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**IN THE
SUPREME COURT OF CALIFORNIA**

CHRISSIE CARNELL BIXLER et al.,
Plaintiffs and Respondents,

v.

CHURCH OF SCIENTOLOGY INTERNATIONAL et al.,
Defendants and Appellants.

AFTER A DECISION BY THE COURT OF APPEAL, SECOND DISTRICT, DIVISION FIVE • CASE No. B339009
LOS ANGELES COUNTY SUPERIOR COURT • UPINDER S. KALRA, JUDGE
CASE No. 19STCV29458

PETITION FOR REVIEW

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PETITION FOR REVIEW

ISSUES PRESENTED

1. Does a court have discretion to ignore an attorney's admitted abuse of artificial intelligence that violated the California Rules of Court, or is the court required to resolve whether to sanction that attorney and explain the reasoning for its decision?

2. Does the First Amendment:

(a) allow a court to rely on a purported religious doctrine of a minority religion as evidence against a church even though the church's duly constituted ecclesiastical leadership has disavowed the existence of the purported doctrine; and

(b) allow a court to treat an individual's claimed religious affiliation as evidence that the religious organization conspired with that individual?

INTRODUCTION

The Court of Appeal condoned two extraordinary departures from settled law. First, it allowed opposing counsel to submit a brief riddled with nearly 20 citations hallucinated by artificial intelligence without consequence. Second, it held the Church potentially vicariously liable for a third party's online posts based on constitutionally forbidden grounds: the third party's self-identified religion, and the court's own interpretation of Church doctrine. The Church seeks review to secure legal guidance the profession urgently needs and to resolve fundamental First Amendment questions.

Start with the AI abuse. Plaintiffs’ counsel filed a brief containing fabricated case citations. He admitted it. The Court of Appeal issued a sanctions notice, scheduled the issue for oral argument—then said nothing. No questions at argument. No mention in the opinion. And a summary denial of the Church’s petition for rehearing asking the court to address the AI abuse. The bar is watching, as plaintiffs’ counsel’s transgression was heavily publicized. While courts across California and the nation have responded to AI abuse with published guidance and meaningful sanctions, this court alone stayed silent.

That silence matters. The “failure to exercise discretion is an abuse of discretion.” (*Kim v. Euromotors West/The Auto Gallery* (2007) 149 Cal.App.4th 170, 176 (*Kim*).) Once a discretionary issue is squarely before a court—as this one was—the court must resolve it and explain its reasoning. The Church incurred substantial fees identifying, briefing, and opposing the tainted citations. Plaintiffs’ counsel conceded the ethical violations and stated he would accept “whatever consequences the [c]ourt deems appropriate.” Yet the court imposed none and offered no explanation. That head-turning result is, to the Church’s knowledge, unique in the country. And it muddies the uniform message from courts to the bar: before you sign a brief prepared with AI, read every case you cite.

Now turn to the Constitution. The Court of Appeal held that plaintiffs established minimal merit of a conspiracy between the Church and Kathy Gold, a third party who posted hostile messages about plaintiffs online. Two pillars supported that

finding: (1) Gold’s self-identification as a Scientologist,¹ and (2) a purported Church doctrine of “Fair Game,” which the Church’s duly constituted ecclesiastical leadership expressly disavowed in a sworn declaration. Both pillars violate the First Amendment.

Church authorities—not secular courts—have the final say on doctrine. (See *Serbian Eastern Orthodox Diocese for U.S. of America and Canada v. Milivojeovich* (1976) 426 U.S. 696, 713–714 [96 S.Ct. 2372, 49 L.Ed.2d 151] (*Serbian Eastern Orthodox Diocese*); *Episcopal Church Cases* (2009) 45 Cal.4th 467, 485 (*Episcopal Church Cases*).) The Church submitted unequivocal testimony that the doctrine anti-Scientologists mischaracterize as “Fair Game” does not exist in the Church. Under the First Amendment, the Court of Appeal was required to accept that declaration and disregard the purported policy. It did the opposite.

Equally troubling is the court’s reliance on Gold’s professed religion. No court would find a conspiratorial link between a tortfeasor and the Vatican simply because the tortfeasor claims to be Catholic. The same rule protects the Church of Scientology. “[G]uilt by association is a philosophy alien to the traditions of a free society.” (*N.A.A.C.P. v. Claiborne Hardware Co.* (1982) 458 U.S. 886, 932 [102 S.Ct. 3409, 73 L.Ed.2d 1215] (*Claiborne*).) Gold expressly denied being a Church agent. The Church

¹ The Church denies that Gold is a Scientologist, and nothing in this petition should be construed as accepting Gold’s mischaracterization of her affiliation.

submitted un rebutted evidence it had no relationship with her. Gold's claimed religion is not evidence of a conspiracy.

The court buried these errors in an unpublished opinion against a minority faith and treated Scientology differently than every other religion in the country. But the unpublished nature of the errors should not insulate them from review. As far as the Church can tell, no other litigant in the country has been met with silence after uncovering serious AI abuse by opposing counsel. Likewise, no other faith community has been deprived of its sole right to settle its doctrine and then tagged with guilt by association rising to the level of conspiracy simply because a self-identified member was involved in a dispute.

At stake are the Church's First Amendment rights to decide doctrinal matters for itself and to fulfill its religious mission without fear of liability for the independent acts of self-identified adherents of Scientology. Those rights are too fundamental to escape review simply because the decision does not bind other litigants, who continue to practice their religion without the same constraints the court imposed on Scientology. And the court's failure to address—let alone sanction—counsel's high-profile AI abuse demands correction at a time when the bar is looking to courts for guidance. This case is an excellent vehicle to provide that guidance: because the Court of Appeal said nothing at all, this Court has a clean slate on which to address the issue and explain how courts should exercise their discretion when responding to artificial intelligence abuse.

This Court should grant review.

STATEMENT OF THE CASE

A. Plaintiffs' complaint relates to alleged retaliation by third parties for reporting sexual assaults that occurred decades ago.

Church of Scientology International is the “Mother Church” of Scientology, the religion founded by L. Ron Hubbard. (1 AA 184.) The Church is a nonprofit religious corporation whose mission is the “advancement and dissemination of Scientology through Scientology churches under its ecclesiastical direction.” (*Ibid.*)

Celebrity Centre is one such church. (1 AA 248.) Located in Hollywood, it ministers to parishioners seeking privacy when practicing Scientology, including artists, politicians, industry leaders, and sports figures. (*Ibid.*)

Defendant Daniel Masterson is an actor. (1 AA 43.) In 2023, Masterson was found guilty of sexually assaulting two women nearly 20 years earlier. (1 AA 59, 75, 90.)

Plaintiffs Chrissie Carnell Bixler, Bobette Riales, Jane Doe #1, and Jane Doe #2 each allege that Masterson assaulted them in the early 2000s. (1 AA 45–46, 57–59, 70–71, 74–75.) Bixler, Riales, and Doe #2 did not report the alleged assaults until 2016 or 2017. (1 AA 50, 71, 76.) Doe #1 initially reported the alleged assault in 2004, which was not prosecuted, then asked police to reopen the investigation in 2016. (1 AA 63–64.) The fifth plaintiff, Cedric Bixler-Zavala, is Bixler’s husband. (1 AA 83.)

Plaintiffs filed the operative first amended complaint on February 28, 2020. (1 AA 84.) They assert claims for stalking, physical invasion of privacy, constructive invasion of privacy, and

intentional infliction of emotional distress. (1 AA 30.)

Bixler-Zavala also asserts a loss of consortium claim. (*Ibid.*)

Plaintiffs allege that Church agents attempted to dissuade them from going public with their claims. (1 AA 31.) They also allege that, in retaliation for reporting the assaults, Church agents harassed, stalked, and surveilled them. (*Ibid.*)

Though plaintiffs' complaint includes a litany of such allegations, the only allegation pertinent to this petition relates to blog and social media posts by third-party Gold.² (1 AA 54, 68, 73, 77.) In those posts, Gold claims she is a Scientologist and makes statements plaintiffs characterize as threats and harassment. (*Ibid.*; see 1 AA 191–226.) Those statements form part of the basis of plaintiffs' stalking and intentional infliction of emotional distress claims. (1 AA 78–80, 82–83.)

Plaintiffs also allege that, under Church doctrine, anyone who leaves the religion is declared an enemy of Scientology and subject to harassment and other tortious conduct. (1 AA 38–42.) Plaintiffs call this doctrine "Fair Game." (*Ibid.*)

² The other allegations of stalking, surveillance, and harassment were either not challenged in the Church's anti-SLAPP motion, or are not pertinent to this petition for review. Those allegations are therefore not discussed here. The Church denies those unsupported allegations. In the years since this matter has been filed, plaintiffs have not come forward with any evidence to corroborate the alleged instances of stalking, surveillance, and harassment.

B. The trial court denies the Church’s anti-SLAPP motion.

The Church and Celebrity Centre filed motions to strike and supporting declarations under Code of Civil Procedure [section 425.16](#). (1 AA 160–359.) As to Gold’s online statements, the Church argued that Gold was not its agent and therefore the Church could not be held vicariously liable. (1 AA 178, 180.) The Church presented a sworn declaration from Lynn Farny, a corporate officer, stating that Gold has never been an “employee[] of CSI, under contract with CSI in any way, under the control or direction of CSI in any respect, or ha[s] ever been asked to do anything by CSI.” (1 AA 186.) The Church also noted that Gold herself stated the allegation she is a Church agent is false. (1 AA 170, 240.)

Farny—who is also an ordained Scientology minister (1 AA 184)—addressed the purported “Fair Game” doctrine (1 AA 187). He stated: “There is no doctrine of ‘Fair Game’ within the Scientology religion. Any and all statements that the Church has a policy of ‘Fair Game’ are false.” (*Ibid.*)

Plaintiffs filed oppositions and supporting declarations. (1 AA 360–576; 2 AA 578–720.) They did not argue that the Church conspired with Gold; instead, they argued Gold acted as an agent of the Church. (See, e.g., 1 AA 377.) But plaintiffs identified no evidence supporting an agency relationship other than their own conclusory declarations. (See, e.g., 2 AA 728.)

The Church and Celebrity Centre filed replies (2 AA 721–780), and the trial court held two hearings on the anti-SLAPP motions (1 RT 1–61; 2 RT 301–320).

On March 25, 2024, the trial court denied the anti-SLAPP motions. (2 AA 781–800.) The court ruled that, as to Gold’s online statements, the Church and Celebrity Centre satisfied their step one burden. (2 AA 793.) But it also ruled that plaintiffs satisfied their step two burden of establishing minimal merit for their claims based on Gold’s statements. (2 AA 793–800.) Pertinently, the court ruled that the Church could be vicariously liable for Gold’s conduct on the theory that the Church conspired with Gold. (2 AA 799–800.)

C. On appeal, the Church argues that no evidence supports a conspiratorial link between Gold and the Church, and that the court could not rely on plaintiffs’ characterization of the Church’s doctrine.

In the Court of Appeal, the Church argued that no evidence supported the trial court’s finding that the Church conspired with Gold. (AOB 55–59.) Plaintiffs responded that circumstantial evidence established minimal merit of a conspiratorial link. (RB 28–31.) That circumstantial evidence included the purported “Fair Game” policy. (RB 30.) But as the Church explained on reply, plaintiffs’ argument rested on conclusory and speculative assertions that Gold was the Church’s “known agent.” (ARB 27–29.) And the Church explained that, under the First Amendment, the court could not consider the purported “Fair Game” policy because Farny’s declaration expressly stated that there is no doctrine of “Fair Game” within the Church. (ARB 14.)

D. The Church discovers that plaintiffs’ brief included hallucinated citations, the court denies plaintiffs’ motion for leave to file a replacement brief, and the court issues notice that it is considering sanctions.

The Church’s reply brief addressed more than the merits. It began with a preliminary statement about an alarming discovery: plaintiffs’ brief was “filled with erroneous citations that mischaracterize holdings and refer to cases on unrelated areas of law.” (ARB 8.) The Church noted that the “portions of the brief containing errors bear many of the hallmarks of AI-generated case citations.” (*Ibid.*) Indeed, one cited case was “completely made up.” (*Ibid.*) The Church provided an attachment describing each citation error. (ARB 41–48.) And the reply brief identified the parts of plaintiffs’ arguments—including their conspiracy argument—that relied most heavily on the materially erroneous citations. (ARB 25–27, 30–33.) The Church requested that the court disregard arguments tainted by erroneous citations. (ARB 9.)

On September 19, 2025, 11 days after the Church filed its reply brief, plaintiffs moved for leave to file a replacement brief. (See Mot. for Leave to File Replacement Brief.) Plaintiffs’ counsel, John Kucera of Boies Schiller Flexner LLP, acknowledged that his firm used artificial intelligence tools when preparing the respondents’ brief. (See Declaration of John J. Kucera in Support of Mot. for Leave to File Replacement Brief ¶ 4.) Counsel stated that plaintiffs consented to his use of AI, and he conceded that the brief he signed and submitted contained “material citation errors, including those identified in Appellants’ Reply Brief.”

(Kucera Decl. ¶ 5.) Counsel explained that his firm was “undertaking an investigation to determine why its controls failed and to ensure appropriate corrective action is taken.” (*Ibid.*) Plaintiffs attached a proposed replacement brief. (See Mot. for Leave, Attachment A.)

On October 6, 2025, the Church opposed plaintiffs’ motion. (See Opp. to Mot. for Leave.) The Church argued that “Boies Schiller abdicated its ethical responsibility to read and review multiple cases before citing them,” and that “Boies Schiller’s violation of the rules is not a valid basis for a do-over.” (Opp. to Mot. for Leave 6.) The Church noted that, although Mr. Kucera had acknowledged the errors attributable to AI misuse, his declaration did not “specify which parts of the respondents’ brief were drafted by AI, nor what AI tools were used.” (Opp. to Mot. for Leave 7.) That omission was important, the Church explained, “because the proposed changes in the corrected brief go beyond the citations identified as suspect by the Church’s reply brief.” (*Ibid.*)

The Church also requested “monetary sanctions against plaintiffs’ counsel equivalent to the reasonable attorney’s fees the Church has incurred in dealing with plaintiffs’ fake citations.” (Opp. to Mot. for Leave 20.) The Church explained that it had “incurred significant fees attributable solely to identifying and addressing plaintiffs’ false citations,” and additional fees preparing the opposition. (*Ibid.*) The Church identified a specific amount of fees attributable to identifying and discussing the AI-generated citations in the reply brief, and supported those

amounts in a declaration. (See Declaration of Jeremy B. Rosen in Support of Opp. to Mot. for Leave ¶ 7.) The Church also estimated fees incurred preparing the opposition and offered to submit evidence confirming the final amount once it completed work stemming from the AI issue. (See Rosen Decl. ¶¶ 8–9; see also Opp. to Mot. for Leave 20.)

Plaintiffs replied on October 9, 2025. (See Reply in Support of Mot. for Leave.) On November 21, 2025, the court denied plaintiffs’ motion.

On February 19, 2026, the court issued a “Notice of Potential Sanctions.” (See Notice of Potential Sanctions.) It stated:

Respondents’ counsel, Boies Schiller Flexner, LLP and John Kucera, Esq., have conceded as follows: counsel prepared the Brief of Respondents, filed on July 30, 2025, with the aid of artificial intelligence tools; controls and policies to protect against the risk of improper use of those tools failed; and the filed brief included material citation errors that were correctly identified by appellants in their reply brief. Appellants’ Reply Brief, filed on September 8, 2025, specifically identifies (in Attachment A at pages 41–48) at least ten purported case authorities that have been miscited or mischaracterized in more than fifteen places in respondents’ brief.

(Notice of Potential Sanctions 1.) The notice further stated that, in light of those concessions, the court was considering monetary sanctions. (Notice of Potential Sanctions 2.) The court cited various provisions of the California Rules of Court as authority for sanctions. (See *ibid.*) It also noted that “[t]he issue of sanctions and their amount will be argued at the time of oral argument on the merits of the appeal.” (*Ibid.*)

On March 2, 2026, plaintiffs responded to the court's notice. (See Plaintiffs' Resp. to Notice of Potential Sanctions.) The response did not oppose sanctions; it stated that "counsel of record is prepared to accept whatever consequences the [c]ourt deems appropriate in the circumstances." (Plaintiffs' Resp. to Notice of Potential Sanctions 3.) The response noted that, although a different attorney would handle the merits argument, Mr. Kucera would be "personally present at oral argument to address any questions" about his AI use. (*Ibid.*)

E. The Court of Appeal says nothing about sanctions at oral argument, and then issues an opinion that is silent on that issue and that affirms the trial court's conspiracy ruling.

