

IN THE CIRCUIT COURT OF SCOTLAND COUNTY, MISSOURI
1ST JUDICIAL CIRCUIT

RANDALL TOBLER, MD,
5004 S. Cowan Loop
Columbia, Missouri 65201,
Plaintiff,

v.

Case No. 23SE-CC00015

SCOTLAND COUNTY MEMORIAL
HOSPITAL DISTRICT, et al.
Defendants.

**SCOTLAND COUNTY MEMORIAL HOSPITAL DISTRICT’S OBJECTIONS TO
ECHO MENGENERS’ CAMERA MEDIA REQUEST**

Pursuant to the Court’s Order dated August 21, 2024, Defendant Scotland County Memorial Hospital (the “Hospital”) objects to Echo Menges’ August 21, 2024 media request because permitting media coverage of the bench trial in this matter will violate protections afforded by Missouri’s Sunshine Law, Mo. Rev. Stat. § 610.021 to closed meetings of public governmental bodies.

I. Introduction

Consistent with Missouri’s Sunshine Law, Mo. Rev. Stat. § 610.010 *et seq.*, the Hospital recognizes the importance of ensuring that *open* meetings and records of governmental bodies be available to the public. Public access, however, is not unlimited. In enacting the Sunshine Law, Missouri’s legislature explicitly recognized that certain governmental meetings and information should be closed to the public. *See* Mo. Rev. Stat. §§ 610.020, 610.021. Closing meetings and records is authorized when meetings and records relate to legal actions, firing of employees, and individual identifiable personnel records. *See* Mo. Rev. Stat. § 610.021(1), (3), (13). That is the situation in this case.

II. Plaintiff's Allegations are Limited to the 24-Hour Notice, Location of the Meetings and Stated Good Cause.

It is important to note that Plaintiff's Sunshine Law allegations concern 1) the lack of 24-hour notice of the meetings; 2) the location of the meetings; and 3) the stated good cause for the meetings. *See Plaintiff's First Amended Petition* at ¶¶78-82. In other words, the details of the actual closed meetings are not part of Plaintiff's allegations and should not be discussed. The reason for the closed meetings also involve legal and financial concerns which should be protected – again, through Mo. Rev. Stat. § 610.021, the Legislature recognized the importance of exempting such issues from the public view to allow for governmental bodies to discuss such sensitive issues in a closed setting.

III. This Court Can Limit Media Access to Prevent Interference with the Sunshine Law's Protections of Closed Meetings.

A. *Court Operating Rule 16.02 allows this Court to limit reporter access.*

Pursuant to Court Operating Rule 16.02, “[m]edia coverage of a judicial proceeding will be permitted on a case-by-case basis if expressly authorized by the judge” under certain conditions. A court is authorized to prescribe limitation on media coverage, and even if coverage is permitted to “limit or disallow media coverage of a proceeding if the judge concludes, under the circumstances, such coverage would materially interfere with the rights of the parties[.]” Court Operating Rule 16.02(a)(1), (2).

B. *Unlimited media access to the trial will violate the Sunshine Law protections.*

Permitting a reporter to video and photograph the bench trial could violate the rights of the Hospital and its board to conduct closed meetings pertaining to legal actions and the hiring, firing, and disciplining of its employees. Missouri's Sunshine law explicitly authorizes a public governmental body to close meetings, records, and votes related to (1) legal actions, (2) the hiring,

firing, and discipline of a particular employee, and (3) individually identifiable personnel records, performance ratings or records pertaining to employees. *See* Mo. Rev. Stat. § 610.021(1), (3), (13). Based upon Plaintiff's Sunshine Law allegations, evidence concerning the Hospital's closed meetings is not relevant and should not be admitted. To the extent, however, that Plaintiff's allegations somehow implicate closed meetings of the Scotland County Memorial Hospital District Board that occurred on August 15, 2022, August 16, 2022, and August 18, 2022, media access should be denied.

C. *The media does not have access to closed sessions.*

There is no mechanism provided by law for the media to obtain details of matters discussed during closed meetings or the basis for closed meetings. *See* Mo. Rev. Stat. § 610.021 (limiting information available from closed meetings to votes and meeting minutes). Here, the meeting minutes for the closed meetings have already been published. *See First Amended Petition* at Exs. A, D, G. That is all that the Sunshine Law requires. Permitting a reporter to record the bench trial could invade the protections afforded to governmental boards by Missouri law to host closed meetings to discuss and make sensitive personnel decisions. Accordingly, the Court should deny the reporter's request to video and record the Bench Trial.

IV. Conclusion

For the reasons outlined above, the Hospital respectfully objects to the presence of a reporter during the August 23, 2024 bench trial on Plaintiff's claim of a Sunshine Law Violation. The Hospital accordingly requests that this Court issue an order that protects the integrity of the Hospital's closed session board meetings by limiting the reporter's ability to record the Bench Trial proceedings.

Respectfully submitted,

POLSINELLI PC

By: /s/ Eric E. Packel

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing pleading was served by () United States Mail, postage prepaid; () ECF Notification System; and/or () email this 3 day of September, 2024, to:

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