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[REDACTED]

7  
8 SUPERIOR COURT OF CALIFORNIA  
9 COUNTY OF RIVERSIDE

10 THE PEOPLE OF THE STATE OF ) Case No. [REDACTED]  
11 CALIFORNIA, )  
12 ) **REPLY RE: DEFENDANT’S MOTION**  
13 Plaintiff, ) **TO TRAVERSE SEARCH WARRANT**  
14 ) **FOR GOOGLE EMAIL ACCOUNT;**  
15 v. ) **REQUEST FOR EVIDENTIARY**  
16 ) **HEARING [PENAL CODE § 1538.5]**  
17 [REDACTED] )  
18 ) DATE: February 20, 2020  
19 ) TIME: 9:00 a.m.  
20 ) DEPT: 52  
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1 I. INTRODUCTION

2 The only allegations against Mr. [REDACTED] in the search-warrant affidavit are, literally, that he  
3 exchanged “many emails” with so-called “co-conspirators,” and that [REDACTED] “ha[s] been identified  
4 as [a] co-conspirator[] based on information received by SIU Investigators along with  
5 information obtained by law enforcement agencies associated with this investigation.”<sup>1</sup> In  
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<sup>1</sup> See Exhibit A to Motion at page 9 of 16.

1 response to Mr. █████ § 1538.5 motion, the People urge this Court to rely on supposed facts  
2 from outside of the record. But the law forbids that. Courts may look only to the “four corners”  
3 of the affidavit instead.<sup>2</sup> The People also seek help from the *Leon* good-faith doctrine. But no  
4 reasonable officer could honestly believe that this affidavit justified the seizure of all of Mr.  
5 █████ private emails from 2015-2018.<sup>3</sup> Finally, the People demand that this Court sift through  
6 the record to determine if and when the independent source doctrine applies. But avoiding the  
7 exclusionary rule is the People’s burden,<sup>4</sup> and it has not been met here—especially where the  
8 People only reference *other* evidence that is different from the emails that ought to be  
9 suppressed.

10 For all of these reasons, every email that the People have seized from Mr. █████ should be  
11 suppressed, as well as any additional fruit of the emails that the People would seek to introduce  
12 at trial.

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21 <sup>2</sup> “That showing [probable cause] must appear in the affidavit offered in support of the  
22 warrant.” *People v. Clark* (2014) 230 Cal.App.4th 490, 496-497. *See also id.* (“in reviewing the  
23 sufficiency of the facts upon which the magistrate or judge based his or her probable cause  
24 determination, *we consider only the facts that appear within the ‘four corners of the warrant  
affidavit.’*”) (emphasis provided).

25 <sup>3</sup> *See People v. Gotfried* (2003) 107 Cal.App.4th 254, 257 (holding that good faith  
26 “requires officers to have a reasonable knowledge of what the law prohibits”) (citing *Leon*, 468  
U.S. at 920, fn. 20).

27 <sup>4</sup> *See In re Rudy F.* (2004) 117 Cal.App.4th 1124, 1136 (holding that it is the People who  
28 “bear[] the burden of establishing that illegally seized evidence would have been obtained even  
without the illegality.”)

1           **II.     ARGUMENT IN REPLY**

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3           **A.     The probable-cause analysis is limited to the “four corners” of the affidavit,**  
4           **and this affidavit does not establish probable cause.**

5           Mr. █████ motion argued that the warrant affidavit failed to show probable cause, and  
6           that “[t]his probable-cause analysis, of course, must be limited to facts in the affidavit.” Motion  
7           at 5 (quoting *People v. Frank* (1985) 38 Cal.3d 711, 729). The People respond that the “idea that  
8           this court may not consider relevant outside evidence is not as clear as it seems”; and it offers an  
9           interpretation of case law that it asserts “muddies what would otherwise be a clear rule.”  
10          Opposition at 3. But the law is crystal clear; only the People’s interpretation is muddy.

