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FILED
Superior Court of California
County of Los Angeles

MAY 14 2020

Sherri R. Carter, Executive Officer/Clerk of Court
By Tikashia Reed Deputy

6 Attorneys for Respondent,
GARY WILSON
7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF LOS ANGELES – CENTRAL DISTRICT, FAMILY LAW

11 NICOLE PRAUSE,
12 Petitioner,
13 v.
14 GARY WILSON,
15 Respondent.

Case No.: 20STR001022

NOTICE OF MOTION AND MOTION TO
STRIKE THE REQUEST FOR A CIVIL
HARASSMENT RESTRAINING ORDER

(CCP 425.16 Anti-SLAPP)

[Declaration of Gary Wilson filed concurrently
herewith]

Date: 8/4/2020
Time: 8:30 am
Dept.: 22

21 TO ALL PARTIES HEREIN AND THEIR ATTORNEYS OF RECORD:

22 PLEASE TAKE NOTICE that on or about _____, at _____, or as soon
23 thereafter as the matter may be heard in Department _____ of the above-entitled court located at
24 111 North Hill Street, Los Angeles, California 90012, Respondent GARY WILSON (“Wilson”) will
25 and hereby does move the Court for an order striking the Request for a Civil Harassment Restraining
26 Order filed by Petitioner NICOLE PRAUSE (“Praise”).

27 This Motion is brought pursuant to California Code of Civil Procedure section 425.16 on the
28 grounds that 1) Praise’s Request for Civil Harassment Restraining Order arises from a “protected

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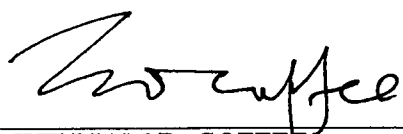
2025/05/14/20

1 activity” – Wilson’s right to freedom of speech; and 2) Prause cannot establish a probability of
2 success on her claims.

3 This Motion is based on this Notice of Motion, the Memorandum of Points and Authorities
4 attached hereto, the Declarations of Gary Wilson, Staci Sprout and Alexander Rhodes filed
5 concurrently herewith, the pleadings and records on file herein, and on such other and further oral
6 and documentary evidence as may be presented to the court at the time of the hearing of this Motion.

7
8 Dated: May 13, 2020

SONGSTAD RANDALL
COFFEE & HUMPHREY LLP

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11 By: 
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14 Attorneys for Respondent
15 GARY WILSON
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05/19/2020

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 Respondent GARY WILSON ("Wilson") submits this Memorandum of Points and
3 Authorities in support of his Motion to Strike the Request for a Civil Harassment Restraining Order
4 (the "Restraining Order Action") filed by Petitioner NICOLE PRAUSE ("Prause") (the "Motion").

5 I. INTRODUCTION

6 The Restraining Order Action is a textbook example of a SLAPP suit against Wilson to chill
7 the valid exercise of his constitutional right to free speech that should be stricken pursuant to the
8 anti-SLAPP statute. (Cal. Civ. Proc. Code §425.16). A petition for injunctive relief under Code of
9 Civil Procedure Section 527.6 is subject to a special motion to strike under the anti-SLAPP statute.
10 See Thomas v. Quintero, 126 Cal.App.4th 635 (2005).

11 Here, the anti-SLAPP statute clearly applies as Prause's Restraining Order Action arises
12 from constitutionally "protected activity" - statements and information concerning a matter of public
13 interest (the effects of internet pornography on society) posted by Wilson on his public website (a
14 public forum). Prause seeks an unlawful prior restraint against Wilson to stop him from exercising
15 his constitutional right to free speech.

16 Further, Prause absolutely cannot meet her burden of proving the probability of success of
17 her claims because she cannot show Wilson has engaged in any conduct against her that would
18 constitute "civil harassment." Wilson has never met, spoken to or harassed Prause in any way. The
19 allegations of harassment made by Prause are fabrications. He has never threatened her or
20 encouraged others to threaten her, and never posted confidential information about her. He has done
21 nothing more than publicly express his opinions (which differ from Prause), publicly defend himself
22 against Prause's specious claims, and publicly expose her malicious behavior, using publicly
23 available information Prause herself has disclosed. Her Restraining Order Action is a transparent
24 attempt to silence Wilson through an unconstitutional and intolerable prior restraint on Wilson's
25 right to free speech.

26 With regard to the Restraining Order Action, Prause has already grossly mischaracterized the
27 court proceedings that have taken place to date to manipulate and incite her twitter followers, falsely
28

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1 claiming the court ordered Wilson to attend mediation for his “stalking” and that “jail” was next.
2 The reality is Wilson is the victim here, not Prause.

3 Accordingly, this Motion should be granted pursuant to California Code of Civil Procedure
4 section 425.16.

5 **II. STATEMENT OF FACTS AND PROCEDURAL HISTORY**

6 **A. Relevant Background**

7 Wilson is a former anatomy, physiology, and pathology instructor. Wilson taught at
8 vocational schools in California and Oregon, and also as an adjunct instructor at Southern Oregon
9 University. Wilson was forced to retire due to a chronic recurring illness. (Declaration of Gary
10 Wilson (“Wilson Declaration”), at ¶ 3).

11 Since 2010, Wilson has maintained a website entitled www.yourbrainonporn.com that
12 presently includes over 13,000 pages of material pertaining to research on pornography’s effects on
13 individuals as well as other related matters of public interest. The purpose of the website is to report
14 and archive the existing research that shows the effects of pornography, chronicle recovery stories of
15 former pornography users, and serve as a clearinghouse for related items of public interest. Wilson’s
16 website is open to the public and its contents are accessible to anyone who chooses to visit the site
17 (Wilson Declaration, ¶ 4).

18 Wilson is also the author of a book entitled *Your Brain on Porn: Internet*
19 *Pornography and the Emerging Science of Addiction*, which tracks research developments in the
20 field. This book was published in 2014 and updated in 2017. Wilson’s book and website are reviled
21 by proponents of the pornography industry because of the viewpoints and opinions expressed by
22 Wilson and others, including critiques of questionable research and studies made by proponents of
23 pornography. (Wilson Declaration, ¶¶ 5-6).

24 Prause is a researcher and former academic who resides in Los Angeles. Prause’s
25 opinions often differ from Wilson’s as she is a strong proponent of pornography. There is much
26 evidence that she is cozy with the pornography industry – public acceptance of an offer of help from
27 the industry online, photos of her attending industry events, backing the industry’s interests
28

1 consistently on social media, and attacking and defaming on social media and in false reports those
2 who raise awareness of the potential risks of digital pornography use. (Wilson Declaration, ¶ 7).

3 In or around 2013, Wilson critiqued a questionable study published by Prause, which
4 Prause and her allies assert “debunks porn addiction.” Since then, multiple other researchers have
5 critiqued this study in the peer-reviewed literature, questioning her interpretation of its findings.
6 Since 2013, Prause’s false accusations and defamatory attacks on her critics have escalated. In
7 recent years, she has engaged in a repeated practice of making frivolous complaints and reports to
8 licensing boards, law enforcement and other authorities about Wilson and others who disagree with
9 her. Prause has also falsely claimed she has filed reports when she has not done so. (Wilson
10 Declaration, ¶ 8).

11 For example, Prause has repeatedly publicly claimed that she filed two FBI
12 reports against Wilson. Wilson confirmed through a Freedom of Information Act (“FOIA”) request that the FBI had no such reports. No FBI official has ever contacted Wilson. In 2018,
13 Prause filed a report against Wilson with the Los Angeles Police Department (which she
14 attaches to her TRO Request). It did not allege that Wilson committed any crime. Instead,
15 Prause seemed to object that Wilson attended a conference in Germany (which Wilson did,
16 having registered in advance, to hear the latest research on behavioral addiction from world
17 experts). Prause also seems to allege that Prause saw Wilson wearing a sleeping bag, armed
18 with a long-sleeved sweater. The physical description does not match Wilson’s height, weight,
19 age or eye-color. The police took no action and in fact never contacted Wilson. Wilson only
20 learned of the LAPD report a year later when Prause persuaded a Wisconsin student newspaper
21 to publish it online. (The University of Wisconsin swiftly removed it when Wilson
22 complained.) (Wilson Declaration, ¶ 9).

