Appellate Case No. B350512

IN THE COURT OF APPEAL OF CALIFORNIA SECOND APPELLATE DISTRICT DIVISION ONE

MARIO LOPEZ
Petitioner and Appeal Respondent
vs.
DESIREE TOWNSEND
Respondent and Appellant

APPELLANT'S OPENING BRIEF

Appeal from Order entered by
The Superior Court of Los Angeles County,
Central District, Metropolitan Dept. 65
Hon. Kimberly Repecka; Hon. Debra R. Archuleta
LASC Case No. 25STRO03858

Respondent and Appellant, Pro Per

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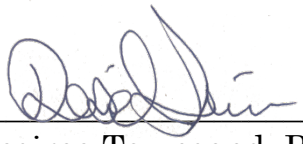
CERTIFICATE OF INTERESTED ENTITIES, PARTIES, OR PERSONS
California Rules of Court 8.208

This form is being submitted on behalf of Respondent and Appellant Desiree Townsend.

I certify that, other than as set forth herein, so far as I am aware, there are no parties, persons, or entities that must be listed by respondent/appellant in this certificate under rule 8.208.

Dated: March 2, 2026



Desiree Townsend, Pro Per
Respondent / Appellant

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STATEMENT OF APPEALABILITY

This appeal is from the judgment of the Los Angeles County Superior Court and is authorized by CCP 904.1, (a)(1).

INTRODUCTION

To obtain a civil harassment restraining order under Code of Civil Procedure section 527.6, a petitioner must prove unlawful harassment defined as unlawful violence, a credible threat of violence, or a knowing and willful course of conduct directed at a specific person that serves no legitimate purpose and would cause a reasonable person substantial emotional distress. (§ 527.6, subd. (b)). The statute is preventive in nature. It is not designed to punish lawful conduct, restrain protected speech, or resolve disputes arising from ongoing litigation.

At the same time, the superior court expressly recognized that Appellant's speech constituted protected activity under Code of Civil Procedure section 425.16. In ruling on Appellant's special motion to strike, the court found that her discussion of a public figure is an issue of public interest and therefore satisfied the statute's first prong. (2 RT 14:13–18). The court nevertheless denied the motion at the second step, relying in substantial part on the temporary restraining order, which it described as "a very, very heavy factor." (2 RT 14:24–26). That reliance substituted a provisional ruling for the evidentiary showing required by section 425.16.

The restraining order ultimately rests on conduct that falls outside the scope of Code of Civil Procedure section 527.6 as a matter of law. The superior court relied on a single process-

serving event connected to pending litigation, despite the absence of violence, threats, or any evidence of a credible threat of future harm. Activity undertaken in connection with litigation is protected by the litigation privilege (Civ. Code, § 47, subd. (b)) and therefore cannot serve as the basis for civil harassment relief under section 527.6.

The court's own statements further demonstrate that the order did not turn on threatening conduct, but instead reflected a punitive or corrective approach. Civil harassment restraining orders are intended to prevent future harassment, not to punish past conduct. (*R.D. v. P.M.* (2011) 202 Cal.App.4th 181, 190, quoting *Russell v. Douvan* (2003) 112 Cal.App.4th 399, 403). Here, the court stated that had Appellant "taken the position that [she] realized that [she] acted in a manner that was out of line," the court "might not be even issuing a restraining order at all today." (3 RT 76:14–20).

In doing so, the court effectively conditioned the issuance of injunctive relief on Appellant's willingness to concede wrongdoing regarding past conduct, rather than on a finding that the statutory requirements for harassment had been satisfied. The court further explained that the order was intended "really just to prevent future abuse" (3 RT 76:20). Read together, these statements indicate that the ruling turned not on clear and convincing evidence of unlawful violence or a credible threat of future harm, as required by section 527.6, but on Appellant's failure to make a concession concerning prior events. To the extent the order was premised on obtaining acknowledgment or

contrition rather than applying the statutory criteria, the ruling raises serious due-process concerns, because injunctive relief must rest on objective evidentiary findings rather than a litigant's willingness to admit fault.

The court also treated Appellant's social media commentary as a qualifying "course of conduct." Yet, the posts were not directed to Mario Lopez ("Petitioner"), did not tag the personal account Petitioner identified at the hearing, and involved no direct communication or contact. Nor did they introduce new factual accusations beyond matters long reported in the media. Rather, the posts consisted of commentary on public allegations and litigation matters, at times employing rhetorical hyperbole and humor, speech that falls squarely within the type of public discussion recognized as protected. (*See Luo v. Volokh* (2024) 102 Cal.App.5th 1312, 1323).

The record further reflects that the evidentiary showing supporting the petition was incomplete. As the superior court observed, the petition included a table of typed quotations purporting to summarize online comments, but did not include screenshots of the alleged posts, functioning links, or sworn evidentiary authentication establishing that the statements originated from Appellant or were presented in full context. (3 RT 28:3–12). The absence of underlying source material prevented meaningful review of the complete posts and undermines any finding of a qualifying course of conduct, particularly where section 527.6 requires proof of targeted harassment and not merely unverified characterizations of online speech. (*See Luo v.*

Volokh (2024) 102 Cal.App.5th 1312, 1323 [writings lacking threats or targeted conduct do not constitute harassment within the statute]).

The absence of evidentiary development is further underscored by the procedural posture. The trial court found that Appellant satisfied the first prong of the anti-SLAPP analysis, yet denied the motion without requiring Petitioner to submit the admissible evidentiary showing mandated at step two. As a result, no evidentiary determination was ever made regarding falsity, defamatory meaning, or the underlying merits of the challenged speech. That procedural reality cannot substitute for proof of harassment under section 527.6, which independently requires evidence of a qualifying course of conduct directed at a specific person. (*Luo*, supra, at p. 1323). Section 527.6 is not a substitute for defamation litigation and cannot be used to restrain protected speech where the statutory elements of harassment have not been established.

The record further reflects that Petitioner himself, along with an account appearing to be associated with his counsel, Alexandra Kazarian, engaged with Appellant's public social media content during these proceedings (AA Ex. 4, AA090–AA092). The record includes sworn identification of Petitioner's TikTok account through which those interactions occurred (2 RT 61:9–64:11). Thus, to the extent any direct interaction existed between the parties, it arose from Petitioner's engagement—and from an account bearing his counsel's name engaging—with

Appellant's public platform, rather than from Appellant directing communications toward Petitioner.

Despite expressly finding that Appellant's conduct constituted protected activity under the first prong of Code of Civil Procedure section 425.16 (2 RT 14:13–18), the superior court nevertheless treated that same conduct, allegations made in litigation and thus protected by the litigation privilege (Civ. Code, § 47, subd. (b)), together with non-directed speech as harassment, relied on corrective and punitive reasoning, including the statement that Appellant "needs a little bit of a lesson" (3 RT 74:2–3) and issued an injunction exceeding the statutory limits of Code of Civil Procedure section 527.6.

The court further disrupted the expedited framework mandated by the statute by granting Petitioner a continuance that extended the hearing to 46 days after issuance of the temporary restraining order, well beyond the 25-day outer limit contemplated by Code of Civil Procedure section 527.6, subdivision (g). The continuance was granted even though Appellant had timely filed her response on July 7, 2025, four calendar days before the scheduled hearing. The record further reflects that Petitioner's counsel had reviewed the filing and possessed detailed knowledge of the proof of service, acknowledging on the record that she had "look[ed] up the proof of service" and understood how and when the documents were served (1 RT 6:18–23). These statements confirm that counsel was aware of and reviewed the response, yet the court nevertheless granted a continuance without good cause.

This appeal presents straightforward legal questions: whether Code of Civil Procedure section 527.6 may be expanded beyond its narrow preventive purpose to restrain litigation-related activity and public commentary protected by both the litigation privilege and Code of Civil Procedure section 425.16; whether a court may deny an anti-SLAPP motion without requiring the evidentiary showing mandated at step two; and whether injunctive relief may issue absent clear and convincing evidence of unlawful violence, a credible threat, or a qualifying course of conduct directed at a specific person. Because the superior court treated protected activity as harassment, relied on provisional and unauthenticated material rather than competent evidence, and imposed relief beyond the limits of both section 425.16 and section 527.6, the restraining order and the order denying Appellant's special motion to strike must be reversed.

STATEMENT OF THE FACTS

On June 13, 2025, Appellant Desiree Townsend ("Appellant") filed a civil defamation action against Mario Lopez ("Petitioner") in the Los Angeles Superior Court (Townsend v. Lopez, LASC Case No. 25NNCV04089). On June 15, 2025, the summons and complaint in that action were served at Petitioner's residence. Appellant accompanied a process server during the service event, which was recorded. Five days later, on June 20, 2025, Petitioner filed a Request for Civil Harassment Restraining Orders (Form CH-100) against Appellant under Code of Civil Procedure section 527.6. (Exh 1 AA003).

The petition referenced the service-of-process incident and social media activity as grounds for relief. A temporary restraining order was issued the same day and a hearing on the petition was scheduled for July 11, 2025. (Exh 2 AA054). On July 7, 2025, Appellant filed a response to the petition. (Exh 3 AA062). On July 8, 2025, Appellant filed the Declaration of Desiree Townsend. (Exh 4 AA080). At the July 11, 2025 hearing, the matter was continued, and the temporary restraining order was reissued. (Exhs 5–6, AA093–AA095).

On August 1, 2025, Appellant filed a special motion to strike pursuant to Code of Civil Procedure section 425.16 (anti-SLAPP). (Exh 7 AA099). Appellant filed a second Declaration on August 5, 2025. (Exh 8 AA136). On August 5, 2025, the superior court denied the motion and proceeded with the restraining order proceedings the same day. (Exh 9 AA193). The matter was then continued to August 8, 2025. (Exhs 10–12, AA195–AA202). Following the continued hearing, the superior court issued a restraining order after hearing against Appellant. (Exhs 13–14, AA205–AA208). Appellant filed a Notice of Appeal on October 1, 2025 (Exh 15, AA216), followed by a Notice Designating the Record on Appeal on October 10, 2025 (Exh 16, AA219).

ISSUES PRESENTED

This appeal concerns the statutory limits of Code of Civil Procedure section 527.6 and the procedural protections afforded to constitutionally protected litigation conduct and speech under Code of Civil Procedure section 425.16. The issues arise from the superior court's application of the anti-SLAPP burden-shifting

framework, its treatment of litigation-related activity and non-directed public commentary as harassment, and its compliance with the preventive purpose and expedited procedures mandated by section 527.6.

Appellant respectfully poses to the Court the following questions:

1. Did the superior court err by denying Appellant's anti-SLAPP motion after finding that Appellant satisfied the first prong of Code of Civil Procedure section 425.16, yet failing to require Petitioner to meet the statutory evidentiary burden under the second prong to demonstrate a probability of prevailing?

2. Assuming arguendo that Petitioner could satisfy the anti-SLAPP evidentiary burden, did the superior court abuse its discretion by treating Appellant's social media posts, made on her own accounts and not directed to Petitioner or his family, as a qualifying "course of conduct" under Code of Civil Procedure section 527.6?

3. Did the superior court abuse its discretion by granting a civil harassment restraining order based on conduct arising from service of process protected by the litigation privilege, absent evidence of violence or a credible threat of violence?

4. Did the superior court abuse its discretion by relying on corrective or punitive considerations, including that appellant "needs a little bit of a lesson" (3 RT 74:2–3), rather than the preventive purpose authorized under Code of Civil

Procedure section 527.6?

5. Did the superior court abuse its discretion and deprive appellant of a fair expedited hearing under Code of Civil Procedure section 527.6 by granting a continuance based on petitioner's lack of preparation despite appellant's timely service of her response?

STANDARD OF REVIEW

Orders granting or denying a special motion to strike under Code of Civil Procedure section 425.16 are reviewed de novo. (*Navellier v. Sletten* (2002) 29 Cal.4th 82, 88–89). The appellate court independently applies the statute's two-step burden-shifting framework and determines whether the plaintiff demonstrated a probability of prevailing based on admissible evidence presented to the trial court. (§ 425.16, subd. (b)(2); *Navellier*, supra, at pp. 88–89).

Civil harassment restraining orders issued under Code of Civil Procedure section 527.6 are generally reviewed for abuse of discretion, while underlying factual findings are reviewed for substantial evidence. (*R.D. v. P.M.* (2011) 202 Cal.App.4th 181, 188). However, questions concerning the legal sufficiency of conduct to constitute statutory "harassment," or the interpretation and application of statutory provisions, are reviewed de novo. (*Ibid.*; *Parisi v. Mazzaferro* (2016) 5 Cal.App.5th 1219, 1226–1227).

Accordingly, the issues presented implicate mixed standards of review. Issue One, challenging the denial of Appellant's anti-SLAPP motion and the trial court's application of

section 425.16's evidentiary framework, presents a legal question subject to independent review. Issues Two and Three likewise present legal questions reviewed de novo to the extent they concern whether Appellant's social media activity and litigation-related conduct may lawfully satisfy the definition of harassment under section 527.6 or fall within the litigation privilege. (*Rusheen v. Cohen* (2006) 37 Cal.4th 1048, 1055–1056).

By contrast, Issues Four and Five, which challenge the court's reliance on corrective or punitive reasoning and its continuance of the expedited hearing, are reviewed for abuse of discretion. A court abuses its discretion when it applies an incorrect legal standard or acts outside the bounds of the governing statute. (*Parisi v. Mazzaferro*, supra, 5 Cal.App.5th at pp. 1226–1227.)

Because section 527.6 requires proof by clear and convincing evidence, appellate review of evidentiary sufficiency must account for that heightened burden of proof. (*Conservatorship of O.B.* (2020) 9 Cal.5th 989, 1011–1012). Thus, even under deferential review, the Court must determine whether substantial evidence exists from which a reasonable trier of fact could find the statutory requirements satisfied by clear and convincing evidence.

Binding authority makes clear that although proceedings under Code of Civil Procedure section 527.6 are expedited, they incorporate significant due process safeguards. As explained in *Schraer v. Berkeley Property Owners' Assn*. (1989) 207 Cal.App.3d 719, 730–731, the statute affords a respondent a full opportunity

to present his or her case, requires the trial court to receive relevant testimony, and permits issuance of relief only upon clear and convincing proof of a qualifying course of conduct that actually and reasonably caused substantial emotional distress, served no legitimate purpose, and did not constitute constitutionally protected activity. (*Id.* at pp. 730–731, 255 Cal.Rptr. 453, 460).

Likewise, more recent authority reiterates that "[t]he Legislature offset the expedited procedures in section 527.6 with safeguards." (*Yost v. Forestiere* (2020) 51 Cal.App.5th 509, 521–522, 265 Cal.Rptr.3d 175, 184–185). These protections underscore that, despite the statute's summary nature, restraining orders may issue only after adherence to procedural safeguards and careful application of the heightened evidentiary standard.

In sum, this appeal presents legal questions subject to independent review together with discretionary rulings evaluated under the abuse-of-discretion standard, all informed by the statutory limits of sections 425.16 and 527.6.

ARGUMENT

I. THE SUPERIOR COURT FAILED TO FOLLOW THE PROCEDURAL FRAMEWORK REQUIRED BY SECTION 425.16

Code of Civil Procedure section 425.16 establishes a mandatory burden-shifting framework designed to dispose at an early stage of claims arising from protected activity unless the plaintiff demonstrates evidentiary merit. (*City of Cotati v. Cashman* (2002) 29 Cal.4th 69, 76). Once the defendant shows that the challenged claims arise from protected activity, the burden

shifts to the plaintiff to establish a probability of prevailing through competent, admissible evidence. (§ 425.16, subd. (b)(2); *Navellier v. Sletten* (2002) 29 Cal.4th 82, 88–89). At the second step, the court considers the pleadings together with supporting and opposing affidavits stating the facts upon which liability or defense is based. (§ 425.16, subd. (b)(2); *Navellier*, supra, at pp. 88–89).

Put another way, the plaintiff "must demonstrate that the complaint is both legally sufficient and supported by a sufficient prima facie showing of facts to sustain a favorable judgment if the evidence submitted by the plaintiff is credited." (*Navellier*, supra, 29 Cal.4th at pp. 88–89, quoting *Wilson v. Parker, Covert & Chidester* (2002) 28 Cal.4th 811, 821). Allegations or attorney argument alone are insufficient. (*Baral v. Schnitt* (2016) 1 Cal.5th 376, 384–385; *Gallant v. City of Carson* (2005) 128 Cal.App.4th 705, 719–720). Statements of counsel are not evidence and cannot substitute for admissible proof. (*Tuchscher Development Enterprises, Inc. v. San Diego Unified Port Dist.* (2003) 106 Cal.App.4th 1219, 1239).

Rather, the plaintiff must submit admissible evidence demonstrating at least minimal merit. (*HMS Capital, Inc. v. Lawyers Title Co.* (2004) 118 Cal.App.4th 204, 212, 12 Cal.Rptr.3d 786, 791). Anti-SLAPP motions must be opposed by declarations stating the facts upon which liability is based. (*Id.*) In opposing an anti-SLAPP motion, the plaintiff may not rely solely on the allegations of the complaint, but must instead produce evidence that would be admissible at trial. (*Roberts v. Los Angeles County*

Bar Assn., supra, 105 Cal.App.4th at pp. 613–614).

Here, Petitioner presented no opposing affidavits or other competent evidentiary submissions stating the facts upon which liability was based, as required by section 425.16, subdivision (b)(2). Instead, Petitioner's counsel acknowledged that supporting facts would be presented "through testimony," rather than through admissible written evidence submitted in opposition to the motion. (2 RT 8:8–9). The superior court itself observed that the petition contained only a table of typed quotations purporting to summarize online comments, without screenshots, functioning links, or sworn authentication establishing that the statements originated from Appellant or were presented in full context. (3 RT 28:3–12). Thus, rather than submitting admissible evidence, Petitioner relied on isolated quotations and partial excerpts lacking evidentiary foundation.

The court likewise recognized that the anti-SLAPP determination was limited to the existing record, expressly stating that "we are limited to the pleadings and what's been filed." (2 RT 13:2–3). Having acknowledged that testimonial evidence could not be considered at that stage, the court nevertheless proceeded to rule, stating it was "prepared to rule on the anti-SLAPP matter" (2 RT 14:13–26), despite the absence of competent evidentiary opposition satisfying step two. In doing so, the court relieved Petitioner of the evidentiary burden expressly required by section 425.16 and allowed the claim to proceed without the prima facie showing mandated by statute. This inverted the anti-SLAPP framework, which exists to prevent meritless claims from

surviving absent admissible evidence. (*Paul for Council v. Hanyecz* (2001) 85 Cal.App.4th 1356, 1365).

The court further departed from the statutory framework by relying heavily on the previously issued temporary restraining order, describing it as "a very, very heavy factor" supporting Petitioner's likelihood of prevailing (2 RT 14:24–26). That reliance was improper. Temporary restraining orders are provisional measures intended to preserve the status quo pending fuller adjudication, they do not constitute final findings on the merits. (*People ex rel. Gallo v. Acuna* (1997) 14 Cal.4th 1090, 1110; *Lam v. Ngo* (2001) 91 Cal.App.4th 832, 842–843). A provisional ex parte ruling cannot substitute for the evidentiary showing required at step two of anti-SLAPP review.

By treating the TRO as a "very, very heavy factor," the court relied on considerations outside the evidentiary framework contemplated by section 425.16 and effectively predetermined the probability-of-prevailing analysis. The anti-SLAPP inquiry focuses solely on whether admissible evidence, if credited, would support a judgment in plaintiff's favor, not on interim rulings or unsupported allegations. (*Monster Energy Co. v. Schechter* (2019) 7 Cal.5th 781, 788).

In short, the court acknowledged that its review was confined to the pleadings and evidence already filed, recognized that testimonial evidence had not been submitted, yet denied the motion while relying on a provisional TRO outside the statutory framework. This procedure undermined the protections section 425.16 was enacted to provide.

Because Petitioner failed to present admissible evidence establishing minimal merit, and because the court relied on improper considerations outside the anti-SLAPP framework, denial of Appellant's special motion to strike constitutes reversible error. Appellant does not contend that satisfying the first prong alone requires dismissal. Rather, while Appellant met her burden at step one, Petitioner failed to meet the statutory evidentiary burden at step two. Reversal is therefore required.

II. APPELLANT'S SOCIAL MEDIA POSTS DO NOT CONSTITUTE A QUALIFYING "COURSE OF CONDUCT" UNDER CODE OF CIVIL PROCEDURE SECTION 527.6

Even assuming arguendo that the superior court correctly denied the anti-SLAPP motion, the restraining order independently fails because the evidentiary record does not establish a qualifying "course of conduct" under Code of Civil Procedure section 527.6. Section 527.6 authorizes relief only upon proof of a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, or harasses and serves no legitimate purpose. (§ 527.6, subd. (b)). The statute does not reach generalized public commentary, rhetorical criticism, or speech posted to the public at large.

Recent authority confirms that writings addressing litigation or matters of public controversy do not constitute harassment absent targeted conduct. *In Luo v. Volokh* (2024) 102 Cal.App.5th 1312, the Court of Appeal held that commentary related to litigation remained protected expression and could not support a section 527.6 restraining order where the writings served a legitimate purpose and were not directed at the petitioner

in a harassing manner. (*Id*. at pp. 1321–1323). The same principle applies here.

The challenged posts likewise fall outside the statutory definition of harassment. As *Luo* explains, writings that do not involve threats, stalking, harassing communications, or comparable targeted conduct—and that serve a legitimate purpose—do not satisfy section 527.6. (*Luo*, supra, 102 Cal.App.5th at p. 1323). Here, there is no evidence that Appellant stalked Petitioner, initiated direct harassing communications, or directed threats toward Petitioner or his family. The posts appeared on Appellant's own accounts and addressed matters already subject to public discussion.

Unlike cases involving targeted online harassment, the posts did not disclose private identifying information beyond material already publicly shared by Petitioner himself. (2 RT 25:22–34:17). Nor did Appellant fabricate new accusations. Rather, the commentary addressed allegations previously reported in mainstream media and discussed matters connected to ongoing litigation. (3 RT 41:26–44:24). The tone of certain posts reflected rhetorical hyperbole and humor, consistent with commentary rather than threats or intimidation. (3 RT 29:10–23; 36:12-38:1).

The posts also served a legitimate purpose. Appellant's commentary addressed how allegations involving public figures are treated in media coverage and public discourse, including discussion of issues raised in ongoing litigation between the parties. Speech addressing matters of public controversy or judicial proceedings constitutes legitimate expression, not

harassment. (*Luo*, supra, 102 Cal.App.5th at p. 1323).

Nor does this case resemble the targeted online harassment found in *E.G. v. M.L.* (2024) 105 Cal.App.5th 688, 700–701, where the respondent disclosed personal identifying information and directed accusatory content toward a specific individual. Here, the record reflects no disclosure of private information, no direct targeting, and no sustained individualized communications directed at Petitioner.

Furthermore, the evidentiary record does not demonstrate the type of targeted conduct contemplated by the statute. The Petition relied primarily on typed summaries and selected quotations presented in table format, consisting of isolated excerpts allegedly drawn from social media posts, but lacking links, screenshots, authentication, or contextual presentation of the full posts. The record therefore contains only curated fragments rather than complete communications capable of objective evaluation.

Equally significant, Petitioner relied on partial quotations rather than complete posts, omitting surrounding language necessary to evaluate tone, meaning, and intent. California courts recognize that allegedly threatening speech must be evaluated in light of its full context and surrounding circumstances, since statements that may appear alarming in isolation can constitute protected expression when understood as rhetorical, humorous, or otherwise non-threatening. (*People v. Lowery* (2011) 52 Cal.4th 419, 420–421 [speech constitutes a "true threat" only where a reasonable listener would understand it, in context, as a serious

expression of intent to commit unlawful violence]). Without authenticated full posts or contextual evidence, the record cannot establish a continuous pattern of conduct directed at Petitioner as required under section 527.6. Instead, the materials reflect commentary published on Appellant's own public platform rather than communications directed to Petitioner or his family.

The evidentiary deficiency is compounded by the absence of authentication. California courts require a foundational showing that social media evidence is what its proponent claims it to be before such materials may be relied upon. (*People v. Valdez* (2011) 201 Cal.App.4th 1429, 1435–1438). In *Valdez*, authentication was established through multiple corroborating indicia linking the social media page to the defendant, including identifying photographs, personal references, matching biographical details, and evidence of control over the account. (*Id*. at pp. 1435–1438). Equally important, the MySpace printouts in *Valdez* were admitted only for limited purposes, to corroborate identification testimony and to serve as foundation for expert opinion, and not for the truth of the statements contained within the page. (*Id.* at p. 1434). The jury was expressly instructed regarding that limited use. (*Ibid*).

No comparable safeguards exist here. The superior court itself noted that the petition contained only a table summarizing alleged posts, expressly observing that "there were no screenshots" and that purported links identified in the table were not accessible. (3 RT 28:6–11). Petitioner submitted only typed excerpts and summarized quotations without screenshots, metadata,

functioning links, sworn declarations, or any evidentiary foundation establishing authorship, completeness, or contextual accuracy. Unlike *Valdez*, the excerpts were relied upon substantively as proof of harassment itself, despite the absence of authentication or any limitation on their use. Without foundational proof or contextual reliability, such selective excerpts cannot establish a qualifying course of conduct under section 527.6.

