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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

11 BRIAN WARNER, p/k/a MARILYN
12 MANSON,

13 Plaintiff,

14 v.

15 EVAN RACHEL WOOD, ASHLEY GORE
16 a/k/a ILLMA GORE,

17 Defendants.
18

Case No. 22STCV07568

**DEFENDANT ASHLEY GORE'S
SUPPLEMENTAL REQUEST FOR
JUDICIAL NOTICE IN SUPPORT OF
SPECIAL MOTION TO STRIKE ("ANTI-
SLAPP")**

Date: December 1, 2022

Time: 10:00 a.m.

Dept. 50

Before: Hon. Teresa Beaudet

Action Filed: March 2, 2022

1 Pursuant to California Evidence Code Sections 452(d)(1) and 453; Defendant
2 Ashley Gore ("Defendant") respectfully request that the court take judicial notice of the
3 following additional record in connection with her Special Motion to Strike:

4 1. The September 27, 2022 Order of this Court on Plaintiff's Motion to Conduct
5 Limited Discovery, a true and correct copy of which is attached hereto as **Exhibit A**.

6 Exhibit A is a court record subject to judicial notice pursuant to California Evidence
7 Code Sections 452(d) and 453. See *City of Los Angeles v. Superior Court*, 9 Cal. App. 5th
8 272, 276, n. 1 (2017). In accordance with Cal. Evid. Code § 453, Defendant has provided
9 sufficient notice to the adverse parties to enable the parties to meet the request and has
10 provided the Court with sufficient information to enable it to take judicial notice of the
11 attached record. Accordingly, Defendant respectfully requests that the Court take judicial
12 notice of the records attached hereto.

13 DATED: November 22, 2022

HANSON BRIDGETT LLP

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By: 
MARGARET A. ZIEMIANEK
G. THOMAS RIVERA III
Attorneys for Defendant
ASHLEY GORE a/k/a ILLMA GORE

EXHIBIT A

SEP 27 2022

Superior Court of California
County of Los Angeles
Department 50

Sherril R. Carter, Executive Officer/Clerk of Court
By [Signature] Deputy
Leticia Gomez

BRIAN WARNER p/k/a MARILYN
MANSON,

Plaintiff,

vs.

EVAN RACHEL WOOD, et al.,

Defendants.

Case No.: 22STCV07568

Hearing Date: September 27, 2022

Hearing Time: 10:00 a.m.

~~TENTATIVE~~ ORDER RE:

PLAINTIFF'S MOTION TO CONDUCT
LIMITED DISCOVERY PURSUANT TO
CODE OF CIVIL PROCEDURE SECTION
425.16(G) AND REQUEST FOR A
CONTINUANCE OF DEFENDANTS'
MOTIONS TO STRIKE TO PERMIT SUCH
LIMITED DISCOVERY

Background

On March 2, 2022, Plaintiff Brian Warner p/k/a Marilyn Manson ("Plaintiff") filed this action against Defendants Evan Rachel Wood ("Wood") and Ashley Gore a/k/a Illma Gore ("Gore") (jointly, "Defendants"). The Complaint asserts causes of action for (1) intentional infliction of emotional distress ("IIED"), (2) defamation per se, (3) violation of the Comprehensive Computer Data and Access Fraud Act (Penal Code Section 502(c), (e)(1)), and (4) Impersonation over the Internet (Penal Code Section 528.5(a), (e)).

On April 28, 2022, Wood filed a "Special Motion to Strike Portions of Plaintiff's Complaint Pursuant to Code of Civil Procedure § 425.16 And For Attorneys' Fees" that was originally noticed for hearing on December 13, 2022.

