. (Baskin Dec. Ex. 7.)

1           The four named defendants have now brought separate anti-SLAPP motions. As the court  
2 grants them for largely the same reasons, the court discusses them in tandem.

3           “Resolution of an anti-SLAPP motion involves two steps. First, the defendant must  
4 establish that the challenged claim arises from activity protected by section 425.16. If the  
5 defendant makes the required showing, the burden shifts to the plaintiff to demonstrate the merit  
6 of the claim by establishing a probability of success.” (*Baral v. Schnitt* (2016) 1 Cal.5th 376, 384  
7 [internal citation omitted].)

8           To proceed with the first step: the anti-SLAPP statute reaches any “cause of action against  
9 a person arising from any act of that person in furtherance of the person’s right of petition or free  
10 speech . . . in connection with a public issue.” (CCP 425.16(b)(1).) CCP 425.16(e) provides that  
11 such a protected act includes, inter alia, “(2) any written or oral statement or writing made in  
12 connection with an . . . official proceeding . . . , (3) any written or oral statement or writing made  
13 in . . . a public forum in connection with an issue of public interest, or (4) any other conduct in  
14 furtherance of the exercise of . . . the constitutional right of free speech in connection with a public  
15 issue or an issue of public interest.” The moving defendants contend that the claims here arise from  
16 Poulson’s conduct as a journalist.

17           The court has little difficulty finding defendants succeed at the first step. Poulson was  
18 reporting on a blog post about Blackman, the CEO of a company with that Poulson had previously  
19 covered as part of his Substack newsletter, a public newsletter with at least 3,000 subscribers,  
20 concerning companies making surveillance technologies. (Poulson Dec. paras. 1, 4, 10.) This was  
21 a writing in a public forum. (*Wilbanks v. Wolk* (2004) 121 Cal.App.4th 883, 897 [“the Web, as a  
22 whole, can be analogized to a public bulletin board”].) And it concerned the character and conduct  
23 of the CEO of a company with government contracts in the security and intelligence arena.  
24 (Poulson Dec. paras 6, 7, 11.) The character and trustworthiness of members of the business  
25 community have been held to be of public significance where business leaders hold themselves  
26 out as trustworthy and advertise their businesses to members of the public (see *Chaker v. Mateo*  
27 (2012) 209 Cal.App.4th 1138, 1146); the court cannot see how the character and trustworthiness  
28 of the leader of a business with contracts with the U.S. government and a security clearance can

1 be of any less public significance. Thus, defendants succeed under 425.16(e)(3), and the court need  
2 not analyze the other prongs of step one.

3 Blackman contends that Poulson’s speech is outside the anti-SLAPP statute because it was  
4 illegal, regardless of its public significance. (Opp. to Poulson Mtn. to Strike at 10 [citing *Flatley*  
5 *v. Mauro* (2006) 39 Cal.4th 299, 320].) The speech at issue in *Flatley* was extortion, a threat to  
6 publicly accuse the plaintiff of rape unless the plaintiff paid money to the defendant. (*Id.* at 305,  
7 320.) *Flatley* holds that the question whether speech is illegal is a first-step inquiry under the anti-  
8 SLAPP statute, *id.* at 320, but the First Amendment issues that inform this analysis will also be  
9 relevant at the second step.

10 To assess the argument that Poulson’s speech was illegal, it is useful to review the law  
11 about sealing with some precision, because courts in California (and elsewhere) have recognized  
12 that there is a “continuum” of illegal acts by newsgatherers, and only wrongful conduct at the  
13 “extreme end” will overcome the First Amendment protection for reporting. (See *Jenni Rivera*  
14 *Enterprises, LLC v. Latin World Entertainment Holdings, Inc.* (2019) 36 Cal.App.5th 766, 798  
15 [“*Jenni Rivera Enterprises*”] [“ ‘At one extreme, routine ... reporting techniques, such as asking  
16 questions of people with information (including those with confidential or restricted information)  
17 could rarely, if ever, be deemed an actionable intrusion. [Citations.] At the other extreme, violation  
18 of well-established legal areas of physical or sensory privacy—trespass into a home or tapping a  
19 personal telephone line, for example—could rarely, if ever, be justified by a reporter’s need to get  
20 the story. Such acts would be deemed highly offensive even if the information sought was of  
21 weighty public concern; they would also be outside any protection the Constitution provides to  
22 newsgathering.’ ” [quoting *Shulman v. Group W Prods., Inc.* (1998) 18 Cal.4th 200, 237 [some  
23 internal quotation marks omitted]].) Thus, it is worth understanding the statutory scheme in  
24 greater detail.

25 The record of Blackman’s arrest was sealed pursuant to Penal Code section 851.91. That  
26 section permits “[a] person who has suffered an arrest that did not result in a conviction” to petition  
27 the court to have “arrest and related records sealed.” (*Id.*, subd. (a).) When the court grants relief,  
28 as the Superior Court did here, provisions of Penal Code section 851.92 then apply.

1 Specifically, “[a]rrest records” and the incident reports that document the arrest that are  
2 sealed “shall not be disclosed to any person or entity except the person whose arrest was sealed or  
3 a criminal justice agency.” (Penal Code 851.92(b)(5).) Once an arrest is sealed, it becomes  
4 unlawful for someone to “disseminate[] information relating to a sealed arrest.” (Penal Code  
5 851.92(c).) That provision is subject to a “civil penalty” enforceable by a public prosecutor, but  
6 not by the arrested person and not through criminal sanctions. (*Id.*) The arresting agency is  
7 supposed to stamp its digital or paper master copies of the incident report with stamped  
8 “ ‘ARREST SEALED: DO NOT RELEASE OUTSIDE THE CRIMINAL JUSTICE SECTOR.’ ”  
9 (*Id.* 851.92(b)(3).) In this case, either the arresting agency did not do so, or the copy of the Incident  
10 Report that Poulson received duplicated the master copy before the court issued its sealing order.  
11 It is undisputed that the copy of the Incident Report that Poulson received did not include any  
12 language indicating the arrest was sealed, and the police did not inform Poulson of this when he  
13 called to verify the authenticity of the report. (Poulson Dec. para. 15 & Ex. G.)

14 Blackman alleges that Poulson committed a misdemeanor by knowingly possessing the  
15 Incident Report, but he is incorrect even as to the period after Blackman made him aware that the  
16 arrest had been sealed. Penal Code 11143 makes it a misdemeanor for a member of the public to  
17 knowingly possess a “record.” Record is defined in that statute as “state summary criminal history”  
18 (*id.* 11140(a)), a summary of all criminal history related to a particular person maintained by the  
19 state, which is distinct from the Incident Report alleged to have been unlawfully disseminated here.  
20 In any event, this provision exempts journalists, as does Labor Code 432.7(g), another provision  
21 Blackman relies on. (See Penal Code 11143; Labor Code 432.7(g)(3); Evidence Code 1070.)

22 Nor is Blackman correct that Poulson committed a violation of Penal Code 166 by  
23 disseminating the Incident Report related to a sealed arrest; as relevant, that statute prohibits  
24 “[w]illful disobedience of the terms, as written, of a . . . court order.” (*Id.* subd. (a)(4).) The sealing  
25 order here (Blackman Dec. Ex. A) does not include written terms that, by themselves, create an  
26 obligation by Poulson or anyone else not to disseminate the Incident Report; those obligations are  
27 a legal consequence of granting relief pursuant to 851.91 and 851.92 but do not independently  
28 arise from the written terms of the Superior Court’s February 15, 2022 order.

1           Thus, to summarize, Poulson did not violate any law in obtaining the Incident Report.  
2 There is no evidence that Poulson and the other defendants had reason to believe the Incident  
3 Report was sealed when Poulson first published his September 2023 post reporting the incident.  
4 In disseminating the sealed Incident Report, the defendants' conduct violated Penal Code  
5 851.92(c), but no criminal liability attached to that conduct. Instead, civil penalties sought by the  
6 Attorney General or other public prosecutors were available, but there is no evidence that any  
7 public prosecutor ever sought penalties, although the San Francisco City Attorney did contact at  
8 least some of the defendants to request that they remove information about the Incident Report.  
9 Applying *Jenni Rivera Enterprises's* "continuum," the court finds here that the Poulson's conduct  
10 was not at the "extreme end" of bad newsgatherer behavior. Indeed, it was farther from the extreme  
11 end than the conduct at issue in *Bartnicki v. Vopper* (2001) 532 U.S. 514. That case involved a  
12 federal law prohibiting disclosure of intercepted communications for which civil or criminal  
13 penalties were available. (*Id.* at pp. 517-18, 524.) The Supreme Court nonetheless concluded that  
14 to apply it to a truthful publication of an intercepted conversation concerning a matter of public  
15 significance would violate the First Amendment. (*Id.* at 527-528.) In any event, "the Supreme  
16 Court's use of the phrase 'illegal' [in *Flatley*] was intended to mean criminal, and not merely  
17 violative of a statute." (*Mendoza v. ADP Screening & Selection Services, Inc.* (2010) 182  
18 Cal.App.4th 1644, 1654.)

19           Thus, to the extent Blackman claims that the speech was illegal and therefore did not satisfy  
20 the first prong of the SLAPP inquiry under *Flatley*, his claims are unpersuasive. Blackman's  
21 remaining contentions that the speech was unprotected by the First Amendment are better  
22 addressed at the second step.

23           The court now turns to that second step, where Blackman bears the burden of showing that  
24 his claims have a probability of success. At this stage, "[t]he court does not weigh evidence or  
25 resolve conflicting factual claims. Its inquiry is limited to whether the plaintiff has stated a legally  
26 sufficient claim and made a prima facie factual showing sufficient to sustain a favorable judgment.  
27 It accepts the plaintiff's evidence as true, and evaluates the defendant's showing only to determine  
28 if it defeats the plaintiff's claim as a matter of law." (*Baral v. Schnitt, supra*, 1 Cal.5th at pp. 384–

1 385 [internal citations omitted].) Blackman need only show that his claims have “minimal merit”  
2 at this stage to defeat the anti-SLAPP motions. (*Id.* at p. 385.)

3 This court is persuaded that the First Amendment’s protections for the publication of  
4 truthful speech concerning matters of public interest vitiate Blackman’s merits showing. In *Jenni*  
5 *Rivera Enterprises*, the court found no minimal merit in a lawsuit against Univision for  
6 broadcasting a program based on confidential information about a celebrity that was obtained  
7 through a breached non-disclosure agreement (“NDA”). The plaintiff in that case showed  
8 sufficient merit at step two to proceed with its claims against the former manager who breached  
9 the NDA, and the producers of the program who knowingly induced the breach. (*Supra*, 36  
10 Cal.App.5th at pp. 782-795.) But as to Univision, the court stated:

11 “It is uncontroverted Univision had no knowledge of the nondisclosure agreement at the  
12 time it entered into the license agreement with [the producers]. The evidence of Univision’s  
13 actions, after it learned of the nondisclosure agreement, that arguably contributed to [the former  
14 manager’s] continued breaches of the agreement consisted of continuing to pay license fees to [the  
15 producers] and promoting [the former manager’s] involvement with the Series. Even if those  
16 actions were sufficient to serve as the basis of liability for tortious interference, they are not  
17 sufficiently ‘wrongful’ or ‘unlawful’ to overcome the First Amendment newsgathering and  
18 broadcast privileges. See *Bartnicki v. Vopper*, *supra*, 532 U.S. at p. 535 . . .; *Nicholson* [*v.*  
19 *McClatchy Newspapers* (1986)] . . . 177 Cal.App.3d [509,] . . . 519 . . .) Therefore, the First  
20 Amendment protected Univision’s use and broadcast of the Series.” (*Id.* at p. 800.)

21 Similarly, in this case there is no evidence that Poulson and the other defendants knew the  
22 arrest was sealed before Poulson reported on it, and all defendants’ actions in not taking down the  
23 arrest information after Blackman informed them of the sealing order was not so wrongful or  
24 unlawful that they are not protected.

25 Blackman further contends that Poulson’s speech that he was arrested is false, and therefore  
26 not protected by the First Amendment, because an arrest is “deemed not to have occurred” when  
27 it is sealed. (Penal Code 851.91(e)(2)(B).) This contention is unpersuasive; the arrest occurred but  
28 Blackman has been exempted from some of the consequences of an arrest (although not all; law

1 enforcement officers, for instance, will still see the arrest if they run Blackman’s name through the  
2 state criminal history database). (Penal Code 851.92(b)(6).) “Deemed not to have occurred” is  
3 language that effectuates this exemption from some of the consequences of the arrest, but it cannot  
4 alter how past events unfolded.

5 Blackman also argues that Poulson’s speech is false because it misleadingly implied that  
6 Poulson was present and viewed the events instead of reporting observations by police officers,  
7 and further implied that Blackman was guilty of or convicted of a crime. This is not how falsity is  
8 assessed for purposes of First Amendment analysis; a journalist does not become subject to suit  
9 because he does not include every detail the subject of the piece would like him to include.  
10 Adopting Blackman’s frame of analysis would greatly expand the potential liability of the press  
11 and chill protected speech.

12 In sum, Poulson’s activity in writing about the Incident Report is directly protected by the  
13 First Amendment. AWS, Substack, and Tech Inquiry are publishers or aid in the publication of  
14 this protected activity. Each has shown that its conduct as described in the Complaint and the  
15 parties’ declarations arises out of protected activity under the First Amendment that cannot be  
16 subject to civil liability without compromising well established speech protections.

