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ELECTRONICALLY  
**FILED**

Superior Court of California,  
County of San Francisco

**04/25/2025**  
Clerk of the Court

BY: ERNALYN BURA  
Deputy Clerk

15 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
16 COUNTY OF SAN FRANCISCO

18 MAURY BLACKMAN, an individual, )  
19 Plaintiff, )  
20 v. )  
21 SUBSTACK, INC., a Delaware corporation; )  
22 AMAZON WEB SERVICES, INC., a )  
23 Delaware corporation; JACK POULSON, an )  
24 individual; TECH INQUIRY, INC., a )  
25 Delaware corporation; DOES 1-25, inclusive, )  
26 Defendants. )

CASE NO.: CGC-24-618681

**NOTICE OF MOTION AND MOTION  
OF DEFENDANTS POULSON,  
SUBSTACK, INC., AND TECH  
INQUIRY TO RECOVER FEES AND  
COSTS; MEMORANDUM OF POINTS  
AND AUTHORITIES**  
[C.C.P. 425.16(c)]

Date: July 29, 2025  
Time: 9:00 AM  
Dept.: 301  
Before: Hon. Christine Van Aken

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

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE THAT on July 29, 2025, 2025, at 9:00am or as soon thereafter  
3 as counsel may be heard in Department 301 of the Superior Court of California, County of San  
4 Francisco, located at 400 McAllister Street, San Francisco, Defendants Jack Poulson  
5 (“Poulson”), Substack, Inc. (“Substack”), and Tech Inquiry, Inc. (“Tech Inquiry,” and,  
6 collectively, “Defendants”), will and hereby do move this court, pursuant to the mandatory fee-  
7 shifting provision of Code of Civil Procedure § 425.16(c), for an order that Plaintiff Maury  
8 Blackman (“Blackman”) reimburse Defendants for their attorneys’ fees and costs incurred in  
9 connection with their successful Special Motions to Strike Plaintiff’s Complaint pursuant to  
10 Code of Civil Procedure § 425.16 (“anti-SLAPP Motions”). Mr. Poulson has incurred  
11 \$157,425.75 in attorneys’ fees and costs in connection with the anti-SLAPP Motion for which he  
12 now seeks reimbursement through this Fee Motion; Substack has incurred \$516,477.61; and  
13 Tech Inquiry has incurred \$60,820.00.

14 Under the anti-SLAPP statute, “a prevailing defendant on a special motion to strike shall  
15 be entitled to recover that defendant’s attorney’s fees and costs.” (Code Civ. Proc., § 425.16(c).)  
16 On February 14, 2025, this Court granted Defendants’ anti-SLAPP Motions, striking Mr.  
17 Blackman’s complaint in its entirety. (Ex. A [Order Granting Motions to Strike].) As a result,  
18 Defendants are entitled to recover the fees and costs incurred in connection with their anti-  
19 SLAPP Motions. (See Memorandum, Section III.) Their requests are reasonable, given both the  
20 terms of the hourly rates of defense counsel and the number of hours worked on this matter.  
21 Accordingly, Defendants’ fees should be awarded in full. (See Memorandum, Section IV.)

22 This Motion is based on this Notice; the attached Memorandum of Points and  
23 Authorities; the Declaration of Joshua A. Baskin with Exhibits (“Baskin Declaration” and “Ex.”  
24 references throughout), the Declaration of David Greene with Exhibits (“Greene Declaration”),  
25 the Declaration of Victoria J. Noble with Exhibit (“Noble Declaration”), and Declaration of  
26 Susan E. Seager (“Seager Declaration”); and on such other argument as may be received by this  
27 Court at the hearing on this Motion.

28

1 Defendants respectfully request that the Court grant this Motion, awarding Poulson  
2 \$157,425.75, Substack \$516,477.61, and Tech Inquiry \$60,820.00 in attorneys' fees and costs,  
3 including fees incurred in drafting this motion, as well as any additional reasonable fees the  
4 Defendants will incur in preparing any Reply papers and appearing at the hearing on this Motion.

5 Dated: April 25, 2025

WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation

6 By: /s/ Joshua A. Baskin  
7 Joshua A. Baskin  
8 E-mail: jbaskin@wsgr.com

9 *Attorney for Defendant*  
10 *Substack, Inc.*

11 Dated: April 25, 2025

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15 *Attorney for Defendant*  
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16 Dated: April 25, 2025

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20 *Attorney for Defendant*  
21 *Jack Poulson*

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. SUMMARY OF ARGUMENT**

3 Maury Blackman, a surveillance-tech CEO with lucrative government contracts, was  
4 arrested for domestic violence after he allegedly beat his girlfriend and a concerned neighbor  
5 called the police. Jack Poulson, a journalist, posted about this incident as part of his coverage of  
6 technology, national security, and public accountability on two websites: Tech Inquiry and  
7 Substack. Mr. Blackman then embarked on a campaign to muzzle Mr. Poulson, Substack, and  
8 others. He threatened them with millions of dollars in damages, claiming he would not settle  
9 once he sued, and he enlisted government lawyers to echo his threats of liability. The Defendants  
10 were not cowed; Mr. Blackman sued. It was a quintessential strategic lawsuit against public  
11 participation (a “SLAPP”). Defendants prevailed in their anti-SLAPP motions to strike—ending  
12 Mr. Blackman’s lawsuit in its entirety—because, as this Court found, Mr. Blackman’s claims  
13 arose from Defendants’ constitutionally protected journalism on an issue of public interest, and  
14 the First Amendment protections for Defendants’ conduct are so clear that Mr. Blackman’s  
15 claims lacked even minimal merit.

