

IN THE COURT OF COMMON PLEAS OF
BEAVER COUNTY, PENNSYLVANIA

CONNIE JAVENS and
RENEE JAVENS ZUK,

PLAINTIFFS

v.

JOHN DOES (1)-(6),

DEFENDANTS.

CIVIL DIVISION

No.: 10550 of 2016

JURY TRIAL DEMANDED

Type Of Pleading:

MOTION TO QUASH SUBPOENA

Filed On Behalf Of Defendant, John
Q. Taxpayer:

COUNSEL OF RECORD:

GERALD V. BENYO, JR., ESQ.
SUPREME COURT I.D. # 74507

330 DRAVO AVENUE
BEAVER, PENNSYLVANIA 15009

TELEPHONE: (724) 774-1482
FACSIMILE: (724) 774-3403

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NOTICE TO DEFEND

You have been sued in Court. If you wish to defend against the claims and/or facts set forth in the following pages, you must take action within twenty (20) days after this document and Notice are served, by entering a written appearance personally or by an attorney, and/or by filing in writing with the Court your responses/defenses and/or objections to the claims and/or factual averments set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the document or for any claim or relief requested by the party filing this document. You may, thereby, lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE OR KNOW A LAWYER, THEN YOU SHOULD GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

LAWYER REFERRAL SERVICE
THE BEAVER COUNTY BAR ASSOCIATION
788 TURNPIKE STREET
BEAVER, PENNSYLVANIA 15009
(724) 728-4888

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MOTION TO QUASH SUBPOENA

AND NOW COME Defendant, John Q. Taxpayer, by and through counsel of record, Gerald V. Benyo, Jr., Esq., and brings the following *Motion To Quash Subpoena* for which the following is averred for all times relevant hereto.

1. On May 2, 2016, the Honorable Deborah Kunselman issued an *Order Of Court* permitting Beaver County Treasurer Connie Javens to serve a subpoena on The BeaverCountian investigative news website requesting the name, physical address and IP address of anonymous individuals posting their negative comments and opinions about her.

2. The stated intent of Treasurer Javens (who admits that she is a "public figure" under Pennsylvania Law) was to obtain the identities of 6 "John Does" so that she could take legal action against them to "enjoin their improper activities and seek redress for the damages inflicted by them upon [her] reputation" as such "anonymous individuals are engaged in a calculated scheme to defame, embarrass, and otherwise harass [her]. No facts have been set forth in support of the allegation of the existence of a "calculated scheme" nor has Treasurer Javens identified any specific or special harm she has suffered.

3. Treasurer Javens has been and is currently under criminal investigation by not only the former Beaver County District Attorney (Anthony Berosh) but also the present District Attorney (David Lozier) for making multiple unauthorized, unreported and unilateral withdrawals from bank accounts owned by Beaver County totaling in excess of \$5.9 million, including withdrawals:

- a. in 2014 of approximately \$270,000 on March 12, 2014, \$240,000 on April 9, 2014, \$390,000 on August 19, 2014, \$188,000 on September 23, 2014, \$300,000 on November 5, 2014 and \$120,000 on November 18, 2014; and
- b. in 2015 of \$375,000 on May 5, 2015 (14 days prior to the Municipal Primary) and \$300,000 on October 14, 2015 (20 days prior to the Municipal Election).

4. Treasurer Javens is currently being represented by 2 separate sets of attorneys or law firms as to the ongoing criminal investigation and the demand by the present Beaver County Commissioners for an explanation for her actions as to the millions of dollars withdrawn from county owned bank accounts.

5. According to the Beaver County Controller and the Beaver County Commissioners, the above transactions were not authorized, were not signed off on as required by the Pennsylvania County Code and were made without either entering the transaction in any county computer system or notifying any other county elected or administrative official of the release of monies.

6. Since the Beaver County Controller discovered and reported that Treasurer Javens had withdrew monies from a county bank account without authorization on December 2, 2015, Treasurer Javens has not provided the voters, taxpayers and citizens of Beaver County with a public explanation of her actions or answered questions about the above unilateral and unauthorized withdraws from Beaver County bank accounts.

7. "John Q Taxpayer" is one of the citizens, taxpayers, voters and residents of Beaver County who has taken issue with Treasurer Javens' unilateral, unreported and unauthorized actions in withdrawing millions of dollars from Beaver County bank accounts and, as a public elected official, taken issue with her refusing to explain, account or otherwise take responsibility for what appear to be self-serving, illegal, unethical and otherwise improper actions.