17 Tech Inquiry raises a further argument that Penal Code 851.92(c)’s prohibition on  
18 dissemination of information relating to sealed arrest records is an unconstitutional content-based  
19 restriction on speech, which fails the strict scrutiny test applicable to content-based restrictions.  
20 (Tech Inquiry opening brief at 19.) Because the court finds that the First Amendment as applied to  
21 Blackman’s claims defeats them, it has no occasion here to decide that the sealing statute is facially  
22 unconstitutional.

23 All defendants contend that the Communications Decency Act, 47 U.S.C. 230, immunizes  
24 claims arising from third-party content on interactive websites where the websites merely act as a  
25 publisher. The court finds that Blackman has not carried his burden of proving minimal merit as  
26 to AWS, Substack, and Tech Inquiry, which are immunized under the CDA. Blackman contends  
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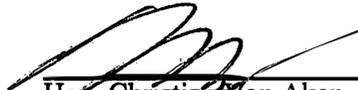
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4 conduct alleged in the complaint as to these defendants is immunized. As to Poulson, the complaint  
5 alleges that he is the creator of content, and thus the speaker rather than the publisher. The CDA  
6 does not immunize his conduct.

7 \* \* \*

8 The Court exercises its discretion to hear Tech Inquiry's special motion to strike outside  
9 of the 60-day limit because the motion presents the same issues as the timely filed motions of other  
10 defendants: (CCP 425.16(f).)

11  
12 SO ORDERED.

13  
14 Dated: 2/11/2025

15   
16 Hon. Christine Van Aken  
17 JUDGE OF THE SUPERIOR COURT  
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Document received by the CA 1st District Court of Appeal.



ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: David Marek FIRM NAME: The Marek Law Firm, Inc. STREET ADDRESS: 228 Hamilton Avenue CITY: Palo Alto STATE: CA ZIP CODE: 94301 TELEPHONE NO.: (917) 721-5042 FAX NO.: E-MAIL ADDRESS: david@marekfirm.com ATTORNEY FOR (name): PLAINTIFF/APPELLANT MAURY BLACKMAN	<p style="text-align: center;"><i>FOR COURT USE ONLY</i></p> <p style="text-align: center;"><b>ELECTRONICALLY FILED</b>                  Superior Court of California,                  County of San Francisco</p> <p style="text-align: center;"><b>04/15/2025</b>                  Clerk of the Court                  BY: LESLIE GOMEZ                  Deputy Clerk</p>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO</b> STREET ADDRESS: 400 McAllister Street MAILING ADDRESS: CITY AND ZIP CODE: San Francisco, CA 94102 BRANCH NAME: Civic Center Courthouse	
PLAINTIFF/PETITIONER: MAURY BLACKMAN DEFENDANT/RESPONDENT: SUBSTACK, INC., JACK POULSON, TECH INQUIRY, INC. OTHER PARENT/PARTY:	
<p style="text-align: center;"><b>APPELLANT'S NOTICE DESIGNATING RECORD ON APPEAL (UNLIMITED CIVIL CASE)</b></p>	SUPERIOR COURT CASE NUMBER: CGC-24-618681
RE: Appeal filed on (date): Apr 11, 2025	COURT OF APPEAL CASE NUMBER (if known):
<p><b>Notice: Please read <i>Information on Appeal Procedures for Unlimited Civil Cases</i> (form APP-001-INFO) before completing this form. This form must be filed in the superior court, not in the Court of Appeal.</b></p>	

**1. RECORD OF THE DOCUMENTS FILED IN THE SUPERIOR COURT**

I choose to use the following method of providing the Court of Appeal with a record of the documents filed in the superior court (check a, b, c, or d, and fill in any required information):

- a.  A clerk's transcript under rule 8.122. (You must check (1) or (2) and fill out the clerk's transcript section (item 4) on pages 2 and 3 of this form.)
  - (1)  I will pay the superior court clerk for this transcript myself when I receive the clerk's estimate of the costs of this transcript. I understand that if I do not pay for this transcript, it will not be prepared and provided to the Court of Appeal.
  - (2)  I request that the clerk's transcript be provided to me at no cost because I cannot afford to pay this cost. I have submitted the following document with this notice designating the record (check (a) or (b)):
    - (a)  An order granting a waiver of court fees and costs under rules 3.50–3.58; or
    - (b)  An application for a waiver of court fees and costs under rules 3.50–3.58. (Use Request to Waive Court Fees (form FW-001) to prepare and file this application.)
- b.  An appendix under rule 8.124.
- c.  The original superior court file under rule 8.128. (NOTE: Local rules in the Court of Appeal, First, Third, and Fourth Appellate Districts, permit parties to stipulate (agree) to use the original superior court file instead of a clerk's transcript; you may select this option if your appeal is in one of these districts and all the parties have stipulated to use the original superior court file instead of a clerk's transcript in this case. Attach a copy of this stipulation.)
- d.  An agreed statement under rule 8.134. (You must complete item 2b(2) below and attach to your agreed statement copies of all the documents that are required to be included in the clerk's transcript. These documents are listed in rule 8.134(a).)

**2. RECORD OF ORAL PROCEEDINGS IN THE SUPERIOR COURT**

I choose to proceed (you must check a or b below):

- a.  WITHOUT a record of the oral proceedings (what was said at the hearing or trial) in the superior court. I understand that without a record of the oral proceedings in the superior court, the Court of Appeal will not be able to consider what was said during those proceedings in deciding whether an error was made in the superior court proceedings.

CASE NAME: Blackman v. Substack Inc., et. al.	SUPERIOR COURT CASE NUMBER: CGC-24-618681
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2. b.  WITH the following record of the oral proceedings in the superior court (*you must check (1), (2), or (3) below*):
- (1)  A reporter's transcript under rule 8.130. (*You must fill out the reporter's transcript section (item 5) on pages 3 and 4 of this form.*) I have (*check all that apply*):
    - (a)  Deposited with the superior court clerk the approximate cost of preparing the transcript by including the deposit with this notice as provided in rule 8.130(b)(1).
    - (b)  Attached a copy of a Transcript Reimbursement Fund application filed under rule 8.130(c)(1).
    - (c)  Attached the reporter's written waiver of a deposit under rule 8.130(b)(3)(A) for (*check either (i) or (ii)*):
      - (i)  all of the designated proceedings.
      - (ii)  part of the designated proceedings.
    - (d)  Attached a certified transcript under rule 8.130(b)(3)(C).
  - (2)  An agreed statement. (*Check and complete either (a) or (b) below.*)
    - (a)  I have attached an agreed statement to this notice.
    - (b)  All the parties have stipulated (agreed) in writing to try to agree on a statement. (*You must attach a copy of this stipulation to this notice.*) I understand that, within 40 days after I file the notice of appeal, I must file either the agreed statement or a notice indicating the parties were unable to agree on a statement and a new notice designating the record on appeal.
  - (3)  A settled statement under rule 8.137. (*You must check (a), (b), or (c) below, and fill out the settled statement section (item 6) on page 4.*)
    - (a)  The oral proceedings in the superior court were not reported by a court reporter.
    - (b)  The oral proceedings in the superior court were reported by a court reporter, but I have an order waiving fees and costs.
    - (c)  I am asking to use a settled statement for reasons other than those listed in (a) or (b). (*You must serve and file the motion required under rule 8.137(b) at the same time that you file this form. You may use form APP-025 to prepare the motion.*)

3. RECORD OF AN ADMINISTRATIVE PROCEEDING TO BE TRANSMITTED TO THE COURT OF APPEAL

I request that the clerk transmit to the Court of Appeal under rule 8.123 the record of the following administrative proceeding that was admitted into evidence, refused, or lodged in the superior court (*give the title and date or dates of the administrative proceeding*):

Title of Administrative Proceeding	Date or Dates
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4. NOTICE DESIGNATING CLERK'S TRANSCRIPT

(*You must complete this section if you checked item 1a above indicating that you choose to use a clerk's transcript as the record of the documents filed in the superior court.*)

a. **Required documents.** The clerk will automatically include the following items in the clerk's transcript, but you must provide the date each document was filed, or if that is not available, the date the document was signed.

Document Title and Description	Date of Filing
--------------------------------	----------------

- (1) Notice of appeal
- (2) Notice designating record on appeal (*this document*)
- (3) Judgment or order appealed from
- (4) Notice of entry of judgment (*if any*)
- (5) Notice of intention to move for new trial or motion to vacate the judgment, for judgment notwithstanding the verdict, or for reconsideration of an appealed order (*if any*)
- (6) Ruling on one or more of the items listed in (5)
- (7) Register of actions or docket (*if any*)

CASE NAME: Blackman v. Substack Inc., et. al.	SUPERIOR COURT CASE NUMBER: CGC-24-618681
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**4. NOTICE DESIGNATING CLERK'S TRANSCRIPT**

b. **Additional documents.** (If you want any documents from the superior court proceeding in addition to the items listed in 4a. above to be included in the clerk's transcript, you must identify those documents here.)

I request that the clerk include in the transcript the following documents that were filed in the superior court proceeding. (You must identify each document you want included by its title and provide the date it was filed or, if that is not available, the date the document was signed.)

	Document Title and Description	Date of Filing
(8)		
(9)		
(10)		
(11)		

See additional pages. (Check here if you need more space to list additional documents. List these documents on a separate page or pages labeled "Attachment 4b," and start with number (12).)

c. **Exhibits to be included in clerk's transcript**

I request that the clerk include in the transcript the following exhibits that were admitted in evidence, refused, or lodged in the superior court. (For each exhibit, give the exhibit number, such as Plaintiff's #1 or Defendant's A, and a brief description of the exhibit. Indicate whether or not the court admitted the exhibit into evidence. If the superior court has returned a designated exhibit to a party, the party in possession of the exhibit must deliver it to the superior court clerk within 10 days after service of this notice designating the record. (Rule 8.122(a)(3).))

	Exhibit Number	Description	Admitted (Yes/No)
(1)			
(2)			
(3)			
(4)			

See additional pages. (Check here if you need more space to list additional exhibits. List these exhibits on a separate page or pages labeled "Attachment 4c," and start with number (5).)

**5. NOTICE DESIGNATING REPORTER'S TRANSCRIPT**

You must complete both a and b in this section if you checked item 2b(1) above indicating that you choose to use a reporter's transcript as the record of the oral proceedings in the superior court. Please remember that you must pay for the cost of preparing the reporter's transcript.

a. **Format of the reporter's transcript**

I request that the reporters provide (check one):

- (1)  My copy of the reporter's transcript in electronic format.
- (2)  My copy of the reporter's transcript in paper format.
- (3)  My copy of the reporter's transcript in electronic format and a second copy in paper format.

(Code Civ. Proc., § 271.)

CASE NAME: Blackman v. Substack Inc., et. al.	SUPERIOR COURT CASE NUMBER: CGC-24-618681
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5. b. **Proceedings**

I request that the following proceedings in the superior court be included in the reporter's transcript. (You must identify each proceeding you want included by its date, the department in which it took place, a description of the proceedings (for example, the examination of jurors, motions before trial, the taking of testimony, or the giving of jury instructions), the name of the court reporter who recorded the proceedings (if known), and whether a certified transcript of the designated proceeding was previously prepared.)

Date	Department	Full/Partial Day	Description	Reporter's Name	Prev. prepared?
(1) Feb 4, 2025	301	Partial	Arg. re Def. Special Motion to Strike	Lisa Augustine	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
(2)					<input type="checkbox"/> Yes <input type="checkbox"/> No
(3)					<input type="checkbox"/> Yes <input type="checkbox"/> No
(4)					<input type="checkbox"/> Yes <input type="checkbox"/> No

See additional pages. (Check here if you need more space to list additional proceedings. List these exhibits on a separate page or pages labeled "Attachment 5b," and start with number (5).)

6. **NOTICE DESIGNATING PROCEEDINGS TO BE INCLUDED IN SETTLED STATEMENT**

(You must complete this section if you checked item 2b(3) above indicating you choose to use a settled statement.) I request that the following proceedings in the superior court be included in the settled statement. (You must identify each proceeding you want included by its date, the department in which it took place, a description of the proceedings (for example, the examination of jurors, motions before trial, the taking of testimony, or the giving of jury instructions), the name of the court reporter who recorded the proceedings (if known), and whether a certified transcript of the designated proceeding was previously prepared.)

Date	Department	Full/Partial Day	Description	Reporter's Name	Prev. prepared?
(1)					<input type="checkbox"/> Yes <input type="checkbox"/> No
(2)					<input type="checkbox"/> Yes <input type="checkbox"/> No
(3)					<input type="checkbox"/> Yes <input type="checkbox"/> No
(4)					<input type="checkbox"/> Yes <input type="checkbox"/> No

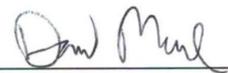
See additional pages. (Check here if you need more space to list additional proceedings. List these proceedings on a separate page or pages labeled "Attachment 6," and start with number (5).)

7. a. The proceedings designated in 5b or 6  include  do not include all of the testimony in the superior court.

b. If the designated proceedings DO NOT include all of the testimony, state the points that you intend to raise on appeal. (Rule 8.130(a)(2) and rule 8.137(d)(1) provide that your appeal will be limited to these points unless the Court of Appeal permits otherwise.) Points are set forth:  Below  On a separate page labeled "Attachment 7."

