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11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**
13 **WESTERN DIVISION**

15 MORDECHAI Y. ORIAN, an
16 individual, and GLOBAL HORIZONS,
17 INC.,

18 Plaintiffs,

19 vs.

20 FEDÉRATION INTERNATIONALE
DES DROITS DE L'HOMME, corporate
21 form unknown, EURO-
22 MEDITERRANEAN HUMAN RIGHTS
NETWORK, corporate form unknown,
23 SIDIKI KABA, an individual,
24 ABDELAZIZ BENNANI, an individual,
25 and KAV LAOVED, an Israeli
Corporation, form unknown,

26 Defendants.

Case No. CV 11-6904 PSG (FFMx)

**REPLY MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF MOTION TO
STRIKE OR, IN THE
ALTERNATIVE, TO DISMISS
PLAINTIFFS' COMPLAINT**

Date: November 14, 2011
Time: 1:30 p.m.
Place: Courtroom of the
Hon. Philip S. Gutierrez

1 In August of this year, the plaintiffs—Mordechai “Motti” Orian (“Orian”)
2 and his company, Global Horizons (“Global”)—filed a frivolous action against
3 three renowned human rights organizations. Defendant Kav LaOved (“Kav”), an
4 Israeli non-profit organization dedicated to combatting human trafficking in Israel,
5 is one of those organizations. Although it was not properly served with the
6 complaint, Kav filed the present motion to strike pursuant to California’s anti-
7 SLAPP statute or, in the alternative, to dismiss the action, in order to bring this
8 meritless action to a speedy end. The plaintiffs’ response to that motion was due on
9 October 24, 2011—a date that has come and gone with no response. A week has
10 now passed since the due date and plaintiffs still have not responded.¹

11 Plaintiffs’ failure to file a response is sufficient reason to grant Kav’s motion.
12 Under the Local Rules of Court, “[t]he failure to file any required paper, or the
13 failure to file it within the deadline, may be deemed consent to the granting or
14 denial of the motion.” Local Rule 7–12; *see also Ghazali v. Moran*, 46
15 F.3d 52, 53–54 (9th Cir. 1995) (affirming dismissal of an action for failure to file an
16 opposition to the defendant’s motion). Plaintiffs’ complete failure to respond
17 underscores the lack of merit of plaintiffs’ action. Kav demonstrated in its opening
18 memorandum that the complaint had no factual or legal support. If plaintiffs had
19 any response to that showing, presumably they would have filed an opposition to
20 the motion to dismiss. They did not.²

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22 ¹ Indeed, plaintiffs’ counsel has not communicated with any of defendant Kav’s
23 counsel.

24 ² In addition to the many reasons articulated in Kav’s opening memorandum as to
25 why the complaint is meritless, it is also worth noting that even if the central
26 allegation were true, it would not be actionable. The basis of the complaint is that
27 the defendants somehow passed defamatory information to the United States
28 Attorney in Hawaii when Orian was arrested in September 2010. Leaving aside
that there is no factual basis for this allegation, anything communicated to the
government in connection with that criminal proceeding would be privileged under
Cal. Civil Code §47(b). That provision exempts from liability any statement or
publication made “[i]n any . . . judicial proceeding [or] . . . other official proceeding

1 As demonstrated in Kav’s opening memorandum, plaintiffs filed the
2 complaint in a transparent effort to intimidate Kav, and to discourage it from
3 exercising its right to research and publicize human trafficking abuses in Israel.
4 Plaintiffs’ conduct in filing this action is precisely the type of abuse that the
5 California Legislature enacted the anti-SLAPP statute to discourage. As the
6 California Supreme Court held, “the point of the anti-SLAPP statute is that you
7 have a right not to be dragged through the courts because you exercised your
8 constitutional rights.” *Varian Medical Systems, Inc. v. Delfino*, 35 Cal.4th 180,
9 193, 25 Cal.Rptr.3d 298 (2005) (internal quotation omitted).

10 Plaintiffs’ failure to respond to Kav’s motion is not surprising. Plaintiffs and
11 their counsel have made a habit of missing deadlines and not responding to
12 motions. In *Global Horizons, Inc. v. Del Monte Fresh Produce, N.A., Inc.*, 2010
13 WL 3244898, *1 (11th Cir. Aug. 17, 2010), for example, the Eleventh Circuit
14 affirmed the district court’s refusal to excuse Global Horizons’ failure to meet its
15 deadline to file an appeal. The Eleventh Circuit underscored the district court’s
16 conclusion “that the ‘cumulative effect’ of the Plaintiff’s missed deadlines
17 exhibited an absence of good faith.” *Id.* The Ninth Circuit has also criticized
18 plaintiffs’ failure to meet deadlines: “Global Horizons acknowledges that it did not
19 file a request for hearing within the stipulated time. The ALJ also found that
20 Global Horizons was no stranger to this expedited process, having requested ALJ
21 review at least 18 times since 2003. . . . Global Horizons[] fail[ed] to offer any

