

FILED.
21 MAR -9 AM 11:03
4TH JUDICIAL DIST.

IN THE COURT OF APPEALS OF THE STATE OF OREGON

ANDY NGO,
Plaintiff,

v.

ROSE CITY ANTIFA, an unincorporated association; BENJAMIN BOLEN, an individual; JOHN HACKER, an individual; CORBYN (KATHERINE) BELYEA, an individual; JOSEPH CHRISTIAN EVANS, an individual; MADISON LEE ALLEN, an individual; DOES 1-50,
Defendants

Multnomah County Circuit Court
Case No. 20CV19618

A _____

DEFENDANT BENJAMIN BOLEN'S
NOTICE OF APPEAL

1.

Defendant Benjamin Bolen ("Appellant") hereby gives notice of appeal from the Limited Judgment Denying Special Motion to Strike Pursuant to ORS 31.150, signed by The Honorable Kathleen Dailey on February 17, 2021. Despite repeated communications with the trial court regarding whether the signed judgment has been entered on the trial court register, confusion persists regarding whether the judgment has been entered. Out of an abundance of caution, Appellant has filed this notice to preserve his right to appeal the Limited Judgment. To the extent that the Limited Judgment has not yet been entered on the trial court register, Appellant expects the trial court to enter the judgment

forthwith, which it is permitted to do under ORS 19.270(5) because the Limited Judgment was signed before the Notice of Appeal was filed. Because the Limited Judgment was signed before this Notice of Appeal was filed, the trial court retains the jurisdiction to enter the Limited Judgment on the register without first seeking leave from this Court.

2.

The parties to this appeal are:

Appellant: Benjamin Bolen
Respondent: Andy Ngo

3.

The names, bar numbers, addresses, and telephone numbers of the lawyers for the parties are:

Appellants: Jonathan Henderson, Oregon State Bar No. 063554
Email: jhenderson@davisrothwell.com
Hilary A. Boyd, Oregon State Bar No. 163478
Email: hboyd@davisrothwell.com
Davis Rothwell Earle & Xóchihua, P.C.
111 S.W. Fifth Avenue, Suite 2700
Portland, Oregon 97204-3650
Tel: 503-222-4422
Fax: 503-222-4428

Respondent: James L Buchal, Oregon State Bar No. 21618
Email: counsel@buchal.com
Murphy & Buchal LLP
3425 S.E. Yamhill, Suite 100
Portland OR 97214

////

////

Harmeet K. Dhillon, admitted *Pro Hac Vice*
Email: harmeet@dhillonlaw.com
Dhillon Law Group Inc.
177 Post Street, Suite 700
San Francisco, California 94108

4.

Appellant designates the record regarding the special motion to strike pursuant to ORS 31.150, including the trial court file, all exhibits, and the record of the oral proceedings regarding that motion. Appellants hereby request copies at Appellants' expense of the audio record designated herein. Copies are to be served on the parties to this appeal listed in paragraph 3 of this Notice of Appeal.

5.

Attached to this Notice of Appeal is a copy of the Limited Judgment Denying Special Motion to Strike Pursuant to ORS 31.150, conformed with Judge Dailey's signature and dated February 17, 2021.

6.

This appeal is timely and otherwise procedurally properly before the Court of Appeals under ORS 19.255 and 19.260 because Appellants have filed this Notice of Appeal within 30 days of the February 17, 2021 signing of the Limited Judgment Denying Special Motion to Strike Pursuant to ORS 31.150.

7.

I certify that I served a copy of this Notice of Appeal on March 5, 2021, by mailing the Notice of Appeal by certified mail, return receipt requested, with the United States Postal Service to:

James L Buchal (OSB #921618)
counsel@buchal.com
Murphy & Buchal LLP
3425 S.E. Yamhill, Suite 100
Portland OR 97214

Harmeet K. Dhillon, *Pro Hac Vice*
harmeet@dhillonlaw.com
Dhillon Law Group Inc.
177 Post Street, Suite 700
San Francisco, California 94108
Of Attorneys for Plaintiff

David D. Park, OSB #803358
Elliott & Park, P.C.
324 S Abernethy Street
Portland, OR 97239-8529
Tele: 503- 227-1690
Fax: 503- 274-8384
dave@elliott-park.com
Of Attorneys for John Hacker

Michelle R Burrows, OSB # 861606
MICHELLE R. BURROWS P.C.
1333 Orenco Station Parkway# 525
Hillsboro, OR 97124
Tel: 503-241-1955
michelle.r.burrows@gmail.com
Of Attorneys for John Hacker

David F. Sugerman, OSB #862984
SUGERMAN LAW OFFICE
707 SW Washington St., Ste. 600
Portland, OR 97205
Tel: 503-228-6474
Fax: 503-228-2556
david@sugermanlawoffice.com
Of Attorneys for John Hacker

Jane L. Moisan, OSB # 181864
PEOPLE'S LAW PROJECT
818 S.W. 4th Ave. #221-3789
Portland, OR 97204
Tel: 971-258-1292
peopleslawproject@gmail.com
Of Attorneys for John Hacker

Christopher A. Larsen, OSB # 910679
PICKETT DUMMIGAN MCCALL LLP
210 SW Morrison St., 4th FL
Portland, Oregon 97204
Tel: 503-223-7770
Fax: 503-227-5350
chris@pdm.legal
Of Attorneys for John Hacker

Joe Piucci, OSB # 135325
Stephen Piucci, OSB #821056
PIUCCI LAW LLC
900 SW 13th Ave., Ste. 200
Portland, OR 97205
Tel: 503-228-7385
Fax: 503-228-2571
joe@piucci.com
steve@piucci.com
Of Attorneys for John Hacker

Gabriel Chase, OSB # 142948
CHASE LAW, PC
621 S.W. Alder St., Ste. 600
Portland, OR 97205
Tel: 503-294-1414
Fax: 503-294-1455
gabriel@chaselawc.net
Of Attorneys for John Hacker

8.

I further certify that I filed the original of this Notice of Appeal on March 5, 2021, via certified mail, return receipt requested with the Appellate Court Administrator, Appellate Court Records Section, 1163 State Street, Salem, Oregon.

DATED this 5th day of March, 2021.

DAVIS ROTHWELL
EARLE & XÓCHIHUA, P.C.

/s/Jonathan Henderson

Jonathan Henderson, OSB #063554
jhenderson@davisrothwell.com
Hilary A. Boyd, OSB No. 152095
hboyd@davisrothwell.com
Of Attorneys for Defendant Bolen

CERTIFICATE OF E-FILING AND SERVICE

I hereby certify that I electronically filed the foregoing NOTICE OF APPEAL with the Oregon State Court Administrator, Appellate Records Section, by using the appellate CM/EFC system on March 5, 2021.

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system on this same date.

I further certify that I have forwarded one electronic copy of the foregoing document by email to said attorneys at the email addresses set forth below pursuant to an electronic service agreement between the parties as follows:

James L Buchal (OSB #921618)
counsel@buchal.com
Murphy & Buchal LLP
3425 S.E. Yamhill, Suite 100
Portland OR 97214

Harmeet K. Dhillon, *Pro Hac Vice*
harmeet@dhillonlaw.com
Dhillon Law Group Inc.
177 Post Street, Suite 700
San Francisco, California 94108
Of Attorneys for Plaintiff

David D. Park, OSB #803358
Elliott & Park, P.C.
324 S Abernethy Street
Portland, OR 97239-8529
Tele: 503- 227-1690
Fax: 503- 274-8384
dave@elliott-park.com
Of Attorneys for John Hacker

Michelle R Burrows, OSB # 861606
MICHELLE R. BURROWS P.C.
1333 Orenco Station Parkway# 525
Hillsboro, OR 97124
Tel: 503-241-1955
michelle.r.burrows@gmail.com
Of Attorneys for John Hacker

David F. Sugerman, OSB #862984
SUGERMAN LAW OFFICE
707 SW Washington St., Ste. 600
Portland, OR 97205
Tel: 503-228-6474
Fax: 503-228-2556
david@sugermanlawoffice.com
Of Attorneys for John Hacker

Christopher A. Larsen, OSB # 910679
PICKETT DUMMIGAN MCCALL LLP
210 SW Morrison St., 4th FL
Portland, Oregon 97204
Tel: 503-223-7770
Fax: 503-227-5350
chris@pdm.legal
Of Attorneys for John Hacker

Gabriel Chase, OSB # 142948
CHASE LAW, PC
621 S.W. Alder St., Ste. 600
Portland, OR 97205
Tel: 503-294-1414
Fax: 503-294-1455
gabriel@chaselawc.net
Of Attorneys for John Hacker

Jane L. Moisan, OSB # 181864
PEOPLE'S LAW PROJECT
818 S.W. 4th Ave. #221-3789
Portland, OR 97204
Tel: 971-258-1292
peopleslawproject@gmail.com
Of Attorneys for John Hacker

Joe Pucci, OSB # 135325
Stephen Pucci, OSB #821056
PIUCCI LAW LLC
900 SW 13th Ave., Ste. 200
Portland, OR 97205
Tel: 503-228-7385
Fax: 503-228-2571
joe@pucci.com
steve@pucci.com
Of Attorneys for John Hacker

DATED this 5th day of March, 2021.

DAVIS ROTHWELL
EARLE & XÓCHIHUA, P.C.

/s/Jonathan Henderson
Jonathan Henderson, OSB #063554
jhenderson@davisrothwell.com
Hilary A. Boyd, OSB No. 152095
hboyd@davisrothwell.com
Of Attorneys for Defendant Bolen