

1 Mark E. Merin (State Bar No. 043849)  
2 Paul H. Masuhara (State Bar No. 289805)  
3 LAW OFFICE OF MARK E. MERIN  
4 1010 F Street, Suite 300  
5 Sacramento, California 95814  
6 Telephone: (916) 443-6911  
7 Facsimile: (916) 447-8336  
8 E-Mail: mark@markmerin.com  
9 paul@markmerin.com

7 BRIAN S. CRONE (State Bar No. 191731)  
8 The Law Office Of Brian Crone  
9 1104 Corporate Way  
10 Sacramento, CA 95831  
11 Telephone: (916) 395-4464  
12 E-mail: briancrone@cronelawoffice.com

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

13 SUPERIOR COURT OF CALIFORNIA  
14 COUNTY OF SACRAMENTO

15 CITY OF SACRAMENTO,  
16 Petitioner,

17 vs.

18 SKYLER MICHEL-EVLETH a/k/a SKYLER  
19 HENRY,  
20 Respondent.

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

**RESPONDENT'S NOTICE OF MOTION;  
SPECIAL MOTION TO STRIKE (SLAPP)  
PETITION FOR WORKPLACE  
VIOLENCE RESTRAINING ORDER**

Date: July 7, 2021  
Time: 8:30 a.m.  
Location: Gordon D. Schaber Courthouse  
720 9th Street  
Sacramento, CA 95814  
Department: 1  
Judge: TBD  
Petition Filed: June 16, 2021  
Trial Date: None

**FILED**  
**Superior Court Of California,**  
**Sacramento**  
**06/18/2021**  
**apenn**  
**By \_\_\_\_\_, Deputy**  
**Case Number:**  
**34-2021-70009184**

1 Pursuant to Local Rule 1.06 (A), the court will make a tentative ruling on the merits of  
2 this matter by 2:00 p.m., the court day before the hearing. The complete text of the  
3 tentative rulings for the department may be downloaded off the court's website. If the  
4 party does not have online access, they may call the dedicated phone number for the  
5 department as referenced in the local telephone directory between the hours of 2:00 p.m.  
6 and 4:00 p.m. on the court day before the hearing and receive the tentative ruling. If you  
7 do not call the court and the opposing party by 4:00 p.m. the court day before the hearing,  
8 no hearing will be held.

9 **NOTICE OF MOTION**

10 PLEASE TAKE NOTICE that, on July 7, 2021, at 8:30 a.m., in Department 1 of the Sacramento  
11 County Superior Court, Gordon D. Schaber Courthouse, 720 9th Street, Sacramento, CA 95814,  
12 Respondent Skyler Henry does and will move the Court for an order striking Petitioner City of  
13 Sacramento's Petition for Workplace Violence Restraining Order, pursuant to Cal. Code Civ. Proc. §  
14 425.16.

15 **SPECIAL MOTION TO STRIKE**

16 Respondent Skyler Henry makes this special motion to strike Petitioner City of Sacramento's  
17 Petition for Workplace Violence Restraining Order, and that entire petition, pursuant to Cal. Code Civ.  
18 Proc. § 425.16.

19 This motion is brought on the grounds that the petition falls within the scope of Cal. Code Civ.  
20 Proc. § 425.16 (*City of Los Angeles v. Animal Def. League* (2006) 135 Cal. App. 4th 606, 617), as an  
21 "action against a person arising from any act of that person in furtherance of the person's right of petition  
22 or free speech under the United States Constitution or the California Constitution in connection with a  
23 public issue..." (Cal. Code Civ. Proc. § 425.16(b)(1)).

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1           This motion is supported by this notice and motion and the attached memorandum, declarations,  
2 the pleadings and filings on the Court's docket in this action, and any other arguments or evidence which  
3 may be submitted in this matter.

4 Dated: June 18, 2021

Respectfully Submitted,



By: \_\_\_\_\_

5  
6  
7 Mark E. Merin  
8 Paul H. Masuhara  
9 LAW OFFICE OF MARK E. MERIN  
10 1010 F Street, Suite 300  
11 Sacramento, California 95814  
12 Telephone: (916) 443-6911  
13 Facsimile: (916) 447-8336

and

14 Brian S. Crone  
15 The Law Office Of Brian Crone  
16 1104 Corporate Way  
17 Sacramento, CA 95831  
18 Telephone: (916) 349-4005

19 Attorneys for Respondent  
20 SKYLER MICHEL-EVLETH  
21 a/k/a SKYLER HENRY  
22  
23  
24  
25  
26  
27  
28

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Paul H. Masuhara (State Bar No. 289805)  
2 LAW OFFICE OF MARK E. MERIN  
1010 F Street, Suite 300  
3 Sacramento, California 95814  
4 Telephone: (916) 443-6911  
Facsimile: (916) 447-8336  
5 E-Mail: mark@markmerin.com  
paul@markmerin.com  
6

7 BRIAN S. CRONE (State Bar No. 191731)  
The Law Office Of Brian Crone  
8 1104 Corporate Way  
Sacramento, CA 95831  
9 Telephone: (916) 395-4464  
E-mail: briancrone@cronelawoffice.com  
10

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

13 SUPERIOR COURT OF CALIFORNIA

14 COUNTY OF SACRAMENTO

15 CITY OF SACRAMENTO,

16 Petitioner,

17 vs.

18 SKYLER MICHEL-EVLETH a/k/a SKYLER  
HENRY,

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

**RESPONDENT'S MEMORANDUM  
IN SUPPORT OF SPECIAL MOTION  
TO STRIKE (SLAPP) PETITION  
FOR WORKPLACE VIOLENCE  
RESTRAINING ORDER**

Date: July 7, 2021  
Time: 8:30 a.m.  
Location: Gordon D. Schaber Courthouse  
720 9th Street  
Sacramento, CA 95814  
Department: 1  
Judge: TBD  
Petition Filed: June 16, 2021  
Trial Date: None

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1 **I. INTRODUCTION**

2 Pursuant to the Anti-SLAPP Act, Cal. Code Civ. Proc. § 425.16, Respondent Skyler Michael-  
3 Evleth a/k/a Skyler Henry submits the following memorandum in support of his special motion to strike  
4 Petitioner City of Sacramento’s Petition for Workplace Violence Restraining Order.

5 In a direct and unprecedented attack on the ability of Sacramento City Councilmember Katie  
6 Valenzuela to represent her district constituency, the City of Sacramento seeks to restrain  
7 Councilmember Valenzuela’s newest staff member, Skyler Henry, from coming within 100 yards of City  
8 Hall or the City Manager’s home, children or vehicle. In an attempt to justify the need for a restraining  
9 order, the City relies on a “threat assessment” commissioned from the Sacramento Police Department.  
10 The “threat assessment” cites no instance where Mr. Henry engaged in any violence, endorsed violence,  
11 threatened violence, or even approved violence. Instead, openly advancing a guilt-by-association  
12 analysis, the “threat assessment” references Antifa protests (as if the protests or the loose organization  
13 itself were illegal), and attempts to place Mr. Henry at or near the site where protests took place and  
14 thereby to intimate his participation—a totally protected right!

15 Perceived as most incriminating to the “threat assessment” authors—police department members  
16 who have no demonstrated expertise in assessing the violent potential of individuals—is Mr. Henry’s  
17 alleged “support” for Joshua Fernandez, an individual merely ACCUSED and PRESUMED INNOCENT  
18 of assaulting two persons participating in a White Lives Matter event. But even if in a melee involving  
19 anti-fascists and white supremacists criminal assaults occurred, support for one charged in that matter  
20 does not translate to a credible threat against the City Manager. What is clearly most disturbing to the  
21 City Manager is that an articulate podcast critic of his failure to open warming centers for unhoused as  
22 they died on the streets, his refusal to dismiss police officers who killed Stephon Clark, and his  
23 prioritizing of lavish police funding over social services should be on the staff of a City councilmember  
24 and working in the same building as he.

25 But a workplace violence restraining order is not a device to purge the work environment of  
26 political diversity and disagreement; rather, it is a procedure by which the objects of “credible threats” of  
27 violence may be protected at their workplace. There has been no such credible threat shown here. Rather,  
28 the petition is a political ploy, pure and simple. It is a composite of baseless, inflammatory allegations,



1 dated excerpts from tweets and re-tweets of purely protected political speech, and was filed to intimidate  
2 Councilmember Valenzuela from continuing her forceful and effective advocacy on the City Council of  
3 views she was elected to advance.

4 Accordingly, the City’s petition must be stricken because it is nothing more than a strategic  
5 lawsuit against public participation (“SLAPP”).

6 **II. STATEMENT OF RELEVANT FACTS**

7 **A. THE FACTS GIVING RISE TO THE ACTION**

8 Respondent Skyler Michel-Evleth a/k/a Skyler Henry is a resident of the City of Sacramento who  
9 appears on a local podcast, “Voices: River City” (<<https://voicesrivercity.com/>>), which seeks to “uplift  
10 the voices and work of people and groups,” typically struggling, marginalized, and underserved  
11 communities. (Declaration of Skyler Henry [“Henry Decl.”] ¶ 4.) Additionally, the podcast also provides  
12 local news commentary with “a sense of humor.” (*Id.*) Mr. Henry has on occasion expressed frustration  
13 based on his speaking with “an endless number of people who feel desperate and unrepresented” and  
14 “continue to struggle.” (*Id.* ¶ 5.) In particular, Mr. Henry has expressed criticism of Sacramento law  
15 enforcement and its propensity for violence, based on his personal experiences. (*Id.* ¶ 6.) Mr. Henry has  
16 “not been a participant in, or any kind of planner or collaborator in actions that have led to looting,  
17 rioting, vandalism, or any harm perpetrated against anyone at any time.” (*Id.* ¶ 7.) Mr. Henry never  
18 participated in any protest that occurred at the City Manager’s house. (*Id.* ¶ 9.)

