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Houston, Texas

Hanszen Laporte Wins \$450,000 Against Plaintiffs Who Filed Baseless Defamation Suits

Award is One of the Largest Anti-SLAPP Penalties Ever Imposed by a Texas Judge

Judge Donald Cosby of the 67th State District Court in Fort Worth has reinstated a December 3, 2015, order against ViaView, Inc., CEO James McGibney and the company he heads. McGibney and ViaView must pay Neal Rauhauser over \$300,000 in attorney's fees and \$150,000 in penalties called "sanctions" for filing a groundless defamation suit. The April 14, 2016, order was issued under the Texas Citizens Participation Act, or "anti-SLAPP" law. It is the one of the largest awards so far under the 2011 law. The court also ordered McGibney and ViaView to publish written apologies to Rauhauser on their websites "for 365 days."

The court found that McGibney brought his suit "in conscious disregard" of Rauhauser's rights and "without just cause or excuse." The suit was filed by attorney John S. Morgan of Beaumont. The court also found that Rauhauser attorney Jeffrey L. Dorrell's "meticulous briefing" and "extremely high degree of skill" in the complex area of First Amendment law justified the \$300,000 in attorney's fees awarded.

SLAPP stands for "Strategic Lawsuits Against Public Participation," and refers to lawsuits brought to chill the exercise of free speech and other constitutional rights. Sanctions are intended to be "sufficient to deter the filing of similar suits." One factor cited in the court's ruling was McGibney's filing three suits in two states at the same time—based on the same facts. Another defendant in the cases, Thomas Retzlaff of Arizona, won dismissal of McGibney's California federal suit in 2015 and continues to defend the third suit in a California state appeals court.

"We are pleased that the court realized this was an outrageous example of lawsuit abuse," said Dorrell. "These lawsuits were clearly intended to chill Rauhauser's right of free speech," Dorrell added. "The court's dramatic order sends a strong message to businesses who would try to silence their critics with baseless defamation suits," said Dorrell.

Dorrell is a board-certified civil trial attorney who was named by *Texas Lawyer* an "Impact Player," one of the 10 attorneys who had the greatest impact on the law of Texas in 2011.

For more information, contact:

Jeffrey L. Dorrell
jdorrell@hanszenlaporte.com
Hanszen Laporte, LLP
713-522-9444

Attorney for **Neal Rauhauser**