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In the court of appeals in Knoxville

State of Tennessee, ex rel. David Jonathan Tulis)
Appellant)
)
V.)
)
Bill Lee)
Governor, State of Tennessee)
Respondent, in personal and official capacity)
)
Rebekah Barnes)
Administrator, Hamilton County Health Department)
Respondent, in personal and official capacity)

Case No.
E2021-00436-COA-R3-CV

Appeal from Hamilton County chancery court

Brief for review

— Oral Argument Requested —

Appellant
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Jurisdiction statement

The court has jurisdiction to hear this appeal from Hamilton County chancery, as appeal in a civil matter is by right. TRAP Rule 3(a). The appellate court has authority from the final order of the chancery court for Hamilton county to correct chancery and "shall grant the relief on the law and facts to which the party is entitled or the proceeding otherwise requires and may grant any relief, including the giving of any judgment and making of any order," Rule 36.

Issues presented for review

The issues presented for review are that the chancery court incorrectly asserts relator has no standing to sue; incorrectly finds the petition does not present anything justiciable before an equity jurisdiction; incorrectly denies the petition; incorrectly finds that relator fails to state any claim for which relief could be granted; incorrectly denies the existence of subject matter jurisdiction, either generally or specifically as to the governor pursuant to the venue of privilege; the failure of due process generally and sufficiently material to overthrow the final order, such as the deprivation of timely equity relief, or transfer; allowing fraud; breach of the separation of powers; breach of trust; fraud on the court; trespass on the case; failure to acknowledge material and relevant facts or testimony; and prejudice, whether independent act or cumulatively.

Statement of case, facts of the case, proceedings

Relator in petition testifies he is harmed (p. 42), has no other remedy than lawsuit for harms caused by respondents (p. 9), alleges that respondents have a duty to administer (obey, execute, manage resources in terms of) T.C.A. § 68-5-104 (p. 8) and other relevant health laws, are bound by a fiduciary duty to the law (pp. 9, 10), and shows that they admit having no records or evidence of compliance with Title 68 (pp. 68, 72). Relator takes their responses as "reliance that duties required by law were not obeyed for the purpose of initiating remedy" (p. 71).

He sues demanding evidence of compliance with the law that officials can demonstrate a nonfraudulent exigency for the communicable disease emergency declared, or of avoidance of

the proofs showing disobedience, or a lawful exoneration of his/her acts, with proofs of obedience, lawful administration by agents and/or a non-fraudulent exigency outside of the legislative mandate for communicable disease giving warrant to the Title 58 state of emergency imposed by respondent Lee.

Had such evidence been given exculpatory of respondents' actions, relator would have dismissed the suit.

The petition evidences, and reality has proven out, that fraud, subterfuge, confusion, and deceit pervade the respondents' purported response to the 2020 influenza, flu, under various names, aka SARS-CoV-2, under pretended and unwarranted emergency powers law at Title 58. Respondents refuse to identify an infectious agent (p. 11 ¶¶ 23, 24), ignore duty to "determine the source or cause of the disease" (p. 13 ¶¶ 35-41) to better combat it, lie about the PCR test (p. 14 ¶ 43; pp. 16, 17) that cannot differentiate between influenza and the lab synthesized RNA gene coding, which generates false positives and hence growing panic (p. 27 ¶ 137, 138). The domestic "pandemic" is proving fraudulent, a numbers-driven condition stirred by people in foreign jurisdictions, with local and state duty to identify "something communicable in a locale" (p. 17 ¶74) and aided by a wrongfully promulgated rule, the relief sought of which is likely reformation in the demand, (p. 39 ¶ 207 ff). No local first case is evidenced pursuant to law, *except* ***misleadingly***, and ***presumptively*** and ***fraudulently***, by delinquent admission of respondents (p. 18 ¶ 81).

The petition in equity and for writ of mandamus (p. 8) is an affidavit, unrebutted testimony. Its facts would not exist **but for** respondents' disobeying the legislature's mandate at T.C.A. § 68-5-104 that lays forth the constraints under which police power might be used upon individual men, women and children, subject to warrant and the right to due process and breaching the separation of powers, required to be kept.

The petition sets forth facts of relator's private harms. Based on the facts of claim, the petition seeks that all acts, orders and directives of respondents be quashed, abrogated, halted (p. 39 ¶ 204) and that respondents be commanded to obey the quarantine and isolation law starting at T.C.A. § 68-5-104 that they have disobeyed and to which they refuse to repair in their "fight" against the condition known as "Covid-19," a disease not the infectious agent of which they are to nonfraudulently demonstrate. He also demands they "keep accurate records *** to eliminate

fraudulent records fraudulently used to create a color of authority which cannot exist as a matter of law" (p. 39 ¶ 206). Demonstrating a nonfraudulent exigency for the declared emergency is of the highest public interest and requirement of law.

Relator sues respondents in their offices, personally, as well, alleging their *sins of omission* in disobeying T.C.A. § 68-5-104 and *their sins of commission* in a state of emergency without a non-fraudulent "*objectively bona fide demonstrable exigence*" (p. 11 ¶ 20), from which flow acts and consequences relator testifies are harmful to him and illegal against him.

The petition (p. 13) witnesses respondents in violation of public duties. Relator would not have been "irreparably injured and harmed" (p.11 ¶ 22) *but for* respondents' actions as causes in fact and proximate cause of his harms (p. 42).

The statute they admit they disobeyed, § 68-5-104, and haven't "*any* duty" (p. 137) to, identifies the "intrinsically linked" (p. 86) respondents or agents thereof. It requires "local health authorities" (Barnes) acting on a disease, "declared by the commissioner of health" (Lee official) to be "subject to isolation or quarantine," to "confirm or establish the diagnosis, to determine the source or cause of the disease and to take such steps **as may be necessary to isolate or quarantine** the case or premise upon which the case, cause or source may be found." There is no authority even where a nonfraudulent exigency were to be declared to wrongfully infringe upon the healthy relator in any way as respondents have done, whether directly or indirectly. [1]

Respondents admit the fact, as does the CDC of which they are unduly influenced, (p. 21 ¶ 95; p. 26 ¶¶ 126, 129; p. 32 ¶ 162), they have no isolate of SARS-CoV-2, the purported infectious agent. Similarly, they admit they do not know how the condition is transmitted, or as to any susceptibility in relator or anyone generally or without the initiating and required medical report, or of what cause or "contagious principle," to quote T.C.A. § 68-1-202, the flulike symptoms "Covid-19" consists.

Delay in justice is forbidden in the Tennessee constitution bill of rights, Article 1, section 17, "every man *** shall have remedy *** , and right and justice administered without *** delay." Equity principles declare delay is injustice. "To sell justice would be a crime, to deny justice

[1] The phrase "as may be necessary" speaks to discretion in the method of obedience, subject to review for reasonableness and abuse of discretion. But chancery says the phrase "as may be necessary" vests respondents with authority to evade the law, because obedience is optional and not required.

would be an outrage akin to crime, and to delay justice is an intolerable wrong, for delay is equivalent to a denial while the delay continues: the virtue of justice often evaporates during the delay. Denial and delay are man and wife, and injustice and injury are their children" *Gibsons's* Id. § 535, Applications to Amend, or Continue, How Considered.

A mandamus action is required to be handled forthwith at T.C.A. § 29-25-102. "**FORTHWITH.** Immediately; without delay, directly, hence within a reasonable time under the circumstances of the case." *Black's Law Dictionary*, 4th ed.

The court denies relief forthwith, and in consequence imposes a new mass threat by respondents. That is an inoculation program of untested genetically modified materials into hundreds of thousands of people unprecedented in annals of U.S. medical history. The U.S. food and drug administration has not approved the experimental injections, but "authorizes" them under an "emergency use authorization." The "Covid-19" shots have bizarre and often lethal side effects and are being urged, without testing, on children, pregnant women and healthy people in the middle of a purported "pandemic." They have taken 13,068 Americans lives in 595,620 negative Covid-19 shot reactions, as reported by Vaccine Adverse Events Reporting System run by the U.S. government.

Chancery says it has no subject matter jurisdiction as to Lee on grounds relator should have sued him in Davidson County, the seat of state government (pp. 233, 234).

Tenn. Code Ann. § 4-4-104 says department heads must reside in Davidson County, unless they get the governor's permission to live elsewhere. Commissioners, drawn from the people in 95 counties, are said to live in Davidson as to their commissions on state business, and have right to be sued there over departmental business. The courts appear to have created, without approval of the general assembly, an equivalence: "Suit against a commissioner" = "suit against the governor" = "suit against the state," a presumption used to protect respondent Lee in this action. The petition contradicts such legal fiction, serviceable in ordinary legal disputes over commissioners' being sued while honorably performing their duties in office under law.

Chancery says relator's case is a "suit against the state" (p. 507). Relator represents the state of Tennessee, himself and its people in seeking remedy for harm. This lawsuit alleges conspiracy of fraud with a Hamilton County official under color of authority. Relator asks the court: Is it a

"suit against the state"? Or is it a suit against *criminals* operating official misconduct in *personal capacity* (p. 8) under color of the state and official capacity?

Petition avers **it is the latter.** The state is supposed to prohibit fraud, and it didn't. Divided government, the supreme law, statute law, oaths of office, and good government practices guarantee honest government services and prohibit harm and fraud. State institutions in Tennessee failed to prevent respondents from acting in such a way as to aggrieve relator particularly (p. 42) and the people generally in mass irreparable harm.

Petition, supplying all the facts in the record, attests, alleges and establishes fraud (p. 9, ¶ 5), a gap between the law (setting forth respondents' duty) and their acts.

The factual record is presumed — and accepted — by chancery and respondents as true (pp. 132, 166, 204); relator insists a facial challenge to the complaint (p. 132) is improper, unjust and intolerable under the rules of equity when fraud is admitted in the record established prior to suit.

Respondent Lee is head of the executive branch and responsible for administering T.C.A. § 68-5-104. The constitution at article 3 says, "The *supreme executive* power of this state shall be vested in a governor," section 1, and the governor "shall take care that *the laws be faithfully executed*," section 10 (emphasis added).

Lee admits fraud in his brief: "The plain language of this statute demonstrates that it neither establishes a clear right of relief in the petitioner nor imposes *any* duty on the Governor" (p. 137) (italics original). Chancery agrees with his claims of no duty. "Nowhere in the statute is the Governor even mentioned" and relator "failed to allege any precise ministerial duty" (p. 225).

Barnes admits fraud in her brief, saying the statute's list of acts to obey "are discretionary" (p. 162) and that she is "an official vested with discretion" (p. 173), fraudulently citing *Tusant v. City of Memphis*, 56 S.W.3d at 18, 19. Chancery reads Tusant as support of Barnes' claims of discretion as against the entirety of the statute (p. 208), and sees "vesting" with authority even when Barnes admits disobeying the general assembly law as relevant to her.

Relator pressed the court, respondents and counsel that respondents are *admitting violation of felony criminal misconduct* law at T.C.A. § 39-16-402 (pp. 471. 478-480; March 30, 2021, hearing transcript, p. 6 line 19, pp. 26-28), that officers of the court have duty under law and

their rules of professional ethics to halt crimes and offenses brought to their notice, and to see to it that prosecutors are made aware of the offenses.

The court accepts whereby respondents seek to evade accountability to the substance of the record regarding fraud. In other words, chancery grants demurrer to parties subject to the petition (p. 408, transcript p. 16, line 13). Relator objection p. 410, transcript. 25 line 1 to p. 26, line 15, encapsulates his objections to this state of affairs.

Chancery denies the state of Tennessee has been harmed. "Relator failed to allege how the Administrator's actions injured Relator in a concrete and personal way. Nor has Relator alleged some extraordinary damage to him personally, beyond that of the rest of the community" as to Barnes (p. 216). As to Lee, "This court determines that Relator only alleges generalized grievances *** not justiciable" and that he "failed to allege how the Governor's actions injured Relator in a concrete and personal way" (p. 231).

Relator pleads repeatedly for the court to end fraud, in every writing and in each of four hearings. Chancery, by four orders of dismissal, refuses relator's pleas to end the fraud (p. 203, p. 221).

Chancery rejects mandamus as suitable means to bring the governor and county health administrator into compliance with T.C.A. § 68-5-10 (pp. 205-208, pp. 223-227).

Chancery rejects other equitable measures, said by *Gibson's* to be available, to bring respondents into compliance with T.C.A. § 68-5-104. Chancery dismissal orders Nos. 1 (pp. 205, 223) and dismissal orders Nos. 2 (pp. 292, 501) make no reference to equity or equity standards. They use the word "equity" only in quoting relator.

All round, in chancery's view, relator is in court on a fool's errand, having no injury, no facts, not alleging an injury, unable to meet chancery's stated requirement that he **"prove"** facts of injury. Chancery says relator "failed to allege that he suffered a particularized concrete injury in fact" as to Lee (p. 232) and "only alleges generalized grievances *** not justiciable" as to Barnes (p. 215), can "can prove no set of facts in support of his claim that would entitle him to relief" as to Lee (p. 222), has no "extraordinary damage beyond the rest of the community" as to Barnes (p. 215), and since he "failed to allege he suffered a personal, concrete injury, then

Relator has no act of the Governor to challenge, nor is there any injury for this Court to address" as to Lee (p. 232). See pp. 265, 266 for relator's "extraordinary" harm as a member of the press.

Petition avers "court is competent through this remedy to provide redress to which the respondents are subject" (p.10). Chancery denies it is competent, says it lacks subject matter jurisdiction regarding either respondent. But it holds four hearings over 201 days and 12 orders.