19 Recently, Sacramento City Councilmember Katie Valenzuela, District 4, determined that she  
20 required an additional staff member “to prepare and promote digital communications and serve  
21 constituents” in her district. (Declaration of Katie Valenzuela [“Valenzuela Decl.”] ¶ 3.) Councilmember  
22 Valenzuela received approximately 80 applicants for the position but, ultimately, hired Mr. Henry  
23 because he was the most qualified applicant. (*Id.*) Beyond Mr. Henry’s technical qualifications,  
24 Councilmember Valenzuela sought to work with Mr. Henry because of his values, energy, and passion  
25 for District 4. (*Id.* ¶ 4.)

26 Councilmember Valenzuela submitted Mr. Henry’s information to the City for a background  
27 check which came back “clear” and Mr. Henry received a conditional offer of employment with a start  
28 date on June 19, 2021. (*Id.* ¶ 5.) Thereafter, Councilmember Valenzuela announced Mr. Henry’s hiring

1 on Facebook. (*Id.*) Two days later, an article was published in an online blog, “California Globe,”  
2 containing a misquote of Mr. Henry from his podcast, Voices: River City, that had been published weeks  
3 earlier in The Los Angeles Times. (*Id.*) A day or two later, Fox News and The Sacramento Bee published  
4 similar articles. (*Id.*) The articles report that Mr. Henry made the following statements on the podcast in  
5 March 2021, during a discussion about Senator Kyrsten Sinema’s exaggerated “thumbs down” vote  
6 against the proposed \$15 minimum wage:

7       You should be terrified for the rest of your life. You should never be able to leave your  
8 house if that is how you’re going to use your position to govern. And like, to me, the same  
9 thing sort of applies with the mayor and the city manager of this city (Sacramento). It’s  
10 like no, no, no, you don’t get to do that. You do not get to make the decisions that you  
11 have made over and over and over again to the detriment of everybody who lives here and  
then go home to your little f----- little McMansion in Natomas and like have a good  
night’s rest. I’m sorry, you don’t get to do that. You do not have a right to that. Absolutely  
not.

12 (Petition @ Declaration of Howard Chan [“Chan Decl.”], Ex. 3 & 4; *see also* Valenzuela Decl. ¶ 5.) The  
13 “point” of Mr. Henry’s comments were that “our leaders should operate with a sense of accountability to  
14 the people they are representing.” (Henry Decl. ¶ 9.)

15       A constituent of Councilmember Valenzuela sent her an e-mail about the articles, copying Mayor  
16 Darrell Steinberg and City Manager Howard Chan on the message. (Valenzuela Decl. ¶ 5.) Mayor  
17 Steinberg and City Manager Chan both replied to the constituent’s e-mail stating that they were  
18 disappointed by Mr. Henry’s hiring. (*Id.*) Later, within hours of the announcement of Mr. Henry’s hiring,  
19 Mayor Steinberg and City Manager Chan both began to claim there were “city staff concerns” about Mr.  
20 Henry’s presence at City Hall. (*Id.* ¶ 6.) City Manager Chan and Councilmember Valenzuela met to  
21 discuss Mr. Henry’s hiring. (*Id.*) During the meeting, City Manager Chan stated that he would explore  
22 placing additional locks on the doors of certain staff and that he might ask that Mr. Henry run any  
23 department requests through his office, until a “threat assessment” could be conducted. (*Id.*) Later,  
24 Mayor Steinberg offered to meet with Councilmember Valenzuela, Mr. Henry, and City Manager Chan  
25 to address the situation, and all parties agreed to the meeting. (*Id.*)

26       Prior to the scheduled meeting, City Manager Chan forwarded a message from his wife, Emily  
27 Chan, to the entire City Council. (*Id.* ¶ 7.) Therein, Mrs. Chan expressed fear of Mr. Henry and asked  
28 that Councilmember Valenzuela not bring him into City Hall. (*Id.*) Councilmember Valenzuela

1 responded to City Manager Chan, stating that the message was not appropriate. (*Id.*) City Manager Chan  
2 responded, stating: “I’m not trying to pressure you to change your mind otherwise I would not have gone  
3 to dinner with you last [night] to try to make this work.” (*Id.*)

4 On June 9, 2021, Councilmember Valenzuela, Mr. Henry, and Mayor Steinberg met at City Hall,  
5 as planned. (Henry Decl. ¶ 11; Valenzuela Decl. ¶ 8.) Mayor Steinberg stated that City Manager Chan  
6 would not be attending the meeting. (*Id.*) There was no visible security or law enforcement present at the  
7 meeting. (*Id.*) Mayor Steinberg asked Mr. Henry about his statements from the podcast. (*Id.*) Mr. Henry  
8 explained that his statements were directed primarily towards federal elected officials, like Senator  
9 Sinema, who he felt should be accountable for their actions. (*Id.*) Mr. Henry shared a letter he wrote to  
10 Mayor Steinberg in which he expressed a strong condemnation of violence and a desire to make a  
11 difference in his community and serve at City Hall. (Henry Decl. ¶ 11; Valenzuela Decl. ¶ 9.) Mayor  
12 Steinberg read the letter and stated that it was “80% of the way there.” (*Id.*) Mayor Steinberg asked Mr.  
13 Henry if he felt the same way about property crime as he did about physical violence. (*Id.*) Mr. Henry  
14 responded that he did not feel the same way about property crime as he did about physical violence. (*Id.*)  
15 Mayor Steinberg became visibly upset, raised his voice, and spoke strongly for several minutes about a  
16 recent experience where protestors caused property damage at his home. (Valenzuela Decl. ¶ 9.)  
17 Councilmember Valenzuela stated that Mr. Henry did not participate in or organize the protest but Mayor  
18 Steinberg responded that it did not matter. (*Id.*) Mayor Steinberg stated that was willing to give Mr.  
19 Henry a chance and that he wasn’t afraid of him but he could not help Mr. Henry unless he agreed that  
20 property damage incidents, like that which had occurred at his home, were wrong. (Henry Decl. ¶ 11;  
21 Valenzuela Decl. ¶ 9.)

22 A couple of days later, City Attorney Susana Alcala Wood informed Councilmember Valenzuela  
23 that her office would seek authorization from the City Council to file an action for a temporary  
24 restraining order preventing Mr. Henry from entering City Hall. (Valenzuela Decl. ¶ 10.) City Attorney  
25 Wood stated that a “threat assessment” was performed, which determined Mr. Henry posed a “credible  
26 threat to safety.” (*Id.*) City Attorney Wood stated that the determination was supported by City Manager  
27 Chan’s declaration expressing his fear of the verbal comment that had been quoted in the press. (*Id.*) City  
28 Attorney Wood stated that the assessment revealed Mr. Henry had a legal permit for a firearm and that

1 Mr. Henry's statements were taken seriously because he possessed a firearm. (*Id.*) City Attorney Wood  
2 admonished Councilmember Valenzuela for attempting to dispel City Manager Chan's fear of Mr. Henry  
3 and advised her to cease all communication on this topic with City Manager Chan. (*Id.*)

4 Later, Councilmember Valenzuela published a statement online addressing concerns about Mr.  
5 Henry that had been expressed. (*Id.* ¶ 11.) Within minutes of the statement being posted, City Attorney  
6 Wood texted all members of the City Council and admonished Councilmember Valenzuela for  
7 publishing the statement. (*Id.* ¶ 12.) Councilmember Valenzuela has offered repeatedly to explore  
8 mediation or reasonable accommodations for City staff who may fear Mr. Henry but has been rebuffed  
9 by City Attorney Wood. (*Id.* ¶ 12.)

10 The City's accusation that Mr. Henry previously presented or currently presents a "credible  
11 threat" to City Manager Chan, or to any other City employees, is false. (Henry Decl. ¶¶ 6, 7, 10, 11;  
12 Valenzuela Decl. ¶ 13; Declaration of Ruth Ibarra ["Ibarra Decl.,"] ¶¶ 3, 7; Declaration of Chelsea Fink  
13 ["Fink Decl.,"] ¶ 3.) Mr. Henry has been inside of City Hall on prior occasions, including in the weeks  
14 following his podcast statements, and at no time did he say or do anything to indicate he wished harm or  
15 violence on anyone at City Hall. (Valenzuela Decl. ¶ 11.) The City's petition is a political ploy.  
16 (Valenzuela Decl. ¶¶ 13-17; Ibarra Decl. ¶¶ 4-6; Fink Decl. ¶¶ 4-8.)

## 17 **B. THE PROCEDURAL HISTORY OF THE ACTION**

18 On June 16, 2021, Petitioner City of Sacramento ("City") filed the instant Petition for Workplace  
19 Violence Restraining Order against Respondent Skyler Michel-Evleth a/k/a Skyler Henry ("Henry"). At  
20 the same time, the City filed an *ex parte* application for temporary restraining order against Mr. Henry.  
21 (Register of Actions ["ROA"] #1.)

22 Later, on June 16, 2021, the Court denied the City's *ex parte* application for temporary restraining  
23 order in a written decision. (ROA #6 ["Order"].)

## 24 **III. ARGUMENT**

25 Section 527.8 of the California Code of Civil Procedure, the "Workplace Violence Safety Act," is  
26 "subject to motions to strike under section 425.16." (*City of Los Angeles v. Animal Def. League* (2006)  
27 135 Cal. App. 4th 606, 617.)

