

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

CHARLES FRANKLIN BURKHALTER,)
)
 Plaintiff,)
)
 v.) No.: 1:22-CV-307-KAC-CHS
)
 CITY OF EAST RIDGE, TENNESSEE, et al.,)
)
 Defendants.)

CERTIFICATION ORDER

On December 12, 2022, Plaintiff filed an “Amended Complaint for Damages and Class Action Certification” against the City of East Ridge; Josh Creel; Hamilton County; Unknown Number of John/Jane Doe Defendant Law Enforcement Officers; Beth Hickman; Stephanie Noble; Aaron Murray; Flatlands III, LLC; Robin Nave-Montero; Randall W. Keith; East Town Antiques, LLC; Katie Glaze; Jessica Wheeler; Mike Bruce; Gregg Bowman; and Holy Smoke Premium Cigars & Pipes, PLLC [Doc. 2]. Plaintiff did not name the State of Tennessee as a party, but a portion of Plaintiff’s Amended Complaint alleges that Tennessee’s nuisance abatement statute, Tenn. Code Ann. § 29-3-101, *et seq.*, “is overly broad” and “unconstitutional” [*Id.* ¶¶ 124, 128]. On February 8, 2023, Plaintiff filed a “Notice of Constitutional Question,” [Doc. 43], asserting that he previously “gave notice [of the challenge] to the Tennessee Attorney General” on December 12, 2022 “via email,” but “intended to satisfy” Federal Rule of Civil Procedure 5.1(a) through the Notice, [*id.* at 1-2].

Federal Rule of Civil Procedure 5.1(b) provides that the Court “must, under 28 U.S.C. § 2403, certify to the appropriate attorney general that a statute has been questioned.” Fed. R. Civ. P. 5.1(b). Accordingly, the Court **CERTIFIES** to Jonathan Skrmetti, Attorney General

and Reporter for the State of Tennessee, that this case involves a question regarding the constitutionality of Tennessee Code Annotated § 29-3-101, *et seq.* See Fed. R. Civ. P. 5.1(b); 28 U.S.C. § 2403(b). The Court **PERMITS** the State of Tennessee to intervene in this case “for presentation of evidence” “and for argument on the question of constitutionality” within **sixty (60) days** of the date of this Order. See Fed. R. Civ. P. 5.1(c); 28 U.S.C. § 2403(b). The Court further **DIRECTS** the Clerk of Court to serve this Order upon Attorney General Jonathan Skrmetti, Office of the Attorney General and Reporter, P.O. Box 20207, Nashville, Tennessee, 37202-0207.

IT IS SO ORDERED.


KATHERINE A. CRYTZER
United States District Judge