

CAUSE No. \_\_\_\_\_

REBECCA BIRCH, RICHARD	§	IN THE DISTRICT COURT OF
FRANKLIN, III, <i>and</i> ESTHER	§	
GOVEA,	§	
<i>Plaintiffs,</i>	§	
	§	
v.	§	TRAVIS COUNTY, TEXAS
	§	
TRAVIS COUNTY HEALTHCARE	§	
DISTRICT <i>d/b/a</i> CENTRAL HEALTH	§	
<i>and</i> MIKE GEESLIN, <i>in his official</i>	§	
<i>capacity</i> only,	§	
	§	
<i>Defendants.</i>	§	_____ JUDICIAL DISTRICT

PLAINTIFFS’ ORIGINAL PETITION

COMES NOW PLAINTIFFS, Rebecca Birch, Richard Franklin, III, and Esther Govea, complaining of the conduct of defendants. In support thereof, plaintiffs respectfully show as follows:

I.

The key issue in this case is whether defendants are expending taxpayer funds on healthcare services to poor residents of Travis County, as is required by the Texas Constitution and Texas statutes. The issue in this case is *not* whether it would be cool or wonderful to have a medical school in Austin (or whether defendants consider other goals cool or wonderful). This suit is necessary because defendants are not complying with Texas law and are expending funds on items unrelated to its statutory authorization of providing health care to our poor and most vulnerable residents.

II.

Plaintiffs intend for this suit to be conducted under Discovery Level 2, pursuant to TEX. R. CIV. P. 190.

III.

Plaintiffs request that defendants serve upon plaintiffs disclosure of information required by TEX. R. CIV. P. 194.2.

IV.

Plaintiffs are property taxpayers in Travis County, Texas, who have paid property taxes directed to Central Health.

V.

Defendant, *Travis County Healthcare District* (doing business and/or known as “*Central Health*”), is a hospital district organized under Art. IX, §4, of the Texas Constitution and may be served through its President and Chief Executive Officer, Mr. Mike Geeslin, at his usual place of business, 111 East Cesar Chavez St., Austin, Travis County, Texas, 78702.

Defendant, *Mr. Mike Geeslin*, is sued in his official capacity only and may be served at his usual place of business, 111 East Cesar Chavez St., Austin, Travis County, Texas, 78702.

Defendants may be referred to, collectively, as “Central Health.”

VI.

Venue is proper in Travis County, Texas.

FACTS  
VII.

Central Health is a hospital district organized under Article IX, §4 of the Texas Constitution for the purpose of (in the words of the Constitution) “providing medical and hospital care to needy inhabitants of [Travis] county.” A hospital district organized under Art. IX, §4, may levy a property tax on residents within its district, which the plaintiffs are. Correspondingly, a hospital district organized under Art. IX, §4, can only expend taxpayer funds for the purpose enumerated in the constitution or the specific statutes governing such districts.<sup>1</sup> For example, under §281.002 of the Texas Health and Safety Code, Central Health may expend funds for “a hospital or hospital system to furnish medical aid and hospital care to indigent and needy persons residing in the district,” which in this case would be indigent and needy persons residing within Travis County. Under Chapter 61 of the Texas Health & Safety Code, the “Indigent Health Care and Treatment Act,” Central Health should provide specific health care services to an “eligible resident.” The term “eligible resident” is defined as “a person who meets the income and resources requirements established by this chapter or by the governmental entity, public hospital or hospital district in whose jurisdiction the person resides.” TEX. HEALTH & SAFETY CODE §61.002(3). Central Health may not expend funds on goods or services that are not specifically authorized by the Texas Constitution or by statute.

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<sup>1</sup> The same is true for hospital districts organized under sections 5, 7, 8, 9, 9B and 11 of Article IX of the Texas Constitution.

