

**IN THE CIRCUIT COURT OF THE 9TH JUDICIAL CIRCUIT IN AND FOR ORANGE
COUNTY, FLORIDA**

CASE NO:

VALERIE SPARKMAN, individually and on behalf of JUST LIKE MOMMA'S SOUL FOOD
AND WINGS LLC,

Plaintiffs,

Vs.

CITY OF AOPKA, FLORIDA, a Florida municipal corporation, &

DAVID WHITTY, individually,

Defendants,

JURY TRIAL DEMANDED

COMPLAINT

Plaintiffs, VALERIE SPARKMAN, individually and on behalf of JUST LIKE MOMMA'S SOUL FOOD AND WINGS LLC (collectively, "Plaintiffs"), by and through their undersigned counsel, sue Defendants, CITY OF AOPKA ("City") and DAVID WHITTY ("Whitty"), and allege as follows:

JURISDICTION AND VENUE

Jurisdiction is proper in this Court pursuant to Article V, Section 5(b) of the Florida Constitution and section 26.012, Florida Statutes. Venue is proper in Orange County, Florida, because the acts and omissions giving rise to this action occurred in Orange County, and all parties are located or do business within this jurisdiction. Plaintiffs also assert rights protected by the Florida Constitution, which parallel federal constitutional guarantees, but bring no claim under federal law at this time.

GENERAL ALLEGATIONS

1. This is an action for damages exceeding Fifty Thousand Dollars (\$50,000), exclusive of interest, costs, and attorneys' fees.

2. That at all times material hereto Plaintiff, Valerie Sparkman, was the sole owner of the Plaintiff, Just Like Momma's Soul Food and Wings LLC ("JLM"), a Florida limited liability company operating in Orange County, Florida. The term "Plaintiffs" shall refer collectively to Valerie Sparkman and Just Like Momma's Soul Food and Wings LLC, unless the context indicates otherwise. Plaintiffs plead negligence-based claims against Defendant City of Apopka and intentional tort and constitutional claims against Defendant David Whitty in the alternative.
3. At all times material, Defendant, City of Apopka, was and is a Florida municipal corporation located in Orange County, Florida, and a political subdivision of the State of Florida as defined by §768.28, Florida Statutes. At all times material, Defendant, David Whitty, was employed by the City of Apopka as a Code Enforcement Officer and was acting within the course and scope of his employment.
4. At all times relevant, Defendant David Whitty acted under color of his official position and apparent authority as an employee of Defendant City of Apopka. To the extent Defendant Whitty's conduct exceeded or violated lawful authority, such conduct was nevertheless made possible solely by his official position and is pleaded in the alternative for purposes of vicarious liability, individual liability, and constitutional claims.
5. Plaintiffs plead, in the alternative, that Defendant Whitty's conduct was either (a) undertaken within the course and scope of his employment for purposes of vicarious liability and negligent misrepresentation claims against the City, **or** (b) undertaken knowingly outside his lawful authority and with willful misconduct for purposes of individual liability, constitutional violations, and punitive damages. The alternative theories of liability pleaded herein are asserted in separate Counts and are not intended to conflict within any single Count. Plaintiffs plead theories in the alternative as expressly permitted by Florida Rule of Civil Procedure 1.110(g), and no Count incorporates facts inconsistent with the elements of that specific cause of action.

FACTUAL ALLEGATIONS

6. On or about March 6, 2024, Plaintiff, Valerie Sparkman, entered into a commercial lease within the City of Apopka for the purpose of operating her restaurant, Just Like Momma's Soul Food and Wings LLC.
7. On March 19, 2024, Defendant, David Whitty, entered the premises without prior notice or justification, claiming he was "checking on" the establishment but providing no lawful basis for his inspection. His demeanor was confrontational. Approximately one week later, Defendant, David Whitty, returned, alleging a "noise complaint" and again acting with hostility toward Plaintiff and her contractors.
8. On or about April 16, 2024, Defendant, David Whitty, falsely represented that a Stop Work Order had been issued and demanded that all construction and renovation activity

cease, including painting. He asserted that a permit was required for minor interior work.

