

IN THE CHANCERY COURT FOR HAMILTON COUNTY, TENNESSEE

STATE OF TENNESSEE, ex rel
David Z. Harris and Walter D Phelps

PLAINTIFFS

VS.

Civil Action No. 09-0948

THE CITY OF CHATTANOOGA, TENNESSEE

DEFENDANT

**COMPLAINT IN NATURE OF QUO WARRANTO
and DECLARATORY RELIEF**

Come your Plaintiffs, by and through counsel, and file this action in the nature of quo warranto, pursuant to TCA 6-51-103 and related statutes, and seeking declaratory relief and for cause of action would show as follows:

1. Plaintiffs own real property in Hamilton County, Tennessee, which property is included within an area (Area 4B) which Defendant City of Chattanooga, Tennessee, a municipal corporation, seeks to annex into its corporate limits pursuant to certain ordinances including but not necessarily limited to Ordinance Number 12309, which ordinance is attached as Exhibit A and made a part hereof by reference. Defendant undertook to pass said Ordinances on final reading on or about the 27th day of October, 2009, allegedly under authority of Tennessee Code Annotated 6-51-102, et seq.

2. Plaintiffs bring this action in the nature of quo warranto pursuant to Tennessee Code Annotated 6-51-103 and 6-58-111, contesting the annexation ordinance and the attempted annexation of Plaintiffs' property.

3. Plaintiffs, by and through their counsel, aver that neither the Mayor nor the City Council of Chattanooga have received a request or approval from the Plaintiffs to annex Plaintiffs' property and the residents of the annexed area have not submitted to the City Council that if they are not annexed, that their health, welfare and safety will be materially retarded.

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FILED
S. LEAKERS. C&M
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IN THE CHANCERY COURT FOR HAMILTON COUNTY, TENNESSEE

STATE OF TENNESSEE, ex rel
Bobby Woods

PLAINTIFFS

VS.

Civil Action No. 09-0950

THE CITY OF CHATTANOOGA, TENNESSEE

DEFENDANT

**COMPLAINT IN NATURE OF QUO WARRANTO
and DECLARATORY RELIEF**

Come your Plaintiffs, by and through counsel, and file this action in the nature of quo warranto, pursuant to TCA 6-51-103 and related statutes, and seeking declaratory relief and for cause of action would show as follows:

1. Plaintiffs own real property in Hamilton County, Tennessee, which property is included within an area (Area 6B) which Defendant City of Chattanooga, Tennessee, a municipal corporation, seeks to annex into its corporate limits pursuant to certain ordinances including but not necessarily limited to Ordinance Number 12313, which ordinance is attached as Exhibit A and made a part hereof by reference. Defendant undertook to pass said Ordinances on final reading on or about the 27th day of October, 2009, allegedly under authority of Tennessee Code Annotated 6-51-102, et seq.

2. Plaintiffs bring this action in the nature of quo warranto pursuant to Tennessee Code Annotated 6-51-103 and 6-58-111, contesting the annexation ordinance and the attempted annexation of Plaintiffs' property.

3. Plaintiffs, by and through their counsel, aver that neither the Mayor nor the City Council of Chattanooga have received a request or approval from the Plaintiffs to annex Plaintiffs' property and the residents of the annexed area have not submitted to the City Council that if they are not annexed, that their health, welfare and safety will be materially retarded.

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FILED
S. LEE AKERS, C&M
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IN THE CHANCERY COURT FOR HAMILTON COUNTY, TENNESSEE

STATE OF TENNESSEE, ex rel
Mignonne Pearson, Damon Stegel

PLAINTIFFS

VS.

Civil Action No. 09-0949

THE CITY OF CHATTANOOGA, TENNESSEE

DEFENDANT

**COMPLAINT IN NATURE OF QUO WARRANTO
and DECLARATORY RELIEF**

Come your Plaintiffs, by and through counsel, and file this action in the nature of quo warranto, pursuant to TCA 6-51-103 and related statutes, and seeking declaratory relief and for cause of action would show as follows:

1. Plaintiffs own real property in Hamilton County, Tennessee, which property is included within an area (Area 3C) which Defendant City of Chattanooga, Tennessee, a municipal corporation, seeks to annex into its corporate limits pursuant to certain ordinances including but not necessarily limited to Ordinance Number 12311, which ordinance is attached as Exhibit A and made a part hereof by reference. Defendant undertook to pass said Ordinances on final reading on or about the 27th day of October, 2009, allegedly under authority of Tennessee Code Annotated 6-51-102, et seq.

2. Plaintiffs bring this action in the nature of quo warranto pursuant to Tennessee Code Annotated 6-51-103 and 6-58-111, contesting the annexation ordinance and the attempted annexation of Plaintiffs' property.

3. Plaintiffs, by and through their counsel, aver that neither the Mayor nor the City Council of Chattanooga have received a request or approval from the Plaintiffs to annex Plaintiffs' property and the residents of the annexed area have not submitted to the City Council that if they are not annexed, that their health, welfare and safety will be materially retarded.

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S. E. AKERS, C&M
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IN THE CHANCERY COURT FOR HAMILTON COUNTY, TENNESSEE

STATE OF TENNESSEE, ex rel
Tim Smith, Deter Kuberg, Ray & Becky Carter
Danny Wate, David Barrow, Ken McElhaney, Harrison Baptist Church
Ross E. & Christine D. Walker, Martin & Cheryl McNabb

PLAINTIFFS

VS.

Civil Action No. 09-0953

THE CITY OF CHATTANOOGA, TENNESSEE

DEFENDANT

**COMPLAINT IN NATURE OF QUO WARRANTO
and DECLARATORY RELIEF**

Come your Plaintiffs, by and through counsel, and file this action in the nature of quo warranto, pursuant to TCA 6-51-103 and related statutes, and seeking declaratory relief and for cause of action would show as follows:

1. Plaintiffs own real property in Hamilton County, Tennessee, which property is included within an area (Area 6C) which Defendant City of Chattanooga, Tennessee, a municipal corporation, seeks to annex into its corporate limits pursuant to certain ordinances including but not necessarily limited to Ordinance Number 12314, which ordinance is attached as Exhibit A and made a part hereof by reference. Defendant undertook to pass said Ordinances on final reading on or about the 27th day of October, 2009, allegedly under authority of Tennessee Code Annotated 6-51-102, et seq.

2. Plaintiffs bring this action in the nature of quo warranto pursuant to Tennessee Code Annotated 6-51-103 and 6-58-111, contesting the annexation ordinance and the attempted annexation of Plaintiffs' property.

3. Plaintiffs, by and through their counsel, aver that neither the Mayor nor the City Council of Chattanooga have received a request or approval from the Plaintiffs to annex Plaintiffs'

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S. LEE AKERS, C&M

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IN THE CHANCERY COURT FOR HAMILTON COUNTY, TENNESSEE

STATE OF TENNESSEE, ex rel
Mary Lewis, Annie R. Armour, Berniece Gay,
Dorothy Gay Jones

PLAINTIFFS

VS.

Civil Action No. 09-0952

THE CITY OF CHATTANOOGA, TENNESSEE

DEFENDANT

**COMPLAINT IN NATURE OF QUO WARRANTO
and DECLARATORY RELIEF**

Come your Plaintiffs, by and through counsel, and file this action in the nature of quo warranto, pursuant to TCA 6-51-103 and related statutes, and seeking declaratory relief and for cause of action would show as follows:

1. Plaintiffs own real property in Hamilton County, Tennessee, which property is included within an area (Area 6A) which Defendant City of Chattanooga, Tennessee, a municipal corporation, seeks to annex into its corporate limits pursuant to certain ordinances including but not necessarily limited to Ordinance Number 12312, which ordinance is attached as Exhibit A and made a part hereof by reference. Defendant undertook to pass said Ordinances on final reading on or about the 27th day of October, 2009, allegedly under authority of Tennessee Code Annotated 6-51-102, et seq.

2. Plaintiffs bring this action in the nature of quo warranto pursuant to Tennessee Code Annotated 6-51-103 and 6-58-111, contesting the annexation ordinance and the attempted annexation of Plaintiffs' property.

3. Plaintiffs, by and through their counsel, aver that neither the Mayor nor the City Council of Chattanooga have received a request or approval from the Plaintiffs to annex Plaintiffs' property and the residents of the annexed area have not submitted to the City Council that if they are

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S. LEE AKERS, C&M
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IN THE CHANCERY COURT FOR HAMILTON COUNTY, TENNESSEE

STATE OF TENNESSEE, ex rel
George Evan Hellerstedt

PLAINTIFFS

VS.

