

**IN THE CIRCUIT COURT FOR LINCOLN COUNTY, TENNESSEE  
AT FAYETTEVILLE**

DOROTHY SMALL, TONYA ALLEN,  
and ROGER MARTINEZ,

*Plaintiffs,*

*v.*

JON LAW and TINA TOWRY OSGOOD,

*Defendants.*

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Case No. 23C891

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**DEFENDANTS’ MEMORANDUM OF LAW IN SUPPORT OF DEFENDANTS’  
TENN. CODE ANN. § 20-17-104(a) PETITION TO DISMISS THE  
PLAINTIFFS’ COMPLAINT PURSUANT TO THE TENNESSEE PUBLIC  
PARTICIPATION ACT**

**I. INTRODUCTION**

This is a performative SLAPP-suit<sup>1</sup> filed by three elected officials. The Plaintiffs—three Aldermen for the City of Fayetteville—have sued two citizen-activists for encouraging members of their community to petition the City of Fayetteville’s Board of Mayor and Aldermen about unwarranted tax increases and the City’s failure to maintain its parks. *See* Pls.’ Compl. at Exs. 1–2.

The Plaintiffs’ claims for invasion of privacy are ostensibly based on the Defendants’ “publication of Plaintiffs’ personal mobile phone numbers” as part of the

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

Defendants’ petitioning campaigns. *See* Pls.’ Compl. at ¶ 10. The U.S. Supreme Court determined more than half a century ago that such political speech is protected by the First Amendment, though. *See Org. for a Better Austin v. Keefe*, 402 U.S. 415, 419 (1971) (holding that the distribution of leaflets containing a realtor’s home phone number to encourage criticism of his business practices was protected speech). The Plaintiffs also cannot prevail for a host of other reasons, including that:

1. At least two of the Plaintiffs have publicly published and disseminated *their own* mobile phone numbers, *see, e.g.*, **Ex. 1**, State of Tennessee Candidate Nominating Petition [for] Municipal Candidate Tonya Allen, at 1; **Ex. 2**, State of Tennessee Candidate Nominating Petition [for] Municipal Candidate Roger Martinez, at 1; **Ex. 3**, *Cars for Sale*, ClassicCarsBay.com, at 2, *available at* <https://classiccarsbay.com/honda-crv-ex-138651> (permalink: <https://perma.cc/A9M3-UDDF>) (last visited Nov. 14, 2023);

2. No reasonable person would consider the Defendants’ publication of an elected official’s phone number to be “highly offensive[;]” and

3. The Plaintiffs’ mobile phone numbers are of legitimate concern to the public.

For all of these reasons, the Plaintiffs’ Complaint must be dismissed with prejudice. The Defendants are also entitled to an award of attorney’s fees and costs incurred under Tennessee Code Annotated § 20-17-107(a)(1). This Court should assess severe sanctions against the Plaintiffs under Tennessee Code Annotated § 20-17-107(a)(2), too.

## **II. LEGAL STANDARDS**

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

The Tennessee Public Participation Act (“TPPA”)—which Tennessee enacted in 2019 to deter, expediently resolve, and punish SLAPP-suits like this one—provides that

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

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

The purpose of this chapter is to encourage and safeguard the constitutional rights of persons to petition, to speak freely, to associate freely, and to participate in government to the fullest extent permitted by law and, at the same time, protect the rights of persons to file meritorious lawsuits for demonstrable injury. This chapter is consistent with and necessary to implement the rights protected by Article I, §§ 19 and 23, of the Constitution of Tennessee, as well as by the First Amendment to the United States Constitution, and shall be construed broadly to effectuate its purposes and intent.

Tenn. Code Ann. § 20-17-102. Substantively, the TPPA provides that:

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

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

(3) “The court’s order dismissing or refusing to dismiss a legal action pursuant to a petition filed under this chapter is immediately appealable as a matter of right to the court of appeals[.]” Tenn. Code Ann. § 20-17-106.

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

Separately, "[n]otwithstanding subsection (b), the court shall dismiss the legal action if the petitioning party establishes a valid defense to the claims in the legal action." Tenn. Code Ann. § 20-17-105(c). "If the court dismisses a legal action pursuant to a petition filed under this chapter, the legal action or the challenged claim is dismissed with prejudice." Tenn. Code Ann. § 20-17-105(e).

#### **B. THE PLAINTIFFS' INVASION OF PRIVACY CLAIMS**

"[T]o prevail on a claim for public disclosure of private facts, plaintiff must show that another person gave publicity to a matter concerning plaintiff's private life." *Parr v. Middle Tennessee State Univ.*, No. M1999-01442-COA-R3-CV, 1999 WL 1086451, at \*3 (Tenn. Ct. App. Dec. 3, 1999) (citing *Beard v. Akzona, Inc.*, 517 F. Supp. 128, 132 (E.D. Tenn. 1981)). To be actionable, a plaintiff "must show that the matter disclosed is both [1] highly offensive to a reasonable person and [2] not of legitimate concern to the public." *Id.*; see also *Jackson & Assocs., Ltd. v. Christl*, No. 01A-019103-CV-00081, 1991 WL 155687, at \*3 (Tenn. Ct. App. Aug. 16, 1991) ("One who gives publicity to a matter concerning the private life of another is subject to liability to the other for invasion of his

privacy if the matter publicized is of the kind that (a) would be highly offensive to a reasonable person and (b) is not of legitimate concern to the public.”) (citing *Beard*, 517 F. Supp. at 132 (quoting Restatement (Second) of Torts Sec. 652(D)).

### **III. FACTS**

#### **A. THE PLAINTIFFS’ ALLEGATIONS**

At all times relevant to their Complaint, the “Plaintiffs have served as Aldermen for the City of Fayetteville Board of Aldermen.” *See* Pls.’ Compl. at ¶ 7. On May 17, 2023, Defendant Jon Law made a post on Facebook in which he “urged the citizens of the City of Fayetteville to either call or send a text message to the City’s Aldermen” to oppose a proposed tax increase. *See id.* at ¶ 8. In that post, “Defendant Law published the names of each of the Plaintiffs in this matter including their personal mobile phone numbers.” *Id.*

“On or about June 1, 2023, Defendant Tina Towry Osgood [sic] made a post on her Facebook account where she complained that no one can see the sign at the Don Davidson [public] Park.” *See id.* at ¶ 9. “In that same post, Defendant Osgood [sic] published the names of each of the Plaintiffs in this matter including their personal mobile phone numbers.” *Id.*

“As a direct and proximate result of the public disclosure by Defendants of Plaintiffs’ personal and private mobile phone numbers,” the Plaintiffs claim that they “have suffered severe mental anguish, emotional distress, worry, and embarrassment.” *Id.* at ¶ 13. As a result, the Plaintiffs demand “[a]n award of compensatory damages . . . in the amount of Seven Hundred Fifty Thousand Dollars (\$750,000.00).” *Id.* at 3–4. The Plaintiffs also seek a further award of punitive damages, expenses, and attorney fees. *Id.* at 4.

**B. THE OSTENSIBLY “PRIVATE” NATURE OF THE PLAINTIFFS’ CELL PHONE NUMBERS**

The Plaintiffs insist that “[t]he distribution and dissemination of Plaintiffs’ personal mobile phone numbers concern private matters of a kind that would be highly offensive to a reasonable person when publicized and which are not of legitimate concern to the public.” *See id.* at ¶ 12. Under the circumstances, though, the Plaintiffs’ allegations that their personal cell phone numbers are private; that the Defendants’ publications caused them massive and debilitating emotional distress; and that publishing their cell phone numbers “would be highly offensive to a reasonable person” are curious. *Id.* For example, two of the Plaintiffs published *their own* personal mobile phone numbers on their public-record nominating petitions and then circulated those petitions to members of their community to sign. *See Ex. 1*, State of Tennessee Candidate Nominating Petition [for] Municipal Candidate Tonya Allen, at 1 (“Tonya Allen . . . 931-625-1688”); *Ex. 2*, State of Tennessee Candidate Nominating Petition [for] Municipal Candidate Roger Martinez, at 1 (“Roger Martinez . . . 256-658-4303”). Without apparently suffering any of the emotional distress that he is pretending to suffer here, Plaintiff Martinez has also published his own mobile phone number online in a recent advertisement for the sale of a Honda CRV, in which he stated: “Here’s a 2016 Honda CRV EX owner clean car fax ask for Roger and you can purchase this one for only \$19,900 but remember you must come see Roger at that price call text or email. 256-658-4303[.]” *See Ex. 3*, *Cars for Sale*, ClassicCarsBay.com, at 2, available at <https://classiccarsbay.com/honda-crv-ex-138651> (permalink: <https://perma.cc/A9M3-UDDF>) (last visited Nov. 14, 2023).

**C. THE DEFENDANTS’ ADVOCACY**

Defendant Jon Law is the former Mayor of the City of Fayetteville. *See Ex. 4*, Law Decl., at ¶ 3. He ran for Mayor in 2014 because he wanted to represent all the citizens and

businesses in Fayetteville by bringing his business background and a taxpayer-oriented focus to the local government. *Id.* at ¶ 4.

In the past four years, Mr. Law has seen how the City of Fayetteville's current Board of Mayor and Aldermen (BOMA) has wasted money, focused on personally motivated interests and spending, and left the City's infrastructure and recreational assets to deteriorate. *Id.* at ¶ 5. He posted the Facebook post over which he has been sued because he opposed the proposal of the BOMA to raise property taxes by 50%. *Id.* at ¶ 6. In Mr. Law's opinion, any city that proposes a 50% increase is out of touch with how such an increase affects a large demographic (elderly and lower-income residents) of the city. *Id.* at ¶ 7.

In Mr. Law's opinion, the BOMA mismanaged the city's finances. *Id.* at ¶ 8. It found itself with an unbalanced budget and justified a proposed 50% tax increase by saying it was necessary because the City hasn't raised taxes to keep up with inflation and is unable to pay employees a wage that would be competitive with other cities and municipalities. *Id.* In Mr. Law's opinion, the reality is different, though. *Id.* at ¶ 9.

