

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

SCOTT SOLARZ)
9585 Ravinia Drive)
Olmsted Falls, Ohio 44138)

Plaintiff,)

-vs-)

JAMES GRAVEN, individually and in)
his official capacity as mayor of the City)
of Olmsted Falls, Ohio)
26100 Bagley Road)
Olmsted Falls, OH 44138)

and)

THE CITY OF OLMSTED FALLS,)
OHIO,)
26100 Bagley Road)
Olmsted Falls, OH 44138)

Defendants.)

COMPLAINT

Trial by Jury Endorsed Hereon

INTRODUCTION

1. This is an action brought to secure enforcement of federally protected rights of free expression arising out of official government-sanctioned punishment in violation of the First and Fourteenth Amendments to the Constitution of the United

States in which the plaintiff, Scott Solarz, seeks declaratory, preliminary and permanent injunctive relief and damages.

CLAIMS AND JURISDICTION

2. This action is initiated pursuant to the Civil Rights Act of 1871, 42 U.S.C. §1983, to redress the deprivation under color of statute, ordinance, regulation, custom or usage of rights, privileges and immunities secured to plaintiff under the First and Fourteenth Amendments to the United States Constitution. Jurisdiction is invoked pursuant to 28 U.S.C §§ 1331 and 1343(3) and (4). To the extent declaratory relief is sought, claims are asserted pursuant to 28 U.S.C. §§ 2201 and 2203.

3. At all times relevant to this complaint, Defendants have acted under color of law and under color of the statutes, ordinances, charter, regulations, customs and usages of the City of Olmsted Falls, Ohio.

PARTIES

4. Plaintiff Scott Solarz is a citizen of the United States who resides with his family in the City of Olmsted Falls, Ohio.

5. Defendant James Graven is the Mayor of the City of Olmsted Falls, Ohio, and is otherwise responsible for the formulation, implementation and enforcement of all policies, practices, procedures, acts and conduct regarding the administration of matters affecting the city and its residents, including policies, practices, procedures, acts and conduct relating to the administration of the city and

is otherwise responsible for the promulgation and execution of rules of the employees of the City of Olmsted Falls.

6. Defendant City of Olmsted Falls, Ohio is a municipal corporation operating pursuant to the rules and regulations of the State of Ohio and pursuant to obligations under the Constitution of the United States and State of Ohio. Defendant City of Olmsted Falls is responsible for the implementation and enforcement of all policies, practices, procedures, acts, and conduct regarding the administration of matters affecting the city and its residents in a manner consistent with the Constitution of the United States.

COUNT I

7. Plaintiff reasserts the foregoing allegations and incorporates them by reference as if fully set forth herein.

8. Plaintiff Scott Solarz is a veteran United States Marine and currently serves as a firefighter in and for the City of Rocky River, Ohio.

9. In July 2016, Plaintiff Scott Solarz and his family moved into a new home in Olmsted Falls, Ohio.

10. Soon after he moved into the home, Plaintiff Scott Solarz uncovered a number of issues with the driveway and foundation of his home.

11. Defendant City of Olmsted Falls, Ohio requires that new residential properties are inspected by the City of Olmsted Falls and otherwise meet Olmsted Falls' codes.

12. In his study of the conditions of the driveway and foundation at his new home, Plaintiff Scott Solarz believed that the inspector hired by the City of Olmsted Falls failed to properly diagnose the issue and failed to recognize the deficiencies relating to the driveway and foundation in the process of concluding that the driveway and foundation met required code compliance.

13. In order to remedy the situation, Plaintiff Scott Solarz was required to arbitrate the dispute with the builder of his home in accordance with the contract he had with the builder.

14. Under the agreement, Plaintiff Scott Solarz was required to pay for the costs associated with the arbitration requirement.

15. Plaintiff Scott Solarz then contacted the Law Director for the City of Olmsted Falls, through his attorney, to seek reimbursement for the arbitration as the problems he faced were a result of the city's deficient inspection.

16. Plaintiff Scott Solarz's request for reimbursement was rejected by the law director and mayor of the City of Olmsted Falls, Ohio.

17. On May 14, 2019, Plaintiff Scott Solarz then appeared before the Olmsted Falls City Council at a meeting to address his concern about the city's rejection of his claim.

18. On May 14, 2019, Plaintiff Scott Solarz and Defendant James Graven had a heated exchange at the city council meeting about the City of Olmsted Falls'

failure to do a proper inspection and the refusal of the City of Olmsted Falls to reimburse Solarz for the arbitration.

19. Defendant James Graven, in his capacity as Mayor of the City of Olmsted Falls, responded to Plaintiff Scott Solarz in a dishonorable and disrespectful manner which caused needless public humiliation of a citizen of the City of Olmsted Falls.

20. Accordingly, Plaintiff Scott Solarz chose to exercise his constitutionally guaranteed freedom of speech ensured under the First Amendment of the Constitution of the United States to speak out against a governmental figurehead, Mayor Graven, whom he felt was improperly serving him and the public.

21. In June 2019, Plaintiff Scott Solarz created three (3) yard signs about Mayor Graven concerning his opinion about the mayor.

22. The first sign was placed in his yard and the other two signs were placed in the yards of friends of Plaintiffs.

23. As a veteran of active duty in the United States Marine Corp, Plaintiff Scott Solarz knew of other veterans who held Mayor Graven in low regard.

24. As a firefighter for the City of Olmsted Falls, Plaintiff Scott Solarz knew of other firefighters who held Mayor Graven in low regard.

25. The signs created by Scott Solarz read *VETERANS AND FIRE FIGHTERS AGAINST NO HONOR MAYOR GRAVEN*.

26. On June 28, 2019, Mayor Graven showed up unannounced and uninvited at the Solarz front door to confront Plaintiff Scott Solarz about the signs he was displaying concerning his position as Mayor of the City of Olmsted Falls.

27. Plaintiff Scott Solarz was not at home when Mayor Graven showed up at his home.

28. Defendant James Graven was met at the door by 15-year-old Grace, the daughter of Scott Solarz.

29. Grace was nervous and anxious by the anger manifested by Defendant Mayor James Graven when she explained her father was not home.

30. Defendant James Graven provided a business card to Plaintiff Scott Solarz's daughter Grace with instructions that her father call the mayor back.

31. The next day, June 29, 2019, in order to punish Plaintiff Scott Solarz for exercising his rights ensured under the First Amendment to the Constitution of the United States, Defendant James Graven contacted, or instructed the law director, to contact Plaintiff Scott Solarz's employer, the City of Rocky River where Solarz works as a firefighter about the yard signs critical of the Mayor of Olmsted Falls posted in the City of Olmsted Falls.

32. Defendant James Graven called, or initiated the communications in his official capacity as the Mayor of the City Olmsted Falls about the yard signs.

33. Under color of state law, Defendant James Graven then contacted the Fire Chief of the City of Rocky River about the yard signs in an effort to force Plaintiff Scott Solarz to remove the signs.

34. Under color of state law, Defendant James Graven then contacted the Mayor of the City of Rocky River about the yard signs in an effort to force Plaintiff Scott Solarz to remove the signs.

35. Under color of state law, Defendant James Graven then contacted Plaintiff Scott Solarz's union president about the yard signs in order to force him to remove the signs.

36. Then, nearly one month after Plaintiff Scott Solarz posted the yard signs about Mayor Graven, on July 3, 2019, Defendant James Graven had his wife file papers with the Olmsted Falls Police Department asserting an ambiguous threat which had no factual foundation.

37. While the Olmsted Falls Police Department found no basis for the complaint, the police department then called Plaintiff Scott Solarz to inform him that the complaint by the wife of Defendant Olmsted Falls Mayor James Graven filed the complaint.

38. Defendant James Graven, under color of state law and personally, continued a pattern of harassment and intimidation by calling a variety of Plaintiff Scott Solarz's governmental superiors and through his wife, attempted to use his

police department as a form of bullying of a private citizen who had an absolute right to post a yard sign.

39. On or before July 5, 2019, Defendant James Graven then hired a private law firm to threaten Plaintiff Scott Solarz which was received shortly thereafter and reads, in relevant part, as follows:

Your sign falsely states, “Fire Fighters and Veterans against ‘NO HONOR’ Mayor Graven.” Through agents, you have posted the same sign at 8788 Usher Road, Olmsted Township and 8807 Usher Road, Olmsted Township. By copy of this letter, your agents at those addresses are hereby advised they, too, will be the subject of legal action if they do not take down the signed you posted for them... [Y]our signs are untrue and constitute actionable defamation of James Graven, both personally, and as Mayor.

40. While the local Olmsted Falls law firm claimed defamation of James Graven as a governmental official and personally, it knew it was stating the law wildly wrong as an agent to threaten litigation as part of the continuing pattern and practice to obstruct, interfere with and restrict free expression ensured under the First Amendment to the Constitution of the United States.
41. Defendant James Graven knew full well that the posted signs did not constitute defamation, but used the local law firm as a bullying tactic to discourage Plaintiff Scott Solarz from the exercise of his opinion about a government official.
42. Fearful for the economic well-being of his family and unable to afford legal counsel to defend a legal action, the intimidation by Defendant James Gravens succeeded in

restricting Plaintiff Scott Solarz's ability to exercise his First Amendment rights, so he removed the lawn signs.

43. Unless enjoined from doing so, Defendant James Graven will continue to utilize his political superiority over a citizen of Olmsted Falls by forcing Plaintiff Scott Solarz to stop exercising his rights under the First Amendment to the Constitution of the United States.

44. Under color of state law, Defendant James Graven then requested that the fire chief of the City of Olmsted Falls restrict the ability of Plaintiff Scott Solarz from being at the City of Olmsted Falls' fire department to further restrict his speech and expression.

45. Plaintiff Scott Solarz has suffered irreparable harm arising out of the pattern of governmental intimidation used by Defendant City of Olmsted Falls and Mayor James Graven in restricting constitutional speech.

46. In balancing the equities, the Defendants will suffer no harm with the reposting of the yard signs.

47. The public interest in permitting the posting of yard signs outweighs any interest that the government of the City of Olmsted Falls and its mayor have.

48. Given the officials actions of Defendant James Graven intimidating Scott Solarz's 15-year-old daughter as mayor, threatening others who have posted similar signs, adversely influencing the fire chief of Olmsted Falls under color of state law, adversely influencing the fire chief of Rocky River, adversely influencing the

Mayor of Rocky River and threatening anyone who expresses an opinion about James Graven which does not please him, in the absence of injunctive relief, Plaintiff Scott Solarz's rights under the First and Fourteenth Amendments will be rendered nugatory.

49. In order to restore the signs without facing threats and other adverse action under color of law, Plaintiff Scott Solarz has no alternative at law.

50. As a result of the acts and conduct of the Defendants, Plaintiff has suffered and continues to suffer violations of his rights insured under the Constitution of the United States.

51. As a result of the acts and conduct of the Defendants, Plaintiff has suffered extreme emotional stress, humiliation and related personal losses.

52. The acts and conduct of the Defendants were intentional, malicious and in wanton and reckless disregard of the rights and feelings of the plaintiff.

WHEREFORE, plaintiff urges this Court to grant the following relief:

A. Declare the acts and conduct of the Defendants constitute violations of the First and Fourteenth Amendments to the Constitution of the United States and the Civil Rights Act of 1871, 42 U.S.C. §1983;

B. Permanently enjoin the Defendants, their agents, employees or any persons acting independently or in concert with the Defendants, from barring the Plaintiff from future political expression and assembly;

C. Preliminarily and permanently enjoin the Defendants, their agents, employees or any persons acting independently or in concert with the Defendants, from

retaliating against the Plaintiff in the future for the assertion of federally protected rights and to enjoin any act or conduct which has the purpose or effect of restricting the right of free speech and the exercise of assembly;

D. Compensate the Plaintiff for all personal losses he has suffered as a result of the unconstitutional actions of the Defendants;

F. Grant to the Plaintiff and against the Defendants, jointly and severally, all additional appropriate compensatory damages, all appropriate punitive damages with respect to Defendant Graven, along with the costs and reasonable fees as expressly provided by federal statute;

G. Grant any additional relief the Court deems just, equitable and in the public interest.

/s/ Jared S. Klebanow
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avery@lawfriedman.com

Attorneys for Plaintiff Scott Solarz

TRIAL BY JURY DEMANDED

Plaintiff Scott Solarz hereby demands trial by jury.

