### 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

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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

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

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 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

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

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 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

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 5<sup>th</sup> 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

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

David F. Sugerman, OSB #862984

Page 3 **CERTIFICATE OF SERVICE** 

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 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

DATED this 5<sup>th</sup> 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

## 20CV19618

IN THE CIRCUIT COURT OF T	THE STATE OF OREGON	
FOR THE COUNTY OF MULTNOMAH		
ANDY NGO,	) Case No. 20CV19618	
Plaintiff,	) Case No. 20C v 19618	
v.	) LIMITED JUDGMENT DENYING ) SPECIAL MOTION TO STRIKE	
ROSE CITY ANTIFA, an unincorporated	) PURSUANT TO ORS 31.150	
individual; JOHN HACKER, an individual;	)	
individual; JOSEPH CHRISTIAN EVANS, an		
individual; MADISON LEE ALLEN, an individual; DOES 1-50,	)	
Defendants.	)	
	)	
Defendant Benjamin Bolen moved to strike l	Plaintiff's claims against him pursuant to	
ORS 31.150. The Court entered an order denying de	efendant Benjamin Bolen's Special Motion to	
Strike on December 21, 2020. ORS 31.150(1) instru	cts that if the Court denies such a motion, the	
Court shall enter a limited judgment denying the mo	tion.	
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	FOR THE COUNTY OF 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.  Defendant Benjamin Bolen moved to strike to ORS 31.150. The Court entered an order denying destrike on December 21, 2020. ORS 31.150(1) instruction of the court shall enter a limited judgment denying the model.	

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.		
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7			
8	Signed: 2/17/2021 11:22 AM		
9	Gircuit Court Judge Kathleen M. Dailey		
10	Gredit Court Judge Katheen W. Daney		
11			
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13			
14			
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16	SUBMITTED BY:		
17	Hilary A. Boyd, OSB No. 152095 hboyd@davisrothwell.com		
18	Jonathan Henderson, OSB No. 063554 jhenderson@davisrothwell.com		
19	Of Attorneys for Defendant Bolen		
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# 1 UTCR 5.100 CERTIFICAT 2 I certify this proposed judgment/order is ready for judicial signature because (check all 3 that apply): Service is not required under UTCR 5.100 (1)(c) because the other party has been found 4 in default or an order of default is being requested with this proposed judgment/order; because 5 6 this judgment/order is submitted ex parte as allowed by statute or rule; or this judgment/order is 7 being submitted in open court with all parties present. 8 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 9 10 sent to me. 11 I have served a copy of this judgment/order and the Notice of Proposed Judgment/order 12 to all parties entitled to service on January 21, 2021 and: 13 No objection has been served on me. 14 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 15 received and indicated which objections remain unresolved. After conferring about objections, the other party agreed to file any remaining 16 objection with the court. 17 DATED this 27<sup>th</sup> day of January, 2021. 18 DAVIS ROTHWELL 19 EARLE & XÓCHIHUA, P.C. 20 /s/ Jonathan Henderson 21 Hilary A. Boyd, OSB No. 152095 hboyd@davisrothwell.com 22 Jonathan Henderson, OSB No. 063554 ihenderson@davisrothwell.com 23 Of Attorneys for Defendant Bolen 24 25

#### 2 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) 3 4 of record: James L Buchal (OSB #921618) Christopher A. Larsen, OSB # 910679 5 PICKETT DUMMIGAN MCCALL LLP counsel@buchal.com Murphy & Buchal LLP 6 210 SW Morrison St., 4th FL 3425 S.E. Yamhill, Suite 100 Portland, Oregon 97204 Portland OR 97214 Tel: 503-223-7770 7 Fax: 503-227-5350 8 Harmeet K. Dhillon, Pro Hac Vice chris@pdm.legal harmeet@dhillonlaw.com Of Attorneys for John Hacker 9 Dhillon Law Group Inc. 177 Post Street, Suite 700 Gabriel Chase, OSB # 142948 San Francisco, California 94108 CHASE LAW, PC 10 621 S.W. Alder St., Ste. 600 Of Attorneys for Plaintiff 11 Portland, OR 97205 Tel: 503-294-1414 Fax: 503-294-1455 12 David D. Park, OSB #803358 Elliott & Park, P.C. gabriel@chaselawc.net 324 S Abernethy Street Of Attorneys for John Hacker 13 Portland, OR 97239-8529 14 Tele: 503- 227-1690 Jane L. Moisan, OSB # 181864 Fax: 503-274-8384 PEOPLE'S LAW PROJECT dave@elliott-park.com 818 S.W. 4th Ave. #221-3789 15 Of Attorneys for John Hacker Portland, OR 97204 Tel: 971-258-1292 16 Michelle R Burrows, OSB # 861606 peopleslawproject@gmail.com 17 MICHELLE R. BURROWS P.C. Of Attorneys for John Hacker 1333 Orenco Station Parkway# 525 Hillsboro, OR 97124 Joe Piucci, OSB # 135325 18 Tel: 503-241-1955 Stephen Piucci, OSB #821056 michelle.r.burrows@gmail.com PIUCCI LAW LLC 19 Of Attorneys for John Hacker 900 SW 13th Ave., Ste. 200 20 Portland, OR 97205 David F. Sugerman, OSB #862984 Tel: 503-228-7385 SUGERMAN LAW OFFICE Fax: 503-228-2571 21 707 SW Washington St., Ste. 600 joe@piucci.com Portland, OR 97205 22 steve@piucci.com Tel: 503-228-6474 Of Attorneys for John Hacker Fax: 503-228-2556 23 david@sugermanlawoffice.com 24 Of Attorneys for John Hacker 25 ////

CERTIFICATE OF SERVICE

1

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	g the same in the United States mail through a	
3	post office at Portland, Oregon, on this day.		
4	DATED this 27 <sup>th</sup> day of January, 2021.		
5		DAVIS ROTHWELL EARLE & XÓCHIHUA, P.C.	
6			
7		/s/ Jonathan Henderson Hilary A. Boyd, OSB No. 152095	
8		hboyd@davisrothwell.com Jonathan Henderson, OSB No. 063554	
9		jhenderson@davisrothwell.com Of Attorneys for Defendant Bolen	
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