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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
11 **COUNTY OF LOS ANGELES, TORRANCE COURTHOUSE**

12 This Matter Relates to:

13  
14 JULIA MISLEY, formerly known as JULIA  
HOLCOMB, an individual,

15  
16 Plaintiff,

17 vs.

18  
19 STEVEN VICTOR TALLARICO A/K/A  
STEVEN TYLER, an individual; and DOES 2  
20 through DOE 50, inclusive,

21 Defendant.  
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Executive Officer/Clerk of Court,  
By J. Pollock, Deputy Clerk

Case No. 22TRCV01604

Assigned to Hon. Gary Y. Tanaka, Dept. B

**DEFENDANT'S NOTICE OF SPECIAL  
MOTION TO STRIKE AND SPECIAL  
MOTION TO STRIKE PORTIONS OF  
PLAINTIFF'S FIRST AMENDED  
COMPLAINT PURSUANT TO CODE OF  
CIVIL PROCEDURE § 425.16 AND FOR  
ATTORNEYS' FEES**

[Declarations of Steven Victor Tallarico aka  
Steven Tyler and Katherine T. Kleindienst,  
Notice of Lodging, and Proposed Order filed  
concurrently herewith]

Date: October 24, 2023

Time: 8:30 a.m.

Dept.: B

**Reservation ID: 916961637632**

Action Filed: December 27, 2022

Trial Date: None Set

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**NOTICE OF SPECIAL MOTION TO STRIKE**

**TO THE COURT, THE PARTIES, AND THEIR ATTORNEYS OF RECORD:**

**PLEASE TAKE NOTICE** that at 8:30 a.m. on October 24, 2023, or as soon thereafter as it may be heard, in Department B of the above-entitled Court, located at 825 Maple Avenue, Torrance, California 90503, Defendant Steven Victor Tallarico a/k/a Steve Tyler (“Defendant” or “Tyler”) will and hereby does move to strike the following portions of the First Amended Complaint (“FAC”) filed by Plaintiff Julia Misley (“Plaintiff” or “Misley”), formerly known as Julia Holcomb, relating to Plaintiff’s Third Cause of Action for Intentional Infliction of Emotional Distress based on Tyler’s public statements: (i) Paragraphs 18 through 24 (including the header before Paragraph 18); (ii) Third and Fourth Sentences of Paragraph 42; (iii) Paragraph 43; (iv) Paragraph 44 (from “and displaying his abuse” through the end of the paragraph); (v) Paragraphs 49 and 50; and (vi) Prayer for Relief Paragraph 8. *See* Kleindienst Decl. Ex. 1.

Tyler further moves to strike all references to or relief sought against Tyler based on the allegations and claims contained in the portions of the FAC identified above. Tyler moves to strike the identified portions of the FAC and requested relief with prejudice and without leave to amend pursuant to California Code of Civil Procedure (“C.C.P”) § 425.16.

This special motion to strike is made upon the grounds that Plaintiff has filed a “Strategic Lawsuit Against Public Participation” (“SLAPP”) that includes a claim that arises from protected activity and for which she cannot demonstrate a probability of prevailing on the merits. The conduct complained of arises out of statements made in Tyler’s published memoirs. Such conduct implicates Tyler’s right to free speech.

Tyler also requests that all discovery proceedings be stayed pursuant to C.C.P. §425.16(g).

**PLEASE TAKE FURTHER NOTICE** that Tyler intends to seek recovery of attorneys’ fees and costs as a prevailing party pursuant to C.C.P. § 425.16(c).

This Motion is based upon this Notice, the attached Memorandum of Points and Authorities; the Declarations of Steven Victor Tallarico (“Tyler Decl.”) and Katherine T. Kleindienst (“Kleindienst Decl.”) and exhibits thereto, Defendant’s Notice of Lodging and the lodged exhibits;

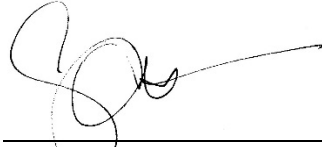
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all pleadings and documents on file with the Court; and upon oral argument and such other matters as the Court deems just and appropriate.

DATED: April 28, 2023

KINSELLA WEITZMAN ISER KUMP HOLLEY LLP



By:

Shawn Holley  
Attorneys for Defendant Steven Victor Tallarico  
a/k/a Steven Tyler

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**TABLE OF CONTENTS**

**Page**

I. INTRODUCTION.....7

II. STATEMENT OF RELEVANT FACTS .....8

    A. Tyler’s Rise to Fame and Celebrated Career. ....8

    B. Plaintiff’s Relationship with Tyler and Allegations of Sexual Assault. ....8

    C. Tyler Makes Public Statements About His Past But Does Not Name Plaintiff.....9

    D. Plaintiff Speaks Publicly (and Prolifically) About Her Experiences with Tyler. ....11

    E. More Than a Decade After Tyler’s Memoir, Plaintiff Files This Lawsuit. ....12

III. LEGAL STANDARD.....13

IV. THE IIED CLAIM BASED ON TYLER’S MEMOIRS SHOULD BE STRICKEN .....13

    A. Plaintiff’s Claim Arises from Protected Activity.....14

        1. Plaintiff Admits Tyler’s Statements Are a Matter of Public Interest.....14

        2. Tyler’s Statements About His Own Life Qualify as Protected Activity.....15

        3. Tyler’s Statements Were Made in a Public Forum. ....17

    B. Plaintiff Cannot Establish a Probability of Prevailing on Her Claim.....17

        1. The Claim Is Barred by the Statute of Limitations. ....17

        2. The Claim Is Also Meritless.....18

        3. The Claim Is Barred By The First Amendment .....20

V. TYLER IS ENTITLED TO ATTORNEYS’ FEES AND COSTS .....21

VI. CONCLUSION .....21

**TABLE OF AUTHORITIES**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
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22  
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24  
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26  
27  
28

