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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

HOOMAN ABEDI KARAMIAN a/k/a NIK LAMAS-RICHIE,

Plaintiff,

vs.

EVANDER KANE,

Defendant

Case No.: 5:26-cv-06348-NW
Judge: Noel Wise

PLAINTIFF'S OPPOSITION TO DEFENDANT EVANDER KANE'S MOTION FOR SANCTIONS (ECF No. 40)

Hearing Date: February 3, 2027
Hearing Time: 9:00 a.m.
Courtroom: 3 – 5th Floor

Plaintiff Hooman Abedi Karamian a/k/a Nik Lamas-Richie ("Richie") opposes Defendant Evander Kane's Motion for Sanctions Against Plaintiff and His Counsel (ECF No. 40) (the "Motion" or "Mot."). This Opposition is based on the following Memorandum of Points and Authorities, the pleadings and papers on file in this action, and any argument the Court may permit.

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STATEMENT OF ISSUES TO BE DECIDED

1. Whether Kane has shown, with the specificity required for an express finding of bad faith, that Richie brought or maintained this action for an improper purpose, where the Complaint presented a non-frivolous claim whose central premise Kane later conceded, and where most of the conduct Kane identifies is speech outside this litigation.

2. Whether Plaintiff's counsel unreasonably and vexatiously multiplied these proceedings under 28 U.S.C. § 1927 by relying on a registered process server's sworn declaration of service, seeking court-ordered alternative service in the alternative, declining a stipulation on a discovery position this Court partly adopted, and voluntarily dismissing the action once Richie substantially obtained the relief he requested in the Complaint.

3. Whether Kane has carried his burden of identifying any fees he would not have incurred but for sanctionable conduct, as *Goodyear Tire & Rubber Co. v. Haeger*, 581 U.S. 101 (2017), requires.

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MEMORANDUM OF POINTS AND AUTHORITIES

1.0 INTRODUCTION

Evander Kane started this dispute. His lawyers sent Richie a demand letter invoking a Canadian injunction entered against Kane's former wife and threatening to sue Richie for "aiding and abetting the violation of court orders." ECF No. 1 ¶¶ 12–15; ECF No. 1-2 at 5. Kane then obtained, *ex parte*, an Orange County temporary restraining order that, in substantial part, applied and relied on the Canadian injunction against Richie. Two days later, Kane registered the Canadian judgment in the Santa Clara County Superior Court. Richie exercised his First Amendment rights and sought a declaration under the SPEECH Act, 28 U.S.C. § 4104(a)(1), in the federal district where Kane registered the judgment.

The lawsuit achieved its goal of removing any ability for Kane to claim the Canadian judgment should affect an American's free speech rights. Within six weeks, Kane told the Orange County court that he no longer relied on the Canadian judgment (ECF No. 30-3 at 9, 22), and told this Court that the judgment imposes no obligation on Richie and that no one has sought to enforce it against him. ECF No. 23 at 12, 15, 19–21. This was the practical relief Richie sought. Having won that relief by simply filing this action, Richie voluntarily dismissed. ECF No. 39.

Kane now asks the Court to find that Richie and his lawyers acted in bad faith. But for all his bluster, he barely even alleges any sanctionable litigation conduct, much less does he show any. Most of the Motion concerns things said outside this litigation, and much of that is mischaracterized: a podcast, Instagram captions, a graphic advertising a state-court hearing, a video criticizing a state court judge, and posts about Richie's source made after this case ended. The Court's inherent power and 28 U.S.C. § 1927 are meant to redress abuse of this Court's processes, not to try and impose a penalty on counsel for a litigant's commentary about a public dispute. The complained-of litigation conduct—a return of service sworn by a registered process server, an alternative request for court-ordered service, one email declining a stipulation, and a notice of voluntary dismissal—is ordinary litigation. To the extent any of it is not "ordinary," it is extraordinary in its efficiency, if anything. It is rare that a complaint alone achieves the goals of

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the litigation, and then gets dismissed because of that, with such speed. None of it was frivolous, none of it multiplied anything, and none of it approaches the "high threshold" of bad faith the Ninth Circuit requires. *Primus Auto. Fin. Servs., Inc. v. Batarse*, 115 F.3d 644, 649 (9th Cir. 1997).

The frivolousness of Kane's motion for sanctions is best shown by its centerpiece, the dispute over service. Kane's counsel wrote on July 30, 2026, that "irrefutable evidence" proved Kane was in Canada on July 19. Plaintiff's counsel asked for that evidence the same day. ECF No. 23-1 ¶ 11. Kane refused to provide it. Richie then renewed his request to serve Kane by alternative means, which would have made the dispute irrelevant; Kane opposed. ECF Nos. 20, 28. Kane's "irrefutable evidence" is anything but "irrefutable,"[1] but it was finally presented when he filed his Motion more than a week after the case was dismissed. But as Kane's exhibits show, the airline itinerary allegedly showing he could not *possibly* have been in California on July 19 was not even sent to his counsel until September 24, *three days after dismissal*. ECF No. 40-2 at 5 & Exhs. A–C. A party who withholds the evidence that would have ended a dispute and consistently rejects all offers to avoid the dispute cannot recover the cost of litigating it. The Motion should be denied.

2.0 FACTUAL BACKGROUND

2.1 Kane Sought to Enforce the Alberta Judgment Against Richie, and So Richie Sought a Declaration Under the SPEECH Act

On May 21, 2026, Richie published an interview with Kane's former wife, Deanna "Anna" Kane. ECF No. 1 ¶ 10. The next day, Kane's counsel sent Richie a demand letter asserting that his publications violated a Santa Clara County domestic violence restraining order and a May 14, 2025, default judgment of the Alberta Court of King's Bench (the "Alberta Judgment"), both entered against Ms. Kane, and threatening suit for defamation and for "aiding and abetting the

[1] This evidence consists of a declaration from Kane attaching travel receipts regarding a visit to Los Angeles from July 9–13, 2026, and a photo he allegedly took on July 19, 2026, in his own home in Edmonton. The travel receipts say nothing about where he was on July 19, the date of purported service, and we only have Kane's word that the July 19 photo was taken while he was in Canada. It could have been taken at any location, and we have only Kane's word that the date stamp on the exhibit corresponds to when the photo was taken. Regardless, had Kane provided this information when he first challenged the validity of service, the parties could have come to an agreement that would have obviated the motion practice to which Kane claims he was subjected.

