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EVAN RACHEL WOOD

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES, CENTRAL DISTRICT

BRIAN WARNER, p/k/a MARILYN MANSON,

Plaintiff,

vs.

EVAN RACHEL WOOD; ASHLEY GORE, a/k/a ILLMA GORE,

Defendants.

Case No. 22STCV07568
Assigned to Hon. Teresa A. Beaudet, Dept. 50

REPLY IN SUPPORT OF DEFENDANT EVAN RACHEL WOOD'S SPECIAL MOTION TO STRIKE PORTIONS OF PLAINTIFF'S COMPLAINT PURSUANT TO CODE OF CIVIL PROCEDURE § 425.16 AND FOR ATTORNEYS' FEES

[*Notice of Lodging, Evidentiary Objections, Proposed Order re Evidentiary Objections, and Response to Plaintiff's Evidentiary Objections filed concurrently herewith*]

Date: December 1, 2022
Time: 10:00 a.m.
Dept.: 50

Action Filed: March 2, 2022
Trial Date: None Set

PUBLIC REDACTED VERSION

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TABLE OF CONTENTS

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TABLE OF AUTHORITIES

Page

CASES

STATUTES

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I. INTRODUCTION

The Court largely denied Plaintiff's motion for anti-SLAPP discovery based on findings that (i) Plaintiff's claim based on the FBI Letter is barred by the litigation privilege; (ii) the *Flatley* exception does not apply; (iii) Plaintiff had no evidence that Defendants engaged in "outrageous" conduct by pressuring women to falsely accuse Plaintiff; and (iv) Plaintiff failed to allege colorable claims against Wood based on statements about *Groupie*. Nothing has changed that should cause the Court to reconsider its prior rulings. Plaintiff has, for the most part, resubmitted the same evidence. The only additional evidence provided is testimony from (a) Meyer, who learned of the FBI Letter from Plaintiff's counsel and claims no contact with Wood; (b) Kunkel, an IT expert with no percipient knowledge; (c) King, Plaintiff's lawyer, who fails to establish the admissibility of most of the exhibits he proffers; and (d) Gore, whose testimony establishes that she made the statements about *Groupie* without actual malice, [redacted]. None of Plaintiff's new "evidence" moves the needle. Wood's anti-SLAPP motion should therefore be granted in its entirety.

II. THE IIED CLAIM BASED ON THE FBI LETTER SHOULD BE STRICKEN.

A. Plaintiff's IIED Claim Arises From Protected Activity.

1. Wood's Court Filing Supplies an Essential Element of Plaintiff's Claim.

Plaintiff recycles his failed argument that his IIED claim does not arise from Wood's *filing* of the FBI Letter in the parentage action, but on its alleged *fabrication* and purported use outside of the custody proceedings. The argument fares no better the second time around.

"To determine whether a claim arises from protected activity, courts must 'consider the elements of the challenged claim and what actions by the defendant supply those elements and consequently form the basis for liability.'" *Wilson v. Cable News Network, Inc.*, 7 Cal.5th 871, 884 (2019). A claim for IIED requires "extreme and outrageous" conduct that was the "actual and proximate cause" of Plaintiff's distress and was intended to cause Plaintiff's distress. *Ross v. Creel Printing & Publ'g Co.*, 100 Cal.App.4th 736, 744-45 (2002). An allegation that Defendants "falisf[ied] correspondence from a fictitious federal agent" (Compl. ¶ 63(c))—standing alone—could never form the basis of an IIED claim. A forged letter, if it never saw the light of day, could

not cause emotional distress, nor be intended to do so. Any alleged distress could only be *caused* (and *intended*) through the letter's *publication*. Plaintiff's argument that "impersonating an FBI agent" is not protected thus misses the point. Opp. at 5. Where protected activity supplies the basis for *any* element of a claim, the claim arises from protected activity. *See Wilson*, 7 Cal.5th at 884.