16 Defendants now seek recovery of attorneys’ fees and costs. California’s anti-SLAPP  
17 statute makes these fees mandatory: “a prevailing defendant on a special motion to strike *shall* be  
18 entitled to recover that defendant’s attorney’s fees and costs.” (Code Civ. Proc., § 425.16(c)(1)  
19 [emphasis added].) Courts construe the anti-SLAPP provision broadly, advancing the  
20 legislature’s intent to curb meritless suits “brought primarily to chill” the exercise of  
21 constitutionally protected rights. (*Kibler v. N. Inyo Cnty. Local Hosp. Dist.* (2006) 39 Cal.4th  
22 192, 197.) Because these suits “seek to deplete ‘the defendant’s energy’ and drain ‘his or her  
23 resources,’” the anti-SLAPP statute aims to end them “early and without great cost to the SLAPP  
24 target” through mechanisms such as mandatory fee-shifting. (*Barry v. State Bar* (2017) 2 Cal.5th  
25 318, 321-22.)

26 Mr. Blackman’s claims against Defendants targeted free speech on a matter of public  
27 concern. They arose from Mr. Poulson’s accurate, constitutionally protected reporting on Mr.  
28 Blackman’s 2021 arrest for felony domestic violence, which occurred while he served as CEO of



1 a technology company receiving millions of dollars in defense contracts. In granting Defendants’  
2 anti-SLAPP Motions, this Court recognized that “the character and trustworthiness of the leader  
3 of a business with contracts with the U.S. government and a security clearance” was a matter of  
4 public significance protected by Section 425.16. (Ex. A at 3.) It further found “that the First  
5 Amendment’s protections for the publication of truthful speech concerning matters of public  
6 interest vitiate Blackman’s merits showing.” (*Id.* at 7.) To that end, this Court granted  
7 Defendants’ anti-SLAPP Motions, striking all of Mr. Blackman’s claims with prejudice. (*Id.* at  
8 3.) Defendants are entitled to recover their fees and costs. (Code Civ. Proc. § 425.16(c)(1).)

9         The only question now is the fee award amount, determined by calculating “a lodestar  
10 figure based on the hours reasonably spent, multiplied by the prevailing hourly rate.” (*Argentieri*  
11 *v. Zuckerberg* (Super. Ct. S.F. Cnty., July 15, 2016, No. CGC-15-548503) 2016 Cal. Super.  
12 LEXIS 6118, at \*3.) As detailed below, Defendants’ requests for fees are reasonable and should  
13 be awarded in full. Poulson seeks reimbursement based on his counsel Electronic Frontier  
14 Foundation’s (EFF) hourly rates and the hours worked by two of the attorneys who worked on  
15 the case, with deductions in time expended made in the exercise of billing judgment. EFF’s fee  
16 rate structure and their attorneys’ individual fee rates are in line with prevailing rates for  
17 attorneys with similar experience and expertise in the Bay Area, and may be on the lower end of  
18 such scales. Substack seeks reimbursement based on the hourly rates charged by its counsel at  
19 Wilson, Sonsini, Goodrich & Rosati (“WSGR”), which reflect substantial discounts from  
20 WSGR’s standard rates. (See Section IV.A, *infra.*) These rates are reasonable given the Substack  
21 attorneys’ experience and expertise, and they are well within the range charged by comparable  
22 lawyers litigating similar matters in the Bay Area. (*Ibid.*) Tech Inquiry seeks reimbursement  
23 based on the hours worked by its counsel Susan E. Seager, a solo practitioner who took the case  
24 on a pro bono/contingency basis. Ms. Seager has 25 years of experience litigating anti-SLAPP  
25 motions, challenging the constitutionality of state statutes, and defeating requests for injunctive  
26 relief seeking to censor online publications about government records. Her rate is consistent with  
27 the prevailing rates of attorneys with similar experience and expertise in the area. Additionally,  
28 the number of hours worked by all Defendants is reasonable, given not only their efficient and

1 economical management of the case, but also their total success, the significance of the litigation,  
2 the complexity of the issues involved, Mr. Blackman’s excessive number of claims, and the fact  
3 that he sued four defendants. (*Ibid.*) The fee award sought is consistent with past awards. (See  
4 generally *Resolute Forest Prods., Inc. v. Greenpeace Int’l* (N.D.Cal., April 22, 2020, No. 17-cv-  
5 02824-JST) 2020 WL 8877818, at \*4 [awarding \$545,572.36 in fees]; *Wynn v. Chanos*  
6 (N.D.Cal., June 19, 2015, No. 14-cv-04329-WHO) 2015 WL 3832561, at \*6 [awarding  
7 \$390,149.63 in attorneys’ fees], *affd.* (9th Cir. 2017) 685 F.App’x 578.) For the foregoing  
8 reasons, Defendants respectfully request that the Court grant this Motion and award attorneys’  
9 fees and costs in the amounts of \$157,425.75 for Poulson; \$516,477.61 for Substack; and  
10 \$60,820 for Tech Inquiry, as well as any additional fees incurred in preparing Reply papers and  
11 appearing at the hearing on this Motion.

