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CLERK OF SUPERIOR COURT
CRISP COUNTY, GEORGIA
22V-052
MAR 18, 2022 02:39 PM
Tara Hayslip, Clerk
Crisp County, Georgia

IN THE SUPERIOR COURT OF CRISP COUNTY
STATE OF GEORGIA

JOHN WIGGINS, CASSANDRA REID WOODS, SEAN KAGALIS-MICHAEL, and MARLETTI GUEST,	)(	
Plaintiffs	)(	**CIVIL ACTION FILE NO. _____**
v.	)(	
JOSHUA A. DERISO and CITY OF CORDELE, GEORGIA	)(	
Defendants.	)(	

COMPLAINT FOR REMOVAL OF CHAIRPERSON OF THE CITY COMMISSION

COME NOW Plaintiffs, John Wiggins, Cassandra Reid Woods, Sean Kagalis-Michael, and Marletti Guest, ("Plaintiffs"), and file this Complaint for Removal of the Chairperson of the Commission of the City of Cordele against Defendants Joshua A. Deriso and the City of Cordele, Georgia, and respectfully show as follows:

Parties

1.

Plaintiffs are residents of the City of Cordele.

2.

While Defendant Joshua A. Deriso is believed to reside in an undisclosed location in Metropolitan Atlanta, Defendant Deriso has claimed that he resides in Crisp County, Georgia. He is subject to personal jurisdiction in this action.

3.

Defendant Deriso is the Chairperson of the City Commission of Cordele.

4.

Defendant City of Cordele, Georgia is subject to the jurisdiction of this Court and is named as a party pursuant to O.C.G.A. § 9-11-19.

5.

Venue is proper.

Introduction

6.

"It is a fundamental principle of our constitutional tradition that no public officer — whether constitutional or only statutory — is above the law." *DeKalb County. School District. v. Georgia State Board of Education*, 294 Ga. 349, 353, 751 S.E.2d 827, 832 (2013)(citing *United States v. Lee*, 106 U. S. 196, 220 (1882)).

7.

The Georgia Code of Ethics for Government Service requires, among other things, that "[a]ny person in government service should: … Uphold the Constitution, laws, and legal regulations of the United States and the State of Georgia and of all governments therein and never be a party to their evasion." O.C.G.A. § 45-10-1

8.

Georgia law makes it unlawful for any elected member of any municipal governing authority to commit malpractice, misfeasance, or malfeasance in office or to use "oppression or tyrannical partiality in the administration or under the color of his or her office." O.C.G.A. § 45-11-4.

9.

Upon taking office, Defendant Deriso took an oath that he would properly perform the duties of his office and that he would "support and defend the charter [of the City of Cordele] as well as the constitution and laws of the State of Georgia and the United States of America."

10.

Defendant Deriso has repeatedly violated his oath and these fundamental principles and laws and should be removed from office.

Subject Matter Jurisdiction: The Charter

11.

The current charter for the City of Cordele, ("the Charter"), was created by law by an Act of the State Legislature on July 29, 2020. *See* 2019 Bill Text GA H.B. 1248.

12.

Section 5.16 of the Charter, "Removal of officers," provides, in pertinent part:

(a) The chairperson, commission members, or other appointed officers provided for in this charter shall be removed from office for any one or more of the causes provided in Title 45 of the O.C.G.A., or such other applicable laws as are or may hereafter be enacted.

(b) Removal of an officer pursuant to subsection (a) of this section shall be accomplished by one of the following methods: ...

(2) By an order of the Superior Court of Crisp County following a hearing on a complaint seeking such removal brought by any resident of the city."

Bases for Removal

13.

Defendant Deriso has persistently violated the provisions of Title 45 of the Official Code of Georgia Annotated in numerous ways.

14.

Defendant Deriso violated O.C.G.A. § 45-11-1 (a) and (b) by withdrawing and willfully removing personnel records of city employees.

15.

Defendant Deriso violated O.C.G.A § 45-11-1 (a) and (b) by withdrawing and willfully removing a framed picture located within the administrative lobby of the Police Department of the City of Cordele.