**JOHN Q TAXPAYER'S 1ST AMENDMENT RIGHT TO FREEDOM
OF SPEECH AND TO PUBLISH ANONYMOUSLY**

8. The United States Supreme Court has concluded 1st Amendment protections apply to communication on the Internet. *Reno v. ACLU*, 521 U.S. 844 (1997).

9. The United States Supreme Court has recognized the 1st Amendment Right to Freedom Of Speech extends to the right to publish anonymously in the advocacy of political causes. *Talley v. California* 362 U.S. 60 (1960)

10. The United States Supreme Court has also recognized that "core political speech" (including politically controversial topics and discussion of governmental affairs) must receive the broadest level of 1st Amendment protection to assure the free exchange of ideas about political and social change desired by the public. *McIntyre v. Ohio Elections Commission* 514 U.S. 334 (1995).

11. The United States Supreme Court recognizes the choice to remain anonymous while exercising a 1st Amendment Right to Freedom of Speech can stem from fear of economic or governmental retaliation, concern about social ostracism or the desire to preserve privacy as the contribution of anonymous literary works to the marketplace of ideas outweighs any public concern with the speech's source – particularly as to publishing anonymously to advocate political causes or issues. *McIntyre v. Ohio Elections Commission* and *Talley v. California*. Also, *Watchtower Bible and Tract Society of New York, Inc., Village of Stratton et. Al.*, 536 U.S. 150 (2002).

12. The Pennsylvania Supreme Court has found that the Constitutional Right to anonymous speech is deeply rooted in public policy and once an identity is disclosed that Constitutional Right is irreparably lost. *Melvin v. Doe*, 836 A.2d 42 (2003)

13. The possibility of losing anonymity could intimidate anonymous posters into self-censoring their comments or simply not commenting at all. A public figure obtains a very important form of self-serving relief by unmasking the identity of anonymous critics as the revelation of the identity of an anonymous speaker may subject that speaker to ostracism for expressing unpopular ideas and invite retaliation from those who oppose the expressed ideas from those who are criticized. *Doe No. 1 v Cathill*, 884 A.2d 451 (De. 2005) as referenced by *Pilchesky v. Gatelli*. 12 A.3d 430 (Pa.Super).

14. John Q Taxpayer exercised his 1st Amendment Right to Freedom of Speech and, based upon the factual allegations in Treasurer Javens' *Motion For Issuance Of Subpoena*, used his Constitutionally guaranteed right to "core political speech" to express his opinions of outrage toward Treasurer Javens' actions in unilaterally withdrawing millions of dollars from Beaver County bank accounts and refusing to publically offer any explanation for her actions.

15. John Q Taxpayer exercised his 1st Amendment Right to remain anonymous while exercising his right to "core political speech" and, although the Supreme Court does not require an explanation as to why he elected to remain anonymous, it is noted Treasurer Javens used her influence in the Beaver County Courthouse to attempt to silence and punish another BeaverCountian commenter who criticized her and expressed his opinion that she used political influence on behalf of a family member in a serious criminal matter.

- a. Specifically, prior District Attorney Berosh publically confirmed that Treasurer Javens requested that criminal charges be filed against the commenter and that her complaints resulted in a criminal investigation being launched against the commenter by the Beaver County Detective Bureau.

- b. Treasurer Javens' actions also resulted in the commenter being contacted by his Beaver County Adult Probation Officer (and specifically the individual who could violate the commenter's probation resulting in possible incarceration and other sanctions) who specifically requested that the commenter remove the negative comments and opinions concerning Treasurer Javens from the BeaverCountian website.

PILCHESKY BALANCING TEST

16. The Superior Court in *Pilchesky v. Gatelli*, 12 A.3d 430 (Pa.Super), established a four-part test to ensure the proper balance between a speaker's right to remain anonymous and a defamation plaintiff's right to seek redress. The four requirements that must be met to enable a plaintiff who petitions the court to disclose the identity of an anonymous communicator are as follows.

- a. The "John Doe" defendant must receive proper notification of a petition to disclose his identity and a reasonable opportunity to contest the petition.
- b. The defamation plaintiff must present sufficient evidence to establish a prima facie case for all elements of a defamation claim so that it would survive a motion for summary judgment - and the defamation plaintiff must do more than simply plead their case and make a bald assertion that the defamatory statements harmed their reputation "in the social, civil, professional and political community". Further, a defamation plaintiff may not satisfy the summary judgment requirement by relying on the averments contained in a complaint and must present actual evidence.
- c. The defamation plaintiff must submit an affidavit asserting that the requested information is sought in good faith, is unavailable by other means, is directly related to the claim and is fundamentally necessary to secure relief.

