

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
SIXTEENTH DIVISION

FARMVOICE, INC.;
ADAM HENARD; JARED HOPPER;
AND TIMOTHY PIRANI

PLAINTIFFS

v.

Case No. 60 CV-21-5113

ARKANSAS STATE PLANT BOARD &
SCOTT BRAY, in his official capacity as
DIRECTOR of THE STATE PLANT BOARD

DEFENDANTS

ORDER

On the 17th day of May, 2022, came before the Court the Parties' competing Motions for Judgment on the Pleadings. The Plaintiffs were represented by their attorneys Grant Ballard and David Gershner. The Defendants were represented by their attorneys Michael Fincher and Kate Donovan. After reviewing the pleadings filed with the Court and hearing the arguments of Counsel, the Court finds and Orders as follows:

1. Both the Plaintiffs and Defendants have moved, in competing motions, for Judgment on the Pleadings in accordance with Rule 12(c) of the Arkansas Rules of Civil Procedure.
2. The Plaintiffs have requested a declaratory judgment that the Arkansas State Plant Board is currently organized in violation of the Arkansas Constitution and seek an Order that Arkansas Code Annotated § 2-16-206 is an unconstitutional delegation of public power to private interests. Plaintiffs seek an order declaring the appointment process for members of the State Plant Board, as outlined in Arkansas Code Annotated § 2-16-206, as unconstitutional and enjoining unconstitutionally appointed members from acting on behalf of the Board. The Plaintiffs ask that

this Court declare that the positions of members of the board who are appointed from a limited pool of nominees, dictated by private groups or private individuals, be declared vacant.

3. Defendants deny the allegations in the Complaint, affirmatively plead that the Defendants were protected by sovereign immunity, and argue that Plaintiffs lack standing to bring their claims.

4. This Court has jurisdiction over this matter and the pending Motions for Judgment on the Pleadings.

5. The Plaintiffs' Motion for Judgment on the Pleadings is granted. The appointment process outlined at Arkansas Code Annotated sections 2-16-206(a)(3), 2-16-206(a)(5), 2-16-206(a)(8), 2-16-206(a)(9), 2-16-206(a)(10), 2-16-206(a)(11), 2-16-206(a)(12), 2-16-206(a)(13), and 2-16-206(a)(14) require the Governor to appoint members of the State Plant Board from lists of nominees prepared by private business associations. This is an unconstitutional delegation of public power to private interests in violation of Articles 2, 4, and 5 of the Arkansas State Constitution. Plant Board members appointed from lists submitted by private industry associations, as outlined in Arkansas Code § 2-16-206, are appointed in violation of the Arkansas Constitution.

6. Act 361 is an unconstitutional act in that it violates the Arkansas Constitution and it interferes with the ministerial duties of Arkansas' Constitutional Officers. The Court's decision on this matter is governed by the opinion of the Supreme Court of Arkansas in *McCarty v. Arkansas State Plant Bd.* See *McCarty v. Arkansas State Plant Bd.*, 2021 Ark. 105, 5, (2021).

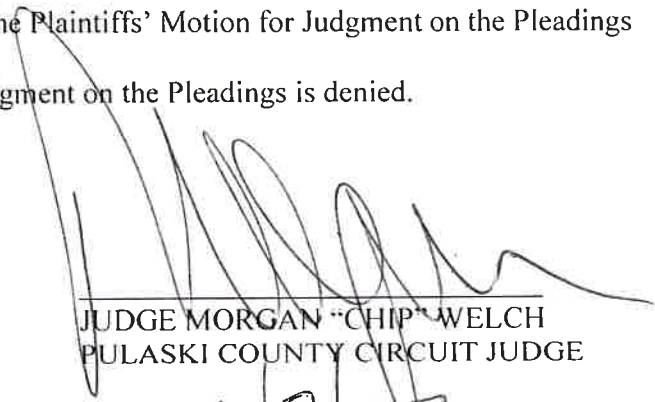
7. The Court hereby enjoins unconstitutionally appointed members of the Arkansas State Plant Board from acting on behalf of the Board. The positions of members of the board who

are appointed from a limited pool of nominees, dictated by private groups or private individuals, are declared vacant.

8. The Defendants' Motion for Judgment on the Pleadings is hereby denied. The Plaintiffs have standing and their claims are not barred by the Doctrine of Sovereign Immunity.

9. The Court's oral ruling is incorporated herein.

IT IS THEREFORE ORDERED that the Plaintiffs' Motion for Judgment on the Pleadings is granted and the Defendants' Motion for Judgment on the Pleadings is denied.




JUDGE MORGAN "CHIP" WELCH
PULASKI COUNTY CIRCUIT JUDGE

6/9/22
DATE

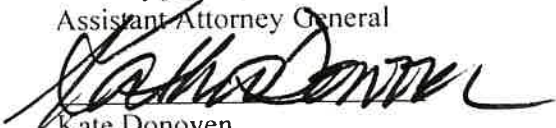
ORDER PREPARED BY:

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APPROVED AS TO FORM:



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