

Appellate Docket Number:	04-16-00184-CV
Appellate Case Style:	Ronald F. Avery
Vs.	Dylan Baddour; Hearst Communications, Inc.

Companion Case No.:

Amended/corrected statement:

DOCKETING STATEMENT (Civil)

Appellate Court: 4th Court of Appeals

(to be filed in the court of appeals upon perfection of appeal under TRAP 32)

I. Appellant	II. Appellant Attorney(s)
<input type="checkbox"/> Person <input checked="" type="checkbox"/> Organization (choose one) Organization Name: Hearst Communications, Inc. First Name: Middle Name: Last Name: Suffix: Pro Se: <input type="radio"/>	<input checked="" type="checkbox"/> Lead Attorney First Name: Jonathan Middle Name: R. Last Name: Donnellan Suffix: Law Firm Name: The Hearst Corp., Office of General Counsel Address 1: 300 West 57th Street Address 2: 40th Floor City: New York State: New York Zip+4: 10019-3741 Telephone: (212) 841-7000 ext. Fax: (212) 554-7000 Email: jdonnellan@hearst.com SBN: 24063660
I. Appellant	II. Appellant Attorney(s)
<input checked="" type="checkbox"/> Person <input type="checkbox"/> Organization (choose one) First Name: Dylan Middle Name: Last Name: Baddour Suffix: Pro Se: <input type="radio"/>	<input checked="" type="checkbox"/> Lead Attorney First Name: Jonathan Middle Name: R. Last Name: Donnellan Suffix: Law Firm Name: The Hearst Corp., Office of General Counsel Address 1: 300 West 57th Street Address 2: 40th Floor

RECEIVED  
4/19/16  
RFA

	City: New York State: New York Zip+4: 10019-3741 Telephone: (212) 841-7000 ext. Fax: (212) 554-7000 Email: jdonnellan@hearst.com SBN: 24063660
<b>III. Appellee</b>	<b>IV. Appellee Attorney(s)</b>
<input checked="" type="checkbox"/> Person <input type="checkbox"/> Organization (choose one)  First Name: Ronald Middle Name: F. Last Name: Avery Suffix: Pro Se: <input checked="" type="radio"/> Address 1: 1933 Montclair Drive Address 1: City: Seguin State: Texas Zip+4: 78155 Telephone: (830) 372-5534 ext. Fax: (830) 372-5534 Email: taphouse@sbeglobal.net	<input type="checkbox"/> Lead Attorney First Name: Middle Name: Last Name: Suffix: Law Firm Name: Address 1: Address 2: City: State: Texas Zip+4: Telephone: ext. Fax: Email: SBN:

## V. Perfection Of Appeal And Jurisdiction

Nature of Case (Subject matter or type of case): Other

Date order or judgment signed: March 18, 2016

Type of judgment: Dismissal

Date notice of appeal filed in trial court: April 12, 2016

If mailed to the trial court clerk, also give the date mailed:

Interlocutory appeal of appealable order: ☐ Yes ☒ No

If yes, please specify statutory or other basis on which interlocutory order is appealable (See TRAP 28):

Accelerated appeal (See TRAP 28): ☒ Yes ☐ No

If yes, please specify statutory or other basis on which appeal is accelerated:

Tex. Civ. Prac. & Rem. Code § 27.008(b) and Tex. R. App. P. 28.1

Parental Termination or Child Protection? (See TRAP 28.4): ☐ Yes ☒ No

Permissive? (See TRAP 28.3): ☐ Yes ☒ No

If yes, please specify statutory or other basis for such status:

Agreed? (See TRAP 28.2): ☐ Yes ☒ No

If yes, please specify statutory or other basis for such status:

Appeal should receive precedence, preference, or priority under statute or rule: ☐ Yes ☒ No

If yes, please specify statutory or other basis for such status:

Does this case involve an amount under \$100,000? ☐ Yes ☒ No

Judgment or order disposes of all parties and issues: ☒ Yes ☐ No

Appeal from final judgment: ☒ Yes ☐ No

Does the appeal involve the constitutionality or the validity of a statute, rule, or ordinance? ☐ Yes ☒ No

## VI. Actions Extending Time To Perfect Appeal

Motion for New Trial: ☐ Yes ☐ No

If yes, date filed:

Motion to Modify Judgment: ☐ Yes ☐ No

If yes, date filed:

Request for Findings of Fact and Conclusions of Law: ☐ Yes ☐ No

If yes, date filed:

Motion to Reinstate: ☐ Yes ☐ No

If yes, date filed:

Motion under TRCP 306a: ☐ Yes ☐ No

If yes, date filed:

Other: ☒ Yes ☐ No

If other, please specify: Tex. R. App. P. 26.1(d). Another party (Ronald F. Avery) timely filed a notice of appeal on March 29, 2016.

## VII. Indigency Of Party: (Attach file-stamped copy of affidavit, and extension motion if filed.)

Affidavit filed in trial court: ☐ Yes ☒ No

If yes, date filed:

Contest filed in trial court: ☐ Yes ☐ No

If yes, date filed:

Date ruling on contest due:

Ruling on contest: ☐ Sustained ☐ Overruled

Date of ruling:

### VIII. Bankruptcy

Has any party to the court's judgment filed for protection in bankruptcy which might affect this appeal? ☐ Yes ☒ No

If yes, please attach a copy of the petition.

Date bankruptcy filed: \_\_\_\_\_

Bankruptcy Case Number: \_\_\_\_\_

### IX. Trial Court And Record

Court: 2nd 25th Judicial District

County: Guadalupe

Trial Court Docket Number (Cause No.): 15-2186-CV

Trial Judge (who tried or disposed of case):

First Name: W.C.

Middle Name: \_\_\_\_\_

Last Name: Kirkendall

Suffix: \_\_\_\_\_

Address 1: 211 West Court Street

Address 2 : Room 220

City: Seguin

State: Texas Zip + 4: 78155-5779

Telephone: (830) 303-8852 ext. 2

Fax: (830) 303-0847

Email: judy.caddell@co.guadalupe.tx.us

Clerk's Record:

Trial Court Clerk: ☒ District ☐ County

Was clerk's record requested? ☐ Yes ☐ No

If yes, date requested: \_\_\_\_\_

If no, date it will be requested: \_\_\_\_\_

Were payment arrangements made with clerk?

☐ Yes ☐ No ☐ Indigent

(Note: No request required under TRAP 34.5(a),(b))

Reporter's or Recorder's Record:

Is there a reporter's record? ☒ Yes ☐ No

Was reporter's record requested? ☐ Yes ☐ No

Was there a reporter's record electronically recorded? ☐ Yes ☐ No

If yes, date requested: \_\_\_\_\_

If no, date it will be requested: \_\_\_\_\_

Were payment arrangements made with the court reporter/court recorder? ☐ Yes ☐ No ☐ Indigent

☒ Court Reporter                      ☐ Court Recorder  
☐ Official                                      ☐ Substitute

First Name: Phyllis  
Middle Name:  
Last Name: Bush  
Suffix:  
Address 1: P.O. Box 862  
Address 2:  
City: Hallettsville  
State: Texas                      Zip + 4: 77964  
Telephone: (979) 562-2877                      ext.   
Fax:   
Email: pabush.csr@gmail.com

#### X. Supersedeas Bond

Supersedeas bond filed: ☐ Yes ☒ No      If yes, date filed:   
Will file: ☐ Yes ☒ No

#### XI. Extraordinary Relief

Will you request extraordinary relief (e.g. temporary or ancillary relief) from this Court? ☐ Yes ☒ No  
If yes, briefly state the basis for your request:

#### XII. Alternative Dispute Resolution/Mediation (Complete section if filing in the 1st, 2nd, 4th, 5th, 6th, 8th, 9th, 10th, 11th, 12th, 13th, or 14th Court of Appeal)

Should this appeal be referred to mediation? ☐ Yes ☒ No

If no, please specify: Cross-Appellants Hearst Communications, Inc. and Dylan Baddour believe mediation would be futile at this stage.

