

**IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

**OCCUPY NASHVILLE** (an unincorporated  
organization), PAULA ELAINE PAINTER,  
MALINA CHAVEZ SHANNON, LAUREN  
MARIE PLUMMER, ADAM KENNETH  
KNIGHT, WILLIAM W. HOWELL and  
DARRIA HUDSON,

Plaintiffs,

v.

**WILLIAM EDWARD "BILL" HASLAM**,  
GOVERNOR OF THE STATE OF  
TENNESSEE, WILLIAM L. GIBBONS  
COMMISSIONER OF THE TENNESSEE  
DEPARTMENT OF SAFETY, STEVEN G.  
CATES COMMISSIONER OF THE  
TENNESSEE DEPARTMENT OF GENERAL  
SERVICES,

Defendants.

CIVIL ACTION NO. \_\_\_\_\_

**JURY DEMAND**

**VERIFIED COMPLAINT**

Plaintiffs, through their undersigned attorneys, state for their Verified Complaint as follows:

**INTRODUCTION**

1. This is an action pursuant to 42 U.S.C. § 1983 for declaratory and injunctive relief and monetary damages to redress an unconstitutional denial of the Plaintiffs' right of free speech, expression and assembly guaranteed by the First and Fourteenth Amendments to the Constitution of the United States and Article 1, § 19 and §23 of the Constitution of the State of Tennessee.

## PARTIES

2. Plaintiff OCCUPY NASHVILLE is an unincorporated organization that seeks to bring attention to the imbalance in our financial and economic system, to ensure that elected leaders are as concerned about and responsive to citizens of our country without means or with moderate means as they are to those with the most and to eliminate the excessive, unwarranted influence of money and corporations in political decision making. It maintains a website to view its live-streaming activities at: <http://occupynashville.org/streaming-video/> It communicates with its members and the public through <http://www.facebook.com/OccupyNashville> and <http://twitter.com/#!/OccupyNashville> .

3. Plaintiff Paula Elaine Painter, 55, is a citizen of the United States of America and resident of the State of Tennessee who was unlawfully arrested at Legislative Plaza in Nashville, Tennessee in the early morning of October 28, 2011 and then again early in the morning of October 29, 2011. Ms. Painter has been as a librarian for more than twenty years during her professional career. After recently losing her job as a librarian, she has been taking care of her elderly father.

4. Plaintiff Malina Chavez Shannon, 34, is a citizen of the United States of America and resident of the State of Tennessee and a college student. She also is training as a photographer. In the early morning of October 29, 2011, Ms. Shannon was travelling to Legislative Plaza on foot after parking her car. Before she reached the plaza, while she was on the sidewalk, she was detained and arrested by members of the Tennessee Highway Patrol ("THP"). She was handcuffed by one of the unnamed members of the THP so tightly that a nurse at the Metro jail had to cut the handcuffs off her with surgical scissors. Days after her arrest she still has numbness in one of her hands from being handcuffed. Additionally, her photographic equipment was damaged by the Highway Patrol in the course of her arrest.

5. Plaintiff Lauren Marie Plummer, 24, is a citizen of the United States of America and resident of the State of Tennessee and an early childhood educator who lives in Nashville. She has participated as a member of Occupy Nashville since October 7, 2011. She was arrested on both October 28 and 29, 2011. Ms. Plummer has occupied Legislative Plaza for approximately 6 night prior to her arrests. Ms. Plummer participated in other acts of public protest in the past including protesting the lack of low income housing and the conditions at Nashville's tent city.

6. Plaintiff Adam Kenneth Knight is a citizen of the United States of America and resident of the State of Tennessee. Mr. Knight is an eighth grade teacher at a middle school in the Nashville area. He was arrested with other peacefully protesting citizens on the early morning of October 28, 2011. The night before his arrest one of Mr. Knight's students attended the Occupy Nashville protest with his father. When it became clear that arrests would take place, the father thanked Mr. Knight for teaching his son to stand up for what is right.

7. Plaintiff William W. Howell, 64, is a citizen of the United States of America and resident of the State of Tennessee. Mr. Howell is a long time advocate for fair taxation at the State Legislature. His involvement in public protests of the action of his elected representatives dates back to the Vietnam War. After being warned by the State to leave Legislative Plaza on the morning of October 28, 2011, Mr. Howell read the Declaration of Independence for all to hear. The Tennessee Highway Patrol waited for him to finish its reading; then, ignoring the import of what had been read, arrested Mr. Howell along with 28 other peaceful protesters.

8. Plaintiff Darria Janéy Hudson is a citizen of the United States of America and resident of the State of Tennessee and a 23-year-old candidate for Masters of Divinity at Vanderbilt University, a part-time employee of Vanderbilt Sarratt Center, a licensed minister at the Metropolitan interdenominational church and a former student minister at Fisk University. She



was arrested in the early morning hours of October 28, 2011. Ms. Hudson has studied with James Morris Lawson, Jr., a leading theoretician and tactician of nonviolence within the American Civil Rights Movement. She believes that Occupy Nashville is a continuation of civil disobedience seeking social justice dating back to the sit-ins in Nashville in 1960.

