No. D057480

IN THE COURT OF APPEAL
OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT
DIVISION ONE

EMAD G. TADROS, M.D.,	FROM SAN DIEGO COUNTY
Appellant,	
vs.	Court of Appeal
STEPHEN DOYNE,	No. D057480
Respondent.	
	Superior Court Case No.
	37-2008-00093885-CU-BT-CTL

Appeal From a Judgment Of The Superior Court, County of San Diego Hon. Jay M. Bloom, Judge

APPLICATION TO FILE BRIEF OF AMICUS CURIAE, THE CALIFORNIA COALITION FOR FAMILIES AND CHILDREN "CCFC" IN SUPPORT OF THE APPELLANT EMAD G. TADROS, M.D.

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APPLICATION TO FILE BRIEF OF AMICUS CURIAE AND STATEMENT OF INTEREST OF AMICUS CURIAE

TO THE HONORABLE JUSTICES OF THE FOURTH DISTRICT, DIVISION ONE:

Pursuant to *California Rules of Court, Rule 8.200 (c)(1)*, The California Coalition for Families and Children, "CCFC" respectfully requests permission to file its concurrently-lodged Amicus Curiae Brief in support of the Appellant, Emad G. Tadros, M.D. "Dr. Tadros"

This brief does support the interests of the Public and while it does not include a detailed discussion of the facts, to avoid duplication of review it does advance public policy arguments in favor of reversal for the party it advocates for, which is relevant for the following reasons: Dr. Tadros is Diplomate/Board-Certified of the American Board of Psychiatry and Neurology. Dr. Tadros is vice chief of Scripps/Mercy Behavioral Health Services and has been an expert witness with the San Diego Superior Courts, testifying in hundreds of cases since 1993. This makes Dr. Tadros more than qualified to speak to these issues, and has by and through the underlying action brought same in the name of the ***public good.***

This should give some legal clarity in this case and why this issue is in the name of the public good. While Dr. Tadros was not denied contact with his minor child, it was discovered by him acting in the name of the public good, the harm upon the public by Dr. Stephen Doyne ("Doyne or Dr. Doyne") who was practicing under numerous other cases using false and misleading credentials and having no attachment by violating the mandatory Rules of Court for 9 years more or less. Because of Dr. Tadros' position he understands the gravity of the harm that has been created, by the illegal application, of the evaluations, to thousands of similarly situated individuals, who are part of the public. Without correction or accountability of Dr. Doyne he will continue to harm the public.

This matter has not only taken on extensive interest due to the harm to the cognizable group, it has been reported by the San Diego media, including two reports by ABC/Channel 10's award-winning investigative journalism "I-Team" reporter Lauren Reynolds, articles in the San Diego Union Tribune, the San Diego Reader, and other regional or local publications. It is also the subject of numerous Internet blogs, chat boards, email distribution lists, or other Internet discussion channels relating to family law, mental health, professional

qualification sites, and more. A simple "Google" search of "Dr. Stephen Doyne" would reveal ten or more such sites discussing this case or the similar widespread displeasure expressed by the San Diego public.

A. Description of Amicus Curiae

The undersigned Amici is a nonprofit organization comprised primarily of parents-both men and women-who have experienced a marital dissolution proceeding in San Diego, Orange, or Los Angeles Counties. Our members are professionals or others who are very highly motivated to devote time and resources to promote the health and success of Southern California families and children by addressing special social problems antithetical to such success, and which are currently being caused or contributed to by the present marital dissolution or other processes involving child custody issues.

B. Interest of Amicus Curiae

In granting the Anti-SLAPP judgment pursuant to *Code of Civil Procedure 425.16* to the Defendant, the CCFC believes that the San Diego Superior Court reached the incorrect result and gave no consideration to the intent of this action, being brought in the name of public good pursuant to *Code of Civil Procedure 425.17* and many of

the similarly situated litigants – many members of CCFC who are a part of this cognizable group, harmed by the failure of Doyne and other 730 Evaluator's, who not only falsified their credentials, but failed to adhere to the mandatory Rules of Court. CCFC is concerned that excusing the Defendant from having to follow ethical psychological and regulatory guidelines works to the severe detriment of this cognizable group and many litigants continued to be affected in the public at large.

A legitimate dispute exists between Doyne and a cognizable group of persons named and unnamed. Dr. Tadros has utilized the state judicial system in a permissible manner making a prima facie showing that his cause of action is exempt from *section 425.16*. In 2003, concerned about the "disturbing abuse" of the anti-SLAPP statute, the Legislature enacted *section 425.17* to exempt certain actions from it. (BPC §425.17(a).) The Legislature discussed the exemption for public interest lawsuits in *Club Members for an Honest Election v. Sierra Club* (2008) 45 Cal.4th 309, where the Supreme Court "narrowly construed" section 425.17, subdivision (b) and held that it applied "only when the entire action is brought in the public interest." *Id., supra*, at 316, 312.

The case at bar involves the scope and function of the exemption for the public good. It is a statutory exception to section 425.16 and "should be narrowly construed." While this case was brought as a direct and proximate result of the fraud to Dr. Tadros, he clearly stated in his complaint that "irreparable harm will result to the public, if Defendant is not enjoined from continuing to commit these acts."

When the trial court denied discovery when factual rulings were made, that Doyne's speech was not protected, this was error as supported in the Appellant's Brief. For Dr. Tadros to be denied the right to amend his complaint including rights to discovery is further error. It is not the label but the intent of the suit, which was well pronounced to the sitting judge. As courts have held:

> "Pleadings are required to be liberally construed in favor of the pleader. The factual allegations of the complaint are controlling over the title or label given the pleading and over the prayer or demand for relief. In these respects federal rules of pleading are similar. Together these policies compel the conclusion that [the defendant's] complaint must be construed liberally in determining whether the action was legally tenable."

Leonardini v. Shell Oil Co. (1989) 216 Cal.App.3d at p. 571. This policy cannot be any more tenable than where one brings an action to protect the public from continuing harm.

For these reasons, CFCC respectfully requests this Court to accept the accompanying brief for filing in this case.

LAW OFFICE OF MARC E. ANGELUCCI

Dated November ___, 2010 By: _____
Marc E. Angelucci, Esq.
Counsel for *Amicus Curiae*

No. D057480

IN THE COURT OF APPEAL
OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT
DIVISION ONE

EMAD G. TADROS, M.D., Appellant, vs. STEPHEN DOYNE, Respondent.	) FROM SAN DIEGO COUNTY)) Court of Appeal) No. D057480))) Superior Court Case No.) 37-2008-00093885-CU-BT-CTL))

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Appeal From a Judgment Of The Superior Court, County of San Diego Hon. Jay M. Bloom, Judge

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BRIEF OF AMICUS CURIAE, THE CALIFORNIA COALITION FOR FAMILIES AND CHILDREN "CCFC" IN SUPPORT OF THE APPELLANT EMAD G. TADROS, M.D.

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I.

