

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 78

25STCV14798

**FLORA DUTRA, et al. vs EHM PRODUCTIONS, INC., A
CALIFORNIA CORPORATION, DBA TMZ, et al.**

September 16, 2025

4:05 PM

Judge: Honorable Tiana J. Murillo
Judicial Assistant: Diana Castro-Martinez
Courtroom Assistant: Angela Comick

CSR: None
ERM: None
Deputy Sheriff: None

APPEARANCES:

For Plaintiff(s): No Appearances

For Defendant(s): No Appearances

NATURE OF PROCEEDINGS: Ruling on Submitted Matter: SPECIAL MOTIONS TO STRIKE UNDER CCP § 425.16 (ANTI-SLAPP)

The Court, having taken the matter under submission on 09/15/2025 for Hearing on Special Motion to Strike under CCP Section 425.16 (Anti-SLAPP motion), now rules as follows: The Special Motion to Strike under CCP Section 425.16 (Anti-SLAPP motion) filed by The New York Times Company on 07/28/2025 is Granted.

The Court, having taken the matter under submission on 09/15/2025 for Hearing on Special Motion to Strike under CCP Section 425.16 (Anti-SLAPP motion), now rules as follows: The Special Motion to Strike under CCP Section 425.16 (Anti-SLAPP motion) filed by EHM Productions, Inc. on 07/17/2025 is Granted.

I. BACKGROUND

This dispute concerns the publication of information about the Marubo Tribe, an Indigenous community of people living in remote areas of Brazil's Javari Valley. From June to July 2024, the New York Times Company ("NYT") published three articles about the Marubo Tribe's recent access to high-speed internet via Starlink. Within the same period, EMZ Productions, Inc., doing business as TMZ ("TMZ"), published an article and video addressing the same subject matter, albeit with a different focus.

On May 22, 2025, Plaintiffs Flora Dutra ("Dutra"), Enoque Marubo ("Enoque"),^[1] and the Marubo Tribe (via its assigned representative, Enoque) (collectively, "Plaintiffs") filed a First Amended Complaint ("FAC") against Defendants alleging (1) Defamation – Libel per se; (2) False Light; (3) Intentional Infliction of Emotional Distress ("IIED"); (4) Negligent Infliction of Emotional Distress ("NIED"); (5) Misappropriation of Likeness; (6) Intrusion Upon Seclusion;

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 78

25STCV14798

**FLORA DUTRA, et al. vs EHM PRODUCTIONS, INC., A
CALIFORNIA CORPORATION, DBA TMZ, et al.**

September 16, 2025

4:05 PM

Judge: Honorable Tiana J. Murillo
Judicial Assistant: Diana Castro-Martinez
Courtroom Assistant: Angela Comick

CSR: None
ERM: None
Deputy Sheriff: None

(7) Fraudulent Inducement; (8) Negligence; and (9) Unfair Business Practices (“UCL”).

On July 17, 2025, TMZ filed a special motion to strike the FAC (i.e., anti-SLAPP motion). On July 28, 2025, Defendants Yahoo, Inc. and NYT filed their own anti-SLAPP motions. The parties subsequently filed timely opposition and reply papers, along with evidentiary objections (and objections to same).

On September 9, 2025, Yahoo, Inc. was dismissed with prejudice (via stipulation), and Yahoo likewise withdrew its anti-SLAPP motion.

The Court issues this consolidated order addressing both NYT’s and TMZ’s motions.

/// /// ///

II. LEGAL STANDARD

In ruling on an anti-SLAPP motion pursuant to California Code of Civil Procedure (“CCP”) section 425.16, the court applies a two-pronged test.

First, the court determines whether the moving defendant has shown that the “challenged cause of action is one arising from protected activity.” (*Equilon Enterprises, L.L.C. v. Consumer Cause, Inc.* (2002) 29 Cal.4th 53, 66.) The defendant meets this burden by demonstrating that “the act or acts of which the plaintiff complains were taken ‘in furtherance of the [defendant]’s right of petition or free speech under the United States or California Constitution in connection with a public issue,’ as defined in the statute.” (*Ibid.*) This may be established by showing either: (1) statements made before, or in connection with, legislative, executive, or judicial proceedings, or (2) statements made in a public forum, or other conduct furthering the exercise of petition or free speech rights, on issues of public interest. (Code Civ. Proc., § 425.16, subd. (e); *Equilon, supra*, 29 Cal.4th at p. 66.)

Next, the court considers the second prong, where the burden shifts to the plaintiff to show a probability of prevailing on the merits. (*Equilon, supra*, 29 Cal.4th at p. 66.) To do so, the plaintiff must demonstrate that the complaint is legally sufficient and supported by a prima facie showing of facts that, if credited, would sustain a favorable judgment. (*Matson v. Dvorak* (1995) 40 Cal.App.4th 539, 548.) A cause of action may be stricken only if it arises from

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 78

25STCV14798

**FLORA DUTRA, et al. vs EHM PRODUCTIONS, INC., A
CALIFORNIA CORPORATION, DBA TMZ, et al.**

September 16, 2025

4:05 PM

Judge: Honorable Tiana J. Murillo
Judicial Assistant: Diana Castro-Martinez
Courtroom Assistant: Angela Comick

CSR: None
ERM: None
Deputy Sheriff: None

protected activity and lacks even minimal merit. (*Navellier v. Sletten* (2002) 29 Cal.4th 82, 89.)

