

No. 25-0995

IN THE SUPREME COURT OF TEXAS

Paul Chabot

Petitioner,

v.

Frederick Frazier

Respondent.

From the Fifth Court of Appeals
at Dallas
(No. 05-24-01272)

PETITION FOR REVIEW

Tony K. McDonald
tony@tonymcdonald.com
State Bar No. 24083477
Connor Ellington
connor@tonymcdonald.com
State Bar No. 24128592
THE LAW OFFICES OF TONY McDONALD
1308 Ranchers Legacy Trail
Fort Worth, TX 76126
(512) 200-3608
(815) 550-1292 (fax)

Steven E. Ross
sross@maxuslegal.com
State Bar No. 17305500
MAXUS LEGAL PLLC
5050 Quorum Drive, Suite 700
Dallas, Texas 75254
(972) 661-9400
(972) 661-9401

Counsel for Petitioner

INTRODUCTION

Does the First Amendment permit a public official to commit crimes in office, then sue the victim for talking about those crimes during a political campaign? The Dallas Court of Appeals said “yes,” defying controlling precedent from the U.S. Supreme Court and this Court, and putting the court at odds with courts across the state and nation.

When Paul Chabot challenged Frederick Frazier for public office, Frazier committed a series of crimes designed to silence Chabot. He cut down Chabot’s yard signs. CR 104-105.¹ Frazier then impersonated a code enforcement officer to persuade local businesses to tear down Chabot’s signs for him. CR 85. Frazier was caught, confessed guilt, and was criminally sanctioned. CR 105; CR 133-141. After a lengthy Texas Rangers investigation, Frazier was indicted, pled no contest to felony charges, received probation, and was ordered to pay Chabot victim restitution. CR 111-127; CR 132.

During Frazier’s next campaign, when Chabot told voters about Frazier’s crimes, Frazier filed this lawsuit with the express purpose of forcing Chabot to “shut up.” 1 RR 69. Frazier sued Chabot for, amongst other things,

¹ Citations to the clerk’s record are designated “CR ___.” Citations to the reporter’s record are designated “1 RR ___.”

calling him a “dirty cop” and for saying he “lied to voters.” CR 10–11. But when Chabot moved to dismiss Frazier’s suit under the Texas Citizens Participation Act, Frazier pointed only to claims Chabot had published substantially true political yard signs and republished substantially true news articles. CR 203. Frazier never amended his suit to plead his new defamation theories. He also produced no evidence of actual malice, pointing instead only to Chabot’s continued hosting of the news articles and receipt of a vague and conclusory demand letter as evidence of actual malice. CR 233-234. Nonetheless, the trial court denied Chabot’s TCPA motion. CR 341-342.

The court of appeals affirmed, transforming core First Amendment-protected speech about a public official’s character and fitness for office into “actual malice” solely because Chabot declined to retract his statements after receiving the demand letter. *Chabot v. Frazier*, 2025 Tex. App. LEXIS 5572 at *21-24.² The court completely failed to apply or even address this Court’s controlling substantial-truth framework in *Polk County Publishing Co. v. Coleman*, which directs courts to evaluate the “gist” of a publication from the

² Citations to the court of appeals opinion are to the slip opinion.

standpoint of a reasonable reader. 685 S.W.3d 71, 73 (Tex. 2024). *See generally Chabot*, 2025 Tex. App. LEXIS 5572.

The court of appeals held that Frazier had pled a single cause of action of “defamation” and permitted Frazier to defeat Chabot’s TCPA motion by pointing to statements Frazier never even amended his petition to allege. *Id.* at *14. That conflicts with this Court’s decision in *Montelongo v. Abrea*, 622 S.W.3d 290, 300 (Tex. 2021) and the overwhelming weight of authority from other courts requiring defamation plaintiffs to plead their claims on a statement-by-statement basis.

These errors severely conflict with the TCPA’s text, this Court’s own decisions, sister-court precedent, and controlling guidance from the U.S. Supreme Court. Review and reversal is warranted to correct these errors, maintain uniformity of the courts of appeals’ decisions, preserve the integrity of the TCPA, and prevent the chilling of Texans’ speech about their public servants.

IDENTITY OF PARTIES AND COUNSEL

Petitioner:

Paul Chabot

Petitioner's Counsel:

THE LAW OFFICES OF TONY
MCDONALD

Tony McDonald
State Bar No. 24083477
tony@tonymcdonald.com
Connor Ellington
State Bar No. 24128592
connor@tonymcdonald.com

1308 Ranchers Legacy Trail
Fort Worth, Texas 76126
Telephone: (512) 200-3608
Fax: (815) 550-1292

MAXUS LEGAL PLLC

Steven E. Ross
sross@maxuslegal.com
State Bar No. 17305500

5050 Quorum Drive, Suite 700
Dallas, Texas 75254
Telephone: (972) 661-9400
Fax: (972) 661-9401

Respondent:

Frederick Frazier

Respondent's Counsel

DYKEMA GOSSETT PLLC

Christoper D. Kratovil
Texas State Bar No. 24027427
CKratovil@Dykema.com
Alexandria M. Twiss
Texas State Bar No. 24082511
ATwiss@Dykema.com
Daniel J. Hall
State Bar No. 24118946
DHall@Dykema.com

Comerica Bank Tower
1717 Main Street, Suite 4200
Dallas, Texas 75201
Telephone: (214) 462-6400
Fax: (214) 462-6401

TABLE OF CONTENTS

INTRODUCTION.....	ii
IDENTITY OF PARTIES AND COUNSEL.....	v
TABLE OF CONTENTS	vi
INDEX OF AUTHORITIES.....	ix
STATEMENT OF THE CASE.....	xii
STATEMENT OF JURISDICTION	xiii
ISSUES PRESENTED	xiv
STATEMENT OF FACTS.....	1
a) State Rep. Frederick Frazier was caught destroying his opponent’s campaign signs, was convicted of a misdemeanor, and indicted for two felonies.....	1
b) Frazier accepted a plea deal, received probation, and was ordered to pay victim restitution to Chabot.	2
c) Frazier resigned from the Dallas Police Department while under investigation and was dishonorably discharged.	4
d) During the 2024 Campaign, Chabot’s PAC established FireFrazier.com and placed campaign signs around polling places.	5
e) Only after he sued Chabot did Frazier make public the confidential documents showing he appealed his dishonorable discharge.....	6
f) Frazier sent Chabot a cease-and-desist letter containing no specifics and continued to withhold his confidential TCOLE amendment.	7
g) Frazier sued Chabot over one set of statements, then without amending his pleadings, switched to a different set of post-lawsuit statements when responding to Chabot’s TCPA motion.	8

h) Frazier conceded his claims were subject to the TCPA.	9
i) Frazier’s only TCPA evidence addressing actual malice was Chabot’s failure to publish an updated version of a WFAA article and receipt of the demand letter.	10
j) Frazier is once again threatening to sue Chabot for republishing news articles reporting on his criminal record.	10
SUMMARY OF THE ARGUMENT	11
ARGUMENT	13
I. THE COURT OF APPEALS PUT TEXAS LAW AT ODDS WITH THE U.S. SUPREME COURT, THIS COURT, AND COURTS ACROSS THE NATION ON ACTUAL MALICE AND SUBSTANTIAL TRUTH.....	13
a) The court of appeals disregarded the Supreme Court’s instruction on actual malice in <i>New York Times Co. v. Sullivan</i>	13
b) The court of appeals ignored this Court’s instruction in <i>Polk County Publishing Co. v. Coleman</i> to look to the “gist” of a publication for substantial truth.	16
c) The court of appeals disregarded established Texas law on public official defamation.	17
d) Courts across the state and nation reject the receipt of a cease-and-desist letter as evidence of actual malice.	18
II. DEFAMATION PLAINTIFFS ARE REQUIRED TO PRESENT EVIDENCE SUPPORTING EACH ALLEGED DEFAMATORY STATEMENT.	20
a) The court of appeals construed Frazier’s petition as a single cause of action for defamation, and permitted him to defeat Chabot’s TCPA motion by pointing to statements he never amended his pleadings to allege.....	20

b) This Court’s holding in <i>Montelongo</i> clarified that defamation plaintiffs are required to plead specific facts supporting each cause of action.	23
c) The court of appeals split with its sister courts on whether each alleged statement gives rise to a separate defamation cause of action. .	24
d) The court of appeals’ decision also conflicts with courts across the nation on <i>in haec verba</i> pleading.	26
III. DENIAL OF CHABOT’S TCPA MOTION UNDERMINES SECTION 230 AND THE DEFAMATION MITIGATION ACT.	28
a) Frazier’s complaints of republished articles are barred by Section 230 of the Communications Decency Act.	28
b) Frazier’s claims are barred because he did not comply with the Defamation Mitigation Act.	30
PRAYER.....	31
CERTIFICATE OF COMPLIANCE	33
CERTIFICATE OF SERVICE.....	33
APPENDIX	34

INDEX OF AUTHORITIES

Cases

<i>Azteca Int’l Corp. v. Ruiz</i> , No. 13-21-00241-CV, 2022 WL 17983161 (Tex. App.—Corpus Christi Dec. 29, 2022, pet. denied).....	25
<i>Better Bus. Bureau of Metro. Dall. v. Ward</i> , 401 S.W.3d 440 (Tex. App.—Dallas 2013, pet. denied).....	22, 26
<i>Blankenship v. NBCUniversal, LLC</i> , 60 F.4th 744 (4th Cir. 2023).....	19
<i>Boeckle v. Masse</i> , 5 S.W.2d 195 (Tex. App.—San Antonio 1928, no writ)	27
<i>Campone v. Kline</i> , No. 03-16-00854-CV, 2018 WL 3652231 (Tex. App.—Austin Aug. 2, 2018, no pet.)	25
<i>Chabot v. Frazier</i> , No. 05-24-01272-CV, 2025 Tex. App. LEXIS 5572 (Tex. App.—Dallas July 30, 2025, pet. filed.)	<i>passim</i>
<i>Church of Scientology Int’l v. Time Warner, Inc.</i> , 903 F. Supp. 637 (S.D.N.Y. 1995)	26
<i>Clark v. Jenkins</i> , 248 S.W.3d 418 (Tex. App.—Amarillo 2008, pet. denied)	17
<i>Combined Law Enf’t Ass’ns of Tex. v. Sheffield</i> , No. 03-13-00105-CV, 2014 WL 411672 (Tex. App.—Austin Jan. 31, 2014, pet. denied)	24
<i>Connor v. McCormick</i> , No. 03-18-00813-CV, 2020 WL 102034 (Tex. App.—Austin Jan. 9, 2020, pet. denied)	24
<i>DeWispelare v. DeWispelare</i> , No. 05-24-00176-CV, 2024 WL 4262403 (Tex. App.—Dallas Sept. 23, 2024, pet. denied)	22
<i>Durant v. Anderson</i> , No. 02-14-00283-CV, 2020 WL 1295058 (Tex. App.—Fort Worth Mar. 19, 2020, pet. denied)	27

<i>Fitzjarrald v. Panhandle Publishing Co.</i> , 228 S.W.2d 499 (1950).....	17
<i>Freedom Newspapers of Tex. v. Cantu</i> , 168 S.W.3d 847 (Tex. 2005).....	19
<i>Hearst Corp. v. Skeen</i> , 159 S.W.3d 633 (Tex. 2005)	19
<i>Henry v. National Ass’n of Air Traffic Specialists, Inc.</i> , 836 F. Supp. 1204 (D. Md. 1993).....	27
<i>Hogan v. Zoanni</i> , 627 S.W.3d 163 (Tex. 2021)	31
<i>Houston Chronicle Pub. Co. v. Flowers</i> , 413 S.W.2d 435 (Tex. Civ. App.—Beaumont 1967, no writ).....	17
<i>Int’l Acad. of Bus. & Fin. Mgmt., Ltd. v. Mentz</i> , 2013 WL 212640 (D. Colo. Jan. 18, 2013).....	28
<i>Kinder Morgan SACROC, LP v. Scurry Cty.</i> , 622 S.W.3d 835 (Tex. 2021).....	23
<i>Konowicz v. Carr</i> , 838 F. App’x 1 (3d Cir. 2020)	19
<i>Marshall v. Mahaffey</i> , 974 S.W.2d 942 (Tex. App.—Beaumont 1998, pet. denied)	17
<i>Marshall’s Locksmith Serv. Inc. v. Google, LLC</i> , 925 F.3d 1263, 1267 U.S. App. D.C. 196 (D.C. Cir. 2019).....	30
<i>Monsarrat v. Newman</i> , 28 F.4th 314 (1st Cir. 2022).....	30
<i>Montelongo v. Abrea</i> , 622 S.W.3d 290 (Tex. 2021).....	23, 25, 28
<i>Neely v. Wilson</i> , 418 S.W.3d 52 (Tex. 2013)	16
<i>New York Times Co. v. Sullivan</i> , 376 U.S. 254 (1964)	11, 13, 14, 15
<i>Polk County Publishing Co. v. Coleman</i> , 685 S.W.3d 71 (Tex. 2024).....	16, 17

<i>Rawlins v. McKee</i> , 327 S.W.2d 633 (Tex. Civ. App.—Texarkana 1959, writ ref’d. n.r.e.)	17
<i>Reid v. Viacom Int’l Inc.</i> , 2017 WL 11634619 (N.D. Ga. Sept. 22, 2017)	27
<i>Rossa v. Mahaffey</i> , 594 S.W.3d 618 (Tex. App.—Eastland 2019, no pet.)	24
<i>Stockley v. Joyce</i> , 2019 WL 630049 (E.D. Mo. Feb. 14, 2019)	27
<i>Terrell v. Mazaheri</i> , 676 S.W.3d 116 (Tex. App.—San Antonio 2023, no pet.)	24
<i>US Dominion, Inc. v. Powell</i> , 554 F. Supp. 3d 42 (D.D.C. 2021)	19
<i>Wells v. Youtube, LLC</i> , Civil Action No. 3:20-CV-2849-S-BH, 2021 WL 2652966 (N.D. Tex. 2021)	29
Statutes	
47 U.S.C. § 230(f)(2)	13, 28, 29, 30
TEX. CIV. PRAC. & REM. CODE § 27.001(6)	26
TEX. CIV. PRAC. & REM. CODE § 27.006	18
TEX. CIV. PRAC. & REM. CODE § 73.051	13, 30
TEX. CIV. PRAC. & REM. CODE § 73.055(a)	30, 31
TEX. CIV. PRAC. & REM. CODE § 73.055(d)	30
TEX. ELEC. CODE § 141.001(a)(4)	18
Other Authorities	
Frazier for Texas, https://www.frazierfortexas.com/ (last visited Jan. 6, 2025)	1
Treatises	
50 Tex.Jur.3d <i>Libel and Slander</i> §34 (2000)	17

STATEMENT OF THE CASE

<i>Nature of the Case</i>	Plaintiff Frederick Frazier sued Defendant Paul Chabot for defamation for speech related to Frazier’s unsuccessful campaign for reelection. CR 8-16.
<i>Trial Court</i>	Hon. Jim Pruitt, sitting by assignment, 429th District Court, Collin County, Texas.
<i>Course of Trial Court Proceedings</i>	Defendant Paul Chabot filed a timely motion to dismiss under the Texas Citizens Participation Act. CR 38-74. The trial court conducted a hearing on the TCPA motion on October 21, 2024. CR 199.
<i>Trial Court’s Disposition</i>	The trial court denied Chabot’s TCPA motion to dismiss and granted Frazier’s motion to find the TCPA motion was frivolous or solely intended to delay. CR 341-342. Chabot filed a timely notice of appeal. CR 343-344.
<i>Court of appeals opinion and justices</i>	<i>Chabot v. Frazier, No. 05-24-01272-CV</i> (App. A). The panel consisted of Smith J., Kennedy J., and Lewis J., the court issued a memorandum opinion. The citation for the opinion is <i>Chabot v. Frazier, No. 05-24-01272-CV</i> , 2025 LEXIS 5572, (Tex. App.—Dallas July 30, 2025, pet. filed).
<i>Disposition in the court of appeals</i>	The court of appeals affirmed the trial court’s order denying Chabot’s TCPA motion to dismiss. Op. at *1. It reversed the trial court’s award of sanctions against Chabot under TEX. CIV. PRAC. & REM. CODE § 27.009(b). Chabot timely moved for rehearing and <i>en banc</i> reconsideration, which were denied.

