

No. \_\_\_\_\_

\_\_\_\_\_

IN THE  
SUPREME COURT OF THE UNITED STATES

\_\_\_\_\_

S. LOUIS MARTIN \_\_\_\_\_ — PETITIONER  
(Your Name)

vs.

GOOGLE, INC. \_\_\_\_\_ — RESPONDENT(S) ON PETITION FOR A WRIT OF  
CERTIORARI TO

Supreme Court of California

\_\_\_\_\_  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)  
PETITION FOR WRIT OF CERTIORARI

Dr. S. Louis Martin

\_\_\_\_\_  
(Your Name)

588 Sutter Street, No. 105

\_\_\_\_\_  
(Address)

San Francisco, CA 94102

\_\_\_\_\_  
(City, State, Zip Code)

415-871-6803

\_\_\_\_\_  
(Phone Number)

## QUESTION(S) PRESENTED

1. Per the First Amendment to the United States Constitution, are deceptive search results “protected speech”? In particular, are **unmarked, paid-for** advertisements “protected speech”?
2. Section 5 of the Federal Trade Commission Act would indicate they are not because they are deceptive. Thus the question arises: When naturally high-ranking (“organic”) web sites are deliberately disappeared so they can be replaced by **unmarked, paid-for advertisements**, is this anti-competitive behavior and a violation of the Sherman Act and Clayton Act?

## LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Plaintiff S. LOUIS MARTIN, Pro Se

588 Sutter Street, No. 105, San Francisco, CA 94102

Telephone: 415-871-6803, Email: slouismartin@outlook.com

Defendant GOOGLE, INC., represented by:

Scott Andrew Sher, State Bar 190053, ssher@wsgr.com

David Reichenberg, admitted pro hac vice, dreichenberg@wsgr.com

Bradley Tennis, State Bar 281206, btennis@wsgr.com

Law Offices of Defendant:

Wilson, Sonsini, Goodrich & Rosatti

650 Page Mill Rd., Palo Alto, CA 94304

Telephone: 650-493-9300

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## TABLE OF AUTHORITIES

### Federal:

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Federal Trade Communications Act, Section 5 .....6, 12, 20

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### California State Law:

California Civil Procedure (ccp) 425.16.....9, 44, 51, 52, 53, 102, 103

California Civil Procedure (ccp) 663.....10, 16, 18, 51, 107, 108

### World Literature:

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IN THE  
SUPREME COURT OF THE UNITED  
STATES PETITION FOR WRIT OF  
CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment  
below.

**OPINIONS BELOW**

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix\_\_\_\_\_to the petition a

reported at

---

; or,  has been designated for publication but is not yet  
reported; or,  is unpublished.

The opinion of the United States district court appears at Appendix\_\_\_\_\_to the petition a

reported at

---

; or,  has been designated for publication but is not yet  
reported; or,  is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits  
appears at Appendix\_\_\_\_to the petition and is

\_\_\_\_\_ reported \_\_\_\_\_ at

\_\_\_\_\_ ; or,  has been designated for publication but is not yet  
reported; or,  is unpublished.

The opinion of the \_\_\_\_\_  
\_\_\_\_\_ court appears at Appendix \_\_\_\_\_ to  
the petition and is

\_\_\_\_\_ reported \_\_\_\_\_ at

\_\_\_\_\_ ; or,  has been designated for publication but is not yet  
reported; or,  is unpublished.

**NOTE:** Although the case was initially accepted by the  
Appeals court and the Appellant's Appendix and Opening  
Brief were prepared, submitted, and accepted by the court,  
the California Appeals Court, per a dismissal request by  
Google, said the case was not in its jurisdiction; and the

California Supreme Court declined to review the case.  
Therefore, judgment was made only in the Superior Court,  
which is the subject of this Writ.

## JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was\_\_\_\_\_.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date:\_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix\_\_\_\_\_.

An extension of time to file the petition for a writ of certiorari was granted to and including\_\_\_\_\_ (date) on\_(date) in Application No.\_\_\_\_\_A\_\_\_\_\_.

The jurisdiction of this Court is invoked under 28 U.S.C. §1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was **13 January 2016**.

A copy of that decision appears at Appendix **H**.

A timely petition for rehearing was thereafter denied on the following date:

N/A, and a copy of the order denying rehearing appears at Appendix N/A.

**Note: This was the Supreme Court of California. It denied review and no rehearing of the petition was possible.**

An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. \_\_\_\_\_ A\_\_\_\_\_.

The jurisdiction of this Court is invoked under 28 U.S.C. §1257(a).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

### First Amendment to the United States

#### *Amendment I*

*Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.*

### Section 5 of the Federal Trade Commission: Deceptive Acts or Practices

#### *Deceptive Acts or Practices*

*An act or practice is deceptive where*

- A representation, omission, or practice misleads or is likely to mislead the consumer;*
- A consumer's interpretation of the representation, omission, or practice is considered reasonable under the circumstances; and*

• *The misleading representation, omission, or practice is material.*

(For the entire act, see

<http://www.federalreserve.gov/boarddocs/supmanual/cch/ftca.pdf>)

### **Sherman Act**

See Appendix S for the Sherman Act.

26 Stat. 209, 15 U.S.C. §§ 1–7)

### **Clayton Act of 1914**

See Appendix P for the Clayton Act of 1914.

Pub.L. 63–212, 38 Stat. 730, enacted October 15, 1914, codified at 15 U.S.C. §§ 12–27, 29 U.S.C. §§ 52–53

## STATEMENT OF THE CASE

### COMPLAINT OVERVIEW

The complaint concerns the disappearance of CoastNews.com and its restaurant guide in Google search results. CoastNews.com was one of the top listings in Google search results prior to its disappearance. It is still in the top listing on Bing and Yahoo. Google disappeared CoastNews.com in order to replace its listings with unmarked, paid-for ads, the motivation being that Google could make over three orders of magnitudes more money by so doing (about 1,250 times as much). In short, in order to place its unmarked, paid-for ad listings in the top listings where users click the most, Google needed CoastNews.com out of the way. Of course this killed S. Louis Martin's business. And for user's seeking honest information on restaurants in San Francisco, they found themselves unknowingly reading paid-for advertisements. The only winner here was of course Google. (Google has of course done this to many others, and while the Federal Trade Commission has acknowledged it, the FTC has failed to do anything about it.)

## TIMELINE OF EVENTS

- On 17 June 2014 a complaint was filed in Superior Court in San Francisco. (See Appendix O.) Google filed both an untimely demurrer and an untimely 425.16-based Anti-SLAPP motion.
- On 13 June 2014 Judge Ernest Goldsmith of the Superior Court granted the motion to strike the complaint without asking a single question of Plaintiff S. Louis Martin and without reading the pleadings, with the possible exception of the complaint. Seven pleadings were filed by S. Louis Martin, and all but two were suppressed in the docket with no explanation offered. The pleadings clearly demonstrated Google's wrong-doing and contained statements by leading authorities that corroborated Martin's explanations. The judgment was written by Google and clearly contained false statements of fact.
- On 10 December 2014 a Motion to Vacate was filed by Martin. It was denied.
- On 27 January 2015 a Request for Continuance was filed by Plaintiff. The basis for the request was the need for more time for (1) the Council on Judicial Performance to investigate the signing of a false statement (strike order) by Judge Goldsmith and (2) the FBI and Internet Crime Center to investigate Google hacking attacks of Martin's computer. The request was

denied.

- On 30 April 2015, Plaintiff Martin filed a Motion to Vacate the Judgment.
- On 29 June 2015, with Judge Joseph Quinn presiding, the Motion to Vacate the Judgment was denied. Quinn signed a false statement written by Google stating that the Plaintiff failed to address ccp 663, the grounds for vacating a judgment. That this was a false statement is easy to prove. Martin amply addressed ccp 663, as can be seen in the transcript of the court session in Appendix I. Quinn's false statement appeared to be necessitated by Goldsmith's false statement. The sum of these statements, however, is not one statement of truth, as a liar might hope for; but rather, as expected, two false statements.
- On 23 July 2015 Civil Case Information Statement Filed by Plaintiff for appeal and accepted by the court.
- On 19 August 2015, Google files Motion to Dismiss the appeal.
- On 22 September 2015, Plaintiff files timely 59-page Opening Brief and timely 170-page Appellant's Appendix.

- On 1 October 2015, Google files Application for Extension for its responding brief.
- On 1 October 2015, Court grants extension (same day as Google filed).
- On 6 October 2015, Plaintiff files strong Opposition based on CRC 8.63 (a) (1), (2), and (3), and (b) (1) and (2). No good cause was shown for an extension. Google had three able-bodied attorneys working on the case, none of whom was known to be ailing. If anyone needed a break or extension, it was Pro Se Plaintiff S. Louis Martin.
- On 8 October 2015, Court grants dismissal early (not due till 16 October 2015), which appears punitive for Plaintiff's filing strong Opposition on 6 October 2015.
- On 29 October 2015, Petition for Rehearing denied.
- On 17 November 2015, Petition for Review filed in California Supreme Court.
- On 13 January 2016 the petition was denied.

## CONSTITUTIONAL AND ADMINISTRATIVE LAWS BROKEN

The **First Amendment to the United States Constitution** is involved. It is being used to argue that deceptive search results are “protected speech”. The deceptive search results are unmarked, paid-for ads that a user would rarely click on if the user knew that the search results were advertisements. Fact: Only 2 to 3 in 1,000 users would click on a search result if they knew it was an ad.

Note that deceptive search results are not “commercial speech” in any ordinary sense (users are not even aware that they are viewing advertisements); and a search result, as an answer to a user’s question, is clearly a “false statement” of fact designed to deceive the user for profit. It is hard to imagine how such a combination of duplicity could be considered worthy of “protected” status.

**Section 5 of the Federal Trade Commission Act** is involved. It defines what a deceptive business practice is. Clearly an unmarked, paid-for ad falls into this category. As stated above, only 2 to 3 in 1,000 users would click on a search result if they knew it was a paid advertisement. Ironically, the presence of a few marked ads among the list of search results enhances the impression that the unmarked, paid-for ad is not an ad.

The **Sherman Act and Clayton Act** are also involved. They relate to anti-competitive

behavior that harms other business and the consumer. Clearly Google's actions regarding disappearing bone-fide search results (naturally high-ranking results based on merit and often referred to as "organic") and substituting unmarked, paid-for ads harms other businesses and the consumer. Google's actions both kill existing businesses and discourage or make impossible new businesses that might compete with Google.

