

NO. 199-03472-2022

**HENRY MISHKOFF,
PLAINTIFF,**

V.

**T. CHASE GARRETT,
SCHEEF & STONE, LLP, AND
SONIA BRYANT,
DEFENDANTS.**

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IN THE DISTRICT COURT

199TH JUDICIAL DISTRICT

COLLIN COUNTY, TEXAS

**PLAINTIFF'S MOTION TO
SUPPLEMENT THE RECORD**

Plaintiff submits this motion to help ensure that a transcript of the hearing on the TCPA Motion to Dismiss is immediately available to Judge Angela Tucker, to whom this case was transferred earlier today.

A hearing for the TCPA Motion to Dismiss was held on August 25, 2022, before Judge Andrea Bouressa, who had the benefit of listening to the arguments that were presented by both parties at that hearing. Plaintiff has included a transcript of that hearing as Exhibit A, so that Judge Tucker will also have the benefit of being able to review the arguments that were presented at the hearing.

Respectfully submitted,
Henry Mishkoff

/s/ Henry Mishkoff
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CERTIFICATE OF SERVICE

I certify that on September 19, 2022, a true and correct copy of the foregoing was sent to all parties who have made an appearance or their attorney of record in accordance with the Texas Rules of Civil Procedure.

/s/ Henry Mishkoff

Exhibit A

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REPORTER'S RECORD

CAUSE NO. 471-03472-2022

HENRY MISHKOFF,)	IN THE DISTRICT COURT
Plaintiff,)	
VS.)	471ST JUDICIAL DISTRICT
T. CHASE GARRETT,)	
SCHEEF & STONE, LLP, and)	
SONIA BRYANT,)	
Defendants.)	COLLIN COUNTY, TEXAS

HEARING

AUGUST 25, 2022

On the 25th day of August, 2022, the following proceedings came on to be held in the above-titled and numbered cause before the Honorable Andrea K. Bouressa, Judge Presiding, in McKinney, Collin County, Texas. Proceedings reported by realtime machine shorthand.

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A P P E A R A N C E S

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P R O C E E D I N G S

(Thursday, August 25, 2022, 9:58 a.m.)

THE COURT: We'll go on the record.

Mr. Mishkoff, you are self-represented
this morning?

MR. MISHKOFF: I am.

THE COURT: And then for the defendants.

MR. LITTLE: Your Honor, Mitch Little
representing the law firm of Scheef & Stone, Chase
Garrett, my law partner, and Sonia Bryant, the
defendants who have been sued in this lawsuit.

THE COURT: Okay. Mr. Little, are you
appearing for both Mr. Garrett and Scheef & Stone and
Ms. Bryant?

MR. LITTLE: For all, yes, Your Honor.

THE COURT: For all. Okay.
And this is on the amended motion filed on
July 13th?

MR. LITTLE: It is, Your Honor.

THE COURT: And, Mr. Mishkoff, your
response was filed on the 16th; is that correct?

MR. MISHKOFF: That sounds right.

THE COURT: And then it looks like there
were a couple of things that were filed yesterday. I
will let you know, I have not had an opportunity to read

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1 any of the filings from yesterday.

2 **MR. LITTLE:** Understood.

3 **THE COURT:** Please don't assume that that
4 is information that I already have.

5 Mr. Little, you may proceed. We have
6 about 15 minutes a side scheduled. So if we can stick
7 pretty close to that, that would be helpful.

8 **MR. LITTLE:** Your Honor, I'm going to be
9 very brief. Thank you.

10 **MR. MISHKOFF:** Your Honor?

11 **THE COURT:** Mr. Mishkoff.

12 **MR. MISHKOFF:** Can I ask a quick
13 procedural question first?

14 **THE COURT:** What is your procedural
15 question?

16 **MR. MISHKOFF:** I'm planning to call
17 Mr. Garrett as a witness in the case and then possibly
18 the other S&S lawyers as well. I don't know who. They
19 haven't gone into discovery yet. Is it acceptable in
20 your court for any of the S&S lawyers to be both
21 witnesses and attorneys representing other clients in
22 the same case?

