

IN THE COURT OF APPEALS OF THE STATE OF OREGON

FILED.

21 APR -1 AM 10:01

4TH JUDICIAL DIST.

ANDY NGO,
Plaintiff-Respondent,

v.

ROSE CITY ANTIFA, an unincorporated association; et al, ,
Defendants

and

BENJAMIN BOLEN, an individual,
Defendant-Appellant.

Multnomah County Circuit Court
Case No. 20CV19618

A175559

**DEFENDANT BENJAMIN BOLEN'S
AMENDED 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. The Limited Judgment was entered by the Court on March 17, 2021.

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CERTIFICATE OF E-FILING AND SERVICE

I hereby certify that I electronically filed the foregoing AMENDED NOTICE OF APPEAL with the Oregon State Court Administrator, Appellate Records Section, by using the appellate CM/EFC system on March 23, 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, and further sent one copy by First Class Mail addressed to the parties as follows:

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DATED this 23rd day of March, 2021.

DAVIS ROTHWELL
EARLE & XÓCHIHUA, P.C.

/s/Jonathan Henderson
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Hilary A. Boyd, OSB No. 152095
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Of Attorneys for Defendant Bolen

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

A175559

DEFENDANT BENJAMIN BOLEN'S
AMENDED CERTIFICATE OF SERVICE OF
AMENDED NOTICE OF APPEAL

I certify that I served a copy, of DEFNDANT BENJAMIN BOLEN'S

AMENDED NOTICE OF APPEAL on:

Gregory R. Michael, *Pro Hac Vice*
Michael Yamamoto LLP
1400 Shattuck Ave., #412
Berkeley, CA 94709

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the Notice was served via E-mail and by Certified Mail, Return Receipt Requested to the addresses set forth above on March 23, 2021.

DATED this 23rd day of March, 2021.

DAVIS ROTHWELL
EARLE & XÓCHIHUA, P.C.

/s/ Jonathan Henderson
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Of Attorneys for Defendant Bolen

CERTIFICATE OF E-FILING AND SERVICE

I hereby certify that I electronically filed the foregoing AMENDED
CERTIFICATE OF SERVICE with the Oregon State Court Administrator, Appellate
Records Section, by using the appellate CM/EFC system on March 23, 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:

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Transcript Coordinator
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DATED this 23rd day of March, 2021.

DAVIS ROTHWELL
EARLE & XÓCHIHUA, P.C.

s/Jonathan Henderson
Jonathan Henderson, OSB #063554
jhenderson@davisrothwell.com
Of Attorneys for Defendant Bolen

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
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Respondent: James L Buchal, Oregon State Bar No. 21618
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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 Amended Notice of Appeal is a copy of the Limited Judgment Denying Special Motion to Strike Pursuant to ORS 31.150, entered by the Court on March 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 the 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, and this Amended Notice of Appeal within 30 days of the entry date for the Limited Judgment of March 17, 2021. The trial court retained jurisdiction to enter the signed judgment, notwithstanding the fact that appellant filed a notice of appeal before the judgment was filed but after it was signed.

7.

I certify that I served a copy of this Amended Notice of Appeal on March 23, 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
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I further certify that I filed the original of this Amended Notice of Appeal on March 22, 2021, via certified mail, return receipt requested with the Appellate Court Administrator, Appellate Court Records Section, 1163 State Street, Salem, Oregon.

DATED this 23rd day of March, 2021.

DAVIS ROTHWELL
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/s/Jonathan Henderson

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Of Attorneys for Defendant Bolen

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

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.

Case No. 20CV19618

**LIMITED JUDGMENT DENYING
SPECIAL MOTION TO STRIKE
PURSUANT TO ORS 31.150**

Defendant Benjamin Bolen moved to strike Plaintiff's claims against him pursuant to
ORS 31.150. The Court entered an order denying defendant Benjamin Bolen's Special Motion to
Strike on December 21, 2020. ORS 31.150(1) instructs that if the Court denies such a motion, the
Court shall enter a limited judgment denying the motion.

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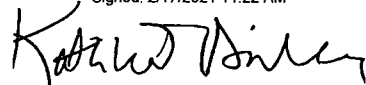
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1 As such, and consistent with this Court's December 21, 2020 Order and Opinion denying
2 the motion, this Court orders that this judgment denying defendant Benjamin Bolen' Special
3 Motion to Strike be entered forthwith.

Signed: 2/17/2021 11:22 AM



Circuit Court Judge Kathleen M. Dalley

16 **SUBMITTED BY:**

17 Hilary A. Boyd, OSB No. 152095
18 hboyd@davisrothwell.com
19 Jonathan Henderson, OSB No. 063554
20 jhenderson@davisrothwell.com
21 Of Attorneys for Defendant Bolen

UTCR 5.100 CERTIFICAT

I certify this proposed judgment/order is ready for judicial signature because (check all that apply):

☐ Service is not required under UTCR 5.100 (1)(c) because the other party has been found in default or an order of default is being requested with this proposed judgment/order; because this judgment/order is submitted ex parte as allowed by statute or rule; or this judgment/order is being submitted in open court with all parties present.

☐ Each party affected by this judgment/order has stipulated to or approved the judgment/order, as shown by the signatures on the judgment/order, or by written confirmation sent to me.

☒ I have served a copy of this judgment/order and the Notice of Proposed Judgment/order to all parties entitled to service on January 21, 2021 and:

☒ No objection has been served on me.

☐ I received objections that I could not resolve with the other party despite reasonable efforts to do so. I have filed with the court a copy of the objections I received and indicated which objections remain unresolved.

☐ After conferring about objections, the other party agreed to file any remaining objection with the court.

DATED this 27th day of January, 2021.

DAVIS ROTHWELL
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/s/ Jonathan Henderson
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Of Attorneys for Defendant Bolen

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing **LIMITED JUDGMENT DENYING**
SPECIAL MOTION TO STRIKE PURSUANT TO ORS 31.150 on the following attorney(s)

of record:

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////

1 by mailing to the foregoing a true copy thereof, placed in a sealed envelope, with postage
2 prepaid, addressed as listed above, and depositing the same in the United States mail through a
3 post office at Portland, Oregon, on this day.

4 DATED this 27th day of January, 2021.

5 DAVIS ROTHWELL
6 EARLE & XÓCHIHUA, P.C.

7 /s/ Jonathan Henderson
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