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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF LOS ANGELES**

12 KEVIN HART, *et al.*,

13 Plaintiff,

14 v.

15 MIESHA SHAKES, *et al.*,

16 Defendants.
17

Case No. 23STCV31516

**Defendants Yelen Entertainment LLC and
Latasha Transrina Kebe's Notice of Special
Motion to Strike Plaintiffs' First Amended
Complaint Pursuant to CCP § 425.16;
Memorandum of Points and Authorities in
Support**

Honorable Holly J. Fujie
Department 56

Date: April 11, 2024
Time: 8:30 a.m.
Dept.: 56

Reservation ID 633109422452

Action filed: December 26, 2023
Trial date: None set

1 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2 **PLEASE TAKE NOTICE** that on **April 11, 2024, at 8:30 a.m.**, or as soon thereafter as
3 the matter may be heard in Department 56 of the above-captioned Court, located at 111 North Hill
4 Street, Los Angeles, California 90012, Defendants Yelen Entertainment LLC (“Yelen”) and
5 Latasha Transrina Kebe (“Tasha K”) (together, “Yelen Defendants”) will and hereby do move this
6 Court, pursuant to Code of Civil Procedure (“CCP”) § 425.16, for an Order striking the First,
7 Third, Fourth, and Fifth causes of action asserted against them in the First Amended Complaint
8 filed by Plaintiffs Kevin Hart and K. Hart Enterprises, Inc. (“KHE”) (together, “Plaintiffs”) and
9 awarding the Yelen Defendants their attorneys’ fees and costs incurred in defending against this
10 action.

11 The Yelen Defendants bring this Special Motion to Strike because each of those causes of
12 action arises from activity protected by Section 425.16 and Plaintiffs cannot establish a probability
13 of prevailing on those causes of action for the following reasons:

14 (1) On their First Cause of Action for “civil extortion,” California does not clearly
15 recognize a civil cause of action for extortion, and in any event, Plaintiffs cannot prove any
16 statement by the Yelen Defendants that constitutes extortion.

17 (2) On their Third Cause of Action for intentional interference with contractual
18 relations, Plaintiffs cannot prove that the Yelen Defendants knew of any existing contract between
19 them and Shakes, intended to interfere with such contract, or committed any wrongful act to
20 interfere. Even if they could, such a claim would be preempted by California’s Uniform Trade
21 Secrets Act.

22 (3) On their Fourth Cause of Action for invasion of privacy, Plaintiffs have not
23 identified, and cannot prove, any allegedly true and private facts that were disclosed in the
24 interview, and in any event, any such facts would be not actionable as matters of public concern.

25 (4) On their Fifth Cause of Action for defamation, Plaintiffs failed to identify the
26 challenged statements and cannot prove that any arguably challenged statements are false, were
27 published without privilege or with constitutional actual malice, or caused special damages.

1 This Special Motion to Strike is based on this Notice; the attached Memorandum of Points
2 and Authorities; the Declarations of Cheickna Kebe on behalf of Yelen Entertainment LLC
3 (“Yelen Decl.”), Latasha Transrina Kebe (“Tasha K Decl.”), and Matthew S.L. Cate (“Cate
4 Decl.”), and accompanying exhibits; any further briefing the Yelen Defendants may submit; the
5 materials on file in this action; and such other evidence and argument the Court may entertain.

6 Date: March 4, 2024

BALLARD SPAHR LLP

7 By: /s/ Matthew S.L. Cate
8 Matthew S.L. Cate

9 *Attorneys for Defendants*
10 *Yelen Entertainment LLC and*
11 *Latasha Transrina Kebe*

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **Introduction and Summary of Argument**

3 This case arises out of comedian Kevin Hart’s objection to his former personal assistant,
4 Defendant Miesha Shakes, participating in a broadcast interview about her experience working for
5 him. The interview, conducted by Tasha K and broadcast by Yelen on the Tasha K Live platform,
6 discusses Shakes’ experience as an assistant in Hollywood, recent revelations by other former
7 assistants, and several widely-reported scandals involving Hart, including the 2017 release of a sex
8 tape with a woman other than his wife and several lawsuits arising out of that incident. Among
9 other things, Shakes discusses her opinion about those lawsuits and the question, at issue in all of
10 them, of whether Hart was involved in filming or releasing the tape.

11 The Yelen Defendants now bring this Special Motion to Strike pursuant to California’s
12 Anti-SLAPP law, Cal. Civ. Proc. Code § 425.16. Plaintiffs’ causes of actions against the Yelen
13 Defendants all arise out of speech and conduct “in a public forum in connection with an issue of
14 public interest”—namely, the interview and a promotion for it—and Plaintiffs cannot establish a
15 probability of prevailing on those causes of action, for the reasons set forth herein. The Court
16 should strike Plaintiffs’ complaint against the Yelen Defendants in its entirety.

17 **Background**

18 **A. The Parties**

19 Hart is a comedian and actor who has starred in a number of family-friendly films. FAC ¶
20 1; Cate Ex. 1 ¶¶ 2, 10. He contends that his fame and fortune depend on “the public’s perception
21 of” him and the “family-oriented” persona he promotes, both to the public and to “various national
22 brands” who hire him to endorse their products. *See* Cate Ex. 1 ¶ 10. Hart is the CEO of KHE, a
23 company “engaged in ... the entertainment industry and related business endeavors.” FAC ¶ 2.

