

May 13, 2019

RECEIVED

MAY 15 2019

COUNTY OF SOLANO  
RESOURCE MANAGEMENT

Members of the Commission,

We oppose the issuing of a special event permit to Leeanna Ellis for the following reasons.

1. We have a restraining order that imposes strict limitations on the noise that can emanate from the Ellis property. (Document 1) It was issued after a six-day hearing in which the judge found "clear and convincing evidence that he (Foletta) and his wife were victims of a pattern of harassment perpetrated by Respondent (Ellis) over a period of nearly two years." (Document 1 p. 11) The use of noise as a weapon, including the repeated playing of a particular threatening song is highlighted in the judge's written order (highlighted on page 9 of document 1). The malicious purposes of this harassment are described in the sworn declaration of Ward Fielding (Document 2) who stated that Ellis's goal was to force the Folettas' to close their legally permitted business and leave their home. Ellis told Fielding that his ultimate goal was to own the Folettas' property.

Mr. Ellis appealed this decision and his appeal was denied by Court of Appeal of the State of California.

2. Mrs. Ellis's attempts to separate herself from this behavior and this ruling are disingenuous. When the harassment began, I reached out to Mrs. Ellis to intervene. When I asked if she could do something about the noise she replied, "I can, but I won't." She testified in court that, on occasion, she was the person responsible for the loud music. As important, since the restraining order was issued, she has periodically engaged in the same harassing behavior and told sheriff deputies that as her husband was not home and she was not explicitly restrained by the order, they could take no action. On one occasion, June 8, 2018, she played music for several hours until around midnight, reaching 80 decibels, literally in the face of sheriff deputies. (See sheriff report, Document 3) On another occasion, Mrs. Ellis played music exceeding the allowable level for several hours in the late evening. Knowing that the sheriff would be called she made a phone call that she inadvertently broadcast, and which we recorded, in which she received advice about how to respond to a sheriff visit and evade responsibility. (See sheriff report Document 4)

3. A special event permit issued to Mrs. Ellis, which excludes Mr. Ellis, would constitute county sanctioning of the same sort of evasion in which Mrs. Ellis has engaged. The planning commission would be offering its own exceedingly generous interpretation of the restraining order issued by a Superior Court judge and upheld by the state court of appeal. Moreover, it would be impossible to regulate and monitor. Given the explicit noise restrictions, would Mr. Ellis be allowed to set up the sound system, or contribute in any way to the event preparation? Would he be allowed on the premises during the event? Were Mr. Ellis to do everything shy of turning up the volume, would the playing of loud music be permissible under the restraining order, both its letter and implicit intent, which was to shield us from further harassment? Were the county to impose some set of restrictions on Mr. Ellis's participation, how would they be monitored and enforced? Will the county send a delegate to monitor all preparations and be on site during the event? If the county issues a permit, will the county take all the steps

necessary to ensure that the restraining order issued by a Superior Court and upheld under appeal by a state appellate court is not violated?

4. Ensuring that the explicit and implicit purposes of the restraining order were not violated would be difficult under any circumstance. Given both Ellises history of criminal activity and non-compliance with county ordinances, it would be impossible. The Ellis's harassment of the Folettas began in February 2015 after the Folettas raised questions with the county about the legality of the Ellis's nation-wide bounce-house distribution business on their Nicholas Lane property. As a result of county action, the Ellises were forced to relocate their business. But in mid-2017, they returned this impermissible business to their property. In 2015, Mr. Ellis was also told, that he had exceeded the allowable volume of dirt that could be imported. But despite an explicit warning from the grading engineer, he continued to import dirt and grade even during winter moratoriums.

Nor were these "victimless" violations. The often-daily visits to the Ellis property by 18-wheel trucks and semis (see document 5), as well as heavy-duty dirt haulers (see document 6), did enormous damage to Nicholas Lane. The damage to the road this past winter was significant. Between the 18-wheelers and dirt trucks (on one two-day period in February I counted 11 dirt truck) the road was so severely damaged that the fire marshal sent a letter warning that the delivery of emergency services to my property might be delayed. (See document 7) In other words, the Ellis's continued violation of explicit county demands threatened the safety of our home and persons.

In addition, in 2015 the county grading engineer issued a stop-work order on the grading Ellis was conducting on my property and the Fielding property. But working at night, often with headlights off, often when I was not home, Ellis built the dirt road the county had forbidden him to construct. Again, this was not a victimless violation. In addition to the regular traffic that now crossed my property, this road was used as a dirt-bike park for Ellis and his friends, disturbing my peace, threatening our patrons, and leading to the decision to close our business. (See document 8)

There is nothing in the Ellis's history that would suggest that they would make an effort to fully comply with county requirements—and their history would demonstrate even more clearly that they would not engage in this activity in a way that was sensitive to the rights or concerns of us as their neighbors.

On a separate note, it is hard to see the logic and wisdom of a county ordinance that allows special events permits of this sort in agricultural areas. Legally permitted activities, such as our horse training facility, would be negatively impacted were several surrounding properties to pursue similar permits. But in this case, given these particular circumstances, it would be more than inappropriate; it would make the county complicit in the Ellises' attempts to evade the conditions of the restraining order and continue the pattern of harassment that reached back to 2015.

Sincerely,



Marshall Foletta

5610 Nicholas Lane

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#1

Amended

**CH-130**

**Civil Harassment Restraining Order After Hearing**

Clerk stamps date here when form is filed.

SOLANO SUPERIOR COURT

2017 NOV -6 AM 10:41

BY [Signature]  
DEPUTY CLERK

Person in ① must complete items ①, ②, and ③ only.

**① Protected Person**

a. Your Full Name: Marshall Foletta

Your Lawyer (if you have one for this case):

Name: Lucas Foletta State Bar No.: 255407

Firm Name: McDonald Carano & Wilson

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or e-mail.):

Address: 100 Liberty Street, 10th Floor

City: Reno State: NV Zip: 89501

Telephone: 775-788-2000 Fax: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Fill in court name and street address:

Superior Court of California, County of Solano  
580 Texas Street  
Fairfield, CA 94533

Court fills in case number when form is filed.

Case Number:  
FCS048177

**② Restrained Person**

Full Name: Christopher Ellis

Description:

Sex:  M  F Height: 6'1" Weight: 175 Date of Birth: 08/08/1980

Hair Color: Brown Eye Color: Brown Age: 37 Race: Caucasian

Home Address (if known): 5580 Nicholas Lane

City: Dixon State: CA Zip: 95620

Relationship to Protected Person: Neighbor

**③  Additional Protected Persons**

In addition to the person named in ①, the following family or household members of that person are protected by the orders indicated below:

Full Name	Sex	Age	Lives with you?	How are they related to you?
<u>Khris Lundy Foletta</u>	<u>F</u>	<u>61</u>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<u>Spouse</u>
			<input type="checkbox"/> Yes <input type="checkbox"/> No	

Check here if there are additional persons. List them on an attached sheet of paper and write "Attachment 3—Additional Protected Persons" as a title. You may use form MC-025, Attachment.

**④ Expiration Date**

This Order, except for any award of lawyer's fees, expires at:

Time: \_\_\_\_\_  a.m.  p.m.  midnight on (date): 09/28/2020

If no expiration date is written here, this Order expires three years from the date of issuance.

**This is a Court Order.**

**5 Hearing**

- a. There was a hearing on (date): 5/1-7/10/17 at (time): \_\_\_\_\_ in Dept.: 12 Room: 302  
(Name of judicial officer): Christine A. Carringer made the orders at the hearing.
- b. These people were at the hearing:
  - (1)  The person in ①
  - (2)  The person in ②
  - (3)  The lawyer for the person in ① (name): Lucas Foletta
  - (4)  The lawyer for the person in ② (name): Joseph Hougnon
  - Additional persons present are listed at the end of this Order on Attachment 5.
- c.  The hearing is continued. The parties must return to court on (date): \_\_\_\_\_ at (time): \_\_\_\_\_.

