

AMANDA GRAY AND MATTHEW	§	457 th JUDICIAL DISTRICT COURT
GRAY, INDIVIDUALLY, AND AS	§	
NEXT FRIEND OF B.J.G., A MINOR	§	
v.	§	
JESSICA SISNEY AND RICHARD	§	
SISNEY, INDIVIDUALLY, AND	§	
AS NEXT FRIEND OF J.S., A MINOR	§	MONTGOMERY COUNTY, TEXAS

MOTION FOR PROCEDURAL CHANGES TO THIS JURY TRIAL

TO THE HONORABLE VINCENZO J. SANTINI:

Amanda Gray and Matthew Gray, Individually and as Next Friends of B.J.G. (the “Grays”) file this Motion for Procedural Changes to this Jury Trial (this “Motion”) and show:

1. **The Denial of Due Process:** As described thoroughly in the Motion for Sanctions filed contemporaneously with the filing of this Motion, when defendants hired Wayne Dolcefino to launch a pay-to-play hit piece at noon on September 4, 2026, the Friday before the Labor Day weekend and just 5 days before the pretrial conference and 9 days before the jury trial, they created a due process problem related to the fairness of the jury trial. Specifically, the hit piece was designed to deny the Gray’s due process by tainting the jury pool. Disciplinary Rule of Professional Conduct 3.07 which speaks to this and states:

Rule 3.07 Trial Publicity

- (a) **In the course of representing a client, a lawyer shall not make an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication if the lawyer knows or reasonably should know that it will have a substantial likelihood of materially**

prejudicing an adjudicatory proceeding. A lawyer shall not counsel or assist another person to make such a statement.

- (b) A lawyer ordinarily will violate paragraph (a), and the likelihood of a violation increases if the adjudication is ongoing or imminent, by making an extrajudicial statement of the type referred to in that paragraph when the statement refers to:
- (1) the character, credibility, reputation or criminal record of a party...
 - (5) information the lawyer knows or reasonably should know is likely to be inadmissible as evidence in a trial and would if disclosed create a substantial risk of prejudicing an impartial trial.

TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT § 3.07. Rule 3.07 exists to prevent a denial of due process:

Paragraph (a) is premised on the idea that preserving the right to a fair trial necessarily entails some curtailment of the information that may be disseminated about a party prior to trial. This is particularly so where trial by jury or lay judge is involved. **If there were no such limits, the results would be the practical nullification of the protective effect of the rules of forensic decorum and the exclusionary rules of evidence.** Thus, paragraph (a) provides that in the course of representing a client, a lawyer's right to free speech is subordinate to the constitutional requirements of a fair trial.

Id. at Cmt. 1, 2, and 4 (emphasis supplied). Period. “[T]he practical nullification of the protective effect of the rules of forensic decorum and the exclusionary rules of evidence” was exactly Michelle Acosta’s and Jessica Sisney’s point with their bought-and-paid-for “expose” from just last Friday. And the remedy is one which is cumbersome, but absolutely necessary.

2. **Juror Questionnaires:** Asking in *voir dire* about the hit-piece is a

textbook way to bust a jury panel, and is unfair to the Grays. Thus, the Grays ask this Court to distribute juror questionnaires to the venire asking the following in a deliberately vague manner:

- a. Do you use social media? If you do, please list the platforms you use, describe the regularity by which you use each source, and the date you last used each platform listed.
- b. Do you engage in internet chat rooms? If you do, please list the internet chat rooms you use, describe the regularity by which you use each internet chat rooms, and the date you last used each internet chat room listed.
- c. Do you know anything about the participants in this case – please answer “Yes” or “No” as to each of the following:
Amanda Gray
Matt Gray
Bowen James Gray
J. Randal Bays
Alyssa Cuellar
Jase Sisney
Jessica Sisney
Richard Sisney
Michelle Acosta
- d. If you have answered “Yes” to knowing anything about the participants in this case, please describe what you know about each participant for whom you answered “Yes” and the source of the information you know.

If the answer to any of the above questions reveals that the venire member did or may have seen the hit piece, then the Court should strike them immediately so that they will not participate in *voir dire* and risk busting the panel. Alternatively, if the answer to any of the above questions reveals then the venire member might have seen the hit piece, then the venire member should be questioned out of the hearing of the other members of the venire, and if they have seen the hit piece, the Court should strike them immediately so that they will not participate in *voir dire* and risk busting

the panel. In that vein, the Grays also request that this Court order that the hit piece, quotes from the hit piece, and the name Dolcefino not be mentioned at any time and by anyone during *voir dire* and the trial.

3. **Larger Venire:** Given the salacious nature of the hit piece, it is likely to be something about which a number of potential jurors are aware. For that reason, the Grays request a venire of 120 people, with *voir dire* to be conducted in the Jury Assembly Room. Because this Court’s panel is scheduled for 1:00 P.M., the Jury Assembly Room should be free for the *voir dire* that afternoon. And, likewise, the Grays ask the Court to instruct the District Clerk to maintain the potential jurors who appear on that day for the 8:00 A.M. and 10:00 A.M. panels so that there will be a sufficient number of jurors at 1:00 P.M. for this enlarged panel.