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23 (... cont’d)

24 authorized by law.” Cal. Civ. Code § 47(b). This is a broad prohibition against
25 civil claims—like those presented here—based on the statements made or pleadings
26 filed in a criminal or civil action. And, as many cases have held, this absolute
27 privilege extends to communications with prosecutors, police, or other law
28 enforcement officials. *See, e.g., Williams v. Taylor*, 129 20 Cal.App.3d 745, 753-
54, 181 Cal.Rptr. 423 (1982); *Cote v. Henderson*, 218 Cal.App.3d 796, 806, 267
Cal.Rptr. 274 (1990); *Hunsucker v. Sunnyvale Hilton Inn*, 23 Cal.App.4th 1498,
1502-1503, 28 Cal.Rptr. 2d 722 (1994).

1 satisfactory explanation for its delay in responding.” *Global Horizons, Inc. v. U.S.*
2 *Dep’t. of Labor*, 510 F.3d 1054, 1056 (9th Cir. 2007); *see also Perez-Farias v.*
3 *Global Horizons, Inc.*, 2007 WL 2327073, *3 (E.D. Wash. Aug. 10, 2007) (“It was
4 not until July 26, 2007, nearly two months after the deadline had passed, that
5 Defendants filed their motion . . . The Court does not find excusable neglect or
6 good cause for the late filing because there is nothing in the record to explain why
7 local counsel was not able to comply with the filing deadlines . . .”); *In re Global*
8 *Horizons, Inc.*, 2010-TAE-00002 (Dep’t. of Labor, Dec. 17, 2010) (Langer Decl.,
9 Exh. B at HIL 13) (noting that “Mr. Orian . . . filed no opposition” to the
10 government’s motion for summary decision on his alleged abuses of U.S.
11 immigration laws);³ *In re Global Horizons, Inc. and Mordechai Orian*, Case No-
12 TAE-00001, 2005 TLC-00006 (May 6, 2011) (Langer Decl., Exh. C, at HIL 34-35)
13 (“Extraordinary obstruction during the course of discovery plays a role in the
14 disposition of this case. . . . The Respondents’ failure to timely or adequately
15 respond to the Administrator’s Requests for Admissions led to many other facts
16 being deemed admitted.”); *U.S. Department of Labor v. Global Horizons*
17 *Manpower, Inc. and Mordechai Orian*, No. 2008-TAE-0003 (July 7, 2008) (Langer
18 Decl., Exh. G, at HIL 292) (“there is a long history of Global’s bad faith, delay, and
19 negligence in discovery”).⁴

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21 ³ References to the Langer Declaration are to the Declaration of Howard I. Langer
22 in Support of Defendant Kav LaOved’s Motion To Strike or, In The Alternative, To
Dismiss Plaintiffs’ Complaint (Doc. 9).

23 ⁴ Disregarding the rules applicable to the filing of this action is not limited to filing
24 baseless claims. Plaintiffs’ counsel, I Randolph S. Shiner, was “not eligible to
25 practice law” on August 22, 2011—the day he filed the complaint in this action.
26 *See* State Bar of California Attorney Search for I Randolph S. Shiner,
27 <http://members.calbar.ca.gov/fal/Member/Detail/141603>. His status changed to
28 “active” (though he remains on probation) four days after the filing of the
complaint, on August 26, 2011. *Id.* It therefore appears he violated Section 6125
of the California Business & Professions Code and the Rules of Professional
Conduct of the State Bar of California by practicing law while on inactive status. If

1 In short, plaintiffs have filed a meritless action that they have not even tried
2 to defend. The filing of this action was an abuse of our judicial system that should
3 now come to a quick end. Kav respectfully requests that the complaint be stricken
4 under California's anti-SLAPP statute or, in the alternative, dismissed, and that Kav
5 be awarded its attorneys' fees and costs.

6 Dated: October 31, 2011

MARC M. SELTZER
SUSMAN GODFREY L.L.P.

8 HOWARD LANGER
9 LANGER GROGAN & DIVER, P.C.

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11 By: /s/ Marc M. Seltzer
12 Marc M. Seltzer
13 Attorneys for Defendant
14 Kav LaOved
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(... cont'd)

27 so, his actions would also appear to be in violation of Local Rule 83-3.3 which
28 prohibits practice before this Court while on inactive status.