CASE NO. 25-5778

IN THE UNITED STATES SUPREME COURT

ASHLIE R. ANDERSON

PETITIONER/ APPELLANT/PLAINTIFF

Vs.

AUTOMOBILE CLUB OF SOUTHERN CALIFORNIA ("AAA") LLC.;
INTERINSURANCE EXCHANGE OF THE AUTOMOBILE CLUB LLC.;
FRANCES SCHULTZ, AND AGENT GAIL C. LOUIS, AND THEIR INSURED
RICARDO AVELAR,

RESPONDENTS/APPELLEES/DEFENDANTS

CORRECTED ASHLIE R. ANDERSON PETITION OF WRIT OF CERTIORARI TO THE UNITED STATES SUPREME COURT (SUPREME COURT RULE 13, e.g. 28 U.S.C. 2101) AFTER THE CALIFORNIA SUPREME COURT DENIAL OF PETITION FOR REVIEW IN STATE COURT ON FEBRUARY 26, 2025 IN CASE NO. S288454 OF FROM THE COURT OF APPEAL SECOND DISTRICT DECISION AFFIRMING ON NOVEMBER 18, 2024 IN CASE NO. B328182.

FROM THE CALIFORNIA SUPREME COURT DENIAL OF PETITION FOR REVIEW FOLLOWING DENIAL FOR REHEARING ON THE APPEAL TO THE SECOND DISTRICT COURT OF APPEAL, SECOND DISTRICT WAS PRESIDED BY BIASED AND HOSTILE JUSTICE ELWOOD LUI IN DIVISION TWO, AFTER THE SUPERIOR COURT OF LOS ANGELES COUNTY, CHATSWORTH COURTHOUSE JUDGMENT IN CASE NO. 22CHCV00138 BY JUDGE STEPHEN P. PFAHLER, DEP. F49. (818) 407-2249 WHO WAS DISQUALIFIED, RECUSED AND REASSIGNED FROM THE CASE JANUARY 11, 2024). THE CASE WAS INSTEAD ASSIGNED TO JUDGE HON. GARY I. MICON DEP. F49.

ASHLIE R. ANDERSON IN PRO SE
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TO THE HONORABLE CHIEF JUSTICE OF THE UNITED STATES SUPREME COURT,

I. QUESTIONS PRESENTED

a) Whether a summons and complaint that was filed on February 2, 2022 and was served on the defendants timely on March 19, 2022 and March 21, 2022, whether such defendant/s may file after a year a demurrer and motion to strike and a motion to strike under California Anti-SLAPP Statute (Cal. Civ. Proc. § 425.16(f) on February 6, 2023, and the motion was heard a year later by the bias and unfair trial court on March 8, 2023?

b) Whether California courts morally bankrupt may engage in fraud of procedural due process during the appellate process that violated Petitioner Ms. Ashlie R. Anderson who was affected by California Anti-SLAPP statute (Cal. Civ. Proc. § 425.16 [et. seq. (and other similar Anti-SLAPP statutes across United States] are treated as an ordinary per se takings[1] law under the Fifth Amendment that violated Ms. Anderson's Fourteenth Amendment that protects against the government's deprivation of life, liberty, or property without due process of law insurance companies illegal criminal fraudulent activates are condoned and covered-up by the state court appellate court biased and prejudicial Justice Elwood Lui helped insurance company avoid liability[2] from innocent drivers as Ms. Anderson were 100% no fault (and other millions of innocent drivers) whose vehicle were fraudulently and illegitimately reported to DMV as "**Total Loss Salvage**" on the same day of the accident when it was not a total loss salvage, but in good operational condition, had forced Ms. Anderson to surrender her vehicle and license plate to DMV, but the state court appellate court committed fraud of procedural due process by ignoring the truth seeking when insurance companies submit total loss salvage documents to DMV, the appellate court also determined the insurance company's fraudulent use of a forged estimate of an inspection that never took place on November 23, 2021 done to support the designation as "Total Loss Salvage" was not excusable and shows actual malice?

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[1] When a law as the Cal. Civ. Proc. § 425.16 allows a state to force innocent drivers as Ms. Anderson to surrender her good operational vehicle, license plates and registration to DMV as a total loss salvage when it is not a total loss salvage, it is an equivalent to an ordinary per se takings law is a violation of the Fifth Amendment and Fourteenth Amendment. See *Penn Cent. Transp. Co. v. City of New York*, 438 U.S. 104, 98 S.Ct. 2646, 57 L.Ed.2d 631 (1978); government acquisitions of resources to permit uniquely public functions constitute "takings," e.g., *United States v. Causby*, 328 U. S. 256. Pp. 438 U. S. 123-128.

[2] For comparison and equality all made laws are as "double blade swords." California and many other states in the U.S. impose severe penalties for drivers involved in accidents that make fraudulent claims or engage in staged accidents. These penalties can range from criminal felony charges and imprisonment up to five years, civil penalties and fines up to $50,000 or double the amount of the fraud, with suspension of driver's licenses, and loss of benefits. But trial and appellate Courts and Supreme Courts cover-up and protect insurance companies under Cal. Civ. Proc. § 425.16 who engaged in fraudulent and criminal activities against no fault claimants, raises significant legal and ethical concerns. [*Klem v. Access Ins. Co.*, 17 Cal.App.5th 595, 225 Cal. Rptr. 3d 711 (Cal. Ct. App. 2017) concluded that submission of the standard DMV total loss form was not absolutely privileged].

c) Whether the California Supreme Court, Appellate courts and trial courts may run amuck of all appellate process in order to cover up injustice and fraud by insurance company criminal and fraudulent activities knowingly with actual malice reporting Ms. Anderson's vehicle to DMV as total loss salvage, when it was not total loss salvage, constituted a protected activity for purposes of an anti-SLAPP motion under Cal. Civ. Proc. § 425.16 et. seq. by biased appellate court Justice Elwood Lui's protection of insurance companies' financial interests by condoning violations of California Penal Code § 115, § 470a and Vehicle Code § 20[3] and § 11515, subd.(g) b" stating: **"[H]owever, this provision (11515(g)) "does not impose penalties for voluntary reports, false or otherwise..."**?

d) Whether we arrived to the day that dishonest California courts may abuse their power and mask criminality and criminal acts in the guise of California Anti-SLAPP statute (Cal. Civ. Proc. § 425.16 et. seq. (and other similar Anti-SLAPP statutes in other U.S. States courts)?

e) Whether we arrived to the day that California courts may abuse their power and mask criminality and criminal acts in the guise of California Anti-SLAPP statute (Cal. Civ. Proc. § 425.16 et. seq. (and other similar Anti-SLAPP statutes in other U.S. States courts) to allow DMV and third party insurance companies to take petitioner's car when in an accident she was not at fault 100%? [I am an African American mother and my Honda car is my life to move and work. But the California makes laws that are so unfair and dishonest that allows cars to be taken away by dishonest insurance companies reporting good cars as total loss salvage to DMV when it is not total loss salvage, in order for insurance companies to cut their costs paying third party claims, like they say: "I am the criminal who defrauding and stealing from you, but it's your fault being innocent."]

f) Whether California courts allowing defendants' declarations swearing under penalty of perjury may ignore and exclude Petitioner Ms. Ashlie R. Anderson Evidence from DMV of the defendants' malice in reporting her vehicle "**Total Loss Salvage**" without any inspection, she demonstrated in her "**Verified[4] Complaint,**" "**Verified Opposition To The Anti-SLAPP Motion"** and "**Verified Reply To Anti-SLAPP Motion"** and declarations based on her personal knowledge were all sufficient evidence[5] under Cal. Code of Civ. Proc. §425.16(b)(2) to defendants' Anti-SLAPP motion as motion for a summary judgment who meets the "'**Minimal Merit**" under California Anti-SLAPP statute?

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[3] See California Vehicle Code § 20: "It is unlawful to...to knowingly make any false statement or knowingly conceal any material fact in any document filed with the Department of Motor Vehicles or the Department of the California Highway Patrol." (Enacted by Stats. 1959, Ch. 3).

[4] See *Taylor v. Riojas* 141 S.Ct. 52 (2020) "[V]erified pleadings [as] competent evidence at summary judgment"); *Anderson v. Liberty Lobby, Inc.*, , 249, 106 S.Ct. 2505, 91 L.Ed.2d 202 (1986). "[V]erified pleadings are competent summary-judgment evidence where they are based on personal knowledge, set forth facts that would otherwise be admissible, and show that the affiant is competent to testify."]

[5] See *Hollingsworth v. Loh*, B275749 (Cal. Ct. App. Oct. 16, 2017): "[T]he plaintiff's action need only have "'**minimal merit**' [citation]" to survive an anti-SLAPP motion. (Id. at p. 291.)

II. LIST OF PARTIES AND RELATED CASES

1) ASHLIE R. ANDERSON – Petitioner
2) AUTOMOBILE CLUB OF SOUTHERN CALIFORNIA ("AAA") LLC. - Respondent
3) INTERINSURANCE EXCHANGE OF THE AUTOMOBILE CLUB LLC. - Respondent
4) INSURANCE AGENT FRANCES SCHULTZ- Respondent
5) INSURANCE AGENT GAIL C. LOUIS - Respondent
6) INSURED RICARDO AVELAR - Respondent

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10/22/2024	The court has read and considered appellant's request to continue oral argument filed on October 16, 2024. Appellant's request is hereby denied. Oral argument in this matter will remain as scheduled on November 15, 2024, at 12:45p.m. Appellant will appear remotely pursuant to the July 17, 2024 order. Instructions and procedures for remote appearance will be emailed to appellant separately. Furthermore, appellant's motion to recuse Presiding Justice Lui is denied. The attachments included in appellant's request that are not part of the record on appeal will be disregarded. IT IS SO ORDERED.	316 and 317
07/17/2024	The court has read and considered appellant's request to continue oral argument filed on July 16, 2024. Good cause appearing, appellant's request is hereby granted. Oral argument in this matter shall be rescheduled to November 15, 2024, at 12:45p.m. This new date and time are firm. Appellant may request to appear remotely via	318-319

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	transcripts of march 8, 2023 were also lodged by Ms. Anderson on April 12, 2023 and April 21, 2023 in the superior court and in the court of appeal, and were initially designated in her designation of march 11, 2023 (see ct page # 961). [with a proposed order]	
07/13/2023	Defendants And Respondents, Automobile Club of Southern California ("AAA") LLC; Interinsurance Exchange of The Automobile Club LLC; And Frances Schultz's Opposition To Appellant Ashlie R. Anderson's Amended Motion To Augment The Record Of Appeal; Declaration of Barbara J. Mandell	374-389 and 403-413 and 456-466
03/15/2024	The court has read and considered Respondents' March 14, 2024 application for extension of time to file respondent's brief and appellant's opposition thereto filed on March 14, 2024. The application for extension of time is granted, with no further extensions. Respondent's brief shall be due on or before April 22, 2024.	506
10/13/2023	Petitioner filed several motions to augment, a request for judicial notice, a motion for permission to file an enlarged opening brief, and a request for extension of time. After consideration, the court denies appellant's motions and request for judicial notice. Appellant's request for extension of time to file an opening brief is granted. An opening brief is now due on or before November 22, 2023. IT IS ORDERED.	507
03/22/2024	Amended Appellants Ashlie R. Anderson original petition from the court of appeal second district Administrative Law Justice Elwood Lui favoritism unfairly granting appellees a second unstipulated application of 30 days to file their responsive brief for a total 0f 90 days after justice lui had already granted appellees" first unstipulated application for extension of time to file their responsive brief on January 16, 2024 for up to 90 days. The second application or extension should have been denied pursuant to rule 8.212 (b)(3) and rule 8.68. both unstipulated applications for extension and declarations failed to stated any reasons or good cause pursuant to rules 8.50 and 8.63. (see Aaronoff (Vidala) v. Ca 2-2 (Olson), case number s276953.	467-474
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V. DENIAL OF DISCRETIONARY REVIEW

California Supreme Court Denial of Review (2/26/2025) appears at Appendix E

VI. CONCISE STATEMENT IN WHICH JURISDICTION IS INVOKED

The Los Angeles County Superior Court entered judgment against Petitioner on 03/08/2023. The Second District Court of Appeal (Div. 2) affirmed the trial court on 11/18/2024. The California Supreme Court denied a discretionary petition to review on 2/26/2025. This Court's jurisdiction is invoked under 28 U.S.C. §1254(1).

VII. CONSTITUTIONAL PROVISIONS INVOLVED

Fifth Amendment to United States Constitution

> No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; **nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law**; nor shall private property be taken for public use, without just compensation.

Fourteenth Amendment to United States Constitution, Section 1

> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; **nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.**

VIII. CONCISE STATEMENT OF THE CASE

1) Petitioner Ms. Ashlie R. Anderson respectfully files her Petition for Writ of Certiorari to the United States Supreme Court because the California Supreme Court, the Second Appellate District, and the trial courts are holding California citizens and drivers as hostage when they run amuck of any fair trial and appellate procedural due process by ignoring California laws in a late and unfair Anti-SLAPP hearing, covered-up facts, evidence and fraud of, criminal activity, fraud by defendants' insurance company who knowingly and falsely report Ms. Anderson's good vehicle to

DMV as "**Total Loss Salvage**" was done without a physical inspection, reported on the same day of the accident on November 1, 2022 involving Ms. Anderson and the insured Ricardo Avelar, Ms. Anderson was 100% not at fault, forced her vehicle was good operational was not total loss salvage. The states courts were aware of the fraud but intentionally turned blind eyes and ignored that defendants had reported to DMV using a November 23, 2022 false estimates of auto inspection of Ms. Anderson vehicle as "Total Loss Salvage" that never took place.