ISSUES PRESENTED FOR REVIEW

The issue before the Court is the granting of defendant's Anti-SLAPP Motion, when Dr. Tadros' intent of bringing the underlying action was in the name of the **public good** as Doyne committed fraud on a cognizable group of persons, part of the public, the San Diego family law community, the courts, regarding important facts concerning his education and experience, his eligibility to perform evaluations, billings, and qualifications and credentials. This was done in combination with Doyne violating the mandatory Rules of Court, which gave him no lawful attachment to an official

proceeding. The issues involved in this case affect thousands of persons, well beyond the Tadros case. In addition, following notice to the San Diego Superior Court by Attorney Michael Aguirre, former San Diego City Attorney, of the failure to adhere to the mandatory Rules of Court, Dr. Tadros was denied discovery. (See Attached letter by Michael Aguirre)

II.

INTRODUCTION

Amici applied to the trial court for Leave to submit an Amicus Brief to assist the trial court in understanding the significant broader interests at stake in the Tadros Case and litigation, especially following discovery that Doyne (and other 730 Evaluator's) failure to adhere to the mandatory Rules of Court gave them no lawful attachment to the litigation. Amici submitted that refusal to permit Dr. Tadros to conduct any discovery "would have a tremendous and very harmful "chilling effect" on efforts by dozens of San Diego citizens to conduct their own investigations as to alleged fraudulent

misfeasance/malfeasance, or other violations of law and the public trust committed by such important professionals, representatives, and politicians." This was summarily rejected by the trial court without comment.

Amici takes the legal position that the denial of discovery did impede the legal right to demonstrate the *prima facia* fraud upon the public and the court to be fatal, as Doyne's motion was granted with no cure or correction to the public at large.

This case is not, as Doyne suggests, about freedom of expression and First Amendment rights. Rather, this case is solely that Doyne has no attachment to the litigation for failure to adhere to the California Rules of Court. This makes his illegal conduct not to be hidden or condoned under the SLAPP statutes.

Specifically: Was Dr. Doyne's behavior in violation of ethical norms and rules of law? Doyne's conduct not only invaded the privacy of a private citizen, but relied on fraud and misrepresentation in order to do so. These are very serious charges. Such conduct, if proven, is not only reprehensible from a moral standpoint, it violated state and federal laws, which causes the Anti-SLAPP not to attach.

Ethical conduct is essential if psychologists that deal with children and families are to retain the public's trust

In the end, both the interests of psychological services and the public welfare are best served by preserving the fundamental human rights supported by the Constitution, federal regulations, state laws, and ethical norms. For these reasons, we respectfully request that this Court reverse the Anti-SLAPP judgment and allow Dr. Tadros his day in court in the name of the public good, and the publics continuing welfare.

III.

STATEMENT OF FACTS

Regarding the factual circumstances of this case, CCFC adopts in their entirety the facts as presented by the Appellant in his Opening Brief.

IV.

ARGUMENT

A. The Underlying Case Brought by Dr. Tadros is for the Protection of the Public Good and Public Trust that has been Impeded by Undisputed Facts and Cannot Be Relieved Under the Anti-SLAPP statutes

Amici submits that this action's intent was brought in the name of the public good by Dr. Tadros, who stated emphatically to the Court on April 9, 2010 when addressing the court as follows: "*Your Honor, these posters are made by the public as this case is for the public good. I repeat,* ***this case is for the public good*****."** (RT Volume 10: pp. 218/25-26.) However, the trial court failed to apply the exception under *Code of Civil Procedure 425.17*; nonetheless Amici submits that the statute pursuant to *425.16* does not support an Anti-SLAPP motion here. The legislature, in enacting the statute, opined that the characteristic SLAPP plaintiff does not normally expect to win the lawsuit. The SLAPP suit would cause defendant's like Doyne to be surrendered to fear, intimidation, litigation, exhaustion and mounting legal costs and fees and would "deplete the defendant's energy' and drain 'his or her resources [citation]," However Dr. Tadros' very intent of bringing this action---as stated in the name of the public good - is to obtain relief for the cognizable group of persons named and unnamed, who are being harmed a second time, by the very nature and intent of the Anti-SLAPP suit and damaging those whom it was meant to protect. This protection is being extended to Doyne.

Dr. Tadros, who is a Psychiatrist in the County of San Diego, brought this action to protect the public good, and to guard against this very type and kind of harm that is being claimed by Doyne. It is Doyne who causes family law litigants to succumb to fear and intimidation by his unethical and illegal tactics. These litigants are afraid if they don't pay his high, inflated fees that they will lose their home, their livelihood and their children.

Amici asks this court to consider this case in carving out an exception to Anti-SLAPP suits being filed when the underlying action is a family law case. The broad interpretation, clearly by this case alone has been abused, and was never the intent of the Legislature by allowing a case to be active for over two years, so that a defendant like Doyne could reap the undeserving profits of mandatory attorney fees without question, then continue to harm the public with no accountability because of hiding under the SLAPP statute. Amici submits that this has become nothing more but a legal instrument that has no defined legal lines allowing many like Doyne to further the very purposes it was intended to curb.

This opens the door to discuss the historical nature of the Anti-SLAPP action. The term was originally defined as "*a lawsuit*

involving communications made to influence a governmental action or outcome, which resulted in a civil complaint or counterclaim filed against nongovernment individuals or organizations on a substantive issue of some public interest or social significance."[1]

A search of reported SLAPP litigation in 2009 discovered 1,386 cases for this State alone. This begs the question whether California's SLAPP statute is accomplishing its primary objective of reducing costly litigation? See *Navellier v. Sletten,* 29 Cal.4th 82, 124 Cal.Rptr.2d 530, 52 P.3d 703 (Cal. 2002) (dissenting opinion). In Justice Brown's dissenting opinion in which both Justice Baxter and Justice Chin concurred, he opined that under the majority's rule, SLAPP's would deter parties with novel claims and burden parties like Dr. Tadros with meritorious ones. It was further opined that this would undermine a litigant's right to petition and our justice system as a whole. Justice Brown goes on to state as follows:

> "The Legislature designed Code of Civil Procedure section 425.16 (hereafter section 425.16) to address a specific problem: Lawsuits, a traditional right that enables parties to shape law and government policy, could be deployed as a weapon barring rivals from meaningful access to judicial redress. (*California Transport v. Trucking Unlimited* (1972) 404 U.S. 508, 512 [92

[1] George W. Pring and Penelope Canan, SLAPPs: Getting Sued for Speaking Out, (1996), 8-9.