STATEMENT OF JURISDICTION

This Court has jurisdiction pursuant to TEX. GOV'T CODE § 22.001(a) because this appeal presents several questions of law that are important to the jurisprudence of the state: This petition raises important questions affecting the integrity of the Texas Citizens Participation Act (TCPA), its interaction with constitutional free speech protections, the Defamation Mitigation Act, and Section 230 of the Communications Decency Act. It highlights conflicting approaches between the Dallas Court of Appeals and other courts of appeals across Texas with regard to actual malice and substantial truth. These questions are of substantial importance to the jurisprudence of the State, especially as they bear on political speech about public officials and the ability of citizens to discuss matters of public concern without fear of retaliatory litigation.

ISSUES PRESENTED

During a political campaign, Frederick Frazier was charged, convicted, indicted, and pled no contest to a series of crimes relating to tearing down the campaign signs of his opponent, Paul Chabot. As a result, Frazier was dishonorably discharged from his position as a police officer.

During Frazier's subsequent reelection campaign, Frazier demanded that Chabot cease stating that Frazier was "convicted" and "dishonorably discharged." Frazier claimed these statements were "at one time true" but were not "true any longer." 1 RR 32. When Chabot refused, Frazier sued him for defamation, complaining of eight other allegedly defamatory statements, including that Chabot said Frazier had "lied to voters" and called him a "dirty cop."

Chabot moved to dismiss Frazier's suit under the Texas Citizens Participation Act. In response, and without amending his original petition, Frazier conceded the TCPA applied and pointed to Chabot's posting of political yard signs that said he was "convicted" and "dishonorably discharged" and Chabot's publication of a website including news stories about Frazier's criminal proceedings after Frazier sent Chabot a demand letter. The trial court denied Chabot's TCPA motion to dismiss and the court of appeals affirmed.

The issues presented are:

- Issue 1: Did the trial court and court of appeals err in denying Chabot's TCPA motion to dismiss? (Preserved at CR 38-74; CR 300-330; CR 341-342.)
- Issue 2: Did the court of appeals err in holding that Chabot's receipt of a cease-and-desist letter and post-receipt publication of statements about Frazier *alone* was sufficient evidence of Chabot's actual malice? (Preserved at CR 38-74; CR 314-317; CR 319-320; CR 321-322).

- Issue 3: Did the court of appeals err in failing to analyze whether Chabot's statements about Frazier were substantially true? (Preserved at CR 38-74; CR 309-313).
- Issue 4: Did the court of appeals err in construing Frazier's petition as a single cause of action for defamation, which he could advance by pointing to statements Frazier never amended his pleadings to allege? (Preserved at CR 38-74; CR 305-310.)
- Issue 5: Did the court of appeals err in allowing Frazier's claims to proceed despite his non-compliance with the Defamation Mitigation Act? (Preserved at CR 67-71; CR 321-322.)
- Issue 6: Were Frazier's claims alleging the republication of news articles on a website barred by Section 230 of the Communications Decency Act? (Preserved at CR 309; 1 RR 62:9-24).

STATEMENT OF FACTS

- a) State Rep. Frederick Frazier was caught destroying his opponent's campaign signs, was convicted of a misdemeanor, and indicted for two felonies.**

Frederick Frazier was a public official—an elected state representative and law enforcement officer. CR 85.³ Paul Chabot ran against Frazier during the 2022 election. CR 85. During that campaign, Frazier was caught on video cutting down Chabot's signs. CR 85. Frazier was charged and pled guilty in municipal court. CR 104-105. Frazier was ordered to pay victim restitution to Chabot. CR 108-109.

After a lengthy criminal investigation, Frazier was indicted for two additional third-degree felony counts of impersonating a public servant. CR 129-130. Frazier was charged with impersonating a city code enforcement officer, using the false identity to con local businesses into tearing down Chabot's signs. CR 85. As confirmed in a Texas Rangers investigation, Frazier used the fake name "John Roberts" and told a Walmart manager that he "took the sign down and would do it again." CR 114.

³ Frazier was defeated for re-election in the 2024 Republican primary runoff. CR 85. Frazier is currently running again to regain his old seat. Frazier for Texas, <https://www.frazierfortexas.com/> (last visited Jan. 6, 2025).

b) Frazier accepted a plea deal, received probation, and was ordered to pay victim restitution to Chabot.

On December 5, 2023, Frazier entered a plea of “nolo contendere” to the lesser included offense of “Attempt to commit IMPERSONATE PUBLIC SERVANT.” CR 131.

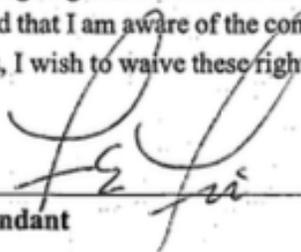
DISPOSITIONS	
12/05/2023	Plea (Judicial Officer: Pruitt, Jim) 1. Attempt to Commit IMPERSONATE PUBLIC SERVANT (Penal Code 12.44 (b)) Nolo Contendere
12/05/2023	Disposition (Judicial Officer: Pruitt, Jim) 1. Attempt to Commit IMPERSONATE PUBLIC SERVANT (Penal Code 12.44 (b)) Deferred Adjudication
12/05/2023	DC-Deferred Probation (Judicial Officer: Pruitt, Jim) 1. Attempt to Commit IMPERSONATE PUBLIC SERVANT (Penal Code 12.44 (b)) CSCD 1 Years

The district court’s register of actions for Frazier’s case states: “***Court finds that the evidence and Defendant’s plea substantiates the Defendant’s guilt of the offense beyond a reasonable doubt as charged in the indictment.***” CR 132.

12/05/2023 | Deferred Adjudication (Judicial Officer: Pruitt, Jim)
DEFERRED ADJUDICATION Jury Waived. Defendant arraigned. Defendant warned. Defendant enters plea of no contest before Court and prays that Court withhold adjudication of guilt under Art 42A. Court finds that the evidence and Defendant’s plea substantiates the Defendant’s guilt of the offense beyond a reasonable doubt as charged in the indictment. Adjudication of guilt Deferred and Defendant placed on probation for 1 year, subject to terms and conditions of probation served on Defendant. Fine: \$3,922. Psay restitution if \$78. 12.44(b)

As part of his plea bargain, Frazier signed “Written Plea Admonishments” in which he “enter[ed] a plea of guilty.” CR 138.

COMES NOW the defendant, joined by his counsel, and states that I understand with what I am charged and that I have read the foregoing admonishments of the Court and that I understand the foregoing admonishments and that I am aware of the consequences of my plea. Understanding all of my foregoing rights, I wish to waive these rights and enter a plea of guilty in this case.

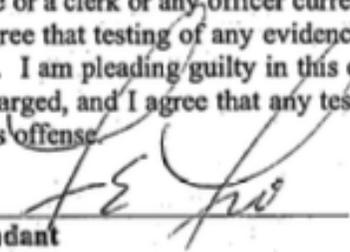


Defendant

Frazier further agreed, if trial were necessary, he would “judicially confess [his] guilt.” CR 139. He also stated: “**I am pleading guilty in this case because I am criminally responsible** for the offense charged, and I agree that any testing would confirm . . . my guilt of this offense.” CR 139 (emphasis added).

I consent to oral and written stipulation of evidence. I give up and waive my right not to incriminate myself, and agree to testify under oath if requested by my attorney or the prosecutor and judicially confess my guilt in the trial of this case. If called by the prosecution, I give up and waive my right not to incriminate myself and agree to testify under oath truthfully regarding the facts and circumstances of the charged offense at the trial of all codefendants or accomplices of the charged offense.

I fully understand my rights pursuant to Art. 38.43 of the Texas Code of Criminal Procedure, I wish to waive those rights and do not object to the destruction of applicable evidence at such time as either the attorney for the State or a clerk or any officer currently in possession of that evidence shall deem proper. I agree that testing of any evidence in this case containing biological material is unnecessary. I am pleading guilty in this case because I am criminally responsible for the offense charged, and I agree that any testing would confirm, or would not contradict, my guilt of this offense.



Defendant

Frazier was again ordered to pay victim restitution to Chabot. CR 141. These criminal matters were widely covered by the media. CR 90-97.

c) Frazier resigned from the Dallas Police Department while under investigation and was dishonorably discharged.

Under internal investigation for his crimes, Frazier was dishonorably discharged from the Dallas Police Department in December 2023. CR 85, 142. A DPD official confirmed to Chabot that Frazier would receive a dishonorable discharge because he retired while under investigation. CR 86, 144.

The DPD's Internal Affairs final report concluded that all "allegations" against Frazier were "sustained" on August 1, 2023. CR 171.

FINDINGS

CLASSIFICATION OF ALLEGATIONS

Allegation #1 – SUSTAINED – Engaged in a criminal act.

Allegation #2 – SUSTAINED – Arrested for Impersonating a Public Servant.

Allegation #3 – SUSTAINED – Improper action causing a police response.

The report concluded Frazier "should be held accountable" for his violation of DPD's code of conduct through "multiple incidents" and "to his discredit." CR 174-75. A publicly released DPD internal memo states that Frazier is not eligible for rehire. CR 86. Frazier's peace officer license was placed on an "administrative hold" on July 22, 2022. CR 86.

Frazier's dishonorable discharge was widely covered by the media and publicly confirmed by DPD. CR 85-86, 143-145, 148-150, 151-155.

d) During the 2024 Campaign, Chabot's PAC established FireFrazier.com and placed campaign signs around polling places.

In December 2023, Chabot formed Collin County Citizens for Integrity PAC, aimed at defeating Frazier in the Republican primary. CR 85. The PAC created a website: FireFrazier.com. CR 309. There, Chabot posted a comprehensive library of official news documents and news articles documenting Frazier's criminal proceedings and the fallout. CR 309-313. After Frazier sued Chabot, the website remained up as a repository of facts pertaining to the lawsuit. 1 RR 9. During the runoff election, the PAC placed campaign signs around polling places that said: "FIRE FRAZIER," "CONVICTED," "LIED TO VOTERS," and "DISHONORABLY DISCHARGED." CR 281.

These activities by Chabot and the PAC were only a small part of the very large conversation that occurred during the election. Ultimately, Frazier

raised over \$2 million and spent nearly \$1.5 million on his failed reelection campaign.⁴

e) Only after he sued Chabot did Frazier make public the confidential documents showing he appealed his dishonorable discharge.

Frazier falsely claims it was “standard procedure for the DPD to *temporarily* designate [his] discharge as “dishonorable,” pending the outcome of the investigation.” CR 232 However, his dishonorable discharge was altered to a general discharge only after he appealed that status to TCOLE, and only as a result of a confidential settlement. CR 243-47.

On its cover, Frazier’s F-5 Report of Separation of Licensee is described as “confidential.” CR 244. The third page is also stamped at the top “CONFIDENTIAL.” CR 245 That document shows Frazier reached a confidential settlement agreement with TCOLE in his SOAH proceeding to require entry of an order directing Frazier’s F-5 Report to be amended to reflect a general (but still less than honorable) discharge.

Frazier did not release the results of his TCOLE appeal until he responded to Chabot’s TCPA motion to dismiss. CR 301; CR 327-28. On May

⁴ Public records of campaign finance reports are aggregated at <https://www.transparencyusa.org/tx/candidate/frederick-frazier/>.

9th, 2024, Frazier posted a page entitled “Dismissal” to his campaign website. CR 324. It stated: “The Charges Were Dismissed! Frazier Is NOT Dishonorably Discharged!” CR 324. Frazier compared his trials to the prosecutions faced by President Trump. CR 324. But Frazier did not share the confidential TCOLE amendment there. CR 324.

Because the settlement was confidential, Chabot testified he had no direct knowledge Frazier’s employment status had been administratively altered. CR 86.

f) Frazier sent Chabot a cease-and-desist letter containing no specifics and continued to withhold his confidential TCOLE amendment.

On May 9th, 2024, Frazier’s attorney sent Chabot a letter demanding he cease and desist in making statements that Frazier was “convicted” or “dishonorably discharged” CR 193. In substance, the letter only stated: “You have published emails and other messages, often forwards of defamatory statements from the Collin County Citizens for Integrity PAC, indicating that Rep. Frazier has been ‘convicted’ and is ‘dishonorably discharged’. These statements are of course incorrect and are defamatory to Rep. Frazier.” CR 193.

The letter did not contain a copy of Frazier's confidential TCOLE amendment. CR 193. It also failed to acknowledge or distinguish Frazier's undisputed misdemeanor conviction. CR 193; CR 108-109.

g) Frazier sued Chabot over one set of statements, then without amending his pleadings, switched to a different set of post-lawsuit statements when responding to Chabot's TCPA motion.

In his original petition, Frazier complained of the following list of allegedly defamatory statements made by Chabot:

That Frazier:

- pled no contest to felony charges of impersonating a public official.
- used his legislative position to delay justice.
- engaged in criminal acts of petty thievery.
- is a "dirty cop."
- is a "dishonorable cop."
- is dishonorably discharged from the Dallas Police Department.
- lied to voters.
- slandered a disabled veteran.

CR 13. Frazier's original petition was filed on June 25, 2024 and thus the statements he initially complained of preceded that date.

Chabot moved to dismiss those claims under the Texas Citizens Participation Act, attaching 108 pages of documents supporting his continued belief in the truth of the statements he made about Frazier. CR 85-193.

In his TCPA response, Frazier shifted gears, pointing only to a new set of statements allegedly published after the filing of the lawsuit. For “the purposes of this motion,” Frazier said he was “rel[ying] on” statements that Frazier “was found guilty and convicted of an attempt to impersonate a public servant” and that he “received a dishonorable discharge from the Dallas Police Department.” CR 214. Frazier claimed he could establish a prima facie case of defamation based on these statements published by Chabot “*since the inception of this lawsuit.*” CR 203 (emphasis in original). Frazier never amended his lawsuit to allege the newly relied-upon statements.

h) Frazier conceded his claims were subject to the TCPA.

During the TCPA hearing in the trial court, Frazier made clear his purpose for filing the lawsuit was to make Chabot “shut up”: “We’re not saying [Paul Chabot] had to publish anything at all. **All he needed to do was to shut up** after he learned of the truth and he couldn’t do that, as the affidavit about him putting signs up on May 27th indicated. **He kept making the statements.** Even now. Even after this lawsuit was filed on July 8th and again on September 4th. **He can’t help himself**, which is part of the reason Mr. Frazier had to file this lawsuit.” 1 RR 69.

Given his suit is based on statements about a public official's qualifications for office during a campaign, Frazier unsurprisingly decided not to contest the TCPA's application. CR 202-229.

i) Frazier's only TCPA evidence addressing actual malice was Chabot's failure to publish an updated version of a WFAA article and receipt of the demand letter.

With the burden shifted under the TCPA to produce clear and specific evidence of his defamation claims, Frazier's TCPA evidence consisted solely of declarations from himself and his chief of staff, with attached exhibits. CR 231-236; CR 297-298. Only Frazier's declaration addressed the issue of actual malice, claiming in one paragraph that, "Mr. Chabot knew [the] statements were false at the time he made them" because Chabot failed to publish an updated version of a WFAA article and because Chabot received the May 8, 2024, demand letter. CR 234.

j) Frazier is once again threatening to sue Chabot for republishing news articles reporting on his criminal record.

Frazier continues to insist on his right to "shut up" those who criticize his criminal record and qualifications for public office. On January 9, 2026, Frazier once again threatened to sue Chabot if he does not cease republishing Dallas Morning News and WFAA.com articles about Frazier's criminal record

at FireFrazier.com. *See* Appendix E — January 9, 2026 “Demand to Cease and Desist and for Retraction of Defamatory Statements.” Frazier argues that the website is “particularly harmful in light of the upcoming Republican primary election” *Id.*

SUMMARY OF THE ARGUMENT

This case concerns core political speech about the character and fitness of a public official. The court of appeals’ decision substantially narrows the protections of the Texas Citizens Participation Act and conflicts with controlling authority governing defamation claims by public officials.

First, the court of appeals diluted the constitutional “actual malice” standard by treating the receipt of a cease-and-desist letter and a refusal to retract the *republication* of third-party news articles as sufficient—indeed dispositive—evidence of actual malice. That rule contradicts *New York Times v. Sullivan* and Texas precedent holding that malice turns on knowledge of falsity or reckless disregard, not post-demand “timing,” non-retraction, or a public official’s denial.

Second, even when the court of appeals addressed truth, it failed to apply Texas’s substantial-truth framework, which requires evaluating the “gist” of the publication from the perspective of a reasonable reader. The

record reflects that Chabot’s speech concerned undisputed criminal proceedings and employment consequences; semantic disputes over legal labels do not transform substantially true campaign speech into actionable defamation.

Third, the court of appeals misapplied the TCPA by treating Frazier’s lawsuit as a single undifferentiated “defamation” claim and allowing him to survive dismissal using evidence and theories untethered to the statements he actually pleaded. The TCPA requires a prima facie showing for each legal action and, in defamation cases, that means statement-by-statement scrutiny of the pleaded publications. By excusing that burden, the court’s decision undermines the statute’s text and conflicts with other courts of appeals.

Finally, the court of appeals’ decision permits claims that are independently barred under the Defamation Mitigation Act and Section 230 of the Communications Decency Act.

This Court should grant review, reverse, and render dismissal under the TCPA.

ARGUMENT

The court of appeals' decision should be reversed because it dilutes the TCPA's requirement that a plaintiff present clear and specific evidence for each pleaded statement, and it further departs from controlling law on actual malice, substantial truth, the Defamation Mitigation Act and Section 230 of the CDA.

I. The court of appeals put Texas law at odds with the U.S. Supreme Court, this Court, and courts across the nation on actual malice and substantial truth.

The court of appeals' opinion departs from bedrock constitutional and Texas defamation safeguards by converting protected campaign criticism into "actual malice" and by overlooking that substantially true speech, judged by its gist, is not actionable.

a) The court of appeals disregarded the Supreme Court's instruction on actual malice in *New York Times Co. v. Sullivan*.

The court of appeals erred in its analysis of actual malice, fundamentally misapplying the standard articulated in *New York Times Co. v. Sullivan*, 376 U.S. 254 (1964). In *Sullivan*, the Supreme Court held that a public official like Frazier must demonstrate, by clear and convincing evidence, that a defendant published a statement "with knowledge that it was false or with reckless

disregard of whether it was false or not.” *Id.* at 280. The statements at issue here are of precisely the type that *Sullivan* sought to protect: robust criticism of a public official’s conduct in office.

The facts of this case resemble *Sullivan* in critical ways. Frazier, like *Sullivan*, seeks damages for statements concerning his public role and professional integrity. Yet the record unequivocally shows that Chabot’s statements concerning Frazier’s behavior—statements about Frazier’s arrests, his pleas of guilty and nolo contendere, and his dishonorable discharge from DPD—are substantially true. CR 86, CR 156. The Supreme Court recognized that in debates on public issues, there is an inherent necessity for “breathing space,” allowing for statements that might contain minor inaccuracies yet still fall within constitutional protections. *Sullivan*, 376 U.S. at 272.

Yet in this case, Frazier sought to split hairs, conceding Chabot’s statements were “at one time true” and “were at one time the case” but were not “true any longer.” 1 RR 31-32. Supreme Court precedent does not tolerate such hair-splitting defamation claims by public officials. *Sullivan* held that minor factual errors in public-issue criticism do not support defamation

liability because debate must remain “uninhibited, robust, and wide open,” even when attacks are “vehement” and “caustic.” 376 U.S. at 270–72.

Chabot’s campaign signs and website posts labeled Frazier “CONVICTED,” “LIED TO VOTERS,” and “DISHONORABLY DISCHARGED.” CR 281. Those descriptions objectively tracked the facts: (1) Frazier pled guilty and was convicted of misdemeanor criminal mischief and pled *nolo contendere* to two felony counts of impersonating a public servant; being ordered to pay victim restitution; (2) DPD’s December 9, 2023 F-5 form listed Frazier as “dishonorably discharged,” a designation that remained in force when Chabot initially spoke; and (3) contemporaneous news coverage documented Frazier’s shifting public statements about his criminal exposure and employment status. CR 85, CR 104-05, CR 142, CR 151–156.

Rather than show Chabot’s statements were false, Frazier engaged in verbal gymnastics—insisting that a deferred adjudication plea is not a “conviction” and that a later administrative amendment to his discharge status retroactively rendered the original description untrue. Under *Sullivan*, the constitutional inquiry looks to the truthfulness and reasonableness of Chabot’s understanding at the time of publication, not to *post-hoc* refinements concocted by a public official plaintiff.

b) The court of appeals ignored this Court’s instruction in *Polk County Publishing Co. v. Coleman* to look to the “gist” of a publication for substantial truth.

The court of appeals affirmed without applying this Court’s controlling substantial-truth framework in *Polk County Publishing Co. v. Coleman*, which directs courts to evaluate the “gist” of a publication from the standpoint of a reasonable reader. 685 S.W.3d 71, 73 (Tex. 2024). A statement need not be literally true; it is not actionable if its overall sting is substantially accurate. *Id.*; see also *Neely v. Wilson*, 418 S.W.3d 52, 63–64 (Tex. 2013).

The opinion below never even cited *Polk County* and does not meaningfully engage the “gist” inquiry. See generally *Chabot*, 2025 Tex. App. LEXIS 5572. Applying the *Polk County* confirms substantial truth here. Chabot’s yard signs and website materials communicated (at most) that Frazier faced serious criminal allegations, entered a plea deal reflected in the public record, and suffered significant professional consequences with DPD—facts supported by the record and contemporaneous reporting. CR 86, 156, 133–141, 267–291, 312. Even if a lawyer could quarrel with technical phrasing (e.g., whether “convicted” is the most legally precise label for a particular plea disposition, or whether later administrative appeals altered Frazier’s discharge status), *Polk County* recognizes that readers do not

necessarily assume legally exact usage of legal terms, and that technical mistakes in describing legal process are not defamatory. 685 S.W.3d at 73.

c) The court of appeals disregarded established Texas law on public official defamation.

Frazier cited *Clark v. Jenkins*, 248 S.W.3d 418, 437 (Tex. App.—Amarillo 2008, pet. denied) for the premise that statements “that a member of [a] city council was convicted of a felony were defamatory” and that such statements were “defamatory per se.” CR 219, 221. But *Clark* sets a high bar for public official defamation claims. “[A]s a general rule a publication concerning a public officer, in order to be libelous per se, must be of such a character as, if true, would subject him to removal from office.” *Clark*, 248 S.W.3d at 437 (citing *Fitzjarrald v. Panhandle Publishing Co.*, 228 S.W.2d 499, 503 (1950); *Rawlins v. McKee*, 327 S.W.2d 633, 637 (Tex. Civ. App.—Texarkana 1959, writ ref’d. n.r.e.); 50 Tex. Jur. 3d *Libel and Slander* §34 (2000); *Marshall v. Mahaffey*, 974 S.W.2d 942, 949 (Tex. App.—Beaumont 1998, pet. denied); *Houston Chronicle Pub. Co. v. Flowers*, 413 S.W.2d 435, 438 (Tex. Civ. App.—Beaumont 1967, no writ).

Frazier complained that Chabot described his plea deal for deferred adjudication for two Class A misdemeanors as a “conviction.” CR 214-215.

But even if that statement were not substantially true, it would still not be actionable because conviction of a misdemeanor would not subject Frazier to removal from office. *See* TEX. ELEC. CODE § 141.001(a)(4) (setting felony, not misdemeanor, conviction as a bar to eligibility). Because Frazier was a public official, statements regarding a misdemeanor conviction could not constitute defamation.

d) Courts across the state and nation reject the receipt of a cease-and-desist letter as evidence of actual malice.

Likewise, the court of appeals treated Chabot’s receipt of a cease-and-desist letter and failure to retract as sufficient evidence of malice—contrary to the overwhelming weight of authority. *Chabot v. Frazier*, 2025 Tex. App. LEXIS 5572 at *21-24. The opinion expressly relied on the post-letter timing of signs and website posts, concluding that “the **timing** of these posts—**after the cease-and-desist letter** and the filing of the lawsuit—**alone** establishes a prima facie case of actual malice.” *Id* at *23 (emphasis added). And indeed, Frazier’s declaration testimony that Chabot received the demand letter was the only evidence he provided of actual malice. CR 233-234; *see* TEX. CIV. PRAC. & REM. CODE § 27.006.

But courts nationally reject that very proposition: receipt of a demand letter—and a subsequent refusal to retract a statement after learning of the subject’s denials—is *not* evidence of actual malice. See *Konowicz v. Carr*, 838 F. App’x 1, 4–5 (3d Cir. 2020) (cease-and-desist letter insufficient); *US Dominion, Inc. v. Powell*, 554 F. Supp. 3d 42, 63 (D.D.C. 2021) (“a demand letter that is ignored, without more, does not demonstrate actual malice”); *Blankenship v. NBCUniversal, LLC*, 60 F.4th 744, 763 (4th Cir. 2023) (“lack of a retraction has little to no relevance” to actual malice).

Texas authority is consistent: actual malice cannot be inferred from denials, professional-standards quarrels, or criticism about follow-up. See *Hearst Corp. v. Skeen*, 159 S.W.3d 633, 637 (Tex. 2005) (finding no actual malice despite plaintiff’s claim that defendants “purposefully avoided the truth, relied on dubious information from biased sources, deviated from professional standards of care, and were motivated to fabricate,” in addition to knowing that plaintiff had denied allegations); *Freedom Newspapers of Tex. v. Cantu*, 168 S.W.3d 847, 854–58 (Tex. 2005) (finding no actual malice despite plaintiff’s claims the defendant published a second story after learning of plaintiff’s denials). The court of appeals’ rule—treating post-demand

“timing” or non-retraction as dispositive—is totally inconsistent with all other precedent on actual malice.

II. Defamation plaintiffs are required to present evidence supporting each alleged defamatory statement.

Rather than enforcing the TCPA’s statement-by-statement burden, the court of appeals rewrote the case into a single, amorphous “defamation” action—one Frazier could prop up with statements he never pleaded and that post-dated his petition.

- a) The court of appeals construed Frazier’s petition as a single cause of action for defamation, and permitted him to defeat Chabot’s TCPA motion by pointing to statements he never amended his pleadings to allege.**

The court of appeals erroneously concluded that Frazier pleaded only one cause of action for defamation rather than recognizing that each allegedly defamatory statement he pleaded gave rise to a distinct cause of action requiring separate proof under the TCPA. *Chabot v. Frazier*, No. 05-24-01272-CV, 2025 Tex. App. LEXIS 5572, at *14 (Tex. App.—Dallas July 30, 2025, pet. filed.).

The following chart breaks down the three sets of statements Frazier complained of in his letter, Original Petition, and TCPA response:

Complained of Statements	<u>May 9, 2024</u> “Cease and Desist” Letter (CR 193)	<u>Jun 25, 2024</u> Original Petition (CR 13)	<u>Oct 14, 2024</u> TCPA Response (CR 203-298)
Frazier “[p]led no contest to felony charges of impersonating a public official”	X Not included in letter.	✓ Alleged Chabot posted this on social media.	X Not addressed in TCPA response.
Frazier “[u]sed his legislative position to delay justice”	X Not included in letter.	✓ Alleged Chabot posted this on social media.	X Not addressed in TCPA response.
Frazier “[e]ngaged in criminal acts of petty thievery”	X Not included in letter.	✓ Alleged Chabot posted this on social media.	X Not addressed in TCPA response.
Frazier “is a ‘Dirty cop’”	X Not included in letter.	✓ Alleged Chabot posted this on social media.	X Not addressed in TCPA response.
Frazier “is a ‘Dishonorable cop’”	X Not included in letter.	✓ Alleged Chabot posted this on social media.	X Not addressed in TCPA response.
Frazier “ <u>is</u> dishonorably discharged from the Dallas Police Department.”	✓ Alleged Chabot published “emails and other messages” saying Frazier “ <i>is dishonorably discharged,</i> ” but never specified where or when such statements were made.	✓ Alleged Chabot posted this on social media.	✓ Identified Chabot’s alleged republication of two news articles & the placement of yard signs stating Frazier was “dishonorably discharged.”
Frazier “lied to voters”	X Not included in letter.	✓ Alleged Chabot posted this on social media.	X Not addressed in TCPA response.
Frazier “slandered a disabled veteran”	X Not included in letter.	✓ Alleged Chabot posted this on social media.	X Not addressed in TCPA response.

“Convicted” / “3 convictions”	~ Alleged Chabot published “emails and other messages” saying Frazier “ <i>ha[d] been convicted</i> ” but never specified where or when such statements were made. No mention of “3 convictions.”	X Not mentioned in Frazier’s original petition.	X Identified Chabot’s alleged publication of headline: “Judge Finds GUILT ...” and blog post stating Frazier “received 3 convictions” on the comprehensive FireFrazier.com website <i>after</i> the suit was filed.
“Frazier Conviction 3” file name	X Not included in letter.	X Not mentioned in Frazier’s original petition.	✓ Identified Chabot’s use of the file name “Frazier Conviction 3” on FireFrazier.com <i>after</i> the suit was filed.

Under the TCPA, a plaintiff is required to independently establish a prima facie case for each individual defamatory statement alleged. *See Better Bus. Bureau of Metro. Dall. v. Ward*, 401 S.W.3d 440, 443 (Tex. App.—Dallas 2013, pet. denied); *see also DeWispelare v. DeWispelare*, No. 05-24-00176-CV, 2024 WL 4262403, at *13 (Tex. App.—Dallas Sept. 23, 2024, pet. denied). Here, Frazier neglected this statutory burden with respect to ***seven of his eight*** pleaded claims and instead only presented argument relating to statements published ***after*** the suit was filed, without amending his petition to address the new claims. CR 203.

b) This Court’s holding in *Montelongo* clarified that defamation plaintiffs are required to plead specific facts supporting each cause of action.

In *Montelongo v. Abrea* this Court clarified that plaintiffs are required to give fair notice in their pleadings of “not just alleged facts, but of the claim and the relief sought such that the opposing party can prepare a defense and ascertain from the pleading the nature and basic issues of the controversy and what testimony will be relevant.” 622 S.W.3d 290, 300 (Tex. 2021). As this Court has said elsewhere, “providing only fair notice of claims does not provide *fair notice of the essential factual allegations* supporting those claims.” *Kinder Morgan SACROC, LP v. Scurry Cty.*, 622 S.W.3d 835, 849 (Tex. 2021) (emphasis added).

Accordingly, Frazier should have been required both to plead the defamation claims he was asserting, and, pursuant to the TCPA, defend them with clear and specific evidence. Instead, Frazier’s petition alleged eight defamatory statements, including accusations that Frazier was a “dirty cop” and was “lying to voters.” CR 13–14. But his TCPA response addressed only two specific publications—the placement of political campaign signs around a polling location and the republication of news articles on FireFrazier.com—thus abandoning his other pleaded claims. CR 203.

c) The court of appeals split with its sister courts on whether each alleged statement gives rise to a separate defamation cause of action.

The court of appeals failed to reconcile contrary authority from the San Antonio, Austin, Eastland, and Corpus Christi courts of appeals requiring a defamation plaintiff to support each of his alleged causes of action and not treating them as a single claim of “defamation.” *See, e.g., Terrell v. Mazaheri*, 676 S.W.3d 116, 124–25 (Tex. App.—San Antonio 2023, no pet.) (analyzing separately three distinct defamatory statements and dismissing only one for failing TCPA scrutiny, thus explicitly recognizing separate causes of action); *Combined Law Enf’t Ass’ns of Tex. v. Sheffield*, No. 03-13-00105-CV, 2014 WL 411672, at *35 (Tex. App.—Austin Jan. 31, 2014, pet. denied) (treating multiple defamatory statements as independent causes of action and dismissing some, but not all, statements under the TCPA analysis); *Connor v. McCormick*, No. 03-18-00813-CV, 2020 WL 102034, at *13–14 (Tex. App.—Austin Jan. 9, 2020, pet. denied) (explicitly confirming that each defamatory statement independently supports a cause of action); *Rossa v. Mahaffey*, 594 S.W.3d 618, 621 (Tex. App.—Eastland 2019, no pet.) (analyzing distinct statements independently for TCPA applicability); *Azteca Int’l Corp. v. Ruiz*, No. 13-21-00241-CV, 2022 WL 17983161, at *9–26 (Tex. App.—Corpus

Christi Dec. 29, 2022, pet. denied) (treating each statement individually, dismissing some as time-barred and allowing others to proceed); *Campone v. Kline*, No. 03-16-00854-CV, 2018 WL 3652231, at *6 (Tex. App.—Austin Aug. 2, 2018, no pet.) (mem. op.), overruled in part on other grounds by *Montelongo v. Abrea*, 622 S.W.3d 290 (Tex. 2021) (affirming denial of a defamation claim based on statements made to one person, but not based on statements made to other people).

The court ignored *Montelongo* and these sister court precedents, instead holding “[T]he legal action pleaded by Frazier is defamation. The factual allegations in his pleadings and response to the TCPA Motion and the evidence of those factual allegations are the means by which Frazier seeks to establish each element of *the* defamation claim.” *Chabot*, 2025 Tex. App. LEXIS 5572, at *14 (emphasis added). In construing Frazier’s original petition as a single claim of “defamation,” the court of appeals has split with its sister courts and has deviated from this Court’s instruction in *Montelongo*.

The statutory text of the TCPA strongly indicates legislative intent to require a plaintiff to independently establish a prima facie case for each defamatory statement they allege. Section 27.001(6) broadly defines a “legal action” as “a lawsuit, cause of action, petition, complaint, cross-claim, or

counterclaim or any other judicial pleading or filing that requests legal, declaratory, or equitable relief.” TEX. CIV. PRAC. & REM. CODE § 27.001(6). Indeed, as the Dallas Court of Appeals itself has previously held, this broad statutory language “evidences a legislative intent to treat any claim by any party on an *individual and separate basis*.” *Better Bus. Bureau of Metro. Dall.*, 401 S.W.3d at 443 (emphasis added). Thus, each discrete, allegedly defamatory statement Frazier alleged in his original petition—such as allegations Chabot said Frazier was a “dirty cop” or that he “lied to voters”—constituted a separate “claim” or “cause of action” for which Frazier was required to marshal prima facie evidence under the TCPA.

d) The court of appeals’ decision also conflicts with courts across the nation on *in haec verba* pleading.

The court of appeals’ “single claim of defamation” approach is an outlier nationally as well. Federal courts routinely require defamation claims to be analyzed statement-by-statement and require clear, specific proof of actual malice as to each challenged statement, not “the publication” in the abstract. *See, e.g., Church of Scientology Int’l v. Time Warner, Inc.*, 903 F. Supp. 637, 641 (S.D.N.Y. 1995) (on summary judgment, “the Court considers each allegedly libelous statement individually to determine whether a rational

finder of fact could find actual malice by clear and convincing evidence”), aff’d, 238 F.3d 168 (2d Cir. 2001); *see also Reid v. Viacom Int’l Inc.*, 2017 WL 11634619, *7 (N.D. Ga. Sept. 22, 2017) (noting that courts must consider each allegedly defamatory statement at issue when determining whether actual malice exists); *Henry v. National Ass’n of Air Traffic Specialists, Inc.*, 836 F. Supp. 1204, 1212 (D. Md. 1993) (“The plaintiffs must produce clear and convincing evidence that the defendants uttered [each] challenged statement [] with actual malice”), aff’d, 34 F.3d 1066 (4th Cir. 1994).

In some jurisdictions, this is explicitly tied to the *in haec verba* doctrine, which requires plaintiffs to plead the exact words that are alleged to be defamatory. *See, e.g., Stockley v. Joyce*, 2019 WL 630049, *10 (E.D. Mo. Feb. 14, 2019) (“[T]he use of *in haec verba* pleadings on defamation charges is favored in the federal courts because generally[,] knowledge of the exact language used is necessary to form responsive pleadings.”)⁵; *Int’l Acad. of Bus. & Fin. Mgmt., Ltd. v. Mentz*, 2013 WL 212640, at n. 4 (D. Colo. Jan. 18,

⁵ The *in haec verba* doctrine has been recognized by some Texas courts in libel actions. *See Durant v. Anderson*, No. 02-14-00283-CV, 2020 WL 1295058, at *46 (Tex. App.—Fort Worth Mar. 19, 2020, pet. denied) (*quoting Boeckle v. Masse*, 5 S.W.2d 195, 197 (Tex. App.—San Antonio 1928, no writ).

2013) (finding that defendant's failure to set forth the words that were allegedly defamatory resulted in failure to state a claim for defamation).

Here, however, the court of appeals announced it was "incorrect" to require a prima facie showing for "each allegedly defamatory statement," and then grouped the statements together, focusing only on two thematic categories despite Frazier's eight pleaded claims. *Chabot*, LEXIS 5572 at *13-14. This holding undercuts the protections of the TCPA and conflicts with *Montelongo* and other court of appeals holdings.

III. Denial of Chabot's TCPA motion undermines Section 230 and the Defamation Mitigation Act.

Independent of the substantial errors identified above, Section 230 and the Defamation Mitigation Act supply procedural bars that the court of appeals failed to enforce and that require dismissal here.

a) Frazier's complaints of republished articles are barred by Section 230 of the Communications Decency Act.

Without offering any analysis, the court of appeals stated that Chabot did not meet his burden to establish immunity under Section 230 of the Communications Decency Act.

Frazier's particular claims about republishing news articles on firefrazier.com were expressly prohibited by Section 230(c)(1) of the

Communications Decency Act. Frazier first complained of two news articles Chabot republished on his website, one from WFAA and one from the Dallas Morning News. CR 215. He claimed that because Chabot republished these news articles on his website, he adopted them as his own and is thus liable for defamation. CR 215. Frazier is once again threatening suit based on the continued hosting of these same news articles. *See* Appendix E.

A defendant is entitled to immunity under § 230(c) if: (1) the defendant is a “provider or user of an interactive computer service;” (2) the asserted claims are based on “information provided by another information content provider;” and (3) the asserted claims treat the defendant “as the publisher or speaker of that information.” *Wells v. Youtube, LLC*, Civil Action No. 3:20-CV-2849-S-BH, 2021 WL 2652966, at *5 (N.D. Tex. 2021) (quoting 47 U.S.C. § 230(c)(1)).

An “interactive computer service” is “any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the internet[.]” 47 U.S.C. § 230(f)(2). “[A]s courts uniformly recognize, § 230 immunizes internet services for third-party content that they publish, including false statements, against causes of action

of all kinds.” *Marshall’s Locksmith Serv. Inc. v. Google, LLC*, 925 F.3d 1263, 1267, 441 U.S. App. D.C. 196 (D.C. Cir. 2019). “[T]he posting of third-party content” from one website to another “is plainly within the immunity provided by § 230[.]” *Monsarrat v. Newman*, 28 F.4th 314, 319 (1st Cir. 2022) (citing *Marshall’s*, 925 F.3d at 1268-69).

Chabot’s republication of the news articles is plainly within the immunity provided by § 230.

b) Frazier’s claims are barred because he did not comply with the Defamation Mitigation Act.

Additionally, Frazier was barred from maintaining his legal action for failure to comply with the Defamation Mitigation Act, TEX. CIV. PRAC. & REM. CODE § 73.051 et seq.

The Defamation Mitigation Act provides that a plaintiff “may maintain an action for defamation only if” he made a timely and sufficient request for correction, clarification, or retraction. TEX. CIV. PRAC. & REM. CODE § 73.055(a). A request is sufficient only if it identifies the claimant and states with particularity the allegedly false and defamatory statement (including, to the extent known, the time and place of publication), the defamatory meaning, and any circumstances giving rise to that meaning. *Id.* § 73.055(d).

Frazier’s May 9, 2024, demand letter did not satisfy those requirements. It referred only generally to statements that Frazier was “convicted” and “dishonorably discharged,” without identifying the specific publications, when and where they were made, or the circumstances allegedly making them defamatory. CR 193. Moreover, Frazier declined to include any evidence related to his SOAH appeal of his dishonorable discharge status. CR 193. Because Frazier did not serve a sufficient DMA request, he may not “maintain” this defamation action. *See* § 73.055(a).

This Court’s decision in *Hogan v. Zoanni* reflects a split on remedy, but the statute’s text supports dismissal where the DMA’s preconditions are unmet. 627 S.W.3d 163, 182–83 (Tex. 2021) (Hecht, C.J., concurring) (concluding § 73.055(a) requires dismissal absent a timely and sufficient request); *see also id.* at 189 (Boyd, J., concurring) (distinguishing between no request and an insufficient one). Under the DMA’s plain “may maintain . . . only if” language, dismissal is warranted here.

PRAYER

For these reasons, Chabot prays this Court grant the petition, order full briefing and oral argument, reverse the order of the trial court, render judgment dismissing Frazier’s legal actions against him Chabot the Texas

Citizens Participation Act, and remand this case to determine attorney's fees and sanctions. Chabot additionally prays for all other and further relief to which he may show himself justly entitled.

Respectfully submitted,

By: /s/ Tony K. McDonald

Tony K. McDonald
tony@tonymcdonald.com
State Bar No. 24083477
Connor Ellington
connor@tonymcdonald.com
State Bar No. 24128592
The Law Offices of Tony McDonald
1308 Ranchers Legacy Trail
Fort Worth, TX 76126
(512) 200-3608
(815) 550-1292 (fax)

CERTIFICATE OF COMPLIANCE

In compliance with Tex. R. App. P. 9.4(i)(3), I certify that based on the word count of the computer program used to prepare the foregoing document, the relevant sections of this document contain 6,459 words, of which 547 words were included in the introduction.

By: /s/ Tony K. McDonald

CERTIFICATE OF SERVICE

I certify that on January 16, 2025, a true and correct copy of the above and foregoing document has been served via electronic service on all counsel of record for respondent/appellee.

By: /s/ Tony K. McDonald

APPENDIX

App. A — Fifth Court of Appeals Opinion dated July 30, 2025.

App. B — Fifth Court of Appeals Judgement dated July 30, 2025.

App. C — Trial Court Order Denying TCPA Motion Dated October 25, 2024.

App D. — TEX. CIV. PRAC. & REM. CODE Chapter 27

App E. — January 9, 2026 “Demand to Cease and Desist and for Retraction of Defamatory Statements

Affirmed in Part, Reversed in Part, and Opinion Filed July 30, 2025



**In The
Court of Appeals
Fifth District of Texas at Dallas**

No. 05-24-01272-CV

**PAUL CHABOT, Appellant
V.
FREDERICK FRAZIER, Appellee**

**On Appeal from the 429th Judicial District Court
Collin County, Texas
Trial Court Cause No. 429-04031-2024**

MEMORANDUM OPINION

Before Justices Smith, Kennedy, and Lewis
Opinion by Justice Lewis

In this accelerated appeal, appellant Paul Chabot appeals the denial of his motion to dismiss appellee Frederick Frazier’s defamation claims under the Texas Citizens Participation Act (TCPA).¹ He also challenges the trial court’s conclusion that the TCPA motion was frivolous or solely intended to delay and its granting of Frazier’s request for attorney’s fees. For the following reasons, we affirm the denial of the TCPA motion and reverse the portion of the order granting Frazier’s request for attorney’s fees.

¹ TEX. CIV. PRAC. & REM. CODE §§ 27.001–.011.

BACKGROUND

Because the underlying facts are well-known to the parties, we include only those necessary for disposition of this appeal. TEX. R. APP. P. 47.4. Frazier is a former officer with the Dallas Police Department. Chabot is a former law enforcement officer and naval intelligence commander. In 2022, Frazier and Chabot were opponents in the Republican primary race for the Texas House of Representatives seat in the 61st District for Collin County. Chabot lost to Frazier in a runoff election. During the course of that election season, Chabot accused Frazier of removing some of Chabot's campaign signs and posing as a code enforcement officer to force management at three McKinney businesses—a Neighborhood Walmart, the TeaLatte Bar, and a RaceTrac fuel station—to remove the Chabot signs posted near the businesses or on their property. Chabot's accusations led to criminal investigations by the McKinney Police Department and the Texas Rangers, Frazier's arrest for criminal mischief, and indictments against Frazier for impersonating a public servant.

The criminal mischief charge arose from Chabot's complaint to McKinney police on December 10, 2021, accusing Frazier of cutting the zip ties anchoring a Chabot campaign sign to a t-post outside of a McKinney 7-Eleven and throwing the sign on the ground. Frazier was charged with Class C Misdemeanor Criminal Mischief in the City of McKinney Municipal Court. He pleaded guilty to the charge on December 8, 2023, and paid a \$279.00 fine.

On June 23, 2023, Frazier was indicted on two counts of third degree felony impersonating a public servant related to charges that he instructed an employee of a McKinney Neighborhood Walmart and the owner of the TeaLatte Bar to remove Chabot's campaign signs from those businesses' property. Following the indictments, the DPD placed Frazier on administrative leave and launched an internal investigation.

On December 5, 2023, Frazier pleaded nolo contendere to the two charges of impersonating a public servant. His plea agreement reduced the charges to the lesser-included offense of attempting to impersonate a public servant. He was sentenced to one year deferred adjudication community supervision and ordered to pay restitution of \$78.00 and nearly \$8,000 in fines.

Frazier resigned from the DPD effective December 8, 2023, after twenty-eight years with the department. At that time, the DPD's Internal Affairs Division had a pending investigation of Frazier arising from Chabot's accusations. On December 9, 2023, the DPD listed his discharge as "dishonorably discharged" on the legislatively-mandated F-5 Separation of Licensee Form. Dallas Deputy Police Chief Monique Alex informed Chabot that Frazier received a dishonorable discharge because he elected to retire while under investigation. Frazier appealed the dishonorable discharge to the Texas Commission on Law Enforcement.

On April 25, 2024, the trial court released Frazier from probation on the attempted impersonation charges and dismissed those charges. Frazier and the DPD

settled his appeal of the dishonorable discharge and, on May 8, 2024, his discharge from the DPD was officially changed to a general discharge by the Texas Commission on Law Enforcement. Frazier sought reelection in 2024 and faced two challengers for the Republican nomination in the March 2024 primary. Chabot was not one of those challengers. Frazier was defeated in the May 28, 2024 primary runoff election, and his term ended December 31, 2024.