Chancery at the Jan. 11, 2021, "phone hearing" allows oral argument for a motion for dismissal prior to hearing relator's motion to strike (p. 408. See relator brief, p. 271). Relator objects to hearing respondents at all as fraud is unavoided (p. 408, transcript p. 16, line 1-12). Chancery interrupts, saying (p. 408, transcript p. 16, lines 17-22) "we are getting to the merits of your case now." The court orders respondents to argue motions for dismissal first before hearing relator's motions to strike, saying they were filed first and the motion to strike is "a response. *** It was subsequent" (p. 208, transcript p. 15 lines 23, 24).

This statement "we are getting to the merits of your case now" is as close as chancery gets to any merits. It accepts fraud in the record. Rule 2.2 says, "A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially" (p. 326).

Statement of the facts

State of Tennessee on relation files suit against respondents when their fraudulent acts purporting to "fight" a virus irreparably harm him, the state of Tennessee, and consequently, 6.8 million other people in Tennessee without evidence of any lawful warrant, nonfraudulent exigency, or consequent authority. Even if jurisdiction could have been shown, the authority vested by that jurisdiction claimed by respondents exceeds lawful limits, adversely affecting relator without due process requiring they adhere to the legislative will.

Relator's unrebutted facts and testimony include these: He was threatened July 31, 2020, with arrest on the spot in violation of T.C.A. § 40-7-103, arrest by officer without warrant, for being in the Hamilton County courts building in Chattanooga with a bare face. He was forced under this threat to exit the building, and was denied his rights as a member of the public and of the press to fulfill a fundamental liberty interest in being present, violating his right of freedom

of association, and freedom from association with threatening officers (p. 42). Separately, on or about April 12, 2020, he was ordered into his car after he had stepped out of it in the parking lot of Metro Tabernacle church. The order by Chattanooga police officers on private property injured relator in the free exercise of his religious tenets and convictions (p. 44). In a third harm, relator was denied the rights of ingress and egress at his church, North Shore Fellowship in Chattanooga, the government of which was so deceived and bullied by respondents and their agents that its officers closed the church, which they would not have done but for actions of respondents (p. 43). Fourthly, people everywhere are "unwilling to meeting with [relator] at every part of life in local economy *** People have shut their businesses and won't sell to him, refusing also to buy from him in the ordinary course of business" (p. 46). A fifth harm: relator's right to honest government services, denial of which "wrongfully infringed and prohibited affian's right of free association or being free of interference with innumerable fellow residents of Hamilton County" (p. 45). And that these are the direct or indirect cause evidenced in the petition.

Relator has rights fixed in the constitution and in the Tennessee Code's claims upon those elected or hired to serve in public office. Respondents are, duly, government officials who work and breathe together to oppress the people in Tennessee while refusing to obey state law.

The unrebutted facts and testimony of record, the petition and affidiavit, claim and show respondent cannot demonstrate a nonfraudulent exigency for the emergency declared under color of authority and causing irreparable harm to relator. For instance, respondents have no determination of an agent of contagion as required by the communicable disease code, T.C.A. § 68-5-104, no isolate for an unsubstantiated communicable agent called SARS-CoV-2, rather relying only upon so-called Covid-19, merely a set of flulike symptoms, called a disease. The facts are that respondents lack any jurisdiction whatsoever for the authority to administer the public health crisis, having not demonstrated the requisite nonfraudulent exigency for their pretentious emergency. The widely reported respondent Lee-caused economic meltdown of starting March 2020 and the vast social cost of converting the state into a penal colony is attributable to fraud by respondents, acts outside of authority, under color of law, without warrant or cause, acts that are arbitrary and capricious, done in their persons, without cloak or coverture of their offices, and so subject to chancery court, which acts upon the person. Chancery has authority to compel respondents to show cause through issuance of a writ of mandamus for a

return demonstrating the nonfraudulent exigency warranting the declared emergency and, based upon that return, bring any other equity relief within the power of chancery to bear, or as offered in demand of the petition to stop the irreparable harm caused today and into the future.

Argument

1. Standing to sue, failure to acknowledge existing material facts

SUMMARY The orders of the court assert relator has no standing to sue (pp. 209, 217, 232, 233, 295) and are reviewable by this court without a presumption of correctness. It is well recognized that a party must show three "indispensable elements" to establish constitutional standing: (1) a distinct and palpable injury, as opposed to a conjectural or hypothetical injury; (2) a causal connection between the claimed injury and the challenged conduct; and (3) the alleged injury is capable of being redressed by a favorable decision of the courts, the focus being upon the relator and the nature of the source of the claims — in part, concerted frauds under color of authority. The petition evidences relator's standing to bring the suit.

ARGUMENT To secure standing, relator shows he has been personally, particularly and specifically harmed, with injuries that are actual, not theoretical or prospective. The relator testifies to harms in the petition that he is "being irreparably injured" (p. 11, ¶ 21, 22) and an "oppressive interference with relator's liberty or other lawful interest" (p. 15, ¶ 50). Relator, under direction of Tenn. Code Ann. § 29-25-101, files petition "supported by affidavit" (p. 42 ff), to establish justiciability by evidence of personal harm from respondents' wrongs. The affidavit evidences five harms — two threats of arrest, religious injury, economic injury and denial of right to honest government services, each sufficient to establish standing, each admitted by respondents, none denied or particularly challenged as to veracity, extent, historicity or level of detail.

The petition and the affidavit of irreparable harm are taken true and as evidence. "In a judicial proceeding, nothing is believed unless proved upon oath," *Gibson's Suits in Chancery*,

1955 ed. § 71 Maxims Applicable to the Practice of the Court; "[W]hen a fact, or state of facts, is duly verified by the affidavit of a competent person, the Court accepts such affidavit as absolutely true" § *Id.* 833, Weight and Effect of an Affidavit. There is (1) a distinct and palpable injury (p. 43 ¶ 1, p. 44, ¶¶ 22, 23), caused by concerted frauds committed by the respondents under color of authority, harms that would not have happened **but for** these "fairly traceable" acts or omissions (Barnes directive No. 1, pp. 8, 39, p. 43 ¶ 9) (Lee executive order No. 14, p. 13 ¶ 33, p. 73 ff).

And (2), the causal connection of concerted frauds committed by the respondents under color of authority, acts of omission and commission, are "fairly traceable" from the petition. The harms personally suffered by relator in the "stay at home" edicts lawlessly promulgated result from violations of law by respondent William Byron Lee, acting in the office of governor. To secure relator's rights and the rights of the people in the state of Tennessee, Lee took an oath to obey the state's laws and administer them, including T.C.A. § 68-5-104 (p. 9 ¶ 10; p. 10 ¶ 12). Barnes is employed by Hamilton County as health department administrator subject to T.C.A. § 68-5-104 (p. 10, ¶¶ 11, 12). Respondents, prior to suit, are demanded to show obedience to law. They supply no evidence of compliance with the law, and so admit violating it (p. 12, ¶ 30; p. 13).

Their unwarranted actions directly irreparably harm relator in his fundamentals rights (p. 42), redressable through the Tennessee constitution that grants "every man, for an injury done him" a "remedy by due course of law," constitution, article 1, sect. 17. Such violation has allowed respondents, by "such tactics as subterfuge, confusion, and deceit," (p. 15, ¶ 49), to violate state law. And (3), the "injury is capable of being redressed," in chancery, with its "exclusive original jurisdiction of all cases of an equitable nature" where the debt or demand exceeds $50, T.C.A. § 16-11-103, with power to abate nuisances, T.C.A. § 16-10-110 (shared with circuit courts), and correct respondents subject to equity of their oaths of office for wrongs done in violation of law under color of their offices. The indispensable elements for standing being met, the court's assertion that there is lack of subject matter jurisdiction "*because Relator lacks standing*" (pp. 217, 232), is incorrect, prejudicial and causes injustice.

The petition lays forth necessary factual predicates to filing suit that are material and sufficient. Exhibit 1 is relator's affidavit of personal harm (p. 42). The affidavit of five harms

reports relevant material facts that have probative force and legal relevance to the cause. Respondents do not object to any one fact, or attack any one fact to make it less probable or less credible. Relator's facts are of consequence to the determination of the action. They come from relator, a witness with first-hand personal knowledge whose credibility is at no point of his testimony impugned by respondents or the court. The facts of the affidavit amount to the essential elements of his claim, and are not particularly or specifically impeached. *But chancery, like respondents, ignores them.*

In its second round of double dismissal orders, chancery acknowledges three facts.

> As to Relator's claim that his affidavit establishes particularized harm to him, only paragraph 1 and paragraphs 23-24 of the affidavit **arguably could state** any particularized harm allegedly suffered by Relator. (pp. 495, 496) (emphasis added)

Paragraph 1 describes relator's being thrown out of the county courthouse under threat of arrest for having a bare face (p. 42). Paragraphs 23, 24 describe police officers' threatening to arrest him if he gets out of his car at a church during a "parking lot" Christian worship service (p. 44).

Chancery "sees" these three facts, but dismisses them because (1) the police officers making the threats are not the respondents, and (2), "Relator [does not] allege Barnes injured Relator," who "only alleged certain deputies and certain police officers injured Relator" (p. 496).

These three admitted facts are sufficient to establish standing. Gibson discusses justiciability in the context of petitions for declaratory judgments, when a controversy may be merely theoretical or threatened. The petition in instant case brings judicial cognizance to a conflict created by respondents against relator's liberty and property interests. These interests are concrete, not theoretical or abstract. The harms testified to create an actual, genuine, live controversy, "the decision of which can definitely affect existing legal relations" *Gibson*, Id., § 1178, The Character of Adverse Interest. Relator has substantial clear interest in his harms, an interest that "must be present, and not contingent." The petition establishes a claim of right, and asserts it against respondents' having an interest in contesting it. "When that happens, it is a justiciable controversy." *Id.*

This cause originates in fact, and is based on facts and law. The facts are supplied entirely by the state of Tennessee on relation by petition. Chancery operates in favor of *respondents who*

provide no facts. Chancery accepts silence from respondents-in-fraud, observes them evade the law, accepts open fraud in its venue of equity, utters not a dissenting syllable of its misrepresentations, and in its rulings does obfuscate, confuse and decohere the plainness of this cause and the statute it seeks to have upheld. Existence of a single fact as to relator's personal harms (three are cited above) show the lower court subject to reversal and relator due a writ of mandamus or other equitable remedy by right in equity.

The court does not acknowledge material and dispositive facts. Not seeing and disclosing facts, the court does not see relator's standing, and does not register claims upon respondents for which relief should be granted.

Aside from the affidavit of harm, exhibits show respondents admit disobedience to the law[2]. In relator's facts within the case are affidavits (such as affidavit of clerk & master hearing, exhibit of relator's birth certificate) and several motions-cum-affidavits. These are affidavit of Oct. 30 hearing p. 102; default motion, p. 122; Lee alter motion, p. 250; Barnes alter motion, p. 297; Affidavit & Motion to Object to Billing by Party in Fraud, p. 471.

Chancery shows favor of respondents who file no affidavits, who offer no testimony, who demand no testimony from relator at any of three hearings. Chancery accepts that they do not put him on the stand to debunk his testimony, yet sides with respondents-in-fraud's vague claims that relator has no personal harm and no facts.

Chancery makes no written findings of facts. It seems free to apply law apart from facts. It determines relator suffers no harm upon which to make a claim because he has no facts. In seeing no facts, and thus in hearing allegations of harm as mere static, the lower court favors respondents-in-fraud and sees in them no lack or shortage of equity and justice. "If [respondents'] answer fails to deny important facts alleged in the bill, every intendment will be made against it: allegations of the bill not denied, nor confessed and avoided, will be taken as true" *Gibson*, Id., § 1132. Pleadings in Suits for Mandamus, and Proceedings Thereon. Chancery extends courtesy and partiality to them, since they innocently are brought before chancery under allegations of wrong that are alleged to have no basis and be meritless.

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[2] No reports, email exchanges, no conference call summaries, no followup documents, no analyses, no medical assessments of the virus, no queries about existing concerns of SARS-CoV-2's mode of transmission, no position papers, no photocopies from scientific journals — not even a sticky note exists as evidence of good-faith compliance with the law.

The record makes plain the 2020 "Covid-19" disaster is one not just of a virus, medical science and military-gain-of-function research applied upon the people of Tennessee. It is one of maladministration, malfeasance, dereliction of duty, official misconduct and mass tortmongering, according to the petition and affidavit. Even if relator has no standing, the record of mass wrong cries for intervention by the court, if not to the grand jury of Davidson or Hamilton counties, then to the sheriff or to the attorney general for criminal prosecution of T.C.A. § 39-16-401, official misconduct (pp. 471, 478; transcript of evidence-1, p. 6, pp. 26, 27, pp. 49, 51).

> MR. TULIS: *** Will the Court **acknowledge this statement of official misconduct by respondents and these two officers of the court as a *** formal complaint,** Your Honor?
>
> THE COURT: **No, sir.** You, you -- that --
>
> MR. TULIS: You will -- you will not acknowledge that as a notice?
>
> THE COURT: here -- **No. No, sir.** We're, we're
>
> MR. TULIS: All right.
>
> THE COURT: -- on a motion to alter or amend, sir. You, you -- All right. You're way outside of the scope there. **You, you have other avenues for that.**
>
> (Transcript of evidence-1, p. 51, lines 8-22)

Chancery's approach to facts is twofold. It proposes facts that could emerge theoretically if the law at T.C.A. § 68-5-104 were in operation (which law relator shows is being ignored) — facts that chancery says are missing. It also does not read the petition and see the record of unrebutted affidavits.

A rare instance of chancery's admitting that other facts *may*, indeed, exist is a discussion in dismissal No. 1 of theoretical facts the court identifies as absent, warranting dismissal of the suit.

