

FILED

IN THE SECOND CIRCUIT COURT FOR DAVIDSON COUNTY TENNESSEE

2015 JUL 29 PM 4:23

RICHARD R. ROOKER, CLERK

D.C.

JASON CROSS a/k/a MIKEL KNIGHT,
an individual, AND 1203
ENTERTAINMENT, LLC,

Case No. 15C2403

Plaintiffs,

v.

FACEBOOK, INC.,
AND JOHN AND/OR JANE DOES 1-10,
being an individual or individual(s) who
act as administrator(s) of the Facebook
page "Families against Mikel Knight and
the MDRST"—on which false and
defamatory statements were made—and
whose identity is unknown to the Plaintiff
at this time but who will be added by
amendment when ascertained.

Defendants.

AFFIDAVIT OF ROCKLAN W. KING, III

STATE OF TENNESSEE)
)
COUNTY OF DAVIDSON)

I, Rocklan W. King III, being duly sworn, deposes and says:

1. I am over the age of 18 years and am a resident of Davidson County, Tennessee. I am a member of the law firm of Adams and Reese LLP in Davidson County, Tennessee, which is counsel for Facebook, Inc. The facts stated in this affidavit are within my personal knowledge and are true and correct.

2. I attest that the attached letter from Public Citizen Litigation Group, dated July 27, 2015 is a true and correct copy.

FURTHER AFFIANT SAYETH NOT

Rocklan W. King, III
Rocklan W. King, III

SWORN TO AND SUBSCRIBED before me this 27th day of July, 2015

Angel Mckee
NOTARY PUBLIC

My Commission Expires:

May 6, 2019



PUBLIC CITIZEN LITIGATION GROUP

1600 20TH STREET, N.W.
WASHINGTON, D.C. 20009-1001

(202) 588-1000

July 27, 2015

Lucian Pera, Esquire
Adams & Reese
Crescent Center, Suite 700
6075 Poplar Avenue
Memphis, Tennessee 38119-0100

Re: *Jason Cross a/k/a Mikel Knight v. Facebook, Inc.*
No. 15C2403

Dear Mr. Pera:

We learned of the existence this proceeding for pre-litigation discovery as a result of Facebook's having given notice. I understand that Rule 27.01(b) of the Tennessee Rules of Civil Procedure calls for the trial judge in such cases to appoint counsel for the party or parties whom the plaintiff contemplates suing if the plaintiff is unable to effect service pursuant to Rule 4.04 of the Rules. I am, therefore, writing to offer to accept such an appointment together with Thor Urness of Bradley Arant Boult Cummings, who would serve as my local counsel. I am making this offer to be appointed under the rules with the consent and support of the Defendant John and/or Jane Does. Indeed, it is my understanding that, considering petitioner's extensive record of arrests for assault and other violent crimes, <http://www.savingcountrymusic.com/the-sound-of-deception-country-raps-mikel-knight-his-notorious-street-teams>, Does would be worried about being identified.

In that regard, I have previously been appointed as guardian ad litem in a case in the United States District Court for the Northern District of Texas where the trial judge, Honorable David Godbey, was concerned that an order prejudicial to the interests of anonymous Internet users could be entered if there were not a fully fair adversary proceeding. *Mick Haig Prods. E.K. v. Doe*, 687 F.3d 649 (5th Cir. 2012). Moreover, over the past fifteen years, I have appeared as counsel for a party or amicus curiae, or advised counsel and parties, in more than a hundred cases involving discovery to identify anonymous online speakers who are alleged to have engaged in tortious speech, both at the trial court and appellate levels. Indeed, I have briefed this issue, and in most cases argued as well, in the majority of the cases in which the First Amendment issue has been decided in state appellate courts across the country, e.g., *Thomson v. Doe*, 2015 WL 4086923 (Wash. Ct. App. July 6, 2015); *In re Indiana Newspapers*, 963 N.E.2d 534 (Ind. App. 2012); *Pilchesky v. Gatelli*, 2011 PA Super 3, 12 A.3d 430 (Pa. Super Ct. 2011); *Mortgage Specialists v. Implode-Explode Heavy Industries*, 999 A.2d 184 (N.H. 2010); *Independent Newspapers v. Brodie*, 407 Md. 415, 966 A.2d 432 (2009); *Mobilisa v. Doe*, 170 P.3d 712 (Ariz. App. Div. 1 2007); *Doe v. Cahill*, 884 A.2d 451

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(Del. 2005); *Dendrite v. Doe*, 342 N.J. Super. 134, 775 A.2d 756 (N.J. App. 2001), as well as in several state appellate cases that were ultimately decided on jurisdictional and waiver grounds without reaching the issue of the standard required by the First Amendment. *Yelp, Inc. v. Hadeed Carpet Cleaning*, 770 S.E.2d 440 (Va. 2015); *Fitch v. Doe*, 869 A.2d 722 (Me. 2005); *Melvin v. Doe*, 575 Pa. 264, 836 A.2d 42 (2003). As you know, you and I worked together on a similar case in the Shelby County Circuit Court representing a local blogger who focused on shenanigans in the Memphis Police Department, so I have looked at Tennessee law related to this subject as well. Consequently, I believe that I would be well-qualified to represent the interests of the absent putative defendants.

Both Mr. Urness and I are traveling on Friday, July 31, 2015, and so are unable to appear at the hearing that is currently set in the case, but we are prepared to file a brief addressing the applicable legal standard and how it applies to this case within ten days after that date. In that regard, I have already been in touch with petitioner's counsel as well to inquire about the evidence that he has in support of his client's tort claims, assuming that the Court might follow the approach in *Dendrite v. Doe*, *supra*, as did Judge Brothers in *Swartz v. Doe*, 2009 WL 7023070 (Tenn. 6th Cir. Ct., Oct. 8, 2009).

I'd be grateful if you would attach this letter-offer to the filing that you will be making on behalf of Facebook in this case.

Sincerely yours,


Paul Alan Levy