

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

ELAINE BLANCHARD, KEEDRAN)
FRANKLIN, PAUL GARNER and BRADLEY)
WATKINS,)

Plaintiffs,)

and)

ACLU OF TENNESSEE, Inc.)

Intervening Plaintiff,)

v.)

No. 2:17-cv-02120-jpm-DKV

THE CITY OF MEMPHIS,)

Defendant.)

**CITY OF MEMPHIS'S MOTION FOR ORAL ARGUMENT
ON THE ISSUE OF ACLU OF TENNESSEE, INC.'S STANDING AND
MEMORANDUM IN SUPPORT**

Defendant, the City of Memphis (the "City"), hereby moves the Court to allow oral argument on the issue of the standing of the intervening plaintiff, ACLU of Tennessee ("ACLU-TN"), pursuant to Local Rules 7.2 and 12.1.

In support of this request, the City submits that oral argument would be helpful in clarifying the corporate organizational structure of the different ACLU-entities at issue in this case, the "ACLU of Tennessee, Inc." ("ACLU-TN"), "West Tennessee Civil Liberties Union, Inc." ("WTCLU") and "Tennessee Civil Liberties Union in West Tennessee."

ARGUMENT

As set out in Defendant's Memorandum of Law in Support of its Motion to Dismiss Intervening Complaint of ACLU of Tennessee (Doc. 22-1), the ACLU-TN lacks standing to bring a claim to enforce the *Kendrick* consent order because it was not a party to the original lawsuit. The original plaintiff in *Kendrick* was not ACLU-TN. The only entity in that case was WTCLU, a separate and distinct corporate entity which was dissolved in 1983. (*See* Doc. 22-1, p. 4.)

Because the City contests standing, the burden of proof to establish standing falls squarely on Plaintiffs and they have failed to meet their burden. In its Response to Defendant's Motion to Dismiss (Doc. 33), ACLU-TN argued that it was an original party to the 1976 *Kendrick* lawsuit because the WTCLU was a chapter of the ACLU-TN. (Doc. 33, p.8.) In support of that argument, ACLU-TN presented a few documents (Docs 33-4, 33-5, 33-6, 33-7, 33-8, and 33-9) that did little to clarify the issue or support its contention that it was a party to the *Kendrick* lawsuit in 1976.

The City then submitted even more documentation showing that the ACLU-TN and the WTCLU remained two completely separate entities at the time of the 1976 *Kendrick* lawsuit. Supplemental Memorandum of Law in Support of Motion to Dismiss (Docs. 36, 36-1, 36-2, 36-3, 36-4, 36-5). In its Response (Doc. 37), ACLU-TN disputes the import of the documents submitted by the City.

In light of the incompatible arguments made by the City and ACLU-TN pertaining to the various documents in front of the Court, and in view of the importance of the determination of which entity was an original party to the *Kendrick* lawsuit, the City is requesting oral argument on the issue of standing. The City submits that oral argument will assist the Court in addressing

whether Plaintiffs carried their burden of proof that it was an original party to the *Kendrick* lawsuit.

Respectfully submitted,

/s/Thomas Parker

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CERTIFICATE OF CONSULTATION

Pursuant to Local Rule 7.2(a)(1)(B), counsel for Defendant, Thomas Parker, conferred with counsel for Plaintiffs, Bruce Kramer and Tom Castelli, regarding this Motion by email on June 14 and 15, 2017. Counsel for Plaintiffs oppose the relief requested in this Motion.

s/Thomas Parker

CERTIFICATE OF SERVICE

I hereby certify that on June 15, 2017, the foregoing will be served by this Court's ECF system to:

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s/Thomas Parker