



Take It Or Leave It...

Jim Stiles

A FEW WORDS ABOUT THE DAVIDSON/SMELT/TAYO INC LAW SUIT

On September 20, I was surprised to learn, via an email from the Moab *Times-Independent*, that I was one of five defendants in a civil suit filed by Moab's City Manager Rebecca Davidson, her housemate Tara Smelt and Ms. Smelt's IT company, Tayo, Inc. The pair accuses us of "defamation, "intentional infliction of emotional distress," and "intentional interference with economic relationships" of Smelt/Tayo Inc." They're also suing my publication, *The Canyon Country Zephyr*.

https://drive.google.com/file/d/oB_dChiR-k8aqd-zh4V2FBdWRXdnM/view?usp=sharing

On the advice of my attorney, I won't comment on the accusations levied specifically against me by Davidson/Smelt, other than to state categorically that they are false and we will in due time provide indisputable evidence to prove it. And, of course, the evidence is in the 14,000 word article itself. We stand 100% behind it.

However, I would like to offer this timeline.

The Zephyr began its investigation of the turmoil at Moab City Hall in October 2015; we spent hundreds of hours gathering documents, conducting interviews, filing FOIA and GRAMA requests in Moab and Kemmerer, Wyoming, requesting and reviewing reports from the Wyoming Division of Criminal Investigation, and assembling that mass of information into an accurate, comprehensive and fact-based article.

To ensure accuracy, on January 11, 2016, I sent 15 relevant questions to Ms. Davidson, seeking clarification on many of the issues she now accuses us of distorting or falsely reporting. Ms. Davidson never replied.

<http://www.canyoncountryzephyr.com/blog/2016/01/31/15-questions-for-the-moab-city-manager-by-jim-stiles/>

On January 25, 2016, I received a letter from Moab City Attorney Christopher McAnany. He replied briefly to some of the questions and advised me that his letter would be, "in lieu of any further response from Ms. Davidson," though in fact there had been no response from Davidson at all. We included the 15 questions to Davidson and McAnany's limited response in The February *Zephyr* article and on our Blog.

On February 1, we posted my 14,000 word, "What's Past Is Prologue--- Three Small Towns and Their Common Bond---City Manager Rebecca Davidson." Not once in the eight months since the article's publication did we hear from Davidson or Smelt or any complaint from them that the article was inaccurate or "defamatory." Nor did they demand corrections of any kind.

<http://www.canyoncountryzephyr.com/2016/02/01/whats-past-is-prologue-three-small-towns-their-common-bond-city-manager-rebecca-davidson-by-jim-stiles/>

On September 13, Davidson was placed on "paid administrative leave" by the mayor, pending an investigation of "internal issues."

On September 15, The City of Moab received *The Zephyr's* latest detailed GRAMA request.

On September 16, Davidson/Smelt filed their lawsuit--- though I'm sure, as Davidson states in her recent T-I comments, their lawsuit has "been in the works for a while..."

<http://www.canyoncountryzephyr.com/blog/2016/09/19/our-most-recent-grama-request-to-the-city-of-moab/>

And finally, in a special meeting on September 30, 2016, the Moab City Council terminated the contract of its city manager, "without cause," effective immediately. The vote was 3-1, with Councilpersons Jones, Knuteson-Boyd and Bailey voting to terminate. Councilwoman Heila Ershadi voted 'no.' Councilwoman Derasary was not in attendance.

According to Davidson's contract, she'll receive "a lump sum severance payment equal to nine months of her Base Salary." In Davidson's case, reportedly about \$82,000. According to the Moab *Sun News's* facebook page, "The city issued a brief statement on Friday, Sept. 30, thanking Davidson for her "hard work," and wishing her well in the future."

The nine months pay is the same provided to Davidson when she was terminated from her City Manager position in Timnath, Colorado, in 2011. A non-disclosure agreement, signed by Davidson and Timnath City prevented the City from discussing Davidson's tenure there when she applied for the position in Moab. However, newspaper accounts of the controversial events in Timnath were easily available via a GOOGLE search and the Colorado media.

