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Attorneys for Defendants: Balboa Ave Cooperative, San Diego United Holdings, LLC  
Ninus Malan

**SUPERIOR COURT CALIFORNIA  
COUNTY OF ORANGE - CENTRAL JUSTICE CENTER**

MONTGOMERY FIELD BUSINESS  
CONDOMINIUMS ASSOCIATION, a  
California Nonprofit Mutual Benefit  
Corporation,

Plaintiff,

v.

BALBOA AVE COOPERATIVE, a  
California corporation; SAN DIEGO  
UNITED HOLDINGS GROUP, LLC, a  
California limited liability company;  
NINUS MALAN, an individual; RAZUKI  
INVESTMENTS, LLC, a California limited  
liability company; SALAM RAZUKI, an  
individual; and DOES 1 through 25,  
inclusive,

Defendants.

//  
//

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego  
**08/03/2017** at 01:25:00 PM  
Clerk of the Superior Court  
By Cody Newlan, Deputy Clerk

**CASE NO. 37-2017-00019384-CU-CO-CTL**

Assigned to Judge: Honorable Ronald L. Styn,

**DECLARATION OF GINA M. AUSTIN IN  
SUPPORT OF BALBOA AVE  
COOPERATIVE AND SAN DIEGO  
UNITED HOLDINGS GROUP, LLC'S EX  
PARTE APPLICATION TO DISSOLVE  
TEMPORARY RESTRAINING ORDER**

**DATE:** August 4, 2017  
**TIME:** 2:00 p.m.  
**DEPT:** C-62

1 I, Gina M. Austin, declare:

2 1. I am the managing partner of Austin Legal Group APC, counsel for defendant  
3 Balboa Ave. Cooperative, and Ninus Milan. I have personal knowledge of the facts attested to  
4 below. If called upon to testify under oath I could and would competently testify to the  
5 following. I provide this declaration in support of defendants Balboa Ave Cooperative's and  
6 San Diego United Holdings Group, LLC's ("Defendants") ex parte application to dissolve  
7 temporary restraining order.

8 2. On July 21, 2017 there was a hearing for a permanent restraining order against  
9 Mr. Daniel Burakowski to prevent further civil harassment of Mr. Anthony Avila, a manager of  
10 Balboa Avenue Cooperative.

11 3. Austin Legal Group had an attorney present in the courtroom observing the  
12 hearing. There was a court reporter present at the hearing.


13 4. The court granted the permanent restraining order. Attached hereto as Exhibit  
14 "A" is a true and correct copy of portions of the court reporter's transcript.

15 5. On August 2, 2017, the Hon. Ronald Styn heard an ex parte hearing for a  
16 temporary restraining order ("TRO") requested by Plaintiff Montgomery Field Business  
17 Condominiums Association against the above-named Defendants. Judge Styn granted the TRO  
18 pursuant to the posting of a bond "no later than noon tomorrow." Attached hereto as Exhibit  
19 "B" is a true and correct copy of portions of the court reporter's transcript.

20 6. As of noon on August 3, 2017, I have not been notified that the bond was  
21 posted, nor received service of any kind indicating it was posted.

22 I declare under the penalty of perjury under California state law that the foregoing is  
23 true and correct.

24 Dated: August 3, 2017

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27 Gina M. Austin  
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# **EXHIBIT A**

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN DIEGO  
DEPARTMENT 64; HON. FREDERICK MANDABACH

ANTHONY AVILA, ) Case No.  
Petitioner, ) 37-2017-  
 ) 00020519-  
vs. ) CU-HR-CTL  
 )  
DANIEL FRANCES BURAKOWSKI, )  
Respondent. )  
\_\_\_\_\_ )

**CERTIFIED COPY/DIGITALLY SIGNED**

REPORTER'S TRANSCRIPT

July 21, 2017

Pages 1 through 92

Appearances:

For the Petitioner: In Pro Per  
Anthony Avila

For the Respondent: Epsten Grinnell & Howell APC  
Mandy D. Hexom, Esq.  
10200 Willow Creek Road, Suite 100  
San Diego, California 92131  
(858) 527-0111

Johnell M. Gallivan, CSR No. 10505

Official Reporter Pro Tempore

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WITNESS: Anthony Avila	PAGE
Direct Examination by Mr. Avila	17
Cross-Examination by Ms. Hexom	31
Redirect Examination by Mr. Avila	43
WITNESS: Jordan Rahman	
Direct Examination by Mr. Avila	45
Cross-Examination by Ms. Hexom	48
WITNESS: Jason Honeycutt	
Direct Examination by Mr. Avila	53
Cross-Examination by Ms. Hexom	60
WITNESS: Donly Koshowsky	
Direct Examination by Mr. Avila	66
Cross-Examination by Ms. Hexom	69
Redirect Examination by Mr. Avila	74
Recross-Examination by Ms. Hexom	76
Re-Redirect Examination by Mr. Avila	77
Re-Recross-Examination by Ms. Hexom	78

1 ready.

