COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT, DIVISION EIGHT

PAUL BRODEUR, Plaintiff and Respondent, vs. ATLAS ENTERTAINMENT, INC.; ANNAPURNA PRODUCTIONS LLC D/B/A ANNAPURNA PICTURES; COLUMBIA PICTURES INDUSTRIES, INC.; AND FIRST DOE THROUGH FIFTIETH DOE, Defendants and Appellants,	Second District Civ. No.: **B263379** Los Angeles County Superior Court, Case No. BC562288 (Hon. Terry Green)

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APPLICATION OF AMICI CURIAE CBS BROADCASTING INC., THE MOTION PICTURE ASSOCIATION OF AMERICA, THE NEW YORK TIMES COMPANY, GETTY IMAGES (US), INC., HEARST CORPORATION, FIRST LOOK MEDIA WORKS, INC., CENTER FOR INVESTIGATIVE REPORTING, INC., THE CALIFORNIA NEWSPAPER PUBLISHERS ASSOCIATION, FIRST AMENDMENT COALITION, CALIFORNIANS AWARE, AND THE REPORTERS COMMITTEE FOR FREEDOM OF THE PRESS TO FILE AMICUS BRIEF IN SUPPORT OF APPELLANTS ATLAS ENTERTAINMENT, INC.; ANNAPURNA PRODUCTIONS LLC D/B/A ANNAPURNA PICTURES AND COLUMBIA PICTURES INDUSTRIES INC.; [PROPOSED] ORDER

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TO THE HONORABLE PRESIDING JUSTICE AND ASSOCIATE JUSTICES OF THE SECOND APPELLATE DISTRICT COURT OF APPEAL FOR THE STATE OF CALIFORNIA, DIVISION EIGHT:

Amici Curiae CBS Broadcasting Inc., the Motion Picture Association of America, The New York Times Company, Getty Images (US), Inc., Hearst Corporation, First Look Media Works, Inc., Center for Investigative Reporting, Inc., the California Newspaper Publishers Association, First Amendment Coalition, Californians Aware, and the Reporters Committee for Freedom of the Press (collectively, the "Media Amici") respectfully request permission to file their concurrently lodged Amici Curiae Brief in the above-entitled case in support of Defendants/Appellants Atlas Entertainment, Inc.; Annapurna Productions LLC d/b/a Annapurna Pictures; and Columbia Pictures Industries, Inc. (collectively, "Appellants").

THE AMICI CURIAE

CBS Broadcasting Inc. produces and broadcasts news, public affairs, and entertainment programming. Its CBS News division produces morning, evening, and weekend news programming, as well as news and public affairs magazine programs such as 60 Minutes and 48 Hours. CBS also owns and operates broadcast television stations nationwide, including KCBS-TV in Los Angeles and KPIX-TV in San Francisco.

The Motion Picture Association of America (MPAA) is a not-for-profit trade association founded in 1922 to address issues of concern to the United States motion picture industry. Its members[1] and their affiliates are the leading producers and distributors of audiovisual entertainment in the theatrical, television and DVD/home video markets. MPAA often has appeared as amicus curiae in cases involving claims that potentially implicate the First Amendment rights of its members.

The New York Times Company is a global media organization dedicated to enhancing society by creating, collecting and distributing high-quality news and information. The company includes The New York Times, International New York Times, NYTimes.com, INYT.com and related properties. It is known globally for excellence in its journalism, and innovation in its print and digital storytelling and its business model.

Getty Images (US), Inc. is one of the world's leading creators and distributors of still imagery, footage and multimedia products, as well as a recognized provider of other forms of premium digital content, including music. Getty Images serves business customers in more than 100 countries. Its award-winning photographers and imagery help customers produce inspiring work which appears every day in the world's most influential

[1] The members of MPAA are: Paramount Pictures Corporation; Sony Pictures Entertainment Inc.; Twentieth Century Fox Film Corporation; Universal City Studios LLC; Walt Disney Studios Motion Pictures; and Warner Bros. Entertainment Inc.

newspapers, magazines, advertising campaigns, films, television programs, books and web sites.

Hearst Corporation is one of the nation's largest diversified media companies. Its major interests include ownership of 15 daily and 34 weekly newspapers, including *The San Francisco Chronicle*; nearly 200 magazines around the world, including *Good Housekeeping*, *Cosmopolitan* and *O, The Oprah Magazine*; television stations around the country that reach approximately one-fifth of U.S. viewers, including three local stations in California; ownership in leading cable networks and business publishing brands; and Internet businesses, television production, newspaper features distribution and real estate.

First Look Media Works, Inc. First Look Media Works is based on the belief that democracy depends on a citizenry that is highly informed and deeply engaged in the issues that affect their lives. First Look seeks to improve society through journalism and technology, to help individuals hold the powerful accountable, build responsive institutions and, most important, shape their communities and what happens in their lives for the better. Among other activities, including film, television and digital production, it publishes The Intercept.

The California Newspaper Publishers Association (CNPA) is a non-profit trade association representing more than 800 daily, weekly and student newspapers in California. CNPA has defended the First

Amendment rights of publishers to disseminate and the public to receive news and information for well over a century.

Center for Investigative Reporting, Inc. ("CIR"). Founded in 1977, CIR is nationally respected for setting the highest journalistic standards, and for its signature approach to investigative reporting and collaboration. To reach a broad and diverse audience worldwide, CIR publishes stories online, as well as via print, television, radio/audio, and video.

First Amendment Coalition is a nonprofit advocacy organization dedicated to freedom of speech and government transparency and accountability. Founded in 1988, FAC operates a free legal hotline providing answers to questions from journalists and ordinary citizens on First Amendment and freedom-of-information issues, open meeting laws, judicial access and other government- access matters. Other programs include information and education services as well as public advocacy through publication of articles and editorials. In addition, FAC engages in strategic litigation, filing selected civil suits, in its own name, in state and federal courts, as well as amicus briefs. FAC's members include news media outlets, both national and California-based, traditional media and digital, together with law firms, journalists, community activists and ordinary citizens.

Californians Aware is a non-profit public benefit corporation organized under the laws of California. Its mission is to support and defend open government, an enquiring press, and a citizenry free to exchange facts and opinions on public issues.

The Reporters Committee for Freedom of the Press is a voluntary, unincorporated association of reporters and editors that works to defend the First Amendment rights and freedom of information interests of the news media. The Reporters Committee has provided representation, guidance and research in First Amendment and Freedom of Information Act litigation since 1970.

INTERESTS OF AMICI CURIAE

Media Amici are media, entertainment, and publishing organizations, who themselves or whose members own and operate broadcast and cable television networks, feature film production and distribution companies, newspapers and television and radio stations in California and throughout the United States. They are engaged in the creation and production of content of every stripe. The issues presented in this case, which involves the function and reach of Code of Civil Procedure Section 425.16 (the "Anti-SLAPP Statute"), have broad application to content creators such as Media Amici, who rely on the Anti-SLAPP Statute's protection to avoid the costs and burden of litigating meritless claims that challenge their exercise of the rights of speech and petition.

