IN THE CIRCUIT COURT OF GENEVA COUNTY, ALABAMA

[redacted] **PLAINTIFF**

V. **CAUSE NO.** _____

THE WATER WORKS AND SEWER BOARD OF THE CITY OF GENEVA; **DEFENDANT**

COMPLAINT

COMES NOW, Plaintif[redacted] pursuant to AL CODE § 6-5-262 and other good and proper authority, and bring this action against the above-named Defendant for damages caused to his property via the actions of the Defendant. In support thereof, Plaintiffs would state the following, to-wit:

1. Plaintiff [redacted] is a Geneva County, Alabama resident under no known disability.
2. Defendant Geneva Water Works and Sewer Board in an Alabama Domestic Non-Profit Corporation, (AL SOS Entity No. 000-810-824) who may be served at its place of business: 517 S. Commerce Street, Geneva, AL 36340. There is no Registered Agent listed for this entity with the Alabama Secretary of State.
3. In the event the forgoing defendant cannot be found on diligent inquiry, upon affidavit establishing that fact, the Clerk of the Court should promptly prepare and publish a summons once in each week during three successive weeks in a public newspaper of Geneva County to the Defendant to appear and defend the suit.
4. The amount in controversy herein is in excess of $20,000 giving the Circuit Court exclusive original jurisdiction pursuant to AL Code § 12-11-30.
5. Venue is proper in this Court pursuant to Ala. Code § 6-3-7(a)(1) as a substantial part of the acts or omissions giving rise to the claims herein occurred within Geneva County, Alabama. Venue is also proper under Ala. Code § 6-3-7(a)(2) as the Defendant non-profit resides and operates almost exclusively within Geneva County, Alabama.

FACTS

6. In support of its claims, Plaintiff offers the following timeline to the court:
   a. On or about August 26, 2024 the Plaintiff returned to his property located at 1932 E. State Highway 52, Hartford, AL 36344 to find a backhoe and several individuals working on his property without his knowledge.
   b. One individual from the group identified themselves as being with the Defendant's entity: The Geneva Water Works and Sewer Board. This individual informed the Plaintiff they were installing a water meter on the Plaintiff's property, to service the house of another individual roughly 4-500 feet away, and two houses down from the Plaintiffs.
   c. Plaintiff immediately objected to the installation of another individual's water meter on his property, and insisted they install the water meter within the bounds of the home it was servicing's property.
   d. The Defendant's agents/employees/etc. refused, continuing work at the instruction of the supervisor, Kayleigh Austin. Geneva police officers were called to the scene, and the water department supervisor insisted to them that the Defendant had a six-foot easement and/or right of way along "all sides of" the Plaintiff's property. Defendant's employees/agents/etc. provided no legal or recorded documentation supporting this claim to the Plaintiff at any point despite repeated demands for such.
   e. Ms. Austin, while on the scene, then directed the police department to arrest the Plaintiff should he interfere with their operations taking place on his own property, threatening the Plaintiff with legal action should he continue to stand up for his property rights.
   f. Ms. Austin also conversed and joked with the neighbors of the Plaintiff, whose water meter is located on Plaintiff's property, about the Plaintiff in front of him, maliciously supporting the mockery and lude dialogue of those neighbors directed towards the Plaintiff.
   g. In installing the meter, the Defendant and its agents/employees/etc. caused significant

damage to the Plaintiff's property, which has yet to be repaired to this day.

h. Eventually, someone with the Defendant's entity directed its agents/employees/etc. not to place the meter on the Plaintiff's property, and so they placed it just off the Plaintiff's property line. However, the next time the Plaintiff returned to the property the Defendant has dug up the meter, and again placed it on the Plaintiff's property without his consent. Defendant caused even further damage to the Plaintiff's property in doing so.

i. Plaintiff has been informed by the County of Geneva that the County does not own Faith Road, the road bordering the Plaintiff's property, and thus cannot own an easement or right of way on the same. This position was reaffirmed by Commissioner Todd Brannon in 2024.

j. The County Engineer, Justin Barfield has also confirmed in writing to the Plaintiff that the County has no right of way on the Plaintiff's property, and that the Water Department's assertion they have a right of way on Faith Road is incorrect. The only potential right of way noted by the engineer was one of the State, which does not belong to the Defendant in any way, and seeing as the Defendant is a corporate entity, rather than a governmental one, this right of way gives the Defendant no right to trespass on Plaintiff's property.

k. Bart Wilks, the Geneva County Commissioner, has also confirmed to the Plaintiff that the County makes no claim to the property in question.

