

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FIVE

JILL KAREN SCHAFFER,

Plaintiff and Appellant,

v.

**CITY AND COUNTY OF SAN
FRANCISCO et al.,**

Defendants and Respondents.

A120225

**(San Francisco County
Super. Ct. No. CGC-07-464869)**

**ORDER MODIFYING OPINION
[NO CHANGE IN JUDGMENT]**

BY THE COURT:

It is ordered that the opinion filed herein on November 26, 2008, be modified as follows:

1. A footnote is added on page 12 of the opinion at the end of Part B, to read:

⁷ “We also note that the anti-SLAPP statute’s protection of private citizens who make statements in furtherance of their First Amendment rights of petition and speech derives from the overarching purpose of facilitating public participation in judicial proceedings and other matters of public concern. If a statement by a private citizen is protected by the anti-SLAPP statute to further that statutory purpose, the same statement made by a police officer on behalf of that private citizen should also be protected to further the statutory purpose. (See *Briggs, supra*, 19 Cal.4th at p. 1116 [§ 425.16 does not require a defendant to show that its protected statement was made on its own behalf]; *Vergos v. McNeal* (2007) 146 Cal.App.4th 1387, 1398-1399 [§ 425.16 applied to lawsuit challenging defendant’s statements in handling administrative

grievance proceeding, where defendant was acting in furtherance of the employee’s right to petition, not her own].) Our reliance on the language of section 425.16, subdivision (e), thus satisfies the aim of the anti-SLAPP statute to further First Amendment rights of free speech and petition.”

The subsequent footnote is to be renumbered accordingly.

2. On page 13 of the opinion in Part D, the second sentence of the first paragraph is amended to read:

“In opposition to the demurrers subsequently deemed moot, Schaffer requested leave to amend her complaint to state a cause of action under 42 United States Code section 1983, to allege a conspiracy among Haggett, Fewer, and others to violate her equal protection rights by targeting her for selective arrest and prosecution.”

3. On page 13 of the opinion in Part D, the second paragraph is amended to read:

“In denying leave to amend in the order granting the motion to strike, the trial court observed that Schaffer ‘cannot escape the anti-SLAPP procedures by simply amending her complaint,’ citing *Simmons v. Allstate Ins. Co.* (2001) 92 Cal.App.4th 1068, 1073 (*Simmons*) and *Sylmar Air Conditioning v. Pueblo Contracting Services, Inc.* (2004) 122 Cal.App.4th 1049, 1055.”

4. On page 13 of the opinion in Part D, the word “did” is substituted for “does” in the first sentence of the fourth paragraph.

This modification effects no change in the judgment.

The petition for rehearing is denied.

Date _____

_____ Acting P.J.