**Page**

**CASES**

*Baral v. Schnitt*  
1 Cal.5th 376 (2016)..... 13

*Barrett v. Rosenthal*  
40 Cal.4th 33 (2006)..... 17

*Berkley v. Dowds*  
152 Cal.App.4th 518 (2007)..... 19

*Bonni v. St. Joseph Hlth. Sys.*  
11 Cal.5th 995 (2021)..... 13

*Briggs v. Eden Council*  
19 Cal.4th 1106 (1999)..... 13

*Cabral v. Martins*  
177 Cal.App.4th 471 (2009)..... 14

*Cochran v. Cochran*  
65 Cal.App.4th 488 (1998)..... 19

*Equilon Enters. v. Consumer Cause, Inc.*  
29 Cal.4th 53 (2002)..... 14

*Forsher v. Bugliosi*  
26 Cal.3d 792 (1980)..... 20, 21

*Garcia v. Rosenberg*  
42 Cal.App.5th 1050 (2019)..... 17

*Hall v. Time Warner, Inc.*  
153 Cal.App.4th 1337 (2007)..... 15

*Kapellas v. Kofman*  
1 Cal.3d 20 (1969)..... 20

*Ketchum v. Moses*  
24 Cal.4th 1122 (2001)..... 21

*Kronemyer v. Internet Movie Database Inc.*  
150 Cal.App.4th 941 (2007)..... 16, 17

*Melbostad v. Fisher*  
165 Cal.App.4th 987 (2008)..... 21

*Moncada v. West Coast Quartz Corp.*  
221 Cal.App.4th 768 (2013)..... 19

1 *Nicholson v. McClatchy Newspapers*  
 177 Cal.App.3d 509 (1986)..... 20

2

3 *Nygaard, Inc. v. Uusi-Kerttula*  
 159 Cal.App.4th 1027 (2008)..... 14, 15, 16, 17

4 *Quarry v. Doe I*  
 53 Cal.4th 945 (2012)..... 18

5

6 *Seelig v. Infinity Broad. Corp.*  
 97 Cal.App.4th 798 (2002)..... 15

7 *Sipple v. Found. for Nat’l Progress*  
 71 Cal.App.4th 226 (1999)..... 15

8

9 *Wassmann v. S. Orange Cnty. Cmty. Coll. Dist.*  
 24 Cal.App.5th 825 (2018)..... 17

10 *Wong v. Jing,*  
 189 Cal.App.4th 1354 (2010)..... 18

11

12

13 **STATUTES**

14 C.C.P. § 340.1 ..... 12, 18

15 C.C.P. § 425.16 ..... 13, 14, 17, 21

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**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

Fifty years ago, Plaintiff Julia Misley (formerly Julia Holcomb) went backstage at an Aerosmith concert hoping to (in her own words) “use sex as a hook to try to catch a rock star.” She and Aerosmith’s front man, Defendant Steven Tyler, immediately hit it off despite their age difference—she was 16 and he was 25. They entered into a relationship that continued for over three years and that included their engagement to be married. Now, *half a century later*, Plaintiff has filed the present lawsuit, accusing Tyler of: (1) childhood sexual assault and (2) intentionally causing Plaintiff severe emotional distress by writing about their relationship *decades later* in his published memoirs.

Plaintiff’s attempt to recast her highly-public, multi-year relationship with Tyler as a black-and-white case of child sexual assault omits critical facts and distorts others. But this motion does not concern Plaintiff’s claims based on alleged acts of sexual assault. Nor could it, as such claims are not subject to the anti-SLAPP statute. Rather, through this motion, Tyler only seeks to strike the portion of Plaintiff’s intentional infliction of emotional distress (“IIED”) cause of action based on *statements made in Tyler’s memoirs* decades after his relationship with Plaintiff ended.

Plaintiff’s IIED claim based on Tyler’s memoirs indisputably arises from protected activity subject to anti-SLAPP protection. Even Plaintiff admits as much, conceding that Tyler’s published statements about his relationship with Plaintiff garnered “widespread public interest” due to his worldwide fame. The burden therefore falls on Plaintiff to demonstrate that her claim has merit. She cannot do so for several reasons.

*First*, Tyler’s memoirs were published in 1997 and 2011, but Plaintiff did not sue until 2022. Plaintiff’s IIED claim based on Tyler’s memoirs is therefore barred by the two-year statute of limitations. *Second*, Tyler’s statements—which never identify Plaintiff by name—do not qualify as *outrageous* conduct that was *intended* to cause emotional distress. Nor can Plaintiff demonstrate that she actually experienced severe emotional distress *as a result of the memoirs*. To the contrary, it is *Plaintiff* who has continued to speak publicly about her relationship with Tyler for over a decade and who is still capitalizing on Tyler’s fame by pitching herself as his “former

1 girlfriend” in her professional-speaker bio. *Finally*, Tyler’s memoirs relay his own experiences  
2 from his newsworthy life. Thus, Plaintiff’s IIED claim is also barred by the First Amendment.

3 **II. STATEMENT OF RELEVANT FACTS**

4 **A. Tyler’s Rise to Fame and Celebrated Career.**

5 Steven Tyler is a world-famous celebrity who rose to prominence in the 1970s as the lead  
6 singer of Aerosmith. Tyler has been recording and performing music with Aerosmith for more  
7 than 50 years and has released top-10 hits spanning at least four decades, including “Dream On”  
8 and “Walk This Way” in the 1970s, “Janie’s Got a Gun,” “What It Takes,” and “Love in an  
9 Elevator” in the 1980s, “I Don’t Want to Miss a Thing” in the 1990s, and “Jaded” in the 2000s.  
10 Tyler Decl. ¶ 2. Aerosmith’s 1998 rock ballad “I Don’t Want to Miss a Thing” was the first song  
11 by a rock band to debut at the number one spot on the *Billboard* Hot 100 and received an  
12 Academy Award nomination for “Best Original Song” (among other nominations and awards) as  
13 the theme song for the film *Armageddon*. *Id.* ¶ 3. In 2001, Aerosmith played at the Super Bowl  
14 halftime show and was inducted into the Rock and Roll Hall of Fame. *Id.* ¶ 4. In 2008, Tyler was  
15 included in *Rolling Stone*’s list of the 100 Greatest Singers of All Time. *Id.* ¶ 5. A few years later,  
16 in 2013, he was inducted into the Songwriters’ Hall of Fame. *Ibid.* On January 19, 2011, just a few  
17 months before Tyler published his memoir, Tyler made his debut appearance on the hit-TV show  
18 *American Idol*, where he served on the panel of judges for two seasons. *Id.* ¶ 6.