24 Prause is currently a defendant in two defamation lawsuits entitled Donald L.
25 Hilton, Jr. v. Nicole Prause, et al., United States District Court for the Western District of Texas
26 San Antonio Division, Case No. 5: 19-CV-00755-OLG, and Alexander Rhodes v. Nicole Prause, et
27 al., United States District Court for the Western District of Pennsylvania, Case No. 2:19-cv-
28 01366. Hilton is a neurosurgeon and Rhodes runs the world’s largest online English-speaking

1 peer-support forum for those experimenting with giving up internet porn use. Both plaintiffs
2 are pursuing claims for defamation against Prause as a result of Prause's false claims, including
3 stalking, sexual harassment, antisemitism, non-existent restraining orders and groundless
4 reports to professional boards and academic journals. While Wilson is not a party to either of
5 the above-referenced lawsuits, Wilson signed sworn affidavits in both matters. (Wilson
6 Declaration, affidavit in the Hilton v. Prause case attached as Exhibit "1," affidavit in the
7 Rhodes v. Prause, et al. case, filed on January 24, 2020, attached as Exhibit "2.") (Wilson
8 Declaration, ¶ 10).

9 **B. Prause Files Retaliatory Request For Restraining Orders Against Wilson**

10 On or about February 13, 2020, Prause filed an ex parte Request for a Temporary
11 Civil Harassment Restraining Orders against Wilson in this matter without notice to Wilson. The
12 Court denied Prause's ex parte request finding that the "allegations made in the Request do not
13 support the issuance of a restraining order without a hearing." On the same day, Prause filed the
14 Restraining Order Action. At Prause's request, the originally scheduled hearing of March 5, 2020
15 was continued to March 25, 2020. On the evening of March 5, Prause falsely tweeted to her
16 followers that the court had ordered Wilson to attend mediation for "his stalking" and that "jail" was
17 next." (Wilson Declaration, para. 18).

18 In the Restraining Order Action, Prause alleges Wilson has "harassed" Prause under
19 Code of Civil Procedure Section 527.6 since 2013 by posting information about Prause on his
20 website. The hearing is currently set for July 17, 2020.

21 Prause has a pattern of filing legal actions against persons she disagrees with to stifle
22 public speech. In addition to the Restraining Order Action, Prause has filed an action in California
23 against Staci Sprout (a therapist in Washington state) and an administrative complaint with the
24 Pennsylvania State Board of Psychology against Alexander Rhodes (see Declarations of Staci Sprout
25 and Alexander Rhodes filed concurrently herewith).

1 **III. ARGUMENT**

2 **A. An Anti-SLAPP Motion To Strike Applies To A Petition For A Civil Harassment**
3 **Restraining Order**

4 A petition for restraining orders under Code of Civil Procedure Section 527.6, like
5 Prause's Restraining Order Action, is subject to a special motion to strike under the anti-SLAPP
6 statute. In Thomas v. Quintero, 126 Cal.App. 4th 635 (2005), the trial court initially granted a
7 temporary restraining order against Quintero. Subsequently, Thomas then filed a request for a three-
8 year civil harassment restraining order against Quintero pursuant to Code of Civil Procedure Section
9 527.6. In response, Quintero filed a motion to strike the petition under the anti-SLAPP statute. The
10 trial court denied Quintero's anti-SLAPP motion, finding that an anti-SLAPP motion could not be
11 used to challenge a petition for a civil harassment restraining order, and Quintero appealed. The
12 court of appeal reversed, finding that "facially the anti-SLAPP statute [California Code of Civil
13 Procedure section 425.16] applies to 'petitions' and no exception is made for one filed under the civil
14 harassment statute (§ 527.6)." Id. at 646. Ultimately, the court held "that the petitions brought
15 pursuant to section 527.6 are subject to attack by a special motion to strike under 425.16." Id. at 652.