III. DISCUSSION

A. Allegations in the FAC

Plaintiffs allege Defendants deceived Marubo Tribe leadership to gain access to the Manakeiaway village for a purportedly respectful story about Starlink's life-saving benefits, forming an implied-in-fact agreement that any interviews, photos, or video would be used only with prior consent to highlight the tribe's achievements; NYT allegedly breached that agreement. (FAC ¶¶ 13-15.) Instead, reporter Jack Nicas stayed less than 48 hours, then published a June 2, 2024 article falsely suggesting the Marubo people—particularly Marubo youth—became “addicted to pornography,” and personally implicated Dutra and Enoque as responsible, triggering a global media storm. (FAC ¶¶ 16-17, 20, 26-27.)

Plaintiffs emphasize the internet project was a consensual, humanitarian effort implemented through assemblies consistent with international treaties to enable emergency medical evacuations, education, and coordination among 20 remote villages. (FAC ¶¶ 21-25, 23.) After publication, NYT allegedly delayed correction, allowing the defamatory narrative to spread; a June 11 follow-up (“No, a Remote Amazon Tribe Did Not Get Addicted to Porn”) minimized NYT's role, and a July 19 profile of revered elder Varî Vãti Marubo published despite revoked consent, further exposing the community. (FAC ¶¶ 27-33.) Plaintiffs also allege NYT's rushed, sensational reporting lacked cultural diligence, misquoted or de-contextualized Enoque's remarks (omitting that internet access “already saved lives”), and repeatedly framed Dutra in imagery linking her to explicit-content allegations. (FAC ¶¶ 34-40, 54.)

Plaintiffs further allege TMZ amplified and republished the defamatory narrative: TMZ ran a June 4, 2024 segment—“Elon Musk's Starlink Hookup Leaves A Remote Tribe Addicted To Porn”—that juxtaposed footage of Plaintiffs delivering antennas with commentary implying they enabled pornography and threatened women. (FAC ¶¶ 44-53.) Plaintiffs claim the result was worldwide ridicule, harassment, threats, and reputational devastation, with coverage reaching at least 150 million people across more than sixteen languages, and concrete harms including the collapse of Dutra's organization NAVI Global, cancellation of the Indigenous Football League, and the freezing of the Yooko Runners project due to investor withdrawal. (FAC ¶¶ 55-73, 72, 64-69, 66-67.) Plaintiffs allege NYT ignored direct December 14, 2024 outreach seeking remediation, evidencing willful disregard, and that Defendants pursued controversy for profit and attention by using sexualized allegations and decontextualized quotes to drive engagement,

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 78

25STCV14798

**FLORA DUTRA, et al. vs EHM PRODUCTIONS, INC., A
CALIFORNIA CORPORATION, DBA TMZ, et al.**

September 16, 2025

4:05 PM

Judge: Honorable Tiana J. Murillo
Judicial Assistant: Diana Castro-Martinez
Courtroom Assistant: Angela Comick

CSR: None
ERM: None
Deputy Sheriff: None

thereby weaponizing misinformation against a sovereign Indigenous community. (FAC ¶¶ 41-43, 59-65, 73-74.)

B. NYT’S anti-slapp motion

1. Evidentiary Objections

Defendant NYT submits thirty-three evidentiary objections (spread across the declarations of Dutra, Enoque, and Alfredo Marubo) to Plaintiffs’ opposition. Objections 2, 3, 10, and 12 to the Dutra declaration are sustained; the remaining objections to the Dutra declaration are overruled. Objections 2, 3, 8, 15, and 16 to the Enoque declaration are sustained; the remaining objections to the Enoque declaration are overruled. Objection 1 to the Alfredo Marubo declaration is overruled.

2. Protected Activity

Moving parties have the initial burden to demonstrate that a cause of action is subject to a special motion to strike. (*Martinez v. Metabolife Inter. Ins.* (2003) 113 Cal.App.4th 181, 186; *Fox Searchlight Pictures Inc. v. Paladino* (2001) 89 Cal.App.4th 294, 304.) Courts decide whether moving parties have made a prima facie showing that the attacked claims arise from a protected activity, including defendants’ right of petition, or free speech, under the Constitution, in connection with issues of public interest. (*Healy v. Tuscany Hills Landscape & Recreation Corp.* (2006) 137 Cal.App.4th 1, 5; *Soukup v. Law Offices of Herbert Hafif* (2006) 39 Cal.4th 260, 278; *Paulus v. Bob Lynch Ford, Inc.* (2006) 139 Cal.App.4th 659, 671; *Equilon Ent. v. Consumer Cause* (2002) 29 Cal.4th 53, 67; *Gov. Gray Davis Committee v. Amer. Taxpayers Alliance* (2002) 102 Cal.App.4th 449, 458-59; CCP §425.16(e).)

“In the first step of the analysis, the trial court determines whether the cause of action ‘arises from’ an “‘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.’” [Citation] The first step of the anti-SLAPP analysis ‘turns on two subsidiary questions: (1) What conduct does the challenged cause of action ‘arise[] from’; and (2) is that conduct ‘protected activity’ under the anti-SLAPP statute?’ [Citation]” (*Laker, supra*, 32 Cal.App.5th. at p.760.)

