

**IN THE CIRCUIT COURT  
OF THE 19<sup>th</sup> JUDICIAL CIRCUIT  
IN AND FOR  
INDIAN COUNTY, FLORIDA**

**CASE NO.:** 312020CA000275XXXXXX

**ASSIGNED DIVISION:** CIVIL

**DAMIEN H. GILLIAMS,**

Plaintiff,

**vs.**

**ED DODD and PAUL CARLISLE,**

Defendants.

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**MOTION FOR TEMPORARY INJUNCTION**

Plaintiff, DAMIEN H. GILLIAMS, hereby moves this court, pursuant to Rule 1.610, Fla. R. Civ. P., for a temporary injunction against the Defendants, Ed Dodd and Paul Carlisle, restraining and enjoining the Defendants from seeking to prevent the Plaintiff from calling, and noticing to the public, a special meeting of the City Council of the city of Sebastian; and further, that Defendants are prevented from cancelling any regular scheduled meeting of the City Council, without a vote of the City Council of the City of Sebastian, held at a public meeting, in accordance with Chapter 286, Fla. Stats., until dissolved by separate order of the Court, including other exigent circumstances, and states:

1. The matter is of exigent circumstances because the Plaintiff has the actual and apparent authority under the Charter of the City of Sebastian as a duly elected official to call a special meeting of the City Council even if the Defendant, Ed Dodd, has declared a state of emergency and delegated powers to the City Manager to determine when to call or cancel a meeting.

2. The Plaintiff, on or about April 21, 2020, had requested a special meeting of the City Council.

3. The Plaintiff's request for a special meeting was also ignored on April 24, 2020 after the April 22, 2020 regular meeting was unilaterally cancelled by the Defendants with less than a few hours notice before the meeting was to be called.

4. The Defendant, Paul Carlisle had cancelled the Plaintiff's special called meeting on April 24, 2020.

5. The Defendant, Paul Carlisle in cancelling the April 24, 2020 special meeting stated that he was the only city official to possess the sole authority to call or cancel a meeting under Sec. 2-37(2) of the City of Sebastian Code. Further, the Defendant has stated that he will not hold any special or regular meetings of the City Council until the Governor terminates the Florida State of Emergency.

6. The Defendant, Ed Dodd, has stated in Case No. 2020 CA 269 that he had actually ordered the April 22, 2020 City Council meeting to be cancelled and had over-stepped the provisions of Sec. 2-37(2) of the City of Sebastian Code.

7. On April 24, 2020, the Plaintiff inquired of the Defendant, Paul Carlisle if Mr. Carlisle was going to set a special meeting of the City Council since Plaintiff was exercising his rights under the Charter to have such a meeting and the Defendant stated that he would not set any regular or special meetings of the City Council until the Governor of the State of Florida terminates the State of Emergency. A copy of this e-mail is attached to the Plaintiff's Complaint at Exhibit "1".

8. In support of this motion, the Plaintiff relies upon the factual and legal allegations contained in the Complaint, including any attachments, and the Affidavit of the Plaintiff together with all testimony and exhibits submitted to the Court at the evidentiary hearing set for May 8, 2020 at 10:00 am.

9. In regulating the Plaintiff's conduct and legal authority by not permitting him to exercise the color of his office to call for a special meeting, the Defendants have acted in an arbitrary and capricious manner without due regard to Article I, Sections 2 ("Basic Rights"), 4 ("Freedom of Speech"), 5 ("Right to Assemble"), 9 ("Due Process"), 24 ("Access to public records and meetings") of the Constitution of the State of Florida, Revised 1968.

10. Irreparable harm will result if the temporary injunction is not entered because the Defendants are then to have usurped the Plaintiff's Office as a Member of the City Council and his office's over-sight functions and checks and balances of the Defendants' respective office as a council member, when the Defendants serve

as executive officers of the municipality.

11. An adequate remedy at law is unavailable to Plaintiff.

12. There is a substantial likelihood of success on the merits as to the Plaintiff's causes of actions, singular or together, because the Defendants do not have the apparent and actual authority to prevent the City Council from meeting during an emergency, especially where continuity of representative government is paramount and is the public policy of the State of Florida and express terms of the Charter at Art. II, Sec. 2.12 and Art. II, Sec. 2.13 permit the City Council to meet during a state of emergency. Additionally, Sec. 2-37(1) states, "The city council may terminate a state of emergency at any time".

13. Entry of the temporary injunction will serve the public interest as the public elected officials of the City of Sebastian were granted rights of assembly even during an emergency by the residents of the City of Sebastian when they voted by referendum to adopt their Charter.

14. The temporary injunction will also serve the public interest to ensure that their elected representatives are able to meet in public and not be barred by the Defendants when they both assert that they can block any meetings of the City Council pursuant Chapter 870, Fla. Stats., vis-à-vis the Local Declaration of Emergency of March 17, 2020, as attached to Defendant's Complaint at Exhibit "A" in Case No. 20202 CA 269; and in accordance to Art. II, Sec. 2.06(b), that the

Defendant Dodd is “head of the city government for purposes of military law”

15. The actions taken by the Defendants is the classic definition of a junta when the executives bar the law makers from meeting.

16. The Plaintiff further moves the Court that the trial of this action on the merits of Count 1 be advanced upon completion of the hearing of this motion for temporary injunction pursuant to Chapter 86.111, Fla. Stats.

17. No bond should be issued in accordance with Rule 1.610(b), Fla. R. Civ. P. as the Plaintiff is a municipal official and due regard for the public interest makes a bond or surety unnecessary.

**WHEREFORE**, Plaintiff, DAMIEN H. GILLIAMS, prays that the Court grant said motion for a temporary injunction and enter an Order restraining Defendants from refusing to set a special meeting at the call of the Plaintiff or from canceling the May 13, 2020 until such time as the Court can hear the final merits on the Complaint together with an award of costs pursuant to 57.041 and any other relief the Court deems meet and just .

DATED this 30<sup>th</sup> day of April 2020.

**s/ Craig M. Rappel**

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 29th day of April 2020 a copy of the foregoing has been electronically filed under ECF procedures with copies e-served on:

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**s/ Craig M. Rappel**

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