

**IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS  
CIVIL DEPARTMENT**

<b><u>Ms. Bethany King,</u></b>	)	
<b>Plaintiff,</b>	)	
v	)	Case No. _____
<b><u>Mr. Alexander Payne,</u></b>	)	
<b>Defendant</b>	)	<b>Pursuant to K.S.A. Chapter 60</b>
<b><u>Milburn Fields Home Owners</u></b>	)	
<b><u>Association Board,</u></b>	)	
<b>Co-Defendant</b>	)	
<b><u>Ms. Terra Cipra Herzog,</u></b>	)	
<b>Co-Defendant</b>	)	
<b><u>Mr. Justin Wetterer,</u></b>	)	
<b>Co-Defendant</b>	)	
<b><u>Ms. Janet Schwert</u></b>	)	
<b>Co-Defendant</b>	)	
<b><u>Ms. Sarah Hendrix Enderle,</u></b>	)	
<b>Co-Defendant</b>	)	
<b><u>Ms. Lauren Wiedt,</u></b>	)	
<b>Co-Defendant</b>	)	
<b><u>Ms. Traci Higbee,</u></b>	)	
<b>Co-Defendant</b>	)	
<b><u>Mr. Trenton Sorensen</u></b>	)	
<b>Co-Defendant</b>	)	

**PETITION FOR INJUNCTIVE RELIEF**

COMES NOW, Plaintiff Ms. Bethany King, and for their Petition for Injunctive Relief from Defendant Mr. Alexander Payne, Co-Defendant Ms. Terra Cipra Herzog, Co-Defendant Mr. Justin Wetterer , Co-Defendant Ms. Sarah Hendrix, Co-Defendant Ms. Lauren Wiedt, Co-Defendant Mr. Trenton Sorensen, Co-Defendant Ms. Traci Higbee, Co-Defendant Ms. Janet Schwert, and Co-Defendant Milburn Fields Home Owners Association Board (“The Board”), states the following facts and arguments.

1. Plaintiff resides within Milburn Fields HOA, Overland Park, KS 66204 in Johnson County, Kansas.
2. Defendants reside within Milburn Fields HOA, Overland Park, KS 66204 in Johnson County, Kansas.
3. All actions in this case took place within Johnson County, Kansas.
4. This case is properly before the District Court of Johnson County, Kansas.
5. The Milburn Fields HOA By-laws state per Bylaw XVI. *“To Observe All Laws. Said Association shall at all times observe the State, County and other laws; and if at any time any of the provisions of this agreement shall be found to be in conflict herewith, then such parts of this agreement as are in conflict with such laws, shall become null and void”* (Exhibit 22).
6. Pursuant to Kansas Statute 58-4603 HOA Homeowner Bill of Rights (a) *Except as expressly provided in this act, the provisions of this act shall be mandatory and apply notwithstanding contrary provisions in the declaration or bylaws of a common interest community and shall not be varied or waived by agreement.*
7. Pursuant to Kansas Statute 58-4621(a) *A declarant, association, unit owner, or any other person subject to this act may bring an action to enforce a right granted or obligation imposed by this act, the declaration, or the bylaws. The court may award reasonable attorney's fees and costs.*
8. Between July 2022 and December 2022, the Defendants have made known their actions are in violation of Kansas Statute 58-46 by targeting and harassing Ms. King at her home of record in an attempt to bully her

into adjusting her home security measures that they found “irksome”.

Furthermore, they used their power and position to censor communication between Ms. King and other members of the Milburn Fields HOA, in order to prevent their actions from being discovered. These actions have put Ms. King in a safety risk in her own home, withheld her rights as a member of the HOA, and has evolved into a gross misuse of HOA funds, time, and efforts, all over a trash bin.

## COUNT ONE

1. Defendant has caused Plaintiff the following harm when Mr. Payne restricted Ms. King's access to the Milburn Fields Home Owners Association ("HOA") communication platform, *Milburn Fields Families* Facebook Page. Due to this restriction, Ms. King was put in a dangerous situation and fears for her safety when she lost communication rights with members during an attempted break in on Ms. King's property. This violation also put other members at risk due to not being able to communicate with Ms. King when she tried to warn those nearby.
2. Pursuant to Kansas Statute 58-4608(a)(5) "*Association duties, the association shall: establish a reasonable method for unit owners to communicate among themselves and with The Board of directors concerning the association*". The justification that *Milburn Fields Families* Facebook Page is just that is shown below:
  - a. Mr. Payne states, "the Board reserves the right to moderate posts on the Association's Facebook page .Sincerely, Alex Payne – President Milburn Fields HOA" (Exhibit 23).
  - b. The *Milburn Fields Families* Facebook Page was used during the year-long Milburn Fields Road Reconstruction project of 2021 as the primary source of information for home owners regarding time critical alerts and directives. No other source of timely communication was used for this project.
  - c. Board Member, Ms. Herzog states on 10/13/2022, "I'm sure we can

simply publish it [board meeting times/dates] here [Facebook] and continue to do so in the monthly newsletter” (Exhibit 31).

Establishing the Board’s intent to use the Facebook Page for accurate HOA communication.

- d. Rule 1 of the page states, “HOA Homeowners only”, and the admins are exclusively, The Board (Exhibit 3) (Exhibit 33).
- e. All communications regarding the HOA are sent through the Facebook Page, even if also send via other one-way communication methods.
- f. Mr. Payne states, “Bethany, I've been on The Board since January 2018 and was assigned to moderate Facebook / website at that time.” (Exhibit 19). This reflects the longstanding tradition of The Board’s exclusive control of the Facebook Page.
- g. The Board goes on to say, “Please be advised you are immediately removed from any groups (i.e. social media) [*Milburn Fields Families* Facebook Page] hosted by our homes association.” (Exhibit 17). Recognizing their authority in creating/managing the communication platform as The Board.
- h. *Milburn Fields Families* is the only platform established by The Board that allows “communication among members” and not just one-way communication from Board to members.
- i. An annual meeting does not reasonably satisfy the intent of the

law.

- j. These facts establish the *Milburn Fields Families* Facebook Page as the reasonable method created in accordance with Kansas Statute 58-4608(a)(5).

Pursuant to Kansas Statute 58-4606(b) “... *the provisions of the declaration or bylaws of a common interest community that are contrary to the mandatory provisions of this act, and amendments thereto, may not be enforced with respect to events and circumstances occurring after the effective date of the act*”. *Milburn Fields Families* Facebook Page was established in 2016 (Exhibit 32), after Statute 58-4606(b) took effect. All actions of The Board, in regards to the Facebook Page, are bound by the statutes.

Pursuant to Kansas Statute 58-4608(a)(6): *The association shall have the power to suspend any right or privilege of a unit owner that fails to pay an assessment, but may not: withhold services provided to a unit or unit owner by the association if the effect of withholding the service would be to endanger the health, safety, or property of any person*”.

Pursuant to Kansas Statute 58-4603 (a) *Except as expressly provided in this act, the provisions of this act shall be mandatory and apply notwithstanding contrary provisions in the declaration or bylaws of a common interest community and shall not be varied or waived by agreement*. The Facebook Page requires “agreeing” to the Rules as a stipulation of joining. That agreement is not enforceable as it violates the Kansas Statute.

3. Defendant has failed to follow Kansas Statute 58-4608(a)(6) for the following reasons: Mr. Payne states “you have been set for admin approval for comments / posts” (Exhibit 1). This action prevents Ms. King from communicating with members in regards to matters of safety. Mr. Payne also states “I didn't like how our exchange went [Facebook Messenger conversation] and I anticipated future negative posts, so I did amend your posting access.”(Exhibit 6), and finally, “The post you submitted last night was not appropriate and so when I saw the post when I woke up I did not feel it was necessary to publish (again I was asleep when you first posted)... the right course of action would be to alert the police” (Exhibit 2). Mr. Payne withheld Ms. King's rights to communicate with homeowners in a matter of safety and property during an active intruder at Ms. King's property where Mr. Payne acknowledges the level of danger justified police involvement. “Although there is no ordinance, either with the City or within the current HOA Bylaws...”. (Exhibit 19). Ms. King is in good standing with her Assessments and has no delinquent dues to justify rights being withheld. The Board may create rules for the Facebook Page, but the rules cannot be upheld if in violation of any statute. Rule 6 & 7 state the HOA Board can remove any post or member, at will. This violates the member right to the services provided by The Board, and those services concerning matters of health, safety, or property in particular.
4. Based on the claim stated above, Judgment is demanded against the Co-Defendant as follows: The Board

Co-Defendant shall, within 7 days, be required to grant full access to the *Milburn Fields Families* Facebook Page, without censorship and without sabotage/devaluation/deconstruction, to Plaintiff, Ms. King, plus pay court and attorney fees, costs of added security measures needed to make whole, or attempt to make whole, the lack of rights that would otherwise ensure that wellbeing, as well as, any other relief the Court deems fair, just and equitable in the premises. Co-Defendant should be ordered to make repayment of 2022 Dues to Plaintiff for withholding rights associated with upstanding participation in the HOA. Lastly, The Board shall immediately make all amends necessary to restore the social acceptance they eroded on behalf of Ms. King to include formal written apology to Ms. King, written apology to each homeowner stating the same for all accounts of misconduct, and individual conversations with neighbors who were engaged at any level in conversations where members of the Board spoke ill of Ms. King or her property, or in anyway suggesting a negative connotation of Ms. King's ownerships. The Board will be indebted for this responsibility until Ms. King's social acceptance is restored. The Board shall document all efforts to meet this standard and show proof upon request, without fee or barrier, to Ms. King to validate their good faith efforts. Kansas Statute 58-4621(c) *The remedies provided by this act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed.*

Defendant as follows: Mr. Payne

Shall immediately resign all positions within The Board and administration of the *Milburn Fields Families* Facebook Page, indefinitely.

## COUNT TWO

1. Co-Defendant has caused Plaintiff the following harm when Ms. Herzog restricted Ms. King's access to the Milburn Fields Home Owners Association ("HOA") communication platform, *Milburn Fields Families* Facebook Page. Due to this restriction, Ms. King was put in a dangerous situation and feared for her safety. Ms. King lost communication rights with members during an attempted break in on Ms. King's property. This violation also put other members at risk due to not being able to communicate with Ms. King when she tried to warn those nearby.
2. Pursuant to Kansas Statute 58-4608(a)(5) "*Association duties, the association shall: establish a reasonable method for unit owners to communicate among themselves and with The Board of directors concerning the association*". The justification that *Milburn Fields Families* Facebook Page is just that is shown below:
  - a. Mr. Payne states, "the Board reserves the right to moderate posts on the Association's Facebook page .Sincerely, Alex Payne – President Milburn Fields HOA" Exhibit 23).
  - b. The *Milburn Fields Families* Facebook Page was used during the year-long Milburn Fields Road Reconstruction project of 2021 as the primary source of information for home owners regarding time critical alerts and directives. No other source of timely communication was used for this project.
  - c. Board Member, Ms. Herzog states on 10/13/2022, "I'm sure we can

simply publish it [board meeting times/dates] here [Facebook] and continue to do so in the monthly newsletter” (Exhibit 31). Establishing the Board’s intent to use the Facebook Page for accurate HOA communication.

- d. Rule 1 of the page states, “HOA Homeowners only”, and the admins are exclusively, The Board (Exhibit 3) (Exhibit 33).
- e. All communications regarding the HOA are sent through the Facebook Page, even if also send via other one-way communication methods.
- f. Mr. Payne states, “Bethany, I've been on The Board since January 2018 and was assigned to moderate Facebook / website at that time.” (Exhibit 19). This reflects the longstanding tradition of The Board’s exclusive control of the Facebook Page.
- g. The Board goes on to say, “Please be advised you are immediately removed from any groups (i.e. social media) [*Milburn Fields Families* Facebook Page] hosted by our homes association.” (Exhibit 17).  
Recognizing their authority in creating/managing the communication platform as The Board.
- h. *Milburn Fields Families* is the only platform established by The Board that allows “communication among members” and not just one-way communication from Board to members.
- i. An annual meeting does not reasonably satisfy the intent of the law.
- j. These facts establish the *Milburn Fields Families* Facebook Page as

the reasonable method created in accordance with Kansas Statute 58-4608(a)(5).

Pursuant to Kansas Statute 58-4606(b) “... *the provisions of the declaration or bylaws of a common interest community that are contrary to the mandatory provisions of this act, and amendments thereto, may not be enforced with respect to events and circumstances occurring after the effective date of the act*”. Milburn Fields Families Facebook Page was established in 2016 (Exhibit 32), after Statute 58-4606(b) took effect. All actions of The Board, in regards to the Facebook Page, are bound by the statutes.

Pursuant to Kansas Statute 58-4608(a)(6): *The association shall have the power to suspend any right or privilege of a unit owner that fails to pay an assessment, but may not: withhold services provided to a unit or unit owner by the association if the effect of withholding the service would be to endanger the health, safety, or property of any person*”.

Pursuant to Kansas Statute 58-4603 (a) *Except as expressly provided in this act, the provisions of this act shall be mandatory and apply notwithstanding contrary provisions in the declaration or bylaws of a common interest community and shall not be varied or waived by agreement*. The Facebook Page requires “agreeing” to the Rules as a stipulation of joining. That agreement is not-binding as it violates the Kansas Statute.

3. Co-Defendant has failed to follow Kansas Statute 58-4608(a)(6) for the following reasons: On 08/25/2022 The Board created a new rule for the Facebook Page that set all Board members, Ms. Herzog herself, as administrators for the

Facebook Page and authorized and required their approval before members could post communications with other members (Exhibit 3). Ms. Herzog accepts this responsibility of withholding member rights by her active participation in the Facebook administrative duties. This action prevents Ms. King from communicating with members in regards to matters of safety and vice versa. Ms. King is in good standing with her Assessments and has no delinquent dues to justify rights being withheld. The Board may create rules for the Facebook Page, but the rules cannot be upheld if in violation of any statute. Rule 6 & 7 state the HOA Board can remove any post or member, at will. This violates the member right to the services provided by The Board, and services concerning matters of safety, property, or health. Ms. Herzog engages in conversation with Ms. King on the Facebook page attesting to her rights to remove this right from Ms. King and the entire HOA membership. (Exhibit 25). Ms. Herzog may NOT remove any post or unit owner. Ms. Herzog may NOT restrict the right to communicate among unit owners via the platform provided by The Board.

4. Based on the claim stated above, Judgment is demanded against the Co-Defendant as follows: Ms. Herzog  
Co-Defendant shall, within 7 days, be required to grant full access to the *Milburn Fields Families* Facebook Page, without censorship and without sabotage/devaluation/deconstruction, to Plaintiff, Ms. King, plus pay court and attorney fees, costs of added security measures needed to make whole, or attempt to make whole, the lack of rights that would otherwise ensure that

wellbeing, as well as, any other relief the Court deems fair, just and equitable in the premises. Co-Defendant shall immediately resign all positions within The Board and administration of the *Milburn Fields Families* Facebook Page, indefinitely. Co-Defendant should be ordered to make repayment of 2022 Dues to Plaintiff for withholding rights associated with upstanding participation in the HOA. Co-Defendant shall also restrict themselves from coercing or soliciting members to willfully create hostile or offensive posts or comments in an effort to retaliate. Co-Defendant shall also restrict themselves from devising any alternative plan to antagonize the recovering association or otherwise negatively contribute to the exercise of member rights. Kansas Statute 58-4621(c) *The remedies provided by this act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed.*

### COUNT THREE

1. Co-Defendant has caused Plaintiff the following harm when Ms. Hendrix restricted Ms. King's access to the Milburn Fields Home Owners Association ("HOA") communication platform, *Milburn Fields Families* Facebook Page. Due to this restriction, Ms. King was put in a dangerous situation and feared for her safety. Ms. King lost communication rights with members during an attempted break in on Ms. King's property. This violation also put other members at risk due to not being able to communicate with Ms. King when she tried to warn those nearby.
2. Pursuant to Kansas Statute 58-4608(a)(5) "*Association duties, the association shall: establish a reasonable method for unit owners to communicate among themselves and with The Board of directors concerning the association*". The justification that *Milburn Fields Families* Facebook Page is just that is shown below:
  - a. Mr. Payne states, "the Board reserves the right to moderate posts on the Association's Facebook page .Sincerely, Alex Payne – President Milburn Fields HOA" Exhibit 23).
  - b. The *Milburn Fields Families* Facebook Page was used during the year-long Milburn Fields Road Reconstruction project of 2021 as the primary source of information for home owners regarding time critical alerts and directives. No other source of timely communication was used for this project.
  - c. Board Member, Ms. Herzog states on 10/13/2022, "I'm sure we can

simply publish it [board meeting times/dates] here [Facebook] and continue to do so in the monthly newsletter” (Exhibit 31). Establishing the Board’s intent to use the Facebook Page for accurate HOA communication.

- d. Rule 1 of the page states, “HOA Homeowners only”, and the admins are exclusively, The Board (Exhibit 3) (Exhibit 33).
- e. All communications regarding the HOA are sent through the Facebook Page, even if also send via other one-way communication methods.
- f. Mr. Payne states, “Bethany, I've been on The Board since January 2018 and was assigned to moderate Facebook / website at that time.” (Exhibit 19). This reflects the longstanding tradition of The Board’s exclusive control of the Facebook Page.
- g. The Board goes on to say, “Please be advised you are immediately removed from any groups (i.e. social media) [*Milburn Fields Families* Facebook Page] hosted by our homes association.” (Exhibit 17).  
Recognizing their authority in creating/managing the communication platform as The Board.
- h. *Milburn Fields Families* is the only platform established by The Board that allows “communication among members” and not just one-way communication from Board to members.
- i. An annual meeting does not reasonably satisfy the intent of the law.
- j. These facts establish the *Milburn Fields Families* Facebook Page as

the reasonable method created in accordance with Kansas Statute 58-4608(a)(5).

Pursuant to Kansas Statute 58-4606(b) “... *the provisions of the declaration or bylaws of a common interest community that are contrary to the mandatory provisions of this act, and amendments thereto, may not be enforced with respect to events and circumstances occurring after the effective date of the act*”. *Milburn Fields Families* Facebook Page was established in 2016 (Exhibit 32), after Statute 58-4606(b) took effect. All actions of The Board, in regards to the Facebook Page, are bound by the statutes.

Pursuant to Kansas Statute 58-4608(a)(6): *The association shall have the power to suspend any right or privilege of a unit owner that fails to pay an assessment, but may not: withhold services provided to a unit or unit owner by the association if the effect of withholding the service would be to endanger the health, safety, or property of any person*”.

Pursuant to Kansas Statute 58-4603 (a) *Except as expressly provided in this act, the provisions of this act shall be mandatory and apply notwithstanding contrary provisions in the declaration or bylaws of a common interest community and shall not be varied or waived by agreement*. The Facebook Page requires “agreeing” to the Rules as a stipulation of joining. That agreement is not-binding as it violates the Kansas Statute.

3. Co-Defendant has failed to follow Kansas Statute 58-4608(a)(6) for the following reasons: On 08/25/2022, The Board created a new rule for the Facebook Page that set all Board members, Ms. Hendrix herself, as administrators for the

Facebook Page and authorized and required their approval before members could post communications with other members (Exhibit 3). Ms. Hendrix accepts this responsibility of withholding member rights by her active participation in the Facebook administrative duties. This action prevents Ms. King from communicating with members in regards to matters of safety and vice versa. Ms. King is in good standing with her Assessments and has no delinquent dues to justify rights being withheld. Ms. Hendrix may create rules for the Facebook Page, but the rules cannot be upheld if in violation of any statute. Rule 6 & 7 state the administrators can remove any post or member at will. This violates the member right to the services provided by The Board, and services concerning matters of safety, property, or health. Ms. Hendrix may NOT remove any post or unit owner. Ms. Hendrix may NOT restrict the right to communicate among unit owners via the platform provided by The Board.

