

**March 16, 2016, Seguin, Texas**

**Judge Grants Motion to Dismiss in the Avery v Hearst Libel Lawsuit.**

Judge Bud Kirkendall, 2nd 25th Judicial District Court, Guadalupe County, Texas found that the Avery v. News Reporter, Baddour and Hearst Communications, Inc., owner of the Houston Chronicle, case should be dismissed.

Defendants filed a Motion to Dismiss under the provisions of the so-called "Texas Citizen Participation Act," purportedly designed to discourage lawsuits against those in the process of exercising their Constitutional Rights of Free Speech, Petition, and Association. This Act was to have discouraged SLAPP suits or Strategic Lawsuits Against Public Participation.

The Defendant Baddour wrote a news article five months after the event he covered that appeared on-line at HoustonChronicle.com on 9/13/16 (Patriots' day) and on the Front Page of the Houston Chronicle the next day that was built upon a false cornerstone:

1. He first said that a group calling themselves the "Republic of Texas" (ROT) is a "secessionist organization."
2. Then in the on-line article he made a link between them and a real group of professing secessionists called the "Texas Nationalist Movement" (TNM). The link was entitled "Putin's Plot to get Texas to Secede." The Putin link talked about a member of the TNM that went to Russia to meet with Far Right Fascists and Neo-Nazis.
3. Then he added a link to another article entitled "The Growing Right Wing Terror Threat" which said that actual right wing terror attacks in America are now worse than Muslim terror attacks.
4. Then Baddour went even further and provided another link to a Department of Homeland Security (DHS) Intelligence and Assessment (IA) report about the "Sovereign Citizen Extremist" ideology in America that will drive violence at home, during travel and at government facilities.
5. Baddour said this IA added to the tension resulting in the raid upon the ROT in February of 2015 in Fredericksburg, Texas.

**The facts in this case are:**

1. Avery is not and never has been a member of the ROT.
2. The ROT is not a secessionist organization.
3. Avery is not a secessionist.
4. The ROT are not right wing or left wing.
5. Avery is not right wing or left wing.
6. Avery has been against secession since 2003 and has been interviewed by radio shows and national newspapers as being against secession and explaining the reasons why it is inappropriate for the conditions present at this time.
7. The ROT has spoken against secession and opposes it on their website.

8. The main definition of libel is the telling of false facts about someone that exposes them to public hatred. Facts are on record showing two individuals saying that the ROT and Avery, by association, should be sent to GITMO to be given the enhanced interrogation. That is public hatred on record.
9. To this very day the Plaintiff is shown photographically and by caption as a member of the ROT and thereby connected to all those linked characterizations that produced the public hatred.

### **Further Results of Dismissal:**

1. Attorneys fees are also mandatory under the provisions of the TCPA.
2. The Act also allows the Court to award Sanctions to prevent the Plaintiff from ever filing a SLAPP suit in the future.
3. The Act also provides for an accelerated appeal for both parties and an interlocutory appeal for defendants.

### **One final important note:**

It is a known fact that news reporters like Defendant Baddour are forbidden to participate in the public events they cover and write about such as the one he was sued for by Plaintiff. Further, the news reporter cannot express their own freedom of speech in the articles they write about events they cover. The only way they can "publicly participate" is by taking part in the events they cover and/or express their opinions, obvious to the reader, in the articles they write. Without this participation in events and obvious expression of opinion rather than fact, a news reported cannot be a "citizen participant" by their own professional ethics. This is why the so-called TCPA is flawed. It does not accomplish its mission and, in fact, is easily used against the very people that need the protection from the agenda driven monolithic major media corporations that serve the interest of government.

God knows that this lawsuit was not filed to prevent Defendants from exercising their Constitutional Rights of Free Speech, Petition and Association and in fact there is no evidence on record of them attempting to do so. There only evidence to use this Act is that they wrote and article for which they were sued. If that's all a news paper must show to initiate this Act then the citizen is screwed once again by legislators and lawyers.

See it all at: <http://PostWTC.com/avc.html>

For a complete summary of this case see Plaintiff's Outline of Oral Argument at LH menu # 18.