The court heard argument on March 3, 2026. Despite its notice stating that sanctions would be argued alongside the merits, the court asked no questions about sanctions and affirmatively declined to invite Mr. Kucera to the lectern. No justice raised the issue of artificial intelligence.

On May 19, 2026, the court issued its opinion. Like the oral argument, the opinion was silent on sanctions and artificial intelligence. ([See generally typed opn.](#))

On the merits, the court affirmed the trial court's ruling with minor modifications. Relevant here, it held that plaintiffs established minimal merit of a conspiracy between Gold and the Church. ([Typed opn. 58–59.](#)) Part of its reasoning was that "Gold confirmed in several messages that she is a Scientologist, and Farny confirmed in a declaration that 'Fair Game' was formerly an authorized Scientology doctrine." ([Typed opn. 58.](#))

F. The Court of Appeal summarily denies the Church’s narrow petition for rehearing directed at the sanctions issue.

On June 3, 2026, the Church filed a petition for rehearing urging the court to address plaintiffs’ counsel’s AI abuse and impose sanctions. (See PFRH.) The Church argued that the legal profession was “witnessing a rapid rise in artificial intelligence abuse,” and that “[c]ourts must provide guidance on how lawyers should navigate this new territory—and on the consequences when a lawyer wields artificial intelligence in a manner that violates ethical duties.” (PFRH 3.) The Church explained that it had incurred substantial additional fees and work *only* because plaintiffs’ counsel violated his ethical duties. (PFRH 4.)

On June 15, 2026, the court summarily denied the Church’s petition for rehearing without even addressing plaintiffs’ counsel’s misuse of artificial intelligence, let alone explaining why it was not imposing sanctions. (Order Denying PFRH.)

The court’s opinion became final on June 18, 2026. (Cal. Rules of Court, [rule 8.264\(b\)\(1\)](#).) This timely petition followed. (See *id.*, [rule 8.500\(e\)\(1\)](#).)

LEGAL ARGUMENT

I. This Court should grant review to resolve whether a court has discretion to ignore an attorney’s misuse of artificial intelligence, or whether it must decide the sanctions question and explain its reasoning.

Whether to impose sanctions for unethical conduct lies within the discretion of the court. (See *People v. Aguirre* (2021) [64 Cal.App.5th 652, 659](#); *In re Woodham* (2001) [95 Cal.App.4th](#)

438, 443 (*Woodham*).) But “discretion may not be exercised whimsically.” (*Kim, supra*, 149 Cal.App.4th at p. 176, internal quotation marks omitted.) It must be exercised “in a reasonable manner” and “guided by existing legal standards as adapted to current circumstances.” (*Woodham*, at p. 443, internal quotation marks omitted.) “[R]eversal is appropriate where no reasonable basis for the action is shown.” (*Kim*, at p. 176, internal quotation marks omitted.)

The Court of Appeal exceeded the scope of its discretion by failing to resolve the discretionary issue: whether to impose sanctions for counsel’s AI abuse. The “failure to exercise discretion is an abuse of discretion.” (*Kim, supra*, 149 Cal.App.4th at p. 176; see *People v. Orabuena* (2004) 116 Cal.App.4th 84, 99.) Once an issue within the court’s discretion is squarely before it, the court must resolve that issue “either at the hearing or in its written order.” (*Fadeeff v. State Farm Gen. Ins. Co.* (2020) 50 Cal.App.5th 94, 104 (*Fadeeff*).)

The parties briefed the sanctions issue at length, including in the Church’s reply brief and the parties’ briefing on plaintiffs’ motion for leave to file a replacement brief. (See *ante*, pp. 17–20.) The court was fully aware of the issue: it issued a notice stating that (1) plaintiffs’ counsel conceded the AI abuse, (2) the court was considering monetary sanctions, and (3) “[t]he issue of sanctions and their amount will be argued at the time of oral argument on the merits of the appeal.” (Notice of Potential Sanctions 2.) Plaintiffs’ counsel responded by acknowledging the AI abuse, not disputing the Church’s declaration of the amount of

attorney fees it incurred in addressing the AI abuse, and stating he was “prepared to accept whatever consequences the [c]ourt deems appropriate.” (Plaintiffs’ Resp. to Notice of Potential Sanctions 3.)

But the Court of Appeal did nothing. At oral argument, it did not question counsel about his AI abuse. It did not ask counsel to identify the AI tools he used, how those tools were used to prepare the brief, or the results of his firm’s “investigation to determine why its controls failed and to ensure appropriate corrective action is taken.” (Kucera Decl. ¶ 5.) It did not ask either party about monetary sanctions or any other sanction. The court’s opinion was equally silent. (See generally typed opn.) And when the Church filed a narrow petition for rehearing asking the court to address the issue, the court summarily denied the petition without addressing counsel’s AI abuse or explaining why it was not imposing sanctions. (Order Denying PFRH.)

To properly exercise its discretion, the court had to address counsel’s AI abuse, decide whether to impose sanctions, and explain its reasoning. (See *Fadeeff*, *supra*, [50 Cal.App.5th at p. 104](#).) The court lacked the discretion to do nothing. (See *Kim*, *supra*, [149 Cal.App.4th at p. 176](#).)

The court’s abdication is particularly problematic in light of “current circumstances” that courts must consider when resolving discretionary issues. (*Woodham*, *supra*, [95 Cal.App.4th at p. 443](#), internal quotation marks omitted.) As this Court is aware, the legal profession is experiencing a rapid rise in the use of artificial

intelligence. Indeed, the Court recently directed the State Bar to consider incorporating AI guidance into the Rules of Professional Conduct, and to “consider any additional guidance in light of agentic artificial intelligence tools, which can enable systems to autonomously perform tasks or workflows without human prompting.” (*Proposed Amendments to the Rules of Professional Conduct Related to Artificial Intelligence* (May 4, 2026) State Bar of California <<https://bit.ly/4a91jXo>> [as of June 11, 2026].)

But along with AI use comes AI abuse. “[T]he generation of fake legal authority by AI sources has been widely commented on by federal and out-of-state courts and reported by many media sources.” (*Noland v. Land of the Free, L.P.* (2025) [114 Cal.App.5th 426, 431](#) (*Noland*).) Indeed, the AI abuse in this case received substantial attention in the national legal press. (See, e.g., Lat, *An AI Fail By An Elite Litigation Firm* (Sept. 23, 2025) Original Jurisdiction <<https://bit.ly/476bL0A>> [as of June 11, 2026]; Roe, *AI-Generated Citation Errors Prompt Investigation in Boies Schiller Case Against Church of Scientology* (Sept. 24, 2025) Law.com <<https://bit.ly/4nvP4J5>> [as of June 11, 2026]; Volokh, “*An AI Fail by an Elite Litigation Firm*” (Sept. 23, 2025) Reason <<https://bit.ly/4gUW3J4>> [as of June 11, 2026]; Weiss, *Citation errors and hallucinated case turn up in Boies Schiller brief in ‘artificial-intelligence debacle’* (Sept. 24, 2025) ABA Journal <<https://bit.ly/4nZ4Hs7>> [as of June 11, 2026].)

Given AI’s increasing footprint on the profession, the bar is looking to courts for guidance on proper AI use—and the consequences of improper use. And courts have not hesitated to

provide that guidance. The Courts of Appeal have issued seven published opinions in the last year alone addressing this issue (all but one before the decision here),³ and the Ninth Circuit recently issued its first published opinion addressing the problem. (See *Malkeet Lnu v. Blanche* (9th Cir., June 3, 2026, No. 24-4790) __ F.4th __ [2026 WL 1587554, at p. *6] (*Lnu*).) Against that tide, the Court of Appeal here became the only court in the country the Church is aware of not only to impose no sanctions, but to fail to address an attorney’s admission that his AI abuse resulted in material citation errors in a court filing.

In charting its own path, the Court of Appeal sent a mixed signal to the bar. Other courts have been clear and emphatic. They have explained that the “duty of attorneys to *read* the legal authorities they cite” is “fundamental” (*Noland, supra*, 114 Cal.App.5th at p. 445); that attorneys “cannot delegate this responsibility to any form of technology” (*Alvarez, supra*, 114 Cal.App.5th at p. 1119); and that “[h]onesty in dealing with the courts is of paramount importance, and misleading a judge is, regardless of motives, a serious offense” (*Schlichter, supra*, 116

³ See *Quinteros v. Harbor Distributing, LLC* (June 11, 2026, A174202) __ Cal.App.5th __ [2026 WL 1693424]; *Sheerer v. Panas* (2026) 119 Cal.App.5th 367, 370–371; *In re Domestic Partnership of Torres Campos & Munoz* (2026) 118 Cal.App.5th 1112, 1117–1130; *Shayan v. Shakib* (2025) 116 Cal.App.5th 619, 621–626; *Schlichter v. Kennedy* (2025) 116 Cal.App.5th 24, 31–34 (*Schlichter*); *People v. Alvarez* (2025) 114 Cal.App.5th 1115, 1117–1120 (*Alvarez*); *Noland, supra*, 114 Cal.App.5th at pp. 441–449.

Cal.App.5th at p. 33, internal quotation marks omitted). These courts provided that guidance as a “warning” to the bar. (*Noland*, at p. 431; *Lnu*, *supra*, __ F.4th __ [2026 WL 1587554, at p. *6].)

The decision here sends a different message: perhaps the duty to read cases is not so fundamental, and misleading a court is not so serious. In some cases, it seems, a court may decide—for undisclosed reasons—that an attorney can violate ethical duties and prejudice the opposing party without consequence.⁴

And the prejudice here was substantial. To begin, plaintiffs prevailed on issues for which their arguments were extensively supported by hallucinated citations—including the conspiracy issue discussed below. (ARB 25–27; *see pp. 30–38, post.*) Moreover, the Church incurred substantial fees identifying plaintiffs’ counsel’s AI misuse, bringing it to the court’s attention in the reply brief, and opposing plaintiffs’ motion for leave to file a replacement brief. (See Rosen Decl. ¶¶ 7–9.) The Church has now expended substantial additional fees preparing the portion of this petition directed towards sanctions.⁵

⁴ The court in fact declined to hear from members of the bar on this issue: when the Association of Southern California Defense Counsel submitted a timely amicus brief addressing its concerns about the AI abuse here, the court rejected the brief. (See Association of Southern California Defense Counsel’s Application for Leave to File Amicus Curiae Letter Opposing Mot. to File Replacement Brief; *see also* Order Denying Application for Leave to File Amicus Curiae Letter.)

⁵ Courts regularly award, as a sanction for AI abuse, fees the opposing party incurred due to that abuse. (See, e.g., *Couvrette v. Wisnovsky* (D.Or., Mar. 23, 2026, No. 1:21-cv-00157-CL) 2026 WL 800566, at p. *5 [nonpub. opn.] [awarding \$94,704.38 in fees

The Court of Appeal’s silence on counsel’s AI abuse starkly departs from the uniform approach of other Courts of Appeal. And it raises “an important question of law” about the scope of a court’s discretion: does that discretion allow the court to ignore an attorney’s misuse of artificial intelligence, or is the court obligated to decide whether to impose sanctions and explain its reasoning? (See Cal. Rules of Court, [rule 8.500\(b\)\(1\)](#); *Neal v. Health Net, Inc.* (2002) [100 Cal.App.4th 831, 839](#) [whether court acted “beyond the allowable scope of its judicial discretion” is “a question of law”]; see also *Sargon Enterprises, Inc. v. University of Southern California* (2012) [55 Cal.4th 747, 773](#) [explaining a court’s discretion is “a legal discretion” that is “subject to the limitations of legal principles”].)

Finally, this case is an excellent vehicle to address that question. Because the Court of Appeal said nothing at all, this Court has a clean slate to write upon. It can provide detailed and meaningful guidance about artificial intelligence abuse, including the factors courts should consider when deciding whether to

incurred due to opposing counsel’s AI misuse].) That is consistent with California courts’ practice of awarding fees incurred solely because of opposing counsel’s unethical conduct. (See, e.g., *Doppes v. Bentley Motors, Inc.* (2009) [174 Cal.App.4th 967, 1001](#) [trial court abused its discretion in declining to award fees because counsel’s “bad faith conduct” “made those fees necessary,” and it would be “manifestly unjust not to permit [the opposing party] to recover his attorney fees”]; see also *Noland, supra*, [114 Cal.App.5th at p. 448](#) [while court would not order sanctions payable to opposing counsel because they “did not alert the court to the fabricated citations,” there is “no doubt that such sanctions would be appropriate in some cases”].)

sanction such abuse, and the types of sanctions that are appropriate.

The Court should therefore grant review on this question. It should hold that courts have no discretion to ignore improper AI use brought to their attention. (See *Fadeeff*, *supra*, 50 Cal.App.5th at p. 104; *Kim*, *supra*, 149 Cal.App.4th at p. 176.) It should provide guidance for the increasing number of courts confronting this discretionary issue, and it should remand for the Court of Appeal to exercise that discretion in the first instance. (See, e.g., *People v. Salazar* (2023) 15 Cal.5th 416, 425 [appropriate remedy when lower court misapprehends scope of discretion is to remand].)

II. This Court should grant review to resolve important questions of law implicating the Church’s fundamental First Amendment rights.

A. A plaintiff cannot prevail at step two of the anti-SLAPP analysis if she fails to establish minimal merit for each element of her claim.

The denial of an anti-SLAPP motion is reviewed de novo. (*Sanchez v. Bezos* (2022) 80 Cal.App.5th 750, 763.)

Section 425.16, subdivision (b)(1) of the Code of Civil Procedure allows a special motion to strike a “cause of action against a person arising from any act of that person in furtherance of the person’s right of petition or free speech . . . in connection with a public issue.” The Legislature enacted the statute after finding “a disturbing increase in lawsuits brought primarily to chill the valid exercise of the constitutional rights of freedom of speech,” and declaring that “it is in the public interest

to encourage continued participation in matters of public significance.” (Code Civ. Proc., § 425.16, subd. (a); see *Wilson v. Cable News Network, Inc.* (2019) 7 Cal.5th 871, 883–884 [“the anti-SLAPP statute is designed to protect defendants from meritless lawsuits that might chill the exercise of their rights to speak and petition on matters of public concern”].)

The anti-SLAPP analysis proceeds in two steps. At step one, the moving defendant bears the burden of establishing that the challenged allegations arise from protected activity. (See *Baral v. Schnitt* (2016) 1 Cal.5th 376, 384 (*Baral*).) If the defendant prevails at step one, the burden shifts to the plaintiff to demonstrate the claim’s merit by establishing a probability of success. (*Ibid.*)

This Court has described step two as a “summary-judgment-like procedure.” (*Baral, supra*, 1 Cal.5th at p. 384.) Though the plaintiff need only establish that her claim has “minimal merit,” she “may not rely solely on [her] complaint, even if verified.” (*Sweetwater Union High School Dist. v. Gilbane Building Co.* (2019) 6 Cal.5th 931, 940, internal quotation marks omitted.) Instead, the plaintiff must meet her burden with “competent admissible evidence.” (*Ibid.*) The court accepts that evidence as true (see *ibid.*), but it must be substantial enough that “a trier of fact could find in [plaintiff’s] favor, as to every element [she] need[s] to prove at trial” (*Lee v. Kim* (2019) 41 Cal.App.5th 705, 720–721, emphasis omitted). If the plaintiff fails to establish minimal merit as to any element of her claim, the court must strike the allegation. (See *ibid.*)

B. Review is necessary to resolve whether a court can rely on purported Church doctrine disavowed by the Church’s duly constituted ecclesiastical leadership.