4. Based on the claim stated above, Judgment is demanded against the Co-Defendant as follows: Ms. Hendrix Co-Defendant shall, within 7 days, be required to grant full access to the *Milburn Fields Families* Facebook Page, without censorship and without sabotage/devaluation/deconstruction, to Plaintiff, Ms. King, plus pay court and attorney fees, costs of added security measures needed to make whole, or attempt to make whole, the lack of rights that would otherwise ensure that wellbeing, as well as, any other relief the Court deems fair, just and equitable in the premises. Co-Defendant should be ordered to make repayment of 2022 Dues

to Plaintiff for withholding rights associated with participation in the HOA. Co-Defendant shall be on a one-year probation as a Board member whereby any additional occurrences violating member rights will constitute immediate removal from The Board indefinitely. Co-Defendant shall also restrict themselves from coercing or soliciting members to willfully create hostile or offensive posts or comments in an effort to retaliate. Co-Defendant shall also restrict themselves from devising any alternative plan to antagonize the recovering association or otherwise negatively contribute to the exercise of member rights. Kansas Statute 58-4621(c) *The remedies provided by this act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed.*

## COUNT FOUR

1. Co-Defendant has caused Plaintiff the following harm when Mr. Wetterer restricted Ms. King's access to the Milburn Fields Home Owners Association ("HOA") communication platform, *Milburn Fields Families* Facebook Page. Due to this restriction, Ms. King was put in a dangerous situation and feared for her safety. Ms. King lost communication rights with members during an attempted break in on Ms. King's property. This violation also put other members at risk due to not being able to communicate with Ms. King when she tried to warn those nearby.
2. Pursuant to Kansas Statute 58-4608(a)(5) "*Association duties, the association shall: establish a reasonable method for unit owners to communicate among themselves and with The Board of directors concerning the association*". The justification that *Milburn Fields Families* Facebook Page is just that is shown below:
  - a. Mr. Payne states, "the Board reserves the right to moderate posts on the Association's Facebook page .Sincerely, Alex Payne – President Milburn Fields HOA" Exhibit 23).
  - b. The *Milburn Fields Families* Facebook Page was used during the year-long Milburn Fields Road Reconstruction project of 2021 as the primary source of information for home owners regarding time critical alerts and directives. No other source of timely communication was used for this project.
  - c. Board Member, Ms. Herzog states on 10/13/2022, "I'm sure we can

simply publish it [board meeting times/dates] here [Facebook] and continue to do so in the monthly newsletter” (Exhibit 31). Establishing the Board’s intent to use the Facebook Page for accurate HOA communication.

- d. Rule 1 of the page states, “HOA Homeowners only”, and the admins are exclusively, The Board (Exhibit 3) (Exhibit 33).
- e. All communications regarding the HOA are sent through the Facebook Page, even if also send via other one-way communication methods.
- f. Mr. Payne states, “Bethany, I've been on The Board since January 2018 and was assigned to moderate Facebook / website at that time.” (Exhibit 19). This reflects the longstanding tradition of The Board’s exclusive control of the Facebook Page.
- g. The Board goes on to say, “Please be advised you are immediately removed from any groups (i.e. social media) [*Milburn Fields Families* Facebook Page] hosted by our homes association.” (Exhibit 17).  
Recognizing their authority in creating/managing the communication platform as The Board.
- h. *Milburn Fields Families* is the only platform established by The Board that allows “communication among members” and not just one-way communication from Board to members.
- i. An annual meeting does not reasonably satisfy the intent of the law.
- j. These facts establish the *Milburn Fields Families* Facebook Page as

the reasonable method created in accordance with Kansas Statute 58-4608(a)(5).

Pursuant to Kansas Statute 58-4606(b) “... *the provisions of the declaration or bylaws of a common interest community that are contrary to the mandatory provisions of this act, and amendments thereto, may not be enforced with respect to events and circumstances occurring after the effective date of the act*”. *Milburn Fields Families* Facebook Page was established in 2016 (Exhibit 32), after Statute 58-4606(b) took effect. All actions of The Board, in regards to the Facebook Page, are bound by the statutes.

Pursuant to Kansas Statute 58-4608(a)(6): *The association shall have the power to suspend any right or privilege of a unit owner that fails to pay an assessment, but may not: withhold services provided to a unit or unit owner by the association if the effect of withholding the service would be to endanger the health, safety, or property of any person*”.

Pursuant to Kansas Statute 58-4603 (a) *Except as expressly provided in this act, the provisions of this act shall be mandatory and apply notwithstanding contrary provisions in the declaration or bylaws of a common interest community and shall not be varied or waived by agreement*. The Facebook Page requires “agreeing” to the Rules as a stipulation of joining. That agreement is not-binding as it violates the Kansas Statute.

3. Co-Defendant has failed to follow Kansas Statute 58-4608(a)(6) for the following reasons: On 08/25/2022 The Board created a new rule for the Facebook Page that set all Board members, Mr. Wetterer himself, as administrators for the

Facebook Page and authorized and required their approval before members could post communications with other members (Exhibit 3). Mr. Wetterer accepts this responsibility of withholding member rights by his active participation in the Facebook administrative duties. This action prevents Ms. King from communicating with members in regards to matters of safety and vice versa. Ms. King is in good standing with her Assessments and has no delinquent dues to justify rights being withheld. Mr. Wetterer may create rules for the Facebook Page, but the rules cannot be upheld if in violation of any statute. Rule 6 & 7 state the administrators can remove any post or member at will. This violates the member right to the services provided by The Board, and services concerning matters of safety, property, or health. Mr. Wetterer may NOT remove any post or unit owner. Mr. Wetterer may NOT restrict the right to communicate among unit owners via the platform provided by The Board.

4. Based on the claim stated above, Judgment is demanded against the Co-Defendant as follows: Mr. Wetterer

Co-Defendant shall, within 7 days, be required to grant full access to the *Milburn Fields Families* Facebook Page, without censorship and without sabotage/devaluation/deconstruction, to Plaintiff, Ms. King, plus pay court and attorney fees, costs of added security measures needed to make whole, or attempt to make whole, the lack of rights that would otherwise ensure that wellbeing, as well as, any other relief the Court deems fair, just and equitable in the premises. Defendant should be ordered to make repayment of 2022 Dues to

Plaintiff for withholding rights associated with upstanding participation in the HOA. Co-Defendant shall be on a one-year probation as a Board member whereby any additional occurrences violating member rights will constitute immediate removal from The Board indefinitely. Co-Defendant shall also restrict themselves from coercing or soliciting members to willfully create hostile or offensive posts or comments in an effort to retaliate. Co-Defendant shall also restrict themselves from devising any alternative plan to antagonize the recovering association or otherwise negatively contribute to the exercise of member rights. Kansas Statute 58-4621(c) *The remedies provided by this act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed.*

## COUNT FIVE

1. Co-Defendant has caused Plaintiff the following harm when Ms. Schwert restricted Ms. King's access to the Milburn Fields Home Owners Association ("HOA") communication platform, *Milburn Fields Families* Facebook Page. Due to this restriction, Ms. King was put in a dangerous situation and feared for her safety. Ms. King lost communication rights with members during an attempted break in on Ms. King's property. This violation also put other members at risk due to not being able to communicate with Ms. King when she tried to warn those nearby.
2. Pursuant to Kansas Statute 58-4608(a)(5) "*Association duties, the association shall: establish a reasonable method for unit owners to communicate among themselves and with The Board of directors concerning the association*". The justification that *Milburn Fields Families* Facebook Page is just that is shown below:
  - a. Mr. Payne states, "the Board reserves the right to moderate posts on the Association's Facebook page .Sincerely, Alex Payne – President Milburn Fields HOA" Exhibit 23).
  - b. The *Milburn Fields Families* Facebook Page was used during the year-long Milburn Fields Road Reconstruction project of 2021 as the primary source of information for home owners regarding time critical alerts and directives. No other source of timely communication was used for this project.
  - c. Board Member, Ms. Herzog states on 10/13/2022, "I'm sure we can

simply publish it [board meeting times/dates] here [Facebook] and continue to do so in the monthly newsletter” (Exhibit 31). Establishing the Board’s intent to use the Facebook Page for accurate HOA communication.

- d. Rule 1 of the page states, “HOA Homeowners only”, and the admins are exclusively, The Board (Exhibit 3) (Exhibit 33).
- e. All communications regarding the HOA are sent through the Facebook Page, even if also send via other one-way communication methods.
- f. Mr. Payne states, “Bethany, I've been on The Board since January 2018 and was assigned to moderate Facebook / website at that time.” (Exhibit 19). This reflects the longstanding tradition of The Board’s exclusive control of the Facebook Page.
- g. The Board goes on to say, “Please be advised you are immediately removed from any groups (i.e. social media) [*Milburn Fields Families* Facebook Page] hosted by our homes association.” (Exhibit 17).  
Recognizing their authority in creating/managing the communication platform as The Board.
- h. *Milburn Fields Families* is the only platform established by The Board that allows “communication among members” and not just one-way communication from Board to members.
- i. An annual meeting does not reasonably satisfy the intent of the law.
- j. These facts establish the *Milburn Fields Families* Facebook Page as

the reasonable method created in accordance with Kansas Statute 58-4608(a)(5).

Pursuant to Kansas Statute 58-4606(b) “... *the provisions of the declaration or bylaws of a common interest community that are contrary to the mandatory provisions of this act, and amendments thereto, may not be enforced with respect to events and circumstances occurring after the effective date of the act*”. Milburn Fields Families Facebook Page was established in 2016 (Exhibit 32), after Statute 58-4606(b) took effect. All actions of The Board, in regards to the Facebook Page, are bound by the statutes.

Pursuant to Kansas Statute 58-4608(a)(6): *The association shall have the power to suspend any right or privilege of a unit owner that fails to pay an assessment, but may not: withhold services provided to a unit or unit owner by the association if the effect of withholding the service would be to endanger the health, safety, or property of any person*”.

Pursuant to Kansas Statute 58-4603 (a) *Except as expressly provided in this act, the provisions of this act shall be mandatory and apply notwithstanding contrary provisions in the declaration or bylaws of a common interest community and shall not be varied or waived by agreement*. Facebook Page requires “agreeing” to the Rules as a stipulation of joining. That agreement is not-binding as it violates the Kansas Statute.

3. Co-Defendant has failed to follow Kansas Statute 58-4608(a)(6) for the following reasons: On 08/25/2022 Ms. Schwert created a new rule for the Facebook Page that set all Board members, herself, as administrators for the Facebook Page

and authorized and required their approval before members could post communications with other members (Exhibit 3). Ms. Schwert accepts this responsibility of withholding member rights by her active participation in the Facebook administrative duties. This action prevents Ms. King from communicating with members in regards to matters of safety and vice versa. Ms. King is in good standing with her Assessments and has no delinquent dues to justify rights being withheld. Ms. Schwert may create rules for the Facebook Page, but the rules cannot be upheld if in violation of any statute. Rule 6 & 7 state the administrators can remove any post or member at will. This violates the member right to the services provided by The Board, and services concerning matters of safety, property, or health. Ms. Schwert may NOT remove any post or unit owner. Ms. Schwert may NOT restrict the right to communicate among unit owners via the platform provided by The Board.

4. Based on the claim stated above, Judgment is demanded against the Co-Defendant as follows: Ms. Schwert Co-Defendant shall, within 7 days, be required to grant full access to the *Milburn Fields Families* Facebook Page, without censorship and without sabotage/devaluation/deconstruction, to Plaintiff, Ms. King, plus pay court and attorney fees, costs of added security measures needed to make whole, or attempt to make whole, the lack of rights that would otherwise ensure that wellbeing, as well as, any other relief the Court deems fair, just and equitable in the premises. Defendant should be ordered to make repayment of 2022 Dues to

Plaintiff for withholding rights associated with upstanding participation in the HOA. Co-Defendant shall be on a one-year probation as a Board member whereby any additional occurrences violating member rights will constitute immediate removal from The Board indefinitely. Co-Defendant shall also restrict themselves from coercing or soliciting members to willfully create hostile or offensive posts or comments in an effort to retaliate. Co-Defendant shall also restrict themselves from devising any alternative plan to antagonize the recovering association or otherwise negatively contribute to the exercise of member rights. Kansas Statute 58-4621(c) *The remedies provided by this act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed.*

## COUNT SIX

1. Co-Defendant has caused Plaintiff the following harm when Ms. Higbee restricted Ms. King's access to the Milburn Fields Home Owners Association ("HOA") communication platform, *Milburn Fields Families* Facebook Page. Due to this restriction, Ms. King was put in a dangerous situation and feared for her safety. Ms. King lost communication rights with members during an attempted break in on Ms. King's property. This violation also put other members at risk due to not being able to communicate with Ms. King when she tried to warn those nearby.
2. Pursuant to Kansas Statute 58-4608(a)(5) "*Association duties, the association shall: establish a reasonable method for unit owners to communicate among themselves and with The Board of directors concerning the association*". The justification that *Milburn Fields Families* Facebook Page is just that is shown below:
  - a. Mr. Payne states, "the Board reserves the right to moderate posts on the Association's Facebook page .Sincerely, Alex Payne – President Milburn Fields HOA" Exhibit 23).
  - b. The *Milburn Fields Families* Facebook Page was used during the year-long Milburn Fields Road Reconstruction project of 2021 as the primary source of information for home owners regarding time critical alerts and directives. No other source of timely communication was used for this project.
  - c. Board Member, Ms. Herzog states on 10/13/2022, "I'm sure we can

simply publish it [board meeting times/dates] here [Facebook] and continue to do so in the monthly newsletter” (Exhibit 31). Establishing the Board’s intent to use the Facebook Page for accurate HOA communication.

- d. Rule 1 of the page states, “HOA Homeowners only”, and the admins are exclusively, The Board (Exhibit 3) (Exhibit 33).
- e. All communications regarding the HOA are sent through the Facebook Page, even if also send via other one-way communication methods.
- f. Mr. Payne states, “Bethany, I've been on The Board since January 2018 and was assigned to moderate Facebook / website at that time.” (Exhibit 19). This reflects the longstanding tradition of The Board’s exclusive control of the Facebook Page.
- g. The Board goes on to say, “Please be advised you are immediately removed from any groups (i.e. social media) [*Milburn Fields Families* Facebook Page] hosted by our homes association.” (Exhibit 17).  
Recognizing their authority in creating/managing the communication platform as The Board.
- h. *Milburn Fields Families* is the only platform established by The Board that allows “communication among members” and not just one-way communication from Board to members.
- i. An annual meeting does not reasonably satisfy the intent of the law.
- j. These facts establish the *Milburn Fields Families* Facebook Page as

the reasonable method created in accordance with Kansas Statute 58-4608(a)(5).

Pursuant to Kansas Statute 58-4606(b) “... *the provisions of the declaration or bylaws of a common interest community that are contrary to the mandatory provisions of this act, and amendments thereto, may not be enforced with respect to events and circumstances occurring after the effective date of the act*”. Milburn Fields Families Facebook Page was established in 2016 (Exhibit 32), after Statute 58-4606(b) took effect. All actions of The Board, in regards to the Facebook Page, are bound by the statutes.

Pursuant to Kansas Statute 58-4608(a)(6): *The association shall have the power to suspend any right or privilege of a unit owner that fails to pay an assessment, but may not: withhold services provided to a unit or unit owner by the association if the effect of withholding the service would be to endanger the health, safety, or property of any person*”.

Pursuant to Kansas Statute 58-4603 (a) *Except as expressly provided in this act, the provisions of this act shall be mandatory and apply notwithstanding contrary provisions in the declaration or bylaws of a common interest community and shall not be varied or waived by agreement*. The Facebook Page requires “agreeing” to the Rules as a stipulation of joining. That agreement is not-binding as it violates the Kansas Statute.

3. Defendant has failed to follow Kansas Statute 58-4608(a)(6) for the following reasons: On 08/25/2022 Ms. Higbee created a new rule for the Facebook Page that set all Board members, Ms. Higbee herself, as administrators for the

Facebook Page and authorized and required their approval before members could post communications with other members (Exhibit 3). Ms. Higbee accepts this responsibility of withholding member rights by her active participation in the Facebook administrative duties. This action prevents Ms. King from communicating with members in regards to matters of safety and vice versa. Ms. King is in good standing with her Assessments and has no delinquent dues to justify rights being withheld. The Board may create rules for the Facebook Page, but the rules cannot be upheld if in violation of any statute. Rule 6 & 7 state the administrators can remove any post or member at will. This violates the member right to the services provided by The Board, and services concerning matters of safety, property, or health. Ms. Higbee may NOT remove any post or unit owner. Ms. Higbee may NOT restrict the right to communicate among unit owners via the platform provided by The Board.

4. Based on the claim stated above, Judgment is demanded against the Co-Defendant as follows: Ms. Higbee

Co-Defendant shall, within 7 days, be required to grant full access to the *Milburn Fields Families* Facebook Page, without censorship and without sabotage/devaluation/deconstruction, to Plaintiff, Ms. King, plus pay court and attorney fees, costs of added security measures needed to make whole, or attempt to make whole, the lack of rights that would otherwise ensure that wellbeing, as well as, any other relief the Court deems fair, just and equitable in the premises. Co-Defendant should be ordered to make repayment of 2022 Dues

to Plaintiff for withholding rights associated with upstanding participation in the HOA. Co-Defendant shall be on a one-year probation as a Board member whereby any additional occurrences violating member rights will constitute immediate removal from The Board indefinitely. Co-Defendant shall also restrict themselves from coercing or soliciting members to willfully create hostile or offensive posts or comments in an effort to retaliate. Co-Defendant shall also restrict themselves from devising any alternative plan to antagonize the recovering association or otherwise negatively contribute to the exercise of member rights. Kansas Statute 58-4621(c) *The remedies provided by this act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed.*

## COUNT SEVEN

1. Co-Defendant has caused Plaintiff the following harm when Ms. Weidt restricted Ms. King's access to the Milburn Fields Home Owners Association ("HOA") communication platform, *Milburn Fields Families* Facebook Page. Due to this restriction, Ms. King was put in a dangerous situation and feared for her safety. Ms. King lost communication rights with members during an attempted break in on Ms. King's property. This violation also put other members at risk due to not being able to communicate with Ms. King when she tried to warn those nearby.
2. Pursuant to Kansas Statute 58-4608(a)(5) "*Association duties, the association shall: establish a reasonable method for unit owners to communicate among themselves and with The Board of directors concerning the association*". The justification that *Milburn Fields Families* Facebook Page is just that is shown below:
  - a. Mr. Payne states, "the Board reserves the right to moderate posts on the Association's Facebook page .Sincerely, Alex Payne – President Milburn Fields HOA" Exhibit 23).
  - b. The *Milburn Fields Families* Facebook Page was used during the year-long Milburn Fields Road Reconstruction project of 2021 as the primary source of information for home owners regarding time critical alerts and directives. No other source of timely communication was used for this project.
  - c. Board Member, Ms. Herzog states on 10/13/2022, "I'm sure we can simply publish it [board meeting times/dates] here [Facebook] and

continue to do so in the monthly newsletter” (Exhibit 31). Establishing the Board’s intent to use the Facebook Page for accurate HOA communication.

