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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

SHERA BECHARD,

Plaintiff,

vs.

ELLIOTT BROIDY, an individual, KEITH DAVIDSON, an individual; MICHAEL AVENATTI, an individual; DAVIDSON & ASSOCIATES, PLC, a professional limited liability company; and DOES 1 through 20, inclusive,

Defendants.

Case No. BC712913

Assigned for all purposes to the Hon. Elizabeth Allen White, Dept. 48

DEFENDANT MICHAEL J. AVENATTI'S REPLY IN SUPPORT OF SPECIAL MOTION TO STRIKE (Cal. Civ. Proc. Code § 425.16)

Hearing Date: September 7, 2018
Hearing Time: 8:30 am
Hearing Dept.: 48

Complaint Filed: July 6, 2018
Trial: Not Yet Assigned

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I. INTRODUCTION

Plaintiff Shera Bechard's ("Bechard") arguments opposing Defendant Michael J. Avenatti's ("Avenatti") Special Motion to Strike (the "Motion") must be rejected. Bechard fails to negate the central arguments in the Motion. Bechard's claims must be stricken for at least the following reasons:

First, Bechard's claims are subject to the anti-SLAPP statute because they target speech concerning issues of public interest. Her claims are also subject to the anti-SLAPP statute because they target events that relate to Avenatti's representation of his client Stephanie Clifford ("Clifford") in litigation. For the same reason, Avenatti is immune under the litigation privilege doctrine.

Second, Bechard's claims fail because they are utterly unsupported by admissible evidence.

Third, Bechard's claims against Avenatti fail because he did not know that his actions would induce a breach of any contract or would interfere with prospective economic relations.

Fourth, Bechard's claims fail because Avenatti cannot be the cause of Bechard's injury. Defendant Elliott Broidy ("Broidy") stopped making payments to Bechard because of the alleged disclosure of a non-disclosure and settlement agreement (the "Settlement Agreement") to Avenatti **by Bechard's attorney, defendant Keith Davidson** ("Davidson"). Further, other individuals had already disclosed the Settlement Agreement before Avenatti ever spoke to Davidson. Moreover, the actual cause of harm to Broidy to compel him to stop paying Bechard was the outing of his identity and details of the Settlement Agreement. This was done by the *Wall Street Journal*, **not Avenatti**, who did not disclose the identities of Bechard or Broidy in his tweets and did not provide information to the *Journal*.

Fifth, Bechard cannot prevail on her tortious interference with contract cause of action unless she can establish that there was a valid contract that was breached. She still has not done so.

Sixth, Bechard's interference with prospective economic advantage claim is redundant.

Seventh, Avenatti cannot be liable for conspiracy to commit breach of fiduciary duty because he did not have any agreement with Davidson and does not owe Bechard a fiduciary duty.

Finally, Bechard has failed to meet the burden required to obtain leave to conduct discovery.

II. ARGUMENT

A. Bechard's Claims Against Avenatti are Subject to the Anti-SLAPP Statute.

1. Bechard's Claims Target Speech Concerning Issues of Public Interest.

Bechard contends that her claims against Avenatti have nothing to do with his tweets at all. This is simply irreconcilable with her Complaint. Bechard devotes an entire section and at least seven paragraphs discussing the tweets. [Complaint ¶¶ 7, 38, 39, 43, 73, 97.] There is simply no other plausible interpretation of her claims. Broidy's justification for stopping payments under the Settlement Agreement cannot possibly be for a private disclosure in which his identity and the details of the Settlement Agreement were kept private. Broidy is obviously upset that he and Bechard, along with the Settlement Agreement terms, were outed. Avenatti, however, had nothing to do with that and Bechard does not claim otherwise. Moreover, in Bechard's conspiracy to commit breach of fiduciary duty cause of action, Bechard claims that "Avenatti, moreover, desired to ***assist the exposure and public promotion of the Settlement Agreement*** because he claimed entitlement to and hoped to receive attribution as the first source of public information about it." [Complaint ¶ 73 (emphasis added).]

