

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

MICHELLE FOREMAN,	§	
	§	
<i>Plaintiff,</i>	§	
	§	
<i>v.</i>	§	Case No. 23C891
	§	
DAVE ROSENBERG,	§	JURY DEMANDED
	§	
<i>Defendant.</i>	§	

**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 AMENDED COMPLAINT PURSUANT TO THE
TENNESSEE PUBLIC PARTICIPATION ACT**

I. INTRODUCTION

This is a performative SLAPP-suit¹ filed by Plaintiff Michelle Foreman—a failed candidate for public office—against Dave Rosenberg, a Metro Councilmember (and previous victor over the Plaintiff) who criticized the Plaintiff and endorsed her opponent in the Plaintiff’s most recent election. Verbatim, the constitutionally protected commentary over which Mr. Rosenberg has been sued reads as follows:

If you live south of Poplar Creek Road, south of Old Harding Pike, or west of McCrory Lane south of I-40, **I strongly endorse Caleb Hemmer for State House.** Not only is Caleb a conscientious, hard-working, reasonable person, but he’s **running against** a truly unhinged politician who is a COVID denier, anti-vaccine, supports January 6 and election conspiracy

¹ 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*.

theories, and is a pathological liar. Caleb needs and deserves our support. Learn more about Caleb here.

See Ex. 1 to Pl.'s Am. Compl. at 2.

Because Mr. Rosenberg's political speech is plainly and unmistakably protected by the First Amendment—and because Ms. Foreman cannot prevail for a host of other reasons, including that she has no good name to protect—the Plaintiff's single-count defamation claim must be dismissed with prejudice. Thereafter, Mr. Rosenberg is entitled to an award of attorney's fees and costs incurred under Tennessee Code Annotated § 20-17-107(a)(1). This Court should also assess severe discretionary sanctions against the Plaintiff under § 20-17-107(a)(2) for filing yet another baseless SLAPP-suit in a transparent effort to stifle constitutionally protected speech about her failed candidacy.

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). Generally, a motion to dismiss is resolved by examining the pleadings alone. *Leggett v. Duke Energy Corp.*, 308 S.W.3d 843, 851 (Tenn. 2010) (citing *Cook ex rel. Uithoven v. Spinnaker's of Rivergate, Inc.*, 878 S.W.2d 934, 938 (Tenn. 1994)). This Court, however, may also consider “**items subject to judicial notice, matters of public record, orders, items appearing in the record of the case, and exhibits attached to the complaint** whose authenticity is unquestioned . . . without converting the motion into one for summary judgment.” *W. Exp., Inc. v. Brentwood Servs., Inc.*, No. M2008-02227-COA-R3-CV,

2009 WL 3448747, at *3 (Tenn. Ct. App. Oct. 26, 2009) (quoting *Ind. State Dist. Council of Laborers v. Brukardt*, No. M2007-02271-COA-R3-CV, 2009 WL 426237, at *8 (Tenn. Ct. App. Feb. 19, 2009) (quoting WRIGHT & MILLER, FED. PRAC. & PROC., CIV. § 1357, at 376 (3d ed. 2004), *app. denied* (Tenn. Aug. 24, 2009))) (emphases added), *no app. filed*. Thereafter, 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.” 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[.]” 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." § 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." § 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." § 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.” § 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). However, where—as here—“the plaintiff is a public figure, [the plaintiff] must prove by clear and convincing evidence that the defendant made the defamatory statements with knowledge the statements were false or with reckless disregard to their truth, a standard known as ‘actual malice.’” *Elsten v. Coker*, 2019 WL 4899759, at *3 (Oct. 4, 2019) (citing *N.Y. Times Co. v. Sullivan*, 376 U.S. 254, 279 (1964)).

Both whether a plaintiff is a public figure and whether a public figure plaintiff can demonstrate by clear and convincing evidence that a defendant acted with actual malice are “question[s] of law.” *Id.* at *2 (citing *Tomlinson v. Kelley*, 969 S.W.2d 402, 405 (Tenn. Ct. App. 1997) (“[T]he determination concerning whether the plaintiff is a public figure is a question of law . . . , as is the determination concerning whether a public figure has come forward with clear and convincing evidence that the defendant was acting with actual malice.” (citing *Trigg v. Lakeway Publishers, Inc.*, 720 S.W.2d 69, 74 (Tenn. Ct. App. 1986)))). So, too, is the preliminary question of whether an assertedly defamatory statement can convey a defamatory meaning. *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 N.Y. Times*, 376 U.S. at 269. 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 from being actionable, many of which are outcome-determinative here.

First, in light of our “profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open,” *N.Y. Times*, 376 U.S. at 270, the bar for proving actual malice is high, and “[p]ublic figures who desire to pursue defamation actions bear a heavy burden of proof” regarding that essential element, *Tomlinson*, 969 S.W.2d at 405. In particular:

Reckless disregard to the truth means the defendant had a “high degree of awareness of . . . probable falsity.” *Harte-Hanks Commc’ns, Inc. v. Connaughton*, 491 U.S. 657, 688 (1989) (quoting *Garrison v. Louisiana*, 379 U.S. 64, 74 (1964)). In other words, reckless disregard is “the purposeful avoidance of the truth.” *Id.* at 692.

Because negligence is not the standard in a public figure defamation case, 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.

Second, 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. M201402400COAR9CV, 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*.

Third, truth is an absolute defense to defamation, and Tennessee has adopted the “substantial truth doctrine” in defamation cases. *See Isbell v. Travis Elec. Co.*, No. M1999-00052-COA-R3-CV, 2000 WL 1817252, at *5 (Tenn. Ct. App. Dec. 13, 2000), *no app. filed*. Accordingly, statements that are true or substantially true are not actionable as defamation either. *Id.*

Fourth, damages can never be presumed in any 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 assert 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).

As detailed below, all of these restrictions preclude liability here. The Plaintiff’s Amended 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. MS. FOREMAN’S ALLEGATIONS

“The Plaintiff, Michelle Foreman, was a Republican candidate for the District 59 seat in the Tennessee Legislature.” *See Am. Compl.* at ¶ 1. “The Defendant, Dave

Rosenberg, [was] a supporter of Foreman’s Democrat [sic] opponent, Caleb Hemmer, for the District 59 seat in the Tennessee Legislature.” *See id.* at ¶ 2. The Plaintiff has thus sued Mr. Rosenberg for statements he made in opposition to her candidacy during her campaign. *See id.* at ¶ 5.

In full, the Plaintiff has sued Mr. Rosenberg for a single count of libel arising from the following statements published in his newsletter:

If you live south of Poplar Creek Road, south of Old Harding Pike, or west of McCrory Lane south of I-40, **I strongly endorse Caleb Hemmer for State House.** Not only is Caleb a conscientious, hard-working, reasonable person, but he’s **running against** a truly unhinged politician who is a COVID denier, anti-vaccine, supports January 6 and election conspiracy theories, and is a pathological liar. Caleb needs and deserves our support. Learn more about Caleb here.

See Ex. 1 to Pl.’s Am. Compl. at 2.

According to the Plaintiff, these statements were “false when made” and were made “with the intention to harm her and to impugn and malign her character and reputation.” *See* Am. Compl. at ¶ 7. The Plaintiff—who claims to be a “licensed registered nurse who values her professional reputation[,]” *see id.* at ¶ 8—has thus sued Mr. Rosenberg for alleged “injuries to her reputation,” *see id.* at ¶ 9, which she values at “an amount in excess of \$300,000.00[,]” *id.* at 3, ¶ 3.

B. REALITY

The Plaintiff is a repeatedly failed candidate for public office with a poor reputation arising from a long and sordid history of misconduct. In the context of political campaigns, her success has been limited to paying a seven-figure TCPA class action settlement arising from illicit use of an auto-dialer. *See* Doc. 8. That was not the Plaintiff’s first experience as a civil defendant, either. Instead—when she was not being evicted or sued for selling shoddy products, *see* Collective **Ex. 1** at 25–27—Ms. Foreman

spent her time in these courts being sued for exposing an ex-lover to genital herpes, *see id.* at 1–12. As relevant to her dishonesty, Ms. Foreman insisted her ex-lover knew about her herpes at the time she exposed him, *see id.* at 9, but he swore he did not and that Ms. Foreman exposed him to herpes maliciously during an outbreak, *see id.* at 5–6. Ms. Foreman ultimately prevailed in that lawsuit on the narrow ground that the proof demonstrated that the man who sued her “was only a little depressed and that his mental state did not seriously effect [sic] his ability to work, have friends or relate to his family.” *See id.* at 11.

Hoping to cover up this history—and right before she ran for office—Ms. Foreman moved to seal or strike the records some sixteen years after the fact. *See id.* at 13–24. Ms. Foreman’s motion did not disclose the fact that she was about to run for office. *See id.* at 13–18. To the contrary, she suggested to the Court that secrecy was warranted because “[t]he litigation involves private litigants[,]” that it “involves matters of private concerns and have [sic] no legitimate public interest[,]” and that disclosure would compromise “legitimate privacy interests.” *See id.* at 15.

After successfully covering up some of her past, Ms. Foreman then ran for Metro Council District 35 in 2019. *See Ex. 2* at 16. Her opponent was the Defendant here: Dave Rosenberg. *See id.* Ms. Foreman lost her election spectacularly—by nearly 23 points—having convinced only 1,761 people to vote for her. *Id.*

Undeterred, Ms. Foreman then sought higher office. Thus, in 2022, she ran as the Republican nominee for the Tennessee General Assembly against Caleb Hemmer. *See Doc. 7* at 11. Once more, she lost. *Id.*

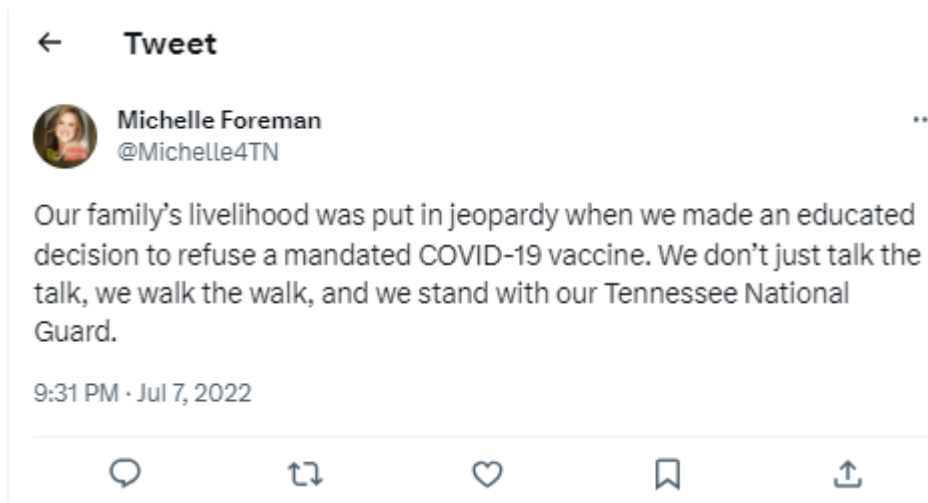
Leading up to election day, Ms. Foreman made some wild public claims about COVID, vaccinations, the January 6 insurrection, and associated election conspiracy

theories. As to COVID, for example, she made or shared each of the following statements:

- (1) “Healthy people are not dying from this virus[.]”
- (2) “I wonder how many positive flu tests we would have with free testing? You would think with the flu, that actually KILLS more people, we would have free testing.”
- (3) “When you blame Covid-19 for deaths even if they are only suspected and not tested for, you have no idea what really killed them.”
- (4) “WAKE UP, PEOPLE. This IS happening! . . . “It’s just a mask” can turn into “it’s just a vaccine” very quickly. . . . In less than 5 months, our government closed down public schools and has a ‘restructured’ school moving forward under the guide of ‘public safety’ from a ‘virus.’”
- (5) “You know, on a spiritual level the devil is at play, manipulating people of otherwise sound mind into acting like people we do not recognize.”
- (6) “We will destroy our economy over uncontrolled emotion. That will be the devastating effect of this virus.”
- (7) “Is the media manipulating via fear to postpone the election, fulfilling their prophesy regarding their false claim that President Trump is a dictator?”

See Collective **Ex. 3** at 1–8. She shared conspiracy theory materials asserting that the COVID-19 pandemic was “plan[ned],” too. See *id.* at 9.

As to her anti-vaccine views, Ms. Foreman shared and publicized anti-vaccine sentiments along with anti-vaccine propaganda—since determined to have been manipulated by the author—purporting to demonstrate that the COVID-19 vaccines were dangerous. See Collective **Ex. 4** at 1–2. She also posted about refusing to be vaccinated herself and complained that her “decision to refuse a mandated COVID-19 vaccine” put her “family’s livelihood . . . in jeopardy”:



See *id.* at 3, <https://twitter.com/Michelle4TN/status/1545234043616231425?s=20>.

As to the January 6th insurrection: Ms. Foreman disparaged local reporter Phil Williams as an “enemy of the state and Republicans/conservatives any and everywhere” for his coverage of insurrectionist (now federal convict) Eric Munchel—better known as “Zip-Tie Guy”—which Ms. Foreman complained was “biased and one-sided.” See **Collective Ex. 5** at 1. Mr. Munchel has since been “found guilty of: conspiracy to commit obstruction and obstruction of an official proceeding, both felonies, as well as entering and remaining in a gallery of Congress, disorderly and disruptive conduct in a Capitol building, and parading, demonstrating, or picketing in a Capitol building[,]” and “[a] sentencing hearing is scheduled for September 8, 2023.” *Id.* at 2.

As to election conspiracies: In late November 2020, after Donald Trump lost his bid for reelection, Ms. Foreman shared sentiments complaining that “Republicans have thrown in the towel” regarding the outcome. See **Ex. 6**. Personally, she also added: “Where are the Republicans with a backbone? So many Republicans were swinging on President Trump’s coattails when they needed votes and support. Now they tuck tale [sic] and hide.” *Id.*

Finally, as to her being a pathological liar, a few examples will suffice. First, during her state house primary campaign, Ms. Foreman sent out an “endorsement” mailer that famously suggested she had been endorsed by the Chair of the Tennessee GOP, who had not, in fact, endorsed her. *See* Collective **Ex. 7** at 1–2. She also habitually lied about Mr. Rosenberg during her failed Metro Council campaign against him, including by falsely claiming that he “moved to Bellevue from San Francisco,”² *see id.* at 5 & 6, and by falsely claiming that “most” of Mr. Rosenberg’s campaign funds had been “made by Big Business Interests[,]” *id.* at 5. Mr. Rosenberg knew that Ms. Foreman had denied, under penalty of perjury, her ex-lover’s sworn statement that “Michelle told me after we had had intercourse on or about the 10th day of December, 1998 that she had exposed me to herpes and that she was having an outbreak and that she had intentionally exposed me to herpes to get back at me[,]” too, *compare Ex. 1* at 5, ¶ 4, *with id.* at 9, and that Ms. Foreman’s claims about the matter were not credited, *see id.* at 10–12. Mr. Rosenberg knew of Ms. Foreman’s dishonest efforts to seal the underlying documents as involving “private” matters just before running for public office as well. *See id.* at 13–24.

Leading up to Election Day, Ms. Foreman embarked on a SLAPP-suit campaign in the hopes of stifling criticism about her. She thus filed at least three defamation claims related to her candidacy: One against Caleb Hemmer, *see* Doc. 9, one against someone named “Tess St. Clair,” *see* Doc. 10, and this case, *see* Doc. 1 (Compl.). As relevant here, she has filed a single count of defamation against Mr. Rosenberg for publishing—in a newsletter appended to the Plaintiff’s Amended Complaint as Exhibit 1—the following statements:

² Mr. Rosenberg moved to Bellevue from Athens, Georgia, in 2004. Before that, he lived in San Francisco from 2000–2001.

If you live south of Poplar Creek Road, south of Old Harding Pike, or west of McCrory Lane south of I-40, **I strongly endorse Caleb Hemmer for State House.** Not only is Caleb a conscientious, hard-working, reasonable person, but he's **running against** a truly unhinged politician who is a COVID denier, anti-vaccine, supports January 6 and election conspiracy theories, and is a pathological liar. Caleb needs and deserves our support. Learn more about Caleb here.

See Ex. 1 to Pl.'s Am. Compl. at 2. Mr. Rosenberg has timely petitioned to dismiss Ms. Foreman's defamation claim as a result.

Notably, in response to a similar TPPA petition filed by Representative Hemmer, Ms. Foreman nonsuited right before hearing in an effort to evade consequences. *See generally Ex. 8.* That did not prevent her from boasting about the lawsuit and citing the fact that Representative Hemmer had been sued (she declined to disclose who did the suing) as a supposed basis for impugning him, though:



See Ex. 9, <https://twitter.com/Michelle4TN/status/1623894043263479808?s=20>;

<https://twitter.com/Michelle4TN/status/1624147483340247114?s=20>;

<https://twitter.com/Michelle4TN/status/1623896757439500289?s=20>.

The import of this chronology is that regardless of the absent merit of her claims—which Ms. Foreman quickly abandoned when forced to defend them—Ms. Foreman has grossly abused the litigation process to further extra-judicial ends.

IV. ARGUMENT

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

1. Mr. Rosenberg’s statements are inactionable as defamation as a matter of law.

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

Both our Court of Appeals and our 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 in Mr. Rosenberg’s newsletter over which the Plaintiff has sued him do not give rise to an actionable defamation claim. Instead, they are 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, Ms. Foreman’s defamation claim fails as a matter of law.

