

IN THE CHANCERY COURT OF TENNESSEE
FOR THE TWENTIETH JUDICIAL DISTRICT AT NASHVILLE

THE ASSOCIATED PRESS, et al.,

Plaintiffs,

v.

THE TENNESSEE REGISTRY OF
ELECTION FINANCE, et al.,

Defendants.

No. 20-0404-III

PLAINTIFFS' MOTION FOR JUDGMENT ON THE PLEADINGS

Pursuant to Tennessee Rule of Civil Procedure 12.03, Plaintiffs The Associated Press and its reporter Kimberlee Kruesi, Chattanooga Publishing Company, Gannett GP Media, Inc. and its editor Michael Anastasi, Gould Enterprises, Inc., Meredith Corporation and its reporter, Jeremy Finley, Memphis Fourth Estate, Inc., Scripps Media, Inc. and its reporter Ben Hall, TEGNA, Inc. and its news directors Jeremy Campbell and Lisa Lovell, the Tennessee Association of Broadcasters, the Tennessee Coalition for Open Government, Inc., and the Tennessee Press Association (collectively, "Plaintiffs") hereby move for judgment on the pleadings against Defendants the Tennessee Registry of Election Finance, its members, in their official capacities, Paige Burcham-Dennis, Hank Fincher, David Goldin, Paz Haynes, Tom Lawless, and Tom Morton, and Executive Director of the Bureau of Ethics and Campaign Finance Bill Young, in his official capacity. For the reasons set forth in the accompanying Memorandum of Law, Plaintiffs respectfully request that the Court enter judgment on the pleadings in their favor. Specifically, Plaintiffs' Motion is made on the grounds that:

1. Judgment on the pleadings is proper at this time, as the pleadings are closed and this motion will not unduly delay trial. Tenn. R. Civ. P. 12.03.

2. The Tennessee Registry of Election Finance (the “Registry”) is a governing body subject to the Tennessee Open Meetings Act, Tenn. Code §§ 8-44-101 to 8-44-109 (the “OMA”). Defendants Burcham-Dennis, Fincher, Goldin, Haynes, Lawless, and Morton are members of the Registry. Defendant Young is the Executive Director of the Bureau of Ethics and Campaign Finance, of which the Registry is a division.

3. Defendants violated the OMA as a matter of law by voting via email to recommend a settlement offer for outstanding civil penalties from State Representative Joe Towns on or about April 1, 2020. The email vote was not taken during a properly noticed public meeting, and thus was a secret vote, in violation of Tenn. Code § 8-44-104(b).

4. Moreover, the email vote itself constituted a meeting under the OMA because it was a convening of the Registry with Director Young as the conduit. That meeting was not properly noticed or open to the public, in violation of Tenn. Code §§ 8-44-102(a), 8-44-103.

5. The email vote also violated Tenn. Code § 8-44-102(c), which prohibits the use of electronic communication or informal assemblages to “decide or deliberate public business in circumvention of the spirit or requirements of” the OMA.

For the reasons stated above and discussed in more detail in the accompanying Memorandum of Law, Plaintiffs respectfully request that the Court enter judgment on the pleadings in their favor and, pursuant to Tenn. Code § 8-44-106(b)–(d), (1) file written findings of fact and conclusions of law holding that Defendants’ email vote constituted a violation of the OMA; (2) enter a permanent injunction enjoining Defendants from any future violations of the OMA, including but not limited to the use of email to circumvent the OMA by voting on,

deciding, and/or deliberating on public business; (3) retain jurisdiction over the parties and subject matter for a period of one year from the date of entry of its final judgment; (4) order Defendants to report in writing semi-annually to the Court on their compliance with the OMA; (5) grant Plaintiffs' an award of their reasonable expenses and costs incurred in this action to the fullest extent allowed under law or statute; and (6) grant such other relief as the Court deems just and proper.

Dated: July 31, 2020

Respectfully submitted,

By: /s/ Paul R. McAdoo
Paul R. McAdoo
Tennessee BPR No. 034066
THE REPORTERS COMMITTEE FOR
FREEDOM OF THE PRESS
6688 Nolensville Rd., Suite 108-20
Brentwood, TN 37027
Phone: 615.823.3633
Facsimile: 202.795.9310
pmcadoo@rcfp.org

Counsel for Plaintiffs

THIS MATTER IS EXPECTED TO BE HEARD ON THIS 21st DAY OF AUGUST, 2020 AT 9:00 A.M., PREFERABLY ON ZOOM. FAILURE TO FILE AND SERVE A TIMELY WRITTEN RESPONSE TO THIS MOTION MAY RESULT IN THE MOTION BEING GRANTED WITHOUT FURTHER HEARING.

CERTIFICATE OF SERVICE

I hereby certify that on the 31st day of July 2020, a copy of the foregoing filing was filed electronically and has been served on all counsel of record via the Court's E-Filing Service and/or e-mail, as agreed to by counsel for Defendants.

/s/ Paul R. McAdoo