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6  
7 UNITED STATES DISTRICT COURT  
8 NORTHERN DISTRICT OF CALIFORNIA

9 JOHN DOE, )

10 Plaintiff, )

11 v. )

12 BORDERLAND BEAT, BLOGGER.COM, )  
13 GOOGLE LLC, EL SIGLO DE TORREON, )  
NOVENTO GRADOS, CODIGO ROJO )  
14 NOTICIAS, INFOBAE, EL MANANA, )  
REPORTE NIVEL UNO, OMNI, VALOR )  
15 TAMAULIPECO REFORMA, EL NORTE, )  
NOTICIAS PV NAYARIT, VANGUARDIA, )  
16 and ROES 1-50, INCLUSIVE, )

17 Defendants. )  
18 )  
19 )

Case No.: 4:20-cv-06822-JD

DEFENDANT ROE 1's MOTION FOR  
ATTORNEY FEES UNDER C.C.P  
425.16 (c)

Date: July 29, 2021  
Time: 10:00 am  
Court: Webinar/Zoom  
Judge: The Hon. James Donato

*Filed Herewith:*

Declaration of Joshua Koltun  
[Proposed] Order

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Joshua Koltun ATTORNEY

**MOTION**

1 TO PLAINTIFF JOHN DOE AND HIS COUNSEL OF RECORD: PLEASE TAKE NOTICE  
2 that on July 29, 2021 at 10:00 a.m., or as soon thereafter as counsel may be heard, by Zoom/Webinar  
3 as indicated on the Court’s website or as otherwise ordered by the Court, defendant Roe 1 (“Roe”)  
4 will move the Court under California Code of Civil Procedure section (“Section”) 425.16(c) for an  
5 order awarding attorney fees.. This motion is based upon the Memorandum of Points and Authorities  
6 that follows and on the Declaration of Joshua Koltun, all the pleadings, records and files in this case,  
7 and on such further material and argument as may be submitted at or before the hearing on this  
8 motion.

9  
10 Roe respectfully seeks an order awarding Roe attorney fees in the amount of \$35,195 and such  
11 additional amounts as may be appropriate in light of such further work as Roe’s counsel must incur in  
12 seeking this award.

**MEMORANDUM OF POINTS AND AUTHORITIES**

**SUMMARY**

13  
14  
15 Borderland Beat is a news blog staffed by anonymous contributors that reports on the activities  
16 of Mexican drug cartels. Plaintiff Doe sued Borderland Beat and numerous foreign news sites,  
17 seeking hundreds of thousands of dollars in damages. In addition to the financial burden, the risk that  
18 the identities of Borderland Beat’s contributors might be disclosed posed deadly risks. Borderland  
19 Beat sought the assistance of the Reporters Committee for Freedom of the Press, which arranged for  
20 Joshua Koltun, an experienced First Amendment attorney with particular experience protecting the  
21 rights of speakers to remain anonymous, to defend Borderland Beat.

22 After meeting and conferring with Doe’s counsel and unsuccessfully seeking to persuade him  
23 to withdraw this case, Koltun filed an Anti-SLAPP motion, together with a motion for judgment on  
24 the pleadings and a motion to vacate this Court’s order barring Borderland Beat from disclosing the  
25 identity of Doe. Doe responded immediately by moving to dismiss the case against Roes 1 to 25, in  
26 other words, all defendants related to Borderland Beat (“Borderland Beat Defendants).

27 As a matter of law, Roe is entitled to attorney fees under Section 425.16(c). When a plaintiff  
28 dismisses an action while an Anti-SLAPP motion is pending, a rebuttable presumption arises that the

1 defendant is the prevailing party. The presumption can only be rebutted upon a showing that plaintiff  
 2 had accomplished the objectives of the litigation, which is not the case here. The Court should not  
 3 consider any contention that the Anti-SLAPP motion was without merit.

