In the SUPREME COURT OF ALABAMA

Ex Parte MYRON ALLENSTEIN, *et al.*,	)	
	)	
Petitioners,	)	
	)	ALA. SUP. CT. Case
Ex Parte JEFFREY WRIGHT, *et al.*,	)	No. _____
Petitioners,	)	
	)	
Re:	)	
	)	
MYRON ALLENSTEIN, *et al.*,	)	Etowah Circuit
	)	Court Nos.
v.	)	CV-12-900784;
	)	CV-12-900782
A-1 EXTERMINATING COMPANY, INC., *et al.*	)	(CONSOLIDATED)
	)	Hon. William Rhea
JEFFREY WRIGHT, on behalf of himself and others similarly situated	)	
	)	
v.	)	
	)	
A-1 EXTERMINATING COMPANY, INC., *et al.*	)	

PETITION FOR A WRIT OF MANDAMUS TO THE CIRCUIT COURT OF ETOWAH COUNTY, ALABAMA

ORAL ARGUMENT REQUESTED

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ORAL ARGUMENT IS REQUESTED

This is a petition for mandamus seeking reversal of a prior restraint of unparalleled breadth. Counsel believe that oral argument will assist the Court in elucidating the relevant legal principles and deciding how they apply to the facts of this case.

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Petitioners, the plaintiffs and their lawyers and law firm below in a mass action and a class action consolidated by the trial court, file this petition for a writ of mandamus pursuant to Rule 21(a) of the Alabama Rules of Appellate Procedure. Petitioners seek review of two orders entered by the Circuit Court of Etowah County, Alabama (Hon. William Rhea) on January 7 and January 22, 2014, which restrained the constitutionally protected speech of Plaintiffs, their lawyers, and their lawyers' firm. EXA25 at 294; EXA28 at 315.[1]

The principal order at issue, although styled as a "protective order," is in fact a prior restraint of unprecedented breadth, forbidding plaintiffs and their counsel from speaking publicly or even privately about defendants A-1 Exterminating *et al.* EXA24. The prior restraint was entered without any of the findings required both by Alabama Rule 65 and by the First Amendment, without any supporting evidence apart from the fact that statements had been made, and without

[1]Exhibit A is the affidavit of D.K. McGowin, which compiles the record and attests its authenticity. The record is preceded by a table of contents with exhibit numbers, the name of the party filing the document, the name of the document, and the date it was filed. Each page of the record is stamped consecutively from page 1 to 690 for ease of reference. For example, the citation "EXA2 at 35" refers to Exhibit Number 2, at page 35.

affording plaintiffs or their counsel the opportunity to offer evidence showing the impropriety of the restraint. Defendant offered three separate reasons for the restraint – that plaintiffs' statements were allegedly false and defamatory, that plaintiffs' counsel were advertising their services to potential new clients, and that further public statements could possibly prejudice the jury that might be selected to try the case. EXA7 at 132; EXA13 at 193; EXA15 at 210; EXA20 at 235; EXA23 at 253; EXA24 at 292.[2] None of these reasons is sufficient to justify the order, which violates the strict First Amendment rule against prior restraints, and which should, therefore, be overturned forthwith.

The Court should grant this petition and issue the writ because petitioners have a clear legal right to the relief sought. The orders are facially, constitutionally overbroad and were entered without any evidence or opportunity to present countervailing evidence. For these and the reasons explained below, this Court should issue the writ and require the Circuit Court of Etowah County to vacate its orders of

[2] See summary of and objections to A-1's arguments at EXA33 at 461-473 (Aff. McGowin); EXA12 (Opposition to Motion for Protective Order); EXA17 (Supplemental Opposition); EXA32, 35, 39.

January 7 and 22, 2014.

JURISDICTION

The Court has jurisdiction to consider the merits of this petition for a writ of mandamus pursuant to section 12-2-7 of the Code of Alabama (1975).

The petition is timely. The trial court entered the orders constituting prior restraints, which are the subject of this petition, on January 7 and January 22, 2014. This petition was timely filed on February 18, 2014, within the "presumptively reasonable" period of forty-two (42) days as prescribed in Rule 21(a)(3) of the Alabama Rules of Appellate Procedure.

STATEMENT OF ISSUES

1. Should the "protective orders" below be vacated as constitutionally impermissible prior restraints?

2. Do the orders issued below violate the requirement that injunctions against speech be narrowly tailored to limit no more speech than needed to remedy violations that have been found?

