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Sparta, TN 38583

November 3rd, 2021

HON. CHIEF JUSTICE ROGER PAGE  
Tennessee Supreme Court  
511 Union Street, Suite 600  
Nashville, TN 37219

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## APPLICATION FOR ACKNOWLEDGMENT OF PUBLIC RIGHT OF ACCESS

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Dear Chief Justice Page,

Greetings and salutations! I would like to begin by congratulating you on the recent election of your peers in naming you for promotion and elevation to the office of Chief Justice of the Tennessee Supreme Court. Kings to you sir, we trust that you will discharge the duties of your office with all verity and faithfulness!

May it please the Court, my name is Christopher Sapp. I am a tax-paying freeholder, domiciled in the Middle Division of Tennessee.

I write, by way of application, to obtain the extraordinary relief of your hand and to enlist your administrative authority in reaffirming to your subordinates the right of the press, and of the public, to access and observe the annual judicial conferences, whether online or in person, as occupancy permits.

Article 1 § 19 of our beloved Tennessee state constitution, in prescribing the freedom(s) of speech and the press, states that, ***“the printing presses shall be free to every person to examine the proceedings of the legislature, and ANY BRANCH or OFFICER of the government, and no law shall be made to restrain the right thereof.*** *The free communication of thoughts and opinions, is one of the invaluable rights of man, and every citizen, may freely speak, write, and print on any subject, being responsible for the abuse of that liberty”*

Currently, the AOC’s Administrative Director and General Counsel have taken a posture in direct repudiation of the Tennessee Constitution, The Open Meetings Act, and the previous holdings of this Honorable Court<sup>[\[1\]](#)</sup> by wrongfully denying me login credentials so that I may monitor the conference online.

Since you, sir, are the supervisory authority over the AOC and are also the chief administrative authority over the state courts, you are the only individual with whom I may properly appeal for relief in seeking to direct that the AOC respect my Constitutional and statutory right of attendance at these meetings. I plan to be in attendance at the November judicial conference covering their activities as a member of the press. I write to place you on NOTICE that I do not wish to be arrested, harassed, injured, or otherwise molested in my person under the misguided and mistaken belief by AOC staff, members of the conference, venue staff, or law enforcement that I am not lawfully entitled to be there. Given the lateness of the hour, I am requesting that you take immediate steps to advise the Administrator Director and the Chief Counsel that my attendance at the judicial conference is indeed permitted by law and that they are to refrain from hindering my presence in any way, shape, or form.

## **BACKGROUND**

I have long held an interest in the inner workings of the Courts and of our Judicial branch of government in particular. More specifically, my recent interests have shifted toward learning how Judges think and reason, how they are taught to ‘read law’, how they reach ‘conclusions of law’, how they receive their training, and in the kinds of business they

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<sup>1</sup> [Dorrier v. Dark, 537 S.W.2d 888, 892](#) “We cannot say that “public body” as used in the context of this Act, without definition, is so uncertain that men of common intelligence must necessarily guess as to its meaning and differ as to its application.”

discuss and transact when meeting in Conference together from year to year. As such, I wished to monitor, and do wish to observe, the sessions of the upcoming Municipal Judicial Conference in order to gather information on how the conference influences the formation of public policy; and, how their activities lead to the proposal of recommendations to the general assembly for the enactment of laws; and, how the same might lead to alteration or amendment of various Court rules or procedures.

Since I operate a business and had not initially planned on attending the conference in person, I sought to obtain login credentials from the AOC in order to watch and observe the sessions and proceedings online no differently than I watch and observe the proceedings and deliberations of Senators and Representatives when the State Legislature is in session.

In pursuit of the requisite login credentials for online access I was directed to the office of Ms. Rachel Harmon, general counsel for the AOC.

I am pleased to report to you that my interaction with Ms. Harmon, while unproductive, has been friendly and pleasant. After engaging in a happy volley of emails with Ms. Rachel Harmon, I have been unable to persuade her as to the public's right of access to these meetings. Please be sure to note, however, that Ms. Harmon has at all times deported herself with the utmost professionalism and respect in her communications.