- i. Subjective opinions based on disclosed facts are not capable of conveying a defamatory meaning.

The Plaintiff has sued Mr. Rosenberg for statements made in opposition to her candidacy for public office. Considered in the context in which these statements were presented, though—a necessary requirement when evaluating a defamation claim, *see Evans v. Nashville Banner Pub. Co.*, No. 87-164-II, 1988 WL 105718, at *5 (Tenn. Ct. App. Oct. 12, 1988) (“All parts of a published article should be construed as a whole. . . . Thus, we must view the photograph and its cutline in the context of the entire article.” (citing *Black v. Nashville Banner Publ’g Co.*, 141 S.W.2d 908, 912 (Tenn. 1939))), *no app. filed.*—the statements are clear constitutionally protected opinions, and none 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.* As such, none of the statements over which Mr. Rosenberg has been sued is capable of conveying a defamatory meaning as a matter of

law. *See, e.g., Covenant Presbyterian Church*, 2015 WL 5766685, at *3 (“[C]omments upon true and nondefamatory published facts are not actionable, even though [the comments] are stated in strong or abusive terms.”) (cleaned up); *Weidlich*, 2017 WL 4862068, at *6 (holding that “[a] writer’s comments upon true and nondefamatory published facts are not actionable” as a matter of law); *Cummins v. Suntrust Cap. Markets, Inc.*, 649 F. Supp. 2d 224, 255 (S.D.N.Y. 2009) (“the characterization of the Plaintiffs’ complicity in the June 15 option grants as self-interested, dishonest and unethical was a non-actionable statement of opinion based on fully disclosed facts”), *reconsideration denied*, No. 07 CIV. 4633(JGK), 2010 WL 985222, at *1 (S.D.N.Y. Mar. 17, 2010), *and aff’d*, 416 F. App’x 101 (2d Cir. 2011); *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.”).

Here, Mr. Rosenberg’s political statement of pure opinion—that Ms. Foreman is “a truly unhinged politician”—was based on expressly disclosed, non-defamatory facts published right alongside it: that she is “a COVID denier, anti-vaccine, supports January 6 and election conspiracy theories, and is a pathological liar.” *See* Ex. 1 to Pl.’s Am. Compl. at 2. These disclosed facts are inarguably true. *See supra* at 9–14 (citing **Exs. 1–7**). Accordingly, they definitionally cannot be defamatory. *See Dolan v. Poston*, No. M2003-02573-COA-R3CV, 2005 WL 2402919, at *4, n.3 (Tenn. Ct. App. Sept. 29, 2005) (“Only statements that are false are actionable as defamation. The truth of the statements made is thus a near-absolute defense to a defamation charge.”), *no app. filed*.

Nor is Mr. Rosenberg’s opinion that Ms. Foreman is “a truly unhinged politician[,]” *see* Ex. 1 to Pl.’s Am. Compl. at 2, “objectively capable of proof or disproof.” *Moses*, 2021

WL 1140273, at *11. As such, it is not capable of carrying a defamatory meaning, either, because it constitutes a subjective opinion which is not actionable as a matter of law. The Plaintiff's defamation claim must be dismissed accordingly.

- ii. Mr. Rosenberg's statements were, at worst, merely annoying, offensive, or embarrassing.

Tennessee's courts have held 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). "[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). 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. Rosenberg has been sued fit neatly into this category. Put simply: Critical statements—even *intensely* critical statements—made in the context of a political campaign are fair game, and candidates for public office must accept them as part of the normal political process. See *Elsten*, 2019 WL 4899759, at *7. As the Court of Appeals has observed, the U.S. Supreme Court has long since settled this issue as a matter of First Amendment law:

As the United States Supreme Court explained in *Harte-Hanks*,

[The First Amendment] must be protected with special vigilance.

When a candidate enters the political arena, he or she “must expect that the debate will sometimes be rough and personal,” and cannot “‘cry Foul!’ when an opponent or an industrious reporter attempts to demonstrate” that he or she lacks the “sterling integrity” trumpeted in campaign literature and speeches[.] Vigorous reportage of political campaigns is necessary for the optimal functioning of democratic institutions and central to our history of individual liberty.

Id. (quoting *Harte-Hanks Commc’ns, Inc. v. Connaughton*, 491 U.S. 657, 687 (1989)) (citations omitted) (footnote omitted).

With this context in mind, while perhaps annoying to Ms. Foreman, Mr. Rosenberg’s statements cannot seriously be construed as carrying an element of “disgrace.” *Contra Covenant Presbyterian Church*, 2015 WL 5766685, at *3 (quoting *Brown*, 393 S.W.3d at 708). Instead, they are “rough and personal” statements about her poor integrity made during the context of a political campaign. *See Elsten*, 2019 WL 4899759, at *7 (cleaned up). Accordingly, the statements over which Mr. Rosenberg has been sued are inactionable as defamation for this reason, too.

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 also mandates that all of Plaintiff’s claims be dismissed with prejudice; that the Plaintiff be ordered to pay Mr. Rosenberg’s attorney’s fees and costs; and that Ms. Foreman be subject to severe discretionary sanctions to deter repetition of her already-repeated 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 involve a quintessential public figure—a candidate for elected public office. *See, e.g., Kauffman v. Forsythe*, No. E2019-02196-COA-R3-CV, 2021 WL 2102910, at *2 (Tenn. Ct. App. May 25, 2021) (“Candidates for elected public office are public figures.”) (citations omitted), *no app. filed*; *Monitor Patriot Co. v. Roy*, 401 U.S. 265, 271 (1971) (“[P]ublications concerning candidates must be accorded at least as much protection under the First and Fourteenth Amendments as those concerning occupants of public office.”). As such, Mr. Rosenberg’s speech inarguably relates to “[a] public official or public figure[.]” *See* § 20-17-103(6)(D). *See also* § 20-17-103(6)(C), (G). Thus,

the TPPA applies to this action, *see id.*, as it was filed in response to Mr. Rosenberg's exercise of his right to free speech. *See generally* Am. Compl.

Mr. Rosenberg'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." § 20-17-104(b). Here, the Plaintiff filed an Amended Complaint on May 31, 2023. The effect of filing an Amended Complaint under Tennessee law is to "supersede[] and destroy[]" the original complaint as a pleading, essentially rendering it a nullity. *See, e.g., Hanson v. Levan*, 647 S.W.3d 85, 90 (Tenn. Ct. App. 2021), *app. denied* (Tenn. Jan. 13, 2022). As a result, having been filed within—and far sooner than—60 days of service of the Plaintiff's operative pleading, Mr. Rosenberg's TPPA petition to dismiss this action is timely filed. *See id.*; § 20-17-104(b).

Alternatively, if the service date of the Plaintiff's original Complaint is considered the relevant triggering date (and it should not be, since the original complaint is no longer operative and it failed to satisfy threshold notice requirements), this Court should extend the time for filing and deem Mr. Rosenberg's filing proper. *See* § 20-17-104(b). The facts of this case—which is still at its starting point, having been substantially delayed due to a combination of: (1) the Plaintiff strategically filing this lawsuit in a county where it did not belong and that had no connection to this matter; (2) the Plaintiff filing a defective pleading to begin with that resulted in a motion for a more definite statement being granted and an order that she amend; and (3) the Plaintiff failing to timely comply with the order to amend, *see generally* Doc. 1, Doc. 13—overwhelmingly support extending the relevant filing date, as all delay involved here is attributable to the Plaintiff and her counsel. *See id.*

Further, because the protection afforded by the TPPA “shall be construed broadly to effectuate its purposes and intent,” *see* TENN. CODE ANN. § 20-17-102, persuasive authority instructs that where, as here, a case is still in its infancy, discretion to file an anti-SLAPP motion more than 60 days after service of a Plaintiff’s complaint is commonly granted unless the delay is attributable to tactical manipulation or produces significant prejudice. *See, e.g., Hampton-Stein v. Aviation Fin. Grp., LLC*, No. CV1003897RGKPJWX, 2010 WL 11601037, at *3 (C.D. Cal. Oct. 1, 2010) (“Upon reviewing the procedural history, the Court finds it proper to exercise its discretion and extend the filing period.”); *Pathak v. United States*, No. CV098287GHKDTBX, 2010 WL 11596724, at *1, n.4 (C.D. Cal. Mar. 16, 2010) (“Although facially untimely, Defendants’ anti-SLAPP motion was filed before discovery commenced and has not been challenged by Plaintiff. Accordingly, we exercise our discretion and accept Defendants’ anti-SLAPP motion.”).

Accordingly, having met his initial burden under § 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* § 20-17-105(b).

2. Mr. Rosenberg 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. Rosenberg 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. Rosenberg can also establish the additional valid defenses to liability set forth below.

a. *The Plaintiff's claim fails for want of actual malice or even negligence.*

i. Facts Establishing Truth and Precluding Actual Malice

The Plaintiff's defamation claim fails for lack of actual malice—or anything even resembling it. Admissible evidence that proves overwhelmingly that Mr. Rosenberg's statements were not made with actual malice is presented below. *See Ex. 10* (authenticating **Exs. 1–7**).

Here, Mr. Rosenberg has been sued for: (1) calling Ms. Foreman “a COVID denier,” (2) calling Ms. Foreman “anti-vaccine,” (3) saying Ms. Foreman “supports January 6 and election conspiracy theories,” and (4) calling Ms. Foreman “a pathological liar.” *See Ex. 1 to Pl.'s Am. Compl. at 2.* As detailed below, Mr. Rosenberg had abundant grounds for making these statements.

As to Statement #1 (that Ms. Foreman is “a COVID denier”), Ms. Foreman had made or shared each of these statements at the time of publication:

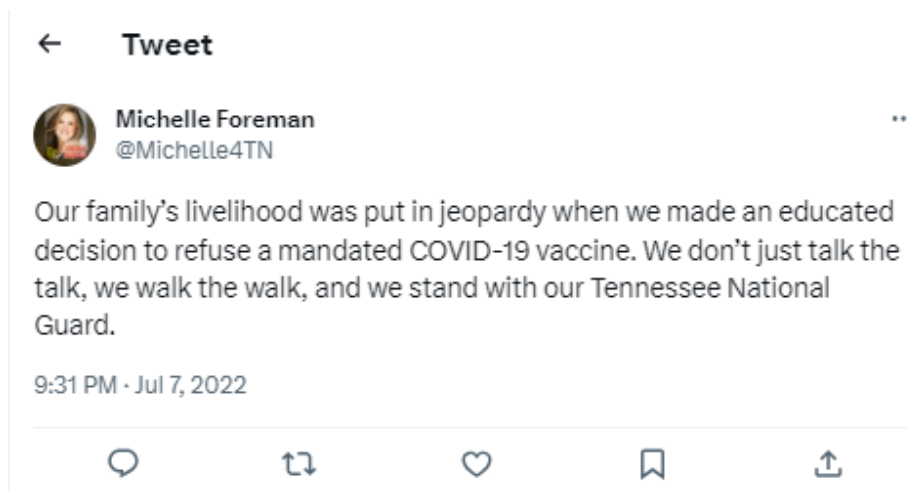
- (1) “Healthy people are not dying from this virus[.]”
- (2) “I wonder how many positive flu tests we would have with free testing? You would think with the flu, that actually KILLS more people, we would have free testing.”
- (3) “When you blame Covid-19 for deaths even if they are only suspected and not tested for, you have no idea what really killed them.”
- (4) “WAKE UP, PEOPLE. This IS happening! . . . “It's just a mask” can

turn into “it’s just a vaccine” very quickly. . . . In less than 5 months, our government closed down public schools and has a ‘restructured’ school moving forward under the guide of ‘public safety’ from a ‘virus.’”

- (5) “You know, on a spiritual level the devil is at play, manipulating people of otherwise sound mind into acting like people we do not recognize.”
- (6) “We will destroy our economy over uncontrolled emotion. That will be the devastating effect of this virus.”
- (7) “Is the media manipulating via fear to postpone the election, fulfilling their prophesy regarding their false claim that President Trump is a dictator?”

See Collective **Ex. 3** at 1–8. She shared conspiracy theory materials asserting that the COVID-19 pandemic was planned, too. See *id.* at 9.

As to Statement #2 (that Ms. Foreman is “anti-vaccine”), Ms. Foreman shared and publicized explicit anti-vaccine sentiments along with anti-vaccine propaganda purporting to show that the COVID-19 vaccines were dangerous. See Collective **Ex. 4** at 1–2. She also celebrated having refused to be vaccinated herself:



See *id.* at 3.

As to Statement #3 (that Ms. Foreman “supports January 6 and election conspiracy theories”), Ms. Foreman disparaged local reporter Phil Williams as an “enemy

of the state and Republicans/conservatives any and everywhere” for his coverage of insurrectionist Eric Munchel, which Ms. Foreman complained was “biased and one-sided.” *See Ex. 5* at 1. Mr. Munchel has since been “found guilty of: conspiracy to commit obstruction and obstruction of an official proceeding, both felonies, as well as entering and remaining in a gallery of Congress, disorderly and disruptive conduct in a Capitol building, and parading, demonstrating, or picketing in a Capitol building[,]” and “[a] sentencing hearing is scheduled for September 8, 2023.” *Id.* at 2. Similarly, with respect to election conspiracies: in late November 2020, after Donald Trump lost his bid for reelection, Ms. Foreman shared sentiments complaining that “Republicans have thrown in the towel” regarding the outcome and added: “Where are the Republicans with a backbone? So many Republicans were swinging on President Trump’s coattails when they needed votes and support. Now they tuck tale [sic] and hide.” *See Ex. 6.*

Finally, as to Statement #4 (that Ms. Foreman is a pathological liar), Ms. Foreman sent out an “endorsement” mailer that suggested she had been endorsed by the Chair of the Tennessee GOP, who had not, in fact, endorsed her. *See Collective Ex. 7* at 1–2. She also habitually lied about Mr. Rosenberg during her failed Metro Council campaign against him, including by falsely claiming that he “moved to Bellevue from San Francisco,” *see id.* at 5 & 6, and by falsely claiming that “most” of Mr. Rosenberg’s campaign funds had been “made by Big Business Interests[,]” *id.* at 5. Mr. Rosenberg also knew that Ms. Foreman had denied, under penalty of perjury, her ex-lover’s sworn statement that: “Michelle told me after we had had intercourse on or about the 10th day of December, 1998 that she had exposed me to herpes and that she was having an outbreak and that she had intentionally exposed me to herpes to get back at me[,]” too, *compare Ex. 1* at 5, ¶ 4, *with id.* at 9, and that Ms. Foreman’s claims about the matter

were not credited, *see id.* at 10–12. Mr. Rosenberg knew of Ms. Foreman’s dishonest efforts to seal the underlying documents as involving “private” matters just before running for public office, too. *See id.* at 13–24.

ii. Law Precluding Actual Malice

“To prevail on a defamation claim where the actual malice standard applies, the plaintiff ‘must prove by clear and convincing evidence that [the] defendant acted with actual malice.’” *Finney v. Jefferson*, No. M2019-00326-COA-R3-CV, 2020 WL 5666698, at *5 (Tenn. Ct. App. Sept. 23, 2020) (quoting *Jones v. State*, 426 S.W.3d 50, 57 (Tenn. 2013) (citing *N.Y. Times*, 376 U.S. at 285–86)), *no app. filed*. “The concept of actual malice in defamation cases connotes more than personal ill will, hatred, spite, or desire to injure; rather, it is limited to statements made with knowledge that they are false or with reckless disregard to their truth or falsity.” *Byrge v. Campfield*, No. E2013-01223-COA-R3CV, 2014 WL 4391117, at *5 (Tenn. Ct. App. Sept. 8, 2014) (quoting *McWhorter*, 132 S.W.3d at 365), *no app. filed*.

Special concerns also apply in the rough and tumble of political campaigns.

As the United States Supreme Court explained in *Harte-Hanks*,

[The First Amendment] must be protected with special vigilance. When a candidate enters the political arena, he or she “must expect that the debate will sometimes be rough and personal,” and cannot “cry Foul!” when an opponent or an industrious reporter attempts to demonstrate” that he or she lacks the “sterling integrity” trumpeted in campaign literature and speeches[.] Vigorous reportage of political campaigns is necessary for the optimal functioning of democratic institutions and central to our history of individual liberty.

Elsten, 2019 WL 4899759, at *7 (citing *Harte-Hanks Commc’ns, Inc.*, 491 U.S. at 687) (cleaned up).

With these concerns in mind, “[w]hen applying the reckless disregard standard in

the context of criticizing an elected official,” Tennessee’s appellate courts “have held that speakers ‘are not required to have documentary proof’ to support their statements.” *Moses*, 2021 WL 1140273, at *9 (quoting *Tomlinson*, 969 S.W.2d at 406). Nor do speakers have to consult primary sources or ask the targets of a publication for comment on them. *See, e.g., Elsten*, 2019 WL 4899759, at *7 (“Coker’s failure to consult the police report or to ask Elsten directly about the rumor does not suggest Coker purposefully avoided the truth.”). Instead, as long as a defendant does not subjectively entertain doubts about the truth of another’s allegation, a defendant’s mere “belie[f]” in the credibility of a statement conveyed by another—even if erroneous—precludes a finding of actual malice and prevents a claimed defamation from being actionable as a matter of law. *See, e.g., Finney*, 2020 WL 5666698, at *6 (“The statements by school staff members to the Jeffersons about Ms. Finney’s conduct are relevant even if they are not true. What matters for purposes of actual malice—a subjective standard that ‘focuses on the defendant’s state of mind’—is what the Jeffersons thought was true, even if it was not actually true.”) (citation omitted); *id.* (“Not only are those statements not hearsay, but they establish, as a matter of law, that the Jeffersons did not act with actual malice. The Jeffersons stated in their affidavits that, based on their experience, they found the school staff members who told them about Ms. Finney’s alleged conduct to be honest people. They had no reason to disbelieve them.”).