1 On May 24, 2022, Gore filed a “Special Motion to Strike Pursuant to Code of Civil
2 Procedure § 425.16 (‘Anti-Slapp Motion’)” that was noticed for hearing on January 31, 2023. On
3 July 6, 2022, the Court issued a minute order indicating, *inter alia*, that the hearing on the special
4 motion to strike scheduled for December 13, 2022 is advanced to July 6, 2022 and continued to
5 August 18, 2022, and that the hearing on the special motion to strike scheduled for January 31,
6 2023 is advanced to July 6, 2022 and continued to September 13, 2022. On July 22, 2022, the
7 Court issued a minute order continuing the August 18, 2022 hearing on Wood’s special motion
8 to strike to September 13, 2022. Thereafter, the hearing was continued to September 27, 2022.

9 Plaintiff now moves for an order allowing Plaintiff to conduct limited discovery of
10 Defendants and certain third parties pursuant to Code of Civil Procedure section 425.16(g).
11 Plaintiff also requests that the Court continue the separate special motions to strike filed by
12 Defendants for a reasonable time period to allow sufficient time to conduct the discovery
13 requested. Defendants each oppose.

14 ***Request for Judicial Notice***

15 The Court grants Gore’s request for judicial notice. The Court notes that it is solely
16 taking judicial notice of the fact of the filing of Exhibits A, B, and C.

17 ***Evidentiary Objections***

18 The Court rules on Gore’s evidentiary objections as follows:

19 Objection 1: sustained

20 Objection 2: overruled

21 Objection 3: overruled

22 Objection 4: sustained

23 Objection 5: sustained as to “that ‘Groupie’ depicted or constituted child pornography or
24 abuse,” overruled as to the remainder

25 Objection 6: sustained as to Exhibits B and C; overruled as to Exhibit A

26 Objection 7: overruled as to the first, second, third, fourth and sixth sentences, sustained
27 as to the remainder

1 Objection 8: overruled as to the first sentence, sustained as to the second sentence

2 Objection 9: overruled as to the first sentence, sustained as to the remainder

3 Objection 10: sustained

4 Objection 11: overruled

5 Objection 12: sustained

6 Objection 13: sustained

7 Objection 14: sustained as to the last sentence, overruled as to the remainder

8 Objection 15: sustained as to the second sentence, overruled as to the remainder

9 Objection 16: overruled

10 Objection 17: sustained as to the first and sixth sentences, overruled as to the remainder

11 Objection 18: overruled

12 Objection 19: overruled

13 ***Discussion***

14 **Allegations of the Complaint**

15 In the Complaint, Plaintiff alleges, among other allegations, that Wood was in a romantic
16 relationship with Plaintiff from 2006 to 2010. (Compl., ¶ 2.) Wood and Gore have been romantic
17 partners since approximately 2019. (Compl., ¶ 14.)

18 Wood serves as the CEO, CFO, and corporate secretary of the “Phoenix Act.” (Compl., ¶
19 16.) Gore has been employed by the Phoenix Act since approximately 2019. (Compl., ¶ 16.) The
20 Phoenix Act describes itself as a “survivor-led nonprofit created by Evan Rachel Wood that
21 works to end the cycle of domestic violence through organizing and passing legislation across
22 the country.” (Compl., ¶ 19.) In 2019, Defendants began working on a documentary film project
23 to chronicle Wood’s activities on behalf of the Phoenix Act. (Compl., ¶ 20.)

24 On February 1, 2021, Wood posted on her Instagram page the claim that Plaintiff had
25 abused her, and that same day, several other women made similar allegations against Plaintiff.
26 (Compl., ¶ 21.) Plaintiff alleges these allegations were false. (Compl., ¶ 21.) Plaintiff contends
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1 the allegations against him brought renewed attention to the Phoenix Act and Wood, and
2 provided more content for Defendants' documentary film project with HBO. (Compl., ¶ 22.)