9. Relying on Whitty's official position and statements, Plaintiffs halted all work, hired a new contractor capable of pulling the alleged permit, and retained an architect to meet the City's stated demands. On May 29, 2024, the City approved a permit based on Whitty's demands. Between April 16, 2024, and May 29, 2024, Plaintiffs lost more than two months of preparation time and incurred substantial expenses.
10. On June 19, 2024, Captain Steven Brick, Whitty's supervisor in Code Enforcement, informed Plaintiff, Valerie Sparkman, that Code Enforcement Officers have no authority to issue Stop Work Orders and that no such order existed. On June 20, 2024, Captain Brick apologized and confirmed that no permit was ever required and that Defendant, David Whitty, had acted outside his authority. On June 21, 2024, John Hanson, the City's Building Director, confirmed that no Stop Work Order was issued and that only a licensed building inspector or the Director may issue such an order.
11. On September 23, 2024, following an internal investigation, the Apopka Police Department issued an Administrative Investigation Report concluding that Defendant, David Whitty, acted beyond the scope of his legal authority and that Plaintiffs' work required no permit.
12. The City's own Administrative Investigation further confirmed that Code Enforcement Officers are categorically prohibited from issuing any Stop Work Order under the Apopka Municipal Code. The report found that only the Community Development Director, the Building Official, or their designee may issue such an order, and that Whitty "was never designated to do so." By unilaterally fabricating and enforcing a Stop Work Order, Defendant Whitty exercised authority he did not and could not lawfully possess, causing Plaintiffs to suspend lawful business operations under color of official power.
13. During the City's own administrative investigation (IIR 2024-05) conducted on or about September 4, 2024, Defendant Whitty admitted under oath that he had never issued a Stop Work Order in his career and that he had no authorization to do so. He acknowledged that he decided to issue a "verbal" Stop Work Order himself—despite knowing he lacked authority—explaining that he was "trying to save Ms. Sparkman money."
14. Despite the City of Apopka's internal investigation concluding that Defendant Whitty had acted beyond his legal authority, on or about February 2025 the City of Apopka publicly recognized him as its 2024 "Civilian of the Year." In an official announcement, the City commended Whitty for his "professionalism, reliability, and exceptional commitment," and described his enforcement work as "unmatched." This public commendation occurred after the City knew of his misconduct and reflects its failure to discipline, supervise, or correct the conduct complained of, further evidencing institutional ratification and reckless disregard for Plaintiffs' rights.
15. At the time Defendant Whitty fabricated and enforced the purported Stop Work Order, he knew Plaintiffs' business had not yet opened, that Plaintiffs were financially dependent

on timely completion of renovations, and that halting work would jeopardize the viability of the business. Despite this knowledge, and despite knowing he lacked any authority to issue such an order, Whitty intentionally leveraged his position as a City official to coerce compliance, causing Plaintiffs to experience prolonged anxiety, fear of permanent business loss, and severe emotional distress during the forced shutdown period. Defendant Whitty had served approximately twenty-one (21) years with the Apopka Police Department at the time of this incident. Thus, his decision to issue an unauthorized Stop Work Order against Plaintiffs' business was unprecedented in his two-decade career and evidence of a deliberate abuse of authority.

16. Pursuant to §768.28(6), Florida Statutes, written notice of this claim was submitted to the City of Apopka on July 2, 2024. The City acknowledged receipt on July 6, 2024. More than 180 days have passed since notice was provided; all conditions precedent to bringing this action have occurred, have been performed, or have been waived. Paragraphs 1–16 constitute Plaintiffs' general factual allegations and are incorporated by reference into each Count only to the extent relevant to that Count.

COUNT I – NEGLIGENCE (AGAINST DEFENDANT, CITY OF APOPKA)

17. Plaintiffs re-allege and incorporate Paragraphs 1–16 as if fully set forth herein.
18. Defendant, City of Apopka, owed Plaintiffs a duty to ensure its employees exercised due care and acted within the bounds of their authority.
19. Defendant, City of Apopka, breached its duties by failing to supervise, train, or correct Whitty's misconduct and by allowing his negligent acts to harm Plaintiffs.
20. Specifically, the Defendant, City of Apopka, breached its operational duties by, among other things: failing to train code enforcement officers regarding the limits of their authority to issue Stop Work Orders; failing to require written verification or supervisory approval before enforcement actions halting business operations; failing to correct or repudiate Defendant Whitty's unlawful conduct after actual notice on June 19–21, 2024 that no Stop Work Order existed and no permit was required; and failing to suspend, discipline, or restrict Defendant Whitty's enforcement authority after confirming he acted without legal authority.
21. Defendant, City of Apopka, is vicariously liable for the conduct of Defendant, David Whitty, under the doctrine of respondeat superior.
22. As a direct and proximate result of Defendant, City of Apopka's negligence, Plaintiffs suffered loss of earnings, loss of profits, loss of earning capacity, costs of compliance, inconvenience, emotional distress, and other damages, some permanent and continuing.
23. Pursuant to §768.28, Florida Statutes, the City of Apopka is not immune from liability because the acts complained of were operational, not discretionary, and were committed within the course and scope of employment.

24. Plaintiffs acknowledge that punitive damages and pre-judgment interest are not recoverable against the City itself.

WHEREFORE, Plaintiffs demand judgment against Defendant, City of Apopka for compensatory damages, costs, and such other and further relief as this Court deems just and proper.

COUNT II – FRAUDULENT MISREPRESENTATION (AGAINST DEFENDANT, DAVID WHITTY)

25. Plaintiffs re-allege and incorporate Paragraphs 1–16 as if fully set forth herein.

26. On or about April 16, 2024, Defendant, David Whitty, knowingly made a false statement of material fact by asserting that a Stop Work Order had been issued against Plaintiffs' business.

27. Defendant Whitty expressly stated to Plaintiff on April 16, 2024, that “a Stop Work Order has been issued” and that “all work must cease until a permit is obtained,” despite knowing that (a) no such order existed, (b) he lacked authority to issue one, and (c) interior painting did not require a permit.

28. Defendant, David Whitty, intended Plaintiffs to rely upon his misrepresentation, which he repeated multiple times.

29. Plaintiffs justifiably relied on the statement and ceased work, suffering significant delay and economic loss.

30. As a direct and proximate result of these misrepresentations, Plaintiffs suffered loss of income, business interruption, financial expense, and other damages.

WHEREFORE, Plaintiffs demand judgment against Defendant, David Whitty, for compensatory damages, costs, and such other and further relief as this Court deems just and proper.

COUNT III – NEGLIGENT MISREPRESENTATION (AGAINST DEFENDANT, CITY OF APOPKA)

31. Plaintiffs re-allege and incorporate Paragraphs 1–16 as if fully set forth herein.

32. On or about April 16, 2024, Defendant, David Whitty, while acting within the course and scope of his employment with Defendant City of Apopka, negligently communicated false and inaccurate information to Plaintiffs by asserting that a Stop Work Order had been issued and that a permit was required, without exercising reasonable care or competence to verify the existence of such authority or requirements.

33. Defendant Whitty failed to use reasonable care in ascertaining and communicating the City's enforcement authority and permit requirements, and failed to exercise reasonable care in ascertaining that no Stop Work Order existed and that no permit was required.

34. Plaintiffs justifiably relied on the negligently communicated information and ceased lawful work, resulting in significant delay and economic loss. As a direct and proximate result of these misrepresentations, Plaintiffs suffered loss of income, business interruption, financial expense, and other damages.
35. Defendant, City of Apopka, is vicariously liable for Whitty's conduct as it was committed within the course and scope of his employment.

WHEREFORE, Plaintiffs demand judgment against Defendant, City of Apopka, for compensatory damages, costs, and such other and further relief as this Court deems just and proper.

COUNT IV – INTENTIONAL INFLECTION OF EMOTIONAL DISTRESS (AGAINST DEFENDANT, DAVID WHITTY)

36. Plaintiffs re-allege and incorporate Paragraphs 1–16 as if fully set forth herein.
37. Defendant Whitty, acting under color of authority and with knowledge that he lacked lawful power to do so, intentionally fabricated and enforced a Stop Work Order against Plaintiffs' business, leveraging his official position to coerce compliance and knowingly placing Plaintiffs' livelihood at risk.
38. Whitty's conduct was outrageous, exceeded all bounds of decency and caused Plaintiffs severe emotional distress, including anxiety, frustration, mental anguish, and loss of peace of mind.
39. Whitty's conduct was not an isolated error or discretionary judgment, but a deliberate misuse of governmental authority, sustained over an extended period of weeks, and undertaken with reckless disregard for the severe emotional harm such conduct would cause a new and financially vulnerable business owner.
40. As a direct result of this extreme and outrageous conduct, Plaintiffs suffered severe emotional distress, including prolonged anxiety, humiliation, fear of financial ruin, loss of peace of mind, and emotional suffering beyond that which a reasonable person could be expected to endure. Plaintiffs are entitled to compensatory damages and, as to Defendant, David Whitty, punitive damages for his willful and wanton conduct. Defendant Whitty acted with intentional misconduct and gross negligence as defined by §768.72, Florida Statutes.

WHEREFORE, Plaintiffs demand judgment against Defendant, David Whitty, for compensatory damages, punitive damages against Defendant Whitty, costs, and such other and further relief as this Court deems just and proper.

COUNT V – VIOLATION OF DUE PROCESS (AGAINST DEFENDANT, DAVID WHITTY)

41. Plaintiffs re-allege and incorporate Paragraphs 1–16 as if fully set forth herein.
42. Article I, Section 9 of the Florida Constitution provides that no person shall be deprived of life, liberty, or property without due process of law.
43. Plaintiffs possessed a constitutionally protected property interest in operating their lawfully leased business and earning income free from arbitrary government interference.
44. Acting under color of law and without notice, hearing, or lawful authority, Defendant David Whitty fabricated and enforced a purported Stop Work Order against Plaintiffs’ business, despite knowing that he lacked authority to issue such an order and that no permit was required. Defendant Whitty’s actions constituted an arbitrary deprivation of Plaintiffs’ protected property interests without procedural due process and outside any lawful enforcement framework.
45. Plaintiffs were provided no written notice, no hearing, no opportunity to contest the purported Stop Work Order, and no post-deprivation remedy or appeal mechanism prior to or after Defendant Whitty’s enforcement action. As a direct and proximate result of Defendant Whitty’s unconstitutional conduct, Plaintiffs suffered financial loss, business interruption, reputational harm, emotional distress, and other damages.

WHEREFORE, Plaintiffs demand judgment against Defendant Whitty for compensatory damages, punitive damages, costs, and such other and further relief as this Court deems just and proper.

COUNT VI – VIOLATION OF DUE PROCESS (AGAINST DEFENDANT, CITY OF APOPKA)

46. Plaintiffs re-allege and incorporate Paragraphs 1–16 as if fully set forth herein.
47. Article I, Section 9 of the Florida Constitution guarantees that no person shall be deprived of property without due process of law. Defendant City of Apopka, through its Code Enforcement Department and its employee David Whitty, deprived Plaintiffs of their constitutionally protected property interests by permitting, ratifying, and failing to correct the fabrication and enforcement of an unlawful Stop Work Order without notice, hearing, or lawful authority.
48. The City’s own internal investigation confirmed that Defendant Whitty lacked authority to issue any Stop Work Order and that Plaintiffs’ work required no permit. Despite this knowledge, the City failed to discipline, correct, or repudiate the unconstitutional conduct and instead publicly commended Whitty, thereby ratifying the deprivation of Plaintiffs’ rights.

49. The City's ratification was evidenced by its failure to discipline Defendant Whitty after confirming his lack of authority and by its subsequent public commendation of his enforcement conduct. The City's actions and omissions reflect policies, customs, ratification, and deliberate indifference to constitutional violations, which directly caused the deprivation of Plaintiffs' property interests without due process of law. As a direct and proximate result of the City's unconstitutional conduct, Plaintiffs suffered financial loss, business interruption, reputational harm, emotional distress, and other damages.

WHEREFORE, Plaintiffs demand judgment against Defendant City of Apopka for compensatory damages, costs, and such other and further relief as this Court deems just and proper.

COUNT VII – VIOLATION OF EQUAL PROTECTION (AGAINST DEFENDANT, DAVID WHITTY)

50. Plaintiffs re-allege and incorporate Paragraphs 1–16 as if fully set forth herein.

51. Article I, Section 2 of the Florida Constitution guarantees equal protection of the laws to all persons.

52. Defendant, David Whitty, engaged in arbitrary and unequal enforcement of municipal codes by fabricating a Stop Work Order and targeting Plaintiffs' minority-owned business.

53. Upon information and belief, other non–minority-owned businesses located within the same commercial area and engaged in comparable interior renovation activities during the same time period were not subjected to stop-work directives or enforcement actions.

54. Whitty's actions were discriminatory, without rational basis, and violated Plaintiffs' right to equal protection under Florida law.

55. As a result, Plaintiffs suffered economic loss, reputational harm, and emotional distress.

WHEREFORE, Plaintiffs demand judgment against Defendant Whitty for compensatory damages, punitive damages, costs, and such other and further relief as this Court deems just and proper.

COUNT VIII – VIOLATION OF EQUAL PROTECTION (AGAINST DEFENDANT, CITY OF APOPKA)

56. Plaintiffs re-allege and incorporate Paragraphs 1–16 as if fully set forth herein.

57. Article I, Section 2 of the Florida Constitution guarantees equal protection of the laws to all persons. Defendant, City of Apopka, through Defendant, David Whitty, and its Code Enforcement Department, engaged in arbitrary and discriminatory enforcement practices that disproportionately burdened Plaintiffs' minority-owned business.

58. Upon information and belief, other non-minority-owned businesses located within the same commercial area and engaged in comparable interior renovation activities during the same time period were not subjected to stop-work directives or enforcement actions.

59. The City failed to prevent or correct such conduct, reflecting deliberate indifference or tacit approval of discriminatory enforcement patterns. Other similarly situated businesses were not subjected to stop-work directives by Defendant, David Whitty.

60. As a direct and proximate result, Plaintiffs sustained financial loss, reputational harm, and emotional injury.

WHEREFORE, Plaintiffs demand judgment against Defendant City of Apopka for compensatory damages, costs, and such other and further relief as this Court deems just and proper.

COUNT IX – TORTIOUS INTERFERENCE WITH BUSINESS RELATIONSHIPS
(JOINTLY AGAINST BOTH DEFENDANTS)

61. Plaintiffs re-allege and incorporate Paragraphs 1–16 as if fully set forth herein.

62. Plaintiffs maintained ongoing and prospective business relationships with customers, vendors, and contractors related to the opening and operation of their restaurant.

63. Defendant, David Whitty, with knowledge of these relationships, intentionally and unjustifiably interfered by fabricating a Stop Work Order, causing cessation of work and delay of opening.

64. Defendant Whitty's interference with Plaintiffs' business relationships was accomplished through unlawful, unauthorized acts outside any legitimate code enforcement authority and was therefore not privileged, justified, or protected by any governmental enforcement discretion.

65. Defendant City of Apopka's liability arises from its operational failure to correct, repudiate, or discipline unlawful enforcement conduct after actual notice, rather than from any discretionary policy decision, and in the alternative through respondeat superior.

66. Defendant Whitty's conduct was not a bona fide enforcement action and therefore was not privileged, justified, or protected by governmental discretion.

67. As a direct and proximate result, Plaintiffs sustained lost income, lost goodwill, increased costs, and emotional harm.

WHEREFORE, Plaintiffs demand judgment against Defendants for compensatory damages, costs, and such other and further relief as this Court deems just and proper.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully demand judgment against Defendants, as applicable to each Defendant and each Count, for compensatory damages, including but not limited to lost profits, business interruption, emotional distress, reputational harm, and all other damages recoverable at law; punitive damages against Defendant, David Whitty; costs, attorneys' fees where authorized by law, and prejudgment interest (except as barred by §768.28 for the City); permanent injunctive relief prohibiting Defendants, their officers, and agents from issuing or enforcing unlawful Stop Work Orders without due process; a declaration that Defendants' conduct violated Plaintiffs' rights under the Florida Constitution. Plaintiffs further seek such other and further relief as this Court deems just and proper, and demand trial by jury on all issues so triable.

Respectfully submitted this 6th day of January 2026

/s/ Tyne' Michelle Evans

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