

## Sturgeon Bay

## LITIGATION

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State of Wisconsin )  
Department of State ) ss.

Received and filed this .....17th.....

day of .....Jan..... A.D. 19..74..

.....  
Secretary of State

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STATE OF WISCONSIN :: CIRCUIT COURT :: DOOR COUNTY ::

TOWN OF NASEWAUPEE,  
Door County, Wisconsin,  
a body corporate,

Plaintiff,

V.

THE CITY OF STURGEON BAY,  
Door County, Wisconsin,  
a municipal corporation

SUMMONS

AND

EUGENE JACOBS  
P. O. Address:  
Route #4  
Sturgeon Bay, Wisconsin 54235,

Defendants.

THE STATE OF WISCONSIN, to said defendants:

YOU ARE HEREBY SUMMONED and required to serve upon James C. Pankratz, of PANKRATZ & HOTZ, plaintiff's attorney, whose address is 920 Egg Harbor Road, Sturgeon Bay, Wisconsin, an answer to the Complaint which is herewith served upon you, within twenty (20) days after service of the Summons upon you, exclusive of the day of service, and in case of your failure so to do, judgment will be rendered against you according to the demand of the complaint.

PANKRATZ & HOTZ

Plaintiff's Attorneys  
By: James C. Pankratz

Post Office Address:

920 Egg Harbor Road  
Sturgeon Bay, Wisconsin 54235.

STATE OF WISCONSIN  
DEPARTMENT OF STATE  
RECEIVED AND FILED  
JAN 17 1974

ROBERT C. ZIMMERMAN  
SECRETARY OF STATE

STATE OF WISCONSIN ::

CIRCUIT COURT ::

DOOR COUNTY ::

TOWN OF NASEWAUPEE,  
Door County, Wisconsin,  
a body corporate,

Plaintiff,

V.

THE CITY OF STURGEON BAY,  
Door County, Wisconsin,  
a municipal corporation

COMPLAINT

AND

EUGENE JACOBS  
P. O. Address:  
Route #4  
Sturgeon Bay, Wisconsin 54235,

Defendants.

Now comes the TOWN OF NASEWAUPEE, Door County, Wisconsin, a body corporate, by its attorney, James C. Pankratz, of PANKRATZ & HOTZ, and as and for a cause of action, alleges as follows:

1. That the plaintiff, TOWN OF NASEWAUPEE, Door County, Wisconsin, is an organized town within the State of Wisconsin and is a body corporate with all of the powers enumerated in Section 60.01 of the Wisconsin Statutes.

2. That the defendant, CITY OF STURGEON BAY, Door County, Wisconsin, is a municipal corporation organized and operating under the laws of the State of Wisconsin, as a city of the Fourth Class.

3. That the defendant, EUGENE JACOBS, is an adult resident of Door County, Wisconsin, residing at Route #4, Sturgeon Bay, Wisconsin, and is by occupation a school teacher.

4. That the aforesaid EUGENE JACOBS, upon information and belief, petitioned the CITY OF STURGEON BAY sometime during the summer months of 1972, for the annexation of a tract of land owned by him, by said CITY OF STURGEON BAY, and which tract of land was located in the TOWN OF NASEWAUPEE, and which tract of land was thereafter annexed to said CITY OF STURGEON BAY, by said CITY OF STURGEON BAY, the description of which is set forth in the following paragraph.

5. That on October 20, 1972, the Town Clerk of the aforesaid TOWN OF NASEWAUPEE, Elton Spaid, received a letter from the City Clerk of the aforesaid CITY OF STURGEON BAY, with enclosures, including a copy of an annexation ordinance showing that on the 17th day of October, 1972, there was adopted by the Common Council of the CITY OF STURGEON BAY, an ordinance which was later published on October 24, 1972, and which ordinance provided for the annexation of a certain tract of land to the CITY OF STURGEON BAY, and which tract is described as follows:

A tract of land in the Southeast Quarter ( $SE\frac{1}{4}$ ) of the Northeast Quarter ( $NE\frac{1}{4}$ ), Section Twelve (12), Township Twenty-seven (27), North, Range Twenty-five (25) East, Township of Nasewaupee, Door County, Wisconsin, described as follows:

Beginning at the Southeast corner of the said Southeast Quarter ( $SE\frac{1}{4}$ ) of the Northeast Quarter ( $NE\frac{1}{4}$ ); running thence North along the East line thereof 325 feet; thence South 89 degrees 30 minutes 30 seconds West, 250.0 feet to an iron pin; thence North 2 degrees 05 minutes 15 seconds West 149 feet to an iron pin; thence South 89 degrees 30 minutes 30 seconds West 893.0 feet to an iron pin; thence South 2 degrees 05 minutes 15 seconds East 149.0 feet to an iron pin; thence South 89 degrees 30 minutes 30 seconds West a distance of 177.88 feet to an iron pin; thence South 2 degrees 0 minutes East 325.0 feet to an iron pin on the South line of said Southeast Quarter ( $SE\frac{1}{4}$ ) of the Northeast Quarter ( $NE\frac{1}{4}$ ); thence North 89 degrees 30 minutes 30 seconds East along the South line of said Southeast Quarter ( $SE\frac{1}{4}$ ) of the Northeast Quarter ( $NE\frac{1}{4}$ ), 1321.38 feet to the point of beginning, subject to Duluth Street on the East and Sawyer Drive on the South.

6. That the above described tract of land is or was situated within the geographic boundaries of the aforesaid TOWN OF NASEWAUPEE and is the property owned by the aforesaid EUGENE JACOBS, which was the subject matter of the aforesaid EUGENE JACOBS petition seeking annexation of such property.

7. That at no time prior to October 17, 1972, or for that matter, prior to October 20, 1972, was there filed with the town clerk of the aforesaid TOWN OF NASEWAUPEE, by either of the defendants hereto, a petition for direct annexation, or a copy thereof, of the above described tract of land, together with a scale map and a description of the property to be annexed, nor at any time prior to October 20, 1972, was any other notice relative to an annexation of the above described property ever served upon the town clerk of the TOWN OF NASEWAUPEE.

8. That the failure to file the petition for annexation, together with supporting documents, or copies thereof, with the town clerk of the TOWN OF NASEWAUPEE, prior to the adoption of the aforesaid ordinance annexing the above described property, worked to the disadvantage and prejudice of the TOWN OF NASEWAUPEE, as a governmental unit, to oppose the annexation of the aforementioned property owned by EUGENE JACOBS.

9. That the failure to file with the town clerk of the TOWN OF NASEWAUPEE, the aforementioned annexation petition and supporting documents, or copies thereof, or to give any other official notice of the annexation proceedings pending, prior to the adoption of the aforesaid annexation ordinance, was contrary to the requirements of Chapter 66 of the Wisconsin Statutes governing annexation of land by municipalities.

SECOND CAUSE OF ACTION OF THE TOWN OF NASEWAUPEE

1. That the plaintiff, TOWN OF NASEWAUPEE, does hereby reiterate and incorporate herein as if set forth at length and full herein, the allegations contained in paragraphs 1, 2, 3, 4, 5, & 6 as set forth above.

2. That the annexation of the above described tract of land by the CITY OF STURGEON BAY was unnecessary and that there was no need therefor.

3. That the aforementioned annexation was not a reasonable action on the part of the CITY OF STURGEON BAY and was an arbitrary and capricious/violative of the rule of reason.

WHEREFORE, the plaintiff prays that the court grant judgment that the aforementioned annexation ordinance complained of be declared invalid and that the defendants be enjoined from undertaking any proceedings thereunder or undertaking any acts commensurate to the treatment of the aforescribed tract of land as being annexed land or land within the city limits of the CITY OF STURGEON BAY and that plaintiff on its behalf, have such other and further relief as to the court may be just and proper, including attorney fees and the costs and disbursements of this action.

PANKRATZ & HOTZ

Attorneys for Plaintiff.

STATE OF WISCONSIN )  
 ) ss.  
COUNTY OF DOOR )

Elton Spaid being first duly sworn on oath deposes and says that he is the Town Clerk of the plaintiff, TOWN OF NASEWAUPEE; that he makes this verification for and on behalf of said plaintiff and is authorized so to do; that he has read the above and foregoing Complaint and knows the contents thereof; that the same is true to his knowledge, except as to those matters stated herein on information and belief, and as to those matters, he believes it to be true.

