

State of Alabama Unified Judicial System  Form ARCiv-93 Rev.9/18	<b>COVER SHEET</b> <b>CIRCUIT COURT – CIVIL CASE</b> (Not For Domestic Relations Cases)	Case Number <div style="border: 1px solid black; padding: 2px;">           00005    002 - 00         </div> Date of Filing: <div style="border: 1px solid black; padding: 2px;">           01    16    2025         </div> Month    Day    Year
GENERAL INFORMATION		
IN THE CIRCUIT COURT OF _____ <b>RUSSELL COUNTY</b> _____, ALABAMA <div style="text-align: center;">(Name of County)</div>		
Dr. Susan Williams Brown, et al.    v.    Dr. KeAnthony Brooks, et al.		
<b>First Plaintiff</b> <input type="checkbox"/> Business <input checked="" type="checkbox"/> Individual <input type="checkbox"/> Government <input type="checkbox"/> Other	<b>First Defendant</b> <input type="checkbox"/> Business <input checked="" type="checkbox"/> Individual <input type="checkbox"/> Government <input type="checkbox"/> Other	
<b>NATURE OF SUIT:</b> Select primary cause of action, by checking box (check only one) that best characterizes your action:		
<b>TORTS: PERSONAL INJURY</b> <input type="checkbox"/> WDEA - Wrongful Death <input type="checkbox"/> TONG - Negligence: General <input type="checkbox"/> TOMV - Negligence: Motor Vehicle <input type="checkbox"/> TOWA - Wantonness <input type="checkbox"/> TOPL - Product Liability/AEMLD <input type="checkbox"/> TOMM - Malpractice-Medical <input type="checkbox"/> TOLM - Malpractice-Legal <input type="checkbox"/> TOOM - Malpractice-Other <input type="checkbox"/> TBFM - Fraud/Bad Faith/Misrepresentation <input type="checkbox"/> TOXX - Other: _____  <b>TORTS: PERSONAL INJURY</b> <input type="checkbox"/> TOPE - Personal Property <input type="checkbox"/> TORE - Real Property  <b>OTHER CIVIL FILINGS</b> <input type="checkbox"/> ABAN - Abandoned Automobile <input type="checkbox"/> ACCT - Account & Nonmortgage <input type="checkbox"/> APAA - Administrative Agency Appeal <input type="checkbox"/> ADPA - Administrative Procedure Act <input type="checkbox"/> ANPS - Adults in Need of Protective Services	<b>OTHER CIVIL FILINGS (cont'd)</b> <input type="checkbox"/> MSXX - Birth/Death Certificate Modification/Bond Forfeiture Appeal/Enforcement of Agency Subpoena/Petition to Preserve <input type="checkbox"/> CVRT - Civil Rights <input type="checkbox"/> COND - Condemnation/Eminent Domain/Right-of-Way <input type="checkbox"/> CTMP - Contempt of Court <input type="checkbox"/> CONT - Contract/Ejectment/Writ of Seizure <input type="checkbox"/> TOCN - Conversion <input type="checkbox"/> EQND - Equity Non-Damages Actions/Declaratory Judgment/Injunction Election Contest/Quiet Title/Sale For Division <input type="checkbox"/> CVUD - Eviction Appeal/Unlawful Detainer <input type="checkbox"/> FORJ - Foreign Judgment <input type="checkbox"/> FORF - Fruits of Crime Forfeiture <input type="checkbox"/> MSHC - Habeas Corpus/Extraordinary Writ/Mandamus/Prohibition <input type="checkbox"/> PFAB - Protection From Abuse <input type="checkbox"/> EPFA - Elder Protection From Abuse <input type="checkbox"/> FELA - Railroad/Seaman (FELA) <input type="checkbox"/> RPRO - Real Property <input type="checkbox"/> WTEG - Will/Trust/Estate/Guardianship/Conservatorship <input type="checkbox"/> COMP - Workers' Compensation <input type="checkbox"/> LORP - Petition for Order of Limited Relief <input checked="" type="checkbox"/> CVXX - Miscellaneous Circuit Civil Case	
<b>ORIGIN (check one):</b> F <input checked="" type="checkbox"/> INITIAL FILING    A <input type="checkbox"/> APPEAL FROM    O <input type="checkbox"/> OTHER: <div style="text-align: center;">DISTRICT COURT</div> <div style="text-align: center;">T <input type="checkbox"/> TRANSFERRED FROM</div> <div style="text-align: center;">OTHER CIRCUIT COURT</div>		
<b>HAS JURY TRIAL BEEN DEMANDED?</b> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <small>Note: Checking "Yes" does not constitute a demand for a jury trial. (See Rules 38 and 39, Ala.R.Civ.P., for procedure)</small>		
<b>RELIEF REQUESTED:</b> <input type="checkbox"/> MONETARY AWARD REQUESTED <input checked="" type="checkbox"/> NO MONETARY AWARD REQUESTED		
<b>ATTORNEY CODE:</b> <div style="border: 1px solid black; padding: 2px; display: inline-block;">         S T O 0 1 2       </div> <div style="margin-left: 20px;">         _____          Date       </div> <div style="margin-left: 20px;">           Signature of Attorney/Party filing this form       </div>		
<b>MEDIATION REQUESTED:</b> <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> UNDECIDED		
<b>Election to Proceed under the Alabama Rules for Expedited Civil Actions:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		

