

STATE OF TEXAS
CITATION

CLERK OF THE COURT
SUZY WRIGHT
P O BOX 1707
QUITMAN, TX 75783

ATTORNEY FOR PLAINTIFF(S)

SHERYL MORGANTI
2039 INDIAN GAP
Quitman TX 75783

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 Monday following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org."

TO: HV of Fork Owners Assoc. - 335 GERONIMO, QUITMAN, TX. 75783 or wherever found

Defendant, Greetings:

You are hereby commanded to appear by filing a written answer to the PLAINTIFF'S ORIGINAL VERIFIED PETITION AND APPLICATION FOR TEMPORARY INJUNCTION 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 J. Brad McCampbell, 402nd Judicial District Court of Wood County, Texas at the Courthouse of said County in Quitman, Texas. Said Petition was filed 05/07/2024. This case numbered **2024-308**, on the docket of said court and styled:

SHERYL MICHELLE MORGANTI
VS.

HV OF FORK OWNERS ASSOCIATION INCLUDING THE HOLIDAY VILLAGE BOARD OF DIRECTORS:
SPECIFICALLY, TERRY LOLLAR, GENERAL MANAGER JOE AMMONS, PRESIDENT DAN ALLEN AND SECRETARY BRENDA LOLLAR

The nature of the Plaintiff's demand is fully shown by a true and correct copy of PLAINTIFF'S ORIGINAL VERIFIED PETITION AND APPLICATION FOR TEMPORARY INJUNCTION accompanying this citation and made a part hereof.

The office 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 and seal of said Court at office, on this the 8th day of May, 2024.



ATTEST: SUZY WRIGHT – DISTRICT CLERK
WOOD COUNTY, TEXAS

Signed: 5/8/2024 9:27:51 AM

BY Paige Brown
Paige Brown, Deputy

CITATION ISSUED

dc-citation rev: 3.21.12 (rp)

Served 10 day of 5, 2024
SHERIFF
KELLY COLE
WOOD COUNTY
Deputy L. McGee

OFFICER'S RETURN FOR CITATION

2024-308 - SHERYL MICHELLE MORGANTI VS. HV OF FORK OWNERS ASSOCIATION INCLUDING THE HOLIDAY VILLAGE BOARD OF DIRECTORS: SPECIFICALLY, TERRY LOLLAR, GENERAL MANAGER JOE AMMONS, PRESIDENT DAN ALLEN AND SECRETARY BRENDA LOLLAR

TO: HV of Fork Owners Assoc. - 335 GERONIMO, QUITMAN, TX. 75783 OR WHEREVER FOUND

Came to hand on the _____ day of _____, 20____ at _____ o'clock ____m. and executed in _____ County, Texas by delivering to the within named defendant in person, a true copy of this Citation with the date of delivery endorsed thereon, together with the accompanying copy of the PLAINTIFF'S ORIGINAL VERIFIED PETITION AND APPLICATION FOR TEMPORARY INJUNCTION at the following times and places, to-wit:

Name	Date/Time	Place, Course and Distance from Courthouse
_____	_____	_____

And not executed as to the defendant _____

The diligence used in finding said defendant being: _____

And the cause or failure to execute this process is: _____

And the information received as to the whereabouts of said defendant being: _____

FEE'S:
 Serving Petition and Citation \$ _____
 Total \$ _____

_____, Officer
 _____, County, Texas
 By: _____ Deputy

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 return must either be verified or be signed under penalty of perjury. A return signed under penalty of perjury must contain the statement below in substantially the following form:

"My name is _____, my date of birth is _____ and my address is _____
 (First, Middle, Last)

 (Street, City, Zip)

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

Executed in _____ County, State of Texas, on the _____ day of _____.

Declarant/Authorized Process Server

(ID # & expiration of Certification)

FILED
AT 3:12 AM (PM)

MAY 07 2024
SUZY WRIGHT
DISTRICT CLERK
WOOD COUNTY, TEXAS

CAUSE NO. 2024-308

Sheryl Michelle Morganti
Plaintiff

v

**HV of Fork Owners Association
including the Holiday Village Board
of Directors: specifically Terry Lollar,
General Manager Joe Ammons,
President Dan Allen and Secretary
Brenda Lollar**
Defendant

