

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 02/17/26 TIME: 1:30 P.M. DEPT: A CASE NO: CV2002510

PRESIDING: HON. STEPHEN P. FRECCERO

REPORTER:

CLERK: CAMILO IBARRA

PLAINTIFF: ROBIN CANTARUTTI

vs.

DEFENDANT: SABINA CRIVELLO

NATURE OF PROCEEDINGS: MOTION – OTHER; REOPEN EVIDENCE

RULING

Plaintiff filed a notice of withdrawal of this motion on January 20, 2026.

All parties must comply with Marin County Superior Court Local Rules, Rule 2.10(B) to contest the tentative decision. Parties who request oral argument are required to appear in person or remotely by ZOOM. Regardless of whether a party requests oral argument in accordance with Rule 2.10(B), the prevailing party shall prepare an order consistent with the announced ruling as required by Marin County Superior Court Local Rules, Rule 2.11.

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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 02/17/26 TIME: 1:30 P.M. DEPT: A CASE NO: CV2104264

PRESIDING: HON. STEPHEN P. FRECCERO

REPORTER:

CLERK:

PLAINTIFF: MARK SLATTERY, ET AL

vs.

DEFENDANT: KENNETH L. WEBB, JR.,
ET AL

NATURE OF PROCEEDINGS: MOTION – GOOD FAITH SETTLEMENT

RULING

The unopposed motion of Plaintiffs for a determination of good faith settlement is **GRANTED**.
(Code Civ. Proc., § 877.6.)

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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 02/17/26 TIME: 1:30 P.M. DEPT: A CASE NO: CV2202455

PRESIDING: HON. STEPHEN P. FRECCERO

REPORTER:

CLERK: CAMILO IBARRA

PLAINTIFF: RAYMOND CABALLERO

vs.

DEFENDANT: MILDRED MURRIN, ET AL

NATURE OF PROCEEDINGS: MOTION - ENFORCE

RULING

The settlement agreement at issue on this motion describes certain obligations that apply prior to Plaintiff Quarry's death and others that are activated upon his death. As relevant to this motion, the agreement provides that within five days of Plaintiff Quarry's death, Defendant Murrin was to execute any grant deed required to convey to Plaintiff Caballero any interest she has in the properties at 12 Oak Grove, #102 in Novato, 101 Laidley Street in San Francisco, 1220 Ellis Street #11 in San Francisco, and 119 Panoramic Drive in Novato. (Caballero Dec., Ex. A, ¶ L(2) ["Paragraph L(2)"].) Plaintiff Quarry died on November 13, 2023. The current motion seeks an order compelling Defendant to execute certain real property deeds.

After the previous hearing in this matter, two properties remain at issue: 12 Oak Grove, #102 in Novato and 1220 Ellis Street #11 in San Francisco. The Court ordered Plaintiff Caballero to produce all evidence demonstrating Defendant Murrin has any interest in these properties. In response, Plaintiff informed the Court that "Ms. Murrin's interest, if any, is speculative in nature. In fact it is assumed she has zero interest." Notwithstanding this concession, Plaintiff is requesting that the Court order Defendant to present a quit claim deed to "insure clean title to the next buyer in line."

Although the Court understands the expressed concern, there is no basis for the Court to order Defendant to comply with Plaintiff's request. There has been no showing of a material breach of the settlement agreement. Defendant has no cognizable interest in the properties and therefore has no duty to execute a grant deed. Nor does the language of the settlement agreement require Defendant to furnish a quit claim deed as a precaution to avoid future claims.

The motion to enforce the settlement is **DENIED**. The request for an award of attorney's fees is **DENIED**.

All parties must comply with Marin County Superior Court Local Rules, Rule 2.10(B) to contest the tentative decision. Parties who request oral argument are required to appear in person or remotely by ZOOM. Regardless of whether a party requests oral argument in accordance with Rule 2.10(B), the prevailing party shall prepare an order consistent with the announced ruling as required by Marin County Superior Court Local Rules, Rule 2.11.

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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 02/17/26 TIME: 1:30 P.M. DEPT: A CASE NO: CV2300035

PRESIDING: HON. STEPHEN P. FRECCERO

REPORTER:

CLERK: CAMILO IBARRA

PLAINTIFF: 121 TUNSTEAD SAN
ANSELMO, LLC

vs.

DEFENDANT: SRINIVAS KATPELLE, ET
AL

NATURE OF PROCEEDINGS: MOTION – OTHER: APPLICATION FOR ORDER TO
SHOW CAUSE

RULING

The matter has been withdrawn.

All parties must comply with Marin County Superior Court Local Rules, Rule 2.10(B) to contest the tentative decision. Parties who request oral argument are required to appear in person or remotely by ZOOM. Regardless of whether a party requests oral argument in accordance with Rule 2.10(B), the prevailing party shall prepare an order consistent with the announced ruling as required by Marin County Superior Court Local Rules, Rule 2.11.

The Zoom appearance information for February, 2026 is as follows:

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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 02/17/26 TIME: 1:30 P.M. DEPT: A CASE NO. CV0002303

PRESIDING: HON. STEPHEN P. FRECCERO

REPORTER:

CLERK: CAMILO IBARRA

PLAINTIFF: WELLS FARGO BANK, N.A.

vs.

DEFENDANT: STEVEN J. KAUFMAN, ET
AL

NATURE OF PROCEEDINGS: MOTION – SUMMARY JUDGMENT

RULING

Plaintiff’s motion for summary judgment or, in the alternative, for summary adjudication is **DENIED**.

Allegations in Plaintiff’s First Amended Complaint

Plaintiff Wells Fargo Bank, NA alleges that in August 2017, Plaintiff’s predecessor-in-interest, Mid-Peninsula Bank, a part of Greater Bay Bank, NA, made a loan (the “Loan”) to Cornerstone Properties II S, LLC, predecessor-in-interest to CPSA -Airport Industrial Park, LLC (the “Borrower”) The Loan was documented in a Business Loan Agreement (the “Loan Agreement”) and evidenced by a Promissory Note dated August 29, 2016 (the “Note”). The Note was originally from Cornerstone Properties II S, LLC, and was assumed by the Borrower, for the principal sum of \$7.4 million. (First Amended Complaint (“FAC”), ¶¶5, 6 and Exhs. 1, 2.) The Note is secured by a Leasehold Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing, executed September 8, 2006 by Cornerstone Properties II S, LLC, as amended by a Modification of Deed of Trust dated August 29, 2016 and an Assumption Agreement dated August 1, 2017. (*Id.*, ¶7 and Exhs. 3-5.)

The Loan was guaranteed by Defendant Steven J. Kaufman (“Kaufman”) and Steven Kaufman as trustee of his trust (the “Trust”). Defendant Eleanor Kaufman has been appointed successor trustee of the Trust. (*Id.*, ¶8.) Under the two guarantees (the “Kaufman Guaranty” and the “Trust Guaranty”), Kaufman and the Trust guaranteed performance of all of the Borrower’s obligations, including the obligations under the Note. (*Id.*, ¶¶11, 12 and Exhs. 9 and 10.)

The Borrower has defaulted on the Loan. The outstanding principal owed as of March 15, 2024 was \$5,938,863.80 and accrued interest as of that time was \$165,774.73. (*Id.*, ¶¶9, 10.)

The First Cause of Action alleges breach of the Kaufman Guaranty and the Trust Guaranty. The Second and Third Causes of Action assert common counts, specifically, money lent and money paid, laid out and expended.

Standard

The purpose of a motion for summary judgment “is to provide courts with a mechanism to cut through the parties’ pleadings in order to determine whether, despite their allegations, trial is in fact necessary to resolve their dispute.” (*Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 843.) “Code of Civil Procedure section 437c, subdivision (c), requires the trial judge to grant summary judgment if all the evidence submitted, and ‘all inferences reasonably deducible from the evidence’ and uncontradicted by other inferences or evidence, show that there is no triable issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” (*Adler v. Manor Healthcare Corp.* (1992) 7 Cal. App. 4th 1110, 1119 [citation omitted].)

“On a motion for summary judgment, the initial burden is always on the moving party to make a prima facie showing that there are no triable issues of material fact.” (*Scalf v. D. B. Log Homes, Inc.* (2005) 128 Cal.App.4th 1510, 1519.) The burden on a plaintiff moving for summary judgment is defined by Code of Civil Procedure § 437c(p)(1); the plaintiff must “prove[] each element of the cause of action entitling the party to judgment on that cause of action.” (Code Civ. Proc. § 437c(p)(1); *Paramount Petroleum Corp. v. Superior Court* (2014) 227 Cal.App.4th 226, 241.)

“When deciding whether to grant summary judgment, the court must consider all of the evidence set forth in the papers (except evidence to which the court has sustained an objection), as well as all reasonable inferences that may be drawn from that evidence, in the light most favorable to the party opposing summary judgment.” (*Avivi v. Centro Medico Urgente Medical Center* (2008) 159 Cal.App.4th at 467; Code of Civ. Proc. §437c.) The moving party’s evidence must be strictly construed, while the opposing party’s evidence must be liberally construed. (*Binder v. Aetna Life Ins. Co.* (1999) 75 Cal.App.4th 832, 838.) Any evidentiary doubts are resolved in favor of the opposing party. (*City of Santa Cruz v. Pacific Gas & Elec. Co.* (2000) 82 Cal.App.4th 1167, 1176.)

Evidentiary Objections

Defendants’ evidentiary objections to the Declaration of Kristen Sandberg fail to comply with California Rule of Court 3.1354(b), which requires objections to be “numbered consecutively”. In addition, many of these objections group together a number of statements by Ms. Sandberg and assert objections to that group of statements rather than setting forth a specific statement and a specific objection to that statement. Where a specific statement is underlined, the Court assumes the objection is focused on that underlined statement consistent with footnote 1 of Defendants’ objections.

The Court rules on the objections as follows. The objections to Paragraphs 6, 9, 10, 12-23, 25 and 26, and Exhibits 1-10, are overruled. The objection to Paragraph 5 is sustained as to “I am informed of any problems or issues pertaining to loan accounts” (personal knowledge/

foundation). The objection to Paragraph 7 is sustained as to “The records and documents discussed herein are records and documents . . . provided to Wells Fargo . . . on behalf of Borrower, Kaufman, and the Kaufman Trust” (personal knowledge/foundation). The objection to Paragraph 8 is sustained as to “and has always been” (personal knowledge/foundation). The objection to Paragraph 11 is sustained as to “the operators promptly report any problem with the system” (personal knowledge/ foundation). The objection to Paragraph 24 is sustained (improper legal conclusion). The objection to Paragraph 27 is sustained as to “as the Kaufman Guaranty provides” (improper legal conclusion). The objection to Paragraph 28 is sustained (improper legal conclusion). The objection to Paragraph 29 is sustained as to “as the Kaufman Trust Guaranty provides” (improper legal conclusion). The objection to Paragraph 30 is sustained (improper legal conclusion). Defendants’ objections to Paragraphs 5, 7, 8 11, 24 and 27-30 are overruled to the extent not expressly sustained above.

Defendants object to the loan documents, guarantees, and notices (Paragraphs 12-22 and Exhs. 1-10) but they do not dispute they executed any of these documents or that the documents attached to Ms. Sandberg’s declaration are accurate copies of these documents.

Plaintiff’s objections to paragraphs 6, 7, 9-11, 18 and 23 assert that Ms. Sandberg’s statements in her declaration are inconsistent with her deposition testimony. These specific objections are overruled to the extent they request the statements be stricken in their entirety. The Court instead considers the impact of any inconsistency on Plaintiff’s ability to meet its burden in the context of its summary judgment motion. (See *Harris v. Thomas Dee Engineering Co., Inc.* (2021) 68 Cal.App.5th 594, 604; *Alvis v. County of Ventura* (2009) 178 Cal.App.4th 536, 548-549.)

Evidentiary Record

The following facts submitted by Plaintiff are undisputed. Plaintiff, through its predecessor, made a loan to the Borrower, which is subject to the Loan Agreement and evidenced by the Note, in the principal sum of \$7.4 million. (Undisputed Material Fact (“UMF”) 1, 2.) The Loan Agreement provides that “Borrower will: . . . Prior to disbursement of any Loan proceeds, furnish executed guaranties of the Loans in favor of Lender, executed by” Kaufman and the Kaufman Trust. (UMF 3.) On or around August 1, 2017, in compliance with its obligations under the Loan Agreement, Borrower delivered to Plaintiff the Kaufman Guaranty and the Trust Guaranty. (UMF 4, 5.) As of November 27, 2024, Plaintiff had not received any notice from or claim by Kaufman or the Trust to the effect that Plaintiff has failed to perform any of its obligations under the guarantees. (UMF 7, 8.)

