

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO
NORTH COUNTY COURTHOUSE
TENTATIVE RULING**

HEARING DATE: 7/10/2026

JUDICIAL OFFICER: CYNTHIA FREELAND

CASE NO.: 26CU007331N

CASE TITLE: Imperial Valley Computer Manufacturing, LLC vs KPBS Public Broadcasting

Defendants San Diego State University Research Foundation (“SDSU”) and Kori Suzuki (“Suzuki”) (collectively “Defendants”)’s Anti-Slapp Special Motion to Strike Plaintiffs’ First Amended Complaint [CCP § 425.16] (the “Motion”) *is granted*.

Preliminary Issues

Plaintiffs Sebastian Rucci and Imperial Valley Computer Manufacturing, LLC (collectively, “Plaintiffs”) filed an untimely opposition. The Court elects to consider the late-filed opposition and has considered the Defendants’ Reply that was filed on July 8, 2026. Defendants’ Requests for Judicial Notice (“RJN(s)”) are granted, to the extent permissible, which does not include accepting as true any factual contentions in any documents subject to the respective RJN(s). (See *Poseidon Development, Inc. v. Woodland Lane Estates, LLC* (2007) 152 Cal.App.4th 1106, 1117.)

Plaintiffs’ Evidentiary Objections

David Washburn’s Declaration: Objections 1-3: Overruled.

Objections to Notice of Lodgment (NOL) 38-40: Objection 4: Overruled.

Objections to Kori Suzuki’s Declaration: Objections 5-6: Overruled.

Objections to Requests for Judicial Notice (RJN) Objections 7-10: Overruled, but the Court notes it does not take judicial notice of factual assertions

Objection to Defendants’ “Compendium of Record Evidence”: Overruled.

Factual Background

On February 9, 2026, Plaintiffs filed a complaint alleging: (1) Defamation, (2) False Light Invasion of Privacy, and (3) Intentional Interference with Prospective Economic Advantage. (ROA # 4.) On April 15, 2026, Plaintiffs filed the First Amended Complaint (“FAC”), which includes the same causes of action as the original pleading. (ROA # 15.) Plaintiffs allege “[t]his action arises from a coordinated series of defamatory publications disseminated across multiple platforms by Defendants KPBS Public Broadcasting and Kori Suzuki between December 2025 and January 2026. These publications concern Plaintiffs and their proposed data center project in Imperial County, California (the “Project”).” (FAC, ¶ 1.) Suzuki proposed reporting on the Project after noticing social media posts and receiving messages and emails about the “large proposed data center in Imperial County, California” as “the project was attracting significant attention on social media and online.” (Suzuki Decl., ¶¶ 11-12; Washburn Decl., ¶ 19.) Suzuki began investigating the Project, not knowing Plaintiffs were involved, and Suzuki ultimately exchanged emails with and interviewed Rucci before Defendants published Story # 1 – “California Lawmaker Calls for Public Review of Massive Imperial Valley Data Center Project” on December 4, 2025. (Suzuki Decl., ¶¶ 11-22.) Before Story # 1 was published, Rucci provided Suzuki with numerous documents as part of Suzuki’s investigation. (*Id.*, ¶ 18.) After Story # 1 was published Suzuki

continued to investigate, which included communicating with residents, community organizers, city officials, county officials, and subject matter experts and a second interview with Rucci. (*Id.*, ¶¶ 28-29, 43.) Suzuki specifically interviewed “Councilmember Burnworth; Imperial City Manager Dennis Morita; a County of Imperial resident who lived adjacent to the proposed data center site, Francisco Leal; and Senior Manager for State Policy at the Data Center Coalition, Khara Boender.” (*Id.*, ¶ 41.) Ultimately, Defendants published two more articles, Story # 2 – “Imperial Valley City Sues to Force Environmental Review of Massive Data Center Project” and Story # 3 – “The Plan to Build A Massive Data Center In Imperial County – Without Environmental Review.”

Defendants seek to strike the entire FAC on the ground that each cause of action relies upon the assertion that Defendants made defamatory statements about Plaintiffs and the claim of defamation arises from protected activity. Because Plaintiffs have no probability of success, Defendants contend that the entire pleading must be stricken pursuant to California Code of Civil Procedure (“CCP”) section 425.16.

Law

Ruling on an anti-SLAPP motion is a two-step process: “First, the court decides whether the defendant has made a threshold showing that the challenged cause of action is one arising from protected activity.... If the court finds such a showing has been made, it then determines whether the plaintiff has demonstrated a probability of prevailing on the claim.” (*Taus v. Loftus* (2007) 40 Cal.4th 683, 703 [Citation omitted].) The California Supreme Court explained the anti-SLAPP procedure as follows:

At the first step, the moving defendant bears the burden of identifying all allegations of protected activity, and the claims for relief supported by them. When relief is sought based on allegations of both protected and unprotected activity, the unprotected activity is disregarded at this stage. If the court determines that relief is sought based on allegations arising from activity protected by the statute, the second step is reached. There, the burden shifts to the plaintiff to demonstrate that each challenged claim based on protected activity is legally sufficient and factually substantiated. 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. If not, the claim is stricken. Allegations of protected activity supporting the stricken claim are eliminated from the complaint, unless they also support a distinct claim on which the plaintiff has shown a probability of prevailing.

(*Baral v. Schnitt* (2016) 1 Cal.5th 376, 396.)

“The moving SLAPP defendant may meet this burden by showing the act which forms the basis for the plaintiff's cause of action was an act that falls within one of the four categories of conduct described in subdivision (e) of section 425.16.” (*Dowling v. Zimmerman* (2001) 85 Cal.App.4th 1400, 1417.) CCP section 425.16(e) provides:

“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, or (4) any other conduct in furtherance of the exercise of the constitutional right of petition or the constitutional right of free speech in connection with a public issue or an issue of public interest.

(Code Civ. Proc., § 425.16(e).) “[C]ourts have adopted ‘a fairly expansive view of what constitutes litigation-related activities within the scope of section 425.16.’” (*Optional Capital, Inc. v. Akin Gump Strauss, Hauer & Feld LLP* (2017) 18 Cal.App.5th 95, 113 [Citation omitted].)

Plaintiffs concede that the first prong of anti-SLAPP has been met – Defendants were reporting on newsworthy information that involved an issue of public interest. Therefore, the disputed issue before the Court on the Motion is whether Plaintiffs have demonstrated that it is probable that they will prevail on the merits. The Court may consider evidence that “is at least as reliable as an affidavit or declaration,” but the anti-SLAPP statute explicitly 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.” (*Sweetwater Union High School Dist. v. Gilbane Building Co.* (2019) 6 Cal.5th 931, 941 and 943(emphasis in original), citing Code Civ. Proc., § 425.16, subd. (b)(2).) The Court is not permitted to “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.” (*Id.* at 940.)

Plaintiffs do not deny that each of their causes of action rely upon the defamation claim. “The elements of a defamation claim are (1) a publication that is (2) false, (3) defamatory, (4) unprivileged, and (5) has a natural tendency to injure or causes special damage.” (*Wong v. Jing* (2010) 189 Cal.App.4th 1354, 1369.) A publisher does not have “a duty to write an objective account.” (*Reader's Digest Assn. v. Superior Court* (1984) 37 Cal.3d 244, 259.) “A publisher is ‘not required to provide an objective picture (*New York Times Company v. Connor* (5th Cir. 1966) 365 F.2d 567, 576) or an accurate one [citing *Time, Inc. v. Pape* (1971) 401 U.S. 279 (28 L.Ed.2d 45, 91 S.Ct. 633)]’ (*Gomes v. Fried, supra*, 136 Cal.App.3d 924, 934).” (*Id.*) “So long as he has no serious doubts concerning its truth, he can present but one side of the story.” (*Id.*)

Plaintiffs assert that a publisher can be liable for omissions where the totality of the circumstances support the conclusion that the publication as a whole conveys a provably false defamatory meaning to the average reader, citing *Bently Reserve LP v. Papaliolios* (2013) 218 Cal.App.4th 418, *Issa v. Applegate* (2019) 31 Cal.App.5th 689, and *Kapellas v. Kofman* (1969) 1 Cal.3d 20. *Bently* involved a defamation claim of a landlord against a tenant who posted a Yelp review. *Bently* did not involve a publisher or news reporter, as such it is inapposite. The California Supreme Court in *Kapellas* noted “[w]e have long recognized that false inferences or implications raised by the arrangement and phrasing of apparently non-libelous statements can be as injurious as explicit epithets; we have upheld libel actions founded on such implications.” (*Kapellas, supra*, 1 Cal.3d at 33.) *Kapellas* involves a demand for retraction – under Civil Code section 48a special “damages for the publication of a libel in a daily or weekly news publication, or of a slander by radio broadcast” are only recoverable if the plaintiff properly demands a correction. (*Id.*; Civ. Code, § 48a.) “Since inferences drawn from an article may differ to some extent with each reader's subjective frame of reference, an adequate notice should inform the publisher which claimed implication of the article is allegedly libelous.” (*Kapellas, supra*, 1 Cal.3d at 33.) Plaintiffs do not allege nor provide evidence that Plaintiffs properly demanded a correction under Civil Code section 48a. Thus, *Kapellas* is of little aid.

“Though mere opinions are generally not actionable [Citation], a statement of opinion that implies a false assertion of fact is actionable.” (*Issa, supra*, 31 Cal.App.5th at 702.) “An opinion or legal conclusion is actionable only ‘if it could reasonably be understood as declaring or implying actual facts capable of being

proved true or false.” (*Ruiz v. Harbor View Community Assn.* (2005) 134 Cal.App.4th 1456, 1471 [Citation omitted].) “[I]t is not the literal truth or falsity of each word or detail used in a statement which determines whether or not it is defamatory; rather, the determinative question is whether the “gist or sting” of the statement is true or false, benign or defamatory, in *substance*.” (*Ringler Associates Inc. v. Maryland Cas. Co.* (2000) 80 Cal.App.4th 1165, 1181–1182.) As the *Isla* court explained:

“In determining whether a statement is libelous we look to what is explicitly stated as well as what insinuation and implication can be reasonably drawn from the communication.” (*Forsher v. Bugliosi* (1980) 26 Cal.3d 792, 803, 163 Cal.Rptr. 628, 608 P.2d 716.) “ ‘ “[I]f the defendant juxtaposes [a] series of facts so as to imply a defamatory connection between them, or [otherwise] creates a defamatory implication ... he may be held responsible for the defamatory implication, ... even though the particular facts are correct.” ’ ” (*Weller v. American Broadcasting Companies, Inc.* (1991) 232 Cal.App.3d 991, 1003, fn. 10, 283 Cal.Rptr. 644.) The “pertinent question” is whether a “reasonable fact finder” could conclude that the statements “as a whole, or any of its parts, directly made or sufficiently implied a false assertion of defamatory *fact* that tended to injure” plaintiff’s reputation. (*James v. San Jose Mercury News, Inc.* (1993) 17 Cal.App.4th 1, 13, 20 Cal.Rptr.2d 890.)

(*Issa, supra*, 31 Cal.App.5th at 703.) “We apply a ‘totality of the circumstances’ test to determine whether a statement is fact or opinion, and whether a statement declares or implies a provably false factual assertion; that is, courts look to the words of the statement itself and the context in which the statement was made.” (Id. [Citation omitted].) Where a public figure is involved, the plaintiff “must also demonstrate, by clear and convincing evidence, that the challenged statements were made with actual malice in order to prevail on [their] claim for defamation.” (Id.)

Plaintiffs concede, for purposes of the Motion, that Rucci is a limited-purpose public figure. A limited purpose public figure is “an individual who ‘voluntarily injects himself or is drawn into a particular public controversy and thereby becomes a public figure for a limited range of issues.’” (*Reader’s Digest, supra*, 37 Cal.3d 244, 253 [Citation omitted].) “If the person defamed is a public figure, he cannot recover unless he proves, by clear and convincing evidence [Citation], that the libelous statement was made with “‘actual malice’—that is, with knowledge that it was false or with reckless disregard of whether it was false or not.” (Id. at 256 [Citation omitted].)

Defendants assert, *inter alia*, that the privilege under Civil Code section 47(d) applies. To this point:

Civil Code section 47 makes privileged “a fair and true report in, or a communication to, a public journal, of ... [a] public official proceeding, ... or ... of anything said in the course thereof...” (Civ.Code, § 47, subd. (d); *Balzaga v. Fox News Network, LLC* (2009) 173 Cal.App.4th 1325, 1337, 93 Cal.Rptr.3d 782.) “The privilege applies if the substance of the publication or broadcast captures the gist or sting of the statements made in the official proceedings.” (*Balzaga*, at p. 1337, 93 Cal.Rptr.3d 782; *Kilgore v. Younger* (1982) 30 Cal.3d 770, 777, 180 Cal.Rptr. 657, 640 P.2d 793.) If Civil Code section 47, subdivision (d) applies, the statement is absolutely privileged regardless of the defendants’ motive for reporting it. (See *McClatchy Newspapers, Inc. v. Superior Court* (1987) 189 Cal.App.3d 961, 974, 234 Cal.Rptr. 702.) “In assessing this question, the publication [is] to be measured by the natural and probable effect [it] would have on the mind of the average reader. [Citations.] The standard of interpretation to be used in testing alleged defamatory language is how those in the community where the matter[] [was] published would reasonably understand [it].” (*Kilgore v. Younger*, at p. 777, 180 Cal.Rptr. 657, 640 P.2d 793.)

