SUPERIOR COURT, STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

Department 3
Honorable William J. Monahan, Presiding
Allison Croft, Courtroom Clerk
191 North First Street, San Jose, CA 95113
Telephone: (408) 882-2130

DATE: 2/27/2024 TIME: 9:00 A.M.

TO CONTEST THE RULING: Before 4:00 p.m. today (2/26/2024) you must notify the:

(1) Court by calling (408) 808-6856 and
(2) Other side by phone or email that you plan to appear and contest the ruling
(California Rule of Court 3.1308(a)(1) and Local Rule 8.E.)

TO APPEAR AT THE HEARING: The Court prefers in person appearances. If you must appear virtually, please use video. To access the link, click on the below link or copy and paste into your internet browser and scroll down to **Department 3**.
https://www.scscourt.org/general_info/ra_teams/video_hearings_teams.shtml

TO SET YOUR NEXT HEARING DATE: You no longer need to file a blank notice of motion to obtain a hearing date. Phone lines are now open for you to call and reserve a date before you file your motion. If moving papers are not filed within 5 business days of reserving the date, the date will be released for use in other cases. Where to call for your hearing date: 408-882-2430 When you can call: Monday to Friday, 8:30 am to 12:30 pm

FINAL ORDERS: The prevailing party shall prepare the order unless otherwise ordered. (See California Rule of Court 3.1312.) **Please Note:** Any proposed orders must be submitted with the Judicial Council Form EFS-020 Proposed Order (Cover Sheet). Please include hearing date, time, dept. and line number.

COURT REPORTERS: The Court no longer provides official court reporters. If any party wants a court reporter, the appropriate form must be submitted. See court website for policy and forms.

LINE #	CASE #	CASE TITLE	RULING
LINE 1	23CV425833	David Williams vs Michael Williams	Motion: Strike Pursuant to CCP 425.16 (anti-SLAPP); attorneys' fees and costs by Defendant Michael Gavin Williams Ctrl click (or scroll down) on Line Nos. 1-2 for tentative ruling. The court will prepare the order.

SUPERIOR COURT, STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

Department 3
Honorable William J. Monahan, Presiding

Allison Croft, Courtroom Clerk
191 North First Street, San Jose, CA 95113
Telephone: (408) 882-2130

DATE: 2/27/2024 TIME: 9:00 A.M.

LINE 2	23CV425833	David Williams vs Michael Williams	Motion: Strike Plaintiff's Complaint by Defendant Michael Gavin Williams Ctrl click (or scroll down) on Line Nos. 1-2 for tentative ruling. The court will prepare the order.
LINE 3	23CV420760	JPMorgan Chase Bank N.A. vs Diana Ruiz	Motion: Judgment on Pleadings by Plaintiff Unopposed and GRANTED.
LINE 4	23CV414334	Silvia Suarez vs Barrita Corporation a California Corporation, et al.	Motion: Quash subpoena issued to Plaintiff's current employer TACOS EL COMPA TAQUERIA, LLC by Plaintiff Silvia Suarez Ctrl click (or scroll down) on Line 4 for tentative ruling. The court will prepare the order.
LINE 5	18CV334905	Midland Funding LLC vs Kim Vo	Motion for order to amend judgment by plaintiff Midland Funding LLC against defendant Kim Vo to a principal of $2,200 and court costs of $421.50 for a total judgment of $2,621.50 under Code of Civil Procedure section 473(d) to correct clerical errors in judgment filed 10/9/2019. (See *Tucker v Watkins* (1967) 251 Cal.App.2d 327, 335; *In re Doane's Est* (1964) 62 Cal.2d. 68, 71.) Unopposed and GRANTED. Moving party to submit order and [proposed] amended judgment.
LINE 6	21CV389131	UHG I, LLC vs Ramin Eskandarian	Hearing: Pro Hac Vice Counsel Luke K. Chamberlain for Cross Defendant UHG I, LLC **C/F 11/9/23 per MO, Set Per 8/29/23 MO** Unopposed and GRANTED.
LINE 7	21CV389517	Geber Magana Barrientos et al vs Ravi Sreeramineni	Motion: Withdraw as attorney Benjamin Drake for Plaintiff Carlos Magana Barrientos. Unopposed and GRANTED.
LINE 8	21CV389517	Geber Magana Barrientos et al vs Ravi Sreeramineni	Motion: Withdraw as attorney Benjamin Drake for Geber N Magana Barrientos Unopposed and GRANTED.

SUPERIOR COURT, STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

Department 3
Honorable William J. Monahan, Presiding
Allison Croft, Courtroom Clerk
191 North First Street, San Jose, CA 95113
Telephone: (408) 882-2130

DATE: 2/27/2024 TIME: 9:00 A.M.

LINE 9	22CV397586	Mirwais Shojaee vs Mathew Enterprise, Inc. et al	Motion: Sanctions against defendant Mathew Enterprise, Inc. ("Defendant") for monetary sanctions, issue, evidence and/or terminating sanctions by plaintiff Mirwais Shojaee ("Plaintiff") Plaintiff's motion for evidentiary, issue and terminating sanctions was WITHDRAWN. (See Second Supplemental Declaration of Seth W. Weiner filed 2/21/2024.) Plaintiff's motion for monetary sanctions is DENIED. The court finds that the one subject to the sanctions acted with substantial justification or other circumstances make the imposition of sanctions unjust. The court will prepare the order.
LINE 10			
LINE 11			
LINE 12			

- oo0oo -

- oo0oo –

Calendar Line Nos. 1-2

Case Name: *David George Williams v. Michael Gavin Williams*
Case No.: 23-CV-425833

Special Motion to Strike and Motion to Strike to the Complaint by Defendant Michael Gavin Williams

Factual and Procedural Background

This is an action for defamation brought by plaintiff David George Williams ("Plaintiff") (self-represented) against his brother, defendant Michael Gavin Williams ("Defendant").

According to the complaint, on November 2, 2023, Defendant disseminated an email containing several statements to a group of individuals including, but not limited to, the Plaintiff, and members of the Williams, Rader, Gordon, and Ayal families (and possibly the Bromberg family). (Complaint at p. 2:33-38.) The email content consists of the following statements:

(1) "And that one was before or after you got arrested for hurting Emma? Did she get a restraining order against you? That was the second or third restraining order women have taken out against you, after Carrie?"