19 **B. Plaintiff’s Relationship with Tyler and Allegations of Sexual Assault.**

20 Plaintiff claims that she met Tyler backstage at Aerosmith’s 1973 concert in Portland when  
21 she was 16 years old and Tyler was 25. FAC ¶ 10. Plaintiff says she went to the concert hoping to  
22 meet Tyler and “use sex as a hook to try to catch a rock star.” Kleindienst Decl. Ex. 2 at 2.  
23 According to Plaintiff, a sexual relationship began the night they met and continued for more than  
24 three years. FAC ¶¶ 11-15; Kleindienst Decl. Ex. 2 at 7. Plaintiff’s mother allegedly signed over  
25 guardianship of Plaintiff to Tyler the following year, in or around 1974. FAC ¶ 14. Plaintiff still  
26 admits that she was in love with Tyler (Kleindienst Decl. Ex. 5 at 3), and Tyler has always  
27 maintained that he was “madly in love” with her, too (*id.* Ex. 4 at 141).

28 Plaintiff alleges that she became pregnant with Tyler’s child in approximately 1975. FAC



1 ¶ 15. According to Plaintiff, the pregnancy was planned, and she and Tyler were engaged to be  
2 married. Kleindienst Decl. Ex. 2 at 3. Tyler even asked his grandmother for her wedding ring. But  
3 Tyler’s father had reservations, and his grandmother declined to give him the ring for fear that it  
4 would leave the family if Plaintiff and Tyler divorced. *Ibid.* Plaintiff claims that Tyler started to  
5 get cold feet after his family expressed concerns about their relationship. *Id.* at 3-4.

6 In the fall of 1975, *after Plaintiff turned 18*, she was living at Tyler’s Massachusetts  
7 apartment while Tyler was out on tour. Kleindienst Decl. Ex. 7 at 3; FAC ¶ 16. On or around  
8 October 23, 1975, a fire occurred in the apartment, and Plaintiff allegedly lost consciousness.  
9 Kleindienst Decl. Ex. 28; *id.* Ex. 29 at 9; FAC ¶ 16. Plaintiff claims she regained consciousness in  
10 a hospital with Tyler at her bedside. FAC ¶ 16. Plaintiff alleges that Tyler then pressured her to  
11 have an abortion by threatening to send her back to her family if she refused. *Id.* ¶ 17. Plaintiff  
12 ultimately agreed to the abortion. *Ibid.* Plaintiff has since stated that both she and Tyler regretted it  
13 and nothing was ever the same between them. Kleindienst Decl. Ex. 2 at 7, Exs. 19, 21, 23.

14 In August of 1976, *Rolling Stone* and *People* published articles naming Plaintiff as Tyler’s  
15 girlfriend. Kleindienst Decl. Ex. 6 at 15-16; *id.* Exs. 8-9. The article in *People* included a photo of  
16 Plaintiff and Tyler leaning against a Porsche, captioned: “A Porsche’s sexy but no match for Julia,  
17 18, his lady of three years. ‘I’ve learned a lot,’ she says, ‘from this little guy.’” *Id.* Ex. 9.

18 Plaintiff claims that she left Tyler six months later, in February 1977, when she was 19  
19 years old. Kleindienst Decl. Ex. 2 at 7. Plaintiff thereafter “made a conscious decision to leave and  
20 escape the music and drug addled world.” FAC ¶ 18. Plaintiff alleges that she returned to Portland  
21 and “over the years rebuilt her life, obtained a GED, attended college, and became active in her  
22 Christian faith.” *Ibid.* She met her husband, started a family, and became a devout Catholic. *Ibid.*

23 **C. Tyler Makes Public Statements About His Past But Does Not Name Plaintiff.**

24 Plaintiff alleges that her life was “shattered” *decades later* when Tyler purportedly made  
25 “widespread publications and statements,” including “publishing ... his memoirs and/or books”  
26 describing his relationship with Plaintiff. FAC ¶ 19. Plaintiff contends that Tyler’s memoirs  
27 “characterize the child sex assaults of Plaintiff as a romantic, loving relationship.” *Ibid.* According  
28 to Plaintiff, Tyler’s “statements and writings ... imposed involuntary infamy upon Plaintiff,”

1 resulting in emotional harm. *Ibid.* Although Plaintiff broadly alleges that Tyler made “widespread  
2 publications and statements,” Plaintiff has confirmed in verified discovery responses that the *only*  
3 *public statements* at issue are two memoirs published several decades after Plaintiff’s relationship  
4 with Tyler ended. Kleindienst Decl. Ex. 6 at 14.

5 The first, *Walk This Way: The Autobiography of Aerosmith* (“Aerosmith’s Memoir”), was  
6 published in 1997 by Avon Books, a division of The Hearst Corporation. *See* Kleindienst Decl.  
7 Ex. 3. Aerosmith’s Memoir includes day-to-day accounts of the members of the rock band  
8 Aerosmith, including Tyler, Joe Perry, Tom Hamilton, Brad Whitford, and Joey Kramer and was  
9 co-authored by Stephen Davis. *Ibid.* The book is written with alternating paragraphs of  
10 recollections from band members, family members, friends, and music industry professionals and  
11 therefore relays events from several perspectives. *Ibid.* Aerosmith’s Memoir made the *New York*  
12 *Times* best sellers list after its release. Kleindienst Decl. Ex. 10.

13 The second is Steven Tyler’s memoir, entitled *Does the Noise in My Head Bother You?: A*  
14 *Rock ‘N’ Roll Memoir* (“Tyler’s Memoir”), which was published in 2011 by HarperCollins.  
15 Kleindienst Decl. Ex. 4. Ecco, an imprint of HarperCollins, paid millions for the right to publish  
16 Tyler’s Memoir at a 2008 auction, before the book was even written. Tyler Decl. ¶ 7; Kleindienst  
17 Decl. Ex. 11. Tyler’s Memoir, which was co-authored by David Dalton, includes stories from  
18 Tyler’s life and career, from growing up in the Bronx, through his rise to fame as the lead singer  
19 of Aerosmith, to becoming a judge on the hit television show *American Idol*. Kleindienst Decl. Ex.  
20 4. Tyler’s Memoir received positive reviews from prominent publications like the *New York*  
21 *Times*, *Vanity Fair*, and *The Hollywood Reporter* and reached the number two spot on the *New*  
22 *York Times* best seller list for Hardcover Non-Fiction. *Id.* Exs. 12-15.

23 Tyler and others reference Tyler’s experiences with Plaintiff in Aerosmith’s Memoir, but  
24 always using the pseudonym “Diana Hall” or simply “Diana.” Kleindienst Decl. Ex. 3. Plaintiff’s  
25 true name is never mentioned. *Id.* Ex. 6 at 15. Likewise, there are references to Tyler’s  
26 experiences with Plaintiff in one chapter of Tyler’s Memoir. *Id.* Ex. 4. But Plaintiff is *not*  
27 mentioned by name in those excerpts or elsewhere in the substantive text of Tyler’s Memoir. *Ibid.*  
28 Nor does Tyler’s Memoir discuss the fire or Plaintiff’s abortion. *Ibid.* Plaintiff alleges that Tyler’s

1 Memoir does include her name in the Acknowledgments and claims that by doing so, Tyler  
2 purportedly “left the readers and the public without any doubt of Plaintiff’s identity.” FAC ¶ 21.  
3 But the Acknowledgements in Tyler’s Memoir include *more than 230 names listed in alphabetical*  
4 *order* and appear *hundreds of pages* after any reference to Tyler’s experiences with Plaintiff.  
5 Kleindienst Decl. Ex. 4 at 377-78. And, in the Acknowledgements, the name that appears is “Julia  
6 Halcomb”—an incorrect spelling of Plaintiff’s maiden name, which she stopped using in 1981 (*id.*  
7 Ex. 7 at 3)—without any other identifying information. *Id.* Ex. 4 at 377.

8 **D. Plaintiff Speaks Publicly (and Prolifically) About Her Experiences with Tyler.**

9 In the FAC, Plaintiff alleges that soon after Tyler’s Memoir was published, she “was in  
10 line at a grocery store and saw a picture of herself on a tabloid that referred to her as [Tyler’s] teen  
11 lover.” FAC ¶ 21. Plaintiff has since changed her story, however. Plaintiff now claims that it was  
12 her son who discovered a February 14, 2011 *Star Magazine* article while “browsing the internet.”  
13 Kleindienst Decl. Ex. 6 at 5-6. Plaintiff still contends that the *Star Magazine* article was somehow  
14 triggered by the publication of Tyler’s Memoir. *Ibid.* But that is simply not true. In fact, the *Star*  
15 *Magazine* article was published *three months before* Tyler’s Memoir (which was released in May  
16 2011) and does not mention Tyler’s unreleased memoir. Kleindienst Decl. ¶ 4, Exs. 4, 13, 27.  
17 Rather, *Star* quotes from an unidentified “friend of the couple,” the 1997 *Aerosmith Memoir*, and  
18 *Rebel Heart*, a 2001 autobiography of Tyler’s ex-girlfriend, Bebe Buell, who described Tyler’s  
19 relationship with Plaintiff but, unlike Tyler, used Plaintiff’s real name. *Id.* Ex. 3, 16, 27.

20 On May 24, 2011, Plaintiff published her own “memoir” regarding her experiences with  
21 Tyler entitled “Light of the World – the Steven Tyler and Julia Holcomb story.” Kleindienst Decl.  
22 Ex. 2. Plaintiff published her statement on the LifeSiteNews website, a far-right “Internet news  
23 service” that Snopes.com has described as “a known purveyor of misleading information” and that  
24 Facebook permanently banned for disseminating misinformation. Kleindienst Decl. Exs. 2, 17-18.  
25 After publishing her own memoir, Plaintiff has spoken extensively about her relationship with  
26 Tyler and about her abortion, including at the 2012 March for Life in Washington, DC. *Id.* Exs.  
27 19-20. In fact, she has traveled the country speaking about her experiences with Tyler as a  
28 spokesperson for the anti-abortion “Silent No More Awareness Campaign.” *Id.* Exs. 21-24.

1 Plaintiff has continued to speak in high-profile settings about her relationship with Tyler  
2 for *over a decade*—long after Tyler’s memoirs dropped off the bestsellers’ lists. For example,  
3 Plaintiff spoke about Tyler and her abortion on Tucker Carlson’s show on Fox News in October  
4 2020 following Supreme Court Justice Amy Coney Barrett’s Senate confirmation hearings.  
5 Kleindienst Decl. Exs. 23-24. And Plaintiff is still prominently advertised on the Ambassador  
6 Speakers website as “**Julia Holcomb Former girlfriend of Steven Tyler, lead singer of the rock**  
7 **band Aerosmith and American Idol judge.**” Kleindienst Decl. Ex. 25 (emphasis original). Her  
8 public speaking engagements have continued since filing this lawsuit. Kleindienst Decl. Ex. 26.

9 **E. More Than a Decade After Tyler’s Memoir, Plaintiff Files This Lawsuit.**

10 On October 13, 2019, Governor Newsom signed into law Assembly Bill 218, which  
11 significantly extended the statute of limitations for individuals to file lawsuits for childhood sexual  
12 assault. The new law, which went into effect on January 1, 2020, included a three-year lookback  
13 window for previously expired claims. *See* C.C.P. 340.1(q). On December 27, 2022—just days  
14 before the three-year lookback window expired—Plaintiff filed the present lawsuit against a  
15 “Doe” defendant, without naming Tyler. On February 1, 2023, Plaintiff filed a First Amended  
16 Complaint (“FAC”), naming Tyler as the defendant and asserting causes of action for sexual  
17 battery, sexual assault, and intentional infliction of emotional distress (“IIED”).

18 Plaintiff’s Third Cause of Action for IIED includes two separate claims: (1) for IIED based  
19 on the alleged child sexual assaults, and (2) for IIED based on Tyler’s public statements about his  
20 relationship with Plaintiff. FAC at 11 (asserting IIED “As to Both [1] the Child Sex Assaults and  
21 [2] Causing the Ensuing Involuntary Infamy for Defendant’s Profit”). In support of the second  
22 IIED claim, Plaintiff alleges that “[b]ecause of the status of [Tyler] as a world famous rock star he  
23 achieved special status and power in the media.” FAC ¶ 44. Plaintiff further alleges that Tyler  
24 used “this position of power afforded to him by fame by describing his assaults of Plaintiff in  
25 various media outlets including, but not limited to his books, memoirs and other public statements  
26 ... acting intentionally or unreasonably with full recognition that his acts would cause mental  
27 distress.” *Ibid.* Plaintiff also alleges that she has become a “central figure in a scandal” against her  
28 will and that Tyler’s actions purportedly “forced upon Plaintiff a constant state of involuntary

1 infamy.” FAC ¶ 49. Among the remedies sought by Plaintiff in this lawsuit is “disgorgement of all  
2 monies and profits derived from [Tyler’s] memoirs, statements and publications.” FAC at 13.

3 **III. LEGAL STANDARD**

4 Under the anti-SLAPP statute, any claim “against a person arising from any act of that  
5 person in furtherance of that person’s right of petition or free speech ... in connection with a public  
6 issue shall be subject to a special motion to strike, unless the court determines that the plaintiff has  
7 established that there is a probability that the plaintiff will prevail on the claim.” C.C.P.