§
§
§
§
§
§
§
§
§
§

IN THE ~~JUSTICE COURT~~
402nd District Court
SW

PRECINCT 1
WOOD COUNTY, TEXAS

**Plaintiff's Original Verified Petition and
Application for Temporary Injunction**

I, Sheryl Michelle Morganti, a concerned member of more than 10 years of the Holiday Village Property Owners Association, file this Original Petition and Application for a Temporary Injunction, against above defendant, **HV of Fork Owners Association including the Holiday Village Board of Directors: specifically Terry Lollar, General Manager Joe Ammons, President Dan Allen and Secretary Brenda Lollar**. I seek an injunction against HVPOA to prevent it from naming and/or renaming 2 Directors for positions open on the Association's Board of Directors on May 18, 2024 after counting a possibility of over 800 cast ballots, by email, USPS or ballot box from property owners in the Holiday Village sub-division irrespective of the fact that cast ballots whether deliberately or inadvertently, in ignorance of or full knowledge of legality, or with benign or nefarious intent, were and are able to be accessed and/or handled by "a person who is ... a person [Association and General Manager's Secretary, Brenda Lollar] related to that person [a candidate: current BOD incumbent married to Brenda Lollar, Terry Lollar] within the third degree by consanguinity or affinity" as prohibited by Property Code Section 209.00594. Temporary Injunctive Relief is sought to prevent the Associations actions that will create confusion, possibly facilitate fraud, and at the very least exasperate an already volatile community and to halt the illegal violation of PC209 in such manner as will compromises the integrity of every vote in which Mrs. Lollar has had access.

Discovery Control Plan

Discovery is intended to be conducted under Level 2 of Texas Rule of Civil Procedure 190.3.

Claims for Relief/Statement of Grounds

Plaintiff seeks injunctive relief to address the HV of Fork Owner's Association Holiday Village Board of Directors', General Manager's, Officers', and/or employees' blatant disregard for the law as it relates to Property Code Section 209.00594: Tabulation of and Access to Ballots and pray the court will direct Association and its representatives to cease the current election process until situation is remedied by Mr. Terry Lollar's withdrawal as a candidate this year, in which the current ballots could be considered legitimate or at its own expense the Association should send all POA members new ballots, move aside all ballots currently cast and extend the election to facilitate process. Should a new election process be required 2 of the current Board of Directors' terms will expire on May 18, 2024, and to avoid any further violation of fiduciary duties the Holiday Villages Property Owners Association must abide by "Sec. 209.00593. ELECTION OF BOARD MEMBERS. (a)... A board member may be appointed by the board to fill a vacancy on the board. A board member appointed to fill a vacant position shall serve for the remainder of the unexpired term of the position", therefore on May 18, 2024 the remaining quorum whose terms have not expired will preside over appointments and during the interum those appointees and elected BOD will maintain all aspects necessary to manage the affairs of the POA until the new election is tabulated and the two newly declared Board Directors assume their station.

Venue

Venue is proper in Wood County under section 15.002(a)(1), (a)(2), and (a)(3) of the Texas Civil Practices and Remedies Code.

Parties

I, the plaintiff, am a property owner within the Holiday Village Community and therefore have a justiciable 'interest' in the elected BODs capacity and ability in the maintenance and operation of the Association as those elected will vote on the communities deed restrictions, bylaws, and rules; all of which will have a direct impact on my personal life and my property's value.

The defendant, HV of Fork Owner's Association including the Holiday Village Board of Directors, General Manager, Officers (specifically President), and/or employees are charged with the responsibility to oversee the election process for the Board of Directors in a manner that produces valid, legal and indisputable results. Tex. Elec. Code § 31.005 defines proper defendant as "a person performing official functions in the administration of any part of the electoral processes" and they should not "fail to comply" with an order from the Secretary of State and all POAs are required to follow the legal requirements outlined in Property Code 209.

- Defendant may be served by plaintiff with process at

HV of Fork Owners Association
335 Geronimo
Quitman, Texas 75783.

