

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CAUSE NO. 348-367652-25

THE STATE OF TEXAS	§	IN THE DISTRICT COURT
	§	
Plaintiff,	§	
	§	
vs.	§	TARRANT COUNTY, TEXAS
	§	
ROBERT FRANCIS O'ROURKE and	§	
POWERED BY PEOPLE	§	
	§	
Defendants.	§	348TH JUDICIAL DISTRICT

Plaintiff's Emergency Motion to Modify Temporary
Restraining Order

Plaintiff's Opposed Emergency Request for an Expedited
Discovery Scheduling Order

Defendants' Emergency Motion to Transfer Venue

On the 14th day of August, 2025, the following
proceedings came on to be heard in the above-entitled
and -numbered cause before the Honorable Megan Fahey,
Judge Presiding, held in Fort Worth, Tarrant County,
Texas.

Proceedings reported by machine shorthand
method.

Pennie Futrell, CSR,
Official Court Reporter
348th Judicial District Court
Tarrant County, Texas

A P P E A R A N C E S

FOR THE PLAINTIFF:

Mr. Robert Farquharson
State Bar No. 24100550
Ms. Abigail Smith
State Bar No. 24141756
OFFICE OF THE ATTORNEY GENERAL OF TEXAS
Consumer Protection Division
300 W. 15th Street
Austin, Texas 78701
Telephone: 214.290.8811
Facsimile: 214.969.7615
Email: rob.farquharson@oag.texas.gov

FOR THE DEFENDANTS:

Mr. George (Tex) Quesada
State Bar No. 16427750
Ms. Rebecca Neumann
State Bar No. 24104455
SOMMERMAN, McCAFFITY, QUESADA & GEISLER, LLP
3811 Turtle Creek Boulevard
Suite 1400
Dallas, Texas 75219
Telephone: 214.720.0720
Facsimile: 214.720.0184
Email: quesada@texttrial.com

Mr. Joaquin Robert Gonzalez
State Bar No. 24109935
Ms. Rebecca (Beth) Stevens
State Bar No. 24065381
MARZIANI, STEVENS & GONZALEZ, PLLC
500 W. 2nd Street
Suite 1900
Austin, Texas 78701
Telephone: 210.343.5604
Email: jgonzalez@msgpllc.com;
bstevens@msgpllc.com

I N D E X

AUGUST 14, 2025	PAGE	VOL.
(DEFENDANTS' EMERGENCY MOTION TO TRANSFER VENUE)		
Proceedings Commence	6	
Argument by Mr. Quesada	7	
Argument by Mr. Farquharson	19	
Argument by Mr. Quesada	34	
Argument by Mr. Farquharson	38	
Court takes matter under advisement	38	
(PLAINTIFF'S OPPOSED EMERGENCY REQUEST FOR AN EXPEDITED DISCOVERY SCHEDULING ORDER)		
Argument by Mr. Farquharson	39	
Argument by Mr. Quesada	42	
Argument by Mr. Farquharson	45	
Argument by Mr. Quesada	47	
Argument by Mr. Farquharson	48	
Court takes matter under advisement	48	
(PLAINTIFF'S EMERGENCY MOTION TO MODIFY TEMPORARY RESTRAINING ORDER)		
Argument by Mr. Farquharson	59	
Argument by Mr. Gonzalez	62	
Argument by Mr. Farquharson	70	
Video excerpt played	76	
Argument by Mr. Farquharson	84	
Argument by Mr. Gonzalez	86	

1	Argument by Mr. Farquharson	88
2	Argument by Mr. Gonzalez	89
3	Court takes matter under advisement	90
4	Proceedings adjourned.....	95
5	Reporter's Certificate	96

6

7

ALPHABETICAL LIST OF WITNESSES

8

PAGE

VOL.

9

(None)

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

EXHIBIT INDEX

PLAINTIFF'S EXHIBIT
NO. DESCRIPTION

OFFERED ADMITTED VOL.

1 Flash drive containing video
of rally

22 24

DEFENDANTS' EXHIBIT
NO. DESCRIPTION

OFFERED ADMITTED VOL.

(None)

P R O C E E D I N G S

Thursday
August 14, 2025
11:02 a.m.

THE BAILIFF: All rise.

THE COURT: Thank you very much. Please
be seated.

Okay. We're here in Cause Number
348-367652-25, State of Texas vs. Robert Francis
O'Rourke. Would the attorneys please make their
appearances?

MR. FARQUHARSON: Yes, Your Honor. This
is Rob Farquharson, with my co-counsel Abigail Smith, on
behalf of the State of Texas.

THE COURT: Thank you very much.

MR. QUESADA: Your Honor, we have
Ms. Beth -- Rebecca Stevens, Mr. Joaquin Gonzalez,
Rebecca Neumann, and I'm Tex Quesada here on behalf of
the defendants.

THE COURT: All right. Thank you very
much.

I believe we have three motions set for
hearing today, two for the plaintiff and one for the
defendants. Where would y'all like to start?

MR. QUESADA: From my perspective, it
probably makes sense to start with the motion to

1 transfer venue.

2 MR. FARQUHARSON: I agree.

3 THE COURT: Okay.

4 MR. QUESADA: If it's okay with the
5 Court, I was going to present the argument on the motion
6 to transfer venue, and let Mr. Gonzalez make the
7 argument about modifying the TRO.

8 THE COURT: Okay. That's great.

9 Would you please stand at the lectern and
10 speak into the microphone? It would really help the
11 court reporter.

12 Yes, sir.

13 MR. QUESADA: Your Honor, this case
14 started in El Paso. This proceeding started in El Paso,
15 and that's where it belongs. The Court may recall that
16 the proceeding begins with delivering a letter demanding
17 records, et cetera, in El Paso.

18 Responding to that, there was a -- a
19 motion under 176, a petition under 176, that was filed
20 there. And, after that, the state decided to refile
21 here.

22 Let me start first by explaining that we
23 believe that the mandatory venue provision requires this
24 case to go back to El Paso.

25 Suits for injunction under the Civil

1 Practice and Remedies Code have a mandatory venue
2 provision. Absolutely, positively suit must be filed
3 and maintained only in the county of the defendant's
4 domicile. Everyone agrees that that domicile, that
5 residence, is El Paso County, both for the company, both
6 for the organization, and for Mr. O'Rourke.

7 How do we tell when the pleading asks for
8 different things? It's pretty simple.

9 The Fort Worth Court of Appeals says that
10 you look to the plain language of the petition and see
11 what they asked for, the plaintiff, and see how they
12 asked. That case is cited in our paperwork, and that is
13 the Fort Worth Court of Appeals, confusingly named, In
14 re Dallas. It is a 1998 opinion, but it involves DFW
15 Airport, so I'm going to refer to it as the DFW Airport
16 case.

17 And, in that case, there were claims
18 brought for a declaratory judgment and injunctive
19 relief. The argument for the motion to transfer
20 venue -- it turned into a mandamus -- is that this
21 really was a request for an injunction, and so shouldn't
22 it be in the county of -- in another county.

23 The Fort Worth Court of Appeals says it's
24 pretty simple. You look to the relief sought and see
25 what they're asking for.

1 Now, that case gets echoed in a 2020
2 Texas Supreme Court opinion called Fox River. Now, the
3 Fox River case involved a suit over corporate
4 governance. And, in that case, they asked for so-and-so
5 to be removed as an official within that organization --
6 that was part of the declaratory judgment -- but also
7 asked for injunctive relief.

8 In that case, the Texas Supreme Court
9 looks to the follow-up from the DFW case and says you
10 look to the paperwork to see what they were asking.
11 And, in that case, the -- the Texas Supreme Court says
12 you look to see what they were requesting.

13 There's another Texas Supreme Court case
14 that -- that is -- pre-stages that, and that is Brown
15 vs. Gulf Television. That's a 1957 case, and it goes
16 the other way. And here's what happens in the Brown --
17 in the Brown-Television case -- the Brown vs. Gulf
18 Television case. There was a suit for injunctive relief
19 and damages. Which is it? Is it an injunctive relief
20 case or is it a damages case? Because if it is
21 injunctive relief, it's mandatory venue. And if it's
22 damages, it's not.

23 The Texas Supreme Court in the 1950s,
24 later in 2020, just like the Fort Worth Court of
25 Appeals, says you look to the pleadings to see what the

1 plaintiff is asking for. Okay. Well, let's do that.

2 When we -- the state says that we should
3 focus on the amended petition. If we do that, if we
4 look at the amended petition, what is it that the state
5 asks for? After you get past the first recitals, the
6 first rattle out of the box, on page 2, the state says
7 injunctive relief is necessary to prevent, et cetera, et
8 cetera, et cetera.

9 And, Your Honor, that -- that's not my
10 pleading. That's nothing the Court generated. That's
11 what the State of Texas says, first rattle out of the
12 box, injunctive relief is -- is necessary. It goes on,
13 in the same paragraph, that they filed this request for
14 -- for temporary and permanent injunctions.

15 Now, the Supreme Court says maybe, if
16 you're only asking for a temporary injunction, it's not
17 really injunctive relief. But if you're asking for a
18 permanent one, it certainly is. That is repeated in the
19 Fox River case.

20 And here the state asks for -- in its
21 amended petition, it asks for permanent injunctive
22 relief. So it does that at the beginning of its amended
23 petition. It does it again at the end. The courts are
24 very clear, the opinion is very clear, that you should
25 look to the relief sought.

1 Okay. When we go to the relief sought in
2 this petition, in this live petition -- it's on page 14
3 of their material -- prayer for relief, A, temporary and
4 permanent injunctive relief.

5 How long is the injunctive -- what type
6 of injunctive relief? In this context, they're asking
7 to prevent the organization, prevent Mr. O'Rourke from
8 funding payment of the fines provided by the Texas House
9 rules for unexcused legislative absences.

10 How long is that injunction requested
11 for? It doesn't say. It says that it's permanent. It
12 doesn't say only during the special session, only during
13 the next legislative session, only during the term of
14 this attorney general or the governor or -- it doesn't
15 say at all. It says only -- it asks only for a
16 permanent injunctive relief, which is exactly what Fox
17 River says you look to to determine whether or not it's
18 really mainly injunctive or something else.

19 What's the next thing the state asks for?
20 It's in subpoint B on page 14 of the material. It asks
21 for temporary and permanent injunctive relief from
22 doing -- from soliciting funds through a website or a
23 platform. We'll come back to that, because it matters,
24 in just a moment.

25 But, again, the term of that requested

1 permanent injunction is not limited in any way, shape,
2 or form. It's not limited to the time during the
3 special session. It's not limited to the time of the
4 next session or the next session or the next session.

5 They -- the state asks for permanent
6 injunctive relief. They do the same thing in subpoint
7 C. And they explain, later on, we didn't really mean it
8 in subpoint C. Regardless, when the state comes out and
9 asks for permanent injunctive relief in the beginning of
10 the document, at the end of the document, as the primary
11 requests under the prayer for relief, the very first
12 two, it's clearly -- it is clearly a request for an
13 injunction.

14 Now, the state says, well, but we'd
15 really like some damages, too. Look, we're going to ask
16 for a million dollars in damages.

17 First of all, there's absolutely nothing
18 in the pleadings indicating that -- that it would be
19 entitled to a million dollars in damages. It says that
20 in its response. It doesn't say it in its pleadings.

21 The fines or the penalties under the DTPA
22 are limited to, I think, \$10,000 per transaction.
23 Nowhere near the figure that is claimed. But the point
24 I think -- by the way, the same is true with the
25 original petition. The original petition was a petition

1 for injunctive relief. And the original petition asks
2 for the same thing: Permanent injunctive relief.

3 Now, I will tell you, venue law is
4 confusing in the sense that we are told that we should
5 look to the facts at the time the lawsuit is filed. And
6 there's some case law that says you can also look at the
7 amended petition. Those are, obviously, two different
8 things.

9 But it doesn't matter here. It doesn't
10 matter here because the state asked for permanent
11 injunctive relief in both of their petitions, the first
12 one and the amended petition, and that makes it a suit
13 for injunctive relief. And, as such, venue is --
14 according to the Fort Worth Court and the Supreme Court,
15 venue is mandatory in the -- in the county where the
16 defendants reside.

17 What about the general venue statute?
18 What about a claim that a substantial part of the cause
19 of action accrued here in -- in Tarrant County? Tarrant
20 County is not a county where a substantial part of the
21 allegedly violative conduct occurs.

22 There's an interesting case out of the
23 15th Court of Appeals, a brand-new Court of Appeals out
24 of Austin. They were complaining about actions taken in
25 Harrison County, way out in East Texas. I think it

1 was -- it was not a DTPA case, Your Honor. I think it's
2 a False Claims Act case, which is pretty close.

