IN THE MISSOURI COURT OF APPEALS
EASTERN DISTRICT

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STATE OF MISSOURI, ex rel. WOODLAND LAKES TRUSTEESHIP, INC., Relator,	)	
v.	)	Cause No. ED 106617
HONORABLE THOMAS J. FRAWLEY, Respondent.	)	

RESPONDENT'S RESPONSE TO RELATOR'S PETITION FOR WRIT OF PROHIBITION

Comes now Respondent Honorable Thomas J. Frawley and for his Response to Relator's Petition for Writ of Prohibition states that:

FINDINGS

1. On April 11, 2012, Plaintiff Woodland Lakes Trusteeship, Inc. (hereinafter referred to as Woodland Lakes) filed against Defendants Dave and Catrenia Campbell (hereinafter referred to as Campbells) a Petition for Malicious Prosecution, Defamation and Libel in the Circuit Court of Washington County, being Cause No. 13WA-CC00410.

2. On September 26, 2013, in Cause No. 13WA-CC000410, Campbells filed an Answer and Counterclaim (Relator's Exhibit 3).

3. On October 23, 2013, in Cause No. 13WA-CC000410, Woodland Lakes filed a Motion to Dismiss Campbells' Counterclaim (Respondent's Exhibit A).

4. On April 21, 2014, in Cause No. 13WA-CC000410, Woodland Lakes filed a First Amended Petition, which added a count to collect subdivision assessments allegedly owed by Campbells (Relator's Exhibit 1).

5. On April 15, 2015, in Cause No. 13WA-CC000410, Campbells filed *pro se* a Motion to Appear Telephonically or Via Video Conference[1].

[1] On April 3, 2015, Gary Matheny, Campbell's counsel, had filed a Motion to Withdraw.

[illegible] On April 30, 2012, in Case No. 13[illegible], Campbell filed pro se a "Second Amended Response to Woodlake Lake's First Amended Petition and First Amended Counterclaim" ("Response" [illegible]), accompanied by a pro se "Motion for Leave to File the Second Amended Response to Woodlake Lake's First Amended Petition and First Amended Counterclaim" ("Motion" [illegible]).

[illegible] On April 30, 2012, in Case No. 13[illegible], after allowing Defendant to withdraw, the Circuit Court of Washington County entered the following order, inter alia:

> "Defendant's motion to file amended answer and counterclaim is denied." Defendant was allowed to "have that motion heard."

[illegible] On August 17, 2012, in Case No. 13[illegible], Campbell filed pro se a "First Amended Answer to Woodlake Lake's Petition with Campbell's First Amended Counterclaim and Affirmative Defenses" ("Response" [illegible]), accompanied by a pro se "Motion for Leave to File the First Amended Response to Woodlake Lake's Amended Petition with First Amended Counterclaim and Affirmative Defenses" ("Motion" [illegible]).

[illegible] On August 31, 2012, in Case No. 13[illegible], Campbell filed a "Withdrawal Notice of First Amended Answer to Plaintiff's Petition with Defendant's First Amended Counterclaim and Affirmative Defenses", which withdrew Campbell's "previously dismissed and

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[illegible] Campbell's "Second Amended Response to Woodlake Lake's First Amended Petition and First Amended Counterclaim" and Campbell's "Motion for Leave to File Second Amended Response to Woodlake Lake's First Amended Petition and First Amended Counterclaim" were submitted to the Court on April 30, 2012.

[illegible] Respondent did not find in the Circuit Court docket sheet reference to a notice of hearing for Campbell's "Motion for Leave to File Second Amended Response to Plaintiff's First Amended Petition and First Amended Counterclaim" on April 30, 2012.

[illegible] Respondent did not find in the Circuit Court docket sheet reference to a notice of hearing for Campbell's "Motion to Appear Telephonically or Via Video Conference" on April 30, 2012, nor recordings in the Circuit Court system that Campbell's "Motion to Appear telephonically" was denied on [illegible] 30, 2012.

following amended answer that was faxed into this cause on August 17, 2015" (Respondent's Exhibit F).

10. On August 31, 2015, in Cause No. 13WA-CC00410, following the Withdrawal Notice, Campbells filed a second First Amended Answer to Plaintiffs' Petition with Affirmative Defenses, accompanied by a Motion for Leave to File First Amended Response to Plaintiffs' Petition with Affirmative Defenses.

11. On August 31, 2015, in Cause No. 13WA-CC00410, Campbells filed a "Withdrawal Notice of: Motion for Leave to File First Amended Response to Plaintiff's Amended Petition with Defendants' First Amended Counterclaims and Affirmative Defenses", which withdrew Campbells' "aforesaid and following motion that was faxed into this cause on August 17, 2015" (Relator's Exhibit 5).

12. On August 31, 2015, in Cause No. 13WA-CC00410, unlike their second filing of the First Amended Answer to Woodland Lakes' Petition with Affirmative Defenses, after the filing of the Withdrawal Notice for the "aforesaid and following motions", Campbells did not file a second First Amended Counterclaims.

13. Campbells' First Amended Counterclaims filed April 20, 2015, other than inclusion of the count denominated "Constitutional Fifth Amendment Violation", minor changes in the allegations, and less specificity in the prayer for relief, is identical to Campbells' First Amended Counterclaims filed August 17, 2015.

14. On September 21, 2015, as amended *nunc pro* tunc on October 2, 2015, in Cause No. 13WA-CC00410, the Circuit Court of Washington County dismissed Count I and Count III of

Campbell [illegible]

[illegible] Missouri Court of Appeals [illegible]

[illegible] Washington County [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

1. Campbell's Motion [illegible] April [illegible] 2013 [illegible] April [illegible] 2013.

2. Campbell's Motion [illegible] July [illegible] 2013.

[illegible] Campbell [illegible]

[illegible] The Missouri Court of Appeals [illegible]

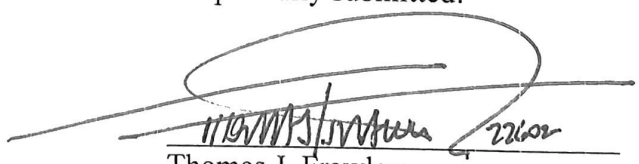
[illegible]

3. Campbells' Motion for Leave to File Second Amended Response to Plaintiff's First Amended Petition and First Amended Counterclaims was not noticed for hearing on April 20, 2015.

4. On April 20, 2015, after withdrawal of Campbells' then counsel and notwithstanding Campbells absence and the lack of a notice of hearing, the Circuit Court of Washington County denied Campbells' Motion for Leave to File Second Amended Response to Plaintiff's First Amended Petition and First Amended Counterclaims.

5. On April 20, 2015, the Circuit Court of Washington County was without authority to deny Campbells' Motion for Leave to File Second Amended Response to Plaintiff's First Amended Petition and First Amended Counterclaims because of the lack of a notice of hearing for April 20, 2015, the withdrawal of Campbells' then counsel during the hearing, and Campbells' absence because of the pending Motion to Appear Telephonically or Via Video Conference, which was denied three months later; therefore, Campbells' Motion for Leave to File Second Amended Response to Plaintiff's First Amended Petition and First Amended Counterclaims remains pending.

Respectfully submitted:



Thomas J. Frawley
Respondent

cc: Dave and Catrenia Campbell (w/o exhibits)
19551 West Highway 40
Dunnellon, Florida 34432

cc: James W. McGettigan, Jr. (w/o exhibits)
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Judge Crawley

Circuit Court of Lincoln County
Lincoln County Justice Center
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Troy, Missouri 63379

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