8 § 425.16(b)(1). The legislature has mandated that the statute “shall be construed broadly.” *Briggs v.*  
9 *Eden Council*, 19 Cal.4th 1106, 1119 (1999).

10 An anti-SLAPP motion need not attack an entire pleaded cause of action. *Baral v. Schnitt*,  
11 1 Cal.5th 376, 392 (2016). “Mixed” causes of action—those that include both claims based on  
12 protected activity and claims based on unprotected activity—are analyzed as follows:

13 At the first step, the moving defendant bears the burden of identifying all  
14 allegations of protected activity, and the claims for relief supported by them.  
15 When relief is sought based on allegations of both protected and unprotected  
16 activity, ***the unprotected activity is disregarded at this stage***. If the court  
17 determines that relief is sought based on allegations arising from activity  
protected by the statute, the second step is reached. There, the burden shifts to the  
plaintiff to demonstrate that ***each challenged claim based on protected activity*** is  
legally sufficient and factually substantiated.

18 *Id.* at 396 (emphasis added). In other words, “courts should analyze each claim for relief—each act  
19 or set of acts supplying a basis for relief, of which there may be several in a single pleaded cause  
20 of action—to determine whether the acts are protected and, if so, whether the claim they give rise  
21 to has the requisite degree of merit to survive the motion.” *Bonni v. St. Joseph Hlth. Sys.*, 11  
22 Cal.5th 995, 1010 (2021). If the plaintiff cannot demonstrate that a claim for relief based on  
23 protected activity has merit, “those particular allegations will be stricken.” *Id.* at 1012. Applying  
24 these steps here leads to only one conclusion—the allegations and claim for relief based Tyler’s  
25 public statements must be stricken.

26 **IV. THE IIED CLAIM BASED ON TYLER’S MEMOIRS SHOULD BE STRICKEN**

27 This motion only seeks to strike Plaintiff’s IIED claim based on statements made in  
28 Tyler’s published memoirs, which were made *several decades after* the alleged acts of childhood

1 sexual assault. The motion does not seek to strike Plaintiff’s first or second causes of action; nor  
2 does it seek to strike Plaintiff’s IIED claim based on alleged acts of childhood sexual assault.

3 **A. Plaintiff’s Claim Arises from Protected Activity.**

4 Under the first step of the anti-SLAPP analysis, Tyler need only show that Plaintiff’s claim  
5 arises, at least in part, from Tyler’s acts in furtherance of his right of free speech. *See Equilon*  
6 *Enters. v. Consumer Cause, Inc.*, 29 Cal.4th 53, 66 (2002). Tyler meets his burden “by  
7 demonstrating that the act underlying the plaintiff’s cause fits one of the categories spelled out in  
8 section 425.16, subdivision (e).” *Cabral v. Martins*, 177 Cal.App.4th 471, 478 (2009). Subdivision  
9 (e) defines protected activity to include “(3) any written or oral statement or writing made in a  
10 place open to the public or a public forum in connection with an issue of public interest,” and  
11 “(4) any other conduct in furtherance of the exercise of the constitutional right of petition or the  
12 constitutional right of free speech in connection with a public issue or an issue of public interest.”  
13 C.C.P. § 425.16(e)(3)-(4). The statements made in Aerosmith’s Memoir and Tyler’s Memoir  
14 easily qualify as protected activity under both subdivisions (e)(3) and (e)(4).

15 **1. Plaintiff Admits Tyler’s Statements Are a Matter of Public Interest.**

16 The Court need look no further than the face of the FAC because *Plaintiff repeatedly*  
17 *admits* that her IIED claim is based on statements of *immense public interest*. FAC ¶¶ 19-23, 42,  
18 44, 49. California courts have held that “an issue of public interest” under the anti-SLAPP statute  
19 broadly includes “*any issue in which the public is interested.*” *See, e.g., Nygard, Inc. v. Uusi-*  
20 *Kerttula*, 159 Cal.App.4th 1027, 1042 (2008) (emphasis original). “In other words, the issue need  
21 not be ‘significant’ to be protected by the anti-SLAPP statute—it is enough that it is one in which  
22 the public takes an interest.” *Ibid.* Tyler’s statements indisputably qualify.

23 In fact, Plaintiff alleges that there was such “widespread public interest” in Tyler’s  
24 statements that their public dissemination purportedly “imposed involuntary infamy upon  
25 Plaintiff.” *Id.* ¶¶ 19, 23 (emphasis added). In acknowledging the public’s interest in Tyler’s  
26 statements, Plaintiff points to the fact that Tyler is a “world famous rock star” and claims that “he  
27 achieved special status and power in the media and world generally” as a result of his fame. FAC  
28 ¶ 44. Plaintiff further describes seeing her picture in press coverage of Tyler’s statements and

1 claims that she has become a “central figure” in a public “scandal.” *Id.* ¶¶ 21, 49. Consequently,  
2 Plaintiff cannot credibly dispute that her IIED claim arises from statements made in connection  
3 with a matter of public interest, and thus qualify as protected activity under subdivision (e)(4).

4 **2. Tyler’s Statements About His Own Life Qualify as Protected Activity.**

5 Even absent Plaintiff’s admission, Tyler’s statements about his relationship with Plaintiff  
6 clearly qualify as a matter of public interest under California law. It is axiomatic that statements  
7 about celebrities—particularly regarding “‘tabloid’ issues” like interpersonal relationships—are  
8 protected activity under the anti-SLAPP statute. *Nygaard, Inc.*, 159 Cal.App.4th at 1042; *see also*  
9 *Hall v. Time Warner, Inc.*, 153 Cal.App.4th 1337 (2007) (“The public’s fascination with Brando  
10 and widespread public interest in his personal life made Brando’s decisions concerning the  
11 distribution of his assets a public issue or issue of public interest.”); *Seelig v. Infinity Broad.*  
12 *Corp.*, 97 Cal.App.4th 798, 801-06 (2002) (statements calling contestant who appeared briefly on  
13 *Who Wants to Marry a Multimillionaire* a “big skank” and “loser” qualified as protected activity);  
14 *Sipple v. Found. for Nat’l Progress*, 71 Cal.App.4th 226, 239-40 (1999) (accusations of domestic  
15 violence against a prominent political consultant were a matter of public interest).