**To the Person in ② :**

The court has granted the orders checked below. If you do not obey these orders, you can be arrested and charged with a crime. You may be sent to jail for up to one year, pay a fine of up to \$1,000, or both.

**6  Personal Conduct Orders**

- a. You must not do the following things to the person named in ①  and to the other protected persons listed in ③ :
  - (1)  Harass, intimidate, molest, attack, strike, stalk, threaten, assault (sexually or otherwise), hit, abuse, destroy personal property of, or disturb the peace of the person.
  - (2)  Contact the person, either directly or indirectly, in any way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by interoffice mail, by e-mail, by text message, by fax, or by other electronic means.
  - (3)  Take any action to obtain the person's address or location. If this item (3) is not checked, the court has found good cause not to make this order.
  - (4)  Other (specify):  
 Other personal conduct orders are attached at the end of this Order on Attachment 6a(4).
- b. Peaceful written contact through a lawyer or process server or other person for service of legal papers related to a court case is allowed and does not violate this Order.

**7  Stay-Away Orders**

- a. You must stay at least 300 yards away from (check all that apply):
  - (1)  The person in ①
  - (2)  Each person in ③
  - (3)  The home of the person in ①
  - (4)  The job or workplace of the person in ①
  - (5)  The school of the person in ①
  - (6)  The school of the children of the person in ①
  - (7)  The place of child care of the children of the person in ①
  - (8)  The vehicle of the person in ①
  - (9)  Other (specify): \_\_\_\_\_

**This is a Court Order.**

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b. This stay-away order does not prevent you from going to or from your home or place of employment.

**8 No Guns or Other Firearms and Ammunition**

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get guns, other firearms, or ammunition.
- b. If you have not already done so, you must:
  - Within 24 hours of being served with this Order, sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any guns or other firearms in your immediate possession or control.
  - File a receipt with the court within 48 hours of receiving this Order that proves that your guns or firearms have been turned in, sold, or stored. (You may use form CH-800, Proof of Firearms Turned In, Sold, or Stored, for the receipt.)
- c.  The court has received information that you own or possess a firearm.

**9  Lawyer's Fees and Costs**

The person in 2 must pay to the person in 1 the following amounts for:

- a.  Lawyer's fees
- b.  Costs

<u>Item</u>	<u>Amount</u>	<u>Item</u>	<u>Amount</u>
Lawyer's fees _____	\$ 8,750	Costs _____	\$ 1,520
_____	\$ _____	_____	\$ _____

Additional items and amounts are attached at the end of this Order on Attachment 9.

**10  Possession and Protection of Animals**

- a.  The person in 1 is given the sole possession, care, and control of the animals listed below, which are owned, possessed, leased, kept, or held by him or her, or reside in his or her household. (Identify animals by, e.g., type, breed, name, color, sex.)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- b.  The person in 2 must stay at least \_\_\_\_\_ yards away from, and not take, sell, transfer, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of, the animals listed above.

**11  Other Orders (specify):**

The restrained party shall not fly drones/paragliders over any part of the Foletta property.  
He shall not permit any person other than family members to use easement unless otherwise  
ordered in the civil case currently pending. Music shall not be played at such volume as to  
be heard on Petitioner's property before 9:00 a.m. and after 7:00 p.m. Music shall never  
exceed a volume above county noise ordinances. Use of orchard cannon is prohibited.

Additional orders are attached at the end of this Order on Attachment 11.

**This is a Court Order.**



Warning and Notice to the Restrained Person in **2** :

**You Cannot Have Guns or Firearms**

You cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get guns, other firearms, or ammunition while this Order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any guns or other firearms that you have or control as stated in item **(8)** above. The court will require you to prove that you did so.

Instructions for Law Enforcement

**Enforcing the Restraining Order**

This Order is enforceable by any law enforcement agency that has received the Order, is shown a copy of the Order, or has verified its existence on the California Restraining and Protective Order System (CARPOS). If the law enforcement agency has not received proof of service on the restrained person, and the restrained person was not present at the court hearing, the agency must advise the restrained person of the terms of the Order and then must enforce it. Violations of this Order are subject to criminal penalties.

**Start Date and End Date of Orders**

This Order *starts* on the date next to the judge's signature on page 4 and *ends* on the expiration date in item **(4)** on page 1.

**Arrest Required If Order Is Violated**

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed it, the officer must arrest the restrained person. (Pen. Code, §§ 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6. Agencies are encouraged to enter violation messages into CARPOS.

**Notice/Proof of Service**

The law enforcement agency must first determine if the restrained person had notice of the order. Consider the restrained person "served" (given notice) if (Pen. Code, § 836(c)(2)):

- The officer sees a copy of the *Proof of Service* or confirms that the *Proof of Service* is on file; *or*
- The restrained person was at the restraining order hearing or was informed of the order by an officer.

An officer can obtain information about the contents of the order and proof of service in CARPOS. If proof of service on the restrained person cannot be verified and the restrained person was not present at the court hearing, the agency must advise the restrained person of the terms of the order and then enforce it.

**If the Protected Person Contacts the Restrained Person**

Even if the protected person invites or consents to contact with the restrained person, this Order remains in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Pen. Code, § 13710(b).)

This is a Court Order.

5

**Conflicting Orders—Priorities of Enforcement**

If more than one restraining order has been issued, the orders must be enforced according to the following priorities: (See Pen. Code, § 136.2; Fam. Code, §§ 6383(h)(2), 6405(b).)

1. *EPO*: If one of the orders is an *Emergency Protective Order* (form EPO-001) and is more restrictive than other restraining or protective orders, it has precedence in enforcement over all other orders.
2. *No-Contact Order*: If there is no EPO, a no-contact order that is included in a restraining or protective order has precedence over any other restraining or protective order.
3. *Criminal Order*: If none of the orders includes a no contact order, a domestic violence protective order issued in a criminal case takes precedence in enforcement over any conflicting civil court order. Any nonconflicting terms of the civil restraining order remain in effect and enforceable.
4. *Family, Juvenile, or Civil Order*: If more than one family, juvenile, or other civil restraining or protective order has been issued, the one that was issued last must be enforced.

Clerk's Certificate  
[seal]

(Clerk will fill out this part)  
—Clerk's Certificate—

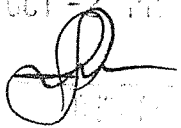


I certify that this *Civil Harassment Restraining Order After Hearing* is a true and correct copy of the original on file in the court.

Date: NOV 06 2017 Clerk, by [Signature], Deputy

This is a Court Order.

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SOLANO COUNTY  
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**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SOLANO  
DEPARTMENT TWELVE**

\*\*\*\*\*

MARSHALL FOLETTA,  
  
Plaintiff,  
  
vs.  
  
CHRISTOPHER ELLIS,  
  
Defendant.

Case No. FCS048177  
  
**ORDER AFTER HEARING ON CIVIL  
HARASSMENT TRIAL**  
  
**Dates of Hearing: May 1, May 2, May 15,  
June 29 and July 10, 2017**

This matter came on for trial on Petitioner's Request For Civil Harassment Restraining Orders filed 12/28/2016. Temporary restraining orders have been in effect since 1/17/2017. The matter was heard on May 1, May 2, May 15, June 29 and July 10, 2017.

Petitioner Marshall Foletta appeared and was represented by his attorney Lucas Foletta. Respondent Christopher Ellis appeared and was represented by his attorney Joseph P. Hougnon. Many witnesses, including the spouses of each party, friends, a family member, neighbors, and employees of the County of Solano, testified at trial.

For purposes of clarity, the parties will be referred to as Petitioner or Foletta and Respondent or Ellis.

Upon consideration of all the testimony and evidence, the court grants Petitioner's Request For Civil Harassment Restraining Order for a period of three years.