9. Defendant William Edward "Bill" Haslam ("BILL HASLAM") is the Governor of the State of Tennessee. He is sued in his official capacity only.

10. Defendant Steven G. Cates ("COMMISSIONER CATES") is the Commissioner of The Department of General Services for the State of Tennessee. He is sued in his official capacity only.

11. Defendant William L. Gibbons ("COMMISSIONER GIBBONS") is the Commissioner of the Department of Safety for the State of Tennessee. He is sued in his official capacity only.

12. Defendant Officers Doe 1-100 ("OFFICER DOES 1-100") are officers with the Tennessee Highway Patrol. The names of Officer Does are not known at this time, however they are sued in their official and individual capacities.

13. Defendants, at all relevant times and as to all relevant actions described herein, were acting under the color of state law.

#### **JURISDICTION AND VENUE**

14. This suit is for injunctive relief, declaratory relief, nominal and actual damages. The causes of action for injunctive relief, nominal and actual damages are provided by 42 U.S.C. § 1983, which permits actions at law and suits in equity against any person, who under color of a state law, causes injury to another in violation of the Constitution of the United States. The cause of action for declaratory relief arises under 28 U.S.C. § 2201, which permits a court to declare the rights of any interested party in a case of actual controversy.

15. This suit presents questions that arise under the Constitution of the United States.



Accordingly, jurisdiction is provided by 28 U.S.C. §§ 1331, 1343(a)(3), and 2201.

16. Venue is proper in the Court under 28 U.S.C. § 1391, as Defendants may be found in this district.

## **FACTUAL ALLEGATIONS**

### **THE PROTEST**

17. Occupy Nashville is an outgrowth of the “Occupy Wall Street” movement that began approximately one and a half months ago. The Occupy Nashville movement seeks to bring attention to the imbalance in our financial system and to ensure that politicians are as concerned about and responsive to citizens of our country without means or with moderate means, as they are to corporations and those who benefit the most from the current imbalance.

18. Legislative Plaza (“Plaza”) is located between Union Street and Charlotte Pike, facing 6th Avenue, North in front of War Memorial Auditorium in Nashville, Tennessee, directly across the street from the Statehouse. The location of the Plaza makes it an appropriate and effective public forum at which Occupy Nashville can convey its message, meet in a peaceable manner for their common good, instruct their representatives and apply to those invested with the powers of government for redress of their grievances.

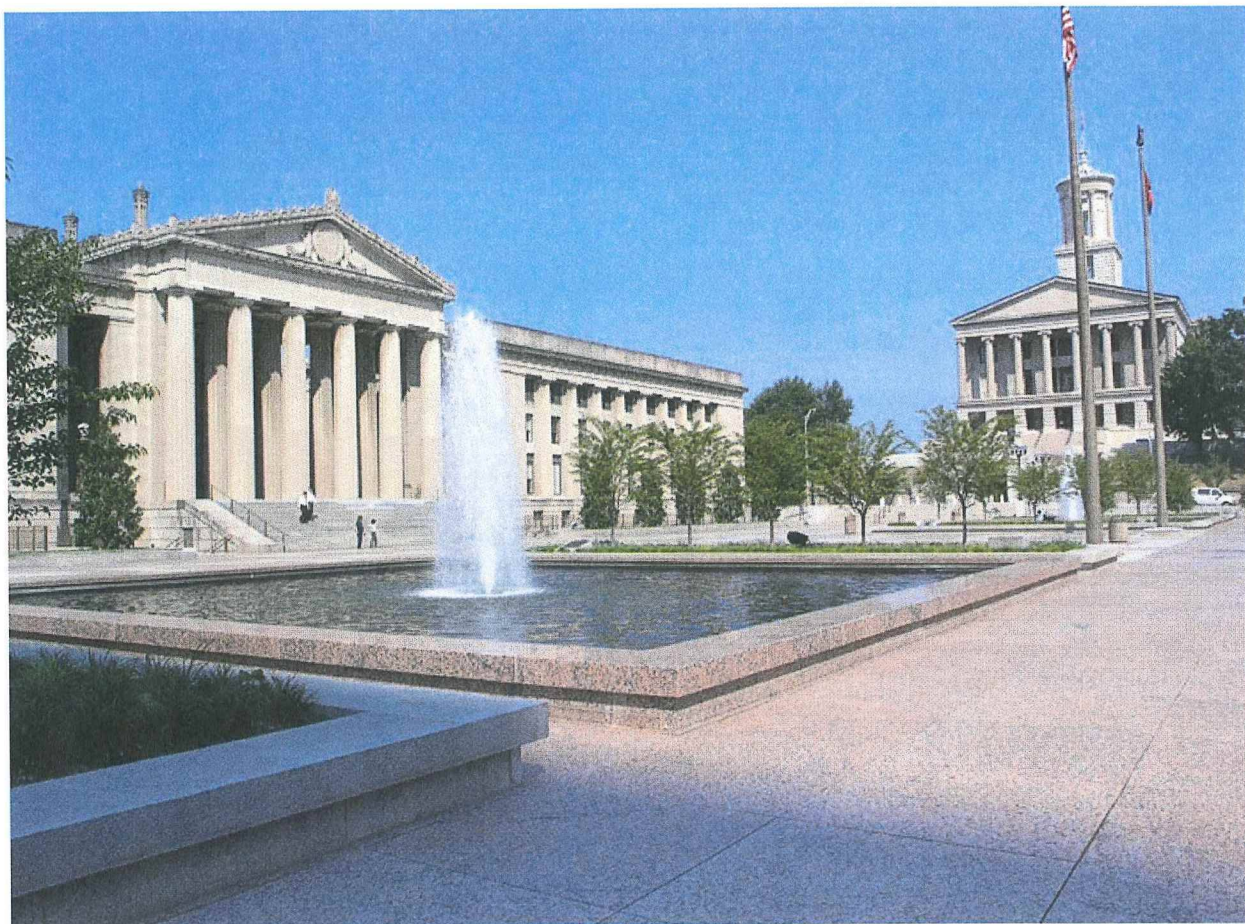
19. The Plaza was first know as War Memorial Square.



It was completed in 1925. The building was recognized with a Gold Medal Award by the American Institute of Architecture (AIA) in 1925, the highest honor that the AIA can bestow.



20. The design of the Plaza has changed much since 1925 to accommodate larger crowds and more frequent public events.



21. The Plaza is large open pedestrian space. The War Memorial Amphitheatre is entered by steps leading off of the Plaza. These steps are used as part of many public gatherings.

22. For many years, the Plaza has been used for political, social and labor demonstrations. Often it is used for the overflow of demonstrations directly in front of the State Capitol. It is also used by demonstrators who simply wish to be visible across the street from the State Capitol rather than directly on its doorstep. It is routinely used for the inauguration of the Governor.

23. On April 26, 2008, a local group held a demonstration on the Plaza. Prior to their demonstration, this group was informed by the State that there was no permit requirement, and no rules or regulations governing the use of the Plaza. Specifically on March 4, 2008, the State



informed them, “any person or organization is free to engage in any activity protected by the Constitution on the War Memorial Plaza without having to provide the State of Tennessee advance notice, obtain liability insurance or pay event and security fees.” (See, Exhibit 1, “March 4, 2008, Letter” )

24. Occupy Nashville began its speech activities at the plaza on October 9, 2011. The groups in the “Occupy” movement typically encompass a continuous presence at a location. Occupy Nashville participants are not normally sleeping at the plaza but, rather, maintain a continuous around-the-clock presence by rotating participants. At any one time, there have been as few as two (2) participants or as many as 300 participants. Occupy Nashville participants have mainly located themselves and their property right near the northwest corner of the Plaza, on a seating section of the stepped-seating, or at a section of one of the ledges. Participants positioned themselves and their property so as not to obstruct other pedestrians’ usage of or passage through the plaza.

25. Some Occupy Nashville participants brought with them coolers of food, drinks or medical supplies for use if needed during their speech activities. They also brought political signs. Some had small tents. They brought tarps to cover items when it began raining. A few brought small collapsible chairs to sit in or small single-person tables upon which to place their computer to engage in real-time live chat from the “occupation” site. Again, given the size of the Plaza and of the pedestrian walkways, none of the activities engaged in by Occupy Nashville, even at their peak of participation, obstructed the use of the Plaza by other persons.

26. Recently, the Southern Festival of Books and Occupy Nashville used the Plaza at the same time without incident or complication.

### **New Rules Are Promulgated by Fiat of the Commissioner**

27. Pursuant to the act of the General Assembly the Tennessee Department of General Services is authorized and obligated by statute to make rules for the use of the plaza. Tenn. Code Ann. §§ 4-3-1105, 4-4-103; 4-8-101, 103 & 104, 4-3-1103 & 1105 and 4-3-2206.

28. Prior to Occupy Nashville's protest commencing at Legislative Plaza, the Department of General Services had adopted a set of limitations on the Plaza's use. (Exhibit 2) (the "Old Rules"). It is unknown when or how these Old Rules were adopted; however, it is clear that they placed no limitation on the hours of use and had been interpreted by the State to allow non-exclusive use of the Plaza without seeking a permit. (March 8, 20-08, Letter)

29. On October 27, 2011, the Old Rules were amended by fiat without notice, comment, approval by the Attorney General and reporter or publication by the Secretary of State. (the New Rules, Exhibit 3). These New Rules which purport to be of immediate applicability, were posted on the Plaza in the afternoon of October 27, 2011. These new rules were then enforced on October 28, 2011. No emergency requiring the promulgation of new rules existed.

30. These New Rules unconstitutionally limit access by the public to a forum universally accepted to be an area protected for the speech of the governed.