Here, the Plaintiff cannot hope to satisfy her “heavy burden of proof” regarding actual malice, for several reasons. *See Tomlinson*, 969 S.W.2d at 405. To begin, even though speakers are not required to have documentary proof to support statements about public figures, *see Moses*, 2021 WL 1140273, at *9, Mr. Rosenberg *did* have documentary proof to support the statements he made. *See Exs. 1–7*. Further, even though speakers

are not required to consult primary sources to support statements about public figures, see *Elsten*, 2019 WL 4899759, at *7, Mr. Rosenberg *did* consult primary sources before publishing. See **Ex. 10**.

In light of the above evidence, Mr. Rosenberg did not act—and he could not have acted—with actual malice under the circumstances. Instead, he reasonably formed and then published his non-defamatory opinion about Ms. Foreman based on Ms. Foreman’s own public statements, postings, mailers, and other assertions, including in court documents and published media. See **Exs. 1–7**. Under these circumstances, admissible evidence shows overwhelmingly that Mr. Rosenberg did not have a high degree of awareness of probable falsity regarding the publications over which he has been sued, and that he did not purposefully avoid the truth regarding them. See *Elsten*, 2019 WL 4899759, at *3 (“Reckless disregard to the truth means the defendant had a ‘high degree of awareness of . . . probable falsity.’ *Harte-Hanks Commc’ns, Inc.* 491 U.S. at 688 (quoting *Garrison*, 379 U.S. at 74). In other words, reckless disregard is ‘the purposeful avoidance of the truth.’ *Id.* at 692.”). See also *Kauffman*, 2021 WL 2102910, at *3 (“Actual malice is a term of art. . . . In other words, the defendant must have acted with purposeful avoidance of the truth.”) (cleaned up). To the contrary, rather than purposefully avoiding the truth, Mr. Rosenberg actively sought to determine the truth and *did* determine the truth of his publications *from Ms. Foreman’s own statements*.

Thus, taken together, the Plaintiff’s defamation claim fails for want of actual malice.

- b. *The Plaintiff’s defamation claim fails because the Defendant’s statements about her are true.*

“Truth is an absolute defense to a claim for defamation when the otherwise

defamatory meaning of the words used turns out to be true.” *Sullivan v. Wilson Cty.*, No. M2011-00217-COA-R3CV, 2012 WL 1868292, at *12 (Tenn. Ct. App. May 22, 2012), *app. denied* (Tenn. Sept. 18, 2012) (citing *Memphis Pub. Co.*, 569 S.W.2d at 420). Tennessee also recognizes “the substantial truth doctrine” in defamation cases. *See Isbell*, 2000 WL 1817252, at *5. As such, defamation claims that are premised upon inaccurate but insignificant distinctions are categorically inactionable, *see id.*; *see also Spicer v. Thompson*, No. M2002-03110-COA-R3-CV, 2004 WL 1531431, at *7 (July 7, 2004), *app. denied* (Tenn. Dec. 20, 2004)—a result that the United States Supreme Court has compelled as a matter of constitutional law.

Specifically, in *Masson v. New Yorker Magazine*, the U.S. Supreme Court noted that “[t]he common law of libel takes but one approach to the question of falsity, regardless of the form of the communication.” *Masson v. New Yorker Magazine*, 501 U.S. 501 U.S. 496, 516 (1991) (citing RESTATEMENT (SECOND) OF TORTS § 563 cmt. c (1977); WILLIAM LLOYD PROSSER ET AL., PROSSER & KEETON ON LAW OF TORTS 776 (5th ed. 1984)). **“It overlooks minor inaccuracies and concentrates upon substantial truth.”** *Id.* (emphasis added). As a result, the *Masson* Court held that a statement “is not considered false unless it ‘would have a different effect on the mind of the reader from that which the pleaded truth would have produced.’” *Id.* at 517 (quoting ROBERT D. SACK, LIBEL, SLANDER, AND RELATED PROBLEMS 138 (1980)). Further, the *Masson* Court explained, “[o]ur definition of actual malice relies upon this historical understanding.” *Id.*

Here, the truth of Mr. Rosenberg’s statements and the substantial truth doctrine preclude the Plaintiff’s defamation claim. The Plaintiff’s own statements are party admissions that are admissible against her, and Mr. Rosenberg’s statements were based

on those admissions. *See* **Ex. 1–7**; **Ex. 10**. Based on Ms. Foreman’s own statements, it is also difficult to imagine what, if anything, Mr. Rosenberg said that Ms. Foreman can plausibly assert is not true. For instance, it is true that she is “a COVID denier,” “anti-vaccine,” that she contended that at least one of the January 6 insurrectionists had been unfairly maligned, and that she lies habitually. *See* **Ex. 1–7**; **Ex. 10**. Accordingly, the Plaintiff’s defamation claim fails on the independent ground that Ms. Rosenberg’s statements about her are true.

- c. *The Plaintiff’s defamation claim is not cognizable because the Plaintiff was not damaged, and she 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) (“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.

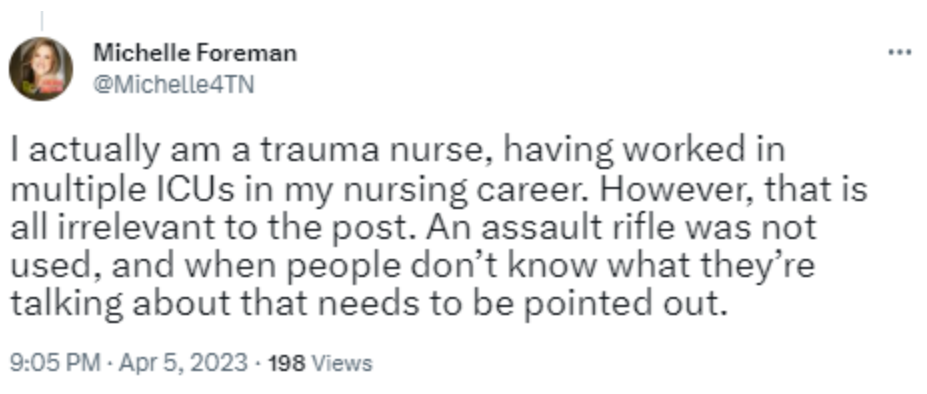
Here, the Plaintiff has not suffered actual damages. As a threshold matter, the Plaintiff's contention that "her reputation and her candidacy" were damaged, *see* Am. Compl. at ¶ 8—even though her own community has now repeatedly voted to keep her out of office—is especially far-fetched. Further, as to the supposed damage to the Plaintiff's "professional reputation" as a nurse, *see id.*, the statements over which Mr. Rosenberg has been sued had nothing to do with her work as a nurse, *see* Ex. 1 to Pl.'s Am. Compl. at 2, and in any event, the Plaintiff has also publicly insisted that she "actually still work[s]" as a nurse without issue, and that she does so "with an additional (law) degree" to boot:



See Ex. 11 at 1, <https://twitter.com/Michelle4TN/status/1643805418974502912?s=20>.

Thus, Ms. Foreman has insisted—as recently as two months ago—that her professional

reputation is doing just fine, and that “I actually am a trauma nurse” still today, “having worked in multiple ICUs in my nursing career”:



Id. at 2, <https://twitter.com/Michelle4TN/status/1643797053120696322?s=20>.

Beyond her failed political aspirations and unaffected nursing (and law?) career, though, *see id.*, abundant evidence shows that the Plaintiff lacked any good reputation in the first place. The truth is that the Plaintiff frequently finds herself in trouble for doing illegal things. As such, she has been sued repeatedly for things like violating the TCPA, *see* Doc. 8 (seven-figure TCPA settlement), intentionally exposing a partner to her genital herpes, *see* **Ex. 1** at 1–24, selling faulty items, *see id.* at 25–26, and eviction and unpaid rent, *see id.* at 27. Her serial dishonesty—both in and out of legal proceedings, *see* **Ex. 1**, **Ex. 7**—do not help her personal reputation, either.

Further, the Plaintiff—a thin-skinned and unsuccessful political candidate—herself pegs the value of the reputational harm she claims to have suffered “in excess of \$300,000.00.” *See* Am. Compl. at 3, ¶ 3. Her actual political reputation is worthless, though, and even if she had a reputation with any value, the Plaintiff has already claimed that *other* people damaged it—including in the exact amount that she is seeking from the Defendant here—through multiple completely different statements made about her. *See* Doc. 9 (Hemmer Lawsuit); Doc. 10 (St. Clair Lawsuit). Thus, to the extent that she

actually suffered any damage to her reputation, Ms. Foreman has asserted that others damaged it in excess of the amount claimed here before the Defendant purportedly did so. *See id.* The Plaintiff's libel per quod claim should be dismissed accordingly. 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. Rosenberg, a former political opponent himself and a supporter of her most recent opponent, because, *during a political campaign*, he had the temerity to raise legitimate concerns about the Plaintiff—*a public figure and candidate for elected office*—that were accurately premised upon public statements that the Plaintiff had made herself. No litigant acting in good faith could reasonably believe that the Plaintiff's claims had merit under these circumstances.

The Plaintiff also has not restricted her abuse of the legal process to Mr. Rosenberg. As noted above, she has also filed at least two separate such lawsuits. *See* Doc. 9; Doc. 10. In an effort to evade accountability, she also instantly abandoned one of them minutes

before hearing after forcing the defendant to incur substantial legal expenses. *See generally* **Ex. 8** and related proceedings in Case No. 23C218, which are subject to judicial notice. Further, regardless of its absent merit, Ms. Foreman invoked the faux-credibility of the lawsuit she had filed to impugn her opponent without disclosing that she was the one who had (unsuccessfully) sued him:



See Ex. 9. Thus, Ms. Foreman has abused the litigation process *repeatedly* to further extra-judicial ends and will continue to do so unless punished.

This Court should put an end to this. Across three near-identical SLAPP-suits filed against five people, the Plaintiff has placed others in jeopardy of at least \$800,000.00 in liability without any conceivable basis. *See* Am. Compl.; Doc. 9; Doc. 10. Thus, the Defendant should be awarded his full attorney's fees, costs, and expenses under § 20-17-107(a)(1), and this Court should also assess an \$800,000.00 sanction against the Plaintiff

and her counsel under § 20-17-107(a)(2)—equivalent to the minimum amount that she has baselessly sought from others for exercising their protected speech about an unhinged political candidate—“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 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
lindsay@horwitz.law
melissa@horwitz.law

SARAH L. MARTIN, BPR #037707
THE HIGGINS FIRM, PLLC
525 Fourth Avenue South
Nashville, TN 37210
(615) 353-0930
smartin@higginsfirm.com

JAMIE R. HOLLIN, BPR #025460
ATTORNEY AT LAW
1006 Fatherland Street Suite 102B
Nashville, TN 37206
(615) 870-4650
j.hollin@me.com

Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of June, 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

Counsel for the Plaintiff

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

IN THE CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE
AT NASHVILLE

FILED

99 JUN 22 PM 4:12

RICHARD R. ROOKER, CLERK

[Signature]
D.C.

RAE DUNNING,)
)
Plaintiff,)
)
vs.)
)
MICHELLE GALLAGHER,)
)
Defendant.)

Case No.: ~~98C-979~~
JURY DEMAND 99C975

AMENDED COMPLAINT

Comes the Plaintiff, Rae Dunning, by and through counsel, and sues the Defendant and for cause would state and show as follows:

I.
THE PARTIES

1. The Plaintiff, Rae Dunning, is a citizen resident of Nashville, Davidson County, Tennessee. He was a citizen resident of Davidson County for all times material hereto.

2. The Defendant, Michelle Gallagher, is a citizen resident of Nashville, Davidson County, Tennessee and was such for all times material hereto.

II.
VENUE AND JURISDICTION

3. Venue and jurisdiction are proper as all facts complained of herein occurred or accrued in Nashville, Davidson County, Tennessee pursuant to T.C.A. § 16-10-101 et seq and § 20-4-102.

III.
THE FACTS

4. The Plaintiff avers that he and the Defendant had a consensual sexual relationship for an extended period of time which ended on or about November, 1998.

5. The Plaintiff avers that the parties ended their relationship on or about the 24th day of November, 1998.

6. The Plaintiff avers that the Defendant seduced him into having unprotected sexual intercourse on or about the 10th day of December, 1998 at her apartment.

DEFENDANT'S
EXHIBIT
1

7. The Plaintiff avers that the Defendant insisted at the time that the parties have sexual intercourse without any prophylactic protection.

8. The Plaintiff avers that the Defendant telephoned the Plaintiff on or about the 14th day of December, 1998 and told him that she had purposely had unprotected sexual intercourse with him in order to expose him to genital herpes in order to get back at him.

9. The Plaintiff avers that the Defendant told him that she has genital herpes and that she purposely wanted to expose him to herpes while she was having an outbreak.

IV.
CAUSE OF ACTION
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

10. The Plaintiff relies upon the averments in paragraphs 1-9 in support of the following cause of action.

11. The Plaintiff avers that the Defendant has intentionally, knowingly and maliciously caused him emotional distress by causing him to fear that he has been infected with genital herpes due to her intentional and malicious acts.

12. The Plaintiff avers that he has sustained great emotional distress as a direct and proximate cause of the Defendant's representation to him that she has exposed him to genital herpes.

13. The Plaintiff avers that the actions of the Defendant were intentional and malicious.

14. The Plaintiff avers that the Defendant's actions are so outrageous that they are not tolerated by civilized society and her conduct complained of has resulted in serious mental injury to the Plaintiff.

V.
(COUNT TWO)
MALICIOUS PROSECUTION

15. The Plaintiff relies upon the averments in paragraphs 1-9 in support of the following cause of action.

16. The Plaintiff avers that the Defendant sued the Plaintiff in the General Sessions Court for Davidson County, Tennessee in an action styled Gallagher v. Dunning, Case No.: 98-OP-2366 on December 16, 1998.

17. The Plaintiff avers that the lawsuit Gallagher v. Dunning was dismissed on January 29, 1999.

18. The Plaintiff avers that the lawsuit was brought based on false allegations, without probable cause, and with malice for a purpose other than that alleged.

19. The Plaintiff avers that the true intent and purpose in bringing the lawsuit was to humiliate, embarrass and harass the Plaintiff.

20. The Plaintiff avers that the suit ended in his favor.

21. The Plaintiff avers that the foregoing averments constitute a cause of action for malicious prosecution.

VI.
ASSAULT AND BATTERY

22. The Plaintiff relies upon the averments in Paragraphs 4-21 in support of the following cause of action.

23. The Plaintiff avers that the Defendant committed an assault and battery upon him by engaging in sexual intercourse with him without his effective consent.

24. The Plaintiff avers that he would not have engaged in sexual intercourse with her had he been informed of the fact that she had a sexually transmitted disease, specifically herpes, and that she was in an active state thereby causing him to be at greater risk of exposure.

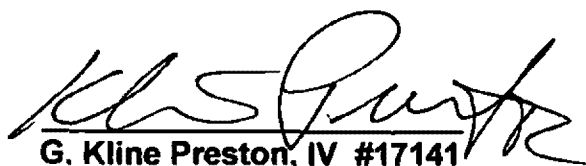
25. The Plaintiff avers that he was not informed of the fact that she had herpes and that he did not give her his informed consent to engage in sexual intercourse.

26. The Plaintiff avers that the Defendant engaged in sexual intercourse with the Plaintiff without his effective consent thereby resulting in an offensive touching such as to constitute an assault and battery.

WHEREFORE, PREMISES CONSIDERED, PLAINTIFF PRAYS AS FOLLOWS:

1. That process issue and the Defendant be required to answer within the time prescribed by law;
2. That the Plaintiff be awarded compensatory damages in an amount in excess of \$10,000;
3. That the Plaintiff be awarded punitive damages in an amount to be set by a jury of six (6);
4. That the Plaintiff be awarded such other, further relief to which he may be entitled.

Respectfully submitted,



G. Kline Preston, IV #17141
Washington Square Two
222 Second Avenue North
Suite 416
Nashville, Tennessee 37201
(615) 255-7330

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing Amended Complaint has been sent via U.S. Mail, postage prepaid, to Mr. Ray T. Throckmorton, III, Esq., 430 Third Avenue North, Suite 101, Nashville, Tennessee 37201 on this the 22nd day of June, 1999.


G. Kline Preston, IV

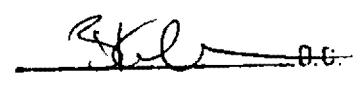
EFILED 06/12/23 10:46 PM CASE NO. 23C891 Joseph P. Day, Clerk

FILED

IN THE FIFTH CIRCUIT COURT FOR DAVIDSON COUNTY,
TENNESSEE
AT NASHVILLE

2002 MAR -4 PM 3:16
RICHARD R. ROOKER, CLERK

RAE DUNNING,)
)
 Plaintiff / Counter-Defendant,)
)
 v.)
)
 MICHELLE GALLAGHER,)
)
 Defendant / Counter-Plaintiff.)

