

**IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE**

Earle J. Fisher, et al.,
Plaintiffs-Appellees,

Benjamin Lay, et al.,
Plaintiffs-Appellees,

v.

v.

Tre Hargett, et al.,
Defendants-Appellants

Mark Goins, et al.,
Defendants-Appellants

No. M2020-00831-SC-RDM-CV

No. M2020-00832-SC-RDM-CV

**On Appeal from the Chancery Court for Davidson County
No. 20-0453-III**

**MOTION FOR LEAVE TO FILE AN AMICUS BRIEF BY
DOCTORS AND PROFESSORS SPECIALIZING IN
EPIDEMIOLOGY AND INFECTIOUS DISEASES
IN SUPPORT OF PLAINTIFFS-APPELLEES**

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**Pro Hac Vice pending*

Dr. David Aronoff, Dr. Nina Fefferman, President James E.K. Hildreth, Dr. William Schaffner, Dr. Thomas Talbot, Dr. Edwin Trevathan, and Dr. C. William Wester (collectively, “Amici”) respectfully move for leave to file a brief as amici curiae today, July 9, 2020, pursuant to Tennessee Rule of Appellate Procedure 31(a).

In accordance with Rule 31(a), Amici submit their brief conditionally herewith, as the rule provides. As grounds for this Motion, Amici state as follows:

1. Amici are leading doctors and professors in the state of Tennessee specializing in infectious diseases and epidemiology, a scientific field that studies the spread, causes, and control of infectious diseases and other factors relating to public health. Among them, amici have published hundreds of articles in peer-reviewed journals on topics relating to infectious diseases; have worked in full-time or advisory roles at the National Institutes of Health, the Centers for Disease Control and Prevention (“CDC”), the World Health Organization, and other state and federal governmental and non-governmental entities; and have been engaged in studying or responding to recent viral outbreaks including the H1N1 virus in 2009, the Ebola virus in 2014, the Zika virus in 2016, and

the current COVID-19 pandemic. They have an “interest” in this case, Rule 31(a), because they are personally engaged in studying and responding to the COVID-19 pandemic in Tennessee, work that will be affected by the Court’s resolution of this case. Their biographies are included here in Appendix A. (All are affiliated with institutions in Tennessee.)

2. Amici request to file this brief in their capacity as health experts who are familiar with the spread and control of infectious diseases, particularly the threats posed by the virus that causes the COVID-19 disease. Amici wish to provide the Court with an overview, based on their experience and expertise, of the public health issues relevant to this case and in particular how those issues implicate polling locations. Because the information they propose to provide is beyond the expertise of most lawyers, including the undersigned, Amici have been actively involved in the preparation of the Brief Amici Curiae submitted herewith. Their medical and scientific perspectives may thus “assist the [] court,” Rule 31(a), in deciding the issues before it.

3. For the foregoing reasons, Amici believe that their brief may be helpful to the Court in considering the case.

WHEREFORE, Amici respectfully request leave from this Court to file a brief as amici curiae.

Dated: July 9, 2020

Respectfully submitted,

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Attorneys for Amici Curiae

CERTIFICATE OF SERVICE

I hereby certify that on July 9, 2020, I electronically filed the foregoing motion with the Clerk of the Court using the Court's electronic filing system, which will send a notice of electronic filing to all counsel of record.

/s/ Stephen J. Zralek

APPENDIX A

AMICI CURIAE¹

David M. Aronoff, M.D., is Professor of Medicine and holds the Addison B. Scoville, Jr. Chair in Medicine, at Vanderbilt University Medical Center. He is Director of the Division of Infectious Diseases in the Department of Medicine at Vanderbilt University Medical Center. He is a recognized leader in the field of infectious diseases, as indicated by his election as a Fellow in the Infectious Diseases Society of America and the American Academy of Microbiology. He has published more than 200 peer-reviewed manuscripts in the field of infectious diseases. Dr. Aronoff has been leading the Division of Infectious Diseases response to COVID-19. He has been involved in the daily care of hospitalized patients with COVID-19, has assisted with and lead studies of COVID-19, has been involved in advising businesses on employee and customer safety during the pandemic, and has been a frequent public communicator about COVID-19. Dr. Aronoff's opinions here are his own and not intended to reflect those of his employer.

Nina Fefferman, Ph.D., is the Director of the Mathematical Modeling Consulting Center, and the Associate Director of the One Health Initiative at the University of Tennessee, Knoxville, where she is also a Professor in both the Department of Ecology & Evolutionary Biology and the Department of Mathematics. Her research uses mathematical modeling to explore the behavior, evolution, and control of complex systems, focusing primarily on infectious disease epidemiology and pandemic preparedness. Fefferman has been an active member of the National Institute for Mathematical and Biological Synthesis (NIMBioS), and the Command, Control, and Interoperability Center for Advanced Data Analysis (CCICADA), a Department of Homeland Security Center of Excellence. She has served on scientific advisory panels/boards for the EPA, Mathematical Biosciences Institute (MBI), and Los Alamos National Laboratories and regularly consults to both governmental agencies and private companies. Her work has been funded by NSF, NIH, DHS, DoD, USFWS, and USDA, including targeted funds to study

¹ All amici curiae join the amicus brief in their individual capacity, and not on behalf of any institutions with which they are affiliated. Institutions are included only for purposes of background and identification.

pandemic mitigation for Ebola in 2014, Zika virus in 2016, and now COVID-19 in 2020.

James E.K. Hildreth, Sr., Ph.D., M.D., 12th President and CEO of Meharry Medical College is leading the technological, academic and clinical transformation of the nation's largest, private, historically Black academic health sciences center. Focusing on the future of an organization with challenges represented by constant changes in higher education and in healthcare, he has positioned the organization for success through innovative programs, strategic partnerships and creating an entrepreneurial culture. Dr. Hildreth has transformed institutions and lives through a unique combination of skills, expertise and passionate drive. He seeks to achieve organizational success by nurturing passion and developing confidence in others. James' enthusiasm and love for the work he does inspire others and draws them into bold visions and new directions. Because of his standing as a world class infectious disease expert, excellent ability to explain complex science to laypersons and engaging communication style, James has emerged as a respected national figure in the response to the COVID19 pandemic. Previously, Dr. Hildreth served as Dean of the College of Biological Sciences at University of California, Davis. In this role he oversaw the education of thousands of undergraduates, the majority of whom had aspirations for healthcare careers. He totally revamped the college's student advising system and created novel student learning communities. These visionary changes were adapted by the entire UC Davis campus, which consists of six undergraduate colleges. James also created a unique research program called "Kingdom Crossing" involving collaborations between scientists who focused on organisms from distinct kingdoms of life (plants, animals). This program resulted in novel discoveries including a plant hormone with significant potential as an antimalarial drug. Dr. Hildreth holds an MD from Johns Hopkins School of Medicine, PhD from Oxford University and BA from Harvard University. He is a Rhodes Scholar who has been elected to the National Academy of Medicine. James has received numerous awards and recognition, including honorary degrees, for his scientific accomplishments, leadership, service to disadvantaged communities and mentorship of students and junior colleagues. He has served on numerous national scientific councils including current membership on

the Advisory Council to the NIH director. James currently serves as Chair of the Board of Trustees of the St Jude's Research Hospital Graduate School of Biomedical Sciences. He also serves on other boards including Nashville Healthcare Council, Nashville Health, Boy Scouts of America and General Board of Higher Education, and United Methodist Church.

William Schaffner, M.D., is a Professor of Preventive Medicine in the Department of Health Policy and a Professor of Medicine in the Division of Infectious Diseases at the Vanderbilt University School of Medicine. He is the past Chairman of the Department of Preventive Medicine. Dr. Schaffner has consulted with the Tennessee Department of Health and the Centers for Disease Control and Prevention (CDC) for many years in the area of communicable disease control and vaccine policy. He is past-President and currently is the Medical Director of the National Foundation for Infectious Diseases and is a past member of the Executive Committee of the Infectious Diseases Society of America. He is a member of the COVID Vaccines Work Group of the CDC's Advisory Committee on Immunization Practices (ACIP) and is a member of the COVID-19 Advisory Panel of the National Collegiate Athletic Association (NCAA) and has consulted with Nashville's Board of Health on COVID policy.

Thomas Talbot, M.D., M.P.H., is a Professor of Medicine at Vanderbilt University School of Medicine and also serves as the Chief Hospital Epidemiologist for Vanderbilt University Medical Center (VUMC) in Nashville, TN. Dr. Talbot is a recognized expert in the field of healthcare epidemiology and infection control and has more than 85 publications in peer-reviewed journals focused on topics including respiratory virus transmission and prevention. He has served as a member of the Centers for Disease Control and Prevention's Healthcare Infection Control Practices Advisory Committee (HICPAC) and on the Board of Directors for the Society for Healthcare Epidemiology of America (SHEA). He also currently co-chairs the state of Tennessee's multidisciplinary advisory group that oversees efforts focused on healthcare-associated infection prevention and reporting in the state. As a part of his role as the Chief Hospital Epidemiologist, he oversees infection prevention activities at VUMC. In this role, he has helped lead the institutional response and planning for the COVID pandemic. He also has served on Governor Bill Lee's COVID Task Force for the state of Tennessee.

Edwin Trevathan, M.D., M.P.H., the Amos Christie Chair in Global Health, is the Director of the Vanderbilt Institute for Global Health, and professor of Neurology and Pediatrics at Vanderbilt University School of Medicine. Trevathan has served in several leadership positions, including Professor (Neuroscience), Executive Vice President and Provost at Baylor University, Professor (Epidemiology, Neurology & Pediatrics) and founding Dean of the College for Public Health and Social Justice at Saint Louis University (SLU), a national center director at the U.S. Centers for Disease Control and Prevention (CDC), and Professor and Director of the Division of Pediatric Neurology at Washington University in St. Louis and Neurologist-in-Chief at St. Louis Children's Hospital. As an expert in global health, Dr. Trevathan has conducted large epidemiology studies in Wuhan, China, in sub-Saharan Africa, and in other areas of the world. While a member of the senior leadership team at CDC, Dr. Trevathan was the Strategic Lead for the pediatric response to the 2009 H1N1 flu pandemic. Dr. Trevathan has published research on asymptomatic COVID-19 in Wuhan, China. He has served on committees at the World Health Organization (WHO), the National Institutes of Health (NIH), the Centers for Disease Control and Prevention (CDC), and the Tennessee Department of Health.

C. William Wester, M.D., M.P.H., is a Professor of Medicine in the Department of Medicine, Division of Infectious Diseases at the Vanderbilt University School of Medicine, and the Associate Director for Faculty Development in Global Health. Dr. Wester earned his MD degree from the Geisel School of Medicine at Dartmouth and his MPH degree from the Harvard T.H. Chan School of Public Health. The goal of his research includes long-term HIV complications with a focus on HIV-associated kidney disease and implementation science in resource-constrained settings of the world. As an expert in global health, Dr. Wester has been integrally involved in the scale-up of comprehensive HIV services within sub-Saharan Africa for the past 20+ years. He lived and worked in Botswana (2000-2008) for the Harvard School of Public Health (Botswana-Harvard School of Public Health AIDS Initiative) and was integral to the establishment of its national public antiretroviral treatment program. Since returning to the U.S. in 2008, he has remained actively involved in HIV scale-up, now leading/directing large programs in (i) Mozambique, where he serves as Project Director for a large

CDC/PEPFAR-funded program and (ii) Nigeria, where he and his team are conducting an NIH (NIDDK-funded) clinical trial evaluating the optimal means to reduce the risk for long-term kidney complications among HIV-positive adults. In addition to HIV/AIDS, his work also focuses on Tuberculosis, Malaria, and most recently COVID-19 where he provides technical expertise to develop standard operating procedures and conduct research evaluations to inform clinical care guidelines. Dr. Wester is a member of the PLOS ONE editorial board, he has served on numerous NIH study sections, and his research is funded by the NIH, CDC/PEPFAR, and USAID.