16 Pursuant to Thomas, Prause's Restraining Order Action is properly subject to
17 Wilson's Motion.

18 **B. Prause's Restraining Order Action Must Be Stricken Under Section 425.16**

19 "SLAPP" stands for "strategic lawsuit against public participation." Courts have
20 adopted this acronym for any lawsuit filed primarily to chill the defendant's exercise of First
21 Amendment rights – such as free speech, petitioning a government body for redress of grievances, or
22 pursuing legal remedies in a court of law. See Briggs v. Eden Council for Hope & Opportunity, 19
23 Cal.4th 1106, 1109, fn.1 (1999). The statute was thus designed to deter meritless actions that deplete
24 the defendant's energy and drain his or her resources by ending them early and without great cost to
25 the SLAPP target. Varian Medical Systems, Inc. v. Delfino, 35 Cal.4th 180, 192 (2005).

26 Courts engage in a two-step process for determining whether an action should be
27 stricken under the anti-SLAPP statute. Plaintiff's claim must 1) arise out of defendant's protected
28 speech or petitioning; and 2) lack even minimal merit. Nanellier v. Sletten, 29 Cal.4th 82, 88-89

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1 (2002). Where the anti-SLAPP Motion is directed to an entire complaint or cause of action, courts
2 focus on the principal thrust or gravamen of plaintiff's claims, meaning "the allegedly wrongful and
3 injury-producing conduct that provides the foundation for the claims." Castleman v. Sagaser,
4 216 Cal.App.4th 481, 490-91 (2013).

5 Here, both steps are easily met thereby requiring that Prause's Restraining Order
6 Action be stricken.

7 **C. Prause's Restraining Order Action Arises From Protected Speech**

8 Here, Prause's Restraining Order Action clearly arises from protected activity -
9 Wilson's constitutional right to free speech.

10 First, the court decides "whether the defendant has made a threshold showing that...
11 the act or acts of which the plaintiff complains were taken 'in furtherance of the [defendant]'s right
12 of petition or free speech ..." Equilon Enters. v. Consumer Cause, Inc., 29 Cal.4th 53, 67 (2002). The
13 moving defendant has no obligation to prove that plaintiff's subjective intent was to "chill" the
14 exercise of constitutional speech or petition rights, nor that the action actually had the effect of
15 "chilling" those rights. Navellier v. Sletten, 29 Cal.4th 82, 88 (2002). It is the principal thrust or
16 gravamen of the plaintiff's cause of action that determines whether the anti-SLAPP statute applies
17 with any doubts resolved in favor of construing the statute "broadly" to vindicate the defendant's
18 constitutionally protected speech or petition activity. Id. at 29 Cal.4th at pp. 90-92.¹

19 A defendant meets its burden of proof by showing the activity underlying the claim
20 fits in one of the categories enumerated by California Civil Procedure Code section 425.16(e). City
21 of Cotati v. Cashman, 29 Cal.4th 69, 78 (2002) Section 425.16(e) defines "act in furtherance of a
22 person's right of petition or free speech under the United States or California Constitution in
23 connection with a public issue" to include "(1) any written or oral statement or writing made before
24 a legislative, executive, or judicial proceeding, or any other official proceeding authorized by law;
25 (2) any written or oral statement or writing made in connection with an issue under consideration or
26 review by a legislative, executive, or judicial body, or any other official proceeding authorized by

27 ¹ Thus, the "pleadings merely frame the issues to be decided." Church of Scientology v. Wollersheim, 42 Cal.App.4th
28 628, 656 (1996). "Unlike demurrers or motions to strike, which are designed to eliminate sham or facially meritless
allegations, at the pleading stage, [an anti-SLAPP] motion like a summary judgment motion, pierces the pleadings and
requires an evidentiary showing [by both sides]." Simmons v. Allstate Ins. Co., 92 Cal.App.4th 1068, 1073 (2001)

1 law; (3) any written or oral statement or writing made in a place open to the public or a public forum
2 in connection with an issue of public interest; (4) or any other conduct in furtherance of the exercise
3 of the constitutional right of petition or the constitutional right of free speech in connection with a
4 public-issue or an issue of public interest.” See Cal. Civil Proc. Code § 425.16(e).

