

August 4, 2017

Law Offices

1500 K Street N. W.
Suite 1100
Washington, D.C.
20005-1209

(202) 842-8800
(202) 842-8465 fax
www.drinkerbiddle.com

CALIFORNIA
DELAWARE
ILLINOIS
NEW JERSEY
NEW YORK
PENNSYLVANIA
WASHINGTON D.C.
WISCONSIN

By ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

RE: Ex Parte Submission
WC Docket No. 17-126
ITC-T/C-20170511-00094, ITC-T/C-20170511-00095

Dear Ms. Dortch:

The Wright Petitioners, by and through their counsel, and pursuant to Section 1.1206(b) of the Commission's rules, hereby submit this Ex Parte Presentation regarding the above-referenced transfer of control applications (the "Transaction").

On July 31, 2017, Securus and Platinum Equity submitted an Ex Parte notice regarding meetings with Commission staff members on July 27, 2017.¹ The Wright Petitioners have previously addressed the incorrect and misleading information provided to Commission staff members regarding the status of Securus' state PUC approvals for the Transaction.²

At least one additional incorrect and misleading statement was included in the July 31, 2017 Ex Parte presentation that needs to be addressed. In particular, Securus and Platinum Equity stated:

Applicants further explained that as a result of consents obtained, warrants used, and access limited, contrary to Petitioner's assertions, there are no consumer privacy concerns or issues with Securus' proprietary THREADS and Location Based Service products; *nor are they aware of any violations of Section 222 of the Communications Act as Petitioner asserts.*³

¹ See Ex Parte Presentation, July 31, 2017 (<https://www.fcc.gov/ecfs/filing/10731024012148>) ("*Securus Ex Parte*").

² See Ex Parte Presentation, July 31, 2017 (<https://www.fcc.gov/ecfs/filing/107312104209329>). See also Ex Parte Presentation, August 3, 2017 (<https://www.fcc.gov/ecfs/filing/1080366266219>)

³ See *Securus Ex Parte*, pg. 3 (emphasis added).

A reasonable interpretation of this statement would be that:

- as of July 27, 2017, when Securus met with the Commission staff and prepared its post-meeting ex parte notice,
- Securus was not aware of any violations of the protocols established (consents, warrants, limited access),
- with respect to the tracking of individuals without their prior consent.⁴

Subsequent to the submission of the Wright Petitioners' ex parte presentation raising concerns about the THREADS and Location Based Service, undersigned counsel discovered that, just one month prior to Securus meeting with the Commission's staff, one of its employees provided testimony in a Mississippi County, Missouri, criminal case involving Securus' Location Based Service.

Specifically, Mr. Lance McCaskey, the Director of Production Integration Database Management at Securus Technologies, Inc., was ordered to appear in a criminal case involving the former Mississippi County, Missouri Sheriff, Cory Hutcheson. A copy of the subpoena and the docket history is provided in Exhibit A. The case involved the use of Securus' Location Based Service to "ping" the cell phones of five other county employees. A civil suit was also filed, and the related court documents are provided as Exhibit B.

While Securus will likely argue that former Sheriff Hutcheson was a rogue operator who had to forge documents to use the technology, the point in raising this issue with the Commission is that Securus must have known that one of its employees, based in Dallas, Texas, was called to testify *just one month earlier* – in a criminal trial in Missouri – to provide evidence on how the Location Based Service worked.

As such, the statement provided in the *Securus Ex Parte* that Securus was not "aware of any violations of Section 222 of the Communications Act" was patently false. One of its employees was called to testify – just one month prior to the July 27, 2017 meeting – in a criminal case to explain how Securus' Location Based Service was used to track the call location information of five individuals, individuals who had not provided their "express prior authorization."

⁴ See 47 C.F.R. § 222(f)(1) (2017) (requiring the "express prior authorization of the customer" before "call location information concerning the user of a commercial mobile service...or the user of an IP-enable voice service" is disclosed to a third-party.).

As noted in our August 3, 2017 Ex Parte presentation, the Commission relies on parties appearing before it to act with full candor. To refresh, the court explained in *Leflore Broadcasting Company, Inc.*, that this requirement is essential:

Ever since the Supreme Court's decision in *Federal Communications Commission v. WOKO, Inc.*, it has been clear that the Commission may refuse to renew a license where there has been willful and knowing misrepresentation or lack of candor in dealing with the Commission. Because effective regulation is premised upon the agency's ability to depend upon the representations made to it by its licensees, "[t]he fact of concealment [is] more significant than the facts concealed."⁵

The Wright Petitioners have now demonstrated that the *Securus Ex Parte* contained inaccurate and misleading statements that were presented to the Commission's staff on July 27th, including:

- Securus had not received "all necessary State/PSC/PUC approvals, and
- Securus was aware of a violation of Section 222, which required it to send a staff member to appear in criminal court in Missouri to explain how Securus' Location Based Service worked.

Previously, the Wright Petitioners demonstrated that Securus inaccurately described its audio and video calling rates,⁶ its finances, and its role in seeking relief from state regulatory agencies.⁷

In sum, Securus and Platinum Equity have repeatedly provided false, inaccurate and/or misleading information in order to secure quick approval of the Transaction. The only justifications provided for approval is that Platinum Equity apparently has deeper pockets than ABRY Partners, and that the current management of Securus will remain in place post-Transaction.

⁵ See *Leflore Broadcasting Co. Inc. v. FCC*, 636 F.2d 454, 461 (D.C. Cir. 1980), citing *FCC v. WOKO, Inc.*, 329 U.S. 223 (1946).

⁶ See Ex Parte Presentation, filed July 29, 2017 (<https://www.fcc.gov/ecfs/filing/10730231310201>). See also Reply, filed July 3, 2017 (<https://www.fcc.gov/ecfs/filing/1070304541545>).

⁷ See Ex Parte Presentation, filed July 14, 2017 (<https://www.fcc.gov/ecfs/filing/1071454262147>).

The Wright Petitioners respectfully submit that these justifications are woefully inadequate in light of the clear evidence of statutory and rule violations, and lack of candor exhibited in this proceeding. Instead, the Commission must not be pressured into granting this application without a full examination of the “complex factual issues” presented in the instant case.⁸

Should there be any questions regarding this submission, please contact undersigned counsel.

Respectfully submitted,



Lee G. Petro

Counsel for the Wright Petitioners

cc (by/email):

Chairman Ajit Pai

Commissioner Mignon Clyburn

Commissioner Michael O’Rielly

Brendan Carr, General Counsel

Kris Monteith, Chief, Wireline Competition Bureau

Tom Sullivan, Chief, International Bureau

Rosemary Harold, Chief, Enforcement Bureau

Nicholas Degani, Office of Chairman Pai

Jay Schwarz, Office of Chairman Pai

Jim Bird, Office of General Counsel

Madeline Findley, Wireline Competition Bureau

Daniel Kahn, Wireline Competition Bureau

Jodie May, Wireline Competition Bureau

Sherwin Siy, Wireline Competition Bureau

Tracey Wilson, Wireline Competition Bureau

David Krech, International Bureau

Richard Hindman, Enforcement Bureau

Sumita Mukhoty, International Bureau

Paul C. Besozzi, Counsel for Transferor and Licensees

William B. Wilhelm, Jr., Counsel for the Transferee

⁸ See *Radioactive, LLC*, FCC 17-106, MB Dkt. 17-198 (rel. Aug. 3, 2017)(citing Statement of Commissioner Michael P. O’Rielly).

EXHIBITA



IN THE 33rd JUDICIAL CIRCUIT COURT, MISSISSIPPI COUNTY, CHARLESTON, MISSOURI

Judge or Division: Gary Kamp	Case Number: 17MI-CR00274	
Plaintiff/Petitioner: State of Missouri	Person Subpoenaed: Lance McCaskey	Plaintiff's/Petitioner's Attorney: Gregory M. Goodwin
	Address: Securus Technologies, Inc. 4000 International Parkway Carrollton, TX 75007	Address: PO BOX 899 JEFFERSON CITY, MO 65102 Telephone: 573-751-7017
vs.		
Defendant/Respondent: Cory Hutcheson	Requesting Party: <input checked="" type="checkbox"/> Plt./Pet. Atty <input type="checkbox"/> Plt./Pet. <input type="checkbox"/> Def/Resp. Atty <input type="checkbox"/> Def./Resp.	Defendant's/Respondent's Attorney: Scott N. Rosenblum
	Address: (Of Party Checked Above) Office of MO Attorney General PO Box 899 Jefferson City, MO 65102 Telephone: 573-751-7017	Address: STE 130 120 S CENTRAL AVE CLAYTON, MO 63105 Telephone: 314-862-4332
For depositions attach a list of all attorneys of record and self-represented parties. Include the name, address and telephone number.		

