

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

MINUTES

July 29, 2025

JOHN DOE

PLAINTIFF

VS.

SUBSTACK, INC., A DELAWARE
CORPORATION et al

DEFENDANT

Department: 301

Case Number: CGC-24-618681

Nature of Cause: DEFENDANTS
SUBSTACK, INC., JACK POULSON,
AND TECH INQUIRY, INC.'S
MOTION TO RECOVER FEES AND
COSTS

Present:

Judge: CHRISTINE VAN AKEN
Reporter: JAMIE PLY, CSR# 13323

Clerk: VICTOR DA FONSECA
Bailiff: NONE

Appearing for Plaintiff (s):

Atty. DAVID MAREK, Esq. of The Marek
Law Firm, Inc. (tel: 650-460-7148) for
Plaintiff Maury Blackman.

Appearing for Defendant(s):

Atty. JOSHUA BASKIN, Esq. of Wilson
Sonsini Goodrich & Rosati (tel: 415-947-
2160) for Defendant Substack, Inc.

Atty. TORI NOBLE, Esq. of Electronic
Frontier Foundation (tel: 415-436-9333) for
Defendant Jack Poulson.

Matter argued and submitted. Upon conclusion, the Court adopts its tentative ruling.

Defendants' motion for attorneys' fees incurred in connection with their anti-SLAPP motion is granted in part. For the reasons stated below, Substack is awarded \$211,102.50 in fees and \$14,706.60 in costs. Poulson is awarded \$145,362.42 in fees. Tech Inquiry is awarded \$40,280 in fees.

Case Number: CGC-24-618681

Case Title: JOHN DOE VS. SUBSTACK, INC., A DELAWARE CORPORATION ET AL

Plaintiff Maury Blackman filed this action against defendants Substack, Jack Poulson, Tech Inquiry, and Amazon Web Services for publishing an incident report made by the San Francisco Police Department when they responded to a report of domestic violence involving Blackman. Blackman sued Poulson for publishing the incident report; he sued Substack and Tech Inquiry for publishing the blog post on their respective websites, and he sued Amazon Web Services for providing web hosting services for Substack. On February 14, 2025, this court granted all four defendants' anti-SLAPP motions, striking the entire action.

Only Poulson, Substack, and Tech Inquiry move for attorneys' fees. "[A] prevailing defendant on a special motion to strike shall be entitled to recover that defendant's attorney's fees and costs." (Cal. Code Civ. Proc., § 425.16, subd. (c)(1).) Awarding fees achieves two policy goals: (1) to discourage strategic lawsuits against public participation (SLAPPs), and (2) to allow defendants faced with such suits to hire private counsel. (*Lunada Biomedical v. Nunez* (2014) 230 Cal.App.4th 459, 486 (*Lunada*).)

The court rejects Blackman's argument that it can decline to award fees due to "special circumstances." Awarding fees to a prevailing defendant is mandatory (*Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1131 (*Ketchum*)), and the purposes of the fee-shifting statute are advanced by awarding them here.

The court next considers Blackman's arguments concerning the amounts the defendants seek.

In addition to the anti-SLAPP motion, defendants incurred fees opposing a temporary restraining order and litigating Blackman's entitlement to proceed as a Doe plaintiff. Substack also demurred to the complaint. The parties dispute whether the lodestar may or should include fees for work on matters other than the anti-SLAPP motions themselves.

California cases establish that the defendants are entitled to fees "incurred in connection with" the anti-SLAPP motion only. (*569 East County Boulevard LLC v. Backcountry Against the Dump, Inc.* (2016) 6 Cal.App.5th 426, 433; see also *Six4Three, LLC v. Facebook, Inc.* (2025) 109 Cal.App.5th 635, 660 (*Six4Three*).) This does not include fees incurred, for example, attacking service of process, preparing an answer, or research to support summary judgment motions. (*Christian Research Institute v. Alnor* (2008) 165 Cal.App.4th 1315, 1325 (*Christian Research*).) The court must evaluate whether the fee was incurred in "extricating [the defendant] from a baseless lawsuit." (*Wilkerson v. Sullivan* (2002) 99 Cal.App.4th 443, 446.) Defendants rely on federal cases that are not binding on this court, and these cases are in significant tension with binding California authority.

The court concludes that defendants' fees incurred in opposing the TRO application, preparing a demurrer (applicable to Substack only), and opposing the Doe motion are not recoverable under § 425.16, subdivision (c)(1). Although these matters raised some of the same issues as the anti-SLAPP motions, Defendants would have incurred them regardless of whether the § 425.16 vehicle was available to them, and the results of these other motions were not necessary to the court's resolution of the anti-SLAPP motions, unlike the appeals in *Six4Three*. However, defendants' work on the sealing motions for the evidence used in the anti-SLAPP motion is

Case Number: CGC-24-618681

Case Title: JOHN DOE VS. SUBSTACK, INC., A DELAWARE CORPORATION ET AL

recoverable as necessary to the anti-SLAPP motions. (See *Six4Three*, supra, 109 Cal.App.5th at pp. 660-661.) Time spent preparing the judgment that resulted from the anti-SLAPP motion and preparing for the appeal of that judgment are recoverable.

