

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

GARY PERCY, an individual; MATTHEW PERCY, an individual; A.D. HOLDING CORPORATION, a Michigan corporation; A.D. TRANSPORT EXPRESS, INC., a Michigan corporation; A.D. TRANSPORTATION EQUIPMENT, INC., a Michigan corporation; A.D. EQUIPMENT, INC., a Michigan corporation; ADLP GAS, INC., a Michigan corporation; A.D. REAL ESTATE HOLDING CORPORATION, a Michigan corporation; 5601, INC., a Michigan corporation; and 44650, INC., a Michigan corporation;

Plaintiffs,

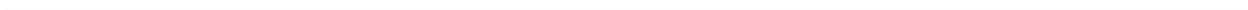
vs.

CHARTER TOWNSHIP OF CANTON, a public body; PATRICK WILLIAMS, in his official capacity as Supervisor; TIM FAAS, in his official capacity as Director of Municipal Services; JEFF GOULET, in his official capacity as Community Planner; LEIGH THURSTON, in her official capacity as Planner and Landscape Architect; ROBERT CREAMER, in his official capacity as Building Official; MARK HOOK, in his official capacity as Ordinance Officer; and NICOLE HAMILTON, in her official capacity as Fire Inspector,

Defendants.

Case No.: 2:19-cv-11727

Hon.



**VERIFIED COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF**

Plaintiffs, Gary Percy, Matthew Percy, A.D. Holding Corporation, A.D. Transport Express, Inc., A.D. Transportation Equipment, Inc., A.D. Equipment, Inc., and ADLP Gas, Inc., A.D. Real Estate Holding Corporation, 5601, Inc., and 44650, Inc., (collectively, “Plaintiffs”) allege as follows for their Verified Complaint for Injunctive and Declaratory Relief against Defendants, the Charter Township of Canton, Patrick Williams, in his official capacity as Supervisor, Tim Faas, in his official capacity as Director of Municipal Services, Jeff Goulet, in his official capacity as Community Planner, Leigh Thurston, in her official capacity as Planner and Landscape Architect, Robert Creamer, in his official capacity as Chief Building Official, Mark Hook, in his official capacity as Ordinance Inspector, and Nicole Hamilton, in her official capacity as Fire Inspector (collectively, “Defendants”).

**INTRODUCTION**

1. Plaintiffs file this civil rights lawsuit for First Amendment Retaliation because of significant acts taken by Defendants in response to Plaintiffs exercising their constitutional rights.

2. Plaintiffs Matt and Gary Percy own several businesses and properties in Canton (collectively, the “Percy Brothers”) that they have operated successfully for decades.

3. In the fall of 2017, the Percy Brothers removed invasive trees, scrub brush, and debris from one of their properties in order to improve land and put it to an agricultural use.

4. In response, Canton issued the Percy Brothers a notice of violation accusing them of removing trees without a permit under Canton's "Tree Ordinance" and seeking more than half a million dollars in fines.

5. Under the Tree Ordinance, it is a crime for property owners to remove trees from their properties unless each removed tree is replaced with up to three replacement trees or payment of up to \$450 per removed tree is made into Canton's "tree fund."

6. The Percy Brothers tried to negotiate these fines with the Township, but when settlement talks proved futile, they reached out to the local press and to a State Senator about Canton's interference with their property rights.

7. Soon thereafter, Canton, through its attorney, contacted the Percy Brothers to chastise them for exercising their rights of free speech under the First Amendment by reaching out to the press and their elected representative and warned the Percy Brothers that by "taking steps to try and apply political/public opinion pressure rather than working this out between the parties, it is becoming clearer that these matters will not be resolved without a fight."

8. Canton made good on its threat by: 1) calling in environmental complaints against the Percy Brothers with state and county agencies (all of which were resolved or dismissed by the agencies); 2) falsely telling reporters that the Percy Brothers had been convicted of stealing water twenty years prior; and 3) repeatedly sending code enforcement officers to the Percy Brothers' other businesses in search of other possible code violations unrelated to the initial notice of violation under the Tree Ordinance regarding tree removal from the Percy Brothers' property.

9. When these searches for evidence of other violations failed to intimidate the Percys, Canton filed suit in the Circuit Court for the County of Wayne, Michigan (Case No. 18-014569-CE) (the "Michigan Case") against the Percy Brothers and certain of their business enterprises not only for violations of the Tree Ordinance but for several other alleged violations as well.<sup>1</sup>

10. When the Percy Brothers filed a constitutional counterclaim against Canton challenging the validity of the Tree Ordinance, Canton expanded its efforts to find additional possible violations of local ordinances by sending more code inspectors to the Percy Brothers' various businesses and issuing notices of violation alleging yet additional infractions.

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<sup>1</sup> Plaintiffs do not seek to enjoin the above-mentioned state court lawsuit to enforce the tree ordinance. It is included here for narrative and explanatory purposes.

11. Most recently on May, 30, 2019, Canton issued a new notice of violation to the Percy Brothers asserting that the Percy Brothers did not have certificates of occupancy for certain buildings used for decades by businesses they operated. Without the requisite certificates of occupancy, the Percy Brothers cannot operate their 700-employee trucking business.

12. Canton's accusation that the Percy Brothers have occupied the buildings illegally for over two decades is meritless. This sort of retaliatory conduct violates the Constitution and must be stopped.

13. The right to criticize government and the right to file constitutional claims against the government form the very core of the First Amendment's protections of the freedom of speech and the right to petition. Canton may not punish or intimidate the Percy Brothers or their businesses for seeking to exercise fundamental constitutional rights.

14. Declaratory and injunctive relief from this Court is necessary to restrain and prevent Canton from this pattern and practice of harassment in retaliation for the Percy Brothers' exercise of First Amendment rights.

### **JURISDICTION**

15. The Percy Brothers and their various businesses (collectively the "Plaintiffs") bring this civil-rights lawsuit pursuant to 42 U.S.C. § 1983, 28 U.S.C.

§ 1331, and 28 U.S.C. § 2201, for violations of rights, privileges, or immunities secured by the First and Fourteenth Amendments to the United States Constitution.

16. Plaintiffs seek injunctive and declaratory relief against Defendants because Defendants' actions both individually and collectively show a custom, pattern, policy, and practice of harassment and retaliation against Plaintiffs in response to Plaintiffs' exercise of constitutional rights. Accordingly, this Court has jurisdiction over Plaintiff's claims under 28 U.S.C. § 1331 (federal-question jurisdiction); 28 U.S.C. § 1343 (civil-rights jurisdiction); and 28 U.S.C. § 2201 (declaratory relief).

17. Venue is appropriate in this Court under 28 U.S.C. § 1391(b)(1). Defendants reside in the Eastern District of Michigan in the Southern Division and the actions set forth herein occurred within the territorial jurisdiction of this Court. *See* 28 U.S.C. § 102 (a)(1).

## **PARTIES**

### **A. PLAINTIFFS**

18. Plaintiffs Gary A. Percy and Matthew T. Percy are individuals residing in Canton, Michigan, and are the owners of Plaintiffs: (a) A.D. Holding Corporation, A.D. Transport Express, Inc., A.D. Transportation Equipment, Inc., A.D. Equipment, Inc., and ADLP Gas, Inc. (collectively, "Trucking Businesses"); and (b) A.D. Real Estate Holding Corporation, 5601, Inc., and 44650, Inc. (collectively, "Real Estate Businesses").

19. Plaintiff Trucking Businesses are Michigan for-profit corporations whose resident agents are Gary A. Percy and Matthew T. Percy, and whose registered address is 5601 Belleville Road, Canton, Michigan 48188.

20. Plaintiff Real Estate Businesses are Michigan for-profit corporations whose resident agents are Gary A. Percy and Matthew T. Percy, and whose registered address is 5601 Belleville Road, Canton, Michigan 48188.

## **B. DEFENDANTS**

21. Defendant the Charter Township of Canton (“Canton” or “the Township”) is a Michigan municipal corporation, operating under color of Michigan law, whose clerk is Michael A. Siegrist and whose address is 1150 S. Canton Center Road, Canton, Michigan 48188. At all relevant times, Defendant Canton was acting by and through its duly authorized officers, agents, and/or employees.

22. Defendant Pat Williams is Canton’s Supervisor and the presiding officer of Canton’s Governing Board. Under the Michigan Charter Township Act and the Canton Code of Ordinances, Williams is charged with administering the affairs of Canton, overseeing all municipal departments, and assuming all the duties and responsibilities of all employees or delegating such duties to other officers or employees. By virtue of his position, Williams is a policy-making official with the highest level of decision-making authority. He is sued in his official capacity.

23. Defendant Tim Faas is formerly the Director of Canton's Municipal Services Department. Pursuant to the Canton Code of Ordinances, Faas was responsible for overseeing Canton's building and inspection, planning, engineering, and public works divisions which included administration of Canton's unconstitutional tree removal ordinance. By virtue of his position, Faas was a policy-making official with decision-making authority over the actions at issue here. He is sued in his official capacity.

