

CIRCUIT COURT OF CLAY COUNTY, MISSOURI

Gary S. Markenson,

Plaintiff,

V.

Luann Ridgeway,  
1 Courthouse Square  
Liberty, Missouri 64068

and

Gene Owen,  
1 Courthouse Square  
Liberty, Missouri 64068

Defendants.

Case No.:  
Division No.:

**PETITION FOR DECLARATORY JUDGMENT,  
WRIT OF MANDAMUS, AND APPOINTMENT OF SPECIAL PROSECUTOR**

**COUNT I**

# PETITION FOR DECLARATORY JUDGMENT

COMES NOW the Plaintiff, Gary S. Markenson, by and through his Attorney, Steven D. Wolcott, and for Count I of his Petition states as follows:

1. The Plaintiff is a resident of Gladstone, Clay County, Missouri, and a tax payer of said county.
2. That Luann Ridgeway is the Commissioner of the Clay County Commission (Administrative Court) for the Eastern District of Clay County.
3. That Gene Owen is the Commissioner of the Clay County Commission (Administrative Court) for the Western District of Clay County.

4. That Luann Ridgeway and Gene Owen were elected to a four-year term in the General Elections of November 6, 2012.
5. That in approximately March, 2013, the three Commissioners, including Presiding Commissioner Pam Mason, started discussing ways, in open public forums, to improve the public relations of the Commission with the residents of Clay County.
6. Among the issues discussed at that point was improving the Clay County website or starting a newsletter.
7. In March of 2013, the Information Technology Director for the County was requested by Nicole Brown, on behalf of the Commissioners, to obtain public records from the Clay County Election Commission as to the registered voters in Clay County, Missouri, aged 62 and older who voted in at least one general election since 2010. (See attached Exhibit "A")
8. Ultimately, using the information about registered voters, the Eastern District Commissioner, Luann Ridgeway, and the Western District Commissioner, Gene Owen, formulated lists of regular voters born between 1946 and 1950 who had voted in at least one general election in the 2010-2012 elections.
9. It was determined that this list would generate the names of approximately one thousand people per month that would meet this criteria. The Commissioners, Luann Ridgeway and Gene Owen, then determined to mail birthday cards to those targeted voters in their respective district.
10. The specific purpose for these cards was confirmed by an e-mail from Nicole Brown to Presiding Commissioner Pam Mason, dated August 6, 2013. (see attached Exhibit "B")

11. Initially, the Commission discussed providing a "government guide of information" to each of the targeted voters who would receive the birthday card.

12. The outside envelope would have a return address of the Commissioner of that specific district but not that of the Presiding Commissioner. The first class stamped postage would be put on the outside of each envelope rather than using the County's postage meter.

13. Before the birthday cards were actually purchased, using Clay County Public Funds in December of 2013, County Counselor, Matt Thompson, was asked for an opinion specifically about the targeted birthday cards. At that time, Matt Thompson informed the Commissioners that this type of targeted-special card mailing, at the County's expense, would be a violation of Article 6, Sections 23 and 25 of the Missouri Constitution on the limit on use of credit and grant of public funds by local government.

14. Article 6, Section 25 specifically prohibits the expenditure of any public funds for private purposes with some exceptions. Article 6, Section 23 limits grants of public money or thing of value to or in aid of any individual with exceptions.

15. Approximately the same time that the birthday cards were discussed, the Commissioners discussed providing a free ticket or coupon for a County Park that would be sent with each mailing. County Counselor Donald Norris was requested to give the Commissioners a legal opinion on this targeted free ticket proposal. Donald Norris issued a written opinion to the Commissioners advising against targeting-limited mailing and to include the tickets in each county tax bill so all tax payers would be equally benefitted. He advised that the Commission's proposal would be in violation of the Missouri Revised Statute 105.478. (See attached Exhibit "C")

16. Based upon the oral opinion given by Matt Thompson and the written opinion provided by Donald T. Norris, Presiding Commissioner Pam Mason determined to not be involved in the mailing campaign and abstained from certain votes thereafter.

17. Commissioner Luann Ridgeway and Commissioner Gene Owen did, however, commence the issuance of said birthday cards, with their return address as 1 Courthouse Square, Liberty, Missouri included on the envelope containing postage stamps.

18. Based upon the public records of the County, at least \$9,000 was initially approved for birthday cards and \$1,000 for postage. Additionally, the coupon was enclosed with each letter providing for "two" admissions to the Jesse James Farm and Museum in Kearney, Clay County, Missouri. The value of these coupons varies greatly depending upon on whether children, teenagers, adults, or seniors intended to use said tickets. Regardless, the admission fees are a source of County revenue and estimated revenues for the Farm and Museum are shown as such on each county budget approved by the County Commission.

