

DEC 15 2006

ANITA ESCOBEDO, Clerk

1 THE LAW OFFICE OF JOHN T FRANKLIN
JOHN T FRANKLIN, Arizona State Bar #22163
2 P.O. Box 219
605 W. Main Street
3 Payson, AZ 85547
4 PF: (928) 474-5060
FX: (928) 474-5063

5 Attorney for PETITIONERS

6 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

7 IN AND FOR THE COUNTY OF GILA

8 JOHN ROBERT HOLIDAY, an individual, and
9 JAMES WHITE, as Publisher of PAYSON
10 PATRIOT, LLC, an Arizona Limited Liability
Company-Newspaper,

11 Petitioner,

12 v.

13 TOWN OF PAYSON, County of Gila, State of
14 Arizona; ROBERT EDWARDS, Mayor,
PAYSON TOWN COUNCIL constituting of
15 TIM FRUTH, Vice-Mayor, SU CONNELL,
16 EDWARD BLAIR, ANDY ROMANCE, JOHN
WILSON, and MIKE VOGEL,

17 Respondent.

Case No.: CV2006-299

PETITION FOR WRIT OF MANDAMUS

18 Petitioners, JOHN ROBERT HOLIDAY, and JAMES WHITE as Publisher of PAYSON
19 PATRIOT LLC, through undersigned counsel, petition this Court pursuant to A.R.S. §12-2021, *et*
20 *seq.*, and alleges and states as follows:
21

- 22 1. Petitioner JAMES WHITE as Publisher of PAYSON PATRIOT, LLC is a newspaper
23 providing information to the electorate of the TOWN OF PAYSON.
24 2. Petitioner, JOHN ROBERT HOLIDAY, at all times herein mentioned was, and now is a
25 resident, freeholder, taxpayer and a legally qualified elector of the Town of Payson,
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1 County of Gila, State of Arizona, and as such is legally qualified to vote for the various
2 candidates for municipal offices in the said TOWN OF PAYSON.

3 3. As such resident, freeholder, taxpayer, and legally qualified elector of the TOWN OF
4 PAYSON, he was and is deeply interested in having said town properly governed.

5 4. THE TOWN OF PAYSON, County of Gila, State of Arizona, is a municipal corporation
6 organized and existing under and by virtue of the laws of said state. governed by
7 ROBERT EDWARDS, which is duly elected by the qualified electorate of the TOWN
8 OF PAYSON as mayor, TIM FRUTH, Vice-Mayor, SU CONNELL, EDWARD BLAIR,
9 ANDY ROMANCE, JOHN WILSON, and MIKE VOGEL, as councilors of the town
10 council.

11 5. The TOWN OF PAYSON recently elected this council to administer to the affairs of the
12 town.

13 6. The TOWN OF PAYSON is located within the County of Gila, State of Arizona,
14 therefore, venue in the Gila County Superior Court is appropriate.

15 7. The TOWN OF PAYSON has an ordinance that controls who may sit upon Task
16 Forces/Advisory Boards/Commisions/Committees within the Town.

17 8. The Payson Town Code 33.02 (E) states:

18 "Every regular member of a town board, committee or commission shall be an
19 elector of the town."

20 9. Shortly after being elected into office, Defendant ROBERT EDWARDS, as Mayor of the
21 TOWN OF PAYSON, began appointing various Task Forces to different areas of town
22 government. Some of those areas include Affordable Housing, Airport, Adminsitative
23 Policies and Procedures, Ethics, Public Safety, Water, Economic Development, Fire
24 Safety, and Highway Bypass to name a few.
25
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- 1 10. These Task Forces are headed by people appointed by Mayor, ROBERT EDWARDS.
- 2 11. Mayor, ROBERT EDWARDS introduced the Task Force leaders to the council and
- 3 TOWN OF PAYSON department heads as contacts to implement change within the
- 4 TOWN OF PAYSON.
- 5
- 6 12. It is upon information or belief that members of many of the task force members are not
- 7 legally qualified electors of the TOWN OF PAYSON as provided in the Town's
- 8 ordinance stated in Paragraph 8 above.
- 9 13. These Task Forces meet in secret with no public input in violation of the Arizona Open
- 10 Meeting Laws as outlined in *Arizona Revised Statutes §§338-431 et seq.*
- 11 14. As these task forces meet, they are violating open meeting laws of the State of Arizona.
- 12 15. The Task Forces fail to provide agendas prior to meetings.
- 13 16. The Task Forces fail to provide when the meetings are to occur.
- 14 17. The Task Forces fail to provide where the meetings will take place.
- 15 18. Petitioners make this application for Writ of Mandate to this Court in the first instance
- 16 because the matters involved are of great public and general interest to the people in the
- 17 TOWN OF PAYSON, and their speedy and final determination is necessary for a quick
- 18 and just resolution. As this continues to be of concern to the electorate of the TOWN OF
- 19 PAYSON, as they are being kept from the proper legislative intent provided for by our
- 20 founding fathers.
- 21
- 22
- 23 19. Petitioners have no plain, speedy, or adequate remedy at law.