THE UNDERLYING PROCEEDING

The underlying proceeding arose from incidents that occurred in 2023 and 2024. In December 2023, Chabot formed Collin County Citizens for Integrity PAC (the PAC), a political action committee that Chabot told the trial court had “the purpose of defeating Frazier in the [2024] Republican primary.” Chabot also launched a website, www.FireFrazier.com,² which was paid for by the PAC. According to Chabot, the website was created “in support of Frazier’s political opponent,” on which he “posted a comprehensive library of official news documents and news articles documenting Frazier’s criminal proceedings and related matters” including “facts pertaining to” Frazier’s defamation suit.

One of the articles posted on the website was titled “North Texas State Lawmaker to be Dishonorably Discharged from DPD After ‘No Contest’ Plea” and was originally published by the Dallas Morning News (DMN) on December 4, 2023. A second article, titled “North Texas state representative will be dishonorably

² We will refer to FireFrazier.com as the website.

discharged from Dallas Police Department; pleads ‘no contest’ to misdemeanor charges,” was originally published by WFAA TV on its website, WFAA.com, on December 5, 2023. Both articles reported Frazier’s “no contest” pleas to two misdemeanor charges of attempting to impersonate a public servant and the punishment of deferred adjudication probation and fines. Both articles also stated Frazier would receive a dishonorable discharge because he chose to retire while under investigation. The December 2023 DMN article also reported that a Texas Commission on Law Enforcement spokesperson confirmed to the newspaper “that a dishonorable discharge is visible to a subsequent agency when making hiring decision[,]” and that “[a] second such discharge could result in more serious consequences for Frazier’s law enforcement license.” Both articles also referenced Frazier’s guilty plea to Class C Misdemeanor criminal mischief and online payment of the fee. In the present suit, Frazier presented evidence in opposition to the TCPA motion showing that Chabot posted those articles on the FireFrazier website on July 8, 2024, and then modified the posts on the website on September 4, 2024.

Frazier also presented evidence that WFAA published an article on May 9, 2024, titled “State Rep. Frederick Frazier discharged from probation, charges of impersonating public official dismissed.” On May 16, 2024, WFAA updated the article to clarify that the charges against Frazier for impersonating a public servant were dismissed and his discharge from the DPD had been “re-designated to a general

discharge” following the dismissal of the charges against him. Chabot did not post the 2024 WFAA article on the website.

The website included other posts by Chabot asserting Frazier had been convicted of three offenses. For example, the website includes the following text next to a blurry screenshot of a man purported to be Frazier at a gas station:

In yet another criminal matter, McKinney PD identified Frazier, seen in the grey shirt, lying to the gas station staff to take down another one of his opponent's campaign signs. This is the third recorded location where Frazier was found on video. In all, he received 3 convictions.

Similarly, Chabot shared an excerpt from the Register of Actions from one of the impersonation cases showing the adjudication of guilt had been deferred. However, Chabot titled the excerpt “Frazier Conviction 3.” Chabot titled a similar excerpt “Judge Finds GUILT on Frazier in State/ Texas Ranger Case.” The website shows that those excerpts were created on February 14, 2024, and then modified on September 4, 2024.

Chabot admits that during the 2024 runoff election, he printed and placed campaign yard signs around polling places that said: “FIRE FRAZIER,” “CONVICTED,” “LIED TO VOTERS,” and “DISHONORABLY DISCHARGED.” Jason Moyer, Frazier’s Chief of Staff, testified below that he observed Chabot placing those signs at polling locations “near high-traffic areas” in

McKinney on May 27, 2024.³ Moyer described the signs as depicting Frazier “in a jail or prison cell and stated that he was ‘convicted’ and ‘dishonorably discharged.’”

On May 9, 2024, Frazier’s counsel sent Chabot a cease-and-desist letter. In it, counsel stated that Chabot had published statements indicating that Frazier “has been ‘convicted’ and is ‘dishonorably discharged.’” Counsel informed Chabot that those statements were “incorrect and are defamatory” to Frazier, and that “all criminal charges that were pending in Collin County District Court against Rep. Frazier have been dismissed” and Frazier “is not dishonorably discharged and is eligible for rehire as a law enforcement officer.” Counsel then demanded that Chabot “immediately retract and remove, as applicable, all emails, mailers, signs, advertisements, and other materials containing these defamatory statements” and “issue a public retraction and correction in the same medium and manner as your defamatory statements were made.” Chabot did not take the actions requested, and Frazier filed the underlying defamation suit against Chabot on June 25, 2024. Chabot filed a TCPA motion to dismiss, which the trial court denied by written order dated October 25, 2024 (the October 25 Order). This appeal followed.

THE TCPA AND STANDARD OF REVIEW

The TCPA protects citizens who petition or speak out on matters of public concern from retaliatory lawsuits intended to silence them. *In re Lipsky*, 460 S.W.3d

³ The primary election was held on March 5, 2024, but the primary runoff election took place on May 28, 2024.

579, 584 (Tex. 2015) (orig. proceeding). That protection comes in the form of a motion to dismiss for a suit that appears to stifle the defendant’s exercise of those rights. *Id.*; *Ladiwalla as Tr. of ZAL Tr. v. Bhojani as Tr. Protector of ZAL Tr.*, No. 05-24-01107-CV, 2025 WL 1547744, at *4 (Tex. App.—Dallas May 30, 2025, no pet. h.) (“The primary feature of the TCPA is a burden-shifting dismissal framework that allows defendants at an early stage to seek dismissal of a meritless suit in response to a defendant's exercise of a protected right.”).

A TCPA motion to dismiss generally requires a three-step analysis. *Montelongo v. Abrea*, 622 S.W.3d 290, 299 (Tex. 2021). First, the TCPA movant bears the initial burden of demonstrating that the legal action is based on or in response to the movant’s exercise of a protected right, such as the right of free speech, the right to petition, or certain other protected conduct. TEX. CIV. PRAC. & REM. CODE § 27.005(b); *see also Brenner v. Centurion Logistics LLC ex rel. Centurion Pecos Terminal LLC*, No. 05-20-00308-CV, 2020 WL 7332847, at *3 (Tex. App.—Dallas Dec. 14, 2020, pet. denied) (mem. op.) (holding amendments to TCPA do not change burden of “preponderance of the evidence” established by *Hersh v. Tatum*, 526 S.W.3d 462, 467 (Tex. 2017)). Second, if the movant carries his burden, then the burden shifts to the nonmovant to establish by clear and specific evidence a prima facie case for each essential element of the claim in question. TEX. CIV. PRAC. & REM. CODE § 27.005(c). Third, even if the nonmovant carries his step-two burden, the court must still dismiss the “legal action” if the defendant

“establishes an affirmative defense or other grounds on which the moving party is entitled to judgment as a matter of law.” *Id.* § 27.005(d); *Montelongo*, 622 S.W.3d at 296.

We review de novo the trial court’s determinations that the parties met or failed to meet their respective burdens under the TCPA. *Garcia*, 663 S.W.3d at 279 (citing *Vaughn-Riley v. Patterson*, No. 05-20-00236-CV, 2020 WL 7053651, at *2 (Tex. App.—Dallas Dec. 2, 2020, no pet.) (mem. op.)). In conducting this review, we consider, in the light most favorable to the nonmovant, the pleadings and any supporting and opposing affidavits and other evidence stating the facts on which the claim or defense is based. *Temple v. Cortez Law Firm, PLLC*, 657 S.W.3d 337, 342–43 (Tex. App.—Dallas 2022, no pet.); *see also* TEX. CIV. PRAC. & REM. CODE § 27.006(a). However, the plaintiff’s pleadings are generally “the best and all-sufficient evidence of the nature of the action.” *Hersh*, 526 S.W.3d at 467.

ANALYSIS

On appeal, Chabot challenges the denial of his TCPA motion and the award of fees to Frazier. In his first two issues, Chabot argues the trial court erred by denying the motion because (1) Frazier failed to present a prima facie case of defamation; and (2) Chabot established defenses to the defamation claims, including that Frazier is a libel-proof plaintiff and that he failed to comply with the Defamation Mitigation Act. In his third issue, Chabot maintains the attorney’s fees awarded to

Frazier should be reversed because Chabot's TCPA motion was neither frivolous nor solely intended to delay. We address each issue in turn.

I. TCPA Step Two – Prima Facie Case of Defamation

The parties do not dispute Chabot met his initial burden of demonstrating that Frazier's claims are based on or in response to Chabot's exercise of a protected right. We, therefore, begin our analysis at TCPA Step Two.

The elements of defamation include (1) the publication of a false statement of fact to a third party, (2) that was defamatory concerning the plaintiff, (3) with the requisite degree of fault, and (4) damages, in some cases. *In re Lipsky*, 460 S.W.3d at 593–94; *WFAA–TV, Inc. v. McLemore*, 978 S.W.2d 568, 571 (Tex. 1998); *see also Waste Mgmt. of Tex., Inc. v. Tex. Disposal Sys. Landfill, Inc.*, 434 S.W.3d 142, 146 n.7 (Tex. 2014). The status of the person allegedly defamed determines the requisite degree of fault. *In re Lipsky*, 460 S.W.3d at 593. A private individual need only prove negligence, whereas a public figure or official must prove actual malice. *WFAA–TV, Inc.*, 978 S.W.2d at 571. Frazier and Chabot agree that Frazier was required to show Chabot acted with actual malice here. As for damages, a plaintiff must plead and prove damages, unless the defamatory statements are defamatory per se. *Id.* (citing *Waste Mgmt. of Tex.*, 434 S.W.3d at 162 n.7). Frazier contends the defamatory statements were defamatory per se and, therefore, damages are presumed.

Accordingly, to prove a prima facie case of defamation in this case, Frazier was required to show the following: (1) Chabot published a false statement of fact to a third party, (2) the statement was defamatory concerning Frazier, (3) Chabot acted with actual malice, and (4) the defamatory statements are defamatory per se. Under this record, we conclude Frazier met his burden of proof under TCPA Step Two.

A. Chabot published a false statement of fact to a third party.

In his original petition, Frazier pleaded multiple statements he contends were false statements of fact published by Chabot that constitute defamation. Those statements included Chabot's assertions that Frazier was "dishonorably discharged" from the DPD and "convicted" of multiple crimes. The statements pleaded by Frazier were purportedly published between 2022 and 2024, with certain purported publications occurring after Frazier filed the defamation suit in June 2024.

In the trial court and on appeal, Frazier focused his prima facie case analysis on statements made by Chabot beginning in May 2024: (1) that Frazier was dishonorably discharged from the DPD, and (2) that Frazier was found guilty and convicted on charges of attempting to impersonate a public servant. The evidence showed those statements were included on the signs Chabot placed outside polling locations in May 2024, and in the December 2023 DMN and WFAA.com articles posted by Chabot on the website in July 2024 and September 2024.

Chabot contends Frazier “abandoned his pleaded claims in favor of new ones” when he responded to the TCPA motion because Frazier focused on statements made beginning in May 2024. According to Chabot, to avoid dismissal, Frazier was required to present a prima facie case as to each allegedly defamatory statement asserted in his petition. This is incorrect.

The TCPA provides for dismissing a “legal action.” TEX. CIV. PRAC. & REM. CODE § 27.005(b). Courts cannot dismiss a fact or facts. Rather, courts dismiss claims, causes of action, cases, and lawsuits. *See, e.g.*, TEX. R. CIV. P. 91a.1, 162, 163. The TCPA enables a claimant to avoid dismissal by establishing “by clear and specific evidence a prima facie case for each essential element of the claim in question.” TEX. CIV. PRAC. & REM. CODE § 27.005(c). “While this provision indisputably requires the claimant to submit evidence of facts, the facts themselves are meaningless and cannot prevent dismissal unless they sufficiently establish ‘each essential element of the claim.’” *Montelongo*, 622 S.W.3d at 301 (quoting TEX. CIV. PRAC. & REM. CODE § 27.005(c)); *see also* TEX. CIV. PRAC. & REM. CODE § 27.006(c) (in seeking or opposing a TCPA dismissal, the parties must rely on the pleadings and evidence “stating the facts on which the liability or defense is based”).

Here, the legal action pleaded by Frazier is defamation. The factual allegations in his pleadings and response to the TCPA Motion and the evidence of those factual allegations are the means by which Frazier seeks to establish each element of the defamation claim. In the trial court, Frazier focused his prima facie

analysis on defamatory statements made beginning in May 2024 and argued those statements alone established a prima facie case of defamation. We, therefore, focus our analysis on those allegations to determine whether he made a prima facie case on each element of the defamation claim.

1. The statements

Frazier argues Chabot made false statements beginning in May 2024 that Frazier was dishonorably discharged from the DPD and was found guilty and convicted on charges of attempting to impersonate a public servant. Those statements included Chabot posting the December 2023 DMN and WFAA.com articles on the website in July 2024 and then modifying the posts in September 2024. Frazier also contends the signs posted by Chabot outside polling locations in May 2024 falsely accused him of being dishonorably discharged and being convicted of attempting to impersonate a public servant.

2. Falsity of the statements

We conclude the evidence was sufficient to constitute a prima facie showing that the statements were false. The 2023 DMN and WFAA.com articles that Chabot posted on the website reported Frazier's "no contest" pleas to two misdemeanor charges of attempting to impersonate a public servant and the punishment of deferred adjudication probation and fines. Both articles also stated Frazier would receive a dishonorable discharge because he chose to retire while under investigation. By the time Chabot posted the articles in July 2024, however, the presumed outcomes in

those original reports had not been realized. In April 2024, the trial court released Frazier from probation on the attempted impersonation charges and dismissed those charges. He was, therefore, never convicted of those charges. And Frazier's discharge was officially designated a general discharge on May 8, 2024.

Chabot also made those false statements on the signs he posted outside polling locations during the May 2024 runoff election. Those signs had the words "FIRE FRAZIER," "CONVICTED," "LIED TO VOTERS," and "DISHONORABLY DISCHARGED" over a picture of Frazier depicting him in a jail or prison cell. The evidence showed, at a minimum, that Chabot posted those signs on May 27, 2024, after the charges were dismissed and the discharge designated as general.

Chabot contends the signs with "CONVICTED" were referencing his Class C misdemeanor conviction and were, therefore, true. Frazier argues that Chabot's publication of false statements on the website related to the disposition of Frazier's charge for the attempted impersonation of a public servant serves as circumstantial evidence that Chabot's statement on his campaign signs also referred to the attempted impersonation of a public servant. We agree with Frazier that the circumstantial evidence raises at least a fact issue and supports the finding that Frazier established a prima facie case of falsity. *See Warner Bros. Entm't, Inc. v. Jones*, 538 S.W.3d 781, 800 (Tex. App.—Austin 2017), *aff'd*, 611 S.W.3d 1 (Tex. 2020) (a plaintiff is permitted to rely on circumstantial evidence to demonstrate a prima facie case of defamation) (citing *In re Lipsky*, 460 S.W.3d at 589).

Reviewing the evidence in the light most favorable to Frazier, we conclude he presented a prima case that the statements were false when published by Chabot.

3. Publication to third parties

Next, we address whether the statements were published to third parties. Defamatory statements are “published” if they are communicated orally, in writing, or in print to some third person capable of understanding their defamatory import and in such a way that the third person did so understand. *Exxon Mobil Corp. v. Rincones*, 520 S.W.3d 572, 579 (Tex. 2017); *Austin v. Inet Techs., Inc.*, 118 S.W.3d 491, 496 (Tex. App.—Dallas 2003, no pet.); *Ramos v. Henry C. Beck Co.*, 711 S.W.2d 331, 335 (Tex. App.—Dallas 1986, no writ).

The statements on signs placed outside of polling locations in an election where Frazier was on the ballot meet that definition. Those statements were published to third parties by virtue of their location. Even the trial judge admitted that he saw the signs while serving as a visiting judge in Collin County and noted that “you couldn’t miss the signs” in Collin County “because they are very prevalent.”

The same is true of the December 2023 DMN and WFAA.com articles Chabot posted on the website. While the forward-looking assertions in the articles were not necessarily false when written, they were false at the time republished (without update) by Chabot. The fact that Chabot did not author the words of the articles is not a defense in the defamation context. *See Neely v. Wilson*, 418 S.W.3d 52, 61

(Tex. 2013) (first citing *Pittsburgh Press Co. v. Pittsburgh Comm'n on Hum. Rels.*, 413 U.S. 376, 386 (1973) (noting that a “newspaper may not defend a libel suit on the ground that the falsely defamatory statements are not its own”), then citing Restatement (Second) of Torts § 578 (1977) (“[O]ne who repeats or otherwise republishes defamatory material is subject to liability as if he had originally published it.”)). Further, the content Chabot posted on the website was intended to be viewed by third parties. Indeed, according to a Facebook post by Chabot on February 5, 2024, his website had been viewed over 100,000 times since its December 2023 launch. Under this record, we conclude that the statements constitute publications for purposes of the TCPA and were published to third parties.

Chabot contends Frazier’s claims for defamation relating to Chabot’s republication of the December 2023 DMN and WFAA.com articles are barred by section 230 of the Communications Decency Act (the CDA). *See* 47 U.S.C. § 230(c)(1) (“No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.”). The statute defines an “interactive computer service” as “any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet[.]” *Id.* § 230(f)(2). Simply put, the CDA generally bars defamation and libel claims against an entity that merely passively permits the publishing (or, here, the republishing) of another’s content.

GoDaddy.com, LLC v. Toups, 429 S.W.3d 752, 755 (Tex. App.—Beaumont 2014, pet. denied). Chabot maintains that the website is a provider of an interactive computer service as defined by the CDA, that the content at issue was provided by another information content provider, and Frazier’s allegations improperly seek to treat Chabot as a publisher of the content posted on the website.

Frazier argues that Chabot is not entitled to immunity for his publication of the 2023 WFAA.com article because Chabot did not act neutrally when he republished the article under the headline “Collin County Rep. Fred Frazier Dishonorably Discharged from DPD” after he had been informed of the article’s inaccuracies and after WFAA had published an updated and corrected article. Frazier asserts that instead Chabot acted as an information content provider by republishing the article.⁴

Under the limited record here and viewing the evidence in the light most favorable to Frazier, we conclude Chabot did not establish as a matter of law immunity under the CDA.

⁴ An “information content provider” is defined by the CDA to mean “any person or entity that is responsible, in whole or in part, for the creation or development of information provided through the Internet or any other interactive computer service.” 47 U.S.C. § 230(f)(3). Where a defendant contributes to and shapes the content of the information at issue, there is no immunity under the CDA. *F.T.C. v. Accusearch, Inc.*, No. 06-CV-105-D, 2007 WL 4356786, at *6 (D. Wyo. Sept. 28, 2007), *aff’d*, 570 F.3d 1187 (10th Cir. 2009) (citing *Ben Ezra, Weinstein and Co. v. Am. Online Inc.*, 206 F.3d 980, 985 n. 4, 986 (10th Cir.2000) (noting that defendant who participates in the creation or development of information will not be immune from liability)).

4. Conclusion

For the foregoing reasons, we conclude Frazier established a prima facie case of the first element of defamation (i.e. the publication of false statements of fact to a third party).

B. The statement was defamatory concerning Frazier

Frazier was next required to prove the statements were defamatory. Whether a communication is defamatory is in the first instance a legal question for the court. *Hancock v. Variyam*, 400 S.W.3d 59, 66 (Tex. 2013). A statement is defamatory only if it is reasonably capable of a defamatory meaning. *Id.* (citing *Musser v. Smith Protective Servs., Inc.*, 723 S.W.2d 653, 655 (Tex. 1987)); *see also* RESTATEMENT (SECOND) OF TORTS § 614, cmt. b (noting that it is for the court to decide “whether the communication was reasonably capable of conveying the particular meaning, or innuendo, ascribed to it by the plaintiff” and “whether that meaning is defamatory in character”). A defamatory statement is a statement of fact about a person that tends to diminish the plaintiff’s reputation. *See Innovative Block of S. Tex., Ltd. v. Valley Builders Supply, Inc.*, 603 S.W.3d 409, 418–19 (Tex. 2020); *Hancock*, 400 S.W.3d at 63 (defining defamation “as the invasion of a person’s interest in her reputation and good name”); RESTATEMENT (SECOND) OF TORTS § 559 (a defamatory statement is one that “tends [] to harm the reputation of another as to lower him in the estimation of the community or to deter third persons from associating or dealing with him.”).

Here, statements that Frazier was “found guilty” and “convicted” of attempted impersonation of a public servant and received a “dishonorable discharge” from the DPD were directly aimed at tarnishing Frazier’s reputation and by their very nature are statements that tend to harm a person’s reputation. The decision to publish those statements during the primary runoff election and the placement of the signs outside polling locations was intended to deter third persons (i.e., voters) from voting for Frazier and tended to lower his reputation in the community. We conclude this evidence constituted a prima facie case that the statements were defamatory as to Frazier. *See Clark v. Jenkins*, 248 S.W.3d 418, 437 (Tex. App.—Amarillo 2008, pet. denied) (statements that a member of the city council was convicted of a felony were defamatory).

C. Chabot acted with actual malice

“Actual malice” means that the statement was made with knowledge of its falsity or with reckless disregard for its truth. *In re Lipsky*, 460 S.W.3d at 593 (citing *Huckabee v. Time Warner Entm’t Co.*, 19 S.W.3d 413, 420 (Tex. 2000)). Here, the evidence showed that the website was dedicated to publishing information about Frazier to discredit him and convince voters to support candidates opposing Frazier’s bid for reelection. The news articles, court documents, videos, and investigative reports published on the website nearly all relate to the charges arising from the 2022 election season and Frazier’s retirement from the DPD. In the May 9, 2024 cease-and-desist letter, Frazier’s counsel notified Chabot that all criminal charges in the

Collin County District Court had been dismissed and he “is not dishonorably discharged and is eligible for rehire as a law enforcement officer.” The letter also informed Chabot that any statements published by Chabot that Frazier “has been ‘convicted’ and is ‘dishonorably discharged’” are incorrect and defamatory to Frazier. Despite this information, on May 16, 2024 Chabot posted a link to the website, which Chabot titled “NEW: Frazier admits GUILTY in just released court doc received May 16 2024.” The linked document, however, was the December 5, 2023 plea documents in the TeaLatte case, not a new admission or conviction. The trial court could reasonably view the timing of the post and Chabot’s misleading title as evidence that Chabot acted with knowledge of its falsity or with reckless disregard for its truth when he posted the document.

The evidence also shows that Chabot posted the signs at polling locations that stated Frazier was convicted and dishonorably discharged after the cease and desist letter. Even after Frazier sued him for defamation on June 25, 2024, Chabot did not remove the documents from the website. Instead, in July 2024, he found the December 2023 DMN and WFAA.com articles online and posted them to the website. The website shows they were then modified in September, which resulted in the documents moving to the top of the website’s file links. The timing of these posts—after the cease-and-desist letter and the filing of the lawsuit—alone establishes a prima facie case of actual malice. The same websites on which Chabot found the December 2023 articles and various court documents he posted also had

newer documents and articles confirming Frazier was not convicted on attempting to impersonate a public servant charges and received a general discharge from the DPD. Yet, Chabot chose to publish the older article and documents rather than the May 2024 corrected WFAA.com article and updated court documents. This evidence is sufficient to establish a prima facie of actual malice. *See Bentley v. Bunton*, 94 S.W.3d 561, 591 (Tex. 2002) (“evidence that a failure to investigate was contrary to a speaker’s usual practice and motivated by a desire to avoid the truth may demonstrate the reckless disregard required for actual malice”).

D. The statements were defamatory per se.

Defamation per se refers to statements that are so obviously harmful that general damages may be presumed. *Hancock*, 400 S.W.3d at 63–64. If the statements are defamatory per se, a plaintiff may recover general damages without proof of any specific loss. *Id.* at 65. “Historically, defamation per se has involved statements that are so obviously hurtful to a plaintiff’s reputation that the jury may presume general damages, including for loss of reputation and mental anguish.” *Id.* at 63–64 (citations omitted). Statements that injure a person in his office, profession, or occupation constitute defamation per se. *Id.* at 66. A statement that injures a person in his profession is a statement that “ascribes to another conduct, characteristics or a condition that would adversely affect his fitness for the proper conduct of his lawful business, trade or profession, or of his public or private office, whether honorary or for profit.” *Id.* at 66–67 (quoting RESTATEMENT (SECOND) OF

TORTS § 573). The defamatory statement must accuse the professional of “lacking a peculiar or unique skill that is necessary for the proper conduct of the profession” to constitute defamation per se. *Id.* at 67.

Statements that Frazier was found guilty and convicted of a crime for which the charges were dismissed are defamatory per se. *See, e.g., Clark*, 248 S.W.3d at 437 (finding that the statement that a city council member was a convicted felon was defamatory per se); *see also Brock v. Tandy*, No. 02-08-00400-CV, 2009 WL 1905130, at *4 (Tex. App.—Fort Worth July 2, 2009, pet. denied) (mem. op. on reh’g) (“[A]s Tandy was a public official at the time, the statements must be of such character that, if they were true, would have subjected her to removal from office, to criminal charges, or to imputation of official dishonesty or corruption.”); *Bentley*, 94 S.W.3d at 582 (“Accusing a public official of corruption is ordinarily defamatory per se.”); *Brasher v. Carr*, 743 S.W.2d 674, 677 (Tex. App.—Houston [14th Dist.] 1987) (“Statements that are of such a character as, if true, would subject a public official to removal from office or charge him with a crime are libelous per se.”), *rev’d on other grounds*, 776 S.W.2d 567 (Tex. 1989)). Statements that Frazier was dishonorably discharged are defamatory per se because they adversely reflect on his fitness to conduct his business, both as a police officer and as an elected official. *See Hancock*, 400 S.W.3d at 66.

Under this record, we conclude Frazier presented sufficient evidence to show a prima facie case of each element of his defamation claim. We overrule Chabot's first issue.

II. TCPA Step Three – Affirmative Defenses

Having concluded Frazier showed a prima facie case of defamation, the burden shifted to Chabot to establish an affirmative defense to the defamation claim as a matter of law. On appeal, Chabot maintains he established two affirmative defenses as a matter of law. We disagree.

A. Libel-proof plaintiff doctrine

Chabot first argues he established that Frazier's claims are barred because he is a libel-proof plaintiff. According to Chabot, Frazier's criminal mischief charge, impersonating a public servant indictments, dishonorable discharge, and placement on the *Brady* list were widely publicized and, therefore, "Frazier's reputation was ruined by his own crimes—not by any statements Chabot published about those crimes or their consequences." That alleged conduct, however, does not support application of the libel-proof plaintiff doctrine.

"A libel-proof plaintiff is one whose reputation on the matter at issue is so diminished that, at the time of an otherwise libelous publication, it could not be damaged further." *Bui Phu Xuan v. Fort Worth Star-Telegram*, No. 02-06-00206-CV, 2007 WL 530078, at *2 (Tex. App.—Fort Worth Feb. 22, 2007, pet. denied) (mem. op.) (first citing *McBride v. New Braunfels Herald-Zeitung*, 894 S.W.2d 6, 9

(Tex. App.—Austin 1994, writ denied); and then citing *Langston v. Eagle Publ'g Co.*, 719 S.W.2d 612, 621 (Tex. App.—Waco 1986, writ ref'd n.r.e.)). Courts have found the doctrine particularly suitable when plaintiffs who are notorious for past criminal behavior assert that they have been libeled by communications charging them with identical or similar behavior. *McBride*, 894 S.W.2d at 9. To justify applying the doctrine, the evidence of record must show not only that the plaintiff engaged in criminal or antisocial behavior in the past, but also that his activities were widely reported to the public. *Id.* at 10.

For example, in *Bui Phu Xuan*, the Second Court of Appeals applied the libel-proof plaintiff doctrine to a plaintiff whose “reputed Asian gang membership was widely reported by the Star-Telegram as early as 1994” and was introduced by the State during his 1998 murder trial. *Bui Phu Xuan*, 2007 WL 530078, at *2. The court held that “Bui’s reputation was so diminished that it could not have been injured further as a result of the 2005 Star-Telegram articles that again referred to Bui’s reputed gang membership—even if the statements were not true.” *Id.* The court affirmed the trial court’s order granting the Star-Telegram summary judgment on the ground that Bui was libel-proof. *Id.*

Similarly, in *Finklea v. Jacksonville Daily Progress*, the Twelfth Court of Appeals concluded Finklea was not injured by false statements accusing him of crime where he had at least eight convictions for “burglary, theft, and drug possession spanning the last quarter century.” 742 S.W.2d 512, 517–18 (Tex.

App.—Tyler 1987, writ dismiss'd w.o.j.). In light of his prior involvement with drugs and burglary, the court concluded that “the effect of the statements on Finklea’s reputation is utterly inconsequential. It is impossible to envision a Texas jury awarding him any damages.” *Id.* The *Finklea* court noted, however, that “the doctrine should have only a limited application” because “[t]here are few so impure that cannot be traduced.” *Id.* at 516 (further noting that “most cases invoking the doctrine narrow its application to those instances in which the challenged statement erroneously describes behavior similar or identical to that for which the plaintiff has been conclusively shown to be guilty.”).

The *McBride* court reached a different result. In *McBride*, the New Braunfels Herald-Zeitung printed an article reporting that McBride had been arrested and charged with an aggravated robbery that occurred at the Lone Star Ice House. 894 S.W.2d at 7–8. The article included Comal County Sheriff Lieutenant Rubio’s statement that McBride “got away with approximately \$1,700 in cash and cigarettes We believe that there was someone else with him.” *Id.* at 9. McBride sued the newspaper for libel because he maintained that the district attorney dropped the charge against him and he was released from jail twenty-three days after the arrest. *Id.* at 7–8. In its motion for summary judgment, the newspaper argued that, even if the challenged statement was false, it could not have damaged McBride’s reputation because McBride was libel proof as a matter of law. *Id.* at 9. On appeal, McBride argued the evidence was insufficient to support a finding that he was libel-

proof as a matter of law. *Id.* The Third Court of Appeals agreed and held the evidence did not justify applying the libel-proof plaintiff doctrine to McBride. *Id.* at 10–11. Not only was there no evidence concerning any publicity received about McBride’s previous convictions for theft, burglary, and delivery of hydromorphone, but the court “could not say that his criminal history is so extreme that no reasonable person could find further damage to his reputation by the false accusation of a new robbery.” *Id.* The court reversed the summary judgment “[b]ecause the newspaper failed to establish that, as a matter of law, McBride’s reputation could not have suffered from the article’s publication[.]” *Id.* at 11.

Unlike the plaintiffs in *Bui Phu Xuan* and *Finklea*,⁵ the only evidence that could be construed as past criminal or antisocial behavior by Frazier, separate from the alleged dishonorable discharge and felony indictments, was his conviction of Class C misdemeanor criminal mischief. The record includes no other evidence of past criminal convictions or past criminal or antisocial behavior. A single conviction of a Class C misdemeanor is not the type of notorious past criminal behavior for which the libel-proof plaintiff doctrine applies. We cannot say that his criminal history is so extreme that no reasonable person could find further damage to his

⁵ Chabot also cites *Swate v. Schiffers*, 975 S.W.2d 70, 77–78 (Tex. App.—San Antonio 1998, pet. denied) to support his arguments. *Swate*, however, is distinguishable because there, unlike here, the plaintiff’s past criminal, quasi-criminal, and antisocial behavior was extensive and highly-publicized. *Id.* at 74, 77 (holding the plaintiff’s reputation “was so deplorable” and could not be further damaged by the challenged news article in light of evidence of twenty-four newspaper articles and three disciplinary orders from the Texas and Louisiana boards of medical examiners that described the plaintiff’s medical practice, his prior litigation involving that practice, and various instances of misconduct).

reputation by false accusations that he was convicted of two felony charges and dishonorably discharged by the DPD. Under this record, we conclude Chabot failed to establish as a matter of law the applicability of the libel-proof plaintiff doctrine here.

B. Defamation Mitigation Act

Next, Chabot contends Frazier's claims must be dismissed because he did not comply with the Defamation Mitigation Act. *See* TEX. CIV. PRAC. & REM. CODE §§ 73.051–.062. A person may maintain an action for defamation only if the person has made a timely and sufficient request for a correction, clarification, or retraction from the defendant, or the defendant has made a correction, clarification, or retraction. TEX. CIV. PRAC. & REM. CODE § 73.055(a). A request under the Defamation Mitigation Act is timely if it is made during the limitations period. *Id.* § 73.055(b). A request under the Defamation Mitigation Act is sufficient if it is (1) served on the publisher, (2) made in writing, reasonably identifies the person making the request, and is signed by the individual claiming to be defamed or by the person's authorized attorney or agent; (3) states with particularity the statement alleged to be false and defamatory; (4) alleges the defamatory meaning of the statement; and (5) specifies the circumstances causing a defamatory meaning of the statement if it arises from something other than the express language of the publication. *Id.* § 73.055(d). The Defamation Mitigation Act is to be liberally construed. *Id.* § 73.051. The purpose of the Defamation Mitigation Act is not to

provide defendants with a way out of lawsuits, but to provide a person who is defamed by a publication an opportunity to mitigate any perceived damage or injury. *Id.* § 73.052.

Here, Frazier’s cease and desist letter was sufficient to meet the requirements of the Defamation Mitigation Act. Moreover, dismissal is not the remedy for the failure to comply with the Act. Rather, a defendant’s remedy is to seek abatement of the proceeding no later than the 30th day after a defendant files his answer. *Id.* § 73.062(a). Chabot did not request an abatement and, therefore, did not meet the requirements for obtaining an abatement under the Defamation Mitigation Act.

Under this record, we conclude Chabot failed to establish either affirmative defense as a matter of law and, therefore, did not meet his burden under the third step of the TCPA analysis. The trial court, therefore, did not err in denying the motion to dismiss. We overrule Chabot’s second issue.

III. Attorney’s Fees

In his third and final issue, Chabot challenges the trial court’s granting of Frazier’s request for attorney’s fees under section 27.009(b) of the TCPA. TEX. CIV. PRAC. & REM. CODE § 27.009(b). We review a trial court’s decision to award fees under section 27.009 for an abuse of discretion. *Doe v. Cruz*, 683 S.W.3d 475, 502 (Tex. App.—San Antonio 2023, no pet.). “A trial court abuses its discretion when it acts arbitrarily, unreasonably, or without regard to guiding principles.” *Id.*

Here, the October 25 Order states that Frazier’s request for attorney’s fees pursuant to section 27.009(b) is granted. Chabot contends this was error because Frazier conceded below that his claims were subject to the TCPA, and the trial court did not make the required findings that the TCPA was frivolous or solely intended to delay. Frazier insists the trial court did not abuse its discretion by granting the fees request because Chabot asserted “baseless arguments” for why the statements were not defamatory. Frazier also contends the TCPA does not require a trial court to make an affirmative finding that the TCPA motion was frivolous or solely intended to delay.

A court may award court costs and reasonable attorney’s fees to the party responding to a TCPA motion to dismiss “if the court finds” that the motion “is frivolous or solely intended to delay[.]” TEX. CIV. PRAC. & REM. CODE § 27.009(b). Those findings are a required prerequisite to an award of fees to the nonmovant. *See Cruz v. Van Sickle*, 452 S.W.3d 503, 525 (Tex. App.—Dallas 2014, pet. denied) (“although an award of reasonable attorney’s fees incurred is mandatory for a successful movant, a fee award to a successful respondent is completely discretionary and ***requires a finding the motion was frivolous or solely intended to delay.***”) (emphasis added); *see also Weller v. MonoCoque Diversified Ints., LLC*, No. 03-19-00127-CV, 2020 WL 3582885, at *5 (Tex. App.—Austin July 1, 2020, no pet.) (mem. op.) (“an award to a successful respondent is discretionary even if the trial court ***makes the required findings*** that the motion was frivolous or solely

intended to delay.”) (emphasis added). Here, the trial court did not give a reason for its decision to grant the request for fees and made no findings in the October 25 Order or elsewhere in the record. Without making the required findings, the trial court abused its discretion by granting Frazier’s request for fees.

Moreover, even if we imply the required findings here, we conclude the trial court abused its discretion. “Frivolous” is not defined in the TCPA, but “the word’s common understanding contemplates that a claim or motion will be considered frivolous if it has no basis in law or fact and lacks a legal basis or legal merit.” *Pinghua Lei v. Nat. Polymer Int’l Corp.*, 578 S.W.3d 706, 717 (Tex. App.—Dallas 2019, no pet.) (quoting *Sullivan v. Tex. Ethics Comm’n*, 551 S.W.3d 848, 857 (Tex. App.—Austin 2018, pet. denied) (internal quotations and citations omitted)). Frazier and Chabot agree that Frazier’s defamation claim is subject to the TCPA because it is based on or is in response to Chabot’s exercise of the right of free speech. *See* TEX. CIV. PRAC. & REM. CODE § 27.005(b)(1)(A). While we have, for the reasons given above, concluded Frazier presented a prima facie case of defamation and Chabot did not establish an affirmative defense as a matter of law, we do not think it reasonable under these facts to conclude that the motion was frivolous. *See* TEX. CIV. PRAC. & REM. CODE § 27.009(b); *see also Sullivan*, 551 S.W.3d at 857-58 (overturning attorney’s fees award because the court could not conclude as a matter

of law that appellant’s motion entirely lacked a basis in law or fact or that “delay was the only factor”).⁶

We also cannot say the TCPA motion was filed for the purpose of causing delay. Chabot filed his TCPA motion thirty-four days after filing his original answer; a hearing on the motion was set within sixty days of the motion; and the trial court decided the matter within ninety days—all reasonable time periods within statutory deadlines. *See* TEX. CIV. PRAC. & REM. CODE §§ 27.003(b), 27.004(a), 27.005(a). Under those circumstances and without any evidence of Chabot’s intent in filing the motion being “solely” for the purpose of delay, a finding of such an intent to delay would be an abuse of discretion. *See Cruz*, 683 S.W.3d at 502 (abuse of discretion where TCPA motion filed in a timely manner, and the hearing was held and the decision issued within the statutory deadlines).

For these reasons, we hold the trial court abused its discretion in granting Frazier’s request for attorney’s fees. We sustain Chabot’s objection to the fees order and reverse that portion of the October 25 Order granting Frazier’s request for fees.

CONCLUSION

The trial court did not err by denying Chabot’s TCPA motion to dismiss. However, the trial court erred by granting Frazier’s request for attorney’s fees

⁶ Further, we note that by applying the TCPA three-step process to determine whether Chabot’s TCPA motion to dismiss should have been granted or denied, we have not resolved any disputed facts. *Cruz*, 683 S.W.3d at 502–03; *Davis*, 2020 WL 5491201, at *12 (reiterating court’s TCPA determination “is not a merits determination”).

pursuant to section 27.009(b) of the Texas Civil Practice and Remedies Code. Accordingly, we reverse the portion of the October 25, 2024 order granting Frazier's request for attorney's fees, affirm the order in all other respects, and remand this cause to the trial court for further proceedings consistent with this opinion.

/Jessica Lewis/

JESSICA LEWIS
JUSTICE



**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

PAUL CHABOT, Appellant

No. 05-24-01272-CV V.

FREDERICK FRAZIER, Appellee

On Appeal from the 429th Judicial
District Court, Collin County, Texas
Trial Court Cause No. 429-04031-
2024.

Opinion delivered by Justice Lewis.
Justices Smith and Kennedy
participating.

In accordance with this Court's opinion of this date, the trial court's October 25, 2024 order is **AFFIRMED** in part and **REVERSED** in part. We **REVERSE** that portion of the order granting Frederick Frazier's request for attorney's fees. In all other respects, the trial court's October 25, 2024 order is **AFFIRMED**. We **REMAND** this cause to the trial court for further proceedings consistent with this opinion.

It is **ORDERED** that each party bear its own costs of this appeal.

Judgment entered this 30th day of July 2025.

CAUSE NO. 429-04031-2024

FREDERICK FRAZIER

Plaintiff,

v.

PAUL CHABOT,

Defendant.

§
§
§
§
§
§
§
§
§
§
§

IN THE DISTRICT COURT

OF COLLIN COUNTY, TEXAS

429TH JUDICIAL DISTRICT

**PROPOSED ORDER DENYING DEFENDANT PAUL CHABOT'S TCPA
MOTION TO DISMISS**

On this date, the Court considered Defendant Paul Chabot's TCPA Motion to Dismiss (the "Motion"). After considering the Motion, response, any replies to the Motion, the arguments of counsel, if any, and all other matters properly before the Court, the Court believes that the Motion should be denied in its entirety.

IT IS THEREFORE ORDERED that the Motion is **DENIED** in its entirety.

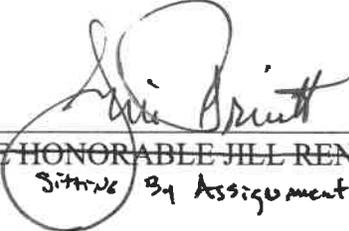
IT IS FURTHER ORDERED that Defendant Paul Chabot's request for attorney's fees is **DENIED**.

IT IS FURTHER ORDERED that Defendant Paul Chabot's request for sanctions is **DENIED**.

IT IS FURTHER ORDERED that, pursuant to TEX. CIV. PRAC. & REM. CODE § 27.009(b), Plaintiff Frederick Frazier's request for the recovery of attorney's fees is hereby **GRANTED**. The Parties are directed to confer with the Court to schedule a hearing on the amount of attorney's fees awarded and submit additional briefing to the Court in accordance with that schedule.

IT IS FURTHER ORDERED that Plaintiff be granted such other and further relief to which they may be entitled.

SIGNED this 25th day of October, 2024.



THE HONORABLE JILL RENFRO WILLIS
Sitting By Assignment

**EXHIBIT
App D**

CIVIL PRACTICE AND REMEDIES CODE

TITLE 2. TRIAL, JUDGMENT, AND APPEAL

SUBTITLE B. TRIAL MATTERS

CHAPTER 27. ACTIONS INVOLVING THE EXERCISE OF CERTAIN CONSTITUTIONAL
RIGHTS

Sec. 27.001. DEFINITIONS. In this chapter:

(1) "Communication" includes the making or submitting of a statement or document in any form or medium, including oral, visual, written, audiovisual, or electronic.

(2) "Exercise of the right of association" means to join together to collectively express, promote, pursue, or defend common interests relating to a governmental proceeding or a matter of public concern.

(3) "Exercise of the right of free speech" means a communication made in connection with a matter of public concern.

(4) "Exercise of the right to petition" means any of the following:

(A) a communication in or pertaining to:

(i) a judicial proceeding;

(ii) an official proceeding, other than a judicial proceeding, to administer the law;

(iii) an executive or other proceeding before a department of the state or federal government or a subdivision of the state or federal government;

(iv) a legislative proceeding, including a proceeding of a legislative committee;

(v) a proceeding before an entity that requires by rule that public notice be given before proceedings of that entity;

(vi) a proceeding in or before a managing board of an educational or eleemosynary institution supported directly or indirectly from public revenue;

(vii) a proceeding of the governing body of any political subdivision of this state;

(viii) a report of or debate and statements made in a proceeding described by Subparagraph (iii), (iv), (v), (vi), or (vii); or

(ix) a public meeting dealing with a public purpose, including statements and discussions at the meeting or other matters of

public concern occurring at the meeting;

(B) a communication in connection with an issue under consideration or review by a legislative, executive, judicial, or other governmental body or in another governmental or official proceeding;

(C) a communication that is reasonably likely to encourage consideration or review of an issue by a legislative, executive, judicial, or other governmental body or in another governmental or official proceeding;

(D) a communication reasonably likely to enlist public participation in an effort to effect consideration of an issue by a legislative, executive, judicial, or other governmental body or in another governmental or official proceeding; and

(E) any other communication that falls within the protection of the right to petition government under the Constitution of the United States or the constitution of this state.

(5) "Governmental proceeding" means a proceeding, other than a judicial proceeding, by an officer, official, or body of this state or a political subdivision of this state, including a board or commission, or by an officer, official, or body of the federal government.

(6) "Legal action" means a lawsuit, cause of action, petition, complaint, cross-claim, or counterclaim or any other judicial pleading or filing that requests legal, declaratory, or equitable relief. The term does not include:

(A) a procedural action taken or motion made in an action that does not amend or add a claim for legal, equitable, or declaratory relief;

(B) alternative dispute resolution proceedings; or

(C) post-judgment enforcement actions.

(7) "Matter of public concern" means a statement or activity regarding:

(A) a public official, public figure, or other person who has drawn substantial public attention due to the person's official acts, fame, notoriety, or celebrity;

(B) a matter of political, social, or other interest to the community; or

(C) a subject of concern to the public.

(8) "Official proceeding" means any type of administrative, executive, legislative, or judicial proceeding that may be conducted before a public servant.

- (9) "Public servant" means a person elected, selected, appointed, employed, or otherwise designated as one of the following, even if the person has not yet qualified for office or assumed the person's duties:
- (A) an officer, employee, or agent of government;
 - (B) a juror;
 - (C) an arbitrator, referee, or other person who is authorized by law or private written agreement to hear or determine a cause or controversy;
 - (D) an attorney or notary public when participating in the performance of a governmental function; or
 - (E) a person who is performing a governmental function under a claim of right but is not legally qualified to do so.

Added by Acts 2011, 82nd Leg., R.S., Ch. 341 (H.B. [2973](#)), Sec. 2, eff. June 17, 2011.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 378 (H.B. [2730](#)), Sec. 1, eff. September 1, 2019.

Sec. 27.002. PURPOSE. The purpose of this chapter is to encourage and safeguard the constitutional rights of persons to petition, speak freely, associate freely, and otherwise participate in government to the maximum extent permitted by law and, at the same time, protect the rights of a person to file meritorious lawsuits for demonstrable injury.

Added by Acts 2011, 82nd Leg., R.S., Ch. 341 (H.B. [2973](#)), Sec. 2, eff. June 17, 2011.

Sec. 27.003. MOTION TO DISMISS. (a) If a legal action is based on or is in response to a party's exercise of the right of free speech, right to petition, or right of association or arises from any act of that party in furtherance of the party's communication or conduct described by Section [27.010](#)(b), that party may file a motion to dismiss the legal action. A party under this section does not include a government entity, agency, or an official or employee acting in an official capacity.

(b) A motion to dismiss a legal action under this section must be filed not later than the 60th day after the date of service of the legal action. The parties, upon mutual agreement, may extend the time to file a motion under this section or the court may extend the time to file a motion under this section on a showing of good cause.

(c) Except as provided by Section 27.006(b), on the filing of a motion under this section, all discovery in the legal action is suspended until the court has ruled on the motion to dismiss.

