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10
11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 STEPHANIE CLIFFORD a.k.a.
14 STORMY DANIELS a.k.a. PEGGY
15 PETERSON, an individual,

16 Plaintiff,

17 v.

18 KEITH M. DAVIDSON, an Individual,
19 MICHAEL COHEN, an individual, and
20 DOES 1 through 10, inclusive,

21 Defendants.

Case No. 2:18-cv-05052-SJO (FFMx)

**DEFENDANT MICHAEL COHEN'S
NOTICE OF SPECIAL MOTION TO
STRIKE (CAL. CODE CIV. PROC. §
425.16) OR, ALTERNATIVELY, TO
DISMISS (FRCP 12(b)(6))
PLAINTIFF'S AIDING AND
ABETTING CLAIM AGAINST
COHEN**

Date: August 6, 2018
Time: 10:00 a.m.
Location: Courtroom 10C

Hon. S. James Otero

Action Filed: June 6, 2018

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23
24 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

25 PLEASE TAKE NOTICE that on August 6th, 2018 Defendant Michael Cohen
26 will and hereby does move pursuant to California Code of Civil Procedure § 425.16
27 for an order striking the Second Claim for Aiding and Abetting Breach of Fiduciary
28 Duty in the Complaint of Plaintiff Stephanie Clifford ("Clifford" or "Plaintiff") filed

1 on or about June 6, 2018.

2 Mr. Cohen brings this Motion on the grounds that Plaintiff's claim arises out of
3 actions that are pre-litigation communications and as such are protected by the
4 litigation privilege. Thus, the anti-SLAPP statute applies, and Plaintiff must prove by
5 admissible evidence that she will probably prevail on her claim.

6 As set forth herein, Plaintiff cannot meet this burden. Accordingly, Plaintiff's
7 Second Claim for Adding and Abetting Breach of Fiduciary Duty should be stricken,
8 and Mr. Cohen should be awarded his attorneys' fees and costs incurred in defending
9 against this meritless claim.¹

10 Alternatively, Mr. Cohen will and hereby does move for an order dismissing
11 the Second Claim for Adding and Abetting Breach of Fiduciary Duty in the
12 Complaint pursuant to Federal Rules of Civil Procedure ("FRCP") Rule 12(b)(6).

13 This Motion shall be based on this Notice of Motion, and the accompanying
14 Memorandum of Points and Authorities, the Declarations of Michael D. Cohen and
15 Brent H. Blakely filed concurrently herewith (with exhibits), the anticipated reply
16 papers, and all materials that may be properly considered in connection with this
17 motion.

18 This Motion is made following the meeting between Ahmed Ibrahim, counsel
19 for Plaintiff, and Brent H. Blakely and Jessica C. Covington, counsel for Cohen,
20 which took place on June 26, 2018 at the offices of Cohen's counsel. The parties
21 discussed Cohen's position that the communications between Cohen and Defendant
22 Keith M. Davidson are absolutely privileged pursuant to the California Civil Code,
23 that the anti-SLAPP statute applies, and that Plaintiff failed to state a claim for
24 adding and abetting breach of fiduciary duty. Plaintiff disagreed and would not

25
26 ¹ The SLAPP statute mandates that a prevailing movant on a Special Motion to
27 Strike "shall" recover its attorneys' fees and costs. *See* Cal. Code Civ. Proc. §
28 425.16(c)(1); *Ketchum v. Moses* (2001), 24 Cal.4th 1122, 1131-32. If the Court
grants this Motion, Mr. Cohen will file a separate motion for attorneys' fees and costs.

1 dismiss the claims against Cohen. (Declaration of Brent H. Blakely (“Blakely Dec.”),
2 ¶¶ 2, 3)

3 Dated: July 9, 2018

BLAKELY LAW GROUP

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5 By: /s/ Brent H. Blakely

BRENT H. BLAKELY

Attorneys for Defendant

MICHAEL COHEN