

IN THE UNITED STATES DISTRICT FOR
THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

DAN McCALEB, Executive Editor of)
THE CENTER SQUARE,)

Plaintiff,)

v.)

Case No. 3:22-cv-00439

MICHELLE LONG, in her official capacity)
as DIRECTOR of the TENNESSEE)
ADMINISTRATIVE OFFICE OF THE)
COURTS,)

Defendant.)

DECLARATION OF RACHEL HARMON

EXHIBIT ONE TO

**STATE DEFENDANT'S RESPONSE IN OPPOSITION TO PLAINTIFF'S
MOTION FOR PRELIMINARY INJUNCTION (DE 20)**

IN THE UNITED STATES DISTRICT FOR
THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

DAN McCALEB, Executive Editor of)
THE CENTRE SQUARE,)

Plaintiff,)

v.)

Case No. 3:22-cv-00439

MICHELLE LONG, in her official capacity)
as DIRECTOR of the TENNESSEE)
ADMINISTRATIVE OFFICE OF THE)
COURTS,)

Defendant.)

SUPPLEMENTAL DECLARATION OF RACHEL HARMON

I, Rachel Harmon, pursuant to the provisions of 28 U.S.C. § 1746, do hereby declare as follows:

1. I am a licensed attorney in Tennessee. I am currently Deputy Director for the Tennessee Administrative Office of the Courts (AOC) in Davidson County, Tennessee. My prior role was General Counsel for the AOC. I have been employed at the AOC since December 2015.

2. Plaintiff has filed suit against Michelle Long, the Executive Director of the AOC in her official capacity, seeking a permanent injunction enjoining Director Long from closing all future meetings of the “Tennessee bench-bar advisory commission established to recommend rules” and “Tennessee Judicial Conference committees established to recommend rules” and

requiring Director Long to provide Plaintiff “with both virtual and in-person access” to future meetings of these committees/commission. (D.E. 19 Amend. Compl. Page ID# 149.)

3. There are no Tennessee Judicial Conference committees established to recommend rules, nor is there a “Tennessee bench-bar advisory commission established to recommend rules.” Instead, Tennessee Code Annotated § 16-3-601(a) establishes the Advisory Commission on Rules of Practice and Procedure and provides that “[t]here shall be an advisory commission whose members shall be appointed by the supreme court and whose duty shall be to advise the supreme court from time to time respecting the rules of practice and procedure.” The current members are attorneys appointed by the Tennessee Supreme Court to the Advisory Commission on the Rules of Practice and Procedure (Rules Advisory Commission) and are set forth on the AOC website at <http://www.tncourts.gov/boards-commissions/boards-commissions/advisory-commission-rules-practice-procedure> (copy attached) (with the exception that the “Reporter,” will change as Belmont Law Associate Professor Jeffrey Usman, effective September 1, 2022, will become a Judge on the Tennessee Court of Appeals) and include Tennessee’s Solicitor General, a state representative, and a clerk and master—plus a Tennessee Supreme Court Justice, four State Court Judges, and the Appellate Court Clerk as judicial non-voting liaisons. Additionally, two Supreme Court staff attorneys (civil and criminal) are assigned to the Advisory Commission.

4. AOC Director Michelle Long is not a member of the Rules Advisory Commission, nor is any employee of the AOC a member of the Rules Advisory Commission. AOC Director and Counsel of Intergovernmental Affairs Michelle Consiglio-Young does provide administrative support to the Rules Advisory Commission.

5. The Rules Advisory Commission advises the Tennessee Supreme Court. It is not part of the AOC and does not fall under the policies of the AOC.

6. The AOC does not have any formal policy regarding whether Rules Advisory Commission meetings are open to the public or press. The enabling statute for the Rules Advisory Commission, Tenn. Code Ann. § 16-3-601, does not specify or require that Rules Advisory Commission meetings shall be open in person or virtually to the public or press. No provision of Tennessee statutory law requires that Rules Advisory Commission meetings to be open to the public or press.

7. Any recommendations of the Rules Advisory Commission that the Tennessee Supreme Court considers for implementation are publicly disseminated and must be publicly approved by both Houses of the Tennessee General Assembly before court rules are implemented, amended, or repealed.

10. The Rules Advisory Commission typically meets quarterly. The next Rules Advisory Commission meeting is tentatively scheduled for September 9, 2022.

I declare under penalty of perjury that the foregoing is true and correct. Executed by me this 12th day of July, 2022 at Nashville, Tennessee.



RACHEL HARMON