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violation of court orders." ECF No. 1 ¶¶ 12–15; ECF No. 1-2. Plaintiff's counsel responded that neither order bound Richie and that a Canadian speech restriction could not be enforced against an American journalist. ECF No. 40-1, Exh. 4.

Kane then petitioned the Orange County Superior Court for a civil harassment restraining order. His petition asked that Richie be ordered to remove content that was "in violation of the United States ***and Canadian*** protective orders against Deanna Kane." ECF No. 30-1 at 9, 19 ¶ 23 (emphasis added). On June 8, 2026, the court entered a temporary restraining order *ex parte*, without appearance by Richie nor even notice to him of the proceeding. ECF No. 1 ¶ 24; ECF No. 41 at 61. It took judicial notice of the Alberta Judgment, found that Richie "has been assisting in the violation of this order," and prohibited him from posting "anything to social media" about Kane or his daughter "as described or relayed to respondent by Deanna Kane." ECF No. 23-1 at 25. On June 10, 2026, Kane registered the Alberta Judgment in the Santa Clara County Superior Court. ECF No. 23-1 ¶ 6 & at 7–16. When Richie moved to vacate the restraining order, Kane opposed, arguing that Richie had "assisted in circumventing" the Canadian judgment and that the restraining order "does nothing more than prevent the continuing violation of those orders," or, in other words, that Richie's free speech rights were restricted by the Alberta Judgment. ECF No. 30-2 at 3. He told the court that the Santa Clara court had ordered the Canadian judgment "registered and enforceable in California," accused Richie of amplifying Anna Kane's speech "in violation of the default judgment," and called the SPEECH Act "immaterial and beside the point." ECF No. 30-2 at 6, 11. The order was dissolved on June 18, 2026, but Kane's petition, including its request for relief based in part on the "Canadian protective orders," remained pending. ECF No. 30 at 7–9.

On June 25, 2026, Richie filed this action seeking a declaration under the SPEECH Act, 28 U.S.C. §§ 4101–05, and the Declaratory Judgment Act that the Alberta Judgment cannot be recognized or enforced against him. ECF No. 1.

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2.2 Kane Refused to Be Reasonable About Service

Before filing, Richie's counsel asked Kane's counsel whether they would accept service, explaining that Richie did not want "to increase his stress by sending a process server to his home"; they immediately declined. ECF No. 8-1 ¶ 8 & at 28–30. Richie then sent Kane a request to waive service with a copy of the Complaint and sent the summons and complaint to two of Kane's lawyers. ECF No. 8-1 ¶ 9 & Exh. 3; ECF Nos. 14-2 to 14-4. Kane did not return the waiver. ECF No. 8-1 ¶ 10. Richie transmitted a request to the Alberta Central Authority under the Hague Service Convention on July 6, 2026. ECF No. 8-1 ¶ 11 & p. at 44. A process server twice attempted service at Kane's Edmonton residence and, on the second visit on July 8, 2026, an occupant said Kane was "out of the city for an indefinite period." *Id.* ¶¶ 12–15. On July 9, 2026, Richie's counsel again asked Kane's counsel to accept service, otherwise "we will seek to crowdsource his location so we can send a server to put the papers in his hands," given his apparent attempts to evade service. ECF No. 14-5 at 2. The next afternoon, Richie's counsel wrote again, urging acceptance of service rather than "make us serve him while he's at Disneyland today with his kids," a concern to which Kane should have been receptive, given his proclaimed fear of Richie in the state court proceeding. *Id.* at 3. Kane's counsel did not respond to either email. ECF No. 23-1 at 34 ¶¶ 11, 13. With Kane ducking service and his counsel being non-responsive, Richie moved for alternative service under Fed. R. Civ. P. 4(f)(3) on July 13, 2026. ECF No. 8.

On July 22 and 23, 2026, Plaintiff filed a declaration of personal service and a supporting declaration in which a registered process server, Andrea Leilani-Taylor, swore under penalty of perjury that she personally served Kane at the Bel-Air Country Club in Los Angeles on July 19, 2026. ECF Nos. 12 & 12-1. The supporting declaration, executed July 21, 2026, contained a typographical error giving the year of service as 2025; obviously, she did not serve Kane a year before suit was filed. ECF No. 12-1 ¶ 2. Ms. Taylor also sent a photograph that she said she took when she served Kane. ECF No. 20-1; ECF No. 20-2 ¶¶ 3–4. On July 21, 2026, Richie's counsel notified Kane's counsel of the service and asked whether Kane contested it. ECF No. 14-5 at 3. Kane's counsel did not respond. ECF No. 16-1 ¶¶ 6, 9. Rather than withdraw the motion for

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alternative service, Plaintiff asked that it remain pending as a protective measure in case Kane later disputed service. ECF No. 14 at 2–3. Despite this request, the Court denied the motion as moot, stating that "[i]f Defendant later contests service, the Motion may be re-noticed." ECF No. 17.

