





NO. CV14,902

WATERWOOD IMPROVEMENT
ASSOCIATION, INC.

VS.

GEORGE H. RUSSELL and
UNIVERSAL ETHICIAN CHURCH

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IN THE DISTRICT COURT OF

SAN JACINTO COUNTY, TEXAS

258TH JUDICIAL DISTRICT

PLAINTIFF'S EXHIBIT 37

NO.

WATERWOOD IMPROVEMENT ASSOCIATION, INC.	*	IN THE DISTRICT COURT OF
	*	
	*	
VS.	*	SAN JACINTO COUNTY, TEXAS
	*	
GEORGE H. RUSSELL	*	____ TH JUDICIAL DISTRICT

AFFIDAVIT

THE STATE OF TEXAS *

COUNTY OF Walker *

BEFORE ME, the undersigned authority, on this day personally appeared THOMAS C. READAL, who being by me duly sworn on his oath deposed and said:

1. "I am a property owner in the Waterwood Subdivision in San Jacinto County, Texas.
Together with my wife, I own Lot 15, Block 1, County Club Estates # 1, with a mailing address of 85 Waterwood, Huntsville, Texas 77320-9665. We purchased this property in 2002.
2. "I am over 18 years of age and have never been convicted of a felony offense.
3. "I have personal knowledge of the facts set forth in this Affidavit. I know George Russell.
4. "On Wednesday, February 22, 2017, while driving to the Waterwood Park construction site around ^{11:00} 10 o'clock a.m., I observed George Russell, by himself, painting approximately 8 to 12 inch purple squares on trees which are inside his property line on the north side of Waterwood Parkway, but within 200 feet of the boundary of the Waterway Parkway. Shortly after I stopped at the Waterwood Park construction site, which is on the south side of Waterwood Parkway directly opposite to the area where

Thomas Readal Affidavit

Page 1

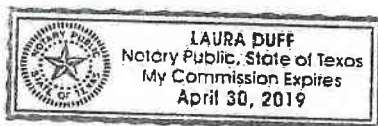
Plaintiff's Exhibit 4**Page -37-****Plaintiff's Exhibit 37****Page -2-**

George Russell was painting the trees, to meet with Dick Hansen, who was already there,
Mr. George Russell got into his vehicle and drove away.

5. "The five (5) photographs attached to this affidavit fairly and accurately depict some of the trees that I saw George Russell painting.
6. "Further, affiant sayth not."

Thomas C. Readal
THOMAS C. READAL

SUBSCRIBED AND SWORN TO BEFORE ME on this 23rd day of February, 2017, by
THOMAS C. READAL, to certify which witness my hand and seal of office.



Laura Duff
NOTARY PUBLIC, STATE OF TEXAS

Thomas Readal Affidavit

Page 2

Plaintiff's Exhibit 4

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Plaintiff's Exhibit 37

Page -3-

NO. CV14,902

WATERWOOD IMPROVEMENT
ASSOCIATION, INC.

VS.

GEORGE H. RUSSELL and
UNIVERSAL ETHICIAN CHURCH

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IN THE DISTRICT COURT OF

SAN JACINTO COUNTY, TEXAS

258TH JUDICIAL DISTRICT

PLAINTIFF'S EXHIBIT 38

NO. _____

WATERWOOD IMPROVEMENT ASSOCIATION, INC.	*	IN THE DISTRICT COURT OF
	*	
	*	
VS.	*	SAN JACINTO COUNTY, TEXAS
	*	
GEORGE H. RUSSELL	*	____ TH JUDICIAL DISTRICT

AFFIDAVIT

THE STATE OF TEXAS *

COUNTY OF San Jacinto *

BEFORE ME, the undersigned authority, on this day personally appeared JOE MOORE,
who being by me duly sworn on his oath deposed and said:

1. "I am the Executive Director of the Waterwood Improvement Association, the property owners association for the Waterwood Subdivision in San Jacinto County, Texas.
Plaintiff in the above entitled and numbered cause.
2. "I am over 18 years of age and have never been convicted of a felony offense.
3. "I am fully qualified and authorized to make this Affidavit.
4. "The claim referred to in the foregoing Plaintiff's Original Petition, which is incorporated herein by reference the same as if fully copied and set forth at length herein, arises out of the Agreed Final Judgment, Plaintiff's Exhibit 1, and the Mediation Settlement Agreement, Plaintiff's Exhibit 2, concerning property in the Waterwood Subdivision in San Jacinto County.
5. "On Wednesday, February 22, 2017, it came to my attention that George Russell had painted purple squares on trees which are inside his property line on the north side of

Joe Moore Affidavit

Page 1

Plaintiff's Exhibit 5

Page -39-

Plaintiff's Exhibit 38

Page -2-

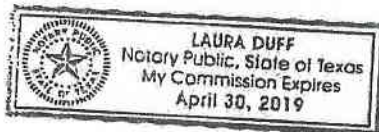
Waterwood Parkway, but within 200 feet of the boundary of the Waterway Parkway.

6. "I went and saw the paint that was put on trees along the Waterwood Parkway. The five (5) photographs, identified as Plaintiff's Exhibit 3, fairly and accurately depict some of the trees that were painted.
7. "It later came to my attention that an additional 21 trees on Latrobe Street between the Waterwood Parkway and Pine Valley had been painted similarly to those on the Waterwood Parkway. I have personally observed these additionally painted trees.
8. "I am familiar with the streets in Waterwood, and these tree paintings were done in existence prior to February 22, 2017.
9. "On behalf of the Waterwood Improvement Association, Inc., I am requesting the Court issue the injunctions requested.
10. "Further, affiant sayth not."

WATERWOOD IMPROVEMENT
ASSOCIATION, INC.

By: 
JOE MOORE, Executive Director

SUBSCRIBED AND SWORN TO BEFORE ME on this 23rd day of February, 2017, by
JOE MOORE, Executive Director, Waterwood Improvement Association, Inc., to certify which
witness my hand and seal of office.




NOTARY PUBLIC, STATE OF TEXAS

Joe Moore Affidavit

Page 2

Plaintiff's Exhibit 5

Page -40-

Plaintiff's Exhibit 38

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NO. CV14,902

WATERWOOD IMPROVEMENT
ASSOCIATION, INC.

VS.

GEORGE H. RUSSELL and
UNIVERSAL ETHICIAN CHURCH

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IN THE DISTRICT COURT OF

SAN JACINTO COUNTY, TEXAS

258TH JUDICIAL DISTRICT

PLAINTIFF'S EXHIBIT 39

NO. CV14,902

WATERWOOD IMPROVEMENT
ASSOCIATION, INC.

VS.

GEORGE H. RUSSELL

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IN THE DISTRICT COURT OF

SAN JACINTO COUNTY, TEXAS

258TH JUDICIAL DISTRICT**PLAINTIFF'S ORIGINAL PETITION FOR ENFORCEMENT BY
CONTEMPT, FOR INJUNCTIVE RELIEF AND DECLARATORY JUDGMENT**

TO THE HONORABLE JUDGE OF SAID COURT:

WATERWOOD IMPROVEMENT ASSOCIATION, INC., ("Plaintiff"), brings this action complaining of GEORGE H. RUSSELL, and files this Plaintiff's Original Petition, and for cause would respectfully show the Court the following:

A. Discovery Level

Discovery in this case is intended to be conducted under level 2 of rule 190 of the Texas Rules of Civil Procedure.

B. Parties

1. WATERWOOD IMPROVEMENT ASSOCIATION, INC., ("Plaintiff" and/or "WIA"), is a Texas Non-Profit Corporation and is the property owners association for the Waterwood development subdivision in San Jacinto County, Texas, as said subdivision is depicted upon a plat thereof recorded in the Plat Records of San Jacinto County, Texas.
2. GEORGE H. RUSSELL, ("Defendant" and/or "Russell"), with a mailing address of 1401 19th Street, Huntsville, Texas 77340. Defendant Russell may be served with process at at that address or wherever he may be found.

Plaintiff's Original Petition for Enforcement
by Contempt, for Injunctive Relief and Declaratory Judgment

Page 1

C. Plaintiff's Exhibits

Plaintiff incorporates by reference the same as if fully copied and set forth at length herein, those exhibits identified herein and by that Index to Exhibits attached hereto.

D. Statement of Facts

1. On March 14, 2016 an Agreed Final Judgment, ("Agreed Final Judgment"), was entered in Cause No. CV13,946, entitled "Waterwood Improvement Association, Inc., v. George H. Russell and Suzanne B. Russell", in the 411th Judicial District Court of San Jacinto County, Texas.¹
2. The Agreed Final Judgment provided the following concerning the placement of signs on the Waterwood Parkway:

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, based on the 2016 Mediated Settlement Agreement, that Defendants will not put up any signs, toilets, hearses, cars or other items within 200 feet from the boundary of any right of way of the Waterwood Parkway nor any street in Waterwood that borders on property owned by Russell, unless approved in advance by WIA; such approval shall not be unreasonably withheld. As used herein "any street in Waterwood that borders on property owned by Russell" shall include, but not be limited to, Texas Farm-to-Market 980, the Marina Access Road, together with any roads or streets in the following subdivisions of the Waterwood Community: Augusta Estates, Bass Boat Village A, Bass Boat Village B, Bay Hill, Bay Hill Point, Country Club Estates I, Country Club Estates II, Country Club Estates III, Fairway One, Fairway Village, Greentree Village XI-A, Lakeview Estates, Park Forest, Piney Point, Putters Point, The Beach, The Villas, Tournament Village, Whispering Pines Village 1, and Whispering Pines Village 2.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, based on the 2016 Mediated Settlement Agreement, and as between the parties to this litigation, that WIA will have total control over the Waterwood Parkway and

¹ Plaintiff's Exhibit No. 1.

