

No. B268140

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT, DIVISION 8

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STATE BAR

WILLIAM H. COSBY, JR.,

Petitioner,

v.

SUPERIOR COURT FOR THE STATE OF CALIFORNIA,
COUNTY OF LOS ANGELES,

Respondent,

JANICE DICKINSON,

Real Party in Interest.

From an Order of the Superior Court for the County of Los Angeles
Case No. BC 580909
The Honorable Debre Weintraub
(213) 633-0647

**PLAINTIFF/RESPONDENT JANICE DICKINSON'S
OPPOSITION TO DEFENDANT/PETITIONER WILLIAM H.
COSBY, JR.'S PETITION FOR WRIT OF MANDATE OR OTHER
APPROPRIATE RELIEF;
MEMORANDUM OF POINTS AND AUTHORITIES**

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CERTIFICATE OF INTERESTED PARTIES

The undersigned hereby certifies that no entities or persons have either (1) an ownership interest of 10 percent or more in the party or parties filing this certificate (Cal. Rules of Court, Rule 8.208(e)(1)); or (2) a financial or other interest in the outcome of the proceeding that the justices should consider in determining whether to disqualify themselves (Cal. Rules of Court, Rule 8.208(e)(2)).

Dated: November 20, 2015



Vernon L. Ellicott

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff/Respondent Janice Dickinson is in a Catch-22 without the limited depositions sought on this motion. She is required to offer admissible evidence in support of each element of her defamation claim, including malice, in opposition to Defendant's anti-SLAPP motion. Yet, because discovery has been stayed by the anti-SLAPP statute, she is unable to obtain the best evidence of malice: The speakers' testimony as to their thinking (or lack thereof) and investigation (or lack thereof) when they decided to publicly and falsely excoriate her as a liar immediately after she revealed that Defendant/Petitioner William H. Cosby, Jr. drugged and raped her. Cal. Code of Civil Procedure § 425.16(g) addresses precisely this type of situation and offers an out: "The court . . . for good cause shown, may order that specified discovery be conducted." The court below held in its lengthy, thorough decision, that Defendant/Petitioner, having put malice at issue on the anti-SLAPP motion, has himself established "good cause" for Plaintiff/Respondent to conduct reasonable limited discovery on that element. No abuse of discretion exists.

II. STATEMENT OF FACTS

Plaintiff/Respondent Dickinson publicly disclosed in November 2014 that she was drugged and raped by Defendant/Petitioner Cosby. Plaintiff/Respondent is one of over three dozen victims who have now come forward with personal stories detailing Defendant/Petitioner Cosby's pattern of drugging and raping women over the course of 43 years. *See* Defendant/Petitioner's Ex. 9 at 240 [¶ 4] (Declaration of Kaprisha Vallecillo).

Defendant/Petitioner Cosby has actively engaged in suppressing the horrible truth of what he did to these victims over four decades. Defendant/Petitioner Cosby and his attorneys have trashed and maligned the reputations of his victims, and Defendant/Petitioner Cosby has demeaned and taunted his victims by publicly joking about drugging women and taking advantage of them. Plaintiff/Respondent Dickinson is one such victim who has been defamed and humiliated publicly by Defendant/Petitioner Cosby and by newly named Defendant Martin Singer.¹ The defamatory conduct by

¹ Plaintiff filed her First Amended Complaint on November 16, 2015. *See* Plaintiff/Respondent's Ex. A (First Amended Complaint).

Defendant/Petitioner Cosby and Defendant Singer is the subject of the underlying lawsuit. *See* Defendant/Petitioner's Ex. 1 (Complaint).

Defendant/Petitioner Cosby and Defendant Singer publicly branded Plaintiff/Respondent a liar, after her courageous rape disclosure, stating, among other things that her story "is fabricated and is an outrageous defamatory lie," "Her new Story claiming that she had been sexually assaulted is a defamatory fabrication..." and "That never happened, just like the alleged rape never happened," and "Ms. Dickinson completely fabricated the Story of alleged rape." *See* Defendant/Petitioner's Ex. 3 at 116-119 (Declaration of Martin Singer in support of Defendant's anti-SLAPP Motion)

Defendant/Petitioner Cosby's attack on Plaintiff/Respondent was disseminated worldwide by thousands of media entities. Plaintiff/Respondent suffered and continues to suffer a loss to her reputation and emotional distress from Defendant/Petitioner Cosby's re-victimizing her. Plaintiff/Respondent has also suffered from the loss of business contracts, business engagements, and business deals as a direct result of Defendant/Petitioner Cosby's defamatory press statements.

III. SUMMARY OF THE CURRENT LITIGATION.

Plaintiff/Respondent filed a Complaint alleging defamation and related claims by Defendant/Petitioner Cosby on May 20, 2015, and added Singer as a Defendant in an Amended Complaint filed November 16, 2015. Defendant/Petitioner Cosby filed a demurrer and an anti-SLAPP motion on June 22, 2015. Plaintiff/Respondent filed a Motion to Lift the Stay on Discovery on September 21, 2015. The trial court granted that motion on November 2, 2015.

Defendant/Petitioner Cosby now asks this court to overturn the trial court's decision. Defendant/Petitioner Cosby mistakenly asserts that the trial court must rule on all other issues pertinent to the anti-SLAPP motion before allowing discovery on the issue of malice in a defamation case. Plaintiff/Respondent, JANICE Dickinson, asserts that the discovery is necessary to oppose the anti-SLAPP motion and that the trial court therefore correctly found good cause to grant the limited discovery. The standard of review on a writ to overturn a discovery order in an anti-SLAPP motion is abuse of discretion.

The motion for relief of stay of discovery and the opposition both list various arguments and recount the "facts" of their respective positions. Not surprisingly, both parties disagree about the facts.

Defendant/Petitioner Cosby contends that Plaintiff/Respondent has issued contradictory statements about her relationship with Defendant/Petitioner Cosby. Petitioner/Respondent denies the contradictions and asserts that the allegations by Defendant/Petitioner Cosby are part of the defamatory conduct that has caused her much harm. Plaintiff/Respondent is a public figure and must prove malice as part of her prima facie case against Defendants. The disputed facts as to malice on the part of Defendant/Petitioner Cosby and Defendant Singer are exactly why Plaintiff/Respondent's motion to lift the stay on discovery should be upheld by this court, and ultimately why the anti-SLAPP motion should be denied by the trial court.

IV. ISSUE PRESENTED

Did the trial court abuse its discretion in ordering two limited depositions on the issue of malice where it is undisputed that Plaintiff-Respondent must offer evidence of malice in opposition to the anti-SLAPP motion?

V. PROCEDURAL HISTORY

On May 20, 2015, Plaintiff/Respondent filed a Complaint against Defendant/Petitioner Cosby in the Superior Court of the State of California for the County of Los Angeles. Plaintiff/Respondent

claims that a November 18, 2014 letter and November 19 press release (the “Defamatory Press Statements”) issued by Defendant/Petitioner Cosby's former attorney (now also a defendant in this case) contained false statements that harmed Plaintiff/Respondent’s reputation, and alleges causes of action for defamation, false light, and intentional infliction of emotional distress.

On June 22, 2015, Defendant/Petitioner Cosby demurred on the grounds that the Complaint does not state facts sufficient to constitute the causes of action, and is ambiguous as to the statements that are the basis of the claims asserted.

On June 22, 2015, Defendant/Petitioner Cosby moved to strike the Complaint pursuant to California Code of Civil Procedure Section 425.16 (the “anti-SLAPP Motion”).

On September 21, 2015, Plaintiff/Respondent moved to lift the automatic stay of discovery imposed by the SLAPP statute (the “Motion to Lift the Stay”). Plaintiff/Respondent filed several declarations in support of the Motion to Lift the Stay. Kaprishia Vallecillo, Esq., details Plaintiff/Respondent’s history of making the rape allegation against Defendant/Petitioner Cosby, and Defendant/Petitioner Cosby’s defamatory statements about

Plaintiff/Respondent and his refusal to retract his defamatory statements. Three declarations aver that Plaintiff/Respondent Dickinson told witnesses that Defendant/Petitioner Cosby raped her prior to other women coming forward publicly in 2005 with similar allegations. Edward Tricomi, Plaintiff/Respondent's hair stylist stated that Plaintiff/Respondent had told him in 1982 that Defendant/Petitioner Cosby drugged and raped her. Pablo Fenjves, a ghostwriter who assisted Plaintiff/Respondent in her autobiography said Plaintiff/Respondent told him in 2000 or 2001 that Defendant/Petitioner Cosby drugged and raped her. Judith Regan, President and Publisher of Ragan Books and publisher of Plaintiff/Respondent's autobiography, described how Plaintiff/Respondent told her and Pablo Fenjves that Defendant/Petitioner Cosby drugged and raped her prior to 2002. Ms. Regan said Plaintiff/Respondent wanted to disclose the rape in her autobiography, but the legal department would not allow the story to be published. *See* Defendant/Petitioner's Ex. 9 at 254-255 (Declaration of Kaprisha Vallecillo in support of Plaintiff's Motion to Lift the Stay of Discovery)

On October 19, 2015, Defendant/Petitioner Cosby opposed the Motion to Lift the Stay. No declaration from Defendant/Petitioner Cosby was included either in opposition to the Motion to Lift the Stay nor on the anti-SLAPP motion.

Plaintiff/Respondent replied to the Opposition on November 2, 2015. Plaintiff/Respondent filed supporting declarations by Lisa Bloom, Esq., who detailed Defendant/Petitioner Cosby's net worth and prior admissions in a 2006 lawsuit of drugging women for nonconsensual sex, including women who had not yet come forth to identify themselves as his victims, and the declaration of Plaintiff/Respondent who detailed how Defendant/Petitioner Cosby drugged and raped her, how she told others about it and how she was not permitted to disclose the drugging and rape in her autobiography.