Media Amici have decades of experience litigating issues within the scope of the Anti-SLAPP Statute, and the proper interpretation of the Anti-SLAPP Statute itself.

The ability to engage in speech protected by the First Amendment is essential to Media Amici's collective mission of disseminating knowledge, information, and entertainment to the public. The Anti-SLAPP Statute provides vital protection for the publication of news reports, articles, films, television programs, and other artistic works that are critical in a free society. In the years since its passage, the Anti-SLAPP Statute has been routinely used to eliminate frivolous, damaging, and expensive lawsuits filed against the Media Amici.

Media Amici are familiar with the issues in this case and believe that they can provide a unique perspective concerning the need for and wisdom of a broad application of the Anti-SLAPP Statute – as mandated by the Legislature – to ensure that defendants attacked for exercising their rights of speech or petition are not forced to litigate claims that, as a matter of law, are not viable. While the parties' briefs focus on the particular circumstances that gave rise to Plaintiff/Appellee's claims against Defendants/Appellants, they do not fully explore the extent to which the constrictive standards proposed by Plaintiff/Appellee would affect the core speech and petition rights of content creators, broadcasters and publishers like Media Amici, nor do they delve as deeply into the history and policy of

the Anti-SLAPP statute's creation and construction.[2] Media Amici submit this Brief to address the potential impact on this Court's decision of Media Amici's exercise of their First Amendment rights in California.

As discussed in the proposed Amici Brief, this Court should reject Appellant's attempt to dramatically narrow the protections for creative works provided by the Anti-SLAPP Statute. Instead, this Court should use this opportunity to ensure that First Amendment rights are safeguarded by a strong broadly applied Anti-SLAPP Statute, and make it clear that the statute applies with equal force to fictional and non-fictional works, including news articles, documentaries, television programs and films, all of which may be based upon, reference, discuss, or feature actual individuals and organizations.

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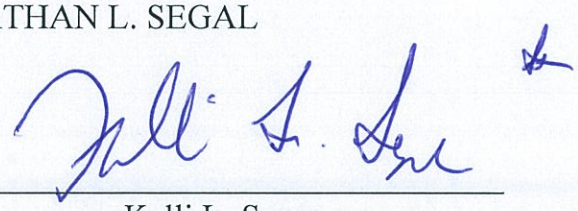
[2] Pursuant to California Rule of Court 8.520(f)(4), Media Amici respectfully advise the Court that no party or counsel for a party in the pending appeal authored the proposed amicus brief in whole or in part, or made a monetary contribution intended to fund the preparation or submission of the brief. No person or entity made a monetary contribution intended to fund the preparation or submission of the brief, other than the amici curiae, their members or their counsel in the pending appeal.

For all these reasons, set forth in more detail in the attached brief, Media Amici respectfully request that this Court grant their motion to file the accompanying brief.

Dated: March 14, 2016

DAVIS WRIGHT TREMAINE LLP
KELLI L. SAGER
THOMAS R. BURKE
JONATHAN L. SEGAL

By: 

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Attorneys for Amici Curiae

CERTIFICATE OF WORD COUNT

Pursuant to California Rule of Court 8.204(c), the text of this motion, including footnotes and excluding the caption page, signature blocks and this Certificate, consists of 1,458 words in 13-point Times New Roman type as counted by the Microsoft Word word-processing program used to generate the text.

Dated: March 14, 2016

DAVIS WRIGHT TREMAINE LLP
KELLI L. SAGER
THOMAS R. BURKE
JONATHAN L. SEGAL

By: _____
Jonathan L. Segal

[PROPOSED] ORDER

This Court, having read and considered Media Amici's Application to File Amicus Brief, and good cause appearing therefore, IT IS HEREBY ORDERED that Amici Curiae's Motion is GRANTED.

IT IS SO ORDERED.

DATED: _____, 2016 _____

PRESIDING JUSTICE

COURT OF APPEAL

STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT, DIVISION EIGHT

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TO THE HONORABLE PRESIDING JUSTICE AND ASSOCIATE JUSTICES OF THE SECOND APPELLATE DISTRICT, DIVISION EIGHT:

Amici Curiae respectfully submit this brief in support of Defendants/Appellants.

As described in their Application, Amici are actively engaged in the dissemination of information to the public, through news reports, biographies, and documentaries, as well as docudramas, historical fiction, and other creative works. All of these types of expression are constitutionally protected; the United States Supreme Court held more than sixty years ago that the First Amendment is not limited to a certain medium, nor does it differentiate between "news" and "entertainment." The Court recognized that "[t]he line between the informing and the entertaining is too elusive for the protection of that basic right …."[1]

Regardless of the genre involved, meritless lawsuits have a pernicious effect on speech rights. As the Supreme Court noted, "[t]he chilling effect upon the exercise First Amendment rights may derive from the fact of the prosecution [of a lawsuit], unaffected by the prospects of its success or failure." Dombrowski v. Pfister, 380 U.S. 479, 487 (1965). Because of the high cost of litigation, publishers of expressive works "will tend to become self-censors" unless they "are assured freedom from the harassment of lawsuits[.]" Washington Post Co. v. Keogh, 365 F.2d 965, 968 (D.C. Cir. 1966).

The California Legislature recognized the danger posed by lawsuits arising from the exercise of First Amendment rights. Consequently, in 1992, it enacted California's SLAPP statute, C.C.P. § 425.16, to provide a mechanism for the "early dismissal of

[1] Winters v. New York, 333 U.S. 507, 510 (1948).

unmeritorious claims" that "interfere with the valid exercise of the constitutional rights of freedom of speech and petition."[2] Five years later, responding to court decisions that narrowed its application, the Legislature amended the statute, declaring expressly that it "shall be construed broadly." C.C.P. § 425.16(a).

Notwithstanding this unequivocal mandate, and despite decisions from the California Supreme Court re-affirming its intended breadth, Plaintiff/Respondent urged – and the trial court adopted – an impermissibly narrow interpretation of what constitutes a "public issue" or matter of "public interest" within the meaning of the SLAPP statute. This Court should reject this restrictive reading of the statute, in favor of an interpretation more consistent with the statute's express language and Legislative history, and with its underlying goal of providing broad protection for free speech rights.

I. SUMMARY OF ARGUMENT

Plaintiff/Respondent Paul Brodeur is a prominent science writer.[3] His writings include a controversial 1977 book titled "The Zapping of America: Microwaves, Their Deadly Risk, and the Coverup," which claimed that the military industrial complex was hiding the dangers of microwave ovens from the public.[4] His allegations about the safety of an item that was becoming a staple of American households during the 1970s were widely reported.[5]

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[2] Club Members for an Honest Election v. Sierra Club, 45 Cal.4th 309, 315 (2008).

