

IN THE COURT OF COMMON PLEAS OF CENTRE, PENNSYLVANIA

JONATHAN D. GRINE

Plaintiff,

vs.

COUNTY OF CENTRE, THE McSHANE  
FIRM, LLC & THEODORE C. TANSKI

Defendants.

CIVIL DIVISION

No. 2015-1080

FILED FOR RECORD  
2015 APR -1 AM 10:54  
CLERK OF COURT  
CENTRE COUNTY, PA  
COPY

OBJECTION/RESPONSE TO PLAINTIFF'S PETITION FOR EMERGENCY  
INJUNCTION AND PRELIMINARY INJUNCTION

AND NOW COMES, the Defendant, Centre County, by and through its counsel, Mary Lou Maierhofer, Esquire, and files the within Objection/Response to Plaintiff's Petition for Emergency Injunction and Preliminary Injunction of which the following is a statement:

1. Denied as conclusions of law. It is specifically denied that injunctive relief is proper under the facts and circumstances of this matter.
2. Denied as conclusions of law and for reasons set forth below all of which is incorporated herein as if fully set forth at length. It is admitted that Plaintiff filed a Complaint. By way of further response, Defendant will be timely filing preliminary objections to the defective pleading filed by the Plaintiff.
- 3.-4. Admitted.
5. - 8. Denied as conclusions of law. By way of further response, this Defendant properly produced public records as such were financial records under the Right to Know Law.
9. Denied as stated. It is averred that information was provided in a form acceptable under the applicable law.
10. Denied. All information was obtained by employees of Defendant pursuant to

their access to the County of Centre's on line telephone account.

11.-13. Denied as conclusions of law. By way of further response, this Defendant properly produced redacted records pursuant to the Right to Know Law.

14. Denied as conclusions of law. By way of further response, denied for reasons set forth above all of which are incorporated as if fully set forth at length.

15. Admitted or denied for reasons set forth above all of which are incorporated herein by reference thereto as if the same were set forth at length.

16 - 20. Denied as this Defendant properly released records under the Right to Know Law.

21. Admitted or denied for reasons set forth above all of which are incorporated herein by reference thereto as if the same were set forth at length.

22.-28. Plaintiff already was granted this relief. However, Defendant was not provided notice or an opportunity to oppose the same. Defendant questions whether it was by design that it was not afford the means or opportunity to respond to such since this Petition was docketed at 1:31 pm on March 16, 2015 and the Order granting the Emergency Injunction was docketed on the same day at 1:33 PM.. The Order granting the Plaintiff's request to seal the record was docketed at 1:32 PM on this date which begs the question, "Were the Orders signed before the filing of the Petition?"

WHEREFORE, Defendant, County of Centre requests this Honorable Court deny all injunctive relief requested by the Plaintiff and rescind the order entered on March 16, 2015 regarding Plaintiff's Emergency Injunction.

NEW MATTER

29. Defendant is immune pursuant to 65 P.S. §67.1306.

30. Itemized billing statements from cellular telephone company to a county were “public records” within the meaning of the Right to Know Act; County's cellular telephone bills clearly were accounts or vouchers evidencing contract and clearly dealt with the use of county equipment. PG Pub. Co. v. County of Washington, 638 A.2d 422 (Pa. Cmwlth.1994)

WHEREFORE, Defendant, County of Centre requests this Honorable Court deny all injunctive relief requested by the Plaintiff and rescind the order entered on March 16, 2015 regarding Plaintiff's Emergency Injunction.

**MARGOLIS EDELSTEIN**

By: 

**Mary Lou Maierhofer, Esquire**  
Attorney for Defendant COUNTY OF CENTRE  
PA. I.D. No.: 62175  
P.O. Box 628  
Hollidaysburg, PA 16648  
(814) 695-5064  
Fax: (814) 695-5066

Date: April 1, 2015

IN THE COURT OF COMMON PLEAS OF CENTRE, PENNSYLVANIA

JONATHAN D. GRINE

Plaintiff.

vs.

COUNTY OF CENTRE, THE McSHANE  
FIRM, LLC & THEODORE C. TANSKI

Defendants.