> S.Ct. 609, 612-613, 30 L.Ed.2d 642].) This strategic litigation could ensure parties prevailed by intimidating rivals instead of persuading judges and juries. Because traditional remedies for abusive litigation were ineffective (*Wilcox v. Superior Court* (1994) 27 Cal.App.4th 809, 817 [33 Cal.Rptr.2d 446]), the SLAPP (strategic lawsuits against public participation) law was enacted to protect legitimate litigants from procedurally coercive tactics. **The specific SLAPP problem warrants a specific remedy. Unfortunately, the majority opts for an all-inclusive definition of SLAPP's, which ignores the practical impact of legal rules, treats identical cases differently, and may chill the right of petitioning the law was designed to protect.** Rather than engage in the "subtle inquiry" necessary to distinguish proper petitioning from suppressive SLAPP's (*Braun, Increasing SLAPP Protection: Unburdening the Right of Petition in California* (1999) 32 U.C. Davis L.Rev. 965, 972), the majority appears willing to consider any suit a SLAPP, based largely on when it was filed. To the majority this is not problematic because courts will dismiss only meritless suits under the law. But its presumptive application of section 425.16 will burden parties with meritorious claims and chill parties with nonfrivolous ones. **The cure has become the disease—SLAPP motions are now just the latest form of abusive litigation. I respectfully dissent**."

Navellier ,supra, 29 Cal.4th at 96 (emphasis added).

Amici requests that this court balance in reviewing the SLAPP suit in the case at bar the constitutional rights of both litigants.

> "The right to sue and defend in the courts is the alternative of force. In an organized society it is the right conservative of all other rights, and lies at the foundation of orderly government." (*Chambers v. Baltimore & O. R. Co.* (1907) 207 U.S. 142, 148 [28 S.Ct. 34, 35, 52 L.Ed. 143, 146].) "[L]itigation may well be the sole practicable avenue open to a minority to petition for redress of grievances." (N.A.A.C.P. v. Button (1963) 371 U.S. 415, 430 [83 S.Ct. 328, 336, 9 L.Ed.2d 405, 416].)"

Since the Magna Carta, the world has recognized the importance of justice in a free society. "To no one will we sell, to no one will we refuse or delay, right or justice." (Magna Carta, 1215.) This nation's founding fathers knew people would never consent to be governed and surrender their right to decide disputes by force, unless government offered a just forum for resolving those disputes. *Coucher & Kelly, The Social Contract from Hobbes to Rawls (1994)*.

The right of access to the courts is indeed but one aspect of the right of petition." *California Motor Transport Co. v. Trucking Unlimited*, 404 U.S. 508, 510 (1972). Because "the right to petition is 'among the most precious of the liberties safeguarded by the Bill of Rights,' ... the right of access to the courts shares this 'preferred place' in our hierarchy of constitutional freedoms and values." *Harrison v.*

Springdale Water & Sewer Comm., 780 F.2d 1422, 1427 (8th Cir. 1986).

This balancing question arises when Dr. Tadros demonstrated a *prima facia* case that Doyne used false credentials and obtained an illegal “diplomate” status, shared with a housecat. When these prima facia facts are added together with the complete systematic failure of the San Diego Family Law Court and its Evaluator’s to follow the mandatory Rules of Court, and to complete the required Judicial Council Forms for nine years, then is this not a matter of public concern? "[T]he right to seek judicial relief for redress of grievances [is] too fundamental in character to permit petitioning activity to be turned against the petitioning party in the absence of a showing that the petitioning activity had lost its constitutionally privileged status...." *Protect Our Mountain v. District Court,* 677 P.2d 1361, 1367) (Col. 1984).[6] For this reason, the Supreme Court of New Hampshire invalidated that state's law for unduly restricting the rights of the alleged SLAPPer: "A solution cannot strengthen the constitutional rights of one group of citizens by infringing upon the rights of another group." *Opinion of the Justices (1994) 138 N.H. 445 [641 A.2d 1012, 1015].*

For these reasons the Amici request that this court reverse the Anti-SLAPP judgment and remand back to the trial court to be heard before a jury.

B. The California Bar President By His Warnings to the Legal Community Demonstrated the Violation of the Mandatory Rules of Court that Has Affected Numerous Litigants Supporting Section 425.17

Amici submits that it is necessary to inform the Court of the following that supports the Public Good, removal of the case to another jurisdiction as 92 persons satisfied the required standard that the sitting judge was prejudiced and biased, and that no sitting judge because of the shocking facts submitted can rule impartially in the County of San Diego. This is as a result of the following mixed legal, social, and political issues that have gone un-addressed, un-answered, and completely denied by the lower court in San Diego County Family Law Courts for nine years more or less and other counties across the state.

1. The Legal Failures And Problems Suffered By The Public And Dr. Tadros, And Others Similarly Situated Are The Direct And Indirect Result Of The Law Of Unintended Consequences.

The law of unintended consequences, is a legal adage or legal idiomatic warning, that an intervention in a complex system of law, always creates unanticipated and often undesirable outcomes - such as found in the case at bar. This is combined with Dr. Doyne, other 730 Evaluator's and family law attorney's failure to rise to the legal and professional standard of care for nine years. Sadly it must be reported that the 730 evaluations law, code, rules of court and its applications are not complex or complicated. All it requires is the due diligence of the family law attorneys and the 730 Evaluator's to make it work as envisioned and designed by the California Judicial Council and Legislature.

These illegal acts and actions of the 730 evaluator's like Doyne were carried out adversely. This affected thousands of family law litigant's who remain uninformed, and legally ignorant of the illegal inequities, that were created by and through purposeful design of the 730 Evaluator's and family law attorneys who failed to raise the alarm in the courts to protect their clients. This was from possible harm and the illegal forfeiting of their rights of due process of law, without any legal notice, or any legal consent on the part of the affected family law litigant's.

Before any valid case can be made, against the family law attorneys, who failed to raise any judicial alarm, that the 730 evaluator's were not properly appointed before the court, and had no legal standing, to carry out 730 evaluations, it would be necessary to establish that these attorneys knew or should have known that the 730 evaluator's like Dr. Doyne were in violation of the law by purposeful intent and legal design. This can only be proven by the facts that transpire after the fact. If the San Diego County Bar Association would find it a legal necessity to send a personal e-mail to every family law attorney in San Diego County, after the fact of being noticed of the legal failure of 730 evaluator's, this would establish the legal watch dog capacity and legal personality of that organization, and its need for continual monitoring of any and all legal acts or actions that were in violation of the law that affected its members adversely.

The Following Was Sent Out Via E-Mail To All Of The San Diego Family Law Attorneys by Attorney Robert Lesh, as President of the San Diego County Bar Association, through the San Diego County Bar Association listserve:

> . . . if you (the attorneys) have any old cases [730 Evaluations] still pending where these

> forms [Mandatory CA Judicial Council Forms] have not been used, please make sure that they are filed as you risk claims [Malpractice] from your client that the matter was not properly handled."

It would appear that Mr. Lesh has a great concern about family law attorneys being liable for malpractice, and for their continued failure not to raise the alarm about the mandatory Judicial Council Forms, or mandatory rules of court being followed, that are required to be used by all 730 evaluator's. Mr. Lesh encourages the attorneys to make sure the required mandatory forms are illegally completed and filed after the fact of the 730 Evaluation. This is in direct violation of the mandatory rules of court and the mandatory Judicial Council Forms that govern 730 evaluations pursuant to *Rules of Court Rule 5.225(k)(1)(b)* (Appointment requirements for child custody Evaluator's), which requires, among other things, that: (B) Private Child Custody Evaluator's must complete a Declaration of Private Child Custody Evaluator Regarding Qualifications (form FL-326) and file it with the clerk's office no later than 10 days after notification of each appointment and before any work on each child custody evaluation has begun."

Under the law, which is fixed by the mandatory rules of court, no 730 evaluation can start until all of the required legal processes and steps have been completed, which includes the filing and serving of the mandatory CA Judicial Council Form FL-326. The actions of Mr. Lesh as president of the San Diego County Bar gives all outward appearances of legal damage control by encouraging the family law attorneys to violate the law by getting the required forms filed after the fact of starting a 730 Evaluation. This would maintain the false appearance that the law had been complied with in the first instance, to avoid malpractice and to avoid the 730 Evaluator's from not getting paid. The fact that Mr. Lesh brings up the issue of the 730 evaluator's not getting paid makes perfect legal sense. This is because as he reasoned, if the mandatory Judicial Council forms are not timely filed and noticed to all parties, that would be a violation of the mandatory rules of court and the due process rights of the family law litigants.

This would cause and create a condition that the 730 evaluator and evaluations were invalid as the evaluator had no legal standing or attachment to the litigation process. This is because of their failure to follow the mandatory rules of court and use the mandatory Judicial

Council forms. There is no other legal logical reason for advancing the claim that the 730 evaluator's may not get paid for their work, except that they had no legal standing in the litigation because of their own failure to follow the law. Mr. Lesh is wise enough to understand that not only are the family law attorneys at risk of malpractice claims for failing to protect the due process rights of their clients. The 730 evaluator's are also at risk of disgorgement of fees and legal civil liability. That risk is present because of the lack of any real legal attachment to the legal proceeding. This extinguishes the legal right to invoke the litigation privilege found in *Civil Code 47* and the Anti-SLAPP Suit would evaporate for 730 Evaluator's.

What is most telling and troubling about the communication is there is no real concern expressed for the injured legal rights of the family law litigants. There is no expression that the attorneys have a need to act in the interest of their clients and not withhold or cover up these legal inequities. The entire communication is aimed at causing containment and continuing a legal cover-up of the legal inequities and wrongdoing of the family law attorneys, who failed to protect the rights of their clients by not insisting that the mandatory rules of court were followed, and the 730 Evaluator's were legally and properly

attached to the litigation. The cover-up is based upon the conjoint effort and instruction to get the attorneys to prepare the required forms and cause the 730 Evaluator's to endorse them after the fact in violation of the law.

It should be noted it is not the duty or responsibility of the family law attorneys to ensure that the 730 Evaluator's have protection after their willful violation of the mandatory Rules of Court, and use of the Mandatory Judicial Council forms. This shows the existence of an illegal act and action to preserve the legal symbiotic relationship that exists between the family law attorneys and the 730 Evaluator's. This legal symbiotic relationship is designed to perpetuate legal conflict, which fills the coffers of the offending attorneys and the 730 Evaluator's simultaneously. This is based upon the principal where there is no conflict, there are no fees. This opens the door to the existence of the symbiotic relationship being perpetuated to cause conflict where there is none, and to increase the revenue for the attorneys and the 730 Evaluator's. If this were not true then Mr. Lesh would have no need to notice all of the family law attorneys on how to preserve their symbiotic relationship with the 730 Evaluator's.

Mr. Lesh further states: "t*here is a strong possibility that the custody evaluator will not be paid for work that they perform prior to the form being signed and submitted to the court*." This indicates that Doyne and the attorney would be required to refund all monies for legal fees and costs, which were attached to the improper and illegal 730 evaluations. All 730 Evaluator's would have to refund all funds as they were taking money illegally under false pretenses, when they had no legal attachment to the litigation. This additionally proves the court had no subject matter jurisdiction over the 730 evaluations making them all void and voidable.

TOO BIG TO FAIL: The case at bar has something in common with the former melt down of the banking system and financial markets of this country. There are few that would reasonably debate that Wall Street and the banks violated the law, abused their position of power and caused one of the biggest financial crises since the great depression of the 1930's. The case at bar has the same type of problem. The legal magnitude of the complete systemic failure of the Family law attorneys, the 730 Evaluator's and the sitting family law judges that sat idly by and allowed for nine years of illegal, improper life changing contested 730 evaluations to transpire in complete

violation of the mandatory Rules of Court, and failure to use and apply the law that demands the use of mandatory Judicial Council Forms is almost beyond belief.

Now after the fact the court is faced with thousands upon thousands of family law litigants who had their due process rights denied. In many cases their right to parent was affected illegally. This is a legal disaster of biblical legal proportions that everyone in the legal community wants it to die quietly. The attorneys and the 730 Evaluator's have all collectively committed legal and psychological malpractice. The judiciary faces embarrassment, which it finds totally unacceptable. Just as the banks and Wall Street were too big to fail, this judicial and legal failure on the part of the courts, the family law attorneys and the 730 Evaluator's have one common interest: to make this legal disaster, with no regard for the rights of the injured parties, in the name of retaining money, taken under false pretenses, and cover it up to save public embarrassment and avoid opening the flood gates of litigation.

This is all being carried out in the name of judicial economy, self-preservation and the un-natural and illegal need to hold on to fees

for services that were the result of an illegal act and action, on the part of the lawyers and the 730 Evaluator's.

Amici submits that the court does not exist for the private self-preservation of any special interest group, public or private, at the expense of the due process rights of the family law litigants and their children. It must be remembered that illegal acts and actions were taken by the courts, the lawyers and the 730 Evaluator's that caused illegal life changing events in the lives of good and fit parents that suffered not only financial loss, but the loss or illegal impairment of the fundamental Constitutional right to parent, and the attending costs that attached to that illegal litigation process. This has caused and created a legal monolith that is single minded of purpose. It is comprised of all of the most powerful forces that control and enforce the body of law in the family law courts. This creates an illegal and tenable legal condition and atmosphere where only the special interests of the offending family law attorneys, the illegal 730 Evaluator's like Doyne and the sitting Judges of the family law courts, where any mention of the past violations meets a complete shut down of any hope of public or private redress by these parties individually or collectively.

Superior Court Administrative Michael Roddy, Presiding Judge Lorna Alksne and others have become completely obstructive in that they refuse to acknowledge the harm done to the individual litigants or the litigants as a cognizable group that now brings this matter to the attention of the court for redress and relief in the name of the public good and public interest.

The family law court, the 730 Evaluator's and the family law attorneys have individually and as a group refused to inform the effected and illegally disenfranchised litigants that their legal rights may have been illegally impaired though no fault of their own. That a condition of possible legal malpractice and violations by the 730 Evaluator's, like Doyne are open for review and recovery for damages suffered, because the litigation privilege does not attach nor does the Anti- SLAPP Suit Protections.

This causes a double harm to the public/litigants as individuals and a group because they have been forced to endure illegal 730 evaluations. This is when the 730 Evaluator's and attorneys were aware or should have been aware of the constant violation of the Rules of Court and use of the mandatory Judicial Council Forms.

Given the lack of any legal standing or legal connection to the litigation in the family law proceedings, the continuation of illegal protection for the 730 Evaluator's and attorneys against the individual and group public interest not only violates the spirit of fairness and equity in the law, it would illegally perpetuate the interest of the few over the rights of the many who comprise the body of the public good.

Many bandy about the term "Public Good" with no direct purpose being fixed to it. We shall not fall in to that legal complacency and allow this vital legal term to be misapplied or misconstrued in the case at bar. The term "Public Good" as used in the brief is defined as follows;

> Any legal good or benefit that, if supplied to anybody in the litigation process, is necessarily supplied and available to everybody, and from whose benefits it is impossible, or impracticable to exclude anybody before, during or after the litigation process has run its course.

Fifth District Presiding Justice James Ardaiz is quoted as stating: "A justice system that is open and accessible to the public to be seen and to be heard is a hallmark of a free and democratic

society.” The San Diego County family law court had a nine year period of complete failure to demand that all 730 Evaluator’s apply to the application of the mandatory Rules of Court.

These rules of Court apply directly to the legally required legal processes and procedural protocol to establish and maintain the legal status for a 730 evaluator in a family law court matter. The legally required legal processes and procedural protocol makes no exception in the mandatory use of California Judicial Council Forms Form numbers: FL-326 and FL-327 to accomplish that desired legal goal and result.

Example: No rational person would deny the fact that there are certain legal applications and processes one must accomplish and satisfy before a California Driver’s License can or will be issued to a particular individual, granting that individual the legal privilege of operating a motor vehicle on the highways and roads of California. **The same legal principal should apply to being appointed as a 730 family court Evaluator who makes 730 evaluations in contested child custody matters.**

This is a very well defined legal process that has no exception in the appointment and process of becoming a valid Family Law Court

730 Evaluator. Just like the process of obtaining a valid driver's license each and every step of the legal process must be followed exactly with no exceptions being allowed or permitted. Any person who knowingly and willfully fails to follow each and every step of the legal process of obtaining a valid Ca driver's license would; naturally be denied any legal right, privileges, or protections under and in the law that would attach to a person with a valid driver's license to operate a vehicle legally.

In fact if a party is found to be operating a vehicle without a valid driving permit and they are involved in an accident, they will be deemed to be guilty of that accident or negative result. This is because they were operating a vehicle illegally and had no business being behind the wheel in the first place. The law refuses to reward those that are in violation of the law and its legal processes. This is denial of any protections to the unlicensed operator. It is the natural legal logical result of the State Legislature acting in the name of the public good, for the benefit of the public at large, from rewarding those that refuse to follow the law and its applications. It would be unreasonable for any un-licensed driver to claim protection from liability under the litigation privilege or an Anti-SLAPP action because: the offending

party failed to follow all of the required steps to acquire or obtain a valid driver's license. The individual failure of any driver to complete the required legal steps to become a legally qualified driver, which was the result of one's own willful legal neglect, could not claim any legal protection under the Litigation Privilege or Anti-SLAPP. This is because the driver's license process is an administrative legal process. The failure to satisfy that administrative and or legally required process, with the passage of time and operating without the required license, according to the theory of Dr. Doyne; somehow magically and automatically causes the litigation privilege and Anti-SLAPP suit to attach to him.

This would be like the unlicensed driver claiming because they drove a car successfully for 30 years, before being found out to have been driving illegally they would have a legal right to protection as an illegal pretender and interloper who gained access to the highway and courts by fraud, deceit and failure to comply with the law and its process and procedures. This is very much like Dr. Doyne who has never complied with the mandatory Rules of Court and use of the required Judicial Council forms for nine years of operation, before an action was filed against him. Now, like the unlicensed driver of 30

years, Doyne now claims the rights and protections of the law that he willfully violated for nine years more or less are rightfully his. Doyne and his counterparts that refused to rise to the standard of legal and psychological care and follow the Rules of Court and use the mandatory forms used bluff, bluster and undue influence to avoid the mandatory rules of the court and the use of the mandatory court forms and processes.

2. Doyne and 730 Evaluators' Undue Influence and the Vertical integration of that Undue Influence In and Out of Court

Undue Influence is defined as the use and application, persuasion, pressure or influence short of actual force, but stronger than mere advice, that is so overpowering to a point of dominating the target parties free will and or judgment that he or she does not and cannot act intelligently, and voluntary independent thoughts and acts, instead subjects to the will and wish or purpose of the dominating party. Undue Influence can and often is the result of the use of advancement of the pecuniary, legal and social interest of the influenced party by and through the extending of financial help in the form of unreported contributions to re-election funds and offering the promise of delivering reelection help in the form of personal and

management of a reelection campaign where judges without exception run unopposed.

The Term Vertical Integration as used in this brief describes a style of political, legal and social management and control executed by Dr. Doyne, who by the court's own admission of Doyne as a court expert over a 30 year period has been defined as an expert in human behavior. It takes no great stretch of legal logic to understand that if on the one hand Doyne is an expert at understanding human behavior, then that skill could and was quickly turned into a tool to control and improperly influence the sitting judges in the family law courts through the use of vertically integrated, undue psychological influence. Vertically integrated psychological influence and activities were and are the result of a united effort through a common person of control, namely Doyne. Doyne looked upon each member of the legal supply chain in the family law courts as producers of a different legal product and or service product, who held and occupied (special market-specific niche) service, by and through the application of undue influence. Doyne and his fellow 730 Evaluator's controlled the legal products and services combined that is designed to satisfy the

illusion and common need of the public. It is contrasted with horizontal integration.

Vertical integration as employed by Doyne and other 730 Evaluator's is one method of avoiding any legal hold-up problem that would interfere with the end result and legal product of the family law court, by controlling the output and content of 730 evaluations; Doyne and other 730 Evaluator's controlled the family law litigation and the attorneys in that litigation. This creates a condition where the lawyers dare not challenge Doyne or other 730 Evaluator's because the end result would be that their clients would become legal pariahs. This fact is proven by the total silence of each and every family law attorney in the family law court for a period of nine years more or less, who turned a blind eye and a deaf ear to the fact that Doyne and all of the other 730 Evaluator's were not called to task – once, for not completing the mandatory Judicial Council Forms and following the mandatory Rules of Court. If this were not a true statement then the record would reflect that the family law attorneys did not know, or were not aware of the mandatory rules of court and court form's uses and would remain quiet as a grave. This was certainly contradicted by the California Bar President himself.

Sadly, Doyne and the other 730 Evaluator's became a legal force and entity unto themselves, outside of judicial oversight and control, creating a monopoly produced through vertical integration, which is defined as a vertical monopoly, although it might be more appropriate to speak of this as some form of illegal cartel that exists not for the advancement of law and justice. This illegal cartel operated with impunity and all that participated in its operation benefited at the expense of the Public Good, while enjoying the windfall profits that by best estimates must be in the millions of dollars, at the total expense of justice and equity in the courts.