23 **THE COURT:** That question is not before
24 me. No one has filed any motion articulating any reason
25 why they should be disqualified.

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1 **MR. MISHKOFF:** well, I'm not asking them
2 to be -- I'm not very clear on this. I'm sorry. I am
3 not asking for them to be disqualified. I am perfectly
4 happy with them doing that, unless I go to call them as
5 a witness and have you say, no, they can't be a witness
6 because they're also attorneys in the case. If you are
7 saying that won't happen, then I have no problem with
8 them being attorneys.

9 **THE COURT:** So I think what you are
10 talking about is the sword and shield issue with
11 assertions of privilege, and we will deal with those
12 according to the law if and when they arise.

13 **MR. MISHKOFF:** Thank you.

14 **THE COURT:** Mr. Little, the motion.

15 **MR. LITTLE:** Thank you, Your Honor.
16 May it please the Court.

17 **THE COURT:** And if you would like to
18 remain seated and use the microphones, that often helps
19 our court reporter.

20 **MR. LITTLE:** Do you prefer that, Your
21 Honor?

22 **THE COURT:** I do.

23 **MR. LITTLE:** All right.

24 Thank you, Your Honor.

25 May it please the Court.

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1 I have the privilege of representing the
2 defendants in this case, Scheef & Stone, Chase Garrett,
3 and Ms. Bryant.

4 Just so Your Honor has some additional
5 context, Mr. Mishkoff filed a separate lawsuit that's
6 being heard before Judge Ray wheless in which he sought
7 a declaratory judgment action against a woman named
8 Sonia Bryant. Sonia Bryant is his neighbor, and the
9 declaratory judgment that he sought was for an express
10 or implied easement across her property. Ms. Bryant
11 filed a counterclaim in that lawsuit, one for
12 declaratory judgment on her own behalf and one for
13 trespass, as Mr. Mishkoff had been under her
14 porte-cochere on her property, over which he claims an
15 implied and express easement.

16 Just so Your Honor has a sense of the
17 procedural status of that related litigation, Judge Ray
18 wheless filed -- or granted summary judgment against
19 Mr. Mishkoff's claims on Monday of this week.

20 After Ms. Bryant filed her counterclaim,
21 Mr. Mishkoff filed a lawsuit in Your Honor's court, and
22 the nature of that litigation was for defamation, libel,
23 et cetera. And I think Your Honor understands the
24 claims that are before the Court brought by
25 Mr. Mishkoff. And they were brought in response to

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1 Sonia Bryant's counterclaim. The substance of
2 Mr. Mishkoff's claim relate to the pleading and the
3 allegations and factual statements that are contained in
4 the written and filed counterclaim prepared by
5 Mr. Garrett and our law firm on behalf of Ms. Bryant.

6 So as Your Honor well knows and is very
7 experienced in dealing with these TCPA motions,
8 the first question is: Are Mr. Mishkoff's claims
9 covered by the Texas Citizens Participation Act? And
10 even after the amendments of the TCPA, Mr. Mishkoff's
11 claims are firmly within the ambit of the Texas Citizens
12 Participation Act. They were brought in response to
13 Ms. Bryant's exercise of her right to petition by and
14 through Mr. Garrett and Scheef & Stone's representation,
15 as expressed in the counterclaim. There is not any and,
16 really, cannot be any dispute as to whether the
17 TCPA relates to the action brought by Mr. Mishkoff in
18 this lawsuit.

19 There are a number of defenses that were
20 also raised by and through our answer and our TCPA
21 motion that was originally filed, the first of which and
22 most obvious of which being attorney immunity, judicial
23 privilege.

24 We cite the Court to a number of cases in
25 our motion, the most prominent of which being the Texas

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1 Supreme Court case *Cantey Hanger vs. Boyd* [sic] in which
2 it makes it clear that during the scope of an attorney's
3 representation, attorneys and law firms really don't
4 have any liability to third party non-clients, of which
5 Mr. Mishkoff is one. In fact --

6 **THE COURT:** Do you happen to have the
7 citation for that case?

8 **MR. LITTLE:** Yes, I do. It's toward the
9 back of our motion, but I'll pull it up.

10 It's 467 S.W.3d 477. And that's a 2015
11 Texas Supreme Court case.

12 And the case law even goes on to say it
13 doesn't -- and I think Mr. Mishkoff goes on in his
14 response to the TCPA motion at great lengths and says,
15 "Well, it's not where you said. It's not where you said
16 it. It's how you said it," essentially. And the case
17 law makes it clear that even if the allegations in
18 Ms. Bryant's counterclaim were not true, even if they
19 were exaggerated or hyperbolic, even if they were made
20 up, it wouldn't matter. Attorney immunity still covers
21 these potential claims against Mr. Garrett and our law
22 firm and Ms. Bryant for having asserted the
23 counterclaim.

24 I want to direct the Court to a set of
25 cases that I think is important if the Court has any

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1 questions about the applicability of the TCPA to
2 Mr. Mishkoff's action. The most prominent case, I
3 think, is *Serafine vs. Blunt*. This is a 2015 Austin
4 Court of Appeals case -- it's 466 S.W.3d 352 -- making
5 it clear that the filing of a lawsuit is a protected
6 right of petition, and I think the Court well knows
7 that.

8 I think TCPA very clearly applies here.
9 We very clearly established through our motion and our
10 original filing that judicial privilege related to the
11 contents of pleadings filed with the court, as well as
12 attorney immunity, are completely dispositive of these
13 claims.

14 Now I want to take just a few moments and
15 deal with Mr. Mishkoff's response. The Court knows that
16 it is Mr. Mishkoff's obligation in response to offer
17 prima facie evidence of the various claims that he
18 brings. There is no evidence attached to either his
19 response or his reply, not in the form of affidavit, not
20 in the form of documents, not in the form of anything.
21 There is no evidence of any type of defamation, any type
22 of libel, any type of damages, any type of causation,
23 really, any evidence of anything.

24 I think this is one of the easiest TCPA
25 motions Your Honor or any judge will ever have. We have

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1 clearly established it's within the ambit, and there is
2 no evidence establishing a prima facie case of any of
3 the causes of action that are alleged here.

4 Your Honor, I am prepared to offer
5 attorney's fees evidence in support of the TCPA motion
6 either live or by affidavit, depending on what Your
7 Honor prefers. If you would like to have it in a neat
8 form with an order that is already completed, I am happy
9 to submit it after this hearing, or, if Your Honor
10 pleases, I can submit it today, this morning.

11 **THE COURT:** Let's pause on the attorney's
12 fees and just -- I'd like to hear the response from
13 Mr. Mishkoff on the merits of the motion.

14 **MR. MISHKOFF:** Okay. Here is what the --
15 I'm sorry. Your name was Mr. Little,
16 correct?

17 **MR. LITTLE:** Yes, it is.

18 **MR. MISHKOFF:** Here is what the
19 defendants, represented by Mr. Little, said --

20 **THE REPORTER:** Excuse me, sir. Could you
21 please pull the microphone closer.

22 **MR. MISHKOFF:** I'll take my mask off.
23 Thank you so much.

24 **THE COURT:** Thank you.

25 **MR. MISHKOFF:** The statement in which they

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1 defamed me said -- and I quote -- "he simply seems to
2 enjoy exposing himself to her security cameras." So the
3 question is: Is that defamatory? Did they defame me?

4 The elements of a prima facie case for
5 defamation -- and I am quoting from a case, *Bedford vs.*
6 *Spasoff*. And you're going to ask me for the citation,
7 and I don't have it. I can get that for you.

8 **THE COURT:** Is it in your response?

9 **MR. MISHKOFF:** I'm not sure. That's a
10 good question. I believe it is, but I'm not sure.

11 **THE COURT:** Could you spell the case name.

12 **MR. MISHKOFF:** Yes. It's B-e-d-f-o-r-d v.
13 Spasoff, which is S-p-a-s-o-f-f. And that's a Texas
14 Supreme Court case.

