

IN THE CIRCUIT COURT OF THE 12<sup>TH</sup> JUDICIAL CIRCUIT  
WILL COUNTY , ILLINOIS

JOHN NORTON )  
v. )  
 )  
LEONARD MCCUBBIN, JR., CONNIE ) Case #19 L 943  
HALE FORSYTE, MICHAEL ESPOSITO )  
CYNTHIA L. BRZANA, MARY JONES )  
KIRK ALLEN, BECKY BECKER, ARLIN )  
FRITZ )

**DEFENDANTS' (CYNTHIA BRZANA, CONNIE HALE FORSYTE,  
BECKY BECKER AND KIRK ALLEN)  
2-615 MOTION TO DISMISS**

Now Comes CYNTHIA BRZANA, CONNIE HALE FORSYTE, BECKY BECKER  
AND KIRK ALLEN (COLLECTIVELY HEREIN AS “DEFENDANTS”), by and through their  
attorney Robert T. Hanlon, with their motion to dismiss plaintiff’s complaint pursuant to 735  
ILCS 5-2-615 and state as follows:

**INTRODUCTION:**

1) This court ought to dismiss plaintiffs complaint because of the following: A) The  
complaint seeks injunctive relief and plaintiff failed to plead facts necessary for injunctive relief,  
B) the Complaint does not set forth an allegation that plaintiff suffered any damages; C) The  
Citizen Participation Act is an act that creates immunity from suit but is not a cause of action  
itself; D) Plaintiffs claims are predicated upon unknown statements by third parties in violation  
of the rule against use of hearsay statements, E) standing in front of a person is not actionable, F)  
the complaint fails to set forth a cause of action against Defendants, G) Plaintiffs complaint is  
filled with impermissible conclusions of fact and law; H) plaintiff has no standing to complain  
about the 501(c)4 status under the tax code; I) Plaintiff actually pled that an individual has a  
501(c)4 status which is a legal impossibility) J) Plaintiff actually pled that defendants pled

signage was placed on property belonging to one of the named Defendants. The signage complained of had the statements “Trustee Kathleen Kennedy sued for slander Case #2018 L 000718” and “Jim Spinale and Rich Welchko act as Kathleen’s Puppets” those statements are not actionable and certainly not by Plaintiff, John Norton. Each of these reasons and more will be more fully developed below. However, as a preliminary matter plaintiff has pled an incoherent document filled with nonsensical statements that fail to meet the pleadings standards required in the State of Illinois.

### **REASONS TO DISMISS PLAINTIFFS’ COMPLAINT.**

#### **A. Failure to State a Cause of Action.**

2) Plaintiff filed a six count complaint and not a single count purports to sound in any recognized legal theory.

3) Illinois is a fact pleading jurisdiction. *City of Chicago v. Baretta*, 213 Ill. 2d 351, 368-69 (2004). Accordingly, the Plaintiff must plead facts sufficient to bring a claim within a legally recognized cause of action. *Id.*

In *City of Chicago v. Baretta*, the Illinois Supreme Court stated the operative rules:

Under our fact pleading standard, the Plaintiff must allege facts sufficient to bring a claim within a legally recognized cause of action. The requirement that a complaint set forth facts necessary for recovery under the theory asserted is not satisfied, in the absence of necessary allegations, by the general policy favoring liberal construction of pleadings. Thus, in considering a motion to dismiss, a court must disregard the conclusions that are pleaded and look only to well pleaded facts to determine whether they are sufficient to state a cause of action against the Defendant. If not the motion must be granted regardless of how many conclusions the court may contain and regardless of whether or not they inform

the Defendant in a general way of the nature of the claim against him.

See also *Edelman v Hinshaw & Culbertson*, 273 Ill. Dec. 149, 788 N.E.2d 740.

4) Because Illinois is a fact pleading state, Petitioner must plead facts to show that his counts fall within a recognized cause of action setting forth the elements for the cause within the complaint.

5) Presumably, Count I sounds in battery (presumably not addressed to the Defendants advancing this motion) but the elements are not pled and the exhibit attached to the complaint is a still photo that does not even depict plaintiff or any defendant as best can be described. Rather, Plaintiff relies upon a legal conclusion that a battery occurred which is not proper under our pleadings standards. It is a legal conclusion.

6) Likewise, Count II fails to state a cause of action and alleges the crime of perjury.<sup>1</sup> If there was “perjury”, Plaintiff has not shown any cause of action or damages resulting therefrom or facts to support either a statutory cause of action or a common law cause of action. Thus, Count II fails to state a cause of action.

7) Count III is a claim that people stood in front of Plaintiff in a public meeting. Again the allegations in the complaint do not fit into any cause of action. The statute cited by Plaintiff does not provide for a cause of action arising under the Citizen Participation Act (“CPA”). Rather, the CPA is a defense to a cause of action advanced by another’s attempt to speak freely which is what this complaint seeks to prohibit. Nevertheless, there is no cause of action pled. For more on Illinois’s CPA please see Defendants motion concerning the CPA.

8) Count IV is another mindless count that fails to set forth any cause of action. It is clear that Plaintiff claims that Defendant Allen has a purpose of financial gain in a tax exempt

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<sup>1</sup> Plaintiff is not the States Attorney and lacks standing to assert a criminal charge.

status. So What? How does that impact, Plaintiff. Plaintiff again has no standing to complaint about the application of a tax status of a media entity. Importantly, he continues to state that the tax exempt entity is harassing or intimidating Plaintiff without any factual allegations to support that claim. Those are conclusion and not facts to state a cause of action. In normal people talk, Plaintiff is complaining that Edgar County Watchdog has a facebook page and a website which plaintiff simply doesn't like. He is in essence complaining that he does not like the content of the speech of Mr. Allen without articulating what if any item is purportedly actionable.

9) Count V beguiles any coherent mind and referrers to the Open Meetings Act for an act of sitting down in a chair. This does not set forth a cause of action and is an abuse of process. Is this what our world has come to? Civil actions based on sitting down in a chair is somehow an encroachment on the Open Meetings Act?

10) Count VI is even more ridiculous than any of the other counts and presupposes that free speech directed at issues not involving the Plaintiff somehow is a cause of action. It is ridiculous that any adult would file a complaint in a court for which he seeks \$1,000,000 based on the allegations of this complaint. Importantly, the two statements shown in the controlling exhibits are "Trustee Kathleen Kennedy sued for slander Case #2018 L 000718" and "Jim Spinale and Rich Welchko act as Kathleen's Puppets". See Exhibits E, F & G to the Complaint. If the court takes judicial notice of the complaint in that case, the sign is accurate. But even if it were not, the Plaintiff has no standing to object to what McCubbin or others place in their yards especially when it doesn't mention Plaintiff.

11) In examining the various counts, Plaintiff fails to articulate any act of the defendants as having done anything actionable.

12) Defendants have incorporated into this motion their motion for dismissal pursuant to the immunity afforded each of them under the Citizen Participation Act and their motion for sanctions.

Wherefore, CYNTHIA BRZANA, CONNIE HALE FORSYTHE, BECKY BECKER AND KIRK ALLEN ask that this Court dismiss the Plaintiffs' complaint with prejudice.

Respectfully submitted,

/s/Robert T. Hanlon, Esq

Robert T. Hanlon, Esq.

Attorney for CYNTHIA BRZANA, BECKY  
BECKER AND KIRK ALLEN

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