1 **Legal Authority**

2 Code of Civil Procedure §527.6(b)(1) provides that a restraining order may be obtained  
3 by a person who has suffered harassment from a course of conduct over a period of time,  
4 however short, evidencing a continuity of purpose, including following or stalking an individual,  
5 making harassing telephone calls to an individual, or sending harassing correspondence to an  
6 individual. Harassment is further defined in §527.6(b)(3) as ... “a knowing and willful course of  
7 conduct directed at a specific person that seriously alarms, annoys, or harasses the person, and  
8 that serves no legitimate purpose. The course of conduct must be that which would cause a  
9 reasonable person to suffer substantial emotional distress, and must actually cause substantial  
10 emotional distress to the petitioner.<sup>1</sup>

11 **Background**

12 The parties are the owners of adjoining rural properties in Solano County. Petitioner  
13 Foletta and his wife purchased their property 10 years ago. They developed their parcel as a  
14 horse property and built an obstacle course to train horses. This was Mrs. Foletta’s hobby and  
15 also a business.

16 Respondent Ellis and his wife purchased the adjacent parcel south of the Foletta property  
17 and moved onto it in April, 2014. In early 2015, Petitioner submitted a complaint to the county  
18 code enforcement division regarding an unlicensed commercial activity allegedly taking place on  
19 Respondent’s property. The county responded with violation notices issued to Respondent.  
20 Thereafter, the actions complained of by Petitioner commenced.

21 **The Conduct**

22 Within days after Petitioner reported the code violation to the county, the course of  
23 harassing conduct began. Respondent began grading and developing a preexisting but  
24 infrequently used and undeveloped easement which bisected Petitioner’s property and cut  
25 through their horse training course. Prior to that time, the easement had never been used for  
26 ingress/egress. Work was often performed on the easement, which was not far from the Foletta  
27

28 <sup>1</sup> The parties are also engaged in other civil litigation regarding the use of their respective properties. This litigation, although peripherally related, is not the subject of this order. Litigation is also pending between Respondent and his wife and other neighbors.

1 house, late at night. Then, Respondent and his wife began playing very loud music in the  
2 direction of the Foletta house, sometimes on a nearly daily basis, from 30 minutes to 3 hours per  
3 day from early in the morning to late at night. The music was so loud it could be heard inside  
4 their house with the doors and windows closed and the television playing. In particular,  
5 Respondent played one song repeatedly, sometimes over and over again in succession, at very  
6 high volume. Petitioner considered the song to be threatening. The lyrics in part state:

7 I need to move, I need to fight,  
8 I need to lose myself tonight  
9 Come with me now, I'm gonna take you down,  
10 Come with me now, I'm gonna show you how.

11 Petitioner eventually borrowed a decibel meter from a scientist friend. It showed music  
12 played as high as 86 decibels as measured on Petitioner's porch, far above the acceptable noise  
13 volume of 50-55 decibels in rural areas per county ordinance. Petitioner's equine veterinarian  
14 testified the very loud "obscene" music was dangerous for the horses and she found it stressful  
15 and hard to concentrate on caring for the animals during a 2/10/2015 visit to Petitioner's  
16 property.

17 In addition to the music which the Folettas heard at very high volume on more than 100  
18 occasions, the harassment took many other forms. Respondent and his wife began using the  
19 easement exclusively to access their property rather than using the road previously used for  
20 access, which did not travel across the Foletta property. On several occasions, Respondent  
21 invited friends to drive dirt bikes, motorcycles, golf carts and all-terrain vehicles up and down  
22 the easement bisecting the Foletta property. Sometimes as many as five motorcycles or dirt  
23 bikes would be driving up and down on the easement, often at excessive speeds. On one  
24 occasion, Respondent's guests drove off the easement onto the Foletta property, spinning circles  
25 near the easement. When Petitioner approached them, they told him they had the right to use a  
26 60-foot swath of his property and that Respondent had given them a map to show Petitioner. On  
27 at least one occasion, Respondent flew his drone over the Foletta property approximately 10 feet  
28 above horses with riders, spooking the horses. On other occasions, Respondent flew his

1 paraglider over the Foletta property at low altitude. Sometimes Respondent sat in a vehicle on  
2 the easement, staring at the Folettas as they went about their work on their property. On one  
3 occasion, Respondent and his young daughter drove on the easement in a golf cart and  
4 Respondent shouted obscenities at Petitioner as he worked nearby.

5 The Folettas eventually moved to an apartment in Vacaville in 10/2015 and stayed there  
6 for several months to escape the "relentless" harassment. During the time they were in the  
7 apartment, the sidewalls of their tires were punctured on two separate occasions, although no  
8 other tires in the apartment complex parking lot were damaged.

9 In 12/2016, two new forms of harassment began: first, Respondent placed an ad on  
10 Craigslist, advertising free facilities to shoot skeet, ride dirt bikes, fly drones, walk dogs, play  
11 with remote control cars or hunt rabbits. Petitioner learned of the ad when he observed a man  
12 walking across his own property carrying a shotgun. When he confronted the man, he was told  
13 of the Craigslist ad and also that Respondent told the man he could hunt "over there" pointing in  
14 the direction of Petitioner's property.<sup>2</sup> Second, Respondent began using an orchard cannon in  
15 12/2016. Petitioner testified it was fired every couple of days for approximately an hour at a  
16 time. The sound of the orchard cannon was described by Petitioner as being similar to "a sonic  
17 boom."

18 A neighbor of both parties, Ward Fielding, testified. He owns the parcel north of  
19 Petitioner's property. After Respondent began his work on the easement, Mr. Fielding  
20 approached Respondent and told him they needed to talk about the easement work (the easement  
21 borders Fielding's property.) Respondent told Fielding he intended to get back at Petitioner for  
22 turning him into the code enforcement division. Respondent informed Fielding he intended to  
23 use the easement in an effort to disrupt Petitioner's horse business. Fielding's wife also testified  
24 regarding her own negative contact with Respondent which included conflict regarding use of  
25 the easement, and her fear of Respondent due to his actions against her. Mr. and Mrs. Fielding  
26  
27

28 <sup>2</sup> Igor Vatnyk, the hunter, testified. He testified he was never told to hunt on Petitioner's property. His testimony was less clear as to where he was told to hunt.

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1 each testified they could also hear the loud music from their house and complained to the  
2 sheriff's office.

3 After the restraining order was implemented, the music level dropped and Respondent  
4 ceased his unnecessary use of the easement.

5 **Discussion and Findings**

6 The court finds that the elements of Code of Civil Procedure §527.6(b)(3) have been met  
7 and Petitioner has met the burden of proof of demonstrating by clear and convincing evidence  
8 that he and his wife were the victims of a pattern of harassment perpetrated by Respondent over  
9 a period of nearly two years which caused Petitioner and Mrs. Foletta to suffer substantial, actual  
10 emotional distress. ✓

11 Testimony offered by Petitioner, his wife and daughter, neighbors and a veterinarian  
12 regarding the harassment were credible. Testimony offered by Respondent was less credible and  
13 at times, lacked credibility entirely.<sup>3</sup> ✓

14 Videos entered into evidence clearly show the offensive behavior engaged in by  
15 Respondent, which included driving by on a golf cart while shouting obscenities at Petitioner, the  
16 playing of music at very loud volume both day and night, and the paraglider flying at a low  
17 altitude over the Petitioner's property. The Craigslist ad further demonstrated the intent to harass  
18 Petitioner and his wife.

19 Petitioner suffered depression, migraines and stress as a result of the harassment. He  
20 sought therapy in early 2016. Mrs. Foletta also suffered from stress and depression and was  
21 forced to shut down her horse training business due to the constant flow of traffic across the  
22 easement bisecting their property, which cut directly through her horse training course. The

23  
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26 <sup>3</sup> Respondent's testimony regarding the paragliding video lacked credibility. Despite the paraglider obviously flying  
27 at tree level over the Foletta property, Respondent asserted he was no lower than 1000-1500 feet and over another  
28 neighbor's property. Respondent lacked credibility when he testified the purpose of the Craigslist ad was to find  
friends for his daughter. He lacked credibility regarding a video which showed him driving a golf cart past  
Petitioner while clearly shouting "F\*\*\* you, Marshall". (His young daughter was in the golf cart with him.)  
Although the video was played several times in court, Respondent testified he was unable to understand the words  
he himself was shouting.