4. **Sequester the Jury:** Because the hit piece is likely to taint anyone who sees it, the curiosity generated by the questionnaire must be mitigated by sequestering the 12 jurors and 2 alternates and depriving them of their cell phones, tablets, and similar electronic communication devices during the period of sequestration.¹ To accomplish this, the Court should Order:

a. Obtaining 14 hotel rooms for 8 calendar days;²

¹ For that reason, it is important for this Court to ask the panel if there is anyone who needs their electronic communication devices for medical reasons in order to ensure that the jurors and alternates are not deprived of a device they need in order to, for example, monitor a heart condition, act as an insulin pump, and similar. The Court need not inquire as to what the medical condition is (in order to protect the privacy of the venire member), but should, instead, simply ask if any venire member needs their electronic communication devices for a medical reason. Any venire member who says “Yes” should be stricken from the panel.

² While the Grays do not agree with defense counsel’s estimate of the 6 days to try this case, if her estimate turns out to be accurate, then there will be a total of 8 calendar days for trial and, thus,

- b. Providing food for the jurors and alternates for breakfast and dinner (with the jury having lunch in the jury room) during the weekdays, and for breakfast, lunch, and dinner on any weekend days;
- c. Providing transportation through the Montgomery County Sheriff's Office to transport jurors and alternates to and from the hotel and courthouse;
- d. Providing security through the Montgomery County Sheriff's Office with 2 deputies to monitor and protect the jurors and alternates while they are at the hotel to ensure that they do not talk about the case, do not use the internet, and that no information about the case is revealed to them in any manner except while seated in the jury box; and
- e. Order the Montgomery County Sheriff's Office to travel to the homes of the jurors and alternates after *voir dire* to advise their families of the sequestration and to collect clothing and toiletries for the jurors and alternates, making sure that no electronic communication devices are inadvertently transported to the jurors and alternates.

5. **Prohibit Pretrial Publicity:** Rule 3.07 already does this, but the defense has made clear that the directive of the law is insufficient to contain them. Thus, the Grays ask this Court to order that no further pretrial publicity occur from any and all of the parties and their counsel. That order should necessarily include that if Wayne Dolcefino plans to publish another hit piece as he hinted he does, that the defense immediately instruct him to not publish until the trial has ended. While gag orders are generally frowned upon, they are permissible when:

supported by evidence that (1) an imminent and irreparable harm to the judicial process will deprive litigants of a just resolution of their dispute, and (2) the judicial action represents the least restrictive means to prevent that harm....Today we adopt a test recognizing that article one, section eight of the Texas Constitution provides greater rights of free expression than its federal equivalent.

a need for 14 rooms for 8 days. If it turns out to be fewer days, so be it, but this Court should prepare for the potential per the defense's estimate of 8 calendar days.

We are fully aware that a prior restraint will withstand scrutiny under this test only under the most extraordinary circumstances. That result is consistent with the mandate of our constitution recognizing our broad right to freedom of expression in Texas. An individual's rights under the state constitution do not end at the courthouse door; rather, the courthouse is properly the fortress of those rights.

The first requirement of our standard advances from the prior holdings of Texas courts that only an imminent, severe harm can justify prior restraint, and in the context of gag orders, that harm must be to the judicial process. *Ex Parte McCormick*, 88 S.W.2d 104; *Ex Parte Foster*, 71 S.W. at 595. The mandate that findings of irreparable harm be made is based on our state constitutional preference for post-speech remedies. Only when no such meaningful remedies exist will prior restraints be tolerated in this context.

The second part of the test is intended to ensure that no alternative exists to treat the specific threat to the judicial process which would be less restrictive of state speech rights.

Davenport v. Garcia, 834 S.W.2d 4, 9-10 (Tex. 1992). The Grays intend to prove at the pretrial conference that:

“(1) an imminent and irreparable harm to the judicial process will deprive [them] of a just resolution of their dispute”

- The evidence they will present will show that Wayne Dolcefino gave a teaser in the hit piece that there was more to come, that Jessica Sisney commented on Facebook regarding the hit piece that there was more to come, and the salacious nature of the hit piece is devastating to due process according to Rule of Disciplinary Professional Conduct 3.07 and its comments.

“(2) the judicial action represents the least restrictive means to prevent that harm”

- The Order will limit publication of any other piece in a limited manner – it relates only as to this case and the participants in it and only before the trial has ended. Put simply, there is no other way to ensure a fair trial:

Paragraph (a) is premised on the idea that preserving the right to a fair trial necessarily entails some curtailment of the information that may be disseminated about a party prior to trial. This is particularly so where trial by jury or lay judge is involved. If there were no such limits, the

results would be the practical nullification of the protective effect of the rules of forensic decorum and the exclusionary rules of evidence. Thus, paragraph (a) provides that in the course of representing a client, a lawyer's right to free speech is subordinate to the constitutional requirements of a fair trial.

TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT § 3.07, Cmt. 1.

6. **Defense Counsel Must Pay For A Busted Panel:** With these safeguards, the Grays feel confident that the hit piece will not bust the panel. But, in the event that it does, then Michelle Acosta should be required to reimburse the County the cost of summoning the next set of venire members. This request is limited to the panel being busted because of the hit piece and not for any other reason. And this request does not obligate her to pay to summon the jurors already summoned.

Prayer

The Grays respectfully pray that the Court hear this Motion for Procedural Changes To This Jury Trial at the pre-trial conference given the video was released 5 days before pretrial, grant the Motion for Procedural Changes To This Jury Trial, and grant to them any other relief to which they are entitled.

Respectfully submitted,

/s/ J. Randal Bays

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CERTIFICATE OF SERVICE

This is to certify that on September 7, 2026 the foregoing Motion for Procedural Changes To This Jury Trial, the proposed Juror Questionnaire, and proposed Order granting same were served via e-service on the following counsel of record pursuant to Rules 21 and 21a of the Texas Rules of Civil Procedure:

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