APPEAL NO. 10-14-00392-CV

William M. Windsor	§	TENTH COURT OF APPEALS
Appellant,	§	
v.	§	
Sean D. Fleming,	§	
Appellee	§	STATE OF TEXAS

APPELLANT'S BRIEF

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v.	§	
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STATEMENT OF THE CASE

This is an appeal from Case #88611 in the 40th and 378th Judicial District Courts in Ellis County Texas. The nature of the case is defamation. It is a suit for damages. Two appeals are consolidated under Appeal #10-14-00392-CV; the oral order of November 20, 2014 regarding the Appellee's Motion to Dismiss ("MTD") and order granting MTD [APPENDIX-12.8-ORDER -- APPENDIX-9.6-APPEAL] and the award of sanctions, costs, attorney's fees to the Appellee pursuant to the Texas Citizens Participation Act ("TCPA"). [APPENDIX-20.4-ORDER -- APPENDIX-20.9-NOTICE-OF-APPEAL.] The lawsuit was filed on December 26, 2013, and it was assigned to Judge Bob Carroll. On December 17, 2014, he was recused as the judge. On December 18, 2014, the case was removed to federal court. On December 18, 2014, a new District Court ("DC") judge, Judge Gene Knize, was assigned. Judge Gene Knize was challenged at the start of a hearing the afternoon of December 18, and he was replaced by Judge Richard Davis who then drove to Waxahachie the afternoon of December 18, 2014 and proceeded to hold a hearing on sanctions. The next morning, Judge Richard Davis issued an order awarding $331,085.13 in sanctions, costs, and attorney's fees to Appellee. The case was never remanded from the federal court.

STATEMENT REGARDING ORAL ARGUMENT

Appellant does not seek an oral argument. Oral argument should not be permitted as it cannot offer anything that would aid the Court's decisional process.

ISSUES PRESENTED

Appellant presents the following issues in this appeal:

ISSUE #1: Did the District Court err by not declaring that Appellee's Motion to Dismiss was denied by operation of law pursuant to Chapter 27 of the Texas Civil Practice and Remedies Code ("TCP&RC")?

ISSUE #2: Did the District Court lose jurisdiction over Appellee's Motion to Dismiss on November 13, 2014 when Appellant filed a Notice of Appeal?

ISSUE #3: Did the District Court deny Appellant's Constitutional rights to a fair trial and due process?

ISSUE #4: Did the District Court err in declaring Appellant was a Limited-Purpose Public Figure?

ISSUE #5: Did the District Court err in granting Appellee's Motion to Dismiss?

ISSUE #6: Did the District Court err in not addressing whether the TCPA is unconstitutional?

ISSUE #7: Did the District Court lack jurisdiction for its order awarding sanctions on December 19, 2015?

ISSUE #8: Did the District Court err in awarding attorney's fees, costs, and sanctions to Appellee?

ISSUE #9: Is Appellant a victim of judicial corruption?

STATEMENT-OF-FACTS

1. Appellant maintains a website that he has treated as an online magazine, has hosted an online conference call, and has been producing and directing a documentary film about injustices of various types. Appellant has approximately 1,200 videos converted for display from special takes that were filmed as part of his work in producing a documentary film. These takes are currently published on his YouTube Channel. The videos on YouTube are not the footage that will be used in the movie, but they do provide a glimpse at some of the movie content. [RECORD- Third-Amended-Verified-Petition-¶45.]

2. In December 2012, Appellant became aware of JOEYISALITTLEKID, Joeyisalittlekid.blogspot.com, and the defendants (also known as Joeys). Since that time, Appellant has learned that this group has conspired to destroy his reputation, his family, his efforts, and his business plans. JOEYISALITTLEKID was joined by others and took many actions in efforts to destroy Appellant and his movie. The group has worked since October 2012 to interfere in virtually every aspect of Appellant's life. These actions include stalking, harassment, defamation, libel, slander, invasion of privacy, bogus criminal charges against him, and threats (including some death threats). [RECORD-Third-Amended-Verified-Petition-¶48.]

3. The stalking of Appellant includes repeated defamation and the making of false accusations and false statements, making unwanted contact. [RECORD- Third-Amended-Verified-Petition-¶49.]

4. The defamation and the making of false accusations and false statements about Appellant include that Appellant is a pedophile, a pedophile lover, anti-gay, bigoted, a tax evader, a criminal operating a scam, a terrorist, a sexual deviant, a liar, a con man, and much more. [RECORD-Third-Amended-Verified-Petition-¶50.]

5. The actions of Defendants include defamation, defamation per se, defamation as a whole, slander, slander per se, libel, intentional infliction of emotional distress, tortious interference with contract or business expectancy, tortious interference with a prospective business relationship, invasion of privacy, invasion of privacy by misappropriation, invasion of privacy by disclosure, conspiracy, stalking, and business disparagement. [RECORD-Third-Amended-Verified-Petition-¶51.]

6. The efforts of Defendants to damage Appellant have been boundless. Various Defendants "investigated" every aspect of Appellant's life and reported distorted and false findings publicly. Published statements by Joeys include a staggering array of defamatory statements. [RECORD-Third-Amended-Verified-

Petition-¶52.] The Third Amended Verified Petition provides uncontroverted evidence of the defamation and other wrongdoing by the defendants.

7. On December 26, 2013, Appellant filed a 55-page Verified Petition to create case number 88611 in the 40th Judicial District Court in Ellis County Texas. Appellant is the plaintiff. There are 16 named defendants, including Appellee, and 1,000 unnamed defendants. [APPENDIX-1-DOCKET.] Appellant believes this is the largest case of defamation in U.S. history. [RECORD-Verified-Petition-Page-27-¶243.]

8. On January 14, 2014, Appellant filed the First Amended Verified Petition. [APPENDIX-1-DOCKET.] This is a 42-page sworn, verified petition.

9. On January 21, 2014, Appellee filed his Answer and Special Exceptions. [RECORD] It was not verified, and it did not include an affidavit.

10. On January 29, 2014, Appellant filed a Motion for Extension of Time to Supplement Petition with Specific Evidence of Defamation. [RECORD.] This is a 3-page verified motion. It stresses the necessity of time to obtain evidence of the defamation from people using anonymous screen names. The DC never addressed this.

11. On February 26, 2014, Appellee's February 24, 2014 Motion to Dismiss pursuant to the Texas Citizens Participation Act ("TCPA") was filed. It was not verified. It includes a number of unauthenticated exhibits and copies of

orders that are not certified. It includes a 1½-page affidavit of Appellee, Sean D. Fleming. In the affidavit, Sean D. Fleming does not admit making any of the defamatory statements that Appellant has accused him of making. **The Appellant believes this page-and-a-half affidavit is the complete and total sworn testimony of the Appellee as to the MTD.** [APPENDIX-1.6]

12. On March 10, 2014, the case was stayed by Judge Bob Carroll. [APPENDIX-1-DOCKET.] [APPENDIX-2.]

13. On March 14, 2014, Appellee filed a Plea in Abatement. It was not verified. [RECORD.]

14. On March 17, 2014, Appellant filed a Motion to Set Hearing on Motion to Dismiss. [RECORD.] This motion stresses the time constraints of the TCPA. The DC never addressed this.

15. On April 3, 2014, Appellant sent a Motion to Dismiss Sean D. Fleming's Motion to Dismiss to the Clerk of Court for filing. It was filed with a date of April 7, 2014. [APPENDIX-2.35.] The DC never addressed this.

16. On April 7, 2014, Appellant filed a Notice of Filing a Constitutional Challenge to State Statute. [RECORD.] This is a 28-page motion. This detailed Brief presents eight arguments why the TCPA is unconstitutional. The DC never addressed this.

17. On April 10, 2014, Appellant filed a Notice of Order of Extension of

Time to Supplement Petition with Specific Evidence of Defamation. [RECORD.] This motion was orally granted at the January 15, 2014 TRO Hearing, but the DC never signed the order or addressed this.

18. On April 10, 2014, Appellant filed a Supplement to Motion to Dismiss Sean D. Fleming's Motion to Dismiss. [APPENDIX-2.7.] This is a 2-page sworn, verified motion. The DC never addressed this.

19. On April 10, 2014, Appellant filed the Affidavit of William M. Windsor dated April 9, 2014. This is a 17-page sworn, verified affidavit, and it included evidence of Sean D. Fleming's defamation on a CD-ROM. Exhibit 3 to the Affidavit shows approximately 100 published statements by Appellee through March 2014. The Affidavit explains that Sean D. Fleming's published statements did not address matters of public concern, and a number of examples were quoted. [RECORD.] This is evidence against the MTD.

20. On April 14, 2014, Appellant filed a Clarification and Request for Clarification of recent Activity. [RECORD.] The DC never addressed this. On June 13 and July 14, 2014, Affidavits of the Appellant were filed. [RECORD.]

21. On August 11, 2014, the stay was lifted. [APPENDIX-3.]

22. On August 12, 2014, Appellant filed the Second Amended Verified Petition. [RECORD.] [APPENDIX-1-DOCKET.] This is a 54-page sworn, verified petition plus 12 exhibits that contained 1,176 files of evidence.

23. On August 12, 2014, Appellant filed a Motion to Declare Appellant is Not a Public Figure. This is a 41-page sworn, verified motion. It includes a 2-page sworn, verified affidavit with exhibits. This verified motion explains why Appellant is not a public figure or limited-purpose public figure. It references evidence that is in the court RECORD. [RECORD.]

24. On August 12, 2014, Appellant filed a Motion for Sanctions and Perjury against Sean D. Fleming. This is a 2-page sworn, verified motion. [APPENDIX-4.2.] This Motion was never addressed in any manner by the DC. [APPENDIX-1-DOCKET.]

25. On September 16, 2014, Appellant filed a Second Supplement to Motion to Dismiss Sean D. Fleming's Motion to Dismiss. It argues that the TCPA requires a hearing in 120 days, and this was day 203. [RECORD.] The DC never addressed this.

26. On September 17, 2014, Appellee filed a Response to the Motion to Declare Appellant is Not a Public Figure. [RECORD] It was not verified. There was no affidavit and the exhibits were not authenticated. It ignored case law.

