

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF ROANOKE

COUNTY OF ROANOKE, VIRGINIA)
)
 Plaintiff,)
)
 v.)
)
 ALAN HAROLD MOORE,)
 DEBORAH RUTH KUSHNER, and)
 BRIDGET SUE KELLEY-DEARING)
)
 Defendants.)

CIVIL DIVISION
Case Number:

Serve: Alan Harold Moore
1757 Ginger Lane
Blacksburg, VA 24060

Serve: Deborah Ruth Kushner
1311 N Augusta Street, Unit 9
Staunton, VA 24401

Serve: Bridget Sue Kelley-Dearing
626 Stonewall Street
Lexington, Virginia 24450

COMPLAINT

COMES NOW the Plaintiff, the County of Roanoke, Virginia, by counsel, and respectfully moves this Court for judgment against the Defendants, Alan Harold Moore, Deborah Ruth Kushner, and Bridget Sue Kelley-Dearing, on the grounds and in the amount hereinafter set forth:

INTRODUCTION

1. On June 30, 2021, each of the Defendants locked themselves to an immobilized vehicle filled with concrete and rebar, and purposefully blocked public access to Honeysuckle Road in Roanoke County, Virginia (a public right-of-way).

2. This suit arises from the monetary loss to the Plaintiff caused by the deliberate and unlawful conduct of the Defendants on June 30, 2021.

JURISDICTION AND VENUE

3. Plaintiff incorporates all preceding and subsequent paragraphs by reference.

4. This Court has subject matter jurisdiction over this matter pursuant to Virginia Code § 17.1-513.

5. This Court has personal jurisdiction over the Defendants pursuant to Virginia Code § 8.01-328.1 as they caused tortious injury in this Commonwealth, and they have incurred a liability for charges to the County of Roanoke, a political subdivision of the Commonwealth of Virginia.

6. Venue is proper in this Court pursuant to Virginia Code § 8.01-262 as the causes of action alleged herein arose in Roanoke County, Virginia.

PARTIES

7. Plaintiff incorporates all preceding and subsequent paragraphs by reference.

8. The Plaintiff is a body politic of the Commonwealth of Virginia and may sue in its own name in relation to all matters connected with its duties pursuant to Virginia Code § 15.2-1404.

9. Defendant Alan Harold Moore (“Defendant Moore”) is an individual and a resident of the Commonwealth of Virginia. Based upon information and belief, Defendant Moore resides at 1757 Ginger Lane, Blacksburg, Virginia 24060.

10. Defendant Deborah Ruth Kushner (“Defendant Kushner”) is an individual and a resident of the Commonwealth of Virginia. Based upon information and belief, Defendant Kushner resides at 1311 North Augusta Street, Unit 9, Staunton, Virginia 24401.

11. Defendant Bridget Sue Kelley-Dearing (“Defendant Kelley-Dearing”) is an individual and a resident of the Commonwealth of Virginia. Based upon information and belief, Defendant Kelley-Dearing resides at 626 Stonewall Street, Lexington, Virginia 24450.

FACTUAL ALEGATIONS

12. Plaintiff incorporates all preceding and subsequent paragraphs by reference.

13. The Roanoke County Police Department is, and for many years has been, authorized and empowered by the laws of the Commonwealth of Virginia, including Title 15.2, Chapter 17, to be the agency responsible for the prevention and detection of crime, the apprehension of criminals, the safeguard of life and property, the preservation of peace, and the enforcement of state and local laws, regulations, and ordinances in the County of Roanoke.

14. On June 30, 2021, at 5:53 a.m., the Roanoke County Police Department was notified that there were individuals protesting against the installation of the Mountain Valley Pipeline on Honeysuckle Road in the County of Roanoke, and that there was a vehicle parked sideways blocking public access to Honeysuckle Road.

15. Representatives of the Roanoke County Police Department accepted their responsibilities and duty to preserve the peace and to enforce state and local laws, regulations, and ordinances by responding to the call to Honeysuckle Road on the morning of June 30, 2021.