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1 Folettas were forced to leave the enjoyment of their own home and move into an apartment for  
2 several months to avoid the constant barrage of loud music and other harassment.

3 In Respondent's defense, his attorney argues that Petitioner and his wife also engaged in  
4 objectionable conduct. While Petitioner's conduct could not always be characterized as  
5 neighborly, the court finds it did not rise to the level of harassment.

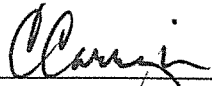
6 **The Order**

7 A three-year restraining order shall immediately take effect, as set forth in the attached  
8 CH-130.

9 **Attorney Fees**

10 Petitioner is awarded reasonable attorney fees pursuant to Code of Civil Procedure  
11 §527.6(s) in the amount of \$8,750.00. Petitioner is awarded costs of \$1,520.00. The total sum of  
12 fees and costs, \$10,720.00, shall be due and payable to Petitioner by Respondent within 30 days  
13 of the filing of this order.

14  
15 Dated: 9/28/2017

16   
17 \_\_\_\_\_  
18 CHRISTINE A. CARRINGER  
19 Judge of the Superior Court  
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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FIVE

MARSHALL FOLETTA,

Plaintiff and Respondent,

v.

CHRISTOPHER ELLIS,

Defendant and Appellant.

A153079

(Solano County  
Super. Ct. No. FCS048177)

MEMORANDUM OPINION<sup>1</sup>

Christopher Ellis appeals from an order issued after a hearing enjoining him from harassing his neighbor, Marshall Foletta, for a period of three years. (Code of Civ. Proc., § 527.6.) We affirm.

The parties own adjoining parcels of rural property on Nicholas Lane in Solano County. An easement runs through Foletta's property. In early 2015, Foletta made a complaint to county authorities regarding unlicensed commercial activities taking place on Ellis's property. The county issued violation notices and the harassing conduct leading to the instant restraining order began.

<sup>1</sup> We resolve this case by memorandum opinion pursuant to California Standards of Judicial Administration, section 8.1. (See also *People v. Garcia* (2002) 97 Cal.App.4th 847, 853–855.) We note that appellant's brief does not comply with rule 8.204 (a)(1)(C) of the California Rules of Court. Nonetheless, we consider the claims on their merits as presented. (Cal. Rules of Court, rule 8.204 (e); see *In re S.C.* (2006) 138 Cal.App.4th 396, 408–412.)

Shortly after the code violation was reported, Ellis began grading and developing the easement on Foletta's property, often performing work late at night. A neighbor of both parties spoke to Ellis after he began working on the easement and Ellis said he intended to get back at Foletta for turning him in to the county. Ellis and his wife began using the easement to access their property, even though they had previously used another road. They invited friends to use the easement, and those people drove all-terrain vehicles, motorcycles and golf carts down the easement, sometimes at excessive speeds.

Ellis and his wife also began playing very loud music on an almost-daily basis that could be heard inside Foletta's house with the windows closed and the television on. The same song was played repeatedly. Foletta eventually borrowed a decibel meter from a friend, which measured the music as high as 86 decibels, well above the 50-55 decibels allowed in rural areas under the county noise ordinance. An equine veterinarian employed by Foletta found the music distracting and thought it was stressful to the horses on Foletta's property.

A drone that came from Ellis's backyard flew directly at Foletta about six to ten feet over his head while he was moving horses on his property. On four or five occasions, Ellis had flown his motorized paraglider over the Foletta property, circling for 25 minutes on the longest instance. Ellis would often engage in "stalking" type behavior where he lurked around the edges of the Foletta property staring at Foletta and his wife. Sometimes Ellis would stop at the end of the Foletta driveway and block it as Foletta or his wife were leaving.

The Folettas moved to an apartment in Vacaville for several months to escape the "relentless" harassment. While there, their tires were slashed on two separate occasions.

In late 2016, after the Folettas had moved back to their property, Ellis placed an ad on Craigslist advertising free facilities to shoot skeet, ride dirt bikes, fly drones, walk dogs, play with remote controlled cars or hunt rabbits. Foletta learned of the ad when he confronted a man with a shotgun walking across his property. Also in this time frame,

Ellis began to fire an orchard cannon,<sup>2</sup> for an hour at a time, every couple of days. The orchard cannon gave off a loud boom, deeper than a shotgun, and sounds something like a sonic boom. Ellis was not using his property in any way that required an orchard cannon.

Foletta petitioned for a restraining order against Ellis under Code of Civil Procedure section 527.6, barring him, among other things, from playing loud music, flying drones or paragliders over the Foletta property, using the orchard cannon or allowing other people to use the easement. Following a contested hearing, the court issued a three-year restraining order. It found Ellis's denial of the objectionable conduct to be lacking in credibility and further found that while Foletta's conduct toward Ellis was "not always [] neighborly, the court finds it did not rise to the level of harassment."

Ellis complains that the order is invalid to the extent it prohibits him from flying drones or paragliders over the Foletta property because air space use is governed by the Federal Aviation Administration (FAA). Ellis presented no evidence that the federal government had approved the use of the drone and paraglider over Foletta's property. We agree with Foletta that the appropriate question is whether the federal government's regulation of air space generally is intended to preempt the authority of the states to regulate harassment that involves that air space. We conclude there is no preemption. (See *Greater Westchester Homeowners Assn. v. City of Los Angeles* (1979) 26 Cal.3d 86, 100 [claims for personal injury and nuisance not preempted by federal aviation law]; *People v. Valenti* (1984) 153 Cal.App.3d Supp. 35, 40 [federal law does not preempt state prosecution for negligent operation of aircraft].)

Ellis also challenges the order to the extent it prevents persons other than family members from using an easement over the Foletta property. He contends that because the rights to that easement are being litigated in a separate proceeding, this determines an issue that has yet to be tried. We disagree. The order states, "[Ellis] shall not permit any person other than family members to use the easement for any purpose *unless otherwise*

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<sup>2</sup> An orchard cannon is a device use to scare away birds from fruit or almond trees.

*ordered in the civil case currently pending.*” The order thus contemplates that the scope of the easement, and the right of others to its use, shall be determined in the other proceeding.

Ellis argues the restraining order erroneously prohibits him from using an orchard cannon in a rural county where its use is otherwise allowed. Again we disagree. Ellis did not establish that he had any legitimate purpose in using the device, and the court explicitly found that its use was a form of harassment. That it can be legally used for a purpose other than harassment does not mean that its use cannot be barred when there is sufficient evidence to support the implied finding it was reasonably probable the harassment would continue. (See *Harris v. Stampolis* (2016) 248 Cal.App.4th 484, 500–501.)

Finally, we reject Ellis’s argument the court should have excluded testimony regarding decibel readings. Over an objection based on lack of foundation, Foletta testified that he acquired a sound meter from his friend, pointed it in the direction of the music, and used it to measure the decibel levels of the noise. Ellis argues the evidence was inadmissible because there was no foundation that the sound meter had been properly calibrated or that Foletta was trained as to how to use it. But even if we accept Ellis’s argument that testimony about the decibel level was somehow inappropriate, the court *heard* a multitude of tape recordings of the music, recorded by Foletta in support of his claim and introduced at the hearing as exhibits. Under the circumstances, the precise decibel level was not dispositive and Ellis was not prejudiced.

We affirm. Costs are awarded to respondent Foletta.

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NEEDHAM, J.

We concur.

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JONES, P.J.

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SIMONS, J.