[3] See concurrently-filed Motion For Judicial Notice ("MJN") at Exs. M-S.

[4] Exs. N, P, S.

[5] Ex. Q-S.

The critically-acclaimed film "American Hustle" (the "Film") is a feature film about the "Abscam" sting of corrupt public officials, inspired by events that took place in the 1970s and early 1980s.[6] The Film recreates the look and feel of the time period, and includes details involving real-life events, as well as dramatized scenes and dialogue.[7]

This lawsuit arises from a scene in the Film where the wife of a con artist used by the FBI to set up the "sting" defends her careless treatment of a microwave that was a gift from one of the "marks," by pointing to an article (attributed to Plaintiff) stating that microwaving food depletes its nutritional value.[8] Although Plaintiff is a well-known author who wrote a controversial book about microwave ovens – and notwithstanding the undeniable public interest in the safety and efficacy of household appliances – the trial court held that the statement did not involve a matter of public interest; thus, the Complaint did not fall within the scope of the SLAPP statute. A.A. 237; A.B. 22-23; 33-34. In reaching its conclusion, the trial court adopted Plaintiff's restrictive view of the SLAPP statute, in contravention of the statute's express requirement that it be interpreted "broadly."

First, the court erred by narrowly interpreting the statute's reference to "public issue" and "public interest," in an manner that is wholly inconsistent with how distinctions are drawn between "public" and "private" information in analogous areas of First Amendment jurisprudence. See, e.g., Shulman v. Group W Productions, Inc., 18

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[6] Appellants' Appendix ("A.A.") 92.

[7] A.B. at 17; A.A. 202, MJN Exs. U-Y.

[8] A.A. 93-94. The real-life wife of the con artist involved in the sting claimed that her husband received gifts from one of the targets, including a microwave oven. MJN Exs. W, X.

Cal.4th 200 (1998) (discussing breadth of topics that constitute a "legitimate public interest" in analyzing private-facts claims). Because the SLAPP statute must be interpreted "broadly," matters of "public interest" and "public issues" within the meaning of this statute must be defined at least as expansively as courts have defined what is "public" or of "legitimate public interest" in other contexts See Section II.B.

Second, the court mistakenly focused on Plaintiff, rather than the broad topic of the underlying speech. The SLAPP statute requires only that the statement at issue be "connected" with a topic of public interest; it does not require – and cannot be fairly read as requiring – that the plaintiff himself be a matter of public interest.[9] Courts evaluating First Amendment protections for expressive works in other contexts have required only a minimal connection between the content of the expressive work and the plaintiff; no more should be required here, given the Legislative mandate for a "broad" interpretation of the SLAPP statute. See Sections II.A.1; II.C.

Third, the undercurrent in Plaintiff's brief is that the SLAPP statute should not be applied at all to "fictional" or "dramatized" works. No rationale is provided for this limitation, nor could there be any justification given the unequivocal protections of the First Amendment to all manner of free speech. This Court should unequivocally reject any suggestion that the SLAPP statute is somehow limited to news reports or other "factual" speech.

[9] Given his prominence, Plaintiff arguably met even this test. See, e.g., MJN Exs. M-S. But the statute's mandated "broad" application clearly is not satisfied by examining whether a particular judge has heard of the plaintiff (AB at 34; RT 12:17-12:28). See Section II.C.

If the requisite broad interpretation is used, the Film – and the statement at issue – plainly fall within the SLAPP statute's protection for speech involving "public issues" and issues of "public interest." This Court should reverse the trial court's decision.

II. THIS COURT SHOULD REJECT PLAINTIFF'S NARROW INTERPRETATION OF THE SLAPP STATUTE'S "PUBLIC INTEREST" AND "PUBLIC ISSUE" PROVISIONS.

In enacting the SLAPP statute in 1992, the California Legislature found that "it is in the public interest to encourage continued participation in matters of public significance, and … this participation should not be chilled through abuse of the judicial process." C.C.P. § 425.16(a). Under the first prong of the statute, any "cause of action against a person arising from any act … in furtherance of the person's right of … free speech … in connection with a public issue shall be subject to a special motion to strike …." C.C.P. § 425.16(b)(1).[10]

The trial court's denial of Defendants' SLAPP Motion was based solely on the first prong of the statute. RT 6:22; 12:21-22. There is no dispute that the conduct at issue arises from the exercise of "free speech"; Plaintiff's claims arise from the content of the Film. A.A. 2-3.[11] Instead, the trial court found that the subject matter of the speech at issue did not involve a "public issue" or matter of "public interest." RT 12:21-13:9.

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[10] Defendants' brief discusses the two prongs of the statute, and the respective burdens of the moving and non-moving parties. AB 23.

[11] See, e.g., Joseph Burstyn, Inc. v. Wilson, 343 U.S. 495, 502 (1952) ("expression by means of motion pictures is included within the free speech and free press guaranty of the First and Fourteenth Amendments."). Claims arising from the content of publications are within the scope of the SLAPP statute. See, e.g., Hilton v. Hallmark Cards, 599 F.3d 894, 903-904 (9th Cir. 2010) ("[t]he California Supreme Court has not drawn the outer limits of activity that furthers the exercise of free speech rights," but "[i]t seems to suffice

As discussed below, this decision is inconsistent with a key precept in the SLAPP statute – the Legislature's mandate that courts construe and apply the statute broadly.

A. The SLAPP Statute Must Be Interpreted Broadly.

1. The Legislature Enacted The 1997 Amendment To Broadly Protect Free Speech.

Courts evaluating whether a plaintiff's claims arise from conduct in furtherance of free speech in connection with a public issue or matter of public interest are required to interpret the SLAPP statute broadly. Any doubt about the Legislature's intent was eliminated in 1997, when it responded to court decisions narrowly applying the statute by amending Section 425.16 to declare, in plain language, that it "shall be construed broadly." C.C.P. § 425.16(a) (emphasis added). As the California Supreme Court held, this legislative direction "is expressed in unambiguous terms," and "we must treat the statutory language as conclusive." Briggs v. Eden Council for Hope & Opportunity, 19 Cal.4th 1106, 1119-1120 (1999) ("Briggs II") (citation omitted); see also Equilon Enterprises v. Consumer Cause, Inc., 29 Cal.4th 53, 61-62 (2002).

As the legislative history of Senate Bill 1296 demonstrates, the amendment was inspired by court decisions finding that only a narrow category of speech was protected by the SLAPP statute; one senator stated "[r]ecent court decisions have sabotaged the intent of California's pioneering anti-SLAPP law …." MJN Ex. GG at 14 (emphasis

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… that the defendant's activity is communicative") (citations omitted); M.G. v. Time Warner, Inc., 89 Cal.App.4th 623 (2001) (SLAPP statute applied to claims arising from HBO program and magazine article).

added).[12] Senate and Assembly analyses concurred: "[S]ome courts have failed to understand that this statute covers any conduct in furtherance of the constitutional rights of petition and of free speech in connection with a public issue or with any issue of public interest." Id. at 78 (emphasis added).