“The Supreme Court has clarified that ‘arising from’ means ‘based on.’ [Citation] This element of the first step of the anti-SLAPP analysis is sometimes referred to as the ‘nexus’ requirement. [Citation] Conduct constitutes ‘protected activity,’ if it falls within one of the categories set out in section 425.16, subdivision (e). Section 425.16, subdivision (e), in turn,

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 78

25STCV14798

**FLORA DUTRA, et al. vs EHM PRODUCTIONS, INC., A
CALIFORNIA CORPORATION, DBA TMZ, et al.**

September 16, 2025

4:05 PM

Judge: Honorable Tiana J. Murillo
Judicial Assistant: Diana Castro-Martinez
Courtroom Assistant: Angela Comick

CSR: None
ERM: None
Deputy Sheriff: None

applies to (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) ‘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) ‘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.’ [Citation] The defendant bringing the anti-SLAPP motion to strike must make a prima facie showing that the allegations that form the basis of the plaintiff’s claims arise from conduct that falls under one of these categories. [Citation]” (*Ibid.*)

The Court finds that NYT has met its initial burden under CCP section 425.16, subdivisions (e)(3) and (e)(4). The preparation and publication of the June 2, June 11, and July 19, 2024, articles (the “Articles”) constitute protected activity as statements made in a public forum in connection with matters of public interest, and as conduct furthering the exercise of free speech and petition rights.

Plaintiffs contend that nytimes.com is not a “public forum” because it is curated and controlled, relying on *Lafayette Morehouse, Inc. v. Chronicle Publ’g Co.* (1995) 37 Cal.App.4th 855, 863 n.5. They also dispute whether the Articles advanced public discussion or addressed genuine public-interest matters, characterizing the June 2 article as sensationalist and inconsistent with the “functional relationship” test of *FilmOn.com Inc. v. DoubleVerify Inc.* (2019) 7 Cal.5th 133.^[2]

Courts have long recognized that newspapers, websites, and other mass media publications qualify as public forums. (*Nygard, Inc. v. Uusi-Kerttula* (2008) 159 Cal.App.4th 1027, 1038; *Hupp v. Freedom Commc’ns, Inc.* (2013) 221 Cal.App.4th 398, 404–405). *Lafayette Morehouse* is of limited weight, as it predates the 1997 anti-SLAPP amendment, which required a broader construction of the law.

The Articles also address issues of public interest. At this stage of the analysis, the Court “is not concerned with the social utility of the speech at issue, or the degree to which it propelled the conversation in any particular direction,” but only with whether the publication participated in, or furthered, the discourse that makes the issue one of public interest. (*Geiser v. Kuhns* (2022) 13 Cal.5th 1238, 1255.) The Articles examine the impact of high-speed internet on an isolated community, the spread of pornography and other online content, and resulting social changes. California courts construe “public interest” broadly to include “any issue in which the public is

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 78

25STCV14798

**FLORA DUTRA, et al. vs EHM PRODUCTIONS, INC., A
CALIFORNIA CORPORATION, DBA TMZ, et al.**

September 16, 2025

4:05 PM

Judge: Honorable Tiana J. Murillo
Judicial Assistant: Diana Castro-Martinez
Courtroom Assistant: Angela Comick

CSR: None
ERM: None
Deputy Sheriff: None

interested.” (*Nygard*, supra, 159 Cal.App.4th at 1042; *Hecimovich v. Encinal Sch. Parent Teacher Org.* (2012) 203 Cal.App.4th 450, 464). Children’s exposure to sexually explicit content and the broader effects of internet access constitute matters of public concern. (*FilmOn*, supra, 7 Cal.5th at 152–153). Reporting on Indigenous communities, their elders, cultural survival, and technological change similarly implicates social issues extending beyond the parties.

Accordingly, the Court finds that Plaintiffs’ claims arise from protected activity and are subject to the anti-SLAPP statute. The burden now shifts to Plaintiffs to show a probability of prevailing on the merits.

3. Probability of Success on the Merits

Once a defendant has established that the anti-SLAPP statute applies, the burden shifts to the plaintiff to demonstrate a “probability” of success on the merits. (CCP §425.16(b); *Equilon Enters. LLC v. Consumer Cause, Inc.* (2002) 29 Cal.4th 53, 67.) “[T]he plaintiff must demonstrate that the complaint is both legally sufficient and supported by a sufficient prima facie showing of facts to sustain a favorable judgment if the evidence submitted by the plaintiff is credited.” (*Matson v. Dvorak* (1995) 40 Cal.App.4th 539, 548 [internal quotations omitted].) The evidentiary showing by the plaintiff must be made by competent and admissible evidence. (*Morrow v. Los Angeles Unified Sch. Dist.* (2007) 149 Cal.App.4th 1424, 1444; see also *Evans v. Unkow* (1995) 38 Cal.App.4th 1490, 1497-98 (proof cannot be made by declaration based on information and belief); *Tuchscher Dev. Enters., Inc. v. San Diego Unified Port Dist.* (2003) 106 Cal.App.4th 1219, 1236-38 (documents submitted without proper foundation could not be considered in determining plaintiff’s probability of prevailing on its claim).)

i. Defamation Claim

a. Legal Standard

“ ‘ “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.” ’ [Citations.] ‘In general,...a written communication that is false, that is not protected by any privilege, and that exposes a person to contempt or ridicule or certain other reputational injuries, constitutes libel.’ [Citation.] The defamatory statement must specifically refer to, or be ‘of or concerning’ the plaintiff.’ [Citation.]” (*Jackson v. Mayweather* (2017) 10 Cal.App.5th 1240, 1259-1260.)