(2) "Also that was after your theft charges from Rand but before your DUI right?"

(3) "You have repeatedly handled difficult family issues and painful feelings with raw viciousness, by reaching out to random people to talk sh**t about us, by ranting about it on social media, and with scary manic episodes."

(4) "You are not a safe person."

(5) "You are dangerous. We are not safe from you."

(6) "You've tried to knife us so many times."

(Complaint at p. 2:41-55.)

Plaintiff alleges each statement issued by Defendant was both untrue and defamatory, articulated with either a conscious knowledge of their inaccuracy or with a willful and egregious indifference to their truthfulness. (Complaint at p. 13:386-388.) Plaintiff contends these statements inherently cause harm to his personal and professional reputation, as they wrongfully characterize him as a lawbreaker, a physical threat to others, and having a stigmatizing illness. (Id. at p. 17:500-502.) Thus, Plaintiff seeks damages including but not limited to, tarnishment of his good name, significant emotional suffering, disruption of family relationships, persistent psychological trauma, and substantial economic detriment. (Id. at p. 17:505-508.)

On November 15, 2023, Plaintiff filed a complaint against Defendant for defamation, defamation per se, and declaratory relief.

On January 3, 2024, Defendant filed the motions presently before the court, a special motion to strike and motion to strike portions of the complaint. Defendant filed requests for judicial notice in conjunction with the motions. Plaintiff filed written opposition to the special motion to strike. Defendant filed reply papers.[1]

A case management conference is set for April 30, 2024.

Special Motion to Strike the Complaint

Defendant moves to strike the complaint on the ground that it arises from protected activity and Plaintiff will be unable to demonstrate a probability of success on the merits.

Request for Judicial Notice

"Judicial notice is the recognition and acceptance by the court, for use by the trier of fact or by the court, of the existence of a matter of law or fact that is relevant to an issue in the action without requiring formal proof of the matter." (*Poseidon Development, Inc. v. Woodland Lane Estates, LLC* (2007) 152 Cal.App.4th 1106, 1117.)

In support, Plaintiff requests judicial notice of the following:

(1) Plaintiff's complaint filed on 11-15-23 (Ex. 1);
(2) Defendant's Notice of Acknowledgment and Receipt of the complaint (Ex. 2);
(3) Court filings in case no. 5105979823, *The People of the State of California v. David George Williams*, in Santa Cruz County ("Santa Cruz case");
(4) Court filings in case no. SQ002110, *Carrie Marder v. David Williams*, in Los Angeles County ("LA case");
(5) Court's online docket in the Santa Cruz case (Ex. 3);
(6) Court's online docket in LA case (Ex. 4);
(7) Complaint in case number 23CV426229, *David George Williams v. Overdose Americas, Inc.*, filed on 11-27-23 in Santa Clara County (Ex. 5);
(8) Complaint in case number 23CV426470, *David George Williams v. AccuRadio LLC*, filed on 11-29-23 in Santa Clara County (Ex. 6);
(9) Complaint in case number 23CV427456, *David George Williams v. Google, LLC*, filed on 12-12-23 in Santa Clara County (Ex. 7);
(10) Complaint in case number 23CV427692, *David George Williams v. Computer History Museum*, filed on 12-15-23 in Santa Clara County (Ex. 8).

The aforementioned exhibits and court filings constitute records of the superior court which are subject to judicial notice under Evidence Code section 452, subdivision (d). (See *Stepan v. Garcia* (1974) 43 Cal.App.3d 497, 500 [the court may take judicial notice of its own

[1] The court notes Defendant submitted additional evidence with the reply papers. (See McGahey Supplemental Decl.) The court however declines to consider the declaration and attached exhibits as they constitute new evidence submitted in reply. (See *Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1537 [the general rule of motion practice is that new evidence is not permitted with reply papers]; see also *Nazir v. United Airlines, Inc.* (2009) 178 Cal.App.4th 243, 252 [improper to introduce new evidence in reply].)

file].) But, "while courts are free to take judicial notice of the existence of each document in a court file, including the truth of results reached, they may not take judicial notice of the truth of hearsay statements in decisions and court files." (*Richtek USA, Inc. v. uPI Semiconductor Corp.* (2015) 242 Cal.App.4th 651, 658.) The exhibits are also relevant to issues raised with respect to the special motion to strike. (See Request for Judicial Notice at p. 3:1-4 ["RJN"]; see also *Gbur v. Cohen* (1979) 93 Cal.App.3d 296, 301 [judicial notice is confined to those matters which are relevant to the issue at hand].)

Therefore, the request for judicial notice is GRANTED.

Legal Standard

Code of Civil Procedure section 425.16 provides for a "special motion to strike" when a plaintiff's claims arise from certain acts constituting the exercise of the constitutional rights of freedom of speech and petition for the redress of grievances, "unless the court determines that the plaintiff has established that there is a probability that the plaintiff will prevail on the claim." (Code Civ. Proc., § 425.16, subds. (a) & (b)(1).)

"Consistent with the statutory scheme, ruling on an anti-SLAPP motion involves a two-step procedure. First, the moving defendant must identify 'all allegations of protected activity' and show that the challenged claim arises from that activity. [Citations.] Second, if the defendant makes such a showing, the 'burden shifts to the plaintiff to demonstrate that each challenged claim based on protected activity is legally sufficient and factually substantiated.' [Citation.] Without resolving evidentiary conflicts, the court determines 'whether the plaintiff's showing, if accepted by the trier of fact, would be sufficient to sustain a favorable judgment.' [Citation.]" (*Bel Air Internet, LLC v. Morales* (2018) 20 Cal.App.5th 924, 934.)

First Prong: Protected Activity

Law

"A defendant meets his or her burden on the first step of the anti-SLAPP analysis by demonstrating the acts underlying the plaintiff's cause of action fall within one of the four categories spelled out in [Code of Civil Procedure] section 425.16, subdivision (e)." (*Collier v. Harris* (2015) 240 Cal.App.4th 41, 50-51 (*Collier*).) That section provides that an "act in furtherance of a person's right of petition or free speech under the United States or California Constitution in connection with a public issue includes: (1) any written or oral statement or writing made before a legislative, executive, or judicial proceeding, or any other official proceeding authorized by law, (2) any written or oral statement made in connection with an issue under consideration or review by a legislative, executive, or judicial body, or any other official proceeding authorized by law, (3) any written or oral statement or writing made in a place open to the public or a public forum in connection with an issue of public interest, or (4) 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." (Code Civ. Proc., § 425.16, subd. (e).) "These categories define the scope of the anti-SLAPP statute by listing acts which constitute an 'act in furtherance of a person's right of petition or free speech under the United States or California Constitution in connection with a public issue.' " (*Collier, supra,* 240 Cal.App.4th at p. 51, citing Code Civ. Proc., § 425.16, subd. (e).)

