

When a public figure doesn't want publicity

Sometimes you, as a reporter, hear rumors that fascinate you and your job is to search for the truth behind them. Sometimes that happens to the hotline attorney, too.

For the last year, media lawyers in the state have struggled with the new Supreme Court rules on redacting pleadings. Originally it seemed this was caused by a change in court rules, but fairly quickly we discovered that those rules were simply tracking statutory changes made by our Missouri legislature.

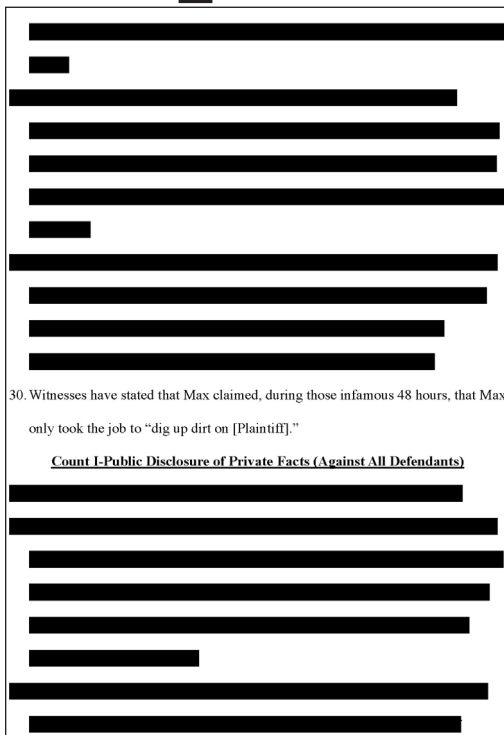
So, who was the source of the language that was added to a statute on court rules closing dates of birth in case information and names of victims and witnesses, and other information?

There were discussions internally with Missouri Press' legislative consultants. Then, the MPA Hotline Attorney began getting anonymous calls and tips about a case that should be looked at. None of this initially made sense and, frankly, originally some of this was ignored because some lawyers are not used to getting anonymous phone messages. (It's been a while since I was a reporter!).

Long story short, eventually the lawyer and the caller talked. The caller needed referral to a media lawyer who could defend the caller in a fight to open court records. Due to various reasons, the caller was referred to another firm. And fairly quickly, a lot of questions were answered.

The case was a lawsuit filed by Justin Hicks against Max Calfo. Hicks is a current state representative, serving in the St. Louis area, who has chosen to leave his current office to run for a position as Congressman for his area.

Calfo is a person who had already filed against Hicks for his legislative seat. As part of that campaign, Calfo put up a website detailing the reasons



An example of a redacted court document from a court case filed by Justin Hicks against Max Calfo in St. Charles Circuit Court. Find more examples online at www.mopress.com or click this image in the digital edition of the magazine. (Submitted)

he believed Hicks should not be re-elected (or elected to any other position).

Among the materials on this website are details about a request for an order of protection filed against Hicks by a former girlfriend who alleged she suffered physical abuse inflicted by Hicks. The case was heard in 2010 and the Order of Protection entered against Hicks. That file was open to the public and visible for more than 10 years.

Then in 2021, Hicks, now a licensed attorney, requested a court seal the file. Nothing happened for two years until Hicks proffered the language now part of state law in Section 595.226, which closes, among other data, the dates of birth of court of parties in pleadings and the names of victims and witnesses.

Since that bill passed, reporters

across the state have struggled to get access to information they need to do their jobs accurately. Missouri Press Association joined media organizations and the Missouri Press-Bar Commission in urging the Missouri Supreme Court to look again at this policy change, not realizing at first that this required legislative change.

Now the industry is watching our legislature in this session, hoping that one of the bills now being considered might pass, resulting in changes to this policy that makes reporters' jobs so difficult.

In about two more weeks, we should know "the rest of this story."

Meanwhile, Calfo has fought in court to seek to re-open the specific court record that Hicks' bill targeted. Michael Nepple and others at Thompson Colburn, St. Louis, filed a brief pointing out to the court that Hicks, as an elected politician, is a public figure.

Such folks cannot complain when they are given publicity because that is what they seek in their effort to be elected to office. "Plaintiff has no right to deprive the public of that information. And Plaintiff has no right to prevent others, including Defendants, from bringing that information to light for the public's benefit," Calfo's attorneys argued.

The court hearing the case agreed, and now that information is open. Here's hoping that this is just the start of openness returning to court records and the elimination of these huge pages of darkness in connection with Missouri's court system.