“ ‘Libel is a false and unprivileged publication by writing, printing, picture or effigy, or

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 78

25STCV14798

**FLORA DUTRA, et al. vs EHM PRODUCTIONS, INC., A
CALIFORNIA CORPORATION, DBA TMZ, et al.**

September 16, 2025

4:05 PM

Judge: Honorable Tiana J. Murillo
Judicial Assistant: Diana Castro-Martinez
Courtroom Assistant: Angela Comick

CSR: None
ERM: None
Deputy Sheriff: None

other fixed representation to the eye, which exposes any person to hatred, contempt, ridicule, or obloquy, or which causes him to be shunned or avoided, or which has a tendency to injure him in his occupation.’ ” (Civ. Code, § 45; *Bartholomew v. YouTube, LLC* (2017) 17 Cal.App.5th 1217, 1226.)

“There are generally two types of libel recognized in California – libel per se and libel per quod. ‘A libel which is defamatory of the plaintiff without the necessity of explanatory matter, such an inducement, innuendo, or other extrinsic fact, is said to be libel on its face. Defamatory language not libelous on its face is not actionable unless the plaintiff alleges and proves he has suffered special damage as a proximate result thereof.’ [Citations.] The distinction has been described as follows: ‘If no reasonable reader would perceive in a false and unprivileged publication a meaning which tended to injure the subject’s reputation in any of the enumerated respects, then there is no libel at all. If such a reader would perceive a defamatory meaning without extrinsic aid beyond his or her own intelligence and common sense then...there is a libel per se. But if the reader would be able to recognize a defamatory meaning only by virtue of his or her knowledge of specific facts and circumstances, extrinsic to the publication, which are not matters of common knowledge rationally to all reasonable persons, then (under the same authorities) the libel cannot be libel per se but will be libel per quod.’ [Citations.]” (*Bartholomew v YouTube, LLC* (2017) 17 Cal.App.5th 1217, 1226-27.)

b. Analysis

Plaintiffs contend the June 2, 2024 NYT article falsely implied that the Marubo Tribe and its youth had become “addicted to pornography,” and that Dutra and Enoque enabled this alleged moral decline by introducing Starlink to the community. They argue falsity is established through declarations from tribal leaders, including Alfredo Marubo, who deny making statements attributed to them, and they further assert that as private figures they need only meet a minimal burden to show merit.^[3] Plaintiffs also maintain that the Times acted with actual malice by publishing salacious allegations without verification, that subsequent republications by tabloids were reasonably foreseeable, and that ancillary claims of false light, IIED, misappropriation, intrusion, fraud, negligence, and UCL, remain independently viable.

The Court disagrees. The June 2, 2024 NYT article reported that some unidentified “young men” accessed pornography; it did not accuse the Marubo Tribe as a whole, all of its youth, or either individual Plaintiff of such conduct, nor did it ever state that anyone was “addicted to porn.” Reliance on third-party tabloid headlines cannot satisfy the “of and concerning” requirement to prove defamation, and Plaintiffs’ attempt to substitute a “subset” of

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 78

25STCV14798

**FLORA DUTRA, et al. vs EHM PRODUCTIONS, INC., A
CALIFORNIA CORPORATION, DBA TMZ, et al.**

September 16, 2025

4:05 PM

Judge: Honorable Tiana J. Murillo
Judicial Assistant: Diana Castro-Martinez
Courtroom Assistant: Angela Comick

CSR: None
ERM: None
Deputy Sheriff: None

176 young men cannot cure the defect. (*Blatty v. N.Y. Times Co.* (1986) 42 Cal. 3d 1033, 1046 [“where the group is large—in general, any group numbering over twenty-five members—the courts in California and other states have consistently held that plaintiffs cannot show that the statements were ‘of and concerning them,’.”].)

Even if the June 2 article had implied that Plaintiffs “enabled deviant behavior” or that the Marubo Tribe “could not handle technology,” such statements amount to nonactionable opinion about social consequences, not verifiable fact. (*Gregory v. McDonnell Douglas Corp.* (1976) 17 Cal. 3d 596, 600-604 [discussion of distinctions between statements of opinion and fact, a determination of which is a question of law; holding that statements expressing judgment about fitness for leadership are opinions, not provable facts].)

Plaintiffs also fail to produce competent evidence of falsity. They rely on a declaration from Alfredo Marubo, but it does not contain the quoted denial that he “never made this or any similar statement.” By its own terms, it disputes only characterizations in publications like TMZ, the Daily Mail, and the New York Post. Further, Alfredo Marubo’s association issued a statement describing the Times’ reporting as accurate. Thus, Plaintiffs have not produced admissible evidence that the June 2 article misquoted or misstated Alfredo.