- d. Rule 1 of the page states, “HOA Homeowners only”, and the admins are exclusively, The Board (Exhibit 3) (Exhibit 33).
- e. All communications regarding the HOA are sent through the Facebook Page, even if also send via other one-way communication methods.
- f. Mr. Payne states, “Bethany, I've been on The Board since January 2018 and was assigned to moderate Facebook / website at that time.” (Exhibit 19). This reflects the longstanding tradition of The Board’s exclusive control of the Facebook Page.
- g. The Board goes on to say, “Please be advised you are immediately removed from any groups (i.e. social media) [*Milburn Fields Families* Facebook Page] hosted by our homes association.” (Exhibit 17). Recognizing their authority in creating/managing the communication platform as The Board.
- h. *Milburn Fields Families* is the only platform established by The Board that allows “communication among members” and not just one-way communication from Board to members.
- i. An annual meeting does not reasonably satisfy the intent of the law.
- j. These facts establish the *Milburn Fields Families* Facebook Page as the reasonable method created in accordance with Kansas Statute 58-

4608(a)(5).

Pursuant to Kansas Statute 58-4606(b) “... *the provisions of the declaration or bylaws of a common interest community that are contrary to the mandatory provisions of this act, and amendments thereto, may not be enforced with respect to events and circumstances occurring after the effective date of the act*”. Milburn Fields Families Facebook Page was established in 2016 (Exhibit 32), after Statute 58-4606(b) took effect. All actions of The Board, in regards to the Facebook Page, are bound by the statutes.

Pursuant to Kansas Statute 58-4608(a)(6): *The association shall have the power to suspend any right or privilege of a unit owner that fails to pay an assessment, but may not: withhold services provided to a unit or unit owner by the association if the effect of withholding the service would be to endanger the health, safety, or property of any person*”.

Pursuant to Kansas Statute 58-4603 (a) *Except as expressly provided in this act, the provisions of this act shall be mandatory and apply notwithstanding contrary provisions in the declaration or bylaws of a common interest community and shall not be varied or waived by agreement*. The Facebook Page requires “agreeing” to the Rules as a stipulation of joining. That agreement is not-binding as it violates the Kansas Statute.

3. Defendant has failed to follow Kansas Statute 58-4608(a)(6) for the following reasons: On 08/25/2022 The Board created a new rule for the Facebook Page that set all Board members, including Ms. Weidt at the time, as administrators for the Facebook Page and authorized and required their approval before

members could post communications with other members (Exhibit 3). Ms. Weidt accepts this responsibility of withholding member rights by her active participation in the Facebook administrative duties. This action prevents Ms. King from communicating with members in regards to matters of safety and vice versa. Ms. King is in good standing with her Assessments and has no delinquent dues to justify rights being withheld. The Board may create rules for the Facebook Page, but the rules cannot be upheld if in violation of any statute. Rule 6 & 7 state administrators can remove any post or member at will. This violates the member right to the services provided by The Board, and services concerning matters of safety, property, or health. Ms. Weidt may NOT remove any post or unit owner. Ms. Weidt may NOT restrict the right to communicate among unit owners via the platform provided by The Board.

4. Based on the claim stated above, Judgment is demanded against the Co-Defendant as follows: Ms. Weidt

Co-Defendant shall, within 7 days, be required to grant full access to the *Milburn Fields Families* Facebook Page, without censorship and without sabotage/devaluation/deconstruction, to Plaintiff, Ms. King, plus pay court and attorney fees, costs of added security measures needed to make whole, or attempt to make whole, the lack of rights that would otherwise ensure that wellbeing, as well as, any other relief the Court deems fair, just and equitable in the premises. Co-Defendant shall never join or be appointment to any membership of The Board or administration of the *Milburn Fields Families*

Facebook Page. Co-Defendant shall also restrict themselves from coercing or soliciting members to willfully create hostile or offensive posts or comments in an effort to retaliate. Co-Defendant shall also restrict themselves from devising any alternative plan to antagonize the recovering association or otherwise negatively contribute to the exercise of member rights. Kansas Statute 58-4621(c) *The remedies provided by this act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed.*

## COUNT EIGHT

1. Co-Defendant has caused Plaintiff the following harm when Mr. Sorensen restricted Ms. King's access to the Milburn Fields Home Owners Association ("HOA") communication platform, *Milburn Fields Families* Facebook Page. Due to this restriction, Ms. King was put in a dangerous situation and feared for her safety. Ms. King lost communication rights with members during an attempted break in on Ms. King's property. This violation also put other members at risk due to not being able to communicate with Ms. King when she tried to warn those nearby.
2. Pursuant to Kansas Statute 58-4608(a)(5) "*Association duties, the association shall: establish a reasonable method for unit owners to communicate among themselves and with The Board of directors concerning the association*". The justification that *Milburn Fields Families* Facebook Page is just that is shown below:
  - a. Mr. Payne states, "the Board reserves the right to moderate posts on the Association's Facebook page .Sincerely, Alex Payne – President Milburn Fields HOA" Exhibit 23).
  - b. The *Milburn Fields Families* Facebook Page was used during the year-long Milburn Fields Road Reconstruction project of 2021 as the primary source of information for home owners regarding time critical alerts and directives. No other source of timely communication was used for this project.
  - c. Board Member, Ms. Herzog states on 10/13/2022, "I'm sure we can

simply publish it [board meeting times/dates] here [Facebook] and continue to do so in the monthly newsletter” (Exhibit 31). Establishing the Board’s intent to use the Facebook Page for accurate HOA communication.

- d. Rule 1 of the page states, “HOA Homeowners only”, and the admins are exclusively, The Board (Exhibit 3) (Exhibit 33).
- e. All communications regarding the HOA are sent through the Facebook Page, even if also send via other one-way communication methods.
- f. Mr. Payne states, “Bethany, I've been on The Board since January 2018 and was assigned to moderate Facebook / website at that time.” (Exhibit 19). This reflects the longstanding tradition of The Board’s exclusive control of the Facebook Page.
- g. The Board goes on to say, “Please be advised you are immediately removed from any groups (i.e. social media) [*Milburn Fields Families* Facebook Page] hosted by our homes association.” (Exhibit 17).  
Recognizing their authority in creating/managing the communication platform as The Board.
- h. *Milburn Fields Families* is the only platform established by The Board that allows “communication among members” and not just one-way communication from Board to members.
- i. An annual meeting does not reasonably satisfy the intent of the law.
- j. These facts establish the *Milburn Fields Families* Facebook Page as

the reasonable method created in accordance with Kansas Statute 58-4608(a)(5).

Pursuant to Kansas Statute 58-4606(b) “... *the provisions of the declaration or bylaws of a common interest community that are contrary to the mandatory provisions of this act, and amendments thereto, may not be enforced with respect to events and circumstances occurring after the effective date of the act*”. *Milburn Fields Families* Facebook Page was established in 2016 (Exhibit 32), after Statute 58-4606(b) took effect. All actions of The Board, in regards to the Facebook Page, are bound by the statutes.

Pursuant to Kansas Statute 58-4608(a)(6): *The association shall have the power to suspend any right or privilege of a unit owner that fails to pay an assessment, but may not: withhold services provided to a unit or unit owner by the association if the effect of withholding the service would be to endanger the health, safety, or property of any person*”.

Pursuant to Kansas Statute 58-4603 (a) *Except as expressly provided in this act, the provisions of this act shall be mandatory and apply notwithstanding contrary provisions in the declaration or bylaws of a common interest community and shall not be varied or waived by agreement*. The Facebook Page requires “agreeing” to the Rules as a stipulation of joining. That agreement is not-binding as it violates the Kansas Statute.

3. Defendant has failed to follow Kansas Statute 58-4608(a)(6) for the following reasons: On 08/25/2022, The Board created a new rule for the Facebook Page that set all Board members, Mr. Sorensen himself, as administrators for the

Facebook Page and authorized and required their approval before members could post communications with other members (Exhibit 3). Mr. Sorensen accepts this responsibility of withholding member rights by his active participation in the Facebook administrative duties. This action prevents Ms. King from communicating with members in regards to matters of safety and vice versa. Ms. King is in good standing with her Assessments and has no delinquent dues to justify rights being withheld. The Board may create rules for the Facebook Page, but the rules cannot be upheld if in violation of any statute. Rule 6 & 7 state administrators can remove any post or member at will. This violates the member right to the services provided by The Board, and services concerning matters of safety, property, or health. Mr. Sorensen may NOT remove any post or unit owner. Mr. Sorensen may NOT restrict the right to communicate among unit owners via the platform provided by The Board.

4. Based on the claim stated above, Judgment is demanded against the Co-Defendant as follows: Mr. Sorensen

Co-Defendant shall, within 7 days, be required to grant full access to the *Milburn Fields Families* Facebook Page, without censorship and without sabotage/devaluation/deconstruction, to Plaintiff, Ms. King, plus pay court and attorney fees, costs of added security measures needed to make whole, or attempt to make whole, the lack of rights that would otherwise ensure that wellbeing, as well as, any other relief the Court deems fair, just and equitable in the premises. Co-Defendant should be ordered to make repayment of 2022 Dues

to Plaintiff for withholding rights associated with upstanding participation in the HOA. Co-Defendant shall be on a one-year probation as a Board member whereby any additional occurrences violating member rights will constitute immediate removal from The Board indefinitely. Co-Defendant shall also restrict themselves from coercing or soliciting members to willfully create hostile or offensive posts or comments in an effort to retaliate. Co-Defendant shall also restrict themselves from devising any alternative plan to antagonize the recovering association or otherwise negatively contribute to the exercise of member rights. Kansas Statute 58-4621(c) *The remedies provided by this act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed.*

## COUNT NINE

1. Defendant has caused Plaintiff the following harm: Mr. Payne has arbitrarily and capriciously pursued enforcement action against Ms. King in restricting her Kansas Homeowner Bill of Rights to communicate with members by establishing censorship to Ms. King's access to *Milburn Fields Families* Facebook Page. Due to this restriction, Ms. King was put in a dangerous situation and feared for her safety. Ms. King lost communication rights with members during an attempted break in on Ms. King's property. This violation also put other members at risk due to not being able to communicate with Ms. King when she tried to warn those nearby.
2. Pursuant to Kansas Statute 58-4608(c) "*The Board of directors decision under subsection (b) not to pursue enforcement action under one set of circumstances does not prevent The Board of directors from taking enforcement action under another set of circumstances, but The Board of directors may not be arbitrary or capricious in taking enforcement action*".
3. Defendant has failed to follow Kansas Statute 58-4608(c) for the following reasons: Mr. Payne's reasonings are arbitrary when they state: "*you have been set for admin approval for comments / posts. Due to the fact that I have to moderate or remove a lot of your posts that call out neighbors directly or contain comments which go against our group rules*" (Exhibit 1). Screenshot of moderated content (Exhibit 4) 3 posts, 2 dating back to 2019 and one post from July 2022 representing video footage of The Board Treasurer, Mr. Wetterer's family, destroying the Plaintiff's property. No further evidence was produced of

Mr. Payne's accusation stating, "*Consistently flagged and removed*" (Exhibit 2). And finally, capricious actions were taken when Mr. Payne states "Quite frankly, the combative nature this week was the final straw and I wanted to move forward. I didn't like how our exchange went [Facebook Messenger conversation] and I anticipated future negative posts, so I did amend your posting access."(Exhibit 6). "Although there is no ordinance, either with the City or within the current HOA Bylaws...". (Exhibit 19). Mr. Payne stated he felt "irked" (Exhibit 7) by the Plaintiff's private property. "with our Facebook Page being a place used to share good news and happenings in the city / Milburn Fields. In the future, if I feel a post or comment you've submitted goes against these things, I'll be sure to reach out to you in a timely manner." (Exhibit 19) Mr. Payne's "feelings" dictate the allowable conversation between unit owners. Mr. Payne's actions represent capricious decision making in taking enforcement action when no declaration, bylaw, or rule was violated. Furthermore, the rules created for the Facebook Page violate the Bill of Rights in that arbitrary decisions by Board members to censor, delete, or restrict any voice or member is against the law, without assessment overdue AND assurance that this action doesn't endanger the member or other members by preventing communication about safety, property, or health. Furthermore, Ms. Herzog is allowed to post a complaint calling out a minor in the neighborhood and a demand that the complaint be honored via the Facebook Page, but this post is not taken down even though it does not contribute to the arbitrary rules established by Mr.

Payne. (Exhibit 26) Ms. Herzog is also allowed to break Rule 4 by soliciting members for sales of her daughter's fundraiser. (Exhibit 27 & 28). It would appear Board Members are excluded from the rules. Mr. Payne further states in response to a query about questionable posts, "the content meets our neighborhood group rules in regards to relevance and efforts to promote a positive, friendly, and neighborly online environment" (Exhibit 18). This is neither a rule nor "group rule" and represents arbitrary application of rules violates the above statute, as well as, lack of good faith in performance of his duties.

4. Based on the claim stated above, Judgment is demanded against the Defendant as follows: Mr. Payne

Defendant shall, within 7 days, be required to grant full access to the *Milburn Fields Families* Facebook Page, without censorship and without sabotage/devaluation/deconstruction, to Plaintiff, Ms. King. Defendant should be removed from his position as President and any position within The Board and administration of the *Milburn Fields Families* Facebook Page indefinitely, and required to pay Plaintiff's court and attorney costs, as well as, costs of added security measures needed to make whole, or attempt to make whole, the lack of rights that would otherwise ensure that wellbeing, and any other relief the Court deems fair, just and equitable in the premises. Defendant should be ordered to make payment of 2022 Dues to Plaintiff for withholding rights associated with upstanding participation in the HOA. Defendant shall also

restrict themselves from coercing or soliciting members to willfully create hostile or offensive posts or comments in an effort to retaliate. Defendant shall also restrict themselves from devising any alternative plan to antagonize the recovering association or otherwise negatively contribute to the exercise of member rights. Kansas Statute 58-4621(c) *The remedies provided by this act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed.*

## COUNT TEN

1. Co-Defendant has caused Plaintiff the following harm: The Board has withheld the right of Ms. King to comment at The Board of Director's meeting. This act violates her rights as a member of the Milburn Fields Home Owners Association to have a voice in the Board meetings.
2. Pursuant to Kansas Statute 58-4612(d) *At each board of director's meeting, The Board shall provide a reasonable opportunity for unit owners to comment regarding any matter affecting the common interest community and the association.*
3. Co-Defendant has failed to follow Kansas Statute 58-4612(d) for the following reasons: on 12/30/2022, The Board writes to Ms. King, "any further contact proceeds through represented legal channels... Finally, please be advised that you are immediately removed from any groups (i.e. social media) hosted by our homes association. If you plan to attend any open HOA Board meetings, be aware that we may not respond immediately to any complaints or engage in further discussion as we do not want to say anything that may have any legal implications" (Exhibit 17), where The Board states they will decline to uphold their obligation to provide a reasonable opportunity for Ms. King to comment regarding matters of the Association and further threaten to ignore entirely the rights of Ms. King to address The Board in matters concerning the association.
4. Based on the claim stated above, Judgment is demanded against the Co-Defendant as follows: The Board  
  
Co-Defendant shall remove all adverse actions taken against the Plaintiff

effective within 24 hours of the judgement. Co-Defendant should be ordered to make payment of 2022 Dues to Plaintiff for withholding rights associated with upstanding participation in the HOA, all attorney and costs related to pursuit of legal action, as well as, costs of added security measures needed to make whole, or attempt to make whole, the lack of rights that would otherwise ensure that wellbeing, and any other relief the Court deems fair, just and equitable in the premises. Co-Defendant shall also restrict themselves from coercing or soliciting members to willfully create hostile or offensive posts or comments in an effort to retaliate. Co-Defendant shall also restrict themselves from devising any alternative plan to antagonize the recovering association or otherwise negatively contribute to the exercise of member rights. Lastly, The Board shall immediately make all amends necessary to restore the social acceptance they eroded on behalf of Ms. King to include formal written apology to Ms. King, written apology to each homeowner stating the same for all accounts of misconduct, and individual conversations with neighbors who were engaged at any level in conversations where members of the Board spoke ill of Ms. King or her property, or in anyway suggesting a negative connotation of Ms. King's ownerships. The Board will be indebted for this responsibility until Ms. King's social acceptance is restored. The Board shall document all efforts to meet this standard and show proof upon request, without fee or barrier, to Ms. King to validate their good faith efforts. Kansas Statute 58-4621(c) *The remedies provided by this act shall be liberally administered to the end that the aggrieved party is put in as good a*

*position as if the other party had fully performed.*

Defendant as follows: Mr. Payne

Defendant shall be immediately resigned from all positions within The Board and administration of *Milburn Fields Families* Facebook Page, indefinitely.

Kansas Statute 58-4621(c) *The remedies provided by this act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed.*

Co-Defendant as follows: Ms. Herzog

Co-Defendant shall be immediately resigned from all positions within The Board and administration of *Milburn Fields Families* Facebook Page, indefinitely.

Kansas Statute 58-4621(c) *The remedies provided by this act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed.*

## COUNT ELEVEN

1. Co-Defendant has caused Plaintiff the following harm: The Board failed to provide evidence of an open board meeting where the vote to remove rights from Ms. King occurred. The Board has removed Ms. King's rights which causes her risk of safety, violates her ability to be whole as a member of the HOA, and shows a pattern of bad faith in the actions of The Board.
  
2. Pursuant to Kansas Statute 58-4612(j) *Even if an action by The Board of directors is not in compliance with this section, it is valid unless set aside by a court. A challenge to the validity of an action of The Board of directors for failure to comply with this section may not be brought more than 60 days after the minutes of The Board of directors of the meeting at which the action was taken are approved or the record of that action is distributed to unit owners, whichever is later.* Ms. King's date of notice is 12/30/2022 when her rights were stated as terminated by The Board (Exhibit 17). Pursuant to Kansas Statute 58-4612(e) *Unless the meeting is included in a schedule given to the unit owners or the meeting is called to deal with an emergency, the secretary or other officer specified in the bylaws shall give notice of each board of directors meeting to each board member and to the unit owners. The notice must state the time, date, place, and agenda of the meeting and, except as provided in subsection (c) of K.S.A. 2022 Supp. 58-4611 and 58-4620, and amendments thereto, be given at least five days prior to the meeting date.* Pursuant to Kansas Statute 58-4616(a) *The association, or its agents, must retain the following for five years unless otherwise provided: 2) minutes of all meetings of its unit owners and board of directors*

*other than executive sessions, a record of all actions taken by the unit owners or board of directors without a meeting, and a record of all actions taken by a committee in place of The Board of directors on behalf of the association.*

3. Defendant has failed to follow Kansas Statute 58-4612(f) for the following reasons: No announcement or notice was given to this meeting. No meeting minutes are available to speak to the vote. No record exists of a vote or decision being made. No record of an emergency or executive meeting minutes exists. The meeting or decision to remove Ms. King's rights was made in violation of Kansas statutes.
4. Based on the claim stated above, Judgment is demanded against the Defendant as follows: Mr. Payne

Defendant should be removed from his position as President of the HOA and indefinitely banned from any level of participation, as well as, removed as administrator of the *Milburn Fields Families* Facebook Page. Defendant shall also restrict themselves from coercing or soliciting members to willfully create hostile or offensive posts or comments in an effort to retaliate. Defendant shall also restrict themselves from devising any alternative plan to antagonize the recovering association or otherwise negatively contribute to the exercise of member rights. Kansas Statute 58-4621(c) *The remedies provided by this act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed.*

Co-Defendant as follows: The Board

Co-Defendant shall remove all adverse actions taken against the Plaintiff

effective within 24 hours of the judgement. Co-Defendant shall, within 7 days of judgement, be ordered to make payment of 2022 Dues to Plaintiff for withholding rights associated with upstanding participation in the HOA, all attorney and costs related to pursuit of legal action, as well as, costs of added security measures needed to make whole, or attempt to make whole, the lack of rights that would otherwise ensure that wellbeing, and any other relief the Court deems fair, just and equitable in the premises. Co-Defendant shall be on a one-year probation as a whole, whereby any additional occurrences violating member rights will constitute immediate removal from that Board member indefinitely. Co-Defendant shall also restrict themselves from coercing or soliciting members to willfully create hostile or offensive posts or comments in an effort to retaliate. Co-Defendant shall also restrict themselves from devising any alternative plan to antagonize the recovering association or otherwise negatively contribute to the exercise of member rights. Lastly, The Board shall immediately make all amends necessary to restore the social acceptance they eroded on behalf of Ms. King to include formal written apology to Ms. King, written apology to each homeowner stating the same for all accounts of misconduct, and individual conversations with neighbors who were engaged at any level in conversations where members of the Board spoke ill of Ms. King or her property, or in anyway suggesting a negative connotation of Ms. King's ownerships. The Board will be indebted for this responsibility until Ms. King's social acceptance is restored. The Board shall document all efforts to meet this

standard and show proof upon request, without fee or barrier, to Ms. King to validate their good faith efforts. Kansas Statute 58-4621(c) *The remedies provided by this act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed.*

## COUNT TWELVE

1. Defendant has caused Plaintiff the following harm: Mr. Payne failed to provide meeting minutes to reflect accusations that ‘Ms. King’s Facebook posts have been the topic of discussion during public monthly Board Meetings’ (Exhibit 21). This accusation comes as the basis for Mr. Payne withholding Kansas Statute rights from Ms. King. Due to this violation, Ms. King was put in a dangerous situation and feared for her safety. Ms. King lost communication rights with members during an attempted break in on Ms. King’s property. This violation also put other members at risk due to not being able to communicate with Ms. King when she tried to warn those nearby.
2. Pursuant to Kansas Statute 58-4616(a) *The association, or its agents, must retain the following for five years unless otherwise provided: 2) minutes of all meetings of its unit owners and board of directors other than executive sessions, a record of all actions taken by the unit owners or board of directors without a meeting, and a record of all actions taken by a committee in place of The Board of directors on behalf of the association;*
3. Defendant has failed to follow Kansas Statute 58-4616(a)(2) for the following reasons: Defendant has failed to make available monthly Meeting Minutes that reflect the accusation Mr. Payne makes regarding Ms. King’s Facebook posting “... The Board meets monthly and we discuss neighborhood issues each meeting. I’m sorry to say that your complaints, facebook posts, etc are sometimes topics of discussion”. (Exhibit 19). Upon review of the past year’s available Meeting Minutes, no mention of Ms. King’s Facebook posts is documented. (Exhibit 20 &

21)

4. Based on the claim stated above, Judgment is demanded against the Defendant as follows: Mr. Payne

Defendant should be removed from his position as President of the HOA and indefinitely banned from The Board as well as removed as administrator of the *Milburn Fields Families* Facebook Page. Kansas Statute 58-4621(c) *The remedies provided by this act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed.*

Co-Defendant as follows: The Board

Co-Defendant shall, within 7 days, be required to present all missing Meeting Minutes and account for all withheld topics of conversation pursuant Kansas Statute HOA Homeowner Bill of Rights, reimburse costs and damages to Ms. King including all attorney and court fees. Also awarded any other relief the Court deems fair, just and equitable in the premises. Co-Defendant shall be on a one-year probation whereby any additional occurrences violating member rights will constitute immediate removal from The Board indefinitely. Co-Defendant shall also restrict themselves from coercing or soliciting members to willfully create hostile or offensive posts or comments in an effort to retaliate. Co-Defendant shall also restrict themselves from devising any alternative plan to antagonize the recovering association or otherwise negatively contribute to the exercise of member rights. Lastly, The Board shall immediately make all amends necessary to restore the social acceptance they eroded on behalf of Ms.

King to include formal written apology to Ms. King, written apology to each homeowner stating the same for all accounts of misconduct, and individual conversations with neighbors who were engaged at any level in conversations where members of the Board spoke ill of Ms. King or her property, or in anyway suggesting a negative connotation of Ms. King's ownerships. The Board will be indebted for this responsibility until Ms. King's social acceptance is restored. The Board shall document all efforts to meet this standard and show proof upon request, without fee or barrier, to Ms. King to validate their good faith efforts. Kansas Statute 58-4621(c) *The remedies provided by this act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed.*

### COUNT THIRTEEN

1. Co-Defendant has caused Plaintiff the following harm: The Board has failed to provide meeting minutes from Dec 2019-Dec 2022 and December 2022. Ms. King has rightful information withheld that would otherwise inform her of the actions and decisions made within the HOA that affect her rights being violated today (Exhibit 21). Due to this violation, Ms. King was put in a dangerous situation and feared for her safety. Ms. King lost communication rights with members during an attempted break in on Ms. King's property. This violation also put other members at risk due to not being able to communicate with Ms. King when she tried to warn those nearby.
2. Pursuant to Kansas Statute 58-4616(a) *The association, or its agents, must retain the following for five years unless otherwise provided: 2) minutes of all meetings of its unit owners and board of directors other than executive sessions, a record of all actions taken by the unit owners or board of directors without a meeting, and a record of all actions taken by a committee in place of The Board of directors on behalf of the association;*
3. Co-Defendant has failed to follow Kansas Statute 58-4616(a) for the following reasons: The Board has failed to make available meeting minutes to reflect actions taken since 2019 and to reflect open records of board meeting agendas.
4. Based on the claim stated above, Judgment is demanded against the Co- Defendant as follows: The Board Co-Defendant is required to present all missing Meeting Minutes immediately and account for any withheld topics of conversation pursuant Kansas Statute 58,

HOA Homeowner Bill of Rights, reimburse costs and damages to Ms. King including all attorney and court fees, as well as, awarded any other relief the Court deems fair, just and equitable in the premises. Co-Defendant shall be on a one-year probation whereby any additional occurrences violating member rights will constitute immediate removal from The Board indefinitely. Co-Defendant shall also restrict themselves from coercing or soliciting members to willfully create hostile or offensive posts or comments in an effort to retaliate. Co-Defendant shall also restrict themselves from devising any alternative plan to antagonize the recovering association or otherwise negatively contribute to the exercise of member rights. Lastly, The Board shall immediately make all amends necessary to restore the social acceptance they eroded on behalf of Ms. King to include formal written apology to Ms. King, written apology to each homeowner stating the same for all accounts of misconduct, and individual conversations with neighbors who were engaged at any level in conversations where members of the Board spoke ill of Ms. King or her property, or in anyway suggesting a negative connotation of Ms. King's ownerships. The Board will be indebted for this responsibility until Ms. King's social acceptance is restored. The Board shall document all efforts to meet this standard and show proof upon request, without fee or barrier, to Ms. King to validate their good faith efforts. Kansas Statute 58-4621(c) *The remedies provided by this act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed.*

## COUNT FOURTEEN

1. Co-Defendant has caused Plaintiff the following harm: The Board has created rules for the association that are inconsistent with law and applied those rules arbitrarily against Ms. King whereby withholding her rights. Due to this restriction, Ms. King was put in a dangerous situation and feared for her safety. Ms. King lost communication rights with members during an attempted break in on Ms. King's property. This violation also put other members at risk due to not being able to communicate with Ms. King when she tried to warn those nearby.
2. Pursuant to Kansas Statute 58-4608(b)(2) *The Board of directors may determine whether to take enforcement action by exercising the association's power to impose sanctions or commencing an action for a violation of the declaration, bylaws, and rules, including whether to compromise any claim for unpaid assessments or other claim made by or against it. The Board of directors does not have a duty to take enforcement action if it determines that, under the facts and circumstances presented (2) the covenant, restriction, or rule being enforced is, or is likely to be construed as, inconsistent with law*". Co-Defendant is required to only enforce rules that are consistent with laws.

Pursuant to Kansas Statute 58-4606(b) *"This act, and amendments thereto, do not invalidate existing provisions of the declaration, bylaws, plats or plans of those common interest communities; provided, however, the provisions of the declaration or bylaws of a common interest community that are contrary to the mandatory provisions of this act, and amendments thereto, may not be enforced with respect to events and circumstances occurring after the effective date of the*

*act*". *Milburn Fields Families* Facebook Page was established in 2016 (Exhibit 32), after Statute 58-4606(b) took effect. All actions of The Board, in regards to the Facebook Page, are bound by the statutes when conducted after 2011.

Pursuant to Kansas Statute 58-4608(a)(6): *The association shall have the power to suspend any right or privilege of a unit owner that fails to pay an assessment, but may not: withhold services provided to a unit or unit owner by the association if the effect of withholding the service would be to endanger the health, safety, or property of any person*". The Board is required to provide these services to Ms. King through the communication platform The Board has created, *Milburn Fields Families* Facebook Page. Access includes, not withholding Ms. King's communication to the members for the same.

Pursuant to Kansas Statute 58-4603 (a) *Except as expressly provided in this act, the provisions of this act shall be mandatory and apply notwithstanding contrary provisions in the declaration or bylaws of a common interest community and shall not be varied or waived by agreement*. The Facebook Page requires "agreeing" to the Rules as a stipulation of joining. That agreement is not-binding as it violates the Kansas Statute.

3. Co-Defendant has failed to follow Kansas Statute 58-4608(b)(2) for the following reasons: The Board has created a set of rules that are inconsistent with law by creating Rule 6 – HOA board reserves the right to remove any post and Rule 7 – HOA board reserves the right to remove any member. (Exhibit 3). This broad-brush self-administered power allows any member of The Board to restrict member rights without cause. Restricting this right violates the member's right

to communicate with the association about matters of safety, but also allows The Board to remove rights from a member in good standing with assessments. The Board has done just that in restricting the right of Ms. King to communicate with members and vice versa, even though Ms. King is in good standing with her assessments.

4. Based on the claim stated above, Judgment is demanded against the Co-Defendant as follows: The Board Co-Defendant shall, within 7 days, be required to grant full access to the *Milburn Fields Families* Facebook Page, without censorship and without sabotage/devaluation/deconstruction, to Plaintiff, Ms. King. Co-Defendant shall, within 7 days of judgement, be ordered to make payment of 2022 Dues to Plaintiff, plus interest, court and attorney costs, as well as, costs of added security measures needed to make whole, or attempt to make whole, the lack of rights that would otherwise ensure that wellbeing. Co-Defendant shall be on a one-year probation whereby any additional occurrences violating member rights will constitute immediate removal from The Board indefinitely, also awarded any other relief the Court deems fair, just and equitable in the premises. Co-Defendant shall also restrict themselves from coercing or soliciting members to willfully create hostile or offensive posts or comments in an effort to retaliate. Co-Defendant shall also restrict themselves from devising any alternative plan to antagonize the recovering association or otherwise negatively contribute to the exercise of member rights. Lastly, The Board shall immediately make all

amends necessary to restore the social acceptance they eroded on behalf of Ms. King to include formal written apology to Ms. King, written apology to each homeowner stating the same for all accounts of misconduct, and individual conversations with neighbors who were engaged at any level in conversations where members of the Board spoke ill of Ms. King or her property, or in anyway suggesting a negative connotation of Ms. King's ownerships. The Board will be indebted for this responsibility until Ms. King's social acceptance is restored. The Board shall document all efforts to meet this standard and show proof upon request, without fee or barrier, to Ms. King to validate their good faith efforts. Kansas Statute 58-4621(c) *The remedies provided by this act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed.*

## COUNT FIFTEEN

1. Defendant has caused Plaintiff the following harm: Mr. Payne enforced rules for the association that are inconsistent with law and applied those rules arbitrarily against Ms. King, withholding her rights. Due to this restriction, Ms. King was put in a dangerous situation and feared for her safety. Ms. King lost communication rights with members during an attempted break in on Ms. King's property. This violation also put other members at risk due to not being able to communicate with Ms. King when she tried to warn those nearby.
2. Pursuant to Kansas Statute 58-4608(b)(2) "*The Board of directors may determine whether to take enforcement action by exercising the association's power to impose sanctions or commencing an action for a violation of the declaration, bylaws, and rules, including whether to compromise any claim for unpaid assessments or other claim made by or against it. The Board of directors does not have a duty to take enforcement action if it determines that, under the facts and circumstances presented: (2) the covenant, restriction, or rule being enforced is, or is likely to be construed as, inconsistent with law*". Defendant is required to only enforce rules that are consistent with laws.

Pursuant to Kansas Statute 58-4606(b) "*This act, and amendments thereto, do not invalidate existing provisions of the declaration, bylaws, plats or plans of those common interest communities; provided, however, the provisions of the declaration or bylaws of a common interest community that are contrary to the mandatory provisions of this act, and amendments thereto, may not be enforced with respect to events and circumstances occurring after the effective date of the*

*act*". *Milburn Fields Families* Facebook Page was established in 2016 (Exhibit 32), after Statute 58-4606(b) took effect. All actions of The Board, in regards to the Facebook Page, are bound by the statutes when conducted after 2011.

Pursuant to Kansas Statute 58-4608(a)(6): *The association shall have the power to suspend any right or privilege of a unit owner that fails to pay an assessment, but may not: withhold services provided to a unit or unit owner by the association if the effect of withholding the service would be to endanger the health, safety, or property of any person*".

Pursuant to Kansas Statute 58-4603 (a) *Except as expressly provided in this act, the provisions of this act shall be mandatory and apply notwithstanding contrary provisions in the declaration or bylaws of a common interest community and shall not be varied or waived by agreement.* The Facebook Page requires "agreeing" to the Rules as a stipulation of joining. That agreement is not-binding as it violates the Kansas Statute.

3. Defendant has failed to follow Kansas Statute 58-4608(b)(2) for the following reasons: Mr. Payne restricted Ms. King's ability to communicate matters of the association on the communication platform provided by The Board when restricting comments to "2 per day" during an active conversation regarding Kansas HOA Homeowner Bill of Rights violations being enacted by The Board. (Exhibit 3)(Exhibit 9). Mr. Payne is required to allow Ms. King full participation in the service, that The Board has created for the association as a communication platform between members and The Board, *Milburn Fields Families* Facebook Page. Access to the service includes not withholding Ms.

King's communication to the members for the same reasons. Essentially, Mr. Payne didn't want to hear the KS Homeowner Bill of Rights spoken about and muted Ms. King's voice in the association to prevent the conversation being heard or discussed by other members. Mr. Payne elected to pick a special censorship that prevented a member from commenting on a Post, whereby, the member could no longer advocate for the rights of the members being wronged.

4. Based on the claim stated above, Judgment is demanded against the Defendant as follows: Mr. Payne

Defendant shall be immediately removed from administrative authority of *Milburn Fields Families* Facebook Page. Defendant should, within 7 days of judgement, be removed from his position as President of the HOA and indefinitely banned from any level of participation on The Board and ordered to make payment of 2022 Dues to Plaintiff, plus interest, court and attorney costs, as well as, costs of added security measures needed to make whole, or attempt to make whole, the lack of rights that would otherwise ensure that wellbeing. Also awarded any other relief the Court deems fair, just and equitable in the premises. Defendant shall also restrict themselves from coercing or soliciting members to willfully create hostile or offensive posts or comments in an effort to retaliate. Defendant shall also restrict themselves from devising any alternative plan to antagonize the recovering association or otherwise negatively contribute to the exercise of member rights. Lastly, The Board shall immediately make all amends necessary to restore the social acceptance they eroded on behalf of Ms.

King to include formal written apology to Ms. King, written apology to each homeowner stating the same for all accounts of misconduct, and individual conversations with neighbors who were engaged at any level in conversations where members of the Board spoke ill of Ms. King or her property, or in anyway suggesting a negative connotation of Ms. King's ownerships. The Board will be indebted for this responsibility until Ms. King's social acceptance is restored. The Board shall document all efforts to meet this standard and show proof upon request, without fee or barrier, to Ms. King to validate their good faith efforts. Kansas Statute 58-4621(c) *The remedies provided by this act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed.*

## COUNT SIXTEEN

1. Co-Defendant has caused Plaintiff the following harm: The Board has failed to provide records to Ms. King as requested to The Board on 12/18/2022. The Board continues to withhold these records at this time unless demands violating additional statutes are met. They set demands that violate member right to mutually agreed upon time and location, mode of delivery, and reasonable fee. Ms. King has been forced to take legal action which causes unreasonable efforts to achieve a right under the KS Homeowner's Bill of Rights.
2. Pursuant to Kansas Statute 58-4616(b)(1) "*Subject to subsections (c) through (g), all records retained by an association must be available for examination and copying by a unit owner or the owner's authorized agent: (1) During reasonable business hours or at a mutually convenient time and location*".
3. Defendant has failed to follow Kansas Statute 58-4616(b)(1) for the following reasons: The Board writes 12 days after the request is sent, "You may inspect the records at the offices of our attorney, Rod Hoffman. Please contact him at [rodhoffman@martinpringle.com](mailto:rodhoffman@martinpringle.com) to arrange for a convenient time." This fails to meet the law in a mutually agreed time and location as no option or opportunity for discussion is provided and no alternative means of inspecting or viewing records are provided. Those records are also withheld pending a \$350 fee, which is unreasonable, and the records themselves must be available. Based on all the unreasonable terms, the records are NOT available.
4. Based on the claim stated above, Judgment is demanded against the Co-Defendant as follows: The Board

Co-Defendant shall, within 7 days, make available all requested records to Ms. King without cost or delay or conditions of providing the service as a sign of good faith for their failure to uphold the law, plus court and attorney costs. Co-Defendant shall be on a one-year probation whereby any additional occurrences violating member rights will constitute immediate removal from The Board indefinitely. Also awarded any other relief the Court deems fair, just and equitable in the premises. Co-Defendant shall also restrict themselves from coercing or soliciting members to willfully create hostile or offensive posts or comments in an effort to retaliate. Co-Defendant shall also restrict themselves from devising any alternative plan to antagonize the recovering association or otherwise negatively contribute to the exercise of member rights. Kansas Statute 58-4621(c) *The remedies provided by this act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed.*

## COUNT SEVENTEEN

1. Co-Defendant has caused Plaintiff the following harm: The Board has failed to provide requested records in the ten-days required, as requested on 12/18/2022. The Board continues to fail to provide these records to Ms. King at this time, unless demands violated additional statues are met. The Board made no attempt to comply with the 10-day requirement or justify their delay in responding as they waiting until Day 11 to write a response, and Day 12 before it was delivered. Ms. King has been forced to take legal action which causes unreasonable efforts to achieve a right under the KS Homeowner's Bill of Rights.
2. Pursuant to Kansas Statute 58-4616(b)(2) "*Subject to subsections (c) through (g), all records retained by an association must be available for examination and copying by a unit owner or the owner's authorized agent: (2) upon 10 days' written notice reasonably identifying the specific records of the association requested.*". Co-Defendant is required to present requested records within 10 days.
3. Defendant has failed to follow Kansas Statute 58-4616(b)(2) for the following reasons: Letter mailed 12/29 and Letter dated 12/30/2022." (Exhibit 17). This fails to meet the law in that neither the attempt to write or attempt to send the letter occurred within the required 10-day time frame. No justification for lateness or attempt was made to fulfill their obligation, even in part. The records were further, still not available at that time, but withheld pending other violations of Kansas Statute for unreasonable fee, refusal to communicate regarding method of delivery, denial of records, and refusal to find mutually

agreeable time/place.

4. Based on the claim stated above, Judgment is demanded against the Co-Defendant as follows: The Board

Co-Defendant shall, within 7 days, make available all requested records to Ms. King without cost or delay or conditions of providing the service as a sign of good faith for their failure to uphold the law, plus court and attorney costs. Co-Defendant shall be on a one-year probation whereby any additional occurrences violating member rights will constitute immediate removal from The Board indefinitely. Also awarded any other relief the Court deems fair, just and equitable in the premises. Kansas Statute 58-4621(c) *The remedies provided by this act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed.*

## COUNT EIGHTEEN

1. Co-Defendant has caused Plaintiff the following harm: The Board has failed to provide requested records to Ms. King with a reasonable charge. The Board state, “Mr. Hoffman’s office will require a fee of \$350 from you for this inspection” (Exhibit 17). The records requested is the list of names/addresses of homeowners in the HOA. This list is required to be kept synthesized at all times in alphabetical order. This type of list is traditionally stored via excel file and can be easily provided electronically and for less than \$350 and the commitment of a trip to a non-agreed upon location. Ms. King has been forced to take legal action which causes unreasonable efforts to achieve a right under the KS Homeowner’s Bill of Rights.
2. Pursuant to Kansas Statute 58-4616(e) “*A right to copy records under this section includes the right to receive copies by photocopying or other means, including copies through an electronic transmission if available upon request by the unit owner*”. Defendant is required to provide requested records via electronic means if requested.
3. Co-Defendant has failed to fulfilled that request as per their letter stating, “It is in the best interest for all involved that any further contact proceeds through represented legal channels. This would include any request for records” (Exhibit 17) which violated Ms. King’s right to request an electronic copy. Defendant has failed to follow Kansas Statute 58-4616(e) for the following reasons: Exhibit 17 states Boards refusal to accept request from Ms. King for the records requested. The only option made available is payment of \$350 and a location/time not

mutually agreed upon. The records requested encompass less than 300 lines of names/addresses which would reasonably fit on 4 pages of printed text at an average cost of \$.25 per page in public libraries.

4. Based on the claim stated above, Judgment is demanded against the Co-Defendant as follows: The Board

Co-Defendant shall, within 7 days, make available all requested records to Ms. King without cost or delay or conditions of providing the service as a sign of good faith for their failure to uphold the law, plus court and attorney costs. Co-Defendant shall be on a one-year probation whereby any additional occurrences violating member rights will constitute immediate removal from The Board indefinitely. Also awarded any other relief the Court deems fair, just and equitable in the premises. Kansas Statute 58-4621(c) *The remedies provided by this act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed.*

## COUNT NINETEEN

1. Co-Defendant has caused Plaintiff the following harm: The Board has failed to make responsible use of the association's funds by spending the majority of the available funds on attorney fees and \$27.90 on postage for a single letter to be overnighted, in violation of additional laws, due to the President and Board members failure to follow the law in exercising their duties. Ms. King has been forced to take legal action which causes unreasonable efforts to achieve a right under the KS Homeowner's Bill of Rights.
2. Pursuant to Kansas Statute 58-4608(b)(2) *"The Board of directors may determine whether to take enforcement action by exercising the association's power to impose sanctions or commencing an action for a violation of the declaration, bylaws, and rules, including whether to compromise any claim for unpaid assessments or other claim made by or against it. The Board of directors does not have a duty to take enforcement action if it determines that, under the facts and circumstances presented: (2) the covenant, restriction, or rule being enforced is, or is likely to be construed as, inconsistent with law. (3) although a violation may exist or may have occurred, it is not so material as to be objectionable to a reasonable person or to justify expending the association's resources"*.
3. Co-Defendant has failed to justify spending the associations funds to support actions that are in violation of Kansas Statute 58-4608 and additionally continues to expend association funds to mail letters to Ms. King at the cost of \$27.90 which contain more actions that also break the law. This gross negligence

in trust and accountability required by The Board in the management of the assets of the HOA reflect violations the appropriate use of the HOA funds. The Board continues to expend the association's funds to further their actions that are in direct violation of Kansas Statute, Bylaws, and standards of ethics in financial management.

4. Based on the claim stated above, Judgment is demanded against the Defendant as follows: Mr. Payne

Defendant should immediately be removed from his position as President of the HOA and indefinitely banned from any level of participation in The Board, as well as, banned from administration of the *Milburn Fields Families* Facebook Page, and ordered to make payment of 2022 Dues to Plaintiff, plus interest, court and attorney costs, and repay the association's bank accounts for all monies removed to pay debts associated with Mr. Payne breaking such laws as stated above. Defendant shall also restrict themselves from coercing or soliciting members to willfully create hostile or offensive posts or comments in an effort to retaliate. Defendant shall also restrict themselves from devising any alternative plan to antagonize the recovering association or otherwise negatively contribute to the exercise of member rights. Also awarded any other relief the Court deems fair, just and equitable in the premises. Kansas Statute 58-4621(c) *The remedies provided by this act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed.*

## COUNT TWENTY

1. Co-Defendant has caused Plaintiff the following harm: Mr. Wetterer has failed to make responsible use of the association's funds by permitting the spending of the available funds on attorney fees and \$27.90 on postage for a letter to Ms. King, in violation of additional laws, due to the President and Board members failure to follow the law in exercising their duties. The treasurer is responsible for writing the check that allows for paying the outrageous postage cost associated with sending Ms. King a letter outlining laws The Board will break, is breaking, and intent to continue breaking. The treasurer is also responsible for writing the checks to fund the attorney fees associated with The Board, Mr. Payne, Ms. Herzog, Ms. Hendrix, Ms. Higbee, Ms. Schwert, Mr. Sorensen, Ms. Weidt and Mr. Wetterer himself incurred by breaking the law against Ms. King. Ms. King has been forced to take legal action which causes unreasonable efforts to achieve a right under the KS Homeowner's Bill of Rights. Ms. King and the association are now lacking funds that would be otherwise invested for future needs of the community. This loss is not due to a natural disaster, but human willful negligence. The loss of these funds represents a loss to the association, and as such reflect a claim similar to theft.
2. Pursuant to Kansas Statute 58-4608(b)(2) *"The Board of directors may determine whether to take enforcement action by exercising the association's power to impose sanctions or commencing an action for a violation of the declaration, bylaws, and rules, including whether to compromise any claim for unpaid assessments or other claim made by or against it. The Board of directors*

*does not have a duty to take enforcement action if it determines that, under the facts and circumstances presented: (2) the covenant, restriction, or rule being enforced is, or is likely to be construed as, inconsistent with law. (3) although a violation may exist or may have occurred, it is not so material as to be objectionable to a reasonable person or to justify expending the association's resources". Pursuant to Milburn Fields Bylaw Article VIII: Funds, "The funds of the Association shall be deposited in such bank or trust company as the Directors shall designate and shall be withdrawn only upon the check or order of the Treasurer. (Exhibit 22)*

3. Co-Defendant has failed to justify permitting the spending of associations funds to support actions that are in violation of Kansas Statute 58-4608 and additionally continues to allow expending association funds to mail letters to Ms. King at the cost of \$27.90 which contain more laws broken by The Board's actions as they outline in the letter.
4. Based on the claim stated above, Judgment is demanded against the Co-Defendant as follows: Mr. Wetterer  
Co-Defendant shall, within 7 days, be ordered to repay the HOA's bank accounts for all monies removed to pay debts associated with the Treasurer's approved deductions related to costs and attorney fees associated with breaking the above laws. Also, payment for all of Plaintiff's attorney fees, court costs, and other fees. Also awarded any other relief the Court deems fair, just and equitable in the premises. Co-Defendant shall be on a one-year probation whereby any additional occurrences violating member rights will constitute immediate removal from The

Board indefinitely. Co-Defendant shall also restrict themselves from coercing or soliciting members to willfully create hostile or offensive posts or comments in an effort to retaliate. Co-Defendant shall also restrict themselves from devising any alternative plan to antagonize the recovering association or otherwise negatively contribute to the exercise of member rights. Kansas Statute 58-4621(c) *The remedies provided by this act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed.*

## COUNT TWENTY-ONE

1. Co-Defendant has caused Plaintiff the following harm: On 08/25/2022, The Board has endangered Ms. King in regards to withholding information from other members in regards to safety and property of the association. The Board made the decision that all members will be censored by The Board prior to members being permitted to communicate among each other on the platform they provided to members to communicate, *Milburn Fields Families* Facebook Page. Ms. King has been forced to take legal action which causes unreasonable efforts to achieve a right to communicate to members about issues of safety as listed under the KS Homeowner's Bill of Rights. This act further violates her rights as a member in good standing with the Milburn Fields Home Owners Association.
  
2. Pursuant to Kansas Statute 58-4608(a)(5) "*Association duties, The association shall: establish a reasonable method for unit owners to communicate among themselves and with The Board of directors concerning the association*".  
  
Pursuant to Kansas Statute 58-4608(c) "*The Board of directors decision under subsection (b) not to pursue enforcement action under one set of circumstances does not prevent The Board of directors from taking enforcement action under another set of circumstances, but The Board of directors may not be arbitrary or capricious in taking enforcement action*". Defendant is required to allow communication among members. Pursuant to Kansas Statute 58-4608(b)(2) "*The Board of directors may determine whether to take enforcement action by exercising the association's power to impose sanctions or commencing an action*".

*for a violation of the declaration, bylaws, and rules, including whether to compromise any claim for unpaid assessments or other claim made by or against it. The Board of directors does not have a duty to take enforcement action if it determines that, under the facts and circumstances presented: (2) the covenant, restriction, or rule being enforced is, or is likely to be construed as, inconsistent with law. Pursuant to Kansas Statute 58-4603 (a) Except as expressly provided in this act, the provisions of this act shall be mandatory and apply notwithstanding contrary provisions in the declaration or bylaws of a common interest community and shall not be varied or waived by agreement. The Facebook Page requires “agreeing” to the Rules as a stipulation of joining. That agreement is not-binding as it violates the Kansas Statute.*

3. Co-Defendant has failed to follow Kansas Statute 58-4608(a)(5) for the following reasons: One member states in response to the announcement of this rule created by The Board, “My comments were once deleted completely for notifying neighbors about heroin needles found on the sidewalk steps from the school on a path that many kids walk home... Our neighbors have a right to be warned about things that are dangerous within our community. It’s not bullying or hate speech and I was being kind and courteous by informing our neighbors, especially those with kids.” (Exhibit 24) “What do we do if there are package thieves or worse in the area and we can’t see a post because we are waiting on an approval from an admin? This could be dangerous to our neighbors. We need a more reasonable means in which to communicate”. The association is made vulnerable due to missing the information that would have been available had

the member not been censored. Censorship of communication and creating a delay puts the association at risk of safety, as well as, prevents the types of open communication needed to ensure The Board is hearing the needs of the members and members are hearing each other. The Board states, "I want our Facebook Page being a place used to share good news and happenings in the city" (Exhibit 2) The Association has an obligation to address matters related to itself, which at times may not be all 'good news and happening'. Tough conversations oftentimes reflect a serious tone that, while aren't innately joyful, are required to maintain the HOA. The Board electing to censor comments that go against their personal agenda reflects a gross misuse of authority, lack of good faith, and self-administered power. When one member is blocked or deleted, a conversation is able to be controlled by The Board, with no reprieve for the injured member. As is the case here, posts by neighbors who attempted to stop the harassment and bullying of Ms. King on 12/14/2022 were deleted by The Board to prevent dissenting opinions to their actions (Exhibit 14). This reflects a lack of democracy where the only reprieve is seeking restitution in court. The time and energy needed to seek restitution in court prevents timely democratic communication about matters concerning the association.

4. Based on the claim stated above, Judgment is demanded against the Co-Defendant as follows: The Board Co-Defendant should, immediately, be removed from approval/censorship of posts/comments/member communication on the *Milburn Fields Families*

Facebook Page and ordered to make announcement to the association on such platform to state the return of rights to all members to communicate with other members. Co-Defendant shall also restrict themselves from coercing or soliciting members to willfully create hostile or offensive posts or comments in an effort to retaliate. Co-Defendant shall also restrict themselves from devising any alternative plan to antagonize the recovering association or otherwise negatively contribute to the exercise of member rights. Co-Defendant should be ordered to make payment of 2022 Dues to Plaintiff for withholding rights associated with upstanding participation in the HOA, plus interest, court and attorney costs, as well as, costs of added security measures needed to make whole, or attempt to make whole, the lack of rights that would otherwise ensure that wellbeing. Also awarded any other relief the Court deems fair, just and equitable in the premises within 7 days of judgement. Lastly, The Board shall immediately make all amends necessary to restore the social acceptance they eroded on behalf of Ms. King to include formal written apology to Ms. King, written apology to each homeowner stating the same for all accounts of misconduct, and individual conversations with neighbors who were engaged at any level in conversations where members of the Board spoke ill of Ms. King or her property, or in anyway suggesting a negative connotation of Ms. King's ownerships. The Board will be indebted for this responsibility until Ms. King's social acceptance is restored. The Board shall document all efforts to meet this standard and show proof upon request, without fee or barrier, to Ms. King to validate their good faith efforts.

Kansas Statute 58-4621(c) *The remedies provided by this act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed.*

## COUNT TWENTY-TWO

1. Co-Defendant has caused Plaintiff the following harm: The Board has arbitrarily and capriciously pursued enforcement action against Ms. King in restricting her Kansas Homeowner Bill of Rights to communicate with members by banning Ms. King's access to *Milburn Fields Families* Facebook Page.
2. Pursuant to Kansas Statute 58-4608(c) "*The Board of directors decision under subsection (b) not to pursue enforcement action under one set of circumstances does not prevent The Board of directors from taking enforcement action under another set of circumstances, but The Board of directors may not be arbitrary or capricious in taking enforcement action*".
3. Defendant has failed to follow Kansas Statute 58-4608(c) for the following reasons: The Board establishes arbitrary and capricious actions in violating Ms. King's rights to communicate with members of the association and use of the services provided by The Board when, without reason, bans Ms. King from the Facebook page on 12/30/2022 (Exhibit 17). Furthermore, the rules created for the Facebook Page violate the Bill of Rights in that arbitrary decisions by Board members to censor, delete, or restrict any voice or member is against the law, without valid assessment due AND assurance that this action doesn't endanger the member or other members by preventing communication about safety, property, or health. In addition, Ms. Herzog is allowed to post a complaint calling out a minor in the neighborhood and a demand that the complaint be honored via the Facebook Page, but this post is not taken down even though it

does not contribute to the arbitrary rules established by The Board. (Exhibit 26) Ms. Herzog is also allowed to break Rule 4 by soliciting members for her daughter's fundraiser. (Exhibit 27 & 28). Board Members are excluded from the rules. This arbitrary application of rules violates the above statute. There are members of the Facebook Page who neither live in Milburn Fields nor are Homeowners(Exhibit 5.1). This violated Rule 1. Which all Board members currently authorize. The Board then states, "the content meets our neighborhood group rules in regards to relevance and efforts to promote a positive, friendly, and neighborly online environment" (Exhibit 18). Further This is neither a rule or bylaw of the Facebook page. This arbitrary "group rule" is applied capriciously in that bullying Ms. King's property is approved, but not an active intruder alert.

4. Based on the claim stated above, Judgment is demanded against the Defendant as follows: Mr. Payne

Defendant shall, immediately be required to grant full access to the *Milburn Fields Families* Facebook Page, without censorship and without sabotage/devaluation/deconstruction, to Plaintiff, Ms. King. Defendant should be removed from his position as President of the HOA and admin for the *Milburn Fields Families* Facebook Page and any position within The Board indefinitely, and required to pay Plaintiff's court and attorney costs, as well as, costs of added security measures needed to make whole, or attempt to make whole, the lack of rights that would otherwise ensure that wellbeing, and any other relief the Court deems fair, just and equitable in the premises. Defendant should be

ordered to make payment of 2022 Dues to Plaintiff for withholding rights associated with upstanding participation in the HOA. Defendant shall also restrict themselves from coercing or soliciting members to willfully create hostile or offensive posts or comments in an effort to retaliate. Defendant shall also restrict themselves from devising any alternative plan to antagonize the recovering association or otherwise negatively contribute to the exercise of member rights. Lastly, The Board shall immediately make all amends necessary to restore the social acceptance they eroded on behalf of Ms. King to include formal written apology to Ms. King, written apology to each homeowner stating the same for all accounts of misconduct, and individual conversations with neighbors who were engaged at any level in conversations where members of the Board spoke ill of Ms. King or her property, or in anyway suggesting a negative connotation of Ms. King's ownerships. The Board will be indebted for this responsibility until Ms. King's social acceptance is restored. The Board shall document all efforts to meet this standard and show proof upon request, without fee or barrier, to Ms. King to validate their good faith efforts. Kansas Statute 58-4621(c) *The remedies provided by this act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed.*

### COUNT TWENTY-THREE

1. Co-Defendant has caused Plaintiff the following harm: Based on the pattern of negligence in following State Laws, it is understood that The Board will fail in its obligation to inform members of the lawsuit against them. This assumption of failure will inevitably require Ms. King to execute legal procedures to make right and result in time spent in deficit of rights under KS Statute by prolonging the legal process and accrual of unnecessary fees.
2. Pursuant to Kansas Statute 58-4608(a) *“The association shall: (4) promptly provide notice to the unit owners of any legal proceedings in which the association is a party other than proceedings involving enforcement of rules, covenants or declarations of restrictions, or to recover unpaid assessments or other sums due the association”* Co-Defendant is required to inform members of The Board’s legal proceedings involving The Board’s violations of Kansas Statutes.
3. Co-Defendant is anticipated to fail complying with Kansas Statute 58-4608(a) for the following reasons: Repeated patterns of behaviors by The Board and its members predispose The Board to failure to fulfill its duty to members and to the law. Because this lawsuit is in regards to The Board violating Kansas Statutes, it falls outside the allowable non-disclosed legal proceedings listed in the Statute.
4. Based on the claim stated above, Judgment is demanded against the Co-Defendant as follows: The Board Co-Defendant shall, immediately, announce in writing via paid postage, to each member, the legal proceedings of this case without malice or attempt to defame

any party and without bias or attempt to elicit dissent within the association.

Co-Defendant shall also restrict themselves from coercing or soliciting members to willfully create hostile or offensive posts or comments in an effort to retaliate.

Co-Defendant shall also restrict themselves from devising any alternative plan to antagonize the association or otherwise negatively contribute to the exercise of member rights. The fulfillment of their duty shall be in compliance with KS Statute 58-4606 acting in good faith. Lastly, The Board shall immediately make all amends necessary to restore the social acceptance they eroded on behalf of Ms. King to include formal written apology to Ms. King, written apology to each homeowner stating the same for all accounts of misconduct, and individual conversations with neighbors who were engaged at any level in conversations where members of the Board spoke ill of Ms. King or her property, or in anyway suggesting a negative connotation of Ms. King's ownerships. The Board will be indebted for this responsibility until Ms. King's social acceptance is restored.

The Board shall document all efforts to meet this standard and show proof upon request, without fee or barrier, to Ms. King to validate their good faith efforts.