 R.R.

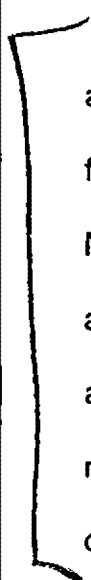
Case No.: 99C-975

Case No.: 00C-239

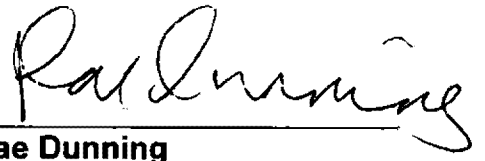
AFFIDAVIT OF RAE DUNNING

HAVING BEEN DULY SWORN, I HEREBY DEPOSE AND STATE
UNDER OATH AS FOLLOWS:

1. That I am Rae Dunning, and I am competent to testify based on my own information, knowledge, and belief.
2. That the following information is true to the best of my personal knowledge and belief.
3. That I am over the age of eighteen (18) years of age and I am legally competent to testify.
4. That Michelle told me after we had had intercourse on or about the 10th day of December, 1998 that she had exposed me to herpes and that she was having an outbreak and that she had intentionally exposed me to herpes to get back at me. That Michelle admitted in her deposition that at the time we had intercourse she had genital herpes.
5. That I have suffered serious mental injury because of the actions of Michelle Gallagher and I have experienced severe anxiety and fear which have manifested physically as a direct and proximate result of Michelle Gallagher telling me that she had exposed me to genital herpes and exposing me to genital herpes. This caused me great mental anguish and it aggravated my pre-existing physical problems for which I had to seek medical treatment . I did see a physician for my problems that Michelle caused.
6. That I have suffered physical and psychological injuries as a direct and proximate result of Michelle's actions.




FURTHER AFFIANT SAYETH NAUGHT.


Rae Dunning

STATE OF TENNESSEE)
)
COUNTY OF DAVIDSON)

Personally appeared before me, the undersigned, a Notary Public in and for said County and State, **Rae Dunning**, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence) and who swore that he executed the within instrument for the purposes therein contained and that his testimony is true.

SWORN to and subscribed before me on this the 4th day of March, 2002.


Notary Public

My Commission Expires SEPT. 24, 2005
My Commission Expires: _____

Respectfully submitted,



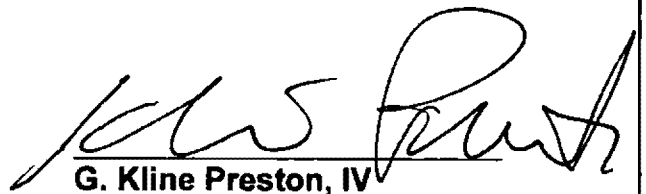
Preston Law Group, P.C.
G. Kline Preston, IV #17141
Washington Square Two
222 Second Avenue North
Suite 416
Nashville, TN 37201
(615) 255-7330

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing document has been sent via facsimile and U.S. mail, postage pre-paid, to:

Ms. Connie Reguli, Esq.
353 Wimpole Drive
Nashville, TN 37211

On this the 4th day of March, 2002.



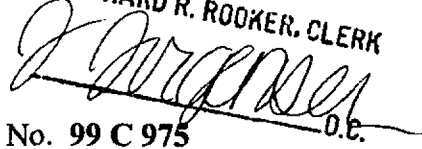
G. Kline Preston, IV

IN THE FIFTH CIRCUIT COURT OF DAVIDSON COUNTY
AT NASHVILLE, TENNESSEE

FILED

2002 MAR -6 PM 2:45

RICHARD R. ROOKER, CLERK



Case No. 99 C 975
00 C 239

RAE DUNNING,)
)
Plaintiff,)
)
v.)
)
MICHELLE GALLAGHER,)
)
Defendant.)

**DEFENDANT'S REPLY TO PLAINTIFF'S
STATEMENT OF UNDISPUTED FACTS**

The defendant, MICHELLE GALLAGHER, denies that she intentionally exposed Rae Dunning to infection of genital herpes on or about the 10th day of December 1998. See the affidavit of Michelle Gallagher attached as Exhibit A.

This is the 5th day of March 2002.

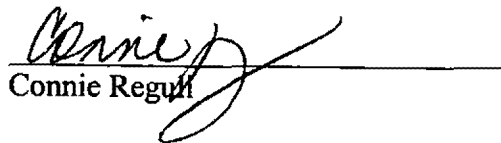
Respectfully submitted,



Connie Reguli #016867
Attorney for Michelle Gallagher
353 Wimpole Drive
Nashville, TN 37211
615-399-2859
615-399-3498 Fax

CERTIFICATE OF SERVICE

I, Connie Reguli, do hereby certify that a true and correct copy of the foregoing document has been mailed on the 5th day of March 2002 to:
G. Kline Preston, IV
Attorney for Rae Dunning
222 Second Ave. No.
Suite 416
Nashville, TN 37201



Connie Reguli

FILED
2002 MAR -6 PM 2:45
RICHARD R. ROOKER, CLERK

AFFIDAVIT OF MICHELLE GALLAGHER

HAVING BEEN DULY SWORN, I, Michelle Gallagher, hereby state under oath

as follows:

1. Mr. Rae Dunning and I discussed the fact that I had genital herpes prior to ANY sexual intercourse. This would have been in the summer of 1998.
2. On the date in question, December 10th, 1998, Mr. Dunning was well aware of this physical condition and he insisted on having sexual intercourse.
3. As to the Mr. Dunning's affidavit stating that I told him that I had intentionally exposed him to genital herpes to get back at him, that it false. No such statements were ever made.

Further the affiant sayeth not.

Michelle Gallagher
Michelle Gallagher

STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

The affiant personally appeared before me, a Notary Public in and for said county and state, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence) and who swore that he executed the within instrument for the purposes therein contained and that his testimony is true.

SWORN to and subscribed before me on this the 5th day of March 2002.

Connie
Notary Public My commission expires: 7-29-02

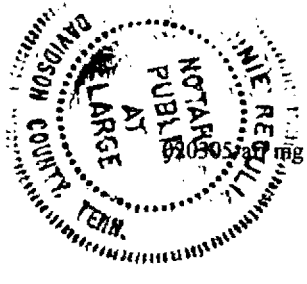


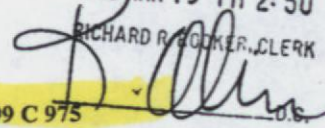
EXHIBIT
A

IN THE FIFTH CIRCUIT COURT OF DAVIDSON COUNTY
AT NASHVILLE, TENNESSEE

FILED

2002 MAR 19 PM 2:50

RICHARD R. BOKER, CLERK



Case No. 99 C 975
00 C 239

RAE DUNNING,)
)
Plaintiff,)
)
v.)
)
MICHELLE GALLAGHER,)
)
Defendant.)

ORDER

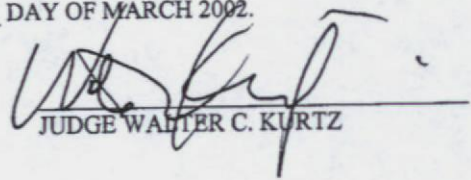
This cause came to be heard on the 8th day of March 2002 before the Honorable Judge Walter C. Kurtz on the Rule 56 Motion for Summary Judgment filed by the defendant, MICHELLE GALLAGHER. Upon review of the defendant's Motion for Summary Judgment, Statement of Undisputed Facts and Memorandum of Law and the plaintiff's Response in Opposition to Defendant's Motion for Summary Judgment and Motion to Dismiss, Plaintiff's Response to Defendant's Statement of Undisputed Facts, as well as exhibits filed in support of each parties' pleadings, the arguments of counsel and the entire record as a whole, taking all undisputed facts in the light most favorable to the non-moving party, this Court finds that the Motion for Summary Judgment is well taken and is herein granted. Therein the plaintiff's claims for intentional infliction of emotional distress, assault and battery, and malicious prosecution are dismissed with prejudice.

More specifically, as to the defendant's request for summary judgment on the claim of malicious prosecution, this Court finds that the plaintiff did not address this issue in his response. In accordance with Local Rule 26.04, if no response is timely filed or served the motion is automatically granted. As to the defendant's request for summary judgment on the claim of malicious prosecution, it is granted.

As to the plaintiff's claim of intentional infliction of emotion distress, this Court finds that the plaintiff did not suffer severe or serious mental injury by the standards set forth in *Miller v. Wilbanks*, 8 S.W.3rd 607 (Tenn. 1999). The Supreme Court held that, although the plaintiff is not required to present expert testimony, the evidence must establish that the plaintiff's mental injury is serious or severe. The Court will intervene only where the distress is so severe that no reasonable person could be expected to endure it. In the instant case, the undisputed facts in paragraphs 10,11,12,13, and 14 of the defendant's Statement of Undisputed Facts show that the plaintiff, RAE DUNNING, was only a little depressed and that his mental state did not seriously effect his ability to work, have friends or relate to his family. Therein, as a matter of law, the plaintiff did not suffer serious mental injury and summary judgment is granted, ~~and summary judgment is granted.~~ WJK.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the plaintiff's claims for malicious prosecution, assault and battery, and intentional infliction of emotional distress are dismissed with prejudiced with costs taxed to the plaintiff, RAE DUNNING. *The case is dismissed.* WJK.

ENTERED THIS THE 19 DAY OF MARCH 2002.


 JUDGE WALTER C. KURTZ

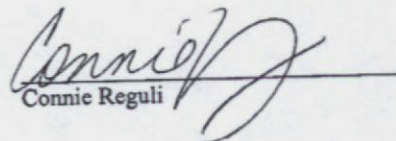
APPROVED FOR ENTRY:


 Connie Reguli #16867
 Attorney for Michelle Gallagher
 353 Wimpole Drive
 Nashville, TN 37211
 615-399-2859
 615-399-3498 fax

CERTIFICATE OF SERVICE

I, Connie Reguli, do hereby certify that a true and correct copy of the foregoing document has been mailed on the 11th day of March 2002 to:

G. Kline Preston, IV
 Attorney for Rae Dunning
 222 Second Ave. No.
 Suite 416
 Nashville, TN 37201


 Connie Reguli

CERTIFICATE OF SERVICE

I hereby certify that I have mailed a copy of the foregoing Order to the parties/counsel listed below, this the 20th day of March, 2002.

RICHARD R. ROOKER, CLERK

By: K. Olin, D.C.

xc: Connie Reguli
Attorney at Law
353 Wimpole Drive
Nashville, TN 37211

G. Kline Preston, IV
Attorney at Law
222 Second Avenue North
Suite 416
Nashville, TN 37201

FILED

IN THE FIFTH CIRCUIT COURT OF DAVIDSON COUNTY
AT NASHVILLE TENNESSEE

2007 MAR -4 AM 11:12
RICHARD R. MOORE, CLERK
D.C.

RAE DUNNING,)
)
 Plaintiff,)
)
 v.)
)
 MICHELLE GALLAGHER,)
)
 Defendant.)

Case No. 99 C 975
00 C 239

**DEFENDANT'S MOTION AND MEMORANDUM IN SUPPORT OF ITS
MOTION TO THE SEAL OF COURT DOCUMENTS OR IN THE
ALTERNATIVE TO STRIKE**

Now comes the Defendant, Michelle Gallagher, by and through counsel and moves this Honorable Court for protective order regarding certain court documents in the above-styled civil action pursuant to T.C.R.P. 26.03, or in the alternative to strike certain characterizations and accusations against the Defendant pursuant to T.C.R.P. 12.06 that are scandalous, in that all claims against the Defendant were dismissed. The documents and statements made therein contain sensitive and personal information of the Defendant and false representations of the relationship between the parties. In support of this motion, Defendant states as follows:

1. Plaintiff, Rae Dunning, filed a civil complaint against Defendant Michelle Gallagher, on April 9, 1999 alleging malicious prosecution, intentional infliction of emotional distress, and assault and battery. On March 19, 2002, this Court dismissed the Plaintiff's entire complaint on summary judgment.

2. During the pendency of the case, the Defendant filed a motion for protective order which was denied September 18, 2000. The Court referenced *Ballard v. Herzke*, 924 S.W.2d 652 (Tenn. 1996) and *Nixon v. Warner Communications*, 435 U.S. 589, 98 S. Ct. 1306 (1978) as justification to deny the motion.
3. On October 11, 2000, Defendant filed a second Motion for Protective Order requesting of this Court that the record be put under seal. The Court denied a blanket order on December 12, 2000, but stated, "*the court may reconsider the request for protective order over extraordinary documents and particularly sensitive documents on a selected basis upon proper motion by either party.*"
4. In Support of the second motion the Defendant cited *Pansy v. Borough of Stroudsburg*, 23 F.3d 772 and *Seattle Times Co. v. Rhinehart*, 467 U.S. 20, 34-36, stating that the Court could order the record under seal with a finding of good cause.
5. *Ballard* holds the following:

Under Tenn. R. Civ. P. 26.03 upon motion by any party and for good cause shown, a trial court **has the authority** to make any **order to protect** a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including **ordering** that the discovery responses be filed under seal. To establish "good cause" under Tenn. R. Civ. P. 26(c), the moving party must show that disclosure will result in a clearly defined injury to the party seeking closure. Broad allegations of harm, unsubstantiated by specific examples or articulated reasoning, do not amount to a showing of good cause. Mere conclusory allegations are insufficient. The burden of justifying the confidentiality of each and every document sought to be covered by a **protective order** is on the party seeking the **order**.

In determining whether good cause has been established for a **protective order**, it is important that trial courts balance one party's need for information against the injury that would allegedly result if disclosure is compelled. Factors in the balance weighing against a finding of good cause include: (1) the party benefitting from the **protective order** is a public

entity or official; (2) the information sought to be sealed relates to a matter of public concern, and (3) the information sought to be sealed is relevant to other litigation and sharing it would promote fairness and efficiency.

Factors in the balance weighing in favor of a finding of good cause to issue a ***protective order***, Tenn. R. Civ. P. 26.03, include: (1) the litigation involves private litigants; (2) the litigation concerns matters of private concern or of little legitimate public interest, and (3) disclosure would result in serious embarrassment or other specific harm. No particular weight is assigned to any factor, and the balancing test allows trial courts to evaluate the competing considerations in light of the facts of each individual case.

6. The factors to be considered by the Court under *Pansy* and *Seattle Times* are:
 - (a) The litigation involves private litigants.
 - (b) The litigation involves matters of private concern and have no legitimate public interest; and
 - (c) Disclosure would result in serious embarrassment, injury, or other specific harm to legitimate privacy interests.
7. The Court heard the arguments by Defendant's counsel to seal the entire record and found the request to be overly broad.
8. The Court stated that it may reconsider the request for Protective Order over extraordinary documents or particularly sensitive documents on a selected basis upon a proper motion by either party.
9. Good cause still exists for the Protective Order, and when a protective order is sought, the party seeking to maintain confidentiality must designate the documents alleged to be confidential and then establish that good cause exists with respect to those documents. Tenn. R. Civ. P. 26.03. Requested documents to be sealed:
 - (a) Civil Complaint 70775*1, filed 4/9/1999
 - (b) Amended Complaint of Plaintiff, filed 6/22/1999

- (c) Answer of Defendant 1, filed 10/11/1999
- (d) Motion 02.11.00 of Defendant 1 to Compel Discovery, filed 1/20/2000
- (e) Motion 09.01.00 of Defendant 1 for Protective Order, filed 8/17/2000
- (f) Memorandum of Defendant I Support of Motion, filed 8/17/2000
- (g) Motion to Continue 09.01.00 of Defendant 1 from Hearing 09.11.00, filed 8/17/2000
- (h) Notice of Defendant 1 to Take Deposition and RQ, filed 10/26/2000
- (i) Affidavit service SPA-W3-Served RT-10.30.00, filed 11/3/2000
- (j) Memorandum of Defendant 1 in Support of Motion for Summary Judgement, filed 12/14/2001
- (k) Statement of Undisputed Facts of Defendant 1, filed 12/14/2001
- (l) Motion 03.01.02-of Defendant 1 to Dismiss, filed 2/4/2002
- (m) Response of Plaintiff in Opposition to Defendant's MSJ & Motion to Dismiss, filed 3/4/2002
- (n) Affidavit Rae Dunning, filed 3/4/2002
- (o) Response of Plaintiff to Defendant's Statement of Undisputed Facts, filed 3/4/2002.
- (p) Statement of Plaintiff/Material Facts not in Dispute, filed 3/4/2002
- (q) Reply of Defendant of Plaintiff's Statement of Undisputed Facts, filed 3/6/2002
- (r) Affidavit Michelle Gallagher/Attach to Reply, filed 3/6/2002
- (s) Final Order 3607/664850-Case Dismissed, filed 3/19/2002

10. *Autin v. Goetz*, 524 S.W. 3d 617 (Tenn. Ct. App. 2017) clarifies the sealing of records to protect third-parties, and in *Goetz* the “case was sealed for a reason”—to protect Appellees' minor children. *Id.* at 626. In the case at bar, both Plaintiff Dunning and Defendant Gallagher have young children, and these children would potentially be subject to extreme humiliation, degradation, harassment and emotional distress if sensitive matters within the case were to be disclosed and/or exploited. In *Autin* certain documents containing sensitive information were specifically sealed in order to ensure that “the pleadings, deposition testimony, and other discovery filed or exchanged therein” would not be used as an attack on the children. *Id.* *Autin* also established that this Court maintains jurisdiction to provide this relief even where a case is dismissed.