3. Were the procedures used in adopting the orders under review defective in that the injunctions do not set forth findings of fact and the reasons for their issuance, and

because plaintiffs and their counsel were not given an opportunity to present evidence and argument opposing the proposed injunctions?

STATEMENT OF FACTS AND PROCEEDINGS BELOW

Petitioners are more than one hundred citizens of Alabama as well as their attorneys, Thomas F. Campbell, D. Keiron McGowin and their firm, Campbell Law PC, who have brought a mass action and a putative class action against respondents A-1 Exterminating, A-1 Insulating, Wrenn Enterprises, and other defendants (collectively identified here as "A-1") for promising but not providing effective termite treatment in breach of contract, violation of statutory standards, and other claims. EXA1 at 1 (*Allenstein* mass tort action); EXA4 at 81 (Wright class action).

The two actions, which were consolidated before Etowah County Circuit Judge William H. Rhea, III (EXA 10 at 158), both allege that A-1 Exterminating and related entities and individuals systematically provided substandard professional advice and prescriptions and prevention services relating to subterranean termite customers with renewable guarantees. EXA1, 4. Plaintiffs' counsel learned an extraordinary amount of information about Defendants in prior litigation against

A-1 including but not limited to a case that was tried almost to conclusion in Etowah County in early 2012 before settling for a confidential but very substantial sum.[3] One allegedly wrongful practice involves spraying a weak pesticide solution at statutorily-required annual inspections instead of making thorough inspections and remediating prior failures to apply appropriate preventive treatments. A-1 allegedly caused a stir with the plaintiffs and potential class members when, after the settlement of the other case, its president sent letters to its entire customer base admitting that the practice of annual spraying was not, in fact, a termite prevention treatment. EXA33 at 463 (McGowin Affidavit in support of Plaintiffs' Rule 59 Motion at ¶8); EXA33 at 531 (A-1's letter). It is A-1's own letter that prompted the Campbell Law P.C. story about which A-1 complains. EXA33(2)and (4)

The mass action case (EXA 1 at 1-2) includes more than 100 individual plaintiffs and the class action includes a claim that a "limited fund" class should be certified under Ala. R. Civ. P. 23(b)(1)(B) because the damages of the proposed class of current and former termite customers exceeds

[3]Wynelle Robinson v. A-1 Ext. Co., Inc., et al., CV10-900384, Hon. David A. Kimberly.

the assets available from the defendants and their insurers. EXA 4 at 81.

To investigate the claims, find witnesses, and inform other A-1 customers that they may have rights that can be vindicated in court, the Campbell firm has publicly described the litigation using social media sites such as Facebook, the firm's own web site, and communications with the media. The trial court has yet to establish a schedule for the litigation.

Defendant A-1 moved quickly to preempt plaintiffs' effort to investigate the case or, indeed, to communicate with other victims of A-1's alleged misconduct. Based on a loose concatenation of arguments about defamation, solicitation of clients, and prejudicial pretrial publicity, A-1 filed a motion on March 5, 2013, asking the trial court to enjoin plaintiffs, and well as their lawyers, from making any communications about the case or its "surrounding circumstances" except in court. EXA 7 at 132. The motion contained several examples of the statements that A-1 hoped to enjoin, but provided no evidence of falsity, of advertising that went beyond the bounds protected by Rule 3.6 of the Alabama Rules of Professional Conduct and by the First

Amendment, or of potential prejudice to a fair trial. *Id.* Over the ensuing several months, A-1 submitted several supplements to its motion for an injunction, supplying additional examples of speech that defendants deemed objectionable, but still providing no evidence to support its vague claims that any extrajudicial statements were false or misleading, or that they threatened the court'‘ ability to guarantee a fair trial. EXA 13, 15, 20, 23. Plaintiffs and their counsel repeatedly asked the trial court to schedule a hearing at which they could offer evidence and argument in defense of their First Amendment rights. However, no hearing was held. EXA2 and EXA5 (case action summaries); EXA33 at 432-433 (Campbell Affidavit ¶¶ 5 to 11).[4]