2) The California court are shielding insurance companies as "**Protected Activities**" in furtherance of the California Anti-SLAPP protection under Cal. Code of Civ. Proc. § 425.16 creating, encouraging and ignoring wide spread fraud, overstepped their bounds and judicial powers, enabling insurance companies as the defendants to control the state courts who ignored liability against insurance companies under Cal. Code of Civ. Proc. § 425.17(c), who fraudulently declared good vehicles as "**Total Loss Salvage**" to for financial gain to cut costs of paying third parties no fault claims.

3) insurance companies declaring good vehicles as "total loss salvage" is a nationwide fraud phenomena that had detrimental consequences and effects on millions of innocent drivers as Ms. Anderson who are not at fault in the accidents, whose lives are dependent on their vehicles as their only means of transportation to their jobs that undermine their ability to earn money by force her vehicle as "total loss salvage" to force her to surrender her vehicle, and her registration, and her license plate in order to appease insurance companies' financial expenditure payments to no fault accident claimants as Ms. Anderson.

4) Senator Joshua David Hawley in a Senate hearing on May 13, 2025, in the 119th Congress, examined the insurance industry's claims practices following recent natural disasters. During this hearing, the topic of why insurance companies may not want to pay claims was discussed. A YouTube video from this hearing, titled "**Chairman Hawley Exposes Major Insurance Companies For Ripping Off Policyholders**," explicitly mentions that the hearing addresses instances where insurance companies "won't pay out any damage claims". The hearing also mentioned an ethical obligation for those doing estimates to be honest.[6]

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[6] Senator Joshua David Hawley on May 13, 2025, in the 119th Congress: "[M]s. McGall is unhappy with the. Yeah, well, that's like saying I'm sorry, you're unhappy, right? That's I apologize, but I don't apologize. Would you like to apologize to her now? Maybe I just misunderstood her. I would like to say, is Ms. McGall here? Go ahead. I'm sure she's watching. I'd like to say I want to make sure that we get your claim resolved to your satisfaction. And if there's additional information or things that we can do to continue to work with you, we'll do that. So I noticed that you said in your written testimony you just repeated it here. Let me make sure I get this right. I'm going to quote you now. We live and breathe our motto. Our customer's worst day needs to be our best. I have to

5) In *Moradi-Shalal v. Fireman's Fund Ins. Companies*, 46 Cal.3d 287, 250 Cal. Rptr. 116, 758 P.2d 58 (Cal. 1988) California Supreme Court Justice MOSK admonished prejudicial appellate courts, and prejudicial California Supreme Court and the California legislature judicially holding the citizens of California as hostages in order to appease and shield lawless insurance companies from liability by giving them free reign and total immunity to commit unfair and deceptive practices and victimize innocent drivers/claimants as Ms. Anderson:

> **"[I] dissent. Royal Globe (1979-1988), may it Rest in Peace. During its life it served the people of California well, particularly the victims of unfair and deceptive practices. The majority have now replaced Royal Globe with a "Royal Bonanza" for insurance carriers, i.e., total immunity for unfair and deceptive practices committed on innocent claimants.** They have exalted principal over principle. It will be interesting to observe whether this judicial largesse causes insurance premiums to decrease or insurance profits to increase."...."[I]n the trial court, defendant demurred and at no time there or in the Court of Appeal raised any question about the continued vitality of Royal Globe. Indeed its demurrer was offered, and sustained, on grounds consistent with the underlying premise of Royal Globe. We granted review in this matter for the sole purpose of clearing up detrital issues on which Courts of Appeal have differed. **The**

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tell you, Mr. Fiata, based on the testimony I've heard today, based on the witness statements I've taken for witnesses, it sounds like to me that it really ought to be amended to say that our customers' worst day is your big profit opportunity. I mean, we've just heard testimony here, sworn testimony from multiple adjusters that your company ordered them to delete or alter damage estimates to reduce payouts and to make you profits. It sounds to me like you're running a system of institutionalized fraud. Yeah, that would, that would be incorrect, Senator. That's not what we do. So you have never ordered. Allstate has never asked an adjuster to. Change an assessment on their report when we review an adjuster's estimate most often for authority requests, so most adjusters have an amount of financial authority that they can settle claims up to without having to wait a minute, that's not what they testified to. That's not what they just testified to. You just heard sworn testimony from multiple adjusters. And they said it happened. One adjuster had only ever worked for you over years in the industry, and he said he was repeatedly directed by you, by your company, Allstate, to change factual findings, to delete material in his reports, to alter his reports to make them factually incorrect, all with the purpose of driving down the award and padding your profits. I disagree with his statement. You know, I have to notice that I mean your profits have never been better. I mean they're really quite extraordinary fiscal year 24, Allstate had $64 billion in revenue. That's 12% above the previous year. You made $4.6 billion in profits, and your CEO Tom Wilson last year was paid $26 million. Now Ms. Miguel can't get her claim paid out. But Tom Wilson, whoever the heck he is, gets $26 million."
https://www.google.com/search?q=which+sesion+of+Congresscrecently+discuused+why+insurance+companies+do%27t+wantvyonpay+claims.&sca_esv=3d47400899ce5444&rlz=1CDGOYI_enUS1145AT1145&hl=en-US&sxsrf=AE3TifNrcFAB3Ek__PScVI2NBjvIrAa15g%3A1749393453506&ei=LaBFaO_VHur9kPIPi-K8yAk&oq=which+sesion+of+Congresscrecently+discuused+why+insurance+companies+do%27t+wantvyonpay+claims.&gs_lp=EhNtb2JpbGUtZ3dzLXdpei1zZXJwIlx3aGljaCBzZXNpb24gb2YgQ29uZ3Jlc3NjcmVjZW50bHkgZGlzY3V1c2VkIHdoeSBpbnN1cmFuY2UgY29tcGFuaWVzIGRvJ3Qgd2FudHZ5b25wYXkgY2xhaW1zLkjnClAAWABwAHgAkAEAmAFhoAGuAaoBATK4AQPIAQCYAgCgAgCYAwDiAwUSATEgQIgGAZIHAKAH9AayBwC4BwDCBwDIBwA&sclient=mobile-gws-wiz-serp

insurance industry asked for a loaf of bread. The majority, with remarkable magnanimity, give it the whole bakery."

"[I]nstead of concentrating on the issues raised and argued throughout these and other pending proceedings, the majority have chosen to avoid fundamental answers by permanently eliminating the question. In most cases, of course, it would make our task relatively uncomplicated if we could evade interpreting the law with finality by simply changing the law. On the other hand, making our job easier is no justification for **totally destroying a cause of action authorized by statute,** approved by decisions of this court and of Courts of Appeal, and acquiesced in by the Legislature for nearly a decade. **The judicial activism of the majority seriously impairs the orderly administration of justice.**"

"[I]n making their opinion inapplicable to this and all pending cases, the majority in effect render a mere advisory opinion. **While they suggest this approach is adopted out of a sense of compassion for victims who have lawsuits pending, that compassion apparently does not extend to future victims of unfair and deceptive acts who may suffer the same or greater damage. Thus the reality is that the majority are merely applying a thin sugar coat to their cyanide pill. The majority contend that sections 790.03 and 790.09 of the Insurance Code do not create a private cause of action. In view of their expurgated quotation of section 790.03 in footnote 2 of the majority opinion, that conclusion might arguably follow.** Unfortunately the majority omit other parts of the same section that clearly implicate the duty of insurance carriers not merely to their insured, but also to claimants. One who objectively reads the following will receive an entirely different outlook: "§ 790.03 The following are hereby defined as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance."

6) California courts knew for many years and covered up that insurance companies who report vehicles as total loss salvaged when they are not total loss salvage in order to cut their parties' claims costs. See California Senate Insurance Committee in the State Capitol on January 30, 2002, by Senator Jackie Speier, Chair[7] "**Total Loss Salvage Vehicles**":

"SENATOR SPEIER: But if the insurance companies are reporting to you that they are taking salvage certificates on 114,000 per year and, yet, you show 283,000 certificates, that means you're getting many more certificates from someone."

MR. CATHER: Right. Again, I think we have to be cautious about using that 114,000 figure because that was based when we were not looking at the junk status. **A vehicle can be reported by an insurance company as being salvaged.** Later, once that vehicle goes through its process, if it's determined it cannot be repaired, it is then submitted to a dismantler for junking. Because we didn't factor in that particular scenario and some others that involved junk vehicles, **that 114 was artificially low because it was only those vehicles that went only as far as the salvage certificate process.** Actually, there's a much larger percentage, almost double that number. If you want to say

[7] https://sins.senate.ca.gov › sins.senate.ca.gov. To address this issue of salvage vehicles, Senate Bill 1833 was enacted in 1994. This bill amended Vehicle Code sections defining total loss salvage vehicles.

228,000, that's probably closer to the number that the insurance companies are actually reporting to us each year."

"MR. CATHER: **But I just wanted to clarify the issue on the numbers. We're about double that number.** I think we're now right in line with what the insurance companies are reporting as the number of vehicles."

IX. THE REASONS RELIED ON FOR THE ALLOWANCE OF THE WRIT

This Court should grant certiorari to establish guidance on circumstances in which due process requires the Judicial integrity and public confidence mandates attention to situations where a judge as Justice Elwood Lui as the administrative justice of the California Court of Appeal, 4th District, Div. 2, was also as the presiding justice over the appeal who has financial incentive, influence and temptation of a large Insurance company as AAA to rule against Appellant Ms. Anderson, raises issues with weighty implications for the Due Process Clause's guarantee of judicial neutrality and for the legitimacy of state judicial officials' decisions. Due Process is vulnerable to judges tempted and influenced by an outside company owned. The influence and temptation, like that in this case, make for extreme facts and appearance such that due process is denied.

7) The defendants' counsel Barbara J. Mandell admitted in her opposition to Ms. Anderson's motions to augment the record on July 13, 2023, contained defendant's admission in their opposition to Mr. Anderson's motion to augment that they sufficiently committed fraud, but that their fraud was excusable because defendants had increase the amount of money than the initial estimate to Ms. Anderson.

8) Justice Elwood Lui had stricken the Appellees/defendants' declaration and motion conceding illegal fraudulent conduct was admitted in opposition of July 13, 2023 to Ms. Anderson's motions to augment to the record of appeal, appellant included a 10 pages attachment to her opening brief was the transcripts of March 8, 2023 was designated into the record of appeal on pages # 961 and 974 should have been part of the record. Justice Lui also stricken the Appellees/defendants' admission of fraud in their opposition of July 13, 2023 to augment the transcripts of March 8, 2023. **(Id. as EXHIBITS # 170-177).**

Justice Lui's unfairness where he stricken Ms. Anderson attachment to her opening brief even when she satisfied all the requirement of Cal. Rules of Court, Rule 8.204(a)(2). The Los Angeles County, California Appellate Div. 2 Justice Elwood Lui refusal to recuse himself and instead hear and rule on this appeal, transgress this Court's holdings that "a judge must avoid even the appearance of bias." *Commonwealth Coatings Corp. v. Cont'l. Cas. Co.*, 393 U.S. 145, 150 (1968).

This court has found constitutionally unacceptable bias appearance in several cases, for financial or pecuniary direct interest, or where there was motive or temptation. In this case all those factors overwhelming apply based on objective facts. In *Caperton* this Court stated: "**Under our precedents there are objective standards that require recusal when "the probability of actual bias on the part of the judge or decisionmaker is too high to be constitutionally tolerable.**" *Withrow v. Larkin*, 421 U. S. 35, 47 (1975). This Court stated almost a century ago that it "violates the Fourteenth Amendment...to subject liberty or property to the judgment of a court the judge of which has a direct, personal, substantial, pecuniary interest in reaching a conclusion against him in his case." Tumey v. Ohio, 273 U.S. 510, 523 (1927).

X. SUMMARY OF ARGUMENT

9) The Nature of an SLAPP under Cal. Civ. Proc. § 425.16 defines the Legislature's purpose in enacting the statute as: "The Legislature finds and declares that there has been a disturbing increase in lawsuits brought primarily to chill the valid exercise of the constitutional rights of freedom and petition for the redress of grievances. The Legislature finds and declares that it is in the public interest to encourage continued participation in matters of public significance, and that this participation should not be chilled through abuse of the judicial process.

10) To this end, this section shall be construed broadly." (§ 425.16, subd. (a).) Based on these legislative findings, "{A] cause of action against a person arising from any act of that person in furtherance of the person's right of petition or free speech under the United States or California Constitution in connection with a public issue shall be subject to a special motion to strike, unless the court determines that the plaintiff has established that there is a probability that the plaintiff will prevail on the claim." (§ 425.16, subd. (b)(1).) See *Kajima Engineering and Const., Inc. v. City of Los Angeles* 95 Cal.App.4th 921.

11) "[U]nder the statute, 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 or writing 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; (4) or 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." (§ 425.16, subd. (e).)"

12) The California Second Appellate Court Justice Elwood Lui and his fellow justices intentionally ignored that the defendants Interinsurance Exchange of The Automobile Club LLC.; Automobile Club of Southern California ("AAA") LLC, are an "**insurance company**" under Cal. Civ. Proc. § 425.17 (c): "**[S]ection 425.16 does not apply to any cause of action brought against a person primarily engaged in the business of** selling or leasing goods or services, including, but not limited to, **insurance**, securities, or financial instruments, arising from any statement or conduct by that person if both of the following conditions exist..."