11          *Frank* squarely holds that all necessary facts must be stated in the affidavit, and that after-  
12          the-fact justifications are forbidden. *Id.* at 729 (“[i]f the necessary facts are not stated in the  
13          affidavit, it comes too late for the prosecution to attempt to fill the gaps after the defendant’s  
14          privacy has been invaded and his property seized”). The “muddying” phrase that the prosecutor  
15          references is not part of any holding. It is merely an analogy, from an entirely different context,  
16          stated to illustrate *Frank*’s holding. “If the necessary facts are not stated in the affidavit,” the  
17          Court reasoned, “it comes too late for the prosecution to attempt to fill the gaps after the  
18          defendant’s privacy has been invaded and his property seized, just as it cannot belatedly justify a  
19          warrantless search by facts of which the officer was unaware at the [time].” *Id.* But this analogy  
20          does not describe the facts here. This motion does not address a warrantless search. It is a  
21          warrant case where the People seek to backfill a deficient warrant with extrinsic evidence. The  
22          rule that applies is *Franks*’s holding, not the analogy discussed in dicta. The People’s argument  
23          is unpersuasive consequently.

24          The *Frank* rule remains black-letter law. See *People v. Hepner*, 21 Cal. App. 4th 761,  
25          775-76 (1994) (“we recognize that a court cannot resort to facts outside the affidavit to determine  
26          whether it furnishes such reasonable cause” (citing *Frank* 38 Cal.3d at 729) (internal quotation  
27          marks omitted). “That showing must appear in the affidavit offered in support of the warrant.”  
28          *People v. Clark* (2014) 230 Cal.App.4th 490, 496-497. See also *id.* (“in reviewing the

1 sufficiency of the facts upon which the magistrate or judge based his or her probable cause  
2 determination, *we consider only the facts that appear within the ‘four corners of the warrant*  
3 *affidavit.’*”) (emphasis provided).<sup>5</sup>

4 Under this test, the affidavit does not come close to establishing probable cause. First,  
5 the affidavit lacks probable cause for *anyone*. It largely provides conclusions, not facts. And  
6 only the latter can establish probable cause: “[t]he affidavit must set forth more than the ‘mere  
7 conclusion’ of the affiant that the items sought are located on the premises to be searched.  
8 *Aguilar v. Texas* (1964) 378 U.S. 108, 113, *overruled on unrelated grounds by Illinois v. Gates*  
9 (1983) 462 U.S. 213, 238. “The affidavit must present the magistrate with *facts* indicating the  
10 *circumstances* underlying the affiant's belief in order that the magistrate may judge their  
11 persuasiveness for himself.” *People v. Clark* (2014) 230 Cal.App.4th 490, 497 (emphasis  
12 provided) (citing *Giordenello v. United States* (1958) 357 U.S. 480, 486). “*Conclusions* of the  
13 affiant unsupported by *underlying facts* cannot be used to establish probable cause. ... An  
14 affidavit must recite *underlying facts* so that the issuing judge can draw his or her own  
15 reasonable inferences and conclusions; it is these facts that form the central basis of the probable  
16 cause determination.” *United States v. Underwood*, (9th Cir. 2013) 725 F.3d 1076, 1081  
17 (emphasis provided).

18 This warrant is a classic example of conclusions substituting for facts. There is literally  
19 nothing to support the claim that Mr. █████ was involved in a crime, or that evidence of the same  
20 would be found in his email. For all of these reasons, the warrant should be deemed invalid.  
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23  
24 <sup>5</sup> Federal constitutional law is in accord. *See e.g. United States v. Rubio* (9th Cir. 1983)  
25 727 F.2d 786, 795 (“facts upon which the magistrate bases his probable cause determination  
26 must appear within the four corners of the warrant affidavit”). *International Molders' & Allied*  
27 *Workers' Local Union No. 164 v. Nelson* (N.D.Cal. 1987) 674 F.Supp. 294, 296 (“whether a  
28 warrant is adequate and based on probable cause are questions to be decided on the face of the  
warrant and its supporting affidavit . . . . The warrant cannot be supported by outside or after-the-  
fact information.”) (internal citations omitted).