16. Upon responding to the scene, representatives of the Roanoke County Police Department observed an immobilized vehicle with deflated tires parked horizontally across Honeysuckle Road, with three individuals attached and secured to the vehicle. Defendant Moore was in the back seat of the vehicle, with the vehicle’s windows secured shut with wire mesh and rebar; his left arm was secured inside of a contraption made of tires and concrete. Defendant Kushner was sitting in a rocking chair positioned on top of the vehicle’s trunk; her left arm was

secured inside of a contraption made of concrete. Defendant Kelley-Dearing was seated in another rocking chair beside the right-rear tire; her left arm was secured to material within the wheel well of the vehicle.

17. Based upon information and belief, the blockade was set up around 5:30 a.m. on June 30, 2021 in an effort to halt installation that was to occur that day on the Mountain Valley Pipeline project.

18. Honeysuckle Road is a public roadway, maintained by the Virginia Department of Transportation, with private parcels located along it. Blocking the road creates a public safety issue in the event of an emergency.

19. Honeysuckle Road is narrow and steep as it travels along a mountain ridge; it is composed of mostly dirt and gravel. The existence of the immobilized vehicle across Honeysuckle Road left the roadway impassable.

20. Upon responding to the scene, representatives of the Roanoke County Police Department notified the Defendants of the safety issue that they were intentionally causing by blocking Honeysuckle Road and requested that they release themselves from the vehicle in order to allow police to remove the public safety issue. Each Defendant refused to voluntarily release themselves from the vehicle. Because of the devices and contraptions that each Defendant was secured to, the Roanoke County Police Department's extraction team was called to the scene to begin involuntary extractions of the Defendants at 2:07 p.m. that day.

21. After approximately six hours of extensive work involving machinery and tools, the Roanoke County Police Department's extraction team completed extractions of the Defendants. At approximately 3:35 p.m., Defendant Moore was extracted from the vehicle; at

approximately 4:44 p.m., Defendant Kushner was extracted from the vehicle; and at approximately 8:35 p.m., Defendant Kelley-Dearing was extracted from the vehicle.

22. Representatives of the Roanoke County Police Department had to have the immobilized vehicle towed from Honeysuckle Road.

23. As a result of the Defendants' actions on June 30, 2021, the Defendants were each charged with and convicted of obstructing the free passage of others in violation of Virginia Code § 18.2-404.

24. None of the Defendants appealed the August 30, 2021 ruling of the County of Roanoke General District Court finding them guilty of violating Virginia Code § 18.2-404, and thus the convictions are each final orders of the County of Roanoke General District Court.

25. Defendants' actions on June 30, 2021 resulted in a total cost to Roanoke County of \$13,495.92. These costs include personnel expenses, towing expenses, equipment expenses, and costs associated with providing food to those on the scene on June 30, 2021.

**CAUSES OF ACTION
COUNT I
VIOLATION OF VIRGINIA CODE § 46.2-888
(AGAINST ALL DEFENDANTS)**

26. Plaintiff incorporates all preceding and subsequent paragraphs by reference.

27. This action is brought by Plaintiff pursuant to Virginia Code § 46.2-888, to recover costs Plaintiff incurred in the provision of law-enforcement services that were reasonably required as a result of the Defendants' conduct which violated Virginia Code § 46.2-888(A).

28. Virginia Code § 46.2-888(A) provides that "[n]o person shall stop a vehicle in such a manner as to impede or render dangerous the use of the highway by others, except in the case of an emergency, an accident, or a mechanical breakdown."

29. On June 30, 2021, each Defendant, acting alone or with one or more co-defendants, caused an immobilized vehicle, filled with concrete and rebar, to block public access to Honeysuckle Road.

30. Defendants engaged in the above-described acts intentionally, it was not caused by an emergency, an accident, or a mechanical breakdown and thus willfully violated Virginia Code § 46.2-888.

31. Virginia Code § 46.2-888(B) provides that “[i]f the vehicle is not promptly removed, such removal may be ordered by a law-enforcement officer at the expense of the owner if the disabled vehicle creates a traffic hazard.”

