

1 Farzad Seyfnia, SBN: 292227  
2 Garrett Prybylo, SBN: 304994  
3 **SEYFNIA & PRYBYLO, LLP**  
4 633 West 5th Street, Suite 2600  
5 Los Angeles, California 90071  
6 Telephone: 213.770.4529  
7 Facsimile: 213.260.2284

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6 Attorneys for Defendant Tina Kim

7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE**  
8 **COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

10 WAVE PLASTIC SURGERY CENTER,  
11 INC., a California Corporation

12 Plaintiff,

13 vs.

14 TINA KIM, an individual; and DOES 1  
15 through 20, inclusive

16 Defendants

Case No.: 23STCV29954

[Assigned To: Honorable Maureen Duffy-  
Lewis, Department 38]

[RESERVATION ID: 901233435994]

**NOTICE OF MOTION AND**  
**DEFENDANT TINA KIM'S SPECIAL**  
**MOTION TO STRIKE PLAINTIFF'S**  
**COMPLAINT PURSUANT TO CODE**  
**CIV. PROC. § 425.16**

Date: April 16, 2024

Time: 9:30 a.m.

Dept.: 38

*[Filed concurrently with Declaration of Tina  
Kim, Declaration of Farzad Seyfnia, Index of  
Documentary Evidence, and [Proposed]  
Order]*

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1 **TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that on April 16, 2024, at 9:30 a.m. or as soon thereafter as  
3 the matter may be heard in Department 38 of the above-entitled court, located at 111 N. Hill  
4 Street, Los Angeles, California 90012, Defendant Tina Kim (“Defendant”), will and hereby does  
5 move the Court for an order striking the Complaint of Plaintiff Wave Plastic Surgery Center,  
6 Inc., filed against her on December 12, 2023 pursuant to Code Civil Procedure § 425.16.

7 This motion is based upon this notice; the attached Memorandum of Points and  
8 Authorities; the Declaration of Tina Kim, Farzad Seyfnia, Index of Documentary Evidence filed  
9 herewith; upon the records and files in this action; and upon such further evidence and argument  
10 as may be presented prior to or at the time of hearing on the motion.

11  
12 Dated: January 9, 2024

**SEYFNIA & PRYBYLO, LLP**

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15 By: /s/ Farzad Seyfnia  
16 Farzad Seyfnia, Esq.  
17 Attorneys for Defendant Tina Kim  
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Imagine a world where the late Anthony Bourdain faced a lawsuit for his online criticism  
4 and opinion of a cuisine he tried, filed by the owner of the establishment that served the cuisine,  
5 freedom of speech would be stifled, and the free flow of information could be hindered due to  
6 the fear of having to spend substantial amounts of money defending against such lawsuits. This  
7 is the world that Plaintiff Wave Plastic Surgery Center, Inc. wishes for all of us to inhabit. In this  
8 legal action, Plaintiff has initiated a lawsuit against Defendant Tina Kim simply because Plaintiff  
9 and its owner, Dr. Peter Lee, did not appreciate what Defendant had to say about the treatment  
10 she received during her visit to Plaintiff’s facility.

11 **II. STATEMENT OF FACTS**

12 **A. About Tina Kim**

13 Defendant is a comedian and social media influencer. (Declaration of Tina Kim (“Decl.  
14 Kim”) ¶ 2). Defendant posts various fun and entertaining video reviews on her TikTok page from  
15 topics ranging from Korean Pop music, to Kdramas, places to get cheap eats, where to get your  
16 haircut, facials and other face work done in Koreatown LA, where she lives and in Seoul Korea  
17 as part her TikTok postings. The link to Defendant’s TikTok page is  
18 <https://www.tiktok.com/@kdramalogic?lang=en> . (Decl. Kim ¶¶ 4-5). She also frequents plastic  
19 surgery facilities in Los Angeles and Korea and posts videos on her TikTok page about her  
20 experience. (Decl. Kim ¶ 6).

21 Defendant resides in Korea Town, Los Angeles. On November 7, 2023, Defendant went  
22 to a bank in Korea Town and while there, she noticed a sign for Plaintiff. Defendant decided to  
23 go into Wave as a “walk-in” customer to inquire about their prices and give them another chance  
24 to earn her business. (Decl. Kim ¶ 9). On the day Defendant visited Plaintiff’s facility, Plaintiff  
25 advertised that walk-ins were welcomed. (Decl. Kim ¶ 10) (Index of Documentary Evidence  
26 (“IDE”) Exh. “C”). However, as detailed below, based on Defendant’s experience, it was clear  
27 that Plaintiff not only accepted walk-in customers but also did not welcome such customers.  
28 (Decl. Kim ¶ 10).

1           When Defendant walked into Plaintiff’s facility, there were three individuals sitting  
2 behind the front desk. There were no customers inside and it was pitch quiet when Defendant  
3 entered the facility. (Decl. Kim ¶ 13). None of these individuals greeted me or even  
4 acknowledged her presence. (Decl. ¶ 14). She waited for them to greet her and stood a few feet  
5 away from the reception area to be greeted or even acknowledged. *Id.* They failed and since they  
6 did not greet me, I waved at one of them and said hello (the female on her right-side made eye  
7 contact with her) then Defendant proceeded to inform the receptionist, “Hello, I do not have an  
8 appointment and if I could walk around, look at brochures and come up and ask questions?” The  
9 girl who gave me eye contact just nodded. *Id.*

10           Defendant walked around the lobby area and then went up to the reception area waiting  
11 for one of them to acknowledge her so she could go up to the counter to inquire about prices.  
12 (Decl. Kim ¶ 15). I noticed one individual was on the computer, the other was on the phone, and  
13 the third individual was on her iPhone (or another form of a cell phone). *Id.* All of them could  
14 clearly see Defendant standing there and all three just ignored her as I stood a few feet away. *Id.*

15           Defendant stood there waiting in silence, scanning the three receptionists back and forth  
16 waiting for one of them to acknowledge her. It seemed like a very long time to be ignored by  
17 three staff members at a receptionist desk. I waited and after what appeared to me to be like 15  
18 minutes, I said, “I can’t believe none of you are helping me” which at that point I would have  
19 thought one would and they still ignored me. (Decl. Kim ¶ 16). They continued to ignore  
20 Defendant, so I exited the facility. (Decl. Kim ¶ 17). They treated Defendant as though she  
21 didn’t even exist. (Decl. Kim ¶ 18). Defendant was not happy with the way she was treated by  
22 Plaintiff’s staff and the high degree of unprofessionalism they exhibited.

