TENTATIVE RULINGS
LAW & MOTION CALENDAR
Friday, November 20, 2026, 3:00 p.m.
Courtroom 16 – Hon. David Kim for Hon. Patrick M. Broderick
3035 Cleveland Avenue, Suite 200, Santa Rosa

TO JOIN "ZOOM" ONLINE,
Courtroom 16
Meeting ID: 161-460-6380
Passcode: 840359
https://sonomacourt-org.zoomgov.com/j/1614606380

TO JOIN "ZOOM" BY PHONE,
By Phone (same meeting ID and password as listed above):
(669) 254-5252 US (San Jose)

The following tentative rulings will become the ruling of the Court unless a party desires to be heard. If you desire to appear and present oral argument as to any motion, YOU MUST notify the Court by telephone at **(707) 521-6725**, and all other opposing parties of your intent to appear by 4:00 p.m. the court day immediately before the day of the hearing.

Parties in motions for claims of exemption are exempt from this requirement.

PLEASE NOTE: The Court WILL NOT provide a court reporter for this calendar. If there are any concerns, please contact the Court at the number provided above.

1. 24CV03504, Mayberry v. Gonzalez Cardenas, JR

Defendants Recology, Inc., Recology Leasing, Inc., and Rafael Gonzalez Cardenas, Jr. (together as "Defendants") move to compel Plaintiff Jeremy Mayberry ("Plaintiff") to submit to a defense mental exam with Jessice M. Foley, PhD., PsyD., ABPP-CN. The motion is **GRANTED**. However, **APPEARANCES ARE REQUIRED** and the parties are **ORDERED** to further meet and confer before the hearing as explained below.

I. Factual History

Plaintiff claims various cognitive injuries from a car accident with a garbage truck, asserting in his discovery responses that he has sustained 22 injuries relating to the incident (including traumatic brain injury, frontal lobe and executive function deficit, and memory and cognitive decline) and has seen 12 different health care providers for his injuries. Plaintiff does not dispute that his claimed cognitive injuries are in controversy. Instead, he argues that the motion is not adequately specific in scope and in identifying the diagnostic instruments to be used. Plaintiff requests the Court to deny the motion without prejudice or alternatively request a narrowed order identifying the tests and clinical interview topics, reasonable duration and rest protections, and safeguards for test materials and reports.

II. Governing Law

C.C.P. section 2032.310 provides that a party shall seek leave of court to obtain discovery by mental examination. It also provides that the motion seeking such leave "shall specify the time, place, manner, conditions, scope, and nature of the examination, as well as the identity and the specialty, if any, of the person or persons who will perform the examination." It shall also be "accompanied by a meet and confer declaration under Section 2016.040." According to section 2032.320, the Court shall grant the motion only for good cause shown. Furthermore, the order granting the motion "shall specify the person or persons who may perform the examination, as well as the time, place, manner, diagnostic tests and procedures, conditions, scope, and nature of the examination."

The examination will be limited to whatever condition is "in controversy" in the action. (C.C.P. § 2032.020 (a); *see also Vinson v. Sup. Ct.* (1987) 43 Cal.3d 833.) This means the specific injury or condition that is the subject of the litigation. The examination must be directly related thereto. (*See Roberts v. Sup.Ct.* (1973) 9 Cal.3d 330, 337.) The order may restrict the scope of any examination. (*See Golfland Entertainment Centers, Inc. v. Sup.Ct.* (2003) 108 Cal.App.4th 739, 745 [trial court has "broad discretion" to limit scope of questions to be asked during mental exam].)

III. Discussion

There is no dispute that Plaintiff's cognitive or mental health is in controversy in this action. Thus, there is good cause to order Plaintiff's mental examination given the claimed injuries in his discovery responses. At issue here is the scope of Dr. Foley's examination of Plaintiff. Defendants request to compel Plaintiff to submit to a mental examination with Dr. Foley December 1, 2026, at 9:00 a.m. with testing up to 8 hours and with a 30-minute lunch break, as well as necessary breaks, with the examination to take place at 1199 Bush Street, Suite 640, San Francisco, California. In Dr. Foley's declaration, she states that the examination will include two parts: a clinical interview lasting 2 to 4 hours and the administration of tests sensitive to neuropsychological functioning lasting 4 to 6 hours. The examination is limited to 8 hours. Regarding the tests to be administered, Dr. Foley's declaration lists 89 possible tests to be administered claiming that not all tests will be used for the examination but that more information is required to determine what tests are appropriate for the examination.