3 Plaintiff further alleges that for at least the last two years, Defendants have secretly
4 recruited, coordinated, and pressured prospective accusers to emerge simultaneously with
5 allegations of rape and abuse against Plaintiff. (Compl., ¶ 4.) Plaintiff also alleges that
6 Defendants impersonated an agent of the Federal Bureau of Investigation ("FBI") by forging and
7 distributing a fictitious letter from the agent, to create the false appearance that Plaintiff's alleged
8 victims and their families were in danger, and that there was a federal criminal investigation of
9 Plaintiff ongoing. (Compl., ¶ 4.) Plaintiff alleges that Wood submitted the FBI letter in a
10 California custody proceeding, using it as evidence for why she should be able to move her son
11 to Tennessee. (Compl., ¶ 36.)

12 Plaintiff also alleges that Defendants provided checklists and scripts to prospective
13 accusers, listing the specific alleged acts of abuse that they should claim against Plaintiff, and
14 that Defendants made false statements to prospective accusers including that Plaintiff filmed the
15 sexual assault of a minor. (Compl., ¶ 4.)¹ Specifically, Plaintiff alleges that Gore had
16 conversations with prospective "accusers" in which she claimed that a 1996 short film made by
17 Plaintiff called "Groupie" depicted child abuse and child pornography. (Compl., ¶ 56.)

18 Conducting Discovery Pursuant to Code of Civil Procedure Section 425.16(g)

19 The anti-SLAPP statute is "a mechanism through which complaints that arise from the
20 exercise of free speech rights can be evaluated at an early stage of the litigation process and
21 resolved expeditiously." (*Simmons v. Allstate Ins. Co.* (2001) 92 Cal.App.4th 1068, 1073
22 [internal quotations omitted].) Courts use a two-step process for determining whether an action is
23 a strategic lawsuit against public participation, or a SLAPP. First, the court determines whether

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25 ¹Plaintiff also alleges that Gore solicited Plaintiff's personal information from former employees who
26 were entrusted with such information; hacked Plaintiff's computers, phones, email accounts, and/or social
27 media accounts; created a fictitious email account to manufacture purported evidence that Plaintiff was
28 emailing illicit pornography; and "swatted" Plaintiff to draw further attention to him. (Compl., ¶ 5.)

1 the defendant has established that the challenged claim arises from protected speech. (*Equilon*
2 *Enterprises v. Consumer Cause, Inc.* (2002) 29 Cal.4th 53, 67.) If such a showing has been
3 made, the court “determines whether the plaintiff has demonstrated a probability of prevailing on
4 the claim.” (*Ibid.*)

5 Pursuant to Code of Civil Procedure section 425.16, subdivision (g), “[a]ll discovery
6 proceedings in the action shall be stayed upon the filing of a notice of motion made pursuant to
7 [Code of Civil Procedure section 425.16]. The stay of discovery shall remain in effect until
8 notice of entry of the order ruling on the motion. The court, on a noticed motion and for good
9 cause shown, may order that specified discovery be conducted notwithstanding this subdivision.”

10 “Recognizing discovery is usually the most time-consuming and expensive aspect of
11 pretrial litigation, the Legislature sought to balance the need to protect defendants exercising
12 their freedom of speech from having their personal and financial resources exhausted by
13 SLAPP-ers’ discovery demands with the need to permit legitimate plaintiffs to conduct necessary
14 discovery before their suits were subjected to dismissal for failure to establish a prima facie
15 case. To these ends section 425.16, subdivision (g) automatically stays all discovery in the action
16 as soon as a SLAPP motion is filed but permits the trial court to lift this ban upon a showing of
17 good cause.” (*The Garment Workers Center v. Superior Court* (2004) 117 Cal.App.4th 1156,
18 1161.) “In the anti-SLAPP context, good cause requires a showing that the specified discovery is
19 necessary for the plaintiff to oppose the [anti-SLAPP] motion and is tailored to that end.” (*Balla*
20 *v. Hall* (2021) 59 Cal.App.5th 652, 692 [internal quotations omitted].) “Decisions that have
21 considered what constitutes such a showing of good cause have described it as a showing that a
22 defendant or witness possesses evidence needed by plaintiff to establish a prima facie case. The
23 showing should include some explanation of what additional facts [plaintiff] expects to uncover.
24 . . . Only in these circumstances is the discretion under section 425.16, subdivision (g) to be
25 liberally exercise[d]. Discovery may not be obtained merely to test the opponent’s declarations.”
26 (*1-800 Contacts, Inc. v. Steinberg* (2003) 107 Cal.App.4th 568, 593 [internal quotations and
27 citations omitted].)