16 In *Hall*, for example, Marlon Brando’s former housekeeper sued the producers of the show  
17 *Celebrity Justice* for invasions of privacy, intentional infliction of emotional distress, and elder  
18 abuse. 153 Cal.App.4th at 1341. The elderly plaintiff, who was suffering from Alzheimer’s and  
19 dementia, had been named as a beneficiary in Brando’s will. *Id.* at 1342. The show’s producers  
20 interviewed the plaintiff at her retirement home and aired portions of the interview on national  
21 television. *Ibid.* The trial court denied the producer’s anti-SLAPP motion on the grounds that the  
22 plaintiff was not a public figure and did not become one by virtue of her association with Brando.  
23 *Id.* at 1344. But the Court of Appeal reversed, holding that “[t]he public’s fascination with Brando  
24 and widespread public interest in his personal life made Brando’s decisions concerning the  
25 distribution of his assets a public issue or an issue of public interest.” *Id.* at 1347. “Although Hall  
26 was a private person and may not have voluntarily sought publicity or to comment publicly on  
27 Brando’s will,” the Court of Appeal continued, “she nevertheless became involved in an issue of  
28 public interest by virtue of being named in Brando’s will,” and “[t]he defendants’ television

1 broadcast contributed to the public discussion of the issue by identifying Hall as a beneficiary and  
2 showing her on camera.” *Ibid.* Accordingly, the plaintiff’s claims arose from conduct in  
3 connection with a matter of public interest and qualified for anti-SLAPP protection. *Ibid.*

4 The same holds true here. Like Brando, Tyler is a world-famous celebrity. He has been  
5 inducted into the Rock and Roll Hall of Fame and Songwriters’ Hall of Fame, appeared on a hit  
6 TV show, and released dozens of hit songs over the past fifty-plus years. Tyler Decl. ¶¶ 2-6. There  
7 is such “widespread public interest in his personal life” that the right to publish Tyler’s 2011  
8 memoir was auctioned for millions of dollars before the book was even written. *Id.* ¶ 7;  
9 Kleindienst Decl. Ex. 11. And both Aerosmith’s and Tyler’s Memoirs were released by prominent  
10 publishers and made the coveted *New York Times* “Best Sellers” lists. Kleindienst Decl. Exs. 3-4,  
11 10, 15. Tyler’s Memoir was also reviewed positively by outlets like the *New York Times*, *Vanity*  
12 *Fair*, and *The Hollywood Reporter*. *Id.* Exs. 12-14. Tyler’s multi-year relationship with Plaintiff  
13 while on tour was an obvious topic for his memoirs. As *The Hollywood Reporter* wrote:

14 Steven Tyler is a Rock Star – capital R, capital S. He understands that being a Rock  
15 Star is about more than just selling records. You have to live The Life, and if you  
16 write a memoir about The Life, certain conventions have to be respected – band  
17 fights have to be detailed, partying catalogued, hookups listed, regrets stated, a  
sensitive inner side revealed, redemption found – and because Tyler understands  
what it means to be a Rock Star, he delivers the goods in [Tyler’s Memoir].

18 Kleindienst Decl. Ex. 13 at 2. Regardless of whether Plaintiff sought publicity regarding her  
19 relationship with Tyler (and she certainly has over the past decade), she necessarily became  
20 involved in an issue of public interest by virtue of being in a relationship with Tyler for more than  
21 three years, including after she turned 18. Kleindienst Decl. Exs. 8-9, 19-26.

22 Tyler’s statements in his memoirs, including his statements about his relationship with  
23 Plaintiff, thus concern a matter of public interest and qualify as protected activity. *See Nygard*, 159  
24 Cal.App.4th at 1042 (statements qualified as protected activity where evidence demonstrated  
25 extensive interest in the statement’s subject-matter); *Kronemyer v. Internet Movie Database Inc.*,  
26 150 Cal.App.4th 941, 949 (2007) (holding *My Big Fat Greek Wedding* was “a topic of widespread  
27 public interest” based on testimony that it was a “successful independent motion picture”).

28



1                                   **3.        Tyler’s Statements Were Made in a Public Forum.**

2            Because Tyler’s statements were made in connection with a matter of public interest, they  
3 qualify as protected activity under subdivision (e)(4), regardless of *where* they were made. C.C.P.  
4 § 425.16(e)(4). But because Tyler’s statements were made in published memoirs, they also qualify  
5 as statements made in a public forum in connection with an issue of public interest under  
6 subdivision (e)(3). C.C.P. § 425.16(e)(3). Heeding the Legislature’s mandate that the anti-SLAPP  
7 statute shall be construed broadly, California courts have held that *public access*, not the right to  
8 public comment, is the hallmark of a public forum in the anti-SLAPP context. *See Barrett v.*  
9 *Rosenthal*, 40 Cal.4th 33, 41 n.4 (2006) (“Web sites accessible to the public ... are ‘public forums’  
10 for purposes of the anti-SLAPP statute.”); *Kronemyer*, 150 Cal.App.4th at 950 (IMDB website  
11 was a “public forum” for anti-SLAPP purposes); *Nygaard, Inc.*, 159 Cal.App.4th at 1038-39 (“a  
12 newspaper or magazine need not be an *open* forum to be a *public* forum—it is enough that it can  
13 be purchased and read by members of the public”). Like the magazine article in *Nygaard*,  
14 Aerosmith’s and Tyler’s Memoirs “can be purchased and read by members of the public,” and  
15 thus qualify as public fora under the anti-SLAPP statute. *Nygaard, Inc.*, 159 Cal.App.4th at 1039

16                                   **B.        Plaintiff Cannot Establish a Probability of Prevailing on Her Claim.**

17            Because Tyler has demonstrated that the IIED claim based on Tyler’s public statements  
18 arises from protected activity the burden shifts to Plaintiff to establish, by competent and  
19 admissible evidence, a probability of prevailing on her claims at trial. *Garcia v. Rosenberg*, 42  
20 Cal.App.5th 1050, 1056 (2019); C.C.P. § 425.16(b)(1). Plaintiff cannot meet her burden.

