ADVANCE SHEET HEADNOTE
December 8, 2025

2025 CO 62

No. 24SC8, *Lind-Barnett v. Tender Care*—First Amendment—Anti-SLAPP Statute—Public Issue or Issue of Public Interest

This case requires the supreme court to interpret the phrase "in connection with a public issue or an issue of public interest" under Colorado's anti-SLAPP statute. § 13-20-1101(2)(a)(IV), C.R.S. (2025). The supreme court now sets forth a two-step test to determine whether particular speech or conduct falls within the statute's protection.

First, a court must determine whether an objective observer could reasonably understand that the challenged speech or conduct, considered in light of its content and context, was made in connection with a public issue or an issue of public interest, even if it also implicates a private dispute. Second, the court must examine the relationship between the challenged speech or conduct and the public issue or issue of public interest identified and ask whether the challenged activity contributed to public discussion or debate regarding that issue. The supreme court additionally holds that a defendant's motive is not relevant to

determining whether their challenged speech or conduct is made "in connection with a public issue or an issue of public interest" under section 13-20-1101(2)(a)(IV). Rather, a defendant's motive is only relevant when determining whether a plaintiff has established a reasonable likelihood that they will prevail on a claim under section 13-20-1101(3)(a).

Here, the division correctly concluded that the petitioners' statements could reasonably be understood to be made in connection with a public issue or an issue of public interest. But it erroneously determined that the petitioners' statements were not protected by the anti-SLAPP statute because they were made primarily for the purpose of airing a private grievance. In addition, the division mistakenly focused on the petitioners' personal motives when it concluded that the posts didn't contribute to any broader public discussion about pet health care or connect to any issue of public interest.

Accordingly, the supreme court reverses the judgment of the court of appeals and remands the case to the division with directions to return the case to the trial court to apply the two-step test outlined in the opinion.

The Supreme Court of the State of Colorado
2 East 14th Avenue • Denver, Colorado 80203

2025 CO 62

Supreme Court Case No. 24SC8
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 22CA1611

Petitioners:

Jennifer Lind-Barnett and Julie Davis,

v.

Respondent:

Tender Care Veterinary Center, Inc.

Judgment Reversed
en banc
December 8, 2025

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JUSTICE BERKENKOTTER delivered the Opinion of the Court, in which **CHIEF JUSTICE MÁRQUEZ**, **JUSTICE BOATRIGHT**, **JUSTICE HOOD, JUSTICE GABRIEL,** and **JUSTICE SAMOUR** joined.
JUSTICE HART did not participate.

JUSTICE BERKENKOTTER delivered the Opinion of the Court.

¶1 "Speech is often provocative and challenging." *Terminiello v. City of Chicago*, 337 U.S. 1, 4 (1949). "But our legal tradition recognizes the importance of speech and other expressive activity even when—perhaps especially when—it is uncomfortable or inconvenient." *Geiser v. Kuhns*, 515 P.3d 623, 635 (Cal. 2022). The Colorado General Assembly enacted the anti-SLAPP ("strategic lawsuit against public participation") statute, section 13-20-1101, C.R.S. (2025), to safeguard this tradition against those who attempt to use litigation to chill speech.

¶2 The statute does this by allowing a defendant who claims the statute's protection to file a special motion to dismiss in the very early stages of litigation. The defendant has the burden to show that the conduct underlying the plaintiff's claim falls within the statute—i.e., that the claim arises from the defendant's exercise of their right of petition or free speech. *L.S.S. v. S.A.P.*, 2022 COA 123, ¶ 21, 523 P.3d 1280, 1285; *see also* § 13-20-1101(3)(a). Then, the burden shifts "to the plaintiff to demonstrate a 'reasonable likelihood that the plaintiff will prevail on the claim.'" *Rosenblum v. Budd*, 2023 COA 72, ¶ 24, 538 P.3d 354, 362 (quoting § 13-20-1101(3)(a)). If the plaintiff makes this showing, the case proceeds; if they do not, the case is dismissed. *Tender Care Veterinary Ctr., Inc. v. Lind-Barnett*, 2023 COA 114, ¶ 14, 544 P.3d 693, 697.

¶3 The General Assembly explicitly identifies four acts in the anti-SLAPP statute that constitute "[a]ct[s] in furtherance of a [defendant's] right of petition or free speech." *See* § 13-20-1101(2)(a)(I)–(IV). These warrant the statute's protection. The last of these enumerated protected acts, the one at issue here, is a catchall provision. It provides that "[a]ny other conduct or communication 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." § 13-20-1101(2)(a)(IV). The anti-SLAPP statute does not define this phrase, nor has this court. This case requires us to do so.