The Superior Court heard oral argument on the Motion to Lift the Stay on November 2, 2015. In a lengthy written opinion, the Honorable Debra Weintraub carefully reviewed every argument raised by Defendant/Petitioner and found that Plaintiff/Respondent satisfied the prerequisite of showing Respondent/Petitioner's allegedly defamatory statements were provably false factual assertions (as opposed to "provably false facts" as mistakenly used by

Defendant/Petitioner Cosby) sufficient to permit discovery concerning actual malice as set forth in *Paterno v. Superior Court*, 163 Cal. App. 4th 1342, 1345-46, 78 Cal. Rptr. 3d 244, 247-48 (2008). The Superior Court ruled that because there were provably false factual assertions, there was good cause to lift the discovery stay because (1) the information necessary to establish actual malice is "in the hands" of Defendant/Petitioner Cosby and his former attorney, (2) that information cannot be obtained from informal discovery or other sources, and (3) malice is a prima facie element of Plaintiff/Respondent's claim and the discovery is necessary to prove her prima facie case. The court ordered two limited depositions, those of Defendant/Petitioner Cosby and his attorney who issued the Defamatory Press Statements, Martin Singer, on the issue of malice.

On November 9, 2015, Defendant/Petitioner Cosby filed an ex parte application with the Superior Court, requesting that the Order be stayed pending consideration of this petition. The Superior Court granted the request in part, staying the Order until November 17, 2015.

On November 16, 2015, Plaintiff/Respondent filed her First Amended Complaint adding MARTIN Singer as a defendant.

VI. STANDARD OF REVIEW

A. The Standard Of Review For A Writ To Review Discovery

Orders Is Abuse Of Discretion.

The standard of review applicable to review of discovery orders is abuse of discretion, as management of discovery lies within the sound discretion of the trial court. *Britts v. Superior Court*, 145 Cal.App.4th 1112, 1123 (2006) 52. Cal.Rptr.3d 185. Discretion is abused only when the trial court exceeds the bounds of reason and of the circumstances before it. The abuse of discretion standard is not met simply because a different ruling would have been better. *Denham v. Superior Court* (1960) 181 Cal.App.2d 345. 5 Cal.Rptr. 550.

B. Writs Should Not Be Granted Absent A Showing Of The Need For Extraordinary Relief.

“A petition for writ of mandate asks for extraordinary relief: it is outside normal channels of appellate review where issues are examined with slow deliberation on a full record after the trial is over.” (*Jones v. Super. Ct.* (1994) 26 Cal.App.4th 92, 100.) “[E]xtraordinary relief is supposed to be extraordinary.” (*Roden v. AmerisourceBergen Corp.* (2005) 130 Cal.App.4th 211, 213.)

**VII. RELIEF OF STAY OF DISCOVERY WAS NECESSARY
AND APPROPRIATE UNDER CALIFORNIA CODE OF CIVIL**

PROCEDURE §425.16(g)

California Code of Civil Procedure § 425.16(g) states:

(g) All discovery proceedings in the action shall be stayed upon the filing of a notice of motion made pursuant to this section. The stay of discovery shall remain in effect until notice of entry of the order ruling on the motion. The court, on noticed motion and for good cause shown, may order that specified discovery be conducted notwithstanding this subdivision.

California Code of Civil Procedure § 425.16(g) stays discovery in an anti-SLAPP motion. However, § 425.16(g) does not preclude discovery entirely, but rather anticipates situations like this one where “good cause” for discovery exists, and sets forth the procedure and reasons to allow discovery in an anti-SLAPP motion.

A. Public Policy Supports Lifting The Stay When Lifting The Stay Supports Plaintiff/Respondent’s Due Process Rights.

Petitioner/Respondent has due process rights recognized by case law that § 425.16(g) protects. Those rights allow her the opportunity to present a defense to the anti-SLAPP motion on an issue vital to her prima facie case. Without relief from the stay,

Plaintiff/Respondent would not have the ability to present a defense to the anti-SLAPP motion even though the burden is on Plaintiff/Respondent to present such a defense.

[T]he discovery stay and 30-day hearing requirement of section 425.16 literally applied in all cases might well adversely implicate a Plaintiff/Respondent's due process rights, particularly in a libel suit against a media Defendant.” *Lafayette Morehouse, Inc. v. Chronicle Publ'g Co.*, 37 Cal. App. 4th 855, 867-68, 44 Cal. Rptr. 2d 46, 54 (1995)

- The above statement in *Lafayette Morehouse* may be dictum, but it has been quoted and adopted by several subsequent cases.

The court in *Lafayette Morehouse, Inc. v. Chronicle Publishing Co.*, *supra*, 37 Cal.App.4th 855, 44 Cal.Rptr.2d 46 recognized the discovery stay and 30-day hearing requirement of section 425.16, if literally applied in all cases, could adversely affect a Plaintiff/Respondent's due process rights by placing the burden on the Plaintiff/Respondent to show a prima facie case without permitting the collection of evidence needed to satisfy that burden. (*Id.* at p. 868, 44 Cal.Rptr.2d 46.) *Schroeder v. Irvine City Council*, 97 Cal. App. 4th 174, 190-91, 118 Cal. Rptr. 2d 330, 343 (2002)

It is presumed that the Legislature intended to enact a valid statute. *People v. Davenport* (1985) 41 Cal.3d 247, 264, 221 Cal.Rptr. 794, 710 P.2d 861. Anti-SLAPP legislation, therefore, must be *constitutional* or it is of no benefit to SLAPP victims, the court or the

public. In order to satisfy due process and the burden placed on the Plaintiff/Respondent, she must be allowed the limited opportunity to conduct discovery.

B. Granting Relief From The Stay Is Within The Trial

Court's Discretion And The Court Should Exercise It

Liberally.

Section 425.16(g) provides for relief of a discovery stay in an anti-SLAPP motion, so the court obviously has the ability and discretion to grant that relief of stay. Numerous cases have held that a court must exercise its discretion liberally when Plaintiff/Respondent needs discovery to establish her prima facie case.

“If the Plaintiff/Respondent makes a timely and proper showing in response to the motion to strike, that a Defendant/Petitioner or witness possesses evidence needed by Plaintiff/Respondent to establish a prima facie case, the Plaintiff/Respondent must be given the reasonable opportunity to obtain that evidence through discovery before the motion to strike is adjudicated.” *Lafayette Morehouse, Inc. v. Chronicle Publ'g Co.*, 37 Cal. App. 4th 855, 867-68, 44 Cal. Rptr. 2d 46, 54 (1995)

The trial court, therefore, must liberally exercise its discretion by authorizing reasonable and specified discovery timely petitioned for by a Plaintiff/Respondent in a case such as this, when evidence to establish a prima facie case is reasonably shown to be held, or known, by Defendant/Petitioner or its agents and employees. *Lafayette Morehouse, Inc. v. Chronicle Publ'g Co.*, 37 Cal. App. 4th 855, 867-68, 44 Cal. Rptr. 2d 46, 54 (1995)

The decision whether to lift the discovery stay is within the trial court's discretion. (*Tutor-Saliba Corp. v. Herrera* (2006) 136 Cal.App.4th 604, 617.)

**VIII. THE TRIAL COURT APPROPRIATELY LIFTED THE
STAY TO ALLOW PLAINTIFF/RESPONDENT TO
DEMONSTRATE A PRIMA
FACIE SHOWING OF ACTUAL MALICE.**

A. The Legal Standard for Actual Malice.

Malice is a question of knowledge, motive and investigation – all matters provable only via testimony from Defendant Singer and Defendant/Respondent Cosby as to what they thought and did or failed to do on or about November 18 and 19, 2014, when they went on the attack against Plaintiff/Respondent Dickinson. Malice is provable by evidence of defendant's knowledge that his statement was false or with reckless disregard of whether it was false or not. *New York Times Co. v. Sullivan* (1964) 376 U.S. 254, 285-286; *Harte-Hanks Commc'ns, Inc. v. Connaughton*, (1989) 491 U.S. 657, 667. "Reckless disregard" is established when there is "sufficient evidence to permit the conclusion that the defendant in fact entertained serious doubts as to the truth of his publication" *St. Amant v. Thompson*,

(1968) 390 U.S. 727, 731 or a “high degree of awareness of ... probable falsity,” *Garrison v. Louisiana*, (1964) 379 U.S. 64, 74. A defendant's failure to investigate that is a product of a deliberate decision not to acquire knowledge of facts that might confirm the probable falsity of [the subject] charges,” amounts to a “ ‘purposeful avoidance of the truth’ ” sufficient to support a finding of malice. (*Antonovich v. Superior Court* (1991) 234 Cal.App.3d 1041, 1053) *Christian Research Institute v. Alnor*, (2007) 148 CA4th 71, 90.

B. The Trial Court Found Plaintiff/Respondent Must Demonstrate a Prima Facie Showing of Actual Malice To Defeat An Anti-SLAPP Motion.

Plaintiff/Respondent, as a public figure, must show actual malice in order to defeat Defendant/Plaintiff's anti-SLAPP motion. *McGarry v. University of San Diego*, 154 Cal. App. 4th 97, 123, 64 Cal. Rptr. Ed, 467 (4th Dist. 2007). Plaintiff/Respondent contends that the only parties who have actual knowledge of whether there was malice are the Defendant/Petitioner Cosby and Defendant Singer. This is not denied by the Defendants. Without the ability to take their depositions, Plaintiff/Respondent is greatly, if not completely, precluded from showing malice as part of her prima facie case.

Defendant Singer has served as Defendant/Petitioner Cosby's counsel for many years. In 2006, Defendant Singer was one of the several attorneys who represented Defendant/Respondent Cosby in a case that is remarkably similar to the case at hand where Defendant/Respondent Cosby was accused of drugging and sexually assaulting Andrea Constand. More than three dozen women have now come forward with accounts of sexual assault against the Defendant/Respondent Cosby that mirror Plaintiff/Respondent 's and Ms. Constand's allegations. Defendant Singer presumably knows of the truth underlying allegations as Defendant/Respondent Cosby's counsel and his agent in trashing and defaming the reputations of the many women who have finally summoned the courage to come forward to hold Defendant/Respondent Cosby accountable for his heinous actions over the course of many years, In Plaintiff/Respondent's case, Defendant/Respondent Cosby through his agent, Defendant Singer, made defamatory statements ridiculing Plaintiff/Respondent's rape allegations and trashing her reputation knowing that such statements were palpably false. See Defendant/Petitioner's Ex. 3 at 116-121 (Declaration of Martin Singer in support of Defendant's anti-SLAPP Motion). Defendant Singer as

Defendant/Respondent Cosby's agent, at the very least, must have seriously doubted the truth of his statements.

Plaintiff/Respondent believes Defendant Singer's statements on behalf of Defendant/Respondent Cosby were knowingly false or were made with reckless disregard as to their falsity. Plaintiff/Respondent believes that her discovery will prove actual malice on the part of the defendants.

