

OCT 12, 2023 05:42 PM

Mandy Harrison
Mandy Harrison, Clerk
McIntosh County, Georgia

IN THE SUPERIOR COURT OF MCINTOSH COUNTY
STATE OF GEORGIA

Georgette “Sharron” Grovner, Marvin “Kent”
Grovner Sr., Lula B. Walker, Francine Bailey,
Mary Bailey, Merden Hall, Florence Hall,
Yvonne Grovner, and Ire Gene Grovner Sr.;

Plaintiffs,

v.

McIntosh County, McIntosh County Board of
Commissioners Kate Pontello Karwacki,
David Stevens, Davis Poole, William E.
Harrell, and Roger Lotson in their official
capacities;

Defendants.

Civil Action No.

**PLAINTIFFS’ COMPLAINT FOR WRIT OF MANDAMUS, DECLARATORY
JUDGMENT, INJUNCTIVE RELIEF, AND EQUITABLE RELIEF**

Plaintiffs Georgette “Sharron” Grover, Marvin “Kent” Grovner Sr., Lula B. Walker, Francine Bailey, Mary Bailey, Merden Hall, Florence Hall, Yvonne Grovner and Ire Gene Grovner Sr. hereby file this Complaint for Writ of Mandamus, Declaratory Judgment, Injunctive Relief, and Equitable Relief against the above-named Defendants, and show as follows:

INTRODUCTION

Plaintiffs bring this action because the Defendants adopted an unlawful zoning amendment that impacts the property and ancestral homeland of Plaintiffs in Hogg Hummock,¹ located on

¹ Throughout this Complaint, Plaintiffs refer to this district located in their ancestral homeland by its proper name in the Gullah-Geechee community of “Hogg Hummock,” rather than “Hog Hammock,” which is often reflected in official government documents. A hummock is a forested

Sapelo Island in McIntosh County, Georgia. The zoning amendment violates state law and Plaintiffs’ constitutional rights to due process of law and equal protection, guaranteed by both the Georgia and U.S. Constitutions.

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff Georgette “Sharron” Grovner is a resident, citizen, and taxpayer of Sapelo Island and McIntosh County.

2. Plaintiff Marvin “Kent” Grovner Sr. is a resident, citizen, and taxpayer of Sapelo Island and McIntosh County.

3. Plaintiff Lula B. Walker is a resident, citizen, and taxpayer of Sapelo Island and McIntosh County.

4. Plaintiff Florence Hall is a resident, citizen, and taxpayer of Sapelo Island and McIntosh County.

5. Plaintiff Francine Bailey is a resident, citizen, and taxpayer of Sapelo Island and McIntosh County.

6. Plaintiff Mary Bailey is a resident, citizen, and taxpayer of Sapelo Island and McIntosh County,

7. Plaintiff Merden Hall is a resident, citizen, and taxpayer of Sapelo Island and McIntosh County.

8. Plaintiff Yvonne Grovner is a resident, citizen, and taxpayer of Sapelo Island and McIntosh County.

ground that rises above marshland, where the hogs were raised during the antebellum period. “Hogg” is also a Geechee family surname.

9. Plaintiff Ire Gene Grovner Sr. is a resident, citizen, and taxpayer of Sapelo Island and McIntosh County.

10. This Court has jurisdiction to issue declaratory relief as to the validity and constitutionality of Section 219 to Appendix C of McIntosh County's Zoning Ordinance ("Section 219"), Counts 1 through 4 and Count 6 below, pursuant to O.C.G.A. § 9-4-1, *et seq.* (the "Declaratory Judgment Act"), § 9-5-1, *et seq.*, § 9-6-20, § 9-6-24, § 36-66-5.1, and § 50-14-1, *et seq.* (the "Open Meetings Act"); and to invoke the Court's equitable power as to Count 8 below, pursuant to O.C.G.A. § 9-4-3.

11. This Court has jurisdiction to issue relief as to the constitutionality of Section 219, Count 5 below, pursuant to 42 U.S.C. § 1983.

12. This Court has jurisdiction to issue relief compelling Defendants to comply with the laws of the State of Georgia and McIntosh County as to Count 7 below, pursuant to O.C.G.A. § 9-4-3, and to compel Defendants to perform their official constitutional duties.

13. Defendant McIntosh County is a political subdivision of the State of Georgia, created and existing by virtue of the Constitution and laws of Georgia. McIntosh County is responsible for local zoning law and is a proper party to this action. O.C.G.A. § 9-4-7.

14. The County is subject to the venue of this Court pursuant to O.C.G.A. § 9-10-93.

15. Defendants are the McIntosh County Board of Commissioners (herein after "the Board"). The current members of the Board are Kate Pontello Karwacki, David Stevens, Davis Poole, William E. Harrell, and Roger Lotson, who are sworn to uphold the constitutions of the United States and the State of Georgia, and the laws of the State of Georgia and McIntosh County.

FACTS

Hogg Hummock's Historic Significance and Designation

16. Hogg Hummock is the last intact Gullah-Geechee Community in the Sea Islands of Georgia and is comprised of direct descendants of slaves that were brought to Sapelo Island from West Africa in 1802.

17. Sapelo Island is one of Georgia's Barrier Islands, located in McIntosh County. As a result of its relative isolation and protection, Sapelo Island's Gullah-Geechee community in Hogg Hummock has been able to retain and pass down aspects of its African culture and traditions.

18. In the mid-1900s, Richard J. "RJ" Reynolds Jr. dispossessed Gullah-Geechee descendants on Sapelo Island of 1000 acres of land that their families had purchased in Racoon Bluff, on the north end of Sapelo Island, and relocated the Gullah-Geechee descendants to a 434-acre plot in the south-central area of the Island known as Hogg Hummock.

19. The Reynolds family later sold the land acquired by RJ Reynolds to the State of Georgia in 1969 and 1976.

20. Today, 96% of the land on Sapelo Island surrounding Hogg Hummock is owned by the State and cannot be purchased for development. This State ownership, coupled with the limited access to the community on the Island, has resulted in descendants currently owning less than 250 acres of land in Hogg Hummock.

21. In 1996, Hogg Hummock was added to the National Register of Historic Places.

22. Contemporaneously, the McIntosh County Code of Ordinances created the "Hog Hammock [sic]" Historic District "to allow continued use and activities of the community of Hog Hammock on Sapelo Island. This community has unique needs in regard to its historic resources, traditional patterns of development, threat from land speculators and housing forms. It is the intent

of this district to reserve this area for low intensity residential and cottage industry uses which are environmentally sound and will not contribute to land value increases which could force removal of the indigenous population.” Section 16 to Appendix C of McIntosh County’s Zoning Ordinance (“Section 16”).