### **First Night of Arrests**

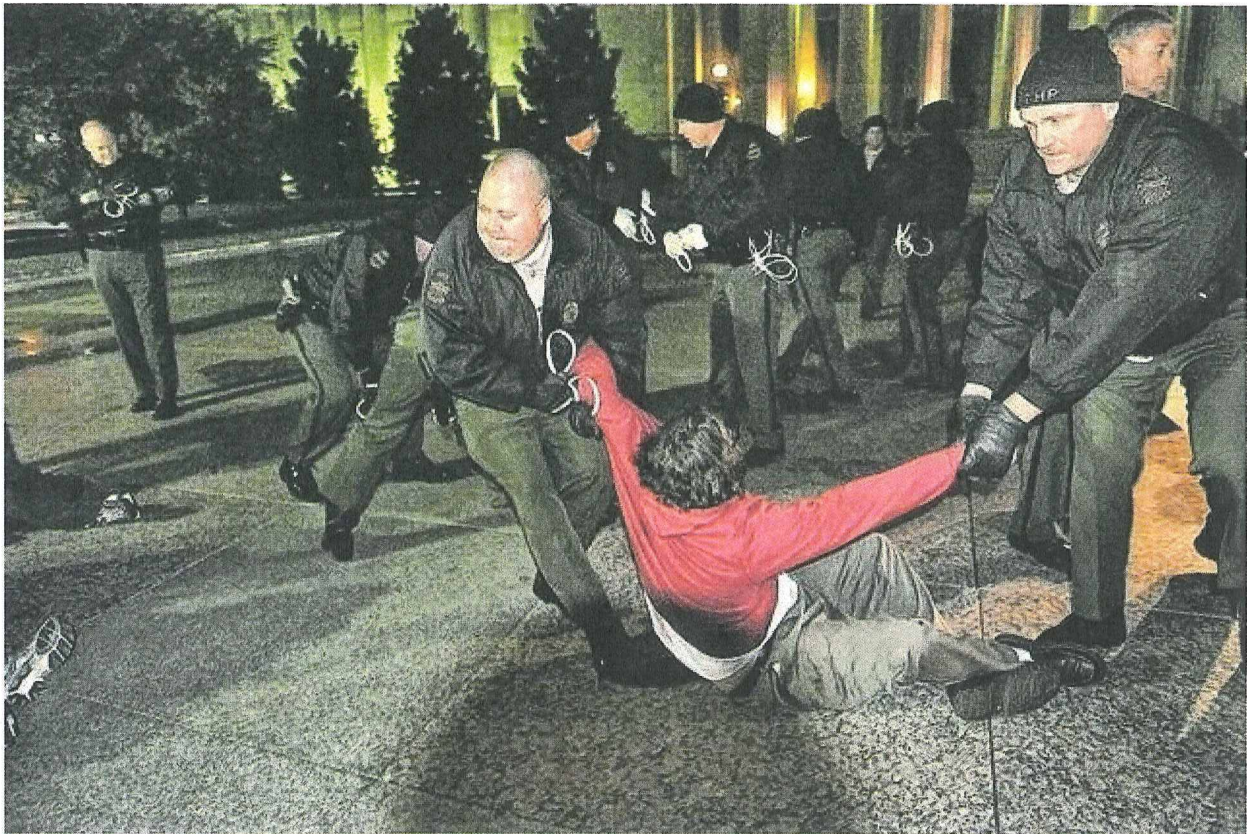
31. Despite receiving notification of the new rules, Occupy Nashville protesters, relying on historic policy of the Plaza, continued their occupation of the Plaza.

32. On Friday, October 28, 2011, at approximately three o'clock in the morning, the Occupy Nashville protesters were told by the Tennessee Highway Patrol that they had ten minutes to



leave the Plaza. Many protesters did not leave and instead sat in the middle of the Plaza peacefully singing and listening to a recitation of the Declaration of Independence.

33. Just as the warning time had run out, approximately 75 THP officers converged on the Plaza. The State Troopers arrested the remaining protesters, bound their hands with "zip ties," and loaded them onto a waiting prison bus, which took them to jail.



34. All of Plaintiffs' seized items were placed into a truck and were driven away. Upon information and belief, the property was placed into the possession of the State Police.

#### **Criminal Proceedings**

35. Upon arrival at the Davidson County Sheriff's Criminal Justice Center, the State Troopers sought to have their actions ratified by a Judicial Commissioner as required by state law. The Commissioner denied the Troopers' request, refusing to find probable cause and effectively ordering the protesters' release. Several hours later, the State Troopers complied with the



Commissioner's order, but only after issuing the protesters state citations for criminal trespassing, a class "C" misdemeanor, carrying a potential fine and jail time.

36. Despite this ruling, however, Defendants continued to detain Plaintiffs until approximately 8:45 a.m., which is approximately 5 hours after Commissioner Nelson's order finding no probable cause and ordering their release.

#### **Seizure of Their Property**

37. Plaintiffs' counsel was informed by Defendants' counsel (General Counsel of the Department of General Services) that Plaintiffs would need to obtain their own truck to carry items seized by THP and that these items were stored in a dry garbage bin in the Plaza garage.

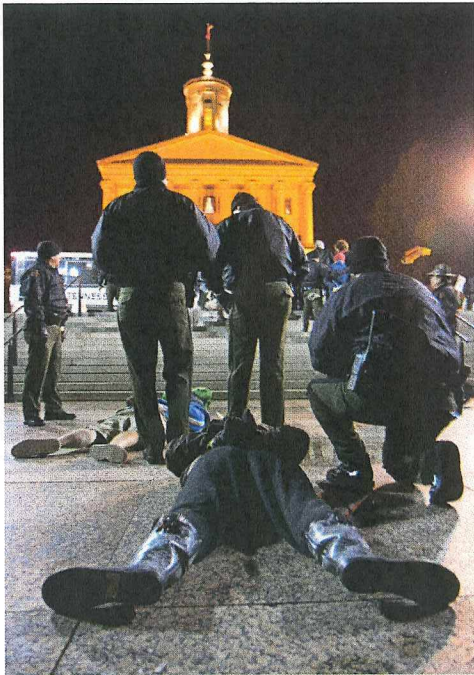
38. Plaintiffs' counsel has been advised by an official in charge of the Plaza that some of the property has been destroyed.

#### **Second Night of Arrests**

39. On Friday, October 28, 2011, Plaintiffs were again threatened with arrest.

40. Plaintiff Malina Chavez Shannon was not part of the protest, but was taking photographs on the sidewalk. She was arrested while on the sidewalk abutting 6<sup>th</sup> Avenue.

41. In an overwhelming show of force, on October 28, 2011, shortly before midnight, more than two dozen peacefully assembled Occupy Nashville protestors were arrested by 72 Tennessee Highway Patrol Officers. The arrestees also included a reporter with the Nashville *Scene*, Jonathan Meador, who was covering the event.



### **Future Plans**

42. Plaintiffs continue to use the Plaza for their free speech activities, albeit they have been hindered (including in the conveyance of their message) by the restrictions placed upon them. Plaintiffs intend to continue to engage in free speech activities at the Plaza (and to generally enjoy the use of the Plaza) now and in the future for an indefinite period of time. They wish to do so without being subjected to the invalid, unlawful prohibitions and restrictions imposed upon them by Defendants Haslam, Cates and Gibbons.

**COUNT I: VIOLATION OF THE FIRST AMENDMENT RIGHTS TO FREE SPEECH & ASSEMBLY  
(42 U.S.C. § 1983)  
NEW POLICY IS UNCONSTITUTIONAL ON ITS FACE**

43. Plaintiffs re-allege and re-aver all of the allegations contained in the previous paragraphs.
44. Plaintiffs' past and proposed activity constitutes political speech and association in a public forum and therefore is expressive activity entitled to the highest degree of protection under the First Amendment.
45. The State's New Rules violate Occupy Nashville's and the individual Plaintiffs' First Amendment rights in the following ways:
- a. They constitute an impermissible prior restraint on Occupy Nashville's speech.
  - b. They constitute a content-based regulation of Occupy Nashville's speech.
  - c. They embody the exercise of excessive and unfettered arbitrary discretion, ungoverned by objective standards, by the officers, employees or agents of the state who are charged with reviewing Occupy Nashville's request to hold its march.
  - d. They constitute an arbitrary and standardless tax or financial burden on plaintiffs' speech, and impose arbitrary requirements on Occupy Nashville's attempt to exercise its expressive rights.
  - e. They are unconstitutionally vague.
  - f. They are unconstitutionally overbroad.
  - g. They discriminate against Occupy Nashville in that they chill or eviscerate Occupy Nashville's First Amendment rights on the basis of its financial status, and its inability to pay the fees imposed by the state on expressive activity in public forums.
46. As a proximate result of the Defendants' actions, the Plaintiffs have been deprived of their rights under the First Amendment and have suffered immediate and irreparable harm.
47. Defendants Haslam, Cates and Gibbons acted under color of state law when they enacted and continue to enforce the above-described New Rules that abridge Plaintiffs' rights to freedom of speech, expression and association as guaranteed by the First and Fourteenth Amendments to the Constitution of the United States, which are enforceable pursuant to 42 U.S.C. § 1983.
48. As a result of Defendants' enforcement of the New Rules, the Plaintiffs have been limited



in the ability to exercise their First Amendment rights and have significant fear of arrest for exercising these same rights in the future.

**COUNT II: VIOLATION OF THE FIRST AMENDMENT RIGHTS TO FREE SPEECH & ASSEMBLY**  
**(42 U.S.C. § 1983)**  
**NEW POLICY IS UNCONSTITUTIONAL AS APPLIED**

49. Plaintiffs re-allege and incorporate by reference all of the preceding paragraphs in this complaint.

50. Defendants have, as made clear by their public statements, adopted these New Rules in reaction to Occupy Nashville's protest.

51. Defendants have also enforced the New Rules selectively, allowing those who they did not believe to be part of Occupy Nashville to utilize the Plaza after the fiat-imposed curfew even while they arrested the members of Occupy Nashville.

52. As a result of Defendants' enforcement of the New Rules, the Plaintiffs have been limited in their ability to exercise their First Amendment Rights.

**COUNT III: ARTICLE I, SECTION 19 OF THE TENNESSEE CONSTITUTION**

53. Plaintiffs re-allege and incorporate by reference all of the preceding paragraphs in this complaint.

54. Article I, Section 19 of the Tennessee Constitution provides:

That the printing press shall be free to ever 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 rights 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...

55. Plaintiffs' right to freedom of speech, and expression, guaranteed by the Article 1 Section 19 of the Tennessee Constitution continue to be violated by the New Rules. Defendants cannot establish a justification sufficient to regulate Plaintiffs' speech, nor are the New Rules narrowly

tailored to serve any such justification advanced by Defendants.

56. Defendants acted under color of state law when they enacted and continue to enforce the above-described rule that abridges Plaintiffs' rights to freedom of speech and expression as guaranteed by Article 1, Section 19 of the Tennessee Constitution.

57. As a result of Defendants' enforcement of the New Rules, the Plaintiffs have been limited in their ability to exercise their rights under the Tennessee Constitution

**COUNT IV: ARTICLE I, SECTION 23 OF THE TENNESSEE CONSTITUTION**

58. Plaintiffs re-allege and incorporate by reference all of the preceding paragraphs in this complaint.

59. Article I, Section 23 of the Tennessee Constitution provides:

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.

60. Plaintiffs' right to freedom of assembly, guaranteed by the Article 1 Section 23 of the Tennessee Constitution continue to be violated by the New Rules. Defendants cannot establish a justification sufficient to regulate Plaintiffs' assembly, nor are the New Rules narrowly tailored to serve any such justification advanced by Defendants.

61. Defendants acted under color of state law when they enacted and continue to enforce the above-described rule that abridges Plaintiffs' rights to freedom of assembly as guaranteed by Article 1, Section 23 of the Tennessee Constitution.

62. As a result of Defendants' enforcement of the New Rules, the Plaintiffs have been limited in their ability to exercise their rights under the Tennessee Constitution.

**COUNT V: VIOLATION OF DUE PROCESS CLAUSE OF THE 14<sup>TH</sup> AMENDMENT**  
**PROCEDURAL DUE PROCESS**

63. Plaintiffs repeats and re-alleges the preceding paragraphs as if fully set forth herein.

64. By imposing invalid restrictions upon Plaintiffs, thereby infringing upon Plaintiffs' enjoyment of a public forum, i.e. Legislative Plaza, Defendants have violated Plaintiffs' right to Due Process as guaranteed by 14<sup>th</sup> Amendment of the United States Constitution.

65. As a result of the described actions by Defendants, Plaintiffs have suffered and are continuing to suffer from irreparable harm and other damages.

**COUNT VI: VIOLATION OF THE TENNESSEE UNIFORM PROCEDURES ACT**

66. Plaintiffs re-allege and incorporate by reference all of the preceding paragraphs in this complaint.

67. The Tennessee Department of General Services is an "agency" as defined by the Uniform administrative Procedures Act ("UAPA"). See Tenn. Code Ann. § 4-5-102(2).

68. Although the Tennessee Department of General Services characterized these rules (both Old and New) as policies, they, in fact, constitute rules under the UAPA. A "policy" means a set of decisions, procedures and practices pertaining to the internal operation or actions of an agency. Tenn. Code Ann. § 4-5-102(12).(emphasis added) "Rule" means each agency statement of general applicability that implements or prescribes law or policy or describes the procedures or practice requirements of any agency. "Rule" includes the amendment or repeal of a prior rule. Tenn. Code Ann. § 4-5-102(12).

69. The Department of General Services did not comply with the notice and hearing or any other requirement of the UAPA in issuing the New Rules.

70. State policies that are not promulgated in compliance with the UAPA are void. See Tenn. Code Ann. § 4-5-216



71. The New Rules are void *ab initio*.

72. As a result of the described actions by Defendants, Plaintiffs have suffered and are continuing to suffer from irreparable harm and other damages.

**COUNT VII: UNLAWFUL SEARCH AND SEIZURE OF PERSONAL PROPERTY**

73. Plaintiff repeats and re-alleges the preceding paragraphs as if fully set forth herein.

74. By seizing Plaintiffs' property without a search warrant or other authority rendering such seizure reasonable, Defendants violated Plaintiffs' right to be free from unlawful searches and seizures of personal property, as guaranteed by the Fourth Amendment and Article I, Section 8 of the Tennessee Constitution.

75. As a result of the described actions by Defendants, Plaintiffs have suffered and are continuing to suffer from irreparable harm and other damages.