- d. The reviewing court must expressly balance the defendant's 1st Amendment Rights against the strength of the defamation plaintiff's prima facie case by examining the defamatory nature of the comments, the quantity and quality of evidence presented and whether the comments were privileged in light of the forum in which the speech was expressed.

17. The Pennsylvania Superior Court restated in *Moore v. Cobb-Nettleton*, 889 A.2d 1262 (Pa.Super 2005) that to establish all of the elements of a cause of action for defamation, a defamation plaintiff must establish all of the following:

- a. the defamatory character of the communication;
- b. its publication by the defendant;
- c. its application to the plaintiff;
- d. the understanding by the recipient of its defamatory meaning;
- e. the understanding by the recipient it was intended to be applied to plaintiff;
- f. special harm resulting to the plaintiff from its publication; and
- g. abuse of a conditionally privileged occasion.

18. Further, in a request to force the disclosure of the identity of an anonymous speaker, the Commonwealth Court of Pennsylvania stated in *Alston v. PW-Philadelphia Weekly*, 980 A.2d 215 (Pa.CmwltH 2009) that it is not until all of the elements of the cause of action for defamation are established by the plaintiff that the trial court may then move to make the determination as to whether the challenged speech is capable of a defamatory meaning.

19. In the instant case, Treasurer Javens (an admitted public figure and elected official who is under criminal investigation by the District Attorney and civil investigation and audit by the Beaver County Commissioners) cannot establish a prima facie case that would survive summary judgment and has conclusively failed to establish the defamatory character of the communication, the “special harm” resulting from the publication of the alleged defamatory comments and opinions as well as an abuse of a conditionally privileged occasion based upon her present assertions against John Q. Taxpayer.

- a. As to establishing the existence of a defamatory comment or statement, Treasurer Javens failed to establish and DID NOT PLEAD in her *Motion For Issuance Of Subpoena* that she: (1) did not “take money on her own and without authorization from anyone else and make no record of it”; (2) was not “stealing tax money”; and (3) did not “confiscate documents” and was not “tampering with public records or tampering with evidence” in context of the forum where the speech was published. Notably, Treasurer Javens does not aver that she did not unilaterally take monies out of a Beaver County bank account or that such withdrawals were done with proper authorization, proper recoding and/or were done in accordance with the specific provisions of the Pennsylvania County Code.
- b. Treasurer Javens has also failed to set forth any “special harm” resulting from the publication of the alleged defamatory comments and opinions and only has a bald assertion that actual injury or harm is presumed as John Q Taxpayer’s opinions constitute defamation per se. However, as the Superior Court in *Pilchesky* stated: “every defamation plaintiff must prove ‘actual damages’ ... More is required than a bald assentation that the defamatory statements harmed a plaintiff’s reputation in a social, civil professional or political community”.

c. Treasurer Javens also fails to establish an abuse of a conditionally privileged occasion as “only statements of fact, not expressions of opinion can support an action in defamation and all of the alleged defamatory speech of John Q Taxpayer were clearly expressions of opinion and thus could not be understood by any recipient of the comments of any defamatory meaning.

20. In balancing John Q Taxpayer’s 1st Amendment Rights against possible defamation of a public figure such as Treasurer Javens, the Court must consider the forum, nature and context in which the alleged defamatory speech was published.

21. In this instance, the alleged defamatory speech were 5 comments published in the comments section of the BeaverCountian investigative website which is widely used by taxpayers, citizens and voters within and outside of Beaver County to inform themselves about matters of local importance as well as governmental, political and related news.

22. In this instance, in order for the Court to consider the forum, nature and context in which the alleged defamatory speech was published, John Q Taxpayer incorporates the following investigative articles published concerning Treasurer Javens in the BeaverCountian since December 12, 2012.

