

IN THE CIRCUIT COURT OF LINCOLN COUNTY
FOR THE 17TH JUDICIAL DISTRICT OF TENNESSEE

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DOROTHY SMALL, TONYA ALLEN,)
and ROGER MARTINEZ,)
))
Plaintiffs,)
vs.) NO. 23-CV-132
) JURY DEMAND
JON LAW and)
TINA TOWRY OSGOOD,)
))
Defendants.)

MOTION HEARING
VOLUME 1 of 1 - DECEMBER 13, 2023

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1 FAYETTEVILLE, TENNESSEE ----- DECEMBER 13, 2023

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3 THE CIRCUIT COURT FOR LINCOLN COUNTY

4 HON. M. WYATT BURK, PRESIDING

5 oOo

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7 (The motion hearing in Small,
8 Allen & Martinez versus Law & Osgood
9 was convened at approximately 9:31
10 a.m.)

11
12 THE COURT: All right. This is
13 Dorothy Small, Tonya Allen, and Roger
14 Martinez versus Jon Law and Tina
15 Towry Osgood. This is on for a
16 petition to dismiss filed by the
17 Defendants in this matter by
18 Mr. Horwitz.

19 I will hear you.

20 MR. HORWITZ: Good morning, Your
21 Honor.

22 THE COURT: Good morning.

23 MR. HORWITZ: Daniel Horwitz of
24 the Nashville bar on behalf of the
25 Defendants. I'm here with co-counsel

1 Melissa Dix and Lindsey Smith. Also
2 have our clients sitting in the room.

3 THE COURT: Good to see you guys.

4 MR. HORWITZ: Your Honor, this is
5 a Tennessee Public Participation Act
6 petition to dismiss the Plaintiffs'
7 claim. There is a single invasion of
8 privacy claim alleged here.

9 I want to walk through the
10 Tennessee Public Participation Act,
11 because as Your Honor knows, it's a
12 little bit unusual. It's not your
13 typical motion to dismiss, it's not
14 your typical motion for summary
15 judgment. It is a dispositive
16 petition and we are seeking dismissal
17 of the Plaintiffs' claims with
18 prejudice here.

19 Under the Tennessee Public
20 Participation Act, there is a
21 three-step inquiry. So today I am
22 going to ask Your Honor to make at
23 least two rulings, up to three, but
24 the first thing that I need to prove
25 is that this is a lawsuit, it's a

1 claim that was filed in relation to
2 or in response to the exercise of the
3 right of free speech as defined by
4 statute or the right to petition. We
5 have asserted that. We have
6 supported that claim with evidence.

7 This is involving citizen
8 advocates in a public petitioning
9 campaign regarding local government,
10 regarding tax policy, regarding
11 maintenance of public parks. So we
12 have asserted with abundant and
13 uncontested evidence that this is a
14 tort claim regarding which the
15 T.P.P.A. applies. And from my
16 reading of opposing counsel's
17 response, that is not contested.

18 So that is step one of this
19 inquiry. We have to demonstrate a
20 prima facie case that this is in
21 relation to and in response to the
22 exercise of the right of free speech
23 or the right to petition.

24 We believe we have done so. We
25 believe that there is no contest of

1 that fact. So that's the first
2 ruling that I am going to ask this
3 Court to make, that we have met our
4 initial burden under the Tennessee
5 Public Participation Act.

6 Step two. This is where the
7 burden shifts to the Plaintiffs. So
8 once we have done what we needed to
9 in step one, they have to come
10 forward with admissible evidence and
11 demonstrate a prima facie case for
12 each essential element of their
13 claims here. And there are two
14 elements involved. So the first
15 involves whether the matter disclosed
16 is highly offensive to a reasonable
17 person. And the second is whether
18 the matter disclosed is not of
19 legitimate concern to the public.

20 It's our position they cannot
21 meet either element. We only have to
22 win on one of those in order to
23 prevail here today, but I do want to
24 walk through this. So here is
25 essentially the facts of this case.

1 Citizen advocates concerned about
2 local policy expressed their concerns
3 about local government, about
4 failures in local government on
5 Facebook. As a part of that
6 advocacy, as part of an effort to
7 promote a petitioning campaign to
8 elected officials, they published the
9 cell phone numbers of the elected
10 officials for the purpose of having
11 other citizens contact them to
12 redress the grievances that they have
13 about local policy.

14 They have now been sued for a
15 whopping \$750,000 in asserted
16 compensatory damages for simply
17 publishing the cell phone numbers of
18 their elected officials. And the
19 claim that the Plaintiffs are
20 attempting to make here, which they
21 have not substantiated with any
22 evidence, but purely the legal
23 argument that lacks any citation, is
24 that publishing a cell phone number
25 of an elected official is highly

1 offensive to a reasonable person.

2 Your Honor, that cannot possibly
3 be true. It doesn't make any sense.
4 The whole point of having a cell
5 phone is that people can contact you
6 on it.

7 And so to address that argument,
8 they say rather than the objective
9 inquiry, right, the reasonable person
10 inquiry that the law requires, this
11 should simply be a subjective
12 standard. It should simply be up to
13 the person who has the cell phone,
14 whether or not publishing that number
15 is highly offensive.

16 Now that is not law, but even if
17 it were, in this absolutely
18 extraordinary case, two of the three
19 Plaintiffs published their own cell
20 phone numbers on their nominating
21 petition, on the candidate nominating
22 petitions that are on file with the
23 election commission. One of them
24 initially published his own cell
25 phone number online while trying to

1 sell a Honda CRV. It is clear beyond
2 any conceivable dispute that these
3 Plaintiffs did not consider the
4 publication of their cell phone
5 numbers to be highly offensive even
6 themselves subjectively. We think
7 that's the end of this case. They
8 lose right there.

9 But turning to step two, it's
10 arguably even easier, you know,
11 whether the matter disclosed is not
12 of legitimate concern to the public,
13 and of course it is when we are
14 talking about elected officials.
15 There are a host of ways that
16 disclosing an elected official's cell
17 phone number would be a matter of
18 public concern. The first is it
19 simply allows constituents to
20 meaningfully exercise the right to
21 petition, which was the actual
22 purpose for which their cell phone
23 numbers were published. It's to
24 allow citizens to contact these
25 elected officials regarding matters

1 of public concern, local government
2 tax policy, and maintenance of public
3 parks, and redress the grievances
4 that my clients had. So that's the
5 end of the matter, but that's, of
6 course, not the only reason why
7 having an elected official's cell
8 phone number would be a matter of
9 public concern.

10 The second one is that an elected
11 official's cell phone number is
12 necessary to promote transparency and
13 public records access, particularly
14 when they are using their cell phones
15 to conduct public business. And the
16 uncontested evidence in this record
17 from the Mayor is that they were
18 using their cell --

19 THE COURT: The city mayor,
20 right?

21 MR. HORWITZ: Yes, from the city
22 mayor.

23 -- is that they were using their
24 cell phones to conduct official
25 business. So that's yet another

1 reason why this is, in fact, a matter
2 of public concern.

3 Additionally, an elected
4 official's cell phone number, like
5 any other contact information, can
6 provide abundant, useful information
7 about their residency and their
8 connections to the community that
9 they serve.

10 Now we have noted here that one
11 of the Plaintiffs has an Alabama area
12 code, despite serving a Tennessee
13 community. He has got a response to
14 that. That's perfectly fine. It
15 doesn't take it outside the ambit of
16 a matter of public concern though.
17 So simply having that contact
18 information matters.

19 Fourth, Tennessee statutory law
20 under the Tennessee Public
21 Participation Act defines issues of
22 public concern. Right? And among
23 the defined issues are the
24 government.

25 THE COURT: Counsel, wait just a

1 second. If you will shut that door,
2 Officer.

3 I'm sorry. You may proceed.

4 MR. HORWITZ: Tennessee statutory
5 law defines any issue related to the
6 government, a public official, or a
7 public figure as a matter of public
8 concern, as a matter of statutory
9 law. In order to harmonize this tort
10 claim and invasion of privacy claim
11 with this statutory definition, we
12 think that should be construed the
13 same way.