1 Plaintiff attaches an "Appendix A" to the instant motion, which sets forth the discovery
2 Plaintiff seeks to oppose Defendants' special motions to strike. Plaintiff asserts that the discovery
3 he seeks targets only those elements necessary for him to make a prima facie showing on the
4 challenged causes of action.

5 In Wood's special motion to strike filed on April 28, 2022, Wood asserts that Plaintiff's
6 IIED claim based on the alleged FBI letter should be stricken, that the IIED claim based on
7 Wood's communications with other victims should be stricken, and that Plaintiff's claims based
8 on alleged defamation should be stricken. (Wood's Special Motion to Strike, pp.13:11; 17:24-25;
9 20:24.) In Gore's special motion to strike filed on May 24, 2022, Gore asserts that Plaintiff's
10 IIED claim based on Gore's alleged statements related to Plaintiff's "Groupie" video and Gore's
11 communications with victims should be stricken, and that Plaintiff's claim for defamation per se
12 should be stricken because it arises from protected activity. (Gore's Special Motion to Strike,
13 pp. 7:2-3; 10:25-26.)

14 In support of his IIED cause of action, Plaintiff alleges that Defendants' conduct "was
15 outrageous in that it was so extreme as to exceed all bounds of that usually tolerated in a
16 civilized community," and that such conduct included, *inter alia*, "falsifying correspondence
17 from a fictitious federal agent claiming that there was concern for the safety of Wood, other
18 alleged 'victims' of [Plaintiff], and their families as well as an ongoing federal criminal
19 investigation targeting [Plaintiff]," and "recruiting, coordinating, and pressuring multiple women
20 to make false accusations against [Plaintiff] and to be part of their film project." (Compl.,
21 ¶ 63(c), (e).) Plaintiff also contends that the alleged outrageous conduct included "making
22 knowingly false and defamatory statements against [Plaintiff], including that the actress in the
23 'Groupie' video was a minor, and that Warner was manufacturing child pornography..." (Compl.,
24 ¶ 63(d).)

25 In support of his cause of action for defamation per se, Plaintiff alleges that Gore falsely
26 stated to persons other than Plaintiff that during the filming of "Groupie," the actress in the video
27 was a minor, and that the actress was "dead." (Compl., ¶¶ 69, 70.) Plaintiff alleges that "Gore
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1 understood the statements to refer to [Plaintiff], and specifically to mean that [Plaintiff's] role in
2 the making of 'Groupie,' e.g., as a child pornography was criminal; indeed, she stated that
3 'Groupie' was evidence of a felony and that [Plaintiff] would be indicted as a result."(Compl., ¶
4 69.)

5 Plaintiff's "Appendix A" indicates that the requested discovery as to the claims in his
6 IIED cause of action concerning the alleged FBI letter include the depositions of "Agent
7 Michelle Langer," Gore, Wood, and third party "Michele Meyer."² Plaintiff's requested
8 discovery as to the claims in his IIED cause of action concerning Defendants alleged pressuring
9 of multiple women to make false accusations against Plaintiff include the depositions of Gore
10 and Wood. Plaintiff's requested discovery as to the claims in his IIED and defamation causes of
11 action concerning the "Groupie" video include the depositions of Michele Meyer, Gore, and
12 third party "Katheryn McGaffigan."