Here, the Complaint alleges that the FBI Letter was filed in a "custody proceeding," quotes Wood's declaration, and cites an article about the court filings. Compl. ¶ 36, n.17. While Plaintiff tries to downplay these allegations, they do not merely provide context, but are *essential* to his IIED Claim. If Plaintiff had no knowledge of the FBI Letter, it could not have caused him distress.

Plaintiff claims that the FBI Letter *may have* been used to recruit accusers. But Plaintiff *does not allege* knowledge of the FBI Letter being used with *anyone* outside of the custody dispute. He only alleges—"*[u]pon information and belief*"—that "the forged letter *would be* used to recruit … people to claim they were being abused by Warner." Compl. ¶ 37 (italics added). These hypothetical allegations do not supply the required causal nexus between the FBI Letter and Plaintiff's distress. Nor was this a drafting error. There is *no evidence* the FBI Letter was used outside of the custody dispute; nor does Plaintiff claim knowledge that it was. *See* Section II.B.1.

Even if Plaintiff had alleged knowledge of the FBI Letter's use to recruit accusers (he did not), Wood's communications with other accusers—including regarding the FBI Letter or FBI investigation—are protected activity for the reasons discussed in Section III.A *infra*.

2. The Narrow Exception for Undisputed Illegal Conduct Does Not Apply.

As the Court already found, the narrow exception excluding *undisputed* illegal conduct from anti-SLAPP protection does not apply. Sept. 27, 2022 Order at 9, *citing Flatley v. Mauro*, 39 Cal.4th 299, 320 (2006). There is no reason for the Court to disturb its prior ruling. The *Flatley* exception "applies only where either the defendant concedes the illegality of its [purportedly protected] conduct or the illegality is conclusively shown by the evidence." *Optional Capital, Inc. v. Akin Gump Strauss, Hauer & Feld LLP*, 18 Cal.App.5th 95, 115 n.7 (2017). If there is *any factual dispute* whether the defendant's asserted protected activity was illegal, the *Flatley* exception does not apply. *Zucchet v. Galardi*, 229 Cal.App.4th 1466, 1478-80 (2014) (exception did not apply where defendant disputed alleged perjury and false statements to federal authorities).

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Here, the asserted protected activity—filing court documents—is not inherently illegal. And Wood has unequivocally denied forging the FBI Letter and declared that she believed it to be authentic when she submitted it to the Court. Wood Decl. ¶ 22. This ends the inquiry. For the *Flatley* exception to apply, Plaintiff would have had to *conclusively* prove that Wood forged the letter, or knew it was forged when she filed it, as "a guilty mind is a necessary element in the indictment and proof of every crime." *United States v. Wade*, 962 F.3d 1004, 1011 n.3 (7th Cir. 2020). Plaintiff does not even attempt to meet this burden; nor could he given Wood's testimony.

Plaintiff's cases are inapposite. The court in *Gerbosi v. Gaims, Weil, West & Epstein, LLP*, 193 Cal.App.4th 435, 446 (2011) held that *wiretapping* does not qualify as protected activity because it is inherently illegal. Here, the assertedly protected activity is *filing court documents*, which is not inherently illegal. Plaintiff's reliance on *Lefebrve v. Lefebrve*, 199 Cal.App.4th 696, 705 (2011)—a case where the defendant "d[id] not contest that she submitted an illegal, false criminal report"—is similarly misplaced since Wood denies engaging in illegal conduct.

B. <u>Plaintiff Has Not Demonstrated a Probability of Prevailing on the Merits</u>

1. The Litigation Privilege Bars Plaintiff's Claim Based on the FBI Letter.

Plaintiff's arguments that the litigation privilege does not apply hinge on the false premise that he can prevail on his claim based solely on the FBI Letter's use *outside* of the custody dispute. Not so. Plaintiff has offered *no evidence* that he learned of the FBI Letter except through the custody litigation. <u>*None*</u>. If Plaintiff were aware of any use of the FBI Letter *outside* of the custody dispute, he would have said so, as his failure to tie his distress to a *non-privileged* use of the FBI Letter is fatal to his claim. Instead, Plaintiff simply refiled his prior declaration, which claims no knowledge of the FBI Letter's use outside the custody dispute. Warner Decl. ¶¶ 8-11.