4 A prevailing defendant is entitled to a mandatory award of reasonable attorney fees. The  
 5 undersigned counsel has requested a fee award calculated under the “lodestar” formula approved by  
 6 the California Supreme Court. This request includes all work performed on the Anti-SLAPP motion  
 7 or common issues of fact and law, and includes a multiplier to recognize the contingent risk taken in  
 8 representing Borderland Beat *pro bono*.

### 9 **BACKGROUND**

10 **Relevant Procedural Background.** Plaintiff Doe filed this lawsuit against numerous media  
 11 defendants, including numerous foreign (Spanish-language) newspapers or news websites, and  
 12 Borderland Beat, an English-language blog, staffed by anonymous contributors, that reports on the  
 13 activities of Mexican drug cartels.

14 Borderland Beat sought the assistance of a nonprofit organization, the Reporter Committee for  
 15 Freedom of the Press (“Reporters Committee”). Koltun Decl., ¶1. The primary concern for the  
 16 members of Borderland Beat, and for the Reporters Committee, was the risk that the identity of  
 17 Borderland Beat’s anonymous contributors might be discovered by Doe. *Id.* Mexican journalists live  
 18 in well-founded fear for their safety for reporting on the activities of Mexican Drug Cartels. Roe  
 19 Declaration, D.E. 32-16, Exhibits 7-11 (analysis of Committee to Protect Journalists of risks in  
 20 Mexico).

21 The Reporters Committee contacted the undersigned counsel, Joshua Koltun, with whom it  
 22 had successfully worked in the past, and asked him if he would be willing to take on this case. *Id.*  
 23 One reason the Reporters Committee sought Koltun’s assistance is that he has considerable experience  
 24 defending the right of anonymous speakers to remain anonymous in the face of litigation. *Id.*

25 Although Koltun, a solo practitioner, was facing imminent discovery deadlines in a case in the  
 26 Central District that would involve elaborate cross-motions for summary judgment, and potentially, a  
 27  
 28

1 trial, he agreed to take on the case in light of the life-or-death stakes faced by Borderland Beat’s  
2 anonymous contributors. *Id.*, ¶ 2.

3 Koltun appeared on behalf of Defendant Roe, who sought to protect all Borderland-Beat related  
4 defendants (Roes 2 – 25, hereinafter “Borderland Beat Defendants”). *Id.*, Koltun agreed to represent Roe  
5 *pro bono*, subject, however, to being paid any fee award that Roe might obtain. *Id.* Thus although this  
6 motion is presented nominally on behalf of Roe, the underlying reality is that it is for Koltun’s benefit. *Id.*

7 Koltun met and conferred with Doe’s counsel, in an effort to persuade him to drop the case,  
8 and failing that, to narrow the relevant disputes of fact and law for the Court. *Id.*, ¶3. The results of  
9 these conferences were reflected in the Joint Rule 26(f) Report filed with this Court on January 19,  
10 [D.E. 19]. *Id.*

11 Koltun informed Doe’s counsel that if he did not withdraw the action, Koltun intended to file  
12 early dispositive motions and a motion to vacate the *ex parte* Order by which this Court (Magistrate  
13 Judge Westmore), had permitted Doe to proceed by pseudonym, and had ordered defendants not to  
14 publish Doe’s identity or identifying information. (DE 6, “Pseudonym Order.”). *Id.*, Joint Report [DE  
15 19] at 4. Shortly thereafter, Koltun began preparing an Anti-SLAPP motion, a motion for judgment on  
16 the pleadings (as to the federal claim), and a motion to vacate the Pseudonym Order, with a view toward  
17 filing them prior to the Court holding its first Case Management Conference in February. *Id.*

18 However, in light of plaintiff’s ongoing efforts to serve the other newspaper defendants by the  
19 Hague convention, this Court continued the case management conference until June 3. *Id.*, ¶1. In light  
20 of that delay, Koltun suspended some work on the foregoing motions in order to focus his efforts on  
21 the summary judgment motions, and then trial preparations, in his other case. *Id.* After that case  
22 settled, and Koltun immediately turned to completing the foregoing motions. *Id.*

23 Koltun filed the Anti-SLAPP motion, motion for judgment on the pleadings, and motion to  
24 vacate the Pseudonym Order on May 19, under seal pursuant to the procedure set forth in Local Rule  
25 79-5. DE 26, 31.