The Note provides that, “Borrower’s final payment will be due on September 1, 2023, and will be for all principal and all accrued interest not yet paid.” Borrower failed to pay the Indebtedness, as that term is defined in the Loan Agreement, on or around September 1, 2023. On or around September 5, 2023, Plaintiff delivered a Notice of Default to Borrower, Alon Adani (“Adani”), and Kaufman, advising that Borrower’s “failure to repay the Loan by the Maturity Date constitutes a default under the Loan Agreement.” (UMF 10.) By letter dated February 6, 2024, Plaintiff sent a notice to Kaufman advising him, both individually and as trustee of Trust that Borrower’s failure to repay the Loan by September 1, 2023, gave rise to Kaufman’s and the Trust’s obligations to perform under the Kaufman Guaranty and Trust

Guaranty, respectively, and that if Borrower remained in default, Plaintiff would bring a claim to enforce the Kaufman Guaranty and Trust Guaranty. (UMF 11.)

The Kaufman Guaranty and Trust Guaranty each provide that “For good and valuable consideration, Guarantor absolutely and unconditionally guarantees full and punctual payment and satisfaction of the Indebtedness of Borrower to Lender, and the performance and discharge of all Borrower’s obligations under the Note and Related Documents.” Neither Kaufman nor the Trust has paid any amounts pursuant to their respective guarantees. (UMF 12, 13.)

Defendants dispute Plaintiff’s two “facts” regarding damages, UMF 16 and 17, which state that Kaufman’s and the Trust’s defaults under their guarantees have caused Plaintiff \$6,367,168.29 in damages, which represents the outstanding principal balance of the Loan (\$5,938,863.80), accrued interest (\$344,305.08), and allowed costs (\$83,999.41). Defendants argue that the only evidence supported to support these facts is the declaration of Ms. Sandberg, but Ms. Sandberg testified in her deposition at pages 88-117 that she does not have knowledge regarding the calculation of Plaintiff’s damages.

Ms. Sandberg was produced as Plaintiff’s person most qualified with respect to a number of topics, including “[t]he financial basis for which Wells Fargo claims money damages in this action” (Declaration of Kevin P. Dwight (“Dwight Decl.”), Exh. 1 at Topic 5.) In her deposition in April 2025, Ms. Sandberg discussed a “note recap” that she brought with her to her deposition that identified outstanding principal and interest due. The recap was marked as Exhibit 7 in her deposition. Ms. Sandberg testified that she requested the recap from Plaintiff’s loan center, which prepared it for her. She did not know specifically how the recap was prepared, who input the information used in the recap, or the process used to input the information. Ms. Sandberg testified that she believed certain figures represented default interest and the interest rate but stated she would need to verify. She did not know what certain codes, fees, amounts, or dates on the recap represented, or how certain interest payments were applied or adjusted. Ms. Sandberg also testified that she had to discuss with the loan center an issue with interest that needed to be adjusted, and that she has to rely on the loan center to fix the entries and trust that the system was set up correctly. (Dwight Decl., Exh. 2.) This evidence (pages 88-117 of Ms. Sandberg’s deposition transcript) is submitted in connection with Defendants’ Additional Undisputed Material Facts (“AUMF”) 1-9.)

Discussion

Plaintiff moves for summary judgment or summary adjudication with respect to all four of its causes of action against Defendants.

First and Second Causes of Action/Breach of the Guarantee

In order for a plaintiff to prevail on a summary judgment or summary adjudication motion on a breach of contract claim, the plaintiff must establish its entitlement to judgment as a matter of law as to all elements of the claim, including damages. (See *Paramount Petroleum Corp. v. Superior Court* (2014) 227 Cal.App.4th 226, 241; see also *Department of Indus. Relations v. UI Video Stores, Inc.* (1997) 55 Cal. App. 4th 1084, 1097 [“Because issues of the calculation of

damages apparently remain to be determined, it is not appropriate to grant summary judgment for Appellant”].)

Defendants argue that Plaintiff has failed to present adequate evidence of its damages because the only evidence it submits to support its damages number is Ms. Sandberg’s declaration, which they contend is insufficient in light of her deposition testimony. In its Reply, Plaintiff argues that its evidence of damages is not Ms. Sandberg’s deposition testimony or the “note recap” she discussed in her deposition, but rather Ms. Sandberg’s declaration which provides a separate and independent basis to establish damages. Plaintiff argues that Ms. Sandberg was entitled to rely on records in Plaintiff’s system showing the amounts due in making her statement as to the amount of damages Plaintiff has suffered.

Ms. Sandberg was asked about her November 2024 declaration at her deposition:

Q. Is it your understanding that the note recap is the source of the principal and interest calculations that at least as of November 25th, 2024, were included in your declaration?

A. My loan center would have pulled it off their system of record, which I believe is AFS for this loan. That would have been driven off AFS. They have their own process for pulling the numbers.

(Dwight Decl., Exh. 2 at p. 88:16-23.) Ms. Sandberg testified that the note recap would have been used to identify outstanding principal and accrued interest. (*Id.* at p. 88:6-12.) Thus, Ms. Sandberg’s declaration appears to be based at least in part on the note recap which she brought with her to the deposition, and about which she conceded she lacked information or understanding with respect to certain damage figures. Plaintiff does not provide a declaration from anyone in the loan center or elsewhere in its organization to support the numbers, nor does it provide any backup documentation, which is problematic for Plaintiff as Ms. Sandberg testified she noticed issues with the interest numbers but apparently did not confirm that they had been remedied. Given this testimony, it is not enough for Plaintiff to merely rely on its business records to show amounts due. At the very least, Defendants have raised a triable issue of material fact as to whether the numbers submitted by Plaintiff are accurate and whether Plaintiff actually suffered the damages it claims.

The motion is denied as to the First and Second Causes of Action. (See *Paramount*, 227 Cal.App.4th at p. 243.)

Third and Fourth Causes of Action/Common Counts

“The only essential allegations of a common count are ‘(1) the statement of indebtedness in a certain sum, (2) the consideration, i.e., goods sold, work done, etc., and (3) nonpayment.’” (*Farmers Ins. Exchange v. Zerin* (1997) 53 Cal.App.4th 445, 460 [citation omitted].) For the reasons discussed above, Plaintiff has not established the first element. Plaintiff’s motion is therefore denied as to these causes of action as well.

Defendants’ Other Arguments

Because the Court denies Plaintiff's motion on the grounds discussed above, it need not address Defendants' additional arguments that Plaintiff acted with unclean hands or that triable issues of fact exist with respect to Defendants' affirmative defenses and cross-claims against the Borrower and Adoni.

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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 02/17/26 TIME: 1:30 P.M. DEPT: A CASE NO: CV0004618

PRESIDING: HON. STEPHEN P. FRECCERO

REPORTER:

CLERK: CAMILO IBARRA

PLAINTIFF: AIMEE GAMBLE PRICE,
ET AL

vs.

DEFENDANT: TIMOTHY C. MILLIKIN,
ET AL

NATURE OF PROCEEDINGS: MOTION - LEAVE

RULING

The motion of Plaintiffs for leave to file a second amended complaint is **GRANTED**.

Discussion

Under Code of Civil Procedure section 473, subdivision (a)(1), the Court may, in furtherance of justice, and on any terms as may be proper, allow a party to amend any pleading or proceeding. As judicial policy favors resolution of all disputed matters in the same lawsuit, courts liberally permit amendments of the pleadings. (*Nestle v. Santa Monica* (1972) 6 Cal.3d 920, 939.) “If the motion to amend is timely made and the granting of the motion will not prejudice the opposing party, it is error to refuse permission to amend and where the refusal also results in a party being deprived of the right to assert a meritorious cause of action or a meritorious defense, it is not only error but an abuse of discretion. [Citations].” (*Morgan v. Superior Court* (1959) 172 Cal.App.2d 527, 530; see also Weil & Brown, Cal. Practice Guide: Civil Procedure Before Trial (The Rutter Group 2024) ¶ 6:639.)

Although Defendants suggest the request for leave is untimely, trial in this matter is still five months away. There has been no showing that Defendants have been prejudiced by any delay in seeking the amendment. Instead, most of Defendants’ objections are directed to the merits of the new allegations. Courts, however, generally allow amendment and then let the parties test the legal sufficiency of the allegations in other appropriate proceedings such as a demurrer. (See *Kittredge Sports Co. v. Superior Court* (1989) 213 Cal.App.3d 1045, 1048; *Atkinson v. Elk Corp.* (2003) 109 Cal.App.4th 739, 760; see also Weil & Brown, *supra*, at ¶ 6:644.) The Court finds no prejudice to Defendants and therefore grants leave to amend.

All parties must comply with Marin County Superior Court Local Rules, Rule 2.10(B) to contest the tentative decision. Parties who request oral argument are required to appear in person or remotely by ZOOM. Regardless of whether a party requests oral argument in accordance with Rule 2.10(B), the prevailing party shall prepare an order consistent with the announced ruling as required by Marin County Superior Court Local Rules, Rule 2.11.

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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 02/17/26 TIME: 1:30 P.M. DEPT: A CASE NO: CV0007665

PRESIDING: HON. STEPHEN P. FRECCERO

REPORTER:

CLERK: CAMILO IBARRA

PLAINTIFF: BROOKE GIBSON

vs.

DEFENDANT: CALIFORNIA
DEPARTMENT OF MOTOR VEHICLES

NATURE OF PROCEEDINGS: WRIT OF MANDATE HEARING

RULING

The Petition is **DENIED**.

Background

On February 8, 2025, Officer Fernandez observed that petitioner Brooke Gibson's ("Petitioner") vehicle had a temporary license plate. (AR 003.) After conducting a record search, Officer Fernandez found that a permanent license plate had been assigned to the vehicle, justifying further investigation. (*Id.*) Officer Fernandez then observed Petitioner's vehicle proceed through an intersection without stopping at a stop sign. (*Id.*, AR 033.)

Petitioner was pulled over at 8:38 PM in Hercules, California. (AR 003.) Officer Miller was called to the scene to assist Officer Fernandez. (AR 034.) Officer Miller observed Petitioner and noted the odor of alcohol and the fact that Petitioner performed Field Sobriety Tests (FSTs) unsatisfactorily. (AR 003.)

When questioned about her alcohol consumption that evening, Petitioner admitted to consuming "a beer with her neighbor before she left her residence in San Anselmo." (AR 026.) Officer Miller then administered FSTs on Petitioner, which she failed to successfully perform. (*Id.*) She failed to keep track of Officer Miller's finger while he performed the Horizontal Gaze Nystagmus, despite affirming that she understood his directions. (*Id.*) Petitioner also failed to follow instructions while performing the walk and turn and one leg stand FSTs and moved her body in such a way as Officer Miller concluded she was intoxicated. (AR 026-028.)

Preliminary Alcohol Screening Tests (PAS) were conducted with results of 0.11% at 9:05 PM and 0.11% 9:10 PM. (AR 004, 010, 029.) After the PASs were conducted, Petitioner was arrested for driving while intoxicated. (AR 029.) Petitioner was placed in the back of the

officer's vehicle. (*Id.*) Next, Officer Miller inspected Petitioner's vehicle. He "located a grocery bag on the passenger seat of the BMW. Inside the bag was a 19.2 fluid ounce can of Lagunitas IPA beer which was opened." (AR 30.) He photographed the beer. (*Id.*) He then removed the can from the bag to see how much of the beer had been consumed. "The beer can was approximately 25% full ... [and the] beer was 6.2% alcohol per volume." (*Id.*)

The officer noted that the "grocery bag was not wet and none of the contents inside the bag were wet, which meant none of the beer was spilled inside of the grocery bag." (*Id.*) Officer Miller "recovered a receipt located in the grocery bag that shows the items were purchased on 02/08/2025 at 1950 hours, which was approximately 48 minutes prior to" the Petitioner being pulled over. (*Id.*) Petitioner told the officers at the time of her arrest that she had consumed cookies with the beer she drank with her neighbor and that she'd drank approximately 45 minutes to 1 hour before the stop. (AR 026.)

At the police station, Petitioner completed a blood test with a result of 0.09% BAC at 10:28 PM. (AR 004, 014-017.)

Petitioner's license was suspended, and she was informed of her right to appeal that suspension. (AR 012-13.) Petitioner timely appealed her suspension.

A hearing was held on June 19, 2025. (AR 003.) At the hearing, Petitioner testified that she "could have been finishing" dinner or "had just finished" dinner. (AR 049.) When asked what she ate, she responded that she "typically" makes rice, tofu, some kind of vegetable, etc., but did not clarify what she actually ate that evening. (*Id.*) Petitioner admitted to drinking one to two cans of beer and approximately ten to fifteen minutes later, driving to Safeway. (AR 050.) She then admitted to purchasing and consuming three quarters of a 20 oz beer at Safeway while her car was charging and prior to driving to Hercules, California. (AR 050-51.)

At the hearing, Petitioner offered expert testimony from forensic toxicologist, Stanley Dorrance, who utilized the Widmark Formula via computer calculations to conclude that Petitioner's blood alcohol concentration at the time of driving was between 0.05% and 0.06%. (AR 052-55.) Mr. Dorrance obtained information from Petitioner about how much she ate and what she drank during the night in question, which he then used to make his calculations and come to his conclusions. (AR 053:19-25, 054:1-25; 055:1-8.) He opined that at the time she was stopped, her BAC would have been about .05 or .06% and then continued rising during the 30 minutes between then and when she was administered the PASs and the later blood sample. (AR 055:11-25, 056:1-4.) He further stated that he agreed "with all of the chemical tests that have been performed." (AR 056:7-8.)

