

PATRICK J. EVANS, SBN 110535
LAW OFFICE OF PATRICK J. EVANS
16897 ALGONQUIN ST., SUITE F
HUNTINGTON BEACH, CALIFORNIA 92649
Tel: 714\ 594-5722; Fax: 714\ 840-6861
pevans@pevanslawoffice.com
Attorney for Respondent Susan Bassi

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**IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA CLARA**

<p>ROBERT BASSI,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>SUSAN BASSI,</p> <p style="text-align: center;">Respondent</p>	<p>CASE NO.: 2012-6-FL-009065</p> <p>[Dept. 79, Hon. Andrea Flint, Judge Presiding]</p> <p>MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF RESPONDENT SUSAN BASSI’S SPECIAL MOTION TO STRIKE FOR SLAPP [C.C.P. §425.16] PETITIONER’S REQUEST FOR DOMESTIC VIOLENCE RESTRAINING ORDER</p> <p>[Notice of Motion, Declarations of Susan Bassi, and Counsel Patrick Evans in support, and Evidentiary Objections, filed and lodged concurrently]</p> <p>Motion / Ex parte Hearing Date: Oct. 5, 2021 Motion / Ex parte Hearing Time: 10:30 a.m. DVRO Filed: July 8, 2021 DVRO Served: August 16, 2021</p>
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TO THE HONORABLE COURT AND PETITIONER THROUGH COUNSEL:

Respondent SUSAN BASSI provides her Memorandum of Points and Authorities for her Anti-SLAPP motion (Code Civ. Proc. sec. 425.16) to strike Petitioner ROBERT BASSI’S Request for Domestic Violence Restraining Order (“DVRO), (Family Code §6200 et seq.)

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1 **MEMORANDIUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Petitioner Robert Bassi (“Robert”) abuses legal process with an impermissible request for a
4 Domestic Violence Restraining Order (“DVRO”). He uses DVRO to suppress and punish his ex-wife
5 Respondent Susan Bassi’s (“Susan”) exercise of free and litigation privileged speech. Robert seeks to
6 restrain her voicing claims that he and co-conspirators engage in racketeering to produce and sell
7 counterfeit seed used to grow phony “organic” lettuce for consumers. The racket is of great public
8 interest; it cheats seed patent holders out of intellectual property and defrauds consumers into believing
9 they are buying “organic.” Pirated seed crop is not “organic;” it violates USDA “organic” mandates
10 on labeling, pesticides, and more. (See, accompanying Respondent Susan’s; “Susan;” declaration, ¶26)

11 Before their divorce Robert and Susan operated successful agricultural businesses that
12 produced (in the industry, “multiplied”) patented and proprietary lettuce seed. Unknown to Susan,
13 Robert teamed up with others, including his brother Steven Bassi, an executive at Tanimura & Antle,
14 (“T&A”) a large fresh vegetable grower, packager, and distributor. Their enterprise was patented seed
15 theft, multiply it, cut out patent holder, and sell counterfeit seed cheaply to farmers. (Susan Decl. ¶3)

16 Robert ended the Bassi marriage because he knew that Susan would not join him in agricultural
17 intellectual property theft, counterfeit of patented seed, and mis-labeling as “organic” lettuce sold to
18 consumers. He knew Susan would not steal the clients’ patents or perpetrate food fraud on consumers.

19 During the divorce Robert and his attorneys consistently denied Susan the seed companies’
20 financials. Numeric data would prove the piracy; there would be unusual large sales, cash advances,
21 and other accounting red flags. Keeping Susan from financial records that would expose the
22 racketeering, while stripping her of community property in the seed businesses – because Robert had
23 made them a racket –were Robert’s critical dual objectives in the divorce. (Susan Declaration, Page 2,
24 Line 22- 27, Page 3 Line 1-22)

25 Robert complains of Susan’s speech in this family law case including Robert’s fraud on the
26 court by false representation that he operated the seed businesses legally. (See, accompanying Counsel
27 Decl., ¶39, Exh. IV) Robert derides Susan’s coming Racketeering Influenced and Corrupt
28 Organization (“RICO”) action (18 U.S.C. §1961 et seq.). Robert and target defendants received a

1 discussion draft RICO complaint in “pre-litigation” due diligence. (Decl. Exhibits “I” – “III”) They
2 had opportunity to refute the RICO before it was filed in court.¹ (Susan Decl. page 5 line 26 – page
3 6 line 23) Robert and his conspirators gave neither denial nor response, instead Robert, through his
4 counsel, pursues the DVRO, which is a classic “strategic lawsuit against public participation,”
5 (“SLAPP”)(Code of Civil Procedure §425.16) because Robert seeks prior restraint of Susan’s speech
6 that articulate legal claims pending before courts, law enforcement, and government agencies.

7 Robert and his attorney must have thought DVRO would scare Susan to drop her agricultural
8 racketeering action. Instead, the DVRO helps prove RICO; it sets a platform for wider exposé of the
9 seed piracy racket’s danger to food integrity - a matter of vital public importance. Susan is a litigant,
10 and she is a journalist and investigative reporter. She works to publicize seed piracy and its deleterious
11 impact on agriculture and consumers. (Id. ¶23)

12 Anti-SLAPP protected speech concerns matters of public interest. It covers statements made
13 in litigation, on matters before a governmental agency, and journalism. Susan’s speech occurs in
14 family law litigation, for her RICO action, and in complaints she made to federal and local law
15 enforcement, the United States Department of Agriculture (“USDA”) regarding NOP (national organic
16 program), California organic certification (“CCOF”), the IRS,² and the SEC. As a journalist, Susan
17 gave information to each agency, communicated, and reported. (Susan Decl. Page 5 Line 15-25) .