#### SUMMARY OF CASE: GOOGLE ALLOWED TO WRITE THE LAW

To date Google has prevented any substantive issue from being discussed in court. And no judge has ever asked one question of the Plaintiff! Court has shown extreme prejudice in ignoring all Google untimeliness and smacking the Plaintiff for the single instance when Pro Se Plaintiff Martin filed the Motion to Vacate the Strike Order late, confusing the Small Claims deadline for the Civil one. Orders and judgments have all been written by Defendant Google and contain obvious false statements that judges Goldsmith and Quinn have not hesitated to sign. Judging from their behavior, they appear to be part of the Google legal defense team.

The Plaintiff finds this very troubling. His business was utterly disappeared by Google, and now his attempt to sue Google is being disappeared by Google and the California courts! The Plaintiff thought justice looked more like justice and less like

politics and money. The case should probably be renamed S. LOUIS MARTIN V  
GOOGLE AND THE CALIFORNIA COURT SYSTEM!

The bottom line is that Google is being allowed to misuse the First Amendment of the United States Constitution to protect it from returning deceptive search results with these consequences: Competition is destroyed and consumers are harmed by deception and "information pollution". (See Appendix J.)

The fundamental question that I am asking this court to look at is this: Should Google be allowed to hide in back of the First Amendment and claim that deceptive search results are protected speech ("constitutionally protected activity"), with these negative consequences: Competition is destroyed and consumers are betrayed with search results (answers to their questions) that depend on bidding wars among advertisers. (Note: Only 2 to 3 of 1,000 consumers will click on an ad if they know it is an ad. See Appendix K.)

## REASONS FOR GRANTING THE PETITION

Shakespeare got it right in “Macbeth”:

*I have done no harm. But I remember now*

*I am in this earthly world, where to do harm*

*Is often laudable, to do good sometimes*

*Accounted dangerous folly....*

Google has done great harm to other businesses and to consumers; nevertheless, it is applauded for it. There is a tragic disconnection between the public perception of Google and reality.

The most compelling reasons for the court to consider this matter are these:

1. It is an extremely urgent issue that needs the high court's decision. Is deceptive information in the form of search results protected speech per the United States Constitution?

2. No court of appeal would consider the issue in Google's home state, California; rather, the California Appeals Court, along with the California Supreme Court, denied review of a critical and timely issue.

3. Due to the bad behavior of judge Goldsmith -- abnegation of responsibility and malfeasance -- Google has been allowed to write the law, claiming that deceptive search results, and in fact all search results, are "protected speech". This is clearly not a correct interpretation of the First Amendment. Is Google so powerful it gets to write Constitutional law via the California courts?

There are two significant opinions/judgments that should be considered. The most significant is that of Judge Goldsmith (written by Google) which states that search is protected speech; the second is the denial of the motion to vacate the judgment (also written by Google) that falsely states that ccp 663 was not addressed by the Plaintiff. Both are clearly false statements. See the Appendix A for Goldsmith's false statement; see Appendix E for Quinn's false statement.

Goldsmith's order states:

*On November 13, 2014, Defendant Google Inc.'s Special Motion to Strike to Plaintiff's Complaint came for hearing. Defendant has met its burden of showing that the claims asserted against it arise from constitutionally*

*protected activity, thereby shifting the burden to Plaintiff to demonstrate a probability of prevailing on the merits of the Complaint. Plaintiff has failed to file an opposition to Defendant's Motion, and has produced no evidence supporting a probability of success. The Plaintiff's complaint shall be stricken without leave to amend.*

The "constitutionally protected activity" is that of deceiving the users of Google's search engine. Martin amply demonstrated a probability of prevailing with seven filings, all but two of which were suppressed from the court's record, constituting obstruction of justice. The judge read at most one of them, the complaint. They demonstrated a high probability of prevailing. Also, the Federal Trade Commission ruled against Google in 2013 but chose to put Google on probation for 20 years rather than punish Google. The documents of the actual investigators for the FTC, leaked to the Wall Street Journal in 2015, showed the investigators recommended punishment. Signing this strike order, written by the defendant, is malfeasance on the part of Judge Goldsmith. The judge never showed the least evidence of giving the case any consideration. And in fact, the case has never been heard or considered; Google, along with the court, has simply engaged in procedural warfare against the complaint and the Plaintiff.

It needs to be stated that the court's blind repetition of Google's mantra -- "search is constitutionally protected activity" -- is not intelligent judicial behavior. The court is

repeating the slogan of a special-interest group. It is saying that all speech is protected, even if that speech calls for a riot, lynching someone, or shouting "fire" in a crowded theater. Any judge who mimics this slogan is simply acting as a politician.

A motion to vacate the judgment was filed on 30 April 2015. On 29 June 2015 the motion was denied by Judge Joseph Quinn. Here is what he (actually Google) states:

*On June 29, 2015, Plaintiff S. Louis Martin's Motion to Vacate Judgment of 21 April 2015 came for hearing. The motion is denied. Plaintiff does not set forth a valid ground for vacating the judgment. (See CCP secs. 473(b) and 663.).*

Per ccp 663, Martin set forth ample grounds for vacating the motion. See the testimony from the hearing in Appendix I. Not only was the basis for the judgment erroneous per ccp 663.1; but per 663.2, the judgment was not supported by the facts either. The facts, most of which were suppressed by the court in the docket and not read, supported just the opposite opinion. Judge Quinn signed a statement that he knew to be false, which is lying and malfeasance.

The case can be summed up this way: The erroneous order written by Google and

signed by Judge Goldsmith was given the nod by Judge Quinn, with neither judge asking any questions at any point in proceedings; and the Appeals court and the California Supreme Court declined reviews, even though serious wrong-doing was clearly involved. The entire proceedings boils down to this: On 13 June 2014 one clearly false statement is written by Google and signed by Judge Goldsmith; the matter is compounded in wrong-doing by Judge Quinn denying the motion to vacate the order; then the higher courts, whose job it is to protect the integrity of the law and consider truly critical issues, decline to look into the matter. The latter is a serious abnegation of the responsibility of the higher courts. It is going on two years now since one judge's lie necessitated another judge's lie, and the higher courts turned blind eyes on this critical matter. The result? Google continues to wear the oversized mantle of "protected speech", destroying other businesses with impunity and hoodwinking the public.

Macbeth would love this: double murder, the second to protect the first, with higher authorities refusing involvement. What more could evil ask for?

The motivation for this "crime" committed by Google is money -- orders of magnitude more than by returning honest ("organic") search results. For a deeper understanding of this case, please read "Shifting Search Scenarios, Extreme Bias" in the Appellant's Appendix (link in Appendix L), as well as "Killing Publishers" (APPENDIX N) in the unread Opening Brief for the Appeals Court (link in

Appendix M). Via campaign contributions and lobbying – two of the judges involved were up for reelection -- Google is getting away with *murther*.

By falsely claiming First Amendment protection, in violation of the Section 5 of the Federal Trade Commission Act (deception business practices), Google then effectively violates the Sherman Act, causing grievous harm to other businesses and consumers. Hypocritically, Google maximizes the antithesis of its “do no evil” slogan.

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Dr. S. Louis Martin

---

Date: 4 April 2016

## APPENDICES

## APPENDIX A: 2014-13-11 Strike Order

See following page(s).

APPENDIX A



**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN FRANCISCO**

**Document Scanning Lead Sheet**

Nov-13-2014 4:31 pm

Case Number: CGC-14-539972

Filing Date: Nov-13-2014 4:30

Filed by: SEAN KANE

Juke Box: 001 Image: 04689773

ORDER

S. LOUIS MARTIN VS. GOOGLE, INC

001C04689773

**Instructions:**

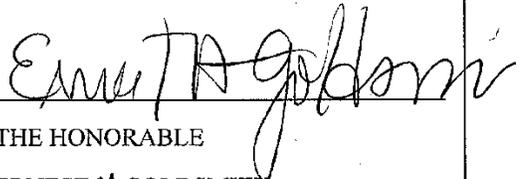
Please place this sheet on top of the document to be scanned.



1 On November 13, 2014, Defendant Google Inc.'s Special Motion to Strike to Plaintiff's  
2 Complaint came for hearing. Defendant has met its burden of showing that the claims asserted  
3 against it arise from constitutionally protected activity, thereby shifting the burden to Plaintiff to  
4 demonstrate a probability of prevailing on the merits of the Complaint. Plaintiff has failed to file  
5 an opposition to Defendant's Motion, and has produced no evidence supporting a probability of  
6 success. The Plaintiff's complaint shall be stricken without leave to amend.

7 **IT IS SO ORDERED.**

8  
9 Dated: NOV 13 2014

  
10 THE HONORABLE  
11 ERNEST H. GOLDSMITH  
12 San Francisco Superior Court  
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**APPENDIX B: 2015-02-03 Denial of Continuance Request**

See the following page(s).

APPENDIX B

LAW AND MOTION, 302, PLAINTIFF S. LOUIS MARTIN'S MOTION TO VACATE STRIKE ORDER OF 13 NOVEMBER 2014 IN CASE 539972, S. LOUIS MARTIN V GOOGLE, INC. IS DENIED. THE COURT DENIES PLAINTIFF'S CONTINUANCE REQUEST. ORDER SIGNED IN OPEN COURT. (SEE ORDER FOR COMPLETE RULING.) JUDGE: ERNEST H. GOLDSMITH; CLERK: SEAN KANE; REPORTER: MELANIE DAWN GHENO, CSR #7489 (302/EHG)

**APPENDIX C: 2015-04-21 Judgment**

See the following page(s).