1 **B. By demanding every private communication, without limitation, from 2015-2018,**  
2 **the warrant was overbroad and violated the Constitution’s particularity**  
3 **requirement.**

4 Rather than seeking specific evidence of a crime, this warrant authorized the seizure of  
5 “*all* account activity . . . *all* downloads, *all* received e-mails, texts or instant messages; *all*  
6 forwarded e-mails, *all* texts or instant messages; *all* sent e-mails, texts and instant messages;  
7 and/or *all* user created e-mails, texts, and instant messages for account . . .  
8 [REDACTED]gmail.com occurring between 10-08-2015 and 1-22-18.” *See* Ex. A to Motions, at  
9 page 3 of 16 (emphasis provided). The warrant also permitted seizure of: “*Any* and *all* e-mail  
10 addresses, telephone numbers, IP addresses, or other identifying information involved with *any*  
11 access, or attempted access to this account during this time period”; “[c]onnection information  
12 for other computer [sic] to which the user of the above referenced accounts connected, *by any*  
13 *means*, during the connection period, including the destination IP address, connection date and  
14 time, disconnect date and time, method of connection to the destination computer, and *all* other  
15 information related to the connection of this ISP provider”; “[*a*]ny other records related to the  
16 above referenced Names and User Names;” and without any cause, “[d]ocumentation of *any*  
17 complaints made against the subscriber for inappropriate conduct while using Google gmail, if  
18 available.” *Id.* (emphasis provided).

19 It is difficult to imagine how the scope of this seizure could be broader.<sup>6</sup> As argued in  
20 Mr. [REDACTED] motion, this overbreadth violates the Fourth Amendment’s particularity requirement.  
21 The People respond that broad language in a search warrant can be saved when a “qualifying  
22 clause” is included—for example, language limiting the seizure to “[documents] that evidence  
23 dealings in controlled substances,” to “evidence, fruits and instrumentalities of the crime,” and so  
24 forth. Opposition at 4.

25  
26 <sup>6</sup> The People’s claim that the warrant does not call for seizure of videos and other items is  
27 both a curious non-sequitur, and directly contradicted by the expansive language of the warrant  
28 in any event. Similarly, the point that the police only seized and read *three years* worth of  
private communications, without any other limitations at all, is cold comfort under the  
Constitution.

1 But this warrant has nothing of the kind. Here is the relevant property to be seized:  
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4 **FOR THE FOLLOWING PROPERTY:**

- 5 1) All subscriber names, physical addresses, IP addresses or other identifying information regarding the  
6 creator and possessor of: [REDACTED] and [REDACTED]  
7  
8 2) All subscriber e-mail, text message, or instant message account information for account  
9 [REDACTED]; and [REDACTED]  
10  
11 3) The exact date and time of the creation of account # [REDACTED]  
12 [REDACTED] and [REDACTED], to include the account creators internet  
13 IP address used for the creation of this account.  
14  
15 Transcripts or copies of all account activity, including all downloads, all received e-mails, texts or  
16 instant messages; all forwarded e-mails, all texts or instant messages; all sent e-mails, texts and  
17 instant messages; and/or all user created e-mails, texts, and instant messages for account #  
18 [REDACTED] and [REDACTED]  
19 **occurring between 10-08-2015 and 01-22-18.**  
20  
21 4) Any and all e-mail addresses, telephone numbers, IP addresses, or other identifying information  
22 involved with any access, or attempted access to this account during this time period. This will  
23 include the sender's IP address along with all dates and times.  
24  
25 5) Any and all email addresses, telephone numbers, IP addresses, or other identifying information  
26 involved with any access, or attempted access to this account during this time period. This will  
27 include the sender's IP address along with all dates and times.  
28  
29 6) Connection information for other computer to which the user of the above referenced accounts  
30 connected, by any means, during the connection period, including the destination IP address,  
31 connection date and time, disconnect date and time, method of connection to the destination  
32 computer, and all other information related to the connection of this ISP provider.  
33  
34 7) Any other records related to the above referenced Names and User Names, such as,  
35 correspondence, billing records, records of contact by any person or entity regarding the above  
36 referenced Name(s) and User Name(s), and any other subscriber information, referenced Name,  
37 and any other Subscriber information, Subscriber's address(es), contact person(s), account  
38 opened date(s), Screen Name(s), /email address log(s), read mail, unread mail, sent mail, other  
39 screen names/email address(es) assigned to the account, credit card/payment information and  
40 any identifying information which would tend to identify the person(s) subscribing for service, such  
41 as dates of birth, social security numbers, credit card number(s), home and/or business  
42 address(es), and home and business telephone numbers.  
43 Documentation of any complaints made against the subscriber for inappropriate conduct while  
44 using Google gmail, if available.

1 Exhibit A to Motion, page 3 of 16.

2 There is simply no qualifying language. No other portion of the warrant provides  
3 limiting clauses either. The People are mistaken in suggesting otherwise. As a result, the  
4 warrant is overbroad, it lacks particularity, and it is invalid.

5  
6 **C. No well-trained officer could have believed that this warrant was valid, thus *Leon*  
7 does not apply.**

8 The warrant’s purported showing of probable cause as to [REDACTED] was:

9 During the course of this investigation, Trujillo, Taylor, Franke, Moore, [REDACTED] and Miles,  
10 have been identified as co-conspirators based on information received by SIU  
11 Investigators along with information obtained by law enforcement agencies associated  
12 with this investigation.

13 Exhibit A to Motion at 9 of 16.

14 Under *Leon*, good-faith does not apply in four scenarios: 1) when a warrant is “so lacking  
15 in indicia of probable cause as to render official belief in its existence entirely unreasonable”; 2)  
16 if a warrant is “so facially deficient -- i. e., in failing to particularize the place to be searched or  
17 the things to be seized -- that the executing officers cannot reasonably presume it to be valid”; 3)  
18 “if the magistrate or judge in issuing a warrant was misled by information in an affidavit that the  
19 affiant knew was false or would have known was false except for his reckless disregard of the  
20 truth”; or 4) “where the issuing magistrate wholly abandoned his judicial role” in the warrant  
21 process. *United States v. Leon* (1984) 468 U.S. 897, 923. All four circumstances exist here.

22 In fact, a case that the People cite, *People v. Gotfried* (2003) 107 Cal.App.4th 254, 257,  
23 provides a helpful comparison. *Gotfried* involved a significantly stronger showing of probable  
24 cause, yet it still resulted in reversal for the erroneous application of the *Leon* doctrine. There,  
25 the police obtained a warrant to thermally image a suspect’s house to detect a marijuana grow.

26 The officer’s probable cause statement included the following facts, among others:

- 27 • On 9-23-98 your affiant received the following information from an anonymous  
28 informant. He/She stated that Frederic [sic] Gotfried was growing marijuana at his place  
of residence, that being 70450 Chadwick, space # 21, Jolon Road, Lockwood in the  
County of Monterey.

- 1 • "He/She told affiant Frederic [sic] Gotfried has been growing marijuana for 3 to 4 years  
2 in a room approximately 12 feet by 12 feet which is located to the rear of his trailer.  
3 Frederic [sic] Gotfried is growing 80 to 120 marijuana plants under four high pressure  
4 lights.
- 5 • "He/She told affiant Frederic [sic] Gotfried moved to the remote area of Monterey  
6 County to keep from being detected by aerial overflights with infrared cameras. He/She  
7 stated Frederic [sic] Gotfried diverted the electricity prior to the meter, in order to keep  
8 the high usage of electricity from being detected. He/She told affiant Frederic [sic]  
9 Gotfried has been diverting electricity for over 3 years.
- 10 • "He/She told affiant Frederic [sic] Gotfried sells his marijuana for \$ 2,800 a pound to his  
11 clients in Santa Cruz.
- 12 • "He/She told affiant Frederic [sic] Gotfried has been evicted from the trailer park, and  
13 will be moving the marijuana cultivation operation to another location. He/She stated  
14 Frederic [sic] Gotfried drives a Volvo with the California license number 399VNR, and a  
15 Ford Bronco with the California license number 3LQG447.
- 16 • "9-23-98, 2200 hrs your affiant and Investigator Doug Dahmen drove to vicinity of  
17 70450 Chadwick, Jolon Road, Lockwood at which time we were followed by a Ford  
18 Bronco with the California license number 3LQG447 which drove to space # 21 and  
19 parked. While Investigator Doug Dahmen and affiant driving [sic] through the trailer  
20 park, the driver of the Bronco confronted affiant and Investigator Doug Dahmen in front  
21 of space # 21, and questioned us as to our business at the trailer park. We explained we  
22 were [looking] for a friend, he told us the subject we were looking for was no longer at  
23 the trailer park and should leave due to the fact we were bothering the neighbors. The  
24 driver matched the description given by the informant and that in the DMV records.
- 25 • "Prior to departing the area Investigator Doug Dahmen saw a Volvo with the California  
26 license plate number 399VNR parked next to the trailer at space # 21.
- 27 • "Your Affiant checked the criminal history for Frederic [sic] Gotfried through the  
28 Monterey County Sheriff's Department's record section and found no prior criminal  
convictions.
- "A driver's license check of Frederic [sic] Gotfried through the Department of Motor  
Vehicles showed his address as being 2636 17th Avenue # 159 Santa Cruz, with the  
above two vehicles registered to him at that address."

