

**IN THE CIRCUIT COURT OF THE 23rd JUDICIAL CIRCUIT OF MISSOURI
AT HILLSBORO, JEFFERSON COUNTY, MISSOURI**

JOSHUA D. HAWLEY, in his official)
capacity as Missouri Attorney General,)
))
Plaintiff,)
))
v.)

RENEE REUTER, in her official capacity,)
Serve at: Renee Reuter)
Jefferson County Justice Center)
400 First Street, 3rd Floor)
Hillsboro, MO 63050; and)
))

COUNTY COUNCIL FOR JEFFERSON)
COUNTY, MISSOURI,)
Serve at: Jefferson County Justice Center)
400 First Street, 3rd Floor)
Hillsboro, MO 63050,)
))
Defendants.)

Case No. _____

PETITION

Plaintiff Joshua Hawley, in his official capacity as the Attorney General of Missouri, through counsel, states as follows:

1. Missouri’s Sunshine Law, codified in §§ 610.010 through 610.225, RSMo, declares that it is the State’s public policy that “meetings, records, votes, actions, and deliberations of public governmental bodies be open to the public[.]” § 610.011, RSMo. The Sunshine Law is to be liberally construed in furtherance of promoting this clear public policy.

2. Defendant Renee Reuter, the former Council Chair for the County Council of Jefferson County, Missouri, has violated the Sunshine Law by directing an employee

to delete e-mails containing invoices for legal services incurred by the County Council. Through her conduct, Defendants Reuter and the County Council have knowingly and purposefully violated the Sunshine Law, despite being aware of the law's requirements.

3. The Attorney General brings this lawsuit to enforce the Sunshine Law, to promote transparency in the operations of the County Council, and to hold Defendants accountable for their violations of the Sunshine Law.

Parties, Jurisdiction, and Venue

4. Plaintiff Joshua D. Hawley is the duly elected Attorney General of Missouri.

5. Under Missouri law, “[t]he attorney general shall institute, in the name and on the behalf of the state, all civil suits and other proceedings at law or in equity requisite or necessary to protect the rights and interests of the state, and enforce any and all rights, interests or claims against any and all persons, firms or corporations in whatever court or jurisdiction such action may be necessary; and he may also appear and interplead, answer or defend, in any proceeding or tribunal in which the state's interests are involved.” § 27.060, RSMo.

6. In addition, pursuant to § 610.027.1, RSMo, the Missouri Attorney General has the authority to seek judicial enforcement of §§ 610.010 through 610.026, RSMo.

7. Defendant County Council for Jefferson County, Missouri, (“County Council”) is a public governmental body under § 610.010.4, RSMo, and its meetings, actions, and records are subject to the provisions of Missouri's Sunshine Law.

8. Defendant Renee Reuter is a resident of Jefferson County, Missouri, who currently serves as a duly elected member of the County Council. Reuter served as Chair of the County Council in 2011 and from 2014 through January 8, 2018.

9. Reuter is sued in her official capacity as a member and former Chair of the County Council.

10. This Court has subject-matter jurisdiction over this action pursuant to §§ 610.027 and 610.030, RSMo; Missouri Supreme Court Rule 92; and Missouri Constitution Article V, § 14.

11. This Court has personal jurisdiction over Reuter because she resides in Jefferson County, Missouri, and is an elected member of the County Council. This Court has personal jurisdiction over the County Council because that entity's principal place of business is in Jefferson County, Missouri.

12. Venue is proper in this Court under § 610.027.1, RSMo, because the County Council's principal place of business is in Jefferson County, Missouri.

Allegations Common to All Counts

A. The Sunshine Law Requires that Public Governmental Bodies and Employees Provide Access to Public Records.

13. The Missouri Sunshine Law codifies the State's public policy and commitment to open and transparent government: "It is the public policy of this state that meetings, records, votes, actions, and deliberations of public governmental bodies be open to the public[.]" § 610.011.1, RSMo.

14. Pursuant to that clear public policy, “all public records of public governmental bodies shall be open to the public for inspection and copying as set forth in section 610.023 to 610.026.” § 610.011.2, RSMo.

15. Under the Sunshine Law, a public record includes “any record, whether written or electronically stored, retained by or of any public governmental body . . . or other document . . . prepared for the public governmental body by a consultant or other professional service paid for in whole or in part by public funds[.]” § 610.010(6), RSMo.

