



IN THE CIRCUIT COURT OF ELMORE COUNTY, ALABAMA

IVY CREEK OF ELMORE, LLC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. _____
	)	
ELMORE COUNTY ECONOMIC	)	
DEVELOPMENT AUTHORITY,	)	
ELMORE COUNTY HEALTH CARE	)	
AUTHORITY,	)	
Defendants.	)	

**VERIFIED COMPLAINT FOR TEMPORARY RESTRAINING ORDER,
PRELIMINARY AND PERMANENT INJUNCTIVE RELIEF AND DAMAGES**

Plaintiff Ivy Creek of Elmore, LLC (Ivy Creek) states its verified complaint against Defendant Elmore County Economic Development Authority (ECEDA) and the Elmore County Health Care Authority (the Health Care Authority) as follows:

Introduction

In the year 2000, Elmore Community Hospital was days or weeks away from closing. Ivy Creek stepped in, took over the hospital, and turned it around. Since then Ivy Creek has operated the hospital under a lease with the Health Care Authority. Ivy Creek has fulfilled that role well, despite the current challenges facing rural hospitals in Alabama, and it has worked long and hard to ensure that it can continue to provide quality healthcare to the citizens of Elmore County for the remainder of its lease term and beyond.

Unfortunately, all that is now threatened. Ivy Creek has learned that one or more members of ECEDA, which is not a party to Ivy Creek's lease, have sought to interfere in the contractual relationship between the Health Care Authority and Ivy Creek, to interfere and impede Ivy Creek's ability to perform its obligations as operator of the Elmore County Community Hospital, and to supplant the role of the Health Care Authority in the acquisition and oversight of healthcare facilities and services in Elmore County. ECEDA is attempting

to accomplish this improper objective through the issuance of a Request for Proposal for a replacement hospital (RFP) that it issued at the end of July and for which responses are due on September 1. As appears below, ECEDA is a private company, not a governmental organization, and its RFP will have the effect of casting doubt on Ivy Creek's continued operation of the hospital. This will impair Ivy Creek's ability to effectively manage the hospital, because it will affect Ivy Creek's ability to recruit and hire personnel, sign with vendors, and plan for patients.

This complaint (1) seeks a declaration that Ivy Creek's lease remains in full force and effect through 2035; (2) seeks temporary, preliminary, and permanent injunctive relief against ECEDA, prohibiting that organization and its members from intentionally, tortiously, and without justification interfering with Ivy Creek's business relations with the Health Care Authority and others, including proceeding with the RFP on September 1; (3) seeks temporary, preliminary, and permanent injunctive relief against the Health Care Authority requiring that it observe and perform its own obligations under the lease, including its obligation to refrain from competing with Ivy Creek in the provision of healthcare services in Elmore County; and (4) seeks monetary damages for the conduct described in this Complaint.

Parties

1. Plaintiff Ivy Creek is an Alabama limited liability company.
2. Defendant ECEDA is an Alabama non-profit corporation doing business in Elmore County.
3. Defendant Health Care Authority is an Alabama non-profit corporation doing

business in Elmore County.

Jurisdiction and Venue

4. Jurisdiction is appropriate in this Court pursuant to Alabama Code § 12-11-30(1), 12-11-31, and 6-6-222.

5. Venue is proper in this Court under Alabama Code § 6-3-7.

Facts

6. The Health Care Authority is responsible for acquiring, operating, and owning healthcare facilities for the citizens of Elmore County. Its bylaws provide that it has the authority to acquire, construct, equip, enlarge, improve, maintain, and operate hospitals and related medical facilities for Elmore County.

7. It is not clear what ECEDA actually is. While its name appears calculated to suggest that it is some sort of quasi-governmental organization, it is not. It is simply an Alabama non-profit corporation. Its proceedings are not public, and it is far from clear where its funding comes from. It enjoys federal tax-exempt status under section 501(c)(3) of the Internal Revenue Code, and as such files an IRS form 990, a non-profit return, every year. Since before 2020, its returns disclose no income in the form of government grants or contributions. Nor, for that matter, does it receive any income from federated campaigns (such as the United Way), from membership dues, from fundraising events, or from “related organizations.” According to its forms 990 going back to before 2020, all of its income has come from the vague category of “other contributions, gifts, grants, and similar amounts not included above.”