Critically, the FAC depicts Dutra and Enoque as leaders who advocated for internet connectivity, lobbied the Brazilian Congress, and invited international coverage. By voluntarily injecting themselves into this public controversy, they are at least limited-purpose public figures. (*Sipple v. Found. for Nat’l Progress* (1999) 71 Cal. App. 4th 226, 247 [“one who undertakes a voluntary act through which [they seek] to influence the resolution of the public issues involved is a public figure”]; *Ampex Corp. v. Cargle* (2005) 128 Cal.App.4th 1569, 1577.) Accordingly, Plaintiffs must prove actual malice with clear and convincing evidence. They cannot do so.

While the June 11, 2024 NYT article clarified there was “no hint” the Tribe was addicted to porn, it did not retract the much narrower point that some young men had shared explicit videos. Plaintiffs identify no red flags or contradictory evidence ignored at the time of publication. Reliance on a reputable source is not reckless disregard.^[4] Here, the source was tribal leader Alfredo Marubo, who was identified in the June 2 article expressing concern that some young men were sharing explicit videos. Reliance on a source with apparent firsthand knowledge and recognized leadership within the community does not amount to reckless disregard. Further, Plaintiffs provide no evidence of reasons to doubt Alfredo’s authority. (See *Reader’s Digest Ass’n v. Superior Ct.* (1989) 37 Cal. 3d 244, 259.)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 78

25STCV14798

**FLORA DUTRA, et al. vs EHM PRODUCTIONS, INC., A
CALIFORNIA CORPORATION, DBA TMZ, et al.**

September 16, 2025

4:05 PM

Judge: Honorable Tiana J. Murillo
Judicial Assistant: Diana Castro-Martinez
Courtroom Assistant: Angela Comick

CSR: None
ERM: None
Deputy Sheriff: None

The Marubo Tribe likewise cannot show actual malice or damages. Because the Articles address matters of public concern, the Marubo Tribe must show actual malice to recover presumed or punitive damages, but none is shown. Nor has the Marubo Tribe pleaded recoverable special damages; losses tied to NGO projects led by Dutra are not the Marubo Tribe's damages, and as an unincorporated association the Tribe cannot claim emotional distress damages.

ii. Remaining Claims

Given these deficiencies in the defamation claims, the derivative causes of action cannot stand. False light and IIED rest on the same challenged speech and fail for the same reasons: no actionable false statement, no actual malice, and protected opinion. Allegations about post-publication search results or continued publication after a purported revocation of consent do not transform constitutionally protected reporting into outrageous conduct. (See *Couch v. San Juan Unified School Dist.* (1995) 33 Cal.App.4th 1491, 1504 [“[w]hen claims for invasion of privacy and emotional distress are based on the same factual allegations as those of a simultaneous libel claim, they are superfluous and must be dismissed.”].)

The misappropriation of likeness claim is barred by Civil Code section 3344(d) and the common-law “public affairs” privilege, which exempt reporting on matters of public interest. (*Dora v. Frontline Video, Inc.* (1993) 15 Cal. App. 4th 536, 542 (1993).)

The intrusion upon seclusion claim fails because the Times entered with the Marubo Tribe's consent through the Kapyvanaway Association, and intrusion requires unwanted access into private matters without consent; Plaintiffs also lack standing to assert an elder's personal privacy.

Nor can Plaintiffs succeed on their fraudulent inducement theory. The alleged promises to be “respectful” and not injure “dignity” are too vague to ground fraud in the context of public-interest reporting. The June 2, 2024 NYT article discussed both benefits and drawbacks of internet access, consistent with its stated purpose, and the alleged damages do not appear to flow from NYT's reporting.

Finally, the negligence and UCL claims are derivative of the defamation allegations. Plaintiffs' Opposition ties these claims to the same publications, and they are barred for the same constitutional reasons. They also fail independently because Plaintiffs identify no duty breached or actionable unfair practice beyond protected newsgathering.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 78

25STCV14798

**FLORA DUTRA, et al. vs EHM PRODUCTIONS, INC., A
CALIFORNIA CORPORATION, DBA TMZ, et al.**

September 16, 2025

4:05 PM

Judge: Honorable Tiana J. Murillo
Judicial Assistant: Diana Castro-Martinez
Courtroom Assistant: Angela Comick

CSR: None
ERM: None
Deputy Sheriff: None

Accordingly, Plaintiffs have not demonstrated a probability of prevailing on defamation or any derivative claim. Thus, NYT's anti-SLAPP motion is GRANTED.

C. TMZ's anti-slapp motion

1. Evidentiary Objections

TMZ submits eighty evidentiary objections directed to Plaintiffs' opposition. The Court rules as follows. Objections 27-29 (Exhibits 8, 10, 14) are sustained. Objections 37-38 (Exhibits 18, 19) are sustained on the same grounds. Objections 40-43 (to portions of the Declaration of Enoque Marubo) are sustained. Objection 52 (to paragraph 26 of the Enoque declaration recounting statements of unidentified women) is sustained. Objections 55-57 (to Exhibits 5-7, and 9) are sustained.

The remaining objections, including those directed to the Declarations of Manoel Sebastião Paiva Marubo (Objections 1-9), Manoel Rodrigues Correias Marubo (Objections 10-17), Sebastiao Marubo (Objections 18-26), Alfredo Barbosa Da Silva Marubo (Objections 30-36), Enoque Marubo (Objections 39, 44-51, 53-54) and Flora Dutra (Objections 58-80) are overruled.