26 Several days later, Doe moved to voluntarily dismiss this action as to Roe 1 and all Borderland  
27 Beat defendants. DE 30. On June 1, this Court dismissed this action as to Roe 1 and the Borderland  
28 Beat defendants without prejudice.

1           ***Koltun’s Legal Practice.*** Koltun is a solo practitioner. Koltun Decl., ¶ 6. He does not employ  
 2 any associates, paralegals, or assistants. Prior to starting his own practice in 2007, he was a partner at the  
 3 San Francisco firm Steinhart & Falconer, and then, through mergers, at the firm that ultimately became  
 4 DLA Piper. *Id.* In 2007, his last year at DLA Piper, his standard hourly rate was \$530 an hour. *Id.* Had he  
 5 continued to work at DLA Piper or another large firm, his billing rate would likely now be considerably  
 6 higher than that. *Id.*

7           He has extensive experience representing media companies and individuals in defamation and  
 8 other matters involving the First Amendment. *Id.* His experience defending individuals who have  
 9 published their own materials on the internet dates back to the very outset of the phenomenon – before the  
 10 term “blogger” had even been invented. *Id.*, see *Nicosia v. De Rooy*, 72 F.Supp. 2d 1093 (N.D. Cal. 1999).

11           He is particularly well-known for his success in protecting the rights of speakers on the  
 12 internet to remain anonymous. *Id.*, see, e.g., *Signature Mgmt. Team, L.L.C. v. Doe*, 876 F.3d 831 (6th  
 13 Cir. 2017), *Signature Management Team v. Doe*, 2018 US Dist. Lexis 141459 (ED Mich. August 21,  
 14 2018); *Art of Living Foundation v Does*, 2011 U.S. Dist. LEXIS 129836; (N.D. Cal., November 9,  
 15 2011), November 9, 2011; see also *Bank Julius Baer & Co. v. WikiLeaks*, 535 F. Supp. 2d 980 (N.D.  
 16 Cal. 2008) (denying injunction against website that enables anonymous leaks).

17           In opening his solo practice, Koltun sought to be able continue to devote a substantial portion of  
 18 his time to work on First Amendment issues during a time of great turmoil for the media industry, as  
 19 well as great ferment in First Amendment law. Koltun Decl., ¶ 7. Since opening his own practice, his  
 20 media clients have included Advance Magazine Publishers (*The New Yorker Magazine, Vogue Magazine*)  
 21 Crain Publications (*AutoWeek*), The Guardian, CNN, Jigsaw Production (Alex Gibney, documentary film  
 22 producer), Livingly Media, as well as individual activists, journalists, and bloggers, as well as officers of  
 23 the San Francisco and Richmond chapters of the NAACP. (More detailed information about Koltun’s  
 24 practice is at [www.koltunattorney.com](http://www.koltunattorney.com).)

25           ***Koltun’s Ordinary Rates and Pro Bono Practice.*** For the past several years, Koltun’s standard  
 26 billing rate –the actual rate at which he generally bills commercial clients – has been \$500 an hour,  
 27 although he has occasionally discounted his rates on matters of particular First Amendment interest and/or  
 28 based on the client’s ability to pay. *Id.*, ¶ 8.