APPENDIX C



**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN FRANCISCO**

**Document Scanning Lead Sheet**

Apr-21-2015 2:17 pm

Case Number: CGC-14-539972

Filing Date: Apr-21-2015 2:17

Filed by: KAREN LIU

Juke Box: 001 Image: 04879052

JUDGMENT FOR DEFENDANT

S. LOUIS MARTIN VS. GOOGLE, INC

001C04879052

**Instructions:**

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APR 16 2015

1 SCOTT A. SHER, State Bar No. 190053  
2 BRADLEY T. TENNIS, State Bar No. 281206  
3 DAVID H. REICHENBERG (*admitted pro hac vice*)  
4 WILSON SONSINI GOODRICH & ROSATI  
5 Professional Corporation  
6 650 Page Mill Road  
7 Palo Alto, CA 94304-1050  
8 Telephone: (650) 493-9300  
9 Facsimile: (650) 493-6811  
10 Email: ssher@wsgr.com

11 Attorneys for Defendant  
12 GOOGLE INC.

**FILED**  
Superior Court of California  
County of San Francisco  
APR 21 2015  
CLERK OF THE COURT  
BY: *[Signature]*  
Deputy Clerk

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
14 COUNTY OF SAN FRANCISCO

15 S. LOUIS MARTIN,  
16 Plaintiff,  
17 v.  
18 GOOGLE INC.,  
19 Defendant.

CASE NO.: CGC-14-539972  
~~PROPOSED~~ JUDGMENT OF <sup>for</sup> DISMISSAL *Defendant Google Inc.*

Complaint Filed: June 17, 2014

20 Pursuant to the Court's order filed November 13, 2014 granting Defendant's Motion to  
21 Strike Plaintiff's Complaint Pursuant to Civ. Proc. Code § 425.16 without leave to amend:

22 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiff shall take  
*S. Louis Martin* *Google Inc. G*  
23 nothing and that judgment is entered against Plaintiff and in favor of Defendant in the above-  
24 referenced action.

25 **IT IS SO ORDERED.**

26 DATED: April 21, 2015  
APR 21 2015

*Ernest H. Goldsmith*  
The Honorable Ernest H. Goldsmith  
Judge of the Superior Court

27 **SEE EXHIBIT 'A' RE**  
28 **COMPLIANCE WITH CRC 3.1312**

[PROPOSED] JUDGMENT OF DISMISSAL  
CASE No. CGC-14-539972

Sean Kane

rec'd

APR 14 2015

**From:** Tennis, Brad <btennis@wsgr.com>  
**Sent:** Tuesday, April 14, 2015 11:07 AM  
**To:** Contestdept302tr  
**Subject:** CGC-14-539972: Proposed Judgment of Dismissal  
**Attachments:** 2015-04-14 Proposed Judgment Cover Sheet.pdf; 2015-04-14 [PROPOSED] Final Judgment.pdf; 2015-04-14 [PROPOSED] Final Judgment.docx; 2015-04-14 Declaration of B Tennis.pdf

To whom it may concern:

Google submits the attached Proposed Judgment of Dismissal reflecting the following orders of the Court in case number 14-CGC-539972:

- November 13, 2014 order granting defendant Google Inc.'s special motion to strike and
- February 3, 2015 order denying plaintiff S. Louis Martin's motion to vacate the November 13 order

In accordance with CRC 3.1312, Google has attached both a PDF and word-processor editable version of the Proposed Judgment along with the electronic cover sheet and proof of service.

As stated in the attached declaration of Bradley T. Tennis, the Proposed Judgment was provided to Plaintiff S. Louis Martin via email on April 9, 2015 for approval pursuant to CRC 3.1312. Google has received no response from Plaintiff, and thus under CRC 3.1312(a) plaintiff is deemed to have approved the Proposed Judgment.

Sincerely,

BT

**Bradley T. Tennis**  
Wilson Sonsini Goodrich & Rosati

650 Page Mill Road | Palo Alto, California 94304  
Main: (650) 493-9300 | Direct: (650) 849-3056  
Facsimile: (650) 493-6811 | Email: [btennis@wsgr.com](mailto:btennis@wsgr.com)

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EXHIBIT "A"

**APPENDIX D: 2015-4-23 Notice of Entry of Judgment**

See the following page(s).

APPENDIX D

1 SCOTT A. SHER, State Bar No. 190053  
2 BRADLEY T. TENNIS, State Bar No. 281206  
3 DAVID H. REICHENBERG (*admitted pro hac vice*)  
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9 Facsimile: (650) 493-6811  
10 Email: ssher@wsgr.com

11 Attorneys for Defendant  
12 GOOGLE INC.

ELECTRONICALLY  
**FILED**  
Superior Court of California,  
County of San Francisco  
**APR 23 2015**  
Clerk of the Court  
BY: MICHAEL RAYRAY  
Deputy Clerk

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
14 COUNTY OF SAN FRANCISCO

15 S. LOUIS MARTIN,	)	CASE NO.: CGC-14-539972
16 Plaintiff,	)	
17 v.	)	<b>NOTICE OF ENTRY OF</b>
18	)	<b>JUDGMENT FOR DEFENDANT</b>
19 GOOGLE INC.,	)	<b>GOOGLE INC.</b>
20 Defendant.	)	
21	)	Complaint Filed: June 17, 2014
22	)	
23	)	
24	)	
25	)	
26	)	
27	)	
28	)	

29 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

30 PLEASE TAKE NOTICE that on April 21, 2015 the Honorable Judge Ernest H.  
31 Goldsmith of Department 302 of the Superior Court of the State of California in the County of  
32 San Francisco issued a Judgment for Defendant Google Inc. A true and correct copy of the  
33 Judgment for Defendant Google Inc. is attached hereto as Exhibit A.

34 Respectfully submitted,

35 Dated: April 23, 2015

36   
37 By \_\_\_\_\_  
38 Bradley T. Tennis

39 Attorney for Defendant  
40 GOOGLE INC.

41 NOTICE OF ENTRY OF JUDGMENT  
42 CASE No. CGC-14-539972

## EXHIBIT A



**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN FRANCISCO**

**Document Scanning Lead Sheet**

Apr-21-2015 2:17 pm

Case Number: CGC-14-539972

Filing Date: Apr-21-2015 2:17

Filed by: KAREN LIU

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JUDGMENT FOR DEFENDANT

S. LOUIS MARTIN VS. GOOGLE, INC

001C04879052

**Instructions:**

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APR 16 2015

1 SCOTT A. SHER, State Bar No. 190053  
2 BRADLEY T. TENNIS, State Bar No. 281206  
3 DAVID H. REICHENBERG (*admitted pro hac vice*)  
4 WILSON SONSINI GOODRICH & ROSATI  
5 Professional Corporation  
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7 Palo Alto, CA 94304-1050  
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9 Facsimile: (650) 493-6811  
10 Email: ssher@wsgr.com

11 Attorneys for Defendant  
12 GOOGLE INC.

**FILED**  
Superior Court of California  
County of San Francisco

APR 21 2015

CLERK OF THE COURT  
BY: *[Signature]*  
Deputy Clerk

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
14 COUNTY OF SAN FRANCISCO

15 S. LOUIS MARTIN,  
16 Plaintiff,  
17 v.  
18 GOOGLE INC.,  
19 Defendant.

CASE NO.: CGC-14-539972  
[PROPOSED] JUDGMENT OF <sup>for</sup>  
~~DISMISSAL~~ Defendant Google Inc.

Complaint Filed: June 17, 2014

20 Pursuant to the Court's order filed November 13, 2014 granting Defendant's Motion to  
21 Strike Plaintiff's Complaint Pursuant to Civ. Proc. Code § 425.16 without leave to amend:

22 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiff shall take  
*S. Louis Martin* *Google Inc. G*  
23 nothing and that judgment is entered against Plaintiff and in favor of Defendant in the above-  
24 referenced action.

25 **IT IS SO ORDERED.**

26 DATED: April 21, 2015  
APR 21 2015

*Ernest H. Goldsmith*  
The Honorable Ernest H. Goldsmith  
Judge of the Superior Court

27 **SEE EXHIBIT "A" RE**  
28 **COMPLIANCE WITH CRC 3.1312**

[PROPOSED] JUDGMENT OF DISMISSAL  
CASE No. CGC-14-539972

Sean Kane

rec'd

APR 14 2015

**From:** Tennis, Brad <btennis@wsgr.com>  
**Sent:** Tuesday, April 14, 2015 11:07 AM  
**To:** Contestdept302tr  
**Subject:** CGC-14-539972: Proposed Judgment of Dismissal  
**Attachments:** 2015-04-14 Proposed Judgment Cover Sheet.pdf; 2015-04-14 [PROPOSED] Final Judgment.pdf; 2015-04-14 [PROPOSED] Final Judgment.docx; 2015-04-14 Declaration of B Tennis.pdf

To whom it may concern:

Google submits the attached Proposed Judgment of Dismissal reflecting the following orders of the Court in case number 14-CGC-539972:

- November 13, 2014 order granting defendant Google Inc.'s special motion to strike and
- February 3, 2015 order denying plaintiff S. Louis Martin's motion to vacate the November 13 order

In accordance with CRC 3.1312, Google has attached both a PDF and word-processor editable version of the Proposed Judgment along with the electronic cover sheet and proof of service.

As stated in the attached declaration of Bradley T. Tennis, the Proposed Judgment was provided to Plaintiff S. Louis Martin via email on April 9, 2015 for approval pursuant to CRC 3.1312. Google has received no response from Plaintiff, and thus under CRC 3.1312(a) plaintiff is deemed to have approved the Proposed Judgment.

Sincerely,

BT

**Bradley T. Tennis**  
Wilson Sonsini Goodrich & Rosati

650 Page Mill Road | Palo Alto, California 94304  
Main: (650) 493-9300 | Direct: (650) 849-3056  
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EXHIBIT "A"

**APPENDIX E: 2015-10-08 Denial of Motion to Vacate Judgment**

See the following page(s).

APPENDIX E



**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN FRANCISCO  
Document Scanning Lead Sheet**

Jun-29-2015 11:29 am

Case Number: CGC-14-539972

Filing Date: Jun-29-2015 11:29

Filed by: SEAN KANE

Juke Box: 001 Image: 04971252

ORDER

S. LOUIS MARTIN VS. GOOGLE, INC

001C04971252

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1 SCOTT A. SHER, State Bar No. 190053  
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6 Attorneys for Defendant  
7 GOOGLE INC.

**FILED**  
Superior Court of California  
County of San Francisco

JUN 29 2015

CLERK OF THE COURT  
BY: *[Signature]*  
Deputy Clerk

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF SAN FRANCISCO

10 S. LOUIS MARTIN,  
11 Plaintiff,

12 v.

13 GOOGLE INC.,  
14 Defendant.

) CASE NO.: CGC-14-539972  
) ~~PROPOSED~~ ORDER DENYING  
) ~~PLAINTIFF'S MOTION TO~~  
) ~~VACATE JUDGMENT OF 21 APRIL~~  
) ~~2015~~  
) Date: June 29, 2015  
) Time: 9:30 a.m.  
) Dept: 302  
) Reservation No.: 04280629-03  
) Complaint Filed: June 17, 2014

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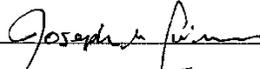
---

~~PROPOSED~~ ORDER DENYING PLAINTIFF'S MOTION TO VACATE JUDGMENT OF 21 APRIL 2015  
CASE NO.: CGC-14-539972

1 On June 29, 2015, Plaintiff S. Louis Martin's Motion to Vacate Judgment of 21 April  
2 2015 came for hearing. The motion is denied. Plaintiff does not set forth a valid ground for  
3 vacating the judgment. (See CCP secs. 473(b) and 663.).