16.

Defendant Deriso violated O.C.G.A. § 45-11-4 in several particulars, by committing malpractice, misfeasance, and/or malfeasance in office.

17.

Defendant Deriso violated O.C.G.A. § 45-11-4 by committing malpractice, misfeasance, and/or malfeasance in office and has violated the Charter by claiming to act as acting city manager.

18.

Defendant Deriso violated O.C.G.A. § 45-11-4 by committing malpractice, misfeasance, and/or malfeasance in office by dealing with and conducting meetings with city officers and employees who are subject to the supervision of the city manager, in violation of Section 2.30, "Commission Interference with Administration," of the Charter.

19.

Defendant Deriso violated O.C.G.A. § 45-11-4 by committing malpractice, misfeasance, and/or malfeasance in office by interfering with the Judicial Branch of the City Government, outside of his remit and authority.

20.

Defendant Deriso violated O.C.G.A. § 45-11-4 by committing malpractice, misfeasance, and/or malfeasance in office by baselessly claiming and purporting to exercise, under color of his office, extraordinary powers far beyond the scope of his actual authority.

21.

Defendant Deriso violated O.C.G.A. § 45-11-4 by committing malpractice, misfeasance, and/or malfeasance in office by interfering with and attempting to intimidate public officials in the exercise of their duties.

22.

Defendant Deriso violated O.C.G.A. § 45-11-4 by committing malpractice, misfeasance, and/or malfeasance in office by making libelous and slanderous defamations concerning former Chief of Police Mike Hathaway, both individually and under color of law.

23.

Defendant Deriso violated O.C.G.A. § 45-11-4 by committing malpractice, misfeasance, and/or malfeasance in office by making libelous and slanderous defamations concerning private citizen both individually and under color of law.

24.

Defendant Deriso violated O.C.G.A. § 45-11-4 by committing malpractice, misfeasance, and/or malfeasance in office by authorizing payment by the City for travel accommodations for Royce Reeves after Reeves was suspended from serving as Commissioner.

25.

Defendant Deriso violated O.C.G.A. § 45-11-4 by committing malpractice, misfeasance, and/or malfeasance in office by refusing to expose and oppose, and ratifying, the corrupt behavior of an elected official.

26.

Defendant Deriso violated O.C.G.A. § 45-11-4 by committing malpractice, misfeasance, and/or malfeasance in office, by attempting to suppress public information related to his traffic stop by Police Officers of the City of Cordele, before his election, during which stop Defendant Deriso threatened the officers by telling them that he would be their boss.

27.

Defendant Deriso violated O.C.G.A. § 45-11-4 by committing malpractice, misfeasance, and/or malfeasance in office by targeting for removal officials and employees of the City of Cordele based upon the color of their skin, in violation of the laws and constitutions of the United States of America and the State of Georgia.

28.

Defendant Deriso violated O.C.G.A. § 45-11-4 by using oppression or tyrannical partiality in the administration or under the color of his office to target for termination officials and employees of the City of Cordele based upon the color of their skin.

29.

Defendant Deriso violated O.C.G.A. § 45-11-4 by committing malpractice, misfeasance, and/or malfeasance in office, by demeaning and belittling officials and citizens who have appeared at meetings of the City Commission, on social media, and otherwise, under color of his office.

30.

Defendant Deriso violated O.C.G.A. § 45-11-4 by using tyrannical partiality in the administration or under the color of his office by demeaning and belittling officials and citizens who have appeared at meetings of the City Commission, on social media, and otherwise, under color of his office.

31.

Defendant Deriso violated O.C.G.A. § 45-11-4 by committing malpractice, misfeasance, and/or malfeasance in office by his pattern and practice of conduct described herein.

32.

Defendant Deriso violated O.C.G.A. § 45-11-4 by using tyrannical partiality in the administration or under the color of his office by his pattern and practice of conduct described herein.

33.

Defendant Deriso claims that he has, at all times, acted within the lawful scope of his authority since he was sworn in.

34.

Defendant Deriso has been utterly unrepentant when called to account for his wrongful and unlawful conduct.

35.