l. The Plaintiff commissioned a survey on 2019, which clearly shows there are no easements or rights of way over the property belonging to the Defendant, the State of Alabama or the County of Geneva. *See* **Exhibit A**.

m. In roughly 2019, the Plaintiff paid for the Defendant to install a second meter and water line to his property – a one-inch line he was told could not handle any additional meters. However, since he has owned the property the Defendant has installed a third meter for a separate individual on this same line, causing the Plaintiff's water service to lose considerable pressure.

n. The Defendant's actions, by and through its agents/employees/etc. have caused the Plaintiff's relationship with their neighbors to sour, causing them unnecessary emotional distress.

o. The Defendant installed three steel rods around the water meter in question, effectively blocking the road on which the meter is placed, and the slanderous statements made by Defendant to these neighbors gave rise to them trespassing on Plaintiff's property to put up a camera which is often used to harass the Plaintiff by the Defendant's employees/agents/etc. sharing information with the neighbors in a malicious nature in violation of Ala. Code § 13A-11-32.

p. The Defendant assisted in the coordination of intimidation tactics by the Plaintiff's neighbor who owns the water meter, by providing them with information such as when the Plaintiff is outside by way of the camera.

q. The Geneva Police even made the Defendant remove this camera in light of the Defendant's improper use of it.

r. Defendants actions have left Plaintiff and his wife afraid to visit the property alone due to the hostile nature of the neighbors after Plaintiff's interaction with Defendant.

s. The Defendant has refused to install or even provide the Plaintiff with a quote for installation of water services on a separate portion of his property, refusing to do so out of retaliation, and placing the Plaintiff's charity business on hold as he is unable to have a septic tank installed on the property without running water lines being installed. This denial of services to the Plaintiff is out of pure malicious intent in response to Mr. [redacted] assertion of his private property rights, and would effectively deny the Plaintiff the ability to ever have running water on the property as they are the only provider in the area.

COUNT I – SLANDER OF TITLE

7. Plaintiff adopts into this Court the averments contained in the preceding paragraphs.

8. Defendants engaged in Slander of Title by "falsely and maliciously impugning" Plaintiff's title in asserting a claim to the same under the false pretense of an "easement or right of

way."

9. Under Alabama law, the elements of slander of title are:

> (1) Ownership of the property by plaintiff; (2) falsity of the words published; (3) malice of defendant in publishing the false statements; (4) publication to some person other than the owner; (5) the publication must be in disparagement of plaintiff's property or the title thereof; and (6) that special damages were the proximate result of such publication.

Merchants Nat. Bank of Mobile v. Steiner, 404 So.2d 14, 21 (Ala. 1981).

10. In the instant case, the ownership of property by the Plaintiff is clear. *See* **Exhibit B**, Deeds to Plaintiff.

11. Defendant has repeatedly, and falsely asserted its ownership to the property in question publishing them to multiple other entities include the Geneva Police Department, the City of Geneva and others.

12. The malice of the Defendant's actions is clear from the assistance provided to the Plaintiff's neighbor, the owner of the met in question, in harassing the Plaintiff and his family when they are present on the location.

13. The repeated assertions of claim to the Plaintiff's property by the Defendant, through its agents/employees/etc. has resulted in disparagement of the Plaintiff's ownership of the property – resulting in the police threatening to arrest the Plaintiff for interfering with operations on his own property he does not agree to. Defendants malice is again evident from is clear use of the Plaintiff's neighbors, and the emotional distress caused by the souring of that relationship in attempts to force Plaintiff to simply give up and stop standing up for his property rights.

14. Special damages were thus incurred by the Plaintiff as a direct and proximate result of the Defendant's actions. These damages include, but are not limited to: (1) court and attorney's fees in bringing this action; (2) costs incurred to repair the Plaintiff's property after Defendant's actions; (3) emotional damages suffered by the Plaintiff as a result of the malicious actions of both the Defendants and the Plaintiff's neighbors at the Defendant's behest.