14 So for those reasons, we don't
15 believe that they have met --
16 established a prima facie case in
17 element number one, we don't believe
18 that they have established a prima
19 facie case in element number two.
20 Also, just know perhaps more simply,
21 they didn't file any evidence in
22 response to our petition. They filed
23 an eight page response that was just
24 full of argument, no citation to
25 statutes, no citation to case law,

1 and no evidence appended to it.

2 Under *Nandigam Neurology versus,*
3 *Beavers,* which happens to be our
4 case, that is supposed to be a
5 mandatory loss. Right? Because you
6 have to file your evidence five days
7 before hearing, and if you don't do
8 it and you don't meet your
9 evidentiary burden on the statute,
10 you lose.

11 Now we are not necessarily asking
12 this Court to rule on that ground.
13 We think it's -- even if the evidence
14 is considered, even if the claims are
15 taken as true, they still simply
16 cannot meet either element of their
17 tort claim here.

18 To recap that, the ruling in step
19 one that we want is that we met our
20 own prima facie burden of
21 demonstrating that the T.P.P.A.
22 applies.

23 The second ruling we want this
24 Court to make is that they did not
25 meet their burden of proving each

1 essential element of their claims,
2 and that should be it. But I will
3 note, the T.P.P.A. has a third step
4 as well. So even if they win at step
5 two, and they don't, but even if they
6 did, the third inquiry is whether or
7 not the Defendants have established
8 valid defenses here.

9 And we have. We have
10 demonstrated, admittedly not through
11 a binding Tennessee case, but with
12 abundant, persuasive authority from
13 across the United States that
14 publishing contact information is
15 protected speech within the First
16 Amendment jurisprudence. There are a
17 host of cases that have dealt with
18 similar, not quite identical, but
19 similar issues about posting contact
20 information, some involving posting
21 much more private contact information
22 than we have here, Social Security
23 numbers, for instance. And in every
24 single one of those cases, uniformly,
25 courts have said the First Amendment

1 protects this publication, especially
2 when we are dealing with public
3 officials or matters of public
4 concern or matters of advocacy.

5 Your Honor, I just want to bring
6 this back. We are talking about core
7 political speech here. We are
8 talking about citizens who --

9 THE COURT: It was tax policy,
10 right?

11 MR. HORWITZ: Tax policy --

12 THE COURT: Tax policy and the
13 cleanliness of the parks?

14 MR. HORWITZ: Of a public park,
15 right.

16 Quintessential First Amendment
17 advocacy. Quintessential exercise of
18 the right to petition here. This is
19 about the highest protection that the
20 First Amendment affords to speech.
21 And under those circumstances, at
22 minimum, it is the Plaintiffs' burden
23 to demonstrate how and why this
24 speech can be restricted
25 constitutionally, and they simply

1 have not done so. We have marshaled
2 a great deal of First Amendment
3 authority holding that this is
4 protected speech. They have mustered
5 nothing saying that it is not. So we
6 would win at step three as well. We
7 have demonstrated a valid defense
8 here that the First Amendment
9 protects my clients' speech so we
10 should win there as well.

11 I will note a couple of other
12 arguments. There's a separate
13 anti-SLAPP statute in play, the
14 Tennessee Anti-SLAPP Act of 1997. It
15 provides statutory immunity under
16 these circumstances for truthful
17 speech. All of the speech here is
18 uncontestedly truthful. And
19 secondly, as to Ms. Sanders, who is
20 named Ms. Osgood in this complaint,
21 she recopied the exact same thing
22 that her codefendant --

23 THE COURT: Hers was a
24 republication of the same post of
25 Mr. Law.

1 MR. HORWITZ: Just a
2 republication in the same forum.

3 So by the time she published it,
4 it was already out there. It wasn't
5 private at all.

6 For all of these reasons, Your
7 Honor, we think there are multiple
8 bases for granting this petition. We
9 think the petition should be granted.
10 That will come with not only a
11 dismissal but dismissal with
12 prejudice. It will trigger a
13 mandatory fee award, which we would
14 like to bring to this Court's
15 attention at a later date.

