

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS  
SECOND DIVISION

NATIONAL ASSOCIATION OF PROFESSIONAL  
BACKGROUND SCREENERS

PLAINTIFF

v.

CASE NO. 60CV-18-5146

JENNIFER JONES, in her official capacity  
as Clerk of the District Court of Benton County,  
Arkansas, Bentonville Division

DEFENDANT

**NOTICE OF CROSS-APPEAL**

Plaintiff National Association of Professional Background Screeners, having been served with a Notice of Appeal and Designation of Record by Defendant Jennifer Jones, in her official capacity as Clerk of the District Court of Benton County, Arkansas, Bentonville Division, hereby gives notice that it Cross-Appeals to the Arkansas Supreme Court.

1. **Appealing Party.** The party taking this cross-appeal is the National Association of Professional Background Screeners (NAPBS).

2. **Order Being Appealed.** NAPBS appeals from those portions of the Circuit Court's August 14, 2019, order: (1) denying its motion for summary judgment on its claims under 42 U.S.C. § 1983 that Administrative Order 19, as applied by Ms. Jones, violates NAPBS members' right to access court records under the First Amendment and/or federal common law; (2) denying NAPBS injunctive relief; (3) concluding that Ms. Jones's position was substantially justified and denying NAPBS attorney's fees under the Arkansas Freedom of Information Act; and (4) implicitly denying NAPBS's request for attorney's fees under 42 U.S.C. § 1988.

3. **Designation of the Record.** NAPBS designates the entire record in this matter as the record on appeal—including all of the pleadings, amended pleadings, motions, exhibits, to

the motions, supporting briefs, responses, replies, orders, and the transcripts of the hearings held in this case on January 8, 2019, and August 6, 2019. NAPBS concurs in Ms. Jones's request for an electronic record under *In re Acceptance of Records on Appeal in Electronic Format & Elimination of the Abstract & Addendum Requirements*, 2019 Ark. 213 (2019).

4. **Certificate of Transcript.** Per the Notice of Appeal, Ms. Jones has ordered the transcripts of the hearings in this matter and has made any financial arrangements required by the court reporters pursuant to Arkansas Code Annotated §16-13-510(c).

5. **Jurisdiction of the Arkansas Supreme Court.** Because Ms. Jones's appeal and Plaintiff-Appellee NAPBS's cross-appeal involve questions as to the interpretation and construction of the Arkansas Freedom of Information Act and Arkansas Supreme Court Administrative Order 19, and involve questions regarding federal constitutional interpretations, the Arkansas Supreme Court has jurisdiction. *See* Ark. Sup. Ct. R. 1-2(b). Thus, NAPBS takes its cross-appeal to the Arkansas Supreme Court.

6. **Abandonment of Claims.** Plaintiff NAPBS has no pending, but unresolved, claims in this action. But, to the extent any such claims exist, Plaintiff NAPBS abandons them.

Dated: September 19, 2019

*s/ Justin Parkey*  
\_\_\_\_\_  
Kevin W. Cole (AR Bar No. 93200)  
Justin E. Parkey (Ar. Bar No. 2008242)  
WADDELL, COLE & JONES, PLLC  
P.O. Box 1700  
Jonesboro, Arkansas 72403  
Telephone: (870) 931-1700  
Facsimile: (870) 931-1800  
jparkey@wcjfirm.com

Zachary D. Miller (*pro hac vice*)  
Burr & Forman LLP  
222 Second Ave. S., Suite 2000  
Nashville, Tennessee 37201  
Telephone: (615) 724-3216  
Facsimile: (615) 724-3316  
zmill@burr.com

E. Travis Ramey (*pro hac vice*)  
Burr & Forman LLP  
420 North 20th St., Suite 3400  
Birmingham, Alabama 35203  
Telephone: (205) 251-3000  
Facsimile: (205) 458-5100  
tramey@burr.com

**CERTIFICATE OF SERVICE**

I hereby certify that on September 19, 2019, I filed the foregoing document via the Court's eFlex filing system, which shall serve all counsel of record. In addition, I hereby certify that I sent the foregoing document by certified mail, return receipt requested, to the following

Leslie Rutledge  
Attorney General  
Jennifer L. Merritt  
Senior Assistant Attorney General  
Arkansas Attorney General's Office  
323 Center Street, Suite 200  
Little Rock, AR 72201

*s/ Justin Parkey*  
\_\_\_\_\_  
Justin E. Parkey