

VISIT HARFORD! INC.
4690 Millennium Drive, Suite 200
Belcamp, MD 21017

Plaintiff

v.

HARFORD COUNTY, MARYLAND

Serve: Jefferson L. Blomquist
County Attorney
220 South Main Street
Bel Air, MD 21014

Defendant

* IN THE

* CIRCUIT COURT

* FOR

* HARFORD COUNTY

* Case No.: _____

* * * * *

COMPLAINT

Plaintiff Visit Harford! Inc., by its attorneys Aidan F. Smith and Pessin Katz Law, P.A. sues
Defendant Harford County and states:

PARTIES

1. Plaintiff Visit Harford! Inc. (the “Plaintiff” or “Visit Harford”) is a Maryland nonstock, nonprofit corporation doing business in Harford County, State of Maryland.

2. Defendant Harford County, Maryland (the “County” or “Defendant”) is a body corporate and politic of the State of Maryland.

JURISDICTION AND VENUE

3. The Court possesses jurisdiction in this matter in accordance with Md. Code Ann., Cts. & Jud. Pro. § 6-102.

4. Venue is appropriate in the Circuit Court for Harford County in accordance with Md. Code Ann., Cts. & Jud. Pro. § 6-201(a).

FACTS COMMON TO ALL COUNTS

5. In Harford County, Maryland in 2022, there were approximately 6,500 jobs supported by the tourism industry, visitors spent \$479 Million Dollars on tourism related activities, and Harford County collected \$61 Million Dollars in tax revenue because of tourism.

6. By virtue of Section 123-63 et seq. of the Harford County Code and corresponding State enabling legislation, there exists a hotel occupancy tax levied on the rent paid for use or occupancy of a room in a hotel in the County (the “Hotel Occupancy Tax”).

7. In fiscal year 2023, Harford County’s Hotel Occupancy Tax generated \$3,557,609.99 in tax revenue collected by the Defendant.

8. On April 24, 2014, the Plaintiff nonprofit was created to promote travel to and tourism in Harford County, Maryland; to compile tourism and travel data to be utilized by political, governmental, educational and private entities affected by the tourism trade in Harford County; to foster and promote business interests in Harford County, Maryland; improve business conditions relating to the tourism trade; and to support the sustainability of festivals, museums, parks, historic landmarks, leisure pursuits, cultural, recreational and other activities in Harford County, Maryland.

9. On or about December 2, 2015, the then County Executive of Harford County, Maryland determined by Executive Order that the services and functions of tourism promotion could be “effectively and efficiently absorbed by” the Plaintiff nonprofit instead of housed within County government.

10. On or about December 2, 2015, the County Executive of Harford County, Maryland therefore issued an Executive Order abolishing the Tourism and Marketing Division of the Office of Economic Development of Harford County.

11. On June 29, 2023, the Plaintiff nonprofit and Harford County, by its current County Executive, entered into a contract whereby Plaintiff agreed to provide services to Defendant and Defendant agreed to pay Plaintiff for such services (the “Contract”). A true and accurate copy of the Contract is attached hereto and incorporated herein as Exhibit A.

12. The services that the Plaintiff nonprofit agreed to provide included services to promote travel to and tourism in Harford County, to compile tourism and travel data on a quarterly basis, to foster and promote business interests in Harford County, to support and assist in the improvement of business as it relates to the tourism trade, and to support the sustainability of festivals, museums, parks, historic landmarks, leisure pursuits, cultural, recreational and other activities in Harford County, Maryland (the “Services”).

13. As an additional part of the Services required by the terms of the Contract, and by virtue of its status as an independent contractor, the Plaintiff nonprofit agreed to furnish all labor, materials, equipment, insurance, software, technology, workspace, transportation, advertising, marketing, accounting and bookkeeping needed from time to time to provide the Services.

14. In consideration for the Plaintiff nonprofit providing the Services, the County agreed to pay the Plaintiff the sum of Six Hundred Forty-Five Thousand Dollars (\$645,000.00 in three (3) equal payments of Two Hundred fifteen Dollars (\$215,000.00) each (an “Installment Payment”).

15. The Contract conditioned payment of each Installment Payment upon the submission by the Plaintiff to the County of written requests for payment along with reports showing its expenditures.

16. The Contract obligated the County to deliver the payment of each Installment Payment to the Plaintiff nonprofit within five (5) business days after the receipt of a written request, if the County was satisfied that the Installment Payment was used in accordance with the Contract.