> Petitioner seeks a writ of mandamus **under T.C.A. 68-5-104**. *** [N]owhere in his petition does Relator **claim to be someone who was declared to be subject to isolation** or quarantined. Nor does Relator seek a writ ordering Respondent Barnes to **confirm his diagnosis** that required Relator to be quarantined. The Court determines that Relator **failed to allege that he sustained a concrete, injury in fact**.
>
> Thus as additional grounds, the Court determines that Relator lacks standing to have a writ issued pursuant to T.C.A. 68-5-104, because Relator **failed to allege that he was quarantined or escaped from quarantine, so as to demonstrate a right to relief** under the statute. Tusant, supra. Further as he has alleged no right

> to relief under the statute then it follows there is no clear ministerial duty that Barnes must perform as a remedy. (p. 209) (emphasis added)

The court says relator has no "injury in fact" because he "failed to allege that he was quarantined" and such facts *from another case*. He cannot show that the law was operational under respondent Barnes, and that he is harmed by that operation and denied his rights. Let the court take judicial notice: The law is not being observed and is not being obeyed. (See pp. 308-312 about the court's foray into fourth-dimensional suppositional "facts," its creation of a case different from the one relator files.)

The relator "failed to allege" that he "sustained a concrete injury in fact" and did not "claim to be someone who was declared to be subject to isolation" and he failed to show Barnes "confirmed his diagnoses" requiring quarantine and that he "failed to allege that he was quarantined or escaped from quarantine." It is error to say "petitioner seeks a writ of mandamus under" T.C.A. § 68-5-104 (p. 209). Rather, he evokes the mandamus law to bring Lee and Barnes under that law to show cause the nonfraudulent exigency for the health emergency they purport exits. He seeks mandamus and other appropriate equity pursuant to the constitutional guarantee to relief for harm done through dereliction to confine themselves to the proper course of communicable disease law. He is not the subject of the law.

In this fictionalizing of the case and seeing missing facts, as it were, chancery fails to understand the petition and inserts irrelevant material — as if anywhere relator says he has been subject to the operation of the statute. It appears frivolous to so mistake the case. Chancery appears to intend to *misunderstand* relator's intentions or the suit, and to follow the judicial department policy in exercise of prejudice against state of Tennessee on relation.

Relator grows concerned the court sees no facts. He files the affidavit in support (p. 469) into the case "moving the court for an order that the tendered Exhibit No. 1, numbered by the court in the hearing, filed with the clerk and master April 6, 2021, at 3:52 p.m., be entered into the record." (See record, Exhibits-1). Relator attempts to read the affidavit into the record, and is shut down (Transcript of evidence-1, March 30, 2021, hearing, p. 8-11).[3]

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[3] THE COURT: It's in the record, sir. There is --

MR. TULIS: But, Your Honor, you have ignored this record, and the respondents' attorneys have, in bad faith, smeared the glass in such a way that it is invisible to you and illegible to you. But I would like to -- I

Beyond theoretical missing facts, the court has a second method of seeing no facts. It follows *lawyerly gazoozling* of respondents' briefs that make relator's facts "only [alleged] generalized grievances" (p. 215).

Here's the method. Relator has no "standing to sue as he only alleged nonjusticiable generalized grievances" against respondent Barnes, thanks to the noisome throng respondents say effectively is drowning out testimony of relator's affidavit; the bustle of general public faces prevents chancery's seeing relator's mug (muzzled under threat in violation of relator's rights) (p. 151). It uses his references to other Tennesseans (p. 216) — expressing the civic and public welfare nature of the petition — to nullify material facts regarding his own personal harms. *Chancery makes one part of the case cannibalize the other* (p. 321).

Chancery rules (on Lee, p. 228) that if other people have been hurt in respondent's act, relator cannot have facts particular to him as to give him standing (pp. 227-232). Lee makes remarkable claims of innocence on account of multiplicity of victims. Relator may make claims of being hurt, Lee says; "But that's an injury, Your Honor, that is common to all the citizens of the state of Tennessee, not just the petitioner," (p. 410, transcript p. 22, line 19). The more that other people are hurt, the less blame is respondent Lee liable for harm against any one of them. The more the number of people whose lives and finances are ruined, and who are defrauded into the experimental jab peril, the less harm, according to Lee.

The rules of equity would seem to not allow casuistry to control an honorable court.

The court that makes no written finding of fact is greatly influenced by respondents-in-fraud as to their harms, awaits correction as to the facts in the record, and hence relator's honorable standing on the land as an aggrieved man to sue and be heard. See particularized harm discussions, p. 261 ff (Lee) and p. 306 ff (Barnes).

Chancery finds no claim of harm based on relator's affidavit. It discerns no acts upon which to apply the law and give relief. Nor does it see the facts within the case of how relator

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insist on entering my affidavit into the record in this hearing, Your Honor. It has to be in the record. *** I'm insisting on reading it into the record, because the document has not been noticed or read, Your Honor. It's a due process right to enter my evidence into this record, in this hearing, seeing that it has been ignored for these *** 179 days, Your Honor.

establishes his claims for harm. Chancery says he has nothing justiciable in the petition. State of Tennessee on relation alleges fraud 18 times in the petition. Respondents do fraud under color of law in concert. These are claims the court is empowered by proper and sufficient petition to stop.

If relator sues, provides facts, and fails to make an allegation based upon those facts, then whence chancery authority to not forthwith notify relator that he must amend the complaint, and add allegations? State of Tennessee has the right to amend when faced with a motion to dismiss. "If, by amendment, the irregularity [in a lawsuit] can be remedied, or, if the defect or omission can be supplied, it is the duty of the Court to allow it to be done; for the Courts are instituted to enable complainants to have a hearing on the merits" *Gibson*, Id., § 273, The Office of a Motion to Dismiss.

> If there be any Equity, at all, on the face of the bill, even if it be defectively stated, the motion to dismiss cannot prevail; and, on such a motion, every reasonable presumption is to be made in favor of, rather than against, the bill. *Id.*

Chancery appears unwilling to disclose facts, to exercise a discretion to find no facts that secure relator's standing in a statewide respondent-imposed disaster. Is the court doing its duty in finding no facts, or is it exercising discretion and bias to declare the relator not harmed and without standing. Chancery denies a duty to look deeper if it couldn't find any facts to extract any possibility of facts, which it does in its second round of dismissals ("affidavit arguably could state any particularized harm," p. 496). A single probative fact proves chancery 100 percent wrong. The State of Tennessee demands on relation that the court correct this maladministration of the equity court.

2. Justiciability — can court give remedy

SUMMARY A case is not justiciable if it does not involve a genuine, existing controversy requiring the adjudication of presently existing, real rights. It must be a real question rather than a theoretical one. A legally protectable interest must be at stake, a real interest involving past and present events (not in the future, not contingent). The orders of the lower court assert the relator's claims are "alleged nonjusticiable generalized grievances" (p. 233, Lee dismissal order). In Tennessee, justiciability doctrines assist the courts in determining whether a particular case

presents a legal controversy. The justiciability doctrines recognized by Tennessee courts mirror the justiciability doctrines of the federal courts. These doctrines include: (1) the prohibition against advisory opinions, (2) standing, (3) ripeness, (4) mootness, (5) the political question doctrine, and (6) exhaustion of administrative remedies. The petition and supporting affidavit evidence continuing, direct, specific, irreparable harms, a real and substantial controversy involving a genuine conflict of tangible interests and not merely a theoretical dispute. Together with the standing evidenced, no assertion has been made that any of the five justiciability doctrines control, the multiple court orders asserting the suit is not justiciable in chancery are incorrect. The petition commencing this lawsuit is "proper to be examined in courts of justice" (*Black's Law Dictionary*, 4th ed.).

ARGUMENT The constitution in Article 1, sect. 17, says relator has a remedy for wrong done to him in the courts. "That all courts shall be open; and every man, for an injury done him in his lands, goods, person or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial, or delay."

The justiciability standard in Tennessee includes "exceptional circumstances that make it appropriate to address the merits of an issue notwithstanding its ostensible mootness," or lack of justiciability. These exceptions to the doctrine "include: (1) when the issue is of **great public importance or affects the administration of justice;** (2) when the challenged conduct is capable of repetition and evades judicial review; (3) when the primary dispute is moot but collateral consequences persist; and (4) when a litigant has voluntarily ceased the challenged conduct" *Witt v. Witt*, No. E201700884COAR3CV, 2018 WL 1505485, at *4–6 (Tenn. Ct. App. Mar. 27, 2018).

A moot case is not justiciable. If, arguendo, the present case is seen as moot, having been inexpertly submitted that it fails to reach justiciability, its great public import gives it the substance it otherwise lacks — to make it justiciable. The state's lawsuit on relation empowers the court on matters of "great public importance" that "[affect] the administration of justice" (p. 9 ¶ 8). The "challenged conduct" of respondents-in-fraud "is capable of repetition" and thus far, 544 days into the "emergency," has "[evaded] judicial review" with a train of evil "collateral consequences" upon every man and woman in the state of Tennessee, starting with the relator.

Petition establishes the legally cognizable interests of relator, a wrong done relator by respondents (p 8 ¶ 2) extending communicable disease law preventative measures wrongly, without due process, without the first required medical report to invoke any jurisdiction in them. Both parties have a legally cognizable interest in the issues, liability being that of respondents, for which no adequate remedy exists for relator except the open court under the "due course of law," demanding that justice be "administered without sale, denial or delay" by a chancery court with subject matter jurisdiction.

The dispute is legal in nature, with relator violated by respondents' rejection of duty and trust obligation by respondents who oppress relator (p. 11, ¶ 21) and all the people in the state of Tennessee by defying the legislative constraints put on them pursuant to T.C.A. § 68-5-104 and, harming relator's rights, violating article 11, sect. 16, of the constitution. "The declaration of rights *** shall never be violated on any pretense whatever. And to guard against transgression of the high powers we have delegated, we declare that everything in the bill of rights contained, is excepted out of the general powers of the government, and shall forever remain inviolate."

The court alone has authority to direct respondents as to law and duty, to halt "wrongful acts" and to empty their acts of "all force and effect" and to declare them void ab initio (p. 9, ¶ 5). Relator demands relief from respondents-in-fraud, and that the court not agree with chancery that the arrival of this case at its bar gives it nothing to do, as if relator had filed blank sheets of paper.

3. Stating claim for which relief may be granted

SUMMARY This lawsuit is based on irreparable harms to relator having no adequate remedy at law and of great public interest to the people in state of Tennessee by parties sworn to uphold state law. Their breach of oath and of trust in refusing to obey the law, or to have it administered by their agents, has created an oppressive terroristic system of fraudulent policy and practice harming relator. Their obligation and duty under law is to demonstrate the nonfraudulent exigency prior to declaring any emergency which affects the public, such as relator. For any communicable public health emergency declared, the legislature provides only one path which is to faithfully administer T.C.A. § 68-5-104. This legislative mandate requires a

number of prerequisite events to occur prior to providing any authority to lawfully declare an emergency. These steps properly followed would have avoided the irreparable harms caused to relator or the state on relation. This lawsuit is commenced and the petition evidenced that the local public health official responsible for following T.C.A. § 68-5-104, declared an emergency without demonstrating a nonfraudulent exigency causing this action for fraud and breach of trust. The final orders of chancery do not reflect this intention.

ARGUMENT A cause of action lets facts or a combination of facts give a person the right to seek judicial redress or relief. A cause has eight elements: duty, breach, damage, who, what, when, where and how/why. The petition faces a test for sufficiency in whether it states a claim for which relief may be granted. The causes of action in this case exist, were properly alleged, if not proven self-evidently, and properly state a claim, done adequately and sufficiently, contrary to chancery's order, finding none, and without prior notice as to any inadequacy or insufficiency or relative to a due process right of petition amendment, if needed.

The petition is to be read without superfluous repetition. Once a fact is stated it applies across every applicable cause, otherwise the petition would have been at least 4 times longer and may not have been as succinctly stated as it was needed, or as relator intended, and the respondents and court would have howled that much more than they did (p. 497), complaining at the petition length of 37 pages — complaining about the length instead of showing cause, forthwith, how they didn't commit the frauds claimed and evidenced, that they never intended nor did they rebut each of the testimonial facts taken true in their concerted evasion of justice; the court agreeing with this evasion, never requiring respondents to show cause avoiding the frauds claimed, as required by settled equity principles ("such party must, in good faith, make such a showing as to demonstrate that justice is clearly on his side," Gibson, Id., § 71).[4] This is what a return for the writ of mandamus was to ascertain in determining what other equity is needing to be done to do justice, stopping the irreparable harms evidenced and caused by respondents exercising police

[4] [W]hat is meant by 'showing cause' is showing good cause, that is, showing a ***good*, legal, substantial and meritorious reason** or reasons, justifications, or excuses, for the action in question. The law despises trifles and quibbles, and when the law or the Court requires a party to "show cause," such party must, in good faith, make such a showing as to demonstrate that justice is clearly on his side. If he is showing cause to be relieved, or to shield himself, he must make it clearly appear that he has been guilty of no **inexcusable *laches* or negligence, and of no acts of bad faith or disregard of duty**, and that he has a meritorious claim or defence. In a word he must show *good cause.*" *Gibson,* Id. § 71, Maxims Applicable to the Practice of the Court (emphases added)

power prerogatives without demonstrating a nonfraudulent exigency for the emergency declared under color of authority.

In this section, page numbers are omitted, and all paragraph references are to the petition, pp. 8-41 in the technical record.

Contrary to the negative finding of the court, the causes of action in the petition can be found, in relation to the state of Tennessee, on relation, petition ¶ 1 committed, ¶ 2 and ¶ 3, & ¶ 10, ¶ 19, ¶ 20 and ¶ 49.