## 12 **II. STATEMENT OF FACTS**

13 Mr. Blackman, then the CEO of a technology company, was arrested by the S.F. Police  
14 Department in December 2021 on suspicion of felony domestic violence. (Ex. A at 2.) His arrest  
15 was detailed in a police report, which described how officers arrested Mr. Blackman after he  
16 allegedly beat his girlfriend. (*Ibid.*) No charges were pressed, and the arrest remained a public  
17 record until a judge sealed the report at Mr. Blackman’s request in February 2022. (*Ibid.*)

18 In September 2023, Mr. Poulson, an independent journalist who publishes a newsletter on  
19 technology and national security, lawfully obtained the arrest report from a confidential source.  
20 (Poulson Decl. in Supp. of Mot. to Strike ¶ 13, Dec. 6, 2024 (“Poulson Decl.”).) The report was  
21 not marked as sealed, as required by statute. Mr. Poulson had recently reported on the activities  
22 of the Mr. Blackman’s company. Deeming the arrest newsworthy and related to his prior  
23 reporting, Mr. Poulson posted a redacted version of the report on Tech Inquiry’s website and his  
24 Substack blog. (*Id.* ¶¶ 14, 16; Ex. A at 2.) Mr. Poulson then posted several articles about the  
25 arrest. (*Ibid.*) He never reported or implied that Mr. Blackman was charged with or convicted of  
26 any crime, and he reported that the alleged victim recanted her initial statements to police.  
27 (Poulson Decl. in Supp. of Reply ¶ 8, Jan. 28, 2025.) At the time of publication, Mr. Poulson did  
28 not know the arrest report had been sealed. (Poulson Decl. ¶ 14; see also Ex. A at 5.)

1 In response to Mr. Poulson’s exercise of his First Amendment right to publish a lawfully  
2 obtained, newsworthy government record, Mr. Blackman attempted to have Mr. Poulson’s posts  
3 removed. (See Ex. A at 2.) He claimed to have suffered \$25 million in damages and threatened  
4 that if Substack did not accede to his demands, “this will become a 8 figure lawsuit and once I  
5 file, I will not settle.” (Baskin Decl. ¶ 8.) He also leveraged the S.F. City Attorney’s Office,  
6 which sent a series of letters to Mr. Poulson and Substack threatening enforcement action under  
7 Penal Code § 851.92(c) if they did not remove the posts. (Ex. B at 3-4 [Bob Egelko, *Tech Exec*  
8 *Sues Journalist For Publishing His Sealed Arrest Report*, S.F. Chronicle, Oct. 29, 2024]; Ex. C  
9 at 4-5 [Seth Stern & Caitlin Vogus, *Anatomy of a Censorship Campaign: A Tech Exec’s Crusade*  
10 *to Stifle Journalism*, Freedom of the Press Found., Nov. 13, 2024]; Ex. D [Complaint ¶¶ 51-64,  
11 *First Amendment Coal. v. Chiu* (N.D. Cal., Nov. 22, 2024, No. 3:24-cv-08343-RFL), ECF No.  
12 1.) The government’s efforts to further the campaign of a wealthy—and allegedly violent—CEO  
13 to silence a journalist and to shutter two online publications were unsuccessful. First Amendment  
14 advocates later sued the S.F. City Attorney for his legal threats on behalf of Mr. Blackman,  
15 asserting that the statute was unconstitutional, and the S.F. City Attorney (and California  
16 Attorney General) swiftly agreed to a preliminary injunction preventing them from taking such  
17 enforcement actions under Penal Code § 851.92(c). (Ex. E [Stipulation and Order, *First*  
18 *Amendment Coal. v. Chiu* (N.D. Cal., Dec. 19, 2024, No. 3:24-cv-08343-RFL), ECF No. 34].)

19 When Mr. Blackman’s efforts to leverage government action failed, he sued Mr. Poulson,  
20 Substack, Amazon Web Services, and the non-profit website, Tech Inquiry, Inc. Mr. Blackman’s  
21 15-count Complaint sought injunctive relief, damages, interest, fees, and costs. The theory  
22 undergirding his lawsuit was a ludicrous legal fiction: pursuant to the court’s sealing order, “the  
23 arrest [was] deemed not to have occurred,” so “any statement that the arrest did occur is, by  
24 operation of law, not truthful.” (Compl. ¶ 20.) Yet the Complaint implicitly conceded that the  
25 arrest report was a true and accurate copy of an official record of Mr. Blackman’s arrest, and it  
26 did not question its factual accuracy. (See Compl. ¶¶ 15, 17-19, 29.)

27 At every turn in this case, Mr. Blackman has maximized the burden on Defendants. He  
28 filed his Complaint as a “John Doe,” even though he had sued Defendants in their true names

1 and had not sought permission to file under a pseudonym—as plainly required by law. (See  
2 Code. Civ. Proc., § 367; *Dep’t of Fair Emp. & Hous. v. Superior Court* (2022) 82 Cal.App.5th  
3 105, 111, fn. 1.) On November 12, 2024—*more than a year* after Mr. Poulson first posted the  
4 arrest report and *over a month* after filing suit—Mr. Blackman tried to ambush Defendants by  
5 filing an *ex parte* application for a temporary restraining order (“TRO”). On November 14, 2024,  
6 he filed the Notice of Motion for the TRO. The TRO sought to compel Defendants to remove  
7 information pertaining to the arrest report from the internet, forcing them to undertake costly  
8 overnight briefing and to prepare for oral argument the next morning. The Court declined to  
9 reach the merits on that motion, instead ordering Mr. Blackman to first file a motion for  
10 authorization to proceed as a “Doe” plaintiff. Mr. Blackman took another month before he filed  
11 that motion, and the Court denied it as well, finding “[t]he cat, so to speak ... out of the bag” and  
12 that the public’s interest in open litigation of this matter overrode any of his “generalized  
13 concerns in anonymity.” (Ex. F at 3.)

14           While opposing Mr. Blackman’s unnecessary motions for a TRO and for leave to file  
15 under pseudonym, Mr. Poulson and Tech Inquiry filed anti-SLAPP Motions to strike, and  
16 Substack filed an anti-SLAPP Motion to strike as well as a demurrer. (Ex. A at 2; Ex. H.)

17           On February 14, 2025, this Court granted Defendants’ anti-SLAPP Motions in their  
18 entirety. (Ex. A.) On the first step of the anti-SLAPP analysis, “[t]he court ha[d] little difficulty  
19 finding defendants succeed” under Code of Civil Procedure § 425.16(e)(3). Mr. Poulson’s  
20 article—a newsletter publicly available on Substack—was obviously “a writing in a public  
21 forum.” (*Id.* at 3.) And the article was a matter of “public significance” because it “concerned the  
22 character and conduct of the CEO of a company with government contracts in the security and  
23 intelligence arena.” (*Id.* at 3-4.) On the second step of the anti-SLAPP analysis, the court found  
24 that Mr. Blackman fell short of showing his claims had even “minimal merit,” holding that “the  
25 First Amendment’s protections for the publication of truthful speech concerning matters of  
26 public interest vitiate Blackman’s merits showing.” (*Id.* at 7.) Mr. Blackman’s contention “that  
27 Poulson’s speech [on Mr. Blackman’s arrest] is false, and therefore not protected by the First  
28 Amendment,” was “unpersuasive.” (*Id.* at 7-8.) As to Defendants Substack and Tech Inquiry,

1 Mr. Blackman’s claims also lacked minimal merit as Section 230 of the Communications  
2 Decency Act immunized their actions. (*Id.* at 8-9.) The Court struck all 15 of Blackman’s claims  
3 against Defendants with prejudice, eliminating his case in its entirety.

### 4 **III. ARGUMENT**

#### 5 **A. Fee Shifting Is Mandatory Under the Anti-Slapp Statute**

6 The anti-SLAPP statute provides that “any SLAPP defendant who brings a successful  
7 motion to strike is entitled to mandatory attorney fees.” (*Ketchum v. Moses* (2001) 24 Cal.4th  
8 1122, 1131 [emphasis added].) The amount defendants may recover extends to all fees incurred  
9 “in connection with” their anti-SLAPP motions. (See *569 E. Cnty. Boulevard LLC v.*  
10 *Backcountry Against the Dump, Inc.* (2016) 6 Cal.App.5th 426, 433.) Accordingly, courts have  
11 granted awards for “attorney fees incurred to litigate the special motion to strike (the merits fees)  
12 plus the fees incurred in connection with litigating the fee award itself (the fees on fees.” (*Ibid.*)  
13 Similarly, courts have granted fees for initial appearances and time spent on both a demurrer and  
14 an anti-SLAPP motion. (*G.R. v. Intelligator* (2010) 185 Cal.App.4th 606, 620-21.)

15 Where “granting the special motion to strike effectively dismissed all of plaintiffs’ claims  
16 against defendant,” courts have awarded attorneys’ fees for litigating the *entirety* of the lawsuit.  
17 (*Zwebner v. Coughlin* (S.D.Cal., Jan. 25, 2006, No. 05CV1263 JAH(AJB)) 2006 U.S. Dist.  
18 LEXIS 104701, at \*4 [finding all fees and costs inextricably intertwined with the anti-SLAPP  
19 Motion where its grant dismissed all of plaintiff’s claims]; see, e.g., *Godinez v. Gateway Ins.*  
20 *Grp.* (Super Ct. Sacramento Cnty., Nov. 9, 2022, No. 34-2020-00276019-CU-BC-GDS) 2022  
21 Cal. Super. LEXIS 72926, at \*7 [“all or nearly all fees incurred are recoverable when an anti-  
22 SLAPP Motion disposes of an entire action”]; *Nolan v. City of Corona* (Super. Ct. Riverside  
23 Cnty., Aug. 13, 2019, No. RIC 1904098) 2019 Cal. Super. LEXIS 75165, at \*4 [awarding the  
24 “entire amount of attorney fees” when defendant “achieves the dismissal of all of Plaintiff’s  
25 claims through the anti-SLAPP process, provided those fees are ‘inextricably intertwined’ with  
26 the anti-SLAPP motion and are reasonable”]; see also *Metabolife Int’l, Inc. v. Wornick* (S.D.Cal.  
27 2002) 213 F.Supp.2d 1220, 1223-24 [finding fees and costs for “the entire lawsuit” inextricably  
28

1 intertwined with the anti-SLAPP motion because “all causes of action ... relate[d] to free  
2 speech”].)