“First Amendment values are plainly jeopardized when . . . litigation is made to turn on the resolution by civil courts of controversies over religious doctrine and practice.” (*Our Lady of Guadalupe School v. Morrissey-Berru* (2020) [591 U.S. 732](#), [751](#), [fn. 10](#) [140 S.Ct. 2049, 207 L.Ed.2d 870] (*Our Lady of Guadalupe*).) Courts may not intrude into matters of “theological controversy.” (*Serbian Eastern Orthodox Diocese, supra*, [426 U.S. at pp. 713–714](#).) Nor may they “determine matters at the very core of a religion—the interpretation of particular church doctrines and the importance of those doctrines to the religion.” (*Presbyterian Church in U.S. v. Mary Elizabeth Blue Hull Memorial Presbyterian Church* (1969) [393 U.S. 440](#), [450](#) [89 S.Ct. 601, 21 L.Ed.2d 658] (*Presbyterian Church*).)

That rule flows from the church autonomy doctrine, which ensures religious institutions have “independence in matters of faith and doctrine and in closely linked matters of internal government.” (*Our Lady of Guadalupe, supra*, [591 U.S. at p. 747](#).) This Court has emphasized that churches are protected from doctrinal attacks, explaining that “[s]tate courts must not decide questions of religious doctrine; those are for the church to resolve.” (*Episcopal Church Cases, supra*, [45 Cal.4th at p. 485](#).)

The Court of Appeal disregarded that prohibition. It reasoned that the purported “Fair Game” doctrine supported minimal merit of a conspiracy between Gold and the Church.

([Typed opn. 58.](#)) The court thus adopted plaintiffs’ mischaracterization of the substance of Church doctrine rather than the Church’s statement that the doctrine does not exist.⁶ ([Ibid.](#)) Compounding this error, the court also suggested that “Fair Game” as described by plaintiffs may implicitly still exist. ([Ibid.](#))

Adopting plaintiffs’ version of Church doctrine is erroneous, and the First Amendment forbids it, because Farny stated there is no doctrine of “Fair Game” within Scientology. Farny is an ordained Scientology minister “intimately familiar with the tenets of Scientology.” (1 AA 184.) He works for the “Mother Church” of Scientology, which “oversees the standard application of Scientology doctrine in Scientology churches and missions throughout the world” and is responsible for “preventing the misinterpretation of Church doctrine.” ([Ibid.](#))

⁶ In making this ruling, the court misconstrued the Farny declaration. Nowhere did Farny “confirm[]” that Fair Game “was formerly an authorized Scientology doctrine.” ([Typed opn. 58.](#)) To the contrary, Farny unequivocally stated that “there is no doctrine of ‘Fair Game’ within the Scientology religion,” and that the term “Fair Game” does not appear in any of the Church’s authorized published works—comprising “70 million printed and spoken words.” (1 AA 187.) Farny explained that a different policy was “intentionally misinterpreted by anti-Scientologists” and, due to those misinterpretations, that policy was cancelled in 1968—i.e., nearly six decades ago. ([Ibid.](#)) That policy “was formerly an authorized Scientology doctrine,” as the Court of Appeal described ([typed opn. 58](#)), but it was *not* “Fair Game,” and “the implication that such a policy endorsed violating the law of the land”—e.g., harassing or threatening individuals who report crimes to the police—“is also false” (1 AA 187).

Farny's declaration was unequivocal: "There is no doctrine of 'Fair Game' within the Scientology religion. Any and all statements that the Church has a policy of 'Fair Game' are false." (1 AA 187.) Farny explained that the term "Fair Game" does not appear in any of the Church's authorized published works—comprising "70 million printed and spoken words." (*Ibid.*)

Given these unequivocal statements from the Church's ecclesiastical leadership, the First Amendment prohibits a court from relying on "Fair Game" to establish a conspiratorial link between Gold and the Church.⁷ Courts may not reject the interpretation of doctrine submitted by the Church's ecclesiastical leadership and instead credit plaintiffs' contrary interpretation. (See *Our Lady of Guadalupe*, *supra*, 591 U.S. at p. 751, fn. 10; see also *Thomas v. Review Bd. of Indiana Employment Sec. Division* (1981) 450 U.S. 707, 716 [101 S.Ct. 1425, 67 L.Ed.2d 624] ["Courts are not arbiters of scriptural interpretation"].) The Court of Appeal was prohibited from crediting plaintiffs' assertions about "Fair Game" and suggesting it is evidence that the Church agreed with Gold to employ the practices "Fair Game" purportedly authorizes. But that is what the court did. (Typed opn. 58.)

⁷ The Church expressly invoked this First Amendment argument in its reply brief after plaintiffs raised the purported "Fair Game" policy in support of their conspiracy argument. (See RB 30 [plaintiffs' argument that "Fair Game" policy supports conspiracy finding]; ARB 14 & fn. 5 [explaining that First Amendment prohibits this court from relying on "Fair Game" or crediting plaintiffs' interpretation of Church doctrine].)

The court’s reliance on “Fair Game” is striking given its prior acknowledgment that this doctrinal question was off limits. In a 2022 decision addressing whether plaintiffs could be compelled to resolve their claims in religious arbitration, the same division of the Second District declined to rely on plaintiffs’ characterization of “Fair Game.” (*Bixler v. Superior Court for the State of California, County of Los Angeles* (Jan. 19, 2022, B310559) [2022 WL 167792](#), at p. *13, fn. 21 [nonpub. opn.].) The court held that plaintiffs’ claims—and specifically the issue of vicarious liability—“can be resolved independent of any determination of Church doctrine,” and it “express[ed] no opinion on the merits of this particular dispute.” (*Ibid.*)

The Court of Appeal has thus provided conflicting decisions, holding in one opinion that resolution of the doctrinal dispute is not necessary to resolve vicarious liability, but then addressing that dispute in another opinion and adopting plaintiffs’ purposeful mischaracterization of Church doctrine. This question of law is far too important for inconsistent and haphazard resolution. (See Cal. Rules of Court, [rule 8.500\(b\)\(1\)](#).) At stake is the Church’s fundamental First Amendment right to decide for itself a matter “at the very core of a religion—the interpretation of particular church doctrines and the importance of those doctrines to the religion.” (*Presbyterian Church, supra*, [393 U.S. at p. 450](#).) This Court should grant review and hold that the Court of Appeal’s reliance on disputed doctrine violates the First Amendment.

C. Review is necessary to resolve whether an individual's professed religion is evidence that the individual conspired with the broader religious organization.

Courts are “obliged under the Free Exercise Clause to proceed in a manner neutral toward and tolerant of [the Church’s] religious beliefs.” (*Masterpiece Cakeshop v. Colorado Civil Rights Commission* (2018) [584 U.S. 617, 638](#) [138 S.Ct. 1719, 201 L.Ed.2d 35].) “The Free Exercise Clause bars even subtle departures from neutrality on matters of religion.” (*Ibid.*, internal quotation marks omitted.) It also bars “covert suppression of particular religious beliefs” and “distinctive treatment” of a religion. (*Church of Lukumi Babalu Aye, Inc. v. City of Hialeah* (1993) [508 U.S. 520, 534](#) [113 S.Ct. 2217, 124 L.Ed.2d 472]; see *McCreary County, Ky. v. American Civil Liberties Union of Ky.* (2005) [545 U.S. 844, 860](#) [125 S.Ct. 2722, 162 L.Ed.2d 729] [“the ‘First Amendment mandates governmental neutrality between religion and religion’ ”].)

The Court of Appeal’s reasoning violates these constitutional obligations. It found a conspiratorial link between Gold and the Church because “Gold confirmed in several messages that she is a Scientologist.” ([Typed opn. 58.](#)) No other court would find a conspiratorial link between a tortfeasor and the Vatican just because the tortfeasor professes to be Catholic. Nor would it apply that reasoning to find a conspiratorial link between a Mormon tortfeasor and The Church of Jesus Christ of Latter-day Saints, or between a Jewish tortfeasor and their synagogue. In each case, the tortfeasor’s religion is irrelevant.

The result should be no different for the Church of Scientology: Gold's claim that she is a Scientologist is not evidence that the Church conspired with her. (See *Larson v. Valente* (1982) 456 U.S. 228, 245 [102 S.Ct. 1673, 72 L.Ed.2d 33] ["small, new, or unpopular denominations" must receive equal treatment].)

The Court of Appeal's reasoning also chills the Church's First Amendment associational rights by creating liability risk for a parishioner's tortious conduct that the Church never approved, directed, or even knew about. "[G]uilt by association is a philosophy alien to the traditions of a free society." (*Claiborne, supra*, 458 U.S. at p. 932; see *Uphaus v. Wyman* (1959) 360 U.S. 72, 79 [79 S.Ct. 1040, 3 L.Ed.2d 1090] ["guilt by association remains a thoroughly discredited doctrine"].) The United States Supreme Court has held that imposing vicarious liability on an organization for its members' acts based merely on membership "impermissibly burden[s]" First Amendment associational rights. (See *Claiborne, at p. 931*.) "To equate the liability of the national organization with that of the Branch in the absence of any proof that the national authorized or ratified the misconduct in question could ultimately destroy it. The rights of political association are fragile enough without adding the additional threat of destruction by lawsuit." (*Id. at pp. 931–932*.)

That "guilt by association" reasoning is what the Court of Appeal employed. (*Claiborne, supra*, 458 U.S. at p. 932.) There is no evidence the Church authorized, ratified, or even knew of Gold's conduct. (See *id. at pp. 931–932*.) Gold expressly stated: "for the record I'm not an agent for the [C]hurch of [S]cientology,

this is false and another lie.” (1 AA 240.) Farny declared that Gold has never been an “employee[] of CSI, under contract with CSI in any way, under the control or direction of CSI in any respect, or ha[s] ever been asked to do anything by CSI.” (1 AA 186.) Other than Gold’s claim to be a Scientologist, there is not a shred of evidence linking her to the Church.

Like political associations, religious organizations’ rights “are fragile enough without adding the additional threat of destruction by lawsuit” based solely on a bad actor’s membership. (*Claiborne, supra*, 458 U.S. at pp. 931–932; see *Roberts v. U.S. Jaycees* (1984) 468 U.S. 609, 622 [104 S.Ct. 3244, 82 L.Ed.2d 462] [right to associate with others in pursuit of religious ends is implicit in First Amendment].) By relying on Gold’s professed religion to find a conspiratorial link, the Court of Appeal’s opinion chills the Church’s associational rights and discourages it from its religious mandate of delivering its message to a broad audience. (See *Claiborne, at pp. 931–932*; see also *Americans for Prosperity Foundation v. Bonta* (2021) 594 U.S. 595, 618 [141 S.Ct. 2373, 210 L.Ed.2d 716] [“The risk of a chilling effect on association is enough”].) This Court should grant review to resolve this important question of law and hold that the Court of Appeal’s reliance on Gold’s professed religion violates the First Amendment.

D. Without the erroneous and unconstitutional reasoning, plaintiffs did not meet their burden of establishing minimal merit of a conspiratorial link between Gold and the Church.

Aside from Gold’s claimed religion and the purported “Fair Game” policy, the Court of Appeal relied on only two other pieces of evidence: (a) Gold speculated in online statements that the Church would harm plaintiffs, including by stalking them; and (b) plaintiffs “in fact experienced that harmful course of conduct that Gold described,” including at the hands of individuals they allegedly recognized as Scientologists. (Typed opn. 58–59.)

But none of that is evidence that Gold *conspired with the Church* to intentionally inflict emotional distress. A conspiracy requires an *agreement* to commit an unlawful act. (*In re Banks* (2023) 97 Cal.App.5th 463, 468 (*Banks*).) While circumstantial evidence may be considered, “there must be some evidence from which the unlawful agreement can be inferred.” (*People v. Drolet* (1973) 30 Cal.App.3d 207, 218; see *Wyatt v. Union Mortgage Co.* (1979) 24 Cal.3d 773, 784–785 [conspiracy requires that “two or more persons *agree* to perform a wrongful act” (emphasis added)].)

There is no “evidence about [Gold’s] relationship with [the Church] such that it would be reasonable to infer an agreement” between them. (*Banks, supra*, 97 Cal.App.5th at p. 468.) No evidence confirms the Church and Gold ever met or communicated, let alone agreed to a conspiracy. In fact, Gold expressly states in her online posts that she is not the Church’s agent. (1 AA 240.)

Moreover, a conspiratorial link is not established by Gold's speculative assertions about what conduct the Church might engage in against plaintiffs, or evidence that plaintiffs later experienced some of that conduct. That is not evidence of a conspiratorial *agreement*. (See *People v. Saling* (1972) 7 Cal.3d 844, 854 ["Before evidence of the acts and declarations of an alleged coconspirator is admissible against the other conspirators prima facie evidence of the conspiracy must be proved"].) Gold "may have had any number of positive or negative motives" in speculating about what the Church might do, but that "is simply inadequate evidence to show [the Church's] agreement" with Gold. (*Banks, supra*, 97 Cal.App.5th at p. 468.) And that plaintiffs allegedly experienced some of the conduct Gold described is not evidence of a link between her and the Church: there is no evidence that Gold was one of the individuals who allegedly engaged in that other conduct (and even if there were, that still would not be evidence of *the Church's* involvement). Without the court's erroneous reliance on Gold's claimed religion and the purported "Fair Game" policy, plaintiffs cannot establish minimal merit of a conspiratorial agreement between the Church and Gold.

CONCLUSION

Minority faiths are subject to discrimination and misunderstanding throughout society. At minimum, they should be able to depend on the courts for the impartial administration of justice. No other litigant in the country has been met with silence after uncovering serious AI abuse by the opposing side.

Review here is required to remedy that abuse of discretion and to ensure that the Church is not the only religion in the nation to lose its basic First Amendment protections. The Court should grant the petition for review.

June 25, 2026

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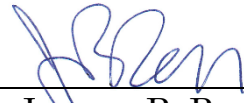
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SCIENTOLOGY CELEBRITY
CENTRE INTERNATIONAL

Document received by the CA Supreme Court.

CERTIFICATE OF WORD COUNT

The text of this petition consists of 7,635 words as counted by the program used to generate the petition.

Dated: June 25, 2026



Jeremy B. Rosen

Document received by the CA Supreme Court.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

CHRISSIE CARNELL BIXLER et al.,

Plaintiffs and Respondents,

v.

CHURCH OF SCIENTOLOGY
INTERNATIONAL et al.,

Defendants and Appellants.

B339009

(Los Angeles County
Super. Ct. No.
19STCV29458)

APPEAL from an order of the Superior Court of
Los Angeles County, Upinder S. Kalra, Judge. Affirmed as
modified.

Horvitz & Levy, Jasjaap S. Sidhu, Jeremy B. Rosen and
Ryan M. Dunbar; Winston & Strawn and William H. Forman;
White & Case and Jeffrey L. Steinfeld for Defendants and
Appellants Church of Scientology International and Church of
Scientology Celebrity Centre International.

Berk Brettler, Andrew B. Brettler and Jake A. Camara for
Defendant and Appellant Daniel Masterson.

Document received by the CA Supreme Court.

Jeffer Mangels Butler & Mitchell, Robert E. Mangels and Matthew D. Hinks for Defendant and Appellant Religious Technology Center.

Boies Schiller Flexner, The Freedman Firm, John Kucera, Alison L. Anderson, Maxwell V. Pritt and Simon Leen for Plaintiffs and Respondents.

In 2019, plaintiffs and respondents Jane Doe #1, Jane Doe #2, Marie Bobette Riales, Chrissie Carnell Bixler, and Bixler's husband Cedric Bixler-Zavala (collectively the plaintiffs) filed a complaint alleging several causes of action, including stalking and intentional infliction of emotional distress, against Church of Scientology International (the Church), Church of Scientology Celebrity Centre International (the Centre), and Religious Technology Center (RTC) (collectively the Church defendants), as well as individuals David Miscavige and Daniel Masterson. The Church defendants, joined by Masterson, filed four special motions to strike specific allegations of the complaint under Code of Civil Procedure section 425.15 (the anti-SLAPP statute).¹ The trial court found some of the allegations were based on protected speech, but concluded the plaintiffs demonstrated the claims had minimal merit, and therefore, the court denied the anti-SLAPP motions.