The Court is aware of the time constraints in this matter with trial approaching on January 29, 2027, and the proposed examination date being December 1, 2026. Given that Defendant has listed several generalized cognitive injuries (like "traumatic brain injury"), it is reasonable that Dr. Foley cannot identify the specific tests she intends to administer. The clinical interview will likely also inform Dr. Foley of which tests are more appropriate, which will occur immediately before the administration of the tests. However, listing 89 different possible tests for examination is excessive. Without knowing how much time each test requires, it seems highly unlikely that Dr. Foley would be able to administer 89 tests in 6 hours.

The Court find good cause to compel Plaintiff's mental exam, but the proposed order lodged with the motion is insufficient under C.C.P. section 2032.320(d). The order cross-references the Notice of Mental Examination (Hagopian Decl., Exhibit D) but the Notice is not attached to the order. The order itself should contain the details in the Notice of Mental Examination, including the total

testing time with approximate hours, the tests to be administered, scope, and nature of the examination, etc.

The parties are **ORDERED** to meet and confer regarding the alternative conditions proposed in Plaintiff's Opposition at page six. At this point, the Court is inclined to include the following conditions in its order: (1) impose an eight-hour maximum for the interview and testing time, excluding rest and meal breaks; (2) allow the examination to occur over two days if the parties are unable to complete eight hours of testing in one day; (3) confirm that Plaintiff is to receive a 30-minute lunch break and other breaks as requested but not requiring a specific time for meal or rest breaks to occur; (4) confirm there are no painful or invasive procedures; (5) require compliance with the travel provision at section 2032.320(e) and confirm whether the 75-mile distance is met to trigger this requirement; (6) allow audio recording of the examination pursuant to C.C.P. section 2032.530(a) with testing materials and standardized administration protected as requested by Plaintiff; (7) production of the examination report to qualified professional upon request under confidentiality protocol, including the underlying data; and (8) barring any additional instruments or materially expanded interview domains without written agreement between the parties. Regarding the request for listing each permitted core test and any contingent test with a stated triggering circumstance, this requires the input of Dr. Foley, which the Court expects may not be possible before the hearing on this motion. Therefore, the Court is inclined to require Defendants to produce a list of the core tests and any contingent test with a stated triggering circumstance and serve it on Defendants at least two days before the exam.

If the parties can come to an agreement before the hearing, the Court would sign an updated proposed order at the hearing containing the details outlined above and the parties' agreement on the alternative conditions requested by Plaintiff.

IV. Conclusion

There is good cause to order Plaintiff's metal examination. However, **APPEARANCES ARE REQUIRED** and the parties are **ORDERED** to further meet and confer before the hearing.

2. 25CV08885, Vargas Flaherty v. Kerston

Plaintiffs Casilda Vargas Flaherty and Christopher Flaherty ("Plaintiffs") move for an order deeming RFAs, Set One, served on Defendant Peter Guy Kerston ("Defendant"), admitted; compelling Defendant to serve code-compliant responses, without objections, to Plaintiffs' first sets of Form and Special Interrogatories, Set One; and for sanctions. The Court continued this matter from October 21, 2026, to allow Plaintiffs to file a proof of service showing service on Defendant informing him of the continued hearing date as there was no proof of service filed with the motion. Plaintiffs have not filed a proof of service showing timely service on Defendant. Accordingly, the motion is **DENIED**. The Minute Orders shall serve as the order of the Court. (C.C.P. § 1019.5.)

3. 26CV03989, Levy v. Blair

Respondent Heather Renee Blair ("Respondent") moves to specially strike Petitioner Julie Levy's ("Petitioner") Temporary Restraining Order and petition for a Civil Harassment Restraining Order

pursuant to Code of Civil Procedure section 425.16. Respondent's special motion to strike pursuant to Section 425.16 is **DENIED.**

Respondent's objections to Petitioner's declarations are **SUSTAINED in part** and **OVERRULED in part** as explained below. Petitioner's objections to Respondent's evidence are **SUSTAINED in part** and **OVERRULED in part** as explained below.

