

IN THE CIRCUIT COURT FOR RUTHERFORD COUNTY, TENNESSEE, AT  
MURFREESBORO

FILED

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JONATHAN GILBERT,

*Plaintiff,*

v.

DAYLAN LANGFORD,

*Defendant.*

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Case No. 75CC1-2023-CV-81200

JURY DEMANDED

**DEFENDANT'S MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT'S  
MOTION TO DISMISS AND TENN. CODE ANN. § 20-17-104(a) PETITION TO  
DISMISS THE PLAINTIFF'S COMPLAINT PURSUANT TO THE TENNESSEE  
PUBLIC PARTICIPATION ACT**

**I. INTRODUCTION**

Peaceful protests—including those that are designed to have a coercive impact on a business—enjoy the First Amendment's full protection. *See Org. for a Better Austin v. Keefe*, 402 U.S. 415, 419 (1971) (“The claim that the expressions were intended to exercise a coercive impact on respondent does not remove them from the reach of the First Amendment. . . . [S]o long as the means are peaceful, the communication need not meet standards of acceptability.”). This principle has been clearly established by the United States Supreme Court for decades. *See id.*; *see also N.A.A.C.P. v. Claiborne Hardware Co.*, 458 U.S. 886, 913 (1982) (“While States have broad power to regulate economic activity, we do not find a comparable right to prohibit peaceful political activity such as that found in the boycott in this case.”). *Cf. Taubman Co. v. Webfeats*, 319 F.3d 770, 778 (6th Cir. 2003) (“although economic damage might be an intended effect of Mishkoff's expression, the First Amendment protects critical commentary when there is no

confusion as to source, even when it involves the criticism of a business.”). As detailed below, this principle also controls the outcome of this case, because the Defendant has been sued for conducting a peaceful protest that the First Amendment fully protects.

This is a Strategic Lawsuit Against Public Participation (a “SLAPP”-suit).<sup>1</sup> It has been filed by Plaintiff Jonathan Gilbert—a no-good, very-bad auto mechanic<sup>2</sup> who has a lengthy criminal record that includes crimes of dishonesty<sup>3</sup>—against Daylan Langford, an unhappy customer who, like many before him, received poor and abusive service when he went to “Jon’s Auto Service” to get his truck repaired. After Mr. Langford’s bad experience with the Plaintiff, Mr. Langford exercised his First Amendment right to peacefully protest his mistreatment in a public forum.<sup>4</sup> In particular, Mr. Langford put on a chicken-head mask and—over the course of several days—displayed signs reading “Jon The Con” and “Worst Auto Shop in Town? SOS!!” while peacefully protesting on a public sidewalk:<sup>5</sup>



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<sup>1</sup> See *Nandigam Neurology, PLC v. Beavers*, No. M2020-00553-COA-R3-CV, 2021 WL 2494935, at \*3 (Tenn. Ct. App. June 18, 2021) (“The term ‘SLAPP’ stands for ‘strategic lawsuits against public participation,’ meaning lawsuits which might be viewed as ‘discouraging the exercise of constitutional rights, often intended to silence speech in opposition to monied interests rather than to vindicate a plaintiff’s right.’” (citing Todd Hambidge, et al., *Speak Up. Tennessee’s New Anti-SLAPP Statute Provides Extra Protections to Constitutional Rights*, 55 TENN. B.J. 14, 15 (Sept. 2019))), *no app. filed*.

<sup>2</sup> **Ex. 1**, Consumer Reviews of Jon’s Auto Service.

<sup>3</sup> **Ex. 2**, Jonathan Gilbert Criminal and Civil Litigation History.

<sup>4</sup> **Ex. 3**, Langford Decl.

<sup>5</sup> *Id.* at ¶ 26.



The Plaintiff is understandably upset about Mr. Langford exercising his rights to protest and criticize him. The proper solution to the Plaintiff's upset is to improve his poor service and business practices, though, not to file a retaliatory lawsuit in an attempt to silence valid and well-deserved criticism. Regardless, because Mr. Langford's speech is protected by the First Amendment—and because the Plaintiff cannot prevail for a host of other reasons—the Plaintiff's speech-based tort claims must be dismissed with prejudice under Tennessee Rule of Civil Procedure 12.02(6) and the Tennessee Public Participation Act. Thereafter, Mr. Langford is entitled to an award of attorney's fees and costs incurred under Tennessee Code Annotated § 20-17-107(a)(1), and this Court should assess severe discretionary sanctions against the Plaintiff under Section 20-17-107(a)(2).

## **II. LEGAL STANDARDS**

### **A. THE DEFENDANT’S MOTION TO DISMISS**

“A motion to dismiss a complaint for failure to state a claim pursuant to Rule 12.02(6) of the Tennessee Rules of Civil Procedure asserts that the allegations in the complaint, accepted as true, fail to establish a cause of action for which relief can be granted.” *Conley v. State*, 141 S.W.3d 591, 594 (Tenn. 2004). When—as here—“the plaintiff can prove no set of facts in support of the claim that would entitle the plaintiff to relief[,]” a defendant’s motion to dismiss for failure to state a claim must be granted. *See Crews v. Buckman Labs. Int’l, Inc.*, 78 S.W.3d 852, 857 (Tenn. 2002).

### **B. THE TENNESSEE PUBLIC PARTICIPATION ACT**

The Tennessee Public Participation Act (“TPPA”)—which Tennessee enacted in 2019 to deter, expediently resolve, and punish SLAPP-suits like this one—provides that “[i]f a legal action is filed in response to a party’s exercise of the right of free speech, right to petition, or right of association, that party may petition the court to dismiss the legal action” subject to the specialized provisions of Tennessee Code Annotated §§ 20-17-104 and 20-17-105. *See* TENN. CODE ANN. § 20-17-104(a). The TPPA “provide[s] an additional substantive remedy to protect the constitutional rights of parties” that “supplement[s] any remedies which are otherwise available . . . under the Tennessee Rules of Civil Procedure.” *See* TENN. CODE ANN. § 20-17-109. As such, nothing in the Act “[a]ffects, limits, or precludes the right of any party to assert any defense, remedy, immunity, or privilege otherwise authorized by law[.]” *See* TENN. CODE ANN. § 20-17-108(4).

By enacting the TPPA, the Tennessee General Assembly forcefully established that:

The purpose of this chapter is to encourage and safeguard the constitutional rights of persons to petition, to speak freely, to associate freely, and to participate in government to the fullest extent permitted by law and, at the



same time, protect the rights of persons to file meritorious lawsuits for demonstrable injury. This chapter is consistent with and necessary to implement the rights protected by Article I, §§ 19 and 23, of the Constitution of Tennessee, as well as by the First Amendment to the United States Constitution, and shall be construed broadly to effectuate its purposes and intent.

TENN. CODE ANN. § 20-17-102. Substantively, the TPPA provides that:

(1) When a party has been sued in response to the party's exercise of the right of free speech or the right to petition, he or she "may petition the court to dismiss the legal action" under § 20-17-104(a);

(2) "All discovery in the legal action is stayed" automatically by statute "until the entry of an order ruling on the petition" pursuant to § 20-17-104(d); and

(3) "The court's order dismissing or refusing to dismiss a legal action pursuant to a petition filed under this chapter is immediately appealable as a matter of right to the court of appeals[,]" TENN. CODE ANN. § 20-17-106.

A TPPA petition to dismiss "may be filed within sixty (60) calendar days from the date of service of the legal action or, in the court's discretion, at any later time that the court deems proper." TENN. CODE ANN. § 20-17-104(b). Under the TPPA, "[t]he petitioning party has the burden of making a prima facie case that a legal action against the petitioning party is based on, relates to, or is in response to that party's exercise of the right to free speech, right to petition, or right of association." TENN. CODE ANN. § 20-17-105(a). Thereafter, the Court "shall dismiss the legal action unless the responding party establishes a prima facie case for each essential element of the claim in the legal action." TENN. CODE ANN. § 20-17-105(b). Separately, "[n]otwithstanding subsection (b), the court shall dismiss the legal action if the petitioning party establishes a valid defense to the claims in the legal action." TENN. CODE ANN. § 20-17-105(c). "If the court dismisses

a legal action pursuant to a petition filed under this chapter, the legal action or the challenged claim is dismissed with prejudice.” TENN. CODE ANN. § 20-17-105(e).

### **C. THRESHOLD ISSUES OF LAW GOVERNING DEFAMATION CLAIMS**

To establish a prima facie case of defamation in Tennessee, a plaintiff must traditionally plead and prove that: “(1) a party published a statement; (2) with knowledge that the statement was false and defaming to the other; or (3) with reckless disregard for the truth of the statement or with negligence in failing to ascertain the truth of the statement.” *Davis v. Tennessean*, 83 S.W.3d 125, 128 (Tenn. Ct. App. 2001). The preliminary question of whether an assertedly defamatory statement can convey a defamatory meaning is a question of law. *See Aegis Scis. Corp. v. Zelenik*, No. M2012-00898-COA-R3CV, 2013 WL 175807, at \*6 (Tenn. Ct. App. Jan. 16, 2013) (“[T]he preliminary question of whether a statement ‘is capable of conveying a defamatory meaning’ presents a question of law.” (quoting *Revis v. McClean*, 31 S.W.3d 250, 253 (Tenn. Ct. App. 2000))), *no app. filed*. Thus, a reviewing court is not bound by the plaintiff’s characterizations of the statements at issue, and it must disregard a plaintiff’s unreasonable interpretations of them. *See, e.g., Moman v. M.M. Corp.*, No. 02A01-9608-CV00182, 1997 WL 167210, at \*3 (Tenn. Ct. App. Apr. 10, 1997) (“If the [allegedly defamatory] words are not reasonably capable of the meaning the plaintiff ascribes to them, the court must disregard the latter interpretation.” (citing *Stones River Motors, Inc. v. Mid-S. Pub. Co.*, 651 S.W.2d 713, 719 (Tenn. Ct. App. 1983), *abrogated on other grounds by Zius v. Shelton*, No. E1999-01157-COA-R3-CV, 2000 WL 739466, at \*3 (Tenn. Ct. App. June 6, 2000), *no app. filed*)), *no app. filed*. *See also Loftis v. Rayburn*, No. M2017-01502-COA-R3-CV, 2018 WL 1895842, at \*6 (Tenn. Ct. App. Apr. 20, 2018) (“We find as a matter of law that the statements in Mr. Myers’ article cannot reasonably be

construed as implying facts that are not true[.] . . . We are not bound by Mr. Loftis's interpretation of the statements because we find they do not reasonably have the meaning he ascribes to them.” (citing *Grant v. Com. Appeal*, No. W2015-00208-COA-R3-CV, 2015 WL 5772524, at \*11 (Tenn. Ct. App. Sept. 18, 2015), *no app. filed, abrogated on other grounds by Funk v. Scripps Media, Inc.*, 570 S.W.3d 205 (Tenn. 2019))), *no app. filed*.

Critically, “the Supreme Court of the United States has constitutionalized the law of [defamation].” *Press, Inc. v. Verran*, 569 S.W.2d 435, 440 (Tenn. 1978). *See also New York Times Co. v. Sullivan*, 376 U.S. 254, 269 (1964). Accordingly, “ensuring that defamation actions proceed only upon statements which may actually defame a plaintiff is an essential gatekeeping function of the court.” *Pendleton v. Newsome*, 772 S.E.2d 759, 763 (Va. 2015) (quotation and citation omitted). With this “essential gatekeeping function” in mind, *id.*, Tennessee has adopted several categorical bars to liability that prevent claimed defamations and any related-speech based tort claims from being actionable, at least three of which are outcome-determinative here.

First, an allegedly defamatory statement “must be factually false in order to be actionable[.]” *Moman*, 1997 WL 167210, at \*4. Thus, comments upon true and nondefamatory published facts, statements of opinion, and other statements that are objectively incapable of being proved false are inactionable. *See, e.g., Davis v. Covenant Presbyterian Church of Nashville*, No. M2014-02400-COA-R9-CV, 2015 WL 5766685, at \*3 (Tenn. Ct. App. Sept. 30, 2015) (“[C]omments upon true and nondefamatory published facts are not actionable, even though [the comments] are stated in strong or abusive terms.”), *app. denied* (Tenn. Feb. 18, 2016) (cleaned up); *Weidlich v. Rung*, No. M2017-00045-COA-R3-CV, 2017 WL 4862068, at \*6 (Tenn. Ct. App. Oct. 26, 2017) (holding that “[a] writer’s comments upon true and nondefamatory published facts are not actionable”

as a matter of law), *no app. filed*.

Second, damages can never be presumed in a defamation case; instead, a plaintiff is “required to prove actual damages in all defamation cases.” *Hibdon v. Grabowski*, 195 S.W.3d 48, 68 (Tenn. Ct. App. 2005) (citing *Handley v. May*, 588 S.W.2d 772, 776 (Tenn. Ct. App. 1979)). Additionally, because defamation claims depend on actual damage to one’s reputation, a libel-proof plaintiff who lacks a good reputation to begin with cannot maintain a defamation claim. *See Looper v. News Channel 5 Network*, No. CIV.A.6197C, 2002 WL 32163526, at \*1 (Tenn. Cir. Ct. May 7, 2002) (citing *Davis*, 83 S.W.3d 125), *no app. filed*; *Coker v. Sundquist*, No. 01A01-9806-BC-00318, 1998 WL 736655 (Tenn. Ct. App. Oct. 23, 1998), *app. denied* (Tenn. May 10, 1999).

Third, when—as here—a plaintiff contends that a claimed defamation is actionable due to actual malice, *see* Compl. at ¶ 9 (“The Plaintiff avers that Defendant, Langford, has intentionally acted with malice . . .”), the standard of proof is heightened. In light of our “profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open,” *see New York Times*, 376 U.S. at 270, the bar for proving actual malice is high, and plaintiffs “who desire to pursue defamation actions bear a heavy burden of proof” regarding that essential element, *see Tomlinson*, 969 S.W.2d at 405. In particular,

Because negligence is not the standard . . ., a defendant’s failure “to investigate information provided by others before publishing it, even when a reasonably prudent person would have done so, is not sufficient by itself to establish [actual malice].” *Lewis*, 238 S.W.3d at 301 (citing *Harte-Hanks Commc’ns, Inc.*, 491 U.S. at 688). Instead, the question is not whether the defendant should have entertained serious doubts as to the truth of the publication, but whether the defendant, in fact, did entertain serious doubts. *Harte-Hanks Commc’ns, Inc.*, 491 U.S. at 688 (quoting *St. Amant v. Thompson*, 390 U.S. 727, 732 (1968)).

*Elsten*, 2019 WL 4899759, at \*4.

As detailed below, all of these restrictions preclude liability here. The Plaintiff's Complaint must be dismissed with prejudice as a result.

### **III. FACTS**

For purposes of the Defendant's Motion to Dismiss only—but not for purposes of his TPPA Petition—the allegations set forth in the Plaintiff's Complaint are accepted as true. *See Conley*, 141 S.W.3d 591 at 594.

#### **A. THE PLAINTIFF'S ALLEGATIONS**

“The Plaintiff, Jonathan Gilbert, operates a car repair business at 50 N. Lowry Street, Smyrna, Tennessee, 37167 which is called *Jon's Auto Service*.” *See* Compl. at ¶ 1. “Beginning June 30, 2023 Defendant, Langford, has been marching and screaming in front of his business in his right-of-way at 50 N. Lowry Street, Smyrna, Tennessee 37167 dressed in a rooster costume and holding a sign which reads ‘Jon the Con’ and ‘Warning-Worst Auto Repair Shop in Town. SOS.’” *Id.* at ¶ 5. “The Plaintiff further avers that Defendant, Langford, has marched in front of his business yelling at customers and potential customers stating such things as ‘no don't go’ and ‘con’ period [sic].” *Id.* at ¶ 6.

The Plaintiff imagines and alleges that the above statements are actionable as torts for Libel; Slander; False Light; Procurement of Breach of Contract in Violation of Tenn. Code Ann. § 47-50-109; and Intentional Interference With Business Relationships. *See id.* at 3–4. Thus, he seeks an award of “compensatory damages in an amount in excess of \$100,000;” “treble damages and attorney's fees pursuant to Tenn. Code Ann. § 47-50-709;” and “punitive damages in an amount in excess of \$100,000[.]” *See id.* at 4. The Plaintiff also demands “[t]hat the Defendant be enjoined from interfering with his business” and making the statements alleged in his complaint. *See id.*



## **B. REALITY**

The Plaintiff is a bad mechanic with a bad reputation and a bad attitude. Numerous consumers across a host of consumer review websites recount the Plaintiff's poor service, dishonest behavior, and bad temper.<sup>6</sup> The only thing that the Plaintiff appears to experience more commonly than reports of bad customer service are run-ins with the criminal and civil justice system, where the Plaintiff has found himself charged, convicted, and sued for a host of misbehavior—including crimes of dishonesty such as (apparently repeatedly) passing worthless checks in multiple counties.<sup>7</sup>

Mr. Langford's experience with the Plaintiff was in line with the Plaintiff's history of bad behavior. On May 6, 2023, Mr. Langford's 2007 Cummins 5.9 24v 4x4 lost power after he exited Jefferson Pike on to 1-840 en route to an event in Nashville.<sup>8</sup> Upon coasting to a stop at the side of 840, Mr. Langford exited the truck to the heavy smell of Diesel fuel odor.<sup>9</sup> He also noticed that the high-pressure side of the motor (on the driver's side) had fresh fuel sitting on it below the feed lines.<sup>10</sup>

Mr. Langford—who was familiar with his truck's fuel system—had previously used a trusted mechanic to repair his vehicle.<sup>11</sup> Unfortunately, that person no longer worked for Mr. Langford's usual mechanic shop, which also informed Mr. Langford that it did not have any Cummins mechanics on staff and could not recommend anyone.<sup>12</sup> Thus, Mr. Langford searched on Google for local diesel mechanics and found a listing for “Jon's Auto

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<sup>6</sup> See generally **Ex. 1**.

<sup>7</sup> See generally **Ex. 2**.

<sup>8</sup> **Ex. 3**, Daylan Langford Decl. ¶ 3.

<sup>9</sup> *Id.* at ¶ 4.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at ¶ 5.

<sup>12</sup> *Id.*

Service.”<sup>13</sup>

Mr. Langford then called the Plaintiff, who displayed working knowledge of Mr. Langford’s vehicle, said he could take a look, and was curious about what injectors had been used.<sup>14</sup> Mr. Langford told the Plaintiff that he would bring a print of the parts that had been installed previously.<sup>15</sup> Mr. Langford then called a towing company and arranged for the company to pick up his vehicle.<sup>16</sup>

Mr. Langford dropped his truck off at the Plaintiff’s auto shop on May 8, 2023.<sup>17</sup> At that time, the Plaintiff said he would look at it and get back to Mr. Langford that week.<sup>18</sup> The Plaintiff did not do so.<sup>19</sup>

Mr. Langford was busy and had to leave town by that point.<sup>20</sup> Thus, he stopped in to see what the situation was when he returned on May 23, 2023.<sup>21</sup> When he did so, the Plaintiff said that his employees had quit working for him.<sup>22</sup>

Mr. Langford then asked if the Plaintiff actually wanted the job of repairing his truck.<sup>23</sup> The Plaintiff said he did and promised to get on it and call Mr. Langford for a deposit once the parts had been identified.<sup>24</sup> A week went by, and the Plaintiff still had not called.<sup>25</sup>

Finally, on June 1, 2023, the Plaintiff contacted Mr. Langford.<sup>26</sup> Mr. Langford

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<sup>13</sup> *Id.* at ¶ 6.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* at ¶ 7.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.* at ¶ 8.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.* at ¶ 9.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.* at ¶ 10.

came in the following day to pay a deposit and explained that he urgently needed to use his truck, so he wanted to know when the parts would be delivered.<sup>27</sup> Mr. Langford was told that the parts would be delivered no later than June 7, 2023 and that the work would be completed by no later than June 9, 2023.<sup>28</sup> With that agreed-upon timeline in mind, Mr. Langford paid a \$1,875.49 deposit.<sup>29</sup>

June 9, 2023 then came and went without word from the Plaintiff.<sup>30</sup> Mr. Langford accordingly went back to Jon's Auto Service the following week to check on the status of his truck.<sup>31</sup> At that time, the Plaintiff claimed he still did not even have the parts that were needed to complete Mr. Langford's repair.<sup>32</sup> Mr. Langford thus asked for the bill for the parts and tracking numbers for the shipment.<sup>33</sup> In response to that request, the Plaintiff was unwilling to provide any proof that the parts had ever been ordered or shipped.<sup>34</sup>

Mr. Langford then stated that he was prepared to have his truck moved if the Plaintiff could not complete the repair.<sup>35</sup> The Plaintiff responded that he would complete the repair as soon as parts came in.<sup>36</sup>

On June 23, 2023, the repair still not having been completed, Mr. Langford called again to check on the status of his truck.<sup>37</sup> The person who answered the phone hung up on him.<sup>38</sup> Mr. Langford thus jumped on his scooter to check on what was happening with

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<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.* at ¶ 11.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> *Id.* at ¶ 12.

