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FILED  
TULARE COUNTY SUPERIOR COURT  
VICARIA DIVISION  
DEC 20 2019  
STEPHANIE CAMERON CLERK  
BY: *[Signature]*

6 ATTORNEYS FOR Defendant CITY OF TULARE

**Exempt from Filing Fees Pursuant  
To Government Code Section 6103**

8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF TULARE  
9 CIVIL DIVISION

10 JAMES GREGORY NUNLEY, an individual,  
11 Plaintiff,  
12 vs.  
13 CITY OF TULARE and DOES 1 through 25,  
14 inclusive,  
15 Defendants.

Case No.: 280739

**DECLARATION OF DAVID M.  
OVERSTREET IN SUPPORT OF  
DEFENDANT CITY OF TULARE'S SPECIAL  
MOTION TO STRIKE PLAINTIFF'S  
COMPLAINT (CCP § 425.16)**

**DATE: 2/24/2020  
TIME: 8:30 AM  
DEPT.: 1**

Complaint filed: October 9, 2019  
Trial Date: TBD

18  
19 I, DAVID M. OVERSTREET, declare as follows:

20 1. I am an attorney duly licensed to practice law in all the Courts of the State of California,  
21 and an attorney with Overstreet & Associates, attorneys of record for Defendant CITY OF TULARE  
22 ("CITY") in the above-referenced matter.

23 2. If called as a witness, I would and could competently testify to all facts stated herein from  
24 my personal knowledge except where stated upon information and belief and, as to these matters, I am  
25 informed and believe them to be true. I am submitting this Declaration in support of Defendant CITY'S  
26 Special Motion to Strike (CCP § 425.16).

27 3. Attached hereto as Exhibit D is a true and correct copy of Plaintiff JAMES GREGORY  
28 NUNLEY'S Government Claim dated March 19, 2019.

1 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
2 true and correct and that this declaration was executed by me on December 19, 2019, at Fresno, California.

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5 DAVID M. OVERSTREET  
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Not admitted to practice in California

March 19, 2019

***Via Email and U.S. Mail***

Mario U. Zamora, Esq.  
Griswold LaSalle Cobb Dowd & Gin LLP  
111 E. 7<sup>th</sup> St.  
Hanford, CA 93230

**CLAIM NOTICE/DEMAND**

Re: **Developer Greg Nunley, Great Valley Builders, et. al.**

Dear Mr. Zamora:

As you know, I represent Greg Nunley and his various development/construction businesses. Nothing set forth herein shall be construed as waiving any privilege, including, but not limited to, the attorney client and/or work product privileges. This letter is being sent to you, as the City of Tulare's Attorney, to present Mr. Nunley's Claim and in an effort to resolve the claim discussed below.

**Factual Background**

Mr. Nunley is a real estate developer who operates a number of construction businesses in the City of Tulare. (THE CITY) It has become apparent that THE CITY has, through its actions and inactions, and acting through its authorized representatives or otherwise ratifying the actions of its representatives, engaged in a course of conduct designed to and has improperly interfered with Mr. Nunley's business activities and otherwise caused him and his businesses to suffer substantial injury and economic damages, and damages to their reputations. These activities include, but are not limited to the following:

- Publishing, or allowing to be published, false statements about Mr. Nunley and his businesses failing to timely pay the fees that were in fact not due to THE CITY;
- Publishing, or allowing to be published, false statements about Mr. Nunley and his businesses failing to submit proper paperwork in connection with its/their development/construction activities in a manner that impaired THE CITY's rights or abilities to receive fees allegedly owed to THE CITY;

Exhibit D

- Altering or fabricating documentation for the purpose of allowing the same to be used to falsely create the impression that Mr. Nunley and his businesses had failed to timely pay the fees that were in fact not due to THE CITY;
- Altering or fabricating documentation for the purpose of allowing the same to be used to falsely create the impression that Mr. Nunley and his businesses had failed to submit proper paperwork in connection with its/their development/construction activities in a manner that impaired THE CITY's rights or abilities to receive fees allegedly owed to THE CITY;
- Deliberately applying inconsistent and unfair standards and scrutiny to his projects and building activities, and otherwise discriminating against Mr. Nunley and his businesses, in a manner that has caused substantial economic damages;
- Forcing and/or requiring Mr. Nunley and his businesses to do additional work, and/or modifications to work and/or projects that were unnecessary and/or inconsistent with similar work performed by other contractors and/or developers;
- Forcing and/or requiring Mr. Nunley and his businesses to do additional work, and/or modifications to work and/or projects that were unnecessary and/or inconsistent with plans or prior agreements made by THE CITY confirming that such additional work was not required.

#### Legal Discussion

Although a government claim is not required to identify the legal theory supporting a claim of injury, Srockett v. Associated of Calif. Water Agencies Joint Powers Ins. Authority (2004) 34 Cal. 4<sup>th</sup> 441, 447, Mr. Nunley and his businesses have the following potential legal causes of action as the basis to obtain recovery for the tortious actions engaged in by THE CITY. These include causes of action for libel, defamation, slander, and intentional interference with prospective economic advantage.

#### Damages- Proposed Resolution

We are authorized to propose the following in order to expeditiously resolve this matter:

1. THE CITY will make a public statement apologizing to Mr. Nunley for the above referenced claims;
2. Mr. Nunley is paid a lump sum of \$16,500,000.00

I would appreciate it if you would review this matter with the appropriate CITY officials and if you have any questions, feel free to contact the undersigned. This shall constitute Mr. Nunley's formal notice of claim. If you have any questions regarding this matter, please do not hesitate to


Mario U. Zamora, Esq.  
March 19, 2019  
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contact me. If you and/or THE CITY have no questions please let me know how THE CITY intends to proceed with this matter at your earliest opportunity.

Thank you for your attention to this matter.

Very truly yours,

WILKINS, DROLSHAGEN  
& CZESHINSKI LLP

A handwritten signature in black ink, appearing to read "James H. Wilkins", is written over the printed name and firm name.

James H. Wilkins

JHW:clf

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