The trial court granted the relief of stay to conduct discovery solely for the purpose of Plaintiff/Respondent gathering evidence of malice in her defense of the anti-SLAPP motion. The trial court stated:

PLAINTIFF HAS A NEED FOR THE REQUESTED DEPOSITION TESTIMONY, REGARDING MALICE WHICH IS A NECESSARY ELEMENT OF PLAINTIFF'S DEFAMATION CAUSE OF ACTION. BECAUSE THIS IS A CELEBRITY, SHE'S A PUBLIC FIGURE AS TO WHICH DEFENDANT'S MALICE IN MAKING THE DEFAMATORY STATEMENT MUST BE SHOWN. MALICE IS AN ELEMENT OF DEFAMATION WHERE A PLAINTIFF IS A PUBLIC FIGURE. (See Defendant/Petitioner Ex. 16 at 408-9 [¶ 3] (*Transcript p.8-9*))

**IX. PLAINTIFF/RESPONDENT HAS MET THE
REQUIREMENTS FOR LIFTING THE STAY ON
DISCOVERY**

Plaintiff/Respondent must demonstrate good cause to lift the stay on discovery according to § 425.16(g). The trial court reviewed Plaintiff/Respondent's motion to lift the stay along with Defendant/Petitioner Cosby's opposition to the motion. The trial court found that there was good cause to lift the stay on discovery. The court in *Britts* cited a long string of cases that held that discovery can be permitted in an anti-SLAPP motion for good cause when it is necessary and narrowly tailored. *Britts v. Superior Court*, 145 Cal.App.4th 1112, (2006) 52 Cal.Rptr.3d 185.

“Once an anti-SLAPP motion is filed, all of these discovery processes are stayed, unless the Plaintiff/Respondent obtains an order permitting specified discovery for good cause shown. (§ 425.16, subd. (g).) Even then, case law has interpreted good cause in this context to require a showing that the specified discovery is necessary for the Plaintiff/Respondent to oppose the motion and is tailored to that end. (*Tutor-Saliba Corp. v. Herrera, supra*, 136 Cal.App.4th at p. 617, 39 Cal.Rptr.3d 21; *Carver v. Bonds* (2005) 135 Cal.App.4th 328, 359, 37 Cal.Rptr.3d 480; *Blanchard v. DIRECTV, Inc.* (2004) 123 Cal.App.4th 903, 922, 20 Cal.Rptr.3d 385; *1-800 Contacts, Inc. v. Steinberg* (2003) 107 Cal.App.4th 568, 593, 132 Cal.Rptr.2d 789; *Mattel, Inc. v. Luce, Forward,*

Hamilton & Scripps, supra, 99 Cal.App.4th at pp. 1189–1190, 121 Cal.Rptr.2d 794; *Slauson Partnership v. Ochoa, supra*, 112 Cal.App.4th at p. 1021, 5 Cal.Rptr.3d 668.)” *Britts v. Superior Court*, 145 Cal.App.4th 1112, 1125 (2006) 52. Cal.Rptr.3d 185.

A. The Trial Court Found That The Defamatory Statements Herein Are Provably False Factual Assertions as a Foundation For Good Cause To Conduct Discovery Concerning Actual Malice.

Defendant/Petitioner Cosby asserts that Plaintiff/Respondent has failed to satisfy her burden to establish that Defendant/Petitioner Cosby’s defamatory statements are provably false assertions. Defendant/Petitioner Cosby is confusing the phrase “provably false factual assertions” with “proving false assertions” or “false assertions.” To establish provably false factual assertions in an anti-SLAPP motion, Plaintiff/Respondent has to show merely that the statements are *capable* of being proven false – that is, that they are statements of fact, rather than opinion -- a lower threshold than actually proving their falsity at this early stage of the case.

The *Paterno* case cited by both parties, but particularly Defendant/Petitioner Cosby, clearly states that discovery can be

conducted after Plaintiff/Respondent demonstrates that Defendants' statements were provably false factual statements. Defendant/Petitioner Cosby misreads *Paterno*. There, the Plaintiff, Ampersand Publishing, a newspaper publisher, brought a defamation action against Susan Paterno for an article she wrote in the American Journalism Review. The Defendant filed an anti-SLAPP motion and the Plaintiff brought a motion to lift the stay on discovery under *California Code of Civil Procedure* § 425.16., which was granted. The trial court failed to find the allegedly defamatory statements were provably false factual assertions but granted the motion to lift the stay on discovery anyway. The Defendant sought a writ to overturn the trial court's orders. The appellate court reviewed the issues and stated that "[P]laintiffs who bring defamation actions subject to the constitutional malice standard cannot show good cause for discovery on the question of actual malice *without* making a prima facie showing that the defendant's published statements contain provably false factual assertions." *Paterno v. Superior Court*, 163 Cal. App. 4th 1342, 1349, 78 Cal. Rptr. 3d 244, 250 (2008). Emphasis added. In *Paterno*, the Plaintiff did not make a prima facie showing that the allegedly defamatory statements were provably false factual

statements; therefore, there was no good cause to lift the stay on discovery. If the newspaper Plaintiff had made a prima facie showing that the allegedly defamatory statements were provably false factual statements, it would have met the good cause requirement to lift the stay on discovery and Defendant's writ would have been denied.

Unlike in *Paterno*, the trial court in the current case reviewed the motion and opposition in this case and found that the alleged defamatory statements by Defendant/Petitioner Cosby *were* provably false factual assertions.

PLAINTIFF ALLEGES THAT THE PRESS STATEMENT CONTAINS FALSE STATEMENTS BECAUSE IT ACCUSES PLAINTIFF DICKINSON OF LYING ABOUT AND FABRICATING THE ALLEGATION THAT DEFENDANT COSBY HAD DRUGGED AND SEXUALLY ASSAULTED PLAINTIFF/RESPONDENT IN 1982. THE NOVEMBER 18TH AND NOVEMBER 19, 2014, PRESS STATEMENTS ASSERT THAT PLAINTIFF/RESPONDENT WAS LYING AND THAT SHE HAD FABRICATED THE STORY OF RAPE WITH THE PRESS STATEMENTS CLAIM NEVER HAPPENED. THESE ARE PROVABLE FALSE ACCUSATIONS ASSERTIONS, FALSE ASSERTIONS OF FACT BECAUSE A REASONABLE FACTFINDER COULD CONCLUDE THAT THE PRESS STATEMENTS DECLARE OR IMPLY PROVABLE FALSE ASSERTIONS OF FACT, THAT IS, IF THE RAPE NEVER HAPPENED, A FACTUAL ASSERTION, AND PLAINTIFF/RESPONDENT IS LYING, ANOTHER FACTUAL ASSERTION.

IN OTHER WORDS, EITHER THE RAPE DID OCCUR OR IT DID NOT OCCUR, AND IN THIS REGARD PLAINTIFF/RESPONDENT EITHER IS TELLING THE TRUTH OR NOT TELLING THE TRUTH. THE PRESS STATEMENTS PRESENT THE FACTUAL ASSERTION THAT THE RAPE DID NOT OCCUR AND THAT PLAINTIFF/RESPONDENT IS LYING. PLAINTIFF'S FACTUAL POSITION, ON THE OTHER HAND, IS THAT THE RAPE DID OCCUR, AND THUS SHE'S NOT LYING, CONTRARY TO WHAT THE PRESS STATEMENT SAYS ABOUT PLAINTIFF/RESPONDENT.

THE COURT FINDS THAT PLAINTIFF HAS SATISFIED THE PREREQUISITE OF PROVABLE FALSE FACTS SUFFICIENT TO PERMIT DISCOVERY, CONCERNING ACTUAL MALICE AS SET FORTH IN THE PATERNO CASE. (*See* Defendant/Petitioner Ex. 16 at 44-6 [¶ 3] (*Transcript of Hearing*, pp. 4-6.)

Whether someone has been raped or not is a factual question. That is what the lower court in this case held. Plaintiff/Respondent claims that she was raped by the Defendant/Petitioner Cosby more than 30 years ago and since then she has told several people about this horrifying incident. Edward Tricomi, Plaintiff/Respondent's hair stylist stated that Plaintiff/Respondent had told him in 1982 that Defendant/Petitioner Cosby drugged and raped her. Pablo Fenjves said Plaintiff/Respondent told him in 2000 or 2001 that Defendant/Petitioner Cosby drugged and raped her. Judith Regan

described how Plaintiff/Respondent told her and Pablo Fenjves that Defendant/Petitioner Cosby drugged and raped her. Ms. Regan said Plaintiff/Respondent wanted to put that in her autobiography, but the legal department would not allow the story to be published. Glaringly, Defendant/Respondent Cosby does not deny drugging and raping Plaintiff/Respondent by way of declaration on this motion for relief of the stay on discovery or on his anti-SLAPP motion. Thus, Defendant/Petitioner Cosby's statements calling Plaintiff/Respondent a liar are not only provably false, they are false.

B. Defendant And His Agents Are In Principal Control Of Information Necessary To Establish Prima Facie Case.

Once a court finds that the alleged defamatory statements are provably false factual assertions, the court must determine if there is good cause for relief from the stay on discovery. The first factor in determining good cause is whether the Defendant/Petitioner Cosby and his agents are in control of the information necessary to establish Plaintiff/Petitioner's prima facie case and in particular the information about malice.

Surely the fact evidence necessary to establish the Plaintiff/Respondent's prima facie case is in the hands of the Defendant/Petitioner or a third party goes a

long way toward showing good cause for discovery. *Garment Workers Ctr. V. Superior Court*, 117 Cal. App. 4th 1156, 1162, 12 Cal. Rptr. 3d 506, 509 (2004); *Fuchs v. Levine*, No. B220010, 2011 WL 507258, at *12 (Cal. Ct. App. Feb. 15, 2011)

Defendant/Petitioner Cosby has not introduced any evidence showing that he himself believes that the published statements about Plaintiff/Respondent are false, despite publishing that the rape is a lie and refusing to retract said statements. Defendant/Petitioner Cosby does not deny being present in the same city and state as Plaintiff/Respondent on the night of the rape. Defendant/Petitioner Cosby does not deny being in the same hotel as Plaintiff/Respondent on the night of the rape. Defendant/Petitioner Cosby does not deny that he engaged in sexual acts with Plaintiff/Respondent on the night of the rape. ***Defendant/Petitioner Cosby does not deny that the sexual acts he engaged in with Plaintiff/Respondent were non-consensual.***

Even though Plaintiff/Respondent knows that she was raped and drugged by Defendant/Petitioner Cosby, Defendant/Petitioner Cosby and Defendant Singer are the principals in control of information about their state of mind when they published false and injurious statements regarding Plaintiff/Respondent and called

Plaintiff/Respondent a liar for claiming that she was raped and drugged by Defendant/Petitioner Cosby.