Cash Starved County Sending Out Tax Bills Early

<https://beavercountian.com/content/daily/cash-starved-county-sending-out-tax-bills-early>

County Treasurer: We Need To Get A Gun

<https://beavercountian.com/content/news-server/county-treasurer-makes-off-color-gun-remark-during-pension-board-hearing>

County Layoffs Could Cripple Veterans’ Services – Union To Take On Treasurer Javens

<https://beavercountian.com/content/daily/union-preparing-to-take-on-county-treasurer>

County Layoffs On Hold After Union And Veterans’ Groups Object

<https://beavercountian.com/content/daily/county-layoffs-on-temporary-hold-after-union-and-veterans-groups-object>

Bumps & Layoffs See Changes In Several County Offices

<https://beavercountian.com/content/daily/bumps-layoffs-see-changes-in-several-county-offices>

County Officials Report Contributions In Latest Campaign Finance Reports

<https://beavercountian.com/content/daily/county-officials-report-contributions-latest-campaign-finance-reports-2013>

Commissioners Keep Other Elected Officials Away From Press Conference

<https://beavercountian.com/content/daily/commissioners-order-deputies-keep-elected-officials-away-press-conference>

Dispatch: Shots Fired In Treasurer Connie Javens' House – Son Under Arrest

<https://beavercountian.com/content/daily/shots-fired-treasurer-connie-javens-house>

Treasurer's Son Facing Felony Charge Following Alleged Incident

<https://beavercountian.com/content/daily/treasurers-son-felony>

Hearing For Treasurer's Son Continued As Attorney General's Office Takes Over

<https://beavercountian.com/content/daily/hearing-treasurers-son-continued-attorney-generals-office-takes-case>

Former Beaver County Man Shot In The Chest During Home Invasion

<https://beavercountian.com/content/daily/former-beaver-county-man-shot-chest-alleged-home-invasion>

Sheriff David Hires Judge's Nephew As Newest Deputy

<https://beavercountian.com/content/daily/sheriff-david-hires-judges-nephew>

Treasurer's Daughter Lands Lucrative Friendship Ridge Contract

<https://beavercountian.com/content/daily/treasurers-daughter-lands-lucrative-friendship-ridge-contract>

Treasurer's Son Waives Preliminary Hearing In Gunshot Case

<https://beavercountian.com/content/daily/treasurers-son-waves-preliminary-hearing-gunshot-case>

Politically Influential County Vendor Hasn't Paid Property Taxes In 24 Years

<https://beavercountian.com/content/daily/politically-influential-county-vendor-hasnt-paid-property-taxes-24-years>

Joe Spanik Calls Out Commissioner Nichols & Treasurer Connie Javens

<https://beavercountian.com/content/daily/commissioner-spanik-speaks-treasurer-javens-commissioner-nichols>

Op-Ed: Commissioner Nichols Responds To Commissioner Spanik Interview

<https://beavercountian.com/content/op-ed/op-ed-commissioner-nichols-responds-commissioner-spanik-interview>

County Preparing To Auction Properties Following Beaver Countian Report

<https://beavercountian.com/content/daily/county-preparing-auction-unis-properties-following-investigative-report>

Treasurer Connie Javens Tried To File Criminal Charges Against Commenter

<https://beavercountian.com/content/daily/treasurer-javens-trying-to-file-criminal-charges-beavercountian-commenter>

State Representatives Call For Investigation Into Tax Claim Bureau

<https://beavercountian.com/content/daily/state-representatives-call-investigation-tax-claims-bureau>

County Property Tax Assessments Favor Newer Homes & Wealthier Communities

<https://beavercountian.com/content/daily/county-assessments-favor-newer-higher-value-homes>

County Treasurer's Son Gets Plea Deal In Firearms Domestic Violence Case – \$100 Fine

<https://beavercountian.com/content/daily/treasurer-connie-javens-dan-javens-domestic-violence>

New Friendship Ridge Owners Appealing Facility's Property Tax Assessment

<https://beavercountian.com/content/daily/new-friendship-ridge-owners-appealing-property-tax-assessment>

Republicans Slam Treasurer Javens & Sheriff David At "Good Government Rally"

<https://beavercountian.com/content/daily/republicans-slam-treasurer-javens-sheriff-david-at-good-government-rally>

Controller Rossi's Audit: Home Owners In Beaver County Are Not Being Treated Equally Or Taxed Fairly

<https://beavercountian.com/content/daily/controller-rossis-audit-home-owners-in-beaver-county-are-not-being-treated-equally-or-taxed-fairly>

Successful Entrepreneur From Hopewell To Take On Connie Javens For County Treasurer
<https://beavercountian.com/content/daily/successful-entrepreneur-from-hopewell-township-to-take-on-connie-javens-for-county-treasurer>

Central Labor Council Weighs In With Endorsements For Beaver County Primary Elections
<https://beavercountian.com/content/daily/central-labor-council-weighs-in-with-endorsements-for-beaver-county-primary-elections>