If one would step back and look at the big legal picture it would become glaringly obvious that Doyne and other 730 Evaluator's did execute a plan of Vertical Monopoly and Undue Influence that should have been denied by the San Diego Judiciary. Nobody who appears in regular secession as a 730 Evaluator, before every Family Law Judge in the county, should be allowed to teach classes to the same Judges that are designated to sit on a contested family law case. This is because the classroom experience gives the 730 Evaluator the ability to exercise undue influence. That Evaluator establishes a false psychological persona with the Family Law Judges, as being the man

who knows the truth about human behavior. This causes the Judges to be unduly influenced. This is because of the controlled environment of the classroom to be inclined to rubberstamp all 730 evaluations, as being the correct decision, which the court and the Judges must follow without exception or question. Naturally, there will be no opposition from the attorneys as they are also being schooled by Doyne and other 730 Evaluator's.

Example: recently Doyne delivered a class at the San Diego Bar. He was paid an undisclosed amount for a class entitled "*Litigants Behaving Badly*". When one looks at the Vertical Monopoly created by Doyne and his fellow 730 Evaluator's it gives the appearance that the Family Law Courts have been hijacked by the pecuniary interest of an illegal special interest group that has no control placed upon them. They may violate the mandatory Rules of Court and rules of evidence with impunity, and never be made accountable. This is because they have learned how to apply and use the law of unintended consequences in combination with Vertical Monopoly that exerts undue influence and controls the judicial outcome and results of the sitting Family Law Judges.

Doyne and the other 730 Evaluator's touch, teach and control all of the key players in 730 Evaluator's, and use undue influence to advance their illegal agenda and power base. For example, anyone employed at Family Court Service's (FCS) or attorneys are required to attend continuing education classes for credit. These classes are created and controlled by Doyne and other 730 Evaluator's. This gives them access, control to shape the message to their pecuniary special interest and makes them a group that is out of control of the public, the legislature and the courts who all have fallen under the hypnotic psychological control of Doyne and other 730 Evaluator's who have turned 730 evaluations and the illegal use and abuse of Psycho Jurisprudence into a multimillion dollar business. This business has no oversight or control to the detriment of the public good, and the courts that are tasked to act in the name of the public good and not transfer their power and control to the 730 Evaluator's or be seduced by the well planned psychological seduction of Doyne and other 730 Evaluator's.

3. **Undue Influence And The Use And Abuse Of SLAPP Suits To Deny Discovery And Exposure Of Unreported Reelection Funds To Judges By Doyne And Other 730 Evaluator's.**

Amici submits that one not need to be a life-long student of history to quickly understand where there are unreported cash contributions, to political and judicial members of the California Superior Court System, undue influence is the direct byproduct of these unreported contributions. Even a first year law student clearly understands that without the use of proper discovery; wrongdoing on any level becomes a physical and legal impossibility to prove up in a court of law. The issues of unreported campaign contributions by Doyne to sitting family law judges was brought to the attention of the author of this brief, when a family law litigant was spontaneously informed by the honorable, very honest former family law Judge Bostwick that Doyne had made sizable contributions to his reelection fund. This admission by the very honest judge opened the legal door for exploration of how many other sitting judges, did Doyne, and other 730 Evaluator's make sizable contributions to who they may have made appearances before as 730 Evaluator's. It was also on the agenda to discover how many and how much was paid by family law attorneys of San Diego to the Family Law Judges reelection funds. Since these judges run un-opposed, it is the campaign contributions that is part and parcel of an ongoing effort by Doyne and other 730

Evaluator's to maintain their position of power, control and undue influence as 730 Evaluator's, that they controlled from beginning to the very end, without the blessings or benefit of being required to abide by the mandatory Rules of Court or the law that applies to their daily operation. Magically when these issues became known to Doyne and others of influence that an investigation was pending: the results showed that only three (3) out of 36 judges legally reported campaign funds. (Please see Attached Report.) However, *Government Code § 87200* that states in part:

> "This article is applicable to elected state officers, judges and commissioners of courts of the judicial branch of government," "chief administrative officers" "and other public officials who manage public investments, and to candidates for any of these offices at any election."

In the investigation some of the disclosures included some investments in Microsoft, 3M that on its face would not have constituted a conflict between the Judges and Evaluator's, however certain Family Law Judges "listed investments in unknown entities - such as local technology companies and real estate holdings - that

leave open the potential for a conflict because there was nothing to show everyone who has an interest in them."

Elected officials, judges, and high-ranking appointed officials generally have

the most comprehensive disclosure requirements. *Gov. Code Section 87200*. These include disclosure of investments in business entities and interests in real estate; sources of personal income, including gifts, loans and travel payments; and, positions of management or employment with business entities. The purpose of financial disclosure is to alert public officials to personal interests that might be affected, while they are performing their official duties. Under the Political Reform Act, public officials running for office are required to file two different sets of disclosure forms. Generally, all public officials must file annual SEI's (Statements of Economic Interests) disclosing financial interests such as income investments, loans, gifts, etc. *See Gov. Code §§ 87200, 87203*. In addition, candidates, campaign committees and elected officials are required to file periodic CDS's (Campaign Disclosure Statements) detailing a variety of information regarding contributions received and expenditures made by the filer. *See Gov. Code §§ 4200, 84211*. The disclosures are

required by the California Fair Political Practices Commission. *People v. Hedgecock,* 51 Cal.3d 395, 272 Cal.Rptr. 803, 795 P.2d 1260.

Thus, of the 36 judges named on the list of family law judges, very few disclosed gifts and those who made disclosures did not divulge gifts.

Following Dr. Tadros' request for discovery, he immediately ran into a black robed steel wall that accepted and advanced the Anti-SLAPP Suit that shut down any and all avenues of discovery, and proof of the existence of undue influence by Doyne and other 730 Evaluator's. The lower court refused to accept the fact that the Anti-SLAPP suit could not be sustained because Dr. Tadros brought this action in the name of the public good.

In fact 92 members of the public at large that were aware of the undue influence of Doyne, and the abuse of the legal process all joined in a joint declaration that the sitting Judge was prejudiced and biased. They unanimously stated that Dr. Tadros could not get a fair hearing in the San Diego Superior Court System. As one court put it: "[I]f a reasonable man would entertain doubts concerning the judge's impartiality, disqualification is mandated." *United Farm Workers of*

America v. Superior Court, 170 Cal.App.3d 97, 104 [216 Cal.Rptr. 4] (1985); see also, Code Civ. Proc., § 170.1, subd. (a)(6)(A)(iii).

Doyne and the other 730 Evaluator's that have built and controlled a system used every possible means of undue influence to control the courts and its ruling. The Anti-SLAPP suit made it a physical impossibility to explore the undue influence caused and created by Doyne and his group of 730 Evaluator's. This takes on even greater glaring importance when the fact that Doyne for nine years never once filed the required mandatory Judicial Council forms and never followed the Mandatory Rules of Court. Why is this important? **Because Doyne and all of the other 730 Evaluator's that failed to follow the mandatory law had no legal writing or communication that would make them a valid part of the litigation process**. A writing making an appointment of a 730 Evaluator become a meaningless legal jester when the 730 Evaluator's and the family law court, lawyers and judges individually and collectively do not follow or apply the mandatory rules of court and the mandatory forms, then the failure of this operational step denies the 730 Evaluator any valid legal attachment to the litigation process

and no protection under the *CA Civil Code 47* Litigation Privilege or the *CCP 425.16 of the California Code of Civil Procedure*.