The lower court in this case considered who had principal control over the information regarding the state of mind of Defendant/Respondent and his attorney who made the Defamatory Press Statements and properly concluded that they did, and that this satisfied the first test for good cause to lift the stay on discovery.

THE COURT FOUND GUIDANCE IN THE GARMENT WORKERS CENTER VERSUS SUPERIOR COURT CASE 2 004, 117 CAL.APP.4TH 1156. FIRST, GOOD CAUSE FACTOR NO. 1, WHERE EVIDENCE NECESSARY TO ESTABLISH THE PLAINTIFF'S PRIMA FACIE CASE IS IN THE HANDS OF THE DEFENDANT. HERE, THE EVIDENCE NECESSARY TO ESTABLISH THE ELEMENT OF MALICE NECESSARY TO PLAINTIFF'S PRIMA FACIE CASE IS IN THE HANDS OF DEFENDANT Cosby AND MR. Singer, HIS ATTORNEY, WHO ISSUED THE PRESS STATEMENTS.

PERTINENT EVIDENCE REGARDING MALICE, PERTAINING TO THE STATEMENTS MADE IN THE PRESS STATEMENT IS MR. COSBY HIMSELF AND MR. SINGER AS THE PERSON RESPONSIBLE FOR THEIR ISSUANCE. (*See Defendant/Petitioner Ex. 16 at 407 [¶ 3] (Transcript p.7)*)

**C. The Information Plaintiff/Respondent Seeks To
Obtain Through Formal Discovery Proceedings Is Not Readily
Available From Other Sources And Cannot Be Obtained Through
Informal Discovery.**

The second factor in determining good cause for relief of the stay on discovery is whether the discovery requested is available through sources other than the defendants or can be obtained through informal discovery.

A threshold issue to a libel Plaintiff/Respondent's request to lift the ban on discovery while an anti-strategic lawsuit against public participation (SLAPP) motion is pending is whether information the Plaintiff/Respondent seeks to obtain through formal discovery proceedings is readily available from other sources or can be obtained through informal discovery. *Paterno v. Superior Court*, 163 Cal. App. 4th 1342, 1345-46, 78 Cal. Rptr. 3d 244, 247-48 (2008)

The trial court should consider whether the information the Plaintiff/Respondent seeks to obtain through formal discovery proceedings is readily available from other sources or can be obtained through informal discovery. *Garment Workers Ctr. V. Superior Court*, 117 Cal. App. 4th 1156, 1162, 12 Cal. Rptr. 3d 506, 509 (2004)

The trial court in this case again considered the issue of whether the information Plaintiff/Respondent seeks is available through other sources or informal discovery. The lower court found:

SECOND, GOOD CAUSE FACTOR NO. 2, WHETHER THE INFORMATION THE PLAINTIFF SEEKS TO OBTAIN THROUGH FORMAL DISCOVERY PROCEEDINGS IS READILY AVAILABLE FROM OTHER SOURCES OR CAN BE OBTAINED THROUGH INFORMAL DISCOVERY.

NUMBER TWO, HERE, THE INFORMATION PLAINTIFF SEEKS TO OBTAIN THROUGH TAKING MR. COSBY AND MR. SINGER'S DEPOSITION, REGARDING MALICE, WAS NOT READILY AVAILABLE FROM OTHER SOURCES NOR CAN BE OBTAINED FROM INFORMAL SOURCES -- DISCOVERY. THIS FACTOR FAVORS THE FINDING OF GOOD CAUSE AS TO THE TAKING OF THE DEPOSITIONS OF MR. Cosby AND MR. Singer AS TO THE ISSUES OF MALICE, RELATING TO THE PRESS STATEMENTS. ..." (See Defendant/Petitioner Ex. 16 at 408 [¶ 3] (*Transcript p.8*))

Only the Defendants know what was in their minds when they falsely denied Defendant/Petitioner Cosby raped and drugged Plaintiff/Respondent. Defendant/Petitioner Cosby has never expressed his own grounds for denying the rape. It is unclear from Defendant/Petitioner Cosby's anti-SLAPP motion whether Defendant/Petitioner Cosby himself believes that he did not rape Plaintiff/Respondent, even though the statement Defendants published explicitly denies that Defendant/Petitioner Cosby raped Plaintiff/Respondent. The fact that the evidence necessary to establish the Plaintiff/Respondent's prima facie case is in the hands of the

Defendant/Petitioner Cosby and Defendant Singer, “goes a long way toward showing good cause for discovery.” *Garment Workers Ctr. v. Superior Court*, 117 Cal. App. 4th 1156, 1162, 12 Cal. Rptr. 3d 506, 509 (2004); *Fuchs v. Levine*, No. B220010, 2011 WL 507258, at *12 (Cal. Ct. App. Feb. 15, 2011).

D. Plaintiff/Respondent Has Identified Factual Issues To Be Established Through Discovery And Has Demonstrated Their Relevance.

Numerous cases have held that good cause exists to lift the stay on discovery in an anti-SLAPP motion when the trial court finds that the moving party has identified factual issues she needs to discover, and those issues relate to her prima facie case.

To justify lifting the discovery stay, the Plaintiff/Respondent must demonstrate that the proposed discovery is both necessary in the context of the issues raised by the anti-SLAPP motion and must explain what facts the Plaintiff/Respondent expects to uncover. (*1-800 Contacts, Inc. v. Steinberg* (2003) 107 Cal.App.4th 568, 593.)

The statutorily imposed discovery stay upon the filing of an Anti-SLAPP motion may be lifted to permit specified discovery limited to issues raised in the special motion to strike. *Ruiz v. Harbor View Community Association* (2005) 134 Cal.App.4th 1456, 1475. Defendant/Petitioner Cosby’s anti-SLAPP motion pointedly raises the issue of malice. In Defendant/Petitioner Cosby’s anti-SLAPP motion,

he argues that, “a public figure alleging defamation must prove, by clear and convincing evidence, that the speaker made the allegedly libelous statements with actual malice...” (See Defendant/Petitioner Ex. 2 at 31 [¶ 3] (Defendant’s anti-SLAPP Motion). Accordingly, Plaintiff/Respondent must now produce evidence known to Defendant/Petitioner Cosby and Defendant Singer pertaining to Defendant’s actual malice, and can do so only if this Court lifts the present stay of discovery. See *Garment Workers Ctr.*, 117 Cal.App.4th at 1162 (“The court should also consider the plaintiff’s need for discovery in the context of the issues raised in the SLAPP motion.”))

Defendant/Petitioner Cosby’s anti-SLAPP motion avoids the most significant contentious issue in this case, Defendant/Petitioner Cosby’s intent (malice) in publishing the defamatory statements. Plaintiff/Respondent seeks to lift the current stay of discovery for the narrow purpose of deposing Defendant/Petitioner Cosby and his agent, Defendant, Singer. Deposing Defendant/Petitioner Cosby and his agent, Defendant, Singer will demonstrate that Defendant/Petitioner Cosby either published the defamatory statements knowing of their falsity or in reckless disregard of the truth. The trial court, in granting Plaintiff/Respondent’s motion to lift the stay on discovery, issued a very narrowly framed order about the terms of the allowed discovery. The purpose of the allowed discovery is only to assess whether Defendant/Petitioner Cosby and Defendant, Singer, possessed malice in making the alleged defamatory statements. The court also noted that proving malice is a necessary element in defending the anti-SLAPP motion. The trial court stated:

THIRD, GOOD CAUSE FACTOR THREE, THE PLAINTIFFS NEED FOR DISCOVERY IN THE CONTEXT OF THE ISSUES RAISED IN ANTI-SLAPP MOTION. PLAINTIFF HAS A NEED FOR THE REQUESTED DEPOSITION TESTIMONY, REGARDING MALICE WHICH IS A NECESSARY ELEMENT OF PLAINTIFF'S DEFAMATION CAUSE OF ACTION. BECAUSE THIS IS A CELEBRITY, SHE'S A PUBLIC FIGURE AS TO WHICH DEFENDANT'S MALICE IN MAKING THE DEFAMATORY STATEMENT MUST BE SHOWN.

MALICE IS AN ELEMENT OF DEFAMATION WHERE A PLAINTIFF IS A PUBLIC FIGURE. AS DISCUSSED ABOVE, THE THRESHOLD SHOWING OF PROVABLE FALSE FACTS SUFFICIENT TO PERMIT DISCOVERY CONCERNING ACTUAL MALICE AS SET FORTH IN THE PATERNO CASE.

THIS FACTOR, THE THIRD FACTOR FAVORS A FINDING OF GOOD CAUSE AS TO THE TAKING OF THE DEPOSITIONS OF MR. COSBY AND MR. Singer AS TO THE ISSUE OF MALICE AS IT PERTAINS TO THE PRESS STATEMENTS. (See Defendant/Petitioner Ex. 16 at 408-9 [¶ 3] (Transcript p.8-9))

E. The Decision Below Was Narrowly Tailored.

Case law is clear that discovery in an anti-SLAPP motion must be limited to issues raised by the motion to lift the stay on discovery.

Although discovery is generally closed once an anti-SLAPP motion has been filed, the trial court may allow discovery limited to the issues raised by the motion upon a timely and proper showing, which includes “good cause” for the requested discovery. *Tutor-Saliba Corp. v. Herrera*, 136 Cal. App. 4th 604, 39 Cal. Rptr. 3d 21 (1st Dist. 2006) Citing Code Civ. Proc. § 425.16(g).)

Further discovery should be limited to the issues raised in the special motion to strike. *Mattel, Inc. v. Luce, Forward, Hamilton & Scripps*, 99 Cal. App. 4th 1179, 1190, 121 Cal. Rptr. 2d 794 (2d Dist. 2002)

The discovery stay thus may be lifted “to permit specified discovery limited to the issues raised in the special motion to strike.” *Ruiz v. Harbor View Community Association* (2005) 134 Cal.App.4th 1456, 1475.