23           Later that day, as part of her social medial activities Defendant posted a video online on  
24 the social media platform TikTok, where she shared her personal negative experience and the  
25 unprofessional way she was treated by Plaintiff’s staff. (Decl. Kim ¶ 20). The review is 3  
26 minutes and 16 seconds in duration. (Decl. Kim ¶ 22). Approximately a year before this online  
27 review, she had visited Plaintiff in connection with a plastic surgery procedure, during which she  
28 was also treated unprofessionally. (Decl. Kim ¶ 7). The video also briefly touched upon

1 Defendant's previous experience with Plaintiff. Although the complaint does not mention,  
2 Defendant in her review states that ["Keep in mind guys they might have great doctors there, my  
3 review is just me going in as a customer and the way they treated me personally"]. (Decl. Kim ¶  
4 23). The review can be accessed via this link  
5 [www.tiktok.com/@kdramalogic/video/7298812801382976810?is\\_from\\_webapp=1&sender\\_dev  
6 ice=pc&web\\_id=7225775166646666795](https://www.tiktok.com/@kdramalogic/video/7298812801382976810?is_from_webapp=1&sender_device=pc&web_id=7225775166646666795) (Decl. Kim ¶ 22).

7 Do not go to this Wave Plastic Surgery Place in Koreatown, Los Angeles.

8 Story time so we can be very clear, so I walked in a nobody is there, when I  
9 walked in you would think three girls sitting there would go hey welcome, can I  
10 help you, do you have an appointment, absolutely nothing.

11 I walked in I walked towards the reception, none of them greeted me nothing,  
12 nothing, I stood there and then I said hello and the girl's like yes and I go oh I  
13 don't have an appointment and I'm and is it okay if I look around and look at the  
14 brochures and then I'll come up and ask um you know and ask some questions  
15 and then she's like – And so then I walked around the lobby of the inside and you  
16 know they have coffee and they have different pamphlets for you know Botox,  
17 this and that, I look around and it's exactly like the clinics in Korea.

18 And so then I walked back up toward the reception area and there's three girls  
19 there, one's like on the phone, on her phone, the other one is just kind of talking  
20 and I'm just standing there and you would think one of the three girls would go oh  
21 hey can I help you, do you have have any questions, da, da, da, nothing, nothing  
22 and the girl that's in front of me is is like and I stood there going well I'm not in a  
23 hurry and I'm just standing there, you would think they would say something so  
24 I'm just like standing there with nobody else there and then after like almost 15  
25 minutes I went you know what I'm just going to leave you guys have the worst  
26 customer service, I can't believe that you guys didn't even help me um and FYI  
27 I'm an influencer so you guys just got the worst review bye and then as I was  
28 walking out is um sorry, like whatever bitch do not go to wave plastic surgery.

And I remember remember last year when I called different places to kind of get  
prices and, and see what um they have, I remember the people who answered the  
phone at Wave were really rude too and I and that's why I didn't go walk in last  
year but today since I was walking around Korea town and I saw all these places,  
I figured I just go walk, horrible, horrible place, there's so places in Koreatown  
that Wave is definitely on the list of do not go and they actually treated me the  
worst than any place I've ever walked into.

Keep in mind guys they might have great doctors there, my review is just me  
going in as a customer and the way they treated me personally I would never do



1 anything, give them any business, just like when I was in Korea I went to those  
2 huge massive clinics and they were rude as well but they weren't as rude as the  
3 people here, at least in Korea they were very busy and there's tons of people  
4 waiting, here in Koreatown there nobody there and there's three girls sitting there  
5 not even helping me, I mean that is absolute utter nonsense and in Koreatown Los  
6 Angeles, every corner there's like three different face places and plastic surgery  
7 places so you can totally shop around here in Koreatown and so I do like to go in  
8 different places and see I have been to a few that were really, really excellent and  
9 nice so again this is just the customer service I received at Wave Plastic Surgery  
10 and they are a thumbs down guys. (IDE, Exh. "B").

11 **B. About Plaintiff and Dr. Peter Lee**

12 Plaintiff is a well-known plastic surgery center with five (5) locations throughout  
13 California. (Decl. Seyfnia ¶ 3). Plaintiff bills itself as a "luxury" plastic surgery facility and is  
14 considered "world-renowned." (Decl. Seyfnia ¶ 4); (IDE, Exh. "I" and "J"). Dr. Lee in response  
15 to a review wrote that Plaintiff "never turn away people who walk into our offices." (IDE, Exh.  
16 "E") Plaintiff, through its website, claims to have served as the plastic surgeon for numerous  
17 celebrities, including but not limited to Mario Lopez and his wife, Courteney Lopez. *Id.*

18 Plaintiff has a strong online presence. (IDE, Exh. "I" "O"). In addition to maintaining its  
19 own website, Plaintiff maintains various social media outlets, including but not limited to  
20 TikTok, Facebook, Instagram, and YouTube. (IDE, Exh. "I" "O"). Plaintiff's Yelp and Google  
21 pages are riddle with one star and two-star reviews, reviews left by its unsatisfied patients. (IDE,  
22 Exhibits "D" – "G").

23 Plaintiff's director, officer, and owner, Dr. Peter Lee, are featured in numerous  
24 publications, including The Washington Post, Teen Vogue, and Newsweek. Dr. Lee also actively  
25 engages with individuals who leave reviews online for Plaintiff. Plaintiff and Dr. Lee are not  
26 only in the "Public Eye" but also a public figure. (IDE, Exh. "I" and "J").

27 Shortly after Plaintiff's online review, Fox 11 News aired a segment on Defendant's  
28 online post and Plaintiff's civil lawsuit, during which Dr. Lee was interviewed and provided a  
statement. (IDE, Exh. "K"). Fox 11 News choosing to cover a news segment on Defendant's post  
demonstrates that Defendant's post is a topic of widespread public interest. *Id.* The Fox 11 News  
segment may be accessed and view through <https://www.foxla.com/video/1380556> .

1 **C. Defendant’s Online Review is Nonactionable**

2 Plaintiff filed its Complaint on December 7, 2023, alleging Defendant’s TikTok online  
3 review constituted Slander Per Se, Slander Per Quod, Libel Per Se, Libel Per Quod, and False  
4 Light. More specifically, Plaintiff alleges that the following statements made by Defendant give  
5 rise to the foregoing causes of action. (Plaintiff’s Complaint ¶ 15).

6 Defendant’s TikTok review, is an issue of public concern, comprised of opinion,  
7 hyperbole, and substantially true facts, are not actionable as a matter of law. Not only are  
8 Plaintiff’s meritless claims completely within the spirit of classic SLAPP suits designed to deter  
9 “public participation,” they clearly arise from protected free speech and conduct in furtherance  
10 thereof. Plaintiffs’ meritless claims taken as a whole are a textbook example of a “strategic  
11 lawsuit against public participation” (“SLAPP”)—lawsuits typically brought by powerful  
12 businesses, such as Plaintiff, in order silence and harass their critics by forcing them to spend  
13 money to defend these baseless suits. SLAPP filers, such as Plaintiff, seek to intimidate those  
14 who criticize or disagree with them or their activities by draining the target’s financial resources.  
15

16 For that reason, the California legislature has provided defendants such this Defendant  
17 with a procedure, the special motion to strike to quickly weed out SLAPP lawsuits before being  
18 subjected to costly and time-consuming litigation. In this instance, Defendant’s Anti-SLAPP  
19 motion must be granted under current binding California case law.