3 Because Defendants’ successful anti-SLAPP Motions “achieve[d] the dismissal of all of  
4 Plaintiff’s claims,” they are entitled to all reasonable fees “inextricably intertwined” with those  
5 motions. (See *Nolan*, 2019 Cal. Super. LEXIS 75165, at \*4.) All fees incurred for work done on  
6 the anti-SLAPP, and all fees incurred for work implicating common issues of law and fact, are  
7 “inextricably intertwined” with the anti-SLAPP Motion and “in connection with” that motion.  
8 (See *Kearney v. Foley & Lardner* (S.D.Cal. 2008) 553 F.Supp.2d 1178, 1183-84”]; see also  
9 *Garrick v. Garrick* (N.D.Cal., Dec. 23, 2024, No. 22-cv-04549-JST) 2024 U.S. Dist. LEXIS  
10 232125, at \*4 [fees were “inextricably intertwined” where they “were incurred for addressing  
11 common legal issues”].)

12 In *Kearney*, the court found that all of defendants’ motions were predicated upon “a  
13 common factual scenario”—the speech and conduct that plaintiff alleged defendants engaged in  
14 during an eminent-domain process and subsequent condemnation action. (*Kearney*, 553  
15 F.Supp.2d at 1184.) Likewise, both the defendants’ motions to strike and to dismiss “challenged  
16 plaintiff’s claims by relying upon the *Noerr-Pennington* doctrine and/or the related litigation  
17 privilege.” (*Ibid.*) Accordingly, the court held that defendants were entitled to all “fees associated  
18 with the right to petition.” (*Ibid.*)

19 Because Defendants’ anti-SLAPP motions resulted in the dismissal of Mr. Blackman’s  
20 case, “all or nearly all” of the hours worked on this matter were “in connection with” and  
21 “inextricably intertwined” with their anti-SLAPP motions. (See *Godinez*, 2022 Cal. Super.  
22 LEXIS 72926, at \*7.) Defendants’ opposition to Mr. Blackman’s TRO; their opposition to Mr.  
23 Blackman’s motion to proceed as a “Doe”; and Substack’s Demurrer all addressed issues of law  
24 and fact at the core of their anti-SLAPP strategy. All three motions concerned “a common factual  
25 scenario”—Mr. Blackman’s efforts to silence a journalist who had published an article on a  
26 matter of public interest. (See *Kearney*, 553 F.Supp.2d at 1184.) And all three motions were  
27 “associated with” defending their clients’ constitutional rights to free speech. (See *ibid.*) Because  
28 each of these motions drew upon overlapping legal issues—including whether a CEO with a

1 security clearance may shield himself from public scrutiny by suppressing journalism and suing  
2 under pseudonym—all fees incurred for this work are recoverable. Were it otherwise, plaintiffs  
3 like Mr. Blackman could sue journalists, file a raft of frivolous motions to “drain [their]  
4 resources,” then leave them to foot the bills they incurred defeating those motions—subverting  
5 the purpose of the anti-SLAPP statute. (See *Barry*, 2 Cal.5th at 321-22.)

6 **B. Defendants’ Fee Requests Are Reasonable**

7 Defendants prevailing on an anti-SLAPP motion may recover all fees and costs  
8 “reasonably allocable to achieving that result.” (*Area 51 Prods., Inc. v. City of Alameda* (2018)  
9 20 Cal.App.5th 581, 605.) When calculating fees awards, courts use the lodestar method,  
10 multiplying the “number of hours reasonably expended” by the “reasonable hourly rate.”  
11 (*Ketchum*, 24 Cal.4th at 1134.) Here, Defendants’ requests are reasonable with respect to both  
12 the rates and hours sought.

13 **1. Counsel’s Hourly Rates Are Reasonable.**

14 First, counsels’ hourly billing rates are reasonable. A reasonable hourly rate is one  
15 “prevailing in the community for similar work.” (*Heritage Pac. Fin., LLC v. Monroy* (2013) 215  
16 Cal.App.4th 972, 1004.) Courts assessing the reasonableness of fees consider the “experience,  
17 skill, and reputation of the attorney requesting fees.” (*Id.* at 1009.) As “satisfactory evidence of  
18 the prevailing market rate,” a defendant may submit affidavits regarding “prevailing fees in the  
19 community, and rate determinations in other cases.” (*Ibid.*)

20 In similar cases, courts have found comparable rates for seasoned litigators reasonable.  
21 Nearly ten years ago, the Northern District found the following rates reasonable in an anti-  
22 SLAPP case: \$1,085 and \$920 for partners, and \$710 and \$640 for associates. (*Wynn*, 2015 U.S.  
23 Dist. LEXIS 80062, at \*5-6.) More recently, it found a rate of \$1,015.75 reasonable for a partner  
24 with roughly six years of litigation experience. (*Mogan v. Sacks, Ricketts & Case LLP* (N.D.Cal.,  
25 May 9, 2022, No. 21-cv-08431-TSH) 2022 U.S. Dist. LEXIS 83681, at \*5-6.) There, the court  
26 also found a rate of \$884 reasonable for counsel with twelve years of experience in complex  
27 litigation. (*Ibid.*; see also *In re Volkswagen “Clean Diesel” Mktg., Sales Pracs., & Prods. Liab.*  
28 *Litig.* (N.D.Cal., Mar. 17, 2017, MDL No. 2672 CRB (JSC)) 2017 U.S. Dist. LEXIS 39115, at

1 \*732 [rates up to \$1,600 for partners, \$790 for associates, and \$490 for paralegals reasonable].)

