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# Sunshine lawsuit goes to appeals court today

**CAPE GIRARDEAU COUNTY CASE:** The judges' decision could reshape part of the Sunshine Law, observers say

**By PEG McNICHOL**  
SOUTHEAST MISSOURIAN

Three Eastern District Court of Appeals judges are scheduled to hear arguments today in the Cape Girardeau County Sunshine Law suit.

Chief Judge Nannette Baker, Judge Kathianne Knaup Crane and Judge Glenn Norton will preside in a Farmington, Mo., courtroom to hear what each side has to say but also question attorneys. The judges' decision could reshape part of the Sunshine Law, according to Charles Davis, associate professor of journalism and the executive director of the National Freedom of Information Coalition

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# Appeal

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at the University of Missouri.

Second District Commissioner Jay Purcell sued the Cape Girardeau County Commission for violating Missouri's Open Meetings and Records Act, nicknamed the Sunshine Law, during an April 17, 2008, meeting. He claims the meeting broke the law because an elected official was privately confronted for violating the county's computer-use policy and discussed unrelated road ease-

ment problems. The county's response, filed by Jackson attorney Tom Ludwig, maintains commissioners did not break the law and that Purcell's suit is invalid because he appears to be suing himself. In October, Associate Circuit Judge Stephen Mitchell's ruling against Purcell said commissioners did not knowingly break the law.

During the appeals process, the Missouri Press Association filed a friend-of-the-court brief arguing that Mitchell's ruling erred because none of the topics discussed in the April 17 closed meeting involved pending legal action, causes

of action or confidential and privileged communication, each of which are legal reasons for closing a meeting.

The Court of Appeals may or may not address the Missouri Press Association concerns, but if it does, it could strengthen or weaken rules set by a 1994 court case, *Tuft v. the City of St. Louis*.

"Tuft has legendary status," said Davis, because it requires public bodies that meet in closed sessions for legal reasons to prove "a substantial likelihood that litigation is looming and give a clear link between the topic of the meeting and anticipated litigation."

Laura Roy, clerk for the appeals court, described the appeal process as "hugely important, but it's not theatrical." An appeals hearing is more of a "very legal, research-oriented intellectual exercise, as opposed to the drama of a trial."

The decision of the three appeals court judges is required by law to be a written opinion and could take up to a month to be announced, Roy said.

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