21 The trial court denied the motion to suppress. The Court of Appeal reversed. It first held  
22 that because the anonymous tip was uncorroborated, probable cause was lacking. *Id.* at 263-64.  
23 It further held that the *Leon* good-faith exception did not apply. Good faith “requires officers to  
24 have a reasonable knowledge of what the law prohibits,” the Court observed. *Id.* at 265 (citing  
25 *Leon*, 468 U.S. at 920, fn. 20). “Any rookie officer knows uncorroborated, unknown tipsters  
26 cannot provide probable cause for an arrest or search warrant.” *Id.*

27 Here, the same rookie officer would also know that the conclusory claim that a person “is a  
28 co-conspirator” and “exchanged emails” with someone does not even begin to establish probable



1 cause. Indeed, “[t]he requirement that, ‘no warrants shall issue, but upon probable cause,’ has  
2 been the law of this land since at least 1791, when the first 10 amendments to the United States  
3 Constitution were ratified.” *Id.* at 266 (quoting U.S. Const., 4th Amend.) And contrary to the  
4 People’s suggestions, what the officer may have known but failed to include in the affidavit does  
5 not change the *Leon* analysis. *See e.g. People v. Johnson* (1990) 220 Cal.App.3d 742, 750  
6 (reversing for erroneous reliance on *Leon* when officer failed to corroborate tipster’s veracity);  
7 *People v. Maestas* (1988) 204 Cal.App.3d 1208, 1221 (reversing conviction where “the record in  
8 this case strongly suggests that a well-trained police officer would have known that the affidavit  
9 in question failed to establish probable cause.”).<sup>7</sup>

10 For all of these reasons, the exclusion of evidence should result.

11  
12 **D. The People bear the burden of proof as to the independent source doctrine, and they  
13 fail to meet that burden.**

14 The People claim that “if the court intends to grant the motion it must first examine each  
15 individual message to ensure that the People did not obtain the same evidence from another  
16 source.” People’s Opposition at 10.<sup>8</sup>

17 The People have it exactly backwards. It is not the Court’s job to find an *absence* of  
18 independent sources. It is not the defendant’s burden either. Indeed, “it is respondent, not [the  
19 defendant], that bears the burden of establishing that illegally seized evidence would have been  
20 obtained even without the illegality.” *In re Rudy F.* (2004) 117 Cal.App.4th 1124, 1136. *See*

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21 <sup>7</sup> For this reason, the People’s claim that the affiant knew some other judges had issued  
22 warrants in the same investigation is another non-sequitur. The facts of those warrants were not  
23 described or incorporated into *this* affidavit, and there is no showing that they established  
24 probable cause as to Mr. [REDACTED] in any event. The only question here is whether a reasonable  
25 officer could have honestly believed that *this* warrant and affidavit was lawful as to Mr. [REDACTED]  
26 email account. The answer on this record is clearly no.

27 <sup>8</sup> It is unclear if this is an actual argument that the People are making in this matter, or if  
28 this section is simply part of a boilerplate response to any suppression motion. *See e.g.*  
Opposition at 9 (“Thus, consent to a search, if sufficiently an act of free will, may purge the  
primary taint of the illegality.”) (citing *People v. Jaquez*, (1985) 163 Cal.App.3d 918, 933.)  
There is no suggestion that Mr. [REDACTED] ever consented to the search of his email account, so this  
argument appears misplaced.