Currently, Ms. Harmon and I are at an impasse in our discussions and we have reached a point of gridlock in our opinions as to the applicability of the Tennessee Constitution, prevailing case law, and as to whether or not Judicial conferences qualify as 'governing body' as defined by The Open Meetings Act ("TOMA"). As of her last email, Ms. Harmon related to me that Director Tate was also of the same opinion and further reasoned that since the judicial conferences were not 'legislative' in nature they did reach the legal thresholds of TOMA. I respectfully disagree.

While the Tennessee annotated code does allow for the enforcement of TOMA's right of public access through our Courts of Equity;<sup>[2]</sup> I scarcely believe that any current sitting Chancellor or Circuit Court Judge would dare question the status quo in opposition or

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<sup>2</sup> [Tenn. Code Ann. § 8-44-106\(a\)](#) "The circuit courts, chancery courts, and other courts which have equity jurisdiction, have jurisdiction to issue injunctions, impose penalties, and otherwise enforce the purposes of this part upon application of any citizen of this state."

defiance of the administrative director and AOC's general council. As such, any formal petition for injunction, would likely fall on politically deaf ears and prove to be a waste of my time and money as judges are beholden to the AOC on some level. Furthermore, such an attempt or endeavor on my part would not likely be docketed or heard in time to make a difference in any event.

Given that the Tennessee Supreme Court is one of the "*other courts which have equity jurisdiction*",<sup>[3]</sup> and where venue and jurisdiction over the AOC and its officers most properly lies with this Court, my Application is an appeal to reason that squarely rests with you and your personal integrity as the Chief Justice in deciding whether or not to handle the matter **administratively**<sup>[4][5]</sup> in recognition, reconciliation, and conformity with the law of the land as secured to the people by the Tennessee Constitution<sup>[6]</sup>, TOMA<sup>[7]</sup>, case law<sup>[8]</sup>, and this Court's own Rules<sup>[9]</sup> or whether I will be compelled to litigate the matter formally. I would prefer the former resolution as I abhor the necessity of litigation where good-faith, reason, and the rule of law ought to dictate the course of action on this matter.

My request is that you order and direct the Administrative Director and AOC staff to take cognizance of the public's right of access, whether in person or online, insofar as space and occupancy limits allow their attendance. Online access to these meetings should also be open and unrestricted as the public also enjoys an unalienable and infeasible right to monitor the formation of public policy and to observe the crafting of legislative recommendations by members of the judiciary without the necessity of jumping through hoops or encountering a gauntlet of obstacles to do so.

The denial of public access to the judicial branch of government and its various conferences only erodes and undermines the public's confidence in the judiciary.

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<sup>3</sup> [Tenn. Code Ann. 8-44-106\(a\)](#)

<sup>4</sup> [Tenn. Sup. Ct. R. 10, RJC 2.12\(A\)](#) "A judge shall require court staff, court officials, and others subject to the judge's direction and control to act in a manner consistent with the judge's obligations under this Code.

<sup>5</sup> [Tenn. Sup. Ct. R. 10, RJC 2.3\(A\)](#) "A judge shall perform the duties of judicial office, including administrative duties, without bias or prejudice." **[Emphasis added]**

<sup>6</sup> [TN Const. art 1 § 19](#) "That the printing press shall be free to every person to examine the proceedings of the Legislature; or of any branch or officer of the government, and no law shall ever be made to restrain the right thereof.

<sup>7</sup> [Tenn. Code Ann. 8-44-1](#)

<sup>8</sup> [Dorrier v. Dark, 540 S.W.2d 658 \(1976\)](#)

<sup>9</sup> [Tenn. Sup. Ct. R. 10, RJC 1.2](#) "A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

## ANALYSIS

As you know, the Administrative Office of the Courts (“AOC”) is a state functionary for the Tennessee Supreme Court; and, is charged with the duty of assisting your office in *“improving the administration of justice in the state.”*<sup>[10]</sup> The AOC is an administrative arm of the judicial branch which organizes, oversees, influences, educates, and makes policy recommendations to magistrates of various grand divisions, circuits, districts, counties, and municipalities; many or most of whom are also officials and officers of separate and distinct subdivisions, political bodies, and municipalities within and across the State.

May I also bring to your remembrance that the *“origin and authority”* of the judicial conference is easily *“traced to State legislative action.”*<sup>[11]</sup> The General Assembly, when authorizing the conferences, did specifically vest, and clothe, the members of these bodies with the *“authority to make decisions for or recommendations to a political body”*<sup>[12]</sup> in charging that they *“draft suitable legislation”*<sup>[13]</sup> for; and, *“submit its recommendations to the general assembly”*<sup>[13]</sup> for the *“formation of public policy”*<sup>[14]</sup> and for the *“recommendation”*<sup>[15]</sup> and adoption of rules which affect our Courts, civil and criminal procedures, the suppression of crime, and the public *“administration”*<sup>[15][16]</sup> of

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<sup>10</sup> [Tenn. Code Ann. § 16-3-801](#)

<sup>11</sup> [Dorrier v. Dark, 540 S.W.2d 658 \(1976\)](#) “It is clear that for the purpose of this Act [TOMA], the Legislature intended to include **any** board, commission, committee, agency, authority or **any** other body, **by whatever name, whose origin and authority may be traced [back] to State, City or County legislative action and whose members have authority to make decisions or recommendations on policy or administration affecting the conduct of the business of the people in the governmental sector.**” [Emphasis Added]

<sup>12</sup> [Tenn. Code Ann. § 8-44-102\(b\)\(1\)\(A\)](#) “The members of any public body which consists of two (2) or more members, with the authority to make decisions for or recommendations to a public body on policy or administration and also means a private nonprofit community organization eligible to receive funds from the community services block grant program under 42 U.S.C. §§ 9901 - 9926. Any governing body so defined by this section shall remain so defined, notwithstanding the fact that such governing body may have designated itself as a negotiation committee for collective bargaining purposes, and strategy sessions of a governing body under such circumstances shall be open to the public at all times;”

<sup>13</sup> [Tenn. Code Ann. § 17-3-107](#) “It is the duty of the conference to give consideration to the enactment of laws and rules of procedure that in its judgment may be necessary to the more effective suppression of crime and thus promote peace and good order in the state. To this end, a committee of its members shall be appointed to draft suitable legislation and submit its recommendations to the general assembly.

<sup>14</sup> [Tenn. Code Ann. § 8-44-101\(a\)](#) “The general assembly hereby declares it to be the policy of this state that the formation of public policy and decisions is public business and shall not be conducted in secret.”

<sup>15</sup> [Tenn. Code Ann. § 8-44-102\(b\)\(1\)\(A\)](#) defining a ‘Governing Body’: “The members of any public body which consists of two (2) or more members, with the **authority to make decisions for or recommendations to a public body on policy or administration** and also means a private nonprofit community organization eligible to receive funds from the community services block grant program under 42 U.S.C. §§ 9901 - 9926. Any governing body so defined by this section shall remain so defined, notwithstanding the fact that such governing body may have designated itself as a negotiation committee for collective bargaining purposes, and strategy sessions of a governing body under such circumstances *shall be open to the public at all times;*” [emphasis added]

justice. As such, the annual convocations of these elected and appointed magistrates each qualify as a “governing body”<sup>[17]</sup> which does meet and “shall meet annually for the consideration of any and all matters pertaining to the discharge of the official duties and obligations of its several members, to the end that there shall be a more prompt and efficient administration of justice in the courts of this state.”<sup>[16]</sup>

Given the consequential nature of the considerations, discussions, deliberations, recommendations, and resulting resolutions of these bodies, it is reasonable for “men of common intelligence”<sup>[17]</sup> to conclude that the members of such Conferences are thus engaged in the “formation of public policy”<sup>[18]</sup> which is a specie of “public business”<sup>[19]</sup> previously contemplated by the general assembly as they crafted, prescribed, and enacted The Open Meetings Act (“TOMA”).

As such, members of the public have a statutory right to attend and observe any and all such Conferences no differently than they enjoy a lawful right to attend, monitor, and observe the meetings of their local school board or the discussions of a county steering committee. Furthermore, the press has an even greater Constitutional right<sup>[20]</sup> to monitor, attend, and observe such conferences in order to “examine the proceedings”<sup>[20]</sup> of “any branch or officer of government”<sup>[20]</sup> who participates in these assemblies.

The judicial conferences of this state are wholly or partially funded through the taxation

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<sup>16</sup> [Tenn. Code Ann. § 17-3-104\(a\)](#) “The conference shall meet annually for the consideration of any and all matters pertaining to the discharge of the official duties and obligations of its several members, to the end that there shall be a more prompt and efficient administration of justice in the courts of this state.”

<sup>17</sup> [Dorrier v. Dark, 537 S.W.2d 888, 892](#) “We cannot say that “public body” as used in the context of this Act, without definition, is so uncertain that men of common intelligence must necessarily guess as to its meaning and differ as to its application.”

<sup>18</sup> [Tenn. Code Ann. § 8-44-101\(a\)](#)

<sup>19</sup> [Tenn. Code Ann. § 8-44-101\(a\)](#)

<sup>20</sup> [Tenn. Const art 1 § 19](#) “That the printing press shall be free to every person to examine the proceedings of the Legislature; or of any branch or officer of the government, and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions, is one of the invaluable rights of man and every citizen may freely speak, write, and print on any subject, being responsible for the abuse of that liberty. But in prosecutions for the publication of papers investigating the official conduct of officers, or men in public capacity, the truth thereof may be given in evidence; and in all indictments for libel, the jury shall have a right to determine the law and the facts, under the direction of the court, as in other criminal cases.”

of its citizens.<sup>[21][22][23]</sup> Accordingly, the citizens of this state enjoy an inherent right of public access and inquiry into the same no differently than they do with other government entities which are also funded through public taxation. Furthermore, I am of the persuasion that members of the public enjoy an inextinguishable right to know and discover the quality, contents, and manner in which information, instruction, and educational materials are provided and propounded to members of the judiciary no differently than parties may also lawfully inquire<sup>[24]</sup> as to the source, quality, and contents of the educational materials provided to children within their local school district,<sup>[25]</sup> for which the public is also taxed.<sup>[26]</sup>

Where the voice of the people, as expressed in law, speaks uniformly to each branch, department, and officer of government; and, where the general assembly has declared that *“the formation of public policy and decisions is public business and shall not be conducted in secret.”*;<sup>[27]</sup> and, where the judicial branch of government cannot simply exclude itself from law, or public oversight, of its own authority; nor may it do so by the fiat declaration of the AOC’s Administrative Director, I respectfully insist that you take

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<sup>21</sup> [Tenn. Code Ann. § 16-18-305\(b\)](#) “There is also levied a state privilege tax on litigation of one dollar (\$1.00) for each and every violation of any municipal law or ordinance governing use of a public parking space. The tax is due and shall be collected even if the offender does not appear before the court. Notwithstanding this section or any other law to the contrary, the only litigation privilege tax collected for a violation of any municipal law or ordinance governing the use of a public parking space shall be the one dollar (\$1.00) litigation tax levied by this subsection (b). The revenue generated by the privilege tax levied by this subsection (b) shall be apportioned in accordance with § 67-4-606.”

<sup>22</sup> [Tenn. Code Ann. § 6-55-101\(a\)](#) “The collector of every municipal corporation shall collect and pay over to the treasurer, on the first Monday of January and July, each year, all taxes, fines, and forfeitures due and owing to the same; and, on failure, shall be liable for the amount of such collector’s delinquency, with costs, on motion before the circuit court.”

<sup>23</sup> [Tenn. Code Ann. § 67-4-606\(a\)\(9\)](#) Re: apportionment of Litigation taxes “Five thousand five hundred twenty-nine ten thousandths percent (0.5529%) of the proceeds shall be credited to the account of the administrative director of the courts, to be used to defray the expenses of serving the general sessions courts and the Tennessee general sessions judges’ conference;”

<sup>24</sup> [Tenn. Code Ann. § 49-6-2203\(d\)\(4\)](#) “The department shall develop a procedure by which members of the public may comment on the books proposed for adoption. Comments shall be accepted by regular mail, email or in another electronic format as determined by the department. Public comments received by the department shall be posted on the department’s website; provided, that any comment posted shall pertain only to the review of a textbook or any instructional materials being proposed for adoption. The department shall distribute the public comments on a textbook or any instructional materials to the advisory panelists prior to the making of their recommendations on the textbook or instructional materials and to the commission before its approval of the textbook or instructional materials for inclusion on the textbook list.

<sup>25</sup> [Tenn. Code Ann. § 49-6-1028](#) “The state board of education shall include in the social studies standards, at the appropriate grade level or levels in high school, as determined by the state board of education through standards and the local board of education through curriculum, courses and content designed to educate children about the United States and Tennessee governments. The standards shall include the three (3) branches of government, the fundamental documents identified in [§ 49-6-1011\(a\)](#) that underpin our form of government, an understanding of how laws are enacted, and ways citizens shape and influence government and governmental actions.”

<sup>26</sup> [Tenn. Code Ann. § 49-2-101\(6\)](#) Powers and duties of County Legislative Body: “Levy such taxes for county elementary and county high schools as may be necessary to meet the budgets submitted by the county board of education and adopted by the county legislative body;”

<sup>27</sup> [Tenn. Code Ann. § 8-44-101\(a\)](#) “The general assembly hereby declares it to be the policy of this state that the formation of public policy and decisions is public business and shall not be conducted in secret.”

action to inform and advise your subordinate staff of the public's lawful right to attend and observe these meetings.

Mr. Chief Justice, where you, by statute, do rightfully exercise immediate administrative control and supervisory authority to direct and order the steps and actions of the administrative director and the AOC<sup>[28]</sup>, I formally request that you take cognizance of my Constitutionally secured right to attend this assembly<sup>[29]</sup> as a member of the Press<sup>[30]</sup> so that I may report upon the "*public business*"<sup>[31]</sup> being conducted within this State as I see fit.<sup>[32]</sup> I also respectfully assert and contend that the public also enjoys an infeasible statutory right of access to observe and attend these Conferences in person, should they so choose. Given that these Conferences are funded wholly, or in part, through taxation of the citizenry, the public's right of access to all such Conferences should be self-evident.

Due to the lateness of the hour and the timing of the upcoming Conference, I require, and am requesting, your immediate attention and assistance to inform and instruct the Administrative Director and her Chief Counsel as to my right of access so that my in-person attendance of the Conference will not be met with resistance or official oppression under color of law, color of authority, or color of office; and, so that I may peaceably investigate and report upon the activities, discussions, and resolutions of the assembled public officials and officers of the Conference without hindrance, threat of arrest, or molestation of my person by either the AOC, the sheriff, other police powers, or by any other person(s) with whom the AOC may have contracted for the provision of private meeting facilities in which the "*public business*"<sup>[33]</sup> is being conducted. The government cannot meet secretly behind the closed doors of a private venue and then

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<sup>28</sup> [Tenn. Code Ann. § 16-3-803\(a\)](#) "The administrative director of the courts shall work under the supervision and direction of the chief justice..."

<sup>29</sup> [Tenn. Const. art 1 § 23](#) "That the citizens have a right, in a peaceable manner, to assemble together for their common good, to instruct their representatives, and to apply to those invested with the powers of government for redress of grievances, or other proper purposes, by address or remonstrance."

<sup>30</sup> [Tenn. Const. art 1 § 19](#) "That the printing press shall be free to every person to examine the proceedings of the Legislature; or of any branch or officer of the government, and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions, is one of the invaluable rights of man and every citizen may freely speak, write, and print on any subject, being responsible for the abuse of that liberty."

<sup>31</sup> [Tenn. Code Ann. § 8-44-101\(a\)](#)

<sup>32</sup> [Tenn. Const. art 1 § 19](#) "That the printing press shall be free to every person to examine the proceedings of the Legislature; or of any branch or officer of the government, and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions, is one of the invaluable rights of man and every citizen may freely speak, write, and print on any subject, being responsible for the abuse of that liberty."

<sup>33</sup> [Tenn. Code Ann. § 8-44-101\(a\)](#)



seek to have the public “trespassed” by a hotelier or venue owner in circumvention of The Open Meetings Act.

So that I may continue to enjoy these rights unhindered by any subordinate officer or agent of government, I formally request confirmation of your receipt of this letter together with a written statement from your office, preferably upon official Supreme Court letterhead and signed by your hand, affirming my public right of access to attend this and all future conferences pursuant with existing laws. Thank you in advance for your immediate aid and assistance in this matter.

Very Respectfully,

A handwritten signature in black ink, appearing to read 'Chris Sapp', with a horizontal line drawn underneath the signature.

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