Plaintiff's Original Petition for Enforcement
by Contempt, for Injunctive Relief and Declaratory Judgment

Page 2

Defendants will not interfere with WIA's use of the Waterwood Parkway.

The Court finds that, based on the 2016 Mediated Settlement Agreement, that the following permanent injunction should be entered, and that the clerk of this court issue a writ of injunction, restraining and enjoining Defendants, GEORGE H. RUSSELL, SUZANNE B. RUSSELL, THE ETHICIAN FOUNDATION, and the UNIVERSAL ETHICIAN CHURCH, from interfering with the rights of the Plaintiff, WATERWOOD IMPROVEMENT ASSOCIATION, INC., and those persons acting under the direction of Plaintiff, in performance of Plaintiff's mowing and maintenance of the Waterwood Parkway, including but not limited to the mowing and maintenance of the Waterwood Parkway, and further the Defendants are ENJOINED from putting up any signs, toilets, hearses, cars or other items within 200 feet from the boundary of any right of way of the Waterwood Parkway nor any street in Waterwood that borders on property owned by Russell, (as defined herein), unless approved in advance by WIA.

This permanent injunction granted herein shall be effective immediately and shall be binding on Defendants; on their agents, servants, employees, and attorneys; and on those persons in active concert or participation with them who receive actual notice of this order by personal service or otherwise.

3. After disputes concerning the above Agreed Final Judgments arose, a Mediation Settlement Agreement, ("Mediation Settlement Agreement"), was entered into on August 24, 2016, and filed on August 25, 2016, in Cause No. CV14,606, entitled "George Russell and Universal Ethician Church v. Waterwood Improvement Association, Inc." in the 258th Judicial District Court.²
4. On February 22, 2017 Defendant, without complying with the requirements of the Agreed Final Judgment by seeking approval, started painting purple marks on trees within 200 feet of the Waterwood Parkway and other streets in the Waterwood Subdivision, as defined in the Agreed Final Judgment, and ¶2 hereof. As used herein "Waterwood Parkway and any street in Waterwood that borders on property owned by Russell, shall include, but not be

Plaintiff's Exhibit 2.

Plaintiff's Original Petition for Enforcement
by Contempt, for Injunctive Relief and Declaratory Judgment

Page 3

limited to, Texas Farm-to-Market 980, the Marina Access Road, together with any roads or streets in the following subdivisions of the Waterwood Community: Augusta Estates, Bass Boat Village A, Bass Boat Village B, Bay Hill, Bay Hill Point, Country Club Estates I, Country Club Estates II, Country Club Estates III, Fairway One, Fairway Village, Greentree Village XI-A, Lakeview Estates, Park Forest, Piney Point, Putters Point, The Beach, The Villas, Tournament Village, Whispering Pines Village 1, and Whispering Pines Village 2. Photographs of the trees on Waterwood Parkway with purple paint after Defendant's painting spree are shown by Plaintiff's Exhibit 3.³ Plaintiff has continued to paint trees on the date of this petition, February 23, 2017.

5. After painting the trees evidenced by Plaintiff's Exhibit 3, Defendant has continued painting trees by painting some 21 additional trees on Latrobe Street between the Waterwood Parkway and Pine Valley.
6. There was no approval sought, and no approval was given, by WIA, for Mr. Russell to paint the trees as he did on the morning of Wednesday, February 22, 2017.
7. The actions of Defendant, and his violation of the permanent injunction in the Agreed Final Judgment and the Mediation Settlement Agreement, were intentional and with knowledge that such construction was in violation of the Agreed Final Judgment.

E. Cause of Action - Enforcement by Contempt

8. Plaintiff incorporates by reference, in support of this cause of action, ¶¶ 1-7 above, and Plaintiff's Exhibits identified therein.

³ Plaintiff's Exhibit 4 - Affidavit of Thomas C. Readal; Plaintiff's Exhibit 5 - Affidavit of Joe Moore.

9. The actions of Defendant are in violation of the permanent injunction set forth by the Agreed Final Judgment, as set forth in ¶ 2 above.
10. Pursuant to § 21.001 (a), Texas Government Code, "A court has all powers necessary for the exercise of its jurisdiction and the enforcement of its lawful orders, including authority to issue the writs and orders necessary or proper in aid of its jurisdiction" and § 21.002(a), "a court may punish for contempt," this Court has authority to enforce its orders by contempt.
11. Pursuant to § 21.002 (b) "The punishment for contempt of a court other than a justice court or municipal court is a fine of not more than \$500 or confinement in the county jail for not more than six months, or both such a fine and confinement in jail."
12. Plaintiff requests that the Defendant, after hearing, be held in contempt of court, jailed, and fined, as authorized by § 21.002(b), and other applicable Texas law, for each individual tree that has been paid that is within 200 feet of the Waterwood Parkway and any street in Waterwood that borders on property owned by Russell, each being a violation of the permanent injunction set forth above.
13. Plaintiff requests that, if the Court finds that any part of the Agreed Final Judgment and the permanent injunction sought to be enforced is not specific enough to be enforced by contempt, the Court enter a clarifying order restating the terms of the judgment and the permanent injunction in a manner specific enough to allow enforcement by contempt and specifying a reasonable time within which compliance will be required.

F. Injunctive Relief Requested

14. Plaintiff incorporates by reference, in support of this cause of action, ¶¶ 1-13 above, and Plaintiff's Exhibits identified therein.
15. Plaintiff requests the Court, after notice and hearing, to make temporary orders and issue any appropriate temporary injunctions as deemed necessary and equitable.
16. Request for Permanent Injunction. For the harm and damage done to Plaintiff, and for the harm and damage that will continue but for the intervention of this Court, Plaintiff has no adequate remedy at law. Such damages are continuing in that Defendant's actions hinder the performance of WIA under the Agreement to maintain the Parkway. To a large degree, such damages are intangible and the future loss and damage to WIA is difficult to ascertain. Plaintiff requests the Court, after final trial, to enter a permanent injunction prohibiting Defendants from violating the Agreed Final Judgment and the Mediation Settlement Agreement, and otherwise interfering with WIA's maintenance of the Waterwood Parkway and any street in Waterwood that borders on property owned by Defendant.
17. Request for Temporary Restraining Order. As the basis for the extraordinary relief requested below, Plaintiff would show that before the filing of this petition Defendant has engaged in the conduct set forth in this petition, supported by the attached affidavits. Based on those affidavits, Plaintiff requests the Court to set an appropriate bond, and Plaintiff requests that Defendant be temporarily restrained immediately, without hearing, and after notice and hearing be temporarily enjoined, pending the further order of this Court, from violating the Agreed Final Judgment and the Mediation Settlement Agreement.

and otherwise interfering with WIA's maintenance of the Waterwood Parkway and any street in, including but not limited to not painting any more trees in violation of the permanent injunction and the agreement of the parties.

18. Request for Temporary Orders and Injunction. Plaintiff requests the Court, after notice and hearing, to make temporary orders and issue any appropriate temporary injunctions for the preservation of the property and protection of the parties as deemed necessary and equitable. Plaintiff requests that the Court enjoin Defendants from violating the Agreed Final Judgment and the Mediation Settlement Agreement, and otherwise interfering with WIA's maintenance of the Waterwood Parkway and any street in Waterwood that borders on property owned by Defendant.

G. Cause of Action for Declaratory Judgment

19. In support of this cause of action, Plaintiff incorporates paragraphs 1-18 hereof, together with all exhibits filed hereto, in support of this request for Declaratory Judgment.
20. Plaintiff requests the Court, pursuant to Chapter 37, Texas Civil Practices and Remedies Code, to declare what the rights of WIA are pursuant to the Agreed Final Judgment and the Mediation Settlement Agreement, as concerns the rights of WIA to maintain the Parkway pursuant to the Agreed Final Judgment and the Mediation Settlement Agreement.
21. Plaintiff requests the Court to declare the rights, duties and responsibilities of the Plaintiff under the Agreement to use and maintain the Parkway pursuant to the Agreement.

H. Attorney's Fees

22. Plaintiff incorporates paragraphs 1-21, together with all exhibits referenced herein, in support of this request for Attorney's Fees.
23. Defendant is liable to Plaintiff for reasonable attorney's fees, for the necessity of bringing this lawsuit as follows:
 - a. For representation in the trial court - \$15,000.00;
 - b. For representation through appeal to the court of appeals - \$10,000.00;
 - c. For representation at the petition for review stage in the Supreme Court of Texas - \$5,000.00;
 - d. For representation at the merits briefing stage in the Supreme Court of Texas - \$7,500.00;
 - e. For representation through oral argument and the completion of proceedings in the Supreme Court of Texas - \$5,000.00; or,
 - f. In the alternative, reasonable attorney's fees as determined by the Court.

I. Notice of Intent to Offer Certified Copies of Public Records.

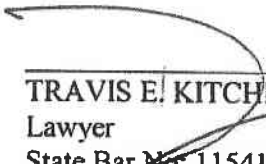
Notice is hereby given that at the trial of this cause Plaintiff intends to offer into evidence a certified copy of said Public Records, as provided for by Rules 902 and 1005, Texas Rules of Evidence, as identified in this Petition and as may be identified during this litigation.