13 Plaintiff's Claims Concerning the Alleged FBI Letter

14 Defendants assert that Plaintiff has not shown good cause for the discovery he seeks.
15 First, Wood asserts that discovery cannot cure the defects of Plaintiff's "FBI Letter" claim.
16 Wood notes that she provides evidence in connection with her special motion to strike indicating
17 that she "did not fabricate or forge the FBI Letter" and that "[w]hen [she] received a copy of the
18 FBI Letter, and when [she] submitted it to the Court, [she] believed it to be authentic." (Wood
19 Decl., ¶ 22.) As set forth above, Plaintiff alleges that Wood submitted the alleged "FBI Letter" in
20 a California custody proceeding. (Compl., ¶36.)

21 Wood also asserts that Plaintiff's IIED cause of action based on Wood filing the "FBI
22 Letter" in custody litigation is barred by the litigation privilege. "The litigation privilege

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²Plaintiff's counsel indicates that their office became aware of a letter purportedly written and signed by an Agent Michelle Langer of the FBI concerning a purported federal criminal investigation into Plaintiff, and a supposed threat to the safety of Wood and others. (Berk Decl., ¶ 2.) Plaintiff's counsel's office called the telephone number attached to Agent Langer's name on the letter, and a woman named Michele Meyer ("Meyer") answered the phone. (Berk Decl., ¶ 4.) Meyer told Plaintiff's counsel's office she was not a federal agent, and was not Michelle Langer, but was an acquaintance of Plaintiff. (Berk Decl., ¶ 4.)

1 in section 47 applies to any communication (1) made in judicial or quasi-judicial proceedings;
2 (2) by litigants or other participants authorized by law; (3) to achieve the objects of the litigation;
3 and (4) that have some connection or logical relation to the action.” (*Rohde v. Wolf* (2007) 154
4 Cal.App.4th 28, 37 [internal quotations omitted].) Wood cites to *Kenne v. Stennis* (2014) 230
5 Cal.App.4th 953, 971, where the “[p]laintiff’s [IIED] claim [was] based upon defendants’
6 alleged conduct in filing false police reports about plaintiff’s attempt to serve civil process and in
7 filing and prosecuting two civil harassment petitions...” The *Kenne* Court found that “[a]ll of
8 that conduct, however, involved communications that were made during the course of and
9 directly related to judicial proceedings. For example, the allegedly false police reports,
10 irrespective of their alleged maliciousness, constituted defendants’ petitioning activity during the
11 course of plaintiff’s lawsuit against them for, in part, fraudulent transfers and were directly
12 related to plaintiff’s attempt to serve civil process on defendants during the course of plaintiff’s
13 lawsuit... Therefore, because the conduct upon which the intentional infliction of emotional
14 distress claim was based had some logical relationship to the various lawsuits between the
15 parties, that conduct is privileged under Civil Code section 47, subdivision (b).” (*Ibid.*)

16 Plaintiff asserts that his IIED cause of action is not based on Wood’s filing of the FBI
17 Letter in Wood’s custody proceeding, but rather, that it arises from the alleged forging of the FBI
18 letter.³ Wood counters that “[a] forged letter, if it never saw the light of day, could not cause
19 emotional distress; nor could it be intended to do so. Any alleged distress could only be caused
20 (and intended) through the letter’s publication.” (Opp’n at p. 10:24-26.) Wood provides evidence
21 in connection with her special motion to strike that she “did not distribute the FBI Letter outside
22 the scope of [her] custody dispute with Mr. Bell.” (Wood. Decl., ¶ 22.) As set forth above,
23 “[d]iscovery may not be obtained merely to ‘test’ the opponent’s declarations.” (*1-800 Contacts,*
24 *Inc. v. Steinberg* (2003) 107 Cal.App.4th 568, 593.)

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26 ³Plaintiff notes that he alleges that “the forged letter would be used to recruit, encourage, and convince
27 people to claim they were abused by [Plaintiff], because they were being led to believe that [Plaintiff] was
28 a threat to their safety and under federal investigation.” (Compl., ¶ 37.)