## IN THE CIRCUIT COURT OF RUSSELL COUNTY, ALABAMA

DR. SUSAN WILLIAMS BROWN,  
 individually and in her official capacity  
 as the president of The Alabama Education  
 Association; LEROY DAVIS, individually  
 and as a citizen of Russell County;  
 BARBARA CHAPMAN, individually  
 and in her official capacity as president of  
 the Phenix City Education Support  
 Professionals and public education  
 employee of the Phenix City School  
 System,

Plaintiffs,

vs.

Civil Action No.: CV-25-082

DR. KEANTHONY BROOKS, in his  
 official capacity as a member of the  
 Phenix City Board of Education;  
 BRADY BAIRD, in his official capacity as  
 a member of the Phenix City Board of  
 Education; JONATHAN TAYLOR, in his  
 official capacity as a member of the  
 Phenix City Board of Education; ELLIOT  
 PATRICK, in his official capacity as  
 a member of the Phenix City Board of  
 Education; YOLAUNDA DANIEL, in her  
 official capacity as a member of the Phenix  
 City Board of Education; KATRINA  
 COLLIER LONG, in her official capacity as  
 a member of the Phenix City Board of  
 Education; FLORENCE BELLAMY in her  
 official capacity as a member of the Phenix  
 City Board of Education,

Defendants.

VERIFIED COMPLAINT, INCLUDING REQUEST FOR  
 TEMPORARY RESTRAINING ORDER AS WELL AS OTHER  
PRELIMINARY AND PERMANENT EQUITABLE RELIEF

FILED IN OFFICE  
 2025 JAN 16 AM 9:41  
 CIRCUIT/DIST. COURT  
 RUSSELL CO., AL.

1. This is an action under the Alabama Open Meetings Act (“the Act”), Ala. Code § 36-25A-1 *et seq.* Plaintiffs seek a temporary restraining order, followed by preliminary and permanent equitable relief including injunctive and declaratory relief.

### PARTIES

2. Plaintiff Dr. Susan Williams Brown is the President of the Alabama Education Association (“AEA”). AEA is a membership organization made up of employees in public education in Alabama. Its members are highly affected by the actions of local school boards in Alabama, including the Phenix City Board of Education (“the Board”). The ability to know in advance what matters will be taken up by the Board is important to allowing Dr. Brown and AEA to advocate for the interest of their members who would be affected by the Board’s decisions on such matters. As such, Dr. Brown and AEA are impacted by the Board’s violations of the Act to an extent which is greater than the impact on the public at large. AEA is also a media organization within the meaning of the Act, as it publishes a periodical that is largely devoted to covering public K-12 education in Alabama, including the operations of the Phenix City Board of Education.

3. Plaintiff Leroy Davis is a resident of Russell County and has grandchildren who are in the Phenix City School System. Plaintiff Barbara Chapman is the President of the Phenix City Education Support Professionals and is a public education employee of the Phenix City School System. This organization is a membership organization made up of employees of the Phenix City School System. Plaintiff Chapman, and the organization she serves, is impacted by the Board’s violation of the Act to an extent which is greater than the impact on the public at large, in that Plaintiff Chapman and the organization she serves has a greater need to know what the Board will be discussing during its meetings, so that she can advocate for the interests of her members and keep her members informed and engaged when crucial issues are set to be discussed.

4. The Phenix City Board of Education (“the Board”) has its primary office in this County. The Defendants, sued in their official capacities, are the members of the Board. Each of them has attended, and remained in attendance at, the meetings discussed herein.