8. Since at least 2000, the Health Care Authority has leased the Elmore Community Hospital to Ivy Creek.

9. From the beginning of the relationship, Ivy Creek and the Health Care Authority recognized the importance of long-term stability in fostering effective healthcare

in Elmore County. For example, the 2000 lease had a five-year initial term to 2005, but was renewable at Ivy Creek's option for three, successive, five-year intervals, so that it was effectively a twenty-year lease.

10. The 2000 lease was followed by a 2020 lease, which Ivy Creek and the Health Care Authority did not sign until 2022. The 2020 lease provided for a five-year term expiring in 2025 and for an additional five-year extension, exercisable at Ivy Creek's sole option, extending the term through 2030. Like its 2000 predecessor, the 2020 lease contained important obligations and restrictions on the Health Care Authority. It provided, among other things, that the Authority would not "own, manage, operate or control any hospital, or other health care facility." 2022 Lease ¶ 19. It also provided that, while Ivy Creek would be responsible for repairs in the ordinary course of business and for replacing consumable products, the Health Care Authority would be responsible for capital improvements "or repairs or replacement of ECH or BOARD Assets or components thereof." *Id.* at ¶ 24.

11. Since at least 2022, Ivy Creek and the Health Care Authority have had discussions about building a replacement hospital. To that end, the Health Care Authority has deferred capital improvement projects as well as repairs other than in the ordinary course of business. Ivy Creek has supported the deferral of these projects because a replacement hospital is in the best interest of health care in the Elmore County community.

12. In 2024, Ivy Creek notified the Health Care Authority that Ivy Creek intended to exercise its option to renew the lease for an additional five years, through 2030. The communication between the parties shifted quickly to a new five-year lease to commence in 2025 on substantially the same terms as the existing lease, which would of course include the same, five-year renewal option. On or about July 3, 2024, the Chairman of the Health Care Authority emailed the form of lease to Ivy Creek, stating that he would present it to the Authority for approval at its next meeting. The form of lease did in fact contain substantially

the same terms as the 2020 lease. It included an identical, five-year term (which would extend through 2030) and an identical, five-year renewal option (which would extend through 2035). At the next meeting, the board approved the lease. Its approval was recorded in the board's minutes, and those minutes were duly signed. Under the new lease, Ivy Creek would have the contractual right to remain the operator of the Elmore Community Hospital through 2035. Ivy Creek also agreed to the new lease. After the Health Care Authority approved it, Ivy Creek continued to pay rent , and it incurred financial obligations with the assumption that it would remain the operator of Elmore Community Hospital through 2035.

13. Despite the undisputed and exclusive role of the Health Care Authority in the acquisition, ownership, and operation of healthcare facilities in Elmore County, one or more members of ECEDA had other plans. They began discussions with Baptist Health of Montgomery and with one or more members of the Health Care Authority in an effort to cause the Health Care Authority to terminate its relationship with Ivy Creek and to cause Baptist Health of Montgomery to supplant Ivy Creek as the chief provider of hospital-based healthcare services in Elmore County.

14. Baptist Health of Montgomery, apparently at the behest of ECEDA, began working on a secretive proposal called "Project Mercury," which, on information and belief, envisioned Baptist Health of Montgomery, ECEDA, and the Health Care Authority collaborating to build a replacement hospital in Elmore County to be operated by Baptist Health of Montgomery.

15. In May 2026, Ivy Creek issued Open Records Act requests to the Health Care Authority and to the Elmore County Commission, seeking among other things information regarding "Project Mercury." The Health Care Authority and the County Commission requested additional time to respond to the Open Records Act requests. In an obvious attempt to draw attention away from their clandestine activity, on July 29, 2026, ECEDA

decided to instead publicly issue a “request for proposal” (RFP), a copy of which is attached as Exhibit A, for the construction of a replacement hospital for Elmore County. The RFP was apparently the result of the work of a select “task force,” one of whom was the CEO of ECEDA and one of whom had a clear conflict of interest.

