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rmcmurry@aclunc.org

13 Attorneys for Respondent
14 SKYLER MICHEL-EVLETH
15 a/k/a SKYLER HENRY

16 SUPERIOR COURT OF CALIFORNIA
17 COUNTY OF SACRAMENTO

17 CITY OF SACRAMENTO,

18 Petitioner,

19 vs.

20 SKYLER MICHEL-EVLETH a/k/a SKYLER
21 HENRY,

22 Respondent.

Case No. 34-2021-70009184-CU-HR-GDS

**RESPONDENT'S OBJECTIONS TO
PETITIONER'S SUBMISSION OF
ARGUMENT AND EVIDENCE
IN SUPPORT OF PERMANENT
RESTRAINING ORDER**

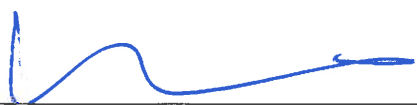
Date: July 12, 2021
Time: 9:00 a.m.
Location: Gordon D. Schaber Courthouse
720 9th Street
Sacramento, CA 95814
Department: 35
Judge: Hon. George Acero
Petition Filed: June 16, 2021
Hearing Date: July 12, 2021

1 Counsel for Respondent Skyler Henry writes to draw the Court’s attention to an important and
2 undisputed factual development in the case. The City filed on July 2, 2021 a proof of service attesting
3 “under penalty of perjury” that it had served counsel for Respondent with a copy of the City’s self-styled
4 “Submission of Argument and Evidence of Support of Permanent Restraining Order Against Skyler
5 Michael-Evleth, aka Skyler Henry” (ROA# 11). But the City actually failed to effect such service.

6 As demonstrated in the materials attached to the Declaration of Paul H. Masuhara, submitted
7 herewith, the City delayed serving Respondent’s counsel until the afternoon of July 6—after Respondent
8 had served the City with his own papers (1) in Opposition to the City’s Petition for Workplace Violence
9 Restraining Order and (2) in Reply in Support of Respondent’s Special Motion to Strike (SLAPP)
10 Petition. Respondent objects to the City’s additional argument and evidence, much of which lacks
11 foundation and is irrelevant, improper, inflammatory, unfairly prejudicial, and inadmissible. To the
12 extent the Court is inclined to consider this material, however, Respondent will look forward to making
13 his arguments and objections on the record and to addressing any questions that the Court may have at
14 the hearing scheduled for July 12.

15 Dated: July 7, 2021

Respectfully Submitted,

16
17 By: 

18 Mark E. Merin
19 Paul H. Masuhara
20 LAW OFFICE OF MARK E. MERIN

and

21 Brian S. Crone
22 THE LAW OFFICE OF BRIAN CRONE

and

23 Chessie Thacher
24 Ryann McMurry
25 AMERICAN CIVIL LIBERTIES UNION
26 FOUNDATION OF NORTHERN CALIFORNIA, INC.

27 Attorneys for Respondent
28 SKYLER MICHEL-EVLETH
a/k/a SKYLER HENRY

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12 Attorneys for Respondent
13 SKYLER MICHEL-EVLETH
14 a/k/a SKYLER HENRY

15 SUPERIOR COURT OF CALIFORNIA
16 COUNTY OF SACRAMENTO

17 CITY OF SACRAMENTO,
18 Petitioner,

19 vs.

20 SKYLER MICHEL-EVLETH a/k/a SKYLER
21 HENRY,
22 Respondent.

Case No. 34-2021-70009184-CU-HR-GDS

**DECLARATION OF PAUL H. MASUHARA
IN SUPPORT OF RESPONDENT'S
OBJECTIONS TO PETITIONER'S
SUBMISSION OF ARGUMENT AND
EVIDENCE IN SUPPORT OF PERMANENT
RESTRAINING ORDER**

Date: July 12, 2021
Time: 9:00 a.m.
Location: Gordon D. Schaber Courthouse
720 9th Street
Sacramento, CA 95814
Department: 35
Judge: Hon. George Acero
Petition Filed: June 16, 2021
Hearing Date: July 12, 2021

1 I, Paul H. Masuhara, do declare and say:

2 1. I am an attorney licensed to practice in the State of California, including in the Superior
3 Court of California, County of Sacramento. My office represents Skyler Henry, along with co-counsel.

4 2. On July 2, 2021, my office did not receive service of any documents from the City of
5 Sacramento ("City") in this matter.

6 3. On July 6, 2021, I observed docket entry ROA# 11 on the Court's docket in this matter,
7 which provides that the following entry of was filed on July 6, 2021: "Statement - Other (Submission Of
8 Argument And Evidence In Support of Permanent Restraining Order Against Skyler Michel-Evleth AKA
9 skyler Henry) filed."

10 4. On July 6, 2021, at 2:49 p.m., I sent an e-mail to the City's counsel requesting an
11 electronic copy of the filing, which had not yet been served on my office. (A true and correct copy of the
12 e-mail is attached as "Exhibit A.")

13 5. Later, on July 6, 2021, at 3:56 p.m., I received an e-mail from Christina Will, the City's
14 counsel's legal secretary, which attached an electronic copy of the document and stated that she "must
15 not have sent it" on July 2, 2021. (A true and correct copy of the e-mail is attached as "Exhibit A.")

16 6. Ms. Will's proof of service attached to the documents certifies that she electronically
17 served the documents on co-counsel Mark E. Merin and me on July 2, 2021. I checked Mr. Merin and my
18 e-mail inbox and confirmed that no such service was made on July 2, 2021.

19 7. Later, on July 6, 2021, 4:22 p.m., I sent an e-mail to the City's counsel stating that Ms.
20 Will's proof of service was inaccurate and requested the City to file an amended proof of service
21 certifying that electronic service was made on July 6, 2021, and disclaim the earlier certification that
22 electronic service was made on July 2, 2021. (A true and correct copy of the e-mail is attached as
23 "Exhibit A.")

24 8. Later, on July 6, 2021, 4:47 p.m., I received an e-mail from Ms. Will attaching the
25 amended proof of service and stating that the amended proof of service would be filed the next day, on
26 July 7, 2021. (A true and correct copy of the e-mail is attached as "Exhibit A." and a true and correct
27 copy of the amended proof of service attached to the e-mail is attached as "Exhibit B.")

28 \\\

1 I declare under penalty of perjury of the laws of the State of California that the foregoing is true
2 and correct and that this declaration was executed on July 7, 2021, at Sacramento, California.

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7 Paul H. Masuhara
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EXHIBIT A

From: Christina Will <CWill@cityofsacramento.org>
Sent: Tuesday, July 6, 2021 4:47 PM
To: Emilio Camacho; Paul Masuhara; Andrea Velasquez
Cc: Mark Merin; Brian Crone; Chessie Thacher; RMcMurry@aclunc.org
Subject: RE: City of Sacramento v. Henry - Respondent's Brief
Attachments: Amended Proof of Service.PDF.pdf

Counsel,

Attached please find the Amended Proof of Service that will be submitted to the court for filing tomorrow.

Again, my apologies for the oversight.

-Christina

Christina Will, Legal Secretary
Assistant to Andrea M. Velasquez, Andre D. Martin,
and Sean D. Richmond
Sacramento City Attorney's Office

From: Emilio Camacho <ECamacho@cityofsacramento.org>
Sent: Tuesday, July 6, 2021 4:28 PM
To: Paul Masuhara <paul@markmerin.com>; Andrea Velasquez <AVelasquez@cityofsacramento.org>; Christina Will <CWill@cityofsacramento.org>
Cc: Mark Merin <mark@markmerin.com>; Brian Crone <briancrone@cronelawoffice.com>; Chessie Thacher <CThacher@aclunc.org>; RMcMurry@aclunc.org
Subject: Re: City of Sacramento v. Henry - Respondent's Brief

Thanks, Paul. We were already planning to do that. Again, it was an oversight and you are correct that an amended proof of service is necessary. We will send you a courtesy copy when done.

Thabks again.

Emilio Camacho
Senior Deputy City Attorney

From: Paul Masuhara <paul@markmerin.com>
Sent: Tuesday, July 6, 2021 4:22:04 PM
To: Emilio Camacho <ECamacho@cityofsacramento.org>; Andrea Velasquez <AVelasquez@cityofsacramento.org>; Christina Will <CWill@cityofsacramento.org>
Cc: Mark Merin <mark@markmerin.com>; Brian Crone <briancrone@cronelawoffice.com>; Chessie Thacher <CThacher@aclunc.org>; RMcMurry@aclunc.org <RMcMurry@aclunc.org>
Subject: RE: City of Sacramento v. Henry - Respondent's Brief

Counsel:

The proof of service attached to the City's "Submission of Argument and Evidence in Support of Permanent Restraining Order" is inaccurate. In the proof of service, Ms. Will certifies to the Court that she made "electronic service" and "caused the documents to be sent" to Mr. Merin and to me at our email addresses, <mark@markmerin.com> and <paul@markmerin.com>, on July 2. However, both Mr. Merin and I have confirmed that no such electronic service was made to our email addresses on July 2. Rather, the date on which we received electronic service of these documents was earlier this afternoon, July 6.

Accordingly, we are requesting the City to file an amended proof of service which correctly certifies that electronic service was made on July 6 and disclaims the earlier certification that electronic service was made on July 2.

Thank you,
-Paul

Paul H. Masuhara
Law Office of Mark E. Merin
1010 F Street, Suite 300
Sacramento, California 95814
Telephone: (916) 443-6911
Facsimile: (916) 447-8336
E-Mail: paul@markmerin.com

From: Emilio Camacho <ECamacho@cityofsacramento.org>
Sent: Tuesday, July 6, 2021 4:04 PM
To: Christina Will <CWill@cityofsacramento.org>; Paul Masuhara <paul@markmerin.com>; Mark Merin <mark@markmerin.com>
Cc: Andrea Velasquez <AVelasquez@cityofsacramento.org>
Subject: Re: City of Sacramento v. Henry - Respondent's Brief

Thanks, Christina.

Paul:

Let us know if we can be of further assistance. Apologies for the oversight.

Emilio Camacho
Senior Deputy City Attorney

From: Christina Will <CWill@cityofsacramento.org>
Sent: Tuesday, July 6, 2021 3:56:27 PM
To: Paul Masuhara <paul@markmerin.com>; Mark Merin <mark@markmerin.com>
Cc: Emilio Camacho <ECamacho@cityofsacramento.org>; Andrea Velasquez <AVelasquez@cityofsacramento.org>
Subject: FW: City of Sacramento v. Henry - Respondent's Brief

Paul,

My apologies, this document was submitted to the court on Friday for filing and I must not have sent it to you. I'm also attaching a copy of the dropbox stamped copy evidencing the fact that it was submitted to the court on Friday.

-Christina

Christina Will, Legal Secretary
Assistant to Andrea M. Velasquez, Andre D. Martin,
and Sean D. Richmond
Sacramento City Attorney's Office

From: Paul Masuhara <paul@markmerin.com>
Sent: Tuesday, July 6, 2021 2:49:14 PM
To: Emilio Camacho <ECamacho@cityofsacramento.org>; Andrea Velasquez <AVelasquez@cityofsacramento.org>
Cc: Mark Merin <mark@markmerin.com>; Brian Crone <briancrone@cronelawoffice.com>; Chessie Thacher <CThacher@aclunc.org>; RMcMurry@aclunc.org <RMcMurry@aclunc.org>
Subject: City of Sacramento v. Henry - Respondent's Brief

Counsel:

Attached is a copy of Respondent's brief in the *City of Sacramento v. Henry* matter which we will submit to the Court for filing this afternoon. A copy will follow by mail.

Additionally, according to the Court's docket in this matter, earlier today the City filed a document labeled "Submission Of Argument And Evidence In Support of Permanent Restraining Order" (ROA# 11). This filing seems to be untimely, per the Court's June 24 order. (ROA# 10.) We request that you send an electronic copy of this filing to us, as we have not received a copy of this filing.

Thank you.

Paul H. Masuhara
Law Office of Mark E. Merin
1010 F Street, Suite 300
Sacramento, California 95814
Telephone: (916) 443-6911
Facsimile: (916) 447-8336
E-Mail: paul@markmerin.com

EXHIBIT B

1 SUSANA ALCALA WOOD, City Attorney (SBN 156366)
2 **EMILIO CAMACHO, Senior Deputy City Attorney (SBN 282507)**
3 CITY OF SACRAMENTO
4 915 I Street, Room 4010
5 Sacramento, CA 95814-2608
6 Telephone: (916) 808-5346
7 Facsimile: (916) 808-7455

8 Attorneys for the CITY OF SACRAMENTO

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO

CITY OF SACRAMENTO, a municipal
corporation,

Petitioner,

vs.

SKYLER MICHEL-EVLETH, aka
SKYLER HENRY

Respondent.