Date: 04/15/2025

David Marek  
(TYPE OR PRINT NAME)

  
(SIGNATURE OF APPELLANT OR ATTORNEY)

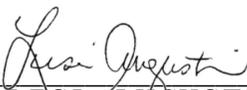
IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF SAN FRANCISCO  
UNLIMITED JURISDICTION

MAURY BLACKMAN, AN INDIVIDUAL, )  
 )  
 ) PLAINTIFF(S), )  
 )  
 ) VS. ) CASE NO.  
 ) CGC-24-618681  
 )  
 ) COURT REPORTER'S  
 ) WAIVER OF DEPOSIT  
 )  
 ) SUBSTACK, INC., A DELAWARE  
 ) CORPORATION; AMAZON WEB  
 ) SERVICES, INC., A DELAWARE  
 ) CORPORATION; JACK POULSON,  
 ) AN INDIVIDUAL; TECH INQUIRY,  
 ) INC., A DELAWARE CORPORATION;  
 ) DOES 1-25, INCLUSIVE, )  
 )  
 )  
 ) DEFENDANT(S). )  
 )  
 )

I, LISA A. AUGUSTINE, DO HEREBY CERTIFY: THAT I AM AN OFFICIAL COURT REPORTER PRO TEMPORE FOR THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, ACCORDING TO CRC RULE 8.130(B), I HAVE WAIVED THE COST TO PREPARE AN ORIGINAL AND ONE COPY OF THE ABOVE-NAMED TRANSCRIPT ON APPEAL, FOR THE DATE OF FEBRUARY 4, 2025 FOR THE MAREK LAW FIRM; APPELLANTS.

I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

DATED THIS 13TH DAY OF APRIL, 2025.

BY: , CSR #10419  
LISA AUGUSTINE

Document received by the CA 1st District Court of Appeal.

**THE SUPERIOR COURT OF CALIFORNIA**  
**COUNTY OF SAN FRANCISCO**

Case Number: CGC24618681  
 Title: JOHN DOE (MAURY BLACKMAN) VS. SUBSTACK, INC., A DELAWARE CORPORATION ET AL  
 Cause of Action: DEFAMATION  
 Generated: 2025-08-25 12:22 pm

[Register of Actions](#) [Parties](#) [Attorneys](#) [Calendar](#) [Payments](#) [Documents](#)

**Please Note: The "View" document links on this web page are valid until 12:32:01 pm**  
**After that, please refresh your web browser. (by pressing Command +R for Mac, pressing F5 for Windows or clicking the refresh button on your web browser)**

**Register of Actions**

Show  entries

Search:

Date	Proceedings	Document	Fee
2024-10-03	DEFAMATION, COMPLAINT (TRANSACTION ID # 74665985) FILED BY PLAINTIFF BLACKMAN, MAURY AS TO DEFENDANT SUBSTACK, INC., A DELAWARE CORPORATION AMAZON WEB SERVICES, INC., A DELAWARE CORPORATION POULSON, JACK , AN INDIVIDUAL TECH INQUIRY, INC., A DELAWARE CORPORATION DOES 1-25, INCLUSIVE NO SUMMONS ISSUED, JUDICIAL COUNCIL CIVIL CASE COVER SHEET NOT FILED CASE MANAGEMENT CONFERENCE SCHEDULED FOR MAR-05-2025	<a href="#">View</a>	\$435.00
2024-10-03	CIVIL CASE COVERSHEET FILED (TRANSACTION ID # 74665985) FILED BY PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	
2024-10-03	NOTICE TO PLAINTIFF	<a href="#">View</a>	
2024-10-04	SUMMONS ISSUED (TRANSACTION ID # 74665985) TO PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	
2024-10-10	SUMMONS ON COMPLAINT (TRANSACTION ID # 74735645), PROOF OF SERVICE ONLY, FILED BY PLAINTIFF BLACKMAN, MAURY SERVED OCT-07-2024, PERSONAL SERVICE AS TO DEFENDANT AMAZON WEB SERVICES, INC., A DELAWARE CORPORATION	<a href="#">View</a>	
2024-10-10	SUMMONS ON COMPLAINT (TRANSACTION ID # 74735645), PROOF OF SERVICE ONLY, FILED BY PLAINTIFF BLACKMAN, MAURY SERVED OCT-10-2024, PERSONAL SERVICE AS TO DEFENDANT TECH INQUIRY, INC., A DELAWARE CORPORATION	<a href="#">View</a>	
2024-10-14	SUMMONS ON COMPLAINT (TRANSACTION ID # 74756291), PROOF OF SERVICE ONLY, FILED BY PLAINTIFF BLACKMAN, MAURY SERVED OCT-07-2024, PERSONAL SERVICE AS TO DEFENDANT AMAZON WEB SERVICES, INC., A DELAWARE CORPORATION	<a href="#">View</a>	
2024-10-14	SUMMONS ON COMPLAINT (TRANSACTION ID # 74756291), PROOF OF SERVICE ONLY, FILED BY PLAINTIFF BLACKMAN, MAURY SERVED OCT-07-2024, PERSONAL SERVICE AS TO DEFENDANT TECH INQUIRY, INC., A DELAWARE CORPORATION	<a href="#">View</a>	
2024-10-14	SUMMONS ON COMPLAINT (TRANSACTION ID # 74756855) FILED BY PLAINTIFF BLACKMAN, MAURY SERVED OCT-07-2024, PERSONAL SERVICE AS TO DEFENDANT AMAZON WEB SERVICES, INC., A DELAWARE CORPORATION	<a href="#">View</a>	
2024-10-14	SUMMONS ON COMPLAINT (TRANSACTION ID # 74756855) FILED BY PLAINTIFF BLACKMAN, MAURY SERVED OCT-07-2024, PERSONAL SERVICE AS TO DEFENDANT TECH INQUIRY, INC., A DELAWARE CORPORATION	<a href="#">View</a>	
2024-10-24	NOTICE AND ACKNOWLEDGMENT OF RECEIPT, SIGNED OCT-22-2024, SERVED OCT-11-2024 (TRANSACTION ID # 74864889) FILED BY PLAINTIFF BLACKMAN, MAURY AS TO DEFENDANT SUBSTACK, INC., A DELAWARE CORPORATION	<a href="#">View</a>	
2024-11-07	NOTICE OF APPEARANCE OF COUNSEL FOR DEFENDANT AMAZON WEB SERVICES, INC.; **FIRST APPEARANCE FEES PAID** (TRANSACTION ID # 74969206) FILED BY DEFENDANT AMAZON WEB SERVICES, INC.	<a href="#">View</a>	\$435.00
2024-11-12	OPPOSITION TO PLAINTIFFS EX PARTE APPLICATION FOR A TEMPORARY RESTRAINING ORDER AND UNCONSTITUTIONAL PRIOR RESTRAINT (TRANSACTION ID # 74993138) FILED BY DEFENDANT AMAZON WEB SERVICES, INC.	<a href="#">View</a>	

Document received by the CA 1st District Court of Appeal.

Date	Proceedings	Document	Fee
2024-11-12	APPLICATION FOR ORDER TO SHOW CAUSE AND TEMPORARY RESTRAINING ORDER; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT (TRANSACTION ID # 74990705) FILED BY PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	\$60.00
2024-11-12	DECLARATION OF JOHN DOE IN SUPPORT OF APPLICATION FOR ORDER TO SHOW CAUSE AND TEMPORARY RESTRAINING ORDER (TRANSACTION ID # 74990705) FILED BY PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	
2024-11-12	DECLARATION OF DAVID MAREK IN SUPPORT OF APPLICATION FOR ORDER TO SHOW CAUSE AND TEMPORARY RESTRAINING ORDER (TRANSACTION ID # 74990705) FILED BY PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	
2024-11-12	PROOF OF SERVICE BY ELECTRONIC MAIL AND BY E-SERVICE (TRANSACTION ID # 74990705) FILED BY PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	
2024-11-13	OPPOSITION TO APPLICATION FOR ORDER TO SHOW CAUSE AND TEMPORARY RESTRAINING ORDER **FIRST APPEARANCE FEES PAID** (TRANSACTION ID # 74995660) FILED BY DEFENDANT SUBSTACK, INC.	<a href="#">View</a>	\$435.00
2024-11-13	OPPOSITION TO PLAINTIFFS MOTION FOR TEMPORARY RESTRAINING ORDER; **FIRST APPEARANCE FEES PAID** (TRANSACTION ID # 74996337) FILED BY DEFENDANT POULSON, JACK	<a href="#">View</a>	\$435.00
2024-11-13	DECLARATION OF JACK POULSON IN SUPPORT OF OPPOSITION TO PLAINTIFFS MOTION FOR TEMPORARY RESTRAINING ORDER (TRANSACTION ID # 74996337) FILED BY DEFENDANT POULSON, JACK	<a href="#">View</a>	
2024-11-13	PROOF OF SERVICE BY ELECTRONIC MAIL AND BY FILE & SERVEXPRESS (TRANSACTION ID # 74996337) FILED BY DEFENDANT POULSON, JACK	<a href="#">View</a>	
2024-11-13	REMARK: AS TO THE NOV-13-2024 EX PARTE HEARING RE: PLAINTIFF'S APPLICATION FOR ORDER TO SHOW CAUSE AND TEMPORARY RESTRAINING ORDER, THE COURT TAKES THE EX PARTE APPLICATION MATTER OFF CALENDAR. PLAINTIFF SHOULD FIRST FILE A REGULARLY-NOTICED MOTION FOR COURT AUTHORIZATION TO PROCEED IN THIS ACTION AS A DOE PLAINTIFF. JUDGE: RICHARD B. ULMER JR.; CLERK: S. KANE; NOT REPORTED. (302/RBU)		
2024-11-14	NOTICE OF MOTION SEEKING PERMISSION FOR PLAINTIFF TO PROCEED UNDER A FICTITIOUS NAME; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT; DECLARATION OF DAVID MAREK IN SUPPORT OF MOTION (TRANSACTION ID # 75012525) FILED BY PLAINTIFF BLACKMAN, MAURY HEARING SET FOR DEC-12-2024 AT 09:30 AM IN DEPT 301	<a href="#">View</a>	\$60.00
2024-11-14	PROOF OF SERVICE BY ELECTRONIC MAIL OF MOTION (TRANSACTION ID # 75012525) FILED BY PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	
2024-11-15	FEE PAID ON: STIPULATION AND ORDER TO EXTEND DEADLINE FOR DEFENDANTS TO RESPOND TO PLAINTIFF'S COMPLAINT (TRANSACTION ID # 75019050) FILED BY DEFENDANT SUBSTACK, INC.		\$20.00
2024-11-15	NOTICE AND ACKNOWLEDGMENT OF RECEIPT, SIGNED NOV-14-2024, SERVED NOV-14-2024 (TRANSACTION ID # 75019263) FILED BY PLAINTIFF BLACKMAN, MAURY AS TO DEFENDANT POULSON, JACK , AN INDIVIDUAL	<a href="#">View</a>	
2024-11-25	ORDER AND JOINT STIPULATION EXTENDING TIME FOR DEFENDANTS TO RESPOND TO PLAINTIFF'S COMPLAINT TO 12-06-2024	<a href="#">View</a>	
2024-11-26	FEE PAID (1ST APPEARANCE FEE): JOINT STIPULATION AND PROPOSED ORDER EXTENDING TIME FOR DEFENDANT TECH INQUIRY, INC. TO RESPOND TO PLAINTIFF'S COMPLAINT (TRANSACTION ID # 75102640) FILED BY DEFENDANT TECH INQUIRY, INC.		\$435.00
2024-11-27	OPPOSITION TO PLAINTIFFS MOTION SEEKING PERMISSION (TRANSACTION ID # 75111168) FILED BY DEFENDANT SUBSTACK, INC.	<a href="#">View</a>	
2024-11-27	MOTION TO FILE PORTIONS OF DEFENDANTS OPPOSITION UNDER SEAL (TRANSACTION ID # 75111168) FILED BY DEFENDANT SUBSTACK, INC. HEARING SET FOR DEC-23-2024 AT 09:30 AM IN DEPT 301	<a href="#">View</a>	\$60.00
2024-11-27	PROOF OF SERVICE BY ELECTRONIC MAIL (TRANSACTION ID # 75111168) FILED BY DEFENDANT SUBSTACK, INC.	<a href="#">View</a>	
2024-11-27	DECLARATION OF JOSHUA A. BASKIN IN SUPPORT OF OPPOSITION TO PLAINTIFFS MOTION SEEKING PERMISSION **REDACTED** (TRANSACTION ID # 75111168) (SEALED DOCUMENT) FILED BY DEFENDANT SUBSTACK, INC.		

Document received by the CA 1st District Court of Appeal.