"A claim arises from protected activity when that activity underlies or forms the basis for the claim. [Citations.] Critically, 'the defendant's act underlying the plaintiff's cause of action must itself have been an act in furtherance of the right of petition or free speech.' [Citations.] '[T]he mere fact that an action was filed after protected activity took place does not mean the action arose from that activity for the purposes of the anti-SLAPP statute.' [Citations.] Instead, the focus is on determining what 'the defendant's activity [is] that gives rise to his or her asserted liability—and whether that activity constitutes protected speech or petitioning.' [Citation.]" (*Park v. Board of Trustees of California State University* (2017) 2 Cal.5th 1057, 1062-1063 (*Park*).)

"[A] claim may be struck only if the speech or petitioning activity itself is the wrong complained of, and not just evidence of liability or a step leading to some different act for which liability is asserted." (*Park, supra,* 2 Cal.5th at p. 1060.) To determine whether the speech constitutes the wrong itself or is merely evidence of a wrong, "in ruling on an anti-SLAPP motion, courts should consider the elements of the challenged claim and what actions by defendant supply those elements and consequently form the basis for liability." (*Id.* at p. 1063.)

"In deciding whether the 'arising from' requirement is met, a court considers 'the pleadings, and supporting and opposing affidavits stating the facts upon which the liability or defense is based.' " (*Peregrine Funding, Inc. v. Sheppard Mullin Richter & Hampton LLP* (2005) 133 Cal.App.4th 658, 670.)

Analysis

Defendant argues the alleged defamatory statements constitute protected activity as they are based on 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. (Code Civ. Proc., § 425.16, subd. (e)(4); Motion at p. 5.)

A. Legal Framework for Claims Arising from Section 425.16, subdivision (e)(4)

"A cause of action arises from protected activity within the meaning of section 425.16, subdivision (e)(4) if (1) defendants' acts underlying the cause of action, and on which the cause of action is based, (2) were acts in furtherance of defendants' right of petition or free speech (3) in connection with a public issue." (*Tamkin v. CBS Broadcasting, Inc.* (2011) 193 Cal.App.4th 133, 142-143.)

In *Rand Resources, LLC v. City of Carson* (2019) 6 Cal.5th 610 (*Rand Resources*), the California Supreme Court acknowledged the struggle among the appellate courts on the question of what makes something an issue of public interest. (*Rand Resources, supra,* 6 Cal.5th at p. 621.) Referring to a Court of Appeal opinion, the Supreme Court identified three nonexclusive and sometimes overlapping categories of statements within the ambit of subdivision (e)(4). (*Ibid*.) "The first is when the statement or conduct concerns 'a person or entity in the public eye'; the second, when it involves 'conduct that could directly affect a large number of people beyond the direct participants'; and the third, when it involves 'a topic of widespread, public interest.' [Citations.]" (*Ibid*.)

Shortly thereafter, in *FilmOn.com Inc. v. DoubleVerify Inc.* (2019) 7 Cal.5th 133 (*FilmOn*), the California Supreme Court, in addressing section 425.16, subdivision (e)(4), stated:

> "The reference to 'any other conduct' in section 425.16, subdivision (e)(4) also underscores its role as the 'catchall' provision meant to round out the statutory safeguards for constitutionally protected expression. [Citation.] In protecting 'any other conduct' that meets the requirements laid out in its text (citation), subdivision (e)(4) proves both broader in scope than the other subdivisions, and less firmly anchored to any particular context. [Citations.] This provision consequently suggests courts should engage in a relatively careful analysis of whether a particular statement falls within the ambit of 'other conduct' encompassed by subdivision (e)(4)." (*FilmOn, supra,* 7 Cal.5th at pp. 144-145.)

"So within the framework of section 425.16, subdivision (e)(4), a court must consider the context as well as the content of a statement in determining whether that statement furthers the exercise of constitutional speech rights in connection with a matter of public interest." (*FilmOn, supra,* 7 Cal.5th at p. 149.)

Thus, the *FilmOn* court articulated the appropriate analysis for determining whether challenged speech has a sufficient connection to a public issue to warrant anti-SLAPP protection:

> "First, we ask what 'public issue or … issue of public interest' the speech in question implicates—a question we answer by looking to the content of the speech. [Citation.] Second, we ask what functional relationship exists between the speech and the public conversation about some matter of public interest. It is at the latter stage that context proves useful." (*FilmOn, supra,* 7 Cal.5th at p. 149-150.)

Therefore, "the catchall provision demands 'some degree of closeness' between the challenged statements and the asserted public interest." (*FilmOn, supra,* 7 Cal.5th at p. 150.)

The court now examines the alleged defamatory statements in connection with the two-part test outlined by the Supreme Court in *FilmOn* to determine whether the complaint arises from protected activity.

B. Step One: Public Issue or Issue of Public Interest

"With respect to the first step, the statute does not define the terms 'public issue' or 'issue of public interest.' However, to make this determination, 'courts look to certain specific considerations, such as whether the subject of the speech or activity "was a person or entity in the public eye" or "could affect large numbers of people beyond the direct participants" [citation]; and whether the activity "occur[red] in the context of an ongoing controversy, dispute or discussion" [citation], or "affect[ed] a community in a manner similar to that of a governmental entity" [citation].' [Citation.]" (*Doe v. Ledor* (2023) 97 Cal.App.5th 731, 744 (*Doe*).)

In *Geiser v. Kuhns* (2022) 13 Cal.5th 1238 (*Geiser*), the California Supreme Court clarified *FilmOn's* first step. In doing so, the Court stated the first step is satisfied "so long as

the challenged speech or conduct, considered in light of its context, may reasonably be understood to implicate a public issue, even if it also implicates a private dispute." (*Geiser, supra,* 13 Cal.5th at p. 1253.) Furthermore, *Geiser* made clear that the first step requires "an objective inquiry, without deference to the movant's framing or personal motivations," although those components may inform the analysis if objectively reasonable. (*Id*. at p. 1254.) "If a reasonable inference can be drawn that the challenged activity implicates a public issue, then the analysis proceeds to *FilmOn's* second step." (*Ibid*.)