24. Defendant Jeff Goulet is Canton's Chief Community Planner. Pursuant to Canton's Code of Ordinances, Goulet is charged with the direct responsibility of overseeing Canton's zoning and planning functions which included maintenance of the master zoning map, and the processing of site plans, special land use, and tree removal permit applications. By virtue of his position, Goulet is a policy-making official with substantial decision-making authority over the actions at issue here. He is sued in his official capacity.

25. Defendant Leigh Thurston is a Canton Planner and Landscape Architect. She reports to Goulet and is a zoning official delegated the responsibility to administer Canton's tree removal program. She is sued in her official capacity.

26. Defendant Robert Creamer is Canton's Chief Building Official. Pursuant to Canton's Code of Ordinances, Creamer oversees the conduction of

building inspections, issuance of certificates of occupancy, and enforcement of building and zoning ordinances. He is sued in his official capacity.

27. Defendant Mark Hook is Canton's Ordinance Inspector. He reports to Creamer and is delegated the responsibility to enforce zoning and building ordinances. He is sued in his official capacity.

28. Defendant Nichole Hamilton is a Canton Fire Inspector. She is delegated the responsibility to enforce Canton's Fire Prevention and Protection Code ("Fire Code"). She is sued in her official capacity.

## **STATEMENT OF FACTS**

### **I. Plaintiffs' Businesses and Real Estate**

29. The Percy Brothers and their businesses had humble beginnings. In 1986, they started a lone trucking business operated locally out of their garage.

30. Over the years, their local business interests have grown to include, among other things, the Trucking Businesses and the Real Estate Businesses—all of which provide products and services nationwide and employ over 700 people living in Canton and surrounding areas.

#### **A. The 5601, Inc. Real Estate and Buildings**

31. Plaintiff 5601, Inc., owns two adjacent industrial parcels of real estate in Canton, Michigan, on which the Trucking Businesses operate: Parcel No. 71-132-

99-0010-711 (“Parcel A”) and Parcel No. 71-135-01-0033-303 (“Parcel B”). *See* 1/11/19 Property Sketch, attached as **Exhibit A**.

32. Parcel A contains the following four structures: (1) the North Office Building, (2) the South Building, (3) the Truck Wash Building, and (4) the Fuel Island. All four structures bear the address 5601 Belleville Road. *Id.*

33. Canton issued Building Permit No. BL-1125 for the North Office Building on July 12, 1994, and was provided notice of completion in 1995. *Id.* Upon information and belief, the North Office Building was constructed in material compliance with the permit and a certificate of occupancy was issued by Canton.

34. Plaintiffs’ predecessor in interest to 5601, Inc. purchased the South Building from Magra Trucking on July 25, 1989. *Id.* Upon information and belief, prior to 1989, Canton issued a building permit for the South Building which was constructed in material compliance with said permit, and Canton issued a certificate of occupancy for the South Building.

35. Canton issued Building Permit No. BL-1842 for the Truck Wash Building on October 26, 1994, and was provided notice of completion in 1995. *Id.* Upon information and belief, the Truck Wash Building was constructed in material compliance with the permit and a certificate of occupancy was issued by Canton.

36. Canton issued Building Permit No. BL-30466 for the Fuel Island on May 13, 2005, and was provided notice of completion in 2005. *Id.* Upon information

and belief, the Fuel Island was constructed in compliance with the applicable building permit and a certificate of occupancy was issued by Canton. The State of Michigan also approved the structure.

37. Parcel B contains the following two structures: (1) the Shop Building (5699 Belleville Rd), and (2) the Cross Dock Building (45050 Yost Rd). *Id.*

38. Canton issued Building Permit No. BL-00702 for the Shop Building on April 26, 2007, and was provided notice of completion in 2008. *Id.* Upon information and belief, the Shop Building was constructed in compliance with the applicable building permit and a certificate of occupancy was issued by Canton.

39. Canton issued Building Permit No. BL-24681 for the Cross Dock Building on March 19, 2003, and was provided notice of completion in 2003. *Id.* Upon information and belief, the Cross Dock Building was constructed in compliance with the applicable building permit and a certificate of occupancy was issued by Canton. The State of Michigan approved the structure.

**B. The 44650 Real Estate and Noxious Vegetation**

40. On August 3, 2017, 44650, Inc. purchased approximately 16 acres of vacant land in Canton, Michigan, on the prospect of future growth of the Trucking Businesses and with the immediate intention to conduct an agricultural operation thereon (“Parcel C”).

41. At the time of purchase, Parcel C was in poor condition having, for some time, been a third-party dumping ground for trash and other debris.

42. Parcel C was also overgrown with invasive and nuisance species of vegetation required to be removed by state law,<sup>2</sup> as well as scrub brush, Cottonwood trees, and many Ash trees which had died as a result of infestation by the Emerald Ash Borer.

43. During the early fall of 2017, DTE Energy cleared a large swath of Parcel C on which there exists utility and other easements.

44. Shortly thereafter, 44650, Inc. cleaned and cleared the remainder of Parcel C in order to abate the nuisances, improve the aesthetics of the land, and put it to an immediate beneficial and agricultural use.

45. In the fall of 2018, 44650, Inc. planted approximately 1,000 Norway Spruce Christmas trees on the cleared land in order to use Parcel C as a Christmas tree farm.

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<sup>2</sup> The Insect Pest and Plant Disease Act, MCL 286.201 et seq., declares that certain vegetation that can “host” “injurious insects and plant diseases” are “a nuisance.” See also the Michigan Insect Pest and Plant Diseases Law, MCL 286.251 et seq.

## **II. The Canton Tree Ordinance Dispute**

### **A. Background**

46. Canton's Forest Preservation and Tree Clearing ordinance, Article 5A.00 of its Code of Ordinances, (the "Tree Ordinance"), prohibits private property owners from removing from their properties any object broadly defined as a "tree"—including brush only a few feet high and a few inches in diameter—unless they first conduct a tree study, pay an application fee, and seek a permit from Canton.

47. A permit will not be granted (if at all) unless the property owner agrees to pay Canton up to \$450 for the removal of a single "tree," or alternatively, to replace said tree with up to three replacement trees of Canton's choosing all guaranteed through an additional payment for a tree removal bond.

48. Upon information and belief, on or about April 27, 2018, Leigh Thurston (Canton Planner and Landscape Architect) became aware of the cleaning and clearing activity on Parcel C.

49. On or about April 27-30, 2018, Leigh Thurston (Canton Planner and Landscape Architect) contacted Gary Percy (44650, Inc.) to inform him that the clearing of Parcel C had allegedly been conducted in violation of the Tree Ordinance, and Plaintiffs would need to either plant three trees for every regulated tree removed, or make substantial payments into Canton's tree fund.

50. Plaintiff Gary Percy contacted Pat Williams (Canton Supervisor) to discuss resolution of the matter while making clear his opinion that the Tree Ordinance was both unreasonable and inapplicable to the alleged activities.

**B. Canton Retaliates by Filing Complaints with Other Agencies**

51. Upon information and belief in retaliation to this push back from Gary Percy, Leigh Thurston (Canton Planner and Landscape Architect) and potentially others, filed separate complaints against 44650, Inc. with the Michigan Department of Environmental Quality (“MDEQ”), Wayne County Drain Commissioner (“Drain Commissioner”), and Wayne County Department of Public Service’s Land Resource Management Division (“LRMD”) alleging that the clearing of Parcel C constituted a violation of state and local wetlands and soil erosion laws.

52. These retaliatory complaints resulted in regulatory actions and inspections from all three agencies, none of which turned up significant problems.

53. For example, on August 15, 2018, LRMD inspected the property. Based on the inspection, as well as historic aerial photographs showing an old agricultural ditch dating back to the 1960s, LRMD determined that there had not been any illegal earth disturbance. And, on April 5, 2019, LRMD acknowledged by letter that the matter had been resolved without fine or penalty.

54. Similarly, in response to Canton’s accusation, on June 11, 2018, MDEQ issued a notice alleging violations of state wetland law. Most of these allegations

were eventually withdrawn, some woodchips and disturbed soils were voluntarily relocated on site, and the remainder resolved. MDEQ closed the complaint file without fine or penalty.

55. Likewise, on August 15, 2018, an official from the Drain Commissioner inspected the property. No violation was issued, and the matter is now closed.

56. On or about June 14, 2018, and again on July 26, 2018, Pat Williams (Canton Supervisor) and Gary Percy (44650, Inc.) met in person. Pat Williams explained Canton's readiness to move forward with a fine in the amount of \$707,000 with respect to Parcel C.

57. Gary Percy (44650, Inc.) expressed his opinion that Canton's position was unreasonable but, on July 26, 2018, offered to settle the matter for \$25,000, which Williams rejected.

### **C. Canton issues Notices of Violations**

58. On August 30, 2018, Canton, by way of Kristin Kolb (Canton Corporation Counsel) and Leigh Thurston (Canton Planner and Landscape Architect), issued to 44650, Inc., a Notice of Violation for Parcel C alleging a violation of the Tree Ordinance without specifying a fine. The Notice directed that a response be made within 14 days.