Although the initial order at which this mandamus

[4] Plaintiffs had evidence they could have presented to refute A-1's argument of untruthfulness, had they been allowed to have a hearing. EXA12 at 160 (PLs' Oppo. To Mtn. PO with some evidence attached and stressing the importance of notice and hearing); EXA17 (PLs' Reply to DFs' further supplements with evidence attached); EXA27 (PLs' Oppo. To Mtn. to Comply with Gag Order with some evidence attached and pointing out the vagueness and illegality of the order and lack of support to enter it); EXA29 (Ntc. Of Compliance with Gag Order pointing out same deficiencies in order and process); EXA30 (PLs' Mtn. Stay pointing out same); EXA31 (PLs' Mtn. Disclose ex parte Communications pointing out same); EXs A32, A33, A35, A36, A39 (PLs' Rule 59 Mtn. and related with substantial evidence of the truthfulness of statements).

petition is directed recites that the matter "came on to be heard," the Court's docket sheet and the record shows that no hearing was held. EXA2 and A5; EXA33 at 423-433. The order was entered within a week after defendants filed a "Third Supplement" to the Motion for Protective Order, attaching additional statements to which defendants objected. EXA2 at 47 (12/31/13 to 1/7/14); EXA23. Defendants submitted a new and broader proposed order along with the third supplement. EXA24. However, the docket sheet shows no hearing in the days between filing the "supplement" and proposed order and the entry of the proposed order. *EXA 2, 3, 5, 6.* The proposed order as drafted by defendants' counsel (EXA 24) assumed a hearing would be held but none was held and the Campbell affidavit avers that no effort was made to schedule a hearing at all. EXA33 at 423-433 (Campbell Aff.). Moreover, even when hearings were noticed, the court below would announce either that it was not prepared to move forward or that the agenda for a hearing on pending motions would not be followed. Id.; See, e.g., EXA11 (order setting hearing for 8/8/13) and EXA14 (order after 8/8/13 hearing does not mention protective order). Campbell's efforts to obtain transcripts of hearings were thwarted by the Court's failure to rule on motions to

permit transcription of hearings. EXA33 at 423-424 (Aff. Campbell 6); EXA40. At one of the scheduling conferences, **no** action was taken because local counsel for the defendants had been excused from attendance at a previous, ex parte hearing with the Court; hence the hearing was useless. *Id.* EXA 33 at 433-434 footnote 1.

Instead of holding a hearing, on January 7, 2014, Judge William H. Rhea issued a "protective order" in the form drafted by A-1, stating that "Plaintiffs and Plaintiffs' Counsel are . . . barred and enjoined from extrajudicial references to the circumstances" of the case. EXA25. The order instructed counsel to "remove all mention of the above-styled cases and the surrounding circumstances . . . from its website, Facebook page, social media . . . and related web search engines. Plaintiffs and Plaintiffs' counsel are otherwise ordered to refrain from referencing this case and/or its surrounding circumstances outside of court." *Id.* The order was so broad that, read literally, it forbade plaintiffs from talking with each other or with their counsel, and forbade counsel from talking to existing clients or potential witnesses, from discussing the case with opposing counsel out of court, or even from contacting other attorneys to request

their assistance in seeking to overturn the order.

On January 13, 2014, contending that petitioners had taken insufficient steps to comply with the January 7 order, A-1 filed a motion to compel immediate compliance. That motion was granted on January 22, 2014, again without any hearing or a chance for plaintiffs to respond.

On February 5, plaintiffs and their counsel moved Judge Rhea to reconsider or at least narrow his order, and sought a stay of the order pending appellate review. EXA30, EXA 32. Counsel also sought transcripts of prior court sessions from the trial court's in-house reporter, seeking to build an appellate record. EXA33 at 423-424; EXA40. Those motions are pending.

STANDARD OF REVIEW

Because petitioners raise objections based on the First Amendment, this Court conducts an independent review based on the record as a whole, rather than applying a deferential standard of review. *Bose Corp. v. Consumers Union*, 466 U.S. 485, 505-511 (1984). Moreover, petitioners contend that the court below committed errors of law, which are reviewed de novo. *Ex parte Capstone Bldg. Corp.*, 96 So.3d 77, 81 (Ala. 2012).

REASONS FOR GRANTING THE WRIT

THE "PROTECTIVE ORDER" IS AN IMPERMISSIBLE PRIOR RESTRAINT, ENTERED IN VIOLATION OF THE FIRST AMENDMENT WITHOUT ANY JUSTIFICATION IN THE RECORD, WITHOUT ANY SUPPORTING FINDINGS, AND WITHOUT THE OPPORTUNITY FOR A HEARING.