28 Section 425.16 of the California Code of Civil Procedure, California's "Anti-SLAPP Act,"

1 provides a procedure for striking “strategic lawsuit against public participation.” (*Paterno v. Superior*  
2 *Court* (2008) 163 Cal. App. 4th 1342, 1345 n.1.) The Anti-SLAPP Act was enacted to address “a  
3 disturbing increase in lawsuits brought primarily to chill the valid exercise of the constitutional rights of  
4 freedom of speech and petition for the redress of grievances.” (Cal. Code Civ. Proc. § 425.16(a).) The  
5 Anti-SLAPP Act “shall be construed broadly” (*id.*)—a legislative directive “expressed in unambiguous  
6 terms” (*Briggs v. Eden Council for Hope & Opportunity* (1999) 19 Cal. 4th 1106, 1119). “In enacting the  
7 anti-SLAPP statute, the Legislature set up a mechanism through which complaints that arise from the  
8 exercise of free speech rights can be evaluated at an early stage of the litigation process and resolved  
9 expeditiously.” (*Simmons v. Allstate Ins. Co.* (2001) 92 Cal. App. 4th 1068, 1073 [internal citations  
10 omitted].) The Anti-SLAPP Act affords a “right *not* to be dragged through the courts because you  
11 exercised your constitutional rights.” (*People ex rel. Lockyer v. Brar* (2004) 115 Cal. App. 4th 1315,  
12 1317.)

13 “Resolution of an anti-SLAPP Motion requires a court to engage in a two-step process.” (*Jarrow*  
14 *Formulas, Inc. v. LaMarche* (2003) 31 Cal. 4th 728, 733.) “First, the court decides whether the defendant  
15 has made a threshold showing that the challenged cause of action is one arising from protected  
16 activity”—*i.e.*, speech or petitioning. (*Id.*) If the first step is satisfied, second, the court “determines  
17 whether the plaintiff has demonstrated a probability of prevailing on the claim.” (*Id.*) The second step  
18 imposes two burdens: “the plaintiff must demonstrate that the complaint is both legally sufficient and  
19 supported by a sufficient prima facie showing of facts to sustain a favorable judgment if the evidence  
20 submitted by the plaintiff is credited.” (*Wilson v. Parker, Covert & Chidester* (2002) 28 Cal. 4th 811,  
21 821.) Anti-SLAPP motions “operate like a demurrer or motion for summary judgment in reverse.”  
22 (*Briggs*, 19 Cal. 4th at 1123 [internal quotation marks omitted].) At the second step, the plaintiff “must  
23 produce evidence that would be admissible at trial.” (*Finton Construction, Inc. v. Bidna & Keys, APLC*  
24 (2015) 238 Cal. App. 4th 200, 211.) A court “must rely on admissible evidence, not merely allegations in  
25 the complaint or conclusory statements by counsel.” (*Id.* at 213.)

#### 26 **A. STEP ONE: RESPONDENT’S PROTECTED ACTIVITY**

27 At the first step, Mr. Henry carries the burden of demonstrating that the petition arises from his  
28 protected “right of petition or free speech under the United States Constitution or the California

1 Constitution in connection with a public issue...” (Cal. Code Civ. Proc. § 425.16(b)(1).) The Anti-  
2 SLAPP state identifies four categories of protected activity. (Cal. Code Civ. Proc. § 425.16(e).) “A  
3 defendant can meet the burden of making a threshold showing that a cause of action is one arising from  
4 protected activity by demonstrating the act underlying the plaintiff’s cause of action falls within one of  
5 the four categories identified in section 425.16, subdivision (e).” (*Cabrera v. Alam* (2011) 197 Cal. App.  
6 4th 1077, 1086.) In this case, Mr. Henry’s speech implicates both the third and fourth categories  
7 identified in section 425.16, subdivision (e).

8 **1. “Issue of Public Interest”**

9 The third category identified in section 425.16, subdivision (e), concerns: “any written or oral  
10 statement or writing made in a place open to the public or a public forum in connection with an issue of  
11 public interest[.]” (Cal. Code Civ. Proc. § 425.16(e)(3).)

12 **a. Public Forum**

13 “A ‘public forum’ is traditionally defined as a place that is open to the public where information  
14 is freely exchanged.” (*Damon v. Ocean Hills Journalism Club* (2000) 85 Cal. App. 4th 468, 475 [citing  
15 *Clark v. Burleigh* (1992) 4 Cal. 4th 474, 482].)

16 In this case, the petition arises from Mr. Henry’s speech made during podcasts which were  
17 published on the “Voices: River City” website (<<https://voicesrivercity.com/>>). (Chan Decl., Ex. 3 & 4.)  
18 “Web sites accessible to the public ... are ‘public forums’ for purposes of the anti-SLAPP statute.”  
19 (*Barrett v. Rosenthal* (2006) 40 Cal. 4th 33, 41; *Wilbanks v. Wolk* (2004) 121 Cal. App. 4th 883, 895  
20 “[Defendant]’s statements are published in her Web site on the Internet, meaning that they are accessible  
21 to anyone who chooses to visit her Web site. As a result, her statements hardly could be more public.”.)

22 **b. Public Issue**

23 “In articulating what constitutes a matter of public interest, courts look to certain specific  
24 considerations, such as whether the subject of the speech or activity was a person or entity in the public  
25 eye or could affect large numbers of people beyond the direct participants; and whether the activity  
26 occurred in the context of an ongoing controversy, dispute or discussion or affected a community in a  
27 manner similar to that of a governmental entity.” (*FilmOn.com Inc. v. DoubleVerify Inc.* (2019) 7 Cal.  
28 5th 133, 145-46 [internal quotation marks, citations & alterations omitted]; *Albanese v. Menounos* (2013)

1 218 Cal. App. 4th 923, 934.) For example, “[d]emonstrations, leafleting and publication of articles on the  
2 Internet to criticize government policy ... constitute a classic exercise of the constitutional rights of  
3 petition and free speech in connection with a public issue or an issue of public interest...” (*City of Los*  
4 *Angeles*, 135 Cal. App. 4th at 620-21 [collecting cases].)

5 In this case, the petition arises from Mr. Henry’s speech on the Voices: River City podcast, in the  
6 context of a discussion concerning Senator Kyrsten Sinema’s exaggerated “thumbs down” vote against a  
7 proposed \$15 minimum wage, wherein he stated:

8 You should be terrified for the rest of your life. You should never be able to leave your  
9 house if that is how you’re going to use your position to govern. And like, to me, the same  
10 thing sort of applies with the mayor and the city manager of this city (Sacramento). It’s  
11 like no, no, no, you don’t get to do that. You do not get to make the decisions that you  
12 have made over and over and over again to the detriment of everybody who lives here and  
then go home to your little f----- little McMansion in Natomas and like have a good  
night’s rest. I’m sorry, you don’t get to do that. You do not have a right to that. Absolutely  
not.

13 (Chan Decl., Ex. 3 & 4.)<sup>1</sup>

14 “Criticism of those responsible for government operations must be free, lest criticism of  
15 government itself be penalized.” (*Rosenblatt v. Baer* (1966) 383 U.S. 75, 85.) “The right to speak on  
16 political matters is the quintessential subject of our constitutional protections of the right of free speech.”  
17 (*Matson v. Dvorak* (1995) 40 Cal. App. 4th 539, 548.) “The right of criticism rests upon public policy  
18 and those who seek office should not be supersensitive or too thin-skinned concerning criticism of their  
19 qualifications.” (*Yorty v. Chandler* (1970) 13 Cal. App. 3d 467, 473 [internal quotation marks omitted];  
20 *Issa v. Applegate* (2019) 31 Cal. App. 5th 689, 704 [“Harry Truman cautioned would-be solons with sage  
21 advice about the heat in the kitchen.”].) “Public discussion about the qualifications of those who hold or  
22

23 <sup>1</sup> The City’s petition includes a “threat assessment” conducted by the Sacramento Police Department  
24 which references, *inter alia*, various “tweets” made by Mr. Henry on Twitter with his handle,  
@guillotine4you (<<https://twitter.com/guillotine4you>>). (Petition @ Declaration of Kristine Morse.)  
25 First, the “threat assessment” is not evidence that would be admissible at trial and, thus, the City cannot  
26 rely upon it. (*Finton Construction, Inc.*, 238 Cal. App. 4th at 211.) Second, the City’s petition does not  
27 “arise from” this speech, where City Manager Chan does not identify Mr. Henry’s tweets as threatening  
28 or the basis for the need for a restraining order. Rather, City Manager Chan refers solely to Mr. Henry’s  
comment on the podcast concerning Senator Sinema. (Chan Decl. ¶ 8, Ex. 3 & 4; *see also* Valenzuela  
Decl. ¶¶ 5-7.) Similarly, the Court’s Order denying TRO did not reference or analyze any of Mr. Henry’s  
tweets as threatening behavior. (Order at 4-5.)

1 who wish to hold positions of public trust presents the strongest possible case for applications of the  
2 safeguards afforded by the First Amendment.” (*Aisenson v. Am. Broad. Co.* (1990) 220 Cal. App. 3d 146,  
3 154.) For example, criticism of a public official’s “character and fitness for public office” are “public  
4 issue or an issue of public interest.” (*Vogel v. Felice* (2005) 127 Cal. App. 4th 1006, 1015-16 [collecting  
5 cases].)

6 As the Court noted in its Order denying TRO, Mr. Henry’s comments “were expressly targeted at  
7 Senator Sinema, with the addition that the same thing ‘sort of’ applies to Mayor Steinberg and City  
8 Manager Chan.” (Order at 5.) Further, as explained by Mr. Henry:

9 A lot of attention has been paid to a specific statement I made on V:RC in which I am  
10 quoted as saying that leaders who use their positions to govern in a way that is detrimental  
11 to their constituents should be terrified to leave their houses and are not entitled to restful  
12 sleep. It is worth noting that that conversation was happening around a protest that took  
13 place during the pandemic, when protesting at City Hall would have been useless and  
14 gone unheard because no one was working there. It is also worth noting that the sentiment  
15 was directed primarily at national level figures such as United States Senator Kyrsten  
16 Sinema. In re-listening to the references to Sacramento’s Mayor and City Manager, I  
17 should note they were added as an afterthought. [¶] My point, perhaps clumsily made, is  
18 that our leaders should operate with a sense of accountability to the people they are  
19 representing.