2 Defendants' requested rates in this matter fall well within this range.

3 **a. Poulson's Hourly Rates Are Reasonable**

4 Mr. Poulson seeks an award of attorneys' fees based on the customary hourly fee rates of  
5 EFF's lawyers. Mr. Poulson is entitled to recover these fees and pay them to EFF even though  
6 EFF supplied its services pro bono in furtherance of its non-profit mission. (See *Rosenauro v.*  
7 *Scherer* (2001) 88 Cal.App.4th 260, 283.)

8 As set forth in the Greene Declaration, EFF's fee rates are set by comparing the rates  
9 charged by law firms and legal services organizations in the Bay Area as well as expert fee  
10 declarations and awards in other cases. (Greene Decl. ¶ 12.) EFF's rate structure was set in 2022  
11 and likely now trails the region's prevailing rates. (*Id.* ¶ 13.) EFF's previous rate structures have  
12 been approved of in prior matters and not contested in settlements. (See, e.g., *Elec. Frontier*  
13 *Found. v. Superior Court* (Super Ct. San Bernardino Cnty., Apr. 27, 2021, No. CIVDS1930054);  
14 *Elec. Frontier Found. v. Office of the Dir. of Nat'l Intel.* (N.D.Cal., June 4, 2008, No. C 07-  
15 05278 SI) 2008 U.S. Dist. LEXIS 44050 [finding EFF's 2007 hourly rates reasonable]; *Apple v.*  
16 *Does* (Super. Ct. Santa Clara Cnty, No. 1-04-CV-032178) [awarding fees in accordance with  
17 EFF's 2006 and 2007 rates]; Greene Decl. ¶¶ 14-15.)

18 The rates for the two attorneys whose fees are sought in this matter, David Greene and  
19 Victoria Noble, are reasonable and well within the prevailing rates of Bay Area attorneys with  
20 similar experience. Mr. Greene is an experienced litigator with more than 33 years of experience  
21 and an international reputation as a First Amendment expert. (Greene Decl. ¶¶ 16-21.) His 2012  
22 fee rate of \$550 per hour was approved of by the court in *Rosenfeld v. Department of Justice*  
23 (2012) 904 F.Supp.2d 988, 1002-03, as were his previous fee rates. (Greene Decl. ¶ 21.) His  
24 current fee rate of \$955 per hour is well within the range, and indeed likely on the very low end,  
25 of rates charged by litigators with similar experience and recognized expertise. Ms. Noble's fee  
26 rate of \$350 per hour is consistent with comparable lawyers as well. Ms. Noble has over four  
27 years of litigation experience. (Noble Decl. ¶ 4.) The rates for both Mr. Greene and Ms. Noble  
28 are also at the lower end of the PwC Billing Rate & Associate Survey discussed below.





1	Rasheed Evelyn	Law Clerk		\$499		N/A
2	Sophie Lombardo	Law Clerk		N/A	\$643	N/A
3	Mariana McNamara	Paralegal		\$446		\$565

5 The rates described above are thus reasonable compared to attorneys of similar tenure at peer  
6 firms in the region, particularly given these attorneys’ experience and skills.

7 **c. Tech Inquiry, Inc.’s Hourly Rates Are Reasonable**

8 Tech Inquiry seeks an award of attorneys’ fees based on its counsel Ms. Seager’s hourly  
9 rates. Tech Inquiry is entitled to recover these fees and pay them to Ms. Seager even though she  
10 supplied her services pro bono with a contingency to seek fees and costs. (See *Rosenaaur*, 88  
11 Cal.App.4th at 283.) As set forth in the Seager Declaration, Ms. Seager’s hourly rate is  
12 reasonable and well within the prevailing rates of Bay Area attorneys with similar experience.  
13 Ms. Seager is an experienced media litigator with 25 years of experience and national reputation  
14 as an expert of First Amendment matters. (Seager Decl. ¶¶ 9-17.) Her current fee rate of \$950  
15 per hour is well within the range, and likely on the low end, of rates charged by litigators with  
16 similar experience and recognized expertise in Bay Area SLAPP litigation. (See *Mogan*, 2022  
17 U.S. Dist. LEXIS 83681, at \*5-6.) Ms. Seager’s rate is also at the lower end of the PwC survey.

18 **2. Counsel’s Hours Worked Are Reasonable.**

19 Defense counsel dedicated a reasonable number of hours to “extricating” their clients  
20 from Mr. Blackman’s “baseless lawsuit.” (See *Wilkerson v. Sullivan* (2002) 99 Cal.App.4th 443,  
21 446.) In determining the reasonableness of hours worked, courts assess “the nature of the  
22 litigation, the complexity of the issues, the experience and expertise of counsel and the amount  
23 of time involved.” (See *id.* at 448.)

24 Defendants seek reimbursement for work that they reasonably and necessarily performed  
25 in connection with their anti-SLAPP Motions; Mr. Poulson and Tech Inquiry’s motions to seal  
26 the anti-SLAPP pleadings and exhibits; Substack’s demurrer; and Defendants’ opposition to  
27 motions by Mr. Blackman that implicated the same issues, *i.e.*, his TRO motion and motion to  
28

1 litigate under a pseudonym. (Baskin Decl. ¶ 6; Greene Decl. ¶¶ 5-10; Noble Decl. ¶ 9; Seager  
 2 Decl. ¶¶ 3-7.) Defendants neither introduced collateral issues into the case nor spent attorneys’  
 3 fees on issues disconnected from the substance of their anti-SLAPP Motions. (See *569 E. Cnty.*  
 4 *Boulevard*, 6 Cal.App.5th at 433.)

5 Defendants’ complete success in striking Blackman’s complaint entitles them to recover  
 6 all fees incurred “in connection with” their anti-SLAPP Motions. (See *ibid.*) Because (1)  
 7 Defendants’ motions were highly successful; (2) their efforts protected fundamental rights; (3)  
 8 they dedicated all time necessary to head off Mr. Blackman’s various tactics; and (4) they  
 9 managed the case efficiently, Defendants’ request should be awarded in full.

Hours Billed by Poulson’s Defense Counsel			
Name	Title	Years of Experience	Hours Billed
David Greene	Senior Staff Attorney	33	87 hours: 29 minutes
Victoria Noble	Staff Attorney	4+	211 hours: 5 minutes
Hours Billed by Substack’s Defense Counsel			
Name	Title	Years of Experience	Hours Billed
Colleen Bal	Partner	31-35	0.9
Joshua A. Baskin	Partner	11-15	32.9
Thomas R. Wakefield	Partner*	< 21	157.6
Benjamin Margo	Senior Counsel*	11	125.0
Rasheed Evelyn	Law Clerk	0	131.0
Sophie Lombardo	Law Clerk	0	114.9
Mariana McNamara	Paralegal		30.0
Hours Billed by Tech Inquiry’s Defense Counsel			
Name	Title	Years of Experience	Hours Billed
Susan E. Seager	Solo Practitioner	25	57.6

21 First, Defendants’ anti-SLAPP Motions were highly successful, striking Mr. Blackman’s  
 22 complaint in its entirety early in the litigation. “[T]he most critical factor’ in determining the  
 23 reasonableness of a fee award ‘is the degree of success obtained.’” (*Farrar v. Hobby* (1992) 506  
 24 U.S. 103, 114.) Mr. Blackman’s case is believed to be the first case brought against a journalist  
 25 for publishing a sealed arrest report pursuant to Penal Code § 851.92(c) since it became effective  
 26 in 2018. Where, as here, a party has “obtained excellent results, his attorney should recover a  
 27 fully compensatory fee.” (*Mathis v. Spears* (Fed. Cir. 1988) 857 F.2d 749, 755, overruled on  
 28

1 other grounds by *Armsted Indus. v. Buckeye Steel Castings Co.* (1994) 23 F.3d 374.) That  
2 typically includes “all hours reasonably expended on the litigation.” (*Ibid.*)

3 Second, Defendants’ anti-SLAPP Motions were important, vindicating fundamental  
4 rights. (See *Church of Scientology v. Wollersheim* (1996) 42 Cal.App.4th 628, 659 [“importance  
5 of the litigation” informs reasonableness of fees], overruled on other grounds by *Equilon Enters.*  
6 *v. Consumer Cause, Inc.* (2002) 29 Cal.4th 53.) Mr. Blackman’s claims targeted an independent  
7 journalist for his accurate reporting on a matter of public interest. Defendants stared down threats  
8 from Mr. Blackman and the government, firm in the conviction that this case held significant  
9 implications for the free press. They were proved right, both through their success in this  
10 litigation and through widespread coverage from journalists and First Amendment scholars. (See,  
11 e.g., Ex. B [S.F. Chronicle]; Ex. C [Freedom of the Press Found.]; Ex. D [*First Amendment Coal.*  
12 *v. Chiu*].) Indeed, Mr. Blackman’s efforts to silence Mr. Poulson spurred separate litigation  
13 challenging the constitutionality of the law upon which his action was initiated. (Ex. D.)  
14 California’s legislature enacted the anti-SLAPP statute to protect the rights of newsgatherers,  
15 which “advanc[e] the ‘highest rung’ of First Amendment values.” (*Braun v. Chronicle Publ’g*  
16 *Co.* (1997) 52 Cal.App.4th 1036, 1047, fn. 5) Counsels’ defense of those rights supports the  
17 reasonableness of their requests; reimbursing their fees is essential to combatting the “chill” on  
18 protected speech caused by meritless litigation. (See *Church of Scientology* (1996) 42  
19 Cal.App.4th 628, 648, 659; see also *Liu v. Moore* (1999) 69 Cal.App.4th 745, 748.)

20 Third, the amount of time spent by Defendants was reasonable given the issues raised in  
21 Mr. Blackman’s Complaint as well as his litigation tactics. Courts have recognized that “SLAPP  
22 motions are generally difficult” (*Christian Rsch. Inst. v. Alnor* (2008) 165 Cal.App.4th 1315,  
23 1319) and “tend to present complex issues” (*Piping Rock Partners, Inc. v. David Lerner Assocs.*  
24 (N.D.Cal., Aug. 18, 2015, No. 12-cv-04634-SI) 2015 U.S Dist. LEXIS 109016, at \*16). This is  
25 true particularly where, as here, Mr. Blackman’s Complaint alleged *fifteen* (15) causes of action  
26 against four defendants, challenged both prongs of Defendants’ anti-SLAPP Motions and  
27 violated both the First Amendment and Substack’s statutory immunity under Section 230. (Ex. A  
28

1 at 8-9.) To that end, Defendants expended substantial time researching and responding to Mr.  
2 Blackman’s meritless causes of action.