13) **Moreover: under the ninth circuit, panels of the court are bound by prior panel decisions.** *Newell Cos. v. Kenney Mfg. Co.*, 864 F.2d 757, 765 (Fed. Cir.1988)." Yet, Justices LUI, P. J., CHAVEZ, J., HOFFSTADT, in Division two ignored as "**windows dressing**" case law their colleges in Division One of the Second District Court of Appeal in California in *Tiffany Yan Xu v. Haidi Wenwu Huang*, 73 Cal.App.5th 802, 288 Cal. Rptr. 3d 558 (Cal. Ct. App. 2021):

> **"[C]ourts are admonished to examine section 425.17 as a threshold issue before proceeding to an analysis under section 425.16. Section 425.17 expressly provides that speech or conduct satisfying its criteria is entirely exempt from anti-SLAPP protection even if "the conduct or statement concerns an important public issue." (§ 425.17, subd. (c)(2).)"** [Citations omitted].

i. Justices LUI, P. J., CHAVEZ, J., HOFFSTADT, in Division Two Had Committed A Fraud of Procedural Due Process By Discriminating Against Ms. Ashlie R. Anderson For Being Biased And Prejudicial During All Process of The Appeal Ignoring All of Her Issues On Appeal They Falsely Claimed They Could Not Comprehend, They Instead Adopted And Address Only The Appellees arguments As Issues on Appeal.

14) Justice Lui was unwilling to address any of Ms. Anderson's arguments and issues on appeal and instead adopted the appellees' issues on appeal. See *Singleton v. Wulff*, 428 U.S. 106, 96 S. Ct. 2868 (1976): **"[W]e announce no general rule. Certainly there are circumstances in which....appellate court is justified in resolving an issue not passed on below, as where the proper resolution is beyond any doubt,** see *Turner v. City of Memphis*, 369 U.S. 350 (1962), or where "**injustice might otherwise result**." *Hormel v. Helvering*, 312 U.S., at 557." [Citations omitted].

15) Ms. Anderson's opening brief made of 68 pages followed Cal. Rules of Court, Rule 8.204(a)(1)(C) and provided the judgment of March 8, 2023; she stated the nature of the action, she stated 21 heading, more than the required headings, with coherent arguments and significant facts that were limited to matters in the record. Ms. Anderson developed her claims with reasoned legal argument and supporting authority. Ms. Anderson even pasted relevant evidence into the body of

her opening brief was supported by references to any matter in the record, Ms. Anderson cited the volume and page number in the record where the matter appears in the appellate record in support of her arguments.

16) Ms. Anderson not only asserted reasonable issues of appeal, but she also provided relevant authority with cogent legal analysis to support her claims; she stated the relief she requested in the trial court and order and judgment and the orders/judgment she appealed from; she explained why the order/judgment she appealed from was appealable. Ms. Anderson did all of this "[t]o lighten the labors of the appellate [courts]."

17) Ms. Anderson's opening brief and reply brief had satisfied all the requirement of Cal. Rules of Court, Rule 8.204(a)(2): An appellant's opening brief must: (A) **State the nature of the action, the relief sought in the trial court, and the judgment or order appealed from**; (B) **State that the judgment appealed from is final, or explain why the order appealed from is appealable**; and (C) **Provide a summary of the significant facts limited to matters in the record**. (Subd (a) amended effective January 1, 2024; Subd (a) amended effective January 1, 2006.)

18) California Rules of Court, rule 8.204(a)(1)(c) only requirements is that: "Each brief must: [¶]...[¶] (C): **"[S]upport any reference to a matter in the record by a citation to the volume and page number of the record where the matter appears."...."[A] party on appeal has the duty to support the arguments in the briefs by appropriate reference to the record, which includes providing exact page citations."**

19) Justices LUI, P. J., CHAVEZ, J., HOFFSTADT also ignored all of Ms. Anderson citations to the record and in referring to her **"Verified Opposition to the Defendants' Anti-SLAPP motion"** and "**Verified Reply to the Defendants' Anti-SLAPP motion**" was an admissible evidence showing illegality as matter of law of defendants insurance company had submitted numerous fraudulent documents/forms to DMV that made Ms. Anderson's vehicle as a total loss salvage on November 1, 2021, DMV forms: **"REG 31: Verification of Vehicle Not To Be Completed By Applicant"**; REG 481; **"REG 488C: Application for Salvage Certificate or Nonrepairable Vehicle Certificate"; "REG 492: Unobtainable Title Certification for Issuance of Salvage."**

20) See *Mission Imports, Inc. v. Superior Court*, 31 Cal.3d 921, 184 Cal. Rptr. 296, 647 P.2d 1075 (Cal. 1982) **While a complaint verified on information and belief by an officer of a corporation is not to be considered an affidavit (§ 446), it may be considered for its factual content in ruling on a motion for change of venue to the extent that it is not controverted by the affidavits of the moving party.** (*General Steel Wire Co. v. Stryco Mfg. Co.* (1963) 213

Cal.App.2d 495, 497 [28 Cal.Rptr. 769]; *Quick v. Corsaro* (1960) 180 Cal.App.2d 831, 835-836 [4 Cal.Rptr. 674].)

21) But Justice Lui ignored all of Ms. Anderson's citations to the record of appeal, saying that she as the plaintiff has not introduced admissible evidence the REG 481 was false, on page 8 of the (**Id. EXHIBITS # 106-117**) disposition dated November 18, 2024:

> **"C. Plaintiff Has Failed to Demonstrate a Probability of Success on the Merits. 1. Fraud claims:** Plaintiff's complaint alleges six claims for fraud (the second, third, fourth, seventh, eighth, and eleventh causes of action), again based on defendants' submission of a REG 481 notice to DMV. Fraud must be proved by clear and convincing evidence. (*Mike Davidov Co. v. Issod* (2000) 78 Cal.App.4th 597, 605–606.) The elements of fraud are misrepresentation, knowledge of falsity, intent to defraud, justifiable reliance, and resulting damage. (*Bains v. Moores* (2009) 172 Cal.App.4th 445, 455.)
>
> **"Two points here. First, as stated, plaintiff has not introduced admissible evidence the REG 481 was false. Nonetheless, plaintiff apparently mistakenly considers her verified complaint as evidence of falsity.** However, a plaintiff cannot use a verified complaint to establish success on the merits. Proof of the plaintiff's allegations must be based upon competent admissible evidence. (Paiva v. Nichols (2008) 168 Cal.App.4th 1007, 1017.)
>
> "This is because an assessment of the probability of prevailing looks to trial, and the evidence that would be admissible to create triable factual issues at that time." (*San Diegans for Open Government v. San Diego State University Research Foundation* (2017) 13 Cal.App.5th 76, 108–109; accord, *Brodeur v. Atlas Entertainment, Inc.* (2016) 248 Cal.App.4th 665, 679; *Oviedo v. Windsor Twelve Properties, LLC* (2012) 212 Cal.App.4th 97, 109; *Paiva v. Nichols*, supra, 168 Cal.App.4th at p. 1017; *Paulus v. Bob Lynch Ford, Inc.* (2006) 139 Cal.App.4th 659, 672–673.)
>
> Second, plaintiff has introduced no evidence to show she justifiably relied on the REG 481 notice to DMV. Indeed, plaintiff never agreed with defendants' determination that repairing the car was "uneconomical" within the meaning of Vehicle Code section 544.8 Her consistent position has been her Honda Accord was not a total loss salvage vehicle. Vehicle Code section 11515 requires an insurance company to notify and provide certain materials to the DMV of a total loss salvage vehicle. (Veh. Code, § 11515, subds. (a) & (b).) Failure to do so is punishable as a misdemeanor. (Veh. Code, § 11515, subd. (g).) **However, this provision "does not impose penalties for voluntary reports, false or otherwise..."**

22) See Ms. Anderson's "**Issues of Appeal**" is pasted below shows the heading with coherent issues of appeal with arguments for your convenience, **"[t]o lighten the labors of the appellate [courts] by requiring the litigants to present their cause systematically and so arranged that those upon whom the duty devolves of ascertaining the rule of law to apply may be advised, as they read, of the exact question under consideration, instead of being compelled**

to extricate it from the mass." (*Landa v. Steinberg* (1932) 126 Cal.App. 324, 325 [14 P.2d 532].) For this reason the rehearing petition is denied." Ms. Anderson is compelled to paste those issues of appeal for Justice Lui to see and read and stop ignoring.

23) Yet, division two Justice Elwood Lui "**could not live**" with Ms Anderson sufficient opening brief, and so they entirely ignored Ms. Anderson's opening brief by frivolous excuses, they blinded themselves because they refused to deal with her issues and arguments on appeal, stating because "**but her opening brief is procedurally and substantively defective.**" Justice Lui and his panel justices intentionally and maliciously violated Ms. Anderson's due process rights on her appeal. Justice Elwood Lui ignored all of Ms. Anderson's causes of action and claims he stated **"[i]s not supported by any evidence in the record. Plaintiff has therefore failed to demonstrate a probability of achieving success on the merits of these claims."**

24) Justice Lui's intentional vagueness was purposeful in order for him to ignore and "understood" all and any of Ms. Anderson's issues on appeal, but that he only 'understood" only the "**challenges**" to the court's rulings and the defendants' responsive brief. See page 2 of the impartial disposition of November 18, 2024:

> "**[Plaintiff has filed a 68-page opening brief that is difficult to understand. It is vague, conclusory, unfocused, and consists largely of cutting and pasting from the record. Plaintiff has not explained the pertinent facts in a coherent way nor summarized the relevant evidence; many of her record citations are inscrutable.**"

See page 5 of the impartial disposition of November 18, 2024:

> **"Plaintiff appeals; but her opening brief is procedurally and substantively defective. To the extent her challenges to the court's rulings can be understood, they are without merit and we affirm."..."[N]onetheless, we exercise our discretion to consider those issues we can discern among plaintiff's scattered and incomprehensible arguments. Any issues not discussed in this opinion are deemed forfeited. (*Brown v. Garcia* (2017) 17 Cal.App.5th 1198, 1207 [plaintiffs "supplied neither relevant authority nor cogent legal analysis to support [their] claim, so it [was] forfeited"].)**

25) But Justice Lui completely ignored all of Ms. Anderson issues on appeal, and instead he adapted all of "**defendants' issues on appeal**":

> "(1) **Plaintiff's Small Claims Action** (on page #3); (2) "**Forfeiture"** (on page #4); "**Meritless Appeal"** (on page #5); "**Plaintiff's Claims Arise From Protected Activity**" (on page # 7); "**Plaintiff Has Failed to Demonstrate a Probability of Success on the Merits" "1. Fraud claims**" (on page # 8); 2. "**Slander of Title Claim**" (on page # 9); "**3. "Bad Faith Claim"** and **"4. Intentional Infliction of Emotional Distress**" (on page #10); 5. "**Remaining Claims**" (on page # 11)."

26) Justice LUI, P. J., Concurred by CHAVEZ, J. and HOFFSTADT disgraceful policy of

forfeiture of all of Ms. Anderson as the self represented appellant, the justices borrowed word for word from the defendants' answering brief as marching orders for the justices to ignore all of Ms. Anderson's due process rights to cause her to lose her appeal in the arbitrary disposition of November 18, 2024. **(Id. As EXHIBITS # 106-117)**. See how critical Justice Lui against Ms. Anderson instead of addressing the merits of Ms Andersen's issues on appeal:

> "**A. Procedural Defects in Appellant's Opening Brief"** (on page #10); "**B. Substantive Defects in Appellant's Opening Brief**" (on page # 11); **"Determination that Appellant's Vehicle Was a Total Loss"**; Page #14 (on page # 12); **Appellant's Small Claims Case** (on page # 14); "**The Underlying Suit**" (on page # 15); **LEGAL ARGUMENT** (on page # 15); "**A. Legal Standard Applicable to Anti SLAPP Motions**" (on page # 16); "**B. Each of Appellant's Claims Against Respondents Arise From Protected Activity Pursuant to Code of Civil Procedure §425.16**" (on page # 17); "**C. Appellant Is Unable to Meet Her Burden of Establishing a Probability of Prevailing on the Claims Against Respondents**" (on page # 19); **"i. Fraud Claims** (on page 20); **ii. Slander of Title Claim** (on page # 21); **iii. Insurance Bad Faith Claim** (on page # 22); and "**iv. Intentional Infliction of Emotional Distress and Unfair Business Practices Claims"** (on page # 23).

27) Ms. Anderson issues of appeal however as stated in her opening brief on pages No. 59-65 in clear and coherent way to be read by a reasonable person, presented her arguments with proper authority she also cited in the required headings "**[T]he purpose of requiring headings and coherent arguments in appellate briefs is "to lighten the labors of the appellate [courts].**" [*Opdyk v. California Horse Racing Bd.*, 34 Cal.App.4th 1826, 41 Cal. Rptr. 2d 263 (Cal. Ct. App. 1995)]. But Justice Lui and his panel justices in division two insisted on abdicating their judicial duties by ignoring all of Ms. Anderson's issues on appeal by asserting false and misleading information against Ms. Anderson.

28) See *In re Marriage of Laub*, No. H034447 (Cal. Ct. App. Oct. 27, 2010) citing *Opdyk v. California Horse Racing Bd.*, supra, 34 Cal.App.4th at p. 1830, fn. 4 [**court is not "obliged to speculate about which issues" parties are trying to raise on appeal].**)" But Justice Lui could not refer to defendants' answering brief for issues on appeal. See also the Court of Appeal of California, First District, division four in *People v. Schoennauer*, 103 Cal.App.3d 398, 406, 163 Cal. Rptr. 161 (Cal. Ct. App. 1980), citing the Supreme Court of California in *Burns v. Ross*, 190 Cal. 269, 212 P. 17 (Cal. 1923):

> ['] " **the defendant may not raise on appeal the propriety of the trial court's ruling on his section 995 motion. (3) It is well established that it is appellant's opening brief which controls the nature and number of issues presented on appeal.** (*Burns v. Ross* (1923) 190 Cal. 269 [212 P. 17].) **And it is equally well established that an appellate court "`is undoubtedly at liberty to decide a case upon any points that its proper disposition may seem to require, whether taken by counsel or not.'"** (Id., at p. 276.)