If the City of Moab now submits to yet another "non-disclosure agreement," it will be repeating history, to the detriment of the citizens that the Council *is elected to represent and serve*. It does an almost unspeakable disservice to the employees who lost their jobs, or lived in fear of it, during this past 18 month nightmare.

Finally, regarding the lawsuit, I would like to note that my situation differs from my co-defendants. While Davidson/Smelt took issue with a specific *Zephyr* article, Janet Buckingham, Chris Baird, Connie McMillan and Annie Payne are being drawn into a lawsuit for simply expressing opinions, some of them at public meetings presided over by Moab's Mayor and Council.

With the council's September 30 decision, there is some hope that Moab can begin to gather the fragments of this broken community and try to make it whole again. In the 30 years I've been reporting on politics in Southeast Utah, I have never, *ever* seen a less responsive, or a more arrogant and insensitive governing body than the current elected Moab council and mayor. One thing is certain; each and every one of them owes its citizens a very *public* apology. And it owes the defendants in this ridiculous law suit an apology and an expression of support as well.

SERIOUSLY (?)...IT'S TIME FOR 'NONE OF THE ABOVE'

"The horror...the horror."
---Joseph Conrad

Last Monday evening, while more than a hundred million American masochists gathered gloomily around their flat-screens and "devices," for no better reason than to confirm just how deeply our country's moral compass has spun out of control, Tonya and I sought refuge in a darkly-lit jazz bar called The Green Lady Lounge. To our surprise, the place was packed with other kindred spirits who, like us...just couldn't take it anymore.

Instead of suffering through the most widely watched

Presidential Debate in human history, instead of enduring 90 minutes of Blithering Donald and Shrill Hill, we were soothed by the melodic strains of esteemed vocalist Ms. Molly Hammer (Joe Cartwright on keyboard) and for a while, we almost forgot that our country is a train wreck in search of a broken rail. Illusion is good.

Like so many untold millions, I don't have the energy or inclination to articulate all the ways I loathe these two candidates. But one writer nailed it so well a few weeks ago that I thought I'd let him speak on our behalf. In an essay called, "The existential despair of Hillary Clinton vs. Donald Trump," the brilliantly acerbic Michael Brendan Dougherty wrote:

You know that Donald Trump is an unstable imbecile. But this knowledge doesn't oblige you to discover new qualities in the bottomlessly cynical, power-mad grifter Hillary Clinton. In your heart of hearts, you may suspect that if she thought it would get her four centimeters closer to the presidency, Hillary Clinton would devour your squealing grandchild, or her own, live on the set of The View. It's a terror to contemplate. But in no way should this terror obviate your equally credible suspicion that Donald Trump is rabies in human form, likely to drive our country into a feverish search for scraps in the neighbors' garbage only to get us run over by a truck.

http://theweek.com/articles/628850/existential-despair-hillary-clinton-vs-donald-trump?utm_source=links&utm_medium=website&utm_campaign=facebook

What else needs to be said?

But what to do? In recent memory, there's never been a more pronounced 'lesser of two evils' election than this. Do we vote or slash our wrists? Do we hold our noses and vote for Clinton? Or Trump? Or do we supposedly turn to our inner consciences and throw our support to one of the extraordinarily unmemorable Third Party candidates? None of these options makes me feel less nauseated.

And finally, more than any of these dismal choices, we long to embrace the option we dream of more than any other...

"None of the Above!"

Yes...PLEASE. Wouldn't that be glorious...?

It would be. And why not? As long as we're trapped in a hopeless quagmire of despair, let's hopelessly dream of "things that never were..." and say 'why not?' Let's make "None of the Above" a real option in U.S. Presidential elections. Let's change the Constitution.

The procedure for electing a president was first delineated in Article II, Section 1, Clause 3 of the U.S. Constitution. The 12th Amendment, passed in 1803, made certain changes in the election protocol. It says, in part:

"The Electors shall meet in their respective states, and vote by ballot for President and Vice-President...and they shall make distinct lists of all persons voted for as President, and all persons voted for as Vice-President and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate.

"...The person having the greatest Number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed..."