Among other contributing factors:

- i. The City took out a bond to buy ten new, fully-equipped police Tahoes and two pick-up trucks all at one time. It makes no sense to buy all new vehicles because they will start having serious mechanical problems at roughly the same. That is happening right now. And since the police department is a revolving door for law enforcement officers, the department is always short on a regular basis. That is why 3-4 of the Tahoes are sitting in the department's parking lot on a regular basis.
- ii. The City received a state grant to start a soccer complex. The project cost over was \$1.5 million for one soccer field that is used exclusively by the Fayetteville City Schools (FCS) high school and Middle school teams. The grant was intended for a city sanctioned public soccer field for youth ages 6-11 years old. Daikin Industries owned the land for the soccer field and

I approached Daikin to donate the land for it. I left office in November of 2018 but negotiations continued with the Daikin donation until the final transfer to the City.

- iii. The BOMA spent approximately \$1.7 million on baseball lights at Don Davidson Park when the only organization using the fields was the FCS baseball teams. Most games were played during daylight hours. We have had no City-sponsored ball league for ~3 years.
- iv. The BOMA terminated the City Administrator and replaced him with the Police Chief. The Police Chief had no qualifications for the position.
- v. The BOMA spent roughly \$295,000 for a marketing consultant to conduct a study to re-brand Fayetteville. The study produced nothing new. It was very similar to one conducted by the Fayetteville Main Street organization in 2013-2014 which cost nothing. The new re-branded banners featured “Slawburgers, TN Heritage, & Whiskey” as our calling card. The citizens hated the banners and what they implied.

*Id.*

Mr. Law also observed that the conditions of the City’s parks are deplorable. *Id.* at ¶ 10. Every year, he takes pictures of the parks to document the improvements or the worsening conditions. *Id.* Unfortunately, the parks always seem to be the same or worse.

*Id.*

To illustrate one example of the poor conditions of the City’s parks: A lady brought her granddaughter to Kids Park about 5–6 months ago. *Id.* at ¶ 11. The child went down the slide and her foot got stuck in a weak spot in the slide. *Id.* It took two people to get her foot out of it. *Id.* Fortunately, the child did not sustain any injury. *Id.*

The Parks and Recreation department is responsible for regular inspections and repair or replacement of all the equipment. *Id.* at ¶ 12. The pool restrooms were so bad that the swim team had to scrub them and buy trash cans and shower curtains for the



restrooms prior to a swim meet. *Id.*

The sidewalks around the square are in terrible condition, too. *Id.* at ¶ 13. People are continually falling because of the conditions. *Id.* The BOMA could have used its ARPA money to replace them, but it elected to use part of the funding for the lights at the ballparks instead. *Id.*

All of these issues and others made Mr. Law concerned, as a citizen and taxpayer, about BOMA's mismanagement of the City infrastructure and parks and the City's finances. *Id.* at ¶ 14. They also caused Mr. Law to oppose a 50% tax increase that would pay for the city's operational and fiscal mismanagement and increases in the City's long-term debt. *Id.*

When the Board proposed a 50% increase in property taxes that would have dire consequences for the city's low-income and elderly population on a fixed income, Mr. Law felt compelled to recommend taxpayers contact the Aldermen and voice their opposition. *Id.* at ¶ 15. Unfortunately, efforts to communicate with the Aldermen by phone through the municipal office or through their city email addresses were met with little to no responses from the aldermen. *Id.* at ¶ 16.

Before Mr. Law posted his opposition to the BOMA's proposed tax increase on Facebook, Fayetteville Mayor Donna Hartman told Mr. Law that she had communicated with her colleagues—including Aldermen Small, Allen, and Martinez—in their official capacities on their personal cell phones and that some city business was communicated to the members of the BOMA using personal cell phones. *Id.* at ¶ 17; *see also* Ex. 5, Hartman Decl., at ¶ 6 ("Prior to May 17, 2023, I told Jon Law, who is a former Mayor of the City of Fayetteville, that I had communicated with my colleagues—including Aldermen Small, Allen, and Martinez—in their official capacities on their personal cell

phones and that some city business is communicated to the members of the Board of Mayor and Alderman using personal cell phones.”). As a result, to bring public attention to the City’s operational and fiscal mismanagement; to encourage BOMA’s consideration and review of the community’s collective opposition to the proposed 50% tax increase; and to enlist public participation that would actually reach the Aldermen in an effort to effect BOMA’s consideration of the community’s opposition to the proposed 50% tax increase, Mr. Law posted the Facebook post that is attached to the Plaintiffs’ Complaint as Exhibit #1. *See Ex. 4*, Law Decl., at ¶ 18. Mr. Law assembled the Plaintiffs’ cell phone numbers from his time as mayor and from searches on the website [www.whitepages.com](http://www.whitepages.com), a subscription service that is available to any member of the public. *Id.* at ¶ 21.

Due to Mr. Law’s and other people’s advocacy, concerned citizens were able to muster a grassroots effort to voice their opposition to the tax increase and have their opposition heard and considered. *Id.* at ¶ 19. BOMA ultimately reduced the proposed tax increase from 50% to 20% before enacting it. *Id.* at ¶ 20. The new tax is still burdensome for many, but in Mr. Law’s opinion, it would have been catastrophic at 50%. *Id.*

For her part, Tina Sanders—who is the second named Defendant in this action, though her legal name is not Tina Towry Osgood, *see Ex. 6*, Sanders Decl., at ¶ 2—is a business owner on the Historic Square in Fayetteville. *Id.* at ¶ 3. She is very concerned about the city’s local tourism, as it affects her business along with other merchants on the square. *Id.* at ¶ 4.

Ms. Sanders has followed her local government very closely. *Id.* at ¶ 5. As a result, she knows that the revenue from tourism helps pay for repairs on all the city parks. *Id.* Those parks are not well maintained, though, and Ms. Sanders has personally observed and documented that fact. *Id.* at ¶ 6.

Several months ago, Ms. Sanders entered Don Davidson Park. *Id.* She saw vines covering the sign and was very concerned about its poor condition. *Id.* To bring public attention to the poor condition of Don Davidson Park; to encourage BOMA’s consideration and review of the poor condition of Don Davidson Park; and to enlist public participation in an effort to effect BOMA’s consideration of the poor condition of Don Davidson Park, Ms. Sanders posted the Facebook post that is attached in part to the Plaintiffs’ Complaint as Exhibit #2. *Id.* at ¶ 7. As part of her Facebook post, Ms. Sanders copied and pasted the phone numbers of her local government officials verbatim from an earlier public post that she saw by Defendant Jon Law, the former Mayor of Fayetteville. *Id.* at ¶ 8. At the time of Ms. Sanders’ post, the City’s July 4th celebration in Don Davidson Park was barely a month away. *Id.* at ¶ 9.

#### **IV. ARGUMENT**

##### **A. THE TENNESSEE PUBLIC PARTICIPATION ACT GOVERNS THE PLAINTIFFS’ INVASION OF PRIVACY CLAIMS.**

The Tennessee Public Participation Act—Tennessee’s still relatively new anti-SLAPP statute—provides that “[i]f a legal action is filed in response to a party’s exercise of the right of free speech, right to petition, or right of association, that party may petition the court to dismiss the legal action” subject to the TPPA’s specialized provisions. Tenn. Code Ann. § 20-17-104(a). Under Tennessee Code Annotated § 20-17-103(3), “[e]xercise of the right of free speech’ means a communication made in connection with a matter of public concern or religious expression that falls within the protection of the United States Constitution or the Tennessee Constitution.” *Id.* Similarly, Tennessee Code Annotated § 20-17-103(4) provides that:

“Exercise of the right to petition” means a communication that falls within the protection of the United States Constitution or the Tennessee

Constitution and:

(A) Is intended to encourage consideration or review of an issue by a federal, state, or local legislative, executive, judicial, or other governmental body; or

(B) Is intended to enlist public participation in an effort to effect consideration of an issue by a federal, state, or local legislative, executive, judicial, or other governmental body;

*Id.*

In turn, Tennessee Code Annotated § 20-17-103(6) provides that:

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

(A) Health or safety;

**(B) Environmental, economic, or community well-being;**

**(C) The government;**

**(D) A public official or public figure;**

(E) A good, product, or service in the marketplace;

(F) A literary, musical, artistic, political, theatrical, or audiovisual work;

or

**(G) Any other matter deemed by a court to involve a matter of public concern[.]**

*Id.* (emphases added).

In a TPPA case, “[t]he petitioning party has the burden of making a prima facie case that a legal action against the petitioning party is based on, relates to, or is in response to that party’s exercise of the right to free speech, right to petition, or right of association.” Tenn. Code Ann. § 20-17-105(a). Here, the statements over which the Defendant has been sued involve quintessential public figures—three elected officials who hold public office. *Cf. Kauffman v. Forsythe*, No. E2019-02196-COA-R3-CV, 2021 WL 2102910, at \*2 (Tenn. Ct. App. May 25, 2021) (“Candidates for elected public office are public figures.”) (citing *Monitor Patriot Co. v. Roy*, 401 U.S. 265, 271-72 (1971); *Taylor v. Nashville Banner Publ’g Co.*, 573 S.W.2d 476, 478, 482 (Tenn. Ct. App. 1978)). As such, the Defendants’ posts inarguably relate to “[a] public official or public figure[.]” See

Tenn Code Ann. § 20-17-103(6)(D).

The Defendants' posts also concerned "[e]nvironmental, economic, or community well-being;" "[t]he government;" and other matters of public concern. See Tenn Code Ann. § 20-17-103(6)(B), (C), & (G). Further, the Defendants' posts were intended to encourage consideration or review of an issue by a local governmental body and to enlist public participation in an effort to effect consideration of an issue by a local governmental body. See Tennessee Code Annotated § 20-17-103(4)(A)–(B); **Ex. 4**, Law Decl., at ¶ 18; **Ex. 6**, Sanders Decl., at ¶ 7. Thus, the TPPA applies to this action in multiple respects, *see id.*, as it was filed in response to the Defendants' exercise of the right of free speech and their exercise of the right to petition.