Regardless, even if Avenatti's tweet is in and of itself not the target of Bechard's causes of action, Avenatti's communications with Davidson are plainly protected by Code of Civil Procedure section 425.16(e)(4). "[P]rotection under section 425.16 for statements in connection with a public issue or an issue of public interest is not dependent on those statements having been made in a public forum. Rather, subdivision (e)(4) applies to private communications concerning issues of public interest." Hailstone v. Martinez (2008) 169 Cal.App.4th 728, 736. Bechard does not deny this. Accordingly, Avenatti can prevail as long as Avenatti's conversation with Davidson pertained to an issue of public interest. Moreover, the anti-SLAPP protection extends to gathering information that subsequently is used in a publication about a public issue. See Lieberman v. KCOP Television, Inc. (2003) 110 Cal. App. 4th 156, 166 ("Because the surreptitious recordings here were in aid of and were incorporated into a broadcast in connection of a public issue, we conclude that [the plaintiff's] complaint fell within the scope of section 425.16.") Therefore Avenatti is also protected by the anti-SLAPP statute because the information he obtained from Davidson formed the basis of his tweet about an issue of public interest.

Bechard argues the anti-SLAPP statute does not apply to "unethically and illegally persuading an attorney an attorney to reveal confidential information of his client." [Opposition at 8.] As a preliminary matter, other than conclusory and incomprehensible assertions of wrongdoing, Bechard is purposefully vague in describing what she is accusing Avenatti of doing that constituted a legal wrong.

Avenatti presented evidence that Davidson provided the information to Avenatti unprompted. At the very worst, Avenatti merely persuaded Davidson to tell a secret that he should not have told. Avenatti is not to blame; Davidson, the attorney with a duty to his client, is the wrongdoer.

Moreover, where "either the defendant concedes, or the evidence conclusively establishes, that the assertedly protected speech or petition activity was illegal as a matter of law, the defendant is precluded from using the anti-SLAPP statute to strike the plaintiff's action." Flatley v. Mauro (2006) 39 Cal.4th 299, 320 (uncontroverted evidence showed that defendant's conduct constituted criminal extortion as a matter of law). "[T]he Supreme Court's use of the phrase 'illegal' was intended to mean criminal, and not merely violative of a statute." Mendoza v. ADP Screening & Selection Services, Inc. (2010) 182 Cal.App.4th 1644, 1654; see also G.R. v. Intelligator (2010) 185 Cal.App.4th 606, 616. "[A] plaintiff's complaint always alleges a defendant engaged in illegal conduct in that it violated some common law standard of conduct or statutory prohibition, giving rise to liability" and an alternative rule would allow plaintiffs to easily eviscerate the anti-SLAPP statute. Mendoza 182 Cal.App.4th at 1654.

Here, Bechard does not allege that Avenatti violated any criminal laws. Moreover, Avenatti has not in any way conceded that he has violated any criminal laws, and in fact has supplied a declaration, uncontradicted by admissible evidence, establishing that that he in fact did not even commit the torts he is accused of. [Avenatti Decl. ¶¶ 3-5.] Therefore, any criminal conduct exception to the anti-SLAPP statute is inapplicable here. Bechard relies heavily on Gerbosi v. Gaims, Weil, West & Epstein, LLP, but that case does not hold otherwise. (2011) 193 Cal.App.4th 435, 445. There, the claims against a law firm for wiretapping were not protected by the anti-SLAPP statute because where a complaint "alleges criminal conduct, there is no protected activity as defined by the anti-SLAPP statute." Id.

Bechard argues that Bechard's affair with Broidy was not an issue of public interest. But the affair is less significant than the cover-up. A prominent Republican donor's affair would in itself be covered by the anti-SLAPP statute due to its political implications. See Sipple v. Foundation For Nat. Progress (1999) 71 Cal.App.4th 226, 239 (domestic abuse allegations against a media strategist for numerous Republican political campaigns were found to concern issues of "public interest.") However, the primary reason the affair and Settlement Agreement are matters of public interest is because Broidy was represented in connection with the agreement by President Donald Trump's personal attorney and

fixer Michael Cohen—the same man who also assisted with at least two other hush money deals shortly before the 2016 election for women claiming affairs with Trump (i.e., Karen McDougal and Stephanie Clifford aka Stormy Daniels), a detail that has featured heavily in coverage of the affair in the *Wall Street Journal* and elsewhere. [Avenatti Decl., Ex. 4.] The conversation with Davidson also occurred just days after the FBI raided Cohen's office as part of an extensive investigation. [Id.]

Bechard only offers an absurd straw man argument: "That a lawyer has a famous client does not mean his activities with his other clients are ones of public interest." [Opposition at 9.] Few lawyers have served as the personal attorney to the President of the United States. Fewer still are known to have arranged hush money deals to cover up affairs shortly before an election and then been raided by the FBI. Cohen did not represent Broidy in an innocuous transaction, such as reviewing a contract to buy a house. Not only did he provide the same service that he performed for Trump, i.e., covering up an affair with another hush money deal, but he provided it to a prominent Republican donor. Broidy's status as a prominent Republican paying to cover up an affair mirrored Trump and made public interest inevitable.