Kansas Statute 58-4621(c) *The remedies provided by this act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed.*

## COUNT TWENTY-FOUR

1. Co-Defendant has caused Plaintiff the following harm: Ms. Higbee showed lack of good faith by not using her position as Admin on the *Milburn Fields Families* Facebook Page to stop the harassment and bullying encouraged by Ms. Herzog when Ms. Herzog goaded Nick Roberson [member of *Milburn Fields Families*] in response to his breaking the rule of harassment and bullying and soliciting neighbors to commit crimes by violating Overland Park Municipal Code 7.36.190 “*No Person shall: Deposit Solid Waste or Recyclables in any Solid Waste or Recycling Container other than that owned by them or under their control without the consent of the Owner or party responsible for such container.*” And trespassing against the property of Ms. King. (Exhibit 14). Ms. King has been put at risk of safety, due to lost communication with members and active threat against her property which causes great distress and fear of personal safety.
2. Pursuant to KS 58-4604, The Board is bound in that “*Every contract or duty governed by this act imposes an obligation of good faith in its performance or enforcement*”. Pursuant to 7 U.L.A. Uniform Act§ 4, comment p. 190. *The comment points out that the concept of “good faith” for purposes of the uniform act has been drawn from and is synonymous with the term as it is used in the Uniform Commercial Code. See K.S.A. 2015 Supp. 84-1-201(b)(20) (defining “good faith” as “honesty in fact and the observance of reasonable commercial standards of fair dealing”); K.S.A. 2015 Supp. 84-7-102(a)(6) (same definition of good faith). Hildenbrand vs Avignon. As the district court pointed out, the mere assertion of an intent to be fair or to act in good faith provides no particular*

*insulation. See CIT Group/Sales Financing, Inc.v. E-Z Pay Used Car, Inc., 29 Kan. App. 2d 676, 680, 32 P.3d 1197 (2001). A fact-finder must be able to look behind such self-serving representations. Honesty in fact basically rests on a state of mind and may be proved or disproved with circumstantial evidence. See Ball v. Credit Bureau Services, Inc., No. 111,144, 2015 WL 4366440, at \*9 (Kan. App. 2015)*

3. Co-Defendant has failed to follow KS 58-4604 for the following reasons: Good faith in their performance or enforcement is not represented by declining to use their position to stop members from bully homeowners with Board participation. Lack of action to uphold their responsibility in these matters reflects bad faith in their obligations.
4. Based on the claim stated above, Judgment is demanded against the Co-Defendant as follows: Ms. Higbee  
  
Co-Defendant should be required to grant full access to the *Milburn Fields Families* Facebook Page, without censorship and without sabotage/devaluation/deconstruction, to Plaintiff, Ms. King, plus pay court and attorney fees, as well as, costs of added security measures needed to make whole, or attempt to make whole, the lack of rights that would otherwise ensure that wellbeing, and any other relief the Court deems fair, just and equitable in the premises. Co-Defendant should be ordered to make payment of 2022 Dues to Plaintiff for withholding rights associated with upstanding participation in the HOA. Co-Defendant shall be on a one-year probation as a Board member whereby any additional occurrences violating member rights will constitute

immediate removal from The Board indefinitely. Lastly, The Board shall immediately make all amends necessary to restore the social acceptance they eroded on behalf of Ms. King to include formal written apology to Ms. King, written apology to each homeowner stating the same for all accounts of misconduct, and individual conversations with neighbors who were engaged at any level in conversations where members of the Board spoke ill of Ms. King or her property, or in anyway suggesting a negative connotation of Ms. King's ownerships. The Board will be indebted for this responsibility until Ms. King's social acceptance is restored. The Board shall document all efforts to meet this standard and show proof upon request, without fee or barrier, to Ms. King to validate their good faith efforts. Kansas Statute 58-4621(c) *The remedies provided by this act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed.*

Co-Defendant as follows: Ms. Herzog

Shall be immediately resigned from all positions within The Board and administrator of the *Milburn Fields Families* Facebook Page, indefinitely.

## COUNT TWENTY-FIVE

1. Defendant has caused Plaintiff the following harm: The Board showed lack of good faith in that Ms. King's Facebook post removed by The Board on 07-19-2022 showed Ms. King's household being trespassed and damaged by The Board. (Exhibit 10 & 11). Per neighbor's report, Mr. Payne stated, "I took it [Ms. King's post] down when Justin [The Board] brought it to my attention that it was his family in the videos". Defendant Mr. Wetterer is the Treasurer for the Milburn Fields HOA. He did not confess or seek to make amends until the Overland Park Police arrived to his doorstep on 08-19-2022. Co-Defendant Ms. Wiedt [The Board] showed lack of good faith by declining to respond to Ms. King's request for support when the harassment by The Board first began (Exhibit 12). Co-Defendant Ms. Hendrix showed lack of good faith by not responding to her own invitation to discuss concerns and work towards a solution when Ms. King brought up violations of the law by The Board against Ms. King (Exhibit 13 & 13.1). Co-Defendant Ms. Herzog shows lack of good faith by goading Nick Roberson [member of *Milburn Fields Families*] in response to his breaking the rule of harassment, hate speech, and bullying while soliciting neighbors to commit crimes of trespass and tampering violating Overland Park Municipal Code 7.36.190 against the property of Ms. King. (Exhibit 14). Co-Defendant Ms. Herzog further violated 18 USC 1725 on 10-13-2022 by depositing unpaid postage into each mailbox in the HOA. (Exhibit 15 & 16). Ms. King has been put at risk of safety, due to lost communication with members and active threat against her property which causes great distress and fear of personal safety. Ms.

King has also been put in a compromised place where her federally protected mail is now at the disposal of The Board to tamper with. Her right to privacy of that mail has been lost and the irreputable compromise of the information contained in the mailbox is unknown at this time.

2. Pursuant to KS 58-4604, The Board is bound in that *“Every contract or duty governed by this act imposes an obligation of good faith in its performance or enforcement”*. Pursuant to 7 U.L.A. Uniform Act § 4, comment p. 190. *The comment points out that the concept of “good faith” for purposes of the uniform act has been drawn from and is synonymous with the term as it is used in the Uniform Commercial Code. See K.S.A. 2015 Supp. 84-1-201(b)(20) (defining “good faith” as “honesty in fact and the observance of reasonable commercial standards of fair dealing”); K.S.A. 2015 Supp. 84-7-102(a)(6) (same definition of good faith). Hildenbrand vs Avignon. As the district court pointed out, the mere assertion of an intent to be fair or to act in good faith provides no particular insulation. See CIT Group/Sales Financing, Inc. v. E-Z Pay Used Car, Inc., 29 Kan. App. 2d 676, 680, 32 P.3d 1197 (2001). A fact-finder must be able to look behind such self-serving representations. Honesty in fact basically rests on a state of mind and may be proved or disproved with circumstantial evidence. See Ball v. Credit Bureau Services, Inc., No. 111,144, 2015 WL 4366440, at \*9 (Kan. App. 2015)*
3. Co-Defendant has failed to follow KS 58-4604 for the following reasons: Good faith in its performance or enforcement is not represented by hiding destruction of property committed by The Board, declining to address concerns, using their

position to reinforce members who bully homeowners and silence peacekeepers, and breaking federal law.

4. Based on the claim stated above, Judgment is demanded against the Co-Defendant as follows: The Board

Co-Defendant should be immediately required to grant full access to the *Milburn Fields Families* Facebook Page, without censorship and without sabotage/devaluation/deconstruction, to Plaintiff, Ms. King, plus pay court and attorney fees, as well as, costs of added security measures needed to make whole, or attempt to make whole, the lack of rights that would otherwise ensure that wellbeing, and any other relief the Court deems fair, just and equitable in the premises. Co-Defendant should be ordered to make payment of 2022 Dues to Plaintiff for withholding rights associated with upstanding participation in the HOA. Co-Defendant shall also restrict themselves from coercing or soliciting members to willfully create hostile or offensive posts or comments in an effort to retaliate. Co-Defendant shall also restrict themselves from devising any alternative plan to antagonize the association or otherwise negatively contribute to the exercise of member rights. Lastly, The Board shall immediately make all amends necessary to restore the social acceptance they eroded on behalf of Ms. King to include formal written apology to Ms. King, written apology to each homeowner stating the same for all accounts of misconduct, and individual conversations with neighbors who were engaged at any level in conversations where members of the Board spoke ill of Ms. King or her property, or in anyway

suggesting a negative connotation of Ms. King's ownerships. The Board will be indebted for this responsibility until Ms. King's social acceptance is restored.

The Board shall document all efforts to meet this standard and show proof upon request, without fee or barrier, to Ms. King to validate their good faith efforts.

Kansas Statute 58-4621(c) *The remedies provided by this act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed.*

Defendant as follows: Mr. Payne

Shall be immediately resigned from all positions within The Board and administration of the *Milburn Fields Families* Facebook Page, indefinitely.

Co-Defendant as follows: Ms. Herzog

Shall be immediately resigned from all positions within The Board and administration of the *Milburn Fields Families* Facebook Page, indefinitely.

## COUNT TWENTY-SIX

1. Co-Defendant has caused Plaintiff the following harm: Ms. Herzog showed lack of good faith on 12/14/2022 by goading Nick Roberson [member of *Milburn Fields Families*] in response to his breaking the rule of harassment and bullying and soliciting neighbors to commit crimes of trespass and tampering, violating Overland Park Municipal Code 7.36.190, against the property of Ms. King. (Exhibit 14). Ms. Herzog further writes to Ms. King, “Bethany, I didn’t think the comment was appropriate either.” (Exhibit 29) However, Ms. Herzog continues to goad and prompt targeted negative comments against Ms. King’s property. Co-Defendant Ms. Herzog further violated 18 USC 1725 on 10-13-2022 by depositing unpaid postage into each mailbox in the HOA. (Exhibit 15&16). Ms. Herzog finally shows lack of good faith when she empowers her authority to remove rights of homeowners due to her participation in the Overland Park Neighborhood Association “I’m the representative for our HOA on the NEC city committee” (Exhibit 25). The President of the NEC, Alicia, states, “No person on this committee represents an HOA, has jurisdiction over HOA proceedings, or in any way affiliates the NEC with HOA activities. Any person on the NEC is only representing the NEC and has no relationship or partnership with any HOA” Overland Park City Council states, “Participation in the NED does not constitute any authority on behalf of the city’ “That is already clear, I believe” (Exhibit 8). Ms. Herzog impersonated being a city official as her source authority for restricting HOA member rights. Ms. Herzog is a member of the NEC, but

Alicia and City Council are saying that NEC membership is not relevant in relationship to an HOA Board. Ms. King has been put at risk of safety, due to lost communication with members and active threat against her property which causes great distress and fear of personal safety. Ms. King is further left in less than full standing socially because of the actions taken to restrict her ability to communicate with neighbors which allows Only the Board to represent the narrative and has pitted neighbors against Ms. King who “picked sides”.

2. Pursuant to KS 58-4604, The Board is bound in that *“Every contract or duty governed by this act imposes an obligation of good faith in its performance or enforcement”*. Pursuant to 7 U.L.A. Uniform Act§ 4, comment p. 190. *The comment points out that the concept of “good faith” for purposes of the uniform act has been drawn from and is synonymous with the term as it is used in the Uniform Commercial Code. See K.S.A. 2015 Supp. 84-1-201(b)(20) (defining “good faith” as “honesty in fact and the observance of reasonable commercial standards of fair dealing”); K.S.A. 2015 Supp. 84-7-102(a)(6) (same definition of good faith). Hildenbrand vs Avignon. As the district court pointed out, the mere assertion of an intent to be fair or to act in good faith provides no particular insulation. See CIT Group/Sales Financing, Inc.v. E-Z Pay Used Car, Inc., 29 Kan. App. 2d 676, 680, 32 P.3d 1197 (2001). A fact-finder must be able to look behind such self-serving representations. Honesty in fact basically rests on a state of mind and may be proved or disproved with circumstantial evidence. See Ball v. Credit Bureau Services, Inc., No. 111,144, 2015 WL 4366440, at \*9 (Kan. App. 2015)*

3. Co-Defendant has failed to follow KS 58-4604 for the following reasons: Ms. Herzog failed to uphold her obligation by positively reinforcing members who bully homeowners( Exhibit 5), approves posts of those who solicit others to break the law (exhibit 14), and enticing members to threaten to break the law against Ms. King's property. Ms. Herzog has also failed by impersonating a city office to enforce restricting member rights (Exhibit 25). and breaking federal laws (Exhibit 15& 16).
4. Based on the claim stated above, Judgment is demanded against the Co-Defendant as follows: Ms. Herzog Co-Defendant shall, immediately, be required to grant full access to the *Milburn Fields Families* Facebook Page, without censorship and without sabotage/devaluation/deconstruction, to Plaintiff, Ms. King, plus pay court and attorney fees, as well as, costs of added security measures needed to make whole, or attempt to make whole, the lack of rights that would otherwise ensure that wellbeing, and any other relief the Court deems fair, just and equitable in the premises. Co-Defendant shall also restrict themselves from coercing or soliciting members to willfully create hostile or offensive posts or comments in an effort to retaliate. Co-Defendant shall also restrict themselves from devising any alternative plan to antagonize the association or otherwise negatively contribute to the exercise of member rights. Co-Defendant should be ordered to make payment of 2022 Dues to Plaintiff for withholding rights associated with upstanding participation in the HOA. Defendant shall, within 7 days, be

immediately resigned from all positions within The Board and administration of the *Milburn Fields Families* Facebook Page, indefinitely. Lastly, The Board shall immediately make all amends necessary to restore the social acceptance they eroded on behalf of Ms. King to include formal written apology to Ms. King, written apology to each homeowner stating the same for all accounts of misconduct, and individual conversations with neighbors who were engaged at any level in conversations where members of the Board spoke ill of Ms. King or her property, or in anyway suggesting a negative connotation of Ms. King's ownerships. The Board will be indebted for this responsibility until Ms. King's social acceptance is restored. The Board shall document all efforts to meet this standard and show proof upon request, without fee or barrier, to Ms. King to validate their good faith efforts. Kansas Statute 58-4621(c) *The remedies provided by this act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed.*

## COUNT TWENTY-SEVEN

1. Defendant has caused Plaintiff the following harm: Ms. Hendrix showed lack of good faith by not responding to her own invitation to discuss concerns and work towards a solution when Ms. King brought up The Board's violation of member rights (Exhibit 13 & 13.1). Ms. Hendrix further shows lack of good faith by not using her position as Admin on the *Milburn Fields Families* Facebook Page to stop the harassment and bullying encouraged by Ms. Herzog when Ms. Herzog goaded Nick Roberson [member of *Milburn Fields Families*] in response to his breaking the rule of harassment and bullying and soliciting neighbors to commit crimes by violating Overland Park Municipal Code 7.36.190 "*No Person shall: Deposit Solid Waste or Recyclables in any Solid Waste or Recycling Container other than that owned by them or under their control without the consent of the Owner or party responsible for such container*" and trespassing against the property of Ms. King. (Exhibit 14). Ms. King has been put at risk of safety, due to lost communication with members and active threat against her property which causes great distress and fear of personal safety.
2. Pursuant to KS 58-4604, The Board is bound in that "*Every contract or duty governed by this act imposes an obligation of good faith in its performance or enforcement*". Pursuant to 7 U.L.A. Uniform Act§ 4, comment p. 190. *The comment points out that the concept of "good faith" for purposes of the uniform act has been drawn from and is synonymous with the term as it is used in the Uniform Commercial Code. See K.S.A. 2015 Supp. 84-1-201(b)(20) (defining "good faith" as "honesty in fact and the observance of reasonable commercial*

*standards of fair dealing”); K.S.A. 2015 Supp. 84–7–102(a)(6) (same definition of good faith). Hildenbrand vs Avignon. As the district court pointed out, the mere assertion of an intent to be fair or to act in good faith provides no particular insulation. See CIT Group/Sales Financing, Inc.v. E-Z Pay Used Car, Inc., 29 Kan. App. 2d 676, 680, 32 P.3d 1197 (2001). A fact-finder must be able to look behind such self-serving representations. Honesty in fact basically rests on a state of mind and may be proved or disproved with circumstantial evidence. See Ball v. Credit Bureau Services, Inc., No. 111,144, 2015 WL 4366440, at \*9 (Kan. App. 2015)*

3. Co-Defendant has failed to follow KS 58-4604 for the following reasons: Good faith in their performance or enforcement is not represented by declining to address serious concerns while using their position to allow members to bully homeowners with Board participation. Lack of action by Ms. Hendrix to uphold her responsibility in these matters reflects bad faith in her obligations.
4. Based on the claim stated above, Judgment is demanded against the Co-Defendant as follows: Ms. Hendrix  
Co-Defendant should be immediately required to grant full access to the *Milburn Fields Families* Facebook Page, without censorship and without sabotage/devaluation/deconstruction, to Plaintiff, Ms. King, plus pay court and attorney fees, as well as, costs of added security measures needed to make whole, or attempt to make whole, the lack of rights that would otherwise ensure that wellbeing, and any other relief the Court deems fair, just and equitable in the premises. Co-Defendant should be ordered to make payment of 2022 Dues to

Plaintiff for withholding rights associated with upstanding participation in the HOA. Co-Defendant shall be on a one-year probation as a Board member whereby any additional occurrences violating member rights will constitute immediate removal from The Board indefinitely. Lastly, The Board shall immediately make all amends necessary to restore the social acceptance they eroded on behalf of Ms. King to include formal written apology to Ms. King, written apology to each homeowner stating the same for all accounts of misconduct, and individual conversations with neighbors who were engaged at any level in conversations where members of the Board spoke ill of Ms. King or her property, or in anyway suggesting a negative connotation of Ms. King's ownerships. The Board will be indebted for this responsibility until Ms. King's social acceptance is restored. The Board shall document all efforts to meet this standard and show proof upon request, without fee or barrier, to Ms. King to validate their good faith efforts. Kansas Statute 58-4621(c) *The remedies provided by this act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed.*

Co-Defendant as follows: Ms. Herzog

Shall be immediately resigned from all positions within The Board and administration of the *Milburn Fields Families* Facebook Page, indefinitely.

## COUNT TWENTY-EIGHT

1. Co-Defendant has caused Plaintiff the following harm: Mr. Wetterer showed lack of good faith in that Ms. King's Facebook video post removed by The Board on 07-19-2022 showed Ms. King's household being trespassed and damaged by Mr. Wetterer's family. (Exhibit 10 & 11). Per neighbor's report, Mr. Payne stated, "I took it [Ms. King's post] down when Mr. Wetterer brought it to my attention that it was his family in the videos". Co-Defendant Wetterer is the Treasurer for the Milburn Fields HOA. He did not confess or seek to make amends until the Overland Park Police arrived to his doorstep on 08-19-2022. Mr. Wetterer further lacked good faith when he did not take action to stop Ms. Herzog from goading Nick Roberson [member of *Milburn Fields Families*] in response to his breaking the rule of harassment and bullying and soliciting neighbors to commit crimes of trespass and tampering, violating Overland Park Municipal Code 7.36.190, against the property of Ms. King. (Exhibit 14). Ms. King has been put at risk of safety, due to lost communication with members and active threat against her property which causes great distress and fear of personal safety. Ms. King also fears for the integrity of which the HOA finances are kept in lieu of the knowledge that the treasurer would willfully withhold necessary information to be transparent in at-fault damages to property of neighbors.
2. Pursuant to KS 58-4604, The Board is bound in that "*Every contract or duty governed by this act imposes an obligation of good faith in its performance or enforcement*". Pursuant to 7 U.L.A. Uniform Act § 4, comment p. 190. *The comment points out that the concept of "good faith" for purposes of the uniform*

*act has been drawn from and is synonymous with the term as it is used in the Uniform Commercial Code. See K.S.A. 2015 Supp. 84-1-201(b)(20) (defining “good faith” as “honesty in fact and the observance of reasonable commercial standards of fair dealing”); K.S.A. 2015 Supp. 84-7-102(a)(6) (same definition of good faith). Hildenbrand vs Avignon. As the district court pointed out, the mere assertion of an intent to be fair or to act in good faith provides no particular insulation. See CIT Group/Sales Financing, Inc.v. E-Z Pay Used Car, Inc., 29 Kan. App. 2d 676, 680, 32 P.3d 1197 (2001). A fact-finder must be able to look behind such self-serving representations. Honesty in fact basically rests on a state of mind and may be proved or disproved with circumstantial evidence. See Ball v. Credit Bureau Services, Inc., No. 111,144, 2015 WL 4366440, at \*9 (Kan. App. 2015)*

3. Co-Defendant has failed to follow KS 58-4604 for the following reasons: Mr. Wetterer lacks integrity to take accountability for property damages he is responsible for while sitting as the Treasurer responsible for the monies of the HOA. He also failed to uphold the statutes by refusing to stop members and board members who bully homeowners.
4. Based on the claim stated above, Judgment is demanded against the Co-Defendant as follows: Mr. Wetterer Co-Defendant should be immediately required to grant full access to the *Milburn Fields Families* Facebook Page, without censorship and without sabotage/devaluation/deconstruction, to Plaintiff, Ms. King, plus pay court and attorney fees and fees for damaged property, as well as, costs of added security

measures needed to make whole, or attempt to make whole, the lack of rights that would otherwise ensure that wellbeing, and any other relief the Court deems fair, just and equitable in the premises. Co-Defendant should be ordered to make payment of 2022 Dues to Plaintiff for withholding rights associated with upstanding participation in the HOA. Co-Defendant shall be on a one-year probation as a Board member whereby any additional occurrences violating member rights will constitute immediate removal from The Board indefinitely. Lastly, The Board shall immediately make all amends necessary to restore the social acceptance they eroded on behalf of Ms. King to include formal written apology to Ms. King, written apology to each homeowner stating the same for all accounts of misconduct, and individual conversations with neighbors who were engaged at any level in conversations where members of the Board spoke ill of Ms. King or her property, or in anyway suggesting a negative connotation of Ms. King's ownerships. The Board will be indebted for this responsibility until Ms. King's social acceptance is restored. The Board shall document all efforts to meet this standard and show proof upon request, without fee or barrier, to Ms. King to validate their good faith efforts. Kansas Statute 58-4621(c) *The remedies provided by this act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed.*

Co-Defendant as follows: Ms. Herzog

Shall be immediately resigned from all positions within The Board, and administration of the *Milburn Fields Families* Facebook Page, indefinitely.