The Defendants' (joint) TPPA Petition is also timely filed. Such a petition "may be filed within sixty (60) calendar days from the date of service of the legal action or, in the court's discretion, at any later time that the court deems proper." See Tenn. Code Ann. § 20-17-104(b). Here, the Plaintiffs filed their Complaint on October 26, 2023 and served it on the Defendants a few days later. As a result, having been filed within—and far sooner than—60 days of service of the Plaintiffs' Complaint, the Defendants' TPPA petition to dismiss this action is timely filed. *See id.* Thus, having met their initial burden under Tenn. Code Ann. § 20-17-105(a), and having timely petitioned this Court to dismiss the Plaintiffs' Complaint, this Court "shall dismiss the legal action unless the responding party establishes a prima facie case for each essential element of the claim in the legal action." *See* Tenn. Code Ann. § 20-17-105(b).

**B. THE DEFENDANTS HAVE VALID DEFENSES TO LIABILITY.**

"Notwithstanding subsection (b), the court shall dismiss the legal action if the petitioning party establishes a valid defense to the claims in the legal action." *See* Tenn.

Code Ann. § 20-17-105(c). Here, several valid defenses preclude the Plaintiffs' invasion of privacy claim. In particular, the Plaintiffs' Complaint fails to state a claim upon which relief can be granted; the speech over which the Defendants have been sued is protected by the First Amendment; the Defendants are statutorily immune from suit; and Defendant Sanders' republication is not even theoretically actionable.

**1. The Plaintiffs' Complaint fails to state a claim upon which relief can be granted.**

To sustain a claim for invasion of privacy based on public disclosure of private facts, a plaintiff must prove two elements: (1) that the matter disclosed is highly offensive to a reasonable person; and (2) that the matter disclosed is not of legitimate concern to the public. Here, the Plaintiffs cannot establish either element.

a. Publishing a cell phone number is not highly offensive to a reasonable person, and it certainly is not highly offensive to a reasonable elected official.

The first element of an invasion of privacy claim based on public disclosure of assertedly private facts is that the matter disclosed is "highly offensive to a reasonable person[.]" *Parr*, 1999 WL 1086451, at \*3; *Jackson & Assocs., Ltd.*, 1991 WL 155687, at \*3. Whether a matter would be "highly offensive to a reasonable person" is a legal determination. *Cf. Loftis v. Rayburn*, No. M2017-01502-COA-R3-CV, 2018 WL 1895842, at \*8 (Tenn. Ct. App. Apr. 20, 2018) (holding, as a matter of law on motion to dismiss, that "[w]e do not . . . believe that the statements can be considered 'highly offensive to a reasonable person'").

As a matter of law, publishing someone's cell phone number is not highly offensive to any reasonable person. That is why at least two of the Plaintiffs have *themselves* published and disseminated their cell phone numbers publicly. *See Ex. 1*, State of

Tennessee Candidate Nominating Petition [for] Municipal Candidate Tonya Allen, at 1; **Ex. 2**, State of Tennessee Candidate Nominating Petition [for] Municipal Candidate Roger Martinez, at 1; **Ex. 3**, *Cars for Sale*, ClassicCarsBay.com, at 2, available at <https://classiccarsbay.com/honda-crv-ex-138651> (permalink: <https://perma.cc/A9M3-UDDF>) (last visited Nov. 14, 2023). These two Plaintiffs’ self-publication of their own cell phone numbers as part of a public—and publicly disseminated—record categorically precludes their claim of liability. See **Exs. 1–2**; *Roberts v. Essex Microtel Assocs., II, L.P.*, 46 S.W.3d 205, 212 (Tenn. Ct. App. 2000) (“there is no liability for the examination of a public record concerning the plaintiff, or of documents that the plaintiff is required to keep and make available for public inspection.”) (quoting Restatement (Second) of Torts § 652 B (1977)).

The Defendants also note that a central reason why anyone has a cell phone is to allow other people to contact them. Of course, others cannot do so unless and until the owner provides his or her cell phone number. Thus, rather than being “highly offensive” or tortious in some way, publicizing one’s cell phone number is necessary for a cell phone to be useful at all.

The Plaintiffs’ status as elected officials bears on the matter, too. See, e.g., *DeHart v. Tofte*, 326 Or. App. 720, 749, 533 P.3d 829, 847 (2023) (“Plaintiffs and defendants treat the fact that plaintiffs are public officials as a relevant circumstance in determining whether their ‘severe emotional distress’ was ‘reasonable,’ and we agree that it is a relevant circumstance. As the United States Supreme Court has observed, ‘[a]n individual who decides to seek governmental office must accept certain necessary consequences of that involvement in public affairs,’ **including that the individual ‘runs the risk of closer public scrutiny than might otherwise be the case[.]’**”) (quoting *Gertz v.*

*Robert Welch, Inc.*, 418 U.S. 323, 344, 94 S. Ct. 2997, 3009, 41 L. Ed. 2d 789 (1974) (emphasis added)). The First Amendment reflects a “a profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open, and that it may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials.” *New York Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964). Given that backdrop, the notion that the Plaintiffs—three elected officials who signed up for the scrutiny that public office carries—suffered crippling emotional distress to the tune of “Seven Hundred Fifty Thousand Dollars (\$750,000.00)” because they had their cell phone numbers published as part of a public petitioning campaign is so transparently ridiculous as to require no further explanation. See Pls.’ Compl. at 3–4.

For all of these reasons, the Plaintiffs’ invasion of privacy claims fail at their first element.

b. An elected official’s cell phone number is of legitimate concern to the public.

The second essential element of an invasion of privacy claim based on public disclosure of assertedly private facts is that the matter disclosed is “not of legitimate concern to the public.” *Parr*, 1999 WL 1086451, at \*3; see also *Jackson & Assocs., Ltd.*, 1991 WL 155687, at \*3. An elected official’s cell phone number is *absolutely* of legitimate concern to the public for several reasons, though, all of which preclude liability.

First, disclosing an elected official’s cell phone number as part of a petitioning campaign is a matter of legitimate public concern because it allows constituents to meaningfully exercise their right to petition. Cf. *Publius v. Boyer-Vine*, 237 F. Supp. 3d 997, 1014 (E.D. Cal. 2017) (“When viewed in that context of political speech, the



legislators’ personal information becomes a matter of public concern.”) (collecting cases). That fact alone settles the matter. The Defendants also note that publicizing the Plaintiffs’ cell phone number was especially important to community members’ exercise of their right to petition under the circumstances presented here, given that: (1) the City of Fayetteville publishes the same general municipal phone number for every Alderman, *see Ex. 7, Board of Mayor and Alderman, Fayetteville, TN, available at [https://www.fayettevilletn.com/government/board\\_of\\_mayor\\_alderman/index.php](https://www.fayettevilletn.com/government/board_of_mayor_alderman/index.php)* (permalink: <https://perma.cc/QS4H-A3AE>) (last visited Nov. 14, 2023); and (2) “[e]fforts to communicate with the Aldermen by phone through the municipal office or through their city email addresses were met with little to no responses from the aldermen.”<sup>2</sup> *See Ex. 4, Law Decl. at ¶ 16.*

*Second*, knowing an elected official’s cell phone number is necessary to promote transparency and public records access, because government officials commonly use their personal cell phones to conduct official business. *See, e.g., Angele Latham, Man arrested over meme of Dickson police officer’s grave settles lawsuit with DA, TBI, THE TENNESSEAN* (Oct. 30, 2023), <https://www.tennessean.com/story/news/local/dickson/2023/10/30/joshua-garton-arrested-meme-of-dickson-police-officer-grave-settles-suit-with-da-tbi-city/71383914007/> (noting that: “Text messages included in the court filings reveal that defendants in the case — including Crouch, Director of the Tennessee Bureau of Investigation David Rausch and a number of TBI employees as well as the Dickson Police

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<sup>2</sup> The Defendants note the Plaintiffs’ allegation that alternative channels of communication were available. *See Pls.’ Compl. at ¶ 10.* But even disregarding the fact that alternative *adequate* channels of communication were not available, *see Ex. 4, Law Decl., at ¶ 16*, the “the First Amendment protects [the Defendants’] freedom to decide how [their] message should be communicated.” *See Ostergren v. Cuccinelli*, 615 F.3d 263, 272 n.8 (4th Cir. 2010).

Department — knew Garton had not committed a crime, with some even directly stating that the public would be mad at them because ‘We violated (Garton’s) First Amendment rights.’”). The Plaintiffs here are among the public officials who use their cell phones to conduct official business. *See Ex. 5*, Hartman Decl., at ¶ 5 (“As Mayor, I have communicated with my colleagues—including Aldermen Small, Allen, and Martinez—in their official capacities on their personal cell phones.”). That fact was also communicated to Mr. Law before he posted. *See id.* at ¶ 6 (“Prior to May 17, 2023, I told Jon Law, who is a former Mayor of the City of Fayetteville, that I had communicated with my colleagues—including Aldermen Small, Allen, and Martinez—in their official capacities on their personal cell phones and that some city business is communicated to the members of the Board of Mayor and Alderman using personal cell phones.”); *Ex. 4*, Law Decl., at ¶ 17 (“Before I posted on Facebook, Fayetteville Mayor Donna Hartman told me that she had communicated with her colleagues—including Aldermen Small, Allen, and Martinez—in their official capacities on their personal cell phones and that some city business was communicated to the members of the BOMA using personal cell phones.”).

*Third*, an elected official’s cell phone number—like other contact information—can provide useful information about elected officials’ residency and connection to the community they were elected to serve. *See, e.g.*, Frank D. LoMonte & Paola Fiku, *Thinking Outside the Dox: The First Amendment and the Right to Disclose Personal Information*, 91 UMKC L. REV. 1, 1 (2022) (noting that, “[d]uring a hard-fought 2021 mayoral race in New York City, an unanticipated issue fixated the attention of local journalists and threatened to derail the frontrunning campaign of Democrat Eric Adams: it wasn’t clear that Adams actually lived in New York. Reporters used publicly available records to sleuth out indicators that Adams’ primary residence was not, as he claimed, in

the Bedford-Stuyvesant neighborhood of Brooklyn.”). Thus, for instance, the facts that Alderman Martinez has a cell phone number with an Alabama area code (see Ex. 2) and publishes that number while doing business in Alabama (see Ex. 3) present genuinely important information bearing on his connection to the Fayetteville, Tennessee community that he was elected to represent.