23. McIntosh County’s Comprehensive Plan emphasizes the need to “work with residents to create guidelines that maintain the historic integrity of Hog Hammock [sic].”

24. In 2015, a group of Gullah-Geechee descendants sued McIntosh County alleging discrimination on the basis of race in violation of the Equal Protection Clause of the Fourteenth Amendment; 42 U.S.C. §§ 1981, 1982, and 1983; Title VI of the 1964 Civil Rights Act; and the Fair Housing Act of 1968.

25. The parties in that case eventually reached a settlement agreement that, among other things, effectively suspended property tax increases on the entire Island—McIntosh County and the Board of Tax Assessors agreed that the 2022 Fair Market Value for the plaintiff parcels would govern the tax assessment for those parcels through 2025. As a result, the annual uniformity review performed by the Board of Assessors froze values for all parcels on the Island through 2025.

Plaintiffs

26. Plaintiff Georgette “Sharron” Grovner is practically a lifelong resident of Sapelo Island. She is Black, 56 years old, and was born and raised on the Island. She currently lives with her husband, Marvin “Kent” Grovner Sr., on the Island. Ms. Grovner is now mostly retired, but still spends some time working in tourism. She hosts private tours and provides catering for groups visiting the Island. She was present at the September 7, 2023 meeting of the Planning and Zoning Commission and submitted comments opposed to the proposed amendment. If the property taxes on her home significantly increase, she will not be able to afford to continue living there.

27. Plaintiff Marvin “Kent” Grovner Sr. is Sharron’s husband. He is Black, 60 years old, and was born and raised on the Island and has lived there for most of his life. Like his wife, Mr. Grovner is now retired with limited income. He was present at the September 7, 2023 meeting of the Planning and Zoning Commission and submitted comments opposed to the proposed amendment. If the property taxes on his home significantly increase, he will not be able to afford to continue living there.

28. Plaintiff Lula B. Walker is Sharron’s mother. She is 74 years old, Black, and has lived on the Island for 71 years. She currently owns and operates Lula’s Kitchen, the only restaurant on the Island. She also receives Social Security benefits. She was present at the September 7, 2023 meeting of the Planning and Zoning Commission and submitted comments opposed to the proposed amendment. If the property taxes on her home significantly increase, she will not be able to afford to continue living there.

29. Plaintiff Florence Hall, who is Black, was born and raised on the Island. She has lived on the Island continuously since 1994 and plans to live at her current home for the rest of her life. Social Security Benefits are her sole income. She was present at the September 7, 2023 meeting of the Planning and Zoning Commission and submitted comments opposed to the proposed amendment. If the property taxes on her home significantly increase, she will not be able to afford to continue living there.

30. Plaintiff Francine Bailey, who is Black, came to the island when she was a baby and has lived there almost continuously since then. She, along with her two children, lives on land owned by her mother, Mary Bailey, that has been in her family for generations. Ms. Bailey relies on the ferry to transport herself and her children from the Island to the mainland for school and work. She was present at the September 7, 2023 meeting of the Planning and Zoning Commission

and submitted comments opposed to the proposed amendment. If the property taxes on the Island significantly increase, she will not be able to afford to continue living there.

31. Plaintiff Mary Bailey, Francine's mother, is 57 years old and was born and raised on the Island. She has worked in the kitchen of the RJ Reynolds Mansion for more than 20 years. She was present at the September 7, 2023 meeting of the Planning and Zoning Commission and submitted comments opposed to the proposed amendment. If the property taxes on the Island significantly increase, she will not be able to afford to continue living there.

32. Plaintiff Merden Hall is 63 years old, Black, and was born and raised on Sapelo. He moved away from the Island when he was a teenager, but earlier this year moved back to the Island and now plans to live in his home for the rest of his life. He is retired and his only income is from Social Security Benefits. He was present at the September 7, 2023 meeting of the Planning and Zoning Commission and submitted comments opposed to the proposed amendment. If the property taxes on the Island significantly increase, he will not be able to afford to continue living there.

33. Plaintiff Yvonne Grovner is Black, 63 years old, and has resided on the Island for 43 years. She works part-time for the Georgia Department of Natural Resources and has received retirement benefits from the State of Georgia since she retired in 2020. She was present at the September 7, 2023 meeting of the Planning and Zoning Commission and submitted comments opposed to the proposed amendment. If the property taxes on the Island significantly increase, she will not be able to afford to continue living there.

34. Plaintiff Ire Gene Grovner Sr. is Yvonne's husband. He is 68 years old, Black, and has lived on the Island his entire life. He is now retired after working on the ferry that travels between the Island and the mainland for around 25 years. His income is Social Security Benefits.

He was present at the September 7, 2023 meeting of the Planning and Zoning Commission and submitted comments opposed to the proposed amendment. If the property taxes on the Island significantly increase, he will not be able to afford to continue living there.

35. Plaintiffs' land has been in their families for many years, and they plan to bequeath this land to their children and grandchildren.

36. Selling land that has been in their families for decades or generations is untenable for Plaintiffs not only because they will have nowhere else to go, but also because they will be deprived of the opportunity to pass on a rich legacy and intergenerational wealth to their families.

Zoning in Hogg Hummock Prior to September 2023

37. For 25 years, Section 16 has limited construction in Hogg Hummock to single-family dwellings with a maximum of 1,400 heated/cooled square footage. The stated purpose of this regulation was to ensure "low intensity residential and cottage industry uses which are environmentally sound and will not contribute to land value increases." This protection resulted in the majority of homes on the Island being small and modest, single-story homes.

38. Sapelo residents have noted in past meetings and listening sessions with McIntosh County Commissioners that the County has been unable to enforce the existing guidelines effectively. There are several larger homes, ranging from 2,000-3,000 total square feet, built in recent years, relying upon loopholes in the limitation on heated/cooled space.

39. Many white landowners and developers wishing to build in Hogg Hummock have complained that the existing zoning guidelines are unfair because the guidelines are more restrictive than those on the Georgia mainland and other parts of Sapelo Island.

40. At least one white developer alleged to McIntosh County Commissioners that the Hogg Hummock zoning protections violated white developers' Fourteenth Amendment Equal Protection rights.