The catch here is that we're all required to vote for "persons." As a long ago spiritual advisor once observed, "Bummer." But by ratification of a 28th Amendment (we have 27 so far), we could fix this. Here's how it would work...

First, I can only deal with one electoral obscenity at a time. We'll have to save Citizens United and the Power of the 1%, the dark force that drives all contemporary election campaigns, for another rant. For now, imagine the next campaign is similar to this one---with idiotic, or deceitful, or evil, or just bland candidates as choices...you know, like now...and with non-stop, 24/7 news coverage, and back-to-back-to-back-to-back-to-back advertising. Like now. A campaign that is almost inescapable (unless you go to The Green Lady).

The difference between now and some future modified election is that we'd still be able to muster Hope. We'd be able to devote our full confidence, passion and support for absolutely nobody and make it our collective quantitative choice. We'd vote specifically for nobody and be confident that our ballots could make all the difference. Imagine 50 million Americans all standing united behind the same nobody.

So...it's Election Night USA, November 3, 2020. The two major nominees, Freda Farquardt and Nemo Glitz anxiously await exit polls and the raw returns. At CNN headquarters in Atlanta, Wolf Blitzer announces the latest results:

"We've just received some new numbers. And stand

THE CANYON COUNTRY ZEPHYR Planet Earth Edition

JIM & TONYA STILES, publishers
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Monticello, UT 84535
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*All the News that Causes Fits
since 1989*

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by for a real shocker. As it stands now, Senator Freda Farquardt holds a 3% lead over her opponent, Governor Glitz, but as we've been reporting all night, the big winner continues to be 'None of the Above.' Farquardt has received 31% of the popular vote, Glitz is at 28%, and a whopping 40% of the voters chose nobody. Absolutely stunning. And in the electoral college, neither of the candidates has come close to the magic 270 threshold. 'None of the Above' leads in that category as well, with 223.

"Clearly the ratification of the 28th Amendment last October has radically changed the electoral process. This is truly unprecedented. And just as clearly, the electoral protocol established by 28 will now be set in motion."

The 28th Amendment protocol would work like this:

Prior to the election, all political parties participating in the election would have selected a '28th Amendment Board of Selectors.' If the 28th is invoked, the Boards of the top two vote getters would convene within five days to select a new slate of candidates. They have the option of choosing anyone to represent their party EXCEPT the current nominee, as long as they meet the requirements as established in Article II of the Constitution. New candidates must be announced within 14 days of the November election.

Upon selection, a 45 day election campaign would be initiated. ALL political advertising would be banned (haven't the voters suffered enough already?). The campaigns would, in effect, be conducted via public appearances, Cspan, and six televised debates. Campaign surrogates would be prohibited from offering opinions. Spin doctors would be shot on sight.

Finally, on Day 45, Americans would go to the polls again. And this time it's for keeps. "None of the Above" would not be an option this round (or else the process might go on forever). The outcome would be based on the straight national popular vote. No Electoral College. So choose your candidates wisely.

The winner would be designated President-elect. Inauguration Day would be moved back one week, to January 27, to provide a bit more time for the transition. And then everything would be better.

Or not. Who am I kidding?

At the end of the day, I know proposals like this will go nowhere, because it would require the support of the very same powerful few who helped create this intolerable situation. Ed Abbey once proclaimed, "What our perishing republic needs is something different. Something entirely different." And we know he's right. But what can we do? And how?

Ultimately, I've known for a long time that our world can't be simply fixed via elections or ordinances or pieces of legislation, or proclamations. One day, I came across this quotation, by the late Charles Bowden...

"Imagine the problem is not physical. Imagine the problem has never been physical, that it is not biodiversity, it is not the ozone layer, it is not the greenhouse effect, the whales, the old-growth forests, the loss of jobs, the crack in the ghetto, the abortions, the tongue in the mouth, the diseases talking everywhere as love goes on unconcerned. Imagine the problem is not some syndrome of our society that can be solved by commissions or laws or redistribution of what we call wealth. Imagine that it goes deeper, right to the core of what we call our civilization and that no one outside of ourselves can effect real change, that our civilization, our government are sick and that we are mentally ill and spiritually dead – that all our issues and crises are symptoms of this deeper sickness."