(Date File Stamp)

**Subpoena
Order to Appear/Produce Documents/Give Depositions**

The State of Missouri to: Lance McCaskey (person subpoenaed)

You are commanded:

to contact Susan Clevenger, Investigator (name) at 573-751-0338 (telephone) who will advise of time and place appearance is required.

to appear at Mississippi County Courthouse, 200 N. Main Street, Charleston, MO 63834 (Division 1.) on June 20, 2017 (date), at 9:00 AM (time).

to testify on behalf of: State of Missouri

to give depositions.

to bring the following _____

(Seal)

(Attach additional sheet if necessary)

May 31, 2017

Date Issued

Dorci McKemie
Clerk



Return/Affidavit

I certify that I served this subpoena in _____ (County/City of St. Louis),

Missouri, by:

- delivering a copy to the person subpoenaed _____ (date).
- reading a copy to the person subpoenaed on _____ (date).
- I tendered legal fees for travel expenses per section 491.130, RSMo, in the amount of \$ _____.
- Other: _____.

Sheriff's Fees (if applicable)

Summons	\$
Non Est	\$
Sheriff's Deputy Salary Supplemental	
Surcharge (Civil Cases Only-\$10.00)	\$ _____ (_____ miles @ \$ _____ per mile)
Mileage	\$ _____
Total	\$ _____

Person Serving Subpoena

Instructions

1. This subpoena will remain in effect until this trial is concluded or you are discharged by the Court. You must attend trial from time to time as directed. **No additional Subpoena is required for your future appearance at any trial of this case.** If you fail to appear, you may be held in contempt of court.
2. If you have any questions regarding this subpoena, contact the person who requested it listed on the front.
3. **Bring this form with you to court.** This form must be completed, signed, and returned to the clerk as soon as you have testified or been dismissed.

Witness Claim

I have served _____ day(s) as a witness and I traveled _____ mile(s) round-trip from my home to the courthouse to attend this proceeding.

Signature

Current Address

City, State, Zip

Subscribed and sworn to before me on _____ (date).

Total Claimed \$ _____

Clerk

**17MI-CR00274 - ST V CORY A HUTCHESON (E-CASE)**

- Case Header**
- Parties & Attorneys**
- Docket Entries**
- Charges, Judgments & Sentences**
- Service Information**
- Filings Due**
- Scheduled Hearings & Trials**
- Civil Judgments**
- Garnishments/ Execution**

This information is provided as a service and is not considered an official court record.

Sort Date Entries: Descending AscendingDisplay Options:

- 07/05/2017** **Bndover to Circ with Prel Hrng**
 Now on the 28th day of June, 2017, The Court finds that there is sufficient probable cause to bind the defendant over for felony arraignment for all felony counts. The defendant is ordered to appear in person on 11th day of July, 2017 at 9:00 a.m. at Charleston, Missouri for felony arraignment before the Circuit Court of Mississippi County, Missouri. (Order as per written Order) (Copy emailed to Attorneys)
Filed By: GARY ALBERT KAMP
- 06/27/2017** **Cause Taken Under Advisement**
Preliminary Hearing Held
 Now on the 27th day of June, 2017, the defendant appeared in person and with his attorney, N. Scott Rosenblum. The State appears by Assistant Attorney General, Gregory Goodwin.
Scheduled For: 06/27/2017; 11:00 AM ; GARY ALBERT KAMP; Mississippi
- 06/23/2017** **Order**
 Order as per written Order. (Copy e-mailed to attorneys)
Filed By: GARY ALBERT KAMP
- 06/22/2017** **Criminal Motion Hearing Held**
 State appears by Assistant Attorney General, Gregory Goodwin. Defendant appears in person and with his attorney, N. Scott Rosenblum. Under advisement.
Scheduled For: 06/22/2017; 1:30 PM ; GARY ALBERT KAMP; Mississippi
- 06/21/2017** **Motion Denied**
 By Order of the Court, this is not a case required to be on the record. If Attorney General wishes to record the matter, they should make necessary arrangements to set up a recording session.
Filed By: GARY ALBERT KAMP
Request Filed
 Formal Request for Audio Recording; Electronic Filing Certificate of Service. (Forwarded to Judge for his ruling)
Filed By: GREGORY MICHAEL GOODWIN
- 06/01/2017** **Subpoena Issued**
Note to Clerk eFiling
Filed By: GREGORY MICHAEL GOODWIN
Subpoena Requested
 Daniel Zwiesler; Electronic Filing Certificate of Service.
Filed By: GREGORY MICHAEL GOODWIN
Entry of Appearance Filed
 Entry of Appearance; Electronic Filing Certificate of Service.
Filed By: DARRELL LEE MOORE
Preliminary Hearing Scheduled
Associated Entries: 06/27/2017 - Preliminary Hearing Held
Scheduled For: 06/27/2017; 11:00 AM ; GARY ALBERT KAMP; Mississippi
Hearing Continued/Rescheduled

By Order of the Court, preliminary hearing moved to Tuesday, June 27, 2017 at 11:00 a.m..

Hearing Continued From: 06/20/2017; 9:00 AM Preliminary Hearing

Available/Conflict Dates Filed

Available Dates For Preliminary Hearing; Electronic Filing Certificate of Service. (Forwarded to Judge)

Filed By: N SCOTT ROSENBLUM

On Behalf Of: CORY A HUTCHESON

05/31/2017

Subpoena Issued

Note to Clerk eFiling

Filed By: GREGORY MICHAEL GOODWIN

Subpoena Requested

Lance McCaskey Prelim; Electronic Filing Certificate of Service.

Filed By: GREGORY MICHAEL GOODWIN

Subpoena Issued

Issued Subpoena on A Perry with certificates.

Subpoena Issued

Issued Subpoena on G Shipley with certificates.

Note to Clerk eFiling

Filed By: GREGORY MICHAEL GOODWIN

Subpoena Requested

Gary Shipley Prelim; Electronic Filing Certificate of Service.

Filed By: GREGORY MICHAEL GOODWIN

Note to Clerk eFiling

Filed By: GREGORY MICHAEL GOODWIN

Subpoena Requested

Angela Perry Prelim; Electronic Filing Certificate of Service.

Filed By: GREGORY MICHAEL GOODWIN

05/26/2017

Correspondence Sent

05/25/2017

Subpoena Requested

Out of State Subpoena Request Gary Shipley; Electronic Filing Certificate of Service. (Forwarded to Judge for his review and consideration)

Filed By: SCOTT TRUMAN SERGENT

Subpoena Requested

Out of State Subpoena Request Angela Perry; Electronic Filing Certificate of Service. (Forwarded to Judge for his review and consideration)

Filed By: SCOTT TRUMAN SERGENT

05/18/2017

Notice

NOTICE OF ENTRY

Criminal Motion Hearing Sched

Case set for June 22, 2017 at 1:30 p.m. to take up Motion to Revoke Bond. Notice sent.

Associated Entries: 06/22/2017 - **Criminal Motion Hearing Held** 📌

Scheduled For: 06/22/2017; 1:30 PM ; GARY ALBERT KAMP; Mississippi

05/17/2017

Judge/Clerk - Note

05/16/2017

Judge/Clerk - Note

Motion to Revoke Bond



Motion to Revoke Bond Or, In The Alternative, Motion to Modify Bond; Petition; Electronic Filing Certificate of Service.