Once again, the lower court limited discovery allowed only to the issue of malice on the part of Defendant/Petitioner Cosby, which is exactly what Plaintiff/Respondent requested in her motion.

X. THE COURT DOES NOT HAVE TO RESOLVE ALL OTHER LEGAL DEFENSES BEFORE ALLOWING DISCOVERY ON THE ISSUE OF MALICE.

Defendant/Petitioner Cosby completely misconstrues both *Garment Workers* and *Paterno*. Those cases *do not* show that all other defenses to the Anti-SLAPP motion must be resolved before discovery on the issue of malice may take place. Quite the opposite, they endorse discovery on the issue of malice if there is good cause and it is necessary to prove the issue of malice as part of Plaintiff/Respondent’s prima facie case, as is the case here.

In *Garment Workers v. Superior Court*, the court specifically considered whether all other factors in a defamation case must be

decided before granting relief from the stay on discovery. The factors considered by the *Garment Workers* case are exactly the issues considered by the trial court in this case.

In *Lafayette Morehouse, Inc. v. Chronicle Publishing Co.*, a libel action, the court concluded good cause to lift the SLAPP statute's discovery ban exists “[i]f the Plaintiff/ makes a timely and proper showing in response to the motion to strike, that a Defendant or witness possesses evidence needed by Plaintiff to establish a prima facie case[.]” The court noted Plaintiff's discovery in a libel suit “is of prime import” because the Defendant “will generally be the principal, if not the only, source of evidence concerning such matters as whether the Defendant knew the statement published was false, or published the statement in reckless disregard of whether the matter was false and defamatory, or acted negligently in failing to learn whether the matter published was false and defamatory.” The court's opinion suggests it would have found good cause to permit the Plaintiff to engage in discovery on the issue of malice prior to the hearing on Defendant's SLAPP motion had the Plaintiff/Respondent sought such permission. The Plaintiff/Respondent, however, did not seek to have the discovery ban lifted . . . We are in general agreement, however, with the *Lafayette* court's analysis of good cause for lifting the ban on discovery while a SLAPP motion is pending.. *Garment Workers v. Superior Court* (2004) 117 Cal.App.4th 1156, 1161-1162, 12 Cal.Rptr.3d 506.

Nothing in *Paterno* stated that all elements of Plaintiff/Respondent's defense to the anti-SLAPP motion must be decided before the trial court grants a motion lifting the stay on discovery. The *Paterno* case reviewed discovery in the context of an

anti-SLAPP motion and concluded that once the lower court determines that the allegedly defamatory statements are provably false assertions, the court *can* allow discovery based on good cause, but not until then. *Paterno v. Superior Court*, 163 Cal. App. 4th 1342, 1349, 78 Cal. Rptr. 3d 244, 250 (2008). Emphasis added.

Therefore, the lower court need not decide all other issues in the anti-SLAPP motion before granting relief on Plaintiff/Respondent's motion for relief of stay on discovery.

**XI. DEFENDANT/PETITIONER Cosby'S MULTIPLE
DEFENSES ARE IN FACT ISSUES FOR THE TRIAL COURT
AS A TRIER OF FACT AND GROUNDS TO DENY
THE ANTI-SLAPP MOTION.**

Defendant/Petitioner Cosby argues that his statements are not defamatory and they should be resolved as a matter of law without discovery because;

- i. the statements are privileged as "predictable opinion"
- ii. the statements express opinions based on disclosed facts;
- iii. the statements are substantially true.
- iv. the statements cannot be imputed to defendant under agency principles, and

v. the state of mind of defendant's counsel is already well-established.

None of these arguments has merit.

A. The Statements Are Not Protected as Predictable Opinion.

The statements at issue in this case, like “the alleged rape never happened” are statements of fact, not opinion, as the court below held. Rape is a fact, not an opinion.

Even statements of opinion do not enjoy broad protection, if they imply “false, defamatory implications” or “a knowledge of facts which lead to a defamatory conclusion.”

“In *Milkovich*, the United States Supreme Court rejected the contention that statements of opinion enjoy blanket constitutional protection. The Supreme Court reasoned that “[s]imply couching such statements in terms of opinion does not dispel these [false, defamatory] implications” because a speaker may still imply “a knowledge of facts which lead to the [defamatory] conclusion” (*id.* at p. 18). The Court explained that expressions of opinion may imply an assertion of objective fact. For example, “[i]f a speaker says, ‘In my opinion John Jones is a liar,’ he implies a knowledge of facts which lead to the conclusion that Jones told an untruth. Even if the speaker states the facts upon which he bases his opinion, if those facts are either incorrect or incomplete, or if his assessment of them is erroneous, the statement may still imply a false assertion of fact.” Statements of opinion that imply a false assertion of fact are actionable.” *Franklin v. Dynamic Details, Inc.* (2004) 116 Cal. App. 4th 375, 385 (citations omitted.)

B. The Statements Are on Disputed Facts

Plaintiff/Respondent's declaration establishes that Defendant/Petitioner Cosby's defamatory statements were provably false. In the alternative, in the event this Court requires a minimal showing of proof in support of Plaintiff/Respondent's allegations, her sworn declaration averring to the drugging, rape and aftermath is in the record. *See* Defendant/Petitioner's Ex. 14 at 320-332 (Declaration of Plaintiff Janice Dickinson in support of Plaintiff's Reply Brief to Motion to Lift Stay of Discovery)

C. The Statements are Provably False.

The argument that calling a woman disclosing a Bill Cosby rape is merely nonactionable opinion statement has already been rejected by the United States District Court, District of Massachusetts Judge's Memorandum and Order Regarding Defendant/Petitioner Cosby's Motions to Dismiss (the "Order")². *See* Defendant/Petitioner's Ex. 15 at 341-379 (Exhibit B to Declaration of Lisa Bloom in Support of Plaintiff's Reply Brief to Motion to Lift Stay of Discovery). The Order was entered on October 9, 2015 in that

² *Tamara Green, et al. v. William H. Cosby, Jr.*, Case No. 3:14-cv-30211-MGM, United States District Court, District of Massachusetts, filed 10/09/15, Document 89.

case with almost identical factual allegations. In the Order the District Judge Mark Mastroianni discussed each and every one of Defendant/Petitioner Cosby's similar assertions in detail and after applying California law relative to the claims of a Plaintiff in that action, he denied each of Defendant/Petitioner Cosby's assertions. Regarding the truthfulness of Plaintiff/Respondent's allegations of sexual assault against the Defendant/Petitioner Cosby in that case the court stated, "Plaintiff/Respondent Green's allegations detail a specific set of events that either occurred substantially as alleged or were fabricated, leaving no room for an honest mistake." See Defendant/Petitioner's Ex. 15 at 364 (Exhibit B to Declaration of Lisa Bloom in Support of Plaintiff's Reply Brief to Motion to Lift Stay of Discovery). The court further found that Defendant/Petitioner Cosby's defamatory statements in that case were not "predictable opinions" which have been used by California courts only in limited circumstances, nor were they privileged in any way.

Defendant/Petitioner Cosby has substantially corroborated Plaintiff/Respondent's claims in yet another a strikingly similar action, *Constand v. Cosby*, where he admitted under oath to illegally obtaining sedatives from a shady doctor and using them to drug

unnamed women into sexual submission. (Defendant Singer appears to have been present at that deposition.) Plaintiff/Respondent, sadly, is one of those women.

In the *Constand* matter, Defendant/Petitioner Cosby was asked in a deposition:

Q. When you got the Quaaludes, was it in your mind that you were going to use these Quaaludes for young women that you wanted to have sex with?

Mr. Cosby: Yes.

See Defendant/Petitioner's Ex. 15 at 380-386 (Exhibit C to Declaration of Lisa Bloom in Support of Plaintiff's Reply Brief to Motion to Lift Stay of Discovery).

Defendant/Petitioner Cosby admitted obtaining the sedatives fraudulently from a gynecologist and dispensing them illegally:

Q. Did he [Dr. Amar] know when he gave you those prescriptions that you had no intention of taking them?"

Mr. Cosby: Yes.

Q. Did you believe at that time that it was illegal for you to dispense those drugs?"

Mr. Cosby: Yes.

See Defendant/Petitioner's Ex. 15 at 387-393 (Exhibit D to Declaration of Lisa Bloom in Support of Plaintiff's Reply Brief to Motion to Lift Stay of Discovery).

Further, Mr. Cosby admitted that he gave the drugs to unnamed "other women" who had not come forward as of the 2005-6 deposition. Ms. Dickinson is one of those other women. She did not

publicly reveal that Mr. Cosby raped her until 2014. This deposition testimony was not made public until July 2015. Bloom Reply Decl., Exhibit E.

Perhaps most astonishing, when twice given the opportunity, Mr. Cosby **did not even deny nonconsensual sexual intercourse** with a Jane Doe, i.e. rape:

Q. She [a Jane Doe] believes she was not in the position to consent to intercourse after you gave her the drug. Do you believe that is correct?

Mr. Cosby: I don't know.

Q. Why don't you know?

Mr. Cosby: That's her statement. I don't know . . .

See Defendant/Petitioner's Ex. 15 at 387-393 (Exhibit D to Declaration of Lisa Bloom in Support of Plaintiff's Reply Brief to Motion to Lift Stay of Discovery).

In stark contrast to Defendant/Petitioner Cosby's quick press releases attacking the credibility of women accusing him of rape, Defendant/Petitioner Cosby has issued no statements denying the authenticity of this widely reported deposition testimony. Bloom Reply Decl, par. 6. *See* Defendant/Petitioner's Ex. 15 at 334 [¶6] (Declaration of Lisa Bloom in Support of Plaintiff's Reply Brief to Motion to Lift Stay of Discovery).

D. Defendant/Respondent Cosby Did Publish The Defamatory Statements Through His Agent.

Defendant/Petitioner Cosby as principal is bound by the acts of his attorney-agent Mr. Singer "within the scope of his actual authority

(express or implied) or his apparent or ostensible authority...”
Blanton v. Womancare, Inc. (1985) 38 Cal.3d 396, 403. “An agent represents his principal for all purposes within the scope of his actual or ostensible authority, and all the rights and liabilities ... accrue to the principal.” Civil Code §2330.

On strikingly similar facts, the *Green* court rejected Defendant/Petitioner Cosby’s attempt to escape liability for the defamation committed in his name by his attorney Defendant Singer and others. As a matter of California law, the *Green* court found Defendant/Petitioner Cosby was “subject to respondeat superior liability, a form of vicarious liability,” for Defendant Singer’s public statements accusing three woman of lying when they revealed that Defendant/Petitioner Cosby had raped them. *See* Defendant/Petitioner’s Ex. 15 at 372 (Exhibit B to Declaration of Lisa Bloom in Support of Plaintiff’s Reply Brief to Motion to Lift Stay of Discovery). The court found:

Given Defendant/Petitioner Cosby’s prominence in the entertainment field, the court infers he surrounded himself with people accomplished in media relations and legal matters. The court also infers those making Defendant/Petitioner Cosby’s public statements had an open line of communication with him as well as some historical perspective on his public relations matters. Based on the facts and inferences, the court finds it plausible at this point to conclude (1) those agents would have had, at a minimum, some sense of Defendant/Petitioner Cosby’s alleged conduct, such that their duty of care would

have required them to take steps to determine the truth or falsity of the statements, and (2) the content of their responsive statements demonstrates such reasonable care was not taken.

Bloom Decl., Exhibit B at 31-2. All of those inferences are equally reasonable here.

The *Green* court also found probable direct liability against Defendant/Petitioner Cosby:

[I]t does not take a speculative leap for the court to conclude Defendant/Petitioner Cosby would be personally involved in reviewing these types of accusations against him, crafting or approving the responsive statements, and directing the dissemination. The SAC alleges Defendant/Petitioner Cosby was an ‘internationally known’ entertainment figure and the people making statements for him were acting either as attorney or publicist and/or authorized representative or employee. At this stage of the litigation, it would be unreasonable to view these particular circumstances, responding to the very serious accusations of the nature involved here, as not having the direct involvement of Defendant.”

See Defendant/Petitioner’s Ex. 15 at 374 (Exhibit B to Declaration of Lisa Bloom in Support of Plaintiff’s Reply Brief to Motion to Lift Stay of Discovery).

Only via the depositions ordered below may Plaintiff/Respondent establish facts that Defendant/Petitioner Cosby knew about, directed, approved and ratified the Defamatory Press Statements issued in his name and on which he was “cc’d.”

E. The State Of Mind Of Defendant's Counsel Is Already Well-Established.

The state of mind of Defendant Singer is also in dispute. Defendant Singer has served as Defendant/Petitioner Cosby's counsel for many years. In 2005-6, Defendant Singer was one of the several attorneys who represented Defendant/Respondent Cosby in a case that is remarkably similar to the case at hand where Defendant/Respondent Cosby was accused of drugging and sexually assaulting Andrea Constand. More than four dozen women have now come forward with accounts of sexual assault against the Defendant/Respondent Cosby that mirror Plaintiff/Respondent's and Ms. Constand's allegations. As Defendant/Respondent Cosby's counsel, and his agent in trashing and defaming the reputations of the many women who have finally summoned the courage to come forward to hold Defendant/Respondent Cosby accountable for his heinous actions over the course of many years, Defendant Singer is surely aware of the facts underlying such allegations. Here, Defendant/Respondent Cosby through his agent, Defendant Singer made defamatory statements ridiculing Plaintiff/Respondent's rape allegations and trashing her reputation knowing that such statements were palpably

false. *See* Defendant/Petitioner's Ex. 3 at 116-121 (Declaration of Martin Singer in support of Defendant's anti-SLAPP Motion). Defendant Singer as Defendant/Respondent Cosby's agent, at the very least, seriously must have doubted the truth of his statements and failed to conduct the legally required fair investigation into the truth of his statements before disseminating them to the national media. Only via the depositions ordered below may Plaintiff/Respondent obtain proof on this issue.

All of these assertions are questions of fact for the trial court to decide in the underlying case if the anti-SLAPP motion is denied. Courts have repeatedly held that disputed material facts are grounds to deny an anti-SLAPP motion. Thus, ironically, the existence of these factual disputes listed by Defendant/Respondent is actually grounds to deny the anti-SLAPP motion in this case.

Factual dispute existed as whether three individual directors of corporation took a "responsible part" in the publication of allegedly defamatory portions of press release, thus precluding CFO's defamation, invasion of privacy, and unfair competition causes of action from being stricken as strategic lawsuit against public participation (SLAPP). *Hawran v. Hixson* (App. 4 Dist. 2012) 147 Cal.Rptr.3d 88, 209 Cal.App.4th 256, review denied.

The “probability of prevailing” standard is satisfied when the party opposing an anti-strategic lawsuit against public participation (SLAPP) motion presents admissible evidence demonstrating the existence of a prima facie case or, put another way, the existence of disputed material facts. *Oviedo v. Windsor Twelve Properties, LLC* (App. 2 Dist. 2012) 151 Cal.Rptr.3d 117, 212 Cal.App.4th 97

XII. SUMMARY AND CONCLUSION

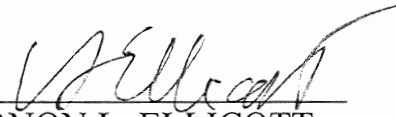
Did the trial court abuse its discretion in ordering two limited depositions on the issue of malice where it is undisputed that Plaintiff-Respondent must offer evidence of malice in opposition to the anti-SLAPP motion?

The answer is clearly no. The trial court correctly found that Plaintiff/Respondent must prove actual malice in order to defend the anti-SLAPP motion. The trial court correctly found that Plaintiff/Respondent met the requirement for good cause to lift the stay on discovery and that it was necessary to lift the stay in order to prove actual malice. Therefore, this court should deny

Defendant/Respondent Cosby's writ petition with prejudice and grant
Plaintiff/Respondent attorney's fees and costs pursuant to Rule of
Court 8.493.

DATED: November 20, 2015

THE BLOOM FIRM

By: 
VERNON L. ELLICOTT
Attorneys for Plaintiff/
Respondent, JANICE
DICKINSON

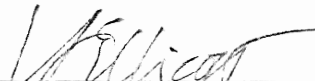
VERIFICATION

I, Vernon L. Ellicott, declare as follow:

I am an attorney licensed to practice before all courts in the State of California. I am a Senior Attorney for The Bloom Firm, counsel of record for Plaintiff/Respondent, Janice Dickinson. I have been authorized to make this Verification on her behalf.

I have read the foregoing **PLAINTIFF/RESPONDENT JANICE DICKINSON'S OPPOSITION TO DEFENDANT/PETITIONER WILLIAM H. COSBY, JR.'S PETITION FOR WRIT OF MANDATE OR OTHER APPROPRIATE RELIEF; MEMORANDUM OF POINTS AND AUTHORITIES** and I am familiar with its contents. I am informed and believe that the matters set forth herein are true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this Verification was signed this 20th day of November, 2015 in Woodland Hills, California.



Vernon L. Ellicott

CERTIFICATE OF COMPLIANCE

I certify that the attached **PLAINTIFF/RESPONDENT JANICE DICKINSON'S OPPOSITION TO DEFENDANT/PETITIONER WILLIAM H. COSBY, JR.'S PETITION FOR WRIT OF MANDATE OR OTHER APPROPRIATE RELIEF; MEMORANDUM OF POINTS AND AUTHORITIES** uses a 14 point New Times Roman font and contains 8,638 words.

November 20, 2015



VERNON L. ELLICOTT

EXHIBIT A

COSBY

1 Lisa Bloom, Esq. (SBN 158458)
2 Nadia Taghizadeh, Esq. (SBN 259328)
3 THE BLOOM FIRM
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10 Attorneys for Plaintiff JANICE DICKINSON

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Los Angeles Superior Court

NOV 16 2015

Sherri R. Carter, Executive Officer/Clerk
By: Moses Soto, Deputy

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 FOR THE COUNTY OF LOS ANGELES

13 JANICE DICKINSON, an individual,
14 Plaintiff,
15 v.
16 WILLIAM H. COSBY, JR., an individual,
17 MARTIN SINGER, an individual,
18 and DOES 1 through 100, inclusive,
19 Defendants.

CASE NO.: BC580909

**FIRST AMENDED COMPLAINT
FOR:**

- 1. DEFAMATION/DEFAMATION PER SE
- 2. FALSE LIGHT
- 3. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

DEMAND FOR JURY TRIAL

INTRODUCTION

22 1. For four decades, Bill Cosby drugged and raped women. Few came forward
23 because of his immense fame, money and power. Those who did had their reputations smeared
24 by his lawyers, publicists and spin doctors, further scaring other victims from speaking out.

25 2. Janice Dickinson, like over three dozen other Cosby victims, recently publicly
26 disclosed that she was drugged and raped by Bill Cosby. In retaliation, Cosby, through an
27 authorized representative, Martin Singer, publicly and repeatedly branded her a liar and called
28

FIRST AMENDED COMPLAINT FOR DAMAGES

Janice Dickinson v. William H. Cosby, Jr.
Case No. BC580909

1 her rape disclosure a lie with the intent and effect of revictimizing her and destroying the
2 professional reputation she's spent decades building.

3 3. Ms. Dickinson brings this action for defamation and related claims.

4 **JURISDICTION AND VENUE**

5 4. The Court has personal jurisdiction over Defendant William Cosby because he is
6 a resident of and does business in the State of California, and owns real property in the State of
7 California.

8 5. The Court has jurisdiction over Defendant Martin Singer because he is a resident
9 of and does business in the state of California.

10 6. Venue is proper in this county because the Defendants reside in this county,
11 and/or own real property in this county and/or do business in this county, and the injuries
12 alleged herein occurred in this county.

13 **PARTIES**

14 7. Plaintiff JANICE DICKINSON ("Ms. Dickinson") is an individual who resides
15 in the County of Los Angeles, California.

16 8. Ms. Dickinson is an internationally known fashion model, photographer and
17 author, often called "the world's first supermodel." She has been on the cover of *Cosmo*,
18 *Harper's Bazaar*, *Marie Claire*, *Playboy* and many other magazines. Ms. Dickinson appeared
19 on the cover of prestigious *Vogue* magazine (both American and international editions) 37
20 times, and she appeared on the cover of *Elle* magazine seven times in a row. She has been the
21 face of ad campaigns for many products, including Revlon, Alberto VO5, Balmain, Obao,
22 Christian Dior, Clairol, Hush Puppies, Orbit gum, Max Factor, Virginia Slims and Cutex.

23 9. More recently, Ms. Dickinson has become a successful television star on many
24 reality shows, including her own, *The Janice Dickinson Modeling Agency*, which ran for four
25 seasons. She's also the author of three books chronicling her life as a supermodel, and offering
26 lighthearted dating advice to single women. As a result of her decades of hard work, Ms.
27 Dickinson has enjoyed continued success across multiple entertainment platforms, though most
28

1 models' careers are finished after a few years. A major component of her popularity and
2 marketability on reality television and in publishing is Ms. Dickinson's reputation for her
3 colorful, raw, sometimes loud, sometimes vulnerable, but at all times honest "tell-it-like-it-is"
4 personality.

5 10. Defendant WILLIAM H. COSBY, JR. ("Defendant Cosby"), owns residential
6 property in the county of Los Angeles, California and/or does business in the State of
7 California.

8 11. Defendant Cosby is an internationally known comedian, actor and author. He has
9 been publicly accused of sexual assault by over fifty women spanning four decades and across
10 the United States. Most of them also allege that he surreptitiously drugged them into a state of
11 unconsciousness prior to sexually assaulting them.

12 12. Defendant MARTIN SINGER ("Defendant Singer") has, since 2005, represented
13 Defendant Cosby in responding to the media regarding rape allegations against Defendant
14 Cosby. At all times relevant herein, Defendant Singer acted at the direction of Defendant
15 Cosby, as an actual and/or apparent agent, authorized representative, press agent, lawyer,
16 servant and/or employee of Defendant Cosby, acting within the course and scope of his
17 respective employment and/or agency.

18 13. The true names and capacities, whether corporate, associate, individual or
19 otherwise of defendants DOES 1 through 100, inclusive, are unknown to plaintiff, who
20 therefore sues said defendants by such fictitious names. Each of the defendants designated
21 herein as a DOE is legally responsible in some manner for the events and happenings herein
22 referred to and caused injuries and damages proximately thereby to plaintiff, as herein alleged.
23 Plaintiff will seek leave of Court to amend this Complaint to show their names and capacities
24 when the same have been ascertained.

25 14. At all times mentioned in this complaint, unless otherwise alleged, each
26 defendant was the agent, partner, or employee of every other defendant, and in doing the acts
27 alleged in this complaint, was acting within the course, scope and authority of that agency,
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1 partnership, or employment, and with the knowledge and consent of each of the other
2 defendants. Plaintiff is informed and believes that defendants, and each of them herein
3 (“Defendants”) caused, and is responsible for the below-described unlawful conduct and
4 resulting injuries in that each of the Defendants participated in the unlawful conduct or acted
5 jointly with others who did so; authorized, acquiesced in or set in motion actions that led to the
6 unlawful conduct; failed to take action to prevent the unlawful conduct; failed to prevent further
7 harm to Plaintiff; and/or ratified the unlawful conduct and actions by employees, subordinates,
8 and agents under Defendants’ direction and control, including failure to take remedial action.

9
10 **FACTUAL ALLEGATIONS**

11 **I. DEFENDANT COSBY DRUGGED AND RAPED MS. DICKINSON**

12 15. In or about 1982, Ms. Dickinson was in Bali, Indonesia shooting a calendar.
13 There she received a telephone call from Defendant Cosby. On the call, he asked her to fly to
14 Lake Tahoe, Nevada to meet with him. Defendant Cosby offered to pay for her flight from Bali
15 to Lake Tahoe to discuss her future show business and singing career. Excited at the possibility
16 of expanding her career to television and music, Ms. Dickinson agreed.

17 16. After arriving in Lake Tahoe, Ms. Dickinson had dinner with Defendant Cosby.

18 17. Ms. Dickinson was suffering from menstrual pain. Defendant Cosby offered her
19 a glass of wine and a pill which he represented would help her with cramps.

20 18. Defendant Cosby offered Ms. Dickinson a pill and a drink even though he knew
21 that she had been in a rehab center for addiction a few months before. Defendant Cosby had
22 sent Ms. Dickinson flowers (red roses) while she was in the rehab center.

23 19. Ms. Dickinson consumed the pill believing it was what Defendant Cosby had
24 represented it to be, and trusting Defendant Cosby.

25 20. Defendant Cosby deceived Ms. Dickinson into consuming a narcotic that heavily
26 sedated her.

1 Collins was afraid of lawsuits." Upon persistent questioning from Mr. Stern about what
2 happened between Ms. Dickinson and Defendant Cosby, Ms. Dickinson responded, "I don't
3 want to get near that because I don't have the shekels that you do or that Cosby does. The guy's
4 a bad guy, let me just say that. He's not a nice guy. He preys on women who've just come out
5 of rehab, I'll say that."

6
7 **III. DEFENDANT COSBY REVEALS HIS OBSESSION**
8 **WITH DRUGGING WOMEN FOR SEX**

9 27. Over the years Defendant Cosby has expressed a lurid and obsessive fascination
10 with drugging women in order to have sex with them. In his 1969 comedy album, "It's True!
11 It's True!" Defendant Cosby talked about the mythical properties of the drug "Spanish Fly"
12 which would make women feel amorous and sexually submissive. Defendant Cosby said "go to
13 a party, see five girls standing alone, Boy, if I had a whole jug of Spanish Fly, I'd light that
14 whole corner up over there."

15 28. Defendant Cosby told a similar version of the story extolling Spanish Fly in his
16 1991 book, *Childhood*. In his book, Defendant Cosby wrote a lengthy description of his search
17 for Spanish Fly so that he could secretly drug women and then have sex with them. "Girls are
18 "never in the mood for us," he wrote, "They need chemicals."

19 29. Defendant Cosby again brought up Spanish Fly in his 1991 interview with Larry
20 King on CNN to promote his book. In this interview Defendant Cosby asked Larry King if he
21 knew about Spanish Fly. Defendant Cosby said, "Spanish Fly was the thing that all boys from
22 age 11 on up to death – we will still be searching for Spanish Fly." Defendant Cosby said that
23 he could put a pinhead sized drop of Spanish Fly in a woman's drink and she would become
24 sexually submissive.

25 30. On a 1990 episode of his television program *The Cosby Show*, Defendant Cosby,
26 in the role of Dr. Cliff Huxtable, administered his "special barbecue sauce" which made female
27 family members stop fighting and become amorous toward their husbands. "It's my barbecue
28

1 sauce,” Huxtable explained to his wife Claire. “Haven’t you ever noticed after people have
2 some of my barbecue sauce, after a while, when it kicks in, they get all huggy-buggy? ...
3 Haven’t you ever noticed that after one of my barbecues—and they have the sauce—people
4 want to get right home?” Huxtable then implies that he’s got a cup of barbecue sauce ready to
5 go in their bedroom. Defendant Cosby was not merely an actor on the show. He had frequent,
6 continuous and regular input into and oversight of the production, conceptualization and writing
7 of *The Cosby Show*.

8 31. In reality, Defendant Cosby’s seemingly facetious public statements and
9 performances about Spanish Fly, barbecue sauce and the like revealed his penchant for and
10 preoccupation with drugging women and then having sex with them while they were rendered
11 unconscious and unable to consent. Defendant Cosby’s references to using substances to drug
12 women into sexual submission were direct admissions of his own callous and predatory
13 behavior.

14 32. As his long time representative responding to multiple accusations of sexual
15 assault, Defendant Singer knew or should have known of these admissions.

16 33. Even after dozens of women came forward to disclose that they had been
17 drugged and raped by Defendant Cosby, he has continued to brazenly joke about his criminal
18 activity in at least one public forum. On January 8, 2015, in a stand-up performance in Ontario,
19 Canada, Defendant Cosby asked a woman from the audience who had gotten up where she was
20 going. She told him that she was going to get a drink. He replied: “You have to be careful about
21 drinking around me.” This comment was intended by Defendant Cosby to mock, insult, demean
22 and humiliate Ms. Dickinson and his other accusers.

23 34. In his 2011 book *I Didn’t Ask to Be Born: (But I’m Glad I Was)* Defendant
24 Cosby states, “All of my performances and writings have been inspired by my experiences,
25 which, I believe, give an honest and truthful picture of my life.”

26 35. In 2005 and 2006, Defendant Cosby testified under oath in an action for sexual
27 assault and related claims brought by Andrea Constand. Defendant Cosby admitted to
28

1 fraudulently obtaining and illegally distributing sedatives for the purpose of sex with multiple
2 women, including women who had not come forward in that action. In addition, at that
3 deposition, Defendant Cosby failed and refused to deny at least one incident of sexual activity
4 with a woman who was incapacitated due to a drug he had administered to her, *i.e.*, rape.

5 36. Defendant Singer was present at that deposition and/or reviewed the transcript of
6 the deposition thereafter and/or was made aware of Defendant Cosby's admissions therein prior
7 to the issuance of The Defamatory Press Statements described below.

8
9 **IV. MS. DICKINSON'S 2014 DISCLOSURE THAT COSBY RAPED HER**

10 37. In late 2014, a large number of women publicly disclosed that they had been
11 drugged and raped by Defendant Cosby. Many of them were publicly demeaned by Defendant
12 Cosby and his representatives, by his fans or others. Ms. Dickinson was one of these women
13 who made the difficult decision to reveal that she too was a Cosby victim, to lend her story and
14 voice in support of the credibility of the other victims.

15 38. On or about November 18, 2014, Ms. Dickinson disclosed in a television
16 interview that Defendant Cosby had drugged and raped her. At the time, she was the most high
17 profile accuser who had spoken out publicly against Defendant Cosby.

18
19 **V. TEAM COSBY GOES ON THE ATTACK AGAINST MS. DICKINSON**

20 39. On or about November 18, 2014, the same day as Ms. Dickinson's first
21 television interview detailing Defendant Cosby's rape of her, Defendant Cosby through
22 Defendant Singer issued a press statement to members of the news media, including without
23 limitation to Entertainment Tonight (CBS), Good Morning America (ABC) and BuzzFeed.com
24 ("The November 18 Press Statement"). The November 18 Press Statement was immediately
25 broadcast and published online, then picked up and republished by thousands of media entities
26 worldwide, as Defendants foresaw and intended. Defendants made the following purported
27 statements of fact regarding Ms. Dickinson in the November 18 Press Statement:

1 a. *We are writing regarding your planned story regarding Janice Dickinson's new*
2 *false and outlandish claims about Mr. Cosby in her recent Entertainment Tonight interview,*
3 *asserting that he raped her in 1982 (the "Story").*

4 b. *That Story is fabricated and is an outrageous defamatory lie....*

5 c. *Her new Story claiming that she had been sexually assaulted is a defamatory*
6 *fabrication...*

7 d. *That never happened, just like the alleged rape never happened.*

8 e. *Ms. Dickinson completely fabricated the Story of alleged rape.*

9 40. Each of the purported statements of fact set forth above is false.