Date	Proceedings	Document	Fee
2024-11-27	DECLARATION OF JOSHUA A. BASKIN IN SUPPORT OF MOTION TO FILE PORTIONS OF PLAINTIFFS OPPOSITION UNDER SEAL (TRANSACTION ID # 75111168) FILED BY DEFENDANT SUBSTACK, INC.	<a href="#">View</a>	
2024-11-27	DECLARATION OF JOSHUA A. BASKIN IN SUPPORT OF OPPOSITION TO PLAINTIFFS MOTION SEEKING PERMISSION **UNREDACTED** (TRANSACTION ID # 75111168) (CONDITIONALLY SEALED) FILED BY DEFENDANT SUBSTACK, INC.		
2024-12-05	REPLY MEMORANDUM OF POINTS AND AUTHORITIES IN FURTHER SUPPORT OF PLAINTIFFS MOTION FOR PERMISSION TO PROCEED UNDER A FICTITIOUS NAME (TRANSACTION ID # 75151553) FILED BY PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	
2024-12-05	PROOF OF SERVICE BY ELECTRONIC MAIL (TRANSACTION ID # 75151553) FILED BY PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	
2024-12-06	MOTION TO STRIKE COMPLAINT **UNREDACTED** (TRANSACTION ID # 75162618) (CONDITIONALLY SEALED) FILED BY DEFENDANT AMAZON WEB SERVICES, INC. HEARING SET FOR JAN-06-2025 AT 09:30 AM IN DEPT 302		\$60.00
2024-12-06	COMPENDIUM OF EVIDENCE IN SUPPORT OF SPECIAL MOTION TO STRIKE **UNREDACTED** (TRANSACTION ID # 75162618) (CONDITIONALLY SEALED) FILED BY DEFENDANT POULSON, JACK		
2024-12-06	NOTICE OF MOTION AND SPECIAL MOTION TO STRIKE PLAINTIFF COMPLAINT **REDACTED** (TRANSACTION ID # 75162618) FILED BY DEFENDANT AMAZON WEB SERVICES, INC.	<a href="#">View</a>	
2024-12-06	COMPENDIUM OF EVIDENCE IN SUPPORT OF SPECIAL MOTION TO STRIKE **REDACTED** (TRANSACTION ID # 75162618) FILED BY DEFENDANT POULSON, JACK	<a href="#">View</a>	
2024-12-06	PROOF OF SERVICE BY ELECTRONIC MAIL (TRANSACTION ID # 75162618) FILED BY DEFENDANT AMAZON WEB SERVICES, INC.	<a href="#">View</a>	
2024-12-06	REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF SPECIAL MOTION TO STRIKE PLAINTIFFS COMPLAINT (TRANSACTION ID # 75162827) (TRANSACTION ID # 75162827) FILED BY DEFENDANT AMAZON WEB SERVICES, INC.	<a href="#">View</a>	
2024-12-06	MOTION TO STRIKE COMPLAINT (TRANSACTION ID # 75162821) FILED BY DEFENDANT POULSON, JACK HEARING SET FOR JAN-06-2025 AT 09:30 AM IN DEPT 302	<a href="#">View</a>	\$60.00
2024-12-06	PROOF OF SERVICE BY ELECTRONIC MAIL AND BY FILE & SERVEXPRESS (TRANSACTION ID # 75162821) FILED BY DEFENDANT POULSON, JACK	<a href="#">View</a>	
2024-12-06	MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF SPECIAL MOTION TO STRIKE (CCP 425.16) **UNDER SEAL** (TRANSACTION ID # 75162821) (CONDITIONALLY SEALED) FILED BY DEFENDANT POULSON, JACK		
2024-12-06	MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF SPECIAL MOTION TO STRIKE (CCP 425.16) **RECATED** (TRANSACTION ID # 75162821) FILED BY DEFENDANT POULSON, JACK	<a href="#">View</a>	
2024-12-06	DECLARATION OF VICTORIA NOBLE IN SUPPORT OF SPECIAL MOTION TO STRIKE UNDER THE ANTI-SLAPP STATUTE (CCP 425.16) **UNDER SEAL** (TRANSACTION ID # 75162821) (CONDITIONALLY SEALED) FILED BY DEFENDANT POULSON, JACK		
2024-12-06	DECLARATION OF VICTORIA NOBLE IN SUPPORT OF SPECIAL MOTION TO STRIKE UNDER THE ANTI-SLAPP STATUTE (CCP 425.16) **REDACTED** (TRANSACTION ID # 75162821) FILED BY DEFENDANT POULSON, JACK	<a href="#">View</a>	
2024-12-06	DECLARATION OF JACK POULSON IN SUPPORT OF SPECIAL MOTION TO STRIKE (CCP 425.16) **UNDER SEAL** (TRANSACTION ID # 75162821) (SEALED DOCUMENT) FILED BY DEFENDANT POULSON, JACK		
2024-12-06	DECLARATION OF JACK POULSON IN SUPPORT OF SPECIAL MOTION TO STRIKE (CCP 425.16) **REDACTED** (TRANSACTION ID # 75162821) FILED BY DEFENDANT POULSON, JACK	<a href="#">View</a>	
2024-12-06	NOTICE OF JOINDER (TRANSACTION ID # 75167021) FILED BY DEFENDANT SUBSTACK, INC.	<a href="#">View</a>	
2024-12-06	MOTION TO STRIKE COMPLAINT (TRANSACTION ID # 75167021) FILED BY DEFENDANT SUBSTACK, INC. HEARING SET FOR JAN-06-2025 AT 09:30 AM IN DEPT 302	<a href="#">View</a>	NO FEE

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2024-12-06	DEMURRER TO COMPLAINT (TRANSACTION ID # 75167021) FILED BY DEFENDANT SUBSTACK, INC. HEARING SET FOR JAN-06-2025 AT 09:30 AM IN DEPT 302	<a href="#">View</a>	\$60.00
2024-12-06	MOTION TO FILE PORTIONS OF SPECIAL MOTION TO STRIKE PLAINTIFFS COMPLAINT AND DEFENDANTS DEMURRER UNDER SEAL (TRANSACTION ID # 75167021) FILED BY DEFENDANT SUBSTACK, INC. HEARING SET FOR JAN-06-2025 AT 09:30 AM IN DEPT 302	<a href="#">View</a>	\$60.00
2024-12-06	PROOF OF SERVICE BY ELECTRONIC MAIL (TRANSACTION ID # 75167021) FILED BY DEFENDANT SUBSTACK, INC.	<a href="#">View</a>	
2024-12-06	DECLARATION OF BASKIN IN SUPPORT OF MOTION TO SEAL (TRANSACTION ID # 75167021) FILED BY DEFENDANT SUBSTACK, INC.	<a href="#">View</a>	
2024-12-06	DECLARATION OF IN SUPPORT OF MOTION TO STRIKE AND DEMURRER **REDACTED** (TRANSACTION ID # 75167021) FILED BY DEFENDANT SUBSTACK, INC.	<a href="#">View</a>	
2024-12-06	DECLARATION OF BASKIN IN SUPPORT OF MOTION TO STRIKE AND DEMURRER **UNREDACTED** (TRANSACTION ID # 75167021) (CONDITIONALLY SEALED) FILED BY DEFENDANT SUBSTACK, INC.		
2024-12-09	MOTION TO STRIKE COMPLAINT / NOTICE OF MOTION & MOTION TO STRIKE UNDER THE ANTI-SLAPP STATUTE (CCP 425.16 (TRANSACTION ID # 75167460) FILED BY DEFENDANT TECH INQUIRY, INC. HEARING SET FOR JAN-10-2025 AT 09:30 AM IN DEPT 301	<a href="#">View</a>	\$435.00
2024-12-09	MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF DEFENDANT TECH INQUIRY, INC.'S SPECIAL MOTION TO STRIKE (TRANSACTION ID # 75167460) FILED BY DEFENDANT TECH INQUIRY, INC.	<a href="#">View</a>	
2024-12-09	PROOF OF SERVICE BY ELECTRONIC MAIL OF MOTION; MEMORANDUM OF POINTS AND AUTHORITIES (TRANSACTION ID # 75167460) FILED BY DEFENDANT TECH INQUIRY, INC.	<a href="#">View</a>	
2024-12-09	MOTION TO FILE PORTIONS OF SPECIAL MOTION TO STRIKE, DECLARATION OF SARAH E. BURNS, AND EXHIBITS 1-6 UNDER SEAL; MEMORANDUM OF POINTS AND AUTHROITIES IN SUPPORT (TRANSACTION ID # 75176391) (TRANSACTION ID # 75176391) FILED BY DEFENDANT AMAZON WEB SERVICES, INC. HEARING SET FOR JAN-06-2025 AT 09:30 AM IN DEPT 301	<a href="#">View</a>	\$60.00
2024-12-11	DECLARATION OF SAMUEL A. TURNER IN SUPPORT OF DEFENDANT AMAZON WEB SERVICES, INC.S MOTION TO FILE PORTIONS JOF SPECIAL MOTION TO STRIKE, DECLARATION OF SARAH E. BURNS, AND EXHIBITS 1-6 UNDER SEAL (TRANSACTION ID # 75191904) (TRANSACTION ID # 75191904) FILED BY DEFENDANT AMAZON WEB SERVICES, INC.	<a href="#">View</a>	
2024-12-12	MINI MINUTES FOR DEC-12-24 09:30 AM FOR DEPT 301		
2024-12-12	LAW AND MOTION, 301, PLAINTIFF JOHN DOE'S MOTION SEEKING PERMISSION FOR PLAINTIFF TO PROCEED UNDER A FICTITIOUS NAME. TAKEN UNDER SUBMISSION. (AS FULLY REPORTED IN THE REPORTER'S NOTES) JUDGE: JOSEPH M. QUINN, CLERK: M. GOODMAN, COURT REPORTER: SHEILA PHAM, CSR #13293, 415-517-5439, SPHAM28@YAHOO.COM, REPORTED.(301/JMQ)		
2024-12-13	ORDER DENYING PLAINTIFF JOHN DOE'S MOTION SEEKING PERMISSION FOR PLAINTIFF TO PROCEED UNDER A FICTITIOUS NAME.	<a href="#">View</a>	
2024-12-13	LAW AND MOTION, 301, NOTICE OF MOTION SEEKING PERMISSION FOR PLAINTIFF TO PROCEED UNDER A FICTITIOUS NAME, PREVIOUSLY TAKEN UNDER SUBMISSION ON DECEMBER 12, 2024, IS DENIED. (D.301)		
2024-12-18	FEE PAID*** AMENDMENT TO COMPLAINT (JOHN DOE) (TRANSACTION ID # 75260479) FILED BY PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	\$60.00
2024-12-18	PROOF OF SERVICE BY ELECTRONIC MAIL OF AMENDMENT TO COMPLAINT (TRANSACTION ID # 75260479) FILED BY PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	
2024-12-18	AMENDED NOTICE OF MOTION AND MOTION TO SEAL PURSUANT TO CAL R. CT. 2.550; AMENDED RESPONSE TO DEFENDANTS' VARIOUS MOTIONS TO SEAL; AND AMENDED OPPOSITION TO POULSON'S MOTION TO SEAL; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT; DECLARATION OF DAVID MAREK IN SUPPORT OF AMENDED MOTION TO SEAL DOCUMENTS; [PROPOSED] ORDER (TRANSACTION ID # 75265052) FILED BY PLAINTIFF BLACKMAN, MAURY HEARING SET FOR JAN-06-2025 AT 09:30 AM IN DEPT 301	<a href="#">View</a>	\$60.00
2024-12-19	*FEE PAID FOR JOINT STIPULATION AND PROPOSED ORDER EXTENDING TIME FOR BRIEFING AND HEARING ON DEFENDANTS' SPECIAL MOTIONS TO STRIKE AND		\$20.00