A. A Writ of Mandamus Should Be Issued Because the Order Under Appeal Is an Impermissible Prior Restraint.

This Court will issue a writ of mandamus where "there is (1) a clear legal right of the petitioner to the order sought; (2) an imperative duty upon the respondent to perform, accompanied by a refusal to do so; (3) the lack of another adequate remedy; and (4) properly invoked jurisdiction of the Court." *Ex parte Consolidated Pub. Co.*, 601 So.2d 423 (Ala. 1992). Here, as in *Consolidated*, First Amendment law places the burden of justifying the prior restraint issued below on respondents, at whose behest the prior restraint was issued.

A judicial order that forbids speech in advance of its utterance, placing the speaker under pain of punishment for contempt without even the opportunity to show that his speech was proper, is a prior restraint, even if it is a permanent injunction entered after a full trial on the merits. *Alexander v. United States*, 509 U.S. 544, 550 (1993); *Doe v. Roe*, 638 So.2d 826, 827 (Ala. 1994). Prior restraints are forbidden

by the First Amendment except in the most extreme circumstances. *Nebraska Press Ass'n v. Stuart*, 427 U.S. 539, 559 (1976). A prior restraint on pure speech can be justified only if the speech to be forbidden threatens a constitutional value even more precious than the First Amendment. *Procter & Gamble Co. v. Bankers Trust Co.*, 78 F.3d 219, 227 (6th Cir. 1996). Such countervailing values as national security interests, *New York Times Co. v. United States*, 403 U.S. 713, 714 (1971), or the protection of reputation, *Organization for a Better Austin v. Keefe*, 402 U.S. 415, 418 (1971), or the protection of litigation against public pressure, *U.S. v. Columbia Broadcasting System*, 497 F.2d 102 (5th Cir. 1974), or the need for orderly processing of class actions, *Bernard v. Gulf Oil Co.*, 619 F.2d 459, 474 (5th Cir. 1980) (*en banc*), have all been held to be insufficient justification for prior restraints.

Although the trial judge's failure to provide any explanation or issue any factual findings in support of his order impedes review, it can be said with assurance that not one of the three justifications that defendants advanced in favor of their proposed order is sufficient to justify the order that was entered. The main reason given below in the

motion for a protective order, and the supplemental filings, was that plaintiffs' counsel were supposedly making false and defamatory statements that could discourage potential customers from using A-1's services, potentially depriving it of profitable business. EXA7 at 132, 134; EXA15 at 211; EXA20 at 236-238; EXA23 at 255. But the Supreme Court of the United States has squarely held that a preliminary injunction to prevent defamation that impedes a business is an impermissible prior restraint. *Organization for a Better Austin*, 402 U.S. at 418. "No prior decisions support the claim that the interest of an individual in being free from public criticism of his business practices in pamphlets or leaflets warrants use of the injunctive power of a court." *Id.* at 420. If defendants believe that they have a cause of action for defamation against plaintiffs' counsel, they could file an action for defamation and make the constitutionally required showings of falsity and actual malice. But their prior restraint should be reversed.

A second justification that pervaded A-1's motion papers in support of the order under review is the contention that plaintiffs' counsel were improperly advertising their services. Even if this were a fair characterization of

counsel's speech, that would not be a justification for the order. *Virginia Pharmacy Board v. Virginia Consumer Council*, 425 U.S. 748, 758-770 (1976); *Bates v. State Bar of Arizona*, 433 U.S. 350, 383 (1977). The Supreme Court has specifically upheld lawyers' right to advertise in the mass media to tell consumers about their rights vis-a-vis particular defendants and products. *Zauderer v. Office of Disciplinary Counsel,* 471 U.S. 626 (1985). Particular advertisements may be enjoined if they are deceptive or misleading, *Friedman v. Rogers*, 440 U.S. 1, 9 (1979), but A-1 presented no evidence below that the extra-judicial statements of counsel were in any way false or misleading.

The third reason given below for the issuance of a prior restraint was that counsel's communications could pollute the jury pool and make it impossible for A-1 to obtain a fair trial. But lawyers do not surrender their First Amendment rights at the courthouse door, even when they wish to speak about the litigation in which they are engaged. *Gentile v. State Bar of Nevada*, 501 U.S. 1030, 1066 (1991); *Chicago Council of Lawyers v. Bauer*, 522 F.2d 242, 249-253 (7th Cir. 1975). "[T]here must be an imminent, not merely a likely, threat to the administration of justice. The danger must not

be remote or even probable; it must immediately imperil." *Bernard v. Gulf Oil Co.*, 619 F.2d at 474; *U.S. v. Columbia Broadcasting System*, 497 F.2d at 104. Moreover, in Alabama, before pretrial publicity will require a change of venue to avoid impact on the right to a fair trial, a party arguing that its fair trial rights have been affected by media coverage of litigation must show that those rights have been prejudiced by "community saturation" of publicity on the issue. *Perkins v. State*, 808 So.2d 1041, 1068-1069 (Ala. Crim. App. 1999), *vacated on other grounds,* Perkins v. Alabama, 536 U.S. 953 *(2002), on remand, Ex parte Perkins*, 851 So.2d 453 (Ala. 2002); *Coleman v. Kemp*, 778 F.2d 1487, 1490 (11th Cir. 1985). Meeting this burden requires admissible evidence presented at an actual hearing, and "[a] defendant bears an extremely heavy burden of proof under this standard." *Wilson v. State*, 777 So.2d 856, 924 (Ala. Crim. App. 1999).

Here, not only has no evidence of community saturation been presented, but plaintiffs' own evidence shows that community saturation cannot be found here. Plaintiff's expert Jay Waters, an advertising expert who is familiar with the communications required to build up community recollection about issues, EXA33 at 370-371 (Waters Affidavit ¶¶ 1-3),

explained below what evidence would be required to show community saturation, and explains several reasons for doubting that such saturation currently exists, or that prejudicial information would still be in the minds of prospective jurors by the time any trial occurs. *Id.* ¶¶ 4-30. For example, as Waters explained, unlike how citizens might recall facts about a sensational murder story, potential jurors who are themselves unaffected by controversies pertaining to A-1 are unlikely to pay much attention to a complicated story about A-1 and related litigation, not to speak of remembering the details even a few days later. *Id.* ¶¶ 13-14. Indeed, as Campbell's affidavit points out, A-1's own lawyers inaccurately recalled or misperceived the content of the TV story they cited as a reason for restricting free speech. EXA33 at 446-448 (¶ 21).

Waters' testimony, coupled with evidence from plaintiffs' lead counsel below, Thomas Campbell, also provides substantial reason to doubt that the statements by plaintiffs' counsel would have received much attention, or sufficient repetition to make members of the public recall what was said. *Id. 376-379* (¶¶ 15-25); EXA33 at 436-440 (Campbell Affidavit ¶¶ 14-16). Moreover, the passage of time since the initial coverage

of the controversy can itself be sufficient to dissipate any prejudice that might otherwise have been caused by pretrial publicity. *Ex parte Travis*, 776 So.2d 874, 878 (Ala. 2000); EXA 33 at 375-376 (Waters Affidavit ¶¶ 10-13). And even if some limit on pre-trial communications were appropriate, A-1's arguments below ignored the fact that A-1 was **also** sending communications about its practices even before the Campbell Law story about which A-1 complains, (EXA33 at 375-376), yet the injunction it sought limited statements by only one side in the case. Here, it remains to be seen whether any of these cases will go to trial, and no trial date has been set; once the date of trial approaches, the trial court can issue an appropriately narrow order if needed to ensure that the jury is not unduly affected by pretrial statements by counsel on **both** sides of the litigation.

Finally, even if any prior restraints could otherwise be justified here, the exceptionally broad injunction under appeal does not meet the requirement that injunctions against speech be narrowly tailored to fit the evil found by the trier of fact. An order limiting speech "cannot be upheld if reasonable alternatives are available having a lesser impact on First Amendment freedoms." *Bernard v. Gulf Oil Co.*, 619

F.2d at 476; *Consolidated Pub. Co.*, 601 So.2d at 433. *See also Schenck v. Pro-Choice Network of Western New York*, 519 U.S. 357, 372-373 (1997) (applying requirement that injunction be narrowly tailored to restrict no more speech than necessary). Here, as in *Bernard*, "the order before [the Court] suppresses essentially everything." Plaintiffs and their counsel are forbidden from making true statements about A-1; they are forbidden from communicating with other consumers who may believe that they have been victimized by A-1's tortious practices, with potential witnesses who might be able to testify in the litigation, or with their own clients and state investigators who are conducting parallel administrative and regulatory investigations of A-1. Indeed, on a literal reading of the order, plaintiffs' counsel in the trial court were in violation of the order when they sought the assistance of undersigned appellate counsel in seeking review of the gag order. The order would be violated if plaintiffs' counsel discussed settlement or scheduling or any other matter with opposing counsel, if the discussion took place outside court. The breadth of the order is an additional reason why the Court should grant mandamus to set aside the lower court's prior restraint.