On appeal, the Church defendants, joined by Masterson (collectively the defendants), contend the trial court should have

¹ SLAPP is an acronym for "strategic lawsuit against public participation." (*Equilon Enterprises v. Consumer Cause, Inc.* (2002) 29 Cal.4th 53, 57.) All further statutory references are to the Code of Civil Procedure unless otherwise stated.

found all of the challenged allegations are based on protected speech. We conclude the defendants met their burden to show three categories of allegations arise from protected activity: a third party's conversation with a reporter, online reviews of a food truck business, and certain messages posted online by Kathy Gold. As to the first two, the plaintiffs failed to submit admissible evidence establishing that the alleged conduct supports a claim for intentional infliction of emotional distress, stalking, or loss of consortium. Specifically, the plaintiffs' evidence of a third party's contact with a reporter was solely inadmissible hearsay, and there was insufficient evidence of the food truck reviews to support the plaintiffs' claims. The plaintiffs demonstrated, however, that their claims based on Gold's statements have the requisite minimal merit to satisfy step two of the anti-SLAPP analysis, because a trier of fact could interpret Gold's statements as true threats. Based on our conclusion that the plaintiffs did not demonstrate the requisite minimal merit as to two allegations, we modify the order to strike specific lines of the complaints, and as modified, we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

A. Allegations of the Complaint

The plaintiffs filed their initial complaint against the Church defendants, Masterson, and Miscavige in August 2019. They filed the operative amended complaint on February 28, 2020, alleging several claims, including stalking in violation of Civil Code section 1708.7, intentional infliction of emotional distress, and as to Bixler-Zavala only, loss of consortium.

The complaint alleges in relevant part as follows. Miscavige operates the entire network of Scientology organizations. Within Scientology, the Sea Organization (also referred to as Sea Org) is a paramilitary organization comprised of dedicated Scientology members who fill senior management and staff positions in the Scientology organizations. Masterson is a “field staff member” within the Scientology organization.

Masterson sexually assaulted Bixler, Riales, Jane Doe #1, and Jane Doe #2. After the women reported the assaults, the defendants “conspired to and systematically stalked, harassed, invaded their and their family’s privacy, and intentionally caused them emotional distress to silence and intimidate them.” The defendants acted through their employees, members, and respective agents.

The defendants refer to a person who is considered an enemy of Scientology as a “Suppressive Person” or “SP.” The Church’s Office of Special Affairs, which conducts legal affairs and public relations, deploys tactics referred to as “Fair Game” to attack, harass, embarrass, humiliate, and/or injure individuals who have been declared to be a suppressive person. The acts of harassment, surveillance, and/or stalking described in the complaint were carried out by or at the direction of the defendants and/or their employees, agents, and/or representatives.

The cause of action for stalking additionally alleged that the defendants knowingly and willfully “conspired and agreed among themselves to: (1) obstruct justice by withholding the facts of Masterson’s sexual assaults from civil authorities[;] (2) stalk Plaintiffs; (3) physically and constructively invade the Plaintiffs’ privacy[;] and/or (4) intentionally inflict emotional

distress upon Plaintiffs[.]” In furtherance of the conspiracy, “Defendants engaged in wrongful conduct, including but not limited to information suppression, coercion, deception, stalking, harassment, surveillance, threats, vandalism, theft, and/or fraud.”

The complaint consists of 297 paragraphs, including allegations of more than 40 acts or categories of harassment experienced by Bixler, more than 20 acts or types of harassment experienced by Jane Doe #1, more than 15 acts experienced by Riales, and approximately 10 acts that Jane Doe #2 experienced.

B. Status of Criminal Prosecution

In June 2020, Masterson was charged with three counts of forcible rape by the Los Angeles County District Attorney’s Office. The jury deadlocked and a mistrial was declared in November 2022. In May 2023, after a second trial, the jury found Masterson guilty of forcible rape against Jane Doe #1 and Jane Doe #2, but was unable to reach a verdict as to the third count involving a complainant identified as Jane Doe #3. In September 2023, Masterson was sentenced to imprisonment for 30 years to life.

C. Anti-SLAPP Motions Filed

In October 2023, the Church defendants filed four anti-SLAPP motions, in which Masterson joined. The motions sought to strike specific paragraphs from the general allegations of the complaint, in whole or in part, which were incorporated by reference in each cause of action. The motions also sought to

strike the causes of action for stalking, intentional infliction of emotional distress, and loss of consortium to the extent based on the challenged allegations.²

In response to the anti-SLAPP motions, the plaintiffs clarified that several of the challenged allegations are merely incidental background information about the Church's practices and not the basis of any claim. Based on this representation, the Church defendants withdrew their challenge to several allegations. The specific allegations at issue on appeal are described in detail in the discussion.³

In addition to arguing that the alleged conduct was protected activity, the Church defendants asserted that the individuals whose conduct was described in the complaint were not their agents, had never been under their control, and there was no basis to impose liability on the Church defendants for their statements.

² Although the Church defendants originally sought to strike the cause of action for stalking in its entirety, the defendants have clarified on appeal that they seek to strike the cause of action for stalking to the extent it relies on the challenged allegations.

³ In the trial court, the Church defendants also challenged Paragraph 165, which the trial court ultimately found was not based on protected conduct. On appeal, the Church defendants have not raised any argument concerning the trial court's ruling on paragraph 165.

1. Declaration of Lynn Farny

The Church defendants submitted the declaration of Scientology minister Lynn Farny, who has served as a corporate officer of the Church, as to the following. Farny declared that the individuals named in the challenged allegations were not agents of the Church, have never been employees of the Church, are not under contract with the Church, are not under the control or direction of the Church, and have never been asked to do anything by the Church. In addition, the Church never threatened the plaintiffs or received any demand from the plaintiffs to cease any purported threats against them.

Farny explained several relevant aspects of Church doctrine. In particular, the book, *Introduction to Scientology Ethics*, sets forth an ethics system and an internal ecclesiastical system of justice used within the religion. The epilogue to the book states that society too often condones false reports, and justice is too often used for personal gain rather than to reform the individual and safeguard society. The complaint takes a few lines from the epilogue, out of context, to falsely portray Scientologists as anti-law enforcement.

In addition, Farny declared that Scientology has no doctrine of “Fair Game.” The “Fair Game” policy described in the complaint was canceled in 1968 because it was continually misinterpreted to tarnish the Church unfairly. Farny declared that when a policy is canceled, it is no longer Church doctrine. The phrase “Fair Game” has not appeared in the authorized printed works of the Church for 55 years.

2. Other Declarations

The Church defendants also submitted the declaration of Margaret Marmolejo, who is the corporate secretary and Director of Special Affairs for the Centre. Marmolejo similarly declared that the individuals named in the challenged allegations were not agents of the Centre. She stated that the Centre never threatened the plaintiffs or received any demand from the plaintiffs to cease any purported threats against them. The Church defendants submitted a substantively similar declaration from the president of RTC concerning RTC.

D. Opposition to Motions to Strike

On January 8, 2024, the plaintiffs filed oppositions to the anti-SLAPP motions. They argued that the allegations at issue did not qualify as a protected activity, but even if protected, the plaintiffs' evidence demonstrated a probability of succeeding on the merits of their claims. They also asserted that the evidence showed the Church defendants had an agency relationship with the individual perpetrators based on conduct and circumstances. The plaintiffs each submitted a declaration as well. A summary of the plaintiffs' declarations is provided below, while additional pertinent details are provided in the discussion.

1. Declaration of Jane Doe #1

Jane Doe #1, in her declaration, described sexual assaults that she experienced and the Church's response when the organization learned of her allegations. After Jane Doe #1 spoke

to the police in 2016 about the assaults, she was subject to a campaign of harassment, surveillance, and abuse, which continues to the present. Among other incidents, Jane Doe #1 described receiving numerous calls from unknown numbers, including a caller from a New York area code asking if she was “scared.” She described frequently being followed or surveilled by individuals, some of whom she named and many she was aware were Scientologists. Her trash has frequently been stolen. In March 2017, Jane Doe #1 found her car had been broken into in front of her house, her car doors left open, and a debit card stolen. Funds were withdrawn from the account linked to the debit card during the night. In April 2017, she frequently found her car doors open. In approximately March 2019, a tree that obscured her neighbors’ view of her home was poisoned at the roots. She experienced several technology issues, including having her cellular devices connect to unknown devices. Jane Doe #1 also described the emotional distress that she experienced because of the conduct against her.

2. Declaration of Jane Doe #2

In Jane Doe #2’s declaration, she described her affiliation with Scientology from childhood, Masterson’s assault, and the Church’s response when she reported the rape to the Church. In 2017, Jane Doe #2 disclosed to the LAPD that she had been assaulted by Masterson. After disclosing the sexual assault to the authorities, and to the present, she has been stalked, harassed, and intimidated by the defendants and their agents in retaliation for reporting the abuse and to silence her.

Among other incidents, Jane Doe #2 described people whom she knew to be Scientologists surveilling her house, watching her when she was outside her house, and following her in public parks and stores. People have approached her home, tried to gain entry on false pretenses and refused to leave, peering in the windows and taking notes. She began receiving voluminous mail, telephone calls, voicemails, and text messages from numbers associated with Sea Org. Multiple callers either did not speak or made sexual noises.

On multiple occasions, her car was vandalized while surrounding cars were left untouched.

Fake social media accounts have been created in her name and used to try to discredit her. Her social media accounts have been hacked, and her Instagram account was deleted without her knowledge. Her accounts with service and utility providers have been hacked and the passwords changed without her authorization.

Jane Doe #2 often heard irregular clicking or unknown voices during telephone conversations, and experienced interference and dropped calls. Her telephone and her computer will scroll or take screenshots on their own, the settings on her phone have been changed without her input, and her telephone lists an incorrect city as its location. Text messages exchanged among the plaintiffs and other files on her phone have been deleted without her control. Jane Doe #2 has contacted the offices of doctors and attorneys, provided personal confidential information, and been told in follow-up calls that there is no record of her initial call. In August 2021, an investigator with the Los Angeles District Attorney's office confirmed that Jane Doe #2's telephone and computer had been compromised.

Jane Doe #2 described her emotional distress because of the harassment. On multiple occasions, she told the individuals to cease their actions and she reported the harassment to law enforcement.

3. Declaration of Bixler

In Bixler's declaration, she described multiple sexual assaults by Masterson during their relationship, as well as the Church's response to Bixler's report of the events. In July 2009, she married Bixler-Zavala. In October 2016, Bixler wrote letters to several individuals terminating her relationship with Scientology, and in December 2016, Bixler reported Masterson's sexual assaults to the LAPD.

Since reporting the assaults, Bixler and her husband have found their locked car doors and trucks open almost weekly, although nothing is usually stolen. Since 2017, on a regular basis, Bixler and her husband have seen people loitering outside their home, looking in the windows, and staring at family members. People in parked vans outside the home film their home and their family. Bixler described multiple specific incidents where cars followed her, while the occupants filmed her, and people followed her into different locations.

In October 2017, their family dog died from unexplained traumatic injuries to the trachea and esophagus.

In 2017, individuals claiming to be with law enforcement told neighbors that Bixler and her husband were pedophiles abusing their children. In August 2018, two individuals claiming to be LAPD detectives requested footage from the neighbor's home surveillance cameras showing Bixler's house, but the LAPD

detective investigating the assaults by Masterson told Bixler that no detective requested the footage.

In September and October 2018, someone broke the lock on her front door.

In May 2019, Bixler's tires were slashed, and in June 2019, she was run off the road by a car that was following her. In June 2019, a man followed her into a pharmacy, approached, and whispered, " 'We see you.' "

In July 2019, a tree on their property was poisoned. That same month, while Bixler was home alone at night, large stones were thrown against the outer wall of the master bedroom.

After she went to the authorities, Bixler's trash was regularly stolen. In December 2019, she saw two people taking her trash. When she confronted them, they said, "You don't even know what you're dealing with" and called her a "lying whore."

In January 2020, Bixler and Bixler-Zavala found ground meat packed around rat poison had been thrown over the fence in their back yard. One of their dogs, who had eaten some of the meat, died. Within days, they found ground meat near the fence by their driveway that was packed with broken glass.

In December 2020, Bixler learned her car was fraudulently registered to a third party instead of her.

The external cameras at their home were disabled by someone on several occasions, including in February 2021. The next morning, Bixler found a bag of candy on the front porch.

In January 2022, over the course of two weeks, a man repeatedly knocked aggressively on their door claiming he was from the Census Bureau and asking personal questions about Bixler and her family. The man refused to provide identification.

In May 2022, the external security cameras at their home were again disabled. When they went outside, they found their new car's transmission had been damaged and fluid was spilling out.

Several times, a note saying "VACANT" was placed inside their mailbox, causing their mail not to be delivered.

Bixler described several ways that her email accounts, telephone, social media accounts, and home security system have been compromised, consistent with the experiences of the other plaintiffs. She has been targeted for harassment through social media by unidentified individuals using information that could only be gathered from the Church defendants' auditing files.

Since reporting Masterson's sexual assault, she and Bixler-Zavala have repeatedly been victims of credit card fraud. They have also been the victim of fraudulent credit schemes that result in creditors and collectors harassing them for payment on items and services that they did not order or receive.

Fake ads were posted on internet websites purporting to be Bixler soliciting anal sex from strangers. Bixler was removed from her health insurance multiple times without any action taken by her, and once had to pay out of pocket for an emergency room trip. Their bank accounts were hacked multiple times, passwords changed without their consent, and unauthorized withdrawals made.

Bixler described incidents where her close friends and family members have been harassed, and the emotional distress that she has experienced because of the ongoing course of conduct.

4. Declaration of Riales

The plaintiffs submitted Riales's declaration as well. Riales declared that Masterson sexually assaulted her throughout their relationship from 2002 to 2004. Approximately seven months after she reported the assaults to LAPD, a social media post revealed that she had spoken to the police. On multiple occasions after that, the occupants of cars parked near her home stared at her and photographed her.

Beginning in late 2018, anonymous callers to child protective services alleged she was neglecting her children, resulting in an investigation. After several court hearings, no action was taken against Riales.

Riales described several incidents from December 2018 to the present, in which she has seen people outside her home for hours, remaining near the property and watching her. If she leaves the house, they follow her. People wearing earpieces followed her and her daughter into a large department store.

Riales has owned and operated a food truck since 2017. On one occasion, a neighbor saw a man taking pictures of Riales's food truck, her car, and her home, and looking in the windows of the home. When the neighbor confronted the man, he fled. At 1:00 a.m. that night, a window was shattered in the room where her 12-year-old child slept. Riales and her neighbors have since confronted other people surveilling her home. False reviews were posted about her food truck and an attempt was made to list her food truck for sale.

After reporting Masterson to the authorities, Riales's trash has been stolen repeatedly, as has her parents' trash. On several

occasions, she has come outside and found all the doors of her car opened. On multiple occasions, people have attempted to break into her food truck or have vandalized the food truck.

In December 2019, Riales' home was set on fire while she was inside. The local fire department concluded the fire was set intentionally.

In February 2020, her dog became violently ill. Her veterinarian concluded the dog had been poisoned.

Riales has had her telephone, email, and computer hacked repeatedly, as well as experiencing other technology issues. She was a victim of attempted extortion. An Amazon account that she used to sell clothing was hacked, such that customer orders showed as complete when they were not fulfilled, destroying the business.

On multiple occasions, Riales told individuals to stop harassing her, and she reported the harassment to law enforcement. She also described the emotional distress that she has experienced as a result of the conduct.

5. Additional Evidence

Each plaintiff attached a blog post written by an individual named Kathy Gold, dated September 7, 2018, entitled, "If Chrissie Or Any Of Her Accomplices Come Near Me Offline," as described in further detail in the discussion. The plaintiffs also filed objections to the Church defendants' evidence.

E. Replies, Hearing, and Trial Court Ruling

On January 29, 2024, the Church defendants filed replies, in which Masterson joined. They argued that the allegations being challenged were protected activity under the anti-SLAPP statute and the plaintiffs failed to produce evidence of essential elements of their claims. Specifically, they argued the plaintiffs failed to provide any actual evidence of an agency relationship with the individuals identified in the allegations. They also argued that the plaintiffs failed to provide evidence of an actual threat. In addition, they claimed there was no evidence that the plaintiffs had ever demanded the alleged stalking activity cease.