16. On information and belief, the ECEDA RFP is based on, and designed to accommodate, Montgomery Baptist’s “Project Mercury” proposal, and thus is calculated to give Montgomery Baptist an advantage. Among other things, it recited that Ivy Creek’s lease was scheduled to expire in 2030, not 2035, which was false. It is so vague and rudimentary as to give ECEDA absolute and unfettered discretion to choose Montgomery Baptist with no objective criteria or standards for making an objective decision.

17. ECEDA and its members are aware that there is a business relationship, including but not limited to a contractual relationship, between the Health Care Authority and Ivy Creek. ECEDA and its members are also aware of Ivy Creek’s business relationships with its physicians and its patients.

18. ECEDA’s RFP is intended to interfere with the contractual relationship between the Health Care Authority and Ivy Creek by inviting Montgomery Baptist to build a hospital competing with Elmore Community Hospital.

19. Although ECEDA’s RFP purports to allow entities other than Montgomery Baptist to submit proposals for building replacement hospitals, it is designed and intended to favor Montgomery Baptist.

20. The ECEDA RFP is likely to have an immediate and irreparable effect on Ivy Creek’s business, an immediate and irreparable effect on Ivy Creek’s ability to recruit and retain qualified doctors and other medical professionals to contract with vendors, and an immediate and irreparable effect on Ivy Creek’s ability to continue to provide quality healthcare services to the citizens of Elmore County. If ECEDA were allowed to proceed with

its RFP, Ivy Creek's physicians, vendors, patients, and indeed even the public at large would immediately view Ivy Creek's continued existence as uncertain, at best. It is for that precise reason that the lease includes a provision prohibiting the Health Care Authority from competing with Ivy Creek during the term of the lease. Indeed, the threat posed by this RFP is so severe and irreparable that it could lead to the financial demise of Ivy Creek before 2030, leaving no licensed operator in place to run the hospital.

21. Ivy Creek has an excellent record for patient care. In all measurable criteria, Elmore County Community Hospital consistently ranks at or above similarly situated hospitals, including hospitals that are part of the Baptist network. One Ivy Creek affiliate, Lake Martin Community Hospital, has been recognized as one of only five hospitals in Alabama to receive a 5-star CMS rating for patient experience, the highest rating possible. Moreover, Ivy Creek does not follow the economic model often seen in larger hospital networks like Baptist and UAB, where their rural healthcare facilities are often used as "feeders" – a means to identify, capture, and refer cases to the larger population centers in Alabama.

22. Ivy Creek has engaged in efforts for several years, working with the Health Care Authority, to plan for the construction of a replacement hospital. ECEDA's RFP and its attempts to drive Ivy Creek out of Elmore County will have the effect of frustrating these efforts to build a replacement hospital.

COUNT ONE

Tortious Interference

(ECEDA)

23. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 19 above as if fully set forth herein.

24. Plaintiff had valid and existing business relations and contractual

expectations with the Health Care Authority regarding the operation of the Elmore County Community Hospital and future contracts for hospital operations in Elmore County.

25. Defendant ECEDA had knowledge of Plaintiff's business relations and contractual expectations with the Health Care Authority.

26. Defendant ECEDA intentionally and unjustifiably interfered with Plaintiff's business relations by contacting Baptist Health of Montgomery and the Health Care Authority to induce the termination of Plaintiff's relationship and to cause Baptist Health of Montgomery to supplant Plaintiff as the chief provider of hospital-based healthcare services in Elmore County.

27. As a direct and proximate result of ECEDA's intentional interference, Plaintiff has suffered and will continue to suffer damages in an amount to be determined at trial.

COUNT TWO

Declaratory Judgment

(Health Care Authority)

28. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 19 above as if fully set forth herein.