COUNT II – TRESPASS

15. Plaintiff adopts into this Court the averments contained in the preceding paragraphs.
16. Defendant has installed water meters for other individuals on the Plaintiff's property, without consent of the Plaintiff or proper compensation of the Plaintiff for the portion of his property he is no longer able to utilize.
17. Defendant, despite its assertions, has provided no legitimate documentation supporting their contention that they own an easement of right of way over the edges of Plaintiff's property. There are no recorded instruments to this effect, and thus the Defendant is trespassing on the Plaintiff's property without any legitimate right to do so.
18. Ala. Code § 6-5-262 provides: "Any abuse of or damage done to the personal property of another unlawfully is a trespass for which damages may be recovered."
19. Alabama law defines a trespasser as: "A person who goes upon the premises of another without permission or invitation, expressed or implied, or who, after rightfully entering upon the premises of another, remains on the premises after consent or license to enter or use the premises has been terminated." Ala. Code § 6-5-345(a)(2).
20. Defendant and its agents/employees/etc. were never authorized to perform work on the Plaintiff's property by and legitimate owner of the property, as Plaintiff is the sole owner of record.
21. Regarding trespass, the "trier of fact may properly award punitive damages in a trespass action when the trespass is attended by rudeness, wantonness, recklessness or an insulting manner or is accompanied by fraud, malice, oppression, aggravation, or gross negligence, *see, e.g., Downs v. Lyles*, 41 So.3d 86, 92 (Ala. Civ. App. 2009)..." *Eustace v. Wilbourn*, 357 So.3d 647, 654 (Ala. Civ. App. 2020).
22. In the instant case, the Defendant's trespass was committed with the requisite malice to justify punitive damages being awarded to the Plaintiff.
23. Plaintiff thus requests removal of all property belonging to Defendant(s), including any apparatus used to serve properties other than the Plaintiff's, from Plaintiff's property.

COUNT III: NEGLIGENCE

24. Plaintiff adopts into this Court the averments contained in the preceding paragraphs.

25. "'Actionable negligence' has been defined by the Supreme Court of Alabama to be: 'The failure to discharge a legal duty to the person injured.'" *Birmingham Belt R. Co. v. Drake*, 56 So. 53 (Ala. App. 1911). Defendant(s) were negligent in failing to adequately construct the home located at 916 County Road 610, Enterprise, AL 36330.

26. "It is well settled that in order to recover in a negligence action, one must prove the existence of a duty, a breach of that duty, and that the breach of that duty proximately caused the injury, and damages." *Ramsey v. Avco Financial Services*, 646 So.2d 142 (Ala. Civ. App. 1994) (citing *Herston v. Whitesell*, 348 So.2d 1054 (Ala.1977)).

27. In providing water services to the Plaintiff, the Defendant owed him a duty to use reasonable care, which would not result in significant damage to the Plaintiff's property. The Defendant also owed the Plaintiff a duty to treat him with the same respect and dignity as any other customer, and not to expect him to provide the land for other individuals' water meters.

COUNT IV: NEGLIGENT HIRING/TRAINING/RETENTION/SUPERVISION

28. Plaintiff adopts into this Court the averments contained in the preceding paragraphs.

29. Under Alabama law, "in the tort of negligent hiring, retention, training, and supervision is the concept that, as a consequence of the employee's incompetence, the employee committed some sort of act, wrongdoing, or tort that caused the plaintiffs injury." *Motley v. Express Servs.*, SC-2022-0977 (Ala. Jun 23, 2023) (quoting *Lane v. Central Bank of Alabama, N.A.*, 425 So.2d 1098, 1100 (Ala. 1983).

30. Defendant, due to previous assertions from the County that they had no ownership in the road bordering Plaintiff's property, was well aware of the Plaintiff's property line. However, the Defendant refused to properly train its supervisor mentioned in this Complaint in the legal aspects of property ownership and the limits of its authority on private property.

COUNT V - FRAUD, MISREPRESENTATION, DECEIT

31. Plaintiff adopts into this Court the averments contained in the preceding paragraphs.

32. Ala. Code § 6-5-101 provides: "Misrepresentations of a material fact made willfully to deceive, or recklessly without knowledge, and acted on by the opposite party, or if made by mistake and innocently and acted on by the opposite party, constitute legal fraud."

33. Defendant has repeatedly made willful assertions that it owns and matiains dominion and control over a portion of Plaintiff's property, despite complete and total lack of legal support for this contention. By asserting this fraudulent ownership of the property, the Defendant is willfully misrepresenting facts in attempts to get the Plaintiff to allow the Defendant to use his property however the Defendant so chooses, likely partially because it is simply more convenient for the Defendant. Assumedly, less construction is required to place the meter on the Plaintiff's property, rather than on the property of the house that meter is servicing.

COUNT VI – TORT OF OUTRAGE

34. Alabama first recognized the tort of outrage, or infliction of severe emotional distress in Road Service Co. v. Inmon, 394 So.2d 361 (Ala. 1980):

> [W]illful wrongs, or those made so recklessly as to equate willfulness, authorize recovery in damages for the mental suffering caused thereby, and we now recognize that one who by extreme and outrageous conduct intentionally or recklessly causes severe emotional distress to another is subject to liability for such emotional distress and for bodily harm resulting from the distress. The emotional distress thereunder must be so severe that no reasonable person could be expected to endure it. Any recovery must be reasonable and justified under the circumstances, liability ensuing only when the conduct is extreme. Comment, Restatement [(Second) of Torts, § 46 (1965)], at 78. By extreme we refer to conduct so outrageous in character and so extreme in degree as to go beyond all possible bounds of decency, and to be regarded as atrocious and utterly intolerable in a civilized society. Comment (d), Restatement, supra at 72.

Continental Cas. Ins. Co. v. McDonald, 567 So.2d 1208, 1211 (Ala. 1990).

35. Defendant's actions in this case "go beyond all possible bounds of decency, and to be regarded as atrocious and utterly intolerable in a civilized society" as a citizen should not be punished for simply wanting to maintain his private property rights.

COUNT VII – DEFAMATION/SLANDER/LIBEL

36. Ala. Code § 6-5-180 et. seq. provides for causes of action against Defendants with repsect to defamation, slander and libel.

37. Under Ala. Code § 6-5-186, vindictive and/or punitive damages are proper seeing as the Plaintiff made multiple written demands to the Defendant to retract is claim of ownership and/or right of free use over the Plaintiff's property, and the Defendant repeatedly refused to do so.

38. "Alabama law requires that, in order to maintain an action for defamation, a plaintiff must prove that there was publication of the defamatory statement, *Willis v. Demopolis Nursing Home, Inc.*, 336 So.2d 1117, 1120 (Ala.1976), and that the publication was made to 'one or more other parties.'" *Montgomery v. Big B, Inc.*, 460 So.2d 1286, 1287 (Ala. 1984) (quoting *McDaniel v. Crescent Motors, Inc.*, 31 So.2d 343, 344 (1947)).

39. In the present case, the Defendant published defamatory statements to the Plaintiffs neighbors and members of his community, disparaging him for merely attempting to maintain his private property rights.

40. These statements were clearly made to "one or mare parties," as shown by the numerous pieces of correspondence from both the Defendant, the County, the Law Office of Al Danner, as well as the pictures and witness testimony the Plaintiff can provide with repsect to the Defendant's interactions with the Plaintiff's neighbors on the property, and within earshot of the Plaintiff.

41. A libel or slander action will lie only if the defendant publishes defamatory material about the plaintiff to a third party. *Rowe v. Isbell*, 599 So.2d 35 (Ala. 1992).

42. In *Rowe*, the alleged defamatory statements were made "orally ... in the presence and hearing of Rowe, Rowe's husband, and several employees of the pharmacy..." *Id* at 36.

43. The *Rowe* Court held that communications to multiple individuals can constitute "publishing" of the defamatory statements as required for the cause of action by denying the Defendant's motion for summary judgment. *See Rowe v. Isbell*, 599 So.2d 35 (Ala. 1992).

44. Given the weaponization of the Plaintiff's neighbors against the Plaintiff by the Defendant, as a direct result of the defamatory statements published to these individuals by the Defendant, the Defendant committed these acts with the requisite malice to justify

punitive damages.

WHEREFORE, Plaintiff demands judgment against Defendant Geneva Water Works and Sewer Board in the amount of $75,000.00, together with attorney's fees and costs of court in judgment against the Defendant, as well as for any other relief the Court may deem appropriate.

Respectfully submitted this the 10th day of December, 2024,

[redacted]

STATE OF Alabama §

COUNTY OF Geneva §

I, Dana Clark Seay, a Notary Public in and for said County, in said State, do hereby certi [redacted] hose name is signed to the foregoing instrument, and who is known by me, acknowledged before me on this day that, being informed of the contents of said instrument, he/she executed the same voluntarily on the day the same bears date.

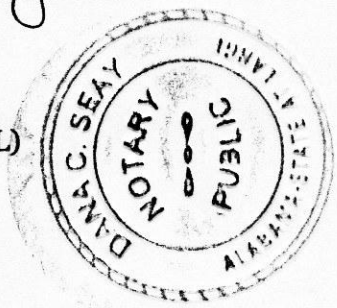
Given under my hand and office seal this the 6th day of December, 2024.

Dana Clark Seay
Notary Public

My commission expires: 9-15-2026

DANA CLARK SEAY
Notary Public
Alabama State at Large

(SEAL)



Prepared by:

[redacted]