17. At all times relevant hereto, the Plaintiff nonprofit, in fact, provided the Services in a good and timely manner.

18. The Plaintiff requested and received the first and second Installment Payments without incident or question.

19. On or about January 10, 2024, the Plaintiff nonprofit, in fact, submitted a third written request for an Installment Payment and in support thereof, submitted reports showing its expenditures in the same format it had used previously (the “January Request for Payment”).

20. Within the five (5) day period after the January Request for Payment, the County neither paid the Installment Payment nor expressed any dissatisfaction whatsoever about the request.

FACTS RELATING TO THE VETO

21. On January 16, 2024 while the January Request for Payment was still pending, the Harford County Council passed Harford County Bill No. 23-034 As Amended (“Bill No. 23-034”).

22. Bill No. 23-034 compels Harford County to pay Twenty-Five Percent (25%) of the County’s Hotel Tax to the Plaintiff, notwithstanding the existence of the earlier Contract.

23. The current County Executive publicly opposed Bill No. 23-034.

24. While Bill No. 23-034 was pending, the Plaintiff nonprofit resubmitted the January Request for Payment on January 22, 2024 and received no payment nor any expression of dissatisfaction in response.

25. Two (2) days later, on January 24, 2024, the County Executive vetoed Bill No. 23-034 and in so doing, declared that he has “exclusive power” to determine how the County’s Hotel Tax Revenue will be spent.

26. On February 6, 2024, the Harford County Council reconsidered Bill 23-034 and overrode the veto of the County Executive, compelling the Bill into law.

27. On February 7, 2024, the current County Executive issued a statement condemning the veto override.

28. On February 23, 2024, the Plaintiff nonprofit resubmitted the January Request for Payment and received no payment nor any expression of dissatisfaction in response.

29. By April 3, 2024, the County had neither paid the Installment Payment nor expressed any dissatisfaction whatsoever about the January Request for Payment; therefore, the Plaintiff nonprofit wrote to the County to identify that there had been no timely payment nor expression of dissatisfaction and demanded payment.

30. By April 12, 2024, the County had neither paid the Installment Payment nor expressed any dissatisfaction whatsoever about the January Request for Payment; therefore, the Plaintiff nonprofit wrote, through counsel, to the County reiterating that there had been no timely payment nor expression of dissatisfaction and demanding payment.

31. On April 16, 2024, over four (4) months after the submission of the January Request for Payment, the County provided the Plaintiff with correspondence by which it acknowledged the “persistent efforts in following up on” the January Request for Payment but neither offered the Installment Payment nor any expression of any dissatisfaction whatsoever about the request.

32. Also, on April 16, 2024, over four (4) months after the submission by the Plaintiff of the January Request for Payment, the County provided written notification to the Plaintiff nonprofit advising that it was terminating the Contract (the “Notice of Termination”).

33. On April 23, 2024, the County indicated to the Plaintiff in writing for the first time that it had now had questions regarding the Plaintiff’s use of funds, questioned the Plaintiff’s reliance “predominantly, if not entirely ... on funding from Harford County and the Maryland Department of Commerce,” but still provided no payment.

34. On May 1, 2024, the Plaintiff nonprofit wrote to the County to inquire about the status of the Installment Payment requested in the January Request for Payment and was advised that there was no update.

35. To date, Defendant has failed and refused to pay the final Installment Payment requested in the January Request for Payment.

FACTS RELATING TO FUNDING AND BUSINESS OPPORTUNITIES

36. Within the Maryland Department of Commerce there exists a Maryland Tourism Development Board and an Office of Tourism Development, the purpose of which is to guide, stimulate and promote the coordinated, efficient and beneficial development of travel and tourism in the State so that the State can derive the economic, social and cultural benefits of travel and tourism to the fullest extent possible.

37. By statute, the Maryland Tourism Development Board is charged with cooperating with private organizations to develop and promote the State's tourism and travel industries, and to encourage, assist and coordinate the tourism activities of local promotional organizations.

38. By statute, the Maryland Tourism Development Board is charged with providing grants to destination marketing organizations of not less than \$2,500,000.00 annually.

39. In each year of its existence, the Plaintiff has received grant funding from the Maryland Tourism Development Board.

40. Subsequent to the Notice of Termination, the County, through its County Executive and Office of Economic Development, instructed and directed the Maryland Tourism Development Board and Office of Tourism Development not to provide grant funding to the Plaintiff because the Plaintiff was no longer eligible to receive grant funding as a destination marketing organization.

41. Subsequent to the Notice of Termination, the County, through its County Executive and Office of Economic Development, instructed and directed the Maryland Tourism Development Board and Office of Tourism Development to provide grant funding to the County, itself instead of the Plaintiff, because the County had become eligible to receive grant funding as a destination marketing organization.