29. An actual controversy exists between Plaintiff and Defendants regarding Plaintiff's rights under its lease with the Health Care Authority and the validity of Defendants' actions in connection with Project Mercury and the issuance of the RFP for a replacement hospital.

30. Plaintiff is entitled to a declaration of its rights and legal relations with respect to the operation of the Elmore County Community Hospital, the enforceability and term of its lease, and the validity of Defendants' conduct.

31. Plaintiff lacks an adequate remedy at law for the harm threatened by

Defendants' actions, and declaratory relief is necessary to resolve the controversy and prevent further harm to Plaintiff.

32. By reason of the foregoing, Plaintiff seeks a declaratory judgment and such other relief as the Court deems just and proper.

33. By participating in the ECEDA RFP, the Health Care Authority has breached its contractual obligation not to control a competing health care facility in Elmore County.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Ivy Creek of Elmore, LLC respectfully requests that this Court:

1. Award Ivy Creek of Elmore, LLC compensatory damages against Elmore County Economic Development Authority in an amount to be determined at trial for the harm suffered as a result of intentional interference with business relations, together with pre-judgment and post-judgment interest as allowed by law.

2. Declare the rights and legal relations of Ivy Creek of Elmore, LLC with respect to its lease with Elmore County Health Care Authority, including the enforceability and term of its lease and the validity or invalidity of the actions of Elmore County Economic Development Authority and Elmore County Health Care Authority in connection with Project Mercury and the issuance of the request for proposal for a replacement hospital.

3. Enjoin Elmore County Economic Development Authority and Elmore County Health Care Authority from taking any further action to interfere with Ivy Creek of Elmore, LLC's contractual rights or business relations regarding the operation of the Elmore County Community Hospital, including any action in furtherance of the RFP, pending final resolution of this action.

4. Award Ivy Creek of Elmore, LLC its costs of suit and reasonable attorneys' fees to the extent permitted by law.

5. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

s/ William G. Somerville
William G. Somerville
will@somervillepewitt.com

s/ James P. Pewitt
James P. Pewitt
jim@somervillepewitt.com

OF COUNSEL:
SOMERVILLE PEWITT LLP
Two North Twentieth
2 20th Street North, Suite 925
Birmingham, AL 35203
Telephone: (205) 874-6686

127 Cambridge Court
Wetumpka, Alabama 36092
Office: (334) 567-8787
Fax: (334) 567-4631
dena@wkendrickjames.com

/s/ W. Kendrick James
W. Kendrick James (JAM024)

Attorneys for Ivy Creek of Elmore, LLC

Plaintiff Requests Service By Certified Mail:

Elmore County Economic Development Authority
c/o David W. Sikes, Registered Agent
550 Haggerty Road
Wetumpka, AL 36093

Elmore County Health Care Authority
c/o Frank Barnett, Chairman
500 Hospital Drive
Wetumpka, AL 36092

VERIFICATION

I, Mike Bruce, CEO of Ivy Creek of Elmore, LLC, verify that the facts set forth in the foregoing Verified Complaint are true and complete to the best of my knowledge and belief.



Mike Bruce

STATE OF ALABAMA)

COUNTY OF ELMORE)

I, THOMAS J AZAR JR, a Notary Public in and for said County in said State, hereby certify that Mike Bruce, who is known to me, acknowledged before me on this day that, being informed of the contents of the foregoing Verified Complaint, he voluntarily executed the same on behalf and of the Plaintiff.

Given under my hand and seal, this 26th day of August, 2026.




NOTARY PUBLIC

[SEAL]

My Commission Expires: 6/30/2029

EXHIBIT A

Request for Proposal

For Healthcare Facility Services

The Elmore County Economic Development Authority ("ECEDA"), working in conjunction with the Elmore County Health Care Authority ("ECHCA") and other local partners, is soliciting proposals to provide planning, development, implementation, and transition support services for community healthcare services. The services shall be based in Wetumpka, Alabama, which is the geographic center of Elmore County. This request for proposal ("RFP") is intended to identify a partner with the experience, operational capability, and strategic vision to deliver a long-term solution that addresses current community healthcare needs while supporting future growth. This RFP is being solicited in advance of the June 2030 Elmore Community Hospital scheduled lease expiration.