18  
Elton Spaid

Subscribed and sworn to before me  
this 16th day of December, 1972.

16  
James C. Pankratz  
Notary Public  
Door County, Wisconsin  
My commission is permanent.

STATE OF WISCONSIN        ::        CIRCUIT COURT        ::        DOOR COUNTY  
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TOWN OF NASEWAUPEE,  
Door County, Wisconsin,  
a body corporate,

Plaintiff,

-vs-

THE CITY OF STURGEON BAY,  
Door County, Wisconsin,  
a municipal corporation,

ANSWER

-and-

EUGENE JACOBS  
Route 4  
Sturgeon Bay, Wisconsin,

Defendants.

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NOW COMES the defendant, the City of Sturgeon Bay, by Sven V. Kirkegaard, City Attorney, and in answer to the plaintiff's complaint, admits, denies and alleges as follows:

ANSWER TO PLAINTIFF'S FIRST CAUSE OF ACTION

1. On information and belief, admits the allegations contained in Paragraphs 1, 3 and 6 of plaintiff's complaint, first cause of action.
2. Admits the allegations contained in Paragraphs 2, 4 and 5 of the plaintiff's complaint, first cause of action.
3. Alleges a lack of knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraphs 7 and 8 of plaintiff's complaint, first cause of action.
4. Alleges to the Court that a failure to file with the Town Clerk of a Township an annexation petition and supporting documents

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or copies thereof, prior to the adoption of an annexation ordinance is contrary to the requirements of Chapter 66 of the Wisconsin Statutes governing annexation of land by municipalities; however, defendant alleges a lack of knowledge or information sufficient to form a belief as to Paragraph 9 of plaintiff's complaint, first cause of action, for it states a legal conclusion outside the knowledge of the defendant.

ANSWER TO PLAINTIFF'S SECOND CAUSE OF ACTION

1. Defendant does hereby reiterate and incorporate here as if set forth at length and full herein, the responses to plaintiff's Paragraphs 1, 2, 3, 4, 5 and 6, first cause of action, as realleged by plaintiff in Paragraph 1 of the second cause of action.

2. Denies the allegations of Paragraphs 2 and 3 of plaintiff's complaint, second cause of action.

WHEREFORE, the defendant, the City of Sturgeon Bay, demands judgment dismissing the plaintiff's complaint on the merits, together with the costs and disbursements of this action, and other and further relief as to the court may seem just and proper.

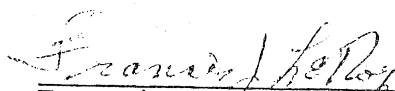
SVEN V. KIRKEGAARD  
City Attorney  
City of Sturgeon Bay

P. O. Address:  
342 Louisiana Street  
P. O. Box 89  
Sturgeon Bay, Wisconsin 54235

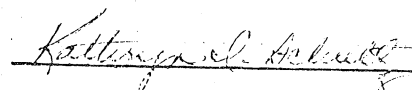
STATE OF WISCONSIN    )  
                              ) SS  
COUNTY OF DOOR        )

Francis J. LeRoy, being first duly sworn, on oath deposes and says that he is the duly appointed, qualified and acting City Clerk-Treasurer of the City of Sturgeon Bay; that he has read the foregoing answer and knows the contents thereof and that the same is true to the best of his knowledge, except as to those matters therein stated on information and belief, and as to such matters he verily believes the same to be true.

That this verification is made on behalf of and by the authority of the above named defendant, and that the grounds for affiant's knowledge and of his belief as to all matters not stated upon his knowledge are as follows: affiant is the duly appointed, qualified and acting City Clerk-Treasurer of the City of Sturgeon Bay, and as such has the records of the City of Sturgeon Bay in his keeping and is by law required to keep such records and has personal knowledge of the proceedings of this annexation matter in controversy.

  
\_\_\_\_\_  
Francis J. LeRoy

Subscribed and sworn to before me  
this 23rd day of July, 1973.

  
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Notary Public, State of Wisconsin  
My Commission: 8/10/75