3 And the claim went something like this:
4 You have violated this consumer protection or this --
5 this antifraud statute by indicating to people in
6 Harrison County that, if they go to your website, your
7 platform, kind of like Power -- kind of like ActBlue, if
8 you go to their platform, we will give you a discount on
9 nursing services. And that ran afoul of some -- some of
10 the consumer protection statutes. Fine.

11 The 15th Court of Appeals says it doesn't
12 work that way. In construing the claim under the False
13 Claims Act, the Court determined that sufficient facts
14 to support venue required that a person not only be able
15 to access the website in a particular county, but also
16 expect to receive something from the defendant as a
17 result.

18 Even if -- there was no evidence -- in
19 that case, there was no evidence that -- that anyone in
20 Harrison County received or was going to receive
21 anything as a result of going to that website. The
22 Court of Appeals says, listen, if you're -- if you
23 really are just talking about websites or platforms,
24 under that argument, any county in the state would
25 always be a proper county, and that is not what the law

1 says.

2 In this case, there is absolutely no
3 indication that all of these causes of action, certainly
4 not the ones in the original petition nor in the -- in
5 the amended petition, had any connection to Tarrant
6 County. There's no evidence that anyone in Tarrant
7 County received anything in return for receiving a
8 political donation, there's no -- regardless of whether
9 that solicitation originated in Tarrant County.

10 There's no evidence that the defendants
11 promised any goods or services to anyone in Tarrant
12 County, conducted any transactions in Tarrant County.
13 Even assuming that a political contribution was made in
14 or from Tarrant County, there's no indication that there
15 were any goods or services or anything else provided to
16 anyone in Tarrant County.

17 Now, that's the -- that's the most recent
18 explanation we have from a Court of Appeals of what it
19 -- what requires to be part of -- or what it requires in
20 order to prove that a -- or to at least allege that a
21 substantial part of the causes of action accrued in a
22 particular county. And there is no indication that that
23 is the case. None whatsoever.

24 Well, what about the other venue
25 provisions? There's an argument that, well, they --

1 they must have been doing business in Tarrant County.
2 Now, that's interesting because doing business in a
3 particular county is another section of the DTPA that
4 provides venue.

5 Well, what does doing business in Tarrant
6 County mean? It means conducting transactions in
7 Tarrant County.

8 Well, how do we know that? Because early
9 on in the development of the DTPA, there was litigation
10 over what counted as business -- doing business. And
11 it's pretty clear that in order to do business in a
12 county, you must engage in transactions.

13 The San Antonio Court of Appeals faced
14 that. The question was whether or not selling a
15 hospital insurance policy in Frio County was enough to
16 be doing business. They said yes, yes, it is enough to
17 do business because that's a transaction that occurred
18 in the county.

19 The Supreme Court takes that case,
20 assigns it a writ ref'd n.r.e. history, and writes an
21 opinion, also, that says, yes, the San Antonio court
22 gets it right. You have to have -- if there is a
23 transaction in the county, that's enough under the DTPA
24 for doing business.

25 But we have none of that, none of that

1 here. None -- there's absolutely no indication that
2 that happens here.

3 El Paso is certainly the proper county.
4 That's what the statute authorizing quo warranto
5 proceedings talks about is filing it in the proper
6 county. It makes it sound almost jurisdictional or
7 mandatory.

8 At any rate, it doesn't say, "a county"
9 or "some proper county" or "one of the proper counties."
10 It does say, "the proper county." And there's
11 absolutely no dispute that El Paso is probably the
12 proper county for this sort of thing. That's where the
13 organization is headquartered. There's -- there's
14 evidence that that's where the decision-makers are.
15 That's where Mr. O'Rourke is -- that is his residence.
16 That is in El Paso County.

17 And what else happens in El Paso County?
18 That's where the state starts everything. In this
19 proceeding, the state started the proceeding in El Paso
20 County by initiating a request for information.

21 The El Paso County court -- or the court
22 in El Paso County, in my understanding, is going to wait
23 for Your Honor to make a decision on the motion to
24 transfer venue, and we're waiting for that.

25 Now, sometimes the state says, well, you

1 know what? You didn't make any specific denials, and
2 so it doesn't count.

3 Well, there are specific denials that are
4 contained in our motion to transfer venue. We deny
5 having engaged in any sort of business or transaction in
6 Tarrant County. We indicated that there were no
7 transactions here. We indicate that no one's domiciled
8 here, that the headquarters are not here, et cetera, et
9 cetera. Once that happened, the burden shifts to the
10 state.

11 Now, why do we not have an affidavit from
12 someone saying these transactions, this conduct occurred
13 in Tarrant County? That's not my decision. It's not
14 Your Honor's decision. That's the state's decision.
15 Once there is a denial of those claims, it is the
16 state's burden to put evidence before you and in the
17 record indicating that they have evidence that these
18 transactions occurred in Dallas -- in Tarrant County,
19 that the transactions had anything to do with, well,
20 what the claims are based on.

21 There is no harm in sending this case to
22 El Paso. That's where it originated. That's where the
23 witnesses are. That's where the headquarters are.
24 That's where the state started it.

25 Your Honor, that's mandatory venue, is

1 the proper county, and we believe the case should go
2 back to El Paso County.

3 THE COURT: Thank you very much.

4 From the plaintiff?

5 MR. FARQUHARSON: Good morning. May it
6 please the Court.

7 I want to start off: Your Honor, there's
8 a suggestion that we filed something in El Paso before
9 this lawsuit. That is not -- if that was a suggestion,
10 that is not true. In the event that the Court has not
11 got it, yesterday the state filed an advisory regarding
12 the 41st Judicial District Court's order. I have a
13 copy.

14 THE COURT: I've seen it.

15 MR. FARQUHARSON: Okay.

16 THE COURT: Yes.

17 MR. FARQUHARSON: So I assume you've also
18 seen the state's response, which was also filed
19 yesterday --

20 THE COURT: Yes.

21 MR. FARQUHARSON: -- in the afternoon.

22 THE COURT: It came through this morning.

23 MR. FARQUHARSON: Great.

24 Then the last thing that I will offer to
25 the Court is a declaration that was filed this morning

1 from an investigator on behalf of the Office of the
2 Attorney General.

3 May I approach?

4 THE COURT: Yes, sir.

5 MR. FARQUHARSON: So, before we begin,
6 the declaration that I've just provided to the Court, I
7 want to explain that.

8 In light of the expedited scheduling of
9 this motion to transfer venue and the fact that we just
10 received the latest supplemental filing from the
11 defendants on the venue issue less than 12 hours ago, I
12 would like to note that we filed this document. And it
13 contains the links to two videos. One is of the -- of
14 the Fort Worth rally, and the other one is of an
15 interview between Defendant O'Rourke and California
16 Governor Gavin Newsom.

17 The relevant portion of the interview
18 with Governor Gavin Newsom starts at about 3 minutes and
19 29 seconds. I don't believe that the authenticity of
20 either of these videos could be reasonably disputed, and
21 so we'd like to offer them for the Court's
22 consideration.

23 MR. QUESADA: I do object, having not
24 seen them. I think that they contain hearsay. But,
25 other than that, I -- I cannot -- I cannot stipulate to

1 the authenticity, and I don't know what all is on them.

2 THE COURT: Okay.

3 MR. QUESADA: I've made my objection. I
4 just didn't want it to go unchallenged.

5 THE COURT: Thank you very much.

6 How are you intending to offer them to
7 the Court? Are you looking for Plaintiff's Exhibits 1
8 and 2? Do you have them on a thumb drive?

9 MR. FARQUHARSON: If -- if we want to
10 enter them into evidence, I do have the video of the
11 Fort Worth rally on a thumb drive. I do not have the
12 interview with Governor Newsom on a flash drive. I
13 think it is sufficient for the Court's consideration
14 that we have a link. I think that, obviously, we have
15 to -- the evidentiary rules have to be relaxed here;
16 otherwise, it's impossible for us to respond to a filing
17 from midnight last night.

18 THE COURT: Sure. I'm going to allow you
19 to play them. My concern is just making sure that we
20 preserve it for purposes of appeal, which I think is
21 probably important in this case --

22 MR. FARQUHARSON: Yes.

23 THE COURT: -- as in any case, but I may
24 not be the only judge reviewing this material.

25 MR. FARQUHARSON: I do not -- I do not

1 intend to -- I'll make references to them. It is not my
2 intention to play them in full for the Court today. But
3 if we want to --

4 THE COURT: Well, my concern --

5 MR. FARQUHARSON: Maybe it makes sense
6 for me to offer the thumb drive of the video. I'll
7 offer the thumb drive of the video of the Fort Worth
8 rally because that is the longer of the two videos. And
9 I think that the portion of the interview with Governor
10 Newsom is capable of being played in full here in the
11 courtroom today.

12 THE COURT: Okay. I just want to make
13 sure that if these links go down that another judge
14 that's trying to review this has this material
15 available.

16 Okay. So --

17 MR. FARQUHARSON: So, with that, I will
18 represent that this flash drive contains the video of
19 the Fort Worth rally hosted by Powered By People on
20 August 9. And we'll offer it to the Court, into
21 evidence.

22 (Plaintiff's Exhibit 1 offered.)

23 THE COURT: Okay. Defense, you can make
24 your objections.

25 MR. QUESADA: Yes, I -- I -- and I would

1 also -- I would suggest this as well, Your Honor: Under
2 the rule of optional completeness, if they're going to
3 play part of it, I think they have to play all of it.
4 And I don't think -- that's -- that has to do with what
5 is -- what I believe to be on the flash drive.

6 With regards to the other one that is the
7 link, I don't know that that's been offered. And I
8 don't know, if it is offered, if this is a proper way to
9 do it. I would object to the authenticity of the second
10 one, the interview with Newsom.

11 And, again, if they're going to play some
12 portion of that or offer some portion of it, we would
13 expect the whole thing be offered.

14 MR. FARQUHARSON: Your Honor, may I
15 respond in two ways?

16 THE COURT: Yes.

17 MR. FARQUHARSON: The first is, if they
18 want the expedited hearing, then they're going to have
19 to allow us to enter evidence. They cannot deprive
20 us -- deprive us of our ability to offer evidence to the
21 Court.

22 The second item that I'll -- I'll offer
23 to the Court is that I'll represent that the -- the
24 video on the flash drive is the full Fort Worth rally.
25 There -- it is not cut.

1 THE COURT: Okay. I'm going to go ahead
2 and admit the full thumb drive of the rally as
3 Plaintiff's Exhibit 1.

4 (Pleading's Exhibit 1 admitted.)

5 THE COURT: Certainly, this was granted
6 on a very expedited and quick basis, at the defendants'
7 request, so we're having to deal with that at this
8 point.

9 If you want to play any part of that
10 rally -- I assume you've probably seen the whole rally.
11 I'm going to let the plaintiff play what portion they
12 think is relevant. If there's any other portion you'd
13 like to play, that's fine. And we can play the full
14 other YouTube of the second one. And, that way, it's
15 part of the record.

16 MR. QUESADA: I understand. Thank you,
17 Your Honor.

18 THE COURT: Okay. To the extent I need
19 to, the objections are overruled.

20 Okay. You may continue.

21 MR. FARQUHARSON: Thank you, Your Honor.

22 So I'll move to the substantive legal
23 points now. The fundamental question before this Court
24 is whether the specific venue provision that is set
25 forth in the Deceptive Trade Practices Act, which we

1 discussed on Friday is Section 17.47(b), prevails over
2 the general venue statute for injunctions in the Civil
3 Practice and Remedies Code Section 62.023.

4 Section 17.47(b) is a specific venue
5 statute that only applies to the attorney general and
6 only applies to the attorney general in deceptive trade
7 practices lawsuits.

8 The Civil Practice and Remedies Code
9 provision is a general venue statute that relates to
10 suits where the primary relief sought is an equitable
11 injunction.

12 So, in the first instance, I'll just note
13 that a DTPA injunction is not an equitable injunction.
14 It is a statutory injunction that is provided by
15 17.47(b).

16 As a matter of basic statutory
17 interpretation, the answer here is that 17.47 prevails.
18 And I'd like to offer the Court a case that did not make
19 its way into our briefing. And I will tender a copy to
20 opposing counsel.

21 May I approach?

22 THE COURT: Yes, sir.

23 MR. FARQUHARSON: This case is Fourco
24 Glass Company vs. Transmirra Products, and it is a
25 United States Supreme Court cite at 7 -- 77 S.Ct. 787.

1 I've highlighted the portion at the end of the -- of the
2 document that is most relevant to the Court's
3 consideration.

4 And that case, like the one here,
5 considered a conflict between the generic venue statute
6 and a venue statute that was specific to patent
7 lawsuits.