The respondent will be expected to support the development of a modern replacement hospital, compliant with current Life Safety Code requirements, and related outpatient expansion opportunities, while maintaining the existing core services currently provided at Elmore Community Hospital. The project is expected to be delivered in phases to balance immediate operational priorities with long-term flexibility and sustainability. The respondent must be able to demonstrate their ability to provide the necessary funding to accomplish the replacement hospital along with the ability to financially support operations and future growth on a long-term basis. Responses to this RFP shall include all financial information necessary to provide proof to ECEDA that the respondent has the resources to perform the measures in the response to this RFP and should include a detailed listing of any partners needed to accomplish the response.

The RFP scope includes planning and implementation of a general acute care hospital designed to meet current community demand while accommodating future expansion and community health needs. Respondents should address how they would approach core service and general acute care facility components, including, but not limited to:

- 1) Inpatient service;
- 2) Emergency department service;
- 3) Surgical services;
- 4) Procedure services;
- 5) Space to support future expansion;
- 6) Imaging with inpatient and outpatient access; and
- 7) All other services required as a Condition of Participation in 42 C.F.R Part 482.

Respondents should also address future expansion components to meet long term healthcare needs of the residents of Elmore County, including, but not limited to:

- 1) Expansion of outpatient, and specialty services,
- 2) Physician office space;
- 3) Phased growth strategies;
- 4) Physician alignment;
- 5) Outpatient services planning; and
- 6) Implementation sequencing.

Respondents should describe their qualifications and proposed approach in the following service areas, as applicable to the project:

- 1) Facility planning and inpatient services;
- 2) Planning, designing, and operating community-based inpatient facilities;

- 3) Surgical services;
- 4) Procedure services;
- 5) Ability to support the development of surgical and procedural capacity appropriate for a general acute care hospital setting;
- 6) Emergency services;
- 7) Imaging and diagnostics;
- 8) Outpatient and specialty services; and
- 9) All other services required as a Condition of Participation in 42 C.F.R. 482.

Respondents should submit proposals that demonstrate organizational qualifications, relevant experience, project approach, implementation methodology, and long-term ability to support a healthcare facility development initiative.

Responses should outline any proposed organizational structure to partner with or coordinate with the ECHCA in a way to facilitate use of current hospital tax funds and other existing assets. Proposals will be evaluated based on the respondent's demonstrated qualifications, understanding of the project, quality of the proposed approach, ability to support phased implementation, pricing, and overall alignment with the objectives of this RFP.

ECEDA reserves the right to shortlist respondents, request interviews or presentations, seek clarifications, negotiate scope and pricing, and award a contract based on the proposal deemed to be in Elmore County's best interest.

ECEDA may request additional information from one or more respondents during the evaluation process and may reject any or all proposals at its discretion.

ECEDA reserves the right to modify, suspend, or cancel this RFP at any time and to accept or reject any proposal in whole or in part. Issuance of this RFP does not obligate the organization to award a contract or to pay any costs incurred in the preparation of a response.

All proposal materials submitted in response to this RFP may become part of the procurement record, subject to applicable law and policy. Respondents should clearly identify and label any information they consider confidential or proprietary.

The selected respondent may be required to enter into a written agreement with the issuing organization and comply with all applicable legal, regulatory, insurance, and organizational requirements. Additionally the selected respondent should be prepared to coordinate with ECEDA, ECHCA, and other local partners to ensure all state and federal regulatory requirements are met.

Proposals should be submitted no later than Tuesday, September 1, 2026, to Richie Beyer, CEO of ECEDA at Richie.beyer@elmoreeda.com. Questions regarding this RFPs should be directed to the Richie Beyer by email as well. Late submissions shall be rejected.