Indeed, Wood's testimony that she *did not* distribute the FBI Letter outside of the custody proceedings remains undisputed. *See* Wood Decl. ¶ 22. While Plaintiff hypothesizes that the FBI Letter could have been used to recruit accusers (Opp. at 1, 5), there is no evidence of that. At best, Plaintiff has presented circumstantial evidence that Gore—who was in contact with the FBI (King Decl. F at Ex. 98:22-99:6, 106:8-107:15, 124:6-125:11) and was Wood's "romantic partner[ ]" (Compl. ¶ 14)—may have had a copy at some point (B. Gore Ex. B). But Plaintiff has presented

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no evidence that *Wood* gave Gore the letter or that Gore used it to recruit accusers. While Plaintiff claims that "Gore was holding herself out as being involved with the letter" (Opp. at 5), the evidence he cites does not support his claim. Meyer *never discussed the FBI Letter with Gore*; she only learned of its existence earlier this year from *Plaintiff's counsel* (Meyer Decl. ¶¶ 31-32).[1]

Finally, even if Bryton Gore's testimony is credited, Wood's purported statements in late 2021 that "the letter was so important to her work against Warner," and "think of what would happen … if this ever got out to the media" (B. Gore Decl. ¶¶ 24-25) are neither new, nor evidence that Wood used the FBI Letter outside of the custody dispute, particularly given Wood's testimony to the contrary (Wood Decl. ¶ 22). The Court cannot draw inferences that require "suspicion, imagination, speculation, surmise, conjecture or guesswork" and cannot "indulge in inferences rebutted by clear, positive and uncontradicted evidence," like Wood's sworn testimony. *See Shandralina G. v. Homonchuk*, 147 Cal.App.4th 395, 416-17 (2007). While the Court does not weigh evidence, nor should it disregard Wood's evidence where there are gaps in Plaintiff's evidence. *Jarrow Formulas, Inc. v. LaMarche*, 31 Cal.4th 728, 741 n.10 (2003) (courts "should grant the [anti-SLAPP] motion if, as a matter of law, the defendant's evidence supporting the motion defeats the plaintiff's attempt to establish evidentiary support for the claim.").

Finally, because there is no evidence that the FBI Letter was used outside of the custody dispute, Plaintiff cannot distinguish Wood's cases. The litigation privilege bars Plaintiff's claim based on Wood's court filings, regardless of whether the FBI Letter was forged. *See, e.g.*, *Kenne v. Stennis*, 230 CalApp.4th 953, 971 (2014); *Pettitt v. Levy*, 28 Cal.App.3d 484, 489 (1972).

2. The Claim Is Also Meritless.

Outrageous Conduct. There is no evidence that Wood engaged in the alleged outrageous conduct. Wood has unequivocally denied forging the FBI Letter and testified that she believed it to be authentic. Wood Decl. ¶ 22. Plaintiff has offered no admissible evidence to the contrary. And Plaintiff's continued attempts to cast doubt on the *existence* of the FBI investigation is ridiculous

[1] Meyer claims that Wood's ex and attorney called looking for Agent Langer, but does not claim that *any* of Plaintiff's accusers did so. *Id.* ¶¶ 16-18. This bolsters Wood's testimony that (i) she believed the letter was authentic, and (ii) only used it in the custody dispute. Wood Decl. ¶ 22.

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given the testimony offered by Wood and her lawyer. Wood Decl. ¶ 18; Holley Decl. ¶ 2, Ex. A.

Intent. Wood's testimony that she did not intend to cause Plaintiff distress and did not know that Plaintiff would learn of the parentage action filings is *undisputed*. Wood Decl. ¶ 23.

Causation and Emotional Distress. Plaintiff has not met his burden to demonstrate that the FBI Letter caused him "emotional distress of such substantial quality or enduring quality that no reasonable [person] in civilized society should be expected to endure it." *Hughes v. Pair*, 46 Cal.4th 1035, 1051 (2009). Plaintiff claims that "[a]fter being falsely portrayed as a rapist, abuser, and child pornographer, … [he has] constantly felt anxious, distraught, depressed, worried, frantic, sleepless, and fearful for my and my wife's physical safety." Warner Decl. ¶ 11. But Plaintiff ties his distress to the accusations of abuse—not the FBI Letter, which does not name Plaintiff or accuse him of rape, abuse, or child pornography. And his generalized complaints are insufficient to support an IIED claim. *See, e.g.*, *Wong v. Jing*, 189 Cal.App.4th 1354, 1377 (2010) (claimed emotional upset, lost sleep, stomach upset, and generalized anxiety was insufficient evidence of emotional distress in opposing anti-SLAPP motion); *Hughes*, 26 Cal.4th at 1051 (same on MSJ).

III. THE IIED CLAIM BASED ON RECRUITMENT SHOULD BE STRICKEN.

A. Plaintiff's Claim Arises From Protected Activity.

Wood need not demonstrate that her alleged conduct "is protected First Amendment activity," as Plaintiff incorrectly claims. Opp. at 9. "The moving party's step-one burden does *not* require proof that the targeted conduct was *in fact protected by the First Amendment*." *Pott v. Lazarin*, 47 Cal.App.5th 141, 149 (2020). "Instead, the moving party need only *make a prima facie showing*, not prove, that the targeted 'statements' were made" in connection with petitioning activity or a matter of public interest. *Ibid.*; C.C.P. § 425.16.

Sexual Abuse by a Celebrity. Plaintiff argues that not *every* statement about sexual abuse is a matter of public interest; nor is *every* statement about a celebrity. Opp. at 9-10. But Plaintiff is unable to cite a single case where statements about sexual abuse *did not* qualify for anti-SLAPP protection. *See Sipple v. Found. for Nat. Progress*, 71 Cal.App.4th 226, 238 (1999) ("Domestic violence is an extremely important public issue in our society."). And even Plaintiff would be hard-pressed to argue that accusations of abuse against a world-famous "shock rocker" are not of

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public interest, particularly in the wake of #MeToo. In fact, the Complaint tacitly admits that the accusations against Plaintiff are a matter of *immense* public interest. *See* Compl. ¶¶ 1, 3, 21-24, 27.

As Plaintiff acknowledges, HBO made a two-part documentary about the accusations, and its director said that naming Plaintiff "created a lot more story" for it. *Id.* ¶ 22. Plaintiff also claims the accusations have "derailed [his] career" (*id.* ¶ 24), ignited a "media firestorm" (Warner Decl. ¶ 10), and caused him to be dropped by his agent, record label, and two TV shows and to receive "countless" death threats (*Id* ¶ 11). Statements that have received far less public attention are routinely deemed matters of public interest for anti-SLAPP purposes. *E.g.*, *Chaker v. Mateo*, 209 Cal.App.4th 1138, 1141-42 (2012) (statements accusing ex of being a criminal and deadbeat dad); *Seelig v. Infinity Broad. Corp.*, 97 Cal.App.4th 798, 802-08 (2002) (statements calling contestant, who appeared briefly on *Who Wants to Marry a Millionaire*, a "big skank" and "loser").

***Criminal Investigations, Legislation, and Lawsuits*.** Likewise, Plaintiff's own Complaint refutes his contention that Wood's statements have no connection with criminal investigations, legislation, or civil lawsuits. *Plaintiff alleges* (i) that Wood testified before Congress and the California Senate "in support of proposed legislation" (Compl. ¶¶ 15-16); (ii) that the Phoenix Act is a "survivor led nonprofit … that works to end the cycle of domestic violence through organizing and passing legislation" (*id.* ¶ 19); (iii) that Defendants "enticed potential accusers" by suggesting they were "amassing evidence for a[n] … ongoing criminal investigation" (*id.* ¶ 28); (iv) that Defendants used Wood's activist work to recruit accusers and invited them to "organize" through the "Phoenix Act coalition" (*id.* ¶¶ 20, 25-27); and (v) that purportedly false statements made to other accusers have been repeated in civil lawsuits (*id.* ¶¶ 4, 31, 60). Wood's declaration confirms her involvement in legislative reform and the criminal investigations. Wood Decl. ¶¶ 9-14, 18.

B. <u>Plaintiff Has Not Demonstrated a Probability of Prevailing on the Merits</u>

Outrageous Conduct. The Court previously found that Plaintiff had failed to submit admissible evidence substantiating his allegations that Wood engaged in "extreme and outrageous" conduct by pressuring women "to make false accusations against [Plaintiff]" (Compl. ¶ 63(e)). Sept. 27, 2022 Order at 9-11. Plaintiff has not submitted *any additional admissible evidence* to support his claim here. Thus, there is no basis for the Court to reach a different result.

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Wood has denied ever "pressur[ing] anyone to make false accusations against" and has testified that she has "no reason to doubt" Plaintiff's other accusers. Wood Decl. ¶ 16. None of the evidence submitted by Plaintiff—including his dismissive, general denial of the *dozens of accusations* made against him (Warner Decl. ¶ 3)—contradicts that testimony.

There is *no evidence* that Gore was ever acting as *Wood's* agent such that vicarious liability would apply. Regardless, as the Court previously found, Gore's communications with Balog (Balog Decl. Ex. A) and McGaffigan (King Decl. Ex. H)—which say there is no obligation to be involved—do not demonstrate outrageous conduct. Sept. 27, 2022 Order at 10-11. The purported "protocol" for reaching out to victims likewise includes "let[ing] them know there is no pressure on their end." King Decl. Ex. J. And the other King exhibits are similarly benign. *Id.* Exs. R, S. Even if any of this new "evidence" were admissible (it is not), none of it substantiates Plaintiff's allegations that Defendants pressured *anyone* to make false accusations. Nor does the fact that two accusers—including one who did not speak to Wood (Kump Decl. Ex. 9 ¶¶ 41-46)—claim in lawsuits to have recovered repressed memory demonstrate outrageous conduct by Wood.

Intent/Emotional Distress. Plaintiff has offered no evidence that Wood acted with the intent to cause Plaintiff distress. Using the word "victim" to describe those accusing Plaintiff of abuse is not improper or reckless. Wood has no reason to doubt the other accusers. Wood Decl. ¶ 16. And, as discussed above, Plaintiff has not met his burden to show *severe emotional distress*.

False Statement/Actual Malice/Common Interest Privilege. Plaintiff has failed to identify any specific statement by Wood that he claims is false. Nor has he attempted to demonstrate an ability to produce clear and convincing evidence that Wood made that statement with actual malice. Plaintiff nonsensically argues that it was "against Wood's interest to confirm [unidentified] people were *not* abused." Opp. at 12. But the evidence shows that those who did not claim to have been abused were *not* pressured in any way. *See, e.g.*, Balog Decl. ¶¶ 4, 8, Ex. A.

IV. THE CLAIMS BASED ON ALLEGED DEFAMATION SHOULD BE STRICKEN.

A. Plaintiff's Claims Arise From Protected Activity.

Plaintiff's claims based on statements that Plaintiff's film, *Groupie*, "depicted child abuse and child pornography" (Compl. ¶ 56) arise from protected activity for the reasons discussed in

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Section III.A. Plaintiff all but concedes that the accusations are of public interest, claiming that they have "*reverberated through the press*." Compl. ¶ 60. No surprise: "preventing child sexual abuse and protecting children from sexual predators are issues of widespread public interest." *Cross v. Cooper*, 197 Cal.App.4th 357, 375 (2011). Plaintiff cites no cases finding that accusations of child abuse were *not* protected. And Plaintiff's notoriety only heightens the public interest in the accusations. *FilmOn.com Inc. v. DoubleVerify Inc.*, 7 Cal.5th 133, 145 (2019) (whether speech concerns a public figure is a primary factor in determining if it is of public interest)

Plaintiff tries to divorce the *Groupie* statements from the criminal investigations, legislative reform efforts, and civil lawsuits referenced in his Complaint. *See* Opp. at 12-13; Section II.A *supra*. But the Complaint specifically alleges that Gore's "defamatory allegations regarding 'Groupie' have been repeated in at least one civil complaint filed against Warner." Compl. ¶ 60. And Gore has testified that [redacted]. King Decl. Ex. F at 124:6-125:24.

B. Plaintiff Has Not Demonstrated a Probability of Prevailing on the Merits

1. Plaintiff Has Not Adequately Alleged His Claims Against Wood.

The Court already found that the Complaint's allegations are insufficient to state IIED or defamation claims against Wood relating to *Groupie*. Sept. 27, 2022 Order at 11-12. The Complaint has not changed. A "plaintiff must demonstrate the complaint is *legally sufficient* and supported by a sufficient prima facie showing of facts to sustain a favorable judgement if the evidence submitted by the plaintiff is credited. *If either of these requirements is not met, the motion to strike must be granted*." *Wilcox v. Superior Court*, 27 Cal.App.4th 809, 823 (1994) (italics added), *disapproved on other grounds by Equilon Enters., LLC v. Consumer Cause, Inc.*, 29 Cal.4th 53 (2002). Plaintiff is attempting to hold Wood liable based on the conclusory allegation that "Wood condoned and encouraged Gore to promulgate defamatory falsehoods about Warner in order to further their conspiracy." Compl. ¶ 61. This is insufficient.

For a claim based on a civil conspiracy, the "complaint must allege: (1) the formation and operation of the conspiracy; (2) the wrongful act or acts done pursuant thereto; and (3) the damage resulting from such act or acts." *Schick v. Lerner*, 193 Cal.App.3d 1321, 1327-28 (1987). "The

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sine qua non of a conspiratorial agreement is the knowledge on the part of the alleged conspirators of its unlawful objective and their intent to aid in achieving that objective." *Id.* at 1328.

Here, Plaintiff has failed to allege, *inter alia*, (i) that Wood made a defamatory statement about *Groupie*, (ii) that Wood knew that the statements were being made, (iii) that Wood agreed that the statements should be made, (iv) that Wood committed any wrongful act to further the purported conspiracy to make the statement; or (v) that Wood acted with actual malice. *See* Compl. ¶¶ 56-61, 63(d), 68-75. Plaintiff's IIED and defamation claims must therefore be stricken.

2. Plaintiff Has No Evidence to Support His Claims.

Plaintiff does not claim that Wood made a defamatory statement about *Groupie* and there is no evidence that she conspired with Gore to do so or acted with actual malice. Plaintiff argues that because [redacted] (King Decl. Ex. F at 34:7-15; 86:15-90:1), Wood is liable as a co-conspirator. That is absurd [redacted] does not demonstrate a conspiracy to defame, particularly absent evidence that Wood knew the statement was false or was being made to anyone else. *See Kidron v. Movie Acquis. Corp.*, 40 Cal.App.4th 1571, 1582 (1995) ("[t]he conspiring defendants must … have actual knowledge that a tort is planned and concur in the tortious scheme with knowledge of its unlawful purpose."). Moreover, while Plaintiff claims that *13 years ago* he told Wood that Pola Weiss was in *Groupie* (Warner Decl. ¶ 5), there is no evidence that Wood (i) knew how old Weiss was, (ii) remembered the alleged conversation a decade later, or (iii) believed Plaintiff when he said it was Weiss (Wood Decl. ¶ 16). Indeed, another survivor claims that the woman in *Groupie* "did not resemble" Weiss. *See* Kump Decl. Ex. 8 ¶¶ 20-27; Weiss Decl. ¶ 3.[2]

There is no evidence that Gore used *Groupie* to recruit accusers or was acting as Wood's agent when any statement about *Groupie* was made. Plaintiff only cites Gore's statements to McGaffigan. Opp. at 14. But McGaffigan is not an accuser and Gore [redacted]

[2] Plaintiff argues that the "Dinner for Five" clips in *Phoenix Rising* were misleading (Opp. at 14) but fails to explain how or show that Wood controlled how the clips were used.

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[redacted] King Decl. Ex. F at 35:17-37:14, 109:16-110:1; Warner Decl. ¶ 6.

Finally, Wood cannot be held liable as a co-conspirator because Plaintiff has not demonstrated a probability of prevailing on his claims against Gore. Having again failed to submit *Groupie*, Plaintiff has no admissible evidence of its contents (including who appears and what happens) and cannot prove that the statements about it were false. *See* Evid. Obj. at 17-18, 21-23; Evid. Code § 1523. And Plaintiff fails to show a probability of proving, *by clear and convincing evidence*, that Gore acted with actual malice because all the evidence—including her *pre-litigation communications*—shows that Gore believed [redacted] King Decl. Ex. H, I; *Id.* Ex. F at 35:17-37:17, 47:23-48:23, 58:23-59:21, 64:13-17, 65:12-66:18, 92:14-25; 109:21-110:1, 144:5-25.

V. THE CLAIMS ARISING FROM PROTECTED ACTIVITY MUST BE STRICKEN.

Plaintiff tries to end-run the anti-SLAPP statute by asking the Court not to strike his *allegations* regarding the FBI Letter, recruitment, and *Groupie*, even if his *claims* are stricken. That is not the law. Where a plaintiff has failed to establish a probability of prevailing on a claim arising from protected activity, "*the claim and its corresponding allegations must be stricken*." *Baral v. Schnitt*, 1 Cal.5th 376, 395 (2016) (emphasis added). "[R]efusing to strike any part of a cause of action that rests in part on protected activity defeats the legislative goal of protecting defendants from meritless claims based on such conduct." *Bonni v. St. Joseph Health Sys.*, 11 Cal.5th 995, 1011 (2021). Plaintiff cannot backdoor his stricken claims back into the case by recasting the FBI Letter, recruitment, and *Groupie* allegations as "context" for his swatting, hacking, and impersonation claims. That would subvert the purpose of the anti-SLAPP statute.

Nor should the Court decline to strike Plaintiff's FBI Letter claim if Wood's prevails on her motion. No matter who is the target of Plaintiff's IIED claim based on the FBI Letter, the claim is barred by the litigation privilege because Plaintiff only learned of the letter from Wood's court filings. *See* Section II.A.1 *supra*. Moreover, Plaintiff cites no authority for the proposition that the Court can decline to strike a claim from the Complaint after finding that it arises from protected activity and lacks merit. Such a ruling would run afoul of the anti-SLAPP statute and its protections, which "shall be construed broadly." C.C.P. § 425.16(a), (b).

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DATED: November 22, 2022

Respectfully submitted,

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By: _____

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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 808 Wilshire Boulevard, 3rd Floor, Santa Monica, CA 90401.

On November 22, 2022, I served true copies of the following document(s) described as **REPLY IN SUPPORT OF DEFENDANT EVAN RACHEL WOOD'S SPECIAL MOTION TO STRIKE PORTIONS OF PLAINTIFF'S COMPLAINT PURSUANT TO CODE OF CIVIL PROCEDURE § 425.16 AND FOR ATTORNEYS' FEES – PUBLIC REDACTED VERSION** on the interested parties in this action as follows:

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

Executed on November 22, 2022, at Santa Monica, California.

Mary L. Sanks