

**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

ORDER

On this day comes before the Court the Motion for Summary Judgment filed by Plaintiff National Association of Professional Background Screeners (“NAPBS”) on May 3, 2019, and the Cross-Motion for Summary Judgment filed by Defendant Jennifer Jones, in her official capacity as Clerk of the District Court of Benton County, Arkansas, Bentonville Division (“Ms. Jones”) on June 11, 2019. Having fully considered the pleadings before the Court, the exhibits and briefs submitted by all parties on summary judgment, and the arguments presented by counsel at the hearing held on August 6, 2019, the Court finds there is no genuine issue as to any material fact and both parties are entitled to judgment as a matter of law as set forth below. The Motion for Summary Judgment filed by NAPBS is hereby GRANTED IN PART and DENIED IN PART and the Cross-Motion for Summary Judgment filed by Ms. Jones is hereby GRANTED IN PART and DENIED IN PART. It is hereby ORDERED, ADJUDGED and DECREED as follows:

(1) The Court declares that the request for court records submitted by Courthouse Concepts on July 10, 2018 (attached to NAPBS’s complaint as Exhibit C) is not a request for “compiled information” within the meaning of Arkansas Supreme Court Order 19 and Supreme Court Order 19 provides no basis for Ms. Jones to refuse to respond to that request;

(2) The request for court records submitted by Courthouse Concepts on July 10, 2018 was a valid request under the Arkansas Freedom of Information Act (Arkansas FOIA);

(3) By failing to respond to the request, Ms. Jones committed a violation of Arkansas FOIA;

(4) Ms. Jones is ordered to respond to the July 10, 2018, FOIA request;

(5) Because Ms. Jones has an antiquated computer system and was acting on advice received by the Arkansas Administrative Office of the Courts and Attorney General Opinion 2015-121 (April 14, 2016) in denying the request, the Court finds that her position was substantially justified and, therefore, Plaintiff is not entitled to recover attorneys' fees or other litigation expenses under the Arkansas FOIA;

(6) Because the Court concludes that the Arkansas FOIA issue drives this case, the Court hereby grants Ms. Jones's motion for summary judgment on Plaintiff's claims alleging 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;

(7) The Court declines to issue an injunction against Ms. Jones regarding any future requests of NAPBS, as requested in NAPBS's complaint;

(8) The Court retains jurisdiction to enforce any and all provisions of this Order; and

(9) This is a final judgment adjudicating all claims in this matter and the Court does hereby direct that the judgment shall be a final judgment for all purposes.

Done this 14th day of August 2019.



Hon. Chris Piazza
CIRCUIT COURT JUDGE

Approved as to form by:

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