41. On March 30, 2021, Commissioner Lotson met with roughly 50 Sapelo residents and landowners to discuss the potential for a zoning amendment changing the permitted maximum square footage from 1,400 square feet of heated/cooled space to 1,600 square feet. Also present at that listening session were County Commissioner at-large Kelly McClellan, County Manager Zoucks, County Attorney Poppell, Deputy County Manager Jordan, County Clerk Davis, City of Darien Councilman Griffin Lotson, and Fred Hay with the Georgia Department of Natural Resources (DNR).

42. Attendees at the March 30, 2021, listening session were assured that the next step in this process was to have a public hearing to receive input from constituents.

43. On August 4, 2021, Sapelo Island Cultural and Revitalization Society (SICARS) hosted a follow-up meeting with Commissioner Lotson, the McIntosh County Attorney, and McIntosh County's Director of Building and Zoning to further discuss the March 2021 proposed amendments. All parties agreed that the spirit of current zoning regulations was not being enforced in part due to loopholes in the regulations, but they lacked consensus as to when new zoning regulations would move forward. McIntosh's County Attorney specifically stated: "I can tell you that there is no appetite among the Administrative staff to make any changes currently in the McIntosh Zoning Ordinances as it pertains to Hog Hammock."

44. At the same August 4, 2021, meeting, Commissioner Lotson advised SICARS members that if and when zoning amendments were put forth, the most important way for them to

be heard was to attend the hearing in large numbers and articulate what zoning regulations the community desired.

45. There were no public hearings regarding amendments to Hogg Hummock zoning ordinances between August 2021 and the September 7, 2023, public hearing before the County Planning and Zoning Commission.

The August 2023 Hogg Hummock Proposed Zoning Amendments

46. On July 11, 2023, the Board voted to approve amendments to the McIntosh County Zoning Ordinance, reserving revisions to the Hogg Hummock District for a future date.

47. The McIntosh County Zoning Ordinance Amendments approved on July 11, 2023, allow all prior nonconforming uses to be considered legal nonconforming uses.

48. On August 16, 2023, the Board notified residents of proposed amendments to the “McIntosh County Zoning Ordinance, specifically the Hog Hammock [sic] District.” Notice of the public hearing ran in a McIntosh County newspaper, *The Darien News*, on the same date.

49. The proposed zoning amendments were prepared by the McIntosh County Board of Commissioners with the assistance of a white private individual who owns land on the Island and the State of Georgia’s Coastal Regional Commission.

50. Bill Hodges is a non-Gullah homeowner in Hogg Hummock who owns one of the legally non-conforming homes described above.

51. The proposed zoning amendments failed to include any indication as to which language was amended or deleted and whether the existing zoning ordinance would be replaced in part or in full.

52. These amendments were collectively labeled “Section 101,” causing confusion as to whether they were to amend the existing Section 16.

53. Section 101 initially contained no maximum square footage for buildings constructed in Hogg Hummock. Additionally, the maximum height for a building was changed from one and one-half stories to 45 feet. These changes meant that there was now no limitation to how big a house could be on the Island.

54. Section 101 was incompatible and inconsistent with the current character and infrastructure of Hogg Hummock and would have radically altered the current protections for Hogg Hummock in the McIntosh County comprehensive plan and the McIntosh Zoning Ordinance, Appendix C of the Code of McIntosh County.

The August 16, 2023, Notice of Public Hearing

55. The August 16, 2023, notice advised that a public hearing would be held at 5:30 p.m. on September 7, 2023, before the McIntosh County Planning and Zoning Commission (hereinafter, “Planning and Zoning Commission”). The notice also stated that the Board would conduct a working session at 5:00 p.m. on September 11, 2023, before voting on the proposed amendment at a 5:00 p.m. meeting on September 12, 2023.

56. Generally, the last ferry departs Meridien, Georgia, for Sapelo Island at 5:30 p.m.

57. The County scheduled the public hearing before the Planning and Zoning Commission on September 7, 2023, and the working session and public meeting of the Board of Commissioners on September 11, 2023, and September 12, 2023, respectively. All of these hearings were scheduled to begin or to be held after the last ferry departed Meridien, Georgia, for Sapelo Island at 5:30 p.m.

58. On August 22, 2023, undersigned counsel from the SPLC sent a letter to the Board and the County Attorney advising that holding the meetings in a time and place that, given the ferry schedule, precluded the attendance of impacted residents could violate due process and equal

protection required under both Georgia and U.S. constitutional law, and the Georgia Open Meeting Act. To avoid these potential violations, the letter proposed that the County move the meeting to Sapelo Island or coordinate with the State of Georgia to provide an additional ferry to leave at least 30 minutes after the public hearing concluded.

59. On September 5, 2023, DNR announced the 5:30 p.m. ferry departure would be delayed until 7:30 p.m. on September 7, 2023.

60. The County failed to communicate last-minute changes to the ferry schedule to accommodate the participation of those who needed to return to Sapelo Island.

61. Some residents of Hogg Hummock expressed concern as to whether they could or should attend the meeting given the lack of official information that they would have transportation home in the days leading up to the September 7, 2023, public hearing.

The September 7, 2023, Planning and Zoning Hearing & Business Meeting

62. On September 7, 2023, McIntosh County Planning and Zoning Commission held a public hearing at the McIntosh County Courthouse (hereinafter, “September 7 hearing”). The main courtroom utilized had a posted maximum capacity of 125 people. Estimated attendance was between 150 and 200.

63. This number does not reflect the additional interested or impacted persons who were unable to attend due to lack of notice regarding the availability of transportation back to the Island after 5:30 p.m. when the last ferry was regularly scheduled to leave.

64. The County issued attendees a written form asking whether they supported or opposed the proposed amendments. There were 111 recorded written responses opposed to the amendment. No attendees recorded written responses in favor of the proposed amendments.

65. Attendees asked questions—which members of the Planning and Zoning Commission were unable to answer—about how the proposal would impact development and existing properties in Hogg Hummock.

66. No verbatim transcript of the hearing was taken.

67. All attendees were prohibited from bringing cell phones or any other recording device. No exceptions were made for attorneys or members of the press.

68. Thirty attendees spoke on behalf of residents, descendant landowners, two local mosques, and numerous other community organizations. No speaker supported the proposed zoning amendments.

69. The Board also received over 300 letters regarding the proposed zoning amendments. Approximately 27 letters, including 6 from limited liability corporations, were in support, and the rest opposed.