59. By way of cover letter, Kristin Kolb (Canton Corporation Counsel) further explained Canton's position that 1,685 regulated trees (including 300 so-called "landmark" trees) had been illegally removed and suggested that an after-the-fact tree removal permit with site plan be submitted because, due to the scope of the unpermitted tree removal, the matter was beyond the jurisdiction of the district court.

60. Notwithstanding the perceived unconstitutionality of the Tree Ordinance, in response, 44650, Inc., through counsel, advised that additional information, such as the amount at issue, would be needed in order to provide a substantive response.

61. On September 13, 2018, Canton supplemented its Notice of Violation for Parcel C with a letter stating, that 44650, Inc. was liable for up to \$446,625 in tree replacement/fund penalties for the unpermitted clearing activity based on the unpermitted removal of 1,385 regulated trees and 100 so-called landmark trees. The letter further offered to settle the matter for a prompt payment of \$342,750.

#### **D. Plaintiffs Reach Out to The Press and the Legislature**

62. Frustrated by the Tree Ordinance and its implementation by Canton against them, the Percy Brothers exercised their First Amendment rights by reaching out to, among others, the Franklin Center for Government & Public Integrity (which began investigating the claim) and Michigan State Senator Tom Casperson (who

began working on legislation to preempt such local ordinances impinging on private property rights).

63. On October 10, 2018, Kristin Kolb (Canton Corporation Counsel), emailed counsel for the Percy Brothers to share her frustration that the matter had been discussed with the Franklin Center for Government & Public Integrity.

64. She further warned that by “taking steps to try and apply political/public opinion pressure rather than working this out between the parties, it is becoming clearer that these matters will not be resolved without a fight.” See October 10-11, 2018 Correspondence, attached as **Exhibit B**.

65. On October 12, 2018, Michigan Capitol Confidential, published a news article entitled “Township Hits Brothers With Fine For Removing Trees” See **Exhibit C**.

66. Within weeks, the story of Canton’s Tree Ordinance had spread throughout Michigan and beyond receiving print and television coverage from a range of media outlets including M-live, Fox News, UK Daily Mail, Hometown Life, Fox News 2 Detroit, WDIV, and WXYZ. See **Exhibits D - G**.

67. Instead of *defending* the perceived merits and legality of its Tree Ordinance, Canton, through Kristin Kolb (Canton Corporation Counsel), Jeff Goulet (Canton Community Planner), and, upon information and belief, outside public relations professionals compensated with tax-payer funds, engaged in a strategy to

damage the reputations of the Percy Brothers as persistent violators by highlighting the MDEQ and Wayne County LRMD and Drain Commissioner matters (which had been prompted by Canton's complaints and had been resolved without penalty).

68. Moreover, Canton's then Municipal Services Director Tim Faas made false claims to Hometown Life (a news agency) that the Percy Brothers wrongly converted municipal water from Canton in the 1990s and that Canton prevailed in a resulting court battle:

Officials say it wouldn't be the first time the township has had legal battles with the Percy brothers and A.D. Transport Express, Inc. Canton Municipal Services Director Tim Faas said one court battle in the 1990s ended with the company paying for 200,000 gallons of water that it used inappropriately. Faas said a meter bypass — installed by the township as a backup for water when a company's meter is out of service — was used when it shouldn't have been and resulted in lower water bills. The township realized the situation during an audit. [See **Exhibit H.**]

69. Contrary to the report of statements attributed to Tim Faas, no such lawsuit ever occurred and at no time did the Percy Brothers misappropriate municipal water.

70. Other false or misleading statements tendered by representatives of Canton to the media included that: (a) the Drain Commissioner had issued a "violation notice" to Gary Percy for "causing damage to a natural drain"; (b) Gary

Percy had previously asserted his intention to plant “corn” on Parcel C; and (c) Parcel C had not been used in the past as a grazing field. See **Exhibits E - G**.

71. Nevertheless, in spite of Canton’s attempt to portray the Percy Brothers in a pejorative light for clearing trees on their own property, the public comments following the articles illustrated a broad level of public support for the Percy Brothers and indignation towards Canton. *Id.*

72. In response, Kristin Kolb (Canton Corporation Counsel) escalated her rhetoric against Plaintiffs by stating to their attorney regarding their statements to the media, “Perhaps this is not what your intentions were; perhaps it was. In either case, as I stated yesterday, this public relations war you have waged against Canton will not change the Township’s course.” See **Exhibit I**.

73. On October 23, 2018, Kristin Kolb (Canton Corporation Counsel) again sent an unsolicited chastisement of the Percy Brothers to Plaintiffs’ counsel for the Percys’ exercise of protected First Amendment activity stating:

To extent you wished for a public outcry against Canton Township, you have succeeded through your mischaracterization of the issue and the dissemination of inaccurate information. To the extent you thought you might influence Canton Township’s next steps in this matter, you were wrong. [See **Exhibit J**.]

### **III. Canton Files A Lawsuit**

74. On November 9, 2018, Canton filed a complaint, verified by Leigh Thurston (Canton Planner and Landscape Architect), against 44650, Inc. in Wayne

County Circuit Court (Case No. 18-014569) alleging violations of the Tree Ordinance and seeking an order directing “Defendant to pay the amount of between \$412,000 and \$446,625 to the Township’s tree fund for the clear cutting of the Property within sixty (60) days” and/or entering a lien on Parcel C in like amount plus costs, expenses, and attorney fees.

75. The Verified Complaint perpetuated Canton’s theme of depicting the Percy Brothers in a negative fashion stating that this was not “Mr. [Gary] Percy’s first rodeo” and that “A.D. Transport, Inc. has, in the past, violated the Township Code resulting in litigation” by “tampering with the Township’s water meter resulting in the industrial use receiving free water for a period of time.” The later statement was both false and irrelevant to the allegations made by Canton in the complaint.

76. Canton’s complaint alleges in support of its lawsuit the First Amendment protected statement of 44650, Inc. and the Percy Brothers, stating: “Defendant has chosen to disseminate incomplete or inaccurate statements to the press in an attempt to enlist support from the public to place pressure on the Township to ignore the blatant ordinance violations.”

77. On November 12, 2018, Canton filed a motion for temporary restraining order claiming that 44650, Inc., owed Canton \$550,000 for clearing

“regulated trees” from 44650, Inc.’s own private property and then seeking to enjoin 44650, Inc. from planting additional Christmas Trees on the same property.

78. In that motion, Canton again falsely stated that many years ago “Mr. [Gary] Percy tampered with the Township’s water meter, resulting in the A.D. Transport industrial use receiving free water for a period of time” and also rebuked 44650, Inc. and the Percy Brothers for exercising their First Amendment rights stating: “Rather than cease its violations and signal its willingness to cooperate with the Township or to make any effort to comply, Defendant has gone to the media to try its case in the court of public opinion to generate sympathy for its self-created plight and to impugn the Township for its efforts merely to enforce its ordinances.”

79. On December 17, 2018, 44650, Inc., through counsel, filed its answer, affirmative defenses, counter-complaint, and jury demand. Specifically, 44650, Inc. alleged a number of constitutional takings, excessive fine, and unreasonable interference claims challenging the constitutionality of the Tree Ordinance.

80. That lawsuit is currently in the discovery stage.

#### **IV. Canton Retaliates with Inspections and Citations**

81. For nearly a decade prior to the Percys’ dispute with the Township over its Tree Ordinance, Plaintiff A.D. Transport had operated its business without significant inspections or enforcement visits from the Township.

82. In under a year since the dispute began, however, Canton code enforcement officials have visited A.D. Transport more than a dozen times on unrelated matters to search for potential code violations.

83. These visits include at least eight separate visits unrelated to the tree ordinance dispute by Nicole Hamilton, the Canton Fire Inspector resulting in allegations and demands from Canton never raised previously.

84. The Township has also issued Plaintiffs multiple notices of violation for alleged violations that are wholly unrelated to the removal of trees from the 44650 property in retaliation for Plaintiffs engaging in protected First Amendment activities.

85. For example, on October 19, 2018, just days after Canton first criticized Plaintiffs for going to the press, Rob Creamer and Kristin Kolb issued a Notice of Violation against A.D. Transport Express / Gary Percy regarding certain paving work being conducted at a parking lot located on Parcel A. (The paving was taking place in order to come into full compliance with a 2007 building permit which had expired). Plaintiffs were forced to resolve the violation by filing an updated site plan and paying Canton a \$7,000 application fee to update the expired permit.

86. On October 24, 2018, (the day after Canton again complained about Plaintiffs' use of the press) Nicole Hamilton (Canton Fire Inspector) alleged for the first time that A.D. Transport's buildings may not have certificates of occupancy—

an allegation that, if true, would make operating the Percy Brothers' 700 employee trucking company impossible.

87. On December 27, 2018, (just days after Plaintiffs had filed their counter complaint challenging the constitutionality of the Tree Ordinance in state court) Kristin Kolb (Canton Corporation Counsel) emailed counsel for 5601, Inc. claiming that neither the North Office Building, South Building, Shop Building, nor Cross Dock Building had certificates of occupancy and that if "a plan for bringing the properties into compliance with the Building Code" is not reached with the Building Official within 10 days "a notice of violation and/or appearance ticket will issue." See **Exhibit K**.