18 Susan’s speech cannot be subject to DVRO as a matter of law. Robert is in litigation, actual
19 and forthcoming, and is the subject of governmental inquiry and journalistic interest. He cannot secure
20 a DVRO against the adverse party to not communicate; it is an unlawful prior restraint.

21 Robert’s family law counsel, who is his “business” attorney, Mr. Carlos Martinez, will not
22 receive RICO correspondence. He blocked Susan’s counsel’s email. (Cnsl. Dec. ¶49, Exh. VI, VII)

24 ¹ RICO is founded on predicate crimes, here the usual mail and wire fraud but also of the agricultural
25 type: 18 U.S.C. §1831, §1832, §2320 (relating to trafficking in goods and services bearing counterfeit
26 marks); Violations of the Federal Seed Act 7 U.S.C. §551 et seq, in particular §1611, offering for sale
and selling mis-labeled seed, and the Plant Variety Protection Act, 7 U.S. C. §2321 et seq. et al.

27 ² Robert and his attorney Brad Baugh caused the marital properties to be sold, kept the money, and
28 did not withhold funds for federal taxes. The IRS contends Susan owes tax. She explained that
Robert’s wrongdoing ruined her financially. The IRS demanded a copy of the draft RICO complaint.
Thus, for SLAPP, RICO action tax fraud allegations are before the IRS. (Susan Decl. ¶27)

1 If Robert did not want Susan to contact him about RICO, then he should have had his attorney
2 Mr. Martinez formally say so, and he had to designate an attorney for RICO communications. If Susan
3 were to breach the “no party contact” directive, then perhaps Robert could seek court relief.

4 Robert did not give proper “do not call” instruction. Instead of designating an attorney for
5 RICO, Mr. Martinez instructed that he would not receive RICO. A litigant can ask to be out of the
6 communication loop, by (1) clear notice of such and (2) designation of an attorney. Robert did neither.

7 But requesting DVRO to curb speech of the opponent party in litigation is not permissible; it
8 is a prior restraint. Robert cannot curtail Susan’s litigation communication or agricultural reporting.

9 The DVRO must be denied as SLAPP, and Susan awarded her attorneys’ fees and costs.

10 **II. BACKGROUND FACTS**

11 The DVRO was filed months after the email that Robert states harassed him. (DVRO p. 6, item
12 27, Decl. p. 1, ¶1) Harassment did not prompt the DVRO; it was Robert’s alarm at Susan’s fact-based
13 RICO complaint. (Counsel Decl. 35, Exh. II-VI) Background facts for the protected speech follow.

14 **a. The Bassi Seed Companies**

15 Prior to Robert’s initiation of divorce in 2012, Robert and Susan started and operated
16 agricultural enterprises that produced seed for holders of propriety right protected lettuce seed.
17 Horticulturalists and scientists devote years and investment to develop, perfect, patent and protect as
18 intellectual property, varieties, and strains of lettuce seed. The Bassi business was to “multiply”
19 lettuce seed for patent and proprietary rights holders. (Susan Decl. Page 1, Line 10- 18).

20 During the Bassi marriage there were two “seed companies,” California Seed, Inc., “CSI”
21 formed in 2004 and California Seed Production, Inc., “CSP” formed in 2008. Susan was involved in
22 the companies until Robert seized exclusive control, locked her out and denied books and records. The
23 seed businesses were subject to valuation and division, but Susan was not given financials. The
24 “private” judge ordered that she not talk with clients, or tax authorities. (Susan Pg. 3, Lines 15-20) .

25 **b. Robert Utilizes Divorce to Shield Seed RICO**

26 Robert filed for divorce September 18, 2012. Rather than deal rationally with his spouse on
27 community assets, including the seed businesses, Robert and his counsel litigated to deny Susan seed
28 company records and to cut out her share. They must have thought this was the only strategy, because

1 if Susan saw seed company financial records, she would have proof of the racketeering. As a result
2 of Robert using divorce to disable the threat of Susan to his racketeering, the family law litigation
3 dragged on for years, generating more litigation, with more to come. The family law case is on appeal
4 the Sixth District, H046284. A related case against “private judge” Nat Hales, CV336848, is on appeal,
5 H048751. The RICO action is soon to come. (Susan Decl. Page 7 - Line 22-25).

6 **c. Susan Pieces Together the Seed RICO Evidence**

7 Despite Robert’s suppression of seed company records, as the draft RICO complaint (Exh.
8 “III” to declarations) details, Susan was, over time and recently, able to procure some financial
9 information. The sparse data was sufficient, with due diligence, to turn up other facts and events from
10 agricultural industry sources. Susan has assembled an array of evidence that provides probable cause
11 for the seed RICO complaint. On June 11, 2021, Susan’s RICO counsel sent out a “discussion” draft
12 of the Seed RICO complaint. (Counsel Decl. ¶27, Exh. “I”) It was sent to Robert c/o Mr. Martinez.