<sup>38</sup> *Id.*

his truck in person.<sup>39</sup>

Mr. Langford then observed the Plaintiff and another individual—whom Mr. Langford now understands to be the Plaintiff’s brother—fussing with his truck and cursing as they yanked on the fuel tank while the truck was on a lift in the first bay.<sup>40</sup> The Plaintiff was screaming something to the effect of “It should come out! What is it hung up on?”<sup>41</sup> The other individual responded “the harness.”<sup>42</sup> The Plaintiff then stated something to the effect of: “I’m not messing with this, cut that shit.”<sup>43</sup>

At this point, Mr. Langford approached the bay door to ask what was going on.<sup>44</sup> The Plaintiff began yelling about the truck not being clean, that there was dirt on the top of the fuel tank, and complaining about Mr. Langford not taking care of it.<sup>45</sup> Before Mr. Langford could ask why they were going to cut his harness, the other individual cut Mr. Langford’s harness right against the clip, contrary to what Mr. Langford knew to be standard operating procedure.<sup>46</sup>

The Plaintiff then started yelling at the other individual about how they would now need to buy another clip.<sup>47</sup> The Plaintiff and the other individual were still struggling to get the tank off the lift, so Mr. Langford helped them get it to the ground.<sup>48</sup> To Mr. Langford’s surprise, the Plaintiff then kneeled down with a screwdriver and hammer and started knocking the in-tank filter loose, causing dirt to fall into the truck’s fuel tank.<sup>49</sup>

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<sup>39</sup> *Id.*

<sup>40</sup> *Id.* at ¶ 13.

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Id.* at ¶ 14.

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> *Id.* at ¶ 15.

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

Mr. Langford snapped a picture of the dirt in his fuel tank after this happened:<sup>50</sup>



Mr. Langford then left the Plaintiff's shop and was contacted by the Plaintiff again on June 26, 2023.<sup>51</sup> The Plaintiff reported that the parts were now installed, but that the truck's feed tubes and lines were leaking and needed to be replaced.<sup>52</sup> Given the delays and poor work that Mr. Langford had already witnessed, Mr. Langford was not willing to let the Plaintiff work on his truck any further, even if he needed more work done.<sup>53</sup> As a result, Mr. Langford went down to pick up the truck and pay for the repairs.<sup>54</sup>

When Mr. Langford arrived to pick up his truck and pay, the Plaintiff would not release the truck or accept the original final balance.<sup>55</sup> Mr. Langford then made several unsuccessful attempts to pay the full amount with his business debit card and take his

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<sup>50</sup> *Id.*

<sup>51</sup> *Id.* at ¶ 16.

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> *Id.* at ¶ 17.



truck, which the Plaintiff refused to allow Mr. Langford to do.<sup>56</sup>

Mr. Langford realized in that moment that he was going to have to begin documenting what happened.<sup>57</sup> As a result, he started recording.<sup>58</sup> The Plaintiff then lunged at Mr. Langford and responded: “You fucking keep taping me I’m going to stuff it up your ass.”<sup>59</sup>

After Mr. Langford stopped recording, the Plaintiff came out, started physically bumping and shoving Mr. Langford, and told him that he would shoot him for trespassing.<sup>60</sup> Not wanting to be murdered over a work truck by two mechanics who were carrying firearms, the Plaintiff called police.<sup>61</sup> A dispatcher responded that she thought it was a civil matter.<sup>62</sup> Mr. Langford then requested that an officer call him to confirm.<sup>63</sup>

Shortly afterward, Mr. Langford was called by an officer who recounted knowledge of past issues with the Plaintiff and his auto shop.<sup>64</sup> The officer stated that he was willing to conduct a “keep the peace” call—something that he said he had done at the Plaintiff’s business before—for Mr. Langford, but that he was concerned that the Plaintiff’s shop would be closed before he could do so.<sup>65</sup> The officer thus advised Mr. Langford that he could call back the following day when his shift began.<sup>66</sup>

In the interim, Mr. Langford called a towing company to help him retrieve his truck

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<sup>56</sup> *Id.*

<sup>57</sup> *Id.* at ¶ 18.

<sup>58</sup> *Id.*

<sup>59</sup> *Id.* See also **Ex. 4**, Video recorded by Daylan Langford (June 26, 2023), available at <https://www.dropbox.com/scl/fi/hlvdv8w3d7jvylms3nceb/Ex.-4-Video.MOV?rlkey=bwdbwkhqah6zm4hf617wbs2vq&dl=0>.

<sup>60</sup> **Ex. 3**, Daylan Langford Decl., at ¶ 19.

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> *Id.* at ¶ 20.

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

and explained the situation.<sup>67</sup> The individual from the towing company then began sharing with Mr. Langford previous poor experiences with the Plaintiff.<sup>68</sup>

The following day—June 27, 2023—the police officer with whom Mr. Langford had spoken the day before showed up with backup to assist Mr. Langford in retrieving his truck.<sup>69</sup> After Mr. Langford sat across the street at a Shell gas station for approximately 25–30 minutes, the officer returned to say that the Plaintiff was only willing to accept cash, and that Mr. Langford would otherwise have to take the Plaintiff to court to get his truck released unless Mr. Langford was able to record the Plaintiff on video refusing his cash.<sup>70</sup>

Mr. Langford then went to Ascend Federal Credit Union to get \$1,200.00 in cash.<sup>71</sup> When he returned, the Plaintiff was gone, and Jon’s Auto Service would neither accept Mr. Langford’s cash nor release Mr. Langford’s truck.<sup>72</sup> Mr. Langford had to call the towing company to cancel the pick-up as a result.<sup>73</sup>

Determined to see things through, Mr. Langford then had his son return with him to Jon’s Auto Service to witness and record their conversation the next morning.<sup>74</sup> At that time, while being recorded, the Plaintiff accepted Mr. Langford’s payment, politely released Mr. Langford’s truck, acted as if they had never experienced any previous issues, and even stated that his brother had had a misunderstanding the day before.<sup>75</sup> Mr. Langford thought the interaction bizarre.<sup>76</sup> Mr. Langford’s entire experience with the

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<sup>67</sup> *Id.* at ¶ 21.

<sup>68</sup> *Id.*

<sup>69</sup> *Id.* at ¶ 22.

<sup>70</sup> *Id.*

<sup>71</sup> *Id.* at ¶ 23.

<sup>72</sup> *Id.*

<sup>73</sup> *Id.*

<sup>74</sup> *Id.* at ¶ 24.

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

Plaintiff was also the worst workmanship, manners, and ethics that Mr. Langford had ever witnessed from any business in town.<sup>77</sup> The final invoice that Mr. Langford received is attached as **Ex. 5**.

After his horrible experience with the Plaintiff, Mr. Langford sought out and reviewed an ACLU informational guide about how to protest legally.<sup>78</sup> He printed that guidance out and kept it in his personal bag to show anyone who insisted he was not permitted to protest.<sup>79</sup> Mr. Langford then ordered a chicken-head mask from Amazon.<sup>80</sup> The reason he chose a chicken-head mask was metaphoric. In particular, where Mr. Langford was raised, people say “the chickens have come home to roost” when bad behavior comes back to haunt someone.<sup>81</sup>

Mr. Langford then made a pair of signs reading “Jon The Con” and “Worst Auto Shop in Town? SOS!!” and embarked upon his peaceful protest of the Plaintiff’s auto shop.<sup>82</sup> Mr. Langford protested peacefully on the public sidewalk outside Jon’s Auto Service for several days.<sup>83</sup> He never made any false statements; he never left the public sidewalk; he never obstructed any customers; and he never interfered with egress or ingress.<sup>84</sup> Mr. Langford also didn’t approach any individual customers or yell.<sup>85</sup> Instead, while wearing a chicken-head mask and air buds, Mr. Langford peacefully displayed his opinion about “Jon the Con” and peacefully displayed a question about whether the Plaintiff operated the worst auto shop in town.<sup>86</sup>

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<sup>77</sup> *Id.*

<sup>78</sup> *Id.* at ¶ 25. The ACLU guidance that Mr. Langford consulted and printed is attached as **Ex. 11**.

<sup>79</sup> **Ex. 3**, Daylan Langford Decl. ¶ 25.

<sup>80</sup> *Id.*

<sup>81</sup> *Id.*

<sup>82</sup> *Id.* at ¶ 26.

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

On Wednesday, July 5, 2023, one of Mr. Langford’s neighbors drove by Jon’s Auto Service and saw Mr. Langford protesting.<sup>87</sup> It was extremely hot, and his neighbor thought Mr. Langford could use some water.<sup>88</sup> As a result, Mr. Langford’s neighbor—who had had his own terrible experience with the Plaintiff unrelated to Mr. Langford’s—returned a short time later to bring Mr. Langford a few water bottles.<sup>89</sup>

Mr. Langford’s neighbor then parked and walked over to where Mr. Langford was protesting to bring him water.<sup>90</sup> While catching up with Mr. Langford, the Plaintiff’s brother came out and walked across the street to the gas station.<sup>91</sup> While the Plaintiff’s brother was returning from the gas station, Mr. Langford’s neighbor then stated, in a loud voice, something to the effect of: “Thanks for telling me about these guys—I had a whole bunch of work to get done but I’ll go somewhere else.”<sup>92</sup>

Mr. Langford’s neighbor said this strictly as a show of support for Mr. Langford’s protest, not because he actually intended to do business with Jon’s Auto Service and had had his mind changed.<sup>93</sup> After Mr. Langford’s neighbor’s one and only experience dealing with the Plaintiff, he knew for a fact that he would never be repeat business for the Plaintiff.<sup>94</sup> Mr. Langford’s neighbor’s decision not to be a repeat customer had nothing to do with anything Mr. Langford told him.<sup>95</sup> Instead, the Plaintiff made that decision for him by the way he treated him way before Mr. Langford’s protest.<sup>96</sup>

On Monday, July 3, 2023, while Mr. Langford was picketing at Jon’s Auto Service,

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<sup>87</sup> *Id.* at ¶ 27. *See also* **Ex. 6**, Parks Decl.

<sup>88</sup> Parks Decl. ¶ 4.

<sup>89</sup> *Id.*

<sup>90</sup> *Id.* at ¶ 5.

<sup>91</sup> *Id.* at ¶ 6.

<sup>92</sup> *Id.* at ¶ 7.

<sup>93</sup> *Id.* at ¶ 8.

<sup>94</sup> *Id.* at ¶ 9.

<sup>95</sup> *Id.*

<sup>96</sup> *Id.*

Mr. Langford's wife contacted him to ask if he wanted a photo of himself during his protest.<sup>97</sup> Mr. Langford's wife assumed from Mr. Langford's response that he did want a photo, so she drove to where Mr. Langford was protesting and pulled into the far end of the Jon's Auto Service parking lot.<sup>98</sup> Her plan was to quickly get out, snap a photo, and drive off.<sup>99</sup> As soon as Mr. Langford saw her, though, he started waving his hands, motioned for her not to get out of the car, and indicated that she should leave immediately.<sup>100</sup> As a result, Mr. Langford's wife got back into her car and drove off, figuring that something had changed.<sup>101</sup>

Mr. Langford communicated to his wife to leave immediately because he assumed that she was just going to take a photo while driving by his protest, rather than park and approach him.<sup>102</sup> For safety reasons, Mr. Langford did not want the Plaintiff to know what kind of car his wife drove.<sup>103</sup> As a result, when he saw his wife park at Jon's Auto Service, Mr. Langford indicated to her that she should leave immediately.<sup>104</sup> Mrs. Langford was not a customer of the Plaintiff or Jon's Auto Service at the time; she is not a customer of the Plaintiff or Jon's Auto Service now; she does not intend to become a customer of the Plaintiff's or Jon's Auto Service at any future time; and she never intended to become a customer of Jonathan Gilbert or Jon's Auto Service at any previous time.<sup>105</sup>

While Mr. Langford was protesting, the Plaintiff hit him with a mirror of a vehicle and called police to try to get him to leave.<sup>106</sup> Police told Mr. Langford that he could press

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<sup>97</sup> **Ex. 3**, Daylan Langford Decl. ¶ 28. *See also* **Ex. 7**, Marianne Langford Decl. ¶ 3.

<sup>98</sup> **Ex. 7**, Marianne Langford Decl. ¶ 4.

<sup>99</sup> *Id.* at ¶ 5.

<sup>100</sup> *Id.*

<sup>101</sup> *Id.*

<sup>102</sup> *Id.* at ¶ 6. *See also* **Ex. 3**, Daylan Langford Decl. ¶ 28.

<sup>103</sup> **Ex. 3**, Daylan Langford Decl. ¶ 28.

<sup>104</sup> *Id.* *See also* **Ex. 7**, Marianne Langford Decl. ¶ 6.

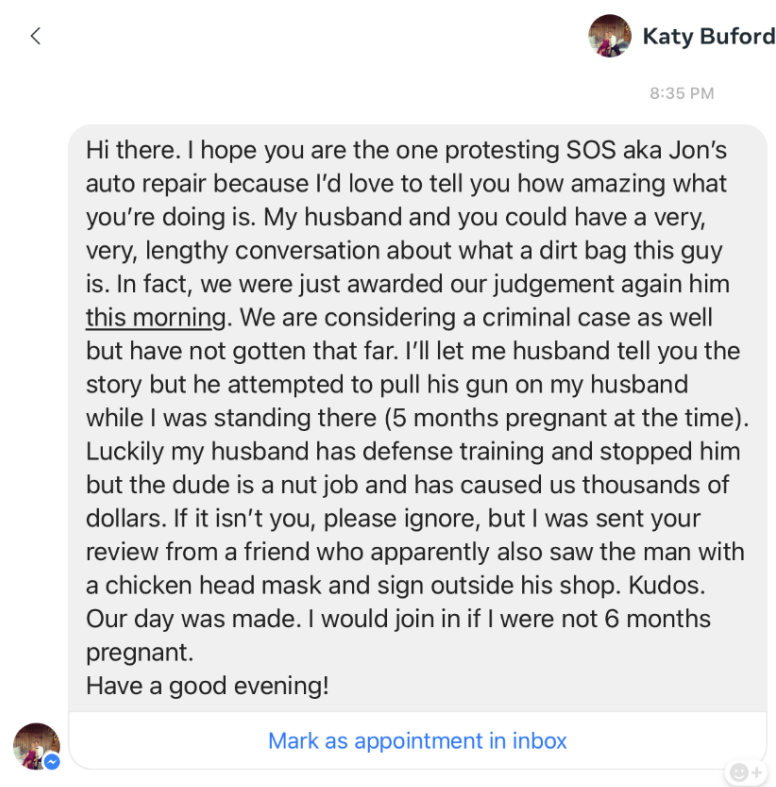
<sup>105</sup> **Ex. 7**, Marianne Langford Decl. ¶ 7.

<sup>106</sup> **Ex. 3**, Daylan Langford Decl. ¶ 29.



charges for assault, but Mr. Langford didn't want to.<sup>107</sup> Based on what had happened regarding his truck, police also encouraged him to press charges for theft. Mr. Langford did not want to do that, either.<sup>108</sup>

During and after Mr. Langford's peaceful protest, Mr. Langford had people from the community approach him and thank him, saying that they, too, had had bad experiences with the Plaintiff.<sup>109</sup> Others have contacted Mr. Langford to thank him in writing, recounting similar experiences of the Plaintiff acting like a "dirt bag":<sup>110</sup>



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In retaliation for Mr. Langford's peaceful and constitutionally protected protest, this action followed.

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<sup>107</sup> *Id.*

<sup>108</sup> *Id.*

<sup>109</sup> *Id.* at ¶ 30.

<sup>110</sup> *Id.*

<sup>111</sup> *Id.*

#### IV. ARGUMENT

##### **A. THE PLAINTIFF’S COMPLAINT FAILS TO STATE A COGNIZABLE CLAIM FOR RELIEF.**

##### **1. The statements over which Mr. Langford has been sued are inactionable as defamation as a matter of law.**

The only specifically alleged publications listed in the Plaintiff’s Complaint are:

1. A sign that read: “Jon the Con”;<sup>112</sup>
2. A sign that read: “Warning-Worst Auto Repair Shop in Town. SOS”;<sup>113</sup>
3. The verbal statement “no don’t go”;<sup>114</sup> and
4. The verbal statement “con[.]”<sup>115</sup>

As no other statements are specified in the Plaintiff’s Complaint, only these four statements will be addressed. *See, e.g., Rose v. Cookeville Reg’l Med. Ctr.*, No. M2007-02368-COA-R3-CV, 2008 WL 2078056, at \*4 (Tenn. Ct. App. May 14, 2008) (noting requirement that a plaintiff plead, at minimum, “the substance of the slanderous statement” and “the time and place of the utterance” even under relaxed pleading standards) (citing *Handley v. May*, 588 S.W.2d 772, 774–75 (Tenn. Ct. App. 1979)); *Webb v. Stanley Jones Realty, Inc.*, No. 04-1288-T/AN, 2005 WL 1959160, at \*2 (W.D. Tenn. Aug. 11, 2005) (holding that “the substance of the utterance must be set forth”) (citing *Handley*, 588 S.W.2d at 775); *Millsaps v. Millsaps*, No. 159, 1989 WL 44840, at \*6 (Tenn. Ct. App. May 3, 1989) (holding that “the substance of such utterance is required” and that “in order to put defendant on notice as to the allegations against which he must defend, the complaint must also allege the time and place of such utterance.”); *Markowitz v.*

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<sup>112</sup> *See* Compl. at ¶ 5.

<sup>113</sup> *Id.* Despite this allegation, Mr. Langford notes that the Plaintiff has materially misquoted the sign at issue. It did not say “Warning”; it had a thumbs-down emoji; and “Worst Auto Repair Shop in Town” ended with a question mark, not a period. *See Ex. 3*, Daylan Langford Decl. ¶ 26.

<sup>114</sup> *See* Compl. At ¶ 6.

<sup>115</sup> *Id.*

*Skalli*, No. 13-2186-JDT-CGC, 2013 WL 4782143, at \*4 (W.D. Tenn. Sept. 5, 2013) (“In the instant case, Plaintiff merely makes the conclusory statement that Defendant made ‘slanderous remarks’ without providing Defendant with ‘the substance of the slanderous utterance [ . . . ] along with notice of the time and place of the utterance [to appraise Defendant] of the allegations that he must defend against. Therefore, it is RECOMMENDED that the Court DISMISS the complaint for failure to state a claim on which relief may be granted . . . .” (citing *Handley*, 588 S.W.2d at 775)).

- a. *As a matter of law, no statement referenced in the Plaintiff's Complaint is actionable as defamation.*

Both the Tennessee Court of Appeals and the Tennessee Supreme Court have instructed that in defamation cases, “the issue of whether a communication is capable of conveying a defamatory meaning is a question of law for the court to decide in the first instance[.]” *See Brown v. Mapco Exp., Inc.*, 393 S.W.3d 696, 709 (Tenn. Ct. App. 2012); *see also Aegis Scis. Corp.*, 2013 WL 175807, at \*6 (“[T]he preliminary question of whether a statement ‘is capable of conveying a defamatory meaning’ presents a question of law.” (quoting *Revis*, 31 S.W.3d at 253)); *McWhorter v. Barre*, 132 S.W.3d 354, 364 (Tenn. Ct. App. 2003) (“The question of whether [a statement] was understood by its readers as defamatory is a question for the jury, but the preliminary determination of whether [a statement] is ‘capable of being so understood is a question of law to be determined by the court.” (quoting *Memphis Publ’g Co. v. Nichols*, 569 S.W.2d 412, 419 (Tenn. 1978))). If an allegedly defamatory statement is *not* capable of being understood as defamatory, then a plaintiff’s complaint must be dismissed for failure to state a claim. *McWhorter*, 132 S.W.3d at 364.

Here, the statements over which the Plaintiff has sued do not give rise to an

actionable defamation claim. Instead, they are inactionable rhetorical hyperbole and statements of opinion that are not reasonably capable of conveying a defamatory meaning. At worst, they are merely annoying, offensive, or embarrassing. As a result, the Plaintiff's defamation claim fails as a matter of law.

i. The statements attributed to Mr. Langford are inactionable rhetorical hyperbole.

The U.S. Supreme Court has emphasized that heated and emotionally charged rhetoric is entitled to free-speech protection under the doctrine of rhetorical hyperbole. For example, in *Old Dominion No. 496, Nat'l Ass'n of Letter Carriers v. Austin*, 418 U.S. 264, 284 (1974), the Supreme Court ruled that labor union members did not defame non-union members when they referred to them as "scabs." *Id.* The Court characterized the use of the term "scab" as "a lusty and imaginative expression of the contempt felt by union members towards those who refuse to join." *Id.* at 286.