In short, section 527.6 requires clear and convincing proof of a knowing and willful course of conduct directed at a specific person that serves no legitimate purpose. (§ 527.6, subd. (b)). The record instead reflects generalized public commentary appearing on Appellant's own social media accounts, supported only by selective, context-stripped excerpts rather than authenticated, complete communications. Such evidence does not establish a continuous pattern of targeted harassment and therefore fails to satisfy the statutory definition of a qualifying "course of conduct."

The record further reflects that Petitioner himself, along with an account appearing to be associated with his counsel, Alexandra Kazarian, engaged with Appellant's public social media content during these proceedings (AA Ex. 4, AA090–AA092). The record includes sworn identification of Petitioner's TikTok account through which those interactions occurred (2 RT 61:9–64:11). Thus, to the extent any direct interaction existed between the parties, it arose from Petitioner's engagement—and from an account bearing his counsel's name engaging—with

Appellant's public platform, rather than from Appellant directing communications toward Petitioner.

Accordingly, even assuming arguendo that the anti-SLAPP ruling was correct, the evidentiary record remains legally insufficient to support issuance of a restraining order under section 527.6. Because the statutory elements were not established through competent, reliable evidence, the restraining order must be reversed.

III. THE SUPERIOR COURT ABUSED ITS DISCRETION BY ISSUING A RESTRAINING ORDER BASED ON CONDUCT PROTECTED BY THE LITIGATION PRIVILEGE

California's litigation privilege, codified at Civil Code section 47, subdivision (b), broadly protects communications made in connection with judicial proceedings. The privilege applies to any communication (1) made in a judicial proceeding, (2) by litigants or other participants authorized by law, (3) to achieve the objects of the litigation, and (4) having some logical connection to the action. (*Silberg v. Anderson* (1990) 50 Cal.3d 205, 212). The privilege is absolute and applies even where the communication is alleged to be wrongful or harmful. (*Rusheen v. Cohen* (2006) 37 Cal.4th 1048, 1057–1058).

Importantly, the privilege extends beyond statements made in court to encompass communicative acts undertaken in furtherance of litigation, including service of process, pleadings, and other litigation-related conduct. (*Rusheen*, supra, 37 Cal.4th at pp. 1057–1062). Because the privilege exists to ensure free access to the courts and vigorous participation in judicial proceedings, conduct falling within its scope cannot serve as the

basis for civil liability or injunctive relief. (*Silberg*, supra, 50 Cal.3d at p. 213).

Here, the restraining order rested in substantial part on conduct arising directly from Appellant's pursuit of litigation. The court identified the manner of service of process as part of the alleged harassment, notwithstanding that service of process is a paradigmatic litigation act undertaken to advance judicial proceedings. Conduct surrounding service, including communications necessary to effectuate service, is logically connected to the litigation and therefore falls squarely within the protection of the litigation privilege. (*Rusheen*, supra, 37 Cal.4th at pp. 1057–1062).

Appellant accompanied an inexperienced process server who required guidance regarding the mechanics of service, having been retained on short notice. (3 RT 48:25–28). The superior court itself acknowledged that Appellant's mere presence during service was not prohibited, observing, "Is there some law that prevents her from being present while it's being served?" (3 RT 7:18–20). The record further reflects that Appellant did not approach or address any member of Petitioner's family, rather, her interaction was limited to speaking with an adult wrestling coach standing in the street near the residence, after which Petitioner's son interjected into the conversation. (3 RT 45:3–5). California courts emphasize that the litigation privilege is interpreted broadly to protect access to the courts and to avoid chilling legitimate participation in litigation. (*Action Apartment Assn., Inc. v. City of Santa Monica* (2007) 41 Cal.4th 1232, 1244).

Even if the process-serving incident were characterized as confrontational, a single isolated interaction does not automatically satisfy section 527.6's requirement of unlawful harassment warranting prospective injunctive relief. Section 527.6 is preventive in nature and is designed to restrain future harassment, not to punish past acts. (*See R.D. v. P.M.* (2011) 202 Cal.App.4th 181, 189 [purpose of statute is prevention of future harm].) California courts have repeatedly held that injunctive relief under section 527.6 requires evidence demonstrating a continuing course of conduct or a credible threat of future harassment, not merely a one-time incident occurring in the course of a dispute. (*Ibid.*; *see also Parisi v. Mazzaferro* (2016) 5 Cal.App.5th 1219, 1229–1230 [court must evaluate whether future harm is likely]).

Here, the record reflects at most a single service-of-process encounter arising from ongoing litigation. Even assuming arguendo that the exchange was uncomfortable, there was no evidence of repeated acts, ongoing pursuit, or a continuing pattern suggesting future harassment. Absent such proof, section 527.6 does not authorize a restraining order based solely on one isolated event.

The same analysis applies to Appellant's commentary concerning the ongoing defamation action. California courts recognize that public discussion of judicial proceedings constitutes protected activity. "Reports of judicial proceedings," including statements published online or on social media platforms, fall within the protections of Code of Civil Procedure section 425.16.

