

IN THE CHANCERY COURT IN AND
FOR CUMBERLAND COUNTY TENNESSEE

Brock Hill, In His Official Capacity as
Cumberland County Mayor
2 North Main Suite 203
Crossville, Tennessee 38555
Plaintiff

vs.

Number: _____

The Cumberland County School Board
368 Fourth Street
Crossville, Tennessee 38555
Defendant

COMPLAINT

Comes the Plaintiff and asks this Court to declare the Defendant's August 8th 2008 called meeting was held in violation of T. C. A. 8-44-101 et. seq. (The Sunshine Law) and is therefore improper and illegal based upon the following:

1. Plaintiff is a citizen and resident of Cumberland County, Tennessee as well as the properly elected and duly acting county mayor of Cumberland County.
2. Defendant is the duly elected Cumberland County Board of Education (Board) and is responsible for and charged with the operation of the Cumberland County school system. Defendant is subject to the "Tennessee Sun Shine Law" since it is an elected body.
3. Defendant held a special called meeting on August 8, 2008 at 7 pm pursuant to a call for a special called meeting (the call). A copy of the call is attached hereto as Exhibit A and made a part hereof by reference. This call for a special called meeting of the Defendant was issued by the Director of the Cumberland County Schools-not the Chairman of the Defendant.
4. The call cited the:

"...topics for discussion will be the 2008-2009 general purpose school fund budget

and approval of recommendations based on the proposed revenues for the upcoming year.”

5. The director of schools also issued an agenda (the agenda) to the news media. A copy of the agenda is attached hereto as Exhibit B and made a part hereof.

6. The agenda called for:

“...Item 1-2008-2009 General Purpose School Budget

Item 2.- Approval of Recommendations based on the proposed revenues for the 2008-2009 school year...”

7. The Cumberland County Commission (Commission) is the funding body for Cumberland County. The Defendant has no authority to spend or accept money unless and until it has a budget approved by the Commission. The Defendant is statutorily obligated on or before forty five (45) days before July 1 of each calendar year to produce and give to the Commission for its deliberations a budget of revenue and expenditures of the Defendant for the upcoming fiscal year. Cumberland County’s fiscal year runs from July 1 to June 30 of each year.

8. The Commission did not receive the proposed budgets from its various departments in time for it to adopt an ‘08-‘09 fiscal year budget in its July meeting. Due to this delay, the Commission saw it would not have the necessary documents in time for it to prepare a proper budget. Due to this lack of information, and pursuant to statute, the Commission adopted a continuing budget resolution at its June 2008 regular meeting that allowed each of the county’s departments, including the Defendant, to operate pursuant to their ‘07-‘08 fiscal year budget until an ‘08-‘09 fiscal year budget could be set.

9. This continuing budget authorized the Defendant to expend approximately forty five million (\$45,000,000.00) dollars on education until the ‘08-‘09 fiscal budget was finalized. The Defendant ended the ‘07-‘08 fiscal year with an undesignated fund balance in excess of four million (\$4,000,000.00) dollars.

10. Defendant is statutorily required to prepare and disseminate to the students and their parents a school calendar showing the various days of school the children must attend, when they attend only partial days of instruction, when they attend full days of instruction, the start date of the school year, the end date of the school year as well as many other things. This calendar (calendar) was compiled after several meetings with the public and deliberations by the Defendant. A copy of Defendant’s Calendar is attached hereto as Exhibit C and made a part hereof by reference. Exhibit C is the calendar the Defendant has consistently told the students and citizens of Cumberland County that would be in use during the ‘08-‘09 school year. Plaintiff avers and intends to prove this calendar has never been amended or changed by the Defendant in a properly called meeting. Pursuant to said calendar, defendant notified the citizens the first day of school would be August 11th, 2008. This date would be only a partial day of instruction for the students and would run from 8 am to 10 pm. Tuesday August 12th, 2008 was not a day for instruction and the students were not to attend school at all on that day. The first full day of

instruction was to be Wednesday August 13th, 2008.

11. The Defendant presented its budget to the Commission's Budget Committee at 4:30 pm on Monday August 4, 2008. The Commission's Budget Committee met with the Defendant's representatives on that day for five and one-half (5 ½) hours discussing Defendant's budget. Members of the community and the news media attended this meeting. The Budget Committee deferred action on Defendant's budget pending Defendant providing further information. The Budget Committee, at the August 11th meeting set a date for the following Tuesday (August 11th, 2008) to meet and continue deliberations on the Defendant's budget. Defendant nor its agents, officers, or members ever advised the Commission or the Committee they could not start school on time. Further, the defendant did not use this public meeting to advise the public they were even thinking or discussing not starting schools on time.

11. Defendant knew a decision not to start the Cumberland County schools on time would be very controversial and would be met with many questions and concerns by both the public and the news media.. Due to this factor and others as well, Plaintiff avers and intends to prove Defendant never at any time, either through its officers, its members, or its agents, advised the public at large, the Commission, the Cumberland County Budget Committee, the public or the media that there was the potential of not allowing schools to start as per Defendant's own calendar. Defendant never advised anyone it was entertaining any thoughts of doing anything other than opening schools on time and providing the requested information at the next meeting of the Budget Committee.

12. Exhibit A and Exhibit B were provided to the media and the public on August 7th, 2008 calling for the above referenced special called meeting to be held the next day, August 8th, 2008 at 7 pm. As set out above, the Director of Schools issued the call for the Special Called Meeting. As set out above, the agenda was also issued by the Director of Schools. The Defendant has promulgated a set of policies and procedures. The Defendant's policy relative to the calling of special called meetings is attached hereto as Exhibit D and made a part hereof by reference. Exhibit D allows only the chairman of the Defendant to call special called meetings of the Defendant. The Defendant's policy does not allow the Director of Schools to call a specially called meeting. The procedure also orders only business related to the call of the meeting can be addressed at that meeting.