A hearing was held on the anti-SLAPP motions on February 13, 2024. The trial court noted that the complaint alleged the defendants were liable for the conduct of third parties under theories of agency and conspiracy. The court explained that conspiracy is a doctrine of liability, not a cause of action subject to an anti-SLAPP motion, as explained in *Spencer v. Mowatt* (2020) 46 Cal.App.5th 1024 (*Spencer*). The court gave the parties an opportunity to provide further briefing on the issues raised during the hearing, but the parties agreed that no further briefing was necessary. The court took the matter under submission.

The trial court issued a written order denying the anti-SLAPP motions on March 25, 2024. The court found some of the allegations at issue were not protected speech, but concluded the Church defendants met their burden as to certain allegations. The court found, however, that the plaintiffs had established a probability of prevailing at trial through a prima facie showing on

each of their claims. The court found each of the allegations at issue, viewed in context, could be used to create liability for stalking. The blog entries and social media posts could be perceived by the plaintiffs as part of a course of conduct that implies a threat or constitutes harassment. The conduct alleged, viewed along with all the persistent, harassing behavior, could seriously alarm, annoy, torment, or terrorize a reasonable person. “The conduct revealed an obsession by individuals or a group with Plaintiffs[,] centered around charges Plaintiffs made against Masterson and again, most curiously, after the allegations became public.”

The trial court noted the defendants were unable to provide any legal authority for the proposition that the plaintiffs had to establish minimal merit to the agency allegations to meet their burden on prong two. During oral argument, the court had cited *Spencer, supra*, for the proposition that conspiracy is a vicarious liability theory, not a cause of action, and therefore, the conspiracy allegations were not relevant for purposes of prong one of the anti-SLAPP analysis. The court noted that agency is similarly a theory of liability and not a cause of action. However, because the appellate court in *Ralphs Grocery Co. v. Victory Consultants, Inc.* (2017) 17 Cal.App.5th 245, 265 (*Ralphs*), discussed the parties’ evidence of vicarious liability at prong two, the trial court in the instant case assumed for the purposes of its analysis that the plaintiffs must make a prima facie showing of vicarious liability to satisfy their burden.

Although the trial court expressed doubt that the plaintiffs’ evidence established an agency relationship, the court found the plaintiffs had met the elements of the alleged conspiracy theory of liability. The court denied all four anti-SLAPP motions. The

Church, RTC, and Masterson filed timely notices of appeal, and on April 25, 2025, this appellate court granted a motion by the Centre to be added as a party to the appeal.

DISCUSSION

A. Statutory Scheme and Standard of Review

“[T]he anti-SLAPP statute is designed to protect defendants from meritless lawsuits that might chill the exercise of their rights to speak and petition on matters of public concern.” (*Wilson v. Cable News Network, Inc.* (2019) 7 Cal.5th 871, 883–884 (*Wilson*).) To accomplish this purpose, the statute authorizes a special motion to strike a claim against a person “arising from any act of that person in furtherance of the person’s right of petition or free speech under the United States Constitution or the California Constitution in connection with a public issue . . . unless the court determines that the plaintiff has established that there is a probability that the plaintiff will prevail on the claim.” (§ 425.16, subd. (b)(1).) The court considers the pleadings and the affidavits submitted in connection with the motion stating the facts supporting the liability or defense. (§ 425.16, subd. (b)(2).)

Courts apply a two-step analysis to evaluate anti-SLAPP motions. (*Bonni v. St. Joseph Health System* (2021) 11 Cal.5th 995, 1011 (*Bonni*).) In the first step, the court determines whether the plaintiff’s claims arise from protected activity. (*Id.* at p. 1009.) “The defendant’s burden is to identify what acts each challenged claim rests on and to show how those acts are protected under a statutorily defined category of protected

activity. [Citation.]” (*Id.* at p. 1009; *Terry v. Davis Community Church* (2005) 131 Cal.App.4th 1534, 1544 (*Terry*).) The defendant may argue allegations arise from protected activity, even while disputing the truth of the allegations. (*Bel Air Internet, LLC v. Morales* (2018) 20 Cal.App.5th 924, 939.)

A count, as pled in the complaint, may contain allegations of both protected and unprotected activity, loosely referred to as a “mixed cause of action,” but an anti-SLAPP motion can reach a claim based on protected activity regardless of how the pleading is organized. (*Baral v. Schnitt* (2016) 1 Cal.5th 376, 382 & 392 (*Baral*).)⁴ “When relief is sought based on allegations of both protected and unprotected activity, the unprotected activity is disregarded at this stage.” (*Id.* at p. 396.)

If the complaint seeks relief based on allegations arising from protected activity, the court turns to the second step of the analysis. (*Baral, supra*, 1 Cal.5th at p. 396.) In the second step, “the burden shifts to the plaintiff to demonstrate that each challenged claim based on protected activity is legally sufficient and factually substantiated.” (*Ibid.*) “[A] plaintiff seeking to demonstrate the merit of the claim ‘may not rely solely on its complaint, even if verified; instead, its proof must be made upon

⁴ The *Baral* court provided an example related to defamation. If a complaint alleged defamation in two counts, one count based on protected statements and the other on unprotected statements, the plaintiff would have to establish a probability of prevailing on the claim arising from the protected activity. (*Baral, supra*, 1 Cal.5th at p. 392.) The plaintiff cannot escape review of the protected activity simply by combining allegations of protected and unprotected activity in a single cause of action and establishing a probability of prevailing on the allegations of unprotected activity. (*Id.* at pp. 392–393.)

competent admissible evidence.’ [Citations.]” (*Sweetwater Union High School Dist. v. Gilbane Building Co.* (2019) 6 Cal.5th 931, 940 (*Sweetwater*)). The court, without weighing evidence or resolving evidentiary conflicts, determines “whether the plaintiff’s showing, if accepted by the trier of fact, would be sufficient to sustain a favorable judgment.” (*Baral, supra*, at p. 396.) The plaintiff must also show a probability of prevailing on defenses. (See *Flatley v. Mauro* (2006) 39 Cal.4th 299, 323 (*Flatley*) [plaintiff must overcome litigation privilege to demonstrate probability of prevailing]; *Bergstein v. Stroock & Stroock & Lavan LLP* (2015) 236 Cal.App.4th 793, 813 [plaintiffs’ claims precluded by litigation privilege and statute of limitations].)

“[C]laims with the requisite minimal merit may proceed.’ [Citation.]” (*Baral, supra*, 1 Cal.5th at p. 385.) “If not, the claim is stricken. Allegations of protected activity supporting the stricken claim are eliminated from the complaint, unless they also support a distinct claim on which the plaintiff has shown a probability of prevailing.” (*Id.* at p. 396.)

On appeal, we review an order granting or denying an anti-SLAPP motion de novo. (*Park v. Board of Trustees of California State University* (2017) 2 Cal.5th 1057, 1067 (*Park*)). “We exercise independent judgment in determining whether, based on our own review of the record, the challenged claims arise from protected activity.” (*Ibid.*) Considering the pleadings and the affidavits concerning the facts, we accept the plaintiffs’ submissions as true “and consider only whether any contrary evidence from the defendant establishes its entitlement to prevail as a matter of law. [Citation.]” (*Ibid.*)

B. Prong 1 Framework

1. Conduct Alleged as Basis for Claims

In step one, the court considers “the elements of the challenged claim and what actions by the defendant supply those elements and consequently form the basis for liability.” (*Park, supra*, 2 Cal.5th at p. 1063.) To determine whether a tort claim asserted on a conspiracy theory arises from protected activity, the court focuses on the acts which satisfy the elements of the tort, not the acts which evidence participation in the conspiracy. (*Spencer, supra*, 46 Cal.App.5th at pp. 1037 & 1040.) The tortious acts in which the defendants allegedly conspired are the acts on which the claims are based. (*Id.* at p. 1040.)

If allegations are “incidental” or “collateral” to a claim, simply providing context rather than supporting a claim for recovery, they are not subject to section 425.16. (*Baral, supra*, 1 Cal.5th at p. 394.) “[A] claim may be struck only if the speech or petitioning activity *itself* is the wrong complained of, and not just evidence of liability or a step leading to some different act for which liability is asserted.” (*Park, supra*, 2 Cal.5th at p. 1060.)

In this case, the defendants contend the acts identified by the anti-SLAPP motions, which are incorporated by reference in each count of the complaint, are alleged as a course of conduct supporting liability for intentional infliction of emotional distress, stalking, and loss of consortium. Given an opportunity in the trial court to clarify whether the challenged allegations pertain to incidental or collateral matters, the plaintiffs clarified that several allegations are not the basis of any claim, but agreed with the defendants that the remaining allegations have been pled as

a basis of liability for the claims stated. At step one, we do not evaluate the legal sufficiency of the claim. Therefore, we accept the parties' view that the allegations challenged on appeal are pled as a basis for recovery on claims for intentional infliction of emotional distress and stalking, and by extension, loss of consortium.

2. Statutory Categories of Protected Activity

The anti-SLAPP statute defines four categories of protected activity based on content, location, audience, and timing. (§ 425.16, subd. (e); *FilmOn.com Inc. v. DoubleVerify Inc.* (2019) 7 Cal.5th 133, 143 (*FilmOn*)). The first two categories, which do not apply in this case, concern statements made in connection with an official proceeding. (§ 425.16, subd. (e)(1) & (e)(2).) At issue in this case are section 425.16, subdivision (e)(3), which applies to “any written or oral statement or writing made in a place open to the public or a public forum in connection with an issue of public interest,” and section 425.16, subdivision (e)(4), which is a catchall provision protecting “any other conduct in furtherance of the exercise of the constitutional right of petition or the constitutional right of free speech in connection with a public issue or an issue of public interest.”

a. *Conduct Not Covered as a Matter of Law*

A defendant must make a threshold showing that the challenged act was taken in furtherance of the constitutional rights of petition or free speech. (*D.C. v. R.R.* (2010) 182 Cal.App.4th 1190, 1216–1217 (*D.C.*)). Courts generally presume

the validity of the claimed constitutional protection in the first step of the analysis. (*Ibid.*) But narrow exceptions have been recognized. Conduct that is illegal as a matter of law is not protected by section 425.16. (*Flatley, supra*, 39 Cal.4th at p. 316; *City of Montebello v. Vasquez* (2016) 1 Cal.5th 409, 424.) To resolve the issue of illegality at the first step though, the defendant must concede, or the evidence conclusively show, that the challenged conduct is illegal as a matter of law. (*City of Montebello v. Vasquez, supra*, 1 Cal.5th at p. 424.)

Similarly, a “true threat,” in which the speaker intends to communicate “a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals,” is not protected by the First Amendment. (*D.C., supra*, 182 Cal.App.4th at p. 1218, quoting *Virginia v. Black* (2003) 538 U.S. 343, 359.) If a statement or writing is unequivocally a threat of bodily harm that on its face constitutes a true threat under the law, it will not satisfy the first prong of the anti-SLAPP motion. (*Ibid.*) “If, however, a factual dispute exists about the legitimacy of the defendant’s conduct, it cannot be resolved within the first step but must be raised by the plaintiff in connection with the plaintiff’s burden to show a probability of prevailing on the merits.” (*Flatley, supra*, 39 Cal.4th at p. 316 [illegality]; *D.C., supra*, 182 Cal.App.4th at p. 1217 [true threats].)

b. “*In Connection With*” An Issue of Public Interest

Subdivisions (e)(3) and (e)(4) both require the moving party to establish that the challenged statement or other conduct was made “in connection with” an issue of public interest. The

California Supreme Court has articulated a framework to determine whether speech or conduct was made “in connection with” an issue of public interest. (*FilmOn*, *supra*, 7 Cal.5th at p. 149.)

First, we look at the content of the speech to assess whether it implicates a “public issue” or “issue of public interest.” (*FilmOn*, *supra*, 7 Cal.5th at p. 149.) Speech activity that implicates a public issue includes statements about: (1) “a person or entity in the public eye,” (2) “conduct that could directly affect a large number of people beyond the direct participants,” or (3) “a topic of widespread, public interest.” (*Rivero v. American Federation of State, County, and Municipal Employees, AFL-CIO* (2003) 105 Cal.App.4th 913, 924.) Other attributes of a public issue, compared to a private interest, include whether the issue is “of concern to a substantial number of people” or “the subject of extensive media coverage” (*Weinberg v. Feisel* (2003) 110 Cal.App.4th 1122, 1132–1133), and whether the activity took place “in the context of an ongoing controversy, dispute or discussion” (*Du Charme v. International Brotherhood of Electrical Workers* (2003) 110 Cal.App.4th 107, 119).

Second, the court must determine whether the speech activity was “in connection with” the public issue by looking at the “functional relationship” between the speech and the public issue, asking “whether the activity contributed to public discussion of that issue.” (*Geiser v. Kuhns* (2022) 13 Cal.5th 1238, 1246.) There must be “some degree of closeness” between the conduct and the public interest. (*FilmOn*, *supra*, 7 Cal.5th at p. 150.) “[T]he statement must in some manner itself contribute to the public debate.” [Citations.] (*Ibid.*) “What it means to ‘contribute to the public debate’ [citation] will perhaps differ

based on the state of public discourse at a given time, and the topic of contention. But ultimately, our inquiry does not turn on a normative evaluation of the substance of the speech. We are not concerned with the social utility of the speech at issue, or the degree to which it propelled the conversation in any particular direction; rather, we examine whether a defendant—through public or private speech or conduct—participated in, or furthered, the discourse that makes an issue one of public interest. [Citations.]” (*Id.* at pp. 150–151.) A statement is made “in connection with” a public issue if it contributes to, meaning that it participates in or furthers, some public conversation on the issue. (*Ibid.*) This analysis requires consideration of the context in which the statement was made, including the audience, speaker, and purpose of the speech. (*Id.* at pp. 151–152.)

c. *Case Law Applying FilmOn Analysis*

In *FilmOn*, the California Supreme Court found it plain that reports delivered to paying subscribers, who were required to keep the information confidential, did not further the public conversation on an issue of public interest under the circumstances of that case. (*FilmOn*, *supra*, 7 Cal.5th at pp. 149–150.) The court considered it significant that the defendant did not issue reports to the wider public interested in the information, “but privately, to a coterie of paying clients,” who used the information for “business purposes alone.” (*Id.* at p. 153.) “The information never entered the public sphere, and the parties never intended it to.” (*Ibid.*) The *FilmOn* court cautioned, however, that no single element was dispositive. (*Ibid.*)

In *Murray v. Tran* (2020) 55 Cal.App.5th 10, 15 (*Murray*), the appellate court applied the *FilmOn* framework to determine whether alleged defamatory statements by defendant My Tran about the dentistry skills of his former business partner, plaintiff Ian Murray, were protected under section 425.16, subdivision (e)(4). The court determined that a series of emails to the parties' business attorney and other individuals associated with the dental practice did not meet the functional relationship test. (*Id.* at p. 31.) "Although the e-mails contain statements about an issue of public interest (the quality of dental care at Bird Rock Dental), there is no showing the statements furthered or contributed to a public conversation or discussion on this issue. There was no allegation or evidence that any member of the public received these e-mails or that Dr. Tran intended that any other person read the e-mails. The e-mails were sent only to a limited number of persons within Dr. Tran's business entities, and Dr. Tran did not produce any evidence showing any of these individuals had any responsibility for, or authority over, Dr. Murray's work at [the dental practice]. There was also no evidence that Dr. Tran intended or expected that any of the recipients would communicate to patients or other members of the public that Dr. Murray was an unqualified or incompetent dentist." (*Ibid.*) Although an internal discussion about the quality of dental care at the facility might benefit patients and serve the public interest, indirect consequences on an issue of public concern did not satisfy the functional relationship test. (*Id.* at p. 32.)