11. In addition, the pleadings discuss the personal medical information of the Defendant. The Health Insurance Portability and Accountability Act of 1996 (HIPAA) (45 CFR Part 160 and Subparts A and E of Part 164) protects a person's private health information. Although said privacy requirement may be excepted by disclosure for the purpose of litigation, the Tennessee Courts have acknowledged that said information should be protected during the litigation process and destroyed at the end of the litigation. *Webb v. Roberson*, W2012-01230-COA-R9-CV, (Tenn. Ct. App. April 17, 2013)

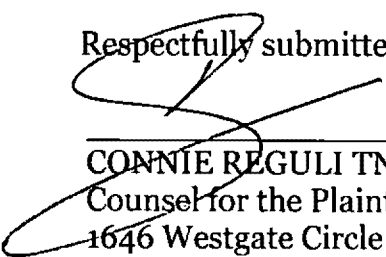
A "qualified **protective order**" is one that: (A) Prohibits the parties from using or disclosing the protected health information for any purpose other than the litigation or proceeding for which such information is requested; and (B) Requires the return to the covered entity or destruction of the protected health information (including all copies made) at the end of the litigation or proceeding. 45 C.F.R. § 164.512(e)(1)(v)(A), (B).

12. In the alternative, the Defendant moves this court to strike the scandalous unfounded allegations regarding the relationship of the parties and all references to the personal health information of the Defendant since all claims have been dismissed by the Court.

This is the 25 day of FEBRUARY 2019.

WHEREFORE, the Defendant respectfully requests that the Court enter an order sealing selected sensitive document in the record pursuant to Rule 26.03 or by directing the clerk to strike scandalous allegations that have all been dismissed by this Court. Pursuant to Rule 12.06.

Respectfully submitted,



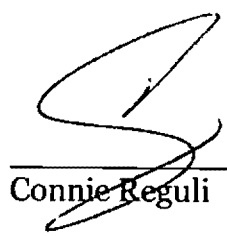
CONNIE REGULI TN Bar #016867
Counsel for the Plaintiff
1646 Westgate Circle
Suite 101
Brentwood, TN 37027
Phone: (615) 358-0112
Fax: (615) 661-0197
connie.reguli@lcflc.com

THIS MOTION IS SET TO BE HEARD ON THE 29 DAY OF MARCH 2019
BEFORE THE HONORABLE JUDGE JOE BINKLEY, JR
IN THE EVENT THE PLANTIFF HAS NOT FILED A TIMELY WRITTEN RESPONSE
PRIOR TO THE HEARING, THIS COURT MAY GRANT THIS MOTION WITHOUT A
HEARING.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 25 day of FEBRUARY 2019, the above styled motion is
forwarded to the defendant by first class mail at:

Rae Dunning
7221 Highway 70 S
Apartment 515
Nashville, TN 37221



Connie Reguli

CIRCUIT COURT SUMMONS

NASHVILLE, TENNESSEE

2019 MAR -4 AM 11:14
RICHARD R. ROOKER, CLERK

STATE OF TENNESSEE
DAVIDSON COUNTY
20TH JUDICIAL DISTRICT

- First
- Alias
- Pluries

RAE DUNNING *[Signature]* D.C.

CIVIL ACTION DOCKET NO. 99 C 975

Plaintiff

- Method of Service:
- Davidson County Sheriff
 - Out of County Sheriff
 - Secretary of State
 - Certified Mail
 - Personal Service
 - Commissioner of Insurance

Vs.
MICHELLE GALLAGHER

Defendant

To the above named Defendant:

PI w/mt.

You are summoned to appear and defend a civil action filed against you in the Circuit Court, 1 Public Square, Room 302, P.O. Box 196303, Nashville, TN 37219-6303, and your defense must be made within thirty (30) days from the date this summons is served upon you. You are further directed to file your defense with the Clerk of the Court and send a copy to the Plaintiff's attorney at the address listed below.

In case of your failure to defend this action by the above date, judgment by default will be rendered against you for the relief demanded in the complaint.

ISSUED: 3-4-19

RICHARD R. ROOKER
Circuit Court Clerk
Davidson County, Tennessee

By: *[Signature]*
Deputy Clerk

ATTORNEY FOR PLAINTIFF or PLAINTIFF'S ADDRESS	CONNIE REGULI 615 661 0122
	1646 WESTGATE CR STE 101
	Address BRENTWOOD TN 37027

TO THE SHERIFF:

Please execute this summons and make your return hereon as provided by law.

RICHARD R. ROOKER
Circuit Court Clerk

Received this summons for service this _____ day of _____, 20_____.

SHERIFF

If you have a disability and require assistance, please contact 862-5204.



IN THE FIFTH CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE

RAE DUNNING,)
)
 Plaintiff,)
)
 VS.)
)
 MICHELLE GALLAGHER,)
)
 Defendant.)

Nos. 99C975
00C239

2019 APR -5 P11 2: 26
 COURT REPORTER & EVIDENCE
 J. P. BINKLEY, JR.

ORDER

This cause came on to be heard on the 29th day of March, 2019, before the Honorable Joe P. Binkley, Jr., Judge of the Fifth Circuit Court for Davidson County, Tennessee, on Defendant’s Motion to Seal Court documents in the above-captioned case or in the alternative to strike certain characterizations and accusations against the Defendant pursuant to TCRP 12.06 that are scandalous because all claims against the Defendant were dismissed.

Article I, Section 17, of the Tennessee Constitution explicitly provides that “the Courts shall be open”.

“Tennessee Courts have long recognized that judicial proceedings are presumptively open” *In re: NHC-Nashville Fire Litigation*, 293 S.W.3d 547, 560 (2008).

“The presumption of openness may be overcome only by an overriding interest based on findings that closure is essential to preserve higher values and is narrowly tailored to serve that interest. The interest is to be articulated along with findings specific enough

that a reviewing court can determine whether the closure order was properly entered.” State v. Drake, 701 S.W.2d 604, 607-608 (Tenn. 1985). (quoting Press - Enter. Co. v. Superior Court, 464 U.S. 501, 506 (1984)).

“The openness of judicial proceedings extends to judicial records . . .” (internal citations omitted) “Indeed, the United States Supreme Court has observed that ‘the Courts of this country recognize a general right to inspect and copy public records and documents, including judicial records and documents.’ Nixon v. Warner Commc’ns, Inc., 435 U.S. 589 (1978). The Tennessee Supreme Court has described the origins and reasons for the public right to access judicial records. The public’s right to access provides public scrutiny over the Court system which serves to (1) promote community respect for the rule of law, (2) provide a check on the activities of judges and litigants, and (3) foster more accurate fact finding” (internal citations omitted) In re: NHC - Nashville Fire Litigation, 293 S.W.3d 547, 560-561 (2008).

In its Order dated March 19, 2002, the Honorable Judge Walter C. Kurtz, now retired Judge of the Fifth Circuit Court, stated the following:

[REDACTED]

[REDACTED]

Counsel for Original Defendant/Counter Plaintiff Michelle Gallagher's Motion which was filed on March 4, 2019, and heard by this Court on March 29, 2019, states that "... certain characterizations and accusations against the Defendant pursuant to TCRP 12.06 that are scandalous, and that all claims against the Defendant were dismissed. The documents and statements made therein contain sensitive and personal information of the Defendant and false representations of the relationship between the parties." On March 29, 2019, Attorney Connie Reguli, counsel for Original Defendant/Counter Plaintiff Michelle Gallagher, presented to the Court several pleadings and other filings in this case where the proposed portions requested to be stricken were circled by counsel, and the Court has reviewed all of those circled statements and the Court agrees that all of those circled statements should be stricken as scandalous matters as per Rule 12.06.

Based upon the fact that the Plaintiff, Rae Dunning,

[REDACTED]

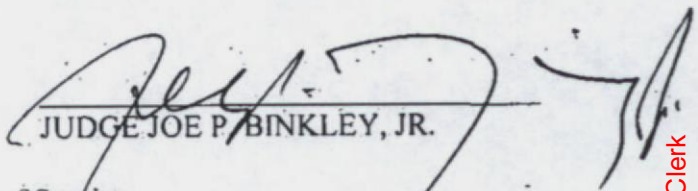
[REDACTED] Fifth Circuit Court's Order of March 19, 2002 granting Original Defendant, Michelle Gallagher's, Motion for Summary Judgment), the Court finds that the presumption of openness of judicial records has been overcome in this case; therefore, the circled

scandalous allegations in the attached documents are to be stricken as per TRCP 12.06. The referenced circled allegations should be stricken to preserve the higher value in this case because the Plaintiff, Rae Dunning, agreed that the scandalous allegations against the Defendant, Michelle Gallagher, were incorrect.

Regarding this Order, the Court also directs that the quote from the Fifth Circuit Court's Order of March 19, 2002 which begins at the bottom of page 2 of this Order and which quote continues to the top of page 3 should also be stricken as per TRCP 12.06. In addition, the quote from the Fifth Circuit Court's Order of March 19, 2002 contained in the last paragraph on page 3 which is in this Order should be stricken as per TRCP 12.06.

Any court costs associated with this Motion are taxed to the Original Plaintiff/Counter Defendant Rae Dunning.

IT IS SO ORDERED.


JUDGE JOE P. BINKLEY, JR.

Certificate of Service

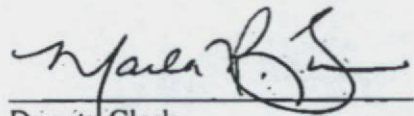
I hereby certify that a true and correct copy of the foregoing has been mailed, postage prepaid, to:

Connie Reguli, Esq.
1646 Westgate Circle
Suite 101
Brentwood, TN 37027

Rae Dunning
7221 Highway 70 S.
Apartment 515
Nashville, TN 37221

G. Kline Preston, IV, Esq.
4515 Harding Pike, Ste. 107
Nashville, TN 37205

on this the 5th day of April, 2019.


Deputy Clerk

COPY COPY

FILED

STATE OF TENNESSEE, COUNTY OF DAVIDSON

2011 OCT 27 PM 4:30

To Any Lawful Officer to Execute and Return:

RICHARD R. ROOKER, CLERK

Summon Sasha Carr

[Signature]

D.C.

to appear before the Metropolitan General Sessions Court of Davidson County, Tennessee, to be held in

Courtroom 5D, Justice A. A. Birch Building, 408 Second Avenue North, Nashville, Tennessee,

on _____, 20_____ at 8:45 a.m., then and there to answer

in a civil action brought by the Plaintiff(s) for:

Cameras (trail cams) sold to us that were broken. We paid \$200.00

under \$ 200 Dollars

Judgment for _____

against _____ for

\$ _____ Dollars and cost of suit for

which execution may issue. Entered: _____, 20_____

JUDGMENT



To request an ADA accommodation, please contact Dart Gore at 880-3309.

Judge, Division _____, Metropolitan General Sessions Court

PRO SE COURTROOM 5D

No. 17GC22712
Allas
Amended
Counter-Claim

Michelle Farnham/Anthony Foreman Plaintiff(s)

707 Hwy 192 Nashville TN 37206 Address

615-727-4392 Telephone vs.

Sasha Carr Defendant

4117 Hillsboro Pk Address

Ste 104A, Nashville TN 37215 Defendant

Address

Address

CIVIL WARRANT Metropolitan General Sessions Court

Issued 10/27/2011

Do not set on Friday By: RICHARD R. ROOKER, Clerk

Set for 8:45 A.M. on _____, 20_____ Deputy Clerk

Courtroom 5D Justice A. A. Birch Building 408 Second Avenue North P.O. Box 186304 Nashville, TN 37219-6304 (615) 862-5195
Service by: Private Process, D.C. Sheriff, O.C. Sheriff, Other

Reset for: _____

Came to hand same day issued and executed as commanded on:

Served: _____, 20_____

Sheriff/Process Server

Attorney for Plaintiff

Telephone

Attorney for Defendant

FILED 06/12/23 10:48 PM C891 Joseph P Day, Clerk

COPY COPY

STATE OF TENNESSEE, COUNTY OF DAVIDSON

To Any Lawful Officer to Execute and Return:

2018 JAN 31 AM 11:59

Summon Sasha Carr

[Handwritten Signature]
CLERK

to appear before the Metropolitan General Sessions Court of Davidson County, Tennessee, to be held in

Courtroom 5D, Justice A. A. Birch Building, 408 Second Avenue North, Nashville, Tennessee,

on _____, 20____ at 8:45 a.m., then and there to answer

in a civil action brought by the Plaintiff(s) for:

Trail Cameras sold to me/us were broken.
We paid \$200.00

under \$ 200 Dollars

Judgment for _____

against _____ for

\$ _____ Dollars and cost of suit for

which execution may issue. Entered: _____, 20____

JUDGMENT

To request an ADA accommodation, please contact Dart Gore at 880-3309.

Judge, Division _____, Metropolitan General Sessions Court

COURTROOM 5D

No. 18GL2003

- Alias
- Amended
- Counter-Claim

Michelle Farnham/Anthony Foreman
Plaintiff(s)

7807 Hwy 100 Nashville TN 37201
Address

615-727-4392
Telephone

Sasha Carr
Defendant

189 Wallace Rd Apt A52
Address

Nashville TN 37211
Address

Defendant

Address

C CIVIL WARRANT C
Metropolitan General Sessions Court

Issued 1/31 2018

RICHARD R. ROOKER, Clerk

By: *[Signature]* Deputy Clerk

Set for 8:45 A.M. on _____ 20____

Courtroom 5D
Justice A. A. Birch Building
408 Second Avenue North
P.O. Box 198304
Nashville, TN 37219-8304
(615) 862-5195

- Service by:
- Private Process
 - D.C. Sheriff
 - O.C. Sheriff
 - Other

Reset for: _____

Came to hand same day issued and executed as commanded on:

Served: _____, 20____

Sheriff/Process Server

Attorney for Plaintiff

Telephone

Attorney for Defendant

FILED 06/12/23 10:44 PM CC 891 Joseph P Day, Clerk

COPY STATE OF TENNESSEE, COUNTY OF DAVIDSON

To Any Lawful Officer to Execute and Return:

WHEREAS, complaint is made to me by the Plaintiff(s) that the Defendant(s) is/are unlawfully detaining a certain real property situated in Davidson County, Tennessee and bounded or known and described as follows: LEGACY HILL APTS, 628 COUNTRY CLUB LANE #628, APT# 628, NASHVILLE, TN 37205

INCLUDING BUT NOT LIMITED TO ALL PARKING, STORAGE AND COMMON AREAS AND WHEREAS, the Plaintiff(s) claim the right to the possession of said real property;

We therefore command you to summon the Defendant(s) to appear before the Metropolitan General Sessions Court of Davidson County, Tennessee, to be held in Courtroom 5D, Justice A. A. Birch Building, 408 Second Avenue North, Nashville, Tennessee, on: EARLIEST FRIDAY 13, 2013, at 8:45 A.M., to answer the above complaint and claim for rents by Plaintiff(s) in the sum of \$ 1141.30 Dollars and the claim(s) for ACCRUING RENTS, CHARGES, COSTS OF PHYSICAL DAMAGE, IF ANY; AND REASONABLE ATTY'S FEE and the costs of this cause.

LEGACY HILL APTS. (18103), Principal, and HALL & SITLER, Surety, do hereby bind ourselves, our heirs and assigns to said Defendant(s), to pay all costs and damages which shall accrue to said Defendant(s), for the wrongful prosecution of this suit. Entered: JULY 25, 2013. Principal: [Signature] Surety: [Signature]

JUDGMENT: Judgment is granted to Plaintiff(s) against Defendant(s) in the amount of \$ and all costs and taxes, and for possession of the described property for which a writ of restitution and execution shall be issued on Plaintiff's request. This judgment is entered by: [] Default of Defendant(s) [] Agreement of Parties [] Trial in Court [] Case is dismissed and all costs and taxes are to be paid by Plaintiff, for which execution may issue. Dismissal is based on or entered by: [] Failure to prosecute the suit by Plaintiff(s) [] Finding in favor of Defendant(s) after trial [] Non-suit by Plaintiff. Entered: _____

To request an ADA accommodation, please contact Dart Gore at 880-3309.