I. FACTUAL & PROCEDURAL HISTORY

Petitioner seeks a Civil Harassment Restraining Order ("CHRO") against Respondent under Code of Civil Procedure section 527.6 (the "Petition"). Petitioner previously served as court-appointed minor's counsel for Respondent's son. (Declaration of Julie Levy in Support of CHRO Petition, ("Original Levy Decl."), ¶ 3.) The parties' relationship deteriorated during that proceeding. (Levy Original Decl., ¶¶ 4-6.) After Petitioner made recommendations adverse to Respondent, Respondent sought Petitioner's removal, filed a grievance with the Presiding Judge and a State Bar complaint, and supported a request that Petitioner be held personally responsible for attorney's fees. (Levy Original Decl., ¶ 4; Declaration of Heather Renee Blair, ("Blair Decl."), Exhibit A, Exhibit B .) Those efforts were unsuccessful, and Petitioner withdrew from the matter in early 2024. (Original Levy Decl., ¶¶ 4, 6.)

Between November 2025 and May 2026, Respondent attended proceedings in unrelated family law matters in which Petitioner served as minor's counsel. (Original Levy Decl., ¶¶ 7-27.) On June 15, 2026, Respondent again appeared while Petitioner was participating in the first day of an unrelated trial. (Original Levy Decl., ¶ 12.) The mother in that matter states that she invited Respondent to attend the trial and provide support. (Declaration of Lara Espy ("Espy Decl."), ¶¶ 6, 7.) Respondent characterizes her presence as supporting a domestic violence survivor, observing litigation, and assisting with media coverage. (Blair Decl., ¶ 16.) Petitioner alleges, however, that Respondent waited for and recorded her outside the courtroom, followed her, and directed others to record her. (Original Levy Decl., ¶¶ 14-21; Declaration of Jaclyn Smith ("Smith, Decl.,"), ¶¶ 3-7; Exhibit A.) On June 18, 2026, Petitioner alleges that Respondent intentionally struck her with an elbow or shoulder in the courthouse hallway despite Petitioner's efforts to avoid contact. (Original Levy Decl., ¶¶ 25, 26.) Respondent acknowledges contact but instead describes an accidental collision in a crowded entrance or foyer. (Blair, Decl., ¶ 50.)

On June 22, 2026, Petitioner filed a petition for a CHRO, and the Court issued a Temporary Restraining Order ("TRO"). (Levy, RJN., Exh. G (CH-100, CH-110, items 5-6, 12).) The TRO included no-contact and stay-away provisions, restricting Respondent from attending proceedings in which Petitioner appeared unless Respondent was legally required to attend as a party or a witness. (*Id*.)

On July 31, 2026, Respondent filed the present anti-SLAPP motion under Code of Civil Procedure section 425.16. Respondent seeks to strike Petitioner's CHRO petition and dissolve the TRO, contending that the Petition arises from protected court observation, advocacy, journalism, speech, and petitioning activity. (*e.g.* Blair, Decl., ¶¶ 1, 16, 18, 28.) In opposition, Petitioner avers that her Petition is not based on Respondent's protected speech but on the alleged waiting, following, hostile encounters, unwarranted physical contact, and post-order conduct directed at her. (Levy Declaration in Opposition to Anti-SLAPP ("Levy, Decl."), ¶ 2; Original Levy Decl., ¶¶ 8, 9, 12-28, 30-44.)

Respondent's Motion is on calendar in Department 16 at 3:00 p.m. on November 20, 2026.

II. DISCUSSION

A. Anti-SLAPP Framework

Code of Civil Procedure section 425.16 provides that a cause of action from an act in furtherance of a person's constitutional right of petition or free speech in connection with a public issue is subject to a special motion to strike or "anti-SLAPP motion" unless the claimant establishes a probability of prevailing. In deciding the motion, the Court considers the pleadings and the supporting and opposing affidavits stating the facts on which liability or a defense is based. (Code Civ. Proc. § 425.16(b)(2).)

The analysis involves two steps. (*Bonni v. St. Joseph Health System* (2021) 11 Cal.5th 995, 1009.) First, the moving party must establish that the challenged claim or allegations arise from protected activity. (*Ibid*.) If that showing is made, the burden shifts to the opposing party to establish a probability of prevailing. (*Ibid*.)

