

# Court of Appeals, State of Michigan

## ORDER

In re Guardianship of Janet Kapp

Docket No. 340838

LC No. 2009-326971-GA

Colleen A. O'Brien  
Presiding Judge

Kathleen Jansen

Jonathan Tukel  
Judges

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The Court orders that the motions for immediate consideration are GRANTED.

In lieu of granting leave to appeal, the motion for peremptory reversal pursuant to MCR 7.211(C)(4) is GRANTED and the Oakland Probate Court's October 19, 2017 preliminary injunction order which enjoins and restrains Scripps Media, Inc., WXYZ-TV, and Heather Catallo from displaying any photographs or video recording of Janet Kapp or Milan Kapp in any broadcast is REVERSED and VACATED as an unconstitutional prior restraint on speech in violation of US Const, Am I which was not justified by a clear and present danger or serious or imminent threat to a protected competing interest. *NY Times Co v US*, 403 US 713, 714; 91 S Ct 2140; 29 L Ed 2d 822 (1971); *People v Sledge*, 312 Mich App 516, 524; 879 NW2d 884 (2015). The need to protect Janet Kapp and Milan Kapp from potential mental stress, embarrassment, or anguish was not a compelling interest which could justify prior restraint of appellants' First Amendment rights. *Bartnicki v Vopper*, 532 US 514, 534; 121 S Ct 1753; 149 L Ed 2d 787 (2001); *Butterworth v Smith*, 494 US 624, 634, 110 S Ct 1376; 108 L Ed 2d 572 (1990).

In all other aspects the application for leave to appeal is DENIED.

This Court retains no further jurisdiction



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

DEC -7 2017

Date

  
Chief Clerk