*Fourth*, regardless of any matter, Tennessee statutory law defines any issue related to “[t]he government,” “[a] public official,” or a “public figure” as a “matter of public concern.” See Tenn. Code Ann. § 20-17-103(6)(C)–(D). Thus, to harmonize operation of the law, a matter of public concern for purposes of Tenn. Code Ann. § 20-17-103(6)(C)–(D) should be treated as a matter of public concern for purposes of an invasion of privacy-based tort claim premised on publication of assertedly private facts. *Cf. Martin v. Powers*, 505 S.W.3d 512, 518 (Tenn. 2016) (“We endeavor to construe statutes in a reasonable manner which avoids statutory conflict. We ‘must presume that the Legislature did not intend an absurdity and adopt, if possible, a reasonable construction which provides for a harmonious operation of the laws.’”) (quoting *Fletcher v. State*, 951 S.W.2d 378, 382 (Tenn. 1997) (citation omitted)).

For all of these reasons, an elected official’s cell phone number is a matter of legitimate public concern. As a result, the Plaintiffs’ invasion of privacy claims fail at their second element, too.

**2. The First Amendment protects the right to disseminate public officials’ personal contact information.**

The First Amendment—incorporated against Tennessee as part of the Fourteenth Amendment—is the supreme law of the land. See U.S. Const. art. VI, cl. 2 (“This Constitution, and the Laws of the United States which shall be made in Pursuance thereof;

and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.”). Thus, Tennessee common law may not conflict with the First Amendment. *See Cadence Bank, N.A. v. The Alpha Tr.*, 473 S.W.3d 756, 765 (Tenn. Ct. App. 2015) (“Under the Supremacy Clause, if a state law conflicts with a federal law, it is “ ‘without effect,’ ” . . . and therefore displaced by federal law.”) (cleaned up). That matters here, because—as detailed more fully below—the First Amendment protects the right to disseminate elected officials’ personal contact information. As a result, the First Amendment precludes construing Tennessee’s common law invasion of privacy tort in a manner that forbids disseminating elected officials’ cell phone numbers. *Accord Davis-Kidd Booksellers, Inc. v. McWherter*, 866 S.W.2d 520, 529 (Tenn. 1993) (“it is our duty to adopt a construction which will . . . avoid constitutional conflict if any reasonable construction exists that satisfies the requirements of the Constitution.”) (collecting cases).

In *Sorrell v. IMS Health Inc.*, the U.S. Supreme Court reaffirmed “that the creation and dissemination of information are speech within the meaning of the First Amendment.” 564 U.S. 552, 570 (2011) (citing *Bartnicki v. Vopper*, 532 U.S. 514, 527 (2001) (“[I]f the acts of ‘disclosing’ and ‘publishing’ information do not constitute speech, it is hard to imagine what does fall within that category, as distinct from the category of expressive conduct” (some internal quotation marks omitted)). “Facts, after all, are the beginning point for much of the speech that is most essential to advance human knowledge and to conduct human affairs[,]” the *Sorrell* Court explained. *Id.*

*Sorrell*’s determination that publishing and disseminating information are speech protected by the First Amendment was not novel. Nor is that principle novel as applied

to the acts complained of here—publishing a person’s personal contact information. *See, e.g., Org. for a Better Austin*, 402 U.S. at 419 (holding that the distribution of leaflets containing a realtor’s home phone number to encourage criticism of his business practices is protected speech). Thus, in case after case—including in factual scenarios that are far less sympathetic than those presented here—courts have held that publishing personal contact information is speech protected by the First Amendment. *See, e.g., Brayshaw v. City of Tallahassee*, 709 F. Supp. 2d 1244, 1247, 1249 (N.D. Fla. 2010) (holding that truthful posting of personal information of a peace officer—including her personal address, phone number, and email—is protected by the First Amendment); *Ostergren*, 615 F.3d at 270–290 (holding that an advocate’s publication of records containing unredacted social security numbers is protected by First Amendment); *Sheehan v. Gregoire*, 272 F. Supp. 2d 1135, 1139, n.2 (W.D. Wash. 2003) (invalidating on constitutional overbreadth and vagueness grounds statute that prohibited release of residential address, telephone number, and other personal information of law enforcement officers and court employees, and noting argument that such information can be used “to achieve service of process, research criminal history, and to ‘organize an informational picket [at individual officers’ homes] or other lawful forms of civic involvement to force accountability.’”); *Publius*, 237 F. Supp. 3d at 1004 (holding that state statute that made it unlawful to post online home addresses and telephone numbers of certain government officials violated the First Amendment as applied); *The Florida Star v. B.J.F.*, 491 U.S. 524 (1989) (holding that imposing damages on newspaper that published rape victim’s full name gleaned from publicly-released police report violated the First Amendment); *see also DeHart*, 326 Or. App. 720 (holding that situation similar to the claims presented here gave rise to anti-SLAPP liability); *Sheehan v. Gregoire*, 272

F. Supp. 2d 1135, 1141–42 (W.D. Wash. 2003) (“disclosing and publishing information obtained elsewhere is precisely the kind of speech that the First Amendment protects.”).

This case presents the same issue: the First Amendment right to publish another’s personal contact information. It also presents the same issue in a factual context that is dramatically *more* sympathetic than those that other courts have confronted, such as the publication of a private citizen’s social security number. *See Ostergren*, 615 F.3d at 271. Here, as part of genuine, good faith civic advocacy—and to facilitate a successful petitioning campaign—the Defendants published the cell phone numbers of their elected officials and urged their fellow citizens to petition them regarding matters of public concern. *See generally* **Ex. 4**, Law Decl.; **Ex. 6**, Sanders Decl. Like the advocates in *Org. for a Better Austin*, 402 U.S. at 419, the Defendants had every right to do so. The First Amendment thus precludes liability, and the Plaintiffs’ Complaint should be dismissed with prejudice.

**3. The Defendants are immune from suit under Tenn. Code Ann. § 4-21-1003(a).**

Tenn. Code Ann. § 4-21-1003(a) provides that:

Any person who in furtherance of such person’s right of free speech or petition under the Tennessee or United States Constitution in connection with a public or governmental issue communicates information regarding another person or entity to any agency of the federal, state or local government regarding a matter of concern to that agency shall be immune from civil liability on claims based upon the communication to the agency.

*Id.*

That is precisely what the Defendants did here. *See* **Ex. 4**, Law Decl.; **Ex. 6**, Sanders Decl. And although immunity does not attach under certain circumstances when a speaker communicated false information, *see* Tenn. Code Ann. § 4-21-1003(b), the Plaintiffs have not alleged that any of the Defendants’ speech was false. *See generally*

Pls.' Compl. To the contrary, the Plaintiffs complain that the publications that caused their asserted injuries were *true*. *See id.* at ¶¶ 8–10 (complaining that the Defendants disseminated their correct mobile phone numbers). Thus, the Defendants are immune from suit under Tenn. Code Ann. § 4-21-1003(a).

**4. Ms. Sanders' republication was not plausibly tortious.**

As part of her Facebook post, Ms. Sanders copied and pasted the phone numbers of her local government officials verbatim from an earlier public post that she saw by Defendant Jon Law, the former Mayor of Fayetteville. **Ex. 6**, Sanders Decl., at ¶ 8. Thus, the Plaintiffs' cell phone numbers had already been published and disseminated publicly—including on the same forum—when Ms. Sanders copied-and-pasted them anew as part of her own petitioning campaign.

Such a republication cannot plausibly be considered tortious. *Cf. Higgins v. Kentucky Sports Radio, LLC*, 951 F.3d 728, 739 (6th Cir. 2020) (“Merely repeating potentially false reviews generated by other users may be in bad taste. But it cannot by itself constitute defamation. And good thing too. If it could, any news article discussing a tendentious Twitter exchange could land its author in front of a jury. That would make the authors of the First Amendment cringe.”). A tort claim based on public disclosure of assertedly private facts presupposes that the facts at issue are, in fact, *private*. *See Jackson & Assocs., Ltd.*, 1991 WL 155687, at \*3 (noting that the tort addresses “publicity to a matter concerning the *private* life of another”) (emphasis added). As such, there is no circumstance when merely republishing—verbatim—the same information already published publicly elsewhere can trigger liability. The claims against Ms. Sanders must be dismissed accordingly.

## V. COSTS, ATTORNEY'S FEES, & SANCTIONS

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

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

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

The Plaintiffs' prosecution of this facially baseless SLAPP-suit merits costs, attorney's fees, and severe sanctions. The transparent purpose of this lawsuit was to silence, censor, intimidate, and retaliate against two citizen-advocates for engaging in a successful petitioning campaign. At least two Plaintiffs who have pretended to suffer emotional distress and a ridiculous \$750,000.00 in compensatory damages arising from the publication of their personal cell phone numbers have also publicly published and disseminated their personal cell phone numbers *themselves*—in some cases repeatedly. See **Ex. 1**, State of Tennessee Candidate Nominating Petition [for] Municipal Candidate Tonya Allen, at 1; **Ex. 2**, State of Tennessee Candidate Nominating Petition [for] Municipal Candidate Roger Martinez, at 1; **Ex. 3**, *Cars for Sale*, ClassicCarsBay.com, at 2, available at <https://classiccarsbay.com/honda-crv-ex-138651> (permalink: <https://perma.cc/A9M3-UDDF>) (last visited Nov. 14, 2023). No litigant acting in good faith could reasonably believe that the Plaintiffs' claims had merit under these circumstances.