Filed By: GREGORY MICHAEL GOODWIN

Motion for Continuance

Defendants Request to Reschedule Preliminary Hearing; Electronic Filing Certificate of Service. (sent to Judge for review)

Filed By: N SCOTT ROSENBLUM
On Behalf Of: CORY A HUTCHESON

- 05/05/2017** **Notice to Take Deposition**
Notice of Deposition; Electronic Filing Certificate of Service.
Filed By: SCOTT TRUMAN SERGENT
- 04/24/2017** **Subpoena Issued**
Note to Clerk eFiling
Filed By: SCOTT TRUMAN SERGENT
Subpoena Requested
Signature Seal Securus; Electronic Filing Certificate of Service.
Filed By: SCOTT TRUMAN SERGENT
- 04/20/2017** **Preliminary Hearing Scheduled**
Associated Entries: 06/01/2017 - **Hearing Continued/Rescheduled** 
Scheduled For: 06/20/2017; 9:00 AM ; GARY ALBERT KAMP; Mississippi
Plea of Not Guilty Entered
Waiver of Formal Arraignment
State appears by Assistant Attorney General, Scott Sergent. Defendant appears in person and with his attorney, N. Scott Rosenblum.
Associated Entries: 04/10/2017 - **Arraignment Scheduled**
Scheduled For: 04/20/2017; 1:30 PM ; GARY ALBERT KAMP; Mississippi
- 04/11/2017** **Motion for Discovery**
Filed By: N SCOTT ROSENBLUM
On Behalf Of: CORY A HUTCHESON
Entry of Appearance Filed
Entry of Appearance; Electronic Filing Certificate of Service.
Filed By: N SCOTT ROSENBLUM
- 04/10/2017** **Arraignment Scheduled**
Associated Entries: 04/20/2017 - **Waiver of Formal Arraignment** 
Scheduled For: 04/20/2017; 1:30 PM ; GARY ALBERT KAMP; Mississippi
Bond-Cash Bond Posted Full Amt
\$25,000.00 cashier's check received.
- 04/06/2017** **Judge/Clerk - Note**
Clerk has contacted Judge Kamp for new court date.
- 04/05/2017** **Judge Assigned**
In the Supreme Court of Missouri En Banc, the Honorable Gary A Kamp assigned to this case.
Judge/Clerk - Note
Judicial Transfer Request forwarded to Supreme Court for reassignment.
Ord Transfer P/Judge for Assn
Judge Recuses
S. Rob Barker recuses from case; matter sent to Hon. David A. Dolan for reassignment.
Judge Assigned
S. Rob Barker
Judge/Clerk - Note
Cape County Sheriff's Office requests court date for bond. Date provided 04/24/17 @ 9:00 AM; matter will be rescheduled upon reassignment of case by the Supreme Court.
Warrant Served
Document ID - 17-MIARW-214; Served To - HUTCHESON, CORY A; Server - TERRY PARKER, MISSISSIPPI COUNTY CORONER; Served Date - 05-APR-17; Served Time - 00:00:00; Service Type - Other; Reason Description - Served; Service Text - SERVED IN NEW MADRID COUNTY

Warrant Issued

Document ID: 17-MIARW-214, for HUTCHESON, CORY A. , Bond Amount: Requested 50,000.00, Bond set at \$25,000.00; Bond Text: CASH ONLY; The Defendant may not leave the State of Missouri

Bond Set**Complaint Filed**

Filed By: GREGORY MICHAEL GOODWIN

Confid Filing Info Sheet Filed

Filed By: GREGORY MICHAEL GOODWIN

Judge Assigned

By agreement of Hon. Judge Kamp for purpose of issuance of warrant only at this time.

04/04/2017**Order**

Administrative Order transferring Christy M Hency to Mississippi County for the period of April 5, 2017.

[Click here to receive MOVANS phone/e-mail notices of future hearings on this case](#)

**17MI-CR00274 - ST V CORY A HUTCHESON (E-CASE)**

- [Case Header](#)
- [Parties & Attorneys](#)
- [Docket Entries](#)
- [Charges, Judgments & Sentences](#)
- [Service Information](#)
- [Filings Due](#)
- [Scheduled Hearings & Trials](#)
- [Civil Judgments](#)
- [Garnishments/ Execution](#)

This information is provided as a service and is not considered an official court record.

Charge/Judgment

This charge is no longer pending. Please refer to case 17MI-CR00274-01 for pending charge.

Next Charge/Judgment

This charge is no longer pending. Please refer to case 17MI-CR00274-01 for pending charge.

Next Charge/Judgment

This charge is no longer pending. Please refer to case 17MI-CR00274-01 for pending charge.

Next Charge/Judgment

This charge is no longer pending. Please refer to case 17MI-CR00274-01 for pending charge.

Next Charge/Judgment

This charge is no longer pending. Please refer to case 17MI-CR00274-01 for pending charge.

Next Charge/Judgment

This charge is no longer pending. Please refer to case 17MI-CR00274-01 for pending charge.

Next Charge/Judgment

This charge is no longer pending. Please refer to case 17MI-CR00274-01 for pending charge.

Next Charge/Judgment

This charge is no longer pending. Please refer to case 17MI-CR00274-01 for pending charge.

Next Charge/Judgment

This charge is no longer pending. Please refer to case 17MI-CR00274-01 for pending charge.

Next Charge/Judgment

This charge is no longer pending. Please refer to case 17MI-CR00274-01 for pending charge.

Next Charge/Judgment

This charge is no longer pending. Please refer to case 17MI-CR00274-01 for pending charge.

Next Charge/Judgment

This charge is no longer pending. Please refer to case 17MI-CR00274-01 for pending charge.

Next Charge/Judgment

This charge is no longer pending. Please refer to case 17MI-CR00274-01 for pending charge.

Next Charge/Judgment

This charge is no longer pending. Please refer to case 17MI-CR00274-01 for pending charge.

Next Charge/Judgment

This charge is no longer pending. Please refer to case 17MI-CR00274-01 for pending charge.

[Click here to receive MOVANS phone/e-mail notices of future hearings on this case](#)



Your Missouri Courts

Search for Cases by:
[Judicial Links](#) | [eFiling](#) | [Help](#) | [Contact Us](#) | [Print](#)
[Logon](#)
17MI-CR00274-01 - ST V CORY A HUTCHESON

Case Header	Parties & Attorneys	Docket Entries	Charges, Judgments & Sentences	Service Information	Filings Due	Scheduled Hearings & Trials	Civil Judgments	Garnishments/ Execution
--------------------	--------------------------------	-----------------------	---	----------------------------	--------------------	--	------------------------	--------------------------------

This information is provided as a service and is not considered an official court record.

Charge/Judgment

Description: Forgery { *Felony C RSMo: 570.090* }**Date:** 07/22/2014**Code:** 1801000**OCN:** EW006104**Arresting Agency:** MO HP DIV
DRUG/CRIME
CONTROL

Next Charge/Judgment

Description: Tampering With Computer Data - Value Less Than \$500 { *Misdemeanor A RSMo: 569.095* }**Date:** 07/22/2014**Code:** 2305500**OCN:** EW006104**Arresting Agency:** MO HP DIV
DRUG/CRIME
CONTROL

Next Charge/Judgment

Description: Forgery { *Felony C RSMo: 570.090* }**Date:** 10/30/2014**Code:** 1801000**OCN:** EW006104**Arresting Agency:** MO HP DIV
DRUG/CRIME
CONTROL

Next Charge/Judgment

Description: Tampering With Computer Data - Value Less Than \$500 { *Misdemeanor A RSMo: 569.095* }**Date:** 10/30/2014**Code:** 2305500**OCN:** EW006104**Arresting Agency:** MO HP DIV
DRUG/CRIME
CONTROL

Next Charge/Judgment

Description: Forgery { *Felony C RSMo: 570.090* }**Date:** 10/12/2014**Code:** 1801000**OCN:** EW006104**Arresting Agency:** MO HP DIV
DRUG/CRIME
CONTROL

Next Charge/Judgment

Description: Tampering With Computer Data - Value Less Than \$500 { *Misdemeanor A RSMo: 569.095* }**Date:** 10/12/2014**Code:** 2305500**OCN:** EW006104**Arresting Agency:** MO HP DIV
DRUG/CRIME
CONTROL

Next Charge/Judgment

Description: Forgery { *Felony C RSMo: 570.090* }**Date:** 10/12/2014**Code:** 1801000**OCN:** EW006104**Arresting Agency:** MO HP DIV
DRUG/CRIME
CONTROL

Next Charge/Judgment

Description: Tampering With Computer Data - Value Less Than \$500 { *Misdemeanor A RSMo: 569.095* }**Date:** 10/12/2014**Code:** 2305500**OCN:** EW006104**Arresting Agency:**