2.3 Kane Rejects Richie's Request for His "Irrefutable Evidence" and His Offer to Moot the Service Dispute

On July 30, 2026, Kane sent a letter stating that the returns of service were "a fraud upon the Court" and that Kane's absence from the country was "readily verifiable through travel records, passport stamps, and other corroborating evidence." ECF No. 23-1 at 27. Richie's counsel asked Kane's counsel to provide this "irrefutable evidence," since it was absent from the letter. ECF No. 23-1 ¶ 11. Kane did not. It was clear by this point that Kane was disputing service, so Richie accepted the Court's invitation and renewed the motion for alternative service so that "this action may proceed on the merits without awaiting resolution of a contested factual dispute concerning service." ECF No. 20 at 4. Richie stated that if Ms. Taylor were found to have lied, Richie and his counsel "request that the Court refer her for prosecution for perjury." *Id.* at 4 n.2.

Kane opposed alternative service and asked the Court to defer that issue until after his motion to dismiss was decided. ECF No. 28. Meanwhile, he argued in his motion to dismiss that Richie had made "no Convention-compliant attempt at service," while his opposition to alternative service acknowledged Plaintiff's July 6 Hague transmittal and argued that Richie must wait for the Hague process to play out. ECF No. 23 at 18; ECF No. 28 at 2. There is no explanation for the fact that Kane claims that Richie had not attempted "convention-compliant" service, while proof of that was actually provided.[2]

Kane supported his denial of service with a declaration, but no supporting documents (ECF No. 23-2). His reply insisted that his declaration alone was sufficient. ECF No. 31 at 14. A picture of a passport stamp might have helped resolve the issue, but that was not provided, nor has it been thus far. One could fairly presume that it does not exist.

[2] This was a meritless argument from Kane regardless, as attempting convention-compliant service was not a prerequisite to requesting alternative service.

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Plaintiff's counsel reiterated that if the process server lied, she should be prosecuted, and urged the Court to retain jurisdiction to determine whether she had committed perjury. ECF No. 29 at 1–2 n.1, 5–6. During their meet-and-confer conference, Kane's counsel asked Richie's counsel to withdraw the returns of service and Richie's counsel asked, once again, to see the allegedly "irrefutable evidence" of Kane not being in California on July 19, 2026. ECF No. 40-1 ¶ 21. Kane's counsel did not provide any such evidence prior to filing the instant Motion.

The first documents Kane ever offered on this subject—a WestJet itinerary, a hotel guest folio, and a photograph of a living room—were filed with this Motion on September 30, 2026. ECF No. 40-2, Exhs. A–C. The itinerary is a forward of the airline's email that Kane sent to his counsel on September 24, 2026, *three days after this case was dismissed*, meaning Kane's counsel did not have these documents when they claimed there was "irrefutable evidence" Kane could not have been served in Los Angeles on July 19, 2026. *Id.* at 5. The documents reveal, for the first time, that Kane may have been in Southern California with his family from July 9 to July 13, 2026, six days before the claimed service. *Id.* ¶¶ 5–7.[3] Kane's declaration in support of his motion to dismiss did not mention that trip. ECF No. 23-2. This action was dismissed before Kane produced any of these documents. The returns of service therefore have no further purpose in this case, and Plaintiff does not ask the Court to resolve whether service occurred on July 19, 2026. It doesn't matter anymore.

2.4 Kane Conceded the Point of the Lawsuit, and Richie Dismissed

On August 5, 2026, Kane applied *ex parte* in the state court case to reinstate the dissolved restraining order, this time *finally* disclaiming reliance on the Alberta Judgment. ECF No. 30-3 at 9, 22. The Orange County court denied the application on August 6. ECF No. 41 at 13–15. On August 10, 2026, Kane moved to dismiss this action, based on Kane's newfound position that the Alberta Judgment imposes no obligation on Richie. ECF No. 23 at 12, 15, 19–21. On August 26,

[3] These travel documents say nothing about where Kane was on July 19, 2026. For the sake of argument, we can take Kane at his word that the photo he took on July 19 was in his home in Edmonton. However, no such admission nor stipulation is made. It just doesn't matter anymore. It only would have mattered if Kane had provided this evidence during the dispute about service.

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2026, the Orange County court denied Richie's anti-SLAPP motion because Kane had made a preliminary showing of minimal merit for his claim, while also finding that Richie's conduct concerned matters of public interest in part. ECF No. 41 at 9–11. Richie appealed, and the state proceeding is stayed. ECF No. 31 at 7.

The parties held their Rule 26(f) conference on September 1. ECF No. 34-1 ¶ 2. On September 14, 2026, Plaintiff's counsel declined Kane's proposal to defer the case management statement and discovery schedule until after the motion to dismiss, noting that "a pending motion to dismiss does not automatically stay discovery" and that Plaintiff wished to take limited discovery into Kane's claim that he could not have been served on July 19, 2026. ECF No. 40-1, Exh. 6. Kane filed a 5-page administrative motion to continue the conference. ECF No. 34. On September 16, 2026, the Court continued the case management conference but declined to defer discovery. ECF No. 37 at 2. Five days later, Richie voluntarily dismissed the action without prejudice, explaining that Kane's concessions had given him what he sought. ECF No. 39. Accordingly, why trouble anyone with discovery?

3.0 LEGAL STANDARD

"Because of their very potency, inherent powers must be exercised with restraint and discretion." *Chambers v. NASCO, Inc.*, 501 U.S. 32, 44 (1991). Fees "should not be assessed lightly or without fair notice and an opportunity for a hearing on the record." *Roadway Express, Inc. v. Piper*, 447 U.S. 752, 767 (1980) (superseded by statute on unrelated grounds as stated in *Lewis v. Smith*, 480 Fed. Appx. 696, 699–700 (3d Cir. 2012)).

Inherent-power sanctions require an express finding of bad faith or conduct tantamount to bad faith, particularly when fee-shifting is on the table, and "[t]he bad faith requirement sets a high threshold." *Primus*, 115 F.3d at 648–49 (cleaned up). "[M]ere recklessness, without more, does not justify sanctions under a court's inherent power"; recklessness must be combined with an additional factor such as frivolousness, harassment, or an improper purpose. *Fink v. Gomez*, 239 F.3d 989, 993–94 (9th Cir. 2001).