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	DEMURRER AND THE PARTIES MOTIONS TO SEAL (TRANSACTION ID # 75275203) FILED BY DEFENDANT SUBSTACK, INC.		
2024-12-20	AMENDMENT TO COMPLAINT PER ORDER PLAINTIFF SUED INCORRECTLY AS DOE, JOHN TO BE BLACKMAN, MAURY	<a href="#">View</a>	
2024-12-20	NOTICE OF LODGMENT UNDER CONDITIONAL SEAL (TRANSACTION ID # 75288623) FILED BY DEFENDANT POULSON, JACK	<a href="#">View</a>	
2024-12-20	NOTICE OF MOTION AND MOTION TO FILE A RECORD UNDER SEAL; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF (TRANSACTION ID # 75288623) FILED BY DEFENDANT POULSON, JACK HEARING SET FOR JAN-06-2025 AT 09:30 AM IN DEPT 301	<a href="#">View</a>	\$60.00
2024-12-20	OPPOSITION OF DEFENDANTS TECH INQUIRY, INC. AND JACK POULSON TO PLAINTIFF'S AMENDED MOTION TO SEAL (TRANSACTION ID # 75288799) FILED BY DEFENDANT TECH INQUIRY, INC.	<a href="#">View</a>	
2024-12-20	PROOF OF SERVICE BY ELECTRONIC MAIL (TRANSACTION ID # 75288799) FILED BY DEFENDANT TECH INQUIRY, INC.	<a href="#">View</a>	
2024-12-20	OPPOSITION TO DEFENDANT SUBSTACK, INC.'S DEMURRER TO COMPLAINT (TRANSACTION ID # 75288800) FILED BY PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	
2024-12-23	OPPOSITION TO DEFENDANT JACK POULSON'S MOTION TO STRIKE UNDER THE ANTI-SLAPP STATUTE (CCP 425.16) (TRANSACTION ID # 75288801) FILED BY PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	
2024-12-23	DECLARATION OF PLAINTIFF [OPPOSITION TO DEFENDANTS' SPECIAL MOTION TO STRIKE PLAINTIFF'S COMPLAINT PURSUANT TO CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 425.16] (TRANSACTION ID # 75288801) FILED BY PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	
2024-12-23	OPPOSITION TO DEFENDANT SUBSTACK, INC.'S SPECIAL MOTION TO STRIKE TO PLAINTIFF'S COMPLAINT (TRANSACTION ID # 75288802) FILED BY PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	
2024-12-23	DECLARATION OF PLAINTIFF [OPPOSITION TO DEFENDANTS' SPECIAL MOTION TO STRIKE PLAINTIFF'S COMPLAINT PURSUANT TO CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 425.16] (TRANSACTION ID # 75288802) FILED BY PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	
2024-12-23	OPPOSITION TO DEFENDANT AMAZON WEB SERVICES, INC.' SPECIAL MOTION TO STRIKE TO PLAINTIFF'S COMPLAINT (TRANSACTION ID # 75288803) FILED BY PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	
2024-12-23	DECLARATION OF PLAINTIFF [OPPOSITION TO DEFENDANTS' SPECIAL MOTION TO STRIKE PLAINTIFF'S COMPLAINT PURSUANT TO CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 425.16] (TRANSACTION ID # 75288803) FILED BY PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	
2024-12-23	LAW AND MOTION 302, MOTION TO STRIKE COMPLAINT TRANSFERRED TO BE HEARD IN DEPT. 301 ON JAN-06-2025, 9:30 AM. (302/VH)		
2024-12-23	LAW AND MOTION 302, MOTION TO STRIKE COMPLAINT TRANSFERRED TO BE HEARD IN DEPT. 301 ON JAN-06-2025, 9:30 AM. (302/VH)		
2024-12-23	LAW AND MOTION 302, MOTION TO STRIKE COMPLAINT TRANSFERRED TO BE HEARD IN DEPT. 301 ON JAN-06-2025, 9:30 AM. (302/VH)		
2024-12-23	LAW AND MOTION 302, DEMURRER TO COMPLAINT TRANSFERRED TO BE HEARD IN DEPT. 301 ON JAN-06-2025, 9:30 AM. (302/VH)		
2024-12-23	LAW AND MOTION 302, MOTION TO FILE PORTIONS OF SPECIAL MOTION TO STRIKE PLAINTIFFS COMPLAINT AND DEFENDANTS DEMURRER UNDER SEAL, TRANSFERRED TO BE HEARD IN DEPT. 301 ON JAN-06-2025, 9:30 AM. (302/VH)		
2024-12-23	MINI MINUTES FOR DEC-23-24 09:30 AM FOR DEPT 301		
2024-12-23	LAW AND MOTION 301, DEFENDANT SUBSTACK, INC.'S MOTION TO FILE PORTIONS OF DEFENDANT'S OPPOSITION UNDER SEAL. OFF CALENDAR FOR FAILURE TO PROVIDE COURTESY COPIES IN COMPLIANCE WITH LOCAL RULE 2.7B. JUDGE: JOSEPH M. QUINN, CLERK: M. GOODMAN, NOT REPORTED. (301/JMQ)		

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2024-12-23	NOTICE OF AND EX PARTE APPLICATION TO AMEND HEARING DATE; AND PLAINTIFFS UNOPPOSED REQUEST PERMISSION TO FILE ONE OPPOSITION TO DEFENDANTS ANTI-SLAPP MOTIONS THAT IS NO MORE THAN 40 PAGES; MEMORANDUM IN SUPPORT; DECLARATION IN SUPPORT (TRANSACTION ID # 75302643) FILED BY PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	\$60.00
2024-12-23	NOTICE OF RELATED CASE (TRANSACTION ID # 75304168) FILED BY PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	
2024-12-23	PROOF OF SERVICE BY ELECTRONIC MAIL OF NOTICE OF RELATED CASE (TRANSACTION ID # 75304168) FILED BY PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	
2024-12-23	NOTICE JOINDER AND JOINDER OF DEFENDANT TECH INQUIRY, INC. TO PLAINTIFF MAURY BLACKMAN'S EX PARTE APPLICATION TO AMEND HEARING DATE AND PLAINTIFF'S UNOPPOSED REQUEST FOR PERMISSION TO FILE ONE OPPOSITON TO DEFENDANTS' ANTI-SLAPP MOTIONS THAT IS NO MORE THAN 40 PAGES; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF SUSAN E. SEAGER (TRANSACTION ID # 75304408) FILED BY DEFENDANT TECH INQUIRY, INC.	<a href="#">View</a>	
2024-12-23	AMENDED NOTICE OF SPECIAL MOTION TO STRIKE (TRANSACTION ID # 75304411) FILED BY DEFENDANT TECH INQUIRY, INC.	<a href="#">View</a>	
2024-12-23	PROOF OF SERVICE BY ELECTRONIC MAIL OF NOTICE; AMENDED MOTION (TRANSACTION ID # 75304411) FILED BY DEFENDANT TECH INQUIRY, INC.	<a href="#">View</a>	
2024-12-24	ORDER RE: EX PARTE APPLICATION TO AMEND HEARING DATE; AND PLAINTIFF'S UNOPPOSED REQUEST PERMISSION TO FILE ONE OPPOSITION TO DEFENDANTS' ANTI-SLAPP MOTIONS THAT IS NO MORE THAN 40 PAGES	<a href="#">View</a>	
2024-12-24	LAW & MOTION, DEPT. 301, DEFENDANT AMAZON WEB SERVICES, INC.'S SPECIAL MOTION TO STRIKE COMPLAINT IS CONTINUED FROM JAN-06-2025 TO FEB-04-2025 AT 9:30 A.M. IN DEPT. 301 PER EX PARTE ORDER FILED ON DEC-24-2024. (301)		
2024-12-24	LAW & MOTION, DEPT. 301, DEFENDANT JACK POULSON'S SPECIAL MOTION TO STRIKE COMPLAINT IS CONTINUED FROM JAN-06-2025 TO FEB-04-2025 AT 9:30 A.M. IN DEPT. 301 PER EX PARTE ORDER FILED ON DEC-24-2024. (301)		
2024-12-24	LAW & MOTION, DEPT. 301, DEFENDANT SUBSTACK, INC.'S SPECIAL MOTION TO STRIKE COMPLAINT IS CONTINUED FROM JAN-06-2025 TO FEB-04-2025 AT 9:30 A.M. IN DEPT. 301 PER EX PARTE ORDER FILED ON DEC-24-2024. (301)		
2024-12-24	LAW & MOTION, DEPT. 301, DEFENDANT SUBSTACK, INC.'S DEMURRER TO COMPLAINT IS CONTINUED FROM JAN-06-2025 TO FEB-04-2025 AT 9:30 A.M. IN DEPT. 301 PER EX PARTE ORDER FILED ON DEC-24-2024. (301)		
2024-12-24	LAW & MOTION, DEPT. 301, DEFENDANT TECH INQUIRY, INC.'S SPECIAL MOTION TO STRIKE COMPLAINT IS CONTINUED FROM JAN-10-2025 TO FEB-04-2025 AT 9:30 A.M. IN DEPT. 301 PER EX PARTE ORDER FILED ON DEC-24-2024. (301)		
2024-12-27	REPLY IN FURTHER SUPPORT OF PLAINTIFF'S MOTION TO SEAL (TRANSACTION ID # 75327150) FILED BY PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	
2024-12-27	DECLARATION OF OF PLAINTIFF IN FURTHER SUPPORT OF PLAINTIFFS MOTION TO SEAL (TRANSACTION ID # 75327150) FILED BY PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	
2024-12-27	REPLY TO DEFENDANT'S MOTION TO FILE PORTIONS OF SPECIAL MOTION TO STRIKE PLAINTIFF'S COMPLAINT AND DEFENDANTS' DEMURRER UNDER SEAL (TRANSACTION ID # 75327225) FILED BY DEFENDANT SUBSTACK, INC.	<a href="#">View</a>	
2024-12-27	PROOF OF SERVICE BY ELECTRONIC MAIL OF REPLY (TRANSACTION ID # 75327225) FILED BY DEFENDANT SUBSTACK, INC.	<a href="#">View</a>	
2024-12-30	NOTICE OF ENTRY OF ORDER/NOTICE OF RULING FILED (TRANSACTION ID # 75338144) FILED BY PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	
2024-12-31	OPPOSITION TO PLAINTIFF MAURY BLACKMAN'S NOTICE OF RELATED CASE (TRANSACTION ID # 75355643) FILED BY DEFENDANT AMAZON WEB SERVICES, INC.	<a href="#">View</a>	
2025-01-06	MINI MINUTES FOR JAN-06-25 09:30 AM FOR DEPT 301		
2025-01-06	LAW AND MOTION 301, 1-DEFENDANT AMAZON WEB SERVICES, INC. MOTION TO FILE PORTIONS OF SPECIAL MOTION TO STRIKE, DECLARATION OF SARAH E. BURNS, AND EXHIBITS 1-6 UNDER SEAL. THE COURT ADOPTS THE TENTATIVE RULING. DEFENDANTS SUBSTACK, INC. AMAZON WEB SERVICES, INC. AND TECH INQUIRY, INC.'S MOTIONS TO		

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	SEAL ARE DENIED. FROM THEIR REPLY BRIEFS, THE COURT UNDERSTANDS DEFENDANTS HAVE ABANDONED THEIR MOTIONS. DEFENDANT POULSON'S MOTION TO SEAL PURSUANT TO CRC 2.550 IS GRANTED. POULSON SEEKS TO SEAL REFERENCES TO THE IDENTITY OF THE COMPLAINING WITNESS IN A POLICE INCIDENT REPORT.(SEE WORD MINUTES FOR FULL DETAILS)PREVAILING PARTY TO SUBMIT A PROPOSED ORDER THAT IS VERBATIM WITH THE COURT'S RULING. JUDGE: JOSEPH M. QUINN, CLERK: M. GOODMAN, NOT REPORTED. (301/JMQ)		
2025-01-06	LAW AND MOTION, 301, 2-PLAINTIFF MAURY BLACKMAN'S AMENDED NOTICE OF MOTION TO SEAL PURSUANT TO CAL R. CT. 2.550; AMENDED RESPONSE TO DEFENDANTS' VARIOUS MOTIONS TO SEAL; AND AMENDED OPPOSITION TO POULSON'S MOTION TO SEAL. THE COURT TAKES THE MATTER UNDER SUBMISSION. JUDGE: JOSEPH M. QUINN, CLERK: M. GOODMAN, NOT REPORTED. (301/JMQ)		
2025-01-06	LAW AND MOTION 301, 3-DEFENDANT JACK POULSON'S MOTION TO FILE A RECORD UNDER SEAL. THE COURT ADOPTS THE TENTATIVE RULING. DEFENDANTS SUBSTACK, INC. AMAZON WEB SERVICES, INC. AND TECH INQUIRY, INC'S MOTIONS TO SEAL ARE DENIED. FROM THEIR REPLY BRIEFS, THE COURT UNDERSTANDS DEFENDANTS HAVE ABANDONED THEIR MOTIONS. DEFENDANT POULSON'S MOTION TO SEAL PURSUANT TO CRC 2.550 IS GRANTED. POULSON SEEKS TO SEAL REFERENCES TO THE IDENTITY OF THE COMPLAINING WITNESS IN A POLICE INCIDENT REPORT.(SEE WORD MINUTES FOR FULL DETAILS) PREVAILING PARTY TO SUBMIT A PROPOSED ORDER THAT IS VERBATIM WITH THE COURT'S RULING.JUDGE: JOSEPH M. QUINN, CLERK: M. GOODMAN, NOT REPORTED. (301/JMQ)		
2025-01-06	LAW AND MOTION 301, 4-DEFENDANT SUBSTACK, INC. MOTION TO FILE PORTIONS OF SPECIAL MOTION TO STRIKE PLAINTIFFS COMPLAINT AND DEFENDANTS DEMURRER UNDER SEAL. DEFENDANTS SUBSTACK, INC. AMAZON WEB SERVICES, INC. AND TECH INQUIRY, INC'S MOTIONS TO SEAL ARE DENIED. FROM THEIR REPLY BRIEFS, THE COURT UNDERSTANDS DEFENDANTS HAVE ABANDONED THEIR MOTIONS. DEFENDANT POULSON'S MOTION TO SEAL PURSUANT TO CRC 2.550 IS GRANTED. POULSON SEEKS TO SEAL REFERENCES TO THE IDENTITY OF THE COMPLAINING WITNESS IN A POLICE INCIDENT REPORT.(SEE WORD MINUTES FOR FULL DETAILS) PREVAILING PARTY TO SUBMIT A PROPOSED ORDER THAT IS VERBATIM WITH THE COURT'S RULING. JUDGE: JOSEPH M. QUINN, CLERK: M. GOODMAN, NOT REPORTED. (301/JMQ)		
2025-01-06	MINUTES FOR JAN-06-2025 9:30 AM	<a href="#">View</a>	
2025-01-06	MINI MINUTES FOR JAN-06-25 09:30 AM FOR DEPT 301		
2025-01-06	MINI MINUTES FOR JAN-06-25 09:30 AM FOR DEPT 301		
2025-01-06	MINI MINUTES FOR JAN-06-25 09:30 AM FOR DEPT 301		
2025-01-07	ORDER GRANTING POULSON'S MOTION TO PARTIALLY SEAL RECORD	<a href="#">View</a>	
2025-01-07	LAW AND MOTION 301,PREV. TAKEN UNDER SUBMISSION ON 1/6/25, 2-PLAINTIFF MAURY BLACKMAN'S AMENDED NOTICE OF MOTION TO SEAL PURSUANT TO CAL R. CT. 2.550; AMENDED RESPONSE TO DEFENDANTS' VARIOUS MOTIONS TO SEAL; AND AMENDED OPPOSITION TO POULSON'S MOTION TO SEAL. AN ORDER GRANTING PLAINTIFF'S MOTION TO SEAL DOCUMENTS IS FILED. (SEE SCANNED ORDER FOR DETAILS)(301/JMQ)		
2025-01-07	ORDER GRANTING PLAINTIFF'S MOTION TO SEAL DOCUMENTS (SEE SCANNED ORDER FOR DETAILS) COPY OF ORDER MAILED TO PARTIES AT HEARING.	<a href="#">View</a>	
2025-01-07	ORDER DENYING DEFENDANT AMAZON WEB SERVICES, INC.'S MOTION TO SEAL	<a href="#">View</a>	
2025-01-07	ORDER DENYING DEFENDANT SUBSTACK, INC.'S MOTION TO SEAL	<a href="#">View</a>	
2025-01-10	AMENDED MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF ITS SPECIAL MOTION TO STRIKE COMPLAINT (TRANSACTION ID # 75417049) FILED BY DEFENDANT TECH INQUIRY, INC.	<a href="#">View</a>	
2025-01-10	PROOF OF SERVICE BY ELECTRONIC MAIL (TRANSACTION ID # 75417049) FILED BY DEFENDANT TECH INQUIRY, INC.	<a href="#">View</a>	
2025-01-14	PROOF OF SERVICE BY ELECTRONIC MAIL OF [REDACTED]/[UNREDACTED] OPPOSITION; [REDACTED]/[UNREDACTED] DECLARATIONS (TRANSACTION ID # 75438889) FILED BY PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	
2025-01-14	OPPOSITION TO DEFENDANT SUBSTACK, INC.'S DEMURRER TO PLAINTIFF'S COMPLAINT (TRANSACTION ID # 75438906) FILED BY PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	
2025-01-14	OPPOSITION TO DEFENDANT AWSS MOTION TO STRIKE UNDER THE ANTI-SLAPP STATUTE (CCP 425.16) [REDACTED] (TRANSACTION ID # 75438897) FILED BY PLAINTIFF BLACKMAN,	<a href="#">View</a>	