MO HP DIV
DRUG/CRIME
CONTROL

Next Charge/Judgment**Description:** Forgery { *Felony C RSMo: 570.090* }**Date:** 10/12/2014**Code:** 1801000**OCN:** EW006104**Arresting Agency:** MO HP DIV
DRUG/CRIME
CONTROL**Next Charge/Judgment****Description:** Tampering With Computer Data - Value Less Than \$500 { *Misdemeanor A RSMo: 569.095* }**Date:** 10/12/2014**Code:** 2305500**OCN:** EW006104**Arresting Agency:** MO HP DIV
DRUG/CRIME
CONTROL**Next Charge/Judgment****Description:** Forgery { *Felony C RSMo: 570.090* }**Date:** 08/04/2014**Code:** 1801000**OCN:** EW006104**Arresting Agency:** MO HP DIV
DRUG/CRIME
CONTROL**Next Charge/Judgment****Description:** Tampering With Computer Data - Value Less Than \$500 { *Misdemeanor A RSMo: 569.095* }**Date:** 08/04/2014**Code:** 2305500**OCN:** EW006104**Arresting Agency:** MO HP DIV
DRUG/CRIME
CONTROL**Next Charge/Judgment****Description:** Forgery { *Felony C RSMo: 570.090* }**Date:** 10/23/2014**Code:** 1801000**OCN:** EW006104**Arresting Agency:** MO HP DIV
DRUG/CRIME
CONTROL**Next Charge/Judgment****Description:** Tampering With Computer Data - Value Less Than \$500 { *Misdemeanor A RSMo: 569.095* }**Date:** 10/23/2014**Code:** 2305500**OCN:** EW006104**Arresting Agency:** MO HP DIV
DRUG/CRIME
CONTROL**Next Charge/Judgment****Description:** Misconduct By Notary { *Misdemeanor Unclassified RSMo: 486.370* }**Date:** 10/23/2014**Code:** 2948000**OCN:** EW006104**Arresting Agency:** MO HP DIV
DRUG/CRIME
CONTROL

[Click here to receive MOVANS phone/e-mail notices of future hearings on this case](#)



Your Missouri Courts



Search for Cases by:

Judicial Links | eFiling | Help | Contact Us | Print

Logon

17MI-CR00274-01 - ST V CORY A HUTCHESON

- Case Header
- Parties & Attorneys
- Docket Entries
- Charges, Judgments & Sentences
- Service Information
- Filings Due
- Scheduled Hearings & Trials
- Civil Judgments
- Garnishments/ Execution

This information is provided as a service and is not considered an official court record.

Sort Date Entries: Descending Ascending

Display Options:

- 07/18/2017** **Judge Assigned**
By Order of the Supreme Court, Hon. Mark T. Stoll is assigned to hear said case.
- 07/10/2017** **Information Filed**
Felony Information; Electronic Filing Certificate of Service.
Filed By: GREGORY MICHAEL GOODWIN
- 07/06/2017** **Hearing Continued/Rescheduled**
Hearing Continued From: 07/11/2017; 9:00 AM Arraignment
- 07/05/2017** **Order for Change of Judge**
Sent to Supreme Court for new Judge.
Filed By: DAVID ANDREW DOLAN

Judge Recuses
Filed By: DAVID ANDREW DOLAN

Arraignment Scheduled
Associated Entries: 07/06/2017 - Hearing Continued/Rescheduled
Scheduled For: 07/11/2017; 9:00 AM ; DAVID ANDREW DOLAN; Mississippi

Probable Cause Statement Filed

Judge Assigned

[Click here to receive MOVANS phone/e-mail notices of future hearings on this case](#)

EXHIBIT B

Current on Bloomberg Law as of Aug. 04, 2017 09:07:22

**U.S. District Court
Eastern District of Missouri (Cape Girardeau)
CIVIL DOCKET FOR CASE #: 1:17-cv-00073-ACL**

Cooper et al v. Hutcheson

Date Filed: May 9, 2017
Nature of suit: 440 Civil Rights: Other
Demand: \$25,000
Assigned to: Magistrate Judge Abbie Crites-Leoni
Cause: 28:1343 Violation of Civil Rights
Jurisdiction: Federal Question
Jury demand: Plaintiff

Parties and Attorneys

Plaintiff	William T. Cooper	
Representation	Curtis O. Poore <i>LIMBAUGH FIRM</i> 407 N. Kingshighway Suite 400 P.O. Box 1150 Cape Girardeau, MO 63702-1150 (573) 335-3316 Fax: (573) 335-0621 curt@limbaughlaw.com LEAD ATTORNEY ATTORNEY TO BE NOTICED	John C. Steffens <i>LIMBAUGH FIRM</i> 407 N. Kingshighway Suite 400 P.O. Box 1150 Cape Girardeau, MO 63702-1150 (573) 335-3316 Fax: (573) 335-0621 jsteffens@limbaughlaw.com LEAD ATTORNEY ATTORNEY TO BE NOTICED

Plaintiff	Jay R. Holcomb	
Representation	Curtis O. Poore (See above for address) LEAD ATTORNEY ATTORNEY TO BE NOTICED	John C. Steffens (See above for address) LEAD ATTORNEY ATTORNEY TO BE NOTICED

Plaintiff	Jeffery D. Johnson	
Representation	Curtis O. Poore (See above for address) LEAD ATTORNEY ATTORNEY TO BE NOTICED	John C. Steffens (See above for address) LEAD ATTORNEY ATTORNEY TO BE NOTICED

Plaintiff	Jeremy S. Stoelting	
Representation	Curtis O. Poore	John C. Steffens

(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff **James D. Patton**

Representation **Curtis O. Poore**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

John C. Steffens
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant **Sheriff Cory Hutcheson**

Representation **A. M. Spradling , III**
SPRADLING & SPRADLING
1838 Broadway
P.O. Drawer 1119
Cape Girardeau, MO 63702-1119
(573) 335-8296
Fax: (573) 335-8525
spradlaw@swbell.net
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Docket Entries

Numbers shown are court assigned numbers.

Entry #	Filing Date	Description
1	May 9, 2017	COMPLAINT against defendant Sheriff Cory Hutcheson with receipt number 0865-5946510, in the amount of \$400 Jury Demand,, filed by Jeremy S. Stoelting, William T. Cooper, Jeffery D. Johnson, Jay R. Holcomb, James D. Patton. (Attachments: # 1 Civil Cover Sheet, # 2 Civil Summons)(Poore, Curtis) (Attachment 2 replaced on 5/9/2017) (CSG). (Additional attachment(s) added on 5/9/2017: # 3 Original Filing Form) (CSG). (Entered: 05/09/2017)
2	May 9, 2017	NOTICE Intent to Use Process Server: by Plaintiffs William T. Cooper, Jay R. Holcomb, Jeffery D. Johnson, James D. Patton, Jeremy S. Stoelting (Poore, Curtis) (Entered: 05/09/2017)
	May 9, 2017	Case Opening Notification: one Summons(es) issued. The summons was emailed to Plaintiffs' Attorney. All parties must file the Notice Regarding Magistrate Judge Jurisdiction Form consenting to or opting out of the Magistrate Judge jurisdiction. Click here for the instructions. Judge Assigned: U.S. Magistrate Judge Abbie S. Crites-Leoni. (CSG) (Entered: 05/09/2017)
3	May 9, 2017	Pursuant to Local Rule 2.08, the assigned/referred magistrate judge is designated and authorized by the court to exercise full authority in this assigned/referred action or matter under 28 U.S.C. Sec. 636 and 18 U.S.C Sec. 3401. (CSAW) (Entered: 05/09/2017)
4	May 10, 2017	ENTRY of Appearance by John C. Steffens for Plaintiffs William T. Cooper, Jay R. Holcomb, Jeffery D. Johnson, James D. Patton, Jeremy S. Stoelting. (Steffens, John) (Entered: 05/10/2017)
5	May 15, 2017	SUMMONS Returned Executed filed by Jeremy S. Stoelting, William T. Cooper, Jeffery D. Johnson, Jay R. Holcomb, James D. Patton. Defendant Sheriff Cory Hutcheson served on 5/11/17; answer due 6/1/17. (Poore, Curtis) Modified on 5/16/2017 (CSG). (Entered: 05/15/2017)
6	May 23, 2017	MOTION to Dismiss :Count II by Defendant Sheriff Cory Hutcheson. (Spradling, A.) (Entered: 05/23/2017)

		05/23/2017)
7	May 23, 2017	MEMORANDUM in Support of Motion re 6 MOTION to Dismiss :Count II filed by Defendant Sheriff Cory Hutcheson. (Spradling, A.) (Entered: 05/23/2017)
8	May 23, 2017	ANSWER to 1 Complaint, by Sheriff Cory Hutcheson.(Spradling, A.) (Entered: 05/23/2017)
9	May 30, 2017	RESPONSE to Motion re 6 MOTION to Dismiss :Count II filed by Plaintiffs William T. Cooper, Jay R. Holcomb, Jeffery D. Johnson, James D. Patton, Jeremy S. Stoelting. (Steffens, John) (Entered: 05/30/2017)
	June 20, 2017	Notice from Clerk instructing Defendant Sheriff Cory Hutcheson to submit Notice regarding Magistrate Judge Jurisdiction. Click here for the instructions. (CSG) (Entered: 06/20/2017)
10	June 20, 2017	FULL CONSENT has been received by Plaintiffs William T. Cooper, Jay R. Holcomb, Jeffery D. Johnson, James D. Patton, Jeremy S. Stoelting, Defendant Sheriff Cory Hutcheson. (CSG) (Entered: 06/20/2017)

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

WILLIAM T. COOPER, JAY R.)	
HOLCOMB, JEFFERY D. JOHNSON,)	
JEREMY S. STOELTING, and JAMES D.)	
PATTON,)	
)	
Plaintiffs,)	Case No.
)	
V.)	JURY TRIAL DEMANDED
)	
)	
SHERIFF CORY HUTCHESON,)	
Serve: 200 W. Commercial St.)	
Charleston, MO 63834)	
)	
)	
Defendant.)	

COMPLAINT

COME NOW Plaintiffs William T. Cooper, Jay R. Holcomb, Jeffery D. Johnson, Jeremy S. Stoelting, and James D. Patton (“Plaintiffs”), by counsel, and for their Complaint against Defendant Sheriff Cory Hutcheson (“Defendant”), state as follows:

1. This is a civil action seeking injunctive relief and money damages against Defendant for committing acts under color of state law which deprived Plaintiffs of their rights secured under the Constitution and laws of the United States and also the laws of the State of Missouri.

PARTIES

2. Plaintiff William T. Cooper is a resident of New Madrid County, Missouri.
3. Plaintiff Jay R. Holcomb is a resident of Stoddard County, Missouri.
4. Plaintiff Jeffery D. Johnson is a resident of Ripley County, Missouri.
5. Plaintiff Jeremy S. Stoelting is a resident of Dunklin County, Missouri.

6. Plaintiff James D. Patton is a resident of New Madrid County, Missouri.

7. Plaintiffs are members of the Missouri State Highway Patrol.

8. At all relevant times, Defendant was the duly elected Sheriff of Mississippi County, Missouri, and/or was an employee of the Mississippi County Sheriff's Department.

9. Defendant is sued in his official and individual capacity and, at all times referenced herein, was acting under the color of the laws, statutes, ordinances, policies, customs and usages of the State of Missouri or was acting in active concert with others who were so acting.

JURISDICTION

10. This action is brought pursuant to 42 U.S.C. §§ 1983 and 1988, the Fourth and Fourteenth Amendments to the United States Constitution, 28 U.S.C. §§ 2701 *et seq.*, as well as pendent state law tort claims.

11. This Court has jurisdiction over this action pursuant to 42 U.S.C. § 1983, 28 U.S.C. §§1331, 1343 and 1367.

VENUE

12. Venue is proper under 28 U.S.C. § 1391 because the Defendant is a resident of Mississippi County, Missouri and because a substantial part of the events giving rise to Plaintiffs' claims occurred in Mississippi County, Missouri.

FACTS COMMON TO ALL COUNTS

13. Securus Technologies, Inc. ("Securus") is a company that provides communications systems, call management, and other services to law enforcement agencies and correctional facilities.

14. One service that Securus provides is the ability to “ping” an individual’s cell phone.

15. To “ping” a cell phone, a law enforcement officer provides Securus with an individual’s cell phone number and other information.

16. In return, Securus provides the law enforcement officer the location of the cell phone in near real time, as well as other information personal to the cell phone user.

17. “Pinging” a cell phone may be useful in furtherance of legitimate law enforcement investigations and/or emergency situations.

18. If unchecked, however, law enforcement officers have the opportunity and ability to unlawfully spy on individuals through the “pinging” process.

19. Therefore, a law enforcement agency may not “ping” an individual’s cell phone through a company like Securus without obtaining a warrant, or by providing other verified and authorized documentation according to law.

20. On July 22, 2014 Defendant submitted false paperwork to Securus in order to “ping” the cell phone of Plaintiff Jay R. Holcomb.

21. On August 4, 2014, Defendant submitted false paperwork to Securus in order to “ping” the cell phone of former Mississippi County Sheriff Keith Moore.

22. On October 12, 2014 Defendant submitted false paperwork to Securus in order to “ping” the cell phone of Plaintiff William T. Cooper.

23. On October 12, 2014 Defendant submitted false paperwork to Securus in order to “ping” the cell phone of Plaintiff Jeffery D. Johnson.

24. On October 12, 2014 Defendant submitted false paperwork to Securus in order to “ping” the cell phone of Plaintiff Jeremy S. Stoelting.

25. On October 23, 2014 Defendant submitted false paperwork to Securus in order to “ping” the cell phone of Mississippi County Circuit Judge David Dolan.

26. On October 30, 2014 Defendant submitted false paperwork to Securus in order to “ping” the cell phone of Plaintiff James D. Patton.

27. In addition to those instances described above, Defendant is believed to have unlawfully “pinged” the cell phones of Plaintiffs on other occasions.

28. Plaintiffs were not under any type of investigation at the time, nor was there any other lawful reason for Defendant to be spying on them.

COUNT I—1983 ACTION

29. Plaintiffs incorporate paragraphs 1 through 28 of this Complaint as if fully set forth herein.

30. Defendant’s actions were committed for the unlawful purpose of spying on Plaintiffs for his own personal gain, constituted an unlawful abuse of power, and otherwise served no lawful purpose.

31. The Fourth Amendment of the United States Constitution states:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

32. “Pinging” a cell phone constitutes a search and seizure under the Fourth Amendment and is an invasion of the reasonable expectation of privacy of citizens.

33. Defendant’s actions constitute an unreasonable search and seizure in that they were conducted without probable cause, lawful warrant or other process.

34. Defendant’s acts were committed under color of state law.

35. Defendant's acts violated clearly established statutory and constitutional rights of which a reasonable person would have known.

36. Defendant's acts were outrageous because of an evil motive and intent, and/or involved reckless and callous indifference to Plaintiffs' rights.

WHEREFORE, Plaintiffs respectfully pray this Court to:

- a. Permanently enjoin Defendant or his agents, assistants, successors, employees and persons acting in concert or cooperation with him from further violating the rights, privileges and immunities guaranteed to Plaintiffs under the Constitution of the United States;
- b. Grant compensatory damages to Plaintiffs;
- c. Grant punitive damages to Plaintiffs; and
- d. Grant Plaintiffs' costs of this action, including reasonable attorneys' fees pursuant to 42 U.S.C. § 1988.

COUNT II—VIOLATION OF STORED COMMUNICATIONS ACT

37. Plaintiffs incorporate paragraphs 1 through 36 of this Complaint as if fully set forth herein

38. Like other law enforcement agencies, the Mississippi County Sheriff's Department "pings" cell phones by applying to companies like Securus pursuant to procedures outlined in the Stored Communications Act, 28 U.S.C. §§ 2701 *et seq.*

39. Defendant's acts as described above constitute a violation of the Stored Communications Act in that, among other things:

- a. Defendant failed to obtain a warrant or other court order;
- b. Defendant submitted false documentation to Securus.