An Afternoon Walking With Tom & Tim
<https://beavercountian.com/content/daily/an-afternoon-walking-with-tom-tim>

Investigative Report: County Has Not Conducted Full Audit Of Treasurer Javens' Office Since 1992
<https://beavercountian.com/content/daily/investigative-report-county-has-not-conducted-a-full-audit-of-treasurer-javens-office-since-1992>

Oops! Treasurer Connie Javens Accidentally Wiretaps Herself After Calling BeaverCountian
<https://beavercountian.com/content/daily/oops-treasurer-connie-javens-accidentally-wiretaps-herself-after-calling-the-beaver-countian>

Endorsement: Leydig Will Put An End To Javens' Reign Of Cronyism, Nepotism & Corruption
<https://beavercountian.com/content/daily/endorsement-tom-leydig-will-put-an-end-to-treasurer-javens-reign-of-cronyism-nepotism-corruption>

Controller: Treasurer Javens Withdrew \$275,000 From County Account Without Authorization
<https://beavercountian.com/content/daily/controller-treasurer-connie-javens-withdrew-275000-from-county-bank-account-without-authorization>

Treasurer Javens Would Not Talk During Meeting With County - Officials Contact State Police
<https://beavercountian.com/content/daily/treasurer-javens-would-not-to-talk-during-meeting-with-county-officials-in-contact-with-state-police>

\$Millions! District Attorney Berosh Orders Detectives To Investigate Treasurer Javens
<https://beavercountian.com/content/daily/millions-district-attorney-berosh-orders-detectives-to-investigate-treasurer-javens>

Pennsylvania State Police To Launch Formal Investigation Into Connie Javens & LaValle
<https://beavercountian.com/content/daily/pennsylvania-state-police-to-launch-formal-investigation-into-connie-javens-vince-lavalle>

Bank Slips Show \$3.4 Million Unilaterally Withdrawn By Financial Administrator LaValle & Treasurer Javens

<https://beavercountian.com/content/daily/bank-slips-show-3-4-million-unilaterally-withdrawn-by-financial-administrator-lavalle-treasurer-javens>

County Financial Administrator LaValle Resigns Following Beaver Countian Reports

<https://beavercountian.com/content/daily/county-financial-administrator-lavalle-resigns-following-beaver-countian-reports>

Editorial: Commissioner Amadio Diagnosed With Ostrich Syndrome – Please Pray For Him

<https://beavercountian.com/content/daily/editorial-commissioner-tony-amadio-diagnosed-with-ostrich-syndrome-please-pray-for-him>

In-Depth: Beaver County Hid Massive Deficits – Wrote Millions In “Bad Checks” At The End Of Last Year

<https://beavercountian.com/content/daily/in-depth-beaver-county-hid-massive-deficits-wrote-millions-in-bad-checks-at-the-end-of-last-year>

Beaver County Board Of Commissioners Appoints Luckow As Financial Administrator

<https://beavercountian.com/content/daily/beaver-county-board-of-commissioners-appoints-ricardo-luckow-as-financial-administrator>

Investigative Report: Treasurer Javens Withdrew \$2.5 Million More From A Second County Account – Held Account Jointly With New Friendship Ridge Owners

<https://beavercountian.com/content/daily/investigative-report-treasurer-javens-withdrew-2-5-million-more-from-a-second-county-account-had-joint-account-with-new-friendship-ridge-owners>

Commissioner Egley: Emails And Files Referencing Former Financial Administrator Mysteriously Deleted

<https://beavercountian.com/content/daily/commissioner-egley-emails-and-files-referencing-former-financial-administrator-mysteriously-deleted>

Sources: Prior Board Of Commissioners Stopped Investigation Into Friendship Ridge By Outside Law Firm Until After Last Year’s Elections

<https://beavercountian.com/content/daily/sources-prior-board-of-commissioners-stopped-investigation-into-friendship-ridge-by-outside-law-firm-until-after-last-years-elections>

Investigative Report: Money Unilaterally Withdrawn From County Accounts By Treasurer Javens & LaValle Tops \$6 Million

<https://beavercountian.com/content/daily/investigative-report-money-unilaterally-withdrawn-from-county-accounts-by-treasurer-javens-lavalle-tops-6-million>

In-Depth: Officials Say New Friendship Ridge Owners Had “Money Problems” – County Loaned” Them At Least \$1.2 Million As Sale Was Being Completed

<https://beavercountian.com/content/daily/in-depth-officials-say-new-friendship-ridge-owners-had-money-issues-county-loaned-them-at-least-1-2-million-as-sale-was-being-completed>

Commissioners Camp And Egley Secretly Went To State Police About Corruption – Lozier Knocked On Heels By Beaver Countian’s Reporting

<https://beavercountian.com/content/daily/commissioners-camp-and-egley-secretly-went-to-state-police-about-corruption-lozier-knocked-on-heels-by-beaver-countians-reporting>

Treasurer Connie Javens’ First Deputy Quits Position – Becomes An Auditor In Controller Rossi’s Office

<https://beavercountian.com/content/daily/treasurer-connie-javens-first-deputy-quits-position-becomes-an-auditor-in-controller-rossis-office>

In-Depth: IRS Fined Beaver County Over \$26,000 After Payroll Tax Payments For Public Employees Bounced

<https://beavercountian.com/content/daily/in-depth-irs-fined-beaver-county-over-26000-after-payroll-tax-payments-for-public-employees-bounced>

WBVP Radio’s Program Director Strategizing With Democratic Party About Retaking The Courthouse

<https://beavercountian.com/content/daily/wbvp-radios-program-director-strategizing-with-democratic-party-about-retaking-the-courthouse>

Treasurer Connie Javens And Her Daughter File Defamation Lawsuit Against Six Beaver Countian Commenters

<https://beavercountian.com/content/daily/treasurer-connie-javens-and-her-daughter-file-defamation-lawsuit-against-six-beaver-countian-commenters>

County Commissioners Expediting Forensic Audit Following Treasurer’s Defamation Lawsuit Against Critics

<https://beavercountian.com/content/daily/county-commissioners-expediting-forensic-audit-following-treasurers-defamation-lawsuit-against-critics>

Editorial: This Is My Sacred Ground From Which I Shall Not Be Moved

<https://beavercountian.com/content/daily/editorial-evil-steps-onto-sacred-ground>

Attorneys Prepare Legal Action As The Beaver Countian Refuses To Give Commenter Records To Treasurer Javens

<https://beavercountian.com/content/daily/beaver-countian-announces-aggressive-legal-strategy-treasurer-connie-javens>

23. When taking all of the above facts and the pleadings and evidence presented at this time by Treasurer Javens, the balancing test the Court of Common Pleas must employ strongly favors protecting the anonymity of John Q Taxpayer based upon a failure to state a cause of action that would survive summary judgment as well as the unwarranted and unprecedented chilling effect on 1st Amendment “core political speech” that would result from granting Treasurer Javens’ request for the government to force the BeaverCountian to disclose the identity of John Q. Taxpayer.

24. It is also asserted that the BeaverCountian is in the only forum in Beaver County that is easily available to the citizens, voters and taxpayers of Beaver County to inform themselves and protest and attempt to redress the constant stream of revelations of improprieties that continue to arise out of the Beaver County Courthouse and surround the elected officials of Beaver County and those privileged few with governmental positions of power and influence within the county.

REQUEST FOR SANCTIONS

25. It is also respectfully requested that the Court assess sanctions against Treasurer Javens for obdurate and vexatious conduct in filing a frivolous *Motion For Issuance Of A Subpoena* which appears to be designed solely to stop criticism of a public elected official and her unexplained actions in withdrawing millions of dollars from a county bank account contrary to the provisions of the Pennsylvania Code.

26. Bluntly stated, Treasurer Javens’ filing of the *Motion For Issuance Of A Subpoena* appears designed only to chill political free speech that criticizes her rather than assert any legitimate cause of action that has any possibility of success as to John Q Taxpayer.

27. No factual allegations have been made by Renee Javens Zuk as to John Q Taxpayer in the *Motion For Issuance Of A Subpoena* – so no sanctions are requested against this plaintiff.

28. Sanctions are requested based upon the 44.8 hours of attorney time expended in this matter to date at a billable rate of \$225 per hour made payable to undersigned counsel within 10 days of the quashing of the subpoena as to John Q Taxpayer – preferably by certified check from a bank account not owned, maintained or established by Beaver County and one that contains funds belonging to Treasurer Javens.

Respectfully Submitted,

Dated:

Gerald V. Benyo, Jr., Esq.

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the within document was served upon the party/counsel of record as listed below by facsimile and/or First Class United States Mail, postage pre-paid from Beaver, Pennsylvania.

Peter J. Pietrandea, Esq.
1309 Freedom Road
Cranberry Township, PA 16066

Dated:

Gerald V. Benyo, Jr., Esq.