J. Prayer

WHEREFORE, Plaintiff requests that this Court (a) set a time and date for hearing on Plaintiff's request for a temporary injunction during the pendency of this legal action, (b) issue Notice for Defendant to appear and show cause why he should not be held in contempt for violation of the Agreed Final Judgment, (c) that Defendants be cited to appear and answer, (d) that Defendants show cause why, at such hearing, that a temporary injunction should not be issued enjoining Defendants from directly or indirectly interfering with the rights of WIA under the Agreed Final Judgment and permanent injunction concerning placement of signs and marking/painting of trees on the Waterwood Parkway and any street in Waterwood that borders on property owned by Defendant, as alleged herein, and (e) that on final trial hereof, Plaintiff have:

1. A Declaratory Judgment of the rights, duties and responsibilities of the Plaintiff under the Agreement to use and maintain the Parkway pursuant to the Agreed Final Judgment;
2. A permanent injunction in favor of Plaintiff enjoining Defendant, his agents, servants, and employees from directly or indirectly interfering with the rights of WIA under the Agreed Final Judgment and the Mediation Settlement Agreement;
3. Reasonable attorney's fees as alleged hereinbefore;
4. Costs of suit; and
5. Such other and further relief to which Plaintiff may be justly entitled.

Respectfully submitted,



TRAVIS E. KITCHENS, JR.
Lawyer
State Bar No. 11541100
14330 US Highway 190 West
P.O. Drawer 1629
Onalaska, Texas 77360
Phone (936) 646-6970
Fax: (936) 646-6971
Email: tklaw1@eastex.net

Lawyer for Plaintiff

NO.

WATERWOOD IMPROVEMENT ASSOCIATION, INC.	*	IN THE DISTRICT COURT OF
	*	
	*	
VS.	*	SAN JACINTO COUNTY, TEXAS
	*	
GEORGE H. RUSSELL	*	258 TH JUDICIAL DISTRICT

INDEX TO PLAINTIFF'S ORIGINAL PETITION EXHIBITS

Exhibit			
<u>No.</u>	<u>Date</u>	<u>Page</u>	<u>Document</u>
1.	03/14/2016	1	Agreed Final Judgment, No. CV13,946 - Waterwood Improvement Association, Inc. vs. George H. Russell and Suzanne B. Russell, 411 th Judicial District Court. San Jacinto County, Texas.
2.	08/24/2016	27	Mediation Settlement Agreement, filed August 25, 2016. Cause No. CV14,606, George Russell and Universal Ethician Church v. Waterwood Improvement Association, Inc.
3.	02/22/2017	32	Photographs (Five) of Painted Trees on Waterwood Parkway
4.	02/23/2017	37	Affidavit of Thomas C. Readal
5.	02/23/2017	39	Affidavit of Joe Moore
6.	02/23/2017	41	Affidavit of Travis E. Kitchens, Jr.

NO. CV14,902

WATERWOOD IMPROVEMENT
ASSOCIATION, INC.

VS.

GEORGE H. RUSSELL and
UNIVERSAL ETHICIAN CHURCH

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IN THE DISTRICT COURT OF

SAN JACINTO COUNTY, TEXAS

258TH JUDICIAL DISTRICT

PLAINTIFF'S EXHIBIT 40

NO. CV14902

WATERWOOD IMPROVEMENT
ASSOCIATION, INC.

VS.

GEORGE H. RUSSELL

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IN THE DISTRICT COURT OF

SAN JACINTO COUNTY, TEXAS

258TH JUDICIAL DISTRICT

**NOTICE OF HEARING TO SHOW CAUSE,
TEMPORARY RESTRAINING ORDER AND
ORDER SETTING HEARING FOR TEMPORARY ORDERS**

The application of Plaintiff, WATERWOOD IMPROVEMENT ASSOCIATION, INC., for a temporary restraining order was presented to the Court today, and a hearing on Plaintiff's motion for enforcement of the permanent injunction set forth in the March 14, 2016 Agreed Final Judgment in Cause No. CV13,946, entitled "Waterwood Improvement Association, Inc., v. George H. Russell and Suzanne B. Russell. The Defendant is GEORGE H. RUSSELL.

The Court examined the pleadings of Plaintiff and finds that Plaintiff is entitled to a temporary restraining order and a hearing on its motion to enforce the Court's permanent injunction by contempt.

IT IS THEREFORE ORDERED that the Clerk of this Court issue a temporary restraining order restraining Defendant, and Defendant is ordered to immediately cease all painting any trees within 200' of the "Waterwood Parkway and any street in Waterwood that borders on property owned by Russell, as defined and as set forth by the Agreed Final Judgment of March 14, 2016 entered in Cause No. CV13,946, entitled "Waterwood Improvement Association, Inc., v. George H. Russell and Suzanne B. Russell", in the 411th Judicial District Court of San Jacinto County, Texas.

Notice of Hearing to Show Cause, Temporary
Restraining Order, and Order Setting Hearing for Temporary Orders

Page 1

IT IS FURTHER ORDERED that a cash bond in the amount of \$ 1000.⁰⁰ is set for issuance of the temporary restraining order of this Court.

IT IS FURTHER ORDERED THAT Defendant GEORGE H. RUSSELL shall appear, and Defendant GEORGE H. RUSSELL is ORDERED to appear, in person, before this Court in the San Jacinto County Courthouse located in Coldspring, Texas on **March 15, 2017, at 9:00 o'clock A.M.** to show cause why he should not be held in contempt for violation of the March 14, 2016 Agreed Final Judgment, and the permanent injunction set forth therein, and to further hear the petition of Plaintiff for a temporary injunction as requested in Plaintiff's Original Petition filed February 23, 2017.

IT IS FURTHER ORDERED that the Clerk shall, upon receipt of the \$ 1000.⁰⁰ cash bond, issue notice to Defendant GEORGE H. RUSSELL to appear and Defendant GEORGE H. RUSSELL is ORDERED to appear in person, before this Court in the San Jacinto County Courthouse located in Coldspring, Texas on **March 15, 2017, at 9:00 o'clock A.M.** The purpose of the hearing is to determine whether, while this case is pending the preceding temporary restraining order should be made a temporary injunction pending final hearing and any other relief requested by Plaintiff be granted.

IT IS FURTHER ORDERED that any authorized person eighteen years of age or older who is not a party to or interested in the outcome of this case may serve any citation, notice, or process in this case.

SIGNED on February 23, 2017, at 1:45 o'clock P.m.


JUDGE PRESIDING

APPROVED AS TO FORM:



TRAVIS E. KITCHENS, JR.

Lawyer

State Bar No. 11541100

, 14330 US Highway 190 West

P.O. Box 1629

Onalaska, Texas 77360

Phone (936) 646-6970

Fax: (936) 646-6971

Email: tklaw1@eastex.net

NO. CV14,902

WATERWOOD IMPROVEMENT
ASSOCIATION, INC.

VS.

GEORGE H. RUSSELL and
UNIVERSAL ETHICIAN CHURCH

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IN THE DISTRICT COURT OF

SAN JACINTO COUNTY, TEXAS

258TH JUDICIAL DISTRICT

PLAINTIFF'S EXHIBIT 41

Subject: Stalking and harassment

From: George H Russell (ghr@cyberclone.net)

To: wia@waterwoodwia.com jack.zimmermann@zizslaw.com hans_barcus@sbcglobal.net
sueann@cyberclone.net ghr@cyberclone.net

Date: Thursday, February 23, 2017 2:33 PM

23 February 2017

WIA and Zimmerman:

Please demand that John Charlton cease and desist from threatening, harassing, and stalking Ethician Foundation Wildlife Manager, Mike Zeltner, while he is legally conducting foundation business in accordance with State Law and NOT in violation of any "agreement" between the foundation and WIA.

John Charlton was OBVIOUSLY making his threats to sue me and Mike in his official capacity as Executive Vice-President of WIA which I believe is a serious liability to WIA.

I haven't read the by-laws in a long time but I vaguely recall that any WIA Board member who commits crimes, especially using illegal and uncalled for threats, harassment, and stalking in his official capacity should be asked to resign from the WIA Board immediately.

When Channing was stalking, threatening me and otherwise harassing me while holding an official position with WIA, I believe that WIA did not pay for his legal fees as his acts and actions were in violation State Law and of his fiduciary duties with WIA.

That is from my memory so please let me know if my memory is correct or if WIA would pay for Charlton's legal defense if we find it necessary to sue him and/or WIA and Charlton if indeed he was following orders from the WIA Board to make the threats directed toward Mr. Zeltner and me.

Thanks for your kind attention to this serious breach of Charlton's fiduciary duty to the WIA Board.

ghr

NO. CV14,902

WATERWOOD IMPROVEMENT
ASSOCIATION, INC.

VS.