8 What the Court held -- and -- and that
9 language is highlighted. I believe it's on page 4. It
10 held that the specific venue statute prevailed over the
11 general venue statute.

12 Importantly, here, the defendants do not
13 dispute that Section 17.47 is the, quote, in their --
14 their words, "more specific venue statute." And that is
15 in their motion to transfer venue at page 2.

16 Beyond the -- the specificity issue, the
17 venue provision of 17.47 must prevail over the generic
18 venue provision in 62.03 for a wholly separate matter of
19 statutory construction. That is, that if all
20 injunctions that are -- including those that are brought
21 by the Attorney General's Consumer Protection Division,
22 must flow through 62.023, then 17.47's venue provision
23 is meaningless.

24 That's because 17.47 exists for the
25 exclusive use of the Attorney General's Consumer

1 Protection Division in deceptive trade practices
2 lawsuits. And the Consumer Protection Division exists
3 to keep Texas corporations in check. That's established
4 by Texas statutes, and it's a constitutional duty of the
5 Texas Attorney General.

6 Those -- those duties are created by the
7 Government Code, 402.023, and Article 4, Section 22 of
8 the Texas Constitution, both of which provide that,
9 quote, "The attorney general shall," quote, "take --
10 take such action in the courts as may be proper and
11 necessary to prevent any private corporation from
12 exercising any power not authorized by law."

13 Defendants' argument that Section 17.47
14 yields to 62.023 is incorrect, and it misses the point.
15 The issue here has been framed by defendants as a matter
16 of permissive versus mandatory venue. But we don't even
17 get there because the first step in the analysis is is
18 it a -- is it a generic venue statute or a specific
19 statute. Because if it's specific, we start there.
20 That's where we have to go.

21 Similarly, for the same reason, the issue
22 about whether our suit is primarily a suit for
23 injunctive relief also never comes up. But, even if it
24 did, I represent to the Court that our petition
25 demonstrates that the primary purpose of our -- of our

1 lawsuit is civil penalties. It is not injunctive
2 relief. And I think that, if the Court will look at our
3 prayer, our prayer very thoughtfully goes through and
4 divides the places where -- where temporary injunctive
5 relief is sought and where permanent injunctive relief
6 is sought.

7 We are dealing a lot with injunctive
8 relief right now, and we did on Friday, because
9 injunctive relief is necessary to get -- get the parties
10 back on track and make sure that the law is followed.

11 I also want to point out some
12 distinctions with what opposing -- with the cases that
13 opposing counsel offered. Those cases were, in the
14 first instance, not deceptive trade practices cases.
15 They were cases that concern lawsuits for both
16 declaratory and/or injunctive relief.

17 Here, the primary suit is, as I said,
18 civil penalties. And opposing counsel also referenced
19 suits for damages. It's important. And I -- as
20 somebody who practices in the consumer protection space,
21 I see -- I see that it is not always appreciated, but
22 damages and civil penalties are distinct. And I'll
23 offer the -- the Court the citation of Nazari v. State,
24 561 S.W.3d 495. That's a Texas Supreme Court case, and
25 that demonstrates that civil penalties are not equal of

1 damages.

2 Now, beyond the conflict that exists
3 between 17.47 and 62.023, I think, as my friend on the
4 other side's argument highlighted, the real arguments
5 that -- that the motion to transfer raises are quibbles
6 about the applicability of the Deceptive Trade Practices
7 Act. They're not venue arguments. These are arguments
8 that should be made in a 91a motion to dismiss, or they
9 should be made in a motion for summary judgment, but
10 they're not about venue.

11 And what do I mean by that? Prior to
12 midnight last night, the only -- the only affidavit that
13 was on file with respect to -- well, not the only; there
14 was one from the attorney. But there was an affidavit
15 on file from David Wysong -- or a declaration from David
16 Wysong. The only relevant portion of the declaration to
17 venue is Section 5.

18 And I want to note, at the outset, that
19 the declaration concedes that they -- that defendants
20 engaged in fundraising in Tarrant County on August --
21 August 9, as the state alleges. I'll point the Court to
22 paragraph 5b of the declaration. That ends the inquiry.
23 They admitted that they engaged in fundraising in
24 Tarrant County, Texas.

25 The real thrust of the declaration,

1 though, as I said, is arguments about whether the type
2 of conduct that underlies this lawsuit is conduct that
3 the Deceptive Trade Practices Act actually prohibits.

4 Specifically, the declaration from
5 Mr. Wysong narrowly disputes that they did not, quote,
6 "sell any goods or services." The supplemental denials
7 that were filed last night use the term -- use different
8 variations of referencing defendants' transactions in
9 Tarrant County as not, quote/unquote, DTPA-covered
10 transactions. So they -- what they dispute is that they
11 did not sell any goods or services in Tarrant County,
12 and they -- and they dispute that they did not engage in
13 any, quote/unquote, DTPA-covered transactions in Tarrant
14 County. They do not, as opposing counsel suggested,
15 dispute that they did not engage in any transactions in
16 Tarrant County or solicit transactions in Tarrant
17 County.

18 And I'll also point out that defendants
19 know that this case is not about a sale. This -- this
20 case is about donations and solicitations of donations.
21 We know that they know this because it's in their -- the
22 motion that was filed last night in response to our
23 motion to modify and their -- and an untimely motion to
24 dissolve. And that's at page 17 of the filing from last
25 night.

1 But this argument about whether or not
2 goods or services are at issue and whether or not there
3 was a sale at issue, it persists throughout all of the
4 briefing that the defendants have put together. And the
5 DTPA is simply not -- not limited -- in the most glaring
6 respect, it's not limited to sales. So the fact that
7 they say we didn't sell anything in Tarrant County,
8 well, that's not what the Deceptive Trade Practices Act
9 prohibits. The Deceptive Trade Practices Act prohibits
10 false, misleading, or deceptive acts or practices in the
11 conduct of trade or commerce.

12 So that's to say that -- that, for
13 example, a -- a deceptive advertisement that results in
14 those sales, for example, could still result in a
15 deceptive trade practices act by the Consumer Protection
16 Division.

17 Aside from -- from the fact, though, that
18 17.47 prevails over 62.023 and the fact that the
19 arguments about venue are -- are really poorly disguised
20 substantive arguments, the motion also fails for a third
21 reason, and that's because it does not specifically deny
22 the state's venue allegations. This is true for two
23 reasons.

24 First, as I highlighted with respect to
25 Mr. Wysong's declaration, the motion's, quote/unquote,

1 specific denials are really just broad statements that
2 are disconnected from the actual venue allegations in
3 the state's first amended petition. And, obviously,
4 courts have held that -- that broad allegations are not
5 specific denials.

6 Second, to the extent that -- that they
7 attempt to go beyond broad statements, these are
8 legal -- what was filed last night is legal denials. It
9 is not factual denials. Stating that somebody did not
10 participate in any DTPA-covered transactions, that is a
11 legal conclusion. That is not a specific factual
12 denial.

13 And so, to that end, opposing counsel
14 asked the question: Why -- why no affidavits? The
15 answer is that the latest, quote/unquote, specific
16 denial was filed less than 12 hours ago. And, in
17 response to that, we've -- we've offered the declaration
18 of Ms. Gina McDonald that was prepared this morning.
19 And opposing counsel has objected to the consideration
20 of that document.

21 So because they've not -- they have not
22 made specific denials, the burden never shifts to the
23 state. Even if it did, however, defendants' own video,
24 which is Exhibit 1, a video of the Fort Worth rally,
25 establishes venue.

1 The last point that I want to make about
2 venue is I want to correct a misstatement of the law
3 that was made in opposing counsel's briefing. And this
4 is their motion to transfer at page 3. They say that
5 17.47(b) provides venue in only three -- at three
6 places. That is, where the defendant resides, where the
7 defendants have a principal place of business, and where
8 the deception occurred. That last one is relevant here.
9 The first two are not.

10 But they miss a fourth. They miss an
11 express fourth option that's included in 17.47(b) and
12 which we have explicitly alleged, that is, where the
13 defendant, quote/unquote, has done business. To this
14 end, if the Court finds that any of the cases or
15 statutes that are cited by defendants are significant, I
16 would encourage the Court to review the actual source
17 documents because this is not the only -- and I don't
18 say this to say that it was intentional, but I say it to
19 say that it's not the only instance where we found what
20 appeared to be an inaccurate representation of the law.
21 And -- and I'll get into it later if -- if those issues
22 arise.

23 So, in conclusion, Your Honor, because
24 the -- the Deceptive Trade Practices Act's specific
25 venue provisions trumps the general injunction provision

1 in 62.03 related to venue, because the defendants'
2 arguments are substantive arguments that are
3 masquerading as venue arguments, and because the
4 defendants have not specifically denied the state's
5 allegations, the Court must deny, then, its motion.

6 With that, if I may have a quick moment,
7 I will try to queue up the video that I have told the
8 Court.

9 THE COURT: Okay.

10 MR. FARQUHARSON: Actually, Your Honor, I
11 think this more goes towards the motion to modify, so I
12 will refrain from that, unless the Court would like to
13 see it right now.

14 THE COURT: No, I will wait for you,
15 whenever you think it's appropriate.

16 Okay. Mr. Quesada, would you like to
17 respond?

18 MR. QUESADA: Thank you, Your Honor.

19 We don't get there. We don't get there
20 on the rally, and we don't get there on 17.47(b). And
21 let me tell you why.

22 17.47(b), understandably, comes after
23 17.47(a). In (a), the -- the state is authorized to
24 restrain -- to get a restraining order to prevent some
25 sort of -- of violation of the statute. But only after

1 authorizing an action to restrain conduct does 17.47 go
2 on to say that: In addition to the request for the
3 temporary restraining order, or permanent injunction in
4 a proceeding under Subsection (a) of this section, the
5 Consumer Protection Division may request a civil
6 penalty.

7 The format and the wording of 17.47 of
8 the DTPA confirm that the state's requested injunctive
9 relief is primary. It does not matter whether you call
10 it an injunction under the DTPA. It does not matter
11 whether you call it an injunction under 17.47. It
12 doesn't matter if you call it an injunction because it's
13 equitable. If it is an injunction, then it is subject
14 to mandatory -- the mandatory venue requirements.
15 That's what 17.47(a) and (b) read together clearly
16 indicate.

17 In this case, it's similar, for instance,
18 to the whistleblower statute. The whistleblower
19 statute, as the Texas Supreme Court has construed in
20 Wichita County, which is at 917 S.W.2d 779, has its own
21 venue provisions, also. And the Supreme Court says
22 that, whenever you have some sort of conflict between
23 the whistleblower's -- the Whistleblower Act's venue
24 provision and the Civil Practice and -- Civil Practice
25 and Remedies' mandatory venue provisions, you still look

1 to the Civil Practice and Remedy Code manual --
2 mandatory venue -- venue statutes.

3 Now, we certainly filed a supplemental
4 response last evening. I have an extra copy in paper if
5 you would like it. It came in about midnight.

6 May I approach the bench?

7 THE COURT: Yes, sir.

8 MR. QUESADA: I've already given it to
9 opposing counsel.

10 THE COURT: Thank you.

11 MR. QUESADA: Now, remember, the amended
12 complaint was filed on the 12th of August. We filed --
13 we have some other filings due on the 13th, and so we
14 filed those and included a supplemental venue response.
15 Yes, it's true that sometimes things move quickly. But,
16 in responding to the amended petition, we made sure to
17 include specific denials.

18 Now, their complaint is that we did not
19 deny that we were doing business in Tarrant County. Of
20 course, we did that specifically.

21 How do we do that? Because doing
22 business means engaging in transactions.

23 How do we know that? Those are the
24 Supreme Court opinions we discussed earlier.

25 And we specifically denied, both in the

1 initial motion to transfer venue and in the one filed
2 yesterday, engaging in any transactions in Tarrant
3 County. As a result -- now, if we had just said we
4 don't do business in Tarrant County, the state would
5 have complained that we were too generic. If we say we
6 didn't do any transactions in Tarrant County, the state
7 complains that we weren't generic enough. I don't think
8 that they can argue it both ways. We made sure to deny
9 that we did anything that violates the DTPA, any -- and
10 we deny that we solicited any transactions here.

11 It's -- the question on whether or not
12 something occurred in Tarrant County is not whether or
13 not there was a rally here. The question is whether or
14 not the rally was some sort of transaction, that there
15 was some sort of offer of goods or services, that there
16 was something that is prohibited by the DTPA, not
17 whether or not the rally occurred. We had the specific
18 denial. We indicated that there was no venue here.

