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**IN THE COURT OF COMMON PLEAS
BEAVER COUNTY**

CONNIE JAVENS and	:	
RENEE JAVENS ZUK,	:	CIVIL DIVISION
Plaintiffs	:	
	:	NO. 10550-2016
v.	:	
JOHN DOES (1)-(6)	:	
Defendants	:	
	:	

**BRIEF IN REPLY TO PLAINTIFF'S BREIF IN OPPOSITION TO
MOTION TO QUASH SUBPOENA**

Plaintiff's Brief in Opposition to the BeaverCountian's Motion to Quash Subpoena directed to it fails to address, in any substantive way, the BeaverCountian's invocation of the Pennsylvania Shield Law. 42 Pa. C.S. §5942. Plaintiff states, in conclusory fashion that the law is "clearly not applicable" and that the commenters are "clearly not a source to any news reporter" lacks any support for these bald assertions. Plaintiff's use of strengthening adverbs such as "clearly" belies the truth that Plaintiff has no response to the BeaverCountian's well-reasoned invocation of the Shield Law.

As stated more fully in its main motion and brief, the BeaverCountian is an online news site, which includes investigative reporting, follows journalistic standards, is a three-time finalist in the Press Club of Western Pennsylvania's Gold Quill Awards for Excellence in Journalism, has had stories broken by the BeaverCountian run in various major news outlets such as the

Beaver County Times, WBVP 1230 Radio, 105.9 The X Radio, KDKA TV News, WPXI TV News, WTAE TV News, Philadelphia Magazine, 98 Rock Radio Baltimore, The Huffington Post, The Boston Globe, The Fox News Channel, Yahoo News, and The UK Daily Mail. If anything is clear, it is that the BeaverCountian is a legitimate, trusted news source with a readership of approximately 40,000.

The legislature intended to protect news gathering and journalists with the Shield Law. There is nothing in the law to indicate that the legislature intended to restrict the method of delivery of the information. Further, the BeaverCountian fits within the definition of journalist that the legislature intended. Since the BeaverCountian is an online newsmagazine of general circulation, the law applies. defined a periodical “of general circulation” as one “issued daily, or not less than once per week, per month, or per annum, to subscribers and readers without regard to business, trade, profession, or class” and at a fixed price. See, e.g., Mateer v. Borough of Swissvale, 8 A.2d 167, 169 (Pa. 1939). The BeaverCountian regularly publishes articles, often multiple times a day, regarding local politics, government investigations, and other newsworthy items. It publishes these artciles for free to its reader audience, and also offers content available only to its premium subscribers with prices of \$3.95 per weekly, \$9.95 per monthly, and \$24.95 per quarterly subscription, thus it distributes its articles at a fixed price. Also, it is not a trade publication which publishes just to a certain market segment, but rather, is meant to inform the general population of Beaver County.

The anonymous commenters also are protected news sources, and Plaintiff's conclusory assertion to the contrary cannot remove the protection they enjoy under the Shield Law. Mr. Vranelevich, who runs the BeaverCountian site, averred in his motion and would submit testimony at a hearing, if necessary, that he knows the identities of the commenters. He has

relied on some of the commenters on his site, such as “John Q. Taxpayer” and “Thebigdigger” to develop verified stories which he has published on the site. Thus, the commenters are the quintessential anonymous sources.

Pennsylvania’s Shield Law is strong and Pennsylvania courts have interpreted it broadly. See, e.g., Castellani v. Scranton Times, L.P., 956 A.2d 937 (Pa. 2008). Since the anonymous commenters are sources and the BeaverCountian is a news site that relies on these commenters to develop new stories, the Shield Law protects them and this Court cannot compel the BeaverCountian to identify them.

Plaintiff has also challenged whether Treasurer Javens’ daughter, Rene Javens Zuk is a public figure requiring the application of a higher defamation standard. Besides having business dealings that involve matters of public interest and being a member of a locally prominent political family, Rene Javens Zuk has inserted herself into the public debate on the comments made by the anonymous commenters on the BeaverCountian site by making public comments under her own name. Thus, she entered the public forum.

Further, Plaintiffs have claimed in their filings, but not in a verified complaint, that the comments are not true, and thus defamatory per se. Plaintiffs have only done so through counsel. Plaintiffs have not filed a complaint with verification to begin this action, but only filed a Writ of Summons. Plaintiffs do not need to know the identity of these commenters in order to file a complaint and verify that the comments are false. Plaintiffs should not enjoy the benefit of piercing Pennsylvania’s Shield Law and identifying these anonymous commenters when they are unwilling to even file a complaint and affirm the falsity of the comments.

WHEREFORE, the BeaverCountian respectfully requests that this Court grant its motion and quash the Plaintiffs' subpoena.

Respectfully submitted,

/s/ Brian M. Collins

Brian M. Collins, Esq.
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Attorneys for the BeaverCountian

Dated: October 19, 2016

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Plaintiffs	CIVIL DIVISION
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	:
JOHN DOES (1)-(6)	:
Defendants	:
	:

CERTIFICATE OF SERVICE

I certify that on this 19th day of October 2016, I caused a copy of the foregoing Motion to Quash Subpoena upon the following by First Class Mail:

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