70. After public comments concluded, the members of the Planning and Zoning Commission ended the hearing and immediately held a business meeting wherein they made a number of substantive revisions to the proposed zoning amendments and voted to advance them for consideration by the McIntosh County Board of Commissioners without further public comment.

71. Those additional changes were still incompatible and inconsistent with the current character and infrastructure of Hogg Hummock and would have radically altered the current protections for Hogg Hummock in the McIntosh County comprehensive plan and the McIntosh Zoning Ordinance, Appendix C of the Code of McIntosh County.

72. The September 7 hearing and subsequent business meeting ran until after 8 p.m.

73. Hogg Hummock residents who required ferry service back to the Island left after the public hearing but before the business meeting.

The September 11, 2023, County Board of Commissioners' working session

74. On September 10, 2023, DNR announced the 5:30 p.m. ferry departure would be delayed until 7:30 p.m. for the September 11, 2023, working session and the September 12, 2023, meeting of the Board.

75. The County failed to communicate last-minute changes to the ferry schedule to accommodate the participation of those who needed to return to Sapelo Island.

76. On September 11, 2023, the Board held a working session (hereinafter, "September 11 Board working session") in advance of the vote scheduled for September 12, 2023.

77. This session did not provide an opportunity for public comment.

78. The Board of Commissioners immediately announced, for the first time, that the correct title for the proposed zoning amendments to Hogg Hummock was "Section 219," rather than Section 101 as previously noticed in August.

79. In addition to correcting the section title and number, the Board of Commissioners announced for the first time the following revisions to the proposed amendments advanced by the Planning and Zoning Commission after its September 7 business meeting, which was closed for public comment: the maximum building size was capped at 3,000 square feet under roof and exterior walls no matter how tall the structure, "historical sites" were permitted under land uses, and some of the original language from Section 16.1 was reinstated along with the new language. Written copies of these changes were not provided to the public.

80. Section 219's new purpose and intent read as follows: "The purpose of this district is to allow continued use and activities of the community of Hog Hammock [sic] on Sapelo Island.

This community has unique needs in regard to its historic resources, traditional patterns of development, threat from land speculators and housing forms. It is the intent of this district to reserve this area for low intensity residential and cottage industry uses which are environmentally sound and will not contribute to land value increases which could force removal of the indigenous population. Further, it is the intent of this district to provide for a community on the Island with limited water and/or sanitary sewer facilities. The regulations that apply within this district are designed to encourage the formation and continuance of a stable, healthy environment for several different types of dwellings and small commercial establishments to support this Island community. Industry is not an acceptable form of development in the Hog Hammock district.”

81. This version of Section 219 did not have redlining or tracked changes to indicate which language was being amended or deleted from the current McIntosh Zoning Ordinance, Appendix C of the McIntosh Code of Ordinances, and whether any section was being replaced in part or in full.

82. Commissioner Lotson moved to postpone the September 12 vote due to outstanding concerns and questions from the community. His motion failed 3-2, with Commissioners Kate Pontello Karwacki, David Stevens, and Davis Poole voting no, and Commissioners Lotson and Harrell voting yes.

83. In defense of the decision not to postpone the vote, Commissioner Stevens stated the Board had requested input and received no feedback. He further explained that the amendments were necessary because the County failed to enforce the existing zoning regulations.

84. At the September 11 Board working session, the McIntosh County Courthouse main courtroom was again filled with over 150 attendees who lined the walls and spilled into the hallway. None of those attendees were provided an opportunity for public comment.

85. All attendees were prohibited from bringing cell phones or any other recording device. No exceptions were made for attorneys or members of the press.

86. The September 11 Board working session lasted 35 minutes and did not include any substantive discussion of Section 219.

87. Each Commissioner had at their seat a manila envelope. Commissioner Lotson indicated each envelope contained hundreds of written public comments regarding Section 219. The envelopes were not opened, and the contents were not discussed at the September working session.

88. Even with the amendments announced at the September 11 Board working session, Section 219 was still incompatible and inconsistent with the current character and infrastructure of Hogg Hummock and would radically alter the current protections for Hogg Hummock in the McIntosh County comprehensive plan and the McIntosh Zoning Ordinance, Appendix C of the Code of McIntosh County.

September 12, 2023, County Board of Commissioners' Meeting

89. The Board reconvened for their regular meeting on September 12, 2023 (hereinafter, "September 12 Board meeting"), to vote on the zoning amendments proposed by the Planning and Zoning Commission, subject to the few revisions from the full Board of Commissioners.

90. The McIntosh County Courthouse main courtroom was again filled with over 150 attendees who lined the walls and spilled into the hallway.

91. The Board did not provide an opportunity for public comment about the proposed zoning amendments. This procedure was different from the Board's typical practice of allowing

the public to speak at either the Board meeting or the Board working session held on the previous day, but the Board did not follow that practice for Section 219.

92. The County circulated redlined text of Section 219 before the September 12 Board meeting, but the redlined changes only reflected the changes made at the September 7 public hearing before the Planning and Zoning Commission and the September 11 Board working session.

93. At no point in the legislative process was a version of the proposed zoning amendments to the McIntosh Zoning Ordinance provided to the public setting forth in writing the new text to be added to the original Section 16 language and the existing text to be deleted from the original Section 16 language.

94. At the September 12 Board meeting, attendees with press credentials were permitted to bring cell phones. All other attendees, including attorneys, were prohibited from bringing cell phones or any other recording device.

95. Commissioner Lotson made a motion to amend the September 12 agenda to delete the agenda item pertaining to Hogg Hummock zoning, to give the Board time to consider community feedback. His motion failed 3-2, with Commissioners Karwacki, Stevens, and Poole voting no, and Commissioners Lotson and Harrell voting yes.

96. Commissioner Poole then successfully moved to approve the day's agenda as written, with Commissioners Karwacki, Stevens, and Poole voting yes.

97. Commissioners Karwacki, Stevens, and Poole voted in favor of the Section 219 Hogg Hummock zoning amendment that had been revised twice after the only public hearing held on September 7 by the Planning and Zoning Commission. The twice-revised zoning amendment

increased the maximum for Hogg Hummock homes from 1,400 heated /cooled square feet to 3,000 square feet under roof.

98. After voting in favor of Section 219’s zoning amendment, Commissioner Poole advised that the Board’s action was intended to be fair to non-Gullah residents in Hogg Hummock, whom he estimated comprised 50% of Hogg Hummock’s population.