(d) The moving party shall provide written notice of the date and time of the hearing under Section 27.004 not later than 21 days before the date of the hearing unless otherwise provided by agreement of the parties or an order of the court.

(e) A party responding to the motion to dismiss shall file the response, if any, not later than seven days before the date of the hearing on the motion to dismiss unless otherwise provided by an agreement of the parties or an order of the court.

Added by Acts 2011, 82nd Leg., R.S., Ch. 341 (H.B. 2973), Sec. 2, eff. June 17, 2011.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 378 (H.B. 2730), Sec. 2, eff. September 1, 2019.

Sec. 27.004. HEARING. (a) A hearing on a motion under Section 27.003 must be set not later than the 60th day after the date of service of the motion unless the docket conditions of the court require a later hearing, upon a showing of good cause, or by agreement of the parties, but in no event shall the hearing occur more than 90 days after service of the motion under Section 27.003, except as provided by Subsection (c).

(b) In the event that the court cannot hold a hearing in the time required by Subsection (a), the court may take judicial notice that the court's docket conditions required a hearing at a later date, but in no event shall the hearing occur more than 90 days after service of the motion under Section 27.003, except as provided by Subsection (c).

(c) If the court allows discovery under Section 27.006(b), the court may extend the hearing date to allow discovery under that subsection, but in no event shall the hearing occur more than 120 days after the service of the motion under Section 27.003.

Added by Acts 2011, 82nd Leg., R.S., Ch. 341 (H.B. 2973), Sec. 2, eff. June 17, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1042 (H.B. 2935), Sec. 1, eff. June 14, 2013.

Sec. 27.005. RULING. (a) The court must rule on a motion under Section 27.003 not later than the 30th day following the date the hearing on the motion concludes.

(b) Except as provided by Subsection (c), on the motion of a party under Section 27.003, a court shall dismiss a legal action against the moving party if the moving party demonstrates that the legal action is based on or is in response to:

- (1) the party's exercise of:
 - (A) the right of free speech;
 - (B) the right to petition; or
 - (C) the right of association; or
- (2) the act of a party described by Section 27.010(b).

(c) The court may not dismiss a legal action under this section if the party bringing the legal action establishes by clear and specific evidence a prima facie case for each essential element of the claim in question.

(d) Notwithstanding the provisions of Subsection (c), the court shall dismiss a legal action against the moving party if the moving party establishes an affirmative defense or other grounds on which the moving party is entitled to judgment as a matter of law.

Added by Acts 2011, 82nd Leg., R.S., Ch. 341 (H.B. 2973), Sec. 2, eff. June 17, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1042 (H.B. 2935), Sec. 2, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 378 (H.B. 2730), Sec. 3, eff. September 1, 2019.

Sec. 27.006. PROOF. (a) In determining whether a legal action is subject to or should be dismissed under this chapter, the court shall consider the pleadings, evidence a court could consider under Rule 166a, Texas Rules of Civil Procedure, and supporting and opposing affidavits stating the facts on which the liability or defense is based.

(b) On a motion by a party or on the court's own motion and on a showing of good cause, the court may allow specified and limited discovery relevant to the motion.

Added by Acts 2011, 82nd Leg., R.S., Ch. 341 (H.B. 2973), Sec. 2, eff. June 17, 2011.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 378 (H.B. 2730), Sec. 4, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 378 (H.B. 2730), Sec. 5, eff. September 1, 2019.

Sec. 27.007. ADDITIONAL FINDINGS. (a) If the court awards sanctions under Section 27.009(b), the court shall issue findings regarding whether the legal action was brought to deter or prevent the moving party from exercising constitutional rights and is brought for an improper purpose, including to harass or to cause unnecessary delay or to increase the cost of litigation.

(b) The court must issue findings under Subsection (a) not later than the 30th day after the date a request under that subsection is made.

Added by Acts 2011, 82nd Leg., R.S., Ch. 341 (H.B. 2973), Sec. 2, eff. June 17, 2011.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 378 (H.B. 2730), Sec. 6, eff. September 1, 2019.

Sec. 27.0075. EFFECT OF RULING. Neither the court's ruling on the motion nor the fact that it made such a ruling shall be admissible in evidence at any later stage of the case, and no burden of proof or degree of proof otherwise applicable shall be affected by the ruling.

Added by Acts 2019, 86th Leg., R.S., Ch. 378 (H.B. 2730), Sec. 7, eff. September 1, 2019.

Sec. 27.008. APPEAL. (a) If a court does not rule on a motion to dismiss under Section 27.003 in the time prescribed by Section 27.005, the motion is considered to have been denied by operation of law and the moving party may appeal.

(b) An appellate court shall expedite an appeal or other writ, whether interlocutory or not, from a trial court order on a motion to dismiss a legal action under Section 27.003 or from a trial court's failure to rule on that motion in the time prescribed by Section 27.005.

(c) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1042, Sec. 5, eff. June 14, 2013.

Added by Acts 2011, 82nd Leg., R.S., Ch. 341 (H.B. 2973), Sec. 2, eff. June 17, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1042 (H.B. 2935), Sec. 5, eff. June 14, 2013.

Sec. 27.009. DAMAGES AND COSTS. (a) Except as provided by Subsection (c), if the court orders dismissal of a legal action under this chapter, the court:

(1) shall award to the moving party court costs and reasonable attorney's fees incurred in defending against the legal action; and

(2) may award to the moving party sanctions against the party who brought the legal action as the court determines sufficient to deter the party who brought the legal action from bringing similar actions described in this chapter.

(b) If the court finds that a motion to dismiss filed under this chapter is frivolous or solely intended to delay, the court may award court costs and reasonable attorney's fees to the responding party.

(c) If the court orders dismissal of a compulsory counterclaim under this chapter, the court may award to the moving party reasonable attorney's fees incurred in defending against the counterclaim if the court finds that the counterclaim is frivolous or solely intended for delay.

Added by Acts 2011, 82nd Leg., R.S., Ch. 341 (H.B. 2973), Sec. 2, eff. June 17, 2011.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 378 (H.B. 2730), Sec. 8, eff. September 1, 2019.

Sec. 27.010. EXEMPTIONS. (a) This chapter does not apply to:

(1) an enforcement action that is brought in the name of this state or a political subdivision of this state by the attorney general, a district attorney, a criminal district attorney, or a county attorney;

(2) a legal action brought against a person primarily engaged in the business of selling or leasing goods or services, if the statement or conduct arises out of the sale or lease of goods, services, or an insurance product, insurance services, or a commercial transaction in which the intended audience is an actual or potential buyer or customer;

(3) a legal action seeking recovery for bodily injury, wrongful death, or survival or to statements made regarding that legal action;

(4) a legal action brought under the Insurance Code or arising out of an insurance contract;

(5) a legal action arising from an officer-director, employee-employer, or independent contractor relationship that:

(A) seeks recovery for misappropriation of trade secrets or corporate opportunities; or

(B) seeks to enforce a non-disparagement agreement or a covenant not to compete;

(6) a legal action filed under Title 1, 2, 4, or 5, Family Code, or an application for a protective order under Subchapter A, Chapter 7B, Code of Criminal Procedure;

(7) a legal action brought under Chapter 17, Business & Commerce Code, other than an action governed by Section 17.49(a) of that chapter;

(8) a legal action in which a moving party raises a defense pursuant to Section 160.010, Occupations Code, Section 161.033, Health and Safety Code, or the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11101 et seq.);

(9) an eviction suit brought under Chapter 24, Property Code;

(10) a disciplinary action or disciplinary proceeding brought under Chapter 81, Government Code, or the Texas Rules of Disciplinary Procedure;

(11) a legal action brought under Chapter 554, Government Code;

(12) a legal action based on a common law fraud claim; or

(13) a legal malpractice claim brought by a client or former client.

(b) Notwithstanding Subsections (a) (2), (7), and (12), this chapter applies to:

(1) a legal action against a person arising from any act of that person, whether public or private, related to the gathering, receiving, posting, or processing of information for communication to the public, whether or not the information is actually communicated to the public, for the creation, dissemination, exhibition, or advertisement or other similar promotion of a dramatic, literary, musical, political, journalistic, or otherwise artistic work, including audio-visual work regardless of the means of distribution, a motion picture, a television or radio program, or an article published in a newspaper, website, magazine, or other platform, no matter the method or extent of distribution; and

(2) a legal action against a person related to the communication, gathering, receiving, posting, or processing of consumer opinions or commentary, evaluations of consumer complaints, or reviews or ratings of businesses.

(c) This chapter applies to a legal action against a victim or alleged victim of family violence or dating violence as defined in Chapter 71, Family Code, or an offense under Chapter 20, 20A, 21, or 22, Penal Code, based on or in response to a public or private communication.

Added by Acts 2011, 82nd Leg., R.S., Ch. 341 (H.B. 2973), Sec. 2, eff. June 17, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1042 (H.B. 2935), Sec. 3, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 378 (H.B. 2730), Sec. 9, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 3.001, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 804 (H.B. 527), Sec. 1, eff. September 1, 2023.

Sec. 27.011. CONSTRUCTION. (a) This chapter does not abrogate or lessen any other defense, remedy, immunity, or privilege available under other constitutional, statutory, case, or common law or rule provisions.

(b) This chapter shall be construed liberally to effectuate its purpose and intent fully.

Added by Acts 2011, 82nd Leg., R.S., Ch. 341 (H.B. 2973), Sec. 2, eff. June 17, 2011.



**EXHIBIT
App E**

Dykema Gossett PLLC
Comerica Bank Tower
1717 Main Street, Suite 4200
Dallas, TX 75201

WWW.DYKEMA.COM

Tel: (214) 462-6400

Fax: (214) 462-6401

Christopher D. Kratovil
Direct Dial: (214) 462-6458
Direct Fax: (855) 230-2528
Email: CKratovil@dykema.com

January 9, 2026

Via Email and U.S. Mail

Paul Chabot
Attn: Tony K. McDonald
Connor L. Ellington
The Law Offices of Tony McDonald
1308 Ranchers Legacy Trail
Fort Worth, TX 76126

Attn: Steven E. Ross
MAXUS Legal PLLC
5050 Quorum Drive, Suite 700
Dallas, TX 75254

E-Mail: tony@tonymcdonald.com
connor@tonymcdonald.com
sross@maxuslegal.com

Re: Demand to Cease and Desist and for Retraction of Defamatory Statements

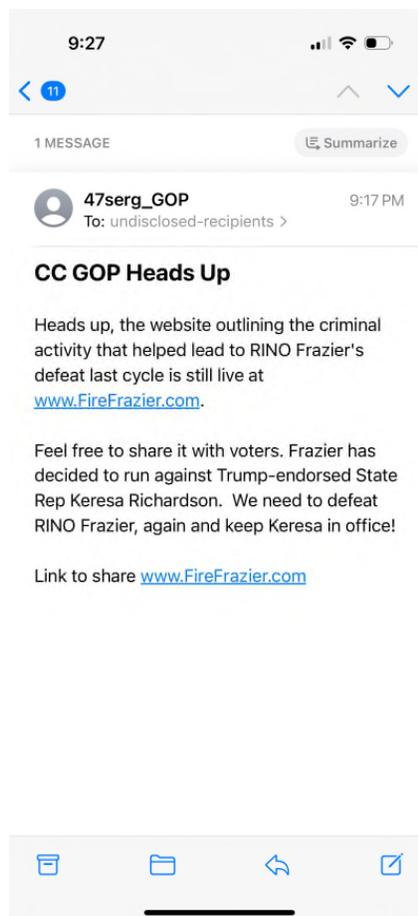
Dear Counsel:

As you are aware, this firm represents Mr. Frederick Frazier with respect to the lawsuit styled *Frederick Frazier v. Paul Chabot*, Cause No. 429-04031-2024, pending in the 429th Judicial District Court of Collin County, Texas (the "Lawsuit") and the related appeal styled *Paul Chabot v. Frederick Frazier*, No. 05-24-01272-CV, in the Fifth District Court of Appeals (the "Appeal").

As you are also aware, Mr. Chabot maintains a website dedicated to sharing negative information about Mr. Frazier at firefrazier.com (the "Website"). Despite both the trial court and the appellate court finding that Mr. Frazier has established a prima facie case that certain statements published on the Website are false, and that those statements were published by Mr. Chabot with actual malice, the Website remains live. Mr. Frazier refers Mr. Chabot to, and incorporates herein by reference, the Trial Court's October 10, 2024 Order Denying Defendant Paul Chabot's TCPA Motion to Dismiss and the Fifth District Court of Appeals' July 30, 2025 Memorandum Opinion

affirming in part and reversing in part the denial of Mr. Chabot’s TCPA Motion to Dismiss. Specifically, and among other things, the Website contains republications of December 2023 articles from Dallas Morning News and WFAA.com falsely asserting that Mr. Frazier would receive a “dishonorable discharge” from the Dallas Police Department and other posts falsely asserting the Mr. Frazier was convicted on charges of attempting to impersonate a public servant.

It has come to our attention that the Website is being circulated to, among others, voters in Collin County, Texas. Please see the below email from January 8, 2026 distributing the link to the Website:



We have reason to believe that this email originates from Mr. Chabot, or was otherwise sent at his direction. As you are doubtlessly aware, the dissemination of this Website, including the false statements therein that Mr. Chabot published with actual malice, has the effect of harming Mr. Frazier’s reputation as to lower him in the estimation of the community and to deter third persons—including voters—from associating or dealing with him. These statements are particularly harmful



Paul Chabot
January 9, 2026
Page 3

in light of the upcoming Republican primary election taking place on March 3, 2026, which is the ostensible purpose of the Website and its January 8, 2026 dissemination to Collin County voters.

Accordingly, Mr. Frazier hereby **DEMANDS** that Mr. Chabot cease any and all efforts to disseminate the Website to the public. Mr. Frazier further **DEMANDS** that Mr. Chabot issue a full and complete retraction of the email in the same manner and medium as the email itself, including sending the retraction to all original recipients of the email. Mr. Frazier further **DEMANDS** that Mr. Chabot clarify that the statements made on the Website referenced in the Lawsuit and the Appeal are false. Should Mr. Chabot fail to comply with these demands by **Monday, February 9, 2026**, Mr. Frazier will exercise any and all rights at his disposal to protect his rights, including, but not limited to, seeking relief from the stay of the Lawsuit and amending his petition to assert claims and damages related to the January 8, 2026 email.

This letter is not intended to be, nor should it be construed as, a full or complete statement of the rights available to Mr. Frazier, all of which are hereby expressly reserved. Please be advised that Mr. Chabot is under an obligation to preserve all documents, electronically stored information, and other evidence that may be related to the Lawsuit, including the January 8, 2026 email, and to suspend any routine document retention or destruction policies. Mr. Chabot's failure to adhere to this obligation may result in severe consequences, including, but not limited to, sanctions in the Lawsuit.

Your immediate attention to this matter is anticipated. Please do not hesitate to contact me should you wish to discuss this matter further.

Sincerely,

Dykema Gossett PLLC

/s/ Christopher D. Kratovil

Christopher D. Kratovil

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below:

Tony McDonald on behalf of Tony McDonald
Bar No. 24083477
tony@tonymcdonald.com
Envelope ID: 110123873
Filing Code Description: Petition
Filing Description: Petition for Review
Status as of 1/16/2026 7:49 AM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Christopher Kratovil	24027427	ckratovil@dykema.com	1/16/2026 12:35:44 AM	SENT
Steven Ross	17305500	sross@maxuslegal.com	1/16/2026 12:35:44 AM	SENT
Tony McDonald		tony@tonymcdonald.com	1/16/2026 12:35:44 AM	SENT
Connor Ellington		connor@tonymcdonald.com	1/16/2026 12:35:44 AM	SENT
Daniel Hall	24118946	Dhall@dykema.com	1/16/2026 12:35:44 AM	SENT