24 Shakes worked in a variety of roles for Hart, including as his personal assistant, from
25 2017-2020. *Id.* ¶¶ 3, 17. Plaintiffs allege that Shakes executed a Confidentiality Agreement as part
26 of her employment. *Id.* ¶¶ 18-20, Ex. A. They further claim that, in October 2020, around the time
27 her employment ended, Shakes entered into a Mutual Release and Non-Disclosure Agreement that
28 provided, among other things, that Hart would pay Shakes \$30,000 per year for three years as

1 severance and that Shakes would not disclose “trade secrets” or “confidential information” relating
2 to Hart, KHE, or their various affiliates. *Id.* ¶¶ 21-23, Ex. B at 1.

3 Yelen is a modern broadcasting and production company that produces and disseminates
4 live and on-demand video content on a subscription-based website (<https://www.tashaklive.com/>),
5 YouTube Channel, and mobile- and streaming-device apps. Yelen Decl. ¶¶ 4-11; FAC ¶ 7. Its
6 programming includes high-production value serial dramas and comedies, feature-length and short
7 films, and programs by various hosts featuring topics as varied as policing in African American
8 communities, celebrity news and gossip, social media, and culture writ large. Yelen Decl. ¶ 5. The
9 Yelen Defendants broadcast live and pre-recorded news and entertainment programming on at
10 least a weekly basis and usually more regularly. *Id.* ¶¶ 6-8.

11 Kebe, known professionally as “Tasha K,” is the namesake of the Tasha K Live platform,
12 the creator and host of *UnWineWithTashaK*, and the host of *The Wine Cellar*. *Id.* ¶ 9; Tasha K
13 Decl. ¶ 2. Tasha K began broadcasting commentary about celebrity culture and entertainment
14 news nearly a decade ago on her YouTube channel, UnWineWithTashaK. Tasha K Decl. ¶ 3; *see*
15 <https://www.youtube.com/@unwinewithtashak/>. That channel now has more than 1.2 million
16 subscribers, earning this substantial following through Tasha K’s humor, insight, and boldness, as
17 well as her engaging interviews with people working in the entertainment industry. *See* Tasha K
18 Decl. ¶ 4.

19 **B. Hart’s Widely-Reported 2017 Sex Tape and the Ensuing Litigations**

20 In 2017, a video was released showing Hart having sex with a woman other than his wife.
21 Cate Decl. ¶ 3; *id.* Ex. 2. The sex tape and its impact on Hart’s image were and remain topics of
22 substantial public discussion, especially after police charged one of Hart’s friends with attempted
23 extortion in connection with the video’s release. *Id.* Ultimately, as Hart explained in an Instagram
24 post, prosecutors dropped all charges against that friend, Jonathan “J.T.” Jackson. *Id.* ¶¶ 5, 6;
25 <https://www.instagram.com/p/CVij5n7gz1-/>.

26 Meanwhile, the woman in the video, Montia Sabbag, sued Hart and Jackson. *Id.* Ex. 3.
27 Sabbag contends that Hart orchestrated the allegedly nonconsensual recording of their sexual
28 encounter and the release of the footage. *Id.*; *id.* Ex. 4. In August 2022, the Court granted

1 Jackson’s motion for summary judgment, dismissing Sabbag’s claims against him. Cate Ex. 5. The
2 Court denied Hart’s motion, emphasizing that Hart did not deny Sabbag’s allegation that he had
3 “adjusted the mirror” at which the camera was pointed before they had sex, allegedly positioning it
4 so they would be recorded. *Id.* Ex. 5 at 6, Ex. 4 ¶ 22. The Court ruled that a jury could conclude
5 that “Hart knew there was a camera pointing toward the mirror and [that] the adjustment of the
6 mirror was for the purposes of recording[.]” *Id.* Ex. 5 at 6.

7 Hart has publicly discussed the sex tape, the criminal case against Jackson, and the impact
8 of these events on his personal and family life on multiple occasions. *Id.* ¶ 6, Ex. 2 at 2, 4, 13-14.

9 **C. The Interview with Shakes Discusses the Tape and Related Legal Claims**

10 In November 2023, Tasha K recorded an interview with Shakes about her experience as
11 Hart’s personal assistant. FAC ¶ 3; *id.* ¶¶ 26-29; Tasha K Decl. ¶ 10; Yelen Decl. ¶¶ 12, 18 & Ex.
12 1 (“Interview”). Shakes and Tasha K discuss the public controversy surrounding Hart’s 2017 sex
13 tape. Yelen Decl. Ex. 1 at 6:00 – 23:04, 28:10 – 31:17. Shakes mentions that the charges against
14 Jackson had been dropped and references Sabbag’s lawsuit, stating “there was still a pending case
15 against Kevin and Monica [sic], which was at the Van Nuys Courthouse.” *Id.* at 16:45 – 17:17.
16 When Tasha K asks “why did Kevin have charges,” Shakes states “because he was the one who
17 filmed the tape.” *Id.* at 17:28-45. Shakes then explains why she believes this: (1) the camera angle
18 suggests it was placed to capture the mirror’s reflection, (2) no hidden cameras had been found in
19 the hotel room, (3) law enforcement had cleared Jackson of criminal involvement in the recording,
20 (4) Jackson had never been in the room alone, (5) Hart “has his phone in his hands 24 hours [a
21 day],” (6) the footage came from Hart’s phone. *Id.* at 17:45 – 20:22.