To overturn these decisions, Senator Lockyer's bill mandated that the law "shall be construed broadly." Id. at 3. Supporters asserted that "the additional declaration of Legislative intent would strengthen the statute against narrow readings of its protections, which in turn would better protect a person's exercise of his or her constitutional rights of petition and free speech in matters of public significance against meritless claims designed to stifle that exercise." Id. at 34.

Further evidencing the Legislature's desire to expand the statute's application, the amendment added another category of conduct:[13] Section 425.16 (e)(4) applies the statute to "any other conduct in furtherance of the exercise of the constitutional right of petition or the constitutional right of free speech in connection with a public issue or an issue of public interest." Id. at 29. (Emphasis added.)

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[12] The legislative history cites Zhao v. Wong, 48 Cal.App.4th 1114 (1996) and Briggs v. Eden Council for Hope & Opportunity, 54 Cal.App.4th 1237, 1244 (1997) ("Briggs I") (both superseded by statute, Briggs II, 19 Cal.4th at 1123 n.10). In Zhao, the court held the SLAPP statute "must have limits," and only speech "pertaining to the exercise of democratic self-government," was covered. Id. at 1122. In Briggs I, the court held that the SLAPP statute did not apply to a libel suit arising from a housing dispute, finding that tenants' complaints were of "purely private concern …." 54 Cal.App.4th at 1245.

[13] Section 425.16(e) identifies certain categories that fall within the scope of the statute, but expressly states that the statute "is not limited to" the itemized categories. C.C.P. § 425.16(e).

2. Courts Have Affirmed The Statute's Broad Interpretation.

Following the 1997 amendment, the California Supreme Court consistently has upheld a broad construction of the SLAPP statute. See, e.g., Jarrow Formulas, Inc. v. LaMarche, 31 Cal.4th 728, 735 (2003) (adhering to the "express statutory command" that the SLAPP statute be "construed broadly"); Soukop v. Law Offices of Herbert Hafif, 39 Cal.4th 260, 279 (2006) (because "the Legislature has directed that the statute 'be construed broadly'" courts must follow that intent). As the Court explained, the "broad construction expressly called for in [Section 425.16] is desirable from the standpoint of judicial efficiency," and a narrow construction "would serve Californians poorly." Briggs II, 19 Cal.4th at 1121-1122 (tracing legislative history of 1997 amendment).

In Briggs II, the Supreme Court rejected concerns about the breadth of the statute, stating that "[t]he Legislature already has weighed an appropriate concern for the viability of meritorious claims," and has provided "substantive and procedural limitations that protect plaintiffs against overbroad application of the anti-SLAPP mechanism." 19 Cal.4th at 1122-1123 (emphasis added). See also Navellier v. Sletten, 29 Cal.4th 82, 92 (2002) (inclusion of a "merits prong" was sufficient to sufficient to "preserve[] appropriate remedies").[14]

The Court also has rejected attempts to impose limits on the statute that are unsupported by its language or history. See, e.g., Equilon, 29 Cal.4th at 61 (rejecting "intent to chill" requirement); Simpson Strong-Tie Co., Inc. v. Gore, 49 Cal.4th 12, 21-22

[14] This demonstrates the fallacy of Plaintiff's hyperbolic assertion that a broad interpretation of the statute would allow filmmakers "carte blanch" to "defame" people (R.B. at 12); meritorious suits survive SLAPP motions.

(2010) (exemptions must be construed narrowly). Not surprisingly, given this clear mandate, appellate courts similarly have broadly defined "public issues" or matters of "public interest" within the meaning of the statute. As one court explained, "Section 425.16 does not define 'public interest,' but its preamble states that its provisions 'shall be construed broadly' to safeguard 'the valid exercise of the constitutional rights of freedom of speech and petition for the redress of grievances.' (§ 425.16, subd. (a).)" Nygård, Inc. v. Uusi-Kerttula, 159 Cal.App.4th 1027, 1039 (2008). After an extensive discussion of the legislative history of the 1997 amendment, the Nygård court held that an issue of public interest within the meaning of the SLAPP statute "is any issue in which the public is interested." Id. (original emphasis) (finding private residence of Finnish designer related to issue of "public interest"). See also Seelig v. Infinity Broadcasting, 97 Cal.App.4th 798, 807-808 (2002) (radio host's criticism of reality television show contestant addressed matter of public interest; court noted "popular cultural phenomena" of "[r]eality television and talk radio); Damon v. Ocean Hills Journalism Club, 85 Cal.App.4th 468, 481 (2000) (public interest "has been broadly construed to include … private conduct that impacts a broad segment of society"); Hecimovich v. Encinal Sch. Parent Teacher Org., 203 Cal.App.4th 450, 464 (2012) ("the question whether something is an issue of public interest must be construed broadly.") (citation omitted); Hilton, 599 F.3d at 905-06 (defendants' activities "need not involve questions of civic concern; social or even low-brow topics may suffice.").

Broad topics deemed to be of public interest have included, among many others, "safety in youth sports, not to mention problem coaches/problem parents in youth sports"

(Hecimovich, 203 Cal.App.4th at 468 (2012)); domestic violence (Sipple v. Foundation for Nat. Progress, 71 Cal.App.4th 226, 238 (1999)); sexual abuse in youth sports (M.G., 89 Cal.App.4th at 623); treatment for depression (Rivera v. First DataBank, Inc., 187 Cal.App.4th 709 (2010)*;* diet supplements (Nagel v. Twin Laboratories, Inc. 109 Cal.App.4th 39 (2003)); product quality (Wilbanks v. Wolk, 121 Cal.App.4th 883 (2004)); plastic surgery (Gilbert v. Sykes, 147 Cal.App.4th 13 (2007)); and college football (McGarry v. University of San Diego, 154 Cal.App.4th 97 (2007)). Playing music even qualified as a topic of public interest, because recordings "are culturally valuable to society." Flo & Eddie, Inc. v. Pandora Media, Inc., 2015 U.S. Dist. LEXIS 70551 (C.D. Cal. Feb. 23, 2015). See also Kronemyer v. Internet Movie Database Inc., 150 Cal.App.4th 941 (2007) ("motion picture My Big Fat Greek Wedding was a topic of widespread public interest" under SLAPP statute).

These decisions are consistent with the Legislature's intended broad construction of the SLAPP statute, and with the distinction drawn between "public" and "private" subjects in analogous First Amendment jurisprudence.

B. The Statute Should Be Interpreted Consistently With First Amendment Protections For Speech That Is Not About Private Matters.

