

IN THE CIRCUIT COURT OF HINDS COUNTY, MISSISSIPPI
FIRST JUDICIAL DISTRICT

CHOKWE A. LUMUMBA, IN HIS OFFICIAL
CAPACITY AS MAYOR OF THE CITY OF JACKSON

PLAINTIFF

V.

CIVIL ACTION NO.: 22-194

THE CITY COUNCIL OF JACKSON, MISSISSIPPI

DEFENDANT

SUMMONS

STATE OF MISSISSIPPI

TO: The City Council of Jackson, Mississippi
c/o Angela Harris, Municipal Clerk
219 South President Street
Jackson, Mississippi 39201

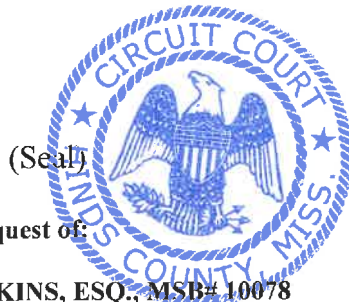
NOTICE TO DEFENDANT(S)

THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT
AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS.

You are required to mail or hand-deliver a copy of a written response to the *Emergency Complaint* for *Declaratory Judgment with Request for Expedited Consideration* to FELECIA PERKINS, ESQ., the attorney for the Plaintiff(s) whose address is 170 E. Griffith, Suite 178-B, Jackson, Mississippi 39201 and mailing address is P.O. Box 21, Jackson, Mississippi 39205. Your response must be mailed or delivered within thirty (30) days from the date of delivery of this Summons and Complaint, or a judgment by default will be entered against you for money or other things demanded in the Complaint.

You must also file the original of your response with the Clerk of this Court within a reasonable time afterward.

ISSUED under my hand and seal of this Court, this 4th day of April, 2022.



(Seal)

Issued at the request of:

FELECIA PERKINS, ESQ., MSB# 10078
JESSICA AYERS, ESQ., MSB# 103685
LAW OFFICE OF FELECIA PERKINS, P. A.
P. O. Box 21
Jackson, Mississippi 39205-0021
Office: (601) 352-5053

Zack Wallace, Clerk
Hinds County Circuit Court

By: [Signature], D.C.

ATTEST A TRUE COPY

APR 04 2022

ZACK WALLACE, CIRCUIT CLERK

BY [Signature] D.C.

DEPARTMENT OF
MUNICIPAL CLERK
2022 APR -4 PM 8:3

**IN THE CIRCUIT COURT OF HINDS COUNTY, MISSISSIPPI
FIRST JUDICIAL DISTRICT**

**CHOKWE A. LUMUMBA, IN HIS OFFICIAL
CAPACITY AS MAYOR OF THE CITY OF JACKSON**

PLAINTIFF

V.

APR 04 2022

CAUSE NO. 22-194

THE CITY COUNCIL OF JACKSON, MISSISSIPPI

**ZACK WALLACE, CIRCUIT CLERK
BY _____ D.C.**

DEFENDANT

**EMERGENCY COMPLAINT FOR DECLARATORY JUDGMENT
WITH REQUEST FOR EXPEDITED CONSIDERATION**

COMES NOW, Plaintiff Chokwe A. Lumumba, in his official capacity as Mayor of Jackson, by and through the undersigned counsel, pursuant to Rule 57 of the Mississippi Rules of Civil Procedure, and files this his *Emergency Complaint for Declaratory Judgment* against the Defendant, the City Council of Jackson, Mississippi.

1. Petitioner Chokwe A. Lumumba, hereinafter “Mayor,” is the duly elected Mayor of the City of Jackson, Mississippi.

2. The Defendant, the City Council of Jackson, Mississippi, hereinafter “City Council,” is a council comprised of seven (7) elected officials, with Councilwoman Virgi Lindsay currently serving as Council President. The Defendant may be served through the Municipal Clerk of the City of Jackson, Mississippi, 219 South President Street, Jackson, Mississippi 39201.

3. On February 17, 2022, the Mayor issued his “Mayoral Proclamation of Local Emergency City of Jackson, Mississippi” pursuant to Miss. Code Ann. §33-15-5(d) and declared a local emergency for the City of Jackson based on the then impending March 31, 2022 expiration of an emergency contract for the collection of residential solid waste. The Mayor thereafter entered into

an emergency contract with Richard's Disposal, Inc. for the same cost¹ as the former vendor. The City Council has failed to approve the contract and the parties have different opinions regarding the Mayor's veto power in accordance with the prevailing authority.

4. On Friday, April 1, 2022, Richard's Disposal began operating under the emergency contract. That same day, the City Council voted 4 to 3 against the approval of the emergency contract, and the Mayor intends to officially exercise his statutory veto power. However, certain council members have taken the incorrect position that the Mayor cannot veto negative actions by the council. The different positions between the parties have resulted in extreme discord between the executive and legislative branches of city government which necessitates immediate judicial intervention.

5. Therefore, compelling and urgent issues exist impacting the well-being of the citizens of Jackson, Mississippi, and Mayor respectfully requests this matter be advanced on the Court's docket.

