

**IN THE CHANCERY COURT OF HINDS COUNTY, MISSISSIPPI
FIRST JUDICIAL DISTRICT**

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25CH1:20-cv-01344	Johnson et al v. The Hinds County Board of Supervisors	Total fee: \$158.00 Clerk: \$85.00 Judicial: \$40.00 Elec. Court: \$10.00 Legal Asst: \$5.00 Educ and Train: \$2.00 Court Constit: \$0.50 Court Reporter: \$10.00 Court Adm: \$2.00 Law Library: \$2.50 Archive: \$1.00

IN THE CHANCERY COURT OF HINDS COUNTY, MISSISSIPPI
FIRST JUDICIAL DISTRICT

TONI JOHNSON, CHAIRWOMAN OF THE HINDS
COUNTY ELECTION COMMISSION and
YVONNE R. HORTON, HINDS COUNTY
ELECTION COMMISSIONER OF DISTRICT FOUR

PLAINTIFFS

VS.

CA. NO. _____

THE HINDS COUNTY BOARD OF SUPERVISORS

DEFENDANTS

COMPLAINT

Plaintiff Toni Johnson, Chairwoman of the Hinds County Election Commission and Yvonne R. Horton, Hinds County Election Commissioner of District Four bring this Complaint against the Hinds County Board of Supervisors (“Board of Supervisors”) to determine that (1) the Grant with the Center and Tech and Civic Life is a binding contract; (2) the Hinds County Commission is an independent body that has exclusive statutory authority to handle election matters, including and not limited to, seeking and expending grants for elections under Mississippi Code Sections 23-15-213 & 215; (3) the Hinds County Board of Supervisors cannot attempt to modify or add vendors that violate the terms of a grant; (4) the proper procedure for the Hinds County Election Commission to seek grants; (5) the Hinds County Election Commission has right to retain legal counsel paid by the Hinds County Board of Supervisors and the proper procedure to do such; (6) a tennis tournament does not educate voters about COVID-19 nor does it protect them from COVID-19, and (7) a temporary injunction and permanent injunction prohibiting the Hinds County Board of Supervisors from violating the Election Committee’s statutory activities; and (8) a temporary injunction and permanent injunction prohibiting the Board of Supervisors from violating the terms of the Grant from the Center for Tech and Civic Life.

1. Plaintiff Toni Johnson (“Chairwoman Johnson”) is the Chairwoman of the Hinds County Election Commission and the duly elected Hinds County Election Commissioner of District Two. Chairwoman Johnson is an adult resident of Hinds County.

2. Plaintiff Yvonne R. Horton (“Commissioner Horton”) is the duly elected Hinds County Election Commissioner of District Four. Commissioner Horton is an adult resident of Hinds County.

3. Defendant Hinds County Board of Supervisors (“Board of Supervisors”) is a governmental entity created by Section 170 of the Mississippi Constitution.

4. This Court has *in personam* jurisdiction over the parties in this matter as all parties are adult resident citizens of Hinds County and all are elected officials of Hinds County.

5. This Court has subject matter jurisdiction in this matter pursuant to Section 159 of the Mississippi Constitution and Section 9-5-81 of the Mississippi Code since the declaratory relief sought in this action intends to prevent an ongoing dispute capable of repetition yet otherwise subject to evading review and to prevent the multiplicity of actions, sounds in equity, as well as in law.

6. Venue is proper in this county and district since the facts and circumstances giving rise to the cause of action all occurred in this county and district.

7. Declaratory judgment is appropriate in this matter since the relief sought in this matter would result in a judgment that will terminate a controversy capable of repetition yet subject to evading review unless the relief sought here is granted. Declaratory judgment is further appropriate in this matter as it is necessary to remove uncertainty as to the proper statutory procedure for the Election Commission and the Board of Supervisors.

8. This matter is appropriate for and requires expedited handling on the docket of this Court and speedy resolution of the controversy between the parties because of the pending election on November 3, 2020.

STATEMENT OF FACTS

9. The Center for Tech and Civic Life (“CTCL”) is a non-profit organization with a mission to “connect Americans with the information they need to become and remain civically engaged, and ensure that our elections are more professional, inclusive, and secure.”¹

10. CTCL sponsored a COVID-19 Response Grant program to provide local election jurisdictions with monetary resources “to help ensure they have the critical resources they need to safely serve every voter in 2020.”

11. Specifically, the CTCL grants are meant to be used to cover expenses related to the safe administration of elections, incurred between June 15, 2020, and December 31, 2020,

12. In early September 2020, the Hinds County Election Commission Chair, Toni Johnson, contacted the Hinds County Administrator, Jennifer Riley-Collins, regarding the CTCL grant opportunity, who referred Chairwoman Johnson to the Hinds County Grants Specialist, Cindy Joffrion.

13. The Hinds County Election Commission (“Election Commission”) applied for a CTCL COVID-19 Response Grant. On September 26, 2020, CTCL awarded Hinds County a grant in the amount of one million five hundred nineteen thousand dollars (\$1,519,000.00).

14. The CTCL Grant Agreement requires the grant funds “to be used exclusively for the public purpose of planning and operationalizing safe and secure election administration in Hinds County in 2020.”

¹ Center for Tech and Civic Life, last accessed October 24, 2020, <https://www.techandcivicliflife.org/>

15. To secure the CTCL Grant, the Election Commission submitted the “Approved Safe Voting Plan,” which was attached to the Grant Agreement, and set forth the estimated expenditure of the CTCL Grant funds.

