

IN THE CIRCUIT COURT OF HINDS COUNTY, MISSISSIPPI  
FIRST JUDICIAL DISTRICT

MISSISSIPPI DEPARTMENT OF HUMAN SERVICES

PLAINTIFF

VS.

CASE NO. 25CI1:22-cv-00286-EFP

MISSISSIPPI COMMUNITY EDUCATION  
CENTER, INC., et al

DEFENDANTS

**PAUL V. LACOSTE’S AND VICTORY SPORTS’ FOUNDATION’S  
COUNTERCLAIM AGAINST MDHS**

COME NOW Paul V. Lacoste and Victory Sports Foundation by and through counsel and present their Counterclaim against Mississippi Department of Human Services, as follows:

**I. PARTIES**

1.1 Paul Lacoste (“Lacoste”) is an adult resident citizen of Mississippi.

1.2 Victory Sports Foundation (“VSF”) is a Mississippi corporation with its principal place of business in Mississippi.

1.3 Mississippi Department of Human Services (“MDHS”) is an agency of the State of Mississippi with its principal offices located at 200 South Lamar Street, Jackson, MS 39201. As a State agency, MDHS may be served through counsel of record in this case.

**II. VENUE AND JURISDICTION**

2.1 Jurisdiction is proper in the Circuit Court of Hinds County, Mississippi, over Lacoste’s and VSF’s compulsory counterclaim, and this Court has original jurisdiction under Miss. Code Ann. §11-46-13(1).

2.2 Venue is proper in Hinds County, Mississippi, under Miss. Code Ann. §11-46-13(2), as the acts, omissions and events at issue in this case occurred, in whole or in part, in Hinds County, Mississippi.

**III. FACTS**

3.1 Lacoste and VSF have provided or funded effective and successful fitness and personal training programs in Mississippi for many years. On April 8, 2018, Lacoste was contacted concerning the interest of the State to hire Lacoste for the provision of active fitness camps in Mississippi as part of a statewide wellness program. Lacoste was invited to a meeting to discuss the request by the State. Lacoste attended that meeting, which included Governor Phil Bryant, John Davis, as well as at least three other individuals who Lacoste understood were from the Federal government. Lacoste was informed that as part of the State's initiative to reduce obesity and improve wellness of Mississippians, the State wanted to provide access to fitness camps for interested citizens in Mississippi communities to attend. It was represented to Lacoste by all attendees at this meeting, including Governor Phil Bryant, that the State wished to employ Lacoste's services for this purpose.

3.2 At the conclusion of the meeting, the state and federal attendees in the meeting asked Lacoste if he would be interested in providing the services on a statewide basis. Ultimately, Governor Bryant instructed John Davis to work with Lacoste, and VSF ultimately was selected to provide the services.

3.3 Lacoste was informed by Mr. Davis that MDHS was set up to contract through Mississippi Community Education Center ("MCEC"), which would be the liaison for MDHS, and that the contract for Lacoste's services would be entered with and paid through MCEC. A draft contract was prepared by MDHS and after appropriate revision reflected the particular services VSF and Lacoste would provide, as well as the obligations of MCEC. As directed by MDHS, the Agreement was entered between VSF and MCEC (the "Agreement").

3.4 Under the Agreement, VSF was required to provide fitness and nutrition camps in three Mississippi communities during the first year, one in the winter, one in the summer, and

one in the fall of 2019 and document their performance and results. Lacoste was instructed that depending upon the success of the camps, the State would determine whether to expand or contract the program.

3.5 Lacoste and VSF moved forward with the first camp, known as Next Level Mississippi, scheduled to begin in Pascagoula, Mississippi, on January 21, 2019. Lacoste and VSF promoted the program through advertising, meetings in the community, and much on-the-ground marketing to secure participants. He assembled his fitness team, and the program started on time. This program was extremely successful, with published results of documented evidence of improved physical and mental health, weight loss, and a demand for more. By early March, the programs were such a success that MDHS requested that Lacoste and VSF double their efforts during the summer and fall camp sessions, to include camps in two communities per season instead of one. Lacoste and VSF agreed.

3.6 During the summer, the Next Level Mississippi camps were marketed and provided in Greenville and Brookhaven. Significant effort, time, and expense were required to accomplish this work. At the end of the summer sessions, the results again were resoundingly successful, again posting published results of documented evidence of improved physical and mental health and weight loss in these communities, who had an appetite for more.

3.7 During the summer of 2019, Davis stepped down as the director of MDHS, and MCEC ceased paying VSF under its contract in July 2019, almost a month before the end of the Summer sessions. VSF and Lacoste completed the full fitness camps in Greenville and Brookhaven without regard to the cessation in payment by MCEC and MDHS.

3.8 Subsequently, rumors began to circulate that MDHS and MCEC were involved in misusing funds to do work in the state, and VSF inquired as to whether this was true. Neither

VSF nor Lacoste had any information concerning misuse of funds by MDHS or MCEC before entering the Agreement and at any time when providing services under the Agreement. Despite inquiries, VSF and Lacoste first had information that MDHS and MCEC had misused money when the State Auditor published his alleged audit report on September 29, 2021 reporting that TANF funds were misused by MDHS and MCEC to pay the Agreement.

3.9 Since September 29, 2021, email documentation has been produced showing that if TANF funds were used, how TANF funds were chosen to be used by MDHS.

3.10 After VSF and MCEC entered the agreement for services, MCEC made a request to MDHS to instruct on the source of payment to VSF for the Agreement. Jacob Black, attorney, deputy director,<sup>1</sup> and an employee of MDHS, instructed MCEC to request funds through a TANF request form. MCEC followed the instruction from MDHS. At no point did Lacoste or VSF know or have reason to know of these communications between MDHS and MCEC or have reason to believe that the payment from MDHS or MCEC would come from any source other than properly allocated government funds. VSF and Lacoste understood and trusted that the Mississippi state government had money allocated to the purpose for which they were approached and hired. Otherwise, Lacoste and VSF would not have accepted MDHS's contract offer sanctioned by Governor Phil Bryant.

3.11 VSF entered the contract with MCEC on behalf of MDHS and believed that MDHS had the ability and intent to fulfill the contract in a proper and authorized manner. VSF even expanded its services for the summer of 2019 at the direction of MDHS and made plans to further expand in the fall of 2019 to include two additional sites for fitness camps.

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<sup>1</sup> Jacob Black, then-Deputy Administrator of MDHS, is still employed by the State of Mississippi and works with Mississippi Medicaid.

3.12 Under the Agreement, VSF was to provide specified fitness services and MCEC and MDHS were obligated to instruct VSF of any and all requirements and oversight obligations of MDHS concerning the provision of the services provided by VSF. VSF and Lacoste complied with all contracted requirements under the terms and conditions of the Agreement. MDHS and MCEC failed in their actions resulting in damages to VSF and Lacoste.

3.13 MDHS failed to disclose to VSF or Lacoste, directly or through MCEC (1) that MDHS had elected to pay VSF with TANF money, and instructed MCEC to pay for the services rendered with TANF funds, and (2) that any services to be provided by VSF or Lacoste were to be provided in accordance with TANF rules and requirements. MDHS was negligent in its failure to provide this information to VSF and Lacoste. If such information had been provided, VSF and Lacoste would have declined the contract.

3.14 Without information concerning MDHS' use of TANF funding, VSF and Lacoste provided their services to Mississippians in Mississippi communities in the good faith belief that they were doing something truly positive for all participating Mississippians at the direction of state government.

3.15 In fact, the programs completed by VSF and Lacoste resulted in substantial health benefits to hundreds, if not thousands, of Mississippians who participated in the programs and their families. Participants with high blood pressure saw reduced blood pressure and reduced reliance on medications; participants with high cholesterol saw reductions and many returned to normal cholesterol levels; and participants with diabetes experienced reduced reliance on medications and improved health. These diseases, among others, are affected by physical fitness and activity. These diseases increase early morbidity in many Mississippians and poor quality of mental and physical health.

3.16 VSF and Lacoste have long operated with a key business purpose to improve the health of Mississippians and help Mississippi get out of the bottom of the country statistically for obesity and obesity related diseases. For many years, VSF and Lacoste did just that. Since publication of the audit, VSF and Lacoste have had their business and reputations destroyed.

3.17 As a result of MDHS's acts and omissions, VSF and Lacoste have suffered damages to reputation and business. Further, Lacoste has been ridiculed throughout the State as someone who knowingly took money from indigent people in Mississippi. He did no such thing. This damage has and continues to be suffered as the proximate result of the negligence by the State through MDHS when MDHS negligently paid for the fitness camps with TANF funds, unbeknownst to VSF and Lacoste.

#### **IV. NEGLIGENCE**

4.1 VSF and Lacoste incorporate by reference the prior averments as if fully set forth herein.

4.2 VSF and Lacoste timely provided the required notice under the Mississippi Tort Claims Act to MDHS and the State of Mississippi ("MDHS") within one year of the publication of the Audit Report and file this complaint timely in accordance with all relevant notice statutes.

4.3 MDHS requested that VSF perform fitness camps for MDHS. MDHS was aware that Lacoste would be the head trainer and leader of the fitness camps.

4.4 MDHS owed a duty to Lacoste and VSF to pay for the services rendered by VSF with properly allocated funds and to do so with reasonable care. It was foreseeable to MDHS that the failure to pay for the services from an approved fund would harm VSF and Lacoste. It was foreseeable that VSF and Lacoste would suffer harm by not disclosing that VSF and Lacoste would be paid with TANF funds.

4.5 MDHS negligently authorized MCEC to pay VSF with TANF Funds, either through the acts or omissions of its employees, including Jacob Black, acting in the course and scope of their employment, and/or through a dereliction of non-discretionary duties by MDHS to supervise and ensure proper use of TANF funds in accordance with the mandates of state and federal TANF regulations.

4.6 By paying VSF with TANF funds and/or instructing MCEC to pay VSF for TANF funds and/or determining that the fitness camps complied with TANF regulations and/or failing to inform VSF and Lacoste of the source of the funds for which VSF/Lacoste would be compensated, MDHS breached its duty of care to VSF and Lacoste.

4.7 As a proximate and foreseeable result of this breach, VSF and Lacoste have suffered damages and continue to suffer damages, both economic and non-economic.

WHEREFORE VSF and Lacoste request that this Court enter judgment against MDHS on their Counterclaim. VSF and Lacoste further request this Honorable Court to award all damages available under the law, including but not limited to special and general damages; damages for emotional distress; actual and compensatory; attorneys' fees; court costs; expert fees; litigation expenses, pre-judgment and post-judgment interest on all such awards; and for such other further relief as this Honorable Court may deem proper.

This the 31st day of March, 2023.

Respectfully submitted,

VICTORY SPORTS FOUNDATION  
AND PAUL LACOSTE

By: /s/ Michael A. Heilman  
Michael A. Heilman

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**CERTIFICATE OF SERVICE**

I, Michael A. Heilman, hereby certify that I electronically filed the foregoing with the Clerk of the Court using the MEC system, which sent notification to all counsel of record.

This the 31st day of March, 2023.

*/s/ Michael A. Heilman*

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Michael A. Heilman