



IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

**ROBERT B. SANSOME and GAIL
 SANSOME,**

Plaintiffs,

v.

**HOAR CONSTRUCTION, LLC;
 LAKESHORE DATA CENTER, LLC;
 NEBIUS, INC.; THE CITY OF
 BIRMINGHAM, ALABAMA,**

Defendants.

**CIVIL ACTION NUMBER:
 CV-2026-902889**

DEFENDANTS' OBJECTIONS TO NOTICE OF INTENT TO SERVE SUBPOENA

Defendants Hoar Construction, LLC, Lakeshore Data Center, LLC, Nebius, Inc., and the City of Birmingham, pursuant to Rule 45(a)(3)(B) of the Alabama Rules of Civil Procedure, object to the issuance of the subpoena proposed in Plaintiffs' Notice of Intent to Serve Subpoena for Production of Documents on Non-Party Regions Bank [Doc. 162].

The proposed subpoena exceeds the scope of discovery authorized by the Court for the March 8, 2027 trial. It also seeks extensive new affirmative evidence after the Court has expressly ruled that the *Sansome* Plaintiffs have completed their evidentiary presentation and must stand on that record. In addition, numerous requests seek categories of operational and other evidence that Plaintiffs themselves previously represented fall outside the equitable claims to be tried on March 8.

Accordingly, Defendants object to issuance of the proposed subpoena in its present form.

1. The subpoena exceeds the scope of discovery authorized for the March 8 trial.

The Court has previously defined both (1) the issues to be tried on March 8 and (2) the discovery permitted in preparation for that trial. On August 12, 2026, the Court granted Plaintiffs’ Motion to Advance the Trial on the Merits and set a non-jury trial “on the limited equitable issues articulated in Plaintiff’s Motion.” [Doc. 129.] The subsequent Scheduling Order likewise limits the remaining discovery to “non-party discovery and expert discovery relating to claims and defenses being tried on March 8, 2027.” [Doc. 143 ¶ 2.]

The Court further clarified the limited scope of discovery in its September 17, 2026 Order [Doc. 166.]. Although the Court consolidated the GBHS action for purposes of trial, discovery, and case management, it expressly left the Scheduling Order in effect. More importantly, the Court ruled that the “Sansome Plaintiffs’ have already closed their evidentiary presentation and shall stand on their completed record,” subject only to the right to present rebuttal evidence if necessary. [Doc. 166, ¶¶ 2, 4.]

Instead of being reasonably tailored to that limited scope, the noticed Regions subpoena is plainly directed at doing full discovery for purposes other than the March trial. It contains thirty-five separate document requests, and it seeks, among other things, documents related to historical architectural and engineering “drawings and specifications,” year-by-year “use allocation,” years of operational information, “electrical load” and “energy consumption,” “generator” and “fuel” information, “HVAC” and “water consumption,” “neighbor” complaints, “environmental” studies, the complete history of Regions’ marketing and sale of the property, every competing “offer” and “bid,” “appraisals,” “beneficial-ownership” information, the “complete closing file,” communications with “public officials” and “utilities,” and Regions’ litigation-hold information. [Doc. 162, Ex. A.]

The proposed subpoena is not discovery narrowly directed to Plaintiffs’ rebuttal case on the limited issues remaining for March 8. Instead, it is an attempt to develop a broad new affirmative evidentiary record concerning both the former Regions facility and the entire sale transaction.

2. The subpoena is inconsistent with the Court’s ruling that the Sansome Plaintiffs must stand on their completed evidentiary record.

Plaintiffs served their Notice on September 16. The next day, the Court ruled that the Sansome Plaintiffs had “already closed their evidentiary presentation” and “shall stand on their completed record,” while preserving only their ability to offer rebuttal evidence if necessary. [Doc. 166, ¶ 4.]

The proposed subpoena plainly is not limited to potential rebuttal. It seeks affirmative evidence concerning subjects ranging from the original design and construction of the former Regions facility to the internal economics of Regions’ 2025 sale of the property, as described above.

The proposed subpoena to Regions is an attempted end-run around the Court’s discovery limitations.

3. The subpoena seeks categories of evidence that Plaintiffs themselves previously represented are outside the March 8 proceeding.

Plaintiffs’ present position also cannot be reconciled with the position they took in obtaining the current trial structure.

In opposing Defendants’ earlier argument that further discovery was necessary before a merits determination, Plaintiffs insisted that the issues being advanced for trial rested on the *existing* documentary record and legal questions. Plaintiffs argued that “no subpoena” could alter the relevant permit facts and that the questions being presented did not require additional discovery. [Plaintiffs’ Reply in Support of Motion to Advance the Trial on the Merits, Doc. 127,

at 6.]

Plaintiffs were even more specific about operational discovery. They argued that discovery concerning utilities, neighboring properties, noise, and operational effects went to “operational effects, causation, and damages” and therefore belonged to the reserved claims rather than the claims being advanced for trial. Plaintiffs expressly represented that subpoenas concerning utilities and operational and community effects would “prove nothing” about whether the Project was lawfully permitted. [*Id.* at 6–7.]

The proposed Regions subpoena now seeks precisely the categories of documents Plaintiffs previously said would prove nothing. Requests 5 through 10 demand information regarding computer operations, electrical load and utility service, generators and fuel, HVAC and water use, hours of operation, exterior lighting, noise, vibration, odor, traffic, and complaints from neighboring property owners. [Doc. 162, Ex. A, Requests 5–10.] The subpoena’s definition of the “Facility Period” extends from the commencement of planning and construction of the former Regions facility (presumably, decades ago) through the September 2025 closing.

If the operational effects of the data center under construction are not at issue on March 8, then the operational aspects of the former Regions facility logically cannot be at issue on March 8.

4. The transaction-related requests are substantially broader than any issue remaining for March 8.

Plaintiffs also seek virtually the entire history and economics of Regions’ sale of the property. Requests 17 through 35 seek, among other things, Regions’ internal decision to sell; all marketing materials; every offer or bid from any prospective purchaser; all communications with prospective purchasers; every draft and redline of the purchase agreement; beneficial-ownership materials; due-diligence materials; every appraisal or valuation; the complete closing file; the

source and disposition of purchase funds; commissions and fees; communications with public officials and utilities; communications with adjoining landowners; post-closing communications; and Regions' document-retention and litigation-hold information.

Plaintiffs attempt to connect this broad discovery to the balance of the equities, alleged self-created hardship, good-faith reliance, and Rule 65(d)(2). [Doc. 162 at 2.] But those issues do not make every aspect of an unrelated non-party seller's sale file relevant to the March 8 trial.

Nothing in this case supports wholesale discovery into Regions' internal sale process or confidential information concerning other prospective purchasers and transactions.

CONCLUSION

Pursuant to Rule 45(a)(3)(B), Defendants object to the issuance of the proposed subpoena to Regions Bank in its present form. The proposed subpoena therefore should not issue absent further order of the Court.

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CERTIFICATE OF SERVICE

I hereby certify that on September 30, 2026, I filed the foregoing using the AlaFile system.
All counsel of record will be served electronically.

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