

IN THE CHANCERY COURT FOR KNOX COUNTY, TENNESSEE

WANDA MOODY)
)
 Plaintiff,)
)
 vs.) No. 153315-2
) 153781-3
)
)
 TIMOTHY HUTCHISON)
 Sheriff of Knox County, Tennessee)
)
 Defendants.)

PLAINTIFF'S RESPONSE THE KNOXVILLE NEWS-SENTINEL PETITION TO INTERVENE

1. thru 8. Admitted.

9. Denied. The *News-Sentinel* incorrectly asserts that an application has been made for an award of attorney fees in activities concerning Defendant Hutchison's criminal contempt. No such application has been made. All filings in this case to date are in the public Court file and available to the *News-Sentinel*.

10. Denied. The *News-Sentinel* incorrectly asserts that a request for attorney fees has been filed for Plaintiff's Public Records Act litigation. No such application has been made. All filings in this case to date are in the public Court file and available to the *News-Sentinel*.

11. Denied. The Court did not "direct" but suggested the parties consider mediation and on Plaintiff's objections that the litigation was not completed, suggested fee applications be filed under a protective order.

12.,13. Admitted.

14. Denied. It has consistently the position of Plaintiff that Defendant Hutchison pay the attorney fees and cost of this litigation personally and that fees and cost awarded against Knox County only accepted from Knox County after the unsuccessful exhaustion of all available legal remedies to cause Defendant Hutchison pay the fees and cost.

15. Denied.

16. Denied. Standing must exist at the time of the filing of the petition to intervene. The Editor of the *News-Sentinel* does not have standing to intervene "pertaining to any fee, cost or other monetary sanction application filed by Plaintiff" because none exist at the time of the Petition.

17. The allegations of paragraph 17 are admitted except the request is for all records of payments to private attorneys representing Knox County or its officers since January 1, 2001. A copy of the letter request is attached.

18. Admitted.

19. Denied. *Knoxville News-Sentinel v. Huskey*, 982 S.W.2d 359 (1998) holds that the press does not have a right to

attorney fee records that are paid by the public until such time as the case is completed; that during the case the press only has access to the total amounts actually paid from public funds; and during the case the press does not have access to detailed records of the work performed paid for by public funds. No public funds have been paid to Plaintiff or her counsel and pursuant to *Knoxville News-Sentinel v. Huskey* the Editor of the *News-Sentinel* has no standing.

20. Denied. There are no fee bills, expense statements, cost bills and other itemized expenses or reimbursements filed by Plaintiff.

21. Admitted.

22. Admitted.

23. Denied.

24. Denied.

25. Denied.

26. It is affirmatively averred that the press does not have any right to fee or expense records that have not been filed or that have not been paid with public funds. *Knoxville News-Sentinel v. Huskey*.

27. It is affirmatively averred that the Public Records Act does not apply to fee and expense records in the possession of Plaintiffs' attorney.

28. It is affirmatively averred that the Petition to Intervene should be denied because it fails to state a claim for relief that could be granted if the *News-Sentinel* were permitted to intervene.

29. It is affirmatively averred that the *News-Sentinel* is equitably estopped from assertions in paragraph 20 that it is representing the citizens of Knox County; in paragraph 22 "the public's fundamental right to scrutinize performance of public services"; paragraph 23 "it borders on the ludicrous . . . for Plaintiff to argue. . . confidential attorney client"; and paragraph 24 that it is "disingenuous for the Plaintiff [to argue] her claims for reimbursement should be confidential" where the *News-Sentinel* knows the Knox County Law Director Mike Moyers continues to refuse to release fee claims dating back to 2001, including in this case, that were actually paid by the public.

WHEREFORE, the petition to intervene of the Editor of the *Knoxville News-Sentinel* should be denied.


HERBERT S. MONCIER

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and
Attorney in re:
Criminal Contempt
of Court of Timothy Hutchison

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on the Knox County Law Director, Robert H. Watson, Dean B. Farmer and Richard H. Hollow this 14th day of April 2005.


HERBERT S. MONCIER