Civil Action No. 09-0951

THE CITY OF CHATTANOOGA, TENNESSEE

DEFENDANT

**COMPLAINT IN NATURE OF QUO WARRANTO
and DECLARATORY RELIEF**

Come your Plaintiffs, by and through counsel, and file this action in the nature of quo warranto, pursuant to TCA 6-51-103 and related statutes, and seeking declaratory relief and for cause of action would show as follows:

1. Plaintiffs own real property in Hamilton County, Tennessee, which property is included within an area (Area 3A) which Defendant City of Chattanooga, Tennessee, a municipal corporation, seeks to annex into its corporate limits pursuant to certain ordinances including but not necessarily limited to Ordinance Number 12308, which ordinance is attached as Exhibit A and made a part hereof by reference. Defendant undertook to pass said Ordinances on final reading on or about the 27th day of October, 2009, allegedly under authority of Tennessee Code Annotated 6-51-102, et seq.

2. Plaintiffs bring this action in the nature of quo warranto pursuant to Tennessee Code Annotated 6-51-103 and 6-58-111, contesting the annexation ordinance and the attempted annexation of Plaintiffs' property.

3. Plaintiffs, by and through their counsel, aver that neither the Mayor nor the City Council of Chattanooga have received a request or approval from the Plaintiffs to annex Plaintiffs' property and the residents of the annexed area have not submitted to the City Council that if they are not annexed, that their health, welfare and safety will be materially retarded.

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S. LEE AKERS, C&M
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4. Plaintiffs by and through counsel aver that the proposed Ordinance constitutes an exercise of power not conferred by law (Tennessee Code Annotated 6-51-102) and is therefore void and invalid ab initio in that it is not necessary for the health welfare and safety of the citizens and residents of the annexed territory, nor of the city and that the health, welfare and safety of the city and the residents will not be materially retarded if the property is not annexed.

5. Plaintiffs by and through counsel aver, that the governing body of the City of Chattanooga, Tennessee, has no power to provide any services to the citizens and residents of Hamilton County, Tennessee, which the citizens and residents of Hamilton County, Tennessee, do not already have or are not able, by and through their county legislative body, to procure for themselves should they deem their health welfare and safety to be materially retarded.

6. Plaintiffs, by and through counsel aver that the health, safety, and welfare of the citizens and property owners of the municipality and territory attempted to be annexed will not be materially retarded in the absence of such annexation.

7. Plaintiffs, by and through counsel aver, that neither the planning commission of the City of Chattanooga nor any other person or department in the City of Chattanooga has made a query of the citizens and property owners of the annexed area to determine if their health, welfare, safety or prosperity will be materially retarded if the territory is not annexed.

8. Plaintiffs, by and through counsel, aver that it is impossible for the City to have determined that which is necessary to prevent the health welfare and safety of the citizens and property owners of the territory, without having conferred and queried said persons as to the state of their health, welfare, and safety.

9. Plaintiffs aver, by and through counsel, that absent the inquiry noted in paragraphs 7 & 8 above, it is a factual and logical impossibility for the City to have determined that the annexation of the territory was necessary to prevent the endangerment or the material retardation of the health welfare and safety of the citizens and property owners of the annexed area.

10. Plaintiffs, by and through counsel, aver that the City of Chattanooga has thereby failed to meet the threshold requirement of annexation as set out in T.C.A. § 6-51-102. As a result, the action of the City of Chattanooga in annexing the subject property “constitutes an exercise of power not conferred by law” (T.C.A. § 6-51-103(a)(1)(A)).

11. Plaintiffs, by and through counsel, aver that their health and that of their families and of the other citizens and residents of the annexed area has not heretofore not been endangered by not being in the City of Chattanooga and that in fact they have experienced good health. Plaintiffs

further aver that their continued good health and that of the citizens and residents of the annexed area will not be materially retarded if they are not annexed into the City of Chattanooga.

12. Plaintiffs aver, by and through counsel, that they are the persons best situated to ascertain whether their continued good health will be materially retarded if their property is not annexed into the City of Chattanooga.

13. Plaintiffs, by and through counsel, aver that their welfare, and that of their families and the citizens and residents of the annexed area has not heretofore not been endangered by not being in the City of Chattanooga and that in fact the welfare of themselves, their families and the citizens and residents of the annexed area will not be materially retarded if they are not annexed into the City of Chattanooga.

14. Plaintiffs aver, by and through counsel, that the past and present Mayors and City Councils of the City of Chattanooga have provided for the health welfare and safety of the residents and property owners of the City of Chattanooga.

15. Plaintiffs aver, by and through counsel, that the Mayor and City Council of Chattanooga will continue to assure that the health welfare and safety of the citizens and property owners of the City of Chattanooga will continue unabated and not be materially retarded if the subject property is not annexed.

16. Plaintiffs aver that the City of Chattanooga offers no services to the citizens and property owners of the proposed annexed territory that they do not already have, inter alia, to wit:

(a) The sheriff and his department provide for the health welfare and safety of the citizens and residents of the proposed annexed area and their health welfare and safety will not be materially retarded if they do not receive the services of the Chattanooga police department. Likewise, the City Police Department will continue to provide its services to the Citizens and residents of the City, unabated, if the proposed annexed territory is not annexed.

(b) The citizens and property owners of the proposed annexed area have fire protection and their continued safety will not be materially retarded if they are not annexed into the City. Likewise, the City Fire Department will continue to provide its services to the Citizens and residents of the City, unabated, if the proposed annexed territory is not annexed.

(c) The citizens and property owners of the proposed annexed area presently have running water in their homes supplied by the Hixson Utility District and the City of Chattanooga states that the Hixson Utility District will continue to provide running water. The health and safety of the citizens of the annexed, with respect to potable water will not be materially retarded if they are not

annexed by the City of Chattanooga. Likewise, the Chattanooga City Water Department will continue to provide its services, unabated, to the Citizens and residents of the City, unabated, if the proposed territory is not annexed.

(d) As set out in the Plan of Services, the annexed area presently receives its electric services from the Electric Power Board of Chattanooga which operates as a separate utility entity. The citizens and property owners of the proposed annexed area do not need to be annexed to continue to receive Electric Service and therefore their health welfare and safety will not be materially retarded if they are not annexed. Likewise, the Electric Power Board of Chattanooga will continue to provide its services to the Citizens and residents of the City, unabated, if the proposed annexed territory is not annexed.

(e) The citizens and property owners of the proposed annexed area have private waste disposal available and the cost of increased taxes does not offset their present cost. If they are not annexed, their health, welfare and safety will not be materially retarded if they do not receive the solid waste disposal services of the city. Likewise, the City Garbage Disposal Department will continue to provide its services to the Citizens and residents of the City, unabated, if the proposed annexed territory is not annexed.

(f) The citizens and property owners of the proposed annexed area presently have sewage disposal systems and/or sewer service from Hamilton County Waste Water Treatment Authority. Since Chattanooga is providing no services than are otherwise being provided, the health welfare and safety of the annexed residents will not be materially retarded if they are not annexed.

(g) The Hamilton County Highway Department has provided and will continue to provide the same emergency routine maintenance services to the streets in the proposed annexed area that are proposed to be provided by the City of Chattanooga if the property is annexed. The safety of the citizens and property owners of the proposed annexed area, will not, therefore be materially retarded if the property is not annexed.

(h) There is no need for traffic control devices in the annexed area other than as already provided by the Hamilton County highway department. Likewise, the City Road Department will continue to provide traffic control services to the Citizens and residents of the City, unabated, if the proposed annexed territory is not annexed.

(i) Hamilton County provides maintenance of storm water sewer and drainage systems on county property and installs them where needed as does the City of Chattanooga. Failure to annex this area and substitute the storm water sewer services of the City will not materially retard the

health, welfare, and safety of the citizens and residents of the annexed area. Likewise, the City will continue to provide its storm water sewer services to the Citizens and residents of the City, unabated, if the proposed annexed territory is not annexed.

(j) Hamilton County has the same codes as does Chattanooga and has a codes enforcement authority. The enforcement of the codes of Chattanooga will continue unabated if the subject property is not annexed. The health welfare and safety of the residents of the annexed area as well as the residents of the city will not be materially retarded if the property is not annexed.

17. Plaintiffs aver, by and through counsel, that the annexation of this area is for the purpose of obtaining additional revenues over and above the costs to the City and not for the purpose of preventing the material retardation of the health, welfare and safety of the citizens and residents of the City and the area annexed.

18. Upon information and belief, plaintiffs aver that the City of Chattanooga is in default on the provisions of one or more plans of service for prior annexed areas and is therefore precluded from annexing this territory as set forth in T.C.A. § 6-51-102(b)(5).

PREMISES CONSIDERED, PLAINTIFF PRAYS:

1. That process issue and be served upon Defendant requiring it to appear and answer this Complaint.


2. That the Court decide the statutorily mandated issue as provided in Tennessee Code Annotated 6-51-103 and T.C.A. 6-58-111.

3. That the Ordinance herein referenced be vacated by order of this Court, and the same be declared null, void and of no effect.