(2b) Appellant appealed from the entire judgment of conviction of which the denial of his section 995 motion is a part. In his opening brief, he raised the issue concerning the propriety of the disposition of his section 995 motion. He augmented the record on appeal to include the preliminary hearing transcript on which the section 995 motion is based. Appellant properly presented for appellate review the issue concerning the section 995 motion...."[Citations omitted].

29) Justice Elwood Lui and panel justices had only addressed and adopted in whole the defendants/appellees' answering brief raising the propriety of the trial court's ruling on their section 425.16. See *In re Phoenix H*, 47 Cal.4th 835, 102 Cal. Rptr. 3d 481, 220 P.3d 524 (Cal. 2009):

"[T]he filing of an opening brief is a precondition to appellate review of the merits of a trial court order or judgment"..."[A] brief is a "written statement setting out the legal contentions of a party in litigation, esp. on appeal; a document prepared by counsel as the basis for arguing a case, consisting of legal and factual arguments and the authorities in support of them." (Black's Law Diet. (8th ed. 2004) p. 204.) **An appellate brief should make "`a fair and sincere effort to show that the trial court was wrong:"** (*Gold v. Maxwell* (1959) 176 Cal.App.2d 213, 217 [1 Cal.Rptr. 226], italics added.)..."..."[A]n appellate court's resolution of an appeal must be "in writing with reasons stated." (Cal. Const., art. VI, § 14.)"

"[w]ithout the careful examination and reasoned opinion that this constitutional provision requires. (See *People v. Kelly* (2006) 40 Cal.4th 106, 120 [51 Cal.Rptr.3d 98, 146 P.3d 547] **[requirement that appeals be resolved in writing with reasons stated promotes "a careful examination of each case and a result supported by law and reason"].)"...."**[F]or the reasons stated above, I would reverse the judgment of the Court of Appeal, and I would direct that court to permit M.H. to file an appellant's opening brief, **and to decide the merits of any claims she raises "in writing with reasons stated." (Cal. Const., art. VI, § 14.)"** [Citations omitted].

30) See the Court of Appeal, Second Appellate District, Division Four in *Producer-Writers Guild of America Pension Plan v. Adell*, B257309 (Cal. Ct. App. Nov. 4, 2015): **"[A]s the appealing party, Terry is responsible for identifying and articulating the issues she wishes us to resolve. "It is well established that it is appellant's opening brief which controls the nature and number of issues presented on appeal." (*People v. Schoennauer* (1980) 103 Cal.App.3d 398, 406.)** " [Citations omitted].

31) California laws and federal laws require appellate courts to "**'[i]ndulge in every reasonable presumption against waiver' of fundamental constitutional rights and... '[not to] presume acquiescence in the loss'" of such rights**. id. (*Johnson*, 304 U.S. at 464, 58 S.Ct. at 1023, quoting *Aetna Ins. Co. v. Kennedy*, 301 U.S. 389, 393, 57 S.Ct. 809, 811, 81 L.Ed. 1177 (1931)); *Glasser v. United States*, 315 U.S. 60, 70-71, 62 S.Ct. 457, 465, 86 L.Ed. 680 (1942)." [Citations].

32) Justice Elwood Lui intentionally engaged in "**deliberate ignorance**" of the law (also referred to as "**willful blindness**" or "**conscious avoidance**" ignored all of Ms. Anderson's issues of appeal, coherent arguments and all of her evidence she submitted in the record of appeal, and

instead. But he November 18, 2024 impartial disposition by Justice Elwood Lui and his fellow panel justices had turned a blind eye to all of Ms. Anderson issues of appeal, her arguments, any and all relevant authorities, and all of her admissible evidence she presented in the body of her opening brief that she references to the record of appeal.[8]

33) Here, Justice Lui and his panel justices "**exercised their discretion**" to ignore all of Ms. Anderson's issues of appeal, arguments and evidence, and instead they considered only those issues they "**discern**" from defendants' Respondents' brief and not from plaintiff's brief. See also the Supreme Court of California in *People v. Smith*, 31 Cal.4th 1207, 7 Cal. Rptr. 3d 559, 80 P.3d 662 (Cal. 2003):

> "[M]oreover, the Court of Appeal addressed these claims, and an appellate court is generally not prohibited from reaching questions that have not been preserved for review by a party. (*People v. Williams* (1998) 17 Cal.4th 148, 161-162, fn. 6 [69 Cal.Rptr.2d 917, 948 P.2d 429].)"

34) See the Supreme Court of California in *People v. Superior Court* (Valdez), 35 Cal.3d 11, 196 Cal. Rptr. 359, 671 P.2d 863 (Cal. 1983):

> "[O]f course, if such review is nevertheless sought, it becomes the ultimate responsibility of the appellate court to measure the facts, as found by the trier, against the constitutional standard of reasonableness." (*People v. Lawler* (1973) 9 Cal.3d 156, 160 [107 Cal.Rptr. 13, 507 P.2d 621], fn. omitted; see also *People v. Cardenas* (1982) 31 Cal.3d 897, 911 [184 Cal.Rptr. 165, 647 P.2d 569]; *People v. Leyba* (1981) 29 Cal.3d 591, 597 [174 Cal.Rptr. 867, 629 P.2d 961]; *People v. North* (1981) 29 Cal.3d 509, 513 [174 Cal.Rptr. 511, 629 P.2d 19].)" [Citations omitted].

35) In *Unicolors, Inc. v. H&M Hennes & Mauritz, L. P.*, 142 S. Ct. 941, 211 L. Ed. 2d 586 (2022): "**The result is muddled briefing on questions we did not agree to resolve, and a ruling that bypasses the ordinary process of appellate review.**" *Bridges v. California*, 314 U.S. 252, 62 S. Ct. 190 (1941): "**[I]t must refer to a matter under consideration and constitute in effect a threat to its impartial disposition.** It must be calculated to create an atmospheric pressure incompatible with rational, impartial adjudication. But to interfere with justice it need not succeed." [Citations omitted].

36) See *Burns v. Massachusetts Bonding & Insurance Co.*, 62 Cal.App.2d 962, 146 P.2d 24 (Cal. Ct. App. 1944): **"[T]his would be an amazing miscarriage of justice, penalizing conduct**

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[8] Ms. Ashlie R. Anderson had notice that the Clerks' Transcripts - Record of Appeal contained errors that caused confusion in citation of the record. This was not Ms. Anderson's fault. The errors were in the "Alphabetical Index" carried over had inaccurately numbered and this. For example: "Plaintiff's Verified Opposition to Defendants' Anti-SLAPP Motion to Strike is false and Malicious..." is stated as on page # 602, when it is on page # 606 and other errors.

entirely reasonable, and inducing procedure detrimental to the interests of both court and litigants." [Citation omitted].

37) See Second Appellate District Division Six in *Friends of Outer State Street v. City of Santa Barbara*, No. B209277 (Cal. Ct. App. Jan. 27, 2010), and in *Clark v. Fair Oaks Recreation and Park Dist*, 106 Cal.App.4th 336, 130 Cal. Rptr. 2d 633 (Cal. Ct. App. 2003)" "(*Null v. City of Los Angeles* (1988) 206 Cal.App.3d 1528, 1532.): "**[I]f an appellant intends to raise any issue that requires consideration of the oral proceedings in the superior court, the record on appeal must include" a reporter's transcript, an agreed statement or a settled statement. (Cal. Rules of Court, rule 8.120(b).)"** See also JOHNSON, J., Dissenting in *Lopez v. Baca*, 98 Cal.App.4th 1008, 120 Cal. Rptr. 2d 281 (Cal. Ct. App. 2002):

> **"[I] regretfully but respectfully dissent from what I view as a miscarriage of justice."**.... "[T]his leaves the question whether an appellate court is a "potted plant" unable to consider issues unless they are spoon fed by the parties. Reading a record redolent with error, must we ignore the stench just because the lawyers failed to rub our noses in it? I don't think so."**..."[I]ndeed, the practices of this Division and most if not all other appellate courts in this state belie such an approach to the appellate function**. As of the moment this majority opinion and my dissent are filed, **this Division has at least one and probably more letters out to counsel in other cases requesting them to brief issues the aggrieved party failed to raise in the original round of briefing. In the past 20 years, I know of literally scores of cases we have decided based on issues not raised in the briefs. Among other situations during that period, we have affirmed summary judgments based on alternative grounds not mentioned in the respondents' briefs, and we have reversed summary judgments based on triable issues we found in the record, which appellants had failed to identify in their briefs. Indeed, this practice is so common the law was changed over a decade ago to require appellate courts to provide both sides an opportunity to respond when the appellate court elects to decide a case on an issue not discussed in the briefs.**"..."[T]hus, even assuming appellant's lawyer, in his briefing, erroneously "waived" the evidentiary issues and "abandoned" the key substantive issue, I would regard it as irrelevant in this case...." [Citations omitted].

ii. **Justice Lui Treated Cal. Civ. Proc. § 425.16 As Allowing A State To Force Innocent Drivers As Ms. Anderson To Surrender Her Good Operational Vehicle, License Plates And Registration To DMV As A Total Loss Salvage When It Is Not A Total Loss Salvage, It Is An Equivalent To An Ordinary Per Se Takings Law Is A Violation Of The Fifth Amendment And Fourteenth Amendment After Defendants' Submitted Fraudulent Documents To DMV On The Same Day Of The Accident On November 1, 2021 Without An Inspection, Form REG 481, "REG 488C: Application For Salvage Certificate Or Nonrepairable Vehicle Certificate"; REG 481; "REG 492: Unobtainable Title Certification For Issuance Of Salvage." "REG 31: Which DMV Had Relied To Declare Ms. Anderson's Vehicle As A Total Loss Salvage When It Was Not Total Loss Salvage. Defendants Had Violated Vehicle Code § 20: "Making False Statements To DMV Or CHP."**

38) Justice Lui belittled Ms. Anderson's opening brief stating: **"[T]wo points here. First, as stated, plaintiff has not introduced admissible evidence the REG 481 was false."** Justice knew and ignored that defendants also submitted several other false and fraudulent DMV documents, who DMV had relied on to declare Ms. Anderson's vehicle as total loss salvage on the same day of the accident on November 1, 2021.

39) When a law as the Cal. Civ. Proc. § 425.16 allows a state to force innocent drivers as Ms. Anderson to surrender her good operational vehicle, license plates and registration to DMV it is an equivalent to an ordinary per se takings law is a violation of the Fifth Amendment and Fourteenth Amendment. See *Penn Cent. Transp. Co. v. City of New York*, 438 U.S. 104, 98 S.Ct. 2646, 57 L.Ed.2d 631 (1978); government acquisitions of resources to permit uniquely public functions constitute "takings," e.g., *United States v. Causby*, 328 U. S. 256. Pp. 438 U. S. 123-128.

40) See *Thomas v. Independence Twp.*, 463 F.3d 285, 297 (3d Cir.2006) the equal protection clause prohibits the "**Selective Enforcement**" of both state and federal law based on an unjustifiable standard. Justice Elwood Lui and his fellow panel justices engaging in selective enforcement of law and unequal justice by intentionally failing "**[t]o take care that the laws be faithfully executed.**" Art. II, § 3. *United States v. Claiborne*, 727 F.2d 842 (9th Cir. 1984).

41) Justice Lui ignored basic knowledge of how insurance companies process total loss salvage in DMV. Justice Lui ignored Ms. Anderson's valid arguments of the defendants committed illegal acts and fraud by submitting false and misleading documentation to DMV's reliance on those documents in order for the defendants to illegally declare Ms. Anderson's vehicle as total loss salvage on November 1, 2021, was also on the same day of the accident was done without any physical or imaginary inspection. The DMV forms stated: **"[I] certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct"**

42) The court in *Klem v. Access Ins. Co.*, 17 Cal.App.5th 595, 225 Cal. Rptr. 3d 711 (Cal. Ct. App. 2017) concluded that submission of the standard DMV total loss form was not absolutely privileged. The court said that the absolute privilege of Civil Code section 47(b) applies to **"communications made as part of a 'judicial or quasi-judicial proceeding,' defined to include any sort of 'truth-seeking' 'or other official proceeding.'"** But nothing in Vehicle Code section 11515 (insurer reporting of total loss determination) or in the REG 481 notice, suggests that submission of the form results in an investigation. **"Indeed, the DMV 'has no discretion to reconsider the total loss salvage vehicle determination.'"**

43) The DMV procedure for defendants submitting documents to DMV must be it truthful documents and not false and fraudulent documents to DMV, was confirmed in *Klem v.*

Access Ins. Co., 17 Cal.App.5th 595, 225 Cal. Rptr. 3d 711 (Cal. Ct. App. 2017): **"[A]s discussed post, section 11515 requires insurers and owners to provide certain notices and materials to the DMV in connection with total loss salvage vehicles."** This process was involuntarily on the part of Ms. Anderson and did not include her since she did not sign form REG 481. Ms. Anderson was a third party participant and as this panel stated she was not insured by the defendants. See DMV contained certifications of in REG 488C (REV. 8/2008) WWW:

> "**[T]he undersigned certifies that the above described vehicle, for which properly endorsed titling documents are attached, is a total loss salvage, and requests the Department of Motor Vehicles to issue a Salvage Certificate.** NOTE: A Salvage Certificate cannot be issued for a stolen vehicle unless the vehicle has been recovered and determined to be a total loss (CVC 11515f)."..."**[T]he undersigned certifies that the above described vehicle, for which properly endorsed titling documents are attached, is a nonrepairable vehicle, and requests the Department of Motor Vehicles to issue a Nonrepairable Vehicle Certificate.**"..."**[I] certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.**"

44) Justice Lui ignored that an insurance company's submission of a REG 481 notice was the last false document that mailed to Ms. Anderson. It would have been sent to DMV is Ms. Anderson signed it. But Ms. Anderson never signed DMV form REG 481. Justice Lui also new and ignored that before defendants had mailed Ms. Anderson DMV form REG 481, they also falsified other DMV forms and information in order to declare it as total loss salvage in DMV forms: **"REG 31: Verification of Vehicle Not To Be Completed By Applicant"; REG 481; "REG 488C: Application for Salvage Certificate or Nonrepairable Vehicle Certificate"; "REG 492: Unobtainable Title Certification for Issuance of Salvage**."

