

CAUSE NO. \_\_\_\_\_<sup>1</sup>

_____ v. _____ _____	IN THE DISTRICT COURT OF _____ COUNTY, TEXAS 33 <sup>RD</sup> JUDICIAL DISTRICT
-------------------------------	---

**JUDGE'S FIAT REGARDING PRETRIAL PUBLICITY BY PARTIES**

TO: The parties, all Attorneys of Record, and all interested parties:  
Came on to be considered on this date, the apparent need to protect the Court's jurisdiction by restriction of extrajudicial statements.

**DISCUSSION AND FINDINGS:**

This Court has a duty to preserve the right of each party to a fair trial by an impartial jury and, if possible, to ensure that potential jurors will not be prejudiced by pretrial publicity. The Court is also mindful of the First Amendment rights of the parties, counsel for the parties, the media, as well as the Open Courts Provision of the Texas Constitution. In efforts to balance these sometimes competing interests, courts have found that prior restraint may be imposed only in extraordinary circumstances, and only if there is the threat of imminent, severe harm. Accordingly, before issuing a "gag" order -- one of prior restraint of speech -- a court must find that extensive media coverage will harm the judicial process.

The Court finds, based upon its own knowledge of its territorial jurisdiction, the publicity garnered to date and the condition of the Court's docket, that this order is essential in order to preclude imminent and irreparable harm to the judicial process in this case and the ability to obtain a fair trial for all parties. The Court further finds based upon its prior experience in this jurisdiction that less restrictive alternatives are unworkable.

**ORDER:**

The Court is of the opinion that the same should be GRANTED, accordingly, it is **ORDERED AND DECREED** that the parties and their attorneys, court clerks, court reporters, expert witnesses,

Reserved for Clerk's File Stamp
---------------------------------

<sup>1</sup> **Note:** this form of order has been designed for use in civil, criminal and juvenile cases and shall be interpreted in the context of the particular type of case involved.

investigators, law enforcement personnel and all persons affiliated with or acting in concert with any of the foregoing persons including any witnesses or prospective witnesses, **shall not** to speak to, correspond with, or in any way communicate (except as expressly authorized below) with any person whomsoever (and specifically including any member of the news media) or any person who might reasonably be expected or anticipated to further promulgate any such communication, regarding the expected testimony of any witness, the character, reputation, or credibility of any witness, the contents of any statement given by the defendant, or the nature of evidence that might be presented.

Specifically Precluded Statements: And more particularly, each such person is **HEREBY FURTHER ORDERED not** to do any of the following:

1. Release or authorize the release for public disseminating of any purported extrajudicial statement of either a party or any witness relating to this case;
2. Release or authorize the release of any documents, exhibits, photographs or any evidence the admissibility of which may have to be determined by the Court;
3. Make any statement for public dissemination as to the existence or possible existence of any document, exhibit, photograph or any other evidence the admissibility of which may have to be determined by the Court;
4. Express outside of court an opinion or make any comment for public dissemination as to the weight, value or effect of any evidence as tending to establish guilt or innocence or liability under any legal theory;
5. Make any statement outside of court as to the content, nature, substance or effect of any statements or testimony that have been given or is expected to be given in any proceeding in or relating to this matter;
6. Issue any statement as to the identity of any prospective witness or the witness' probable testimony or the effect thereof;
7. Make any out-of-court statement as to the nature, source or effect of any purported evidence alleged to have been accumulated as a result of the investigation of this matter.

This Order **does not preclude** any of the following:

- 1 Factual statements of the accused (or civil party) person's name, age, residence, occupation and family status;
-

- 2 The time and place of arrest, the identity of the arresting and investigating officers and agencies and the length of the investigation.
- 3 The nature, substance and text of the charging instrument (or pleadings in the circumstance of civil cases), including a brief description of the offenses charged (or civil legal theories advanced);
- 4 Quotations from or any reference without comment to, public records of the Court in the case;
- 5 The scheduling and result of any stage of the judicial proceeding held in open court in an open or public session; or
- 6 A good faith request for assistance in obtaining evidence or the names of possible witnesses.

Witness Statements: Any witness may discuss any matter with any Attorney of Record in this case, or any investigator or agent thereof, and if are themselves represented may discuss any matter with his or her own attorney.

Internal Communications: This Order does not apply to internal communications among persons having a genuine "need to know" within the offices of attorneys, prosecuting attorneys, law enforcement or private investigative agencies, forensic or other testing laboratories or any other firm or agency having an official relationship to this case nor to officers or essential personnel within a business entity which is a party to a civil matter.

Future Cases: This Order applies not only to the above-captioned and numbered case but to any indicted (or repleaded) case arising out of the same facts and shall continue in full force and effect until further order of this Court.

Signed on \_\_\_\_\_.

\_\_\_\_\_  
Guilford L. Jones  
Presiding Judge