

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

ELAINE BLANCHARD, et al.)	
)	
Plaintiffs,)	
)	
ACLU OF TENNESSEE, INC.,)	Case No. 2:17-cv-02120-jpm-DKV
)	
Intervening-Plaintiff)	
)	
v.)	
)	
CITY OF MEMPHIS)	
)	
Defendant.)	
)	

**ACLU OF TENNESSEE'S RESPONSE TO DEFENDANT
CITY OF MEMPHIS'S REQUEST FOR ADMISSIONS**

Plaintiff, American Civil Liberties Union of Tennessee (“ACLU-TN”) responds to Defendants’ Request for Admissions. ACLU-TN submits these responses without conceding the relevance or materiality of the subject matter of any information which may be disclosed and without prejudice to ACLU-TN’s right to object to the admissibility of any evidence regarding such information. ACLU-TN reserves the right to change or supplement any response that may subsequently appear to be incomplete or incorrect. These responses are subject to the following General Objections:

GENERAL OBJECTIONS

Plaintiff's specific objections to each Request are in addition to the General Objections set forth in this section. The General Objections form a part of each discovery response, and they are set forth here to avoid the duplication and repetition of restating them for each discovery response. The absence of reference to a General Objection in response to a particular Request does not constitute a waiver of any General Objection with respect to that discovery response. All responses are subject to and without waiver of Plaintiff's general and specific objections.

1. Plaintiff objects to the Requests for Admissions to the extent that they seek information protected by the attorney client privilege or attorney work product doctrine.

2. Plaintiff objects to the Definitions and Instructions to the extent that they expand or are inconsistent with the requirements of the Federal Rules of Civil Procedure.

3. ACLU-TN objects to each Requests for Admissions that used the terms "each," "any," and "all" facts, persons or other things to the extent that the use of such broad terms in the context of the Requests for Admissions and this litigation is overly broad and unduly burdensome, and such Requests for Admissions seek information which is both irrelevant and out of proportion to the issues in the case.

4. ACLU-TN generally objects to the extent that the Requests for Admissions are irrelevant to any claim or defense in the case.

RESPONSES TO REQUEST FOR ADMISSIONS

Request for Admission No. 1: Admit that Intervening Plaintiff cannot identify any private social media account surveilled by the software alleged to be used by the City in the Intervening Complaint ¶¶ 32-33.

RESPONSE: ACLU-TN objects to this request for admission as it asks Plaintiff to admit facts before having the opportunity to complete discovery and therefore, the request is premature. To the extent an answer is required at this point in the proceedings, ACLU-TN admits that it cannot identify specific social media accounts surveilled by the software, but reserves its right to amend this answer should evidence be produced through discovery.

Request for Admission No. 2: Admit that Intervening Plaintiff has no evidence that the City's actions alleged in the Intervening Complaint deterred, inhibited, or altered any person from exercising their First Amendment rights.

RESPONSE: ACLU-TN objects to this request for admission as it asks Plaintiff to admit facts before having the opportunity to conduct discovery and therefore, the request is premature. To the extent an answer is required at this point in the proceedings, ACLU-TN denies the Request for Admission, stating that several news reports indicated that people included on the escort list were disturbed by the possibility that they were under surveillance and that at least one person was denied entry into a City Council meeting because of his inclusion on the escort list.

Request for Admission No. 3: Admit that Intervening Plaintiff has not joined or participated in any lawsuit, judicial, or administrative proceeding or claim of any kind, whether local, federal, or state, in which the WTCLU was a named party since 1976.

RESPONSE: Admitted.

Request for Admission No. 4: Admit that the Charter of Incorporation of the West Tennessee Civil Liberties Union, Inc. (Doc. 33-6) does not provide or state that the members of the WTCLU are or were members of the American Civil Liberties Union, Inc.