Has the case been through an ADR procedure? ☐ Yes ☒ No

If yes, who was the mediator?

What type of ADR procedure?

At what stage did the case go through ADR? ☐ Pre-Trial ☐ Post-Trial ☐ Other

If other, please specify:

Type of case? Other

Give a brief description of the issue to be raised on appeal, the relief sought, and the applicable standard for review, if known (without prejudice to the right to raise additional issues or request additional relief):

Cross-Appellants will challenge the trial court's failure to award them their reasonable attorneys fees and costs, which are mandatory under Tex. Civ. Prac. & Rem. Code § 27.009(a).

How was the case disposed of? Dismissal

Summary of relief granted, including amount of money judgment, and if any, damages awarded. Dismissal with prejudice.

If money judgment, what was the amount? Actual damages:

Punitive (or similar) damages:



Attorney's fees (trial): [REDACTED]

Attorney's fees (appellate): [REDACTED]

Other: [REDACTED]

If other, please specify: [REDACTED]

Will you challenge this Court's jurisdiction? ☐ Yes ☒ No

Does judgment have language that one or more parties "take nothing"? ☐ Yes ☒ No

Does judgment have a Mother Hubbard clause? ☐ Yes ☒ No

Other basis for finality? The Court ordered that Plaintiff's Original Petition is dismissed with prejudice. [REDACTED]

Rate the complexity of the case (use 1 for least and 5 for most complex): ☒ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5

Please make my answer to the preceding questions known to other parties in this case. ☒ Yes ☐ No

Can the parties agree on an appellate mediator? ☐ Yes ☒ No

If yes, please give name, address, telephone, fax and email address:

Name	Address	Telephone	Fax	Email
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Languages other than English in which the mediator should be proficient: [REDACTED]

Name of person filing out mediation section of docketing statement: Jonathan R. Donnellan [REDACTED]

### XIII. Related Matters

List any pending or past related appeals before this or any other Texas appellate court by court, docket number, and style.

Docket Number: [REDACTED] Trial Court: [REDACTED]

Style: [REDACTED]

Vs. [REDACTED]

**XIV. Pro Bono Program: (Complete section if filing in the 1st, 3rd, 5th, or 14th Courts of Appeals)**

The Courts of Appeals listed above, in conjunction with the State Bar of Texas Appellate Section Pro Bono Committee and local Bar Associations, are conducting a program to place a limited number of civil appeals with appellate counsel who will represent the appellant in the appeal before this Court.

The Pro Bono Committee is solely responsible for screening and selecting the civil cases for inclusion in the Program based upon a number of discretionary criteria, including the financial means of the appellant or appellee. If a case is selected by the Committee, and can be matched with appellate counsel, that counsel will take over representation of the appellant or appellee without charging legal fees. More information regarding this program can be found in the Pro Bono Program Pamphlet available in paper form at the Clerk's Office or on the Internet at [www.tex-app.org](http://www.tex-app.org). If your case is selected and matched with a volunteer lawyer, you will receive a letter from the Pro Bono Committee within thirty (30) to forty-five (45) days after submitting this Docketing Statement.

Note: there is no guarantee that if you submit your case for possible inclusion in the Pro Bono Program, the Pro Bono Committee will select your case and that pro bono counsel can be found to represent you. Accordingly, you should not forego seeking other counsel to represent you in this proceeding. By signing your name below, you are authorizing the Pro Bono committee to transmit publicly available facts and information about your case, including parties and background, through selected Internet sites and Listserv to its pool of volunteer appellate attorneys.

Do you want this case to be considered for inclusion in the Pro Bono Program? ☐ Yes ☐ No

Do you authorize the Pro Bono Committee to contact your trial counsel of record in this matter to answer questions the committee may have regarding the appeal? ☐ Yes ☐ No

Please note that any such conversations would be maintained as confidential by the Pro Bono Committee and the information used solely for the purposes of considering the case for inclusion in the Pro Bono Program.

If you have not previously filed an affidavit of Indigency and attached a file-stamped copy of that affidavit, does your income exceed 200% of the U.S. Department of Health and Human Services Federal Poverty Guidelines? ☐ Yes ☐ No

These guidelines can be found in the Pro Bono Program Pamphlet as well as on the internet at <http://aspe.hhs.gov/poverty/06poverty.shtml>.

Are you willing to disclose your financial circumstances to the Pro Bono Committee? ☐ Yes ☐ No

If yes, please attach an Affidavit of Indigency completed and executed by the appellant or appellee. Sample forms may be found in the Clerk's Office or on the internet at <http://www.tex-app.org>. Your participation in the Pro Bono Program may be conditioned upon your execution of an affidavit under oath as to your financial circumstances.

Give a brief description of the issues to be raised on appeal, the relief sought, and the applicable standard of review, if known (without prejudice to the right to raise additional issues or request additional relief; use a separate attachment, if necessary).

**XV. Signature**

Signature of counsel (or pro se party)

Date: April 12, 2016

Printed Name: Jonathan R. Donnellan

State Bar No.: 24063660

Electronic Signature: /s/ Jonathan R. Donnellan  
(Optional)

## XVI. Certificate of Service

The undersigned counsel certifies that this docketing statement has been served on the following lead counsel for all parties to the trial court's order or judgment as follows on **April 12, 2016** .

Signature of counsel (or pro se party)

Electronic Signature: **/s/ Jonathan R. Donnellan**  
(Optional)

State Bar No.: **24063660**

Person Served

Certificate of Service Requirements (TRAP 9.5(e)): A certificate of service must be signed by the person who made the service and must state:

- (1) the date and manner of service;
- (2) the name and address of each person served, and
- (3) if the person served is a party's attorney, the name of the party represented by that attorney

Please enter the following for each person served:

Date Served: **April 12, 2016**

Manner Served: **Certified Mail**

First Name: **Ronald**

Middle Name: **F.**

Last Name: **Avery**

Suffix:

Law Firm Name:

Address 1: **1933 Montclair Drive**

Address 2:

City: **Seguin**

State **Texas**

Zip+4: **78155**

Telephone: **(830) 372-5534** ext.

Fax: **(830) 372-5534**

Email: **taphouse@sbcglobal.net**

If Attorney, Representing Party's Name:



# HEARST corporation

*Jennifer D Bishop*  
Counsel

April 12, 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  
Charlotte Jackson  
Siu Y Lin  
Alexander N Macleod  
Kate Mayer  
Kevin J McCauley  
Alexandra McGurk  
Jonathan C Mintzer  
Aimee Nisbet  
Elliot J Rishy  
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.,  
Court of Appeals Number 04-16-00184-CV; Guadalupe County  
Cause No. 15-2186-CV**

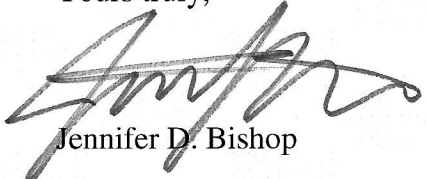
Dear Mr. Avery:

Enclosed for service under Texas Rule of Civil Procedure 21a(a) and Texas Rule of Appellate Procedure 9.5(b), please find a copy of the following documents from Defendants Hearst Communications, Inc. and Dylan Baddour in the above-referenced matter, which were filed with the clerk today:

- Notice of Cross Appeal
- Docketing Statement

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