88. On May 30, 2019, Mark Hook (Canton Inspection Officer), issued a notice of violation to 5601, Inc. alleging the lack of certificates of occupancy for the North Office Building, the South Building, and the Cross Dock Building. See **Exhibit L**.

89. The notice demanded that the issues be resolved by June 10, 2019—just three days before the Percys' scheduled deposition in the Michigan Case.

## **CLAIMS FOR RELIEF**

### **Count I**

#### **Retaliation in violation of the First and Fourteenth Amendments to the United States Constitution**

90. Plaintiffs re-allege and incorporate by reference each and every allegation set forth in the paragraphs above as though fully set forth herein.

91. 42 U.S.C. § 1983 provides a cause of action when any person acting under color of law retaliates against an individual for exercising their First Amendment rights.

92. Defendant, the Township of Canton is a “person” acting under color of law for the purpose of 42 U.S.C. § 1983.

93. Defendants Patrick Williams, Tim Faas, Jeff Goulet, Leigh Thurston, Robert Creamer, Mark Hook, and Nicole Hamilton (the “Individual Defendants”) are likewise “persons” acting under color of law for the purpose of 42 U.S.C. § 1983.

94. The Individual Defendants, acting in their official capacities on behalf of Defendant Canton, had policy-making authority to engage in the retaliatory conduct made the basis of this lawsuit.

95. Plaintiffs engaged in protected First Amendment activity by criticizing Canton’s tree policies to Canton staff, the media, and elected state representatives.

96. In response, Defendant, the Township of Canton, acting through its employees and agents, including Individual Defendants, engaged in a policy and practice of retaliation in the manner described in paragraphs 51-55, 62-73, 75-76, and 81-89.

97. A substantial motivating factor for these actions was to retaliate for Plaintiffs' exercise of their First Amendment rights.

98. Plaintiffs also engaged in protected First Amendment activity by filing counterclaims in state court challenging the constitutionality of Canton's Tree Ordinance.

99. In response, Defendant, the Township of Canton, acting through its employees and agents, including Individual Defendants, engaged in a policy and practice of retaliation against the Plaintiffs in the manner described in paragraphs 81-89.

100. A substantial motivating factor for these actions was to retaliate for Plaintiffs' exercise of their First Amendment rights.

101. Defendants' retaliation has injured and, unless relief is provided by this Court, will continue to injure Plaintiffs by restricting their First Amendment rights, placing burdens on their time and energy, and making it more difficult for Plaintiffs to operate their business.

## **Count II**

### **Vindictive Enforcement in Violation of the Fourteenth Amendment to the United States Constitution**

102. Plaintiffs re-allege and incorporate by reference each and every allegation set forth in the preceding paragraphs as though fully set forth herein.

103. Under the Equal Protection Clause of the Fourteenth Amendment, Plaintiffs may not be singled out for disparate treatment or selective enforcement of zoning laws on the basis of Plaintiffs' exercise of a constitutional right.

104. Plaintiffs engaged in protected First Amendment activity by criticizing Canton's tree policies to Canton staff, the media, and elected state representatives.

105. In response, Defendant, the Township of Canton, acting through its employees and agents, including Individual Defendants, singled out Plaintiffs for selective and vindictive enforcement of its laws as described in paragraphs 51-55, 62-73, 75-76, and 81-89.

106. A substantial motivating factor for these actions was to retaliate for Plaintiffs' exercise of their First Amendment rights.

107. Plaintiff 44650, Inc. also engaged in protected First Amendment activity by filing counterclaims in state court challenging the constitutionality of Canton's Tree Ordinance.

108. In response, Defendant, the Township of Canton, acting through its employees and agents, including Individual Defendants, singled out Plaintiffs for selective and vindictive enforcement of its laws in the manner described in paragraphs 81-89.

109. A primary motivating factor for these actions was to retaliate for Plaintiffs' exercise of their First Amendment rights.

110. This selective and vindictive enforcement by Defendants has injured and, unless relief is provided by this Court, will continue to injure Plaintiffs by restricting their First Amendment rights, placing burdens on their time and energy, and making it more difficult for Plaintiffs to operate their business.

**INJUNCTIVE RELIEF ALLEGATIONS**

111. Plaintiffs hereby re-allege and incorporate by reference each and every allegation set forth above as though fully set forth herein.

112. Plaintiffs allege that Defendants have engaged in repeated and systematic retaliation against Plaintiffs for exercising their First Amendment rights.

113. If an injunction does not issue enjoining Defendants from continuing this practice of retaliation, Plaintiffs will be irreparably harmed.

114. Plaintiffs have no plain, speedy, and adequate remedy at law to prevent the Defendants from continuing their retaliatory conduct.

115. If not enjoined by this Court, Defendants will continue to engage in retaliatory conduct in derogation of Plaintiffs' rights.

116. Accordingly, injunctive relief is appropriate.

**DECLARATORY RELIEF ALLEGATIONS**

117. Plaintiffs hereby re-allege and incorporate by reference each and every allegation set forth above as though fully set forth herein.

118. An actual and substantial controversy exists between Plaintiffs and Defendants as to their legal rights and duties with respect to whether Defendants have and may continue to impermissibly retaliate against Plaintiffs for exercising their First Amendment rights.

119. This case is presently justiciable because Defendants have injured Plaintiffs through this retaliatory conduct and continue to do so. Moreover, Defendants have issued a Notice of Violation in retaliation against Plaintiffs that if unresolved could lead to the closing of Plaintiffs' businesses and subject Plaintiffs to civil and criminal sanctions.

120. Declaratory relief is therefore appropriate to resolve this controversy.

### **PRAYER & CONCLUSION**

As remedies for the constitutional violations set forth herein, Plaintiffs respectfully request the following relief:

A. Entry of judgment declaring that Defendants have engaged in retaliatory conduct against Plaintiffs in violation of the First and Fourteenth Amendments to the United States Constitution;

B. Entry of judgment declaring that Defendants have singled out Plaintiffs for retaliatory conduct in violation of the Fourteenth Amendment to the United States Constitution;

C. Entry of judgment declaring that the Notice of Violation issued by Defendants against Plaintiffs on May 30, 2019, accusing Plaintiffs of operating without certificates of occupancy, is invalid and unenforceable due to the impermissible retaliatory nature of its issuance;

D. Entry of a preliminary and a permanent injunction prohibiting Defendants from claiming that Plaintiffs lack certificates of occupancy for the above described buildings or taking any legal action based on a theory that Plaintiffs lack certificates of occupancy for the above described buildings;

E. Entry of a preliminary and a permanent injunction prohibiting Defendants from engaging in any further acts of harassment, selective enforcement, or intimidation in retaliation against Plaintiffs for engaging in First Amendment protected activities;

F. An award of attorneys' fees, costs, and expenses in this action pursuant to the Civil Rights Attorneys' Fees Award Act, 42 U.S.C. § 1988;

G. An award of nominal damages under 42 U.S.C. § 1983; and

H. Such further legal and equitable relief as the Court may deem just and proper.

Respectfully submitted,

Robert Henneke  
Texas Bar No. 24046058  
[rhenneke@texaspolicy.com](mailto:rhenneke@texaspolicy.com)  
Theodore Hadzi-Antich

CA Bar No. 264663  
[tha@texaspolicy.com](mailto:tha@texaspolicy.com)  
Chance Weldon  
Texas Bar No. 24076767  
[cweldon@texaspolicy.com](mailto:cweldon@texaspolicy.com)  
TEXAS PUBLIC POLICY FOUNDATION  
Center for the American Future  
901 Congress Avenue  
Austin, Texas 78701  
Telephone: (512) 472-2700  
Facsimile: (512) 472-2728

Michael J. Pattwell  
Michigan Bar No. P72419  
[mpattwell@clarkhill.com](mailto:mpattwell@clarkhill.com)  
CLARK HILL PLC  
212 E. Cesar Chavez Avenue  
Lansing, Michigan 48906  
Telephone: (517) 318-3043  
Facsimile: (517) 318-3082

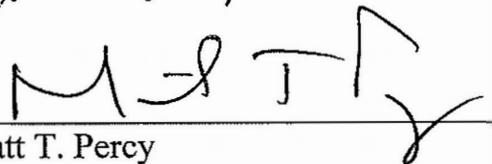
By: /s/Chance Weldon  
CHANCE WELDON

**VERIFICATION**

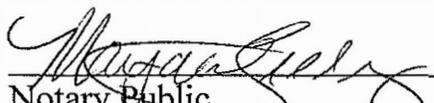
STATE OF Michigan )  
 )  
COUNTY OF Wayne )

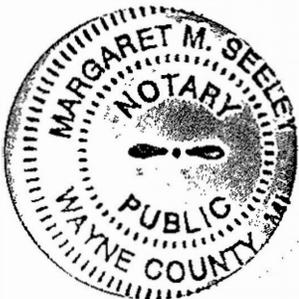
Being first duly sworn, I depose and state that I, Gary A. Percy and Matt T. Percy, individually and as owners of A.D. Holding Corporation, A.D. Transport Express, Inc., A.D. Transportation Equipment, Inc., A.D. Equipment, Inc., and ADLP Gas, Inc., A.D. Real Estate Holding Corporation, 5601, Inc., and 44650, Inc., have read the factual allegations contained in this Verified Complaint, and have personal knowledge of the allegations contained in it, and that all of the allegations are true to the best of my knowledge and belief.