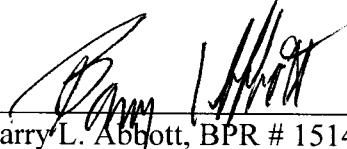
4. That Plaintiff have such other, further, equitable and general relief to which this Court may deem it entitled

THIS IS THE FIRST PETITION IN THE NATURE OF QUO WARRANTO OR FOR EXTRAORDINARY RELIEF FILED ON BEHALF OF THE PLAINTIFF IN THIS MATTER AND NO COURT HAS HERETOFORE DENIED SUCH RELIEF.

Respectfully submitted,



David L. Buuck, BPR 7210
Attorney for Plaintiffs
707 Market St.
Knoxville, Tennessee 37902
(865) 544-0027
(865) 637-9800 (Fax)




Barry L. Abbott, BPR # 15149
801 Broad Street, Ste. 428
Chattanooga, TN 37402
423-265-8804
423-267-5915 (FAX)

COST BOND

I hereby acknowledge and bind myself for the payment of all non-discretionary costs that may be adjudged herein against , the principal, in the event that the principal does not pay them.

Witness my hand this 23rd day of Nov, 2009 .



Signature

David L. Buuck, BPR #7210
707 Market St.,
Knoxville, TN 37902

not annexed, that their health, welfare and safety will be materially retarded.

4. Plaintiffs by and through counsel aver that the proposed Ordinance constitutes an exercise of power not conferred by law (Tennessee Code Annotated 6-51-102) and is therefore void and invalid ab initio in that it is not necessary for the health welfare and safety of the citizens and residents of the annexed territory, nor of the city and that the health, welfare and safety of the city and the residents will not be materially retarded if the property is not annexed.

5. Plaintiffs by and through counsel aver, that the governing body of the City of Chattanooga, Tennessee, has no power to provide any services to the citizens and residents of Hamilton County, Tennessee, which the citizens and residents of Hamilton County, Tennessee, do not already have or are not able, by and through their county legislative body, to procure for themselves should they deem their health welfare and safety to be materially retarded.

6. Plaintiffs, by and through counsel aver that the health, safety, and welfare of the citizens and property owners of the municipality and territory attempted to be annexed will not be materially retarded in the absence of such annexation.

7. Plaintiffs, by and through counsel aver, that neither the planning commission of the City of Chattanooga nor any other person or department in the City of Chattanooga has made a query of the citizens and property owners of the annexed area to determine if their health, welfare, safety or prosperity will be materially retarded if the territory is not annexed.

8. Plaintiffs, by and through counsel, aver that it is impossible for the City to have determined that which is necessary to prevent the health welfare and safety of the citizens and property owners of the territory, without having conferred and queried said persons as to the state of their health, welfare, and safety.

9. Plaintiffs aver, by and through counsel, that absent the inquiry noted in paragraphs 7 & 8 above, it is a factual and logical impossibility for the City to have determined that the annexation of the territory was necessary to prevent the endangerment or the material retardation of the health welfare and safety of the citizens and property owners of the annexed area.

10. Plaintiffs, by and through counsel, aver that the City of Chattanooga has thereby failed to meet the threshold requirement of annexation as set out in T.C.A. § 6-51-102. As a result, the action of the City of Chattanooga in annexing the subject property “constitutes an exercise of power not conferred by law” (T.C.A. § 6-51-103(a)(1)(A)).

11. Plaintiffs, by and through counsel, aver that their health and that of their families and of the other citizens and residents of the annexed area has not heretofore not been endangered by not

being in the City of Chattanooga and that in fact they have experienced good health. Plaintiffs further aver that their continued good health and that of the citizens and residents of the annexed area will not be materially retarded if they are not annexed into the City of Chattanooga.

12. Plaintiffs aver, by and through counsel, that they are the persons best situated to ascertain whether their continued good health will be materially retarded if their property is not annexed into the City of Chattanooga.

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15. Plaintiffs aver, by and through counsel, that the Mayor and City Council of Chattanooga will continue to assure that the health welfare and safety of the citizens and property owners of the City of Chattanooga will continue unabated and not be materially retarded if the subject property is not annexed.

16. Plaintiffs aver that the City of Chattanooga offers no services to the citizens and property owners of the proposed annexed territory that they do not already have, inter alia, to wit:

(a) The sheriff and his department provide for the health welfare and safety of the citizens and residents of the proposed annexed area and their health welfare and safety will not be materially retarded if they do not receive the services of the Chattanooga police department. Likewise, the City Police Department will continue to provide its services to the Citizens and residents of the City, unabated, if the proposed annexed territory is not annexed.

(b) The citizens and property owners of the proposed annexed area have fire protection and their continued safety will not be materially retarded if they are not annexed into the City. Likewise, the City Fire Department will continue to provide its services to the Citizens and residents of the City, unabated, if the proposed annexed territory is not annexed.

(c) The citizens and property owners of the proposed annexed area presently have running water in their homes supplied by the Hixson Utility District and the City of Chattanooga states that the Hixson Utility District will continue to provide running water. The health and safety of the

citizens of the annexed, with respect to potable water will not be materially retarded if they are not annexed by the City of Chattanooga. Likewise, the Chattanooga City Water Department will continue to provide its services, unabated, to the Citizens and residents of the City, unabated, if the proposed territory is not annexed.

(d) As set out in the Plan of Services, the annexed area presently receives its electric services from the Electric Power Board of Chattanooga which operates as a separate utility entity. The citizens and property owners of the proposed annexed area do not need to be annexed to continue to receive Electric Service and therefore their health welfare and safety will not be materially retarded if they are not annexed. Likewise, the Electric Power Board of Chattanooga will continue to provide its services to the Citizens and residents of the City, unabated, if the proposed annexed territory is not annexed.

(e) The citizens and property owners of the proposed annexed area have private waste disposal available and the cost of increased taxes does not offset their present cost. If they are not annexed, their health, welfare and safety will not be materially retarded if they do not receive the solid waste disposal services of the city. Likewise, the City Garbage Disposal Department will continue to provide its services to the Citizens and residents of the City, unabated, if the proposed annexed territory is not annexed.

(f) The citizens and property owners of the proposed annexed area presently have sewage disposal systems and/or sewer service from Hamilton County Waste Water Treatment Authority. Since Chattanooga is providing no services than are otherwise being provided, the health welfare and safety of the annexed residents will not be materially retarded if they are not annexed.

(g) The Hamilton County Highway Department has provided and will continue to provide the same emergency routine maintenance services to the streets in the proposed annexed area that are proposed to be provided by the City of Chattanooga if the property is annexed. The safety of the citizens and property owners of the proposed annexed area, will not, therefore be materially retarded if the property is not annexed.

(h) There is no need for traffic control devices in the annexed area other than as already provided by the Hamilton County highway department. Likewise, the City Road Department will continue to provide traffic control services to the Citizens and residents of the City, unabated, if the proposed annexed territory is not annexed.

(i) Hamilton County provides maintenance of storm water sewer and drainage systems on county property and installs them where needed as does the City of Chattanooga. Failure to annex

this area and substitute the storm water sewer services of the City will not materially retard the health, welfare, and safety of the citizens and residents of the annexed area. Likewise, the City will continue to provide its storm water sewer services to the Citizens and residents of the City, unabated, if the proposed annexed territory is not annexed.

(j) Hamilton County has the same codes as does Chattanooga and has a codes enforcement authority. The enforcement of the codes of Chattanooga will continue unabated if the subject property is not annexed. The health welfare and safety of the residents of the annexed area as well as the residents of the city will not be materially retarded if the property is not annexed.

17. Plaintiffs aver, by and through counsel, that the annexation of this area is for the purpose of obtaining additional revenues over and above the costs to the City and not for the purpose of preventing the material retardation of the health, welfare and safety of the citizens and residents of the City and the area annexed.

18. Upon information and belief, plaintiffs aver that the City of Chattanooga is in default on the provisions of one or more plans of service for prior annexed areas and is therefore precluded from annexing this territory as set forth in T.C.A. § 6-51-102(b)(5).

PREMISES CONSIDERED, PLAINTIFF PRAYS:

1. That process issue and be served upon Defendant requiring it to appear and answer this Complaint.

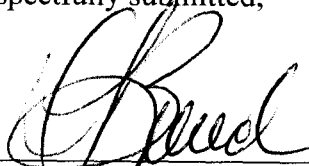
2. That the Court decide the statutorily mandated issue as provided in Tennessee Code Annotated 6-51-103 and T.C.A. 6-58-111.

3. That the Ordinance herein referenced be vacated by order of this Court, and the same be declared null, void and of no effect.

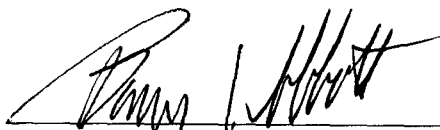
4. That Plaintiff have such other, further, equitable and general relief to which this Court may deem it entitled

THIS IS THE FIRST PETITION IN THE NATURE OF QUO WARRANTO OR FOR EXTRAORDINARY RELIEF FILED ON BEHALF OF THE PLAINTIFF IN THIS MATTER AND NO COURT HAS HERETOFORE DENIED SUCH RELIEF.