16 Also note that there is a
17 sanctions provision under this
18 statute. And I will just tell this
19 Court there is no Tennessee Court of
20 Appeals authority, Tennessee Supreme
21 Court authority on how to determine
22 sanctions. It's a relatively new
23 area of law. We would like to brief
24 that. We got a decision last week
25 out of Davidson County that we think

1 applies the correct analysis, and we
2 would like to bring that to the
3 Court's attention to brief the
4 sanctions portion of this at a later
5 date when we file our fee petition,
6 but for today, what I would like the
7 Court to do is rule that we have
8 established our burden at the first
9 step of the T.P.P.A., that they have
10 not established a prima facie case
11 for each essential element of their
12 tort claims in response, and if this
13 Court deems it necessary, that we
14 have established valid defenses to
15 liability here.

16 For those reasons, we would ask
17 the petition be granted and that the
18 Plaintiffs' complaint be dismissed
19 with prejudice.

20 THE COURT: Thank you.
21 Appreciate it.

22 All right, Mr. Elliott. Good
23 morning.

24 MR. ELLIOTT: Yes. Thank you,
25 Your Honor. How are you doing?

1 THE COURT: Doing well. Good to
2 see you.

3 MR. ELLIOTT: Good to see you,
4 Your Honor.

5 Steve Elliott, Nashville bar,
6 here on behalf of the Plaintiffs in
7 this matter.

8 Your Honor, the Defendants'
9 petition, Motion to Dismiss, should
10 be denied flat out.

11 Your Honor, this is not a
12 strategic lawsuit as the Defendants
13 claim that it is. The Plaintiffs
14 simply want the Defendants to stop
15 violating and invading their privacy,
16 not the other way around. This
17 lawsuit was not an attempt by the
18 Plaintiffs to silence the Defendants'
19 opposition to anything. To the
20 contrary, the Plaintiffs welcome such
21 debate in whatever form that can be
22 done in, but there are less invasive
23 and less harassing methods in which
24 to do it.

25 For the Defendants to contact the

1 City aldermen in other methods,
2 including for all to see on the
3 City's website where phone numbers
4 and e-mail addresses are posted for
5 each and every alderman to be
6 contacted about City business, that's
7 the way these Plaintiffs wanted to be
8 contacted, the way they published it
9 on the City website, through e-mails
10 and phone numbers.

11 Your Honor, it needs to be
12 established on the front end that
13 Ms. Dorothy Small, there is no
14 allegation by Defendants in this case
15 that she has published her own cell
16 phone number at any time.

17 THE COURT: It was two of the
18 three.

19 MR. ELLIOTT: It was two of the
20 three. And I will get into whether
21 or not that was public by the other
22 two later but there is no allegation
23 in Defendants' Motion to Dismiss as
24 to her, so anything as to her should
25 automatically be denied. She didn't

1 publish her cell phone number at all.

2 Your Honor, again, these cell
3 phone numbers are not of legitimate
4 concerns to the public. There is no
5 case law cited by the Defendants in
6 support of that position. They have
7 a really pretty brief that has Law
8 Review articles cited and district
9 court cases from Washington and
10 Florida and other places cited, but
11 there is not a single case from this
12 state cited in support of Defendants'
13 position today.

14 THE COURT: I don't think one
15 exists, does it?

16 MR. ELLIOTT: Not one exists as
17 far as I'm aware. So, I mean, this
18 is totally new ground, plowing new
19 earth here, as far as we can tell,
20 Your Honor.

21 And regarding a legitimate
22 concern, there's no justifiable
23 reason for posting their cell phone
24 numbers. Why in the world didn't
25 Mr. Law simply post, hey, you all

1 need to get in touch with your city
2 aldermen, your board of aldermen
3 members, and here's the court --
4 here's the City's website, a link to
5 this, in order to get in contact with
6 them? Why didn't Mr. Law simply copy
7 and paste those numbers and those
8 e-mail addresses listed on the City's
9 website?