"[C]ontext plays an equally important role as the content of the speech at issue, and context must be considered at both of *FilmOn*'s steps. [Citations.] Contextual considerations include 'the identity of the speakers or participants,' the 'location and audience,' and its 'purpose and timing.' [Citation.]" (*Doe, supra,* 97 Cal.App.5th at p. 745; see *Musero v. Creative Artists Agency, LLC* (2021) 72 Cal.App.5th 802, 820 ["Context includes the identity of the speaker, the audience and the purpose of the speech."].) And, as to the first step, language cannot be interpreted apart from context and what a particular statement or act is "about" often cannot be discerned from words alone. (*Doe, supra,* 97 Cal.App.5th at p. 745.)

Here, Defendant argues the first step is satisfied as the alleged defamatory statements concern Plaintiff's criminal history, domestic violence, and threats to the safety and well-being of Plaintiff's family. (See Motion at p. 6:4-12.) Although private in nature in this instance, such statements would appear to be sufficient to satisfy the public interest and meet the first step analysis. (See *M.G. v. Time Warner, Inc.* (2001) 89 Cal.App.4th 623, 629 [an issue of domestic violence is significant and of public interest]; see also *Sipple v. Foundation for Nat. Progress* (1999) 71 Cal.App.4th 226, 238 ["Domestic violence is an extremely important public issue in our society."].)

C. Step Two: Functional Relationship Between Speech and Public Conversation

"*FilmOn's* second step 'moves from a focus on identifying the relevant matters of public interest to addressing the specific nature of defendant's speech and its relationship to matters of public interest.' [Citation.] Because 'virtually always, defendants succeed in drawing a line—however tenuous—connecting their speech to an abstract issue of public interest,' section 425.16(e)(4) 'demands "some degree of closeness" between the challenged statements and the asserted public interest.' [Citation.] ' "[I]t is not enough that the statement refer to a subject of widespread public interest; the statement must in some manner itself contribute to the public debate." ' [Citation.]" (*Doe, supra,* 97 Cal.App.5th at p. 744.)

" 'What it means to "contribute to the public debate" [citation] will perhaps differ based on the state of public discourse at a given time, and the topic of contention. But ultimately, our inquiry does not turn on a normative evaluation of the substance of the speech. We are not concerned with the social utility of the speech at issue, or the degree to which it propelled the conversation in any particular direction; rather, we examine whether a defendant—through public or private speech or conduct—participated in, or furthered, the discourse that makes an issue one of public interest.' [Citation.]" (*Doe, supra,* 97 Cal.App.5th at pp. 744-745.)

For example, in *Geiser*, the California Supreme Court determined that section 425.16, subdivision (e)(4) protected a sidewalk demonstration "to protect a real estate company's business practices after the company evicted two long-term residents from their home." (*Geiser, supra,* 13 Cal.5th at p. 1243.) The genesis of the demonstration was an individual

family's eviction, but around 25 people protested in front of the home of the evicting corporation's chief executive officer in an event sponsored by an advocacy organization committed to fighting against the displacement of long term residents and saving homes from foreclosures. (*Id*. at pp. 1243-1244, 1251.)

The Court of Appeal concluded the demonstration focused on a private matter concerning a former homeowner and the corporation that purchased her former home, and not on any societal issues of residential displacement, gentrification, or the root causes of the great recession. (*Geiser, supra*, 13 Cal.5th at p. 1250.) The Supreme Court disagreed. "We do not see why defendants' expressive activity fits only one characterization and not both." (*Ibid*.) The court reasoned:

> "It is common knowledge that foreclosures, evictions, and inadequate housing are major issues in communities throughout California, and the participation of more than two dozen members of an advocacy group dedicated to fighting foreclosures and residential displacement must be considered against that backdrop." (*Id*. at p. 1251.)

Thus, the Supreme Court held that the speech implicated a public issue even though it could also be understood to implicate a private dispute. (*Geiser, supra*, 13 Cal.5th at p. 1253.)

By contrast, in *FilmOn*, the allegedly disparaging statements made in confidential reports that the defendant disseminated to clients were not protected by section 425.16, subdivision (e)(4). (*FilmOn, supra*, 7 Cal.5th at p. 140.) There, the defendant was a "for-profit business entity that offers online tracking, verification and 'brand safety' services to Internet advertisers," and the plaintiff owned websites that the defendant identified in its reports as containing "adult content" or "copyright infringement" material. (*Id*. at pp. 140-142.) With respect to *FilmOn's* step one, the defendant argued that the presence of adult content on the plaintiff's website, specifically, were matters of public concern. (*Id*. at p. 150.) It submitted evidence that the plaintiff had been subject to media reports of infringing content on its websites and copyright litigation over its streaming model to support its latter argument. (*Id.* at pp. 150, 152.) The California Supreme Court acknowledged that the reports in the abstract could implicate issues of public interest (*id*. at p. 152), but ultimately determined the reports did not contribute to the public debate on such issues. (*Id*. at pp. 152-153.) The reports were made "privately, to a coterie of paying clients," who used them "for their business purposes alone. The information never entered the public sphere, and the parties never intended it to." (*Id*. at p. 153.) Consequently, the reports were "too remotely connected to the public conversation about [the implicated public] issues" to come within the protection of the anti-SLAPP statute. (*Id*. at p. 140.)