Blackman also contends that each defendant's anti-SLAPP motion was duplicative of the others, and the court should award fees equivalent to only one motion by one defendant. The court disagrees. Each defendant was separately represented, filed a separate motion, and asserts different fees. Blackman cites no authority that each defendant in an anti-SLAPP must assert novel arguments in order to recover their mandatory fees. Section 425.16, subdivision (c), is designed to encourage defendants to hire counsel (*Lunada*, supra, 230 Cal.App.4th at 486), a purpose that would be undermined by Blackman's position.

Finally, Blackman asserts that Substack's attorneys overbilled and are seeking unreasonable rates, and that Poulson's attorneys overbilled.

In awarding fees, the court must "begin[] with a touchstone or lodestar figure." (*Lunada*, supra, (2014) 230 Cal.App.4th at 486.) A moving defendant bears the burden of establishing the lodestar and its reasonableness. (*Christian Research*, supra, 165 Cal.App.4th at p. 1320.) The lodestar is calculated "by multiplying the number of hours reasonably expended by the reasonable hourly rate prevailing in the community for similar work." (Id.) In assessing what is reasonable, "trial courts must carefully review attorney documentation of hours expended." (*Ketchum*, supra, 24 Cal.4th 1122, 1132.) The court's job in ruling on fee requests is to evaluate whether the amount of work is reasonable. When a fee request appears to be unreasonably inflated the court can deny it altogether. (Id. at 1137 quoting *Serrano v. Unruh* (1982) 32 Cal.3d 621.)

The anti-SLAPP motions presented by defendants here were complex, the exhibits were voluminous, Blackman raised numerous issues in opposition, and there were multiple defendants. The court concludes that a reasonable number of hours in this case is much higher than in a typical anti-SLAPP motion. In addition, the early correspondence and litigation between the parties indicated that the case would be hard fought, and that Blackman valued the case in the multi-millions. Although the fees for the early skirmishes between the parties are not recoverable, as discussed above, this context demonstrates that it was largely reasonable for defendants to take the case seriously and expend a commensurately larger number of hours ensuring their anti-SLAPP motions would be successful. With these conclusions in mind, the court turns to each defendant's hours and rates.

Substack's counsel's rates are reasonable. Hiring a large law firm to defend against a multi-million dollar suit was a reasonable choice. The Baskin Declaration adequately substantiates the reasonableness of these rates in the San Francisco legal market.

The court sets the "reasonable hours" element of the lodestar calculation for Substack's motion at 250 hours. Substack seeks recovery of fees that do not relate to its anti-SLAPP motion, and some of its counsel's billing entries are broad enough that the court cannot discern whether they are related to the anti-SLAPP motion or not. Others are block billing where numerous tasks are

aggregated, some of which are recoverable and some not. The court has largely excluded those entries but has reduced some of them, and has excluded some other entries that are insufficiently justified or appear extraneous. By the court's rough calculation, 299.75 hours of Substack's counsel's time fairly relate to the anti-SLAPP motion; the attached pdf shows the source of that calculation. The court has further reduced the hours to 250 to reflect unnecessary coordination and duplication in Substack's counsel's billing. The blended rate for all 592.50 hours that Substack seeks is \$844.41 per hour. The court applies that blended rate to 250 hours for a total award of \$211,102.50 in fees. Both sides will no doubt quibble with the court's line-drawing in the attached pdf and in this order; the aggregates set out above reflect the court's view of what is reasonable here.

Substack also seeks costs. The court grants its cost request except as to miscellaneous costs and transcript costs, which it has withdrawn. (See Reply, fn. 4.) The court finds legal research costs to be an allowable element of attorneys' fees here. (See *Plumbers & Steamfitters, Local 290 v. Duncan* (2007) 157 Cal.App.4th 1083, 1099.) Total costs awarded are \$14,706.60.

For Poulson, Blackman challenges only the number of hours billed and not the rate. The court finds the number of hours billed to be reasonable and supported. As noted, this motion was complex and Blackman raised numerous claims. The court awards Poulson \$145,362.42, after subtracting out work on the Doe briefing and the TRO.

For Tech Inquiry, Blackman does not challenge the rate or the hours billed. He seeks to exclude work done on the Doe briefing and the TRO, which the court finds appropriate. Tech Inquiry is awarded \$40,280.

Counsel for the prevailing party is to prepare and submit a proposed order which repeats verbatim the substantive portion of the court's ruling, with a cover letter demonstrating compliance with CRC 3.1312.

Judge: Christine Van Aken; Clerk: V. Da Fonseca; Court reporter: Jamie Ply, CSR# 13323 (tel: 714-316-3757 / email: jplycsr@aol.com) =(301/CVA)