1. First Prong: Protected Speech in the Anti-SLAPP

The moving party has the initial burden in the anti-SLAPP motion to make a prima facie showing that the complaint "arises from" the exercise of free speech or petition rights. (*Equilon Enterprises, LLC v. Consumer Cause, Inc.* (2002) 29 Cal.4th 53, 61.) In this first step of analysis, "the [respondent] must make two related showings… Comparing its statements and conduct against the statute, it must demonstrate activity qualifying for protection... Comparing that protected activity against the complaint, [respondent] must also demonstrate that the activity supplies one or more elements of a [petitioner's] claims." (*Wilson v. Cable News Network, Inc.* (2019) 7 Cal.5th 871, 887.)

A claim arises from protected activity only when the activity underlies or forms the basis of the claim. (*Park v. Board of Trustees of California State University* (2017) 2 Cal.5th 1057, 1062 [citing *City of Cotati v. Cashman* (2002) 29 Cal.4th 69, 78.].) Speech or petitioning activity that merely supplies evidence, context, or a step leading to a different alleged wrong does not suffice. (*Wilson v. Cable News Network, Inc.* (2019) 7 Cal.5th 871, 890.) Allegations of protected conduct that provide context, without supporting a claim for recovery, are not subject to being stricken. (*Ibid*.)

Where a claim involves both protected and unprotected activity, the Court must identify the particular acts alleged to supply the basis for relief rather than treating the cause of action as an indivisible whole. (*Spencer v. Mowat* (2020) 46 Cal.App.5th 1024, 1040.) The moving party retains the burden of showing that the acts targeted by the motion are protected. (*Bonni*, *supra*, 11 Cal.5th at 1009.)

If the respondent meets that initial burden, the burden then shifts to the plaintiff to establish that there is a "probability" of prevailing on the claims which are based on protected activity. (Code Civ. Proc. § 425.16(b)(1).)

2. Second Prong: Probability of Success on the Merits

At the second step, the petitioner's burden is one of minimal merit. To establish a "probability" of prevailing on the merits, the petitioner must demonstrate that the claim is both legally sufficient and supported by a prima facie showing of facts sufficient to support a favorable judgment if the evidence submitted by the petitioner is credited. (*Navelier v. Sletten* (2002) 29 Cal.4th 82, 89.) To demonstrate a probability of prevailing on the merits, the petitioner must produce admissible evidence sufficient to overcome any privilege or defense that the respondent has asserted in the claim. (*Flatley v. Mauro* (2006) 39 Cal.4th 299, 323.)

3. Civil Harassment Restraining Orders

A person who has suffered harassment as defined by Code of Civil Procedure section 527.6 may seek a temporary restraining order and an order after hearing prohibiting harassment. For purposes relevant here, harassment may rest on unlawful violence, a credible threat of violence, or a qualifying course of conduct. (Code Civ. Proc. § 527.6(b)(1)-(3).) Proof of one statutory category may suffice, provided the Court finds it probable that such conduct will recur. (*Harris v. Stampolis* (2016) 248 Cal.App.4th 484, 502.)

B. Evidentiary Objections

Respondent has made evidentiary objections to the declaration of Petition and to the declarations of Petitioner's five supporting witnesses, Morgan Vendrick, Chris Vivian, Charlotte Creaghan, Anthony Reid, and Jaclyn Smith. (Blair, Decl., ¶ 56.)

1. Respondent's Objections

i. Declaration of Julie Levy

Respondent's request to strike the entirety of Petitioner's declaration with noncompliance with the line-numbering requirement of California Rules of Court, rule 2.108 is **OVERRULED**. A formatting defect of this nature does not render a declaration inadmissible and is properly addressed, if at all, by requiring a correction rather than wholesale exclusion.

Objection No. 18, concerning the description of Respondent's conduct as knowing and willful conduct, is **SUSTAINED** to the limited extent the phrase states a legal conclusion and otherwise **OVERRULED**. Objection No. 21 is **SUSTAINED** to the limited extent Petitioner offers a legal conclusion concerning the reasonable person standard and is otherwise **OVERRULED** as to Petitioner's own reaction and emotional distress. Objection No. 22 is **SUSTAINED** to the limited extent it states a legal conclusion and is otherwise **OVERRULED** as to the underlying conduct described by Petitioner. Objection Nos. 1 through 17, 20 and 23 are **OVERRULED**

ii. Declaration of Morgan Vendrick

Objection No. 1 is **SUSTAINED** to the extent the statement is offered for its truth or to establish that Respondent engaged in unlawful stalking. Objection No. 1 is otherwise **OVERRULED** and may be considered, where relevant, to explain the declarant's or Petitioner's contemporaneous reaction. Objections Nos. 2 through 4 are **OVERRULED**.

