



SCOTT, SULLIVAN, STREETMAN & FOX, P.C.

ATTORNEYS AT LAW

WILLIAM A. SCOTT, JR.¹
 CARROLL H. SULLIVAN
 JAMES P. STREETMAN, III²
 ANTHONY N. FOX
 JOSEPH E. STOTT³
 GEORGE M. ZOGHBY
 WADE G. MANOR²
 FREDDIE N. HARRINGTON, JR.
 M. JANSEN VOSS
 ROBERT M. RONNLUND
 CHRISTOPHER L. GEORGE⁴
 C. PAIGE HERRING⁵
 CARTER R. HALE
 J. SCOTT ROGERS²
 CLYDE L. "CHANEY" NICHOLS, III²
 JEREMY D. HAWK²
 LEAH L. LEDFORD²
 BARBARA J. MEEKS²
 JAMES L. BANKS IV²
 ANDREW J. CLARK^{1,2}
 JAMIE L. HEARD^{2,6}

2450 VALLEYDALE ROAD
 BIRMINGHAM, ALABAMA 35244-2015

POST OFFICE BOX 380548
 BIRMINGHAM, ALABAMA 35238-0548

(205) 967-9675
 TELECOPIER (205) 967-7563

WATS (800) 955-8678

WRITER'S E-MAIL
RONNLUND@SSSANDE.COM

August 8, 2017

MOBILE ALABAMA OFFICE:
 10TH FLOOR
 REGIONS BANK BUILDING
 56 ST. JOSEPH STREET
 MOBILE, ALABAMA 36602
 (251) 433-1346
 TELECOPIER (251) 433-1086
 WATS (800) 239-6733

JACKSON, MISSISSIPPI OFFICE:
 725 AVIGNON DRIVE
 RIDGELAND, MISSISSIPPI 39157
 (601) 607-4800
 TELECOPIER (601) 607-4801

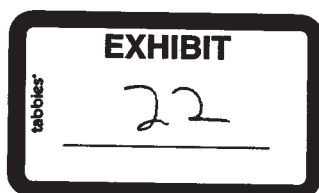
¹ ALSO MEMBER OF TENNESSEE BAR
² MEMBER OF MISSISSIPPI BAR ONLY
³ ALSO MEMBER OF GEORGIA BAR
⁴ ALSO MEMBER OF FLORIDA BAR
⁵ ALSO MEMBER OF MISSISSIPPI AND
 GEORGIA BAR
⁶ ALSO MEMBER OF TEXAS BAR

Hon. Carole Smitherman
 Jefferson County Courthouse
 716 Richard Arrington Jr. Blvd.
 Birmingham, AL 35203

RE: *Burt W. Newsome v. Cooper, Balch & Bingham, John W. Bullock, Jr.
 Claiborne Porter Seier*
 In the Circuit Court of Jefferson County CV-2015-900190

Dear Judge Smitherman,

I am writing to you today in response to your request for additional proposed orders related to the pre-trial publicity and/or case confidentiality, as well as bring you up to speed on some additional developments in the case that I believe you should be aware of as you make your decision on this issue. As someone who does not regularly practice in the area of First Amendment law, I frankly do not consider myself to have the expertise necessary to draft an Order for the Court that I feel confident would both address the issues set forth below and withstand an appeal. My client accordingly adopts and joins in the motion and proposed order submitted by Balch & Bingham. I do not know if there is anything more or additional that the Court can do to address these issues but, as I will set forth below, I have grave concerns about the active subversion of our potential jury pool that is currently being undertaken in this case. The current protective order is being tested (if not blatantly disregarded), and stronger action is clearly needed.



