

IN THE SUPERIOR COURT  
COUNTY OF HALL  
STATE OF GEORGIA

FILED  
HALL CO., GA  
2010 SEP 30 PM 3:03  
CHARLES BAKER-CLERK  
SUPERIOR STATE COURT  
BY

TOWN OF CLERMONT, GEORGIA, §  
a Georgia Municipality, and its §  
Town Council, both Individually and §  
as Members of the Council, and being §  
Mayor James Nix, and Council Members §  
Seth Weaver, James (Sonny) Helton, §  
John Brady, Mary Ellen Rogers, §  
and Albert Reeves, §

PLAINTIFFS, §

vs. §

HALL COUNTY, GEORGIA, §  
A Political Subdivision, and §  
Tom Oliver, Billy Powell, Ashley Bell, §  
Bobby Banks, and Steve Gailey, §  
Individually and as Members of the §  
Board of Commissioners of Hall County, §  
Georgia, §

DEFENDANTS. §

CIVIL ACTION FILE

NO. 2010-CV-1527-C

**MOTION FOR CIVIL CONTEMPT  
AND FOR IMPOSITION OF SANCTIONS**

Come now, the plaintiffs, the Town of Clermont, et al., and file this their motion for civil contempt and for imposition of sanctions against the defendants, and shows the Court as follows:

1.

On August 23, 2010, this Court held a hearing in the above-styled proceeding and entered a preliminary injunction against the defendants to maintain the status quo regarding the development of the community center/library at Nopone Road Park, except that defendants were

allowed to advertise for bids regarding construction at the park, but not accept the bids. The ruling of the Court on August 23, 2010 was clear that the Court had entered a preliminary injunction to maintain the status quo, except as to the bidding, but that all other activities regarding placing the library at the Nopone Road Park were stayed until resolution of the issues by the Court or a jury. See August 23, 2010 hearing transcript, pages 61-63 and pages 70-76, attached hereto this motion as Exhibit 1.

2.

Subsequent to the hearing before the Court on August 23, 2010, counsel for the plaintiffs, and counsel for the defendants, attempted to reach agreement regarding defendant Hall County being able to proceed with the grading of the location of the community center/library at Nopone Road Park and as to the language of the preliminary injunction order, but were unable to reach agreement. Counsel for both parties submitted proposed orders to the Court, and those orders, as well as the correspondence to the Court by counsel made clear that there was no agreement regarding the grading of the site at the location of the community center/library at the Nopone Road Park. See Exhibit 2.

3.

Since the date of determination of the grant of the preliminary injunction being August 23, 2010, defendants in willful disregard of the preliminary injunction, have graded the area at Nopone Road Park that contains the footprint of the community center/library at that location. See Exhibit 3, being the affidavit of Mayor James Nix.

4.

The grading of the area of the location of the footprint of the community center/library is in willful disregard of the Court's entry of the preliminary injunction to maintain the status quo,

and this Court should find that defendants are in willful contempt of said order, and hold them in civil contempt and impose sanctions in order to force compliance with the Court's order.

WHEREFORE, plaintiffs pray that:

- (a) That after notice, the Court hold a hearing on the motion for civil contempt and sanctions;
- (b) That defendants be held in civil contempt of court;
- (c) That an order be entered compelling the defendants to comply with the preliminary injunction to maintain the status quo, and imposing the following sanctions requiring the compliance of the defendants in order to purge themselves of civil contempt;
  - (1) That defendants be required to withdraw their motion for a stay of discovery;
  - (2) That the Court impose a discovery period within this case for 90 days from the date of the contempt order of the court;
  - (3) That defendants be required to participate in mediation regarding this case within 60 days from the date of the contempt order of the Court;
  - (4) That defendants be required to withdraw their motion for judgment on the pleadings;
  - (5) That defendants be required to withdraw any advertisements for requests for bid regarding the construction of the community center/library at the Nopone Road Park and destroy any bids received;
  - (6) That defendants be ordered at the trial of this case to not present by verbal testimony or by documentary evidence, or both, any of the construction work or construction activities that have already been performed at Nopone Road Park, and including but not limited to the expenditure of SPLOST funds for said construction;

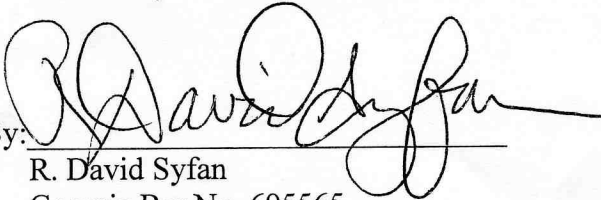
(7) And that defendants not be allowed to contest at the trial of this case that defendants by action of the Board of Commissioners purchased the 40+ acre site in the Town of Clermont on October 31, 2007 as the location of the North Hall library facility.

(d) That plaintiffs be awarded their attorney's fees incurred in the process of bring this motion for civil contempt and sanctions; and

(e) Such other and further relief as allowed by law.

Respectfully submitted this 29<sup>th</sup> day of September, 2007.

HULSEY, OLIVER & MAHAR, LLP

By:   
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