(A153079)





Doc 32

COPIES TO: <input type="checkbox"/> DA <input type="checkbox"/> PROB <input type="checkbox"/> DOJ <input type="checkbox"/> INV <input type="checkbox"/> PAT <input type="checkbox"/> RISK MANAGEMENT <input type="checkbox"/> COUNTY COUNCIL <input checked="" type="checkbox"/> OTHER <b>SGT. BRADFORD</b> <i>6/9/18</i>	<b>SOLANO COUNTY SHERIFF'S OFFICE</b> 530 UNION AVENUE, SUITE 100 FAIRFIELD, CA. 94533 (707) 421-7000 <b>CA048000</b> <b>UTILITY REPORT</b>	CASE NO CR18-3107	PAGE 1
		RPT DEV CODE	RD 436
		CONTINUATION OF: <input type="checkbox"/> CRIME <input type="checkbox"/> ARREST <input type="checkbox"/> UTILITY <input type="checkbox"/> MISSING PERSON <input type="checkbox"/> OTHER	

CODE: V - VICTIM W - WITNESS R - REPORTING PARTY S - SUSPECT L - INVESTIGATIVE LEAD I - INFORMANT

INCIDENT	CODE SECTION(S)				TYPE OF INCIDENT NEIGHBOR DISPUTE			
	LOCATION (Be Specific) 5580 NICHOLAS LN DIXON				OCCURRED ON / OR BETWEEN	DATE 060818	DAY FRI	TIME 2109
	FIRM NAME (at location) 5580 NICHOLAS LN DIXON		DATE RPT'D 060818	TIME RPT'D 2109		DATE	DAY	TIME

PERSON 2	CODE R	NAME (Last, First Middle) FOLETTA, MARSHALL	SEX M	RACE W	D.O.B. 032355	AGE 35	HGT 507	WGT 150	HAIR BRO	EYES BRO	OCCUPATION RETIRED
	RESIDENCE ADDRESS 5610 NICHOLAS LN			CITY DIXON		STATE CA	DL NUMBER / STATE N0232596/CA		RES. PHONE (707) 337-9372		
	BUSINESS NAME AND ADDRESS					CITY	WORK PHONE ( ) -				

VEH 3	LICENSE #	STATE	YEAR	MAKE	MODEL	BODY STYLE	<input type="checkbox"/> 2 4-DR	<input type="checkbox"/> 5 TRK	<input type="checkbox"/> 8 RV
	COLOR/COLOR	OTHER CHARACTERISTICS (ie: T/C Damage, Unique Marks/Paint)				DISPOSITION OF VEHICLE	<input type="checkbox"/> 0 UNKNOWN	<input type="checkbox"/> 3 CONV	<input type="checkbox"/> 6 VAN
						<input type="checkbox"/> 1 2-DR	<input type="checkbox"/> 4 P/U	<input type="checkbox"/> 7 S/W	<input type="checkbox"/> 10 OTHER

RELATIONSHIP TO SUSPECT 4	<input type="checkbox"/> 0 UNKNOWN	<input type="checkbox"/> 6 SON	<input type="checkbox"/> 12 BOYFRIEND
	<input type="checkbox"/> 1 HUSBAND	<input type="checkbox"/> 7 BROTHER	<input type="checkbox"/> 13 GIRLFRIEND
	<input type="checkbox"/> 2 WIFE	<input type="checkbox"/> 8 SISTER	<input type="checkbox"/> 14 NEIGHBOR
	<input type="checkbox"/> 3 MOTHER	<input type="checkbox"/> 9 OTHER FAMILY	<input type="checkbox"/> 15 BUSINESS ASSOCIATE
	<input type="checkbox"/> 4 FATHER	<input type="checkbox"/> 10 ACQUAINTANCE	<input type="checkbox"/> 16 STRANGER
	<input type="checkbox"/> 5 DAUGHTER	<input type="checkbox"/> 11 FRIEND	<input type="checkbox"/> 17 OTHER-

RACE CODES	A- OTHER ASIAN	H- HISPANIC	P- PACIFIC ISLANDER
	B- BLACK	I- AMERICAN INDIAN	S- SOMOAN
	C- CHINESE	J- JAPANESE	U- HAWIIAN
	D- CAMBODIAN	K- KOREAN	V- VIETNAMESE
	F- FILIPINO	L- LOATION	W- WHITE
	G- GUAMANIAN	O- OTHER	X- UNKNOWN
			Z- ASIAN INDIAN

(Form Revision 052498)

See Attached Narrative

Solano County Sheriff's Ofc.  
**CONTROLLED DOCUMENT**  
 Released By mm  
 JUN 09 2018  
 To: FDA VDA PROB PATROL  
 INV OTHER sgt Bradford

REPORTING DEPUTY / ID# R. MROZ, 1L61 <i>Rn</i>	DATE 06/09/18	REVIEWED BY / ID# <i>[Signature]</i>	DATE <i>06/09/18</i>	SUP. AT SCENE	ENTERED RMS BY:
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**SOLANO COUNTY  
SHERIFF'S OFFICE**

**ADDITIONAL NAMES**

CASE NUMBER  
CR18-3107

PAGE  
2

Code W	Name (Last, First, Middle) DEMAREST, MARK-DEPUTY	Sex	Race	DOB	Age	Hgt	Wgt	Hair	Eyes	Occupation DEPUTY
Residence Address CONFIDENTIAL					City			State		Residence Phone ( ) -
Business Name and Address SOLANO SO, 530 UNION AVE				City FAIRFIELD			State CA	D/Off	W/Hrs	Business Phone (707) 421-7090
Extent of Injuries					Relationship to Suspect			D.L. Number/State		
Code W	Name (Last, First, Middle) BRADFORD, ERIC-SERGEANT	Sex	Race	DOB	Age	Hgt	Wgt	Hair	Eyes	Occupation DEPUTY
Residence Address CONFIDENTIAL					City			State		Residence Phone ( ) -
Business Name and Address SOLANO SO, 530 UNION AVE				City FAIRFIELD			State CA	D/Off	W/Hrs	Business Phone (707) 421-7090
Extent of Injuries					Relationship to Suspect			D.L. Number/State		
Code W	Name (Last, First, Middle) CAVAZOS, CHRISTOPHER	Sex	Race	DOB	Age	Hgt	Wgt	Hair	Eyes	Occupation DEPUTY
Residence Address CONFIDENTIAL					City			State		Residence Phone ( ) -
Business Name and Address SOLANO SO, 530 UNION AVE				City FAIRFIELD			State CA	D/Off	W/Hrs	Business Phone (707) 421-7090
Extent of Injuries					Relationship to Suspect			D.L. Number/State		
Code W	Name (Last, First, Middle) ELLIS, CHRISTOPHER	Sex M	Race W	DOB	Age	Hgt 603	Wgt 150	Hair BRO	Eyes BRO	Occupation UNK
Residence Address 5580 NICHOLAS LN					City DIXON			State CA		Residence Phone ( ) -
Business Name and Address				City			State	D/Off	W/Hrs	Business Phone ( ) -
Extent of Injuries					Relationship to Suspect			D.L. Number/State		
Code W	Name (Last, First, Middle) ELLIS, LEEANNA	Sex F	Race W	DOB	Age	Hgt 503	Wgt 160	Hair RED	Eyes BRO	Occupation UNK
Residence Address 5580 NICHOLAS LN					City DIXON			State CA		Residence Phone ( ) -
Business Name and Address				City			State	D/Off	W/Hrs	Business Phone ( ) -
Extent of Injuries					Relationship to Suspect			D.L. Number/State		
Code W	Name (Last, First, Middle) FOLETTA, KHRISTY	Sex F	Race W	DOB 020755	Age 65	Hgt 501	Wgt 115	Hair BRO	Eyes GRN	Occupation
Residence Address 5510 NICHOLAS LN					City DIXON			State CA		Residence Phone ( ) -
Business Name and Address				City			State	D/Off	W/Hrs	Business Phone ( ) -
Extent of Injuries					Relationship to Suspect			D.L. Number/State		
Code	Name (Last, First, Middle)	Sex	Race	DOB	Age	Hgt	Wgt	Hair	Eyes	Occupation
Residence Address					City			State		Residence Phone ( ) -
Business Name and Address				City			State	D/Off	W/Hrs	Business Phone ( ) -
Extent of Injuries					Relationship to Suspect			D.L. Number/State		
Code	Name (Last, First, Middle)	Sex	Race	DOB	Age	Hgt	Wgt	Hair	Eyes	Occupation
Residence Address					City			State		Residence Phone ( ) -
Business Name and Address				City			State	D/Off	W/Hrs	Business Phone ( ) -
Extent of Injuries					Relationship to Suspect			D.L. Number/State		
Code	Name (Last, First, Middle)	Sex	Race	DOB	Age	Hgt	Wgt	Hair	Eyes	Occupation
Residence Address					City			State		Residence Phone ( ) -
Business Name and Address				City			State	D/Off	W/Hrs	Business Phone ( ) -
Extent of Injuries					Relationship to Suspect			D.L. Number/State		