The question of what constitutes an issue of "public interest" or a "public issue" did not spring to life when the Legislature passed the SLAPP statute in 1992, nor should the interpretation of this language be done in a vacuum. Courts considering claims for invasion of privacy have long considered the distinction between information that is "private" and information that is "public" or is of legitimate "public interest" in the

context of constitutionally-protected speech. The principles used in those decisions are instructive here: If a topic is deemed to be of "legitimate public concern" in adjudicating a private facts claim, it should, by definition, fall within the SLAPP statute's even broader definition of matters of "public interest." For example, courts routinely have recognized that information that is already "public," or involves events occurring in public, cannot give rise to a claim for invasion of privacy.[15] By analogy, claims arising from speech that involves something "public" – as opposed to "private" – should fall within the expansive interpretation of the SLAPP statute.

Furthermore, a substantial body of law recognizes First Amendment protections where the information disclosed was a matter of legitimate public interest.[16] In Shulman, the Supreme Court reaffirmed this constitutional protection, and reviewed decades of privacy jurisprudence to address how courts should determine what matters are of "legitimate public concern." 18 Cal.4th at 224-25, 229.

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[15] See, e.g., Gill v. Hearst Publ. Co., 40 Cal.2d 224, 230 (1953) (no privacy claim arose from publishing photograph of couple embracing in public market, although it "extended knowledge of the particular incident to a somewhat larger public than had actually witnessed it"); Sipple v. Chronicle Publ. Co., 154 Cal.App.3d 1040, 1047 (1984) (rejecting privacy claim arising from disclosure of plaintiff's sexual orientation); Virgil v. Time, Inc., 527 F.2d 1122, 1126 (9th Cir. 1975), cert. denied, 425 U.S. 998 (1976) ("[m]erely giving further publicity to information about plaintiff that is already public" is not actionable); Aisenson v. ABC, 220 Cal. App. 3d 146, 162-63 (1990) (rejecting privacy claim arising from videotaping individual in public view).

[16] See, e.g., Smith v. Daily Mail Publ'g, 443 U.S. 97 (1979) (striking down statute barring publication of juvenile defendants' names; publication of "truthful information about a matter of public significance" is constitutionally protected); Kapellas v. Kofman, 1 Cal.3d 20, 36 (1969) ("newsworthy" publication was constitutionally protected).

First, the Supreme Court noted the importance of consistent decision-making. Citing earlier precedents, the Court noted the "strong constitutional policy against fact-dependent balancing of First Amendment rights against other interests. 'Because the categories with which we deal – private and public, newsworthy and nonnewsworthy – have no clear profile, there is a temptation to balance interests in ad hoc fashion in each case. Yet history teaches us that such a process leads too close to discounting society's stake in First Amendment rights.'" Shulman, 18 Cal. 4th at 221 (citation omitted).

Second, the Court concluded that the importance of protecting First Amendment rights required "considerable deference to reporters and editors" in deciding what was of legitimate public interest. 18 Cal.4th at 224. The Court explained, "[b]y confining our interference to extreme cases, the courts 'avoid unduly limiting the exercise of effective editorial judgment.' … Nor is newsworthiness governed by the tastes or limited interests of an individual judge or juror; a publication is newsworthy if some reasonable members of the community could entertain a legitimate interest in it." Id. at 225 (citations omitted; emphasis added).[17]

Third, the Court noted that "newsworthiness is not limited to 'news' in the narrow sense of reports of current events. 'It extends also to the use of names, likenesses or facts

[17] This is consistent with the broad constitutional protections for the exercise of editorial judgment, even when a publisher reveals information about private individuals. See, e.g., Florida Star v. B.J.F., 491 U.S. 524, 536 (1989) (relevant inquiry is whether "the article generally, as opposed to the specific identity contained within it, involved a matter of paramount public import"); see also Haynes v. Alfred A. Knopf, Inc., 8 F.3d 1222, 1232-1233 (7th Cir. 1993) (rejecting privacy claim arising from identification of plaintiff in discussing his checkered past) (cited with approval in Shulman, 18 Cal.4th at 218)).

in giving information to the public for purposes of education, amusement or enlightenment, when the public may reasonably be expected to have a legitimate interest in what is published.'" Id. at 225 (citations omitted.)

These same principles are relevant to evaluating the meaning of the "public issue" and "public interest" language in the SLAPP statute. Just as the Court recognized in Shulman, the analysis must begin by recognizing the need to broadly protect the exercise of free speech – indeed, that was the Legislature's unambiguously expressed motivation for enacting the statute. See Section II.A.1.

Moreover, just as in privacy lawsuits, courts should adopt an interpretation of the SLAPP statute that avoids ad hoc application of the law, based on the facts of a particular case or the "limited interests of an individual judge …." Id. at 225. And courts should give "a high degree of deference" to editorial and creative decision-making. Id. at 241. That is even more true where, as here, the court is faced with an express legislative directive to apply protections "broadly" to the speech at issue.

Here, if Plaintiff had sued for invasion of privacy, based on the Film's disclosure of his view that microwaves sap nutrients from food, his lawsuit clearly would fail. A statement by a well-known author, who has spoken publicly on the very topic at issue, about a matter of significant public concern, unquestionably would be deemed to be legitimate public interest. See note 19, infra. Moreover, if the Film repeated a public statement that Plaintiff previously made, any privacy claim would be barred, because nothing "private" was disclosed. See note 15.

The determination of whether a statement is of "public interest" under the SLAPP statute cannot be more restrictive; the statute's breadth is legislatively mandated, and does not include restrictive language or the balancing of interests that may arise in a merits decision. The trial court erred by engaging in an ad hoc application of the law, based on his own knowledge and interests, rather than considering whether the information disclosed was "private," or was of legitimate public interest.

C. Application Of The Statute Requires The Court To Consider The Work As A Whole, Rather Than Focusing On The Individual Plaintiff Or Statement.

In addition to advocating an improperly narrow reading of "public interest," Plaintiff argued that the SLAPP statute applies only if there is "interest" in the individual plaintiff, rather than interest in the subject matter of the work as a whole. RT 10:26-11:5; 12:25-28. This also was error. The first prong of the SLAPP statute does not require an individual plaintiff to be a public figure, or even to be a matter of public concern; instead, it includes claims arising from statements made "in connection with" an issue of public interest. C.C.P. § 425.16(b)(1). Plaintiff's interpretation ignores these three words, in contravention of well-established rules concerning statutory interpretation.[18]

First, although Plaintiff is a prominent author, the SLAPP analysis does not require the speech at issue to involve a public figure. "Whereas a public figure, standing alone, may satisfy the public interest element of the Act, a private individual satisfies this requirement so long as there is a direct connection with the individual to a discussion of a

[18] It is well-established that legislative interpretation should give meaning to every word of the statute. Briggs II, 19 Cal.4th at 1118.

topic of widespread public interest." Aronson v. Dog Eat Dog Films, Inc., 738 F.Supp.2d 1104, 1111-1112 (W.D. Wash. 2010) (citing California law). The proper focus of the analysis should be on the subject matter of the work, not the individual plaintiff.

