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March 16, 2015

**BY HAND DELIVERY:**

The McShane Firm, LLC  
c/o Justin McShane  
3601 Vartan Way, 2nd Floor  
Harrisburg, PA 17110

Theodore C. Tanski, Esq.  
The McShane Firm, LLC  
3601 Vartan Way, 2nd Floor  
Harrisburg, PA 17110

**RE: Jonathan Grine v. County of Centre, et al.  
Centre County Court of Common Pleas Case No. 2015-1080**

Dear Mr. McShane and Mr. Tanski:

Enclosed and served upon you are the following documents filed under seal in the above-referenced case:


- (1) Complaint;
- (2) Plaintiff's Petition for Emergency Injunction and Preliminary Injunction;
- (3) Plaintiff's Motion to Seal;
- (4) Court Order granting Motion to Seal;
- (5) Court Order entering emergency injunction;

Please note that the Court has schedule a hearing on Plaintiff's Petition for Preliminary Injunction for March 23, at 9:00 A.M.

If you wish to discuss the case, I would welcome your call.

Sincerely,

McNEES WALLACE & NURICK LLC

By   
Kimberly M. Colonna

c: Kathleen Duffy Bruder, Esq.

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# Supreme Court of Pennsylvania

## Court of Common Pleas Civil Cover Sheet

CENTRE County

For Prothonotary Use Only:	
Docket No:	2015-1080

The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

SECTION A

<b>Commencement of Action:</b> <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Writ of Summons <input type="checkbox"/> Petition <input type="checkbox"/> Transfer from Another Jurisdiction <input type="checkbox"/> Declaration of Taking	
Lead Plaintiff's Name: Jonathan D. Grine	Lead Defendant's Name: County of Centre
Are money damages requested? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Dollar Amount Requested: (check one) <input checked="" type="checkbox"/> within arbitration limits <input type="checkbox"/> outside arbitration limits
Is this a <i>Class Action Suit</i> ? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Is this an <i>MDJ Appeal</i> ? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Name of Plaintiff/Appellant's Attorney: Kimberly M. Colonna <input type="checkbox"/> Check here if you have no attorney (are a Self-Represented [Pro Se] Litigant)	

SECTION B

**Nature of the Case:** Place an "X" to the left of the ONE case category that most accurately describes your **PRIMARY CASE**. If you are making more than one type of claim, check the one that you consider most important.

<b>TORT</b> (do not include Mass Tort) <input type="checkbox"/> Intentional <input type="checkbox"/> Malicious Prosecution <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Nuisance <input type="checkbox"/> Premises Liability <input type="checkbox"/> Product Liability (does not include mass tort) <input type="checkbox"/> Slander/Libel/ Defamation <input type="checkbox"/> Other: _____	<b>CONTRACT</b> (do not include Judgments) <input type="checkbox"/> Buyer Plaintiff <input type="checkbox"/> Debt Collection: Credit Card <input type="checkbox"/> Debt Collection: Other _____ <input type="checkbox"/> Employment Dispute: Discrimination <input type="checkbox"/> Employment Dispute: Other _____ <input type="checkbox"/> Other: _____	<b>CIVIL APPEALS</b> <input type="checkbox"/> Administrative Agencies <input type="checkbox"/> Board of Assessment <input type="checkbox"/> Board of Elections <input type="checkbox"/> Dept. of Transportation <input type="checkbox"/> Statutory Appeal: Other _____ <input type="checkbox"/> Zoning Board <input type="checkbox"/> Other: _____
<b>MASS TORT</b> <input type="checkbox"/> Asbestos <input type="checkbox"/> Tobacco <input type="checkbox"/> Toxic Tort - DES <input type="checkbox"/> Toxic Tort - Implant <input type="checkbox"/> Toxic Waste <input type="checkbox"/> Other: _____	<b>REAL PROPERTY</b> <input type="checkbox"/> Ejectment <input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Ground Rent <input type="checkbox"/> Landlord/Tenant Dispute <input type="checkbox"/> Mortgage Foreclosure: Residential <input type="checkbox"/> Mortgage Foreclosure: Commercial <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Other: _____	<b>MISCELLANEOUS</b> <input type="checkbox"/> Common Law/Statutory Arbitration <input checked="" type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Mandamus <input type="checkbox"/> Non-Domestic Relations Restraining Order <input type="checkbox"/> Quo Warranto <input type="checkbox"/> Replevin <input type="checkbox"/> Other: _____
<b>PROFESSIONAL LIABILITY</b> <input type="checkbox"/> Dental <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional: _____		

Pursuant to Pa.R.Civ.P. 401(c), I certify this to be a true copy of the document filed with the Court.

*Kimberly M. Colonna*  
Kimberly M. Colonna

McNees Wallace & Nurick LLC  
Kimberly M. Colonna (PA 80362)  
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Kathleen Duffy Bruder (PA 74425)  
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2015 MAR 16 PM 1:31  
DEBRA C. TRANEL  
PROthonOTARY  
CENTRE COUNTY, PA  
e-FILED RECORD

IN THE COURT OF COMMON PLEAS  
OF CENTRE COUNTY, PENNSYLVANIA

JONATHAN D. GRINE :  
Plaintiff :

v. :

NO. 2015-1080

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

COMPLAINT

Plaintiff Jonathan D. Grine ("Judge Grine"), by and through his undersigned counsel, states as follows for his complaint against the County of Centre, the McShane Law Firm and Theodore C. Tanski:

### Parties

1. Plaintiff Jonathan D. Grine (“Judge Grine”) is an adult individual and judge of the Centre County Court of Common Pleas with his office located at 102 S. Allegheny St., Bellefonte, PA 16823.

2. Defendant County of Centre (the “County”) is a political subdivision with offices located at Willowbank County Office Building, 420 Holmes Street, Bellefonte, PA 16823-1488.

3. Defendant The McShane Firm, LLC (“McShane Firm”) is a limited liability corporation with offices located at 3601 Vartan Way, 2<sup>nd</sup> Floor, Harrisburg, PA 17110.

4. Defendant Theodore C. Tanski (“Tanski”) is an attorney in practice with The McShane Law Firm, LLC and with his office located at 3601 Vartan Way, 2<sup>nd</sup> Floor, Harrisburg, PA 17110.

### Venue

5. Pursuant to Pa. R. Civ. P. 2103(b), venue is proper in the Centre County Court of Common Pleas because this action is filed against the County and the County has offices located in Centre County.

6. Pursuant to Pa. R. Civ. P. 1006(a)(1), venue is also proper in the Centre County Court of Common Pleas because this action arises out of occurrences that occurred within Centre County.

### Background Facts

7. Defendant Tanski, in his capacity as an attorney with the McShane Firm, submitted a Right-to-Know request to the County, which the County received on or about

February 3, 2015 (hereinafter, this specific Right-to-Know request shall be referred to as the “02/03/15 RTK Request”).

8. The 02/03/15 RTK Request sought information about certain telephone communications, including text messaging information (hereinafter “telephone communications”), of Judge Grine and others that occurred between September 16, 2014 and November 12, 2014.

9. Upon information and belief, the County obtained information from a third party, Verizon, which it used to create a record that it produced in response to the 02/03/15 RTK Request.

10. The County produced to Tanski and the McShane Firm records regarding Judge Grine’s telephone communications, including records that showed partial telephone numbers.

11. The County did not notify Judge Grine that it had received the 02/03/15 RTK Request or that it had provided information about Judge Grine’s telephone communications in response to the 02/03/15 RTK Request.

12. On March 11, 2015, Judge Grine became aware of information suggesting that the County had produced information about his telephone communications in response to a Right-to-Know request.

13. On March 13, 2015, Judge Grine attended a meeting with representatives of the Administrative Office of the Pennsylvania Courts (AOPC), President Judge Kistler, Judge Ruest, Judge Lunsford, and Magistrate District Judge Walker, and County representatives, and during the meeting County representatives acknowledged that they had received the 02/03/15 RTK Request seeking information about Judge Grine’s telephone communications and that the County

had responded by providing information about Judge Grine's telephone communications, including partial telephone numbers.

14. Upon information and belief, the County has received and/or will receive other Right-to-Know requests that seek records of judicial agencies that the County possesses or has access to.

**Count I: Claim Under the Declaratory Judgments Act**  
**Judge Grine v. County of Centre, Tanski, and the McShane Firm**

15. Judge Grine incorporates herein by reference paragraphs one (1) through fourteen (14) above.

16. The Declaratory Judgments Act, 42 Pa. C.S. § 7531-7541, authorizes the courts to declare the rights, status, and other legal relations of parties when all of the parties with an interest which would be affected by the declaration are joined to the action.

17. The Declaratory Judgments Act is properly involved where there is a challenge to the scope of a government body's action pursuant to statutory authority. Court of Common Pleas of Lackawanna County v. Pennsylvania Office of Open Records, 2 A.3d 810, 812, n.3 (Pa. Commw. 2010).

18. Under the Right-to-Know Law, records "containing all or part of a person's ...cellular or personal telephone number" are completely exempt from disclosure under the Right-to-Know Law. 65 P.S. § 67.708(b)(6)(i)(A).

19. The fact that a government employee's cellular telephone is provided by the government and that government business may be discussed over a personal cellular telephone does not make that telephone any less "personal" within the meaning of the Right-to-Know Law. Commonwealth Office of the Governor v. Raffle, 65 A.3d 1105 (Pa. Commw. 2013).

20. Under the Right-to-Know Law, the records of judicial agencies, except for financial records, are not subject to disclosure. Court of Common Pleas of Lackawanna v. Office of Open Records, 2 A.3d 810, 813 (Pa. Commw. 2010); 65 P.S. § 67.304; 65 P.S. § 67.102.

21. The Right-to-Know Law defines “financial records” as records that deal with the receipt or disbursement of funds, including funds expended for services, supplies, materials, equipment, property, salaries, expenses; and financial audit reports. 65 P.S. § 67.102.

22. The fact that a county may have copies of, or access to, records of judicial agencies does not make those records subject to disclosure under the Right-to-Know Law. Lackawanna v. OOR, 2 A.3d at 813.

23. The County improperly produced records to Tanski and the McShane Firm that were exempted from the Right-to-Know Law because they contained partial phone numbers.

24. The County improperly produced records to Tanski and the McShane Firm that were exempted from the Right-to-Know Law because they were records of a judicial agency that are not financial records.

25. The County improperly produced records to Tanski and the McShane Firm that were judicial records, not County records, and the County has no authority to disclose records of a judicial agency.

26. The County had no absolutely right to produce the records that it provided in response to the 02/03/15 RTK Request.

27. The County has failed and refuses to acknowledge that it had no right to produce the records that it provided in response to the 02/03/15 RTK Request.

28. Under the Right-to-Know Law, when an agency produces a record that is not a public record or financial record, it is required to notify “any third party provided the records to the agency, the person that is the subject of the record, and the requester.” 65 P.S. § 67.707(a).

29. Upon information and belief, the County has failed to give the notices that it is required to give under 65 P.S. § 67.707(a).

