W.Va. Judge Blocks Private Suits Under State's 'Daniel's Law'

By **Allison Grande**

Law360 (August 20, 2025, 10:31 PM EDT) -- A West Virginia federal judge has tossed five proposed class actions accusing PeopleConnect, LexisNexis Risk Solutions and several other data brokers of violating the state's Daniel's Law by publishing information on judicial and law enforcement officers, after finding the privacy statute's lawsuit mechanism to be unconstitutional.

In an opinion issued Tuesday, U.S. District Judge Michael F. Urbanski granted a consolidated motion to dismiss filed by PeopleConnect Inc., LexisNexis Risk Solutions Inc., Thomson Reuters America Corp., Whitepages Inc. and Thryv Inc., which were all facing separate lawsuits being pressed by retired law enforcement officer Michael Jackson under West Virginia's version of Daniel's Law.

The statute, like others that have been enacted across the country in the wake of the 2020 murder of the son of a New Jersey federal judge, prohibits the disclosure of home addresses or unlisted phone numbers of active and retired judicial and law enforcement officers. Jackson argued that the companies violated the law by displaying his and other proposed class members' information on their "highly" comprehensive "people search" websites, but Judge Urbanski concluded that Section E of the statute, which allows private litigants to sue for damages, doesn't pass constitutional muster.

Specifically, the judge agreed with defendants that Section E is facially unconstitutional under the First Amendment because "it is a content-based regulation of speech" that is not narrowly tailored enough to survive strict scrutiny, and that it runs afoul of the due process clause of the Fourteenth Amendment because "it is so vague as to deprive potential violators of notice as to what conduct is proscribed."

"No amount of due deference to the West Virginia Legislature and to its undoubtedly compelling interest in enhancing the safety of judicial and law enforcement officers can justify permitting this case to proceed against defendants, infringing their freedom to speak without content-based restrictions in violation of the First and Fourteenth Amendments," Judge Urbanski held in dismissing the case with prejudice.

The judge added that comparing the West Virginia law to similar state and federal laws that have so far withstood such scrutiny "provides a helpful illustration of the ways in which West Virginia's statute is far from the least restrictive means of achieving West Virginia's undeniably compelling interest in protecting its public servants from harassment and violence."

These analogous statutes "are more narrowly tailored and burden far less speech in pursuit of the same compelling legislative goal" by including provisions that limit civil liability by only allowing private

lawsuits for damages and other relief to be filed after protected individuals provide notice to a business or other potential defendant that they wish to have their information removed from where it is being displayed, according to Judge Urbanski.

"By contrast, Section E of West Virginia's Daniel's Law creates a private right of action for a plaintiff to seek actual damages — indeed, liquidated damages 'not less than $1,000 for each violation' — and even punitive damages under certain circumstances, as well as appropriate preliminary or equitable relief, without ever providing a potential defendant with notice that posting that plaintiff's information violates the law," the judge ruled in finding the provision to be unconstitutional.

In response to the opinion, Matthew Frank, chief legal officer at PeopleConnect, said in a statement provided to Law360 that the company was "pleased the court has ruled in our favor and dismissed the lawsuit."

"We have and always will support the legal protection of public officials and comply with federal and state laws protecting public servants," Frank said. "Our tools are intended to empower individuals with information to make informed decisions for their communities, keeping safety top of mind."

Counsel for Jackson and representatives for the remaining defendants couldn't be reached for comment Wednesday.

West Virginia's Legislature enacted its version of Daniel's Law in 2021, with the stated purpose of enhancing "the safety and security of certain public officials in the justice system" and "to foster the ability of these public servants" to do their work "without fear of personal reprisal from affected individuals related to the performance of their public functions."

The disputed Section E of the law provides covered officials and anyone residing at their home address with a private right of action against entities that publish, without first obtaining written permission, protected information "under circumstances in which a reasonable person would believe that providing such information would expose another to harassment or risk of harm to life or property."

The provision allows plaintiffs to recover damages of at least $1,000 per violation, in addition to punitive damages, reasonable attorney fees and any other preliminary or equitable relief that the court deems appropriate, according to Judge Urbanski's opinion.

After concluding that there was "no doubt" that Section E regulates protected speech based on its content, given that factual disclosures of individuals' personal data "constitute speech under well-settled Supreme Court precedent" and the law "prohibits public discussion of an entire topic," Judge Urbanski held that the provision should be subject to the highest level of judicial review. It ultimately failed to meet this strict scrutiny standard because the section wasn't narrowly tailored to serve compelling state interests, the judge said.

