

IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY,
PENNSYLVANIA
CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA

vs.

GERALD A. SANDUSKY

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CP-14-CR-2421-2011
CP-14-CR-2422-2011

DEBRA J. IMIEL
PROCLAMATORY
CENTRE COUNTY, PA

2012 JUN 19 P 3:40

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**MOTION OF SARA GANIM, A SUBPOENAED
NON-PARTY WITNESS, AND THE PATRIOT NEWS COMPANY
FOR A PROTECTIVE ORDER/TO QUASH A SUBPOENA**

AND NOW comes SARA GANIM ("Ganim"), a non-party subpoenaed witness, by her attorneys, NAUMAN, SMITH, SHISSLER & HALL, LLP, and moves this Court for a protective order/to quash a subpoena, and represents in support thereof the following:

1. Ganim is an adult individual and a reporter for The Patriot-News Company, publisher of The Patriot-News and The Sunday Patriot-News, both newspapers of general circulation within central Pennsylvania.
2. Ganim was served today on June 19, 2012, with a subpoena by the Defendant's counsel to appear and to testify on behalf of the Defendant in the above-captioned proceeding at trial. See copy of the Subpoena attached hereto at Exhibit 'A' (best copy available).

3. It is not precisely known what areas Defendant and/or his counsel seek to inquire of Ganim, however, Ganim has been involved for some period of time in reporting on the events surrounding the indictment and trial of Defendant for The Patriot News.

4. Although numerous articles have been published by Ganim and The Patriot News concerning these topics, in the course of performing her general newsgathering duties when reporting upon the criminal investigation surrounding the Defendant, Ganim has performed research, created drafts, took notes, and may have had informants, or confidential sources, and created or reviewed documents containing information that was not printed in any Patriot News articles and which is material protected by the First Amendment of the United States Constitution, the reporter's privilege and the Pennsylvania Newsgatherer's Shield Law, 42 Pa.C.S. § 5942.

5. Upon information and belief, Ganim will be asked questions from both the Commonwealth and Defendant on direct and/or on cross examination which will go beyond the scope of the published material which appeared within the articles Ganim authored concerning the events at issue in this case and are thus protected from disclosure by the First Amendment of the United States Constitution, the Pennsylvania Constitution, the reporter's privilege and the Pennsylvania Newsgatherer's Shield Law, 42 Pa.C.S. § 5942.

6. To the extent Ganim will be questioned beyond the scope of the published materials set forth above, she asserts the Commonwealth and Federal Constitutional privileges afforded newsgatherers, as well as, the statutory protections afforded by 42 Pa.C.S. § 5942.

7. 42 Pa. C.S. §5942 provides as follows:

(a) General Rule - No person engaged on, connected with, or employed by any newspaper of general circulation . . . for the purpose of gathering, procuring, compiling, editing or publishing news, shall

be required to disclose the source of any information procured or obtained by such person, in any legal proceeding, trial, or investigation before any government unit.

8. In addition, the First Amendment of the United States Constitution and the law developed thereunder provides a reporter's privilege. See *McMenamin v. Tartaglione*, 139 Pa. Cmwlth. 269, 590 A.2d 802 (1991), *aff'd*, 572 Pa. 286, 590 A. 2d 753 (1991).

9. The parties hereto have failed to make the necessary showing to override those privileges that: (1) an effort was made to obtain the information sought from other sources, that (2) Ms. Ganim is the only access to the requested information, and that (3) the information sought is crucial to the claims or defenses asserted. See *United States v. Criden*, 633 F.2d 346, 358 (3d Cir. 1980); *Riley v. City of Chester*, 612 F. 2d 708, 717 (3d Cir. 1979); *McMenamin, supra*.

15. Neither Ganim nor The Patriot News has waived her ability to assert the statutory and common law newsgatherers' privilege to shield her notes, drafts, or any other non-printed materials gathered in the process of performing his reporting duties, and to shield the identity of any sources regarding Defendant's case. See *Kitzmilller v. Dover Area Sch. Dist.*, 379 F. Supp. 2d 680 (M.D.Pa. 2005).

WHEREFORE, Sara Ganim and The Patriot News, respectfully request that this Honorable Court enter a protective order granting the within Motion for Protective Order ordering that Ms.

Ganim not be called to testify in this matter, and/or quashing the subpoena issued to her by Defendant.