Subterfuge, ¶ 50, ¶ 82, ¶ 85 to ¶ 87, ¶ 118, ¶ 120, ¶ 121, ¶ 127, ¶ 151, ¶ 156, ¶ 157, ¶ 163, ¶ 180, ¶ 181, ¶ 184, ¶ 196, ¶ 200, ¶ 201, ¶ 202 equates to the cause of action of maladministration of government, whether through malfeasance, misfeasance, or nonfeasance, or otherwise, or in corruption.

Commit breach of duty, ¶ 1/¶ 17, ¶ 2/¶ 17, ¶ 4/¶ 17, ¶ 129, ¶ 131, ¶ 153, ¶ 157, ¶ 164, ¶ 165, ¶ 173, ¶ 175, ¶ 181, ¶ 189, ¶ 192, ¶ 197, ¶ 200, ¶ 207C, by ¶ 10 & ¶ 11. Breach of organic governmental establishment, ¶ 53. Respondents' unwarranted official acts, herein, breach the established separation of powers principle, ¶ 127, ¶ 164. And, where reliance of the executive is upon the judiciary to aid and abet the operation, ¶ 86. Such position is contrary to the organic law. The relator restates the foregoing press coverage for the purpose of this remedy, ¶ 114.

Respondents' reliance on any rule imposing the imperative "shall" to the force and effect of recommendations or other foreign extraterritorial epidemic together constitute a breach of trust, ¶ 163, ¶ 198, ¶ 199.

The consequence of that breach, ¶ 124. Because of these governmental trust breaches, nothing from any government official can be trusted. **That equals a cause of action.**

Abuse of power or authority is another cause of action. The petition identifies causes of action within this concept. Abuse of authority means an arbitrary or capricious exercise of power, i.e., not demonstrating a nonfraudulent exigency prior to implementing any police power prerogative.

The lower court says there are "arguably" three paragraphs in the affidavit citing injuries to relator (p. 496). They pertain to threats of false arrest without probable cause or warrant. These reflect the harm of abuse of office, where persons purporting to act in an official capacity or

taking advantage of such actual or purported capacity commit a detention, search, seizure, mistreatment, dispossession against another person's rights, privileges, powers or immunities.

Petition cites arbitrary acts, ¶ 3, ¶ 50, ¶ 122, ¶ 167, ¶ 194, ¶ 200, ¶ 201; capricious acts, ¶ 3, ¶ 194. The petition states the cause of fraud by omission, ¶ 1, ¶ 3, ¶ 17, ¶ 19, ¶ 20, ¶ 23, ¶ 73, ¶ 91, ¶ 118, ¶ 132, ¶ 140, ¶ 141, ¶ 149, ¶ 156, ¶ 158, ¶ 163, ¶ 180, ¶ 190, ¶ 191, ¶ 194; fraud and misrepresentation, ¶ 3/¶ 17, ¶ 66, ¶ 130, ¶ 137; deceit, deception, ¶ 49, ¶ 58 et seq, ¶ 136; falsehoods, willful falsity, ¶ 147, ¶ 152, ¶ 158, ¶ 159; misleading, ¶ 81, ¶ 133, ¶ 140, ¶ 153; "color of authority," ¶ 5, ¶ 45, ¶ 106, ¶ 107, ¶ 114, ¶ 121, ¶ 127, ¶ 132, ¶ 188, ¶ 193, ¶ 195, ¶ 196, ¶ 197, ¶ 206; conspiracy, acting in concert, ¶ 83, ¶ 106, ¶ 114, ¶ 156, ¶ 190; conspiracy to defraud, ¶ 129; aiding and abetting, ¶ 106, ¶ 127, ¶ 129, ¶ 189, ¶ 196; acting knowingly and intentionally (acknowledging) in fraud, ¶ 80, ¶ 82, ¶ 126, ¶ 132, ¶ 147, ¶ 152, ¶ 158, ¶ 159, ¶ 160, ¶ 165, ¶ 177, ¶ 179; with willful disregard, ¶ 23, ¶ 161, ¶ 179, ¶ 186; maliciously, ¶ 23; unlawful restraint based on arbitrary mitigation measures and mandates, criminal coercion with intent to restrict a person's freedom of action, ¶ 182; extortion (T.C.A. § 39-14-112), ¶ 182; allegation of an anticipated defensive tactic given the allegation of the concerted effort to obstruct justice and maladministration, ¶¶ 85 - 87.

The claims are demands as one's own, assertions, statements, urgings, insistings (as defined in *Black's Law Dictionary*) and are in the petition as follows:

That respondents act upon relator "without benefit of due process or the fulfillment by respondents, though they have a public legal non-discretionary duty, pursuant to T.C.A. § 68-5-104" (p. 8 ¶ 2), that they "act without bona fide demonstrable exigence or jurisdiction and by their unwarranted and unconstitutional premature actions or arbitrary and capricious, even deadly, purported mitigation measures" (pp. 8, 9 ¶ 3), that respondents "have and owe a duty and obligation to comply with the laws" of Tennessee (p. 11 ¶ 18), that their disobedience is "defiant, willful and malicious" (p. 11 ¶ 23), that relator's inquiries about compliance to T.C.A. § 68-5-104 came up empty as respondents have not "returned any communication or provided any thing evidencing compliance with public duties mandated by the legislature in law" (p. 12 ¶ 30), that relator reasonably "relies upon the silence of the respondents, causing the need for this remedy" (p. 13, ¶ 34), among other claims arising from respondents'-in-fraud inequity.

Relator claims, "The state of Tennessee, on relation, is in this honorable court seeking remedy because respondents are acting without benefit of the duty imposed upon them by the legislature to protect the public" (p 14, ¶ 48). These and other claims of evil action and fraud, including the method of their execution, in the petition appear to lack nothing to keep them from being actionable claims for which relief may be granted.

The court says the lawsuit states no claims and lacks legal sufficiency to gain the notice of the court. The suit fails to cross the line set by the court without a clear rationale having been given, in violation of equity. The court below bases its determinations of "failure to state a claim" on several grounds (Barnes).

- ➤ Tenn. Code Ann. § 68-5-104 is operational, and that no function of the law hurt relator (p. 209)
- ➤ Relator facts regarding CDC, WHO and other purported authorities are "allegations" (p. 209)
- ➤ Relator "failed to allege that he sustained a concrete injury in fact." (p. 209)
- ➤ Relator's having no facts about his harm means he lacks standing (p. 209)
- ➤ Lack of draft alternative writ or writ (p. 211)

These findings provide no ground for a finding of failure to state a claim for which relief may be granted.

As to Lee, the court (pp. 224-226) rolls several reasons into its conclusion that relator fails to state a claim that seem not to touch on the nature of "claim," including (p. 225) that he fails to state a "prima facie case of mandamus," that the court has discretion, that Lee is "not in default." It adds three points; (1) that the ruling *State ex rel. Latture* nullifies relator's having made proper claim, and (2) that respondent Lee has agents ("the commissioner" and "local health authorities" p. 224) and thus relator makes no claim against respondent Lee, and (3) mass harm in the general population voids relator's individual facts and evidence of harm ("alleged injury") (p. 228).

The petition evidences claims properly made, with affidavit support, to the proper court. Chancery essentially asserts no claims have been made.

The petition's claims of fraud are justiciable because they are upon parties with clear duties to relator. The government employee respondents are subject to the constitution and Tennessee

code (p. 10, ¶ 12), have duty to obey it (p. 11, ¶ 18), are limited in their authority and power by requirement of "an objectively bona fide demonstrable exigency (p. 11, ¶ 19) for a state of emergency; they admit violating the T.C.A. § 68-5-104 requirement to establish a first case, a diagnosis, a cause or contagious principle for SARS-CoV-2 (p. 13, ¶¶ 35-41). Respondents have quarantine power at T.C.A. 68-5-104, and must demonstrate a lawful exigency "to enable this power" suitable for use upon the verifiably sick and contagious. Instead of obeying their oaths or terms of employment, they opt instead to apply fraudulent pretended power upon the entire population, to the harm of relator (p. 35, ¶¶ 180, 181), in violation of the state of emergency statute at T.C.A. § 58-2-102 and its requirements of protection of the people and their lives, property, services, business and "economic growth and development" (p. 36, ¶ 184). Petition states its claims for relief (pp. 38-40, ¶¶ 203-210), to which claims chancery is empowered to give relief. Relator demands chancery be told to give proper relief in equity or via mandamus.

4. Duty to demonstrate a nonfraudulent exigency

SUMMARY Elected and hired officials have a duty to administer, fulfill and faithfully execute the law pursuant to their office, station and authority. The petition rehearses the claims of T.C.A. § 68-5-104 (p. 13, ¶¶ 35-41). The governor in constitution article 3 is given executive power, may "require information in writing, from the officers in the executive department" he oversees (sect. 8), "shall take care that the laws be faithfully executed" (sect. 10) and report to the general assembly "the state of the government." Respondent Barnes is a Hamilton County employee, administrator over the health department, which administers Title 68, the health law.

ARGUMENT These parties' actions are restrained by law and the bill of rights. The police power cannot be imposed arbitrarily or capriciously, nor upon people *en masse*, but only upon men and women individually for cause. "That the people shall be secure in their persons, houses, papers and possessions, from unreasonable searches and seizures; and that general warrants, whereby an officer may be commanded to search suspected places, without evidence of the fact committed, or to seize any person or persons not named, whose offences are not particularly described and supported by evidence, are dangerous to liberty and ought not be granted," constitution, article 1 sect. 7. No person can be "taken" or "imprisoned" or "disseized of his

freehold, liberties or privileges, or outlawed, or exiled, or in any manner destroyed or deprived of his life, liberty or property, but by the judgment of his peers, or the law of the land," sect. 8

The bill of rights requires open courts (sect. 17), respect for the liberty of the press (sect. 19), hands off peaceable assemblies (sect. 23), respect of the right "of a free people" to bear arms (sect. 24), and protection against a police state or martial law, in sect. 25: "That martial law, in the sense of the unrestricted power of military officers, *or others*, to dispose of the persons, liberties or property of the citizen, is inconsistent with the principles of free government, and is not confided to any department of the government of this state."

Respondent Lee says he has no duty to administer the health law. But invoking police power is not available to any official until the official fulfills the duty and obligation to demonstrate a nonfraudulent exigency for the purported emergency declared, the relief demanded in equity, the failure to do so of which providing no discretion to act, contrary to the assertion of the order, until that nonfraudulent demonstration. The court accepts his criminal admission of crime (T.C.A. § 39-16-401, official misconduct) — that the law does not impose "*any* duty" to fulfill the law (italics original). "Indeed, the statute does not even mention the Governor" (p. 137), he argues, *frivolously*. The petition says respondent has duty to obey T.C.A. § 68-5-104 (pp. 24 ¶ 117, p. 26 ¶ 130, p. 30 ¶ 153, p. 35 ¶¶ 177). Obedience is "compliance with a command, prohibition, or known law and rule of duty prescribed; the performance of what is required or enjoined by authority" (*Black's*).

Chancery follows respondents'-in-fraud reasoning: "Nowhere in the statute is the Governor even mentioned" (p. 225). It cites the rules of statutory construction about the duty of officeholders to "carry out the legislative intent without broadening or restricting a statute beyond its intended scope," seeking to show that because the governor does not appear in the health statute, relator fails "to allege any precise ministerial duty" Lee "is clearly required to perform" (p. 256).

Chancery "concludes" that if the state's chief executive has agents, he is not liable for performance of the law. Constitution article 3, sect. 10, says respondent Lee "shall take care that *the laws be **faithfully executed***." The court is asked to take judicial notice that one man, however elevated by the people, and now governor, is not able personally to administer the department of

health and 21 other agencies that the 2019-2020 *Book* (p. 225) says employ more than 39,000 people.

> "(a) The department of health shall be under the charge and general supervision of the commissioner of health, who shall be appointed by the governor [.] *** The commissioner shall hold office at the pleasure of the governor." Tenn. Code Ann. § 68-1-102

That respondent Lee has commissioners and other agents does not separate him from his constitutional duty, which is to obey the law by requiring his agents to obey their commissions under statute. Chancery indicates the existence of agents means Gov. Lee is free to ignore the law, free to ignore whether the laws are faithfully executed. Because he does not personally administer the department of health, he is not responsible for implementing and administering T.C.A. § 68-5-104, chancery declares, to relator's irreparable harm.

Chancery says Barnes is not bound by T.C.A. § 68-5-104 and that relator "failed to allege [a] nondiscretionary act *** that respondent failed to do" (p. 208). Barnes is bound by Title 68 in all parts that pertain to her, and by the uniform administrative procedures act. When a contagion develops, her duty is to follow § 68-5-104, to administer it under her terms of employment. The board she serves is to "[a]dvise the county mayor on the enforcement of such rules and regulations as may be prescribed by the commissioner essential to the control of preventable diseases and the promotion and maintenance of the general health of the county" Tenn. Code Ann. § 68-2-601(f)(2).

Arguments that respondent Barnes is not bound by the law, and can exercise discretion as against the law — said violations a fraud admitted by respondents — are fraudulent and harmful to the state of Tennessee on relation, and accepted as equitable and fulfillment of the lawful by chancery. Relator demands chancery be commanded to uphold the law and demand respondents show cause as to their actions, and command obedience to the law if they have not done so since their last filing in chancery. The respondents have failed to demonstrate the nonfraudulent exigency supporting the police power either assumed, or "intrinsically linked," in concert, or to the discretionary authority they pretend to maintain in their irreparably harming relator.

5. Subject matter jurisdiction over Lee

SUMMARY Petition is lawsuit against respondent Lee for acts done in Hamilton County, in his person outside of his office, outside of his lawful authority, without warrant, exigency or court order, committed, or by omission fraudulently. His acts are, by his admission, in defiance of T.C.A. § 68-5-104, which he fraudulently and (by way of admissions in his filings) criminally claims he is not under "*any* duty" to obey (p. 137) (italics original) ***on grounds that he has agents.*** Said acts harm relator in Hamilton County (p. 42), and are acts of "criminal fraud supporting international terrorism" (p. 37, ¶ 189). The court reads a venue and subject matter jurisdiction privilege for state commissioners at T.C.A. § 4-4-104 more broadly than statute, precedent, facts of the case and good reason allow. It wrongly detects from the general assembly *an exception for fraud* in giving respondent Lee a privilege afforded his commissioners and their serving the public *within the law.* Respondent "state official" Lee is "aid[ing] and abett[ing] *** non-governmental organizations [in] an economic and societal attack upon the county, the state and ultimately the nation and not allowed pursuant to § 68-5-104 and other provisions of organic law" such as the state constitution (p. 23, ¶ 106). Chancery protects lawless acts in his person, as against his office, oath and duties, under no subject matter jurisdiction and venue privilege afforded respondent's commissioners. Chancery has authority in equity to handle the whole of a dispute and correct local official Barnes and "intrinsically linked" respondent Lee (p. 86).

ARGUMENT Chancery uses the law regarding suits of commissioners and of state government to demit subject matter jurisdiction as to respondent Lee, using this argument and dismisses the case. Chancery gives little analysis of the Davidson County defense by Lee, as if it were widely understood that

> because the Governor must be sued in Davidson County, as *suits against state officials in their official capacity must be litigated* in an appropriate court in Davidson County. (p. 234) (emphasis added)

To chancery, a suit of the governor = a suit vs. a commissioner = a suit for damages vs. the state, thus all "suits against the state" must be filed in Davidson County. What has not been adjudicated by past cases is whether the fraud (18 references to fraud in the petition, such as p. 15, ¶ 56), facially proven in the petition, admitted shortly thereafter by respondents' failure to

avoid, vitiates any privilege or immunity. Or is it true that fraud does not vitiate every equity, notwithstanding Gibson's authorities? "And whatever the shapes and disguises fraud has invented in the refinements and diversities of commerce and the progress of civilization, the Courts of Equity have, always, been able to detect and expose it, to redress the wrong done by it, and to keep it odious, regardless of the rank or wealth of the perpetrator" *Gibson* Id. § 57, Equity Will Undo What Fraud Has Done.

Chancery relies on T.C.A. § 4-1-205, that the "seat of the state government" is Nashville in Davidson County. It relies on T.C.A. § 4–4–104(a) that executive department heads should live in Davidson (though they may "with the approval of the governor" reside elsewhere) and have a right to be sued in Davidson over official acts.

Chancery relies on T.C.A. § 20-4-101 regarding transitory actions and venue and questions of suing "where the cause arose."

> (a) Each department shall maintain a central office at the capitol, which shall be the official residence of each commissioner, or head of department.
>
> (b) The commissioner of each department **may,** in the commissioner's discretion and **with the approval of the governor,** establish and maintain at places other than the seat of government, branch offices for any one (1) or more functions of the commissioner's department.

Chancery and respondents rely on Sw. Williamson Cty. Cmty. Ass'n v. Saltsman, 66 S.W.3d 872, 876 (Tenn. Ct. App. 2001) that establishes "a suit seeking to require a commissioner of a department of the State of Tennessee to do his job" be filed in Davidson.

They stand on Morris v. Snodgrass, 871 S.W.2d 484, 485 (Tenn. Ct. App. 1993), where the court upholds "defendants' position that as heads of their respective departments of state government, the proper venue for suits against them is in Davidson County, and Davidson County alone."

The bedrock case chancery relies on is Delta Loan & Fin. Co. of Tenn. v. Long, 206 Tenn. 709, 336 S.W.2d 5 (1960), holding that a "commissioner or head of a department of state government may be sued as such only in the county of his official residence and a suit may not be maintained as a transitory action in another county."

Chancery agrees with respondent Lee (p. 234) that "suits against state officials in their official capacities must be litigated in an appropriate court in Davidson County, this issue is one of subject matter jurisdiction and not one of venue," (p. 133), the brief's discussion in nonspecific, generalized language.[5]

The statutes in question deal with lawsuits against commissioners and lawful authority of government department heads in acts disputed by members of the public which are ***not*** alleged to be acts of fraud or official misconduct.

Instant case is one without precedent. It is a case of first impression as a legal fact. This observation is of little interest to chancery. It holds other cases touching on the Davidson County claims of *department heads* are **dispositive here**. It does not matter to chancery that this lawsuit differs by alleging fraud and mass harm in a fraudulently induced "emergency" against a pretended pandemic that news reports are unveiling as a project of state-based bioterrorism in which government uses a biological weapon intending to intimidate or coerce a civilian population, influence policy of units of government by intimidation or coercion and affect the conduct of units of government by violence, threats of violence, abuse of process, economic oppression and suppression, sickness, death and mass destruction.

The judiciary's records contain no case involving a governor or department head doing what respondents Lee and Barnes admit in the record doing circ. March and April 2020 to commit fraud, ignore black-letter law and abrogate the constitution and the state's form of government. *Sw. Williamson Cty. Cmty. Ass'n v. Saltsman,* 66 S.W.3d 872, 876 (Tenn. Ct. App. 2001) and other cases touching on the Davidson County claims of *department heads* lack any such facts, yet are **essentially and materially and legally the same**, chancery holds. They are not about mass fraud by the person of the governor acting under color of law or a commissioner so acting. In this case, fraud is admitted, unrebutted *and not avoided* in the record of both written and oral argument. "Allegations in a petition for mandamus, not denied or confessed and avoided, are taken to be true" *Harris v. State,* 96 Tenn. 496, 34 S.W. 1017 (1896).

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[5] Respondent Lee says the Davidson issue controls. "And so for that reason, Your Honor, **that reason alone**, the petition against Governor Lee in his official capacity should be dismissed" (p 409, transcript p. 18, line 10) (emphasis added). Chancery claims jurisdiction, however, and the lower court goes on to detail many other issues of subject matter.

Admitted fraud vitiates every privilege. Fraud poisons the privilege presumed by the courts in generalized language about suits of "state officials" as applying to *governors* — all based on legislative enactment pertaining to ***commissioners***. Chancery puts this case into league with earlier ones touching on the Davidson County issue, suits of officials and suits against the state.

State of Tennessee's cause on relation alleges fraud, acts done personally by respondents outside authority and in contravention to oath and duty under Tennessee code (see petition pp. 12, 13 ¶¶ 30, 34-41; p. 18 ¶ 80; p. 23 ¶ 107; pp. 26, 27 ¶¶ 128-133; pp. 32, 33 ¶¶ 159, 160, 165, 168; p. 34 ¶174; pp. 35-37 ¶¶ 181-190), or through conspiracy or by omission, causing irreparable harm, facially proven in the petition, admitted shortly thereafter by respondent's failure to avoid.

Relator's action is upon the man William Byron Lee and the woman Rebeccah Barnes in their office and in personal capacity, that man and woman outside their offices, acting under color of law, harming relator, and fraudulently. *No express law provides that relator, in a case of fraud and open public official misconduct, must sue respondent Barnes in Davidson county.*

Record pp. 285-291 develops these points. Other chancery demurrers for "no subject matter jurisdiction" are as follows:

➤ Relying on *Sw. Williamson Cty. Cmty. Ass'n v. Saltsman,* chancery shoe-horns current cause into T.C.A. § 4-4-104. If servants have the right to be sued in Davidson, would not the master have more such right?

Chancery presumes yes. Chancery denies the rules of construction (cited by chancery p. 206, p. 225, in discussion of T.C.A. § 68-5-104) that limit the scope of the law to *commissioners*, even in a case evidencing fraud and mass public harm. The law mentions the governor as above his commissioners, whereupon he gives leave to his underlings as to their domicile. A commissioner may, "with the approval of the governor, establish and maintain" residence elsewhere.

> (b) The commissioner of each department **may,** in the commissioner's discretion and **with the approval of the governor,** establish and maintain at places other than the seat of government, branch offices for any one (1) or more functions of the commissioner's department. T.C.A. § 4-4-104

The resolution of the Davidson dispute in this case turns on the inference to be drawn from statutory silence. A liberal construction of an existing category, commissioner, is a different proposition than a construction creating a *new* category (governor). The people's general assembly is silent on whether the governor, sued for fraud, must be served in Davidson. The lower court *legislates* that he must.

➤ Chancery alleges relator is involved "in a suit against the state" (p. 507). The court says commissioners must be sued in Davidson because a suit against a commissioner is a suit against the state. Chancery creates a equivalency — a legal fiction, an analogy — that deprives relator of his rights to file a single suit *in situ* to the wrongs of both parties.

It is generally held that a suit against a state official is a "suit against the state," but such generalization has a limit. "A specific statute prevails over a general one." *Morris v. Snodgrass*, 871 S.W.2d 484, 487 (Tenn.Ct.App.1993), cited in *Sw. Williamson Cty. Cmty. Ass'n v. Saltsman.*

Chancery's janky process whereby relator, *representing the state*, is converted into one making the state his defendant works this way. The ruling Sw. Williamson Cty. Cmty. Ass'n v. Saltsman, 66 S.W.3d 872, 880 (Tenn. Ct. App. 2001) offers a general phrase for "state official" as follows:

> We believe that the General Assembly has clearly prescribed that a suit against a commissioner in his or her official capacity, *i.e.*, a suit against the State, must be brought in Davidson County.

Supported by this language, chancery converts "commissioner" into the broader general term "state official." Chancery holds that *an analogy is law.* It revises the law to give cover to respondent governor, and adds a category to a statute limited to commissioners.

By this equivalence, chancery gives Lee escape because the respondent is — after all — a "state official" and a state official is "the State." Hence, state of Tennessee on relation is suing respondents Lee and Barnes, but is made subject to a conversion of his cause — an action in which state of Tennessee sues state of Tennessee.

Chancery cites the rules of construction (p. 206, p. 225, in discussion of T.C.A. § 68-5-104). "It is a well-established rule of statutory construction that we must assume that every word in the statute has meaning and purpose" (p. 206).

In this matter of the identity of the respondents/defendants, chancery broadens the statute to protect respondent Lee, claims lack of subject matter jurisdiction and allows unrebutted fraud (see p. 289 relator discussion against this result).

Chancery pretends State of Tennessee is defendant/respondent in this case, that relator is suing the state, that the case follows fact patterns of suits against state commissioners. In instant case, things are different. Before the court are two respondents, evidenced in a fraud, acting outside of official capacity, acting without first demonstrating a nonfraudulent exigency, acting without having been yet ***vested***, acting in *defiance* of official duty, and are in combination — *and chancery rules equity principles and law are not offended.*
Against mischaracterization of his intentions and the petition (p. 8), relator has objected (pp. 154-156 ¶¶ 4-8; pp. 416, 417, transcript pp. 46-51).

➤ Chancery, in brief treatment (p. 234), appears to accept the Lee claim that "the cause of action clearly arose" in Davidson as "any actions taken by the Governor in his official capacity were taken in Davidson County" (p. 134). Had respondent Lee mailed a rattlesnake to relator, the bite on relator's forearm would have taken place in Hamilton County. Lee, in his March 12, 2020 order, coughs illicit acts, threat and power across Hamilton County, smearing every person therein. Relator's affidavit of harm indicates Lee actions "arise" there (p. 42).

➤ Chancery says it has no subject matter jurisdiction as state of Tennessee's suit on relation against Lee should have been filed in Davidson County. Chancery denies relator's constitutional right to a remedy. Arguendo, if chancery has no jurisdiction, it should have abstemiously avoided dealing with the merits of the facts and various laws. Chancery says "any order, other than a dismissal, taken by a court that lacks subject matter jurisdiction to hear the action, is null and void" (p. 234).

The court is asked to look at two types of facts. The fact base in this case, as to the wrongs done to relator and the people of Tennessee, are uncontested, accepted, unrebutted and presumed true. These facts are evidence. Separately, the facts of the case are those regarding the proceedings, and the ultimate facts of law and equity in the lawsuit. Upon both sorts of facts, chancery discusses the case over many pages. On the 14th page of its order (p. 234), spinning 'round, it says it lacks subject matter jurisdiction. **Its words, the court insists, are louder than its actions.** The Hamilton County court poisons, mistreats and prejudices the petition — in the

name of justice. Relator objects to the dismissals (p. 297 ff, p. 387 ff). Chancery's actions are subject to the court's overthrow.

If, even despite the claimed frauds, equity is improper in Hamilton County, justice requires transfer to Davidson County, forthwith, the petition deserving not the prejudicial treatment of a court without jurisdiction.

Relator demands a finding that chancery has subject matter jurisdiction of respondent Lee. Such is in keeping with chancery's duty under Gibson to have control of a matter in its entirety. "Where a Court of Equity has obtained jurisdiction over some portion or feature of a controversy, it may, and will in general, proceed to decide the whole issues, and to award complete relief, although the rights of the parties are strictly legal, and the final remedy granted is of the kind which might be conferred by a Court of law. *** The court is to prevent a multiplicity of suits, and courts of equity delight to do complete justice, and not by halves" *Gibson, Id.* § 45, 47. Chancery exercises subject matter jurisdiction 111 days, between the Oct. 2, 2020, filing and Jan. 21, 2021, dismissal orders Nos. 1. Dismissal of the cause violates relator's constitutional right to "have remedy by due course of law, and right and justice administered without sale, denial, or delay," constitution article 1 section 17.

The governor in Nashville and a conspirator in Hamilton County work together today 544 days to violate state law, their acts conjoined in the jurisdiction of chancery court. The cause is single and chancery has jurisdiction of the whole cause and the persons of respondents.

If the Davidson rule applies, and if relator's single suit is to be refiled as one case in Davidson, respondent Barnes in Hamilton County is forced to answer in a faraway venue. That would be unjust **to her.** "The allegations as to Governor Lee and Rebekah Barnes are intrinsically linked and should be heard together for full resolution of this matter," Barnes says (p. 86). Lee admits the same by silence.

If chancery is correct in dismissal of Lee, or alternatively in transfer or misjoinder as to Lee, relator's cause is bifurcated into two lawsuits, unjust ***to relator*** in his right to file one lawsuit to end irreparable harm by conspiring respondents-in-fraud united in bringing mass harm, terror and dangerous inoculations in Hamilton County. Quadruple dismissal orders (4) say less about relator's vigorous prosecution of his rights than chancery's decohering the case and denying justice.

Chancery holds that it's *more reasonable for Barnes to defend in Davidson than for Lee to defend in Hamilton.*

Relator is wrong to file suit upon Lee in the locale where the harm operates, chancery says. It suggests that for relator to be compelled to prosecute a second lawsuit in Davidson does not violate longstanding rules for judicial economy and against multiplicity of suits (multifariousness). Chancery applies the Davidson rule to instant case and denies subject matter jurisdiction. If such demission were done justly, chancery has a duty to transfer an Oct. 2, 2020, filing **forthwith** the case to Davidson or to forthwith direct the clerk to give relator notice of misjoinder to let him transfer the cause **forthwith**.

Relator demands that chancery has subject matter jurisdiction, has duty on reasonable grounds to issue the writ of mandamus forthwith to and to declare the law to respondents as a judicial act, *to no harm whatsoever to respondent(s).*

Equity raises a hand and says "stop" when wrong threatens. When conscience is conformed to reason, and when an act is done that good conscience and good reason say ought not to be done, equity says such person has a right to invoke the aid of the courts to *prevent the injury threatened,* and the court of equity has "inherent power to take full jurisdiction and administer complete relief," *Gibson, Id.*, § 67. Chancery in Tennessee refuses to take jurisdiction in a summary matter, evidenced by the petition, and administer the full adequate relief forthwith. Relator asks that chancery be directed to take the whole of the issue to itself and to rule.

6. No other adequate remedy

ARGUMENT Petition is filed to "stop the abuse of unwarranted Police Power" (p. 8) in that police power is applied to relator apart from his right to a formal citation, charge or indictment, based on a sworn affidavit or warrant, signed by a judge, that gives officers authority to detain, arrest, seize, jail and confine relator, or otherwise command his appearance in court for performance of an act or duty (p. 11, ¶ 23).

Petition affirms respondents are fraudulently exercising pretended police authority over the mass of the healthy public generally, disregarding the due process rights of any one man, woman or child, including relator, who have right to be dealt with as a person sick with a contagion that has been determined to be contagious or a danger to the public pursuant to T.C.A. § 68-5-104

under warrant or for cause (p. 15, ¶¶ 50-53). Hence, as no "case" exists against relator identifying him as sick or contagious, and as respondents "act without bona fide demonstrable exigence or jurisdiction" in any court case against him civilly or criminally (pp. 8, 9 ¶ 3), he has no way to secure his rights to halt irreparable harm apart from this lawsuit.

7. Acceptance of fraud, denial of equity and remedy

SUMMARY "Fraud, in the sight of a Court of Equity, vitiates every contract or transaction into which it enters, at the election of the injured party and the court will not only undo what fraud has done, but will treat acts as done which fraud prevented from being done," *Gibson*, Id. § 57. State of Tennessee on relation alleges fraud (see petition pp. 12, 13 ¶¶ 30, 34-41; p 18 ¶ 80; p. 23 ¶ 107; pp. 26, 27 ¶¶ 128-133; pp. 32, 33 ¶¶ 159, 160, 165, 168; p. 34 ¶ 174; pp. 35-37 ¶¶ 180-190). Chancery accepts presence of admitted fraud, does not require parties to show cause under the law that they are not conjoined in fraud, does not require the parties to avoid it or to **forthwith** begin complying with the law, indicating it is equitable for relator to get no relief. Relator points out (p. 251) chancery has no such discretion to ignore fraud.

ARGUMENT The petition meets the standard for petition for writ of mandamus. It meets the burden of alleging facts, identifying officials in violation, proving fraud as material fact, stating their duties, making claims about their duty under law, providing proofs from respondents of their admissions of wrongdoing, and evidencing harm to relator. It alleges fraud repeatedly as causing relator's suffering and harms.

Equity principles require immediate disposal of the fraud proven. Without immediately arresting admitted fraud in any action, all proceedings *extend the fraud* and fraud upon the court--on what relator believes a hallowed jurisdiction--if this maladministration of justice is not corrected immediately. Chancery beholds fraud, tolerates it and operates an alliance with it.

In a court of equity, the relator is given "wide latitude of evidence" in alleging fraud, which "is usually proved by circumstantial evidence" *Gibson*, Id., § 456, Fraud Proved by Circumstances. In this cause, fraud is admitted prior to filing of the petition. The court of chancery (and by implication, the court) is "the **arch enemy of fraud**; and to that court those who are the victims of bad faith generally apply for redress, not only because the Chancery Court

can grant more perfect relief, but, also, because it will often grant that relief upon weaker presumptive evidence than will a Court of Law" *Id.* (emphasis added).

Upon these facts and claims respondents make no defense. Exhibit 4 indicates the county health department does not dispute it is subject to T.C.A. § 68-5-104. Respondents make no denial of fraud. The record shows no objection by respondents to facts as supplied by relator, facts obtained **BEFORE** suit about respondents' duties and doings.

"What a plea does not deny it admits," *Gibson,* § 460, What Need Not Be Proved.

Respondents' record of defying T.CA. § 68-5-104 is "absolutely conclusive," *Id.* Chancery doesn't see fraud in respondents, nor in their officers-of-the-court counsel. Gibson's reproof: "Fraud, in the sight of a Court of Equity, vitiates every contract or transaction into which it enters" *Id.* § 57, Equity Will Undo What Fraud Has Done. (Transcript, March 30, 2021, hearing, p. 5, line 20, to p. 7, line 22.)

Fraud is neither in the public interest nor within the discretion of any officer to commit or by omission. A public interest is a requirement for equity to attach. When fraud is claimed and evidenced in the petition, against which fraud chancery is to provide relief, denial of its existence by the chancellor without foundation, reason or good conscience cries for relief.

8. Mandamus, equity bar 'sovereign individuals'

SUMMARY Chancery declares respondent governor beyond reach of equity claims and beyond remedy of mandamus, citing *State ex rel Latture v. Frazier 86 S.W. 319.* Mandamus is unusable vs. Lee, making him above the law and above reproach from the law. In overthrowing the constitutional rights of the people by letting him do as he pleases, chancery suggests it upholds the "separation of powers" (p. 214) in the constitution. "It is Relator who requests that this Court quash all Covid orders, and requests that this Court maintain oversight over the crisis. This Court discerns that, Relator *** seeks to have this Court become entangled in a political dispute" (p. 216, 217) (citations omitted). Not only is Lee a *sovereign individual* above the law not to be checked by a co-equal branch of government, so is his subordinate. Barnes is knighted an untouchable *sovereign citizen.* The court says respondent Barnes is not bound to obey the law because she exercises discretion as to whether to obey it, is outside of law, against law, free to do

what she will in the name of public health. Respondents' experimental non-approved drug injection project, starting December 2020, with a mass media propaganda campaign funded by taxpayers and affecting the health of hundreds of thousands of citizens, imposes a cause of death and injury by jab more numerous than all federally approved vaccines combined.[6]

ARGUMENT Mandamus is an extraordinary remedy in which a person harmed by abuse of governmental authority makes petition for a judge to compel a positive act of obedience that is nondiscretionary, that is obligatory on an officeholder. The official must be under a duty by law. The law on mandamus as a cure for official errancy is well settled. Mandamus is proper to demand the nonfraudulent exigency for a declared emergency, and of which as a matter of law and procedure the return of the writ would realize forthwith, immediately, not as delayed.

Chancery gives respondent Lee immunity by asserting that a 1905 case guillotines from the mandamus law its power to reach the head of state.

> We are of opinion that neither the **chancery court nor this court has any jurisdiction or power to grant the mandamus prayed for against the defendants in this case**. The Governor *** **cannot be compelled by mandamus** to perform any act which devolves upon him as Governor. *** In acting upon such board he does not denude himself of his **high and independent position** as chief executive of the state and the head of that department. And this is true whether the act to be performed is ministerial, executive, or political. *** He **is not subject to the mandate of any court. No court can coerce him. No court can imprison him for failing to perform any act, or to obey any mandate of any court.** — *State ex. rel. Latture v. Frazier*, 86 S. W. 319, 320 (Tenn. 1905) emphasis added, internal cites omitted

Chancery applies this Latture commentary to instant case at five points:

➤ State ex rel Tulis is about fraud in public office by a governor acting under color of law outside the scope of his authority, as the state of emergency operates without lawful exigency under the health statute at Title 68. *State ex rel Latture* does not include admitted and confessed fraud, but chancery relies on it. ➤ Relator Latture took the office he had sought by mandamus. The cause in Latture is moot but for a single detail:

[6] The court might take judicial notice of readily available data from the Vaccine Adverse Event Reporting System, VAERS, indicates that more than 13,91 Americans have perished from the unapproved "COVID-19" inoculations. See https://www.openvaers.com/covid-data

> Further proceedings in the mandamus case are therefore wholly unnecessary and improper, so far as the merits of the controversy are concerned; and it *only remains to dispose of the costs* which have accrued in the proceeding.
> State ex. rel. Latture v. Frazier, 86 S. W. 319, 320 (Tenn. 1905)

No issue *but costs* is justiciable in *Latture*. Chancery relies on personal opinion and dicta to hold respondent Lee above the law. ➤ Thirdly, chancery understands the sweeping personal comment about the governor as "**not subject to the mandate of any court**" as absolute. Thus, chancery rewrites the mandamus law to exclude the governor. The general assembly intends mandamus to apply to *any* state, county or city official refusing a ministerial duty, and chancery disagrees. ➤ Fourthly, chancery elevates respondent Lee to the status of a ***sovereign individual*** not accountable to anyone or to any law. Chancery allows him to be "a wanton, rogue, dictatorial destroyer" (p. 260), who can act in the name of public health without nonfraudulent exigency, without having to give account to chancery and the law, thus *overthrowing the law with chancery's blessing*. ➤ Lastly, chancery's use of *State ex rel Latture* eliminates *the separation of powers*. Lee is above the law, is free to legislate, is free to usurp the authority of the general assembly to make law. If chancery is correct, Lee justly overthrows tripartite government without check from the executive's co-equal branch — the judiciary — and has authority to do so. Chancery confirms unitary "sustainable development" government under Lee as urged by the American Bar Association in the petition (p. 18, 19), in defiance of the state's supreme law.

Alternative writ issue. The lower court says relator is "procedurally deficient" not to supply a draft alternative writ "stating a ministerial duty that Respondent had a clear duty to perform," and as he didn't do that, "the Court had no writ to issue to Respondent. It is not the duty of the court to prosecute the case for the Relator. *** Nor is it the duty of the Court to guess which ministerial duty Relator seeks for Respondent to perform, as courts cannot create claims or defenses for litigants where none exist" (p. 210. See also p. 226).

The court routinely asks respondents-in-fraud to draft orders for the court's many denials. This request is from a court asserting, on the other hand, no jurisdiction. It could just as easily, if having jurisdiction, given this is entirely within the discretion of the court, to have asked relator to draft an alternative writ for her consideration, to show impartiality, or to draft its own alternative writ. Upon first notice to do so, the relator did offer a draft. It was rejected. The alternative writ is an order to show cause, which could take any form suitable to the chancery's

command of equity, in its discretion, if intending to do justice. Such deficiencies are fatal to relator's cause, in chancery's mind; the court has no due process obligation to the state of Tennessee on relation in light of an absent draft document.

9. Separation of powers breach, due process deprivations

SUMMARY Statute requires mandamus to be disposed of immediately, that a "peremptory mandamus [ ] issue forthwith," T.C.A. § 29-25-108. Chancery's rejecting this law causes a separation of powers breach and lets chancery legislate from the bench, **enacting a new law,** based upon docketing the case "as quickly as I could" (p. 407, transcript p. 12, lines 10-13), and not forthwith and the consequential delay, which by equity principle is unjust: "How to prevent delay becomes *** a problem every conscientious Chancellor should studiously endeavor to solve" *Gibson,* Id. § 536. Rules to Prevent Delay.

If the judge knew she could get to the case only as soon as possible, implying contrary to her assertion she had no jurisdiction, then the master ought to have reassigned the matter to a judge not so buried in the unidentified higher priority suits (Clerk Miller says so, p. 107, ¶¶ 44, 45), or called in another judge; or if there was no jurisdiction in Hamilton as contended despite the frauds claimed, then immediate transfer was required, forthwith, to the court of competent jurisdiction, the court of original filing having no jurisdiction to opine upon, or prejudice the petition, any orders without jurisdiction being void (The lack of subject matter jurisdiction is so fundamental that it requires dismissal whenever it is raised and demonstrated); that all of the foregoing failures to proceed **forthwith** breach the separation of powers doctrine entitling the legislature under its exclusive obligation to the people the duty to provide lawful due process in matters of equity, and constitutionally guaranteed adequate relief, the unsupportable dereliction to dispose an equity suit forthwith, or immediately, of which are due process violations without notice to relator, delaying what doing justice would provide in relief for concerted official fraud committed under color of authority causing irreparable harm.

ARGUMENT Mandamus law requires action on the petition forthwith. **FORTHWITH.** Immediately; without delay, directly, hence within a reasonable time under the circumstances of the case; *Black's*. Chancery has immeasurably harmed state of Tennessee and relator by ruling

that the general assembly's "forthwith" requirement at T.C.A. § 29-25-102 is not binding or irrelevant to the petition.

Relator has insisted on "forthwith" in every hearing and filing. Suit in chancery 201 days, there appears no way disobedience of the forthwith equity relief time rule can be remedied, the harm undone, the court's doing.

At 28 days, relator and chancery meet, and the clerk & master says mandamus commands the first place on the docket as an emergency and peremptory matter, and refuses forthwith action in the emergency (p. 103), extending irreparable harm. Delay at 201 days in chancery brings a material harm to relator — a $11,000 Barnes legal bill (pp. 497, 498). That is a surprise and an unconscionable shock to relator with right to relief ***forthwith***, but is accepted in chancery as equitable.

Chancery says the petition is docketed "as quickly as I could" (p. 407, transcript p. 12, lines 10-13), an admission the court did not get to the petition as soon as law or principles of equity require, forthwith. In an order about the cost of delay on relator, the court mixes talk of the Barnes attorney's labors and its own dolors getting the case:

> [T]he Court finds that the results obtained were appropriate for an award; the **time limitations were short**, as the case **was expedited as much as the rules of civil procedure and due process allowed [by the court]**; the time and labor required were **extensive** for the number of pages of pleadings that Relator filed, and because **the issue is novel** and thus **research of the multitude of issues** raised by Relator was required by counsel. (p 497. Emphasis added)

If "time limitations were short," why did chancery treat mandamus as if it were a humdrum contract dispute or probate case? To say the "case was expedited as much as the rules of civil procedure and due process allowed" plainly rejects the "forthwith" command in a matter of arresting conspiratorial fraud under color of authority respondents wish to evade, though admitted, unlike any other in Tennessee history. To say relator's pleadings "were extensive" betokens chancery ill-treatment and delay, not relator prolixity.

To say "the issue is novel" evades the simplicity of the petition: Respondents are lawbreakers, refuse to obey 68-5-104, and chancery has authority to compel them to show cause or to halt all fraud and obey the law.

➤ There is nothing novel about the court acting forthwith. The legislature requires it, to which *Bouvier's* maxims add, *Mora reprobatur in lege.* Delay is disapproved of in law; ➤ There is nothing novel about respondents' answering to claims of fraud forthwith, equity principles require it. "These principles and maxims constitute a system of jurisprudence based on good reason and good conscience; and are designed to enable the Courts of Equity to do complete justice between all the parties in any litigation, however novel, abstruse, complicated or numerous, the questions involved may be." Gibson, *Id.*, says, § 40, Maxims Generally Considered; ➤ There is nothing novel about arresting forthwith unavoided fraud causing irreparable harm, as justice requires it. Says *Gibson*, Id., § 42, Equity Will Not Suffer a Right to be without a Remedy, which maxim, he says, is "the original source of the entire equitable jurisdiction. *** The wrong that Equity will not suffer to be without a remedy, must be a civil injury to the complainant's rights or interests, legal or equitable."

Chancery's getting to the petition "as quickly as I could" suggests it is ***facially adequate***, not needing transfer, either. It also admits chancery breaching the legislature's command for immediacy. Chancery's actions indicate Gov. Lee, facially a respondent, is in the case, and will make defense in Hamilton County chancery — if perhaps only *eventually.* Nothing is claimed in the petition chancery intended to see, so relator cannot see a reason or delay other than the possibility that across branches of government a fraud is operating against the very people for whom officials have trust duties.

The only novelty is the delay and amount of work it took respondent lawyers conspiring to evade the law by not doing everything justice requires, being predicted, against the conspiracy of frauds under color claimed and evidenced in pp. 1-10 of the petition (pp. 8-17).

The forthwith rule for mandamus supersedes the rules of court. The 30-day leave granted a defendant in an ordinary civil case is thrown aside by the impetuosity of *forthwith*. Suit is filed on a Friday (Oct. 2, 2020). Respondents Lee and Barnes should have been ordered telephonically to appear 9 a.m. the following Monday on evidence of their *in flagrante delicto* disobedience to T.C.A. § 68-5-104, it having been admitted and in the record of petition, these parties under notice of the law hundreds of days earlier — from the moment they took oath or entered employment, and now under notice by lawsuit. The Barnes motion for 60 days to respond (p. 88), filed after default (had it been an ordinary case with the 30-days-to-respond

rule applying), and its approval by chancery, show that neither court nor respondent care about obeying Title 68 nor the mandamus law, both of which bind the court, the latter forthwith.

Chancery denies relator's right to its performance ***immediately*** on the record, as the state and her people are suffering at respondents' hands in admitted and confessed open breach of state law. The court and its clerk could command a substitute judge to hold the meeting.

It should have issued command regarding law respondents swear to uphold, and done so with no harm to them, with no loss of equity to them if they show they are avoiding the claim by obeying the law forthwith in their departments and administration.

Or, if respondent Lee is to be given a venue privilege under the name of subject matter jurisdiction, chancery should have forthwith ordered transfer on reasonable grounds argued by relator (p. 148 ff). Or it should have given forthwith notice of what it perceives as misjoinder as to the case or to the respondent.

Relator pressed chancery for forthwith action at a meeting-cum-hearing recorded by affidavit, p. 103 ff. Clerk & Master Miller hears relator's demands on the nature of mandamus, the harm of delay, and that mandamus comes to the head of the docket. "I ask if Mrs. Miller understands that because mandamus is peremptory, it comes ahead of the entire docket in chancery. 'Is that correct, or incorrect?' Mrs. Miller says, 'That is correct'" (p. 107, ¶¶ 44, 45). The emergency case is in chancery 201 days, dismissals Nos. 3 and 4 entered April 21, 2021. "I set it as quickly as I could as soon as service was obtained on the defendants and time for them to respond," the court says (transcript, Jan. 11, 2021, hearing, p. 12, lines 12, 13).

Relator at the hearing (one of four) presses the state on relation's claims in the alternative on service to the governor. Parties discuss the certified mail return green postcard. "The USPS checked the box for 'delivery at 8:41 a.m. Oct. 6, 2020'" (p. 107).

A petition for mandamus in this matter of immense public interest casts aside all lesser cases until it is settled; civil procedure is not a safe harbor for dereliction of duty, by governor, health administrator or court clerk. Procedures are to be interpreted to do justice.

The law always abhors delay. Bouvier's Maxims, 1858. Every hour a law is disobeyed there is injury to relator and the public in general by fraud and abuse of state authority. Given the found and admitted fraud and lack of compliance with the law by respondents, the record before

a responsive chancery court would, in the interest of justice, support a disposal in favor of the state of Tennessee on relation forthwith. Relator demands chancery be commanded to do its ministerial duty and issue the writ of mandamus.

10. Chancery deficiencies, due process violations

SUMMARY The judicial department March 12, 2020, the date of respondent Lee's first EO, plays tag-along with his fraudulent disregard of the epidemics law at T.C.A. § 68-5-104 requiring a determination be made as to the cause of the purported SARS-CoV-2 contagion. Joining in the "sky is falling — the sky is falling — panic" (p. 34 ¶ 176), the department fails to look outside to see if it is true. The system's heads do not independently consult Tenn. Code Ann. § 68-5-104 and other statutes per their oaths and fiduciary duty to uphold the Tennessee constitution. Numerous instances of what relator identifies as prejudice and error are in keeping with judicial policy that appears to commit chancery to not seeing the case and not understanding the petition.

➤ **Denial of right to respond to motion to dismiss.** Mistreatment of motions to strike as answer to motion to dismiss, (p. 247, p. 493 ff). TCRP rule 12.02, motion to strike, is a pleading that the court strike from "any pleading insufficient defense" or any "redundant, immaterial, impertinent or scandalous matter." Relator's motion to strike the Lee dismissal motion (p. 147) and his detailed motion to strike Barnes' motion to dismiss (p. 187) meet the "impertinent, scandalous" standard for such motion.

The strike motion says respondent Lee is "a man committing fraud, wrongs and oppression, or breach of trust," has not responded "as equity requires, the petition taken true, to an attempt to facilitate fraud" and that his motion to dismiss is a "fraud upon the court" and a "trespass on the case" (pp. 147, 148).

Chancery (p. 493 ff) tells why it denies relator's motion to strike. It "determined that the substance" of the motion to strike was "in actuality a response in opposition" to the motion to dismiss (p. 494). Earlier, relator "reserves the right to answer anything of respondent's motion that survives this challenge" (p. 193). Chancery finds it equitable to dismiss relator's lawsuit

without giving relator *due process right to answer the motion to dismiss*. Relator argues this is wrong (p. 298).

The Barnes motion to dismiss is a fraud on the court, as relator points out. His motion to strike Barnes motion to dismiss (p. 187) says it "perpetuates the fraud in the presence of this honorable court, inviting the court to prolong respondent's egregious violation of state law past 90 days" (p. 191).

Fraud is scandalous under TCRP rule 12.02, and relator properly demands their motions to dismiss be stricken from the record as illicit, scandalous and perpetuating fraud on the court. He objects to their motions being argued orally before his motion to strike is argued. The court says respondents go first because they filed motions to dismiss *before* relator filed motion to strike.

➤ **Chancery refuses to see respondent admissions of fact.** Relator points out that Barnes' procedural evasions contain, nonetheless, admissions **as to the substance** of relator's lawsuit (pp. 188, 189). These include comment in a footnote (p. 175) and reference to "petitioner" being "particularly adverse [sic] to wearing a mask" (p. 165). State on relation objects. "These two points are admission of the merit and substance of relator's petition, not a procedural avoidance, and thereby makes the motion to dismiss a complete, though inadequate, *answer* in defense, with all points in the petition ceded and agreed to and not objected." The Barnes dismissal motion is an "inadequate and insufficient answer" (p. 189), admitting to the fact of frauds, "caught *** in *flagrante delicto*" (p. 190), given in the petition.

➤ **Chancery OKs enlargement before getting motion of objection.** A grant of enlargement of time for respondent Barnes violates the forthwith rule in an emergency petition at equity. When Barnes, in default, demands 30 days more time, chancery sets a hearing date nearly a month out in which to consider it.

Chancery enters its order for a hearing nine minutes before relator gets to the court to timely file an objection. Little in this case more starkly illustrates the prejudice relator has suffered than two time stamps.

> **Time stamp No. 1**: Chancery enters an order Nov. 10, 2020, at 10:47 a.m., sets the date (and granting the motion, effectively) denying the state on relation the due process right to a timely objection and the hearing of it. The order is absent in the record (pertaining

merely to scheduling). Relator enters a true copy of the time-stamped order. *See Appendix No. 2.*

Timestamp No. 2: Relator files his objection ***nine minutes*** **later**, at 10:56 a.m. (p. 91). Relator's objection is filed timely, four days after respondent written motion for enlargement. Denial of timely hearings for a "peremptory writ [that] commands the defendant to do the act," Tenn. Code Ann. § 29-25-102, means *additional irreparable harm* upon relator and state of Tennessee, where dawdling aids respondents in breach.

Chancery holds it is just and equitable to grant a motion before hearing objection, and to redefine forthwith to mean two months.

➤ **Denial of pro confesso motion.** The standard of pro confesso requires chancery to recognize confessions made by respondents admitted in the record, "to answer, or make defense to, the bill," even apart from ordinary equity rules of summons and notice.

"[I]f no such discovery is sought, the complainant may have an order taking his bill for confessed, the failure of the defendant to make any defence being deemed *prima facie* evidence that he has no defence to make, but, on the contrary, admits the material allegations of the bill to be true" *Gibson,* Id., § 212. When and How a Bill May Be Taken for Confessed.

The petition sufficiently presents facts, not needing discovery or a jury to find facts, of state law § 68-5-104 applying to respondents, indicating disobedience thereunder, the law as prior notice, under which admissions relator files suit. Relator insists the writ issue *ex parte*, in chambers, ministerially under the authority of the clerk and master (see affidavit of Oct. 30, 2020, meeting-cum-hearing with clerk, demanding same, p. 103. See p. 107, ¶ 50). [7]

In instant case, the law is notice to respondents, prior to suit, and itself is in the nature of a confession that relator's bill is true. *Gibson,* Id. § 213, Effect of a Judgment Pro Confesso. The record of respondents' words, filed by relator in the petition, is subject to pro confesso.

[7] "[T]he evidence taken together confesses a dereliction of duty, confirming evidence of compliance with the statutory duty does not exist, the respondent(s) cannot make any objection that the proof in evidence does not sustain the petition, incorporated herein prior; that there is no evidence the respondent(s) can produce of compliance with Tenn. Code Ann. § Title 68-5-104 and other provisions of the law to excuse the extraordinary injustice or oppression they cause, while any further time without relief is an unjust, undue advantage to the respondent(s) of further and compounding irreparable harm to relator, and the people of Tennessee, relator demands judgment from the record immediately." (p. 81)

Prosecutor, not sitting on his rights, files motion pro confesso 17 days after filing suit (p. 78), demanding an immediate issuance of mandamus based on the record in the petition and exhibits. The court dismisses pro confesso without giving foundation or legal rationale, denying relator's right to amend the motion or amend the petition proving respondent's fraud as material fact.

Chancery resists relator's aggressive prosecution of his claim, as if it were a *harm* to chancery or an undue burden and harm on respondents to be commanded to show cause why they have disobeyed the law, or, absent such showing, to command them forthwith to obey T.C.A. § 68-5-104 and determine the cause of the condition called Covid-19 or SARS-CoV-2. [8]

Relator asks the court to find differently than chancery as to his right of pro confesso, a prod to the lower court it ignores.

➤ **Chancery biased toward parties in default.** Chancery is in breach of the forthwith command from the general assembly. If, arguendo, the lesser standard of service of summons applies, chancery also is in trouble. Chancery gives grace, lenity and favor to respondents, each in default if the 30-day summons rule applicable if this were a regular lawsuit at equity.

Chancery overlooks these violation with a chimerical explanation, and a falsification of the record. Respondents are in default to answer. **Lee.** The lower court insists that respondent Lee's motion to dismiss is timely filed (p. 184). The record shows he was served Oct. 6, 2020 (p. 117). Lee says he was served Oct. 26, 2020 (p. 388) and the court dates it Oct. 26, 2020. But the court's claim is by a "telephone hearing" and relator is denied his right to inspect purported record of Oct. 26 (pp. 405, 406, transcript pp. 4-7). **Barnes.** Barnes files her request for extra time a day late. "Respondent Barnes was personally served affidavit of complaint Oct. 5, Monday. *See Appendix 1.* Her 30-day toll to answer expired midnight Nov. 4, Wednesday. On Nov. 5, 2020, Thursday, the respondent asks for more tirne and files electronically with the court Nov. 5, 2020. That's one day late. Relator continues the valid objection to the court's granting her motion for enlargement without actual lawful foundation, and the court's having accepted it in the record" (p. 193).

[8] "Everyone is presumed to know the law; and the defendant is presumed to know that his failure to make defense is equivalent to an admission, on his part, that the facts set forth in the bill are true. Acting on these presumptions, the Court, accordingly, treats the bill as confessed, and decrees the relief the confession warrants." Gibson,*Id.*, § 212, footnote.

Relator could not adequately demand to look at evidence from the court and respondents about the false claims about Lee's alleged Oct. 26, 2020 receipt of service (p. 434, transcript p. 17, line 10). He is denied a public hearing, having failed to object on the spot to a "phone hearing" at the first hearing (p. 241). However, at the "phone hearing" he objects to the inability to examine the purported record cited by respondent Lee and the court (p. 405, transcript p. 5, lines 12-19). Evidence in the record contradicts this chancery claim. See p. 117, postmaster letter of service.

➤ **Partiality rules, judicial conduct rules violated.** At the Dec. 2, 2020, hearing, the judge refuses to remove her mask for adequate communication or to show impartiality in the matter of a pretended health emergency (p. 431, transcript pp. 3,4, line 21 ff). She overrules oral and written religious objection to hiding relator's face behind a cloth covering, and does so without foundation except for court policy created March 13, 2020, in compliance with respondents in fraud. Relator has trouble understanding as he cannot not see anyone's lips moving during speech (see ADA violation, below).

Chancery's demeanor over 201 days is defensive, testy, as if relator were suing the chancellor. The judge gives not the slightest expression of understanding of his cause, as evidenced by her providing no summary of his cause in its best light. No equanimity, no fair play, no effort to understand petition nor relator's intentions. This blockage indicates presence of a judge committed to departmental policy as participating in mass fraud, not justice, not equity, which Gibson says are crucial for a chancellor. His objections to bias and prejudice dot the record, p. 91 ff, p 109 ff, p. 147 ff, p. 151, p. 194, p. 195, p. 198, p. 251, p. 262, pp. 264-266, pp. 270-272, p. 274, p. 277, p. 283, p. 284, p. 294, p. 304, p.308, pp. 313-316, p. 320, p. 334 ff, p. 431 (transcript p. 4), p. 434 (transcript p. 15), p. 473, p.477 (transcript. p. 5).

The petition anticipates these abuses: "While it claims no such power by separation of powers evasion, the judicial branch of this state, on its own motion, failed in its inherent power and duty to check that a co-equal branch of the government had followed the law, the conduct or omission of which created the disaster and irreparable harms to the state of Tennessee and its people, wrought by respondents under color of a pandemic without warrant" (p. 25, ¶¶ 121-123). These harms are echoed in the notice of mass judicial department fraud (p. 339).

The court's bias is evidenced in refusing an in-person hearing challenging the CV-19 emergency on grounds that relator is the moving party (p. 407, transcript p. 10 lines 16 ff).

➤ **ADA violation.** Unable to hear and comprehend effectively parties at a hearing, relator suffers disadvantage in the "new normal" of chin bibs and moofed speech patterns in violation of Rule 2.8. He demands to see the judge's and parties' faces and to not have his own obscured. The Americans with Disabilities Act protects people with disabilities that relator describes as "audio visual" (intending to say "aural visual," p. 285).

Relator denied right to access of hearing by court-imposed license requirement of the mask.

> ➤ "THE COURT: Sir, I'm going to ask you one more time to keep your mask on. MR. TULIS: I, I need to have a little water, ma'am — Your Honor. I'm so sorry. I, I have a dry mouth, and if I can't have a little refreshment —" (p. 432, pp. 8,9, line 23ff).
>
> ➤ "MR. TULIS: I can't hear you. I'm so sorry. I cannot hear you. Can you speak in the microphone?" (p. 434, transcript, p. 17, line 23).
>
> ➤ "MR. TULIS: Can't hear. I'm sorry. I cannot hear you. Speak up" p. 437, transcript p. 26, line 23)

Relator says such treatment violates the rules for impartiality, and are a material harm to him and a breach of his rights to due process. Chancery finds claims of these constitutionally guaranteed rights to an open public court not supported by department policy.

➤ **Lack of reasonable care.** Equity is voided when chancery fails to exercise reasonable care with a petition that effectively challenges, along with the head of the executive branch, the supreme court chief justice's election to participate in concert with a lawbreaking executive branch committing fraud and medical terrorization of the state. "I will enforce the Rules of the Court which is to -- the mask mandate," the court says (p. 432, transcript p. 9, line 9)

➤ **Defaming relator, poaching.** The rules of equity require a cause to be understood as it is intended, and the court is required to view the petition "liberally, presuming all factual allegations to be true and giving the plaintiff the benefit of all reasonable inferences," as the court notes (p. 132).

Contrary to equity and justice being done, the chancellor allows respondents to defame relator and mischaracterize his case, claims and intentions. Chancery ignores his *sui juris* status

as a man, (p. 10, ¶¶ 13, 14), allowing corruption of the record regarding him, including styling his name DAVID JONATHAN TULIS as if he were a corporation in bankruptcy.

Relator complains in detail to such mistreatment in a motion (p. 154) and in a hearing (p. 416, transcript p. 46 line 25 to p. 51 line 15). These abuses are woven into a Hamilton County chancery pattern of abuse, refusal to grant equity and refusal to have the appearance of fairness.

➤ **Misrepresenting equity claim on compensation.** The petition (p. 40 ¶¶ 209, 210) makes request for "equitable compensation, *to the extent available to chancery,* to persuade and impress the conscience of each respondent from repeating wrongs cited in this complaint, sending a message to others so inclined" and that the court make "other redress within the power of this court to the ends justice requires, not limited to, further compensation, reimbursement, indemnification or reparation for benefits derived from, or for loss or injury caused to the relator, fellow Tennesseans or the state of Tennessee" (Emphasis added).

Chancery uses these lines to convert this lawsuit into an at-law case, suitable for circuit court, in which petitioner is suing for damages under T.C.A. § 20-13-102, a suit "with a view to reach the state, its treasury, funds or property, and all such suits shall be dismissed as to the state or such officers" (p. 156; pp. 233, 234). Relator objected that Lee did "mislead, defraud and seduce the court" (p. 156)

Chancery has ***plenary power*** at equity to do justice in a "petition in equity and for writ of mandamus." See pp. 328, 329. The lower court says appeals to such power fatally harm the petition, that justice be served. Compounding these unsupported, and unsupportable re-imaginings of the required justiciability elements, the court treats the petition as if it were an action at law; when properly treated, the petition objectively fulfills every element for chancery jurisdiction (see p. 195).

➤ **Little lawful rationale.** In her orders, chancellor Fleenor refuses to give *lawful rationale for decisions*. On pro confesso motion (p. 78), it is ordered denied without reason given (p. 178), and a separate motion or judgment by default is denied "in that the respondent Barnes was not in default per T.R.C.P. 12.01." (p. 178) This failure to give legal rationale is a denial of equity, delaying the emergency remedy. With no legal foundation given, relator is denied basis for appeal and objection, and wrongfully-acting respondents gain. When chancery issues its

dismissal orders, it does so in doubles, imposing a burden on relator in a single cause, forcing him to write double motions to alter.

➤ **Honest government services denial.** "Each party to any matter of business has both the moral and legal right to expect and require the *observance of this implied contract* by the other party. This just expectation constitutes the foundation of all human intercourse, on it is built the superstructure of all business dealings, and Courts of Chancery will not allow it to be disappointed" *Gibson, Id.* § 67. Equity Enforces What Good Reason and Good Conscience Require. Chancery, its authority invoked by the petition, or upon the supreme court by letter petition, is obligated to enforce obedience to Tennessee's black-letter public law creating legal duty on those officials who know they are subject to it to administer the law and to respect the constitutionally guaranteed rights of relator and the people. Delay and denial of forthwith in chancery is as much a breach of law as respondents' violation of T.C.A. 68-5-104's irreparable harm to relator and the people in the state of Tennessee.

➤ **Imposing illicit costs on relator.** The court imposes costs of $10,150.00 plus expenses of $416.82 upon relator to benefit party in fraud. While the legislature provides that a personal suit would enjoy costs, if this matter is not well taken, consistently perfecting (pp. 85-87), respondent Lee is not represented by private counsel, personally, but by the state's attorney , officially, against the state itself, on relation, and doing so without certifying the governor had not committed the frauds alleged, relator asserts is a breach of duties to the state, by the constitution; or, that the legislature didn't expect the cost privilege to extend to those committing fraud, admitted in the failure to show cause how the fraud alleged in the petitions proper in a court of chancery, were not committed; or, that, the court not acting forthwith impermissibly increased the cost of prosecution, causing relator surprise, and compelling the necessity of relator to protect his prosecution, through motions objecting to perceived procedural mistreatment, without any notice of a lack of jurisdiction, or want of adequate and sufficient petition; the costs assessed, not enjoying any due process, *are improper*; or were already paid, in part, by the relator in the normal service and employment of a public official. State of Tennessee on relation requires the order approving this bill be voided (p. 471).

# #

Conclusion & relief sought

The state on relation, given the forthwith failure of the "intrinsically tied" respondents admitting not having "any duty" to the law to immediately show cause, as equity principles demand in such matters of fraud, how the concerted frauds under color of authority and method of execution claimed in the petition causing the irreparable harms evidenced in the affidavit are not committed through demonstration of a nonfraudulent exigency for the purported communicable emergency, witnessed secondly in the consequent procedural admissions in evading any avoidance that those frauds are being committed, and as against the reality of their fulfillment judicial notice is required to take, requires the justice demanded in the petition, however so inartfully pleaded, adequate and sufficient nonetheless, be done by this court pursuant to its power to make any order to immediately stop the ongoing irreparable harm, a matter of the greatest public interest. The challenged orders are incorrect.

Respectfully submitted,

David Jonathan Tulis

State of Tennessee, ex rel. David Jonathan Tulis

Appendix No. 1

State of Tennessee

In the Chancery Court of Hamilton County

State of Tennessee, ex rel. David Jonathan Tulis

Vs Case No. 20-0685

Bill Lee, Governor, State of Tennessee
Rebekah Barnes, Administrator, Hamilton County Health Department

Affidavit of Service

1. I, Ronnie Parson, Being Duly Sworn upon my oath do state as follows:
2. On October 5, 2020 at 9:39A.M. I personally delivered a copy of the civil summons and petition in equity and for writ of mandamus to, Rebekah Barnes at 921 E. 3rd Street, Chattanooga, TN 37403
3. This affidavit is made in compliance with T.R.C.P. 4.01 and 4.04 et seq. Further this Affiant saith not.

Ronnie Parson

Affiant-Ronnie Parson
Civil Process Services
7917 Orchard Valley Drive
Chattanooga, TN 37421
423.414.5923

State of Tennessee

County of Hamilton

Sworn and subscribed before me This 5th day of October 2020

Christine Essex Notary Public

My Commission Expires:

CHRISTINE A. ESSEX
STATE OF TENNESSEE
NOTARY PUBLIC
HAMILTON COUNTY
MY COMMISSION EXPIRES 11-7-2021

2020 OCT -5 PM 12: 03

HAMILTON ... MASTER

Appendix No. 2

IN THE CHANCERY COURT FOR THE ELEVENTH JUDICIAL DISTRICT OF TENNESSEE

STATE OF TENNESSEE, EX REL. DAVID JONATHAN TULIS,	)	
	)	NO. 20-0685
VS.	)	
	)	PART 1
BILL LEE, GOVERNOR, STATE OF TENNESSEE, IN HIS PERSONAL CAPACITY IN HIS OFFICIAL CAPACITY	)	
REBEKAH BARNES, ADMINISTRATOR HAMILTON COUNTY HEALTH DEPARTMENT IN HER PERSONAL CAPACITY IN HER OFFICIAL CAPACITY	)	

ORDER

This cause came before the Court upon the Motion of Rebekah Barnes for Extension of Time to File Response and the Amended Motion of Rebekah Barnes for Extension of Time to File Response.

Accordingly pursuant to T.R.C.P. 6 this Court sets the motion and amended motion for hearing on December 2, 2020 at 9:00 a.m. in-person in the courtroom to be heard contemporaneously with the Relator's motion for expedited decree pro confesso.

ENTER:

PAMELA A. FLEENOR
Chancellor - Part 1

20 NOV 10 AM 10:47
FILED
HAMILTON CO CLERK & MASTER

CERTIFICATE OF SERVICE

David Jonathan Tulis certifies that a true and exact copy of this brief is being sent by first-class mail to the parties below with sufficient postage on them as to carry the documents to their destination on this 7th day of September 2021.

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