99. After voting in favor of the Section 219, Chairman Stevens stated that nobody had ever given him concrete numbers for increasing the square footage of homes in Hogg Hummock despite attempts to obtain community input via SICARS and One Hundred Miles (OMH).

100. Chairman Stevens told Hogg Hummock descendants who [do] “not want these outsiders . . . do not want these new homes being built to stop selling your land.”

101. Touting his relationships with older and deceased Hogg Hummock residents, Chairman Stevens concluded his comments by stating that the Lord had called home his favorites, while “this next generation doesn’t have it, nor will they ever.”

102. Voting against Section 219 were William Harrell and Roger Lotson. Lotson remarked, “a few millionaires will come and build 3,000-square-foot homes, again — as I said yesterday — at the expense of us, at the expense of our reputation, at the expense of our history and our culture.” Lotson added that, beyond displacing Gullah Geechee landowners, the measure would cost McIntosh County taxpayers an “unknown amount of money” for the additional public services demanded by newcomers.²

² Benjamin Payne, ‘A few millionaires will come and build’: County board rezones Sapelo Island’s Gullah Geechee area, Georgia Public Broadcasting (Sept. 13, 2023), <https://www.gpb.org/news/2023/09/13/few-millionaires-will-come-and-build-county-board-rezones-sapelo-islands-gullah>.

103. Minutes from the September 12 Board meeting have not been made available to the public.

104. McIntosh County issued a notice on October 2, 2023, advising that Board of Commissioners' meetings will no longer be held in the Darien Courthouse courtroom. The notice further canceled the October 2023 regular meeting of the Board while staff searched for a new location that complies "with basic requirements of sound, shelter and security."

Tax Implications for Plaintiffs due to Section 219

105. With the property tax freeze on the Island set to expire in 2025, Plaintiffs anticipate that their property valuations will substantially increase, causing their property taxes to substantially increase.

106. Several plaintiffs can barely meet their current property tax obligations. Even a marginal percent increase in their taxes will be unaffordable, leaving them with few options other than to sell their land and move elsewhere, which will be difficult if not possible to do given their advanced ages and the lack of affordable housing in the area.

107. With the allowable square footage for single-family homes on the Island now more than doubled from 1,400 to 3,000 square feet due to enactment of Section 219, individuals will be able to build larger homes on the Island, encouraging development that will increase property valuations and taxes on the Island with a disproportionate impact on Plaintiffs.

**Count 1 –
Violation of Georgia Zoning Procedure Law, O.C.G.A. § 36-66-1 *et seq.*,
Declaratory Judgment Act, O.C.G.A. § 9-4-2
By all Plaintiffs against Defendants**

108. Plaintiffs incorporate by reference paragraphs 1 through 107 of this Petition as if fully set forth herein.

109. McIntosh County, through the actions taken by the Planning and Zoning Commission and the Board, failed to comply with minimum notice and hearing requirements under state law when it made the decision in September 2023 to adopt the Section 219 Hogg Hummock zoning amendment.

110. Section 219 harms Plaintiffs and is otherwise invalid under state law because it is insubstantially related to the public health, safety, morality, or general welfare.

111. The Georgia Zoning Procedure Law, O.C.G.A. § 36-66-1 *et seq.*, sets mandatory minimum procedures that the County must follow “to assure that due process is afforded to the general public when local governments regulate the uses of property through the exercise of the zoning power.” Ga. Code Ann. § 36-66-2(a).

112. The minimum procedures set forth in Georgia’s Zoning Procedure Law applies to all zoning decisions made by local governments after July 1, 2023. O.C.G.A. § 36-66-2(a).

113. Georgia’s Zoning Procedure Law authorizes local governments to adopt procedures that are either consistent with the procedures set forth in the law, or that are supplemental to such procedures. O.C.G.A. § 36-66-2(b).

114. Where a local government has elected to adopt supplemental procedures, those procedures “where so adopted, thereby establish the minimum procedures for such local government’s exercise of zoning powers.” O.C.G.A.. § 36-66-2(b)(2).

115. The decision by the Board to adopt Section 219 is a “zoning decision” that is legislative in nature under Georgia’s Zoning Law. O.C.G.A.. § 36-66-3 (Definitions).

116. Zoning decisions that are legislative in nature are subject to *de novo* review by the superior court wherein such review brings up the whole record and all competent evidence shall be admissible.

117. Although Section 219 has a presumption of validity, Plaintiffs overcome this presumption because the facts demonstrate that the zoning classification is a significant detriment to them and is insubstantially related to the public health, safety, morality, or general welfare.

118. The procedures used by the Planning and Zoning Commission and the Board to adopt Section 219 do not comply with the minimum procedures under Georgia's Zoning Law, Ga. Code Ann. § 36-66-4 ("Notices and Hearings"), or the supplemental procedures adopted by McIntosh County for the adoption or amendment of the McIntosh Zoning Ordinance, Appendix C, Article XII ("Amendments to the Zoning Ordinance") and Sec. 1-7 ("Amendments to Code") of the McIntosh County Code of Ordinances.

A. Failure to Publish Text

119. The text of the proposed zoning amendments to the McIntosh Zoning Ordinance never made "specific reference to the section number of the Code in the following language: 'That section ___ of The Code of McIntosh County, Georgia, is hereby amended to read as follows....' The new section may then be set out in full as desired." Sec. 1-7, McIntosh County Code of Ordinances.

120. There was no indication from any of the versions of the proposed text amendments of "the new text to be added and the existing text to be deleted," as is usually required for applicants requesting text amendments to the McIntosh Zoning Ordinance. Art. II, Section 6.3 of Appendix C, McIntosh County Code of Ordinances.

121. At no time did the proposed text amendments refer to any specific provision of the McIntosh County Zoning Ordinance, leaving the public, including Plaintiffs, uncertain as to how it interacted with the existing land use district regulation for Hogg Hummock, set forth in Article VI, Section 16 of Appendix C to McIntosh County's Code of Ordinances ("Section 16").

122. The failure of the Planning and Zoning Commission and the Board to specify which text was to be added or deleted with respect to Section 219, as required under Section 6.3, deprived interested parties, including Plaintiffs, of the opportunity to fully understand what was being proposed in relation to Section 16.1, to fully prepare for the public hearing on Section 219, and to be fully and meaningfully heard by written comment throughout the deliberative process.