27. On September 19, 2014, Appellant filed a Second Amended Motion for Continuance on Special Exceptions. It stressed the need for discovery. [RECORD.] The DC never addressed this.

28. On October 2, 2014, Appellant filed a Motion for Continuance and

Discovery on Special Appearances of Defendants. It included the 103-page sworn, verified Affidavit of William M. Windsor dated October 1, 2014 with 21 exhibits. This affidavit addresses false statements made by Sean D. Fleming and his attorney, Barbara Hachenburg. [RECORD.] The DC never addressed this.

29. On October 23, 2014, Appellee filed a document titled "Reply of Sean D. Fleming to Plaintiff's Response to Sean D. Fleming's Motion to Dismiss." It was not verified. It did not include an affidavit. It included a number of unauthenticated exhibits that must be stricken. [RECORD.] Appellant had not yet filed a Response, so this filing must be stricken. This was an attempt by Appellee to put information in the Record that is not allowed under the TCPA.

30. On October 28, 2014, Appellant filed the Third Amended Verified Petition ("3AVP"). [RECORD.] This is a 90-page sworn, verified petition that includes 21 exhibits containing 1,595 files of evidence. 497 articles, primarily defaming the Appellant, had been published by defendants on Joeyisalittlekid.blogspot.com through September 2014. The totality of the wrongdoing by the defendants is simply immense. The 497 articles contain approximately 8,580 pages (printed in a very small font size) with approximately 48,935 comments from defendants and others. A copy of each of the articles and the comments published through September 2014 is Exhibit 1 on the CD attached to the Third Amended Verified Petition as Exhibit A. Each article shows the date

and time written as well as the screen name of the author and the screen names of those who have commented. Much of the defamation and other wrongdoing that the Appellant complains of is shown in these articles, and these published statements are referenced and incorporated herein. Exhibit 2 on the CD attached to 3AVP as Exhibit A is a chart that the Appellant prepared from the articles and comments on Joeyisalittlekid.blogspot.com through September 2014. It lists the published statements in order by the screen name of the publisher. Each line is numbered and shows the date and title of the commentary (article) where the published statement appears, the date and time written, the screen name of the author or person who published comments, the keywords that describe the content of each commentary, and the labels that the author assigned to each commentary and related comments for search engine purposes. Exhibit 3 on the CD attached to 3AVP as Exhibit A contains some of the other websites with defamatory content and other wrongdoing. Exhibit 4 on the CD attached to 3AVP as Exhibit A contains some of the Facebook pages with defamatory comments and other wrongdoing. Exhibit 5 on the CD attached to 3AVP as Exhibit A contains some of the videos with disparaging and defamatory content and other wrongdoing. [RECORD-3AVP ¶71.]

31. On October 28, 2014, Appellant filed the Affidavit of William M. Windsor dated October 27, 2014. It is a 52-page sworn, verified affidavit with 34

exhibits. [RECORD.] Exhibit 10 to this Affidavit lists all of the published defamatory statements and other statements by the Appellee on Joeyisalittlekid.blogspot.com.

32. On October 28, 2014, Appellant filed a Notice of Filing of Motion to Dismiss Sean D. Fleming's Motion to Dismiss. This is a 26-page sworn, verified motion that details why Appellee's Motion to Dismiss should be dismissed. [RECORD.] The DC never addressed this.

33. On October 28, 2014, Appellant filed a Motion regarding Expiration of Motion to Dismiss of Sean D. Fleming. This explains that Appellee's Motion to Dismiss had expired by statute. [APPENDIX-6.6.]

34. On October 28, 2014, a hearing was held in the 40th Judicial District Court in Waxahachie Texas on the special appearance of Sam Round in Case #88611 and Appellant's request for a continuance for discovery. Judge Bob Carroll denied discovery and granted the special appearance of Sam Round. [APPENDIX-1-DOCKET.] [REPORTER'S-RECORD-TRANSCRIPT-OCTOBER-28-2014.]

35. On October 28, 2014, as he left the hearing before Judge Bob Carroll, Appellant was detained by Ellis County Sheriff's Deputies and incarcerated in the Ellis County Jail.

36. On October 30, 2014, Appellant filed an Emergency Motion for Stay. This handwritten motion explains that Appellant was incarcerated, was being denied bond, was not being allowed access to his case files or access to his computer, and he sought a stay until 48 hours after he was released from custody. [APPENDIX-7.]

37. On October 30, 2014, Appellant filed a handwritten, sworn Partial Reply to Sean D. Fleming's Response to Plaintiff's Motion to declare that the Plaintiff is not a Public Figure. [RECORD.]

38. On November 3, 2014, Appellee filed a Sur Reply to Plaintiff's Reply to Sean D. Fleming's Response to Plaintiff's Motion to declare that the Plaintiff is not a Public Figure. [RECORD.] This was not verified. It contains an affidavit from an attorney, but it fails to authenticate the exhibits.

39. On November 4, 2014, Appellant filed a Motion for Legal Rights. This handwritten motion again explained that Appellant was incarcerated, was not even allowed a pen, and had some basic needs to be able to do legal work. [APPENDIX-7.6.]

40. On November 6, 2014, Appellant was taken from his jail cell in a striped inmate uniform and handcuffs to the 40th Judicial District Court. Appellant was very sick. Judge Bob Carroll refused to order a stay to suspend activity in case #88611 until Appellant was well, had files with which to work, and was released

from jail. Judge Bob Carroll orally denied dismissal of Sean D. Fleming's Motion to Dismiss though the hearing did not take place within 90 days. Appellant was given deadlines of November 13 and 20 for filings and hearings. [REPORTERS-RECORD-TRANSCRIPT-NOVEMBER-16-2014.]

41. Appellant began hand-printing hundreds of pages with a flexible ballpoint pen refill using only his memory and the files he had with him when he was taken to the Jail. He literally worked day and night for weeks. Appellant realized that Judge Bob Carroll was working against him. Not granting a stay was unthinkable and resulted in a significant violation of rights.

42. On November 7, 2014, Appellant was transferred by car to the Ellis County Courthouse where he was given two hours for legal research. Appellant researched Texas Code of Criminal Procedure Article 51 and immediately realized that the law had been violated many times.

43. Appellant requested regular access to the Law Library, but his requests were not granted. It was not until November 24, 2014 that Appellant was allowed a second visit to the Law Library. The Ellis County Jail does not have a law library.

44. On November 10, 2014, Appellant filed a Motion for Reconsideration of Orders regarding Sean D. Fleming's Motion to Dismiss. [APPENDIX-7.8.] This motion was incorrectly dated and showed October 28, 2014 when it was

actually referencing what took place at the November 6, 2014 hearing. The DC never addressed this motion. A Motion for Computer Access was also filed.

45. On November 12, 2014, Appellant filed a Second Emergency Motion for Stay. This 4-page handwritten, verified motion presented reasons why Appellant could not deal with the issues in Case #88611 due to the improper limits placed upon him as a prisoner. The motion discusses the fact that the Appellant's laptop and hard drive had been illegally seized and searched by the Ellis County Jail and that his confidential information had apparently been provided to the defendants. The motion explains that Appellant was given a November 10 deadline by the court on November 6, but it was two days past the deadline, and Appellant had been provided with nothing to enable him to do the work. Appellant complained of violation of his due process rights. [APPENDIX-8.] The DC never addressed this.

46. On November 13, 2014, Appellant's Third Emergency Motion for Stay was filed. This 2-page handwritten, verified motion explained that Appellant was given until November 10, 2014 to submit discovery, but he was not allowed to meet that deadline by the Jail. Appellant wrote: "It is impossible for the Plaintiff to properly pursue his legal actions.... The Plaintiff's Constitutional and legal rights have been and continue to be violated. The only way for the Plaintiff to be protected at all is through a stay." [APPENDIX-9.] The DC never addressed this.

47. On November 13, 2014, Appellant's November 10, 2014 Motion for Limited Discovery on MTD was filed. [APPENDIX-9.3.] The DC never addressed this. The Affidavit of Appellant dated November 13, 2014 was filed – 200 pages with proof of elements on first 27 defamatory statements by Appellee. [RECORD.]

48. On November 13, 2014, Appellant's November 10, 2014 Notice of Appeal regarding Motion to Dismiss of Sean D. Fleming was filed. This appeals the refusal of the District Court to dismiss Appellee's Motion to Dismiss because the 90-day deadline established by the TCPA had been exceeded. October 28 should read November 6. [APPENDIX-9.6.]

49. On November 17, 2014, Appellant's November 12, 2014 Motion for Extension of Time to file his Response to Sean D. Fleming's Motion to Dismiss was filed. This explained that jail restrictions made it impossible for Appellant to do the required legal work. [APPENDIX-11.3.] The DC never addressed this.

50. On November 17, 2014, Appellant's November 15 Request for Findings of Fact and Conclusions of Law on the Court's Ruling on the Plaintiff's Motion to declare Windsor is not a Public Figure was filed. [RECORD.] The DC never addressed this.

51. On November 17, 2014, Appellant's 128-page, handwritten sworn, verified, notarized November 14 Verified Response to Sean D. Fleming's Motion

to Dismiss was filed. Appellant was able to use some documents that were in his possession when he was incarcerated to prepare this response. If he had not had these documents, he couldn't have filed anything but objections. This response includes objections (pages numbered 101-103) and a motion to strike (page numbered 104). [APPENDIX-11.7.] The DC never addressed this.

52. On November 19, 2014, Appellant's November 17, 2014 Motion for Stay was filed. It explained that a stay would protect Appellant's Constitutional rights. [APPENDIX-12.]

53. On November 20, 2014, Appellant was again taken in a striped uniform and handcuffs to the 40th Judicial District Court. His motions for stays were ignored. Appellant was forced to argue against Appellee's Motion to Dismiss without true preparation. The transcript will show that Appellant was given very little time to present his case. [REPORTER'S-RECORD-TRANSCRIPT-NOVEMBER-20-2014.]