15 **THE COURT:** I believe I see it here in the
16 response.

17 And, Ms. Carrillo, that is 520 S.W.3d 901.

18 **MR. MISHKOFF:** Okay. The elements of a
19 prima facie case for defamation are that the defendant
20 published a false statement -- which is the one I just
21 read to you -- that defamed the plaintiff, which is me,
22 with the requisite degree of fault regarding the truth
23 of the statement. The requisite degree of fault is only
24 negligence if the plaintiff is a private individual,
25 which I am, and damages, unless the statement

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1 constitutes defamation per se, which means
2 intrinsically, which I believe this does.

3 Now, in their motion to dismiss, the
4 defendants claim that they said something else, and
5 they're defending that statement. They have said, for
6 example, that, quote, "The allegation in the
7 counterclaim is that Mr. Mishkoff not only trespassed on
8 Ms. Bryant's real property but seemed to do so while
9 evincing conspicuousness." If that was what they said,
10 we wouldn't be here today. I wouldn't have to sue them
11 for libel. But what they said is that I simply seem to
12 enjoy exposing myself to her security cameras.

13 They also said that the only allegation in
14 the counterclaim was that Mr. Mishkoff trespassed onto
15 Ms. Bryant's real property and made sure he was in full
16 display of her security cameras when doing so. They
17 didn't say I was in full display of her security
18 cameras. They said I exposed myself.

19 They also said plaintiff will be unable to
20 prove the statement in Paragraph 9 of the counterclaim
21 as anything other than the author's opinion that
22 Mr. Mishkoff enjoys being caught on Ms. Bryant's
23 security camera. They didn't say I enjoyed being caught
24 on her security cameras. They said I enjoyed exposing
25 myself.

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1 And in yesterday's reply that they
2 submitted, which you haven't had a chance to read yet,
3 they said, "The general tenor of the pleading is that
4 Plaintiff trespasses onto Ms. Bryant's property and
5 appears to enjoy positioning himself within the view of
6 her security camera (that is exposing himself)" in
7 quotes, "while doing so." So they are saying that
8 positioning himself within the view of her security
9 camera is the same thing as saying exposing himself,
10 which it is not.

11 Now, what evidence do I have to provide to
12 prove that those statements were false and defamatory?
13 I am going to read some from a Texas Supreme Court
14 decision, which, again, you are going to ask me for a
15 cite which I don't have. The case is *In re Lipsky*,
16 2015, which I believe I did cite in my response. And
17 here is what they have to say about clear and specific
18 evidence, which is the standard that I have to provide.

19 "It's not a recognized evidentiary
20 standard. Although it sounds similar to clear and
21 convincing evidence, the phrases are not legally
22 synonymous. But even were we to assume that the
23 legislature intended to apply the clear and convincing
24 standard in this statute, the statute still would not
25 exclude circumstantial evidence.

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1 "All evidentiary standards, including
2 clear and convincing evidence, recognize the relevance
3 of circumstantial evidence. Circumstantial evidence
4 can, of course, be vague, indefinite, or inconclusive,
5 but it is not so by definition. Rather, it is simply
6 indirect evidence that creates an inference to establish
7 a central fact.

8 "Circumstantial evidence may be used to
9 prove one's case-in-chief or to defeat a motion for
10 directed verdict. And so it would be odd to deny its
11 use here to defeat a preliminary motion to dismiss under
12 the TCPA, that the statute should create a greater
13 obstacle for the plaintiff to get into the courthouse
14 than to win its case seems nonsensical. The TCPA's
15 purpose is to identify and summarily dispose of lawsuits
16 designed only to chill First Amendment rights, not to
17 dismiss meritorious lawsuits."

18 And that's the end of my quote.

19 But defendants seem to be saying that I
20 need to provide direct evidence. And I'm not sure what
21 direct evidence would be in this case. I can't prove a
22 negative. I can't prove that I have never exposed
23 myself in my entire life, which I have not. I can't
24 prove that I have never exposed myself when I was on
25 Ms. Bryant's property, although I have not.

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1 But, circumstantially, if they had
2 evidence that I had exposed myself, they would have
3 presented it. Instead of doing that, they claim that
4 they said something else and then are defending that.
5 If they -- well, I'll leave that point there.

6 I mean, if they had any faith that their
7 words were true, they would have provided evidence of
8 it. And I do have -- they provided me with some direct
9 evidence, by the way, just last night that they filed,
10 and that they claim -- they admit over and over again
11 that I did not expose myself. And they can say that
12 because they are claiming that they never said that I
13 exposed myself, even though they did.

14 But I would submit that when you get a
15 chance to read their reply to my response, you will see,
16 over and over again, that they are saying that I did not
17 expose myself. But they said that I exposed myself.
18 So, therefore, they admit that the statement is false.
19 It is clearly defamatory. Exposing yourself is a sex
20 crime in Texas. I don't know how much more of a
21 defamation you can make against somebody than to falsely
22 accuse them of committing a sex crime.

23 Moving quickly on to -- that's the only
24 item they submitted under the TCPA, but then they also
25 submitted an objection -- that's probably not the

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1 word -- under litigation privilege and attorney
2 immunity. They mentioned attorney immunity today. They
3 didn't specifically mention litigation privilege, but I
4 would like to take just a couple of minutes to cover
5 those because they are -- from what I understand, those
6 would normally be filed as motions for summary judgment,
7 but the TCPA law allows them to include those in their
8 motion to dismiss under the TCPA. So they did.

9 And I'm going to cut this short because I
10 know I am running out of time. Here are a couple of
11 court cases, *Russell v. Clark*. "An attorney at law is
12 absolutely privileged to publish defamatory matter
13 concerning another in communications preliminary to a
14 proposed judicial proceeding or in the institution of or
15 during the course and as part of a judicial proceeding
16 in which he participates as counsel." And if that were
17 the end of the sentence, it would sound like they were
18 right. But then there is a comma, and it says, "if it
19 has some relation to the proceeding."

20 So what is a -- "some relation" means
21 what? I get the feeling, in their filings, that they
22 are saying, because it was included in the trespass
23 counterclaim, that means it has some relation. But
24 that's not what the court said in *Jenevein v. Friedman*,
25 which I don't have a cite for, but they have cited it.

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1 The defendants have cited it a lot as well. So you may
2 have a cite there.

3 They said, "We reaffirm the principle that
4 for the litigation privilege to apply, the challenged
5 defamatory statement must bear some relation to the
6 subject matter of the underlying proceeding," not just
7 the fact that they filed it as part of the proceeding.

8 Specifically, it has to bear some relation
9 to the subject matter, and the subject matter of what
10 they said is that I seem to enjoy exposing myself to
11 their security cameras. That has no relation to the
12 trespass. And the motion that they filed yesterday --
13 and I don't want to misrepresent what you said,
14 Mr. Little -- but it was something like "it bears some
15 relation because we're claiming that it happened while
16 you were committing the trespass," which just seems
17 really far-fetched to me. They are saying that they can
18 accuse me of anything that I did while I was on her
19 property, whether it was true or false, and that just
20 can't be right.

21 Let me move on. I do have more to say on
22 that, but I know I am running out of time.

23 **THE COURT:** You are doing fine.

24 **MR. MISHKOFF:** Okay. Thank you. Then
25 I'll take a deep breath and not slow down.

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1 So in terms of attorney immunity. Here is
2 what I think the facts are on this case, the facts that
3 I am presenting to the Court. I think that they meant
4 exactly what they said. I think that they meant that I
5 simply enjoy exposing myself to her security cameras. I
6 think that their attempt was to intimidate and bully me
7 to make the point that I am representing myself, and
8 they are lawyers, and they can say whatever they want,
9 and there is nothing I can do about it, so maybe I
10 should think twice about proceeding with this case.

11 There are only -- I can think of three
12 reasons why this sentence would have been included in
13 the trespass suit. One -- I should say, going in, that
14 I don't believe this, but this is one of the reasons I
15 can see -- that they are, basically, illiterate and they
16 don't know what "exposing yourself" means. Everybody in
17 this courtroom knows what "exposing yourself" means, and
18 yet they continue to insist that it means something else
19 and that they didn't know what it meant when they said
20 it.

21 The other possibility -- and which, again,
22 I don't believe -- is that they are incredibly sloppy,
23 and they stuck something into the middle of the lawsuit
24 that doesn't even come close to expressing what they
25 actually meant. And the third possibility is that they

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1 are being malicious.

2 I don't believe the first two. I would
3 never accuse them of being illiterate. I would never
4 accuse them of being just that stunningly sloppy. If it
5 were just a case of them being sloppy or being
6 accidental, they would have retracted. I've asked them
7 twice to retract their statement, and they've refused.
8 I don't -- the only thing I am left with to say is that
9 they are being malicious. So what are the implications
10 of that?

11 Here is a case, *Likover v. Sunflower*
12 *Terrace*, if I am reading that right, from 1985.
13 Likover, who was, I guess, the plaintiff in this case,
14 and the Court said -- and I quote -- "Likover's first
15 point of error is that the district court erred in
16 entering judgment against him, because he was acting in
17 the capacity of an attorney representing his client and
18 as a matter of law, owed no duty to non-client third
19 parties. As an attorney, he has no general duty to the
20 opposing party, but he is liable for injuries to third
21 parties when his conduct is fraudulent or malicious."
22 Those are the two exceptions cited here. I am certainly
23 not accusing them of fraud, but I am absolutely accusing
24 them of malice.

25 I am going to skip -- I have one more case

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1 that I am going to skip and then close with one final
2 case, which I am including because it was originally
3 tried in this courthouse. The case is *Santiago v.*
4 *Mackie Wolf Zientz & Mann*, 2014. And here is what the
5 Court ruled. "A lawyer's protection from liability
6 claims arising out of the representation of a client is
7 not without limits. Texas courts have recognized
8 exceptions to the attorney immunity defense based on an
9 attorney's fraudulent or malicious conduct, even if the
10 attorney's conduct was in the course of representing
11 their client."

12 Now, there may be other exceptions to
13 limitations to attorney immunity. I'm not aware of
14 them. But the courts repeatedly mention fraud, which
15 I'm not alleging, and malice, which I absolutely am.
16 Oddly enough, the decision in this court was made in
17 2014. I don't know the judge's name. They supported
18 the attorney's claim of attorney immunity. When it got
19 to the appeals court, that was overturned. The appeals
20 court said that the attorneys did not have immunity
21 because immunity does not cover attorneys if they are
22 being -- committing fraud or if they are being
23 malicious.

24 And, finally, just a couple of quick
25 words, my understanding about how defendants would be

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1 entitled to summary judgment, which I am broadly
2 including the TCPA motion, which I know is not,
3 technically, a motion for summary judgment, but it is a
4 motion to dismiss the case. In order to be entitled to
5 that, they must establish that there is no genuine issue
6 of material fact so that the movant is entitled to
7 judgment as a matter of law.

8 I don't see how the Court can decide, as a
9 matter of law, that they were not being malicious, that
10 they -- when they accused me of exposing myself, that
11 they either meant something else, that I am interpreting
12 it wrong. At one point they said in one of their
13 filings -- I don't have it in front of me -- that it's
14 obvious that any reasonable person would know that they
15 were not actually accusing me of exposing myself, even
16 if that's what they said. If that's true, I think they
17 have moved this into the realm of a jury. That's a
18 fact-based argument, that any reasonable person would
19 come to that conclusion, and I think we needed to put it
20 in front of the 12 reasonable people on the jury.

21 And just one last thing. It says here --
22 and you know more about this than I do -- in a case that
23 reached the Texas Supreme Court, a case from Fort Worth,
24 *Fort Worth v. Abdul Pridgen and Vance Keyes*. "We take
25 as true all evidence favorable to the nonmovant," which

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1 is me, "and indulge every reasonable inference and
2 resolve any doubts in the nonmovant's favor."