1 Koltun represents many of his individual and nonprofit clients in First Amendment matters *pro-bono*  
 2 or partially *pro-bono*, as he did here. *Id.* The extent to which he is able to afford to continue his substantial  
 3 *pro bono* practice – including his frequent work in the highly specialized area of defending the right to speak  
 4 anonymously – depends in large part on his ability to obtain attorney fee awards for his work. *Id.*

5 ***The work for which fees are requested.*** The work for which fees are requested includes all  
 6 work directly on the Anti-SLAPP motion, together with work that was intertwined with the Anti-  
 7 SLAPP motion because of common issues of fact or law. *Id.*, ¶ 9. Such issues included:

- 8 • Factual research on the underlying media stories giving rise to the cause of action, the  
 9 facts underlying those stories, the sources of information on which those stories had  
 10 relied, and the chronology and status of efforts to place certain information under seal;
- 11 • Meeting and conferring with Doe’s counsel in an effort to persuade him to drop the  
 12 case, or failing that, to narrow the issues of fact and law before the Court, *see* Joint  
 13 Report (DE 19) at 1-4.
- 14 • Legal research on meaning of “motor vehicle record” under the DPPA and  
 15 corresponding California Vehicle Code;
- 16 • Legal research on power of courts to order sealing, the legal effect thereof, and relevant  
 17 First Amendment limitations on liability for publishing matters that were disclosed  
 18 prior to sealing;
- 19 • Procedural research and work (including paralegal work) involved in filing the relevant  
 20 motions under seal, as such was necessary for all motions.

21 Koltun has, however, excluded from this fee request work that applied only to the motion for  
 22 judgment on the pleadings or the motion to vacate, including research on matters that applied solely to  
 23 such motions, and work directly drafting those motions. *Id.*

24 He asks to be awarded fees for 45.1 hours he actually spent on this case. *Id.* There is a small  
 25 amount of work he performed which he considers to be of a paralegal nature, to which he assigns a  
 26 reduced rate of \$150 an hour. *Id.* Detailed information is provided in the Koltun Declaration, Exh. A.



1 He requests that the foregoing “lodestar” amount be multiplied by 1.5, to compensate for the  
 2 contingent risk he undertook, and the burden on him of taking this case on an urgent basis when he had  
 3 another matter to attend to. *Id.*, ¶ 10.

4 He also requests to be paid for 6.1 hours working on this attorney fee motion to date, and intends  
 5 to request additional fees for such other time and expenses as may be incurred subsequently. *Id.* He does  
 6 not request a multiplier for hours spent on the fee request. *Id.*

7 The total amount requested is thus \$35,195, as set forth on the following table.

Work	Hours	Rate	Amount
Pre-Dismissal Attorney	41.9	500	20950
Pre-Dismissal “Paralegal”	3.2	150	480
Subtotal			21430
(Apply Multiplier)			32145
Fee Request	6.1	500	3050
TOTAL			35195

15 The undersigned respectfully urges that this requested amount is appropriate, for the reasons  
 16 discussed below.

17 ***Argument***

18 ***I. Where, as here, a plaintiff voluntarily dismisses the case while an Anti-SLAPP motion is***  
 19 ***pending, a rebuttable presumption arises that defendant is the “prevailing party” entitled to***  
 20 ***attorney fees***

21 “[W]here the plaintiff voluntarily dismisses an alleged SLAPP suit while a special motion to  
 22 strike is pending, the trial court has discretion to determine whether the defendant is the prevailing  
 23 party for purposes of attorney's fees under Code of Civil Procedure section 425.16, subdivision (c).”  
*Coltrain v. Shewalter*, 66 Cal. App. 4th 94, 107-08 (1998).

24 Otherwise, SLAPP plaintiffs could achieve most of their objective with little risk--by filing a  
 25 SLAPP suit, forcing the defendant to incur the effort and expense of preparing a special  
 26 motion to strike, then dismissing the action without prejudice. The specter of the action being  
 27 refiled (at least until the statute of limitations had run) would continue to have a significant  
 28 chilling effect on the defendant's exercise of its First Amendment rights. At that point, the  
 plaintiff would have accomplished all the wrongdoing that triggers the defendant's eligibility  
 for attorney's fees, but the defendant would be cheated of redress.