Similarly, in *Greenbelt Co-Op. Publ'g Ass'n, Inc. v. Bresler*, 398 U.S. 6, 14 (1970), the U.S. Supreme Court ruled that a newspaper engaged in constitutionally protected rhetorical hyperbole when it referred to a developer's contract with a city as "blackmail." *Id.* The Court reasoned that "even the most careless reader must have perceived that the word was no more than rhetorical hyperbole, a vigorous epithet used by those who considered [the developer's] negotiating position extremely unreasonable." *Id.* at 14. Accordingly, the Court determined that "[n]o reader could have thought that either the speakers at the meetings or the newspaper articles reporting their words were charging [the plaintiff] with the commission of a criminal offense." *Id.*

The Sixth Circuit has similarly held that TripAdvisor's use of the term "dirtiest" to describe a hotel in a review was protected rhetorical hyperbole. *See Seaton v. TripAdvisor*

*LLC*, 728 F.3d 592, 598 (6th Cir. 2013). There, the court explained that: “‘Dirtiest’ is a loose, hyperbolic term because it is the superlative of an adjective that conveys an inherently subjective concept,” and thus, it held that “no reader of TripAdvisor’s list would understand Grand Resort to be, objectively, the dirtiest hotel in all the Americas, the North American continent, or even the United States.” *Id.* (citing *Greenbelt Coop. Publ’g Ass’n*, 398 U.S. at 14). The court further explained that: “[S]tatements that cannot ‘reasonably [be] interpreted as stating actual facts about an individual because they are expressed in ‘loose, figurative or hyperbolic language,’ and/or the content and tenor of the statements ‘negate the impression that the author seriously is maintaining an assertion of actual fact’ about the plaintiff are not provably false and, as such, will not provide a legal basis for defamation.” *Id.* (quoting *Milkovich*, 497 U.S. at 21, 110 S.Ct. 2695).

For their part, Tennessee’s courts have held that a county commissioner claiming that a private citizen was “threatening everybody” during a discussion about security changes at various county buildings in a public meeting was inactionable “rhetorical hyperbole intended to make a point[.]” *Moses v. Roland*, No. W2019-00902-COA-R3-CV, 2021 WL 1140273, at \*11 (Tenn. Ct. App. Mar. 25, 2021). As a result, the Court determined that this statement was not defamatory as a matter of law. In making that determination, the Court considered:

[T]he degree to which the statements are verifiable, whether the statement is objectively capable of proof or disproof[.]” *Patton Wallcoverings, Inc. v. Kseri*, No. 15-10407, 2015 WL 3915916, at \*5 (E.D. Mich. June 25, 2015) (citing *Jolliff*, 513 F. 3d at 611–12). Thus, when a statement is “rhetorical hyperbole” rather than verifiable or disprovable fact, the statement is not capable of a defamatory meaning.

*Id.* See also *McCluen v. Roane Cnty. Times, Inc.*, 936 S.W.2d 936, 941 (Tenn. Ct. App.

1996) (recognizing terms such as “pure highway robbery” and “rip-off[]” as constitutionally protected rhetorical hyperbole); *Id.* (citing *Schy v. Hearst Pub. Co.*, 205 F.2d 750 (7th Cir.1953) (charging the plaintiffs with “gestapo-like” tactics not actionable, because it was merely “a somewhat rhetorical way of saying that their conduct was dictatorial”)).

Here, every statement over which Mr. Langford has been sued falls squarely within the protection of the doctrine of rhetorical hyperbole. Simply put: No reasonable reader would perceive a sign referring to the Plaintiff as “Jon the Con” or suggesting that he operated the “Worst Auto Repair Shop In Town” as making any objective factual claims. Instead, they were simply rhetorical devices designed to communicate Mr. Langford’s opinion that the Plaintiff engages in distasteful business practices and does poor work. Such speech is protected by the First Amendment. *See, e.g., Bally Total Fitness Holding Corp. v. Faber*, 29 F. Supp. 2d 1161, 1167 (C.D. Cal. 1998) (“consumer commentary [stating] that Bally engages in business practices which Faber finds distasteful or unsatisfactory” constitutes “speech protected by the First Amendment”). Thus, the Plaintiff’s defamation claims must be dismissed for failure to state a claim.

ii. Subjective opinions are not capable of conveying a defamatory meaning.

In determining whether a statement is an inactionable opinion, courts consider whether a statement is “objectively capable of proof or disproof.” *See Moses v. Roland*, No. W2019-00902-COA-R3-CV, 2021 WL 1140273, at \*11 (Tenn. Ct. App. Mar. 25, 2021) (“[I]n determining whether a statement is capable of being defamatory in this context we should look to ‘the degree to which the statements are verifiable, whether the statement is objectively capable of proof or disproof[.]’” (quoting *Patton Wallcoverings, Inc. v.*

*Kseri*, No. 15-10407, 2015 WL 3915916, at \*5 (E.D. Mich. June 25, 2015) (citing *Jolliff v. N.L.R.B.*, 513 F.3d 600, 611–12 (6th Cir. 2008))), *no app. filed*. Here, none of the statements over which Mr. Langford has been sued is capable of objective disproof. Simply stated: the Plaintiff’s allegations that Mr. Langford called him a “con,” characterized his auto shop as the “worst” in town,” and told customers not to “go” are unmistakably not factual statements. Instead, they are mere expressions of opinion and advocacy, which are not defamatory. *See, e.g., Clark v. Viacom Int’l Inc.*, 617 F. App’x 495, 508 (6th Cir. 2015) (“[T]he falsity requirement is met only if the statement in question makes an assertion of fact—that is, an assertion that is capable of being proved objectively incorrect.”). The Plaintiff’s defamation claims must be dismissed accordingly.

iii. Mr. Langford’s statements were, at worst, merely annoying, offensive, or embarrassing.

“[T]he crux of free-speech rights is that generally they can be exercised even if (and perhaps especially when) they cause disruption and disharmony.” *Bennett v. Metro. Gov’t of Nashville & Davidson Cty.*, No. 3:17-CV-00630, 2019 WL 1572932, at \*12 (M.D. Tenn. Apr. 11, 2019). With this context in mind, Tennessee provides that merely “annoying, offensive or embarrassing” speech is categorically inactionable as defamation. *Covenant Presbyterian Church*, 2015 WL 5766685, at \*3 (quoting *Brown*, 393 S.W.3d at 708). Consequently,

[f]or a communication to be [defamatory], it must constitute a serious threat to the Plaintiffs’ reputation. A [defamation] does not occur simply because the subject of a publication finds the publication annoying, offensive or embarrassing. The words must reasonably be construable as holding the plaintiff up to public hatred, contempt or ridicule. They must carry with them an element “of disgrace.”

*Covenant Presbyterian Church*, 2015 WL 5766685, at \*3 (quoting *Brown*, 393 S.W.3d at 708).

The statements over which Mr. Langford has been sued do not qualify. No statement over which the Plaintiff has sued can fairly be regarded as carrying an element of “disgrace.” *Id.* At most, they are “offensive” or “embarrassing,” akin to an innocuous live version of a bad Yelp! review. The Plaintiff’s defamation claims must be dismissed accordingly.

- iv. Mr. Langford cannot be sued for suggesting that the Plaintiff’s auto shop—which is not a party to this action—is the worst in town.

Although the Plaintiff’s complaint materially misquotes Mr. Langford’s sign—claiming falsely (and under penalty of perjury) that it read: “Warning-Worst Auto Repair Shop in Town. SOS”<sup>116</sup>—for purposes of Mr. Langford’s motion to dismiss, this false allegation is taken as true. Even as pleaded, though, the statement is inactionable as a matter of law for the simple reason that it fails to satisfy colloquium.

In *Stones River Motors*, 651 S.W.2d at 717, the Court of Appeals explained that:

As an essential element of a cause of action for defamation, the plaintiffs must prove a false and defamatory statement *concerning another*. RESTATEMENT (SECOND) OF TORTS § 558 (1977). Otherwise stated at common law, one of the required elements of proof was the “colloquium,” a showing that the language was directed to or concerning *the charging party*.”

*Id.* (partial emphasis added). Given this standard, a plaintiff cannot prosecute a defamation claim based on statements that do not contain language directed to or concerning him, *see id.*, and any defamation claim premised upon such a statement must be dismissed as a matter of law. *See Steele v. Ritz*, No. W2008-02125-COA-R3-CV, 2009 WL 4825183, at \*3 (Tenn. Ct. App. Dec. 16, 2009) (citations omitted), *no app. filed*. (“This [colloquium] requirement—often referred to as the ‘of and concerning’ requirement—

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<sup>116</sup> *Id.* at ¶ 5. Despite this allegation, Mr. Langford notes that the Plaintiff has materially misquoted the sign at issue. It did not say “Warning”; it had a thumbs-down emoji; and “Worst Auto Repair Shop in Town” ended with a question mark, not a period. *See Ex. 3*, Daylan Langford Decl. ¶ 26.



confines actionable defamation to statements made against an ‘ascertained or ascertainable person, and that person must be the plaintiff.’” (quoting 53 C.J.S. LIBEL AND SLANDER; INJURIOUS FALSEHOOD § 35 (2005))).

Here, the second sign over which the Plaintiff has sued Mr. Langford did not mention or refer to the Plaintiff, and the Plaintiff himself acknowledges as much in his own Complaint. Instead, it mentioned and referred to the Plaintiff’s *auto shop*, which is not a party to this action. The Plaintiff’s defamation claim against Mr. Langford arising from any statement about Jon’s Auto Service must be dismissed for failure to satisfy colloquium as a result.

**2. Because the Plaintiff’s defamation claims are inactionable, so, too, are the Plaintiff’s related speech-based tort claims.**

“A party may not skirt the requirements of defamation law by pleading another, related cause of action.” *Boladian v. UMG Recordings, Inc.*, 123 F. App’x 165, 169 (6th Cir. 2005) (unpublished) (citing *Hustler*, 485 U.S. at 53). As a result, a litigant may not seek to “bypass the First Amendment” and evade constitutional restrictions by asserting other related speech-based tort claims. *See Seaton v. TripAdvisor LLC*, 728 F.3d 592, 601 n.9 (6th Cir. 2013) (“Seaton’s claims for false-light invasion of privacy, trade libel/injurious falsehood, and tortious interference with prospective business relationships appear to be an attempt to bypass the First Amendment.” (citing *Compuware Corp. v. Moody’s Inv’rs Servs., Inc.*, 499 F.3d 520, 529 (6th Cir. 2007))).

Given this doctrine, all of the Plaintiff’s additional tort claims are subject to the same heightened constitutional requirements as his defamation claims, *see id.*, because a plaintiff “may not use related causes of action to avoid the constitutional requisites of a defamation claim.” *Moldea v. N.Y. Times Co.*, 22 F.3d 310, 319–20 (D.C. Cir. 1994) (“a

plaintiff may not use related causes of action to avoid the constitutional requisites of a defamation claim”); *Montgomery v. Risen*, 875 F.3d 709, 713 (D.C. Cir. 2017). *Cf. Loftis v. Rayburn*, No. M2017-01502-COA-R3-CV, 2018 WL 1895842, at \*8 (Tenn. Ct. App. Apr. 20, 2018) (“For the reasons we found the statements in Mr. Myers’ article fail to imply a defamatory meaning, we also find they are not susceptible to the requisite inferences casting Mr. Loftis in a false light.” (citing *West v. Media General Convergence, Inc.*, 53 S.W.3d 640, 645 n.5 (Tenn. 2001))), *no app. filed*. Thus, because the Plaintiff’s defamation claims are inactionable as a matter of law, *see supra* at 21–28, the Plaintiff’s related speech-based tort claims must fail as a matter of law as well.

**3. The Plaintiff’s related speech-based tort claims fail as a matter of law in their own right.**

The Plaintiff has alternatively sued Mr. Langford for “False Light Defamation [sic],” “Procurement of Breach of Contract in Violation of Tenn. Code Ann. § 47-50-109,” and “Intentional Interference With Business Relationships.” *See* Pl.’s Compl. at 3–4. As detailed below, all of these tort claims fail independently on their own terms.

Beginning with the Plaintiff’s “False Light Defamation [sic]” claim (which the Defendant assumes is a False Light *invasion of privacy* claim, because “False Light Defamation” is not a thing): it suffers from obvious problems. For one, because the statements over which Mr. Langford has been sued: (1) do not state facts; (2) are rhetorical hyperbole; and (3) are statements of opinion that cannot even be perceived as false, there is no plausible scenario in which “the angle from which the facts are presented, or the omission of certain material facts, results in placing the plaintiff in a false light.” *See West v. Media Gen. Convergence, Inc.*, 53 S.W.3d 640, 646 n.5 (Tenn. 2001). Further, there is no scenario in which “a reasonable person would be justified, in the eyes

of the community, of being seriously offended and aggrieved by the statements at issue” in this case, and the Plaintiff has not alleged otherwise. *Loftis*, 2018 WL 1895842, at \*8. Both omissions are fatal.

The Plaintiff’s Procurement of Breach of Contract in Violation of Tenn. Code Ann. § 47-50-109 claim fails on its own terms, too. The Plaintiff has alleged that the Defendant “has induced and persuaded customers of Plaintiff to refuse to perform lawful contracts with Plaintiff[,]”<sup>117</sup> though no such customer is named and no such contract is identified. The Plaintiff has also conspicuously failed to allege whether or how the Defendant knew that these uniformly unnamed customers had any such lawful contract(s) with the Plaintiff. Elsewhere in his Complaint, the Plaintiff also refers to *potential* customers,<sup>118</sup> making clear there was *not* a lawful contract in place as to at least a subset of the customers in question.

In any event, to the extent that any such contracts existed (Mr. Langford is skeptical), Tenn. R. Civ. P. 10.03 required the Plaintiff to append them to his Complaint as an exhibit. *See* Tenn. R. Civ. P. 10.03 (“Whenever a claim or defense is founded upon a written instrument other than a policy of insurance, a copy of such instrument or the pertinent parts thereof **shall be attached to the pleading as an exhibit . . .**”) (emphasis added). There is not a single one so appended, though, so this Court may infer that none existed.

For all of these reasons, the barebones legal conclusions that the Plaintiff couches as facts to support his Procurement of Breach of Contract claim can be disregarded. *See Webb v. Nashville Area Habitat for Human., Inc.*, 346 S.W.3d 422, 427 (Tenn. 2011)

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<sup>117</sup> *Id.* at ¶ 16.

<sup>118</sup> *Id.* at ¶ 21.

(“courts are not required to accept as true assertions that are merely legal arguments or ‘legal conclusions’ couched as facts.”) (quoting *Riggs v. Burson*, 941 S.W.2d 44, 47–48 (Tenn. 1997)). Thereafter, left without any facts to support it, the Plaintiff’s Procurement of Breach of Contract claim fails as a matter of law for failure to state a cognizable claim.

Third and finally, the Plaintiff’s “Intentional Interference With Business Relationships” claim fails on its own terms as well. As before, the Plaintiff’s single-paragraph allegation supporting the claim is replete with legal arguments and legal conclusions couched as facts. Setting those defects aside, a defendant’s “*improper motive or improper means*” is a necessary element of a claim for Intentional Interference With Business Relationships, and the Plaintiff cannot satisfy it here. See *Trau-Med of Am., Inc. v. Allstate Ins. Co.*, 71 S.W.3d 691, 701 (Tenn. 2002).

Rather than being “improper,” peaceful protests—including those that are designed to result in a coercive economic impact—are a quintessentially protected (and celebrated) First Amendment activity. See *Charlotte Ave. Med. Clinic, Inc. v. Freeman*, No. 88-270-II, 1989 WL 9521, at \*3 (Tenn. Ct. App. Feb. 10, 1989) (“Public picketing is speech protected by the First Amendment. Public issue picketing is ‘an exercise of ... basic constitutional rights in their most pristine and classic form....’”) (quoting *Carey v. Brown*, 447 U.S. 455, 466-67, 100 S.Ct. 2286, 2293, 65 L.Ed.2d 263 (1980) (citing *Edwards v. South Carolina*, 372 U.S. 229, 235, 83 S.Ct. 680, 683, 9 L.Ed.2d 697 (1963))). As a result, the Plaintiff’s “Intentional Interference with Business Relationships” claim fails to state a claim for lack of improper motive or means.

For all of these reasons, in addition to failing to satisfy the constitutional restrictions governing defamation claims, each of the Plaintiff’s separate speech-based tort claims fails on its own terms for failure to state a claim upon which relief can be

granted.

**B. THE PLAINTIFF’S COMPLAINT SHOULD BE DISMISSED UNDER THE TENNESSEE PUBLIC PARTICIPATION ACT.**

The Tennessee Public Participation Act (TPPA) separately governs the Plaintiff’s claims. As detailed below, the TPPA mandates that all of Plaintiff’s claims be dismissed with prejudice; that the Plaintiff be ordered to pay the Defendant’s attorney’s fees and costs; and that both the Plaintiff and his counsel—who has filed flagrantly ridiculous SLAPP-suits like this on several recent occasions—be subject to severe discretionary sanctions to deter repetition of their conduct.

**1. Applicability of the Tennessee Public Participation Act**

The Tennessee Public Participation Act—Tennessee’s still relatively new anti-SLAPP statute—provides that “[i]f a legal action is filed in response to a party’s exercise of the right of free speech, right to petition, or right of association, that party may petition the court to dismiss the legal action” subject to the TPPA’s specialized provisions. TENN. CODE ANN. § 20-17-104(a). Under Tennessee Code Annotated § 20-17-103(3), “[e]xercise of the right of free speech’ means a communication made in connection with a matter of public concern or religious expression that falls within the protection of the United States Constitution or the Tennessee Constitution.” In turn, § 20-17-103(6) provides that:

“Matter of public concern” includes an issue related to:

- (A) Health or safety;
- (B) Environmental, economic, or community well-being;**
- (C) The government;
- (D) A public official or public figure;
- (E) A good, product, or service in the marketplace;**
- (F) A literary, musical, artistic, political, theatrical, or audiovisual work;
- or
- (G) Any other matter deemed by a court to involve a matter of public concern[.]**

*Id.* (emphases added). In a TPPA case, “[t]he petitioning party has the burden of making a prima facie case that a legal action against the petitioning party is based on, relates to, or is in response to that party’s exercise of the right to free speech, right to petition, or right of association.” TENN. CODE ANN. § 20-17-105(a).

Here, the statements over which the Defendant has been sued, at minimum, involve “[a] good, product, or service in the marketplace[.]” *See* TENN. CODE ANN. § 20-17-103(6)(E). Thus, the TPPA applies to this action, *see id.*, as it was filed in response to Mr. Langford’s exercise of his right to free speech within the meaning of Section 20-17-104(a). *See generally* Compl.; **Ex. 3**, Daylan Langford Decl. *Accord Nandigam Neurology, PLC*, 639 S.W.3d at 668 (finding, in case arising from a Yelp! review of a neurologist’s poor service and bad behavior, that “the communication at issue was an exercise of Defendant’s right of free speech as that right is defined for purposes of the TPPA.”).

Mr. Langford’s TPPA Petition is also timely filed. Such a petition “may be filed within sixty (60) calendar days from the date of service of the legal action or, in the court’s discretion, at any later time that the court deems proper.” TENN. CODE ANN. § 20-17-104(b). Here, the Plaintiff filed his Complaint on July 11, 2023, and Mr. Langford petitioned to dismiss it within 30 days of service. As a result, having been filed within—and far sooner than—60 days of service of the Plaintiff’s Complaint, Mr. Langford’s TPPA petition to dismiss this action is timely filed. *See id.*; TENN. CODE ANN. § 20-17-104(b).

Thus, having met his initial burden under Section 20-17-105(a), and having timely petitioned this Court to dismiss the Plaintiff’s Amended Complaint, this Court “shall dismiss the legal action unless the responding party establishes a prima facie case for each essential element of the claim in the legal action.” *See* TENN. CODE ANN. § 20-17-105(b).

**2. Mr. Langford can establish valid defenses.**

“Notwithstanding subsection (b), the court shall dismiss the legal action if the petitioning party establishes a valid defense to the claims in the legal action.” See § 20-17-105(c). Under this section, Mr. Langford expressly incorporates into this Petition each argument set forth in his motion to dismiss in support of his defense that the Plaintiff has failed to state any cognizable claim for relief against him. See TENN. CODE ANN. § 20-17-109 (“This chapter is intended to provide an additional substantive remedy to protect the constitutional rights of parties and to supplement any remedies which are otherwise available to those parties under common law, statutory law, or constitutional law or under the Tennessee Rules of Civil Procedure.”). Based on further facts established through admissible evidence, Mr. Langford can also establish the additional valid defenses to liability set forth below.

a. The First Amendment protected Mr. Langford’s protest.

“[T]he right to protest—including activities such as ‘demonstrations, protest marches, and picketing’—is clearly protected by the First Amendment.” *Black Lives Matter Seattle-King Cnty. v. City of Seattle, Seattle Police Dep’t*, 466 F. Supp. 3d 1206, 1212 (W.D. Wash. 2020) (quoting *Collins v. Jordan*, 110 F.3d 1363, 1371 (9th Cir. 1996) (in turn citing *Edwards v. South Carolina*, 372 U.S. 229, 83 S.Ct. 680, 9 L.Ed.2d 697 (1963); *Thornhill v. Alabama*, 310 U.S. 88, 60 S.Ct. 736, 84 L.Ed. 1093 (1940); *NAACP Western Region v. City of Richmond*, 743 F.2d 1346 (9th Cir.1984)). “Since ‘time immemorial,’ city streets and sidewalks have been deemed public fora, and as such any First Amendment restrictions placed on them are ‘subject to a particularly high degree of scrutiny.’” *Id.*; see also *Charlotte Ave. Med. Clinic, Inc.*, 1989 WL 9521, at \*3 (“The sidewalk where the defendants picketed is public. Thus the nature of the forum in this

case is public. ‘It is also true that “public places” historically associated with the free exercise of expressive activities, such as streets, sidewalks, and parks, are considered, without more, to be ‘public forums.’”) (quoting *United States v. Grace*, 461 U.S. at 178, 103 S.Ct. at 1707). “Speech that stirs passions, resentment or anger is fully protected by the First Amendment” as well. *Black Lives Matter Seattle-King Cnty.*, 466 F. Supp. 3d at 1212–13 (citing *Terminiello v. Chicago*, 337 U.S. 1, 4, 69 S.Ct. 894, 93 L.Ed. 1131 (1949)).

With these considerations in mind, critical statements—even *intensely* critical statements that are expressly designed to harm a plaintiff’s business—made in the context of a peaceful protest enjoy the First Amendment’s absolute protection. *See, e.g., Org. for a Better Austin*, 402 U.S. at 419 (“The claim that the expressions were intended to exercise a coercive impact on respondent does not remove them from the reach of the First Amendment. . . . [S]o long as the means are peaceful, the communication need not meet standards of acceptability.”); *N.A.A.C.P.*, 458 U.S. at 913 (“While States have broad power to regulate economic activity, we do not find a comparable right to prohibit peaceful political activity such as that found in the boycott in this case.”); *Taubman Co.*, 319 F.3d at 778 (“although economic damage might be an intended effect of Mishkoff’s expression, the First Amendment protects critical commentary when there is no confusion as to source, even when it involves the criticism of a business.”); *Karhani v. Meijer*, 270 F. Supp. 2d 926, 932 (E.D. Mich. 2003) (noting that the Supreme Court has “rejected the [] argument that the literature was not protected by the First Amendment because [speakers] hoped that it would have a coercive impact on the respondent”); *Concerned Consumers League v. O’Neill*, 371 F. Supp. 644, 647 (E.D. Wis. 1974) (“informational picketing about business practices is protected. . . . There is, therefore, a strong presumption that any peaceful expression which is designed to educate consumers enjoys



the constitutional protection of the First Amendment.”); *State of Mo. v. Nat'l Org. for Women, Inc.*, 620 F.2d 1301, 1317 (8th Cir. 1980) (“the right to petition is of such importance that it is not an improper interference even when exercised by way of a boycott.”).

Put another way: a peaceful protest—including a coercive boycott that encourages others to join in its cause—“is a form of speech or conduct that is ordinarily entitled to protection under the First and Fourteenth Amendments.” *N.A.A.C.P.*, 458 U.S. at 907. Thus, while Mr. Langford’s protest may not have been as nationally significant as, say, the Montgomery Bus Boycott, *see F.T.C. v. Superior Ct. Trial Laws. Ass'n*, 493 U.S. 411, 447 (1990) (“From the colonists’ protest of the Stamp and Townsend Acts to the Montgomery bus boycott and the National Organization for Women’s campaign to encourage ratification of the Equal Rights Amendment, boycotts have played a central role in our Nation’s political discourse.”) (Brennan, J., concurring in part and dissenting in part), it enjoyed the First Amendment’s absolute protection nonetheless. All of the Plaintiff’s claims purporting to impose tort liability based on Mr. Langford’s exercise of his First Amendment rights to peacefully protest and picket the Plaintiff’s business fail accordingly.

b. The Plaintiff cannot sue the Defendant for posing a question.

Contrary to the false allegations set forth in the Plaintiff’s Complaint, *see* Compl. at ¶ 5, Mr. Langford’s second sign posed a *question*. In particular, it asked: “Worst Auto Shop In Town? SOS!!”



119

Importantly, a *question*—no matter how unflattering—can never be defamatory as a matter of law. *See, e.g., Abbas v. Foreign Pol’y Grp., LLC*, 783 F.3d 1328, 1338 (D.C. Cir. 2015) (“[I]t is generally settled as a matter of defamation law in other jurisdictions that a question, ‘however embarrassing or unpleasant to its subject, is not accusation.’ *Chapin v. Knight–Ridder, Inc.*, 993 F.2d 1087, 1094 (4th Cir. 1993). Questions indicate a defendant’s ‘lack of definitive knowledge about the issue.’” (quoting *Partington*, 56 F.3d at 1157)). Thus, “questions are questions.” *See id.* (“[W]e here follow the widely adopted defamation principle that questions are questions.”). The Plaintiff’s defamation claim premised upon the Plaintiff’s second sign fails as a matter of law as a result.

- c. The Plaintiff has not suffered actual damages, and in any event, he is libel-proof.

A plaintiff is “required to prove actual damages in all defamation cases.” *Hibdon*, 195 S.W.3d at 68 (citing *Handley*, 588 S.W.2d at 776). Tennessee also recognizes the libel-proof plaintiff doctrine, which provides that a plaintiff with a severely tarnished reputation may not maintain a defamation action. *See Rogers v. Jackson Sun Newspaper*, No. CIV. A. C-94-301, 1995 WL 383000, at \*1 (Tenn. Cir. Ct. Jan. 30, 1995)

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<sup>119</sup> *See Ex. 3* at ¶ 26.

(“This Court finds and holds, as a matter of law, Plaintiff’s reputation in the community at the time of the article’s publication was so severely tarnished, he is ‘libel-proof’ and may not maintain this defamation action for an allegedly erroneous report of his criminal record.”), *no app. filed*. The doctrine “essentially holds that ‘a notorious person is without a “good name” and therefore may not recover for injury to it.” *Davis*, 83 S.W.3d at 128 (quoting ROBERT D. SACK, SACK ON DEFAMATION: LIBEL, SLANDER AND RELATED PROBLEMS 35 (Cum. Supp. 1998)). The libel-proof plaintiff doctrine is premised upon the notion that “[t]o suffer injury to one’s standing in the community, or damage to one’s public reputation, one must possess good standing and reputation for good character to begin with.” *Id.* at 130.

Here, the Plaintiff has not suffered actual damages. The “customers and potential customers” to which the Plaintiff’s Complaint refers (*see* Compl. at ¶ 21) were, in fact, not customers at all. Instead, they were Mr. Langford’s neighbor—who had already resolved never to do business with the Plaintiff again for his own reasons, *see Ex. 6*, Parks Decl.—and Mr. Langford’s wife, who had never been and never intended to become a customer of the Plaintiff at all, *see Ex. 7*, Marianne Langford Decl.

Separate and apart from these facts, the Plaintiff is libel-proof. For decades, he has been a dishonest and frequent-flying criminal and civil defendant with a penchant for passing worthless checks and mistreating customers. *See Ex. 1*, *Ex. 2*. His poor reputation is both well-earned and well-known. As others have aptly put it: The Plaintiff is a “dirt bag.” *Ex. 3*, Daylan Langford Decl. ¶ 30. Accordingly, the Plaintiff’s defamation claim should be dismissed on the ground that the Plaintiff is libel-proof. Alternatively, it should be dismissed because the Plaintiff cannot show any actual damages. *See Pate v. Service Merch. Co.*, 959 S.W.2d 569, 573–74 (Tenn. Ct. App. 1997) (“[D]amages must be

shown in all defamation cases.”).

### **V. COSTS, ATTORNEY’S FEES, & SANCTIONS**

Under Tennessee Code Annotated § 20-17-107(a):

If the court dismisses a legal action pursuant to a petition filed under this chapter, the court shall award to the petitioning party:

- (1) Court costs, reasonable attorney’s fees, discretionary costs, and other expenses incurred in filing and prevailing upon the petition; and
- (2) Any additional relief, including sanctions, that the court determines necessary to deter repetition of the conduct by the party who brought the legal action or by others similarly situated.

The Plaintiff’s prosecution of this knowingly baseless SLAPP-suit merits costs, attorney’s fees, and severe sanctions. The transparent purpose of this lawsuit was to silence, censor, intimidate, and retaliate against Mr. Langford, a righteously unhappy customer whom the Plaintiff badly mistreated. No litigant acting in good faith could reasonably believe that the Plaintiff’s claims had merit under these circumstances.

The sanctions handed down here should also be entered jointly and severally against the Plaintiff’s counsel. This lawsuit was literally filed *the same day* as another Tennessee Circuit Court entered an order dismissing a SLAPP-suit the Plaintiff’s counsel filed in another case, *see Ex. 8*, Order, Foreman v. Rosenberg, Davidson County, Tenn. Circuit Court Case No. 23C891 (July 11, 2023), which was at least the third such SLAPP-suit he had filed that year. *See Ex. 9*, Complaint, Foreman v. Hemmer, Williamson County, Tenn. Circuit Court Case No. 22CV–517 (October 24, 2022); *Ex. 10*, Complaint, Foreman v. St. Clair, Davidson County, Tenn. Circuit Court Case No. 22C1315 (July 1, 2022). Thus, the Plaintiff’s counsel has abused the litigation process *repeatedly* to further extra-judicial ends, and he will continue to do so unless meaningfully punished.

This Court should put an end to this. Thus, in addition to awarding the Defendant his full attorney's fees, costs, and expenses under § 20-17-107(a)(1) (which are mandatory), this Court should also assess a severe sanction against the Plaintiff and his counsel under § 20-17-107(a)(2) to deter repetition of their conduct. In particular, it should issue a sanctions award of \$200,000.00—equivalent to the minimum amount that the Plaintiff has baselessly sought from the Defendant for exercising his protected speech, *see* Compl. at 4—“to deter repetition of the conduct by the party who brought the legal action or by others similarly situated.” *See id.* The Defendant is entitled to—and he expressly raises his entitlement to—fees under Tennessee Code Annotated § 20-12-119(c) as well.

## **VI. CONCLUSION**

For the foregoing reasons, this action should be dismissed with prejudice; the Defendant should be awarded his attorney's fees and expenses; and the Plaintiff should be sanctioned.

Respectfully submitted,

By: /s/ Daniel A. Horwitz  
DANIEL A. HORWITZ, BPR #032176  
LINDSAY SMITH, BPR #035937  
MELISSA K. DIX, BPR #038535  
HORWITZ LAW, PLLC  
4016 WESTLAWN DR.  
NASHVILLE, TN 37209  
(615) 739-2888  
[daniel@horwitz.law](mailto:daniel@horwitz.law)  
[lindsay@horwitz.law](mailto:lindsay@horwitz.law)  
[melissa@horwitz.law](mailto:melissa@horwitz.law)

*Counsel for Defendant*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 10th day of August, 2023, a copy of the foregoing was served via email or UPS, postage prepaid, upon:

G. Kline Preston, IV  
4515 Harding Pike Suite 17  
Nashville, TN 37205  
[kpreston@klineprestonlaw.com](mailto:kpreston@klineprestonlaw.com)

*Counsel for the Plaintiff*

By: /s/ Daniel A. Horwitz  
Daniel A. Horwitz, Esq.

# Exhibit #1

 **Kyro Quinto**  
5 reviews · 6 photos  
★ ★ ★ ★ ★ 9 months ago

**Service:** Vehicle Inspection


DO NOT DO BUSINESS HERE AND I WILL TELL YOU WHY. Micheal is the rudest person in the industry. Honestly dont even know how he got the job. I had my car towed there on a friday and was told i would be called first thing monday. By 4pm i never received a call so i called and was told they didnt look at it that i will be called the next day. Again no phone call so i call and am told the mechanic is not there and will be back in 30 minutes that he doesn't know anything. So i show up and ask if there is a timeframe or cost estimate and he tells me he won't know until the part gets there. But the whole time im getting attitude, like throwing his hands in the air, rolling his eyes, and shaking his head. When ive been nothing but polite to this man. So i tell him im going to get it towed and i want my key. He says he cant give me the key until the tow truck arrives i say okay. I go outside and call a tow company. About 10 minutes later he comes out and tells me they special ordered the part and that i need to pay for the part before they give me the vehicle when i never authorized them to purchase the part in the first place. They are low life money hungry business take your business elsewhere. And yes i have called the police and will be getting my vehicle towed.

 3 

 **Sarah Chau**  
5 reviews  
★ ★ ★ ★ ★ 11 months ago

\$5000 cash paid for parts ordered that were not the upgraded ones we wanted. Now won't take parts back and give us a refund. Going to a civil court. BEWARE, he even lied in his reply. WE CONTACTED CarQuest, where the parts were purchased and this can be returned and are not special order. They are not special parts as you claim. So you can resolve this whole thing by standing by your claims and word. See the document below that has all his "record keeping" documenting he got \$5000 from us but nothing in return except useless parts.

 4 

 **Response from the owner**  
a year ago

Mrs. Chau, Your husband was offered to order his own parts and knew better. He was told the parts are special ordered and there was no refund. He told us to do it. He is our customer. We did as he asked. You told us the parts are wrong, they weren't. You wanted a special turbo for your truck. We ordered the best upgrade for your 6.0. The one you wanted would not work.

DEFENDANT'S  
EXHIBIT

1





**Marie Ratcliff**

5 reviews



★ ★ ★ ★ ★ 2 years ago

**Critical:** Professionalism

My friend went there a week ago. I was there with her just not in the building and she told me everything. She said it was horrible what they said to her and being very unprofessional. We will never have business with them. We will tell everyone we know not to go to them. How do you supposedly fix the car and it breaks down 2 miles later and then they try to get more money out of her when it was their fault and should have fixed it right the first time. It says SOS Auto Repair on the sign that I saw but it says Jon's Auto Repair with the receipt when you put in the address it says SOS Auto Repair.

👍 6    ↩



Response from the owner

2 years ago

Interesting, How Google lets you post this when you weren't even there. Your friend got a starter, labor, and towing for free, we fixed the plugs and asked her to test it out and let us know. It started for us many times. I hope the next shop doesn't fall for her sad stories. She has a great scam going on here.



**Nashville Cars n' Coffee**

4 reviews · 1 photo



★ ★ ★ ★ ★ a week ago    **NEW**

We do not use this business to service our vehicles.

👍 1    ↩



**Tyler Ford**

1 review



★ ★ ★ ★ ★ a week ago    **NEW**

This place is a stain on the Smyrna community. Not trustworthy people.

👍 1    ↩



Response from the owner

4 hours ago

I do not know who you are and have never been in our shop as far as we can tell. If you have an issue we would be happy to address it.

Overview

Services

Reviews

Updates

Photos

**Ian Signavong**

5 reviews



★☆☆☆☆ a year ago

**Service:** Exhaust

Rude service, don't recommend any info they tell you. Don't know about certain cars but thinks they know. Waste of time. Dirty shop/everything. Don't know about newer cars and tech. Old used shop.



4

**Response from the owner**

a year ago

Dear Sir, 1. Don't call fishing for an est without providing accurate info when asked.

2. You are not a customer of ours and have never been a customer.

3. Stop wasting peoples time by calling actually bring your car in so we can give you accurate info.

4. Stop crying like a 2 year old tattling on your older brother.

5. Jon's Auto Service Deals with adults as they deal with us.

**Spencer Buford**

5 reviews



★☆☆☆☆ 18 hours ago

NEW

**Service:** General repairs & maintenance

Go literally anywhere else. Paid for all new parts with a fuel contamination repair. I later found out the vast majority of the parts were simply cleaned and reused though it was continually claimed that they were waiting on parts for several weeks. Numerous items were routed wrong, bolts were missing, fuel lines rubbing and unsecured, causing multiple fuel leaks since the "repair" was performed. When I went back after having the first fuel leak and gave Jon the opportunity to make it right providing the parts and labor he had already been paid to provide (which he implied he would while the truck was being towed to him). He presented me with a new bill for those repairs. I confronted him, and he stated he just flushed the parts in question though the bill covered full replacement listing them in the kit. It ended up with the police on the scene when Jon attempted to disable my vehicle (by belligerently pulling wires out from under the dash) and got in my face. He claimed to the police that I hadn't paid my bills even when receipts were presented and would not release my vehicle so I had to pay the new bill he presented me with or wait for civil suit to get my truck back. I then paid several thousand dollars to have the work fixed that was originally done by Jon's Auto Service.



# Jon's Auto Se...

Website

Directions

X

Overview

Services

Reviews

Updates

Photos



**Brian Carter**

★★★★☆ a year ago

Critical: Professionalism, Quality, Value



**Lacey cash**

21 reviews · 8 photos

★★★★☆ 2 months ago



Response from the owner

2 months ago

WE HAVE NO IDEA WHO THIS IS! SO LACEY CASH IF YOU HAVE A PROBLEM WITH ME OR MY SHOP PLEASE CALL AND I WILL DO MY BEST TO FIX IT!!





**Sarah C.**

Oak Road, CA

34 17 1

.....



3/21/2022

\$5000 in wrong parts ordered paid in cash and now won't issue refund. Going to civil court on this.  
Beware



and this can be returned and are not special value. They are not special parts as you claim. So you can resolve this whole thing by standing by your claims and word. See the document below that has all his "record keeping" documenting he got \$5000 from us but nothing in return except useless parts.

★★★★★

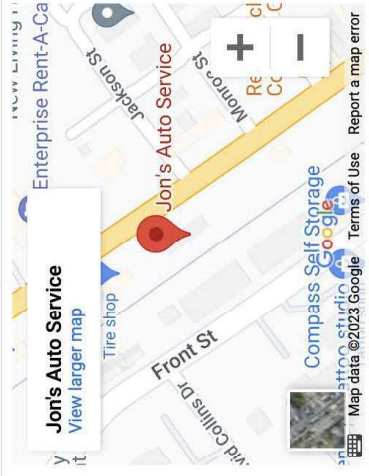
April 2022 by Ian Signavong

Rude service, don't recommend any info they tell you. Don't know about certain cars but thinks they know. Waste of time. Dirty shop/everything. Don't know about newer cars and tech. Old used shop. Service: Exhaust

★★★★★

March 2022 by Sarah C.

\$5000 in wrong parts ordered paid in cash and now won't issue refund. Going to civil court on this. Beware

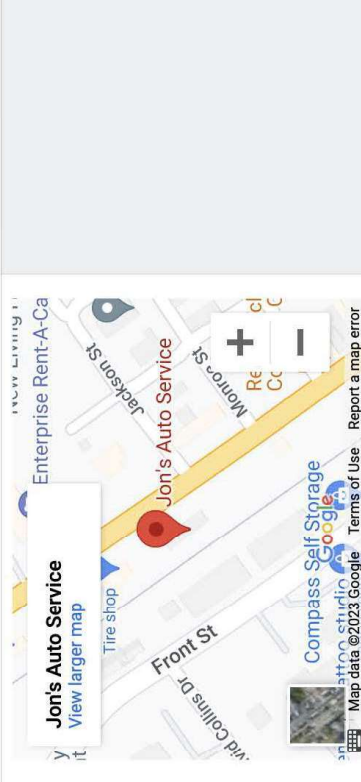


Jon's Auto Service

50 N Lowry St, Smyrna (615) 440-7287

CONTINUE >

IQ Test



**Jon's Auto Service**  
 50 N Lowry St, Smyrna  
 (615) 440-7287

**CONTINUE >**

IQ Test

★★★★★  
 February 2021 by Marie Ratcliff  
 My friend went there a week ago. I was there with her just not in the building and she told me everything. She said it was horrible what they said to her and being very unprofessional. We will never have business with them. We will tell everyone we know not to go to them. How do you supposedly fix the car and it breaks down 2 miles later and then they try to get more money out of her when it was their fault and should have fix it right the first time. it says SOS Auto Repair on the sign that i saw but it says Jon's Auto Repair with the receipt when you put in the address it says SOS Auto Repair.

# Exhibit #2





Bill Lee  
Governor

**TENNESSEE BUREAU OF INVESTIGATION**

**ATTN: TORIS**

901 R.S. Gass Boulevard  
Nashville, Tennessee 37216-2639  
(615) 744-4057  
Facsimile (615) 744-4289



David B. Rausch  
Director

07/14/2023

PETRA R BARELA  
P.O. BOX 654  
LEBANON TN 37088

Tennessee Criminal History Records Request

Attached is the response to your request for a criminal history record check on the following individual in which Tennessee information was found. NOTE: All aliases submitted have been searched.

JONATHAN SHANE GILBERT

**Please be aware that, unless a fingerprint comparison is performed, it is impossible for the Tennessee Bureau of Investigation to be sure the record belongs to the individual you requested.** A fingerprint comparison will only be performed in the event of a written appeal of criminal history results. The information you receive will be based on only those arrests which occurred within the state of Tennessee.

The Tennessee Bureau of Investigation found Tennessee criminal history based on the information provided. No criminal record check was conducted for other states or for the Federal Bureau of Investigation.

Tennessee Open Records Information Services  
Tennessee Bureau of Investigation  
901 R.S. Gass Blvd.  
Nashville, TN 37216



INTERNATIONALLY ACCREDITED SINCE 1994





THE INFORMATION IN THIS RAP SHEET IS SUBJECT TO THE FOLLOWING CAVEATS:

THIS RECORD IS BASED ONLY ON THE SID OR FBI NUMBER IN YOUR REQUEST ( 802661 ) BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY SHOULD BE REQUESTED WHEN NEEDED FOR SUBSEQUENT USE. USE OF THE FOLLOWING RECORD IS REGULATED BY LAW. IT IS FURNISHED FOR OFFICIAL USE ONLY AND SHOULD ONLY BE USED FOR THE PURPOSE REQUESTED. WHEN EXPLANATION OF A CHARGE OR DISPOSITION IS NEEDED, COMMUNICATE DIRECTLY WITH THE AGENCY THAT CONTRIBUTED THE FINGERPRINTS. (TBI; 2005-06-28)

\*\*\*\*\* IDENTIFICATION \*\*\*\*\*

SUBJECT NAME(S)

GILBERT, JONATHAN SHANE

GILGERT, JONATHAN SHANE (AKA)

SUBJECT DESCRIPTION

SOCIAL SECURITY NUMBER  
match

MISCELLANEOUS NUMBERS  
83832126 PERSONAL IDENTIFICATION

SEX RACE SKIN TONE  
MALE WHITE UNKNOWN

HEIGHT WEIGHT DATE OF BIRTH  
6'00" 210 1963-07-07

HAIR COLOR EYE COLOR  
BROWN BLUE

PLACE OF BIRTH  
NH

RESIDENCE  
RESIDENCE AS OF 2012-06-20  
1528 WAXMAN DR, LAVERGNE, TN37  
LAVERGNE, TN 37086

RESIDENCE AS OF 2007-03-17  
1528 WAXMAN DR  
LAVERGNE, TN 37086

\*\*\*\*\* CRIMINAL HISTORY \*\*\*\*\*

===== CYCLE 001 =====  
TRACKING NUMBER 750001093082  
EARLIEST EVENT DATE 2012-06-20

-----  
ARREST DATE 2012-06-20  
ARRESTING AGENCY TN0750000 RUTHERFORD COUNTY SO  
SUBJECT'S NAME JONATHAN SHANE GILBERT  
OFFENDER ID NUMBER 802661  
CHARGE NUMBER 106962763  
CHARGE TRACKING NUMBER 750001093082  
CHARGE LITERAL WORTHLESS CHECK \$500-\$1000  
COUNTS 1  
SEVERITY UNKNOWN

-----  
COURT DISPOSITION (CYCLE 001)  
COURT AGENCY TN0750000 RUTHERFORD COUNTY SO  
SUBJECT'S NAME JONATHAN SHANE GILBERT  
CHARGE 1

CHARGE TRACKING NUMBER 750001093082  
CHARGE LITERAL WORTHLESS CHECK \$500-\$1000  
CHARGE DESCRIPTION MISDEMEANOR CONVICTED  
COUNTS 1  
SEVERITY UNKNOWN  
DISPOSITION (GUILTY PLEA -- LESSER CHARGE 2012-07-16;  
SENTENCE SUSPENDED 11M 29D PROBATION FINES &  
COST)

===== CYCLE 002 =====

TRACKING NUMBER 750200801617  
EARLIEST EVENT DATE 2008-04-23 INCIDENT DATE 2008-04-23

ARREST DATE 2008-04-23  
ARREST CASE NUMBER 08-3066  
ARRESTING AGENCY TN0750200 SMYRNA PD  
SUBJECT'S NAME JONATHAN SHANE GILGERT  
OFFENDER ID NUMBER 802661  
CHARGE NUMBER 104524942  
CHARGE TRACKING NUMBER 750200801617  
CHARGE LITERAL DRIVING W/O LICENSE  
COUNTS 1  
SEVERITY UNKNOWN

===== CYCLE 003 =====

TRACKING NUMBER 190007032745  
EARLIEST EVENT DATE 2007-03-16 INCIDENT DATE 2007-03-16

ARREST DATE 2007-03-16  
ARREST CASE NUMBER 192893  
ARRESTING AGENCY TN0190100 METROPOLITAN NASHVILLE PD  
SUBJECT'S NAME JONATHAN SHANE GILBERT  
OFFENDER ID NUMBER 802661  
CHARGE NUMBER 103685712  
CHARGE TRACKING NUMBER 190007032745  
CHARGE LITERAL IMPLIED CONSENT VIOLATION  
COUNTS 1  
SEVERITY UNKNOWN  
CHARGE NUMBER 103685713  
CHARGE TRACKING NUMBER 190007032745  
CHARGE LITERAL LICENSE, DRIVING ON SUSPENDED LICENSE  
COUNTS 1  
SEVERITY UNKNOWN  
CHARGE NUMBER 103685711  
CHARGE TRACKING NUMBER 190007032745  
CHARGE LITERAL DRIVING UNDER THE INFLUENCE  
COUNTS 1  
SEVERITY UNKNOWN

COURT DISPOSITION (CYCLE 003)  
COURT CASE NUMBER GS314673  
COURT AGENCY TN0190100 METROPOLITAN NASHVILLE PD  
SUBJECT'S NAME JONATHAN SHANE GILBERT  
JONATHAN SHANE GILBERT  
JONATHAN SHANE GILBERT

CHARGE 1  
CHARGE NUMBER 07032745  
CHARGE TRACKING NUMBER 190007032745  
CHARGE LITERAL DRIVING, RECKLESS  
CHARGE DESCRIPTION MISDEMEANOR  
COUNTS 2  
SEVERITY MISDEMEANOR  
DISPOSITION (GUILTY PLEA - LESSER CHARGE 2007-04-09;  
DISPOSITION GUILTY PLEA - LESSOR CHARGE  
RECEIVED 6 MONTHS FINE \$250.00 COST \$346.50  
SUSPENDED=Y)

CHARGE 2  
CHARGE NUMBER 07032745  
CHARGE TRACKING NUMBER 190007032745  
CHARGE LITERAL LIC,DR SUS LICENSE  
CHARGE DESCRIPTION MISDEMEANOR  
COUNTS 3  
SEVERITY MISDEMEANOR

DISPOSITION (DISMISSED ON COSTS 2007-04-09; DISPOSITION  
DISMISSED ON COST COST \$116.50 SUSPENDED=N)  
CHARGE 3  
CHARGE NUMBER 07032745  
CHARGE TRACKING NUMBER 190007032745  
CHARGE LITERAL IMPLIED CONSENT VIO  
CHARGE DESCRIPTION MISDEMEANOR  
COUNTS 1  
SEVERITY MISDEMEANOR  
DISPOSITION (GUILTY PLEA - AS CHARGED 2007-04-09;  
DISPOSITION GUILTY SUSPENDED=N)

===== CYCLE 004 =====  
TRACKING NUMBER 1045303  
EARLIEST EVENT DATE 1997-05-17 INCIDENT DATE 1997-05-17

-----  
ARREST DATE 1997-05-17  
ARREST CASE NUMBER 192893  
ARRESTING AGENCY TN0190100 METROPOLITAN NASHVILLE PD  
SUBJECT'S NAME JONATHAN SHANE GILBERT  
OFFENDER ID NUMBER 802661  
CHARGE NUMBER 1045303  
CHARGE LITERAL TRAFFIC OFFENSE-DRIVERS LICENSE REQUIRED  
COUNTS 1  
SEVERITY MISDEMEANOR  
\*\*\*\*\* INDEX OF AGENCIES \*\*\*\*\*

AGENCY RUTHERFORD COUNTY SO; TN0750000;

-----  
AGENCY SMYRNA PD; TN0750200;

-----  
AGENCY METROPOLITAN NASHVILLE PD; TN0190100;

-----  
AGENCY METROPOLITAN NASHVILLE PD; TN0190100;

\* \* \* END OF RECORD \* \* \*

#####



Case: 75GSI-2007-CV-107825

**Credit Central vs Jonathan Gilbert**

Case Number: 75GSI-2007-CV-107825

<b>Court Division:</b> Civil			
11/27/2007 12:05AM	CODE: V8 - DATA PROCESSING; BY: P		GSA Pleading Summary
11/27/2007 12:04AM	CODE: C6 - COUNTY IMPROVEMENT; BY: P		GSA Pleading Summary
11/27/2007 12:03AM	CODE: C5 - COUNTY LITIGATION; BY: P; CHARGES: 33.75		GSA Pleading Summary
11/27/2007 12:02AM	CODE: 3A - STATE LITIGATION; BY: P; CHARGES: 17.75		GSA Pleading Summary
11/27/2007 12:01AM	CODE: C2 - CLERK'S FEE; BY: P; CHARGES: 42.00		GSA Pleading Summary

**Fees**

Next Due Date:

Fee	Distribution	Pay To	Assessed Amount	Paid Amount	Due Amount
CLERK FEE - 10004	CLERK FEE - 10004		\$67.00	\$67.00	\$0.00
COUNTY LIT - 10032	COUNTY LIT - 10032	Rutherford County Finance	\$33.75	\$33.75	\$0.00
GSA Unpaid Balance Fee	GSA Unpaid Balance Fee		\$493.50	\$0.00	\$493.50
STATE LIT - 10008	STATE LIT - 10008	Department of Revenue	\$17.75	\$17.75	\$0.00
			<u>\$612.00</u>	<u>\$118.50</u>	<u>\$493.50</u>

Cash Balance:

**Transactions**

Transaction Type	Date	Batch ID	Status	Number	Description	Amount	Void
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Case: 75GSI-2009-CV-128447

Court Division: Civil Case Number: 75GSI-2009-CV-128447

Amnon Shreibman vs Jonathan Gilbert

**Case**

Judge: Judge Toby Gilley  
 Filing Date: 10/19/2009  
 Status: Open  
 Notes:  
 Case Is Incomplete: N  
 Case Is Sealed: N  
 Case Is Confidential: N  
 Case Is Archived: N

**Parties**

Plaintiff: Amnon Shreibman  
 Defendant: Jonathan Gilbert  
 Attorney: Imogene Bolin

**Case Detail**

<b>Case Type/Sub Type</b> CV/CV	<b>Filing Date</b> 10/19/2009	<b>Court Source</b> Original Filing	<b>Re-open Number</b>	<b>Filing Status</b> Open	<b>Disposition Type</b>	<b>Disposition Date</b>
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**Filing(s)**

Type	For	Against	Date	Void Date
DETAINER WARRANT	Amnon Shreibman	Jonathan Gilbert	10/19/2009	

**Hearings**

Party	Party Role	Hearing Type	Date/Time	Judge	Hearing Result
Jonathan Gilbert	Defendant	Hearing	10/27/2009 09:00AM	Judge Toby Gilley	Hearing Date Prior To Conversion

**Rule Docket Entries**

Date/Time	Party	Entry	Notes
11/12/2009 12:02AM		CODE: 99 - PROPERTY SET TO CURB; REFERENCE: BASKETT	GSA Pleading Summary
11/12/2009 12:01AM		CODE: WP - WRIT OF POSSESSION; REFERENCE: C026733; BY: P; DEPOSITS: 84.00	GSA Pleading Summary
10/27/2009 12:02AM		CODE: 99 - POSS ONL; REFERENCE: BRANDON	GSA Pleading Summary
10/27/2009 12:01AM		CODE: C3 - COURT DATE	GSA Pleading Summary
10/20/2009 12:01AM		CODE: F1 - COST PAID; REFERENCE: C024931; BY: P; DEPOSITS: 146.85	GSA Pleading Summary
10/19/2009 12:07AM		CODE: 99 - POSTED; REFERENCE: GROSS	GSA Pleading Summary
10/19/2009 12:06AM		CODE: 5C - ADD CO TAX; BY: P; CHARGES: 10.00	GSA Pleading Summary
10/19/2009 12:05AM		CODE: CS - COURT SECURITY; BY: P; CHARGES: 25.00	GSA Pleading Summary
10/19/2009 12:04AM		CODE: PP - PRIVATE PROCESS; BY: P	GSA Pleading Summary
10/19/2009 12:03AM		CODE: C5 - COUNTY LITIGATION; BY: P; CHARGES: 52.10	GSA Pleading Summary
10/19/2009 12:02AM		CODE: 3A - STATE LITIGATION; BY: P; CHARGES: 17.75	GSA Pleading Summary

Case: 75GSI-2009-CV-128447

**Court Division:** Civil **Case Number:** 75GSI-2009-CV-128447 **Amnon Shreibman vs Jonathan Gilbert**

10/19/2009 12:01AM

CODE: C2 - CLERK'S FEE; BY: P; CHARGES: 42.00  
 GSA Pleading Summary

**Fees**

Next Due Date:

Fee	Distribution	Pav To	Assessed Amount	Paid Amount	Due Amount
ADD CO TAX - 10015	ADD CO TAX - 10015	Rutherford County Finance	\$10.00	\$10.00	\$0.00
CLERK FEE - 10004	CLERK FEE - 10004		\$84.00	\$84.00	\$0.00
COUNTY LIT - 10032	COUNTY LIT - 10032	Rutherford County Finance	\$52.10	\$52.10	\$0.00
COURT SECURITY - 10028	COURT SECURITY - 10028	Rutherford County Finance	\$25.00	\$25.00	\$0.00
GSA Prepaid Cost	GSA Prepaid Cost	Paid in GSA	\$84.00	\$84.00	\$0.00
OFFICER FEE - 10002	OFFICER FEE - 10002	Rutherford County Finance	\$42.00	\$42.00	\$0.00
STATE LIT - 10008	STATE LIT - 10008	Department of Revenue	\$17.75	\$17.75	\$0.00
			<b>\$314.85</b>	<b>\$314.85</b>	<b>\$0.00</b>

Cash Balance:

**Transactions**

Transaction Type	Date	Batch ID	Status	Number	Description	Amount	Void
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Case: 75GS1-2011-CV-151145

Court Division: Civil Case Number: 75GS1-2011-CV-151145

Lone Viengvilayvong vs Gilbert Jonathan Dba Sos Auto Service

**Case**

Judge: Judge Toby Gilley  
 Filing Date: 11/02/2011  
 Status: Open

Case Is Incomplete: N  
 Case Is Sealed: N  
 Case Is Confidential: N  
 Case Is Archived: N

Notes:

**Parties**

Plaintiff: Lone Viengvilayvong  
 Defendant: Gilbert Jonathan Dba Sos Auto Service

**Case Detail**

Case Type/Sub Type	Filing Date	Court Source	Re-open Number	Filing Status	Disposition Type	Disposition Date
CV/CV	11/02/2011	Original Filing		Open		

**Filing(s)**

Type	For	Against	Date	Void Date
RECOVERY	Lone Viengvilayvong	Gilbert Jonathan Dba Sos Auto Service	11/02/2011	

**Hearings**

Party	Party Role	Hearing Type	Date/Time	Judge	Hearing Result
Gilbert Jonathan Dba Sos Auto Service	Defendant	Hearing	11/15/2011 09:00AM	Judge Toby Gilley	Hearing Date Prior To Conversion

**Rule Docket Entries**

Date/Time	Party	Entry	Notes
11/15/2011 12:04AM		CODE: 98 - COMPLETE W/ALL PARTS; REFERENCE: BRANDON	GSA Pleading Summary
11/15/2011 12:03AM		CODE: 98 - DEF WILL RTRN CAR W/	GSA Pleading Summary
11/15/2011 12:02AM		CODE: 98 - PLAIN TO PAY DEFNDT; REFERENCE: BRANDON; BY: P; CHARGES: 834.00	GSA Pleading Summary
11/15/2011 12:01AM		CODE: C3 - COURT DATE	GSA Pleading Summary
11/04/2011 12:01AM		CODE: SV - SVD AS COMMANDED; REFERENCE: DAVIS	GSA Pleading Summary
11/03/2011 12:02AM		CODE: F2 - CERTIFIED/COPIES; REFERENCE: C085282; BY: C; DEPOSITS: 0.50	GSA Pleading Summary
11/03/2011 12:01AM		CODE: F1 - COST PAID; REFERENCE: C085278; BY: P; DEPOSITS: 174.85	GSA Pleading Summary
11/02/2011 12:07AM		CODE: AR - ARCHIVE FEE; BY: P; CHARGES: 5.00	GSA Pleading Summary
11/02/2011 12:06AM		CODE: 5C - ADD CO TAX; BY: P; CHARGES: 10.00	GSA Pleading Summary



Case: 75GS1-2011-CV-151145

**Case Number: 75GS1-2011-CV-151145**

**Lone Viengvilayvong vs Gilbert Jonathan Dba Sos Auto Service**

**Court Division: Civil**

11/02/2011 12:05AM	CODE: CS - COURT SECURITY; BY: P; CHARGES: 25.00	GSA Pleading Summary
11/02/2011 12:04AM	CODE: OI - OFFICER FEE; BY: P; CHARGES: 22.00	GSA Pleading Summary
11/02/2011 12:03AM	CODE: C5 - COUNTY LITIGATION; BY: P; CHARGES: 53.10	GSA Pleading Summary
11/02/2011 12:02AM	CODE: 3A - STATE LITIGATION; BY: P; CHARGES: 17.75	GSA Pleading Summary
11/02/2011 12:01AM	CODE: C2 - CLERK'S FEE; BY: P; CHARGES: 42.00	GSA Pleading Summary

**Fees**

Next Due Date:

Fee	Distribution	Pav To	Assessed Amount	Paid Amount	Due Amount
ADD CO TAX - 10015	ADD CO TAX - 10015	Rutherford County Finance	\$10.00	\$10.00	\$0.00
CLERK FEE - 10004	CLERK FEE - 10004		\$42.50	\$42.50	\$0.00
COUNTY LIT - 10032	COUNTY LIT - 10032	Rutherford County Finance	\$53.10	\$53.10	\$0.00
COURT SECURITY - 10028	COURT SECURITY - 10028	Rutherford County Finance	\$25.00	\$25.00	\$0.00
CS CONT - 10031	CS CONT - 10031	Rutherford County Finance	\$5.00	\$5.00	\$0.00
GSA Unpaid Balance Fee	GSA Unpaid Balance Fee		\$834.00	\$0.00	\$834.00
OFFICER FEE - 10002	OFFICER FEE - 10002	Rutherford County Finance	\$22.00	\$22.00	\$0.00
STATE LIT - 10008	STATE LIT - 10008	Department of Revenue	\$17.75	\$17.75	\$0.00
Cash Balance:			\$1,009.35	\$175.35	\$834.00

**Transactions**

Transaction Type	Date	Batch ID	Status	Number	Description	Amount	Void
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## Criminal

Search by Party Name

Search by Case Number

Search by Case Reference

## Court Tools

User Tools

General

Party Info

Charges

Hearings

Fees

Rule Docket

Date / Time

Party Name

Entry

Jun 21 2012 - 12:00 AM Jonathan S. Gilbert GSA Additional Data Filing #: 304846 Complainant: ADAM THRASHER SOUTHEAST SIGNATURE MOTORS

Jun 21 2012 - 12:00 AM Jonathan S. Gilbert THE DEFENDANT PLEADS GUILTY AND FINE 200.00 PAY COURT COSTS 11/29 SUSPENDED SENT. UPO N PAYMENT OF FINES & COSTS 11/29 PROBATION THIS 07.16.12 /S/ JUDGE DAVID LOUGHRY CHARGE AMENDED TO MISDEMEANOR PASSING WORTHLESS CHECK CHECK # 79776 WAS ISSUED FOR \$834.55 ON 08.01.12

**STATE OF TENNESSEE, COUNTY OF RUTHERFORD**

To any Lawful Process Server to Execute and Return: Summon  
**JONATHAN GILBERT F/D/B/A S.O.S. AUTO SERVICE**

to appear before the General Sessions Court of Rutherford County to be held in Room 303 in the Judicial Building at 20 North Public Square, Murfreesboro, Tennessee, on 11-19-19, 2019 at 9:00 a.m. to answer in a civil action brought by Plaintiff for **SUIT ON A CONTRACT AND FOR PHYSICAL DAMAGES, IF ANY; IN THE AMOUNT OF \$7,403.77, A REASONABLE ATTORNEY'S FEE OF \$2,467.92 AND PRIVATE PROCESS SERVCER FEE OF \$35.00 FOR A TOTAL OF \$9,906.69 AND COURT COSTS. PROFERT OF SAID CONTRACT IS HERETO THE COURT SHOWN.**

under the jurisdictional amount.

Judgment for Plaintiff  
Against Defendant

for \$ 9,906.69, plus interest at the rate of 6.75 % per annum and cost of suit, for which execution may issue.

Judgment entered by:

Dismissed:  Failure to Prosecute

Default  Agreement  Trial

Without prejudice  With prejudice

Nonsuit by Plaintiff, requested by  Plaintiff  Defendant

Costs taxed to:

Entered on Jan 28, 2020.

[Signature]  
General Sessions Court Judge

Defendant(s)

in court and admitted to the jurisdiction of the court.

This the \_\_\_ day of \_\_\_, 20\_\_.

General Sessions Court Judge

Alias  Amended  Counter-claim

Case No. CV-296772

PLAINTIFF

**PERRY ANTHONY D/B/A AUTOMOTIVE SUPPLY OF LAVERGNE INC.**

c/o Law Office of Hall & Associates

vs.

DEFENDANT(S)

**JONATHAN GILBERT F/D/B/A S.O.S. AUTO SERVICE**

DEF. PHONE NUMBER

**C CIVIL WARRANT C**  
Court of General Sessions

Melissa Harrell, CLERK

Issued

10-8, 2019

By: [Signature]

Deputy Clerk

Set for

11-19-19 at 9:00 a.m.

Room 303, Judicial Building

20 North Public Square

Murfreesboro, Tennessee 37130

Reset: 11-19-19 @ 9am

Served upon: 012:45

PERSONAL SERVICE

Personally Served Jonathan Gilbert

FOR S.O.S AUTO SERVICE

Served November 8, 2019

[Signature] Deputy Sheriff

Deputy Sheriff / Process Server [Signature]

Attorney for Plaintiff: Law Office of Hall & Associates  
223 Madison Street, Suite 212, Madison, TN 37115  
(615) 868-4101

Attorney for Defendant: [Signature]

CIVIL SUMMONS

JUDGMENT

ORDER

**NOTICE**

**TO THE DEFENDANT(S):**

Failure to appear and answer this Summons will result in judgment by default being rendered against you for the relief requested. Tennessee law provides a ten thousand dollar (\$10,000) personal property exemption from execution or seizure to satisfy your judgment. If a judgment should be entered against you in this action and you wish to claim property as exempt, you must file a written list, under oath, of the items you wish to claim as exempt with the clerk of the court. This list may be filed at any time and may be changed by you thereafter as necessary; however, unless it is filed before the judgment becomes final, it will not be effective as to any execution or garnishment issued prior to the filing of the list. Certain items are automatically exempt by law and do not need to be listed; these items include items of necessary wearing apparel (clothing) for yourself and your family and trunks and other receptacles necessary to contain such apparel, family portraits, the family Bible, and school books. Should any of these items be seized, you would have the right to recover them. If you do not understand your exemption right or how to execute it, you may wish to seek the counsel of a lawyer.



If you have a disability and require assistance, please contact:  
(615) 898-7445

**AFFIDAVIT**

To the best of my information and belief, after investigation of Defendant's employment, I hereby make affidavit that the Defendant is/is not a member of a military service.

\_\_\_\_\_  
Plaintiff's Attorney

**ORDER**

This the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
General Sessions Court Judge

**ORDER**

This the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
General Sessions Court Judge

**NOTICE TO ALL DEFENDANTS**

Unless you notify attorney for Plaintiff's office, within thirty (30) days after receiving this notice, that you dispute the validity of this debt or any portion thereof, they will assume the debt is valid. If you so notify attorney for Plaintiff's office in writing within thirty (30) days from receiving this notice, they will obtain verification of the debt or obtain a copy of a judgment, if any, and mail you a copy of such judgment or verification. If you request, in writing within thirty (30) days after receiving this notice, the name and address of the original creditor, if different from the current creditor, attorney for Plaintiff's office will provide you with the name and address of the original creditor. This communication is an attempt to collect a debt and any information obtained will be used for that purpose.

The law does not require attorney for Plaintiff to wait until the end of the thirty (30) day period before taking action to collect this debt or act upon any judgment rendered; however, the law requires them to suspend their efforts (through litigation or otherwise) to collect the debt or act upon any judgment rendered once you request in writing proof of the debt or the name of the original creditor.

Docket Number:

298600

Witnesses to be Subpoenaed:

Include names and addresses:

Jonathan S. Gilbert  
Petitioner

v.

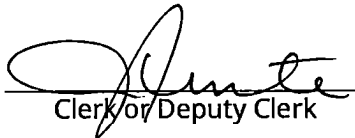
STATE OF TENNESSEE

PETITION TO APPEAL  
HANDGUN PERMIT  
DENIAL, REVOCATION OR  
SUSPENSION

DATE SET FOR HEARING:

On the 8 day of  
Jan  
2020 at 9  
o'clock A.m.

Filed on the 26 day of  
Nov  
2019.

  
Clerk or Deputy Clerk

**JUDGEMENT**

Action of the State of Tennessee  
Department of Safety is:

Upheld

Reversed

Reasons for Decision of Court:

Judge

This the \_\_\_\_\_ day of

Attorney for Petitioner:

Address: \_\_\_\_\_

BPR# \_\_\_\_\_

Case: 75GS1-2012-CR-804605

Case Number: 75GS1-2012-CR-804605 State Of Tennessee vs Jonathan S. Gilbert

Court Division: Criminal

**Case**

Judge:	Judge David Loughry	Case Is Incomplete:	N	Notes:	GSA Additional Data
Filing Date:	06/21/2012	Case Is Sealed:	N		Filing #: 304846
Status:	Disposed	Case Is Confidential:	N		Complainant: ADAM THRASHER SOUTHEAST SIGNATURE MOTORS
		Case Is Archived:	N		

**Parties**

Defendant:	Jonathan S. Gilbert	AKA:	
Plaintiff:	State Of Tennessee	AKA:	

**Charge(s)**

TCA Code:	Felony Worthless Check (\$500-999)	Offense Type:	Felony
FilingDate:	06/21/2012	Offense Class:	E
DispositionDate:	07/16/2012	Location:	
Disposition:	GSA see RDE for Disposition	Violation Date:	11/14/2008
TJIDisposition Code:	Other	Arresting Officer:	
ArrestDate:	06/20/2012	Comments:	Disposition: 3 1 28 7 5
SentenceDate:			Complainant: ADAM THRASHER SOUTHEAST SIGNATURE MOTORS

**Hearings**

Party	Party Role	Hearing Type	Date/Time	Judge	Hearing Result
Jonathan S. Gilbert	Defendant	Hearing	2012-07-16 9:00:00	Judge David Loughry	Hearing Date Prior To Conversion

**Rule Docket Entries**

Date/Time	Party	Entry	Notes
2012-06-21 0:00:00	Jonathan S. Gilbert	GSA Additional Data Filing #: 304846 Complainant: ADAM THRASHER SOUTHEAST SIGNATURE MOTORS	GSA Additional Data

Case: 75GS1-2012-CR-804605

**Court Division:** Criminal  
 2012-06-21 0:00:00

**Case Number:** 75GS1-2012-CR-804605

**State Of Tennessee vs Jonathan S. Gilbert**

Jonathan S. Gilbert

GSA Narrative

THE DEFENDANT PLEADS GUILTY AND  
 FINE 200.00  
 PAY COURT COSTS  
 11/29 SUSPENDED SENT. UPON PAYMENT OF FINES &  
 COSTS  
 11/29 PROBATION  
 THIS 07.16.12 /S/ JUDGE DAVID LOUGHRY  
 CHARGE AMENDED TO MISDEMEANOR PASSING  
 WORTHLESS CHECK  
 CHECK # 79776 WAS ISSUED FOR \$834.55 ON 08.01.12

**Fees**

Next Due Date:	Fee	Distribution	Pav.To	Assessed Amount	Paid Amount	Due Amount
	ADD CO TAX - 10068	ADD CO TAX - 10068	Rutherford County Finance	\$10.00	\$10.00	\$0.00
	ARCHIVE FEE - 10074	ARCHIVE FEE - 10074	Rutherford County Finance	\$5.00	\$5.00	\$0.00
	CIC FEE - 10022	CIC FEE - 10022	Department of Revenue	\$25.50	\$25.50	\$0.00
	CLK DP - 10076	CLK DP - 10076	Department of Revenue	\$2.00	\$2.00	\$0.00
	CLK FEE - 10002	CLK FEE - 10002	Rutherford County Finance	\$66.50	\$66.50	\$0.00
	CNTY FINE - 10007	CNTY FINE - 10007	Rutherford County Finance	\$200.00	\$200.00	\$0.00
	CNTY LIT - 10021	CNTY LIT - 10021	Rutherford County Finance	\$64.85	\$64.85	\$0.00
	CNTY OFF - 10010	CNTY OFF - 10010	Rutherford County Finance	\$42.00	\$42.00	\$0.00
	COURT SECURITY - 10064	COURT SECURITY - 10064	Rutherford County Finance	\$25.00	\$25.00	\$0.00
	DA FEE - 10031	DA FEE - 10031	District Attorney General	\$75.00	\$75.00	\$0.00
	FUNDS - 10008	FUNDS - 10008	District Attorney General	\$834.55	\$834.55	\$0.00
	JUD COMM CON ED - 10077	JUD COMM CON ED - 10077	Department of Revenue	\$2.00	\$2.00	\$0.00
	JUD. COMM. - 10013	JUD. COMM. - 10013	Rutherford County Finance	\$4.00	\$4.00	\$0.00
	PD FEE - 10052	PD FEE - 10052	Public Defenders Conference	\$12.50	\$12.50	\$0.00
	STATE LIT - 10040	STATE LIT - 10040	Department of Revenue	\$29.50	\$29.50	\$0.00
	VAA - 10066	VAA - 10066	Rutherford County Finance	\$42.00	\$42.00	\$0.00
	VNF - 10072	VNF - 10072	Department of Revenue	\$3.00	\$3.00	\$0.00
Case Balance:				\$1,443.40	\$1,443.40	\$0.00

**Transactions**

Transaction Type	Transaction Det	Batch ID	Status	Number	Description	Amount	Void
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## Criminal

Search by Party Name

Search by Case Number

General

Charges

Bonds

#	Party Name	TCA Code	TCA Desc	Filing Date	Violation Date	Disposition Date	Disposition Type
1	Jonathan S Gilbert	TCAST040025M	Worthless Checks	10/02/1995	09/30/1995		

## Criminal

Search by Party Name

Search by Case Number

General

Charges

Bonds

**State Of Tennessee vs Jonathan S Gilbert**  
**94GSC-1995-CR-43745**

**Jonathan S Gilbert, Defendant**

Filing Date:

Oct 02 1995

Case Judge:

Jane C Franks

Status:

Open

Status Date:

Oct 02 1995

Case References:

TCAST Docket Number: A74404-95-107

Balance Due:

\$0.00

Last Pay Date:

Next Hearing:

# Williamson County

Online Court Records System

General Sessions Crimin

Home

Criminal

Contact

Subscription Login

## Criminal

Search by Party Name

Search by Case Number

- General
- Charges
- Hearings
- Bonds
- Fees

#	Party Name	TCA Code	TCA Desc	Filing Date	Violation Date	Disposition Date	Disposition Type
1	Jonathan S Gilbert	TCAST040390M	Open Container	07/08/1999	07/03/1999		

## Criminal

Search by Party Name

Search by Case Number

General

Charges

Hearings

Bonds

Fees

**State Of Tennessee vs Jonathan S Gilbert**  
**94GSC-1999-CR-94861**

**Jonathan S Gilbert, Defendant**

Filing Date:	Jul 08 1999	Balance Due:	\$0.00
Case Judge:		Last Pay Date:	Jul 08 1999
Status:	Open	Next Hearing:	
Status Date:	Jul 08 1999		
Case References:	TCAST Doclet Number: A96601-110-47		

Criminal

Search by Party Name

Search by Case Number

- General
- Charges
- Hearings
- Bonds
- Fees

#	Party Name	TCA Code	TCA Desc	Filing Date	Violation Date	Disposition Date	Disposition Type
1	Jonathan S. Gilbert	TCA:ST040035M	Theft	12/14/1999	12/11/1999		

Criminal

Search by Party Name

Search by Case Number

General

Charges

Hearings

Bonds

Fees

State Of Tennessee vs Jonathan S Gilbert  
94GSC-1999-CR-101577

Jonathan S Gilbert, Defendant

Filing Date:	Dec 14 1999	Balance Due:	\$0.00
Case Judge:		Last Pay Date:	Dec 14 1999
Status:	Open	Next Hearing:	
Status Date:	Dec 14 1999		
Case References:	TCAST Docket Number: A99355-111-297		

## Civil

Search by Party Name

Search by Case Number

General

Filings

Additional Parties

**John Krawcyk vs Jonathan Gilbert**  
**94GSV-1998-CV-16343**

**Jonathan Gilbert, Defendant**

Filing Date:	Jul 15 1998	Balance Due:	\$0.00
Case Judge:		Last Pay Date:	
Status:	Open	Next Hearing:	
Status Date:	Jul 15 1998		
Case References:	TCAST Docket Number: 58883-62-96		

Civil

Search by Party Name

Search by Case Number

General Filings Additional Parties

Tn Dept Of Labor & Workforce vs Jonathan S Gilbert  
94GSV-2004-CV-33773

Jonathan S Gilbert, Defendant

Filing Date:	Aug 12 2004	Balance Due:	\$0.00
Case Judge:		Last Pay Date:	
Status:	Open	Next Hearing:	
Status Date:	Aug 12 2004		
Case References:	TCAST Docket Number: 13124A		



**Civil**

Search by Party Name

---

Search by Case Number

First Name:

Last Name:

or

Business Name:

Party Name	Party Role	Case Number	Style of Case	Filing Date	Status	Status Date
Jonathan Gilbert	Defendant	94GSV-1998-CV-16343	John Krawczyk vs Jonathan Gilbert	07/15/1998	Open	07/15/1998
Jonathan S. Gilbert	Defendant	94GSV-2004-CV-33773	Tn Dept Of Labor & Workforce vs Jonathan S Gilbert	08/12/2004	Open	08/12/2004

## Criminal

Search by Party Name

Search by Case Number

First Name:   
 Last Name:   
 or  
 Business Name:

[Find Now](#)

Party Name	Party Role	Case Number	Style of Case	Filing Date	Status	Status Date
Jonathan G Gilbert	Defendant	94GSC-2016-TR-321	State Of Tennessee vs Jonathan G Gilbert	01/20/2016	Closed	02/04/2016
Jonathan G Gilbert	Defendant	94GSC-2015-TR-1793	State Of Tennessee vs Jonathan G Gilbert	06/09/2015	Closed	06/18/2015
Jonathan N Gilbert	Defendant	94GSC-2007-CR-229301	State Of Tennessee vs Jonathan N Gilbert	09/12/2007	Closed	10/23/2007
Jonathan N Gilbert	Defendant	94GSC-2007-CR-229300	State Of Tennessee vs Jonathan N Gilbert	09/12/2007	Closed	10/23/2007
Jonathan S Gilbert	Defendant	94GSC-2005-CR-193050	State Of Tennessee vs Jonathan S Gilbert	09/09/2005	Closed	11/21/2005
Jonathan S Gilbert	Defendant	94GSC-2003-CR-160863	State Of Tennessee vs Jonathan S Gilbert	07/22/2003	Closed	03/23/2004
Jonathan S Gilbert	Defendant	94GSC-1999-CR-101577	State Of Tennessee vs Jonathan S Gilbert	12/14/1999	Open	12/14/1999
Jonathan S Gilbert	Defendant	94GSC-1999-CR-98468	State Of Tennessee vs Jonathan S Gilbert	09/23/1999	Closed	09/23/1999
Jonathan S Gilbert	Defendant	94GSC-1999-CR-94861	State Of Tennessee vs Jonathan S Gilbert	07/08/1999	Open	07/08/1999
Jonathan S Gilbert	Defendant	94GSC-1999-CR-94860	State Of Tennessee vs Jonathan S Gilbert	07/08/1999	Open	07/08/1999
Jonathan S Gilbert	Defendant	94GSC-1998-CR-75244	State Of Tennessee vs Jonathan S Gilbert	03/10/1998	Closed	09/19/2000
Jonathan S Gilbert	Defendant	94GSC-1997-CR-66876	State Of Tennessee vs Jonathan S Gilbert	07/25/1997	Open	07/25/1997
Jonathan S Gilbert	Defendant	94GSC-1997-CR-66875	State Of Tennessee vs Jonathan S Gilbert	07/25/1997	Closed	07/25/1997
Jonathan S Gilbert	Defendant	94GSC-1995-CR-43745	State Of Tennessee vs Jonathan S Gilbert	10/02/1995	Open	10/02/1995



## Accredited Investigative Service

Williamson County Criminal Court Clerk  
ATTN: RECORDS  
135 4<sup>th</sup> Ave. South  
Franklin, TN 37064

Ref: Jonathan Shane GILBERT

Hello,

We are working with attorney Daniel Horwitz on an ongoing matter and need to obtain the civil records for Mr. Jonathan Shane GILBERT. Mr. GILBERT'S information is as follows:

**Name: Jonathan Shane GILBERT**  
**DOB: 07/07/1963**  
**SSN: 001-54-9903**

We are requesting **non-certified original copies** to include the **judgement/dispositions, affidavit, and any probation violations** for the following cases:

**94GSC-1999-CR-101577**  
**94GSC-1999-CR-94861**  
**94GSC-1995-CR-46745**

Please let me know when the copies are available and the cost.

Thank you.

India Vanella  
License # 8941  
Private Investigator  
Accredited Investigative Service  
P.O. Box 654  
Lebanon, TN 37088  
Cell: 615-772-6191  
Fax: 615-523-1821  
Email: [india@aisvc.net](mailto:india@aisvc.net)  
[www.aisvc.net](http://www.aisvc.net)

*\* The General Sessions Criminal Court  
does not maintain records beyond 10 years.*

*Donna Green  
General Sessions  
Criminal*

**J. Gilbert**

Emily Rodgers <Emily.Rodgers@tncourts.gov>

Wed 8/2/2023 12:57 PM

To:India O'Neal <india@aisvc.net>

India,

As discussed in our phone conversation, cases in General Sessions Civil are only valid for 10 years unless an Order to Renew has been filed. Neither case for Mr. Gilbert had an Order filed to renew the judgment, therefore, the cases have expired. There is no documentation for these cases.

Jonathan Gilbert

1998-CV-16343    John Krawcyk v Jonathan Gilbert  
2004-CV-33773    Tn. Dept of Labor v Jonathan Gilbert

Emily Rodgers  
Deputy Clerk  
Williamson County Circuit Court  
General Sessions Civil



Record Check Search Criteria: Gilbert, Jonathan -- D.O.B.: 7/7/1963  
Nashville, Davidson County, Tennessee - Criminal Court Clerk  
Date of Report: 7/14/2023 9:28:42 AM

## CJIS DATA

### Case Details:

Name: **Gilbert, Jonathan Shane** Date of Birth: **7/7/1963**  
Disposition: Disposition Date:  
Case Number: **SC286292** Case Type: **GS** Offense Date: **1/1/1990** Citation/Arrest Date: **12/3/1999** Case Status: **OPEN**  
Charged Offense: **Driv. Lic. Suspended** Charge Type (F/M): **MISD** Amended Offense: Convicted Offense: Convicted Type(F/M):  
Concurrent With: Consecutive to:

### Appearance Details:

Date: **12/8/1999** Judge: **Higgins, William** Court Room: **Court Room 132 - Criminal Justice Center**  
Attorney: Reason: **Settlement**

### Incarceration:

Location: Years: Months: Days: Percentage:  
Suspended All But: SAB%: Day for Day?: Hour for Hour?: Report Date:  
Suspended?: No Work Default?: Work Release?: Work Release %: No Early Release?:

### Court Costs:

Court Costs: **\$0.00** Court Fines: **\$0.00** Total Owed: **\$0.00** Fines Special Condition:

### Probation:

Type: Years: Months: Days:  
Probation Special Condition:

### Restitution:

**\$0.00**

Notes:

### Case Details:

Name: **Gilbert, Jonathan Shane** Date of Birth: **7/7/1963**  
Disposition: **Guilty** Disposition Date: **09-APR-07**  
Case Number: **GS314674** Case Type: **GS** Offense Date: **3/17/2007** Citation/Arrest Date: **3/17/2007** Case Status: **CLOSED**  
Charged Offense: **Implied Consent-Civil** Charge Type (F/M): Amended Offense: Convicted Offense: **Implied Consent-Civil** Convicted  
Type(F/M): **MISD**  
Concurrent With: Consecutive to:

### Appearance Details:

Date: **4/9/2007** Judge: **Mondelli, Michael** Court Room: **Birch Bldg, Court Room 4B**  
Attorney: Reason: **Settlement**

### Incarceration:

Location: Years: Months: Days: Percentage:  
Suspended All But: SAB%: Day for Day?: **N** Hour for Hour?: **N** Report Date:  
Suspended?: **N** No Work Default?: **N** Work Release?: **N** Work Release %: No Early Release?: **N**

### Court Costs:

Court Costs: **\$0.00** Court Fines: **\$0.00** Total Owed: **\$0.00** Fines Special Condition:

### Probation:

Type: Years: Months: Days:  
Probation Special Condition:

### Restitution:

**\$0.00**

Notes:

### Case Details:

Name: **Gilbert, Jonathan Shane** Date of Birth: **7/7/1963**  
Disposition: **Guilty - Lesser Charge** Disposition Date: **09-APR-07**  
Case Number: **GS314673** Case Type: **GS** Offense Date: **3/16/2007** Citation/Arrest Date: **3/17/2007** Case Status: **CLOSED**  
Charged Offense: **DUI** Charge Type (F/M): **MISD** Amended Offense: Convicted Offense: **Reck. Dr.** Convicted Type(F/M): **MISD**  
Concurrent With: Consecutive to:

### Appearance Details:

Date: **4/9/2007** Judge: **Mondelli, Michael** Court Room: **Birch Bldg, Court Room 4B**  
Attorney: Reason: **Settlement**

### Incarceration:

Location: Years: Months: **6** Days: Percentage:  
Suspended All But: SAB%: Day for Day?: **N** Hour for Hour?: **N** Report Date:  
Suspended?: **Y** No Work Default?: **N** Work Release?: **N** Work Release %: No Early Release?: **N**

### Court Costs:

Court Costs: **\$0.00** Court Fines: **\$250.00** Total Owed: **\$0.00** Fines Special Condition:

### Probation:

Type: Years: Months: **6** Days:  
Probation Special Condition:

**Restitution:**

**\$.00**

Notes:

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**Case Details:**

Name: **Gilbert, Jonathan Shane** Date of Birth: **7/7/1963**  
Disposition: **Dismissed-Costs to Defendant** Disposition Date: **09-APR-07**  
Case Number: **GS314675** Case Type: **GS** Offense Date: **3/17/2007** Citation/Arrest Date: **3/17/2007** Case Status: **CLOSED**  
Charged Offense: **Driv. Lic. Suspended** Charge Type (F/M): **MISD** Amended Offense: Convicted Offense: Convicted Type(F/M):  
Concurrent With: Consecutive to:

**Appearance Details:**

Date: **4/9/2007** Judge: **Mondelli, Michael** Court Room: **Birch Bldg, Court Room 4B**  
Attorney: Reason: **Settlement**

**Incarceration:**

Location: Years: Months: Days: Percentage:  
Suspended All But: SAB%: Day for Day?: **N** Hour for Hour?: **N** Report Date:  
Suspended?: **N** No Work Default?: **N** Work Release?: **N** Work Release %: No Early Release?: **N**

**Court Costs:**

Court Costs: **\$.00** Court Fines: **\$.00** Total Owed: **\$.00** Fines Special Condition:

**Probation:**

Type: Years: Months: Days:  
Probation Special Condition:

**Restitution:**

**\$.00**

Notes:

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## LEGACY DATA

**Arrest Information:**

Name: **Gilbert, Jonathan S** Date of Birth: **7/7/1963**  
Citation/Arrest Date: **5/17/1997**  
Charged Offense: **License - No Driver's License**

**Appearance Details:**

Date: **10/5/1998** Judge: **Faimon, Bill** Court Room:  
Attorney: Reason:

**Disposition:**

Disposition: **Guilty** Disposition Date: **10/5/1998**  
Warrant Number: **SC209824** TCA: Description: Offense Type:  
Case Number: Date Indicted: Case Type: **GS** Case Status: **Completed Court Process**

**Incarceration:**

Max Years: Max Months: Max Days: Time Suspended?: **No** Date Suspended:  
Probation?: **No** Date Released:  
Traffic Related: **Yes** Posted Speed: Actual Speed: School?: **No**

**Court Costs:**

Fines Suspended: **No** Court Fines: **\$2.00** Total: **\$.00** Costs Suspended: **No**  
Execution Date: Execution Amount: **\$.00** Indigent?: **No**

**Other:**

Cd

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# Exhibit #3



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## DECLARATION OF DAYLAN LANGFORD

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1. My name is Daylan Langford, I have personal knowledge of the facts affirmed in this Declaration, I am competent to testify regarding them, and I swear under penalty of perjury that they are true.

2. I am the Defendant in *Jonathan Gilbert v. Daylan Langford*, Rutherford County Circuit Court Case No. 81200.

3. On May 6, 2023, my 2007 Cummins 5.9 24v 4x4 lost power after I exited Jefferson Pike on to 1-840 en route to an event in Nashville.

4. Upon coasting to a stop at the side of 840, I exited the truck to the heavy smell of Diesel fuel odor. I also noticed that the high-pressure side of the motor (on the driver's side) had fresh fuel sitting on it below the feed lines.

5. I was familiar with my truck's fuel system and had previously used a trusted mechanic to repair my vehicle. Unfortunately, that person no longer worked for my usual mechanic shop, which also informed me that it did not have any Cummins mechanics on staff and could not recommend anyone.

6. I then searched on Google for local diesel mechanics and found a listing for "Jon's Auto Service." I called the number and spoke with Jonathan Gilbert ("Plaintiff"), who displayed working knowledge of my vehicle, said he could take a look, and was curious about what injectors had been used. I told the Plaintiff that I would bring a print of the parts that had been installed previously. I then called a towing company and arranged for the company to pick up my vehicle.

7. I dropped my truck off at the Plaintiff's auto shop on May 8, 2023. At that time, the Plaintiff said he would look at it and get back to me that week. He did not do so.



8. By this point, I was busy and had to leave town. Thus, I stopped in to see what the situation was when I returned on May 23, 2023. When I did so, the Plaintiff said that his employees had quit working for him.

9. I then asked if the Plaintiff actually wanted the job of repairing my truck. The Plaintiff said he did and promised to get on it and call me for a deposit once the parts had been identified. A week went by, and the Plaintiff still had not called.

10. On June 1, 2023, the Plaintiff finally contacted me. I came in the following day to pay a deposit and explained that I urgently needed to use my truck, so I wanted to know when the parts would be delivered. The Plaintiff told me that the parts would be delivered no later than June 7, 2023 and that the work would be completed by no later than June 9, 2023. With that agreed-upon timeline in mind, I paid a \$1,875.49 deposit.

11. June 9, 2023 came and went without my receiving word from the Plaintiff, so I went back to Jon's Auto Service the following week to check on the status of my truck. At that time, the Plaintiff claimed he still did not even have the parts that were needed to complete the repair. I thus asked for the bill for the parts and tracking numbers for the shipment. In response to that request, the Plaintiff was unwilling to provide me any proof that the parts had ever been ordered or shipped. I then stated that I was prepared to have my truck moved if the Plaintiff could not complete the repair. The Plaintiff responded that he would complete the repair as soon as parts came in.

12. On June 23, 2023, the repair still not having been completed, I called again to check on the status of my truck. The person who answered the phone hung up on me, so I jumped on my scooter to check on what was happening with my truck in person.

13. After arriving at Jon's Auto Service, I observed the Plaintiff and another individual—whom I now understand to be the Plaintiff's brother—fussing with my truck and cursing as they yanked on the fuel tank while my truck was on a lift in the first bay.

The Plaintiff was screaming something to the effect of: “It should come out! What is it hung up on?” The other individual responded “the harness.” The Plaintiff then stated something to the effect of: “I’m not messing with this, cut that shit.”

14. At this point, I approached the bay door to ask what was going on. The Plaintiff began yelling about the truck not being clean, that there was dirt on the top of the fuel tank, and complaining about me not taking care of it. Before I could ask why they were going to cut my harness, the other individual cut my harness right against the clip, contrary to what I knew to be standard operating procedure.

15. The Plaintiff then started yelling at the other individual about how they would now need to buy another clip. The Plaintiff and the other individual were still struggling to get the tank off the lift, so I helped them get it to the ground. To my surprise, the Plaintiff then kneeled down with a screwdriver and hammer and started knocking the in-tank filter loose, causing dirt to fall into the truck’s fuel tank. I snapped the following authentic picture of the dirt in my fuel tank after that happened:



16. I then left the Plaintiff's shop and was contacted by the Plaintiff again on June 26, 2023. The Plaintiff reported that the parts were now installed, but that the truck's feed tubes and lines were leaking and needed to be replaced. Given the delays and poor work that I had already witnessed, though, I was not willing to let the Plaintiff work on my truck any further, even if I needed more work done. As a result, I went down to pick up the truck and pay for the repairs.

17. When I arrived to pick up my truck and pay, the Plaintiff would not release my truck or take the original final balance. I then made several unsuccessful attempts to pay the full amount with my business debit card and take my truck, which the Plaintiff refused to allow me to do.

18. I realized in that moment that I was going to have to begin documenting what happened. As a result, I started recording, and I recorded the authenticate video that is attached as **Exhibit #4** to my contemporaneously filed Memorandum of Law in support of my Petition to Dismiss the Plaintiff's Complaint Pursuant to the Tennessee Public Participation Act. The Plaintiff then lunged at me and responded: "You fucking keep taping me I'm going to stuff it up your ass."

19. After I stopped recording, the Plaintiff came out, started physically bumping and shoving me, and told me that he would shoot me for trespassing. Not wanting to be murdered over a work truck by two mechanics who were carrying firearms, I called police. A dispatcher responded that she thought it was a civil matter. I then requested that an officer call me back to confirm.

20. Shortly afterward, I was called by an officer who recounted knowledge of past issues with the Plaintiff and his auto shop. The officer stated that he was willing to conduct a "keep the peace" call—something that he said he had done at the Plaintiff's business before—for me, but that he was concerned that the Plaintiff's shop would be

closed before he could do so. The officer thus advised me that he could call back the following day when his shift began.

21. In the interim, I called a towing company to help me retrieve my truck and explained the situation. The individual from the towing company then began sharing previous poor experiences with the Plaintiff.

22. The following day—June 27, 2023—the police officer with whom I had spoken the day before showed up with backup to assist me in retrieving my truck. After I sat across the street at a Shell gas station for approximately 25–30 minutes, the officer returned to say that the Plaintiff was only willing to accept cash, and that I would otherwise have to take the Plaintiff to court to get my truck released unless I was able to record the Plaintiff on video refusing my cash.

23. I then went to Ascend Federal Credit Union to get \$1,200.00 in cash. When I returned, the Plaintiff was gone, and Jon’s Auto Service would neither accept my cash nor release my truck. I had to call the towing company to cancel the pick-up as a result.

24. Determined to see things through, I then had my son return with me to Jon’s Auto Service to witness and record my conversation the next morning. When I returned, and while being recorded, the Plaintiff accepted my payment, politely released my truck, acted as if we had never experienced any previous issues, and even stated that his brother had had a misunderstanding the day before. I thought the interaction bizarre. My entire experience with the Plaintiff was also the worst workmanship, manners, and ethics that I had ever witnessed from any business in town. An authentic copy of the final invoice that I received is attached as **Exhibit #5** to my contemporaneously filed Memorandum of Law in support of my Petition to Dismiss the Plaintiff’s Complaint Pursuant to the Tennessee Public Participation Act.

25. After my horrible experience with the Plaintiff, I sought out and reviewed

an ACLU informational guide about how to protest legally. I printed that guidance out and kept it in my personal bag to show anyone who might tell me that I was not permitted to protest. I then ordered a chicken-head mask from Amazon. The reason I chose a chicken-head mask was metaphoric. In particular, where I was raised, people say “the chickens have come home to roost” when bad behavior comes back to haunt someone.

26. I then made a pair of signs reading “Jon The Con” and “Worst Auto Shop in Town? SOS!!” and embarked upon a peaceful protest of the Plaintiff’s auto shop. I protested peacefully on the public sidewalk outside Jon’s Auto Service for several days. I never made any false statements; I never left the public sidewalk; I never obstructed any customers; and I never interfered with egress or ingress. I also didn’t approach any individual customers or yell. Instead, while wearing a chicken-head mask and air buds, I peacefully displayed my opinion about “Jon the Con” and peacefully displayed a question about whether the Plaintiff operated the worst auto shop in town. Authentic photos of my signs and myself protesting appear below:





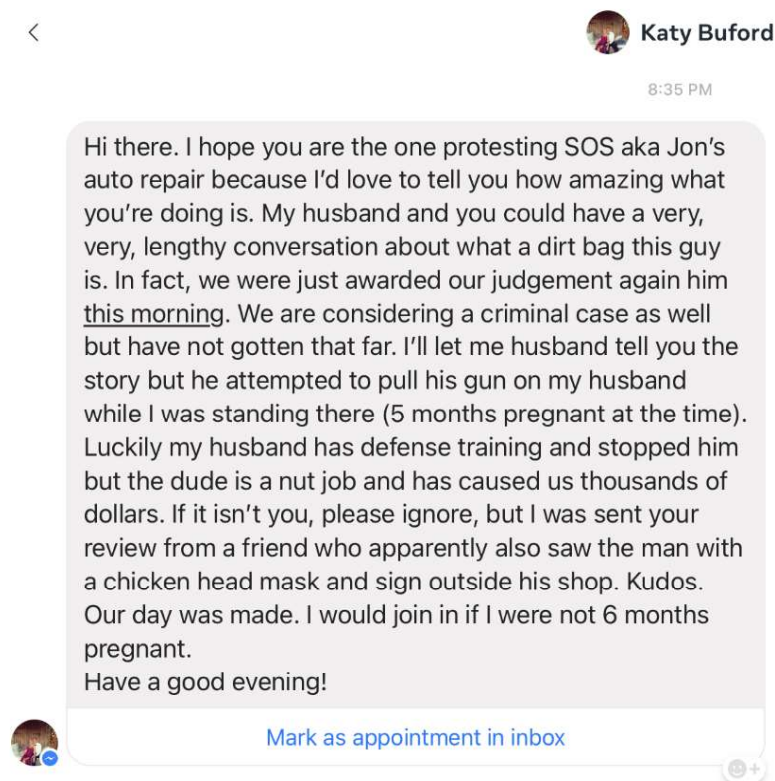
27. On Wednesday, July 5, 2023, one of my neighbors drove by Jon’s Auto Service, saw me protesting, and brought me some water. While my neighbor and I were catching up, the Plaintiff’s brother came out and walked across the street to the gas station. While the Plaintiff’s brother was returning from the gas station, my neighbor then stated, in a loud voice, something to the effect of: “Thanks for telling me about these guys—I had a whole bunch of work to get done but I’ll go somewhere else.” It was my understanding from the conversation that my neighbor did not actually have any work that he needed done, and that he was just trying to support me.

28. On Monday, July 3, 2023, while I was picketing at Jon’s Auto Service, my wife contacted me to ask if I wanted a photo of myself protesting. I assumed that she was just going to take a photo while driving by my protest, rather than park and approach me.

As a result, as soon as I saw her, I started waving my hands, motioned for her not to get out of the car, and indicated that she should leave immediately because, for safety reasons, I did not want the Plaintiff to know what kind of car my wife drove.

29. While I was protesting, the Plaintiff hit me with a mirror of a vehicle and called police to try to get me to leave. Police told me that I could press charges for assault, but I didn't want to. Based on what had happened regarding my truck, police also encouraged me to press charges for theft. I did not want to do that, either.

30. During and after my peaceful protest, I had people from the community approach me and thank me, saying that they, too, had had bad experiences with the Plaintiff. Others have contacted me to thank me in writing, recounting similar experiences of the Plaintiff acting like a "dirt bag." One such authentic correspondence I received is copied below:




31. All of the exhibits appended to my contemporaneously filed Memorandum

of Law in support of my Petition to Dismiss the Plaintiff's Complaint Pursuant to the Tennessee Public Participation Act are authentic.

Further Declarant sayeth naught.

Pursuant to Tenn. R. Civ. P. 72, I declare under penalty of perjury that the foregoing is true and correct.

By:   
Daylan Langford (Aug 9, 2023 15:22 CDT)  
Daylan Langford

Date: Aug 9, 2023









# Daylan Langford Declaration (8-9-23)

Final Audit Report

2023-08-09

Created:	2023-08-09
By:	Horwitz Law PLLC (daniel@horwitz.law)
Status:	Signed
Transaction ID:	CBJCHBCAABAAGv9zJQkLPBIIzOnOBJ5G3AHeMcnAuek6

## "Daylan Langford Declaration (8-9-23)" History

-  Document created by Horwitz Law PLLC (daniel@horwitz.law)  
2023-08-09 - 7:50:59 PM GMT- IP address: 69.226.239.171
-  Document emailed to daylansdesigns@gmail.com for signature  
2023-08-09 - 7:51:29 PM GMT
-  Email viewed by daylansdesigns@gmail.com  
2023-08-09 - 7:51:31 PM GMT- IP address: 66.249.87.96
-  Signer daylansdesigns@gmail.com entered name at signing as Daylan Langford  
2023-08-09 - 8:22:47 PM GMT- IP address: 174.212.167.137
-  Document e-signed by Daylan Langford (daylansdesigns@gmail.com)  
Signature Date: 2023-08-09 - 8:22:49 PM GMT - Time Source: server- IP address: 174.212.167.137
-  Agreement completed.  
2023-08-09 - 8:22:49 PM GMT

# Exhibit #4:

Video accessible at:

<https://www.dropbox.com/scl/fi/hlvdv8w3d7jvylms3nceb/Ex.-4-Video.MOV?rlkey=bwdbwkhqah6zm4hf617wbs2vq&dl=0>



# Exhibit #5

# Jon's Auto Service

50 N. Lowry St.  
Smyrna, TN 37167  
(615) 440-7287

06/27/2023

Invoice #10225

**Dylan Langford**

400 Mitchell Ave  
Smyrna TN 37167

(615) 578-1715 (615) \_\_\_-\_\_\_ (615) \_\_\_-\_\_\_

2007 DODGE R 2500-3500 4X4 PICK-UP  
5.9L CUMMINS TURBO DIESEL

Tag: \_\_\_\_\_ Mileage \_\_\_\_\_  
ID: \_\_\_\_\_

<u>Labor</u>	<u>Tech</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
R & R FUEL PUMP	JON	3.00	\$99.95	\$299.85
R & R INJECTION PUMP	JON	6.00	\$99.95	\$599.70
				<u>\$899.55</u>

<u>Part No.</u>	<u>Parts</u>	<u>Quantity</u>	<u>Each</u>	
	FUEL PUMP	1.00	\$749.50	\$749.50
	INJECTION PUMP	1.00	\$1,125.99	\$1,125.99
				<u>\$1,875.49</u>

<u>Service charges</u>		
HAZARDOUS WASTE FEE		\$7.00
SHOP SUPPLIES		<u>\$9.38</u>
		<u>\$16.38</u>

<b>Subtotal</b>	<u>\$2,791.42</u>
<b>Tax</b>	<u>\$272.16</u>
<b>Total</b>	<u>\$3,063.58</u>

this vehicle had catastrophic inject pump failure due too the lift pump going out, this has caused the injection lines to leak! it may have also caused injector failure, but that cannot be determined until the fuel system has been completely repaired!!!

An express mechanics lien is acknowledged on the above vehicle to secure the amount of repairs thereto, until such time as cash payment has been made in full. It is understood that you will not be held responsible for loss or damage to cars or articles left in cars in case of fire, theft or any other cause beyond your control. Upon signing this repair order it is accepted as a complete and comprehensive description of the repair work done on this vehicle. Any vehicle not picked up within 48 hours will be subject to a 25 dollar a day storage fee, unless we are notified of pickup when vehicle is dropped off. then the storage will start on that date.

DATE \_\_\_\_\_

SIGNED *Dylan Langford*

*AD IN FUEL 6/28/23*  
*[Signature]*



# Exhibit #6

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## DECLARATION OF STEVEN PARKS

---

1. My name is Steven Parks, I have personal knowledge of the facts affirmed in this Declaration, I am competent to testify regarding them, and I swear under penalty of perjury that they are true.

2. Daylan Langford—the Defendant in *Jonathan Gilbert v. Daylan Langford*, Rutherford County Circuit Court Case No. 81200—is my neighbor.

3. I had my vehicle worked on previously by Jonathan Gilbert, whom I know as “Jon,” and was very displeased with how I was treated and also by how I saw Jon interact with other customers. So much so that when it was time to pick up my vehicle, I would not allow my wife to go get it without me being present because I was in fear of an altercation with Jon.

4. On Wednesday, July 5, 2023, I drove by Jon’s Auto Service and saw Daylan protesting. It was extremely hot and I thought Daylan could use some water, so I returned a short time later to bring him a few bottles.

5. I parked off to the side so I didn't take up any potential customer parking and walked over to where Daylan was protesting to bring him water.

6. I was catching up with Daylan and he was telling me what all had been going on. At some point in the conversation, Jon’s brother came out and walked across the street to the gas station.

7. While Jon’s brother was returning from the gas station, I said in a loud voice something to the effect of: "Thanks for telling me about these guys—I had a whole bunch of work to get done but I’ll go somewhere else."

8. I said this strictly as a show of support for Daylan’s protest, not because I



actually intended to do business with Jon's Auto Service and had had my mind changed.

9. After my one and only time of dealing with Jon, I knew for a fact that I would never be repeat business for him. My decision not to be a repeat customer had nothing to do with anything Daylan told me. Jon made that decision for me by the way he treated me way before Daylan's protest.

10. I respect what Daylan is doing, as Jon has hurt many people in our community and it needs to stop. I am not sure how he has been able to get away with it for so long.

Further Declarant sayeth naught.

Pursuant to Tenn. R. Civ. P. 72, I declare under penalty of perjury that the foregoing is true and correct.

By: Steven Parks  
Steven Parks (Jul 24, 2023 14:43 CDT)  
Steven Parks

Date: Jul 24, 2023







# Steven Parks Declaration

Final Audit Report

2023-07-24

Created:	2023-07-24
By:	Horwitz Law PLLC (daniel@horwitz.law)
Status:	Signed
Transaction ID:	CBJCHBCAABAArF9WPEbHUCdvNeJkrcJAbJhT7iK1Pp8R

## "Steven Parks Declaration" History

-  Document created by Horwitz Law PLLC (daniel@horwitz.law)  
2023-07-24 - 6:32:27 PM GMT- IP address: 69.226.239.171
-  Document emailed to mirrmatterwoodworking@gmail.com for signature  
2023-07-24 - 6:33:09 PM GMT
-  Email viewed by mirrmatterwoodworking@gmail.com  
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-  Signer mirrmatterwoodworking@gmail.com entered name at signing as Steven Parks  
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-  Document e-signed by Steven Parks (mirrmatterwoodworking@gmail.com)  
Signature Date: 2023-07-24 - 7:43:38 PM GMT - Time Source: server- IP address: 107.3.255.76
-  Agreement completed.  
2023-07-24 - 7:43:38 PM GMT



# Exhibit #7

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**DECLARATION OF MARIANNE LANGFORD**

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1. My name is Marianne Langford, I have personal knowledge of the facts affirmed in this Declaration, I am competent to testify regarding them, and I swear under penalty of perjury that they are true.

2. Daylan Langford—the Defendant in *Jonathan Gilbert v. Daylan Langford*, Rutherford County Circuit Court Case No. 81200—is my husband.

3. On Monday, July 3, 2023, while my husband was picketing at Jon’s Auto Service, I contacted him to ask if he wanted a photo of himself during his protest.

4. I assumed from Daylan’s response that he did want a photo. As a result, I drove to where Daylan was protesting and pulled into the far end of the Jon’s Auto Service parking lot.

5. My plan was to quickly get out, snap a photo, and drive off. As soon as Daylan saw me, though, he started waving his hands, motioned me not to get out of the car, and indicated that I should leave immediately. As a result, I got back into my car and drove off, figuring that something had changed.

6. Later in the day, I found out that Daylan had assumed that I was just going to take a photo while driving by his protest, and that he did not want Jonathan Gilbert to know what car I drove for safety reasons. As a result, when Daylan saw me park at Jon’s Auto Service, he indicated that I should leave immediately.


7. I was not a customer of Jonathan Gilbert or Jon’s Auto Service at the time; I am not a customer of Jonathan Gilbert or Jon’s Auto Service now; I do not intend to become a customer of Jonathan Gilbert or Jon’s Auto Service at any future time; and I never intended to become a customer of Jonathan Gilbert or Jon’s Auto Service at any



previous time.

Further Declarant sayeth naught.

Pursuant to Tenn. R. Civ. P. 72, I declare under penalty of perjury that the foregoing is true and correct.

By:   
Marianne Langford (Jul 24, 2023 17:39 CDT)  
Marianne Langford

Date: Jul 24, 2023







# Marianne Langford Declaration

Final Audit Report

2023-07-24

Created:	2023-07-24
By:	Horwitz Law PLLC (daniel@horwitz.law)
Status:	Signed
Transaction ID:	CBJCHBCAABAk9kxld4cegGoAFW_Z3TjoUrpUXjNRF7c

## "Marianne Langford Declaration" History

-  Document created by Horwitz Law PLLC (daniel@horwitz.law)  
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Signature Date: 2023-07-24 - 10:39:51 PM GMT - Time Source: server- IP address: 174.238.163.14
-  Agreement completed.  
2023-07-24 - 10:39:51 PM GMT

# Exhibit #8

**IN THE EIGHTH CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE  
AT NASHVILLE**

---

MICHELLE FOREMAN,

*Plaintiff,*

*v.*

DAVE ROSENBERG,

*Defendant.*

§  
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§  
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§  
§

Case No. 23C891

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**ORDER**

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This matter came before the Court for hearing on June 30, 2023, upon the Defendant’s Motion to Dismiss and Tenn. Code Ann. § 20-17-104(a) Petition to Dismiss the Plaintiff’s Amended Complaint Pursuant to the Tennessee Public Participation Act. Upon consideration of the Defendant’s Tennessee Public Participation Act (“TPPA”) Petition (Doc. 30), the Defendant’s Memorandum of Law and accompanying exhibits in support of his TPPA Petition (Docs. 31–42), the Plaintiff’s Response in opposition thereto (Doc. 43), the Defendant’s Reply (Doc. 44), the arguments of counsel, the position expressed by the Tennessee Attorney General during the hearing of this matter, and the entire record, the Court **FINDS** and **ORDERS** as follows:

1. The Plaintiff filed an Amended Complaint in this action on May 31, 2023. The Plaintiff’s Amended Complaint was complete in itself; it is a “Legal action” within the meaning of Tenn. Code Ann. § 20-17-103(5); and the controlling law in Tennessee cited by the Defendant provides that the Plaintiff’s Amended Complaint superseded the initial complaint as a pleading. Accordingly, the Defendant’s TPPA Petition having been filed



on June 12, 2023, the Court finds that the Defendant's TPPA Petition was timely filed under Tenn. Code Ann. § 20-17-104(b).

2. The Defendant has demonstrated that this is a lawsuit concerning communications made about a public figure. Thus, for the reasons set forth in the Defendant's Memorandum of Law in Support of his TPPA Petition, the Court finds that the Defendant has met his initial burden under Tenn. Code Ann. § 20-17-105(a) of making a prima facie case that the Plaintiff's legal action is based on the Defendant's exercise of the right of free speech within the meaning of Tenn. Code Ann. § 20-17-103(3) and (6)(D).

3. The Defendant-Petitioner having met his initial burden under Tenn. Code Ann. § 20-17-105(a), the Court moves to Tenn. Code Ann. § 20-17-105(b), which shifts the burden to the Plaintiff-Respondent to establish a prima facie case for each essential element of the claim in the legal action. The Court finds that, in her response in opposition to the Defendant's TPPA Petition, the Plaintiff failed to establish each essential element of her claim for defamation by failing to respond to the merits of the Defendant's TPPA Petition. Relying on *Nandigam Neurology, PLC v. Beavers*, 639 S.W.3d 651, 668 (Tenn. Ct. App. 2021) and Tenn. Code Ann. § 20-17-105(b), the Court finds that dismissal of the Plaintiff's legal action is mandatory under these circumstances. Accordingly, the Court **ORDERS** that the Defendant's Tenn. Code Ann. § 20-17-104(a) Petition to Dismiss is **GRANTED**, and that the Plaintiff's Amended Complaint is **DISMISSED WITH PREJUDICE** pursuant to Tenn. Code Ann. § 20-17-105(e).

4. Regarding the Plaintiff's constitutional claims, the Court relies on the Tennessee Supreme Court's holding in *Sneed v. Bd. of Pro. Resp. of Supreme Ct.*, 301 S.W.3d 603, 615 (Tenn. 2010), for the proposition that: "It is not the role of the courts, trial or appellate, to research or construct a litigant's case or arguments for him or her,

and where a party fails to develop an argument in support of his or her contention or merely constructs a skeletal argument, the issue is waived.” Here, the Plaintiff having failed to develop her constitutional arguments or merely constructed skeletal arguments regarding them, the Court finds that the Plaintiff’s constitutional claims are **DENIED AS WAIVED**.

5. The Court further finds that the Plaintiff has not requested an extension of time to file any response and that she did, in fact, file a response to the Defendant’s TPPA Petition. For that reason, because of the Court’s ruling regarding the Plaintiff’s constitutional claims, and for the reasons expressed by the Attorney General, the Court will not stay a ruling on the Defendant’s TPPA Petition.

6. The Court finds that an award of reasonable attorney’s fees is mandatory under Tenn. Code Ann. § 20-17-107(a)(1) and that attorney’s fees and expenses will be awarded to the Defendant. The Court will defer a ruling on the amount of attorney’s fees and expenses to be awarded pending further briefing on a motion for attorney’s fees. The Plaintiff shall be afforded an opportunity to respond to any such motion.

7. The Court is not addressing the Defendant’s claim for sanctions at this time. The Defendant may file a motion for sanctions at the same time or after the Defendant files his motion for attorney’s fees. The Plaintiff will be afforded an opportunity to respond to any motion for sanctions filed by the Defendant.

IT IS SO ORDERED.

ENTERED this the \_\_\_\_ day of \_\_\_\_\_, 2023.

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Judge Lynne T. Ingram<sup>1</sup>  
Circuit Court Judge

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<sup>1</sup> The Judge's signature may be appended to this order upon entry via the Court's e-filing system.



## APPROVED FOR ENTRY:

By: /s/ Daniel A. Horwitz  
DANIEL A. HORWITZ, BPR #032176  
LINDSAY SMITH, BPR #035937  
MELISSA K. DIX, BPR #038535  
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(615) 870-4650  
[j.hollin@me.com](mailto:j.hollin@me.com)

*Counsel for Defendant*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 5th day of July, 2023, a copy of the foregoing was served via the Court's e-filing system upon:

G. Kline Preston, IV  
4515 Harding Pike Suite 17  
Nashville, TN 37205  
[kpreston@klineprestonlaw.com](mailto:kpreston@klineprestonlaw.com)

*Counsel for the Plaintiff*

By: /s/ Daniel A. Horwitz  
Daniel A. Horwitz, Esq.



**Case Title:** FOREMAN V ROSENBERG

**Case Number:** 23C891

**Type:** ORDER- GENERAL

The foregoing is hereby ORDERED, ADJUDGED  
AND DECREED:

---

Judge Lynne T. Ingram, Eighth Circuit

# Exhibit #9

ELECTRONICALLY FILED  
2022 Oct 24 5:16 PM - 22CV-517  
Williamson County Circuit Court

IN THE CIRCUIT COURT FOR WILLIAMSON COUNTY, TENNESSEE  
AT FRANKLIN

MICHELLE FOREMAN,	)	
	)	
Plaintiff,	)	
	)	Case No. _____
VS.	)	
	)	JURY DEMAND
CALEB HEMMER,	)	
FRIENDS OF CALEB HEMMER, and	)	
WILL HOWORTH,	)	
	)	
Defendants.	)	

COMPLAINT

COMES the Plaintiff, Michelle Foreman ("Foreman"), by and through counsel, and sues Defendants, Caleb Hemmer, Friends of Caleb Hemmer, and Will Howorth (collectively, "Hemmer Defendants") and for cause would state and show as follows:

**I.**  
**THE PARTIES**

1. The Plaintiff, Michelle Foreman, is a Republican candidate for the open District 59 seat in the Tennessee Legislature.
2. The Defendant, Caleb Hemmer, is a Democrat candidate for the open District 59 seat in the Tennessee Legislature.
3. The Defendant, Friends of Caleb Hemmer, is believed to be an unincorporated association of supporters led by Will Howorth.
4. The Defendant, Will Howorth, is the treasurer of the association known as Friends of Caleb Hemmer. He is responsible in part for the libelous ads.

DEFENDANT'S  
EXHIBIT

**9**

**II.**  
**VENUE & JURISDICTION**

5. The Plaintiff avers that venue is proper in this Court because all acts complained of herein occurred or accrued in Williamson County as well as others. Venue is proper pursuant to Tenn. Code Ann. §20-4-101.
6. The Plaintiff avers that this Court has both *in personam* and subject matter jurisdiction over this matter pursuant to Tenn. Code Ann. §16-11-102.

**III.**  
**THE FACTS**

7. The Plaintiff avers that the Defendants have published libelous claims about her on television and on the internet which falsely state that “A court fined Foreman \$1 million for breaching a federal law” and that “Foreman defends the traitors who stormed the Capitol on Jan. 6.”
8. The Plaintiff avers that these statements are false and known to be false by the Hemmer Defendants. These false claims are being made repetitively via television and the internet and they are patently false. The Defendants knew that they were false when they began to publish them.
9. The Defendants knew they were false and they published them to third-parties in Williamson County in an effort to harm Foreman’s reputation and to impugn her integrity.
10. The Plaintiff avers that Defendants acted with malice in order to harm her political campaign without regard for the truth.
11. The Plaintiff avers that Defendants published these false aspersions for their own political gain.

IV.  
FIRST CAUSE OF ACTION  
ACTION FOR LIBEL PER QUOD

12. The Plaintiff relies upon the factual averments in numbered paragraphs 1-11 in support of the following cause of action.
13. The Plaintiff avers that Defendants have defamed her by repeatedly publishing intentionally false statements about her to third-parties while knowing that they are false when made with the intention to harm her and to impugn and malign her character and reputation.
14. The Plaintiff avers that Defendants have published reckless statements about her character to third-parties by alleging that she was fined \$1 million for violating federal law and by defending traitors who stormed the Capitol on Jan. 6. Defendants have done so with malice in order to intentionally damage her reputation for their personal political and financial gain.

V.  
SECOND CAUSE OF ACTION  
LIBEL PER SE

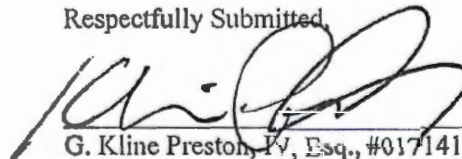
15. The Plaintiff relies upon the factual averments in numbered paragraphs 1-14 in support of the following cause of action.
16. The Plaintiff avers that the Hemmer Defendants have intentionally and/or recklessly made and published false statements about her integrity to third-parties with malice.
17. The Plaintiff avers that these statements constitute libel *per se*.
18. The Plaintiff avers that she has sustained injuries to her reputation as a direct and proximate result.

**THE PLAINTIFF PRAYS FOR THE FOLLOWING RELIEF:**

1. That the Defendants be served and be required to timely answer;
2. That the Defendants be enjoined from making these false statements about Michelle Foreman;
3. That the Plaintiff be awarded compensatory and punitive damages in an amount in excess of \$300,000.00 against the Defendants, jointly and severally;
4. That a jury of six (6) be impaneled to hear this matter;
5. That the Plaintiff be awarded such other, further relief to which she may be entitled.

**THIS IS THE FIRST APPLICATION FOR EXTRAORDINARY RELIEF IN THIS MATTER.**

Respectfully Submitted,



G. Kline Preston, IV, Esq., #017141  
Belle Meade Office Park  
4515 Harding Pike, Suite 107  
Nashville, Tennessee 37205  
kpreston@klineprestonlaw.com  
Telephone: 615-649-8680  
Fax: 866-610-9565  
*Attorney for Plaintiff*

Complaint

4



# Exhibit #10

IN THE CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE  
AT NASHVILLE

MICHELLE FOREMAN,	)	
	)	
Plaintiff,	)	CASE NO. _____
	)	
VS.	)	JURY DEMAND
	)	
TESS ST. CLAIR,	)	
	)	
Defendant.	)	

COMPLAINT

COMES the Plaintiff, Michelle Foreman, by and through counsel, and sues the Defendant, Tess St. Clair, and for cause would state and show as follows:

**I.**  
**THE PARTIES**

1. The Plaintiff, Michelle Foreman, is a resident of Nashville, Tennessee.
2. The Defendant, Tess St. Clair, is believed to be a resident of Murfreesboro, Tennessee residing at 2525 Retreat Court, Murfreesboro, Tennessee 37129.

**II.**  
**VENUE AND JURISDICTION**

3. The Plaintiff avers that venue is proper because all acts complained of occurred or accrued in Nashville, Tennessee.
4. The Plaintiff avers that jurisdiction is proper because this Court has both *in personam* and subject matter jurisdiction over cases of this subject matter.



**III.**  
**THE FACTS**

5. The Plaintiff avers that Defendant, Tess St. Clair, under the pseudonym Teresa Weber, has repeatedly published false and defamatory statements about the Plaintiff including her false allegations about the misuse and malfeasance with the money belonging to the Tennessee Republican Assembly (“TRA”). These allegations are false and known to be false for an improper purpose by Defendant, Tess St. Clair. She has acted with malice and for an improper purpose in making these false statements in writing.
6. The Plaintiff avers that Defendant, Tess St. Clair, has published false statements about her “dipping her fingers” into TRA accounts and other false statements impugning her character and reputation.
7. The Plaintiff avers that the false statements made and published by Defendant, Tess St. Clair, were known to be false when made or were made with reckless disregard for their truth, or were made negligently without knowing them to be accurate, and with malice for personal gain and for an improper purpose.
8. The Plaintiff avers that she has been injured by the Defendant’s reckless, false statements.

**IV.**  
**FIRST CAUSE OF ACTION**  
**ACTION FOR LIBEL *PER QUOD***

9. The Plaintiff relies upon the factual averments in numbered paragraphs 1-8 in support of the following cause of action.
10. The Plaintiff avers that Defendant, Tess. St. Clair, has defamed her by repeatedly publishing intentionally false statements about her to third-parties while knowing that they are false with the intention to harm her and to impugn her character and reputation.
11. The Plaintiff avers that Defendant, Tess St. Clair, has made and published reckless statements about her character to third-parties by alleging that she has stolen money and other acts of bad character and criminality. She has done so with malice.

**V.**  
**SECOND CAUSE OF ACTION**  
**LIBEL *PER SE***

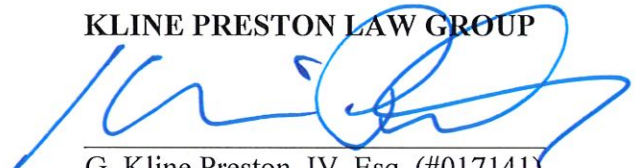
12. The Plaintiff relies upon the factual averments in numbered paragraphs 1-11 in support of the following cause of action.
13. The Plaintiff avers that the Defendant has intentionally or recklessly made and published false statements about her to third-parties with malice.
14. The Plaintiff avers that these statements constitute libel *per se*.
15. The Plaintiff avers that she has sustained injuries to her reputation as a direct and proximate result.

**THE PLAINTIFF PRAYS FOR THE FOLLOWING RELIEF:**

1. That the Defendant be served and be required to timely answer;
2. That the Plaintiff be awarded compensatory damages in an amount in excess of \$100,000.00;
3. That the Plaintiff be awarded punitive damages in excess of \$100,000.00;
4. That a jury of six (6) be impaneled to hear this matter;
5. That the Plaintiff be awarded such other, further relief to which she may be entitled.

Respectfully submitted,

**KLINE PRESTON LAW GROUP**



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*Attorney for the Plaintiff*

# Exhibit #11





## Know Your Rights: Demonstrations and Protests

### General guidelines

#### **Can my free speech be restricted because of what I say—even if it is controversial?**

No. The First Amendment prohibits restrictions based on the content of speech. However, this does not mean that the Constitution completely protects all types of free speech activity in every circumstance. Police and government officials are allowed to place certain nondiscriminatory and narrowly drawn "time, place and manner" restrictions on the exercise of First Amendment rights. Any such restrictions must apply to all speech regardless of its point of view.

#### **Where can I engage in free speech activity?**

Generally, all types of expression are constitutionally protected in traditional "public forums" such as streets, sidewalks and parks. In addition, your speech activity may be permitted to take place at other public locations that the government has opened up to similar speech activities, such as the plazas in front of government buildings.

#### **What about free speech activity on private property?**

The general rule is that the owners of private property may set rules limiting your free speech. If you disobey the property owner's rules, they can order you off their property (and have you arrested for trespassing if you do not comply).

#### **Do I need a permit before I engage in free speech activity?**

Not usually. However, certain types of events require permits. Generally, these events are:

- A march or parade that does not stay on the sidewalk, and other events that require blocking traffic or street closure
- A large rally requiring the use of sound amplifying devices; or
- A rally at certain designated parks or plazas

Many permit procedures require that the application be filed several weeks in advance of the event. However, the First Amendment prohibits such an advance notice requirement from being used to prevent rallies or demonstrations that are rapid responses to unforeseeable and recent events. Also, many permit



ordinances give a lot of discretion to the police or city officials to impose conditions on the event, such as the route of a march or the sound levels of amplification equipment. Such restrictions may violate the First Amendment if they are unnecessary for traffic control or public safety, or if they interfere significantly with effective communication with the intended audience. A permit cannot be denied because the event is controversial or will express unpopular views.

### **Specific problems**

**If organizers have not obtained a permit, where can a march take place?**

If marchers stay on the sidewalks and obey traffic and pedestrian signals, their activity is constitutionally protected even without a permit. Marchers may be required to allow enough space on the sidewalk for normal pedestrian traffic and may not maliciously obstruct or detain passers-by.

**May I distribute leaflets and other literature on public sidewalks?**

Yes. You may approach pedestrians on public sidewalks with leaflets, newspapers, petitions and solicitations for donations without a permit. Tables may also be set up on sidewalks for these purposes if sufficient room is left for pedestrians to pass. These types of free speech activities are legal as long as entrances to buildings are not blocked and passers-by are not physically and maliciously detained. However, a permit may be required to set up a table.

**Do I have a right to picket on public sidewalks?**

Yes, and this is also an activity for which a permit is not required. However, picketing must be done in an orderly, non-disruptive fashion so that pedestrians can pass by and entrances to buildings are not blocked.

**Can government impose a financial charge on exercising free speech rights?**

Some local governments have required a fee as a condition of exercising free speech rights, such as application fees, security deposits for clean-up, or charges to cover overtime police costs. Charges that cover actual administrative costs have been permitted by some courts. However, if the costs are greater because an event is controversial (or a hostile crowd is expected)—such as requiring a large insurance policy—then the courts will not permit it. Also, regulations with financial requirements should include a waiver for groups that cannot afford the charge, so that even grassroots organizations can exercise their free speech rights. Therefore, a group without significant financial resources should not be prevented from engaging in a march simply because it cannot afford the charges the City would like to impose.

**Do counter-demonstrators have free speech rights?**

Yes. Although counter-demonstrators should not be allowed to physically disrupt the event they are protesting, they do have the right to be present and to voice



their displeasure, police are permitted to keep two antagonistic groups separated but should allow them to be within the general vicinity of one another.

**Does it matter if other speech activities have taken place at the same location?**

Yes. The government cannot discriminate against activities because of the controversial content of the message. Thus, if you can show that similar events to yours have been permitted in the past (such as a Veterans or Memorial Day parade), then that is an indication that the government is involved in selective enforcement if they are not granting you a permit.

**What other types of free speech activity are constitutionally protected?**

The First Amendment covers all forms of communication including music, theater, film and dance. The Constitution also protects actions that symbolically express a viewpoint. Examples of these symbolic forms of speech include wearing masks and costumes or holding a candlelight vigil. However, symbolic acts and civil disobedience that involve illegal conduct may be outside the realm of constitutional protections and can sometimes lead to arrest and conviction.

Therefore, while sitting in a road may be expressing a political opinion, the act of blocking traffic may lead to criminal punishment.

**What should I do if my rights are being violated by a police officer?**

It rarely does any good to argue with a street patrol officer. Ask to talk to a supervisor and explain your position to him or her. Point out that you are not disrupting anyone else's activity and that the First Amendment protects your actions. If you do not obey an officer, you might be arrested and taken from the scene. You should not be convicted if a court concludes that your First Amendment rights have been violated.