42. Subsequent to the Notice of Termination, the County, through its County Executive and Office of Economic Development, instructed and communicated to the Maryland Tourism Development Board and Office of Tourism Development that it should not communicate with the Plaintiff.

43. The County made its instructions and communications to the Maryland Tourism Development Board and Office of Tourism Development not to fund or communicate with the

Plaintiff, and to instead fund and communicate with the County, at a time when the County itself had no funding or staff dedicated to promoting tourism or tourism related activities and was not, itself, providing the Services for which it had entered the Contract.

44. Subsequent to the Notice of Termination, the County solicited individual members of the corporate Board of Directors of the Plaintiff nonprofit and asked that they serve in an advisory capacity on a board being structured by the County within its Office of Economic Development to advise and assist with tourism, tourism related activities, and tourism funding.

45. Subsequent to the Notice of Termination, the County solicited individual members of the corporate Board of Directors of the Plaintiff nonprofit and asked that they consider accepting employment by the County within its Office of Economic Development to assist with tourism, tourism related activities, and tourism funding.

46. Subsequent to the Notice of Termination, the County Executive solicited the Executive Director of the Plaintiff nonprofit and asked that she consider accepting employment by the County to assist with tourism, tourism related activities, and tourism funding.

47. As a result of the County's actions, the Executive Director and certain members of the Plaintiff's corporate board of directors have resigned.

48. In 2024, the Plaintiff entered into an agreement with the Maryland Tourism Council to allow the Plaintiff to host the Council's annual Maryland Travel and Tourism Summit in Harford County.

49. Subsequent to the Notice of Termination, the County, through its Office of Economic Development, encouraged the Maryland Tourism Council not to allow the Plaintiff to host the annual Maryland Travel and Tourism Summit and to instead allow the County to host the event.

50. The County, through its Office of Economic Development, encouraged the Maryland Tourism Council not to allow the Plaintiff to host the annual Maryland Travel and Tourism Summit and to instead allow the County to host the event because it “has no money.”

51. The County encouraged the Maryland Tourism Council not to allow the Plaintiff to host the annual Maryland Travel and Tourism Summit and to instead allow the County to host the event at a time when the County itself had no funding or staff dedicated to promoting tourism or tourism related activities.

COUNT I
(Breach of Contract)

52. The Plaintiff adopts and incorporates the forgoing paragraphs of this Complaint as if more fully set forth herein and further states as follows:

53. The Contract contains certain and definite contractual obligations owed by the County to the Plaintiff nonprofit.

54. The County had a contractual duty to pay the Plaintiff an Installment Payment as a result of the January Request for Payment.

55. The County has failed and refused to pay an Installment Payment as a result of the January Request for Payment.

56. The County has materially breached the Contract by, *inter alia*, failing and refusing to pay an Installment Payment as a result of the January Request for Payment and failing, in the alternative, to timely note any dissatisfaction with the January Request for Payment

57. The County has materially breached its contractual duty of good faith and fair dealing by, *inter alia*:

- a. Failing to respond to the January Request for Payment;

- b. Failing to express dissatisfaction, if any, with the January Request for Payment;
- c. Unreasonably delaying its response to the January Request for Payment despite acknowledging the Plaintiff's diligent efforts to seek a response;
- d. Withholding payment of the Installment Payment as retribution for the enactment of Bill No 23-034; and
- e. Withholding payment of the Installment Payment motivated by a desire to and with the intent to harm the Plaintiff.
- f. Preventing and inhibiting the ability of the Plaintiff nonprofit to perform tourism Services by withholding payment of the Installment Payment.

58. The County's conduct with respect to the Contract has been arbitrary, unreasonable, and undertaken in bad faith.

59. As a result of the County's breach of the Contract, the Plaintiff nonprofit has incurred a loss of Two Hundred Fifteen Thousand Dollars (\$215,000.00).

WHEREFORE, Plaintiff demands the following relief:

A. That this Court enter judgment against Harford County, Maryland and in favor of Visit Harford for Two Hundred Fifteen Thousand Dollars (\$215,000.00), with interest and costs; and

B. That this Court issue any and such other and further relief as the nature of the Plaintiff's cause may require or allow.

COUNT II
(Intentional Interference With Prospective Advantage)

60. The Plaintiff adopts and incorporates the forgoing paragraphs of this Complaint as if more fully set forth herein and further states as follows:

61. The County's instruction to the Maryland Tourism Development Board and Office of Tourism Development not to provide funding to the Plaintiff and to instead provide funding to the County was intentional, willful and purposeful.