On July 1, 2025, the Hearing Officer issued a written decision which found that the initial contact was lawful, the arrest was lawful, and that the "calculation or speculation as it relates to any BAC during the time of driving" did not overcome the presumption created by the timely blood test and therefore the Petitioner's BAC was presumptively at .08% or higher at the time she was driving. (AR 003-4.) The suspension on Petitioner's license was reinstated. (AR 003.)

Petitioner then filed this action, alleging that the Hearing Officer arbitrarily and capriciously, exceeded her authority, made an erroneous interpretation of the law, and made a determination

that is not supported by the evidence in the record. (Opening Brief, p. 6:5-8.) Specifically, Petitioner argues that the Hearing Officer erred in not finding Petitioner's expert testimony sufficient to rebut the BAC presumption and that in failing to do so, the Hearing Officer was acting "as an advocate" for the DMV. (*Id.*, at p. 7:1-9.)

Legal Standard

Judicial review of a final decision or order of a DMV license suspension is governed by Vehicle Code section 13559(a) and Code of Civil Procedure section 1094.5.

Code of Civil Procedure section 1094.5, subdivision (a) vests authority in the court to review the validity of any final administrative order or decision made as a result of a proceeding in which by law a hearing is required to be given, evidence is required to be taken, and discretion in the determination of facts is vested in the inferior tribunal. The court's inquiry "shall extend to the questions of whether the respondent has proceeded without, or in excess of jurisdiction; whether there was a fair trial; and whether there was any prejudicial abuse of discretion." (Code Civ. Proc., §1094.5, subd. (b); *Environmental Protection & Info. Ctr. v. Cal. Dept of Forestry & Fire Protection* (2008) 44 Cal.4th 459, 520-21.)

In matters involving the suspension or revocation of an individual's driving privileges, the trial court is required to determine based on its independent judgment whether the weight of the evidence supports the administrative decision. (*Lake v. Reed* (1997) 16 Cal.4th 448, 456; *Munro v. Department of Motor Vehicles* (2018) 21 Cal.App.5th 41, 46.) In exercising its independent judgment, the trial court makes its own determination whether the administrative findings were supported by the evidence. (*Garcia v. DMV* (2010) 185 Cal.App.4th 73, 82.) The "trial court must afford a strong presumption of correctness concerning the administrative findings, and the party challenging the administrative decision bears the burden of convincing the court that the administrative findings are contrary to the weight of the evidence." (*Ibid.*) The court's review is only of the administrative record, and no outside evidence. (*Ibid.*)

Discussion

The Hearing

Vehicle Code section 23152(b) states that "[i]t is unlawful for any person who has 0.08 percent or more, by weight, of alcohol in his or her blood to drive a vehicle." According to Vehicle Code section 13353.2(a)(1), the DMV shall immediately suspend a person's driving privilege if "[t]he person was driving a motor vehicle when the person had 0.08 percent or more, by weight, of alcohol in his or her blood." Vehicle Code section 13557(b)(2) outlines the issues for an administrative review of an order of suspension or revocation: (1) whether the peace officer had reasonable cause to believe that the person had been driving a motor vehicle in violation of Section 23136, 23140, 23152, 23153, or 23154; (2) whether the person was placed under arrest or, if the alleged violation was of Section 23136, that the person was lawfully detained; and (3) whether the person was driving a motor vehicle when the person had 0.08 percent or more, by weight, of alcohol in his or her blood.

During the administrative hearing, the Department has the burden of proving the facts necessary to support the suspension. (*Daniels v. Dept. of Motor Vehicles* (1983) 33 Cal.3d 532, 536.)

Vehicle Code section 23152(b) creates a rebuttable presumption that a person was driving with a BAC of .08 percent or higher if they are tested at that level or higher within three hours of driving. An explanation of how the presumption operates can be found in the Evidence Code. Section 601 provides: “A presumption is either conclusive or rebuttable. Every rebuttable presumption is either (a) a presumption affecting the burden of producing evidence or (b) a presumption affecting the burden of proof.” Vehicle Code section 23152, subdivision (b), by its terms, creates a rebuttable presumption affecting the burden of producing evidence, not the burden of proof. (*Coffey v. Shiimoto* (2015) 60 Cal.4th 1198, 1209.)

A rebuttable presumption requires the trier of fact, given a showing of the preliminary fact (here, that a chemical test result showed Petitioner had a BAC of 0.08 percent or more within three hours of driving), to assume the existence of the presumed fact (here, that Petitioner was driving with a prohibited BAC) “unless and until evidence is introduced which would support a finding of its nonexistence, in which case the trier of fact shall determine the existence or nonexistence of the presumed fact from the evidence and without regard to the presumption.” (*Coffey, supra*, citing Evid. Code, § 604.) In other words, if evidence sufficient to negate the presumed fact is presented, the “presumption disappears” and “has no further effect,” although “inferences may nevertheless be drawn from the same circumstances that gave rise to the presumption in the first place” (*Id.*, 1209–10. Internal Citations Omitted.)

Petitioner’s Expert Failed to Rebut BAC Presumption

The only issue before this Court is whether it was established by a preponderance of the evidence that Petitioner drove with a BAC at or above .08. In this case, the results of the blood test administered to Petitioner establish a presumption that she was driving with a BAC of at least .08 percent and the burden thus shifts to Petitioner to rebut that presumption. (AR 004, 014-017.) She has failed to do so.

Neither the DMV nor the trial court is required to accept an expert’s testimony at face value. (*Coffey, supra*, 60 Cal.4th at p. 1218.)

The Hearing Officer's Decision noted the speculative nature of Mr. Dorrance’s testimony. (AR 004.) This is supported by the record establishing that he relied on statements by Petitioner regarding the amount of alcohol she had consumed as well and the amount and type of food she had eaten that evening to generate his opinion. (AR 053:19-25, 054:1-25; 055:1-8.) Given the record of Petitioner’s changing statements regarding both of those items, including the contradictions between what she told the arresting officer, and her testimony at the administrative hearing, and apparent statements to Mr. Dorrance, it was logical to conclude that calculations relying on those changing statements were indeed questionable and speculative. Accordingly, the hearing officer concluded that Petitioner failed to rebut the presumption that she was driving with a BAC of at least .08 on the date in question.

This Court concurs. Mr. Dorrance’s opinions were based on the assumption that Petitioner truthfully recounted her alcohol consumption on the day in question and was therefore in the

absorptive phase of alcohol metabolism. (AR 053:19-25, 054:1-25; 055:1-8.) Petitioner's testimony regarding the number of beers consumed, and when they were consumed, was materially inconsistent with her statements to officers at the time of the stop. (AR 049-51.) Similarly, her testimony regarding what she had eaten, and when, on the day in question, was also inconsistent with what she had told Officers at the time of the stop, in addition to being generalized and vague. As such, the Court agrees with the Hearing Officer's conclusion that the expert's opinions assumed the truth of Petitioner's revised version of events, and his testimony was therefore speculative and insufficient to rebut the presumption. The Hearing Officer's conclusion regarding the speculative nature of Petitioner's expert's testimony does not indicate that the Officer was acting as an advocate for the DMV.

Further, even if Mr. Dorrance's opinions were credited and the presumption disappeared, circumstantial evidence of Petitioner's intoxication combined with the three test results were sufficient to establish by a preponderance of evidence that Petitioner's BAC was at least .08 at the time she was stopped. (*Coffey, supra*, 60 Cal.4th at pp. 1216-1217.)

For example, when stopped, officers noted the smell of alcohol emanating from Petitioner. (AR 010, 025, 033.) The results of the field sobriety tests indicated difficulty in balance and following directions completely. (AR 026-28.) Such evidence bolstered and corroborated the results of the PASs and blood test. (AR 029-30.) Accordingly, the Court finds that the weight of the evidence presented at the administrative hearing supported the Department's Decision.

Based on the foregoing, the Petition is denied.

All parties must comply with Marin County Superior Court Local Rules, Rule 2.10(B) to contest the tentative decision. Parties who request oral argument are required to appear in person or remotely by ZOOM. Regardless of whether a party requests oral argument in accordance with Rule 2.10(B), the prevailing party shall prepare an order consistent with the announced ruling as required by Marin County Superior Court Local Rules, Rule 2.11.

The Zoom appearance information for February, 2026 is as follows:

<https://marin-courts-ca-gov.zoomgov.com/j/1605267272?pwd=908CbP6TV2mhCAyaiInzo6lyz2dKaw.1>

Meeting ID: 160 526 7272

Passcode: 026935

If you are unable to join by video, you may join by telephone by calling (669) 254-5252 and using the above-provided passcode. Zoom appearance information may also be found on the Court's website: <https://www.marin.courts.ca.gov>

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 02/17/26 TIME: 1:30 P.M. DEPT: A CASE NO: CV0008061

PRESIDING: HON. STEPHEN P. FRECCERO

REPORTER:

CLERK: CAMILO IBARRA

PETITIONER: JAMES DOUGLAS
HESSION

vs.

DEFENDANT: AMP Z INC., A DELAWARE
CORPORATION, ET AL

NATURE OF PROCEEDINGS: MOTION – PRO HAC VICE

RULING

The unopposed application to admit Allan S. Bloom as Counsel Pro Hac Vice for Defendant AMP Z Inc. is **GRANTED**. (Calif. Rules of Court, rule 9.40.)

All parties must comply with Marin County Superior Court Local Rules, Rule 2.10(B) to contest the tentative decision. Parties who request oral argument are required to appear in person or remotely by ZOOM. Regardless of whether a party requests oral argument in accordance with Rule 2.10(B), the prevailing party shall prepare an order consistent with the announced ruling as required by Marin County Superior Court Local Rules, Rule 2.11.

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<https://marin-courts-ca-gov.zoomgov.com/j/1605267272?pwd=908CbP6TV2mhCAyailnzo6lyz2dKaw.1>

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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 02/17/26 TIME: 1:30 P.M. DEPT: A CASE NO: CV0008473

PRESIDING: HON. STEPHEN P. FRECCERO

REPORTER:

CLERK: CAMILO IBARRA

PETITIONER: MORGAN BROWNING

vs.

DEFENDANT: SHANNON BROWNING

NATURE OF PROCEEDINGS: MOTION – ANTI-SLAPP 425.16

RULING

As set forth below, Defendant Shannon Browning’s (“Defendant”) anti-SLAPP motion is **GRANTED IN PART**:

1. The motion is **GRANTED** as to the following causes of action in their entirety: 2-6, 10-13, 15-16.
2. The motion is **GRANTED IN PART AND DENIED IN PART** as follows:
 - a. *First Cause of Action, Common Law Invasion of Privacy*: The motion is **GRANTED** as to this cause of action except to the extent it rests on Defendant’s allegedly “obtain[ing] Plaintiff’s confidential medical and psychiatric information during the parties’ co-parenting period[.]” (Complaint,¹ p. 11.) It is **DENIED** as to that claim for relief.
 - b. *Seventh Cause of Action, Interference with Parent-Child Relationship*: The motion is **GRANTED** as to this cause of action except to the extent it rests on Defendant’s allegedly “withholding visitation immediately after personal disputes unrelated to the children’s welfare” and “pressuring the children to cancel visits or presenting visitation as contingent upon Plaintiff’s compliance with Defendant’s demands.” (Complaint, p. 29.) It is **DENIED** as to those claims for relief.

¹ The Complaint uses a variety of different page numbering schemes. The Court will cite to the Complaint by reference to the numbers in the upper right-hand corner of its pages.

- c. *Eighth Cause of Action, IIED*: The motion is GRANTED as to this cause of action except to the extent it is based on Defendant’s allegedly “[c]ausing hearings to occur without recording[.]” (Complaint, p. 33.) It is DENIED as to that claim for relief.
 - d. *Ninth Cause of Action, NIED*: The motion is GRANTED as to this cause of action except to the extent it rests on Defendant’s allegedly “causing hearings to proceed without recording[.]” (Complaint, p. 36.) It is DENIED as to that claim for relief.
 - e. *Fourteenth Cause of Action, Professional Negligence*: The motion is GRANTED as to this cause of action except to the extent it rests on Defendant’s allegedly “obtaining” and “retaining” “Plaintiff’s confidential medical and psychiatric information without authorization.” (Complaint, p. 51.) It is DENIED as to those claims for relief.
3. The motion is **DENIED** as to the *Seventeenth Cause of Action (Injunctive Relief)* in its entirety.

Plaintiff Morgan Browning’s (“Plaintiff”) request for “limited discovery” under Code of Civil Procedure, section 425.16, subdivision (g) is **DENIED** because Plaintiff has not filed the “noticed motion” required by that provision. The Court is not considering Plaintiff’s unauthorized sur-reply.

Defendant requests that the Court “find that [she] is entitled to bring a motion for attorney’s fees and costs as the prevailing party.” (Memorandum, p. 19.) Defendant does not need a court finding to be entitled to file a motion for attorney’s fees. The Court will determine whether she is a “prevailing defendant” (see Code Civ. Proc., § 425.16, subd. (c)(1)) when it decides that motion.