Solano County Sheriff's Ofc.  
CONTROLLED DOCUMENT  
Released by [Signature]  
JUN 09 2018

TO: FDA VDA PROB PATROL  
INV OTHER [Signature]

Reporting Officer/ID # R. MROZ, 1L61 <i>RM</i>	Date 060818	Reviewed By/ID # <i>[Signature]</i>	Date <i>060818</i>	Entered RMS By
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CA04800  
DEPUTY MROZ, 1L61

CASE#CR18-3107

**060818/2109 hours:** I was dispatched to 5580 Nicholas Ln. Dixon for a report of loud music. Upon arrival I contacted (R) Marshall Foletta at 5510 Nicholas Ln.. Marshall advised me the music was an ongoing issue and Marshall has a civil harassment order against (W) Christopher Ellis. Marshall provided me with the order and I could see the civil harassment order stated Christopher could not play music at a level that is audible from Marshall's residence past 2100 hours. Marshall asked me what my course of action was. I informed Marshall if Christopher was at the residence and responsible for the music he would be arrested for violating the civil harassment order.

I went to 5580 Nicholas Ln. in an attempt to contact Christopher. The residence was gated and I could not get access to the house. Christopher's wife (W) Leeanna Ellis approached me at the gate. Leeanna informed me that Christopher left hours prior to our arrival because Leeanna wanted alone time at the residence. Leeanna stated she was the one that was playing the loud music, but was not doing it to be annoying or harassing. Leeanna was very upset that I was at her residence and became verbally aggressive.

When I ended my contact with Leeanna she went into her residence and turned her music back on loudly for approximately 30 seconds. I went back to 5510 Nicholas Ln. and informed Marshall Christopher could not be located therefore he could not be arrested. Marshall's wife, (W) Khristy Folleta became irate and verbally aggressive. Khristy demanded I go back to 5580 Nicholas Ln and attempt to locate Christopher on his property. I informed Khristy I could not force my way onto the property. Khristy became even more upset and began calling (W) Sergeant E. Bradford. I asked Khristy if she would like to talk to the supervisor on duty and she said yes.

(W) Deputy M. Demarest arrived and spoke to Marshall and Khristy. When Deputy Demarest was finished Marshall and Khristy did not seek any further action.

Nothing further

Solano County Sheriff's Ofc.  
 CONTROLLED DOCUMENT  
 Released By mm  
 JUN 09 2018  
 To: FDA VDA PROB PATROL  
 INV OTHER Sgt Bradford

R/O Signature: R. Mroz RM

I.D. # 1L61

Approved by [Signature]

COPIES TO: <input checked="" type="checkbox"/> DA <input type="checkbox"/> INV <input type="checkbox"/> PATROL <input type="checkbox"/> PROB <input checked="" type="checkbox"/> OTHER Dep. J. Currie	<b>SOLANO COUNTY SHERIFF'S OFFICE</b> 530 UNION AVENUE, SUITE 100 FAIRFIELD, CA. 94533 (707) 421-7000 CA04800 <b>CRIME REPORT</b>			CASE NO. CR18-5496	PAGE 1
	REP DEV CODE		RD 436		
	CLASSIFICATION PERSON/MISDEMEANOR				
	HATE CRIME NO		WEAPON USED NO		

CHARGE(S) 415(2) PC - Disturbing the Peace	DATE RPT'D 102718	TIME RPT'D 2056
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LOCATION Residence ADDRESS 5610 Nicholas Lane	CITY Dixon	OCCURRED ON/OR BETWEEN DATE 102718	DATE 102718	DAY Sat	TIME 2053
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VICTIM - NAME (Last, First Middle) Foletta, Marshall Stanley	SEX M	RACE W	DOB / AGE 032355/63	HGT 506	WGT 155	HAIR Bln	EYES Blu	OCCUPATION
RESIDENCE ADDRESS 5610 Nicholas Lane	CITY Dixon		STATE CA	RES. PHONE (0) 337-3372				
BUSINESS ADDRESS	CITY		STATE	BUS. PHONE ( ) -				

EXTENT OF INJURIES / DOLLAR LOSS TO TARGET	ST / DL# CA / N0232596
--	---------------------------

CODE V	NAME (Last, First Middle) Foletta, Lucas Marshall	SEX M	RACE W	DOB / AGE 102080/38	HGT 508	WGT 160	HAIR Bro	EYES Grn	CA / DL# CA / B6745211
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RESIDENCE ADDRESS 335 Dawson Jacob Lane	CITY Reno		STATE NV	RES. PHONE (775) 443-8434
BUSINESS NAME AND ADDRESS McDonald Corano, 100 W Liberty Street #1000	CITY Reno		STATE NV	BUS. PHONE (775) 326-4305

CODE W	NAME (Last, First Middle) Cervantes, Oscar Israel	SEX M	RACE H	DOB / AGE [REDACTED]	HGT 505	WGT 190	HAIR Blk	EYES Bro	CA / DL# [REDACTED]
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RESIDENCE ADDRESS 5650 Nicholas Lane	CITY Dixon		STATE CA	RES. PHONE [REDACTED]
BUSINESS NAME AND ADDRESS	CITY		STATE	BUS. PHONE ( ) -

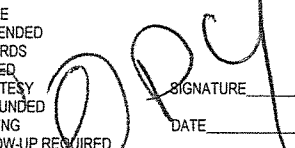
CODE W	NAME (Last, First Middle) Virelas Medoza, Arcelia	SEX F	RACE H	DOB / AGE [REDACTED]	HGT 501	WGT 140	HAIR Blk	EYES Bro	CA / DL# [REDACTED]
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RESIDENCE ADDRESS 5650 Nicholas Lane	CITY Dixon		STATE CA	RES. PHONE ( ) -
BUSINESS NAME AND ADDRESS	CITY		STATE	BUS. PHONE ( ) -

CODE W	NAME (Last, First Middle) Ellis, Christopher John Derek	SEX M	RACE W	DOB / AGE [REDACTED]	HGT 603	WGT 150	HAIR Bro	EYES Bro	CA / DL# [REDACTED]
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RESIDENCE ADDRESS 5580 Nicholas Lane	CITY Dixon		STATE CA	RES. PHONE ( ) -
BUSINESS NAME AND ADDRESS	CITY		STATE	BUS. PHONE ( ) -

VICTIMS VEH	LICENSE # N/A	STATE	YEAR	MAKE	MODEL	BODY STYLE
	COLOR / COLOR	OTHER CHARACTERISTICS (i.e. Damage, Unique marks, Paint)			DISPOSITION OF VEHICLE	