This Court should severely punish such a flagrant abuse of the legal process by three elected officials who hold positions of public trust. The Defendants exercised their free speech rights and their right to petition the Plaintiffs. In so doing, the Defendants



did nothing more than their civic duty of being engaged citizens and bringing matters of public concern to the attention of Fayetteville’s voters. Under these circumstances, the Defendants should not only be awarded their full attorney’s fees, costs, and expenses under Tenn. Code Ann. § 20-17-107(a)(1); this Court should also assess a severe sanction against the Plaintiffs and their counsel under § 20-17-107(a)(2) in an amount not less than \$750,000.00—equivalent to the minimum amount that the Plaintiffs baselessly sought from the Defendants here for exercising their right to speak and petition. Such a sanction is necessary “to deter repetition of the conduct by the party who brought the legal action or by others similarly situated.” *See id.* The Defendants are also entitled to—and they expressly raise their entitlement to—an award of reasonable attorney’s fees under Tenn. Code Ann. § 4-21-1003(c) (“A person prevailing upon the defense of immunity provided for in this section shall be entitled to recover costs and reasonable attorneys’ fees incurred in establishing the defense.”).

## VI. CONCLUSION

For the foregoing reasons, this action should be dismissed with prejudice; the Defendants should be awarded their attorney’s fees and expenses; and the Plaintiffs should be sanctioned.

Respectfully submitted,

By: /s/ Daniel A. Horwitz  
DANIEL A. HORWITZ, BPR #032176  
LINDSAY SMITH, BPR #035937  
MELISSA K. DIX, BPR #038535  
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[lindsay@horwitz.law](mailto:lindsay@horwitz.law)  
[melissa@horwitz.law](mailto:melissa@horwitz.law)

DAVID L. RAYBIN, BPR # 03385  
RAYBIN & WEISSMAN, PC  
424 CHURCH ST., SUITE 2120  
NASHVILLE, TN 37219  
(615) 256-6666  
DRAYBIN@NASHVILLETNLAW.COM

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 15th day of November, 2023, a copy of the foregoing was served via USPS mail, postage prepaid, via email, and/or via the Court's electronic filing system upon:

Stephen W. Elliott, BPR #20062  
3310 West End Avenue, Suite 550  
Nashville, TN 37203  
Ph. (615) 921-5224  
[selliott@howell-fisher.com](mailto:selliott@howell-fisher.com)

*Counsel for Plaintiffs*

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

FILED

2023 NOV 15 AM 10:35

USA COURTS SHIMONS, CLERK  
CIRCUIT/SESSIONS/JUVENILE

# Exhibit #1

**STATE OF TENNESSEE  
CANDIDATE NOMINATING PETITION  
MUNICIPAL CANDIDATE**

8-13-2020  
3:46 p.m.  
Dt

We the undersigned registered voters in the city of FAYETTEVILLE, in the county of LINCOLN, State of Tennessee, hereby nominate TONYA M ALLEN, 101 CIRCLE DR, FAYETTEVILLE, as a candidate for the office of FAYETTEVILLE CITY, ALDERMEN to be voted on in the general election, which will be held on the 03 day of November, 2020. We request that such candidate's name be printed on the official ballot.

30

This petition was issued by Melissa Beddingfield 06/29/2020  
(signature of election official) (date)

**\*\*TO BE COMPLETED BY THE CANDIDATE\*\***

I hereby direct that my name appear on the official ballot as follows, and I declare, under penalty of perjury, that I have reviewed the qualifications for the office sought herein and hereby certify that I meet said qualifications and that the information provided over my signature is true and correct:

called  
kept my  
enough  
signature  
8:16 A.M  
8-14-20

Tonya Allen  
PRINT NAME  
101 Circle Dr. 37334 931-625-1688  
(residential address of candidate) (zip code) (residential phone)  
1800 Wilson Parkway 37334 931-438-2533  
(business address of candidate) (zip code) (business phone)

CANDIDATE'S SIGNATURE Tonya Allen  
(Required Under TCA 2-5-102)

T.C.A. 2-19-109 provides that a person who knowingly makes any false entry on an election document commits a class D felony.

**FOR CANDIDATES REQUIRED TO BE AN ATTORNEY:**  
By my signature, I hereby certify that I am licensed to practice law in this state.

\_\_\_\_\_  
(signature of candidate) SUPREME COURT REGISTRATION NO. \_\_\_\_\_

**NOMINATING SIGNATURES**

(must be registered voters who are eligible to vote to fill this office)  
(Cannot sign for another - no ditto \*\* marks) (Address as listed on registration - No P.O. Boxes)

✓  
1.

Sign here Jasmine Allen  
Print here Jasmine Allen

Street address 101 Circle DR  
City/county/state/zip Fayetteville, TN 37331

✓  
2.

Sign here Kaitlin Allen  
Print here Mariah Kaitlin Allen

Street address 101 Circle Drive  
City/county/state/zip Fayetteville, TN

DEFENDANT'S  
EXHIBIT  
**1**

STATE OF TENNESSEE  
CANDIDATE NOMINATING PETITION  
MUNICIPAL CANDIDATE

We the undersigned registered voters in the city of FAYETTEVILLE, in the county of LINCOLN, State of Tennessee, hereby nominate TONYA M ALLEN, 101 CIRCLE DR, FAYETTEVILLE, as a candidate for the office of FAYETTEVILLE CITY, ALDERMEN to be voted on in the general election, which will be held on the 03 day of November, 2020. We request that such candidate's name be printed on the official ballot.

This petition was issued by Melissa Beddingfield 06/29/2020  
(signature of election official) (date)

NOMINATING SIGNATURES

(must be registered voters who are eligible to vote to fill this office)

(Cannot sign for another - no ditto \*\* marks)

(Address as listed on registration - No P.O. Boxes)

- 3. Sign here Lori Frame Street address 403 Elk Ave. N  
Print here Lori Frame City/county/state/zip Fayetteville, TN 37334
- 4. Sign here W. J. Bryant Street address 111 Brookmeade Cr.  
Print here William J. Bryant City/county/state/zip Fayetteville, TN 37334
- 5. Sign here Billie Wetherland Street address 920 3rd Ave Fayetteville  
Print here Billie Wetherland City/county/state/zip Fayetteville, TN 37334
- 6. Sign here Holly Blankstrom Street address 103 Nobleff  
Print here Holly Blankstrom City/county/state/zip Fayetteville, TN 37334
- 7. Sign here Spencer Perrin Street address 711 Magnassive Drive  
Print here Spencer Perrin City/county/state/zip Fayetteville, TN 37334
- 8. Sign here Amy Giffin Street address 917 Dogwood Drive  
Print here Amy Giffin City/county/state/zip Fayetteville, TN 37334
- 9. Sign here Gregory Scott Collins Street address 204 Jeffrey Dr.  
Print here Gregory Scott Collins City/county/state/zip Fayetteville | Lincoln | TN | 37334
- 10. Sign here Rachael Martinez Street address 1007 Covemont DR.  
Print here Rachael Martinez City/county/state/zip Fayetteville / Lincoln / TN / 37334
- 11. Sign here Steven C. Giffin Street address 917 Dogwood Dr  
Print here Steven C. Giffin City/county/state/zip Fayetteville / Lincoln / TN / 37334
- 12. Sign here Katelyn Barnes Street address 807 Fairway Drive / Fayetteville, TN  
Print here Katelyn Barnes City/county/state/zip Fayetteville, TN 37334

ditto add  
same prec.

STATE OF TENNESSEE  
CANDIDATE NOMINATING PETITION  
MUNICIPAL CANDIDATE

We the undersigned registered voters in the city of FAYETTEVILLE, in the county of LINCOLN, State of Tennessee, hereby nominate TONYA M ALLEN, 101 CIRCLE DR, FAYETTEVILLE, as a candidate for the office of FAYETTEVILLE CITY, ALDERMEN to be voted on in the general election, which will be held on the 03 day of November, 2020. We request that such candidate's name be printed on the official ballot.

This petition was issued by Melissa Beddingfield 06/29/2020  
(signature of election official) (date)

NOMINATING SIGNATURES

(must be registered voters who are eligible to vote to fill this office)

(Cannot sign for another - no ditto \*\* marks)

(Address as listed on registration - No P.O. Boxes)

- 13. Sign here Lenace E. Hyde Street address 1806 Hillwood Drive  
Print here LENACE E. HYDE City/county/state/zip Fayetteville, Lincoln, TN, 37334
- 14. Sign here Dorothy Small Street address 514 Markham Dr  
Print here Dorothy Small City/county/state/zip Fayetteville, Lincoln, Tenn 37334
- 15. Sign here Self Alder Street address 110 Dimeh Dr.  
Print here Self Alder City/county/state/zip Fayetteville, TN 37334
- 16. Sign here Richard Howell Street address 111 Circle Dr. Fayetteville Tn. 37334  
Print here Richard Howell City/county/state/zip Fayetteville, TN 37334
- 17. Sign here DonShera Thompson *d.iff' add SA m+ prec* Street address 113 Cameron Drive  
Print here DonShera Thompson City/county/state/zip Fayetteville, TN 37334
- 18. Sign here Esheia Hicks Street address 103 Laurel Dr. E  
Print here Esheia Hicks City/county/state/zip Fay. TN 37334
- 19. Sign here Bujena Dotson *city prop* Street address Oak St Fayetteville  
Print here Bujena Dotson City/county/state/zip Fayetteville TN 37334
- 20. Sign here Philip Dotson *city prop* Street address Oak St. Fayette  
Print here Philip Dotson City/county/state/zip Fayetteville TN 37334
- 21. Sign here Sandy Williams Street address 409 Green Street  
Print here Sandy Williams City/county/state/zip Fayetteville, TN 37334
- 22. Sign here Alice B. Palacios Street address 1205 Skyline Drive  
Print here Alice B. Palacios City/county/state/zip Fayetteville, TN 37334

**STATE OF TENNESSEE  
CANDIDATE NOMINATING PETITION  
MUNICIPAL CANDIDATE**

We the undersigned registered voters in the city of FAYETTEVILLE, in the county of LINCOLN, State of Tennessee, hereby nominate TONYA M ALLEN, 101 CIRCLE DR, FAYETTEVILLE, as a candidate for the office of FAYETTEVILLE CITY, ALDERMEN to be voted on in the general election, which will be held on the 03 day of November, 2020. We request that such candidate's name be printed on the official ballot.