45) Defendants' submission to DMV was false and misleading forms had violated California Vehicle Code § 20: "Making False Statements to DMV or CHP." See "**Individual In Possession of Vehicle**" Effective January 1, 1997, whenever an application is made to the Department of Motor Vehicles (DMV) to register a total loss salvage vehicle, DMV shall inspect the vehicle to determine its proper identity or request that the inspection be performed by the California Highway Patrol (CHP).

46) **Justice Lui lied** asserting that **"[B]ecause plaintiff failed to offer any admissible evidence to establish a prima facie case on any of her claims, the trial court correctly granted defendants' anti-SLAPP motion.**" Yet, Ms. Anderson had properly presented a prima facie case of malice, from defendants submitting a series of false documents to DMV to support their designation of the "**Total Loss Salvage,**" even when the defendants insurance company had forged an estimate

of an inspection on November 23, 2021 to Ms. Anderson's vehicle that never took place.

47) Ms. Anderson's probability of prevailing on her claims "'**[d]emonstrate that the complaint is both legally sufficient and supported by a sufficient prima facie showing of facts to sustain a favorable judgment if the evidence submitted by the plaintiff is credited.**'" (*Soukup*, supra, 39 Cal.4th at p. 291.) See *Kimoanh Nguyen-Lam v. Sinh Cuong Cao*, 171 Cal.App.4th 858, 90 Cal. Rptr. 3d 205 (Cal. Ct. App. 2009), finding actual malice where the inference could be drawn that defendant had no basis to falsely claim the plaintiff was a Communist.

iii. California Second Appellate Court Justices LUI, P. J., CHAVEZ, J., HOFFSTADT Intentionally Ignored Ms. Anderson's Issues on Appeal And Arguments That Cal. Vehicle Code Section 11515 Subdivision (g) And (h) Was Never Conclusively Decided In *Klem v. Access Ins. Co., supra, 17 Cal.App.5th at pp. 618-619*, And Ms. Anderson's Issues On Appeal Provided Arguments And Conclusive Evidence Of Illegality By The Defendants Was Not Foreclosed.

48) Section 11515 subdivision (g) and (h) was never conclusively decided in *Klem v. Access Ins. Co.*, supra, 17 Cal.App.5th at pp. 618-619, and Ms. Anderson's issues on appeal provided arguments and conclusive evidence of illegality by the defendants was not foreclosed. But Justice Elwood and his fellow panel justices intentionally failed to address that **"[o]n the issue of illegality, where "[s]ection 11515, subdivision (g), does not impose penalties for voluntary reports, false or otherwise."** But opposite to, in *Klem* had failed to provide arguments and conclusive evidence of illegality stated: **"[K]lem also provides no reasoned argument or authority to support his interpretation and we do not consider it further.** (*Cahill v. San Diego Gas & Electric Co.* (2011) 194 Cal.App.4th 939, 956, 124 Cal.Rptr.3d 78 (*Cahill*) [" '**The absence of cogent legal argument or citation to authority allows this court to treat the contention as waived.**' "].)

49) See *Chastleton Corp. v. Sinclair*, 264 U.S. 543, 547, 44 S.Ct. 405, 406, 68 L.Ed. 841 (1924) ("**[a] Court is not at liberty to shut its eyes to an obvious mistake, when the validity of the law depends upon the truth of what is declared**")." [Citations omitted]. See also *U.S. v. Adjani*, 452 F.3d 1140 (9th Cir. 2006):

> **"[T]he fact of an increasingly technological world is not lost upon us as we consider the proper balance to strike between protecting an individual's right to privacy and ensuring that the government is able to prosecute suspected criminals effectively.**"...."[W]e do not now have occasion to address the myriad complex issues raised in deciding when a court should exclude evidence found on a computer, but are satisfied that the agents in this case acted properly in searching Reinhold's computer and seizing the emails in question here. **The district court erred in excluding these emails.**" [Citations omitted].

50) See *Mendoza v. ADP Screening & Selection Services, Inc.* (2010) 182 Cal.App.4th 1644, 1654, 107 Cal.Rptr.3d 294): **"[I]f "A factual dispute exists about the legitimacy of the defendant's conduct, it cannot be resolved within the first step"].) "[T]he...use of the phrase 'illegal' " in Flatley "was intended to mean criminal, and not merely violative of a statute."** Here, the defendants' illegal conduct submitting false forge documentations to DMV is a also a felony under California Penal Code § 470a and Penal Code § 115:

> "(a) Every person who knowingly procures or offers any false or forged instrument to be filed, registered, or recorded in any public office within this state, which instrument, if genuine, might be filed, registered, or recorded under any law of this state or of the United States, is guilty of a felony.
>
> (b) Each instrument which is procured or offered to be filed, registered, or recorded in violation of subdivision (a) shall constitute a separate violation of this section..."

51) In *Lundquist v. Reusser* (1994) 7 Cal.4th 1193, 1203 [31 Cal.Rptr.2d 776, 875 P.2d 1279]; *Flatley v. Mauro* (2006) 39 Cal.4th 299, 315-316, 46 Cal.Rptr.3d 606, 139 P.3d 2 (Flatley), and *Klem v. Access Ins. Co.*, supra, 17 Cal.App.5th at pp. 618-619 all recognized the exception **"narrow circumstance"..."where either the defendant concedes the illegality of its conduct or the illegality is conclusively shown by the evidence"**:

> **"[W]ith respect to illegality, there is a "narrow circumstance in which a defendant's assertedly protected activity could be found to be illegal as a matter of law and therefore not within the purview of [Code of Civil Procedure,] section 425.16"**; namely, **"where either the defendant concedes the illegality of its conduct or the illegality is conclusively shown by the evidence, the motion must be denied."** (*Flatley v. Mauro* (2006) 39 Cal.4th 299, 315-316, 46 Cal.Rptr.3d 606, 139 P.3d 2 (Flatley); id. at p. 316, 46 Cal.Rptr.3d 606, 139 P.3d 2 **[if "a factual dispute exists about the legitimacy of the defendant's conduct, it cannot be resolved within the first step"]**.) "[T]he...use of the phrase 'illegal' " in Flatley "was intended to mean criminal, and not merely violative of a statute." (*Mendoza v. ADP Screening & Selection Services, Inc.* (2010) 182 Cal.App.4th 1644, 1654, 107 Cal.Rptr.3d 294.)"..."**A]t the second step, the court's "inquiry is limited to whether the plaintiff has stated a legally sufficient claim and made a prima facie factual showing sufficient to sustain a favorable judgment." (Id. at pp. 384-385, 205 Cal.Rptr.3d 475, 376 P.3d 604.)"** [Citations omitted].
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> **"[S]ection 11515 imposes reporting and licensing requirements when there has been a total loss settlement.** Subdivision (a) addresses the situation where an insurance company or its agent has possession of the vehicle. Subdivision (b) addresses the owner who keeps the vehicle: **"Whenever the owner of a total loss salvage vehicle retains possession of the vehicle, the insurance company shall notify the department of the retention on a form prescribed by the department..."**
>
> **"[A]ccess's other arguments are similarly unpersuasive. First, Access maintains intent is irrelevant, citing cases holding that motive is immaterial to whether the communication is in furtherance of or logically related to an official proceeding.**

(See, e.g., *Silberg v. Anderson* (1990) 50 Cal.3d 205, 220, 266 Cal.Rptr. 638, 786 P.2d 365 **["[t]he 'furtherance requirement was never intended as a test of a participant's motives, morals, ethics or intent.'** "]; *City of Costa Mesa v. D'Alessio Investments, LLC* (2013) 214 Cal.App.4th 358, 382, 154 Cal.Rptr.3d 698 [logical relation prong " ' "can be satisfied only by communications which function intrinsically, and apart from any consideration of the speaker's intent, to advance a litigant's case" ' "].)

"[S]econd, Access contends the trial court did not consider its "mandatory" reporting obligations. We are not persuaded. Even if Access's total loss salvage determination was sound (and it was, as we conclude post), it is not clear that Access was required to send the REG 481 notice. **The notice would have been needed if Klem agreed to settle (§§ 544, subd. (b), 11515, subd. (b)), and not needed if Klem never filed a claim or Access never sent Klem a payment (in which case Klem would have borne any reporting obligation, under § 11515, subd. (c)).**"

"[W]hen section 544 was enacted, the "main objective" of the salvage law was to "identify total loss salvage vehicles apart from operable vehicles," while also addressing concerns regarding safety, fraud, theft, and "vehicles that were improperly repaired...." (Dept. of Motor Vehicles, Enrolled Bill Rep., Assem. Bill No. 2546 (1979-1980 Reg. Sess.) July 15, 1980.) [Citations omitted].

52) The defendants' fraudulent reporting to DMV Ms. Anderson's vehicle as a total loss salvage on November 1, 2021, was involuntarily on Ms. Anderson's part, who had nothing to do with that report, and defendants fraudulent conduct as if they conducted a physical inspection on November 1, 2021 or November 23, 2021 false. (*Klem v. Access Ins. Co.*, supra, 17 Cal.App.5th at p. 595, 616–617.). Defendants clearly violated section 11515, subdivision (g) and (f) which impose penalties for involuntary false reports by insurance companies Ms. Anderson's vehicle as a total loss salvage on the same day of the accident on November 1, 2021

53) Justice Lui and his panel justices, as Judge Pfahler covered up and condoned defendants' fraud, they also ignored that *Klem v. Access Ins. Co.*, 17 Cal.App.5th 595 offered an exception of defendants conceding and admitting fraud. Justice Lui also ignored conclusive evidence was several printout from DMV clearly showing that defendants had total loss salvaged Ms. Anderson vehicle was on the same day of the accident on November 1, 2021, and it was not reported salvaged on December 1, 2021, that is a lie, and defendants' perjured declarations in support of their Anti-SLAPP motion proved that exact fact.

54) In granting defendant's anti-SLAPP motion, the court intentionally failed to find that defendants' activity of alleged perjured declarations was protected under section 425.16, subdivision (e). For this reason defendants Frances Shultz for Interinsurance Exchange of the Automobile Club LLC. ("AAA") had forged the estimate of November 23, 2021 as if David Murphy "**physically inspect Plaintiff's 2001 Honda Accord," which never happened.** Defendants copied Ms.

Anderson November 12, 2021 estimate, changed the title and location with clear intentions to defraud Ms. Anderson and DMV reliance of the false estimate of November 23, 2021.

55) Frances Shultz also lied to DMV and to Ms. Anderson that she reported Ms. Anderson vehicle as total loss salvage on December 1, 2021, when she already reported the vehicle as total loss salvage on November 1, 2021, which was the same day of the accident. Yet, Justice Elwood and his fellow panel justices' stubbornly ignored Ms. Anderson's clear and convincing evidence. (*Mike Davidov Co. v. Issod* (2000) 78 Cal.App.4th 597, 605–606.)

iv. Justices LUI, P. J., CHAVEZ, J., HOFFSTADT, In Division Two Intentionally Ignored Their Collogues In Division 1 of The Court Of Appeal For The Second District *Tiffany Yan Xu V. Haidi Wenwu Huang*, 73 Cal.App.5th 802, 288 Cal. Rptr. 3d 558 (Cal. Ct. App. 2021) discussing the same law court must considering Cal. Civ. Proc. § 425.17(c) as a threshold before first considering Cal. Civ. Proc. § 425.16.

56) In Ms. Anderson's appeal in Case No. 22CHCV00138 Justices LUI, P. J., CHAVEZ, J., HOFFSTADT, J. in Division two discriminate and intentionally ignored their collogues in Division 1 of the Court of Appeal for the Second District *Tiffany Yan Xu v. Haidi Wenwu Huang*, 73 Cal.App.5th 802, 288 Cal. Rptr. 3d 558 (Cal. Ct. App. 2021) that admonished court must considering Cal. Civ. Proc. § 425.17(c) as a threshold before first considering Cal. Civ. Proc. § 425.16. Justice Elwood ignored that Appellant's brief asserted that trial Court failed to first examine Cal. Civ. Proc. § 425.17(c) as was cited by Ms. Anderson, that was supposed to be a threshold issue before proceeding to an analysis on Defendants' Anti-SLAPP motion under section 425.16. See *Tiffany Yan Xu v. Haidi Wenwu Huang*, 73 Cal.App.5th 802, 288 Cal. Rptr. 3d 558 (Cal. Ct. App. 2021):

> **"[C]ourts are admonished to examine section 425.17 as a threshold issue before proceeding to an analysis under section 425.16.** Section 425.17 expressly provides that speech or conduct satisfying its criteria is entirely exempt from anti-SLAPP protection **even if "the conduct or statement concerns an important public issue."** (§ 425.17, subd. (c)(2).)" [Citations omitted]
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> "[S]ection 425.16 does not apply to any cause of action brought against a person primarily engaged in the business of selling or leasing goods or services, including, but not limited to, insurance, securities, or financial instruments, arising from any statement or conduct by that person if both of the following conditions exist: (1) The statement or conduct consists of representations of fact about that person's or a business competitor's business operations, goods, or services, that is made for the purpose of obtaining approval for, promoting, or securing sales or leases of, or commercial transactions in, the person's goods or services, or the statement or conduct was made in the course of delivering the person's goods or services."