24 WHEREFORE, Plaintiffs respectfully requests this Honorable Court grant them an award as

25 follows:

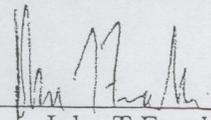
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- 1 A. Order the TOWN OF PAYSON, ROBERT EDWARDS and the TOWN
2 COUNCIL made up of TIM FRUTH, Vice-Mayor, SU CONNELL, EDWARD
3 BLAIR, ANDY ROMANCE, JOHN WILSON, and MIKE VOGEL, to release the
4 names and addresses of each and every member of any and all Town Task Force
5 committees.
6
7 B. Order the temporary cease and desist on all task forces, presently organized or
8 announced and to be organized in the future until a determination can be made as
9 to who is on the Task Forces.
10
11 C. Make a determination that the Task Forces are advisory committees and fall under
12 the Arizona Open Meeting Laws.
13
14 D. Order an award of Attorney Fees
15
16 E. For any and all other relief deemed reasonable and necessary by the Court under
17 the circumstances.

18 RESPECTFULLY SUBMITTED this 15th day of December, 2006.

19 THE LAW OFFICE OF
20 JOHN T FRANKLIN

21 By: 

22 John T Franklin
23 Attorney for Petitioner
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VERIFICATION

STATE OF ARIZONA)

County of Gila) ss.
)

JOHN ROBERT HOLIDAY, being first duly sworn, states as follows:

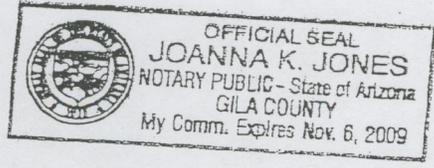
That he, JOHN ROBERT HOLIDAY, of Payson, Arizona, is the Applicant in the foregoing PETITION FOR MANDAMUS; and that the statements in the Petition are accurate and complete to the best of his knowledge and belief.

John Robert Holiday
JOHN ROBERT HOLIDAY

SUBSCRIBED AND SWORN TO before me by JOHN ROBERT HOLIDAY This 4th day of December, 2006.

Joanna K Jones
Notary Public

My Commission Expires Nov. 6, 2009



1 VERIFICATION

2 STATE OF ARIZONA)

3 County of Gila)

) ss.
)

4 JAMES ORVILLE WHITE, being first duly sworn, states as follows:

5 That he, JAMES ORVILLE WHITE, of Pine, Arizona, is the Applicant in the foregoing
6 PETITION FOR MANDAMUS; and that the statements in the Petition are accurate and complete to
7 the best of his knowledge and belief.

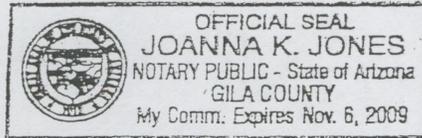
8 James Orville White
9 JAMES ORVILLE WHITE

10 SUBSCRIBED AND SWORN TO before me by JAMES ORVILLE WHITE This 4th
11 day of December, 2006.

12
13 Joanna K Jones
14 Notary Public

15 My Commission Expires

16 Nov. 6, 2009



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RECEIVED

Town Clerk

DEC 26 2006

Town of Payson

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14 TIM FRUTH, Vice-Mayor, SU CONNELL,
15 EDWARD BLAIR, ANDY ROMANCE, JOHN
WILSON, and MIKE VOGEL,

16 Respondent.

Case No.: CV2006-299

SUMMONS

17
18 **WARNING: This is an official document from the court that affects your rights. Read this**
19 **carefully. If you do not understand it, contact a lawyer for help.**

20 FROM THE STATE OF ARIZONA TO:

TOWN OF PAYSON

Name of Defendant

- 23 1. A lawsuit has been filed against you. A copy of the lawsuit and other court papers are served on you with this "Summons".
- 24 2. If you do not want a judgment or order taken against you without your input, you must file an "Answer" or a "Response" in writing with the Court and pay the appropriate filing fee. If you do not file an "Answer" or a "Response" the other party may be given the relief requested in his Petition or Complaint. To File you "Answer" or "Response" take, or

1 send, the "Answer" or "Response" to the Office of the Clerk of the Superior Court 714 S.
2 Beeline Hwy, Payson AZ 85541. Mail a copy of your "Response" or "Answer" to the other
3 party at the address listed on the top of this Summons.

- 3 3. If this Summons and other court papers were served on you by a registered process
4 server or the Sheriff, within the State of Arizona, your "Response" or "Answer" must be
5 filed within TWENTY (20) CALENDAR DAYS from the date you were served, not counting
6 the day you were served. If this "Summons" and the other papers were served on you by
7 a registered process server or the Sheriff outside the State of Arizona, your Response
8 must be filed within THIRTY (30) CALENDAR DAYS from the date you were served, not
9 counting the day you were served. Service by a registered process server or the Sheriff is
10 complete when made. Service by Publication is complete THIRTY (30) DAYS after the date
11 of the first publication.
- 7 4. You can get a copy of the court papers filed in this case from the Petitioner at the address
8 at the top of this paper, or from the Clerk of the Superior 714 S. Beeline Hwy, Payson AZ
9 85541.
- 10 5. Requests for reasonable accommodation for persons with disabilities must be made to the
11 office of the judge or commissioner assigned to the case, at least five (5) days before your
12 scheduled court date.

11 SIGNED AND SEALED THIS 15 th DAY OF DECEMBER, 2006

12 ANNITA ESCOBEDO, CLERK OF COURT

13
14 By Adrienne Rhodes
15 Deputy Clerk
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