4 **IT IS SO ORDERED.**

5  
6 Dated: June 29, 2015

  
\_\_\_\_\_  
7 THE HONORABLE Joseph M. Quinn  
8 ~~ERNEST H. GOLDSMITH~~  
9 San Francisco Superior Court

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-1-

~~PROPOSED~~ ORDER DENYING PLAINTIFF'S MOTION TO VACATE JUDGMENT OF 21 APRIL 2015  
CASE NO.: CGC-14-539972

**APPENDIX F: 2015-10-08 Dismissal by California Appeals Court**

See the following page(s).

**APPENDIX F**

(10/08/2015)

Having considered all of the parties' arguments, this Court hereby grants respondent Google, Inc.'s (Google) motion to dismiss, filed on August 19, 2015, because we lack of jurisdiction to consider the appeal of S. Louis Martin (Martin). Google filed a motion in the superior court to dismiss Martin's complaint without leave to amend pursuant to Code of Civil Procedure section 425.16, the "anti-SLAPP" statute. The superior court granted Google's motion by written order on November 13, 2014. Martin had 60 days from Google's November 19, 2014 service of this order to appeal from it. (Maughan v. Google Tech., Inc. (2006) 143 Cal.App.4th 1242, 1246-1247 (Maughan); Cal. Rules of Court, rule 8.104(1)(B).) Therefore, Martin's deadline to file a notice of appeal from this order was January 18, 2015. He did not file a notice of appeal by that date. On December 10, 2014, Martin filed a motion to vacate the superior court's November 13, 2014 anti-SLAPP order. The court denied this motion by written order filed on February 3, 2015. Assuming for the sake of argument that Martin's motion was sufficiently valid to extend his deadline to appeal from the court's November 13, 2014 anti-SLAPP order - an issue that Google does not concede and which we do not decide -- pursuant to California Rules of Court, rule 8.108(c), Martin would have had 30 days from Google's February 4, 2015 service of the court's February 3, 2015 order, or until March 6, 2015, to file his notice of appeal. (Cal. Rules of Court, rule 8.108(c)(1).) Martin did not file a notice of appeal by that date. Instead, he filed his notice of appeal over

four months later on July 8, 2015. That notice was untimely. Neither the superior court's April 21, 2015 filing of a judgment in the action nor Martin's motion to vacate that judgment revived his time to appeal from the court's November 13, 2014 anti-SLAPP order. (See Maughan, *supra*, 143 Cal.App.4th at pp. 1246-1247.) Therefore, we do not have jurisdiction to consider Martin's appeal.

**APPENDIX G: 2015-10-29 Denial of Rehearing in Appeals Court**

See the following page(s).

APPENDIX G

(10/29/2015)

Order denying rehearing petition filed.

**APPENDIX H: 2016-01-13 Denial of Petition for Review by California Supreme  
Court**

See the following page(s).

APPENDIX H

slouismartin@outlook.com, the following transaction has occurred in:

MARTIN v. GOOGLE

Case: S230639, Supreme Court of California

Date (YYYY-MM-DD): 2016-01-13

Event Description: Petition for review denied

For more information on this case, go to:

[http://appellatecases.courtinfo.ca.gov/search/case/disposition.cfm?dist=0&doc\\_id=2125785&doc\\_no=S230639](http://appellatecases.courtinfo.ca.gov/search/case/disposition.cfm?dist=0&doc_id=2125785&doc_no=S230639)

For opinions, go to:

<http://www.courts.ca.gov/opinions-slip.htm>

Do not reply to this e-mail. Messages sent to this e-mail address will not be processed.

**APPENDIX I: 2015-06-29 Hearing in Superior Court**

See the following page(s).

APPENDIX I

*THE COURT: Good morning, Mr. Martin.*

*11 All right. Mr. Martin, you've seen the tentative, and*

*12 you've contested it, so give me your argument.*

*13 MR. MARTIN: Well, my argument is based around CCP 663.1,*

*14 which says that the judgment may be set aside and another*

*15 judgment rendered if there is an incorrect or erroneous legal*

*16 basis for the judgment, or the judgment is not supported by*

*17 facts. And I will argue both of those cases are true, that it's*

*18 not supported by the facts. And to back up, there are big, big*

*19 errors in the legal assessment of the case.*

*20 Starting off with the legal basis to overthrow the judgment,*

*21 Rule 425.16 was not properly followed by the Court. 425.16 says*

*22 that the special motion to vacate can be granted unless the*

*23 plaintiff has a probability of winning, essentially, success.*

*24 And 425.16 Section (b)2 says that the way to determine whether*

*25 the plaintiff has a probability of succeeding is to examine,*

*26 to -- well, literally it says to consider the pleadings and the*

*27 affidavits, okay. The judge is required to consider them.*

*28 Now, moving along there, the pleadings of the plaintiff have*

*3*

*1 been largely suppressed by the Court. Five out of seven of our*

*2 pleadings were suppressed by the Court without any explanation*

3 ever given, and I went all over this court trying to get some  
4 answer to this. And quite bluntly, asked Judge Goldsmith what  
5 had happened. I got nothing at all, no answer period, just  
6 stonewalling of the question. They were critical pleadings.

7 My contention is that if you don't have the pleadings, if  
8 you suppress the pleadings, you cannot meet the obligations of  
9 425.16(b)2, which says that you have to look at the pleadings in  
10 order to evaluate the case. If you don't have any pleadings to  
11 look at, you're not going to be able to do the job of  
12 425.16(b)2.

13 However, the Court also denied that any kind of opposition  
14 was filed in the motion to grant the strike order, and my  
15 contention is that is absolutely false. We did file an  
16 opposition there. And that was in terms of a combined demurrer  
17 response and combined with the special motion to strike. The  
18 document has that name right on it. It's a two-part document,  
19 and it is proper. I have checked this to combine those  
20 oppositions into one document especially if the -- especially if  
21 the issues are virtually identical. The only difference is that  
22 the demurrer is longer because you're expecting to have to do  
23 more.

24 The 425.16 pursuant special motion to strike is used to

*25 quickly stop the case, of course. However, it's interesting to  
26 note that according to 425.16(f) that that special motion to  
27 strike is supposed to be filed within 60 days. And in fact, the  
28 defendant took 72 days and failed to file a motion for leave on*

*4*

*1 that, for that delay....*

## APPENDIX J: Information Pollution from Appeal to California Supreme Court

See the following page(s).

APPENDIX J

## Information Pollution

This is a clear case of information pollution. It is information that is tainted by deceptive business practices. It is akin to the pollution of air, water, and food; but perhaps it is even worse, as deceptive information could tell you that your air, water, or food was safe when it was not. Deception of this type -- paid advertising that is, however, not marked as such --

9

should not be allowed because it is clearly harmful to the consumer. And in fact it is not allowed per the Federal Trade Commission. But Google simply chooses to ignore the rules.

Now consider harm to competition. In order to free up the top search position in the search results listings, the highest quality search results must be virtually disappeared. Such is the case with CoastNews.com, which once occupied the top search spots in the key restaurant areas in San Francisco. It routinely came in #1, 2, or 3, in areas such as North Beach, Chinatown, Downtown, Fishermen's Wharf ... By agreement with Google, CoastNews.com once hosted Google ads on its site. (Note: CoastNews.com contains "San Francisco Restaurant & Dining Guide".) But with the new search scenario employed by Google (see "Shifting Search Scenarios, Extreme Bias" in the Appellant's Appendix), Google can make approximately 1,250 times as much money by running unmarked ads in its place. But of course this depends on Google successfully misleading the consumer into thinking that he or she is viewing

a bone fide (honest) search result based on quality, not how much money the restaurant paid in a bidding war.

## APPENDIX K: “New Search Scenarios, Extreme Bias”

See the following page(s).

APPENDIX K

## Shifting Search Scenarios

30

31 There has been a significant shift in search scenarios that relates to the  
32 understanding of this case. Consider three search situations:

33

34 1. Google returns the URL of a Google AdWords customer or a Google property.

35

36 2. Google returns the URL of a publisher with an ad for an AdWords customer on  
37 the publisher's page. (The publisher is a Google AdSense "partner.")

38

39 3. Google returns the URL for a page with no AdSense ad and the owner of the  
40 page is not an AdWords customer or a Google property.

41

42 Here are the economic implications of these three scenarios.

43

44 Case #1

45

116

46 In Case #1, if Google places the URL on the first page of returned results and  
close

47 to the top, it is very likely to get clicked on immediately. This means that Google  
48 will get paid 100 % of the price paid by the AdWords customer for the click, say 5

49 to 7 USD for a restaurant or a hotel ad. (Google will not get just 32% of the price  
if

50 the click were on an ad placed on a bone fide publisher's page, as described in  
51 Case #2 below.) In short, Google will make a whole lot of money very fast.

52

53 Case #2

54

55 Now consider Case #2, where an ad is placed on a publisher's page. First, the ad  
56 will be clicked on only about 2 to 3 times out of 1000 returns of the page as a  
57 search result. That is because users don't trust ads for information. No surprise  
58 there! So the page will have to be presented many times before a user clicks. But  
59 then when a user does click on the page, Google will get only 32% of the money  
60 paid by the AdWords customer for the click (68% goes to the publisher). So what  
61 one sees is very few clicks and far less money per click for Google. Case #1 is  
going

62 to make lots of money fast for Google; Case #2, which honors the honest, old  
fashioned advertising model, will make very little.

64

65 Case #3

66

67 In Case #3, Google of course makes no money at all. Thus Google has no  
incentive

68 to return such a URL, no matter how good it is. Also, returning such a URL will  
get

69 in the way of money-making URLs, reducing Google's revenue. The higher up the  
70 URL in the search results, the worse the situation is for Google's revenues.

71

72 And note that in the honest, old-fashioned advertising model of Case #2, such a  
73 URL also gets in the way of high-revenue-generating URLs of Case #1. Thus it is

117

74 much to the advantage of Google to push Case #2 and Case #3 URLs as far out of  
75 the way as possible. That is in fact what has been going on for some time now.

76

77 Note that Case #1 URLs are rarely marked as ads anymore; hence they are  
biased

78 (paid-for) search results that are also deceptive; Case #2 results may be unbiased  
79 (honest) search results if they are not artificially promoted over better results.