Respectfully submitted,



David L. Buuck, BPR 7210
Attorney for Plaintiffs
707 Market St.
Knoxville, Tennessee 37902
(865) 544-0027
(865) 637-9800 (Fax)




Barry L. Abbott, BPR # 15149
801 Broad Street, Ste. 428
Chattanooga, TN 37402
423-265-8804
423-267-5915 (FAX)

COST BOND

I hereby acknowledge and bind myself for the payment of all non-discretionary costs that may be adjudged herein against , the principal, in the event that the principal does not pay them.

Witness my hand this 23rd day of Nov., 2009 .



Signature

David L. Buuck, BPR #7210
707 Market St.,
Knoxville, TN 37902

CIVIL CASE COVER SHEET

RECEIVED 05
11-24-09
Clerk & Master

Check one: CHANCERY COURT CIRCUIT COURT

Docket No. 09-0952

Date: November 23, 2009

Attorney of Record David L. Buuck, # 7210

I. Origin Original Proceeding Case Reopened
 Answer/Initial Responsive Pleading

Counter-claim Cross-claim 3rd Party Claim Intervening Claim
 Other (Specify)

II. Type of Action (Check one)

Domestic Relations

361 Paternity 362 Legitimation 363 Adoption 364 Surrender
 371 Divorce with minor children 372 Divorce without minor children 381 Order of Protection 391 Interstate Support-Incoming
 401 Other Domestic Relations (Specify)

General Civil

461 Contract/Debt 462 Specific Performance 471 Damages/Torts 481 Real Estate Matter
 491 Workers Compensation 501 Probate 511 Juvenile Court Appeal 512 General Sessions Appeal
 513 Appeal from Admin. Hearing 571 Conservatorship 572 Guardianship 573 Trust
 581 Miscellaneous General Civil (Specify)

Other 541 Judicial Hospitalization

Petition for: (Reopened Cases) 381 Order of Protection 382 Contempt 383 Residential Parenting/No Child Support
 84 Residential Parenting/Child Support 385 Child Support 387 Wage Assignment Hearing
 551 Other

III. Total amount sued for \$0 Specific type of damages or relief sought quo warranto declaration

Statutory authority for suit, if any TCA 6-51-103

IV. Check one: Affidavit to proceed in forma pauperis Cost Bond Surety David L. Buuck, Attorney, BPR #7210

JURY DEMAND (Check YES only if demanded in complaint) YES NO

VI. RELATED CASES (if any) Docket No. Judge

Date filed Status

VII. PLAINTIFF/PETITIONER INFORMATION (List additional parties on supplemental form.)

I. Name Lewis Mary A.
Last First Middle

AKA DBA BNF Quickmart

S.S. # DOB Driver's License #

COMPANY NAME
5136 Turkeyfoot
ADDRESS
Chattanooga, TN 37363
CITY STATE ZIP

EMPLOYER
ADDRESS
CITY STATE ZIP

David L. Buuck 7210
ATTORNEY BPR #
707 Market St.
ADDRESS
Knoxville TN 37902
CITY STATE ZIP
865-544-0027
PHONE FACSIMILE

VIII. DEFENDANT/RESPONDENT INFORMATION (List additional parties on supplemental form.)

NAME City of Chattanooga
Last first Middle

AKA DBA BNF

S. S. # DOB Driver's License #

COMPANY NAME
City Hall, 101 East 11th St., Chattanooga, TN
ADDRESS
CITY STATE ZIP

EMPLOYER
ADDRESS
CITY STATE ZIP

ATTORNEY BPR #
ADDRESS
CITY STATE ZIP
PHONE FACSIMILE

TYPE OF SERVICE REQUIRED

Out of County Sheriff Publication (specify)
 Local Sheriff Other (specify)
 Secretary of State Special Instructions
 Comm. Of Ins.

IX. ASSOCIATED PARTY (Uninsured Motorist Carrier) INFORMATION

I. Name Address

Type of Service (specify)

Are additional plaintiffs or defendants listed on a separate sheet? YES NO

property and the residents of the annexed area have not submitted to the City Council that if they are not annexed, that their health, welfare and safety will be materially retarded.

4. Plaintiffs by and through counsel aver that the proposed Ordinance constitutes an exercise of power not conferred by law (Tennessee Code Annotated 6-51-102) and is therefore void and invalid ab initio in that it is not necessary for the health welfare and safety of the citizens and residents of the annexed territory, nor of the city and that the health, welfare and safety of the city and the residents will not be materially retarded if the property is not annexed.

5. Plaintiffs by and through counsel aver, that the governing body of the City of Chattanooga, Tennessee, has no power to provide any services to the citizens and residents of Hamilton County, Tennessee, which the citizens and residents of Hamilton County, Tennessee, do not already have or are not able, by and through their county legislative body, to procure for themselves should they deem their health welfare and safety to be materially retarded.

6. Plaintiffs, by and through counsel aver that the health, safety, and welfare of the citizens and property owners of the municipality and territory attempted to be annexed will not be materially retarded in the absence of such annexation.

7. Plaintiffs, by and through counsel aver, that neither the planning commission of the City of Chattanooga nor any other person or department in the City of Chattanooga has made a query of the citizens and property owners of the annexed area to determine if their health, welfare, safety or prosperity will be materially retarded if the territory is not annexed.

8. Plaintiffs, by and through counsel, aver that it is impossible for the City to have determined that which is necessary to prevent the health welfare and safety of the citizens and property owners of the territory, without having conferred and queried said persons as to the state of their health, welfare, and safety.

9. Plaintiffs aver, by and through counsel, that absent the inquiry noted in paragraphs 7 & 8 above, it is a factual and logical impossibility for the City to have determined that the annexation of the territory was necessary to prevent the endangerment or the material retardation of the health welfare and safety of the citizens and property owners of the annexed area.

10. Plaintiffs, by and through counsel, aver that the City of Chattanooga has thereby failed to meet the threshold requirement of annexation as set out in T.C.A. § 6-51-102. As a result, the action of the City of Chattanooga in annexing the subject property “constitutes an exercise of power not conferred by law” (T.C.A. § 6-51-103(a)(1)(A)).

11. Plaintiffs, by and through counsel, aver that their health and that of their families and of the other citizens and residents of the annexed area has not heretofore not been endangered by not being in the City of Chattanooga and that in fact they have experienced good health. Plaintiffs further aver that their continued good health and that of the citizens and residents of the annexed area will not be materially retarded if they are not annexed into the City of Chattanooga.

12. Plaintiffs aver, by and through counsel, that they are the persons best situated to ascertain whether their continued good health will be materially retarded if their property is not annexed into the City of Chattanooga.

13. Plaintiffs, by and through counsel, aver that their welfare, and that of their families and the citizens and residents of the annexed area has not heretofore not been endangered by not being in the City of Chattanooga and that in fact the welfare of themselves, their families and the citizens and residents of the annexed area will not be materially retarded if they are not annexed into the City of Chattanooga.

14. Plaintiffs aver, by and through counsel, that the past and present Mayors and City Councils of the City of Chattanooga have provided for the health welfare and safety of the residents and property owners of the City of Chattanooga.

15. Plaintiffs aver, by and through counsel, that the Mayor and City Council of Chattanooga will continue to assure that the health welfare and safety of the citizens and property owners of the City of Chattanooga will continue unabated and not be materially retarded if the subject property is not annexed.

16. Plaintiffs aver that the City of Chattanooga offers no services to the citizens and property owners of the proposed annexed territory that they do not already have, inter alia, to wit:

(a) The sheriff and his department provide for the health welfare and safety of the citizens and residents of the proposed annexed area and their health welfare and safety will not be materially retarded if they do not receive the services of the Chattanooga police department. Likewise, the City Police Department will continue to provide its services to the Citizens and residents of the City, unabated, if the proposed annexed territory is not annexed.

(b) The citizens and property owners of the proposed annexed area have fire protection and their continued safety will not be materially retarded if they are not annexed into the City. Likewise, the City Fire Department will continue to provide its services to the Citizens and residents of the City, unabated, if the proposed annexed territory is not annexed.

(c) The citizens and property owners of the proposed annexed area presently have running water in their homes supplied by the Hixson Utility District and the City of Chattanooga states that the Hixson Utility District will continue to provide running water. The health and safety of the citizens of the annexed, with respect to potable water will not be materially retarded if they are not annexed by the City of Chattanooga. Likewise, the Chattanooga City Water Department will continue to provide its services, unabated, to the Citizens and residents of the City, unabated, if the proposed territory is not annexed.

(d) As set out in the Plan of Services, the annexed area presently receives its electric services from the Electric Power Board of Chattanooga which operates as a separate utility entity. The citizens and property owners of the proposed annexed area do not need to be annexed to continue to receive Electric Service and therefore their health welfare and safety will not be materially retarded if they are not annexed. Likewise, the Electric Power Board of Chattanooga will continue to provide its services to the Citizens and residents of the City, unabated, if the proposed annexed territory is not annexed.