57) See *Snowden v. Hughes*, 321 U.S. 1, 64 S. Ct. 397, 88 L. Ed. 497 (1944): *Id.* at 16, wherein it is also asked rhetorically: **"[A]nd if the highest court of a state should candidly deny to one litigant a rule of law which it concededly would apply to all other litigants in similar situations, could it escape condemnation as an unjust discrimination and therefore a denial of the equal protection of the laws?"** See *Backus v. Fort Street Union Depot Co.*, 169 U.S. *557,* 571."

58) See also *United States v. Batchelder*, 442 U.S. 114, 125 n. 9, 99 S. Ct. 2198, 60 L.Ed.2d 755 (1979). To establish a Selective-Enforcement claim, applicant must demonstrate: "(1) that [it] was treated differently from other similarly situated [entities], and (2) 'that this selective treatment was based on an unjustifiable standard, such as race, or religion, or some other arbitrary factor,...or to prevent the exercise of a fundamental right.'" *Dique v. N.J. State Police*, 603 F.3d 181, 184 n. 5 (3d Cir.2010) (quoting *Hill v. City of Scranton*, 411 F.3d 118, 125 (3d Cir.2005)).

59) The U.S. Supreme Court in *Snowden v. Hughes*, 321 U.S. 1, 64 S. Ct. 397, 88 L. Ed. 497 (1944) at 456 had observed that equal protection is denied only where an intentional or purposeful discrimination is shown "on the face of the action taken with respect to a particular class or person....[or] by extrinsic evidence showing a discriminatory design to favor one individual or class over another"...."[C]consequently, the majority opinion in Snowden repeatedly recognizes that purposeful discrimination against particular individuals, as well as that based on arbitrary group classifications, is constitutionally prohibited."

60) See *Snowden v. Hughes*, 321 U.S. 1, 64 S. Ct. 397, 88 L. Ed. 497 (1944): "[T]he unlawful administration of a state statute fair on its face, resulting in its unequal application to those entitled to be treated alike, is not a denial of equal protection unless there is shown to be present an element of intentional or purposeful discrimination." [Citation omitted].

61) Mr. Justice Frankfurter, in a concurring opinion in *Snowden*, is more explicit than the majority on this point. The Fourteenth Amendment, he noted, "[d]oes not permit a state to deny the equal protection of its laws because such denial is not wholesale." "Rather, conscious discrimination by a state which touches the complaining individual alone would violate the Fourteenth Amendment." [Citations omitted].

v. Justice Elwood Lui Had Participated In The California Supreme Court Case of Sweetwater Union High Sch. Dist. v. Gilbane Bldg. Co., 6 Cal.5th 931, 243 Cal. Rptr. 3d 880, 434 P.3d 1152 (Cal. 2019) Was Unanimously Decided That A Verified Opposition And Verified Reply And Exhibits Are An Admissible That Could Be Presented Under § 425.16 At Trial If One Took Place Was Settled In Sweetwater Union High Sch. Dist. v. Gilbane Bldg. Co., And In Wilson v. Cable

News Network, Inc., 7 Cal.5th 871, 249 Cal. Rptr. 3d 569, 444 P.3d 706 (Cal. 2019): Trial Court Must Consider The Evidence To Determine If The Plaintiff Has Presented A Prima Facie Case For Their Claim.

62) Ms. Anderson's Evidence was presented in her verified opposition and reply to defendants' anti-SLAPP motion in California must be considered by the court if it's reasonably likely to be admissible at trial, but Judge Stephen P. Pfahler judgment of March 8, 2023 had failed to consider considered any elements of all of Ms. Anderson's challenged claims. The judge also deprive Ms. Anderson the second step of showing the prima facie factual showing sufficient to sustain a favorable judgment as a '**summary-judgment-like procedure.**' [Citation.] [*Wilson v. Cable News Network, Inc.*, 7 Cal.5th 871, 249 Cal. Rptr. 3d 569, 444 P.3d 706 (Cal. 2019)].

63) See California Court of Appeals, Fourth District, Third Division in *Blaylock v. DMP 250 Newport Ctr.*, 92 Cal.App.5th 863, 310 Cal. Rptr. 3d 1 (Cal. Ct. App. 2023):

> "[T]he party moving for **summary judgment** bears an initial burden of production to make a prima facie showing of the nonexistence of any triable issue of material fact." (Aguilar, supra , 25 Cal.4th at p. 850, 107 Cal.Rptr.2d 841, 24 P.3d 493.) "A prima facie showing is one that is sufficient to support the position of the party in question." (Id. at p. 851, 107 Cal.Rptr.2d 841, 24 P.3d 493.) A defendant moving for summary judgment may satisfy the initial burden either by producing evidence of a complete defense or by showing the plaintiff's inability to establish a required element of the case. (Code Civ. Proc., § 437c, subd. (p)(2); *Aguila*r , at p. 853, 107 Cal.Rptr.2d 841, 24 P.3d 493.)
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> If a moving defendant makes the necessary initial showing, the burden of production shifts to the plaintiff to make a prima facie showing of the existence of a triable issue of material fact. (Code Civ. Proc., § 437c, subd. (p)(2) ; see Aguilar, supra , 25 Cal.4th at p. 850, 107 Cal.Rptr.2d 841, 24 P.3d 493.) In evaluating the summary judgment motion and opposition, the trial court "must consider all of the evidence and all of the inferences drawn therefrom." (Aguilar, supra , 25 Cal.4th at p. 856, 107 Cal.Rptr.2d 841, 24 P.3d 493.) The moving party's evidence is strictly construed, while the opponent's is liberally construed. (Id. at p. 843, 107 Cal.Rptr.2d 841, 24 P.3d 493.) **All reasonable inferences must be drawn in favor of the opposing party and "summary judgment cannot be granted when the facts are susceptible of more than one reasonable inference ...."** (*Rosas v. BASF Corp.* (2015) 236 Cal.App.4th 1378, 1392, 187 Cal.Rptr.3d 354.) On appeal, we review the grant of summary judgment on a de novo basis. (Aguilar, supra , 25 Cal.4th at p. 860, 107 Cal.Rptr.2d 841, 24 P.3d 493.) "We are not limited by the trial court's reasons; even if summary judgment was granted on an incorrect basis, we must affirm if it would have been proper on another ground." (*Barkley v. City of Blue Lake* (1996) 47 Cal.App.4th 309, 313, 54 Cal.Rptr.2d 679 ; *Village Nurseries v. Greenbaum* (2002) 101 Cal.App.4th 26, 39, 123 Cal.Rptr.2d 555.)" [Citations omitted].

64) In its decision in *Sweetwater Union High Sch. Dist. v. Gilbane Bldg. Co.*, 6 Cal.5th 931, 243 Cal. Rptr. 3d 880, 434 P.3d 1152, S233526 (Cal. Feb. 28, 2019), the court underscored "the distinction between evidence that may be admissible at trial and evidence that could never be

admitted." (Emphasis in original). The court observed that there was no definitive bar to statements contained in the plea forms and grand jury testimony; rather the statements appeared to be admissible non-hearsay statements against interest absent any factual circumstances suggesting otherwise.

65) Justice Elwood Lui (LIU, J), failed to disclose that he participated as the Presiding Justice of the Court of Appeal, Second Appellate District, Division Four, in the California Supreme Court case of *Sweetwater Union High Sch. Dist. v. Gilbane Bldg. Co.*, 6 Cal.5th 931, 243 Cal. Rptr. 3d 880, 434 P.3d 1152, S233526 (Cal. Feb. 28, 2019):

> "[C]ode of Civil Procedure section 425.16 sets out a procedure for striking complaints in harassing lawsuits that are commonly known as SLAPP suits... which are brought to challenge the exercise of constitutionally protected free speech rights." (*Kibler v. Northern Inyo County Local Hospital Dist.* (2006) 39 Cal.4th 192, 196, 46 Cal.Rptr.3d 41, 138 P.3d 193.) A cause of action arising from a person's act in furtherance of the "right of petition or free speech under the [federal or state] Constitution in connection with a public issue shall be subject to a special motion to strike, unless the court determines that the plaintiff has established that there is a probability" that the claim will prevail. (§ 425.16, subd. (b)(1).)
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> **"[T]he anti-SLAPP statute does not insulate defendants from any liability for claims arising from the protected rights of petition or speech. It only provides a procedure for weeding out, at an early stage, meritless claims arising from protected activity.** Resolution of an anti-SLAPP motion involves two steps. First, the defendant must establish that the challenged claim arises from activity protected by section 425.16. [Citation.]...."[W]e have described this second step as a 'summary-judgment-like procedure.' [Citation.] The court does not weigh evidence or resolve conflicting factual claims. **Its inquiry is limited to whether the plaintiff has stated a legally sufficient claim and made a prima facie factual showing sufficient to sustain a favorable judgment.** It accepts the plaintiff's evidence as true, and evaluates the defendant's showing only to determine if it defeats the plaintiff's claim as a matter of law. [Citation.]
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> '**[C]laims with the requisite minimal merit may proceed.**' " (Baral, supra, 1 Cal.5th at pp. 384-385, 205 Cal.Rptr.3d 475, 376 P.3d 604, fn. omitted.) "We review de novo the grant or denial of an anti-SLAPP motion." (*Park v. Board of Trustees of California State University* (2017) 2 Cal.5th 1057, 1067, 217 Cal.Rptr.3d 130, 393 P.3d 905.) As to the second step inquiry, a plaintiff seeking to demonstrate the merit of the claim "may not rely solely on its complaint, even if verified; instead, its proof must be made upon competent admissible evidence." (*San Diegans for Open Government v. San Diego State University Research Foundation* (2017) 13 Cal.App.5th 76, 95, 218 Cal.Rptr.3d 160 ; see *Grenier v. Taylor* (2015) 234 Cal.App.4th 471, 480, 183 Cal.Rptr.3d 867 ; *City of Costa Mesa v. D'Alessio Investments, LLC* (2013) 214 Cal.App.4th 358, 376, 154 Cal.Rptr.3d 698; *Paiva v. Nichols* (2008) 168 Cal.App.4th 1007, 1017, 85 Cal.Rptr.3d 838.)B. Affidavits and Their Equivalents
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> The anti-SLAPP statute describes what evidence a court may consider at the second step. It provides that "[i]n making its determination, the court shall consider the pleadings, and

supporting and opposing affidavits stating the facts upon which the liability or defense is based." (§ 425.16, subd. (b)(2), italics added.) "The pleadings are the formal allegations by the parties of their respective claims and defenses ...." (§ 420.) A complaint must include a "statement of the facts constituting the cause of action, in ordinary and concise language." (§ 425.10, subd. (a)(1).) The Code of Civil Procedure provides three ways in which testimony is taken: by affidavit, deposition, or oral examination. (§ 2002.) "An affidavit is a written declaration under oath, made without notice to the adverse party." (§ 2003.) An affidavit "may be taken before any officer authorized to administer oaths." (§ 2012; see also §§ 2013, 2014.)" [Citation omitted].

"[A]s one court observed, Wilson "**contemplates a SLAPP plaintiff's presentation of competent, i.e., admissible, evidence in support of its prima facie case in opposition to the motion.**" (*Tuchscher Development Enterprises*, supra, 106 Cal.App.4th at p. 1237, 132 Cal.Rptr.2d 57.) ***Baral*** **explained, "The court, without resolving evidentiary conflicts, must determine whether the plaintiff's showing, if accepted by the trier of fact, would be sufficient to sustain a favorable judgment ."** (*Baral*, supra, 1 Cal.5th at p. 396, 205 Cal.Rptr.3d 475, 376 P.3d 604, italics added.)..."

"[N]evertheless, the Court of Appeal concluded the grand jury testimony could still be considered because "**the transcripts are of the same nature as a declaration in that the testimony is given under penalty of perjury.**" The court relied on Williams v. Saga Enterprises, Inc. (1990) 225 Cal.App.3d 142, 274 Cal.Rptr. 901 (Williams). Williams involved a summary judgment motion and held the trial court could consider the transcript of testimony from a related criminal case."..."**[A]s Williams and the Court of Appeal reasoned, a transcript of this testimony is the equivalent of a testifying witness's declaration under penalty of perjury**, assuming the authenticity of the transcript can be established. Defendants here do not contest authenticity."

"[T]he text of the anti-SLAPP statute does not speak directly to the issue, but permitting courts to consider recorded testimony is consistent with the purposes of the Act. The law's central aim is "screening out meritless claims that arise from protected activity, before the defendant is required to undergo the expense and intrusion of discovery." (*Baral*, supra, 1 Cal.5th at p. 392, 205 Cal.Rptr.3d 475, 376 P.3d 604.) **The Legislature "has provided, and California courts have recognized, substantive and procedural limitations that protect plaintiffs against overbroad application of the anti-SLAPP mechanism**....'This court and the Courts of Appeal, noting the potential deprivation of jury trial that might result were [section 425.16 and similar] statutes construed to require the plaintiff first to prove the specified claim to the trial court, **have instead read the statutes as requiring the court to determine only if the plaintiff has stated and substantiated a legally sufficient claim.**' " (*Briggs v. Eden Council for Hope & Opportunity* (1999) 19 Cal.4th 1106, 1122-1123, 81 Cal.Rptr.2d 471, 969 P.2d 564.)" [Citations omitted].

66) See *Wilson v. Cable News Network, Inc.*, 7 Cal.5th 871, 249 Cal. Rptr. 3d 569, 444 P.3d 706 (Cal. 2019):

"[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, 217 Cal.Rptr.3d 130, 393

P.3d 905.) **To determine whether a claim arises from protected activity, courts must "consider the elements of the challenged claim and what actions by the defendant supply those elements and consequently form the basis for liability.**" (Id. at p. 1063, 217 Cal.Rptr.3d 130, 393 P.3d 905.) Courts then must evaluate whether the defendant has shown any of these actions fall within one or more of the four categories of " 'act[s]' " protected by the anti-SLAPP statute. (§ 425.16, subd. (e) ; *Equilon Enterprises v. Consumer Cause, Inc.* (2002) 29 Cal.4th 53, 66, 124 Cal.Rptr.2d 507, 52 P.3d 685.)"