(*Traditional Cat Assn., Inc. v. Gilbreath* (2004) 118 Cal.App.4th 392, 397). Commentary regarding litigation or statements made in connection with judicial proceedings likewise qualifies as protected activity under section 425.16, subdivision (e)(2). (*See Sipple v. Foundation for Nat. Progress* (1999) 71 Cal.App.4th 226, 238; *Briggs v. Eden Council for Hope & Opportunity* (1999) 19 Cal.4th 1106, 1116–1117).

Appellant's posts concerned allegations and events already placed into the public sphere through pending litigation and existing public discussion. The commentary was derivative of, and logically connected to, ongoing judicial proceedings. As with the process-serving conduct, these communications arose from litigation activity and cannot be recharacterized as harassment merely because they were critical or unwelcome.

By issuing a civil harassment restraining order predicated on conduct protected by the litigation privilege—including both litigation-related service activity and commentary concerning pending judicial proceedings—the superior court imposed injunctive relief on activity California law expressly protects. Section 527.6 cannot be used to circumvent the absolute protections afforded to litigation-related communications. The order therefore constitutes an abuse of discretion and must be reversed.

IV. THE RESTRAINING ORDER IMPROPERLY RELIED ON CORRECTIVE OR PUNITIVE CONSIDERATIONS INSTEAD OF THE PREVENTIVE PURPOSE REQUIRED BY SECTION 527.6

Code of Civil Procedure section 527.6 is narrowly designed to provide prospective relief aimed at preventing future

harassment, not to punish past conduct or impose corrective sanctions. The statute authorizes injunctive relief only upon a showing of unlawful harassment and is "intended to prevent future harassment," not to serve as a punitive device. (*R.D. v. P.M.* (2011) 202 Cal.App.4th 181, 189–190, quoting *Russell v. Douvan* (2003) 112 Cal.App.4th 399, 403). Because the remedy is preventive rather than punitive, the court's focus must remain on whether there exists a credible threat of future harm justifying injunctive relief under the statute. (*Parisi v. Mazzaferro* (2016) 5 Cal.App.5th 1219, 1229–1230).

Here, the superior court's own statements demonstrate that the restraining order was influenced by corrective considerations rather than the statutory standard. The court stated that Appellant "needs a little bit of a lesson" (RT 74:15–18), language suggesting a punitive or disciplinary rationale inconsistent with section 527.6's limited preventive purpose. In doing so, the court effectively conditioned injunctive relief on Appellant's acknowledgment of wrongdoing concerning past conduct, rather than on a finding that the statutory elements of harassment had been established by clear and convincing evidence.

The court further stated that had Appellant taken the position that she realized she had acted "out of line," the court "might not be even issuing a restraining order at all today," explaining that the order was intended "really just to prevent future abuse." (3 RT 76:14–20). Read together, these statements indicate that issuance of the order turned not on an objective determination of unlawful violence or a credible threat of future

harm, but on Appellant's perceived failure to concede fault regarding prior events.

That approach is incompatible with the statutory framework. Section 527.6 does not authorize restraining orders as a means of correction, deterrence, or moral instruction. Rather, it limits relief to circumstances where evidence demonstrates a real and present risk of future harassment. (*R.D. v. P.M.*, supra, 202 Cal.App.4th at pp. 189–190). Conditioning injunctive relief on a litigant's acceptance of blame effectively transforms a preventive statute into a punitive mechanism, exceeding the bounds of judicial authority under section 527.6.

Because the record reflects that the restraining order was influenced by corrective or punitive considerations rather than the statute's preventive purpose, the order exceeded the permissible scope of section 527.6 and therefore constitutes an abuse of discretion requiring reversal.

V. THE SUPERIOR COURT DEPRIVED APPELLANT OF THE EXPEDITED HEARING REQUIRED BY SECTION 527.6 BY GRANTING AN UNJUSTIFIED CONTINUANCE

Code of Civil Procedure section 527.6 establishes an intentionally expedited procedure designed to ensure that requests for civil harassment restraining orders are resolved promptly. The statute reflects a legislative balance: while temporary restraining orders may issue on an emergency basis, a full evidentiary hearing must follow quickly so that any restraints on liberty and speech are tested without unnecessary delay. (§ 527.6, subd. (g).) Courts have recognized that the accelerated timeline is a core feature of the statute, intended to provide swift resolution while minimizing

the risk that temporary restraints remain in place without adjudication on the merits. (*See Schraer v. Berkeley Property Owners' Assn*. (1989) 207 Cal.App.3d 719, 730–731 [section 527.6 creates a summary, expedited procedure requiring prompt hearing and evidentiary determination].)

Consistent with that purpose, section 527.6 permits continuances only upon a showing of good cause. (§ 527.6, subd. (g).) Because the statute contemplates prompt adjudication, continuances should not be granted absent a concrete showing that delay is necessary to ensure fairness or due process. (*See Schraer*, supra, 207 Cal.App.3d at pp. 730–731 [emphasizing need for expeditious resolution]; *Nora v. Kaddo* (2004) 116 Cal.App.4th 1026, 1029–1030 [section 527.6 proceedings are intended to be swift and narrowly focused].)

