

**IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT  
IN AND FOR SUMTER COUNTY, FLORIDA**

**JESSICA LAUBE and  
ROBERT HUNTER,**

**Petitioners,**

vs.

**CASE NO.: 2019-CA-000500**

**VILLAGE COMMUNITY DEVELOPMENT  
DISTRICT 10, and THE SUMTER COUNTY  
BOARD OF COUNTY COMMISSIONERS,**

**Respondents.**

\_\_\_\_\_ /

**DEFENDANT, SUMTER COUNTY'S MOTION FOR SANCTIONS  
AGAINST PETITIONERS, JESSICA LAUBE AND ROBERT HUNTER  
UNDER §57.105, FLORIDA STATUTES**

COMES NOW, the Defendant, the Sumter County Board of County Commissioners ("Sumter County BOCC"), by and through undersigned counsel, pursuant to Florida Rule of Civil Procedure 1.100, and files this, its *Motion for Sanctions Against Petitioners under §57.105, Florida Statutes*, and in furtherance thereof states as follows:

1. Section 57.105, *Florida Statutes* provides that upon the motion of any party, the Court shall award a reasonable attorney's fee, including prejudgment interest, to be paid to the prevailing party in equal amounts by the losing party and the losing party's attorney, on any claim or defense at any time during a civil proceeding or action in which the court finds that the losing party or the losing party's attorney knew or should have known that a claim or defense when initially presented to the court or at any time before trial was not supported by the material facts necessary to establish the claim or defense, or would not be supported by the application of then-existing law to those material facts.

2. In Count III of their *Second Amended Petition*, Petitioners ask this Court to grant them a Writ of Mandamus ordering Sumter County BOCC “to take all necessary actions against VCDD10, and all other parties as appropriate, to enforce the prohibition against public access to Tract A” because Sumter County BOCC has thus far “refused to take any action against VCDD10 to enforce the prohibition against public access to Tract A.” Petitioners have done so after this Court already dismissed two (2) of their prior attempts to make a claim against Sumter County BOCC, and despite the fact Petitioners have no legal right to a Writ of Mandamus against Sumter County BOCC.

3. To be entitled to a writ of mandamus, a petitioner must have a clear legal right to the requested relief, the respondent must have an indisputable legal duty to perform the requested action, and the petitioner must have no other adequate remedy. *Jenkins v. State*, 957 So. 2d 20, 22 (Fla. 5th DCA 2007) (*citing Chapman v. State*, 910 So. 2d 940, 941 (Fla. 5th DCA 2005)).

4. In the case at bar, Petitioners’ entire claim involves Sumter County BOCC’s alleged refusal to force the Villages Community Development District 10 (“VCDD10”) to prohibit access to a stormwater management area located on a tract behind Petitioners’ property by erecting a fence around the area. They have erroneously claimed this tract is located in a Conservation Zoning District, when a search of the public record would have revealed the falseness of said claim.

5. Petitioners have provided no factual or legal support for their argument that this Court should order Sumter County BOCC to take action against VCDD10 other than a few conclusory statements and references to a statutory section that merely lays out a county government’s powers regarding development and zoning.

6. Sumter County BOCC has no legal ability to provide the relief Petitioners demand, as

the rules regarding stormwater management areas are imposed and enforced by the Southwest Florida Water Management District (“SFWMD”), not Sumter County BOCC. SFWMD is the only entity capable of enforcing its environment permits should an actual violation occur.

7. Only SFWMD can provide the relief Petitioners request, yet Petitioners continue to make claims against VCDD10 and Sumter County BOCC without seeking relief from SFWMD. Sumter County BOCC has no legal duty or ability to enforce SFWMD permits, and Petitioners have not exhausted their avenues for relief.

8. Petitioners’ *Second Amended Petition* is based on false allegations made without performing the basic due diligence required prior to filing a lawsuit; all pertinent information is located within the public record.

9. Petitioners were served with the appropriate notice and a copy of this Motion and failed to withdraw their claim against Sumter County BOCC within twenty-one (21) days as required by §57.105, *Florida Statutes*. A copy of the Notice is attached hereto as “**Exhibit A**” and incorporated herein, *in haec verba*.

10. Accordingly, the undersigned has satisfied all conditions precedent required by the law prior to the filing of this Motion, and therefore, is entitled to the relief requested as a matter of law.

**WHEREFORE**, Defendant, Sumter County Board of County Commissioners, requests this Honorable Court grant its *Motion for Sanctions Against Plaintiffs under §57.105, Florida Statutes* for the reasons set forth herein, and award it a judgment for its reasonable attorneys’ fees, together with any other relief the Court deems just and equitable.

Respectfully submitted this 17th day August, 2020.

