

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
IN AND FOR VOLUSIA COUNTY, FLORIDA

FLORIDA DEPARTMENT OF LEGAL AFFAIRS,
OFFICE OF THE ATTORNEY GENERAL,

Plaintiff,

v.

CASE NO.:

JASON McCORMICK, Individual,

Defendant.

COMPLAINT

Plaintiff, FLORIDA DEPARTMENT OF LEGAL AFFAIRS, OFFICE OF THE ATTORNEY GENERAL (hereinafter “Attorney General”), on behalf of DARYL A. WARD and KIMBERLY LOCKAMY-WARD (hereinafter the “Wards”), sue Defendant JASON McCORMICK, and avers that:

1. This is an action for actual damages and reasonable attorney’s fees and costs pursuant to Florida Statute 760.51 for interfering with the constitutional rights of Daryl A. Ward and Kimberly Lockamy-Ward.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to sections 26.012 and 760.51, Florida Statutes.

3. The amount in controversy exceeds \$50,000.00, exclusive of interest, costs, and attorney’s fees; as such, this Court has subject matter jurisdiction.

4. Venue is proper in Volusia County, Florida, pursuant to section 47.011, Florida Statutes, where the causes of action accrued.

5. All conditions precedent to the bringing of this action, including any compliance with section 760.51, Florida Statutes, have occurred or have been performed.

PARTIES AND SUBJECT PROPERTY

6. The Plaintiff is the Attorney General, who brings this action pursuant to section 760.51, Florida Statutes, to protect the constitutional rights of Florida citizens.

7. At all times relevant to this Complaint, Defendant Jason McCormick is an individual, who resides at 1585 Brimshire Circle, Deland, Florida.

FACTUAL ALLEGATIONS

8. The affected parties are Daryl A. Ward and his wife, Kimberly Lockamy-Ward, who reside at 1525 Old Grove Lane, Deland Florida.

9. The Wards are Florida Citizens who have exercised their fundamental First Amendment right to political speech by displaying political signs supporting their preferred candidates on their private property.

10. Defendant Jason McCormick and the Wards are neighbors who directly live across the street from each other, residing in the Underhill Unrecorded Sub-Hazen Road subdivision, which is governed by a Declaration of Covenants recorded in Official Record (OR) Book 5065, Page 383 of the Public Records of Volusia County.

11. Beginning in 2022, Defendant McCormick objected to the Wards' political signs, initially focusing on their "Let's Go Brandon" signs, which he claimed contained inappropriate language.

12. From approximately 2022 through election season 2024, the Wards have continued to post political signs supporting their candidate of choice, and Defendant McCormick has continued to express his dissatisfaction with their political signs through texts and emails.

13. The Wards attempted to resolve the matter cooperatively by communicating with Defendant McCormick and asking him specific questions about how covenant rules would be applied consistently throughout the neighborhood. Defendant McCormick failed to provide answers to their questions.

14. On or about August 15, 2024, Defendant McCormick sent an email directly to the Wards threatening litigation, stating

“You may have, or will soon receive a letter from my attorney regarding a concern about the setback requirements for property improvements. It appears your improvements might not meet the minimum required setback as stated in our community covenants. I hope they are compliant and we can resolve this matter quickly. If the improvements are not compliant, I am prepared to seek help from the courts to resolve this issue. Note: if you are interested in seeking compromise or accommodation, perhaps we should consider new guidelines, like setback exceptions and those for political signs, banners, and flags. Both attributes impact property value, one may be easier to move or remove than the other. I’d like to be reasonable where possible. Please feel free to contact me in writing or through attorneys.”

A true and correct copy of said email communication is attached hereto as Exhibit A.

15. Due to Defendant McCormick’s threat of litigation, the Wards had no choice but to hire an attorney.

16. On or about August 26, 2024, Defendant McCormick filed a Verified Complaint for Injunction in the Circuit Court for Volusia County, Case No. 2024-12784-CIDL, alleging covenant violations regarding two buildings on the Wards’ property designated as “Building A” and “Building B” for setback purposes.

17. Defendant McCormick’s lawsuit targeting the Wards’ buildings on their property is pretextual and directly related to his objections to the Wards’ displaying political signs on their private property.

18. Defendant McCormick's timing in filing the lawsuit immediately following his email dated August 15, 2024, demonstrates that the covenant enforcement action is being used as retaliation and interference with the Wards' exercise of their First Amendment rights.

19. The buildings that are the subject of Defendant McCormick's lawsuit have existed on the Wards' property for years without objection, and Defendant McCormick only pursued legal action after the Wards displayed and refused to remove political signs supporting Donald Trump from their private property.

20. Upon information and belief, Defendant McCormick has not pursued covenant enforcement actions against other property owners in the subdivision for similar violations.

21. Defendant McCormick's actions have interfered with the Wards in their exercise of their fundamental First Amendment rights to political speech and expression.

CLAIMS FOR RELIEF

COUNT I: INTERFERENCE WITH CONSTITUTIONAL RIGHTS-VIOLATION OF SECTION 760.51, FLORIDA STATUTES

22. Plaintiff realleges and incorporates by reference all of the allegations set forth in paragraphs 1 through 21 above.

23. Subsection 760.51(1), Florida Statutes, permits the Attorney General to bring a civil action for damages and for injunctive relief and other appropriate relief whenever any person, whether or not acting under color of law, interferes by threats, intimidation, or coercion, or attempts to interfere by threats, intimidation, or coercion with the exercise or enjoyment by any other person of rights secured by the State Constitution or laws of this state, the Attorney General may bring a civil action for damages and for injunctive or other appropriate relief.

24. The Wards' display of political signs on their private property constitutes political speech protected by the First Amendment to the United States and Article 1, Section 4 of the Florida Constitution.

25. Defendant McCormick has interfered with the Wards constitutional rights by threats, intimidation and coercions, including but not limited to:

- a. Threatening to sue the Wards to force them to remove their political signs.
- b. When the Wards continued to refuse to remove their political signs, Defendant McCormick filed a lawsuit claiming that two buildings on their property violated the restrictive covenants.
- c. Using the enforcement of the restrictive covenants as a weapon to retaliate against the Wards for displaying political signs.
- d. Continuing to pressure the Wards about their political signs on their private property.
- e. Only enforcing the covenant provisions regarding the buildings that had been on the Wards' property for years after the Wards refused to remove and continued to display political signs, while ignoring possible covenant violations by other neighbors.

26. Defendant McCormick's actions constitute "threats, intimidation or coercion" withing the meaning of section 760.51, Florida Statutes.

27. Defendant McCormick's interference has caused and continues to cause irreparable harm to the Wards' fundamental constitutional tights.

28. Defendant McCormick's actions chill the exercise of First Amendment rights not only by the Wards but by other citizens who may fear similar retaliation for exercising their political speech rights.

29. The State of Florida has a compelling interest in protecting the constitutional rights of its citizens from private interference and in ensuring that restrictive covenants cannot be weaponized to suppress political speech.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that this Honorable Court enter an Order and therein:

- A. Take jurisdiction of this matter and the parties hereto.
- B. Find that Defendant McCormick has violated section 760.51, Florida Statutes, by interfering with the Wards' constitutional rights through threats, intimidation and coercion.
- C. Enter a permanent injunction:
 - 1. Prohibiting Defendant McCormick from interfering with the Wards' right to display political signs on their private property.
 - 2. Requiring Defendant McCormick to dismiss Case No. 2024-12784-CIDL with prejudice.
 - 3. Prohibiting Defendant McCormick from filing future legal action against the Wards based on their exercise of First Amendment rights.
 - 4. Prohibiting Defendant McCormick from contacting the Wards directly regarding political signage.
- D. Enter a declaratory judgment that:
 - 1. The Wards have a Constitutional right to display political signs on their private property.
 - 2. Restrictive covenants cannot be enforced to suppress First Amendment rights.

3. Defendant McCormick's lawsuit constitutes improper interference with constitutional rights.

E. Award compensatory damages to the Wards in an amount to be determined by the court that will fully compensate them for the damages they have suffered because of the discriminatory conduct alleged herein, pursuant to section 760.51, Florida Statutes.

F. Award reasonable attorneys' fees and costs to the State of Florida pursuant to section 760.51, Florida Statutes.

G. Award any other available legal or equitable relief as this Court deems just and proper.

Respectfully submitted,

JAMES UTHMEIER
ATTORNEY GENERAL



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ATTORNEY FOR PLAINTIFF

A

From: [REDACTED]@yahoo.com>
Date: August 15, 2024 at 5:53:41 PM EDT
To: [REDACTED]@goldtelecom.com, [REDACTED]@yahoo.com
Subject: Open line of communication

Hello Daryl and Kim,

You may have, or will soon receive a letter from my attorney regarding a concern about the setback requirements for property improvements. It appears your improvements might not meet the minimum required setback as stated in our community's covenants.

I hope they are compliant and we can resolve this matter quickly. If the improvements are not compliant, I am prepared to seek help from the courts to resolve this issue.

Note: If you are interested in seeking compromise or accommodation, perhaps we should consider new guidelines, like setback exceptions and those for political signs, banners, and flags. Both attributes impact property value, one may be easier to move or remove than the other.

I'd like to be reasonable where possible. Please feel free to contact me in writing or through attorneys.

Kindly,
Jason