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Section 1927 reaches only individual attorneys who multiply proceedings "unreasonably and vexatiously." 28 U.S.C. § 1927; *Kaass Law v. Wells Fargo Bank, N.A.*, 799 F.3d 1290, 1293–95 (9th Cir. 2015). It requires subjective bad faith, *B.K.B. v. Maui Police Dep't*, 276 F.3d 1091, 1107 (9th Cir. 2002), and it does not apply to the filing of a complaint. *In re Keegan Mgmt. Co., Sec. Litig.*, 78 F.3d 431, 435 (9th Cir. 1996) (finding that "§ 1927 cannot be applied to an initial pleading"). Critically, "reckless nonfrivolous filings, without more, may not be sanctioned": "if a filing is submitted recklessly, it must be frivolous, while if it is not frivolous, it must be intended to harass." *Id.* at 436.

Any fee award under either authority must be compensatory. The movant may recover "only the portion of his fees that he would not have paid but for the misconduct." *Haeger*, 581 U.S. at 109 (cleaned up); 28 U.S.C. § 1927. A court may shift all fees only in the exceptional case where a plaintiff "initiates a case in complete bad faith, so that every cost of defense is attributable only to sanctioned behavior." *Haeger*, 581 U.S. at 110.

4.0 ARGUMENT

4.1 The Motion Asks the Court to Sanction Speech, Not Litigation in This Court

Kane says that he "asks the Court to sanction litigation conduct, not speech." ECF No. 40 at 18. But he explicitly denies what his motion explicitly seeks to sanction. His Motion is clearly based on Richie's speech. It relies on a July 7, 2026, podcast about the state court case; an "AI content" graphic on social media advertising state-court hearing dates; a website feature about the Complaint; a "fight-card poster" about the state-court case; a social media comment criticizing Kane's litigation position in this case; a video criticizing the state court judge; a September 10, 2026, post about a state court hearing transcript; posts about Anna Kane between September 11 and 19; and posts made after the dismissal. ECF No. 40 at 11–12, 14–16; ECF No. 40-1, Exhs. 7–10. None of these were filed in this Court, nor did any of them require a response from Kane in this case. Kane also does not contend that any of them caused him to incur fees in this action.

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Kane is correct that speech may be offered as evidence of motive. *See* ECF No. 40 at 17–18. But motive evidence must still be related to sanctionable conduct in this litigation; a litigant's public commentary is not itself an abuse of the judicial process. Richie is a journalist and commentator, and Kane is a public figure who chose to litigate a public dispute in a court open to the public. Commentary on that litigation, including criticism of judges and opposing counsel, is at the core of protected expression. *See Gentile v. State Bar of Nev.*, 501 U.S. 1030, 1034 (1991) (opinion of Kennedy, J.) ("There is no question that speech critical of the exercise of the State's power lies at the very center of the First Amendment"). Whatever the Court thinks of the tone of Richie's posts, treating a litigant's public commentary and opinion about pending litigation as evidence supporting sanctions would chill exactly the speech this lawsuit was about. And statements made after September 21, 2026, cannot show that Richie maintained this action in bad faith because by then there was no action to maintain.

4.2 Richie Did Not Bring or Maintain This Action in Bad Faith

4.2.1 The Complaint Was Not Frivolous

The SPEECH Act authorizes a United States person to seek a declaration in district court that a foreign judgment arising from speech is repugnant to the Constitution or laws of the United States. 28 U.S.C. § 4104(a)(1). Whether that remedy extends to an American against whom the beneficiary of a foreign speech injunction has sought to apply it, through a domestic court, appears to be a question of first impression. ECF No. 30 at 15. The parties took opposing views on this unsettled question of law and the Court never decided it. A claim attempting to address an open question of law is not frivolous; a frivolous filing is one that is "both baseless and made without a reasonable and competent inquiry." *Townsend v. Holman Consulting Corp.*, 929 F.2d 1358, 1362 (9th Cir. 1990) (en banc); *accord Keegan*, 78 F.3d at 434. And "evidence bearing on frivolousness or non-frivolousness will often be highly probative of purpose." *Townsend*, 929 F.2d at 1362. Here, it is Kane who took the unusual step of trying to have a U.S. court apply a foreign judgment subject to the SPEECH Act against someone who was not the subject of that judgment. Richie was required to make a novel legal argument in response to Kane's novel attempts at censorship.

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Kane's contrary argument—that the Complaint "pleaded, four times over," that the Alberta Judgment was entered against someone else (ECF No. 40 at 2)—misses the point. That Richie was a stranger to the Alberta proceeding is why Kane's claim in state court was such a problem: Kane was using a judgment entered against Ms. Kane in Canada to gain a prior restraint over Richie. The petition for a restraining order in the state-court case explicitly requested an injunction preventing Richie's speech that offended the Alberta Judgment. ECF No. 30-1 at 9, 19 ¶ 23. The Orange County TRO did exactly that. ECF No. 23-1 at 25. Nor does Richie's counsel's response to Plaintiff's counsel's June 5, 2026, letter stating the Alberta Judgment "does not extend to anyone other than Mrs. Kane," show bad faith. ECF No. 40 at 11. It shows that Richie's position was consistent from the start; he has always stated that the Alberta Judgment is not enforceable against him, yet Kane tried to enforce it against him nonetheless. Hence this lawsuit. It is Kane's position that changed. In June 2026, Kane told the Orange County court that the Alberta Judgment was "registered and enforceable in California" and that Richie was acting "in violation of the default judgment." ECF No. 30-2 at 6, 11. Only after he was sued here did Kane disclaim the judgment. ECF No. 30-3 at 9, 22; ECF No. 23 at 12, 15, 19–21. Richie filed the Complaint here to prevent Kane from continuing to seek enforcement of the Alberta Judgment against him. He accomplished that goal, and so this suit was not brought for an improper purpose.