Judge Smitherman
August 8, 2017
Page 2

Herewith, I include the latest missive from the “BanBalch” website providing commentary on behalf of the Plaintiff related to recent developments in this case. **This post directly questions and impugns the credibility of the parties and their attorneys of record in this case, local law enforcement, and even the Court itself.**

As context, I noticed and completed the deposition of Verizon Wireless last week. While this deposition was completely unnecessary in my opinion given the other information received on the issue of this telephone routing number, 205-410-1494, we were forced to complete the deposition (at significant expense) to prove these facts up in admissible form. As we expected, the deposition testimony confirmed that the supposed “lynchpin” of Plaintiffs’ conspiracy allegations – the phone number 205-410-1494 – was nothing more than an internal Verizon Wireless routing number, and that all that number meant in the context of the Defendants’ phone bills was that they had received a call from a non-specific Verizon Wireless subscriber. It did not mean that these calls originated from a specific number, and it confirmed that the number was not connected to Mr. Gottier or any other party to this case. The number has not belonged to any individual, nor has it been used for any purpose other than a Verizon routing number since at least 2007. I am providing the Court with a copy of that transcript, wherein I have highlighted some of the relevant sections from the deposition setting this out in further detail.

On cross-examination of the Verizon representative, Mr. Newsome (who personally conducted the deposition on behalf of the Plaintiffs) raised a number of points in an effort to attack the clear and unambiguous testimony given by the witness in these regards. Specifically, Newsome:

- (1) Questioned the witness’s identity and credentials (Deposition of Jason Forman at pp. 21-23);
- (2) Questioned the location of the deposition (which was held at another building across the parking lot and in the same office complex as the Verizon Security Assistance Team offices in Bedminster, New Jersey) (Deposition of Jason Forman at p. 22);
- (3) Questioned why the witness voluntarily appeared pursuant to a deposition notice issued by my office versus being compelled to attend via a unilaterally issued subpoena (Deposition of Jason Forman at pp. 6; 25-27);
- (4) Questioned why the witness appeared on an expedited basis (Deposition of Jason Forman at p. 29); and
- (5) Questioned whether or not the Calera Police Department had instructed Verizon to suppress information related to the subject phone number/routing number to

Judge Smitherman

August 8, 2017

Page 3

support the Defendants' contentions in this case (Deposition of Jason Forman at pp. 45-47).

I would urge the Court to compare these lines of questioning to the substance of the latest "BanBalch" post, wherein the author identically:

(1) Questioned the witnesses' identity and credentials ("Was the July 31st Verizon deposition in New Jersey bogus or not and if the person testifying was truly a person sanctioned to do so or not?" and "Was the person testifying truly who he or she said they were or could it have been an imposter?");

(2) Questioned the location of the deposition ("The video-taped sealed deposition supposedly took place at a Regus Center (a rent by the hour office space facility) in Bedminster, New Jersey (pictured above)...That raised a huge red flag because Verizon has the facilities and technology to do depositions on their premises.");

(3) Questioned why the witness voluntarily appeared pursuant to a deposition notice issued by my office versus being compelled to attend via subpoena ("Then a notice of a questionable deposition with a Verizon corporate representative (occurring with NO SUBPOENA and less than 48 hours' notice) was filed on Thursday afternoon. According to Alacourt.com, NO subpoena for Verizon was ever filed with the court.");

(4) Questioned why the witness appeared on an expedited basis (See previous quote); and

(5) Questioned the witness about whether or not the Calera Police Department had instructed Verizon to suppress information related to the subject phone number/routing number to support the Defendants in this case ("Last week, a filing including [sic] a highly questionable Calera (Alabama) Police Department document, we began seeing the alleged narrative that the (205) 410-1494 number was not a cell phone but a 'routing switch.' "; "Is corrupt law enforcement working with the co-conspirators across state lines?"; and "Have records and information stored about the prepaid cell number 205-410-1494 internally at Verizon been intentionally manipulated, changed, modified, or destroyed?").