/s/ Megan A. Rosenberg-----

**MEGAN A. ROSENBERG, ESQ.**

Florida Bar No. 1005213

**JENNIFER C. REY, ESQ.**

Florida Bar No. 041997

**THE HOGAN LAW FIRM**

20 S. Broad Street

Brooksville, FL 34605

Telephone: (352) 799-8423

Facsimile: (352) 799-8294

countyattorney.sumtercounty.fl@hoganlawfirm.com

pleadings@hoganlawfirm.com

Counsel for Sumter County

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing *Motion for Sanctions Against Petitioners under §57.105, Florida Statutes* was served on this 17th day of August, 2020 via State of Florida E-portal to: S. David Cooper, Esq., **Cooper Law, P.A.**, P.O. Box 3735, Orlando, Florida 32802, sdcooper@CallCooperLaw.com; and to Stephanie Brionez, Esq., **Brionez & Brionez, P.A.**, 315 N. New Hampshire Ave., Tavares, Florida, 32778 StephB@bblaw.com, TammieW@bblaw.com, KahleeS@bblaw.com.

/s/ Megan A. Rosenberg-----

**MEGAN A. ROSENBERG, ESQ.**

Florida Bar No. 1005213

# THE HOGAN LAW FIRM®

*We mean business*<sup>SM</sup>

July 23, 2020

**Via Regular First Class and  
Certified Mail, Return Receipt Requested 7017-0660-0000-3404-4129  
and email at [sdcooper@callcooperlaw.com](mailto:sdcooper@callcooperlaw.com)**

**S. David Cooper, Esq.**  
Cooper Law, P.A.  
P.O. Box 3735  
Orlando FL 32802

***Re: Laube and Hunter v. Village Community Development District 10  
and the Sumter County Board of County Commissioners***

Dear Mr. Cooper:

Please find a proposed Motion for Sanctions under §57.105, *Florida Statutes* enclosed. I have not yet filed this Motion, but am serving it upon you in accordance with the rules set forth in the aforementioned statute.

In further support of our contention that this is a frivolous claim, please note the following:

1. The Second Amended Petition alleges that Tract A falls within a Conservation Zoning District. This is a patently false statement of the approved Future Land Use and Zoning designations for Tract A. A simple search of the public records for Tract A will confirm that the Future Land Use for the property, which includes Tract A, is Mixed-Use, and the Zoning designation for the property which includes Tract A, is residential planned urban development (RPUD). Both of those terms are defined in the Sumter County Comprehensive Plan or the Sumter County Land Development Code. While the plat and master development plan for the property may designate how certain parts of the property are to be used, this “use” does not constitute the approved Future Land Use or Zoning.

2. In the master development plan, Tract A is designated as a drainage retention area and it is engineered with a plastic liner; as a manmade stormwater management facility it is not a wetland under any definition contained in the Sumter County Comprehensive Plan or the Sumter County Land Development Code. Therefore, your allegations that it is a wetland or protected habitat is also patently false and cannot be substantiated by any facts or evidence.

00870941



## **EXHIBIT A** **Page 1 of 6**

Spring Hill Office: 11031 Spring Hill Drive • Spring Hill, Florida 34608 • PH: (352)686-0334 • FX: (352)686-1633  
Email: [info@hoganlawfirm.com](mailto:info@hoganlawfirm.com) • Website: [www.hoganlawfirm.com](http://www.hoganlawfirm.com)



July 23, 2020

S. David Cooper, Esq.

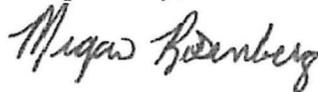
Re: Laube v. The Villages, et al.

Page 2 of 2

3. As previously stated in prior Motions to Dismiss, the County has no requirement for fencing of drainage retention areas, and the County is not the appropriate authority to enforce a SWFMD permit. Therefore, attempts to seek enforcement by the County of SWFMD permit requirements will have no effect as the County does not have authority to do so.

Your clients now have twenty-one (21) days to withdraw their claims against the Sumter County Board of County Commissioners before I file this Motion and my client seeks relief under said Statute. If you have any questions, please feel free to contact me.

Respectfully,

A handwritten signature in cursive script that reads "Megan Rosenberg".

Megan A. Rosenberg, Esq.

MAR

Enclosure

00870941

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Respectfully submitted this \_\_\_ day \_\_\_\_\_, 2020.

/s/ Megan A. Rosenberg-----

**MEGAN A. ROSENBERG, ESQ.**

Florida Bar No. 1005213

**JENNIFER C. REY, ESQ.**

Florida Bar No. 041997

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Brooksville, FL 34605

Telephone: (352) 799-8423

Facsimile: (352) 799-8294

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Counsel for Sumter County

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/s/ Megan A. Rosenberg-----

**MEGAN A. ROSENBERG, ESQ.**

Florida Bar No. 1005213