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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

JOHN DOE, an individual,

Plaintiff,

v.

SUBSTACK, INC., a Delaware Corporation; AMAZON WEB SERVICES, INC., a Delaware Corporation; JACK POULSON, an individual; TECH INQUIRY, INC., a Delaware corporation; DOES 1-25, inclusive,

Defendants.

Case No.: CGC-24-618681

JACK POULSON'S NOTICE OF MOTION AND MOTION TO FILE A RECORD UNDER SEAL; MEMORANDUM OF POINTS AND AUTHORITES IN SUPPORT THEREOF

DATE: January 6, 2025
TIME: 9:30 a.m.
DEPT: 301

Judge:

Action Filed: October 3, 2024
Trial Date: None set

NOTICE OF MOTION AND MOTION

TO PLAINTIFF AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on January 6, 2025 at 9:30, or as soon thereafter as the matter may be heard in Dept. 301, of the above-entitled court, located at 400 McAllister Street, San Francisco, California 94102, Defendant Jack Poulson will and hereby moves the court for an order sealing in part **Exhibit F to the Declaration of Jack Poulson in Support of his Special Motion to**

Strike. Defendant Poulson does not seek to seal, in whole or in part, any other document lodged under conditional seal.

The proposed redacted **Exhibit F** will be identical to **Exhibit G** of the Declaration of Jack Poulson in Support of Jack Poulson's Special Motion to Strike lodged under conditional seal with this Court.

This motion will be made pursuant to California Rules of Court 2.550 and 2.551 of the California Rules of Court

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Poulson by this motion seeks only to partially seal **Exhibit F** to the Declaration of Jack Poulson in Support of his Special Motion to Strike in order to conceal identifying information about individuals identified in a San Francisco Police Department Incident Report as "R/Victim" and "Reportee."

II. FACTUAL BACKGROUND

Defendant Jack Poulson filed a special motion to strike in this matter on December 6, 2024. Knowing that Plaintiff is seeking to pursue this lawsuit under a fictitious name, and that the court has not yet ruled on Plaintiff's motion to proceed in that manner, and that Plaintiff contends that the Incident Report itself should be entirely sealed, Poulson is lodging the documents listed in the Notice above under conditional seal, and filing redacted versions in the court's public record. With the exception of the one exhibit indicated above, Poulson believes that the documents should not be sealed in whole or in part, but is providing Plaintiff with the opportunity to move for the documents to be sealed.

Plaintiff's case arises from the publication of information from a San Francisco Police Department Incident Report. Poulson has submitted as evidence an unredacted copy of that record so that the court can see exactly what he received from his source. This document is **Exhibit F** to his declaration in support of his special motion to strike. Poulson never published this version of the Incident Report in his newsletter or anywhere else other than this proceeding.

Poulson hereby moves that the public version of the **Exhibit F** be redacted to exclude the names and house and unit numbers of the individuals identified in that Incident Report as "R/Victim" and "Reportee." This is the condition under which the Incident Report currently appears in Poulson's newsletter, and has for several months, as indicated by **Exhibit G** to the same declaration. [Declaration of Jack Poulson in Support of Defendant Jack Poulson's Special Motion to Strike (CCP 425.16) ¶ 14, Exh. G]

III. ARGUMENT

The Court may order a document to be sealed, in whole or in part, "only if finds expressly finds facts that establish (1) There exists an overriding that overcomes the right of public access to the record; (2) The overriding interest supports sealing the record; (3) A substantial probability exists that the interest will be prejudiced if the record is not sealed; (4) The proposed sealing order is narrowly tailored; and (5) No less restrictive means exist to achieve the overriding interest." Cal. Rule of Court 2.550(d).

Here, the overriding interest is in protecting the identities of the individuals identified in a San Francisco Police Department Incident Report as "R/Victim" and "Reportee." Courts have recognized the interests in protecting victims and witnesses from public disclosure, especially in cases like domestic violence where such persons are typically disincentivized to cooperate with prosecutions. *See People v. Jackson*, 110 Cal. App. 4th 280, 289-90 (2003). And unlike Plaintiff, these individuals are not public figures who sought to influence public opinion or held sensitive contracts with the US Department of Defense. *See* Memorandum of Points & Authorities in Support of Jack Poulson's Special Motion to Strike at 7-8; Declaration of Victoria Noble in Support of Poulson's Special Motion to Strike Exhs. A-D.

The overriding interest supports this limited, narrowly tailored redaction because unlike Plaintiff's name, which has been widely disclosed in press reports on this litigation, [1] the identities of

[1] See, e.g., *California Courts Newsroom*, "Tech exec sues journalist for $25M for publishing his sealed arrest report," (October 29, 2024), https://newsroom.courts.ca.gov/news/tech-exec-sues-journalist-25m-publishing-his-sealed-arrest-report; Bob Egelko, "Tech exec sues journalist for publishing his sealed arrest report," San Francisco Chronicle, (October 29, 2024);Rachel Bowman,

"R/Victim" and "Reportee" have not been publicly reported by Poulson or anyone else. As a result, the requested redactions will serve the interests of protecting their privacy.

A substantial probability exists that privacy interest of "R/Victim" and "Reportee" will be prejudiced if their identifying information is not redacted from the public court filing. As noted above, Plaintiff's lawsuit has drawn significant media attention but, unlike Plaintiff, the identities of "R/Victim" and "Reportee" have not yet been publicly reported.[2]

The proposed redactions are narrowly tailored to redact only the identifying information of "R/Victim" and "Reportee" and no other information. The proposed redactions are also the least restrictive means of advancing the privacy interests of "R/Victim" and "Reportee."

IV. CONCLUSION

For the above stated reasons, this Court should order that **Exhibit F to the Declaration of Jack Poulson in Support of Jack Poulson's Special Motion to Strike** be redacted and filed in identical form as **Exhibit G** of the same declaration.

DATED: December 6, 2024

ELECTRONIC FRONTIER FOUNDATION

/s/ David Greene
David Greene
Victoria Noble

Attorneys for Defendant Jack Poulson

"Tech executive files $25 million lawsuit against journalist who revealed shocking, secret arrest report," *DailyMail.com*, (October 30, 2024), https://www.dailymail.co.uk/news/article-14020567/tech-executive-lawsuit-journalist-secret-arrest-report-maury-blackman.html; Seth Stern and Ginny LaRoe, "San Francisco should not be part of tech exec's censorship campaign," *San Francisco Chronicle*, (November 22, 2024), https://www.sfchronicle.com/opinion/openforum/article/san-francisco-tech-censorship-19932816.php. Other examples exist that cannot be included here because their titles reveal Plaintiff's name and their inclusion here would require that this motion also be filed under conditional seal.

[2] *See supra* note 1.