ISSUES PRESENTED

6. This Complaint seeks a determination of (1) whether a negative vote of the City Council constitutes an official action of the council; (2) whether a vote to reject a contract submitted by the Mayor is an ordinance that has been adopted by the council; and (3) whether the Mayor has authority to veto both affirmative and negative actions of the City Council.

7. Pursuant to Rule 57 of the Mississippi Rules of Civil Procedure, *inter alia*:
(a) **Procedure.** Courts of record within their respective jurisdictions may declare rights, status, and other legal relations regardless of

¹ Of note, Richard's Disposal's Request for Proposals (RFP) contract was 12 million dollars *less than* the city's former vendor, Waste Management.

whether further relief is or could be claimed. The court may refuse to render or enter a declaratory judgment where such judgment, if entered, would not terminate the uncertainty or controversy giving rise to the proceeding.

...The existence of another remedy does not preclude a judgment for declaratory relief in actions where it is appropriate.

The court may order a speedy hearing of an action for declaratory judgment and may advance it on the calendar. The judgment in a declaratory relief action may be either affirmative or negative in form and effect.

(b) When Available.

(1) Any person interested under a deed, will, written contract, or other writings constituting a contract, or whose rights, status, or other legal relations are affected by a statute, municipal ordinance, contract or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract, or franchise, and obtain a declaration of rights, status or other legal relations thereunder...

...

(4) The enumeration in subdivisions (1), (2) and (3) of this rule does not limit or restrict the exercise of general powers stated in paragraph (a) in any proceeding where declaratory relief is sought in which a judgment will terminate the controversy or remove an uncertainty.

LEGAL AUTHORITY

8. The controlling statutes regarding the issues presented are as follows, but may not be limited to:

a. **Miss. Code Ann. §21-8-13. Functions of council:**

(4) The authority of the council is otherwise legislative and is executed by a vote within a legally called meeting. No member of the council shall give orders to any employee or subordinate of a municipality other than the council member's personal staff. The council shall deal with the municipal departments and personnel solely through the mayor.

b. Miss. Code Ann. §21-8-17. Functions of mayor:

(1) The mayor shall enforce the charter and ordinances of the municipality and all general laws applicable thereto. He shall annually report to the council and the public on the work of the previous year and on the condition and requirements of the municipal government and shall, from time to time, make such recommendations for action by the council as he may deem in the public interest. He shall supervise all of the departments of the municipal government and shall require each department to make an annual report and such other reports of its work as he may deem desirable. No member of the council shall give orders to any employee or subordinate of a municipality other than the council member's personal staff.

(2) Ordinances adopted by the council shall be submitted to the mayor and he shall, within ten (10) days (not including Saturdays, Sundays or holidays) after receiving any ordinance, either approve the ordinance by affixing his signature thereto or return it to the council by delivering it to the clerk of the council together with a statement setting forth his objections thereto or to any item or part thereof. No ordinance or any item or part thereof shall take effect without the mayor's approval, unless the mayor fails to return an ordinance to the council prior to the next council meeting, but no later than fifteen (15) days (not including Saturdays, Sundays or holidays) after it has been presented to him or unless the council upon reconsideration thereof not later than the tenth day (not including Saturdays, Sundays or holidays) following its return by the mayor, shall, by a vote of two-thirds (2/3) of the members present and voting resolve to override the mayor's veto.

(3) The mayor may attend meetings of the council and may take part in discussions of the council but shall have no vote except in the case of a tie on the question of filling a vacancy in the council, in which case he may cast the deciding vote.

c. Miss. Code Ann. §21-8-47

The term “**ordinance**” as used in this chapter shall be deemed to include ordinances, resolutions, orders **and any other official actions of the council**, except those procedural actions governing the conduct of the council’s meetings, appoint a clerk of council, and exercising the council’s investigative functions under Section 21-8-13(4). (**emphasis added**).

9. The Mayor hereby requests that the Court enter a judgment and declare the following:

(1) That a negative vote by the City Council constitutes and official action of the council;

(2) That the City Council's vote to reject a contract submitted by the Mayor is an ordinance that has been adopted by the council; and,

(3) That the Mayor has authority to veto both affirmative and negative actions of the City Council.

WHEREFORE, PREMISES CONSIDERED, Petitioner Chokwe A. Lumumba, in his official capacity as Mayor of Jackson, requests the Court enter an Order granting the *Complaint for Declaratory Judgment* adjudicating (1) That a negative vote by the City Council constitutes and official action of the council; (2) That the City Council's vote to reject a contract submitted by the mayor is an ordinance that has been adopted by the council; and, (3) That the Mayor has authority to veto both affirmative and negative actions of the City Council. The Mayor further requests any and all other relief to which he may show himself entitled and the Court deems just and proper.

This the 4th day of April, 2022.

CHOKWE A. LUMUMBA, IN HIS OFFICIAL
CAPACITY AS MAYOR OF JACKSON,
MISSISSIPPI, PLAINTIFF

By: 

FELECIA PERKINS, ESQ.

Mississippi Bar Number 10078

JESSICA AYERS, ESQ.

Mississippi Bar Number 103685

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Post Office Box 21

Jackson, Mississippi 39205

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Counsel for Chokwe A. Lumumba, Mayor