(*Hawran v. Hixson* (2012) 209 Cal.App.4th 256, 278.) If there is no meaningful factual dispute over the content and distribution of the reports, “whether the privilege applies is a question of law.” (*Id.* at 278–279.)

Analysis

Plaintiffs point to three main areas of reporting with which they take issue: (1) reporting on water usage by the Project, (2) the description of the avoidance of environmental review under the California Environmental Quality Act (CEQA), and (3) the description of criminal charges against Rucci and how they were resolved. In Defendants’ Story # 1 – “California Lawmaker Calls for Public Review of Massive Imperial Valley Data Center Project” Suzuki states “Rucci said the data center would require 750,000 gallons of water per day for facility operations. That’s equivalent to the daily water use of about 9,000 U.S. residents, according to the U.S. Environmental Protection Agency.” (NOL 1.) The same statement was made in Story # 2 – “Imperial Valley City Sues to Force Environmental Review of Massive Data Center Project,” which was published on December 12, 2025. (NOL 2.) Story # 1 did not explain Plaintiffs plan to use reclaimed water. As explained by Suzuki, “[g]iven the quick turnaround between the December 2 interview and the December 4 publication, [he] had not been able to verify Rucci’s claim about an agreement with the City of Imperial to use reclaimed water for the site. Accordingly, [he] wrote the article based on the information that [he] was able to verify by the time of publication.” (Suzuki Decl., ¶ 24.) While Rucci emailed Suzuki about his concerns that the article did not mention reclaimed water, Rucci did not request a correction. Notwithstanding, a different correction was later published after a local reporter pointed out an error that the 9,000 individual residents referenced should have been 9,000 households. (*Id.*, ¶¶ 60-61; NOL 3, 36.) Suzuki further explains that he was unable to confirm any agreement existed as to reclaimed water as a water source for the Project; in fact, Rucci later publicly acknowledged that the issue was “in controversy.” (See Suzuki Decl., ¶¶ 22-24, 34-35, 43, 45, 49, 53, 57-58; NOL 35.)

Further, Story # 1 referenced State Senator Steve Padilla’s letter which requested additional information on “the water source for the data center.” (NOL 1, 8.) Finally, Defendants later published Story # 3 – “The Plan to Build A Massive Data Center In Imperial County – Without Environmental Review,” which acknowledged Plaintiffs had said “they will take steps to reduce the project’s environmental footprint, including by using recycled water” and that “Rucci also says the data center would rely entirely on reclaimed water, or municipal waste water that has been purified by a sewage treatment plant.” (NOL 3.) Thus, it is clear Suzuki did not intentionally mislead the public as to the water source as it was not clear what the source of the water was going to be at the time Story # 1 was published, such that Suzuki did not act with malice.

Plaintiffs have not provided evidence that Suzuki published a false statement. At best, Rucci declares that he sent Suzuki “written commitments and engineering materials documenting that the Project is designed to use 100% tertiary-treated reclaimed water rather than potable supply.” (Rucci Decl., ¶ 7.) Whether the Project was designed to use reclaimed water does not alter the true reporting by Suzuki – the Project would require 750,000 gallons of water per day. Plaintiffs fail to demonstrate the other surrounding statements made the true statement as to water usage defamatory. Even if readers logically could assume the water usage would not be reclaimed water, Suzuki could not confirm reclaimed water would be used, such that making such a claim would have been misleading. While Suzuki could have included Plaintiffs’ intentions to use reclaimed water, Defendants did not have a duty to do so. Moreover, Plaintiffs have not provided any evidence of malice. Plaintiffs do not deny that Suzuki could not confirm that there was an agreement to use reclaimed water. There is nothing before the Court to indicate or suggest Suzuki made the statement with knowledge of its falsity or that he acted recklessly with regard to whether it was false or not.

Story # 2 – “Imperial Valley City Sues to Force Environmental Review of Massive Data Center Project,” which was published on December 12, 2025, discusses a lawsuit by Imperial City to challenge the approval of the

Project without performing CEQA review. (NOL 2.) Story # 2 explains how Rucci described the Project as “ministerial,” which Story # 2 describes as “a technical planning term for a project that automatically meets county requirements.” (NOL 2.) Story # 2 also explains Plaintiffs “argued the project is planned for land already set aside for industrial purposes.” (NOL 2.) Suzuki also explained Imperial City’s position that some elements of the Project require a condition use permit, which would require a public hearing, and that the County of Imperial had violated CEQA by “evaluating individual components instead of the project as a whole.” (NOL 2.) Suzuki also included the perspective of a local resident who lives near the proposed Project. (NOL 2.)

On January 21, 2026, Story # 3 – “The Plan to Build A Massive Data Center In Imperial County – Without Environmental Review” was published. Story # 3 stated, *inter alia*, that Rucci had a goal “to plan the project in a way that would allow it to avoid facing an environmental analysis under the California Environmental Quality Act (CEQA), the state’s landmark environmental protection law.” (NOL 3.) The article explains some about CEQA, criticisms of CEQA, and then states “[t]o avoid those CEQA requirements, Rucci aimed to design a ministerial project – a planning term that essentially means local officials have no option to deny it as long as the technical requirements are met. Under state law, ministerial projects are typically exempt from environmental reviews.” (NOL 3.) Suzuki provided further context that Rucci and Rucci’s friend “focused their search on land that was already zoned for industrial activity and where data centers were a permitted use.” (NOL 3.) Rucci’s plan was met with resistance by Imperial City, which led Rucci to go to the County of Imperial to propose a “similar project, but one that was significantly larger and would be located just down the street on unincorporated land....” (NOL 3.)

Plaintiffs do not dispute that Suzuki accurately described Rucci’s efforts, intent, and the requirements of CEQA. (See Rucci Decl., generally.) Plaintiffs’ sole evidence, Rucci’s declaration, does not state or demonstrate that Suzuki’s descriptions were inaccurate. At best, Rucci explains he “provided Mr. Suzuki a memorandum identifying twenty-five other data centers in California that were approved without CEQA review because they were sited on industrial land.” (Rucci Decl., ¶ 6.) The fact other data centers have been approved without CEQA review does not render any of Suzuki’s statements false nor misleading. Suzuki truthfully described how Rucci was seeking to obtain ministerial approval, which would bypass CEQA review. Even if Suzuki’s statement can be characterized as slanted, the statements do not convey a defamatory message to an average reader. As insisted by Plaintiffs, the Court must look at the totality of the circumstances. The totality of the circumstances reveal Suzuki presented a non-defamatory picture. Moreover, Plaintiffs have not provided any evidence that Suzuki acted with malice.

Finally, Plaintiffs take specific issue with Suzuki’s statement that past felony charges against Rucci were thrown out “some because the case took too long to go to trial,” because it purportedly implied a mere procedural technicality allowed Rucci to escape conviction. The fuller statement is as follows:

In 2010, local county prosecutors charged Rucci and several other people with money laundering, promoting prostitution and perjury at a night club which he owned in the Ohio city of Youngstown, state court records show. The felony charges against Rucci and the others were eventually thrown out, some because the case took too long to go to trial. Rucci was convicted of selling beer at the club with an expired license in 2014. He served 30 days in jail.

(NOL 3.) Suzuki also explained Rucci started a drug addiction treatment center and that “the FBI investigated Rucci and the treatment center,” but “[f]ederal officials never charged Rucci or the treatment center with any crimes. Rucci sued the government for the confiscated funds, which they eventually returned with interest.” (NOL 3.)

Plaintiffs assert “Defendants possessed final 2011 judicial orders explicitly dismissing the indictments on the merits with prejudice. The trial court reviewed the video evidence and directly determined that no crime had been committed, as the business activity at issue was fully permitted under local licensing.” While Suzuki may not have included all possible information as to Rucci’s criminal charges, Suzuki does explain “[i]n an interview with KPBS, Rucci said he was unfairly singled out by local officials in Ohio in these cases. He said he and the night club were investigated for political reasons, and he argued that state health officials had given federal authorities misleading information about the treatment center.” (NOL 3.) Plaintiffs do not deny that Suzuki accurately reported that some of the criminal charges were thrown out because the case took too long to go to trial. Suzuki was not required to give every possible detail surrounding Rucci’s different criminal charges. (See *Reader’s Digest, supra*, 37 Cal.3d 244, 253 and 259.) Moreover, the fact that Suzuki provided some of Rucci’s perspective about the criminal charges shows that Suzuki lacked malice towards Rucci.

Conclusion

In sum, there is no evidence that Suzuki maintained doubts as to the truth of the representations in the articles, let alone clear and convincing evidence that Suzuki acted with malice. Further, the Court is persuaded that the absolute privilege under Civil Code section 47(d) applies. Given that the defamation claim is not legally or factually supported, the other causes of action that rely upon the defamation claim also fail. Therefore, the Motion is granted, and the FAC hereby is stricken.

This is the tentative ruling for the hearing at 1:30 p.m. on Friday, July 10, 2026. If no party appears at the hearing, this tentative ruling will become the order of the Court as of July 10, 2026. If the parties are satisfied with the Court’s tentative ruling or do not otherwise wish to argue the motion, they are encouraged to give notice to the Court and each other of their intention not to appear, though this notice is not required.