### FACTS

5. Defendants have developed and pursued a pattern and practice of violating the Act on multiple occasions as described herein, including at (and in connection with) meetings of the Board on December 16, 2024, and January 9, 2025.

6. In June 2024, Defendants gave notice of a meeting to be held on July 1, 2024. Defendants posted an agenda for that meeting, which disclosed that among the topics to be discussed was the contract of Superintendent Dr. Janet Sherrod. Dr. Sherrod’s contract by its terms runs from June 1, 2023, to June 30, 2026. Many members of AEA and of its Phenix City local affiliates, parents of students in the school district, concerned citizens of Phenix City and the news media attended that meeting because of that, in order to demonstrate support for Dr. Sherrod and to oppose any effort by the Board to attempt to terminate her contract.

7. In December 2024, Defendants gave notice of a Board meeting to be held on December 16, 2024, and posted a preliminary agenda. Other than entirely routine matters, the only substantive business on that agenda was described only as “Executive Session – Legal Matters.” There was no description whatsoever of what those legal matters were.

8. At that December 16, 2024, meeting, there was a motion to go into executive session. That motion passed. The Board’s attorney certified that the request for an executive session was for discussion of legal matters. In none of this discussion was any description given, to Board members, to the public or the news media, of what those legal matters were.

9. On information and belief, among the matters discussed in executive session on December 16, 2024, was the potential termination of Superintendent Dr. Sherrod's contract. On information and belief, this was planned in advance, before preparation and public posting of the agenda. Defendants knew that that was the actual agenda, but Defendants did not tell that to the public or the news media or to the plaintiffs.

10. In January 2025, Defendants gave notice of a Board meeting to be held on January 9, 2025, and posted a preliminary agenda. Other than entirely routine matters, the only substantive business on that agenda was again described only as "Executive Session – Legal Matters." There was no description whatsoever of what those legal matters were.

11. At that January 9, 2025, meeting, there was a motion to go into executive session. That motion passed. The Board's attorney certified that the request for an executive session was for discussion of legal matters. In none of this discussion was any description given, to Board members or the news media to the public, of what those legal matters were.

12. On information and belief, among the matters discussed in executive session on January 9, 2025, was the potential termination of Superintendent Dr. Sherrod's contract. On information and belief, this was planned in advance, before preparation and public posting of the agenda. Defendants knew that that was the actual agenda, but Defendants did not tell that to the public or the news media or to the plaintiffs.

13. Based on information and belief, Dr. Janet Sherrod, superintendent of the Phenix City Board was not responsible for the information placed in the public Board Meeting Agenda from December 16, 2024 and January 9, 2025 pertaining to the terms put in the notice as described as "Executive Session – Legal Matters".

14. The AEA has informed the Board, through the Board's attorney, that this course of conduct is contrary to the Open Meetings Act, as will be described below. The AEA has attempted to secure the Board's agreement not to continue to violate the Act in this way. The Board has failed to agree.

COUNT ONE: VIOLATION OF THE OPEN MEETINGS ACT

15. The Board, and Defendants, have violated the Open Meetings Act in that: (a) they have “disregarded the requirements for proper notice of the meeting pursuant to the applicable methods set forth in Section 36-25A-3,” Ala. Code § 36-25A-9(b)(1), by failing to give a proper description of the matters on the agenda for both the December 16, 2024, and January 9, 2025, meetings; and (b) they have “disregarded the provisions of this chapter during a meeting,” Ala. Code § 36-25A-9(b)(2), and/or “intentionally violated other provisions of this chapter,” Ala. Code § 36-25A-9(b)(4), by voting to go into executive session without disclosing anything about the topic to be discussed in that executive session.

16. The goal of the Act is governmental transparency. Multi-member bodies such as the Board are to act openly and in public, with advance notice to the public and the news media of their meetings and the agendas for those meetings. The Act seeks to foster citizen awareness of what bodies such as the Board are making decisions about, so that the public can trust that bodies such as the Board are operating properly and in the public interest.

17. Thus bodies such as the Board are required not only to give notice to the public and the news media of when and where they are meeting, but also to give notice of *what they are meeting about*. That is why Ala. Code § 36-25A-3(c) requires not only notice of the date, time and place of each meeting. *See id.* (“Posted notice pursuant to this section shall include the time, date, and place of meeting.”). Beyond that, the statute requires that the public be informed of the planned

subject matter of the meeting. *See id.* (“If a preliminary agenda is created, it shall be posted as soon as practicable in the same location or manner as the notice given pursuant to this section. ... If a preliminary agenda is not available, the posted notice shall include a general description of the nature and purpose of the meeting.”).

