

IN THE CIRCUIT COURT OF PETTIS COUNTY, MISSOURI
AT SEDALIA, MISSOURI

NICK LA STRADA, PETTIS COUNTY
CLERK AND ELECTION AUTHORITY,
KATELYNN D. GUDDE, and
SHERRY JO PAINTER-TORRES

Plaintiffs,

v.

PETTIS COUNTY, MISSOURI,
BILL TAYLOR, PRESIDING
COMMISSIONER,
JIM MARCUM, WESTERN DISTRICT
COMMISSIONER,
ISRAEL BAEZA, EASTERN DISTRICT
COMMISSIONER, and
BRETT DENOMME, DIRECTOR PETTIS
COUNTY INFORMATION TECHNOLOGY
DEPARTMENT,

Serve at: 415 S Ohio
Sedalia, MO 65301

Defendants.

Case No.:

**PETITION FOR DECLARATORY JUDGMENT
AND PETITION FOR DAMAGES**

COME NOW Plaintiffs, by and through their attorneys, and for their causes of action against Defendants, state and allege as follows:

INTRODUCTION

1. This action arises from the illegal audio and video recording of persons in the office of the Pettis County Clerk at the Pettis County Courthouse Annex at 215 E. 5th Street, Sedalia, Pettis County, Missouri.

2. On information and belief, the illegal audio and video recording was authorized and directed by the Pettis County Commission and conducted by the Pettis County Information Technology employees.

3. The illegal audio and video recording was conducted in violation of § 542.402 RSMo. which prohibits illegal wiretapping.

4. The illegal audio and video recording was conducted in violation of § 565.252 RSMo. which prohibits invasion of privacy.

5. The illegal audio and video recording was conducted in violation of §§ 115.076, 115.283, 115.291, 115.411, and 115.445 RSMo which guarantee the rights of Pettis County voters to cast their ballots in secret.

6. The illegal audio and video recording infringes on and prevents Plaintiff La Strada from performing his statutory duty to ensure that Pettis County voters cast their ballots in secret as provided by law.

ALLEGATIONS COMMON TO ALL COUNTS

7. Plaintiff Nick La Strada is an individual over the age of 18 years residing in Pettis County, Missouri and at all times mentioned in this petition, he was the duly elected and acting County Clerk of Pettis County, Missouri.

8. Plaintiff Katelynn D. Gudde is an individual over the age of 18 years residing in Pettis County and at the times mentioned in this petition, she was in the office of the County Clerk at the Pettis County Courthouse Annex Building located at 215 E. 5th Street, Sedalia, Missouri.

9. Plaintiff Sherry Jo Painter-Torres is an individual over the age of 18 years residing in Pettis County and at the times mentioned in this petition, she was in the office of the County Clerk at the Pettis County Courthouse Annex Building located at 215 E. 5th St., Sedalia, Missouri.

10. Defendant Pettis County is a legal subdivision of the State of Missouri. *See* Article VI, section 1, Missouri Constitution.

11. Defendants Bill Taylor, Jim Marcum and Israel Baeza are individuals over the age of 18 years and residing in Pettis County; they are the duly elected and acting Commissioners composing the Pettis County Commission; they are charged with managing county business and keeping an accurate record of the commission's proceedings (Article VI, Section 7, Constitution of Missouri and § 49.010 RSMo.); they are charged with control and management of the real property of the county and they have the power and authority to alter and repair county buildings (§§ 49.270, 49.470 RSMo.); they are responsible to, and directed to provide offices where the officers of the county, including the County Clerk, may properly carry on and perform the duties and functions of their offices. (§ 49.510 RSMo.).

12. Defendant Brett Denomme, is a an individual over the age of 18 years residing in Pettis County, Missouri, and he is, and was at all time mentioned herein, an employee, agent and servant of Defendant Pettis County; and he is, and was at all time mentioned herein, the Director of Information and Technology Department for Defendant Pettis County (effective June 20, 2022); and he is, and was at all times mentioned herein, under the direction and control of the Pettis County Commissioners.

13. Plaintiffs were first injured by the acts and conduct described herein in Pettis County, Missouri and venue is proper in this Court pursuant to § 508.010.4 RSMo.

14. In June, 2022, the Pettis County Commissions including Defendants Marcum and Israel as well as former presiding commissioner David Dick, authorized the office of the Pettis County Clerk to occupy the building known as the Pettis County Courthouse Annex located 215

E. 5th St., Sedalia, Missouri in order for Plaintiff La Strada to carry out his duties as the Pettis County Election Authority.

15. Thereafter, Plaintiff La Strada and his staff relocated the operations of the Pettis County Clerk to the Pettis County Courthouse Annex located 215 E. 5th St., Sedalia, Missouri and began to prepare for the 2022 primary election and the 2022 general election.

16. At the time of the relocation of his staff and office operation to the Pettis County Courthouse Annex located 215 E. 5th St., Sedalia, Missouri, Plaintiff La Strada became aware of cameras located on the outside and the inside of the Pettis County Courthouse Annex located 215 E. 5th St., Sedalia, Missouri.

17. On or about June 8, 2022, Plaintiff La Strada was informed by Pettis County information technology employees that the cameras outside and inside the Pettis County Courthouse Annex did not record any audio transmissions.

18. On or about June 8, 2022, Plaintiff La Strada was informed by Pettis County information technology employees that Pettis County information technology employees and Pettis County maintenance employees had access to the transmissions from the cameras outside and inside the Pettis County Courthouse Annex.

19. At no time did the Pettis County Commissioners, or any representative of the Pettis County information technology department request permission or consent to record, listen to, or view audio or video transmissions from the cameras at the Pettis County Courthouse Annex.

20. On or about October 14, 2022, Plaintiff La Strada, discovered Pettis County information technology department employees were recording and listening to audio transmissions and recording and viewing video transmissions from the cameras at the Pettis County Courthouse Annex.

21. Despite the representation of the Pettis County information technology employees, and without seeking permission or consent, the information technology department transmitted and recorded audio and video from the Pettis County Courthouse Annex.

22. The audio transmissions from the cameras at the Pettis County Courthouse Annex included confidential and private conversations of persons, including Plaintiffs Katelynn D. Gudde and Sherry Jo Painter-Torres who had a reasonable expectation of privacy.

23. The audio transmissions from the cameras at the Pettis County Courthouse Annex were in violation of § 542.402 RSMo.

24. The video transmissions from the cameras at the Pettis County Courthouse Annex included images of persons, including Plaintiffs, who had a reasonable expectation of privacy, changing clothes and therefore in states of partial nudity.

25. The video transmissions from the cameras at the Pettis County Courthouse Annex were in violation of § 565.252 RSMo.

26. Upon discovering that audio and video was being transmitted and recorded from the from the cameras at the Pettis County Courthouse Annex without consent or authorization from the parties who were recorded, Plaintiff La Strada immediately advised the Pettis County Sheriff and the Pettis County Prosecuting Attorney.

27. On or about October 14, 2022, Defendant Denomme admitted to Defendants Marcum and Baeza, and former Presiding Commissioner David Dick and the Pettis County Prosecuting Attorney, that audio was transmitted from the cameras at the Pettis County Courthouse Annex and the audio was available during live stream because the microphones on the cameras were enabled. Defendant Denomme admitted that the audio transmission was made to Plaintiff La

Strada (who discovered and reported it) and to Sheriff's office personnel and information technology personnel.

28. After October 14, 2022, Plaintiff La Strada, discovered Pettis County information technology department employees were continuing to record and/or listen to audio transmissions and recording and viewing video transmissions from the cameras at the Pettis County Courthouse Annex.

Count 1-Declaratory Judgment

29. Plaintiff Nick La Strada hereby incorporates by reference paragraphs 1 – 6 of the Introduction and 7 - 28 of the Allegations Common to All Counts of this petition as if same were fully set out herein.

30. Plaintiff Nick La Strada is, and was at all times mentioned herein, the election authority for Pettis County, Missouri (§ 115.015 RSMo).

31. Plaintiff Nick La Strada, is, and was at all times mentioned herein, responsible to conduct all public elections in Pettis County, Missouri (§ 115.023 RSMo).

32. Plaintiff Nick La Strada, is, and was at all times mentioned herein, responsible to designate polling places where voters are entitled to vote in elections in Pettis County, Missouri (§ 115.115 RSMo).

33. Plaintiff Nick La Strada, is, and was at all times mentioned herein, responsible to protect the rights of Pettis County voters to cast their ballots in secret and to provide voting booths so that voters can vote in secret (§§ 115.076, 115.283, 115.291, 115.411, and 115.445 RSMo).

34. Prior to the primary election in August 2022 and the general election in November 2022, Plaintiff Nick La Strada designated the Pettis County Courthouse Annex as an absentee ballot polling place.

35. On information and believe, the cameras installed and operated by the Pettis County Information and Technology Department, with the authority, and at the direction of the Pettis County Commissioners, at the Pettis County Courthouse Annex, prevent Plaintiff Nick La Strada from ensuring the secrecy of the votes cast by absentee voters at the Pettis County Courthouse Annex polling place.