1 also *Murray v. United States* (1988) 487 U.S. 533, 540 (describing the government’s “onerous  
2 burden of convincing a trial court that no information gained from the illegal entry affected  
3 either the law enforcement officers' decision to seek a warrant or the magistrate's decision to  
4 grant it.”); *People v. Superior Court (Corbett)* (2017) 8 Cal.App.5th 670, 682 (same, quoting  
5 *Murray*).

6           Importantly, out of the tens of thousands of emails seized, the People suggest that only 12  
7 can be saved by the independent source rule. *See* Opposition at 10. But even for those 12  
8 emails, the People seem to misunderstand the law. The People do not identify how, when, or  
9 why the same emails were found elsewhere, nor show that the discovery was untainted by their  
10 illegality. Instead, the People largely cite *distinct exhibits or oral testimony*, as if other facts in  
11 the case somehow saves illegally seized email. *See id.* That simply is not how the independent  
12 source rule works. The emails must be suppressed unless the People can demonstrate that the  
13 *same emails* were found somewhere else, independent of any illegality. Because they have not  
14 done so, all emails should be suppressed.

15  
16 **III. CONCLUSION**

17           DDA Murray told the Grand Jury that ██████ “was the money guy . . . . his main job was  
18 paying Uwaydah's bills and moving the money through this very complex system of companies  
19 in order to disguise where it came from and where it went. He was also instrumental in setting  
20 up a lot of the companies that we're going to be talking about. You're going to see his name all  
21 over secretary of state documents, all over government applications. His fingerprints are going to  
22 be on almost everything, and he's in constant communication with Uwaydah. *How do we know*  
23 *that? We have his emails.*” Grand Jury Transcripts at 39.

24           They *did* have his emails, but they trampled the Constitution to get them. The warrant  
25 wholly lacked probable cause; it permitted the mass seizure of Mr. ██████ private  
26 communications over a period of years, without regard to which evidence might actually show a  
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crime; it was so deficient on its face that no officer could have relied upon it in good faith; and the People have not shown an independent source for any of them.

For all of these reasons, the Court should traverse the warrant that permitted the search and seizure of the account [REDACTED], and preclude the People from using any of the seized emails or their fruit at trial.

Respectfully Submitted.

**SCOTT TRIAL LAWYERS, APC**

DATED: February 14, 2020

BY: \_\_\_\_\_  
Timothy A. Scott  
Attorneys for Defendant  
[REDACTED]

1 SUPERIOR COURT OF CALIFORNIA

2 COUNTY OF RIVERSIDE

3 The People of the State of California

4 v.

5 Munir Uwaydah, Shannon Devane, aka Shannon Moore, aka Shannon Devane-Moore,

6 [REDACTED] and Janek Hunt.

7 CASE NUMBER: [REDACTED]

8 **PROOF OF SERVICE**

9 I am employed in San Diego County. I am over the age of 18 and not a party to this  
10 action. My business address is 1350 Columbia Street, Suite 600 San Diego, California 92101. On  
11 today's date, I served a copy of:

12 **REPLY RE: DEFENDANT'S MOTION TO TRAVERSE SEARCH WARRANT FOR  
13 GOOGLE EMAIL ACCOUNT; REQUEST FOR EVIDENTIARY HEARING [PENAL  
14 CODE § 1538.5]**

15 (X) by placing the original (x) a true copy ( ) thereof enclosed in a sealed envelope addressed  
16 as follows:

15 Riverside Superior Court - Department 52 16 Court Clerk	Marlene Acuna, Telephone: (951) 777-3655, <a href="mailto:Marlene.Acuna@riverside.courts.ca.gov">Marlene.Acuna@riverside.courts.ca.gov</a>
17 Attorneys for Plaintiff, 18 People of the State of California	19 W. [REDACTED] Murray 20 Deputy District Attorney 21 OFFICE OF THE DISTRICT ATTORNEY 22 COUNTY OF RIVERSIDE 23 3960 Orange Street, 24 Riverside, CA 92501 25 Telephone: (951) 955-5400 26 [REDACTED] <a href="http://rivcoda.org">rivcoda.org</a> 27 Natalie Lough <a href="mailto:NLough@rivcoda.org">NLough@rivcoda.org</a> 28 Kirsten Allison <a href="mailto:KristenAllison@rivcoda.org">KristenAllison@rivcoda.org</a>
24 Attorneys for Defendant, 25 Janek Hunt	26 Winston Kevin McKesson, Esq 27 Law Offices of Winston Kevin Mckesson 28 6080 Center Drive, Suite No. 652 Los Angeles, CA 90045 Telephone: (310) 242-5889 Facsimile: (310) 242-5890 <a href="mailto:Winstonkevinmckesson0331@gmail.com">Winstonkevinmckesson0331@gmail.com</a>