Background

This is a family law case that has spilled over into civil court. Plaintiff and Defendant were formerly married and have two minor children. (Complaint, p. 8.) Plaintiff alleges that between their 2022 separation and late 2023, the parties managed their custody arrangement amicably without resorting to the courts. (*Ibid.*) In 2023, Defendant allegedly appealed to the Family Law Division of this court for custody-related relief, including through ex parte procedures. (*Ibid.*) These custody proceedings resulted in a January 16, 2025 order giving Defendant sole legal and physical custody of the children and giving Plaintiff limited visitation rights only upon completion of certain prerequisites (e.g., parenting class, psychiatric evaluation).

Plaintiff has filed a sprawling lawsuit against Defendant generally targeting her conduct in connection with their custody battle. The Court now considers Defendant’s motion to strike the lawsuit as a strategic lawsuit against public participation (“SLAPP”).

Legal Standard

“A cause of action against a person arising from any act of that person in furtherance of the person’s right of petition or free speech under the United States Constitution or the California Constitution in connection with a public issue shall be subject to a special motion to strike, unless the court determines that the plaintiff has established that there is a probability that the plaintiff will prevail on the claim.” (Code Civ. Proc., § 425.16, subd. (b)(1).) The purpose of this statute is to identify and dispose of lawsuits brought to chill the valid exercise of a litigant’s constitutional right of petition or free speech. (Code Civ. Proc., § 425.16, subd. (a); *Sylmar Air Conditioning v. Pueblo Contracting Services, Inc.* (2004) 122 Cal.App.4th 1049, 1055-1056.)

Courts use a two-step process to evaluate anti-SLAPP motions. (*Equilon Enterprises v. Consumer Cause, Inc.* (2002) 29 Cal.4th 53, 67.) First, the moving defendant must show that the challenged lawsuit arises from protected activity. (*Ibid.*) To establish protected activity, the defendant must demonstrate that “the act or acts underlying the plaintiff’s claim falls within one of the four categories [of protected activity] identified in section 425.16, subdivision (e).” (*Lee v. Silveira* (2016) 6 Cal.App.5th 527, 538; accord *Howard Jarvis Taxpayers Assn. v. Powell* (2024) 105 Cal.App.5th 955, 968.) In determining whether a complaint or a subset of it “arises from” protected activity, “[t]he critical consideration is whether the cause of action is based on the defendant’s free speech or petitioning activity.” (*Navellier v. Sletten* (2002) 29 Cal.4th 82, 89 [emphasis added]; see also *Baral v. Schnitt* (2016) 1 Cal.5th 376, 396.) “Courts deciding an anti-SLAPP motion . . . must consider the claim’s elements, the actions alleged to establish those elements, and whether those actions are protected.” (*Bonni v. St. Joseph Health System* (2021) 11 Cal.5th 995, 1015; accord *Park v. Board of Trustees of California State University* (2017) 2 Cal.5th 1057, 1062.)

If the defendant makes this “threshold showing[.]” the court proceeds to the second step, where the plaintiff must demonstrate a probability of prevailing on the merits of the claims at issue. (*Equilon Enterprises, supra*, 29 Cal.4th 53, 67; Code Civ. Proc., § 425.16, subd. (b)(1).) This is not a particularly weighty burden. (See *Overstock.com, Inc. v. Gradient Analytics, Inc.* (2007) 151 Cal.App.4th 688, 699; *Navellier, supra*, 29 Cal.4th 82, 95 [only “minimal merit” is “required to survive an anti-SLAPP motion].) The plaintiff must merely “‘demonstrate that the complaint is both legally sufficient and supported by a sufficient prima facie showing of facts to sustain a favorable judgment if the evidence submitted by the plaintiff is credited.’” (*Soukup v. Law Offices of Herbert Hafif* (2006) 39 Cal.4th 260, 291 [quoting *Matson v. Dvorak* (1995) 40 Cal.App.4th 539, 548]; see also *Bergman v. Drum* (2005) 129 Cal.App.4th 11, 18 [standard is similar to that governing a plaintiff’s burden in opposition to a defendant’s motion for summary judgment].) The plaintiff is not entitled to rely on the allegations in his complaint; he “must set forth evidence that would be admissible at trial.” (*Overstock.com, supra*, 151 Cal.App.4th 688, 699.) The court does not weigh the credibility of the evidence or evaluate its weight but accepts all evidence favorable to the plaintiff as true and asks whether it makes the required prima facie showing. (*Id.* at pp. 699-700.) The court should consider evidence presented by the defendant at

the merits stage, but only to the extent of determining whether such evidence defeats the plaintiff's case as a matter of law. (*Ibid.*)

“Only a cause of action that satisfies *both* prongs of the anti-SLAPP statute – i.e., that arises from protected speech or petitioning *and* lacks even minimal merit – is a SLAPP, subject to being stricken under the statute.” (*Navellier, supra*, 29 Cal.4th 82, 89 [emphasis in original].)

Discussion

Evidentiary Objections

1. Overruled.
2. Overruled.
3. Overruled.
4. Overruled.
5. Overruled.
6. Overruled.
7. Overruled.
8. Overruled.
9. Overruled.
10. SUSTAINED. This exhibit list contains statements by Plaintiff that amount to unsigned declaration testimony and are hearsay. (Code Civ. Proc., § 2015.5; Evid. Code, § 1200.)
11. SUSTAINED. In substance, this is an unsigned declaration. It also consists entirely of hearsay. (Code Civ. Proc., § 2015.5; Evid. Code, § 1200.)
12. Defendant directs this objection at Page 76 of the Complaint. Based on her description of that document as a “Document entitled, ‘Executive Summary,’” (Evidentiary Objections, p. 6), she meant Page 77. Her objection to Page 77 of the Complaint is SUSTAINED. (Code Civ. Proc., § 2015.5; Evid. Code, § 1200.)
13. This objection is overruled solely because the Court cannot tell what material it is directed at. Page 77 of the Complaint does not consist of a document entitled “late 2024 early 2025 – Attorney dismissal and discussion of joint agreement,” and the Court cannot locate a document with that title or similar anywhere within Plaintiff's Exhibit B.
14. SUSTAINED. (Code Civ. Proc., § 2015.5; Evid. Code, § 1200.)
15. SUSTAINED. (Code Civ. Proc., § 2015.5; Evid. Code, § 1200.)
16. SUSTAINED. (Code Civ. Proc., § 2015.5; Evid. Code, § 1200.)
17. SUSTAINED. (Code Civ. Proc., § 2015.5; Evid. Code, § 1200.)
18. SUSTAINED. (Code Civ. Proc., § 2015.5; Evid. Code, § 1200.)
19. This is another unsigned declaration consisting largely of legal argument and legal conclusions. Those are not evidence and have no place in a declaration. (See *In re Marriage of Heggie* (2002) 99 Cal.App.4th 28, 30, fn. 3 [including legal argument in a declaration is “a sloppy practice which should stop. . . . [I]t makes a mockery of the requirement that declarations be supported by statements made under penalty of perjury.

The proper place for argument is in points and authorities, not declarations.”]; see also *Gilbert v. Sykes* (2007) 147 Cal.App.4th 13, 26 [because plaintiff’s showing at second step of anti-SLAPP inquiry must be made through admissible evidence, “declarations that lack foundation or personal knowledge, or that are argumentative, speculative, impermissible opinion, hearsay, or conclusory are to be disregarded”].) The Court will consider Plaintiff’s legal arguments to the extent he has placed them in his opposition brief, where they belong. It will not consider legal arguments or authorities offered only within his 200-page collection of complaint exhibits, because that would permit him to circumvent page limits. To the extent Plaintiff is offering this as evidence of his legal opinion, that is improper lay opinion testimony. (Evid. Code, § 800.) The objection to this material is SUSTAINED on the additional grounds that this material comprises an unsworn declaration and is hearsay. (Code Civ. Proc., § 2015.5; Evid. Code, § 1200.)

20. Overruled.
21. Overruled.
22. Overruled.
23. Overruled.
24. Overruled.
25. SUSTAINED. (Code Civ. Proc., § 2015.5; Evid. Code, § 1200.)
26. SUSTAINED. (Code Civ. Proc., § 2015.5; Evid. Code, § 1200.)
27. SUSTAINED. (Code Civ. Proc., § 2015.5; Evid. Code, § 1200.)
28. SUSTAINED. (Code Civ. Proc., § 2015.5; Evid. Code, § 1200.)
29. SUSTAINED. (Code Civ. Proc., § 2015.5; Evid. Code, § 1200.)
30. SUSTAINED. (Code Civ. Proc., § 2015.5; Evid. Code, §§ 350 [relevance – the Court does not see what Plaintiff’s requests for vacatur and reassignment in the custody proceeding, or his complaints about the judge in that proceeding, have to do with this lawsuit against his ex-wife], 1200.)
31. SUSTAINED. (Code Civ. Proc., § 2015.5; Evid. Code, § 1200.)
32. SUSTAINED. (Code Civ. Proc., § 2015.5; Evid. Code, § 1200.)
33. SUSTAINED. (Code Civ. Proc., § 2015.5; Evid. Code, § 1200.)
34. SUSTAINED. (Code Civ. Proc., § 2015.5; Evid. Code, §§ 800, 1200.)
35. SUSTAINED. (Code Civ. Proc., § 2015.5; Evid. Code, §§ 800, 1200.)
36. SUSTAINED as to Page 205 only. (Code Civ. Proc., § 2015.5; Evid. Code, § 1200.)
37. SUSTAINED as to Page 208 only. (Code Civ. Proc., § 2015.5; Evid. Code, § 1200.)
38. SUSTAINED. (Evid. Code, § 350.)
39. SUSTAINED. (Code Civ. Proc., § 2015.5; Evid. Code, §§ 800, 1200.)
40. SUSTAINED as to Pages 218-221 only. (Code Civ. Proc., § 2015.5; Evid. Code, § 1200.)
41. SUSTAINED. (Code Civ. Proc., § 2015.5; Evid. Code, §§ 800, 1200.)
42. SUSTAINED. (Code Civ. Proc., § 2015.5; Evid. Code, § 1200.)
43. SUSTAINED. (Code Civ. Proc., § 2015.5; Evid. Code, § 1200.)

Merits

In *Baral v. Schnitt* (2016) 1 Cal.5th 376, the Supreme Court addressed how a court hearing an anti-SLAPP motion should handle a “mixed cause of action” – “that is, a cause of action that rests on allegations of multiple acts, some of which constitute protected activity and some of which do not.” (*Bonni v. St. Joseph Health System* (2021) 11 Cal.5th 995, 1010.) *Baral* held that at the first stage of the anti-SLAPP analysis,

“the moving defendant must identify the acts alleged in the complaint that it asserts are protected and what claims for relief are predicated on them. In turn, a court should examine whether those acts are protected and supply the basis for any claims.² It does not matter that other unprotected acts may also have been alleged within what has been labeled a single cause of action; these are ‘disregarded at this stage.’ So long as a ‘court determines that relief is sought based on allegations arising from activity protected by the statute, the second step is reached’ with respect to these claims.”

Bonni, *supra*, 11 Cal.5th 995, 1066 [quoting *Baral*, *supra*, 1 Cal.5th 376, 396].)

To use an anti-SLAPP motion to attack a pleaded cause of action “rest[ing] on multiple factual bases,” the defendant must either identify and move to strike particular claims within that pleaded cause of action, or show that *all* of the claims on which the pleaded cause of action is based arise out of protected activity. (See *Littlefield v. Littlefield* (2024) 106 Cal.App.5th 815, 826; see also *Young v. Midland Funding, LLC* (2023) 91 Cal.App.5th 63, 100, fn. 15.) In this case, Defendant is moving to strike the entire Complaint; in the alternative, every numbered cause of action in the Complaint; and as a further alternative, to the extent any numbered cause of action is determined to be mixed, Defendant moves to strike discrete allegations she has identified in a separate statement as directed by *Young*.

The Court addresses a few overarching matters at the outset. First, the sole basis on which Defendant argues that any of the activity described in the Complaint is protected is Code of Civil Procedure, section 425.16, subdivisions (e)(1) (“written or oral statement or writing made before a . . . judicial proceeding”) and (e)(2) (“written or oral statement or writing made in connection with an issue under consideration or review by a . . . judicial body”). (See Memorandum, pp. 11-12; see generally Separate Statement.) By their terms, these provisions cover *statements and writings* only. Defendant will not satisfy her first-step burden to the extent that any of the claims at issue rest on conduct that does not consist of her making written or oral statements. Defendant urges the Court to conclude that every claim within the Complaint is protected under one or both of these provisions based on the eight-page narrative preceding the numbered causes of action in the Complaint, which focuses on Defendant’s conduct in the custody litigation. She further asks the Court to rely on the statement that all of the causes of action “arise from

² The Supreme Court’s use of the word “claim” here is not synonymous with “pleaded cause of action,” i.e., the content that appears below a “First Cause of Action” heading in a complaint. (*Baral*, *supra*, 1 Cal.5th 376, 381.) In *Baral*, the Supreme Court held that the phrase “cause of action” as used in subdivision (b)(1) of the anti-SLAPP statute does not have that meaning. (*Id.* at p. 382.) Instead, it refers to an “allegation[] of protected activity that [is] asserted as grounds for relief.” (*Id.* at p. 395.) The *Baral* court used the word “claim” synonymously with this anti-SLAPP-specific use of the phrase “cause of action.” (*Id.* at p. 382.) Accordingly, a pleaded cause of action may include numerous “claims.” (See *Bonni*, *supra*, 11 Cal.5th 995, 1010.)

