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THE REPUBLICAN NATIONAL COMMITTEE

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10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**
12 **WESTERN DIVISION – LOS ANGELES**

13 JACKSON BROWNE, an individual
14
15 Plaintiff,

16 vs.

17 JOHN MCCAIN, an individual; THE
18 REPUBLICAN NATIONAL
COMMITTEE, a non-profit political
19 organization; THE OHIO REPUBLICAN
PARTY; a non-profit political
organization,
20 Defendants.

CASE NO. CV08-05334 RGK (Ex)

**DEFENDANT THE
REPUBLICAN NATIONAL
COMMITTEE'S NOTICE OF
SPECIAL MOTION TO STRIKE
UNDER C.C.P. § 425.16**

Hearing

Date: December 8, 2008

Time: 9:00 a.m.

Place: Courtroom 850

Judge: Hon. R. Gary Klausner

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on December 8, 2008, at 9:00 a.m., or as soon
3 thereafter as counsel may be heard, in Courtroom 850 of the above-entitled Court, the
4 Honorable R. Gary Klausner presiding, located at 255 East Temple Street, Los
5 Angeles, California 90012, Defendant The Republican National Committee (“RNC”)
6 will and hereby does move the Court for an order striking the fourth claim for relief in
7 the Complaint filed by Jackson Browne (“Browne”) under California’s anti-SLAPP
8 statute, Code of Civil Procedure § 425.16. This Motion is made following the
9 conference of counsel pursuant to Local Rule 7-3, which took place on October 6,
10 2008.

11 The Complaint’s fourth claim for relief is based on speech in connection with a
12 public issue or issue of public interest. Accordingly, this claim falls within the scope of
13 Section 425.16(e)(4) and, as such, the burden shifts to Browne to establish, with
14 competent and admissible evidence, a probability that he will prevail on that claim.
15 C.C.P. § 425.16(b)(1). Browne cannot satisfy his burden for the following reasons:

- 16 (1) Browne’s claim fails because the Political Video that is the subject of his
17 claim is non-commercial speech that relates to a matter of public interest;
18 (2) The Political Video that is the subject of his claim is subject to full and
19 stringent protection under the First Amendment, which bars the claim; and
20 (3) The use of Browne’s voice in the Political Video was transformative thereby
21 precluding liability.

22 This Motion is based on this Notice and the concurrently-filed supporting
23 Memorandum of Points and Authorities, the RNC’s concurrently-filed Notice of
24 Motion to Dismiss under Federal Rule of Civil Procedure 12(b)(6) and the supporting
25 Memorandum of Points and Authorities, concurrently-filed Joint Request For Judicial
26 Notice, all papers, pleadings, records and files in this case, and on such other evidence
27 and/or argument as may be presented to the Court on the hearing on this Motion.

1 The RNC respectfully requests that the Court strike the fourth claim for relief in
2 Browne's Complaint with prejudice and without leave to amend.

3
4 DATED: November 17, 2008 KLEIN, O'NEILL & SINGH, LLP

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6 By /s/ Howard J. Klein
 Howard J. Klein

7 Attorneys for Defendant,
8 THE REPUBLICAN NATIONAL
9 COMMITTEE

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/s/ Sang N. Dang
Sang N. Dang