20 (Henry Decl. ¶¶ 8-9.)

## 21 2. “Public Issue or An Issue of Public Interest”

22 The fourth category identified in section 425.16, subdivision (e), concerns: “any other conduct in  
23 furtherance of the exercise of the constitutional right of petition or the constitutional right of free speech  
24 in connection with a public issue or an issue of public interest.” (Cal. Code Civ. Proc. § 425.16(e)(4).)

25 As discussed above with respect to section 425.16(e)(3), Mr. Henry’s speech implicated a “public  
26 issue or an issue of public interest.” (*See, e.g., Vogel*, 127 Cal. App. 4th at 1015-16.) For the same  
27 reasons, it satisfies section 425.16, subdivision (e)(4). (*See Wilbanks*, 121 Cal. App. 4th at 897-98;  
28 *Bernstein v. LaBeouf* (2019) 43 Cal. App. 5th 15, 23 n.5 [applying the “same analysis”].)

## 29 B. STEP TWO: PETITIONER’S PROBABILITY OF PREVAILING ON THE MERITS

30 At the second step, the burden shifts to the City to demonstrate “a probability that [it] will  
31 prevail” on the merits of its petition against Mr. Henry. (Cal. Code Civ. Proc. § 425.16(b)(1).) In this  
32 case, the City seeks relief under the “Workplace Violence Safety Act,” section 527.8 of the California



1 Code of Civil Procedure, which “enables an employer to seek an injunction to prevent violence or  
2 threatened violence against its employees.” (*City of San Jose v. Garbett* (2010) 190 Cal. App. 4th 526,  
3 536.) “To obtain injunctive relief under section 527.8 an employer must [(1)] prove its employee has  
4 suffered unlawful violence or a credible threat of violence from an individual that can reasonably be  
5 construed to have occurred in the workplace”; and (2) “demonstrate by clear and convincing evidence  
6 that it is reasonably likely such unlawful violence may occur in the future absent a restraining order.”  
7 (*City of Los Angeles*, 135 Cal. App. 4th at 615.) Accordingly, “[t]he relevant question for this court is  
8 whether the City proved the elements of the statute.” (*City of San Jose*, 190 Cal. App. 4th at 537.)

9 **1. Protected Speech**

10 Under section 527.8, “a court [may not] issue a temporary restraining order or order after hearing  
11 prohibiting speech or other activities that are constitutionally protected, or otherwise protected by Section  
12 527.3 or any other provision of law.” (Cal. Code Civ. Proc. § 527.8(c).)

13 The City cannot demonstrate a probability of prevailing on the merits because its petition arises  
14 from Mr. Henry’s speech which constitutionally protected, including under the First Amendment to the  
15 U.S. Constitution and Article I, Sections 2 and 3 of the California Constitution.<sup>2</sup> As noted above,  
16 “[p]ublic discussion about the qualifications of those who hold or who wish to hold positions of public  
17 trust presents the strongest possible case for applications of the safeguards afforded by the First  
18 Amendment.” (*Aisenson*, 220 Cal. App. 3d at 154.) As the Court’s Order denying TRO observed, the  
19 City’s petition presents “obvious First Amendment concerns.” (Order at 6.)

20 In any event, “[t]he Legislature did not intend that in order to invoke the special motion to strike  
21 the [respondent] must first establish [his or] her actions are constitutionally protected under the First  
22 Amendment as a matter of law.” (*City of Los Angeles*, 135 Cal. App. 4th at 621 [quotation marks  
23 omitted].)

24 **2. Credible Threat**

25 “[U]nder section 527.8, the City must establish by clear and convincing evidence that [Mr.  
26

27 <sup>2</sup> “[T]he right to free speech under the California Constitution is in some respects broader and greater  
28 than under the First Amendment.” (*Gerawan Farming, Inc. v. Kawamura* (2004) 33 Cal. 4th 1, 21  
[internal quotation marks omitted].)

1 Henry] made a credible threat of violence against [City Manager Chan] that could reasonably be  
2 construed to occur (or to have occurred) in the workplace and that it is reasonably likely unlawful  
3 violence may occur in the future in the absence of the requested restraining order.” (*City of Los Angeles*,  
4 135 Cal. App. 4th at 625.) A “credible threat of violence” is defined as “a knowing and willful statement  
5 or course of conduct that would place a reasonable person in fear for his or her safety, or the safety of his  
6 or her immediate family, and that serves no legitimate purpose.” (Cal. Code Civ. Proc. § 527.8(b)(2).) “A  
7 true threat occurs when a reasonable person would foresee that the threat would be interpreted as a  
8 serious expression of intention to inflict bodily harm.” (*City of San Jose*, 190 Cal. App. 4th at 539  
9 [quotation marks omitted].)

10 In this case, “nothing in that testimony or the exhibits submitted on [City Manager Chan’s] behalf  
11 in any way suggests violence will occur at [his] workplace, an essential requirement for an injunction  
12 under section 527.8.” (*City of Los Angeles*, 135 Cal. App. 4th at 625-26.) As the Court’s Order denying  
13 TRO observed:

14 As to the March 2021 statements in the podcast (“You should be terrified for the rest of  
15 your life”/“You should never be able to leave your house if that is how you’re going to  
16 use your position to govern”), they were expressly targeted at Senator Sinema, with the  
17 addition that the same thing “sort of” applies to Mayor Steinberg and City Manager Chan.  
18 While such statements are also not condonable, from a legal perspective the Supreme  
19 Court “explicitly distinguished between political hyperbole, which is protected, and true  
20 threats, which are not.” (*Planned Parenthood of the Columbia/Willamette, Inc. v. Am.*  
*Coalition of Life Activists* ([9th Cir.] 2002) 290 F.3d 1058, 1072.)

19 (Order at 5.)<sup>3</sup>

20 Additionally, it is “not only the words” that matter “but also circumstances surrounding its  
21 submission” (*City of San Jose*, 190 Cal. App. 4th at 541-42), where “context is critical in a true threats  
22 case and history can give meaning to the medium” (*Huntingdon Life Scis., Inc. v. Stop Huntingdon*

23 \_\_\_\_\_  
24 <sup>3</sup> The Court’s Order also refers to a protest occurring outside of City Manager Chan’s home on July 22,  
25 2020, where “protestors pounded on his door and caused damage to his garage door and yard.” (Order at  
26 4.) The Court found the protest to be “the most concerning incident” identified because “[t]he police  
27 report attached to the petition states the City Manager Chan confirmed that Respondent was one of the  
28 protestors that entered his property and pounded on his door.” (*Id.*) Respectfully, the Court is mistaken  
and there is no such evidence in the record. Rather, the petition contains a police report stating that City  
Manager Chan “recognized the sound of the guy’s voice as Brazy Liberty” (Chan Decl., Ex. 1 at 5)—not  
Mr. Henry. In fact, Mr. Henry has “never participated in any protests that took place at [City Manager]  
Chan’s house.” (Henry Decl. ¶ 9.) The City has not, and cannot, produce any evidence otherwise.

1 *Animal Cruelty USA, Inc.* (2005) 129 Cal. App. 4th 1228, 1250 [quotation marks omitted]). For example,  
2 a court may consider whether there exists a “history of animosity or conflict” between the respondent and  
3 the employee, “threatening gestures or mannerisms accompan[ied]” the speech, and the “immediate  
4 prospect that any threat would be carried out.” (*City of San Jose*, 190 Cal. App. 4th at 542 [citing *In re*  
5 *George T.* (2004) 33 Cal. 4th 620, 636].) Again, the City has not, and cannot, produce any such evidence.  
6 City Manager Chan’s declaration indicates that he only learned of Mr. Henry’s comments *after* Mr.  
7 Henry’s comments were publicized in other publications. (Chan Decl., Ex. 3 & Ex. 4.)

8 The City fails to recognize that criticism of public officials in this country is not a “credible  
9 threat” but, rather, a constitutionally protected right. “The right of criticism rests upon public policy and  
10 those who seek office should not be supersensitive or too thin-skinned concerning criticism of their  
11 qualifications.” (*Yorty*, 13 Cal. App. 3d at 473.)

### 12 3. Future Harm

13 “[U]nder section 527.8, the City must establish by clear and convincing evidence ... that it is  
14 reasonably likely unlawful violence may occur in the future in the absence of the requested restraining  
15 order.” (*City of Los Angeles*, 135 Cal. App. 4th at 625.) “[T]he course of conduct must be ongoing at the  
16 time the injunction is sought, as a single incident of harassment does not constitute a course of conduct  
17 entitling the applicant to injunctive relief.” (*Scripps Health v. Marin* (1999) 72 Cal. App. 4th 324, 333.)

18 Even if the City could demonstrate that Mr. Henry’s speech was not constitutionally protected  
19 and that he had made a “credible threat” against City Manager Chan in the past (which it cannot, for  
20 reasons explained above), its petition would nonetheless fail for lack of an ongoing, future harm. The  
21 Court’s Order denying TRO observed that the City’s evidence “actually undercut its own position,”  
22 where, for example:

23 Mayor Steinberg testified he met with [Mr. Henry] last week and that [Mr. Henry] stated  
24 to him that he “opposes physical violence against any person.” Moreover, no evidence  
25 was presented that [Mr. Henry] has ever physically harmed any person, including the  
26 other persons mentioned in his statements such as Senator Sinema and Mayor Steinberg.  
27 Indeed, Mayor Steinberg testified he met with [Mr. Henry] in person (apparently without  
incident) although Mayor Steinberg was also named in the March 2021 podcast along with  
Chan.