19 Now, their last argument is, well, look,
20 Your Honor, it's in the video. That's not prima facie
21 proof. "You go look at the video and sort it out" is
22 not responding with prima facie proof. That's not how
23 it works. There has to be some indication that there
24 was some prohibited, some questionable, some statutorily
25 implicated conduct there. And why don't you have that?

1 Throughout, there were denials that that
2 rally had anything to do with violating the DTPA. And
3 the state certainly could have brought you that. The
4 state certainly could have brought you that evidence,
5 but chose not to do so. As a result of that, it has not
6 met its burden under the rules or under the venue
7 statute as to how we -- how we conduct venue hearings.
8 And, as such, venue should be transferred back to
9 El Paso County.

10 THE COURT: Okay. Thank you very much.

11 Would you like to respond to that, or
12 should we move on to the next?

13 MR. FARQUHARSON: Just one very brief
14 response.

15 THE COURT: Okay.

16 MR. FARQUHARSON: I think opposing
17 counsel has made some arguments about quo warranto. To
18 the extent that is being argued today as a basis for
19 transfer, that is not a part of the motions and is not a
20 part of any relief that they have sought in their
21 papers. So we would object to that being a
22 consideration in today's hearing.

23 THE COURT: Okay. Thank you very much.

24 Okay. I'm going to take this under
25 advisement. I need to finish reading everything y'all

1 filed overnight. I tried, but --

2 MR. QUESADA: Really? You just couldn't
3 get to it? I -- I don't know.

4 THE COURT: Another hearing this morning,
5 yes.

6 MR. QUESADA: There are a couple of the
7 cases that we cited that I did not include in our
8 paperwork, and we may send those along.

9 THE COURT: Okay. Yes, absolutely.
10 Okay.

11 MR. QUESADA: And including whatever our
12 response is going to be to the 1957 U.S. Supreme Court
13 opinion which, I admit, caught me flatfooted. So...

14 THE COURT: Okay. Let's move on to the
15 other two motions.

16 MR. FARQUHARSON: Thank you, Judge.

17 I will start, Your Honor, with the motion
18 for expedited discovery. On this front, Your Honor, we
19 approached opposing counsel, we asked them to agree to
20 very limited expedited discovery, and they would not
21 engage with us. So here today, in front of the Court,
22 we are asking for some very basic matters which are very
23 expressly outlined in the motion.

24 This discovery is -- is intended to allow
25 us to get -- to have an adequate opportunity to prepare

1 for the temporary injunction hearing so that we're not
2 here at the temporary injunction hearing the same way
3 and I'm -- and I'm trying to -- to piece together
4 evidence on such a short timeline. And it's also
5 important to allowing the Court to make an informed
6 ruling on the temporary injunction.

7 We want an opportunity, as part of this,
8 to cross-examine the defendants on some of the
9 affidavits that they've made. There's been certain
10 claims that, as I've highlighted before, they claim that
11 they did not engage in, quote/unquote, any sales of
12 goods or services or, quote/unquote, DTPA-covered
13 transactions in Tarrant County.

14 To understand that, the -- the meaning of
15 the language and -- and the reason for those
16 qualifications, we think it's appropriate for us to have
17 an opportunity to -- to depose them and to question
18 them.

19 They are now claiming -- and they're
20 claiming both in affidavit format and in their
21 pleadings -- that they have not dispensed any funds at
22 all to Texas legislators between June 1, 2025, and the
23 present. That is in contradiction of earlier statements
24 that are referenced in our petitions. So we would like
25 to understand the discrepancy between those statements.

1 Ultimately, however, depositions -- we
2 will be flexible. We are willing to meet them. We have
3 -- we have reduced the -- the maximum time allowed for
4 the depositions in our request. We're willing to be
5 flexible on scheduling. And we think that the
6 depositions would expedite the temporary injunction
7 hearing because it may negate the need for live
8 testimony before the Court on -- I believe it is next
9 Tuesday.

10 And, beyond that, it gives us an
11 opportunity to, as I said before, establish -- establish
12 the basic authenticity of documents. So, for example,
13 these videos give -- the state would like an opportunity
14 to authenticate basic materials, videos, and statements
15 that the defendants have made.

16 The -- and with respect to the request
17 for production, those requests are very narrowly
18 focused. They're focused on -- on documents that, by
19 defendants' own admission, they have already collected
20 and reviewed and should have prepared. And that is
21 according to -- I realize -- I'm realizing now the Court
22 does not have a copy of it, but they made references in
23 paragraphs 14 and 15 of their petition in El Paso to say
24 that these were very basic documents that could be
25 easily and quickly collected and reviewed. Given the

1 time that has passed since that -- the request to
2 examine that they had referenced, there's been -- that
3 amount of time has passed, we should expect that they
4 have these documents and can very easily produce them.

5 And I'll -- I'll also note that the
6 requests for production are limited, as I mentioned, to
7 the 60-day window. So those are not broad requests.
8 They're not overly cumbersome. They're very direct.
9 They're very to the point. And, as a final point, I'll
10 just note that there's not been any justification for
11 why we shouldn't get limited discovery for the temporary
12 injunction hearing.

13 So, with that, the state would -- would
14 ask that the Court grant the state's request for
15 expedited discovery.

16 THE COURT: Okay. Thank you very much.

17 MR. QUESADA: Your Honor, I think that
18 there are two issues here. One of them is an apex
19 deposition, and the other is whether or not certain
20 lower-level documents can be gathered. Let me start
21 first with the lower-level arguments.

22 The state argues that the requested
23 records have already been collected and reviewed because
24 we said we would need several days to gather them. That
25 much is true. But, remember, the state withdrew or

1 purported to withdraw its request to examine those
2 documents. It still takes us several days to gather
3 them. And, here, what they're asking us to do now is
4 gather them on three, four days' notice. I don't think
5 that works that way.

6 The state represented to the El Paso
7 court yesterday that it had sufficient information to
8 pursue the DTPA case. And now they're telling this
9 Court: We don't have enough information on the DTPA
10 case. We need more.

11 The -- the actual statement that
12 defendants made with regard to the documents is it would
13 take several days, at a minimum, for us to fully
14 assemble the materials demanded, and additional time for
15 counsel to thoroughly review those counsel -- those
16 materials for privilege and determine any necessary
17 objections.

18 When the state withdrew its request on
19 August 9, defendant was under no obligation to then
20 restart or continue gathering documents. As a result of
21 that, it would be inappropriate, we think, and is
22 certainly not indication of good cause required under
23 the rules, to allow expedited discovery in this context.

24 Those arguments apply also to the
25 testimony of Mr. O'Rourke. And, beyond that, the

1 problem that they have -- that the state has in this
2 context is that that counts as an apex deposition. And,
3 under the Texas Supreme Court's opinions in the Crown
4 Central case, and later in In re Alcatel case, just
5 because you want to take someone's deposition and
6 somebody who -- high up in the organization, doesn't --
7 one does not have the unfettered right to do so. It
8 requires proof that you have attempted to obtain the
9 information through less-intrusive means. That was not
10 done.

11 It requires proof that the individual had
12 some actual involvement in the day-to-day issues that
13 you are seeking to depose him or her on. The state does
14 not do that, either.

15 Does it matter that he is actually a -- a
16 party? No, it doesn't. The Austin Court of Appeals
17 confronted this in the -- I may not say it rightly. I'm
18 going to spell it -- M-I-S-C-A-V-I-G-E case --

19 THE COURT: Okay. What's the cite on
20 that one?

21 MR. QUESADA: That one is 436 S.W.3d 430.
22 436 S.W.3d 430. It's a mandamus.

23 And they're attempting to take testimony
24 from people involved, I think, in Scientology, or some
25 other religious organization, and they named the person

1 they really want to depose as a party. That's not
2 enough.

3 If that were the case, every plaintiff
4 would name Henry Ford as a party in a product liability
5 case and then claim that they were entitled to take his
6 deposition. Every plaintiff would name the head surgeon
7 at the hospital in a medical negligence case and then
8 claim that they're entitled to take her deposition
9 because she's named as a party. It doesn't work that
10 way.

11 This is an apex deposition. And it's the
12 state's burden to demonstrate that the only way it can
13 obtain this information is by deposing this individual
14 regardless of whether they happen to be a party. The
15 state has not even attempted to do so.

16 We think expedited discovery in this
17 context and the apex deposition of Mr. O'Rourke would be
18 inappropriate.

19 THE COURT: Okay. Thank you very much.

20 MR. FARQUHARSON: May I respond briefly?

21 THE COURT: Yes, sir.

22 MR. FARQUHARSON: So with respect to the
23 apex deposition, the -- I'll admit, this is the first
24 time I've heard -- heard the argument. But the --
25 Mr. O'Rourke is the person who made the statements. And

1 this is unlike the types of cases that have just been
2 mentioned. It's unlike those cases because, as we have
3 cited in the first amended petition, the Deceptive Trade
4 Practices Act -- and there's -- there's specific case
5 law that is cited in the first amended petition -- the
6 Deceptive Trade Practices Act says that any person is
7 subject to -- to enforcement.

8 And so here -- in those cases, Henry Ford
9 is not an appropriate defendant. In these Deceptive
10 Trade Practices Act, Defendant O'Rourke is the person
11 making the bulk of the statements. Thus, he is an
12 appropriate person.

13 He's also the person who made the bulk of
14 the statements. And to the -- to the idea that we have
15 not sought less-intrusive means, that's demonstrated by
16 the fact that I offered the video of Defendant
17 O'Rourke's statements at a rally to the Court and
18 opposing counsel objected to the consideration of those
19 statements. If that's not less intrusive, I don't know
20 what could be less intrusive.

21 So the idea that -- that this is an
22 impermissible apex deposition is -- is -- it just
23 totally defies the case. He is the central person to
24 the case.

25 The -- now, opposing counsel also

1 mentioned that the RTE was withdrawn. Thus, they never
2 collected the documents, even though they say that it
3 would have been very quick to do so.

4 The RTE was due on Friday. It was at, I
5 believe, 3:45, 4:00 p.m. that they filed their lawsuit
6 in El Paso on Friday. Thus, the due date has come and
7 gone. The due date came and went before we withdrew the
8 RTE.

9 So the RTE -- the suggestion that they --
10 they hadn't prepared those documents, they didn't --
11 even in El Paso, they didn't seek a TRO. So there was
12 nothing that would have stopped them. They -- they
13 should have had the documents prepared, ready to go,
14 pending the outcome of if they had had success in
15 El Paso. But they have not had success in El Paso. The
16 El Paso court has said that it is going to rely on this
17 Court's decisions.

18 THE COURT: Okay.

19 MR. QUESADA: And, if I might, I think
20 one thing to remember on the apex deposition is that
21 we're out of the sequence. The way the procedure --
22 even if it were expedited, the procedure requires a
23 notice of deposition, a chance for the responding party
24 to object to the deposition. And it requires a
25 notice -- that's very clear under the rules -- and that

1 has not -- that has not happened yet.

2 And let me make it clear. My objection
3 to the information on the link and the information on
4 the thumb drive has to do with admitting it into
5 evidence at this hearing. It has nothing to do with
6 whether or not we, ultimately, may agree that that --
7 that the people appearing on that video is who they
8 appear to be. That's a completely different issue. And
9 so I just wanted to make that clear.

10 I think testimony -- issues about
11 Mr. O'Rourke's deposition are premature because
12 you've -- someone has to issue a notice first, and then
13 you have to hash it out on the apex. And that's -- it's
14 their burden at that point, and it's still not been
15 done. I think this is similar to what happens in the
16 Annunciation case -- Annunciation House case. There has
17 to be a protective order in that context.

18 MR. FARQUHARSON: One -- one point, Your
19 Honor.

20 The discovery period hasn't opened. We
21 can't have done that.

22 THE COURT: Okay. Okay. I'm going to
23 take this one under advisement as well.

24 I know we still have a motion to modify
25 TRO, but I wanted to talk to the parties about this.

1 Obviously, we're moving at a really fast pace, and we're
2 all trying to keep up.

3 We do have a temporary injunction hearing
4 set for next Tuesday, but I need to review what was
5 filed overnight, the cases that were cited. I have
6 every intention of issuing orders, you know, no later
7 than close of business tomorrow.

8 But when you're asking for discovery --
9 I'm considering a timing issue here. I do know that we
10 can extend the TRO one time over the defendants'
11 objections. Does it make sense to move this TI hearing
12 out a week or two so we can address these issues and
13 allow the parties to collect discovery, if that's the
14 Court's ruling?

15 How would the parties -- I wanted to get
16 your opinion on this matter.

17 MR. FARQUHARSON: I anticipate --
18 opposing counsel has suggested they did intend to file
19 -- well, I'm sorry, they did file a motion to dissolve
20 that I believe they're trying to have heard today.