Here, the superior court departed from that statutory framework by granting Petitioner a continuance that extended the hearing to approximately 46 days after issuance of the temporary restraining order—well beyond the 25-day outside limit contemplated by section 527.6, subdivision (g). The continuance was granted despite the absence of good cause. Appellant had timely filed her written response on July 7, 2025, four calendar days before the scheduled hearing. The record further reflects that Petitioner's counsel had reviewed the filing and possessed detailed knowledge regarding service, acknowledging on the record that she had "look[ed] up the proof of service" and understood when and how the documents were served. (1 RT 6:18–23). These admissions demonstrate that counsel was aware of the response and had

sufficient notice to proceed.

Nothing in the record establishes that additional time was necessary to prevent prejudice or to permit adequate preparation. Instead, the continuance had the practical effect of prolonging temporary restraints against Appellant while delaying her opportunity to obtain a prompt evidentiary determination as required by statute. Such delay undermines the legislative purpose of section 527.6, which seeks rapid adjudication precisely because temporary restraining orders impose significant restrictions before a full hearing has occurred. (*See Schraer*, supra, 207 Cal.App.3d at pp. 730–731.)

By granting a continuance without good cause and allowing the temporary order to remain in effect beyond the statute's expedited timeline, the superior court deprived Appellant of the prompt hearing guaranteed by section 527.6. The resulting delay constituted procedural error and further supports reversal of the restraining order.

CONCLUSION

For all of the foregoing reasons, this Court should reverse the order. The superior court denied Appellant's special motion to strike after finding Appellant satisfied the first prong of section 425.16, yet failed to require Petitioner to meet his step-two evidentiary burden with competent, admissible proof, instead relying on unauthenticated excerpts and a provisional TRO. Even assuming arguendo that denial of the anti-SLAPP motion were proper, the record remains legally insufficient to support civil harassment relief because the challenged social media

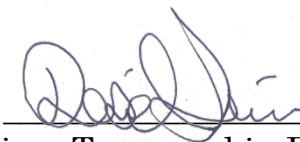
commentary—public, non-directed, and serving a legitimate purpose—does not constitute a qualifying "course of conduct" under section 527.6, and the absence of authentication and contextual evidence further defeats any showing of targeted harassment.

The order also rests on conduct protected by the litigation privilege, including service-of-process activity and litigation-related commentary, which cannot be recharacterized as harassment under section 527.6. Compounding these errors, the court expressly invoked corrective and punitive considerations—stating that Appellant "needs a little bit of a lesson" (RT 74:15–18)—contrary to the statute's strictly preventive purpose, and then deprived Appellant of the expedited hearing required by section 527.6 by granting an unjustified continuance beyond the statutory timeline.

For these independent reasons, Appellant respectfully requests that this Court reverse both the restraining order and the order denying the anti-SLAPP motion, and grant such further relief as the Court deems just and proper.

Respectfully submitted,

DATED: March 2, 2026

By: 
Desiree Townsend in Pro Per
Respondent and Appellant

CERTIFICATE OF WORD COUNT

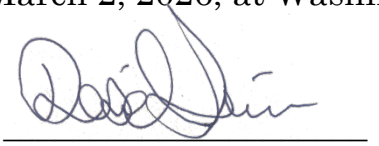
I, DESIREE TOWNSEND, declare:

1. I am the appellant in this matter and appear in propria persona. In that capacity, I prepared this brief.

2. Pursuant to California Rules of Court, rules 8.204(c) and 8.486(a)(6), I hereby certify that this brief contains 6,379 words, including footnotes, but excluding the caption, tables, this certificate, any certificate of interested entities or persons, and signature blocks.

3. In making this certification, I relied on the word-count function of the computer program used to prepare the brief (Microsoft Word).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. This declaration was executed on March 2, 2026, at Washington, D.C.



Desiree Townsend

CERTIFICATE OF SERVICE

Lopez v. Townsend
Case No. B350512
Court of Appeal, State of California
Second Appellate District, Division One

I, Desiree Townsend, hereby certify that on March 2, 2026, I electronically filed the foregoing Appellant's Opening Brief with the Court of Appeal of the State of California, Second Appellate District, Division One, through the Court's electronic filing system (TrueFiling). Pursuant to California Rules of Court, rule 8.25, and the electronic service procedures of the Court of Appeal, a copy of the foregoing document was served electronically on all counsel of record through the court's electronic filing service provider on the same date.

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By: 
DESIREE TOWNSEND

CERTIFICATE OF SERVICE
Lopez v. Townsend
Case No. B350512
Court of Appeal, State of California
Second Appellate District, Division One

I, Desiree Townsend, declare that on March 5, 2026, I electronically served the foregoing Appellant's Opening Brief on the Los Angeles County Superior Court, Department 65, in connection with LASC Case No. 25STRO03858, by transmitting a true and correct copy via email to the department's official email address: smcdept65@lacourt.org.

Pursuant to California Rules of Court, rule 8.25, and the electronic service procedures of the Court of Appeal, a copy of the foregoing document was served electronically on all counsel of record through the court's electronic filing service provider on the same date.

Executed on March 5, 2026 in Washington D.C.

By: 
DESIREE TOWNSEND