As relevant here, and prior to these decisions, at least one appellate court cautioned against applying the anti-SLAPP statute to false allegations of criminal conduct. In *Weinberg v. Feisel* (2003) 110 Cal.App.4th 1122 (*Weinberg*), the subject parties were aficionados of token collecting. The defendant believed the plaintiff had stolen a token from him while at a token show, and began a campaign against the plaintiff that included letters to other collectors accusing plaintiff of the theft, and advertisements in a club newsletter describing the theft, although not naming plaintiff as the thief. The Third Appellate District found the defendant's communications were published to a limited number of persons and concerned only a private dispute, and therefore, were not connected to an issue in the public interest, even though they accused plaintiff of criminal activity. (*Weinberg, supra*, 110 Cal.App.4th at pp. 1132, 1134.) The appellate court concluded its opinion stating:

> "[C]auses of action arising out of false allegations of criminal conduct, made under circumstances like those alleged in this case, are not subject to the anti-SLAPP statute. Otherwise, wrongful accusations of criminal conduct, which are among the most clear and egregious types of defamatory statements, automatically would be accorded the most stringent protections provided by law, without regard to the circumstances in which they were made—a result that would be inconsistent with the purpose of the anti-SLAPP statute and would unduly undermine the protection accorded by paragraph 1 of Civil Code section 46, which includes as slander any false and unprivileged communication charging a person with a crime, and the California rule that false accusations of crime are libel per se [citations]." (*Id*. at p. 1136.)

In support of the first prong, Defendant urges the court to rely on the following two California appellate decisions: (1) *Chaker v. Mateo* (2012) 209 Cal.App.4th 1138 (*Chaker*); and (2) *Hecimovich v. Encinal School Parent Teacher Organization* (2012) 203 Cal.App.4th 450 (*Hecimovich*). (See Motion at p. 7:2-13.)

In *Chaker*, the defendant made a series of derogatory statements about the plaintiff and his forensics business on both a social networking website and on a website where the public could leave reviews for businesses. (*Chaker, supra,* 209 Cal.App.4th at p. 1142.) The statements included accusing plaintiff of being a criminal and a deadbeat dad, taking steroids, being into illegal activities, committing fraud and deceit, and picking up streetwalkers and homeless drug addicts. (*Ibid*.) The Fourth Appellate District determined the statements concerned an issue of public interest because statements about the plaintiff's "character and business practices plainly fall within the rubric of consumer information about the plaintiff's business and were intended to serve as a warning to consumers about his trustworthiness." (*Id*. at p. 1146.)

In *Hecimovich,* also cited in *Chaker*, the plaintiff was a volunteer coach of a fourth grade basketball team in an afterschool program. (*Hecimovich, supra,* 203 Cal.App.4th at p. 454.) At one point, a discipline problem arose with one of the players on the team and plaintiff's attempts to resolve the issue with the boy's parents only exacerbated the situation. (*Ibid*.) Plaintiff then involved the volunteer league commissioner who brought together other league officials. (*Ibid*.) Ultimately, this led to an extensive review of the matter—and numerous emails—the upshot of which was that plaintiff was told he would not be allowed to coach the following year and a suggestion that, when he return, it would be to coach older children.

Plaintiff thereafter filed a complaint against the parent-teacher organization and three volunteers involved in running the afterschool program sounding in defamation. (*Hecimovich, supra,* 203 Cal.App.4th at p. 455.) Defendants filed an anti-SLAPP motion to the complaint. (*Ibid*.) The trial court denied the motion holding that defamation cannot be protected activity within the anti-SLAPP analysis. (*Ibid*.) The First Appellate District reversed concluding that defamation can be protected activity and that plaintiff's lawsuit arose out of an issue of public interest. (*Id*. at pp. 455, 464-468.) More specifically, the appellate court determined that safety in youth sports, not to mention problem coaches/problem parents in youth sports, constitute issues of public interest within the SLAPP law. (*Id*. at p. 468.) In addition, the Court of Appeal found that plaintiff had not demonstrated a probability of success on the merits. (*Id*. at pp. 468-477.)

The instant action however is distinguishable from cases cited in the moving papers. For example, unlike *Hecimovich*, this case does not concern issues of safety in youth sports. Also, unlike *Chaker*, this is not a situation where the alleged defamatory statements were placed on a public forum of a social networking website. (See *Jackson v. Mayweather* (2017) 10 Cal.App.5th 1240, 1252 [websites accessible to the public are public forums under the anti-SLAPP statute].) Rather, the alleged statements were contained in an email sent to family members, a limited group of recipients. Nor is there evidence demonstrating that Defendant's email was intended to be sent to the general public to apprise them of Plaintiff's alleged criminal behavior. And, there are no factual allegations or supporting evidence showing that Plaintiff's mental state and/or propensity to commit criminal acts were intended to further a public debate or constitute a topic of widespread public controversy. (See *Wilson v. Cable News Network, Inc.* (2019) 7 Cal.5th 871, 903 [in the private context, there is a heavier burden in showing the alleged statements contributed to discussion or resolution of a public issue for purposes of subdivision (e)(4)].)

As a final point, this court finds the *Doe* case, a recent decision from the First Appellate District, to be more persuasive. There, the plaintiff filed a lawsuit alleging his ex-girlfriend and her friends, including defendant/appellant Gina Ledor ("Gina"), embarked upon a "vengeful smear campaign" to harass and defame him after his senior year of high school. (*Doe, supra*, 97 Cal.App.5th at p. 735.) During the summer of 2020, Gina sent e-mails to school officials at Dartmouth College, stating plaintiff had committed voter fraud to win an election for study body president at Berkeley High School and provided links to what she represented to be articles and a podcast about the incident. (*Ibid*.) Sometime after receiving these emails, Dartmouth revoked plaintiff's offer of admission. (*Ibid*.)

Thereafter, the plaintiff asserted various claims, including defamation, against Gina and vicarious liability against Gina's parents (collectively, "the Ledors"). (*Doe, supra,* 97 Cal.App.5th at p. 736.) The Ledors filed a special motion to strike the complaint which was denied by the trial court as the alleged defamatory statements were not protected under either section 425.16, subdivision (e)(2) or (4). (*Id*. at pp. 736, 740.)

On appeal, the First Appellate District affirmed the trial court's denial of the anti-SLAPP motion. As to section 425.16, subdivision (e)(4), which is relevant here, the appellate court determined the following:

(1) The speech at issue occurred in private;
(2) Nothing in the record indicates that Dartmouth, a college, used Gina's statements for anything other than its private purposes;
(3) There is no evidence that Gina intended the Dartmouth e-mails to reach the public sphere; and
(4) There is no evidence that the Dartmouth e-mails ever reached a wider public audience;
(5) In sum, then, with her private e-mails intended only for Dartmouth's private use, Gina's emails to Dartmouth officials did not further or contribute to a larger public conversation. (*Doe, supra*, 97 Cal.App.5th at pp.746-747.)