4.2.2 The Podcast Excerpt, In Context, Does Not Show an Improper Purpose

What Kane calls a damaging "admission" from Richie is a cherry-picked fragment of a July 7, 2026, podcast recorded the same day as a hearing in Kane's state court case, which Mr. Randazza described as "the case that we were in court on today." ECF No. 23-1, Exh. E at 42:33–42:42. The transcript Kane filed shows the context his argument strategically omits. Randazza described the state-court case as "an absolutely grave First Amendment violation" arising from Kane's effort "to stop [Richie] from broadcasting that interview" with Anna Kane. *Id.* at 42:54–43:02. And while he remarked that he was "thrilled to lose" at the trial level *because losses lead to binding appellate precedent*, he said in the same breath, "I'm going to fight it to win." *Id.* at 52:34–53:02. The "papering" remark came immediately after Randazza explained that Richie had

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to file emergency motions in Orange County "to get our free speech rights restored" after Kane obtained an *ex parte* restraining order. *Id.* at 57:48–58:07. In other words, the "papering" Richie described was his defense of a proceeding *Kane* initiated against him. Kane argues that Richie's recognition of the need for a vigorous defense is an admission of an improper purpose. Nonsense.

Mr. Randazza's response to Richie's comment about litigation costs did not "acquiesce" in anything. He told his client that "it's not a good idea to talk about your settlement strategy on camera," then immediately added, "**but it's not about that**," and expressed the hope that the state court judge "does the right thing on your anti-[SLAPP] hearing and puts an end to this." *Id.* at 58:24–58:46. That is a lawyer correcting his client and redirecting the conversation back to the merits. The "2.5" remark is unexplained in the transcript; Kane's counsel's "understand[ing]" that it meant $2.5 million is attorney argument, not evidence. ECF No. 23-1 ¶ 13. Even if Kane's counsel was correct about what "2.5" meant, **Richie was talking about the state court case, not this case**. And the exchange about losing at the trial level concerned the value of binding appellate precedent on important speech questions, which is a legitimate litigation objective. *See* ECF No. 23-1, Exh. E at 52:34–53:05. When a party wants to create precedent on First Amendment issues, a win at the trial court is not very useful. Richie and his counsel want to create precedent that a celebrity cannot abuse the civil harassment restraining order to restrain protected speech.

Even taken at face value, a respondent's hope that the petitioner who sued him will tire of the fight is what every defendant hopes. It is not evidence that a *different* lawsuit was filed to harass. And Richie's conduct refutes the theory. A plaintiff whose objective was to "financially drain" Kane would not have dismissed this action within days of the Court's ruling that discovery could proceed and before taking any discovery. ECF Nos. 37, 39. They would have accepted the Court's permission to start taking discovery.

4.2.3 Kane Dictated the Forum and Timing of This Action

Kane faults Richie for suing in "a district Mr. Kane left in 2023." ECF No. 40 at 8. Richie sued here because Kane registered the Alberta Judgment in the Santa Clara County Superior Court, which sits in this District. ECF No. 23-1 ¶ 6. Kane's suggestion that the same arguments were

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"already pending" in Richie's anti-SLAPP motion (ECF No. 40 at 18) is contradicted by Kane's own state-court position that the SPEECH Act was "immaterial and beside the point" there. ECF No. 30-2 at 11. The anti-SLAPP motion required a decision on whether Kane's harassment petition arose from protected activity under California law, whereas this action would have decided whether a foreign defamation judgment may be recognized or enforced against an American under federal law. In other words, there would be nothing inconsistent about Kane being granted relief in the state-court action and Richie prevailing on his claims in this action. Pursuing a federal claim in the forum Congress designated is not forum shopping, and it bears no resemblance to the reckless misstatements "coupled with an improper purpose" sanctioned in *Fink*, 239 F.3d at 994.

Nor did the June 18, 2026, dissolution of the TRO end the controversy. Kane's operative petition still sought an injunction prohibiting Richie from making statements that violated the Alberta Judgment, and he had defended the restraining order on that basis. ECF No. 30-1 at 9, 19; ECF No. 30-2 at 6, 11. A plaintiff facing the very real prospect of another covert attempt at censorship need not wait to be restrained again before seeking declaratory relief.

4.2.4 The July 10 Posts Are the Subject of Kane's State Court Case and Did Not Cause Kane to Incur Any Fees Here

Kane devotes much of his Motion to Richie's July 10, 2026, social media posts, which reported that Kane and his family were at Disneyland and asked followers to photograph them. ECF No. 40 at 12–14, 19; ECF No. 40-1 at 22–23. This is not litigation conduct in this Court, did not cause Kane to incur any fees in this action, and Kane concedes that he offers it "as evidence of purpose, not as a separate basis for compensation." ECF No. 40 at 25. It is also the subject of Kane's pending harassment petition in Orange County, where the anti-SLAPP ruling Kane relies on is on appeal and the proceedings are stayed. ECF No. 31 at 7. Kane admits that these state-court findings have no preclusive effect here (ECF No. 40 at 19), and this Court may not accept them as true. Nor do those findings carry the weight Kane assigns them, as they are from an *ex parte* TRO application that the state court denied and an anti-SLAPP order where the court specifically could not make any findings of fact.

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Context matters. The posts came after Kane's household told a process server that Kane was away "for an indefinite period," and after Randazza twice asked Kane's lawyers to accept service—warning in the first email that Richie would otherwise ask his audience to locate Kane, and urging in the second that Kane be spared service in front of his children. ECF No. 8-1 ¶¶ 12–15; ECF No. 14-5 at 2–3. Richie was pleading with Kane's counsel not to subject Kane to these service efforts, yet Kane's counsel thought it better to ignore those overtures. ECF No. 23-1 at 34 ¶¶ 5, 10–13. Kane admits that he was in Southern California from July 9 to 13, while Randazza was proposing a compromise. ECF No. 40-2 ¶ 5. Personal service on Kane in California would have avoided the Hague process entirely and obviated the need for a fight about alternative service. *See Volkswagenwerk Aktiengesellschaft v. Schlunk*, 486 U.S. 694, 699–700, 707 (1988). Whatever the state courts ultimately decide about the posts under California harassment law, they were not filings in this Court, and they do not show that this action was brought or maintained in bad faith.