21 We are going -- we object to the
22 consideration of the motion to dissolve because it is --
23 because Rule 680 provides that a party is entitled to
24 two days' notice of modification or dissolution of a
25 temporary restraining order. We gave two days' notice

1 of our motion to modify. They did not give 12 hours'
2 notice of their motion to dissolve.

3 THE COURT: Has it even been filed? I
4 haven't -- I don't even see it on the docket. Am I
5 missing something? There's been a lot of filings the
6 past couple of days.

7 MR. GONZALEZ: Yes, we filed a response
8 in opposition to their motion to modify and included
9 with that --

10 THE COURT: Okay.

11 MR. GONZALEZ: -- a motion to dissolve.

12 THE COURT: That was the 93-page document
13 that was filed around midnight last night that was
14 included in there?

15 MR. GONZALEZ: Yes. And, you know, as
16 the state points out -- we weren't setting a motion for
17 hearing of that. But, as the state points out in their
18 own motion, the Court is, you know, free, of its own
19 volition, to modify or dissolve a TRO if that's not
20 appropriate. And I think, as we'll discuss, their
21 motion for modification points out why the TRO is
22 improper.

23 THE COURT: Okay. Okay.

24 MR. QUESADA: So --

25 THE COURT: So, from the state's point,

1 does it make sense to kick this TI out -- hearing -- a
2 week or two so we can take the discovery, resolve these
3 issues, give the Court time to review everything that
4 was filed last night?

5 MR. FARQUHARSON: Your Honor, I think
6 that makes the most sense. I mean, I think we've
7 already been -- here today, we're stumbling, everybody
8 is stumbling trying to keep up with the pace of the
9 case.

10 I will just note for the Court, from a
11 personal standpoint, I think we would be -- we wouldn't
12 be moving the ball forward if we were to replace myself,
13 who has been to the hearings in front of the Court and
14 been involved central to the case. I have got a
15 personal matter the week of August 25th and am not
16 available. So if we were to -- to extend to
17 September -- the -- the first week in September, I would
18 be able to do that.

19 THE COURT: Okay. Because this TRO
20 that's in place right now is -- expires a week from
21 tomorrow?

22 MR. FARQUHARSON: I believe the 18th.

23 THE COURT: On the 18th. Oh, it expires
24 on the 18th?

25 Okay. So if we extended this for another

1 two weeks, it would be effective through September 2?

2 MR. FARQUHARSON: So the question would
3 be whether or not the Court can extend it -- how long
4 the Court can extend it.

5 THE COURT: Yeah, I'm looking at Rule
6 680, but I know that the state has told me that 680
7 doesn't apply to these kinds of TROs that were in place.
8 And I don't have the familiarity with this as well.

9 MR. FARQUHARSON: I think 680 is a useful
10 guidepost. There is -- I know that there is not an
11 express rule on this sort of timing issue in the
12 Deceptive Trade Practices Act. But Rule 680 does not
13 say -- it does not limit extensions to two weeks. I
14 think the -- the text of the language says it can
15 grant -- the Court can grant a temporary restraining
16 order for no more than 14 days, and it can grant no more
17 than one extension of the temporary restraining order,
18 but does not say the extension.

19 The issue here that I think would permit
20 the Court to proceed to September 2 is that I believe
21 September 1 is Labor Day, which is a recognized holiday.

22 MS. SMITH: Sorry. The terms of the TRO
23 states it does expire 14 days from the 8th, which would
24 be the 22nd. So another 14-day extension from that
25 would be September 5.

1 THE COURT: September 5? Okay.

2 MR. FARQUHARSON: That's right.

3 MS. SMITH: The week -- other than Labor
4 Day, the week -- the first week of September would still
5 be under the auspices of the TRO.

6 MR. FARQUHARSON: And that -- to clarify,
7 for the record, September 18 -- or -- I'm sorry.

8 August 18 is the date the Court set for a
9 hearing on the temporary injunction. And so I believe
10 the Court likely built in some time to take the issue
11 under advisement before the Court had to address the
12 expiration.

13 THE COURT: Okay. Okay. So you would be
14 available for a TI hearing on September 2?

15 MR. FARQUHARSON: Yes, Your Honor.

16 THE COURT: Okay. And the defendants?
17 Let me -- I'm just -- purely availability.

18 MR. QUESADA: I -- I understand, Your
19 Honor. I don't know, but we will find out. I would
20 anticipate we'd have somebody available.

21 THE COURT: Somebody can come --

22 MR. GONZALEZ: On availability --

23 THE COURT: -- to the Court on September
24 2?

25 MR. GONZALEZ: Counterspoke.

1 I mean, we strongly object to a prior
2 restraint on speech being extended for --

3 THE COURT: I understand all of the legal
4 arguments. I'm just trying to, yeah, look at
5 everybody's scheduling.

6 MR. QUESADA: Let me be clear. If you
7 say we're going to have a hearing on the 2nd, we'll have
8 somebody here.

9 THE COURT: Okay. Because my initial
10 reaction -- oh, are you okay?

11 MR. QUESADA: I am now.

12 THE COURT: -- is to go ahead and extend
13 this -- the TI hearing that's set next week to
14 September 2 at 10:00 a.m., subject to all of the legal
15 arguments that everybody is now about to make.

16 MR. GONZALEZ: If the TRO is going to be
17 extended, we would like to then set a hearing on our
18 motion to dissolve. And we can keep the same Monday. I
19 mean, that's obviously a less, you know, intrusive
20 evidentiary hearing, but we'd like to keep, then, the
21 hearing on Monday set for --

22 THE COURT: Was it Monday, or was it set
23 on Tuesday? I thought it was --

24 MR. GONZALEZ: Oh, Tuesday.

25 THE COURT: It is --

1 MR. GONZALEZ: Tuesday. I apologize.

2 THE COURT: I've got -- my calendar shows
3 August 19 at 10:00 a.m.

4 MR. GONZALEZ: Yes, you're -- yeah.

5 THE COURT: Okay. So you would like to
6 set your motion to dissolve that was filed last night --

7 MR. GONZALEZ: I mean, we would like to
8 set it earlier if Your Honor has any availability on
9 Monday. I mean, could -- as --

10 THE COURT: I can -- I can do Monday
11 afternoon. I've got -- I can -- the Court is open
12 Monday afternoon.

13 Are the plaintiffs available?

14 MR. FARQUHARSON: Your Honor, I believe
15 there's a hearing in this matter in El Paso on Monday
16 afternoon, a status conference.

17 MR. GONZALEZ: They weren't counsel at
18 the El Paso matter.

19 THE COURT: Do you need to be in El Paso?

20 MR. GONZALEZ: No, we don't need to be.
21 There -- there's local counsel.

22 MR. QUESADA: Well, we --

23 THE COURT: Oh, that was in the --

24 MR. QUESADA: We -- we can cover both.
25 Can you-all cover both?

1 THE COURT: Or do you want to wait to
2 hear what the El Paso court says with the status
3 conference on Monday afternoon at 1:30? I think that
4 was the notice that was filed last night.

5 MR. FARQUHARSON: I think the -- the
6 Court's objective, and the -- the state would agree with
7 the objective, is to give the parties and the Court an
8 opportunity to untangle their feet and -- and address
9 everything in a thoughtful and orderly fashion.

10 And so by trying to still bungle it all
11 up, I -- I just don't know that we're going to
12 accomplish that. I think it would make sense for it to
13 be the next morning, the next afternoon, either one of
14 those.

15 THE COURT: Okay. That makes a lot of
16 sense.

17 MR. GONZALEZ: The El Paso hearing has
18 nothing to do with this. I mean, whatever the El Paso
19 court does isn't going to affect this TRO. It's an
20 entirely different issue.

21 THE COURT: I'm just going to go ahead
22 and let the El Paso court do what they're going to do on
23 Monday afternoon, so we'll at least have the information
24 that's going on in that case.

25 We can set your motion to dissolve TRO

1 next Tuesday at 10:00 a.m. It's just the following
2 morning. I can hear it at that time. There's proper
3 notice for everybody. We should take up those issues.

4 So we'll do that. August 19 at 10:00
5 a.m., the defendants' motion to dissolve, and continue
6 the TI that's currently set for next Tuesday to
7 September 2 at 10:00 a.m.

8 MR. FARQUHARSON: Would the Court be
9 willing to make briefing deadlines for that September 2
10 hearing?

11 THE COURT: Sure.

12 MR. FARQUHARSON: I -- I just don't want
13 us to end up back here with midnight filings.

14 THE COURT: Right. I mean, that's kind
15 of the problem we've got right now.

16 MR. QUESADA: From -- from our
17 standpoint, that's a gun that kicks as hard as it
18 shoots. We understand, but we are -- we are -- we're
19 doing -- we're responding as quickly as we can.

20 THE COURT: I think everybody is. We're
21 just trying to get the -- trying to get this put into a
22 more orderly fashion so that we can --

23 MR. GONZALEZ: And apologies, Your Honor.
24 But just for the record, to make clear, you know, we are
25 -- our motion to dissolve is subject to our motion to

1 transfer venue. We don't want to waive something.

2 THE COURT: Absolutely. The Court will
3 note that.

4 Okay. So briefing deadlines, what do you
5 propose? Because we're, essentially, giving ourselves
6 two weeks.

7 MR. FARQUHARSON: I guess it depends on
8 the Court's rulings on discovery would be -- will --
9 will end up being an inextricable part of it.

10 But if we're going to have -- I think --
11 I think it would make sense that, if we're having a
12 hearing on Tuesday the 2nd, Friday at 5:00 p.m., the
13 parties should have all of their briefs in to the Court.

14 THE COURT: So Friday, the 29th, at 5:00
15 p.m., all briefs are due. And nobody's going to have
16 a chance to respond to each other's briefs?

17 MR. FARQUHARSON: Or we could do -- we
18 could do substantive --

19 THE COURT: That's a problem.

20 MR. FARQUHARSON: -- yeah, substantive --
21 substantive briefs the Monday before the -- the Monday
22 before the first week of September.

23 THE COURT: So that's Monday, August 25.

24 MS. SMITH: And then responses due the
25 29th, 5:00 p.m.?

1 THE COURT: Is that okay?

2 MR. GONZALEZ: Yes, ma'am.

3 THE COURT: Are y'all able to work with
4 that time frame?

5 MR. GONZALEZ: Yes.

6 THE COURT: Okay. Monday at 5:00 p.m.
7 or Monday at 11:59 p.m.? Which -- which do you-all
8 prefer?

9 MR. FARQUHARSON: That is up to you.
10 I...

11 THE COURT: I will let y'all go all the
12 way up to midnight if that helps. So Monday at 11:59
13 p.m., substantive briefs are due. And Friday -- I'll
14 go ahead and give you until midnight as well to get your
15 responses in.

16 Okay.

17 MR. QUESADA: I suspect a brief will
18 expand to fill the available due date. So...

19 THE COURT: Okay. Do we need to go on to
20 the motion to modify the TRO now?

21 MR. FARQUHARSON: Thank you, Your Honor.

22 THE COURT: Okay.

23 MR. FARQUHARSON: Your Honor, the motion
24 to modify is really very simple. The Court has already
25 concluded that the temporary restraining order was

1 justified. The only question that is -- so the motion
2 to dissolve is now set for Tuesday. That means that the
3 only issue before the Court is the motion to modify.
4 And the only two things that the motion to modify asked
5 for is for the Court to add language that tracks Texas
6 Rule of Civil Procedure 683 and extends the TRO -- or
7 extends -- clarifies that the TRO applies to defendants
8 and their officers, agents, servants, employees, and
9 attorneys, and those persons in active concert or
10 participation with them who receive actual notice of the
11 order.

12 So the -- the other piece is to ask the
13 Court to order defendants to serve the TRO on ActBlue,
14 who has been central to this litigation and is central
15 to this litigation, and to defendants' financial
16 institutions. And that -- that is -- the motion to
17 modify, I don't think -- I don't -- I do not want to
18 reach the ultimate issue of whether or not there has
19 been a violation of the temporary restraining order
20 because that is set for hearing on August 26.

21 So with -- with that, unless opposing
22 counsel wants to get into the -- whether or not there
23 has been a violation of the temporary restraining order
24 and the Court wants to hear that, we are making a very
25 simple ask: To track the language of TRCP 683 and

1 asking to have defendant notify ActBlue and financial
2 institutions which are central to the -- the underlying
3 litigation. We believe that this is justified.

4 THE COURT: Okay. Let me also ask you
5 this, just for purely calendaring, does it make sense to
6 take that contempt motion and also hear it on
7 September 2 for the convenience of the parties so people
8 aren't --

9 MR. FARQUHARSON: I think --

10 THE COURT: I think this would just make
11 sense procedurally and for everybody's convenience to
12 just hear that all on September 2.

13 MR. FARQUHARSON: I think that would be
14 appropriate.

15 THE COURT: Okay.

16 MR. FARQUHARSON: One other item. The --
17 the arguments that have been advanced by defendants on
18 the motion to modify and I think in some of their --
19 this motion to dissolve is that it's -- it is -- they're
20 acting as if the only thing that the TRO prohibited was
21 the, quote, use of funds. But that's not the reality of
22 the TRO. The TRO prohibits raising funds for specified
23 purposes.

24 And so I just want to -- I want to point
25 that out for the Court because I think that that is

1 relevant to -- the deceptive conduct that we are
2 alleging is that there is confusion happening between
3 people making -- thinking they're making political
4 donations and then making donations for prohibited
5 personal purposes. And part of that deception is
6 through the ActBlue platform.

7 And so, if these are going to happen, we
8 think that making the order consistent with the Texas
9 Rules of Civil Procedure will be a best -- best
10 practice.

11 THE COURT: Okay. Thank you very much.

12 Yes, sir.

13 MR. GONZALEZ: May it please the Court.

14 They -- plaintiffs are trying to extend
15 the scope of this TRO and include third parties that are
16 -- that are not subject to the Court. And their motion
17 to modify shows exactly why this modification is
18 problematic and the original rushed TRO is practically
19 and constitutionally problematic.

20 They stood in court and on Zoom on Friday
21 and said that -- represented that their order was
22 sufficiently narrow to not prohibit general
23 constitutional political fundraising. Now, in their
24 motion to modify the TRO, the basis for their motion --
25 let's look at the statements that they are citing as the

1 basis for their motion to modify.

2 THE COURT: Well, aren't they really just
3 asking the modification to include the standard
4 statutory language that's in Rule 680, 683 that is
5 frequently a part of most routine --

6 MR. GONZALEZ: Well, it's --

7 THE COURT: -- restraining orders issued
8 in civil cases?

9 MR. GONZALEZ: It's problematic to
10 encompass officers, agents, servants, employees, and
11 attorneys in an overly broad statute that is restraining
12 those individuals' First Amendment right.

13 THE COURT: Who are in active
14 participation or receive notice that you can't go out
15 and knowingly have someone else affiliated with you --
16 I'm not doing it, but my friend can. I mean, that's --
17 that's why the language is in the statute.

18 MR. GONZALEZ: But this is attempting to,
19 you know, restrain me from raising funds for
20 nonpolitical purposes. So I can't go out and -- you
21 know, can I go out and have a GoFundMe for a friend?

22 And it's also asking to provide this
23 notice to third parties with the intent that this is
24 going to limit those third parties' transactions in
25 association with the plaintiff. And this is the exact

1 sort of problematic government attempt to interfere with
2 third-party business relationships that the Supreme
3 Court recently said violated the First Amendment in
4 National Rifle Association vs. Vullo. And, there, the
5 NRA alleged that Vullo violated the First Amendment by
6 coercing DFS-regulated entities into disassociating with
7 the NRA in order to punish or suppress it, its advocacy,
8 and that involved notifying banks of alleged violations.

9 That's exactly what they're trying to do
10 here. They're trying to notify these payment platforms
11 of violations in order to chill their association with
12 the defendants. And that's -- you know, the Supreme
13 Court has just reiterated why that's constitutionally
14 problematic.

15 And I would like, Your Honor, to make a
16 record. And, again, this is restraining additional
17 people who are acting with -- you know, in capacities
18 with defendants. But if they are being overly
19 restrained, then that's going to be a problem.

20 So, if Your Honor will allow me, I'd like
21 to walk through why some of this is problematic.

22 THE COURT: Okay. Of course.

23 MR. GONZALEZ: Thank you, Your Honor.

24 So, again, looking at what they are now
25 interpreting the language of the restraining order to

1 include in their motion to modify and in their motion
2 for contempt, paragraph 6 of their motion to modify --
3 these are quotes from Mr. O'Rourke -- "Still here, still
4 fundraising and rallying to stop the steal of five
5 congressional seats in Texas."

6 Paragraph 7, Defendant O'Rourke tweeted
7 out another link to an ActBlue donation page affiliated
8 with Defendant Powered By People asking: "Donate here
9 to have the backs of our Texas Democrats in this fight."

10 And, paragraph 8, opening this hyperlink
11 directs the viewer to an ActBlue fundraising page hosted
12 by Defendant Powered By People that states it takes the
13 fight "to Paxton, Abbott, and Trump," requests a show of
14 "support for our fight for Texas," and lists a
15 hyperlink, "support-texas-dems-2025."

16 In paragraph 10, "Text FIGHT to 20377 to
17 help Texas Democrats to stop Trump's power grabs."

18 I mean, "Stop the steal of five
19 congressional seats," "Take the fight to Paxton, Abbott,
20 and Trump," "Help Texas Democrats stop Trump's power
21 grabs," this is Common Law 101, prior restraint of
22 protected political speech. And, as a professor, I
23 wouldn't even use this as a hypo because it's such an
24 easy answer.

25 And, to quote the Texas Supreme Court in

1 Kinney, which is 443 S.W.3d 89 (sic), "A hallmark of the
2 right to free speech under both the U.S. and Texas
3 Constitutions is the maxim that prior restraint are a
4 heavily disfavored infringement of that right." And
5 that prior restraint includes judicial orders forbidding
6 certain communications that are issued in advance of the
7 time that such communications are to occur. And that's
8 what number 2 of this order is. It's prohibiting those
9 communications.

10 And they went on to say, indeed, "So
11 great is our reticence to condone prior restraints that
12 we refuse to allow even unprotected speech to be banned
13 if restraining such speech would also chill a
14 substantial amount of protected speech."

15 And, as the U.S. Supreme Court put it in
16 Nebraska Press Association vs. Stuart, the most serious
17 and the least tolerable infringement on First Amendment
18 freedoms carry a heavy presumption against
19 constitutional validity.

20 That's particularly in the case in the
21 realm of political speech. From Citizens United,
22 political speech must prevail against laws that would
23 suppress it, whether by design or inadvertence.

24 And, you know, looking at the language,
25 again, of the order itself, it's clear prior restraint.

1 It's restraining defendants. And now they're seeking to
2 restrain officers, agents, servants, employees, and
3 attorneys from expressive conduct before that conduct
4 has happened. And now we know that, at least in their
5 interpretation, this includes things like saying,
6 "Support Texas Democrats."

7 And it's not even clear what's being
8 restrained. It says, "Raising funds for nonpolitical
9 purposes." Nonpolitical purposes could include
10 anything, staff costs, operating costs, charitable work.
11 Powered By The People has raised millions of dollars for
12 food banks and for natural disaster relief, and uses its
13 volunteers and staff to do that. So, you know, I mean,
14 just looking at the terms of this, that is a
15 nonpolitical purpose. Are they being restrained from
16 doing that moving forward?

17 And prior restraint is particularly
18 problematic in the context of nonprofit fundraising, is
19 because solicitation is characteristically intertwined
20 with informative and persuasive speech. And that's from
21 Riley 487 U.S. at 796.

22 Because the raising of funds is to
23 support speech, it's inherently tied with protected
24 activity. And that's why the Supreme Court has
25 repeatedly struck down prophylactic statutes designed to

1 combat fraud by imposing prior restraints on
2 solicitation. That's Illinois ex rel. Madigan.

3 And that brings us to sort of the
4 underlying issue in all of this and why the TRO cannot
5 be extended to other people because the basis for it is
6 unclear. And, you know, with hindsight 20/20 and a
7 moment of reflection to actually look at this, this is
8 what we should have started with on Friday, that the
9 DTPA is not -- does not even apply to the complained-of
10 transactions. The DTPA, which is the only basis for
11 their action, only applies to trans- -- commercial
12 transactions, the sale and offer of goods and services.
13 There are no commercial transactions at issue here.

14 People are freely giving their money to
15 support a cause, to fight Trump, Paxton, Abbott, to
16 support Texas Dems. They're funding speech, not
17 purchasing goods and services. And, by the state's law,
18 a church would be subject to DTPA when it asks for
19 support from its congregation. But that's not invoked
20 because the church isn't selling a commercial service
21 for -- for profit. It's providing a message. And
22 people who agree with that message are funding that
23 message and its dissemination.

24 And to determine whether something is a
25 commercial transaction, you look at the -- what the --

1 you know, the transaction itself with the individual,
2 not what the money is actually used for. Here, the
3 transactions, again, are for things like support Texas
4 Dems. Their complaint is what the money is eventually
5 used for. But there's other laws that govern that.

6 So, for example, in the church context,
7 right, if a pastor were to misuse funds, embezzlement.
8 And, here, the political context, as Your Honor knows,
9 there is an entire statutory scheme regulating how
10 political contributions and expenditures can be made.
11 And that -- it's a -- you know, what they are
12 complaining about is activity related to what the funds
13 are used for, regulated by an entirely different
14 statutory scheme.

15 And if the Court were to read the DTPA to
16 apply to this type of activity, it would force the --
17 you know, it would raise serious constitutional concerns
18 about the scope of the DTA (sic). And, as the Supreme
19 Court just reiterated in Annunciation House, courts have
20 to avoid reading statutes to create conflicts with the
21 Constitution. And that's precisely what their reading
22 here does.

23 And so it's incredibly problematic to
24 expand this scope. And, again, unclear as to what is
25 even being prohibited here. You know, I don't -- I

1 don't know. I mean, am I -- can I go, you know, out and
2 raise money for nonpolitical purposes? I don't know.

3 So we would ask that you not grant their
4 motion to modify the TRO, consider the merits of the TRO
5 itself, in your own discretion, in how you, you know,
6 continue it, and then hear our motion to dissolve, if
7 it's not dissolved before then.

8 THE COURT: Okay. Thank you very much.

9 MR. GONZALEZ: Okay.

10 MR. FARQUHARSON: May I respond?

11 THE COURT: Yes.

12 MR. FARQUHARSON: Thank you, Judge.

13 The arguments that the Court just heard
14 are, ultimately, arguments that are about a temporary
15 injunction. They're all the same arguments that the
16 Court already heard on Friday.

17 First, what opposing counsel did was
18 concede that these financial institutions and ActBlue
19 are in a business relationship, cooperating with, and in
20 participation with the defendants. We have already
21 cited for the Court Business Organizations Code 12.201
22 and 12.259. And, as the Court knows, 12.201 gives the
23 Court -- or establishes a lien on property that is the
24 subject of a suit for penalties by the state. Section 2
25 point -- 12.259 of the Business Organizations Code says

1 that the state has a right to a writ of attachment,
2 garnishment, sequestration, or injunction, without bond,
3 to aid in the enforcement of the state's rights.

4 So I raise that to say that the state --
5 the Business Organization Code gives the state wide
6 latitude to enforce the DTPA and to ensure compliance
7 with the DTPA and a statutory injunction that is issued
8 pursuant to the DTPA.

9 So -- but all that aside, the -- the
10 temporary restraining order, as it exists right now, is
11 not -- it's not -- again, these are -- first of all,
12 these are temporary injunction arguments. These are not
13 arguments even for a motion to dissolve. These are
14 temporary injunction arguments that should be adequately
15 briefed and the Court should -- should have everything
16 in front of it for.

17 But this is not restraining speech. This
18 is -- this is not saying that Defendant O'Rourke cannot
19 say, "Fight Abbott, fight Trump, fight Paxton." He can
20 say those things. And -- and, in fact, that's not the
21 issue here.

22 The issue here is -- is, "Support the
23 Texas Democrats. Help me support the Texas Democrats,"
24 which is, apparently, defied by the -- the latest
25 pleadings that they've made wherein they say we haven't

1 funded any Democrats, which may lead to a whole other
2 deceptive trade practices issue if they're raising money
3 to support Texas Democrats but they're not supporting
4 Texas Democrats.

5 So -- but, again, we're not restraining
6 speech. What we are saying is that what they cannot do
7 is use this certain speech to fundraise. They can say
8 whatever they want, but they cannot use it to fundraise.
9 They cannot use it to -- to do ActBlue.

10 So, to opposing counsel's question, can
11 he raise money? Yes, he -- he can raise personal money.
12 He can't raise money through ActBlue under -- under this
13 temporary restraining order.

14 And I'll also point the Court to WinRed
15 vs. Ellison. This is 59 F.4th 934. It's an 8th Circuit
16 decision.

17 THE COURT: Okay. Can you say that
18 again?

19 MR. FARQUHARSON: 59 F.4th 934.

20 THE COURT: Okay.

21 MR. FARQUHARSON: And what that case says
22 is that consumer -- consumer protection laws can be
23 applied to deceptive solicitation of political
24 donations.