B. Failure to Hold Properly Noticed Public Hearings

123. McIntosh County failed to comply with the procedural requirement to hold a public hearing prior to adopting Section 219, consistent with Georgia's Zoning Procedure Law, Ga. Code Ann. § 36-66-4(a), and McIntosh County Code of Ordinances, Appendix C, Article XII.

124. The purpose of the statutory notice and hearing requirements is to afford interested citizens a meaningful opportunity to be heard on a proposed zoning decision.

125. The County's initial plan was to hold a public hearing and two other public meetings on Section 219 at a time and location that excluded individuals who live in Hogg Hummock on Sapelo Island—the very community that Section 219 singularly and exclusively regulates.

126. Although the County complied with the technical statutory notice requirements by publishing in a newspaper of general circulation notice of the time, place, and purpose of the hearing, this notice was defective because it provided for a hearing at a time and location when Hogg Hummock community members had no access to a ferry to return home to the Island.

127. The last-minute efforts to change the ferry schedule did not remedy this problem for two reasons. First, the changes came too close in time to give adequate notice of the hearing and allow some Island residents to arrange to attend. Second, the changes were not sufficient to accommodate the length of the September 7 public hearing, requiring individuals who needed to

catch the last ferry to leave before the Planning and Zoning Commission deliberated on the ordinance and made decisions to materially amend its provisions. This denied Hogg Hummock residents a meaningful opportunity to participate in the notice and hearing process mandated by Georgia law.

C. Failure to Afford Interested Citizens a Meaningful Opportunity to Be Heard

128. The Planning and Zoning Commission has no authority to make a final zoning decision. It only has the authority to make a recommendation to the Board; however, no amendment to the McIntosh Zoning Ordinance shall be considered by the Board unless it is first approved or disapproved by the Planning and Zoning Commission.

129. At least one public hearing is required prior to amending the McIntosh Zoning Ordinance, and additional public hearings may be held if deemed appropriate by the local governing authority.

130. The September 7 public hearing before the Planning and Zoning Commission does not satisfy the notice and hearing requirements of the Georgia Zoning Law and the supplemental procedures in the McIntosh County Code of Ordinances.

131. The version of the proposed zoning amendments that the public reviewed and commented on during the public hearing was materially amended twice—once by the Planning and Zoning Commission and once by the Board. There was no opportunity for the public to comment and raise objections to the amendments that were ultimately adopted as Section 219. This denied citizens a meaningful opportunity to be heard.

132. Article XII, Section 5.9 of Appendix C to McIntosh County’s Code of Ordinances (“Section 5.9”) requires that “[t]he Planning Commission shall reach a decision following a public hearing within a reasonable period of time; however, said period shall not exceed forty-five (45)

days.” After its September 7 public hearing and closed business meeting, the Planning and Zoning Commission needlessly rushed to make a recommendation about Section 219 to the Board, despite its own open acknowledgment at the hearing that the proposal had significant “holes,” and despite considerable opposition from the public at that hearing and in writing. The Planning and Zoning Commission did not make its decision within a “reasonable time” given the circumstances. The rush to approve Section 219 denied interested parties who raised objections at the public hearing a meaningful opportunity to be heard.

133. There was no public hearing before the Board at any time. Since the Planning and Zoning Commission has no authority to make a final zoning decision, and only has the authority to make recommendations to the Board, there is no evidence that the final decision of the Board has been meaningfully informed by what happened at the September 7 public hearing. Accordingly, the September 7 public hearing before the Planning and Zoning Commission did not afford interested citizens a meaningful opportunity to be heard by the Board.

134. The September 7 public hearing was also too attenuated in circumstance from the final zoning decision because it concerned a version of Section 219 that was twice revised in material ways after the public hearing. Therefore, there was no meaningful opportunity for the Board to hear testimony from the public and their objections to the version of Section 219 that was ultimately adopted. Under these circumstances, at minimum, the Board was required to hold a public hearing prior to making the final zoning decision. The failure to do so violates Georgia’s Zoning Procedures Law.

135. Section 219 is void for McIntosh County’s failure to comply with the procedural due process protections codified in Georgia’s Zoning Procedures Law and the supplemental laws referenced above.

**Count 2 –
Violation of O.C.G.A. § 50-14-1,
Declaratory Judgment Act, O.C.G.A. § 9-4-2
By all Plaintiffs against Defendants**

136. Plaintiffs incorporate by reference paragraphs 1 through 135 of this Petition as if fully set forth herein.

137. Pursuant to Georgia’s Open Meetings Act, all meetings of the governing body of a county must be open to the public. O.C.G.A. § 50-14-1.

138. Georgia’s Open Meetings Act requires that “[a]ll votes at any meeting shall be taken in public after due notice of the meeting and compliance with the posting and agenda requirements of this chapter.” O.C.G.A. § 50-14-1(b)(1).

139. A zoning decision of a county commission must be taken at a meeting open to the public. O.C.G.A. § 50-14-1.

140. Any action, including a zoning decision, is not binding if it is not taken at a meeting open to the public.

141. The public is required to have access to public meetings at all times.

142. The Open Meetings Act must be broadly construed to effect its remedial and protective purposes.

143. Any exception to the requirement that public meetings are open shall be strictly construed.

144. The September 7 public hearing before the Planning and Zoning Commission, and the September 11 Board working session and September 12 Board meeting, were all required to be public meetings and thus subject to the Open Meetings Act.

145. The County's original notice indicated that it planned to hold a public hearing and two other public meetings on Section 219 at a time and location that excluded individuals who live in Hogg Hummock—the very community that Section 219 singularly and exclusively regulates.

146. Knowingly holding a meeting at a time and place when certain members of the public are unable to attend does not meet the requirements of the Open Meetings Act.

147. The County's actions to extend the ferry schedule came too late to remedy this issue, and further the last ferry departed after the public comment portion of the September 7 hearing had closed—denying Hogg Hummock residents the opportunity to hear deliberations by the Planning and Zoning Commission and their decisions to materially amend the zoning ordinance under review. This resulted in a public hearing that was not open to the public at all times, and specifically excluded the residents of the community at issue.

148. The County failed to hold the public hearing or the other two public meetings related to this zoning decision at a location sufficient to allow participants an opportunity to see and hear the proceedings, forcing many to line the walls of the hallway outside the courtroom. This resulted in a meeting that was not open to the public at all times.