(e) The citizens and property owners of the proposed annexed area have private waste disposal available and the cost of increased taxes does not offset their present cost. If they are not annexed, their health, welfare and safety will not be materially retarded if they do not receive the solid waste disposal services of the city. Likewise, the City Garbage Disposal Department will continue to provide its services to the Citizens and residents of the City, unabated, if the proposed annexed territory is not annexed.

(f) The citizens and property owners of the proposed annexed area presently have sewage disposal systems and/or sewer service from Hamilton County Waste Water Treatment Authority. Since Chattanooga is providing no services than are otherwise being provided, the health welfare and safety of the annexed residents will not be materially retarded if they are not annexed.

(g) The Hamilton County Highway Department has provided and will continue to provide the same emergency routine maintenance services to the streets inthe proposed annexed area that are proposed to be be provided by the City of Chattanooga if the property is annexed. The safety of the citizens and property owners of the proposed annexed area, will not, therefore be materially retarded if the property is not annexed.

(h) There is no need for traffic control devices in the annexed area other than as already provided by the Hamilton County highway department. Likewise, the City Road Department will

continue to provide traffic control services to the Citizens and residents of the City, unabated, if the proposed annexed territory is not annexed.

(i) Hamilton County provides maintenance of storm water sewer and drainage systems on county property and installs them where needed as does the City of Chattanooga. Failure to annex this area and substitute the storm water sewer services of the City will not materially retard the health, welfare, and safety of the citizens and residents of the annexed area. Likewise, the City will continue to provide its storm water sewer services to the Citizens and residents of the City, unabated, if the proposed annexed territory is not annexed.

(j) Hamilton County has the same codes as does Chattanooga and has a codes enforcement authority. The enforcement of the codes of Chattanooga will continue unabated if the subject property is not annexed. The health welfare and safety of the residents of the annexed area as well as the residents of the city will not be materially retarded if the property is not annexed.

17. Plaintiffs aver, by and through counsel, that the annexation of this area is for the purpose of obtaining additional revenues over and above the costs to the City and not for the purpose of preventing the material retardation of the health, welfare and safety of the citizens and residents of the City and the area annexed.

18. Upon information and belief, plaintiffs aver that the City of Chattanooga is in default on the provisions of one or more plans of service for prior annexed areas and is therefore precluded from annexing this territory as set forth in T.C.A. § 6-51-102(b)(5).

PREMISES CONSIDERED, PLAINTIFF PRAYS:

1. That process issue and be served upon Defendant requiring it to appear and answer this Complaint.

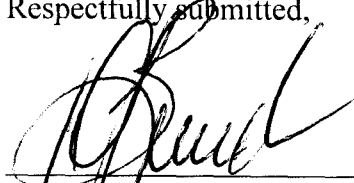
2. That the Court decide the statutorily mandated issue as provided in Tennessee Code Annotated 6-51-103 and T.C.A. 6-58-111.

3. That the Ordinance herein referenced be vacated by order of this Court, and the same be declared null, void and of no effect.

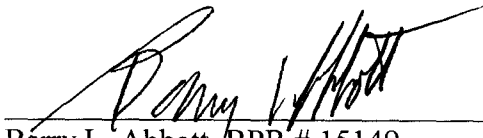
4. That Plaintiff have such other, further, equitable and general relief to which this Court may deem it entitled

THIS IS THE FIRST PETITION IN THE NATURE OF QUO WARRANTO OR FOR EXTRAORDINARY RELIEF FILED ON BEHALF OF THE PLAINTIFF IN THIS MATTER AND NO COURT HAS HERETOFORE DENIED SUCH RELIEF.

Respectfully submitted,



David L. Buuck, BPR 7210
Attorney for Plaintiffs
707 Market St.
Knoxville, Tennessee 37902
(865) 544-0027
(865) 637-9800 (Fax)



Barry L. Abbott, BPR # 15149
801 Broad Street, Ste. 428
Chattanooga, TN 37402
423-265-8804
423-267-5915 (FAX)

COST BOND

I hereby acknowledge and bind myself for the payment of all non-discretionary costs that may be adjudged herein against, the principal, in the event that the principal does not pay them.

Witness my hand this 23 day of Nov, 2009.



Signature

David L. Buuck, BPR #7210
707 Market St.,
Knoxville, TN 37902

CIVIL CASE COVER SHEET

Check one: x CHANCERY COURT CIRCUIT COURT

Docket No. 09-0953

Date: November 23, 2009

Attorney of Record David L. Buuck, # 7210

I. Origin x Original Proceeding Case Reopened
 Answer/Initial Responsive Pleading

Counter-claim Cross-claim 3rd Party Claim Intervening Claim
 Other (Specify) _____

RECEIVED
11-24-09
Clerk & Master

II. Type of Action (Check one)

Domestic Relations

361 Paternity 362 Legitimation 363 Adoption 364 Surrender
 371 Divorce with minor children 372 Divorce without minor children 381 Order of Protection 391 Interstate Support-Incoming
 401 Other Domestic Relations (Specify) _____ 392 Interstate Support-Outgoing

General Civil

461 Contract/Debt 462 Specific Performance 471 Damages/Torts x 481 Real Estate Matter
 491 Workers Compensation 501 Probate 511 Juvenile Court Appeal 512 General Sessions Appeal
 513 Appeal from Admin. Hearing 571 Conservatorship 572 Guardianship 573 Trust
 581 Miscellaneous General Civil (Specify) _____

Other 541 Judicial Hospitalization

Petition for: (Reopened Cases) 381 Order of Protection 382 Contempt 383 Residential Parenting/No Child Support
 84 Residential Parenting/Child Support 385 Child Support 387 Wage Assignment Hearing
 551 Other _____

III. Total amount sued for \$ 0 Specific type of damages or relief sought quo warranto declaration

Statutory authority for suit, if any TCA 6-51-103

IV. Check one: Affidavit to proceed *in forma pauperis* x Cost Bond Surety David L. Buuck, Attorney, BPR #7210

JURY DEMAND (Check YES only if demanded in complaint) YES x NO

VI. RELATED CASES (if any) Docket No. _____ Judge _____

Date filed _____ Status _____

VII. PLAINTIFF/PETITIONER INFORMATION (List additional parties on supplemental form.)

1. Name Smith Tim
Last First Middle

AKA x DBA BNF

S.S. # _____ DOB _____ Driver's License # _____

COMPANY NAME
6804 harrison Park Dr.
ADDRESS
Harrison, TN 37341
CITY STATE ZIP

EMPLOYER
ADDRESS
CITY STATE ZIP

David L. Buuck 7210
ATTORNEY BPR #
707 Market St.
ADDRESS
Knoxville TN 37902
CITY STATE ZIP
865-544-0027 865-637-9800
PHONE FACSIMILE

VIII. DEFENDANT/RESPONDENT INFORMATION (List additional parties on supplemental form.)

NAME City of Chattanooga
Last first Middle

AKA DBA BNF

S. S. # _____ DOB _____ Driver's License # _____

COMPANY NAME
City Hall, 101 East 11th St., Chattanooga, TN
ADDRESS
CITY STATE ZIP

EMPLOYER
ADDRESS
CITY STATE ZIP

ATTORNEY BPR #
ADDRESS
CITY STATE ZIP
PHONE FACSIMILE

TYPE OF SERVICE REQUIRED

Out of County Sheriff Publication (specify) _____
x Local Sheriff Other (specify) _____
 Secretary of State Special Instructions _____
 Comm. Of Ins.

IX. ASSOCIATED PARTY (Uninsured Motorist Carrier) INFORMATION

1. Name _____ Address _____

Type of Service (specify) _____

Are additional plaintiffs or defendants listed on a separate sheet? x YES NO

**SUPPLEMENTAL
CIVIL CASE COVER SHEET
ADDITIONAL PARTIES INFORMATION**

Check One: Plaintiff/Petitioner Defendant/Respondent Associated Party Docket No. _____