Defendant Deriso has acted in bad faith, has caused the Plaintiffs unnecessary trouble and expense, and is liable to Plaintiffs for their attorney's fees and expenses of litigation, pursuant to O.C.G.A. § 13-6-11.

WHEREFORE, Plaintiffs respectfully request:

(a) That the Court schedule and conduct a hearing on this Complaint;

(b) That the Court enter an Order removing Defendant Joshua A. Deriso as Chairperson of the City Commission of City of Cordele Georgia;

(c) That the Judgment of the Court be made binding upon the Defendant City of Cordele, Georgia;

(d) That Plaintiffs recover attorney's fees and expenses of litigation from Defendant Deriso pursuant to O.C.G.A. § 13-6-11;

(e) That costs of this action be taxed upon Defendant Deriso; and

(f) For such other and further relief as the Court deems just and proper.

Respectfully submitted, this 18th day of March, 2022.

David A. Forehand, Jr.
Georgia Bar No. 006860

DAVID A. FOREHAND, JR.
Attorney at Law
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Cordele, GA 31015
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Fax: (229) 513-4650
Email: david@dforehandlaw.com

VERIFICATION

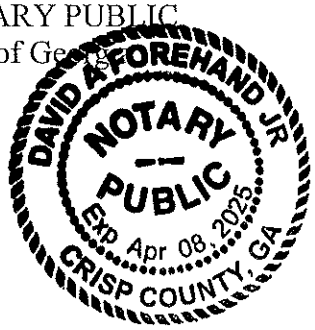
John Wiggins having personally appeared before the undersigned Notary Public for the State of Georgia, and having been sworn to the truth, deposes and says that he is a Plaintiff in the foregoing Complaint for Removal of the Chairman of the Commission of the City of Cordele which he has this day authorized and directed his attorney to file in the Superior Court of Crisp County, Georgia, and he has read the foregoing Complaint for Removal of the Chairman of the Commission, and swears and avers that each statement contained therein is truthful and accurate to the best of and based on his personal knowledge.

The 18th day of March, 2022.

John Wiggins

Sworn to and subscribed before
me this 18th day of March, 2022.

NOTARY PUBLIC
State of Ge[illegible]



VERIFICATION

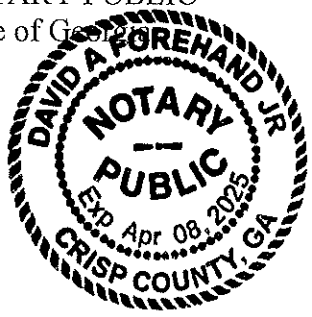
Cassandra Reid Woods having personally appeared before the undersigned Notary Public for the State of Georgia, and having been sworn to the truth, deposes and says that she is a Plaintiff in the foregoing Complaint for Removal of the Chairman of the Commission of the City of Cordele which she has this day authorized and directed her attorney to file in the Superior Court of Crisp County, Georgia, and she has read the foregoing Complaint for Removal of the Chairman of the Commission, and swears and avers that each statement contained therein is truthful and accurate to the best of and based on her personal knowledge.

The 18th day of March, 2022.

Cassandra Reid Woods

Sworn to and subscribed before
me this 18th day of March, 2022.

NOTARY PUBLIC
State of Georgia



VERIFICATION

Marletti Guest having personally appeared before the undersigned Notary Public for the State of Georgia, and having been sworn to the truth, deposes and says that she is a Plaintiff in the foregoing Complaint for Removal of the Chairman of the Commission of the City of Cordele which she has this day authorized and directed her attorney to file in the Superior Court of Crisp County, Georgia, and she has read the foregoing Complaint for Removal of the Chairman of the Commission, and swears and avers that each statement contained therein is truthful and accurate to the best of and based on her personal knowledge.

The 18th day of March, 2022.

Marletta Guest
Marletti Guest

Sworn to and subscribed before
me this 18th day of March, 2022.

NOTARY PUBLIC
State of Georgia

DAVID A FOREHAND JR
NOTARY
PUBLIC
Exp Apr 08, 2025
CRISP COUNTY, GA