NAUMAN, SMITH, SHISSLER & HALL, LLP

By: 

Craig J. Staudenmaier, Esquire
Supreme Court ID # 34996

Joshua D. Bonn, Esquire
Supreme Court ID# 93967

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Counsel for Sara Ganim and The Patriot News

Date: June 19, 2012

COURT SUBPOENA

IN SENATE

IN SENATE

SUBPOENA IN SENATE

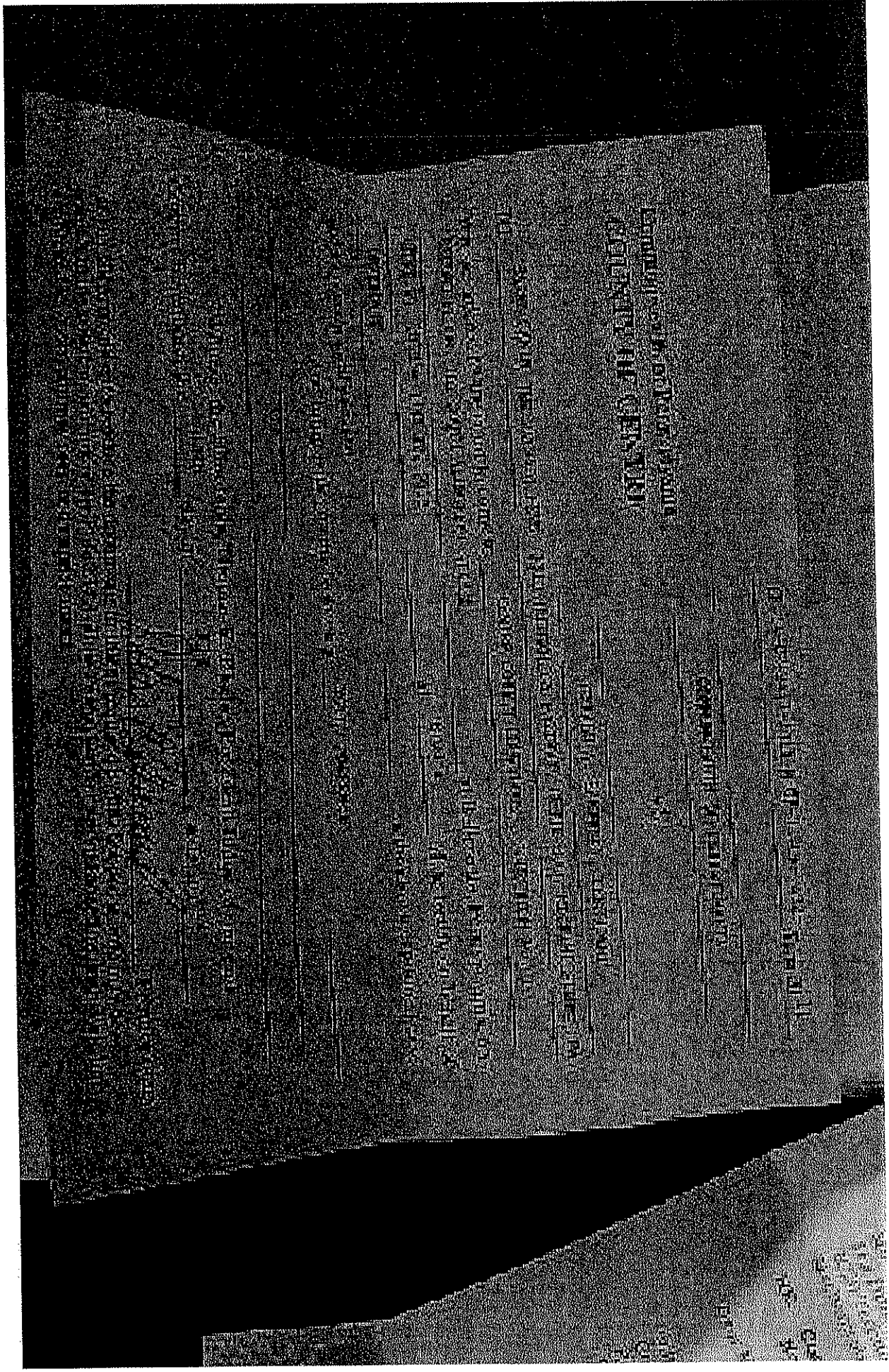
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EXHIBIT

A

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CERTIFICATE OF SERVICE

AND NOW, on the date stated below, I, **Craig J. Staudenmaier, Esquire**, of the firm of Nauman, Smith, Shissler & Hall, LLP, hereby certify that I this day served the Motion of Sara Ganim, a Subpoenaed Non-party Witness and The Patriot News, for a Protective Order and Proposed Order upon the following, by telefacsimile, confirmed by U.S. Mail, first class delivery:

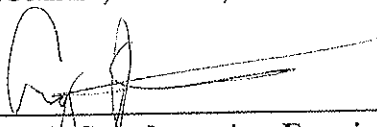
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NAUMAN, SMITH, SHISSLER & HALL, LLP



Craig J. Staudenmaier, Esquire
Supreme Court I.D. No. 34996

Date: June 19, 2012