10 He did it for one reason only.
11 He did it to harass and attempt to
12 intimidate these Board of Aldermen by
13 posting their personal cell phones,
14 which were, we would submit, the only
15 way to surmise how he obtained their
16 cell phone numbers is through the
17 Mayor. That's the only way, Your
18 Honor.

19 Your Honor, in their petition to
20 dismiss, the Defendants, they say
21 it's strangely ridiculous. And then
22 they also refer to the Plaintiffs'
23 petition as curious. That's it.
24 That it's a curious complaint. That
25 it's strange. That it's unusual.

1 That's not enough just to dismiss it,
2 especially not on what's essentially
3 a Rule 12 Motion to Dismiss, Your
4 Honor.

5 Again, Your Honor, I would just
6 submit, as you look at the
7 Defendants' brief, it is replete with
8 editorial commentary, with the way
9 they think things should be, with the
10 way they think the law should be,
11 without any authority whatsoever. I
12 would state and refer this Court to
13 page 14 of their memorandum where
14 Defendants state, quote: "As a
15 matter of law, publishing someone
16 else's cell phone is not highly
17 offensive to any reasonable person,"
18 end quote. That's it. No citation,
19 no foundation, no basis, no nothing.
20 It's just what they say.

21 That's not good enough, Your
22 Honor. Just because they want you to
23 believe something is true doesn't
24 mean that it is, especially not on a
25 Rule 12 standard.

1 Your Honor, regarding these
2 nominating petitions of Ms. Allen and
3 Mr. Martinez, I don't know where they
4 obtained those. They say they got
5 them from the election commission. I
6 can't find them online. I tried. I
7 don't know if they were even
8 published or public to begin with.
9 If they are on file with the election
10 commission, Plaintiffs would submit
11 that that's not really public. They
12 are on file with the election
13 commission. They haven't publicized
14 those numbers.

15 Mr. Martinez may have publicized
16 a number to sell a CRV but he
17 certainly didn't publicize his cell
18 phone number to contact me about tax
19 policy or cleaning up a city park.
20 He wanted to be contacted the way the
21 City's website said he should be
22 contacted, which is the phone number
23 and the e-mail address listed on the
24 City's website, not through his
25 personal business.

1 And to call him out for having a
2 256 area code, Your Honor, I am from
3 Nashville and even I know how close
4 Huntsville is to here. I have been
5 here on matters before this Court and
6 gone down to Huntsville to eat after
7 I was done.

8 THE COURT: I am not worried
9 about that. I think it's --

10 MR. ELLIOTT: Thank you, Your
11 Honor.

12 THE COURT: -- just a side
13 argument.

14 MR. ELLIOTT: Again, page 16 of
15 their memorandum of law, they state
16 that Plaintiffs' claims are
17 transparently ridiculous. Your
18 Honor, that's the same as saying they
19 are curious. That's just their take.
20 That's just their opinion. Everybody
21 has got an opinion. That's not good
22 enough for a Motion to Dismiss.

23 Your Honor, let me just remind
24 the Court again of what's essentially
25 -- I mean, this is a Rule 12 motion.

1 There's a really high bar here. You
2 essentially have to take everything
3 that the Plaintiffs' state is true.
4 You test only the legal sufficiency
5 of the complaint and not the strength
6 of the proof at this stage. That's
7 the *Highlands versus Memphis* case.

8 Your Honor, the *Dobbs versus*
9 *Guenther* case says the motion cannot
10 be sustained unless there appears
11 there are no facts warranting relief.

12 Taking the complaint as true, we
13 have established facts for relief.

14 Actually, if you think about it,
15 the Defendants have admitted that we
16 have facts substantiating relief in
17 this case. They have admitted, they
18 have flaunted, they have thrown it
19 out there for all to see that they
20 have let everybody know and they do
21 not deny that they published these
22 cell phone numbers. So they admit,
23 in essence, that we have established,
24 at least factually for a Motion to
25 Dismiss, that we have made a case,

1 that we've made one.

