

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

<b>CITY OF STOCKBRIDGE,</b>	)	
<b>GEORGIA; ELTON ALEXANDER;</b>	)	
<b>JOHN BLOUNT; URBAN</b>	)	
<b>REDEVELOPMENT AGENCY OF</b>	)	
<b>THE CITY OF STOCKBRIDGE,</b>	)	
	)	
<b>PLAINTIFFS,</b>	)	
	)	
<b>v.</b>	)	<b>CIVIL ACTION NO.</b>
	)	<b>1:18-CV-3961-LMM</b>
	)	
<b>TINA LUNSFORD, IN HER</b>	)	
<b>OFFICIAL CAPACITY, ET. AL.</b>	)	
	)	
<b>DEFENDANTS.</b>	)	
	)	
	)	
	)	

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**PLAINTIFFS' RESPONSE TO INTERVENORS'**  
**ARGUMENT ALLEGING THAT STOCKBRIDGE COULD SIMPLY PAY**  
**OFF ITS BONDED INDEBTEDNESS FROM ITS RESERVE FUND<sup>1</sup>**

On September 24, 2018, the Parties in both this case and in Capital One Public Funding, LLC v. Tina Lunsford, et al., Civil Action Case No. 1:18-CV-03938-LMM (“COPF Litigation”), presented oral argument on whether the November 6, 2018

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<sup>1</sup>The Court combined this case with the COPF Litigation for the purposes of considering related motions for preliminary injunction. Intervenor’s Supplemental Brief was filed solely in the COPF Litigation. Because these matters have been combined for the foregoing purpose, Plaintiffs respond here. “Intervenor’s” discussed here are three individuals who intervened in the COPF Litigation.

referendum to approve Act 548 of the 2018 Session of the Georgia General Assembly should be enjoined. Plaintiffs argued that Act 548 unconstitutionally impairs the bonded indebtedness between the City of Stockbridge (“Stockbridge”) and COPF by removing half of Stockbridge’s tax base into a proposed new City of Eagle’s Landing. While admitting Act 548 had no significant and legitimate public purpose,<sup>2</sup> Intervenors nevertheless argued that no contract was impaired because Stockbridge could simply repay the \$11,750,000 debt out of its reserve fund. Counsel for Intervenors referred to the City’s 2016 audit in this context but did not provide testimony by anyone qualified to opine on such matters.

Plaintiffs now show the Court that Intervenors’ suggestion is inaccurate, unrealistic and would be highly imprudent for the City of Stockbridge to undertake. First, Stockbridge does not really have free access to the amounts that Intervenors have alleged – most of Stockbridge’s assets are not liquid and/or are restricted to other purposes. Second, if Stockbridge used its unencumbered reserve fund to pay its bonded debt the City would suffer serious negative financial consequences (the very outcome that Stockbridge seeks to avoid through this litigation).

Plaintiffs submit the attached Declaration of Larry Wayne Kidwell, attached hereto as *Exhibit 1*, in support of their position. Mr. Kidwell is a highly qualified

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<sup>2</sup> At oral argument Intervenors admitted there was no public purpose served by Acts 548 and 559.

and respected expert in municipal finance with more than 31 years of experience in the field. Mr. Kidwell's Declaration provides much greater detail as to why the Court should reject Intervenor's argument regarding Stockbridge's reserve fund.

Respectfully submitted this 3rd day of October, 2018

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**CERTIFICATE OF COMPLIANCE**

Pursuant to Rule 7.1(D) of the Local Rules of the Northern District of Georgia, the undersigned counsel for Plaintiff Larry Kidwell hereby certifies that the foregoing document was prepared in a font and point election approved by this Court and authorized in Local Rule 5.1(C).

/s/ Stephen G. Quinn  
Stephen G. Quinn  
Georgia Bar No. 153012

**CERTIFICATE OF SERVICE**

I hereby certify that on the date indicated below I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will automatically send email notification of such filing to the following attorney of record:

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Dated: October 3, 2018.

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