NAME Kuberg Deter
Last first Middle

AKA DBA BNF _____

S. S. # _____ DOB _____ Driver's License # _____

COMPANY NAME _____

6804 Harrison Park Dr.915 Cravens Trace.

ADDRESS _____

Harrison, TN 37341

CITY STATE ZIP _____

EMPLOYER _____

ADDRESS _____

CITY STATE ZIP _____

TYPE OF SERVICE REQUIRED

Out of County Sheriff _____

Local Sheriff _____

Secretary of State _____

Comm. Of Ins. _____

same as lead plaintiff

ATTORNEY _____ BPR # _____

ADDRESS _____

CITY STATE ZIP _____

PHONE _____ FACSIMILE _____

Check One: Plaintiff/Petitioner Defendant/Respondent Associated Party

NAME Carter Ray & Becky
Last first Middle

AKA DBA BNF _____

S. S. # _____ DOB _____ Driver's License # _____

COMPANY NAME _____

720 So. Hwy 58

ADDRESS _____

Georgetown, TN 37366

CITY STATE ZIP _____

EMPLOYER _____

ADDRESS _____

CITY STATE ZIP _____

TYPE OF SERVICE REQUIRED

Out of County Sheriff _____

Local Sheriff _____

Secretary of State _____

Comm. Of Ins. _____

same as lead plaintiff

ATTORNEY _____ BPR # _____

ADDRESS _____

CITY STATE ZIP _____

PHONE _____ FACSIMILE _____

Check One: Plaintiff/Petitioner Defendant/Respondent Associated Party

NAME Wate Danny
Last first Middle

AKA DBA BNF _____

S. S. # _____ DOB _____ Driver's License # _____

COMPANY NAME _____

6212 Hwy 58

ADDRESS _____

CITY STATE ZIP _____

EMPLOYER _____

ADDRESS _____

CITY STATE ZIP _____

TYPE OF SERVICE REQUIRED

Out of County Sheriff _____

Local Sheriff _____

Secretary of State _____

Comm. Of Ins. _____

same as lead plaintiff

ATTORNEY _____ BPR # _____

ADDRESS _____

CITY STATE ZIP _____

PHONE _____ FACSIMILE _____

**SUPPLEMENTAL
CIVIL CASE COVER SHEET
ADDITIONAL PARTIES INFORMATION**

Check One: Plaintiff/Petitioner Defendant/Respondent Associated Party Docket No. _____

NAME Barrow David O.
Last first Middle

AKA DBA BNF

S. S. # _____ DOB _____ Driver's License # _____

COMPANY NAME _____

6923 Bay Crest Lane.

ADDRESS _____

Harrison, TN 37341

CITY STATE ZIP

EMPLOYER _____

ADDRESS _____

CITY STATE ZIP

TYPE OF SERVICE REQUIRED

- Out of County Sheriff
 Local Sheriff
 Secretary of State
 Comm. Of Ins.

same as lead plaintiff

ATTORNEY _____ BPR # _____

ADDRESS _____

CITY STATE ZIP

PHONE _____ FACSIMILE _____

Check One: Plaintiff/Petitioner Defendant/Respondent Associated Party

NAME McElhane Ken _____
Last first Middle

AKA DBA BNF

S. S. # _____ DOB _____ Driver's License # _____

COMPANY NAME _____

6606 Church St.

ADDRESS _____

Harrison, TN 37341

CITY STATE ZIP

EMPLOYER _____

ADDRESS _____

CITY STATE ZIP

TYPE OF SERVICE REQUIRED

- Out of County Sheriff
 Local Sheriff
 Secretary of State
 Comm. Of Ins.

- Publication (specify) _____
 Other (specify) _____
Special Instructions _____

Check One: Plaintiff/Petitioner Defendant/Respondent Associated Party

NAME Harrison Baptist Church _____
Last first Middle

AKA DBA BNF

S. S. # _____ DOB _____ Driver's License # _____

COMPANY NAME _____

6620 Church St.

ADDRESS _____

Harrison, TN 37341

CITY STATE ZIP

EMPLOYER _____

ADDRESS _____

CITY STATE ZIP

TYPE OF SERVICE REQUIRED

- Out of County Sheriff
 Local Sheriff
 Secretary of State
 Comm. Of Ins.

- Publication (specify) _____
 Other (specify) _____
Special Instructions _____

4. Plaintiffs by and through counsel aver that the proposed Ordinance constitutes an exercise of power not conferred by law (Tennessee Code Annotated 6-51-102) and is therefore void and invalid ab initio in that it is not necessary for the health welfare and safety of the citizens and residents of the annexed territory, nor of the city and that the health, welfare and safety of the city and the residents will not be materially retarded if the property is not annexed.

5. Plaintiffs by and through counsel aver, that the governing body of the City of Chattanooga, Tennessee, has no power to provide any services to the citizens and residents of Hamilton County, Tennessee, which the citizens and residents of Hamilton County, Tennessee, do not already have or are not able, by and through their county legislative body, to procure for themselves should they deem their health welfare and safety to be materially retarded.

6. Plaintiffs, by and through counsel aver that the health, safety, and welfare of the citizens and property owners of the municipality and territory attempted to be annexed will not be materially retarded in the absence of such annexation.

7. Plaintiffs, by and through counsel aver, that neither the planning commission of the City of Chattanooga nor any other person or department in the City of Chattanooga has made a query of the citizens and property owners of the annexed area to determine if their health, welfare, safety or prosperity will be materially retarded if the territory is not annexed.

8. Plaintiffs, by and through counsel, aver that it is impossible for the City to have determined that which is necessary to prevent the health welfare and safety of the citizens and property owners of the territory, without having conferred and queried said persons as to the state of their health, welfare, and safety.

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13. Plaintiffs, by and through counsel, aver that their welfare, and that of their families and the citizens and residents of the annexed area has not heretofore not been endangered by not being in the City of Chattanooga and that in fact the welfare of themselves, their families and the citizens and residents of the annexed area will not be materially retarded if they are not annexed into the City of Chattanooga.

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15. Plaintiffs aver, by and through counsel, that the Mayor and City Council of Chattanooga will continue to assure that the health welfare and safety of the citizens and property owners of the City of Chattanooga will continue unabated and not be materially retarded if the subject property is not annexed.

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(d) As set out in the Plan of Services, the annexed area presently receives its electric services from the Electric Power Board of Chattanooga which operates as a separate utility entity. The citizens and property owners of the proposed annexed area do not need to be annexed to continue to receive Electric Service and therefore their health welfare and safety will not be materially retarded if they are not annexed. Likewise, the Electric Power Board of Chattanooga will continue to provide its services to the Citizens and residents of the City, unabated, if the proposed annexed territory is not annexed.

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(f) The citizens and property owners of the proposed annexed area presently have sewage disposal systems and/or sewer service from Hamilton County Waste Water Treatment Authority. Since Chattanooga is providing no services than are otherwise being provided, the health welfare and safety of the annexed residents will not be materially retarded if they are not annexed.

(g) The Hamilton County Highway Department has provided and will continue to provide the same emergency routine maintenance services to the streets in the proposed annexed area that are proposed to be provided by the City of Chattanooga if the property is annexed. The safety of the citizens and property owners of the proposed annexed area, will not, therefore be materially retarded if the property is not annexed.

(h) There is no need for traffic control devices in the annexed area other than as already provided by the Hamilton County highway department. Likewise, the City Road Department will continue to provide traffic control services to the Citizens and residents of the City, unabated, if the proposed annexed territory is not annexed.

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health, welfare, and safety of the citizens and residents of the annexed area. Likewise, the City will continue to provide its storm water sewer services to the Citizens and residents of the City, unabated, if the proposed annexed territory is not annexed.

(j) Hamilton County has the same codes as does Chattanooga and has a codes enforcement authority. The enforcement of the codes of Chattanooga will continue unabated if the subject property is not annexed. The health welfare and safety of the residents of the annexed area as well as the residents of the city will not be materially retarded if the property is not annexed.

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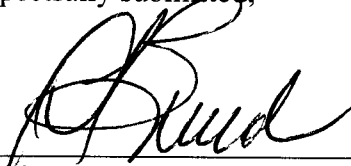
18. Upon information and belief, plaintiffs aver that the City of Chattanooga is in default on the provisions of one or more plans of service for prior annexed areas and is therefore precluded from annexing this territory as set forth in T.C.A. § 6-51-102(b)(5).

PREMISES CONSIDERED, PLAINTIFF PRAYS:

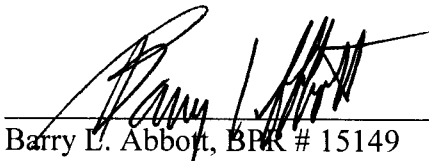
1. That process issue and be served upon Defendant requiring it to appear and answer this Complaint.
2. That the Court decide the statutorily mandated issue as provided in Tennessee Code Annotated 6-51-103 and T.C.A. 6-58-111.
3. That the Ordinance herein referenced be vacated by order of this Court, and the same be declared null, void and of no effect.
4. That Plaintiff have such other, further, equitable and general relief to which this Court may deem it entitled

THIS IS THE FIRST PETITION IN THE NATURE OF QUO WARRANTO OR FOR EXTRAORDINARY RELIEF FILED ON BEHALF OF THE PLAINTIFF IN THIS MATTER AND NO COURT HAS HERETOFORE DENIED SUCH RELIEF.

Respectfully submitted,



David L. Buuck, BPR 7210
Attorney for Plaintiffs
707 Market St.
Knoxville, Tennessee 37902
(865) 544-0027
(865) 637-9800 (Fax)



Barry L. Abbott, BPR # 15149
801 Broad Street, Ste. 428
Chattanooga, TN 37402
423-265-8804
423-267-5915 (FAX)

COST BOND

I hereby acknowledge and bind myself for the payment of all non-discretionary costs that may be adjudged herein against , the principal, in the event that the principal does not pay them.