2. Protected Activity

TMZ argues its segment addressed matters of public interest, specifically: (1) Plaintiffs Flora Dutra and Enoque Marubo, who are "in the public eye" due to their international advocacy and leadership roles; and (2) the broader controversy over introducing Starlink internet to remote communities and its potential consequences, including exposure to pornography, violent games, and other online content. TMZ emphasizes that Plaintiffs themselves publicized their work, invited *The New York Times* to cover the story (FAC ¶¶ 13-15), and posted videos and website content about their efforts in 2023. By doing so, TMZ contends, Plaintiffs became at least limited-purpose public figures.

TMZ further argues that, even apart from Plaintiffs' public figure status, its reporting independently addressed ongoing public controversies about expanding internet access to isolated communities and the effects of online pornography. The FAC itself alleges the *NYT* article "triggered a wave of international media amplification, controversy, and public scrutiny." (FAC ¶ 41.) Citing *FilmOn*, *supra*, 7 Cal.5th at 151, TMZ argues that the anti-SLAPP statute

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 78

25STCV14798

**FLORA DUTRA, et al. vs EHM PRODUCTIONS, INC., A
CALIFORNIA CORPORATION, DBA TMZ, et al.**

September 16, 2025

4:05 PM

Judge: Honorable Tiana J. Murillo
Judicial Assistant: Diana Castro-Martinez
Courtroom Assistant: Angela Comick

CSR: None
ERM: None
Deputy Sheriff: None

protects speech that “participated in, or furthered, the discourse that makes an issue one of public interest,” regardless of tone or perceived social value.

Plaintiffs counter that TMZ’s segment lacked the necessary “functional relationship” to any public debate. They note the segment’s title—“Elon Musk’s Starlink Hookup Leaves A Remote Tribe Addicted To Porn”—and argue it paired footage of Plaintiffs delivering antennas with narration implying they facilitated pornography and threats to women. Plaintiffs characterize the segment as sensationalist “clickbait” designed to provoke scandal rather than inform. They also dispute public figure status, arguing they never voluntarily entered a public controversy about pornography or cultural collapse and that general internet advocacy does not confer public figure status. Plaintiffs contend TMZ exploited their images, splicing them with false statements suggesting criminal conduct, solely to generate clicks and revenue.

The Court finds TMZ has met its initial burden under CCP section 425.16, subdivisions (e)(3) and (e)(4). TMZ’s publications concerned matters of public interest, specifically Dutra and Enoque’s leadership and advocacy on behalf of the Marubo Tribe. The FAC alleges that Dutra is “internationally recognized for her work in ... indigenous rights and technological inclusion,” and that Enoque is the Tribe’s elected leader and international representative, overseeing twenty villages and protecting more than 3.5 million hectares of rainforest. (FAC ¶¶ 4-6, 19-20, 68, 78, 164.) California courts have held that individuals whose accomplishments or leadership draw widespread attention may be deemed public figures. (*Stewart v. Rolling Stone LLC* (2010) 181 Cal.App.4th 664, 677-678.)

The Court also finds TMZ’s reporting addressed an ongoing public controversy. Courts consider whether speech could affect large numbers of people and whether it occurs within a broader public dispute. (*FilmOn.com*, supra, 7 Cal.5th at 145-146.) The FAC alleges that the *NYT* article “triggered a wave of international media amplification, controversy, and public scrutiny.” (FAC ¶ 41.) TMZ’s coverage furthered this discourse by addressing the spread of internet access to remote populations and its cultural and social impacts. The FAC also states that TMZ’s reporting reached an estimated 150 million readers worldwide. (FAC ¶¶ 49, 71, 104, 112.) In determining whether speech furthers public discourse, courts consider audience, speaker, and purpose. (*FilmOn.com*, supra, 7 Cal.5th at 152.) Regardless of tone, TMZ’s segment contributed to an existing debate over the effects of internet connectivity on remote Indigenous communities.

Accordingly, the Court finds that Plaintiffs’ claims arise from protected activity and are subject to the anti-SLAPP statute. The burden now shifts to Plaintiffs to show a probability of

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 78

25STCV14798

**FLORA DUTRA, et al. vs EHM PRODUCTIONS, INC., A
CALIFORNIA CORPORATION, DBA TMZ, et al.**

September 16, 2025

4:05 PM

Judge: Honorable Tiana J. Murillo
Judicial Assistant: Diana Castro-Martinez
Courtroom Assistant: Angela Comick

CSR: None
ERM: None
Deputy Sheriff: None

prevailing on the merits.

3. Probability of Success on the Merits

i. Defamation Claim

Plaintiffs contend they are private figures and therefore need only show minimal merit at this stage. (See *Khawar v. Globe* (1998) 19 Cal.4th 254, 274.) They argue that the TMZ segment conveyed provably false factual statements—for example, that Marubo “young men” were “sending each other really explicit porn videos,” had become “addicted to porn,” and posed a “threat to the women.” According to Plaintiffs, these statements were juxtaposed with footage of them installing Starlink equipment, creating the false implication that they facilitated criminal and immoral conduct.

Plaintiffs submit declarations, including one from Alfredo Marubo denying the attributed quotes, to establish falsity. They allege TMZ acted with actual malice by relying solely on a NYT article, failing to contact Plaintiffs, and purposefully avoiding verification despite the story’s foreseeably defamatory “sting.” Plaintiffs further argue that group defamation does not bar their claim because the publication targeted a specific and identifiable subgroup—Marubo “youth” or “young men.” They also assert that the “wire service” defense does not apply, claiming TMZ “developed” the content through sensational editing and narration. Plaintiffs seek damages for specific economic losses, including the collapse of NAVI Global, canceled programs, and lost funding, and maintain that their false light, Civil Code section 3344 misappropriation, and UCL claims remain independently viable.

As discussed in Section B(3)(i)(b), *supra*, the FAC establishes that Plaintiffs voluntarily positioned themselves as the public face of the Starlink connectivity project, invited media coverage, and actively promoted the effort prior to TMZ’s publication. They are therefore, at minimum, limited-purpose public figures for the controversy surrounding rapid internet deployment in remote communities. (*Sipple v. Found. for Nat’l Progress* (1999) 71 Cal. App. 4th 226, 247; *Ampex Corp. v. Cargle* (2005) 128 Cal.App.4th 1569, 1577.)

As public figures, Plaintiffs must present clear and convincing evidence that TMZ published with actual malice—i.e., that it entertained “serious doubts” about the truth or acted with “a high degree of awareness of probable falsity.” (*Harte-Hanks Communications, Inc. v. Connaughton* (1989) 491 U.S. 657, 667.)

Plaintiffs emphasize that TMZ relied on the NYT article, did not contact Plaintiffs

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 78

25STCV14798

**FLORA DUTRA, et al. vs EHM PRODUCTIONS, INC., A
CALIFORNIA CORPORATION, DBA TMZ, et al.**

September 16, 2025

4:05 PM

Judge: Honorable Tiana J. Murillo
Judicial Assistant: Diana Castro-Martinez
Courtroom Assistant: Angela Comick

CSR: None
ERM: None
Deputy Sheriff: None

directly, and presented the story in a sensational tone. However, reliance on a reputable, widely circulated source does not, by itself, constitute actual malice, nor does a failure to conduct independent reporting absent clear “red flags” indicating probable falsity. (*See Harte-Hanks Communications, Inc., supra* 491 U.S. at 667.) Plaintiffs’ theory of willful blindness is based largely on conclusory assertions about motive and style rather than evidence of subjective doubt at the time of publication. Accordingly, they have not met the clear-and-convincing standard.

Plaintiffs also fail to produce competent evidence of falsity or that the challenged statements were “of or concerning” them. (*See Blatty v. N.Y. Times Co.* (1986) 42 Cal. 3d 1033, 1042.) The FAC acknowledges that internet access was introduced and that some individuals viewed explicit material. Plaintiffs do not offer sufficient evidence to show that statements regarding some “young men” sharing explicit content are false. Moreover, the TMZ segment refers generally to “some men” and “young men,” and the use of footage showing Plaintiffs’ humanitarian work alongside generalized narration does not, on this record, transform those statements into actionable assertions about Plaintiffs personally.

Finally, Plaintiffs’ group-defamation theory fails. The publication does not single out a sufficiently small or specific cohort such that individual members are reasonably identifiable. (*See Blatty, supra*, 42 Cal.3d at 1046.) As a result, Plaintiffs cannot avoid the group-defamation bar.

ii. Remaining Claims

Plaintiffs seek to avoid application of the wire-service defense by characterizing TMZ as an “information content provider.” However, they offer no evidence that TMZ fabricated new defamatory facts or materially altered the NYT reporting in a way that created new defamatory meaning. (*See Barrett v. Rosenthal* (2006) 40 Cal.4th 33, 57 [“Distributors are liable not merely upon receiving notice from a third party, but also if they independently ‘knew or had reason to know’ of the defamatory statement.”].) Nor have Plaintiffs made a prima facie showing that TMZ knew the June 2, 2024 NYT article was probably false or that it ignored clear reasons to doubt its accuracy. (*See Harte-Hanks Commc’ns, Inc., supra*, 491 U.S. at 688.)

Because Plaintiffs have not demonstrated a probability of prevailing on their defamation claims, their related causes of action—including false light, negligence and negligent infliction of emotional distress, misappropriation under Civil Code section 3344, and unfair competition—also fail. Each claim arises from the same challenged speech, and derivative claims cannot proceed where the underlying defamation claim does not survive. (*See Blatty, supra*, 42 Cal.3d at

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 78

25STCV14798

**FLORA DUTRA, et al. vs EHM PRODUCTIONS, INC., A
CALIFORNIA CORPORATION, DBA TMZ, et al.**

September 16, 2025

4:05 PM

Judge: Honorable Tiana J. Murillo
Judicial Assistant: Diana Castro-Martinez
Courtroom Assistant: Angela Comick

CSR: None
ERM: None
Deputy Sheriff: None

1042 [“At the threshold, in defamation actions—in which, of course, the alleged injurious falsehood of a statement is the gravamen of the plaintiff’s claim”]; *see also McClatchy Newspapers, Inc. v. Superior Court* (1987) 189 Cal. App. 3d 961, 965 [dismissing false light claim based on same facts as libel on the grounds it is superfluous].)

Accordingly, Plaintiffs have not demonstrated a probability of prevailing on defamation or any derivative claim. The special motion to strike is GRANTED.

IV. CONCLUSION

With the consent of her counsel, the Court permitted Plaintiff Ms. Dutra to address it regarding this matter. Ms. Dutra spoke earnestly about her concerns regarding the attention directed toward the Marubo people, including respected elders and youth. She articulated broader issues—such as the exploitation and marginalization of Indigenous communities in pursuit of profit, and the unwanted and inappropriate depictions of individuals and cultural practices she regards as sacred—that appear serious and deeply held.

While some may reasonably perceive the coverage by the New York Times and TMZ as insensitive, disparaging, or reflecting a lack of respect, the Court need not, and does not, determine which of these characterizations is most apt. The Court is constrained by the allegations in the Complaint and the legal authorities governing the claims that Plaintiffs have raised. On this record, and under the applicable standards, the broader issues identified by Ms. Dutra—while important and worthy of being addressed—cannot be resolved through the claims as pled against these defendants.

NYT’s Special Motion to Strike is **GRANTED**.

TMZ’s Special Motion to Strike is **GRANTED**.

Moving Party is ordered to give notice.

DATED: September 16, 2025

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 78

25STCV14798

**FLORA DUTRA, et al. vs EHM PRODUCTIONS, INC., A
CALIFORNIA CORPORATION, DBA TMZ, et al.**

September 16, 2025

4:05 PM

Judge: Honorable Tiana J. Murillo
Judicial Assistant: Diana Castro-Martinez
Courtroom Assistant: Angela Comick

CSR: None
ERM: None
Deputy Sheriff: None

Hon. Tiana J. Murillo

Judge of the Superior Court

[1] The Court here identifies Plaintiff Enoque Marubo as “Enoque” not out of familiarity or disrespect, but for clarity in discussing the several interested parties.

[2] In *FilmOn.com Inc. v. DoubleVerify Inc.*, 7 Cal. 5th 133 (2019), FilmOn sued DoubleVerify for trade libel and related claims after DoubleVerify privately reported to advertisers that FilmOn’s websites contained adult content and copyright infringement. DoubleVerify moved to strike under CCP section 425.16, subdivision (e)(4), arguing its reports addressed matters of public interest. (*Id.* at p. 142.) The California Supreme Court reversed the lower courts and held that context matters under that section of the statute. It established a two-part test: (1) identify the public issue to which the speech relates, and (2) assess the functional relationship, i.e., determine whether the speech itself contributes to public discourse about that issue, considering the speaker, audience, and purpose. (*Id.* at pp. 149-150). Because DoubleVerify’s reports were not public, purely commercial, and did not contribute to or further the public discussion, they did not qualify for protection. (*Id.* at 153.) By contrast, the facts of this case—where a newspaper published a story examining internet access in remote areas and its cultural effects, including youth exposure to pornography—plainly satisfy both steps of the *FilmOn* test, as the article both addresses a matter of clear public concern and contributes directly to public debate (when considering the speaker, audience, and purpose).

[3] See *Cabrera v. Alam* (2011) 197 Cal.App.4th 1077, 1091-1092 [“ ‘When a defamation action is brought by a public figure, the plaintiff, in order to recover damages, must show that the defendant acted with actual malice in publishing the defamatory communication.’” ... “To establish malice, plaintiff was required to show that defendant made the allegedly defamatory statements with knowledge, or reckless disregard, of the falsity of the statements. (*Hassan v. Mercy American River Hospital* (2003) 31 Cal.4th 709, 718, 3 Cal.Rptr.3d 623, 74 P.3d 726 [“Traditionally, malice has included not only deliberate falsehoods but also false statements made without reasonable grounds to believe them true”]; *Sipple v. Foundation for Nat. Progress* (1999) 71 Cal.App.4th 226, 246, 83 Cal.Rptr.2d 677.)”]

[4] See *Harte-Hanks Commc’ns, Inc. v. Connaughton* (1989) 491 U.S. 657, 688 [failure to investigate is not actual malice absent obvious reasons to doubt truth; “As a result, failure to investigate before publishing, even when a reasonably prudent person would have done so, is not

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 78

25STCV14798

September 16, 2025

**FLORA DUTRA, et al. vs EHM PRODUCTIONS, INC., A
CALIFORNIA CORPORATION, DBA TMZ, et al.**

4:05 PM

Judge: Honorable Tiana J. Murillo

CSR: None

Judicial Assistant: Diana Castro-Martinez

ERM: None

Courtroom Assistant: Angela Comick

Deputy Sheriff: None

sufficient to establish reckless disregard.”]; *Reader’s Digest Assn. v. Superior Court* (1984) 37 Cal.3d 244, 259 [“Where the publication comes from a known reliable source and there is nothing in the circumstances to suggest inaccuracy, there is no duty to investigate.”].)

On the Court's own motion, the Hearing on Motion to be Admitted Pro Hac Vice scheduled for 10/07/2025, and Hearing on Motion to be Admitted Pro Hac Vice scheduled for 10/20/2025 are advanced to this date and vacated.

Certificate of Service is attached.