B. The Prior Restraint Should Be Vacated Because It Was Issued Without Giving Plaintiffs or Their Counsel an Opportunity to Be Heard, and Without Any Findings Showing the Need for the Injunction.

Not only has no compelling need been shown for the prior restraint, the gag order entered below is infirm for two fundamental procedural reasons.

First, when a prior restraint is sought against speech, the Supreme Court requires the trial court to take extra precautions to ensure that the party sought to be enjoined has received notice of the proceeding and a full opportunity to participate. *Carroll v. President & Commissioners of Princess Anne County*, 393 U.S. 175 (1968). "Certainly, the failure to invite participation of the party seeking to exercise First Amendment rights reduces the possibility of a narrowly drawn order, and substantially imperils the protection which the Amendment seeks to assure." *Id.* at 384. The Campbell Affidavit, ¶¶ 5-11 (EXA 33 at 423-433), reflects repeated requests by plaintiffs for an opportunity for a hearing, and the deliberate refusal of the court below to afford them a hearing or, indeed, to allow them to obtain transcripts of the perfunctory proceedings below that would establish the best record of the proceeding below for review by this Court.

(EXA33 at 423-442). The issuance of the gag order below without such a hearing violated the First Amendment.

Second, both Rule 65 of the Alabama Rules of Civil Procedure and the First Amendment require that an injunction limiting speech be based on particularized findings and conclusions of law showing the abuses that have been found and the reasons why the relief issued is needed. *Bernard v. Gulf Oil Co*,, 619 F.2d at 477; *N.A A.C.P. v. Claiborne Hardware Co.*, 458 U.S. 886, 911 (1982) (when court's judgment affects protected speech, First Amendment requires clear findings of actionable conduct); *Monte Sano Research Corp. v. Kratos Defense & Sec. Solutions*, 99 So.3d 855, 863 (Ala. 2012). Under *Butler v. Roome,* 907 So.2d 432, 434-435 (Ala. 2005), the trial court's failure to explain the reasons for the injunction as required by Rule 65(d)(2) of the Alabama Rules of Civil Procedure is alone a sufficient reason to overturn it.

C. The Prior Restraint Guts the Plaintiffs' Ability to Prosecute their Claims.

In a very recent decision, this Court reiterated one proper use of mandamus is to address the situations at hand: 1) "when the [trial] court imposes a sanction effectively precluding a decision on the merits or denies discovery going

to a party's entire action or defense so that the outcome is all but determined and the petitioner would merely be going through the motions of a trial to obtain an appeal," and 2) when the trial court impermissibly prevents the petitioner from making a record on the discovery issue so that the appellate court cannot review the effect of the trial court's alleged error . . .." *Ex parte U.S. Bank Natl. Assoc.*, — So.3d —, — (Ala. Feb. 7, 2014) (Docket No. 1120904 at slip opinion page 10).

The trial court's January 7 gag order is so overbroad it can be read even to preclude drafting and communicating discovery requests to the opposing party outside of court. It would prevent counsel from talking to state officials, other witnesses, and clients, and from looking for witnesses. This "effectively preclude[es]" moving the case forward and reaching ultimate closure. *Id.* The trial court also has ignored Plaintiffs' repeated requests for a transcription of the hearing records in this case so this Court may see that no hearing was ever held concerning the subject orders. EXA33 at 423-424; EXA 40. These reasons alone justify issuing the writ.

CONCLUSION

The Court should issue a writ directing Circuit Judge

William Rhea to rescind the "protective order" dated January 7, 2014, and the order dated January 22, 2014 compelling immediate compliance with that injunction, and to grant such further relief as may be appropriate.

Respectfully submitted,

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February 18, 2014

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of February, 2014 a copy of the foregoing PETITION FOR WRIT OF MANDAMUS has been served on the following by through first-class mail, postage prepaid, and via electronic transmission to the email addresses on file with the Clerk of the Trial Court, below:

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