Bowden's right... It goes far deeper than any of us are willing to admit. And there's the rub.

WHEN CANDIDATES HAD CAJONES (EVEN WHEN THEY WERE CROOKS)

from The Zephyr Archives..Oct/Nov 2008

It may seem impossible now, but there was a time when presidential candidates had the courage to confront power and greed in this country, even the crooked ones. Here are some memorable examples:

FDR..."and I welcome their hatred."

On the evening of October 31, 1936, Franklin D. Roosevelt nears the end of the presidential campaign. His opponent Governor Alf Landon, is favored by most polls to unseat the first-term president. Before a standing room only crowd at Madison Square Garden in New York, FDR delivers a fiery address to his screaming supporters.

First he names his adversaries: "business and financial monopoly, speculation, reckless banking, organized

money." The audience is on its feet.

"Never before in all our history," Roosevelt declares, "have these forces been so unanimous in their hatred for me—and I welcome their hatred."

The crowd cheers loudly and FDR can barely be heard over the roar.

He continues, "I should like to have it said of my first administration that in it, the forces of selfishness and of lust for power met their match."

He waits for the din in the hall to abate.

Roosevelt looks confidently but grimly at the thousands before him. "I would like to have it said of my second administration that in it these forces met their master!"

A week later, FDR defeated Landon by one of the greatest margins in American history.

RFK on the GNP

How does this country measure its wealth? Find a politician today who doesn't turn to the Gross National (Domestic) Product as the ultimate barometer of American prosperity. You must travel back in time 40 years, to April 1968, to find a politician with the courage to speak otherwise.

Less than three months before his death, Robert Kennedy noted that if we judged our country's worth by its Gross National Product (GNP), it would include the cost of the locks on our jails, the "television programs that glorify violence," our air pollution and health care costs, the price of a nuclear warhead, "and the loss of our natural wonder in chaotic sprawl." What it does not reflect, he said, included, "the health of our children...or the joy of their play...or the beauty of our poetry."

"It measures neither our wit nor our courage; neither our wisdom nor our learning, neither our compassion nor our devotion to country; it measures everything, in short, except that which makes life worthwhile. It can tell us everything about America except why we are proud we are Americans."

On June 5, Bobby Kennedy was gunned down By Sirhan Sirhan in the kitchen of the Ambassador Hotel in Los Angeles, just minutes after he claimed victory in the California primary.

Jimmy Carter's Energy Speech

If you ask conservatives today about the world energy crisis and the need to develop alternative sources, even the likes of Rush Limbaugh and Sean Hannity will say, "Of COURSE we support alternative energy development, but that's years away. We need to drill now." Had they listened to a man loathed 30 years ago by Republicans and Democrats alike, those "years to develop" would have occurred decades ago and life today would have been dramatically different.

On April 18, 1977, President Jimmy Carter addressed the nation about its energy future. Here, in part, is what he told us:

"Tonight I want to have an unpleasant talk with you about a problem unprecedented in our history...The energy crisis has not yet overwhelmed us, but it will if we do not act quickly. It is a problem we will not solve in the next few years, and it is likely to get progressively worse through the rest of this century."

"We must not be selfish or timid if we hope to have a decent world for our children and grandchildren. We simply must balance our demand for energy with our rapidly shrinking resources. By acting now, we can control our future instead of letting the future control us."

"Our decision will test the strength and character of the American people and the ability of the president and congress to govern. This difficult effort will be the 'moral equivalent of war,' except we will be uniting our efforts to build, instead of destroy."

He concluded, "If we fail to act soon, we will face an economic, social and political crisis that will threaten our free institutions. But we still have another choice. We can begin to prepare right now. We can decide to act, while there is still time."

His speech was ridiculed by most Republicans and ignored by many Democrats. Unwilling to play pork-barrel politics with either party, his support even among Democrats began to wane. When he lost his re-election bid in 1980 to Ronald Reagan, many Democrats breathed a sigh of relief. Jimmy Carter was too principled, too honest and too farsighted to work with a "good ol' boy" system. They called him stubborn and inflexible.

But 30 years later, he sounds like a prophet. Because he was.

The Kingfish...Huey P. Long

Huey Long of Louisiana was a rogue and a scoundrel, and a ruthless tyrant. He used the political system to amass unprecedented power and wealth, rewarded his allies and destroyed his enemies, and planned to challenge FDR in the 1936 election. He was hated and feared by many and derided as a clown by most.

To common people in Louisiana, black and white, he was beloved, even half a century after his death.

It could be said that Huey Long had no scruples whatsoever, but in a good way.

When he became governor in 1928, Louisiana was practically owned by the giant petro-chemical corporations, especially Standard Oil, who paid very little in taxes for the stunning profits they reaped. The state was the poorest in the nation. Huey cut backroom deals with all of them to get elected, then promptly kicked their collective ass.

He broke the backs of the corporations, levied new business taxes, and began to use the money for the people. He eliminated property taxes for the poor and reduced assessments to the middle class by 20%. He created night schools for adults and 175,000 illiterates learned to read and write; he made textbooks free to all children.

And in the racially segregated Old South, Huey seemed to be colorblind. He came to the aid of blacks and whites alike. He infuriated the Ku Klux Klan and when its Grand Wizard threatened to come to Louisiana, Huey advised reporters, "Quote me as saying that that Imperial bastard will never set foot in Louisiana, and that when I call him a son of a bitch, I am not using profanity, but am referring to the circumstances of his birth."

He had run for governor with the slogan, "Every man a king." Now he set his sights on the ultimate office. He planned to challenge Roosevelt in 1936 and FDR was worried. Huey presented his "Share the Wealth" program on nationwide radio. He proposed that "personal fortunes be limited to \$5 million and annual income would be limited to \$1.8 million, but no one would earn less than \$2000. He promised pensions for the aged, bonuses for veterans and free education for the children.

Ultimately, Huey's power went, as it always does, to his head. He held absolute power in the state of Louisiana. For all intents and purposes, Huey Long banned democracy. He darkly hinted that after he became president (to Huey it was an assumption, not a hope), he would declare himself dictator and cure the ills of the country without interference from meddlesome politicians.

The presidential election was barely a year away when Huey Long was gunned down in the corridors of the Louisiana state capitol. He died two days later.

LEE ATWATER'S CONFLICTED LEGACY

Lee Atwater taught Karl Rove everything he knows. He was a political strategist, the Chairman of the Republican National Committee, and the architect of George H.W. Bush's successful presidential campaign in 1988 against Democrat Governor Mike Dukakis.

He orchestrated one of the dirtiest campaigns in recent history, made most memorable by the infamous "Willie Horton" tv advertisements. Horton, a convicted murderer, had somehow been released via a Dukakis early release furlough program, and had gone on to murder again. Atwater made it a campaign theme. Atwater was unapologetic. "I make no bones about who I am, what I am and what I do. Very few people in politics are like that, but I just don't make any bones about it."

But just 14 months after Bush's election, Atwater was struck down by brain cancer. It changed him profoundly, in the way confronting one's own mortality often does. In an interview with LIFE magazine, he shocked his friends and enemies alike when he bared his soul...

In 1988, fighting Dukakis, I said that I would strip the bark off that little bastard and make Willie Horton his running mate. I am sorry for both statements.

Long before I was struck with cancer, I sensed something stirring in American society. It was a sense across the country, among Republicans and Democrats alike, that something was missing from their lives. Something crucial. I was trying to position the Republican Party to take advantage of it. But I wasn't exactly sure what 'it' was.

"My illness helped me to see that what was missing from society is what is missing from me. A little heart. A lot of brotherhood."

"What power I wouldn't trade for a little more time with my family. What price I wouldn't pay for an evening with friends."

"It took a deadly illness to put me eye-to-eye with the truth. But it's a truth that the country, caught up in its ruthless ambitions and moral decay, can learn on my dime."

"I don't know who will lead us into the 1990s, but they must be made to speak to the spiritual vacuum at the heart of American society."

"The tumor of the soul."

Lee Atwater died a few weeks later.