Once again, because of the illegal use of the litigation privilege and the *CCP 425.16* the Anti-SLAPP suit it is a physical impossibility to supply this court with the legal smoking gun that would expose the legal wrongful motivation and actions of Doyne and the other 730 Evaluator's. This situation was postulated to experienced persons in law enforcement and tax fraud situations. These well educated and experienced persons came to the same undivided conclusions that if a 730 Evaluator were to complete the required Judicial Council Forms FL-326 and follow the letter of the law for 730 evaluations; then this would create a paper trail that would be a brightly lit path to follow. This would ensure that there were no income tax fraud, or the funds collected by Doyne and other 730 Evaluator's were not being collected and used as an illegal pass through system to the Judges who through information and belief have failed to report the money received by Doyne and other 730 Evaluator's. This type of information causes and creates a political and legal nightmare for Doyne, the 730 Evaluator's, the family law attorneys and the Judges that must act in a conjoint effort to make this case die and drown in

the legal river of time, to avoid any possibility of disclosure or exposure. The preliminary proof exists and is overwhelming that Doyne and the 730 Evaluator's for nine years refused to follow the mandatory law and forms for 730 Evaluator's. This was proven up by the Presiding judge making a public statement that the law had not been followed but would be followed from here on out as stated herein.

The denial of the constitutionally protected rights of the family law litigants for nine years, while denying them the rights of due process, that is built into the law is unthinkable and is a very big deal legally, politically and financially. This is not an issue that can be swept under the judicial rug with a wink and nod to the offenders that you boys have to behave from here on out. Men, women and children that number into the thousands upon thousands have illegally suffered. These parties have a legal right to be noticed and to bring an action for redress in another jurisdiction because the San Diego Judiciary has a pecuniary, financial, legal and political interest in not hearing or making correction and restoring the wronged individual to the position they would have been in had the injustice never happened.

Adding insult to legal injury, Doyne and other 730 Evaluator's bought false credentials from a diploma mill. The purpose and intent was to hold themselves out as experts when in fact and truth the false credentials were used to elevate and enhance the earning power of these parties. This was by and through the use of these false documents. This act and action reinforces the 30-year plan of judicial and legal seduction and control of the family law courts by Doyne and other 730 Evaluator's who did not act in the public good. They acted in their own best interests to the continuing detriment of the public good and the interest of justice supporting reversal of the Anti-SLAPP Judgment.

C. There was Never A Communication Made By Failure to Adhere to the Mandatory Rules of Court to Dr. Tadros and Many Similarly Situated Litigants, making the Anti-SLAPP Inapplicable.

The Amici finds it in the best legal interests of the public to elaborate on the following facts above, as the violation of the mandatory Rules of Court does not create a communication by Dr. Doyne. FL-326 is *mandated* by the Superior Court, and became effective in 2005. It is an undisputed fact that FL-326 is to be filed in every case where Doyne or others like him began a case. When the false credentials of Doyne are added together with the complete

systematic failure of the San Diego Family Law Court, and its Evaluator's to follow the Rules of Court and to complete the required judicial council forms; then this causes and creates a situation where there can be no communication to an official proceeding, whereas the first prong to the analysis, even for sake of argument if *section 425.17* is not applied, also *section 425.16* cannot suffice. The Superior Court declared to the public after the fact of violation of the Rules of Court that "*it is the responsibility of the parties to ensure that a private child custody evaluator meets or exceeds all the legal qualifications for a court appointment and to verify his or her credentials. The court does not endorse, evaluate, supervise, or monitor private child custody evaluators not does the court verify their legal qualifications or credentials*."

Amici submits that this is in complete contradiction to *California Rules of Court 5.220, 5.225 and 5.230; Family Code sections 3110.5, 3111, 3118, 1815* and *1816; and Evidence Code 730.* This gives the appearance that this disclaimer was written for damage control, as the San Diego Court is aware that all its San Diego Judges, 730 Evaluator's and all the attorneys that practiced in cases where 730 evaluations were carried out in the last nine years, were completely

illegal, as not one member in the Judiciary in the family law court and 730 Evaluator's complied with the Rules of Court or completed any of the mandatory Judicial Council Forms. This failure denies the family law courts any subject matter jurisdiction to attach to the 730 Evaluator's that were appointed illegally as there was no communication to an official lawful body. As stated in the beginning FL-326 is mandatory pursuant to *Family Code Section 3110.5, Rule 5.225,* of the California Rules of Court, and was adopted to establish the education, experience, and training requirements for 730 child custody Evaluator's. Beginning in January 2001, the Judicial Council "strongly recommended" that its new FL-326 form be used, however was not mandatory until January 1, 2005 to further clarify the education, training, experience requirements, and certification procedures for court appointed child custody Evaluator's. Shockingly the Superior Court of San Diego County never used this form since its creation.

As a result of the failure of Doyne and other 730 Evaluator's, as well as to the failure of family law attorneys, to enforce and/or demand implementation of the Rules, on behalf of their clients, these multiple failures contributed to the creation of a special and

continuous class of injuries to a vast group of litigants, named and unnamed, which has denied them their due process and equal protection rights, under and in the law, in clear violation of the 5th Amendment and 14th Amendment, respectively.

Amici wants the court to note that the 730 mandatory form that is to be signed by the evaluator exists, partly, in lieu of Doyne testifying about his qualifications, as well as serving to introduce his qualifications, which have now been discovered to be false and misrepresented.

California Business & Professions Code Sec. 2936 establishes the Ethical Principles and Code of Conduct published by the American Psychological Association (APA) as the accepted standard of care in all licensing and disciplinary cases in California. Unprofessional conduct includes (among many enumerated examples), "violating any rule of professional conduct promulgated by the board and set forth in regulations. The APA Ethics Code requires all psychologists to follow state and federal regulations, which should interpret to mean the California Rules of Court, which have been clearly violated by Doyne. In addition, it states "If this Ethics Code

establishes a higher standard of conduct than is required by law, psychologists must meet the higher ethical standard."

According to the allegations by Dr. Tadros in the lower court, Doyne violated the mandatory Rules of Court and did submit false and fake credentials that caused harm to the public.

Thus Doyne's conduct in this case violates multiple ethical principles and codes set forth by the APA Ethics Code. For example, the use of subterfuge and misrepresentation would violate Principle C which states: "Principle C: Integrity - Psychologists seek to promote accuracy, honesty, and truthfulness in the science, teaching, and practice of psychology. In these activities psychologists do not steal, cheat, or engage in fraud, subterfuge, or intentional misrepresentation of fact." (Emphasis added).

