

IN THE CIRCUIT COURT
FOR THE SIXTH JUDICIAL CIRCUIT
DOUGLAS COUNTY, TUSCOLA, ILLINOIS

JOHN KRAFT,

Plaintiffs,

vs.

No. 13-MR-31

ARCOLA TOWNSHIP

and

WILLIAM COOMBE, acting in
his official capacity as
FOIA Officer and Township
Clerk of ARCOLA TOWNSHIP,

Defendants.

SPECIAL AND LIMITED APPEARANCE AND
MOTION TO DISMISS ENTIRE PROCEEDING
FOR LACK OF JURISDICTION OVER THE DEFENDANTS

Comes now WILLIAM COOMBE and ARCOLA TOWNSHIP, by their attorney, Mark T. Petty, and state the following for their Special and Limited Appearance and Motion to Dismiss Entire Proceeding for Lack of Jurisdiction Over the Defendants:

✓ 1. That WILLIAM COOMBE is an individual who resides in rural Arcola, Douglas County, Illinois.

✓ 2. That ARCOLA TOWNSHIP is a public body of the State of Illinois with its principal office in Arcola, Douglas County, Illinois.

2 3. That the Summons in this cause was directed to Mark T. Petty, Atty. for Arcola Township and was duly served on Mark T. Petty on the 22nd day of June, 2013, a copy of the Summons being attached hereto and incorporated herein by reference.

4. That under Section 5/202-203 it is provided that

service on individuals can be had by leaving a copy of the Summons with the Defendant personally, but no such service was had on the Defendant, WILLIAM COOMBE, and in fact, no service was had on anyone other than Mark T. Petty.

5. That under Section 5/2-211 of 735 ILCS it is provided the manner and form in which service on public, municipal or governmental corporations can be had.

6. That Section 5/2-211 of 735 ILCS provides that Summons may be served by leaving a copy with the supervisor or town clerk in the case of a town.

7. That no such service was had upon either the supervisor or the town clerk in this cause.

8. That sending the service to the attorney for the township represents an abuse of process as the Plaintiff in this cause is an experienced litigator and has filed suit under the Freedom of Information Act in Iroquois and Edgar Counties.

9. That the Defendants have incurred legal fees in connection with bringing this motion and also incurred court costs.

10. That a second Summons was served on William Coombe at his residence in Douglas County and a copy of the same is attached hereto and incorporated herein by reference.

11. That although William Coombe is the township clerk the Summons was not directed to him in that capacity or in his capacity under the Freedom of Information Act or any other manner

and he is named as a party Defendant in this cause.

12. That William Coombe, in his individual capacity, has no connection with the matters set forth in the Complaint and no Summons has been served upon Arcola Township unless the Summons that was served on William Coombe represents a service on him in his representative capacity and Arcola Township at the same time.

✓ 13. That service of the Summons on the attorney for the Arcola Township is an extreme abuse of process as it is well known among persons conversant with the legal issues of *in personam* jurisdiction that an attorney cannot be served with initial Summons in a cause unless he consents to the receipt of the same.

✓ 14. That the attorney for the Defendants did not consent to the receipt of the same.

? 15. That the remedies sought in this cause under subparagraphs A through E of the prayer for the Complaint are against both "Defendants."

✓ 16. That Section 140/11 of 5 ILCS does not authorize any remedy such as that sought by the Plaintiff, other than against the "public body" and not against individuals, including not against the "Freedom of Information Officer."

? 17. That although the Complaint alleges that William Coombe is sued in his official capacity as FOIA officer and Clerk of the Township of Arcola, there is no authority in the Freedom of Information Act to sue either the Township Clerk of the Freedom

of Information Officer.

18. That the Plaintiff is well versed in filing a Freedom of Information litigation as is evidenced by his filing of an Iroquois County case styled *John Kraft v. Ford Iroquois Public Health Department and Doug Corbett*, case number 2013-MR-22.

19. That although Freedom of Information Officers are defined under Section 14/3.5 of 5 ILCS, there is no authorization in the act allowing said officers to be sued directly and the act provided that it will be the exclusive state statute on Freedom of Information (Section 14/1.)

WHEREFORE, the Defendants pray the Court to dismiss the entire proceeding against all parties for the reason that the Court does not have any complete jurisdiction over any of the parties due to an error in the service of Summons or service of the Summons on the wrong individual and the Defendants prayer for their costs and their reasonable attorney fees incurred in connection with bringing this motion.

ARCOLA TOWNSHIP and WILLIAM COOMBE,
Defendants

By Mark T. Petty
Mark T. Petty, Their Attorney

Petty Law Office, P.C.
Mark T. Petty
Attorney for Defendants
111 E. Main St.
P.O. Box 128
Arcola, IL 61910
Telephone: (217) 268-3056
Fax: (217) 268-4898

IN THE CIRCUIT COURT OF THE Sixth JUDICIAL CIRCUIT
Douglas COUNTY, ILLINOIS

John Kraft

v.