2. Avenatti's Communications with Davidson and Tweet Were Made in Connection with Ongoing and Anticipated Litigation.

"[A] statement is 'in connection with' litigation under section 425.16, subdivision (e)(2) if it relates to the substantive issues in the litigation and is directed to persons having some interest in the litigation." Neville v. Chudacoff (2008) 160 Cal.App.4th 1255, 1266. This includes "statements to persons who are not parties or potential parties to litigation, provided such statements are made 'in connection with' pending or anticipated litigation." Summerfield v. Randolph (2011) 201 Cal.App.4th 127, 136. Bechard claims that "[t]he Settlement Agreement (and Avenatti's tortiously obtaining its contents) simply does not affect whether Avenatti wins or loses either the Daniels litigation or any potential lawsuit against Davidson." [Opposition at 11.] This argument is devoid of merit. The matters at issue clearly relate to the breach of fiduciary duty claims against Davidson and the aiding and abetting breach of fiduciary duty claim against Cohen. [Avenatti Decl. Ex. 3] It also clearly raises serious questions in the declaratory relief action against Trump and Cohen's company, Essential Consultants. [Id. at Ex. 1.] The breach of fiduciary duty action against Davidson and Cohen is strengthened by evidence that Cohen and Davidson colluded to act in the interests of Cohen's client Trump. It is much more plausible that Davidson would act in concert with Cohen if he in fact regularly dealt with Cohen.

The more hush money agreements the two were involved in, the more compelling the case becomes. Bechard herself cites other Cohen-Davidson dealings in her Complaint. [Complaint ¶¶ 35-36.]

Bechard argues, without citing any authority, that because Avenatti denies specifically asking for information from Cohen, he is somehow unable to rely on the anti-SLAPP statute. Plaintiffs do not forfeit arguments that the causes of action are subject to anti-SLAPP "by choosing to controvert the factual basis of [the plaintiff's] claims in connection with the second prong of the anti-SLAPP procedure. A contrary rule would place an unfair burden on a defendant filing an anti-SLAPP motion when the complaint alleges protected conduct but the defendant disputes the factual underpinnings of the plaintiff's claims. Bel Air Internet, LLC v. Morales (2018) 20 Cal.App.5th 924, 939. As the (inadmissible) evidentiary support Bechard now relies on makes clear, *she* is arguing that Avenatti demanded that Davidson "reveal any other communications or deals he had with Mr. Cohen in other cases; e.g., that did not involve Stormy Daniels." [Martin Decl. ¶ 7.] While Avenatti did not do that, if he had, he would have been obtaining information relevant to Clifford's litigation.

B. Bechard Cannot Prevail on Her Claims.

1. Bechard Has Failed to Submit Admissible Evidence.

After the defendant has established that the plaintiff's claims are subject to the anti-SLAPP statute, "the burden shifts to the plaintiff to demonstrate the merit of the claim by establishing a probability of success." Baral 1 Cal.5th at 384 (citation omitted). The Supreme Court has characterized this motion as a "summary-judgment-like procedure." Id. However, there is one crucial distinction: unlike an anti-SLAPP motion, a motion for summary judgment "places the initial burden of production on the moving defendant to demonstrate the opposing plaintiff cannot establish one or more elements of his or her causes of action." Tuchscher Development Enterprises, Inc. v. San Diego Unified Port Dist. (2003) 106 Cal.App.4th 1219, 1239 (explaining that plaintiff was wrong to believe that the defendant had any initial burden other than to show that claims were covered by 425.16). Avenatti previously warned that "Bechard must prove each element of each of her claims against Avenatti." [Motion at 7.] Bechard has disregarded this warning and has failed to submit *any* admissible evidence on three critical topics: the existence and contents of the Settlement Agreement (or the Davidson Engagement Letter), Avenatti's conversation with Davidson, and why Broidy stopped paying Bechard.

Strangely, Bechard has failed to even file a declaration establishing basic elements of her case, such as her damages. The absence of admissible evidence on even one of these topics is fatal to her case.

First, Bechard has failed to establish the existence of and terms of the Settlement Agreement or the Davidson Engagement Letter. This has deprived Avenatti of any ability to rely on the specific language of the contracts in his Motion. Moreover, Bechard has failed to produce and authenticate either contract. See Evid. Code, §§ 1400, 1401. Nor can Bechard simply rely on declarations or other forms of oral testimony to establish the contents of the two contracts. See Evid. Code, § 1523.

Second, Bechard's "evidence" consists of a declaration from her attorney recounting (1) a discussion in which Davidson explained why he told Avenatti about the Settlement Agreement and (2) his communications with Broidy's counsel indicating that Broidy regarded the disclosure of the Settlement Agreement to Avenatti as a justification for ceasing payment. [Martin Decl. ¶¶ 4-8.] But these portions of the Martin Declaration are clearly hearsay. See Evid. Code, § 1200. Statements by Broidy's attorneys and Davidson do not fall within any hearsay exception. For example, they are not an admission by a party opponent. See Evid. Code, § 1220. Nor can Bechard rely on a *Wall Street Journal Article* to establish why Broidy stopped his payments to Bechard [Complaint ¶ 43], because newspaper articles are hearsay. See Christian Research Institute v. Alnor (2007) 148 Cal.App.4th 71, 83.

2. Avenatti is Protected by the Litigation Privilege.

The anti-SLAPP statute "contemplates consideration of the substantive merits of the plaintiff's complaint, as well as all available defenses to it, including, but not limited to constitutional defenses." Traditional Cat Assn., Inc. v. Gilbreath (2004) 118 Cal.App.4th 392, 398. Bechard must overcome Avenatti's litigation privilege defense, but has no admissible evidence to do so. Avenatti is entitled to substantive immunity under the litigation privilege doctrine for the same reasons that the claims against him fall under Code of Civil Procedure section 425.16(e)(2). See Neville v. Chudacoff (2008) 160 Cal.App.4th 1255, 1269. Even purportedly unethical or illegal conduct is protected by the litigation privilege. See Kashian v. Harriman (2002) 98 Cal.App.4th 892, 920.

3. Bechard's Allegations Against Avenatti Do Not Constitute Tortious Interference With Contract or Prospective Economic Advantage.

a) Avenatti Did Not Intend to Induce a Breach of Any Contracts or Disrupt an Economic Relationship.

A defendant can only be liable for tortious interference with contract if he "knows that the interference is certain or substantially certain to occur as a result of his action. The rule applies, in other words, to an interference that is incidental to the actor's independent purpose and desire but known to him to be a necessary consequence of his action." Quelimane Co. v. Stewart Title Guaranty Co. (1998) 19 Cal.4th 26, 56. The intent element for interference with prospective economic advantage is essentially the same. See Korea Supply Co. v. Lockheed Martin Corp. (2003) 29 Cal.4th 1134, 1153.

Here the admissible evidence demonstrates Avenatti did not intend to interfere with Broidy's contractual or prospective economic relationship with Bechard (or Davidson's relationship with Bechard). [Avenatti Decl. ¶¶ 4, 6.] Avenatti had no knowledge of the specific terms of any agreements at issue here. [Avenatti Decl. ¶ 4.] Without this knowledge, he could not possibly have known that interference was certain or substantially certain to occur as a result of his actions. Avenatti could not have known that Broidy would regard the Settlement Agreement as having been breached as a result of actions by a non-party like *Avenatti*. Nor could Avenatti know whether Davidson was a party to the Settlement Agreement[1] or whether Bechard had authorized Davidson to speak to Avenatti.

Bechard's arguments do not negate this. To begin with, there can be no interference—let alone an *intent* to interfere—where Avenatti never disclosed the identities of Broidy or Bechard, or any detail of the Settlement Agreement. There is simply no evidence that this occurred. Further, that Avenatti tweeted there was a NDA is irrelevant. A NDA could easily bind Bechard and Broidy, but not require silence of the attorneys who drafted it. Or it could only prohibit disclosure of the identities of Bechard and Broidy, and not disclosure of the anonymized information that Avenatti received. Without knowing the specific terms of the Settlement Agreement, Avenatti could not know that breach or interference would occur. The Martin Declaration does not help Bechard. It does not claim Davidson told Avenatti he was a party or that Davidson told Avenatti he was breaching the Davidson Engagement Letter by providing information to Avenatti. Bechard could have authorized disclosure, even if it breached her contract with Broidy. Nor does it claim that Davidson disclosed the names of Bechard or Broidy.

[1] Bechard does not appear to even claim that Davidson is a party to the Settlement Agreement and certainly has not established this with evidence.

b) Bechard Cannot Establish Avenatti Caused Her Damages.

Bechard argues the cause of her injury was not the public disclosure of the Settlement Agreement, but its disclosure to Avenatti. To begin with, it was the *Wall Street Journal* story that outed Broidy and Settlement Agreement, not Avenatti. Avenatti made no such disclosures on Twitter, or to the *Journal*. For this reason alone, Bechard's claims fail for lack of causation. But even if Bechard's spin on the Complaint is entertained, it was *Davidson*, on his own volition and without any persuasion from Avenatti, who told Avenatti about the existence of the Settlement Agreement. [Avenatti Decl. ¶¶ 4-6.] *Davidson's* actions, not Avenatti's, are therefore the cause of Broidy halting the payments. Even the Martin Declaration does not help her. According to the Declaration, Avenatti first asked about Davidson's communications or deals with Cohen in other cases (something that in itself is not tortious). [Martin Decl. ¶ 7.] "[O]nly at that point did [Davidson] reveal any information about the Settlement Agreement to Mr. Avenatti." [Id.] *This* is the action that caused harm to Bechard according to Bechard's own theory of the case. Davidson caused the harm, not Avenatti.

The Martin Declaration claims Davidson told "Avenatti . . . that the Settlement Agreement had an express confidentiality clause" that "Mr. Avenatti could not disclose to anyone else what Mr. Davidson was telling him," and that "Mr. Avenatti expressly promised Mr. Davidson that he would do so." [Id.] It does not claim Avenatti agreed to keep the information Davidson told him confidential *before* he was given the information, and thus any such agreement would not be the cause of Davidson's disclosure to Avenatti. In addition, if Davidson told Avenatti that the Settlement Agreement contained a confidentiality clause, he necessarily disclosed some of its terms. Broidy may blame Avenatti, but that does not mean that some breach of a duty by Avenatti is the proximate cause of Bechard's injuries.

c) Bechard Cannot Prove Tortious Interference With Contract.

(1) Bechard Must Establish That A Contract Was Breached.

Bechard must establish there is a valid contract that Avenatti interfered with. However, Bechard has not provided admissible evidence that *any* contract exists, either with Broidy or with Davidson. Moreover, Bechard must identify which terms of the contract were breached. Bechard claims that the disclosure of the Settlement Agreement by Davidson to Avenatti is the cause of her injuries. [Opposition at 15.] Therefore, she needs to establish that Davidson was in fact a party to the Settlement Agreement. Bechard argues that the Davidson/Bechard contract is relevant, but the only damages she

has identified are Broidy's refusal to pay the Settlement Agreement and expenses incurred in its enforcement. [Complaint ¶ 68.] She must establish that they would be available if Davidson is not a party to the Settlement Agreement. If Davidson is a party to the Settlement Agreement, and the agreement obligates him to maintain confidentiality, and Broidy could halt payments to Bechard if he failed to do so (terms Bechard has failed to establish), Davidson's breach of contract would cause Bechard's damages. If he is not a party, then what basis would Broidy have to halt payments? *Broidy* would be in breach of the Settlement Agreement. Bechard has not shown that Avenatti would be liable or that he is the proximate cause of her injury in such circumstances.

In addition, "if a contract has already been breached by one of the parties to the contract, or has been terminated, before the occurrence of the breach allegedly induced by a third party, an action against the third party for interference with the contract must fail. Similarly, if a party has no duty or contract to perform, that another induces that party not to perform is of no consequence." 40 Cal. Jur. 3d § 10. Bechard has never established what the terms of the confidentiality provision in the Settlement Agreement are. Nevertheless, there are at least two individuals who were already aware of the existence of the Settlement Agreement. As Bechard acknowledges, someone told the *Wall Street Journal* about the Settlement Agreement, which resulted in it publishing an article the next day. [Opposition at 12-13.] Bechard, her attorney, and Davidson, all believe that someone connected to the FBI leaked the Settlement Agreement to the *Wall Street Journal*, but no admissible evidence establishes that this is not a breach or excuse for nonperformance. [Martin Decl. ¶ 5; Opposition at 12-13.] Moreover, the only admissible evidence demonstrates that the *Wall Street Journal* was already aware of the Settlement Agreement (regardless of who the source was) before Davidson told Avenatti about it. [Avenatti Decl. ¶ 3.] In addition, the Martin Declaration establishes that Davidson had already told his wife about the Settlement Agreement before he told Avenatti about it. [Martin Decl. ¶ 7.] Clearly, if Davidson telling Avenatti about the Settlement Agreement was a breach, him telling his wife about it is a breach as well.

d) Bechard Cannot Prove the Elements of Interference With Prospective Economic Advantage.

A claim for intentional interference with prospective economic advantage requires different elements from proving interference with a contract. Bechard, however, conflates the two by identifying Avenatti's alleged tortious interference with the contract as the wrongful act. Bechard also fails to

demonstrate that the Settlement Agreement is a *business* expectancy. Bechard's claim for interference with prospective economic advantage therefore lacks merit because it is redundant.

4. Avenatti Is Not Liable For Conspiracy to Commit Breach of Fiduciary Duty.

"A non-fiduciary cannot conspire to breach a duty owed only by a fiduciary." Kidron v. Movie Acquisition Corp. (1995) 40 Cal.App.4th 1571, 1596. Because Avenatti does not owe Bechard a fiduciary duty, he could not have conspired with Davidson. Bechard misstates the holding of Fuller v. First Franklin Financial Corp. in her attempt to argue otherwise. (2013) 216 Cal.App.4th 955. The Court there *agreed* that a defendant cannot be held liable for conspiring to breach a fiduciary duty if it did not owe a fiduciary duty to the plaintiff and did not overrule that portion of the demurrer. Id. at 967. The other case Bechard cites, Casey v. U.S. Bank Nat. Assn., discusses aiding and abetting breach of fiduciary duty, a different tort not at issue here. (2005) 127 Cal.App.4th 1138, 1144 & 1145 n.2.

C. Bechard Has Not Met the Strict Good Cause Standard for Obtaining Discovery.

Discovery is automatically stayed upon filing an anti-SLAPP motion unless the plaintiff makes a showing of good cause in a noticed motion. See Cal. Civ. Proc. Code § 425.16(g). "The showing should include some explanation of what additional facts [plaintiff] expects to uncover. . . . Discovery may not be obtained merely to 'test' the opponent's declarations." 1-800 Contacts, Inc. v. Steinberg (2003) 107 Cal.App.4th 568, 593 (internal citations and quotations omitted). Nor may good cause be founded on the plaintiff's "own speculation." Schroeder v. Irvine City Council (2002) 97 Cal.App.4th 174, 192. Bechard has not provided *any* explanation of what kind of discovery she would conduct or why it is necessary. Granting Bechard leave to conduct discovery without meeting the strict good cause standard would "subvert the intent of the anti-SLAPP legislation." Sipple 71 Cal.App.4th at 247. In any event, "[t]he failure to comply with the statute by making a timely and proper showing . . . makes [her] discovery request meritless." Evans v. Unkow (1995) 38 Cal.App.4th 1490, 1499.

IV. CONCLUSION

For the foregoing reasons, and those stated in his Motion, Avenatti respectfully requests that the Court strike Bechard's second cause and third causes against Avenatti.

Dated: August 30, 2018

AVENATTI & ASSOCIATES, APC
By: _____
Ahmed Ibrahim, Esq.
Thomas Gray, Esq.

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action; my business address is 520 Newport Center Drive, Suite 1400, Newport Beach, CA 92660.

On August 30, 2018, I served the foregoing document described as: **DEFENDANT MICHAEL J. AVENATTI'S REPLY IN SUPPORT OF SPECIAL MOTION TO STRIKE (Cal. Civ. Proc. Code § 425.16)** on the following person(s) in the manner indicated:

SEE ATTACHED

[ ] **(BY MAIL)** I am familiar with the practice for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence so collected and processed is deposited with the United States Postal Service that same day in the ordinary course of business. On this date, a copy of said document was placed in a sealed envelope, with postage fully prepaid, addressed as set forth herein, and such envelope was placed for collection and mailing at 520 Newport Center Drive, Suite 1400, Newport Beach, California, following ordinary business practices.

[X] **(BY FEDEX/OVERNITE)** I am familiar with the practice for collection and processing of correspondence for delivery by overnight courier. Correspondence so collected and processed is deposited in a box or other facility regularly maintained by FedEx/Overnite that same day in the ordinary course of business. On this date, a copy of said document was placed in a sealed envelope designated by FedEx/Overnite with delivery fees paid or provided for, addressed as set forth herein, and such envelope was placed for delivery by FedEx at 520 Newport Center Drive, Suite 1400, Newport Beach, California, following ordinary business practices.

[ ] **(STATE)** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on August 30, 2018, at Newport Beach, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on August 30, 2018, at Newport Beach, California.

Suzy Garcia

Shera Bechard v. Elliott Broidy, *et al*
Case No. BC712913

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