The CCFC is stunned by the implications of both Doyne and the San Diego Superior Court's apparent conduct in many of the cases similarly situated. It runs counter to the public interest to allow a professional to, on one hand, exploit their position by submitting false credentials when they have no attachment to an official proceeding by the act of failing to adhere to the mandatory Rules of Court itself.

It is important for this Court to preserve the fundamental human rights that are supported by constitutional rights, ethical norms, and tort laws. In the end, we believe that the lawfulness of Doyne's conduct is a factual issue that should be resolved by a jury.

Finally, it should be remembered that American Psychological Association's Ethical Principles of Psychologists and Code of Conduct was written by scientists, is empirically based, and embodies the field's consensus. The Code is based on considerable research about which activities are harmful to individuals and should therefore be excluded as unethical. In addition, the Code is the main scientific and professional organization representing psychologists in the United States. See *e.g.*, *Kenneth S. Pope & Melba J. T. Vasquez, Ethics in Psychotherapy and Counseling: A Practical Guide, 2nd Edition (1998). 65 Based in Washington, DC, the American Psychological Association (APA).*

Doyne's conduct, as alleged by Dr. Tadros, not only invaded the privacy of a private citizen, but relied on fraud and misrepresentation in order to do so. This is not protected, as it was illegal as a matter of law to disclose private medical information, when in the first instance there was no communication to an official proceeding. These are very

serious charges that should not have sustained SLAPP protection. Even if this case was not brought in the name of the public good pursuant to *section 425.17*, which it is, then Amici states that the false and fraudulent credentials that have harmed thousands of litigants named and unnamed by Doyne, and the disclosure of Dr. Tadros' medical privacy are the extreme circumstances as a matter of law, that should fall outside of the ambit of protected speech.

A breach of confidentiality and violations of HIPAA laws is recognized as one of the greatest risks of harm to participants in behavioral and social sciences, 730 evaluations make no difference, as it is causing the person to present their most inner thoughts and emotions of which Dr. Tadros understands quite well. The potential for harm comes about through breaches of confidentiality in handling private and identifiable health information. Examples of the kinds of psychosocial or financial risks that may occur include potential denial of health insurance coverage, difficulty obtaining employment, embarrassment, loss of reputation, legal liability, or anxiety about what the recipient of an unauthorized disclosure of information might do with it.

When psychologists like Doyne (and other 730 Evaluator's) fail to adhere to ethical, scientific and legal psychological guidelines, the public's trust in all forms of psychological care, counseling and evaluations are eroded in the courts. The current case before the Court raises important issues about this process that supports a reversal to be remanded back to be heard before a jury of Doyne's peers. As stated by Amici in the lower court, "given Dr. Doyne's notoriety, such requests will not only address any proven wrongdoing by Dr. Doyne, they will very likely have the effect of changing any similar wrongdoing caused by many of Dr. Doyne's San Diego colleagues, as well as potentially other similarly-situated professionals throughout the state and nation. Permitting discovery in this case could thus be a proverbial "shot heard around the world" to improve accountability, professional performance, ethics, and professionalism in a family court system which has in recent years been the target of tremendous and outspoken public criticism and scrutiny." For these reasons Amici submits support for reversal of this case to be heard on the merits.

D. **Code of Civil Procedure 425.17 is Controlling and Without Correction the Public Will Be Negatively Impacted by the Trial Court's Decision**

This court should apply *Code of Civil Procedure 425.17* as the court record is clear that the intent of this court action was brought in the name of the Public Good. This should cause a narrow exception to be carved out, especially in the context of proceedings heard in the family law courts, where children and families are being destroyed, because of no accountability.

Doyne (and other 730 Evaluator's) acts with impunity as he hides under the umbrella of the Anti-SLAPP statute pursuant to *Code of Civil Procedure 425.16* and the Litigation Privilege found in *Civil Code 47*. These statutes have created a legal road block to obtain accountability of such offenders. While freedom of speech is a fundamental right and privilege, it cannot be so broadly interpreted to deny litigants in the family law courts so similarly situated to be denied their right to parent and other fundamental rights, that by their very nature became illegal as a matter of law. The underlying case was brought in the name of the public good, which would legally preclude the application of protected speech under *Code of Civil Procedure Section 425.16* and open the door for litigants so similarly situated and affected by the illegal 730 process, which was never authorized by law, as it is a fact that the San Diego County Superior

Court failed to follow or enforce the mandatory Rules of Court for nearly a decade.

Further discovery was denied in the underlying case, precluding the ability to demonstrate evidence that would conclusively, and without doubt establish, that the assertedly protected speech was illegal as a matter of law, and further that Doyne had no attachment to the litigation, as he was not an *authorized participant* of law by failure to adhere to the mandatory Rules of Court, that are not neither permissive or laissez-faire; they are mandatory in their strongest legal terms. This denied the case to prove that Dr. Tadros in the underlying action, was representing Members of the Public that would cause to enforce an important right "affecting the public interest, and would confer a significant benefit, whether pecuniary or nonpecuniary, on the general public or a large class of persons."

This is why the Amicus Curiae is pivotal to carving out an exception that would take on new legal dimensions as related in the family law courts, where there is no jury of ones peers to act as trier of fact's. The Judge acts both as trier of fact and law, delegating its power to 730 Evaluator's like Doyne and others, while denying each

citizen and every litigant to be governed by the law where someone else like Doyne decides the case or an issue before him.

> As stated by the Amici in the underlying case "that protection and promotion of the well-being of San Diego families and children involved in the difficult process of a marital dissolution is a paramount interest of this state and its citizens. Marital dissolutions often involve incredibly difficult, life-changing circumstances for children and their parents, changes in living arrangements, financial instability, and conflict, all of which can have a tremendously negative impact on children, parents, extended families, relevant communities, and the general well-being of our local and state economy if not handled with extreme care by honest, unbiased, competent and thorough professionals."

Doyne is one of the most commonly used Custody Evaluators in San Diego, and has achieved widespread notoriety and success due to his many professional referrals. His success is based largely on his reputation among this community, publications, speaking engagements, and notoriety, which also falls under the exception of commercial speech. State Courts also have an interest in maintaining public trust and confidence in the impartiality of the adjudicative process by observing the California Code of Judicial Ethics to "avoid

even the appearance of impropriety," as well as all state and federal laws, tax laws, Rules of Court, and Local Rules.

V.

CONCLUSION

For the foregoing reasons that has been clearly amplified, Amici respectfully request that this Amicus Curiae Brief be accepted in the spirit in which it was offered - to promote and protect the public good, and to operate in the true sense as a friend of the court and the friend of the people, who have been illegally disenfranchised without informed consent or waiver, and that the trial court's order granting the Anti-SLAPP motion be reversed.

LAW OFFICE OF MARC E. ANGELUCCI

Dated November ___, 2010 By: _____
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CERTIFICATE OF WORD COUNT

Pursuant to CRC 14(c), the text of this brief, including footnotes and appendix, and excluding of the application to file, table of contents, table of authorities, and this Certificate, consists of 10,176 words as counted by the Microsoft Word XP word-processing program used to generate the text.

LAW OFFICE OF MARC E. ANGELUCCI

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