54. On November 21, 2014, Appellant's November 19 Request for Leave to Appeal Court's Ruling on Plaintiff's Motion to declare Windsor is not a Public Figure was filed. [RECORD.] The DC never addressed this.

55. On November 24, 2014, Appellant filed a Supplemental Response to Sean D. Fleming's Motion to Dismiss. This presented argument and case law to show that the standard in this TCPA action was negligence. It also argued that

Chapter 27 requires that each specified statement must be considered by the court, and if just one is ruled to meet all the elements, the motion to dismiss must be denied. [APPENDIX-12.2.] The DC never addressed any specific defamatory statement.

56. On November 24, 2014, Appellant filed his 158-page handwritten sworn, verified, notarized Affidavit. This addressed Defamatory Statements #30 to #151 published by Appellee. Appellant had been given some computer access where he was allowed to hand-write defamatory comments, but he ran out of time before the jail notary came, so pages 132-140 contain some defamation that Appellant did not have time to address. Pages 141-146 contain objections, and 147-159 contain important information for this Court. [APPENDIX-12.3.]

57. On November 25, 2014, Appellant filed an Emergency Motion for Extension of Time to Supplement Record in Response to Sean D. Fleming's Motion to Dismiss. [APPENDIX-12.5.]

58. On November 27, 2014, Appellant sent a Second Supplement to Response to Sean D. Fleming's Motion to Dismiss to the Clerk of Court for filing. [APPENDIX-12.6.]

59. On November 27, 2014, Appellant sent the 64-page handwritten sworn, verified Affidavit of William M. Windsor dated November 27, 2014 to the Clerk of Court for filing. This addressed Defamatory Statements #151 to 163 and

added additional detail regarding the elements on #108-118, 120-126, 128, 130-134, and 136-150. [RECORD.]

60. At 6:00 pm on December 2, 2014, Appellant received a hand delivery of a memorandum Ruling by Judge Bob Carroll dismissing the case in 88611 against Sean D. Fleming. Appellant now knew that Judge Bob Carroll was absolutely corrupt. Appellee had published outrageous defamatory statements. Appellant believes this order was backdated to November 28, 2014. Appellant always received same-day deliveries from the court. Appellant doubts that DC worked on the day after Thanksgiving. [APPENDIX-12.8.]

61. On December 2, 2014, Appellant filed a Motion for Continuance. [APPENDIX-13.] DC never addressed this.

62. On December 2, 2014, Appellant filed a Motion for Transcripts. Appellant had been unable to obtain transcripts from the court reporters. [RECORD.] DC never addressed this.

63. On December 2, 2014, Appellant filed a Notice of Appeal of the order granting the Appellee's Motion to Dismiss. [APPENDIX-14.2.]

64. On December 3, 2014, Appellant's December 2 Motion for Stay was filed. The stay was sought due to pending appeals and violations of Appellant's Constitutional rights. [APPENDIX-14.] DC never addressed this.

65. On December 3, 2014, Appellant's December 2 Motion for Discovery was filed. This addressed the need for discovery prior to a hearing on attorney's fees and sanctions. [APPENDIX-14.4.] DC never addressed this.

66. On December 3, 2014, Appellant's December 2 Motion for Computer Access was filed. This complained of due process violations. [APPENDIX-14.6.] DC never addressed this.

67. On December 3, 2014, Appellee filed a Supplemental Motion for Attorney's Fees. [RECORD.]

68. On December 8, 2014, Appellant's December 5 Motion to Recuse Judge Bob Carroll was filed. This is a 51-page handwritten sworn, verified motion that details the bias and prejudice of Judge Bob Carroll. [RECORD.]

69. On December 8, 2014, Appellant's 11-page handwritten, sworn, verified December 5 Affidavit of William M. Windsor was filed. This affidavit highlights defamatory statements by Appellee, summarizes violation of Appellant's Constitutional rights, and provides sworn testimony about the Appellant's income and negative net worth. [APPENDIX-15.2.]

70. On December 17, 2014, Appellant filed a handwritten, sworn, verified 6-page Emergency Motion for Stay and Continuance. This primarily addresses continuing violations of Constitutional rights. [APPENDIX-16.] DC never addressed this.

71. On December 17, 2014, Judge Bob Carroll recused himself. [RECORD.]

72. On December 17, 2014, an order was issued assigning Judge Gene Knize. [RECORD.]

73. On December 18, 2014, Appellant filed a sworn, verified Motion for Continuance. The Appellant was taken out of his jail cell without notice to appear in the 378th Judicial DC at 1:35 pm on 12-18-2014. He was not told what this was for, and he had no time to prepare or even bring files. [APPENDIX-18.] DC denied the motion.

74. On December 18, 2014, a written Notice of Removal of Case #88611 to federal court was sent to the United States District Court for South Dakota and was filed at 2:09 pm with the DC Clerk in Ellis County Texas. [APPENDIX-1-DOCKET.] [APPENDIX-19.]

75. On December 18, 2014, Appellant filed a Motion to Strike Affidavits of Appellee and his attorney. [APPENDIX-19.3.] DC either never addressed this or denied it.

76. On December 18, 2014, Appellant filed a Supplement to Motion for Computer Access. [RECORD.] DC never addressed this.

77. On December 18, 2014, an order assigning Judge Richard Davis was filed. [APPENDIX-1-DOCKET.] [APPENDIX-20.]

78. On December 18, 2014 at approximately 4:00 PM, Judge Richard Davis conducted a hearing on attorney's fees and sanctions for Appellee. The judge had difficulty staying awake during the hearing. Appellant objected to the hearing and argued against the Appellee though he had no files or information with which to work. [REPORTER'S-RECORD-TRANSCRIPT-DECEMBER-18-2014.]

79. On December 19, 2014 at 9:32 am, 1½ business hours after the hearing ended and Judge Richard Davis was assigned to the case, he signed an order prepared by Appellee's attorney awarding $77,558.50 in attorney's fees, 3,526.63 in costs, and $250,000 in sanctions to Appellee. [APPENDIX-20.4.] Judge Richard Davis could not have even read the file. He didn't have transcripts of the November 6 and November 20 hearings as the court reporter failed to produce them. [DOCKET-APPENDIX-1.]

80. On December 19, 2014 at approximately 1:30 pm, Appellant was released from the Ellis County Jail. [Appeal #10-14-00401-CR.]

81. On January 7, 2015, a Motion to Declare Invalid Any and All Post-Removal Action in Ellis County Texas was filed by Appellant. [RECORD.]

82. On January 12, 2015, a Notice of Federal Case Number was filed by Appellant. [RECORD.]

83. On January 14, 2015, a Notice of Appeal dated January 7, 2015 was filed by Appellant. It stated that the case had been removed to federal court, but in an abundance of caution, the Notice of Appeal was filed of the alleged order of December 19, 2014. [APPENDIX-20.9.] This Court consolidated this January 7, 2015 appeal with the one filed by the Appellant on November 13, 2014 [APPENDIX-9.3.].

84. On January 15, 2015, Appellee filed a Motion to Sever. [RECORD.]

85. On January 30, 2015, the DC granted the Motion to Sever. [RECORD.]

86. On March 24, 2015, the Appellant's March 13, 2015 Notice of Appeal was filed. It covered any orders that the incarcerated Appellant was unaware of, such as the January 30 order to sever. [RECORD.]

87. On March 31, 2015, the DC issued Findings of Fact and Conclusions of Law on the December 19, 2015 Order. [RECORD.]

88. On April 13, 2015, the Appellant's April 6, 2015 Motion to Quash Findings of Fact and Conclusions of Law was filed. Judge Joe Grubbs was not the judge in December, so he had no basis to issue these findings. It was also well past the time that such findings are allowed. [RECORD.]

SUMMARY OF THE ARGUMENT

89. There are better than a dozen solid reasons why the grant of the Appellee's TCPA Motion to Dismiss ("MTD") and the award of attorney's fees and sanctions must be reversed.

90. The MTD expired by statute prior to the hearing held on November 20, 2014. The DC lost jurisdiction over Appellee's MTD on November 13, 2014 when Appellant filed a Notice of Appeal, but continued to act on the appealed issue. The DC denied Appellant's Constitutional rights to a fair trial and due process. DC erred in declaring Appellant was a Limited-Purpose Public Figure.

91. The Appellee failed to meet his initial burden under Chapter 27 of the Texas Civil Practice and Remedies Code, 27.003. The Appellant was denied discovery and was forced to defend the MTD in violation of his rights to due process. The TCPA is not applicable to this lawsuit. The Appellee's MTD sought to violate the Appellant's Constitutional right to petition. Case #88611 is not a lawsuit with minimal merit, as is required by the TCPA. Case #88611 does not involve a matter of public concern as required by the TCPA. The Appellant sent cease and desist notices and correction and retraction requests to the Appellee, but they were ignored. The MTD failed to exclude the portions of the lawsuit not related to alleged protected speech. Appellee committed significant defamation that was not protected by the First Amendment, and the Appellant provided prima

facie evidence for each cause of action and each defamation count, by clear and convincing evidence. Appellee's MTD failed to address the applicable verified complaint.

92. The DC erred in not addressing whether the TCPA is unconstitutional. The DC lacked jurisdiction for its order awarding sanctions on December 19, 2015. The DC erred in awarding attorney's fees, costs, and sanctions to Appellee. Appellant is a victim of judicial corruption.

ARGUMENT

93. **ISSUE #1: Did the District Court err by not declaring that Appellee's Motion to Dismiss was denied by operation of law pursuant to Chapter 27 of the Texas Civil Practice and Remedies Code ("TCP&RC")**?

94. Yes.

95. The MTD expired by statute prior to the hearing held on October 28, 2014, as it was Day 92. Here are the key events and dates:

a. On December 26, 2013, Appellant filed a VERIFIED PETITION. [DOCKET.] On January 14, 2014, the Plaintiff filed a FIRST AMENDED VERIFIED PETITION. [DOCKET.]

b. On February 24, 2014, Appellee served Appellant with a MTD pursuant to the so-called Texas Citizens Participation Act ("TCPA"), the Texas Anti-Slapp law, Chapter 27 of the Texas

Civil Practice and Remedies Code ("TCP&RC"). [APPENDIX-1.6.]

c. On March 10, 2014, this case was stayed. [APPENDIX-2.]

d. On March 17, 2014, Appellant file a Motion to Set Hearing on Sean D. Fleming's Motion to Dismiss. [RECORD.]

e. On August 11, 2014, the stay was lifted. [APPENDIX-3.]

f. On October 28, 2014, Appellant filed a Motion Regarding Expiration of Motion to Dismiss of Defendant Sean D. Fleming. [APPENDIX-6.6.] This Motion explained that the TCPA has absolutely strict requirements regarding timing.

g. The TCPA repeatedly states: "...in no event shall.... The hearing occur more than 90 days after service of the motion." October 27, 2014 was the 91st day, and no hearing was held. Appellee's MTD had expired. This matter should not have been considered by the DC.

96. A Notice of Appeal was filed on this issue on November 13, 2014. [APPENDIX-9.6.]

97. The TCPA has very specific requirements. Section 27.004 provides:

(a) A hearing on a motion under Section 27.003 must be set not later than the 60th day after the date of service of the motion unless the docket conditions of the court require a later hearing, upon a showing of good cause, or by agreement of the parties, but in no event shall the hearing occur

more than 90 days after service of the motion under Section 27.003, except as provided by Subsection (c).

> (b) In the event that the court cannot hold a hearing in the time required by Subsection (a), the court may take judicial notice that the court's docket conditions required a hearing at a later date, but in no event shall the hearing occur more than 90 days after service of the motion under Section 27.003, except as provided by Subsection (c).

98. Section 27.003 (c) provides:

> If the court allows discovery under Section 27.006(b), the court may extend the hearing date to allow discovery under that subsection, but in no event shall the hearing occur more than 120 days after the service of the motion under Section 27.003.

99. The DC did not allow discovery, despite Appellant's attempts to obtain discovery. A hearing on the motion was set for October 28, 2014 though it was a ruse to extend the time. [REPORTER'S-RECORD-TRANSCRIPT-SEPTEMBER-19-2014.]

100. 90 days was October 26, 2014. Here is Appellant's calculation of time: Appellant's service date was February 24, 2014, so 4 days in February; the Stay was ordered on March 10, 2014, so 10 days in March; the stay was lifted on August 11, so 20 days in August; 30 days in September. That's 64 days, meaning the hearing had to be set by October 26, 2014 (day 90), but no hearing was set by that date, and no discovery was granted prior to that date.

101. Section 27.008 provides:

> (a) If a court does not rule on a motion to dismiss under Section 27.003 in the time prescribed by Section 27.005, the motion is considered to have been

denied by operation of law and the moving party may appeal.

102. The motion was not ruled on in the time prescribed, so the motion is considered denied. (See ***Newspaper Holdings, Inc. v. Crazy Hotel Assisted Living, Ltd.***, 01-12-00581-CV (Tex.App. Dist.14 10/24/2013).)

103. This Court must declare that the motion expired; grant this Appeal; and remand the case to a district court.

104. **ISSUE #2: Did the District Court lose jurisdiction over Appellee's Motion to Dismiss on November 13, 2014 when Appellant filed a Notice of Appeal**?

105. Yes.

106. On November 13, 2014, Appellant filed a Notice of Appeal regarding Motion to Dismiss of Sean D. Fleming. [APPENDIX-9.6.] This Court granted the filing of this Appeal by letter dated December 18, 2014. [APPENDIX-18.5.]

107. TCPA specifically authorizes appeals regarding the 90-day requirement. [TCP&RC Sec. 27.008 (b).] (See ***Duell v. Texas Right to Life Committee***, No. 01-15-00011-CV (February 24, 2015).)

108. The filing of the appeal divested the DC of jurisdiction on the TCPA matter because further action would interfere with this Court. TEX. R. APP. P. 29.5. This negates subsequent actions of the DC.

109. **ISSUE #3: Did the District Court deny Appellant's Constitutional rights to a fair trial and due process**?

110. Yes.

111. Appellant was unlawfully incarcerated in the Ellis County Jail on October 28, 2014, and he was denied bond. On October 30, 2014, Appellant filed an Emergency Motion for Stay. [APPENDIX-7.] This motion explains that Appellant was incarcerated, was not being allowed to see his case files or access his computer, and was unable to prepare the reply to Appellee's motions. Appellant sought a stay until 48 hours after he was released from jail. This and all other motions for stays, continuances, and Constitutional rights were ignored.

112. Rather than repeat what has been stated above, see Statement of Facts paragraphs 39, 40, 45, 46, 49, 51, 52, 53, 57, 61, 64, 65, 66, 68, 69, 70, 73, 74, 75, 76, 78, 79, 81, and 84 and exhibits thereto. Repeated due process denial.

113. The unlawful incarceration of Appellant was used by the DC and the Appellee to deprive the Appellant of his legal and Constitutional rights so he would be unable to properly pursue Case #88611 and appeals thereto. The abuse was truly overwhelming. The legal position of pro se prisoners is horrendous.

114. Prisoners are supposed to have Constitutional rights, but the Appellant's alleged rights were abused as a practice. Extensive case law indicates that the Appellant's rights were routinely violated.

115. Appellant has been denied due process guaranteed by the Fifth and Fourteenth Amendments to the Constitution of the United States as well as the Texas Constitution.

116. Appellant was not given meaningful notice nor a meaningful opportunity to be heard before he was deprived of his property rights through the grant of the MTD and award of attorney's fees, costs, and $250,000 in sanctions.

> "...the litigant must be given notice and a chance to be heard before the order is entered." ***De Long***, 912 F.2d at 1147; ***Fuentes v. Shevin***, 407 U.S. 67, 80 (1972) ("For more than a century the central meaning of procedural due process has been clear: 'Parties whose rights are to be affected are entitled to be heard; and in order that they may enjoy that right they must first be notified.'") (quoting ***Baldwin v. Hale***, 68 U.S. (1 Wall.) 223, 233 (1864).

> "An essential principle of due process is that a deprivation of life, liberty, or property 'be preceded by notice and opportunity for hearing appropriate to the nature of the case'" (quoting ***Mullane v. Central Hanover Bank & Trust Co.***, 339 U. S. 306, 313 (1950)); ***Concrete Pipe & Products of Cal., Inc. v. Construction Laborers Pension Trust for Southern Cal.***, 508 U. S. 602, 617 (1993) quoting ***Ward v. Monroeville***, 409 U. S. 57, 61-62 (1972)).

117. Appellant was denied the opportunity to present evidence. He was denied access to his evidence.

> The right to present evidence is fundamental to a fair hearing. (***Wolff v. McDonnell***, 94 S. Ct. 2963, 418 U.S. 539 (U.S. 06/26/1974).) (See, for example, ***Clark v. Arizona***, 126 S.Ct. 2709, 548 U.S. 735, 165 L.Ed.2d 842 (U.S. 06/29/2006).) (See also ***Washington v. Texas***, 388 U.S. 14, 19, 87 S. Ct. 1920, 1923, 18 L. Ed. 2d 1019 (1967); ***Fendler v. Goldsmith***, 728 F.2d 1181 (9th Cir. 10/14/1983).)

> Under the due process guarantee, every person must be given an opportunity to explain, argue and rebut any information that may lead to a deprivation of life, liberty, or property. (***State v. McLeod***, 61 P.3d 126, ¶18.)

118. Due process does not mean that you can be denied legal information, legal resources, and your own case file and evidence and be expected to explain, argue, and rebut information that led to a deprivation of property.

119. The fundamental tenets of procedural due process consist of notice and an opportunity to be heard at a meaningful time and in a meaningful manner.

> See ***Mathews v. Eldridge***, 424 U.S. 319, 333 (1976); ***Tex. Employment Comm'n v. Remington York, Inc.***, 948 S.W.2d 352, 357 (Tex. App._Dallas 1997, no writ).

120. Appellant was taken from jail with little or no notice to hearings on November 6, November 20, and December 18, 2014. He was extremely ill on November 6 and did not even know why he was taken to court on December 18. His legal and Constitutional rights were trampled while he was incarcerated, and there was nothing meaningful about the time or manner of these hearings. The same goes for the court filings that he was forced to hand-write and file from jail without the necessary legal resources or tools, and it was physically impossible to accomplish needed tasks. The Ellis County Jail does not even have a law library.

121. The DC ignored virtually every motion the Appellant filed. See December 8, 2014 Motion to Recuse Judge Bob Carroll and these paragraphs

above in the Statements of Facts – 16, 17, 18, 20, 24, 25, 27, 28, 32, 33, 44, 45, 46, 47, 49, 50, 51, 54, 55, 61, 62, 64, 65, 66, 70, 75, and 76.

122. Then a new judge was assigned to the case at 4:00 pm on December 18. He conducted a two hour hearing. Then 1½ business hours later, he issued an order sanctioning the Appellant $331,085.13 for filing a lawsuit that violated TCPA. The new judge had no factual or legal basis to do so.

123. There was no fairness shown to the Appellant. He did not receive due process.

124. This matter must be reversed and remanded to a district court.

125. **ISSUE #4: Did the District Court err in declaring Appellant was a Limited-Purpose Public Figure**?

126. Yes.

127. Not only did the DC erroneously claim Appellant was a limited-purpose public figure ("LPPF") as an "internet crusader" and "head of the Revolutionary Party," but the DC erroneously took the position that LPPF classification applied to any and all defamatory statements to require proof of malice. There never was a Revolutionary Party, and being an "internet crusader" is not a public controversy. Case law is clear that LPPF applies only to subject matter related to the controversy in question, not to the person's entire life. In this case, Appellant has been defamed in articles ranging from his sex life to his

divorce to his purchase of a gun for protection to an imaginary interview with his deceased father. When there is no public controversy and no mainstream media coverage, there can be no LPPF. [APPENDIX-4.1 ¶3.] Case law requires that each of the 150 alleged defamatory statements must be reviewed individually, and none were.

128. The LPPF issue is fully addressed in APPENDIX-4.1. Extensive case law is provided as well as clear statements of the requirements.

129. The LPPF issue is also addressed in APPENDIX-4.5, APPENDIX-7.2, APPENDIX-7.8, APPENDIX-9.6, APPENDIX-11.7, APPENDIX-12.2, APPENDIX-12.3, APPENDIX-12.7, and APPENDIX-14.2. See REPORTER'S-RECORD-TRANSCRIPT-NOVEMBER-20-2014. Appellant requested findings of fact and conclusions of law on the LPPF ruling, and the DC ignored it.

130. There simply is no legal basis to claim that the Appellant was a LPPF as to the defamatory statements of the Appellee. APPENDIX-4.1 details it all.

131. A LPPF is an individual who has "achieved fame or notoriety based on their role in a particular public issue." (***Pegasus v. Reno Newspaper, Inc.***, 57 P.3d 82, 91 (Nev. 2002) citing ***Gertz v. Robert Welch, Inc.***, 418 U.S. 323, 351-52 (1974). Appellant has not achieved fame or notoriety in any public issue.

132. In the case that Texas uses to decide if a plaintiff is or is not a LPPF, Waldbaum was a leading figure in the supermarket industry, and the court ruled

that Waldbaum was a public figure for purposes of the **limited range of issues** concerning the company's unique position within the supermarket industry and his efforts to advance that position. (***Waldbaum v. Fairchild Publications, Inc.***, 627 F.2d 1287, at 1300.)

> Determining whether a public controversy gave rise to the article at issue in this case requires review of the scope of the alleged defamatory statements and the facts surrounding them. A "public controversy" does not encompass every conceivable issue of interest to the public. ***Time***, 424 U.S. at 454. Rather, "public controversy" is a legal term of art; the term only encompasses a dispute "that in fact has received public attention because its ramifications will be felt by persons who are not direct participants." ***Foretich***, 37 F.3d at 1554. (***Carr v. Forbes, Inc.***, 259 F.3d 273 (4th Cir. 08/01/2001).)

133. Many published statements by Appellee and the Defendants were solely in the warped interests of the Defendants, were completely false, and have damaged Appellant's reputation. Exhibit 1 to the Affidavit of William M. Windsor dated June 13, 2014 lists each of the published articles on JIALK through March 2014, the date, time published, the title of the article, and the text of the article. Each statement is numbered in the far left column titled "#". Exhibit 2 to the Affidavit of William M. Windsor dated June 13, 2014 [RECORD] lists each of the published articles on JIALK through March 2014, the date, time published, the title of the article, and the article type (keywords or phrases describing what the article is about.) The topics are primarily the filming of Appellant's movie, a convention of people filmed in Washington DC, Appellant's weight, allegedly vexatious

litigants, allegations that Appellant's movie is a scam and that he is a con artist, comparisons of Appellant to Hitler, online radio programs, proposed television show, defamation, videos produced by JIALK, people filmed for the documentary, Facebook, allegations that Appellant tells lies, Google bombs, Appellant's family, Appellant's deceased parents, Appellant's career, Appellant's military service, Appellant's health, Appellant's divorce, Appellant's finances, Appellant litigation, cease and desist notices, retraction requests, calling Appellant a terrorist, grand juries and Appellant's profession as a grand jury consultant, Sovereign Citizens, Allie Overstreet, Sean Boushie, Sean D. Fleming, cyberstalkers, David Schied, people Appellant has never heard of, protective orders, birthdays, RV, prostitutes, stalking, Appellant's social status, Appellant's mental health, sexual deviancy, glory holes, frivolous lawsuits, narcissism, alleged lies, bullies, Appellant's age, FBI, and Judge Bob Carroll. Exhibit 10 to the Affidavit of William M. Windsor dated October 27, 2014 lists all of the published statements of the Appellee. The column for "Article Type" explains what the article was about that the Appellee published comments on. [RECORD.]

134. Ginger Snap, the primary operator of JIALK has published categorically that the website where the published comments about Appellant appear does not deal with public causes:

> "...we here at the clubhouse are not involved with any public causes." (Joyisalittlekid.blogspot.com, Wednesday, March 13, 2013 -- ***Bill's Blogs***

Are Trying to Attack Us.)

135. And on September 17, 2013, Ginger Snap made it clear on JIALK that the published statements on the Joeys' website have nothing to do with a public controversy. Ginger Snap says JIALK addresses the things and words Appellant chooses to make public. And that is not a public controversy. Ginger Snap published this:

> "At the end of the day he can't take away our right to espousing an opinion on our own site about the things and words he chooses to make public."

136. JIALK acknowledged that Appellant has received NO media coverage: Lawlessnomore (Defendant Michelle Stilipec) published this on JIALK on April 23, 2013 at 6:10 PM:

> "Fact remaains that LA has yet to recieve any major news coverage and small wonder if BW hasn't thought to contact anyone personally or to think of alternative news sources. And he's little more than a slum lord of the internet so if anyone legit came looking now they'd run away."
>
> Ginger Snap published this on JIALK on Saturday, February 9, 2013: "Blogtalk Radio Tonight at 10:30 pm central http://my.blogtalkradio.com/lordzotomzafir/2013/02/10/brief-test-trial. Tune in as some from the Slanderfella and Joeyisalittlekid group give the only media coverage to the Lawless DC trip with a nice recap."
>
> Ninja published this on JIALK on July 21, 2013 at 11:06 PM: "...he has crashed and burned with any previous real media stories."
>
> Ginger Snap published this on JIALK on August 7, 2013: "...no one even cares that he exists."

137. The issue of media coverage and access to it is vital because private

individuals are to be protected against defamation. (***Vice v. Kasprzak***, No. 01-08-00168-CV (Tex.App. Dist.1 10/01/2009); ***WFAA-TV Inc. v. McLemore***, 978 S.W.2d 568, 26 Media L. Rep. 2385 (Tex. 09/24/1998); ***Lacombe v. San Antonio Express News***, No. 04-99-00426-CV (Tex.App. Dist.4 01/26/2000); ***New Times, Inc, v. Wamstad***, 106 S.W.3d 916 (Tex.App. Dist.5 06/13/2003); ***Little v. Breland***, 93 F.3d 755 (11th Cir. 09/05/1996); ***American Broadcasting Companies Inc. v. Gill***, 6 S.W.3d 19 (Tex.App. Dist.4 06/16/1999); ***Swate v. Schiffers***, 975 S.W.2d 70, 26 Media L. Rep. 2258 (Tex.App. Dist.4 04/30/1998).)

> "Finally, we cannot agree that Hutchinson had such access to the media that he should be classified as a public figure. Hutchinson's access was limited to responding to the announcement of the Golden Fleece Award. He did not have the regular and continuing access to the media that is one of the accouterments of having become a public figure." (***Hutchinson v. Proxmire***, 99 S. Ct. 2675, 443 U.S. 111 (U.S. 06/26/1979).)

138. The Texas Supreme Court emphasized the importance of access to the media to counteract false statements in 2013. "The United States Supreme Court addressed this distinction in ***Gertz***: '[p]ublic officials and **public figures usually enjoy significantly greater access to the channels of effective communication and hence have a more realistic opportunity to counteract false statements than private individuals normally enjoy**. Private individuals are therefore more vulnerable to injury, and the state interest in protecting them is correspondingly greater.'" (***Neely v. Wilson***, 11-0228 (Tex. 06/28/2013).) (See also ***Clark v. American Broadcasting Companies Inc.***, 684 F.2d 1208 (6th Cir. 07/29/1982);

Kassel v. Gannett Co., 875 F.2d 935 (1st Cir. 05/24/1989).) [**emphasis added**.]

139. Appellant has had no access to the media.

140. Appellant has listed keywords for the various topics covered in the articles on JIALK. There are over 200 topics. Exhibit 1 to the Affidavit of William M. Windsor dated June 13, 2014 [RECORD] is a list of the articles in which the articles and/or published comments contain defamation. The "Type" column shows the general subject matter of each article. It is very easy to determine that these articles were not discussing public controversies. Exhibit 2 to the Affidavit of William M. Windsor dated June 13, 2014 [RECORD] is a list of the topics extracted from Exhibit 1 with a tally for the number of articles in which each topic was discussed.

141. Appellant submits that none of the topics are subject to any type of LPPF classification in this matter as there was no public controversy being addressed.

142. Comments alleging that Appellant committed tax fraud, whether he falsely induced people to donate, and anything relating to Appellant's business are PRIVATE aspects of Appellant's PRIVATE business and are unrelated to anything that could have involved a public concern.

143. The "public controversy" must not be an essentially private concern such as divorce. (***Time, Inc. v. Firestone***, 424 U.S. 448, 454-55, 96 S. Ct. 958,

965, 47 L. Ed. 2d 154 (1976).)

144. In ***Virgil v. Time, Inc.***, 527 F.2d 1122 (9th Cir. 1975), the Court noted the importance of this LPPF notion: "However, accepting that it is, as a matter of law, in the public interest to know about some area of activity, **it does not necessarily follow that it is in the public interest to know private facts about the persons who engage in that activity**. The fact that they engage in an activity in which the public can be said to have a general interest **does not render every aspect of their lives subject to public disclosure**. Most persons are connected with some activity, vocational or avocational, as to which the public can be said as a matter of law to have a legitimate interest or curiosity. To hold as a matter of law that private facts are also within the area of legitimate public interest could indirectly expose everyone's private life to public view. [**emphasis added**.]

145. People simply do not become a LPPF with regard to the private aspects of their lives.

> With these principles in mind, it is clear that Bichler is not a public figure with regard to the private aspects of his life. Even if the theatre and its finances do constitute a public controversy, the statement about his personal finances is not related to that controversy. (***Bichler v. Union Bank and Trust Co.***, 715 F.2d 1059 (6th Cir. 08/17/1983).)

146. Those who are not classified as public figures are considered private figures. To support a claim for defamation, a private figure need only show negligence by the publisher, a much lower standard than "actual malice."

147. Appellant can easily establish negligence, and as he is not a public figure or a LPPF, he should not be required to show malice or reckless disregard. Negligence was the appropriate standard in this case.

