

MAR 11, 2022 03:55 PM


Amy E. Johnson, Clerk
Gilmer County, Georgia

In The Superior Court of Gilmer County
State of Georgia

GILMER COUNTY, GEORGIA, a political subdivision of the State of Georgia,)	
)	
Plaintiff,)	Civil Action File No.
)	
vs.)	
)	
DANIEL HOLMER AND LINDA HOLMER,)	
)	
Defendants.)	

Plaintiff's Complaint for a Temporary Restraining Order

COME NOW, Gilmer County, Georgia, a political subdivision of the State of Georgia, (hereinafter "Plaintiff") Plaintiff herein, by and through its undersigned attorney, and files this Complaint pursuant to O.C.G.A. § 9-11-65 for a Temporary Restraining Order (hereinafter "Complaint") against Daniel Holmer and Linda Holmer (hereinafter "Defendants"), and shows the Court the following:

1.

Plaintiff is a political subdivision of the State of Georgia.

2.

Plaintiff is governed by a 3 member elected Board of Commissioners (hereinafter "Board").

3.

The Board is comprised of a full time Chairman, Charlie Paris, and two part-time Post

Commissioners, Hubert Parker, Post 1 Commissioner, and Karleen Ferguson, Post 2 Commissioner.

4.

Defendants herein are residents of the County of Gilmer, State of Georgia. Respondents may be served at their home address of 73 Waleska Lane, Ellijay, Georgia 30540.

5.

Jurisdiction and venue properly lie with this Court

6.

Plaintiff owns Tax Parcel No. 093 014B (hereinafter "County Parcel"), which is situated in Buckhorn Subdivision and is a portion of the Whitepath Golf Course, which is a County owned facility.

7.

Plaintiff has control of all property belonging to the county. O.C.G.A. § 36-9-2

8.

On or about August 26, 2021, Plaintiff's employee, Art Wlochowski, Code and Regulatory Enforcement Director, went to inspect said County Parcel to see the illegally built decks by private property owners along the lake in said County Parcel.

9.

On or about September 17, 2021, Mr. Wlochowski went to the Defendant's property located at 73 Waleska Lane, Ellijay, GA 30540 to advise them that there would be people surveying said County Parcel, which adjoins Defendant's rear property line.

10.

Later that same day or shortly thereafter, Defendant Daniel Holmer called and left a

voicemail recording on Mr. Wlochowski's telephone.

11.

Defendant Daniel Holmer says "Yes, if this is Art ... uh ... what's his name from the Gilmer County Code and Regulation Commission ... Compliance, just want to let you know if you come to my property you better bring the (Expletive) with you."

12.

On or about October, 2021, Mr. Wlochowski commissioned Jeff Vick, the County Surveyor and his surveying firm, Chastain & Associates, P.C. to perform a land survey of said County Parcel.

13.

On or about October 15, 2021, Captain Brian Crump and Deputy Frank Parks of the Gilmer County Sheriff's Office went to the front door of the Defendant's residence on their property to let Defendants know that Mr. Wlochowski and the surveying crew were there to start on the survey and inspection of the County Parcel.

14.

Defendant Daniel Holmer informed Captain Brian Crump that he, Defendant Daniel Holmer, would defend his property against Captain Brian Crump or any other County employee or agent.

15.

Captain Brian Crump left Defendant's property and advised Mr. Wlochowski of what he had been told. Captain Brian Crump advised Mr. Wlochowski to obtain a court order before any further activities by either Mr. Wlochowski or the surveying crew near or about Defendant's property or potential harm could come to Mr. Wlochowski or Jeff Vick and/or his crew while

performing said survey.

16.

Plaintiff has the absolute right to inspect and survey its own property without threats or interference from Defendants.

17.

As shown from the facts contained herein, unless Defendants are immediately restrained from interfering from Mr. Wlochowski's inspection of the County Parcel and Mr. Vick and his crew from surveying the County Parcel, Plaintiff will suffer immediate and irreparable injury in that it remains deprived of conducting all lawful and legal activities on its County Parcel.

WHEREFORE, Plaintiff prays as follows:

(a) That this Court issue a temporary restraining order prohibiting Defendants from interfering with Plaintiff's employees or agents in the discharge of their duties in inspecting and surveying said County Parcel.

(b) That all costs and expenses be cast upon the Defendants; and

(c) For such other and further relief as this Court deems just and proper.

This 11th day of March, 2022.

Respectfully submitted,

CLARK & CLARK



David I. Clark
Attorney for Plaintiff
Georgia State Bar No. 126670

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GILMER COUNTY, GEORGIA, a political
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Plaintiff,

vs.

DANIEL HOLMER AND LINDA
HOLMER,


Defendants.

Civil Action File No.

Verification

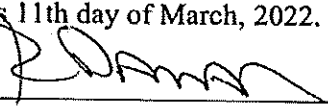
Personally appeared before the undersigned notary public, duly authorized to administer oaths in the State of Georgia, Charlie Paris, Chairman of the Gilmer County Board of Commissioners, who after being duly sworn, deposes and states that he is the Chairman of the Gilmer County Board of Commissioners and that the Board authorized the filing of the foregoing Plaintiff's Complaint for a Temporary Restraining Order, that he has reviewed same and that the facts stated therein are true and correct to the best of his personal knowledge, information and belief, and that, where conclusions of law are stated, he has relied upon opinion of counsel.

This 11th day of March, 2022.

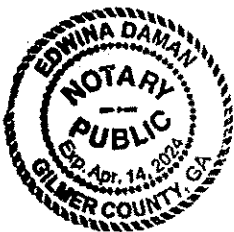


Charlie Paris
Chairman of the Gilmer County Board of
Commissioners

Sworn to me and subscribed before me
this 11th day of March, 2022.



Notary Public



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State of Georgia

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HOLMER,)	
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Certification

The undersigned hereby certifies to the court that he is the attorney for the Plaintiff in the above-styled action and that this certification is given pursuant to O.C.G.A. § 9-11-65(b). The attorney further certifies that:

No effort was made to give Defendants notice of this Complaint for temporary restraining order for the following reasons: See Paragraph 11 of this Complaint in which “Defendant Daniel Holmer says “Yes, if this is Art ... uh ... what’s his name from the Gilmer County Code and Regulation Commission ... Compliance, just want to let you know if you come to my property you better bring the (Expletive) with you.”

This ____ day of March, 2022.

Respectfully submitted,

CLARK & CLARK



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Attorney for Plaintiff
Georgia State Bar No. 126670

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