

CITY OF WILLIAMSPORT, PA RESOLUTION

RESOLUTION # 8862

DATE 3-28-19

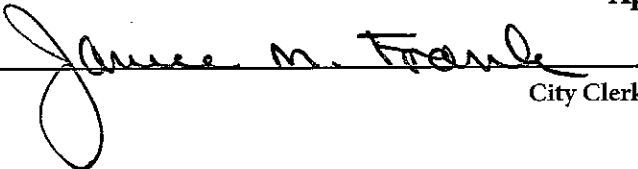
TITLE

**RESOLUTION TO RATIFY THE INITIATION
OF LITIGATION TO COMPEL THE MAYOR TO MAKE RECOMMENDATIONS
FOR THE APPOINTMENT OF INDIVIDUALS TO FILL THE VACANT AND
EXPIRED SEATS ON THE WILLIAMSPORT MUNICIPAL WATER AUTHORITY
AND THE WILLIAMSPORT SANITARY AUTHORITY**

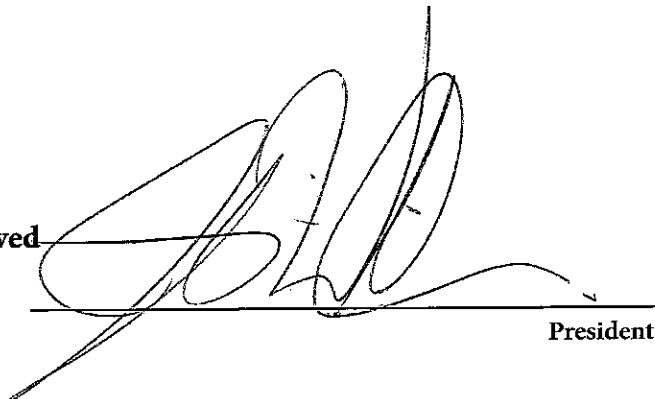
WHEREAS, on or about March 26, 2019, the City Solicitor's Office, on behalf of City Council, filed a Mandamus Complaint in the Court of Common Pleas of Lycoming County, to compel the Mayor to make recommendations to City Council for individuals to be appointed to fill four vacant and/or expired seats on the WMWA and WSA boards;

WHEREAS, the City wishes to ratify the initiation of said Mandamus Complaint;

NOW, THEREFORE, BE IT RESOLVED that City Council ratifies the initiation of the Mandamus Complaint to seek a writ of mandamus to require that the Mayor make recommendations to City Council on individuals to be appointed to fill four vacant/expired seats on the WMWA/WSA Board, and the appropriate City officers, employees, and solicitors are authorized to sign and file documents to implement the intent of this Resolution.


City Clerk

Approved


President

Supreme Court of Pennsylvania

Court of Common Pleas Civil Cover Sheet

Lycoming

County

For Prothonotary Use Only:

Docket No.

19-0483

TIME STAMP

The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

FILED
 LYCOMING COUNTY
 PROTHONOTARY
 MAR 26 AM 11:29
 CLERK OF COURT

Commencement of Action:

- Complaint
 Writ of Summons
 Petition
 Transfer from Another Jurisdiction
 Declaration of Taking

Lead Plaintiff's Name:
City Of Williamsport

Lead Defendant's Name:
Gabriel J. Campana

Are money damages requested? Yes No

Dollar Amount Requested: (check one)
 Within arbitration limits
 Outside arbitration limits

Is this a Class Action Suit? Yes No

Is this an MDJ Appeal? Yes No

Name of Plaintiff/Appellant's Attorney: Austin White, Esquire

Check here if you have no attorney (are a Self-Represented [Pro Se] Litigant)

Nature of the Case: Place an "X" to the left of the **ONE** case category that most accurately describes your **PRIMARY CASE**. If you are making more than one type of claim, check the one that you consider most important.

TORT (do not include Mass Tort)

- Intentional
 Malicious Prosecution
 Motor Vehicle
 Nuisance
 Premises Liability
 Product Liability (does not include mass tort)
 Slander/Libel/Defamation
 Other:

CONTRACT (do not include Judgments)

- Buyer Plaintiff
 Debt Collection: Credit Card
 Debt Collection: Other

 Employment Dispute: Discrimination
 Employment Dispute: Other

 Other:

CIVIL APPEALS

- Administrative Agencies
 Board of Assessment
 Board of Elections
 Dept. of Transportation
 Statutory Appeal: Other

 Zoning Board
 Other:

MASS TORT

- Asbestos
 Tobacco
 Toxic Tort - DES
 Toxic Tort - Implant
 Toxic Waste
 Other:

REAL PROPERTY

- Ejectment
 Eminent Domain/Condemnation
 Ground Rent
 Landlord/Tenant Dispute
 Mortgage Foreclosure: Residential
 Mortgage Foreclosure: Commercial
 Partition
 Quiet Title
 Other:

MISCELLANEOUS

- Common Law/Statutory Arbitration
 Declaratory Judgment
 Mandamus
 Non-Domestic Relations Restraining Order
 Quo Warranto
 Replevin
 Other:

PROFESSIONAL LIABILITY

- Dental
 Legal
 Medical
 Other Professional:

SECTION A

SECTION B

COURT OF COMMON PLEAS, LYCOMING COUNTY,
PENNSYLVANIA CASE MONITORING NOTICE

CITY OF WILLIAMSPORT, by and
through its City Council
Plaintiff
vs.
GABRIEL CAMPANA in his
Capacity as Mayor of the City of Williamsport
Defendant

: DOCKET NO: 19- 0483
:
:
:
DATE:

I. This matter is:

 Mortgage Foreclosure (file once an Answer has been filed). Time needed for trial

 Credit Card Collection Case (file once an Answer has been filed)

- a) Arbitration. (\$50,000 or less) Time needed for discovery? months
- b) Trial. Fast track (6-12 months) Normal track (12-18 months)

 Forfeiture (file once an Answer has been filed)

 Administrative Agency Appeal (file with Notice of Appeal)

 General Civil Case (file with Complaint):

- a) Arbitration. (\$50,000 or less) Time needed for discovery? months
- b) Fast track (6-12 months) -(Appeal from MDJ Enforcement Action)
- c) Normal track (12-18 months)
- d) Complex track (18-24 months)

 Other. Action requested:

II. Jury trial demanded? YES NO

III. Please note any special scheduling concerns:

Name of filing counsel or pro se party: City of Williamsport, by and through its City Council
J. David Smith, Esquire; Austin White, Esquire
Address: McCormick Law Firm, 835 West Fourth Street, Williamsport, PA 17701

Opposing counsel or pro se party: Gabriel J. Campana, in his capacity as Mayor of the City of Williamsport
Address: 245 West 4th Street, PA 17701

FILED
LYCOMING COUNTY
2019 MAR 26 AM 11:29
SUZANNE M. STRELE
PROTHONOTARY &
CLERK OF COURTS

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

CITY OF WILLIAMSPORT, by and
Through its City Council
Plaintiff

19- 0483

DOCKET NO.

vs.
GABRIEL J. CAMPANA in his
capacity as Mayor of the City of
Williamsport
Defendants

CIVIL ACTION - LAW

NOTICE TO DEFEND

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and notice are served by entering a written appearance personally or by an attorney and filing in writing with the Court your defenses or objections to the claims set forth. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO, OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

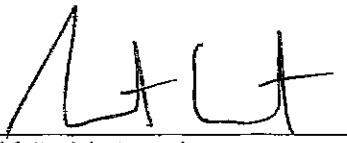
Pennsylvania Bar Association
100 South Street, P. O. Box 186
Harrisburg, PA 17108-0186
Telephone (800) 692-7375

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

North Penn Legal Services
25 West Third Street, Suite 400
Penn Tower Building
Williamsport, PA 17701
(570) 323-8741

FILED
LYCOMING COUNTY
2019 MAR 26 AM 11: 29
SUZANNE A. FEDELE
PROTHONOTARY &
CLERK OF COURTS

McCORMICK LAW FIRM

By 

J. David Smith, Esquire

ID No: 27813

Austin White, Esquire

ID No: 312789

Attorneys for Plaintiff

McCORMICK LAW FIRM

835 West Fourth Street

Williamsport, PA 17701

(570)326-5131

FILED
 LYCOMING COUNTY
 2019 MAR 26 AM 11: 29
 SUZANNE L. WEAVER
 PROthonotary &
 CLERK OF THE COURT

CITY OF WILLIAMSPORT, by and
 through its City Council
 Plaintiff

: IN THE COURT OF COMMON PLEAS OF
 : LYCOMING COUNTY, PENNSYLVANIA

v.

: CIVIL ACTION - LAW
 : NO. 19- 0483

GABRIEL J. CAMPANA in his
 capacity as Mayor of the City of
 Williamsport
 Defendant

COMPLAINT IN MANDAMUS

AND NOW, COMES the City of Williamsport, by and through its City Council, who files this Complaint in Mandamus, and in support thereof avers as follows:

1. Plaintiff City of Williamsport, by and through its City Council (the "City"), is a city of the third class under Pennsylvania law, situated within Lycoming County, and has a mailing address of 245 West Fourth Street, Williamsport, Pennsylvania 17701.

2. Defendant Gabriel J. Campana is sued in his official capacity as the duly elected Mayor of the City of Williamsport, and is an adult individual with a mailing address of 245 West Fourth Street, Williamsport, Pennsylvania 17701.

3. This mandamus action arises under the laws of the Commonwealth of Pennsylvania and is appropriately before this Court pursuant to Rule of Civil Procedure 1091 et seq.

4. This Court has jurisdiction over this matter pursuant to 42 Pa. C.S. § 931.

5. Venue is appropriate pursuant to Pennsylvania Rule of Civil Procedure 1092(c).

6. This action has been filed to compel the Mayor to fulfill his obligation to recommend appointments to fill the four (4) vacant seats on the boards of the Williamsport Municipal Water Authority and the Williamsport Sanitary Authority.

7. Specifically, the Williamsport Municipal Water Authority (the "WMWA") operates under the Pennsylvania Municipal Authorities Act ("MAA") and is under the direction of a 10-member Board.

8. The Williamsport Sanitary Authority (the "WSA") also operates under the MAA, and is under the direction of a 10-member Board.

9. The 10 members of the WMWA also serve as the 10 members of the WSA.

10. Board members are recommended for appointment to the WMWA/WSA by the Mayor, and their appointments are subject to the advice and consent of City Council -- once appointed, a member serves a five-year term. See 53 Pa. C.S. § 5610(a)(1); see also City Administrative Code, § 123.01 (Mayor "shall appoint with the advice and consent of Council..."); Section 415 of the Optional Third Class City Charter Law (same).

11. "[W]henver a vacancy has occurred by reason of the expiration of the term of any member, the governing body shall appoint a member of the board for a term of five years from the date of expiration of the prior term to succeed the member whose term has expired." See 53 Pa. C.S. § 5610(a)(1).

12. The governing body of the WMWA/WSA is the City of Williamsport. See e.g Reed v. Harrisburg City Council, 606 Pa. 117, 126 (2010).

13. The Mayor thus has a legal obligation to recommended appointees to fill vacancies on the WMWA/WSA Boards, the appointment of which is subject to the advice and consent of City Council.

14. The terms of four Board members have expired, as of the following dates:

William Ertel	January, 2019
Steven Cappelli	January, 2018
George Bierman	January, 2018
Cindi Perry	December, 2016

15. However, under the MAA, these members “hold office until their successors have been appointed, and may succeed themselves...” See 53 Pa. C.S. § 5610(d).

16. The Mayor has refused to perform his legal obligation to recommend the appointment of successors to fill the four vacant/expired Board seats.

17. Instead, the seats remain occupied by members whose terms have expired -- these individuals have not been reappointed.

18. Under the law, the City has the right and the obligation to participate in the appointment process relative to the appointment of members. However, it cannot exercise that right unless the Mayor first proposes potential appointees.

19. The City’s sole remedy is to request that the Court issue a writ of mandamus commanding that the Mayor propose appointees to fill the four vacant/expired board seats.

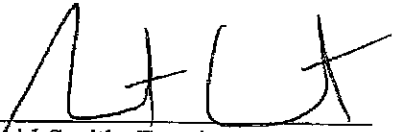
20. The City lacks an adequate remedy at law, and the City’s right to relief is clear.

WHEREFORE, the City of Williamsport, by and through its City Council, requests that the Court command Mayor Gabriel Campana to promptly submit to City Council the names of prospective appointees to fill the four vacant/expired seats on the Boards of the Williamsport Municipal Water Authority and the Williamsport Sanitary Authority.

Respectfully submitted,

McCORMICK LAW FIRM

By


J. David Smith, Esquire

ID No: 27813

Austin White, Esquire

ID No: 312789

Attorneys for Plaintiff

McCORMICK LAW FIRM

835 West Fourth Street

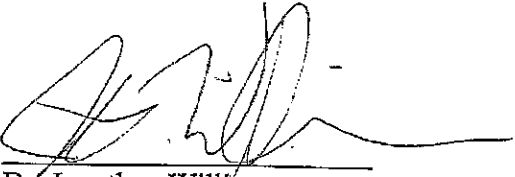
Williamsport, PA 17701

(570)326-5131

VERIFICATION

I, Dr. Jonathan Williamson, City Council President, hereby verify that the facts contained in the foregoing Complaint are true and correct to the best of my knowledge, information and belief. This verification is given pursuant to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: 3/26/2014



Dr. Jonathan Williamson
City Council President