4.2.5 A Voluntary Dismissal Is Not Evidence of Bad Faith

Kane calls the dismissal "[t]he clearest evidence of bad faith." ECF No. 40 at 20–21. That does not make any sense. A plaintiff's right to dismiss before an answer or summary-judgment motion is "absolute." *Wilson v. City of San Jose*, 111 F.3d 688, 692 (9th Cir. 1997). Dismissal without prejudice is the default. Fed. R. Civ. P. 41(a)(1)(B). Kane filed a motion asking the Court to dismiss this case. ECF No. 23. Richie gave Kane what he asked for, sparing the parties and the Court a hearing, a case management conference, and discovery. Treating an early dismissal as proof of bad faith would punish exactly what Rule 41 is designed to encourage. Would it have been better faith to simply issue discovery, take depositions, then have everyone come argue a motion, when the relief sought was dismissal?

Kane's complaint that the notice said Richie had "prevailed" (ECF No. 40 at 21) does not change the analysis. Richie did not seek fees or any other relief as a prevailing party, so *Buckhannon Board & Care Home, Inc. v. West Virginia Department of Health & Human Resources*, 532 U.S. 598 (2001), and *Lackey v. Stinnie*, 604 U.S. 192 (2025)—which address prevailing-party status under fee-shifting statutes—are not relevant. The notice provided an

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explanation of how he got what he wanted after the suit was filed: Kane's disclaimer of any intent to enforce the Alberta Judgment against him. ECF No. 39 at 1–2. Kane may disagree with the word choice, but a characterization in a notice that ended the case is not sanctionable. Nor does the timing support Kane's theory that Richie fled "accountability." ECF No. 40 at 21. The dismissal did not avoid Kane's sanctions request, since Kane has simply refiled it (not that there has ever been any merit to Kane's request for sanctions).

4.2.6 Richie's Later Statements About His Source Are Irrelevant

Kane spends significant space on Richie's post-dismissal social media posts about whether Anna Kane misled him. ECF No. 40 at 15–16, 22. Those statements have nothing to do with this case. Richie's SPEECH Act claim never depended on the truth of anything Ms. Kane said; it concerned whether a *Canadian* injunction against her could be used to restrain *him*. Whether Richie was misled by his source potentially affects the merits of Kane's state-court claims, but is unrelated to whether this action was a legitimate request for a declaration of rights. Kane's attack on the accuracy of Richie's social media post about the dismissal fares no better. Richie knew of the July 10, 2024, Santa Clara order; his counsel addressed it in the state court in June. ECF No. 41 at 41–42. But Richie's remark is about a "Global Settlement agreement which was not disclosed to me," and two days earlier he had searched for what it means when "a mother signs global custody resolution order." ECF No. 40-1 at 41, 45. The post is thus fairly read as referring to a custody settlement that is not in this record. But even if Richie were lying through his teeth, what would it matter? These were social media posts outside of court. Post-dismissal statements on social media are not a basis for sanctions in a case that no longer exists.

4.3 No Unreasonable nor Vexatious Multiplication Existed

4.3.1 Section 1927 Does Not Reach Most of the Conduct Kane Identifies

Section 1927 applies only to an attorney's own conduct that multiplies proceedings in a case after the filing of the complaint. *Keegan*, 78 F.3d at 435. It does not reach the Complaint, which Kane previously conceded. ECF No. 23 at 30. It does not reach Attorney Alex Shepard's declaration in the state proceeding, which Kane concedes "is not itself sanctionable under § 1927."

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ECF No. 40 at 23. It does not reach a podcast, a pre-suit letter, or a client's Instagram captions that tag his lawyer. And it requires individualized findings: Kane seeks joint and several liability against both attorneys without identifying which conduct is attributable to whom. Shepard's role, for example, consists of a September 14, 2026, email, the dismissal notice, and a state-court declaration—none of which *multiplied* anything here.

4.3.2 Counsel Reasonably Relied on a Sworn Return of Service

"A signed return of service constitutes prima facie evidence of valid service which can be overcome only by strong and convincing evidence." *SEC v. Internet Sols. for Bus. Inc.*, 509 F.3d 1161, 1163 (9th Cir. 2007) (cleaned up) (denying motion to vacate default judgment). Applying that rule, the Ninth Circuit held that a defendant's own declaration that he was at a meeting two hours away when he was supposedly served, supported by a copy of his calendar, did not overcome a process server's sworn account. *Id*. at 1165–67. Richie's counsel filed the sworn declaration of a registered process server, and later a photograph she said she took at the time of service. ECF Nos. 11, 12, 20-1, 20-2. That is enough.

Nothing on the face of the returns suggested falsity. The "2025" in the supporting declaration was an obvious typographical error in a document executed on July 21, 2026, concerning a lawsuit filed in June 2026; Kane himself read both returns as stating that service occurred "on July 19, 2026." ECF No. 23-2 ¶ 8. Mr. Shepard's reference to July 21 in his state-court declaration was likewise a clear slip: July 21 was the date the server's declarations were executed and the date Mr. Randazza notified Kane's counsel of service, as the same paragraph reflects. ECF No. 23-1 at 35 ¶ 15; ECF No. 12; ECF No. 14-5 at 3.