Thus, in Hall v. Time Warner, 153 Cal.App.4th 1337, 1347 (2007), the plaintiff was a private person who never sought publicity; nonetheless, the court found that the news report identifying her as a beneficiary of Marlon Brando's estate fell within the scope of the SLAPP statute. Id. As the court explained, if a "statement or conduct concerns a topic of widespread public interest and contributes in some manner to a public discussion of the topic," it satisfies the prong one requirements. "The public's fascination with Brando and widespread public interest in his personal life made Brando's decisions concerning the distribution of his assets a public issue or an issue of public interest." Id.

Similarly, in M.G., 89 Cal.App.4th at 626-627, former Little League players and coaches sued for invasion of privacy after the defendants used a team photograph to illustrate reports about molestation in youth sports. The appellate court rejected plaintiffs' attempt "to characterize the 'public issue' involved as being limited to the narrow question of the identity of the molestation victims," finding that definition was "too restrictive." Id. at 629. Instead, it concluded "[t]he broad topic of the article and the program was not whether a particular child was molested but rather the general topic of child molestation in youth sports[.]" Id. (Emphasis added.)

More recently, the Ninth Circuit surveyed California law on this subject, rejecting a district court's decision that denied a SLAPP motion on the ground that a television

documentary's "general topics of gang violence and Miller's murder are topics of widespread public interest, [but] Plaintiff's identity is not." Doe v. Gangland Productions, 730 F.3d 946, 955 (9th Cir. 2013). The Ninth Circuit held that the SLAPP statute did not require the defendant "to show an independent public interest in Plaintiff's identity." Id. Instead, "the proper inquiry is whether the broad topic of defendant's conduct, not the plaintiff, is connected to a public issue or an issue of public interest." Id. at 956 (emphasis added).

Many other courts concur. See, e.g., Four Navy Seals v. AP, 413 F.Supp.2d 1136, 1140-1141 (S.D. Cal. 2005) (rejecting argument that SLAPP statute did not apply because plaintiffs' identities were not newsworthy; "the broader topic of treatment of Iraqi captives by members of the United States military … qualifies as a public issue"); Hunter v. CBS Broadcasting, 221 Cal.App.4th 1510, 1526-1527 (2013) (because general topic of "weather reporting" was a matter of public interest, and CBS' selection of a weatherman was connected to this topic, the SLAPP applied to plaintiff's discrimination claims); Lieberman v. KCOP Television, 110 Cal.App.4th 156, 166 (2003) (applying SLAPP statute to doctor's claims arising from defendants' surreptitious videotaping of him in private examination room); Terry v. Davis Community Church, 131 Cal.App.4th 1534, 1547-1549 (2005) (report disclosing accusations about alleged sexual relationship between church group leaders and a minor was protected; "the broad topic of the report …was the protection of children in church youth programs, which is an issue of public interest"); Valdez v. Maya Publ'g Group LLC, 2011 U.S. Dist. LEXIS 63098, *7-*8 (S.D. Cal. June 15, 2011) (although daughters of popular singer were private figures,

their treatment of mother was connected to a matter of public interest); Tamkin v. CBS Broad., Inc., 193 Cal.App.4th 133, 144 (2011) (finding "no requirement in the anti-SLAPP statute that the plaintiff's persona be a matter of public interest"); Sarver v. Chartier, 2016 U.S. App. LEXIS 2664 *22 (9th Cir. Feb. 17, 2016) (private individual found to be matter of public interest).

In Tamkin, Division Four of this Court held that "the statutory language compels [the court] to focus on the conduct of the defendants and to inquire whether that conduct furthered such defendants' exercise of their free speech rights concerning a matter of public interest." 193 Cal.App.4th at 144. Accordingly, the court focused on the broader issue – public interest in the creation and broadcasting of a network television program – rather than the minimal public interest in the plaintiffs themselves. Id. at 143-44. The court rejected having the judiciary "dissect the creative process in order to determine what was necessary to achieve the final product and what was not, and to impose liability … for that portion deemed unnecessary." Id. at 144-145 (citations and quotes omitted).

Importantly, the body of law cited above is consistent with the framework applied in Shulman for analyzing analogous First Amendment law involving private-facts claims. There, the California Supreme Court held that even where the information at issue involved a private person "involuntarily" caught up in a matter of public interest, the constitutional interests prevail so long as there is a "logical nexus" between the information about the individual plaintiff and the broad subject matter of the program. 18

Cal.4th at 223-224.[19] See also Haynes, 8 F.3d at 1232 (plaintiff's identity was relevant to story); Sipple, 154 Cal.App.3d at 1048-1050 (sexual orientation of man who saved President Ford's life was newsworthy); Pasadena Star-News v. Superior Court, 203 Cal.App.3d 131, 133-134 (1988) (articles about abandoned newborn that identified mother were newsworthy).[20]

Thus, in analyzing the "public interest" issue, courts should not focus solely on the plaintiff, or on the statement(s) about the plaintiff, scrutinizing whether separate parts are individually of interest. If the statement at issue is "connected with" a topic of public interest,[21] it falls within the statute's broad scope.[22]

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[19] Here, Plaintiff is not a private figure, and his involvement with the topic of microwave safety is hardly "involuntary." MJN M-S.

[20] This framework also is consistent with the analysis used in defamation cases, where courts consider the work as a whole, rather than parsing individual statements out of context. See, e.g., Hawran v. Hixson, 209 Cal.App.4th 256, 290 (2012) ("[a] defamatory meaning must be found, if at all, in a reading of the publication as a whole. … Defamation actions cannot be based on snippets taken out of context.") (citations omitted).

[21] This, too, is consistent with other First Amendment jurisprudence. For example, courts evaluating trademark claims involving expressive works have held that First Amendment rights apply if there is any connection whatsoever between the content of the work and the plaintiff. See, e.g., Rogers v. Grimaldi, 875 F.2d 994, 999 (2d Cir. 1989). In finding that the Lanham Act's application to expressive works must be construed to avoid conflicts with First Amendment rights, the Rogers court emphasized that this balance favors the First Amendment "unless the title has no artistic relevance to the underlying work whatsoever, or, …explicitly misleads as to the source or the content of the work." Id. at 999 (emphasis added). See also E.S.S. Entertainment 2000 v. Rock Star Videos, 547 F.3d 1095, 1098-1101 (9th Cir. 2008) (same; for "[a]n artistic work's use of a trademark" ... "the level of relevance merely must be above zero.")

[22] For this reason alone, this case is easily distinguishable from Dyer v. Childress, 147 Cal.App.4th 1273 (2007). In Dyer, the defendant-screenwriter used the real name of a college classmate for the fictional protagonist in her film, Reality Bites. Id. at 1276-1277. The court found that the movie involved issues of public interest within the

D. The SLAPP Statute Applies To Docudramas And Fictional Works.

Plaintiff insinuates that the statement at issue here does not involve a matter of "public interest," because it is included in a docudrama. R.B. 32, 51. If a newspaper had reported that Plaintiff believes microwaves take the nutrients out of food, it is difficult to imagine the trial court reaching the same conclusion.

