

IN THE CIRCUIT COURT OF HAMILTON COUNTY, TENNESSEE

RON LITTLEFIELD,

Plaintiff,

vs.

HAMILTON COUNTY
ELECTION COMMISSION,

Defendant.

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) No. 10C1078

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) DIVISION I

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)
)
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FILED IN OFFICE
2010 SEP -1 PM 12:26
PAULA T. THOMPSON, CLERK
BY JR DC

**MEMORANDUM IN SUPPORT OF
MOTION TO DISMISS/TRANSFER BY INTERVENOR JAMES A. FOLKNER**

Intervenor contends that the Circuit Court lacks subject matter jurisdiction of this matter pursuant to *TCA §16-10-111*.

TCA §16-10-111 provides as follows:

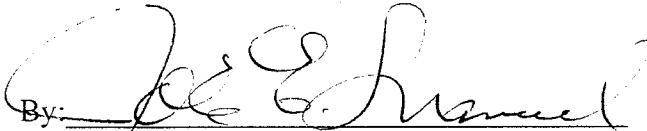
"16-10-111. Equity powers. - Any suit of an equitable nature, brought in the circuit court, where objection has not been taken to the jurisdiction, may be transferred to the chancery court of the county, or heard and determined by the circuit court upon the principles of a court of equity, with power to order and take all proper accounts, and otherwise to perform the functions of a chancery court."

Here, the original Plaintiff requested equitable relief in the form of a temporary and permanent injunction against the Election Commission. Furthermore, the Intervenor has raised the equitable defense of estoppel that also indicates this matter is of a "equitable nature" and should only be properly brought in the Chancery Court.

Continental Bankers' Life Company vs. Simmons, 561 S.W.2d 460 (Tenn. Court of Appeals 1978). Since Intervenor has timely and properly raised this jurisdictional issue, this cause must be dismissed or transferred to the Chancery Court for Hamilton County.

Accordingly, the Intervenor moves this Court for an Order transferring this cause to the Chancery Court rather than dismissing it in view of the pressing time constraints and the need for an expedited hearing.

Respectfully submitted:

By: 

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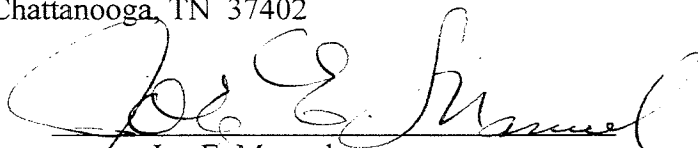
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of this pleading has been served upon the parties listed below this 1st day of September, 2010.

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