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 9
 10 UNITED STATES DISTRICT COURT
 11 CENTRAL DISTRICT OF CALIFORNIA

12 SERGEY GRISHIN, an individual,

13 Plaintiff,

14 vs.

15 JENNIFER SULKESS, an individual,

16 Defendant

Case No. 2:18-CV-10179

Hon. Dale S. Fischer

17 MEMORANDUM OF POINTS &
 18 AUTHORITIES IN SUPPORT OF
 19 MOTION TO STRIKE COMPLAINT
 20 PURSUANT TO CAL. CODE OF
 21 CIVIL PROCEDURE §425.16;

22 [Request for Judicial Notice and
 23 Supporting Declarations of
 24 Jennifer Sulkess, Anna Fedoseeva, and
 25 Christopher Grivakes, filed
 26 concurrently]

27 Date: April 22, 2019

28 Time: 1:30 p.m.

Court 7D

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1 **POINTS & AUTHORITIES**

2 **I. SUMMARY OF ARGUMENT**

3 Defendant Jennifer Sulkess (“Sulkess”) files this “anti-SLAPP” motion to
4 vindicate her First Amendment right to make constitutionally protected statements
5 in a manner entirely permitted by California law. The anti-SLAPP statute will
6 strike rights-burdening claims at the outset of litigation, unless the plaintiff
7 establishes the probability of prevailing. Cal. Civ. Pro. Code §425.16(a), (b) (1);
8 *Varian Med. Sys., Inc. v. Delfino*, 35 Cal.4th 180, 193 (2005) (“[T]he point of the
9 anti-SLAPP statute is that you have a right not to be dragged through the courts
10 because you exercised your constitutional rights.”).

11 Plaintiff Sergey Grishin (“Grishin”), a Russian billionaire, alleges that
12 Sulkess defamed him, and disclosed private facts about him, in connection with
13 two postings she made on Facebook. One posting is a compilation of several
14 videos made by Grishin, which he sent to Sulkess and his ex-wife Anna Fedoseeva
15 (“Fedoseeva”), wherein he threatens to kill them. (Sulkess and Fedoseeva are
16 business partners in a film production company called Twelve Productions, Ltd.
17 (“Twelve Productions”). Sulkess included a caption with the video compilation
18 which states that Grishin had terrorized her and Fedoseeva, made their lives
19 miserable, and caused Fedoseeva to be arrested in Moscow. The other posting is
20 of a letter Grishin sent via text message to Fedoseeva, which was addressed to
21 President Trump, wherein he claims to have knowledge of terrorist plots against
22 the United States.

23 Sulkess made the postings (i) after she and Fedoseeva each obtained
24 temporary restraining orders against Grishin for sending them numerous written
25 and video death threats; (ii) after Grishin repeatedly and brazenly violated the
26 court orders; (iii) after Grishin attempted to kill Fedoseeva, beat her up, tried to
27 hire a hitman, and filed a false police report to have her arrested (she was released
28 after ten days in custody and the charges were dismissed); and (iv) after Grishin

1 sued Sulkess and Fedoseeva in the Los Angeles Superior Court, claiming that
2 monies he gave to Fedoseeva during their marriage were “oral loans” to Twelve
3 Productions.

4 Sulkess’ Facebook postings fall within the protection of the anti-SLAPP
5 statute for two separate reasons. First, the statute protects statements “connected
6 to” legal proceedings. *Lafayette v. Morehouse*, 37 Cal.App.4th 855 (1995) (article
7 about lawsuit); *Sipple v. Foundation for Nat. Prog.*, 71 Cal.App.4th 226 (1999)
8 (article about divorce proceedings). Both postings involve Grishin’s threats and
9 are connected to (i) the ongoing restraining order proceedings which seek to
10 prevent Grishin from engaging in further threats and acts of violence, and (ii) the
11 Superior Court lawsuit where Sulkess and Fedoseeva have alleged an unclean
12 hands defense, and filed a Cross-complaint, based on his threats and false arrest.

13 Second, the anti-SLAPP statute protects statements made in a public forum
14 and involving a public issue. *Jackson v. Mayweather*, 10 Cal.App.5th 1240
15 (2017). Facebook is a public forum. *Id.* A public issue includes a person in the
16 “public eye” or a topic of “widespread, public interest.” *D.C. v. R.R.*, 182
17 Cal.App.4th 1190 (2010). Grishin is a public figure in Russia. His divorce from
18 Fedoseeva, including his pursuit of criminal charges which resulted in her arrest,
19 generated enormous amounts of press. Grishin is also a public figure in the U.S.
20 where he aggressively promoted his billionaire lifestyle on Instagram, achieving
21 “influencer” status by garnering 46,000 followers in the few short months before
22 his social media accounts were suspended by court order. In addition, there is
23 widespread public interest in the issue of domestic violence, the prevention of
24 violence through the publicizing of threats and acts of violence, and regarding
25 terrorist plots against the United States.

26 Once the anti-SLAPP statute applies, the burden shifts to the plaintiff to
27 establish the probability of prevailing. *Varian*, 35 Cal.4th at 193. Grishin alleges
28 that he was defamed by the statements in the caption accompanying the video

1 compilation. (Complaint, ¶12). During the meet and confer process Grishin
 2 limited his defamation claim to the clause in the caption which states that he “had
 3 her [Fedoseeva] arrested in Moscow.” His claim is baseless since the statement is
 4 true, was made without malice or negligence, is privileged, and is barred by
 5 Grishin’s unclean hands. He also claims that the letter to Trump contains his
 6 personal information. (Complaint, ¶ 14). This claim is also baseless since Sulkess
 7 redacted his personal information before posting the letter (and it is not visible in
 8 the posting), she did not act recklessly, and the claim is barred by unclean hands.

9 This case presents a “paradigm” anti-SLAPP situation involving a lawsuit
 10 filed by a “powerful and wealthy plaintiff [] against [an] impecunious” 30-year
 11 old woman solely to cause her economic harm because she exercised her
 12 constitutional rights. *See, Lafayette*, 37 Cal.App.4th at 865. Sulkess seeks an
 13 order striking all of the state law claims alleged in the Complaint pursuant to
 14 California Code of Civil Procedure section 425.16(b)(1).¹

15 **II. SUMMARY OF FACTS**

16 **A. Sulkess’ Background**

17 Sulkess is a 30-year old, currently unemployed, single woman living in Los
 18 Angeles. She has volunteered and worked at a dog rescue in New Orleans,
 19 worked as an executive assistant to an actress/film producer, and most recently
 20 worked as the co-executive producer of a low-budget feature film which was
 21 financed by her friend and business partner Fedoseeva, who is Grishin’s ex-wife.
 22 (Declaration of Jennifer Sulkess (“JS Decl.”), ¶ 2).