## COUNT TWENTY-NINE

1. Co-Defendant has caused Plaintiff the following harm: Ms. Weidt showed lack of good faith as an administrator for the *Milburn Fields Families* Facebook Page by declining to respond to Ms. King's request for communication when the harassment by The Board, via Facebook, first began (Exhibit 12). Ms. King has been put at risk of safety, due to lost communication with members and ongoing personal attacks by Mr. Payne and The Board, and an ongoing loss of confidence in the Board to carry out its duties.
  
2. Pursuant to KS 58-4604, The Board is bound in that "*Every contract or duty governed by this act imposes an obligation of good faith in its performance or enforcement*". Pursuant to 7 U.L.A. Uniform Act § 4, comment p. 190. *The comment points out that the concept of "good faith" for purposes of the uniform act has been drawn from and is synonymous with the term as it is used in the Uniform Commercial Code. See K.S.A. 2015 Supp. 84-1-201(b)(20) (defining "good faith" as "honesty in fact and the observance of reasonable commercial standards of fair dealing"); K.S.A. 2015 Supp. 84-7-102(a)(6) (same definition of good faith). Hildenbrand vs Avignon. As the district court pointed out, the mere assertion of an intent to be fair or to act in good faith provides no particular insulation. See CIT Group/Sales Financing, Inc. v. E-Z Pay Used Car, Inc., 29 Kan. App. 2d 676, 680, 32 P.3d 1197 (2001). A fact-finder must be able to look behind such self-serving representations. Honesty in fact basically rests on a state of mind and may be proved or disproved with circumstantial evidence. See Ball v.*

*Credit Bureau Services, Inc., No. 111,144, 2015 WL 4366440, at \*9 (Kan. App. 2015)*

3. Co-Defendant has failed to follow KS 58-4604 for the following reasons: Ms. Weidt failed to show good faith in her performance under The Board as a Facebook administrator, a Board responsibility Ms. Weidt kept after resigning The Board, by declining to address concerns, and remaining silent as bullying and harassment occurred against Ms. King. Ms. Weidt also shows bad faith by “laughing” at the harassment and bully comments left by Nick Robertson against Ms. King. (Exhibit 30). Although not a board member at this time, the pattern of negative and bias treatment towards Ms. King shows a position that reflects bad faith in the performance of her duties that reflect upon the same bad faith while maintaining Board responsibilities.
4. Based on the claim stated above, Judgment is demanded against the Co-Defendant as follows: Ms. Weidt  
Ms. King should be immediately granted full access to the *Milburn Fields Families* Facebook Page, without censorship and any other relief the Court deems fair, just and equitable in the premises. Co-Defendant shall be indefinitely banned from joining The Board in any capacity as well as banned from acting as administrator for the *Milburn Fields Families* Facebook Page. Lastly, The Board shall immediately make all amends necessary to restore the social acceptance they eroded on behalf of Ms. King to include formal written apology to Ms. King, written apology to each homeowner stating the same for all

accounts of misconduct, and individual conversations with neighbors who were engaged at any level in conversations where members of the Board spoke ill of Ms. King or her property, or in anyway suggesting a negative connotation of Ms. King's ownerships. The Board will be indebted for this responsibility until Ms. King's social acceptance is restored. The Board shall document all efforts to meet this standard and show proof upon request, without fee or barrier, to Ms. King to validate their good faith efforts. Kansas Statute 58-4621(c) *The remedies provided by this act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed.*

## COUNT THIRTY

1. Defendant has caused Plaintiff the following harm: Mr. Payne showed lack of good faith in that Ms. King's Facebook post removed by The Board on 07-19-2022 showed Ms. King's household being trespassed and damaged by The Board's families. (Exhibit 10 & 11). Per neighbor's report, Mr. Payne stated, "I took it [Ms. King's post] down when Mr. Wetterer [The Board] brought it to my attention that it was his family in the videos". Co-Defendant Wetterer is the Treasurer for the Milburn Fields HOA. Neither Mr. Payne nor Mr. Wetterer came to the homeowner of the damaged property to make right their wrong until Overland Park Police arrived at Mr. Wetterer's house. Mr. Payne held secret the knowledge of the destruction of property Mr. Wetterer committed against Ms. King's Property. This shows a gross lack of good faith in that property damages were kept secret at the personal cost to Ms. King for recovery of total losses. Mr. Payne also shows lack of good faith when he refuses to uphold the statutes by allowing Ms. Herzog goad Nick Roberson [member of *Milburn Fields Families*] in response to his breaking the rule of harassment and bullying and soliciting neighbors to commit crimes of trespass and tampering, violating Overland Park Municipal Code 7.36.190 against the property of Ms. King. (Exhibit 14). Mr. Payne shows lack of good faith when he responds to a demand letter from an attorney demanding homeowner rights, "Our HOA Board of directors believes members of Milburn Fields Homes Association have several reasonable methods to communicate

among themselves. Therefore, the Board reserves the right to moderate posts on the Association's Facebook page .Sincerely, Alex Payne – President Milburn Fields HOA” Exhibit 23). Mr. Payne cannot in good faith identify one single service provided by the Board for members to communicate among themselves, as well as, he makes an unlawful correlation between a fictitious communication platform that meets the intent of the law, and therefore permits the Board from violating the member rights on the Facebook Page. No bylaw or statute allows the Board to violate the law on ONE service because they don't on another. Mr. Payne shows lack of good faith by admitting to questionable morals but declining to take responsibility to address it, instead, requesting to discontinue talking about it as an alternative, “And although this has resulted in apparent larger issues and allegations of my character, I don't want to continue on this back-and-forth communication.” (Exhibit 19). Furthermore, Mr. Payne was quoted by a neighbor as starting a conversation with them in the attempt to “drum up support to turn against Ms. King as a bad apple in the neighborhood and encourage negative talk and negative sentiment against her”. This violates Uniform Public Offense Code For Kansas Cities, Sec 3.9(a)(1)(B) *Criminal false communication is: (1) Communicating to any person, by any means, information that the person communicating such information knows to be false will tend to: (B) Deprive such person of the benefits of public confidence and social acceptance*” He repeatedly pressured the neighbor to agree that Ms. King was ‘bad’ and to continue a conversation expanding on that thought.

Lastly, Mr. Payne shows lack of good faith in the letter from the Board dated 12/30/2022 where wild accusations are made against Ms. King that are neither supported nor described in any detail to persuade a reader of their validity. Blind accusations as a basis for adverse action reflect gross negligence in duty to the position of President (Exhibit 17). Ms. King has been put at risk of safety, due to lost communication with members and active threat against her property which causes great distress and fear of personal safety. Ms. King has been further put at risk due to the volatile nature of the President's actions being taken as retaliation. Without the defense of a male on her property, Ms. King fears that Mr. Payne will continue to pursue unwelcome advances of negative attention towards her as a target with the assumption of 'a guaranteed victim'. The appearance of being a "good target" by Mr. Payne, makes Ms. King fear for her safety, robs her of peace of mind, and creates a hostile and wartime atmosphere in a place that is designed to be the safety of her home.

2. Pursuant to KS 58-4604, The Board is bound in that *"Every contract or duty governed by this act imposes an obligation of good faith in its performance or enforcement"*. Pursuant to 7 U.L.A. Uniform Act§ 4, comment p. 190. *The comment points out that the concept of "good faith" for purposes of the uniform act has been drawn from and is synonymous with the term as it is used in the Uniform Commercial Code. See K.S.A. 2015 Supp. 84-1-201(b)(20) (defining "good faith" as "honesty in fact and the observance of reasonable commercial standards of fair dealing"); K.S.A. 2015 Supp. 84-7-102(a)(6) (same definition of*

*good faith*). *Hildenbrand vs Avignon*. As the district court pointed out, the mere assertion of an intent to be fair or to act in good faith provides no particular insulation. See *CIT Group/Sales Financing, Inc.v. E-Z Pay Used Car, Inc.*, 29 Kan. App. 2d 676, 680, 32 P.3d 1197 (2001). A fact-finder must be able to look behind such self-serving representations. Honesty in fact basically rests on a state of mind and may be proved or disproved with circumstantial evidence. See *Ball v. Credit Bureau Services, Inc.*, No. 111,144, 2015 WL 4366440, at \*9 (Kan. App. 2015)

3. Defendant has failed to follow KS 58-4604 for the following reasons: Good faith in its performance or enforcement is not represented by hiding destruction of property committed by The Board's families, declining to address concerns as the President of the HOA, committing criminal false communication, and reinforcing members who bully homeowners.
4. Based on the claim stated above, Judgment is demanded against the Co-Defendant as follows: The Board Co-Defendant should be immediately required to grant full access to the *Milburn Fields Families* Facebook Page, without censorship and without sabotage/devaluation/deconstruction, to Plaintiff, Ms. King, plus pay court and attorney fees, as well as, costs of added security measures needed to make whole, or attempt to make whole, the lack of rights that would otherwise ensure that wellbeing, and as, any other relief the Court deems fair, just and equitable in the premises. Co-Defendant should be ordered to make payment of 2022 Dues to Plaintiff for withholding rights associated with upstanding participation in

the HOA. Lastly, The Board shall immediately make all amends necessary to restore the social acceptance they eroded on behalf of Ms. King to include formal written apology to Ms. King, written apology to each homeowner stating the same for all accounts of misconduct, and individual conversations with neighbors who were engaged at any level in conversations where members of the Board spoke ill of Ms. King or her property, or in anyway suggesting a negative connotation of Ms. King's ownerships. The Board will be indebted for this responsibility until Ms. King's social acceptance is restored. The Board shall document all efforts to meet this standard and show proof upon request, without fee or barrier, to Ms. King to validate their good faith efforts. Kansas Statute 58-4621(c) *The remedies provided by this act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed.*

Defendant as follows: Mr. Payne

Shall be immediately resigned from all positions within The Board, as well as banned from acting as administrator for the *Milburn Fields Families* Facebook Page, indefinitely.

Co-Defendant as follows: Mr. Wetterer

Shall be required to pay Ms. King the total cost of all properties destroyed and losses associated with his family trespassing and damaging Ms. King's property as seen on the video footage Mr. Wetterer recognized his family in and Mr.

Payne willfully hid. Co-Defendant shall be on a one-year probation as a Board

member whereby any additional occurrences violating member rights will constitute immediate removal from The Board indefinitely.

### COUNT THIRTY-ONE

1. Co-Defendant has caused Plaintiff the following harm: Mr. Sorensen showed lack of good faith by not using his position as Admin of the *Milburn Fields Families* Facebook Page to stop the harassment and bullying encouraged by Ms. Herzog when Ms. Herzog goaded Nick Roberson [member of *Milburn Fields Families*] in response to his breaking the rule of harassment and bullying and soliciting neighbors to commit crimes by violating Overland Park Municipal Code 7.36.190 “*No Person shall: Deposit Solid Waste or Recyclables in any Solid Waste or Recycling Container other than that owned by them or under their control without the consent of the Owner or party responsible for such container*” and trespass against the property of Ms. King. (Exhibit 14). Ms. King has been put at risk of safety, due to lost communication with members and active threat against her property which causes great distress and fear of personal safety.
2. Pursuant to KS 58-4604, The Board is bound in that “*Every contract or duty governed by this act imposes an obligation of good faith in its performance or enforcement*”. Pursuant to 7 U.L.A. Uniform Act§ 4, comment p. 190. *The comment points out that the concept of “good faith” for purposes of the uniform act has been drawn from and is synonymous with the term as it is used in the Uniform Commercial Code. See K.S.A. 2015 Supp. 84-1-201(b)(20) (defining “good faith” as “honesty in fact and the observance of reasonable commercial standards of fair dealing”); K.S.A. 2015 Supp. 84-7-102(a)(6) (same definition of good faith). Hildenbrand vs Avignon. As the district court pointed out, the mere assertion of an intent to be fair or to act in good faith provides no particular*

*insulation. See CIT Group/Sales Financing, Inc.v. E-Z Pay Used Car, Inc., 29 Kan. App. 2d 676, 680, 32 P.3d 1197 (2001). A fact-finder must be able to look behind such self-serving representations. Honesty in fact basically rests on a state of mind and may be proved or disproved with circumstantial evidence. See Ball v. Credit Bureau Services, Inc., No. 111,144, 2015 WL 4366440, at \*9 (Kan. App. 2015)*

3. Defendant has failed to follow KS 58-4604 for the following reasons: Good faith in their performance or enforcement is not represented by declining to use their position to stop members from bully homeowners with Board participation. Lack of action to uphold their responsibility in these matters reflects bad faith in their obligations.

4. Based on the claim stated above, Judgment is demanded against the Co-Defendant as follows: Mr. Sorensen

Co-Defendant should be immediately required to grant full access to the *Milburn Fields Families* Facebook Page, without censorship and without sabotage/devaluation/deconstruction, to Plaintiff, Ms. King, plus pay court and attorney fees, as well as, costs of added security measures needed to make whole, or attempt to make whole, the lack of rights that would otherwise ensure that wellbeing, and any other relief the Court deems fair, just and equitable in the premises. Defendant should be ordered to make payment of 2022 Dues to Plaintiff for withholding rights associated with upstanding participation in the HOA. Co-Defendant shall be on a one-year probation as a Board member whereby any additional occurrences violating member rights will constitute

immediate removal from The Board indefinitely. Lastly, The Board shall immediately make all amends necessary to restore the social acceptance they eroded on behalf of Ms. King to include formal written apology to Ms. King, written apology to each homeowner stating the same for all accounts of misconduct, and individual conversations with neighbors who were engaged at any level in conversations where members of the Board spoke ill of Ms. King or her property, or in anyway suggesting a negative connotation of Ms. King's ownerships. The Board will be indebted for this responsibility until Ms. King's social acceptance is restored. The Board shall document all efforts to meet this standard and show proof upon request, without fee or barrier, to Ms. King to validate their good faith efforts. Kansas Statute 58-4621(c) *The remedies provided by this act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed.*

Co-Defendant as follows: Ms. Herzog

Shall be immediately resigned from all positions within The Board and administrator of the *Milburn Fields Families* Facebook Page, indefinitely.

## COUNT THIRTY-TWO

1. Defendant has caused Plaintiff the following harm: Mr. Payne has withheld the service of the communication platform that allows Ms. King to communicate among members as retaliation for not submitting to demands made in threat against Ms. King's property, rights, and security. Ms. King has been put at risk of safety, due to lost communication with members and active threat against her property which causes great distress and fear of personal safety.
2. Pursuant to Kansas Statute 58-4608(b)(3) "*although a violation may exist or may have occurred, it is not so material as to be objectionable to a reasonable person or to justify expending the association's resources*" Defendant is required to adjust their action based on the reasonable response to a situation.
3. Defendant has failed to follow Kansas Statute 58-4608(b)(3) for the following reasons: Mr. Payne has "made a mountain out of a molehill" in regards to Mr. Payne making inappropriate communications with Ms. King on Facebook Messenger (Exhibit 7) that resulted in Mr. Payne being denied privilege of Ms. King submitting to deceptive and harassing threats against her property. As retaliation, Mr. Payne withheld Ms. King's rights as a member of the HOA. Mr. Payne states "I didn't like how our exchange went [Facebook Messenger conversation] and I anticipated future negative posts, so I did amend your posting access."(Exhibit 6) and "Although there is no ordinance, either with the City or within the current HOA Bylaws...". (Exhibit 19). This states that Mr. Payne acknowledges his attack on Ms. King was baseless, and all subsequent retaliation measures were not related to a violation or rule broken, but rather a

personal vendetta by Mr. Payne. Upon disclosure that Mr. Payne was bluffing and attempting to use coercive tactics to trick Ms. King into complying with his demands, Mr. Payne must, under Kansas Statute, reduce the actions of The Board to the level required of the situation. In this case, an immediate apology and cease and desist of all hostile communications with Ms. King would be required. Instead, Mr. Payne committed retaliation by withholding Ms. King's rights and continues to this day, sending threatening letters and false communication with the intent to disparage Ms. King's social acceptance.

4. Based on the claim stated above, Judgment is demanded against the Defendant as follows: Mr. Payne

Defendant shall, immediately be required to grant full access to the *Milburn Fields Families* Facebook Page, without censorship and without sabotage/devaluation/deconstruction, to Plaintiff, Ms. King, plus pay court and attorney fees, costs of added security measures needed to make whole, or attempt to make whole, the lack of rights that would otherwise ensure that wellbeing, as well as, any other relief the Court deems fair, just and equitable in the premises. Defendant should be ordered to make repayment of 2022 Dues to Plaintiff for withholding rights associated with upstanding participation in the HOA and shall immediately resign all positions within The Board and administration of the *Milburn Fields Families* Facebook Page, indefinitely. Defendant shall also restrict themselves from coercing or soliciting members to willfully create hostile or offensive posts or comments in an effort to retaliate.

Defendant shall also restrict themselves from devising any alternative plan to antagonize the association or otherwise negatively contribute to the exercise of member rights. Lastly, The Board shall immediately make all amends necessary to restore the social acceptance they eroded on behalf of Ms. King to include formal written apology to Ms. King, written apology to each homeowner stating the same for all accounts of misconduct, and individual conversations with neighbors who were engaged at any level in conversations where members of the Board spoke ill of Ms. King or her property, or in anyway suggesting a negative connotation of Ms. King's ownerships. The Board will be indebted for this responsibility until Ms. King's social acceptance is restored. The Board shall document all efforts to meet this standard and show proof upon request, without fee or barrier, to Ms. King to validate their good faith efforts. Kansas Statute 58-4621(c) *The remedies provided by this act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed.*

### COUNT THIRTY-THREE

1. Co-Defendant has caused Plaintiff the following harm: The Board has withheld the service of the communication platform as retaliation for stating intent to pursue right to take legal action to enforce rights withheld by The Board. Ms. King has been put at risk of safety, due to lost communication with members and active threat against her property which causes great distress and fear of personal safety.
2. Pursuant to Kansas Statute 58-4608(b)(3) *“although a violation may exist or may have occurred, it is not so material as to be objectionable to a reasonable person or to justify expending the association's resources”* Defendant is required to adjust their action based on the reasonable response to a situation. Pursuant to Kansas Statute 58-4621(a) *A declarant, association, unit owner, or any other person subject to this act may bring an action to enforce a right granted or obligation imposed by this act, the declaration, or the bylaws. The court may award reasonable attorney's fees and costs.*
3. Defendant has failed to follow Kansas Statute 58-4608(b)(3) for the following reasons: The Board writes to Ms. King, “Finally, please be advised that you are immediately removed from any groups (i.e. social media) hosted by our homes association. If you plan to attend any open HOA Board meetings, be aware that we may not respond immediately to any complaints or engage in further discussion as we do not want to say anything that may have any legal implications” (Exhibit 17). This states that The Board is forgoing their obligation to allow members to comment and be available to discuss issues with the

association, as well as, withholding member rights to communicate with members of the association. All in response to the member exercising her right under Kansas Statute 58-4621 to bring an action to enforce a right. The Board committed reprisal against Ms. King by taking adverse action in response to Ms. King exercising her right. This also violates Kansas Statute 58-4606 to act in good will.

