

IN THE SUPERIOR COURT OF MUSCOGEE COUNTY IN OFFICE
STATE OF GEORGIA

2016 JAN 27 PM 4: 15

JOHN T. DARR, in his official
capacity as Sheriff of Muscogee County,

Plaintiff,

v.

COLUMBUS, GEORGIA, a City, a public
corporation and a political subdivision of
the State of Georgia; TERESA P.
TOMLINSON, in her official capacity as
Mayor of Columbus, ISAIAH HUGLEY,
in his official capacity as the City Manager
of Columbus, PAM HODGE, in her
official capacity as Finance Director of
Columbus, JERRY "POPS" BARNES, in
his official capacity as District 1
Councilor, GLEN DAVIS, in his official
capacity as District 2 Councilor, BRUCE
HUFF, in his official capacity as District
3 Councilor, EVELYN TURNER PUGH,
in her official capacity as District 4
Councilor, MIKE BAKER, in his official
capacity as District 5 Councilor, GARY
ALLEN, in his official capacity as District
6 Councilor, EVELYN "MIMI"
WOODSON, in her official capacity as
District 7 Councilor, TOM BUCK, in his
official capacity as District 8 Councilor,
JUDY THOMAS, in her official capacity
as District 9 at Large Councilor, and
BERRY "SKIP" HENDERSON, in his
official capacity as District 10 at Large
Councilor,

Defendants.

H. LINDA PIERCE
MUSCOGEE COUNTY
SUPERIOR COURT

CIVIL ACTION FILE
NO. SU-14-CV-3437-94

**DEFENDANTS' JOINT STATEMENT OF UNDISPUTED MATERIAL FACTS AND
THEORIES OF RECOVERY FILED IN SUPPORT OF ITS
MOTION FOR PARTIAL SUMMARY JUDGMENT**

COME NOW, Defendants in the above-styled action, and, pursuant to the requirements of O.C.G.A. §9-11-56 and Uniform Superior Court Rule 6.5, file this their Joint Statement of Undisputed Material Facts and Theories of Recovery in support of their Motion for Partial Summary Judgment, requesting this Court GRANT partial summary judgment to Defendants showing more fully as follows:

STATEMENT OF THEORIES OF RECOVERY

Plaintiff's Original Petition, First Amended Petition, Second Amended Petition and Third Amended Petition for Writ of Mandamus Absolute and Injunctive Relief all seek certain forms of relief with respect to FY15. (*See generally* Petition for Writ of Mandamus Absolute and Injunctive Relief, ¶¶ 155-170; Amended Petition for Writ of Mandamus Absolute and Injunctive Relief ¶¶ 232-252; Second Amended Petition for Writ of Mandamus Absolute and Injunctive Relief ¶¶ 232-252; Third Amended Petition for Writ of Mandamus Absolute and Injunctive Relief ¶¶ 232-255). Plaintiff's claims and causes of action with respect to FY15 are wholly moot as no relief for such claims can be afforded in that regard. Thus summary judgment as to any relief sought regarding FY15 should be granted.

**STATEMENT OF MATERIAL FACTS AS TO
WHICH NO GENUINE ISSUE EXISTS TO BE TRIED**

A. The Columbus Consolidated Government's fiscal year runs from July 1 through June 30 under its Charter section 7-400. *See* Charter sec. 7-400; *see also* (Aff. of Hodge ¶¶ 4-5). Specifically, fiscal year 2015 (FY15) ran from July 1, 2014 through June 30, 2015 pursuant to the foregoing Charter Section. (Hodge Aff. ¶¶ 4-5).

B. After closure of FY15 on June 30, 2015 a final budget amendment was passed in an Ordinance by Columbus' City Council. The final budget amendment is made to appropriate

the final funds needed to satisfy any outstanding debts and costs incurred for the fiscal year at issue by the offices and departments of CCG. (Hodge Aff. ¶ 6).

C. The final budget amendment incorporating all final changes for FY15 was entered by Council, signed by the Mayor and published to the public in November 2015 under Ordinance No. 15-57. (Hodge Aff. ¶ 6).

D. Subsequent to the final budget amendment becoming effective, a final year-end audit is performed by an independent auditor to ensure the accuracy and amounts of the CCG financial statements, accounts and funds. The final audit for FY15 was issued in a report by Albright, Fortenberry & Ninas, LLP on December 10, 2015 which was incorporated into the Comprehensive Audited Financial Report submitted to the Georgia Department of Audits on December 30, 2015. (Hodge Aff. ¶ 7

E. In light of the closure of FY15 on June 30, 2015, the passage of the final budget amendment under Ordinance No. 15-57 and performance of the final audit, FY15 is at a complete and final close and all city office and departmental accounts related to FY15 have been settled. (Hodge Aff. ¶ 8).

Respectfully submitted, this 27 day of January, 2016.

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing **DEFENDANTS'**
STATEMENT OF UNDISPUTED MATERIAL FACTS AND THEORY OF RECOVERY
IN SUPPORT OF THEIR MOTION FOR PARTIAL SUMMARY JUDGMENT via
electronic mail, per agreement of counsel and the Court, addressed as follows:

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This 27 day of January, 2016.



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