¶4 After Jennifer Lind-Barnett and Julie Davis (collectively, "petitioners") posted a large number of negative online reviews about Tender Care Veterinary Center, Inc. ("TCVC") and refused to take them down, TCVC sued them for defamation. Petitioners filed a special motion to dismiss under the anti-SLAPP statute, arguing that their reviews concerned a public issue or an issue of public interest under the statute. The district court denied the special motion.

¶5 A division of the court of appeals affirmed the district court. *Tender Care*, ¶ 1, 544 P.3d at 695. The division concluded that the petitioners' posts offered consumers important information about veterinary services and thereby implicated a public issue. *Id.* at ¶¶ 23–26, 544 P.3d at 699–700. However, it also concluded that because the purpose of petitioners' posts was "to exact some

revenge by putting [TCVC] out of business," the posts did not contribute to any broader public discussion about pet health care or connect to any broader issue of public concern. *Id.* at ¶¶ 30–31, 544 P.3d at 701. Therefore, in the division's view, the petitioners' posts were not protected by the anti-SLAPP statute. *Id.* at ¶ 37, 544 P.3d at 702.

¶6 We conclude that the division erred. To determine whether particular speech or conduct concerns a public issue or an issue of public interest as those terms are used in the anti-SLAPP statute, a court must apply a two-step test.[1] First, the court must determine whether an objective observer could reasonably understand that the challenged speech or conduct, considered in light of its content and context, was made in connection with a public issue or an issue of public interest, even if it also implicates a private dispute. Second, the court must

[1] Confusingly, appellate courts deciding anti-SLAPP cases use the phrase "two-step test" (and the related phrases "step one" and "step two") to mean different things. Some courts, like the division below, use this language to refer to the standard for dismissal under section 13-20-1101(3)(a). That part of the anti-SLAPP statute provides that a defendant filing a special motion has the burden to show that the conduct underlying the plaintiff's claim fall within the statute. If the defendant does so, then the burden shifts to the plaintiff to establish a reasonable likelihood of prevailing on the claim. *Id.* However, we follow the lead of the California Supreme Court in *FilmOn.com Inc. v. DoubleVerify Inc.*, 439 P.3d 1156 (Cal. 2019), and *Geiser*, 515 P.3d at 631, and use the phrase "two-step test" to refer, instead, to the standard we discuss at length in this opinion. That is, the standard a court must apply in determining if the speech or conduct is made "in connection with a public issue or an issue of public interest" under section 13-20-1101(2)(a)(IV).

examine the relationship between the challenged speech or conduct and the public issue or issue of public interest identified, and ask whether the challenged activity contributed to public discussion or debate regarding that issue. We additionally hold that a speaker's motive is not relevant to determining whether the challenged speech or conduct is made "in connection with a public issue or an issue of public interest" under section 13-20-1101(2)(a)(IV).

¶7 Accordingly, we reverse the judgment of the court of appeals and remand the case to the division with directions to return this case to the trial court to apply the two-step test outlined in this opinion.

I. Facts and Procedural History

¶8 In January 2022, Lind-Barnett, a "long time [sic] breeder, trainer, sitter and caregiver" for both small and large animals in Colorado, took her dog, Pinkerbell, to TCVC for emergency veterinary services. Lind-Barnett reported that Pinkerbell, who was sixteen days old, was unable to nurse and had an increased respiratory rate. A veterinarian examined Pinkerbell and released her back to Lind-Barnett's care, explaining that Pinkerbell was constipated and that Lind-Barnett should rub Pinkerbell's belly. The next morning, Pinkerbell was still ill, so Lind-Barnett took her to a different veterinary clinic. Pinkerbell was diagnosed with pneumonia and successfully treated. Several days later, Lind-Barnett contacted TCVC, explained

that it had improperly treated her dog, and requested a refund. TCVC declined to do so.

¶9 Lind-Barnett subsequently posted a lengthy online review to TCVC's Facebook page detailing her "horrid experience" at TCVC. In the post, she accused TCVC of malpractice and retaliation for "speaking out publicly about their awful clinic." For example, Lind-Barnett posted the following comments:

> The vets here are not only incompetent, but cruel. When I tried to address a SERIOUS issue of malpractice with them they used LIES and INTIMIDATION methods to try and shut me up. One of my clients was threatened with a lawyer by them for speaking out publicly about their awful clinic. Apparently, speaking the truth in [sic] now called slander. I don't care about a lawsuit and in fact, if they do come after me I will gladly take them down in court.
>
> . . . .
>
> Thankfully I have a background in health-care and didn't listen to their bullying and ignorance. I was able to save my dog's life after they almost killed her through their ignorance. And then of course tried to blame me for their lack of care. 🤣 [laughing crying emoji].
>
> . . . .
>
> Tender care . . . ha! There is nothing about them that resonates with tender OR care. More like belligerence and avoidance. Do yourself a favor, drive the extra 20 minutes for the best care possible and AVOID a travesty in your home and a hole in your pocket.

¶10 A month later, Davis took her dog, Spicy, to TCVC because Spicy was experiencing difficulty walking and seemed off-balance. A veterinarian examined Spicy and diagnosed her with a resolved seizure. Davis took Spicy home, and

when she continued to have symptoms overnight, Davis took her to a different veterinary clinic, which diagnosed her with vestibular disease and provided treatment.

¶11 Around this time, Lind-Barnett reposted her review to her own Facebook page and four different community-based Facebook pages.[2] Upon seeing these posts, Davis responded to Lind-Barnett, commenting on the quality of care that Spicy had received at TCVC, TCVC's business practices, and Davis's own interactions with TCVC's staff. For example, Davis posted the following comments:

> I was just there this past weekend when I needed someplace close . . . . [N]ot only did they misdiagnose my dog but they sent me home with blood work that indicated a near fatal level of potassium . . . . I took her elsewhere and they were in shock my dog was discharged. Thankfully my girl survived and is on the mend. Between my experience this past weekend and what you say, I am totally done. It seems going to no vet is better than them.
>
> . . . .
>
> It sounds like you [Lind-Barnett] did the best you could with the information you had. It's not your fault they employ less than adequate doctors and staff. They broke your trust.

[2] TCVC's practice is in Falcon, Colorado. Lind-Barnett posted comments on several community Facebook pages for the area surrounding Falcon, including the Black Forest Community Facebook Page; the Falcon, Peyton, Calhan, Black Forest and Surrounding Areas Community Facebook Page; the Calhan, CO and Surrounding Areas Community Facebook Page; and the Neighborhood Network of Black Forest and Surrounding Areas Community Facebook Page.

. . . .

> And regardless if [you, Lind-Barnett, are] . . . 100% correct or just a raving loon—they should not have treated her the way they did after the fact. That alone shows a lack of professionalism and respect and speaks to how they choose to operate what should be a business of compassion and understanding. To blame your client for their animal's illness just because they posted a bad review? Seriously? Who are these people? I was angry enough at the "care" I got. But to harass someone over a bad review? Do they have any self control?

¶12 Across the various Facebook pages, the posts received dozens of reactions and garnered more than 140 comments. One community member applauded Lind-Barnett's posts as a community service, writing: "[Lind-Barnett] is using the community page to warn our community about her very serious experience with a business in our community. It is exactly what this page is for—sharing information about our community." Another commented: "Thank you for posting this. It may save lives." Some individuals chimed in with their own experiences with the clinic, while others expressed outrage at the conduct of the management that Lind-Barnett described.

¶13 TCVC demanded that the petitioners remove their posts. When they refused to do so, TCVC sued both for defamation per se based on 104 of Lind-Barnett's statements and ten of Davis's statements. Petitioners filed a special motion to dismiss under Colorado's anti-SLAPP statute, arguing that their online posts recounting their experiences at TCVC and with its staff satisfy the statute's public-concern requirement.

¶14 The district court denied the special motion to dismiss. First, the court concluded that the statements did not fall within the protections of the anti-SLAPP statute because the petitioners' statements were "a private business dispute" that failed to address "matters of public interest or a public issue." Second, the court determined that even if the conduct did fall within the statute's scope, the case couldn't be dismissed because TCVC had demonstrated a reasonable likelihood of prevailing on its claims.

¶15 Petitioners appealed. A division of the court of appeals affirmed the district court's decision. *Tender Care*, ¶ 1, 544 P.3d at 695. The division observed that because the petitioners' statements were not made in connection with any executive, legislative, or judicial body or function, the protections of the anti-SLAPP statute applied only if the statements were made "'in connection with' a 'public issue' or 'an issue of public interest.'" *Id.* at ¶ 18, 544 P.3d at 697–98 (quoting § 13-20-1101(2)(a)(III)–(IV)). It explained that although "internet sites available to the public (like Facebook) are 'public forums'" for anti-SLAPP purposes, not every post on these public forums involves a public issue or an issue of public interest. *Id.* at ¶ 19, 544 P.3d at 698. The division acknowledged that the statute does not define public issue or issue of public interest. *Id.* at ¶ 20, 544 P.3d at 698. But because "California's anti-SLAPP statute closely resembles Colorado's statute," the division examined California courts' interpretations of the same terms

in California's anti-SLAPP law. *Id.* at ¶¶ 16, 20–21, 544 P.3d at 697, 698–99 (citation omitted).

¶16 Then, analogizing to California cases that recognize online postings about the quality of medical care as issues of public concern or interest, the division reasoned that the quality of veterinary services may implicate an issue of public interest, even if it also implicates a private dispute. *Id.* at ¶¶ 23–26, 544 P.3d at 699–700.

¶17 The division emphasized, however, that the analysis under the statute "does not end with the identification of a public concern, issue, or interest to which statements could theoretically relate." *Id.* at ¶ 27, 544 P.3d at 700. Instead, it explained, "the statement must in some manner itself contribute to the public debate." *Id.* at ¶ 28, 544 P.3d at 700 (quoting *FilmOn.com Inc. v. DoubleVerify Inc.*, 439 P.3d 1156, 1166 (Cal. 2019) ("*FilmOn*")). The division then concluded that the petitioners' posts did not contribute to any broader public discussion about pet health care or connect to any broader issue of public concern (e.g., "veterinary diagnostic issues, shortages in or access to veterinary care, oversight of veterinarians, the general quality of care for animals outside large cities, veterinarians' lack of training for the care of smaller dogs, or how overbreeding can cause health problems for certain animals"). *Id.* at ¶ 30, 544 P.3d at 701.

Rather, the purpose of the posts was "to exact some revenge by putting [TCVC] out of business." *Id.* at ¶ 31, 544 P.3d at 701. And, it concluded, even if it assumed

> a couple of the diagnostic statements went beyond defendants' parochial issues concerning their pets' disputed diagnoses and connected to some broader public discussion, when a plaintiff pleads claims based on both protected and unprotected conduct, anti-SLAPP protections don't apply if "the protected conduct 'is merely incidental' to the unprotected conduct."

Id. at ¶ 32, 544 P.3d at 701 (quoting *Comstock v. Aber*, 151 Cal. Rptr. 3d 589, 601 (Cal. Ct. App. 2012)). Finding that "the numerous posts expressing Lind-Barnett's personal animosity toward the business" "far eclipsed" the posts related to the alleged misdiagnoses, the division concluded that the core of the petitioners' statements did not rest on protected speech so those statements were not protected by the anti-SLAPP statute. *Id.* at ¶¶ 33, 36, 544 P.3d at 701–02.

¶18 Petitioners then filed a petition for a writ of certiorari with this court, which we granted.[3]

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[3] We granted certiorari to review the following issues:

1. Whether Colorado's anti-SLAPP statute imposes a "nexus" requirement that demands a defendant's speech encourage, facilitate, or contribute to a general debate before that speech is made "in connection with a public issue or an issue of public interest."
2. Whether the same standard for "matter of public concern" under Colorado's substantive law regarding defamation and invasion of privacy applies equally to the "matter of public interest" provision of Colorado's anti-SLAPP Act.

II. Analysis

¶19 We begin by setting forth our rules of statutory construction and the applicable standard of review. Next, we review the anti-SLAPP statute. Then, informed by the California Supreme Court's analysis in *FilmOn*, 439 P.3d at 1166, and *Geiser*, 515 P.3d at 631 (interpreting California's identical anti-SLAPP provision), we adopt a two-step test to determine when speech or conduct is made "in connection with a public issue or an issue of public interest" under section 13-20-1101(2)(a)(IV).

A. Standard of Review and Canons of Statutory Construction

¶20 We begin our analysis by setting forth the standard of review and the relevant principles of statutory construction. *McBride v. People*, 2022 CO 30, ¶ 21, 511 P.3d 613, 616. Statutory interpretation involves questions of law, which we review de novo. *Miller v. Amos*, 2024 CO 11, ¶ 11, 543 P.3d 393, 396. When interpreting a statute, our primary goal is to effectuate the intent of the General Assembly. *Nieto v. Clark's Mkt., Inc.*, 2021 CO 48, ¶ 12, 488 P.3d 1140, 1143. To do so, "we look to the entire statutory scheme in order to give consistent, harmonious,

3. Whether Colorado's anti-SLAPP statute requires courts to evaluate a speaker's motive when determining whether the speech in question was made "in connection with a public issue or an issue of public interest."

and sensible effect to all of its parts, and we apply words and phrases in accordance with their plain and ordinary meanings." *Id.* (quoting *Blooming Terrace No. 1, LLC v. KH Blake St., LLC*, 2019 CO 58, ¶ 11, 444 P.3d 749, 752). When the plain language is unambiguous, we apply the statute as written. *Id.*

B. Colorado's Anti-SLAPP Statute

¶21 The General Assembly adopted the anti-SLAPP statute to "encourage continued participation in matters of public significance" and ensure that this participation is not "chilled through abuse of the judicial process." § 13-20-1101(1)(a). The statute's stated purpose "is to encourage and safeguard the constitutional rights of persons to petition, speak freely, associate freely, and otherwise participate in government to the maximum extent permitted by law and, at the same time, to protect the rights of persons to file meritorious lawsuits for demonstrable injury." § 13-20-1101(1)(b).

¶22 The statute lays out the process a court must follow when evaluating a special motion to dismiss. To begin, the court must decide whether the defendant has shown that the plaintiff's claim arises from an act "in furtherance of the [defendant's] right of petition or free speech." § 13-20-1101(3)(a). The General Assembly explicitly identified four acts that satisfy this requirement:

> (I) Any written or oral statement or writing made before a legislative, executive, or judicial proceeding or any other official proceeding authorized by law;

> (II) 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;
>
> (III) 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
>
> (IV) Any other conduct or communication 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.

§ 13-20-1101(2)(a).

¶23 If the conduct or speech qualifies as one of these acts, the court must then determine whether "the plaintiff has established that there is a reasonable likelihood that the plaintiff will prevail on the claim." § 13-20-1101(3)(a). If the plaintiff makes this showing, the case proceeds; if they do not, the case is dismissed. *Tender Care*, ¶ 14, 544 P.3d at 697.

C. Colorado's Anti-SLAPP Statute Requires a Court to Apply a Two-Step Analysis to Determine if Challenged Speech or Conduct Concerns a Public Issue or an Issue of Public Interest

¶24 As we previously observed, Colorado's anti-SLAPP statute does not define the phrase "in connection with a public issue or an issue of public interest." § 13-20-1101(2)(a)(IV). Petitioners argue that this language is expansive, encompassing speech or conduct that "reasonably touches upon any topic of potential interest to those not directly involved in the incident at issue." (Emphasis

omitted.) TCVC, by contrast, contends that the statutory language is narrower, requiring that the speech or conduct "bear a nexus to encouraging, facilitating, or contributing to the asserted public interest." We disagree with both parties.

¶25 The question of what qualifies as speech or conduct "in connection with a public issue or an issue of public interest" under section 13-20-1101(2)(a)(IV) is an issue of first impression in Colorado. "Under such circumstances, we may look to the decisions of other jurisdictions as persuasive authority." *LaFond v. Sweeney*, 2015 CO 3, ¶ 19, 343 P.3d 939, 945. Here, we look to the identical provision in California's anti-SLAPP statute, Cal. Civ. Proc. Code § 425.16(e)(4) (West 2025), and the cases interpreting it for guidance in construing and applying section 13-20-1101(2)(a)(IV). *See, e.g.*, *L.S.S.*, ¶ 20, 523 P.3d at 1285.

¶26 Two recent cases, in particular, guide our consideration of the issues before us. In *FilmOn*, a distributor of web-based entertainment programming sued DoubleVerify Inc., a website-monitoring company, for trade libel, tortious interference with contract, and tortious interference with prospective economic advantage. 439 P.3d at 1160. The distributor, FilmOn.com Inc., claimed that DoubleVerify distributed confidential reports to its clients falsely indicating that FilmOn.com's websites included adult content and copyright infringing material. *Id.* at 1159. DoubleVerify filed a special motion to dismiss under California's anti-SLAPP statute. *Id.* at 1158. The trial court granted the motion, concluding

that the reports implicated matters of public interest because the public had a demonstrable interest in knowing what content is available on the internet, especially with respect to adult content and copyright infringing material. *Id.* at 1159–60. The court of appeal affirmed, and the California Supreme Court granted FilmOn.com's petition for certiorari review. *Id.* DoubleVerify argued that the reports implicated matters of public interest. *Id.*

¶27 The California Supreme Court rejected DoubleVerify's argument after applying a two-step test to examine the report's content and context. *Id.* at 1165.

> First, we ask what "public issue or [] issue of public interest" the speech in question implicates—a question we answer by looking to the content of the speech. Second, we ask what functional relationship exists between the speech and the public conversation about some matter of public interest. It is at the latter stage that context proves useful.

Id. (alteration in original) (citation omitted).

¶28 Under step one, the court noted that although DoubleVerify's reports "seem to qualify" as issues of public interest "in the abstract," "[d]efendants cannot . . . defin[e] their narrow dispute by . . . slight reference to the broader public issue." *Id.* at 1167. Under step two, the court evaluated the broader context in which DoubleVerify issued the reports, specifically examining whether the company's conduct furthered the public conversation on an issue of public interest. *Id.* With respect to context, the court explained that the statute's catchall provision "demands 'some degree of closeness' between the challenged statements and the

asserted public interest." *Id.* at 1165 (quoting *Weinberg v. Feisel*, 2 Cal. Rptr. 3d 385, 392 (Cal. Ct. App. 2003)). "[I]t is not enough that [a] statement refer to a subject of widespread public interest; [it] must in some manner itself contribute to the public debate." *Id.* at 1166 (quoting *Wilbanks v. Wolk*, 17 Cal. Rptr. 3d 497, 506 (Cal. Ct. App. 2004)). The court noted that what "contribute[s] to the public debate," *Wilbanks*, 17 Cal. Rptr. 3d at 506, is a fact-intensive inquiry that could "differ based on the state of public discourse at a given time, and the topic of contention." *FilmOn*, 439 P.3d at 1166.

¶29 In holding that DoubleVerify's reports did not qualify for anti-SLAPP protection, the court focused on DoubleVerify's for-profit status, the confidential nature of the reports, and the private use of the reports. *Id.* at 1167. So, even though the content of the reports "is, broadly speaking, one of public interest," they "are too tenuously tethered to the issues of public interest they implicate, and too remotely connected to the public conversation about those issues, to merit protection under the catchall provision." *Id.* at 1159.

¶30 In *Geiser*, the California Supreme Court concluded that sidewalk picketing "to protest a real estate company's business practices after the company evicted two long-term residents from their home" constituted protected activity within the anti-SLAPP statute. 515 P.3d at 626. Applying both steps of the *FilmOn* test, the court held that, although the demonstration may have involved a private

dispute, the "public issue that is reasonably implicated by defendants' demonstration comes into view when the challenged conduct is situated within its broader context." *Id.* at 633. The broader context, according to the court, included (1) the identity of the demonstration's speakers and participants; (2) the picket's location; and (3) the purpose and timing of the protest. *Id.* So, the involvement of approximately thirty members of a housing advocacy organization in the protest; its occurrence on a public sidewalk outside the residence of a major real estate development company's CEO; and the protest's rebuke of residential displacement practices after a couple had been evicted from their long-term home, all "give rise to a reasonable inference that the demonstration implicates controversial real estate practices that many individuals and communities find destabilizing." *Id.* The court concluded that through this contextual lens, which the court clarified must be considered at step one *and* step two, the sidewalk protests are best understood as furthering discussion of a public issue or an issue of public interest. *Id.* at 635.

¶31 Adopting the reasoning set forth by the California Supreme Court in *FilmOn*, 439 P.3d at 1165, and *Geiser*, 515 P.3d at 631, we now hold that a court analyzing a special motion to dismiss under section 13-20-1101(2)(a)(IV) must conduct a two-step inquiry to determine if the challenged speech or conduct is made "in connection with a public issue or an issue of public interest."

¶32 Under step one, a court must determine whether an objective observer could reasonably understand that the speech or conduct, considered in light of its content and context, is made in connection with a public issue or issue of public interest, even if it also implicates a private dispute. An anti-SLAPP motion fails at this step "[o]nly when an expressive activity, viewed in context, cannot reasonably be understood as implicating a public issue." *Geiser*, 515 P.3d at 634. When evaluating this question, a court must discern what qualifies as speech or conduct that implicates a public issue or an issue of public interest. In our view, "it is doubtful an all-encompassing definition" of such speech or conduct could be provided. *Weinberg*, 2 Cal. Rptr. 3d at 392.

¶33 We, however, view California's case law instructive insofar as it distills the characteristics of this type of speech or conduct. *See Geiser*, 515 P.3d at 629. Statements that tend to implicate a public issue or an issue of public interest typically fall into one of three nonexhaustive categories: (1) those which "concern[] a person or entity in the public eye"; (2) "conduct that could directly affect a large number of people beyond the direct participants"; or (3) "a topic of widespread, public interest." *Id.* at 629–30 (quoting *Rivero v. Am. Fed'n of State, Cnty. & Mun. Emps., AFL-CIO*, 130 Cal. Rptr. 2d 81, 89 (Cal. Ct. App. 2003)). An additional consideration includes whether the issue has "been the subject of extensive media coverage." *Id.* at 630 (quoting *Weinberg*, 2 Cal. Rptr. 3d at 392–93).

¶34 We caution courts when conducting this analysis against trying to "discern[] a single topic of speech." *Id.* at 631 (quoting *FilmOn*, 439 P.3d at 1165). Speech is "rarely 'about' any single issue." *Id.* (quoting *FilmOn*, 439 P.3d at 1165). Thus, speech that arises from or concerns a private dispute does not automatically strip away the protections of the anti-SLAPP statute. "[T]hose who speak on public issues are often driven to do so by circumstances that affect them personally." *Id.* at 634. For example, "[a] [person] who has suffered workplace harassment might be moved to speak out about [their] own experiences. The fact that [they] foreground[] harms [they themselves have] experienced does not mean an objective observer could not reasonably understand [their] story, in context, to implicate societal issues of workplace harassment." *Id.*

¶35 Under step two, a court must examine the relationship between the challenged speech or conduct and the public issue or issue of public interest identified and ask whether the challenged activity contributed to public discussion or debate regarding that issue. The broader context in which the challenged activity occurred is critical to this inquiry. *See FilmOn*, 439 P.3d at 1167; *Geiser*, 515 P.3d at 632–33. This means a court must, at step two, examine the audience, the speaker, the location, and the purpose of the speech or conduct. All these inform whether the challenged statements contributed to the public discussion or debate on the public issue or issue of public interest. *Geiser*, 515 P.3d at 633.

¶36 Turning now to the division's opinion, we conclude that the division initially correctly identified the two-step test to determine whether speech or conduct is protected by the catchall provision of the anti-SLAPP statute. § 13-20-1101(2)(a)(IV). We further conclude, however, that the division ultimately strayed from that test.

¶37 To begin, we agree with the division's assessment that consumer information about veterinary services implicates a public issue since "the welfare of animals, including pets, is an important concern of our society." *Tender Care*, ¶ 24, 544 P.3d at 699 (quoting *In re Marriage of Isbell*, No. B173850, 2005 WL 1744468, at *1 (Cal. Ct. App. July 26, 2005) (unpublished opinion)). However, we disagree that the petitioners' statements were not protected by the anti-SLAPP statute because they were made primarily for the purpose of airing a private grievance. *Id.* at ¶ 35, 544 P.3d at 702. Simply put, the division decided that because *most* of the petitioners' statements expressed personal animosity toward TCVC, *none* of their statements were protected by the anti-SLAPP statute. *Id.* at ¶¶ 33, 36, 544 P.3d at 701–02.

¶38 Said differently, the division essentially weighed the petitioners' private concerns against their public ones. That is not the pertinent test. Plus, there is no reason why speech cannot be made in connection with both a private dispute and a public issue or an issue of public interest. As the *Geiser* court made explicit, even

though a sidewalk protest stemming from a private eviction dispute "might have served the purpose of facilitating a repurchase of the property, . . . it also served to draw attention to the alleged unfairness of the business practices" by which the family was evicted. 515 P.3d at 634–35.

¶39 Here too, even though the petitioners' posts stemmed from perceived inadequate veterinary care for *their* pets, the posts could reasonably be understood, in context, to implicate a public issue or an issue of public interest regarding the quality of services and care at a licensed veterinary facility. That is, while the petitioners' animosity was palpable, these were not purely private concerns. And the broader contextual factors surrounding the petitioners' posts, including the speakers, the audience, the targeted locations, and the purpose of the posts, reveal how the petitioners' statements contributed to the public debate on these topics. Specifically, Lind-Barnett, as a "long time [sic] breeder, trainer, sitter and caregiver" for both small and large animals in Colorado, sought to spur a broader conversation about quality veterinary services and practices. What's more, the posts reached an audience of potentially hundreds—if not thousands—of members of their local community. Plus, by garnering more than 140 comments and receiving dozens of reactions, the posts prompted members of the community to consider TCVC's veterinary practices as well as the quality of veterinary services more broadly.

D. A Defendant's Motive Is Not Relevant to the Public Issue or Public Interest Analysis

¶40 Petitioners argue that motive is irrelevant to the question of whether speech or conduct is made in connection with a public issue or an issue of public interest. They contend that, to the extent a defendant's motivation plays any role in an anti-SLAPP analysis in relation to defamation claims, it should be limited to determining whether a plaintiff has demonstrated a reasonable likelihood of prevailing on their claim under section 13-20-1101(3)(a). Conversely, TCVC argues that motive is a relevant and probative factor in determining whether speech concerns a public issue or an issue of public interest because it informs the context of that speech. We agree with petitioners.

¶41 The division focused on the petitioners' motives when it decided that the posts didn't contribute to any broader public discussion about pet health care or connect to any issue of public interest. *Tender Care*, ¶ 30, 544 P.3d at 701. Specifically, the division determined that the petitioners' posts were intended "to exact some revenge by putting [TCVC] out of business" and simply reflected "personal animosity toward the business." *Id.* at ¶¶ 31, 33, 544 P.3d at 701.

¶42 To be sure, a defendant's motive is relevant in determining whether a plaintiff has established a reasonable likelihood that the plaintiff will prevail on a claim under section 13-20-1101(3)(a). For instance, when a defendant's allegedly defamatory statements involve a matter of public concern, the plaintiff must

ultimately prove, among other things, that the defendant "published the statements with actual malice, instead of mere negligence." *Coomer v. Salem Media of Colo., Inc.*, 2025 COA 2, ¶ 23, 565 P.3d 1133, 1143.

¶43 But, before a court reaches that issue under our anti-SLAPP statute, it must first apply the two-step test to determine if the challenged speech or conduct was made in connection with a public issue or an issue of public interest. In our view, the question of motive is not pertinent at this stage of the analysis. In this regard, we depart from the approach taken by the California Supreme Court in interpreting its anti-SLAPP statute.

¶44 In *Geiser*, the court observed that a defendant's motivation "may be relevant and, if objectively reasonable, will inform the analysis [at step one]." 515 P.3d at 634. The court emphasized, however, that motivation is not dispositive and, if not objectively reasonable, will not carry weight. *Id.* We disagree regarding the relevance of this evidence. A defendant's motive for speaking, whether objectively reasonable or not, doesn't answer whether the challenged speech is made in connection with a public issue or an issue of public interest. A defendant may well have a malicious motive for their speech or conduct, but the challenged activity still may implicate a public issue or an issue of public interest. Similarly, a defendant's motive for speaking doesn't answer whether the challenged speech

contributes to the public discussion or debate regarding a public issue or an issue of public interest.

¶45 Moreover, consideration of motive at this stage may lead to illogical results under the anti-SLAPP statute if two defendants, for instance, utter *exactly the same* words in *exactly the same* way, but one is motivated by personal animus and one is not. *See, e.g.*, *Lowell v. Wright*, 512 P.3d 403, 420 (Or. 2022). Instead, the proper inquiry at step one and at step two requires a court to examine each statement, in light of its context, to determine if the protections of the anti-SLAPP statute apply. Accordingly, we reverse the judgment of the court of appeals and remand the case to the division with directions to return this case to the trial court to apply the two-step test outlined in this opinion.

III. Conclusion

¶46 To determine whether particular speech or conduct concerns a public issue or an issue of public interest as those terms are used in the anti-SLAPP statute, a court must apply a two-step test. First, the court must determine whether an objective observer could reasonably understand that the speech or conduct, considered in light of its content and context, is made in connection with a public issue or an issue of public interest, even if it also implicates a private dispute.

¶47 Second, the court must examine the relationship between the challenged speech or conduct and the public issue or issue of public interest identified, and

ask whether the challenged activity contributed to public discussion or debate regarding that issue. We additionally hold that a defendant's motive is irrelevant when determining whether challenged speech or conduct is made in connection with a public issue or an issue of public interest.

¶48 Because the division did not apply the correct legal standard and because it erroneously focused on the petitioners' personal motives, we reverse the judgment of the court of appeals and remand the case to the division with directions to return this case to the trial court to apply the two-step test outlined in this opinion.