**COUNT VIII: UNLAWFUL ARREST**

76. Plaintiff repeats and re-alleges the preceding paragraphs as if fully set forth herein.

77. At the time one or more of the Defendant THP officers, acting in concert with the other Defendant THP officers, took the individual Plaintiffs into custody there was no warrant for their arrest. Furthermore, Defendant THP officers had no probable cause to arrest Plaintiffs.

78. At the time, one or more of the Defendant THP officers, acting in concert with the other Defendant THP officers, seized Plaintiffs, the Defendant THP officers did not have reasonable suspicion that a crime had or would occur.

79. As a result of Defendant THP officers' concerted and malicious false arrest and illegal detention of the individual Plaintiffs, one or more of the Defendant THP officers, acting in concert with the other Defendant THP officers, intentionally and with deliberate indifference to Plaintiffs' constitutional rights, deprived the individual Plaintiffs of their liberty without due

process of law and deprived them of equal protection under the laws, in violation of the Fourth, Fifth, and Fourteenth amendments of the United States Constitution and 42 U.S.C. § 1983.

80. As a result of the described actions by Defendant THP officer, Plaintiffs have suffered and are continuing to suffer from irreparable harm and other damages.

### **REQUEST FOR RELIEF**

WHEREFORE, Plaintiffs request judgment against the Defendants as follows:

Against Defendants Haslam, Cates and Gibbons:

- (1) Declaratory relief, including but not limited to a declaration that the restrictions and prohibitions contained in the New Rules are invalid and are unenforceable;
- (2) Temporary Restraining Order – Ordering the Defendants to cease enforcing the New Rules pending the Outcome of this matter;
- (3) Return of all seized items;

Against Tennessee Highway Patrol Officers John Doe:

- (4) Monetary damages for unlawful detention of the individual Plaintiffs.

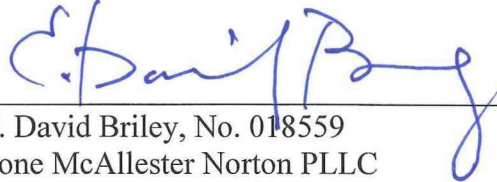
Against all Plaintiffs:

- (5) Attorney's fees and costs associated with this action, pursuant to § 1988 et seq. and other relevant authority;
- (6) Any further relief as this Court deems just and proper and any other relief as allowed by law.

**DEMAND JURY**

Plaintiffs demand trial by jury of 12 in this action.

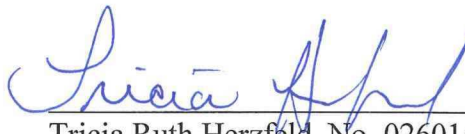
Respectfully submitted,



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(615) 741-5922 – FAX (615) 532-1240

March 4, 2008

Tricia R. Herzfeld, Esq.  
American Civil Liberties Union Foundation of Tennessee  
P.O. Box 120160  
Nashville, Tennessee 37212

Transmitted via facsimile  
(615) 320-7260  
Hard copy to follow

Dear Ms. Herzfeld:

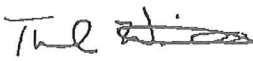
Thank you for your letter of February 26, 2008, in which you expressed the concerns of the ACLU of Tennessee over the Department of General Services' reserved event policies and procedures.

After careful review and consideration of your request that the Department amend its reserved event policies and procedures to remove our seven (7)-day notice provision, security fee (if applicable) and liability insurance requirements, the Department has decided to decline to make the requested changes. I wish to assure you, however, that any person or organization is free to engage in any activity protected by the Constitution on the War Memorial Plaza without having to provide the State of Tennessee with advance notice, obtain liability insurance or pay event and security fees. Only if a person or organization seeks an exclusive and reserved right to use the Plaza would such requirements apply.

I have attached a copy of a letter I am sending to [REDACTED] in response to his letter of February 12, 2008. Please be assured that we wish to work with [REDACTED] and all groups and individuals seeking to use State premises as a forum to exercise free speech.

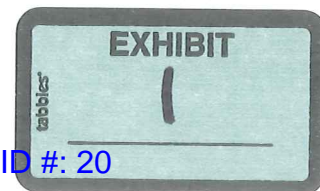
Thank you for your interest in this matter.

Sincerely,

  
Thaddeus E. Watkins, III  
General Counsel

TEW:ksb

cc: Gwendolyn Sims Davis, Commissioner, Department of General Services  
William Rusie, Assistant Commissioner, Department of General Services  
Steve Elkins, Legal Counsel to the Governor  
David Coenen, Assistant Attorney General, Attorney General's Office



STATE OF TENNESSEE  
PUBLIC USE OF WAR MEMORIAL PLAZA POLICY  
THE DEPARTMENT OF GENERAL SERVICES

War Memorial Plaza is State property which is open for use by the public as a place for expressive activity such as, but not limited to, formal and informal political or social gatherings, concerts, rallies, memorial services, educational presentations, festivals and artistic displays. The State encourages the use of the Plaza for this purpose. The Plaza is not intended to be used as a place of business for profit-making organizations. The Department of General Services is charged with the care and maintenance of War Memorial Plaza and has adopted the following policy to provide for fair and orderly use:

I. NON-RESERVED USE OF THE PLAZA

The Plaza may be used free of charge by any person or group for expressive activity on a first come first serve basis. However, a person or group having previously entered into a User Agreement reserving a specific date, time and location on the Plaza shall have first rights for use of the Plaza as provided in the User Agreement.

