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VIA ELECTRONIC MAIL

Board of Directors
San Joaquin Regional Transit District
421 East Weber Avenue
Stockton, CA 95202
Email: eaquiniga@sjrtd.com

Re: Board member's threat of litigation made at July 17, 2026 meeting

Dear Board Members:

The First Amendment Coalition ("FAC") is a nonprofit, nonpartisan organization dedicated to defending free speech, a free press, and the people's right to know. On behalf of FAC, I write to explain why a threat to sue for defamation made by Board Member Aaron Edwards at the Board's meeting of July 17, 2026 represents an unacceptable attack on freedom of speech. If it has not already done so, the full board should disavow his threat, and Mr. Edwards should immediately withdraw it if that has not already happened.

I understand that at the July 17 meeting, Mr. Edwards responded to certain public comments by saying, in relevant part, "I'm going to let the public know that I will be filing a defamation suit on any public member, any public member that continues to spread that narrative that we are stealing money ... That is a forewarning ... And trust me, I have no problem, no problem seeing you in court ... I will not stand by and allow the public to continue to desecrate this board over and over and over again without consequences being had."¹

I take no position on the substance of any disputes Mr. Edwards may have with speakers at the meeting, but such threats of legal action in response to public comments unjustifiably chill protected speech, undermine the First Amendment, and attack the foundations of democracy and civic engagement.

California law guarantees absolute immunity from defamation liability for statements made in proceedings such as transit district board meetings when the statements have any relation to the business of the board. Civil Code § 47(b); *Cayley v. Nunn*, 190 Cal. App. 3d 300, 303 (1987); *Scott v. McDonnell Douglas Corp.*, 37 Cal. App. 3d 277, 288 (1974). For that reason alone, Mr. Edwards's threat of litigation is meritless to the extent it is based on comments made at a board meeting.

More fundamentally, critique of the board or board members is democracy, not defamation. The First Amendment reflects our "profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open, and that it may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials." *New York Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964). "Criticism of government is

¹ <https://www.youtube.com/watch?v=HrLKRLxXB3M>, beginning at 53:42.

at the very center of the constitutionally protected area of free discussion. Criticism of those responsible for government operations must be free, lest criticism of government itself be penalized.” *Rosenblatt v. Baer*, 383 U.S. 75, 85 (1966).

The First Amendment prohibits any claim for “libel on government” as such. *Rosenblatt*, 383 U.S. at 81; *New York Times*, 376 U.S. at 291. Therefore, a board member cannot pursue a defamation claim due to criticism of the board.

Even if a member of the public voices criticism “of and concerning” a particular board member outside of a board meeting, *Blatty v. New York Times Co.*, 42 Cal. 3d 1033, 1044 (1986), that is not nearly enough to prove defamation. A defamation claim requires the plaintiff to prove the defendant made a false statement of fact, not opinion. *Taus v. Loftus*, 40 Cal. 4th 683, 720 (2007). A statement is not actionable as defamation unless “it could reasonably be understood as declaring or implying actual facts capable of being proved true or false.... An opinion is not actionable if it discloses all the statements of fact on which the opinion is based and those statements are true.” *Integrated Healthcare Holdings, Inc. v. Fitzgibbons*, 140 Cal.App. 4th 515, 527 (2006); see also, e.g., *Franklin v. Dynamic Details, Inc.*, 116 Cal. App. 4th 375, 387 (2004) (“A statement of opinion based on fully disclosed facts can be punished only if the stated facts are themselves false and demeaning.”). A statement that certain actions violate the law is protected as opinion if the underlying facts are undisputed. *Coastal Abstract Serv., Inc. v. First Am. Title Ins. Co.*, 173 F.3d 725, 732 (9th Cir. 1999) (holding “statement or suggestion that California’s statute applied to the activities of [plaintiff]” was “a matter of opinion” that “did not constitute defamation”).

Political debate is prone to the “use of epithets, fiery rhetoric or hyperbole” that cannot be treated as defamatory. *Fletcher v. San Jose Mercury News*, 216 Cal. App. 3d 172, 191 (1989) (quoting *Gregory v. McDonnell Douglas Corp.*, 17 Cal. 3d 596, 601 (1976)). The First Amendment “afford[s] a wide berth to the free exchange of ideas,” and “[h]yperbole, distortion, invective, and tirades are as much a part of American politics as kissing babies and distributing bumper stickers and pot holders.” *Issa v. Applegate*, 31 Cal. App. 5th 689, 704 (2019).

Therefore, as courts have long held, “one who seeks or holds public office may not be thin of skin. One planning to engage in politics, American style, should remember the words credited to Harry S. Truman – ‘If you can’t stand the heat, get out of the kitchen.’” *Desert Sun Publishing Co. v. Superior Court*, 97 Cal. App. 3d 49, 52 (1979). Our nation’s “dedication to basic principles of liberty and freedom of expression” protects the right to “heap invective” on those who hold public office, no matter how “distasteful, offensive and unpleasant” it may be, because the “alternative is censorship and tyranny.” *Id.* at 51, 54.

Even if a person makes a substantially false and defamatory assertion of fact about a board member outside a board meeting, the board member cannot recover for defamation without proving by clear and convincing evidence that the speaker actually knew the statement was false or acted with reckless disregard for the truth. *New York Times*, 376 U.S. at 279–80. This exceptionally demanding standard guarantees the breathing room necessary for robust debate to survive in a free society.

In addition, California's anti-SLAPP statute applies to any claim arising from "(1) any written or oral statement or writing made before a legislative, executive, or judicial proceeding, or any other official proceeding authorized by law, (2) any written or oral statement or writing made in connection with an issue under consideration or review by a legislative, executive, or judicial body, or any other official proceeding authorized by law, (3) any written or oral statement or writing made in a place open to the public or a public forum in connection with an issue of public interest, or (4) any other conduct in furtherance of the exercise of the constitutional right of petition or the constitutional right of free speech in connection with a public issue or an issue of public interest." Code Civ. Proc. § 425.16(e).

A person sued for making such a statement is entitled to bring a motion to strike and recover attorney fees from the plaintiff unless the plaintiff can show a reasonable probability of prevailing on the merits, Code Civ. Proc. § 425.16(b)–(c), which cannot be done when a defamation claim is barred by state law or the First Amendment. The anti-SLAPP statute is "designed to protect citizens in the exercise of their First Amendment constitutional rights of free speech and petition. It is California's response to the problems created by meritless lawsuits brought to harass those who have exercised these rights." *Church of Scientology v. Wollersheim*, 42 Cal. App. 4th 628, 644 (1996).

A public official's first duty is to uphold the Constitution. An official's meritless threat of legal action against critics violates the First Amendment and undermines democracy. Unless these actions have already been taken, the full board should disavow Mr. Edwards's unjustifiable threat, and Mr. Edwards should withdraw it and publicly affirm his commitment to respecting freedom of speech.

Sincerely,

FIRST AMENDMENT COALITION



David Loy
Legal Director