iii. Declaration of Chris Vivian

Objection No. 2 is **SUSTAINED** to the extent the statement is offered for its truth, but **OVERRULED**, where relevant, to explain Petitioner's contemporaneous reaction or state of mind. Objection No. 3 is **SUSTAINED** to the extent the statement is offered for its truth, but otherwise **OVERRULED**. Objection No. 1 is **OVERRULED**.

iv. Declaration of Charlotte Creaghan

Objection No. 2, concerning Petitioner's identification of the woman as Respondent, is **SUSTAINED** for the purpose of determining whether "stalking" occurred and otherwise **OVERRULED** for the limited purpose of identification or, where relevant, to explain the declarant's subsequent observations and reaction.

v. Declaration of Anthony Reid

Objection No. 3 is **SUSTAINED** to the extent it is offered for its truth and otherwise **OVERRULED**, where relevant, to explain Petitioner's or the declarant's reaction. Objection Nos. 1 and Nos. 3 through 12 are **OVERRULED.**

vi. Declaration of Jaclyn Smith

Objection No. 2, concerning comments about alleged bias by minor's counsel, is **SUSTAINED** to the extent those comments are offered for their truth. Objection No. 2 is otherwise **OVERRULED.** Objection No. 3 is **SUSTAINED** to the extent the statement is offered to establish that bullying occurred and otherwise **OVERRULED** as context for the declarant's presence and actions. Objection No. 17 is **SUSTAINED** to the extent it recounts third-party statements for their truth but otherwise **OVERRULED** as to the declarant's perception and reactions. Objection Nos. 1, 4 through 16, 18, 19, 20, and 21 through 24 are **OVERRULED**.

C. Petitioner's Requests for Judicial Notice

The Court may take judicial notice of facts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resorting to sources of reasonably indisputable accuracy. (Evid. Code § 452(h).) The Court must take judicial notice of any matter requested by a party, so long as it complies with the requirements under Evidence Code section 452. (Evid. Code § 453.) The Court may take judicial notice of records of any court record of California, the U.S., or any other state. (Evid. Code § 452(d).) Courts may "take judicial notice of the *existence* of judicial opinions and court documents, along with the truth of the results reached—in the documents such as orders, statements of decision, and judgments—but cannot take judicial notice of the truth of hearsay statements in decisions or court files, including pleadings, affidavits, testimony, or statements of fact." (*People v. Harbolt* (1997) 61 Cal.App.4th 123, 126–127 [citations omitted]; Evid. Code §§ 452, 453.)

Petitioner's request for judicial notice of Exhibits A through M is **GRANTED** as to the existence, filing, issuance, and contents of the court records and orders submitted. Judicial notice is not taken of the truth of disputed factual assertions contained in those materials.

D. Respondent Has Not Shown That the Acts Supplying the Basis for the Petition Arise from Protected Activity

The nucleus of Petitioner's request for a CHRO, as framed in her own declaration, rests on allegations that Respondent engaged in an ongoing pattern of conduct directed at Petitioner. (Levy, Decl., ¶¶ 2-4.) Specifically, Petitioner identifies Respondent's repeated attendance and observation of proceedings in which Respondent had no apparent role; Respondent's presence outside the courthouse alongside individuals recruited to record Petitioner; unwanted physical contact between the parties; and continued encounters that have persisted following entry of the TRO. (Levy, Decl., ¶2.) Respondent characterizes the Petition as directed against Respondent's criticism of Petitioner, participation in litigation, court observation, journalism, and recording in public places. (*e.g.* Blair, Decl., ¶¶ 1, 16, 18, 28.) Taken in isolation, the Court assumes for purposes of this Motion that at least some of Respondent's activities fall within Code of Civil Procedure section 425.16(e)(1)-(4).

However, a claim is subject to Code of Civil Procedure section 425.16 only when the protected speech or petitioning activity is *itself* the wrong complained of, rather than the background, evidence or a step leading to a different act for which relief is sought. (*Park*, *supra*, 2 Cal.5th at 1061.) Fairly read, the Petition does not seek to impose liability because Respondent filed motions, complained to judicial or professional authorities, or published commentary. These matters explain the parties' prior relationship and why Petitioner understood later courthouse encounters as directed at her. They are contextual rather than the asserted basis for liability.