Like *Doe*, Defendant's email containing the alleged defamatory statements appears to be private and limited to an audience of family members. Furthermore, there is nothing

showing the email would be disseminated to a broader audience or otherwise contribute to a larger conversation regarding Plaintiff's alleged criminal conduct and mental health. For example, Defendant, in his declaration submitted in support of the motion, states:

> On October 26, 2023, Plaintiff began sending emails targeting Defendant, his mother, his step-father, two siblings of the parties, and two maternal uncles of the parties. These emails complained of a "lack of transparency" as to Plaintiff's potential inheritance when his parent dies, and accused his family of "gaslighting," "brainwashing," "ethno-religious bias," "disrespectful mind games," and that Plaintiff's mother was "rationalizing the murder of children." (Defendant's Decl. at ¶ 7(a)-(b); Motion at p. 3:11-16.)

Thereafter, Defendant admits his November 2, 2023 email, which is the subject of this action, was a response to Plaintiff's insults on October 26, 2023. (See Motion at p. 3:17-18.) Defendant's declaration also speaks to his motivation behind sending the subject email with the alleged defamatory statements:

> "I was not motivated to send the November 2, 2023, email by ill will or hatred against Plaintiff or a willingness to vex, annoy or injure him, but out of concerns over his mental health and failure to seek treatment, the well-being of my family, and in defense of myself and other family members in the face of Plaintiff's unrelenting accusations of persecution and wrongdoing." (Defendant's Decl. at ¶ 10.)

Based on this evidence, the subject email appears to be for the limited purpose of addressing concerns about Plaintiff's mental health and safeguarding the well-being of Defendant's family as opposed to furthering an issue of public interest to society at large. Thus, the court finds Defendant has not satisfied step two of the *FilmOn* test and fails to carry his burden on the first prong of the anti-SLAPP motion. Therefore, the court does not need to consider whether Plaintiff can establish a probability of success on the merits of his claims. (See *Baharian-Mehr v. Smith* (2010) 189 Cal.App.4th 265, 271 ["[I]f the defendant does not demonstrate this initial prong, the court should deny the anti-SLAPP motion and need not address the second step."].)

Consequently, the special motion to strike the complaint is DENIED.

Request for Attorney's Fees

Defendant's request for attorney's fees and costs is DENIED as he did not prevail on the merits of the special motion to strike.

Motion to Strike Portions of the Complaint

Defendant also moves to strike various allegations from the complaint.

Request for Judicial Notice

Defendant seeks judicial notice of certain events and filings in support of his motion to strike portions of the complaint. The court has already taken judicial notice of some of the requested items (see RJN at Nos. 1-3, 9-12) in connection with the special motion to strike for reasons stated above.

Defendant also seeks judicial notice of the following:

(1) Plaintiff's "Supplemental Declaration Complaint for Defamation and Defamation Per Se," filed on 11-20-23 (RJN at No. 4);
(2) Plaintiff's "Supplemental Declaration on Analysis of Communication, DSM Codes, Legal Violations, and Injunction for Well Being for Complaint," filed on 12-11-23 (RJN at No. 5);
(3) Plaintiff's "Supplemental Declaration to Complaint: Analysis of Motives," filed on 12-20-23 (RJN at No. 6).

These remaining items are subject to judicial notice as records of the superior court under Evidence Code section 452, subdivision (d). The court records are also relevant to issues raised in the instant motion to strike.

Accordingly the request for judicial notice is GRANTED.

Legal Standard

A court may strike out any irrelevant, false, or improper matter asserted in a pleading. (Code Civ. Proc., § 436, subd. (a).) A court may also strike out all or any part of a pleading not filed in conformity with the laws of the State of California. (Code Civ. Proc., § 436, subd. (b).) The grounds for a motion to strike shall appear on the face of the challenged pleading or from any matter of which the court is required to take judicial notice. (Code Civ. Proc., § 437, subd. (a).)

Irrelevant matter includes "immaterial allegations." (Code Civ. Proc., § 431.10, subd. (c).) "An immaterial allegation in a pleading is any of the following: (1) An allegation that is not essential to the statement of a claim or defense; (2) An allegation that is neither pertinent to nor supported by an otherwise sufficient claim or defense; (3) A demand for judgment requesting relief not supported by the allegations of the complaint or cross-complaint." (Code Civ. Proc., § 431.10, subd. (b).)

"As with demurrers, the grounds for a motion to strike must appear on the face of the pleading under attack, or from matter which the court may judicially notice." (Weil & Brown, et al., *California Practice Guide: Civil Procedure Before Trial* (The Rutter Group 2023) ¶ 7:168, p. 7(l)-77 citing Code Civ. Proc., § 437.) "Thus, for example, defendant cannot base a motion to strike the complaint on affidavits or declarations containing extrinsic evidence showing that the allegations are 'false' or 'sham.' Such challenges lie only if these defects appear on the face of the complaint, or from matters judicially noticeable." (Id. at ¶ 7:169, p. 7(l)-78.)

"In passing on the correctness of a ruling on a motion to strike, judges read allegations of a pleading subject to the motion to strike as a whole, all parts in their context, and assume their truth." (*Clauson v. Super. Ct.* (1998) 67 Cal.App.4th 1253, 1255.) "In ruling on a motion to strike, courts do not read allegations in isolation." (*Ibid.*)

Analysis

According to the notice of motion, Defendant moves to strike allegations in the complaint and related filings as follows:

(1) Allegations irrelevant to the defamation and defamation per se causes of action;
(2) Allegations of damage to Plaintiff's profession, career, and livelihood;
(3) Monetary amounts of damages claims;
(4) Request for punitive damages;
(5) Requests for equitable relief;
(6) Request for reimbursement of "legal expenditures";
(7) Plaintiff's "Supplemental Declaration Complaint for Defamation and Defamation Per Se";
(8) Plaintiff's "Supplemental Declaration on Analysis of Communication, DSM Codes, Legal Violations, and Injunction for Well Being for Complaint"; and
(9) Plaintiff's "Supplemental Declaration to Complaint: Analysis of Motives."