"Even though West Virginia's Daniel's Law serves a compelling state interest ... [this interest] by no means inoculates a statute against a finding of unconstitutionality," the judge wrote. "Under strict scrutiny, even the most compelling of interests must be pursued by means that are narrowly tailored, thereby minimizing the burden on the constitutional right at issue."

Jackson has failed to satisfy this burden because, as evidenced by similar laws that have been put in place around the country, "less restrictive alternatives exist," including requiring prospective plaintiffs to

ask data brokers to remove their protected addresses and phone numbers from their databases before being allowed to sue, Judge Urbanski found.

"West Virginia's Daniel's Law is unique among these laws in lacking speech-protective limitations on liability — most significantly, a notice requirement," the judge found. "In fact, Section E of West Virginia's statute might be the most restrictive of the available means for achieving its compelling interest."

Section E's lack of a notice requirement also renders the provision "overinclusive" by burdening more speech than necessary to achieve its data protection goals and, in the process, risks chilling speech unrelated to its core mission, according to Judge Urbanski.

"Without a notice requirement, it is difficult to imagine how anyone wishing to speak widely on the topic of home addresses and phone numbers could know exactly which home addresses and phone numbers belong to potential West Virginia's Daniel's Law plaintiffs," the judge said. "Thus, fear of liability under Section E of West Virginia's Daniel's Law — notably, $1,000 per violation in liquidated damages — may well lead some to refrain from speaking on the topic of home addresses and phone numbers at all, thereby forcing well-intentioned speakers to 'self-censor' so as to 'steer wide of the unlawful zone.'"

Judge Urbanski also faulted the West Virginia law for lacking a knowledge requirement, noting that the Supreme Court "has specifically recognized the tendency of statutes restricting speech without a knowledge requirement to exert a chilling effect" on speech.

"Section E's lack of a knowledge requirement compounds the lack of a notice requirement such that those wishing to comply with West Virginia's Daniel's Law will face the burden of inspecting their speech for any content that might fall within the scope of West Virginia's Daniel's Law," the judge held.

In reaching his decision, Judge Urbanski stressed that he was "well aware" that he had analyzed Section E without any input on how to interpret the disputed provision from other state courts or the state's attorney general, who was asked to but declined to intervene in the current dispute to weigh in on the constitutionality issue.

"Out of concern for the deference owed in interpreting a state statute to evaluate its constitutionality, this opinion has emphasized facially apparent defects in Section E, such as its lack of a notice requirement, and, where applicable, considered the principles of statutory interpretation that would be applied by West Virginia courts," the judge said. "Ultimately, although West Virginia courts hold that '[w]herever an act of the Legislature can be so construed and applied as to avoid a conflict with the Constitution ... such construction will be adopted by the courts,' there is no construction to which Section E of West Virginia's Daniel's Law is 'readily susceptible' that would render it constitutional."

Jackson is represented by Philip L. Fraietta and Julian C. Diamond of Bursor & Fisher PA and Jason E. Causey of Katz Kantor Stonestreet & Buckner PLLC.

Whitepages is represented by Natalie C. Schaefer and Michael D. Dunham of Shuman McCuskey Slicer PLLC.

LexisNexis is represented by Bruce M. Jacobs, James "J.L." Brydie and James A. Walls of Spilman Thomas & Battle PLLC.

Thomson Reuters is represented by Marcel S. Pratt, Michael Berry and Elizabeth V. Wingfield of Ballard Spahr LLP and Luke T. Schmitt of Flaherty Sensabaugh Bonasso PLLC.

Thryv is represented by Christopher L. Bauer, Dwight M. Francis and Aimee C. Oleson of Sheppard Mullin Richter & Hampton LLP and John D. Pizzo of Bernstein-Burkley PC.

PeopleConnect is represented by Samir Deger-Sen, Jennifer C. Archie and Robert C. Collins of Latham & Watkins LLP and Patricia M. Bello of Lewis Brisbois Bisgaard & Smith LLP.

The cases are Jackson v. Whitepages Inc., case number 1:24-cv-00080, Jackson v. LexisNexis Risk Solutions Inc., case number 1:24-cv-00081, Jackson v. Thomsom Reuters America Corp., case number 1:24-cv-00088, Jackson v. Thryv Inc., case number 1:24-cv-00096 and Jackson v. PeopleConnect Inc. et al., case number 1:24-cv-00102, in the U.S. District Court for the Northern District of West Virginia.

Law360 is owned by LexisNexis Legal & Professional, a subsidiary of RELX, which also owns LexisNexis Risk Solutions Inc.