Case No.: 34-2021-70009184

**AMENDED PROOF OF SERVICE OF
SUBMISSION OF ARGUMENT AND
EVIDENCE IN SUPPORT OF
PERMANENT RESTRAINING
ORDER AGAINST SKYLER
MICHEL-EVLETH, aka SKYLER
HENRY**

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AMENDED PROOF OF SERVICE

CASE NAME: City of Sacramento v. Skyler Michel-Evleth, aka Skyler Henry (TRO)
COURT: Sacramento Superior Court
CASE NUMBER: 34-2021-70009184

I declare that:

I am employed in the County of Sacramento, California. I am over the age of eighteen years and not a party to this action; my business address is 915 I Street, Room 4010, Sacramento, CA 95814-2604. On the date executed below, I served the following document(s):

SUBMISSION OF ARGUMENT AND EVIDENCE IN SUPPORT OF PERMANENT RESTRAINING ORDER AGAINST SKYLER MICHEL-EVLETH, aka SKYLER HENRY

By Electronic Service. Based on a court order or an agreement of the parties to accept electronic service. I caused the documents to be sent to the persons at the electronic address as follows:

Mark E. Merin
Paul Masuhara
Law Office of Mark E. Merin
1010 F Street, Suite 300
Sacramento, CA 95814
mark@markmerin.com
paul@markmerin.com

I declare under penalty of perjury that the foregoing is true and correct, and that the declaration was executed on July 6, 2021, at Sacramento, California.



Christina L. Will (Jul 6, 2021 16:42 PDT)

CHRISTINA WILL

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO: NAME: Mark E. Merin (State Bar No. 043849) FIRM NAME: Law Office of Mark E. Merin STREET ADDRESS: 1010 F Street, Suite 300 CITY: Sacramento STATE: CA ZIP CODE: 95814 TELEPHONE NO.: (916) 443-6911 FAX NO.: (916) 447-8336 E-MAIL ADDRESS: mark@markmerin.com ATTORNEY FOR (name): Respondent SKYLER MICHEL-EVLETH a/k/a SKYLER HENRY	FOR COURT USE ONLY CASE NUMBER: 34-2021-70009184-CU-HR-GDS JUDICIAL OFFICER: Hon. George Acero
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO STREET ADDRESS: 720 9th Street MAILING ADDRESS: CITY AND ZIP CODE: Sacramento, CA 95814 BRANCH NAME: Gordon D. Schaber Courthouse	
PLAINTIFF/PETITIONER: CITY OF SACRAMENTO DEFENDANT/RESPONDENT: SKYLER MICHEL-EVLETH a/k/a SKYLER HENRY	DEPARTMENT: 35
PROOF OF ELECTRONIC SERVICE	

1. I am at least 18 years old.
 - a. My residence or business address is (specify):
 1010 F Street, Suite 300
 Sacramento, CA 95814
 - b. My electronic service address is (specify):
 <paul@markmerin.com>

2. I electronically served the following documents (exact titles):
 Respondent's Objections to Petitioner's Submission of Argument and Evidence in Support of Permanent Restraining Order; and Declaration of Paul H. Masuhara in Support of Respondent's Objections to Petitioner's Submission of Argument and Evidence in Support of Permanent Restraining Order

 The documents served are listed in an attachment. (Form POS-050(D)/EFS-050(D) may be used for this purpose.)

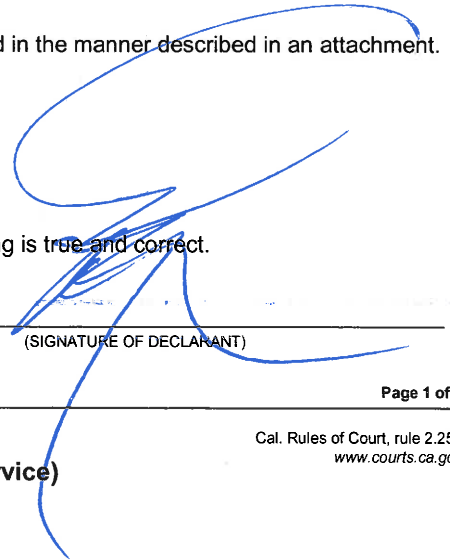
3. I electronically served the documents listed in 2 as follows:
 - a. Name of person served: Emilio Camacho, Esq.; Andrea M. Velasquez, Esq.
 On behalf of (name or names of parties represented, if person served is an attorney):
 City of Sacramento
 - b. Electronic service address of person served :
 <ECamacho@cityofsacramento.org>; <AVelasquez@cityofsacramento.org>
 - c. On (date): July 7, 2021 The documents listed in item 2 were served electronically on the persons and in the manner described in an attachment. (Form POS-050(P)/EFS-050(P) may be used for this purpose.)

Date: July 7, 2021

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Paul H. Masuhara

 (TYPE OR PRINT NAME OF DECLARANT)



 (SIGNATURE OF DECLARANT)