But the SLAPP statute does not differentiate between different mediums of communication, or different genres of speech. Courts should not apply the statute differently, depending on whether the expression at issue is factual or fictional, news or entertainment; such an interpretation is both inconsistent with the SLAPP statute's express language (and contrary to its "broad" application), and would improperly exclude a wide body of expressive works.

Since the advent of motion pictures, filmmakers have created works that have entertained, inspired, and educated the public, by drawing upon actual events and people. These films take many forms, including the adaptation of literary works;[23] docudramas;[24]

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meaning of the SLAPP statute, but the plaintiff's name did not, because the fictional character had no connection whatsoever to the real-life individual. Id. Notably, the court made clear that the public interest requirement is satisfied where – as here – the plaintiff has a direct connection to the topic, such as where the plaintiff is used to illustrate a larger issue. Id. at 1280.

[23] These include works by William Shakespeare, Mark Twain, and others.

[24] This year's Academy-Award-winning films Spotlight, Bridge of Spies, and The Big Short are just a few critically-acclaimed films based on real-life people and events.

historical fiction, in which real people and events are the backdrop for a fictional story;[25] and purely fictional works that may have been inspired by real events or people.[26]

Such films draw attention to little-known stories, and weave obscure historical insights into storylines. It is well-established that unauthorized biographies, documentaries, or other expressive works based on real people and events enjoy full First Amendment protection. See note 11.[27] The same is true of fictionalized or dramatized story-telling: First Amendment protections extend to these works, just as it does to news reporting and other factual content.[28]

The justifications for protecting works of fiction are compelling. As former California Chief Justice Rose Bird concluded, in rejecting a claim based on a docudrama about Rudolph Valentino:

> It is clear that works of fiction are constitutionally protected in the same manner as political treatises and topical news stories. Using fiction as a vehicle, commentaries on our values, habits, customs, laws, prejudices, justice, heritage and future are frequently expressed. What may be difficult

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[25] The Oscar-winning film Titanic, for example, depicted a real event and historical figures, as the backdrop for an entirely fictional story.

[26] Citizen Kane, Primary Colors, The Devil Wears Prada, and The Help were all inspired by (or loosely based on) actual people or events.

[27] See, e.g., Dora v. Frontline Video, Inc., 15 Cal.App.4th 536, 442-44 (1993) (surfing documentary protected by First Amendment).

[28] See, e.g., Joseph Burstyn, 343 U.S. at 501-502 (fictional films are "a significant medium for the communication of ideas" entitled to full First Amendment protection); Polydoros v. Twentieth Century Fox Film Corp., 67 Cal.App.4th 318, 326 (1997) (fictional film inspired by screenwriter's childhood was constitutionally protected); Rosemont Enterprises, Inc. v. McGraw-Hill Book Co., 85 Misc.2d 583, 587, 380 N.Y.S.2d 839 (N.Y. Sup. 1975) (unauthorized, fictional biography of Howard Hughes was constitutionally protected).

> to communicate or understand when factually reported may be poignant and powerful if offered in satire, science fiction or parable. …
>
> Thus, no distinction may be drawn in this context between fictional and factual accounts of Valentino's life. Respondents' election of the former as the mode for their views does not diminish the constitutional protection afforded speech.

Guglielmi v. Spelling-Goldberg Productions, 25 Cal. 3d 860, 867-68 (1979) (Bird, C.J., concurring) (footnotes omitted).

To construe the SLAPP statute more narrowly would discourage writers, directors and producers from making creative works that are inspired by or based on real events, counter to the statute's stated policy of encouraging speech. Such a ruling also dangerously opens the door to a trial court's character-by-character analysis of any expressive work, to see if each character, or each bit of speech, is sufficiently connected to an overarching public issue. The California Legislature did not draw such fine lines when it enacted the SLAPP statute, or when it amended the statute to broaden its application, and this Court should not do so either.

E. The Trial Court Erred In Finding That The Speech At Issue Did Not Involve A Matter Of Public Interest.

When properly analyzed, the Film's reference to Plaintiff clearly constitutes "conduct in furtherance of the exercise of … the constitutional right of free speech in connection with a public issue or an issue of public interest." CCP § 425.16(e)(4).

First, even a narrowly-focused approach that considers only the statement at issue, falls easily within the SLAPP statute's "public interest" provision. The controversy over the health effects of the microwave was, and continues to be, a public issue. As one court

noted, "[c]onsumer information, … at least when it affects a large number of persons, also generally is viewed as information concerning a matter of public interest." Wilbanks v. Wolk, 121 Cal.App.4th 883, 898 (2004). Whatever its scientific merit, the safety and efficacy of microwave ovens raised significant issues during the 1970s and early 1980s, and still greatly concerns the public. As recently as November 12, 2014, the Washington Post published an article entitled "How Safe is Your Microwave?" MJN Ex. C. The FDA dedicates an extensive website to the same subject. MJN Ex. B. A Google search for microwave oven safety generates more than 640,000 hits. MJN at HH. There are even popular and scientific articles addressing the microwave's effect on nutritional value. MJN Exs. E-L. The statement about Plaintiff clearly is "connected with" this important topic.[29] Thus, even when viewed narrowly, the SLAPP statute applies.

Second, if this Court approaches the "public interest" test more broadly, as Amici advocate, the Film indisputably involves a matter of public interest. The Film's depiction of the country's culture during the 1970s and early 1980s presents a "public issue," not unlike the Court found in Dyer, 147 Cal.App.4th at 1279 ("the issues facing Generation X at the start of the 1990's" was a topic of public interest). See also Dora, 15 Cal.App.4th at 543 ("documentary about a certain time and place in California history and, indeed, in American legend" was within protection for topics about "public affairs"). Although the Film focuses on Abscam as the primary plot device, it also depicts the styles and mores of the time period. As one newspaper wrote:

[29] MJN Exs. M-S. Brodeur described himself as a "well-known author in the environmental field, pointing out the health dangers of the use of various electrical devices and other household items." A.B. at 14.

> "American Hustle" giddily embraces the excesses of its era, from spandex to 'staches, though it's a farce that speaks as well to this tarnished age. Some of its extravagances are purely decorative, and the costume and production designers, along with the hairstylist, must have had a blast. But all the shiny surfaces, the glitter ball and the gaudiness, also suggest a world in which everyone is anxious to shake off the post-Vietnam War, post-Watergate funk. The ghost of Richard M. Nixon hovers in the air; everyone is a fake and everyone wears a mask, even Richie, the F.B.I. agent with the Chia Pet perm.

MJN Ex. EE.

Unlike the plaintiff in Dyer, Plaintiff Brodeur is not wholly unconnected to the culture depicted in the Film. The scenes referencing a target politician giving a microwave to the con man involved in the sting, and the subsequent dialogue he has with his wife about the "science oven," grounds the Film in an era when technology was beginning to seep into every facet of American life. Plaintiff was a part of this era, and became prominent as a science writer questioning the truth about (and safety of) devices that were beginning to fill American homes.

