



IN THE CIRCUIT COURT OF ELMORE COUNTY, ALABAMA

IVY CREEK OF ELMORE, LLC;

Plaintiff,

v.

ELMORE COUNTY ECONOMIC
DEVELOPMENT AUTHORITY,
ELMORE COUNTY HEALTH CARE
AUTHORITY,

Defendants.

Case No. _____

MOTION FOR EXPEDITED DISCOVERY

Plaintiff, Ivy Creek of Elmore, LLC (Ivy Creek), hereby moves the Court for an order expediting discovery relating to its claims for tortious interference and declaratory judgment in preparation for the Court's adjudication of Ivy Creek's motion for preliminary injunction.. As grounds for this motion, Ivy Creek would show as follows:

1. Contemporaneously with the filing of this motion, Ivy Creek has filed a verified complaint and motion for temporary restraining order and preliminary injunction. Permitting limited discovery in anticipation of the preliminary injunction hearing will allow the Court and the parties to narrow the issues in preparation for the hearing.

2. Attached as Exhibit A to this motion is a proposed set of interrogatories and requests for production to the Defendants. Attached as Exhibit B to this motion is a notice of deposition for Lisa Van Wagner, the former CEO of the Elmore County Economic Development Authority. Attached as Exhibit C is a notice of deposition for Ritchie Bayer, the current CEO of the Elmore County Economic Development Authority.

FOR THESE REASONS, Ivy Creek respectfully asks the Court to (1) allow it to propound the limited written discovery requests attached as **Exhibit A** and to take the

depositions of Lisa Van Wagner and Richie Beyer, and (2) require the Defendants to respond to the written discovery within 7 days and order the noticed depositions to occur within 14 days.

Respectfully submitted,

/s/ William G. Somerville
 WILLIAM G. SOMERVILLE
 JAMES P. PEWITT

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Attorneys for Ivy Creek of Elmore, LLC

CERTIFICATE OF SERVICE

Plaintiff, Ivy Creek of Elmore, LLC, requests that the foregoing be served upon the Defendants with the Verified Complaint for Temporary Restraining Order, Preliminary and Permanent Injunctive Relief and Damages.

EXHIBIT A

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.	)	

**FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION
TO DEFENDANTS**

Pursuant to Rules 33 and 34 of the Alabama Rules of Civil Procedure, Plaintiff requests that the Defendants respond to the following interrogatories and produce, subject to the definitions and instructions below, the following documents and things for inspection, within thirty days, at the offices of Somerville Pewitt, LLP, 2 20th Street North, Suite 925, Birmingham, Alabama 35203. These interrogatories and requests seek the production of all information and documents in your possession, custody, or control and shall be deemed continuing in nature pursuant to Rule 26 of the Alabama Rules of Civil Procedure, requiring Defendants to serve such further responses and documents promptly after they acquire additional knowledge or information relating to these requests in any way.

DEFINITIONS

1. "Communication" means any written, oral, or other transmission of fact, information, ideas or opinion, including, but not limited to, any utterance, notation, question, command, interjection, expression, gesture, suggestive conduct or statement of any nature whatsoever, any conversation (whether by telephone or otherwise), and any meeting and also

including, but not limited to, correspondence, financial records, corporate records, reports, and documents as defined below.

2. "Complaint" shall mean the Complaint that Plaintiff filed against the Defendants in the Circuit Court for Elmore County, Alabama, and any subsequent amendments thereto.

3. "Concerning" shall mean relating to, referring to, describing, evidencing, identifying, disclosing, or constituting.

4. "Correspondence" means, but shall not be limited to, any letter, telegram, telex, TWX, facsimile, e-mail, notice, message, memorandum, or other written communication or transcription of notes of a communication.

5. "Document" shall, pursuant to Rule 34 of the Alabama Rules of Civil Procedure, be broadly construed to include, without limitation, all writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations stored in any medium from which information can be obtained either directly or, if necessary, after translation by the responding party into a reasonably usable form. For the purposes of these requests, any document that contains any note, comment, addition, deletion, insertion, annotation, or otherwise comprises a non-identical copy of another document shall be treated as a separate document subject to identification, and any document that is electronically stored shall be produced in its native format with the metadata preserved.

6. "Identify," with respect to a person, shall mean to give, to the extent known, the person's full name, present or last known address, and, when referring to a natural person, the present or last known place of employment. Once a person has been identified in accordance with this subparagraph, only the name of that person need be listed in response to subsequent discovery requesting the identification of that person.

7. "Identify," with respect to documents, means to give, to the extent known, the (a) type of document; (b) general subject matter; (c) date of the document; (d) author(s), addressee(s), and recipient(s).

8. "Includes" and "including" as used herein is illustrative and is in no way a limitation upon the information requested.

9. "Person" or "persons" shall mean any natural person, corporation, partnership, proprietorship, association, joint venture, governmental or other public entity, or any other form of organization or legal entity, and all its officials, directors, officers, employees, representatives, and agents.

10. "Plaintiff" or "Ivy Creek" shall mean, collectively and/or separately, Plaintiff, Ivy Creek of Elmore, LLC, and any employees, agents, or contractors acting for or on its behalf, whether in existence now or any time.

11. "Referring or related to," "refer or relate to," or "refers or relates to" shall be construed in their broadest sense and mean relevant in any way to the subject matter specified, including, but not limited to, constituting, comprising, recording, reflecting, exhibiting, indicating, discussing, analyzing, evidencing, representing, illustrating, mentioning, referring or relating to, evaluating, or commenting upon the subject matter.

12. "Regarding" shall mean to contain, record, discuss, mention, note, evidence, memorialize, analyze, describe, comment upon, refer to, have any connection with, or have any tendency to prove or disprove the matters set forth.

13. "Report" means, but shall not be limited to, any study, analysis, appraisal, inspection, survey, test, poll, memorandum, or statistical or financial compilation of information, including without limitation periodic reports of financial condition and reports of examination.

14. The term “this lawsuit” or “present lawsuit” shall mean the case filed by Plaintiff against the Defendants in the Circuit Court of Elmore County, Alabama.

15. “Thing” shall mean any physical specimen or other tangible item, other than a document.

16. “Witness” shall mean any person who has been deposed, will be deposed, might be deposed, might testify, or who may have any information concerning this case.

17. “You” and “your” shall refer to each of the Defendants, collectively and/or separately, and any person currently or formerly associated in any capacity with any of the Defendants.

18. Insofar as a term contained in these requests for production is not explicitly defined, the meaning to be used in the commonly accepted definition of the term.

19. Nothing in these requests for production, instructions, and definitions should be construed as an admission as to the proper scope of these terms herein, as they may pertain to the asserted patents or to the related applications.

INSTRUCTIONS

1. These interrogatories and requests for production are to be read and interpreted in accordance with the Instructions and Definitions set forth herein.

2. These interrogatories and requests are deemed to be continuing so as to require the service of supplemental responses promptly in accordance with Rule 26 of the Alabama Rules of Civil Procedure.

3. Each interrogatory and request is to be responded to separately and as completely as possible. The fact that investigation is continuing or that discovery is not complete shall not be used as an excuse for failure to respond to each request as fully as possible. The omission of any information from your responses (including without limitation reference to documents or things) shall be deemed a representation that such information is

not known to you, your agents, counsel, or other representatives at the time of the service of the responses or thereafter.

4. Words in the masculine, feminine, or neuter shall include each of the other genders as necessary to make the requests inclusive rather than exclusive.

5. The word “and” and the word “or” shall be construed conjunctively or disjunctively as necessary to make the requests inclusive rather than exclusive.

6. The singular shall be deemed to include the plural and the plural to include the singular as necessary to make the requests inclusive rather than exclusive.

7. If you withhold any information called for in these interrogatories and requests on the grounds of privilege, provide a privilege log in accordance with the Alabama Rules of Civil Procedure identifying the nature of the documents, communications, or things not produced or disclosed in a manner sufficient to assess the claim of privilege. The undersigned counsel is willing to meet and confer to discuss a mutual procedure for logging privileged documents.

8. Each request seeks the production of all documents described in the request that are in your possession, custody, or control, whether prepared by you or any other “person” (as defined above). If any document responsive to a request has been lost, destroyed, transferred to a third party over whom Defendant claims it lacks control, or is otherwise unavailable, please identify the document by author, date, and subject matter; the date and circumstances surrounding the loss, destruction, or transfer; the reason for the loss, destruction, or transfer; the person or entity to whom transferred; the present location of the document; and the date and manner in which you can or may obtain the document.

9. Should you claim that any documents and things identified in response to these requests are beyond the scope of permissible discovery, such claim shall specify in detail all the grounds on which the claim rests. Pursuant to Rule 37 of the Alabama Rules of Civil

Procedure, Defendants/Counterclaim Plaintiffs may move the Court for an order excluding from evidence all documents and things that were known to you at the time of your responses to these requests, but not disclosed in your responses thereto.

10. In responding to the requests in this document:

a. Each document or thing is to be produced, with all non-identical copies and drafts thereof, in its entirety, without abbreviation, redaction, or reduction.

b. More than one paragraph of this request may ask for the same document or thing. The presence of such duplication is not to be interpreted to narrow or limit the normal interpretation placed upon each individual request. Where a document or thing is requested in more than one numbered paragraph, only non-identical copies of it need be produced.

Interrogatories

1. Identify each person who contributed in any way to your responses to these discovery requests.

2. Identify each person whom you expect to have discoverable information concerning the allegations of the Complaint.

3. Identify each and every document you intend to introduce as an exhibit in support of any claim or defense in this matter.

4. Identify each and every person whom you intend to call as a witness in support of any claim or defense in this matter.

5. Identify each and every person whom you expect to call as an expert witness at trial, state the subject matter on which the expert is expected to testify, and state the substance of the facts and opinions to which the expert is expected to testify with a summary of the grounds for each opinion.

Requests

1. All communication and documents concerning the 17 Springs Project (the Project), including but not limited to any communications regarding the ownership of the Project, incentives for the Project, and abatements for the Project.

2. All documents and materials provided to the Elmore County Economic Development Authority (ECEDA), the Elmore County Commission (the Commission), the Elmore County Healthcare Authority (the Authority), or to any of its members, directly or indirectly, by the Healthcare Authority for Baptist Health (Baptist Health) (or any of its affiliates, including Baptist Health Montgomery), regarding any proposed or contemplated provision of healthcare services in Elmore County, including but not limited to any materials concerning "Project Mercury" or Baptist Health's proposal to open a free-standing ER facility or new hospital in Elmore County, Alabama.

3. All documents and communications with Baptist Health (or any of its affiliates, including Baptist Health Montgomery) relating to potential funds going to Baptist Health for indigent care should it open a free-standing ER facility or new hospital in Elmore County, Alabama.

4. All communications with Baptist Health (or any of its affiliates including Baptist Health Montgomery) relating in any way to any proposed or contemplated provision of healthcare services in Elmore County.

5. All documents and communications relating to any plans or proposals to

purchase real property or donate real property for Baptist Health (or any of its affiliates, including Baptist Health Montgomery) to open a free-standing ER facility or new hospital in Elmore County, Alabama.

6. Any agreements, including any non-disclosure agreements, executed in favor of Baptist Health (or any of its affiliates) within the last six months.

7. The minutes from the last 24 months of meetings of ECEDA, the Commission, and the Authority.

8. All pro forma financial statements, feasibility studies, or budgets within the last two years for any proposed healthcare facility in Elmore County, Alabama to be operated by any entity other than Ivy Creek.

9. All communications and documents exchanged over the last 24 months by and between ECEDA, the Commission, the Authority, and/or any of its current or past members concerning Ivy Creek, "Project Mercury," or any proposed healthcare facilities or services to be considered for Elmore County, including but not limited to any plans or proposals for the operation or replacement of the Elmore Community Hospital.

10. All communications exchanged by you over the last 24 months with Jackson Hospital & Clinic, Inc. concerning Ivy Creek, "Project Mercury," or any proposed healthcare facilities or services to be considered for Elmore County.

11. All communications, documents, records, or reports (formal or informal)

generated or received over the last 24 months concerning or relating in any way to Ivy Creek or to the future operation of the Elmore Community Hospital.

12. All communications over the last 24 months between ECEDA, the Commission, the Authority, and/or any of its current or past members, on the one hand, and UAB Health System or UAB Health Services Foundation, on the other, relating to the future provision of healthcare services in Elmore County.

13. All communications and other documents regarding or relating in any way to Ivy Creek's lease for the Elmore Community Hospital.

14. All communications and other documents that pertain or relate in any way to the Request for Proposal issued by ECEDA, a copy of which is attached hereto as Exhibit A.

Respectfully submitted,

s/ William G. Somerville
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s/ James P. Pewitt
James P. Pewitt
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/s/ W. Kendrick James
W. Kendrick James (JAM024)

Attorneys for Ivy Creek of Elmore, LLC

CERTIFICATE OF SERVICE

Plaintiff, Ivy Creek of Elmore, LLC, requests that the foregoing be served upon the Defendants with the Verified Complaint for Temporary Restraining Order, Preliminary and Permanent Injunctive Relief and Damages.

EXHIBIT B

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.	)	

NOTICE OF DEPOSITION

Please take notice that, on a mutually agreeable date within the time provided by Order of the Court, Plaintiff will take the deposition upon oral examination of **Lisa Van Wagner** at the office of W. Kendrick James, 127 Cambridge Court, Wetumpka, Alabama 36092. The deposition will be taken before a notary public or before some other officer authorized by law to administer oaths, for the purpose of discovery, or for the use as evidence in this action, or for both purposes, pursuant to the Alabama Rules of Civil Procedure. The deposition will continue from day to day until completed.

Dated: August 26, 2026

Respectfully submitted,

s/ William G. Somerville
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s/ James P. Pewitt
James P. Pewitt
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Attorneys for Ivy Creek of Elmore, LLC

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EXHIBIT C

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.	)	

NOTICE OF DEPOSITION

Please take notice that, on a mutually agreeable date within the time provided by Order of the Court, Plaintiff will take the deposition upon oral examination of **Ritchey Bayer** at the office of W. Kendrick James, 127 Cambridge Court, Wetumpka, Alabama 36092. The deposition will be taken before a notary public or before some other officer authorized by law to administer oaths, for the purpose of discovery, or for the use as evidence in this action, or for both purposes, pursuant to the Alabama Rules of Civil Procedure. The deposition will continue from day to day until completed.

Dated: August 26, 2026

Respectfully submitted,

s/ William G. Somerville
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s/ James P. Pewitt
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Attorneys for Ivy Creek of Elmore, LLC

CERTIFICATE OF SERVICE

Plaintiff, Ivy Creek of Elmore, LLC, requests that the foregoing be served upon the Defendants with the Verified Complaint for Temporary Restraining Order, Preliminary and Permanent Injunctive Relief and Damages.