

**IN THE CIRCUIT COURT OF WASHINGTON COUNTY, ARKANSAS**

**PROTECT FAYETTEVILLE, f/k/a REPEAL 119;  
PAUL SAGAN; PETER TONNESSEN;  
and PAUL PHANEUF**

**AND**

**THE STATE OF ARKANSAS**

**vs.**

**Case No.: CV-15-1510-1**

**THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY,  
ARKANSAS; LIONELD JORDAN, in his official capacity as  
MAYOR OF THE CITY OF FAYETTEVILLE; ADELLA GRAY,  
SARAH MARSH, MARK KINION, MATTHEW PETTY, ALAN  
LONG, JUSTIN TENNANT, MARTIN W. SCHOPPMAYER JR.,  
AND JOHN LA TOUR, in their official capacities as ALDERMEN  
OF THE FAYETTEVILLE CITY COUNCIL**

FILED FOR RECORD  
2016 MAR 10 AM 10:56  
WASHINGTON CO  
CIRCUIT CLERK  
K. S. L. VESTER  
PLAINTIFFS  
INTERVENOR

**DEFENDANTS**

**NOTICE OF APPEAL**

COMES NOW, Protect Fayetteville, an Arkansas Ballot Question Committee (hereinafter Protect Fayetteville”) Paul Sagan, Peter Tonnessen, and Paul Phaneuf (collectively Sagan, Tonnessen, and Phaneuf are referred to as “Taxpayers”) (with Protect Fayetteville and Taxpayers being hereinafter referred to collectively as “Plaintiffs”), by and through their attorneys of the Story Law Firm, PLLC, and gives Notice of its appeal to the Arkansas Supreme Court as follows:

1. Notice is hereby given that Plaintiffs appeal to the Arkansas Supreme Court from the “Order Granting Defendants’ Motion for Summary Judgment in Part and Denying Plaintiffs’ and State’s Cross-Motions for Summary Judgment” entered by the court on March 1, 2016. The Plaintiff specifically appeals the court’s ruling regarding the Count IV of the operative complaint and the Court’s interpretation of Arkansas Act 137 of 2015.

2. The plaintiffs hereby appeals directly to the Arkansas Supreme Court because this appeal:

- involves the interpretation or construction of the Constitution of Arkansas, Ark. S. Ct. Rule 102(a)(1);
- involves issues of first impression, Ark. S. Ct. Rule 1-2(b)(1);
- involves issues of substantial public interest, Ark. S. Ct. Rule 1-2(b)(4);
- raises significant issues requiring clarification or development of the law, Ark. S. Ct. Rule 1-2(b)(5).

3. The plaintiffs designates as the record on appeal all pleadings and other papers filed of record, and the transcript of the hearing held on January 26, 2016.

4. As stated in the Interveners Notice of Appeal, they have made arrangements to obtain the transcript from the reporter of the proceedings in this case, and they have complied with Ark. Code Ann. § 16-13-510(c) to make financial arrangements with the court reporter.

The Plaintiff will rely on the same record for this appeal.

5. Plaintiffs designate the following as the record on appeal:

- The complete Circuit Court record in Case Number 2015-1510-1, including all pleadings and rulings filed with the Circuit Clerk.

6. There was no hearing on this matter, and thus no transcript.

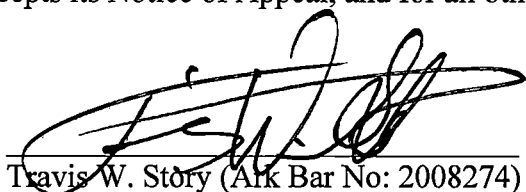
7. Plaintiffs intend to rely on the following points on appeal:

- That the Circuit Court erred when it denied Plaintiffs' Motion for Emergency Temporary Restraining Order and Plaintiffs' Renewed Motion for Emergency Temporary Restraining Order without a hearing under Arkansas Rules of Civil Procedure 78(d) on September 3, 2015 at 10:42 a.m.;

- That the court abused its discretion by vacating the mandatory hearing under Arkansas Rule of Civil Procedure 78(d) whereby the court “shall” “fix and announce a day of court to be held no sooner than 2 and no longer than 7 days thereafter to hear and determine the cause” Ark. R. of Civ. P. 78(d)

WHEREFORE, the Plaintiffs pray that the Court accepts its Notice of Appeal, and for all other just and appropriate relief.

By:



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### **CERTIFICATE OF SERVICE**

I, Travis W. Story, state on oath that I have sent a true and correct copy of the foregoing **Notice of Appeal** to the following counsel of record in the foregoing matter by delivering the same via email on this 30<sup>th</sup> day of March 2016.

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