- a) Prospective Users seeking reserved use of the Plaza must complete and return only Section I of the attached application form. When the Department of General Services has received the application form, you will be contacted to confirm your intended use of the Plaza.

II. RESERVED USE OF THE PLAZA

- a) Prospective Users seeking reserved use of the Plaza must complete and return Section I and Section II of the application form. When the Department of General Services has received the completed application form, a User Agreement is prepared and sent to the User.
- b) The prospective user must complete, sign and return the original User Agreement to the Department of General Services.
- c) An administrative fee of \$65.00 per day is required for exclusive use of the entire Plaza or specified portion thereof. This fee must be paid in advance by cashier's check or certified check.
- d) The Prospective User is required to provide general public liability insurance coverage naming the *State of Tennessee* as an additional insured in the amount of \$1,000,000. Factors used to determine the amount of insurance coverage required are:
  1. the nature of the event, i.e., whether it is for public expression or commercial activity,
  2. the number of people expected to attend the event (based on the presumption that risk of property damage and personal injury will increase in proportion to the number attending the event),
  3. whether there is a history of damage to the Plaza by a particular User or class of User,
  4. proof of inability of the User to pay,



5. whether the User intends to service alcohol, and
  6. Whether money will be changing hands.
- e) Security personnel may be needed under certain circumstances. At the Request of the User, the State will provide personnel at the User's expense. The current rate is forty dollars (\$40.00) per hour, per guard. There may be times when the State will require security guards; this determination will be made using the factors listed in section d.
  - f) All User Agreement requirements must be completed at least fourteen (14) Days before the event is to take place. Confirmation will not be made until all requirements are met and the agreement has been approved by the Department of General Services. Immediately upon approval, the User will be sent notice of confirmation along with a copy of the agreement. If the event is not approved, the User will be notified immediately.
  - g) Any event or date canceled less than seven (7) days before the Scheduled date of the event will result in forfeiture of the Administrative fee.



# LEGISLATIVE PLAZA, WAR MEMORIAL COURTYARD AND CAPITOL GROUNDS USE POLICY

## Department of General Services

Effective immediately and until further notice, all assemblies and gatherings of persons on the State of Tennessee Legislative Plaza, War Memorial Courtyard and Capitol grounds areas in Nashville, Tennessee shall require a use permit from the Tennessee Department of General Services. Use of any portion of the Capitol grounds also requires the approval of the Tennessee Capitol Commission.

The Department of General Services may issue permits upon proper application and satisfaction of use fees, security and liability insurance requirements for use of the Legislative Plaza, War Memorial Courtyard and Capitol grounds between the hours of 9:00 a.m. and 4:00 p.m.

Special use permits for the Legislative Plaza, War Memorial Courtyard and Capitol grounds during hours outside of the 9:00 a.m. to 4:00 p.m. period may be approved at the discretion of the Department on a case by case basis.

Notwithstanding the above, the Legislative Plaza, War Memorial Courtyard and Capitol grounds areas are closed to the public from 10:00 p.m. until 6:00 a.m. daily and no person shall enter upon those premises during this curfew period without specific authorization by the State of Tennessee. In no event shall overnight occupancy of the Legislative Plaza, War Memorial Courtyard or Capitol grounds areas be permitted by any group or individual.



**The foregoing policy is issued under the authority of T. C. A. § 4-8-101 and in the interest of protecting the health, safety and welfare of the public. Issued this 27<sup>th</sup> day of October, 2011 by the Tennessee Department of General Services.**

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

OCCUPY NASHVILLE, Et AL.

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

C. David Briley, Bone McAllester Norton PLLC, 511 Union St.,#  
1600, Nashville, TN 3721(615) 238-6300

## DEFENDANTS

William E. Haslam, et al.

County of Residence of First Listed Defendant \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
LAND INVOLVED.

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                            |                            |   |                            |                            |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
|   | PTF                        | DEF                        |   | PTF                        | DEF                        |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
				<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

## V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgement

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
42 U.S.C. § 1983

Brief description of cause:  
§ 1983 claim based on violations of the First Amendment

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

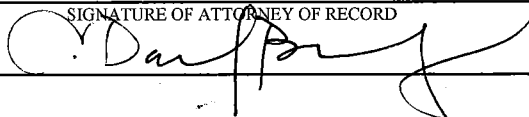
JUDGE

DOCKET NUMBER

DATE

10/30/2011

SIGNATURE OF ATTORNEY OF RECORD



FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE