

25-564/ccl

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT  
IN AND FOR COLLIER COUNTY, FLORIDA

CASE NO.: 11-2025-CA-001290-0001-01

STATE OF FLORIDA, EX REL. MICHAEL  
COLOSI,

Petitioner,

vs.

ZACK STAMP, DEAN BRITT AND  
ESPLANADE GOLF & COUNTRY CLUB OF  
NAPLES, INC.,

Respondents.

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**RESPONDENTS, ZACK STAMP AND DEAN BRITT'S, MOTION TO DISMISS  
PETITIONER'S PETITION FOR WRIT OF QUO WARRANTO AND PETITION FOR  
WRIT OF MANDAMUS**

Respondents, ZACK STAMP and DEAN BRITT, (collectively, "Respondents"), moves this Court for the entry of an order dismissing Petitioner's, MICHAEL COLOSI ("Petitioner"), Verified Petition for Writ of Quo Warranto and Petition for Writ of Mandamus ("Petitioner's Pleading"). In support of its motions, Respondents state:

1. Petitioner's Pleading in the instant matter sets forth 94 pages containing allegations against the respondents but fails to state a cause of action upon which relief can be granted. Petitioner asks this Court to grant it declaratory and injunctive relief, damages, and fees and costs based on alleged violations of Chapter 89 of the Florida Statutes. For the reasons set forth herein, Petitioner failed to properly plead a cause of action entitling him to the relief sought, because Petitioner failed to allege ultimate facts entitling it to relief and improperly co-mingled claims against the Respondents.

**I. Petitioner Fails to State a Claim for a Writ Quo Warranto**

2. Petitioner's Pleading appears to allege that the Respondents were each Chairpersons of the Board of Supervisors of Flow Way Community Development District and Quarry Community Development District. Petitioner's Pleading further alleges that Petitioner owns a landlocked parcel of real property which cannot be accessed, except by gaining access to the neighboring real property owned by Flow Way Community Development District and Quarry Community Development District. Petitioner does not allege that Petitioner is a member of either CDD or has any other relationship to either CDD.

3. A party may file a petition for writ of quo warranto to challenge the authority of a public official. If a private individual files a petition for writ of quo warranto to test the respondent's right to hold office, the person filing the petition must show that he or she has a right to hold the office in question. *See Butterworth v. Espey*, 523 So. 2d 1278 (Fla. 2d DCA 1988); *Fouts v. Bolay*, 795 So. 2d 1116 (Fla. 5th DCA 2001).

4. Petitioner does not allege entitlement to the office of Chairperson of the Board of Supervisors of either CDD. Petitioner is not a landowner in either CDD, thus he cannot be on the Board of Supervisors, nor could he be elected as chairperson. Therefore, as a matter of law, the Petitioner cannot remove these officials through a petition for writ quo warranto. As such, the Petitioner's Pleading should be dismissed.

**II. Petitioner's Pleading Fails to State a Claim for a Writ of Mandamus**

5. As stated in *Smith v. State*, 696 So. 2d 814, 815 -816 (Fla. 2d DCA 1997):

Mandamus is a common law remedy used to enforce an established legal right by compelling a person in an official capacity to perform an indisputable ministerial duty required by law. A party petitioning for a writ of mandamus must establish a clear legal right to performance of the act requested, an indisputable legal duty, and no adequate remedy at law. The legal duty of the official must be ministerial in nature and not discretionary.

(internal quotations and citations removed).

6. Under Fla.R.Civ.P. 1.630(b), a petition or complaint for an extraordinary remedy such as writ of mandamus must contain the facts on which the plaintiff relies for relief, a request for the relief sought, and, if desired, argument in support of the petition with citations of authority. If the petition fails to establish a prima facie case, the court may deny the petition or dismiss those claims that are factually insufficient. See *Holcomb v. Department of Corrections*, 609 So. 2d 751, 753 (Fla. 1st DCA 1992). If the petition establishes a prima facie claim for relief, the court must issue an alternative writ of mandamus. See Fla.R.Civ.P. 1.630(d). If an alternative writ has been issued, the burden is on the respondent to come forth with facts upon which it refused to perform its legal duty. *Holcomb, supra*.

7. Petitioner's petition for a writ of mandamus fails to establish a prima facie claim for relief because the Petitioner's Pleading never described any such ministerial duty and when specifically the Board of Supervisors failed to act. Petitioner's nearly unintelligible allegations appear to assert that Flow Way Community Development District and Quarry Community Development District did not grant the Petitioner the right to access their real property. This does not amount to a non-discretionary ministerial duty. For these reasons, the Respondents request that this Court deny Petitioner's Petition for a Writ of Mandamus.

### **III. Petitioner's Pleading Fails to Set Forth a Short and Plain Statement of the Petitioner's Claims**

8. Florida Rule of Civil Procedure 1.110 provides in part:

(b) A pleading which sets forth a claim for relief, whether an original claim, counterclaim, crossclaim, or third-party claim, must state a cause of action and shall contain (2) a short and plain statement of ultimate facts showing that the pleader is entitled to relief

9. "In Florida, every cause of action, whether derived from statute or common law, is

comprised of necessary elements which must be proven for the plaintiff to prevail. It is a cardinal rule of pleading that a complaint be stated simply, in short and plain language. See Fla. R. Civ. P. 1.110(b). The complaint must set out the elements and the facts that support them so that the court and the defendant can clearly determine what is being alleged.” *Barrett v. City of Margate*, 743 So. 2d 1160, 1162 (Fla. 4th DCA 1999) (emphasis added). “Furthermore, the assertions are to be stated simply and succinctly.” *Id.* at 1163 (“The appellants’ convoluted, verbose, narrative style pleading, coupled with their refusal to comply with either the trial court’s directives or the mandate of Florida Rule of Civil Procedure 1.110(b), clearly demonstrates the need for the rule and exemplifies the potential for abuse of the judicial process when the rule is not enforced.”). As such, Florida mandates that pleadings contain a short and plain statement of ultimate facts to support the elements of the cause of action alleged. A disjointed narrative of scandalous, impertinent, and irrelevant allegations is the antithesis of this pleading standard and warrants dismissal. *Id.*

10. “In reviewing an order granting a Rule 1.140(b)(6) motion to dismiss, this court’s ‘gaze is limited to the four corners of the complaint.’” *Della Ratta v. Della Ratta*, 927 So.2d 1055, 1057 (Fla. 4th DCA 2006). “Whether the allegations of a complaint are sufficient to state a cause of action is a question of law.” *Id.* In *Dewitt*, the trial court dismissed an Amended Complaint “on the basis that ‘several paragraphs in the amended complaint contained multiple or narrative allegations, involving multiple sets of circumstances, making a cumbersome pleading difficult to respond to.’” *Dewitt v. Rossi*, 559 So. 2d 659, 659 (Fla. 5th DCA 1990).

11. Petitioner’s Pleading violates Rule 1.110 in that it does not set forth a short and plan statement of the ultimate facts showing that the Petitioner is entitled to relief. Rather, Petitioner’s Pleading is a convoluted, unintelligible 94-page-document which is split into various sections which are not clearly related to one another. Petitioner’s Pleading includes a document

titled “Addendum A – Legal Arguments” which appears to include a mix of legal arguments and allegations. However, the Petitioner’s claims are unclear. It is unclear as to which claims are being asserted against each Respondent.

12. Additionally, on 6/17/2025, Petitioner filed a Notice Of Filing Community Development District Meeting Minutes As Exhibits In Support Of Verified Petition. However, these meeting minutes are not expressly referenced in the Petitioner’s Pleadings. Therefore, it is unclear as to how these documents support the Petitioner’s Pleading and claims. Thus, the Petitioner’s Pleading—which include the above-referenced “Addendum A” and meeting minutes—is exactly the sort of pleading which the *Dewitt* court precluded. The Petitioner’s Pleading is cumbersome and convoluted to the extent that the Respondents are unable to understand the claims being asserted against them and respond to them. For these reasons, the Petitioner’s Pleading should be dismissed.

## **II. Petitioner’s Pleading Comingles Claims Against Each Respondent**

13. “The complaint must be so framed as to allege the wrong complained of with sufficient certainty to clearly apprise the court and the defendant of the nature of the claim asserted. Mere legal conclusions are fatally defective unless substantiated by sufficient allegations of ultimate fact; and *every fact essential to the cause of action must be pleaded distinctly, definitely, and clearly.*” *Ocala Loan Co. v. Smith*, 155 So. 2d 711, 715–16 (Fla. 1<sup>st</sup> DCA 1963) (emphasis supplied).

14. Rule 1.110(f) of the Florida Rules of Civil Procedure provides that “[e]ach claim founded upon a separate transaction or occurrence and each defense other than denials shall be stated in a separate count[.]” Fla. R. Civ. P. 1.110(f). See also *Dubus v. McArthur*, 682 So. 2d 1246, 1247 (Fla. 1st DCA 1996) (citing Rule 1.110(f) and finding that it is improper to “state in a

single count separate causes of action[.]”). As such, in order to comply with Rule 1.110(f), “[a] party should plead each distinct claim in a separate count, rather than plead the various claims against all of the defendants together.” *KR Exchange Services, Inc. v. FHI, PL*, 48 So. 3d 889, 893 (Fla. 3d DCA 2010) (also holding that is improper to refer to separate defendants collectively as “defendants” without “differentiat[ing] among the various defendants’ actions[.]”). *See also Aspssoft, Inc. v. Web-Clay*, 983 So.2d 761, 768 (Fla. 5th DCA 2008) (holding that Petitioner’s complaint set forth defective claims by “impermissibly comingling separate and distinct claims” in a single count)).

15. Petitioner’s Pleading is violative of Rule 1.110(f) in that Petitioner’s request for a Writ of Quo Warranto and a Writ of Mandamus appear to be improperly asserted against all three respondents jointly, rather than asserted against each respondent separately. Thus, it is impossible for the respondents to know which allegations are alleged towards each respondent.

16. Petitioner’s allegations set forth several alleged actions of third party entities, Flow Way Community Development District and Quarry Community Development District. Just some examples of the confusing allegations in the Pleading are as follows:

- “Flow Way CDD . . . obstructed the public’s constitutionally and statutorily protected access to landlocked properties;” (*See page 3 of Petitioner’s Pleading*)
- “Quarry CDD . . . obstructed the public’s constitutionally and statutorily protected access to landlocked properties.” (*See page 3 of Petitioner’s Pleading*)
- “Quarry CDD has installed ‘No Trespassing’ signs and physically obstructed access by a barbed wire fence.” (*See Petitioner’s Pleading, page 13, paragraph 5.2.3*)
- “In Quarry CDD Board meetings, the District did not substantively record any deliberations regarding Relator's access request.” (*See Petitioner’s Pleading, page 14, paragraph 5.3.4*)

- “Flow Way CDD did not adopt independent rules, hold public hearings, or develop procedures on access, but instead deferred to HOA enforcement practices when denying access to landlocked parcels.”) (*See Petitioner’s Pleading page 15, paragraph 5.3.7*)

17. Despite the Petitioner’s allegations that the third party entities obstructed the Petitioner’s access rights, the Petitioner’s Pleading is not directed towards these third party entities. Rather, the Petitioner’s Pleading is directed towards the named respondents-- Zack Stamp and Dean Britt—individuals who held leadership roles with the Flow Way Community Development District and Quarry Community Development District. Thus, Petitioner’s Pleading is unclear as to who Petitioner’s Pleading is actually directed towards, as many of the allegations are allegations against the entities, not the individuals. It is unclear if he is alleging that Mr. Stamp and Mr. Britt engaged in wrongful conduct in their individual capacities, or if Petitioner is alleging that Flow Way Community Development District and Quarry Community Development District engaged in wrongful conduct through their agents. Therefore, the Petitioner’s Pleading should be dismissed.

### **III. Petitioner’s Claims Are Unclear**

18. Further, the actual claims being asserted by the Petitioner are unclear. The Petitioner makes several allegations alluding to declaratory relief, but fails to bring a clear declaratory action against any party. (*See Petitioner’s Pleading, page 2, paragraph IV; page 89, paragraph 9.9.6; page 5, paragraph 2.3; page 7, paragraph 4.1*). Petitioner’s Pleading also makes several references to injunctive relief, but Petitioner does not clearly request injunctive relief. (*See Petitioner’s Pleading, page 2, paragraph IV; page 5, paragraph 2.3; page 7, paragraph 4.1; page 23, paragraph VII*).

19. Additionally, Petitioner’s Pleading includes a document titled “Addendum A – Legal Arguments” for no ascertainable purpose. It alludes to several legal causes of actions that

Petitioner has not asserted. For example, the Petitioner's "Addendum A – Legal Arguments" document includes a section on the Takings Clause of the Florida Constitution. *See Petitioner's Pleading, page 68*. However, the Plaintiff has not asserted a claim pursuant to the Takings Clause. Additionally, the Petitioner's "Addendum A – Legal Arguments" document includes allegations regarding Flow Way CDD improperly responding to a public records request, but the Petitioner's Pleading does not set forth a claim pursuant to Florida's Public Records Act. *See Petitioner's Pleading, page 81, paragraph 9.7.4*. Further, this document also includes allegations regarding a possible conspiracy to deprive the Petitioner of access to a parcel of real property, however, there is no claim for conspiracy. *See Petitioner's Pleading, page 82, paragraph 9.7.6.* Thus, in light of the ambiguous and unintelligible nature of the Petitioner's Pleading and incorporated documents, the Respondents are unable to understand the claims being asserted against them and form a responsive pleading thereto.

20. Additionally, Petitioner makes several allegations regarding his Federal and Florida Constitutional due process rights, but does not bring any specific count for violation of these rights. For example:

- "Their conduct has resulted in the functional exclusion of 57 parcels . . . from lawful and economically viable use without procedural and substantive due process and without just compensation;" (*See Petitioner's Pleading, page 17, paragraph 6.2*)
- "Flow Way CDD . . . failed to afford procedural and substantive due process to protect landowner rights;" (*See Petitioner's Pleading, page 18, paragraph 6.4.4*)
- "CDD Respondents have abdicated core ministerial obligations imposed by Chapter 190, Chapter 73, and Article I, Section 9 of the Florida Constitution, which mandates that no person be deprived of property without due process of law." (*See Petitioner's Pleading,*



*page 18, paragraph 6.4.4)*

21. For these reasons, the Petitioner's Pleading should be dismissed. Alternatively, Petitioner should be required to amend the petition to state a more definite statement regarding his claims, to whom his claims are alleged, and the requested relief.

WHEREFORE, Respondents requests that this Court enter an order dismissing Petitioner's Pleading and grant such other relief as it deems just and proper.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy hereof has been furnished by e-service to all parties on the attached Counsel List this 7th day of July, 2025.

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