

**IN THE CHANCERY COURT OF DAVIDSON COUNTY, TENNESSEE  
FOR THE TWENTIETH JUDICIAL DISTRICT**

ALLISON POLIDOR; )  
ERICA BOWTON; )  
and MARYAM ABOLFAZLI; )

Plaintiffs, )

vs. )

CAMERON SEXTON )  
in his official capacity )  
as the Speaker of the )  
Tennessee House of Representatives; )

TAMMY LETZLER, )  
in her official capacity )  
as the Chief Clerk )  
of the House of Representatives; )

BOBBY TROTTER, )  
in his official capacity )  
as the Sergeant-At-Arms; )

MATT PERRY, in his official capacity )  
as the Colonel of the )  
Tennessee Highway Patrol, )

Defendants. )

Case No.

**FIRST APPLICATION FOR  
EXTRAORDINARY RELIEF**

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**VERIFIED COMPLAINT FOR EMERGENCY INJUNCTIVE AND  
DECLARATORY RELIEF**

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**I. Nature of the Action**

1. Although “assembling and expressing grievances at the site of the state government is the most pristine and classic form of exercising First Amendment freedoms,” *Edwards v. South Carolina*, 372 U.S. 229, 235 (1963), Defendants maintain a

set of rules that effectively foreclose Plaintiffs from exercising their rights at the Tennessee legislature.

2. Plaintiffs seek an emergency temporary restraining order to suspend enforcement by Defendants of the Rules of Order of the Tennessee House of Representatives of the One Hundred Thirteenth General Assembly First Extraordinary Session (“Rules of Order”) to the extent that they ban “signs [...] in the galleries of the House of Representatives,” *see* Rule 4 (Attached as Ex. 1 to Yarbrough Dec.), and prevent Plaintiffs from silently holding signs while attending the proceedings of the House of Representatives.

3. On August 22, 2023, Plaintiffs were forcibly removed by Tennessee Highway Patrol officers from the meeting of the Civil Justice Subcommittee for holding signs with the phrase “1 KID > ALL THE GUNS” on 8 ½ x 11-inch pieces of paper. (Attached as Ex. 2 to Yarbrough Dec.).

4. Under the auspices of the Rules of Order, Plaintiffs were denied their constitutional rights to speak freely, assemble, and petition the government.

## **II. Jurisdiction and Venue**

5. This Court has subject matter jurisdiction over this action pursuant to T.C.A. §16-11-101, et seq., as well as T.C.A. §§1-3-121, 29-1-101 and 29-14-101, et seq., and Tenn. R. Civ. P. 65.

6. This Court has personal jurisdiction over Defendants pursuant to T.C.A. §§20-2-222 and 20-2-223 on the grounds that their principal place of business is in

Tennessee and that the wrongful conduct and resulting injuries alleged herein substantially occurred in Tennessee.

7. Venue is proper in this judicial district pursuant to T.C.A. §20-4-101(a) because the cause of action arose in Davidson County.

### **III. Parties**

8. Plaintiff Allison Polidor has lived in Nashville for the last twenty-four years. She is a fulltime caretaker to a six-year-old daughter and nine-year-old son. She became passionate about advocating for gun control after a mass shooting occurred on March 27, 2023, at The Covenant School in Nashville, Tennessee. Her close friend's son was a third grader at Covenant at the time of the shooting. Ms. Polidor spent the day in turmoil, unsure if he was dead or alive. She feels compelled to express the message that children are more important than guns and seeks to express this message to lawmakers in the Tennessee legislature. She intends to attend future proceedings of the House of Representatives and silently hold a sign with a simple phrase expressing this message. *See Polidor Dec.* ¶¶ 3-13.

9. Plaintiff Erica Bowton has lived in middle Tennessee since 2004. She has three children in both public and private schools in Nashville, Tennessee. Ms. Bowton, along with other concerned parents, founded an organization called "Rise and Shine." Their organization seeks to ensure that "every person can rise and shine safely in Tennessee" by organizing to members to advocate for government policies that promote

safety.<sup>1</sup> Ms. Bowton intends to attend future proceedings of the House of Representatives and silently hold a sign with a simple phrase expressing her support for laws that promote safety. *See* Bowton Dec. ¶¶ 3-13.

10. Plaintiff Maryam Abolfazli is a single mom who also lives in Nashville, Tennessee. She has a five-year-old son. She is concerned about the issue of gun violence in Tennessee because she does not want her son to grow up with unnecessary anxiety and fear and does not want him to be harmed at school. Ms. Abolfazli would like to continue to express her message that children are more important than guns. She intends to attend more meetings of the House of Representatives and its committees in order to express the view that the laws they pass should protect children like her son. *See* Abolfazli Dec. ¶¶ 3-13.

11. Defendant Cameron Sexton is the elected Speaker of the Tennessee House of Representatives. The Speaker of the House is the presiding officer of the House and presides over the debate and adoption of the Rules of Order. Under the Rules of Order, the Speaker shall have power to enforce order and decorum in the House. *See* Rules 2, 4.

12. Defendant Tammy Letzler is the Chief Clerk of the Tennessee House of Representatives. Under the Rules of Order, the Chief Clerk “shall keep open the Office of the Clerk during and between sessions of the General Assembly on a permanent basis and shall transact efficiently such business as is assigned or required by law or rules of the House, both during and between sessions. The Chief Clerk [...] shall take an oath to

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<sup>1</sup> *See* <https://www.riseandshinetn.org/>.

support the Constitution of the United States and of the State of Tennessee and to truly and faithfully discharge the duties of the office to the best of their knowledge and ability.” *See* Rule 9.

13. Defendant Bobby Trotter is the Chief Sergeant-At-Arms of the Tennessee Legislature. The Sergeant-At-Arms maintains order and decorum in the House galleries. Under the Rules of Order, the “Chief Sergeant-At-Arms shall take an oath to support the Constitution of the United States and of the State of Tennessee and to truly and faithfully discharge the duties of the office to the best of their knowledge and ability.” *See* Rule 9.

14. Defendant Matt Perry is the Colonel, or chief executive officer, of the Tennessee Highway Patrol. The Tennessee Highway Patrol, through its Capitol Protection Unit, is the law enforcement entity for the State Capitol grounds, including the House of Representatives, its galleries and committee meeting rooms.<sup>2</sup> Upon information and belief, the Tennessee Highway Patrol is the law enforcement agency responsible for enforcing the Rules of Order. *See* Tenn. Code Ann. § 4-3-2006.

#### **IV. Relevant Law**

15. Article I, Section 19 of the Tennessee Constitution states:

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.

16. Article I, Section 23 of the Tennessee Constitution states:

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

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<sup>2</sup> *See* <https://www.tn.gov/safety/tnhp/psspb/cpunit.html>.

those invested with the powers of government for redress of grievances, or other proper purposes, by address or remonstrance.

17. The First Amendment of the United States Constitution prohibits the government from “abridging the freedom of speech.” U.S. Const. Amend. I

18. “To determine the constitutionality of a government restriction on speech on publicly-owned property, we consider three questions: (1) whether the speech is protected under the First Amendment; (2) what type of forum is at issue and, therefore, what constitutional standard applies; (3) whether the restriction on speech in question satisfies the constitutional standard for the forum.” *Miller v. City of Cincinnati*, 622 F.3d 524, 533 (6th Cir. 2010) (citing *S.H.A.R.K. v. Metro Parks Serving Summit County*, 499 F.3d 553, 559 (6th Cir.2007)).

19. Signs, and the action of silently holding them, are forms of speech and are protected under the First Amendment. Indeed, the right to assemble and protest through silent mediums of expression is well recognized in First Amendment jurisprudence. *Brown v. Louisiana*, 383 U.S. 131, 142 (1966) (noting that the right to petition the government is “not confined to verbal expression” and “certainly include[s] the right in a peaceable and orderly manner to protest by silent and reproachful presence, in a place where the protestant has every right to be”); *Carey v. Brown*, 447 U.S. 455, 466-67 (1980) (noting that “public issue picketing” is “an exercise of basic constitutional rights in their most pristine and classic form, [and] has always rested on the highest rung of First Amendment values”).

20. “[I]n a public forum the government may impose reasonable restrictions on the time, place, or manner of protected speech, provided the restrictions are justified without reference to the content of the regulated speech, that they are narrowly tailored to serve a significant governmental interest, and that they leave open ample alternative channels for communication of the information.” *Ward v. Rock Against Racism*, 491 U.S. 781, 791(1989)(internal quotation marks and citations omitted).

21. “Public property which is not by tradition or designation a forum for public communication is governed by different standards.” In these fora, “the state may reserve the forum for its intended purposes, communicative or otherwise...”

*Perry Educ. Ass'n v. Perry Loc. Educators' Ass'n*, 460 U.S. 37, 46 (1983).

22. Regulations of expressive activity in these purpose-limited public fora must still be “reasonable in light of the purpose served by the forum” and “viewpoint neutral.” *Cornelius v. NAACP Legal Def. & Educ. Fund, Inc.*, 473 U.S. 788, 806 (1985); *see also Miller v. City of Cincinnati*, 622 F.3d 524, 536 (6th Cir. 2010) (“[the] issue is whether the [rule] is reasonably related to the purpose of the forum.”).

23. The Rules of Order are entirely unreasonable and do not further the purpose of the forum (the galleries and committee meeting rooms of the House of Representatives). A sign the size of an average piece of paper cannot obstruct the view of participants or committee members and is not disruptive to the proceedings. It does not make noise or emit light. Moreover, nothing in the Rules of Order permit speech of a similar size—or larger—on t-shirts, sashes, buttons, or anything else that can be worn. Under the Rules of Order, a person attending a subcommittee meeting could wear a shirt

or hat or button with the Nike logo on it but cannot have a sign with the Nike logo on it that is the exact same size.

## V. Factual Allegations

24. On August 8, 2023, Tennessee Governor, Bill Lee, issued a proclamation calling a Special Session of the Tennessee General Assembly to convene on August 21, 2023.<sup>3</sup>

25. The Proclamation declared that the purpose of the Special Session is to address issues of public safety as a response to the mass shooting at the Covenant School which took place in Nashville, TN.<sup>4</sup>

26. Prior to gaveling into session, House Speaker, Defendant Sexton, promulgated rules for the Tennessee House of Representatives which prohibited any person present in the House Gallery or House Committee room from possessing and displaying ANY flag, signs, and banner.<sup>5</sup>

27. Rule 4 of the House Rules of the Special Session states “ORDER IN GALLERY OR LOBBY. In case of any disturbance or disorderly conduct in the gallery or lobby, the Speaker or the Chair of the Committee of the Whole shall have power to

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<sup>3</sup> <https://www.tn.gov/governor/news/2023/8/8/gov--lee-issues-official-call--presents-legislative-priorities-ahead-of--public-safety-special-session.html>

<sup>4</sup> <https://wpln.org/post/episodes/whats-so-special-about-next-weeks-special-legislative-session/>

<sup>5</sup> <https://tennesseelookout.com/2023/08/22/tn-house-passes-rules-to-restrict-speech-limit-disruptions-and-public-during-special-session/#:~:text=The%20rules%20give%20House%20lawmakers,rest%20of%20the%20special%20session.>



order the same to be cleared. No voice or noise amplification devices, flags, signs, or banners shall be permitted in the galleries of the House of Representatives.”<sup>6</sup>

28. During debate on these rules, State Representative Lamberth stated that under these rules, signs on 8½ x11-inch sheets of paper would be prohibited in the Gallery and House Committee rooms without providing justification towards preventing a harm or protecting a governmental interest.<sup>7</sup>

29. After debate, the House voted to approve the rule.<sup>8</sup>

30. On August 22, 2023, Plaintiffs Polidor, Bowton, and Abolfazli attended the House Civil Justice Subcommittee in Cordell Hull Office Building, House Hearing Room I. *See* Edwards Dec. ¶¶ 3, 4; *See* Polidor Dec. ¶ 6; *See* Bowton Dec. ¶ 6; *See* Abolfazli Dec. ¶ 6.

31. While sitting quietly in Hearing Room I, Plaintiffs Polidor, Bowton, and Abolfazli held signs stating “1 KID > ALL THE GUNS” printed on 8½ x11-inch of paper.<sup>9</sup> *See* Edwards Dec. ¶ 5; *See* Polidor Dec. ¶ 7; *See* Bowton Dec. ¶ 7; *See* Abolfazli Dec. ¶ 7.

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<sup>6</sup><https://www.capitol.tn.gov/Archives/House/113GA/publications/First%20Extraordinary%20Session%20Committee%20on%20Rules.pdf>

<sup>7</sup> <https://www.newschannel5.com/news/covenant-families-disappointed-in-new-house-gallery-rules-for-special-session>

<sup>8</sup> <https://tennesseelookout.com/2023/08/22/tn-house-passes-rules-to-restrict-speech-limit-disruptions-and-public-during-special-session/#:~:text=The%20rules%20give%20House%20lawmakers,rest%20of%20the%20special%20session.>

<sup>9</sup> <https://www.tennessean.com/story/news/politics/2023/08/22/tennessee-general-assembly-house-senate-slowly-begin-work-legislation/70648957007/>

32. In response to the signs, a member of the Subcommittee requested the chair have Plaintiffs removed from the Hearing Room I. <sup>10</sup>

33. As a result, the House Sargent-at-Arms and uniformed members of the Tennessee Highway Patrol removed the plaintiffs from Hearing Room I. <sup>11</sup> *See* Ex. 3 to Yarbrough Dec.; *see also* Ex. 1 to Edwards Dec.; Edwards Dec. ¶ 6; *See* Polidor Dec. ¶ 10; *See* Bowton Dec. ¶ 10; *See* Abolfazli Dec. ¶ 10.

34. Plaintiffs intend to return to House proceedings and exercise their First Amendment rights, including the display of small signs, but they believe the Rules of Order, as enforced by Defendants on August 22, will prevent them from doing so. *See* Polidor Dec. ¶¶ 11-13; *See* Bowton Dec. ¶¶ 11-13; *See* Abolfazli Dec. ¶¶ 11-13.

35. Upon information and belief, the Extraordinary Session will likely come to an end in a matter of days—and could possibly end August 23, 2023—thus relief is needed urgently.<sup>12</sup>

## **VI. Cause of Action**

### **COUNT I -The Right to Free Speech (Violation of Tennessee Constitution, Article I, §19; U.S. Const. Am. 1)**

36. Plaintiffs incorporate all allegations of all preceding paragraphs as if fully set forth herein.

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<sup>10</sup> <https://www.pbs.org/newshour/politics/gop-led-tennessee-legislature-orders-removal-of-public-from-gun-control-hearing>

<sup>11</sup> *Id.* *See also* <https://twitter.com/NC5PhilWilliams/status/1694053729291370824>.

<sup>12</sup> *See* Tennessee General Assembly Calendar, available at <https://wapp.capitol.tn.gov/apps/schedule/> (listing committee hearings and House floor sessions only through Thursday, August 24, 2023).

37. The Tennessee and U.S. Constitutions guarantee the right to free speech.

38. Plaintiffs' right to free speech was denied by the Rules of Order and their enforcement by Defendants at the House Civil Justice Subcommittee Hearing on August 22, 2023 when they were removed from the subcommittee hearing room for holding pieces of paper.

**COUNT II-The Right to Assemble and Petition  
(Violation of Tennessee Constitution, Article I, §23; U.S. Const. Am. 1)**

39. Plaintiffs incorporate all allegations of all preceding paragraphs as if fully set forth herein.

40. The Tennessee and U.S. Constitutions guarantee the right to peaceably assemble and petition the government to address grievances.

41. Plaintiffs' right to assemble and petition was denied by the Rules of Order and their enforcement by Defendants when they were removed from the subcommittee hearing room for holding pieces of paper.

**VII. Requested Relief**

42. Plaintiffs incorporate all allegations in all preceding paragraphs as if fully set forth herein. Plaintiffs respectfully request that this Court:

- a. Enter a declaratory judgment in favor of Plaintiffs, adjudging that the provision "*No...signs...shall be permitted in the galleries of the House of Representatives*" in Rule 4 of the Special Session Rules of Order of the Tennessee House of Representatives violates the Plaintiffs' constitutional rights to freedom of speech, assembly, and to petition;

- b. Issue an emergency temporary restraining order, enjoining Defendants from enforcement of the provision “*No...signs...shall be permitted in the galleries of the House of Representatives*” in Rule 4 of the Special Session Rules of Order of the Tennessee House of Representatives until further hearing;
- c. Issue a preliminary and permanent injunction enjoining Defendants from enforcement of the provision “*No...signs...shall be permitted in the galleries of the House of Representatives*” in Rule 4 of the Special Session Rules of Order of the Tennessee House of Representatives;
- d. Waive the requirement for bond or set bond in a reasonable amount;
- e. Award Plaintiffs damages, costs and reasonable attorneys’ fees incurred in this action;
- f. Grant such other relief this Court determines is just and proper.

Respectfully submitted,

/s/ Stella Yarbrough

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## CERTIFICATE OF SERVICE

This is to certify that a true and accurate copy of the foregoing has been forwarded via electronic mail to the following this 23<sup>rd</sup> day of August, 2023. Plaintiffs requests no further notice be required by this Court for good cause shown and supported by the Declaration of Stella Yarbrough [attached here], which details efforts to notify opposing counsel of the pending Motion and the emergent nature of the requested relief.

### NAME

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/s/ Stella Yarbrough  
STELLA YARBROUGH