32. On June 30, 2021, the Defendants were notified by representatives of the Roanoke County Police Department of the safety issue that they were intentionally causing by blocking Honeysuckle Road. Despite requests by law enforcement, the Defendants refused to voluntarily release themselves from the vehicle. Because of the devices and contraptions that each Defendant was secured to, the immobilized vehicle blocked public access to Honeysuckle Road for an additional six and a half hours while the Defendants were involuntarily extracted.

33. Honeysuckle Road is narrow and steep as it travels along a mountain ridge; it is composed of mostly dirt and gravel. At least one traveler was left with no option other than to back his work truck down Honeysuckle Road as the Defendants left it impassable on June 30, 2021.

34. As a result of the Defendants’ violation of Virginia Code § 46.2-888, Defendants caused Plaintiff to incur excessive costs related to removal of the immobilized vehicle from Honeysuckle Drive. These costs include personnel expenses, towing expenses, equipment expenses, and costs associated with providing food to those on the scene on June 30, 2021.

COUNT II
VIOLATION OF COUNTY OF ROANOKE CODE § 13-13
(AGAINST ALL DEFENDANTS)

35. Plaintiff incorporates all preceding and subsequent paragraphs by reference.

36. This action is brought by Plaintiff pursuant to County of Roanoke Code § 13-13 to recover costs Plaintiff incurred in the provision of law-enforcement services that were reasonably required as a result of the Defendants' conduct which violated County of Roanoke Code § 13-13.

37. County of Roanoke Code § 13-13(a) provides that “[n]o person shall dump or dispose of or leave or cause to be thrown any rubbish, trash, garbage, litter or other waste substance or material in or upon and along any public property, including a street, road, highway, right-of-way, property adjacent to such highway or right-of-way, park or alley in the County; nor shall any person dispose of, dump or throw any rubbish, trash, garbage, litter or other waste substance or material upon any private property without the written consent of the owner thereof or his agent; nor shall any person dispose of, dump or throw any rubbish, trash, garbage, litter or any other waste material or substance upon any lots or property in the county which have not been selected, approved and designated as a garbage or trash disposal area by the county.”

38. On June 30, 2021, each Defendant, acting alone or with one or more co-defendants, placed an inoperable vehicle, filled with concrete and rebar, within the public right-of-way known as Honeysuckle Road in the County of Roanoke.

39. The location where the Defendants placed the said inoperable vehicle was not approved or designated as a disposal area by the County of Roanoke.

40. Defendants engaged in the above-described acts intentionally and thus willfully violated County of Roanoke Code § 13-13.

41. In the event of a violation of County of Roanoke Code § 13-13(a), County of Roanoke Code § 13-13(b) provides that “the county administrator or his designee shall give the violator ten (10) days’ written notice, by certified mail, to clean up and remove [the said rubbish or other waste material].” Furthermore, it provides that in the event the violator not take appropriate action within such ten-day period, “the county administrator or his designee shall, by use of county employees or by employing an agent of the county, have [the rubbish or other waste material] removed,” and “the violator shall be liable for the charges and costs of such removal.”

42. As a result of the Defendants’ violation of County of Roanoke Code § 13-13, Defendants caused Plaintiff to incur excessive costs related to removal of the vehicle from Honeysuckle Drive. These costs include personnel expenses, towing expenses, equipment expenses, and costs associated with providing food to those on the scene on June 30, 2021.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, Roanoke County, prays that the Court enter judgment against the Defendants in the sum of \$13,495.92, plus interest at the rate of six percent (6%) per annum from the date of judgment until paid, and such other and further relief as the Court deems just and proper.

COUNTY OF ROANOKE, VIRGINIA

By: Rachel Lower
Counsel

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CERTIFICATE OF SERVICE

I, the undersigned attorney for the Plaintiff, certify that on this 15th day of March, 2022, a true copy of the foregoing Complaint was sent by first class mail to Alan Harold Moore, Deborah Ruth Kushner, Bridget Sue Kelley-Dearing, Seth Weston, Esq. (counsel for Mr. Moore), Robert Bruce Fickley, Esq. (counsel for Ms. Kushner), and Steven P. Milani, Esq. (counsel for Ms. Kelley-Dearing), as follows:

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