CIVIL DIVISION

No. 2015-1080

CERTIFICATE OF SERVICE

I, Mary Lou Maierhofer, Esquire of the law firm of Margolis Edelstein, hereby certify that on the 1<sup>st</sup> day of April, 2015, I have served the Objections/Response to Plaintiff's Petition for Emergency Injunction and Preliminary Injunction behalf of Defendant COUNTY OF CENTRE upon counsel of record, by mailing a true and correct copy of the same by United States first class mail, postage prepaid as follows:

Michael A. Giaramita, Jr. Esquire  
Richard S. Roberts, Jr. Esquire  
McShane Law Firm, LLC  
3601 Vartan Way, 2<sup>nd</sup> Floor  
Harrisburg, PA 17110

Kimberly M. Colonna, Esquire  
Kathleen Duffy Bruder, Esquire  
McNees Wallace & Nurick, LLC  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166

MARGOLIS EDELSTEIN

By: 

Mary Lou Maierhofer, Esquire  
Attorney for Defendant COUNTY OF CENTRE  
PA. I.D. No.: 62175  
P.O. Box 628  
Hollidaysburg, PA 16648  
(814) 695-5064  
Fax: (814) 695-5066

IN THE COURT OF COMMON PLEAS OF CENTRE, PENNSYLVANIA

COPY

JONATHAN D. GRINE

Plaintiff.

vs.

COUNTY OF CENTRE, THE McSHANE  
FIRM, LLC & THEODORE C. TANSKI

Defendants.

CIVIL DIVISION

No. 2015-1080

**ORDER**

AND NOW, this \_\_\_\_ day of April, 2015, it is hereby ORDERED, DIRECTED AND DECREED that the Motion of Non-Parties, Stacy Parks Miller and Mark Smith to Quash Subpoenas Directed to Them is Denied. Counsel for the witnesses and parties are to coordinate the appearance of the witnesses without delaying the hearing on April 2, 2015 at 9am in the third floor meeting room of the Courthouse Annex.

BY THE COURT:

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IN THE COURT OF COMMON PLEAS OF CENTRE, PENNSYLVANIA

JONATHAN D. GRINE

Plaintiff.

vs.

COUNTY OF CENTRE, THE McSHANE  
FIRM, LLC & THEODORE C. TANSKI

Defendants.

CIVIL DIVISION

No. 2015-1080

FILED FOR RECORD  
2015 APR 10 10:55  
CENTRE COUNTY, PA  
COPY

OBJECTION/RESPONSE TO MOTION OF NON-PARTIES.  
STACY PARKS MILLER AND MARK SMITH,  
TO QUASH SUBPOENAS DIRECTED TO THEM

AND NOW COMES, the Defendant, Centre County, by and through its counsel, Mary Lou Maierhofer, Esquire, and files the within Objection/Response to Motion of Non-Parties, Stacy Parks Miller and Mark Smith, to Quash Subpoenas Directed to Them of which the following is a statement:

1.-4. Admitted.

4. It is irrelevant as to what Stacy Parks Miller and Mark Smith ("Non-Parties") "believe" as to "no testimony will be taken" as there is a hearing on this matter as set forth in Exhibits "1", "2" and "3" attached hereto. Both Plaintiff and this Defendant intend to create a record which includes testimony from witnesses.

5. Denied as there is a hearing as more fully set forth in the above matter in which at least this Defendant intends to conduct examinations of witnesses.

6.- 7. Denied for reasons set forth above. By way of further response, Defendant

intends to elicit testimony from Stacy Parks Miller to authenticate emails and instructions that she gave to the Open Records Officer for the District Attorney's Office, Mark Smith, Esquire regarding the release of cellular telephone records in response to a Right to Know Request. Further, Defendant intends to elicit testimony from Mark Smith, Esquire as to his role in reviewing and then approving the release of cellular telephone records in response to a Right to Know Request. It is specifically denied that the subpoenas issued by this Court and properly served under the Pennsylvania Rules of Civil Procedure were improper or invalid under the facts and circumstances of this case.

8.-10. While Defendant acknowledges the positions and responsibilities of the Non-Parties, it is equally important that Defendant be able to defend itself and create a record to address the Plaintiff's Petition for Preliminary Injunction. Non-Parties' counsel can contact Defendant's counsel regarding a time specific for testifying which was done for the Honorable Thomas Kistler's testimony. Non-Parties' counsel did not contacted Defendant's counsel in order to work out such an arrangement, but instead filed this Motion. Since this matter is being held in a building next to the Centre County Courthouse, such an accommodation can be arrange if such is requested.

WHEREFORE, Defendant, County of Centre requests this Honorable Court deny the Motion of Non-Parties, Stacy Parks Miller and Mark Smith, to Quash Subpoenas Directed to Them and order them to appear for the hearing on April 2, 2015.