25 Oh, the other item that I heard was that

1 the -- it's not clear what is prohibited by the
2 temporary restraining order. So now I will play the
3 video interview of Defendant O'Rourke and Governor Gavin
4 Newsom.

5 MR. GONZALEZ: Just for clarity, are you
6 playing the whole interview?

7 MR. FARQUHARSON: If you want to sit here
8 for 38 minutes, I'm happy to do that. Otherwise, I was
9 just going to play his discussion of this case.

10 MR. GONZALEZ: No, Your Honor. I mean,
11 as was the subject of our notice to this Court, right,
12 that they are taking things out of context, if they're
13 going to play something, we would want them to play the
14 whole thing.

15 THE COURT: Okay. Why don't we take a
16 five-minute break, and then we can settle in and watch
17 the interview for 38 minutes.

18 MR. FARQUHARSON: Thank you, Your Honor.

19 THE COURT: Okay. Thank you.

20 (Break from 12:31 p.m. to 12:41 p.m.)

21 MS. SMITH: Not sure where my co-counsel
22 is, but I'm sure he'll be back.

23 THE COURT: Okay. I think he's been busy
24 the past -- past week or two, huh?

25 MS. SMITH: Oh, he's been a little busy.

1 MR. FARQUHARSON: Sorry.

2 THE COURT: Okay. Ready to play the
3 video?

4 MR. GONZALEZ: Yes, Your Honor.

5 Before we sit through a 40-minute video,
6 I would object, and ask what the relevance of this is?

7 THE COURT: Well, I'm not sure the whole
8 video is relevant. You wanted to play the whole thing,
9 unless you want to withdraw that request and just let
10 plaintiff play the portion he thinks is pertinent to
11 this case?

12 MR. GONZALEZ: Well, I mean, I guess I
13 could still object to the relevance of it. I mean,
14 the --

15 THE COURT: I mean, we're only playing
16 this whole thing because you wanted us to. Do you want
17 us to not do that?

18 MS. STEVENS: May I speak, Your Honor?

19 THE COURT: Yes, ma'am.

20 MS. STEVENS: Ms. Stevens, for the
21 record.

22 We object to the five-minute portion of
23 the video. If Your Honor is inclined to hear that and
24 overrule that objection, then we would like the entire
25 video under the rule of optional completeness.

1 THE COURT: Okay. The whole --

2 MR. FARQUHARSON: Judge, I have no
3 problem -- we could play it on two-times speed, if the
4 Court would like it on two-times speed.

5 THE COURT: I have no problem with that,
6 but I think I would lose my court reporter. She would
7 get up and walk out. And I'd really like to keep her.

8 MR. FARQUHARSON: That's fair.

9 THE COURT: Okay. I guess we're going to
10 play the whole thing now.

11 MR. QUESADA: Unless it -- has it already
12 been transcribed?

13 MR. GONZALEZ: Yeah, that's --

14 MR. FARQUHARSON: I'm not aware of it. I
15 don't --

16 MR. QUESADA: Okay.

17 THE COURT: I don't think we had enough
18 notice. These hearings are coming pretty fast, at the
19 parties' request.

20 MR. QUESADA: I was just hoping, if it
21 had been transcribed, we would have no objection to
22 offering the transcription.

23 MS. STEVENS: I was just going to ask for
24 the Court's ruling on the objection to the five-minute
25 portion, just for the record.

1 THE COURT: Objection overruled.

2 MS. STEVENS: Thank you.

3 THE COURT: Thank you.

4 Yeah, I think we can play the whole
5 thing.

6 MR. FARQUHARSON: Do I have volume
7 control over here?

8 THE BAILIFF: It's on your computer.

9 MR. FARQUHARSON: Oh, just on the
10 computer? Okay.

11 MS. SMITH: To the right there. To the
12 right. No, I'm sorry. To the right of the play button.

13 MR. FARQUHARSON: Oh, I see.

14 Don't want to blow us all out of here.

15 (Video played as follows:)

16 MR. NEWSOM: Fire with fire. They are in
17 full panic mode right now. Get a toothbrush. You're on
18 your way to jail, my friend.

19 SPEAKER: This is Gavin Newsom, and this
20 is Beto O'Rourke.

21 MR. NEWSOM: How are you doing, brother?

22 MR. O'ROURKE: I'm doing okay. I'm back
23 in El Paso. And this is -- this is home. So I'm --

24 MR. NEWSOM: You're not -- you should not
25 be in El Paso. You should be preparing. Get a

1 toothbrush. You're on your way to jail, my friend.

2 I just read Paxton's latest missive.

3 MR. O'ROURKE: Yeah.

4 MR. NEWSOM: He says, Lock him up, lock
5 him up.

6 MR. O'ROURKE: That's right. If Twitter
7 can be believed, that's -- that's where I'm headed next.
8 But -- but, for the time being, I get to hang with
9 family, which is pretty nice.

10 MR. NEWSOM: But, I mean, on a serious
11 note, I mean -- I mean, the guy is -- the attorney
12 general of the State of Texas said in a tweet Beto
13 O'Rourke needs to be locked up. Not just hunted down,
14 but now locked up.

15 I mean, you got -- on a serious note, you
16 got -- tell me you haven't had a private attorney or
17 someone. You're -- you're literally gaming this out.
18 You got to game it out, right?

19 MR. O'ROURKE: Yeah. I mean, here's the
20 thing that -- that everyone should know. One, they're
21 trying to stop us from exercising our First Amendment,
22 constitutionally protected right to say what we want to
23 say about the politics of this country, about the
24 attempted theft of these five congressional seats, our
25 encouragement to governors such as yourself to use their

1 full power to maximize Democratic congressional control
2 of the districts within their states.

3 I mean, this is the fight that is taking
4 place right now, and they're trying to take us out of
5 this fight by seeking to intimidate us in the courts.

6 And now, as, you know, you just referred
7 to, Ken Paxton is on Twitter saying, Lock him up.

8 And what they're -- Gavin, this is what I
9 think is going on. Over the last seven, eight months,
10 we've watched the wealthiest, the most powerful people
11 and institutions in this country bend a knee. The Ivy
12 League universities -- Harvard may settle for
13 500 million this week. The big law firms, Paramount,
14 CBS, you know, Zuckerberg, Bezos, you know, all of them
15 are bending the knee.

16 And then they come to Texas in this
17 effort to steal these five seats, assuming that -- that
18 we're going to do the same. And when our knees don't
19 bend, they don't like that so much.

20 And so they not only seek to vacate the
21 seats of the 56 state House Dems who have broken quorum
22 to stop this deal, they're threatening them with
23 second-degree felonies, they're sending FBI and state
24 troopers after them, but now they're suing us
25 successfully many times over the last few days in state

1 court here, and are threatening to put me in jail.

2 This is where we are right now. And this
3 is why, at this moment, we need people to stand and
4 fight the -- you know, every single time someone bends
5 the knee to these guys, they get more powerful, there's
6 more momentum behind them, and it's going to be just
7 tougher for us to succeed.

8 And, if we don't, I think this is for all
9 the marbles. This is the ballgame in the summer of
10 2025, not just the election of 2026, but whether there's
11 going to be the consolidation of authoritarian control
12 in the hands of this president.

13 So we cannot be found wanting right now.
14 We've got to fight with all we've got.

15 MR. NEWSOM: I love it. And so much to
16 unpack in everything you just said. Let me just go back
17 a little bit, just create some situational awareness for
18 folks.

19 Quite literally, just a few hours ago, we
20 were referencing that tweet where the attorney general
21 of the State of Texas talked about locking you up, but
22 you reference Powered By The People, Powered By People,
23 which is your PAC.

24 COMMERCIAL SPEAKER: Hello, my name is
25 Adam Ferrari, the chief executive officer of Phoenix

1 Energy --

2 MR. NEWSOM: There was a lawsuit by that
3 same attorney general. There was a court order by a
4 Abbott -- Governor Abbott-appointed judge that did a
5 temporary injunction. And he's, what, asserting now
6 that you have broken the tenets of the TRO as it relates
7 to the PAC? Maybe illuminate us more of what at least
8 he's asserting, and then give us the facts.

9 MR. O'ROURKE: We -- we had a big rally
10 planned on Saturday in Fort Worth, in Tarrant County in
11 North Texas, just next to Dallas in the north part of
12 our state.

13 And so he went to state court in Fort
14 Worth in front of this Abbott-appointed judge, as you
15 pointed out, 4:30 on -- on Friday with -- with almost --
16 and I think, actually, no notice to -- to our side,
17 filing a temporary restraining order request to stop me
18 from being able to hold the rally, from being able to
19 raise resources for those who are in this fight, and for
20 even being able to speak.

21 But the TRO that they got was so
22 incredibly narrow in scope. There are some very
23 technical, specific things that I can't say, and I have
24 not said them, but I've continued to -- to rally, to
25 fight, to raise and to speak my mind.

1 And we did all that in Fort Worth on
2 Saturday in front of thousands of fired-up people who
3 want to make sure that this theft of these five
4 congressional seats does not proceed in the State of
5 Texas and that we stop, you know, finding ourselves on
6 the back foot or on the defense, but we take the fight
7 to them. We go on -- on offense. We don't -- we don't
8 await the punch to be thrown by these would-be fascists.
9 We throw ours first, and we throw it harder.

10 That was the spirit in Fort Worth on
11 Saturday, and they didn't like that. And so, at the
12 crack of dawn today, they file this request for the
13 judge to find me in criminal contempt, to -- to lock me
14 up, put me behind bars, and literally physically prevent
15 me from continuing to travel the state, to hold rallies,
16 to meet with people, to raise resources, and to fight.
17 They -- they just don't want us to fight.

18 All the more reason for us to fight, and
19 very telling about how panicked and scared they are if
20 they cannot complete this steal in Texas. If they can
21 stop us from winning control of -- or if they cannot
22 stop us from -- from winning control of the House of
23 Representatives, there's going to be a check on their
24 lawlessness. There's going to be accountability for all
25 the crimes and corruption that we see organized out of

1 the White House right now, and there's a very real
2 prospect that we'll have free and fair elections in
3 2028.

4 If we fail in this -- and this is what
5 they're counting on -- then that consolidation of
6 authoritarian power proceeds at an even increased pace.
7 And we've just seen a blitzkrieg over the last eight
8 months. That -- that is just the prelude or the
9 prologue to what is going to happen to America over the
10 next three and a half years if we're unsuccessful, more
11 masked, plainclothes federal agents without warrants or
12 badges sweeping fellow Americans up off the streets,
13 more of Trump's political opponents targeted as I'm
14 being targeted right now for vengeance or retribution or
15 even political violence.

16 And we know that a complicit,
17 Republican-controlled Congress will roll out the red
18 carpet for a third Trump term.

19 So those are the stakes. The election of
20 2026 is being decided right now in the summer of '25,
21 and all of us have to fight with all that we've got to
22 make sure that we win it and win it now.

23 MR. NEWSOM: I want to go back. You used
24 the words "free" and "fair." And I do think it's
25 important to pause. And everything you said, I agree

1 on. And, again, I want to talk much more about that.

2 But the notion that --

3 (Video stopped.)

4 MR. FARQUHARSON: Your Honor, I believe
5 opposing counsel is going to confer amongst themselves
6 with respect to whether the remainder of the video needs
7 to be played.

8 THE COURT: Okay. Thank you very much.

9 MR. GONZALEZ: Yeah. Yeah, I think we
10 have -- seeing that they've played what they want to
11 play, we're okay with cutting it there.

12 THE COURT: Okay. So we -- we're okay?
13 From the defendants' point, we don't need to play the
14 whole video now?

15 MS. STEVENS: That's correct, Your Honor.

16 May we ask the Court that -- if we can
17 get it transcribed and presented to the Court as a -- as
18 a supplement to this hearing?

19 MR. FARQUHARSON: Provided that we have
20 an opportunity to review it, yes.

21 THE COURT: Okay. Yeah, just run it
22 through the plaintiff's attorney.

23 MS. STEVENS: Okay.

24 THE COURT: And if he's in agreement,
25 that's fine.

1 MS. STEVENS: Thank you.

2 MR. QUESADA: Well, wait, wait.

3 To make it easier on everyone, why don't
4 we just agree on a transcript and provide it to Madam
5 Court Reporter so she doesn't have to go back and try to
6 transcribe that.

7 THE COURT: Yeah, she's not going to
8 transcribe anything that was not played in court.

9 MR. QUESADA: No, I get that. I mean the
10 portion that -- we are okay with substituting a
11 transcript and providing it to Madam Court Reporter.