Arcola Township
 William Coombe

NO. 13 MR 31

SUMMONS

To the defendant: Mark Petty, Atty for Arcola Township, 111 E. Main St, Arcola, IL

YOU ARE SUMMONED and required to file an answer in this case, or otherwise file your appearance,
 in the office of the clerk of this court Douglas County Courthouse, 401 S. Center, Tuscola, IL,
 (Insert name of building, room number, address, including city)

Illinois, within 30 days after service of this summons, not counting the day of service. IF YOU FAIL TO
 DO SO, A JUDGMENT OR DECREE BY DEFAULT MAY BE TAKEN AGAINST YOU FOR THE
 RELIEF ASKED IN THE COMPLAINT.

To the officer:

This summons must be returned by the officer or other persons to whom it was given for service, with indorsement
 of service and fees, if any, immediately after service. If service cannot be made, this summons shall be returned so indorsed.
 This summons may not be served later than 30 days after its date.

WITNESS

June 21
June 21
 Clerk of court

, 20 13

(Seal of court)

Name John Kraft

Attorney for pro se

Address 7060 IL Hwy 1

City Paris, IL 61949

Telephone

217-808-2527

Associate Circuit Clerk-Deputy

Date of service: _____, 20 ____
 (To be inserted by officer on copy left with defendant or other person)

JUL 01 2013

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
Douglas COUNTY, ILLINOIS

John Kraft

v.

Arcola Township
William Coombe13 (13 MAR 2013)
NO.

SUMMONS

To the defendant: William Coombe % Arcola Township, 108 E. Main St. Arcola, ILYOU ARE SUMMONED and required to file an answer in this case, or otherwise file your appearance, 6/19/13in the office of the clerk of this court Douglas County Courthouse, 401 S. Center, Tusola, IL
(Insert name of building, room number, address, including city)

Illinois, within 30 days after service of this summons, not counting the day of service. IF YOU FAIL TO DO SO, A JUDGMENT OR DECREE BY DEFAULT MAY BE TAKEN AGAINST YOU FOR THE RELIEF ASKED IN THE COMPLAINT.

To the officer:

This summons must be returned by the officer or other persons to whom it was given for service, with indorsement of service and fees, if any, immediately after service. If service cannot be made, this summons shall be returned so indorsed. This summons may not be served later than 30 days after its date.

WITNESS June 21, 20 13

(Seal of court)

Clerk of court

Associate Circuit Clerk-Deputy

Name John Kraft
 Attorney for pro se
 Address 7060 IL Hwy 1
 City Paris, IL 61944
 Telephone

217-808-2527

Date of service: _____, 20 ____
 (To be inserted by officer on copy left with defendant or other person)

CERTIFICATE OF MAILING

I, the undersigned, under penalties of perjury as provided in the Code of Civil Procedure, do hereby certify that I mailed a true and exact copy of the foregoing instrument to the below stated individual; by placing the same properly addressed in the United States Mail at Arcola, Illinois, postage fully prepaid, on this 18th day of July, 2013 in an envelope securely sealed, with proper postage prepaid, and legibly addressed:

Mr. John Kraft
7060 Illinois Highway 1
Paris, IL 61944

Carol Ingram
CAROL INGRAM

IN THE CIRCUIT COURT
FOR THE SIXTH JUDICIAL CIRCUIT
DOUGLAS COUNTY, TUSCOLA, ILLINOIS

JOHN KRAFT,

Plaintiffs,

vs.

No. 13-MR-31

ARCOLA TOWNSHIP

and

WILLIAM COOMBE, acting in
his official capacity as
FOIA Officer and Township
Clerk of ARCOLA TOWNSHIP,

Defendants.


AFFIDAVIT IN SUPPORT OF MOTION TO DISMISS

Comes now MARK T. PETTY, being first duly sworn, and states
the following under oath:

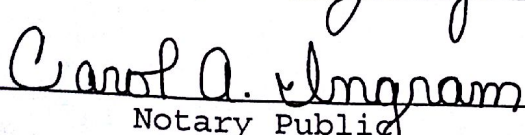
1. That the undersigned, if called to testify, could
testify competently as to the matters set forth hereinafter for
the reason that he is not acting under any disability, is of
legal age, and has personal knowledge of the matters set forth.

2. That the undersigned is not the township supervisor or
town clerk of Arcola Township.

3. That the undersigned was served with process which was
directed to him at 111 E. Main Street in Arcola, Illinois, which
is his business address from which the under signed conducts his
law practice.


MARK T. PETTY

Subscribed and sworn to before me
this 18th day of July, 2013.


Notary Public



CERTIFICATE OF MAILING

I, the undersigned, under penalties of perjury as provided in the Code of Civil Procedure, do hereby certify that I mailed a true and exact copy of the foregoing instrument to the below stated individual; by placing the same properly addressed in the United States Mail at Arcola, Illinois, postage fully prepaid, on this 18th day of July, 2013 in an envelope securely sealed, with proper postage prepaid, and legibly addressed:

Mr. John Kraft
7060 Illinois Highway 1
Paris, IL 61944

Carol Ingram
CAROL INGRAM