28 (Order at 5-6; *see also* Henry Decl. ¶¶ 6, 7, 10, 11; Valenzuela Decl. ¶¶ 11, 13.)

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**IV. CONCLUSION**

For the reasons stated, the Court should grant the special motion to strike as follows: (1) Petitioner City of Sacramento's petition for workplace violence restraining order should be stricken, pursuant to section 425.16(b)(1); and (2) Respondent Skyler Henry should be permitted to file a motion for attorney's fees and costs, pursuant to section 425.16(c)(1).

Dated: June 18, 2021

Respectfully Submitted,

By: \_\_\_\_\_

Mark E. Merin  
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

and

Brian S. Crone  
The Law Office Of Brian Crone  
1104 Corporate Way  
Sacramento, CA 95831  
Telephone: (916) 349-4005

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

1 Mark E. Merin (State Bar No. 043849)  
Paul H. Masuhara (State Bar No. 289805)  
2 LAW OFFICE OF MARK E. MERIN  
1010 F Street, Suite 300  
3 Sacramento, California 95814  
4 Telephone: (916) 443-6911  
Facsimile: (916) 447-8336  
5 E-Mail: mark@markmerin.com  
paul@markmerin.com  
6

7 BRIAN S. CRONE (State Bar No. 191731)  
The Law Office Of Brian Crone  
8 1104 Corporate Way  
Sacramento, CA 95831  
9 Telephone: (916) 395-4464  
E-mail: briancrone@cronelawoffice.com  
10

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

13 SUPERIOR COURT OF CALIFORNIA

14 COUNTY OF SACRAMENTO

15 CITY OF SACRAMENTO,  
16 Petitioner,

17 vs.

18 SKYLER MICHEL-EVLETH a/k/a SKYLER  
HENRY,  
19

20 Respondent.

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

**DECLARATION OF SKYLER HENRY**

21 I, Skyler Michel-Evleth a/k/a Skyler Henry, do declare and say:

- 22 1. I have read the exhibits submitted in support of the City of Sacramento's Petition for a  
23 Workplace Violence Restraining Order and make this declaration in response thereto.
- 24 2. The document prepared by the Sacramento Police Department notes my past statements  
25 and tweets and attempts to paint me as someone who celebrates violence. The reality of the situation and  
26 my beliefs are actually completely contrary to that notion. In fact, my interest in working within City  
27 government in the first place is grounded primarily in my desire to do what I can to decrease and combat  
28 harm in all of its forms, citywide.

1           3.       First I would like to address my work with Voices: River City (“V:RC”), the podcast from  
2 which I am so extensively quoted by the members of the Sacramento Police Department (“SPD”) in the  
3 “threat assessment” they prepared at the request of the City Attorney.

4           4.       V:RC is a podcast that seeks to uplift the voices and work of people and groups for whom  
5 our platform is useful, typically mostly working with communities that are struggling or marginalized to  
6 uplift and elevate their experiences in an attempt to validate and serve them and their needs. We work to  
7 shine a light on issues that go unnoticed by many in our city, and to provide a source of catharsis for  
8 those who live with those issues on a daily basis and often feel uncared for and underserved by the City.  
9 In addition to these goals, we also provide local news commentary and try to have a sense of humor  
10 about things while we’re doing it.

11          5.       If my comments and tweets read as if I’m frustrated, I am. I work with and speak to an  
12 endless number of people who feel desperate and unrepresented, and watching them continue to struggle  
13 so hard in constant obscurity is frustrating to me. Beyond that, the current trajectory the City is on in  
14 regards to housing and other issues appears to be unsustainable by any realistic assessment and the future  
15 of the City feels unsure and frankly, dangerous. My work, comments, and statements are in service of  
16 creating a more sustainable path forward for Sacramento, towards widespread prosperity rather than  
17 constant unrest and discontent.

18          6.       Many of the tweets that were found objectionable by SPD centered around my criticism of  
19 Sacramento law enforcement. It is my understanding, and also my experience from attending numerous  
20 protests, that much of the violence committed against Sacramentans is perpetrated by the police  
21 themselves. These comments, statements, and critiques of law enforcement are intended to *reduce*  
22 violence, not incite or endorse it.

23          7.       The petition mentions Antifa (persons who identify themselves as “anti-fascist”) several  
24 times and makes attempts to tie me to protest groups. Let me state unequivocally: I have not been a  
25 participant in, or any kind of planner or collaborator in actions that have led to looting, rioting,  
26 vandalism, or any harm perpetrated against anyone at any time. I do, however, believe in and practice  
27 anti-fascism and anti-racism, and work to those ends to uplift marginalized and vulnerable people  
28 through communication and messaging, as well as providing mutual aid efforts such as distribution of

1 food and cold water whenever I can.

2 8. A lot of attention has been paid to a specific statement I made on V:RC in which I am  
3 quoted as saying that leaders who use their positions to govern in a way that is detrimental to their  
4 constituents should be terrified to leave their houses and are not entitled to restful sleep. It is worth noting  
5 that that conversation was happening around a protest that took place during the pandemic, when  
6 protesting at City Hall would have been useless and gone unheard because no one was working there. It  
7 is also worth noting that the sentiment was directed primarily at national level figures such as United  
8 States Senator Kyrsten Sinema. In re-listening to the references to Sacramento's Mayor and City  
9 Manager, I should note they were added as an afterthought.

10 9. My point, perhaps clumsily made, is that our leaders should operate with a sense of  
11 accountability to the people they are representing. I am thankful that the protest at City Manager Howard  
12 Chan's house was a peaceful affair in which no one was harmed. I never participated in any protests that  
13 took place at Mr. Chan's house. I am also dedicated to working towards a version of Sacramento in  
14 which Sacramento citizens do not feel compelled or inspired to go to anyone's house and protest for any  
15 reason.

16 10. The petition notes my Twitter handle, which is @guillotine4you, as a suggestion that I am  
17 a proponent of violence. The guillotine imagery is intended to be tongue in cheek and satirical. In a way,  
18 however, it can also be used as a metaphor for societal failure and social breakdown, outcomes that I am  
19 passionate about avoiding in Sacramento. For most people, the guillotine reminds them of the French  
20 Revolution, in which the poor and working class are pushed beyond their limits by poverty and untenable  
21 living conditions and, having completely lost faith in their government and representation, begin  
22 executing the bourgeoisie en masse. In a city like Sacramento, where rents have tripled as wages remain  
23 stagnant, where increasing numbers of people live (and die) outdoors every year while we allocate more  
24 and more of our resources to an already bloated police budget, and where so many feel uncared for and  
25 unrepresented by their representatives, it's not completely outrageous to draw at least a vague parallel to  
26 those circumstances. This frightens me and is the reason I'm dedicated to doing everything I can to  
27 improve living conditions for working, poor, and unhoused Sacramentans. I firmly believe that the vast  
28 majority of crime and violence is committed by people who feel like they are low on other options, and I

1 think it is the duty of City Hall to make sure those people have the options they need.

2 11. I'm not a violent person and I don't wish anyone to be harmed. I was excited at the  
3 opportunity to meet with the Mayor and to have the chance to show him that I'm ready to work alongside  
4 him and the rest of City Hall. I was hoping to have the same experience with City Manager Chan, but he  
5 decided not to attend our meeting. When I met with the Mayor, there was no visible security or law  
6 enforcement presence and he specifically told me he was not concerned for his safety. The Mayor asked  
7 me about the statement on my podcast. I told him I wished I had used different words that left the Mayor  
8 and City Manager Chan out of it, since the thrust of my comments were actually directed toward Senator  
9 Sinema. I explained my frustration with elected officials, citing several Republican federal elected  
10 officials by name, who made decisions that hurt people only to go home to lead a peaceful life. I told the  
11 Mayor this violated my values, and felt they should feel guilt or fear accountability for those actions. The  
12 Mayor seemed to agree with me by nodding his head and saying he understood that sentiment. I shared  
13 the letter I wrote to the Mayor, which unequivocally stated I was against physical violence of any nature  
14 against people. The Mayor read the letter, said it was "80% of the way there," then asked me directly if I  
15 felt the same way about property crime as I did about physical violence. I honestly informed the Mayor  
16 that I was not as committed to that proposition; however, I never directly or indirectly stated (or inferred)  
17 that I intended to commit any violence towards him, the City Manager, or City staff. The Mayor became  
18 visibly upset when I would not offer the commitment he sought. While he told me he would give me a  
19 chance and he was not afraid of me, the Mayor also stated he couldn't help me if I couldn't say that I  
20 thought that incidents like what happened at his home were wrong.

21 12. In spite of all the events that have transpired recently, I remain eager to join  
22 Councilwoman Valenzuela and everyone else at City Hall to work together in a way that is professional,  
23 mutually respectful, and serves the people of Sacramento in a real and tangible way. It is my sincere hope  
24 that we are able to achieve this in a way where everyone involved feels respected, heard, and safe.

25 I declare under penalty of perjury of the laws of the State of California that the foregoing is true  
26 and correct and that this declaration was executed on June 17, 2021, at Sacramento, California.

27 

28 \_\_\_\_\_  
Skyler Henry



1 Mark E. Merin (State Bar No. 043849)  
2 Paul H. Masuhara (State Bar No. 289805)  
3 Law Office of Mark E. Merin  
4 1010 F Street, Suite 300  
5 Sacramento, California 95814  
6 Telephone: (916) 443-6911  
7 Facsimile: (916) 447-8336  
8 E-Mail: mark@markmerin.com  
9 paul@markmerin.com

6 BRIAN S. CRONE (State Bar No. 191731)  
7 The Law Office Of Brian Crone  
8 1104 Corporate Way  
9 Sacramento, CA 95831  
10 Telephone: (916) 395-4464  
11 E-mail: briancrone@cronelawoffice.com

10 Attorneys for Respondent, Skyler Michel-Evleth (aka Skyler Henry)

11 **SUPERIOR COURT OF CALIFORNIA**  
12 **IN THE COUNTY OF SACRAMENTO**  
13 **[UNLIMITED JURISDICTION]**

14 City of Sacramento, a Local Public  
15 Agency,  
16 Petitioner,  
17 v.  
18 Skyler Michel-Evleth, an Individual,  
19 Respondent.

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

**DECLARATION OF COUNCILMEMBER  
KATIE VALENZUELA IN SUPPORT OF  
RESPONDENT'S OPPOSITION TO  
PETITIONER'S PETITION FOR  
WORKPLACE VIOLENCE AND IN SUPPORT  
OF RESPONDENT'S ANTI-SLAPP MOTION  
TO STRIKE**

25 I, Councilmember Katie Valenzuela, declare that the following testimony is based on my personal  
26 knowledge and if called to testify I could and would competently testify thereto.

1           1. I was elected to the City Council as representative for District 4 in the City of Sacramento (the  
2 “City”) in March 2020. I am honored to hold this title.

3           2. The people in District 4 elected me to represent them to the best of my ability, and I work hard  
4 every day to achieve that end. For me to be successful, I need to surround myself with people who will  
5 help me analyze issues, while filling in the gaps in my skills sets and capacity to meet the needs of our  
6 constituents. The City gives me exclusive authority to hire a staff that will meet that need, so long as  
7 they meet the minimum qualifications for the job classification and pass a background check.

8           3. I decided that my office needed an additional staff member to prepare and promote digital  
9 communications and serve constituents in the district. I received approximately 80 applicants for this  
10 position. Skyler Henry (“Henry”) demonstrated he had extensive digital communications and  
11 customer service experience - two skill sets we expressly identified in our job posting. Moreover,  
12 Henry brings a critical perspective from my community that I need to make informed, strategic  
13 decisions. Henry was by far the most qualified applicant we had for the position.

14           4. While Henry was certainly the most qualified applicant, I hired Henry for reasons that went  
15 beyond just his skills, experience, and perspective. I also wanted to work with Henry because I knew  
16 he had spent considerable time, energy, and resources to advance the policy agenda that drove me to  
17 run for office. He has volunteered to help with progressive campaigns and spends his spare time doing  
18 mutual aid. He did all of this while working a food service job to pay his bills, enabling him the free  
19 time he needed to engage in meaningful community work. In summary: I hired Henry because he had  
20 the skills and the values I share and he has spent his time working hard to make Sacramento a better  
21 place. I felt confident that his energy and passion for District 4 would make him a great asset to my  
22 office.

23           5. After I decided to hire Henry, I submitted all of his information to the City for his background  
24 check. Henry’s background check came back clear and we provided him a conditional offer of  
25 employment to join my office as of June 19, 2021. After the City cleared him for employment, we  
26 announced his appointment on Facebook. Two days later, an article was published in a conservative  
27

28

1 online blog, the California Globe, citing a misquote of Henry from his podcast, Voices: River City,  
2 that had been published weeks earlier in the Los Angeles Times. The Fox News and Sacramento Bee  
3 articles the City has attached to their Petition picked up the California Globe blog entry a day or two  
4 later. Once the articles were published, I received some emails from constituents regarding my choice.  
5 One of the constituent emails copied both Mayor Steinberg (the "Mayor") and City Manager Chan  
6 ("Chan"). The Mayor and Chan both replied to the constituent email saying they were disappointed in  
7 my pick; however, neither the Mayor nor Chan mentioned they had any fear for their, or any other  
8 person's, safety.

9  
10 6. Within hours of our announcement, however, both the Mayor and Chan began to claim there  
11 were "city staff concerns" about Henry coming to City Hall. Chan reached out to me to discuss the  
12 issues over dinner, during which he explained that he was exploring having additional locks put on the  
13 doors of certain staff and that he might ask that Henry run any department requests through his office  
14 until a threat assessment could be conducted. Later, the Mayor sent me the quote from Henry's  
15 podcast, saying folks were talking about it and it needed to be addressed. The Mayor offered to meet  
16 with Henry and the City Manager at City Hall, which all parties agreed to do to address the situation.

17 7. Prior to meeting with him and the Mayor, Chan forwarded a message from his wife to the  
18 entire City Council expressing her fear of Henry and asking me to not bring him into City Hall. I  
19 viewed this message as a direct affront to my authority to hire individuals as I see fit for my office as  
20 well as an attempt to force me not to hire Henry. I texted Chan directly informing him his message  
21 was not appropriate. Chan responded stating "I'm not trying to pressure you to change your mind  
22 otherwise I would not have gone to dinner with you last to try to make this work."

23 8. Henry and I met directly with the Mayor on or about June 9, 2021 at City Hall. At the  
24 meeting, there was no visible security or law enforcement presence. In addition to Henry, the Mayor  
25 and myself, the Mayor's staff member, Zach Yates, was present. While Chan was scheduled to attend,  
26 he was not there when we arrived. I asked him why Chan wasn't there, and the Mayor said he wasn't  
27 going to attend with no further explanation. The Mayor asked Henry about his statement on the  
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1 Podcast, to which Henry said he wished he had used different words and left the Mayor and City  
2 Manager Chan out of it, since the thrust of his comments were directed toward United States Senator  
3 Kristen Sinema. Henry explained to the Mayor his frustration with elected officials, citing several  
4 Republican federal elected officials by name, who he felt made decisions that hurt people only to go  
5 home to lead a peaceful life. Henry stated that this violated his values, and felt they should feel guilt or  
6 fear accountability for those actions. The Mayor nodded his head in agreement, saying he understood  
7 Henry's sentiment.

8 9. Henry shared a letter he wrote to the Mayor in which he explained his sincere desire to make a  
9 difference in his community, his desire to serve at City Hall in my office, and a **strong** condemnation  
10 of violence. The Mayor read the letter, said it was "80% of the way there," and then asked Henry  
11 directly if he felt the same way about property crime as he did about physical violence. Henry  
12 answered that he did not feel the same way about property crime as he did about physical violence.

13 Contrary to what is described in his declaration in support of the City's Petition, the Mayor did not ask  
14 Henry about threats to public officials more broadly and never asked "whether he believed it was ever  
15 acceptable for someone who disagrees with an elected or appointed official to threaten them, vandalize  
16 or destroy their property." While Henry certainly did not promote property crime or make any  
17 statements that could be characterized as a "threat" to anyone, the Mayor became visibly upset with  
18 Henry's response. He raised his voice and spoke strongly for several minutes about a recent  
19 experience where protestors caused property damage at his home. When I interjected to clarify that  
20 Henry did not participate in or organize that event, the Mayor said it didn't matter. The Mayor further  
21 stated he was willing to give Henry a chance and that he wasn't afraid of him, but he couldn't **help**  
22 Henry if he couldn't say he thought that incidents like what happened at his home were wrong. The  
23 Mayor never described the type of help he could offer if Henry did what he asked.

24 25 10. A couple of days later, City Attorney Susana Wood ("Wood") informed me they were going to  
26 seek authorization from the City Council to file an action to obtain a temporary restraining order  
27 against Henry from entering City Hall. Wood stated a threat assessment was performed, which  
28

1 apparently determined Henry posed a “credible threat to safety.” When I asked her what formed the  
2 basis of this determination, Wood mentioned a declaration from Chan expressing his fear of the verbal  
3 comment that had been quoted in the press. When I expressed surprise that Chan had expressed fear  
4 about Henry, she further explained that the threat assessment had revealed Henry had a lawful permit  
5 for a firearm - something I had already mentioned to Chan when he told me a threat assessment was  
6 being done over dinner days earlier. Wood stated the City had to take his statements seriously because  
7 he possessed a firearm. She further admonished me for trying to dispel Chan’s fear of Henry and  
8 advised me to cease all communication with him on this topic.

9  
10 11. I was struck by the accusation that Henry was dangerous based on entirely on the political  
11 commentary he delivered on his podcast. So much time (nearly two months) had passed since those  
12 comments were made and I had even brought Henry into City Hall after hours on one occasion after a  
13 community event to show him my new office. At no time in the weeks following his comments on his  
14 podcast or while he was with me inside of City Hall had he said or done anything to indicate he  
15 wished harm or violence to anyone at City Hall. I spent the weekend answering multiple constituent  
16 calls and emails questioning my appointment of Henry and, ultimately, published a statement online to  
17 address the concerns that had been expressed to me.

18 12. Within minutes of posting my statement, Wood texted the entire City Council to admonish me  
19 for publishing a statement.

20 13. I strongly believe the comments made by Henry on his podcast reflect political speech. Henry  
21 never states he intends to commit a violent act; his speech does not reflect a pattern of behavior  
22 suggesting he was contemplating such action; and there is absolutely no history that he committed  
23 violence against other people. I have offered repeatedly to explore mediation or reasonable  
24 accommodations for staff who may fear Henry, only to be rebuffed by the City Attorney. The  
25 statements in the Petition that the City has explored all possible ways to resolve this dispute without  
26 the need for this Petition is simply false.

1           14. With no evidence that Henry intends to commit a violent act in the workplace, I'm left to  
2 assume that this action is consistent with other actions the City has taken against progressive activists  
3 who have been active on our streets since the tragic death of George Floyd. We have seen activists  
4 repeatedly get arrested and charged, only to have the charges dropped after bail has been paid. We  
5 have seen activists get subpoenaed for social media content. We have watched videos of the  
6 Sacramento Police Department following and intimidating members of the press with no consequences  
7 to participating peace officers. These actions are deliberate attempts by the City to suppress dissent  
8 and free speech, and an unacceptable violation of first amendment rights.