2 Your Honor, we would just submit,
3 based on what we know now, based on
4 the standards for a Motion to
5 Dismiss, that this petition should be
6 denied.

7 Thank you.

8 THE COURT: Mr. Horwitz, you get
9 the final say.

10 MR. HORWITZ: Thank you, Your
11 Honor.

12 I guess I need to clarify a
13 misapprehension at the outset, this
14 is not a Rule 12 motion. It's not
15 even something resembling a Rule 12
16 motion. This is a Tennessee Public
17 Participation Act petition that
18 requires -- it's an evidentiary
19 motion that requires evidence, which
20 they have not submitted. Not a cent
21 of damages to support the \$750,000
22 claimed emotional distress they had
23 from having their cell phones
24 published.

25 Let me go back to the beginning,

1 though. I heard opposing counsel say
2 that his clients, quote, "Welcome
3 such debate." That's the end of this
4 case, Your Honor, because if they
5 welcome debate on the issues of
6 public concern that are presented
7 here regarding which their
8 constituents were interested, then
9 being able to contact those officials
10 is definitionally of concern to the
11 public. It's an element of their
12 claim. They can't meet it. They
13 have admitted quite the opposite.

14 I heard opposing counsel say that
15 there were less invasive methods and
16 they preferred to be contacted
17 through the City website.

18 Your Honor, Mr. Law submitted a
19 declaration here, uncontested, saying
20 -- this is paragraph 16 of his
21 declaration. "Efforts to communicate
22 with the aldermen by phone, through
23 the municipal office, or through
24 their City e-mail addresses were met
25 with little to no responses from the

1 aldermen."

2 Sure they wanted to be contacted
3 through official channels. Easier to
4 ignore the constituents who were
5 trying to petition them that way.
6 They just didn't respond.

7 As to the freedom to decide how
8 they are contacted, we have cited
9 this a couple of times, the *Ostergren*
10 *versus Cuccinelli* case out of the
11 Fourth Circuit. I'll just quote the
12 holding from footnote eight. "The
13 First Amendment protects the
14 Defendant's freedom to decide how
15 their message should be
16 communicated." The government
17 doesn't get to tell you how and when
18 to contact them. It is not up to the
19 Plaintiffs to say they only want to
20 be contacted in this way. Their
21 constituents get to decide how to
22 petition them, not the other way
23 around.

24 I also want to note, Your Honor,
25 these are public officials and the

1 standards are different. So this is
2 from the United States Supreme Court.
3 In *Gertz*, they talk about -- and *New*
4 *York Times versus Sullivan*, they talk
5 about how the fact -- how public
6 officials are expected to tolerate
7 both closer public scrutiny and
8 vehement, caustic, and sometimes
9 unpleasantly sharp attacks.

10 These Plaintiffs simply are not
11 equipped to be elected officials
12 here, Your Honor, if they are
13 suffering intense emotional distress
14 by having their cell phone numbers
15 publicized for the purposes of
16 petitioning them. They are held to a
17 higher standard. The reasonableness
18 inquiry applies here. There is no
19 conceivable way that they have met
20 their burden of proof. And, in fact,
21 they haven't even tried to because
22 they think it's a Rule 12 motion when
23 it's not. It's an evidentiary
24 motion.

25 As to our reference to this case

1 as strange and unusual, opposing
2 counsel is right, these are
3 euphemisms. What I should have said
4 is this is the most egregious SLAPP
5 suit that we have ever seen in four
6 years under the Tennessee Public
7 Participation Act, these elected
8 officials suing citizens for
9 contacting them about local policy,
10 local tax policy, policy regarding
11 the upkeep of public parks. This is
12 their job to be responsive to
13 constituents who have these concerns
14 and bring them to their attention.
15 They did so successfully here. And
16 in response, they got sued.