3 Moreover, Mr. Blackman’s gamesmanship required Defendants to expend substantial  
4 time and effort on other issues in this action. Ignoring the requirement that he seek leave of Court  
5 before filing under a fictitious name, Mr. Blackman sued as a “John Doe,” even though he sued  
6 Defendants in their true names and multiple news outlets had already published his name. Mr.  
7 Blackman also filed an *ex parte* application for a TRO—whose supposed urgency was belied by  
8 the fact that his motion came more than a year after Mr. Poulson first published the arrest report  
9 and over a month after filing suit. The TRO motion forced Defendants to draft merits briefs  
10 overnight and prepare for oral argument the following morning. It, too, was futile: at the hearing,  
11 the Court declined to reach the merits, instead ordering Mr. Blackman to comply with the  
12 requirement that he seek leave to sue under the cloak of anonymity. None of Mr. Blackman’s  
13 gambits worked, but they increased the costs of defeating his baseless claims. He “cannot litigate  
14 tenaciously and then be heard to complain about the time necessarily spent by [Defendants] in  
15 response.” (*Peak-Las Positas Partners v. Bollag* (2009) 172 Cal.App.4th 101, 114.)

16 Fourth, defense counsel managed this case efficiently and economically. Co-defendants  
17 jointly filed wherever feasible, delegating work according to their respective expertise to reduce  
18 the cost associated with litigating this matter. (Greene Decl. ¶ 4.) Rather than all Defendants  
19 separately opposing Mr. Blackman’s motion to proceed anonymously, WSGR took point on  
20 briefing and arguing that issue, disposing of Mr. Blackman’s motion at a discount. Tech  
21 Inquiry’s counsel challenged the constitutionality of Penal Code § 851.92(c), preserving the issue  
22 for the pending appeal, and led on opposing Mr. Blackman’s motion to seal the arrest report as  
23 an exhibit. (Seager Decl. ¶¶ 4-5.) These efforts significantly reduced the costs associated with  
24 resolving this case. Additionally, Defendants’ teams efficiently managed their work:  
25 Mr. Poulson retained EFF to provide pro bono counsel in this matter because of EFF’s  
26 recognized expertise and experience in defending online speech. EFF efficiently staffed the case,  
27 using a more junior lawyer, Ms. Noble, to do most of the legal research and writing, and an  
28 experienced lawyer, Mr. Greene, to supervise her work, support research and writing, and

1 finalize court filings. (Greene Decl. ¶ 3.) Three other attorneys offered occasional legal research  
2 support, but their hours are not requested as an exercise of billing judgment. (*Ibid.*) Substack  
3 likewise hired counsel with extensive experience litigating these issues. Mr. Baskin and Mr.  
4 Wakefield, partners and Substack’s lead counsel, have roughly a decade of experience litigating  
5 at the intersection of technology and the law. Together, they oversaw the defense in coordination  
6 with Ms. Bal, limiting their time to formulating Substack’s litigation strategy and editing the  
7 briefing. (See Baskin Decl. ¶ 3.) Attorneys with lower billing rates handled most of the research  
8 and drafting necessary to complete the anti-SLAPP and fees motions, under the supervision of  
9 Mr. Margo, a senior counsel with substantial litigation experience. (*Ibid.*) Tech Inquiry retained  
10 Ms. Seager to provide pro bono counsel in this matter because of her recognized expertise and  
11 experience as a First Amendment litigator who specializes in drafting anti-SLAPP motions;  
12 challenging the constitutionality of California statutes; defending media organizations and  
13 journalists against prior restraints on the publication of lawfully obtained government records;  
14 and asserting Section 230 defenses. (Seager Decl. ¶¶ 9-17.) As a solo practitioner, Ms. Seager  
15 billed a total of 57.6 hours to this matter.

16 Finally, Defendants’ requests are consistent with fee awards in comparable anti-SLAPP  
17 cases. In one case from nearly a decade ago, a California court awarded prevailing defendants  
18 \$390,149.63 in connection with an anti-SLAPP motion. (See *Wynn*, 2015 WL 3832561, at \*6.)  
19 In other anti-SLAPP cases, courts granted fee awards that fell well within the range of  
20 Defendants’ individual requests. (See *Resolute Forest Prods.*, 2020 WL 8877818, at \*4  
21 [awarding \$545,572.36]; *Premier Med. Mgmt. Sys., Inc.* (2008) 163 Cal.App.4th at 553, 556  
22 [affirming awards over \$275,000]; *Clifford v. Trump* (C.D.Cal., Dec. 11, 2018, No. CV 18-  
23 06893-SJO (FFMx)) 2018 U.S. Dist. LEXIS 211297, at \*17 [awarding \$292,052.33].)

#### 24 **IV. CONCLUSION**

25 Defendants respectfully request that this Court grant this Motion, awarding attorneys’  
26 fees and costs of \$157,425.75 for Mr. Poulson; \$516,477.61 for Substack; and \$60,820.00 for  
27 Tech Inquiry, plus fees incurred in preparing Reply papers and appearing at the hearing on this  
28 Motion.

1 Dated: April 25, 2025

WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation

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7 Dated: April 25, 2025

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12 Dated: April 25, 2025

ELECTRONIC FRONTIER FOUNDATION

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