Defendant's continuous course of conduct between 2023 and 2025, including" specified conduct occurring within the context of the custody litigation. (Complaint, p. 11.) The Court cannot do this. While treating Plaintiff's own characterization of the gravamen of his lawsuit as determinative would certainly make the Court's task easier, the Court is required to look at the conduct that, as pleaded, supplies the elements of a given cause of action and determine whether that conduct is protected under the specific provisions of the anti-SLAPP statute Defendant has invoked. (*Bonni, supra*, 11 Cal.5th 995, 1015.)

Plaintiff's opposition addresses the merits of only the following causes of action: extrinsic fraud, abuse of process, invasion of privacy, wrongful publication of private facts, declaratory relief, and injunctive relief. Having declined to address the merits of his other causes of action in his brief, he necessarily has not met his burden to demonstrate a probability of prevailing on the merits of those claims. The effect is that the motion will be granted as to any claim within those pleaded causes of action that Defendant establishes arises out of protected activity.

Plaintiff relies on various exhibits attached to the Complaint. The overwhelming majority of this material is not admissible evidence and so is incapable of meeting Plaintiff's burden at the second step of the anti-SLAPP analysis.

Whether the exhibits to Plaintiff's Complaint constitute admissible evidence has no bearing on whether the Court should rely on them at the *first step* of the anti-SLAPP analysis for their value in interpreting Plaintiff's Complaint. Regardless of their admissibility, they are attached to the Complaint and are part of the pleading, so they are properly considered at the first step. (Code Civ. Proc., § 425.16, subd. (b)(2).)

Complaint as a Whole

If there is "at least one claim" within an entire pleading that does not arise solely from anti-SLAPP protected conduct, an anti-SLAPP motion directed at the entire pleading must be denied. (*Park v. Nazari* (2023) 93 Cal.App.5th 1099, 1106.) As will be discussed, the Court has identified within the Complaint as a whole at least one allegation of conduct that is not protected and is asserted as a ground for relief. (*Baral, supra*, 1 Cal.5th 376, 395.) Accordingly, the motion is DENIED to the extent it is directed at the whole Complaint.

First Cause of Action: Common Law Invasion of Privacy

The anti-SLAPP statute "protects litigation-related activity, i.e., 'any written or oral statement or writing made before a . . . judicial proceeding' or 'in connection with an issue under consideration or review by a . . . judicial body.'" (*Cocoa AJ Holdings, LLC v. Schneider* (2025) 115 Cal.App.5th 980, 991 [quoting Code Civ. Proc., § 425.16, subs. (e)(1) and (e)(2)].) Courts have interpreted protected "litigation-related activity" to include not merely the filing of a lawsuit, but " 'conduct that relates to such litigation, including statements made in connection with or in preparation of litigation.' " (*Alfaro v. Warehouse Management Corp.* (2022) 82 Cal.App.5th 26, 33 [quoting *Kolar v. Donahue, McIntosh & Hammerton* (2006) 145 Cal.App.4th 1532, 1537.]

The “act or acts underlying” this claim (*Lee, supra*, 6 Cal.App.5th 527, 538) are twofold. First, Defendant is accused of “obtain[ing] Plaintiff’s confidential medical and psychiatric information during the parties’ co-parenting period[.]” (Complaint, p. 11.) The Court reads the Complaint to allege this act of obtaining the information as an act of “intrusion” underlying this cause of action. (See *Mezger v. Bick* (2021) 66 Cal.App.5th 76, 86 [elements].) Other portions of the Complaint suggest that Defendant “obtained” this information when Plaintiff voluntarily shared it with her or gave her access to it. (*Id.* at p. 23.) Defendant’s “obtaining” this information with Plaintiff’s consent cannot support invasion of privacy liability, but that is irrelevant at the first step of the anti-SLAPP analysis. The act of receiving or acquiring information does not amount to a “statement” or a “writing,” so this does not qualify as protected conduct under the only provision of Section 425.16(e) Defendant has invoked to satisfy her first-prong burden. As a result, the anti-SLAPP motion cannot be granted as to this claim without regard to its merit.

Second, Defendant is accused of “disclos[ing]” “Plaintiff’s confidential medical and psychiatric information” “without authorization to third parties, including the court-appointed psychologist and family-court personnel” in the course of the parties’ custody proceeding. (Complaint, p. 11.) Exhibit G to the Complaint, a document Plaintiff created for the express purpose of documenting the “unauthorized disclosure, alteration, and augmentation of . . . private medical and psychiatric information to the court-appointed evaluator and, by extension, to the Court” (*id.* at p. 191), explains that “the unauthorized disclosures were sent directly to the court evaluator in the context of a custody dispute, with the foreseeable purpose and effect of prejudicing [Plaintiff’s] parental rights.” (*Id.* at p. 192.) Based on Plaintiff’s own characterization, Defendant’s allegedly disclosing this information constitutes protected activity. (Code Civ. Proc., § 425.16, subds. (e)(1), (e)(2).) As pleaded, this disclosure supplies the “intrusion” element of the common law invasion of privacy cause of action. (*Mezger, supra*, 66 Cal.App.5th 76, 86; Complaint, pp. 11-12.)

Plaintiff argues that “unauthorized medical disclosure” is “illegal or independently tortious” and so is not protected under the anti-SLAPP statute, relying on *Flatley v. Mauro* (2006) 39 Cal.4th 299. (Opposition, p. 9.) In *Flatley*, the Supreme Court held that “where a defendant brings [an anti-SLAPP motion] based on a claim that the plaintiff’s action arises from activity by the defendant in furtherance of the defendant’s exercise of protected speech or petition rights, but either the defendant concedes, or the evidence conclusively establishes, that the assertedly protected speech or petition activity was illegal as a matter of law, the defendant is precluded from using the anti-SLAPP statute to strike the plaintiff’s action.” (39 Cal.4th 299, 320.) “The term ‘illegal’ in *Flatley* means criminal, not merely violative of a statute.” (*Price v. Operating Engineers Local Union No. 3* (2011) 195 Cal.App.4th 962, 971; accord *Mendoza v. ADP Screening & Section Services, Inc.* (2010) 182 Cal.App.4th 1644, 1654 [“[A] plaintiff’s complaint always alleges a defendant engaged in illegal conduct in that it violated some common law standard of conduct.”].) Conduct is “illegal as a matter of law” *only* where the defendant concedes as much or where “uncontroverted and conclusive evidence” demonstrates that it is. (*Flatley, supra*, 39 Cal.4th 299, 320.) “[I]f a plaintiff claims that the defendant’s conduct is illegal and thus not protected activity, the plaintiff bears the burden of conclusively proving the illegal conduct.” (*Cross v. Cooper* (2011) 197 Cal.App.4th 357, 385.) Plaintiff has neither alleged, nor argued, nor evidenced that Defendant’s allegedly disclosing his health information was a criminal act.

Having concluded that this cause of action arises out of protected activity to the extent it rests on Defendant's alleged disclosure of Plaintiff's mental health information (as opposed to her "obtaining" such information), the Court turns to Plaintiff's showing at the second step of the anti-SLAPP analysis. Plaintiff must establish that he is likely to prevail on this cause of action to the extent it rests on that disclosure.

Civil Code, section 47, subdivision (b)'s litigation privilege "generally protects from tort liability any publication made in connection with a judicial proceeding." (*Jacob B. v. County of Shasta* (2007) 40 Cal.4th 948, 952.) "The usual formation [of the privilege] is that [it] applies to any communication (1) made in judicial or quasi-judicial proceedings; (2) by litigants or other participants authorized by law; (3) to achieve the objects of the litigation; and (4) that have some connection or logical relation to the action." (*Id.* at p. 955 [quoting *Silberg v. Anderson* (1990) 50 Cal.3d 205, 212].) The purpose of the privilege is, among other things, to "afford litigants and witnesses free access to the courts without fear of being harassed subsequently by derivative tort actions[.]" (*Id.* at p. 955 [quoting *Rusheen v. Cohen* (2006) 37 Cal.4th 1048, 1063.]) The privilege is "broadly applied," "absolute," and applicable "regardless of malice." (*Id.* at p. 955.) Where the litigation privilege applies, it "present[s] a substantive defense a plaintiff must overcome to demonstrate a probability of prevailing" at the second step of the anti-SLAPP analysis. (*Flatley, supra*, 39 Cal.4th 299, 323; see also *Seltzer v. Barnes* (2010) 182 Cal.App.4th 953, 972, fn. 15 [if the litigation privilege bars the plaintiff's claim, plaintiff cannot demonstrate a probability of prevailing on the claim, regardless of what evidence plaintiff has presented as to the elements of the cause of action].)

The litigation privilege "absolutely protects litigants and other participants from being sued on the basis of communications they make in the context of family law proceedings." (*Jacob B., supra*, 40 Cal.4th 948, 956 [quoting *Wise v. Thrifty Payless, Inc.* (2000) 83 Cal.App.4th 1296, 1302].) In *Wise v. Thrifty Payless, Inc.*, a pharmacy supplied a husband with his wife's prescription drug order history. (83 Cal.App.4th 1296, 1300.) The Third District held that the husband's disclosure of this information in the couple's divorce action "to persuade the court [the wife] was not deserving of custody of their children" fell squarely within the scope of the litigation privilege. (*Id.* at p. 1302.) This case is representative of several authorities holding that the litigation privilege generally bars lawsuits based on the disclosure of sensitive personal information bearing on the best interest of the child in family law proceedings. (See, e.g., *Jacob B., supra*, 40 Cal.4th 948, 956 [litigation privilege barred invasion of privacy action based on letter submitted to court in family law proceeding to determine visitation rights; letter accused plaintiff, the father's brother, of molestation]; *Obos v. Scripps Psychological Associates, Inc.* (1997) 59 Cal.App.4th 103, 107-109 [litigation privilege barred invasion of privacy action based on court-appointed psychologist's disclosure of information about mother's boyfriend in the course making custody recommendation].)

In Plaintiff's own words, Defendant, a litigant in a family law proceeding, made the disclosure at issue to "the court-appointed psychologist and family-court personnel" (Complaint, p. 11) "in the context of a custody dispute[.]" (*Id.* at p. 192.) She allegedly did this "to portray Plaintiff as unstable" (*id.* at p. 12) and "with the foreseeable purpose . . . of prejudicing [Plaintiff's] parental rights" (*id.* at p. 192) – that is, she allegedly did it to "persuade" the family law judge that Plaintiff was "not deserving of custody of their children." (*Wise, supra*, 83 Cal.App.4th 1296,

1302.) *Wise* is controlling. This cause of action is barred by the litigation privilege to the extent it rests on Defendant's disclosure of Plaintiff's mental health information.

Plaintiff's only counterargument is that "Defendant cannot shield unauthorized medical disclosure under the litigation privilege where the gravamen of the claim is illegal disclosure of confidential medical information, not communicative acts in litigation." (Opposition, p. 10.) The Court reads this to mean that where a plaintiff accuses a defendant of a communicative act that is "illegal," the litigation privilege does not apply. This does not make sense on its face. Any time a plaintiff sues a defendant over a communicative act, the plaintiff is alleging that the communicative act was illegal. Also, in *Jacob B.*, *supra*, 40 Cal.4th 948, the Supreme Court rejected the argument that a disclosure in a family court proceeding that violates confidentiality laws³ cannot claim the protection of the litigation privilege on that basis. (40 Cal.4th 948, 959.)

The anti-SLAPP motion is GRANTED as to this cause of action except to the extent it rests on Defendant's allegedly "obtain[ing] Plaintiff's confidential medical and psychiatric information during the parties' co-parenting period." (Complaint, p. 11.)

Second Cause of Action: Wrongful Publication of Private Facts

The act underlying this claim is, again, Defendant's disclosure of Plaintiff's medical and psychiatric information to court personnel in the course of the family law proceeding. (See Complaint, p. 14.) As pleaded, this conduct constitutes the publication element of this cause of action. (*Ibid.*; see also *Morrow v. Los Angeles Unified School Dist.* (2007) 149 Cal.App.4th 1424, 1440 [elements].) Defendant's obtaining or receiving the information is not alleged as a basis for this cause of action – the claim rests entirely on the disclosure. Accordingly, this cause of action arises out of protected litigation-related conduct in its entirety. (Code Civ. Proc., § 425.16, subds. (e)(1), (e)(2).) The Court adopts its litigation privilege analysis from above and concludes that this cause of action is barred by the litigation privilege.

The anti-SLAPP motion is GRANTED as to this cause of action.

