

**HEARST** corporation

*Jennifer D Bishop*  
Counsel

February 19, 2016

Office of  
General Counsel

Eve Burton  
Senior Vice President  
General Counsel

Catherine A Bostron  
Corporate Secretary

Jonathan R Donnellan  
Mark C Redman  
Vice President  
Deputy General Counsel

Kristina E Findikyan  
Larry M Loeb  
Kenan J Packman  
Peter P Rahbar  
Maureen Walsh Sheehan  
Ravi V Sitwala  
Jack Spizz  
Debra S Weaver  
Senior Counsel

Jennifer D Bishop  
Abraham S Cho  
Marianne W Chow  
Adam Colón  
Travis P Davis  
Carolene S Eaddy  
Shari M Goldsmith  
Carl G Guida  
Audra B Hart  
Diego Ibarra  
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Kate Mayer  
Kevin J McCauley  
Alexandra McGurk  
Jonathan C Mintzer  
Aimee Nisbet  
Elliot J Rishty  
Shira R Saiger  
Eva M Saketkoo  
Aryn Sobo  
Jennifer G Tancredi  
Stephen H Yuhan  
Counsel

**VIA CERTIFIED MAIL**

Ronald F. Avery  
1933 Montclair Drive  
Seguin, Texas 78155

**Re: Ronald Avery v. Dylan Baddour & Hearst Communications, Inc.,  
Cause No. 15-2186-CV**

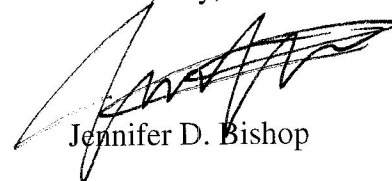
Dear Mr. Avery:

Enclosed for service under Texas Rule of Civil Procedure 21a(a) please find a copy of the following document from Defendants Hearst Communications, Inc. and Dylan Baddour in the above-referenced matter, which was filed with the clerk today:

- Motion to Set Hearing on the Motion to Dismiss, with Proposed Order
- District Court Setting Request

Thank you for your attention to this matter. Please call me at (212) 649-2030, if you have any questions regarding the above.

Yours truly,



Jennifer D. Bishop

Enclosure

300 West 57th Street  
New York, NY 10019-3792  
T 212 649 2030  
F 646 280 2030  
jbishop@hearst.com

**CAUSE NO. 15-2186-CV**

**RONALD AVERY,**

**Plaintiff,**

**vs.**

**DYLAN BADDOUR, AND  
HEARST COMMUNICATIONS, INC.,**

**Defendants.**

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**IN THE DISTRICT COURT OF**

**GUADALUPE COUNTY, TEXAS**

**2<sup>ND</sup> 25<sup>TH</sup> JUDICIAL DISTRICT**

**MOTION TO SET HEARING**

**TO THE HONORABLE JUDGE OF SAID COURT:**

COME NOW, Defendants Hearst Communications, Inc., publisher of the Houston Chronicle, and Dylan Baddour, a reporter for the Chronicle (collectively “the Chronicle” or “Defendants”), and file this Motion to Set a hearing on their Motion to Dismiss Pursuant to the Texas Citizens Participation Act, Tex. Civ. Prac. & Rem. Code § 27.001, *et seq.* (the “Hearing”), on March 10, 2016 at 9:00 a.m. In support of this motion, the Chronicle respectfully shows the Court as follows:

1. The Hearing is expected to take approximately one hour.
2. On February 18, 2016, *pro se* Plaintiff Ronald Avery informed counsel for Defendants that he has no objection to setting the Hearing for March 10, 2016.
3. Counsel for Defendants have consulted the Court’s online calendar, which states that the Court is hearing civil non-jury matters in Guadalupe County on March 10, 2016.
4. Pursuant to Tex. Civ. Prac. & Rem. Code § 27.004, the Hearing on Defendants’ Motion to Dismiss is generally required to be held within 60 days of service of that motion. However, the Court may conduct the Hearing after 60 days has passed if it takes “judicial notice

that the court's docket conditions require[] a hearing at a later date," but "in no event shall the hearing occur more than 90 days after service," unless the Court orders discovery on the motion to dismiss. Tex. Civ. Prac. & Rem. Code § 27.004(b).

5. Defendants filed and served their motion to dismiss on Plaintiff on December 23, 2015.

6. Plaintiff's prior filing of his motion to recuse Judge Kirkendall, as well as the procedures required to be followed upon the filing of that motion under Texas Rule of Civil Procedure 18(a), constitute a "docket condition" sufficient to hold the Hearing more than 60 days after service of Defendants' motion to dismiss. *See Ramsey v. Lynch*, No. 10-12-00198-CV, 2013 WL 1846886, at \*5 (Tex. App.—Waco May 2, 2013, no pet.).

WHEREFORE, PREMISES CONSIDERED, Defendants Hearst Communications, Inc. and Dylan Baddour pray the Court enters the attached Order setting the hearing on their motion to dismiss for March 10, 2016, at 9:00 a.m. and taking judicial notice that the Court's docket conditions require that such hearing be held more than 60 days after the filing of Defendants' motion to dismiss.

Dated: February 19, 2016

Respectfully Submitted,

/s/ Jonathan R. Donnellan

Jonathan R. Donnellan (State Bar No. 24063660)  
Kristina E. Findikyan  
Jennifer D. Bishop  
THE HEARST CORPORATION  
Office of General Counsel  
300 W. 57th Street, 40th Floor  
New York, NY 10019  
(212) 841-7000  
(212) 554-7000 (fax)  
[jdonnellan@hearst.com](mailto:jdonnellan@hearst.com)

Jonathan H. Hull (State Bar No. 10253350)  
REAGAN BURRUS PLLC  
401 Main Plaza, Suite 200  
New Braunfels, Texas 78130  
(830) 625-8026  
(830) 625-4433 (fax)  
[jhull@reaganburrus.com](mailto:jhull@reaganburrus.com)

*Attorneys for Defendants Hearst  
Communications, Inc. and Dylan Baddour*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been delivered to the following pursuant to the Texas Rules of Civil Procedure on this 19<sup>th</sup> day of February, 2016:

Ronald F. Avery, *pro se* Plaintiff  
1933 Montclair Drive  
Seguin, Texas 78155  
Phone: (830) 372-5534  
Email: taphouse@sbcglobal.net

\_\_\_\_\_  
/s/ Jonathan R. Donnellan  
Jonathan R. Donnellan

*Attorney for Defendants*

CAUSE NO. 15-2186-CV

RONALD AVERY,

Plaintiff,

vs.

DYLAN BADDOUR, AND  
HEARST COMMUNICATIONS, INC.,

Defendants.

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IN THE DISTRICT COURT OF

GUADALUPE COUNTY, TEXAS

2<sup>ND</sup> 25<sup>TH</sup> JUDICIAL DISTRICT

**ORDER SETTING HEARING**

The Court hereby GRANTS the Motion of Defendants to Set a hearing on their Motion to Dismiss Pursuant to the Texas Citizens Participation Act, Tex. Civ. Prac. & Rem. Code § 27.001, *et seq.*, and further takes judicial notice that its docket conditions require that a hearing on Defendants' Motion to Dismiss Pursuant to the Texas Citizens Participation Act be held more than 60 days after service of that Motion.

It his hereby ORDERED that the hearing is scheduled for March 10, 2016, at 9:00 a.m.

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2016

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