GEORGE H. RUSSELL and
UNIVERSAL ETHICIAN CHURCH

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IN THE DISTRICT COURT OF

SAN JACINTO COUNTY, TEXAS

258TH JUDICIAL DISTRICT

PLAINTIFF'S EXHIBIT 42

CLERK OF THE COURT

REBECCA CAPERS
1 STATE HWY. 150, ROOM 4
COLDSPRING, TEXAS 77331

ATTORNEY FOR PLAINTIFF OR PLAINTIFF

TRAVIS E. KITCHENS, JR.
P.O. BOX 1629
ONALASKA, TEXAS 77360

THE STATE OF TEXAS

To GEORGE H. RUSSELL, 1401 19TH STREET, HUNTSVILLE,
TEXAS 77340, OR WHEREVER HE MAY BE FOUND

Greeting:

WHEREAS, WATERWOOD IMPROVEMENT ASSOCIATION, INC.
filed THEIR petition in the District Court of San Jacinto County, Texas, on the
23RD day of FEBRUARY, A.D., 2017, in a suit numbered CV14,902
on the Docket of said Court, wherein WATERWOOD IMPROVEMENT ASSOCIATION, INC.
plaintiff and GEORGE H. RUSSELL
defendant alleging

(TRUE AND CORRECT COPY ATTACHED)

all of which is more fully shown by a true and correct copy of plaintiff's petition which is
attached hereto; and upon presentation of said petition to him and consideration thereof, the
Honorable E.L. McCLENDON, JR Judge of said Court, made the following order thereon:

(TRUE AND CORRECT COPY ATTACHED)

You are therefore commanded to desist and refrain from

(TRUE AND CORRECT COPY ATTACHED)

until and pending the hearing of such petition upon plaintiff's application for a temporary
injunction before the judge of said Court at 9:00 A.M. on the 15TH day of
MARCH, 2017, in the District court room in the Courthouse of San
Jacinto County, in the City of Coldspring, Texas, when and where you will appear to show cause
why injunction should not be granted upon such petition effective until final decree in such suit.

Issued and given under my hand and seal of said Court, at office in Coldspring, Texas,
this 23RD day of FEBRUARY, A.D., 2017

REBECCA CAPERS, DISTRICT CLERK
SAN JACINTO COUNTY, TEXAS

By Rebecca Capers Deputy

Filed: 2/24/2017 3:03:17 PM
Rebecca Capers
District Clerk
San Jacinto County, Texas

Service Return

Cause No.: CV14,902
 Court: 258TH DISTRICT

WATERWOOD IMPROVEMENT ASSOCIATION, INC.

VS
GEORGE H. RUSSELL

Addressee: GEORGE H. RUSSELL

Address for Service: 1401 19th STREET, HUNTSVILLE, TEXAS 77340 OR WHEREVER HE MAY BE FOUND

Came to hand on the 23 day of February, 2017, at 4:30p.m., and executed in San Jacinto County, Texas by delivering to each of the within named defendants in person, a true copy of this Citation with the date of delivery endorsed thereon, together with the accompanying copy of the Citation and Original Petition for Enforcement of Judgment at the following times and places, to-wit:

Name	Date/Time	Place, Course and Distance from Courthouse
<u>George H. Russell</u>	<u>2-23-17/5:30pm</u>	<u>20369 Bay Hill Dr., Huntsville, TX 77320</u>

And not executed as to the defendant(s), _____

The diligence used in finding said defendant(s) being: _____

and the cause of failure to execute this process is: _____

and the information received as to the whereabouts of defendant(s) being: _____

Service Fee: \$ _____

Brandon Fowler Process Server SCH3496 (exp 3-31-17)
Park County, Texas
 By: [Signature] Affiant

COMPLETE IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT.

In accordance with Rule 107: The officer or authorized person who serves, or attempts to serve, a citation shall sign the return. The signature is not required to be verified. If the return is signed by a person other than a sheriff, constable or the clerk of the court, the return shall be signed under penalty of perjury and contain the following statement:

"My name is Brandon Allen Fowler, my date of birth is 7-28-1982, and my address is 994 Sunny Dr. Livingston, TX 77351
 (First, Middle, Last)
 (Street, City, Zip)

I DECLARE UNDER PENALTY OF PERJURY THAT THE FORGOING IS TRUE AND CORRECT.

Executed in San Jacinto County, State of TX, on the 23 day of February

[Signature]
 Declarant/Authorized Process Server
SCH3496 (exp 3-31-17)
 (Id # & expiration of certification)

CLERK OF THE COURT

ATTORNEY FOR PLAINTIFF OR PLAINTIFF

REBECCA CAPERS

TRAVIS E. KITCHENS, JR.

1 STATE HIGHWAY 150, ROOM 4

P.O. DRAWER 1629

COLDSPRING, TEXAS 77331-0369

ONALASKA, TEXAS 77360

THE STATE OF TEXAS

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you."

To GEORGE H. RUSSELL, 1401 19TH STREET, HUNTSVILLE, TEXAS 77340
OR WHEREVER HE MAY BE FOUND Defendant, Greeting

You are hereby commanded to appear by filing a written answer to the Plaintiff's ORIGINAL PETITION FOR ENFORCEMENT BY CONTEMPT, ETC. ~~within~~ at or before ten o'clock A.M. of the Monday next after the expiration of twenty days after the date of service of this citation before the Honorable — District Court 258TH Judicial District of San Jacinto County, Texas, at the Courthouse of said County in Coldspring, Texas.

Said Plaintiff's Petition was filed in said court on the 23RD day of FEBRUARY A.D. 20 17, in this case, numbered CV14,902 on the docket of said court, and styled,

WATERWOOD IMPROVEMENT ASSOCIATION, INC. Plaintiff.
VS. GEORGE H. RUSSELL Defendant.

The nature of Plaintiff's demand is fully shown by a true and correct copy of Plaintiff's ORIGINAL PETITION FOR ENFORCEMENT BY CONTEMPT, ETC. ~~Petition~~ accompanying this citation and made a part hereof.

(TRUE AND CORRECT COPY ATTACHED)

The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand seal of said Court at Coldspring, Texas, this the 23RD day of FEBRUARY A.D. 20 17.

REBECCA CAPERS, CLERK, DISTRICT COURT
SAN JACINTO COUNTY, TEXAS

BY: Rebecca Capers DEPUTY

Rule 106: "the citation shall be served by the officer delivering to each defendant, in person, a true copy of this citation with the date of delivery endorsed thereon and with a copy of the petition attached thereto."

Filed: 2/24/2017 3:03:17 PM
Rebecca Capers
District Clerk
San Jacinto County, Texas

Service ReturnCause No.: CV14,902
Court: 258TH DISTRICTWATERWOOD IMPROVEMENT ASSOCIATION, INC.VS
GEORGE H. RUSSELLAddressee: GEORGE H. RUSSELLAddress for Service: 1401 19TH STREET, HUNTSVILLE, TEXAS 77340 OR WHEREVER HE MAY BECame to hand on the 23 day of February, 2017, at 4:30 pm., and executed in San Jacinto County, Texas by delivering to each of the within named defendants in person, a true copy of this Citation with the date of delivery endorsed thereon, together with the accompanying copy of the RO# Original Petition for Enforcement by Contempt at the following times and places, to-wit:

Name	Date/Time	Place, Course and Distance from Courthouse
<u>George H. Russell</u>	<u>2-23-17/5:30 pm</u>	<u>20367 Bay Hill Rd., Huntsville, TX 77320</u>

And not executed as to the defendant(s): _____

The diligence used in finding said defendant(s) being: _____

and the cause of failure to execute this process is: _____

and the information received as to the whereabouts of defendant(s) being: _____

Service Fee: \$ _____

Brandon Fowler Process Server SH3496 Exp 3-1-17
Polk County, Texas
 By: [Signature]
 Affiant

COMPLETE IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT.

In accordance with Rule 107: The officer or authorized person who serves, or attempts to serve, a citation shall sign the return. The signature is not required to be verified. If the return is signed by a person other than a sheriff, constable or the clerk of the court, the return shall be signed under penalty of perjury and contain the following statement:

"My name is Brandon Allen Fowler, my date of birth is 7-28-1982, and my address is
994 Sunny Dr. Livingston TX 77351
 (First, Middle, Last)
 (Street, City, Zip)

I DECLARE UNDER PENALTY OF PERJURY THAT THE FORGOING IS TRUE AND CORRECT.

Executed in San Jacinto County, State of TX, on the 23 day of February

[Signature]
 Declarant/Authorized Process Server
SH3496 Exp 3-1-17
 (Id # & expiration of certification)

NO. CV14.902

WATERWOOD IMPROVEMENT
ASSOCIATION, INC.

VS.

GEORGE H. RUSSELL and
UNIVERSAL ETHICIAN CHURCH

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IN THE DISTRICT COURT OF

SAN JACINTO COUNTY, TEXAS

258TH JUDICIAL DISTRICT

PLAINTIFF'S EXHIBIT 43

From: George H Russell <ghr@cyberclone.net>
 Date: February 23, 2017 at 8:09:39 PM CST
 To: Jack Zimmermann <jack.zimmermann@lzsllaw.com>, Hans Barcus
 <hans_barcus@sbcglobal.net>, George Russell <ghr@cyberclone.net>, Sue Ann
 Delk <sueann@cyberclone.net>, Waterwood WIA <wa@waterwoodwia.com>
 Subject: Fwd: BREACH OF CONTRACT BY WIA

Jack:

Please explain your role in refusing to respond to our notification of 8 February 2017 that we had no choice but to follow STATE LAW in regard to "posting" our properties WITHOUT SIGNS!!!

Please also explain your personal role in the harassment, stalking and threats from John Charlton directed against our wildlife manager today over a period of over 3 hours.

Please also explain your personal role in the insane threats from Travis Kitchens and his harassment in violation of ethics rules of the Texas Bar.

Please also explain how legally required by STATE LAW purple paint according to statute constitutes TOILETS, HEARSEs, "Constitutionally protected First Amendment signs", or any other negative "sign" or ITEM which does NOT MEET THE LEGAL DEFINITION OF STATE MANDATED PURPLE PAINT?

I will ask my attorneys to DEPOSE you to determine your PERSONAL ROLE in today's threats, intimidation, and illegal nonsense that I was thrust with on our properties this evening in order to constitute ELDER ABUSE which includes my severely handicapped wife that is under threat by WIA's illegal acts and actions.

Just because I trusted that your word was your bond as is mine I FOOLISHLY trusted your honor and personal integrity to STOP THE ABUSE OF ME, MY WIFE, OUR CHURCH, and our foundation.

In addition, any act or action against the various institutions or governmental entities that we have the fiduciary duties to protect include but are not limited to:

1. Texas Parks and Wildlife
2. The Texas Historical Commission
3. The Texas Forest Service
4. The Ethician Foundation
5. Natural Area Preservation Association.
6. Various universities and research centers that use our properties for SCIENTIFIC RESEARCH.

So to be legal, WIA would have to sue ALL ENTITIES THAT HAVE A LEGAL BASIS TO BE PROTECTED FROM TRESPASS, VANDALISM, AND POACHING.

Thus the NONSENSE thrust in my hands without notice by Travis Kitchen's GOONS directed by WIA, with your personal approval?, are without merit and CONSTITUTE ILLEGAL ACTS AND ACTIONS AGAINST MY PERSON AND A NUMBER OF STATE AGENCIES.

Should I also file a FORMAL COMPLAINT with the Texas Bar against you if your are personally involved in this nonsense or will you let me and my attorneys know in writing and under oath that you PERSONALLY HAD NOTHING TO DO WITH THE ILLEGAL ACTS AND ACTIONS OF WIA?

From: "George H Russell" <ghr@cyberclone.net>
Date: Thursday, February 23, 2017 9:09 PM
To: "Travis Kitchens" <tklaw1@eastex.net>; "George Russell" <ghr@cyberclone.net>; "Jack Zimmermann" <jack.zimmermann@zlszlaw.com>; "Sue Ann Delk" <sueann@cyberclone.net>
Subject: TEXAS DISCIPLINARY RULES OF - Template.cfm

Travis and Zimmerman,

I implore your to read and study the attached rules and then back off from harassing me and my wife for ZERO legal reason.

I did file twice against the corrupt attorney who ILLEGALLY represented Bass Boat Village against me and various State entities.

Tragically he decided to end his life. I do wish both of you long and peaceful lives and thus I beg both of your to stop the illegal harassment of me and my handicapped wife in violation of State Law for no legitimate purpose except harassment and intimidation.

We also wish to live long and peaceful lives without being harassed, threatened, intimidated, stalked, violated, assaulted and so on and on and on.

ghr

[https://www.texasbar.com/AM/Template.cfm?
Section=Home&Template=/CM/ContentDisplay.cfm&ContentID=27271](https://www.texasbar.com/AM/Template.cfm?Section=Home&Template=/CM/ContentDisplay.cfm&ContentID=27271)

From: "George H Russell" <ghr@cyberclone.net>
Date: Thursday, February 23, 2017 10:34 PM
To: "Travis Kitchens" <tklaw1@eastex.net>; "Waterwood WIA" <wia@waterwoodwia.com>; "Jack Zimmermann" <jack.zimmermann@zlzslaw.com>; "George Russell" <ghr@cyberclone.net>; "Sue Ann Delk" <sueann@cyberclone.net>; "Hans Barcus" <hans_barcus@sbcglobal.net>; "Lanny Ray" <lanny@crblawyers.com>; "Bryan Cantrell" <bryancantrell@sbcglobal.net>; "Henry Bird" <HBird@cnhi.com>; "Tom Waddill" <tomwaddill@itemonline.com>
Subject: elder abuse texas law - Google Search

My handicap wife and I are totally threatened by WIA and Travis Kitchens and Jack Zimmerman as VICTIMS OF ELDERLY ABUSE!!!

The crimes committed against US should cease immediately and Travis Kitchens should send LETTERS OF APOLOGY to me and my elderly and crippled wife for his transgressions and EGREGIOUS VIOLATIONS TO TEXAS LAWS ON MANY FRONTS.

Travis Kitchens can ask for forgiveness and as a follower of Jesus I have no choice but to forgive him of his violations of STATE LAWS and his duty to his LAW CARD in regard to ETHICS.

ghr

P. S. Tom Waddill of the Huntsville ITEM are obviously under the control of the "oligarchy" and thus will REFUSE to expose malfeasance in WIA's GOVERNANCE.

<https://www.google.com/search?q=elder+abuse+texas+law&ie=utf-8&oe=utf-8>

From: George H Russell [mailto:ghr@cyberclone.net]
Sent: Thursday, February 23, 2017 10:42 PM
To: Jack Zimmermann; Sue Ann Delk; Hans Barcus
Subject: Re: Part and party

Yes. I have pushed into trying to hide from your transgressions even if
it means alchohol consumption due to being FORCED INTO DRINKING DUE TO
EMOTIONAL DISTRSS

On 2/23/2017 10:39 PM, George H Russell wrote:

> Jack.

>

> Please let me know IMMEDIATELY if you are "part and party" to the
> criminal acts against "us" by WIA.

>

> I wold avoid having to be forced to sue your personally and filing
> criminal charges against you for ELDERLY ABUSE.

>

>

>

From: "George H Russell" <ghr@cyberclone.net>
Date: Thursday, February 23, 2017 11:00 PM
To: "Travis Kitchens" <tklaw1@eastex.net>; "Jack Zimmermann" <jack.zimmermann@zlzslaw.com>; "Hans Barcus" <hans_barcus@sbcglobal.net>; "Sue Ann Delk" <sueann@cyberclone.net>; "George Russell" <ghr@cyberclone.net>
Subject: Re: WHY cant we be friend?

Jack,

I have attempted to confront EVIL and expose the HOLOCAUST yet YOUR have allied yourself with EVIL and HATRED AGAINST OUR CHURCH which includes JEWS.

What kind of evil hypocrisy do YOU REPRESENT?

Are you really the leader of the WIA HATE MONGERS?

ghr

Ps I am really too tired and old to continue to be harassed by WIA after spending millions to protect WIA

Back Stabbing is EVIL!!!

On 2/23/2017 10:52 PM, George H Russell wrote:

> Why do you work for Satan and NOT for world peace as did Jesus?

>

> I just don't get it.

>

> You have caused me and my wife elderly GREAT DISTRESS .

>

> Why?

>

NO. CV14,902

WATERWOOD IMPROVEMENT
ASSOCIATION, INC.

VS.

GEORGE H. RUSSELL and
UNIVERSAL ETHICIAN CHURCH

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IN THE DISTRICT COURT OF

SAN JACINTO COUNTY, TEXAS

258TH JUDICIAL DISTRICT

PLAINTIFF'S EXHIBIT 44

NO. CV14,902

**WATERWOOD IMPROVEMENT
ASSOCIATION, INC.**
Plaintiff,

V.

GEORGE H. RUSSELL

Defendant.

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IN THE DISTRICT COURT

258th JUDICIAL DISTRICT

OF SAN JACINTO COUNTY, TEXAS

**DEFENDANT, GEORGE H. RUSSELL'S ORIGINAL ANSWER,
COUNTERCLAIM, AND REQUEST FOR DISCLOSURE**

NOW COMES Defendant, George H. Russell (hereinafter "Russell") in the above-entitled and numbered cause, and files this, his Original Answer, Counterclaim, and Request for Disclosure and would show unto the Court the following:

**I.
GENERAL DENIAL**

1. Defendant Russell denies each and every allegation of Plaintiff's Original Petition, and demands strict proof thereof as required by the Texas Rules of Civil Procedure.

**II.
AFFIRMATIVE DEFENSES**

2. Defendant would show that Plaintiff's claims are barred by the equitable doctrines of waiver, laches and estoppel, along with unclean hands, the parole evidence rule, statute of frauds, and necessity.

**III.
COUNTERCLAIMS**

A. FRIVOLOUS LAWSUIT

3. Given that the Mediated Settlement Agreement and resulting Agreed Judgement nowhere prohibit the painting of trees, particularly not when done in compliance and reliance on

Texas law, this action is frivolous as it was clearly brought in bad faith having no basis in law or fact.

4. The Mediated Settlement Agreement ("MSA") and resulting Agreed Judgement prohibit signs that are not approved or agreed to or other items being placed within 200 feet of certain roadways. Plaintiff's Petition expressly admits and states that the order and MSA prohibits "the placement of signs" only. See, e.g., Pl's Pet. at p.2, ¶ 2. The MSA was an arms' length transaction with counsel on both sides. If WIA had desired to prohibit painting, WIA should have bargained for that provision. Its absence renders this action frivolous in fact.

5. The action is frivolous in law as well because painting purple markings on trees is statutorily prescribed as a method of marking land to ward off trespassers. Texas Penal Code Section 30.05 provides:

Sec. 30.05. CRIMINAL TRESPASS.

(a) A person commits an offense if the person enters or remains on or in property of another, including residential land, agricultural land, a recreational vehicle park, a building, or an aircraft or other vehicle, without effective consent and the person:

- (1) had notice that the entry was forbidden; or
- (2) received notice to depart but failed to do so.

(b) For purposes of this section:

- (1) "Entry" means the intrusion of the entire body.
- (2) "Notice" means:

- (A) oral or written communication by the owner or someone with apparent authority to act for the owner;
- (B) fencing or other enclosure obviously designed to exclude intruders or to contain livestock;
- (C) a sign or signs posted on the property or at the entrance to the building, reasonably likely to come to the attention of intruders, indicating that entry is forbidden;

D) the placement of identifying purple paint marks on trees or posts on the property, provided that the marks are:

- (i) vertical lines of not less than eight inches in length and not less than one inch in width;
- (ii) placed so that the bottom of the mark is not less than three feet from the ground or more than five feet from the ground; and
- (iii) placed at locations that are readily visible to any person approaching the property and no more than:
 - (a) 100 feet apart on forest land; or
 - (b) 1,000 feet apart on land other than forest land; or

TEX. PENAL CODE §30.05 (emphasis added).

6. Texas law differentiates between signs and purple marks, making this action frivolous in law, particularly given that Texas' trespass law prescribes the use of purple paint marking to provide notice to potential trespassers.

7. Defendant hereby requests recovery of court costs and all reasonable and necessary attorney's fees incurred in connection with the defense of this claim pursuant to Chapters 9 and 10 of Texas' Civil Practice & Remedies Code and TRCP 13.

B. ABUSE OF PROCESS

8. The bringing of this action and the initial TRO obtained constitute the tort of abuse of process as it is legal process brought for a subversive and nefarious reason – to extort additional funds from Collins.

IV. DAMAGES

9. Counter-Plaintiff seeks all damages to which he is entitled as a matter of law, including actual and consequential damages, exemplary damages, attorney's fees and costs resulting from Counter-Defendant's actions.

V. ATTORNEY'S FEES

10. Counter-Plaintiff seeks recovery of his attorney's fees in pursuing this action under the Texas Declaratory Judgment Act, as well as under Chapters 9 and 10 of Texas' Civil Practice & Remedies Code and TRCP 13 as Counter-Defendant's actions have necessitated the hiring of the undersigned.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendant Russell prays that Plaintiff take nothing; that Defendant Russell be allowed to recover the costs which have been incurred by reason of the charges and allegations of Plaintiff against Defendant Russell; and that the Court grant Defendant Russell damages as specified above, including exemplary damages, and for such other and further relief to which he may show itself justly entitled.

Respectfully submitted,

CANTRELL, RAY & BARCUS, LLP

By: 

J. Hans Barcus

State Bar No. 00793205

hans@crblawyers.com

Lanny D. Ray

State Bar No. 24000027

lanny@crblawyers.com

P.O. Box 1019

Huntsville, Texas 77342

936-730-8541: 936-730-8535 fax

ATTORNEY FOR DEFENDANT/COUNTER-
PLAINTIFF GEORGE H. RUSSELL

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above was served on each attorney of record or party in accordance with the Texas Rules of Civil Procedure on this 2 day of March, 2017.

Via e-file and/or facsimile: (936) 646-6971

Travis E. Kitchens, Jr.

Attorney at Law

P.O. Box 1629

Onalaska, Texas 77360


Lanny D. Ray

NO. CV14.902

WATERWOOD IMPROVEMENT ASSOCIATION, INC. Plaintiff,	§	IN THE DISTRICT COURT
	§	
	§	
V.	§	258 th JUDICIAL DISTRICT
	§	
GEORGE H. RUSSELL AND UNIVERSAL ETHICIAN CHURCH Defendant.	§	
	§	OF SAN JACINTO COUNTY, TEXAS

**DEFENDANT, UNIVERSAL ETHICIAN CHURCH'S ORIGINAL ANSWER,
COUNTERCLAIM, AND REQUEST FOR DISCLOSURE**

NOW COMES Defendant, Universal Ethician Church (hereinafter "UEC") in the above-entitled and numbered cause, and files this, its Original Answer, Counterclaim, and Request for Disclosure and would show unto the Court the following:

**I.
GENERAL DENIAL**

1. Defendant UEC denies each and every allegation of Plaintiff's Original Petition, and demands strict proof thereof as required by the Texas Rules of Civil Procedure.

**II.
AFFIRMATIVE DEFENSES**

2. Defendant would show that Plaintiff's claims are barred by the equitable doctrines of waiver, laches and estoppel, along with unclean hands, the parole evidence rule, statute of frauds, and necessity.

**III.
COUNTERCLAIMS**

A. FRIVOLOUS LAWSUIT

3. Given that the Mediated Settlement Agreement and resulting Agreed Judgement nowhere prohibit the painting of trees, particularly not when done in compliance and reliance on

Texas law, this action is frivolous as it was clearly brought in bad faith having no basis in law or fact.

4. The Mediated Settlement Agreement ("MSA") and resulting Agreed Judgement prohibit signs that are not approved or agreed to or other items being placed within 200 feet of certain roadways. Plaintiff's Petition expressly admits and states that the order and MSA prohibits "the placement of signs" only. See, e.g., Pl's Pet. at p.2, ¶ 2. The MSA was an arms' length transaction with counsel on both sides. If WIA had desired to prohibit painting, WIA should have bargained for that provision. Its absence renders this action frivolous in fact.

5. The action is frivolous in law as well because painting purple markings on trees is statutorily prescribed as a method of marking land to ward off trespassers. Texas Penal Code Section 30.05 provides:

Sec. 30.05. CRIMINAL TRESPASS.

(a) A person commits an offense if the person enters or remains on or in property of another, including residential land, agricultural land, a recreational vehicle park, a building, or an aircraft or other vehicle, without effective consent and the person:

- (1) had notice that the entry was forbidden; or
- (2) received notice to depart but failed to do so.

(b) For purposes of this section:

- (1) "Entry" means the intrusion of the entire body.
- (2) "Notice" means:

- (A) oral or written communication by the owner or someone with apparent authority to act for the owner;
- (B) fencing or other enclosure obviously designed to exclude intruders or to contain livestock;
- (C) a sign or signs posted on the property or at the entrance to the building, reasonably likely to come to the attention of intruders, indicating that entry is forbidden;

D) the placement of identifying purple paint marks on trees or posts on the property, provided that the marks are:

- (i) vertical lines of not less than eight inches in length and not less than one inch in width;
- (ii) placed so that the bottom of the mark is not less than three feet from the ground or more than five feet from the ground; and
- (iii) placed at locations that are readily visible to any person approaching the property and no more than:
 - (a) 100 feet apart on forest land; or
 - (b) 1,000 feet apart on land other than forest land; or

TEX. PENAL CODE §30.05 (emphasis added).

6. Texas law differentiates between signs and purple marks, making this action frivolous in law, particularly given that Texas' trespass law prescribes the use of purple paint marking to provide notice to potential trespassers.

7. Defendant hereby requests recovery of court costs and all reasonable and necessary attorney's fees incurred in connection with the defense of this claim pursuant to Chapters 9 and 10 of Texas' Civil Practice & Remedies Code and TRCP 13.

B. ABUSE OF PROCESS

8. The bringing of this action and the initial TRO obtained constitute the tort of abuse of process as it is legal process brought for a subversive and nefarious reason – to extort additional funds from UEC.

IV. DAMAGES

9. Counter-Plaintiff seeks all damages to which he is entitled as a matter of law, including actual and consequential damages, exemplary damages, attorney's fees and costs resulting from Counter-Defendant's actions.

V. ATTORNEY'S FEES

10. Counter-Plaintiff seeks recovery of his attorney's fees in pursuing this action under the Texas Declaratory Judgment Act, as well as under Chapters 9 and 10 of Texas' Civil Practice & Remedies Code and TRCP 13 as Counter-Defendant's actions have necessitated the hiring of the undersigned.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendant UEC prays that Plaintiff take nothing; that Defendant UEC be allowed to recover the costs which have been incurred by reason of the charges and allegations of Plaintiff against Defendant UEC; and that the Court grant Defendant UEC damages as specified above, including exemplary damages, and for such other and further relief to which he may show itself justly entitled.

Respectfully submitted,

CANTRELL, RAY & BARCUS, LLP

By: 

J. Hans Barcus

State Bar No. 00793205

hans@crblawyers.com

Lanny D. Ray

State Bar No. 24000027

lanny@crblawyers.com

P.O. Box 1019

Huntsville, Texas 77342

936-730-8541: 936-730-8535 fax

ATTORNEY FOR DEFENDANT/COUNTER-
PLAINTIFF UNIVERSAL ETHICIAN CHURCH

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above was served on each attorney of record or party in accordance with the Texas Rules of Civil Procedure on this 20th day of March, 2017.


Via e-file and/or facsimile: (936) 646-6971

Travis E. Kitchens, Jr.

Attorney at Law

P.O. Box 1629

Onalaska, Texas 77360


J. Hans Barcus

NO. CV14,902

WATERWOOD IMPROVEMENT
ASSOCIATION, INC.

VS.

GEORGE H. RUSSELL and
UNIVERSAL ETHICIAN CHURCH

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IN THE DISTRICT COURT OF

SAN JACINTO COUNTY, TEXAS

258TH JUDICIAL DISTRICT

PLAINTIFF'S EXHIBIT 45

NO. CV14,902

WATERWOOD IMPROVEMENT
ASSOCIATION, INC.

VS.

GEORGE H. RUSSELL and
UNIVERSAL ETHICIAN CHURCH

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IN THE DISTRICT COURT OF

SAN JACINTO COUNTY, TEXAS

258TH JUDICIAL DISTRICT

AFFIDAVIT

THE STATE OF TEXAS *

COUNTY OF _____ *

BEFORE ME, the undersigned authority, on this day personally appeared JOE MOORE,
who being by me duly sworn on his oath deposed and said:

1. "I am the Executive Director of the Waterwood Improvement Association, the property owners association for the Waterwood Subdivision in San Jacinto County, Texas, Plaintiff in the above entitled and numbered cause.
2. "I am over 18 years of age and have never been convicted of a felony offense.
3. "I am fully qualified and authorized to make this Affidavit.
4. "The claim referred to in the foregoing Plaintiff's First Amended Original Petition, which is incorporated herein by reference the same as if fully copied and set forth at length herein, arises out of the Agreed Final Judgment, Plaintiff's Exhibit 1, and the Mediation Settlement Agreement, Plaintiff's Exhibit 2, concerning property in the Waterwood Subdivision in San Jacinto County.
5. "On Wednesday, February 22, 2017, it came to my attention that George Russell had painted purple squares on trees which are inside his property line on the north side of

Joe Moore Affidavit

Page 1

- Waterwood Parkway, but within 200 feet of the boundary of the Waterway Parkway.
6. "I went and saw the paint that was put on trees along the Waterwood Parkway. The five (5) photographs, identified as Plaintiff's Exhibit 3, fairly and accurately depict some of the trees that were painted.
 7. "It later came to my attention that an additional 21 trees on Latrobe Street between the Waterwood Parkway and Pine Valley had been painted similarly to those on the Waterwood Parkway. I have personally observed these additionally painted trees.
 8. "I have since February 23, 2017, personally located a total of 207 trees painted on the following streets: 21 trees Parkway inbound 980 to WIA office; 6 trees Parkway inbound across from old club house; 50 trees Parkway outbound Latrobe to 980; 29 trees Latrobe-Parkway to Pine Valley Loop; 88 trees Latrobe-Doral to LaJolla; 6 trees Gate on LaJolla North side; 4 trees Latrobe about 1/2 way down; and 3 trees on Doral just after Augusta east side.
 9. "I am familiar with the streets in Waterwood, and these tree paintings were not in existence prior to February 22, 2017.
 10. "On behalf of the Waterwood Improvement Association, Inc., I am requesting the Court issue the injunctions requested.
 11. "Further, affiant sayth not."

WATERWOOD IMPROVEMENT
ASSOCIATION, INC.

By : _____
JOE MOORE, Executive Director

SUBSCRIBED AND SWORN TO BEFORE ME on this 10th day of March, 2017, by
JOE MOORE, Executive Director, Waterwood Improvement Association, Inc., to certify which
witness my hand and seal of office.



Lisa Calcote Hayman
NOTARY PUBLIC, STATE OF TEXAS

NO. CV14,902

WATERWOOD IMPROVEMENT
ASSOCIATION, INC.

VS.

GEORGE H. RUSSELL and
UNIVERSAL ETHICIAN CHURCH

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IN THE DISTRICT COURT OF

SAN JACINTO COUNTY, TEXAS

258TH JUDICIAL DISTRICT

PLAINTIFF'S EXHIBIT 46

NO. CV14,902**WATERWOOD IMPROVEMENT
ASSOCIATION, INC.****Plaintiff,****V.****GEORGE H. RUSSELL AND
UNIVERSAL ETHICIAN CHURCH****Defendant.**§
§
§
§
§
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§
§**IN THE DISTRICT COURT****258th JUDICIAL DISTRICT****OF SAN JACINTO COUNTY, TEXAS****DEFENDANT, GEORGE H. RUSSELL'S ANSWERS TO
PLAINTIFF'S CORRECTED FIRST SET OF INTERROGATORIES**

TO: Waterwood Improvement Association, Inc., Plaintiff, by and through Plaintiff's attorney of record, Travis E. Kitchens, Jr., Attorney at Law, P.O. Box 1629, Onalaska, Texas 77360.

NOW COMES Defendant, George H. Russell, by and through J. Hans Barcus, Defendant's attorney of record, and responds to this Corrected First Set of Interrogatories propounded by Plaintiff, Waterwood Improvement Association, Inc. pursuant to Rule 196 of the Texas Rules of Civil Procedure.

Respectfully submitted,

CANTRELL, RAY & BARCUS, LLP

By: 

J. Hans Barcus

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ATTORNEY FOR DEFENDANT

GEORGE H. RUSSELL

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above was served on each attorney of record or party in accordance with the Texas Rules of Civil Procedure on this 13th day of April, 2017.

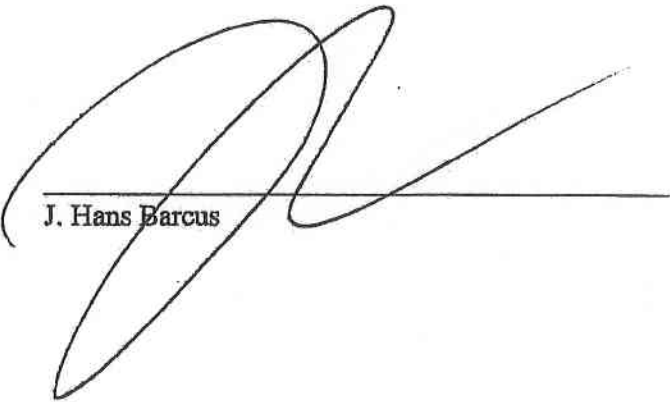
Via CMRRR: 7016 0750 0000 0028 3821

Travis E. Kitchens, Jr.

Attorney at Law

P.O. Box 1629

Onalaska, Texas 77360



J. Hans Barcus

ANSWERS TO INTERROGATORIES

1. Please state all facts in support of your defense, under paragraph III of "Defendant, George H. Russell Original Answer, Counter-Claim and Request for Disclosure" wherein you state that "Given that the Mediated Settlement Agreement and resulting Agreed Judgment nowhere prohibit the painting of trees, particularly not when done in compliance and reliance on Texas law, this action is frivolous as it was clearly brought in bad faith having no basis in law or fact" and identify all document in support of such allegation.

ANSWER: Objection is made to this Interrogatory for the reason that the information sought is overbroad, harassing, and causes Defendant to marshal all evidence supporting his claims and/or defenses. Subject to this objection and without waiving the same; see Mediated Settlement Agreement, Agreed Judgment and Texas Penal Code Section 30.05.

2. Please state all facts in support of your defense, under paragraph III of "Defendant, George H. Russell Original Answer, Counter-Claim and Request for Disclosure", wherein you state that "If WIA had desired to prohibit painting, WIA should have bargained for that provision. Its absence renders this action frivolous in fact" and identify all document in support of such allegation.

ANSWER: Objection is made to this Interrogatory for the reason that the information sought is overbroad, harassing, and causes Defendant to marshal all evidence supporting his claims and/or defenses. Subject to this objection and without waiving the same; the Mediated Settlement Agreement and the Agreed Judgment state, in relevant parts, "Russell will not put up any signs, toilets, hearses, cars or other items within 200 from the boundary of any right of way of the Waterwood Parkway." The MSA nor the Agreed Judgment mention anything about the prohibition of painting trees to ward off trespassers.

3. Please state all facts in support of your defense, under paragraph III of "Defendant, George H. Russell Original Answer, Counter-Claim and Request for Disclosure", wherein you state that The action is frivolous in law as well because painting purple markings on trees is statutorily prescribed as a method of marking land to ward off trespassers" and identify all document in support of such allegation.

ANSWER: Objection is made to this Interrogatory for the reason that the information sought is overbroad, harassing, and causes Defendant to marshal all evidence supporting his claims and/or defenses. Subject to this objection and without waiving the same; see Texas Penal Code Section 30.05.

4. Please state all facts in support of your defense, under paragraph III of "Defendant, George H. Russell Original Answer, Counter-Claim and Request for Disclosure", wherein you state that Texas law differentiates between signs and purple marks, making this action frivolous in law, particularly given that Texas' trespass law prescribes the use of purple paint marking to

provide notice to potential trespassers" and identify all document in support of such allegation.

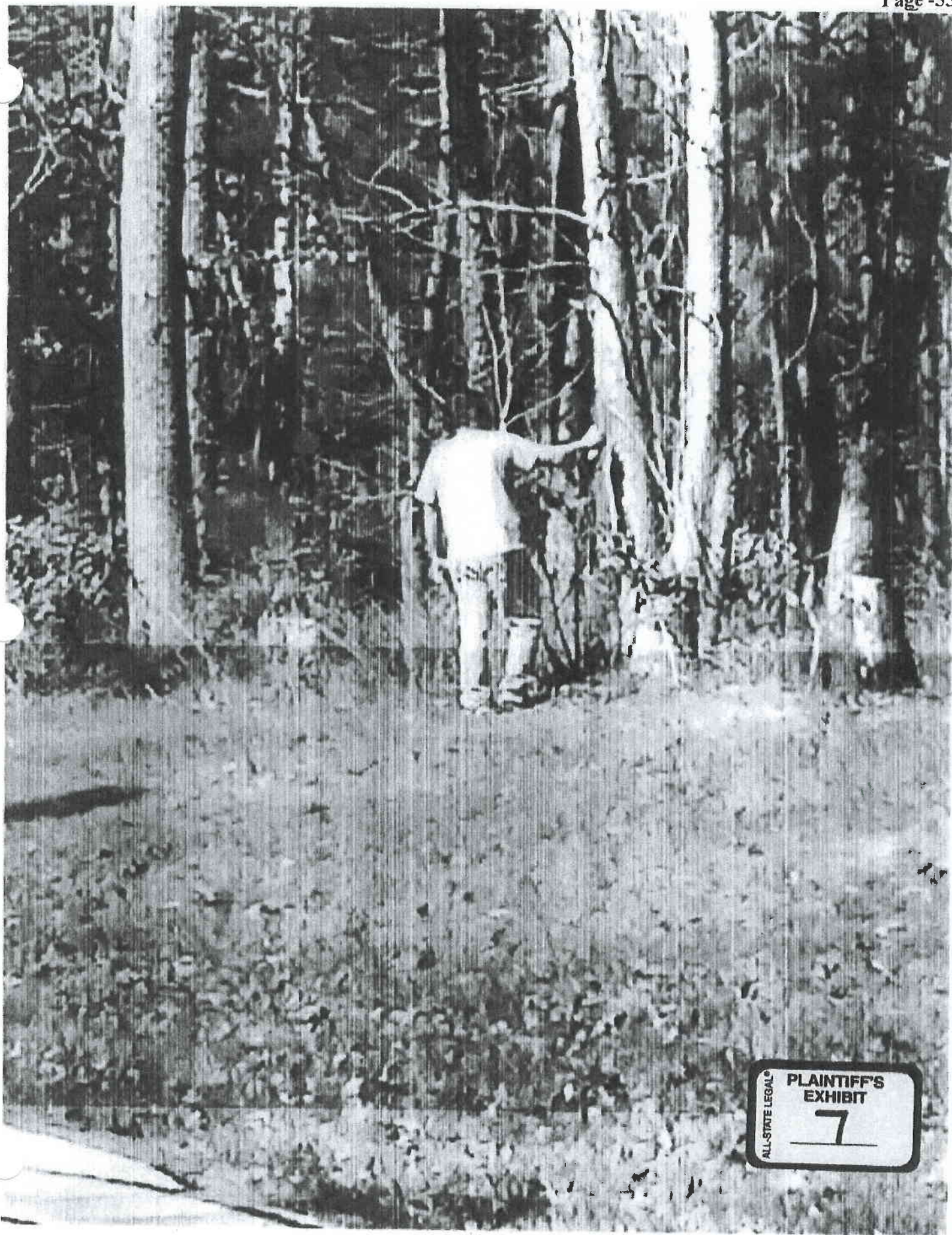
ANSWER: Objection is made to this Interrogatory for the reason that the information sought is overbroad, harassing, and causes Defendant to marshal all evidence supporting his claims and/or defenses. Subject to this objection and without waiving the same; see Texas Penal Code Section 30.05.

5. Please state all facts in support of your defense, under paragraph IV of "Defendant, George H. Russell Original Answer, Counter-Claim and Request for Disclosure", wherein you state that "The bringing of this action and the initial TRO obtained constitute the tort of abuse of process as it is legal process brought for a subversive and nefarious reason - to extort additional funds from Russell" and identify all document in support of such allegation.

ANSWER: Objection is made to this Interrogatory for the reason that the information sought is overbroad, harassing, and causes Defendant to marshal all evidence supporting his claims and/or defenses. Subject to this objection and without waiving the same; see Mediated Settlement Agreement, Agreed Judgment and Texas Penal Code Section 30.05.

6. Please identify the person shown in the attached photograph, marked "Plaintiff's Exhibit "7".

ANSWER: Mike Zeltner



NO. CV14,902

WATERWOOD IMPROVEMENT
ASSOCIATION, INC.

VS.

GEORGE H. RUSSELL and
UNIVERSAL ETHICIAN CHURCH

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IN THE DISTRICT COURT OF

SAN JACINTO COUNTY, TEXAS

258TH JUDICIAL DISTRICT

PLAINTIFF'S EXHIBIT 47

NO. CV14,902

WATERWOOD IMPROVEMENT
ASSOCIATION, INC.
Plaintiff,

V.

GEORGE H. RUSSELL AND
UNIVERSAL ETHICIAN CHURCH
Defendant.

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IN THE DISTRICT COURT

258th JUDICIAL DISTRICT

OF SAN JACINTO COUNTY, TEXAS

**DEFENDANTS' RESPONSE TO
PLAINTIFF'S REQUEST FOR DISCLOSURE**

TO: Waterwood Improvement Association, Inc., Plaintiff, by and through Plaintiff's attorney of record, Travis E. Kitchens, Jr., Attorney at Law, P.O. Box 1629, Onalaska, Texas 77360.

Pursuant to Rule 194.3 of the Texas Rules of Civil Procedure, Defendants, George H. Russell and Universal Ethician Church, by and through J. Hans Barcus, Defendants' attorney of record, serve the attached responses to Plaintiff's Request for Disclosure.

Respectfully submitted,

CANTRELL, RAY & BARCUS, LLP

By:

J. Hans Barcus

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Lanny D. Ray

State Bar No. 24000027

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Huntsville, Texas 77342

936-730-8541: 936-730-8535 fax

ATTORNEY FOR DEFENDANT

GEORGE H. RUSSELL

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above was served on each attorney of record or party in accordance with the Texas Rules of Civil Procedure on this 10th day of April, 2017.

Via CMRRR: 7013 1710 0000 4059 2992

Travis E. Kitchens, Jr.

Attorney at Law

P.O. Box 1629

Onalaska, Texas 77360



J. Hans Barcus

RESPONSES TO REQUESTS FOR DISCLOSURE

REQUEST FOR DISCLOSURE NO. 1:

R.194.2(a). State the correct names of the parties to the lawsuit.

RESPONSE: To the extent known, all parties are named correctly.

REQUEST FOR DISCLOSURE NO. 2:

R.194.2(b). State the name, address, and telephone number of each potential party.

RESPONSE: None at this time.

REQUEST FOR DISCLOSURE NO. 3:

R.194.2(c). State the legal theories and, in general, the factual bases for your claims or defenses.

RESPONSE: See Pleadings.

Defendants deny each and every allegation of Plaintiffs' Original Petition, and demands strict proof thereof as required by the Texas Rules of Civil Procedure.

Defendants would show that Plaintiff's claims are barred by the equitable doctrines of waiver, laches and estoppel, along with unclean hands, the parole evidence rule, statute of frauds, and necessity.

COUNTERCLAIMS

A. FRIVOLOUS LAWSUIT

Given that the Mediated Settlement Agreement and resulting Agreed Judgement nowhere prohibit the painting of trees, particularly not when done in compliance and reliance on Texas law, this action is frivolous as it was clearly brought in bad faith having no basis in law or fact.

The Mediated Settlement Agreement ("MSA") and resulting Agreed Judgement prohibit signs that are not approved or agreed to or other items being placed within 200 feet of certain roadways. Plaintiff's Petition expressly admits and states that the order and MSA prohibits "the placement of signs" only. See, e.g., Pl's Pet. at p.2, ¶2. The MSA was an arms' length transaction with counsel on both sides. If WIA had desired to prohibit painting, WIA should have bargained for that provision. Its absence renders this action frivolous in fact.

The action is frivolous in law as well because painting purple markings on trees is statutorily prescribed as a method of marking land to ward off trespassers. Texas Penal Code Section 30.05 provides:

Sec. 30.05. CRIMINAL TRESPASS.

(a) A person commits an offense if the person enters or remains on or in property of another, including residential land, agricultural land, a recreational vehicle park, a building, or an aircraft or other vehicle, without effective consent and the person:

- (1) had notice that the entry was forbidden; or
- (2) received notice to depart but failed to do so.

(b) For purposes of this section:

- (1) "Entry" means the intrusion of the entire body,
- (2) "Notice" means:

- (A) oral or written communication by the owner or someone with apparent authority to act for the owner;
- (B) fencing or other enclosure obviously designed to exclude intruders or to contain livestock;
- (C) a sign or signs posted on the property or at the entrance to the building, reasonably likely to come to the attention of intruders, indicating that entry is forbidden;

D) the placement of identifying purple paint marks on trees or posts on the property, provided that the marks are:

- (i) vertical lines of not less than eight inches in length and not less than one inch in width;
- (ii) placed so that the bottom of the mark is not less than three feet from the ground or more than five feet from the ground; and
- (iii) placed at locations that are readily visible to any person approaching the property and no more than:
 - (a) 100 feet apart on forest land; or
 - (b) 1,000 feet apart on land other than forest land; or

TEX. PENAL CODE §30.05 (emphasis added).

Texas law differentiates between signs and purple marks, making this action frivolous in law, particularly given that Texas' trespass law prescribes the use of purple paint marking to provide notice to potential trespassers.

Defendants hereby request recovery of court costs and all reasonable and necessary attorney's fees incurred in connection with the defense of this claim pursuant to Chapters 9 and 10 of Texas' Civil Practice & Remedies Code and TRCP 13.

B. ABUSE OF PROCESS

The bringing of this action and the initial TRO obtained constitute the tort of abuse of process as it is legal process brought for a subversive and nefarious reason – to extort additional funds from Collins.

REQUEST FOR DISCLOSURE NO. 4:

R.194.2(d). State the amount of economic damages and any method of calculating the damages.

RESPONSE: Defendants hereby request recovery of court costs and all reasonable and necessary attorney's fees incurred in connection with the defense of this claim pursuant to Chapters 9 and 10 of Texas' Civil Practice & Remedies Code and TRCP 13.

Counter-Plaintiffs seek all damages to which they are entitled as a matter of law, including actual and consequential damages, exemplary damages, attorney's fees and costs resulting from Counter-Defendant's actions.

Further, Counter-Plaintiffs seek recovery of their attorney's fees in pursuing this action under the Texas Declaratory Judgment Act, as well as under Chapters 9 and 10 of Texas' Civil Practice & Remedies Code and TRCP 13 as Counter-Defendant's actions have necessitated the hiring of the undersigned.

REQUEST FOR DISCLOSURE NO. 5:

R.194.2(e). State the name, address, and telephone number of persons having knowledge of relevant facts, and state each person's connection with the case.

RESPONSE:

1. George Russell
Through his attorneys of record
J. Hans Barcus
Lanny D. Ray
Cantrell, Ray & Barcus, LLP
P.O. Box 1019
Huntsville, Texas 77342
(936) 730-8541
Defendants/Counter-Plaintiffs herein.