30. The rights, status, and legal relations of the parties as defined in the Right-to-Know Act are in dispute.

WHEREFORE, Judge Grine requests that the Court make a declaration of the parties rights, status, and legal relations under the Declaratory Judgment Action and award the following declaratory relief, and such other relief as the Court may deem just and proper:

- (A) DECLARE that records regarding Judge Grine’s telephone communications are not public records and not financial records of a judicial agency, and are therefore exempt from disclosure under the Right-to-Know Law;
- (B) DECLARE that the County of Centre had no authority to produce records regarding Judge Grine’s telephone communications in response to any Right-to-Know request that it received;
- (C) DECLARE that the County of Centre is required to provide notice to Judge Grine, under 65 P.S. § 67.707(a), describing each occasion upon which it produced any record in response to any Right-to-Know request where Judge Grine was the subject of the record;
- (D) DECLARE that, under 65 P.S. § 67.707(a), the County of Centre is required, for each occasion in which the County produced any records of a judicial agency that are exempt from the Right-to-Know Law, to notify: (i) the subject of the record; (ii) the parties to whom it produced the record; and (iii) the third parties who provided the record to the County and further DECLARE that notice from the County must direct the recipients of the record not to disclose or use any of the information contained in the records and to destroy all copies of the records;
- (E) DECLARE that Theodore Tanski and the McShane Firm, LLC had no right to receive the records that the County of Centre provided in response to the 02/03/15 RTK Request; and,



- (F) DECLARE that Theodore Tanski and the McShane Firm, LLC have no right to use or disclose any of the information produced by the County of Centre in response to the 02/03/15 RTK Request and further DECLARE that they must destroy all copies of the records, in any form (paper, electronic, or otherwise), that they have in their possession.

**Count II: Violation of Right of Privacy**  
**Judge Grine v. County of Centre**

31. Judge Grine incorporates herein by reference paragraphs one (1) through thirty (30) above.

32. A constitutional right of privacy arises under Article I, Sections 1 and 8 of the Pennsylvania Constitution.

33. The right of privacy protects against disclosure of personal matters in which a person has a legitimate expectation of privacy.

34. The right of privacy exists where a person has an actual expectation of privacy and society is prepared to recognize the expectation of privacy as reasonable.

35. Judge Grine had a reasonable expectation that information about his telephone communications would remain private.

36. The expectation of privacy was reasonable given that the Right-to-Know law exempts from disclosure “containing all or part of a person’s ...cellular or personal telephone number.” 65 P.S. § 67.708(b)(6)(i)(A).

37. Moreover, the fact that the Right-to-Know law exempts telephone records from disclosure reflects a societal recognition that the expectation of privacy in those matters.

38. The County’s disclosure of records containing information about Judge Grine’s telephone communications constitutes a violation of Judge Grine’s right of privacy under the Pennsylvania Constitution.

39. Upon information and belief, the County knew that its actions would violate Judge Grine's constitutional right of privacy or the County acted with reckless disregard of Judge Grine's constitutional right of privacy.

WHEREFORE, Judge Grine requests that the Court award compensatory damages, costs of suit and such other relief as the Court may deem just and proper.


**Count III: Request for Injunctive Relief**  
**Judge Grine v. County of Centre, Tanski, and the McShane Firm**

40. Judge Grine incorporates herein by reference paragraphs one (1) through thirty-nine (39) above.

41. Pursuant to a separately filed Petition for Emergency Injunction and Preliminary Injunction, Judge Grine seeks injunctive relief preventing the further disclosure of information regarding his telephone communications.

WHEREFORE, Judge Grine requests that the Court award injunctive relief as requested in Plaintiff's Petition for Emergency Injunction and Preliminary Injunction.

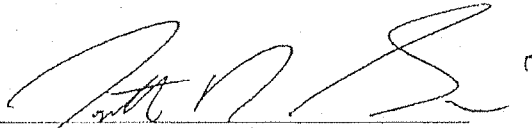
McNEES WALLACE & NURICK LLC

By   
\_\_\_\_\_  
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Ph. 717-232-8000  
*Attorneys for Jonathan D. Grine*

Dated: March 16, 2015

VERIFICATION

Subject to 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities, I verify that that the facts set forth in the foregoing document are true and correct to the best of my knowledge or information and belief.

  
Jonathan D. Grine

Dated: March 16, 2015