20 **III. LEGAL STANDARD FOR ANTI-SLAPP**

21 The anti-SLAPP statute “establishes a procedure by which the trial court evaluates the  
22 merits of the lawsuit using a summary-judgment-like procedure at an early stage of the  
23 litigation.” (*Schaffer v. City and Court of San Francisco*, 168 Cal. App. 4th 992, 998 (2008)).  
24 The procedure is a two-step process courts employ to determine whether to grant the anti-SLAPP  
25 motion made under California Code of Civil Procedure 425.16. *Id.*

26 “First, the court decides whether the defendant has made a threshold prima facie showing  
27 that the defendant’s acts, of which the plaintiff complains, were ones taken in furtherance of the  
28 defendant’s constitutional rights of petition or free speech in connection with a public issue.”

1 (*Kashian v. Harriman*, 98 Cal. App. 4th 892, 906 (2002)) (quoting *Paul for Council v. Hanyecz*,  
2 85 Cal. App. 4th 1356, 1364 (2001)). Second, “[i]f the court finds the defendant has made the  
3 requisite showing, the burden then shifts to the plaintiff to establish a ‘probability’ of prevailing  
4 on the claim by making a prima facie showing of facts that would, if proved, support a judgment  
5 in the plaintiff’s favor.” (*Kashian*, 98 Cal. App. 4th 906 (citing *Kyle v. Carmon*, 71 Cal. App. 4th  
6 901, 907 (1999)); *see also*, (*Chaker*, 209 Cal. App. 4th at 1142-43 and *Summit Bank*, 206 Cal.  
7 App. 4th at 681). With respect to the second step, a defendant’s anti-SLAPP motion should be  
8 granted either “by showing the plaintiff cannot establish an element of its cause of action or by  
9 showing there is a complete defense to the cause of action . . . .” (*Peregrine Funding, Inc. v.*  
10 *Sheppard Mullin Richter & Hampton, LLP*, 133 Cal. App. 4th 658, 676 (2005)).

11 **A. Anti-SLAPP statute “shall be construed broadly” Civ. Proc. Code § 425.16**

12 The anti-SLAPP statute provides that it “shall be construed broadly.” (Civ. Proc. Code §  
13 425.16(a).) This legislative directive is “expressed in unambiguous terms,” and courts “must  
14 treat the statutory language as conclusive” as the “broad construction expressly called for [in  
15 Section 425.16, subd. (a)] is desirable from the standpoint of judicial efficiency,” while a narrow  
16 construction “would serve Californians poorly.” (*Briggs v. Eden Council for Hope &*  
17 *Opportunity*, 19 Cal. 4th 1106, 1121–1122, 81 Cal. Rptr. 2d 471, 969 P.2d 564 (1999)).

18 **IV. LEGAL ANALYSIS AND ARGUMENT**

19 **A. Plaintiff’s Claims Arises from Defendant’s Protected Activity**

20 The first inquiry the court must conduct is to determine “whether the defendant has made  
21 a threshold prima facie showing that the defendant’s acts, of which the plaintiff complains, were  
22 ones taken in furtherance of the defendant’s constitutional rights of petition or free speech in  
23 connection with a public issue.” *Kashian*, 98 Cal. App. 4th at 906 (citation omitted). California’s  
24 anti-SLAPP statute defines an “act in furtherance of a person’s right of petition or free speech  
25 under the United States or California Constitution in connection with a public issue” as follows:  
26 (1) any written or oral statement or writing made before a legislative, executive, or judicial  
27 proceeding, or any other official proceeding authorized by law, (2) any written or oral statement  
28

1 or writing made in connection with an issue under consideration or review by a legislative,  
2 executive, or judicial body, or any other official proceeding authorized by law, (3) any written or  
3 oral statement or writing made in a place open to the public or a public forum in connection with  
4 an issue of public interest, or (4) any other conduct in furtherance of the exercise of the  
5 constitutional right of petition or the constitutional right of free speech in connection with a  
6 public issue or an issue of public interest. Code Civ. Proc. § 425.16(e).

7 As set forth herein, the internet posting made by Defendant about which Plaintiff is  
8 complaining was a statement made in a public forum regarding an issue of public interest.

9 **1. Defendant’s Internet Posting Was Made in a Public Forum**

10 The statute specifically identifies written or oral statements “made in a place open to the  
11 public or in a public forum in connection with an issue of public interest” as acts that furthers a  
12 person’s right to speak. Code of Civil Procedure § 425.16(e). Here, Defendant’s Post was in a  
13 public forum about an issue of public interest. Websites that are accessible to the public are  
14 “public forums” for purposes of the anti-SLAPP statute. (*Barrett v. Rosenthal*, 40 Cal. 4th 33, 41  
15 n.4, (2006)).

16 Social media platforms such as Reddit, Facebook, TikTok are public forum because it is a  
17 forum in which people from all over the world can access and communicate with one another.  
18 (IDE, Exh. “\_\_”). Therefore, Defendant’s post is “in a public forum.” Code of Civil Procedure §  
19 425.16(e); *Chaker*, 209 Cal. App. 4th 1138, 1146 (calling the internet an “electronic bulletin  
20 board open to literally billions of people all over the world,” making it a “classic public forum”);  
21 (*Kronemyer v. Internet Movie Data Base, Inc.*, 150 Cal. App. 4th 941, 950, (2007)) [Internet  
22 website treated as “public forum” where statements are “accessible to anyone who chooses to  
23 visit the site”]; *Wong v. Tai Jing*, (2010) 189 Cal. App. 4th 1354, 1367, (2010) [“It is settled that  
24 ‘Web sites accessible to the public ... are public forums for purposes of the anti-SLAPP statute’”  
25 [collecting cases]; *Summit Bank v. Rogers*, 206 Cal. App. 4th 669, 693 (2012) [“Without doubt,  
26 Internet message boards are places ‘open to the public or a public forum’ for purposes of section  
27 425.16”]; *Jackson v. Mayweather*, 10 Cal. App. 5th 1240, 1252, (2017) (postings on Facebook  
28 page and Instagram account and comments made during a radio broadcast were ”all made ‘in a

1 place open to the public or a public forum’ within the meaning” of the anti-SLAPP  
2 statute); *Dziubla v. Piazza*, 59 Cal. App. 5th 140, 149-150, (2020)(statements posted on website  
3 and emailed to 200,000 “gun enthusiasts” protected under (e)(2)); *Balla v. Hall*, 59 Cal. App. 5th  
4 652, 673, (2021) (challenged statement published in Facebook post was made in a public forum  
5 for anti-SLAPP purposes).