10 41. On or about November 19, 2014, Defendant Cosby through Defendant Singer
11 published a second statement to the press about Ms. Dickinson ("The November 19 Press
12 Statement"). The November 19 Press Statement was immediately broadcast and published
13 online, then picked up and republished by thousands of media entities worldwide, as Defendants
14 foresaw and intended.

15 42. Defendants made the following purported statements of fact regarding Ms.
16 Dickinson in The November 19 Press Statement:

17 a. *"Janice Dickinson's story accusing Bill Cosby of rape is a lie."*

18 b. *"Documentary proof and Ms. Dickinson's own words show that her new story about*
19 *something she now claims happened back in 1982 is a fabricated lie."*

20 43. Each of the purported statements of fact set forth above is false.

21 44. On or about November 20, 2014, Defendant Cosby through Defendant Singer
22 published another statement to the press about Ms. Dickinson ("The November 20 Press
23 Statement"), which was republished by thousands of media entities worldwide, as Defendants
24 foresaw and intended.

25 45. Defendants made the following purported statements of fact regarding Ms.
26 Dickinson in The November 20 Press Statement:

1 a. *"Ms. Traitz [another woman accusing Defendant Cosby of sexual assault] is the*
2 *latest example of people coming out of the woodwork with unsubstantiated or fabricated stories*
3 *about my client [Defendant Cosby]."*

4 b. *"People coming out of nowhere with this sort of inane yarn is what happens in a*
5 *media-driven feeding frenzy."*

6 c. *"We've reached the point of absurdity. The stories are getting more ridiculous..."*

7 46. Each of the purported statements of fact set forth above is false.

8 47. On or about November 21, 2014, Defendant Cosby through Defendant Singer
9 published another statement to the press about Ms. Dickinson ("The November 21 Press
10 Statement"), which was republished by thousands of media entities worldwide, as Defendants
11 foresaw and intended.

12 a. *"The new, never-before-heard claims from women who have come forward in the*
13 *past two weeks with unsubstantiated, fantastical stories about things they say occurred 30, 40,*
14 *or even 50 years ago have escalated far past the point of absurdity."*

15 b. *"These brand new claims about alleged decades-old events are becoming*
16 *increasingly ridiculous..."*

17 48. Each of the purported statements of fact set forth above is false.

18 49. The November 18 Press Statement, The November 19 Press Statement, The
19 November 20 Press Statement and The November 21 Press Statement and each of them
20 (collectively, "The Defamatory Press Statements") were unprivileged as no litigation had been
21 filed, threatened or contemplated by or between Ms. Dickinson and Defendant Cosby at the
22 time they were published. In fact, Defendants knew that any actions based on Defendant
23 Cosby's drugging and sexual assault of Ms. Dickinson were time barred such that Ms.
24 Dickinson could not bring an action in 2014 for Defendant Cosby's actions in drugging and
25 raping her in or about 1982.

26 50. In addition, The Defamatory Press Statements were not privileged because no
27 litigation between Defendant Cosby, on the one hand, and any of the members of the media to
28

1 whom The Defamatory Press Statements were published, on the other hand, was seriously
2 considered and/or contemplated in good faith by Defendants. Defendant Cosby to date has not
3 commenced any action against any of the hundreds of thousands of media outlets worldwide
4 that published stories about the more than fifty women who accuse him of attempted or actual
5 sexual assault.

6 51. Defendants, both sophisticated professionals with decades of media experience,
7 sent The Defamatory Press Statements not primarily to attorneys for media outlets, but to
8 producers and reporters. As Defendants foresaw and intended, those producers and reporters did
9 not consider The Defamatory Press Statements to be privileged or confidential, and instead they
10 immediately published them on air and in print.

11 52. The Defamatory Press Statements had a natural tendency to injure Ms.
12 Dickinson's reputation in the entertainment industry in which she works, and with the public
13 worldwide.

14 53. The Defamatory Press Statements were published by Defendants knowing that
15 they were false and/or with reckless disregard as to their falsity.

16 54. Defendant Cosby knows that he drugged and raped Ms. Dickinson. He knew that
17 the statements about her set forth above in The Defamatory Press Statements were false.

18 55. In the alternative, Defendant Cosby should have known that he drugged and
19 raped Ms. Dickinson. He should have known that the statements about her set forth above in
20 The Defamatory Press Statements were false.

21 56. Defendant Singer acted with reckless disregard to the falsity of the statements in
22 The Defamatory Press Statement by, among other things, ignoring the fact that there were
23 obvious reasons to doubt the accuracy of his statements, and/or by failing to conduct a
24 reasonable investigation and/or by failing to interview obvious witnesses who could have
25 confirmed or disproved the allegations, including without limitation Defendant Cosby himself.

26 57. Defendant Singer's purposeful avoidance of the truth constitutes actual malice.
27
28

1 victimized by a rapist who drugged her to unconsciousness was an intensely vulnerable and
2 stressful experience for Ms. Dickinson. It is in this context that Defendants chose to
3 disseminate The Defamatory Press Statements falsely telling the world that she is a liar,
4 heaping opprobrium on a rape victim.

5 86. Defendants' choice to vilify and publicly attack Ms. Dickinson after she had
6 just truthfully disclosed her experience of having been drugged and raped by him was
7 extreme and outrageous conduct that no reasonable person in a civilized society should be
8 expected to endure.

9 87. Defendant Cosby's choice to joke about drugging women's drinks in a
10 comedy show after the disclosure by Ms. Dickinson and many other women that he had
11 done so and then raped them, causing them pain, suffering and trauma, was further extreme
12 and outrageous conduct that no reasonable person in a civilized society should be forced to
13 endure.

14 88. In committing the intentional and outrageous acts described more fully above,
15 Defendants intended to cause Ms. Dickinson severe emotional distress and/or Defendants acted
16 with reckless disregard for the probability of inflicting humiliation, mental anguish, and severe
17 emotional distress on Ms. Dickinson.

18 89. As a direct and proximate cause of Defendants' conduct, Ms. Dickinson has
19 suffered and will continue to suffer humiliation, mental anguish, severe emotional distress, and
20 other special and general damages according to proof.

21 90. The extreme and outrageous conduct of Defendants as alleged herein, was
22 malicious, despicable, or oppressive in that Defendants acted with full knowledge of the
23 consequences to Ms. Dickinson as alleged herein, with the intent to discredit her, harm her
24 reputation, harass, or retaliate against Ms. Dickinson with a willful, conscious, wanton, and
25 reckless disregard for her rights and for the deleterious consequences and cruel and unjust
26 hardship resulting to Ms. Dickinson from the conduct of Defendants. Accordingly, Ms.
27 Dickinson is entitled to punitive damages in an amount to be proven at trial.

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PRAYER

WHEREFORE, Ms. Dickinson prays for judgment against Defendants as follows:

1. For general damages according to proof at trial;
2. For special damages according to proof at trial;
3. For presumed damages;
4. For punitive damages;
5. For costs of suit incurred herein; and
6. For such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff Janice Dickinson hereby demands a trial by jury.

DATED: November 16, 2015

Respectfully submitted,

THE BLOOM FIRM

By: _____

Lisa Bloom
Nadia Taghizadeh
Attorneys for Plaintiff Janice Dickinson

PROOF OF SERVICE

State of California, County of Los Angeles
JANICE DICKINSON v. WILLIAM H. COSBY, JR.

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is c/o Janney & Janney Legal Support Service located at 1545 Wilshire Boulevard, Suite 311, Los Angeles, California 90017.

On November 20, 2015, I served the following document(s) described as:


PLAINTIFF/RESPONDENT JANICE DICKINSON'S OPPOSITION TO DEFENDANT WILLIAM H. COSBY, JR.'S PETITION FOR WRIT OF MANDATE OR OTHER APPROPRIATE RELIEF; MEMORANDUM OF POINTS AND AUTHORITIES.

The above-referenced document was served on the interested parties in this action as follows:

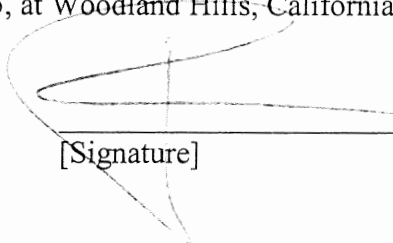
PLEASE SEE ATTACHED SERVICE LIST.

- U.S. MAIL** I am readily familiar with the firm's practice of collection and processing correspondence by mailing. Under that same practice it would be deposited with U.S. Postal Service on that same day with postage fully prepaid at Los Angeles, California in the ordinary course of business. Following that practice, I placed the foregoing document(s) for deposit and mailing in the United States Postal Service that same day with postage prepaid, sealed and addressed as set forth above, in the ordinary course of business.
- BY ELECTRONIC TRANSMISSION** I caused the said document(s) to be transmitted electronically, per stipulation of counsel to the addressee at the above referenced E-MAIL. My email address is Steve@TheBloomFirm.com
- BY PERSONAL SERVICE:** I personally delivered the document referenced above to the persons at the addresses listed on the attached Service List. For a party represented by an attorney, delivery was made to the attorneys or at the attorneys' office by leaving the document in an envelope or package clearly labeled to identify the attorneys being served with a receptionist or an individual in charge of the office.
- STATE** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on November 20, 2015, at Woodland Hills, California.



[Please Print Name]



[Signature]

SERVICE LIST

State of California, County of Los Angeles
JANICE DICKINSON v. WILLIAM H. COSBY, JR.

Christopher Tayback, Esq.

Randa Osman, Esq.

Justin Griffin, Esq.

QUINN EMANUEL URQUHART & SULLIVAN, LLP

865 South Figueroa Street, 10th Floor

Los Angeles, California 90017-2543

The Hon. Debre Weintraub

LOS ANGELES COUNTY SUPERIOR COURT

Stanley Mosk Courthouse

111 North Hill Street, Dept. 47

Los Angeles, California 90012