

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
FAYETTEVILLE DIVISION

FAYETTEVILLE PUBLIC LIBRARY, a political subdivision in the City of Fayetteville, State of Arkansas; EUREKA SPRINGS CARNEGIE PUBLIC LIBRARY; CENTRAL ARKANSAS LIBRARY SYSTEM; NATE COULTER; OLIVIA FARRELL; JENNIE KIRBY, as parent and next friend of HAYDEN KIRBY; LETA CAPLINGER; ADAM WEBB; ARKANSAS LIBRARY ASSOCIATION; ADVOCATES FOR ALL ARKANSAS LIBRARIES; PEARL'S BOOKS, LLC; WORDSWORTH COMMUNITY BOOKSTORE LLC d/b/a WORDSWORTH BOOKS; AMERICAN BOOKSELLERS ASSOCIATION; ASSOCIATION OF AMERICAN PUBLISHERS, INC.; AUTHORS GUILD, INC.; COMIC BOOK LEGAL DEFENSE FUND; FREEDOM TO READ FOUNDATION

PLAINTIFFS

v.

NO. 5:23-CV-05086-TLB

CRAWFORD COUNTY, ARKANSAS; CHRIS KEITH, in his official capacity as Crawford County Judge; TODD MURRAY; SONIA FONTICIELLA; DEVON HOLDER; MATT DURRETT; JEFF PHILLIPS; WILL JONES; TERESA HOWELL; BEN HALE, CONNIE MITCHELL, DAN TURNER, JANA BRADFORD; FRANK SPAIN; TIM BLAIR; KYLE HUNTER; DANIEL SHUE; JEFF ROGERS; DAVID ETHREDGE; TOM TATUM, II; DREW SMITH; REBECCA REED MCCOY; MICHELLE C. LAWRENCE; DEBRA BUSCHMAN; TONY ROGERS; NATHAN SMITH; CAROL CREWS; KEVIN HOLMES; CHRIS WALTON; and CHUCK GRAHAM, each in his or her official capacity as a prosecuting attorney for the State of Arkansas;

DEFENDANTS

**PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION, OR , IN THE  
ALTERNATIVE, A TEMPORARY RESTRAINING ORDER**

Plaintiffs Fayetteville Public Library, Eureka Springs Carnegie Public Library, Central Arkansas Library System, Nate Coulter, Olivia Farrell, Jennie Kirby as parent and next friend of Hayden Kirby, Leta Caplinger, Adam Webb, Arkansas Library Association, Advocates for all Arkansas Libraries, Pearl's Books, LLC, Wordsworth Community Bookstore LLC d/b/a Wordsworth Books, American Booksellers Association, Association of American Publishers, Inc., Authors Guild, Inc., Comic Book Legal Defense Fund, and Freedom to Read Foundation (collectively, "Plaintiffs"), for their Motion for a Preliminary Injunction, or, in the Alternative, a Temporary Restraining Order, state as follows:

1. Plaintiffs seek to facially preliminarily enjoin two provisions, Section 1 (the "Availability Provision") and Section 5 (the "Challenge Procedure"), of Arkansas' recently-enacted Act 372 of 2023 ("Act 372").

2. The Availability Provision would make it a crime for libraries or booksellers to make certain books available to any minors.

3. The Challenge Procedure would establish a process for the removal of "inappropriate" books from Arkansas libraries.

4. A Brief in Support of Plaintiffs' Motion for a Preliminary Injunction, or, in the Alternative, a Temporary Restraining Order is submitted along with this Motion. *See* Fed. R. Civ. P. 65(a), (b); Local Rule 7.2(e).

5. As set forth more fully in the accompanying Brief, the Availability Provision and Challenge Procedure suffer from a variety of deficiencies under the First and Fourteenth Amendments of the United States Constitution, and chill and infringe upon Plaintiffs' rights under the First Amendment.

6. The Plaintiffs submit the following Declarations, and the exhibits attached thereto, in support of this Motion:

- a. Declaration of John Adams;
- b. Declaration of Deborah Caldwell-Stone;
- c. Declaration of Leta Caplinger;
- d. Declaration of Carol Coffey
- e. Declaration of Nate Coulter;
- f. Declaration of Christina Danos;
- g. Declaration of Olivia Farrell;
- h. Declaration of David Grogan;
- i. Declaration of David Johnson;
- j. Declaration of Daniel Jordan;
- k. Declaration of Hayden Kirby;
- l. Declaration of Mary E. Rasenberger;
- m. Declaration of Matthew D. Stratton;
- n. Declaration of Jeff Trexler;
- o. Declaration of Adam Webb;
- p. and Declaration of Kandi West.

WHEREFORE, Plaintiffs respectfully request that the Court grant their Motion and issue a preliminary injunction pending a decision on the merits of Plaintiffs' claims in this matter, or, in the alternative, issue a temporary restraining order barring the application of the Availability Provision and Challenge Procedure pending a decision on Plaintiffs' motion for a preliminary injunction.

Respectfully submitted,

/s/ John T. Adams

David M. Fuqua  
Ark. Bar No. 80048  
John T. Adams  
Ark. Bar No. 2005013  
Attorneys for Plaintiffs Central Arkansas  
Library System, Nate Coulter, and the Eureka  
Springs Carnegie Public Library  
FUQUA CAMPBELL, P.A.  
Riviera Tower  
3700 Cantrell Road, Suite 205  
Little Rock, AR 72202  
Telephone: (501) 374-0200  
E-Mail: [dfuqua@fc-lawyers.com](mailto:dfuqua@fc-lawyers.com)  
E-Mail: [jadams@fc-lawyers.com](mailto:jadams@fc-lawyers.com)

Bettina Brownstein  
Ark. Bar No. 85019  
BETTINA E. BROWNSTEIN LAW FIRM  
Attorney for Olivia Farrell, Jennie Kirby,  
Hayden Kirby, and Leta Caplinger  
904 West 2nd Street, Suite 2  
Little Rock, AR 72201  
Telephone: (501) 920-1764  
E-Mail: [bettinabrownstein@gmail.com](mailto:bettinabrownstein@gmail.com)  
On Behalf of the Arkansas Civil Liberties  
Union Foundation, Inc.

Will Bardwell\*  
Ben Seel\*  
Aman George\*  
Orlando Economos\*  
Attorneys for the Arkansas Library Association,  
Advocates for All Arkansas Libraries, and Adam  
Webb, in his individual capacity  
DEMOCRACY FORWARD FOUNDATION  
P.O. Box 34554  
Washington, DC 20043  
Telephone: (202) 448-9090  
E-Mail: [wbardwell@democracyforward.org](mailto:wbardwell@democracyforward.org)  
E-Mail: [bseel@democracyforward.org](mailto:bseel@democracyforward.org)  
E-Mail: [ageorge@democracyforward.org](mailto:ageorge@democracyforward.org)  
E-Mail: [oeconomos@democracyforward.org](mailto:oeconomos@democracyforward.org)

Vincent O. Chadick  
Ark. Bar No. 94075  
Brandon B. Cate  
Ark. Bar No. 2001203  
Glenn V. Larkin  
Ark. Bar No. 2020149  
Attorneys for Plaintiff Fayetteville Public  
Library  
QUATTLEBAUM, GROOMS & TULL  
PLLC  
4100 Corporate Center Drive, Suite 310  
Springdale, Arkansas 72762  
Telephone: (479) 444-5200  
E-Mail: [bcate@qgtlaw.com](mailto:bcate@qgtlaw.com)  
E-Mail: [vchadick@qgtlaw.com](mailto:vchadick@qgtlaw.com)  
E-Mail: [glarkin@qgtlaw.com](mailto:glarkin@qgtlaw.com)

Michael A. Bamberger\*  
Kristen Rodriguez\*  
Rebecca Hughes Parker\*  
Attorneys for Pearl's Books, LLC,  
Wordsworth Community Bookstore LLC,  
American Booksellers Association,  
Association of American Publishers, Inc.,  
Authors Guild, Inc. Comic Book Legal  
Defense Fund, and Freedom to Read  
Foundation  
DENTONS US LLP  
1221 Avenue of the Americas  
New York, NY 10020  
Telephone: (212) 768-6700  
E-Mail: [michael.bamberger@dentons.com](mailto:michael.bamberger@dentons.com)  
E-Mail: [kristen.rodriguez@dentons.com](mailto:kristen.rodriguez@dentons.com)  
E-Mail: [rebeccahughes.parker@dentons.com](mailto:rebeccahughes.parker@dentons.com)

\* *Admitted pro hac vice*

**CERTIFICATE OF SERVICE**

I hereby certify that on June 22, 2023, a copy of the foregoing was served upon all counsel of record contemporaneously with its filing in the CM/ECF system, and was sent by e-mail and United States mail, postage prepaid, to:

Gentry Wahlmeier  
Attorney for Crawford County, Arkansas  
and County Judge Chris Keith  
WAHLMEIER LAW FIRM, P.A.  
P.O. Box 1811  
Van Buren, AR 72957  
Telephone: (479) 431-3366  
E-Mail: [gentry@wahlmeierlaw.com](mailto:gentry@wahlmeierlaw.com)

/s/ John T. Adams

John T. Adams