13 **d. July 1 RICO Discussion Draft – Target Defendant Margaret Russo Added**

14 The initial RICO draft complaint generated additional data from some target defendants that
15 led to changes and new leads. One target defendant was dropped. Margaret Russo was added as
16 target defendant. Because she is Robert’s girlfriend, there was concern that adding her would be
17 perceived and touted as ex-wife revenge. (Counsel Decl. ¶32) However, substantial evidence tied her
18 to seed racketeering. (Id.) She is the bookkeeper for the RICO enterprise. After the RICO complaint
19 more evidence implicating her was found, including Robert’s attorney Mr. Martinez copying her “bcc”
20 on email he sent to Susan’s lawyer Mr. Tennant.³

21 **e. Robert’s Attorney Martinez Email Re: Contact with Robert and “Stupid” RICO**

22 On July 1 Susan’s RICO counsel sent a letter to Mr. Martinez stating he appeared RICO
23 implicated. (Cnsl. Decl. ¶39; Exh. “V”) He wrote back “stupid,” and stated he would not receive
24 RICO counsel email for lack of “pending case” and “counsel of record.” (Exh. VI) Susan had no ability
25

26 _____
27 ³ Martinez email to Susan’s attorney Mr. Tennant copied Robert and Ms. Russo. (Susan Decl. ¶54)
28 Ms. Russo is the RICO bookkeeper. She is not in the family law action. Mr. Martinez is not RICO
defense counsel. Robert having Ms. Russo copied in family law waived attorney client privilege.

1 to communicate with Robert about the seed RICO. (Susan Decl. Page 6 ; Line 24- Page 7, Line 13; ;
2 Counsel Decl. ¶48; Exhibits “VI” and “VII”)

3 On July 2, Mr. Martinez wrote Susan’s attorney Mr. Tennant: “Please advise your client that
4 Mr. Bassi is sick and tired of receiving your client’s harassing emails.” Because of July 4, Susan did
5 not receive the email sent to her attorney until late July. (Susan Decl. ¶57) Because Mr. Martinez
6 would not accept seed RICO correspondence, Susan wrote directly to Robert. (DVRO, Robert Decl.
7 ¶7) Not until late July did Susan learn of Robert’s preference that she does not send RICO. She was
8 not formally informed of the DVRO until August 12. Susan ceased RICO communication but was in
9 a quandary as Robert had no attorney to receive seed RICO correspondence. (Susan Decl. ¶57-8)

10 **III. NO RESTRAINT OF SPEECH REQUEST UNTIL AFTER RICO**

11 The supposed “domestic violence” is “email communications,” “harassing email” that “make
12 accusations.” (DVRO, Robert statement, pg. 5 of 6, item 27, a. 1. & 2.) Robert says: “Susan Bassi has
13 been harassing me for months by email.” (Id.) He filed the DVRO July 8, attaching email from June
14 and July but not before. Robert withstood “months” of “harassing” email before his DVRO.

15 That “tipping point” for Robert came when RICO counsel sent the second discussion draft
16 RICO complaint on July 1, 2021. (Counsel Decl. ¶35, Exh. “III”) A letter to Mr. Martinez advised he
17 was a person of interest, with reference to false representation to the court that the seed companies
18 were legitimate.(Exh. “V”) Mr. Martinez wrote back that “Since you [RICO counsel] are not counsel
19 of record in any case I am counsel on, your email, domain and name are now blocked on my server. .
20 . . .Thank you for your remarkably stupid letter. No further electronic communication from you will
21 be read.” (Counsel decl. ¶48-49; Exhibit “VI.”)

22 The next day, July 2, 2021, Mr. Martinez wrote to Susan’s family law attorney Robert Tennant
23 “Please advise your client that Mr. Bassi is sick and tired of receiving your client’s harassing emails.
24 If she sends one more to him, or contacts him in any way, I will file for a restraining order.” Mr.
25 Martinez overlooked that attorney-client communication would be delayed because of the July 4
26 weekend. Mr. Tennant did not forward the “sick and tired” message until much later, if at all.

27 Unaware of the unprofessional angry missives, Ms. Bassi continued to write Robert. On July
28 9, 2021, Mr. Martinez wrote, “I just found out that while our DVRO is pending before the court your

1 client sent another harassing email to Mr. Bassi. Mr. Bassi does not want to be contacted by your
2 client at any time, for any reason. I have asked for this to stop, yet your client has increased her
3 harassment in response to my request. Would you please get control of your client?” Days after this
4 email, Susan learned of the DVRO and request that she not contact Robert. She was displeased Mr.
5 Martinez would not accept RICO email. She had no way to contact Robert. (Susan Decl. ¶39; Counsel
6 Decl. ¶48-49)

7 The DVRO is founded entirely on what Robert calls “harassing” email. He is in family law
8 litigation, with RICO soon to come. Pointed litigation communication is unpleasant. Robert opines
9 that the email “serve no legitimate purpose as Susan has her own lawyer, and I have a lawyer, and
10 \here is no need for her to contact me.” (DVRO, pg. 6 of 6, item 27) This is incorrect, as his attorney
11 Mr. Martinez, calling RICO “stupid,” stated he was not the lawyer for RICO, but then saying he is
12 Robert’s “business lawyer.” (Susan Decl. ¶39)

13 The email and evidence show that Robert continued to receive emails he did not like from his
14 ex-wife because his attorney Mr. Martinez was ineffective in communication that such email should
15 stop entirely. If Robert did not want to read it, then had to be clear on directive to communicate only
16 with lawyers and designate the lawyers. Robert did neither. Mr. Martinez’s temper tainted emails
17 were sent just before and after the July 4 holiday weekend, weeks after Robert had already received
18 “harassing” email, and days after the draft RICO complaint was delivered. Email only “disturbed”
19 Robert after it talked about seed RICO. Then it prompted his DVRO gambit to obstruct RICO.

20 **IV. THE SPEECH IS RELATED TO LITIGATION**

21 Robert opines that: “There is no legitimate reason for Susan to send me any emails or contact
22 me directly.” (DVRO Decl. pg. 1, ¶2) RICO gave Susan reason to contact him directly because there
23 was no clear communication not to do so and to instead communicate with a specified lawyer.

24 Susan makes evidentiary objection to Robert’s legal opinion that “there is no legitimate reason
25 for Susan to send me emails.” He is not competent to opine on litigation communication. (See,
26 separately filed Evidentiary Objection) Email was litigation related, including those that to an outsider
27 would seem “off topic,” without background and context to gauge the communication.

1 **a. July 2 Email – Concern Attorney Martinez will Cause RICO to be Made Public**

2 The first email Robert declares harassing, sent July 2, (DVRO Decl. pg. 1), to him and his
3 brother, target defendant Steven Bassi, states, in relevant part:

4 . . . Carlos Martinez, is engaging in conduct that may lead to the civil RICO drafts being placed
5 in the public court file. . . [S]hould the case need to be filed in federal court, it would have less
6 detail than the drafts sent for review and response. However, if Mr. Martinez continues to seek
7 to address these issues in the family law matter, both complaints and the associated pre-
8 litigation communications, could be placed in the family law case, which is a public file.
9 My hope had always been to settle our issues. without further harm to the reputations .of not
10 only those involved, but our associates and family members. Especially our respective children
11 and grandchildren. Certainly, it would be my hope to be able to address these issues without
12 continuing to place deeply personal and financial issues in the public domain as Robert has
13 insisted on for nearly 10 years. Please see Mr. Martinez's email below. . . . If Robert Bassi
14 was unaware that Mr. Martinez was engaging in conduct that included calling a 152-page civil
15 RICO seed counterfeiting draft complaint and accompanying letter "stupid", he is now aware.
16 You should not be unmindful of how a public filing of this complaint, even in family court,
17 would impact all of our children, and grandchildren. . . . Regards, Susan Bassi

18 Ms. Bassi was pleading for Robert and his brother to keep the seed RICO matter confidential,
19 because making it public would impact the Bassi families. In response, Mr. Martinez doubled down,
20 filing a DVRO that maximizes the necessity to lay out publicly the seed RICO case. (Susan Page 7
21 Line 16- 25)

22 Mr. Martinez’s DVRO caused dissemination of the seed RICO case, facilitating inquiry for
23 others and their lawyers to ascertain the food industry consumer fraud. There is nothing actionable
24 in email sent for a litigation purpose; to request and suggest maintaining dispute privacy. Robert’s
25 statement that the email: “is nothing more than a threat and further harassment” is off base. The email
26 was an effort to contain litigation; it was not a threat, but a warning, that Mr. Martinez was forcing the
27 seed RICO to be made public. Now, with the DVRO, Robert’s racketeering is detailed in the public
28 record, pleadings, declarations, and exhibits that explain and go to prove seed RICO.

29 **b. July 1 Email –Second RICO draft complaint Received – Witnesses Forthcoming**

30 On July 1, after reading that Mr. Martinez thought seed RICO “stupid” and refused to accept
31 communication about it, Susan wrote to Robert and his brother Steven:

32 Dearest Robert and Steven,
33 In the event Mr. Martinez and Ms. Ponce failed to forward the attached

1 revised RICO draft, amended after Mr. Rava and others were kind enough to provide
2 me with additional information, I wanted to make sure you had a copy, I understand Mr.
3 Martinez is blocking my lawyer's email and acting exactly as Robert has paid and directed.

4 [Y]ou should not underestimate my ability to get people to come forward with records, facts
5 and information that would support this federal RICO case; current and former T&A
6 employees have only reinforced the validity of the allegations in the complaint.
7 A tad ironic this amended complaint was sent the same day members of the Trump
8 organization were indicted as outed by a bookkeeper, and a former sister-in-law...

9 (DVRO, Robert Decl. pg. 2, ¶7)

10 Mr. Martinez branded RICO “stupid,” declaring he would not accept email about it. Susan
11 was concerned that Mr. Martinez had not forwarded the draft seed RICO complaint to Robert. (Susan
12 Decl. ¶39; Robert Decl. ¶7). It updated how former T&A employees and others had come forward
13 after the first RICO draft complaint sent to target defendants. She concludes with example of former
14 sister-in-law, privy to wrongdoing, being the spark for criminal investigation of the former husband
15 and brother-in-law. The fact-based email is logical; it is litigation speech. Robert calls it “threatening.”
16 He whines of the Trump comparison. He knows the example is apt, and that “disturbs” him.

17 **c. June - July Email – Family Harm, Girlfriend RICO role – Comparison to Wrongdoers**

18 Again, on July 1, Susan wrote to Robert only (DVRO, Robert Decl., pg. 2, ¶9):

19 While it does not seem to have bothered you to have bankrupted our family in order to play
20 Ag Mob Boss with your RICO bookkeeper and crooked brother, hope someday you will be
21 able to look at our sons and granddaughter and explain what you were willing to do to their
22 mom, In the father department you just surpassed Evan Brooks and Bernie Madoff.
23 Attached. are Ms. Russo's second divorce files, I have the first case ready to scan . . .

24 Ms. Bassi expresses fear of the effect of RICO on her family. She refers to Robert’s girlfriend,
25 Margaret Russo, as the “RICO bookkeeper,” following receipt of evidence (including divorce records)
26 indicating her seed RICO role. (Susan Decl. Page 8, Line 7-13; Counsel Decl. ¶22, 32) She compares
27 Robert to Mr. Madoff; crime committing dads that ruin the family.

28 The Evan Brooks reference should have “disturbed” Robert. He and Susan, as they attended
and sat in family court, became familiar with the Brooks divorce. Mrs. Brooks accused the husband
of sexually molesting the daughters. Mr. Brooks denied it. Out in the hallway and during recesses,
Robert would sit with Mr. Brooks. They laughed and rudely gestured at their ex-wives, Susan, and

1 Mrs. Brooks. One day Susan told Robert that she believed Mrs. Brooks; that the dad had molested the
2 daughters. Years later, after the daughters reached majority, they sued their father for having molested
3 them. The case settled. Mr. Brooks was never criminally charged. (Susan Decl. Page 8, Line 14-17)

4 Susan's point had to be well taken – Dads that smirk about their wrongdoing in family law
5 court may later face the music in new litigation. Mr. Brooks avoided responsibility in divorce but later
6 faced his daughter's civil suit. Robert spent millions to quash Susan's threat to seed racketeering.
7 Now he will be sued in RICO for stealing intellectual property and racketeering to defraud food
8 consumers. Susan's email was litigation speech. Another email about which Robert complaints, sent
9 June 11, had similar content, purpose, and effect. (Robert Decl. pg. 6, ¶18)

10 Robert whines that "Susan Bassi makes reference to my girlfriend, Margaret Russo, a frequent
11 target of Susan's harassment, and calls her a 'RICO bookkeeper.'" (Id. ¶10) Ms. Russo was not a
12 target defendant in the first draft RICO complaint (June 11). (Cnsl. Decl. ¶32; Exh. I caption page)
13 New evidence tied her to racketeering books and records and connected her to Robert's divorce
14 counsel. (Susan Decl. Page 8, Line 20-28) Robert had his girlfriend handle the racket's books that
15 show large unreported cash transactions, non-existent harvester equipment depreciated for tax
16 deductions, etc.

17 Ms. Russo's role was explained in Ms. Bassi's June 27 email, at Robert's declaration, page 3:

18 She was your lawyer's paralegal - twice divorced and you thought it was a good one to put her
19 into our farming businesses as a bookkeeper? You teaching her to do some Golden Shovel
Breeding out back, or is it just where you buried all the cash?

20 Ms. Bassi points out that using your lawyer's paralegal as a bookkeeper for a criminal
21 enterprise is unwise. "Shovel breeding" refers to counterfeit method which Robert employed. She
22 refers to cash because racketeering necessitates large cash transactions. Once again, this is sharp
23 litigation speech, and of course unpleasant for its reader Robert, so it "disturbs" him. About the email,
24 Robert says: "Obviously when I get these harassing emails about my girlfriend's past, they disturb her
25 peace of mind." Ms. Bassi did not email to Ms. Russo. Robert chose to involve her.

26 Robert says: "Being constantly harassed by Susan Bassi has almost defeated the purpose of
27 divorcing her." (¶14) He fails to grasp that divorce doesn't end entanglements; fair treatment does.
28

1 **d. June 17 Email Re: RICO and Family Law Attorney**

2 Robert complains about an email that confronts him with damning facts of litigation waste.

3 . Your “sleazebag attorney. . Carlos Martinez, said he was waiting to hear back from a
4 videographer to take my deposition on June 23. Long wait. Maybe you should call up
5 the guy who did Brad's [video] in 2019 . He was pretty good, caught Baugh lying about that
6 service in Vietnam in a manner that made everyone who hired him [Baugh] look like a chump.

7 Mr. Martinez sends offensive email to Susan’s attorney Mr. Tennant, which upsets him and angers
8 Susan. (Susan Decl. Page 9 , Line 11-15; Counsel Decl. ¶42) In this email Susan responds in kind.

9 The litigation point is to get Robert to think about where the attorneys have taken and are
10 taking him. Robert hired Mr. Baugh in part because, as he boasted, Mr. Baugh was a brave Vietnam
11 war hero, battle hardened and fearless, making him a great lawyer. Mr. Baugh made this part of his
12 client pitch – that he was a venerable Vietnam Vet. It was a lie.⁴ (Susan Decl. Pg. 5, Line 1-5; Counsel
13 Decl. ¶67) Mr. Baugh used “Stolen Valor.” Robert fell for it; Susan calls him out and about how he
14 falls for another tough talker attorney, Mr. Martinez, whose achievement is to make seed RICO public.

14 **e. June 15 and 17 Email**

15 Robert is displeased with email that displays Susan’s knowledge of damning facts:

16 Robert, remember when you told me Gene was illegally growing seed for Caprara so we were
17 going to form CSP and divest from all folks like Gene? And remember when . . . your brother
18 stuck us with an embezzler who was cheating the entire Organic industry so your brother and
19 his subordinates at T&A could make a few bucks on that side hustle until Steven could get
20 T&A to give him his big land deal along with that Blueberry business . . . with Ken Dubas?

21 Steven, remember when the E. Coli outbreak happened and you helped "train" all those folks
22 from the USDA on food safety, while you told me at Thanksgiving you would never eat salad
23 from a package T&A produced?

24 (Robert Declaration, pg. 4, ¶16) Robert cuts and pastes another fact laden Susan email from June 15:

25 Hi boys, Hoping you will make it to the party today, just as was always done for Steve's kids
26 and grandkids. . . . please play nice, and let's not talk business. You can email me or call me
27 on Sunday instead. . . . Had an interesting chat with some folks yesterday. Understand that
28 Pete, Rava's long time operations manager, went to work at Mission Ranches; Imagine that.
Also forget that Laurie worked for T&A too.

⁴ Attorney Baugh forced witness Merv Sevrige, a real Vietnam vet, to court several times,
angered that he spoke up for Susan as to agricultural unfairness. (Susan Decl. ¶24-25)

1 These emails disconcert Robert because they are factual. It is not harassment; it is litigation
2 correspondence – the message that the facts bury you – and please keep the kids and family out of it.

3 **f. June 11, July 7 Email – More Litigation Facts that “Disturb” Robert**

4 Page limits prevent full explanation of the fact-based litigation email which, as would be
5 expected for target defendant Robert, “disturb my mental and emotional peace.” (Decl. pg. 8, ¶23)
6 The June 11 email says more about “stolen valor” phony Vietnam Vet Brad Baugh, a denizen of the
7 family law bar. (DVRO Robert Decl. p. 4, ¶15) In the July email Susan again pleads to keep the
8 family out of the fight, “STOP involving your children and start acting like real men. It is time to
9 protect them from the mess you both willfully created with that mindset that being rich was the most
10 important thing . . .” She talks about divorce files; file sleuthing is a skill the divorce caused her to
11 learn. (Susan Decl. Page 8 , Line 9- 13)

12 Susan refers to agriculture industry serving Pacific Valley Bank, and touches on her
13 investigation into seed RICO bank interaction. There is indication for probable cause to believe that
14 Steven Bassi used his bank director post to glean information on competitors. (Susan Decl. ¶28)

15 **V. DVRO SUPPORTS RICO PROBABLE CAUSE; ROBERT ADMITS RICO**

16 The DVRO is evidence for probable cause that the seed racketeering, as alleged in the draft
17 RICO complaint, is true. Robert’s DVRO declaration has his adoptive admission of RICO charges.
18 In the DVRO Robert pronounces the speech not “legitimate” and complains it “disturbs” him. But he
19 does not deny accusations that he is an “Ag Mob Boss,” (Decl. p. 2, ¶9, p. 3, ¶11), that his girlfriend
20 Ms. Russo is his “RICO bookkeeper” (p. 3, ¶10) or that he operates a “Midnight Shovel Breeding
21 Enterprise” (seed pirating method) Robert adoptively admits these charges.

22 Accusations of crime met by the accused’s failure to deny is adoptive admission. Evid. Code
23 §403, §1221. See, *Salinas v. Texas* 570 U.S. 178, 133 S. Ct. 2174 (2013), *People v. Tom* (2014) 59
24 Cal. 4th 1210 (Defendant’s silence as evidence of guilt). In *People v. Riel* (2000) 22 Cal. 4th 1153,
25 1187-1189, the Court held failure to deny when a “reasonable person would speak out” is adoptive
26 admission. *Keller v. Key System Transit Lines* (1954) 129 Cal.App.2d 593, 596 instructs that “the
27 basis of the rule . . . is the fact that human experience has shown that generally it is natural to deny an
28

1 accusation if a party considers himself innocent.” In his DVRO, Robert does not deny; he admits.⁵

2 The DVRO adds probable cause for RICO. Robert did not complain for months. He filed the
3 DVRO after RICO. His reaction and conduct show his guilt. (Susan Decl. Page 9, Line 18)

4 **VI. JOURNALIST SUSAN HAS FIRST AMENDMENT PROTECTION**

5 As an investigative journalist, Susan sources and disseminates information to the public She
6 is on LinkedIn, YouTube, Facebook, and Twitter. Her YouTube account has over 40,000 subscribers;
7 her videos have millions of views; she has been in the Washington Post. Seed RICO is a matter of
8 great public importance. Target defendant T&A, where Steven Bassi is top manager for the Tanimura
9 family, was in the news for pandemic worker mistreatment and for E. Coli. “Seed RICO” is similar.
10 Robert knows Susan reports on agriculture. (Susan Pg. 4, lines 25-28) The DVRO seeks to discredit
11 her, obstruct justice, and restrain journalistic inquiry. News gathering is first amended shielded.⁶

12 The DVRO is a prior restraint on Susan’s protected speech and news gathering activities.
13 DVRO prior restraint restricts Susan’s ability to report on the Salinas valley where Susan and Robert
14 both work, share clients, and belong to trade associations. The public right to know of agricultural
15 racketeering outweighs Robert’s understandably being “disturbed” by writings about his wrongdoing.