9           15. My colleagues have repeatedly told me that I should fire Henry and hire someone else, or  
10 condition Henry's employment on never entering City Hall. They have told me, time and time again,  
11 that fighting this action would harm my reputation and limit the effectiveness of my political career.  
12 Some have admonished me for my poor discretion, and threatened me with recall or shorter political  
13 career if I refuse to let him go.

14           16. I have told these colleagues " what's right is right, and it's not right to pursue legal action  
15 against residents for expressing their political beliefs." I believe that there is no bigger fight than  
16 protecting the First Amendment right of our constituents to disagree - that working with people who  
17 disagree with us makes our government better, and is the foundation of a healthy democracy. I cannot  
18 accept that I cannot hire someone who is beyond qualified to help me do my duty as an elected official  
19 because he said something some may find objectionable or in poor taste months before I appointed  
20 him. This action is not reflective of the values of the City I fought hard to represent.

21           17. I have spoken with numerous people and organizations about the City's decision to take such  
22 drastic action against an individual I chose to appoint. The City's action is directly going to have the  
23 effect of chilling an individual's right to free speech to address unpopular actions or decisions made by  
24 the City's elected representatives. Henry threatened no one and the City has, nevertheless, chosen to  
25 portray him as a domestic terrorist that should have no right to enter the seat of our City's government.  
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This action is wrong on so many levels. We have fought wars with fascist countries over these values, and have paid too high of a price for freedom to forget those lessons now.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that I executed this declaration on the \_\_ day of June, 2021 at Sacramento, California. 06 / 17 / 2021

*Katie Valenzuela*  
\_\_\_\_\_  
Councilmember Katie Valenzuela

1 BRIAN S. CRONE (State Bar No. 191731)  
2 **THE LAW OFFICE OF BRIAN CRONE**  
3 1104 Corporate Way  
4 Sacramento, CA 95831  
5 Telephone: (916) 349-4005  
6 E-mail: briancrone@cronelawoffice.com

7 Attorneys for Respondent, Sklyer Michel-Evleth (aka Skyler Henry)

8 **SUPERIOR COURT OF CALIFORNIA**  
9 **IN THE COUNTY OF SACRAMENTO**  
10 **[UNLIMITED JURISDICTION]**

11 City of Sacramento, a Local Public  
12 Agency,

13 Petitioner,

14 v.

15 Sklyer Michel-Evleth, an Individual,  
16 Respondent.

17 **Case No.:**

18 **DECLARATION OF RUTH IBARRA**  
19 **(NORCAL RESIST), IN SUPPORT OF**  
20 **RESPONDENT'S OPPOSITION TO**  
21 **PETITIONR'S PETITION FOR**  
22 **WORKPLACE VIOLENCE**

23 I, Ruth Ibarra, declare that the following testimony is based on my personal knowledge and if  
24 called to testify I could and would competently testify thereto.

25 1. I am a representative of NorCal Resist, a local Sacramento based group of community  
26 members building infrastructure against oppression and empowering our communities through shared  
27 resources and support. From a political perspective, NorCal Resist is considered a progressive, left-  
28 leaning organization.



1           2. I learned that the City of Sacramento is seeking a restraining order to keep Sacramento City  
2 Councilmember Katie Valenzuela's newest hire, Skyler Henry ("Henry"), from entering City Hall.  
3 After reviewing the City's petition, the only reason why Henry is being targeted is because he is a  
4 vocal part of Sacramento's left community, who has publicly shown support for anti-racist and anti-  
5 fascist groups and causes. This simply means Henry has strongly spoken out against police brutality,  
6 the unhoused crisis in our city, and other important issues on his personal social media accounts and  
7 the Voices: River City podcast.

8           3. I know Henry from his media work, which covers issues often ignored by our local mainstream  
9 outlets, such as immigration, homelessness, the housing crisis, climate change. I also personally  
10 know him as he lends a hand to many local groups, including our group, by helping distribute gifts and  
11 food to immigrant families in need. Our organization takes security culture seriously, and we have  
12 never observed Henry to exhibit any violence. I know Henry to be a trustworthy, caring person who  
13 seeks to make our community better. I never heard Henry advocate physical violence towards are  
14 elected leaders or government workers on his podcast or anywhere else.

15           4. Since the George Floyd uprising last summer, I have observed the City engage in a campaign  
16 of harassment against activists on the left. In the past year, I have seen numerous Sacramento  
17 protestors held on bails of \$100,000 and above for charges that often lack merit. These arrests have not  
18 led to prosecutions or convictions. I've seen young people lose their jobs because they were unable to  
19 make it to work due to needless arrests. They have been saddled with impound fees, loss of cell  
20 phones and other property. Most importantly, we have been sent the strong message from the City and  
21 their representatives that we are being watched by people who can literally take our lives with  
22 impunity, all because we are asserting our rights and speaking out against hate, racism, fascism,  
23 xenophobia, homophobia, and the corrupt systems that oppress Black, Indigenous and People of Color  
24 (BIPOC).  
25


26           5. In the past months, I am personally aware that at least three activists have been served search  
27 warrants seeking access to their personal, social media accounts. This has caused even more anxiety  
28

1 and fear to members of Sacramento's left as we routinely share the kinds of political memes and event  
2 notices cited by the City in its Petition against Henry. The City's Petition claims Henry represents a  
3 "threat" to persons at City Hall because Henry has stated that political leaders who routinely sell out  
4 their working class constituents in favor of wealth and corporate interests should not be comfortable.  
5 NorCal Resist and many other persons and organizations throughout Sacramento and the country  
6 agree. This does not mean we wish or intend harm to come to the political leaders, but it definitely  
7 means we will continue fighting every day so they do their jobs.

8         6. Henry, NorCal Resist and others like us are needed to impose political pressure on our elected  
9 and appointed leadership so that the interests of our most vulnerable community members are heard  
10 and taken seriously. There is a climate catastrophe at our doorstep. Each day, we see another young  
11 Black person shot in the streets (and in their cars, and their homes). An eviction crisis is about to push  
12 even more families into the streets, while rents skyrocket. One in five Californian children is living in  
13 poverty. Yet, politicians continue to live comfortably, while their constituents suffer.

14         7. I never heard Henry vocalize support for physical violence against anybody or threaten to  
15 commit violence against anyone at City Hall. The City's Petition is meant to chill Henry's exercise of  
16 his free speech and, more importantly, send a message to Henry's followers, listeners, and supporters,  
17 of which I am one, that we are being watched and your speech can be targeted next.

18  
19         I declare under penalty of perjury under the laws of the State of California that the foregoing is  
20 true and correct and that I executed this declaration on the 17<sup>th</sup> day of June, 2021 at Sacramento,  
21 California.

22  
23   
24 \_\_\_\_\_  
25 RUTH IBARRA, EXECUTIVE DIRECTOR  
26 NORCAL RESIST  
27  
28

1 Mark E. Merin (State Bar No. 043849)  
2 Paul H. Masuhara (State Bar No. 289805)  
3 LAW OFFICE OF MARK E. MERIN  
4 1010 F Street, Suite 300  
5 Sacramento, California 95814  
6 Telephone: (916) 443-6911  
7 Facsimile: (916) 447-8336  
8 E-Mail: mark@markmerin.com  
9 paul@markmerin.com

7 BRIAN S. CRONE (State Bar No. 191731)  
8 The Law Office Of Brian Crone  
9 1104 Corporate Way  
10 Sacramento, CA 95831  
11 Telephone: (916) 395-4464  
12 E-mail: brianrone@cronelawoffice.com

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

13 SUPERIOR COURT OF CALIFORNIA

14 COUNTY OF SACRAMENTO

15 CITY OF SACRAMENTO,

16 Petitioner,

17 vs.

18 SKYLER MICHEL-EVLETH a/k/a SKYLER  
19 HENRY,

20 Respondent.

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

**DECLARATION OF CHELSEA FINK IN  
SUPPORT OF RESPONDENT'S OPPOSITION  
TO PETITIONER'S PETITION FOR  
WORKPLACE VIOLENCE AND IN SUPPORT  
OF RESPONDENT'S ANTI-SLAPP MOTION  
TO STRIKE**

21 I, Chelsea Fink, declare that the following testimony is based on my personal knowledge and if  
22 called to testify I could and would competently testify thereto:

23 1. I am the Chair of the Sacramento chapter of Democratic Socialists of America ("DSA  
24 Sacramento") Mutual Aid Committee. In my capacity as Chair, I have directly interacted with Skyler  
25 Henry ("Henry") and personally know him. The Democratic Socialists of America (DSA) is the country's  
26 largest socialist organization, and DSA Sacramento is the seventeenth-largest chapter in the US.

27 2. At DSA Sacramento, we pride ourselves on working together to build a better society. A  
28 core tenet of democratic socialism is the need for a society where people not only survive but thrive; to

1 do that, we must push back against systems that seek to oppress and divide us all.

2 3. Henry has been an integral member of DSA Sacramento for three years and embodies the  
3 traits we hold so dear. He has shown up time and again with a sense of camaraderie and an open heart,  
4 and any attempt to frame him as violent is disingenuous, defamatory, and false. I have never observed  
5 Henry exhibit violent behavior and have never heard him threaten anyone. The fact that Henry's a vocal  
6 support of an anti-fascist movement is a cause for concern by the City of Sacramento (the "City") and  
7 large majority of its elected representatives is an indictment of the dismal state of our electeds'  
8 knowledge of world history and current events, and only further proves to demonstrate Henry's  
9 upstanding character. We, too, are proud to say we are Antifa. If eight members of our city council are  
10 against antifascists as their vote to authorize this action against Henry, then it leads one to ask if they  
11 stand in support of fascists.