80 Case #3 results are of course honest or unbiased results. But note that there is

81 strong motivation to promote Case #1 URLs, as they are far more lucrative for

82 Google. And that is the pattern that is seen these days: Top search results now

83 consist almost exclusively of Case #1 URLs regardless of their merit. (Case #1

URLs

84 for Google properties are a slightly different story. For a Google-owned property

85 like Zagat, what you see is heavy promotion of page sponsorship on the returned

86 page. In other words, if you want to get a high-page ranking on the Google  
87 property, you also have to pay. But keep in mind that until Google owns  
88 everything, the large majority of Case #1 URLs are AdWords customers.)

89

90 The next section discusses just how biased Google's search results are.

91

92 The relevance to this complaint is obvious: CoastNews represented a high-rated,  
93 unbiased Case #2 URL that got in the way of Google's high-revenue-generating  
94 scenario. When analyzed and understood in this way, it is clear that Google's  
URL

95 placement scenario is really a deceptive scheme that harms both consumers and  
96 competitors.

97

### 98 **Extreme Bias**

99

100 As mentioned above, Google makes huge amounts of money by returning search  
101 results that are biased in favor of its AdWords customers or own properties.

The

118

102 question then arises: What percent of search results returned are biased (paid  
103 for) versus honest (unbiased) ones? Note that when Google began, most, if not  
104 all, returned results were honest; but clearly that has changed significantly

over

105 time.

106

107 In a Business Insider article called "Here's The Evidence That Google's Search  
108 Results Are Horribly Biased,"

109

110 ([http://www.businessinsider.com/evidence-that-google-search-results-are111  
biased-2014-10#ixzz3GSHJjHXc](http://www.businessinsider.com/evidence-that-google-search-results-are111<br/>biased-2014-10#ixzz3GSHJjHXc))

112

113 Jim Edwards describes a piece of software (Chrome extension) developed by  
yelp

114 and others that shows just how biased Google searches are. The title of the  
article

115 says it all: "horribly."

116

117 The software removes preference for Google+ results from Google searches,

118 showing what the honest (unbiased) results would be. In one case with the

119 extension enabled, a search on "hotels Balboa Spain" returned 2081 reviews.

120 With it disabled (normal biased Google search), only 137 results are returned.

I.e.,

121 Google returns only 6.58 percent of the results that it might in a fair search.

(See

122 Focus On The User at <http://focusontheuser.eu/#introduction>.)

123

124 Let us now be specific to the complaint of CoastNews against Google (S. Louis

125 Martin v Google Inc.). For a search on "San Francisco restaurant guide North

126 Beach", the top 10 search results returned by Google are all AdWords

customers

127 or Google properties, other than one—yelp. In an FTC settlement with Google

in

128 2013, Google agreed to be fairer to competitors such as yelp. It appears in the

129 search described above, yelp is Google's token example of fairness. And among

119

130 the returned results, one is not a guide at all but a restaurant. Moreover, that

131 restaurant is rated as \*\*\* (mediocre) on the second listing, which is

132 [menupages.com](http://menupages.com). How much sense does that make? How much "editorial

133 judgment" does that show? CoastNews's restaurant page is of course missing,

134 though it is the only page that has photographs of all restaurants; lengthy

135 descriptions, often including interviews with owners; and no reviews written on

136 hand-held devices by semi-literate Millennials inebriated on a date, stating

137 something like "Hey, dude, this place sucks!" or "Hey, dude, this place is f\*\*\*ing

138 awesome."

139

140 On Media Post, see "Tool Claims To Show Google Search Bias":

141

142 [http://www.mediapost.com/publications/article/235369/yelp-demonstrates](http://www.mediapost.com/publications/article/235369/yelp-demonstrates-googles-search-bias.html)  
143 [googles-search-bias.html](http://www.mediapost.com/publications/article/235369/yelp-demonstrates-googles-search-bias.html)

144

145 On the Wall Street Journal, see "Ads Tied to Web Searches Criticized as  
146 Deceptive":

147

148 [http://online.wsj.com/articles/ads-tied-to-web-searches-criticized-as-deceptive-](http://online.wsj.com/articles/ads-tied-to-web-searches-criticized-as-deceptive-1413226602)  
149 [1413226602](http://online.wsj.com/articles/ads-tied-to-web-searches-criticized-as-deceptive-1413226602)

150

151 We rest our case that there is a big problem in the world of Google search  
caused

152 by "bias," with the result that consumers are often badly misled and  
competition

153 is either crippled or completely eliminated.

154

155 By Dr. S. Louis Martin

Note: This document can be viewed in unread Appellant's Appendix prepared for  
the Appeals Court:

<http://coastnews.com/google/record-1.pdf>

**APPENDIX L: Link to Appellant's Appendix for California Appeals Court**

See the following page(s).

APPENDIX L

<http://coastnews.com/google/record-1.pdf>

**APPENDIX M: Link to Opening Brief for the California Appeals Court**

See the following page(s).

APPENDIX M

<http://coastnews.com/google/opening-brief-6-PDF.pdf>

**APPENDIX N: “Killing Publishers” in Opening Brief for Appeal Court**

See the following page(s).

APPENDIX N

## **Killing publishers**

S. LOUIS MARTIN, in one of his court-suppressed document, "Shifting Search Scenarios, Extreme Bias," (see page 115 of the Appellant's Appendix) tells the same story and shows in detail why Google is doing it. While the good law professors from Harvard and Columbia universities are on the right track, Martin does not think they understand the full economic implications of what Google is doing. The money from returning unmarked advertisers is hugely more lucrative than returning honest search results. When you do the math, it is almost staggering. Martin explains in detail why Google is disappearing publishers in its search results and instead returning unmarked advertisers.

41

Let's do the math, based on the research analysis of "Shifting Search Scenarios, Extreme Bias."

In the case that Google returns an actual publisher (honest search result based on ranking, sometimes called "organic" or "natural" search result) with an ad on the page, for 1,000 clicks on that publisher's URL, Google would make about 32 percent of 2.5 clicks \* 6 USD. That comes out to be 4.80 USD, the price of a cheap bottle of wine at Trader Joe's.

Notes:

- 2.5 clicks is used because only 2 to 3 out of 1000 users would click on an ad if they knew it were an ad;
- 6 USD is the average cost to the advertiser for the click;

□ Google keeps 32 percent of the 6 USD.

In the case that Google returns an unmarked advertiser, Google would make 100 percent of  $1,000 * 6$  USD. That comes out to be 6,000 USD, the cost of some pretty

42

pampered weekend fun for a Google-glassed executive in a self-driving car.

In short, Google makes 1,250 times as much returning an unmarked ad than it does a real publisher!

But note that it is very important that Google does not label an ad as an ad, because if it did the click rate would go down to 2 to 3 in 1000. The practice is of course very deceptive, as the assumption by the consumer is that if the ad is not marked as an ad, then it is a bone fide search result. And, ironically, the presence of a few labeled ads enhances that perception. It says, "Those are the ads; here are the real search results." While this strategy is clever, it is also extremely devious.

Thus the motivation is clear and obvious for disappearing real publishers and, by the deception of the unmarked ad, returning an ad instead. Real publishers get in the way of ad delivery on the Google ad network, so they must go. (See

"Introduction to What Is Google?" on page 108 of the Appellant's Appendix and

"What Is Google?" (page 111 in

43

the Appellant's Appendix), two other suppressed documents.) And, ironically, the higher the quality of real publishers, the greater is the urgency to get rid of them!

There is no mystery about what is going on anymore, but there has been a great

effort made by Google, and apparently the court too, to conceal it by suppressing the real story.

In short, anyone who had access to Martin's pleadings could not have concluded other than this: S. LOUIS MARTIN had an excellent chance of prevailing in this lawsuit. Like yelp, TripAdvisor, and others, he did his homework while the court suppressed critical documents and tipped the scale of justice hugely in favor of Defendant Google.

You can also read this document here:

<http://coastnews.com/google/opening-brief-6-PDF.pdf>

## APPENDIX O: The Complaint: “The Case Against Google”

See the following page(s).

APPENDIX O

<http://coastnews.com/google/google-complaint-new-2.html>

**APPENDIX P: Clayton Act of 1914**

See the following page(s).

APPENDIX P

## Clayton Antitrust Act of 1914

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That “antitrust laws,” as used herein, includes the Act entitled “An Act to protect trade and commerce against unlawful restraints and monopolies,” approved July second, eighteen hundred and ninety; sections seventy-three to seventy-seven, inclusive, of an Act entitled “An Act to reduce taxation, to provide revenue for the Government, and for other purposes,” of August twenty-seventh, eighteen hundred and ninety-four; an Act entitled “An Act to amend sections seventy-three and seventy-six of the Act of August twenty-seventh, eighteen hundred and ninety-four, entitled ‘An Act to reduce taxation, to provide revenue for the Government, and for other purposes,’ ” approved February twelfth, nineteen hundred and thirteen; and also this Act.

“Commerce,” as used herein, means trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States: Provided, That nothing in this Act contained shall

apply to the Philippine Islands.

The word “person” or “persons” wherever used in this Act shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States, the laws of any of the Territories, the laws of any State, or the laws of any foreign country.

Section 2. That it shall be unlawful for any person engaged in commerce, in the course of such commerce, either directly or indirectly to discriminate in price between different purchasers of commodities, which commodities are sold for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, where the effect of such discrimination may be to substantially lessen competition or tend to create a monopoly in any line of commerce: Provided, That nothing herein contained shall prevent discrimination in price between purchasers of commodities on account of differences in the grade, quality, or quantity of the commodity sold, or that makes only due allowance for difference in the cost of selling or transportation, or discrimination in price in the same or different communities made in good faith to meet competition: And provided further, That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers in bona fide transactions and not in restraint of trade.

Section 3. That it shall be unlawful for any person engaged in commerce, in the course of such commerce, to lease or make a sale or contract for sale of goods, wares, merchandise, machinery, supplies or other commodities, whether patented or unpatented, for use, consumption or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, or fix a price charged therefor, or discount from, or rebate upon, such price, on the condition, agreement or understanding that the lessee or purchaser thereof shall not use or deal in the goods, wares, merchandise, machinery, supplies or other commodities of a competitor or competitors of the lessor or seller, where the effect of such lease, sale, or contract for sale or such condition, agreement or understanding may be to substantially lessen competition or tend to create a monopoly in any line of commerce.