5 Wilson’s alleged activities that are the subject of Prause’s Restraining Order Action
6 plainly fit in the categories set forth in section 425.16(e). Prause complains that Wilson has
7 “harassed” her based on public information he has posted on the internet. (Petition, para. 7(a)).
8 Prause requests an order to “[r]emove my physical location information from his websites; remove
9 photographs of me from his websites; stop filing vexatious complaints against me; no-contact should
10 include social media use of ‘tags’ of my accounts.”

11 An internet website that is accessible to anyone who chooses to visit the site, such as
12 Wilson’s website, is a public forum. Wong. V. Jim, 189 Cal. App. 4th 1354, 1367 (2010). The
13 “public interest” requirement of section 425.16(e) must be “construed broadly so as to encourage
14 participation by all segments of our society in vigorous public debates related to issues of public
15 interest.” Gilbert v. Sykes, 147 Cal.App.4th 13, 23 (2007). The information posted by Wilson on
16 his website is related to the effects of pornography. Prause is a public person purportedly studying
17 the effects of pornography, publishing information on this topic, and vocally expressing her views on
18 the subject. On a handful of the 13,000 plus pages on his website, Wilson makes available public
19 information supplied by Prause herself which helps to identify Prause’s potential biases. This
20 constitutes protected speech related to issues of public interest.

21 **D. Prause Cannot Establish The Probability Of Success**

22 Once a defendant meets the threshold showing of the first step, the burden shifts to
23 plaintiff to establish a “probability” that plaintiff will prevail on claims based on a protected activity
24 that are asserted against defendant. See Cal. Civil Proc. Code § 425.16(b). To establish a
25 probability of prevailing on the merits, plaintiff must demonstrate that the claim is based on
26 protected activity that is both legally sufficient; and supported by a prima facie showing of facts
27 sufficient to support a favorable judgment if the evidence submitted by plaintiff is credited.
28 Navellier v. Sletten, 29 Cal.4th 82, 89, 93 (2002). Courts may also consider grounds that do not go

1 to the merits, such as whether the court has jurisdiction. Barry v. State Bar of Cal., 2 Cal.5th 318,
2 326 (2017). Here, Prause cannot meet her burden because she cannot show that Wilson has engaged
3 in any civil harassment against her.

4 A civil harassment restraining order will only be granted if there is “clear and
5 convincing evidence” that harassment exists. Cal. Civ. Proc. Code §527.6(i). The party to be
6 enjoined has certain important due process safeguards, i.e., “a full opportunity to present his or her
7 case, with the judge required to receive relevant testimony and to find the existence of harassment by
8 ‘clear and convincing’ proof of a ‘course of conduct’ that actually and reasonably caused substantial
9 emotional distress, had ‘no legitimate purpose,’ and was not a ‘constitutionally protected activity.’”
10 Adler v. Vaicius, 21 Cal.App.4th 1770, 1775 (1993). Code of Civil Procedure section 527.6(b)
11 defines “harassment” as “unlawful violence, a credible threat of violence, or a knowing and willful
12 course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person,
13 and that serves no legitimate purpose and is not constitutionally protected.” To constitute
14 harassment, the course of conduct “must be such as would cause a reasonable person to suffer
15 substantial emotional distress, and must actively cause substantial emotional distress to the
16 petitioner.” R.D. v. P.M., 202 Cal.App.4th 181, 188 (2011). The question is whether the evidence
17 shows “harassment sufficient to place a reasonable person in fear of his or her own safety, or the
18 safety of his or her immediate family.” Id. at 189.

19 Here, Prause fails to provide any evidence of any harassment by Wilson, much less
20 evidence that would establish harassment as defined by the statute by clear and convincing proof.
21 Prause primarily complains that Wilson has posted information about her on his website that she
22 disagrees with or claims is false and wants the court to issue an order to make him stop. The
23 injunctive relief Prause seeks is clearly unconstitutional and cannot be granted. “An injunction that
24 forbids a citizen from speaking in advance of the time the communication is to occur is known as a
25 ‘prior restraint.’” Evans v. Evans, 162 Cal.App.4th 1157, 1166 (2008). “A prior restraint is ‘the most
26 serious and least tolerable infringement on First Amendment rights.’” Id. at 1166-1167. “Prior
27 restrains are highly disfavored and presumptively violate the First Amendment rights.” Id. at 1167.
28 “An order prohibiting a party from making or publishing false statements is a classic type of

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1 unconstitutional prior restraint.” Id.

2 Prause claims that Wilson has improperly posted her physical location on his website,
3 which she implies is confidential information. Prause has no evidence to support this claim. Wilson
4 does not even know Prause’s home address and telephone number, and has confirmed through his
5 website provider that no such information is on his website. (Wilson Declaration, ¶ 4, Exh. 3).
6 Further, Prause concedes Wilson does not know her home address and admits that for years she has
7 posted fake addresses for her and her company that remain posted on multiple sites across the Web
8 and appear on Google. (Wilson Declaration, ¶ 13, Exhs. 4, 5). While Wilson has posted a copy of a
9 trademark application Prause filed with the United States Patent and Trademark Office (in a failed
10 attempt to grab the URL and name of Wilson’s long-established website) which contains what
11 appears to be a business address for Prause, Wilson found her application on a government website
12 and it is a public record. It does not contain confidential information. It would be unconstitutional
13 to order Wilson not to re-post such public information on his website.

14 Prause’s Restraining Order Action contains numerous fabrications. Prause states
15 there are currently protective or restraining orders in effect against Wilson relating to her.
16 (Restraining Order Action, ¶ 6b). This is false. No such orders exist, nor has Prause ever obtained
17 such orders against Wilson. (Wilson Declaration, ¶ 14). Prause also claims the police had to come
18 because of harassment by Wilson. (Restraining Order Action, ¶ 7a (6)). This is also false. While
19 Prause did unilaterally file a bogus police report regarding Wilson in 2018, the police took no action
20 and did not even contact Wilson. (Wilson Declaration, ¶ 9).

21 Perhaps most troubling, Prause states Wilson has threatened her with a gun.
22 (Restraining Order Action, ¶ 7a (4)). This is another lie by Prause. Prause bases this outrageous
23 claim on grainy copies of photographs she attaches to her CH-100 Restraining Order Action form
24 which she claims depict Wilson and his son with guns. Prause’s allegations are completely false and
25 appear to be an effort to deliberately mislead the Court. In fact, Wilson does not appear in any
26 photographs with a gun. Wilson does not own any guns, and has never owned a gun. (Wilson
27 Declaration, ¶ 15).

1 In summary, the evidence clearly shows that Wilson has never met or spoken to
2 Prause, does not live anywhere near Prause, has not published any information that would place
3 Prause's safety at risk, and has not engaged in any type of civil harassment against her whatsoever.
4 Prause's allegations to the contrary are entirely frivolous and she cannot establish a probability that
5 she will succeed on her Restraining Order Action.

6 **E. Wilson Is Entitled To Recover His Attorneys' Fees**

7 Attorneys' fees are allowed as costs to the prevailing party when authorized by
8 contract, statute, or other law. See Cal. Civ. Proc. Code §§ 1021; 1032(a)(4) & (b); 1033.5(a)(10).
9 The "prevailing defendant on a special motion to strike *shall* be entitled to recover his or her
10 attorney's fees and costs." Cal. Civ. Proc. Code § 425.16(c) (emphasis added). The Supreme Court
11 of California has stated that any defendant who brings a successful anti-SLAPP motion is entitled to
12 *mandatory* reasonable attorneys' fees. Ketchum v. Moses, 24 Cal.4th 1122, 1131-1132 (2001)
13 (emphasis added). Wilson is permitted to seek his attorney's fees by noticed motion after the ruling
14 on the anti-SLAPP motion. Mallard v. Progressive Choice Ins. Co., 188 Cal. App. 4th 531, 545
15 (2010).

16 **IV. CONCLUSION**

17 For all the foregoing reasons, Wilson respectfully requests that this Court grant this Motion
18 to Strike Prause's Request for Civil Harassment Restraining Orders in all respects, and further order
19 that Wilson, as the prevailing party, shall be entitled to recover his attorney's fees by way of a
20 separate motion to be filed after this Motion to Strike is granted.

21
22 Dated: May 13, 2020

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23
24
25 By: 

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NICHOLAS W. LYNES
Attorneys for Respondent
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