


**FILED**

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CLERK

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

JUDGE - Lawrence L. Piersol  
CASE NO. - CIV04-4177

REPORTER - Jerry May  
Date - 11/1/04  
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CASE

THOMAS A. DASCHLE

Plaintiff,

vs.

JOHN THUNE,  
SOUTH DAKOTA REPUBLICAN PARTY,  
JOHN DOES 1-200,

Defendant.

COUNSEL

Mike Schaffer, Jim Leach

Brent Wilbur, Matt McCauley,  
Vance Goldammer, Jeremiah  
Murphy, Dick Gregerson,  
James Moore

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COURTROOM DEPUTY: Deb Peterson  
TIME HEARING SCHEDULED TO BEGIN: 8:00 pm

TIME:  
8:05 pm

Enter hearing on motion for temporary restraining order. Counsel state their appearances for the record. Record should reflect Brent Wilbur and Jim Leach are both appearing by telephone.

Attorney Leach begins by asking for witness sequestration for both sides. David Jordan and Harold Wagner are potential witnesses Plaintiff witnesses. Edward "Ted" Lippert and Joel C. Mandelman are potential Defendant witnesses. Court asks Defendants if they want mutual sequestration. Attorney Gregerson responds and notes Brent Wilbur has witnesses Edward "Ted" Lippert and Joel C. Mandelman on the phone and state they are apparently parties to the action, as John Does. Attorney Leach responds. Court thinks it has not been shown that Mr. Lippert and Mr. Mandelman are any of the John Does, and they are going to be sequestered, as are Plaintiff's witnesses.

David Allen Jordan is called and sworn as a witness on behalf of

Plaintiff. Attorney Leach begins direct examination. Attorney Gregerson begins cross-examination. Mr. Wilbur begins cross-examination. Attorney McCaulley desires to cross-examine on the issue of the photographs only. Attorney Leach objects. Attorney Wilbur responds. Attorney Leach withdraws objection. Attorney McCaulley begins cross-examination on photographs only.

Attorney Gregerson renews his objection to sequestration and requests that Mr. Mandelman be allowed to listen in on the next witness. Court agrees under 15C with Attorney Gregerson's assessment as to Mr. Mandelman being one of the John Does. Court states Mr. Mandelman is entitled to listen in on the testimony from this point on.

9:15 p.m. Court in recess for 15 minutes.

9:30 a.m. Hearing resumes. Mr. Mandelman is now on the line.

Plaintiff rests.

Attorney Gregerson moves to dismiss the Complaint because there is insufficient evidence to support the relief requested for in the Complaint. Attorney Leach responds and urges Court to deny Motion to Dismiss. Court responds. Motion is denied.

**Joel C. Mandelman** is called and sworn as a witness on behalf of Defendant SD Republican Party. Attorney Gregerson begins direct examination. Attorney Leach begins cross-examination. Attorney Wilbur begins cross-examination.

10:30 p.m. Court in recess for 5 minutes.

10:50 p.m. Hearing resumes.

SD Republican Party rests.

John Thune has no witnesses.

Court makes comments about live reporting from Courtroom.

Attorney Leach makes initial final argument on behalf of Plaintiff.

Attorney Moore makes final argument on behalf of SD Republican Party.

Attorney Wilbur makes final argument on behalf of John Thune.

Attorney Leach makes rebuttal argument.

11:30 p.m. Court in recess for 15 minutes.

1:45 a.m. Hearing resumes.

Court enters Temporary Restraining Order granting motion for temporary restraining order.

1:50 a.m. Court in recess.