For instance, the alleged battery does not constitute protected activity under any category of section 425.16. The fact that the alleged conduct occurred in a courthouse hallway, or in proximity to court-related proceedings, does not transform an otherwise unprotected physical act into conduct undertaken in furtherance of Respondent's constitutional rights of petition or free speech. While Respondent avers that any contact was incidental or accidental, the Court does not resolve factual disputes at anti-SLAPP. (*See Baral*, *supra*, 1 Cal.5th at 396.) Under either account, the alleged battery constitutes unprotected conduct and therefore falls outside the scope of Code of Civil Procedure section 425.16. Respondent cannot meet the anti-SLAPP statute's first prong burden.

The same distinction applies to the remaining alleged courthouse conduct. Attendance at an open proceeding, criticism of an attorney, gathering information, and communications about judicial proceedings may be protected. But the existence of those activities does not control the analysis when the asserted basis for relief is following, monitoring, confronting, waiting for, stalking, or touching a specific person. Protected activity that is merely concurrent with, tangential to, or contextual to the alleged wrong does not transform the liability producing conduct into protected activity. (*Spencer v. Mowat* (2020) 46 Cal.App.5th 1024, 1040.)

Spencer v. Mowat, 46 Cal.App.5th 1024 at 1040, held that a defendant's involvement in protected activity related to an underlying dispute does not bring otherwise tortious conduct within the scope of the anti-SLAPP statute where the claims arise from independent wrongs upon which relief is sought. There, the plaintiffs were nonlocal surfers who alleged that members of the "Bay Boys," a group of local surfers seeking to exclude outsiders from Lunada Bay, engaged in a coordinated campaign of harassment and intimidation to prevent public access to the surf break. (*Id*. at 1027.) The alleged conduct included surrounding and kicking visiting surfers, taunting them, obstructing access trails, throwing rocks, intentionally running over surfers with surfboards, punching, theft, vandalism, threats, and intimidation. (*Id*. at 1028.) The Bay Boys concurrently petitioned city

officials and other residents concerning law enforcement and public access to Lunada Bay. (*Id.* at 1037-1040.) The complaint alleged both, and a defendant moved to strike based on the only substantive allegations against him being related to the petitioning conduct, and that the mere inclusion of conspiracy claims was insufficient to establish anything except protected activity. (*Id.* at 1037-1040.) The trial court and the court of appeal both disagreed, finding that the crux of the plaintiff's claims were rooted in unprotected activity, the protected activity was "not the wrong complained of", and the motion was properly denied on that basis. (*Id.* at 1037-1040.)

Here, Respondent similarly points to her filings, complaints, publications, courtroom attendance, and claimed newsgathering, but those activities are not the conduct alleged to justify relief. As in *Spencer*, the presence of related petitioning or speech activity does not transform personally directed physical or intimidating conduct into protected activity nor satisfy Respondent's initial burden. The alleged battery alone is sufficient to make the claim without any indicia of protected activity. Respondent makes unmeritorious contentions that the exchange described, in both the Petition and Petitioner's evidence, is not battery. "A battery is any willful and unlawful use of force or violence upon the person of another." Pen. Code, § 242. "Even a slight touching may constitute a battery, 'if it is done in a rude or angry way.'" *People v. Hernandez* (2011) 200 Cal.App.4th 1000, 1006. Petitioner's contention is that Respondent intentionally bumped her in the hallway because of their acrimonious history. While Respondent contends this was accidental, that is a contested factual issue not resolved here. Battery is alleged, and criminal conduct is not subject to Anti-SLAPP protections. *RGC Gaslamp, LLC v. Ehmcke Sheet Metal Co., Inc.* (2020) 56 Cal.App.5th 413, 427, fn. 9.

Nor has Respondent identified a discrete claim for relief in which a publication, grievance, courtroom attendance, or other protected expression itself supplies a ground for recovery. Instead, Respondent moves to strike the Petition and TRO as a whole on the theory that the presence of protected activity anywhere in the parties' history makes the anti-SLAPP shield total. A movant who targets an entire pleading but does not identify narrower claims arising from protected activity does not shift the burden of determining where a more limited motion might have been directed.

> "[T]he trial court is not required to take on the burden of identifying the allegations susceptible to a special motion to strike. If a [respondent] wants the trial court to take a surgical approach, whether in the alternative or not, the [respondent] must propose where to make the incisions. This is done by identifying, in the initial motion, each numbered paragraph or sentence in the complaint that comprises a challenged claim and explaining 'the claim's elements, the actions alleged to establish those elements, and wh[y] those actions are protected.'"