1 *Id.* at 106-07. Federal courts follow the rule set forth in *Coltrain*, that the voluntary dismissal raises a  
 2 presumption that the defendant is the prevailing party, which can be rebutted only upon a “pragmatic”  
 3 showing, turning on “which side achieved their objectives.” *Primacy Eng’g, Inc. v. ITE, Inc.*, 2019  
 4 U.S. Dist. LEXIS 79019, at \*10-11 (S.D. Cal. May 8, 2019); *Art of Living Found. v. Doe*, 2012 U.S.  
 5 Dist. LEXIS 61582, at \*74-77 (N.D. Cal. May 1, 2012).

6 Consequently, the Court should not “waste scarce judicial resources to determine who would  
 7 have won a voluntarily dismissed action.” *Ryan v. Editions Ltd. W., Inc.*, 2007 U.S. Dist. LEXIS  
 8 72895, at \*7-8 (N.D. Cal. Sep. 21, 2007) Thus plaintiff’s contentions that the Anti-SLAPP motion  
 9 was without merit are not relevant.<sup>1</sup>

10  
 11 **II. *Plaintiff Doe failed to achieve its objectives in this litigation and thus cannot rebut the***  
 12 ***presumption that Defendant Roe is the prevailing party***

13 Plaintiff Doe sought damages in this case in the amounts of \$25,000 for pain and suffering,  
 14 \$100,000 for emotional distress, fear, terror, anxiety, humiliation, a loss of sense of security, dignity,  
 15 pride, and invasion of privacy, punitive damages of \$100,000, and attorney fees and litigation costs in  
 16 the amount of \$20,000. Joint Report, DE 19, at 5. He certainly did not achieve that objective.

17 Nor can plaintiff show any other “pragmatic reason” that would rebut the presumption that the  
 18 Borderland Beat defendants were the prevailing parties. *See Garrison v. Ringgold*, 2019 U.S. Dist.  
 19 LEXIS 190279, at \*4-7 (S.D. Cal. Nov. 1, 2019) (plaintiff’s claim that he is homeless is insufficient to  
 20 rebut presumption that defendant is the prevailing party).

21 The purported reason Doe offers for why he chose to dismiss the actions against the  
 22 Borderland Beat defendants makes no sense. According to Doe, “the reason for the request for  
 23 dismissal is not the merits of the motions, but because Roe 1 seeks to file unredacted copies of the  
 24 very documents at issue in this matter that originally breached Doe’s privacy.” DE 34 at 6:17-20. But  
 25 Roe did not file unredacted copies of the pleadings in open court; she submitted the documents under  
 26 seal pursuant to this Court’s procedures. DE 26, 31. Those procedures provided Doe with an

27 <sup>1</sup> In any case his assertion that the Anti-SLAPP motion was untimely [DE 34 at 6:23-34] is mistaken.  
 28 The procedural time limits of Section 425.16 do not apply in federal court. *Sarver v. Chartier*, 813  
 F.3d 891, 900 (9th Cir. 2016).

1 opportunity to make whatever redactions he contended were necessary to protect his privacy. L.R. 79-  
 2 5 (e). And indeed, Doe (reluctantly) complied with this Court’s procedures and filed redacted  
 3 versions of Roe’s briefs. DE 32, 35.

4  
 5 **III. The amount of the requested award is reasonable under the “lodestar” method**

6 State law governs attorney's fees awards based on state fee-shifting laws, like California's anti-  
 7 SLAPP statute. *League of United Latin Am. Citizens Inc. v. Eureste*, 2014 U.S. Dist. LEXIS 152765,  
 8 at \*3-4 (N.D. Cal. Oct. 28, 2014). A court assessing the amount of mandatory attorney fees to be  
 9 awarded under Section 425.16 (c) must do so by applying the “lodestar” method that has been  
 10 approved in many other contexts in which statutory attorney’s fees are awarded. *Ketchum v. Moses*, 24  
 11 Cal. 4th 1122, 1131-1132, 1136 (2001).