16 **VII. SLAPP MOTION TIMELY; DVRO SUBJECT TO SLAPP**

17 Anti-SLAPP may be filed within 60 days of service. The DVRO was filed July 8, 2021, but
18 not served. At an August 11 hearing, Susan agreed to accept mail service. Mr. Martinez served that
19 day. August 16, 2021, is the date of service. (Susan Decl. ¶60) The Anti-SLAPP motion is timely.⁷

20 Anti SLAPP applies to the Domestic Violence Protect Act (Family Code §§6200-6409)

23 ⁵ Susan reminded Steven Bassi that one Thanksgiving he said he “would never eat salad from a
24 package T&A produced.” (Robert Decl. p. 4, ¶16) Steven does not deny it; he adoptively admits it.
Company officer stating he will not consume T&A product is evidence against T&A. (Cnsl. Dec. ¶65)

25 ⁶ “The purpose of the anti-SLAPP statute is to encourage participation in matters of public
26 significance and prevent meritless litigation designed to chill the exercise of First Amendment rights.
[Citation.] The Legislature has declared that the statute must be ‘construed broadly’ to that end.”
27 (*Hawran v. Hixson* (2012) 209 Cal.App.4th 256, 268; see §425.16, subd. (a); cf. *Bradbury v. Superior
Court* (1996) 49 Cal.App.4th 1108, 1114, fn. 3 [whenever possible, court should interpret the 1st
Amendment and §425.16 “favorable to the exercise of freedom of speech, not its curtailment”].)

28 ⁷ Petitioner may argue there was email service. DVRO requires personal service. See, ex parte.

1 *Thomas v. Quintero*, (2005) 126 Cal.App.4th 635, 646, holds that anti-SLAPP applies to Civil Code
2 §527.6 anti-harassment and probably a DVRO. *Nakamura v. Parker*, (2007) 156 Cal.App.4th 327,
3 335, citing *Thomas*, holds that, a DVRO, like a §527.6 petition, is subject to Anti SLAPP.

4 **VIII. THE DVRO IS A SLAPP UNDER CODE CIVIL PROC. §425.16**

5 Code of Civil Procedure §425.16 provides defense to address the “disturbing increase in
6 lawsuits brought to chill the valid exercise of the constitutional rights of freedom of speech and petition
7 for redress of grievances,” §425.16(a). Anti-SLAPP is legislative response to meritless lawsuits filed
8 to chill those rights, *Dove Audio, Inc. v. Rosenfeld, et al.* (1996) 47 Cal. App. 4th 777, 783.

9 **a. Definition of Anti-SLAPP Protected Speech and Conduct and the Two-Part Test**

10 §425.16 (b)(1) provides:

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

16 §425.16(e) describes SLAPP protection in four (4) areas, all of which apply to Susan:

17 As used in this section “act in furtherance of a person’s right of petition or free speech
18 under the United States or California Constitution in connection with a public issue”
19 includes : (1) any written or oral statement or writing made before a legislative,
20 executive, or judicial proceeding or any other official proceeding authorized by law;
21 (2) any written or oral statement or writing made in connection with an issue under
22 consideration or review by a legislative, executive or judicial body, or any other official
23 proceeding authorized by law; (3) any written or oral statement or writing made in a
24 place open to the public or a public forum in connection with an issue of public interest;
25 (4) or any conduct in furtherance of the exercise of the constitutional right of free
26 speech in connection with a public issue or an issue of public interest.

27 There is a two- part test. First, whether it can be shown that the challenged cause of action
28 arises from protected activity. (§425.16(b) (1), “that the act underlying the plaintiff’s cause fits one of
the categories . . . [of] subdivision (e),” *Navellier v. Sletten* (2002) 29 Cal. 4th 82, 88. In part two, the
court determines whether the complainer can show, with evidence, a probability of prevailing. *Equilon*
Enterp. v. Consumer Cause Inc., (2002) 29 Cal. 4th 53, 67.

29 **b. SLAPP Test One - Respondent Susan’s Speech is Anti-SLAPP Protected**

30 Susan’s speech arises on rights of petition and free speech under the federal and state

1 constitutions. It concerns public issues of interest. Statements in litigation and to governmental
2 agencies are free speech and right of petition. The subject matter is agricultural wrongdoing.

3 **c. Respondent Susan’s Speech Made in and Before Government Agencies and Courts**

4 §425.16(e)(1) applies because Susan’s speech was made to legislative and executive agencies,
5 including, but not limited to, local and federal law enforcement, the USDA, the IRS, the CCOF
6 [organic certification], and the SEC. (Susan Decl. ¶26) Subd. (e)(1) covers “any written or oral
7 statement or writing made before a legislative, executive, or judicial proceeding or any other official
8 proceeding authorized by law.” Subd. (e)(2) covers Susan’s speech connected with issues under
9 consideration by the California and federal courts because, (2) shelters: “any written or oral statement
10 or writing made in connection with an issue under consideration or review by a legislative , executive
11 m or judicial body, or any other official proceeding authorized by law.” (3) and (4) also apply.