This petition was issued by Melissa Beddingfield 06/29/2020  
(signature of election official) (date)

**NOMINATING SIGNATURES**

(must be registered voters who are eligible to vote to fill this office)  
(Cannot sign for another - no ditto \*\* marks) (Address as listed on registration - No P.O. Boxes)

- 23. Sign here Jony Caldwell *Ditto* Street address 101 Circle Dr  
Print here Tony Caldwell City/county/state/zip Fayetteville, TN 37334
- 24. Sign here Bill Dickey Street address 1501 Swanson Blvd.  
Print here Bill Dickey City/county/state/zip Fayetteville TN 37334
- 25. Sign here Ben H. Williams Street address 903 3RD AVENUE  
Print here BEN H. WILLIAMS City/county/state/zip FAYETTEVILLE, TN. 37334
- 26. Sign here Mella Williams Street address 903 3RD AVENUE  
Print here Melba A. Williams City/county/state/zip FAYETTEVILLE, TN. 37334
- 27. Sign here Paul Caldwell Street address 123 Old Mulberry Rd  
Print here Paul Caldwell City/county/state/zip FAYETTEVILLE, TN. 37334
- 28. Sign here Renee Caldwell Street address 123 Old Mulberry Rd  
Print here Renee Caldwell City/county/state/zip Fayetteville, TN 37334
- 29. Sign here Ray Davis Street address 1874 Wellsbrook Dr  
Print here Ray Davis City/county/state/zip Fayetteville, TN 37334
- 30. Sign here Robert Mark Moore Street address 1305 Woodland Drive  
Print here ROBERT MARK MOORE City/county/state/zip Fayetteville TN 37334
- 31. Sign here Brittany Barnett Street address 209 Wellsbrook Cir.  
Print here Brittany Barnett City/county/state/zip Fayetteville, TN 37334
- 32. Sign here Chad Barnett Street address 209 Wellsbrook Cir  
Print here Chad Barnett City/county/state/zip Fayetteville, TN 37334



FILED

2023 NOV 15 AM 10:35

LISA DORRER SIMMONS, CLERK  
CIRCUIT/SESSIONS/JUVENILE

# Exhibit #2

7-7-2020  
8:10 A.M.  
Ad

STATE OF TENNESSEE  
CANDIDATE NOMINATING PETITION  
MUNICIPAL CANDIDATE

We the undersigned registered voters in the city of FAYETTEVILLE, in the county of LINCOLN, State of Tennessee, hereby nominate ROGER P MARTINEZ, 1007 COVEMONT DR, FAYETTEVILLE, as a candidate for the office of FAYETTEVILLE CITY, ALDERMEN to be voted on in the general election, which will be held on the 03 day of November, 2020. We request that such candidate's name be printed on the official ballot.

This petition was issued by Shelia Allen 06/23/2020  
(signature of election official) (date)

25  
FT  
24

called  
OK  
7-7-2020

**\*\*TO BE COMPLETED BY THE CANDIDATE\*\***

I hereby direct that my name appear on the official ballot as follows, and I declare, under penalty of perjury, that I have reviewed the qualifications for the office sought herein and hereby certify that I meet said qualifications and that the information provided over my signature is true and correct:

Roger Martinez  
PRINT NAME

1007 Covemont Drive 37334 256-658-4303  
(residential address of candidate) (zip code) (residential phone)

\_\_\_\_\_  
(business address of candidate) (zip code) (business phone)

CANDIDATE'S SIGNATURE Roger Martinez  
(Required Under TCA 2-5-102)

T.C.A. 2-19-109 provides that a person who knowingly makes any false entry on an election document commits a class D felony.

**FOR CANDIDATES REQUIRED TO BE AN ATTORNEY:**  
By my signature, I hereby certify that I am licensed to practice law in this state.

\_\_\_\_\_  
(signature of candidate) SUPREME COURT REGISTRATION NO. \_\_\_\_\_

**NOMINATING SIGNATURES**

(must be registered voters who are eligible to vote to fill this office)  
(Cannot sign for another - no ditto \*\* marks) (Address as listed on registration - No P.O. Boxes)

✓ Sign here Rachael Martinez

Print here Rachael Martinez

Street address 1007 Covemont DR.

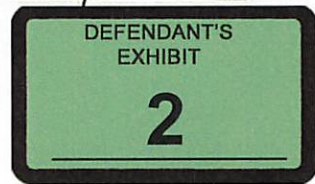
City/county/state/zip Fayetteville/Lincoln/TN 37334

✓ Sign here Karen M Russ

Print here Karen M. Russ

Street address 1012 Covemont Dr

City/county/state/zip Fayetteville/Lincoln/TN 37334



**STATE OF TENNESSEE  
CANDIDATE NOMINATING PETITION  
MUNICIPAL CANDIDATE**

We the undersigned registered voters in the city of FAYETTEVILLE, in the county of LINCOLN, State of Tennessee, hereby nominate ROGER P MARTINEZ, 1007 COVEMONT DR, FAYETTEVILLE, as a candidate for the office of FAYETTEVILLE CITY, ALDERMEN to be voted on in the general election, which will be held on the 03 day of November, 2020. We request that such candidate's name be printed on the official ballot.

This petition was issued by Shelia Allen 06/23/2020  
(signature of election official) (date)

**NOMINATING SIGNATURES**

(must be registered voters who are eligible to vote to fill this office)

(Cannot sign for another - no ditto \*\* marks)

(Address as listed on registration - No P.O. Boxes)

- 3 ✓
- 4 ✓
- 5 ✓
- 6 ✓
- MA
- 8 ✓
- 9 ✓
- 10 ✓
- 11 ✓
- 12 ✓

Sign here Jeffery R. Ross  
Print here JEFFERY L. ROSS

Street address 1012 COVEMONT DR.  
City/county/state/zip FAYETTEVILLE/LINCOLN/TN/37334

Sign here Robert Clark  
Print here Robert Clark

Street address 104 Dimech Dr. Fayetteville TN  
City/county/state/zip Fayetteville TN Lincoln Co

Sign here Perrine Thomas  
Print here Perrine Thomas

Street address 1103 Bellemeade Dr  
City/county/state/zip Fayetteville TN 37334

Sign here Barbara Vanatta  
Print here Blake Smith

Street address 101 Brookmeade Circle city  
City/county/state/zip Fayetteville, TN 37334

Sign here Blake Smith  
Print here David Owens Jr

Street address 105 Brookmeade Cr.  
City/county/state/zip \_\_\_\_\_

Sign here David Owens Jr  
Print here DAVID OWENS JR

Street address 1304 Bagley Drive  
City/county/state/zip FAYETTEVILLE, TN 37334

Sign here Christie Boaz  
Print here Christie Boaz

Street address 921 Bellemeade Dr.  
City/county/state/zip Fayetteville / Lincoln / 37334

Sign here Scott Boaz  
Print here SCOTT BOAZ

Street address 921 BELLEMEADE DR  
City/county/state/zip FAYETTEVILLE TN 37334

Sign here Hue Counts  
Print here HUE COUNTS

Street address 1006 COVEMONT DR  
City/county/state/zip Fayetteville, TN 37334

Sign here Karen Counts  
Print here Karen Counts

Street address 1006 Covmont Dr  
City/county/state/zip Fayetteville, TN  
37334

### STATE OF TENNESSEE CANDIDATE NOMINATING PETITION MUNICIPAL CANDIDATE

We the undersigned registered voters in the city of FAYETTEVILLE, in the county of LINCOLN, State of Tennessee, hereby nominate ROGER P MARTINEZ, 1007 COVEMONT DR, FAYETTEVILLE, as a candidate for the office of FAYETTEVILLE CITY, ALDERMEN to be voted on in the general election, which will be held on the 03 day of November, 2020. We request that such candidate's name be printed on the official ballot.

This petition was issued by Shelia Allen 06/23/2020  
(signature of election official) (date)

#### NOMINATING SIGNATURES

(must be registered voters who are eligible to vote to fill this office)  
(Cannot sign for another - no ditto \*\* marks) (Address as listed on registration - No P.O. Boxes)

- 13. Sign here Amy Nix Street address 1211 Bagley Dr.  
Print here Amy B. Nix City/county/state/zip Fayetteville, TN 37334
- 14. Sign here Doe Gattis Street address 1303 Bagley Dr  
Print here Doe Gattis City/county/state/zip Fayetteville, TN 37334
- 15. Sign here Patrick Ann Street address 1305 Lancelot Dr.  
Print here PATRIK ANN City/county/state/zip FAYETTEVILLE / LINCOLN / TN / 37334
- 16. Sign here Jim Neale Street address 1300 Lancelot Dr  
Print here James W. Neale City/county/state/zip Lincoln Fayetteville, TN 37334
- 17. Sign here Mark Higgins Street address 1304 Lancelot Dr  
Print here Mark Higgins City/county/state/zip Fayetteville TN 37334
- 18. Sign here Evatt Higgins Street address 1304 Lancelot Drive  
Print here Evatt Higgins City/county/state/zip Fayetteville, TN 37334
- 19. Sign here Jean Hathcock Street address 905 Dogwood Dr.  
Print here Jean Hathcock City/county/state/zip Fayetteville, TN 37334
- 20. Sign here Stephanie E. Hathcock Street address 905 Dogwood Drive  
Print here Stephanie E. Hathcock City/county/state/zip Fayetteville TN 37334
- 21. Sign here Jeff Alder Street address 110 Dinah Dr.  
Print here Jeff Alder City/county/state/zip Fayetteville, TN 37334
- 22. Sign here Brooke Alder Street address 170 Dinah Dr.  
Print here Brooke Alder City/county/state/zip Fayetteville, TN 37334

STATE OF TENNESSEE  
CANDIDATE NOMINATING PETITION  
MUNICIPAL CANDIDATE

We the undersigned registered voters in the city of FAYETTEVILLE, in the county of LINCOLN, State of Tennessee, hereby nominate ROGER P MARTINEZ, 1007 COVEMONT DR, FAYETTEVILLE, as a candidate for the office of FAYETTEVILLE CITY, ALDERMEN to be voted on in the general election, which will be held on the 03 day of November, 2020. We request that such candidate's name be printed on the official ballot.