3 I think I have expressed those doubts. I
4 think that they're real. I think that I was accused of
5 exposing myself. I know that I did not do that, and I
6 know that that is defamatory. And so I am asking you to
7 deny their motion to dismiss. And that's it. Thank
8 you.

9 **THE COURT:** Thank you, Mr. Mishkoff.

10 Under the TCPA, if the Court determines
11 that the motion is to be granted, the movant's
12 attorney's fees must be awarded. That is not a
13 discretionary matter for the Court. So then the
14 question is how that evidence is going to be introduced.

15 Mr. Little, you have stated that you have
16 evidence of attorney's fees in affidavit form?

17 **MR. LITTLE:** I can prepare it after this
18 hearing and submit it to Your Honor or I can offer it
19 now, live, if Your Honor prefers.

20 **THE COURT:** Mr. Mishkoff, with respect to
21 the movant's attorney's fees, do you have an objection
22 to that evidence being submitted in affidavit form or
23 would you prefer to proceed with live testimony this
24 morning?

25 **MR. MISHKOFF:** I prefer to have it live,

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1 but I don't have a strong preference. If in the
2 interest of time, you'd rather have that submitted, I
3 have no objection to that.

4 **THE COURT:** All right. Then I'll allow
5 the evidence of attorney's fees to be submitted in
6 affidavit form. If I could have that by the end of the
7 day tomorrow.

8 And then, Mr. Mishkoff, if you would like
9 to file any objections or controverting evidence, you'll
10 have until the end of the day on Monday, the 29th.

11 **MR. MISHKOFF:** Your Honor, should I take
12 that to mean that you have already decided to rule
13 against me and now you are just looking for the amount
14 of money involved, or is that not --

15 **THE COURT:** I have not ruled on the
16 motion, but if the motion is to be granted, fees are a
17 mandatory award, and so I need to receive evidence in
18 order to make that award, if that's the ruling.

19 **MR. MISHKOFF:** Thank you.

20 **THE COURT:** So I will look for the
21 evidence in support of the award tomorrow and then any
22 controverting evidence opposing the award by the end of
23 the day on Monday. I'll have rulings to the parties
24 toward the middle of next week.

25 **MR. LITTLE:** Thank you, Your Honor.

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1 would Your Honor like for us to file a
2 proposed order alongside it?

3 **THE COURT:** You can either go ahead and
4 submit proposed orders for either side, or if you would
5 like to wait until the docket has been updated to
6 reflect the Court's rulings, you can prepare the
7 proposed order from that.

8 **MR. LITTLE:** Thank you, Your Honor. We'll
9 do exactly that.

10 **THE COURT:** I would imagine I'll have a
11 ruling for the parties probably by the end of the day on
12 wednesday.

13 **MR. LITTLE:** Thank you, Your Honor.
14 May we be excused?

15 **THE COURT:** Yes. Thank you, Counsel.

16 (Proceedings were concluded at 10:28 a.m.)
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1 STATE OF TEXAS

2 COUNTY OF COLLIN

3 I, Denise Carrillo, Official Court Reporter in and
4 for the 471st District Court of Collin, State of Texas,
5 do hereby certify that the above and foregoing contains
6 a true and correct transcription of all portions of
7 evidence and other proceedings requested in writing by
8 counsel for the parties to be included in this volume of
9 the Reporter's Record in the above-styled and numbered
10 cause, all of which occurred in open court or in
11 chambers and was reported by me.

12 I further certify that this Reporter's Record of
13 the proceedings truly and correctly reflects the
14 exhibits, if any, offered by the respective parties.

15 I further certify that the total cost for the
16 preparation of this Reporter's Record was \$383 and was
17 paid by Henry Mishkoff.

18 WITNESS MY OFFICIAL HAND this the 15th day of
19 September, 2022.

20 /s/ Denise Carrillo
21 Denise Carrillo, CSR, RMR, CRR
22 Texas CSR #9269
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