Judge, Division _____, Metropolitan General Sessions Court

COURTROOM 5D No. 13MT6454 [] Alias [] Amended [] Counter-Claim

Plaintiff(s) LEGACY HILL APTS. (18103) - VS - Address MICHELLE LEA FARNHAM LEGACY HILL APARTMENTS Telephone 628 COUNTRY CLUB LANE #628 APT# 628 NASHVILLE, TN 37205 Defendant Address Defendant Address

DETAINER WARRANT Metropolitan General Sessions Court

Issued 7-26-2013 By: RICHARD B. ROOKER, Clerk Deputy Clerk Ymckee

Set for 8:45 A.M. on EARLIEST FRIDAY, 2013 Courtroom 5D, Justice A. A. Birch Building 408 Second Avenue North P. O. Box 196304 Nashville, Tennessee 37219-6304 Service by: [] Private Process [] D.C. Sheriff [] O.C. Sheriff [] Other

Reset for: _____ Came to hand same day issued and executed as commanded on: _____ Served: _____, 2013 Sheriff/Process Server LAW OFFICE HALL & SITLER 223 MADISON ST., SUITE 212 Telephone MADISON, TENNESSEE 37115 (615) 868-4101 Attorney for Plaintiff Attorney for Defendant #2000171

FILED 06/12/23 10:46 PM CASE CC 23-891 Joseph P. Day, Clerk

August 1, 2019 Election Results (Certified)

[Home](#) [Departments](#) [Elections](#) [Election Returns and Statistics](#) [Election Returns](#)

Navigation

Registered voters:

- Active: 399,956
- Inactive: 33,355
- Total: 433,311

161 of 161 Precincts Reporting

MAYOR

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
Jody Ball	132	10	135	3	280	
David Briley	12496	521	12757	12	25786	
Julia Marguerite Clark-Johnson	224	12	167	1	404	
John Ray Clemmons	9018	141	7226	6	16391	
John Cooper	17411	498	17756	11	35676	
Bernie Cox	203	3	131	0	337	
Jimmy Lawrence	166	1	138	0	305	
Jon Sewell	111	1	112	0	224	
Nolan O. Starnes	63	3	63	0	129	

FILED 06/12/23 10:46 PM CASE NO. 23C891 Joseph P. Day, Clerk



Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
Carol M. Swain	12200	211	9968	8	22387	
WRITE-IN	53	0	30	0	83	

VICE MAYOR

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
Robert Sawyers, Sr.	8446	225	6646	10	15327	
Jim Shulman	33091	859	34124	23	68097	
WRITE-IN	805	7	426	0	1238	

COUNCIL AT LARGE

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
Burkley Allen	15173	440	15099	10	30722	
Fabian Bedne	11774	297	12923	7	25001	
Michael Craddock	8229	233	7661	7	16130	
Matthew J. DelRossi	4514	93	3502	7	8116	
James Dillard	7308	210	6561	6	14085	

EFILED 06/12/23 10:46 PM CASE NO. 23C891 Joseph P. Day, Clerk

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
Rueben Dockery	2787	77	2556	5	5425	
Adam Dread	10171	315	9249	6	19741	
Steve Glover	11541	421	11959	8	23929	
Sharon W. Hurt	15329	430	15961	11	31731	
Howard Jones	12702	278	11833	15	24828	
Gicola Lane	10924	214	9098	7	20243	
Bob Mendes	17891	529	19043	13	37476	
Gary W. Moore	10090	314	10435	4	20843	
Zulfat Suara	16358	296	15286	13	31953	
Sheri Weiner	14702	561	16395	14	31672	
WRITE-IN	1042	11	565	0	1618	

COUNCIL DISTRICT 1

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
Finis Luther Dailey, III	107	9	129	0	245	

EFILED 06/12/23 10:46 PM CASE NO. 23C891 Joseph P. Day, Clerk

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
Jonathan B. Hall	1410	43	1459	2	2914	
Rudolph "RJ" Mamula	164	10	146	0	320	
WRITE-IN	14	0	9	0	23	

COUNCIL DISTRICT 2

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
DeCosta Hastings	523	12	512	2	1049	
Yolanda Hockett	297	6	448	0	751	
André A. Southall	37	1	33	0	71	
Kyonzté Toombs	440	7	386	2	835	
WRITE-IN	2	0	1	0	3	

COUNCIL DISTRICT 3

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
Barry Barlow	112	2	133	0	247	
Jennifer Gamble	853	15	726	0	1594	

EFILED 06/12/23 10:46 PM CASE NO. 23C891 Joseph P. Day, Clerk

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
Elise Hudson	660	11	563	0	1234	
WRITE-IN	5	0	6	0	11	

COUNCIL DISTRICT 4

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
Mike Cortese	590	12	771	0	1373	
Robert Swope	869	17	1323	1	2210	
WRITE-IN	6	0	9	0	15	

COUNCIL DISTRICT 5

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
Charles Flowers, Jr.	449	7	217	0	673	
Pam Murray	239	1	133	0	373	
Sean Parker	758	0	333	0	1091	
WRITE-IN	6	0	3	0	9	

COUNCIL DISTRICT 6

EFILED 06/12/23 10:46 PM CASE NO. 23C891 Joseph P. Day, Clerk

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
Brett A. Withers	1808	21	935	0	2764	
WRITE-IN	120	2	62	0	184	

COUNCIL DISTRICT 7

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
Emily Benedict	912	7	446	0	1365	
Clint Camp	265	3	139	1	408	
Stephen A. Downs	134	0	71	0	205	
Daniel Fitzpatrick	260	2	105	0	367	
Jacob Green	35	0	22	0	57	
Stephanie Johnson	197	3	96	0	296	
Randy Reed	176	1	99	0	276	
Cole D. Rogers	239	1	163	1	404	
WRITE-IN	9	0	3	0	12	

COUNCIL DISTRICT 8

EFILED 06/12/23 10:46 PM CASE NO. 23C891 Joseph P. Day, Clerk

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
Nancy VanReece	850	36	783	0	1669	
Danny Williams	281	16	309	0	606	
WRITE-IN	9	0	3	0	12	

COUNCIL DISTRICT 9

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
Thomas E. George	203	5	223	0	431	
Tonya Hancock	583	10	550	1	1144	
David McMurry	200	6	160	0	366	
WRITE-IN	3	0	0	0	3	

COUNCIL DISTRICT 10

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
Tim Garrett	514	28	525	1	1068	
Zach Young	667	16	580	0	1263	
WRITE-IN	6	0	4	0	10	

COUNCIL DISTRICT 11

EFILED 06/12/23 10:46 PM CASE NO. 23C891 Joseph P. Day, Clerk

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
Larry Hagar	1397	38	1148	0	2583	
WRITE-IN	30	0	30	0	60	

COUNCIL DISTRICT 12

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
Erin Evans	796	20	874	1	1691	
Geric Smith	593	8	694	1	1296	
WRITE-IN	2	0	5	0	7	

COUNCIL DISTRICT 13

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
Russ Bradford	453	4	327	1	785	
Andrew Dixon	368	3	347	0	718	
Dan Meredith	123	1	132	0	256	
WRITE-IN	8	0	1	0	9	

COUNCIL DISTRICT 14

EFILED 06/12/23 10:46 PM CASE NO. 23C891 Joseph P. Day, Clerk

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
Kevin Rhoten	811	8	831	0	1650	
WRITE-IN	19	1	22	0	42	

COUNCIL DISTRICT 15

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
Jeff Syracuse	1445	29	1052	0	2526	
WRITE-IN	51	1	46	0	98	

COUNCIL DISTRICT 16

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
Paul King	199	4	208	0	411	
Tony Tenpenny	418	10	286	1	715	
Ginny Welsch	402	15	372	2	791	
WRITE-IN	0	0	2	0	2	

COUNCIL DISTRICT 17

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
Colby	1207	14	775	2	1998	

FILED 06/12/23 10:46 PM CASE NO. 23C891 Joseph P. Day, Clerk

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
Sledge						
WRITE-IN	40	2	33	0	75	

COUNCIL DISTRICT 18

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
Tom Cash	596	34	594	0	1224	
John Green	606	28	550	0	1184	
WRITE-IN	5	0	3	0	8	

COUNCIL DISTRICT 19

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
Freddie O'Connell	974	19	711	5	1709	
WRITE-IN	38	1	22	0	61	

COUNCIL DISTRICT 20

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
Tori Goddard	293	8	163	1	465	
Mary Carolyn Roberts	804	11	492	0	1307	

EFILED 06/12/23 10:46 PM CASE NO. 23C891 Joseph P. Day, Clerk

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
WRITE-IN	5	1	4	0	10	

COUNCIL DISTRICT 21

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
Denise D. Bentley	170	12	147	0	329	
Ted Chapin	49	0	43	0	92	
Melissa "Clark" Covington	71	0	68	0	139	
Edward T. Kindall	353	17	284	0	654	
Brandon Taylor	367	4	235	2	608	
WRITE-IN	6	0	2	0	8	

COUNCIL DISTRICT 22

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
Art Allen	232	10	349	0	591	
Gloria Hausser	663	25	984	0	1672	
Todd Sneed	358	20	626	0	1004	
WRITE-IN	10	0	6	0	16	

EFILED 06/12/23 10:46 PM CASE NO. 23C891 Joseph P. Day, Clerk

COUNCIL DISTRICT 23

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
Thom Druffel	908	22	1054	1	1985	
Mina Johnson	966	38	1112	1	2117	
Rob McKinney	204	13	194	1	412	
WRITE-IN	5	0	3	0	8	

COUNCIL DISTRICT 24

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
Kathleen Murphy	1825	86	1850	3	3764	
WRITE-IN	54	0	52	0	106	

COUNCIL DISTRICT 25

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
Russ Pulley	1547	78	2059	1	3685	
WRITE-IN	48	1	65	0	114	

COUNCIL DISTRICT 26

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
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EFILED 06/12/23 10:46 PM CASE NO. 23C891 Joseph P. Day, Clerk

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
Chip Cruze	321	6	279	0	606	
Jeremy Elrod	537	11	450	0	998	
Courtney Johnston	626	14	460	0	1100	
WRITE-IN	3	0	3	0	6	

COUNCIL DISTRICT 27

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
Robert Nash	656	10	715	0	1381	
WRITE-IN	18	1	31	0	50	

COUNCIL DISTRICT 28

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
Riki Dwivedi	115	1	101	0	217	
Tanaka Vercher	540	8	501	0	1049	
WRITE-IN	6	0	6	0	12	

COUNCIL DISTRICT 29

EFILED 06/12/23 10:46 PM CASE NO. 23C891 Joseph P. Day, Clerk

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
Delishia Porterfield	945	14	817	0	1776	
Constance Smith-Burwell	267	8	266	0	541	
WRITE-IN	7	0	5	0	12	

COUNCIL DISTRICT 30

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
Reuben Ford	65	1	35	0	101	
Lydia Hubbell	96	1	60	1	158	
Sherry Jones	256	8	208	0	472	
Sandra Sepulveda	298	2	205	0	505	
WRITE-IN	4	0	2	0	6	

COUNCIL DISTRICT 31

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
John Rutherford	1096	8	950	0	2054	
WRITE-IN	46	0	32	0	78	

FILED 06/12/23 10:46 PM CASE NO. 23C891 Joseph P. Day, Clerk

COUNCIL DISTRICT 32

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
Cheryl D. Mayes	290	6	413	0	709	
Joy Styles	421	6	385	1	813	
WRITE-IN	7	0	1	0	8	

COUNCIL DISTRICT 33

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
Martez Coleman	441	15	420	1	877	
Antoinette W. Lee	816	12	774	0	1602	
WRITE-IN	7	0	4	0	11	

COUNCIL DISTRICT 34

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
Terry Jo Bichell	688	26	861	0	1575	
Angie E. Henderson	1300	66	1656	0	3022	
WRITE-IN	4	0	8	0	12	

COUNCIL DISTRICT 35

EFILED 06/12/23 10:46 PM CASE NO. 23C891 Joseph P. Day, Clerk

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
Michelle Foreman	762	11	988	0	1761	
Dave Rosenberg	1146	30	1629	0	2805	
WRITE-IN	6	0	2	0	8	

AMENDMENT NO. 1

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
For Ratification	40533	837	37571	29	78970	
Against Ratification	7817	185	7586	5	15593	

AMENDMENT NO. 2

Candidate Name	Election Day	Absentee	Early	FS / PV	Total Votes	Pe
For Ratification	39790	927	37844	28	78589	
Against Ratification	7666	121	6610	7	14404	

Related Tags

Davidson County Election Commission

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WSMV 4, Nashville

December 22, 2020

"There was a lot of anger and frustration that an individual with that much public clout would do something so reckless and irresponsible." Williamson County doctors speak out about the holiday party Dave Ramsey held for his employees.

WSMV.COM

Williamson Co. doctors: Ramsey party 'like a slap in the face'

The Monday after Dave Ramsey held a huge company Christmas party full of mask-less attend...

487

546 Comments 88 Shares

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Write a comment...



Julie T. Smith

There will always be those who think the rules don't apply to them.

Like Reply 1y



Juan Rodriguez-sawao

They are still partying!!! Reason why the "news" just caught up with them..

Like Reply 1y



Michelle Foreman

Yes, it seemed the doctor was angry and frustrated, but also jealous and judgmental. How about doctors put this kind of energy behind their patients getting healthy? Heathy people are not dying from this virus, so if that's really the goal then people need to get healthy.

DEFENDANT'S EXHIBIT

1



Like

Share



Michelle Foreman

2h · 🌐



I wonder how many positive flu tests we would have with free testing? You would think with the flu, that actually KILLS more people, we would have free testing.

10



Like

Share



Michelle Foreman

3h · 🌐



Another reason we need closed primaries.

"Sethi is the only way a Democrat in Tennessee will ever be heard"

"Sethi has bearing in the Republican Party but he swears he will never be a p... See More



CHATTANOOGAN.COM



Roy Exum: Manny Is Best For All

I am not a big fan of Bill Hagerty, the early front-runner to replace Lamar Alexander as Tennessee's next Sen...



4

2 Comments 1 Share

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Michelle Foreman

3h ·

Points from a comment on my SEC page!

One other thing I don't hear mentioned enough is how difficult it is for someone with breathing issues like COPD to breathe WITHOUT a mask.

With a mask it makes it FAR more difficult to breathe.

Also, how would other disease/new case rates be affected if we had free, drive up testing for them? If you test thousands per week, you will have more positive results.

When you blame Covid-19 for deaths even if they are only suspected and not tested for, you have no idea what really killed them.

14

3 Comments 1 Share

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Share



Michelle Foreman

3h ·

Who is Manny Sethi?

Here are two of the board members of his non-profit, Healthy Tennessee.





Michelle Foreman

1d · 🌐



Brian Buttrey

2d · 🌐

Here something to think about:

WAKE UP, PEOPLE! This IS happening!

For all of my friends defending the mask, I won't unfriend you, no matter how hard you try to push your views down my throat, but read this... ⬇️

When you ask why? - It's just a mask:

....."It's just a mask" can turn into "it's just a vaccine" very quickly. And it will, you can bet your bottom dollar on that!

In less than 5 months, our government has successfully divided the country into "obedient mask wearers" versus "selfish people that refuse to wear masks".

"It's just a mask, you guys". It's for "the greater good"!

Where have we heard this phrase before? 💡

In less than 5 months, our government has dictated what events are acceptable versus unacceptable to attend. Riots are OK, family funerals are not. Standing in a graduation line is a "safety hazard", but feel free to line up at Walmart, Lowes, and Home Depot.

But it's "just a mask" & "safety precautions", you guys.

In less than 5 months, our government



.
It's "just a mask" and "safety precautions" you guys. Oh & here's a measly \$1200 that we stole from you in the first place. Enjoy!

.
In less than 5 months, our government was able to successfully sway the population into believing that a CASHLESS SOCIETY is a good thing! In the name of a government-sponsored virus.

.
In less than 5 months, our government closed down public schools and has a "restructured" school moving forward under the guise of "public safety" from a "virus". These same schools fed children crap per the corrupt USDA food pyramid. But "health" matters when it comes to a government-sponsored virus 💡

.
It's "just a mask" & "heightened safety precautions", you guys.

.
In less than 5 months, our government demonstrated how easily people assimilate to "guidelines" (that have NO scientific premise whatsoever) when they are fearful.

.
What was up with all that toilet paper?

.
It's "just a mask" & "6-foot social distancing", you guys. Oh, and dooky paper.

.
In less than 5 months, our government has successfully instilled fear in a majority of the population in America.

.
But citizens are not "afraid" of the people in power who are responsible for the removal of their "freedoms". Instead, they're fearful of their neighbors and family human touch and air





Michelle Foreman

6 hrs ·



You know, on a spiritual level the devil is at play, manipulating people of otherwise sound mind into acting like people we do not recognize.



Reclaiming Hearts Ministries with Denise Hildreth Jones



Monday at 1:05 PM ·

Crisis, Coronavirus and being Christ.



WWW.RECLAIMINGHEARTS.ORG

Crisis, Coronavirus and being Christ.

[Learn More](#)



Michelle Foreman

from an era long gone and forgotten. we will never understand the sacrifices. We will never fully earn their sacrifices. But we should work harder to learn about them..learn from them...to respect them.

28

5 Comments 19 Shares

Like

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Michelle Foreman

10 hrs · Public



We will destroy our economy over uncontrolled emotion. That will be the devastating effect of this virus.



DAILY WIRE · 2 MIN READ

Stanford Professor: Data Indicates We're Severely Overreacting To Coronavirus

13

6 Comments 7 Shares

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10:32



Michelle Foreman

Is the media manipulating via fear to postpone the election, fulfilling their prophesy regarding their false claim that President Trump is a dictator?

15

6 Comments 2 Shares

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Michelle Foreman



Monday at 3:35 PM ·

I don't recall a shut down over the Swine Flu or SARS. Could it have had anything to do with the administrations?



3:26



Like

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Michelle Foreman



May 6 ·

False Information
Checked by independent fact-checkers

[See Why](#)

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See Link

4

2 Comments

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Michelle Foreman



May 6 ·





Michelle Foreman

1d · [Globe icon]



Brian Buttrey

2d · [Globe icon]

Here something to think about:

WAKE UP, PEOPLE! This IS happening!

For all of my friends defending the mask, I won't unfriend you, no matter how hard you try to push your views down my throat, but read this... [Down arrow icon]

When you ask why? - It's just a mask:
....."It's just a mask" can turn into "it's just a vaccine" very quickly. And it will, you can bet your bottom dollar on that!

.
In less than 5 months, our government has successfully divided the country into "obedient mask wearers" versus "selfish people that refuse to wear masks".

.
"It's just a mask, you guys". It's for "the greater good"!

Where have we heard this phrase before? [Lightbulb icon]

.
In less than 5 months, our government has dictated what events are acceptable versus unacceptable to attend. Riots are OK, family funerals are not. Standing in a graduation line is a "safety hazard", but feel free to line up at Walmart, Lowes, and Home Depot.

.
But it's "just a mask" & "safety precautions", you guys.

.
In less than 5 months, our government



06/12/23 10:46 PM CASE NO. 23C891 Joseph P. Day, Clerk



Michelle Foreman

141 Tweets

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Michelle Foreman Retweeted



Joseph A. Ladapo, MD, PhD · 10/7/22

Today, we released an analysis on COVID-19 mRNA vaccines the public needs to be aware of. This analysis showed an increased risk of cardiac-related death among men 18-39. FL will not be silent on the truth.

Guidance: bit.ly/3CIKF5f

Press Release:



State Surgeon General Dr. Joseph A. Ladapo Issues New...
content.govdelivery.com

5,032 replies, 54.6K retweets, 97.4K likes

Michelle Foreman Retweeted



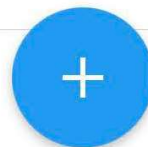
Joseph A. Ladapo, MD, PhD · 10/10/22

Finally, is it really that hard to imagine that mRNA COVID-19 vaccines that increase myocarditis in young men by 10x, 20x, or 30x (see Karlstad et al, JAMA Cardiology, 2022) also increase the risk of cardiac death in that age group? Of course it's not, and we all know that. 😊

532 replies, 5,564 retweets, 18K likes

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Michelle Foreman
@Michelle4TN

Our family's livelihood was put in jeopardy when we made an educated decision to refuse a mandated COVID-19 vaccine. We don't just talk the talk, we walk the walk, and we stand with our Tennessee National Guard.

9:31 PM · Jul 7, 2022





MichelleForeman
@MichelleForeman

🔖 2Y ago ⋮

Phil Williams, enemy of the state and Republicans/conservatives any and everywhere, once again tells a biased and one-sided story about Erik Munchel. Go figure-he's trying his level best to remain relevant, and failing badly.



FBI arrests Nashville zip-tie suspect from assault on U.S. Capitol

 www.newschannel5.com

0 😊

0 💬

0 📄

😊 React

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DEFENDANT'S EXHIBIT
5

06/12/23 10:46 PM CASE NO. 23C891 Joseph P. Day, Clerk



THE UNITED STATES ATTORNEY'S OFFICE
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Department of Justice

U.S. Attorney's Office

District of Columbia

FOR IMMEDIATE RELEASE

Wednesday, April 19, 2023

Mother and Son Found Guilty of Charges For Actions During Jan. 6 Capitol Breach

WASHINGTON – A mother and son, from Tennessee, have been found guilty in the District of Columbia of felony charges for their actions during the breach of the U.S. Capitol on Jan. 6, 2021. Their actions and the actions of others disrupted a joint session of the U.S. Congress convened to ascertain and count the electoral votes related to the presidential election.

Eric Gavelek Munchel, 32, of Nashville, Tennessee, and Lisa Marie Eisenhart, 59, of Woodstock, Georgia were found guilty yesterday following a stipulated bench trial before U.S. District Court Judge Royce C. Lamberth. A sentencing hearing is scheduled for September 8, 2023.

The two were found guilty of: conspiracy to commit obstruction and obstruction of an official proceeding, both felonies, as well as entering and remaining in a gallery of Congress, disorderly and disruptive conduct in a Capitol building, and parading, demonstrating, or picketing in a Capitol building.

Munchel alone was found guilty of two additional felonies: disorderly or disruptive conduct in a restricted building or grounds with a deadly or dangerous weapon, and unauthorized possession of a deadly or dangerous weapon on Capitol grounds.

According to evidence presented to the court and facts admitted by the defendants, Munchel and Eisenhart entered the U.S. Capitol on Jan. 6, 2021 to disrupt Congress's certification of the 2020 presidential election. As they approached the Capitol building, they saw other rioters fighting with police and encouraged them to do so. They experienced police wearing body armor and using chemical irritants and gas to repel rioters like themselves, but they were not deterred. Instead, even though they were aware their actions were unlawful, they pushed forward, past police lines, and entered the Capitol building. Once inside, they penetrated all the way to the Senate Gallery. Photos and video captured Munchel and Eisenhart wearing tactical vests and carrying plastic zip tie-style handcuffs that they stole from a closet inside the Capitol. Additionally, Munchel had a Taser holstered on his right hip. While inside the Senate and carrying the stolen restraints, Munchel and Eisenhart wondered aloud where the "traitors" and "cowards"—meaning the Senators—had gone. Later, both Munchel and Eisenhart gave statements to a reporter in which they acknowledged that their actions were intended to intimidate Congress.

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These cases are being prosecuted by the U.S. Attorney's Office for the District of Columbia and the Counterterrorism Section of the DOJ's National Security Division, with assistance from the U.S. Attorney's Office for the Northern District of Georgia, the U.S. Attorney's Office for the Middle District of Tennessee, and the U.S. Attorney's Office for the Middle District of Florida.

The cases were investigated by the FBI's Washington Field Office, the FBI's Nashville Field Office, the FBI's Memphis Field Office, and the United States Capitol Police.

In the 27 months since Jan. 6, 2021, more than 1,000 individuals have been arrested in nearly all 50 states for crimes related to the breach of the U.S. Capitol, including more than 320 individuals charged with assaulting or impeding law enforcement. The investigation remains ongoing.

Anyone with tips can call 1-800-CALL-FBI (800-225-5324) or visit tips.fbi.gov.

Topic(s):

Violent Crime

Component(s):

Federal Bureau of Investigation (FBI)

USAO - District of Columbia

USAO - Florida, Middle

USAO - Georgia, Northern

USAO - Tennessee, Middle

Press Release Number:

23-210

Updated April 19, 2023

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9:50 ↗

AA

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👍 😂 4

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Michelle Foreman

22 hrs · 🌐

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« [New local super PAC running ads supporting Harwell Congressional candidate Wittum escorted from GOP fundraiser after outburst](#) »

GOP chair denies endorsement in Davidson primary

Published August 1, 2022 | By [Erik Schelzig](#)



Tennessee Republican Party Chair Scott Golden is stressing he has not endorsed either candidate running for the GOP nomination in the open House District 59 seat in Davidson County. The statement came after a mailer by Michelle Foreman included a laudatory quote by Golden on a mailer listing her endorsements.

“A recent mailer was sent out implying I endorsed a candidate for state House in your district,” Golden said, according to Facebook post by rival candidate Wyatt Rampy. “Let me set the record straight. That is inaccurate. As chairman, I have not, and will not endorse any Republican candidate in a contested primary.”

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DEFENDANT'S EXHIBIT

7

2/23 10:46 PM CASE NO. 23C891 Joseph P. Day, Clerk



The new seat comprises several wealthy communities in southern Davidson County, including Belle Meade, Oak Hill, and Forest Hill. The General Assembly redrew the lines of retiring Democratic Rep. Jason Potts' district earlier this year to try to make it more favorable to Republicans. Caleb Hemmer, a former aide to then-Gov. Phil Bredesen, is the lone Democrat running.

Foreman is a member of the state GOP's executive committee. It's not the first time her mailers have been problematic. A previous one urged people to scan a QR code to find their voting locations. But doing so led to the website of the election commission in neighboring Williamson County, which is outside the district. The primary is on Thursday.

Posted in [Uncategorized](#) | Tagged [district 59](#), [michelle foreman](#), [republican primary](#), [scott golden](#), [state house races](#), [wyatt rampy](#)

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- [October 2021](#)
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- [August 2021](#)
- [July 2021](#)
- [June 2021](#)
- [May 2021](#)
- [April 2021](#)
- [March 2021](#)
- [February 2021](#)
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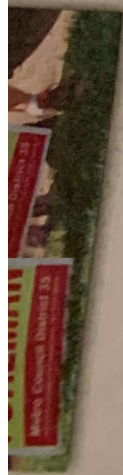
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information is shared with the community, and the community has an opportunity to make their voice heard. I am deeply invested in the 35th District and the families, like mine, that call it home."

COPY

Comparing the Candidates

**DAVE
ROSENBERG**



- Moved to Bellevue from San Francisco, California
- Voted to make Nashville a sanctuary city
- Voted to give big tax breaks to billion-dollar corporations
- Downplays crime concerns in Bellevue
- Voted for a more than 16% property tax hike
- Most campaign funds made by Big Business Interests
- Grew up in our community
- Opposes making Nashville a sanctuary city
- Will work to insure taxpayers' money is spent responsibly
- Will address the crime problem in Bellevue and work to fully staff MNPd, in order to provide more police patrol
- Will work to reallocate funds in the budget to better serve our community and avoid unnecessary tax increases
- Donations made by private individuals and residents of the 35th District

A VOTE FOR MICHELLE WILL BE A VOTE TO:

• Add a fiscally responsible voice to the Metro Council

Contrasting The Candidates

DAVE ROSENBERG

- Moved to Bellevue from San Francisco, California
- Voted to make Nashville a sanctuary city
- Voted to give big tax breaks to billion-dollar corporations
- Downplays crime concerns in Bellevue
- Voted for a more than 16% property tax hike
- Most of Mr. Rosenberg's donors are Unions and Big Developers




MICHELLE FOREMAN
 METRO COUNCIL DISTRICT 35

- Grew up in our community
- Opposes making Nashville a sanctuary city
- Will work to insure taxpayers' money is spent responsibly
- Will address the crime problem in Bellevue and work to fully staff MNPD, in order to provide more police patrols
- Will work to reallocate funds in the budget to better serve our community and avoid unnecessary tax increases
- Donations made by private individuals and residents of the 35th District



BELLEVUE DESERVES BETTER – FOREMAN FOR A BETTER BELLEVUE

A Rational response to Trump's Election




Dave Rosenberg


21 mins · Nashville · 🇺🇸





Congratulations to everyone who hates women, people of color, Jews, immigrants, GBT, and Muslims. You scored an amazing victory.

1 Share

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

MICHELLE FOREMAN,)	
)	
Plaintiff,)	
	)	Case No. 23C218
VS.)	
	)	JURY DEMAND
CALEB HEMMER,)	
FRIENDS OF CALEB HEMMER, and)	
WILL HOWORTH,)	
)	
Defendants.)	

NOTICE OF VOLUNTARY DISMISSAL WITHOUT PREJUDICE

COMES the Plaintiff, Michelle Foreman, by and through counsel, G. Kline Preston, IV, and hereby gives notice of her voluntary dismissal without prejudice of this action against all Defendants.

Respectfully Submitted,

KLINE PRESTON LAW GROUP

/s/ G. Kline Preston, IV, Esq.

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

12/23 10:46 PM CASE NO. 23C891 Joseph P. Day, Clerk



CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been sent via U.S. mail, postage pre-paid, and/or e-mail on this the 10th day of March, 2023 to the following:

Mr. Charles S. J. Sharrett, Esq.
Mr. Matthew J. Evans, Esq.
KAY GRIFFIN, PLLC
900 S. Gay Street, Ste. 1810
Knoxville, TN 37902
Tel: (865) 314-8422
Charles.sharrett@kaygriffin.com
Matthew.evans@kaygriffin.com
*Attorneys for Defendant,
Caleb Hemmer*

Mr. Martin F. Schubert, Esq.
Mr. J. Gerard Stranch, IV, Esq.
STRANCH, JENNINGS & GARVEY, PLLC
223 Rosa L. Parks Avenue, Ste. 200
Nashville, TN 37203
Tel: (615) 254-8801
mschubert@stranchlaw.com
gstranch@stranchlaw.com
*Attorneys for Defendants, Friends of
Caleb Hemmer and Will Howorth*

/s/ G. Kline Preston, IV, Esq.
G. Kline Preston, IV, Esq.

IN THE CIRCUIT COURT FOR WILLIAMSON COUNTY, TENNESSEE
AT FRANKLIN

MICHELLE FOREMAN,)	
)	
Plaintiff,)	
	)	Case No. 22CV-517
v.)	
	)	JURY DEMANDED
CALEB HEMMER, FRIENDS OF CALEB)	
HEMMER, and WILL HOWARTH)	
)	
Defendants.)	
)	

PETITION TO DISMISS PURSUANT TO TENN. CODE ANN. SECTION 20-17-101, ET. SEQ.

THIS MOTION HAS NOT BEEN SET FOR A HEARING AT THE TIME OF FILING.

Pursuant to Tenn. Code Ann. Section 20-17-101, et. seq. Defendants Caleb Hemmer (“Mr. Hemmer”), Friends of Caleb Hemmer, (“FCH”), and Will Howarth (“Mr. Howarth”) (collectively, “Defendants”) hereby petition the Court to dismiss this action against them. In support of this motion, Defendants state as follows:

1. Plaintiff filed this lawsuit in response to Defendants’ exercise of the right of free speech on a matter of public concern. Defendants’ statements were made in connection with Plaintiff and Defendant Hemmer’s running for political office. Therefore, this case should be dismissed pursuant to Tenn. Code Ann. Section 20-17-104.

2. On October 24, 2022, Plaintiff filed her original lawsuit in the Circuit Court for Williamson County, Tennessee. On November 28, 2022, Defendants filed a Motion to Dismiss for improper venue. On December 12, 2022, Plaintiff filed an Amended Complaint. On January 9, 2023, the lawsuit was transferred to Davidson County, pursuant to Judge Joseph A. Woodruff’s Order. (See Order Transferring Case). Now that this case has been appropriately transferred to

Davidson County Circuit Court, the proper venue, Defendants are filing the present petition to dismiss.

3. Tenn. Code Ann. Section 20-17-104(a) allows a party to petition to dismiss any legal action that “is filed in response to a party’s exercise of the right of free speech, right to petition, or right of association” Tenn. Code Ann. Section 20-17-103(3) defines the “Exercise of the right of free speech” as “a communication made in connection with a matter of public concern”; Section 20-17-103(6) defines “Matter of public concern” as “an issue related to: . . . (C) The government; (D) A public official or public figure”

4. Defendant Caleb Hemmer was running for House District 59 as was the Plaintiff Michelle Foreman during the relevant times as alleged in the Complaint. (Compl. ¶¶ 1, 2, 7, 10, 11). The statements Plaintiff allege were libelous are: “A court fined Foreman \$1 million for breaching a federal law” and “Foreman defends the traitors who stormed the Capitol on Jan. 6.” (Compl. ¶ 7). The Plaintiff explicitly admits that these statements were made in connection with a political campaign. (Compl. ¶¶ 10-11).

5. The Plaintiff’s Complaint was clearly a response to the Defendants’ use of their right to free speech. The Plaintiff, in running for office, made herself a public figure, and speech regarding her candidacy is clearly protected under both the State and United States Constitution. In addition, the subject matter of the speech is wholly connected to the government as both Defendant Hemmer and Plaintiff Foreman were both running for government office. Accordingly, this Complaint should be dismissed pursuant to Tenn. Code Ann. Section 20-17-104.

6. Should this Court dismiss the Complaint pursuant to this code section, Defendants are entitled to an award of their court costs, attorney’s fees, and other costs and expenses:

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.

§ 20-17-107(a) (emphasis added). Further, any dismissal pursuant to this code section is with prejudice. § 20-17-105(e).

For the reasons set forth above, the Defendants request that this Court enter an Order dismissing all claims against all Defendants with prejudice and granting Defendants all incurred court costs, reasonable attorney's fees, discretionary costs, expenses, and any other relief.

Respectfully submitted.

KAY GRIFFIN, PLLC

/s/Charles Sharrett

Matthew J. Evans (#017973)

Charles S. J. Sharrett (#36930)

900 S. Gay Street, Ste. 1810

Knoxville, TN 37902

(865) 314-8422

matthew.evans@kaygriffin.com

charles.sharrett@kaygriffin.com

Attorneys for Defendant Caleb Hemmer

Branstetter, Stranch & Jennings, PLLC

/s/Marty Shubert (w/ permission CS)

J. Gerard Stranch IV

Marty Schubert

223 Rosa L. Parks Avenue, Suite 200

Nashville, Tennessee 37203

(615) 254-8801

martys@bsjfirm.com

gerards@bsjfirm.com

*Attorneys for Friends of Caleb Hemmer and
Will Howorth*

CERTIFICATE OF SERVICE

I hereby certify that on **February 1, 2023**, a true and correct copy of the foregoing was served via email upon the following:

G. Kline Preston, IV
Belle Meade Office Park
4515 Harding Pike Suite 107
Nashville, Tennessee 37205
kpreston@klineprestonlaw.com

J. Gerard Stranch IV
Marty Schubert
223 Rosa L. Parks Avenue, Suite 200
Nashville, Tennessee 37203
martys@bsjfirm.com
gerards@bsjfirm.com

/s/Charles Sharrett

Charles S. J. Sharrett

IN THE CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE

MICHELLE FOREMAN,)	
)	
Plaintiff,)	
	)	Case No. 23C218
v.)	
	)	JURY DEMANDED
CALEB HEMMER, FRIENDS OF CALEB)	
HEMMER, and WILL HOWARTH)	
)	
Defendants.)	
)	

DEFENDANTS’ MOTION TO ASSESS FEES AND COSTS AND SET CONDITIONS ON DISMISSAL

PLEASE TAKE NOTICE, PURSUANT TO LOCAL RULE 26.05(b): THIS MOTION IS SET TO BE HEARD ON APRIL 28, 2023, AT 9:00 AM CST; FAILURE TO FILE AND SERVE A TIMELY WRITTEN RESPONSE TO THE MOTION WILL RESULT IN THE MOTION BEING GRANTED WITHOUT FURTHER HEARING.

Defendants Caleb Hemmer, Friends of Caleb Hemmer, and Will Howorth (collectively, “Defendants”) hereby move the court to assess fees and costs in this matter against the Plaintiff Michelle Foreman.

I. Procedural Background

Plaintiff filed this lawsuit against Defendants in Williamson County, Tennessee, an improper county, and upon motion of Defendants it was transferred to Davidson County, Tennessee. Plaintiff admitted the purpose of filing in Williamson County, Tennessee was to find a better jury.

Two days after this case was transferred to Davidson County, Defendants filed a petition to dismiss pursuant to Tennessee's anti-SLAPP statute codified at Tenn. Code Ann. Section 20-17-101, et. seq. Defendants appropriately noticed the motion for hearing on March 10, 2023 at 9:00 AM CST. At 8:04 AM CST on March 10, 2023, Plaintiff filed a notice of voluntary dismissal and a proposed order granting this dismissal, less than an hour before the hearing. Defendants, through counsel, appeared for the hearing. Plaintiff's counsel did not appear.

II. Law and Argument

Tenn. Code Ann. Section 20-17-107(a) states that, should a petition be granted, the petitioning party shall be awarded court costs, reasonable attorney's fees, discretionary costs, and other expenses as well as any additional relief. The Tennessee Court of Appeals has two cases that address whether a voluntary dismissal under Rule 41.01 allows a plaintiff to dismiss their case when a petition is pending. In *Adamson v. Grove*, No. M2020-01651-COA-R3-CV, 2022 Tenn. App. LEXIS 459, 2022 WL 17334223, at *12 (Tenn. Ct. App. Nov. 30, 2022), the Court held that if the defendant had filed their petition prior to the plaintiff filing their voluntary dismissal, then defendant would have been allowed to proceed with its petition. In *Flade v. City of Shelbyville*, No. M2022-00553-COA-R3-CV, 2023 Tenn. App. LEXIS 67, at *70 (Ct. App. Feb. 24, 2023), the Court held that once a voluntary dismissal is filed, the case is dismissed regardless of the pendency of a petition. These cases were decided less than three months apart and show that there is some dispute whether a petition should be heard after a voluntary dismissal has been filed.

In the present case, Defendants filed their petition almost immediately upon the case being transferred to the proper Court. Plaintiff filed a response to the petition and waited until less than one hour before the hearing on the petition to file her voluntary dismissal. Clearly Plaintiff was aware the lawsuit she was filing was meritless and being filed solely for the purposes of harassing

Defendants. Defendants petition for dismissal should entitle them to their costs and fees associated with this matter even though Plaintiff filed a voluntary non-suit one hour before the hearing. Plaintiff should not be allowed to, in the face of a petition for costs and fees should she lose, withdraw her Complaint, to simply be allowed to refile it later.

If this Court decides that Defendants' petition is moot upon the filing of a notice of voluntary dismissal, Defendants' petition should be treated as a motion for sanctions associated with the case. A trial court retains jurisdiction to hear motions relating to sanctions so long as that motion is served on plaintiff prior to plaintiff filing a notice of voluntary dismissal. *Menche v. White Eagle Prop. Grp., LLC*, No. W2018-01336-COA-R3-CV, 2019 Tenn. App. LEXIS 413, at *29 (Ct. App. Aug. 26, 2019) (holding trial court retained jurisdiction to hear previously filed motion for sanctions after entry of agreed order of voluntary dismissal). *See also Purswani v. Purswani*, 585 S.W.3d 907, 915 (Tenn. Ct. App. 2019) (holding a trial court had authority to perform actions in the case prior to the entry of the order of dismissal). Accordingly, Defendants' petition should be treated as a motion for sanctions and Defendants should be entitled to their costs associated in preparing the petition and defending this meritless action, including attorneys' fees.

Finally, in the alternative, if no costs or sanctions are assessed against the Plaintiff, Defendants also request that this Court place conditions on Plaintiff's voluntary dismissal. This Court has the inherent power to place conditions upon the re-filing of a Complaint. *See* Tenn. R. Civ. P. R. 41.01(3); *Purswani v. Purswani*, 585 S.W.3d 907, 915 (Tenn. Ct. App. 2019). Plaintiff's lawsuit was filed to harass and embarrass Defendants as shown by the voluntary dismissal filed a mere one hour prior to the hearing on the petition to dismiss and Plaintiff not appearing for the hearing. Defendants request that, should Plaintiff re-file this claim, Plaintiff be required to file the

lawsuit in this Court in front of this Judge and that Defendants petition would be immediately re-instated and set for hearing upon Plaintiff re-filing.

III. Conclusion

For the above stated reasons, Defendants request this Court enter an Order awarding Defendants' court costs, reasonable attorney's fees, discretionary costs, and other expenses related to preparing the petition. Defendants also request that this Court enter an Order requiring that any future lawsuit filed on these claims be brought before this Court and this Judge with Defendants' petition automatically re-instated and set for a hearing upon filing of any lawsuit.

Respectfully submitted.

KAY GRIFFIN, PLLC

/s/Charles Sharrett
Matthew J. Evans (#017973)
Charles S. J. Sharrett (#36930)
900 S. Gay Street, Ste. 1810
Knoxville, TN 37902
(865) 314-8422
matthew.evans@kaygriffin.com
charles.sharrett@kaygriffin.com
Attorneys for Defendant Caleb Hemmer

Stranch, Jennings & Garvey, PLLC

/s/Marty Schubert (w/ permission CS)
J. Gerard Stranch IV
Marty Schubert
223 Rosa L. Parks Avenue, Suite 200
Nashville, Tennessee 37203
(615) 254-8801
gstranch@stranchlaw.com
mschubert@stranchlaw.com
Attorneys for Friends of Caleb Hemmer and Will Howorth

CERTIFICATE OF SERVICE

I hereby certify that on **March 21, 2023**, a true and correct copy of the foregoing was served via email upon the following:

G. Kline Preston, IV
Belle Meade Office Park
4515 Harding Pike Suite 107
Nashville, Tennessee 37205
kpreston@klineprestonlaw.com

J. Gerard Stranch IV
Marty Schubert
223 Rosa L. Parks Avenue, Suite 200
Nashville, Tennessee 37203
gstranch@stranchlaw.com
mschubert@stranchlaw.com

/s/Charles Sharrett

Charles S. J. Sharrett

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

MICHELLE FOREMAN,)	
)	
Plaintiff,)	
	)	Case No. 23C218
VS.)	
	)	JURY DEMAND
CALEB HEMMER,)	
FRIENDS OF CALEB HEMMER, and)	
WILL HOWORTH,)	
)	
Defendants.)	

PLAINTIFF’S RESPONSE IN OPPOSITION TO DEFENDANT’S MOTION TO ASSESS
FEES AND COSTS AND TO SET CONDITIONS ON DISMISSAL

Comes the Plaintiff, Michele Foreman, by and through counsel, G. Kline Preston, IV, and respectfully submits that the Defendants’ Motion shall be denied because it is not supported by the facts or law. Defendants state that the Plaintiff dismissed her action because it was “meritless”. There is no such finding in this matter and there is no proof to support Defendants’ statements to that effect. Defendants rely upon unreported cases in support of their Motion as well. Although their argument is creative, it is admitted that the issue as to whether a petition can be heard after a voluntary dismissal has been filed is disputed.

Defendants argue alternatively that the Defendants’ Motion should be considered as a Motion for Sanctions. The Defendants’ Motion is based upon a statute which has an attorney’s fees shifting provision – not a sanctions mechanism. There is no legal basis to award sanctions.

Finally, Defendants argue that they should be entitled to conditions to the Plaintiff re-filing her action. The Plaintiff is perfectly willing to appear before any judge upon re-filing her action.

Respectfully submitted,

KLINE PRESTON LAW GROUP

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

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been sent via U.S. mail, postage pre-paid, and/or e-mail on this the 24th day of April, 2023 to the following:

Mr. Charles S. J. Sharrett, Esq.
Mr. Matthew J. Evans, Esq.
KAY GRIFFIN, PLLC
900 S. Gay Street, Ste. 1810
Knoxville, TN 37902
Tel: (865) 314-8422
Charles.sharrett@kaygriffin.com
Matthew.evans@kaygriffin.com
*Attorneys for Defendant,
Caleb Hemmer*

Mr. Martin F. Schubert, Esq.
Mr. J. Gerard Stranch, IV, Esq.
STRANCH, JENNINGS, & GARVEY, PLLC
223 Rosa L. Parks Avenue, Ste. 200
Nashville, TN 37203
Tel: (615) 254-8801
mschubert@stranchlaw.com
gstranch@stranchlaw.com
*Attorneys for Defendants, Friends of
Caleb Hemmer and Will Howorth*

/s/ G. Kline Preston, IV, Esq.
G. Kline Preston, IV, Esq.

IN THE CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE

MICHELLE FOREMAN,)	
)	
Plaintiff,)	
	)	Case No. 23c218
v.)	
	)	JURY DEMANDED
CALEB HEMMER, FRIENDS OF CALEB)	
HEMMER, and WILL HOWORTH)	
)	
Defendants.)	
)	

PROPOSED ORDER OF VOLUNTARY DISMISSAL WITH CONDITIONS

Upon motion of the Plaintiff to voluntarily dismiss the above action pursuant to Tennessee Rule of Civil Procedure 41 without prejudice as to refileing, the Defendants’ motion to dismiss pursuant to the anti-SLAPP Statute and the Defendants’ response to the Plaintiffs’ motion to voluntarily dismiss and requesting conditions placed on the dismissal, the Court, upon review of the motions and hearing argument of counsel does find and hold as follows:

1. The Defendants’ motion for dismissal of the action pursuant to the anti-SLAPP statute and for sanctions is denied at this time. Defendants’ motion to dismiss this action with prejudice as to refileing is also denied at this time.

2. The Court grants the Plaintiff’s motion to voluntarily dismiss without prejudice as to refileing, pursuant to Tennessee Rule of Civil Procedure 41, but pursuant to the inherent powers of the Court, this dismissal without prejudice has conditions attached. The conditions for any potential refileing of this matter will be as follows:

a. Any refileing of this current action with be in the same procedural posture as the current case and must be filed before this Court in Davidson County Circuit Court.

b. Upon and if refiled within the time allowed by the Tennessee Savings Statute, the currently pending Defendants’ motion to dismiss pursuant to the anti-SLAPP statute shall be

immediately reinstated and heard as part of the refiled action. Defendants will need to refile the current motion to be heard under the anti-SLAPP statute.

c. If this matter is refiled, as announced by Plaintiff's counsel, the Court has further advised the parties that the Court is a constituent of this legislative district and asked if that posed any problem for the parties. Both parties acknowledged before the Court this was not a conflict.

Upon voluntary dismissal of this current action without prejudice as to refileing, but with the conditions noted above, it is hereby

ORDERED, ADJUDGED AND DECREED that the above action is dismissed without prejudice as to refileing, but with the conditions noted above. Court costs in this matter shall be assessed to the Plaintiff through her counsel of record, G. Kline Preston, IV, 4515 Harding Pike, Suite 107, Nashville, Tennessee 37205, for which execution may issue if necessary.

ENTER this the ____ day of _____ 2023.

Lynne T. Ingram, Judge

APPROVED FOR ENTRY:

G. Kline Preston, IV BPR #017141
Kline Preston Law Group
Belle Meade Office Park
4515 Harding Pike, Suite 107
Nashville, Tennessee 37205
(615) 649-8680
kpreston@klineprestonlaw.com

/s/Matthew J. Evans

Matthew J. Evans BPR #017973
Charles S. J. Sharrett BPR #036930
Kay|Griffin|Evans, PLLC
900 S. Gay Street, Suite 1810
Knoxville, Tennessee 37902
(865) 314-8422
Matthew.evans@kaygriffin.com
Charles.sharrett@kaygriffin.com

/s/Martin F. Schubert

Martin F. Schubert BPR #035313
J. Gerard Stranch, IV BPR #023045
Stranch, Jennings & Garvey, PLLC
223 Rosa L. Parks Avenue, Suite 200
Nashville, Tennessee 37203
(615) 254-8801
mschubert@stranchlaw.com
gstranch@stranchlaw.com

CERTIFICATE OF SERVICE

I hereby certify that on **June 6, 2023**, a true and correct copy of the foregoing was served via email upon the following:

G. Kline Preston, IV
Belle Meade Office Park
4515 Harding Pike Suite 107
Nashville, Tennessee 37205
kpreston@klineprestonlaw.com

J. Gerard Stranch IV
Marty Schubert
223 Rosa L. Parks Avenue, Suite 200
Nashville, Tennessee 37203
gstranch@stranchlaw.com
mschubert@stranchlaw.com

/s/Charles Sharrett

Charles S. J. Sharrett



Case Title: FOREMAN V HEMMER

Case Number: 23C218

Type: ORDER- GENERAL

The foregoing is hereby ORDERED, ADJUDGED
AND DECREED:

Judge Lynne T. Ingram, Eighth Circuit

Electronically signed on 06/09/2023 01:29 PM page 4 of 4



Michelle Foreman @Michelle4TN · Feb 10

...

Replying to [@vol_Emm](#) and [@MattWalshBlog](#)

He got sued for lying and defamation. People can't simply run on their own merits? Why is it that "greasy hacks" (Walsh's comment) like Hemmer rely on lying to the masses and feeding their visceral angst? because they lack confidence and substance.

1 1 1 32 1



Michelle Foreman @Michelle4TN · Feb 9

...

Replying to [@benshapiro](#) and [@MattWalshBlog](#)

As the Republican candidate who ran against him I can confirm Walsh's statements about Hemmer-he lacks dignity, integrity, and moral courage. He was sued for egregious defamation and I wonder if it will be equally awkward for him to answer for his dishonest smear tactics?

1 1 1 50 1



Michelle Foreman @Michelle4TN · Feb 9

...

Replying to [@MattWalshBlog](#)

As the Republican candidate who ran against him I can confirm Walsh's statements about Hemmer-he lacks dignity, integrity, and moral courage. He was sued for egregious defamation and I wonder if it will be equally awkward for him to answer for his dishonest smear tactics?

3 1 4 937 1

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

MICHELLE FOREMAN,

Plaintiff,

v.

DAVE ROSENBERG,

Defendant.

§
§
§
§
§
§
§
§

Case No. 23C891

DECLARATION OF DAVID ROSENBERG

1. My name is David Rosenberg, 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 Davidson County Circuit Court Case No. 23C891.

3. 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.

4. The exhibits to my Petition that pre-date my publication of the statements over which I have been sued—and the information contained within them—helped inform my statements about the Plaintiff during her campaign for elected office.

Further affiant sayeth naught.

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

By: David Rosenberg
David Rosenberg (Jun 11, 2023 22:05 CDT)
David Rosenberg

Date: Jun 11, 2023









David Rosenberg Declaration

Final Audit Report

2023-06-12

Created:	2023-06-12
By:	Horwitz Law PLLC (daniel@horwitz.law)
Status:	Signed
Transaction ID:	CBJCHBCAABAATdipQ4CkkkPRzXm9Pk74NNy-AeWxfQzI

"David Rosenberg Declaration" History

-  Document created by Horwitz Law PLLC (daniel@horwitz.law)
2023-06-12 - 3:04:07 AM GMT- IP address: 69.226.239.171
-  Document emailed to dave@daveforbellevue.com for signature
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2023-06-12 - 3:05:14 AM GMT- IP address: 104.55.152.219
-  Signer dave@daveforbellevue.com entered name at signing as David Rosenberg
2023-06-12 - 3:05:29 AM GMT- IP address: 104.55.152.219
-  Document e-signed by David Rosenberg (dave@daveforbellevue.com)
Signature Date: 2023-06-12 - 3:05:31 AM GMT - Time Source: server- IP address: 104.55.152.219
-  Agreement completed.
2023-06-12 - 3:05:31 AM GMT

← Tweet



resident of Gilead @ansue67 · Apr 5

...

Also, fake nurse Michelle, the word "triggered" is deplorable when used in your pro gun propaganda rhetoric. What kind of nurse do you claim to be? What despicable school did you graduate from? You should have never been allowed to touch a vulnerable child or adult patient.

1 1 37



Michelle Foreman @Michelle4TN · Apr 5

...

I trigger you very badly, don't I? It's going to cause you heartburn to know that I worked at Vanderbilt University Medical Center.

2 47



resident of Gilead @ansue67 · Apr 5

...

Key word is WORKED. You don't work anymore because you're a lazy worthless nutty nurse. I bet you hate vaccines and have delusions of grandeur.

1 27



Michelle Foreman @Michelle4TN

...

Quite the contrary-I actually still work, and with an additional (law) degree. However, it is very disturbing that you are so triggered and incredibly hostile. This type of hostility is seen in people who commit acts of violence.

9:38 PM · Apr 5, 2023 · 26 Views

1 1 1 1



Michelle Foreman
@Michelle4TN



I actually am a trauma nurse, having worked in multiple ICUs in my nursing career. However, that is all irrelevant to the post. An assault rifle was not used, and when people don't know what they're talking about that needs to be pointed out.

9:05 PM · Apr 5, 2023 · 198 Views