

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.)

**EXHIBIT ONE TO STATE DEFENDANT'S RESPONSE IN OPPOSITION TO MOTION
FOR TEMPORARY RESTRAINING ORDER**

DECLARATION OF RACHEL HARMON

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.)

DECLARATION OF RACHEL HARMON

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

1. My name is Rachel Harmon. I am a licensed attorney in Tennessee. I am currently Deputy Director and General Counsel for the Administrative Office of the Courts (AOC) in Davidson County, Tennessee. In my role as General Counsel, I supervise the team of individuals who produce the AOC judicial education conferences. I have been employed at the AOC since December 2015.

2. Judicial education conferences produced by the AOC have not historically been open to the press and the general public. The Tennessee Judicial Conference's (TJC) meeting in June is its annual meeting required by Tennessee Code Annotated section 17-3-104. Historically,

its June meeting includes a day or a day and a half of closed educational sessions before the judges have the opportunity to participate in joint bench-bar sessions hosted by the Tennessee Bar Association. Aside from the bench-bar opportunities during the June conference, the TJC's educational sessions are no different than those that the judges attend at other judicial conferences produced by the AOC throughout the year.

3. On February 1, 2022, the AOC implemented Policy 3.04, and that Policy was made available to the public on our website, incourts.gov, that same day. The policy did not change the closed nature of the conferences. Instead, it was implemented to expressly address safety and security concerns when the judges gather together for educational purposes. The policy was a reaction, in part, to a concerning disruption by several individuals at a conference in late 2021, and also, in part, to the increase in threats of violence and acts of violence directed toward judges at the federal, state, and local levels.

4. The Policy, a copy of which is attached as Exhibit 1, specifically states that it applies to "conferences hosted by the AOC," and "conferences" are defined in the policy as "formal education-centered gathering of current or former members of the Tennessee Judicial Conference, Tennessee General Sessions Judges Conference, Tennessee Conference of Juvenile and Family Court Judges, Tennessee Municipal Judges Conference, Tennessee State Court Clerks Association, or current appellate law clerks and staff attorneys who work in a full-time or part-time status." The Policy does not state that it applies to meetings of any committees.

5. The attendees at conferences to which Policy 3.04 is applicable do not consider rules, draft legislation or otherwise submit any recommendations to the General Assembly as Plaintiff has alleged in his complaint.

6. Instead, as indicated by the Policy, the purpose of the conference is for judicial education—one of the statutory duties of the Administrative Director of the AOC. Public access to judicial education conferences would be a hindrance to the AOC's ability to provide a safe space for judicial education and would cause a chilling effect on the necessary discussions and open dialogue that occur among the judges during the educational sessions held during the conferences.

7. Until the onset of the pandemic in 2020, virtual attendance at judicial education conferences was not available for conference members. Throughout the height of the pandemic in 2020 and 2021, the AOC was able to offer virtual access because staff time was committed almost entirely to the virtual platform option. I do not know whether the hybrid nature of an in-person and virtual conference can continue post-pandemic with existing staff and resources. Moreover, in some locations where conferences are held, there is insufficient internet connectivity and bandwidth to support virtual attendance.

I declare under penalty of perjury that the foregoing is true and correct. Executed by me this 14th day of June, 2022 at Nashville, Tennessee.


RACHEL HARMON

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EXHIBIT ONE TO DECLARATION OF RACHEL HARMON

AOC Policy 3.04



Administrative Policies
And Procedures
Tennessee Supreme Court
Administrative Office of the Courts

Index #: 3.04

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Effective Date: February 1, 2022

Supersedes: New Policy

Approved by: Chief Justice Roger A. Page and Director Michelle J. Long

Subject: Attendance at AOC Conferences

- I. **Authority:** Tenn. Const. art. VI, § 1; Tenn. Code Ann. § 16-3-502; Tenn. Code Ann. § 16-3-803; Tenn. Code Ann. section 8-44-101, *et seq.*; *Dorrier v. Dark*, 537 S.W.2d 888, 892 (Tenn. 1976).

The safety and security of conference attendees, staff, and invited speakers during conferences is of paramount importance. The Administrative Office of the Courts (AOC) and the Tennessee Department of Safety and Homeland Security will implement appropriate security protocols for events taking place at each conference.

II. **Definitions:**

- A. "Conference" is a formal education-centered gathering of current or former members of the Tennessee Judicial Conference, Tennessee General Sessions Judges Conference, Tennessee Conference of Juvenile and Family Court Judges, Tennessee Municipal Judges Conference, Tennessee State Court Clerks Association, or current appellate law clerks and staff attorneys who work in a full-time or part-time status.
- B. "Conference Attendee" is any current or former justice, judge, senior judge, magistrate, court clerk, or current law clerk or staff attorney who works in a full-time or part-time status.
- C. "Staff" is any person who works for the AOC in a full-time or part-time status.
- D. "Invited Speaker" is any person who is not otherwise considered a "Conference Attendee" or "Staff" and is invited to an AOC conference to present on a specific subject matter or training session.

- III. **Purpose:** To ensure the safety and security of conference attendees, staff, and invited speakers during AOC conferences.

- IV. **Application:** This policy shall apply consistently among the conferences hosted by the AOC.

- V. **Policy:** Conferences are not open meetings. Only conference attendees, invited speakers, and staff will be permitted to enter the physical conference spaces or receive virtual access links.
- VI. **Confidentiality:** To help ensure the safety of those who attend AOC conferences, all conference attendees, invited speakers, and staff shall maintain the confidentiality of the dates, physical location, and/or link to virtual access, speaker documents, and other conference materials. Limited, targeted information may be shared by AOC staff with outside partners or contractors for the purpose of successfully conducting conference business or meeting statutory or grant requirements.
- VII. **Conference Access:** Conference attendees on site at the physical location must wear their name tag at all times during the conference and will be required to show their name tag in order to gain entry to the conference space. Conference attendees who participate virtually will be required to display his or her name as reflected on their registration in order to be admitted to the virtual platform.
- VIII. **Reporting Concerns:** Troopers with the Tennessee Highway Patrol will be on site to provide security at the physical conference location. Anyone who observes any safety concerns or problems related to the conference should immediately report those to the Troopers and AOC staff.