The *Murray* court found Tran's statements to Murray's current employer, however, were protected. (*Id.* at p. 35.) Tran explicitly stated he wanted to warn Murray's current employer

about certain problems to protect the employer's patients from substandard care. "These statements—made to a current employer—were directly tethered to the issue of public interest (a dentist's competence to perform dental work) and promoted the public conversation on that issue because they were made to a person who had direct connection to and authority over the patient population with whom Dr. Murray was working at the time." (*Ibid.*)

The *FilmOn* court distinguished two cases frequently cited for the proposition that section 425.16, subdivision (e)(4) may apply to private conversations about issues of public interest: *Terry, supra*, and *Hecimovich v. Encinal School Parent Teacher Organization* (2012) 203 Cal.App.4th 450 (*Hecimovich*). (*FilmOn, supra*, 7 Cal.5th at p. 146.) In both cases, the *FilmOn* court found the context mattered, including whether the communications were private or widely broadcast and received, and for what purpose. "In *Terry*, the court considered that the speakers were church leaders attempting to protect children in the church's youth groups, as evidenced by the fact that 'the matter was referred to the Davis Police Department for investigation.' (*Terry, supra*, 131 Cal.App.4th at p. 1547. . . .) In *Hecimovich*, too, the court highlighted the relationship between the speech, the speaker, and the audience. (*Hecimovich, supra*, 203 Cal.App.4th at pp. 465–466 [emphasizing that 'communications in issue here concern the well-being of young children in an afterschool sports program, as discussed between and among members of the PTO, parents of the young team members, and league officials'].)" (*FilmOn, supra*, 7 Cal.5th at p. 146.)

C. Prong 1 Analysis of Challenged Allegations in This Case

1. Statements by Masterson's Publicist in Private Conversations

a. Allegations

The defendants identified four paragraphs alleging statements by Masterson's publicist that they contend are protected activity. Paragraph 88 states: "After sending [letters notifying individuals that she was terminating her relationship with Scientology], Plaintiff Bixler was contacted by Masterson's publicist Jenni Weinman. Weinman is an agent of Defendant Masterson. Plaintiff Bixler refused many of her calls but agreed to speak after Weinman said she was contacting Plaintiff Bixler because 'things are about to get serious [for you and your family].' Weinman forwarded a letter from Masterson to Plaintiff Bixler along with her threat that things were about to get 'serious.' The letter contained threatening abusive, and harassing language. The letter referred to false and malicious claims about Plaintiff Bixler that Masterson was prepared to release. The letter threatened the release of this false information unless Plaintiff Bixler and her husband Plaintiff Bixler-Zavala took 'a good look at what [they thought they] could gain' from speaking publicly and reporting to law enforcement the sexual assaults committed by Masterson."

Paragraph 89 states: "In additional communications with Plaintiff Bixler, Weinman stated to Plaintiff Bixler that what [Bixler] was claiming happened between her and Masterson could

not constitute rape because [Bixler] and Masterson were in a relationship at the time. Weinman also threatened Plaintiff Bixler by stating that she and Jane Doe #1 were involved in an ‘extortion attempt’ of Masterson.”

Paragraph 90 states: “These statements were nearly identical to those Plaintiff Bixler had been told years ago by the Institutional Defendants.”

Paragraph 177 states: “Jane Doe #1 was contacted by Masterson’s publicist, Jenni Weinman, after Weinman contacted Plaintiff Bixler. Weinman is an agent of Defendant Masterson. Weinman pretended not to know Jane Doe #1 despite having met her previously, socialized with her, and been present with her on one of the occasions that she was sexually assaulted by Masterson. Weinman had previously admitted to Plaintiff Bixler, during a separate phone call, that she knew Jane Doe #1. Weinman attempted to gather information from Jane Doe #1 about the sexual assaults committed by Masterson against Jane Doe #1. Weinman also encouraged Jane Doe #1 not to pursue her allegations any further.”

b. *Analysis*

It is undisputed that the statements attributed to Weinman concerned a public issue. Masterson, a well-known actor, is a person in the public eye. The rape allegations against him were covered by the media, in addition to the larger public conversation about sexual abuse, harassment, and assault, known as the #MeToo movement. In addition, the media has extensively covered controversies involving Scientology, which is

a large and wealthy church. (*Weinberg, supra*, 110 Cal.App.4th at p. 1133.)

The plaintiffs assert Weinman's intent in making the alleged statements was to threaten and dissuade them from pursuing their allegations against Masterson. The defendants agree, but contend that seeking to influence the public discussion by preventing the disclosure of information should be considered conduct "in connection with" the public debate, and that concealing information can have social value. We agree with the trial court that Weinman's alleged statements in private conversations were not made "in connection with" the public debate because her statements did not contribute to or further the public debate in any manner. In each instance, Weinman's statements were directed at one person in a private conversation. The statements never entered the public sphere, nor did she intend them to. In fact, the content of the statements shows their purpose was to prevent further public discussion. Weinman's private conversation to prevent a single person from speaking about an issue, without intending her own statements in the private conversation to become part of the public debate in any way, did not further or participate in the public debate, and was not intended to, so it is not the type of speech activity "in connection with" the public debate that is protected under the anti-SLAPP statute. The court must focus on the nature of the speech before it, " 'rather than the prospects that such speech may conceivably have indirect consequences for an issue of public concern.' [Citations.]" (*Wilson, supra*, 7 Cal.5th at p. 903.) The defendants failed to meet their burden to show Weinman's statements were protected activity.

The recent case *Willis v. The Walt Disney Co.* (2025) 115 Cal.App.5th 1001, 1017 (*Willis*), relied on by the defendants, is readily distinguishable. In *Willis*, the plaintiff alleged several causes of action based in part on the defendants’ alleged decision not to hire a well-known band, the Village People, to perform at the defendants’ venues. (*Id.* at pp. 1008–1009.) The appellate court concluded the defendants’ selection of musical acts to perform on its stage had the requisite functional relationship to a public issue. (*Id.* at pp. 1016–1017.) In addition, the *Willis* court concluded statements in private conversations with the band’s agents to negotiate potential bookings were functionally related to the concerts as a necessary preliminary step, furthering the public discourse about the musical acts that would perform at the defendants’ venues for a vast public audience. (*Id.* at pp. 1018–1020.) The claims in *Willis* are distinguishable from the present case because they were based on the defendants’ own conduct that directly contributed to the public discourse – hiring or not hiring an act to perform on their stage, and the communications antecedent to booking an act. The claims in *Willis* were not based on statements to an unrelated party in private conversation with the intent to persuade that party not to contribute to the public discourse.

2. Statements to Dissuade a Third-party Witness

a. Allegations

The defendants contend alleged statements in private conversations with a witness identified as “B.S.” were protected activity. Specifically, Paragraph 175, lines 7-8, states: “[Michelle

Miskovich] contacted B.S., a witness to Jane Doe #1's sexual assault, in an attempt to dissuade B.S. from speaking with police." Paragraph 176 states: "Defendants had others attempt to dissuade B.S. from telling the truth. For instance, Vanessa Mooney, who claimed to B.S. that Jane Doe #1 was fabricating her claims against Masterson."

b. *Analysis*

The parties' declarations provide no further information about the speakers or the context of the challenged allegations. As with the statements attributed to Weinman, we conclude these third-party conversations concerned a public issue, but did not take place in the public sphere and were not intended to become part of the public debate. The statements were made in private discussions, intended to dissuade the witness from further participation, and were not intended to further the public debate. The trial court properly found the defendants failed to establish these allegations were protected activity under the anti-SLAPP statute.

3. Statements by Illaria Urbanati in a Grocery Store

a. *Allegation*

The defendants contend alleged statements to Jane Doe #2 by a woman named Illaria Urbanati were protected activity. Specifically, Paragraph 255 states: "In January of 2017, Jane Doe #2 was at a grocery store when Urbanati, who had since

become a business partner of Defendant Masterson's, approached Jane Doe #2 and told Jane Doe #2 that Leah Remini was putting Jane Doe #2 'up to this,' and asked why Jane Doe #2 and Plaintiff Bixler were 'doing this to Danny?' She went on to interrogate Jane Doe #2, to attempt to get Jane Doe #2 to admit she was lying, and she also told Jane Doe #2 that Plaintiff Bixler was 'insane.' ”

b. *Analysis*

We agree with the trial court that Urbanati's alleged statements in the grocery store do not fall within the protection of the anti-SLAPP statute. Although the statements concerned a public issue and were delivered in a location open to the public, there was no wider audience for Urbanati's statements than simply speaking in a private conversation with Jane Doe #2. There is no indication from the content of the statements or their context that Urbanati intended for her statements to become part of the public debate, and in seeking to influence or intimidate Jane Doe #2, Urbanati was not intending to further the public debate on the topic. The appellants did not meet their burden to show Urbanati's statements in the store were made “in connection with” an issue of public interest that is protected under subdivision (e)(3) or (e)(4).

4. Social Media Posts by Individuals Other Than Kathy Gold

a. *Allegations*

The defendants contend certain allegations about social media posts refer to protected activity under the anti-SLAPP statute. Specifically, Paragraph 110 states: “In August of 2018, Defendants’ agents Heather Seidler and Virginia Macgregor published posts to their Facebook accounts inciting fellow Scientologists to assist in harassing Plaintiff Bixler. In one post, Macgregor stated that Plaintiff Bixler was ‘reminiscing about all the anal sex [Plaintiff Bixler] obviously miss[es].’ ” Paragraph 253 states: “Jane Doe #2 has been harassed via social media by Defendants and/or their agents including being accused of serious criminal offenses and being a part of ‘Pizzagate.’ ”

b. *Analysis*

Although the trial court found these paragraphs concerned protected activity because they refer to social media posts, we conclude the defendants failed to make a prima facie showing that the allegations concern activity protected under the anti-SLAPP statute. The defendants did not submit any evidence addressing these allegations. Bixler and Jane Doe #2, in their declarations, describe these social media posts in language identical to the description in the complaint. No further information has been provided about the alleged social media posts.

To qualify for protection under section 425.16, subdivisions (e)(3) or (e)(4), the alleged conduct must be in connection with a public issue or an issue of public interest. “Statements made on a [website] are made in a public forum. [Citation.] However, not every [website] post involves an issue of public interest. Mere publication on a [website] does not turn otherwise private information into a matter of public interest. [Citation.] Thus, the remaining question is whether these statements were made in connection with an issue of public interest.” (*Grenier v. Taylor* (2015) 234 Cal.App.4th 471, 481.)

The defendants have not met their burden to establish that the content of the alleged social media posts concerned a public issue. The defendants have not explained how encouraging people to harass a private individual, or accusing a private individual of crimes and being part of “Pizzagate,” concerns a public issue. Because appellants have not made a threshold showing that the challenged allegations concern an issue of public interest, we cannot conclude it was protected speech activity.

We note that there is also insufficient information from which to conclude the alleged statements were made in a public forum under subdivision (e)(3), or “in connection with” a public issue under either subdivision (e)(3) or (e)(4). There is no information from which to determine whether the Facebook accounts or other social media were publicly accessible, or the extent of the audience for the alleged remarks. (See, i.e., *Turnbull v. Lucerne Valley Unified School Dist.* (2018) 24 Cal.App.5th 522, 534–535 [defendants failed to establish vague conduct allegations occurred in a “public forum” because no evidence was submitted showing interactions were on publicly

accessible websites, such as evidence of Facebook page privacy settings].)

Although plaintiffs should not be able to avoid an anti-SLAPP motion through artful pleading of vague allegations followed by vague declarations that fail to identify the content and context of the alleged conduct, it is the defendants' burden at step one to establish in some manner that the alleged conduct arose from protected activity. (See, generally, *Wilson, supra*, 7 Cal.5th at p. 889 [defendant may present evidence necessary to make out prima facie case of protected activity].)

5. Contact With Reporter

a. Allegation

The defendants contend contacting a reporter is protected activity. Specifically, Paragraph 175, lines 5-6, states: “[Michelle] Miskovich contacted a reporter to claim that Plaintiffs were fabricating their claims against Masterson.”

b. Analysis

We agree with the trial court that the alleged conduct is protected under section 425.15, subdivision (e)(4). The content of the speech activity concerned a public issue and the individual was participating in the public debate by contacting a reporter to discuss the allegations against Masterson. Defendants met their burden as to this allegation.

6. Food Truck Reviews

a. Allegation

The defendants contend an allegation about false reviews of Riales' food truck is based on protected activity. Specifically, Paragraph 220, lines 5-6, states: "There were also false reviews posted about [Plaintiff Riales'] food truck business by Defendants and/or their agents."

b. Analysis

We agree with the trial court that the appellants met their burden as to the alleged food truck reviews. From the limited context provided, we can assume the food truck reviews were posted in a public forum and concerned matters of public interest. (See *Bently Reserve LP v. Papaliolios* (2013) 218 Cal.App.4th 418, 425 [online review of business "undoubtedly" satisfied prong one of anti-SLAPP analysis]; *Demetriades v. Yelp, Inc.* (2014) 228 Cal.App.4th 294, 310 [Yelp website is a public forum, restaurant and business reviews are matters of public concern].)

7. Online Statements by Kathy Gold

a. Allegations

The defendants contend statements attributed to Kathy Gold were protected activity. Paragraph 111 states: "In and around September of 2018, Defendants' agent Kathy Gold started

publicly threatening Plaintiff Bixler, the other Plaintiffs, and their relatives. Gold threatened to commit serious and violent crimes against Plaintiffs including murder. Gold accused Plaintiffs of being religious bigots and liars. Gold threatened to report Plaintiff Bixler to Child Services to have the Bixler Plaintiffs' then five-year-old twins taken away from [them] and further threatened that the children would be drugged and raped." The defendants also challenged Paragraphs 190, 227, and 256, which are substantively identical to paragraph 111, except without the alleged threat to make a report to child services.

b. *Additional Evidence Submitted*

Farny's declaration, submitted by the defendants, provides details about Gold's publicly accessible blog and Twitter accounts. Farny declared Gold had an account on Twitter under the username @adventuresofkg and a publicly available blog called "Welcome to the Adventures of Kathy Gold." Farny provided an internet address for the blog. In September 2018, Gold and Bixler exchanged messages on Twitter, and the Church saved copies of the messages while the posts were still publicly available. Farny attached several of Gold's Twitter and blog posts as follows.

In July 2018, Gold posted a rambling blog post opining that the Church was liable in the Masterson rape cases, and that the allegations reflected a larger pattern within the church of holding women responsible for everything, but requiring no accountability from men. The post devolved into predictions that

District Attorney Jackie Lacey would soon be dead from “right to die drugs in the water.”

On September 2, 2018, Gold directed a post to Bixler on Twitter that stated, “good for you, I hope you and the others women win your case/cases. You can view my cases at FedCourt.info, I was held hostage in my home in 1988 by Scientologists, Sea Org and Staff, when I followed up on the police report, I was threatened with murder by the LAPD.”

Later that day, after Gold learned an online journalist deleted a story about Bixler, Gold posted a rambling piece on her blog advising Bixler and other victims to document activities online rather than rely on journalists who could be “bought off” or subject to operations by the Church’s management team to manipulate information. Gold wrote, “That’s the whole point with these people, they want to make you uncomfortable and then say she lied!, when in reality, you didn’t know how to handle it, caught you off guard. Be 100% honest on camera, otherwise they will use it against you in court and with the police, news, internet, smear etc etc to show your character, that you’re a liar, a whore, extortionist against Danny Masterson and he really didn’t rape you etc etc.”

She wrote, “If you can’t do this, then I suggest, you pack it up, delete all of your social media shit on this subject and run away and hide. [¶] Those are your two choices, either get up and fight or run away and hide. [¶] This is intimidation, to scare you and all the real bad evil guys and girls will be coming out to play with you, ... They can be anybody in this matrix. [¶] I’m being blunt about this, you went and put your shit online, assuming anons would have your back, you think you have some power, wrong move little girls, you have no clue the depth of evil that

has been going on long term, just how deep the rabbit hole really goes. I don't envy any of you."

She added, "Chrissie's children will be taken away, how easy, somebody or somebody's will break into their house, plant drugs and drop dimes and off their children go to foster care where they will be drugged on psych drugs and sexually abused. That's if they don't smoke pot recreationally? If they do and her husband looks like he does, the private dix will drop dimes with child services and prove it in court"

It is not clear from the evidence what precipitated Gold to post the following reply to Bixler on Twitter on September 3, 2018: "I won't be giving you a heads up. As for your hatred and attack of my religion, fuck you, I never told you, that you were dramatizing [an event in Scientology]. Stop attacking Scientologists you religious hater. When you get fucked by real bad guys and girls, I'm gonna be LMAO and blogging"

In a Twitter post on September 4, 2018, Bixler posted a small portion of Gold's September 2, 2018 blog post referring to Bixler's children being taken by child protective services. Bixler wrote, "I am about to lose my shit. This woman is a Scientologist. Came at me with some crazy shit yesterday then [another Twitter user] sends me this?! NEVER SPEAK OF MY CHILDREN!! I'm about to sue TF out of this asshole." Bixler included her husband's Twitter account and added a hashtag for Scientology.

That same day, Bixler posted the same portion of Gold's September 2, 2018 blog post and directed a Twitter post at Gold: "see you in court. This is slander and defamation. Ever speak of my children again and you'll be back in that psych ward you fucking bitch. You'll be hearing from our attorneys."

Gold replied on Twitter, “Thanks Chrissie, I know you’re stalking me and will just lie about it in Federal Court. . . . thanks for all of your hard work of abusing me and harassing me cause I’m a Scientologist and you’re a religious hater[.]”

Bixler replied to Gold, “So keep slandering me, Scientologist. I’ll keep documenting. Let’s make this a slam dunk case. [LAPD] should be paying you a visit soon. Regret coming for a mother & her children? You will. Keep threatening and slandering me. Last thing I’ll say to you . . . BIG MISTAKE. HUGE.”

Later, on Twitter, Bixler mentioned that Gold recently posted about wanting to kill herself. Bixler and others posted that they had reported Gold’s posts to Twitter and reported Gold to LAPD for a wellness check or involuntary psychiatric hold.

On September 7, 2018, Gold posted a link on Twitter to a blog post that she had written warning Bixler and “[h]er accomplices” not to come near Gold offline. The blog post, also dated September 7, 2018, was entitled, “If Chrissie Or Any Of Her Accomplices Come Near Me Offline.” The post stated, in part: “I will kill them to defend myself, their intent is to murder me and murder is against the law, premeditating murder is also against the law. [¶] Then I’ll call law enforcement to come pick up their dead bodies and I’ll use their dead bodies as evidence in my cases, more money for me or cha ching. [¶] And for me to kill people defending myself is not against the law so when their families try to sue for wrongful death, it will be kicked out and they will be counter sued for my time and damages. [¶] . . . [¶] This is also not against the law but I’m sure Chrissie and her accomplices will take it out of context in an attempt to do the above scene, so this is gonna be fun to kill these religious haters

and make money off their dead bodies and their hate, 3 times per count. . . . [¶] They are SP's with no power, just the power to scare people online [¶] Most likely what's gonna happen is, they will be hunted down from the internet by real evil people and kidnapped, raped, tortured and murdered but nobody will know[.]”

The post also stated, “I’m sure they all figure these women will just blame this religion and Danny Masterson and then everybody will buy it hook line and sinker cause Danny got fired from Netflix cause of an accusation and Newsweek printed her story etc. etc. A nice cover for their crimes.” “If you are a victim of these women and you didn’t go to court to enforce laws including them in prison to stop the harassment . . . and they went off line to terrorize and victimize you but the police did nothing and they physically harmed you or your family or your friends etc etc don’t be afraid to kill them to defend yourself, to defend your family, to defend your friends and use their dead bodies as evidence in your case against them.”

In a subsequent Twitter post, an individual tells Gold in clear terms to stop threatening, stalking, and slandering her and her friends. She notes that law enforcement is involved because Gold issued death threats.

The plaintiffs also attached a copy of Gold’s September 7, 2018 blog post to their declarations.

c. *Analysis*

We conclude the defendants met their burden at step one of the anti-SLAPP analysis to show the allegations in complaint Paragraphs 111, 190, 227, and 256 implicate protected activity

under section 425.16, subdivision (e)(3). Each of the challenged allegations is based, in whole or in part, on Gold's online statements on September 2 and 3, 2018. The complaint alleges that Gold threatened to report Bixler to child protective services; Gold's September 2, 2018 blog post contains statements about child protective services. The complaint alleges that Gold accused the plaintiffs of being liars; Gold's September 2, 2018 blog post states "these people" will use discrepancies in the plaintiffs' statements to say the plaintiffs are liars or Masterson did not really rape them. The complaint alleges Gold accused the plaintiffs of being religious haters; Gold made online comments about Bixler being a religious hater on September 3, 2018. The complaint alleges Gold was "publicly threatening" the plaintiffs and "threatened to commit serious and violent crimes against Plaintiffs including murder." These allegations are based in part on Gold's online statements on September 2 and 3, 2018. Gold's September 2, 2018 blog post, for example, refers to a person breaking into Bixler's home. In opposition to the anti-SLAPP motions, the plaintiffs did not disclaim that the allegations are based on these online statements.

We conclude Gold's statements posted on September 2 and 3, 2018, are too ambiguous to be considered serious threats of bodily harm against the plaintiffs as a matter of law, which would not be subject to protection under the anti-SLAPP statute. Gold does not expressly threaten to commit a crime against the plaintiffs or incite others to commit crimes against them. She initially appears to express support for the plaintiffs. Gold's statements, on their face, advise the plaintiffs to be prepared for intimidation by "real bad evil guys and girls." Gold warns, as an example, that one or more people will break into Bixler's house to

plant evidence, then call child protective services to have Bixler's kids removed. After negative messages are exchanged with Bixler, Gold warns Bixler to stop attacking Scientologists and says she will be laughing and blogging when "real bad evil guys and girls" harm Bixler.

Although a trier of fact could interpret these statements as veiled threats to commit bodily harm against the plaintiffs and their families, the plain language does not directly threaten to harm the plaintiffs or incite others to do so. Gold's statements in her September 2, 2018 blog post can also be read as commentary on the treatment of women and the tactics used to suppress dissent in the Scientology community. There is also no evidence that Gold knew the plaintiffs or had any interactions with them in person. Even within the context of Gold's subsequent statements and the course of conduct that the plaintiffs experienced, we cannot say Gold's statements on September 2 and 3, 2018, were unequivocally "true threats" that fall outside of the protection of the First Amendment on their face, such that they are unprotected under step one of the anti-SLAPP analysis. (See *D.C.*, *supra*, 182 Cal.App.4th at p. 1224.) The defendants do not need to show the statements were protected as a matter of law; they simply need to establish a prima facie case that the statements fall into a protected category. (*Golden Gate Land Holdings LLC v. Direct Action Everywhere* (2022) 81 Cal.App.5th 82, 89.)

In contrast, the threats in *D.C.* that the appellate court found to be a serious expression of an intent to inflict bodily harm, which were not entitled to anti-SLAPP protection at all, included messages from a fellow student at a private high school stating, "I want to rip out your fucking heart and feed it to you,"

“[since hearing your song] I’ve . . . wanted to kill you,” and “If I ever see you I’m . . . going to pound your head in with an ice pick.” (See *D.C.*, *supra*, 182 Cal.App.4th at pp. 1218–1226.)

We also conclude the claims based on Gold’s statements on September 2 and 3, 2018, qualify as protected activity under section 425.16, subdivision (e)(3) for purposes of the first step of the anti-SLAPP analysis. The statements were made in a public forum. Farny declared that Gold’s statements were made publicly on Twitter and in her blog posts, the defendants were able to preserve copies while the statements were publicly available, and various people viewed and responded to Gold’s posts. Gold’s statements also concerned issues of public interest, namely, the plaintiffs’ accusations against Masterson, the purported methods used by Scientologists to silence dissent, and the extensive media coverage and law enforcement response to sexual assaults in the #MeToo context. Although Gold’s posts are disordered, we conclude the appellants met their burden to establish that the statements Gold posted online on September 2 and 3, 2018, qualified as protected activity under step one of the anti-SLAPP statute.

We recognize the allegations that Gold threatened to commit crimes against the plaintiffs and accused them of being “religious haters” are based on other statements as well, including Gold’s September 7, 2018 blog post, which present a closer call. Having determined that each allegation is based in part on protected activity, however, we proceed to the second step of the anti-SLAPP analysis to determine whether the plaintiffs demonstrated a probability of prevailing on their claims. Nothing would be gained through further analysis of Gold’s statements at step one, because even if we assume all of Gold’s statements are

protected activity, we conclude below that the plaintiffs have demonstrated minimal merit for their claims based on Gold's statements.

D. Showing of Minimal Merit

The burden shifted to the plaintiffs to demonstrate that each challenged claim based on protected activity is legally sufficient and factually substantiated.

1. Intentional Infliction of Emotional Distress

a. Applicable Law

“A cause of action for intentional infliction of emotional distress exists when there has been (1) extreme and outrageous conduct by the defendant with the intention of causing, or reckless disregard of the probability of causing, emotional distress; (2) the plaintiff has suffered severe or extreme emotional distress; and (3) the defendant's outrageous conduct was the actual and proximate causation of the emotional distress. (*Hughes v. Pair* (2009) 46 Cal.4th 1035, 1050 [*Hughes*]; *Potter v. Firestone Tire & Rubber Co.* (1993) 6 Cal.4th 965, 1001.)” (*Jackson v. Mayweather* (2017) 10 Cal.App.5th 1240, 1265 (*Jackson*).)

“A defendant's conduct is ‘outrageous’ when it is so ‘“extreme as to exceed all bounds of that usually tolerated in a civilized community.’” [Citation.] And the defendant's conduct must be ‘“intended to inflict injury or engaged in with the realization that injury will result.’” [Citation.]” (*Hughes, supra*,

46 Cal.4th at pp. 1050–1051.) “Liability for intentional infliction of emotional distress ‘ “does not extend to mere insults, indignities, threats, annoyances, petty oppressions, or other trivialities.” [Citation.]’ [Citations.]” (*Ibid.*)

“It is for the court to determine in the first instance whether the defendant’s conduct may reasonably be regarded as so extreme and outrageous as to permit recovery. [Citations.]” (*Jackson, supra*, 10 Cal.App.5th at p. 1265.)

A claim for intentional infliction of emotional distress may not be based on constitutionally protected speech or conduct. (*Reader’s Digest Assn. v. Superior Court* (1984) 37 Cal.3d 244, 265 [liability cannot be imposed on any theory for constitutionally protected publication].) The United States and California Constitutions both guarantee freedom of speech. (U.S. Const., 1st Amend.; Cal. Const., art. I, § 2, subd. (a).)

“The right of free speech, however, is not unlimited.” (*Huntingdon Life Sciences, Inc. v. Stop Huntingdon Animal Cruelty USA, Inc.* (2005) 129 Cal.App.4th 1228, 1249 (*Huntingdon*).) The First Amendment allows content-based restrictions in limited categories of speech, including “defamatory speech, fighting words, incitement to riot or imminent lawless action, obscenity and child pornography. (*Bose Corporation v. Consumers Union of United States, Inc.* (1984) 466 U.S. 485, 504.)” (*Huntingdon, supra*, at p. 1249.) The First Amendment does not protect a “true threat,” in which “the speaker means to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals. [Citations.]” (*Virginia v. Black, supra*, 538 U.S. at p. 359.)

“In general, emails and tweets, when published on the ‘vast democratic forums of the Internet,’ fall squarely within the protection of the First Amendment. [Citations.] At some point, however, repeated unwanted communications can lose First Amendment protection. *See Rowan v. United States Post Office Dep’t*, 397 U.S. 728, 736, 90 S.Ct. 1484, 25 L.Ed.2d 736 (1970) (stating that ‘the right of every person “to be let alone” must be placed in the scales with the right of others to communicate’); *see also Consol. Edison Co. of N.Y. v. Pub. Serv. Comm’n of N.Y.*, 447 U.S. 530, 542 & [fn.] 11, 100 S.Ct. 2326, 65 L.Ed.2d 319 (1980) (noting that privacy interests are weaker where the recipient can easily ‘escape exposure’ by discarding the communication).” (*Thunder Studios, Inc. v. Kazal* (9th Cir. 2021) 13 F.4th 736, 745.)

“In California, speech that constitutes ‘harassment’ within the meaning of section 527.6 is not constitutionally protected, and the victim of the harassment may obtain injunctive relief.” (*Huntingdon, supra*, 129 Cal.App.4th at p. 1250.) Section 527.6 defines ‘harassment’ as ‘unlawful violence, *a credible threat of violence*, or a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the petitioner.’ ” (§ 527.6, subd. (b), italics added.)

b. *Relevant Case Law*

In *Jackson, supra*, a former girlfriend sued defendant Floyd Mayweather for abusive conduct during their relationship, including his social media posts about the termination of her pregnancy and his comments during a radio interview about her cosmetic surgery. (*Jackson, supra*, 10 Cal.App.5th at pp. 1245–1247.) Mayweather filed an anti-SLAPP motion to strike causes of action for invasion of privacy, defamation, and infliction of emotional distress, which the trial court denied. (*Id.* at pp. 1248–1249.) The appellate court reversed as to some claims, but upheld the portion of the order denying the anti-SLAPP motion as to negligent and intentional infliction of emotional distress. (*Id.* at p. 1267.)

The *Jackson* court concluded the causes of action for intentional and negligent infliction of emotional distress in that case were mixed causes of action based on Mayweather’s entire course of conduct, including both protected speech activity and unprotected threats and retributive behavior. (*Jackson, supra*, 10 Cal.App.5th at p. 1256.) An evaluation of Jackson’s probability of prevailing on these claims required looking at “the evidence concerning the entire range of Mayweather’s alleged misconduct, not simply the protected activity.” (*Ibid.*)

The court found that “[n]one of the postings or broadcast comments alleged in Jackson’s complaint, whether considered individually or collectively, may fairly be characterized as atrocious conduct intolerable in a civilized society, even Mayweather’s posting of Jackson’s sonogram and summary medical report, the only arguably tortious acts challenged by the

special motion to strike.” (*Jackson, supra*, 10 Cal.App.5th at pp. 1265–1266.) But the cause of action for intentional infliction of emotional distress was based on the entire range of conduct, including the unchallenged allegations “that Mayweather engaged in a campaign of harassment, including verbal and physical abuse, that began long before the May 1 and 2, 2014 public disclosures. Accordingly, although Mayweather’s social media postings and comments regarding Jackson during the radio interview may not, without more, serve as the basis for a claim of intentional or negligent infliction of emotional distress (see *Baral, supra*, 1 Cal.5th at p. 392; see also *Reader’s Digest Assn. v. Superior Court, supra*, 37 Cal.3d at p. 265) [‘liability cannot be imposed on any theory for what has been determined to be a constitutionally protected publication’]), evidence of those postings and comments may properly be considered by a jury (or in connection with a motion for summary judgment) when evaluating the merits of this claim.” (*Jackson, supra*, 10 Cal.App.5th at p. 1266, fn. omitted.)

We agree with the *Jackson* court’s method of analysis. In the second prong of the anti-SLAPP analysis, when protected and unprotected acts are alleged to constitute a course of conduct, but the protected acts viewed in isolation do not satisfy the elements of the tort, evidence of the protected acts must be evaluated in the context of the unprotected acts to determine whether the context alters the nature of the protected activity. In other words, evidence of unprotected acts cannot be used to bootstrap a finding of minimal merit for a claim based on protected activity, but the plaintiff can show the alleged activity is not actually constitutionally protected based on evidence of the entire course of conduct.

c. *Allegation About Contacting Reporter*

As stated above, the defendants seek to strike paragraph 175, lines 5-6, which states: “[Michelle] Miskovich contacted a reporter to claim that Plaintiffs were fabricating their claims against Masterson.” Jane Doe #1, in her declaration in opposition to the anti-SLAPP motion, stated that “Defendant’s agent Michelle Miskovich” followed her into a store, contacted a third-party witness to Masterson’s sexual assault of Jane Doe #1 to dissuade the witness from speaking to the police, and then later contacted a reporter and said the plaintiffs were fabricating their claims against Masterson.

We conclude the plaintiffs failed to provide admissible evidence to establish a probability of prevailing on their claim that Miskovich’s contact with a reporter was part of a course of conduct to threaten and harass the plaintiffs. There is no evidence explaining Miskovich’s relationship to any party or individual. The declaration of Jane Doe #1 about a conversation between third parties is inadmissible hearsay and it does not describe admissible evidence. The plaintiffs have not provided any other evidence on this issue, such as a declaration from a person who heard Miskovich’s statements to a reporter or an article attributing statements to Miskovich. (See *Sweetwater*, *supra*, 6 Cal.5th at p. 946 [materials must describe admissible evidence]; *Sanchez v. Bezos* (2022) 80 Cal.App.5th 750, 774–778 [mere hope that reporter will confirm or deny statement at trial too speculative to constitute admissible evidence].) The plaintiffs simply have not provided admissible evidence of Miskovich statements to a reporter from which a trier of fact could conclude

that Miskovich’s action, within the context of the entire course of conduct, was not constitutionally protected activity in this case.