12 **A. The hourly rate sought here -- \$500 an hour -- is reasonable in light of the**  
 13 **prevailing rates for similar work in the local legal market.**

14 The first step in the lodestar method is to determine the “prevailing hourly rates” in the  
 15 relevant legal community for “comparable legal services.” *Ketchum*, 24 Cal.4th at 1132. That amount  
 16 is determined based on what is “objectively” reasonable, not by what counsel has actually charged in  
 17 the case. *Id.* at 1134 (*citing PLCM Group, Inc. v. Drexler*, 22 Cal. 4th 1084, 1094-95 (2000)). For  
 18 example, where the prevailing attorneys are in-house counsel paid on salary, the court may simply  
 19 look to the prevailing rates that such counsel might charge in the marketplace for comparable work.  
 20 *PLCM Group*, 22 Cal. 4th at 1094-95; *cf. City of Oakland v. Oakland Raiders*, 203 Cal.App. 3d 78, 82  
 21 (1988) (where outside counsel took on the case on an urgent basis, with only an oral understanding  
 22 that he would be paid “reasonable value of the services,” the court may determine that a reasonable  
 23 rate for counsel’s services is that which is charged by “top law firms in the Bay Area.”).

24 Here, Counsel was, until 2007, a partner at a top law firm in the Bay Area, and the \$530 billing  
 25 rate he customarily charged at that time was well within the market for someone of comparable  
 26 experience. Had he remained at a top law firm for the last fourteen years his billing rate would  
 27 certainly be considerably higher now. Thus although counsel would be entitled to seek a higher rate,  
 28 he is only seeking the rate he actually charges in the marketplace for his work.

1 “In determining a reasonable hourly rate, the district court should be guided by the rate  
2 prevailing in the community for similar work performed by attorneys of comparable skill, experience,  
3 and reputation.” *Peak Health Ctr. v. Dorfman*, 2020 U.S. Dist. LEXIS 106145, at \*10 (N.D. Cal. June  
4 16, 2020). In *Peak Health*, this Court, after reviewing other fee decisions in this Court, upheld as  
5 reasonable attorney rates in this judicial district \$725 an hour and \$540 an hour, for two media  
6 attorneys, the more senior of whose experience is slightly more than that of Koltun.<sup>2</sup> *Id.* at 10, 12-13.

7  
8 **B. The hours for which counsel seeks an award are reasonable**

9 “[A]bsent circumstances rendering the award unjust, an attorney fee award should ordinarily  
10 include compensation for *all* the hours *reasonably spent*.” *Ketchum*, 24 Cal.4th at 1133 (emphasis in  
11 the original). Where the Court has before it the verified time records of counsel, these are presumed to be  
12 credible, and the court abuses its discretion if it reduces those hours without a careful effort to ensure that  
13 the attorney is fully compensated for the services provided. *Horsford v. Bd. of Trs. of Cal. State Univ.*, 132  
14 Cal. App. 4th 359, 397 (2005). To deny counsel compensation for the time he expended vindicating his  
15 Defendants’ constitutional rights is would be “tantamount to finding the fees were unreasonable per se,  
16 some of his efforts unwarranted, or his goal unworthy.” *Engel v. Worthington*, 60 Cal. App. 4th 628, 636  
17 (1997).

18 “All expenses incurred on common issues of fact and law qualify for an award of attorneys’  
19 fees under the anti-SLAPP statute and those fees need not be apportioned.” *Kearney v. Foley &*  
20 *Lardner*, 553 F. Supp. 2d 1178, 1184 (S.D. Cal. 2008).

21 Counsel should also be compensated for time reasonably spent on a fee petition. *Ketchum*, 24  
22 Cal.4th at 1141. Time which counsel spends seeking to settle the case are also compensable. *Fleming*  
23 *v. Kemper Nat’l Servs.*, 373 F. Supp. 2d 1000, 1009 (N.D. Cal. 2005).

24 Here, the work for which an award is sought is limited to time spent researching factual and  
25 legal issues relevant to the Anti-SLAPP motion, drafting that motion, and related efforts to settle the

26  
27 <sup>2</sup> Robert Gutierrez (\$725/hour) is “of counsel” at the Ballard Spahr firm, and has four more years of  
28 legal experience than Koltun. Matthew Cate (\$540/hr) is an associate with 20 years less legal  
experience than Koltun. See [Robert S. Gutierrez | People | Ballard Spahr](#); [Matthew Cate | People | Ballard Spahr](#).

1 case or otherwise narrow the issues for this Court. Koltun Decl., ¶ 8, 9, Exh. A. Such work is  
2 appropriately included in the lodestar calculation.

3 **C. Counsel should be awarded the requested multiplier because he agreed on an urgent**  
4 **basis to take on this case pro bono**

5 The enhancement of fees under Section 425.16 serves the legislative aim of strengthening  
6 enforcement of certain constitutional rights, including freedom of speech, by placing the financial  
7 burden of defending against SLAPP actions on the “party abusing the judicial system, and by  
8 encouraging private representation, including instances when a litigant cannot afford fees.” *Ketchum*,  
9 24 Cal. 4th at 1136. Appropriate matters to consider in determining whether to award an enhancement  
10 include:

11 (1) the novelty and difficulty of the questions involved, (2) the skill displayed in presenting  
12 them, (3) the extent to which the nature of the litigation precluded other employment by the  
13 attorneys, (4) the contingent nature of the fee award.” [citation omitted] The purpose of such  
14 adjustment is to fix a fee at the fair market value for the particular action. In effect, the court  
15 determines, retrospectively, whether the litigation involved a contingent risk or required  
16 extraordinary legal skill justifying augmentation of the unadorned lodestar in order to  
17 approximate the fair market rate for such services.

18 *Id.* at 1131-32. “The fee-shifting provision also encourages private representation in SLAPP cases,  
19 including situations when a SLAPP defendant is unable to afford fees or the lack of potential  
20 monetary damages precludes a standard contingency fee arrangement.” *Id.* Certainly where counsel  
21 has agreed to represent a defendant *pro bono*, and relies solely on the possibility of a fee award for  
22 compensation, that contingent arrangement should be considered in awarding an enhancement. *Ketchum*,  
23 24 Cal.4th at 1137; *see Amaral v. Cintas Corp*, 163 Cal. App. 4th 1157, 1217-18 (2008) (upholding  
24 multiplier of 1.65 for contingent risk; rejecting argument that counsel must show it had turned down work  
25 to take on case); *Pellegrino v. Robert Half Internat., Inc.*, 182 Cal. App. 4th 278, 292-93, (2010)  
26 (same; upholding multiplier of 1.75).

27 Here, a solo practitioner facing a burdensome schedule in another case, took on this case on an  
28 urgent basis and did so *pro bono*, in part because his specialized experience rendered him particularly  
suitable to mounting the necessary defense of Borderland Beat’s First Amendment rights. The modest  
multiplier requested is appropriate.

Joshua Koltun ATTORNEY

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**CONCLUSION**

Counsel responded to the urgent request of the Reporters Committee for Freedom of the Press to represent Roe to preserve Borderland Beat’s ability to continue to do their important work of anonymously reporting on issues of great public interest. Having sought hundreds of thousands of dollars from Borderland Beat, Doe swiftly dismissed this action in response to the Anti-SLAPP motion, effectively conceding that his case had not merit. The mandatory attorney fees provision of the Anti-SLAPP statute, and in particular the “lodestar” enhancement for contingency work, was specifically designed to help ensure that attorneys such as the undersigned can continue to be available to vindicate the rights of speakers to be free of the sort of legal harassment pursued by Doe in this case.

For these reasons, Roe and the undersigned counsel respectfully request that the amounts calculated above be awarded, and such additional amounts as may be appropriate in light of such further work as may be incurred in seeking this fee award.

Dated: June 15, 2021

\_\_\_\_\_/s/\_\_\_\_\_  
Joshua Koltun  
Attorney for Defendant Roe 1