This petition was issued by Shelia Allen 06/23/2020  
(signature of election official) (date)

NOMINATING SIGNATURES

(must be registered voters who are eligible to vote to fill this office)

(Cannot sign for another - no ditto \*\* marks)

(Address as listed on registration - No P.O. Boxes)

- ✓ 23. Sign here Stephenie Whitworth Street address 504 SCENIC DRIVE  
Print here Stephenie Whitworth City/county/state/zip Fayetteville, Lincoln, TN 37334
- ✓ 24. Sign here Sammy Whitworth Street address 504 SCENIC DRIVE  
Print here SAMMY WHITWORTH City/county/state/zip FAYETTEVILLE TN 37334
- NR 25. Sign here Kayla Camp Street address 711 2nd Ave. Lincoln  
Print here Kayla Camp City/county/state/zip Fayetteville, TN 37334
- ✓ 26. Sign here Matthew Camp Street address 711 2nd Ave. Lincoln  
Print here Matthew Camp City/county/state/zip Fayetteville, TN 37334
- ✓ 27. Sign here McLean White Street address 705 1st Ave  
Print here McLean White City/county/state/zip Fayetteville, TN 37334 Lincoln
- ✓ 28. Sign here Juan Bayley Street address 1003 Dogwood Dr  
Print here Juan Bayley City/county/state/zip Fayetteville TN 37334
- 29. Sign here \_\_\_\_\_ Street address \_\_\_\_\_  
Print here \_\_\_\_\_ City/county/state/zip \_\_\_\_\_
- 30. Sign here \_\_\_\_\_ Street address \_\_\_\_\_  
Print here \_\_\_\_\_ City/county/state/zip \_\_\_\_\_
- 31. Sign here \_\_\_\_\_ Street address \_\_\_\_\_  
Print here \_\_\_\_\_ City/county/state/zip \_\_\_\_\_
- 32. Sign here \_\_\_\_\_ Street address \_\_\_\_\_  
Print here \_\_\_\_\_ City/county/state/zip \_\_\_\_\_

FILED

2023 NOV 15 AM 10:35

LISA COOPER SHIMONS, CLERK  
CIRCUIT/SESSIONS/JUVENILE

# Exhibit #3



Cars for Sale > Honda > CR-V > Honda CRV EX

## Used Honda CRV EX for sale in Huntsville, AL



\$19,900

13,094 mi.

Vehicle Details

Vehicle Description

### Vehicle Details

Mileage	13,094 mi.
Price	\$19,900
Body Type	SUV
Size	mid-size
Exterior Color	white
General Condition	excellent
Title Status	clean
Cylinders	4 cylinders
Transmission	automatic
Drive Train	fwd



Fuel Type

gas

### Vehicle Description

Here's a 2016 Honda CRV EX owner clean car fax ask for Roger and you can purchase this one for only \$19,900 but remember you must come see Roger at that price call text or email. 256-658-4303  
Financing

### Popular cars

**ALBATRANS / 904-438-8555**

© 14

2011 Honda CR-V SE AWD 4dr SUV -- by dealer - vehicle in FL

**\$12,399**

Financiamiento disponible para todos. Con pasaporte o licencia, social, numero de itin o nada. Bueno o mal credito, todos salen manejando. APPLY ONLINE: ALBATRANSJAX.COM  
2011 Honda CR-V SE AWD 4dr SUV Very good and c...

2011 112,273 mi.

### Similar cars

**PREMIER  
AUTOMOTIVE INC**

call us:  
**540.659.2525**





@ 5

2016 HONDA CR-V SE AWD \*\*\*\*We Finance! \*\*\*\* in Dumfries, VA

**\$14,450**

2016 HONDA CR-V SE AWD Offered by: Premier Automotive — (540) 322-2943 — \$14,450 \*\*WE FINANCE\*\* ALL WHEEL DRIVE/ SE/ BACK-UP CAMERA/ BLUETOOTH/ 1-OWNER PERSONAL LEASE VEHICLE\*\* Premier Automotive Year: 2016 Make: HO...

2016 38,001 mi.

Recently viewed





2010 HONDA CR-V FWD 4D SUV EX-L in Wilson, TX

**\$10,900**

98k miles, PW, PL, Cruise, Tilt, CD stereo, Good wheels and tires, Black leather interior, Very nice vehicle! PLEASE TEXT (806)577-2918 WITH ANY QUESTIONS.

2010 98,000 mi.

[Back to top](#)

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2023 NOV 15 AM 10:35

LISA CONNOR SIMMONS, CLERK  
CIRCUIT/SEC STAFF/JUVENILE

# Exhibit #4

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**DECLARATION OF JON LAW**

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1. My name is Jon Law, I have personal knowledge of the facts asserted in this Declaration, and I am competent to testify regarding them.

2. I am the first named Defendant in Lincoln County Circuit Court Case No. 23-CV-132, *Dorothy Small, Tonya Allen, and Roger Martinez v. Jon Law and Tina Towry Osgood*.

3. I am the former Mayor of the City of Fayetteville.

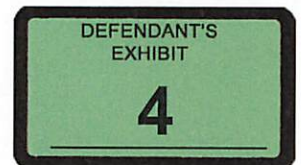
4. I ran for Mayor in 2014 because I wanted to represent all the citizens and businesses in Fayetteville by bringing my business background and a taxpayer-oriented focus to the local government.

5. In the past four years, I have seen how the City of Fayetteville's current Board of Mayor and Aldermen (BOMA) has wasted money, focused on personally motivated interests and spending, and left our infrastructure and recreational assets to deteriorate.

6. I posted the Facebook post over which I have been sued because I opposed the proposal of the BOMA to raise property taxes by 50%.

7. In my opinion, any city that proposes a 50% increase is out of touch with how such an increase affects a large demographic (elderly and lower-income residents) of our city.

8. In my opinion, the BOMA mismanaged the city's finances. It found itself with a proposed unbalanced budget and justified a proposed 50% tax increase by saying it was necessary because the City hasn't raised taxes to keep up with inflation and is



unable to pay employees a wage that would be competitive with other cities and municipalities.

9. In my opinion, the reality is different. Among other contributing factors:
  - i. The City took out a bond to buy ten new, fully-equipped police Tahoes and two pick-up trucks all at one time. It makes no sense to buy all new vehicles because they will start having serious mechanical problems at roughly the same. That is happening right now. And since the police department is a revolving door for law enforcement officers, the department is always short on a regular basis. That is why 3–4 of the Tahoes are sitting in the department's parking lot on a regular basis.
  - ii. The City received a state grant to start a soccer complex. The project cost over was \$1.5 million for one soccer field that is used exclusively by the Fayetteville City Schools (FCS) high school and Middle school teams. The grant was intended for a city sanctioned public soccer field for youth ages 6-11 years old. Daikin Industries owned the land for the soccer field and I approached Daikin to donate the land for it. I left office in November of 2018 but negotiations continued with the Daikin donation until the final transfer to the City.
  - iii. The BOMA spent approximately \$1.7 million on baseball lights at Don Davidson Park when the only organization using the fields was the FCS baseball teams. Most games were played during daylight hours. We have had no City-sponsored ball league for ~3 years.
  - iv. The BOMA terminated the City Administrator and replaced him with

the Police Chief. The Police Chief had no qualifications for the position.

- v. The BOMA spent roughly \$295,000 for a marketing consultant to conduct a study to re-brand Fayetteville. The study produced nothing new. It was very similar to one conducted by the Fayetteville Main Street organization in 2013-2014 which cost nothing. The new re-branded banners featured “Slawburgers, TN Heritage, & Whiskey” as our calling card. The citizens hated the banners and what they implied.

10. The conditions of the City’s parks are deplorable. Every year I take pictures of the parks to document the improvements or the worsening conditions. Unfortunately, the parks always seem to be the same or worse.

11. A lady brought her granddaughter to Kids Park about 5–6 months ago. The child went down the slide and her foot got stuck in a weak spot in the slide. It took two people to get her foot out of it. Fortunately, the child did not sustain any injury.

12. The Parks & Recreation department is responsible for regular inspections and repair or replacement of all the equipment. The pool restrooms were so bad that the swim team had to scrub them and buy trash cans and shower curtains for the restrooms prior to a swim meet.

13. The sidewalks around the square are in terrible condition. People are continually falling because of the conditions. The BOMA could have used its ARPA money to replace them, but elected to use part of the funding for the lights at the ballparks instead.

14. All of these issues and others made me concerned, as a citizen and taxpayer,

about BOMA's mismanagement of the City infrastructure and parks and the City's finances. They caused me to oppose a 50% tax increase that would pay for the city's operational and fiscal mismanagement and increases in the City's long-term debt.

15. When the Board proposed a 50% increase in property taxes that would have dire consequences for our low-income and elderly population on a fixed income, I felt compelled to recommend taxpayers contact the Aldermen and voice their opposition.

16. Efforts to communicate with the Aldermen by phone through the municipal office or through their city email addresses were met with little to no responses from the aldermen.

17. Before I posted on Facebook, Fayetteville Mayor Donna Hartman told me that she had communicated with her colleagues—including Aldermen Small, Allen, and Martinez—in their official capacities on their personal cell phones and that some city business was communicated to the members of the BOMA using personal cell phones.

18. As a result, to bring public attention to the City's operational and fiscal mismanagement; to encourage BOMA's consideration and review of our collective opposition to the proposed 50% tax increase; and enlist public participation that would actually reach the Aldermen in an effort to effect BOMA's consideration of the community's opposition to the proposed 50% tax increase, I posted the Facebook post that is attached to the Plaintiffs' Complaint as Exhibit #1.

