

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

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**craigslist, Inc.,**

Civil Action No. 2:09-1308-CWH

**Plaintiff,**

**Declaration of Joseph P. Griffith, Jr. in  
Support of Plaintiff craigslist, Inc.'s  
Motion for Temporary Restraining  
Order**

**v.**

**HENRY D. McMASTER, in his official  
capacity as ATTORNEY GENERAL OF  
THE STATE OF SOUTH CAROLINA;  
DAVID PASCOE; BARBARA R.  
MORGAN; C. KELLY JACKSON; JAY  
E. HODGE, JR.; W. BARNEY GIESE;  
DOUGLAS A. BARFIELD, JR.; TREY  
GOWDY, III; JERRY W. PEACE;  
SCARLETT WILSON; CHRISTINA T.  
ADAMS; DONALD V. MYERS;  
EDGAR L. CLEMENTS, III; ROBERT  
M. ARIAIL; I. MCDUFFIE STONE,  
III; GREGORY HEMBREE; AND  
KEVIN S. BRACKETT, in their official  
capacities as SOUTH CAROLINA  
CIRCUIT SOLICITORS,**

**Defendants.**

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I, Joseph P. Griffith, Jr., declare as follows:

1. I am an attorney at law, duly licensed to practice before all courts of the State of South Carolina, and am an attorney at Joe Griffith Law Firm, LLC, counsel for Plaintiff craigslist, Inc. in this action. I have personal knowledge of all facts set forth in this Declaration, and I am competent to so testify if called upon as a witness.

2. In the early morning hours of May 20, 2009, between approximately 2:45 a.m. and 4:30 a.m., I transmitted to the office of each of the defendants named in this action, via fax or email, a notification letter informing each of them of craigslist's intent to file this action and immediately seek a temporary restraining order. A true and correct copy of this notification letter is attached hereto.

3. My notification letter specified that craigslist would seek to present its motion for temporary restraining order on the afternoon of May 20, 2009. It further proposed to postpone the presentation of the TRO motion for up to three business days, on the condition that Defendants would agree in writing to maintain the status quo during the interim. The notification letter requested that defendants respond to this proposal by 11:00 a.m. on May 20, 2009.

4. I intend to advise the Court before noon on May 20, 2009, whether and to what extent Defendants have agreed to maintain the status quo so as to permit the parties and the Court to proceed on a less rushed basis.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct, and this Declaration is executed on May 20, 2009, in Charleston, South Carolina.

*Joseph P. Griffith Jr.*  
Joseph P. Griffith, Jr.

**JOE GRIFFITH LAW FIRM, LLC**

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May 20, 2009

The Honorable Henry McMaster (Fax # 803-253-6283)  
The Honorable David Pascoe (Fax # 803-533-6004)  
The Honorable Barbara R. Morgan (Fax # 803-642-7530)  
The Honorable C. Kelly Jackson (Fax # 803-436-2236)  
The Honorable Jay E. Hodge, Jr. (Fax # 843-537-0562)  
The Honorable W. Barney Giese (Fax # 803-576-1718)  
The Honorable Douglas A. Barfield, Jr. (Fax # 803-286-7776)  
The Honorable Trey Gowdy, III (Fax # 864-596-2386)  
The Honorable Jerry W. Peace (Fax # 864-942-8830)  
The Honorable Scarlett Wilson (Fax # 843-958-1905)  
The Honorable Christina T. Adams (Fax # 864-260-4187)  
The Honorable Donald V. Myers (Fax # 803-785-8255)  
The Honorable Edgar L. Clements, III (Fax # 843-669-3947)  
The Honorable Robert M. Arial (Fax # 864-467-8582)  
The Honorable I. McDuffie Stone, III (Fax # 843-470-3732)  
The Honorable J. Gregory Hembree (Fax # 843-915-6460)  
The Honorable Kevin S. Brackett (Fax # 803-628-3025)

Re: Notice of Intent to Seek Temporary Restraining Order and Preliminary Injunction  
*craigslist, Inc. v. Henry McMaster, et al.*

Dear Sirs and Madams:

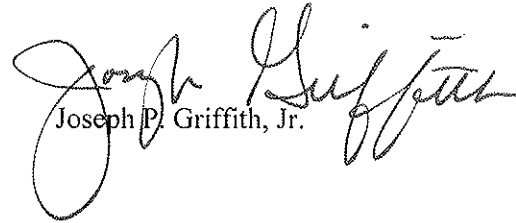
I write to provide you with notice that before dawn on May 20, 2009, craigslist, Inc. ("craigslist") will file a Complaint for Injunctive and Declaratory Relief in the United States District Court for the District of South Carolina (Charleston Division). Further, craigslist will immediately seek a temporary restraining order after 11:00 a.m. today (May 20, 2009). craigslist will provide you with copies of the service of process and its pleadings as soon as they are available.

craigslist is willing to agree to a less rushed presentation of the issues to the Court if you are willing to maintain the status quo until then. Specifically, if you agree in writing to a slightly (no more than three business days) later date for the presentation to the Court of craigslist's motion for temporary restraining order and preliminary injunction and further agree in writing to abide by the terms of the proposed temporary restraining order until such presentation occurs, then craigslist will agree not hold off presenting its motion for temporary restraining to the Court before the agreed later date. A copy of the proposed TRO order is attached for your review.