16. The Approved Safe Voting Plan clearly articulates that the “Hinds County Election Commission implemented new plans and procedures to protect citizens from the COVID-19 virus.” It also states that that the “Hinds County Election Commission developed the SAFE voting plan to ensure the safety of our residents” by addressing three areas of increased budgetary needs: (1) Increase in absentee voting needs and rural outreach; (2) Polling location safety for in-person voting sites and poll worker drop off; and (3) Polling location safety for absentee voting sites.

17. Finally, the Approved Safe Voting Plan concludes by stating that “[a]dditional funding to support the Hinds County Election Commissions will help to reduce the risk of exposure to coronavirus for voters, election staff, and poll workers.”

18. The Grant Agreement terms and conditions, including the expenditure of grant funds in accordance with the Approved Safe Voting Plan, were accepted by Hinds County Board of Supervisors (“Board of Supervisors”) on September 28, 2020.

19. The Hinds County Election Commission held a meeting to compose a budget and a list of supplies needed in compliance with the Grant.

20. Chairwoman Johnson submitted a working budget and general service contracts for vendors to the Hinds County Administrator and the Board of Supervisors to ensure compliance with the terms of the Grant.

21. Supervisor David Archie requested a meeting with the Hinds County Administrator, the Hinds County Director of Operations, and Chairwoman Johnson to discuss the

grant for October 8, 2020. At this meeting, Supervisor Archie demanded to have \$300,000 in hand-selected vendors added to the Grant, or he would not approve the general service agreements. Supervisor Archie requested some of the grant funds be spent on a tennis tournament and floor mats to prevent COVID-19. When a local television station asked Supervisor Archie how a tennis match had anything to do with reducing exposure of COVID-19 during the upcoming election, Supervisor Archie responded that the tennis tournament would educate the public. <https://www.wjtv.com/news/local/hinds-county-election-commission-rescinds-1-5m-grant-due-to-suspected-racketeering-by-supervisor-archie/>

22. On October 9, 2020, a conference call between Chairwoman Johnson, Supervisor Archie, the Hinds County Administrator, Supervisor Graham, and Supervisor Calhoun occurred where Chairwoman Johnson informed everyone that Supervisor Archie's requests were outside the scope of the Grant and were therefore illegal.

23. On October 12, 2020, the Hinds County Board of Supervisors held a special board meeting. At this meeting, Supervisor Archie, the Hinds County Administrator, and the Board attorneys recessed for a closed-door meeting where they added some of Supervisor Archie's vendors to the Grant that totaled more than \$150,000. See <https://www.wlbt.com/2020/10/14/m-grant-hinds-co-elections-limbo-after-elected-officials-fail-agree-spending-issues/> The Hinds County Board of Supervisors never consulted the Hinds County Election Commission and passed the budget by the majority votes of Supervisor Archie, Supervisor Graham, and Supervisor Calhoun.

24. On October 13, 2020, the same Supervisors violated the Open Meetings Act of the Mississippi Code by rescinding "their votes in private without telling the public or doing so in a public meeting." <https://www.wlbt.com/2020/10/14/m-grant-hinds-co-elections-limbo->

after-elected-officials-fail-agree-spending-issues/ On a local radio show, Supervisor Archie declared, “What we did is rescinded everything. What [does] that say? Look, don’t play with me.” *Id.*

25. The Hinds County Board Attorney informed the Supervisors that their private vote was not valid under Mississippi law. *Id.*

26. On October 23, 2020, Supervisor Graham emailed Ms. Tiana Epps-Johnson about setting up a conference call with CTCL to discuss the matter. After 27 days of accepting the terms of the Grant, Supervisor Graham sought to modify the agreement by seeking modifications into three categories “COVID, ABSENTEE VOTING and VOTER SAFETY.” *Id.* Supervisor Graham contends that the “original request was amended after further communication with the Election Commission and a subsequent determination that the list had to be streamlined to be fit with the budget and to eliminate duplicative purchases and unnecessary expenditures.” *Id.*

27. Supervisor Graham ends the email by stating that

“The Hinds County Board of Supervisors maintains its responsibility to administer and expend funds from grants that come within this County. Moreover, by law, the Board of Supervisors must approve any contract or claims that come before the County. As such we have a responsibility to ensure that the expenditures and contractors are proper.”

WHEREFORE, PREMISES CONSIDERED, the Plaintiffs pray this Court

declares the following:

(1) the Grant with the Center and Tech and Civic Life is a binding contract;

(2) the Hinds County Commission is an independent body that has exclusive statutory authority to handle election matters, including and not limited

to seeking and expending grants for elections under Mississippi Code Sections 23-15-213 & 215;

(3) the Hinds County Board of Supervisors cannot attempt to modify or add vendors that violate the terms of a grant after it has agreed to those terms;

(4) the proper procedure for the Hinds County Election Commission to seek grants;

(5) the Hinds County Election Commission has the right to retain legal counsel paid by the Hinds County Board of Supervisors and the proper procedure to do such²;

(6) a tennis tournament does not educate voters about COVID-19, nor does it protect them from it;

(7) a temporary injunction and permanent injunction prohibiting the Hinds County Board of Supervisors from violating the Election Committee's statutory activities; and,

(8) a temporary injunction and permanent injunction prohibiting the Hinds County Board of Supervisors from violating the terms of the CTCL Grant; and,

(9) any other relief declaratory or injunctive that is deemed appropriate.

Respectfully submitted,

² Hazzard Law, LLC is doing this case *pro bono*.

S/ Brent Hazzard _____
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