149. The County's actions violate Georgia's Open Meetings Law because many interested parties who live or reside in Hogg Hummock were excluded from attending, participating, or observing the public hearing and meetings. These meetings did not provide a meaningful opportunity at a meaningful time for affected residents to be heard on their objections to the County's proposed zoning amendments.

150. The County also violated Georgia's Open Meetings Act by prohibiting visual and sound recordings.

151. Visual and sound recording during open meetings “shall be permitted.” O.C.G.A. § 50-14-1(c).

152. The County restricted the ability of the public and the press to bring in recording devices, such as cell phones, at the September 7 public hearing and again at the September 11 Board working session, despite objections raised on September 7. At the September 12 Board meeting, the County permitted only the press to record the meeting but did not permit members of the public to do so.

153. O.C.G.A. 50-14-1(c)’s guarantee that the “public” must be permitted to record public meetings does not distinguish members of the public from the press.

154. There is no exemption under Georgia’s Open Meetings Act that would allow the County to prohibit the public from taking audio or visual recordings, and the County did not cite any legal authority for prohibiting the public from recording at these public meetings.

155. The County did not explain why it permitted the press to record the September 12 Board meeting but prohibited the general public from recording.

156. The County’s arbitrary restrictions violated the procedural due process protections codified at O.C.G.A. 50-14-1(c) and impacted the dissemination of critical information about the proposal and last-minute changes made by the County at the September 7 public hearing and the September 11 working session and had the cumulative effect of excluding many Gullah-Geechee residents of Hogg Hummock from meaningful participation in the passage of Section 219.

157. Section 219 is void for the County’s failure to comply with Georgia’s Open Meetings Law.

Count 3
Violation of Ga. Const. Art. I § 1 ¶ I – Procedural Due Process,
Declaratory Judgment Act, O.C.G.A. § 9-4-2
By all Plaintiffs against Defendants

158. Plaintiffs incorporate by reference paragraphs 1 through 157 of this Petition as if fully set forth herein.

159. The Georgia Due Process Clause provides, “No person shall be deprived of life, liberty, or property except by due process of law.” Ga. Const. Art. I § 1 ¶ I.

160. The Georgia constitution’s grant of due process is generally co-extensive with the Fourteenth Amendment.

161. For the reasons stated under Count 1, the Board’s actions denied Plaintiffs adequate notice and an opportunity to be heard at a meaningful time and in a meaningful manner. The Board’s actions deprived Plaintiffs of their protected property interests without due process of law.

162. For the reasons stated in Count 2, the date, time, and location of the hearing and meetings, along with the last-minute communications about the ferry accommodation, created a chilling effect on participation and attendance in violation of Georgia’s constitutional procedural due process protections.

163. For the foregoing reasons, Section 219, as adopted by the Board, violated Plaintiffs’ procedural due process rights under the Georgia Constitution.

Count 4 –
Violation of Ga. Const. Art. I § 1 ¶ I – Substantive Due Process,
Declaratory Judgment Act, O.C.G.A. § 9-4-2
By all Plaintiffs against Defendants

164. Plaintiffs incorporate by reference paragraphs 1 through 163 of this Complaint as if fully set forth herein.

165. As stated, the Georgia Due Process Clause provides, “No person shall be deprived of life, liberty, or property except by due process of law,” Ga. Const. Art. I § 1 ¶ I, and due process under the Georgia Constitution is generally co-extensive with the Fourteenth Amendment.

166. When the governing authority exceeds the police power in regulating land use for zoning building standards or for any other purpose, the governing authority runs afoul of the due process clause of the Georgia Constitution.

167. Section 219 is arbitrary and capricious and presents a significant detriment to Plaintiffs without substantially advancing the health, safety, morality, and welfare of the public.

168. Section 219 will increase the density and intensity of development in Hogg Hummock and raise individual property values, leading to increased property taxes on Plaintiffs’ land, and the continued forced displacement of the Gullah-Geechee community from the last of their ancestral homelands on Sapelo Island.

169. Section 219 deviates from longstanding protections for Hogg Hummock in its laws and policies. It is an aberration from the County’s recognition in Article VI, Section 16 of Appendix C to McIntosh County’s Code of Ordinances (“Section 16”) of the importance of preserving Hogg Hummock through intentional, thoughtful, low-density, and low-intensity development that considers the needs of the Hogg Hummock Gullah-Geechee population.

170. The Board had a duty to consider the Comprehensive Plan, which it adopted, in analyzing zoning requests related to the Hogg Hummock Zoning District, and to pass land use regulations that are consistent with the Comprehensive Plan. *See* Ga. Code Ann. § 36-70-3(2); McIntosh Cty. Code Ord., Append. C, Art. XII, Sec. 7.1(N).

171. Section 219 is fundamentally at odds with the stated long-term planning goals of McIntosh County and its community members with respect to Sapelo Island, as set forth in the

County's 2018-2038 Comprehensive Plan. Section 219 is incompatible with the Comprehensive Plan's specific vision for Hogg Hummock and its Gullah-Geechee residents. It is inconsistent with the framework and requirements set forth in the Comprehensive Plan's Housing Section to foster affordable housing. It is inconsistent with the goals and requirements of the Comprehensive Plan and will make Hogg Hummock and Sapelo Island less resilient and more vulnerable to disasters. It ignores the robust public input that gave rise to the Comprehensive Plan's community vision and protections for the County, including Hogg Hummock.

172. Section 219 does not substantially advance the health, safety, morals, and general welfare of the public. Instead, it will change the cultural, racial, and economic composition and character of the Hogg Hummock Historic District forever and be a catalyst for the increased gentrification that will harm Plaintiffs and continue forced displacement of the last intact Gullah-Geechee community in the United States.

173. For these reasons, Section 219, as adopted by the Board, violated Plaintiffs' substantive due process rights under the Georgia constitution.

**Count 5–
Violation of Fourteenth Amendment – Equal Protection,
42 U.S.C. § 1983
By all Plaintiffs against Defendant McIntosh County**

174. Plaintiffs incorporate by reference paragraphs 1 through 173 of this Petition as if fully set forth herein.

175. The Equal Protection Clause of the Fourteenth Amendment prohibits official conduct that discriminates on the basis of race.

176. Section 219 is a marked aberration from the County's existing laws and policies governing zoning and land use regulations in Hogg Hummock, which are protective of this distinctive and important place that the Black community has called home for generations.

177. The County’s decision to pass Section 219, a zoning ordinance that singularly and exclusively regulates Hogg Hummock, has a disproportionate impact on this historic Black community and constitutes a violation of the equal protection guarantees of the 14th Amendment to the U.S. Constitution.