Witness my hand this 23 day of Nov, 2009 .

Signature

David L. Buuck, BPR #7210
707 Market St.,
Knoxville, TN 37902

CIVIL CASE COVER SHEET

RECEIVED
11-24-09 A.S.
Clerk & Master

Check one: CHANCERY COURT CIRCUIT COURT

Docket No. 09-0949

Date: November 23, 2009

Attorney of Record David L. Buuck, # 7210

I. Origin Original Proceeding Case Reopened
 Answer/Initial Responsive Pleading

Counter-claim Cross-claim 3rd Party Claim Intervention
 Other (Specify) _____

II. Type of Action (Check one)

Domestic Relations

361 Paternity 362 Legitimation 363 Adoption 364 Surrender
 371 Divorce with minor children 372 Divorce without minor children 381 Order of Protection 391 Interstate Support-Incoming
 401 Other Domestic Relations (Specify) _____ 392 Interstate Support-Outgoing

General Civil

461 Contract/Debt 462 Specific Performance 471 Damages/Torts 481 Real Estate Matter
 491 Workers Compensation 501 Probate 511 Juvenile Court Appeal 512 General Sessions Appeal
 513 Appeal from Admin. Hearing 571 Conservatorship 572 Guardianship 573 Trust
 581 Miscellaneous General Civil (Specify) _____

Other 541 Judicial Hospitalization

Petition for: (Reopened Cases) 381 Order of Protection 382 Contempt 383 Residential Parenting/No Child Support
 384 Residential Parenting/Child Support 385 Child Support 387 Wage Assignment Hearing
 551 Other _____

III. Total amount sued for \$ 0 Specific type of damages or relief sought quo warranto declaration

Statutory authority for suit, if any TCA 6-51-103

IV. Check one: Affidavit to proceed in forma pauperis Cost Bond Surety David L. Buuck, Attorney, BPR #7210

JURY DEMAND (Check YES only if demanded in complaint) YES NO

VI. RELATED CASES (if any) Docket No. _____ Judge _____

Date filed _____ Status _____

VII. PLAINTIFF/PETITIONER INFORMATION (List additional parties on supplemental form.)

I. Name Pearson Mignonne
Last First Middle

AKA DBA BNF Quickmart

S.S. # _____ DOB _____ Driver's License # _____

COMPANY NAME
955 Cravens Trace
ADDRESS
Chattanooga, TN 37419
CITY STATE ZIP

EMPLOYER
ADDRESS
CITY STATE ZIP

David L. Buuck 7210
ATTORNEY BPR #
707 Market St.
ADDRESS
Knoxville TN 37902
CITY STATE ZIP
865-544-0027
PHONE FACSIMILE

VIII. DEFENDANT/RESPONDENT INFORMATION (List additional parties on supplemental form.)

NAME City of Chattanooga
Last first Middle

AKA DBA BNF

S. S. # _____ DOB _____ Driver's License # _____

COMPANY NAME
City Hall, 101 East 11th St., Chattanooga, TN
ADDRESS
CITY STATE ZIP

EMPLOYER
ADDRESS
CITY STATE ZIP

ATTORNEY BPR #
ADDRESS
CITY STATE ZIP
PHONE FACSIMILE

TYPE OF SERVICE REQUIRED

Out of County Sheriff Publication (specify) _____
 Local Sheriff Other (specify) _____
 Secretary of State Special Instructions _____
 Comm. Of Ins.

IX. ASSOCIATED PARTY (Uninsured Motorist Carrier) INFORMATION

I. Name _____ Address _____

Type of Service (specify) _____

Are additional plaintiffs or defendants listed on a separate sheet? YES NO

4. Plaintiffs by and through counsel aver that the proposed Ordinance constitutes an exercise of power not conferred by law (Tennessee Code Annotated 6-51-102) and is therefore void and invalid ab initio in that it is not necessary for the health welfare and safety of the citizens and residents of the annexed territory, nor of the city and that the health, welfare and safety of the city and the residents will not be materially retarded if the property is not annexed.

5. Plaintiffs by and through counsel aver, that the governing body of the City of Chattanooga, Tennessee, has no power to provide any services to the citizens and residents of Hamilton County, Tennessee, which the citizens and residents of Hamilton County, Tennessee, do not already have or are not able, by and through their county legislative body, to procure for themselves should they deem their health welfare and safety to be materially retarded.

6. Plaintiffs, by and through counsel aver that the health, safety, and welfare of the citizens and property owners of the municipality and territory attempted to be annexed will not be materially retarded in the absence of such annexation.

7. Plaintiffs, by and through counsel aver, that neither the planning commission of the City of Chattanooga nor any other person or department in the City of Chattanooga has made a query of the citizens and property owners of the annexed area to determine if their health, welfare, safety or prosperity will be materially retarded if the territory is not annexed.

8. Plaintiffs, by and through counsel, aver that it is impossible for the City to have determined that which is necessary to prevent the health welfare and safety of the citizens and property owners of the territory, without having conferred and queried said persons as to the state of their health, welfare, and safety.

9. Plaintiffs aver, by and through counsel, that absent the inquiry noted in paragraphs 7 & 8 above, it is a factual and logical impossibility for the City to have determined that the annexation of the territory was necessary to prevent the endangerment or the material retardation of the health welfare and safety of the citizens and property owners of the annexed area.

10. Plaintiffs, by and through counsel, aver that the City of Chattanooga has thereby failed to meet the threshold requirement of annexation as set out in T.C.A. § 6-51-102. As a result, the action of the City of Chattanooga in annexing the subject property “constitutes an exercise of power not conferred by law” (T.C.A. § 6-51-103(a)(1)(A)).

11. Plaintiffs, by and through counsel, aver that their health and that of their families and of the other citizens and residents of the annexed area has not heretofore not been endangered by not being in the City of Chattanooga and that in fact they have experienced good health. Plaintiffs

further aver that their continued good health and that of the citizens and residents of the annexed area will not be materially retarded if they are not annexed into the City of Chattanooga.

12. Plaintiffs aver, by and through counsel, that they are the persons best situated to ascertain whether their continued good health will be materially retarded if their property is not annexed into the City of Chattanooga.

13. Plaintiffs, by and through counsel, aver that their welfare, and that of their families and the citizens and residents of the annexed area has not heretofore not been endangered by not being in the City of Chattanooga and that in fact the welfare of themselves, their families and the citizens and residents of the annexed area will not be materially retarded if they are not annexed into the City of Chattanooga.

14. Plaintiffs aver, by and through counsel, that the past and present Mayors and City Councils of the City of Chattanooga have provided for the health welfare and safety of the residents and property owners of the City of Chattanooga.

15. Plaintiffs aver, by and through counsel, that the Mayor and City Council of Chattanooga will continue to assure that the health welfare and safety of the citizens and property owners of the City of Chattanooga will continue unabated and not be materially retarded if the subject property is not annexed.

16. Plaintiffs aver that the City of Chattanooga offers no services to the citizens and property owners of the proposed annexed territory that they do not already have, inter alia, to wit:

(a) The sheriff and his department provide for the health welfare and safety of the citizens and residents of the proposed annexed area and their health welfare and safety will not be materially retarded if they do not receive the services of the Chattanooga police department. Likewise, the City Police Department will continue to provide its services to the Citizens and residents of the City, unabated, if the proposed annexed territory is not annexed.

(b) The citizens and property owners of the proposed annexed area have fire protection and their continued safety will not be materially retarded if they are not annexed into the City. Likewise, the City Fire Department will continue to provide its services to the Citizens and residents of the City, unabated, if the proposed annexed territory is not annexed.

(c) The citizens and property owners of the proposed annexed area presently have running water in their homes supplied by the Hixson Utility District and the City of Chattanooga states that the Hixson Utility District will continue to provide running water. The health and safety of the citizens of the annexed, with respect to potable water will not be materially retarded if they are not

annexed by the City of Chattanooga. Likewise, the Chattanooga City Water Department will continue to provide its services, unabated, to the Citizens and residents of the City, unabated, if the proposed territory is not annexed.

(d) As set out in the Plan of Services, the annexed area presently receives its electric services from the Electric Power Board of Chattanooga which operates as a separate utility entity. The citizens and property owners of the proposed annexed area do not need to be annexed to continue to receive Electric Service and therefore their health welfare and safety will not be materially retarded if they are not annexed. Likewise, the Electric Power Board of Chattanooga will continue to provide its services to the Citizens and residents of the City, unabated, if the proposed annexed territory is not annexed.

(e) The citizens and property owners of the proposed annexed area have private waste disposal available and the cost of increased taxes does not offset their present cost. If they are not annexed, their health, welfare and safety will not be materially retarded if they do not receive the solid waste disposal services of the city. Likewise, the City Garbage Disposal Department will continue to provide its services to the Citizens and residents of the City, unabated, if the proposed annexed territory is not annexed.