18. An “agenda” is a list of items to be considered. “The common understanding of the term ‘agenda’ is a list of items to be considered. See Agenda, Black's Law Dictionary (11th ed. 2019) (defining agenda as, ‘A list of things to be done, as items to be considered at a meeting, usu[ally] arranged in order of consideration’).” *Holcomb v. City of N. Augusta*, No. 2023-UP-158, 2023 S.C. App. Unpub. LEXIS 192, at \*1 (S. C. Ct. App. Apr. 19, 2023). “[W]e construe ‘agenda’ by giving it its plain, ordinary meaning: ‘a list or outline of things to be considered or done.’” *Opderbeck v. Midland Park Bd. of Educ.*, 442 N.J. Super. 40, 56, 120 A.3d 967, 977 (N.J. Super. Ct. App. Div. 2015).

19. By refusing to tell the public what they planned to discuss at its December 16, 2024 and January 9, 2025 meetings, the Board and the Defendants violated both the purpose and the text of the Act. To say only that the substantive agenda is to discuss “legal matters” in executive session is no better than saying, as to an open session, that the substantive agenda is to discuss “matters.” “We’re gonna talk about some stuff” and “We are gonna talk about some stuff with our lawyer” are not agendas. Neither of those would constitute an actual agenda (or, for that matter, even an agenda item), and neither would comply with the Act’s requirement of an agenda. Neither gives the public the information that the Act seeks to provide.

20. While entities subject to the Act are allowed to go into executive session to obtain legal advice, this does not mean that they are entitled to hide from the public the matter on which they are seeking legal advice. The legitimate purpose of an executive session for legal advice is



not to *hide what you are talking about*, but instead only to *keep the actually privileged communications privileged*.

21. An executive session for attorney-client communications is permitted only for members of the body to “discuss with their attorney the legal ramifications of and legal options for pending litigation, controversies not yet being litigated but imminently likely to be litigated or imminently likely to be litigated if the governmental body pursues a proposed course of action, or to meet or confer with a mediator or arbitrator with respect to any litigation or decision concerning matters within the jurisdiction of the governmental body involving another party, group, or body.” Ala. Code § 36-25A-7(a)(3).

22. The purpose of such a session is not to hide from the public and the news media what matters are being discussed; any deliberation, as opposed to strictly attorney-client discussions, must be public. *Id.*

23. Before going into executive session for attorney-client-privileged communications, the body must vote on a motion to do so, Ala. Code § 36-25A-7(b)(2). This further reflects that the entity is supposed to disclose in open session what the topic of discussion is; for otherwise, there could not be a properly-informed vote by the members as to whether to go into executive session.

24. The Act further provides that, before going into executive session for attorney-client-privileged matters, the body must receive an opinion from its attorney that the “planned discussion” comes within § 36-25A-7(a)(3). Moreover, the Act provides that the opinion of the attorney – certifying that the matter is appropriate for an executive session – “shall not otherwise constitute a waiver of the attorney-client privilege.” *Id.* That latter provision makes sense only if – as Plaintiffs contend – the body is required to disclose what matter or matters it will be discussing with its attorney in executive session. If the entity and attorney were allowed to say “we are having



an executive session to discuss legal matters but we won't tell you anything about what they are," no one could even conceivably argue that this constituted a waiver of the attorney-client privilege – and thus the Act's no-waiver provision would be meaningless and useless. The Legislature plainly intended that the subject matter of the planned discussion be disclosed.

25. Thus, the Defendants have repeatedly violated the Act in the manner set forth herein.

26. The Plaintiffs are willing to post a bond to secure the filing of this Complaint if requested by the Court.

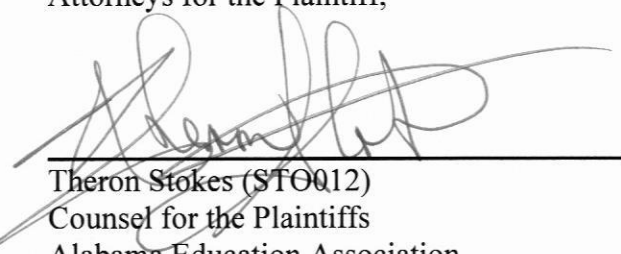
REQUEST FOR RELIEF INCLUDING MOTION FOR  
TEMPORARY RESTRAINING ORDER

Plaintiffs move for a temporary restraining order, prohibiting Defendants from having any further executive sessions during any meetings unless they disclose the planned subject matter(s) of such executive sessions in both the agendas for such meetings and in the open sessions of such meetings. That temporary relief will prevent irreparable harm to Plaintiffs, pending further orders of this Court, and will be in the public interest because it will foster the transparency that is the goal of the Open Meetings Act. Because there will be no harm to Defendants, either no bond or only nominal bond should be required.

Plaintiffs further seek preliminary and permanent injunctive relief to the same effect, as well as declaratory relief to the same effect, and any other relief to which they may be entitled.

Respectfully submitted this the 16<sup>th</sup> day of January 2025,

Attorneys for the Plaintiff,



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**/s/ Perry Jackson**

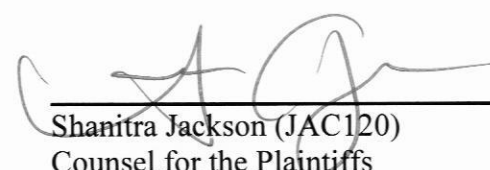
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STATE OF ALABAMA )  
COUNTY OF RUSSELL )

### AFFIDAVIT OF ACKNOWLEDGEMENT

I hereby verify and affirm that I have read the above and foregoing Petition and Complaint and state that the facts as set out in the same and all accompanying documents are true and correct according to my knowledge, information and belief.

Susan Williams Brown

(Dr. Susan Williams Brown)

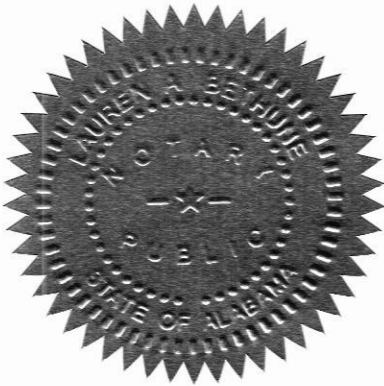
SWORN TO AND SUBSCRIBED before me this 15 day of January, 2025.

James Belknap

NOTARY PUBLIC

My Commission Expires: 11/25/2028

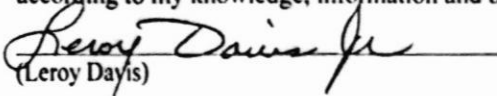
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STATE OF ALABAMA )  
COUNTY OF RUSSELL )


### AFFIDAVIT OF ACKNOWLEDGEMENT

I hereby verify and affirm that I have read the above and foregoing Petition and Complaint and state that the facts as set out in the same and all accompanying documents are true and correct according to my knowledge, information and belief.

  
(Leroy Davis)

SWORN TO AND SUBSCRIBED before me this 15 day of January, 2025.



  
NOTARY PUBLIC  
My Commission Expires: \_\_\_\_\_

STATE OF ALABAMA                     )  
COUNTY OF RUSSELL                 )

# AFFIDAVIT OF ACKNOWLEDGEMENT

I hereby verify and affirm that I have read the above and foregoing Petition and Complaint and state that the facts as set out in the same and all accompanying documents are true and correct according to my knowledge, information and belief.

Barbara Chapman  
(Barbara Chapman)

SWORN TO AND SUBSCRIBED before me this 15 day of Jan, 25.



[Signature]  
NOTARY PUBLIC

My Commission

CERTIFICATE OF SERVICE

I hereby certify that on this 16<sup>th</sup> day of January 2025, I filed the foregoing document with the Clerk of Court, where Respondents will be served or notified of the filing of this document. Additionally, I have forward to following:

Dr. KeAnthony Brooks  
Phenix City Board of Education  
1212 9th Avenue  
Phenix City, AL 36867

Mr. Brady Baird  
Phenix City Board of Education  
1212 9th Avenue  
Phenix City, AL 36867

Mr. Jonathan Taylor  
Phenix City Board of Education  
1212 9th Avenue  
Phenix City, AL 36867

Mr. Elliot Patrick  
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Ms. Katrina Collier Long  
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Ms. Florence Bellamy  
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1212 9th Avenue  
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/s/ Theron Stokes

Theron Stokes (STO012)