**MARGOLIS EDELSTEIN**

By: 

**Mary Lou Maierhofer, Esquire**  
Attorney for Defendant COUNTY OF CENTRE  
PA. I.D. No.: 62175  
P.O. Box 628  
Hollidaysburg, PA 16648  
(814) 695-5064  
Fax: (814) 695-5066

Date: April 1, 2015



IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

JONATHAN D. GRINE  
Plaintiff

No. 2015-1080

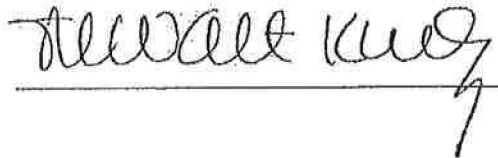
vs.

COUNTY OF CENTRE, THE McSHANE:  
FIRM, LLC & THEODORE C. TANSKI :

ORDER

AND NOW, this 20 day of March, 2015, it is hereby ORDERED the hearing on the Petition for Preliminary Injunction is continued from March 23, 2015 to April 2, 2015 at 9am in the third floor meeting room of the Courthouse Annex. Upon agreement of the parties, the Order Granting Emergency Injunction entered in this matter on March 16, 2015 by Senior Judge Charles Brown shall remain in effect until the hearing.

BY THE COURT:

  
\_\_\_\_\_

Certificate of service to everyone

FILED FOR RECORD  
2015 MAR 20 AM 10:36  
DEBRA S. HONEL  
PROthonARY  
CENTRE COUNTY, PA



McNees Wallace & Nurick LLC  
Kimberly M. Colonna (PA 80362)  
717-237-5278  
Kathleen Duffy Bruder (PA 74425)  
717-237-5318  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166

IN THE COURT OF COMMON PLEAS  
OF CENTRE COUNTY, PENNSYLVANIA

JONATHAN D. GRINE  
Plaintiff

v.

:  
:  
:  
: NO. 2015-1080  
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:

COUNTY OF CENTRE, THE McSHANE :  
FIRM, LLC, and THEODORE C. TANSKI, :  
Defendants :

**NOTICE TO ATTEND AND PRODUCE DOCUMENTS**

**TO: COUNTY OF CENTRE, County Administrator:**

(1) You are directed to come to the Centre County Court of Common Pleas, 102 S. Allegheny St., Bellefonte, PA 16823, Courthouse Annex, 3<sup>rd</sup> Floor, on **Thursday, April 2, 2015, at 9:00 AM**, to testify in the above-captioned case in Plaintiff's Petition for Preliminary Injunction, and to remain until excused.

(2) You are directed to bring with you:

- (a) any and all bills or invoices which the County has in its possession that reflect charges for the period of February and March 2014, for any telephone used by Plaintiff;
- (b) any and all payment records showing that the County expended any funds to pay any of the bills or invoices referenced in item (a) above;



- (c) any documents that (i) the County produced in response to any Right-to-Know request and (ii) contain any information about any telephone communications to or from Plaintiff;
- (d) any documents prepared by the County in response to any Right-to-Know request that contain any information about any telephone communications to or from Plaintiff;
- (e) any documents that reflect any communications by the County to any person (including but not limited to Verizon, any telecommunications provider, any person affiliated with the Centre County Court of Common Pleas, the AOPC, or the Office of Open Records) which relate to any Right-to-Know requests for records of Plaintiff's telephone communications;
- (f) any documents that reflect any communications to the County by any person (including but not limited to Verizon, any telecommunications provider, any person affiliated with the Centre County Court of Common Pleas, the AOPC or the Office of Open Records) which relate to any Right-to-Know requests for records of Plaintiff's telephone communications;
- (g) any documents that reflect any communications between the County and any person affiliated with the Centre County Court of Common Pleas regarding the process or procedures for responding to Right-to-Know requests; and
- (h) any documents that reflect the County's policies, procedures, protocols, guidelines, or instructions for handling Right-to-Know requests.

As used in the above paragraphs 2(a) through 2(h):

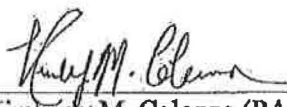
"County" includes Centre County, and its commissioners, representatives, agents, and employees; and

"telephone communications" include telephone calls, voicemails, and text messaging.

Documents that are subject to the attorney-client privilege need not be produced.

If you fail to attend or to produce the documents or things required by this notice to attend, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure.