19. Due to my and other people's advocacy, concerned citizens were able to muster a grassroots effort to voice their opposition to the tax increase and have our opposition heard and considered.

20. BOMA ultimately reduced the proposed tax increase from 50% to 20% before enacting it. The new tax is still burdensome for many, but it would have been

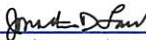
catastrophic at 50%.

21. I assembled the Plaintiffs' cell phone numbers from my time as mayor and from searches on the website [www.whitepages.com](http://www.whitepages.com), a subscription service that is available to any member of the public.

22. The exhibits attached to my contemporaneously filed Tennessee Public Participation Act Petition are authentic.

Further Declarant sayeth naught.

Pursuant to Tennessee Rule of Civil Procedure 72, I declare under penalty of perjury that the foregoing is true and correct.

  
Jonathan Law (Nov 13, 2023 09:05 CST)

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Jon Law, Declarant

Nov 13, 2023

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Date Executed








# Declaration of Jon Law—Nov. 12, 2023

Final Audit Report

2023-11-13

Created:	2023-11-12
By:	Horwitz Law PLLC (daniel@horwitz.law)
Status:	Signed
Transaction ID:	CBJCHBCAABAA-gvaRNnHdrYhHhDttMRTpbhQTSBGxiMy

## "Declaration of Jon Law—Nov. 12, 2023" History

-  Document created by Horwitz Law PLLC (daniel@horwitz.law)  
2023-11-12 - 11:58:39 PM GMT- IP address: 69.226.239.171
-  Document emailed to Jonathan Law (jonlaw2015@gmail.com) for signature  
2023-11-12 - 11:59:10 PM GMT
-  Email viewed by Jonathan Law (jonlaw2015@gmail.com)  
2023-11-13 - 9:39:58 AM GMT- IP address: 66.249.84.68
-  Document e-signed by Jonathan Law (jonlaw2015@gmail.com)  
Signature Date: 2023-11-13 - 3:05:09 PM GMT - Time Source: server- IP address: 66.168.145.218
-  Agreement completed.  
2023-11-13 - 3:05:09 PM GMT

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2023 NOV 15 AM 10:35

USA COURT REPORTERS CLERK  
UNION/2023/NOV/JUVENILE

# Exhibit #5

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**DECLARATION OF DONNA HARTMAN**

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1. My name is Donna Hartman, I have personal knowledge of the facts asserted in this Declaration, and I am competent to testify regarding them.

2. I am the Mayor of the City of Fayetteville.

3. The City of Fayetteville is governed by a seven-member Board of Mayor and Alderman.

4. Dorothy Small, Tonya Allen, and Roger Martinez all serve as Aldermen for the City of Fayetteville.

5. As Mayor, I have communicated with my colleagues—including Aldermen Small, Allen, and Martinez—in their official capacities on their personal cell phones.

6. Prior to May 17, 2023, I told Jon Law, who is a former Mayor of the City of Fayetteville, that I had communicated with my colleagues—including Aldermen Small, Allen, and Martinez—in their official capacities on their personal cell phones and that some city business is communicated to the members of the Board of Mayor and Alderman using personal cell phones.

Further Declarant sayeth naught.

Pursuant to Tennessee Rule of Civil Procedure 72, I declare under penalty of perjury that the foregoing is true and correct.

Donna Hartman  
Donna Hartman (Nov 7, 2023 19:44 CST)

Donna Hartman, Declarant

Nov 7, 2023

Date Executed









# Declaration of Donna Hartman

Final Audit Report

2023-11-08

Created:	2023-11-08
By:	Horwitz Law PLLC (daniel@horwitz.law)
Status:	Signed
Transaction ID:	CBJCHBCAABAAWdt13ovmLbD_v-Rk54FEwLhCp52g4ydc

## "Declaration of Donna Hartman" History

-  Document created by Horwitz Law PLLC (daniel@horwitz.law)  
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-  Document emailed to dkhartman1022@gmail.com for signature  
2023-11-08 - 1:24:57 AM GMT
-  Email viewed by dkhartman1022@gmail.com  
2023-11-08 - 1:25:02 AM GMT- IP address: 74.125.213.45
-  Signer dkhartman1022@gmail.com entered name at signing as Donna Hartman  
2023-11-08 - 1:44:12 AM GMT- IP address: 104.171.214.78
-  Document e-signed by Donna Hartman (dkhartman1022@gmail.com)  
Signature Date: 2023-11-08 - 1:44:14 AM GMT - Time Source: server- IP address: 104.171.214.78
-  Agreement completed.  
2023-11-08 - 1:44:14 AM GMT

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2023 NOV 15 AM 10:36

LISA CONDER SESSIONS, CLERK  
CIRCUIT/SESSIONS/JUVENILE

# Exhibit #6

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**DECLARATION OF TINA SANDERS**

---

1. My name is Tina Sanders, I have personal knowledge of the facts asserted in this Declaration, and I am competent to testify regarding them.

2. I am the second named Defendant in Lincoln County Circuit Court Case No. 23-CV-132, *Dorothy Small, Tonya Allen, and Roger Martinez v. Jon Law and Tina Towry Osgood*, though my legal name is Tina Sanders, not Tina Towry Osgood.

3. I am a business owner on the Historic Square in Fayetteville.

4. I am very concerned about our local tourism, as it affects my business along with other merchants on the square.

5. I have followed my local government very closely. The revenue from tourism helps pay for repairs on all the city parks.

6. Several months ago, I entered Don Davidson Park. I saw vines covering the sign and was very concerned about its poor condition.

7. To bring public attention to the poor condition of Don Davidson Park; to encourage consideration and review of the poor condition of Don Davidson Park by my local Board of Mayor and Alderman; and to enlist public participation in an effort to effect consideration of the poor condition of Don Davidson Park by my local Board of Mayor and Alderman, I posted the Facebook post that is attached in part to the Plaintiffs' Complaint as Exhibit #2.

8. As part of my Facebook post, I copied and pasted the phone numbers of my local government officials verbatim from an earlier public post that I saw by Jon Law, the former Mayor of Fayetteville.



9. At the time of my post, we were barely a month away from the July 4th celebration in Don Davidson Park.

Further Declarant sayeth naught.

Pursuant to Tennessee Rule of Civil Procedure 72, I declare under penalty of perjury that the foregoing is true and correct.

  
Tina Sanders (Nov 9, 2023 20:56 CST)

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Tina Sanders, Declarant

Nov 9, 2023

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Date Executed







# Declaration of Tina Sanders

Final Audit Report

2023-11-10

Created:	2023-11-09
By:	Horwitz Law PLLC (daniel@horwitz.law)
Status:	Signed
Transaction ID:	CBJCHBCAABAAEUPkmpYGU-YqPSMeHnWUHZ3O5LX2mY5

## "Declaration of Tina Sanders" History

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2023-11-09 - 6:09:44 PM GMT
-  Email viewed by ivywreath@hotmail.com  
2023-11-10 - 2:41:57 AM GMT- IP address: 104.171.214.101
-  Signer ivywreath@hotmail.com entered name at signing as Tina Sanders  
2023-11-10 - 2:56:11 AM GMT- IP address: 104.171.214.101
-  Document e-signed by Tina Sanders (ivywreath@hotmail.com)  
Signature Date: 2023-11-10 - 2:56:13 AM GMT - Time Source: server- IP address: 104.171.214.101
-  Agreement completed.  
2023-11-10 - 2:56:13 AM GMT



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LISA CORRETTA SIMMONS, CLERK  
CIRCUIT/SESSIONS/JUVENILE

# Exhibit #7

# Board Of Mayor & Alderman



The City of Fayetteville is governed by a seven member Board of Mayor and Alderman. The Mayor is elected at large every four years. Aldermen serve four year staggered terms and are elected at large. The Board of Mayor and Alderman meet every second Tuesday of the month at 5 PM. All board meetings are livestreamed and available online from Fayetteville's YouTube Channel [here](#).

DEFENDANT'S  
EXHIBIT

7

# Donna Hartman

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## City Mayor

Phone: (931) 433-6154

Email: [dhartman@cof-tn.com](mailto:dhartman@cof-tn.com)

## Boards & Committees

Beverage Board

Finance & Audit Standing Committee

Industrial Development Board

Fayetteville Public Utilities Board

Planning Commission Board



# Danny Bryant

---

## Vice Mayor

Phone: (931) 433-6154

Email: [dbryant@cof-tn.com](mailto:dbryant@cof-tn.com)

## Board & Committees

Public Works Standing Committee

IT & Planning Standing Committee

Industrial Oversight Board

Planning Commission



# Jeff Alder

---

## Alderman

Phone: [\(931\) 433-6154](tel:(931)433-6154).

Email: [jalder@cof-tn.com](mailto:jalder@cof-tn.com)

## Board & Committees

Finance and Audit Standing Committee  
Fayetteville City School Board  
IT & Planning Standing Committee  
Library Board



# Dorothy Small

---

## Alderman

Phone: [\(931\) 433-6154](tel:(931)433-6154).

Email: [dsmall@cof-tn.com](mailto:dsmall@cof-tn.com)

## Boards & Committees

Beverage Board  
Industrial Oversight Committee  
TV & Cable Committee



# Tonya Allen

---

## Alderman

Phone: [\(931\) 433-6154](tel:(931)433-6154)

Email: [tallen@cof-tn.com](mailto:tallen@cof-tn.com)

## Board & Committees

Police and Fire Standing Committee

Recreation Standing Committee

Industrial Oversight Committee

Chamber of Commerce Board



# Jacob Painter

---

## Alderman

Phone: [\(931\) 433-6154](tel:(931)433-6154)

Email: [jpainter@cof-tn.com](mailto:jpainter@cof-tn.com)

## Board & Committees

Main Street

Beverage Board

Police & Fire Standing Committee

Parks & Recreation Standing Committee

# Roger Martinez

---



## Alderman

Phone: (931) 433-6154

Email: [roger.martinez@cof-tn.com](mailto:roger.martinez@cof-tn.com)

## Board & Committees

TV & Cable Committee

Finance Standing Committee

FPU Board

Public Works Committee