Paragraph 175, lines 5-6, must be stricken as a basis of the claim for intentional infliction of emotional distress. However, the cause of action for intentional infliction of emotional distress was based on a wide range of conduct, including several unchallenged allegations. Admissible evidence of Miskovich’s statements to a reporter may be relevant for other purposes, such as context or evidence that supports liability without being a basis of liability. (See *Jackson, supra*, 10 Cal.App.5th at p. 1266; *Park, supra*, 2 Cal.5th at pp. 1064–1068 [dean’s alleged statements reflecting prejudice may supply evidence of animus but were not basis of liability in discrimination claim following denial of tenure].)

d. *Allegation About Food Truck Reviews*

The defendants sought to strike paragraph 220, lines 5-6, which states: “There were also false reviews posted about [Plaintiff Riales’] food truck business by Defendants and/or their agents.” In Riales’ declaration in opposition to the anti-SLAPP motion, Riales stated, “Defendants and their agents posted false reviews about my food truck business and attempted to list my food truck for sale.” No other evidence was submitted to establish that the appellants are responsible for posting false reviews of her food truck business.

We conclude that as to this allegation, the plaintiffs failed to provide evidence from which a trier of fact could find the defendants were responsible for posting false reviews about Riales’ food truck business as part of a course of conduct to inflict

emotional distress. The plaintiffs did not provide copies of any review, and Riales's declaration provided no information about any specific statement made in the reviews, where the reviews were posted, how the statements were false, who posted the review, or how the person who posted the review is connected to the defendants. Under the circumstances, without more evidence, the plaintiffs have not shown the minimal merit necessary to meet their burden. A trier of fact could not find the defendants liable for posting false reviews of Riales' business based solely on Riales's conclusory statement. It may be that posting multiple false reviews of a business, within the context of a pattern of harassing conduct, constitutes extreme and outrageous conduct with the intent to inflict emotional distress, but the cursory evidence submitted in Riales' declaration did not satisfy the plaintiffs' burden to show the defendants caused false reviews to be posted.

Paragraph 220, lines 5-6, must also be stricken as a basis of the claim for intentional infliction of emotional distress, although it may be that admissible evidence of false reviews of Riales' food truck business could be considered by the trier of fact for other purposes, such as context or evidence supporting liability, rather than as a basis of liability.

e. *Allegations About Gold's Online Statements*

i. Evidence Supporting Claim

The defendants sought to strike paragraphs 111, 190, 227, and 256, alleging Gold made threats against the plaintiffs. In support of the anti-SLAPP motion, the defendants submitted

evidence of Gold's online messages as described above. In response, Bixler's declaration mirrored the allegations of the complaint, stating, "In or around September and October 2018, Defendants' agent Kathy Gold started publicly threatening me and the other Plaintiffs, and their relatives. Gold accused me and the other Plaintiffs of being religious bigots and liars and threatened to commit serious and violent crimes against us, including murder. Gold threatened to report me to Child Services to have our then five-year-old twins taken away from us and further threatened that the children would be drugged and raped. A true and correct copy of one of Gold's threats against me and the other Plaintiffs is attached hereto as Exhibit A." (Emphasis omitted.) She attached Gold's September 7, 2018 blog post entitled, " 'If Chrissie Or Any Of Her Accomplices Come Near Me Offline.' "

Jane Doe #1 declared, "In and around September of 2018, Defendants' agent Kathy Gold started publicly threatening Masterson's victims, including me. Her blog on WordPress stated that she would kill them and claim self-defense. I sent the blog post to the LAPD. A true and correct copy of one of [] Gold's threats against me and other Plaintiffs is attached as Exhibit A." (Emphasis omitted.) She also attached the September 7, 2018 blog post.

Jane Doe #2 declared, "In or around September and October 2018, Defendants' agent Kathy Gold started publicly threatening me and the other Plaintiffs, and their relatives. Gold accused me and the other Plaintiffs of being religious bigots and liars and threatened to commit serious and violent crimes against us, including murder. A true and correct copy of one of Gold's threats against me and the other Plaintiffs is attached hereto as

Exhibit A.” (Emphasis omitted.) She attached the September 7, 2018 blog post.

Riales also declared, “In or around September and October 2018, Defendants’ agent Kathy Gold started publicly threatening me and the other Plaintiffs, and their relatives. Gold accused me and the other Plaintiffs of being religious bigots and liars and threatened to commit serious and violent crimes against us, including murder. A true and correct copy of one of Gold’s threats against me and the other Plaintiffs is attached hereto as Exhibit A.” (Emphasis omitted.) She attached the September 7, 2018 blog post.

ii. Analysis

Based on the evidence submitted in connection with the anti-SLAPP motions, we conclude the plaintiffs met their burden to show minimal merit to their claim that Gold’s statements were part of a course of conduct to intentionally inflict emotional distress. A trier of fact viewing the evidence in the light most favorable to the plaintiffs could conclude, as the plaintiffs did, that the statements in Gold’s September 2, 2019 blog post were not merely commentary about the tactics used to silence dissent in the Scientology community, but a veiled threat to harm the plaintiffs in the ways described, either by Gold personally or with the assistance of other people. In other words, a trier of fact could conclude that Gold’s statements are true threats to intimidate and harass the plaintiffs, to prevent them from pursuing their claims against Masterson and disparaging the Church, which are not constitutionally protected statements. A

claim for intentional infliction of emotional distress may be based on speech or conduct that is not constitutionally protected.

If the trier of fact interprets the online statements as veiled threats, the threatened conduct is clearly outrageous, exceeding all bounds of conduct tolerated in a civilized community. As so interpreted, the trier of fact could also find that Gold intended to cause emotional distress, and did in fact cause extreme emotional distress to the plaintiffs, as shown in the plaintiffs' responses to her statements. In addition, Gold's statements referring to the plaintiffs as religious haters or liars could be viewed as intertwined with her threats to cause harm to the plaintiffs if they do not stop attacking Masterson and/or Scientology. To the extent that Gold's September 7, 2018 blog post is protected activity, a trier of fact could similarly interpret Gold's statements as a serious expression of an intent to commit an act of unlawful violence against the plaintiffs. The plaintiffs met their burden to show minimal merit for their claim of intentional infliction of emotional distress based on Gold's protected activity, particularly when considered within the entire course of conduct experienced by the plaintiffs. (See *Jackson, supra*, 10 Cal.App.5th at p. 1256.)

iii. Vicarious Liability

The defendants contend the plaintiffs' burden at the second step of the anti-SLAPP analysis requires not only demonstrating a probability of prevailing on the underlying tort claim, but also showing a probability of prevailing on allegations of vicarious liability.⁵ Assuming, without deciding, that the plaintiffs must

⁵ The defendants also contend the trial court should not have considered whether there was evidence of conspiracy

show the allegations of vicarious liability have minimal merit, we conclude the plaintiffs presented evidence of conspiracy satisfying their burden.

“To establish conspiracy, a plaintiff must allege that the defendant had knowledge of and agreed to both the objective and the course of action that resulted in the injury, that there was a wrongful act committed pursuant to that agreement, and that there was resulting damage. [Citation.] A conspiracy requires evidence “that each member of the conspiracy acted in concert and came to a mutual understanding to accomplish a common and unlawful plan, and that one or more of them committed an overt act to further it.” [Citation.] Thus, conspiracy provides a remedial measure for affixing liability to all who have “agreed to a common design to commit a wrong” when damage to the plaintiff results. [Citation.]’ (*IIG Wireless, Inc. v. Yi* (2018) 22 Cal.App.5th 630, 652.) ‘A participant in the conspiracy “effectively adopts as his or her own the torts of other coconspirators within the ambit of the conspiracy.” [Citation.]’ (*Navarrete v. Meyer* (2015) 237 Cal.App.4th 1276, 1291.) The

because the plaintiffs failed to raise any argument based on conspiracy in opposition to the anti-SLAPP motion. We disagree. Courts have discretion to consider a forfeited claim (*City of Clovis v. County of Fresno* (2014) 222 Cal.App.4th 1469, 1477), and the anti-SLAPP statute expressly permits the court to consider the parties’ “pleadings, and supporting and opposing affidavits stating the facts upon which the liability or defense is based.” (§ 425.16, subd. (b)(2).) In this case, no abuse of discretion has been shown. The complaint clearly alleges the defendants are liable for the plaintiffs’ claims based on a conspiracy theory, and the trial court allowed the parties to provide additional briefing on issues raised during the hearing on the anti-SLAPP motion, which the parties declined.

doctrine is one of vicarious liability; each member of the conspiracy becomes liable for all acts done by others pursuant to the conspiracy. (*Ibid.*)” (*Spencer, supra*, 46 Cal.App.5th at p. 1036.)

“The elements of liability under conspiracy are: (1) formation and operation of the conspiracy; (2) wrongful conduct in furtherance of the conspiracy; and (3) damages arising from the wrongful conduct. [Citation.] The plaintiff must establish that the conspiring defendants knew of the wrongful plan, and agreed, expressly or tacitly, to achieve it. (*Id.* at p. 1022.) Due to the secret nature of conspiracies, their existence is often inferentially and circumstantially derived from the character of the acts done, the relations of the parties, and other facts and circumstances suggestive of concerted action. (*Ibid.*)” (*Spencer, supra*, 46 Cal.App.5th at p. 1037.)

In this case, a trier of fact who views Gold’s statements as threats to inflict the stated harm with the assistance of other individuals could also conclude from the evidence that Gold and the defendants were aware of and agreed to a conspiracy to intentionally inflict emotional distress. Gold expressly described a conspiracy to harass and inflict harm on the plaintiffs, which a trier of fact could believe Gold was participating in by posting threats against the plaintiffs. Gold confirmed in several messages that she is a Scientologist, and Farny confirmed in a declaration that “Fair Game” was formerly an authorized Scientology doctrine, although it is no longer an express policy. Gold stated explicitly that the Church’s management team would run operations to manipulate information in the media. She stated in more than one message that people would take action to harm the plaintiffs, including stalking the plaintiffs, trying to

rape them, breaking in to their houses to plant drugs, and reporting them to child protective services.

The plaintiffs in fact experienced the harmful course of conduct that Gold described. The plaintiffs recognized several of the perpetrators as Scientologists, and specifically, members of Sea Org, who are the organization's most dedicated members tasked with leadership and management roles. As one example, Bixler declared that she has been harassed through social media by individuals using information that could only be gathered from the Church defendants' auditing files. As another example, Jane Doe #2 began receiving voluminous mail, telephone calls, voicemails, and text messages from numbers she knew to be associated with Sea Org. The plaintiffs have demonstrated the minimal merit required at the second step of the anti-SLAPP analysis to support their allegation that Gold and the defendants were aware of and agreed to a conspiracy to intentionally inflict emotional distress on the plaintiffs.

2. Stalking

a. Applicable Law

A defendant is liable for the tort of stalking under Civil Code section 1708.7, subdivision (a), when the defendant engages in "a pattern of conduct" intending "to follow, alarm, place under surveillance, or harass the plaintiff." A "pattern of conduct" is defined as "conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the

meaning of ‘pattern of conduct.’ ” (Civ. Code, § 1708.7, subd. (b)(1).)

The pattern of conduct must cause the plaintiff either to reasonably fear for their own safety or that of an immediate family member, or to “suffer substantial emotional distress” where a reasonable person would also suffer substantial emotional distress. (Civ. Code, § 1708.7, subds. (a)(2)(A) & (a)(2)(B).)

Unless the defendant has violated a restraining order, the pattern of conduct must include making “a credible threat” intending to place the plaintiff in reasonable fear for their own safety or that of an immediate family member, or with reckless disregard for that safety. (Civ. Code, § 1708.7, subd. (a)(3).)

“In addition, the plaintiff must have, on at least one occasion, clearly and definitively demanded that the defendant cease and abate his or her pattern of conduct and the defendant persisted in his or her pattern of conduct unless exigent circumstances make the plaintiff’s communication of the demand impractical or unsafe.” (Civ. Code, § 1708.7, subd. (a)(3).)

b. *Challenged Allegations*

The defendants sought to strike the same allegations from the stalking cause of action as from the intentional infliction of emotional distress cause of action, and the stalking cause of action is based on the same alleged course of conduct.

With respect to paragraph 175, lines 5-6, as explained above, the plaintiffs did not submit admissible evidence of Miskovich’s statements to a reporter such that a trier of fact could conclude Miskovich’s conduct, within the context of the

entire course of conduct alleged, was not constitutionally protected activity. This is equally true for the stalking claim.

Plaintiffs similarly failed to submit evidence of false reviews of Riales's business, as alleged in paragraph 220, lines 5-6, to establish minimal merit to her claims based on this allegation. This allegation must be stricken as a basis for the stalking claim.

We conclude, however, that the plaintiffs have shown minimal merit for their stalking claim based on the allegations in paragraphs 111, 190, 227, and 256. The stalking statute expressly excludes constitutionally protected activity from the meaning of a "pattern of conduct." As explained above, however, a trier of fact viewing the evidence in the light most favorable to the plaintiffs could conclude that Gold's posts constituted true threats falling outside constitutional protection, particularly in the context of the course of conduct demonstrated by the plaintiffs' evidence, and that the defendants were aware of and agreed to a conspiracy to engage in this pattern of conduct.

3. Loss of Consortium and Remaining Issues

The plaintiffs concede that the cause of action for loss of consortium is derivative of the causes of action for intentional infliction of emotional distress and stalking. As a result, paragraphs 175 (lines 5-6 only) and 220 (lines 5-6 only) must be stricken as a basis for the loss of consortium claim as well.

DISPOSITION

The March 25, 2024 order is modified to grant the anti-SLAPP motions as to paragraphs 175 (lines 5-6 only) and 220 (lines 5-6 only), and to deny the motions in all other respects. As so modified, the order is affirmed. In the interests of justice, the parties are ordered to each bear their own costs on appeal.

NOT TO BE PUBLISHED.

MOOR, J.

I CONCUR:

HOFFSTADT, P. J.

Document received by the CA Supreme Court.

Chrissie Bixler et al. v. Church of Scientology Internat. et al.
B339009

BAKER, J., Concurring in Part and Dissenting in Part

I join the opinion of the court with the exception of Part C.6 of the Discussion section and the associated introductory and dispositional language. Defendants and respondents did not carry their burden to show that the food truck listing/posting allegation¹ implicates anti-SLAPP protected activity for the very same reasons the opinion for the court gives when discussing social media posts by individuals other than Kathy Gold. (Even assuming the food truck “post[ing]” was to a website or social media application, defendants submitted no evidence concerning what was posted and to what audience—and as the majority rightly observes, “not every [website] post involves an issue of public interest.”) I would accordingly reverse with directions to deny defendants and respondents’ anti-SLAPP motion except as to two lines of paragraph 175.

BAKER, J.

¹ The operative complaint alleges only this: “Defendants and their agents posted false reviews about my food truck business and attempted to list my food truck for sale.”

PROOF OF SERVICE

Bixler et al. v. Church of Scientology International et al.

Court of Appeal Case No. B339009

Cal. Supreme Court Case No. S_____

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 3601 West Olive Avenue, 8th Floor, Burbank, CA 91505-4681.

On June 25, 2026, I served true copies of the following document(s) described as **PETITION FOR REVIEW** on the interested parties in this action as follows:

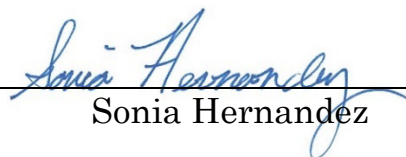
SEE ATTACHED SERVICE LIST

BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Horvitz & Levy LLP's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

BY E-MAIL OR ELECTRONIC TRANSMISSION: Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission via Court's Electronic Filing System (EFS) operated by ImageSoft TrueFiling (TrueFiling) as indicated on the attached service list:

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

Executed on June 25, 2026, at Burbank, California.



Sonia Hernandez

Document received by the CA Supreme Court.

SERVICE LIST
Bixler et al. v. Church of Scientology International et al.
Court of Appeal Case No. B339009
Cal. Supreme Court Case No. S_____

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