16. Moreover, § 610.023.2, RSMo, provides that “[e]ach public governmental body shall make available for inspection and copying by the public of that body’s public records. No person shall remove original public records from the office of a public governmental body or its custodian without written permission of the designated custodian.”

B. Renee Reuter and the County Council Supervise the Work of the Council’s Administrative Assistant and Custodian of Records.

17. The County Council pays a salary to each elected member of the County Council, including Reuter, as well as to a single administrative assistant (the “Administrative Assistant”).

18. As part of her job duties, the Administrative Assistant serves as the custodian of records for the County Council. In addition, the Administrative Assistant is responsible for receiving certain invoices for expenses incurred by the Council and entering those invoices into a purchasing system for payment, including bills for legal services.

19. The Administrative Assistant is the only non-elected official employed by the County Council. This position's salary is paid from the County Council's budget.

20. At all times relevant to this Petition, Reuter served as a supervisor of the Administrative Assistant.

21. Reuter, as a member of the County Council, directed the Administrative Assistant's work and delegated tasks to her. The Administrative Assistant receives assignments from and reports to Reuter, both in Reuter's capacity as a member of the County Council and in her former capacity as the Chair of the County Council.

22. Though the Administrative Assistant provides services to each member of the County Council, and though each member of the County Council can request and direct the Administrative Assistant to perform tasks, the Chair of the County Council has more contact with the Administrative Assistant than other Council members.

23. As a condition of her employment, the Administrative Assistant is required to follow the directives and assignments given to her by Reuter and the County Council.

24. Reuter and the County Council can make recommendations to hire and fire the Administrative Assistant. In addition, Reuter and the County Council provide feedback to Jefferson County's Director of Administration regarding the Administrative Assistant's job performance.

C. Reuter Ordered her Subordinate to Delete Public Records in Violation of the Sunshine Law.

25. On July 13, 2017, a member of the public submitted a request for public records under the Sunshine Law to the custodian of records for the Jefferson County Administration Center.

26. The citizen's Sunshine Law request sought a variety of documents pertaining to the County Council's retention of the law firm Cunningham, Vogel & Rost, P.C., to represent the County Council in pending litigation in Jefferson County Circuit Court. *See* Case Nos. 16JE-CC00004 and 17JE-CC00261.

27. Specifically, the documents that the citizen requested included employment contracts, budget ordinances, and invoices from the law firm for legal services.

28. On July 13, 2017, the Administrative Assistant, Reuter, and the County Council received the citizen's Sunshine Law request.

29. Later that same day, Reuter called the Administrative Assistant to discuss the citizen's request for records.

30. During that phone call, Reuter asked the Administrative Assistant whether she had copies of the employment contracts and invoices from Cunningham, Vogel & Rost.

31. The Administrative Assistant informed Defendant Reuter that she did not have copies of any employment contracts between Cunningham, Vogel & Rost and the County Council but that she did have electronic invoices from the law firm for its legal

services. The Administrative Assistant noted that the law firm submits the invoices via e-mail directly to her.

32. Upon information and belief, Reuter then instructed the Administrative Assistant to search for all of the e-mails containing the law firm's invoices received to date and then to delete each of the e-mails, as well as destroy any paper copies of the e-mails and invoices.

33. Specifically, on information and belief, Reuter ordered the Administrative Assistant to "delete" and "get rid of" the e-mails and paper copies, and to "make them not searchable."

34. Reuter also instructed the Administrative Assistant to call her if anyone should ask for the detailed invoices.

35. Upon information and belief, by the time of the citizen's Sunshine Law request, Cunningham, Vogel & Rost had sent two e-mails to the Administrative Assistant containing invoices for legal services.

36. After the phone call and pursuant to Reuter's order, the Administrative Assistant deleted from her e-mail inbox or a subfolder of her inbox the e-mails containing invoices from Cunningham, Vogel & Rost.

37. These e-mails, and/or the digital file of the e-mail that was stored in the Administrative Assistant's inbox or inbox subfolder before her deletion pursuant to Reuter's instructions, were retained as public records by the County Council.

38. Reuter intended to keep the e-mails and invoices hidden from public view.

39. By ordering the Administrative Assistant to delete the e-mails and destroy any paper copies, Reuter acted in the interests and on behalf of the County Council.

40. In response to the citizen's July 13, 2017 Sunshine Law request, Reuter instructed the Administrative Assistant to provide only single-page monthly summaries of the total amount invoiced by Cunningham, Vogel & Rost.

