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F I L E D
Superior Court of California
County of San Francisco

AUG 03 2020

CLERK OF THE COURT
BY: *[Signature]*
Deputy Clerk

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO

9 SYNAPSE FINANCIAL TECHNOLOGIES,
10 INC., a Delaware corporation; and SANKAET
11 PATHAK, an individual,
12 Plaintiffs,
13 v.
14 DOES 1 to 50, inclusive.
15 Defendants.

Case No. CGC-19-579098

**[PROPOSED] ORDER GRANTING
DEFENDANT DOE 4's SPECIAL
MOTION TO STRIKE UNDER C.C.P. §
425.16**

Date: August 3, 2020
Time: 9:30 a.m.
Dept.: Dept. 302
Judge: Hon. Ethan P. Schulman

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1 Defendant Doe 4's Special Motion to Strike under C.C.P. Section 425.16 came on regularly
2 for hearing in Department 302 on August 3, 2020 at 9:30 am. After full consideration of the evidence,
3 argument and authorities submitted by counsel for both parties, and all other matters properly before
4 this Court:

5 Defendant Doe 4's anti-SLAPP motion to strike is GRANTED.

6 Plaintiffs allege that Doe 4 posted the following false statements about Mr. Pathak, the CEO of
7 co-plaintiff Synapse: "I once watched him challenge an African-American job candidate to debate the
8 ethics of slavery. He asked a female candidate to debate whether women were the inferior gender."
9 (Complaint, Ex. E.) The statements were posted on Glassdoor.com, which is a website that allows
10 people to post their work experience at a company.

11 Defendant meets prong 1 of the anti-SLAPP statute under Code of Civil Procedure, §
12 425.16(e)(3) and (4) ["(3) any written or oral statement or writing made in a place open to the public
13 or a public forum in connection with an issue of public interest; (4) or any other conduct in
14 furtherance of the exercise of the constitutional right of petition or the constitutional right of free
15 speech in connection with a public issue or an issue of public interest."]. The statement was made in
16 a public forum. "It is settled that 'Web sites accessible to the public ... are "public forums" for
17 purposes of the anti-SLAPP statute.'" (*Wong v. Jing* (2010) 189 Cal.App.4th 1354, 1366.) The court
18 further concludes that the adduced statements were in connection with a public issue.

19 "[A]lthough 'not every Web site post involves a public issue' [citation], consumer information that
20 goes beyond a particular interaction between the parties and implicates matters of public concern that
21 can affect many people is generally deemed to involve an issue of public interest for purposes of the
22 anti-SLAPP statute." (*Id.* [holding that reviews of dentist posted on Yelp involved an issue of public
23 interest]; see also *Chaker v. Mateo* (2012) 209 Cal.App.4th 1138, 1146 ["We also have little difficulty
24 finding the statements were of public interest. The statements posted to the Ripoff Report Web site
25 about Chaker's character and business practices plainly fall within in the rubric of consumer
26 information..."].)

27 The court "broadly" construes the anti-SLAPP statute, including the public interest
28 requirement. (See Code Civ. Proc., § 425.16(a).) A party moving for anti-SLAPP relief must show a

1 relationship between the challenged speech “and the public conversation about some matter of public
2 interest.” (*FilmOn.com Inc. v. DoubleVerify Inc.* (2019) 7 Cal.5th 133, 150 (2019).) Cases which
3 have considered the public interest requirement of the anti-SLAPP law have emphasized that the
4 public interest may extend to statements about conduct between private individuals. (See *Hecimovich*
5 *v. Encinal School Parent Teacher Organization* (2012) 203 Cal.App.4th 450, 467 [anti-SLAPP statute
6 applied to statements criticizing a volunteer basketball coach’s treatment of players]; *Terry v. Davis*
7 *Community Church* (2005) 131 Cal.App.4th 1534, 1538–1539, 1547 [anti-SLAPP statute applied to
8 statements regarding church youth group leaders].)