FACTORS	<input checked="" type="checkbox"/> 1 THERE IS A WITNESS <input type="checkbox"/> 2 SUSPECT ARRESTED <input checked="" type="checkbox"/> 3 SUSPECT NAMED <input checked="" type="checkbox"/> 4 SUSPECT CAN BE LOCATED <input type="checkbox"/> 5 SUSPECT CAN BE DESCRIBED <input type="checkbox"/> 6 SUSPECT CAN BE ID'D <input type="checkbox"/> 7 SUSPECT VEHICLE CAN BE ID'D <input type="checkbox"/> 8 STOLEN PROPERTY CAN BE ID'D <input type="checkbox"/> 9 THERE IS SIGNIFICANT M.O. <input type="checkbox"/> 10 SIGNIFICANT PHYSICAL EVIDENCE PRESENT <input type="checkbox"/> 11 THERE IS MAJOR INJURY/SEX CRIME <input type="checkbox"/> 12 THERE IS A GOOD POSSIBILITY OF SOLUTION <input type="checkbox"/> 13 FURTHER INVESTIGATION IS NEEDED <input type="checkbox"/> 14 CRIME IS GANG RELATED <input type="checkbox"/> 15 HATE CRIME RELATED	EVIDENCE <input type="checkbox"/> 0 NONE <input type="checkbox"/> 1 FINGERPRINTS <input type="checkbox"/> 2 TOOLS <input type="checkbox"/> 3 TOOL MARKS <input type="checkbox"/> 4 GLASS <input type="checkbox"/> 5 PAINT <input type="checkbox"/> 6 BULLET CASING <input type="checkbox"/> 7 BULLET PROJECTILE <input type="checkbox"/> 8 RAPE KIT <input type="checkbox"/> 9 SEMEN <input type="checkbox"/> 10 BLOOD <input type="checkbox"/> 11 URINE <input type="checkbox"/> 12 HAIR <input type="checkbox"/> 13 FIREARM(S) <input type="checkbox"/> 14 PHOTOS <input type="checkbox"/> 15 BREATH <input checked="" type="checkbox"/> 16 OTHER BWC, Video	<input type="checkbox"/> A-ACTIVE <input type="checkbox"/> S-SUSPENDED <input type="checkbox"/> R-RECORDS <input type="checkbox"/> C-CLOSED <input type="checkbox"/> K-COURTESY <input type="checkbox"/> U-UNFOUNDED <input type="checkbox"/> P-PENDING <input type="checkbox"/> F-FOLLOW-UP REQUIRED	SIGNATURE  DATE _____ ID# _____
	A-OTHER ASIAN B-BLACK C-CHINESE D-CAMBODIAN F-FILIPINO G-GUAMANIAN		H-HISPANIC I-AMERICAN INDIAN J-JAPANESE K-KOREAN L-LOATIAN O-OTHER	P-PACIFIC ISLANDER S-SAMON U-HAWIIAN V-VIETNAMESE W-WHITE X-UNKNOWN

REPORTING DEPUTY / ID# Deputy J. Dew 1L102	DATE 11/15/18	REVIEWED BY / ID#	DATE	CSI PERFORMED BY	SUPERVISOR AT SCENE
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Forms Attached <input checked="" type="checkbox"/> PROPERTY <input type="checkbox"/> ADD'L NAMES <input type="checkbox"/> ARREST	<input type="checkbox"/> VEHICLE <input type="checkbox"/> ACCIDENT <input checked="" type="checkbox"/> NARRATIVE	<input checked="" type="checkbox"/> CITATION <input type="checkbox"/> CHP 180 <input type="checkbox"/> CHP 202	<input type="checkbox"/> SUSPECT <input type="checkbox"/> CRIME SCENE	ADVISED RE: GC 13968c <input type="checkbox"/> YES <input type="checkbox"/> NO	ENTERED RMS BY
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**SOLANO COUNTY  
SHERIFF'S OFFICE**

**CRIME REPORT**

CASE NO. CR18-5496	PAGE 2
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<b>PREMISES</b> 8 <input type="checkbox"/> BUSINESS: N/A <input checked="" type="checkbox"/> RESIDENCE: 34 HOUSE <input type="checkbox"/> PUBLIC: N/A <input type="checkbox"/> VEHICLE: N/A	<b>VEHICLE ENTRY</b> 11 <input type="checkbox"/> N/A	<b>PHYSICAL SECURITY</b> 16 <input type="checkbox"/> N/A
	<b>PROPERTY ATTACKED</b> 12 <input type="checkbox"/> N/A	<b>VICTIM PROFILE</b> 17
	<b>SEX CRIMES ONLY</b> 13 <input type="checkbox"/> N/A	PHYSICAL CONDITION Q13 <input type="checkbox"/> N/A
	<b>BURGLARY ONLY</b> 14 MEMBER OF NEIGHBORHOOD WATCH <input type="checkbox"/> NO MEMBER OF OPERATION IDENTIFY <input type="checkbox"/> NO INTERESTED IN NEIGH. WATCH <input type="checkbox"/> NO HAD HOME/BUSINESS INSPECTION <input type="checkbox"/> NO WHEN? UNKNOWN	RELATIONSHIP TO SUSPECT Q14 <input type="checkbox"/> UNKNOWN
		MARITAL STATUS Q15 <input type="checkbox"/> N/A
<b>POINT OF ENTRY</b> 9 <input type="checkbox"/> N/A	<b>TRADEMARKS</b> 15	
	<b>SUSPECTS ACTIONS</b> Q10 <input checked="" type="checkbox"/> 13 HAD BEEN DRINKING <input type="checkbox"/> N/A <input type="checkbox"/> N/A <input type="checkbox"/> N/A <input type="checkbox"/> N/A	
<b>METHOD OF ENTRY</b> 10 <input type="checkbox"/> N/A	<b>SUSPECT PRETENDED TO BE</b> Q11 <input type="checkbox"/> N/A	

Reporting Deputy/ID# Deputy J. Dew 1L102	Date 11/15/18	Reviewed by/ID#	Date
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*Deputy J. Dew 1L102*

*Case# CR18-5496*

**102718/2056 Hours:** I responded to 5610 Nicholas Lane in Dixon for a report of a violation of a restraining order. Upon arrival, I activated my Body Worn Camera (BWC) and spoke with (V) Marshall Foletta who told me the following in summary:

**STATEMENT OF (V) MARSHALL FOLETTA** – Marshall and his son, (V) Lucas Foletta, were inside at 5610 Nicholas Lane at about 2053 hours when they heard extremely loud music coming from 5580 Nicholas Lane. Marshall has a restraining order (RO) against (W) Christopher Ellis, one of the residents at 5580. (Solano Dispatch confirmed the RO). The RO prevents Christopher from playing music before 0900 hours or after 1900 hours.

Marshall and Lucas both have videos of the music. Marshall also has a video of who he believes was Christopher talking about turning off the music before deputies arrived on scene.

End statement.

Lucas had nothing additional to add to Marshall's statement of events. Lucas and also had several videos of the music being played from the house. Marshall and Lucas both agreed to email me the videos. While reviewing the videos a male voice can clearly and loudly be heard saying "yea just have the music off so when they get there they put in their report that nobody, there was no music. It doesn't matter just have it completely off. Bye."

I deactivated my BWC and responded to 5580 Nicholas Lane. Upon arrival, I activated my BWC and contacted (S) Leeanna Ellis who told me the following in summary:

**STATEMENT OF (S) LEEANNA ELLIS** – Leeanna was aware of the RO and knows Christopher, who was her husband, was the restrained person. Christopher wasn't home when the music was playing and hadn't been home all day. Leanna was the one playing the music.

End statement.

Two other individuals, later identified as (W) Arcelia Virelas Mendoza and (W) Oscar Cervantes were present with Leeanna. Virelas Mendoza and Cervantes both confirmed Christopher hadn't been present when the music was playing.

I responded back to 5610 Nicholas Lane and re-contacted Marshall. I activated my BWC. Marshall provided me with a copy of the RO which named only Christopher as a restrained person. Marshall requested to sign a citizen's arrest against Leeanna for a violation of 415(2) PC – Disturbing the Peace. I authored a citation and Marshall signed it. Lucas also wanted to sign a citizen's arrest for the excessive level of noise. I deactivated my BWC.

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<i>Reporting Deputy</i>	<i>I.D. No</i>	<i>Approved by</i>
<i>Deputy J. Dew</i>	<i>1L102</i>	

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*Deputy J. Dew 1L102*

*Case# CR18-5496*

I responded back to 5580 Nicholas Lane and re-contacted Leeanna. I activated my BWC. I explained the situation to Leeanna who eventually signed a promise to appear. (Citation #107768). I later noted Leeanna had signed at the bottom of the citation rather than in the signature box where I requested her to sign.

