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January 18, 2024

VIA E-FILE

The Honorable Lee Gabriel
c/o 16th Judicial District Court
Denton County Courthouse
1450 E. McKinney St.
Denton, Texas 76209

RE: Cause No. 23-11468-431; Carrie de Moor, M.D. vs. Brent Allison Hagenbuch, *et al.*

Dear Justice Gabriel:

After reviewing Defendant Hagenbuch's First Supplement to his Plea to the Jurisdiction, General Denial, Rule 91A Motion to Dismiss, and Original TCPA Counterclaim filed on Tuesday afternoon, Plaintiff has identified the following cases we anticipate will be relevant and to which we will refer during the hearing scheduled for tomorrow.

1. *Texas v Doe*, 61 S.W.3d 99 (Tex. App. – Dallas, 2001) (This statute requiring disclosure of advertiser identity is not drafted narrowly enough to withstand strict scrutiny, but State has a compelling interest in preventing electoral corruption.)
2. *Hand v. Hughey*, 2016 WL 1470188 (Tex. App. – Ft. Worth, 2016) (A *prima facie* showing of each essential element of the claim in question results in a denial of a motion to dismiss filed under T.C.P.A.)
3. *Ex parte Stafford*, 667 S.W.3d 517 (Tex. App. – Dallas, 2023) (Concerning content-based, statutory restriction on political speech. "Despite the strong protection for political speech under the First Amendment, the Supreme Court has acknowledged that a state interest in preventing fraud 'carries special weight during election campaign when false statements, if credited, may have serious adverse consequences for the public at large....' A State indisputably has a compelling interest in preserving the integrity of its election process.").

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4. *Eu v. San Francisco County Democratic Central Committee*, 489 US 214 (1989). (A law that burdens First Amendment constitutional rights can survive constitutional scrutiny, but only if the law advances a compelling state interest and is narrowly tailored to serve that interest. A state may regulate the flow of information when necessary to prevent fraud and corruption.)
5. *Burson v. Freeman*, 504 US 191 (1991). (A law prohibiting campaigning within 100 feet of a polling site, served a compelling state interest by preventing voter intimidation and election fraud, therefore passing constitutional muster.)

We wanted to bring these cases to the attention of the Court and the Defendants before tomorrow's hearing in the interest of efficiency and to allow for proper preparation. We look forward to receiving any questions from the Court at tomorrow's hearing

Sincerely,



Jack Stick

JS/cm

cc: All Counsel of Record

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