McNEES WALLACE & NURICK LLC

By   
\_\_\_\_\_  
Kimberly M. Colonna (PA 80362)  
Kathleen Duffy Bruder (PA 74425)  
100 Pine Street, P.O. Box 1166  
Harrisburg, PA 17108-1166  
Ph. 717-232-8000  
*Attorneys for Jonathan D. Grine*

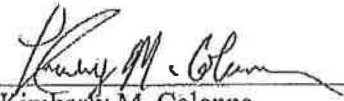
Dated: March 26, 2015

CERTIFICATE OF SERVICE

I certify that I have this date served a copy of the foregoing document by electronic mail and first class mail, postage prepaid, upon the following:

Mary Lou Maierhofer, Esq.  
Margolis Edelstein  
P.O. Box 628  
Hollidaysburg, PA 16648  
*Attorneys for County of Centre*

Michael A. Giramita, Jr., Esq.  
Richard S. Roberts, Jr., Esq.  
The McShane Firm, LLC  
3601 Vartan Way, 2<sup>nd</sup> Floor  
Harrisburg, PA 17110  
*Attorneys for the McShane Firm and Theodore Tanski*

  
Kimberly M. Colonna

Dated: March 26, 2015

McNees Wallace & Nurick LLC  
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717-237-5278  
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OF CENTRE COUNTY, PENNSYLVANIA

JONATHAN D. GRINE  
Plaintiff

v.

NO. 2015-1080

COUNTY OF CENTRE, THE McSHANE  
FIRM, LLC, and THEODORE C. TANSKI,  
Defendants

NOTICE TO ATTEND AND PRODUCE DOCUMENTS

**TO: COUNTY OF CENTRE, Records Custodian:**

(1) You are directed to come to the Centre County Court of Common Pleas, 102 S. Allegheny St., Bellefonte, PA 16823, Courthouse Annex, 3<sup>rd</sup> Floor, on **Thursday, April 2, 2015, at 9:00 AM**, to testify in the above-captioned case in Plaintiff's Petition for Preliminary Injunction, and to remain until excused.

(2) You are directed to bring with you:

- (a) any and all bills or invoices which the County has in its possession that reflect charges for the period of February and March 2014, for any telephone used by Plaintiff;
- (b) any and all payment records showing that the County expended any funds to pay any of the bills or invoices referenced in item (a) above;



- (c) any documents that (i) the County produced in response to any Right-to-Know request and (ii) contain any information about any telephone communications to or from Plaintiff;
- (d) any documents prepared by the County in response to any Right-to-Know request that contain any information about any telephone communications to or from Plaintiff;
- (e) any documents that reflect any communications by the County to any person (including but not limited to Verizon, any telecommunications provider, any person affiliated with the Centre County Court of Common Pleas, the AOPC, or the Office of Open Records) which relate to any Right-to-Know requests for records of Plaintiff's telephone communications;
- (f) any documents that reflect any communications to the County by any person (including but not limited to Verizon, any telecommunications provider, any person affiliated with the Centre County Court of Common Pleas, the AOPC or the Office of Open Records) which relate to any Right-to-Know requests for records of Plaintiff's telephone communications;
- (g) any documents that reflect any communications between the County and any person affiliated with the Centre County Court of Common Pleas regarding the process or procedures for responding to Right-to-Know requests; and
- (h) any documents that reflect the County's policies, procedures, protocols, guidelines, or instructions for handling Right-to-Know requests.

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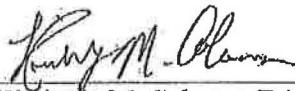
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McNEES WALLACE & NURICK LLC

By   
\_\_\_\_\_  
Kimberly M. Colonna (PA 80362)  
Kathleen Duffy Bruder (PA 74425)  
100 Pine Street, P.O. Box 1166  
Harrisburg, PA 17108-1166  
Ph. 717-232-8000  
*Attorneys for Jonathan D. Grine*

Dated: March 26, 2015




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Margolis Edelstein  
P.O. Box 628  
Hollidaysburg, PA 16648  
*Attorneys for County of Centre*

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*Attorneys for the McShane Firm and Theodore Tanski*

  
Kimberly M. Colonna

Dated: March 26, 2015

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JONATHAN D. GRINE

Plaintiff.

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Defendants.

CIVIL DIVISION

No. 2015-1080

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McNees Wallance & Nurick, LLC  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166

**MARGOLIS EDELSTEIN**

By: 

Mary Lou Maierhofer, Esquire  
Attorney for Defendant COUNTY OF CENTRE  
PA. I.D. No.: 62175  
P.O. Box 628  
Hollidaysburg, PA 16648  
(814) 695-5064  
Fax: (814) 695-5066