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FEATURED

Lawsuit against Nelsonville Crackheads Facebook page administrator settled

Staff and submitted reports
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A lawsuit filed by a former City of Nelsonville employee against the Nelsonville Crackheads Facebook page administrator will not head to the courtroom.

On March 15, Korey Whitmore agreed to settle his counterclaim for abuse of process against Andrea Thompson-Hashman, the former Nelsonville City Council clerk and daughter of former Councilmember Greg Smith. Thompson-Hashman, through her attorney Sierra Meek, filed the lawsuit against Whitmore and Shannon Neff in 2020. In 2022, Neff settled her part of the case.

The agreement between Whitmore and Thompson-Hashman was executed on April 10.

2023 SUBURBAN

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*Important Info



This settlement ends the lawsuit set for trial in the Athens County Court of Common Pleas later this month. Whitmore was represented by Andy Geronimo, Sara Coulter and certified legal interns of the First Amendment Clinic at Case Western Reserve University School of Law, and Fairlawn-based civil-rights attorney Peter Pattakos.

Thompson-Hashman initially filed the lawsuit in 2020, alleging Whitmore's Facebook posts constituted defamation and intentional infliction of emotional distress. Her attorney, Sierra Meek, later amended the complaint to add spoliation and civil conspiracy claims.

Whitmore successfully defended all of these claims with Judge George P. McCarthy ruling in his favor in October 2022.

The March 15 settlement resolved Whitmore's abuse-of-process counterclaim against Thompson-Hashman. The counterclaim contended that her lawsuit abused the judicial system and tried to de-anonymize and silence critics of her father's actions as a government official.

In the decision granting judgment to Whitmore on all of Thompson-Hashman's claims, the Athens County Court of Common Pleas found that all of Whitmore's statements were protected speech.



The court found that Thompson-Hashman was a limited-purpose public figure who "injected herself into the one controversy, that is, applying and being hired as the Council Clerk while her father was on Council. She opened herself up to any criticism resulting therefrom, including criticism surrounding the propriety of her hiring as well as her rate of compensation" — and was required under the First Amendment to meet the "actual malice" standard to bring her claims to trial.

As the court ruled in October 2022, Thompson-Hashman failed to meet the "actual malice" standard required for public figures to pursue defamation claims.

The March 15 decision reiterated the court's prior rulings that Whitmore presented evidence showing both that Thompson-Hashman and her father, later-removed councilman Greg Smith, had "discussed the job and the potential for controversy" regarding nepotism and "that others in the community raised questions before and after [Thompson-Hashman's] hiring concerning [her father's] involvement in her employment."

In finding that Thompson-Hashman could not present any triable claims based on Whitmore's protected speech, the March 15 decision ruled that many of Whitmore's statements at issue in the lawsuit were "opinion and/or substantially true."



The court found that Whitmore's statements that there were "rumors" that Thompson-Hashman was "overpaid" were substantially factual: The evidence showed that "many people, including councilmembers and the city manager, raised concerns about Smith's involvement in his daughter's pay."

The court also found that Thompson-Hashman "received two paychecks for more than the monthly ordinance allowed in November and December 2018," so Whitmore's statement about being "overpaid in the past" was not an opinion. It was substantially true.

The court also found that Whitmore's statements that "the Nelsonville Crackheads will be posting about corruption in city government" and "let's not forget the nepotism going on here" are government criticism, opinions protected by the 1st Amendment. The court also found Whitmore's statement that the ordinance setting the council clerk's salary was written "specifically for Susan Harmony appears to be true."

Whitmore's attorneys argued that Thompson-Hashman abused the judicial system by pursuing a case with the ulterior motive of silencing and harassing critics of her father's actions as a government official.



Although Whitmore was prepared to move to trial on his claim, he agreed to settle his claims in favor of ending the lawsuit, which has been pending for almost three years, according to a press release.

"We started the Facebook page as concerned citizens posting about a community that we care deeply about," Whitmore said. "Instead of addressing the issues we raised, the people behind this lawsuit used the judicial process to strike fear into Nelsonville's citizens and attempt to extract money from us along the way. Three years later, and it's official: Free speech is alive in Athens County. The court got this right, and this case is a win for the people."

Thompson-Hashman's lawsuit appeared abusive and intended to stop protected speech, First Amendment Clinic Director Andy Geronimo said.

"The allegations here could not support liability for defamation because they're not provably false and are substantially true, and the plaintiff could not show actual malice," he said in a press release. "When we took this case on, we pledged that we would fight as long as necessary to protect our client's right to speak freely — ultimately, we successfully defended our client against all claims, and we encourage people curious about the lawsuit to read Judge McCarthy's thorough and well-reasoned opinion."

"We commend Korey for sticking to his guns and seeing this through to a complete defense victory, as well as our student intern colleagues in the First Amendment Clinic for their excellent work on this case over the last two years," Geronimo said.



"Everyone comes to law school seeking to fight for the rights of our fellow citizens," said Zach Tomi, a certified legal intern in Case Western Reserve University School of Law's First Amendment Clinic. "The past three years has been grueling for Korey. But it's great that he can put this behind him and move on with his life."

According to the stipulation for dismissal, both parties are to split court costs.



Nelsonville Crackheads decision

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