Legal Background

1. It is well-established that, as a subdivision of Wood County Texas, The defendants: **HV of Fork Owner's Association** including the Holiday Village Board of Directors, General Manager, Officers (specifically President), and/or employees possess only those powers granted to it by the Texas State Property Code 209 and therefore are expected to abide by the election process as it directs whether they do or do not see necessity. Defendant as an agent of that the POA cannot take any action in official capacity that exceeds the scope of authority as granted by 209.
2. It is also well-established that "The history of absentee voting legislation in Texas shows that the Legislature has been both engaged and cautious in allowing voting by mail." Id. § 83.001(b). "The clerk has the same duties and authority with respect to early voting as a presiding election judge has with respect to regular voting, except as otherwise provided by this title." Id. § 83.001(c). "The presiding judge is in charge of and responsible for the management and conduct of the election at the polling place of the election precinct that the judge serves." Id. § 32.071. While this is not a state or federal election, Texas voters reasonably expect the same sincerity and legal compliance in all elections.
3. Prior to the Associations 2021 election of current Board of Director, Terry Lollar, the Bylaws of the association prohibited the employment of a Board Members relations/kinship within the third degree by consanguinity or affinity" as prohibited by Property Code Section 209.00594 and was enforced as was shown in the election of former board member Randy Novak when his daughter, Cassie Wright was forced to resign her employment in March of 2018 with the association before Mr. Novak was even allowed to submit his candidacy.
4. Sharlene Martin, wife of Randy Martin, a 2023 BOD candidate, was denied entrance on estoppel to the counting room for the May 2023 BOD election, as an appointed observer and current General Manager, Joe Ammons referenced 209.00594 for the decision.
5. Sec. 209.0041. ADOPTION OR AMENDMENT OF CERTAIN DEDICATORY INSTRUMENTS clearly states "(i) a bylaw may not be amended to conflict with the declaration". However the BOD violated this and removed this restriction from the POA's bylaws to allow for the employment of Brenda Lollar, wife of BOD Terry Lollar, as secretary. It is a direct result of this decision that a community is divided by loyalty to person verses adherence to what is legal and moral, and unfortunately that is the dilemma facing us today.
6. As secretary, Mrs. Lollar's job duties include the dispersal of mail and other correspondence coming into the POA office. However, instead of assigning this responsibility to another employee or volunteer when the 2024 year's ballots for BODs were released to property owners, General Manager Joe Ammons' blatantly disregarded the law as it relates to Property Code Section 209.00594 and his failure to meet his contractual obligation to fulfill his duties as

outlined and published in the General Manager Job Description knowingly not only allowed but facilitated inappropriate ballot access as defined in TX PC209 there-by invalidating any and all ballots in which Mrs. Lollar had access. In this case, as in any "ultra vires" case this employee and officer acted without legal authority or failed to perform a purely ministerial act. City of El Paso v. Heinrich, 284 S.W.3d 366, 372 (Tex. 2009)."

7. By the week of April 15, I and numerous other property owners had voiced concerns in direct conversations or in writing: via text, messaging, email, and/or social media, to members of the HV Board of Directors, specifically Brannon Kirby-Alvarez and Richard Martin, HV POA President: Dan Allen, HV General Manager: Joe Ammons and we have repeatedly requested the situation be remedied by Mr. Lollar's withdrawal as a candidate this year, or to send all POA members new ballots, move aside all ballots currently cast and extend the election to facilitate process.
8. On April 16, property owner and 2024 BOD candidate, Jay Simons personally addressed the issue with President Allen and requested the same remedy as myself and other property owners. President Allen voiced no real intention to take any action in regard to the compromised ballots cast or to be cast ballots and flippantly dismissed Mr. Simon's concerns.
9. On April 22, 2024, Board of Directors, Brannon Kirby Alvarez and Richard Martin, addressed the President and the General Manager concerning their issues with the egregious violation regarding access to cast ballots. Their concerns, coinciding with that of property owners more than disconcerted by the ballot process, received obligatory and useless adjustments to the ballot process at that time. The GM stated he would contact IT to have all future ballots by email forwarded to him instead of the secretary and instruct the secretary to not open any mail marked as a ballot, and if she inadvertently did so she was to immediately hand over said ballot to the finance clerk.
10. Following their meeting with President Allen and GM Ammons, BODs, Richard Martin and Brannon Alvarez made clear that the resolution presented did not address ballots already cast and compromised, still did not deny ACCESS by the secretary and that they expected property owners to seek legal relief from the court system and the President's response was indifferent and stated property owners could do what they needed but nothing else would be done.
11. On April 29, 2024, I in text explained the same as BODs Alvarez and Martin to President Dan Allen and I have yet to receive any response in reference to those messages.
12. Joe Ammons has posted:
 - * "USPS mail that has the envelope marked as ballot enclosed is deposited into the ballot box [does not identify who does this]. Envelopes not marked may be opened by either of the ladies [HV finance clerk, Sharon Nelson or Brenda Lollar, HV POA and GM Secretary and wife of incumbent Board of Director Candidate, Terry Lollar], if the envelope is not marked "ballot" one or both of the office staff might see the ballot."
 - * "The fact that payments and other correspondence comes into the office, and must be posted by the secretary means that the secretary may inadvertently handle a envelope with a ballot because the envelope wasn't marked. When that occurs she immediately surrenders the envelope and its content to the finance clerk"

I pray the court issue requested injunction because The Holiday Village Owners Association and its agents are failing to address the concerns of property owners and continues to violate the law in respect to property Code 209 thus rendering all collected ballots compromised and therefore invalid.

Sec. 209.017. JUSTICE COURT JURISDICTION. An owner of property in a subdivision may bring an action for a violation of this chapter against the property owners' association of the subdivision in the justice court of a precinct in which all or part of the subdivision is located.

Give the following pages to defendants: no later than 30 days after either party files an answer, waiver of service, or counter-petition with the court clerk.

keep a copy for yourself

Michael Nye