36. A justiciable controversy exists herein because the cameras inside the Pettis County Courthouse Annex installed and operated by the Pettis County Information and Technology Department, with the authority, and under the control and direction of the Pettis County Commissioners continue to prevent Plaintiff Nick La Strada from ensuring the secrecy of votes cast by absentee voters at the Pettis County Courthouse Annex polling place in up coming elections.

37. Plaintiff Nick La Strada, as County Clerk and Election Authority for Pettis County, and the voters of Pettis County have a legally protectable interest in ensuring the integrity of its secret ballots at upcoming elections.

38. Plaintiff Nick La Strada, as County Clerk and Election Authority for Pettis County, has no other adequate remedy at law.

39. Plaintiff Nick La Strada, as County Clerk and Election Authority for Pettis County, seeks a declaratory judgment of the Court as follows:

- a. That the Pettis County Clerk is required by § 115.411 RSMo to provide voting booths wherein voters can vote in secret; and
- b. That the cameras installed inside the Pettis County Courthouse Annex violate the statutory duty of the Pettis County Clerk to provide voting booths wherein voters can vote in secret; and

- c. That the cameras installed inside the Pettis County Courthouse Annex violate § 542.402 RSMo which prohibits illegal wiretapping;
- d. That the cameras installed inside the Pettis County Courthouse Annex must be removed by the Pettis County Commission.

WHEREFORE, Plaintiff Nick La Strada, prays for a declaratory judgment that the Pettis County Clerk is required by § 115.411 RSMo to provide voting booths wherein voters can vote in secret; and, that the cameras installed inside the Pettis County Courthouse Annex violate the statutory duty of the Pettis County Clerk to provide voting booths wherein voters can vote in secret; that the cameras installed inside the Pettis County Courthouse Annex violate § 542.404 RSMo which prohibits illegal wiretapping; and, that the cameras installed inside the Pettis County Courthouse Annex must be removed by the Pettis County Commission; and, taxing the costs of this action against Defendants and for such other and further orders on Count 1 as the Court deems just and proper.

Count 2-Illegal Wiretap-Gudde

40. Plaintiffs Katelynn D. Gudde hereby incorporates by reference paragraphs 1 – 5 of the introduction and 6 - 27 of the allegations common to all counts of this petition as if same were fully set out herein.

41. Defendant Brett Denomme knowingly intercepted or endeavored to intercept or procured other persons to intercept wire communications of Plaintiff Katelynn D. Gudde with others from the Pettis County Commission Annex by use of the cameras installed at said location in violation of § 542.402.1 (1) RSMo.

42. Defendant Brett Denomme knowingly used, endeavored to use, or procured other persons to use an electronic, mechanical, or other devise, to-wit the cameras installed the Pettis

County Courthouse Annex, to intercept oral communications of Plaintiff Katelynn D. Gudde with others, in violation of § 542.402.1 (2) RSMo.

43. Defendant Brett Denomme knowingly disclosed or endeavored to disclose to other persons the contents of wire communications of Plaintiff Katelynn D. Gudde with others from the Pettis County Commission Annex when he knew or had reason to know that the information was obtained through the interception of a wire communication in violation of § 542.402.1 RSMo.

44. As stated herein, Defendant Brett Denomme violated § 542.402 RSMo and was thereby negligent per se.

45. As stated herein, the actions of Defendant Brett Denomme were in violation of the law and were willful, malicious and corrupt.

46. Plaintiff Katelynn D. Gudde is a member of the class of persons intended to be protected by § 542.402 RSMo.

47. Plaintiff Katelynn D. Gudde suffered injury and damage of the kind § 542.402 RSMo was designed to prevent.

48. As a direct result of the actions of Defendant Brett Denomme, Plaintiff Katelynn D. Gudde has suffered actual damages; and, she has suffered embarrassment, humiliation, mental anguish and emotional distress.

49. As a result of the actions of Defendant Brett Denomme, Plaintiff Katelynn D. Gudde is entitled to recover liquidated damages as provided by § 542.418.2 RSMo.

50. As a result of the actions of Defendant Brett Denomme, Plaintiff Katelynn D. Gudde is entitled to recover her attorneys' fees as provided by § 542.418.2 RSMo.

WHEREFORE, Plaintiff Katelynn D. Gudde, prays for judgment against Defendant Brett Denomme for such sum as will reasonably compensate her for her actual damages, for her

liquidated damages, for her attorneys' fees, for her costs herein, and for such other orders as the Court deems just.