"**[I]n the relatively unusual case in which the discrimination or retaliation defendant does meet its first-step burden of showing that its challenged actions qualify as protected activity, the burden shifts to the plaintiff. But the plaintiff's second-step burden is a limited one. The plaintiff need not prove her case to the court** (*Briggs v. Eden Council for Hope & Opportunity* , supra , 19 Cal.4th at p. 1123, 81 Cal.Rptr.2d 471, 969 P.2d 564); **the bar sits lower, at a demonstration of "minimal merit"** (*Navellier v. Sletten*, supra , 29 Cal.4th at p. 89, 124 Cal.Rptr.2d 530, 52 P.3d 703). At this stage, " **'[t]he court does not weigh evidence or resolve conflicting factual claims. Its inquiry is limited to whether the plaintiff has stated a legally sufficient claim and made a prima facie factual showing sufficient to sustain a favorable judgment. It accepts the plaintiff's evidence as true, and evaluates the defendant's showing only to determine if it defeats the plaintiff's claim as a matter of law.**' " (*Sweetwater Union High School Dist. v. Gilbane Building Co.* (2019) 6 Cal.5th 931, 940, 243 Cal.Rptr.3d 880, 434 P.3d 1152, quoting *Baral v. Schnitt* (2016) 1 Cal.5th 376, 384–385, 205 Cal.Rptr.3d 475, 376 P.3d 604 ; see *Wilson v. Parker, Covert & Chidester* (2002) 28 Cal.4th 811, 821, 123 Cal.Rptr.2d 19, 50 P.3d 733.) ..." [Citations omitted].

67) In *Simmons v. Allstate Ins. Co.* (2001)92 Cal. App. 4th 1068, 1073 (anti-SLAPP motion "like a summary judgment motion, pierces the pleadings and requires an evidentiary showing ... SLAPP motion is similar to that of a motion for summary judgment, nonsuit, or directed verdict."). The Court of Appeal itself has said that the anti-SLAPP motion "establishes a procedure where the trial court evaluates the merits of the lawsuit using a summary-judgment-like procedure at an early stage of the litigation." *Flatley v. Mauro* (2006) 39 Cal.4th 299, 312. It reiterated this point in *Baral v. Schnitt*, stating: "**We have described this second step as a 'summary-judgment-like procedure.**'" *Baral v. Schnitt* (2016) I Cal.5th 376, 384-85. [Citations omitted].

68) In *Embracing the holding in Fashion 21 v. Coalition for Humane Immigrant Rights of Los Angeles* (2004) 117 Cal.App.4th 1138, the court concluded that "[a]t the second stage of an anti-SLAPP hearing, the court may consider affidavits, declarations, and their equivalents if it is reasonably possible the proffered evidence set out in those statements will be admissible at trial. Conversely, if the evidence relied upon cannot be admitted at trial, because it is categorically barred or undisputed factual circumstances show inadmissibility, the court may not consider it in the face of an objection. If an evidentiary objection is made, the plaintiff may attempt to cure the asserted defect or demonstrate the defect is curable." (Emphasis in original). [Citations omitted].

69) See the California Supreme Court in *Oasis West Realty, LLC v. Goldman*, 51 Cal.4th 811, 124 Cal. Rptr. 3d 256, 250 P.3d 1115 (Cal. 2011):

"[S]ection 425.16, subdivision (b)(1), provides: "A cause of action against a person arising from any act of that person in furtherance of the person's right of petition or free speech under the United States Constitution or the California Constitution in connection **with a public issue shall be subject to a special motion to strike, unless the court determines that the plaintiff has established that there is a probability that the plaintiff will prevail on the claim.**"

"[[O]rdinarily we would proceed to consider the two prongs in order. In light of this court's "inherent, primary authority over the practice of law" (*Obrien v. Jones* (2000) 23 Cal.4th 40, 57 [96 Cal.Rptr.2d 205, 999 P.2d 95]), **however, we will proceed in these particular circumstances directly to the second prong, inasmuch as we have readily found that Oasis has demonstrated a probability of prevailing on its claims.**

To satisfy the second prong, "a plaintiff responding to an anti-SLAPP motion must `"state[] and substantiate[] a legally sufficient claim.'"** [Citation.] Put another way, the plaintiff `must demonstrate that the complaint is both legally sufficient and supported by a sufficient prima facie showing of facts to sustain a favorable judgment **if the evidence submitted by the plaintiff is credited.'" (*Wilson v. Parker, Covert Chidester* (2002) 28 Cal.4th 811, 821 [123 Cal.Rptr.2d 19, 50 P.3d 733].) "**We consider `the pleadings, and supporting and opposing affidavits...upon which the liability or defense is based.'** (§ 425.16, subd. (b)(2).) **However, we neither `weigh credibility [nor] compare the weight of the evidence. Rather, [we] accept as true the evidence favorable to the plaintiff [citation] and evaluate the defendant's evidence only to determine if it has defeated that submitted by the plaintiff as a matter of law.'**" (*Soukup v. Law Offices of Herbert Hafif* supra, 39 Cal.4th at p. 269, fn. 3.) **If the plaintiff "can show a probability of prevailing on any part of its claim, the cause of action is not meritless" and will not be stricken; "once a plaintiff shows a probability of prevailing on any part of its claim, the plaintiff has established that its cause of action has some merit and the entire cause of action stands."** (*Mann v. Quality Old Time Service, Inc.* (2004) 120 Cal.App.4th 90, 106 [15 Cal.Rptr.3d 215], original italics.)"

"[T]he complaint identifies a number of acts of alleged misconduct and theories of recovery, but for purposes of reviewing the ruling on an anti-SLAPP motion, it is sufficient to focus on just one."...."[Although Oasis does not offer direct evidence that Goldman relied on confidential information in formulating his opposition or in crafting his plea to his neighbors to join him in opposing the project, the proper inquiry in the context of an anti-SLAPP motion "is whether the plaintiff proffers sufficient evidence for such an inference." (*Drum v. Bleau, Fox Associates* (2003) 107 Cal.App.4th 1009, 1021 [132 Cal.Rptr.2d 602], disapproved on another ground in *Rusheen v. Cohen* (2006) 37 Cal.4th 1048, 1065 [39 Cal.Rptr.3d 516, 128 P.3d 713].)"

"[B]ased on the respective showings of the parties, we conclude that Oasis's claims for breach of fiduciary duty, professional negligence, and breach of contract **possess at least minimal merit within the meaning of the anti-SLAPP statute.** On this ground, we therefore reverse the judgment of the Court of Appeal."..."**[O]ur task is solely to determine whether any portion of Oasis's causes of action have even minimal merit within the meaning of the anti-SLAPP statute...**" [Citations omitted].

70) See *Salma v. Capon*, 161 Cal.App.4th 1275, 74 Cal. Rptr. 3d 873 (Cal. Ct. App. 2008) cited by 260 appellate cases:

> "[T]o establish a probability of success on the merits, a SLAPP plaintiff must state and substantiate a legally sufficient claim. (*Taus v. Loftus* (2007) 40 Cal.4th 683, 713-714 [54 Cal.Rptr.3d 775, 151 P.3d 1185].) "'Put another way, the plaintiff "must demonstrate that the complaint is both legally sufficient and supported by a sufficient prima facie showing of facts to sustain a favorable judgment if the evidence submitted by the plaintiff is credited." [Citations.]'" (Ibid.) **The "'court considers the pleadings and evidentiary submissions of both'" parties** (see § 425.16, subd. (b)(2)), but "'does not weigh the credibility or comparative probative strength of [the] competing evidence.'" (*Taus v. Loftus*, at p. 714.) The prima facie showing of merit must be made with evidence that is admissible at trial. (Evans v. Unkow (1995) 38 Cal.App.4th 1490, 1497 [45 Cal.Rptr.2d 624].) Unverified allegations in the pleadings or averments made on information and belief cannot make the showing. (*ComputerXpress, Inc. v. Jackson*, supra, 93 Cal.App.4th at p. 1010; Evans, at p. 1498.)"
>
> **"[W]e see no reason why Capon's declaration could not be considered in assessing Salma's probability of prevailing on the claim. In summary judgment proceedings,** gaps in a party's evidentiary showing may certainly be filled by the opposing party's evidence. (Villa v. McFerren (1995) 35 Cal.App.4th 733, 751 [41 Cal.Rptr.2d 719].) This rule is based on the statutory command that the court consider "'all the papers'" in making its ruling. (Ibid., italics omitted; see § 437c, subd. (c).) Section 425.16 similarly directs the court to consider both the "supporting and opposing affidavits" when ruling on a motion to strike. (§ 425.16, subd. (b)(2).) Capon's declaration was an "opposing affidavit" with respect to the second prong of the section 425.16 analysis.
>
> **The parties dispute whether the trial court appropriately considered Salma's verified pleadings in assessing probability of success. Several cases hold that a SLAPP plaintiff cannot rely on verified pleadings to demonstrate a probability of success.** (See, e.g., *Church of Scientology v. Wollersheim* (1996) 42 Cal.App.4th 628, 656 [49 Cal.Rptr.2d 620].) **Those holdings appear to be based on an inapt analogy to summary judgment proceedings.** (42 Cal.App.4th at p. 656.) **Verified pleadings may not be used to support or oppose summary judgment motions because the statute expressly restricts the types of evidence that can be used and does not include verified allegations**. (Ibid.; § 437c, subd. (b)(1); Weil Brown, Cal. Practice Guide: Civil Procedure Before Trial (The Rutter Group 2007) ¶ 10:19.1, p. 10-6 (rev. #1, 2007).)"...."**[U]nlike the summary judgment statute, section 425.16 expressly permits the court to consider the parties' pleadings as well as their declarations.** (§ 425.16, subd. (b)(2).) **Consequently, verified allegations based on the personal knowledge of the pleader may be considered in deciding a section 425.16 motion**...." [Citations omitted].

71) See also *Barba v. Bonta*, No. D081194 (Cal. Ct. App. Nov. 17, 2023): **"[t]hus, the court only had to conclude that Plaintiffs established at least a minimal probability of success on the merits."** (See *Butt v. State of California* (1992) 4 Cal.4th 668, 678 (Butt).)" [Citation omitted]; *Wilson v. Parker, Covert Chidester*, 28 Cal.4th 811, 123 Cal. Rptr. 2d 19, 50 P.3d 733 (Cal. 2002):

> "[I]n order to establish a probability of prevailing on the claim (§ 425.16, subd. (b)(1)), a plaintiff responding to an anti-SLAPP motion must "'state and substantiate a legally sufficient claim.'" (*Briggs v. Eden Council for Hope Opportunity* (1999) 19 Cal.4th 1106, 1123, quoting *Rosenthal v. Great Western Fin. Securities Corp.* (1996) 14

Cal.4th 394, 412.) **Put another way, the plaintiff "must demonstrate that the complaint is both legally sufficient and supported by a sufficient prima facie showing of facts to sustain a favorable judgment if the evidence submitted by the plaintiff is credited.**" (*Matson v. Dvorak* (1995) 40 Cal.App.4th 539, 548; accord, *Rosenaur v. Scherer* (2001) 88 Cal.App.4th 260, 274.)"

vi. **Justice Elwood Lui Had Set Up Ms. Anderson's Appeal To Fail By Granting All of Appellees Motions While Denying Almost All of Ms. Anderson Motions, Justice Lui Stricken After 5 Months Ms. Anderson Filed Her Opening Brief An Attachment Containing The Appellees Conceded Admission In Their Illegal Fraudulent Conduct In Their Opposition of July 13, 2023 To Ms. Anderson's Motions To Augment To The Record of Appeal, that They Made False Statements To DMV In Order To Report Anderson's Vehicle As Total Loss Salvage On The Same Day of The Accident On November 1, 2021 Was Not A Protected Activity Under California Civil Code, § 46, Subd. 5). Justice Lui Also Stricken The Trial Court Transcripts of March 8, 2023 Were Designated By Both Parties For The Record Appeal On Pages # 961 And 974 [Id. Exhibits # 366-380]. Justice Lui Denied Anderson Motion For Judicial Notice of The Appellees' Admission of Fraud After Denying Anderson's Motion To Augment The Record of Appeal to Include The Transcripts of March 8, 2023.**

72) The defendants' counsel Barbara J. Mandell admitted in her opposition to Ms. Anderson's motions to augment the record on July 13, 2023, contained defendant's admission in their opposition to Mr. Anderson's motion to augment that they sufficiently committed fraud, but that their fraud was excusable because defendants had increase the amount of money than the initial estimate to Ms. Anderson.

73) Justice Elwood Lui had stricken the Appellees/defendants' declaration and motion conceding illegal fraudulent conduct was admitted in opposition of July 13, 2023 to Ms. Anderson's motions to augment to the record of appeal, appellant included a 10 pages attachment to her opening brief was the transcripts of March 8, 2023 was designated into the record of appeal on pages # 961 and 974 should have been part of the record. Justice Lui also stricken the Appellees/defendants' admission of fraud in their opposition of July 13, 2023 to augment the transcripts of March 8, 2023. **(Id. as EXHIBITS # 170-177).**

74) Justice Lui's unfairness where he stricken Ms. Anderson attachment to her opening brief even when she satisfied all the requirement of Cal. Rules of Court, Rule 8.204(a)(2). See also *Cnty. of San Bernardino Dep't of Child Support Servs. v. Rutherford*, E066572 (Cal. Ct. App. Feb. 13, 2018):

> "[T]he most fundamental rule of appellate review is that a judgment is presumed correct, all intendments and presumptions are indulged in its favor, and ambiguities are resolved in favor of affirmance." (*City of Santa Maria v. Adam* (2012) 211 Cal.App.4th 266, 286 (City of Santa Maria).) "The appellant has the burden of furnishing an appellate court with a record sufficient to consider the issues on appeal. [Citation.] An

appellate court's review is limited to consideration of the matters contained in the appellate record." (*People v. Neilson* (2007) 154 Cal.App.4th 1529, 1534.) In the absence of an adequate record to support an appellant's claim of error, "we presume the judgment is correct." (*Stasz v. Eisenberg* (2010) 190 Cal.App.4th 1032, 1039.)"