Defendant argues these allegations and filings should be stricken as they are improper, as a matter of law, or not drawn inconformity with the laws of the state of California or a court rule. Plaintiff appears to concede these arguments as he fails to file and serve any written opposition to the motion to strike. (See Defendant's Notice of Non-Opposition filed on February 20, 2024; *Sehulster Tunnels/Pre-Con v. Traylor Brothers, Inc.* (2003) 111 Cal.App.4th 1328, 1345, fn. 16 [failure to address point is "equivalent to a concession"]; see also *Westside Center Associates v. Safeway Stores 23, Inc.* (1996) 42 Cal. App. 4th 507, 529 [failure to challenge a contention in a brief results in the concession of that argument].) Therefore, the motion to strike portions of the complaint is GRANTED in its entirety WITH 20 DAYS' LEAVE TO AMEND. (See *Price v. Dames & Moore* (2001) 92 Cal.App.4th 355, 360 [with respect to motion to strike, leave to amend is routinely and liberally granted to give the plaintiff a chance to cure the defect in question].)

Disposition

The special motion to strike the complaint is DENIED.

The request for attorney's fees and costs is DENIED.
The motion to strike portions of the complaint is GRANTED WITH 20 DAYS' LEAVE TO AMEND.

The court will prepare the Order.

- oo0oo -

Calendar Line 3

- oo0oo -

Calendar line 4
Case Name: *Silvia Suarez vs Barrita Corporation, a California Corporation, et al.*
Case No.: 23CV414334

Plaintiff Silvia Ibarra Suarez ("Plaintiff")'s motion to quash the deposition subpoena for Plaintiff's current employment and personnel records that defendant Barrita Corporation ("Defendant") served on Plaintiff's current employer Tacos El Compa Taqueria, LLC ("Tacos") pursuant to Code of Civil Procedure (CCP) section 1987.1 is GRANTED IN PART. It is GRANTED as to Plaintiff's "performance" records, which shall be *excluded* from the records produced. It is DENIED as to all the other records requested.

The subpoenaed records (*except* Plaintiff's performance records) shall be produced by Tacos pursuant to Defendant's subpoena within 20 days of notice of this order. The records produced by Tacos pursuant to the Defendant's subpoena shall only be used in this action.

The Complaint

Plaintiff filed a complaint against Defendant on 4/5/2023 seeking damages for: (1) disability discrimination (Gov. Code § 12940, subd. (a)); (2) failure to engage in an interactive process (Gov. Code § 12940, subd. (n)); (3) failure to prevent discrimination; (4) FEHA retaliation (Gov. Code § 12490, subd. (h); and (5) intentional infliction of emotional distress.

Paragraph 34 of Plaintiff's complaint alleges:

> As a proximate result of the wrongful acts of DEFENDANT, PLAINITFF has been harmed in that she has suffered *and will continue to suffer actual, consequential, and incidental financial losses, including without limitation loss of income, salary, and benefits, and the intangible loss of employment related opportunities for growth in her field and damage to her professional reputation*, all in an amount according to proof at the time of trial.
> *(Id*., emphasis added.)

Paragraph 35 of Plaintiff's complaint alleges:

> As a proximate result of the wrongful acts of DEFENDANT, PLAINITFF has suffered *and continues to suffer anxiety, worry, embarrassment, humiliation, mental anguish, and emotional distress*. PLAINTIFF has experienced emotional, mental, and physical symptoms arising from the wrongful acts of DEFENDANT and has required medical attention and treatment for said symptoms. PLAINTIFF is informed and believes and thereon alleges that *she will continue to experience emotional and physical suffering for a period of time in the future she cannot presently ascertain.* PLAINTIFF has suffered past, present, *and future damages* in an amount to be shown according to proof at the time of trial.
> (*Id*., emphasis added.)

The Subpoena

On or about January 9, 2024, Defendant served Plaintiff's current employer with a deposition subpoena for "all personnel and earning records pertaining to Silvia Ibarra Suarez, … including but not limited to performance, attendance, health and insurance claims, wage, salary, earnings, payroll, time records and any other form of remuneration." Defendant is demanding these records be produced on January 29, 2024. (See Exhibit 1, Declaration of Grainne Callan ¶ 2)

The Court has the power to quash or modify deposition subpoenas.

CCP section 1987.1 provides that when a subpoena requires the production of documents, the Court, upon motion, reasonably made by the party, the witness, or any consumer described in CCP section 1985.3, or upon the Courts own motion after giving counsel notice, and an opportunity to be heard, may make an order quashing the subpoena

entirely, modifying it, or directing compliance with it upon search terms, our conditions as the Court shall declare, including protective orders. In addition, the Court may make any other order, as may be appropriate to protect the parties, the witness, or the consumer from unreasonable, or oppressive demands, including violations of a witness' or consumer's right of privacy.

A civil litigant's right to discovery is broad. (*Williams v. Superior Court* (2017) 3 Cal.5th 531 541 (*Williams*); CCP § 2017.010.) The discovery statutes are construed liberally in favor of disclosure unless the request is clearly improper by virtue of well-established causes for denial. "Under the Legislature's 'very liberal and flexible standard of relevancy,' any 'doubts as to relevance should generally be resolved in favor of permitting discovery.' " (*Id.* at p. 542.) But the scope of discovery is not limitless. Information otherwise discoverable may be protected by a constitutional or statutory privilege. (*Board of Registered Nursing v. Superior Court* (2021) 59 Cal.App.5th 1011, 1039.)

Where constitutionally protected private information is sought, courts must apply a careful balancing test to balance the competing concerns at issue: (1) the party asserting the privacy right must establish a legally protected privacy interest, an objectively reasonable expectation of privacy under the circumstances, and a threatened intrusion that is serious; (2) the party seeking the information must identify "legitimate and important countervailing interests disclosure serves;" and (3) the party seeking protection may identify alternatives that "serve the same interests or protective measures that would diminish the loss of privacy." (*Williams, supra.*, 3 Cal. 5th 531, 552; *Hill v. Nat'l Collegiate Athletic Assn.* (1994) 7 Cal.4th 1, 37-40 (*Hill*).)

