

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
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Hilary A. Boyd, Oregon State Bar No. 163478
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Respondent: James L Buchal, Oregon State Bar No. 21618
Email: counsel@buchal.com
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3425 S.E. Yamhill, Suite 100
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Harmeet K. Dhillon, admitted *Pro Hac Vice*
Email: harmeet@dhillonlaw.com
Dhillon Law Group Inc.
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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:

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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

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Hilary A. Boyd, OSB No. 152095
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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:

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DATED this 5th day of March, 2021.

DAVIS ROTHWELL
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/s/Jonathan Henderson

Jonathan Henderson, OSB #063554

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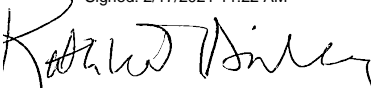
Hilary A. Boyd, OSB No. 152095

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Of Attorneys for Defendant Bolen

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. Dailey

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16 **SUBMITTED BY:**

17 Hilary A. Boyd, OSB No. 152095
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18 Jonathan Henderson, OSB No. 063554
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19 Of Attorneys for Defendant Bolen

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I served the foregoing **LIMITED JUDGMENT DENYING**

3 **SPECIAL MOTION TO STRIKE PURSUANT TO ORS 31.150** on the following attorney(s)
4 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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