21                                   **1.        The Claim Is Barred by the Statute of Limitations.**

22            First, Plaintiff cannot establish a probability of prevailing on the merits because her IIED  
23 claim based on Tyler’s memoirs is time-barred. “Intentional infliction of emotional distress has a  
24 two-year statute of limitations,” which “begins to run[] once the plaintiff suffers severe emotional  
25 distress as a result of outrageous conduct on the part of the defendant.” *Wassmann v. S. Orange*  
26 *Cnty. Cmty. Coll. Dist.*, 24 Cal.App.5th 825, 852-53 (2018). Here, Plaintiff claims that she  
27 experienced severe emotional distress as a result of Tyler’s memoirs in 2011, when *Star Magazine*  
28 identified Plaintiff as Tyler’s teen lover and referenced her abortion. FAC ¶¶ 21-23. The two-year

1 statute of limitations for an IIED claim based on Tyler’s memoirs therefore began running in 2011  
2 at the latest. *Ibid.*; *see also* Kleindienst Decl. Exs. 2, 19-22. Nevertheless, Plaintiff did not file this  
3 lawsuit until *more than a decade later*, on December 27, 2022. Plaintiff’s IIED claim based on any  
4 alleged distress caused by Tyler’s memoirs is therefore barred by the statute of limitations.

5 Plaintiff may try to argue that AB 218’s amendment to Section 340.1 somehow revived the  
6 statute of limitations for the entirety of Plaintiff’s IIED claim, including the claim based on the  
7 memoirs. Plaintiff is wrong. “In construing statutes, there is a presumption against retroactive  
8 application” absent a clear directive from the Legislature. *Quarry v. Doe I*, 53 Cal.4th 945, 955  
9 (2012). “Lapsed claims will not be considered revived without express language of revival.” *Id.* at  
10 957. Section 340.1’s extended statute of limitations, including the retroactive “lookback window,”  
11 applies only to claims based on acts of *childhood sexual assault*. C.C.P. § 340.1(a)(1)-(3). Such  
12 acts are specifically defined in subsection (d) and must have been committed before Plaintiff  
13 turned 18. C.C.P. § 340.1(d). This motion does not seek to strike the IIED claim based on alleged  
14 acts of *childhood sexual assault*. But Plaintiff also includes an IIED claim based statements made  
15 in Tyler’s memoirs *decades later*, long after Plaintiff’s 18<sup>th</sup> birthday. *See* FAC at 11 (asserting  
16 IIED claims “As to Both [1] the Child Sex Assaults and [2] Causing the Ensuing Involuntary  
17 Infamy for Defendant’s Profit”); Kleindienst Decl. Ex. 6 at 5-6, 10-11, 14-16. Indeed, among the  
18 remedies Plaintiff seeks is disgorgement of profits from Tyler’s books. FAC at 13. Plaintiff’s IIED  
19 claim based on Tyler’s memoirs *does not* fall under Section 340.1 and *was not* expressly revived  
20 by the 2020 amendment. It is therefore time-barred and should be stricken.

21 **2. The Claim Is Also Meritless**

22 Plaintiff also cannot meet her burden to demonstrate a probability of prevailing because  
23 her IIED claim based on Tyler’s memoirs is meritless. To prevail on an IIED claim, Plaintiff must  
24 prove: “(1) outrageous conduct by the defendant, (2) intention to cause or reckless disregard of the  
25 probability of causing emotional distress, (3) severe emotional suffering and (4) actual and  
26 proximate causation of the emotional distress.” *Wong v. Jing*, 189 Cal.App.4th 1354, 1376 (2010).  
27 Plaintiff cannot make a *prima facie* showing to prove each required element.

28 First, conduct is only deemed “outrageous” if it is so extreme as to “go beyond all possible

1 bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized  
2 community.” *Cochran v. Cochran*, 65 Cal.App.4th 488, 496 (1998). *See also Moncada v. West*  
3 *Coast Quartz Corp.*, 221 Cal.App.4th 768, 781 (2013) (allegations of defendants’ conduct that “if  
4 true, demonstrate a disregard for plaintiffs’ professional and personal well-being” still did not  
5 allege conduct sufficiently extreme or outrageous to support an IIED claim). “Whether a  
6 defendant’s conduct can reasonably be found to be outrageous is a question of law that must  
7 initially be determined by the court.” *Berkley v. Dowds*, 152 Cal.App.4th 518, 534 (2007). Here,  
8 Plaintiff alleges that Tyler’s purportedly “outrageous” conduct included writing a memoir with  
9 references to his multi-year relationship with Plaintiff, decades after that relationship ended. FAC  
10 ¶¶ 42-44. Notably, the FAC does not identify a single statement in Tyler’s memoirs that she  
11 contends was untrue. Describing one’s own experiences in a memoir is not outrageous conduct as  
12 a matter of law, particularly when Tyler did not name Plaintiff when describing his experiences.

13         Second, Plaintiff cannot demonstrate that Tyler published his memoirs with an *intent to*  
14 *cause*, or reckless disregard of the probability of causing, emotional distress to Plaintiff. To the  
15 contrary, Tyler did not intend to cause Plaintiff emotional distress by publishing his memoirs.  
16 Tyler Decl. ¶ 8. In fact, Tyler used a pseudonym in Aerosmith’s Memoir and did not use  
17 Plaintiff’s name when describing the relationship in Tyler’s Memoir. Kleindienst Decl. Exs. 3-4.  
18 Tyler took these precautions to try to protect Plaintiff’s anonymity even though previously-  
19 published articles and books *had named Plaintiff* when describing her relationship with Tyler.  
20 Kleindienst Decl. Exs. 8-9, 16. Had Tyler intended to cause Plaintiff emotional distress he would  
21 not have made efforts to preserve her anonymity.

22         Finally, Plaintiff will not be able to demonstrate *severe emotional distress* that was  
23 *actually and proximately caused* by Tyler’s memoirs. Plaintiff has all but conceded that any  
24 alleged distress she experienced in 2011 was not caused by Tyler’s Memoir, but by a *Star*  
25 *Magazine* article published *months before* Tyler’s Memoir was released. FAC ¶¶ 21-22;  
26 Kleindienst Decl. Ex. 6 at 5-6; *id.* Ex. 27. And since then, Plaintiff has spoken *prolifically* about  
27 her relationship with Tyler (and her abortion), including publishing her own memoir (Kleindienst  
28 Decl. Ex. 2), speaking at high-profile events (*id.* Exs. 19-22), traveling the country as a

1 spokesperson for the “Silent No More Awareness Campaign” (*id.* Exs. 21-24), appearing on one  
2 of the top-rated shows on Fox News (*id.* Exs. 23-24), and pitching herself for professional  
3 speaking gigs as “**Julia Holcomb Former girlfriend of Steven Tyler, lead singer of the rock**  
4 **band Aerosmith and American Idol judge**” (*id.* Ex. 25, emphasis original). Plaintiff cannot  
5 credibly contend that Tyler’s statements about their relationship caused her *severe emotional*  
6 *distress* when she has repeated and amplified those statements for more than a decade.