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	<a href="#">MAURY</a>		
2025-01-14	OPPOSITION TO DEFENDANT AWSS MOTION TO STRIKE UNDER THE ANTI- SLAPP STATUTE (CCP 425.16) [UN-REDACTED] (TRANSACTION ID # 75438897) (CONDITIONALLY SEALED) FILED BY PLAINTIFF BLACKMAN, MAURY		
2025-01-14	<a href="#">DECLARATION OF CAMERON SCHERER [REDACTED] (TRANSACTION ID # 75438897) FILED BY PLAINTIFF BLACKMAN, MAURY</a>	<a href="#">View</a>	
2025-01-14	PROOF OF SERVICE BY ELECTRONIC MAIL OF [REDACTED] OPPOSITION; [REDACTED] DECLARATION; [UN-REDACTED] OPPOSITION; [UN-REDACTED] DECLARATIONS (TRANSACTION ID # 75438897) FILED BY PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	
2025-01-14	<a href="#">DECLARATION OF PLAINTIFF [UN-REDACTED] (TRANSACTION ID # 75438897) (CONDITIONALLY SEALED) FILED BY PLAINTIFF BLACKMAN, MAURY</a>		
2025-01-14	DECLARATION OF CAMERON SCHERER [UN-REDACTED] (TRANSACTION ID # 75438897) (CONDITIONALLY SEALED) FILED BY PLAINTIFF BLACKMAN, MAURY		
2025-01-14	<a href="#">OPPOSITION TO DEFENDANT SUBSTACKS MOTION TO STRIKE UNDER THE ANTI-SLAPP STATUTE (CCP SECTION 425.16) (REDACTED) (TRANSACTION ID # 75438905) FILED BY PLAINTIFF BLACKMAN, MAURY</a>	<a href="#">View</a>	
2025-01-14	OPPOSITION TO DEFENDANT SUBSTACKS MOTION TO STRIKE UNDER THE ANTI-SLAPP STATUTE (CCP SECTION 425.16) [UN-REDACTED] (TRANSACTION ID # 75438905) (CONDITIONALLY SEALED) FILED BY PLAINTIFF BLACKMAN, MAURY		
2025-01-14	<a href="#">PROOF OF SERVICE BY ELECTRONIC MAIL OF [REDACTED]/[UNREDACTED] OPPOSITION; [REDACTED]/[UNREDACTED] DECLARATIONS (TRANSACTION ID # 75438905) FILED BY PLAINTIFF BLACKMAN, MAURY</a>	<a href="#">View</a>	
2025-01-14	DECLARATION OF MAURY BLACKMAN [REDACTED] (TRANSACTION ID # 75438905) FILED BY PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	
2025-01-14	<a href="#">DECLARATION OF CAMERON SCHERER [REDACTED] (TRANSACTION ID # 75438905) FILED BY PLAINTIFF BLACKMAN, MAURY</a>	<a href="#">View</a>	
2025-01-14	DECLARATION OF MAURY BLACKMAN [UN-REDACTED] (TRANSACTION ID # 75438905) (CONDITIONALLY SEALED) FILED BY PLAINTIFF BLACKMAN, MAURY		
2025-01-14	<a href="#">DECLARATION OF CAMERON SCHERER [UN-REDACTED] (TRANSACTION ID # 75438905) (CONDITIONALLY SEALED) FILED BY PLAINTIFF BLACKMAN, MAURY</a>		
2025-01-14	OPPOSITION TO DEFENDANT TECH INQUIRYS MOTION TO STRIKE UNDER THE ANTI-SLAPP STATUTE (CCP SECTION 425.16) [REDACTED] (TRANSACTION ID # 75438881) FILED BY PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	
2025-01-14	OPPOSITION TO DEFENDANT TECH INQUIRYS MOTION TO STRIKE UNDER THE ANTI-SLAPP STATUTE (CCP 425.16) [UN-REDACTED] (TRANSACTION ID # 75438881) (CONDITIONALLY SEALED) FILED BY PLAINTIFF BLACKMAN, MAURY		
2025-01-14	DECLARATION OF MAURY BLACKMAN [REDACTED] (TRANSACTION ID # 75438881) FILED BY PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	
2025-01-14	<a href="#">DECLARATION OF CAMERON SCHERER [REDACTED] (TRANSACTION ID # 75438881) FILED BY PLAINTIFF BLACKMAN, MAURY</a>	<a href="#">View</a>	
2025-01-14	DECLARATION OF MAURY BLACKMAN [UN-REDACTED] (TRANSACTION ID # 75438881) (CONDITIONALLY SEALED) FILED BY PLAINTIFF BLACKMAN, MAURY		
2025-01-14	<a href="#">DECLARATION OF CAMERON SCHERER [UN-REDACTED] (TRANSACTION ID # 75438881) (CONDITIONALLY SEALED) FILED BY PLAINTIFF BLACKMAN, MAURY</a>		
2025-01-14	OPPOSITION TO DEFENDANT JACK POULSONS MOTION TO STRIKE UNDER THE ANTI-SLAPP STATUTE (CCP SECTION 425.16) [REDACTED] (TRANSACTION ID # 75438898) FILED BY PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	
2025-01-14	OPPOSITION TO DEFENDANT JACK POULSONS MOTION TO STRIKE UNDER THE ANTI-SLAPP STATUTE (CCP SECTION 425.16) [UN-REDACTED] (TRANSACTION ID # 75438898) (CONDITIONALLY SEALED) FILED BY PLAINTIFF BLACKMAN, MAURY		
2025-01-14	DECLARATION OF MAURY BLACKMAN [REDACTED] (TRANSACTION ID # 75438898) FILED BY PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	

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2025-01-14	DECLARATION OF CAMERON SCHERER [REDACTED] (TRANSACTION ID # 75438898) FILED BY PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	
2025-01-14	PROOF OF SERVICE BY ELECTRONIC MAIL OF [REDACTED]/[UNREDACTED] OPPOSITION; [REDACTED]/[UNREDACTED] DECLARATIONS (TRANSACTION ID # 75438898) FILED BY PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	
2025-01-14	DECLARATION OF MAURY BLACKMAN [UN-REDACTED] (TRANSACTION ID # 75438898) (CONDITIONALLY SEALED) FILED BY PLAINTIFF BLACKMAN, MAURY		
2025-01-14	DECLARATION OF CAMERON SCHERER [UN-REDACTED] (TRANSACTION ID # 75438898) (CONDITIONALLY SEALED) FILED BY PLAINTIFF BLACKMAN, MAURY		
2025-01-21	DECLARATION OF OF PLAINTIFF [REDACTED] (TRANSACTION ID # 75483512) FILED BY PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	
2025-01-22	NOTICE OF AND UNOPPOSED EX PARTE APPLICATION TO STRIKE PLAINTIFF'S OPPOSITION TO (I) JACK POULSON'S SPECIAL MOTION TO STRIKE FILED ON DECEMBER 23, 2024; (II) AWS'S SPECIAL MOTION TO STRIKE FILED ON DECEMBER 23, 2024; (III) SUBSTACK'S SPECIAL MOTION TO STRIKE FILED ON DECEMBER 23, 2024; AND (IV) SUBSTACK'S DEMURRER FILED ON DECEMBER 20, 2024.; MEMORANDUM IN SUPPORT; DECLARATION IN SUPPORT (TRANSACTION ID # 75488171) FILED BY PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	\$60.00
2025-01-22	REMARK: HEARING HELD RE: PLAINTIFF'S EX PARTE APPLICATION TO STRIKE PLAINTIFF'S OPPOSITION TO (I) JACK POULSON'S SPECIAL MOTION TO STRIKE FILED ON DECEMBER 23, 2024; (II) AWS'S SPECIAL MOTION TO STRIKE FILED ON DECEMBER 23, 2024; (III) SUBSTACK'S SPECIAL MOTION TO STRIKE FILED ON DECEMBER 23, 2024; AND (IV) SUBSTACK'S DEMURRER FILED ON DECEMBER 20, 2024. - APPLICATION IS DENIED.		
2025-01-28	REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF DEFENDANT JACK POULSON'S SPECIAL MOTION TO STRIKE (TRANSACTION ID # 75532990) FILED BY DEFENDANT POULSON, JACK	<a href="#">View</a>	
2025-01-28	REPLY MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF DEFENDANT JACK POULSON'S SPECIAL MOTION TO STRIKE (TRANSACTION ID # 75532990) FILED BY DEFENDANT POULSON, JACK	<a href="#">View</a>	
2025-01-28	PROOF OF SERVICE BY ELECTRONIC MAIL OF REQUEST FOR JUDICIAL NOTICE; REPLY; DECLARATIONS (TRANSACTION ID # 75532990) FILED BY DEFENDANT POULSON, JACK	<a href="#">View</a>	
2025-01-28	DECLARATION OF VICTORIA NOBLE IN SUPPORT OF REPLY (TRANSACTION ID # 75532990) FILED BY DEFENDANT POULSON, JACK	<a href="#">View</a>	
2025-01-28	DECLARATION OF DEFENDANT JACK POULSON IN SUPPORT OF REPLY (TRANSACTION ID # 75532990) FILED BY DEFENDANT POULSON, JACK	<a href="#">View</a>	
2025-01-28	DECLARATION OF PLAINTIFF (REDACTED) (TRANSACTION ID # 75533449) FILED BY PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	
2025-01-28	PROOF OF SERVICE BY ELECTRONIC MAIL OF DECLARATION (REDACTED) (TRANSACTION ID # 75533449) FILED BY PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	
2025-01-28	MOTION TO FILE PORTIONS OF REPLY IN SUPPORT OF SPECIAL MOTION TO STRIKE PLAINTIFFS COMPLAINT AND EVIDENTIARY OBJECTIONS PROVISIONALLY UNDER SEAL (TRANSACTION ID # 75533462) FILED BY DEFENDANT AMAZON WEB SERVICES, INC. HEARING SET FOR FEB-04-2025 AT 09:00 AM IN DEPT 301	<a href="#">View</a>	\$60.00
2025-01-28	DECLARATION OF SARAH BURNS IN SUPPORT OF MOTION TO FILE PORTIONS OF REPLY IN SUPPORT OF SPECIAL MOTION TO STRIKE PLAINTIFFS COMPLAINT AND EVIDENTIARY OBJECTIONS PROVISIONALLY UNDER SEAL (TRANSACTION ID # 75533462) FILED BY DEFENDANT AMAZON WEB SERVICES, INC.	<a href="#">View</a>	
2025-01-28	NOTICE LODGING PORTIONS OF REPLY IN SUPPORT OF SPECIAL MOTION TO STRIKE PLAINTIFFS COMPLAINT AND EVIDENTIARY OBJECTIONS PROVISIONALLY UNDER SEAL (TRANSACTION ID # 75533462) FILED BY DEFENDANT AMAZON WEB SERVICES, INC.	<a href="#">View</a>	
2025-01-28	OBJECTIONS TO PLAINTIFFS EVIDENCE SUBMITTED IN SUPPORT OF OPPOSITION TO SPECIAL MOTION TO STRIKE PLAINTIFFS COMPLAINT **REDACTED** (TRANSACTION ID # 75533462) FILED BY DEFENDANT AMAZON WEB SERVICES, INC.	<a href="#">View</a>	
2025-01-28	REPLY IN SUPPORT OF SPECIAL MOTION TO STRIKE PLAINTIFFS COMPLAINT **REDACTED** (TRANSACTION ID # 75533462) FILED BY DEFENDANT AMAZON WEB SERVICES, INC.	<a href="#">View</a>	