Third Cause of Action: False Light

The conduct underlying this cause of action is Defendant's allegedly "present[ing] Plaintiff" in various unflattering manners (e.g., as "psychologically unstable" and "erratic or incapable of responsible parenting") by numerous means (e.g., "argumentative framing in written declarations" and "misleading statements to the court via her attorney"). (Complaint, p. 16.) It is clear from the pleading that all of the written and oral statements at issue here allegedly occurred in the course of the family law proceeding. (See Complaint, p. 17 [in doing these things, Defendant "knew or should have known . . . she was leveraging [a] false narrative for custody advantage"; she was "intending to sway evaluators and the court"].) This constitutes protected activity under Code of Civil Procedure, section 425.16, subdivisions (e)(1) and/or (e)(2). As pleaded, the conduct alleged here constitutes the means whereby Defendant allegedly "place[d] . . . [P]laintiff before the public in a false light[.]" (Complaint, p. 16; *Jackson v. Mayweather*

³ To be clear, the Court is not implying that Defendant did anything in violation of any confidentiality laws.

(2017) 10 Cal.App.5th 1240, 1264.) This cause of action, its entirety, arises out of protected activity.

Defendant, a litigant in a family proceeding regarding child custody, is accused of “present[ing] Plaintiff as: psychologically unstable, unsafe with the children, erratic or incapable of responsible parenting, unreliable in co-parenting, in need of psychiatric oversight, and a source of emotional harm to the children.” (Complaint, p. 16.) Obviously, all of these representations are logically relevant to the object of this custody proceeding, which was to determine the extent to which Plaintiff’s having custody of the children was in their best interest. (See *Obos*, *supra*, 59 Cal.App.4th 103, 107.) Plaintiff asserts that Defendant did this “to achieve the objects of the litigation[,]” i.e., to obtain “custody advantage.” (*Silberg*, *supra*, 50 Cal.3d 205, 212; Complaint, p. 17.) The litigation privilege bars this claim.

The anti-SLAPP motion is GRANTED as to this cause of action.

Fourth Cause of Action: Violation of State Constitutional Privacy Rights

The conduct underlying this cause of action is set forth in six bullet points on Page 20 of the complaint under the subheading “Defendant Committed a Serious invasion of Plaintiff’s Privacy.” All of it is communicative in nature, consisting of written and oral statements, disclosures, and other communications. The context of the pleading makes clear that all of the conduct underlying this cause of action occurred in connection with the custody proceeding. (See Complaint, pp. 20-21 [conduct occurred “for the purpose of manipulating custody determinations”; conduct allegedly caused “contamination of court-ordered evaluation” and “adverse judicial findings”].)

As pleaded, all of this conduct constitutes the “invasion” element (sometimes referred to as “intrusion”) of this invasion of privacy claim. (Complaint, p. 20; *Williams v. Superior Court* (2017) 3 Cal.5th 531, 552 [elements].) This cause of action, in its entirety, arises out of protected activity. (Code Civ. Proc., § 425.16, subds. (e)(1), (e)(2).)

All of the alleged conduct underlying this cause of action is communicative conduct that Defendant, then a litigant in a child custody proceeding, undertook in connection with that proceeding for the purpose of achieving the object of that proceeding. (See Complaint, p. 21 [alleged acts underlying this claim were committed “for the purpose of manipulating custody determinations”].) Sharing information about a parent’s behavior, mental health, level of parental involvement, stability, co-parenting behavior, and communications regarding co-parenting is all logically related to the issues at hand in a child custody proceeding. (See *Obos*, *supra*, 59 Cal.App.4th 103, 107.) This cause of action is barred by the litigation privilege. (*Ibid.*; *Wise*, *supra*, 83 Cal.App.4th 1296, 1302; see also *Silberg*, *supra*, 50 Cal.3d 205, 212.)

The anti-SLAPP motion is GRANTED as to this cause of action.

Fifth Cause of Action: Violation of Health Information Privacy Rights

The conduct underlying this claim is Defendant’s alleged disclosure of “Plaintiff’s confidential medical information” to “the court-appointed psychologist, her legal counsel, and indirectly to the court, without Plaintiff’s consent and for the purpose of influencing legal outcomes.” (Complaint, pp. 23-24.) The disclosures included “added handwritten commentary and

selectively presented information to portray Plaintiff negatively.” (*Id.* at p. 24.) As pleaded, these disclosures are the “unauthorized disclosure[s]” around which the whole cause of action revolves. (Complaint, p. 23.)

This cause of action also refers to Defendant “possess[ing]” or “obtain[ing] access” to the information in the first place. The Court reads these allegations as supplying context to explain what, in Defendant’s view, gave the disclosure its wrongful character (specifically, she obtained this information as his wife, and he believes it is unfair that she then used it against him). (Complaint, p. 23.) Defendant’s *obtaining* the information is not offered as a basis for liability the way it was in connection with the First Cause of Action, and could not be, as the nature of this cause of action targets *disclosure*, specifically, as contrasted with generalized intrusion into private matters. That Defendant’s “obtaining” this information is not protected conduct under Section 425.16(e)(1) or (e)(2) does not render this a mixed cause of action.

For reasons already discussed, this cause of action arises out of protected litigation-related activity under Code of Civil Procedure, section 425.16, subdivisions (e)(1) and/or (e)(2) and is absolutely barred by the litigation privilege.

The anti-SLAPP motion is GRANTED as to this cause of action.

Sixth Cause of Action: Defamation

The conduct underlying this cause of action is Defendant’s allegedly making and circulating “statements portraying Plaintiff” as having various negative qualities. (Complaint, p. 26.) Plaintiff alleges that “[t]hese statements were conveyed through: written communications to the court-appointed psychologist; written declarations submitted in custody proceedings; attorney-directed submissions; oral statements during hearings; and communications directed to others involved in the custody process.” (*Ibid.*) In other words, all of the statements underlying this claim occurred in connection with the child custody proceeding, and thus constitute protected litigation-related activity, based on Plaintiff’s own allegations. (Code Civ. Proc., § 425.16, subs. (e)(1), (e)(2).) These “statements” constitute the false publications at the center of Plaintiff’s defamation claim. (*John Doe 2 v. Superior Court* (2016) 1 Cal.App.5th 1300, 1312.) This cause of action, in its entirety, arises out of protected activity.

Based on Plaintiff’s own allegations, all of these statements were made in connection with a judicial proceeding, by a litigant in that proceeding, in order to achieve the objects of the litigation. (See *Jacob B.*, *supra*, 40 Cal.4th 948, 955; Complaint, p. 27 [statements “aligned with litigation strategy” and were made “to obtain leverage in custody litigation”].) Statements about a parent’s mental stability, safety, psychological impact on the children, fitness to parent, consistency or reliability, and compliance with court orders are unquestionably logically connected to the issues on the table in a child custody proceeding. (See *Obos*, *supra*, 59 Cal.App.4th 103, 107; Complaint, p. 26.) This cause of action is barred by the litigation privilege. (*Ibid.* [defamation claim barred by litigation privilege]; see also *Silberg*, *supra*, 50 Cal.3d 205, 212.)

The anti-SLAPP motion is GRANTED as to this cause of action.

Seventh Cause of Action: Interference With Parent-Child Relationship

This cause of action is based on eight actions, or categories of conduct, set forth in bullet points on Page 29 of the Complaint. As an initial matter, the Court cannot locate any authority defining the elements of the tort cause of action Plaintiff pleads here (essentially, intentional alienation of a child from a parent) or establishing that it exists. Of the three authorities Plaintiff cites in the Complaint (he does not address this claim in his opposition), one is a case the Court cannot locate in the absence of a citation (“*In re Marriage of Segovia*”); the second has no apparent relevance (*Barber v. Barber* (1958) 51 Cal.2d 244); and the third is a provision of the Restatement (2nd) of Torts pertaining to kidnappings (§ 700). For purposes of the first step of the anti-SLAPP analysis, it is sufficient to note that the eight bullet points on Page 29 of the Complaint describe the acts of interference on which the tort rests, so this cause of action arises out of that conduct.

Bullet points #1, #2, #7, and #8 plainly reference Defendant’s statements or writings in connection with the custody litigation (e.g., #7, “[u]sing contaminated or misleading information to influence custody recommendations”). For reasons already discussed, this is protected litigation-related conduct. (Code Civ. Proc., § 425.16, subs. (e)(1), (e)(2).) Regarding the allegation that she “conceal[ed] . . . factual circumstances to portray Plaintiff as dangerous or unstable” (Complaint, p. 29), this refers to a statement notwithstanding the fact that it is phrased as though it targets a failure to speak. Plaintiff is accusing Defendant of describing him in a manner that left out information he thought should be included in her “portray[al]” of him. This takes issue with a “statement” as much as does an allegation that Defendant lied to the court.

Two of the bases for this cause of action relate to an incident surrounding the parties’ daughter’s birthday. Defendant is accused of “[u]ninviting Plaintiff from his daughter’s birthday moments after the child invited Plaintiff’s fiancée, followed by false accusations of ‘control’ and ‘psychological abuse’” and of “[t]hreatening to call police if Plaintiff attempted to attend the same birthday.” (Complaint, p. 29.) In connection with this, Plaintiff refers to Exhibit O to the complaint. (*Ibid.*)

In Exhibit O, Plaintiff alleges that on September 6, 2025, Defendant sent him an email accusing him of failing to satisfy requirements contained in the family law court’s January 16, 2025 custody order. (Complaint, p. 256.) The Complaint describes this email as “leverag[ing] the January 2025 order as a punitive measure.” (*Id.* at p. 254.) In the email, Defendant allegedly described the custody order as making Plaintiff’s visitation with the children contingent on completion of a parenting class, and stated that he had not completed the class. (*Ibid.*) She stated that his recent behavior had “raised concerns,” and while she had previously tried to be “flexible,” she would “need to ensure the custody order [was] followed” moving forward. She stated that future visitation would need to occur “in compliance with the January 2025 custody order, including the required parenting class prior to visits.” (*Ibid.*) Plaintiff alleges that after receiving this email, he confronted Defendant by text message. (Complaint, p. 258.) She requested that he provide the completion certificate for the parenting class. (*Id.* at p. 259.) She subsequently informed him, “Regarding [Daughter’s] birthday, you are not welcome as I have yet to see the parenting class name or certificate. . . . I will stand by the legal custody agreement. If you don’t text me a copy of the certificate and the name of the class, I won’t be able to verify it and you will not be welcome[.]” (*Id.* at p. 260.) Defendant is accused of subsequently stating,

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“Please know I have yet to see any parenting class certificate. I do plan on calling the police if you show up here.” (*Id.* at p. 261.)

This context makes it beyond dispute that Page 27’s allegations that Defendant uninvited Plaintiff from his daughter’s birthday party and threatened to call the police if he attended (Bullet #4 and #5) refer to Defendant’s statements “in connection with an issue under consideration or review by a . . . judicial body[.]” (Code Civ. Proc., § 425.16, subd. (e)(2); see also *Neville v. Chudacoff* (2008) 160 Cal.App.4th 1255, 1266 [“[A] statement is ‘in connection with’ litigation under section 425.16, subdivision (e)(2) if it relates to the substantive issues in the litigation and is directed to persons having some interest in the litigation.”].) To be clear, at the time of these alleged communications, the parties’ family law action was still open to the extent it concerned child custody and visitation, and remains so today.

This leaves the allegations that Defendant “with[held] visitation immediately after personal disputes unrelated to the children’s welfare” and “pressur[ed] the children to cancel visits or present[ed] visitation as contingent upon Plaintiff’s compliance with Defendant’s demands” (Bullets #3 and #6). After careful consideration, the Court cannot conclude that these allegations refer *exclusively* to Defendant’s prohibiting Plaintiff from attending his daughter’s birthday party until he supplied proof of compliance with the custody order or otherwise refer *exclusively* to statements by Defendant with a connection to the custody litigation. Where a plaintiff’s allegations are vague enough that the reader cannot tell what conduct is at issue, those allegations are effectively immune to an anti-SLAPP motion. (See *Martin v. Inland Empire Utilities Agency* (2011) 198 Cal.App.4th 611, 628 [“impossible” to see how defendants could meet their first-step burden given plaintiff’s lack of specificity in the complaint].)

The Court proceeds to the second step of the anti-SLAPP analysis as to Bullets # 1, 2, 4, 5, 7, and 8. Plaintiff does not address the merits of his cause of action for interference with parent-child relationship in his brief. Accordingly, he has not carried his burden.

The motion is GRANTED as to the Seventh Cause of Action *except* to the extent it rests on Defendant’s allegedly “withholding visitation immediately after personal disputes unrelated to the children’s welfare” and “pressuring the children to cancel visits or presenting visitation as contingent upon Plaintiff’s compliance with Defendant’s demands.” (Complaint, p. 29.) It is DENIED to that extent.

Eighth Cause of Action: Intentional Infliction of Emotional Distress

The conduct underlying this cause of action appears in eight bullet points on Pages 32-33 of the Complaint. The conduct described here supplies the “extreme and outrageous conduct” element of Plaintiff’s IIED claim. (*Cochran v. Cochran* (1998) 65 Cal.App.4th 488, 494.)