  
\_\_\_\_\_  
Gary A. Percy

  
\_\_\_\_\_  
Matt T. Percy

Sworn and subscribed to before me  
this 10<sup>th</sup> day of June, 2019.

  
\_\_\_\_\_  
Notary Public  
My Commission Expires: 7/31/19



**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

GARY PERCY, an individual; MATTHEW PERCY, an individual; A.D. HOLDING CORPORATION, a Michigan corporation; A.D. TRANSPORT EXPRESS, INC., a Michigan corporation; A.D. TRANSPORTATION EQUIPMENT, INC., a Michigan corporation; A.D. EQUIPMENT, INC., a Michigan corporation; ADLP GAS, INC., a Michigan corporation; A.D. REAL ESTATE HOLDING CORPORATION, a Michigan corporation; 5601, INC., a Michigan corporation; and 44650, INC., a Michigan corporation;

Case No.: 2:19-cv-11727

Hon.

Plaintiffs,

vs.

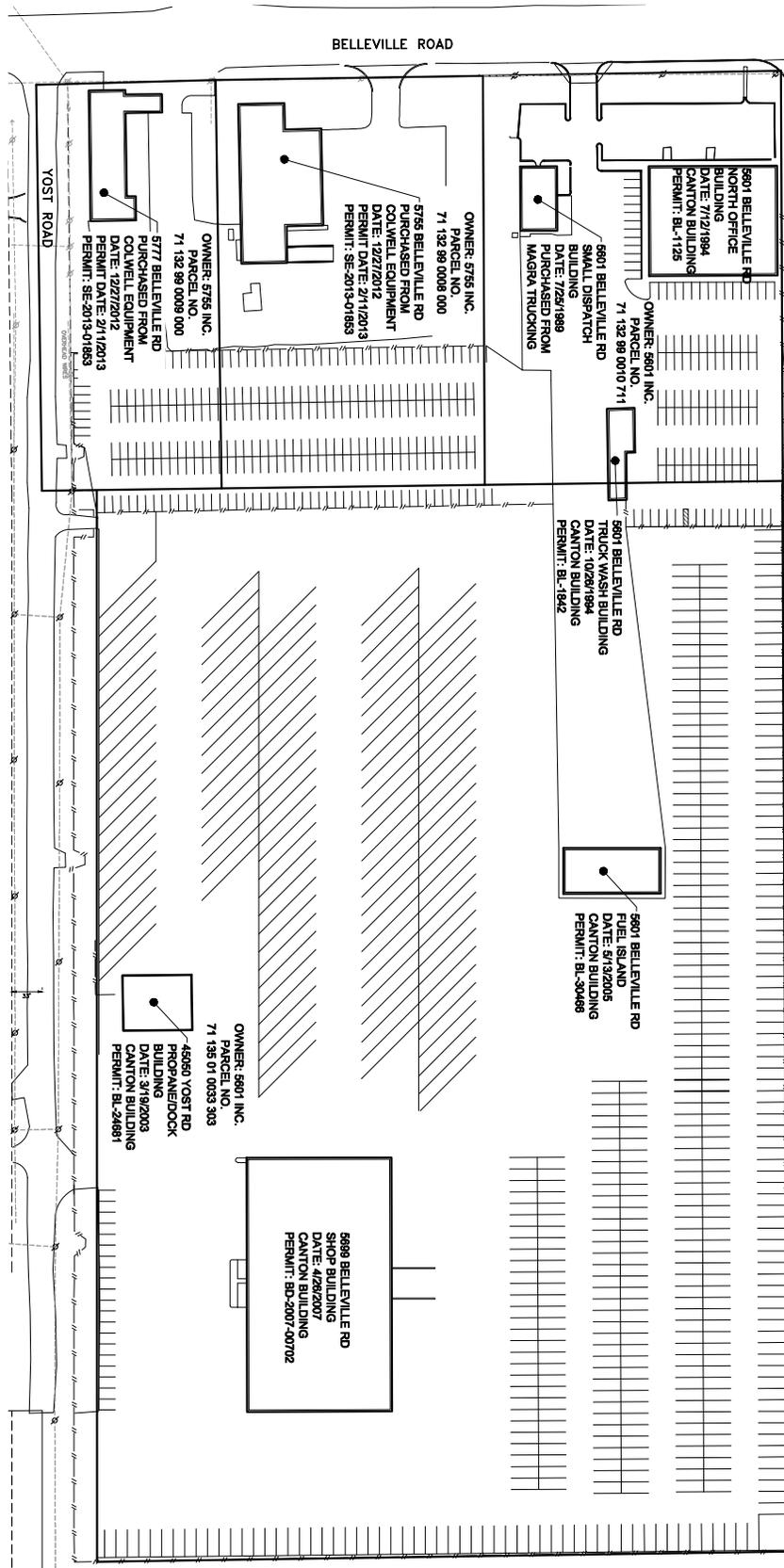
CHARTER TOWNSHIP OF CANTON, a public body; PATRICK WILLIAMS, in his official capacity as Supervisor; TIM FAAS, in his official capacity as Director of Municipal Services; JEFF GOULET, in his official capacity as Community Planner; LEIGH THURSTON, in her official capacity as Planner and Landscape Architect; ROBERT CREAMER, in his official capacity as Building Official; MARK HOOK, in his official capacity as Ordinance Officer; and NICOLE HAMILTON, in her official capacity as Fire Inspector,

Defendants.

**INDEX OF EXHIBITS**

<b>EXHIBIT</b>	<b>DESCRIPTION</b>
A	1/11/19 Property Sketch
B	October 10-11, 2018 Correspondence re: F.P. Development—Notice of Violation
C	News article titled “Township Hits Brothers With Fine For Removing Trees” dated October 12, 2018
D	Print Coverage from M-live posted on October 22, 2018
E	Print Coverage from Hometown Life published on October 23, 2018
F	Print Coverage from FoxNews published on October 23, 2018
G	Print Coverage from WXYZ dated October 24, 2018
H	News article titled “Here’s the top five payments to Canton’s tree fund in the past decade” dated October 29, 2018
I	October 24, 2018 Correspondence re: Gary & Matt Percy Fine
J	October 24, 2018 Correspondence re: Your Clients: Gary and Matt Percy
K	December 27, 2018 Correspondence re: AD Transport—Fire/Building Inspection
L	Notice of Ordinance Violation

# **EXHIBIT A**



DATE	2019-01-11
ISSUED BY	TE
CHECKED BY	TE
DATE	01-11-19
SCALE	1" = 50' 1/2"
DATE	01-11-19

CLIENT: **A.D. TRANSPORT**

**PROPERTY SKETCH**

SECTION: 34      TOWNSHIP: 2S      RANGE: 8E

CANTON TOWNSHIP  
WAYNE COUNTY  
MICHIGAN

3 WORKING DATE SHEETS  
NOW ONE CALL 1855 DDC  
17804022771  
(481.481.5151)

**RESIDENTIAL**  
SUBDIVISIONS  
SITE CONSUMPTION  
MULTI-FAMILY  
PLOT PLANS  
CONSTRUCTION LAYOUT

**SURVEYING**  
ALTA SURVEYS  
BOUNDARY SURVEYS  
TOPOGRAPHIC SURVEYS  
PARCEL SPLITS

**COMMERCIAL**  
"SITE PLANNING"  
SITE ENGINEERING  
INDUSTRIAL & MULTI-UNIT  
LAND SURVEYING  
CONSTRUCTION LAYOUT

48892 WEST ROAD SUITE 109 NOV, MICHIGAN 48377 (248) 926-3701 (BUS) (248) 926-3766 (FAX) WWW.ALPINE-INC.NET

# **EXHIBIT B**

**Pattwell, Michael J.**

---

**From:** Pattwell, Michael J.  
**Sent:** Thursday, October 11, 2018 11:39 AM  
**To:** 'Kristin Kolb'  
**Cc:** Campbell, Stephen A.; Smith, Matthew T.; Filipovich, Cynthia M.; Carol Rosati (crosati@jrsjlaw.com); Bagne, Stephon B.  
**Subject:** RE: F. P. Development--Notice of Violation  
**Attachments:** Ltr from Canton Township re\_ Notice of Violation\_Settlement (September 1....pdf

Ms. Kolb:

There are a number of very significant and substantive issues that your email raises. At the outset, we continue to refute that any "illegal" activity, or activity that violates any proper and applicable Canton ordinance, occurred. This is, at best, for Canton an open issue. And, should Canton's claims fall to any one of a number of constitutional defenses, Canton surely understand that it will have been Canton who engaged in "illegal" conduct.

In any event, while Clark Hill did not issue a "press release," we did communicate openly regarding this matter with Mr. Arnold from the Franklin Center for Government & Public Integrity. There is no basis for Canton to expect our clients to sit by silently and endure these proceedings. The notion that a citizen aggrieved by government action should refrain from publicizing those grievances is contrary to the fundamental tenets of our government as reflected in the First Amendment. If Canton truly believes it has a righteous position and its actions conform to what the public expects from local government, it should welcome and participate in public scrutiny of those positions.

Moreover, your characterization of the settlement demand as confidential is inaccurate. The settlement offer (attached nowhere) indicates that it is confidential and, indeed, we are unaware of a basis in which one party to a communication can impose confidentiality on another or where a municipality can create confidentiality for events of this nature. If Canton believes that MRE 408 creates confidentiality, Canton is incorrect as a matter of law. MRE 408 merely involves the admission into evidence of events in the context of litigation and creates a limited basis to exclude evidence of settlement negotiations. It does not create confidentiality.

The notion that "Canton has made every attempt to proceed in a fashion that preserves the ability of the parties to work amicably towards a resolution" is an overstatement. You may recall this matter began with (i) Canton's Supervisor representing publicly that Canton would be seeking \$707,000 from Mr. Percy alone for the alleged violation of the ordinance; (ii) Canton filing complaints against Mr. Percy with the MDEQ and Wayne County regarding the alleged clearing activity; (iii) certain government officials inspecting Mr. Percy's property without notice or consent; (iv) Canton counsel listening into calls between Mr. Powelson and Canton's Supervisor; (v) Canton obtaining an ex parte administrative search warrant from a non-attorney magistrate to inspect the properties in question even though Canton was advised consent to inspect the two properties would be provided on a mutually agreeable date; (vi) Canton's issuance of a vague and perfunctory August 30, 2018 notice of violation to Mr. Percy asserting, without support, the removal of 1,685 regulated trees; and (vii) Canton's issuance of a settlement offer to Mr. Percy of \$342,750 -- \$368,718.75 which was apparently discounted from \$412,000--\$446,625 and which was apparently based on a tree extrapolation from a different parcel concluding that 1,385 regulated trees (\$225-300 per tree) and 100 so-called landmark trees (\$450 per tree) were allegedly removed from private property.

The assertion that Canton staff was held hostage is also untrue. No Canton staff was held hostage at any time. We have had an opportunity to discuss the factual allegations made in your email dated September 13, 2018. While we did not then and still do not believe that it is productive to engage in a blow-by-blow recitation of our disagreement of the characterization of the events that you have been provided it, suffice it to say that we vehemently disagree. To be clear, there was and is no permission for Canton to enter upon the separate POCO property. The POCO property is an

operating truck depot and there are safety and liability concerns that apply to people working there and people entering onto the property. The POCO property is neither alleged to have been subject to any tree removal nor subject to the ex parte administrative warrant provided after the incursion and we previously indicated in writing on August 14, 2018 that the POCO property could not be used as a staging area for access to either properties that are currently subject to the Canton's enforcement actions. No person has authority to countermand this prohibition other than Frank Powelson or legal counsel. For Canton officials to disregard instructions given between counsel was inappropriate.

This entire situation could have been avoided had legal counsel been contacted in a timely manner before Canton officials entered onto the POCO property. An email sent the morning of the attempted entry was not sufficient. No exigency existed, no work was being done, and no work was intended to be done. Legal counsel should be acting as buffers between our respective clients to avoid further enflaming the situation. There was no reason for any dispute to arise relating to an unnecessary administrative action. If Canton had sought formal confirmation that no work would be done, we would have provided it, indeed, we thought that we had done so already. You are aware of five attorneys at Clark Hill who could have been contact points. Further, we suggest that you review the contents of the ex parte administrative warrant with Canton employees. It did not authorize entry for the purposes identified at the latest date of entry and does not, as asserted by three Canton police officers to Mr. Powelson, allow Canton unlimited access to any property (especially the POCO property) for whatever purpose it desires. Further, we find it highly ironic that Canton acted unilaterally to enter onto property without any authority and now objects to citizens acting to exercise their freedom to communicate with the press.

The events of September 13 and Canton's forwarding of inaccurate descriptions of those events acted to inflame rather than mediate or resolve the issues. Instead of discussing settlement, we have spent considerable time focused on our client's reaction to those events, events that were totally needless if Canton had simply picked up the phone and called one of the five attorneys engaged in this matter. Also, the extraordinary attention recently paid to AD Transport (owned by Gary and Matt Percy) by Canton ordinance inspectors, has required our attention. As you might suspect, the half dozen visits Canton ordinance inspectors have paid to AD Transport in the last 60 or so days marks a departure from past experience and has not quelled tensions.

At this point, while we are authorized by Mr. Percy to make a settlement offer pursuant to MRE 408, we have been unable to fully evaluate the issues due to the vagueness contained in Canton's Notice and Settlement Offer. Specifically, the papers issued by Canton fail to identify whether Canton intends to proceed with a civil or criminal action and the legal basis allowing it to proceed in whatever manner it identifies. In terms of the substantive merits, the two pages of summary data that form the basis of the tree counts are difficult to analyze. We request confirmation that a recognized scientific basis exists to proceed with the methodology employed and the backup information that formed the basis of the evaluation.

Best Regards,

MJP

**Michael J. Pattwell**

CLARK HILL PLC

517.318.3043 (Direct) | 517.318.3082 (Fax) | 517.897.1087 (Cell)

---

**From:** Kristin Kolb [mailto:kristin.kolb@canton-mi.org]

**Sent:** Wednesday, October 10, 2018 4:51 PM

**To:** Pattwell, Michael J.

**Cc:** Campbell, Stephen A.; Smith, Matthew T.; Filipovich, Cynthia M.; Carol Rosati (crosati@jrsjlaw.com); Bagne, Stephon B.

**Subject:** RE: F. P. Development--Notice of Violation

Mike-

I just got off the phone with “Tyler” from the Franklin Center for Government & Public Integrity, asking about a “press release” that Clark Hill has issued regarding the situation involving Mr. Percy. Though he would not share the press release with me, he indicates an article will be published later today on watchdog.org that will reference the press release and the fines that have been levied for tree removal. The press release apparently also asserts that Canton’s method for calculating the [illegally] removed trees was improper. Though he wouldn’t confirm whether the press release mentioned a specific amount of money, Tyler indicated that the press release references fines in the hundreds of thousands of dollars.

And yet, Canton still has no feedback or response from you on that proposal that was sent almost a month ago. It seems that rather than responding to the proposal, you have put the Township off with claims of having “substantive questions” and “requests for clarification” in order to get the issue out into the public sphere.

As you are aware, there has been no fine levied against Mr. Percy. While Canton certainly had a basis to take this matter to court immediately, the administration has chosen to try and avoid extensive litigation and legal fees and come to a mutually agreeable resolution.

I would remind you that the settlement proposal was submitted to you confidentially under MRE 408. I certainly expected that you would honor that in order to facilitate further productive negotiations.

Canton has made every attempt to proceed in a fashion that preserves the ability of the parties to work amicably towards a resolution; however, between Mr. Powelson holding Canton staff hostage on his property, and now Clark Hill taking steps to try and apply political/public opinion pressure rather than working this out between the parties, it is becoming clearer that these matters will not be resolved without a fight. I find that unfortunate.

Kristin Bricker Kolb  
Corporation Counsel  
Charter Township of Canton  
1150 S. Canton Center Road  
Canton, Michigan 48188  
TEL: 734.394.5198  
FAX: 734.394.5234  
[kristin.kolb@canton-mi.org](mailto:kristin.kolb@canton-mi.org)  
[www.canton-mi.org](http://www.canton-mi.org)

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**From:** Pattwell, Michael J. [mailto:mpattwell@clarkhill.com]  
**Sent:** Friday, October 05, 2018 1:46 PM  
**To:** Kristin Kolb <kristin.kolb@canton-mi.org>; Bagne, Stephon B. <sbagne@clarkhill.com>  
**Cc:** Campbell, Stephen A. <scampbell@clarkhill.com>; Smith, Matthew T. <msmith@clarkhill.com>; Filipovich, Cynthia M. <cfilipovich@clarkhill.com>; Carol Rosati (crosati@jrsjlaw.com) <crosati@jrsjlaw.com>  
**Subject:** RE: F. P. Development--Notice of Violation

Ms. Kolb:

Mr. Percy intends to make a counter offer. Prior to doing so, and in part to formulate that counteroffer, we have a number of substantive questions and requests for clarification. We will be in touch with those shortly.

# **EXHIBIT C**

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News Story

## Township Hits Brothers With Fine For Removing Trees

Wayne County property owners could face \$450,000 fine

By Tyler Arnold | Oct. 12, 2018



Gary and Matt Percy, brothers and business owners in Canton Township, Michigan, face nearly a half a million dollars in fines after they removed trees from their own property without the township's permission.

Many of the plants the Wayne County township is classifying as trees are actually invasive species, according to the brothers' attorney. The Percys hope to start a Christmas tree farm on the land, which would involve planting 2,500 conifers, such as balsams, firs, and spruce trees.

"It is a shockingly high fine for allegedly clearing a retired grazing pasture in an industrial area," said their lawyer, Michael J. Pattwell.

Township officials claim the brothers violated a local ordinance that requires landowners to get government permission before removing trees.

### Trending

News Story

Wisconsin Wind Turbines Declared Health Hazard (Nov. 8, 2014)

News Story

Deep-Pocketed Michigan Foundations Fund News Outlets (Nov. 17, 2018)

News Story

Michigan's Local Wind Farm Opposition May Drive New Developments To Iowa (July 7, 2018)

News Story

No Charge, No Conviction — But 956 People Still Lose Stuff To Cops (July 10, 2018)

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The township does not know the exact number of trees the brothers removed. Instead, it hired an arborist to examine the trees on an adjacent property to estimate what trees had been removed from the Percy's land. The township proposed a settlement of fines totaling about \$450,000 for the removal of what it says is about 1,500 trees, including 100 landmark or historic trees.

The fine can be reduced by about \$70,000 if the brothers pay into the township's tree fund and plant new trees, according to the settlement offer.

Pattwell objected both to the fine and the arborist's method for estimating the number of trees cut down. He also said the brothers thought they qualified for an agricultural exemption from the township. The trees they removed, he said, were mostly invasive plants, including phragmites, buckthorn, and autumn olive. The land, which is located in an industrial part of the township, included a number of dead ash trees as well.

"Nobody argues with the stated goals of local ordinances to protect true heritage trees in communities or promote neighborhood trees to beautify neighborhoods," Pattwell said. "But in this case, we believe strongly the township has abused its authority in order to punish a landowner unreasonably."

Pattwell also said the adjacent property has a different, unique history, making the comparison with the Percy's land problematic.

Pattwell added that the conflict between the brothers and the township is not an isolated problem.

"There are many communities around Michigan that have established local tree removal ordinances that put municipalities in the business of harassing local business and property owners unfairly, certainly," he said.

Kristin Kolb, the township's attorney, said that she was not at liberty to discuss the specific amount of the fines because of a confidentiality agreement. Pattwell said that no confidentiality agreement exists.

Kolb said citations for illegally removing trees are rare in Canton Township, and she defended the township's decision to enforce the ordinance in this case. She also said the method the arborist used, examining an adjacent property that is part of the "same forest," is recognized in the arborist field.

The township has not received a response from Pattwell about the settlement, Kolb said. Patwell said the Percy brothers will defend themselves against Canton Township's fine and threatened legal action.

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Michigan Looks to Restrict  
It



Meet Some Law  
Enforcement Officers Who  
Support Forfeiture Reform

21 Comments

Sort by



Add a comment...



**Dick Jones**

We're from the government, and we're here to reason in a circle.

Like · Reply · 13 · 6w



**Andrea Thelen-Kowatch**

Either apply it or not. You can't pick and choose. What's next approval to mow grass. What a money grab. Do you need approval for tree that falls on your house ex. How about a permit...oh no gave them ideas.

Like · Reply · 4 · 6w



**Charlie Smith**

That Canton would have such a shot gun tree ordinance that does not exclude industrial areas, at a minimum, reflects poor judgment.

Then to attempt such a obscenely punitive fine looks like singling out and a shill-attempt to fill their municipal bank account.

It is hard to believe Canton's City Council concurs with this kind of abuse of Canton property owners.

And then for Canton's attorney, Kristin Kolb, to attempt to hide behind "confidentiality"? Yah, we can see why she'd wish to do that.

I'd be tempted to sue the City and its Attorney for malicious prosecution.

Like · Reply · 33 · 6w



**David Lawrence**

Government is out of control.

Like · Reply · 24 · 6w



**Don Sepanski**

Sorry tree huggers, this is their property, to do as they see fit.

Having said that, and playing devil's advocate, when did they purchase the property, in relation to Canton's ordinance?

Does a Christmas tree farm fit into the zoning of that property?

Maybe they didn't do their due diligence.

There's not enough information in the article related to the questions I asked... [See More](#)

Like · Reply · 14 · 6w



**Michael Cartier**

Many cities require permits before trees can be removed plus replantings.

Like · Reply · 1 · 6w



**Greg Jahnke**

Michael Cartier, Just because many cities and townships have equally unjust laws governing private property, does not make Canton Twps laws any more just or reasonable.

Like · Reply · 22 · 6w



**Troy Casad**

Greg Jahnke Private property??? You are a tenent on the land, read your mortgage. The property is under control of the township that legally own it unless you get a land patent from BLM.

Like · Reply · 6w



**Seth Janisse**

You never own land. It still belongs to the government, you just rent it.

\$500 000 for cutting trees on a vacant lot is

insanity, and I bet the city would settle for much less

Like · Reply · 2 · 6w



**Charlie Smith**

Troy Casad Huh? "You are a tenent on the land, read your mortgage. The property is under control of the township that legally own it unless you get a land patent from BLM."

What kind of gobbly-goop is that? Still want to explain and defend that comment?

Like · Reply · 2 · 6w



**Tom Stillings**

Troy Casad Tin hat BS.

Like · Reply · 5w



**Billy Jack**

Charlie Smith he's right.

Like · Reply · 1w



**Jason Gillman**

What the hell happened to the concept of private property?

Like · Reply · 19 · 6w



**Tom Stillings**

I actually used to live there. They have been an overbearing, statist, big government thuggery since at least the '70s. That's only true if you are not one of the favored few. If you are, or have been a public official, you can do as you please. At least that's the way it was when I sat on the ZBA there.

Like · Reply · 1 · 5w



**Marianna Sandy**



**Marianne Sarney**

The democrats pushed their anti capitalist pro communist agenda. It is called Agenda 21.

Like · Reply · 4w



**Matt McCormick**

Disgusting over reach by an obviously zealous and vapid activist liberal

Like · Reply · 17 · 6w



**Marlene Augst**

I hope someone has stepped in to help them take this as far as it needs to in order to have property rights respected. The fact that its an industrial park, trees, historic or not, shouldn't even be a factor.

Like · Reply · 8 · 6w



**Barb Hunter**

If they don't pay the fine then Canton sizes the property...Win, win for the local government. Free land or free money. Hope they get a GOOD lawyer.

Like · Reply · 9 · 6w



**Norm Olson**

get the militia out there... it brings the press... have a stand-off... get national attention from people resisting owner's autonomy... check with JIM DACEY... Check with Lyle Barkley up in Charlevoix Co. Check with the Stitts out on Bois Blanc Island. You have a perfect reason to protest these 'burdensome taxes' (consult the Declaration of Independence for application)...

Like · Reply · 12 · 6w



**Dave Stensaas**

Insane.

Like · Reply · 1 · 6w

Like · Reply · Follow



**Justin Bowen**

Can't wait for old, right-wing cranks to die off.

Like · Reply · 5w



**Marianne Sandy**

Justin Bowen right wing cranks that are constitutional libertarians and believe in liberty and the pursuit of happiness. Unlike people like you who are communist and seek to control and abuse anyone who doesn't agree with your agenda of socialism. We are winning! More coming in the ranks.....count on it. Liberty is spreading.

Like · Reply · 4w



**Norm Olson**

get the militia out there... it brings the press... have a stand-off... get national attention from people resisting owner's autonomy... check with JIM DACEY... Check with Lyle Barkley up in Charlevoix Co. Check with the Stitts out on Bois Blanc Island. You have a perfect reason to protest these 'burdensome taxes' (consult the Declaration of Independence for application)...

Like · Reply · 3 · 6w



**Daniel Mark Brett**

Absurd

Like · Reply · 6w



**Dave Stensaas**

Why didn't the brothers check with the Twp about permit requirements before clear-cutting such a large area? Most communities require a site plan for commercial property before site grading or landscape alteration on such a large scale can be commenced. Too busy to make a call? Zoning ordinances have been around inco

make a call? Zoning ordinances have been around since the 1920s, this isnt and wasnt some obscure code nobody knew about, but this kind of back-door appraoch to doing whatever the fudge you want and then saying you didnt know there was a rule is all too common and in many communities people get away with it because the city/township ... [See More](#)

Like · Reply · 6w



**Leander Richmond**

Maybe it could have been prevented and maybe not. I fight predatory towing and a few other issues across the country and I think that you should be thanking them because however this came to be, it will shed light on something that likely should NOT be. Industrial property, you pay for the property, you want to develop it, you have to pay someone to cut the trees then you have to pay for them as if they are the property of the township????????????? Come on. What's next, you buy land with a creek running through it and you have to pay to swim in it?

Reply · 6w



**Karl Hicks**

if the trees where removed to build condos the city would be jumping for joy. i have to ask what right has the city of Canton have to say in them cuting down there own trees

Like · Reply · 5 · 6w



**Leander Richmond**

A couple of interesting questions would be this: Did Walmart, Target, Kohls, Home Depot, IKea and the other big boys in the city have to deal with this? If they did, I doubt that they went around planting trees. Since we know that, Did they pay into the "slush" fund? How much and where is that money? If they did not, just because of who they are, then it is not a fais system anyway. I

looked up their company, they have been in Canton for almost 30 years, and this is how they are treated??????