Despite the clear evidence adduced from Mr. Forman on behalf of Verizon during this deposition (as well as the clear rebuttal of these points of contention by the witness and the refusal to budge from his original testimony), the website then goes so far as to call this Honorable Court's own credibility into question by stating:

Judge Smitherman

August 8, 2017

Page 4

“After the sealed deposition with Verizon took place on Monday July 31st, Balch filed a motion to dismiss Newsome’s amended complaint calling the cell phone number allegation a “‘falsity’ and the judge, this week, **without a hearing**, signed the order.

In less than a week, the key witness— (205) 410-1494— was assassinated, cremated, and buried. **Slam dunk or can you say the fix was in?** (Some emphasis in original, underlined emphasis supplied).

Judge Smitherman, clearly this has gone much, much too far. As I said when we were last in Court regarding this number, we believed that this was some type of internal phone number owned by Verizon (based on initial information that I had obtained from AT&T’s legal team), but I also said that we supported discovery on the issue and that I was more than happy to “give the Plaintiffs all the rope they needed to hang themselves with.” Recall that Plaintiffs’ counsel responded to that offer by stating that they would either “happily” or “gladly” accept all of the rope offered to them.

We are now at the point, however, where that rope has snapped taught and the newest falsity asserted against the Defendants in this case has been exposed for its true nature. It is certainly not the first such false allegation that has been presented and rebutted in this case, and I fear it also will not be the last.

In response to this rebuttal, we then see nothing more than an escalation of the vitriol being publicized, and the similarities between the questions posed by the Plaintiffs and the statements issued by this supposedly unconnected third-party are too similar to have occurred by mere coincidence. Again, our current protective order is certainly being tested, if not ignored.

Combined with the fact that ads for this website are being paid to specifically appear on Facebook, Google and other ad promotion services for people who live in the ZIP codes from which our jury will be drawn, these actions give me an extreme amount of heartburn – both as an attorney-of-record for one of the parties in this particular case and an officer of this Court generally – about how we could ever have a fair trial given these circumstances. This is to say nothing of TV advertisements, which we also know have been run on local TV. We have now gone beyond a merely slanted version of facts related to this case, to accusations of outright fraud and malfeasance against (1) the parties and their counsel; (2) neutral witnesses appearing to provide objective facts; (3) local law enforcement; and, most shockingly, (4) even this Court – none of which have any factual

Judge Smitherman

August 8, 2017

Page 5

grounding in reality. Even if jurors try not to research this case and stumble across these posts (a longshot as the Court is well aware), the advertising being done will put it right in front of their face regardless.

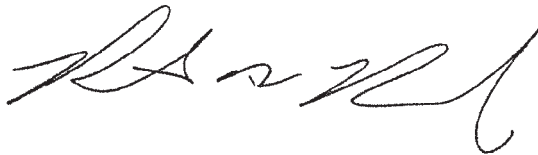
We will be filing a Motion for Summary Judgment shortly asking for the Court to dismiss this case as to my client, Claiborne Seier. In the event that the Court finds some issue of material fact exists warranting trial, however, I fear that we will be forced to move for a change of venue and some kind of gag order. I understand that both of these steps are both highly unusual and disfavored at law, and that serious Constitutional concerns are implicated. I also personally do not want to take this type of extreme action, given the cost and delay that it could entail for my client, who is having to fund his defense out-of-pocket. At the same time, I do not see how we could do anything else (save for attempting to jump off into the mud pit with the Plaintiffs) to combat these actions and ensure a fair and impartial result for my client.

I appreciate the sensitivity that you have shown to these issues, and know that you have a broad knowledge base to draw from due to your history both working and teaching in these areas of law. In considering these issues, however, I wanted to make sure that you have a full sense of situation in which we currently find ourselves, and we would reiterate our request that the Court take the strongest measures that it feels would be appropriate to address this very troubling situation.

I appreciate your time and consideration in this matter. Please do not hesitate to contact me with any questions or concerns.

Yours truly,

SCOTT, SULLIVAN, STREETMAN & FOX, P.C.



Robert M. Ronnlund

RMR/crg

cc: Claiborne P. Seier, Esq.
All counsel of record (via email)