Please let me know in writing by 11:00 a.m. today (May 20, 2009) whether you will agree to proceed on the less rushed basis described in the preceding paragraph. If you are unwilling to so

agree, please inform me whether you will oppose craigslist's motion for temporary restraining order.

Should you have any questions, please do not hesitate to contact me.

  
Joseph P. Griffith, Jr.

enclosures

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

**craigslist, Inc.,**

**Plaintiff,**

**v.**

**HENRY D. McMASTER, in his official capacity as ATTORNEY GENERAL OF THE STATE OF SOUTH CAROLINA; DAVID PASCOE; BARBARA R. MORGAN; C. KELLY JACKSON; JAY E. HODGE, JR.; W. BARNEY GIESE; DOUGLAS A. BARFIELD, JR.; TREY GOWDY, III; JERRY W. PEACE; SCARLETT WILSON; CHRISTINA T. ADAMS; DONALD V. MYERS; EDGAR L. CLEMENTS, III; ROBERT M. ARIAIL; I. MCDUFFIE STONE, III; GREGORY HEMBREE; AND KEVIN S. BRACKETT, in their official capacities as SOUTH CAROLINA CIRCUIT SOLICITORS,**

**Defendants.**

Civil Action No. \_\_\_\_\_

**[PROPOSED] TEMPORARY  
RESTRAINING ORDER**

WHEREAS Plaintiff craigslist, Inc.'s ("craigslist") moved this Court for a temporary restraining order and preliminary injunction (the "Motion") against Defendant Henry D. McMaster ("McMaster" or "Defendant McMaster"), in his official capacity as Attorney General of the State of South Carolina; and the other Defendants, in their official capacities as South Carolina Circuit Solicitors; and all of their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them;

WHEREAS Joseph P. Griffith, Jr., counsel for craigslist, has certified that: he contacted

the Defendants, before dawn on May 20<sup>th</sup>, 2009 by telephone and/or facsimile to inform Defendants of craigslist's intent to file a complaint in this action and immediately seek a temporary restraining order; and further indicated to Defendants that craigslist would seek to present its motion for a temporary restraining order to the Court on the afternoon of May 20<sup>th</sup>, 2009; and further indicated to Defendants that he would provide a copy of the summons and complaint and the motion for temporary restraining order and preliminary injunction to the Defendants or their counsel as soon as the pleadings are available; and further advised the Defendants that if they would (a) agree to a slightly (no more than three business days) later date for the presentation to the Court of craigslist's motion for temporary restraining order and preliminary injunction and (b) agree to abide by the terms of the proposed temporary restraining order until such presentation occurs, then craigslist would agree not to present its motion for temporary restraining before such agreed later date; and the Defendants have not yet expressed a willingness to so agree;

WHEREAS, it is shown from specific facts in the declarations of Jim Buckmaster, E. Bart Daniel, and Joseph P. Griffith, Jr., and other evidence provided in support of the Motion that Defendant McMaster's threats of prosecution place craigslist and its officers and employees in the untenable position of either immediately shutting down the entire South Carolina-directed portion of craigslist's website or risking criminal prosecution for activity that is protected by federal law and the U.S. Constitution;

WHEREAS craigslist and its officers and employees will thereby suffer immediate and irreparable injury, loss or damage if Defendants and their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with him are not temporarily restrained from continuing to issue threats of prosecution against craigslist or its officers and

employees in relation to content posted by third parties on craigslist's website and from initiating or pursuing any such prosecution;

WHEREAS, in light of the prospect of immediate and irreparable damage to craigslist and in light of craigslist's reasonable efforts to provide notice to the Defendants, the Court finds that it is appropriate to issue this order so as to preserve the status quo until the Court can afford a hearing to both parties in this matter;

Now, therefore, IT IS HEREBY ORDERED as follows:

1. Defendant McMaster, in his official capacity as Attorney General of the State of South Carolina, and the other Defendants, in their official capacities as South Carolina Circuit Solicitors, and all of their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them who receive actual notice of this order are hereby temporarily restrained from issuing further threats of prosecution against craigslist or its officers and employees in relation to content posted by third parties on craigslist's website and from initiating or pursuing any such prosecution until the \_\_\_ day of \_\_\_, 2009, at \_\_\_ [a.m./p.m.]

2. craigslist is not required to post a bond with the Clerk of the Court.

DATED at \_\_\_\_\_ o'clock [a.m./p.m.] this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

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United States District Judge

Presented by:

Joseph P. Griffith, Jr.  
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Seven State Street  
Charleston, S.C. 29401  
843.225.5563 (tel)  
843.722.6254 (fax)



Attorneys for Plaintiff craigslist, Inc.