13. Defendant has promulgated a policy as to the notice of its meetings. A copy of Defendant's policy on notice is attached hereto as Exhibit E and made a part hereof by reference. The Defendant's policy requires it to give notice of all special called meetings to, among others, the county commission. To Plaintiff's knowledge no county commissioners were notified of the meeting.

14. Pursuant to statute and custom, the Defendant previously produced a school calendar stating the Cumberland County School System would start school at 8 am August 11th, 2008. This start date was arrived at months before the school term was to start and was widely

disseminated through the county via news releases, etc. Defendant never advised any one at any time that it would change or even consider changing its calendar so school would not start on any date other than August 11, 2008. Defendant never advised the public nor the news media it was even entertaining the idea of not starting the school year on time.

15. Defendant met in its special called meeting on August 8, 2008 at 7 pm. Much to the shock of the community, the members of the Defendant voted six yes and three no to not start school on the following Monday morning. Plaintiff is presently unsure as to how the Defendant advised the public and the students that their schools were not going to start as per Defendant's previously published calendar. Especially given the fact the schools were set to open within sixty (60) hours of the vote, that forty eight (48) hours of that time was a summer weekend (Saturday and Sunday August 9th and 10th), and given the fact the call for the meeting was issued by an unauthorized party and it never mentioned anything about even the possibility of not opening schools on time. At the meeting Defendant voted to pay all certified employees and all expenses except for one class of employees. Plaintiff avers there could be no emergency, especially no financial emergency, since by voting this way Defendant showed it had money to both properly open the system on time and to properly fund its on going operations until a school budget was approved by the Commission. The primary and possibly only expense the Defendant voted not to pay was the hourly non certified support staff employed at the various schools such as bus drivers, teacher's aides, e.t.c.

16. Due to the above, Plaintiff alleges and intends to prove the Defendant's special called meeting held on August 8, 2008 at 7 pm did not provide adequate notice under the statute to the public as to what the Defendant intended to do, i.e. close the schools within sixty (60) hours of the meeting. That there was no financial emergency to the issue since the Defendant had money in their accounts with which to properly operate. Plaintiff alleges due to the inadequate notice of such an important matter such as this, as well as the draconian action actually taken at the August 8th meeting by the Defendant, the Defendants did not give adequate notice under the circumstances of its meeting and therefore said meeting and its actions violated the Sun Shine law. Plaintiff further alleges and intends to prove that said meeting was therefore illegal, and all deliberations, discussions, and decisions pursuant to said special called meeting are void and of no effect since adequate public notice under the circumstances was not given to the public of Defendant's intentions to deliberate upon and decide such an important decision; especially given the fact that this decision impacts almost every citizen of the county in some form or fashion.

17. Plaintiff avers Defendant's actions in holding the above referenced specially called meeting on a Friday afternoon, which was the last business day before schools were set to start, in holding the meeting long after normal business hours, without a proper notice under the circumstances, without an emergency looming, in taking an action the Defendant knew would be extremely controversial, in contravention of the Defendant's own notice policies, and in contravention of Defendant's publicly published school calendar, taken as a whole operated to deny the public and the media the right to attend the meeting and voice their positions, and is exactly the type behavior the Sun Shine law prohibits.

18. Plaintiff alleges and intends to prove the students and citizens of Cumberland County have been irreparably harmed, in that, among other things:

- A. the students in the school system must take already scheduled standardized tests without the statutorily required and necessary minimum days of instruction.
- B. the athletes who are being denied the potential ability to obtain scholarships due to the Defendant's not allowing them to practice or play.
- C. the county due to the potential loss of control of and revenue to the county school system due to the lack of instruction time and its concomitant lowering of statutorily required students' performance on already scheduled standardized tests which are required by the State Department of Education.
- D. the students' loss of potential scholastic aid in their pursuit of their higher education due to the loss of instructional time for them to prepare for already scheduled required college entrance examinations.
- E. the hourly non certified school system employees who relied upon the published school calendar in budgeting their household income and expenditures.
- F. the loss of revenue to academic, athletic, and band booster clubs; the system's loss of money due to payments to the T S S A A for the forfeiture of football games already scheduled and contracted for; revenue to the business community as a whole due to the cancellation of school related activities; increased costs to the county's citizens of unanticipated day care requirements; and to the citizens' long held and long standing personal plans.

Wherefore, Plaintiff prays as follows:

- A. This Complaint be filed and served on Defendant.
- B. That upon a hearing this court declare the called meeting held by the Defendant on August 8, 2008 at 7 pm void and unlawful due to Defendant not providing proper and adequate notice under the circumstances of the controversial issues to be discussed and actions taken.
- C. That upon a hearing and due to the referenced special called meeting being declared to be in violation of the Sunshine Law and therefore illegal, this court enter an order declaring the action taken by Defendant of not opening schools on the previously set date is void and of no effect.
- D. That upon a hearing, and due to the above exigent circumstances, this court order the Defendant, Cumberland County School Board, to revert to its previously and lawfully established school calendar and begin the 2008 school term immediately.
- E. For any other relief to which Plaintiff may be entitled upon a hearing of this matter.

Filed this day of August, 2008.

James E. Thompson, for Plaintiff
P.O. Box 765
Crossville, Tenn. 38557
931.484.4533
BPR# 4246

After being sworn according to law, I hereby swear I have read the foregoing complaint and the facts contained therein are true and correct.

Brock Hill, Plaintiff

State of Tennessee
Cumberland County

Sworn to and subscribed before me on this day of August, 2008.

Notary Public

My Commission Expires: