



AlaFile E-Notice

29-CV-2026-900350.00

Judge: J AMANDA BAXLEY

To: WILLIAM GLASSELL SOMERVILLE III
will@somervillepewitt.com

NOTICE OF ELECTRONIC FILING

IN THE CIRCUIT COURT OF ELMORE COUNTY, ALABAMA

IVY CREEK OF ELMORE V. ELMORE COUNTY ECONOMIC DEVELOPMENT AUTHORITY ET
29-CV-2026-900350.00

The following matter was FILED on 10/22/2026 6:14:01 PM

C001 IVY CREEK OF ELMORE

IVY CREEK'S (1) RESPONSE TO OBJECTION AND (2) MOTION FOR ISSUANCE OF SUBPOENA

[Filer: SOMERVILLE WILLIAM GLASSE]

Notice Date: 10/22/2026 6:14:01 PM

MICHAEL DOZIER
CIRCUIT COURT CLERK
ELMORE COUNTY, ALABAMA
ELMORE COUNTY JUDICIAL CENTER
P.O. BOX 310
WETUMPKA, AL, 36092

334-514-3116
michael.dozier@alacourt.gov



IN THE CIRCUIT COURT OF ELMORE COUNTY, ALABAMA

IVY CREEK OF ELMORE, LLC,	)	
	)	
Plaintiff,	)	
v.	)	CV-26-900350
	)	
ELMORE COUNTY ECONOMIC	)	
DEVELOPMENT AUTHORITY and	)	
ELMORE COUNTY HEALTHCARE	)	
AUTHORITY,	)	
	)	
Defendants.	)	

**IVY CREEK'S SUPPLEMENTAL SUBMISSION IN SUPPORT
OF ITS MOTION FOR ISSUANCE OF JACKSON THORNTON SUBPOENAS**

In further support of its “(1) Response to Objection and (2) Motion for Issuance of Subpoena” (Doc. 57), Ivy Creek of Elmore, LLC (“Ivy Creek”) shows as follows:

1. In this civil action, Ivy Creek has sued the so-called Elmore County Economic Development Authority (“ECEDA”)¹ for tortious interference with business relations, among other causes of action. Ivy Creek’s intentional interference claim relates in part to a request for proposal (RFP) that ECEDA issued for a new hospital to replace the Elmore Community Hospital currently operated by Ivy Creek under lease from the Elmore County Healthcare Authority. The fact of ECEDA’s interference is incontrovertible: there is no question that ECEDA knew of the business relationship between Ivy Creek and the Elmore County Healthcare Authority; and there is no question that ECEDA tried to interfere with that relationship by bringing Baptist Health into Elmore County to provide Elmore County’s hospital-based healthcare.

¹ As Ivy Creek states in its Complaint, ECEDA is not a governmental or quasi-governmental entity, despite the fact that its name misleadingly contains the word “authority.”

2. The only question is whether ECEDA's interference is "justified." On September 11, anticipating² that ECEDA would assert this affirmative defense, Ivy Creek filed a motion to shorten time for the defendants to object to a Rule 45 notice of intent for the issuance of subpoenas to Jackson Thornton, the accounting firm that performs accounting services for ECEDA. ECEDA objected to the subpoenas primarily on grounds of relevance (Doc. 54), and Ivy Creek moved for issuance of the subpoenas on the ground that the subpoenas sought relevant information (Doc. 57). Specifically, Ivy Creek pointed out that the subpoenas sought information relating to the sources of ECEDA's funding, and that such information is relevant to ECEDA's motivation for interfering with Ivy Creek's business relations (Doc. 57). The Court set Ivy Creek's motion for issuance of the subpoenas on October 7. That hearing was later canceled.

3. The information sought by Ivy Creek is relevant to the defense of justification. Alabama has adopted the test set forth in the Restatement (Second) of Torts, and that test makes clear that, in assessing the defense of justification, the Court is to consider the defendant's motive and the interests being advanced by the defendant's conduct. *White Sands Group, LLC v. PRS II, LLC*, 32 So.3d 5, 13-14 (Ala. 2009). Documents relating to ECEDA's funding will be relevant to ascertaining both its motives and the interests being advanced by its conduct.

4. As will be seen below, and in the attached emails, ECEDA began working on a project, to which it assigned the secretive code name "Project Mercury," sometime in 2024. The purpose of Project Mercury was to bring Baptist Health of Montgomery into Elmore County to replace Ivy Creek as the provider of hospital-based healthcare services in the county. Notably, ECEDA did not apprise the Healthcare Authority that it was engaged in

² ECEDA has indeed asserted the affirmative defense of justification in its answer. *See* Doc. 111.

Project Mercury, despite the fact that it is the Healthcare Authority's statutory responsibility to oversee the provision of hospital-based healthcare services Elmore County.³

5. As alleged in Ivy Creek's Complaint, ECEDA is a shadowy organization whose finances and operations are not subject to public scrutiny. *See* Complaint at ¶7. As a 501(c)(3), it is required to file a IRS Form 990 that shows its funding sources, but its Form 990 claims that ECEDA gets no funds from governmental sources, from membership dues, from federated fundraising sources (such as the United Way). It simply says ECEDA's funding comes from "other" sources. *Id.*; *see also* Doc. 48, ¶2 & Exhibit C.

6. The extent of ECEDA's relationship with Baptist Health is not fully known. After Ivy Creek learned about Project Mercury and began asking questions about it, ECEDA devised a scheme to make the process appear to be a fair one. Specifically, Baptist and ECEDA collaborated in putting together the RFP, which appears to have been designed to have a veneer of impartiality. But the RFP was a sham; the "task force" that drafted the "Mercury RFP" was infested with ECEDA members who had a vested interest in awarding the project to Baptist Health. Lee Greer, for example, is the CEO of Ivy Creek's competitor, the Tallassee Community Hospital. Worse than that, ECEDA included Baptist Health's CEO, Russ Tyner, on the task force, and allowed him to participate in drafting the RFP *before it was issued*. *See* email from Richie Beyer (ECEDA CEO), addressed to "Taskforce Members," Bates No. ECHCA 000122, dated June 15, 2026, attached as "**Exhibit 1**" hereto.

7. Contrary to ECEDA's assertions, ECEDA's accounting records are clearly relevant, and their relevance has only become clearer since ECEDA filed its objection.

³ The Healthcare Authority was established pursuant to the Alabama Health Care Authorities Act, whose purpose was to create public health care authorities to exercise the powers necessary to administer health care in Alabama communities. *See generally* Ala. Code. § 22-21-312 (legislative findings and intent of the Health Care Authorities Act). ECEDA's conduct here amounts to a usurpation of that authority.

Documents have come to light that confirm that it is ECEDA, rather than the Healthcare Authority, that has been taking the lead on Project Mercury.

8. ECEDA did not disclose the existence of Project Mercury to the Healthcare Authority until August 2025. Upon learning of Project Mercury, the Honorable Jason Britt, probate judge of Elmore County and a member of the Healthcare Authority, expressed the same concerns that Ivy Creek has expressed in this lawsuit, *i.e.*, how long has ECEDA been working on the project, and why was the Healthcare Authority not involved in it?

I write to express my concern regarding how the Baptist Health proposal has been presented to the Healthcare Authority. Recent disclosures indicate that the Elmore County Economic Development Authority (ECEDA) has been working on this project for some time and may have even secured some land for a potential hospital site. Yet, the Healthcare Authority Board is only now being asked to consider it.

See Email from Jason Britt to Healthcare Authority board members, September 16, 2025, ECHCA 000085, attached as “**Exhibit 2**” hereto. In that email, Judge Britt demanded answers to the following specific questions:

1. How long has this proposal been in development?
2. Which organizations, agencies, or individuals have been involved, and how many were engaged before the Healthcare Authority was informed?
3. Why was the Healthcare Authority not involved in this process earlier?
4. What commitments—financial, contractual, or property-related—have already been made with Baptist Health or other parties?

Id. Judge Britt went on to request additional information relating to the project, noting that the Healthcare Authority cannot simply “sign off” on ECEDA’s project without performing its own thorough investigation to ensure that it is acting “transparently” to “safeguard the community’s interests.” *Id.* It is not clear that the Healthcare Authority has ever received the information that Judge Britt requested.

9. Other documents produced by the defendants provide clues to the questions raised by Judge Britt. But these clues only raise additional questions about—to use Judge Britt’s words—the “financial, contractual, or property-related” “commitments” “made with Baptist Health and other parties.” The email attached as Exhibit 1 appears to show that Baptist Health or its CEO, Russ Tyner, is a member of ECEDA. It shows, moreover, that Tyner is a member of the ECEDA’s Project Mercury Task Force. Finally, it shows that Tyner and Baptist Health helped draft the RFP that ECEDA sent to Ivy Creek and other potential providers. As a practical matter, this gave Baptist Health an advantage over Ivy Creek and other potential respondents to the RFP. ECEDA’s motivation for advancing Baptist Health’s interests is relevant, and the Jackson Thornton documents will shed light on these issues.

10. Given Baptist Health’s close relationship with ECEDA, it is only appropriate that Ivy Creek be permitted to discover the details of that relationship and what has motivated ECEDA to promote Baptist Health as a provider of healthcare services in Elmore County. For example, one of ECEDA’s major economic development projects is called “Seventeen Springs,” a real-estate and sports development that is advertised on ECEDA’s website. On information and belief, Baptist Health is an investor in ECEDA’s Seventeen Springs project, having helped sponsor a medical facility called “Millbrook Convenient Care” there. *See, e.g., “Exhibit 3”* hereto (Internet research connecting Baptist Health, Millbrook Convenient Care, and 17 Springs).

11. It is quite likely that ECEDA’s economic development goals are taking precedence over the community’s healthcare interests, and that issue goes directly to ECEDA’s justification defense. It is likely that the Jackson Thornton documents will disclose other non-health-care interests that ECEDA is pursuing with Project Mercury. Accordingly, it is only appropriate that the Court permit the issuance of the Jackson Thornton subpoenas

sufficiently in advance of the November 19 hearing to permit Ivy Creek to evaluate responsive documents.

Respectfully Submitted,

/s/ William G. Somerville
 William G. Somerville (SOM005)
 James P. Pewitt (PEW001)
 Attorneys for Plaintiff

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/s/ W. Kendrick James
 W. Kendrick James (JAM024)
 Attorney for Plaintiff

OF COUNSEL:

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dena@wkendrickjames.com

CERTIFICATE OF SERVICE

The undersigned certifies that he has electronically served this document on all counsel of record by filing the same with the court's AlaFile system this 22nd day of October 2026.

/s/ William G. Somerville

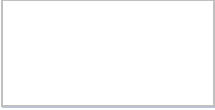


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MICHAEL DOZIER, CLERK

EXHIBIT “1”

Thank you in advance.

Richie Beyer
Chief Executive Officer
Elmore County Economic Development Authority
334-590-1161 cell
richie.beyer@elmoreeda.com



From: Richie Beyer

Date: Monday, June 15, 2026 at 7:56 'a0AM

To: Lee Greer-CFO ; ECEDA Chairman ; Tim Gothard ; Justin Barrett ; Frank Barnett ; mark.baker@jacksonthornton.com ; Russ Tyner

Cc: Richie Beyer ; Willmann, Sydney ; Blades, Josh ; Tara Sides

Subject: Mercury Draft RFP

Taskforce Members,

Attached is a first draft of an RFP for healthcare services for the group to begin review and comment.

Sydney has some additional information from our question related to beds from Tallassee Community as well. I will float some dates and times for our group to meet virtually to discuss the RFP and get some information from her as well.

Please advise is you have any questions or need additional information prior to us meeting.

Thanks.

Richie Beyer
Chief Executive Officer
Elmore County Economic Development Authority
334-590-1161 cell
richie.beyer@elmoreeda.com





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EXHIBIT “2”

From: Jason Britt <jbritt@elmoreco.org>

Sent: Tuesday, September 16, 2025 11:11 AM

To: Lisa Vanwagner <lisa.vanwagner@elmoreeda.com>; dbwrn222@aol.com; Frank Barnett <fwbjr221@gmail.com>; Rocky Lyons <rocbtm@gmail.com>; Mark Baker <mark.baker@jacksonthornton.com>; Lee Greer-CFO <lgreer@chal.org>

Subject: Re: [External Sender] Board Meeting

CYBERSECURITY WARNING: This email was sent by someone outside of Community Hospital. Use caution when clicking links or opening attachments. Please call the I.T. Department if you receive any concerning emails.

Dear Members of the Board:

I write to express my concern regarding how the Baptist Health proposal has been presented to the Healthcare Authority. Recent disclosures indicate that the Elmore County Economic Development Authority (ECEDA) has been working on this project for some time and may have even secured land for a potential hospital site. Yet, the Healthcare Authority Board is only now being asked to consider it.

This raises several important questions that I believe must be addressed before any further action is taken:

1. How long has this proposal been in development?
2. Which organizations, agencies, or individuals have been involved, and how many were engaged before the Healthcare Authority was informed?
3. Why was the Healthcare Authority not included in this process earlier?
4. What commitments—financial, contractual, or property-related—have already been made with Baptist Health or other parties?

From my perspective, ECEDA's approach suggests that much of the groundwork has already been completed and that the Healthcare Authority is now expected to simply "sign off." That is not consistent with our oversight responsibilities, nor does it reflect the trust placed in this Board to safeguard the community's interests.

To move forward responsibly, I believe the Healthcare Authority should:

1. Receive a detailed briefing that includes a timeline of ECEDA's activities, the parties engaged, and any commitments already made;
2. Determine whether legal reviews have been conducted on the current healthcare provider's contract or on ECEDA's actions related to this proposal;
3. Carefully evaluate any potential conflicts of interest involving current members of the Healthcare Authority or its legal counsel.

Only with this information can we fulfill our duty to evaluate the proposal on its merits and ensure that our decisions are made transparently and in the best interest of the community.

Sincerely,

Jason



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EXHIBIT “3”

Yes, Convenient Care Millbrook (formerly Baptist Convenient Care) is connected to the 17 Springs sports and medical development in Millbrook, Alabama, as it is slated to be part of the medical complex coming to the site.  Convenient Care Millbr... +1

Connection to 17 Springs

- **Location & Complex:** A major new medical development is expanding at the 17 Springs sports complex (specifically within its third phase, known as the Marketplace), which includes facilities by Southern Orthopaedic Surgeons and associated urgent and primary care services.  WSFA
- **Transition:** Formerly known as Baptist Convenient Care before transitioning names, the clinic maintains its same providers and multi-year history of serving the Millbrook community while integrating into the broader medical expansion tied to 17 Springs. 

Would you like to know more about the  **services offered** at Convenient Care Millbrook or the  **location details** within the 17 Springs development?

Try without personalization

 Convenient Care Millbrook

Convenient Care Millbrook

Name Change: Baptist Convenient Care officially transitions to Convenient Care Millbrook on July 1. Operations: Retains the same p...



 WSFA

New medical complex coming to Millbrook's 17 Springs

Location: Millbrook, Alabama at the 17 Springs sports complex third phase named the Marketplace. Facility: Southern Orthopaedic Su...



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WSFA

<https://www.wsfa.com> › 2025/06/17 › new-medical-co...

New medical complex coming to Millbrook's 17 Springs

Jun 17, 2025 — Along with orthopedic and therapy services, the complex will have a general **urgent care** clinic open seven days a week, a family medicine clinic ...

Missing: ~~convenient~~ ~~seventeen~~

People also ask

How much did 17 springs in Millbrook cost?



AI Overview

The 17 Springs sports and recreation complex in Millbrook, Alabama, has cost approximately **\$90 million to \$100 million total** across its phases of development.  WSFA +2

- **Initial/Phase I Estimates:** The project originally began as an estimated \$30 million to \$35 million investment.
- **Phase II & Overall Cost:** As construction expanded to include a 5,500-capacity stadium, a large field house, and additional sports fields, total combined investments by the City of Millbrook and Elmore County grew to exceed \$90–\$100 million.

Show more 

Where is 17 Springs in Millbrook, Alabama? 

Where can I find urgent care in Millbrook, Alabama? 

Does 17 Springs have a track? 



Convenient Care Millbrook

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Missing: ~~seventeen~~ **springs**



Elmore County Economic Development Authority

<https://elmoreeda.com> › [southern-orthopaedic-surgeons-...](#)



SOUTHERN ORTHOPAEDIC SURGEONS ANNOUNCES ...

Jun 17, 2025 — “We are proud to welcome Southern Orthopaedic Surgeons' state-of-the-art clinic to **Millbrook** and Elmore County in the Marketplace at **17 Springs**, ... [Read more](#)

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Montgomery Advertiser

<https://www.montgomeryadvertiser.com> › 2025/06/19



Orthopedic clinic coming to Millbrook's 17 Springs

Jun 19, 2025 — Southern Orthopaedic Surgeons will build a 31000- square-foot medical complex in **Millbrook's** Marketplace at **17 Springs**.

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WAKA 8

<https://www.waka.com> › 2025/06/17 › [southern-orthop...](#)



Southern Orthopaedic Surgeons to build medical complex ...

Jun 17, 2025 — Southern Orthopaedic Surgeons says it will build a medical complex at **17 Springs** in **Millbrook**. The 31,000 square foot complex will be coming ... [Read more](#)

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The Bama Buzz

<https://thebamabuzz.com/new-multi-use-medical-facili...>

New multi-use medical facility coming to 17 Springs in ...

Jun 25, 2025 — The new complex will offer walk-in orthopedic care, urgent care, physical therapy, imaging, and more—all ... **61 Marketplace Circle, Millbrook, AL ...**

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Bradenton Herald

<https://www.bradenton.com/news/article317536816>

Orthopedic clinic coming to Millbrook's 17 Springs next year

Oct 8, 2026 — A new medical practice has broken ground on a state-of-the-art facility in **Millbrook's 17 Springs**. **17 Springs** - a massive sports complex ... [Read more](#)



Elmore-Autauga News

<https://elmoreautauganews.com/2026/10/07/southern...>

Southern Orthopaedic Surgeons Breaks Ground On New ...

Oct 7, 2026 — Southern Orthopaedic Surgeons **broke ground on its new medical office at The Marketplace at 17 Springs in Millbrook**. convenient access to ...



Facebook · Elmore County Economic Development Authority

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Southern Orthopaedic Surgeons breaks ground in Millbrook

Southern Orthopaedic Surgeons **broke ground this morning on its new 14,269-square-foot medical office at 17 Springs**. The facility will bring ... [Read more](#)

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