/s/ Avery Friedman
Avery Friedman

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

SCOTT SOLARZ

(b) County of Residence of First Listed Plaintiff CUYAHOGA (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Avery Friedman & Associates 850 Euclid Ave. Ste 701 Cleveland OH 44114, 216-621-9282, Jared Klebanow, Klebanow Law LLC 850 Euclid Ave., Ste 701, Cleveland OH 44114 216-621-8230

DEFENDANTS

JAMES GRAVEN, THE CITY OF OLMSTED FALLS

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): U.S. Const. amend. i and U.S. Const. amend. XIV. Brief description of cause: Deprivation of rights under the First and Fourteenth Amendment to the Constitution of the United States

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 01/18/2019 SIGNATURE OF ATTORNEY OF RECORD s/Avery Friedman

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

I. Civil Categories: (Please check one category only).

- 1. General Civil
- 2. Administrative Review/Social Security
- 3. Habeas Corpus Death Penalty

*If under Title 28, §2255, name the SENTENCING JUDGE: _____

CASE NUMBER: _____

II. **RELATED OR REFILED CASES.** See LR 3.1 which provides in pertinent part: "If an action is filed or removed to this Court and assigned to a District Judge after which it is discontinued, dismissed or remanded to a State court, and subsequently refiled, it shall be assigned to the same Judge who received the initial case assignment without regard for the place of holding court in which the case was refiled. Counsel or a party without counsel shall be responsible for bringing such cases to the attention of the Court by responding to the questions included on the Civil Cover Sheet."

This action: is **RELATED** to another **PENDING** civil case is a **REFILED** case was **PREVIOUSLY REMANDED**

If applicable, please indicate on page 1 in section VIII, the name of the Judge and case number.

III. In accordance with Local Civil Rule 3.8, actions involving counties in the Eastern Division shall be filed at any of the divisional offices therein. Actions involving counties in the Western Division shall be filed at the Toledo office. For the purpose of determining the proper division, and for statistical reasons, the following information is requested.

ANSWER ONE PARAGRAPH ONLY. ANSWER PARAGRAPHS 1 THRU 3 IN ORDER. UPON FINDING WHICH PARAGRAPH APPLIES TO YOUR CASE, ANSWER IT AND STOP.

(1) **Resident defendant.** If the defendant (1) resides in a county within this district, please set forth the name of such county
COUNTY: Cuyahoga
Corporation For the purpose of answering the above, a corporation is deemed to be a resident of that county in which it has its principal place of business in that district.

(2) **Non-Resident defendant.** If no defendant is a resident of a county in this district, please set forth the county wherein the cause of action arose or the event complained of occurred.
COUNTY:

(3) **Other Cases.** If no defendant is a resident of this district, or if the defendant is a corporation not having a principle place of business within the district, and the cause of action arose or the event complained of occurred outside this district, please set forth the county of the plaintiff's residence.
COUNTY:

IV. The Counties in the Northern District of Ohio are divided into divisions as shown below. After the county is determined in Section III, please check the appropriate division.

EASTERN DIVISION

- AKRON (Counties: Carroll, Holmes, Portage, Stark, Summit, Tuscarawas and Wayne)
- CLEVELAND (Counties: Ashland, Ashtabula, Crawford, Cuyahoga, Geauga, Lake, Lorain, Medina and Richland)
- YOUNGSTOWN (Counties: Columbiana, Mahoning and Trumbull)

WESTERN DIVISION

- TOLEDO (Counties: Allen, Auglaize, Defiance, Erie, Fulton, Hancock, Hardin, Henry, Huron, Lucas, Marion, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca VanWert, Williams, Wood and Wyandot)

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

_____)	
<i>Plaintiff</i>)	
)	
v.)	Civil Action No.
)	
_____)	
<i>Defendant</i>)	

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

SANDY OPACICH, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*: _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

_____)	
<i>Plaintiff</i>)	
)	
v.)	Civil Action No.
)	
_____)	
<i>Defendant</i>)	

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SANDY OPACICH, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

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was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: