

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

SECURE AIR CHARTER, LLC,)	
)	
<i>Plaintiff,</i>)	
)	
<i>v.</i>)	Case No.: 24C1828
)	
MICHAEL JOHN BARRETT, JR.,)	
)	
<i>Defendant.</i>)	

ORDER

This case came before the Court for hearing on January 24, 2025, upon: (1) the Defendant’s Motion to Dismiss and Tenn. Code Ann. § 20-17-104(a) Petition to Dismiss the Plaintiff’s Complaint; (2) the Plaintiff’s Motion to Amend; and (3) the Plaintiff’s January 17, 2025 Motion to Permit Discovery from Defendant. Based on the Parties’ motions, the responses filed in opposition thereto, the replies, the Parties’ supplemental responses, the replies to the Parties’ supplemental responses, the arguments of counsel, and the entire record, the Court **FINDS** and **ORDERS** as follows:

1. Based on the admissible evidence presented by the Defendant, to include the Defendant’s declaration and the party admissions in the Plaintiff’s Complaint, the Court finds that the Defendant has met its initial burden, under Tenn. Code Ann. § 20-17-105(a), of making a prima facie case that the Plaintiff’s legal action against the Defendant is based on, relates to, or is in response to the Defendant’s exercise of the right to free speech and the right to petition within the meaning of Tenn. Code Ann. § 20-17-104(a) and Tenn. Code Ann. § 20-17-103(3) & (4)(A).

2. Because the Defendant has met his initial burden under Tenn. Code Ann. §

20-17-105(a), the evidentiary burden shifts to the Plaintiff. Thus, under Tenn. Code Ann. § 20-17-105(b), “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.”

3. The Court has previously afforded the Plaintiff an opportunity to obtain limited discovery and acquire evidence from the Federal Aviation Administration. On November 7, 2024, the Plaintiff was informed by the FAA that its initial attempt at obtaining information from the FAA was unsuccessful. Based on Plaintiff’s counsel statements to the Court during the Court’s January 24, 2025 hearing, the Court finds that no effort has been undertaken by the Plaintiff since November 7, 2024 to comply with the alternative manner of acquiring information proposed by the FAA.

4. Paragraphs 7, 8, 9, and 10 of the Plaintiff’s Complaint include unqualified statements that indicate the Plaintiff has information demonstrating Mr. Barrett’s alleged intentional interference with business relationships. However, no such evidence has been presented to the Court by affidavit, declaration, deposition, documentation, or any other manner.

5. As a result, the Court is obliged to grant the Defendant’s Tennessee Public Participation Act Petition and dismiss the Plaintiff’s Complaint under Tenn. Code Ann. § 20-17-105(b) for failure to establish a prima facie case for any essential element of the claim in his Complaint. Under Tenn. Code Ann. § 20-17-105(e), this dismissal must be with prejudice. Thus, the Defendant’s Motion to Dismiss and Tenn. Code Ann. § 20-17-104(a) Petition to Dismiss the Plaintiff’s Complaint is **GRANTED**, and the Plaintiff’s Complaint is **DISMISSED WITH PREJUDICE**.

6. The Court declines to allow for additional discovery beyond what the Court has already authorized. Based on the record before the Court, the record does not indicate

that such discovery would be fruitful or that there is good cause to allow it. For these reasons, and because the Court is dismissing the Plaintiff's Complaint with prejudice, thereby mooting the need for further discovery, the Plaintiff's motion for further discovery is **DENIED**.

7. Because the Plaintiff's Complaint has been dismissed with prejudice, the Court finds that the Plaintiff's Motion to Amend is **DENIED AS MOOT**. Additionally, even if the Court were to allow the Plaintiff's proposed amendment, the Court finds that the proposed amendment would be futile because it relies on the same essential factual allegations with no evidence to support them, and the Plaintiff has failed to meet its evidentiary burden already despite some lenience from the Court.

8. The Defendant's claims for further relief under the TPPA, including sanctions, are held in abeyance pending the Plaintiff's right to appeal.

IT IS SO ORDERED.

[Court's signature appended electronically]

APPROVED FOR ENTRY:

By: /s/ Daniel A. Horwitz
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CERTIFICATE OF SERVICE

I hereby certify that on this the 27th day of January, 2025, a copy of the foregoing was sent via the Court's e-filing system, via USPS mail, postage prepaid, or via email to the following parties:

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By: /s/ Daniel A. Horwitz
DANIEL A. HORWITZ, BPR #032176



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Type: ORDER- GENERAL

The foregoing is hereby ORDERED, ADJUDGED
AND DECREED:

Judge C. David Briley, First Circuit