19. In May 2014, the County spent \$3,537.19 for cards, Owen's insert guide, \$392.50, and Ridgeway business cards, \$181.00.

20. In October 2014, the County spent \$2,193.58 for Gene Owen's cards with inserts. Additional public funds have been spent since that time.

21. The process changed from birthday to "accountability" cards per county purchase orders, which cards have been sent as recently as April 2016. In the recent mailings, a birthday card with for free admission were still included. Along with Commissioner Gene Owen's name, picture, "Basic Tips to Avoid Identity Theft" and Clay County "Government Contacts".  
(Attached as Exhibit "D")

22. After the election of Jerry Nolte as Presiding Commissioner, Presiding Commissioner Nolte has not been involved in the birthday card - "accountability" card process. However, the mailing of the cards has been continued by Commissioner Luann Ridgeway and Commissioner Gene Owen.

23. That this lawsuit is being brought requesting the Court to make a determination if the expenditure of the public funds by the County for the purpose of the targeted birthday cards or "accountability" cards and postage in fact is in violation of Article 6, Sections 23 and 25 of the Missouri Constitution on the limitation on the use of credit and public funds by local government. Specifically, it is requested the Court to make a finding as to whether or not the actions by the Commissioners in the mailing of the cards and the granting of the special passes to limited targeted groups of voters of the County constitutes an illegal or improper use of public funds for a private purpose. It is also requested that the Court determine whether the actions taken by Commissioner Ridgeway and Commissioner Owen were intentional and in conscious disregard of the legal advice provided by County Counselors of Clay County, Missouri.

WHEREFORE, the Plaintiff prays, on Count I of the Petition, for the Court to issue a Declaratory Judgment finding that the Commissioners Luanne Ridgeway and Gene Owen did intentionally and consciously violate the terms and conditions of Article 6, Sections 23 and 25 of the Missouri Constitution in the spending of public funds for a private purpose, that an accounting be ordered to determine the exact amount improperly expended, that the Plaintiff be awarded his attorney fees incurred in this matter, for his costs incurred, and for such other and further relief as the Court deems just and proper in the premises.

## **COUNT II**

### **PETITION FOR WRIT OF MANDAMUS**

COMES NOW the Plaintiff and for Count II of his Petition states as follows:

1. That he incorporates herein by reference as if fully set forth paragraphs 1 through 23 of Count I of his Petition.
2. That the Court issue its Writ of Mandamus to Commissioners Luann Ridgeway and Gene Owen to show cause why they should not be ordered to pay to the Clay County Treasurer all public funds used by them in the purchase of birthday and "accountability" cards, postage for said cards, and lost revenue to the Jesse James Farm and Museum through the free tickets included with the cards.
3. That a Writ be issued to them to repay said public funds to the County Treasurer as a condition of remaining in public office.

WHEREFORE, Plaintiff prays that a Writ of Mandamus issue on Count II of his Petition in such sums as deemed just and proper by the Court, and for his costs expended.

## **COUNT III**

COMES NOW the Plaintiff and for Count III of his Petition states as follows:

1. Plaintiff incorporates herein by reference as if fully set forth all paragraphs of Count I of his Petition.
2. Should the Court determine Count I in favor of Plaintiff, then criminal charges should be brought against Commissioners Gene Owens and Luann Ridgeway for their intentional violations of Missouri law.
3. That the Court appoint a Special Prosecutor to investigate what, if any, criminal charges should be brought.

WHEREFORE, Plaintiff prays on Count III of his Petition that the Court appoint a Special Prosecutor and for such other and further relief as the Court deems just and proper in the premises.

Respectfully submitted,

/s/ Steven D. Wolcott, MoBar #25433

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Attorney for Plaintiff

COUNTY OF Clay )  
 ) ss.  
STATE OF MISSOURI )

Gary S. Markenson, first being duly sworn on his oath, states that the facts stated herein are true and correct according to his best knowledge and belief.

Gary S. Markenson  
Gary S. Markenson

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed my official seal at my office in Clay County, Missouri, the day and year last above written.

Jenny Eckersley  
Notary Public

My Commission Expires:

9/4/17

JENNY ECKERSLEY  
Notary Public - Notary Seal  
STATE OF MISSOURI  
Clay County  
My Commission Expires Sep. 4, 2017  
Commission # 13522942