I later received the videos via email. I uploaded the videos to a CD and booked it as item JND1 into evidence locker #11.

All BWC footage was later uploaded under the case number.

**I request a copy of this report be forwarded to the Solano County District Attorney's Office for prosecution against Leeanna Ellis on the above-mentioned violation.**

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*Reporting Deputy*

*I.D. No*

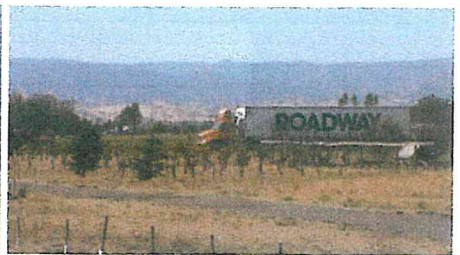
*Approved by*

*Deputy J. Dew*

*1L102*

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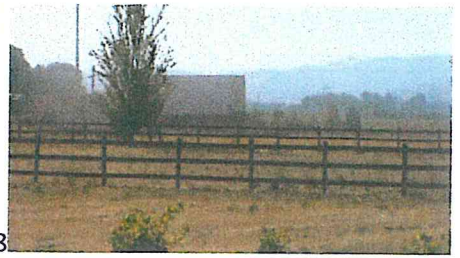












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February 8, 2019

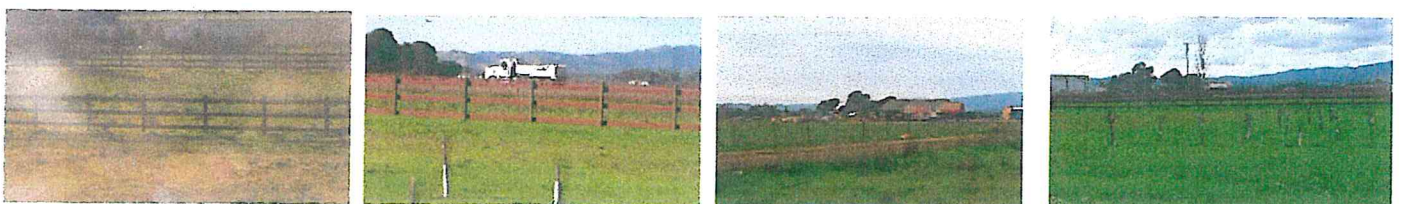


February 11, 2019





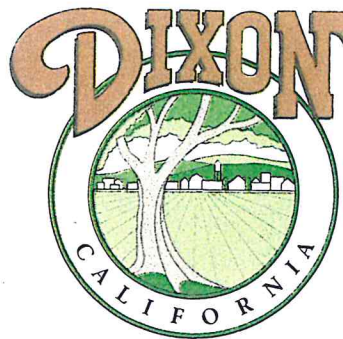
Misc. dates from May 30 2018 to March 1, 2019





MAYOR THOM BOGUE  
VICE MAYOR SCOTT PEDERSON  
COUNCIL MEMBER STEVE BIRD

COUNCIL MEMBER JIM ERNEST  
COUNCIL MEMBER DEVON MINNEMA  
CITY TREASURER WESLEY ATKINSON



March 19, 2019

Marshall Foletta  
P.O. Box 610  
Dixon, CA 95620

Re: Emergency Vehicle Access and Roadway Access  
Nicholas Lane  
Vacaville, CA 95688  
APN 0141-090-250 Address 5580  
APN 0141-090-240 Address 5610  
APN 0141-090-230 Address 5808 & 5810  
APN 0141-090-220 Address 5630 & 5650

To Whom It May Concern:

Nicholas Lane serves as a fire apparatus access road and thus shall be maintained in accordance with the 2016 California Fire Code (CFC). Nicholas Lane's current surface does not provide all weather driving capabilities for fire apparatus, and due to multiple potholes may cause significant delays and/or possibly no emergency response to your property.

Photos of the roadway show the lack of roadway maintenance. The potholes affect response even when the roadway is dry.

Please repair the roadway as soon as possible to CFC and Solano County standards.

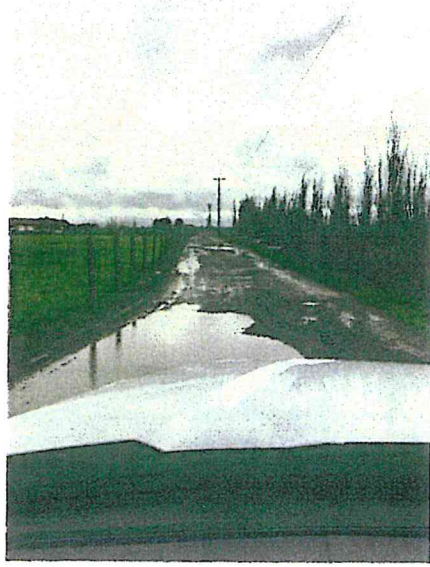
If there are any questions please contact me at (707) 678-7060.

Signed,

John Malone  
Division Chief

**City of Dixon  
Fire Department**

205 Ford Way • Dixon, California • 95620-3162  
(707) 678-7060 • FAX (707) 678-4251 • TDD (707) 678-1489





## Foletta-Fielding-Ellis Easement History

In February 2015 when Chris Ellis began to improve the easement, which runs north-south along the back of the Fieldings' property and across the center of ours, before turning west and straddling the property line separating my property from his, the area looked like the pictures below.

North-south portion on Foletta property



East-west portion straddling Foletta-Ellis property line



When the Public Works Department was called by the Fieldings and Folettas to assess whether Ellis' work was extensive enough to require a permit in April 2015, he had already graded a narrow, rough road almost the entire width of the Fieldings' property. But passage to and from Nicholas Lane via the easement was still impossible as about one-fourth of what had been an irrigation overflow pond still



## Foletta-Fielding-Ellis Easement History

remained in the easement in the southwest corner of the Fieldings' property. To the immediate south, a large berm also separated the Foletta and Fielding properties.



By this same date, Ellis had also mowed the east-west portion on the Foletta property, but he had done no grading.





## Foletta-Fielding-Ellis Easement History

Nor, at the time of the Public Works Department's first visit, had Ellis done any grading on the north-south portion of the easement on the Foletta property. This area was still covered with grass.

After several visits on and/or around April 15, 2015 by the grading engineer Victor Chan, he determined in consultation with his supervisor Nick Burton, that Ellis had moved more than the 50 yards of dirt allowable without a permit and informed Ellis that he must stop all work until he obtained one. In other words, in mid-April 2015 the Public Works Department took the position that a road could not be built on the easement on the Fielding and Foletta properties until a permit was obtained.

No permit was ever obtained, but Ellis continued to build a road. By mid-2015 the easement looked like this.

East-west on the Foletta property



North-south on the Foletta property





## Foletta-Fielding-Ellis Easement History



North-south onto the Fielding property

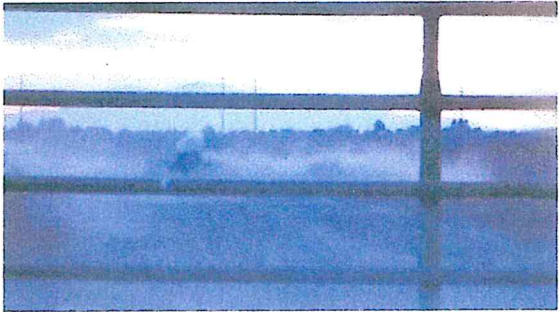


Once a road had been created it became a tool in the Ellis's campaign of harrassment directed against us. Not used simply for ingress and egress, the easement was turned into a playground. Ellis, his family and friends, spent hours riding their motorcycles, mini-bikes, go-carts, and golf-carts back and forth—



**Foletta-Fielding-Ellis Easement History**

the motorcycles often just traversed our portion of the easement, popping wheelies and spinning donuts



The activity on the easement coupled with the loud, harassing music blasted daily in our direction forced us to close our business and eventually move out of our home.