RESPONSE: ACLU-TN objects to Request No. 4 as vague and for assuming facts that have not been established and basing the premise of the requested admission on those assumptions. The request implies that the Charter for the West Tennessee Civil Liberties Union, Inc. provides for a membership; however, the charter contains no statement at all that it had or would have members. Subject to those objections and statement, ACLU-TN admits that, because the charter does not mention members at all, the charter likewise does not contain a statement that members would be part of the American Civil Liberties Union, Inc.

Request for Admission No. 5: Admit that the entity listed as a party plaintiff to the Kendrick litigation, "American Civil Liberties Union of/in West Tennessee, Inc.," was not chartered in Tennessee as a corporation, nor was it otherwise registered with the state of Tennessee as a corporate entity.

RESPONSE: Admitted – The entity was a chapter of the ACLU-TN and not an independently chartered or registered corporation.

Request for Admission No. 6: Admit that WTCLU and ACLU-TN were each separately chartered corporate entities, registered with the state of Tennessee when the 1978 Kendrick Consent Order was entered.

RESPONSE: Admitted. The entity known as the West Tennessee Civil Liberties Union, Inc. was chartered April 18, 1967. ACLU-TN was chartered September 18, 1968.

Request for Admission No. 7: Admit that WTCLU was a chartered corporation, registered with the State of Tennessee prior to the ACLU-TN filing its corporate charter and registering with the State of Tennessee.

RESPONSE: Admitted. The entity known as the West Tennessee Civil Liberties Union, Inc. was chartered April 18, 1967. ACLU-TN was chartered September 18, 1968.

Request for Admission No. 8: Admit that ACLU-TN's Original By-Laws (Doc 33-7), and the ACLU-TN's By-Laws as Amended in March 1973 (Doc 33-8) require that a prospective chapter submit its by-laws to the Board of Directors of the ACLU-TN for approval before the prospective chapter would become a chapter of ACLU-TN.

RESPONSE: Admitted.

Request for Admission No. 9: Admit that ACLU-TN considered and adopted the by-laws of the Middle Tennessee Civil Liberties Union, Inc. in a meeting of the Board

of Directors on October 7, 1975 (Doc 33-9), and upon that approval, the Middle Tennessee Civil Liberties Union, Inc. became a chapter of ACLU-TN.

RESPONSE: Admitted.

Request for Admission No. 10: Admit that ACLU-TN has no evidence that the ACLU-TN's Board of Directors approved or adopted by-laws submitted by the WTCLU or the American Civil Liberties of/in West Tennessee, Inc. to become the West Tennessee chapter of the ACLU-TN prior to the 1976 Kendrick litigation.

RESPONSE: ACLU-TN objects to this request as compound as it is asking for admissions regarding two separate entities. ACLU-TN admits that it has no records in its possession, custody or control that evidence ACLU-TN approving or adopting by-laws for an entity known as the West Tennessee Civil Liberties Union, Inc. ACLU-TN denies that it has no records evidencing approval or by-laws for its West Tennessee chapter.

Request for Admission No. 11: Admit that the WTCLU Charter (Doc 33-6) declares that the purpose of the WTCLU was to further the objectives of the ACLU, Inc., and said WTCLU Charter does not reference the ACLU-TN.

RESPONSE: Admitted.

Respectfully Submitted,

/s/ Thomas H. Castelli
Thomas H. Castelli,
BPR#024849
ACLU Foundation of Tennessee
P.O. BOX 120160
Nashville, TN 37212
615.320.7142
tcastelli@aclu-tn.org

ATTORNEY FOR PLAINTIFF
ACLU of Tennessee, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on September 18, 2017, a true and correct copy of the foregoing document has been served via email and U.S. Mail to:

Attorneys for Defendant, City of Memphis

Buckner Wellford

Thomas Parker

Jennie Vee Silk

BAKER, DONELSON, BEARMAN, CALDWELL & BERKOWITZ, P.C.

165 Madison Avenue, Suite 2000

Memphis, Tennessee 38103

bwellford@bakerdonelson.com

tommyparker@bakerdonelson.com

jsilk@bakerdonelson.com

/s/ Thomas H. Castelli

Thomas H. Castelli