41. Ultimately, on July 25, 2017, the County Council provided to the requesting party single-page summaries of the total amount invoiced by Cunningham, Vogel & Rost for attorney's fees.

D. Reuter and the County Council Were Aware of the Sunshine Law's Requirements.

42. Reuter and the County Council are familiar with the Sunshine Law and know that the Law requires that all public records be retained and available for public access.

43. Reuter and the County Council have attended at least two training sessions concerning the Sunshine Law.

44. On April 4, 2011, the Missouri Attorney General's Office delivered an approximately one-hour presentation to the County Council about the Sunshine Law, which covered topics including conducting open and closed meetings, responding to public records requests, and retaining public records.

45. Reuter attended the April 4, 2011 meeting of the County Council. And as Chair of the County Council in 2011, she called that meeting to order and called a recess of the meeting after the Sunshine Law presentation had concluded.

46. On March 4, 2013, the Missouri Attorney General's Office again delivered a presentation to the County Council about Sunshine Law compliance, which also covered topics including conducting open and closed meetings, responding to public records requests, and retaining public records.

47. Reuter attended the March 4, 2013 meeting of the County Council.

48. The minutes for the March 4, 2013 meeting reflect that several members of the County Council asked questions of the presenter, including Reuter.

COUNT I
Violation of Section 610.023.2, RSMo, Against All Defendants for
Failure to Provide Access to Public Records

49. Plaintiff herein restates and incorporates by reference the allegations contained in Paragraphs 1-48 of this Petition.

50. Section 610.023.2, RSMo, provides that “[e]ach public governmental body shall make available for inspection and copying by the public of that body’s public records.”

51. Destruction of public records prevents records from being “ma[de] available for inspection and copying by the public,” in violation of the Sunshine Law. § 610.023.2, RSMo.

52. Defendants did not make available for inspection and copying all records maintained by the County Council.

53. The e-mails containing legal invoices from Cunningham, Vogel & Rost were public records maintained by Defendant County Council under § 610.010(6), RSMo.

54. These e-mails, and/or the digital files of these e-mails, that were in the Administrative Assistant's inbox or inbox subfolder were public records maintained by Defendant County Council.

55. Deletion of these e-mails from the Administrative Assistant's inbox or inbox subfolder constitutes a deletion of a specific public record.

56. Ultimately, Defendants are responsible for the deletion of the e-mails because the Administrative Assistant works for and reports to Defendant Reuter and Defendant County Council and the Administrative Assistant's deletion was done pursuant to Defendant Reuter's instructions.

57. By their conduct as described above, including through instructing a subordinate employee to destroy the e-mails from Cunningham, Vogel & Rost, Defendants violated § 610.023.2, RSMo.

58. Defendants were aware of the Sunshine Law's requirements to ensure that public records be available for public access.

59. Defendants' conduct thwarted and precluded compliance with the Sunshine Law.

60. Defendants knew that their conduct violates the Sunshine Law.

61. Defendants were aware of the consequences and penalties of violating the Sunshine Law.

62. Defendants intended to violate, and therefore purposefully violated, the Sunshine Law by instructing the Administrative Assistant to destroy the e-mails from

Cunningham, Vogel & Rost, and thereby make the e-mails not available for public inspection and copying.

WHEREFORE, Plaintiff prays this Court enter judgment in favor of Plaintiff (a) awarding the state preliminary and permanent injunctive relief under § 610.030, RSMo; (b) finding that Defendants knowingly and purposefully violated § 610.023.2, RSMo; (c) assessing each Defendant, pursuant to § 610.027.3 and .4, RSMo, civil penalties of up to \$1,000 for each knowing violation and up to \$5,000 for each purposeful violation of the Sunshine Law that each Defendant committed; and (d) such further relief as the Court deems just and appropriate.

Respectfully submitted,

JOSHUA D. HAWLEY
Missouri Attorney General

/s/ Jason K. Lewis
Loree Anne Paradise, #70284
Deputy Chief of Staff
Jason K. Lewis, #66725
Assistant Attorney General
Supreme Court Building
207 W. High Street
P.O. Box 899
Jefferson City, MO 65102
Telephone: (573) 751-3321
Facsimile: (573) 751-0774
la.paradise@ago.mo.gov
jason.lewis@ago.mo.gov

***Counsel for Plaintiff Joshua D. Hawley,
Attorney General of Missouri***