9 In *FilmOn.com*, the court provides the following analysis: “First, we ask what ‘public issue or
10 ... issue of public interest’ the speech in question implicates—a question we answer by looking to the
11 content of the speech. (§ 425.16, subd. (e)(4).) Second, we ask what functional relationship exists
12 between the speech and the public conversation about some matter of public interest. It is at the latter
13 stage that context proves useful.” (*FilmOn*, 7 Cal.5th at 149–150.) Context includes the identity of the
14 speaker, the audience, and the purpose of the speech. (*Id.* at 142–143, 145.) In analyzing the
15 relationship between the challenged speech and the issue of public interest, it is “ ‘not enough that the
16 statement refer to a subject of widespread public interest; the statement must in some manner itself
17 contribute to the public debate.’ ” (*FilmOn*, 7 Cal.5th at 150.) A defendant has contributed to the
18 public debate if he or she “participated in, or furthered, the discourse that makes an issue one of public
19 interest.” (*Id.* at 151.)

20 Here, as Doe 4’s numerous media articles demonstrate, the issue of toxic work culture for
21 Blacks and women in Bay Area technology companies is a topic of widespread public interest. Doe
22 4’s posting of a warning to the public about the work culture at Synapse contributed to the public
23 discussion.

24 Defendant’s citation to *Rivero v. American Federation of State, County, & Municipal*
25 *Employees AFL-CIO* (2003) 105 Cal.App.4th 913 is off point as that case involved criticisms of a
26 janitorial supervisor. The character of janitorial supervisors has not been the subject of a widespread
27 and robust debate like Silicon Valley culture and inequity.

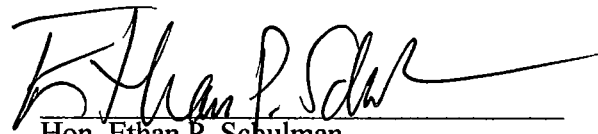
28 Plaintiffs fail to meet prong 2 of the anti-SLAPP statute because Mr. Pathak’s blanket/cryptic

1 denial fails to show that Doe 4's statements were not substantially true. (See *Vogel v. Felice* (2005)
2 127 Cal.App.4th 1006; *Industrial Waste and Debris Box Service Inc. v. Murphy* (2016) 4 Cal.App.5th
3 1135.) In *Vogel*, the plaintiff was charged with being a "dead beat dad" who owed thousands. In
4 attempting to meet his prong 2 burden, the plaintiff denied that he owed thousands. The *Vogel* court
5 found that the plaintiffs' claim failed. The plaintiffs "could not demonstrate their ability to succeed on
6 the merits without (1) identifying statements that conveyed a provably false and defamatory
7 imputation, and (2) presenting evidence that the statements were in fact substantially false, i.e.,
8 diverged from the true facts in and to such manner and degree as to produce a more damaging effect
9 on the mind of the reader than would the truth." (*Vogel*, 127 Cal.App.4th at 1021.)

10 In this case, Pathak's declaration fails to show that Doe 4's statements were substantially
11 false. He asserts that ne never attempted to "debate" the ethics of slavery or the purported inferiority
12 of women with the job candidates. He does not say that he never raised those topics, however. The
13 sting of Doe 4's comments is that it was inappropriate to raise these issues during a job interview and
14 Mr. Pathak does not deny that he did. Whether Mr. Pathak challenged the candidates to a debate or
15 merely raised these issues during the interview has the same damaging effect on the mind of the
16 reader. Pathaks's "failure to plainly refute the defamatory imputation by stating the true facts may be
17 understood to imply that he did in fact" raise these inappropriate issues at the interviews. (*Id.* at
18 1022.) The "simple negation of the challenged statement fails to fairly meet its substance." (*Id.* at
19 1024, fn. 7; see also *Sonoma Media Investments, LLC v. Superior Court* (2019) 34 Cal.App.5th 24, 37
20 [declarations in opposition to anti-SLAPP motion that failed to address key portions of allegedly
21 defamatory statements failed to make a prima facie showing of falsity].)

22 IT IS SO ORDERED.

23 Dated August 3, 2020

24 
25 Hon. Ethan P. Schulman
26 Judge of the Superior Court
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CGC-19-579098
TO 50, INCLUSIVE

SYNAPSE FINANCIAL TECHNOLOGIES, INC. ET AL VS. DOES 1

I, the undersigned, certify that I am an employee of the Superior Court of California, County Of San Francisco and not a party to the above-entitled cause and that on August 03, 2020 I electronically served the foregoing on the following counsel of record or party appearing in propria persona by causing a copy thereof to be sent by email to the email addresses indicated below:



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