Kane argues that Richie's counsel was obligated to withdraw the returns of service once Kane's lawyers claimed they were false. But the July 30, 2026, letter did not attach any supporting evidence despite claiming such evidence existed. When Plaintiff's counsel asked for the "travel records, passport stamps, and other corroborating evidence" it described, Kane refused to provide any of them. ECF No. 23-1 ¶ 11 & at 27. Kane provided a declaration in support of his motion to dismiss, again providing no documents, and his reply in support of that motion argued that his

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word was enough. ECF No. 23-2; ECF No. 31 at 14. Counsel was thus faced with a registered process server's sworn account on one side and a party's undocumented and unsupported denial on the other. This is the same kind of showing the Ninth Circuit found insufficient in *SEC v. Internet Sols*. Richie and his counsel were not required to take Kane's representations at face value. Counsel instead did what a careful lawyer should: Counsel asked for the evidence, told the Court that if the server lied she should be prosecuted, urged the Court to retain jurisdiction to determine whether perjury occurred, and offered a path that would make the dispute irrelevant. ECF No. 20 at 4 n.2; ECF No. 29 at 1–2 n.1, 5–6. That is not "reckless disregard of the truth."

As a reminder, below is the process server's photo next to an official photo of Evander Kane. If the man the process server found was not Kane, it is his doppelganger:

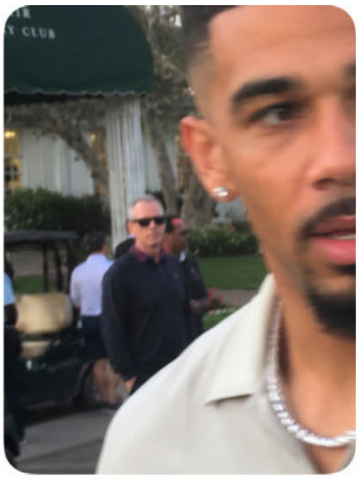


Photo of Kane from Ms. Taylor



Photo of Kane from 2022 *Mercury News* article.

ECF No. 20 at 3. The Court can surely understand Richie and his counsel's skepticism at Kane's assertion that the person served at the Bel-Air Country Club was not him.[4]

Kane's "documentary evidence" first came into play on September 30, 2026, after the case was dismissed. ECF No. 40-2, Exhs. A–C. Exhibit A shows when Kane's counsel obtained the itinerary: it is a forward of the airline's email that Kane sent to his counsel on September 24, 2026—three days after dismissal, and the same day as the parties' meet-and-confer. ECF No. 40-

[4] Kane complains about an AI-generated image Richie posted on social media regarding service (ECF No. 40 at 20), apparently suggesting that the photo from Ms. Taylor incorporated into the post was itself AI-generated. Kane's suggestion is false.

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2 at 5. Nothing in the record suggests Kane's counsel had travel records in hand when they wrote on July 30, 2026, that Kane's absence was "readily verifiable through travel records," or when Plaintiff's counsel asked for those records that day. Kane did not attach them to his motion to dismiss declaration and Kane's counsel did not provide them during or after the meet-and-confer, where Plaintiff's counsel explained that Plaintiff would not withdraw the returns "without further proof of their falsity." ECF No. 23-1 ¶ 11 & at 27; ECF No. 23-2; ECF No. 40-1 ¶ 21. Richie also, in his opposition to Kane's motion to dismiss, expressed bafflement at Kane's refusal to provide evidence that would resolve this dispute. ECF No. 30 at 16.

Nevertheless, Richie voluntarily dismissed his claims. Only after that did Kane *finally* provide at least some corroboration supporting his assertion of non-service. And that corroboration is far from proving anything. The claimed passport stamps would do that. It is strange that they are not provided. Kane proved he was in California before the service, but provided nothing proving that he did not return to California. Nevertheless, the Court should find some irony in Kane claiming unreasonable multiplication of proceedings, when it is he who seeks to prolong a fight over service of process in a case that has been withdrawn. What difference does it make at this point? Every indication is that the process server was truthful. Kane still only provides records from irrelevant dates and a photo that proves nothing. Maybe Kane will provide these "passport stamps" that would show where he was, and when. But if he does, so what? Then service is quashed after service has become moot?

Finally, the Court need not decide who was right about July 19, 2026, to resolve this Motion. The question under § 1927 and the inherent power is counsel's state of mind, and on this record, counsel acted reasonably on the information available. If the Court were to view the underlying factual dispute as material to sanctions, however, it should conduct an evidentiary hearing rather than decide on competing declarations.

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4.3.3 Seeking Alternative Service Was an Effort to Moot the Service Dispute, Not to Multiply It

Kane calls it "irreconcilable" for Plaintiff to have stood on the returns of service while seeking alternative service. ECF No. 28 at 3. This is ordinary alternative pleading. *See, cf.*, Fed. R. Civ. P. 8(d)(2)–(3). The Court expressly invited renewal of the motion if Kane contested service. ECF No. 17. Court-directed service under Rule 4(f)(3) "is neither a last resort nor extraordinary relief." *Rio Props., Inc. v. Rio Int'l Interlink*, 284 F.3d 1007, 1015 (9th Cir. 2002) (cleaned up). Had the Court granted that motion, Kane would have been served on a date beyond dispute, his Rule 12(b)(4) and 12(b)(5) arguments would have been moot, and the parties could have litigated jurisdiction and the merits. ECF No. 29 at 4–5. Kane opposed and asked the Court to defer it. ECF No. 28. A party that opposes the motion that would end a dispute, and then seeks fees for the dispute continuing, cannot attribute the multiplication of proceedings to his opponent. Kane also had a "duty to avoid unnecessary expenses of serving the summons." Fed. R. Civ. P. 4(d)(1). Instead, he ducked service at every turn, requiring the steps Richie took to serve him.

