

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

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**ELVIS PRESLEY ENTERPRISES, INC.,  
EPPF, LLC and GUESTHOUSE AT  
GRACELAND, LLC,**

**Plaintiffs,**

**v.**

**No. 2:18-cv-02718-SHM-dkv**

**CITY OF MEMPHIS, TENNESSEE,**

**Defendant.**

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**DECLARATION OF JONATHAN P. LAKEY**

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Pursuant to 28 U.S.C. §1746, I hereby declare as follows:

1. My name is Jonathan P. Lakey and I am an adult resident citizen of Memphis, Tennessee and otherwise competent in all respects to make this Declaration. I have personal knowledge of the matters set forth herein.

2. I am a licensed attorney in the State of Tennessee and have been since 1994. I and the firm Walk Cook & Lakey PLC currently represent the City of Memphis, Tennessee (the “City”) Memphis Basketball in the numerous lawsuits filed by Elvis Presley Enterprises, Inc., EPPF, LLC, and Guesthouse at Graceland, LLC (“EPE”) and other matters related to the contract between Memphis Basketball, LLC (“Memphis Basketball”), Shelby County, Tennessee (the “County”) and the City governing the FedEx Forum (the “Arena Use Agreement”).

3. On November 15, 2017, EPE filed a lawsuit in Chancery Court against the City, the County and Memphis Basketball, seeking a declaratory judgment that public funding of the EPE Arena would not violate the City’s contract with Memphis Basketball. This suit was filed in

the Chancery Court of Shelby County, Tennessee, No. CH-17-1653-Part II (“EPE’s First Lawsuit”) and was ultimately dismissed by the Chancery Court. The Chancellor’s Order of dismissal was entered on February 16, 2018, but thereafter the City filed a motion to alter or amend the judgment. That motion was withdrawn on June 12, 2018. EPE did not appeal the dismissal of the first lawsuit. I represented the City in this lawsuit.

4. On June 29, 2018, EPE filed a second Chancery Court lawsuit against the City of Memphis, the Shelby County and Memphis Basketball. This suit was filed in the Chancery Court of Shelby County, Tennessee, No. CH-18-0972-Part II. After the Chancellor dismissed the lawsuit in January 2019, EPE appealed that decision, and after the Court of Appeals affirmed, EPE filed a petition for rehearing, which is currently pending. This case is ongoing. I represent the City in this lawsuit.

5. A day after EPE’s First Lawsuit was filed counsel for the defendants the City of Memphis and Memphis Basketball LLC (represented by David Wade) began communicating about how to respond to EPE’s First Lawsuit. Shortly, thereafter, counsel for all three defendants began communicating and collaborating on how to respond to EPE’s First Lawsuit. While communications and collaborations among defense counsel began on November 16, 2017, the defendants’ counsel did not expressly declare they were entering into a “joint defense agreement” until early December 2017. In early December 2017, I on behalf of the City of Memphis, John M. Jones on behalf of Shelby County, and the undersigned, reached an oral joint defense agreement, to collaborate in defending the lawsuits filed by EPE. That joint defense and collaboration have been in effect continuously ever since that time.

6. Both of EPE’s state-court lawsuits requested that the County Chancery Court interpret the Arena Use Agreement, even though EPE is not a party to that contract. The actual

parties to that contract, the City, the County and Memphis Basketball, all filed motions to dismiss in both of those lawsuits. During the course of EPE's state-court lawsuits, counsel for the City, the County and Memphis Basketball have repeatedly collaborated in defending against EPE's complaints, arguing at hearings together and communicating in joint defense efforts. All of the correspondence by and between the City's counsel, counsel for the County and/or counsel for Memphis Basketball identified by the City in its privilege log, were made in the course of a joint defense effort and were designed to further that effort. At no point has the joint defense privilege been waived.

FURTHER, DECLARANT SAYETH NOT.



Jonathan P. Lakey

Dated: February 14, 2020