(f) The citizens and property owners of the proposed annexed area presently have sewage disposal systems and/or sewer service from Hamilton County Waste Water Treatment Authority. Since Chattanooga is providing no services than are otherwise being provided, the health welfare and safety of the annexed residents will not be materially retarded if they are not annexed.

(g) The Hamilton County Highway Department has provided and will continue to provide the same emergency routine maintenance services to the streets in the proposed annexed area that are proposed to be provided by the City of Chattanooga if the property is annexed. The safety of the citizens and property owners of the proposed annexed area, will not, therefore be materially retarded if the property is not annexed.

(h) There is no need for traffic control devices in the annexed area other than as already provided by the Hamilton County highway department. Likewise, the City Road Department will continue to provide traffic control services to the Citizens and residents of the City, unabated, if the proposed annexed territory is not annexed.

(i) Hamilton County provides maintenance of storm water sewer and drainage systems on county property and installs them where needed as does the City of Chattanooga. Failure to annex this area and substitute the storm water sewer services of the City will not materially retard the

health, welfare, and safety of the citizens and residents of the annexed area. Likewise, the City will continue to provide its storm water sewer services to the Citizens and residents of the City, unabated, if the proposed annexed territory is not annexed.

(j) Hamilton County has the same codes as does Chattanooga and has a codes enforcement authority. The enforcement of the codes of Chattanooga will continue unabated if the subject property is not annexed. The health welfare and safety of the residents of the annexed area as well as the residents of the city will not be materially retarded if the property is not annexed.

17. Plaintiffs aver, by and through counsel, that the annexation of this area is for the purpose of obtaining additional revenues over and above the costs to the City and not for the purpose of preventing the material retardation of the health, welfare and safety of the citizens and residents of the City and the area annexed.

18. Upon information and belief, plaintiffs aver that the City of Chattanooga is in default on the provisions of one or more plans of service for prior annexed areas and is therefore precluded from annexing this territory as set forth in T.C.A. § 6-51-102(b)(5).

PREMISES CONSIDERED, PLAINTIFF PRAYS:

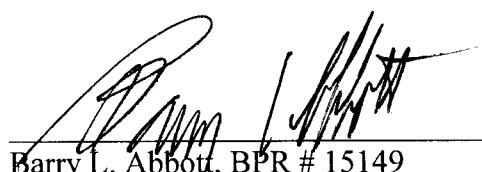
1. That process issue and be served upon Defendant requiring it to appear and answer this Complaint.
2. That the Court decide the statutorily mandated issue as provided in Tennessee Code Annotated 6-51-103 and T.C.A. 6-58-111.
3. That the Ordinance herein referenced be vacated by order of this Court, and the same be declared null, void and of no effect.
4. That Plaintiff have such other, further, equitable and general relief to which this Court may deem it entitled

THIS IS THE FIRST PETITION IN THE NATURE OF QUO WARRANTO OR FOR EXTRAORDINARY RELIEF FILED ON BEHALF OF THE PLAINTIFF IN THIS MATTER AND NO COURT HAS HERETOFORE DENIED SUCH RELIEF.

Respectfully submitted,



David L. Buuck, BPR 7210
Attorney for Plaintiffs
707 Market St.
Knoxville, Tennessee 37902
(865) 544-0027
(865) 637-9800 (Fax)

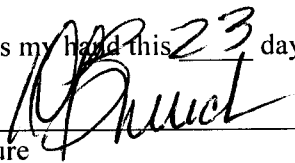


Barry L. Abbot, BPR # 15149
801 Broad Street, Ste. 428
Chattanooga, TN 37402
423-265-8804
423-267-5915 (FAX)

COST BOND

I hereby acknowledge and bind myself for the payment of all non-discretionary costs that may be adjudged herein against , the principal, in the event that the principal does not pay them.

Witness my hand this 23 day of Nov, 2009 .


Signature

David L. Buuck, BPR #7210
707 Market St.,
Knoxville, TN 37902

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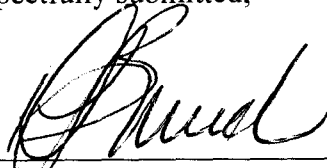
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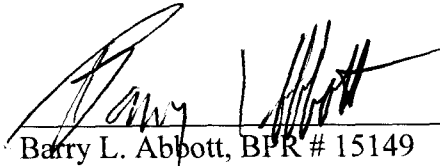
1. That process issue and be served upon Defendant requiring it to appear and answer this Complaint.
2. That the Court decide the statutorily mandated issue as provided in Tennessee Code Annotated 6-51-103 and T.C.A. 6-58-111.
3. That the Ordinance herein referenced be vacated by order of this Court, and the same be declared null, void and of no effect.
4. That Plaintiff have such other, further, equitable and general relief to which this Court may deem it entitled

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Respectfully submitted,



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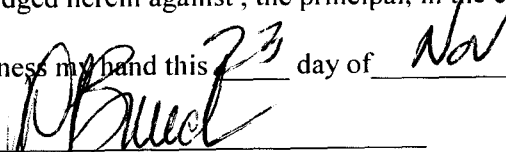


Barry L. Abbott, BPR # 15149
801 Broad Street, Ste. 428
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423-265-8804
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COST BOND

I hereby acknowledge and bind myself for the payment of all non-discretionary costs that may be adjudged herein against , the principal, in the event that the principal does not pay them.

Witness my hand this 23 day of Nov, 2009 .



Signature

David L. Buuck, BPR #7210
707 Market St.,
Knoxville, TN 37902

CIVIL CASE COVER SHEET

RECEIVED
11-24-09
Clerk & Master

Check one: CHANCERY COURT CIRCUIT COURT

Docket No. 09-0948

Date: November 23, 2009

Attorney of Record David L. Buuck, # 7210

I. Origin Original Proceeding Case Reopened
 Answer/Initial Responsive Pleading

Counter-claim Cross-claim 3rd Party Claim Intervening Claim
 Other (Specify) _____

II. Type of Action (Check one)

Domestic Relations

361 Paternity 362 Legitimation 363 Adoption 364 Surrender
 371 Divorce with minor children 372 Divorce without minor children 381 Order of Protection 391 Interstate Support-Incoming
 401 Other Domestic Relations (Specify) _____ 392 Interstate Support-Outgoing

General Civil

461 Contract/Debt 462 Specific Performance 471 Damages/Torts 481 Real Estate Matter
 491 Workers Compensation 501 Probate 511 Juvenile Court Appeal 512 General Sessions Appeal
 513 Appeal from Admin. Hearing 571 Conservatorship 572 Guardianship 573 Trust
 581 Miscellaneous General Civil (Specify) _____

Other 541 Judicial Hospitalization

Petition for: (Reopened Cases) 381 Order of Protection 382 Contempt 383 Residential Parenting/No Child Support
 84 Residential Parenting/Child Support 385 Child Support 387 Wage Assignment Hearing
 551 Other _____

III. Total amount sued for \$ 0 Specific type of damages or relief sought quo warranto declaration

Statutory authority for suit, if any TCA 6-51-103

IV. Check one: Affidavit to proceed *in forma pauperis* Cost Bond Surety David L. Buuck, Attorney, BPR #7210

JURY DEMAND (Check YES only if demanded in complaint) YES NO

VI. RELATED CASES (if any) Docket No. _____ Judge _____

Date filed _____ Status _____

VII. PLAINTIFF/PETITIONER INFORMATION (List additional parties on supplemental form.)

1. Name Harris David Z.
Last First Middle

AKA DBA BNF _____

S.S. # _____ DOB _____ Driver's License # _____

COMPANY NAME

1738 Thrasher Pike
ADDRESS
Hixson, TN 37343
CITY STATE ZIP

EMPLOYER

ADDRESS

CITY STATE ZIP

David L. Buuck 7210
ATTORNEY BPR #

707 Market St.
ADDRESS
Knoxville TN 37902
CITY STATE ZIP

865-544-0027 865-637-9800
PHONE FACSIMILE

VIII. DEFENDANT/RESPONDENT INFORMATION (List additional parties on supplemental form.)

NAME City of Chattanooga
Last first Middle

AKA DBA BNF _____

S. S. # _____ DOB _____ Driver's License # _____

COMPANY NAME

City Hall, 101 East 11th St., Chattanooga, TN
ADDRESS
CITY STATE ZIP

EMPLOYER

ADDRESS

CITY STATE ZIP

ATTORNEY BPR #

ADDRESS

CITY STATE ZIP

PHONE FACSIMILE

TYPE OF SERVICE REQUIRED

Out of County Sheriff Publication (specify) _____
 Local Sheriff Other (specify) _____
 Secretary of State Special Instructions _____
 Comm. Of Ins. _____

IX. ASSOCIATED PARTY (Uninsured Motorist Carrier) INFORMATION

1. Name _____ Address _____

Type of Service (specify) _____

Are additional plaintiffs or defendants listed on a separate sheet? YES NO