12 She's shaking her head no.

13 THE COURT: Yeah, she's very -- very
14 diligent.

15 MR. QUESADA: Thank you.

16 MR. FARQUHARSON: And I apologize for
17 offering to play it on two-times speed. I did not think
18 about you.

19 Your Honor, again -- so, first, I want to
20 again emphasize we are not trying to stop political
21 speech. We are not trying to stop Mr. O'Rourke from
22 traveling the country and engaging in political speech.
23 As we spoke about before, we are trying to stop
24 deceptive fundraising from the speech.

25 And I played that video because one of

1 the -- again, I -- I didn't think it's necessary for us
2 to go back in on these issues that have already been
3 decided. This is a very narrow modification. But what
4 -- what was said by opposing counsel was that the order
5 was not clear, that the order was vague, and that it was
6 unconstitutionally overbroad.

7 That is defied by Defendant O'Rourke's
8 statements. What Defendant O'Rourke said first is,
9 "They tried to prevent me from raising resources for
10 those that are in this fight." That's exactly what
11 the -- the temporary restraining order does.

12 And then he also said -- he -- he
13 suggested that the state did not get all of the relief
14 that it requested in the temporary restraining order and
15 that what we got was -- what -- what the temporary
16 restraining order actually prevents is, quote, "very
17 technical and specific things." Very technical and
18 specific things.

19 So this idea that it is un- -- that it is
20 overbroad, that it's vague, and that it's not clear what
21 is prohibited is defied by defendant's own words. The
22 defendant knows exactly what he's prohibited from. He's
23 prohibited from raising resources for this fight or for
24 the people, the -- the legislators that are in this,
25 quote/unquote, fight.

1 One piece on the motion to modify the
2 TRO, on subpoint 4, which pertains to the removal of
3 property or -- or money from the state, if the Court
4 grants the motion to modify, that section should be
5 limited to Defendant -- Defendant Powered By People and
6 filing entities or foreign filing entities.

7 THE COURT: Okay. Anything further?

8 MR. FARQUHARSON: Not from the state,
9 Judge.

10 THE COURT: Okay.

11 MR. GONZALEZ: Well, Your Honor, I think
12 this demonstrates why this is incredibly problematic.
13 They -- they're saying this is just prohibited
14 fundraising, not speech. Fundraising for political
15 purposes is speech. That's Citizens United and a
16 hundred other Supreme Court cases. That's, like,
17 fundamental principles that political fundraising itself
18 and political contributions and expenditures are speech.

19 And then they're objecting to these --
20 so, you know, Mr. O'Rourke talked about the narrowness
21 of the TRO. That is what the state represented in court
22 on Friday, that it was a narrow TRO. But if they're
23 needing it to be so broad as to prohibit things like
24 supporting Democrats and raising resources for
25 Democrats, that can mean anything. I mean, that can

1 mean, you know, supporting them in their campaigns,
2 paying their own independent, you know, expenditures,
3 commercials, you know, voter registration. There's a
4 million different types of support and resources.

5 And they -- state had represented that it
6 was seeking a narrow TRO that did not prohibit that
7 clearly constitutional and lawful speech. And now
8 they're the ones saying, no, that is here. And that's
9 why the TRO is problematic. Right? We -- we can't even
10 agree on what it means. And now they're trying to
11 encompass more people into this TRO and then hold
12 defendants, you know, in contempt for things that we
13 didn't think were even part of this TRO but now are.

14 And I believe counsel said that -- that
15 attorneys would not be able to raise through ActBlue. I
16 mean, ActBlue is just a payment platform. It's like
17 PayPal for progressive causes or something, you know. I
18 can't solicit donations through ActBlue for somebody? I
19 mean, that -- you know, I think it's just not
20 constitutional.

21 So I'll leave it at that.

22 THE COURT: Okay. Thank you very much.

23 Anything anybody else want to say? Okay.

24 MR. FARQUHARSON: I think I've made my
25 point.

1 MR. GONZALEZ: Oh, sorry.

2 THE COURT: Yes.

3 MR. GONZALEZ: I'm so sorry.

4 THE COURT: Yes.

5 MR. GONZALEZ: Your Honor, there is one
6 thing that we actually don't disagree with, which is
7 that the fourth point they -- I think it was a clerical
8 error in the original, that it applied to both
9 defendants as to removing any property or funds from the
10 State of Texas. And they clarified that to just be
11 Defendant Powered By People.

12 I mean, if -- we object to this being in
13 place at all, but we wouldn't object to that one
14 narrowly --

15 THE COURT: Okay. I understand.

16 MR. FARQUHARSON: To be clear, we are --
17 Defendant Powered By People and any filing entity or
18 foreign filing entity. So that would include any
19 financial institution, or ActBlue, who has funds
20 belonging to the defendants in -- or in their possession
21 or trust.

22 MR. GONZALEZ: ActBlue is not in front of
23 this Court. This Court can't enjoin ActBlue from -- I
24 mean, that's -- that's insane. ActBlue is a national
25 payment platform that's not in front of this Court.

1 MR. FARQUHARSON: The Court would not be
2 enjoining anything that ActBlue is doing because it's
3 not funds that belong to ActBlue or that belong to the
4 financial institution. It's funds that belong to
5 defendants.

6 MR. GONZALEZ: I mean, that's --

7 THE COURT: Are you tracking some
8 statutory language?

9 MR. FARQUHARSON: Yes.

10 THE COURT: Okay. And you can point me
11 to that statute?

12 MR. FARQUHARSON: First, TRCP 683.
13 Second would be the TRCP -- I'm sorry, not -- Business
14 Organizations Code 12.201, which allows us to obtain the
15 lien on any --

16 THE COURT: Okay.

17 MR. FARQUHARSON: -- filing entity or
18 foreign filing entity. And I believe the -- Business
19 Organizations Code 12.259, I believe it also uses the
20 term "filing entity or foreign filing entity."

21 THE COURT: Okay.

22 MR. GONZALEZ: And I'm not clear what
23 they're asking for in this. I mean, obviously, ActBlue
24 can -- I mean, you know, I don't know the contractual
25 arrangement between ActBlue and its users. And I'm sure

1 that implicates all sorts of complicated areas of law.
2 And if they're now saying ActBlue can't remove funds
3 from the State of Texas, I don't --

4 THE COURT: I don't think that's what
5 he's saying. I think he's saying that ActBlue is not
6 permitted to remove Powered By The People's funds from
7 the State of Texas to the extent that they are a
8 third-party holder of the funds belonging to one of the
9 defendants in this case.

10 Is that what it is?

11 MR. FARQUHARSON: That's right.

12 THE COURT: All right. Do you have any
13 response to that?

14 MR. GONZALEZ: Well, I -- I just don't
15 know that that is, you know, the relationship that
16 ActBlue has with these entities. I don't know, you
17 know. I mean, that would be defined by their contracts
18 and other statutes.

19 THE COURT: Okay. Which is not an issue
20 that the Court is considering today. Okay. I'm going
21 to take that under advisement.

22 Okay. This is what I think I've got in
23 my notes here. We're going to hear the defendants'
24 motion to dissolve the TRO on August 19 at 10:00 a.m.
25 The motion for contempt and TI hearing is now reset to

1 September 2 at 10:00 a.m.

2 I believe, at one point, Mr. Quesada said
3 he had some additional cases to give me on an issue
4 earlier today that we are discussing. If there are any
5 additional case law or relevant legal authority you
6 think the Court needs to see, if you would please email
7 that to my court coordinator by 5:00 p.m. today.

8 I will tell the parties that things that
9 get filed with the clerk, there's a significant delay
10 before I get it. I've complained about it many times,
11 but there's not much way around it. Since we're moving
12 at such a fast pace, if there are things that you think
13 I need to get right away, would you please just go ahead
14 and email that to my court coordinator, CC'ing all
15 parties, so we can move this along?

16 I'll get you the rulings on the three
17 motions that were set. I'll have them issued by close
18 of business tomorrow. Sometimes the clerk also has a
19 delay in getting them to you, so you might want to
20 contact them by 5:00 p.m. tomorrow if you have not
21 received them.

22 And, also, would the plaintiff please
23 email me a red-lined version -- I'm sorry, let me say
24 this again -- the revised TRO that includes all the
25 language that you would like added, red-lined from the

1 version I entered last Friday, and also include a 14-day
2 extension and a reset of the temporary injunction
3 hearing to September 2 at 10:00 a.m.?

4 Are there any questions?

5 MR. FARQUHARSON: Yes, Judge. One
6 question is the supplemental case law. That pertains to
7 the three motions that were set for today only?

8 THE COURT: Yes, correct. Only today.
9 I'm not taking up anything that wasn't set today, just
10 those three.

11 Do you have anything else?

12 Yes, sir.

13 MR. QUESADA: May we get your court
14 coordinator's email, please?

15 THE COURT: Sure.

16 You know, you can just send it directly
17 to the Court's email. And I think it's the 348th...

18 THE BAILIFF: Judge, I've got some cards.

19 THE COURT: Okay. That will be helpful.

20 MR. QUESADA: That will be -- that will
21 be fine.

22 Thank you. That's all I have.

23 THE COURT: Okay. Okay. Okay. Anything
24 else?

25 MR. FARQUHARSON: Not from the state.

1 MR. QUESADA: Nothing here, Your Honor.

2 THE COURT: Okay. Then we will stand in
3 recess. The parties are excused. And I hope y'all get
4 some sleep tonight.

5 MR. FARQUHARSON: Thank you, Judge.

6 THE COURT: Thank you.

7 (Break taken from 1:02 p.m. to 1:16 p.m.)

8 THE COURT: Okay. So we're here to make
9 a short record of an issue regarding Plaintiff's Exhibit
10 1.

11 The format we've received it in is not
12 sufficient to upload to the Court of Appeals' website
13 when my court reporter submits the transcript of these
14 proceedings.

15 So we're going to hold on to Plaintiff's
16 Exhibit 1, but, in the meantime, we're going to have one
17 that complies with the requirements for the Second Court
18 of Appeals prepared by the plaintiff. It will go to the
19 defense for review. And, when you come on Tuesday, we
20 will have an acceptable version of Plaintiff's Exhibit
21 1.

22 And the parties agree, and we will
23 clarify that again on Tuesday, that that is the version
24 that will be the official Plaintiff's Exhibit 1 for
25 purposes of appeal in the record in this case.

1 Is that an accurate statement from
2 everyone?

3 MR. FARQUHARSON: The logistics of how to
4 get the thumb drive to them to look at it before Tuesday
5 is where I -- like, I guess we can overnight it to them,
6 and then they're going to overnight it back to us?

7 MS. SMITH: Or we can just bring it on
8 Tuesday.

9 THE COURT: Or y'all can come early on
10 Tuesday and work out that issue. We're going to be here
11 at 10:00. If y'all want to come at 9:00 and resolve
12 that issue.

13 MR. FARQUHARSON: Okay.

14 THE COURT: Does that work for everybody?

15 MS. STEVENS: We can do that, Your Honor.

16 THE COURT: Okay.

17 MS. STEVENS: One slight, I don't know,
18 clarification or -- or edit to what Your Honor said. I
19 believe you referenced the Second Court of Appeals. We
20 believe this is 15th Court of Appeals. So --

21 THE COURT: Okay.

22 MS. STEVENS: -- not sure how that
23 matters.

24 THE COURT: I'm not even going to tell
25 y'all where to file the appeals. It's just for purposes

1 of maintaining a good record for the purposes of appeal
2 wherever and whenever y'all see fit to do that.

3 MS. STEVENS: Yes, Your Honor.

4 MR. FARQUHARSON: Thank you, Judge.

5 THE COURT: Okay. I will see y'all on
6 Tuesday. Thank you so much.

7 (Proceedings concluded.)
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 STATE OF TEXAS

2 COUNTY OF TARRANT

3 I, Pennie Futrell, Official Court Reporter in and
4 for the 348th District Court of Tarrant County, Texas,
5 do hereby certify that the above and foregoing contains
6 a true and correct transcription of all portions of
7 evidence and other proceedings requested in writing by
8 counsel for the parties to be included in this volume of
9 the Reporter's Record in the above-styled and -numbered
10 cause, all of which occurred in open court or in
11 chambers and were reported by me.

12 I further certify that this Reporter's Record of the
13 proceedings truly and correctly reflects the exhibits,
14 if any, offered by the respective parties, if requested.

15 WITNESS MY OFFICIAL HAND, on this the 20th day of
16 August, 2025.

17
18
19
20
21 /s/Pennie Futrell
22 PENNIE FUTRELL, CSR
23 Texas CSR No. 4108
24 Expiration: 7/31/2026
25 Official Court Reporter
348th District Court
100 N. Calhoun Street
Fort Worth, Texas 76196

Pennie Futrell, CSR
Official Court Reporter, 348th District Court