Section 4. That any person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws may sue therefor in any district court of the United States in the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover threefold the damages by him sustained, and the cost of suit, including a reasonable attorney's fee.

Section 5. That a final judgment or decree hereafter rendered in any criminal prosecution or in any suit or proceeding in equity brought by or on behalf of the United States under the antitrust laws to the effect that a defendant has violated said laws shall be prima facie evidence against such defendant in any suit or proceeding brought by any other party against such defendant under said laws as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto: Provided, This section shall not apply to consent judgments or decrees entered before any testimony has been taken: Provided further, This section shall not apply to consent judgments or decrees rendered in criminal proceedings or suits in equity, now pending, in which the taking of testimony has been commenced but has not been concluded, provided such judgments or decrees are rendered before any further testimony is taken.

Whenever any suit or proceeding in equity or criminal prosecution is instituted by the United States to prevent, restrain or punish violations of any of the antitrust laws, the running of the statute of limitations in respect of each and every private right of action arising under said laws and based in whole or in part on any matter complained of in said suit or proceeding shall be suspended during the pendency thereof.

Section 6. That the labor of a human being is not a commodity or article of commerce. Nothing contained in the antitrust laws shall be construed to forbid the

existence and operation of labor, agricultural, or horticultural organizations, instituted for the purposes of mutual help, and not having capital stock or conducted for profit, or to forbid or restrain individual members of such organizations from lawfully carrying out the legitimate objects thereof; nor shall such organizations, or the members thereof, be held or construed to be illegal combinations or conspiracies in restraint of trade, under the antitrust laws.

Section 7. That no corporation engaged in commerce shall acquire, directly or indirectly, the whole or any part of the stock or other share capital of another corporation engaged also in commerce, where the effect of such acquisition may be to substantially lessen competition between the corporation whose stock is so acquired and the corporation making the acquisition, or to restrain such commerce in any section or community, or tend to create a monopoly of any line of commerce.

No corporation shall acquire, directly or indirectly, the whole or any part of the stock or other share capital of two or more corporations engaged in commerce where the effect of such acquisition; or the use of such stock by the voting or granting of proxies or otherwise, may be to substantially lessen competition between such corporations, or any of them, whose stock or other share capital is so acquired, or to restrain such commerce in any section or community, or tend to create a monopoly of any line of commerce.

This section shall not apply to corporations purchasing such stock solely for investment and not using the same by voting or otherwise to bring about, or in attempting to bring about, the substantial lessening of competition. Nor shall anything contained in this section prevent a corporation engaged in commerce from causing the formation of subsidiary corporations for the actual carrying on of their immediate lawful business, or the natural and legitimate branches or extensions thereof, or from owning and holding all or a part of the stock of such subsidiary corporations, when the effect of such formation is not to substantially lessen competition.

Nor shall anything herein contained be construed to prohibit any common carrier subject to the laws to regulate commerce from aiding in the construction of branches or short lines so located as to become feeders to the main line of the company so aiding in such construction or from acquiring or owning all or any part of the stock of such branch lines, nor to prevent any such common carrier from acquiring and owning all or any part of the stock of a branch or short line constructed by an independent company where there is no substantial competition between the company owning the branch line so constructed and the company owning the main line acquiring the property or an interest therein, nor to prevent such common carrier from extending any of its lines through the medium of the acquisition of stock or otherwise of any other such common carrier where there is no substantial competition between the company extending its lines and the company whose stock,

property, or an interest therein is so acquired.

Nothing contained in this section shall be held to affect or impair any right heretofore legally acquired: Provided, That nothing in this section shall be held or construed to authorize or make lawful anything heretofore prohibited or made illegal by the antitrust laws, nor to exempt any person from the penal provisions thereof or the civil remedies therein provided.

Section 8. That from and after two years from the date of the approval of this Act no person shall at the same time be a director or other officer or employee of more than one bank, banking association or trust company, organized or operating under the laws of the United States, either of which has deposits, capital, surplus, and undivided profits aggregating more than \$5,000,000; and no private banker or person who is a director in any bank or trust company, organized and operating under the laws of a State, having deposits, capital, surplus, and undivided profits aggregating more than \$5,000,000 shall be eligible to be a director in any bank or banking association organized or operating under the laws of the United States. The eligibility of a director, officer, or employee under the foregoing provisions shall be determined by the average amount of deposits, capital, surplus, and undivided profits as shown in the official statements of such bank, banking association, or trust company filed as provided by law during the fiscal year next preceding the date set for the annual election of directors, and when a director, officer, or

employee has been elected or selected in accordance with the provisions of this Act it shall be lawful for him to continue as such for one year thereafter under said election or employment.

No bank, banking association or trust company, organized or operating under the laws of the United States, in any city or incorporated town or village of more than two hundred thousand inhabitants, as shown by the last preceding decennial census of the United States, shall have as a director or other officer or employee any private banker or any director or other officer or employee of any other bank, banking association, or trust company located in the same place: Provided, That nothing in this section shall apply to mutual savings banks not having a capital stock represented by shares: Provided further, That a director or other officer or employee of such bank, banking association, or trust company may be a director or other officer or employee of not more than one other bank or trust company organized under the laws of the United States or any State where the entire capital stock of one is owned by stockholders in the other: And provided further, That nothing contained in this section shall forbid a director of class A of a Federal reserve bank, as defined in the Federal Reserve Act, from being an officer or director or both an officer and director in one member bank.

That from and after two years from the date of the approval of this Act no person at the same time shall be a director in any two or more corporations, any one of which

has capital, surplus, and undivided profits aggregating more than \$1,000,000, engaged in whole or in part in commerce, other than banks, banking associations, trust companies and common carriers subject to the Act to regulate commerce, approved February fourth, eighteen hundred and eighty seven, if such corporations are or shall have been theretofore, by virtue of their business and location of operation, competitors, so that the elimination of competition by agreement between them would constitute a violation of any of the provisions of any of the antitrust laws. The eligibility of a director under the foregoing provision shall be determined by the aggregate amount of the capital, surplus, and undivided profits, exclusive of dividends declared but not paid to stockholders, at the end of the fiscal year of said corporation next preceding the election of directors, and when a director has been elected in accordance with the provisions of this Act it shall be lawful for him to continue as such for one year thereafter.

When any person elected or chosen as a director or officer or selected as an employee of any bank or other corporation subject to the provisions of this Act is eligible at the time of his election or selection to act for such bank or other corporation in such capacity his eligibility to act in such capacity shall not be affected and he shall not become or be deemed amenable to any of the provisions hereof by reason of any change in the affairs of such bank or other corporation from whatsoever cause, whether specifically excepted by any of the provisions hereof or not, until the expiration of one year from the date of his election or employment.

Section 9. Every president, director, officer or manager of any firm, association or corporation engaged in commerce as a common carrier, who embezzles, steals, abstracts or willfully misapplies, or willfully permits to be misapplied, any of the moneys, funds, credits, securities, property or assets of such firm, association or corporation, arising or accruing from, or used in, such commerce, in whole or in part, or willfully or knowingly converts the same to his own use or to the use of another, shall be deemed guilty of a felony and upon conviction shall be fined not less than \$500 or confined in the penitentiary not less than one year nor more than ten years, or both, in the discretion of the court.

Prosecutions hereunder may be in the district court of the United States for the district wherein the offense may have been committed.

That nothing in this section shall be held to take away or impair the jurisdiction of the courts of the several States under the laws thereof; and a judgment of conviction or acquittal on the merits under the laws of any State shall be a bar to any prosecution hereunder for the same act or acts.

Section 10. That after two years from the approval of this Act no common carrier engaged in commerce shall have any dealings in securities, supplies or other articles of commerce, or shall make or have any contracts for construction or maintenance of

any kind, to the amount of more than \$50,000, in the aggregate, in any one year, with another corporation, firm, partnership or association when the said common carrier shall have upon its board of directors or as its president, manager or as its purchasing or selling officer, or agent in the particular transaction, any person who is at the same time a director, manager, or purchasing or selling officer of, or who has any substantial interest in, such other corporation, firm, partnership or association, unless and except such purchases shall be made from, or such dealings shall be with, the bidder whose bid is the most favorable to such common carrier, to be ascertained by competitive bidding under regulations to be proscribed by rule or otherwise by the Interstate Commerce Commission. No bid shall be received unless the name and address of the bidder or the names and addresses of the officers, directors and general managers thereof, if the bidder be a corporation, or of the members, if it be a partnership or firm, be given with the bid.

Any person who shall, directly or indirectly, do or attempt to do anything to prevent anyone from bidding or shall do any act to prevent free and fair competition among the bidders or those desiring to bid shall be punished as prescribed in this section in the case of an officer or director.

Every such common carrier having any such transactions or making any such purchases shall within thirty days after making the same file with the Interstate Commerce Commission a full and detailed statement of the transaction showing the

manner of the competitive bidding, who were the bidders, and the names and addresses of the directors and officers of the corporations and the members of the firm or partnership bidding; and whenever the said commission shall, after investigation or hearing, have reason to believe that the law has been violated in and about the said purchases or transactions it shall transmit all papers and documents and its own views or findings regarding the transaction to the Attorney General.

If any common carrier shall violate this section it shall be fined not exceeding \$25,000; and every such director, agent, manager or officer thereof who shall have knowingly voted for or directed the act constituting such violation or who shall have aided or abetted in such violation shall be deemed guilty of a misdemeanor and shall be fined not exceeding \$5,000, or confined in jail not exceeding one year, or both, in the discretion of the court.

Section 11. That authority to enforce compliance with sections two, three, seven and eight of this Act by the persons respectively subject thereto is hereby vested: in the Interstate Commerce Commission where applicable to common carriers, in the Federal Reserve Board where applicable to banks, banking associations and trust companies, and in the Federal Trade Commission where applicable to all other character of commerce, to be exercised as follows:

Whenever the commission or board vested with jurisdiction thereof shall have reason to believe that any person is violating or has violated any of the provisions of sections two, three, seven and eight of this Act, it shall issue and serve upon such person a complaint stating its charges in that respect, and containing a notice of a hearing upon a day and at a place therein fixed at least thirty days after the service of said complaint. The person so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the commission or board requiring such person to cease and desist from the violation of the law so charged in said complaint. Any person may make application, and upon good cause shown may be allowed by the commission or board, to intervene and appear in said proceeding by counsel or in person. The testimony in any such proceeding shall be reduced to writing and filed in the office of the commission or board. If upon such hearing the commission or board, as the case may be, shall be of the opinion that any of the provisions of said sections have been or are being violated, it shall make a report in writing in which it shall state its findings as to the facts, and shall issue and cause to be served on such person an order requiring such person to cease and desist from such violations, and divest itself of the stock held or rid itself of the directors chosen contrary to the provisions of sections seven and eight of this Act, if any there be, in the manner and within the time fixed by said order. Until a transcript of the record in such hearing shall have been filed in a circuit court of appeals of the United States, as hereinafter provided, the commission or board may at any time, upon such notice and in such manner as it

shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by it under this section.

If such person fails or neglects to obey such order of the commission or board while the same is in effect, the commission or board may apply to the circuit court of appeals of the United States, within any circuit where the violation complained of was or is being committed or where such person resides or carries on business, for the enforcement of its order, and shall certify and file with its application a transcript of the entire record in the proceeding, including all the testimony taken and the report and order of the commission or board. Upon such filing of the application and transcript the court shall cause notice thereof to be served upon such person and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree affirming, modifying, or setting aside the order of the commission or board. The findings of the commission or board as to the facts, if supported by testimony, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the commission or board, the court may order such additional evidence to be taken before the commission or board and to be adduced upon the hearing in such manner and upon such terms and

conditions as to the court may seem proper. The commission or board may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file such modified or new findings, which, if supported by testimony, shall be conclusive, and its recommendation, if any, for the modification or setting aside of its original order, with the return of such additional evidence. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari as provided in section two hundred and forty of the Judicial Code.

Any party required by such order of the commission or board to cease and desist from a violation charged may obtain a review of such order in said circuit court of appeals by filing in the court a written petition praying that the order of the commission or board be set aside. A copy of such petition shall be forthwith served upon the commission or board, and thereupon the commission or board forthwith shall certify and file in the court a transcript of the record as hereinbefore provided. Upon the filing of the transcript the court shall have the same jurisdiction to affirm, set aside, or modify the order of the commission or board as in the case of an application by the commission or board for the enforcement of its order, and the findings of the commission or board as to the facts, if supported by testimony, shall in like manner be conclusive.

The jurisdiction of the circuit court of appeals of the United States to enforce, set

aside, or modify orders of the commission or board shall be exclusive.

Such proceedings in the circuit court of appeals shall be given precedence over other cases pending therein, and shall be in every way expedited. No order of the commission or board or the judgment of the court to enforce the same shall in any wise relieve or absolve any person from any liability under the antitrust Acts.

Complaints, orders, and other processes of the commission or board under this section may be served by anyone duly authorized by the commission or board, either (a) by delivering a copy thereof to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation to be served; or (b) by leaving a copy thereof at the principal office or place of business of such person; or (c) by registering and mailing a Copy thereof addressed to such person at his principal office or place of business. The verified return by the person so serving said complaint, order, or other process setting forth the manner of said service shall be proof of the same, and the return post-office receipt for said complaint, order, or other process registered and mailed as aforesaid shall be proof of the service of the same.

Section 12. That any suit, action, or proceeding under the antitrust laws against a corporation may be brought not only in the judicial district whereof it is an inhabitant, but also in any district wherein it may be found or transacts business;

and all process in such cases may be served in the district of which it is an inhabitant, or wherever it may be found.

Section 13. That in any suit, action, or proceeding brought by or on behalf of the United States subpoenas for witnesses who are required to attend a court of the United States in any judicial district in any case, civil or criminal, arising under the antitrust laws may run into any other district: Provided, That in civil cases no writ of subpoena shall issue for witnesses living out of the district in which the court is held at a greater distance than one hundred miles from the place of holding the same without the permission of the trial court being first had upon proper application and cause shown.

Section 14. That whenever a corporation shall violate any of the penal provisions of the antitrust laws, such violation shall be deemed to be also that of the individual directors, officers, or agents of such corporation who shall have authorized, ordered, or done any of the acts constituting in whole or in part such violation, and such violation shall be deemed a misdemeanor and upon conviction therefor of any such director, officer, or agent he shall be punished by a fine of not exceeding \$5,000 or by imprisonment for not exceeding one year, or by both, in the discretion of the court.

Section 15. That the several district courts of the United States are hereby invested

with jurisdiction to prevent and restrain violations of this Act, and it shall be the duty of the several district attorneys of the United States, in their respective districts, under the direction of the Attorney General, to institute proceedings in equity to prevent and restrain such violations. Such proceedings may be by way of petition setting forth the case and praying that such violation shall be enjoined or otherwise prohibited. When the parties complained of shall have been duly notified of such petition, the court shall proceed, as soon as may be, to the hearing and determination of the case; and pending such petition, and before final decree, the court may at any time make such temporary restraining order or prohibition as shall be deemed just in the premises. Whenever it shall appear to the court before which any such proceeding may be pending that the ends of justice require that other parties should be brought before the court, the court may cause them to be summoned, whether they reside in the district in which the court is held or not, and subpoenas to that end may be served in any district by the marshal thereof.

Section 16. That any person, firm, corporation, or association shall be entitled to sue for and have injunctive relief, in any court of the United States having jurisdiction over the parties, against threatened loss or damage by a violation of the antitrust laws, including sections two, three, seven and eight of this Act, when and under the same conditions and principles as injunctive relief against threatened conduct that will cause loss or damage is granted by courts of equity, under the rules governing such proceeding's, and upon the execution of proper bond against damages for an

injunction improvidently granted and a showing that the danger of irreparable loss or damage is immediate, a preliminary injunction may issue: Provided, That nothing herein contained shall be construed to entitle any person, firm, corporation, or association, except the United States, to bring suit in equity for injunctive relief against any common carrier subject to the provisions of the Act to regulate commerce, approved February fourth, eighteen hundred and eighty-seven, in respect of any matter subject to the regulation, supervision. or other jurisdiction of the Interstate Commerce Commission.

Section 17. That no preliminary injunction shall be issued without notice to the opposite party.

No temporary restraining order shall be granted without notice to the opposite party unless it shall clearly appear from specific facts shown by affidavit or by the verified bill that immediate and irreparable injury, loss, or damage will result to the applicant before notice can be served and a hearing had thereon. Every such temporary restraining order shall be indorsed with the date and hour of issuance, shall be forthwith filed in the clerk's office and entered of record, shall define the injury and state why it is irreparable and why the order was granted without notice, and shall by its terms expire within such time after entry, not to exceed ten days, as the court or judge may fix, unless within the time so fixed the order is extended for a like period for good cause shown, and the reasons for such extension

shall be entered of record. In case a temporary restraining order shall be granted without notice in the contingency specified, the matter of the issuance of a preliminary injunction shall be set down for a hearing at the earliest possible time and shall take precedence of all matters except older matters of the same character; and when the same comes up for hearing the party obtaining the temporary restraining order shall proceed with the application for a preliminary injunction, and if he does not do so the court shall dissolve the temporary restraining order. Upon two days' notice to the party obtaining such temporary restraining order the opposite party may appear and move the dissolution or modification of the order, and in that event the court or judge shall proceed to hear and determine the motion as expeditiously as the ends of justice may require.

Section two hundred and sixty-three of an Act entitled "An Act to codify, revise, and amend the laws relating to the judiciary," approved March third, nineteen hundred and eleven, is hereby repealed.

Nothing in this section contained shall be deemed to alter, repeal, or amend section two hundred and sixty-six of an Act entitled "An Act to codify, revise, and amend the laws relating to the judiciary," approved March third, nineteen hundred and eleven.

Section 18. That, except as otherwise provided in section 16 of this Act, no

restraining order or interlocutory order of injunction shall issue, except upon the giving of security by the applicant in such sum as the court or judge may deem proper, conditioned upon the payment of such costs and damages as may be incurred or suffered by any party who may be found to have been wrongfully enjoined or restrained thereby.

Section 19. That every order of injunction or restraining order shall set forth the reasons for the issuance of the same, shall be specific in terms, and shall describe in reasonable detail, and not by reference to the bill of complaint or other document, the act or acts sought to be restrained, and shall be binding only upon the parties to the suit, their officers, agents, servants, employees, and attorneys, or those in active concert or participating with them, and who shall, by personal service or otherwise, have received actual notice of the same.

Section 20. That no restraining order or injunction shall be granted by any court of the United States, or a judge or the judges thereof, in any case between an employer and employees, or between employers and employees, or between employees, or between persons employed and persons seeking employment, involving, or growing out of, a dispute concerning terms or conditions of employment, unless necessary to prevent irreparable injury to property, or to a property right, of the party making the application, for which injury there is no adequate remedy at law, and such property or property right must be described with particularity in the application,

which must be in writing and sworn to by the applicant or by his agent or attorney.

And no such restraining order or injunction shall prohibit any person or persons, whether singly or in concert, from terminating any relation of employment, or from ceasing to perform any work or labor, or from recommending, advising, or persuading others by peaceful means so to do; or from attending at any place where any such person or persons may lawfully be, for the purpose of peacefully obtaining or communicating information, or from peacefully persuading any person to work or to abstain from working; or from ceasing to patronize or to employ any party to such dispute, or from recommending, advising, or persuading others by peaceful and lawful means so to do; or from paying or giving to, or withholding from, any person engaged in such dispute, any strike benefits or other moneys or things of value; or from peaceably assembling in a lawful manner, and for lawful purposes; or from doing any act or thing which might lawfully be done in the absence of such dispute by any party thereto; nor shall any of the acts specified in this paragraph be considered or held to be violations of any law of the United States.

Section 21. That any person who shall willfully disobey any lawful writ, process, order, rule, decree, or command of any district court of the United States or any court of the District of Columbia by doing any act or thing therein, or thereby forbidden to be done by him, if the act or thing so done by him be of such character as to constitute also a criminal offense under any statute of the United States, or

under the laws of any State in which the act was committed, shall be proceeded against for his said contempt as hereinafter provided.

Section 22. That whenever it shall be made to appear to any district court or judge thereof, or to any judge therein sitting, by the return of a proper officer on lawful process, or upon the affidavit of some credible person, or by information filed by any district attorney, that there is reasonable ground to believe that any person has been guilty of such contempt, the court or judge thereof, or any judge therein sitting, may issue a rule requiring the said person so charged to show cause upon a day certain why he should not be punished therefor, which rule, together with a copy of the affidavit or information, shall be served upon the person charged, with sufficient promptness to enable him to prepare for and make return to the order at the time fixed therein. If upon or by such return, in the judgment of the court, the alleged contempt be not sufficiently purged, a trial shall be directed at a time and place fixed by the court: Provided, however, That if the accused, being a natural person, fail or refuse to make return to the rule to show cause, an attachment may issue against his person to compel an answer, and in case of his continued failure or refusal, or if for any reason it be impracticable to dispose of the matter on the return day, he may be required to give reasonable bail for his attendance at the trial and his submission to the final judgment of the court. Where the accused is a body corporate, an attachment for the sequestration of its property may be issued upon like refusal or failure to answer.