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Date	Proceedings	Document	Fee
2025-01-28	OBJECTIONS TO PLAINTIFFS EVIDENCE SUBMITTED IN SUPPORT OF OPPOSITION TO SPECIAL MOTION TO STRIKE PLAINTIFFS COMPLAINT **UNREDACTED** (TRANSACTION ID # 75533462) (CONDITIONALLY SEALED) FILED BY DEFENDANT AMAZON WEB SERVICES, INC.		
2025-01-28	REPLY IN SUPPORT OF SPECIAL MOTION TO STRIKE PLAINTIFFS COMPLAINT **UNREDACTED** (TRANSACTION ID # 75533462) (CONDITIONALLY SEALED) FILED BY DEFENDANT AMAZON WEB SERVICES, INC.		
2025-01-28	PROOF OF SERVICE BY ELECTRONIC MAIL (TRANSACTION ID # 75533462) FILED BY DEFENDANT AMAZON WEB SERVICES, INC.	<a href="#">View</a>	
2025-01-28	REPLY BRIEF IN FURTHER SUPPORT OF DEMURRER TO PLAINTIFF'S COMPLAINT (TRANSACTION ID # 75533536) FILED BY DEFENDANT SUBSTACK, INC.	<a href="#">View</a>	
2025-01-28	REPLY BRIEF IN FURTHER SUPPORT OF SPECIAL MOTION TO STRIKE PLAINTIFF'S COMPLAINT AND REQUEST FOR ATTORNEYS' FEES (TRANSACTION ID # 75533536) FILED BY DEFENDANT SUBSTACK, INC.	<a href="#">View</a>	
2025-01-28	PROOF OF SERVICE BY ELECTRONIC MAIL (TRANSACTION ID # 75533536) FILED BY DEFENDANT SUBSTACK, INC.	<a href="#">View</a>	
2025-01-28	REPLY DECLARATION OF JOSHUA A BASKIN IN FURTHER SUPPORT OF REPLY TO PALINTFF'S OPPOSITION TO SPECIAL MOTION TO STRIKE PLAINTIFF'S COMPLAINT AND DEFENDANT'S DEMURRER TO COMPLAINT (TRANSACTION ID # 75533536) FILED BY DEFENDANT SUBSTACK, INC.	<a href="#">View</a>	
2025-01-29	REPLY IN SUPPORT OF ITS SPECIAL MOTION TO STRIKE PLAINTIFF'S COMPLAINT; DECLARATION OF SUSAN E. SEAGER (TRANSACTION ID # 75533548) FILED BY DEFENDANT TECH INQUIRY, INC.	<a href="#">View</a>	
2025-01-29	MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF ITS SPECIAL MOTION TO STRIKE PLAINTIFF'S COMPLAINT (AMENDED) (TRANSACTION ID # 75533553) FILED BY DEFENDANT TECH INQUIRY, INC.	<a href="#">View</a>	
2025-01-29	PROOF OF SERVICE BY ELECTRONIC MAIL OF MEMORANDUM OF POINTS AND AUTHORITIES (TRANSACTION ID # 75533553) FILED BY DEFENDANT TECH INQUIRY, INC.	<a href="#">View</a>	
2025-01-29	PROOF OF SERVICE BY ELECTRONIC MAIL OF REPLY (TRANSACTION ID # 75533554) FILED BY DEFENDANT TECH INQUIRY, INC.	<a href="#">View</a>	
2025-01-29	NOTICE OF JOINDER AND JOINDER TO AMAZON WEB SERVICES, INC.'S OBJECTIONS TO EVIDENCE AND REQUEST FOR JUDICIAL NOTICE (TRANSACTION ID # 75539612) FILED BY DEFENDANT POULSON, JACK TECH INQUIRY, INC.	<a href="#">View</a>	
2025-01-31	ERRATA TO REPLY ISO SPECIAL MOT TO STRIKE; SEAGER DEC (TRANSACTION ID # 75554334) FILED BY DEFENDANT TECH INQUIRY, INC.	<a href="#">View</a>	
2025-01-31	PROOF OF SERVICE BY ELECTRONIC MAIL (TRANSACTION ID # 75554334) FILED BY DEFENDANT TECH INQUIRY, INC.	<a href="#">View</a>	
2025-01-31	OPPOSITION TO DEFENDANT AWSS MOTION TO SEAL (TRANSACTION ID # 75558464) FILED BY PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	
2025-01-31	OPPOSITION TO DEFENDANT TECH INQUIRYS SPECIAL MOTION TO STRIKE PLAINTIFFS COMPLAINT BASED ON FILINGS MADE AFTER JANUARY 28, 2025 (TRANSACTION ID # 75559111) FILED BY PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	
2025-02-04	MINI MINUTES FOR FEB-04-25 09:00 AM FOR DEPT 301		
2025-02-04	MINI MINUTES FOR FEB-04-25 09:00 AM FOR DEPT 301		
2025-02-04	MINUTES FOR FEB-04-2025 9:00 AM	<a href="#">View</a>	
2025-02-04	MINI MINUTES FOR FEB-04-25 09:00 AM FOR DEPT 301		
2025-02-04	MINI MINUTES FOR FEB-04-25 09:00 AM FOR DEPT 301		
2025-02-04	MINI MINUTES FOR FEB-04-25 09:00 AM FOR DEPT 301		
2025-02-04	MINI MINUTES FOR FEB-04-25 09:00 AM FOR DEPT 301		
2025-02-04	LAW & MOTION, DEPT. 301, AS TO THE FEB-04-2024 HEARING RE: DEFENDANT AMAZON WEB SERVICES, INC.'S MOTION TO STRIKE COMPLAINT; THE COURT ADOPTS ITS TENTATIVE RULING WITH MODIFICATIONS. THE FOUR NAMED DEFENDANTS HAVE NOW		

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Date	Proceedings	Document	Fee
	BROUGHT SEPARATE ANTI-SLAPP MOTIONS. AS THE COURT GRANTS THEM FOR LARGELY THE SAME REASONS, THE COURT DISCUSSES THEM IN TANDEM (SEE WORD MINUTES FOR COMPLETE RULING). ORDER SUBMITTED. JUDGE: CHRISTINE VAN AKEN; CLERK: V. DA FONSECA; COURT REPORTER: LISA AUGUSTINE, CSR# 10419 (TEL: 714-493-3578 / EMAIL: LAUGUSTINECOURTREPORTER@GMAIL.COM)		
2025-02-04	LAW & MOTION, DEPT. 301, AS TO THE FEB-04-2024 HEARING RE: DEFENDANT JACK POULSON'S MOTION TO STRIKE COMPLAINT; THE COURT ADOPTS ITS TENTATIVE RULING. FOR THE REASONS STATED IN ITS ORDER GRANTING AWS'S SPECIAL MOTION TO STRIKE, THE COURT GRANTS POULSON'S MOTION. ORDER SUBMITTED. JUDGE: CHRISTINE VAN AKEN; CLERK: V. DA FONSECA; COURT REPORTER: LISA AUGUSTINE, CSR# 10419 (TEL: 714-493-3578 / EMAIL: LAUGUSTINECOURTREPORTER@GMAIL.COM)		
2025-02-04	LAW & MOTION, DEPT. 301, AS TO THE FEB-04-2024 HEARING RE: DEFENDANT SUBSTACK, INC.'S MOTION TO STRIKE COMPLAINT; THE COURT ADOPTS ITS TENTATIVE RULING. FOR THE REASONS STATED IN ITS ORDER GRANTING AWS'S SPECIAL MOTION TO STRIKE, THE COURT GRANTS SUBSTACK'S MOTION. ORDER SUBMITTED. JUDGE: CHRISTINE VAN AKEN; CLERK: V. DA FONSECA; COURT REPORTER: LISA AUGUSTINE, CSR# 10419 (TEL: 714-493-3578 / EMAIL: LAUGUSTINECOURTREPORTER@GMAIL.COM). (301/CVA)		
2025-02-04	LAW & MOTION, DEPT. 301, AS TO THE FEB-04-2024 HEARING RE: DEFENDANT SUBSTACK, INC.'S DEMURRER TO COMPLAINT; THE COURT ADOPTS ITS TENTATIVE RULING. IN LIGHT OF THE COURT'S ORDER STRIKING THE COMPLAINT, SUBSTACK'S DEMURRER TO THE COMPLAINT IS MOOT. JUDGE: CHRISTINE VAN AKEN; CLERK: V. DA FONSECA; COURT REPORTER: LISA AUGUSTINE, CSR# 10419 (TEL: 714-493-3578 / EMAIL: LAUGUSTINECOURTREPORTER@GMAIL.COM). (301/CVA)		
2025-02-04	LAW & MOTION, DEPT. 301, AS TO THE FEB-04-2024 HEARING RE: DEFENDANT TECH INQUIRY, INC.'S MOTION TO STRIKE COMPLAINT; THE COURT ADOPTS ITS TENTATIVE RULING. FOR THE REASONS STATED IN ITS ORDER GRANTING AWS'S SPECIAL MOTION TO STRIKE, THE COURT GRANTS TECH INQUIRY'S MOTION. IT EXERCISES ITS DISCRETION TO HEAR THIS MOTION OUTSIDE OF THE 60-DAY LIMIT BECAUSE THE MOTION PRESENTS THE SAME ISSUES AS THE TIMELY FILED MOTIONS OF OTHER DEFENDANTS. (CCP 425.16(F).) ORDER SUBMITTED. JUDGE: CHRISTINE VAN AKEN; CLERK: V. DA FONSECA; COURT REPORTER: LISA AUGUSTINE, CSR# 10419 (TEL: 714-493-3578 / EMAIL: LAUGUSTINECOURTREPORTER@GMAIL.COM). (301/CVA)		
2025-02-04	LAW & MOTION, DEPT. 301, AS TO THE FEB-04-2024 HEARING RE: DEFENDANT AMAZON WEB SERVICES, INC.'S MOTION TO FILE PORTIONS OF REPLY IN SUPPORT OF SPECIAL MOTION TO STRIKE PLAINTIFFS COMPLAINT AND EVIDENTIARY OBJECTIONS PROVISIONALLY UNDER SEAL; THE COURT ORDERS AS FOLLOWS: ANYTHING QUOTED FROM PLAINTIFF'S PAPERS THAT IS UNDER SEAL PLUS ANYTHING IN THE EVIDENTIARY OBJECTIONS THAT QUOTES FROM RECORD THAT IS SEALED MAY BE FILED UNDER SEAL. AWS IS TO PREPARE A NEW VERSION THAT REDACTS ONLY THOSE ITEMS. COUNSEL FOR THE PREVAILING PARTY IS TO PREPARE AND SUBMIT A PROPOSED ORDER WHICH REPEATS THE COURT'S RULING, WITH A COVER LETTER REFLECTING COMPLIANCE WITH CRC 3.1312. JUDGE: CHRISTINE VAN AKEN; CLERK: V. DA FONSECA; COURT REPORTER: LISA AUGUSTINE, CSR# 10419 (TEL: 714-493-3578 / EMAIL: LAUGUSTINECOURTREPORTER@GMAIL.COM). (301/CVA)		
2025-02-05	AMENDED MOTION TO FILE PORTIONS OF REPLY IN SUPPORT OF SPECIAL MOTION TO STRIKE PLAINTIFFS COMPLAINT AND EVIDENTIARY OBJECTIONS PROVISIONALLY UNDER SEAL (TRANSACTION ID # 75587592) FILED BY DEFENDANT AMAZON WEB SERVICES, INC. HEARING SET FOR MAR-03-2025 AT 09:00 AM IN DEPT 301	<a href="#">View</a>	\$60.00
2025-02-05	DECLARATION OF SARAH BURNS IN SUPPORT OF AMENDED MOTION TO SEAL REPLY IN SUPPORT OF SPECIAL MOTION TO STRIKE PLAINTIFFS COMPLAINT AND EVIDENTIARY OBJECTIONS PROVISIONALLY UNDER SEAL (TRANSACTION ID # 75587592) FILED BY DEFENDANT AMAZON WEB SERVICES, INC.	<a href="#">View</a>	
2025-02-05	OBJECTIONS TO EVIDENCE SUBMITTED ISO OPPOSITION TO SLAPP MOTION **REDACTED** (TRANSACTION ID # 75587592) FILED BY DEFENDANT AMAZON WEB SERVICES, INC.	<a href="#">View</a>	
2025-02-05	REPLY IN SUPPORT OF SPECIAL MOTION TO STRIKE PLAINTIFFS COMPLAINT **REDACTED** (TRANSACTION ID # 75587592) FILED BY DEFENDANT AMAZON WEB SERVICES, INC.	<a href="#">View</a>	
2025-02-05	OBJECTIONS TO EVIDENCE SUBMITTED ISO OPPOSITION TO SLAPP MOTION **UNREDACTED** (TRANSACTION ID # 75587592) (CONDITIONALLY SEALED) FILED BY DEFENDANT AMAZON WEB SERVICES, INC.		
2025-02-05	REPLY IN SUPPORT OF SPECIAL MOTION TO STRIKE PLAINTIFFS COMPLAINT **UNREDACTED** (TRANSACTION ID # 75587592) (CONDITIONALLY SEALED) FILED BY		