40. Defendant's acts were willful and intentional, thereby justifying an award of punitive damages.

WHEREFORE, Plaintiffs respectfully pray this Court to:

- a. Permanently enjoin Defendant or his agents, assistants, successors, employees and persons acting in concert or cooperation with him from further violating the Stored Communications Act;
- b. Grant compensatory and statutory damages to Plaintiffs;
- c. Grant punitive damages to Plaintiffs; and
- d. Grant Plaintiffs' costs of this action, including reasonable attorneys' fees pursuant to 18 U.S.C. § 2707.

COUNT III—INVASION OF PRIVACY

41. Plaintiffs incorporate paragraphs 1 through 40 of this Complaint as if fully set forth herein.

42. Plaintiffs had a reasonable expectation of privacy in their locations and private affairs.

43. Defendant's actions constitute an intrusion upon the solitude, seclusion and private affairs of Plaintiffs.

44. Defendant's actions were unreasonable and highly offensive to a reasonable person.

45. Defendant's acts were outrageous because of an evil motive and intent, and/or involved reckless and callous indifference to Plaintiffs' rights.

WHEREFORE, Plaintiffs pray that this Court enter judgment in their favor, and award them compensatory damages in an amount that is fair and reasonable in excess of \$25,000,

JS 44 (Rev. 07/16)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

WILLIAM T. COOPER, JAY R. HOLCOMB, JEFFERY D. JOHNSON
JEREMY S. STOELTING and JAMES D. PATTON

(b) County of Residence of First Listed Plaintiff NEW MADRID
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
CURTIS O. POORE AND JOHN C. STEFFENS, THE LIMBAUGH FIRM
P. O. BOX 1150, CAPE GIRARDEAU MO 63702

DEFENDANTS

SHERIFF CORY HUTCHESON

County of Residence of First Listed Defendant MISSISSIPPI
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS			
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation - Transfer
- 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
1983

Brief description of cause:
CONSTITUTIONAL AND OTHER CLAIMS AGAINST SHERIFF

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. **DEMAND \$** _____
CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE 5-9-17 SIGNATURE OF ATTORNEY OF RECORD 

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

_____)	
<i>Plaintiff</i>)	
)	
v.)	Civil Action No.
)	
_____)	
<i>Defendant</i>)	

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI

William T. Cooper et)	
al)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:17-cv-00073
Sheriff Cory Hutcheson)	
)	
Defendant,)	
)	

ORIGINAL FILING FORM

THIS FORM MUST BE COMPLETED AND VERIFIED BY THE FILING PARTY WHEN INITIATING A NEW CASE.

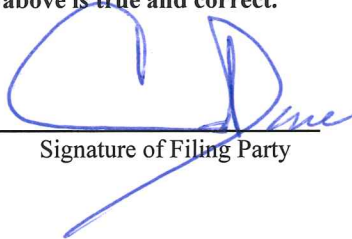
THIS SAME CAUSE, OR A SUBSTANTIALLY EQUIVALENT COMPLAINT, WAS PREVIOUSLY FILED IN THIS COURT AS CASE NUMBER _____ AND ASSIGNED TO THE HONORABLE JUDGE _____.

THIS CAUSE IS RELATED, BUT IS NOT SUBSTANTIALLY EQUIVALENT TO ANY PREVIOUSLY FILED COMPLAINT. THE RELATED CASE NUMBER IS _____ AND THAT CASE WAS ASSIGNED TO THE HONORABLE _____. THIS CASE MAY, THEREFORE, BE OPENED AS AN ORIGINAL PROCEEDING.

NEITHER THIS SAME CAUSE, NOR A SUBSTANTIALLY EQUIVALENT COMPLAINT, HAS BEEN PREVIOUSLY FILED IN THIS COURT, AND THEREFORE MAY BE OPENED AS AN ORIGINAL PROCEEDING.

The undersigned affirms that the information provided above is true and correct.

Date: 5/9/17



Signature of Filing Party

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

WILLIAM T. COOPER, JAY R. HOLCOMB,)
JEFFERY D. JOHNSON, JEREMY S.)
STOELTING and JAMES D. PATTON,)
Plaintiffs,)
v.) Case No: 1:17-CV-00073-ACL
SHERIFF CORY HUTCHESON)
Defendants.)

MOTION TO DISMISS COUNT II

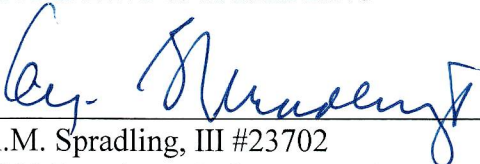
COMES NOW the Defendant Cory Hutcheson by and through his attorney Albert M. Spradling, III of Spradling & Spradling and pursuant to Rule 12.b 6 of the Federal Rules of Civil Procedure moves to dismiss Count II of Plaintiffs' Complaint for the following reasons:

1. Count II of Plaintiffs' Complaint alleges violation of the Stored Communications Act, 18 U.S.C. § 2701, et seq..
2. Under 18 U.S.C. § 2707(f) a civil action may not be commenced under 18 U.S.C. § 2701, et seq. later than two years after the date upon which the claimant first discovered or had a reasonable opportunity to discover the violation.
3. Plaintiffs' Complaint clearly shows that the allegations of discovery of the violations occurred between July 22, 2014 and October 30, 2014.
4. Plaintiffs' Complaint was filed May 8, 2017 more than two years after the alleged

violations of the Stored Wire and Electronics Communications and Transactional Act occurred.

As such, Count II of Plaintiffs' Complaint should be dismissed.

SPRADLING & SPRADLING

By: 
A.M. Spradling, III #23702
1838 Broadway, P.O. Drawer 1119
Cape Girardeau, MO 63702-1119
(573)335-8296 Fax (573) 335-8525
E-mail: spradlaw@swbell.net
Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on May 23, 2017, the foregoing was filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system upon the attorneys of record.

SPRADLING & SPRADLING

By: 

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

WILLIAM T. COOPER, JAY R. HOLCOMB,)
JEFFERY D. JOHNSON, JEREMY S.)
STOELTING and JAMES D. PATTON,)
Plaintiffs,)
v.) Case No: 1:17-CV-00073-ACL
SHERIFF CORY HUTCHESON)
Defendants.)

MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT’S MOTION TO DISMISS

COUNT II

COMES NOW the Defendant Cory Hutcheson by and through his attorney Albert M. Spradling, III of Spradling & Spradling and submits the following Memorandum of Law In Support of his Motion to Dismiss Count II of Plaintiffs’ Complaint.

Count II of Plaintiffs’ Complaint alleges a violation of the Stored Communications Act, 18 U.S.C. § 2701 et seq.. Plaintiffs’ Complaint alleges that between July 22, 2014 and October 30, 2014, Defendant allegedly pinged the cell phones of various Plaintiffs, all being members of the Missouri State Highway Patrol.

Plaintiffs’ Complaint was filed on May 9, 2017. Under 18 U.S. C. § 2707(f), a civil action under § 2701 et seq. may not be commenced later than two years after the date upon which the claimant first discovered or had opportunity to discover the violation. Plaintiffs’ Complaint

affirmatively shows that discovery of the claims as alleged in Count II of Plaintiffs' Complaint occurred in 2014. Plaintiffs' Complaint has been filed more than two years after the initial discovery of the allegations as set forth in Plaintiffs' Complaint.

With regards to Motions to Dismiss for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6), a complaint must be dismissed if it fails to plead "enough facts to state a claim to relief that is plausible on its face" Bell Atlantic Corp v. Twombly, 550 U.S.544, 570 (2007).

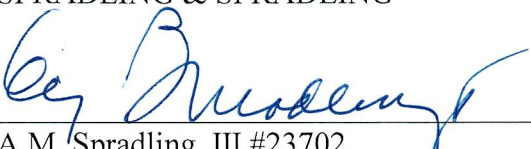
Where it affirmatively appears on the face of the complaint that the action is barred by the statute of limitations, and no facts are alleged to avoid the bar of the statute, the defense may be raised by a motion to dismiss under the Federal Rules of Civil Procedure. Bricton v. Woodrough, 164 F. 2d 107, 110-111 (8th Cir. 1947).

It appearing on the face of Plaintiffs' Complaint that Count II is barred by the two year statute of limitations set forth in 18 U.S.C. § 2707 (f) the Court should accordingly dismiss Count II for failure to state a claim for which relief may be granted.

It is therefore respectfully submitted, in accordance with Defendant's Motion to Dismiss Count II of Plaintiffs' Complaint, that said Count be dismissed for the reasons set forth herein.

SPRADLING & SPRADLING

By:



A.M. Spradling, III #23702
1838 Broadway, P.O. Drawer 1119
Cape Girardeau, MO 63702-1119
(573)335-8296 Fax (573) 335-8525
E-mail: spradlaw@swbell.net
Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on May 23, 2017, the foregoing was filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system upon the attorneys of record.

SPRADLING & SPRADLING

By:

A handwritten signature in blue ink, appearing to be "A. Spradling", is written over a horizontal line.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

WILLIAM T. COOPER, JAY R. HOLCOMB,)
JEFFERY D. JOHNSON, JEREMY S.)
STOELTING and JAMES D. PATTON,)
Plaintiffs,)
v.) Case No: 1:17-CV-00073-ACL
SHERIFF CORY HUTCHESON)
Defendants.)

ANSWER

COMES NOW the Defendant Sheriff Cory Hutcheson by and through his attorney Albert M. Spradling, III of Spradling & Spradling and for his Answer to Plaintiffs' Complaint admits or denies the following:

1. Paragraph 1 of Plaintiffs' Complaint is a statement concerning the nature of the action, however, this Defendant denies that Plaintiffs are entitled to any claims as alleged in Paragraph 1 of Plaintiffs' Complaint.
2. On information and belief Paragraph 2 of Plaintiffs' Complaint is admitted.
3. On information and belief Paragraph 3 of Plaintiffs' Complaint is admitted.
4. On information and belief Paragraph 4 of Plaintiffs' Complaint is admitted.
5. On information and belief Paragraph 5 of Plaintiffs' Complaint is admitted.
6. On information and belief Paragraph 6 of Plaintiffs' Complaint is admitted.

7. Paragraph 7 of Plaintiffs' Complaint is admitted.
8. Paragraph 8 of Plaintiffs' Complaint is admitted.
9. Paragraph 9 of Plaintiffs' Complaint is admitted, but denies that there were any violations of law that may be construed to have been violated as referenced in Paragraph 9 of Plaintiffs' Complaint.
10. Paragraph 10 is a jurisdictional statement and no answer is necessary, however, Defendant denies that Plaintiffs have any claims under 42 U.S.C. §1983, 28 U.S. C. § 2701 et seq. or pendent state tort claims.
11. Paragraph 11 of Plaintiffs' Complaint is a jurisdictional statement and Defendant denies that Plaintiffs have any cause of action under 42 U.S.C. §1983 et seq..
12. Paragraph 12 of Plaintiffs' Complaint is admitted.
13. Paragraph 13 of Plaintiffs' Complaint is admitted.
14. Paragraph 14 of Plaintiffs' Complaint is admitted.
15. Paragraph 15 of Plaintiffs' Complaint is admitted.
16. Paragraph 16 of Plaintiffs' Complaint is admitted.
17. Paragraph 17 of Plaintiffs' Complaint is admitted.
18. Paragraph 18 of Plaintiffs' Complaint is denied.
19. Paragraph 19 of Plaintiffs' Complaint is denied.
20. Paragraph 20 of Plaintiffs' Complaint is denied.
21. Paragraph 21 of Plaintiffs' Complaint is denied.
22. Paragraph 22 of Plaintiffs' Complaint is denied.
23. Paragraph 23 of Plaintiffs' Complaint is denied.

24. Paragraph 24 of Plaintiffs' Complaint is denied.
25. Paragraph 25 of Plaintiffs' Complaint is denied.
26. Paragraph 26 of Plaintiffs' Complaint is denied.
27. Paragraph 27 of Plaintiffs' Complaint is denied.
28. Paragraph 28 of Plaintiffs' Complaint is denied.

COUNT I

COMES NOW the Defendant Sheriff Cory Hutcheson by and through his attorney Albert M. Spradling, III of Spradling & Spradling and for his Answer to Count I of Plaintiffs' Complaint admits or denies the following:

29. Defendant restates and realleges all his answers to Paragraphs 1 - 28 as and for his answer to Paragraph 29 of Count I of Plaintiffs' Complaint.
30. Paragraph 30 of Count I of Plaintiffs' Complaint is denied.
31. Paragraph 31 of Count I of Plaintiffs' Complaint is a statement of the Fourth Amendment, which is admitted.
32. Paragraphs 32, 33, 34, 35, and 36 of Count I of Plaintiffs' Complaint are denied.
33. As a defense to Count I, Defendant states that he is qualifiedly immune from any liability as whatever actions were taken by the Defendant were reasonable under the facts and circumstances known to him at the time.

WHEREFORE, Defendant having fully answered Count I of Plaintiffs' Complaint he prays said count to be dismissed and go hence with is costs.

COUNT II

Count II is subject to a separate Motion to Dismiss for failure to state a claim for which relief

may be granted due to the running of the applicable statute of limitations.

COUNT III

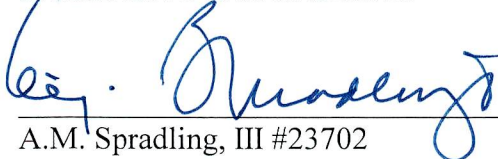
COMES NOW the Defendant Sheriff Cory Hutcheson by and through his attorney Albert M. Spradling, III of Spradling & Spradling and for his Answer to Count III of Plaintiffs' Complaint admits or denies the following:

34. Defendant restates and realleges all his answers to Paragraphs 1 - 40 as and for his answer to Paragraph 41 of Count III of Plaintiffs' Complaint.
35. Paragraphs 42, 43, 44, and 45 of Count III of Plaintiffs' Complaint are denied.
36. As a defense to Count II, Defendant states that whatever actions were taken, the Defendant is entitled to official immunity and public duty doctrine immunity as whatever actions were taken were discretionary and not ministerial.

WHEREFORE, the Defendant having fully answered Count III of Plaintiffs' Complaint prays said count to be dismissed and go hence with is costs.

SPRADLING & SPRADLING

By:




A.M. Spradling, III #23702
1838 Broadway, P.O. Drawer 1119
Cape Girardeau, MO 63702-1119
(573)335-8296 Fax (573) 335-8525
E-mail: spradlaw@swbell.net
Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on May 23, 2017, the foregoing was filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system upon the attorneys of record.

SPRADLING & SPRADLING

By:

A handwritten signature in blue ink, appearing to read "Adam", is written over a horizontal line.

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

WILLIAM T. COOPER, JAY R.)	
HOLCOMB, JEFFERY D. JOHNSON,)	
JEREMY S. STOELTING, and JAMES D.)	
PATTON,)	
)	
Plaintiffs,)	Case No. 1:17-cv-00073
)	
V.)	
)	
)	
SHERIFF CORY HUTCHESON,)	
)	
)	
Defendant.)	
)	
)	

**PLAINTIFFS’ RESPONSE IN OPPOSITION
TO DEFENDANT’S MOTION TO DISMISS COUNT II**

A. Introduction.

Plaintiffs are five members of the Missouri State Highway Patrol seeking redress for illegal spying conducted by Mississippi County Sheriff Cory Hutcheson (“Hutcheson”). Hutcheson has been investigated for these and other wrongs by the Federal Bureau of Investigation and has been arrested and charged with numerous crimes by the Missouri Attorney General.

Plaintiffs have stated claims against Hutcheson under 42 U.S.C. §1983, the Stored Communications Act, 18 U.S.C. §2701, *et seq.* (“SCA”), and Missouri state tort claims. Hutcheson has moved to dismiss Plaintiffs’ SCA claims because, he argues, the claims are barred by the two-year statute of limitations. Hutcheson is incorrect. Although Hutcheson’s illegal spying did begin more than two years ago, the statute of limitations does not begin to run under the SCA until a plaintiff first discovers or has reason to discover a violation. Nothing in the Complaint suggests that

Plaintiffs knew that Defendant was spying on them at the time he was doing it, and in fact they could not have known. That is the nature of illegal spying. Hutcheson's Motion to Dismiss should be denied.

B. Plaintiffs' Complaint does not establish on its face that they discovered or had a reasonable opportunity to discover Hutcheson's violations before May 9, 2015.

"In ruling on a motion to dismiss, the Court must assume all the facts alleged in the complaint are true, and liberally construe the complaint in the light most favorable to [the] Plaintiff[s]." *Stewart v. Village of Innsbrook*, 2017 WL 1540628, *2 (E.D. Mo. 2017). "As a general rule, the possible existence of a statute of limitations defense is not ordinarily a ground for Rule 12(b)(6) dismissal unless the complaint itself established the defense." *Joyce v. Armstrong Teasdale, LLP*, 635 F.3d 364, 367 (8th Cir. 2011) (reversing the district court's grant of a motion to dismiss based on the statute of limitations); *see also Stewart*, 2017 WL 1540628 at *2 ("When considering a Rule 12(b)(6) motion based on the running of a statute of limitations, the Court may only grant the motion if it is clear from the face of the complaint that the cause of action is time-barred.").

The SCA provides that "[a] civil action under this section may not be commenced later than two years after the date upon which the claimant first discovered or had a reasonable opportunity to discover the violation." 18 U.S.C. § 2707(f). Plaintiffs filed their Complaint on May 9, 2017, meaning that their claims must have accrued on or after May 9, 2015 in order to avoid the SCA's two-year statute of limitations. The only questions for the Court then are whether Plaintiffs' Complaint clearly establishes (1) that Plaintiffs discovered Hutcheson's illegal acts before May 9, 2015 or (2) that Plaintiffs had a "reasonable opportunity" to discover Hutcheson's illegal acts before May 9, 2015.

1. The Complaint does not clearly establish that Plaintiffs discovered Hutcheson's illegal acts before May 9, 2015.

Plaintiffs' Complaint says nothing about when each of them first actually discovered Hutcheson's illegal acts. The only allegations in the Complaint that include dates are as follows:

20. On July 22, 2014 Defendant submitted false paperwork to Securus in order to "ping" the cell phone of Plaintiff Jay R. Holcomb.

21. On August 4, 2014, Defendant submitted false paperwork to Securus in order to "ping" the cell phone of former Mississippi County Sheriff Keith Moore.

22. On October 12, 2014 Defendant submitted false paperwork to Securus in order to "ping" the cell phone of Plaintiff William T. Cooper.

23. On October 12, 2014 Defendant submitted false paperwork to Securus in order to "ping" the cell phone of Plaintiff Jeffery D. Johnson.

24. On October 12, 2014 Defendant submitted false paperwork to Securus in order to "ping" the cell phone of Plaintiff Jeremy S. Stoelting.

25. On October 23, 2014 Defendant submitted false paperwork to Securus in order to "ping" the cell phone of Mississippi County Circuit Judge David Dolan.

26. On October 30, 2014 Defendant submitted false paperwork to Securus in order to "ping" the cell phone of Plaintiff James D. Patton.

[Complaint, Doc. 1, ¶¶ 20 – 26].

These allegations only establish certain dates that Hutcheson is *now known* to have committed illegal acts. The only reason Plaintiffs have even these dates is because they were included in criminal documentation filed against Hutcheson in 2017. But nothing in the Complaint alleges or even suggests that Plaintiffs actually discovered Hutcheson's wrongdoing on those dates. Therefore, the Complaint does not clearly establish on its face that Plaintiffs discovered Hutcheson's illegal acts prior to May 9, 2015.

2. The Complaint does not clearly establish that Plaintiffs had a “reasonable opportunity” to discover Hutcheson’s illegal acts before May 9, 2015.

Here again, the Complaint does not allege that Plaintiffs had a “reasonable opportunity” to discover Hutcheson’s illegal acts before May 9, 2015. Nor does Hutcheson explain how any particular allegation in the Complaint suggests that they could have.

The Court should be cognizant of the type of actions Plaintiffs allege against Hutcheson. This case does not involve an auto accident, an assault and battery, or similar fact pattern in which the date and discovery of injury are likely to be one and the same. Plaintiffs allege illegal spying that by its nature may not be discovered for some time after it occurs. Plaintiffs allege among other things that Hutcheson submitted false paperwork, that he spied for his own personal gain, that Plaintiffs were not under any investigation at the time, and that there was no other lawful reason for Hutcheson to be spying on Plaintiffs. [Complaint, Doc. 1, ¶¶ 20 – 30]. Taking these allegations as true and construing them liberally in Plaintiffs’ favor as the Court must, the Complaint does not clearly establish on its face that Plaintiffs had a reasonable opportunity to discover Hutcheson’s illegal acts prior to May 9, 2015.

3. Plaintiffs allege that Hutcheson is believed to have unlawfully pinged Plaintiffs’ cell phones on other occasions.

In addition to the allegations regarding Hutcheson’s acts in 2014, Plaintiffs also allege that Hutcheson “is believed to have unlawfully pinged the cell phones of Plaintiffs on other occasions.” [Complaint, ¶ 27]. Plaintiffs have reason to believe that Hutcheson unlawfully pinged cell phones numerous times after May 9, 2015, including after Hutcheson took office as sheriff on January 1, 2017. These dates would be well within the two-year statute of limitations for SCA claims and Plaintiffs are entitled to discover the dates of these other unlawful acts.

C. Conclusion

The only question for the Court is whether the Complaint clearly establishes a statute of limitations defense on its face. As described above it does not. Hutcheson's Motion to Dismiss should be denied.

Respectfully submitted,

THE LIMBAUGH FIRM
407 N. Kingshighway, P.O. Box 1150
Cape Girardeau, MO 63702-1150
Telephone: (573) 335-3316
Facsimile: (573) 335-1369
curt@limbaughlaw.com
jsteffens@limbaughlaw.com

By /s/ Curtis O. Poore

Curtis O. Poore, #38067MO

John C. Steffens, #63267MO

ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that on May 30, 2017 the foregoing was filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system to the attorneys of record in this case.

/s/ Curtis O. Poore

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTH EASTERN DIVISION

Cooper)
)
 Plaintiffs)
)
 v.) Case No. 1:17-cv-00073-ACL
)
 Hutcheson)
)
)
 Defendant)

NOTICE REGARDING MAGISTRATE JUDGE JURISDICTION

Each party to the above-captioned civil matter is to select **one** of the following two options indicating whether the party **will consent** or **will not consent** to having the assigned Magistrate Judge conduct any and all proceedings in this case, including trial and entry of final judgment in accordance with the provisions of Title 28 U.S.C. Section

CHECK ONE:



The party or parties listed below **consent** to the jurisdiction of the Magistrate Judge. (Note: Selecting this option does not affect your ability to challenge this court's subject matter or personal jurisdiction).



The party or parties listed below **do not consent** to the jurisdiction of the Magistrate Judge. (Note: If you select this option, your case will be randomly reassigned to a District Judge).

Name of Party or Parties:

**William T. Cooper, Jay R. Holcomb,
Jeffery D. Johnson, Jeremy S. Stoelting, and
James D. Patton**

Submitted By: **John C. Steffens**

Dated **May 30, 2017**

Note: Corporations may execute this election only by counsel.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Notice was served on all parties of record in this
May 30, 2017

Signature: /s/ John C. Steffens

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTH EASTERN DIVISION

Cooper)
)
Plaintiffs)
)
v.) Case No. 1:17-cv-00073-ACL
Hutcheson)
)
)
Defendant)

NOTICE REGARDING MAGISTRATE JUDGE JURISDICTION

Each party to the above-captioned civil matter is to select **one** of the following two options indicating whether the party **will consent** or **will not consent** to having the assigned Magistrate Judge conduct any and all proceedings in this case, including trial and entry of final judgment in accordance with the provisions of Title 28 U.S.C. Section

CHECK ONE:

- The party or parties listed below **consent** to the jurisdiction of the Magistrate Judge. (Note: Selecting this option does not affect your ability to challenge this court's subject matter or personal jurisdiction).
- The party or parties listed below **do not consent** to the jurisdiction of the Magistrate Judge. (Note: If you select this option, your case will be randomly reassigned to a District Judge).

Name of Party or Parties:

Sheriff Cory Hutcheson

Submitted By: **A. M. Spradling**

Dated **June 20, 2017**

Note: Corporations may execute this election only by counsel.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Notice was served on all parties of record in this
June 20, 2017

Signature: /s/ A. M. Spradling