17 As to whether it's not good
18 enough to say that it's highly
19 offensive, here's the problem, Your
20 Honor. This is their burden of proof
21 and they haven't found a single case
22 anywhere in America that says you can
23 sue somebody for publishing your cell
24 phone number. Certainly they haven't
25 found one that says elected officials

1 can do this. And as to whether or
2 not this is or could be considered
3 highly offensive, all you need to do
4 is know that the Plaintiffs
5 themselves, at least two of them,
6 don't personally consider it to be
7 highly offensive because they put it
8 on the nominating petition that they
9 circulated to their constituents,
10 which are now on file with the
11 election commission.

12 As to whether or not that's
13 public, of course it's public. It is
14 a public record definitionally under
15 Tennessee law. That's how we got it.
16 Ask for the nominating petition.
17 Right there, cell phone number, first
18 page.

19 Your Honor, I don't know what
20 else to say other than that they
21 haven't met their evidentiary burden
22 on either element. As a matter of
23 law, these claims fail completely and
24 they have got nothing to respond to
25 our valid defenses here. Every

1 single court that has adjudicated
2 anything even resembling this issue
3 has held that the First Amendment
4 protects the right to publish contact
5 information like this. That is a
6 valid defense to liability.

7 Respectfully, there is only one
8 correct ruling here and it is not a
9 close call. Petition should be
10 granted.

11 Thank you, Your Honor.

12 THE COURT: So there was one
13 thing I noticed in your brief. You
14 said that they utilized White Pages.
15 Can you elaborate on that? One of
16 the two, I believe -- or one of the
17 three numbers, I think there was a
18 sentence in there that says that
19 Mr. Law utilized White Pages, which
20 is open to the public. So I am just
21 interested to flesh that out.

22 MR. HORWITZ: Yes. Here's my
23 understanding of that. I will note
24 that, you know, my law firm uses
25 similar software to locate people for

1 service of process or whatever.

2 THE COURT: Sure.

3 MR. HORWITZ: There is a White
4 Pages app, I think it's a
5 subscription service, that
6 aggregates --

7 THE COURT: This is for the
8 record. The Court understands what
9 White Pages are, but go ahead.

10 MR. HORWITZ: -- that aggregates
11 public information, public contact
12 information, and Mr. Law used that
13 subscription service to generate the
14 numbers that were then posted here
15 for the purpose of petitioning
16 elected officials about a proposed 50
17 percent tax increase.

18 THE COURT: Thank you.

19 This Court speaks through its
20 orders, obviously, so I am going to
21 take this matter under advisement and
22 issue an opinion, but I will give you
23 the next ten days to issue a proposed
24 order, if you would like. I draft my
25 own orders, but if you want to send

1 me one, that's fine, but I will
2 certainly take this matter under
3 advisement. This is -- this is very
4 new ground under the law, so, like I
5 said, it's best that I flesh that out
6 in a written order because I'm sure
7 it's going to go up either direction
8 that I head. So I will do that as
9 soon as I can. Okay?

10 Any questions?

11 MR. HORWITZ: Thank you, Your
12 Honor.

13 MR. ELLIOTT: Thank you, Your
14 Honor.

15 THE COURT: Thank you. Very well
16 argued, very well briefed.

17
18 (Nothing further was heard and
19 these matters were concluded at
20 approximately 9:57 a.m.)
21
22
23
24
25

REPORTER'S CERTIFICATE

STATE OF TENNESSEE)
COUNTY OF LINCOLN)

I, Angela Butler, LCR# 847, licensed court reporter and notary public, in and for the above hearing was reported by me and that the foregoing pages of the transcript are a true and accurate record to the best of my knowledge, skills, and ability.

I further certify that I am not related to nor an employee of counsel or any of the parties to the action, nor am I in any way financially interested in the outcome of this case.

I further certify that I am duly licensed by the Tennessee Board of Court Reporting as a Licensed Court Reporter as evidenced by the LCR number and expiration date following my name below.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 16th day of December, 2023.

ANGELA BUTLER, RPR, LCR# 916
Expiration date: 06/30/2024
Notary Public Commission
Expires: 05/26/2026

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