7 **3. The Claim Is Barred By The First Amendment**

8 Finally, Plaintiff’s claim based on Tyler’s memoirs is barred by the First Amendment. In  
9 Aerosmith’s and Tyler’s Memoirs, Tyler relays his own experiences as a world-famous rockstar.  
10 Kleindienst Decl. Exs. 3-4. Tyler’s multi-year relationship with Plaintiff in the 1970s, while he  
11 was touring with Aerosmith, are included among those experiences—though it is not a focus of  
12 either book. *Ibid.* And Plaintiff does not allege that Tyler made any defamatory statements about  
13 her in his memoirs.

14 The California Supreme Court has recognized “a broad privilege cloaking the truthful  
15 publication of all newsworthy matters.” *Kapellas v. Kofman*, 1 Cal.3d 20, 36 (1969). *See also*  
16 *Nicholson v. McClatchy Newspapers*, 177 Cal.App.3d 509, 516 (1986) (“the allegation that  
17 defendants published a truthful account of a newsworthy event about a public figure merely  
18 alleges a constitutionally privileged publication”). “In determining whether a particular incident is  
19 ‘newsworthy’ and thus whether the privilege shields its truthful publication from liability, the  
20 courts consider a variety of factors, including the social value of the facts published, the depth of  
21 the [publication’s] intrusion into ostensibly private affairs, and the extent to which the party  
22 voluntarily acceded to a position of public notoriety.” *Kapellas*, 1 Cal.3d at 36.

23 In *Forsher v. Bugliosi*, for example, the plaintiff was named in the book *Helter-Skelter*—  
24 an “inside account” of the Tate-LaBianca killings and murder trial of Charles Manson. 26 Cal.3d  
25 792, 795 (1980). The plaintiff filed claims for defamation and invasion of privacy against the  
26 book’s authors and publishers, arguing that the book insinuated that plaintiff was involved in the  
27 alleged murder of Manson’s attorney, Ronald Hughes. *Id.* at 802. The trial court sustained  
28 defendants’ demurrers and the California Supreme Court affirmed on the grounds that the plaintiff

1 failed to identify a defamatory statement and the statements in the book were newsworthy. *Id.* at  
2 812. In reaching that conclusion, the Supreme Court took into account the subject-matter of the  
3 book, the fact that plaintiff’s name had previously been published by two newspaper articles  
4 describing Hughes’s disappearance, and the fact that the depth of the intrusion was miniscule since  
5 the plaintiff was “not treated in any great detail.” *Id.* at 812-13.

6 Here, Tyler’s memoirs regarding his experiences as a world-famous rockstar are  
7 indisputably newsworthy as demonstrated by the widespread attention they have garnered.  
8 Moreover, unlike in *Forsher*, Tyler did not name Plaintiff in recounting his experiences. Rather,  
9 he used a pseudonym or no name at all. *See* Kleindienst Decl. Exs. 3-4. References to Plaintiff are  
10 limited as Aerosmith’s and Tyler’s Memoir chronicle several decades of experiences. And  
11 Plaintiff had previously been identified as Tyler’s girlfriend in national publications like *Rolling*  
12 *Stone* and *People*. *Id.* Exs. 8-9. Accordingly, the depth of the intrusion is minimal and clearly  
13 outweighed by Tyler’s right to recount events from his own life in his memoirs. Plaintiff’s IIED  
14 claim based on Tyler’s memoirs is therefore barred by the First Amendment.

15 **V. TYLER IS ENTITLED TO ATTORNEYS’ FEES AND COSTS**

16 “[A] prevailing defendant on a special motion to strike shall be entitled to recover his or  
17 her attorney’s fees and costs.” C.C.P. § 425.16(c). The award of attorney’s fees and costs to a  
18 prevailing defendant is “mandatory,” not discretionary. *Ketchum v. Moses*, 24 Cal.4th 1122, 1131  
19 (2001). Accordingly, if the Court grants this motion, Tyler requests that the Court order Plaintiff  
20 to pay his reasonable attorneys’ fees. Tyler will then file a separately noticed motion to establish  
21 the amount of those fees and costs. *See Melbostad v. Fisher*, 165 Cal.App.4th 987, 992 (2008).

22 **VI. CONCLUSION**

23 For the foregoing reasons, Tyler respectfully requests that the Court grant his motion.

24 DATED: April 28, 2023

KINSELLA WEITZMAN ISER KUMP HOLLEY LLP

25  
26  
27 By:



Shawn Holley  
Attorneys for Defendant Steven Tyler

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**PROOF OF SERVICE**

**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 11766 Wilshire Boulevard, Suite 750, Los Angeles, CA 90025.

On April 28, 2023, I served true copies of the following document(s) described as **DEFENDANT’S NOTICE OF SPECIAL MOTION TO STRIKE AND SPECIAL MOTION TO STRIKE PORTIONS OF PLAINTIFF’S COMPLAINT PURSUANT TO CODE OF CIVIL PROCEDURE § 425.16 AND FOR ATTORNEYS’ FEES** on the interested parties in this action as follows:

Michael Reck *Attorneys for Plaintiff Julia Misley*  
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**BY MAIL:** I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with the practice of Kinsella Weitzman Iser Kump Holley LLP for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

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

Executed on April 28, 2023, at Los Angeles, California.

*/s/ Michelle Law*  
\_\_\_\_\_  
Michelle Law



## Court Reservation Receipt

Reservation	
Reservation ID: 916961637632	Status: RESERVED
Reservation Type: Special Motion to Strike under CCP Section 425.16 (Anti-SLAPP motion)	Number of Motions: 1
Case Number: 22TRCV01604	Case Title: JULIA MISLEY vs DOE 1, et al.
Filing Party: Steven Victor Tallarico (Defendant)	Location: Torrance Courthouse - Department B
Date/Time: October 24th 2023, 8:30AM	Confirmation Code: CR-UXVZETJXB6ZSCHTUJ

Fees			
Description	Fee	Qty	Amount
Special Motion to Strike under CCP Section 425.16 (Anti-SLAPP motion)	60.00	1	60.00
Credit Card Percentage Fee (2.75%)	1.65	1	1.65
<b>TOTAL</b>			<b>\$61.65</b>

Payment	
Amount: \$61.65	Type: AmericanExpress
Account Number: XXXX3025	Authorization: 233364
Payment Date: 2023-04-27	

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