"[C]alifornia Rules of Court, rule 8.120(b), provides that "[i]f an appellant intends to raise any issue that requires consideration of the oral proceedings in the superior court, the record on appeal must include a record of those oral proceedings..." Most commonly—particularly where, as here, a court reporter was present for the proceedings—a reporter's transcript serves as such a record."..."[[T]o the extent the record we have does not reveal adequate support for the trial court's ruling, we generally must presume such support would be found in a transcript or other record of the oral proceedings. (See *City of Santa Maria*, supra, 211 Cal.App.4th at pp. 286-287; *Buckhart v. San Francisco Residential Rent etc., Bd.* (1988) 197 Cal.App.3d 1032, 1036 [""[If] any matters could have been presented to the court below which would have authorized the order complained of, it will be presumed that such matters were presented."" [Citations omitted].

75) See also *In re Andres*, No. F082537 (Cal. Ct. App. Apr. 5, 2022): **"[A] reporter's transcript of the hearing is part of the appellate record. After appearances were stated on the record, the trial court said: "We are here today for the motion to reconsider, and I have read all the documents and declarations that have been filed in this matter. Were there any further arguments that the parties wanted to make?"** [Citations omitted]. See *Plaza Pointe Owners Ass'n v. MSS Props. Special Purpose II, LLC*, No. G056111 (Cal. Ct. App. Feb. 5, 2020): **"[I]f a court reporter recorded the proceedings, the transcripts too are part of the record on appeal."** [Citation omitted].

76) **"[I]t may be stated as a general rule that a pleading containing an admission is admissible against the pleader in a proceeding subsequent to the one in which the pleading is filed."** [Citations.] This is true even on behalf of a stranger to the former action." (*Dolinar*, supra, 63 Cal.App.2d at p. 176, 146 P.2d 237.) The pleading constitutes an evidentiary, rather than judicial admission, and "it is always competent for the party against whom the pleading is offered to show that the statements were inadvertently made or were not authorized by him or made under mistake of fact." (Id. at p. 177, 146 P.2d 237.) Similarly, "**[s]uperseded pleadings may be used at trial as admissions against interest; however, the party who made the pleadings must be allowed to explain the changes.**" [Citation.]" (*Deveny v. Entropin, Inc.* (2006) 139 Cal.App.4th 408, 426, 42 Cal.Rptr.3d 807 (Deveny); see *City of Pleasant Hill v. First Baptist Church* (1969) 1 Cal.App.3d 384, 418–419, 82 Cal.Rptr. 1.)

77) *Uram v. Abex Corp.* (1990) 217 Cal.App.3d 1425, 1433: **"[A] judicial admission is a party's unequivocal concession of the truth of a matter, and removes the matter as an issue in**

the case. [Citations.]" (*Gelfo v. Lockheed Martin Corp.* (2006) 140 Cal.App.4th 34, 48, 43 Cal.Rptr.3d 874.) "**Judicial admissions may be made in a pleading**....[Citations.] **Facts established by pleadings as judicial admissions ' "are conclusive concessions of the truth of those matters, are effectively removed as issues from the litigation, and may not be contradicted by the party whose pleadings are used against him or her.**" [Citations.] " '**[A] pleader cannot blow hot and cold as to the facts positively stated.**' " [Citation]' [Citation.]" (*Myers v. Trendwest Resorts, Inc.* (2009) 178 Cal.App.4th 735, 746, 100 Cal.Rptr.3d 658.) See California Evidence Code, § 459, subd (a).

78) **When a statute as Cal. Vehicle Cod § 11515 does not impose penalty, the California courts borrow penalty under other codes as California Penal Code § 115 and Penal Code § 470a.** Defendants knowingly committed fraud by submitting fraudulent documents to DMV on the same day of the accident with Ricardo Avelar on November 1, 2021, reporting Ms. Anderson's vehicle as total loss salvage when **no physical inspection ever taken place and the estimate of November 23, 2021 was fake and forged.** This was false and a felony in violation of California Penal Code § 115. To cover up their fraud defendants forged estimate of November 23, 2021. See *People v. Schmidt*, 41 Cal.App.5th 1042, 254 Cal. Rptr. 3d 694 (Cal. Ct. App. 2019):

> **"[S]ection 115 provides: "Every person who knowingly procures or offers any false or forged instrument to be filed, registered, or recorded in any public office within this state which instrument, if genuine, might be filed, registered, or recorded under any law of this state or of the United States, is guilty of a felony."** (§ 115, subd. (a).) The purpose of section 115 is "to prevent the recordation of spurious documents knowingly offered for record." (*Generes v. Justice Court* (1980) 106 Cal.App.3d 678, 681-682, 165 Cal.Rptr. 222 (Generes); see also *People v. Feinberg* (1997) 51 Cal.App.4th 1566, 1579, 60 Cal.Rptr.2d 323 [" 'The core purpose of...section 115 is to protect the integrity and reliability of public records' "].)

79) In addition to defendants' false statements had cause actual damage to Ms. Anderson (Civ. Code, § 46, subd. 5) in reporting her vehicle to DMV as total loss salvage on the same day of the accident on November 1, 2021, when it wasn't total loss salvage, and without any physical inspection of her vehicle, they covered up the deception and fraud by perjured declarations in the trial court are easily proven.

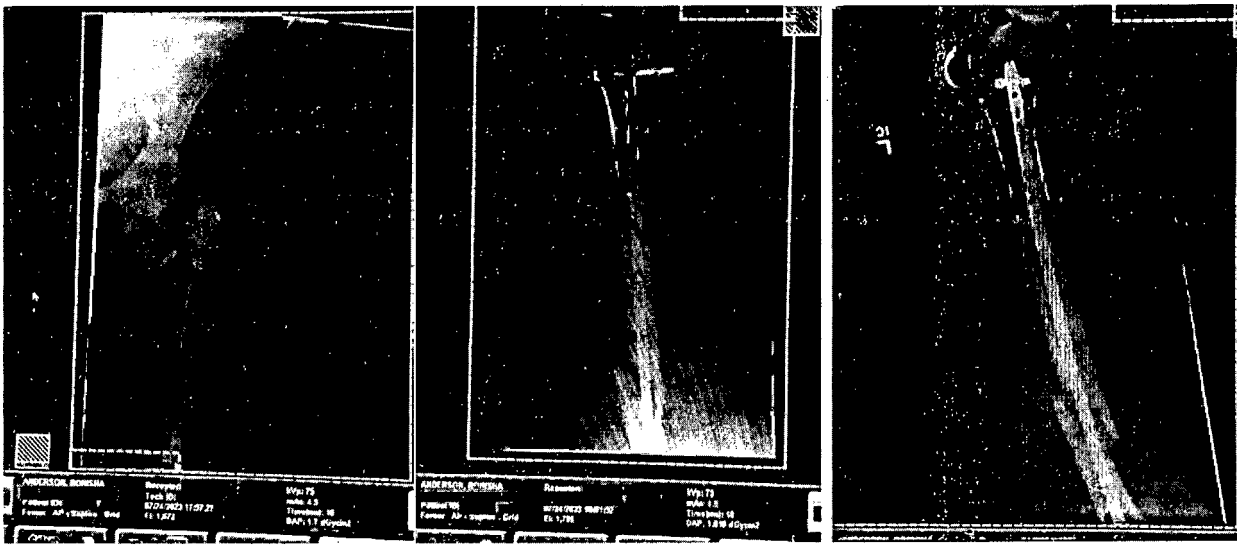
80) The defendants lied to Ms. Anderson and to DMV and exacerbated their fraud with actual malice, and false statements used in false declaration they filed to support their Anti-SLAPP motion. So the California Legislature has specified that such slander (of title) includes a false statement that is punishable as a crime. [¶] The elements of the tort are "(1) a publication, (2)

without privilege or justification, (3) falsity, and (4) direct pecuniary loss." (*Sumner Hill Homeowners' Assn., Inc. v. Rio Mesa Holdings, LLC* (2012) 205 Cal.App.4th 999, 1030.)

vii. Justice Elwood Lui Harsh Had Engaged In Fraud of Procedural Due Process Where He Unfairly Denied Almost All of Ms. Anderson's Motions And Her Motion That She Could Not Appear To The Oral Arguments of November 15, 2024 Because She Delivered A Baby With Special Medical Needs And She Needed And Needed More Time To Care For Her New Born Son's. But Justice Lui Denied Her Motion, But He Granted All of Defendants/Appellees Motions And Their Late Filed Motion To Calendar Oral Arguments That The Clerk Had Initially Denied. See [EXHIBIT # 307].

81) Ms. Anderson could not and did not appear to the oral arguments of November 15, 2024, because she as a new parent she needed more time to treat her new born son's medical needs, and because she was afraid of Justice Elwood Lui and the justices in division two would attack and billeted her because of Justice Lui constant harassment of all of Ms. Anderson's rights throughout this appeal. [*Moles v. Regents of University of California*, supra, 32 Cal.3d at p. 872.]

82) Ms. Anderson had informed Justice Lui in her other motions he denied of the accident she suffered on July 2, 2023, resulted in injuries to her broken jip bone and left leg broken femur, which placed Ms. Anderson at high risk pregnancy for child birth of her baby on August 31, 2024, according to Ms. Anderson's pediatrician/physician Dr. Azizhe Ashgari. See pasted below is the x-rays of Ms. Anderson femur and hip injuries that Justice Elwood Lui ignored the severity.



83) California law (California Family Rights Act leave or CFRA leave) guarantees job-protected leave to eligible employees with a serious health condition, who are caring for a family member with a serious health condition, or to bond with a new child (by birth, adoption, or foster

placement). See *Frederick v. Pacwest Sec. Servs.*, No. B268823 (Cal. Ct. App. Feb. 22, 2017) "[T]he record showed Frederick took about three months of pregnancy disability leave followed by six weeks of family care leave to bond with her newborn baby." *Moore v. Regents of Univ. of Cal.*, 248 Cal.App.4th 216, 206 Cal. Rptr. 3d 841 (Cal. Ct. App. 2016).

84) Initially on July 17, 2024 Justice Elwood Lui had Ms. Anderson time to deliver her baby in September 1, 2024, but after Ms. Anderson delivery was delayed and her baby was born she requested a second 90 days extension of the oral arguments, because her newborn had medical issues the baby needed her whole attention.

85) But Justice Lui refused to grant her relief and he arbitrarily denied her motion. So, Justice Lui knew Ms. Anderson could not participate in the oral arguments, and yet he granted the defendants/appellees late motion to calendar oral arguments that the clerk had initially denied. **(Id. As EXHIBIT # 307).** Justice Elwood Lui nepotism and favoritism is outrageous amazing miscarriage of justice, was ignored in a complaint by the useless California Commission of Judicial Performance and by the California Supreme Court.

86) Federal law (FMLA- Family and Medical Leave Act of 1993) also grants new parents as Ms. Anderson time off work once she had a newborn baby. Ms. Anderson was entitled the extension under the California New Parent Leave Act (NPLA), which presently provides up to 12 weeks of leave to bond and care with a newborn child. But Justice Elwood Lui is insensitive who had no such respect for black African American women ad Ms. Anderson after she delivered her baby.

XI. CONCLUSION

87) For the foregoing reasons, this Court should grant Ashlie R. Anderson the petition for writ of Certiorari to review the California Anti-SLAPP statute (Cal. Civ. Proc. § 425.16 et. seq. (and other similar Anti-SLAPP statutes in other U.S. States courts) are treated as an ordinary per se takings[9] law under the Fifth Amendment that violated Ms. Anderson's Fourteenth Amendment that protects against the government's deprivation of life, liberty, or property without due process of law insurance companies illegal criminal fraudulent activates are condoned and covered-up by the state court appellate court clauses condone and covered-up criminal and illegal activates of insurance companies who engaged in scams and knowingly with actual malice reporting millions of innocent drivers as Ms. Anderson's vehicles to DMV as if their vehicles are "**Total Loss Salvage**" on the same day of the accident also used a fraudulent forged auto inspection that never happened that was

[9] *Penn Cent. Transp. Co. v. City of New York*, 438 U.S. 104, 98 S.Ct. 2646, 57 L.Ed.2d 631 (1978).

covered up by the state court condemnation of fraud **after being shown the vehicle was not total loss salvage but in good operational and drivable condition**, forced Ms. Anderson to surrender her license plate to DMV and forfeit her vehicle and only means of transportation and income, all in efforts to cut costs to insurance companies from paying damages violated Ms. Anderson's Fifth and Fourteenth Amendments to the United States.

Respectfully submitted,

DATED: September 18, 2025

Rada

ASHLIE R. ANDERSON

XII. CERTIFICATE OF WORD COUNT

I certify that the text of this Petition for rehearing consists of 8,993 words counted by the Microsoft Word word-processing program used to generate the brief.

Dated this September 18, 2025.

Respectfully Submitted,

By: Rada

ASHLIE R. ANDERSON

XIII. VERIFICATION OF ASHLIE R. ANDERSON

I, Ashlie R. Anderson, I will and hereby declare as follows: I have read the foregoing in this paper and we declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct.

Executed this 18th day of September, 2025, at Chatsworth, California.

Rada

ASHLIE R. ANDERSON