22 On November 15, 2023, prior to broadcasting the Interview, the Yelen Defendants
23 broadcast a live promotion about its upcoming release. Tasha K Decl. ¶ 11; Yelen Decl. ¶¶ 13, 19
24 & Ex. 2 (“Teaser”); FAC ¶ 30. In the Teaser, which was recorded and remains available online,
25 Tasha K refers positively to her recent appearance on a satellite radio program produced by a Hart-
26 affiliated company and expresses gratitude for the program’s hospitality. Yelen Decl. Ex. 2 at
27 1:38-58. Even so, she explains, she is not (and was not) employed by any Hart-affiliated company.
28 *Id.* at 1:58 – 2:06. And part of *her* job, Tasha K makes clear, is interviewing celebrities’ former

1 assistants. *Id.* at 0:28 – 3:10. She jokes that the assistants are no longer employed and “when you
2 don’t pay, we have to get money by any means necessary.” *Id.* at 2:06-16. So, she says, “the
3 assistants are assisting” her business by appearing on the popular interviews that help her maintain
4 her subscriber base. *Id.* As is clear from her tone and comments, Tasha K intended to suggest to
5 viewers that her programs, and thus her success, rely on tips from and interviews with former
6 assistant like Shakes. Tasha K Decl. ¶¶ 14-17. She did not intend to relay any other meaning. *Id.*

7 Yelen broadcast the nearly 90-minute Interview on its platforms on December 22, 2023.
8 Yelen Decl. ¶ 18. Plaintiffs had sent the Yelen Defendants a letter prior to publication, asking that
9 they not air the Interview. FAC ¶ 32, Ex. C. After publication, however, neither the Plaintiffs nor
10 anyone purporting to act on their behalf sent a written notice to Yelen or Tasha K claiming that
11 any particular statement in it was false and defamatory. Yelen Decl. ¶ 22; Tasha K Decl. ¶ 23.

12 **D. Plaintiffs File Suit**

13 Instead, on December 26, 2023, Plaintiffs sued Shakes, Tasha K, and the now-defunct
14 Kebe Studios LLC. They amended a few days later to add Yelen as a defendant. Plaintiffs object
15 that Shakes’ comments in the Interview disclosed unspecified private “statements regarding Hart,
16 his family, and Hartbeat personnel,” FAC ¶ 26, or made unspecified “false and defamatory
17 statements regarding Hart and certain legal disputes in which he had been involved,” *id.* ¶ 27.

18 Plaintiffs also allege that on an unspecified date in November 2023, an “unidentified
19 individual” called an unnamed “Hart representative” from a “blocked number.” *Id.* ¶ 29; Cate Ex.
20 1 ¶ 7. Plaintiffs further contend that the anonymous caller said they were “affiliated” with “Kebe,”
21 that Kebe conducted an interview with Shakes that included “information or allegations that ...
22 would be damaging to Hart’s reputation,” and that Kebe would publish the interview unless Hart
23 paid \$250,000, presumably to that caller. FAC ¶ 29. They do not allege Tasha K or Yelen directed
24 or even knew about this call, and both defendants disavow any knowledge or involvement in any
25 such call. Tasha K Decl. ¶¶ 18, 19; Yelen Decl. ¶¶ 15, 16.

26 Plaintiffs allege that the Teaser “clearly was intended as a threat” that the Interview “would
27 be published if the ransom was not paid.” FAC ¶ 30. The Teaser contains no such threat and does
28 not in any way demand payment. Yelen Decl. Ex. 2 at 2:44-47.

1 Plaintiffs purport to state four causes of action against the Yelen Defendants based on the
2 Teaser and the Interview (together, the “Broadcasts”): (1) civil extortion, based on the mysterious
3 telephone call and Hart’s unreasonable interpretation of the Teaser, FAC ¶¶ 29-30, 35-40 (Count
4 I); (2) tortious interference with contract, based on the allegation that by “publish[ing] the
5 Interview,” Yelen interfered with Shakes’ agreement with Plaintiffs to keep secret unspecified
6 “Confidential Information,” *id.* ¶¶ 46-51 (Count III); (3) invasion of privacy, based on the claim
7 that the Interview disclosed “purported private facts” about Hart and unidentified non-parties, *id.*
8 ¶¶ 52-58 (Count IV); and (4) defamation, based on unspecified “statements during the Interview
9 that were false,” *id.* ¶¶ 59-66 (Count V).¹

10 Although the Interview is available online, Plaintiffs have not articulated *which* statements
11 they challenge. Plaintiffs also do not allege which statements they contend are true, such that they
12 could give rise to a privacy claim, or are false and defamatory, such that they could support a
13 defamation claim. At most, Plaintiffs allude to statements that Hart “purportedly recorded a video”
14 of an unidentified “sexual encounter,” presumably relating to his 2017 sex tape, and that he “faced
15 criminal charges regarding that supposed incident.” *Id.* ¶ 61.² Plaintiffs also do not explain what
16 about these statements is false or articulate any actual damages that they have suffered as a result.
17 Despite Hart’s obvious status as a public figure, *Cate Ex. 1* ¶ 10, Plaintiffs do not allege that the
18 Yelen Defendants acted with actual malice, that is, with knowledge of falsity or with a high degree
19 of awareness of probable falsity.

20 **Argument**

21 “The purpose of the anti-SLAPP statute is to allow for early dismissal of meritless First
22 Amendment cases aimed at chilling expression through costly, time-consuming litigation.”
23 *Herring Networks v. Maddow*, 8 F.4th 1148, 1155 (9th Cir. 2021).³ To advance that goal, Courts
24 must “broadly” construe the statute. *Id.* An anti-SLAPP motion requires a two-step analysis. First,

25 _____
26 ¹ Plaintiffs’ breach of contract claim (Count II) is only alleged against Shakes. *Id.* ¶¶ 41-45.

27 ² The Interview does not say “criminal charges,” but rather, refers to “charges” in a colloquial
reference to court proceedings, generally. Yelen Decl. Ex. 1 at 16:25-33.

28 ³ Unless indicated, all citations omit internal citations and have been “cleaned up.”

1 the Court must decide if Plaintiffs’ causes of action “arise from” Yelen’s protected activity under
2 the statute. CCP § 425.16(b)(1). Second, if so, the Court must strike the claims, unless Plaintiffs
3 can demonstrate “a probability” of prevailing on them. *Id.*

4 For the reasons below, the Court should grant this motion, strike all of Plaintiffs’ causes of
5 action against the Yelen Defendants, and award the Yelen Defendants their attorneys’ fees and
6 costs pursuant to CCP § 425.16.

7 **I. Plaintiffs’ Claims against the Yelen Defendants Arise from Protected Activity**

8 **A. Section 425.16 applies to the Broadcasts**

9 The anti-SLAPP law applies to the Broadcasts because they constitute “written or oral
10 statement[s] ... made in a ... a public forum in connection with an issue of public interest” or
11 “conduct in furtherance” of such speech. CCP § 425.16(b)(1), (e)(3)-(4).⁴

12 *First*, the Yelen Defendants broadcast the Teaser and the Interview via publicly accessible
13 websites and streaming platforms, which constitute public forums. Tasha K Decl. ¶¶ 11, 20; Yelen
14 Decl. ¶¶ 13, 18; *Metabolife Int’l v. Wornick*, 72 F. Supp. 2d 1160, 1165 (S.D. Cal. 1999) (TV
15 broadcasts are “undoubtedly a public forum.”), *aff’d in relevant part*, 264 F.3d 832 (9th Cir.
16 2001); *Barrett v. Rosenthal*, 40 Cal. 4th 33, 41 n.4 (2006) (websites are “public forums”).

17 *Second*, “any issue in which the public is interested” qualifies as “an issue of public
18 interest” under the anti-SLAPP statute. *See Nygard, Inc. v. Uusi-Kerttula*, 159 Cal. App. 4th 1027,
19 1042 (2008). Speech about celebrities and the entertainment industry have been repeatedly and
20 consistently held to qualify. *See Jenni Rivera Enters. v. Latin World Ent. Holdings*, 36 Cal. App.
21 5th 766, 796 (2019) (“*JRE*”) (“Celebrity gossip concerning high profile individuals constitutes a
22 matter of public concern.”). That includes discussion about celebrities’ allegedly private lives. *See*
23 *Jackson v. Mayweather*, 10 Cal. App. 5th 1240, 1253 (2017) (anti-SLAPP statute applied to claims
24 arising from statements by boxer about former girlfriend’s abortion); *Hall v. Time Warner*, 153

25 ⁴ The first step focuses on the nature of the speech or activity, whether it falls within the anti-
26 SLAPP law, and whether Plaintiffs’ claims arise from that speech or activity. *See Navellier v.*
27 *Sletten*, 29 Cal. 4th 82, 89 (2002). At this stage, neither the merits of Plaintiffs’ claims nor the
28 alleged illegality of any of the Defendants’ conduct is relevant. *See Lieberman v. KCOP*
Television, 110 Cal. App. 4th 156, 165-66 (2003) (statute applied regardless of claim defendants
illegally recorded plaintiff); *Taus v. Loftus*, 40 Cal. 4th 683, 706-07 (2007) (statute applied
regardless of allegedly fraudulent attempt to obtain information about plaintiff).

1 Cal. App. 4th 1337, 1347 (2007) (claims asserted by plaintiff named in Marlon Brando’s will).
2 The Interview undeniably discusses issues of public concern, as does the Teaser, which also
3 separately qualifies as protected activity because its dissemination is both conduct and speech in
4 furtherance of the Interview. *See Anschutz Ent. Grp. v. Snepp*, 171 Cal. App. 4th 598, 638-44
5 (2009) (recognizing broadcast and “promotional segment” constitute protected activity).

6 **B. Plaintiffs’ Causes of Action Arise from the Broadcasts**

7 All of the causes of action against the Yelen Defendants arise from the Broadcasts. CCP §
8 425.16(b)(1); *see Navellier*, 29 Cal. 4th at 89 (“arising from” requirement assessed on the
9 pleadings and evidence demonstrating facts on which liability or defense is based). Plaintiffs’
10 tortious interference, invasion of privacy, and defamation claims expressly arise out of the
11 Interview and statements made in it. *See* FAC ¶¶ 49-51 (“Kebe published the interview” and thus
12 allegedly interfered with the Shakes-Hart contract); *id.* ¶¶ 53-58 (Interview “disclosed publicly”
13 unspecified “purported private facts”); *id.* ¶¶ 60-61 (Shakes allegedly made false and defamatory
14 statements in the Interview). Plaintiffs’ extortion claims against the Yelen Defendants arises out of
15 the Teaser. *Id.* ¶¶ 30, 35-40.⁵

16 Plaintiffs may attempt to argue that their extortion claim falls outside the anti-SLAPP
17 statute under *Flatley v. Mauro*, in which the Court held that the anti-SLAPP statute did not apply
18 to statements that, on their face, constituted extortion as a matter of law. 39 Cal. 4th 299, 327-28
19 (2006). Here, although Plaintiffs reference “extortion,” they have not alleged any conduct by the
20 Yelen Defendants constituting extortion as a matter of law—only the publication of a Teaser that
21 cannot be reasonably understood as an extortion demand. *See Malin v. Singer*, 217 Cal. App. 4th
22 1283, 1298 (2013) (rejecting *Flatley* exception and applying anti-SLAPP where alleged extortion
23 was merely a “threat to embarrass” and did not rise to level of extortion); *Flickinger v. Finwall*, 85
24 Cal. App. 5th 822, 836-37 (2022) (same, where statements merely implied threat to lawfully
25 disclose information as part of threatened civil suit); *see also* Section II.A.

26 _____
27 ⁵ Plaintiffs reference an anonymous phone call from someone purporting to be an affiliate of Kebe,
28 but there is no allegation that the Yelen Defendants were actually behind this call. *Id.* ¶ 29.
Plaintiffs’ only attempt to connect these Defendants to the extortionate call by contending
(incorrectly) that the Teaser echoed the same sentiment. *See id.* ¶¶ 29, 30.

1 As Plaintiffs’ causes of action against the Yelen Defendants all arise in whole or in part
2 from the Yelen Defendants’ speech and activity protected by Section 425.16, the burden shifts to
3 Plaintiffs to establish a likelihood of prevailing on these claims.

4 **II. Plaintiffs Cannot Show a Probability of Prevailing on their Claims**

5 **A. Civil Extortion**

6 Plaintiffs cannot prove their civil extortion claim, first and foremost, because no such a
7 claim exists under California law, and no published California case has adopted the reasoning on
8 which they rely to assert otherwise. *See Intermarketing Media v. Barlow*, 2021 WL 5990190, at
9 *12 n.10 (C.D. Cal. May 4, 2021) (“No published California case has adopted the reasoning in”
10 *Monex Deposit Co. v. Gilliam*, 666 F. Supp. 2d 1135, 1136 (C.D. Cal. 2009)); FAC ¶ 36 (citing
11 *Monex*). Rather, most claims styled as extortion are understood as fraud claims based on duress,
12 where plaintiffs must allege not only an allegedly extortionate statement but also that they suffered
13 damages as a result. *See Intermarketing Media*, 2021 WL 5990190, at *12 n.10. Plaintiffs make no
14 such claim. *See* FAC ¶¶ 31, 35-40 (Hart “did not pay” the allegedly requested “ransom”).

15 Even assuming, for the sake of argument, that a civil cause of action could arise out of Cal.
16 Penal Code § 518, Plaintiffs cannot prevail. *First*, Plaintiffs do not allege that Tasha K or Yelen
17 were behind the call. Even the caller’s hearsay-within-hearsay statement asserts only that he or she
18 was “affiliated with Kebe.” FAC ¶ 29.⁶ Neither Tasha K nor Yelen made, authorized, or had any
19 knowledge of the alleged “ransom” call. Tasha K Decl. ¶¶ 18, 19; Yelen Decl. ¶¶ 15, 16. *Second*,
20 Hart’s effort to contort the Teaser into a demand for payment is not supported by the video and, in
21 any event, certainly was not how Tasha K intended her statements to be understood. Tasha K
22 Decl. ¶¶ 14-17; Yelen Decl. Ex. 2; *Bollaert*, 248 Cal. App. 4th at 726 (“Extortion is a specific
23 intent crime, and thus guilt depends on the intent of the person who makes the threat and not the
24 effect the threat has on the victim.”).

25
26 ⁶ Even if Plaintiffs could prove such a call took place, the allegations are insufficient to state a
27 claim for extortion. The allege only that the caller stated the Interview “would be damaging to
28 Hart’s reputation,” *id.* ¶ 29, without specifying *what* might be disclosed, much less suggesting that
the secret at issue was a “matter of fact,” “unknown to the general public,” and “so far unfavorable
to [his] reputation” that it would induce payment to avoid its disclosure. *See People v. Bollaert*,
248 Cal. App. 4th 699, 725 (2016).

1 **B. Tortious Interference with Contract**

2 For their third cause of action, Plaintiffs must prove, among other things, that (1) the Yelen
3 Defendants knew that valid contracts existed between Plaintiffs and Shakes; (2) intended to induce
4 the breach of such contracts; (3) caused an actual breach through “unjustified or wrongful
5 conduct,” and (4) caused damages. *See Dryden v. Tri-Valley Growers*, 65 Cal. App. 3d 990, 995
6 (1977); *JRE*, 36 Cal. App. 5th at 782. Plaintiffs cannot make this showing. Regardless, the cause
7 of action is both preempted by the Uniform Trade Secrets Act.

8 **1. Plaintiffs Cannot Prove the Elements of their Claim**

9 Neither Yelen nor Tasha K knew of any binding contractual agreement between Shakes
10 and Plaintiffs. Yelen Decl. ¶ 21; Tasha K Decl. ¶ 22. Shakes provided her termination letter in
11 advance of the Interview. Tasha K Decl. ¶ 22. During the Interview, Shakes indicated that she was
12 not subject to a binding non-disclosure agreement. Yelen Decl. Ex. 1 at 48:06-22. Neither Tasha K
13 nor Yelen had a reason to believe there was any binding contract in place. *Id.* Absent such
14 knowledge, they could not know that interference with any such contract was “certain or
15 substantially certain to occur,” much less intend to induce that interference. *See I-800 Contacts v.*
16 *Steinberg*, 107 Cal. App. 4th 568, 586 (2003) (granting anti-SLAPP motion where defendant
17 relied on breaching party’s assurance they were not violating NDA); *Springer v. Singleton*, 256
18 Cal. App. 2d 184, 189 (1967) (ruling that defendant lacked requisite knowledge and intent
19 “obviously correct” where, even though defendant knew of agreement’s terms, breaching party
20 claimed he was “out of” the contract); *Steinberg Moorad & Dunn v. Dunn*, 2002 WL 31968234, at
21 *24 (C.D. Cal. Dec. 26, 2002) (granting summary judgment for defendant who “did not know or
22 have reason to know” of “valid contracts or existing relationships”).

23 Further, Plaintiffs cannot establish that the Yelen Defendants engaged in any “improper”
24 or “wrongful” conduct, as required to state a claim for tortious interference. *See Savage v. Pac.*
25 *Gas & Elec.*, 21 Cal. App. 4th 434, 449-50, 456-57 (1993) (affirming grant of motion to strike
26 where plaintiff could not establish “wrongful” action that interfered with contract at issue). The
27 only actions allegedly undertaken by Tasha K and Yelen are conducting and broadcasting the
28 Interview, FAC ¶ 47, and as shown below, Plaintiffs will not be able to demonstrate that this

1 publication of information was “wrongful” within the meaning of the law. *See Savage*, 21 Cal.
2 App. 4th at 449-50 (“A person cannot incur liability for interfering with contractual or economic
3 relations by giving truthful information to a third party.”).

4 **2. The Uniform Trade Secrets Act Preempts this Claim**

5 Moreover, California’s Uniform Trade Secrets Act (“Act”) “preempts common law claims
6 based on the same nucleus of facts as the misappropriation of trade secrets claim for relief.” *K.C.*
7 *Multimedia v. Bank of Am. Tech. & Operations*, 171 Cal. App. 4th 939, 958 (2009). The Act
8 prohibits the disclosure, without consent, of a “trade secret” meaning information that “[d]erives
9 independent economic value, actual or potential, from not being generally known to the public”
10 and is the “subject of efforts . . . to maintain its secrecy.” Cal. Civ. Code § 3426.1(b), (d). Here,
11 Plaintiffs allege that Shakes revealed unspecified “confidential [business] information” that was
12 “not generally known to the public” and that she was contractually obligated to keep secret. FAC
13 ¶¶ 17-24, Ex. B at 19 (referring to the disclosure of “trade secrets”). Plaintiffs seek damages based
14 on the alleged disclosure. *See* FAC ¶ 50. Thus, regardless of Plaintiffs’ characterization of their
15 third cause of action, it is clear that the heart of the claim is misappropriation of trade secrets, and
16 the Court should strike the cause of action as preempted by the Act. *See K.C. Multimedia*, 171 Cal.
17 App. 4th at 960-61 (dismissing claims for “intentional acts designed to induce a breach or
18 disruption of plaintiff’s contractual relationship with” former employee); *Mattel v. MGA Ent.*, 782
19 F. Supp. 2d 911, 994 (C.D. Cal. 2011) (Act preempts interference with contract claim based on
20 alleged inducement to disclose “trade secrets and other proprietary information”).

21 **C. Invasion of Privacy**

22 Plaintiffs cannot establish that the Yelen Defendants disclosed private facts about Plaintiffs
23 whose disclosure, despite their truth, is offensive and objectionable from the view of a reasonable
24 person. *See Shulman Grp. v. Grp. W Prods.*, 18 Cal. 4th 200, 214 (1998). Even if they could
25 demonstrate a likelihood of establishing all of those elements, Plaintiffs would still not be able to
26 prevail, as the statements at issue concern matters of “public interest.” *Id.* (requirement that
27 plaintiff establish “lack of newsworthiness” in challenged statements “is a constitutional hurdle”).

1 **First**, KHE lacks any actionable privacy interests. *See Ion Equip. v. Nelson*, 110 Cal. App.
2 3d 868, 878 (1980) (“[T]he right to privacy is one pertaining only to individuals, and . . . a
3 corporation cannot claim it as such.”); *Fibreboard Corp. v. Hartford Accident & Indem. Co.*, 16
4 Cal. App. 4th 492, 516 (1993); *see also* Restatement 2d of Torts § 652I cmt. c (“A corporation,
5 partnership or unincorporated association has no personal right of privacy.”); *L.A. Lakers v. Fed.*
6 *Ins.*, 869 F.3d 795, 810 & n.4 (9th Cir. 2017) (Talman, J., dissenting) (“California is one of [the]
7 states” holding “that business entities lack privacy interests.”). KHE’s asserted cause of action
8 fails for this simple reason alone.

9 **Second**, “[t]he right of privacy is purely personal” and “cannot be asserted by anyone other
10 than the person whose privacy has been invaded.” *Moreno v. Hanford Sentinel*, 172 Cal. App. 4th
11 1125, 1131 (2009); *see also Hendrickson v. Cal. Newspapers*, 48 Cal. App. 3d 59, 62 (1975)
12 (“[P]laintiff must plead and prove that his privacy has been invaded.”). To the extent Plaintiffs’
13 cause of action arises out of statements made about unspecified “family members,” “employees,
14 and/or personnel at other Hart-affiliated companies,” FAC ¶ 53, it fail as a matter of law.

15 **Third**, Plaintiffs do not identify *any* “private facts” disclosed in the Interview. To survive
16 this motion, Hart must demonstrate that he has stated a legally sufficient claim *and* that he can
17 substantiate it. *See Navellier*, 29 Cal. 4th at 88. Hart has not identified *any* factual assertion about
18 him as the basis for this claim, nor has he alleged that such facts were true or, prior to the
19 Interview, not publicly known. *See Leidholdt v. L.F.P. Inc.*, 860 F.2d 890, 895 (9th Cir. 1988)
20 (claim requires “that the facts at issue” are true). Hart’s conclusory allegations that Shakes “made
21 a number of [false] statements regarding . . . Hart” or that the Interview disclosed “*purported*
22 private facts regarding Hart,” are insufficient. FAC ¶¶ 53, 60 (emphasis added).

23 **Fourth**, the statements about Hart in the Interview are matters of public concern. It is well-
24 settled that the lives and conduct of celebrities are matters of public interest and that, accordingly,
25 discussion of those subjects cannot constitute an invasion of privacy. *See Sipple v. Chron. Publ’g*,
26 154 Cal. App. 3d 1040, 1046 (1984) (“When the subject-matter of the publicity is of legitimate
27 public concern, there is no invasion of privacy. This has now become a rule not just of common
28 law of torts, but of the Federal Constitution as well.”); *Carafano v. Metrosplash.com*, 207 F. Supp.

1 2d 1055, 1069 (C.D. Cal. 2002) (publication of actor’s address by disgruntled fan on fake dating
2 profile “was newsworthy,” not least because her “activities as a celebrity included public
3 discussion of her home life”),⁷ *aff’d on other grounds*, 339 F.3d 1119 (9th Cir. 2003).
4 Accordingly, even if Hart belatedly and improperly identifies in his opposition the true facts on
5 which he intends to base this claim, the social contract through which he chose to pursue, obtain,
6 and maintain his fame and fortune requires that he forfeit this cause of action.

7 **D. Defamation**

8 To state a viable claim for defamation, Plaintiffs must identify the specific statements to
9 which they object. *Med. Marijuana v. ProjectCBD.com*, 46 Cal. App. 5th 869, 888 (2020). Each
10 statement must be “of and concerning” the plaintiff, provably false, defamatory, unprivileged, and
11 have “a natural tendency to injure or that causes special damage.” *Taus*, 40 Cal. 4th at 720; *Blatty*
12 *v. N.Y. Times*, 42 Cal. 3d 1033, 1042 (1986). Where, as here, Plaintiffs are public figures, they
13 must plead, and later prove “by clear and convincing evidence,” that the challenged statement was
14 made with constitutional “‘actual malice’—that is, with knowledge that it was false or with
15 reckless disregard of whether it was false or not.” *Reader’s Dig. Ass’n v. Super. Ct.*, 37 Cal. 3d
16 244, 256 (1984) (citing *N.Y. Times v. Sullivan*, 376 U.S. 254, 279-80 (1964)). Plaintiffs’
17 defamation claim fails for several independent reasons.

18 **First**, Plaintiffs have not identified any statements that are “of and concerning” KHE. The
19 only statements arguably identified relate to Hart, so KHE’s claim must fail. FAC ¶ 61; *see Blatty*,
20 42 Cal. 3d at 1042 (“[T]he First Amendment also requires that the statement on which the claim is
21 based must specifically refer to, or be ‘of and concerning,’ the plaintiff in some way.”).

22 **Second**, Hart also cannot prevail because he has not identified the specific, allegedly
23 defamatory statements at issue in this cause of action. *See Med. Marijuana*, 46 Cal. App. 5th at
24 888 (“the words constituting an alleged libel must be specifically identified, if not pleaded
25 verbatim, in the complaint”). At most, Plaintiffs contend that Shakes made unspecified “false”

26
27 ⁷ The strength and extent of the “newsworthiness” exception is so strong that it bars even the
28 claims of lesser-known or effectively anonymous people who are sufficiently intertwined with the
affairs of public figures. *See Jackson*, 10 Cal. App. 5th at 1253, 1256-57 (boxer’s girlfriend); *Hall*,
153 Cal. App. 4th at 1347 (housekeeper named in Marlon Brando’s will).

1 statements “that Hart purportedly recorded a video of a sexual encounter and faced criminal
2 charges regarding that supposed incident.” FAC ¶¶ 60-61. This is insufficient. As Plaintiffs have
3 neither identified the *specific words* to which they object nor provided the Interview—and filing
4 the Interview, without more, would still be insufficient—their claim fails as a matter of law. *See*
5 *Med. Marijuana*, 46 Cal. App. 5th at 888, 894-95 (granting anti-SLAPP motion because attaching
6 25-page article without specifying challenged statements was insufficient to comply with rule).

7 **Third**, even if the Court were to find the reference to Hart “purportedly record[ing] a video
8 of a sexual encounter and fac[ing] criminal charges” sufficiently pleaded, Plaintiffs will not be able
9 to prove that these statements are demonstrably false, as required by the First Amendment. *Vogel*
10 *v. Felice*, 127 Cal. App. 4th 1006, 1021 (2005) (public figures bear the burden of proving falsity);
11 *Nygaard*, 159 Cal. App. 4th at 1048 (requiring “evidence of a statement of fact that is ‘provably
12 false’”). Plaintiffs cannot prove falsity if the “gist [or] sting” of a statement is “*substantially true*,”
13 *Vogel*, 127 Cal. App. 4th at 1021, or if it would have no different effect on the reader than the
14 pleaded truth, *Masson v. New Yorker Magazine*, 501 U.S. 496, 516-17 (1991). Statements that are
15 merely expressions of opinion or that cannot be proven true or false are not actionable. *See*
16 *Partington v. Bugliosi*, 56 F.3d 1147, 1156-57 (9th Cir. 1992) (subjective opinions and hyperbole
17 were not actionable); *Integrated Healthcare Holdings v. Fitzgibbons*, 140 Cal. App. 4th 515, 528-
18 31 (2006) (“An opinion is not actionable if it discloses all the statements of fact on which the
19 opinion is based and those statements are true.”).

20 Here, there is no dispute that Hart participated in an extramarital sexual encounter that was
21 filmed and released. Plaintiffs can only be objecting to Shakes’ expression of her *opinion* that Hart
22 was likely responsible for filming and releasing the tape. That opinion is based on disclosed facts
23 (that Plaintiffs have not alleged are false) and is not actionable. *See Partington*, 56 F.3d at 1156-60
24 (affirming dismissal of defamation claim based on statements of opinion based on disclosed facts
25 that were not alleged to be false). Shakes’ comment that Hart is still facing “charges” about that
26 tape is also substantially true. Contrary to Plaintiffs’ allegation, the Interview does not refer to
27 “criminal charges,” FAC ¶ 47, just “charges,” which Shakes and Tasha K use colloquially to refer
28 to court proceedings, civil or criminal. *See Yelen Decl. Ex. 1 at 16:25-33*. Plaintiffs will not be

1 able to show that this statement would have a different effect on a viewer than the undisputed truth
2 about Sabbag’s claims. *See Masson*, 501 U.S. at 516-17; *Greenbelt Coop. Publ’g Ass’n v. Bresler*,
3 398 U.S. 6, 14 (1970) (First Amendment protects “rhetorical hyperbole” and figurative language).
4 Thus, Plaintiffs will not be able to prove that these statements are actionable statements of fact
5 (versus opinion), that they are false, or that these statements—rather than the years of coverage of
6 the sex tape and legal claims against Hart—caused Plaintiffs harm.

7 **Fourth**, Plaintiffs’ claims are also barred by the “fair and true report” privilege affording
8 protection to truthful reporting of judicial proceedings. *See Cox Broad. Corp. v. Cohn*, 420 U.S.
9 469, 494-96 & n.25 (1975); Cal. Civ. Code § 47(d). California’s fair report privilege immunizes
10 “fair and true reports” in or to “a public journal” of a “public official proceeding.” Cal. Civ. Code
11 § 47(d). The privilege applies broadly and “carries with it a certain amount of literary license,” so
12 long as the “gist” of the report “is accurately conveyed.” *McClatchy Newspapers v. Super. Ct.*, 189
13 Cal. App. 3d 961, 975-76 (1987). As the comments at issue accurately describe Sabbag’s claims in
14 her lawsuit and the use of “charges” to describe the counts is, at most “literary license,” the
15 Interview is absolutely privileged and cannot provide the basis for this claim.

16 **Fifth**, Plaintiffs cannot prove that the Yelen Defendants acted with actual malice. There
17 can be no dispute in this case that Hart is a public figure and must prove actual malice, *i.e.*, that the
18 Yelen Defendants published the challenged statements with knowledge that they were false or
19 notwithstanding a high degree of awareness that the statements were *probably* false. *See Reader’s*
20 *Dig.*, 37 Cal. 3d at 256; *St. Amant v. Thompson*, 390 U.S. 727, 731 (1968); Hart Ex Parte App. at
21 13 (conceding that he must prove actual malice). The FAC does not allege that the Yelen
22 Defendants acted with actual malice. *Vogel*, 127 Cal. App. 4th at 1017-18 (granting anti-SLAPP
23 motion because complaint that “makes no attempt to plead” actual malice was “legally insufficient
24 on its face”). Hart’s TRO application argues that they should have investigated further, *id.* at 13,
25 but the Supreme Court has repeatedly rejected this argument as insufficient. *See Harte-Hanks*
26 *Commc’ns v. Connaughton*, 491 U.S. 657, 688 (1989) (“failure to investigate before publishing,
27 even when a reasonably prudent person would have done so, is not sufficient to establish” actual
28 malice); *Reader’s Dig.*, 37 Cal. 3d at 258 (same).

1 *Sixth*, Plaintiffs have not pleaded and cannot prove “special damages,” as required by Cal.
2 Civ. Code § 48a. Tasha K Live is an online “publication . . . that contains news on matters of
3 public concern” and publishes “at least once a week.” *See* Cal. Civ. Code § 48a(d)(5); Yelen Decl.
4 ¶¶ 5-10; Tasha K Decl. ¶¶ 2-9. As such, prior to filing suit, Plaintiffs were required to submit a
5 written demand to the Yelen Defendants “specifying the statements claimed to be libelous and
6 demanding that those statements be corrected.” Cal. Civ. Code § 48a(a). As they did not, any
7 recovery is limited to special damages “suffered in respect to his or her property, business, trade,
8 profession, or occupation.” *Id.* § 48a(d)(2). Further, special damages must be specially pleaded to
9 be recovered in a defamation case, but Plaintiffs have offered only conclusory allegations of
10 generalized, possible harm, which are insufficient. *See Anschutz*, 171 Cal. App. 4th at 643 (citing
11 *Pridonoff v. Balokovich*, 36 Cal. 2d 788, 792 (1951)); FAC ¶¶ 65-66.

12 **III. Conclusion**

13 For the foregoing reasons, the Court should grant the motion, strike all of Plaintiffs’ causes
14 of action against Yelen and Tasha K, and award Yelen and Tasha K their attorneys’ fees and costs
15 incurred in defending against this action, pursuant to CCP § 425.16.

16 Date: March 4, 2024

BALLARD SPAHR LLP

By: /s/ Matthew S.L. Cate
Matthew S.L. Cate

*Attorneys for Defendants Yelen Entertainment
LLC and Latasha Transrina Kebe*

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Make a Reservation

KEVIN HART, AN INDIVIDUAL, et al. vs MIESHA SHAKES, AN INDIVIDUAL, et al.

Case Number: 23STCV31516 Case Type: Civil Unlimited Category: Other Breach of Contract/Warranty (not fraud or negligence)

Date Filed: 2023-12-26 Location: Stanley Mosk Courthouse - Department 56

Reservation

Case Name:

KEVIN HART, AN INDIVIDUAL, et al. vs MIESHA SHAKES, AN INDIVIDUAL, et al.

Case Number:

23STCV31516

Type:

Special Motion to Strike under CCP Section 425.16 (Anti-SLAPP motion)

Status:

RESERVED

Filing Party:

Yelen Entertainment LLC (Defendant)

Location:

Stanley Mosk Courthouse - Department 56

Date/Time:

04/11/2024 8:30 AM

Number of Motions:

1

Reservation ID:

633109422452

Confirmation Code:

CR-MNKX8EOCKHC5JJF5B

Fees

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

Payment

Amount:

\$61.65

Type:

Visa

Account Number:

XXXX2562

Authorization:

03112I

Payment Date:

1969-12-31

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