Third, even the trial court acknowledged that the central focus of the Film – the events surrounding Abscam – involve matters of public interest. RT 11:6-7; AB 33. This investigation led to the arrests and convictions of one senator, six congressman, and more than a dozen others. MJN Ex. FF. Not surprisingly, in a dispute over public access to the videotapes of the "sting," the Second Circuit held that there was "a legitimate and important interest in affording members of the public their own opportunity to see and hear evidence that records the activities of a Member of Congress and local elected officials, as well as agents of the Federal Bureau of Investigation." In re Application of National Broadcasting Co., 635 F.2d 945, 952 (2d Cir. 1980).

But despite its conclusion that Abscam involved matters of legitimate public interest, the trial court narrowly focused on Plaintiff, rather than the broad topic of the Film, in holding that the SLAPP statute did not apply. RT 12:21-26. As discussed above, even a limited "connection" between the plaintiff and the topic of an expressive work should have brought Defendants' conduct with the broad scope of the SLAPP statute. See Section II.C.

Finally, public interest in the production and distribution of the Film itself, and its connection to real-life events, also meets the SLAPP statute's "public interest" test. See Section II.A. American Hustle was a major motion picture: it earned more than $250 million in domestic and international ticket sales, won three Golden Globe awards, and was nominated for 10 Academy Awards, including Best Picture. MJN Ex. CC.

Films like American Hustle that are inspired by true stories, are of significant interest, as the public considers the "truth" presented in the film with underlying source materials and facts. Websites like www.historyvshollywood.com offer character-by-character analyses, and compile lists of questions and answers, factual materials, and news to evaluate how filmmakers' stories differed from true events. MJN Ex. X. Even the disclaimer at the beginning of the Film, "[s]ome of this actually happened," was the topic of more than 200 articles. MJN Ex. T.

For each of these reasons, and applying an appropriately expansive interpretation of matters of "public interest" and "public issues," Plaintiff's claims should have been deemed to be within the scope of the SLAPP statute.

III. CONCLUSION

The trial court erred by adopting Plaintiff's restrictive view of the statute's "public issue" and "public interest" language, in a manner inconsistent with both the SLAPP statute and its history, as well as with an entire body of law distinguishing between speech on "public" topics and speech that discloses "private" information. This Court should reverse the trial court's decision, and find that the SLAPP statute applies to the statement at issue in this case.

Dated: March 14, 2016

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CERTIFICATE OF WORD COUNT

Pursuant to California Rule of Court 8.204(c), the text of this brief, including footnotes and excluding the caption page, table of contents, table of authorities, certificate of interested entities or persons, the signature blocks and this Certificate, consists of 6,972 words in 13-point Times New Roman type as counted by the Microsoft Word word-processing program used to generate the text.

Dated: March 14, 2016

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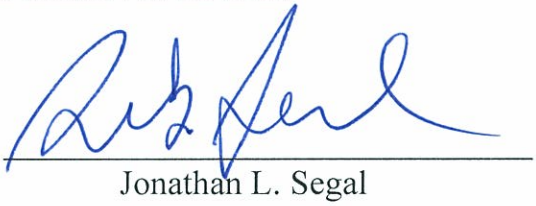
By: 
Jonathan L. Segal

PROOF OF SERVICE

I, Carolina Solano, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am employed in the City and County of Los Angeles, State of California, in the office of a member of the bar of this court, at whose direction the service was made. I am over the age of eighteen (18) years, and not a party to or interested in the within-entitled action. I am an employee of DAVIS WRIGHT TREMAINE LLP, and my business address is 865 S. Figueroa Street, Suite 2400, Los Angeles, CA 90017. I caused to be served the following document(s):

APPLICATION OF AMICI CURIAE CBS BROADCASTING INC., THE MOTION PICTURE ASSOCIATION OF AMERICA, THE NEW YORK TIMES COMPANY, GETTY IMAGES (US), INC., HEARST CORPORATION, FIRST LOOK MEDIA WORKS, INC., CENTER FOR INVESTIGATIVE REPORTING, INC., THE CALIFORNIA NEWSPAPER PUBLISHERS ASSOCIATION, FIRST AMENDMENT COALITION, CALIFORNIANS AWARE, AND THE REPORTERS COMMITTEE FOR FREEDOM OF THE PRESS TO FILE AMICUS BRIEF IN SUPPORT OF APPELLANTS ATLAS ENTERTAINMENT, INC.; ANNAPURNA PRODUCTIONS LLC D/B/A ANNAPURNA PICTURES AND COLUMBIA PICTURES INDUSTRIES INC.; **[PROPOSED] ORDER**

AMICI CURIAE BRIEF OF CBS BROADCASTING INC., THE MOTION PICTURE ASSOCIATION OF AMERICA, THE NEW YORK TIMES COMPANY, GETTY IMAGES (US), INC., HEARST CORPORATION, FIRST LOOK MEDIA WORKS, INC., CENTER FOR INVESTIGATIVE REPORTING, INC., THE CALIFORNIA NEWSPAPER PUBLISHERS ASSOCIATION, FIRST AMENDMENT COALITION, CALIFORNIANS AWARE, AND THE REPORTERS COMMITTEE FOR FREEDOM OF THE PRESS IN SUPPORT OF APPELLANTS ATLAS ENTERTAINMENT, INC. ET AL.

I caused the above document(s) to be served on each person on the attached list by the following means:

☐ I enclosed a true and correct copy of said document in an envelope and placed it for collection and mailing with the United States Post Office on _____, following the ordinary business practice.
(Indicated on the attached address list by an [M] *next to the address.)*

☒ I enclosed a true and correct copy of said document in an envelope, and placed it for collection and mailing via Federal Express on March 14, 2016, for guaranteed delivery on March 15, 2016, following the ordinary business practice.
(Indicated on the attached address list by an [FD] *next to the address.)*

☐ I consigned a true and correct copy of said document for facsimile transmission on _____.

(Indicated on the attached address list by an [F] *next to the address.)*

☐ I enclosed a true and correct copy of said document in an envelope, and consigned it for hand delivery by messenger on _____.
(Indicated on the attached address list by an [H] *next to the address.)*

☐ A true and correct copy of said documents was emailed on _____.
(Indicated on the attached address list by an [E] *next to the address.)*

I am readily familiar with my firm's practice for collection and processing of correspondence for delivery in the manner indicated above, to wit, that correspondence will be deposited for collection in the above-described manner this same day in the ordinary course of business. I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

Executed on March 14, 2016, at Los Angeles, California.

CAROLINA SOLANO
PRINT NAME

Carolina Solano
SIGNATURE

SERVICE LIST

Key:	[M]	Delivery by Mail	[FD]	Delivery by Federal Express	[H]	Delivery by Hand
	[F]	Delivery by Facsimile	[FM]	Delivery by Facsimile and Mail	[E]	Delivery by Email

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