

IN THE COURT OF COMMON PLEAS
FOR LICKING COUNTY

VICKY M. CHIRSTIANSEN,)	CASE NO. 2008 CV 02007
)	
Plaintiff,)	
)	JUDGE RICHARD M. MARKUS
vs.)	(Serving By Assignment)
)	
DOUGLAS C. PRICER and)	OPINION AND ORDER
WCLT RADIO INC)	DENYING PLAINTIFF'S
)	MOTION FOR TEMPORARY
Defendants)	RESTRAINING ORDER

On Monday, October 20, 2008, the plaintiff filed this action for a preliminary injunction, a permanent injunction, and damages; together with a request for a temporary restraining order. On Wednesday, October 22, 2008, the defendants received service of process. Near the end of the day on Friday, October 24, 2008, the Chief Justice responded to a request from Presiding Judge Thomas M. Marcelain by assigning the undersigned visiting judge to conduct all further proceedings for this matter.

On Tuesday, October 28, 2008, this judge conducted a hearing in court on the plaintiff's motion for a temporary restraining order. The plaintiff participated in that hearing on her own behalf. Attorney W. Prentice Snow participated on behalf of the defendants. In substance, the plaintiff seeks to enjoin the defendants from publishing allegedly defamatory comments about her in connection with their endorsement of an opposing candidate for the Licking County Domestic Relations Court. The election will occur on Tuesday, November 4, 2008.

In considering a motion for a temporary restraining order, the court should weigh (a) the likelihood the plaintiff will obtain injunctive relief; (b) the harm she will suffer without that order, (c) any harm the order will cause the defendants; (d) any effect it will have on third parties, and (e) any interest the public may have in the remedy. *Penzone, Inc. v. Koster*, 2008-Ohio-327; *Coleman v. Wilkinson*, 147 Ohio App.3d 357, 2002-Ohio-2

Where the motion seeks prior restraint on free speech or expression, the movant has a very heavy burden to show that the order is necessary to avert very great public harm. *New York Times v. United States* (1971), 403 U.S. 713 (“Pentagon Papers” case). See also chambers decision by Justice Blackmun in *CBS Inc. v. Davis* (1994), 510 U.S. 1315. That maxim has even greater importance for political commentary.

Without determining whether her claim for damages has merit, the court finds that she is not likely to obtain an injunction which restrains the defendants’ ability to express their political views. Therefore, the court denies the plaintiff’s motion for a temporary restraining order.

Judge Richard M. Markus, Retired Judge Recalled to Service pursuant to Ohio Constitution, Art. IV, §6(C) and R.C. 141.16 and assigned to the Licking County Common Pleas Court for this matter

THE CLERK SHALL MAIL TIME STAMPED COPIES OF THIS ORDER
TO THE PLAINTIFF, COUNSEL FOR THE DEFENDANTS,
AND THE ASSIGNED VISITING JUDGE