## VIII.

Central Health has expended, and continues to spend, taxpayer funds on items not authorized by Art. IX, §4, of the Texas Constitution or by Texas statute. Central Health has consistently expended funds entrusted to it on items wholly unrelated to the provision of “medical and hospital care to needy inhabitants” of Travis County. Central Health has expended vast sums on the Dell Medical School, its staff personnel and other expenditures impermissible under Art. 9, §4, and statutes governing Central Health.

## IX.

By way of example, only, the records of Central Health, the University of Texas and the Community Care Collaborative, reveal that for, at least, the past three years, and for the budget year commencing on or about October 1, 2017, Central Health has provided approximately \$35 million dollars annually to the UT Austin Dell Medical School (“Medical School”). These Central Health funds have not been expended on providing medical and hospital care to needy inhabitants of Travis County, but have paid for the Medical School’s personnel for such things as its development office, business operations, communications and public relations, accounting, admissions, Dean’s office administration, and other items. Through 2016, defendants have expended vast sums on such positions at the Medical School. Defendants have also made improper expenditures such as contributions to the Chamber of Commerce and/or community-wide health care items, rather than statutorily authorized expenditures.

CAUSES OF ACTION

X.

Defendants have violated the provisions of Art. IX, §4, Chapters 281 and 61 of the Texas Health and Safety Code by expending funds on items not related to the provision of medical and hospital care to the indigent and needy in Travis County.

XI.

Independently, and/or in addition to all that has been pleaded above, the expenditure of funds outside the legally enumerated purposes in Art. IX, §4, Chapters 281 and 61 of the Texas Health and Safety Code, is an *ultra vires* act. As such, plaintiffs are entitled to relief against defendant Geeslin, in his official capacity, prohibiting the illegal expenditure of funds by Central Health as set forth herein.

RELIEF SOUGHT

XII.

Plaintiffs seek a declaratory judgment, pursuant to Chapter 37 of the Texas Civil Practice and Remedies Code, declaring that that defendants may expend funds only on: (1) items related to the furnishing of medical aid and/or hospital care to indigent and financially needy persons residing in Travis County; and (2) a statutorily authorized purpose such as those enumerated in Chapter 61 of the Texas Health and Safety Code. Plaintiffs further seek declaratory relief that defendants have been expending funds of illegal items and purposes as set out above.

### XIII.

Independently, and/or in addition to all that has been pleaded above, plaintiffs seek a temporary and/or permanent injunction enjoining defendants from expending funds on: (1) any item not related to the furnishing of medical aid and hospital care to indigent and financially needy persons residing in Travis County; and/or (2) any purpose or item not statutorily authorized, such as any expenditure not expressly authorized in Chapter 61 of the Texas Health and Safety Code.

### XIV.

Plaintiffs seek such declaratory and injunctive relief against Central Health and/or its president and Chief Executive Officer, in his official capacity.

### XV.

As a result of defendants' illegal conduct, plaintiffs have been forced to retain legal counsel to protect their legal rights. Plaintiffs are entitled to recover from defendants reasonable and necessary attorney's fees and expenses, including but not limited to attorney's fees in any appeal. An award of such fees would be equitable and just. Plaintiffs are entitled to the maximum amount of post-judgment interest on such award, as permitted by law.

### XVI.

Plaintiffs do not seek monetary damages as categorized under Tex. R. Civ. P. 47 and seek only the relief (none of which is prohibited by governmental immunity) stated herein.

XVII.

Plaintiffs have fulfilled all jurisdictional prerequisites to bringing this suit and obtaining the relief stated in this pleading.

WHEREFORE, PREMISES CONSIDERED, plaintiffs respectfully pray that defendants be cited to appear and answer herein, and that upon final trial hereof, plaintiffs be accorded declaratory and injunctive relief as stated herein, as well as reasonable and necessary attorney's fees and expenses, court costs, post-judgment interest, and/or all such other and further relief, at law or in equity, to which plaintiffs may show themselves justly entitled.

*Respectfully submitted,*  
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