178. While property valuations and taxes will increase on the entire Island after the tax freeze expires in 2025, Plaintiffs, who are Black, and other Black residents will be disproportionately affected primarily due to past and current racial discrimination, compounded by low income, age, lack of affordable housing options and inability to move elsewhere.

179. Section 219 will permit and encourage development that will increase land values and property taxes, further disproportionately harming Plaintiffs and other Black residents of the Island.

180. Though the Board added some of the protective language from Section 16.1 back into Section 219’s purpose and intent, the other changes to the zoning ordinance reflected in Section 219 are fundamentally at odds with and will undermine “the intent of th[e] district to reserve this area for low intensity residential and cottage industry uses which are environmentally sound and will not contribute to land value increases which could force removal of the indigenous population.”

181. The County has offered no compelling government interest for scaling back the existing protections for the Hogg Hummock Gullah-Geechee community or for creating zoning and land use regulations that are inconsistent with its own priorities and requirements, as set forth in Section 16 and the Comprehensive Plan.

182. In its discussions about adopting Section 219, County officials stated that the County has been unable to enforce the restrictions in the existing zoning ordinance effectively.

183. The Board’s discussions at the public hearing were illustrative of the motivating factors at play in the County’s decision. Chairman Stevens opined that the solution for Hogg Hammock descendants “who do not want these houses being built” was to simply “stop selling [their] land.”

184. Touting his relationships with older and deceased Hogg Hammock residents, Chairman Stevens concluded his comments stating that the Lord called home his favorites, while “this next generation doesn’t have it, nor will they ever.”

185. The historical background of the zoning decision, the specific sequence of events leading up to the zoning decision, the County’s procedural and substantive departure from its usual procedures (including procedures required by state law) for making zoning decisions and longstanding protections for Hogg Hammock, and contemporary statements and actions of key legislators are direct evidence of a racially discriminatory purpose that motivated the County’s zoning decision.

186. Section 219’s zoning standards violate the Fourteenth Amendment’s Equal Protection Clause.

187. Plaintiffs seek declaratory relief adjudging the County in adopting Section 219 unlawful and injunctive relief preventing the County from enforcing Section 219.

**Count 6–
Violation of Ga. Const. Art. I § 1 ¶ II – Equal Protection,
Declaratory Judgment Act, O.C.G.A. § 9-4-2
By all Plaintiffs against Defendants**

188. Plaintiffs incorporate by reference paragraphs 1 through 187 of this Petition as if fully set forth herein.

189. Article I, Section I, Paragraph II of the Constitution of the State of Georgia guarantees that “no person shall be denied the equal protection of the laws.”

190. Georgia's Equal Protection Clause is generally coextensive with and substantially equivalent to the Equal Protection Clause of the Fourteenth Amendment and are applied as one.

191. For the reasons stated under Count 5, Section 219's zoning standards and stated purpose and intent for the Hogg Hummock Zoning District violate the Equal Protection Clause of the Georgia Constitution.

**Count 7 –
Writ of Mandamus
O.C.G.A. § 9-4-3**

By all Plaintiffs against Defendants McIntosh County Board of Commissioners Kate Pontello Karwacki, David Stevens, Davis Poole, William E. Harrell, and Roger Lotson in their official capacities

192. Plaintiffs incorporate by reference paragraphs 1 through 191 of this Petition as if fully set forth herein.

193. Pursuant to O.C.G.A. §§ 9-6-20 *et seq.*, Plaintiffs seek a Writ of Mandamus from the Court compelling Defendants to comply with the laws the State of Georgia and McIntosh County, including specifically, without limitation, the provisions described in Counts 1 through 4 above, thereby voiding the adoption of Section 219.

194. There is no issue of fact raised by Plaintiffs' request for a Writ of Mandamus. *See* O.C.G.A. § 9-6-27(b).

195. If Plaintiffs are denied judicial review, Plaintiffs will have no adequate remedy at law, and a defect of legal justice will result by the Board members' failure to perform their official public duties in accordance with the law.

**Count 8–
Equitable Relief
O.C.G.A. § 9-4-3
By all Plaintiffs against Defendants**

196. Plaintiffs incorporate by reference paragraphs 1 through 195 of this Petition as if fully set forth herein.

197. As set forth in paragraphs 25 and 105, Plaintiffs taxes are set to increase upon expiration of the tax freeze on the Island in 2025.

198. As set forth in paragraphs 26-34, Plaintiffs will be unable to afford tax increases due to both the expiration of the tax freeze and new development encouraged and facilitated by Section 219.

199. To ensure that Plaintiffs will be able to remain in their homes and on the land that they have owned for generations, Plaintiffs seek equitable relief from this Court, to include but not limited to, a continuation of the tax freeze currently in effect on their parcels.

WHEREFORE, for the aforementioned reasons, Plaintiffs pray:

- (a) That the Court find and declare Section 219 to be an unconstitutional violation of Plaintiffs' due process rights, including but not limited, to a declaration that Section 219 imposes a significant detriment on Plaintiffs and is insubstantially related to the public health, safety, morality or general welfare of the public, violating Georgia's Zoning Procedure Law; that the County's meetings and hearings on Section 219 as previously described violated Georgia's Open Meetings Act and that it is therefore unconstitutional, null, and void;
- (b) That the Court find and declare Section 219 to be an unconstitutional violation of Plaintiffs' equal protection rights, including but not limited to, a declaration that Section 219 discriminates against the historically and culturally important Gullah-Geechee community

on Sapelo Island on the basis of race, and that it is therefore unconstitutional, null, and void;

- (c) That the Court issue a writ of mandamus directing Defendants to reconsider Section 219 and come into compliance with the zoning and open meeting procedures set forth in state and local law;
- (d) That the Court issue an injunction prohibiting Defendants from enforcing Section 219 against Plaintiffs and property in Hogg Hummock;
- (f) That summons and process issue and that Defendants be served as required by law;
- (g) That the Court award Plaintiffs their expenses of litigation, including reasonable attorney's fees and costs incurred in this action, pursuant to O.C.G.A. § 13-6-11 and 42 U.S.C. § 1988; and
- (h) That the Court order such other and further relief as this Court deems equitable, just, and proper.

Respectfully submitted this 12th day of October 2023.

/s/ Miriam Gutman

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**Pro hac vice application forthcoming*