In all cases within the purview of this Act such trial may be by the court, or, upon demand of the accused, by a jury; in which latter event the court may impanel a jury from the jurors then in attendance, or the court or the judge thereof in chambers may cause a sufficient number of jurors to be selected and summoned, as provided by law, to attend at the time and place of trial, at which time a jury shall be selected and impaneled as upon a trial for misdemeanor; and such trial shall conform, as near as may be, to the practice in criminal cases prosecuted by indictment or upon information.

If the accused be found guilty, judgment shall be entered accordingly, prescribing the punishment, either by fine or imprisonment, or both, in the discretion of the court. Such fine shall be paid to the United States or to the complainant or other party injured by the act constituting the contempt, or may, where more than one is so damaged, be divided or apportioned among them as the court may direct, but in no case shall the fine to be paid to the United States exceed, in case the accused is a natural person, the sum of \$1,000, nor shall such imprisonment exceed the term of six months: Provided, That in any case the court or a judge thereof may, for good cause shown, by affidavit or proof taken in open court or before such judge and filed with the papers in the case, dispense with the rule to show cause, and may issue an attachment for the arrest of the person charged with contempt; in which event such person, when arrested, shall be brought before such court or a judge thereof without

unnecessary delay and shall be admitted to bail in a reasonable penalty for his appearance to answer to the charge or for trial for the contempt; and thereafter the proceedings shall be the same as provided herein in case the rule had issued in the first instance.

Section 23. That the evidence taken upon the trial of any persons so accused may be preserved by bill of exceptions, and any judgment of conviction may be reviewed upon writ of error in all respects as now provided by law in criminal cases, and may be affirmed, reversed, or modified as justice may require. Upon the granting of such writ of error, execution of judgment shall be stayed, and the accused, if thereby sentenced to imprisonment, shall be admitted to bail in such reasonable sum as may be required by the court, or by any justice, or any judge of any district court of the United States or any court of the District of Columbia.

Section 24. That nothing herein contained shall be construed to relate to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to contempts committed in disobedience of any lawful writ, process, order, rule, decree or command entered in any suit or action brought or prosecuted in the name of, or on behalf of, the United States, but the same, and all other cases of contempt not specifically embraced within section twenty-one of this Act, may be punished in conformity to the usages at law and in equity now prevailing.

Section 25. That no proceeding for contempt shall be instituted against any person unless begun within one year from the date of the act complained of; nor shall any such proceeding be a bar to any criminal prosecution for the same act or acts; but nothing herein contained shall affect any proceedings in contempt pending at the time of the passage of this Act.

Section 26. If any clause, sentence, paragraph, or part of this Act shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

**APPENDIX Q: California Code of Civil Procedure (ccp) 425.16**

See the following page(s)..

APPENDIX Q

**California Code of Civil Procedure Section 425.16**

(a) The Legislature finds and declares that there has been a disturbing increase in lawsuits brought primarily to chill the valid exercise of the constitutional rights of freedom of speech and petition for the redress of grievances. The Legislature finds and declares that it is in the public interest to encourage continued participation in matters of public significance, and that this participation should not be chilled through abuse of the judicial process. To this end, this section shall be construed broadly.

(b)(1) A cause of action against a person arising from any act of that person in furtherance of the person's right of petition or free speech under the United States Constitution or the California Constitution in connection with a public issue shall be subject to a special motion to strike, unless the court determines that the plaintiff has established that there is a probability that the plaintiff will prevail on the claim.

(2) In making its determination, the court shall consider the pleadings, and supporting and opposing affidavits stating the facts upon which the liability or defense is based.

(3) If the court determines that the plaintiff has established a probability that he or

she will prevail on the claim, neither that determination nor the fact of that determination shall be admissible in evidence at any later stage of the case, or in any subsequent action, and no burden of proof or degree of proof otherwise applicable shall be affected by that determination in any later stage of the case or in any subsequent proceeding.

(c)(1) Except as provided in paragraph (2), in any action subject to subdivision (b), a prevailing defendant on a special motion to strike shall be entitled to recover his or her attorney's fees and costs. If the court finds that a special motion to strike is frivolous or is solely intended to cause unnecessary delay, the court shall award costs and reasonable attorney's fees to a plaintiff prevailing on the motion, pursuant to Section 128.5.

(2) A defendant who prevails on a special motion to strike in an action subject to paragraph (1) shall not be entitled to attorney's fees and costs if that cause of action is brought pursuant to Section 6259, 11130, 11130.3, 54960, or 54960.1 of the Government Code. Nothing in this paragraph shall be construed to prevent a prevailing defendant from recovering attorney's fees and costs pursuant to subdivision (d) of Section 6259, 11130.5, or 54690.5 [FN1].

(d) This section shall not apply to any enforcement action brought in the name of the people of the State of California by the Attorney General, district attorney, or

city attorney, acting as a public prosecutor.

(e) As used in this section, “act in furtherance of a person's right of petition or free speech under the United States or California Constitution in connection with a public issue” includes: (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.

(f) The special motion may be filed within 60 days of the service of the complaint or, in the court's discretion, at any later time upon terms it deems proper. The motion shall be scheduled by the clerk of the court for a hearing not more than 30 days after the service of the motion unless the docket conditions of the court require a later hearing.

(g) All discovery proceedings in the action shall be stayed upon the filing of a notice of motion made pursuant to this section. The stay of discovery shall remain in

effect until notice of entry of the order ruling on the motion. The court, on noticed motion and for good cause shown, may order that specified discovery be conducted notwithstanding this subdivision.

(h) For purposes of this section, “complaint” includes “cross-complaint” and “petition,” “plaintiff” includes “cross-complainant” and “petitioner,” and “defendant” includes “cross-defendant” and “respondent.”

(i) An order granting or denying a special motion to strike shall be appealable under Section 904.1.

(j)(1) Any party who files a special motion to strike pursuant to this section, and any party who files an opposition to a special motion to strike, shall, promptly upon so filing, transmit to the Judicial Council, by e-mail or facsimile, a copy of the endorsed, filed caption page of the motion or opposition, a copy of any related notice of appeal or petition for a writ, and a conformed copy of any order issued pursuant to this section, including any order granting or denying a special motion to strike, discovery, or fees.

(2) The Judicial Council shall maintain a public record of information transmitted pursuant to this subdivision for at least three years, and may store the information on microfilm or other appropriate electronic media.

**APPENDIX R: California Code of Civil Procedure (ccp) 663**

See the following page(s)..

APPENDIX R

663. A judgment or decree, when based upon a decision by the court, or the special verdict of a jury, may, upon motion of the party aggrieved, be set aside and vacated by the same court, and another and different judgment entered, for either of the following causes, materially affecting the substantial rights of the party and entitling the party to a different judgment:

1. Incorrect or erroneous legal basis for the decision, not consistent with or not supported by the facts; and in such case when the judgment is set aside, the statement of decision shall be amended and corrected.

2. A judgment or decree not consistent with or not supported by the special verdict.

## APPENDIX S: Sherman Act

See the following page(s).

APPENDIX S

Transcript of Sherman Anti-Trust Act (1890)

Fifty-first Congress of the United States of America, At the First Session,

Begun and held at the City of Washington on Monday, the second day of December,  
one thousand eight hundred and eighty-nine.

An act to protect trade and commerce against unlawful restraints and monopolies.

Be it enacted by the Senate and House of Representatives of the United States of  
America in Congress assembled,

Sec. 1. Every contract, combination in the form of trust or otherwise, or conspiracy,  
in restraint of trade or commerce among the several States, or with foreign nations,  
is hereby declared to be illegal. Every person who shall make any such contract or  
engage in any such combination or conspiracy, shall be deemed guilty of a  
misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding  
five thousand dollars, or by imprisonment not exceeding one year, or by both said  
punishments, at the discretion of the court.

Sec. 2. Every person who shall monopolize, or attempt to monopolize, or combine or  
conspire with any other person or persons, to monopolize any part of the trade or  
commerce among the several States, or with foreign nations, shall be deemed guilty

of a misdemeanor, and, on conviction thereof; shall be punished by fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

Sec. 3. Every contract, combination in form of trust or otherwise, or conspiracy, in restraint of trade or commerce in any Territory of the United States or of the District of Columbia, or in restraint of trade or commerce between any such Territory and another, or between any such Territory or Territories and any State or States or the District of Columbia, or with foreign nations, or between the District of Columbia and any State or States or foreign nations, is hereby declared illegal. Every person who shall make any such contract or engage in any such combination or conspiracy, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

Sec. 4. The several circuit courts of the United States are hereby invested with jurisdiction to prevent and restrain violations of this act; and it shall be the duty of the several district attorneys of the United States, in their respective districts, under the direction of the Attorney-General, to institute proceedings in equity to prevent and restrain such violations. Such proceedings may be by way of petition setting forth the case and praying that such violation shall be enjoined or otherwise

prohibited. When the parties complained of shall have been duly notified of such petition the court shall proceed, as soon as may be, to the hearing and determination of the case; and pending such petition and before final decree, the court may at any time make such temporary restraining order or prohibition as shall be deemed just in the premises.

Sec. 5. Whenever it shall appear to the court before which any proceeding under section four of this act may be pending, that the ends of justice require that other parties should be brought before the court, the court may cause them to be summoned, whether they reside in the district in which the court is held or not; and subpoenas to that end may be served in any district by the marshal thereof.

Sec. 6. Any property owned under any contract or by any combination, or pursuant to any conspiracy (and being the subject thereof) mentioned in section one of this act, and being in the course of transportation from one State to another, or to a foreign country, shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for the forfeiture, seizure, and condemnation of property imported into the United States contrary to law.

Sec. 7. Any person who shall be injured in his business or property by any other person or corporation by reason of anything forbidden or declared to be unlawful by this act, may sue therefor in any circuit court of the United States in the district in

which the defendant resides or is found, without respect to the amount in controversy, and shall recover three fold the damages by him sustained, and the costs of suit, including a reasonable attorney's fee.

Sec. 8. That the word "person," or " persons," wherever used in this act shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States, the laws of any of the Territories, the laws of any State, or the laws of any foreign country.

Approved, July 2, 1890.