Count 3-Illegal Wiretap-Painter-Torres

51. Plaintiffs Sherry Jo Painter-Torres hereby incorporates by reference paragraphs 1 – 5 of the introduction and 6 - 27 of the allegations common to all counts of this petition as if same were fully set out herein.

52. Defendant Brett Denomme knowingly intercepted or endeavored to intercept or procured other persons to intercept wire communications of Plaintiff Sherry Jo Painter-Torres with others from the Pettis County Commission Annex by use of the cameras installed at said location in violation of § 542.402.1 (1) RSMo.

53. Defendant Brett Denomme knowingly used, endeavored to use, or procured other persons to use an electronic, mechanical, or other device, to-wit the cameras installed the Pettis County Courthouse Annex, to intercept oral communications of Plaintiff Sherry Jo Painter-Torres with others, in violation of § 542.402.1 (2) RSMo.

54. Defendant Brett Denomme knowingly disclosed, or endeavored to disclose to other persons the contents of wire communications of Plaintiff Sherry Jo Painter-Torres with others from the Pettis County Commission Annex when he knew or had reason to know that the information was obtained through the interception of a wire communication in violation of § 542.402.1 RSMo.

55. As stated herein, Defendant Brett Denomme violated § 542.402 RSMo and was thereby negligent per se.

56. As stated herein, the actions of Defendant Brett Denomme were in violation of the law and were willful, malicious, and corrupt.

57. Plaintiff Sherry Jo Painter-Torres is a member of the class of persons intended to be protected by § 542.402 RSMo.

58. Plaintiff Sherry Jo Painter-Torres suffered injury and damage of the kind § 542.402 RSMo was designed to prevent.

59. As a direct result of the actions of Defendant Brett Denomme, Plaintiff Sherry Jo Painter-Torres has suffered actual damages; and, she has suffered embarrassment, humiliation, mental anguish and emotional distress.

60. As a result of the actions of Defendant Brett Denomme, Plaintiff Sherry Jo Painter-Torres is entitled to recover liquidated damages as provided by § 542.418.2 RSMo.

61. As a result of the actions of Defendant Brett Denomme, Plaintiff Sherry Jo Painter-Torres is entitled to recover her attorneys' fees as provided by § 542.418.2 RSMo.

WHEREFORE, Plaintiff Sherry Jo Painter-Torres, prays for judgment against Defendant Brett Denomme for such sum as will reasonably compensate her for her actual damages, for her liquidated damages, for her attorneys' fees, for her costs herein, and for such other orders as the Court deems just.

Count 4-Invasion of Privacy-Gudde

62. Plaintiff Katelynn D. Gudde hereby incorporates by reference paragraphs 1 – 5 of the introduction and 6 - 27 of the allegations common to all counts of this petition as if same were fully set out herein.

63. Defendant Brett Denomme filmed, videotaped, produced or otherwise created an image of Plaintiff Katelynn D. Gudde by use of the cameras at the Pettis County Courthouse Annex, without her consent, while she was changing her clothes and therefore in a state of partial nudity and in a place where she had a reasonable expectation of privacy; and, Defendant Brett

Denomme thereby violated § 565.252 RSMo. As stated herein, Defendant Brett Denomme violated § 565.252 RSMo and was thereby negligent per se.

64. As stated herein, the actions of Defendant Brett Denomme were in violation of the law and were willful, malicious, and corrupt.

65. Plaintiff Katelynn D. Gudde is a member of the class of persons intended to be protected by § 565.252 RSMo.

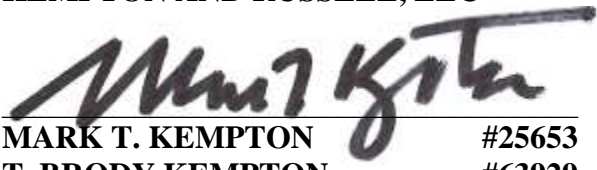
66. Plaintiff Katelynn D. Gudde suffered injury and damage of the kind § 565.252 RSMo was designed to prevent.

67. As a direct result of the invasion of her privacy and the actions of Defendant Brett Denomme, Plaintiff Katelynn D. Gudde has been damaged and she has suffered embarrassment, humiliation, mental anguish and emotional distress.

WHEREFORE, Plaintiff Katelynn D. Gudde, prays for judgment against Defendant Brett Denomme for such sum as will reasonably compensate her for her damages, and for her costs herein, and for such other orders as the Court deems just.

KEMPTON AND RUSSELL, LLC

By:



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