## 6 **2. Defendant’s Internet Posting Concerns an Issue of Public Interest**

7 To determine whether speech or conduct is in connection with a public issue or issue of  
8 public interest, the court engaged in “a two-part analysis rooted in the statute’s purpose and  
9 internal logic. “First, we ask what ‘public issue or [ ] issue of public interest’ the speech in  
10 question implicates—a question we answer by looking to the content of the speech. (§ 425.16,  
11 subd. (e)(4).) Second, we ask what functional relationship exists between the speech and  
12 the public conversation about some matter of public interest. It is at the latter stage that context  
13 proves useful.” *FilmOn.com Inc. v. DoubleVerify Inc.* 7 Cal.5th 133, 149 (2019).

14 In *Rand Resources, LLC v. City of Carson* 6 Cal.5th 610, 621 (2019), The Court  
15 identified “three nonexclusive and sometimes overlapping categories of statement” that qualify  
16 as public interest: “[1] when the statement or conduct concerns a ‘person or entity in the public  
17 eye’ ... [2] when it involves ‘conduct that could directly affect a large number of people beyond  
18 the direct participants’ ... [3] when it involves ‘a topic of widespread, public interest.’”. *Id.*

19 Here, Defendant can establish all three of the above nonexclusive categories provided in  
20 *Rand Resources, LLC*. Defendant’s post concerns an entity in the public eye, involves conduct  
21 that could direct affect a large number of people, and involved a topic of public interest.  
22

### 23 **i. Plaintiff and its Owner Are in the “Public Eye”**

24 Plaintiff has a very strong online presence and on its website and social media platforms  
25 claims to be “GLOBALLY RENOWNED ANTI-AGING EXPERTS.” (Decl. Seyfnia ¶ 4, IDE  
26 “I”- “J”). Plaintiff maintains its own website, [www.waveplasticsurgery.com](http://www.waveplasticsurgery.com) (IDE, Exh. “I” “J”);  
27 YouTube page (IDE, Exh. “L”); Instagram page (IDE, Exh. “M”) and Facebook page (IDE, Exh.  
28 “N”).

1 Plaintiff even maintains its own TikTok page, [www.tiktok.com/@waveplasticsurgery](http://www.tiktok.com/@waveplasticsurgery)  
2 (IDE, Exh. "O"). In addition, Plaintiff maintains a Yelp page and Google page. Through these  
3 online forums Plaintiff advertises to the general public, world-wide, and its followers its plastic  
4 surgery services. (IDE, Exhibits "I" – "O").

5 **a. Plaintiff Is Featured In Numerous Publications and Serves as**  
6 **Plastic Surgeon to Celebrities – which Plaintiff Advertises**

7 Plaintiff's director, officer, and for all intents and purposes is Dr. Peter Lee. (IDE, Exh.  
8 "H"). Plaintiff through its website ([www.waveplasticsurgery.com/about-wave/media/](http://www.waveplasticsurgery.com/about-wave/media/)) under its  
9 in the Media section "WAVE PLASTIC SURGERY IN THE MEDIA - STAY IN THE LOOP  
10 WITH WAVE PLASTIC SURGERY" claims that Plaintiff and Dr. Lee have been featured in  
11 numerous publications including Newsweek, The Washington Post, Elite Daily, Lady Lux,  
12 Hollywood Life, POPSUGAR, NAIRA, SHAPE, Teen VOUGUE, WELL + GOOD, Travel  
13 Weekly. (Decl. Seyfnia ¶ 3, IDE "J"). Plaintiff's website also claims that "Dr Lee is one of the  
14 world's leading experts in plastic surgery – he discusses the latest innovations in Endoscopic  
15 Brow and Midface Lift in this KDOC Medical Minute segment featured on ABC7 in 2017."

16 Additionally, Plaintiff and Dr. Lee put themselves out to provide plastic surgery services  
17 to various celebrities and media personalities, including Mario Lopez & Courtney Lopez, Sara X  
18 Mills, Brittany Oldehoff, Jennifer Broders, Daniela Rowson, Samantha Steffen, Bella Gusmao,  
19 AJ Gibson, amongst others. Plaintiff's website related to plastic surgery services it provides to  
20 Mario Lopez & Courteney Lopez provides "Dr. Lee is our resident plastic surgery guru and he's  
21 definitely got the magic touch because Mario and Courtney are absolutely glowing!" and  
22 features the following post:

23 **FEATURED PATIENT: MARIO LOPEZ & COURTNEY LOPEZ**

24 At Wave Plastic Surgery, we are thrilled that Extra TV's hunky host [Mario Lopez](#) and  
25 his gorgeous wife, Courtney Laine Mazza, visited us for some #Flawless treatment  
26 before their big trip! Dr. Lee is our resident plastic surgery guru and he's definitely  
27 got the magic touch because Mario and Courtney are absolutely glowing! So whether  
28 you're looking for the best Brazilian butt surgeon in Los Angeles or Facelift surgery  
in Los Angeles, we've got you covered! Thank you for stopping by Courtney and  
Mario Lopez! We hope to see you both again soon. Check out the [original post here](#).



1 (IDE, Exh “J” page 18/57).

2 Celebrities, including the ones featured on Plaintiff’s website, have their own fans and  
3 followers. The post above (Featured Patient: Mario Lopez & Courteney Lopez) contains a link  
4 that directs anyone on Plaintiff’s website who clicks on the link to Mario Lopez’s Instagram  
5 page. Featuring celebrities like Mario Lopez and Courteney Lopez on Plaintiff’s website  
6 undoubtedly places Plaintiff further in the “public eye.” These celebrities have dedicated fan  
7 bases and extensive media coverage, which means that by showcasing them on its website and  
8 social media platforms, Plaintiff gains exposure to a wider audience. This exposure can translate  
9 into increased website traffic as fans visit to see content related to their favorite stars. Moreover,  
10 the positive association with these well-known figures can enhance Plaintiff’s reputation and  
11 credibility. Such visibility attracts collaborative opportunities, further solidifying Plaintiff’s  
12 position in the public eye.

13 **b. Plaintiff in the “Public Eye” is Further Solidified by Plaintiff’s**  
14 **Owner, Dr. Lee’s Interview on Fox News<sup>11</sup>**

15 On December 12, 2023, Fox News published a segment related to Defendant’s post and  
16 this instant lawsuit titled “Koreatown business sues TikToker for libel, slander over video  
17 review.” (IDE, Exh. “K”). In this segment, Dr. Lee was interviewed. Dr. Lee expressed to Fox  
18 News that Defendant’s video made him upset and that “I so take offense and I take it really  
19 seriously.” *Id.*

20 Being interviewed by a reputable news agency like Fox News further signifies that  
21 Plaintiff and Dr. Lee are in the public eye. It also demonstrates that Defendant’s post is a topic of  
22 widespread public interest. News agencies such as Fox News have a vast viewership and are  
23 renowned for covering stories of significant public interest. The fact that a prominent news outlet  
24 chose to conduct a segment on Defendant’s post and interview Plaintiff’s owner, Dr. Lee,  
25 indicates that Defendant’s post was a matter of public concern and unquestionably demonstrates  
26 the public’s interest in this matter. (IDE, Exh. “K”). It should be noted that Plaintiff in its TikTok  
27 profile has a direct link to the Fox New segment. (IDE, Exh. “O”).  
28

1                   **ii. The Review Involves ‘Conduct That Could Directly Affect A Large**  
2                   **Number Of People Beyond The Direct Participants’**

3                   Defendant’s online review of Plaintiff expressing her experience and opinion related to  
4 the poor customer service she received at a “luxury” plastic surgery facility could direct a larger  
5 number of people beyond the direct participants. The review could form one’s decision as to  
6 whether or not to receive cosmetic medical care at Plaintiff’s facility (choice of medical care),  
7 and it can also be part of one’s overall decision making as part of making an informed decision.  
8 Courts have recognized the growth of consumerism in the United States and have acknowledged  
9 the importance of public access to consumer information. (*Wilbanks v. Wolk* 121 Cal.App.4th  
10 883, 898–899, (2004); *Gilbert v. Sykes*, 147 Cal.App.4th 13, 23-24 (2007) (website post  
11 criticizing plastic surgeon was within protection of anti-SLAPP).  
12

13                   Furthermore, the review also serves to prevent untrue or misleading advertising by  
14 Plaintiff. (Decl. Kim ¶ 23). On November 7, 2023, when Defendant visited Plaintiff’s facility,  
15 Plaintiff maintained on its Yelp Page that walk-ins were welcomed. (IDE, Exh. “C”). This  
16 remained the case until at least December 17, 2023. (Decl. Kim ¶ 10). However, when  
17 Defendant, as a walk-in customer, visited the facility, she was neither welcomed nor treated  
18 professionally; instead, she encountered rudeness that led her to leave the facility. (Decl. Kim ¶¶  
19 12-17). This suggests that Plaintiff engaged in false and misleading advertising. The public has  
20 an interest in the free flow of such information to assess for themselves and make an informed  
21 decision, especially when it involves a significant decision like undergoing surgery.

22                   Furthermore, the review is intended to hold Plaintiff accountable for its actions and  
23 policies. (Decl. Kim ¶ 23). People have the right to be informed about the unprofessional and  
24 rude treatment Defendant received from Plaintiff’s staff. People should also be aware that a  
25 business that advertises the welcoming of walk-ins does not actually accommodate walk-ins.  
26 Through such a review, perhaps Plaintiff will improve its staff training to ensure that its  
27 treatment of patients and potential clients aligns with the "luxury" image it promotes to the  
28 general public.



1 Defendant’s post also generated public discussion within the post itself. (Decl. Kim ¶ 22).  
2 In the comments section of the post, 667 comments were generated by various TikTok users.  
3 (Decl. Kim ¶ 22). Some expressed agreement with Defendant, while others disagreed and shared  
4 that their experience differed. Some users shared similar treatment experiences they had  
5 received. This ongoing conversation and debate about a business or industry facilitate the free  
6 flow of information, enabling others to make informed decisions based on these discussions.

7 Finally, as detailed below, Plaintiff consistently responds to reviews from its patients,  
8 whether positive or negative, through its maintained social media outlets, including Yelp and  
9 Google. (Decl. Seyfnia ¶ 5). Patients leave reviews or comments on Plaintiff’s Yelp page, and its  
10 owner, Dr. Lee personally, [or Plaintiff’s admin] responds and engages with these patients. (IDE,  
11 Exh. “D” and “G”). Moreover, Plaintiff generates and posts videos online through its social  
12 media outlets on YouTube and TikTok, which also garner viewership and comments, fostering  
13 similar public discussions as the one initiated by Defendant’s TikTok review. (IDE, Exh. “L” –  
14 “O”).

15 **iii. The Review Involves a Topic of Widespread Public Interest.**

16 It should not come as a surprise that Fox 11 News completed and aired a segment on  
17 Defendant’s online review and Plaintiff’s lawsuit. This is because many California citizens are  
18 interested in plastic surgery, and a significant number of our citizens undergo such procedures.

19 More plastic surgeries are performed in the United States than in any other country in the  
20 world. Within the United States, California has the largest population of individuals who have  
21 undergone some sort of plastic surgery or minimally invasive procedures, such as injections,  
22 including Botox. According to an article published in September 2020, by National Library of  
23 Medicine, titled *Patient demand for plastic surgeons for every US state based on Google*  
24 *searches*: California had the highest Google Relative Search Volume for plastic surgery  
25 procedures. (IDE, Exh. “T”). “California exhibited the greatest number of Google searches  
26 (RSV=100), followed by Florida and Hawaii (RSV=95).” And “California has the most  
27 surgeons” than any other state. *Id.* (See also IDE, Exh. “P,” “Q” and “S”).  
28

1 On January 18, 2023, Forbes published an article titled *Cosmetic Surgery is on the Rise*  
2 *with Technology and Hollywood is at the Center of It*. (IDE, Exh. “R”). According to this article,  
3 “Many have hailed Hollywood as the ultimate propeller of the cosmetic surgery industry. This is  
4 because Hollywood has been the hallmark for setting beauty standards on screen and off the  
5 screen. The fact that a good number of celebrities have resorted to cosmetic surgery to enhance  
6 their looks, was always going to reflect in the number of people who would tow the same path.  
7 One benefit of this movement is the gradual erosion of the stigma that has often trailed cosmetic  
8 surgeries.” *Id.* Darren Smith, a New York-based surgeon, partially credits social media in the  
9 increase of plastic surgery procedures. “We’re seeing social media setting all kinds of trends, as  
10 people are having faster and more frequent access to latest celebrity looks and trends.” *Id.*

### 11 **3. Public Issue May be of Interest to a Definable Portion of the Public**

12 Although the anti-SLAPP statute is often used in matters involving widespread public  
13 interest, Civ. Proc. Code § 425.16 may also be invoked where an ongoing controversy, dispute,  
14 or discussion involves a limited but definable segment of the public. (*Briggs v. Eden Council for*  
15 *Hope & Opportunity*, 19 Cal. 4th 1106, 1116 (1999) [discussing and overruling earlier anti-  
16 SLAPP appellate decision that determined anti-SLAPP statute did not apply to events that  
17 transpire between private individuals]; *Damon, supra*, 85 Cal. App. 4th 474–475 [involving  
18 dispute about manager of homeowners’ association]; *Traditional Cat Ass’n, Inc. v. Gilbreath*,  
19 118 Cal. App. 4th 392, 13, (2004) [anti-SLAPP statute applied to controversy in the cat breeding  
20 community]; *Wilbanks v. Wolk*, 121 Cal. App. 4th 883, 897 n.4, (2004) [“Section 425.16,  
21 therefore, governs even private communications, so long as they concern a public issue.”].

#### 22 **i. Public Issue Need Not Be Significant**

23 With the anti-SLAPP statute, “[a]ny issue in which the public takes an interest is of  
24 ‘public interest.’” (*Nygaard, Inc. v. Uusi-Kerttula*, 159 Cal. App. 4th 1027, 1039, (2008); *Grenier*  
25 *v. Taylor*, 234 Cal. App. 4th 471, 481–483, (2015) (allegedly libelous Internet postings of  
26 interest to a church community of 550 to 1,000 members was “large enough to qualify as a  
27 ‘community’ for purpose of section 425.16” and in “the context of information ostensibly  
28

1 provided to aid consumers choosing among churches, the [allegedly defamatory] statements were  
2 connected to an issue of public concern”);

3 As the California Supreme Court recently emphasized, what it means to contribute to the  
4 public debate does not involve a value judgment: “[O]ur inquiry does not turn on a normative  
5 evaluation of the substance of the speech. We are not concerned with the social utility of the  
6 speech at issue, or the degree to which it propelled the conversation in any particular direction;  
7 rather, we examine whether a defendant—through public or private speech or conduct—  
8 participated in, or furthered, the discourse that makes an issue one of public  
9 interest.” *FilmOn.com Inc. v. DoubleVerify Inc.*, 7 Cal. 5th 133, (2019); *Musero v. Creative*  
10 *Artists Agency, LLC*, 72 Cal. App. 5th 802, 822 n.8, (2021) (criticizing *Nygaard’s* “sweeping  
11 pronouncement, made 11 years before *FilmOn*,” as “at odds with the Supreme Court’s caution  
12 that determining whether the subject of speech or other conduct constitutes a matter of public  
13 interest requires an evaluation of specific contextual considerations”).

14 **B. Plaintiff Cannot Establish a Probability of Prevailing on its Claims**

15 Because the underlying speech plainly falls within the scope of Section 425.16, the  
16 burden shifts to Plaintiff to present admissible evidence showing it has a probability of success  
17 on the merits of its action. CCP § 425.16 (b)(1); *Macias v. Hartwell*, 55 Cal. App. 4th 669, 675  
18 (1997). To satisfy this burden, Plaintiff must “establish evidentiary support for [its] claim.”  
19 *Navellier v. Sletten*, 106 Cal. App. 4th 763, 775–76 (2003). Plaintiff also must “meet the  
20 defendant’s constitutional defenses.” *Robertson v. Rodriguez*, 36 Cal. App. 4th 347, 359 (1995).  
21 Reviewing a special motion to strike, the Court applies a summary judgment-like standard. *Taus*  
22 *v. Loftus*, 40 Cal. 4th 683 (2007). Plaintiff’s claims must be “supported by sufficient *prima facie*  
23 showing of facts to sustain a favorable judgment if the evidence submitted by the plaintiff is  
24 credited.” *Id.* at 713–14. The Court must strike the claim if Plaintiff fails to meet its burden.  
25 CCP § 425.16 (b)(1).  
26  
27  
28

1           **1. Plaintiff Cannot Establish Any of Its Causes of Actions as Plaintiff is Unable**  
2                           **to Overcome Defendant’s Substantive Legal Defenses – Also Important,**  
3                           **Plaintiff Has No Damages**

4           The plaintiff must also present admissible evidence to show a “probability of success on  
5 the merits” to defeat any privilege or legal defenses raised by the defendant. (*Kashian v.*  
6 *Harriman*, 98 Cal. App. 4th 892, 926–927 (2002); *Traditional Cat Ass’n, Inc. v. Gilbreath*, 118  
7 Cal. App. 4th 392, 398 (2004) [the anti-SLAPP statute “contemplates consideration of the  
8 substantive merits of the plaintiff’s complaint, as well as all available defenses to it, including,  
9 but not limited to constitutional defenses.”]; *Trinity Risk Management, LLC v. Simplified Labor*  
10 *Staffing Solutions, Inc.*, 59 Cal. App. 5th 995, 1006 (2021) [“To defeat an anti-SLAPP motion,  
11 [plaintiff] must overcome any substantive defenses that exist.”])).

12           To satisfy this prong-two showing, Plaintiff must present credible evidence that satisfies  
13 the standard of proof required by the substantive law of the cause of action challenged by the  
14 anti-SLAPP motion. The legal showing required will depend on the substantive law of  
15 the cause of action (or causes of action) at issue and the legal defenses asserted.

16           As mentioned above, Plaintiff contends that the following statements made by Defendant  
17 on her online review give rise to defamation causes of actions: (Complaint, ¶ 15)

- 18           a. “Do not go to Wave Plastic in Koreatown, Los Angeles”
- 19           b. “... I walked in nobody is there...”
- 20           c. “...I walked in, I walked towards the reception, none of them greeted me. Nothing.  
21           Nothing...”
- 22           d. “... I walked back up towards the reception area and there’s three girls there. One’s like  
23           on the phone. One is on her phone. The other one is kinda just talking and I’m just  
24           standing there and you would think one of the three girls would go, “oh hey so can I help  
25           you do you have any questions [] nothing, nothing...”
- 26           e. “... And then I’m just standing there with nobody else there and then after like  
27           almost fifteen minutes I went “you know what I’m just gonna leave you guys have the  
28           worst customer service I can’t believe that you guys didn’t even help me and FYI I’m an  
29           influencer so you guys just got the worst review bye” (Emphasis added)
- 30           f. “... horrible, horrible place there’s so many places in Koreatown and Wave is definitely  
31           on the list to do not go and they actually treated me the worst than any place I’ve walked  
32           into...”

33           The statements in question are not actionable and consist of opinions, hyperbole, and  
34 substantially accurate facts, rendering them legally non-defamatory. For instance, the initial

1 statement, “Do not go to Wave Plastic in Koreatown, Los Angeles,” does not constitute  
2 defamation. Similarly, statements (b) through (f) are expressions of opinion, hyperbole, or facts  
3 that are substantially true. For example, statement (e), “... And then I’m just standing there with  
4 nobody else around, and then after what felt like almost fifteen minutes” (bold added), reflects an  
5 expression of opinion and hyperbole - “almost fifteen minutes.” Anti-SLAPP statutes were  
6 specifically enacted to prevent lawsuits of this nature, similar to the one filed by Plaintiff.

7 In “all cases of alleged defamation, whether libel or slander, the truth of the offensive  
8 statements or communication is a complete defense against civil liability, regardless of bad faith  
9 or malicious purpose,” and while the defendant must meet its “burden to ‘justify,’ or show the  
10 truth of the statements... the defendant need not justify the literal truth of every word of the  
11 allegedly defamatory matter. It is sufficient if the substance of the charge is proven true,  
12 irrespective of slight inaccuracy in the details, ‘so long as the imputation is substantially true so  
13 as to justify the ‘gist or sting’ of the remark’.” *Ringler Assocs. Inc. v. Maryland Cas. Co.*, 80  
14 Cal. App. 4th 1165, 1180–81 (2000).

15 *Franklin v. Dynamic Details, Inc.* lays out the analysis for determining whether opinion  
16 related statements can be defamatory. 116 Cal.App.4th 375 (2004). In finding that emails  
17 alleging copyright theft and similar claims were non-actionable opinions, the Court explained  
18 “the question is not strictly whether the published statement is fact or opinion ... [r]ather, the  
19 dispositive question is whether a reasonable fact finder could conclude the published statement  
20 declares or implies a provably false assertion of fact.” *Id.* at 385. “[S]atirical, hyperbolic,  
21 imaginative, or figurative statements are protected because ‘the context and tenor of the  
22 statements negate the impression that the author seriously is maintaining an assertion of actual  
23 fact.’ ” *Id.* An opinion or legal conclusion is actionable only “ ‘if it could reasonably be  
24 understood as declaring or implying actual facts capable of being proved true or false.’ ” *Id.* at  
25 386. An opinion is not actionable if it discloses all the statements of fact on which the opinion is  
26 based and those statements are true. *Id.* at 387. In determining whether a statement is  
27 actionable, the Court must examine the totality of the circumstances, starting with the language  
28

1 of the statement. *Id.* at 385.

2 Additionally, Civil Code section 47 provides a qualified privilege for statements made  
3 “without malice, to a person interested therein, (1) by one who is also interested, or (2) by one  
4 who stands in such a relation to the person interested as to afford a reasonable ground for  
5 supposing the motive for the communication to be innocent, or (3) who is requested by the  
6 person interested to give the information.” Civil C. § 47 (c); *see also Terry v. Davis Cmty.*  
7 *Church*, 131 Cal. App. 4th 1534, 1556 (2005) (privilege applies to communications between  
8 church members on church matters); *Kashian v. Harriman*, 98 Cal. App. 4th 892, 930 (2002)  
9 (privilege applied where parties “shared a common business or professional interest in” topic  
10 discussed).

11 **i. The Review is Non-Actionable Opinion or Hyperbole**

12 The law recognizes the importance of protecting free expression, including the expression  
13 of subjective viewpoints. Although statements of fact may be actionable as libel, statements  
14 of opinion are constitutionally protected. (*Baker v. Los Angeles Herald Examiner*, 42 Cal.3d 254,  
15 260 (1986)). The statements when viewed in their totality and appropriate context, appears very  
16 doubtful that the alleged statements properly could be viewed as *a statement of fact* (which could  
17 support a defamation action), rather than *an expression of opinion* (which cannot). The alleged  
18 statements fall within the realm of protected opinion and do not give rise to any legal claim.  
19 Further, the proposition that “dishonest opinions are equivalent to false statements of fact would  
20 undermine the First Amendment.” (*Hofman Co. v. E.I. Du Pont De Nemours & Co.*, 202 Cal.  
21 App. 3d 390, 407(1988) (abrogated on other grounds)).

22 Determining whether a particular communication is actionable can be difficult, and “what  
23 constitutes a statement of fact in one context may be treated as a statement of opinion in another,  
24 in light of the nature and content of the communication taken as a whole.” *Gregory v.*  
25 *McDonnell Douglas Corp.*, 17 Cal.3d 596, 601 (1976). “To decide whether a statement is fact or  
26 opinion, a court must put itself in the place of an average reader and determine the natural and  
27 probable effect of the statement, considering both the language and the context. [Citation.]”  
28

1 (*ComputerXpress, supra*, 93 Cal.App.4th at 1011. This means that [the defendant’s] statements  
2 must be viewed from the perspective of the average reader of an Internet site . . . . *Id.*

3 In light of the applicable standards, Defendant’s online review can only be construed as  
4 stating non-actionable opinions, including those based on disclosed substantially true facts. In  
5 her opinion, she waited in the Plaintiff’s lobby “... for like almost fifteen minutes.” Similarly, in  
6 Defendant’s opinion, Plaintiff’s facility is “...horrible, horrible place there’s so many places in  
7 Koreatown and Wave is definitely on the list to do not go and they actually treated me the worst  
8 than any place I’ve walked into...”Thus, the post asserts a non-actionable opinion based on  
9 substantially true facts.

10 Moreover, the gist or sting of the post, in context, is simply to share Defendant’s  
11 consumer experience with other consumers considering Plaintiff’s services, qualifying as  
12 privileged and protected speech on a common pecuniary interest. *See Kashian v. Harriman*, 98  
13 Cal. App. 4th 892, 930 (2002). Internet postings such as the TikTok post can only be reasonably  
14 construed as opinions based upon the informal nature of the publication. (IDE, Exh. “A”). *E.g.*  
15 *Summit Bank v. Rogers*, 206 Cal. App. 4th 669, 699 (2012) (messages obviously “intended to be  
16 free-flowing diatribes” without “proper spelling or grammar, and which strongly suggest that”  
17 “unsophisticated, florid opinions” and “context further undermines” any “expectation that the  
18 posts are to be understood as assertions of fact.”).

19 In addition to *Chaker* and *Summit Bank*, there are numerous other cases in which courts  
20 have determined that statements are nonactionable opinion based in large part on the fact that the  
21 statements were deemed unreliable because they were made in internet forums. These cases  
22 include: *Krinsky v. Doe 6*, 159 Cal. App. 4th 1154, 1178 (2008) (holding that posts on a Yahoo!  
23 message board “fall into the crude, satirical hyperbole which, while reflecting the immaturity of  
24 the speaker, constitute protected opinion under the First Amendment”); *Computerxpress, Inc. v.*  
25 *Jackson*, 93 Cal. App. 4th 993, 1013 (2001) [“[W]hile the postings certainly could be considered  
26 disparaging, their tone and content identified them as statements of opinion and not fact”].  
27  
28

1                   **ii. The Review is Truthful**

2                   Factual truth is a complete defense to defamation. (*Gilbert v. Sykes* 147 Cal.App.4th 13,  
3 28 (2007)). The alleged statements in question are not actionable due to their basis in truth. Truth  
4 serves as an absolute defense in defamation actions. For example, the statements that “I walked  
5 in, I walked towards the reception, none of them greeted me. Nothing. Nothing...” and “... I  
6 walked back up towards the reception area and there’s three girls there. One’s like on the phone.  
7 One is on her phone. The other one is kinda just talking and I’m just standing there and you  
8 would think one of the three girls would go, “oh hey so can I help you do you have any questions  
9 [] nothing, nothing...” are true statements as none of the reactionist greeted Defendant once she  
10 entered the facility. (Decl. Kim ¶ 13-18).

11                   Further, every word of the statement need *not* be literally true for this defense to apply. It  
12 is enough that its “gist” or “sting” be true. (*Campanelli v. Regents of Univ. of Calif.* 44  
13 Cal.App.4th 572, 581-582 (1996); *Hughes v. Hughes* 122 Cal.App.4th 931, 936 (2004) —  
14 brothers’ comments in magazine and newspaper articles that “our Dad’s a pimp” could be found  
15 substantially true, where father had engaged in pimping in past; *Gilbert v. Sykes*, supra, 147  
16 Cal.App.4th at 28—before-and-after pictures of plaintiff’s plastic surgery posted online by  
17 defendant doctor were substantially accurate even though “after” photos were not taken on date  
18 indicated; *Carver v. Bonds* 135 Cal.App.4th 328, 358-359 (2005) —newspaper article’s claim  
19 that chiropractor promoted his practice by exaggerating his relationships with famous athletes  
20 was substantially true and therefore not actionable). Truth is a defense even if the statement was  
21 made in bad faith or with an evil purpose. (*Terry v. Davis Community Church* 131 Cal.App.4th  
22 1534, 1553 (2005)).

23                   Plaintiff’s own Yelp and Google pages are filled with numerous one- and two-star  
24 reviews. These reviews, most of which predate the date of Defendant’s review, highlight  
25 Plaintiff’s poor customer service and performance (IDE, Exh. “F”). Below are some of the one-  
26 star reviews left by Wave’s patients attesting to their terrible experiences at the clinic. A review  
27 dated November 12, 2011 start with “DO NOT GO HERE...” *Id.*

- 28                   • Review dated September 2, 2013 provides “ I had the same horrible experience as Alicia.  
I had surgery with Dr. Lee 13 years ago (before yelp existed) and my stitched opened



1 too! I had to have a whole new surgery to fix his mistakes and all it did was make things  
2 worse! The second time the stitches opened too... And now I'm left with two sets of bad  
scars. Do not go here!" *Id.*

- 3 • Review dated October 14 ,2023, "...I regretted my decision of ever getting the surgery  
done." *Id.*
- 4 • Review dated August 15, 2023 "This is a terrible clinic..." *Id.*
- 5 • Review dated March 22, 2023 "This practice is unethical and has no integrity and after  
6 your \$\$ only! It's won't be about you! .... I made a big mistake giving them my  
business!" *Id.*
- 7 • Review dated September 15, 2023 "I do not understand this clinic. I walked in this wave  
8 clinic on Wilshire to make an appointment for treatment and one of staff just gave me  
two business cards and said you just call or text to the number and make an appointment  
9 by yourself. I already at the clinic and i think that's why staffs are working thee to help or  
treat their clients. Feel like they dont care and don't want a new customer." *Id.*

10 (IDE, Exhibits "F" and "E").

11 It is important to note that Plaintiff including Dr. Lee engages its patients online reviews  
12 by responding directly to the patients. For most of the reviews left on Plaintiff's Yelp page,  
13 Plaintiff either through its staff or owner engages the reviewer. (IDE, Exhibits "D").

14 Plaintiff's Google Reviews are also riddle with one star review – left by unsatisfied  
15 patients. (IDE, Exh. "G"). One Google Review from "a year ago" provides "This is a horrible  
16 experience..." another review "If I could give zero stars, I would..." Another review from  
17 "2 years ago" provides, "The attitude is extremely bad. The receptionist who came to inquire was  
18 extremely aggressive and impatient. I feel like all the good reviews are just for buying." (IDE,  
19 Exh. "G").

## 20 **2. Plaintiff is a Public Figure – Must Show Actual Malice**

21 Defendant contends that Plaintiff and its owner, Dr. Lee, is a public figures, imposing a  
22 higher burden of proof by clear and convincing evidence to establish that Defendant's online  
23 review was made with actual malice. Dr. Lee's substantial media exposure through appearances  
24 in various print and television outlets, coupled with his status as a widely recognized celebrity  
25 plastic surgeon, firmly places him not only in the "public eye" but squarely within the  
26 classification of a public figure. ([www.waveplasticsurgery.com/about-wave/media/](http://www.waveplasticsurgery.com/about-wave/media/)).

27 "If the person defamed is a public figure, he cannot recover unless he proves, by clear  
28 and convincing evidence ..., that the libelous statement was made with " 'actual malice' that is,

1 with knowledge that is was false or with reckless disregard of whether it was false or not.’  
2 (*Jackson v. Mayweather*, 10 Cal.App.5th 1240, 1259). Dr. Lee’s access to Fox 11 News is  
3 further evidence that he is a public figure – he went on Fox 11 News to rebut Defendant’s online  
4 review. (IDE, Exh. “K”).

5 **3. Anti-SLAPP May be Brought to Dismiss Portions of a Cause of Action**

6 A defendant may bring an anti-SLAPP motion against an entire complaint, an  
7 individual cause of action, portions of a cause of action, a cross-complaint, writ petitions,  
8 declaratory relief actions, and federal claims brought in state court. An anti-  
9 SLAPP motion may be used to dismiss portions of a cause of action. (*Baral v. Schnitt*, 1 Cal. 5th  
10 376, 391–392 (2016)).

11 **V. CONCLUSION**

12 Plaintiff’s claims are a classic and unfounded SLAPP, brought by a multi-million-dollar  
13 business to harass an individual Defendant and chill conversation designed to promote discussion  
14 of an issue of public concern. Plaintiff’s claims arise from free speech and conduct in  
15 furtherance thereof and are baseless and must be stricken. Accordingly, Defendant respectfully  
16 requests that the Court grant this Motion.

17 Respectfully Submitted,

18 Dated: January 9, 2024

**SEYFNIA & PRYBYLO, LLP**

19  
20 By: /s/ Farzad Seyfnia  
21 Farzad Seyfnia, Esq.  
22 Attorneys for Defendant Tina Kim  
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## Make a Reservation

**WAVE PLASTIC SURGERY CENTER, INC., A CALIFORNIA CORPORATION vs TINA KIM**  
 Case Number: 23STCV29954 Case Type: Civil Unlimited Category: Defamation (slander/libel)  
 Date Filed: 2023-12-07 Location: Stanley Mosk Courthouse - Department 38

Reservation	
Case Name: WAVE PLASTIC SURGERY CENTER, INC., A CALIFORNIA CORPORATION vs TINA KIM	Case Number: 23STCV29954
Type: Special Motion to Strike under CCP Section 425.16 (Anti-SLAPP motion)	Status: RESERVED
Filing Party: Tina Kim (Defendant)	Location: Stanley Mosk Courthouse - Department 38
Date/Time: 04/16/2024 9:30 AM	Number of Motions: 1
Reservation ID: 901233435994	Confirmation Code: CR-EVWW5JTUHPDIPRTMW

Fees			
Description	Fee	Qty	Amount
Special Motion to Strike under CCP Section 425.16 (Anti-SLAPP motion)	60.00	1	60.00
Credit Card Percentage Fee (2.75%)	1.65	1	1.65
<b>TOTAL</b>			<b>\$61.65</b>

Payment	
Amount: \$61.65	Type: Visa
Account Number: XXXX0816	Authorization: 009068
Payment Date: 1969-12-31	

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