23 **B. Fedoseeva’s And Grishin’s Background**

24 Fedoseeva obtained a university degree in psychology and a post-graduate
 25 diploma in the event planning business. She worked in the event planning
 26 business for approximately six years, and then started her own online furniture

27 _____
 28 ¹ The anti-SLAPP statute does not apply to federal claims such as Grishin’s copyright claim for alleged infringement of his death threat videos and letter to President Trump.

1 business. (Declaration of Anna Fedoseeva (“AF Decl.”), ¶ 3).

2 Fedoseeva and Grishin married in March 2017 after an almost two-year
3 courtship. She was his third wife. (AF Decl., ¶ 6).

4 Grishin is a billionaire who several months ago confessed on videotape that
5 he made his fortune in the early 1990’s by defrauding the Russian Central Bank
6 after the fall of the Soviet Union. (AF Decl., ¶ 84, Exs. 85 and 86). He is a U.S.
7 Green Card holder who relocated from Russia to California more than a decade
8 ago. At all relevant times, he maintained a residence in Los Angeles, California,
9 while also owning properties in Santa Barbara and Washington State. (AF Decl.,
10 ¶ 5).

11 In the spring of 2017, Fedoseeva and Grishin moved to Los Angeles.
12 Fedoseeva was lonely and bored after moving here. After she met Sulkess in Los
13 Angeles in mid-2017, they decided to form Twelve Productions to produce film
14 and television projects. (AF Decl., ¶¶ 7, 8).

15 **C. Grishin’s Marriage Crumbles And He Makes Threats**

16 In early 2018, Grishin was unhappy with Fedoseeva’s independence. At
17 some point in January 2018, he gained unauthorized access to Fedoseeva’s
18 password protected computer, accessed her iCloud account, and downloaded
19 photos she had taken with various people, including selfies with Sulkess. He
20 became insane with jealousy, believing that Fedoseeva and Sulkess were having
21 an affair. He then told Fedoseeva that he had been with prostitutes throughout
22 their relationship. He filed for divorce on February 26, 2018, only to withdraw the
23 filing a few days later. (AF Decl., ¶¶ 10-11).

24 In an effort to coerce Fedoseeva to stay in the marriage, Grishin then
25 threatened violence against her and Sulkess and to ruin them both with lawsuits.
26 Fedoseeva and Sulkess shared with each other his threatening communications.
27 (AF Decl., ¶ 14; JS Decl., ¶ 5). A sampling of his threats follows.

28 On February 27, 2018, Grishin texted Fedoseeva that he would “*destroy*

1 *everything that matters to you. All of it.*” His message also threatens that he has
2 the ability to destroy Fedoseeva and Sulkess because of his vast wealth: “*Are you*
3 *familiar with the concept of operation without a budget? This is the worst thing*
4 *that can happen to a person opposed by a clever, inventive, insidious enemy. It’s*
5 *not my choice, you got me there. Enjoy it.*” (AF Decl., ¶ 17, Ex. 1).

6 On February 28, 2018, Grishin texted Fedoseeva: “*You remember one thing*
7 *-- all your life and the lives of all your loved ones are at stake now.*” (AF Decl., ¶
8 18, Ex. 2).

9 On February 28, 2018, Grishin emailed Fedoseeva, Sulkess, and crew
10 members of Twelve Productions, and demanded that they quit the film project
11 within 12 hours and send him written confirmation and photos as proof. (AF
12 Decl., ¶ 19, Ex. 3; JS Decl., ¶ 7, Ex. 2). In fact, Grishin had never loaned any
13 money to Twelve Productions, and instead had gifted money to Fedoseeva over
14 the course of their marriage which she had invested in Twelve Productions. (AF
15 Decl., ¶ 9).

16 On March 1, 2018, Grishin texted Fedoseeva that she should “*fall on [her]*
17 *knees*” and beg his forgiveness and obey him in order to reunite with him. He also
18 wrote that “*In two week I will know everything about Jennifer [Sulkess]. You do*
19 *not protect her in any way.*” (AF Decl., ¶ 21, Ex. 5).

20 On March 1, 2018, Grishin emailed Sulkess saying he will sue Twelve
21 Productions, get a “very quick judgment” and will seek her personal assets in the
22 bankruptcy of Twelve Productions. (JS Decl., ¶ 8, Ex. 3).

23 On March 3, 2018, Grishin texted Fedoseeva that he is a “*killing machine,*”
24 will go after Sulkess’ property, and will use “*5 highly professional assassin*
25 *lawyers.*” (AF Decl., ¶ 23, Ex. 7).

26 On March 4, 2018, Grishin texted Fedoseeva that “[t]he claim will be filed
27 in civil and criminal court at the same time. ...” He told her that he was “*the devil*
28 *incarnate for all my enemies*” but that she could “truly save” herself and her

1 mother if she acted quickly. (AF Decl., ¶ 24, Ex. 8).

2 **D. Fedoseeva Briefly Succeeds In Calming Grishin**

3 In order to calm Grishin, Fedoseeva sent Sulkess an email on March 12,
4 2018, which was copied to a few crew members and bcc'd to Grishin, "releasing"
5 Sulkess from her position on the film. (AF Decl., ¶ 29, Ex. 13). Grishin was
6 appeased for a short while, but continued to brood about destroying Sulkess.

7 On March 27, 2018, Grishin sent an ominous email to Sulkess stating that
8 he is her "*best friend*" and that sometimes "*friends*" can be "*cruel, merciless,*
9 *smart devils who can wait for many years.*" (JS Decl., ¶ 13, Ex. 8). Two days
10 later, he sent Sulkess an email claiming that he had done a complete background
11 check on her and knew her recent addresses, vehicle records, social security
12 number, and other information. (JS Decl., ¶ 15, Ex. 10). Sulkess shared these
13 emails with Fedoseeva. (JS Decl., ¶ 5).

14 In order to get Grishin to stop his threats, Fedoseeva told him on March 27,
15 2018 that she needed to finish her film project so she could pay him back money
16 he had gifted her. The next day he re-filed his application for divorce. (AF Decl.,
17 ¶ 31).

18 Grishin was calm for a few weeks. On April 17, 2018, he texted Fedoseeva
19 that he had met another woman. (AF Decl., ¶ 38, Ex. 15). He proposed marriage
20 to the other woman within 12 days of meeting her. (AF Decl., ¶ 33, Ex. 16).

21 **E. Grishin Starts Up His Threats Again**

22 Grishin resorted to threats of violence and lawsuits in an effort to coerce
23 Fedoseeva into returning *everything* he had given her. Fedoseeva shared with
24 Sulkess all of his threatening messages. (AF Decl., ¶ 66).

25 On April 29, 2018, Grishin sent a text message to Fedoseeva warning that
26 his first ex-wife was in an insane asylum "4 times" after their divorce. (AF Decl.,
27 ¶ 35, Exs. 17).

28 On May 10, 2018, Grishin sent several text messages to Fedoseeva

1 demanding that “*Everything I have ever given you, including money and payments*
2 *under the prenuptial contract, you will have to return it ... everything.*” He also
3 wrote, “*Yeah... I'd be terrified if I were you... Fear of the inevitability of what will*
4 *happen should paralyze your power to suck out the energy...*” and that “*from now*
5 *on, I am your ruthless enemy.*” (AF Decl., ¶ 36, Ex. 18).

6 On May 12, 2018, Grishin texted Fedoseeva that he has a “*Glock*” gun with
7 a “*15-round clip,*” “*13 for you [and] 2 in any case for me.*” He described in
8 excruciating detail how he had meticulously thought out how he would kill her
9 publicly at the Four Seasons: “*imagine how beautiful it would be – a crowd of*
10 *people, cameras, you at the point of a pistol... Special bullets so they bury you in a*
11 *closed casket...*” (AF Decl., ¶ 37, Ex. 19).

12 On May 16, 2018, Grishin texted that Fedoseeva that “[*y*]our end is in a
13 *prison...And all this is not a threat, all this will be ...This is my firm promise.*” (AF
14 Decl., Ex. 22).

15 On June 1, 2018, Grishin texted Fedoseeva stating that “*I will simply punish*
16 *you by cutting you up piece by piece, from the tail. Until I reach your head.*
17 *THAT’S WHAT’LL HAPPEN.*” (AF Decl., ¶ 49, Ex. 31). He also texted
18 Fedoseeva that he has a detailed plan to follow her in her car, give her a flat tire,
19 and kill her with a knife in an empty place. (AF Decl., ¶ 51, Ex. 33).

20 **F. Grishin Attempts To Kill Fedoseeva And Batters Her**

21 On June 3, 2018, Grishin told Fedoseeva that he wanted to resolve their
22 differences amicably, and asked her to meet him in his apartment in Moscow. (AF
23 Decl., ¶ 52). She agreed to attend the meeting. He pulled out a gun with a
24 silencer, pointed it at her, and said that he would kill her. As he was talking, she
25 grabbed the gun and wrestled it from his grip and it fell to the floor. During their
26 struggle, he punched her and “head-butted” her and broke her teeth. She managed
27 to escape. She filed a police report the next day. (AF Decl., ¶ 56, Ex. 35).

28 On June 4, 2018, Grishin texted Fedoseeva and admitted to breaking her

1 teeth, stating that a doctor can give her a “new Hollywood smile.” (AF Decl., ¶
2 57, Ex. 36). Two days later, Grishin texted Fedoseeva a picture of a handgun and
3 stated “*Remind you of anything?*” (AF Decl., ¶ 58, Ex. 37).

4 **G. Grishin’s Threats Escalate**

5 On June 7, 2018, Grishin texted Fedoseeva and threatened that he was
6 going to ruin everyone’s lives “*by various sophisticated means.*” (AF Decl., ¶ 59,
7 Ex. 36). He also texted “*I will come. Wait in fear. Every day.*” He also mentions
8 Sulkess. (AF Decl., ¶ 58, Ex. 37).

9 On June 8, 2018, Grishin texted Sulkess stating that Anna “*is not this pretty*
10 *any more. Missing some teeth.*” He also said “*... I am devil much much more.*
11 *And Russian jail are not good. You do not want to mess up business with Russian*
12 *like me. Not at all. Just a friendly reminder.*” (JS Decl., ¶ 24, Ex. 19).

13 On June 11, 2018, Grishin texted Fedoseeva warning that a “*sentence*” has
14 been issued against her and that “*it will be very awful*” and “*happen to everyone*
15 *too... and to your mother too. You will all be living vegetables. And good luck*
16 *trying to stop me.*” (AF Decl., ¶ 62, Ex. 41).

17 On June 17, 2018, Grishin texted Fedoseeva and admitted that his new
18 fiancée had just left him. (AF Decl., ¶ 33, Ex. 16). That same day, he sent
19 Fedoseeva a video with the file name “The Kill” in which he rants in Russian in
20 front of a television showing clips of movies depicting torture. He says that he is
21 Lucifer and is going to “get” “everyone”. (AF Decl., ¶ 65, Ex. 44, 45).

22 **H. Sulkess And Fedoseeva Obtain TROs Against Grishin**

23 On June 19, 2018, Sulkess and Fedoseeva each obtained a Temporary
24 Restraining Order (“TRO”) against Grishin from the Los Angeles Superior Court,
25 which prevented him from contacting them, directly or indirectly, by any means,
26 and ordered him to surrender all of his weapons. (AF Decl., ¶ 67, Ex. 46; JS Decl.,
27 ¶ 25, Ex. 20).

28 **I. Grishin Repeatedly And Brazenly Violates The TROs**

1 Grishin repeatedly violated the TROs for a prolonged period, as the
2 following examples (out of many) demonstrate:

3 On June 20, 2018, a Grishin business associate sent a text message to
4 Sulkess and Fedoseeva linking a video posted on Grishin’s Instagram account
5 showing a man wielding a large knife and chopping various objects. (AF Decl., ¶
6 69, Exs. 47-48; JS Decl., ¶ 27, Ex. 24).

7 On July 2, 2018, Grishin texted Fedoseeva’s mother and bragged that he
8 wasn’t going to comply with the restraining orders: “*And Fedoseeva, I don’t care*
9 *about your petition to an American court regarding your labored restraining*
10 *order... You’re physically located in Bumfuck Egypt with the other cunts ... So go*
11 *fuck yourself....*” (AF Decl., ¶ 73, Ex. 58).

12 On July 4, 2018, Grishin texted Fedoseeva’s mother and attached an audio
13 recording of a conversation wherein he seeks to hire a hit man for his “*list of 16*
14 *people; 1 million euro per person.*” (AF Decl., ¶ 74; Exs. 59-60).

15 On July 9, 2018, Grishin texted Sulkess a link to the Wikipedia entry for
16 “DEFCON 1” (nuclear war imminent), several pornographic videos, and a sick
17 “joke”: “*What’s the best part about fucking a seven year old girl in the shower?*
18 *...U slick her hair back and she looks like a five year old boy! ... What’s the*
19 *second best part? ... You are already in the shower so when you cut her up u don’t*
20 *have to clean up all the blood!*” (JS Decl., ¶ 30; Ex. 34).

21 In July 2018, Grishin sent Sulkess, Fedoseeva, and Fedoseeva’s mother
22 bizarre sexual videos and audio recordings, depicting women dancing in various
23 states of undress, and engaging in sexual activity with one another and with
24 Grishin. In one of the video recordings, Grishin vows that “*all people involved*
25 *directly or indirectly will die,*” and that some of these deaths will be by “*cruel and*
26 *painful ways.*” (AF Decl., ¶ 88, Ex. 83).

27 On July 20, 2018, Grishin posted on Instagram “*My wife Anna Fedoseeva*
28 *and her friend Jennifer Sulkess ... fuck u in the ass with cactus!*” and “*Anna*

1 *Fedoseeva! Still loving you ... fucking bitch! I hope u will die this year!*" (JS
2 Decl., ¶ 39, Ex. 50).

3 Also on July 20, 2018, Grishin targeted Sulkess, Fedoseeva and their
4 company Twelve Productions by posting a video on Instagram of Fedoseeva
5 making a toast with several business associates, with the caption "... *everyone u*
6 *see.. will die soon. Just because.*" These images remained on Mr. Grishin's social
7 media accounts from July 20, 2018 to August 6, 2018. (AF Decl., ¶ 88, Ex. 98).

8 **J. Grishin Violates A Second Set Of TROs**

9 In or about May 15, 2018, Grishin had texted Fedoseeva that "*at the right*
10 *moment*" he would turn his social media capabilities "*into a weapon . . . against*
11 *you.*" (AF Decl., ¶ 39; Ex. 21). Grishin's company SG Enterprises owns over 100
12 Instagram accounts which have over 300+ million followers. (Declaration of
13 Christopher Grivakes ("CG Decl."), ¶ 47; Ex. 44, 2:2-8). He detailed a plan to
14 publicly post images of Fedoseeva, asking "[t]ell me what pictures you like." (AF
15 Decl., ¶ 47; Ex. 29). He launched a website which included images that he had
16 stolen from her computer. (AF Decl., ¶ 39; Ex. 21). He also set up a series of
17 Instagram accounts to disseminate the stolen photos. (AF Decl., ¶¶ 25-26; Exs. 9-
18 10; JS Decl., ¶ 19, Ex. 14).

19 On August 2, 2018, the Court entered a further order which required
20 Grishin to suspend all of his personal Instagram accounts and other social media
21 accounts. (JS Decl., ¶ 42, Ex. 52). From August 2 to August 23, Grishin's social
22 media accounts were still active, in violation of the August 2, 2018 Order. (JS
23 Decl., ¶¶ 43-44, Ex. 53). He posted videos depicting various weapons, including
24 knives and assault rifles. (JS Decl., ¶¶ 45-46, Exs. 54-59).

25 **K. Grishin Has Fedoseeva Arrested**

26 On November 2, 2018, Grishin caused Fedoseeva's arrest by filing a police
27 report stating that she had defrauded him of monies for her film production
28 company two years *before* she had even met Sulkess and formed the idea for a

1 film company. (AF Decl., ¶ 96; Ex. 111).

2 On November 19, 2018, Fedoseeva was incarcerated. Ten days later, the
3 authorities released her and dismissed all charges after completing their
4 investigation into Grishin's false charges. (AF Decl., ¶ 97, Ex. 114).

5 **L. Sulkess' Facebook Posts**

6 The day Fedoseeva was imprisoned, Sulkess decided to publicize Grishin's
7 actions out of fear for the safety of everyone involved. On November 19, 2018,
8 she posted on Facebook a video compilation of Grishin's threats which he had
9 posted on Instagram and sent her, and which contained the following caption:

10 Over the past few months I haven't really been on social media much...
11 My friend and business partner, Anna Fedoseeva and I have been
12 stalked, harassed and threatened by her soon to be ex husband, Sergey
13 Grishin. Today I'm asking for help... Anna went back to Moscow for
14 her divorce hearing on November 27th, and today Sergey had her
15 arrested in Moscow. I need everyone to see the kind of man this person
16 is. He has tried to destroy both mine and her lives and we need help.
I'm at a loss right now and not sure what to do but I need to go public
with this situation before he has the chance to do anything else. I'm
working with her attorneys in Moscow to help get her out. I've been
documenting everything over the past few months and made video to
represent just a fraction of what it's been like dealing with this.

17 (JS Decl., ¶ 51, Exs. 61-62).

18 She also posted a letter Grishin sent to Fedoseeva, which was addressed to
19 President Trump, and which refers to Grishin's knowledge of terrorist threats
20 against America. Sulkess redacted Grishin's personal information before posting
21 the letter, and his personal information is not visible in the Facebook posting. (JS
22 Decl., ¶ 52, Ex. 63). In an abundance of caution, Sulkess has removed the
23 postings in light of Grishin's claims of copyright infringement. (JS Decl., ¶ 53).

24 **M. Grishin's multi-pronged litigation attacks**

25 Grishin has engaged in a multi-pronged litigation attack against Fedoseeva
26 and Sulkess in order to destroy them financially.

27 On May 29, 2018, he filed an action against Twelve Productions in the Los
28 Angeles Superior Court, alleging that monies he had gifted to Fedoseeva were

1 “oral loans” to Twelve Productions and had to be repaid. He later added
2 Fedoseeva and Sulless as individual defendants on a fraud theory. At the time
3 Sulless made the postings on Facebook, she and Fedoseeva had been personally
4 sued by Grishin, and were contemplating filing a cross-complaint against him,
5 which they did in fact file approximately two months after the postings. (JS Decl.,
6 ¶ 48).

7 On June 19, 2018, Grishin filed an action for a temporary restraining order
8 in the Los Angeles Superior Court against Fedoseeva, claiming that she was the
9 aggressor in the incident where he had pulled a gun on her, and then head-butted
10 her, breaking her teeth. (AF Decl., ¶ 95, Ex. 110). His action was dismissed for
11 lack of prosecution on September 5, 2018. (CG Decl., ¶ 46, Ex. 43).

12 On June 27 and August 13, 2018, Grishin filed actions in Russia against
13 Fedoseeva for “unjust enrichment” which were then consolidated. On February 4,
14 2019, the court ruled against Grishin and dismissed his claims. (AF Decl., ¶ 93,
15 Ex. 108, p.9).

16 On August 6, 2018, Grishin filed a Declaration in the restraining order
17 actions admitting to sending “inappropriate” communications to Sulless,
18 Fedoseeva, and Fedoseeva’s mother; explaining that it was due to “sleep
19 deprivation”; and apologizing to them for his misconduct. (CG Decl., ¶48, Ex. 45).

20 On November 2, 2018, Grishin filed a statement with the police claiming
21 that monies he had gifted Fedoseeva, starting two years before she had even met
22 Sulless and formed the idea for a production company, were in fact oral loans to
23 the production company which had to be repaid. (AF Decl., ¶ 96, Ex. 111).
24 Grishin’s plan all along was to bribe the police to imprison her. (AF Decl., ¶ 40,
25 Ex. 22; ¶ 97, Ex 112, p. 20). The criminal charges against Fedoseeva were
26 dismissed on December 19, 2018 after she provided evidence of Grishin’s
27 corruption of the police officials who arrested her. (AF Decl., ¶ 97, Ex. 114).

28 **N. Public figure status and public interest**

1 Grishin is a public figure in Russia, and has aggressively courted and
2 achieved that status in the U.S. In March 2018, he sent Sulkess eight new articles
3 touting his fame. (JS Decl., ¶ 54, Ex. 64). He wrote Sulkess “I thought you
4 googled me. If not, it will be wise to do it.” (JS Decl., ¶ 13, Ex. 8). He
5 aggressively sought and received public attention by promoting his billionaire
6 lifestyle on Instagram, accumulating over 46,000 people following his Instagram
7 posts, before his account was deactivated for violating the restraining orders. (JS
8 Decl., ¶ 56, Exs. 67-68).

9 Grishin’s divorce from Fedoseeva has garnered widespread attention in the
10 Russian press. On June 14, 2018, he sent Sulkess eight news articles about his
11 battery of Fedoseeva. (JS Decl., ¶ 54, Ex. 65). There are at least 38 articles about
12 Fedoseeva’s arrest. (CG Decl., ¶¶ 5-42, Exs. 1-38). In early December 2018, he
13 gave a television interview for NTV (the third largest Russian television station)
14 which covered his beating of Fedoseeva and her arrest. (CG Decl., ¶¶ 43-44, Exs.
15 39-41).

16 **III. THE CLAIMS AGAINST SULKESS ARE SUBJECT TO AN ANTI- 17 SLAPP MOTION**

18 **A. Anti-SLAPP Motions May Be Brought In Federal Court At Any 19 Time**

20 Under established Ninth Circuit precedent, defendants are permitted to file
21 anti-SLAPP motions in federal cases governed by California law. *See, Newsham*
22 *v. Lockheed*, 190 F.3d 963, 973 (9th Cir. 1999); *Makaeff v. Trump Univ., LLC*,
23 715 F.3d 254, 261 (9th Cir. 2013). The statute may be used against supplemental
24 state law claims that are joined in federal question cases. *See, Globetrotter*
25 *Software, Inc. v. Elan Computer Group, Inc.*, 63 F. Supp. 2d 1127, 1129–1130
(N.D. Cal. 1999); *In re Bah*, 321 B.R. 41, 46 (B.A.P. 9th Cir. 2005).

26 An anti-SLAPP motion may be filed in federal court at any time and
27 without regard to the 60-day time frame set forth in the statute. *See, Metabolife*
28 *Intern., Inc. v. Wornick*, 264 F.3d 832 (2001); *Sarver v. Chartier*, 813 F.3d 891,

1 899 (2016) (holding that anti-SLAPP filed one-year after service of complaint was
 2 timely: “we therefore decline to apply the 60-day time frame in federal court”). In
 3 any event, this motion was filed within 60-days of service of the Complaint on
 4 Sulless. (CG Decl., ¶¶ 48-50, Exs. 45-46).

5 **B. Purpose Of Anti-SLAPP Motions**

6 “Strategic Lawsuits Against Public Participation”, known as SLAPP suits,
 7 “are brought to obtain an *economic* advantage over the defendant, not to vindicate
 8 a legally cognizable right of the plaintiff.” *Wilcox v. Superior Court*, 27
 9 Cal.App.4th 809, 817 (1994) (emphasis in original). They “masquerade as
 10 ordinary lawsuits” but “are generally meritless suits brought by large private
 11 interests to deter common citizens from exercising their political or legal rights or
 12 to punish them for doing so.” *Id.*

13 California enacted an “Anti-SLAPP” statute in 1992. *Equilon Enterprises,*
 14 *LLC v. Consumer Cause, Inc.*, 29 Cal.4th 53, 59-60 (2002). Its purpose is to
 15 protect the exercise of First Amendment rights against the burdens imposed by
 16 legal claims that are not reasonably likely to prevail. *Varian Med. Sys.*, 35 Cal.4th
 17 at 192.

18 The anti-SLAPP statute creates a “special motion to strike” applicable to
 19 causes of action that would impose liability based on the exercise of the
 20 Constitutional rights of Petition and Free Speech. California Code of Civil
 21 Procedure section 425.16(b)(1) provides:

22 A cause of action against a person arising from any act of that person
 23 in furtherance of the person’s right of petition or free speech under
 24 the United States Constitution or the California Constitution in
 25 connection with a public issue shall be subject to a special
 motion to strike, unless the court determines that the plaintiff has
 established that there is a probability that the plaintiff will prevail
 on the claim.

26 **C. The Two-Step Process For Anti-SLAPP Motions**

27 An anti-SLAPP motion proceeds in two steps: First, “the moving defendant
 28 must make a prima facie showing that the plaintiff’s suit arises from an act in

1 furtherance of the defendant’s constitutional right . . .” *Makaeff*, 715 F.3d at 261.
2 Courts sometimes frame this question as whether the defendant can show that the
3 plaintiff’s claim would burden “protected activity.” *See, e.g., City of Colton v.*
4 *Singletary*, 206 Cal.App.4th 751, 766 (2012). Second, “[t]he burden then shifts to
5 the plaintiff ... to establish a reasonable probability that [he] will prevail on [his]
6 claim,” despite the claim’s effect on “protected activity.” *Makaeff*, 715 F.3d at
7 261-62. If the defendant shows that the plaintiff’s claims target “protected
8 activity,” and the plaintiff fails to carry his burden to show a probability of
9 prevailing, then the court strikes the plaintiff’s offending claims in whole or in
10 relevant part. *See id.*; *Cho v. Chang*, 219 Cal.App.4th 521, 526-527 (2013).

11 The anti-SLAPP statute defines “protected activity” very broadly. It covers
12 not just First Amendment conduct addressed to political issues, but also
13 constitutional rights at stake in “events that transpire between private individuals.”
14 *Briggs v. Eden Council for Hope & Opportunity*, 19 Cal.4th 1106, 1116 (1999).

15 Both the Legislature and the California Supreme Court have emphasized
16 that the anti-SLAPP law must be read generously in favor of the constitutional
17 rights it protects. In response to several unduly narrow judicial interpretations of
18 the statute, the Legislature amended the preamble in 1997 to add a directive that
19 section 425.16 “be construed broadly.” *See id.* at 1119; Code Civ. Proc. §
20 425.16(a) (emphasis added). The California Supreme Court has honored that
21 instruction, consistently rejecting efforts by litigants to pinch the anti-SLAPP
22 statute’s scope. *See, e.g., Equilon*, 29 Cal.4th at 57; *Briggs*, 19 Cal.4th at 1119
23 (Courts “wherever possible, should interpret the First Amendment and section
24 425.16 in a manner favorable to the exercise of freedom of speech, not its
25 curtailment.”) (quotation marks omitted).

26 The 9th Circuit has also consistently determined that the California anti-
27 SLAPP statute must be “construed broadly.” *Hilton v. Hallmark Cards*, 580 F.3d
28 874, 905 (9th Cir. 2009); *Mindys Cosmetics, Inc. v. Dakar*, 611 F.3d 590, 595 (9th

1 Cir. 2010) (“we follow the California Legislature's direction that the anti-SLAPP
2 statute be ‘construed broadly’”).

3 The anti-SLAPP statute allows defendants to strike improbable claims
4 asserting liability arising from “... (2) any written or oral statement made in
5 connection with an issue under consideration or review by a . . . judicial body . . . ,
6 (3) any written or oral statement or writing made in a place open to the public or a
7 public forum in connection with an issue of public interest.” Cal. Civ. Proc. Code
8 § 425.16(e) (defining actions covered by section 425.16(b)(1)).

9 **D. The Anti-SLAPP Law Applies To Grishin’s State Law Claims**

10 The anti-SLAPP statute applies to Grishin’s state law claims arising out of
11 Sulless’ Facebook postings for two independent reasons: (i) the postings were
12 made “in connection with” legal proceedings; and (ii) the postings were made in a
13 public forum involving an issue of public interest.

14 Statements made “in connection” with legal proceedings are
15 constitutionally protected. *See, Lafayette*, 37 Cal.App.4th 855; *Sipple*, 71
16 Cal.App.4th 226. A statement is made “in connection” with a judicial proceeding
17 when it is “rationally connected to the litigation itself.” *Wilcox*, 27 Cal.App.4th at
18 821-822 (“there is a strong showing that those statements are rationally connected
19 to the litigation itself.”). The “in connection with” language is construed broadly
20 to encompass all communications that have “some relation” to “judicial
21 proceedings.” *Contemporary Servs. Corp. v. Staff Pro Inc.*, 152 Cal. App. 4th
22 1043, 1055 (2007). It applies to any statement that is “united by . . . dependence
23 or relation” with the legal proceeding.” *Lafayette*, 37 Cal. App. 4th at 863; *Healy*
24 *v. Tuscany Hills Landscape & Recreation Corp.*, 137 Cal. App. 4th 1, 4–6 (2006).
25 The statements may be made to other private citizens, rather than to the official
26 agency. *See Briggs*, 19 Cal.4th at 1116. A statement made in connection with
27 legal proceedings need not concern a public issue. *Id.*, at 1118. (Supreme Court
28 held that Legislature equated “public issue” with the official proceeding to which

1 it connects).

2 Sulless' Facebook postings were "in connection with" or "rationally
3 connected" to legal proceedings. The subject matter of the video compilation and
4 caption are Grishin's threats of violence. The subject matter of the Trump letter
5 sent to Fedoseeva includes an implied threat that Grishin knows terrorists. These
6 publications are rationally connected to the restraining order proceedings which
7 seek to prevent Grishin's threats and from his carrying out the threats, and to the
8 defenses and cross-complaint in the Superior Court action.

9 Grishin maintains that the only defamatory statement is the clause in the
10 caption accompanying the video compilation which states that he "had her
11 [Fedoseeva] arrested in Moscow." Grishin contends that this clause relates only to
12 the Russian criminal proceedings, and that the anti-SLAPP statute does not apply
13 to statements made in connection with foreign legal proceedings. This is incorrect
14 for several reasons. First, the clause cannot be isolated from the video
15 compilation or the entirety of the caption accompanying the video. *See, M.G. v.*
16 *Time Warner, Inc.*, 89 Cal.App.4th 629 (2001) (plaintiff's effort to narrowly
17 characterize article to avoid application of statute was rejected). Second, the
18 clause is "rationally connected" to the legal proceedings here because it involves a
19 threat that was actually carried out, causing Sulless to be afraid that she was his
20 next target, and preventing Fedoseeva from pursuing a permanent restraining
21 order and defending/prosecuting the Superior Court action because she was
22 incarcerated. Third, while the clause also relates to the Russian criminal
23 proceedings, the anti-SLAPP statute applies to publications about foreign
24 proceedings. *See, Summerfield v. Randolph*, 201 Cal. App. 4th 127, 135–37
25 (2011) (statute applied to affidavits filed in a Zimbabwean case because they were
26 filed "to influence the determination of issues pending in the Los Angeles case");
27 *Mireskandari v. Daily Mail & Gen. Tr. PLC*, 2013 WL 12114762, at *6 (C.D. Cal.
28

1 Oct. 8, 2013) (articles published about a foreign legal proceeding are protected).

2 The anti-SLAPP statute also applies because the publications on Facebook
3 were in a public forum concerning a public issue. *Jackson v. Mayweather*, 10
4 Cal.App.5th 1240 (2017). “[A] public issue is implicated if the subject of the
5 statement or activity underlying the claim (1) was a person or entity in the public
6 eye; (2) could affect large numbers of people beyond the direct participants; or (3)
7 involved a topic of widespread, public interest.” *D.C. v. R.R.*, 182 Cal.App.4th at
8 1226.

9 Facebook is a public forum. *Jackson*, 10 Cal.App.5th at 1252. Grishin is
10 in the “public eye.” See, *Gertz v. Robert Welch, Inc.*, 418 U.S. 323 (1974) (public
11 figure includes “[t]hose who, by reason of the notoriety of their achievements or
12 the vigor and success with which they seek the public’s attention, are properly
13 classified as public figures.”). The anti-SLAPP statute applies to a plaintiff who is
14 a public figure in a foreign country. *Nygaard, Inc. v. Uusi-Kerttula*, 159
15 Cal.App.4th 1027, 1034 (2008) (statute applied to Finnish businessman for whom
16 there was “extensive interest” “among the Finnish public”). Grishin achieved
17 notoriety in Russia as a billionaire Oligarch, is the subject of frequent attention
18 from the Russian press, and courted and achieved notoriety in the U.S. and
19 internationally on Instagram.

20 Even if Grishin is not a public figure, the two Facebook postings involved
21 issues of widespread public interest. First, there was widespread interest relating
22 to Grishin’s divorce from Fedoseeva, including the June beating and the
23 November arrest, resulting in at least 46 news articles on these topics alone.
24 Grishin even taunted Sulkess about the June beating by sending her news articles
25 on the subject. (JS Decl., Ex. 65). Second, the first posting involves threats of
26 violence, and actual domestic violence, which is an issue of widespread public
27 interest. See, *Sipple*, 71 Cal.App.4th at 238 (“Domestic violence is an extremely
28

1 important public issue in our society”). Protecting actual and potential crime
2 victims through public disclosure is also an issue of widespread public interest,
3 especially when restraining orders are flagrantly violated, the police take no
4 action, threats are carried out, and the perpetrator warns that he is one of those
5 “*cruel, merciless, smart devils who can wait for many years.*” Third, the letter
6 addressed to President Trump involves a public issue because it refers to Grishin’s
7 knowledge of terrorist threats against America. There is a widespread interest in
8 the topic of terrorism and in specific knowledge of potential terrorist attacks
9 against this country.

10 **E. This Case Presents A Paradigm Anti-SLAPP Situation**

11 The Court may consider the litigation history of the parties in deciding this
12 motion. *Church of Scientology v. Wollersheim*, 42 Cal.App.4th 628, 648 (1996),
13 disapproved on other grounds in *Equilon*, 29 Cal.4th at p. 68, fn. 5 (“When a party
14 to a lawsuit engages in a course of oppressive litigation conduct designed to
15 discourage the opponents’ right to utilize the courts to seek legal redress, the trial
16 court may properly apply section 425.16. ... the trial court may properly consider
17 the litigation history between the parties.”).

18 The parties’ litigation history reveals that the present action is a
19 “paradigm,” meritless SLAPP lawsuit filed by a “powerful and wealthy plaintiff [
20] against an impecunious” 30-year old woman. *See, Lafayette*, 37 Cal.App.4th at
21 865. Grishin’s threats of unleashing “highly professional assassin lawyers”
22 operating “without a budget” to further his agenda to drive Sulkess into
23 “bankruptcy” is a clear statement of improper motive.

24 **IV. GRISHIN CANNOT SHOW A PROBABILITY OF PREVAILING**

25 Since the complained of conduct falls within the scope of Section 425.16,
26 the burden shifts to Grishin to present evidence establishing a probability of
27 prevailing. C.C.P. § 425.16(b)(1). He cannot meet this burden on any of his
28

1 claims.

2 **A. The Claim For Defamation *Per Se* Is Barred By Truth, Lack of**
 3 **Malice, Lack Of Negligence, Privilege, And Unclean Hands**

4 **1. Elements of the claim**

5 The tort of defamation involves a publication that is false, unprivileged, and
 6 that has a natural tendency to injure or that causes special damage. Civ. Code §§
 7 45, 46; *Seelig v. Infinity Broadcasting Corp.*, 97 Cal.App.4th 798, 809 (2002). A
 8 defamation is *per se* libelous if appears defamatory “without the necessity of
 9 explanatory matter, such as an inducement, innuendo or other extrinsic fact . . .”
 10 Civ. Code § 45a; *see Babcock v. McClatchy Newspapers*, 82 Cal.App.2d 528, 539
 11 (1947).

12 **2. The statements are true**

13 “Truth, of course, is an absolute defense to any libel action.” *Campanelli v.*
 14 *Regents of Univ. of Cal.*, 44 Cal.App.4th 572, 581–582 (1996). “California law
 15 permits the defense of substantial truth and would absolve defendant even if she
 16 cannot justify every word of the alleged defamatory matter; it is sufficient if the
 17 substance of the charge be proved true, irrespective of slight inaccuracy in the
 18 details. Minor inaccuracies do not amount to falsity so long as the substance, the
 19 gist, the sting, of the libelous charge be justified.” *GetFugu, Inc. v. Patton Boggs*
 20 *LLP*, 220 Cal.App.4th 141, 154 (2013) (internal citation and quotes omitted.)

21 The statements in the first Facebook posting are true or substantially true.
 22 Sulkess and Fedoseeva were in fact “stalked, harassed, threatened and terrorized”
 23 by Grishin, he has admittedly tried to destroy their lives, and he did have
 24 Fedoseeva arrested by virtue of filing a statement with the police.

25 Grishin maintains that the statement is defamatory because the police, not
 26 him, arrested Fedoseeva. He is twisting the plain meaning of the statement which
 27 is that he caused her to be arrested. No reasonable person reading the statement
 28 would think that Grishin put on a uniform and arrested Fedoseeva. Sulkess’

1 statement is “true” or “substantially true.”

2 **3. Sulkess did not act with malice**

3 Since Grishin is a public figure, he is required to prove that Sulkess acted
4 with malice in order to maintain his claim for defamation. *New York Times*
5 *Co. v. Sullivan*, 376 U.S. 254, 280 (1964) (public figure has burden of proof that
6 statement made “with knowledge that it was false or with reckless disregard of
7 whether it was false or not.”). Proof of malice is required for both general and
8 limited public figures. See *Gertz*, 418 U.S. at 351. Grishin’s notoriety and
9 aggressive self-promotion makes him a public figure for all purposes. At a
10 minimum, he is a limited public figure since he created the controversy with
11 Fedoseeva and Sulkess, which has generated significant media attention in Russia.
12 See *Id.* (a limited public figure is “an individual [who] voluntarily injects himself
13 or is drawn into a particular public controversy”); *Copp v. Paxton*, 45 Cal.App.4th
14 829 (1996) (individual who publicly claimed to be an expert in earthquake safety
15 and a veteran in earthquake rescue operations was limited public figure); *Kaufman*
16 *v. Fidelity Fed. Sav. & Loan Ass’n*, 140 Cal.App.3d 913 (1983) (president of two
17 corporations located in a California village that opposed the rezoning of property
18 adjacent to his property was limited public figure). Grishin cannot meet his
19 burden of proving malice. Sulkess acted out of fear, not malice. (JS Decl., ¶ 53).

20 **4. Sulkess was not negligent**

21 If Grishin is not a public figure, Sulkess’ negligence is an element of libel.
22 See, *Carney v. Santa Cruz Women Against Rape*, 221 Cal.App.3d 1009, 1016
23 (1990). “A private-figure plaintiff must prove at least negligence to recover any
24 damages ...” *Brown v. Kelly Broadcasting Co.*, 48 Cal.3d 711, 747 (1989).
25 Sulkess was not negligent in determining the truth or falsity of the statements
26 posted on Facebook. She had been harassed by Grishin; he had made her life
27 miserable; and she had seen Grishin’s threats to Fedoseeva that her “end is a
28 prison” because the police investigators are “his executors.” When Sulkess made

1 her posting, she was justified in believing that Grishin had made good on his
 2 threats. In fact, Grishin did cause Fedoseeva to be arrested by filing a police
 3 report against her. The Russian press has reported extensively on Grishin's
 4 corruption of the police in obtaining the arrest.

5 **5. The claim is barred by the litigation privilege**

6 Sulless' statements are absolutely privileged under Civil Code section
 7 47(b). "The usual formulation is that the privilege applies to any communication
 8 (1) made in judicial or quasi-judicial proceedings; (2) by litigants or other
 9 participants authorized by law; (3) to achieve the objects of the litigation; and (4)
 10 that [has] some connection or logical relation to the action.' " *Action Apartment*
 11 *Assn., Inc. v. City of Santa Monica*, 41 Cal.4th 1232, 1241 (2007).

12 The privilege "is not limited to statements made during a trial or other
 13 proceedings, but may extend to steps taken prior thereto, or afterwards." *Id.*
 14 (internal quotes omitted). The privilege applies when statements are "made
 15 outside the courtroom and no function of the court or its officers is involved."
 16 *Silberg v. Anderson*, 50 Cal.3d 205, 216 (1990). "[T]he privilege is not restricted
 17 to the parties in the lawsuit but need merely be connected or related to the
 18 proceedings." *Adams v. Superior Court*, 2 Cal.App.4th 521, 529 (1992); *Sharper*
 19 *Image*, 425 F.Supp.2d at 1078 (N.D.Cal.2006). The privilege is "broadly applied
 20 and doubts are resolved in its favor." *Hawran v. Hixson*, 209 Cal.App.4th 256,
 21 283 (2012).

22 Sulless' statements on Facebook are absolutely privileged. The statements
 23 were made by a party to legal proceedings, in connection with those proceedings,
 24 to alert others of the violent threats posed by a malicious adversary.

25 **6. The claim is barred by Grishin's unclean hands**

26 This is a classic case of unclean hands. "The doctrine demands that a
 27 plaintiff act fairly in the matter for which he seeks a remedy. He must come into
 28 court with clean hands, and keep them clean, or he will be denied relief, regardless

1 of the merits of his claim.” *Kendall-Jackson Winery, Ltd. v. Superior Court*, 76
2 Cal. App. 4th 970, 978 (1999) (finding the doctrine “promotes justice by making a
3 plaintiff answer for his own misconduct in the action. It prevents a wrongdoer
4 from enjoying the fruits of his transgression.”). Notably, “the misconduct need
5 not be a crime or an actionable tort. Any conduct that violates conscience, or good
6 faith, or other equitable standards of conduct is sufficient cause to invoke the
7 doctrine.” *Id.* at 979. The doctrine “may apply to legal as well as equitable claims
8 and to both tort and contract remedies.” *Camp v. Jeffer, Mangels, Butler &*
9 *Marmaro*, 35 Cal. App. 4th 620, 638 (1995).

10 “To establish unclean hands, a defendant must demonstrate (1) inequitable
11 conduct by the plaintiff; (2) that the plaintiff’s conduct directly relates to the claim
12 which it has asserted against the defendant; and (3) plaintiff’s conduct injured the
13 defendant.” *Taylor Holland LLC v. MVMT Watches, Inc.*, 2016 WL 6892097 at
14 *11 (C.D. Cal. Aug. 11, 2016); *Ample Bright Dev., Ltd. v. Comis Int’l*, 913
15 F.Supp.2d 925, 940 (C.D. Cal. 2012).

16 The elements of unclean hands are easily satisfied. First, Grishin’s
17 prolonged campaign of violence and revenge against his ex-wife Fedoseeva and
18 Sulkess is truly despicable. His hands are more than simply unclean; they are
19 filthy dirty. Second, his misconduct directly relates to Sulkess’ statements that he
20 made threats, tried to cause harm, and that he caused Fedoseeva to be falsely
21 imprisoned. Third, Sulkess was obviously injured by Grishin’s conduct. She has
22 lived daily with the fear that Grishin is lying in wait, biding his time, to carry out
23 his promises of violence. The unclean hands defense should operate as a complete
24 bar to the defamation claim.

25 **B. The Claim For Defamation *Per Quod* Is Similarly Barred**

26 Grishin’s claim for defamation *per quod* is barred for the same reasons his
27 defamation *per se* claim is barred. In addition, he cannot prove the element of
28 special damages. Defamatory language not libelous on its face is not actionable

1 unless the “plaintiff alleges and proves that he has suffered special damage as a
2 proximate result thereof.” Civ. Code § 45a. *See, Babcock v. McClatchy*
3 *Newspapers*, 82 Cal.App.2d 528, 539 (1947). The unclean hands defense bars the
4 claim for the same reasons above.

5 **C. The Claim For Public Disclosure Of Private Facts Is Barred**
6 **Because Of A Lack Public Disclosure Of Private Facts, No**
7 **Recklessness, Public Concern, And Unclean Hands**

8 **1. Elements of the claim**

9 The elements of a claim for public disclosure of private facts are (1) public
10 disclosure; (2) of a private fact; (3) which would be offensive and objectionable to
11 a reasonable person; and (4) which is not of legitimate public concern. *Briscoe v.*
12 *Reader's Digest Ass'n*, 4 Cal.3d 529 (1971), overruled on other grounds by *Gates*
13 *v. Discovery Communications, Inc.*, 36 Cal.4th 679 (2004).

14 **2. There was no public disclosure**

15 Grishin cannot establish that there was a public disclosure. Sulkess
16 redacted all of the private information about him such that it was not visible on
17 Facebook.

18 **3. The facts were not private**

19 Grishin cannot establish that the publication included the disclosure of
20 private facts. The First Amendment generally precludes recovery for disclosure
21 of facts that are a matter of public record. *Cox Broadcasting Corp. v. Cohn*, 420
22 U.S. 469 (1975). Grishin sent his addresses, phone number, and social security
23 number to Sulkess’ crew members. (JS Decl., ¶ 60, Ex. 70). His Green Card and
24 passport numbers were sent to President Trump. Grishin’s own actions establish
25 that he did not consider the information private.

26 **4. Sulkess did not act with reckless disregard**

27 Grishin cannot establish that Sulkess’ actions would be “offensive and
28 objectionable to a reasonable person.” A plaintiff must show that the defendant
published private facts “with *reckless disregard* for the fact that reasonable men

1 would find the invasion highly offensive.” *Briscoe*, 4 Cal.3d at 543 (emphasis
2 added). This element sets forth an objective standard, under which Sulkess cannot
3 be said to have acted “recklessly.” She acted reasonably by redacting Grishin’s
4 personal information, and no reasonable person would find her actions “offensive
5 and objectionable.” Of course, Grishin cannot be considered a reasonable man
6 because reasonable men would never make death threats to a wide range of
7 people, try to hire a hit man, try to kill their wives, or bribe officials to have their
8 wives imprisoned.

9 **5. The claim is barred by unclean hands**

10 Grishin’s claim for public disclosure of private facts is barred by the
11 unclean hand doctrine. His conduct is despicable, directly relates to the letter
12 addressed to Trump which includes an implied threat against Sulkess and
13 Fedoseeva, and Sulkess and Fedoseeva were obviously injured by his threats.

14 **D. The Claim For Injunctive Relief Fails**

15 To the extent that Grishin’s claim for injunctive relief seeks an injunction
16 against further alleged defamation and public disclosure of private facts, it fails for
17 the same reasons as set forth above. Furthermore, Sulkess has removed the
18 postings, and so the claim is moot.

19 **V. CONCLUSION**

20 Grishin is a vile, monstrous thug who filed this action as part of his
21 admitted plan to cause economic harm to Sulkess. Sulkess respectfully requests
22 that the Court grant her motion to strike the Complaint pursuant to Code of Civil
23 Procedure section 425.16.

24 March 22, 2019

AFFELD GRIVAKES LLP

25
26 By: /s/

Christopher Grivakes
Damion Robinson

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28 Attorneys for Defendant JENNIFER SULKESS

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PROOF OF SERVICE

I hereby certify that on March 22, 2019, I electronically filed the foregoing document using the Court’s CM/ECF system. I am informed and believe that the CM/ECF system will send a notice of electronic filing to the interested parties.

s/ Damion Robinson
Damion Robinson