10/5/2020 3:53 PM 20CV19618

1 2 3 IN THE CIRCUIT COURT OF THE STATE OF OREGON 4 FOR THE COUNTY OF MULTNOMAH 5 ANDY NGO, Case No.: 20CV19618 6 Plaintiff, PLAINTIFF'S CROSS-MOTION TO STRIKE 7 v. 8 ROSE CITY ANTIFA, an unincorporated association; BENJAMIN BOLEN, an (ORAL ARGUMENT REQUESTED) 9 individual: JOHN HACKER, an individual: CORBYN (KATHERINE) BELYEA, an 10 individual; JOSEPH CHRISTIAN EVANS, an individual; MADISON LEE ALLEN, an 11 individual; DOES 1-50, 12 Defendants. 13 14 Plaintiff Andy Ngo ("Plaintiff"), by and through undersigned counsel, hereby moves to 15 Strike certain testimony submitted supporting Bolen's Special Motion to Strike on the grounds set 16 forth as follows: 17 1. Defendant Bolen submitted two Declarations; his own, and the Declaration of Antifa 18 sympathizer Shane Burley, filed with the Court on September 21, 2020. Both Declarations are 19 plagued with unsupported, speculative assertions insufficient to be considered by this Court in 20 ruling on Bolen's Special Motion to Strike. 21 2. This Court should strike the Declarations for three (3) reasons: *First*, the 22 Declarations are insufficient evidence from which a reasonable trier of fact could find that Bolen 23 has met his initial burden to establish a prima facie case; Second, the Declarations are not made on 24 personal knowledge, but rather, personal opinion; and *Third*, the Declarations do not contain facts 25 as would be admissible in evidence. See ORCP 47. 26 PLAINTIFF'S CROSS-MOTION TO STRIKE DEFENDANT'S 27 James L. Buchal, (OSB 921618) **TESTIMONY** MURPHY & BUCHAL LLP

Case No. 20CV19618

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3425 SE Yamhill Street, Suite 100 Portland, OR 97214 Tel: 503-227-1011 Fax: 503-573-1939

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| 1 | 3. In further support of Plaintiff's Cross-Motion to Strike Defendant's Testimony, | | |
| 2 | Plaintiff respectfully directs this Court to the accompanying Memorandum of Law in Support of | | |
| 3 | Plaintiff's Cross-Motion filed herewith. | | |
| 4 | Request for Oral Argument | | |
| 5 | Plaintiff requests oral argument pursuant to UTCR 5.050. Argument is expected to take | | |
| 6 | thirty (30) minutes. Plaintiff requests official court reporting services. | | |
| 7 | Dated: October 5, 2020. | | |
| 8 | Respectfully submitted, | | |
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| 10 | /s/ James L. Buchal | | |
| 11 | JAMES L BUCHAL (OSB #921618) jbuchal@mbllp.com | | |
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| 19 | Pro Hac Vice* | | |
| 20 | Attorneys for Plaintiff Andy Ngo | | |
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| 27 | PLAINTIFF'S CROSS-MOTION TO STRIKE DEFENDANT'S TESTIMONY James L. Buchal, (OSB 921618) MURPHY & BUCHAL LLP | | |

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1 **CERTIFICATE OF SERVICE** 2 I, Carole Caldwell, hereby declare under penalty of perjury under the laws of the State of 3 Oregon that the following facts are true and correct: 4 I am a citizen of the United States, over the age of 18 years, and not a party to or interested in the within entitled cause. I am an employee of Murphy & Buchal LLP and my business address 5 is 3425 SE Yamhill Street, Suite 100, Portland, OR 97214. 6 7 On October 5, 2020, I caused the following document to be served: 8 PLAINTIFF'S CROSS-MOTION TO STRIKE DEFENDANT'S TESTIMONY 9 in the following manner on the parties listed below: 10 Hilary Boyd, Esq. () (BY FEDERAL EXPRESS) 11 Jonathan Hendersion, Esq. (X) (BY FIRST CLASS US MAIL) DAVIS ROTHWELL EARLE & XÓCHIHUA, P.C. (X) (BY E-MAIL) 12 200 SW Market Street, Suite 1800 () (BY FAX) Portland, OR 97201 13 () (BY HAND) Tel: 503-222-4422 Fax: 503-222-4428 14 hboyd@davisrothwell.com ihenderson@davisrothwell.com 15 16 David D. Park, Esq. () (BY FEDERAL EXPRESS) ELLIOTT & PARK, P.C. (X) (BY FIRST CLASS US MAIL) 17 324 S Abernethy Street (X) (BY E-MAIL) 18 Portland, OR 97239-8529 () (BY FAX) Tel: 503- 227-1690 () (BY HAND) 19 dave@elliott-park.com 20 21 Michelle R. Burrows, Esq. () (BY FEDERAL EXPRESS) MICHELLE R. BURROWS, P.C. (X) (BY FIRST CLASS US MAIL) 22 1333 Orenco Station Parkway# 525 (X) (BY E-MAIL) () (BY FAX) Hillsboro, OR 97124 23 Tel: 503-241-1955 () (BY HAND) michelle.r.burrows@gmail.com 24 25 26 PLAINTIFF'S CROSS-MOTION TO STRIKE DEFENDANT'S 27 James L. Buchal, (OSB 921618)

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| 16 | | /s/ Carole A. Caldwell |
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