

1 RANDALL S. NEWMAN (SBN 190547)  
2 Attorney at Law  
3 99 Wall St., Suite 3727  
4 New York, NY 10005  
5 212.797.3735  
6 rsn@randallnewman.net  
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8 *Attorney for Plaintiff,*  
9 *Christopher J. Cordova*

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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

CHRISTOPHER J. CORDOVA,

Plaintiff,

vs.

JONATHAN HUDON-HUNEULT,  
NNEKA OHIRI, 14693663 CANADA  
INC.,

Defendants.

Case No. 25-cv-04685-VKD

**Hon. Virginia K. DeMarchi**

**PLAINTIFF'S RESPONSE TO  
DEFENDANTS' NOTICE OF  
VOLUNTARY DISMISSAL (ECF NO.  
62) AND OBJECTION TO  
DEFENDANTS' PROPOSED ORDER  
REGARDING ATTORNEY'S FEES  
(ECF NO. 62-1)**

1 Plaintiff Christopher J. Cordova (“Plaintiff”) submits this response to Defendants’  
2 Notice of Voluntary Dismissal (ECF No. 62) and objects to Defendants’ proposed order  
3 (ECF No. 62-1) to the extent it purports to adjudicate attorney’s fees under California Code  
4 of Civil Procedure § 425.16.

5 **I. PLAINTIFF DOES NOT OPPOSE DISMISSAL OF DEFENDANTS’ THIRD**  
6 **CAUSE OF ACTION FOR TORTIOUS INTERFERENCE**

7 Plaintiff does not oppose Defendants’ voluntary dismissal, without prejudice, of the  
8 Third Cause of Action for Intentional Tortious Interference with Prospective Business  
9 Advantage pursuant to Federal Rule of Civil Procedure 41(a)(1)(A) and 41(c). Plaintiff  
10 agrees that dismissal of that claim is appropriate, that no court order is required to effectuate  
11 dismissal, and that no further adjudication of the merits of the dismissed claim is necessary.

12 **II. DEFENDANTS’ PROPOSED ORDER IMPROPERLY SEEKS TO**  
13 **ADJUDICATE ATTORNEY’S FEES WITHOUT MOTION PRACTICE**

14 Defendants’ Proposed Order (ECF No. 62-1) is titled as an order granting  
15 Defendants’ “Motion for Voluntary Dismissal.” Defendants, however, did not file a motion  
16 for voluntary dismissal. Instead, they filed a notice of voluntary dismissal pursuant to  
17 Federal Rule of Civil Procedure 41(a)(1) and 41(c). Because no motion was filed, the  
18 proposed order is procedurally improper. Plaintiff therefore objects to any portion of the  
19 proposed order characterizing Defendants’ filing as a motion or purporting to grant relief  
20 that was not properly requested through motion practice.

21 Plaintiff further objects to Paragraphs 3 and 4 of the proposed order, which seek to  
22 (1) deny Plaintiff’s pending special motion to strike as “moot” for all purposes and (2)  
23 declare that Plaintiff is not a prevailing party and that no attorney’s fees or costs may be  
24 awarded under California Code of Civil Procedure § 425.16(c)(1).

25 Attorney’s fees under § 425.16(c)(1) are mandatory for a prevailing defendant.  
26 Whether a party is a prevailing party under the anti-SLAPP statute is a legal determination  
27 that must be resolved through proper motion practice, not through a proposed dismissal  
28 order. Defendants’ proposed order improperly asks the Court to adjudicate a contested

1 statutory fee issue without a noticed motion, briefing, or an evidentiary record.

2 A proposed order accompanying a notice of voluntary dismissal is not the proper  
3 procedural vehicle to resolve entitlement to attorney's fees under the anti-SLAPP statute.

4 **III. VOLUNTARY DISMISSAL AFTER FILING OF AN ANTI-SLAPP**  
5 **MOTION DOES NOT EXTINGUISH MANDATORY FEE ENTITLEMENT**

6 Defendants voluntarily dismissed the Tortious Interference Claim only after Plaintiff  
7 filed a Special Motion to Strike pursuant to California Code of Civil Procedure § 425.16.  
8 As a matter of California law, voluntary dismissal, whether with or without prejudice, does  
9 not eliminate a moving party's entitlement to attorney's fees where the moving party  
10 achieved its litigation objective through the filing of an anti-SLAPP motion. *See Rutherford*  
11 *v. Palo Verde Health Care District*, 13-cv-1247-JAK (SPx), 2014 WL 12634510, at \*5–6  
12 (C.D. Cal. May 13, 2014). In fact, when the non-moving party dismisses a challenged cause  
13 of action a presumption arises that the moving party is the prevailing party. *Id.* (citations  
14 omitted).

15 Courts applying § 425.16 determine prevailing-party status based on the practical  
16 outcome of the litigation, not on whether the court reached the merits of the special motion  
17 to strike. *Id.*; *see also Coltrain v. Shewalter*, 66 Cal. App. 4th 94, 107 (Cal. Ct. App. 4<sup>th</sup>  
18 Dist. 2<sup>nd</sup> Div. 1998); *Liu v. Moore*, 69 Cal. App. 4th 745, 752 (Cal. Ct. App. 2d Dist. 3d  
19 Div. 1999). Attorney's fees under § 425.16(c)(1) are mandatory once a party is determined  
20 to be a prevailing party.

21 Federal courts applying California's anti-SLAPP statute have expressly held that  
22 dismissal following the filing of a special motion to strike may render the motion moot for  
23 merits purposes, but does not resolve fee entitlement, which must be decided separately  
24 through proper motion practice. *Rutherford*, 2014 WL 12634510, at \*5–6.

25 Defendants' characterization of the dismissal as "without prejudice" does not alter  
26 this analysis. Nor does Defendants' contention that a meet-and-confer was required prior  
27 to filing the anti-SLAPP motion. No such requirement exists in the Northern District of  
28 California.

1 **IV. CLARIFICATION REGARDING THE EFFECT OF DEFENDANTS'**  
2 **DISMISSAL**

3 In light of Defendants' Notice of Voluntary Dismissal (ECF No. 62), Plaintiff  
4 respectfully requests that the Court clarify the procedural effect of that filing and decline  
5 to enter Defendants' proposed order (ECF No. 62-1) to the extent that it exceeds the scope  
6 of Rule 41.

7 Specifically, Plaintiff requests that the Court:

8 1. Acknowledge that Defendants' Third Cause of Action for Tortious  
9 Interference with Prospective Business Advantage was voluntarily dismissed without  
10 prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A) and 41(c), without the  
11 need for court order;

12 2. Decline to enter Defendants' proposed order, or any portion thereof,  
13 purporting to deny Plaintiff's pending special motion to strike for all purposes, determine  
14 prevailing-party status, or adjudicate entitlement to attorney's fees under California Code  
15 of Civil Procedure § 425.16;

16 3. Clarify that Defendants' voluntary dismissal does not resolve or extinguish  
17 Plaintiff's statutory right to seek attorney's fees and costs under California Code of Civil  
18 Procedure § 425.16(c)(1); and

19 4. Confirm that Plaintiff may file a noticed motion for attorney's fees and costs  
20 in accordance with the Federal Rules of Civil Procedure and this Court's local rules.

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1 Dated: January 14, 2026

2 /s/ Randall S. Newman  
3 Randall S. Newman, Esq. (SBN 190547)  
4 99 Wall Street, Suite 3727  
5 New York, NY 10005  
6 (212) 797-3735  
7 rsn@randallnewman.net

8 *Attorney for Plaintiff,*  
9 *Christopher J. Cordova*

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