148. The DC decision declaring the Appellant a LPPF must be reversed.

149. **ISSUE #5: Did the District Court err in granting Appellee's Motion to Dismiss**?

150. Yes.

151. In addition to the fact that the MTD expired by statute, there are significant other reasons why granting the MTD was an error.

152. THE APPELLEE COMMITTED PERJURY BY FILING A FALSE, SWORN AFFIDAVIT WITH THE MTD.

153. The Appellee's affidavit should have been stricken as the Appellant moved. [APPENDIX-11.7 Page-6 ¶13-14.]

154. THE APPELEE FAILED TO MEET HIS INITIAL BURDEN UNDER CHAPTER 27 OF THE TEXAS CIVIL PRACTICE AND REMEDIES CODE, 27.003.

155. The Appellee was required to show by a preponderance of the evidence that the alleged statements were protected by the First Amendment. But the Appellee failed to admit making ANY of the published statements alleged by the Appellant. Furthermore, he provided no evidence as to any of the specific

statements alleged by the Appellant. His sole defense was to state in one conclusory statement: "All of my communications and statements about Windsor have been in accordance with my rights of free speech." The Appellee may not pursue a Chapter 27 claim for violation of his right to freedom of speech when he doesn't even admit making a statement. [APPENDIX-11.7 Pages 7-12.]

156. In extensive case law that the Appellant has read on TCPA, the movant specifically addressed the alleged defamatory statements. This was not done by the Appellee. Appellant believes Appellee's entire sworn testimony on the MTD is a 1½-page affidavit in APPENDIX-1.6.

157. THE APPELANT WAS DENIED DISCOVERY AND WAS FORCED TO DEFEND THE MTD IN VIOLATION OF HIS RIGHTS.

158. The Appellant attempted to obtain discovery and obtained essentially nothing. [APPENDIX-11.7 Page 13.] Due process rights repeatedly violated.

159. THE TCPA IS NOT APPLICABLE TO THIS LAWSUIT.

160. The defamatory comments that the Appellant complains about are not about "participation in government." [APPENDIX-11.7 Page 15-23.]

161. THE APPELLEE'S MOTION SOUGHT TO VIOLATE THE APPELLANT'S RIGHT TO PETITION.

162. The Appellant was simply exercising HIS Constitutional and legal right to petition by filing suit. [APPENDIX-11.7 Page 24-25.]

163. CASE #88611 DOES NOT INVOLVE A MATTER OF PUBLIC CONCERN AS REQUIRED BY THE TCPA.

164. The defamatory comments about the Appellant have nothing to do with "participation in government." [APPENDIX-11.7 Page 25.]

165. CASE #88611 IS NOT A LAWSUIT WITH MINIMAL MERIT, AS IS REQUIRED BY THE TCPA.

166. This lawsuit has complete merit. [APPENDIX-11.7 Page 26.]

167. THE APPELLANT SENT CEASE AND DESIST NOTICES AND CORRECTION AND RETRACTION REQUESTS TO THE APPELLEE, BUT THEY WERE IGNORED.

168. Defendants should not be allowed to claim protection under the TCPA when they were given an opportunity to address the defamation and did not. [APPENDIX-11.7 Page 34-36.]

169. THE MOTION TO DISMISS FAILED TO EXCLUDE THE PORTIONS OF THE LAWSUIT NOT RELATED TO ALLEGED PROTECTED SPEECH.

170. The TCPA was not applicable, at the very least, to Counts III, IV, V, VI, VII, VIII, IX, X, and XI. Only a cause of action that satisfies both prongs of the TCPA is subject to being stricken under the statute. [APPENDIX-11.7 Page 37.]

171. APPELLEE COMMITTED SIGNIFICANT DEFAMATION THAT WAS NOT PROTECTED BY THE FIRST AMENDMENT, AND THE APPELLANT PROVIDED PRIMA FACIE EVIDENCE FOR EACH CAUSE OF ACTION AND EACH DEFAMATION COUNT BY CLEAR AND CONVICNING EVIDENCE.

172. See Appellant's Verified Response to MTD filed November 17, 2014 with its 200-page sworn, notarized Affidavit of Appellant dated November 13, 2015 for proof of all elements on the first 27 defamatory statements. [RECORD.] [APPENDIX-11.7; pages 40-96.] November 24, 2014 Supplemental Response to MTD, Affidavit of Appellant dated November 24, 2014, November 27, 2014 Second Supplemental Response to MTD, and Affidavit of Appellant dated November 27, 2014 provide sworn proof of elements of 136 additional defamatory statements. [RECORD.] (See Statement of Facts above – ¶¶ 51, 55, 56, 58, and 59.) Also see REPORTER'S RECORD-TRANSCRIPT-NOVEMBER-20-2014. Appellant filed over 500 pages of sworn, verified affidavits with evidence on 163 defamatory statements. Appellee filed a conclusory 1½-page affidavit.

173. Appellee has published that the Appellant is a killer, a pedophile, a criminal, a stalker, a liar, a terrorist who incites Arabs to attack America; has committed tax fraud, sexual misconduct, fraud, perjury; has a plan to execute politicians, has advised others to violate laws, has incited violence, has declared

the President to be an enemy of State, got his penis stuck in a glory hole, committed wrongdoing involving donations and Internet domains, published false information about a school, is unstable, operated an address scam, planned to kill Sean Boushie, was unsuccessful with 1st Communications, that Bain Capital bought it after the Appellant ran it in the ground, filed bankruptcy with 1st Communications, has partnered with Russians, has committed wrongdoing in litigation, is incompetent in his movie filming, and much more. None of this is true. [APPENDIX-15.2.]

174. As the Appellee did not provide ANY evidence as to any of the specific alleged statements about which the Appellant complains, the prima facie evidence in the Appellant's verified petitions, verified motions, and sworn affidavits provide sufficient, uncontroverted evidence. Sec. 27.006 provides that FACTS in affidavits or pleadings are what is to be considered. Appellee has essentially no facts.

175. The Appellee based the MTD on the First Amended Verified Complaint. The Third Amended Verified Complaint was filed on October 28, 2014 and became the relevant petition. It was not addressed. The DC ignored this. [REPORTER'S-RECORD-TRANSCRIPT-NOVEMBER-20-2014.]

176. Appellant respectfully submits that no honest judge in his or her right mind would dismiss this case against Appellee.

177. **ISSUE #6: Did the District Court err in not addressing whether the TCPA is unconstitutional**?

178. Yes.

179. Appellant filed a Constitutional challenge to the TCPA. The DC had an obligation to address this before granting the MTD. The DC never addressed this. The TCPA is unconstitutional. This is fully briefed in APPENDIX-2.5.

180. This matter must be reversed and remanded.

181. **ISSUE #7: Did the District Court lack jurisdiction for its order awarding sanctions on December 19, 2015**?

182. Yes.

183. The Federal Rules of Civil Procedure provide that a case may be removed from state to federal court. The right to remove an action from state to federal court is governed by Section 1441 of Title 28 of the U.S. Code, the general removal statute. The federal court has the discretion to accept the case as a whole or remand the issues of state law. A written "notice of removal" must be filed in the federal court and signed by the attorney for the removing party or by the party himself.

184. A written Notice of Removal of this case to federal court was sent to the United States District Court for South Dakota by fax on December 18, 2015, followed by the original by mail. [APPENDIX-19.]

185. Once the notice of removal is filed in the federal court, the removing party has to give notice to all adverse parties and must file its copy with the state court. The written Notice of Removal of this case to federal court was filed with the Ellis County Texas Clerk of Court on December 18, 2015. It was promptly mailed to each defendant. [APPENDIX-19.] A Notice of the Federal Case Number was filed in the District Court and sent to all defendants on January 12, 2015. [RECORD.]

> Under § 1446(d), removing defendants must promptly provide written notice of the removal to opposing parties and to the state court. *See* 28 U.S.C. § 1446(d). The statute specifies that **removal is effected by the filing of the notice of removal with the state-court clerk, at which point "the State court *shall proceed no further* unless and until the case is remanded**." *Id.* (emphasis added). Because § 1446(d) explicitly states that "the State court shall proceed no further" once removal is effected, 28 U.S.C. § 1446(d), we agree with the Defendants that the statute deprives the state court of further jurisdiction over the removed case and that any post-removal actions taken by the state court in the removed case action are void *ab initio*. *See* ***South Carolina v. Moore***, 447 F.2d 1067, 1072-73 (4th Cir. 1971); *accord* ***Polyplastics, Inc. v. Transconex, Inc.***, 713 F.2d 875, 880 (1st Cir. 1983) ("[A]ny action taken by the Puerto Rico court after removal was effected was a nullity anyway, with or without the order against further proceedings."). (***Ackerman v. Exxonmobil Corp.***, 12-1103 (4th Cir. 08/07/2013).)
>
> Removal is effective upon filing a notice of removal in both the relevant federal and state courts, and providing notice to the other parties. 28 U.S.C. S 1442(a), (d). At that time, "the State court shall proceed no further unless and until the case is remanded." 28 U.S.C. S 1442(d). "A proper filing of a notice of removal immediately strips the state court of its jurisdiction." ***Yarnevic v. Brink's, Inc.***, 102 F.3d 753, 754 (4th Cir. 1996). Thus, even if a case is later remanded, it is under the sole jurisdiction of the federal court from the time of filing until the court remands it back to state court. ***California ex rel. Sacramento Metro. Air Quality Mgmt. Dist. v. United***

States, 215 F.3d 1005, 1011 (9th Cir. 2000) **("[F]urther proceedings in a state court are considered coram non judice and will be vacated even if the case is later remanded**.") (citing 14C Charles Alan Wright, Arthur R. Miller & Edward H. Cooper, ***Federal Practice & Procedure*** S 3737 (3d ed. 1998)). (***In re Diet Drugs***, 282 F.3d 220 (3d Cir. 02/26/2002).) [**emphasis added**.]

186. 28 U.S.C. 1446(d) provides that "The filing of a copy of the notice with the clerk of the State court effects the removal, and the State court shall proceed no further unless and until the case is remanded." This means that the judges in Ellis County Texas had no jurisdiction over case #88611 as of 2:09 pm on December 19, 2014. Federal case law on this is clear.

> The federal removal provisions, both civil and criminal, 28 U. S. C. §§ 1441-1450, provide that **once a copy of the removal petition is filed with the clerk of the state court, the "State court shall proceed no further unless and until the case is remanded**." 28 U. S. C. § 1446 (e). (***Mitchum v. Foster et al.***, 92 S. Ct. 2151, 407 U.S. 225 (U.S. 06/19/1972).) [**emphasis added**.]
>
> 28 U.S.C. § 1446 was amended. Under the amendment, **the filing of a removal petition terminates the state court's jurisdiction until the case is remanded, even in a case improperly removed**. (***Lowe v. Jacobs***, 243 F.2d 432, 433 (5th Cir.), cert. denied, 355 U.S. 842, 78 S. Ct. 65, 2 L. Ed. 2d 52 (1957).) [***emphasis added.***]
>
> **§ 1446 expressly provides that upon removal "the State court shall proceed no further unless and until the case is remanded**." 28 U.S.C. § 1446(d). (The relevant section of the removal statute provides: "Promptly after the filing of such [removal] petition and bond the defendant or defendants shall give written notice thereof to all adverse parties and shall file a copy of the petition with the clerk of such State court, which shall effect the removal and the State court shall proceed no further unless and until the case is remanded." 28 U.S.C. § 1446(d).) Hence, **after removal, the jurisdiction of the state court absolutely ceases and the state court has a duty not to proceed any further in the case**. ***Steamship Co. v.***

Tugman, 106 U.S. 118, 122, 1 S. Ct. 58, 60, 27 L. Ed. 87 (1882). (Since Steamship Co. was decided, the removal statute 28 U.S.C. § 1446 was amended. Under the amendment, the filing of a removal petition terminates the state court's jurisdiction until the case is remanded, even in a case improperly removed. ***Lowe v. Jacobs***, 243 F.2d 432, 433 (5th Cir.), cert. denied, 355 U.S. 842, 78 S. Ct. 65, 2 L. Ed. 2d 52 (1957). Thereafter, it is the federal district court's duty to determine whether to remand due to lack of subject matter jurisdiction. Id. This is contrary to the former rule where the case must have been properly removed to end the state court's jurisdiction. Id.) Any subsequent proceedings in state court on the case are void ab initio. ***Steamship Co.***, supra, 106 U.S. at 122, 1 S. Ct. at 60. (Moreover, **the party who removed the case is not obligated to appear in state court and litigate the suit on the merits if the state court exercises jurisdiction in defiance of the removal**. ***Steamship Co.***, supra, 106 U.S. at 123, 1 S. Ct. at 61.) (***Maseda v. Honda Motor Co.***, 861 F.2d 1248 (11th Cir. 12/19/1988).) [**emphasis added**.]

Title 28 U.S.C. § 1446(e) (1982) provides that upon removal to federal court, "the State court shall proceed no further unless and until the case is remanded." This prohibition has been construed as an express congressional authorization to enjoin or stay the state court proceedings. ... The federal removal provisions, both civil and criminal, 28 U.S.C. §§ 1441-1450, provide that **once a copy of the removal petition is filed with the clerk of the state court, the "State court shall proceed no further unless and until the case is remanded**." 28 U.S.C. § 1446(e). (***Lou v. Belzberg***, 834 F.2d 730 (9th Cir. 11/12/1987).) [**emphasis added**.]

"[R]emoval becomes effective immediately and the State court has no power to proceed in the case unless and until the case is remanded." ***Henke Grain Co. v. Keenan***, 658 S.W.2d 343, 346 (Tex.App.--Corpus Christi 1983, no writ). See also ***E.D. Systems Corp. v. Southwestern Bell Telephone Co.***, 674 F.2d 453, 457 (5th Cir. 1982); 28 U.S.C.A. § 1446(d)(West Supp. 2014).

"Once a timely request is made in the Bankruptcy Court and a copy of the application for removal is filed in the District Court, removal is automatic." ***Safeco Ins. Co. of Am. v. Mahaney (In re Watson-Mahaney, Inc.)***, 70 B.R. 578, 580 (Bankr. N.D.Ill. 1987); see also ***Stewart Title Co. v. Street***, 731 S.W.2d 737, 739 (Tex.App.--Fort Worth 1987, no writ)(filing of petition for removal and bond sufficient to prove removal from state court).

187. 28 U.S.C. 1447 provides: "A certified copy of the order of remand shall be mailed by the clerk to the clerk of the State court. The State court may thereupon proceed with such case."

> "[J]urisdiction revests in the state court when the federal district court executes the remand order and mails a certified copy to the state court." ***Quaestor Investments, Inc. v. State of Chiapas***, 997 S.W.2d 226, 229 (Tex. 1999). Any orders the state court issues prior to remand are void. ***Meyerland Co. v. F.D.I.C.***, 848 S.W.2d 82, 83 (Tex. 1993).

188. The DOCKET shows that a certified copy of an order of remand was never mailed by the federal court clerk to the clerk of the Ellis County Texas court.

189. The DC was powerless in the case after its removal to federal court.

> "Removal is not discretionary. Thus when the removal papers are filed in the federal court it is certain that removal will take place. A later remand does not alter the fact that removal took place. 28 U.S.C. § 1446(e)." (***Murray v. Ford Motor Co.***, 770 F.2d 461, 463 (5th Cir.1985).)

190. This matter must be reversed and remanded to a district court.

191. **ISSUE #8: Did the District Court err in awarding attorney's fees, costs, and sanctions to Appellee**?

192. Yes.

193. Appellant did nothing wrong. He had the right file a meritorious lawsuit for demonstrable injury. [TCPA Sec. 27.002.]

194. Case #88611 was not based on, related to, or in response to Appellee's exercise of the right of free speech. [TCPA Sec. 27.003.]

195. Appellant established by clear and specific evidence a prima facie case for each essential element of defamation claims and his other causes of action. [TCPA Sec. 27.005(d).]

196. The MTD expired by statute.

197. Appellant was denied discovery.

198. Appellant was not given meaningful notice and a meaningful opportunity to be heard on this issue. He was taken from his jail cell to court without notice of what he was going for. He did not even have files to work with.

199. Appellee had prepaid legal, so he did not incur any legal expense. The TCPA provides for court costs, reasonable attorney's fees, and other expenses **incurred by the moving party**. The moving party (Appellee) incurred no costs. Appellee's attorney admitted this at the December 18, 2014 hearing. [REPORTER'S-RECORD-TRANSCRIPT-DECEMBER-18-2014.] [APPENDIX-11.7 Page 97.] Expenses are incurred when the legal obligation to pay them arises. [***West's Encyclopedia of American Law***, edition 2.] Appellee had no legal obligation to pay anything. Incur is defined as "to become liable for." [***Burton's Legal Thesaurus***, 4E; ***Merriam-Webster Dictionary***.] Appellee was not liable for any attorney's fees or costs.

> Sec. 27.009. DAMAGES AND COSTS. (a) If the court orders dismissal of a legal action under this chapter, the court shall award to the moving party: (1) court costs, reasonable attorney's fees, and other expenses incurred in defending against the legal action as justice and equity may require; and

(2) sanctions against the party who brought the legal action as the court determines sufficient to deter the party who brought the legal action from bringing similar actions described in this chapter.

200. $250,000 in sanctions was utterly outrageous. The Appellant provided financial information by affidavit and in his testimony at the December 18, 2014 hearing. He explained that he received $2,000 per month in social security retirement benefits and that he has a significant negative net worth. Judge Richard Davis had no honest reason to claim $250,000 was proper in any way, shape, form, or fashion. Judge Richard Davis had been on the case for only 3½ hours when the order was filed. He attended a hearing for two hours, which took place immediately after he was assigned to the case, and he had 1½ business hours the morning of December 19, 2015 before the order was published. He could not have even read the Third Amended Verified Complaint in that time, much less the 21 exhibits containing 1,595 files. Transcripts of the November 6 or November 20 hearings did not even exist, much less time to read them. He did not read the 500+ handwritten pages that the Appellant had filed on the MTD. He had no factual basis whatsoever to decide that the Appellant had filed anything to justify sanctions. There was no admissible evidence in the court record to that effect.

201. For a host of reasons, the December 19, 2014 order awarding attorney's fees, costs, and sanctions must be reversed.

202. **ISSUE #9: Is Appellant a victim of judicial corruption**?

203. Yes.

204. Here's how Appellant believes the corruption against him was orchestrated:

205. Appellee and the other defendants used their political relationships with Ellis County Texas District Attorney Patrick Wilson; Ellis County Sheriff Johnny Brown; Ellis County Texas Clerk of Court employees; Judge Bob Carroll, Judge Richard Davis, and Judge Joe F. Grubbs and their staff members.

206. Judge Bob Carroll ignored Appellant's motions, refused to set hearings on his motions, and repeatedly ruled against him without legal justification. [APPENDIX-17.]

207. Upon information and belief, Appellee's attorney Barbara Hachenburg participated in conceiving a way that the Missoula Police Department and Missoula County Attorney's Office could charge Appellant with five crimes. Appellant had not committed any crimes, but that didn't matter. This Court is asked to take judicial notice of Case #DC-14-509 in the Fourth Judicial District Court in Missoula Montana, particularly the Motion to Quash Bench Warrant.

208. By getting the Missoula County Montana folks (who hate Appellant for exposing the rampant corruption there) to charge Appellant, the Ellis County Texas folks could coordinate having Appellant arrested when he appeared for a

hearing in Case #88611 against the Joeyisalittlekid Gang. And so they did. Appellant is not sure who came up with the idea to charge Appellant with three felonies, but he was charged with two misdemeanors and three felonies. Montana law says there is no way to charge Appellant with a felony, but they did it because this was the only way Montana could have Appellant extradited from Texas. There is no extradition for misdemeanors. And, by claiming felonies, it dramatically increased a judge's ability to claim a higher bail amount.

209. Attorney Barbara Hachenburg of Houston Texas then communicated with Assistant Ellis County Sheriff Dennis Brearley, and Dennis Brearley unlawfully seized the Appellant's laptop and hard drives from his personal property at the jail. This was held for several days while it was presumably copied for Barbara Hachenburg and defendants.

210. Ellis County Texas District Attorney Patrick Wilson then lied repeatedly to Judge Cindy Ermatinger. He withheld documents. He got his deputy district attorneys to cover for him. He told Judge Cindy Ermatinger that Appellant is a terrorist, and he told her that Appellant had committed Internet crimes in Montana. All false. He did what he did to block Appellant's ability to obtain documents that would prove the fraud and to block his ability to be released on bond as Texas law provided. This was vital to the scheme because the goal in all of this was to keep Appellant in jail without the ability to properly pursue his civil

suit against the defendants. Ellis County Texas District Attorney Patrick Wilson succeeded in having Appellant unlawfully held and denied bond for 53 days in the Ellis County Texas Jail. This Court is asked to take judicial notice of Case #14-158 in the 443rd Judicial District Court in Ellis County Texas and Appeal #10-14-00401-CR in the Tenth Court of Appeals.

211. Judge Bob Carroll denied all discovery that Appellant attempted to obtain in Case #88611. Then he granted Defendant Sam Round's special appearance and dismissed him from the case despite overwhelming proof of the discovery needed to prove that the special appearance had to be denied. This Court is asked to take judicial notice of Case #10-14-00355-CV in the Tenth Court of Appeals.

212. While Appellant was unlawfully incarcerated, Judge Bob Carroll forced him to participate in hearings in the civil case despite almost complete violation of his Constitutional and legal rights due to incarceration and denial of the legal information and tools that he needed. The Appellant literally had to hand-write pleadings, and he was summoned to court from the jail for hearings without notice. Judge Bob Carroll was set up to issue an order dismissing Appellant's case against Sean D. Fleming. Appellee Sean D. Fleming is among the most outrageous defamation artist defendants, and no honest judge in his right mind could possibly rule in Sean D. Fleming's favor. [APPENDIX-17.].

213. Appellant succeeded in getting Judge Bob Carroll disqualified as the judge, so the corrupt powers-that-be brought in Judge Richard Davis. Judge Davis was programmed to award Sean D. Fleming $325,000 in sanctions because Appellant sued Sean D. Fleming for making over 100 false and defamatory statements about him, including that he committed tax fraud, is a pedophile, and is a killer. Judge Richard Davis never read the file, never saw transcripts of the hearings, but he didn't need to; his job was simply to hit Appellant with a massive financial judgment. [Case #10-14-00392-CV in the Tenth Court of Appeals.]

214. Then Judge Cindy Ermatinger threw Ellis County District Attorney Patrick Wilson a curve when she released Appellant on a $100,000 Personal Recognizance Bond after 53 days in the Ellis County Jail. He wasn't counting on that. He needed Appellant to be kept in jail and unable to handle his civil case. [Case #10-14-00401-CR in the Tenth Court of Appeals.]

215. So Ellis County District Attorney Patrick Wilson then concocted a new scheme to get Appellant. He scheduled a hearing in Judge Cindy Ermatinger's court and pretended he sent Appellant notice when he absolutely did not. He intentionally ignored the legal address, email, and phone that Appellant had filed with Judge Cindy Ermatinger's court and provided to him because he didn't want Appellant to have notice. He wanted Appellant to fail to appear for the December 30, 2014 hearing so he could have Judge Cindy Ermatinger order that

Appellant had "jumped bond." That way, he could get a $100,000 judgment against Appellant, and he could claim that Appellant was indicted for felony bond jumping. None of this was valid. This Court is asked to take judicial notice of the Petition for Writ of Habeas Corpus filed in case #14-158 in the 443rd Judicial District Court in Ellis County Texas on June 1, 2015. [Case #10-14-00392-CV in the Tenth Court of Appeals.]

216. Ellis County District Attorney Patrick Wilson then had his staff fax a Wanted Poster of Appellant to post offices, Federal Express stores, and elsewhere nationwide. He needed to get Appellant put in jail again so he would lose the ability to handle his civil case and his appeal. And he succeeded. Appellant was put in the Ada County Idaho Jail because of one of his FedEx faxes. He then told the Idaho police that Appellant's bond was $2.1 million and that there was a "Texas transit hold" with no bond. There is no such thing, but the facts and the law don't matter with corrupt officials like these. Ellis County District Attorney Patrick Wilson also had the Idaho police take all of Appellant's money, credit cards, checks, computer, hard drives, legal files, and the vehicle he had in Idaho. All of this was unlawfully seized and searched at his request, and Appellant was left with nothing. The authorities in Idaho said it was all being held as "evidence for Texas." Ellis County District Attorney Patrick Wilson then lied to the Ada County prosecuting attorney, F. Aldijani, so she would lie to the judges

there and get Appellant hit with another $2 million in bail -- up to $4.1 million. He told the folks in Idaho and Montana that Appellant is a terrorist. [See Petition for Writ of Habeas Corpus in Case #14-158 in the 443rd Judicial District Court in Ellis County Texas on June 1, 2015 and Case #10-14-00392-CV in the Tenth Court of Appeals.]

217. While in what amounted to maximum security in Boise Idaho for 35 days, Appellant was unable to deal with his civil case, so Ellis County District Attorney Patrick Wilson's buddy, former Ellis County District Attorney Joe Grubbs, was assigned as the judge in Appellant's civil case, and he dismissed the case for "want of prosecution" because Appellant was in jail, and he saddled Appellant with another $25,000 or so in sanctions. [See Petition for Writ of Habeas Corpus in Case #14-158 in the 443rd Judicial District Court in Ellis County Texas on June 1, 2015 and Case #10-15-00069-CV in the Tenth Court of Appeals.]

218. Once Appellant was moved to the Missoula County Detention Center in Missoula Montana on March 25, 2015, the dishonesty continued. Appellant was held for 46 days without bond because Ellis County District Attorney Patrick Wilson told the Montana authorities that there was a "Texas transit hold." The Missoula County Attorney's Office went along with it and stalled and stalled while filing false sworn affidavits with the courts. [See Petition for Writ of Habeas

Corpus in Case #14-158 in the 443rd Judicial District Court in Ellis County Texas on June 1, 2015.]

219. So, Appellant has $450,000 allegedly owed in Texas to the crooks that he sued in case #88611. Case #88611 has been dismissed (See Case #10-15-00092-CV in the Tenth Court of Appeals), and unless Appellant prevails on his appeals, the Joeyisalittlekid Gang committed the largest case of defamation in U.S. history and got away with it due to corrupt judges and corrupt law enforcement people in Texas, Idaho, and Montana. Appellant faces seven years in the Montana State Prison though he has never committed a crime. Montana Judge James A. Haynes was hand-picked to handle Appellant's criminal case because he was the second most corrupt judge that Appellant encountered in Montana in 2013, and he has proceeded to rule against Appellant on virtually everything. (See Motion to Quash Bench Warrant and file in Case #DC-14-509 in the Fourth Judicial District Court in Missoula Montana.)

220. God bless America.

CONCLUSION

221. For all the reasons above, Appellant prays this Court will reverse the grant of the TCPA MTD and the award of attorney's fees, costs, and sanctions to the Appellee, and remand the case to a district court.

PRAYER

WHEREFORE, William M. Windsor prays that this Court:

a. grant this Appeal;
b. reverse the dismissal of the case as to Sean D. Fleming;
c. reverse the award of attorney's fees, costs, and sanctions to Appellee;
d. declare that the Appellant is not a limited-purpose public figure;
e. reverse the January 30, 2015 Order Granting Sean D. Fleming's Motion to Sever;
f. vacate the March 31, 2015 Findings of Fact and Conclusions of Law;
g. remand the case to district court;
h. move the case to another District where a fair trial might be had; and
i. grant any other relief that this Court deems just and proper.

Submitted this 20th day of June 2015,

William M. Windsor
PO Box 16181, Missoula Montana 59808, 770-578-1094, bill@billwindsor.com

VERIFICATION

Personally appeared before me, the undersigned Notary Public duly authorized to administer oaths, William M. Windsor, who after being duly sworn deposes and states that he is authorized to make this verification on behalf of himself and that the facts alleged in the foregoing are true and correct based upon his personal knowledge, except as to the matters herein stated to be alleged on information and belief, and that as to those matters he believes them to be true.

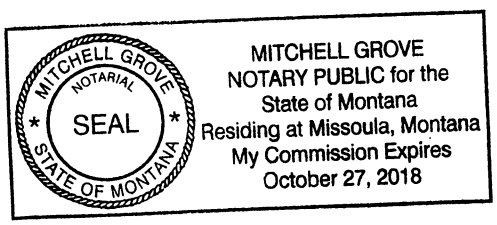
I declare under penalty of perjury that the foregoing is true and correct based upon my personal knowledge.

This 20th day of June 2015.

William M. Windsor

Sworn and subscribed before me this 20th day of June 2015.

Notary Public



CERTIFICATION

I certify that I have reviewed the Brief and have concluded that every factual statement in the Brief is supported by competent evidence included in the Appendix and the Record.

Signed this 20th day of June 2015

William M. Windsor
PO Box 16181, Missoula Montana 59808, 770-578-1094, bill@billwindsor.com

CERTIFICATE OF COMPLIANCE

I certify that the foregoing has been prepared using Times Roman 14-point type, and the total number of words, excluding the required preliminary information and the certifications at the end, is 13,348.

Signed this 20th day of June 2015

William M. Windsor
PO Box 16181, Missoula Montana 59808, 770-578-1094, bill@billwindsor.com

CERTIFICATE OF SERVICE

I hereby certify that I have served with a copy of this Brief by mail to:

Sean D. Fleming
c/o Barbara Hachenburg
Germer Law Firm
Three Allen Center
333 Clay St. Suite 4950
Houston, TX 77002

Signed this 20th day of June 2015

William M. Windsor
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APPENDIX

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