4.3.4 The Sept. 14 Correspondence and Dismissal Notice Multiplied Nothing

Declining to stipulate is not sanctionable. Plaintiff's position—that a pending motion to dismiss does not automatically stay discovery—was correct, and the Court appears to have agreed. ECF No. 37 at 2; ECF No. 40 at 23. The Rule 26(f) conference and joint case management statement are required in cases like this. Fed. R. Civ. P. 26(f); Civil L.R. 16-9. That Plaintiff did not serve discovery in the five days between the Court's order and the dismissal shows only that Plaintiff chose to end the case *rather than multiply it*. ECF Nos. 37, 39. And a notice of voluntary dismissal cannot "multiply" proceedings, since it terminates them.

4.3.5 Nothing Supports an Inherent-Power Sanction Against Counsel

Kane's inherent-power case against counsel rests on Randazza's presence on the July 2026, podcast episode, the tone of his June 5 pre-suit letter (relevant to another case), his July 9 email, a remark about Kane's *ex parte* restraining order, and his client's practice of tagging him in Instagram posts. ECF No. 40 at 23–24. The podcast is addressed above. The June 5, 2026, letter

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predates this action and responded to Kane's counsel's own email announcing an ex parte application filed the next day (recall that Kane served Richie with that application only *after* it was granted). ECF No. 40-1 at 19. The July 9, 2026, email (ECF No. 14-5 at 2) was addressed to opposing counsel. Randazza practically begged Kane's counsel to accept service to avoid the likely embarrassing act of serving Kane in front of his family and a costly dispute over service. *Id.* at 2–3. Kane's counsel chose to ignore that overture at reasonableness. Correspondence between lawyers proposing a way to streamline litigation is not an abuse of process. Randazza's on-air description of the state-court restraining order, which that court itself described as "issued without notice to respondent," is commentary on a state court proceeding, not conduct in this Court. ECF No. 41 at 61. And a client's decision to tag his lawyer in social-media posts is not the *lawyer's* fault.[5] Kane's resort to Randazza's unrelated disciplinary history says far more about the attorneys at Blank Rome than it says about Randazza.[6]

4.4 Kane Has Not Shown That Any Fees Were Caused by Sanctionable Conduct

Even if Kane could establish sanctionable conduct, he has not carried his burden of showing which fees it caused. *Haeger*, 581 U.S. at 108–09. His categories of allegedly sanctionable conduct fail the but-for test.

Service-related fees. The July 30, 2026, letter, the service portions of the motion to dismiss, and Kane's opposition to alternative service (ECF No. 28) were caused, if at all, by Kane's decisions not to accept service, to withhold the documents that would have resolved the dispute (documents he still withholds), and to oppose the motion for alternative service that would have mooted it. None of the information in Kane's supplemental declaration was available to Richie or

[5] Kane also points to Richie's July 19 social media post stating that "more lawsuits" were coming. ECF No. 40 at 13. A litigant's statement about possible future claims is not conduct in this action.

[6] Kane's footnote about Randazza's discipline (ECF No. 40 at 24 n.1) over unrelated issues from a decade ago has no bearing on this case, and it is offered for the propensity inference that the Fed. R. Evid. 404(b)(1) forbids. If mudslinging supports sanctions, then § 1927 is not really tethered to its text, but is rather a contest of who can act more unprofessionally. Blank Rome clearly wins if that is the contest.

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his counsel until *after* Richie voluntarily dismissed his claims. And again, nothing he provides actually shows where he was on the date in question.

The motion to dismiss and reply. Kane's motion raised standing, personal jurisdiction, subject-matter jurisdiction, abstention, and failure to state a claim. ECF No. 23. He would have briefed those arguments regardless of when or how service was accomplished. The returns at most affected *when* Kane filed, not *whether* he incurred those fees. And Kane's premise that the returns "manufactured a response deadline" is inconsistent with his own position that he was never served; if he was right, there was no deadline for him to respond. ECF No. 23 at 31; *see* ECF No. 30 at 16.

Case management. The Rule 26(f) conference and joint statement are required in every case, and the Court denied the portion of Kane's administrative motion that sought to defer discovery. ECF No. 37 at 2. Regardless, the administrative motion was all of 5 pages, meaning any fees incurred on it were minuscule.

This Motion. Fees incurred seeking sanctions that are not warranted are not caused by sanctionable conduct.

Kane's alternative request for all fees fares worse. That remedy is reserved for a case initiated "in complete bad faith, so that every cost of defense is attributable only to sanctioned behavior." *Haeger*, 581 U.S. at 110. A non-frivolous SPEECH Act complaint is not filed in bad faith where it is filed after Kane attempted to enforce a Canadian injunction on speech against Richie in a California court and registered it in this District. This is reinforced by the fact that Kane conceded what the declaratory relief asked for – that the judgment was not enforceable against Richie. Indeed, when Kane first sought fees, he identified the fees caused by the returns as those incurred for his motion to dismiss, its supporting declarations, and the July 30, 2026, letter—not every dollar of his defense. ECF No. 23 at 34. And Kane's fallback request for all fees after July 22, 2026, would award fees for work—the jurisdictional and merits arguments in his motion to dismiss—that Kane would have incurred regardless.

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5.0 CONCLUSION

Kane attempted to enforce a Canadian injunction on speech against an American journalist in a California court. That journalist sought declaratory relief, and when Kane essentially gave him the relief he asked for, Richie dismissed the action. The service dispute on which Kane builds most of his Motion could have been avoided at several points if Kane or his counsel had accepted service, had not opposed service, or had provided the "irrefutable evidence" of Kane's location in July. Kane has not shown bad faith by Richie, has not shown that counsel unreasonably and vexatiously multiplied anything, and has not identified any fees that the allegedly sanctionable conduct caused. The Court should deny the Motion in its entirety.

Dated: October 13, 2026.

Respectfully submitted,

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Case No. 5:26-cv-06348-NW

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 13, 2026, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I further certify that a true and correct copy of the foregoing document is being served via transmission of Notices of Electronic Filing generated by CM/ECF.

Respectfully submitted,

/s/ Marc J. Randazza
Marc J. Randazza

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