62. The County's instruction to the Maryland Tourism Development Board and Office of Tourism Development not to provide funding to the Plaintiff and to instead provide funding to the County was intended by the County to cause the Plaintiff not to receive grant funding from the Board.

63. The County's instruction to the Maryland Tourism Development Board and Office of Tourism Development not to provide funding to the Plaintiff and to instead provide funding to the County was intended by the County to cause damage to the Plaintiff's ability to operate for its intended purpose.

64. The County's instruction to the Maryland Tourism Development Board and Office of Tourism Development not to provide funding to the Plaintiff and to instead provide funding to the County was intended by the County to cause the Plaintiff not to receive grant funding from the Board.

65. The County's instruction to the Maryland Tourism Development Board and Office of Tourism Development not to provide funding to the Plaintiff and to instead provide funding to the County was intended by the County to inhibit and prevent the Plaintiff's ability to use grant funding from the Board and Dedicated Funding from the Hotel Lodging Tax.

66. The County's communication to the Maryland Tourism Development Board and Office of Tourism Development that the Plaintiff was no longer eligible to receive grant funding as a destination marketing organization was intended by the County to portray the Plaintiff negatively in the community and in the tourism industry.

67. The County's instruction and communication to the Maryland Tourism Development Board and Office of Tourism Development not to communicate with the Plaintiff was intentional, willful and purposeful.

68. The County's instruction and communication to the Maryland Tourism Development Board and Office of Tourism Development not to communicate with the Plaintiff was intended by the County to cause the Plaintiff not to receive grant funding from the Board.

69. The County's instruction and communication to the Maryland Tourism Development Board and Office of Tourism Development not to communicate with the Plaintiff was intended by the County to prevent the Board from providing grant funding to the Plaintiff and to obtain that grant funding for itself.

70. The County's instruction and communication to the Maryland Tourism Development Board and Office of Tourism Development not to communicate with the Plaintiff was intended by the County to cause damage to the Plaintiff's ability to operate for its intended purpose.

71. The County's instruction and communication to the Maryland Tourism Development Board and Office of Tourism Development not to communicate with the Plaintiff was intended by the County to portray the Plaintiff negatively in the community and in the tourism industry.

72. The County's statements that the Plaintiff was no longer a destination marketing organization and no longer eligible to receive grant funding from the Maryland Tourism Development Board were false and placed the Plaintiff in a false light by attributing to it characteristics which were false.

73. The County knew that its statements about the Plaintiff were false and/or made them with a reckless disregard for the truth of the statements.

74. Upon information and belief, the County Executive has advised the Maryland Tourism Development Board, the Office of Tourism Development and the public that the Plaintiff is not the County's destination marketing organization in an effort to deprive the Plaintiff of the Dedicated Revenue required by Bill No. 23-034.

75. The County's solicitation of members of the corporate Board of Directors of the Plaintiff nonprofit was intentional, willful and purposeful. The County's solicitation of members of the corporate Board of Directors of the Plaintiff nonprofit was intended by the County to cause damage to the Plaintiff's ability to operate for its intended purpose.

76. The County's solicitation of members of the corporate Board of Directors of the Plaintiff nonprofit was intended by the County to portray the Plaintiff negatively in the community and in the tourism industry.

77. The County's solicitation of members of the corporate Board of Directors of the Plaintiff nonprofit was intended by the County to inhibit and prevent the Plaintiff's ability to use grant funding from the Board and Dedicated Funding from the Hotel Lodging Tax.

78. The County's solicitation of the Maryland Tourism Council to allow the County to host the Maryland Travel and Tourism Summit and not allow the Plaintiff to do so was intended by the County to inhibit and prevent the Plaintiff's ability to host the event.

79. The County's solicitation of the Maryland Tourism Council to allow the County to host the Maryland Travel and Tourism Summit and not allow the Plaintiff to do so by telling the Council that the Plaintiff "has no money" was intended by the County to portray the Plaintiff negatively in the community and in the tourism industry.

80. As a result of the County's conduct, the Plaintiff has suffered and will continue to suffer pecuniary loss, consequential damages and actual harm to business standing and reputation.

WHEREFORE, Plaintiff demands the following relief:

A. That this Court enter judgment against Harford County, Maryland and in favor of Visit Harford in an amount in excess of Seventy-Five Thousand Dollars (\$75,000.00), with interest and costs; and

B. That this Court issue any and such other and further relief as the nature of the Plaintiff's cause may require or allow.

Respectfully Submitted,

/s/ Aidan F. Smith
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