Any judicial determination concerning a waiver of privacy rights "must be narrowly rather than expansively construed." (*Britt v. Superior Court* (1978) 20 Cal.3d 844, 859.) "Discovery of constitutionally protected information is on a par with discovery of privileged information and is more narrowly proscribed than traditional discovery." (*Tylo v. Superior Court* (1997) 55 Cal.App.4th 1379, 1387.) As the California Supreme Court recently clarified, a court abuses its discretion when discovery of information implicated by the right to privacy is ordered merely upon a showing of relevance. (*Williams, supra*., 3 Cal.5th at 556 ("These cases [*Planned Parenthood Golden Gate v. Superior Court* (2000) 83 Cal.App.4th 347; *Johnson v. Superior Court* (2000) 80 Cal.App.4th 1050; and *Lantz v. Superior Court* (1994) 28 Cal.App.4th 1839] correctly recognize that when a discovery request seeks information implicating the constitutional right of privacy, to order discovery simply upon a showing that the Code of Civil Procedure section 2017.010 test for relevance has been met is an abuse of discretion.")

Plaintiff has a legally protected privacy interest in the disclosure of her employment and financial records. (See *Williams, supra.*, 3 Cal.5th 531, 557.) A person's work history is generally protected by the right of privacy. (*Alch v. Superior Court (Time Warner Entertainment Co.)* (2008) 165 Cal.App.4th 1412, 1426-1427.) Unlike privilege however, the privacy protection afforded is qualified, not absolute. In each case, the court must carefully balance the right of privacy against the need for discovery. (*In re Clergy Cases I* (2010) 188 Cal.App.4th 1224, 1235.)

The showing required to overcome the protection depends on the nature of the privacy right asserted. In some cases, a simple balancing test is sufficient, while in others, a compelling interest must be shown. (*Williams, supra.*, 3 Cal.5th 531, 557 [Party seeking discovery of private information need not always establish a compelling interest or compelling need, disapproving prior cases requiring such.]; *Hill, supra*, 7 Cal.4th 1, 34-35; *Kirchmeyer v.*

Phillips (2016) 245 Cal.App.4th 1394, 1403.) The burden is on the party asserting a privacy interest to establish its extent and the seriousness of the prospective invasion, and against that showing, the court must weigh the countervailing interests the opposing party identifies. (*Williams, supra.*, 3 Cal.5th at p. 557.)

As the opposition points out the cases cited by Plaintiff regarding the privacy of employment and financial records involved the discovery of a person that was not involved in the litigation. (See Opp., p. 2.) Plaintiff's complaint alleges a disability which limits her ability to work and is causing her to suffer ongoing damages.

Despite the heightened scrutiny given to the discovery of employment records this is a disability discrimination/retaliation case brought by Plaintiff. Defendant therefore argues that the discovery is relevant to its defense. CCP section 2017.010 provides in part:

> Unless otherwise limited by order of the court in accordance with this title, any party may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action or to the determination of any motion made in that action, if the matter either is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence. *Discovery may relate to the claim or defense of the party seeking discovery or of any other party to the action.* (*Id.*, emphasis added.*)*

Plaintiff argues that depositions or interrogatories are less intrusive methods. However, Defendant has taken Plaintiff's deposition and Plaintiff testified that she missed three or four days of work while at Tacos, but they were not sick days. Plaintiff testified that she took two days off while at Tacos to recover from endoscopies. Plaintiff testified that she's not lost work time at Tacos due to pain.

Defendant argues that since Plaintiff's legal clams assume a disability which impacts her ability to work, and because her testimony is not clear, her time records from Tacos and any notes regarding absences and/or requests for time off are the best evidence of her attendance and her absences.

Plaintiff argues that that the "documents requested have nothing to do with the issues raised by the lawsuit." (Motion to Quash, pp. 7-8.) Plaintiff also argues in the reply that Plaintiff's disability does need to be "permanent" to provide protection under FEHA or the ADA or DFEH. (Reply, p. 2.) However, Plaintiff's arguments (including that the documents have nothing to do with the issues raised by the lawsuit) are contradicted by the allegations of paragraphs 34 and 35 of Plaintiff's complaint of ongoing damages. The subpoena is *not* a serious intrusion given the allegations of Plaintiff's complaint of ongoing damages.

Even if this court assumes Plaintiff carried her threshold burden on the first part of the *Hill* framework, Defendant has a compelling need to test and defend against Plaintiff's claims, particularly as to her credibility, lost earnings and benefits, reputational harm, lost job opportunities, post-termination employability, earnings capacity, the nature of available work and Plaintiff's efforts to mitigate her damages. Fairness in conducting the litigation and the consequences of restricting access to the information also requires production. There is readily no other available source to receive and confirm this information except directly from the subsequent employer. Contrary to Plaintiff's argument, Defendant is not precluded from

seeking these records directly from the subsequent employer even though Plaintiff made, at least some, production herself.[2]

Defendant's Opposition acknowledges that "Defendant has no intention of using the subpoenaed records as character evidence and has not claimed that Plaintiff's performance at [Tacos] may be relevant to the performance for Defendant." (Opp. 3:8-10.) Accordingly, the court finds that Plaintiff's "performance" records requested in the subpoena are overbroad in scope and shall be *excluded* from the records produced by Tacos.

To provide additional protection, the court will order the records produced under a protective order that the records produced by Tacos pursuant to this subpoena shall only be used in this action. (See *City and County of San Francisco v. Uber Technologies, Inc.* (2019) 36 Cal.App.5th 66, 84 [rejecting Uber's contention the trial court's order should be reversed on the basis administrative subpoenas invade the privacy and confidentiality interests of Uber or third parties where a protective order was in place].) The parties may meet and confer and enter into a more comprehensive protective order for the documents.

Plaintiff's request for monetary sanctions is DENIED. The court finds that that the one subject to the sanction acted with substantial justification or other circumstances make the imposition of sanctions unjust.

The court will prepare the order.

- oo0oo –

[2] As Defendant points out in the Opposition:

> To the extent Plaintiff objects to payroll records as confidential information (Plaintiff's MPA, 5:22-23), that argument is moot as she has already provided them for the periods starting 10/16/22 and ending 5/15/23. Moreover, since she had no objection to providing payroll records (which show the number of hours worked each pay period, as well as her pay rates, tips, address, and tax withholdings), it follows that there should be no objection to her time records, from which the payroll records were crated. (Opp., 5:8-13.)

Calendar Line 5

- oo0oo -

Calendar Line 6

- oo0oo -

Calendar Line 7

- oo0oo -

Calendar Line 8

- oo0oo -

Calendar line 9

- oo0oo -

Calendar line 10

- oo0oo -

Calendar line 11

- oo0oo -

Calendar line 12

- oo0oo -

Calendar line 13

- oo0oo -