12 4. DSA Sacramento fully stands behind Henry as a comrade and as a community member  
13 who actively works to make a better city for all of us. He speaks truth to power and fights for others  
14 through his work on a local podcast, his mutual aid efforts with several organizations, and his support at  
15 innumerable rallies for healthcare, LGBTQ rights, and housing rights over the years.

16 5. We understand the City's action is not just about Henry. The City's attack on him is an  
17 assault on our very ideology, weaponizing his (and our) political beliefs for their own gain. In the past  
18 year, Sacramento Police Chief Daniel Hahn, Mayor Darrell Steinberg, and members of City Council have  
19 consistently shown contempt for Leftist politics and activists, spreading misleading information about  
20 protesters, including their intentions, actions, and identities. Throughout its voluminous Petition against  
21 Henry, the City repeatedly casts Henry as a "threat" simply because he has repeatedly offered support for  
22 groups and individuals that share our political beliefs.

23 6. Under the leadership of Chief Hahn, Sacramento Police have repeatedly targeted our  
24 demonstrators, attacking them with the very violence the City claims to abhor. They have illegally  
25 threatened protesters' right to assemble, while alternately passively supporting demonstrations made by  
26 right-wing white nationalists, the Proud Boys, and other pro-fascist and notoriously violent organizations.

27 7. I truly believe the City is trying to chill the exercise of our First Amendment rights to  
28 disagree with them. The people who showed up to work full shifts in warming centers to keep their

1 vulnerable and unhoused neighbors safe during the winter are the same people the city is demonizing  
2 with this attack on Henry's character. The folks who provided tents and tarps and meals to their  
3 neighbors when the City Council and City Manager outright refused to open warming centers in time to  
4 prevent six deaths in one night are the same people they are now trying to label as terrorists.

5 8. We recognize that, while it is Henry's name in the Petition, City leadership is trying to  
6 place all of us on the Left on trial.

7 I declare under penalty of perjury of the laws of the State of California that the foregoing is true  
8 and correct and that this declaration was executed on June \_\_\_, 2021, at Sacramento, California.

9 06 / 17 / 2021

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11 \_\_\_\_\_  
12 Chelsea Fink  
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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SACRAMENTO

CITY OF SACRAMENTO,  
  
Petitioner,  
  
vs.  
  
SKYLER MICHEL-EVLETH a/k/a SKYLER  
HENRY,  
  
Respondent.

Case No. 34-2021-70009184-CU-HR-GDS  
  
**[PROPOSED] ORDER GRANTING  
RESPONDENT'S SPECIAL  
MOTION TO STRIKE (SLAPP)  
PETITION FOR WORKPLACE  
VIOLENCE RESTRAINING ORDER**

The Court GRANTS Respondent Skyler Henry's special motion to strike. Pursuant to Cal. Code Civ. Proc. § 425.16, the Court: (1) STRIKES Petitioner City of Sacramento's petition for workplace violence restraining order, without leave to amend; and (2) ORDERS Respondent Skyler Henry to file a motion for attorneys' fees and costs within 60 days.

IT IS SO ORDERED.

Dated:

\_\_\_\_\_  
Judge of the Superior Court of California  
County of Sacramento

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO: NAME: <b>Mark E. Merin (State Bar No. 043849)</b> FIRM NAME: <b>Law Office of Mark E. Merin</b> STREET ADDRESS: <b>1010 F Street, Suite 300</b> CITY: <b>Sacramento</b> STATE: <b>CA</b> ZIP CODE: <b>95814</b> TELEPHONE NO.: <b>(916) 443-6911</b> FAX NO.: <b>(916) 447-8336</b> E-MAIL ADDRESS: <b>mark@markmerin.com</b> ATTORNEY FOR (name): <b>Respondent SKYLER HENRY</b>	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO</b> STREET ADDRESS: <b>720 9th Street</b> MAILING ADDRESS: CITY AND ZIP CODE: <b>Sacramento, CA 95814</b> BRANCH NAME: <b>Gordon D. Schaber Courthouse</b>	CASE NUMBER: <b>34-2021-70009184-CU-HR-GDS</b>
Plaintiff/Petitioner: <b>CITY OF SACRAMENTO</b> Defendant/Respondent: <b>SKYLER HENRY</b>	JUDICIAL OFFICER: <b>TBD</b>
<p style="text-align: center;"><b>PROOF OF SERVICE—CIVIL</b></p> <p><b>Check method of service (only one):</b></p> <input checked="" type="checkbox"/> By Personal Service <input type="checkbox"/> By Mail <input type="checkbox"/> By Overnight Delivery <input type="checkbox"/> By Messenger Service <input type="checkbox"/> By Fax	DEPARTMENT: <b>1</b>

**Do not use this form to show service of a summons and complaint or for electronic service.  
See USE OF THIS FORM on page 3.**

1. At the time of service I was over 18 years of age and not a party to this action.
2. My residence or business address is:  
1010 F Street, Suite 300, Sacramento, CA 95814
3.  The fax number from which I served the documents is (complete if service was by fax):
4. On (date): **June 18, 2021** I served the following documents (specify):  
**See Attachment POS-040(D)**
- The documents are listed in the Attachment to Proof of Service—Civil (Documents Served) (form POS-040(D)).
5. I served the documents on the person or persons below, as follows:
  - a. Name of person served: **Clerk @ City Hall**
  - b.  (Complete if service was by personal service, mail, overnight delivery, or messenger service.)  
Business or residential address where person was served:  
**915 I St, Sacramento, CA 95814**
  - c.  (Complete if service was by fax.)  
Fax number where person was served:
- The names, addresses, and other applicable information about persons served is on the Attachment to Proof of Service—Civil (Persons Served) (form POS-040(P)).
6. The documents were served by the following means (specify):
  - a.  **By personal service.** I personally delivered the documents to the persons at the addresses listed in item 5. (1) For a party represented by an attorney, delivery was made (a) to the attorney personally; or (b) by leaving the documents at the attorney's office, in an envelope or package clearly labeled to identify the attorney being served, with a receptionist or an individual in charge of the office; or (c) if there was no person in the office with whom the notice or papers could be left, by leaving them in a conspicuous place in the office between the hours of nine in the morning and five in the evening. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not younger than 18 years of age between the hours of eight in the morning and eight in the evening.

CASE NAME: CITY OF SACRAMENTO v. HENRY	CASE NUMBER: 34-2021-70009184-CU-HR-GDS
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6. b.  **By United States mail.** I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses in item 5 and (*specify one*):
- (1)  deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
  - (2)  placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.
- I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at (*city and state*):
- c.  **By overnight delivery.** I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses in item 5. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.
- d.  **By messenger service.** I served the documents by placing them in an envelope or package addressed to the persons at the addresses listed in item 5 and providing them to a professional messenger service for service. (*A declaration by the messenger must accompany this Proof of Service or be contained in the Declaration of Messenger below.*)
- e.  **By fax transmission.** Based on an agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed in item 5. No error was reported by the fax machine that I used. A copy of the record of the fax transmission, which I printed out, is attached.

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

Date: June 18, 2021

Paul H. Masuhara  
(TYPE OR PRINT NAME OF DECLARANT)

**ORIGINAL SIGNED BY:!**  
\_\_\_\_\_  
(SIGNATURE OF DECLARANT)

(If item 6d above is checked, the declaration below must be completed or a separate declaration from a messenger must be attached.)

**DECLARATION OF MESSENGER**

- By personal service.** I personally delivered the envelope or package received from the declarant above to the persons at the addresses listed in item 5. (1) For a party represented by an attorney, delivery was made (a) to the attorney personally; or (b) by leaving the documents at the attorney's office, in an envelope or package clearly labeled to identify the attorney being served, with a receptionist or an individual in charge of the office; or (c) if there was no person in the office with whom the notice or papers could be left, by leaving them in a conspicuous place in the office between the hours of nine in the morning and five in the evening. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not younger than 18 years of age between the hours of eight in the morning and eight in the evening.

At the time of service, I was over 18 years of age. I am not a party to the above-referenced legal proceeding.

I served the envelope or package, as stated above, on (*date*):

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

Date: \_\_\_\_\_

\_\_\_\_\_  
(NAME OF DECLARANT)

**ORIGINAL SIGNED BY:!**  
\_\_\_\_\_  
(SIGNATURE OF DECLARANT)



SHORT TITLE:  
CITY OF SACRAMENTO v. HENRY

CASE NUMBER:  
34-2021-70009184-CU-HR-GDS

**ATTACHMENT TO PROOF OF SERVICE—CIVIL (DOCUMENTS SERVED)**

*(This Attachment is for use with form POS-040)*

**The documents that were served are as follows (describe each document specifically):**

Respondent's Notice of Motion; Special Motion to Strike (SLAPP) Petition for Workplace Violence Restraining Order

Respondent's Memorandum in Support of Special Motion to Strike (SLAPP) Petition for Workplace Violence Restraining Order

Declaration of Skyler Henry

Declaration of Councilmember Katie Valenzuela in Support of Respondent's Opposition to Petitioner's Petition for Workplace Violence and in Support of Respondent's Anti-SLAPP Motion to Strike

Declaration of Ruth Ibarra (NorCal Resist), in Support of Respondent's Opposition to Petitioner's Petition for Workplace Violence

Declaration of Chelsea Fink in Support of Respondent's Opposition to Petitioner's Petition for Workplace Violence and in Support of Respondent's Anti-SLAPP Motion to Strike

[Proposed] Order Granting Respondent's Special Motion to Strike (SLAPP) Petition for Workplace Violence Restraining Order