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	DEFENDANT AMAZON WEB SERVICES, INC.		
2025-02-05	PROOF OF SERVICE BY ELECTRONIC MAIL (TRANSACTION ID # 75587592) FILED BY DEFENDANT AMAZON WEB SERVICES, INC.	<a href="#">View</a>	
2025-02-14	ORDER GRANTING MOTIONS TO STRIKE COMPLAINT BY SUBSTACK, INC.; AMAZON WEB SERVICES, INC.; JACK POULSON, AND TECH INQUIRY, INC.	<a href="#">View</a>	
2025-02-18	CASE MANAGEMENT STATEMENT (TRANSACTION ID # 75666729) FILED BY PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	
2025-02-20	CASE MANAGEMENT CONFERENCE OF MAR-05-2025 CONTINUED TO JUN-04-2025 AT 10:30 AM IN DEPARTMENT 610 FOR DEFENDANTS TO FILE JUDGMENT FOLLOWING ORDER GRANTING MOTION TO STRIKE. NOTICE SENT BY COURT.	<a href="#">View</a>	
2025-02-24	NOTICE OF ENTRY OF ORDER/NOTICE OF RULING FILED (TRANSACTION ID # 75704136) FILED BY DEFENDANT TECH INQUIRY, INC.	<a href="#">View</a>	
2025-02-24	02-24-2025 PROOF OF SERVICE FOR NOTICE OF ENTRY ORDER (TRANSACTION ID # 75704136) FILED BY DEFENDANT TECH INQUIRY, INC.	<a href="#">View</a>	
2025-03-03	MINI MINUTES FOR MAR-03-25 09:00 AM FOR DEPT 301		
2025-03-03	LAW AND MOTION 301, DEFENDANT AMAZON WEB SERVICES, INC.'S AMENDED MOTION TO FILE PORTIONS OF REPLY IN SUPPORT OF SPECIAL MOTION TO STRIKE PLAINTIFFS COMPLAINT AND EVIDENTIARY OBJECTIONS PROVISIONALLY UNDER SEAL IS GRANTED. THE COURT FINDS AS TO THOSE PORTIONS OF REPLY MATERIALS THAT AWS SEEKS TO SEAL THAT THE FACTORS IN CRC 2.550(D) ARE MET FOR THE REASONS SET OUT IN THE COURT'S SEALING ORDER OF JANUARY 7, 2025. COUNSEL FOR THE PREVAILING PARTY IS REQUIRED TO PREPARE A PROPOSED ORDER WHICH REPEATS VERBATIM THE SUBSTANTIVE PORTION OF THE TENTATIVE RULING. JUDGE: CHRISTINE VAN AKEN; CLERK: W. TRUPEK; NOT REPORTED (301/CVA)		
2025-03-06	REFUND/REIMBURSEMENT OF \$375.00 FOR TRANSACTION (), PAYABLE TO SUSAN E SEAGER, WARRANT #20009122, DATED MAR-06-2025		
2025-04-07	SUBSTITUTION OF ATTORNEY, (TRANSACTION ID # 76017891): MAREK, DAVID SUBSTITUTED FOR NORTH, STACY AS ATTORNEY FOR BLACKMAN, MAURY	<a href="#">View</a>	
2025-04-11	NOTICE OF APPEAL (TRANSACTION ID # 76056148) FILED BY APPELLANT BLACKMAN, MAURY	<a href="#">View</a>	\$100.00
2025-04-11	PROOF OF ELECTRONIC SERVICE (TRANSACTION ID # 76056148) FILED BY APPELLANT BLACKMAN, MAURY	<a href="#">View</a>	
2025-04-14	DISMISSAL WITH PREJUDICE ALL CAUSES OF ACTION AS TO DEFENDANT AMAZON WEB SERVICES, INC.	<a href="#">View</a>	
2025-04-14	PROOF OF SERVICE (TRANSACTION ID # 76066239) FILED BY PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	
2025-04-15	NOTICE DESIGNATING RECORD ON APPEAL (8.124) (TRANSACTION ID # 76076862) FILED BY APPELLANT BLACKMAN, MAURY	<a href="#">View</a>	
2025-04-15	PROOF OF SERVICE BY ELECTRONIC MAIL (TRANSACTION ID # 76076862) FILED BY APPELLANT BLACKMAN, MAURY	<a href="#">View</a>	
2025-04-22	CLERK'S NOTICE OF FILING OF NOTICE OF APPEAL	<a href="#">View</a>	
2025-04-25	NOTICE OF MOTION AND MOTION TO RECOVER FEES AND COSTS (TRANSACTION ID # 76156980) FILED BY DEFENDANT SUBSTACK, INC. POULSON, JACK TECH INQUIRY, INC. HEARING SET FOR JUL-29-2025 AT 09:00 AM IN DEPT 301	<a href="#">View</a>	\$60.00
2025-04-25	DECLARATION OF JOSHUA A. BASKIN IN SUPPORT OF MOTION OF DEFENDANTS POULSON, SUBSTACK, INC., AND TECH INQUIRY TO RECOVER FEES AND COSTS (TRANSACTION ID # 76156980) FILED BY DEFENDANT POULSON, JACK, AN INDIVIDUAL SUBSTACK, INC. TECH INQUIRY, INC.	<a href="#">View</a>	
2025-04-25	DECLARATION OF DAVID GREENE IN SUPPORT OF MOTION FOR ATTORNEYS' FEES AND COSTS (TRANSACTION ID # 76156980) FILED BY DEFENDANT POULSON, JACK	<a href="#">View</a>	
2025-04-25	DECLARATION OF VICTORIA NOBLE IN SUPPORT OF MOTION FOR ATTORNEYS' FEES AND COSTS (TRANSACTION ID # 76156980) FILED BY DEFENDANT POULSON, JACK	<a href="#">View</a>	

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2025-04-25	DECLARATION OF SUSAN E. SEAGER WITH EXHIBITS A-B [C.C.P. 425.16(C)] (TRANSACTION ID # 76156980) FILED BY DEFENDANT TECH INQUIRY, INC.	<a href="#">View</a>	
2025-04-25	PROOF OF SERVICE BY ELECTRONIC MAIL OF NOTICE OF MOTION AND MOTION TO RECOVER FEES AND COSTS AND DECLARATIONS IN SUPPORT OF (TRANSACTION ID # 76156980) FILED BY DEFENDANT SUBSTACK, INC.	<a href="#">View</a>	
2025-04-28	NOTICE TO REPORTER TO PREPARE TRANSCRIPT (APPEAL FILED 4/11/25)	<a href="#">View</a>	
2025-05-07	CASE MANAGEMENT CONFERENCE OF JUN-04-2025 CONTINUED TO SEP-17-2025 AT 10:30 AM IN DEPARTMENT 610. NOTICE SENT BY COURT.	<a href="#">View</a>	
2025-05-21	APPEAL RECORD CERTIFIED TO THE COURT OF APPEAL (8.124, 1 VOL RT) (A173244 DIV 4) (APPEAL FILED 4/11/25)		
2025-05-21	CERTIFICATION NOTICE	<a href="#">View</a>	
2025-07-16	OPPOSITION TO DEFENDANT'S MOTION TO RECOVER FEES AND COSTS (TRANSACTION ID # 76662045) FILED BY PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	
2025-07-16	DECLARATION OF AMI SANGHVI IN SUPPORT OF PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION TO RECOVERY FEES AND COSTS (TRANSACTION ID # 76662045) FILED BY PLAINTIFF BLACKMAN, MAURY	<a href="#">View</a>	
2025-07-22	REPLY BRIEF IN FURTHER SUPPORT OF MOTION OF DEFENDANTS POULSON, SUBSTACK INC., AND TECH INQUIRY TO RECOVER FEES (TRANSACTION ID # 76709311) FILED BY DEFENDANT SUBSTACK, INC. POULSON, JACK TECH INQUIRY, INC.	<a href="#">View</a>	
2025-07-22	DECLARATION OF BENJAMIN D. MARGO IN FURTHER SUPPORT OF MOTION OF DEFENDANTS POULSON, SUBSTACK INC., AND TECH INQUIRY TO RECOVER FEES AND COSTS (TRANSACTION ID # 76709311) FILED BY DEFENDANT SUBSTACK, INC. POULSON, JACK TECH INQUIRY, INC.	<a href="#">View</a>	
2025-07-22	SUPPLEMENTAL DECLARATION OF SUSAN E. SEAGER (TRANSACTION ID # 76709311) FILED BY DEFENDANT SUBSTACK, INC. POULSON, JACK TECH INQUIRY, INC.	<a href="#">View</a>	
2025-07-22	PROOF OF SERVICE BY ELECTRONIC MAIL OF REPLY; DECLARATIONS (TRANSACTION ID # 76709311) FILED BY DEFENDANT SUBSTACK, INC. POULSON, JACK TECH INQUIRY, INC.	<a href="#">View</a>	
2025-07-29	MINI MINUTES FOR JUL-29-25 09:00 AM FOR DEPT 301		
2025-07-29	MINUTES FOR JUL-29-2025 9:00 AM	<a href="#">View</a>	
2025-07-29	LAW & MOTION/DISCOVERY, DEPT. 301, AS TO JULY-29-2025 HEARING RE: DEFENDANTS SUBSTACK, INC., JACK POULSON, AND TECH INQUIRY, INC.'S MOTION TO RECOVER FEES AND COSTS; THE COURT ADOPTS ITS TENTATIVE RULING. DEFENDANTS' MOTION FOR ATTORNEYS' FEES INCURRED IN CONNECTION WITH THEIR ANTI-SLAPP MOTION IS GRANTED IN PART. FOR THE REASONS STATED BELOW, SUBSTACK IS AWARDED \$211,102.50 IN FEES AND \$14,706.60 IN COSTS. POULSON IS AWARDED \$145,362.42 IN FEES. TECH INQUIRY IS AWARDED \$40,280 IN FEES (SEE WORD MINUTES FOR COMPLETE RULING). COUNSEL FOR THE PREVAILING PARTY IS TO PREPARE AND SUBMIT A PROPOSED ORDER WHICH REPEATS VERBATIM THE SUBSTANTIVE PORTION OF THE COURT'S RULING, WITH A COVER LETTER DEMONSTRATING COMPLIANCE WITH CRC 3.1312. JUDGE: CHRISTINE VAN AKEN; CLERK: V. DA FONSECA; COURT REPORTER: JAMIE PLY, CSR# 13323 (TEL: 714-316-3757 / EMAIL: JPLYCSR@AOL.COM) =(301/CVA)		
2025-08-04	[PROPOSED] ORDER ON DEFENDANTS' MOTION TO RECOVER FEES AND COSTS (COVER SHEET) (TRANSACTION ID # 76789677) FILED BY DEFENDANT SUBSTACK, INC.	<a href="#">View</a>	
2025-08-11	ORDER ON DEFENDANTS' MOTION TO RECOVER FEES AND COSTS	<a href="#">View</a>	
2025-08-22	CASE MANAGEMENT CONFERENCE OF SEP-17-2025 CONTINUED TO JAN-14-2026 AT 10:30 AM IN DEPARTMENT 610 FOR STATUS OF APPEAL. NOTICE SENT BY COURT.	<a href="#">View</a>	

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Document received by the CA 1st District Court of Appeal.

**PROOF OF SERVICE**

I am employed in the County of Santa Clara, State of California. I am over the age of 18, and not a party to the within action. My business address is 228 Hamilton Avenue Palo Alto, CA 94301.

**APPELLANT’S APPENDIX VOLUMES 1 THROUGH 4**

On August 29, 2025, I served true and correct copies of the document(s) described as

<p>Counsel for Defendant Substack, Inc. Joshua A. Baskin Thomas R. Wakefield Wilson Sonsini Goodrich &amp; Rosati 1 Market Plaza, Spear Tower, Suite 3300 San Francisco, CA 94105 Emails: <a href="mailto:jbaskin@wsgr.com">jbaskin@wsgr.com</a>; <a href="mailto:twakefield@wsgr.com">twakefield@wsgr.com</a>; <a href="mailto:Substack-Doe@wsgr.com">Substack-Doe@wsgr.com</a> <a href="mailto:rglynn@wsgr.com">rglynn@wsgr.com</a></p>
<p>Counsel for Defendant Tech Inquiry, Inc. Susan E. Saeger The Office of Susan E. Saeger Phone: (310) 890-8991 Email: <a href="mailto:susanseager1999@gmail.com">susanseager1999@gmail.com</a></p>
<p>Counsel for Jack Poulson David Greene Victoria Noble Electronic Frontier Foundation 815 Eddy Street San Francisco, CA 94109 Tel.: (415) 436-9333 Fax: (415) 436-9993 Emails: <a href="mailto:davidg@eff.org">davidg@eff.org</a>;</p>

[tori@eff.org](mailto:tori@eff.org);  
[victoria@eff.org](mailto:victoria@eff.org)

**VIA TRUEFILING:** A true and correct copy of the foregoing documents were electronically served on counsel of record by transmission through ImageSoft TrueFiling (*TrueFiling*) e-servicing.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. I also declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on August 29, 2025 at Palo Alto, California.

/s/ David M. Marek  
David M. Marek