



AlaFile E-Notice

47-CV-2014-901820.00

Judge: D. ALAN MANN

To: CITY OF HUNTSVILLE (PRO SE)
308 FOUNTAIN CIRCLE
HUNTSVILLE, AL 35801-0000

NOTICE OF ELECTRONIC FILING

IN THE CIRCUIT COURT OF MADISON COUNTY, ALABAMA

JAMES HENDERSON ET AL V CITY OF HUNTSVILLE BOARD OF ZONING ADJUSTMENT
47-CV-2014-901820.00

The following matter was FILED on 9/19/2014 9:48:10 AM

C014 BOUCHARD CHRISTINA

C013 BOUCHARD JERROD

C015 CELESKI DAN

C017 CENTRAL ASSEMBLY OF GOD CHURCH

D001 CITY OF HUNTSVILLE BOARD OF ZONING ADJUSTMENT

C004 COLONNELLO JOHN

C003 COLONNELLO LEEANN

C016 DOTY DAN

C002 HENDERSON CAROL

C001 HENDERSON JAMES

C018 PADRON ANTONIN

C019 PADRON ELIZABETH

C007 PUENT MARY

C006 RICHARDS JACKIE

C005 RICHARDS ROBERT DR

C011 STEELE WALLACE

C009 VAUGHAN STEPHEN W

C008 WHITLOCK JOHN R

C012 WILLIAMS ANGELA

C010 WILSON VICTORIA

TEMPORARY RESTRAINING ORDER

[Filer: BECKHAM NICHOLAS JOSEPH]

Notice Date: 9/19/2014 9:48:10 AM

JANE C. SMITH
CIRCUIT COURT CLERK
MADISON COUNTY, ALABAMA
MADISON COUNTY, ALABAMA
100 NORTHSIDE SQUARE
HUNTSVILLE, AL 35801

256-532-3390
jane.smith@alacourt.gov

STATE OF ALABAMA

Unified Judicial System

Revised 3/5/08

47-MADISON

District Court Circuit Court

Cas



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JAMES HENDERSON ET AL V CITY OF HUNTSVILLE BOARD OF ZONING ADJUSTMENT

CIVIL MOTION COVER SHEET

Name of Filing Party: C001 - HENDERSON JAMES C002 - HENDERSON CAROL C003 - COLONNELLO LEEANN

Name, Address, and Telephone No. of Attorney or Party. If Not Represented.

NICHOLAS BECKHAM 1100 9TH AVE SW CHILDERSBURG, AL 35044

Attorney Bar No.: BEC032

Oral Arguments Requested C004 - COLONNELLO JOHN C005 - RICHARDS ROBERT DR C006 - RICHARDS JACKIE C007 - PUENT MARY C008 - WHITLOCK JOHN R C009 - VAUGHAN STEPHEN W C010 - WILSON VICTORIA C011 - STEELE WALLACE

TYPE OF MOTION

Motions Requiring Fee

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- Default Judgment (\$50.00) Joinder in Other Party's Dispositive Motion (i.e. Summary Judgment, Judgment on the Pleadings, or other Dispositive Motion not pursuant to Rule 12(b)) (\$50.00) Judgment on the Pleadings (\$50.00) Motion to Dismiss, or in the Alternative Summary Judgment(\$50.00) Renewed Dispositive Motion(Summary Judgment, Judgment on the Pleadings, or other Dispositive Motion not pursuant to Rule 12(b)) (\$50.00) Summary Judgment pursuant to Rule 56(\$50.00) Motion to Intervene (\$297.00) Other pursuant to Rule (\$50.00)

- Add Party Amend Change of Venue Transfer Compel Consolidation Continue Deposition Designate a Mediator Judgment as a Matter of Law (during Trial) Disburse Funds Extension of Time In Limine Joinder More Definite Statement Motion to Dismiss pursuant to Rule 12(b) New Trial Objection of Exemptions Claimed Pendente Lite Plaintiff's Motion to Dismiss Preliminary Injunction Protective Order Quash Release from Stay of Execution Sanctions Sever Special Practice in Alabama Stay Strike Supplement to Pending Motion Vacate or Modify Withdraw Other Temporary Restraining Order pursuant to Rule 1138 (Subject to Filing Fee)

*Motion fees are enumerated in §12-19-71(a). Fees pursuant to Local Act are not included. Please contact the Clerk of the Court regarding applicable local fees.

Local Court Costs \$

Check here if you have filed or are filing contemporaneously with this motion an Affidavit of Substantial Hardship or if you are filing on behalf of an agency or department of the State, county, or municipal government. (Pursuant to §6-5-1 Code of Alabama (1975), governmental entities are exempt from prepayment of filing fees)

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Signature of Attorney or Party: /s/ NICHOLAS BECKHAM

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JAMES HENDERSON, et. al.,)	
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vs.)	
)	Zoning Board Case No.: 8449
CITY OF HUNTSVILLE BOARD OF)	
ZONING ADJUSTMENT, et. al.,)	PETITIONERS’ MOTION FOR TEMPORARY
Respondents/Appellees.)	RESTRAINING ORDER AND/OR
)	PRELIMINARY INJUNCTION
)	

**PETITIONERS’ MOTION FOR TEMPORARY RESTRAINING ORDER AND/OR
 PRELIMINARY INJUNCTION**

Pursuant to Rule 65 of the Alabama Rules of Civil Procedure, Petitioners JAMES HENDERSON, CAROL HENDERSON, LEEANN COLONNELLO, JOHN COLONELLO, DR. ROBERT RICHARDS, JACKIE RICHARDS, MARY PUENT, JOHN R. WHITLOCK, STEPHEN W. VAUGN, VICTORIA WILSON, WALLACE STEELE, ANGELA WILLIAMS, JERROD BOUCHARD, CHRISTINA BOUCHARD, DAN CELESKI, DAN DOTY, CENTRAL ASSEMBLY OF GOD CHURCH, ANTONIN PADRON, and ELIZABETH PADRON (“Petitioners”), by and through their undersigned counsel, hereby move this Court to issue an immediate temporary restraining order, restraining Defendants, their employees, agents, successors in office, and all persons acting in concert with them, from taking any action, including but not limited to issuing building permits, inspecting the premises, issuing a certificate of completion, issuing a license to operate a business, accepting any application for a business license and/or zoning variance, with regards to the property located at 4831 Sparkman Drive, as required by Alabama Code Section 11-52-80 and Huntsville Zoning Ordinance Section 92-4.

Further, Petitioners ask this court to 1) void the final inspections conducted on July 25, 2014, 2) revoke the certificate of completion issued on August 14, 2014, and 3) revoke the

transfer of business license issued on August 8, 2014. In the alternative, Petitioners request that the court order the City and its agents to take the above requested action immediately.

In addition, Petitioners respectfully request that this Court issue an order preliminarily enjoining Defendants their employees, agents, successors in office, and all persons acting in concert with them, from taking any action, including but not limited to issuing building permits, inspecting the premises, issuing a certificate of completion, issuing a license to operate a business, accepting any application for a business license and/or zoning variance, with regards to the property located at 4831 Sparkman Drive as required by Alabama Code Section 11-52-80 and Huntsville Zoning Ordinance Section 92-4 until such a time as the Court issues a final ruling in this case.

This motion is made on the grounds that the defendants have violated state and local law regarding a stay of all proceedings, petitioners are likely to prevail on the merits of their action, that they will suffer irreparable injury if preliminary injunctive relief is not granted, the balance of hardships tips in favor of granting the injunction, and the public interest favors granting the requested relief. A temporary restraining order and/or preliminary injunction will impose no harm on Defendants because it will impose no affirmative burdens or costs on them but, simply, restrains them from committing further violations of law and preserves the status quo. Injunctive relief is in the public interest to protect against violations of due process, separation of powers, and governmental overreaching.

This motion is based on this Notice of Motion and Motion and the attached Memorandum of Points and Authorities, Request for Judicial Notice, Declaration of Allison Aranda, and Declaration of James Henderson filed herewith, the records and file in this action, and any oral or documentary evidence, which may be presented at the hearing on this motion.

Dated: September 18, 2014

/s/ Nicholas Beckham
Nicholas Beckham (ASB #4205-I43B)
181 Hagan Avenue
Childersburg, AL 35044

Telephone: 256-626-9469
Facsimile: 205-623-3870
Email: njbeckha@gmail.com

LIFE LEGAL DEFENSE FOUNDATION
Allison K. Aranda (CA Bar No. 215021)*
PO Box 890685
Temecula, CA 92589
Tel: (951) 296-2835
Fax: (951) 541-2711
akaranda@lldf.org

*Application for admission Pro Hac Vice pending

Attorneys for Appellants

CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of September, 2014, I electronically filed the foregoing with Clerk of Court Alafire/Alacourt system which will send notification of such filing to the following:

Allison Chandler
F&B LAW FIRM, P.C.
213 Greene Street
Huntsville, Alabama 35801
Telephone Number: (256) 536-0095
Facsimile Number: (256) 536-4440
E-mail: court@fb-pc.com

Stacy Moon
F&B LAW FIRM, P.C.
213 Greene Street
Huntsville, Alabama 35801
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/s/ Nicholas Beckham
Nicholas Beckham



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Attorney Bar No.: BEC032

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