12 **d. SLAPP Test Two – Petitioner’s DVRO Cannot Prevail as Matter of Law**

13 A DVRO cannot be used to muzzle the opposing party in litigation. A litigant cannot expect
14 a court to order the adversary to “stop communicating” about the lawsuit. Robert does not deny seed
15 RICO. He says it “disturbs” him. The speech is not “harassment,” it is about seed RICO.

16 For DVRO, "Abuse" includes, placing a person in "reasonable apprehension of imminent
17 serious bodily injury" or behavior such as "attacking" or "harassing" conduct, or "disturbing the peace
18 of the other party." (§6320, §6203, subs. (a)(3), (a)(4). “Disturbing” the other party’s “peace,”
19 (Family Code § 6203 (a)(4)) is Robert’s shaky base for DVRO.

20 *Burquet v. Brumbaugh*, (2014) 223 Cal.App.4th 1140, 1142 was a stalker case, where:
21 “plaintiff asked defendant several times to not contact her, [but defendant. . .] continued to do so
22 beseeching her to renew their intimate relationship. His communications were inappropriate and
23 contained sexual innuendos.” Susan is not stalking Robert. *In re Marriage of Evilsizor & Sweeney*,
24 (2015) 237 Cal.App.4th 1416 had a husband that copied ex-wife’s cell phone data and disseminated it
25 to numerous persons unrelated to the divorce or any legal proceeding. Susan did not take Robert’s
26 data. She did not disseminate anything that she obtained from Robert. To the extent she sent anything
27 to the USDA, IRS, SEC, et al., or utilized it in court, she was exercising rights of free speech and
28 petition before governmental agencies. Disturbing the “peace of the other party” is conduct that

1 “destroys the mental or emotional calm of the other party.” (*Burque, supra*, 223 Cal.App.4th at 1146.
2 The necessary corollary for speech is that it is not protected or privileged.

3 Robert is “disturbed” in his “peace” (DVRO p. 5-6, item 27; Decl. p. 8, ¶23) by statements and
4 allegations about seed RICO, which he does not deny, and how he has made a mess of things generally
5 by scorched earth divorce tactics that yield him not victory but add to his future disastrous undeniable
6 RICO claims by an adversary that knows the business and the books and how they were cooked.

7 **e. Petitioner Cannot Show Speech Not Litigation Privileged**

8 Civil Code §47 states, in relevant part: “A privileged publication or broadcast is one made:
9 ... (b) In any (1) legislative proceeding, (2) judicial proceeding, (3) in any other official proceeding
10 authorized by law,” and “(d) (1) By a fair and true report in, or a communication to, a public journal,
11 of (A) a judicial, (B) legislative, or (C) other public official proceeding, or (D) of anything said in the
12 course thereof.” “A broad range of conduct has been determined by the courts to be within the scope
13 of the privilege[.]” *Finton Construction, Inc. v. Bidna & Keys*, APLS (2015) 212 Cal. App. 4th 200.
14 “The breadth of the litigation privilege cannot be understated.”

15 The DVRO is founded on email related to one or more of this Bassi divorce action, the RICO
16 claims, or matters before law enforcement, USDA, IRS, CCOF, SEC and other agencies. Robert
17 cannot show that the speech was not litigation privileged.

18 **IX. CONCLUSION**

19 Robert’s DVRO fails for its foundation on protected and privileged speech in or in connection
20 with judicial and other governmental proceedings. The court should grant the motion, and award
21 attorneys’ fees to Respondent for Petitioner’s SLAPP under Code of Civil Procedure §425.16.
22

23 DATED: Oct. 4, 2021

Respectfully Submitted

LAW OFFICE OF PATRICK J. EVANS



26 By: _____

PATRICK J. EVANS

Attorney for Respondent Susan Bassi

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF ORANGE**

3 I am employed in the County of Orange, State of California; I am over the age of 18 years
4 and am not a party to the within action. I am employed by The Law Office of Patrick J. Evans,
located at 16897 Algonquin St., Suite F, Huntington Beach, CA 92649 Tel: (714) 594-5722.

5 On Oct. 4, 2021, I served the foregoing document described as **RESPONDENT’S**
6 **MEMORANDUM OF POINTS AND AUTHORITIES IN IN SUPPORT OF RESPONDENT**
7 **SUSAN BASSI’S SPECIAL MOTICE TO STRIKE [CODE OF CIVIL PROCEDURE,**
§425.16] PETITIONER’S REQUEST FOR DOMESTIC VIOLENCE RESTRAINING
ORDER as follows and stated below, to the recipients:

8 **Counsel to Petitioner:**

9 **CARLOS MARTINEZ**
10 **BAY AREA LAW**
11 647 N. Santa Cruz Ave, Suite C
12 Los Gatos, California 95030-4351
13 Tel. (408) 286-3070; Fax: (408) 286-3602
Email: cmartin@bayarealaw.com

14 **BY E-MAIL OR ELECTRONIC TRANSMISSION:** Based on a court order or an
15 agreement of the parties to accept service by e-mail or electronic transmission, I transmitted
16 the document by email to Petitioner’s counsel at the address shown above. Following
transmission, the computer indicated successful send; no error message was received.

17
18 I declare under penalty of perjury under the laws of the State of California
that the above is true and correct.

19 Executed Oct. 4, 2021, at Huntington Beach, California.

20 

21
22 _____
Patrick J. Evans