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7 Attorneys for Defendant
 THE REPUBLICAN NATIONAL COMMITTEE

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 9 **UNITED STATES DISTRICT COURT**
 10 **CENTRAL DISTRICT OF CALIFORNIA**
 11 **WESTERN DIVISION**

13 JACKSON BROWNE, an individual
 14 Plaintiff,
 15 vs.
 16 JOHN MCCAIN, an individual; THE
 17 REPUBLICAN NATIONAL
 18 COMMITTEE, a non-profit political
 organization; THE OHIO REPUBLICAN
 PARTY; a non-profit political
 organization,
 19 Defendants.

CASE NO. CV-08-05334 RGK (Ex)

**NOTICE OF APPEAL TO THE
 UNITED STATES COURT OF
 APPEALS FOR THE NINTH
 CIRCUIT**

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1 The Republican National Committee (“Defendant”), one of the defendants
2 herein, appeals to the United States Court of Appeals for the Ninth Circuit from the
3 Order of the District Court denying Defendant’s Motion to Strike, entered in this case
4 on February 20, 2009, a copy of which is attached hereto as Exhibit “A,” and the Order
5 of the District Court denying Defendant’s Motion to Dismiss, entered in this case on
6 February 20, 2009, a copy of which is attached hereto as Exhibit “B.” In particular,
7 Defendant appeals the following:

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9 1. Defendant appeals the denial of Defendant’s Motion to Strike made
10 pursuant to Cal. Civil Code § 425.16 (the “Anti-SLAPP Motion”). The denial of an
11 anti-SLAPP motion is immediately appealable pursuant to the collateral order doctrine.
12 *See e.g., Batzel v. Smith*, 333 F.3d 1018, 1024-26 (9th Cir. 2003); *Zamani v. Carnes*,
13 491 F.3d 990, 994 (9th Cir. 2007).

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15 2. Defendant appeals the denial of Defendant’s Motion to Dismiss made
16 pursuant to Federal Rule of Civil Procedure 12(b)(6) (the “Motion to Dismiss”). The
17 Ninth Circuit has jurisdiction over the denial of the Anti-SLAPP motion and therefore
18 may exercise appellate jurisdiction over the denial of the Motion to Dismiss because it
19 involves issues that are “inextricably intertwined” with the issues pendent to the
20 resolution of the properly raised appeal of the denial of the Anti-SLAPP Motion. *See*,
21 *e.g., Batzel*, 333 F.3d at 1023; *Kwai Fun Wong v. U.S.*, 373 F. 3d 952, 960 (9th Cir.
22 2004); *Deckert v. Independence Shares Corp.*, 311 U.S. 282, 287 (1940) (appellate
23 review is not limited solely to the order appealed from; rather “[i]f insuperable
24 objection to maintaining the [action] clearly appears, it may be dismissed and the
25 litigation terminated”); *First Medical Health Plan, Inc. v. Vega-Ramos*, 479 F.3d 46,
26 50 (1st Cir. 2007) (*citation omitted*) (exercise of ancillary appellate jurisdiction
27 appropriate where it “serves the salutatory purpose of saving both parties the needless
28

1 expense of further prosecution of the suit where the pleadings demonstrate that the suit
2 is hopeless”).¹

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4 Dated: March 10, 2009

KLEIN, O’NEILL & SINGH, LLP

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7 By: /s/ Howard J. Klein

Howard J. Klein

8 Attorneys for Defendant
9 THE REPUBLICAN NATIONAL
10 COMMITTEE

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23 _____
24 ¹ In the alternative, Defendant requests that the Ninth Circuit treat this Notice of
25 Appeal as a petition for mandamus pursuant to 28 U.S.C. § 1651. *See Miller v.*
26 *Gammie*, 335 F.3d 889, 895 (9th Cir. 2003).

1 **CERTIFICATE OF SERVICE**

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3 I hereby certify that on March 10, 2009, I electronically filed the foregoing with

4 the Clerk of the Court using the CM/ECF system which will send notification of the

5 filing to all counsel of record. Furthermore, I served the foregoing to all counsel of

6 record by electronic mail.

7

8 /s/ Sang N. Dang

9 Sang N. Dang