Bullet #1 describes protected activity because filing an ex parte application constitutes making a “statement or writing . . . before a . . . judicial proceeding[.]” (Code Civ. Proc., § 425.16, subd. (e)(1).) Bullets #2 and #6 are references to Defendant’s alleged disclosures and statements to the court-appointed psychologist, which the Court has already concluded were protected activity.

Bullet #3 accuses Defendant of “[s]abotaging the 2024 cooperative agreement, lying to the Court about its contents and sabotaging the party’s progress.” A theme of Plaintiff’s lawsuit is that he

and Defendant were initially amicable and agreed on a co-parenting arrangement in approximately “late 2024 and early 2025,” and then she pivoted, turned her back on the progress they had made, and involved the courts. (See Complaint, p. 77.) Bullet #3 is a clear reference to these allegations. Making statements to a court and appealing to a court for custody orders both constitute protected activity. (Code Civ. Proc., § 425.16, subd. (e)(1).)

Bullet #4 accuses Defendant of “[w]ithholding children, canceling visits, and issuing threats,” including that she would call the police if Plaintiff showed up at his daughter’s birthday party. The pleading’s reference to Exhibit O here makes clear that this refers to the conduct the Court already concluded was protected litigation-related activity in connection with the Seventh Cause of Action (interference with parent-child relationship).

Bullet #7 accuses Defendant of “[e]nsuring Plaintiff’s statements were ignored or misrepresented in court,” including at two identified hearings, an allegation that can only be read to allege courtroom advocacy as a ground for relief and thus targets activity that is protected under Section 425.16(e)(1).

Bullet #5 accuses Defendant of “[e]ngaging in a pattern of coercive control, including demands, goalpost-moving, and emotional withdrawal documented across years of messages[.]” (Complaint, p. 33.) The Complaint ties this allegation to Plaintiff’s “Exhibit N,” a “synthesized . . . archive of text messages” between the parties intended to provide a “summary of communication dynamics relevant to the ex parte filings and resulting [custody order].” (*Id.* at p. 248.) Plaintiff alleges that Exhibit N demonstrates how Defendant’s communications were “directly correlated with key litigation events.” (*Ibid.*) The reference to Exhibit N persuades the Court that the allegation in Bullet #5 targets Defendant’s statements in connection with an issue under review by a judicial body (the parties’ custody arrangement). (Code Civ. Proc., § 425.16, subd. (e)(2).)

Bullet #8 accuses Defendant of “[c]ausing hearings to occur without recording, eliminating appellate protections and undermining due-process access.” (Complaint, p. 33.) This refers to the failure to record or transcribe a November 15, 2023 hearing in the family law matter. (*Id.* at p. 145.) Obviously, this identifies conduct in connection with an issue under review by a judicial body, but there is no basis in the record for the Court to conclude that Defendant is accused of “[c]ausing hearings to occur without recording” by means of a statement or writing. (See Code Civ. Proc., § 425.16, subs. (e)(1), (e)(2).) If Plaintiff is accusing her of, for example, tampering with courtroom equipment, that would not fall within Section 425.16(e)(1) or (e)(2). Because this allegation is too vague to determine what conduct by Defendant is at issue, and because the only “protected conduct” grounds Defendant has invoked require a statement or a writing, the anti-SLAPP motion must be denied as to this basis for relief.

The Court proceeds to the merits analysis as to Bullets #1-7. Plaintiff has declined to address the merits of his IIED claim in his brief and so has not carried his burden.

The motion to strike is GRANTED as to the Eighth Cause of Action except to the extent it is based on Defendant’s allegedly “[c]ausing hearings to occur without recording[.]” (Complaint, p. 33.)

Ninth Cause of Action: Negligent Infliction of Emotional Distress

The conduct underlying this cause of action appears in seven bullet points on Pages 35 and 36 of the Complaint. These acts are the means by which Defendant is alleged to have breached a duty for purposes of the NIED claim. (See *Klein v. Children's Hospital Medical Center* (1996) 46 Cal.App.4th 889, 894 [elements].)

Bullet points #1, #3, and #4 describe conduct the Court has already determined is protected litigation-related activity. References to Exhibits O and N indicate that Bullets #6 and #7, respectively, target Defendant's protected litigation-related conduct.

Bullet #2 refers to Defendant's allegedly "withholding, misrepresenting, and misusing children's psychological information and private medical records." (Complaint, p. 36.) Based on the reference to Plaintiff's Exhibit G in connection with this bullet point, the reference to "private medical records" is about her sharing Plaintiff's mental health records with the court-appointed evaluator. That was protected conduct. As for Defendant's conduct with regard to the "children's psychological information," Plaintiff refers the court to his Exhibit F, which he drafted to explain how the custody ruling "was not the product of a fair, evidence-based judicial process," but of other factors, including "improper influence on the Court-appointed evaluator." (Complaint, p. 150.) The exhibit contains a document entitled "Mother's Influence Over the Child Interview" that essentially accuses Defendant of manipulating the children to affect their interviews and therefore the custody outcome. (Complaint, p. 152.) She is accused of "framing . . . [Plaintiff's] conduct" in a misleading way and spouting "protectionist rhetoric" to the children about their father. With this context, the Court concludes that the balance of the conduct described in Bullet #2 is protected. (Code Civ. Proc., § 425.16, subd. (e)(2).)

Bullet #5 targets Defendant's "causing hearings to proceed without recording[.]" (Complaint, p. 36.) As discussed, the Court has no basis to conclude that this is a reference to conduct within the scope of Section 425.16(e)(1) or (e)(2).

Bullet #6 accuses Defendant of "repeatedly cancelling visits, refusing parenting-plan cooperation, and threatening to involve law enforcement in non-emergency contexts." (Complaint, p. 36.) The reference to Exhibit O indicates that this refers to conduct the Court has already concluded is protected, including Defendant's resorting to the court system instead of adhering to the parties' prior unofficial agreement, disinviting Plaintiff from his daughter's birthday party, and telling him she would call the police if he appeared at her home.

Bullet #7 accuses Defendant of "engaging in sudden communication shifts that aligned entirely with litigation milestones, destabilizing the family structure." (Complaint, p. 36.) This is an allegation of communicative conduct in connection with the issues of the custody litigation and is protected.

In summary, the Court reaches the second step of the anti-SLAPP analysis as to Bullets #1-4 and 6-7. The motion is GRANTED as to these claims because Plaintiff has not addressed the merits of his cause of action for NIED in his brief. The motion is DENIED to the extent this cause of action rests on Bullet #5, Defendant's allegedly causing hearings not to be recorded.

Tenth Cause of Action: Civil Harassment

This cause of action is based on Code of Civil Procedure, section 527.6, which permits a “person who has suffered harassment” to seek an order prohibiting that conduct. (Code Civ. Proc., § 527.6, subd. (a)(1).) “Harassment” includes “a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose.” (Code Civ. Proc., § 527.6, subd. (b)(3); see also subd. (b)(1) [defining “course of conduct”].) The conduct underlying this cause of action appears in seven bullet points on Page 38 of the Complaint, and the actions described there are alleged to comprise the “course of conduct” for purposes of this claim. All of them plainly reference Defendant’s statements or writings in connection with custody proceeding except the last one, “repeatedly obstructing Plaintiff’s parental rights.” (Complaint, p. 38.) The Complaint makes a point to establish that “[h]arassment may include repeated litigation abuse, fabricated accusations, and leveraging procedural mechanisms to intimidate or isolate a parent” (*ibid.*) – in other words, to establish that conduct in the course of family law proceedings can support a harassment claim. In light of that, the Court sees no basis to understand the “obstructing Plaintiff’s parental rights” allegation as targeting something other than Plaintiff’s communicative conduct in the course of the custody proceeding. This cause of action, in its entirety, targets protected litigation-related activity. (Code Civ. Proc., § 425.16, subd. (e)(1)-(e)(2).) Plaintiff has not addressed the merits of his civil harassment cause of action in his brief, so the motion to strike is GRANTED as to this whole cause of action.

Eleventh Cause of Action: Civil Harassment – Coercive Control

This cause of action is based on California Family Code, section 6320, which permits a court to issue an ex parte order enjoining a party from “disturbing the peace of the other party[.]” (Fam. Code, § 6320, subd. (a); Complaint, p. 40.) This is defined to include “coercive control, which is a pattern of behavior that in purpose or effect unreasonably interferes with a person’s free will and personal liberty.” (Fam. Code, § 6320, subd. (c).)

The conduct underlying this cause of action appears in nine bullet points on Pages 40 and 41 of the Complaint. As pleaded, these allegations are the coercive behaviors underlying this cause of action. All of them describe communicative conduct (e.g., filing for ex parte relief, making statements about Plaintiff’s entitlement to visitation, accusing Plaintiff of maltreatment, making demands of him, citing the children “as leverage in disputes,” lying to the judge, sharing Plaintiff’s private medical information). Before describing the conduct that is the subject of this claim, Plaintiff asserts that “California courts recognize coercive control as actionable, particularly when used to influence custody outcomes[.]” (Complaint, p. 40.) This indicates that the communicative conduct Plaintiff is targeting here is conduct intended “to influence custody outcomes[.]” i.e., communicative conduct in connection with the custody litigation. This cause of action rests entirely on protected conduct. (Code Civ. Proc., § 425.16, subs. (e)(1), (e)(2).) Because Defendant has met her burden and Plaintiff has neglected to address the merits of this cause of action at all in his brief, the motion is GRANTED as to the cause of action for coercive control.

Twelfth Cause of Action: Extrinsic Fraud

“Extrinsic fraud occurs when a party is deprived of the opportunity to present his claim or defense to the court; where he was kept ignorant; or, other than from his own negligence,

fraudulently prevented from fully participating in the proceeding.” (*City and County of San Francisco v. Cartagena* (1995) 35 Cal.App.4th 1061, 1067 [superseded by statute in unrelated part as discussed in *County of Fresno v. Sanchez* (2005) 135 Cal.App.4th 15, 19].) “The essence of extrinsic fraud is one party’s preventing the other from having his day in court.” (*Ibid.*) The conduct underlying this cause of action appears on Page 43 of the Complaint under the subheading “Defendant’s Misrepresentations to Legal Actors and Evaluators” and on Page 42 under the subheading “Specific Examples of Extrinsic Fraud.” It consists entirely of statements or writings made in connection with the child custody proceeding. At times, Plaintiff takes issue with what Defendant *did not* say. For example, he accuses her of “withholding exculpatory evidence regarding Plaintiff’s consistent parenting.” (Complaint, p. 43.) The context makes clear that this and similar allegations attempt to hold Defendant liable for *failing to include in her statements* information Plaintiff thinks she should have included. (See Complaint, pp. 43-44 [Plaintiff alleges that this “withholding exculpatory evidence” amounted to a “misrepresentation[] . . . designed to produce a distorted record for judicial consideration”; accuses her of “depriving the court of full context”].) These allegations take issue with her protected conduct – her statements made before a judicial body – just as much as allegations accusing her of lying to the court.

As pleaded, this conduct is the means whereby Defendant supposedly prevented Plaintiff from “having his day in court.” (*Cartagena, supra*, 35 Cal.App.4th 1061, 1067.) This cause of action, in its entirety, arises out of protected litigation-related activity. (Code Civ. Proc., § 425.16, subd. (e)(1), (e)(2).)

Defendant argues that the litigation privilege bars this cause of action. These allegations describe communications made in a judicial proceeding by a litigant in that proceeding. (*Silberg, supra*, 50 Cal.3d 205, 212.) As alleged, these were statements to the court-appointed psychologist and/or the court itself regarding Plaintiff’s mental health; his consistency or stability (or lack thereof) as a parent; his “conduct and intentions” relating to the parties’ co-parenting arrangement; and the status of the parties’ informal co-parenting agreement. (Complaint, pp. 43-44.) These topics obviously had a “logical relation” to the custody proceeding. (*Silberg, supra*, 50 Cal.3d 205, 212.) Plaintiff himself alleges that these statements were made to sway the family court’s ruling in the custody matter and thus “to achieve the objects of the litigation[.]” (*Ibid.*; see Complaint, pp. 43, 44 [Defendant’s alleged “misrepresentations were designed to produce a distorted record for judicial consideration”; she “created a false narrative that the judge relied upon in issuing the [custody order]”].) This cause of action is barred by the litigation privilege and the motion is GRANTED as to the extrinsic fraud claim.

Thirteenth Cause of Action: Abuse of Process

The elements of a cause of action for abuse of process are that the defendant “(1) entertained an ulterior motive in using the [legal] process and (2) committed a wrongful act in a wrongful manner.” (*Coleman v. Gulf Ins. Group* (1986) 41 Cal.3d 782, 792.) Because “the essence of the tort of abuse of process” is “some misuse of process in a prior action[,] . . . it is hard to imagine an abuse of process claim that would not fall under the protection of the [anti-SLAPP] statute.” (*Booker v. Rountree* (2007) 155 Cal.App.4th 1366, 1370.)

The conduct underlying this cause of action appears under subheadings reading “Improper Use of Ex Parte Procedures,” “Manipulation of Evaluations and Court Actors,” and “Improper Influence in the January 2025 FOAH Hearing.” (Complaint, pp. 47-48.) As one would expect from these headings, the conduct supporting this cause of action invariably consists of Defendant filing petitions for custody-related relief in family court or making statements to the court and to court personnel, including statements that left out “positive or mitigating information.” (Complaint, p. 47.) This cause of action arises out of protected activity in its entirety (Code Civ. Proc., § 425.16, subd. (e)(1)), so the Court turns to the merits.

These allegations describe communications made in a judicial proceeding by a litigant in that proceeding. (*Silberg, supra*, 50 Cal.3d 205, 212.) These communications took the form of petitions seeking ex parte relief related to child custody; statements regarding Plaintiff’s mental health and fitness as a parent; statements about the parties’ co-parenting history that omitted information Plaintiff would have liked included; statements about the status of the parties’ informal parenting agreement; and straightforward courtroom advocacy regarding the custody order (i.e., Defendant is accused of urging the judge to adopt his tentative custody order). (Complaint, pp. 47-48.) All of these have a logical connection to the custody determination. (See *Silberg, supra*, 50 Cal.3d 205, 212.) Plaintiff asserts that Defendant’s conduct demonstrates a use of court procedures “to secure a strategic advantage in custody proceedings.” (Complaint, p. 48.) These allegations establish that he is suing her for conduct intended to achieve the object of the child custody litigation, which was a favorable custody order. The litigation privilege bars this cause of action and the motion is GRANTED.

Fourteenth Cause of Action: Professional Negligence

The Complaint alleges that Defendant is a licensed registered nurse/nurse practitioner. (Complaint, p. 50.) The conduct underlying this claim is her allegedly “obtaining, retaining, and disseminating” Plaintiff’s confidential medical and psychiatric information “to a court-appointed psychologist in the context of an adversarial proceeding” without his consent; “annotating or altering” those documents “with subjective commentary intended to influence the evaluator”; “representing or implying medical judgments about Plaintiff’s mental state without clinical basis or proper evaluation”; “using her profession to lend illegitimate credibility to health-related accusations in family-court litigation”; and “engaging in conduct below the standard of care expected of licensed professionals entrusted with health information.” (Complaint, p. 51.)

“Obtaining and retaining” information does not involve a “statement” or a “writing,” so is not protected under Section 425.16(e)(1) or (e)(2). This conduct is alleged to amount to a breach of duty constituting professional negligence. (See *Giacometti v. Aulla, LLC* (2010) 187 Cal.App.4th 1133, 1137 [elements].) The motion cannot be granted as to this claim for relief.

The context supplied by the Complaint makes clear that the balance of this cause of action rests entirely on Defendant’s disclosing Plaintiff’s mental health information to court personnel in connection with the child custody proceeding, or on statements she made to court personnel in connection with that disclosure. (See Complaint, p. 24 [regarding disclosure of this information to the court: “Because Defendant holds RN/NP licensure, the disclosures also constitute professional misconduct subject to administrative discipline.”].) As pleaded, these actions comprise the breach of duty underlying this professional negligence claim. (See *Giacometti*,

supra, 187 Cal.App.4th 1133, 1137 [elements]; Complaint, p. 51.) The Court adopts its earlier analysis and concludes that this cause of action is barred by the litigation privilege to this extent.

The motion is GRANTED as to this cause of action except to the extent it rests on Defendant's allegedly "obtaining" and "retaining" "Plaintiff's confidential medical and psychiatric information without authorization." (Complaint, p. 51.)

Fifteenth Cause of Action: Civil Conspiracy

The conduct underlying this cause of action is Defendant's allegedly "collaborat[ing]" with "legal counsel, advisors, and individuals affecting the custody proceedings" to "further a wrongful plan to "isolate Plaintiff from his children" and "secure an unjust custody outcome[.]" among other goals. (Complaint, p. 53.) Defendant and her unnamed co-conspirators are alleged to have taken several "overt acts . . . in furtherance of the conspiracy[.]" all of which were communicative acts in connection with the custody proceeding (e.g., making statements or offering evidence that Plaintiff contends was incomplete or "distorted" for "litigation advantage"; "jointly advocating for" the final order in the custody proceeding, which Plaintiff contends was "erroneous"; "falsely describing" something to the judge). (Complaint, p. 54.) As pleaded, this conduct supplies the "agreement" and "act in furtherance of the common design" elements of Plaintiff's civil conspiracy claim. (See *Applied Equipment Corp. v. Litton Saudi Arabia Ltd.* (1994) 7 Cal.4th 503, 511.) The Court concludes that this cause of action, in its entirety, arises out of protected litigation-related activity. (Code Civ. Proc., § 425.16, subds. (e)(1), (e)(2).)

This showing shifted the burden to Plaintiff to demonstrate a probability of prevailing on the merits of the claim. Plaintiff has neglected to address the merits of his civil conspiracy cause of action in any way in his opposition and so has failed to carry his burden. Also, there is no such thing as a cause of action for civil conspiracy under California law. (*Applied Equipment Corp.*, *supra*, 7 Cal.4th 503, 510, 514.)

The anti-SLAPP motion is GRANTED as to this cause of action.

Sixteenth Cause of Action: Declaratory Relief

The declaratory relief statute provides that where there is an "actual controversy relating to the legal rights and duties of the respective parties[.]" a plaintiff may bring a claim for declaratory relief seeking a binding judicial declaration of the parties' respective rights and duties. (Code Civ. Proc., § 1060.)

To determine whether a claim for declaratory relief arises from protected activity within the meaning of the anti-SLAPP statute, a court considers whether the conduct creating the "actual controversy" is protected. (See *CKE Restaurants, Inc. v. Moore* (2008) 159 Cal.App.4th 262, 271 [agreeing with trial court's conclusion that declaratory relief claim arose out of the protected activity of filing a Proposition 65 notice where "without the Notice, there would have been no actual, present controversy, and no controversy at all"]; *WasteXperts, Inc. v. Arakelian Enterprises, Inc.* (2024) 103 Cal.App.5th 652, 661 ["There is a dispute here over who has the right to move [trash bins] . . . ; more specifically, . . . whether [defendant] has the exclusive right

to move them or the [municipal code] creates an exception that permits [plaintiff] to do so as well. *The dispute arises from the fact that [plaintiff] has been moving the bins.*” [emphasis added].) Accordingly, the Court addresses each of the “controversies” alleged in the Complaint.

Controversy as to “the lawfulness of Defendant’s disclosures of confidential information”: This is a clear reference to Defendant’s sharing Plaintiff’s mental health information in connection with the custody litigation. As previously discussed, that was protected conduct.

Controversy as to “the integrity and validity of the court-appointed psychological evaluation”: This is a reference to Plaintiff’s allegation that Defendant’s sharing his mental health information with the court-appointed evaluator in the custody proceeding “contaminat[ed]” that psychological evaluation. (Complaint, p. 9.) The conduct by Defendant that created this “controversy” is her allegedly disclosing Plaintiff’s mental health information to the court-appointed evaluator, which was protected conduct.

Controversy as to “the extent to which ex parte procedures were improperly used and contaminated the judicial process”: This references Plaintiff’s allegation that Defendant wrongfully triggered ex parte proceedings in the child custody litigation when there was no “emergency” that justified her reliance on those proceedings. (See Complaint, p. 8.) As discussed, filing an ex parte application is protected litigation-related activity.

Controversy as to “the status of co-parenting agreements negotiated in 2024-2025”: This refers to Defendant’s allegedly refusing to inform the family law judge about the parties’ “progress” in arriving at a co-parenting agreement outside of court, and her seeking a formal custody order instead of adhering to their prior agreement. (Complaint, p. 77; see also p. 32 [alleging as basis for IIED claim that Defendant “sabotag[ed] the 2024 cooperative agreement, [lied] to the Court about its contents and sabotag[ed] the parties’ progress”].) The conduct that created this “controversy” consists of Defendant’s resorting to the court for custody-related relief and making certain statements to the judge in connection with that request for relief. That is protected litigation-related activity.

Controversy as to “Defendant’s rights and limits regarding communication, information-sharing, and litigation conduct”: “Information-sharing” refers to Defendant’s disclosures of Plaintiff’s mental health information and/or to her representations to the family law judge. The Court has no trouble concluding that a declaratory relief claim based on a controversy relating to Defendant’s “rights and limits regarding . . . [her] information-sharing and litigation conduct” arises out of protected activity. After careful consideration of the context in which this allegation appears, the Court interprets the pleading’s reference to Defendant’s “communications” to refer to her communications in connection with the custody litigation. The basis for this conclusion is that these “communications” are lumped together with her “information-sharing” and “litigation conduct,” both of which plainly reference her conduct in connection with the custody litigation. The entire alleged controversy over her “rights and limits regarding communication, information-sharing, and litigation conduct” is presented as the fifth of a list of alleged controversies, and the preceding four are each based entirely on Defendant’s litigation-related conduct, as discussed. There is no allegation anywhere within the declaratory relief cause of action that clearly references any conduct by Defendant outside the litigation context. This “controversy” was born out of Defendant’s protected litigation-related activity. (Code Civ. Proc., § 425.15, subds. (e)(1), (e)(2).)

Controversy over “Plaintiff’s rights to be free from further harassment, interference, and misuse of process”: The word “further” indicates that this alleged controversy is derivative of the preceding five, all of which were created by Defendant’s protected litigation-related conduct. “Harassment” and “interference” here refer to the manner in which Defendant allegedly conducted the custody litigation. The declaratory relief claim arises out of protected litigation-related activity to the extent it rests on this “controversy.” (Code Civ. Proc., § 425.15, subs. (e)(1), (e)(2).)

Having concluded that the declaratory relief claim arises out of protected activity in its entirety, the Court turns to Plaintiff’s showing on the merits. Plaintiff has pleaded a list of the “declaratory rulings” he is seeking and thus what “prevailing” on this claim would look like. (Complaint, p. 56.) He wants declaratory judgments that would modify the current custody arrangement. For example, Plaintiff seeks a ruling declaring that he “remains entitled to meaningful and ongoing participation in co-parenting” and “defining [his] right[] to . . . co-parenting participation[.]” (Complaint, pp. 56-57.) Plaintiff also seeks declaratory judgments that would unwind the custody order by declaring it to be procedurally invalid. (See, e.g., Complaint, p. 57 [requesting declaratory ruling that “prior custody-related outcomes were tainted by contaminated process”].)

Where a proceeding has been assigned to one department of a superior court, and that proceeding has not been “finally disposed of[,]” “it is beyond the jurisdictional authority of another department of the same court” “to interfere with the exercise of the power of the department to which the proceeding has been so assigned.” (*Williams v. Superior Court in and for Los Angeles County* (1939) 14 Cal.2d 656, 662.) “In other words, while one department is exercising the jurisdiction vested by the Constitution in the superior court of that county, the other departments thereof are as distinct therefrom as other superior courts. If such were not the law, conflicting adjudications of the same subject-matter by different departments of the one court would bring about an anomalous situation and doubtless lead to much confusion.” (*Ibid.*)

The parties’ family law proceeding is still open to the extent it concerns child custody and visitation. The Court notes that Plaintiff continues to actively request custody- and visitation-related relief from the Family Law Division. He has filed a motion to vacate the January 2025 custody order, temporarily reinstate the parties’ prior custody and parenting arrangement, and redetermine the custody and visitation order. (See Resp. Req. for Order and Mot. to Vacate, filed Nov. 24, 2025 in Marin County Sup. Ct. Case No. FL 2200436.) That motion is set to be heard on April 2, 2026. Under these circumstances, *Williams* dictates that this Court does not have “jurisdictional authority” to issue any declaratory judgment that would interfere with the Family Division’s power to rule on the parties’ custody issues, including considerations of court procedure and evidence bearing on those custody issues.

The motion is GRANTED as to the declaratory relief cause of action.

Seventeenth Cause of Action – Injunctive Relief

The First District has held that claims for injunctive relief are “request[s] for a remedy[,]” not “causes of action” and so “not subject to the anti-SLAPP statute.” (*Golden Gate Land Holdings, LLC v. Direct Action Everywhere* (2022) 81 Cal.App.5th 82, 91; see also *Wong v. Jing* (2010)

189 Cal.App.4th 1354, 1360, fn. 2 [“purported . . . cause of action” for “injunctive relief” sought an equitable remedy and so was not a cause of action subject to anti-SLAPP statute].) Accordingly, the motion is DENIED as to this “cause of action.”

All parties must comply with Marin County Superior Court Local Rules, Rule 2.10(B) to contest the tentative decision. Parties who request oral argument are required to appear in person or remotely by ZOOM. Regardless of whether a party requests oral argument in accordance with Rule 2.10(B), the prevailing party shall prepare an order consistent with the announced ruling as required by Marin County Superior Court Local Rules, Rule 2.11.

The Zoom appearance information for February, 2026 is as follows:

<https://marin-courts-ca-gov.zoomgov.com/j/1605267272?pwd=908CbP6TV2mhCAyaiInz06lyz2dKaw.1>

Meeting ID: 160 526 7272

Passcode: 026935

If you are unable to join by video, you may join by telephone by calling (669) 254-5252 and using the above-provided passcode. Zoom appearance information may also be found on the Court’s website: <https://www.marin.courts.ca.gov>