2 MR. AVILA: Yes, Your Honor.

3 MS. HEXOM: Yes.

4 THE COURT: Okay. I certainly listened to --  
5 it was a fairly long presentation of the evidence. In a  
6 case such as this CCP Section 527.6, so what would be  
7 required to issue a restraining order would be clear and  
8 convincing evidence that petitioner has suffered  
9 harassment and there are three possible ways that I can  
10 think of. One would be unlawful violence if it be an  
11 actual assault or battery. Another would be a credible  
12 threat of violence. Another would be a knowing and  
13 willful course of conduct that seriously alarms, annoys  
14 or harasses a person who has no legitimate purpose.

15 As far as a finding under unlawful violence, I  
16 did not find that. However, I do believe there is clear  
17 and convincing evidence of credible threat of violence.  
18 It was not only the conduct which was corroborated that  
19 the respondent came in close contact; the estimate was  
20 about an inch away. So close that whether or not he  
21 spat in the face of Mr. Avila, or if it was just saliva  
22 because he was yelling, he was that close. Some of his  
23 remarks were -- and I'll -- I know everyone in this  
24 court has heard them enough. Shouting, do something, do  
25 something. Another one, I'll fuck you up -- forgive the  
26 language, but that is what was said. You don't know  
27 what's coming. I'll shove those gold teeth up your ass.  
28 And what we hear was that Mr. Avila attempted to defuse

1 the situation. He was not aggressive, where the  
2 respondent was very aggressive and very confrontational.  
3 And -- well, how then could he possibly have reasonable  
4 fear for his safety? We have his testimony and I  
5 thought he was highly credible, that he was in fear.  
6 And we had another witness who was credible who said  
7 that Mr. Avila appeared to be in fear.

8 He did not seek psychiatric help, but who does  
9 at their prices. Anyway, why wouldn't a person who has  
10 been a boxing instructor and has apparently a lot of  
11 training, why would such a person be in fear. He said  
12 the reason is he suffered a medical condition and if he  
13 were to be assaulted in a certain way he could be  
14 severely damaged and perhaps disabled. We heard about  
15 Logan Avenue. I quite frankly don't know what that  
16 means. I know what Mr. Avila thinks it means. However,  
17 if we read the newspaper about communities we know that  
18 Logan Avenue is associated with a Hispanic community  
19 near the Navy shipyards, because it's always in the  
20 paper as to neighborhood conditions. So I don't know  
21 what Logan Avenue meant. I have no doubt that Mr. Avila  
22 believed that that was part of the threat.

23 At any rate, I find the fear was reasonable. I  
24 find that there was a credible threat of violence. Then  
25 as to knowing willful course of conduct, it appears that  
26 the respondent was very active in making this a  
27 miserable place. I realize there are other matters  
28 going on, but what these are for has to stop, this type

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of conduct.

So the Court orders that the temporary order which has been issued shall be the permanent order and shall remain in place. I'll set it for three years. I realize the maximum possible is five. We will set it at three. If you want a statement of decision then you can ask the court reporter to print up what I said, and that will become the Court's statement of decision.

MR. AVILA: Thank you, Your Honor. Appreciate everything.

THE COURT: I suggest you not get on the same elevator today.

MR. AVILA: Yes, Your Honor.

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I, Johnell M. Gallivan, Official Reporter for the Superior Court of the State of California, in and for the County of San Diego, do hereby certify:

That as such reporter, I reported in machine shorthand the proceedings held in the foregoing case:

That my notes are transcribed into typewriting under my direction and the proceedings held on July 21, 2017, contained within Pages 1 through 91, are a true and correct transcription.

Dated this 2nd day of August 2017.

Johnell M. Gallivan/Digitally signed  
Johnell M. Gallivan  
CSR No. 10505