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Attorneys for Defendant, Shannon Devane	Anthony E. Colombo, Jr. LAW OFFICES OF ANTHONY E. COLUMBO JR. 105 West F Street, San Diego, CA 92101 Telephone: (619) 236-1704 <a href="mailto:ANTHONYCOLOMBOLEGAL@GMAIL.com">ANTHONYCOLOMBOLEGAL@GMAIL.com</a>

- 11 ( ) **BY U.S. MAIL:** I deposited such envelopes in the mail at San Diego, California. The  
 12 envelope was mailed with postage thereon fully [REDACTED] I am readily familiar with Scott  
 13 Trial Lawyers APC's practice of collection and processing correspondence for mailing.  
 14 Under that practice, documents are deposited with the United States Postal Service on the  
 15 same day which is stated in the proof of service, with postage fully prepaid at San Diego,  
 16 California in the ordinary course of business. I am aware that on motion of party served,  
 17 service is presumed invalid if the postal cancellation date or postage meter date is more  
 18 than one day after the date stated in this proof of service.
- 19 ( ) **BY CERTIFIED U.S. MAIL, RETURN RECEIPT REQUESTED:** I deposited such  
 20 envelopes in the mail at San Diego, California. The envelopes were marked Certified  
 21 with return receipt attached and mailed with postage thereon fully [REDACTED] I am readily  
 22 familiar with Scott Trial Lawyers APC's practice of collection and processing  
 23 correspondence for mailing. Under that practice, documents are deposited with the  
 24 United States Postal Service on the same day which is stated in the proof of service, with  
 25 postage fully prepaid at San Diego, California in the ordinary course of business. I am  
 26 aware that on motion of party served, service is presumed invalid if the postal  
 27 cancellation date or postage meter date is more than one day after the date stated in this  
 28 proof of service.
- ( X ) **BY ELECTRONIC MAIL (E-MAIL)** served and transmitted via electronic to the  
 electronic notification address of the party as indicated above on this Proof of Service,  
 pursuant to California Rules of Court, Rule 2.251 and Code of Civil Procedure Section  
 1010.6. The documents were served electronically, and the transmission was reported  
 without error.
- ( ) **BY FACSIMILE:** I caused the above-referenced document to be transmitted via  
 facsimile to the parties as listed on this Proof of Service pursuant to California Rules of  
 Court, Rule 2.306 and Code of Civil Procedure Section 1013. The facsimile machine I

1 used complied with Rule 2.301 and no error was reported by the machine. Pursuant to  
2 Rule 2.304, I caused the machine to print a transmission record of the transmission.

3 ( ) **BY OVERNIGHT DELIVERY:** I enclosed the documents in an envelope or package  
4 provided by an overnight delivery carrier and addressed to the persons at the addresses  
5 attached to the service list. I placed the envelope or package for collection and overnight  
6 delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

7 ( ) **BY PERSONAL SERVICE:** The above referenced documents were also personally  
8 delivered to the person(s) at the addresses below by a registered California process  
9 server. (1) For a party represented by an attorney, delivery was made to the attorney or at  
10 the attorney's office by leaving the documents in an envelope or package clearly labeled  
11 to identify the attorney being served with a receptionist or an individual in charge of the  
12 office. (2) For a party, delivery was made to the party or by leaving the documents at the  
13 party's residence with some person not less than 18 years of age between the hours of  
14 eight in the morning and six in the evening.

15 (X) **STATE;** I declare under penalty of perjury under the laws of the State of California that  
16 the above is true and correct February 14, 2020.

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Declarant - Sandra Calderon