4. Based on the claim stated above, Judgment is demanded against the Co-Defendant as follows: The Board Co-Defendant shall, immediately, be required to grant full access to the *Milburn Fields Families* Facebook Page, without censorship and without sabotage/devaluation/deconstruction, to Plaintiff, Ms. King, plus pay court and attorney fees, costs of added security measures needed to make whole, or attempt to make whole, the lack of rights that would otherwise ensure that wellbeing, as well as, any other relief the Court deems fair, just and equitable in the premises. Co-Defendant should be ordered to make repayment of 2022 Dues to Plaintiff for withholding rights associated with upstanding participation in the HOA. Co-Defendant shall be on a one-year probation whereby any additional occurrences violating member rights will constitute immediate removal from The Board indefinitely. Lastly, The Board shall immediately make all amends necessary to restore the social acceptance they eroded on behalf of Ms. King to include formal written apology to Ms. King, written apology to each homeowner stating the same for all accounts of misconduct, and individual conversations

with neighbors who were engaged at any level in conversations where members of the Board spoke ill of Ms. King or her property, or in anyway suggesting a negative connotation of Ms. King's ownerships. The Board will be indebted for this responsibility until Ms. King's social acceptance is restored. The Board shall document all efforts to meet this standard and show proof upon request, without fee or barrier, to Ms. King to validate their good faith efforts. Kansas Statute 58-4621(c) *The remedies provided by this act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed.*

Defendant as follows: Mr. Payne

Defendant shall, within 7 days, resign all positions within The Board and administration of the *Milburn Fields Families* Facebook Page, indefinitely.

Defendant shall also restrict themselves from coercing or soliciting members to willfully create hostile or offensive posts or comments in an effort to retaliate.

Defendant shall also restrict themselves from devising any alternative plan to antagonize the recovering association or otherwise negatively contribute to the exercise of member rights.

## COUNT THIRTY-FOUR

1. Co-Defendant has caused Plaintiff the following harm: On 8/25/2022, The Board determined that all Board members would be administrators for the *Milburn Fields Families* Facebook Page, and The Board would censor all communications between members and restrict all communications and rights therein, at their discretion. Ms. King has been put at immediate risk of danger, due to lost communication with members which causes great distress and fear of personal safety.
2. Pursuant to KS 58-4609(c)(5) “*The Board of directors may not: (5) determine the qualifications, powers, duties, or terms of office of board of directors' members*”. Defendant is required to only exercise powers determined by the bylaws and statutes, and not to be creating new powers, at will. Pursuant to Milburn Fields Bylaws XIV. “*New Powers to be Given By written consent of the owners of two-thirds of the assessable property in the district, evidence by an agreement duly executed and acknowledged and recorded in the office of the Register of Deeds of Johnson County, Kansas, the Association may be given such additional powers as may be desired by said members or to otherwise amend this instrument, provided, however, that no right to change the proportion of the assessment rate may be given*” (Exhibit 22)
3. Co-Defendant has failed to follow Kansas Statute 58-4609(c)(5) for the following reasons: The Board is acting outside the law and covenants they are bound to by creating new and unapproved powers for themselves by positioning themselves to prevent access to the member rights to communicate among themselves

regarding matters of safety, property, and health. Additionally, on 08/25/2022, Ms. King was set to censorship that restricted communication to 2 comments per day following Ms. King's communication with the association regarding violation of rights due to The Board's new power (Exhibit 4). This was done to prevent Ms. King from continuing to share the HOA Bill of Rights details on the Facebook page while discussing concerns with The Board's decision, visibly to other members of the association.

4. Based on the claim stated above, Judgment is demanded against the Co-

Defendant as follows: The Board

Co-Defendant should be removed from censorship authority over members on the communication platform provided by The Board for members to communicate among themselves and shall be required to grant full access to the *Milburn Fields Families* Facebook Page, without censorship and without sabotage/devaluation/deconstruction, to Plaintiff, Ms. King, plus pay court and attorney fees, costs of added security measures needed to make whole, or attempt to make whole, the lack of rights that would otherwise ensure that wellbeing, as well as, any other relief the Court deems fair, just and equitable in the premises. Co-Defendant should be ordered to make repayment of 2022 Dues to Plaintiff for withholding rights associated with upstanding participation in the HOA. Co-Defendant shall be on a one-year probation whereby any additional occurrences violating member rights will constitute immediate removal from The Board indefinitely. Co-Defendant shall also restrict themselves from coercing or

soliciting members to willfully create hostile or offensive posts or comments in an effort to retaliate. Co-Defendant shall also restrict themselves from devising any alternative plan to antagonize the association or otherwise negatively contribute to the exercise of member rights. Lastly, The Board shall immediately make all amends necessary to restore the social acceptance they eroded on behalf of Ms. King to include formal written apology to Ms. King, written apology to each homeowner stating the same for all accounts of misconduct, and individual conversations with neighbors who were engaged at any level in conversations where members of the Board spoke ill of Ms. King or her property, or in anyway suggesting a negative connotation of Ms. King's ownerships. The Board will be indebted for this responsibility until Ms. King's social acceptance is restored. The Board shall document all efforts to meet this standard and show proof upon request, without fee or barrier, to Ms. King to validate their good faith efforts. Kansas Statute 58-4621(c) *The remedies provided by this act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed.*

## COUNT THIRTY-FIVE

1. Co-Defendant has caused Plaintiff the following harm: The Board has taken action based on a meeting that is not recorded on the monthly meeting minutes or otherwise documented as a topic of discussion that resulted in Ms. King's rights to communicate with neighbors and The Board, and her rights to records and reasonable fees being removed as of 12/30/2022. The effects of which have put at risk Ms. King's safety, due to lost communication with members which causes great distress and fear of personal safety. The continued pattern of The Board acting in violation of their responsibilities creates an atmosphere of fear and uncertainty which substantially disrupts Ms. King's life.
2. Pursuant to Kansas Statute 58-4612. (a) *Meetings of The Board of directors and committees of the association authorized to act for the association must be open to the unit owners except during executive sessions. The Board of directors and those committees may hold an executive session only during a regular or special meeting of The Board or a committee. No final vote or action may be taken during an executive session*". Defendant is required to meet only during the executive session, without taking any action as a result of these meetings.
3. Co-Defendant has failed to follow Kansas Statute 58-4612(a) for the following reasons: No meeting minutes have been provided to show the motion to approve the action to remove Ms. King's right to the service provided by The Board for members to communicate among themselves, *Milburn Fields Families* Facebook Page, her rights to communicate with The Board, her rights to records, her

rights to reasonable fees, and her right to expect good faith from The Board (Exhibit 20 & 21). If an executive meeting was held to discuss this motion, no action is allowed to be taken as a result of the meeting; however, on 12/30/2022 Ms. King received notice of these actions being taken against her (Exhibit 17). No record of any type of meeting or any type of vote or any type of decision has been recorded. In viewing the documents that were mailed to Ms. King, The handwriting on all lettering is identical, however, the letter itself is not signed, only typed. If this was a protected meeting with the attorney, there would appear some signature from the attorney, or formal language. As it stands, the language in the letter received is neither professional nor legal. It contains violations of laws and gross misconduct in professional communication behavior for listing serious allegations without basis. No attorney in good standing would advise such sloppy handling of formal written communications. And without actual signature, the letter does appear mishandled in its creation.

4. Based on the claim stated above, Judgment is demanded against the Co-Defendant as follows: The Board Co-Defendant should immediately repeal all actions taken against Ms. King as so stated in their letter dated 12/30/2022. Co-Defendant should be removed from censorship authority over members on the communication platform provided by The Board for members to communicate among themselves regarding matters of the association and shall be required to grant full access to the *Milburn Fields Families* Facebook Page, without censorship and without

sabotage/devaluation/deconstruction, to Plaintiff, Ms. King, plus pay court and attorney fees, costs of added security measures needed to make whole, or attempt to make whole, the lack of rights that would otherwise ensure that wellbeing, as well as, any other relief the Court deems fair, just and equitable in the premises. Co-Defendant should be ordered to make repayment of 2022 Dues to Plaintiff for withholding rights associated with upstanding participation in the HOA. Co-Defendant shall be on a one-year probation whereby any additional occurrences violating member rights will constitute immediate removal from The Board indefinitely. Co-Defendant shall also restrict themselves from coercing or soliciting members to willfully create hostile or offensive posts or comments in an effort to retaliate. Co-Defendant shall also restrict themselves from devising any alternative plan to antagonize the association or otherwise negatively contribute to the exercise of member rights. Kansas Statute 58-4621(c) *The remedies provided by this act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed.*

Defendant as follows: Mr. Payne

Defendant shall, within 7 days, resign all positions within The Board and administration of the *Milburn Fields Families* Facebook Page, indefinitely.

## COUNT THIRTY-SEVEN

1. Co-Defendant has caused Plaintiff the following harm: The Board has failed to provide the meeting minutes to reflect the meeting where Ms. King's rights to be terminated were discussed and approved. Ms. King has lost her rights protected under KS 58-46 without base and without proof of a meeting to reflect that decision. The effects of which have put at risk Ms. King's safety, due to lost communication with members which causes great distress and fear of personal safety.
2. Pursuant to 58-4616(a)(2) *The association, or its agents, must retain the following for five years unless otherwise provided: (2) minutes of all meetings of its unit owners and board of directors other than executive sessions, a record of all actions taken by the unit owners or board of directors without a meeting, and a record of all actions taken by a committee in place of The Board of directors on behalf of the association*" Defendant is required to retain for 5-years, minutes of all meetings other than executive sessions.
3. Defendant has failed to follow Kansas Statute 58-4616(a)(2) for the following reasons: The Board has failed to provide or make known the meeting minutes that include the discussion of termination of rights for Ms. King and the subsequent law, bylaw, rule, or statute that was violated that validates the decision. The Board has further failed to record the meeting where these decisions were made (Exhibit 20 & 21).
4. Based on the claim stated above, Judgment is demanded against the Co-Defendant: The Board

Co-Defendant should immediately repeal all actions taken against Ms. King as so stated in their letter dated 12/30/2022. Co-Defendant should be removed from censorship authority over members on the communication platform provided by The Board and shall be required to grant full access to the *Milburn Fields Families* Facebook Page, without censorship and without sabotage/devaluation/deconstruction, to Plaintiff, Ms. King, plus pay court and attorney fees, costs of added security measures needed to make whole, or attempt to make whole, the lack of rights that would otherwise ensure that wellbeing, as well as, any other relief the Court deems fair, just and equitable in the premises. Co-Defendant should be ordered to make repayment of 2022 Dues to Plaintiff for withholding rights associated with upstanding participation in the HOA. Co-Defendant shall also restrict themselves from coercing or soliciting members to willfully create hostile or offensive posts or comments in an effort to retaliate. Co-Defendant shall also restrict themselves from devising any alternative plan to antagonize the association or otherwise negatively contribute to the exercise of member rights. Lastly, The Board shall immediately make all amends necessary to restore the social acceptance they eroded on behalf of Ms. King to include formal written apology to Ms. King, written apology to each homeowner stating the same for all accounts of misconduct, and individual conversations with neighbors who were engaged at any level in conversations where members of the Board spoke ill of Ms. King or her property, or in anyway suggesting a negative connotation of Ms. King's ownerships. The Board will be

indebted for this responsibility until Ms. King's social acceptance is restored.

The Board shall document all efforts to meet this standard and show proof upon request, without fee or barrier, to Ms. King to validate their good faith efforts.

Kansas Statute 58-4621(c) *The remedies provided by this act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed.*

Defendant as follows: Mr. Payne

Defendant shall, within 7 days, resign all positions within The Board and administration of the *Milburn Fields Families* Facebook Page, indefinitely.

## COUNT THIRTY-EIGHT

1. Co-Defendant has caused Plaintiff the following harm: The Board has failed to provide notice to members of a proposal to adopt a rule that would restrict the rights of members to communicate among themselves on the platform created/provided by The Board for such purpose. On 08-25-2022 The Board announced their decision via *Milburn Fields Families* Facebook Page, without vote, comment periods, or member input. No notice of this meeting, time, or place was given in advance of the decision. The effects of which have put at risk Ms. King's safety, due to lost communication with members which causes great distress and fear of personal safety.
2. Pursuant to Kansas Statute 58-4617(a)(1) & (2) "*Before adopting, amending, or repealing any rule, The Board of directors shall give all unit owners notice of: (1) Its intention to adopt, amend, or repeal a rule and provide the text of the rule or the proposed change; and (2) a date on which The Board of directors will act on the proposed rule or amendment after considering comments from unit owners*". Defendant is required to provide notice of intention to adopt a new rule and a date on which The Board will act on the new rule AFTER considering comments from unit owners.
3. Co-Defendant has failed to follow Kansas Statute 58-4617 (a)(1)&(2) for the following reasons: The Board completed the meeting to decide to restrict member rights to communicate among themselves without first giving notice of intent, date of meeting, and allowing/taking into consideration comments from unit owners. No notice was given of the 08/25/2022 rule decision. No Meeting Minutes

or Agenda reflect the discussion of this decision and no meeting documented reflects the vote taken on this decision (Exhibit 20 & 21).

4. Based on the claim stated above, Judgment is demanded against the Co-Defendant: The Board

Co-Defendant should be immediately removed from censorship authority over members on the communication platform provided by The Board for members to communicate among themselves regarding matters of the association and ordered to make announcement to the association on such platform to state the return of rights to all members to communicate with other members and shall be required to grant full access to the *Milburn Fields Families* Facebook Page, without censorship and without sabotage/devaluation/deconstruction, to Plaintiff, Ms. King, plus pay court and attorney fees, costs of added security measures needed to make whole, or attempt to make whole, the lack of rights that would otherwise ensure that wellbeing, as well as, any other relief the Court deems fair, just and equitable in the premises. Co-Defendant should be ordered to make repayment of 2022 Dues to Plaintiff for withholding rights associated with upstanding participation in the HOA. Defendant shall also restrict themselves from coercing or soliciting members to willfully create hostile or offensive posts or comments in an effort to retaliate. Co-Defendant shall also restrict themselves from devising any alternative plan to antagonize the association or otherwise negatively contribute to the exercise of member rights. Lastly, The Board shall immediately make all amends necessary to restore the

social acceptance they eroded on behalf of Ms. King to include formal written apology to Ms. King, written apology to each homeowner stating the same for all accounts of misconduct, and individual conversations with neighbors who were engaged at any level in conversations where members of the Board spoke ill of Ms. King or her property, or in anyway suggesting a negative connotation of Ms. King's ownerships. The Board will be indebted for this responsibility until Ms. King's social acceptance is restored. The Board shall document all efforts to meet this standard and show proof upon request, without fee or barrier, to Ms. King to validate their good faith efforts. Kansas Statute 58-4621(c) *The remedies provided by this act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed.*

Defendant as follows: Mr. Payne

Defendant shall, within 7 days, resign all positions within The Board and administration of the *Milburn Fields Families* Facebook Page, indefinitely.

### COUNT THIRTY-NINE

1. Co-Defendant has caused Plaintiff the following harm: The Board has failed to provide the meeting minutes to reflect the discussion where the decision to create a new rule that would restrict members rights to communicate among each other on the platform created by The Board for this purpose, *Milburn Fields Families* Facebook Page. Due to this, Ms. King was not aware of the intention to create the new rule and had no opportunity to comment and have voice to the final decision. The rule that would, restrict her ability to comment and have voice as a homeowner, going forward. The effects of which have put at risk Ms. King's safety, due to lost communication with members which causes great distress and fear of personal safety.
2. Pursuant to 58-4616(a)(2) *The association, or its agents, must retain the following for five years unless otherwise provided: (2) minutes of all meetings of its unit owners and board of directors other than executive sessions, a record of all actions taken by the unit owners or board of directors without a meeting, and a record of all actions taken by a committee in place of The Board of directors on behalf of the association*" Co-Defendant is required to retain for 5-years, minutes of all meetings. Meetings to create a new rule require notice to unit owners.
3. Co-Defendant has failed to follow Kansas Statute 58-4616(a)(2) for the following reasons: The Board has failed to provide the meeting minutes to reflect the discussion where the decision to create a new rule that would restrict members rights to communicate among each other on the platform created by The Board for this purpose *Milburn Fields Families* Facebook Page (Exhibit 20 & 21). The

Board has failed to give notice to members of the same. Due to this, Ms. King was not aware of the intention to create the new rule and had no opportunity to comment and have voice to the final decision. The rule that would, restrict her ability to comment and have voice as a homeowner going forward.

4. Based on the claim stated above, Judgment is demanded against the Co-Defendant: The Board

Co-Defendant should be immediately rescind the rule and must be removed from censorship authority over members on the communication platform provided by The Board for members to communicate among themselves regarding matters of the association and ordered to make announcement to the association on such platform to state the return of rights to all members to communicate with other members and shall be required to grant full access to the *Milburn Fields Families* Facebook Page, without censorship and without sabotage/devaluation/deconstruction, to Plaintiff, Ms. King, plus pay court and attorney fees, costs of added security measures needed to make whole, or attempt to make whole, the lack of rights that would otherwise ensure that wellbeing, as well as, any other relief the Court deems fair, just and equitable in the premises. Co-Defendant should be ordered to make repayment of 2022 Dues to Plaintiff for withholding rights associated with upstanding participation in the HOA. Co-Defendant shall also restrict themselves from coercing or soliciting members to willfully create hostile or offensive posts or comments in an effort to retaliate. Co-Defendant shall also restrict themselves from devising any

alternative plan to antagonize the association or otherwise negatively contribute to the exercise of member rights. Lastly, The Board shall immediately make all amends necessary to restore the social acceptance they eroded on behalf of Ms. King to include formal written apology to Ms. King, written apology to each homeowner stating the same for all accounts of misconduct, and individual conversations with neighbors who were engaged at any level in conversations where members of the Board spoke ill of Ms. King or her property, or in anyway suggesting a negative connotation of Ms. King's ownerships. The Board will be indebted for this responsibility until Ms. King's social acceptance is restored. The Board shall document all efforts to meet this standard and show proof upon request, without fee or barrier, to Ms. King to validate their good faith efforts. Kansas Statute 58-4621(c) *The remedies provided by this act shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed.*

Defendant as follows: Mr. Payne

Defendant shall, within 7 days, resign all positions within The Board and administration of the *Milburn Fields Families* Facebook Page, indefinitely.

I, Bethany King, hereby swear that, to the best of my knowledge and belief, the forgoing claim asserted against the Defendants for \$3500 in losses and damages plus rights and recovery of social acceptance in the neighborhood of Milburn Fields, is a just and true statement, exclusive of any valid claim or defense which the Defendant may have.

Respectfully Submitted,

1/9/2023

**X** Bethany King

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Bethany King

Plaintiff

Signed by: f8e9df21-e3df-4760-8afb-d7b83c482379

Bethany King

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