1 Plaintiff also argues that Defendants' alleged forgery of the "FBI Letter" is illegal, such
2 that Wood's special motion to strike fails under the "first prong" of the anti-SLAPP analysis.
3 Both parties cite to *Flatley v. Mauro* (2006) 39 Cal.4th 299, 320, where the California Supreme
4 Court concluded that "where a defendant brings a motion to strike under section 425.16 based on
5 a claim that the plaintiff's action arises from activity by the defendant in furtherance of the
6 defendant's exercise of protected speech or petition rights, but either the defendant concedes, or
7 the evidence conclusively establishes, that the assertedly protected speech or petition activity
8 was illegal as a matter of law, the defendant is precluded from using the anti-SLAPP statute to
9 strike the plaintiff's action. In reaching this conclusion, we emphasize that the question of
10 whether the defendant's underlying conduct was illegal as a matter of law is preliminary, and
11 unrelated to the second prong question of whether the plaintiff has demonstrated a probability of
12 prevailing, and the showing required to establish conduct illegal as a matter of law—either
13 through defendant's concession or by uncontroverted and conclusive evidence—is not the same
14 showing as the plaintiff's second prong showing of probability of prevailing." Wood notes that
15 she has denied forging the "FBI Letter" and declared that she believed it to be authentic when
16 she received it and submitted it to the Court. (Wood Decl. ¶ 22.) Thus, the Court agrees with
17 Wood that there is not uncontroverted evidence that conclusively establishes that the assertedly
18 protected speech or petition activity (related to the letter) was illegal as a matter of law.

19 Lastly, Gore's special motion to strike does not concern the "FBI Letter." As noted in
20 *Balla v. Hall* (2021) 59 Cal.App.5th 652, 692, cited by Plaintiff, "[i]n the anti-SLAPP context,
21 good cause requires a showing that the specified discovery is necessary for the plaintiff to
22 oppose the [anti-SLAPP] motion and is tailored to that end." ([internal quotations omitted].)

23 Plaintiff's Claims Concerning Defendants Allegedly Recruiting, Coordinating, and
24 Pressuring Women to Make False Accusations Against Him

25 Next, Wood asserts that Plaintiff has no admissible evidence to substantiate his
26 allegations that Wood engaged in "extreme and outrageous" conduct by "pressuring multiple
27 women to make false accusations against [Plaintiff]." (Compl., ¶ 63(e).) "The elements of a
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1 cause of action for intentional infliction of emotional distress are: (1) outrageous conduct by the
2 defendant, (2) intention to cause or reckless disregard of the probability of causing emotional
3 distress, (3) severe emotional suffering and (4) actual and proximate causation of the emotional
4 distress.” (*Wong v. Jing* (2010) 189 Cal.App.4th 1354, 1376.) “A defendant’s conduct is
5 outrageous when it is so extreme as to exceed all bounds of that usually tolerated in a civilized
6 community.” (*Hughes v. Pair* (2009) 46 Cal.4th 1035, 1050-1051 [internal quotations omitted].)

7 Wood provides evidence in connection with the special motion to strike that she denies
8 ever “pressur[ing] anyone to make false accusations against Mr. Warner.” (Wood Decl., ¶ 16.)
9 Again, “[d]iscovery may not be obtained merely to ‘test’ the opponent’s declarations.” (*1-800*
10 *Contacts, Inc. v. Steinberg, supra*, 107 Cal.App.4th 568, 593.)

11 In addition, Gore asserts that Plaintiff cannot demonstrate that Gore (or Wood’s)
12 communications with others who accused him of sexual assault constitute “outrageous” conduct.
13 Wood similarly argues that the evidence of Gore’s purported “recruitment” efforts do not
14 demonstrate extreme and outrageous conduct by Wood. In his reply to Wood’s opposition,
15 Plaintiff argues that “[g]iven that [Plaintiff] has denied the accusations of abuse (Warner Decl.,
16 ¶¶ 2, 3, 4), whether or not it was ‘outrageous’ to recruit, coordinate, and pressure women to say
17 he did is, at worst, a question for another day.” (Reply at p. 8:20-9:1.) But Plaintiff does not
18 dispute that to demonstrate “good cause” for Section 425.16(g) discovery, he must, *inter alia*,
19 show his claims are legally sufficient. (Reply at p. 2:24.)

20 As set forth above, the Court sustains Gore’s evidentiary objection to Exhibit “A” to the
21 Scaia Declaration. Plaintiff also submits the declaration of Emese Balog, who indicates that Gore
22 sent her an email message indicating, “I know this is a strange way to reach out but my name is
23 Illma, I work with the Phoenix Act I run it alongside Evan Rachel Wood. We were organizing a
24 group of people to meet up in Los Angeles and Zoom/Skype in to talk about experiences they
25 had that might be similar to yours.” (Balog Decl., ¶ 4, Ex. A). The purported message indicated
26 that Balog was not “obligated to speak” if she participated. (Balog Decl., ¶ 4, Ex. A.) Wood also
27 notes that Gore’s purported message to Katheryn McGaffigan (“McGaffigan”), which Plaintiff
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1 seeks to authenticate, indicates that “there’s no pressure to be involved in anyway.” (King Decl.,
2 ¶ 15, Ex. D) The Court agrees with Defendants that the purported messages from Gore to
3 McGaffigan and Balog are not “so extreme as to exceed all bounds of that usually tolerated in a
4 civilized community.” (*Hughes v. Pair*, supra, 46 Cal.4th 1035, 1050-1051 [internal quotations
5 omitted].)

6 Plaintiff’s Claims About Alleged Statements Made Concerning the “Groupie” Film

7 Wood asserts that Plaintiff’s IIED and defamation claims based on the purportedly
8 defamatory statements about the “Groupie” film fail to state valid claims against Wood.

9 “The elements of a defamation claim are (1) a publication that is (2) false, (3)
10 defamatory, (4) unprivileged, and (5) has a natural tendency to injure or causes special damage.”
11 (*Wong v. Jing*, supra, 189 Cal.App.4th 1354, 1369.) “When a defamation action is brought by a
12 public figure, the plaintiff, in order to recover damages, must show that the defendant acted with
13 actual malice in publishing the defamatory communication.” (*Denney v. Lawrence* (1994) 22
14 Cal.App.4th 927, 933.)

15 Wood contends that Plaintiff does not allege that Wood made any defamatory statements
16 about “Groupie,” and that Plaintiff does not adequately plead the elements required to state a
17 claim against Wood based on an alleged conspiracy to defame Plaintiff. As Wood notes, Plaintiff
18 alleges that “Wood condoned and encouraged Gore to promulgate defamatory falsehoods about
19 [Plaintiff] in order to further their conspiracy.” (Compl., ¶ 61.)

20 Plaintiff counters that contrary to Wood’s argument that discovery should be denied
21 because the Complaint fails to state a cause of action based on civil conspiracy, there is no
22 “cause of action” for civil conspiracy which to state. (Citing to *Spencer v. Mowat* (2020) 46
23 Cal.App.5th 1024, 1036, “[h]ere, the causes of action against [defendants] are pursued on a
24 theory of conspiracy—conspiracy being a doctrine of liability and not a cause of action itself.”)
25 Plaintiff asserts that “Gore’s defamation of [Plaintiff] was within the ambit of the conspiracy,
26 and thus Wood may be liable.” (Plaintiff’s Reply to Wood’s Opp’n, p. 10:20.) Wood notes in her
27 opposition that “actual knowledge of the planned tort, without more, is insufficient to serve as
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1 the basis for a conspiracy claim. Knowledge of the planned tort must be combined with intent to
2 aid in its commission. The sine qua non of a conspiratorial agreement is the knowledge on the
3 part of the alleged conspirators of its unlawful objective and their intent to aid in achieving that
4 objective.” (*Kidron v. Movie Acquisition Corp.* (1995) 40 Cal.App.4th 1571, 1582 [internal
5 quotations omitted].) The Court does not find that the excerpted allegations Plaintiff points to in
6 his reply concern alleged facts of Wood’s knowledge that the purportedly defamatory statements
7 about “Groupie” were being made by Gore, and that Wood intended to aid in achieving the
8 objective of making such alleged defamatory statements. (Reply to Wood’s Opp’n at p. 10:9-22.)
9 “The court should...consider the plaintiff’s need for discovery in the context of the issues raised
10 in the SLAPP motion. If, for example, the defendant contends the plaintiff cannot establish a
11 probability of success on the merits because its complaint is legally deficient, no amount of
12 discovery will cure that defect.” (*The Garment Workers Center v. Superior Court* (2004) 117
13 Cal.App.4th 1156, 1162.)

14 Gore also argues that Plaintiff has not established good cause to obtain discovery
15 concerning the “Groupie” film as to her. Gore notes that her special motion to strike concerning
16 the “Groupie” related IIED and defamation claims argues that Gore’s alleged statements
17 concerning the film – even if actually made and actually published – cannot be outrageous
18 conduct or knowingly false as a matter of law because “they essentially repeat publicly available
19 statements about the film made by [Plaintiff] himself and by his manager.” (Gore’s Special
20 Motion to Strike at p. 9.)⁴

21 Plaintiff counters that even if Gore’s interpretation of Plaintiff’s alleged prior
22 statements concerning “Groupie” were correct (which Plaintiff asserts it is not), she offers no
23 legal authority to support the proposition that a “virtually” similar statement cannot be

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⁴Gore’s special motion to strike cites to her “RJN Decl., Ex. 5,” to support the assertion that Plaintiff
stated in response to a comment from another person that an actress portrayed in the film was 18 years
old, “[L]ess, more I don’t know” and that Plaintiff stated “when I showed it to my manager, he said,
‘Please hide the masters. If anyone sees this, you’ll go to jail, and your career will be over’.” (Gore’s
Special Motion to Strike, p. 9:11-21.) Plaintiff indicates that he intends to oppose the request for judicial
notice filed by Gore in connection with her special motion to strike.

1 outrageous. Indeed, Gore does not cite any legal authority in support of this assertion in her
2 opposition. Plaintiff also submits the declaration of "Paula M. Weiss," who indicates that she
3 acted in the "Groupie" film, that she was approximately 21-22 years old at the time, and that
4 statements that she was "dead or killed" are false. (Weiss Decl., ¶¶ 4, 7.)

5 In light of the foregoing, the Court finds that Plaintiff has established good cause to
6 conduct the requested discovery set forth on page 4 of the "Appendix A" to Plaintiff's motion
7 concerning the claim issues of "state of mind/intent" and "actual malice" (i.e., the deposition of
8 Gore.) It is unclear to the Court from Plaintiff's moving papers what connection third-party
9 Michele Meyer has to Plaintiff's allegations concerning the "Groupie" film.

10 **Conclusion**

11 Based on the foregoing, Plaintiff's motion to conduct limited discovery pursuant to Code
12 of Civil Procedure section 425.16, subdivision (g) is granted in part and denied in part. The
13 Court finds that Plaintiff has established good cause to conduct only the requested discovery set
14 forth on page 4 of "Appendix A" to Plaintiff's motion concerning the claim issues of "state of
15 mind/intent" and "actual malice."

The deposition of Ms. Gore will take place MAR before 10/27/22. The deposition may take place remotely.

16 The Court continues the hearing on Gore's special motions to strike to 12/1/22
17 2022 at 10 a.m. Opposition and reply papers are to be filed per Code Land Wood's on or before 11/15/22

18 and the reply to filed & served on or before 11/22/22. Counter copies are
19 Plaintiff is ordered to give notice of this ruling. to be delivered to Dept 50. The CMC

parties wanted is cont'd to 12/1/22 @ 10 a.m.

20 DATED: September 27, 2022

21 Teresa A. Beaudet
22 Hon. Teresa A. Beaudet
23 Judge, Los Angeles Superior Court
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