(*Park v. Nazari* (2023) 93 Cal.App.5th 1099, 1109.)

The Court therefore finds that Respondent has not met her burden as to the acts supplying the asserted grounds for relief. Where protected speech and petitioning appear in the Petition, they are collateral or contextual rather than the wrongs for which Petitioner principally seeks relief. The Petition as a whole does not rest on protected activity.

E. Petitioner Has, In Any Event, Demonstrated a Probability of Prevailing

Given that Respondent has not met her first step burden, the Court need not reach the second step but does so briefly as an alternative basis for denial.

At the second step, Petitioner now has the burden to establish a probability of prevailing on the merits of her claims. "The court, without resolving evidentiary conflicts, must determine whether the [petitioner's] showing, if accepted by the trier of fact, would be sufficient to sustain a favorable judgment. If not, the claim is stricken." (*Baral v. Schnitt* (2016) 1 Cal.5th 376, 396.) Respondent moves to strike the entire Petition and does not move to strike causes of action individually in the alternative. Thus, Petitioner need only show she will prevail on the merits of the Petition as a whole.

Petitioner declares that Respondent approached her in a courthouse hallway and struck her left side with an elbow or shoulder despite Petitioner's effort to move aside. (Levy, Decl., 22; Original Levy Decl., ¶¶ 25, 26.) Petitioner further characterizes the contact as intentional and without consent. (Levy, Decl., 22.) Respondent admits the physical contact occurred but describes it as an accidental collision caused by congestion in the area. (Blair, Decl., ¶ 50.)

Similarly, Petitioner presents evidence that Respondent has directed this course of conduct at her with intention. Respondent told a third party that she regularly stalks Petitioner. See Declaration of Jaclyn Smith filed 6/22/2026, pg. 3. This is not to say that Respondent's offhand comment is sufficient to show that her conduct meets the criminal definition of stalking. Rather, it evidences her acknowledgement to third parties of the animus of her actions. This statement is sufficient to evidence the intent to alarm, annoy or harass Petitioner.

The Court does not resolve that conflict or select the more credible account on an anti-SLAPP motion. (*Baral*, *supra*, 1 Cal.5th at 396.) It must instead credit Petitioner's evidence and determine whether Respondent's contrary evidence defeats the claim as a matter of law. Here, Respondent's denial and alternative description are insufficient because Petitioner's evidence of intentional, unwanted physical contact supplies at least minimal merit to her claim of unlawful violence. (*See Harris*, *supra*, 248 Cal.App.4th at 502-503 [holding that proof of multiple grounds is unnecessary].)

A Code of Civil Procedure section 527.6 petition may proceed on a finding of any one of the three statutory forms of harassment. (*Harris, supra,* 248 Cal.App.4th at 502-503.) Petitioner has presented evidence of unlawful violence, and a knowing and willful course of conduct. Therefore, even if Respondent had shifted her initial burden to show protected activity, Petitioner would meet the shifted burden to merit to her claim.

F. Respondent's Broader First Amendment Argument Does Not Alter the Result

Respondent argues that the TRO restricts attendance at public court proceedings and therefore operates as an impermissible restraint on protected activity. This is a challenge to the relief and not the "cause of action" as contemplated by Code of Civil Procedure 425.16(b)(1). Accordingly, Respondent's contentions do not raise a basis for granting the motion.

III. CONCLUSION

Based on the foregoing, Respondent Heather Renee Blair's special motion to strike pursuant to Section 425.16 is **DENIED**.

Respondent's objections to Petitioner's declarations are **SUSTAINED in part** and **OVERRULED in part** as explained above. Petitioner's objections to Respondent's evidence are **SUSTAINED in part** and **OVERRULED in part** as explained above.

Petitioner's counsel shall submit a written order on its motion to the Court consistent with this tentative ruling and in compliance with Rule of Court 3.1312(a) and (b).

4. 26CV06415, Coleman v. McWilliams

APPEARANCES REQUIRED.

5. 26CV06897, AFH Industries, LLC v. Henhouse Brewing Company, Inc.

Petitioner AFH Industries, LLC, doing business as JATD Consulting ("Petitioner") seeks an order from this Court to compel Respondents Henhouse Brewing Company, Inc. and Fort Point Beer Company ("Respondents") to arbitration.

The motion is **GRANTED** only as to Petitioner and Respondent HenHouse Brewing Company, but **DENIED** as to Fort Point Beer Company, as described below.

I. PROCEDURAL HISTORY

Petitioner and Respondent HenHouse Brewing Company, Inc. ("HenHouse") executed a Master Services Agreement, according to which Petitioner agreed to provide financial and business consulting services to HenHouse. (Petition, ¶¶ 6-7; Dalton Decl., Exhibit 1.) Per Section 12 of the Agreement, any dispute arising under the Agreement is subject to arbitration. (*Id*. at ¶ 10.)

Due to a dispute that arose, Petitioner sought to engage Respondents in arbitration per the Agreement and delivered a "Formal Demand for Mediation" letter on July 10, 2026. (Petition, ¶ 11.) Petitioner got a response that HenHouse would not be mediating and no other response from Respondents. (*Id*. at ¶ 13.)

Now, Petitioner seeks the Court to order the parties to arbitration on their claims arising under the Agreement. (Petitioner, 6:5-8.) HenHouse submitted a Notice of Non-Opposition to the Petition, while Fort Point Beer Company ("Fort Point") did oppose. Petitioner replied to Fort Point's Opposition.

II. ANALYSIS

A. The FAA

The FAA applies to any "contract evidencing a transaction involving commerce" which contains an arbitration clause. (9 U.S.C. § 2.) The FAA favors the enforcement of arbitration agreements affecting interstate commerce. (*Cronus Investments, Inc. v. Concierge Services* (2005) 35 Cal.4th 376, 380.) When it applies, the FAA preempts state laws that purport to create alternative grounds

for confirming or vacating arbitration awards. (*C.T. Shipping, Ltd. v. DMI (USA) Ltd.* (S.D.N.Y. 1991) 774 F.Supp. 146, 148-149.)

The Agreement does not expressly state that the FAA applies.

B. Arbitration in California

Generally, California has a strong public policy in favor of arbitration; any doubts regarding the arbitrability of a dispute are resolved in favor of arbitration. (*Howard v. Goldbloom* (2018) 30 Cal.App.5th 659, 663.) C.C.P. section 1280 et seq. governs arbitration in California. Sections 1281.2 and 1281.4 allow a party to move to compel arbitration per an arbitration agreement, and to stay legal proceedings pending the arbitration's conclusion.

The Agreement expressly states that, "this Agreement will be governed by California law, without giving effect to conflict of laws principles." (Dalton Decl., Exhibit 1, § 17.)

C. Assent to Arbitration

Generally, "one who signs an instrument which on its face is a contract is deemed to assent to all its terms…a party cannot avoid the terms of a contract on the ground that he or she failed to read it before signing." (*Marin Storage & Trucking, Inc. v. Benco Contracting & Eng'g, Inc.* (2001) 89 Cal.App.4th 1042, 1049.)

The Court finds that Petitioner has produced a hand-signed, written Agreement with a clear arbitration provision and it is sufficiently authenticated for the purposes of this Petition. However, only representatives of HenHouse Brewing and Petition signed the Agreement. It was not signed by Respondent Fort Point.

D. Enforceability

Respondent Fort Point argues that Petitioner failed to meet their burden as to Fort Point because it was not a signatory to the Agreement produced in support of the Petition and because Respondent did not agree to assume all assets, debts, rights, responsibilities, and liabilities of HenHouse when it acquired HenHouse. (Opposition, pp. 2-4.)

In the Reply, Petitioner requests the Court to grant the Petition as to both Respondents because in Paragraph 6 of the Declaration of Dalton, Mr. Dalton "affirms that based on his information and his belief, that Fort Point did indeed agree to assume all assets, debts, rights, responsibilities and liabilities of HenHouse." (Reply, 2:14-17.)

E. Application

Petitioner has produced a valid and enforceable signed Agreement with a clear arbitration provision, but said agreement has only been signed and agreed to by Petitioner and HenHouse. Thus, the Court finds sufficient grounds to grant the relief request in this Petition, but only as to Petitioner and HenHouse, who are signatories to the Agreement.

III. CONCLUSION

Based on the foregoing, the Court **GRANTS** the Petition only as to Petitioner and HenHouse but **DENIES** as to Fort Point. Petitioner shall submit a proposed order on this Petition consistent with this tentative ruling and in compliance with Rule of Court 3.1312(a) and (b).