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# **EXHIBIT D**

DETROIT NEWS

# Brothers face \$450,000 in penalties for removing trees from their property

Updated Oct 24;  
Posted Oct 22

409



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By **Dana Afana**, [dafana@mlive.com](mailto:dafana@mlive.com)

CANTON TWP., MI -- Brothers Gary and Matt Percy could face nearly half a million dollars in penalties for removing more than 1,400 trees from their property without permission from Canton Township.

The two own a 16-acre property off of Yost Road, east of Belleville Road in Canton Township with the intention of creating a Christmas tree farm on the plot, according to their attorney, Michael J. Pattwell.



The land was filled with "invasive plants like phragmites, buckthorn and autumn olive," he said.

But the township requires land owners to gain permission and promise new tree plantings before cutting down existing forestry, especially for landmark or historic trees.

The township had an arborist compare the parcel to an adjacent property with the similar forestry to estimate how many trees were removed.

Township attorney Kristin Kolb said "it was all part of a forest."

"They identified certain plots," Kolb said. "They identified the number or type of trees and did some math to figure out approximately how many trees."

The arborist estimated 1,385 trees with trunk diameter of six inches or more were removed. That could mean \$225 to \$300 per tree in penalties. Another 100 landmark trees were also removed, the township estimated, meaning another \$450 each.

"Canton Tree Police showed up," said Pattwell. "Canton Township's tree removal ordinance prohibits landowners from removing trees from private property without government permission, which may be obtained by either payment into the township's so-called tree fund or on-site replacement with trees of certain designated trunk diameters.

"Canton Township defines 'trees' as 'any woody plant with at least one well-defined stem and having a minimum diameter at breast height of three inches.' The Percy parcel was used historically by a local farmer for dairy pasture, so much of the vegetation on the parcel was invasive buckthorn, scrub brush and dead ash trees."

Pattwell disputes the township's method of estimating the number of trees

removed by studying what he called "nearby property with a different land history and distinguishable characteristics."

He also points out an exemption in the township ordinance, which states "all agricultural/farming operations, commercial nursery/tree farm operations and occupied lots of less than two acres in size, including utility companies and public tree trimming agencies, shall be exempt from all permit requirements of this article."

Although the land is zoned "heavy industrial," Pattwell said, the brothers believed they were in the clear under the farming exemption when they removed the trees.

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"The Percy brothers believed they were exercising a state and local exemption for farming when they cleared the land, but city officials arrived on-site and signaled immediately their intention to levy big fines in excess of \$700,000," Pattwell said. "But that's not what this case is about. We are talking here about a parcel of

former pasture land surrounded entirely by industrial activity.

"This case is about misguided overreach. It is unavoidably about whether people who own property are allowed to use it ... We contend the Percy brothers exercised a farming exemption in the local tree removal law to clear the historic pasture behind their business and develop a Christmas tree farm."

But Kolb said the brothers were "specifically told at least twice last year" that if they were to remove the trees, they needed a permit.

"(They) never came and got one," Kolb said.

The brothers have not yet been fined, but Pattwell asked the township for a settlement figure, Kolb said.

The township's settlement offer is roughly \$450,000. Under the ordinance, the Percys could have received a credit to reduce the fees by paying into the township's tree fund and planting new trees, Kolb said.

The two own a commercial trucking company in Canton Township, as well as Montgomery Farms, a tree specialization company that operates in Albion and Hillsdale, Pattwell said. The trucking company, A.D. Transport Express, has been in the township since the late 1980s.

The Percys' options include: Paying money into the tree fund to plant trees across the township, planting replacement trees or a combination of both, Kolb said.

The Percys are working to resolve the matter, Pattwell said, but are prepared to take it to court. Additionally, they are moving forward to plant 2,500 Christmas trees on the property they cleared, with 1,000 planted thus far.

The ordinance states:

*"Landmark tree replacement: Whenever a tree removal permit is issued for the removal of any landmark tree with a (diameter at breast height) of six inches or greater, such trees shall be relocated or replaced by the permit grantee. Every*

*landmark/historic tree that is removed shall be replaced by three trees with a minimum caliper of four inches. Such trees will be of the species from section*

*Replacement of other trees: Whenever a tree removal permit is issued for the removal of trees, other than landmark/historic trees, with a (diameter at breast height) of six inches or greater (excluding boxelder (*acer negundo*), ash (*fraxinus spp*) and cottonwood (*populus spp*)), such trees shall be relocated or replaced by the permit grantee if more than 25 percent of the total inventory of regulated trees is removed."*

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# **EXHIBIT E**

## Facing up to \$450,000 in fines, brothers defy township to start Christmas tree farm

**Darrell Clem**, [Hometownlife.com](http://Hometownlife.com)

Published 12:58 p.m. ET Oct. 23, 2018 | Updated 2:52 p.m. ET Oct. 23, 2018



(Photo: NearMap)

A heated dispute between Canton Township and two brothers who removed hundreds of trees from property they own — amid plans to start a Christmas tree farm — could be headed for a courtroom showdown.

Canton business owners and brothers Gary and Matt Percy could owe as much as \$450,000 after township officials say they removed an estimated 1,500 trees — without permission — from a 16-acre site they own on Canton's south side.

Defying the township, the Percys already have started planting Christmas trees, according to their attorney, Michael J. Pattwell, who responded to questions Monday by email.

Pattwell said it's still possible the two sides can reach "an agreeable resolution," but the Percys aren't backing down.

"We also are absolutely prepared to take this case into a courtroom," he said. "The brothers are also moving forward with their plan to plant 2,500 Christmas trees on the property. Despite the township's roadblocks, they have already planted 1,000 Christmas trees."

Kristin Kolb, the township's corporation counsel, said aerial photos from last October reveal the former trees already had been cut down. But she said Canton officials only learned of the situation in the spring after a neighboring property owner made inquiries.

"There was absolutely nothing left of the trees," Kolb said, prompting the township to look into the matter.

Kolb said the Percy brothers initially indicated they wanted to grow corn on the site. The land is behind a trucking and logistics company, A.D. Transport Express, Inc., which the brothers have owned since the late 1980s on Belleville Road, near Yost.

**More:** [Pagan says, 'Canton is my hometown' as lawsuit controversy swirls \(/story/news/local/canton/2018/10/18/lawsuit-controversy-swirls-around-state-rep-kristy-pagans-residency/1674302002/\)](https://www.hometownlife.com/story/news/local/canton/2018/10/18/lawsuit-controversy-swirls-around-state-rep-kristy-pagans-residency/1674302002/)

**More:** [Westborn Market of Plymouth, a former post office, bags state economic development award \(/story/money/business/2018/10/22/post-office-turned-westborn-market-plymouth-earns-state-award/1669904002/\)](https://www.hometownlife.com/story/money/business/2018/10/22/post-office-turned-westborn-market-plymouth-earns-state-award/1669904002/)

But the Percys have since opted for a Christmas tree farm.

"That was news to us," Kolb said.

Regardless, Pattwell said the Percy brothers believed they were exercising a state and local exemption for farming when they cleared the land.

"That was when the Canton tree police showed up," he said.

Canton Township Supervisor Pat Williams said he had a meeting Tuesday morning with mayors from Romulus, Westland, Livonia and Northville

Township — and they discussed the situation. He said they confirmed their communities all have tree ordinances similar to Canton.

"It's not unique," Williams said.

Pattwell said township officials, after learning of the situation, signaled immediately their intention to levy big fines. He has alleged that many plants referred to as trees by the township are, in fact, invasive species. He said the site "was teeming with invasive plants like phragmites, buckthorn, autumn olive and other scrub brush."

Kolb said Canton had in-house and outside arborists examine sections of a wooded area adjacent to the Percys' property to help determine the likely number of trees removed from the site where the brothers want to farm. She said that is how the township arrived at the 1,500 number.

Moreover, Kolb said, that determination is how officials arrived at the \$450,000 that the Percys may owe. She said the Percys could have reduced the amount to about \$350,000 by agreeing to pay into the township's tree fund. She also said it shouldn't technically be referred to as fines.

"It's a payment into the tree fund for opting not to replace trees," she said. "It's the same thing that any developer would have to do."

## Brothers have Canton roots

Pattwell said the Percys were born in Canton and their families and employees live there.

"They could have relocated the business to another town, but wanted their business to succeed in Canton," he said.

Meanwhile, Kolb said a state-regulated wetlands area is on the property, prompting the Michigan Department of Environment Quality to issue a violation notice to the Percys.

Pattwell said the Percys "have worked diligently with MDEQ to be able to move forward with the Christmas tree farm and believe that they have satisfactorily resolved all of MDEQ's stated concerns." He said the brothers have been careful not to plant Christmas trees in any possible wetlands area.

A phone message was left Tuesday morning with MDEQ.

Pattwell acknowledged that Wayne County initially expressed some concerns about tree removal that occurred near a county drain on the property. But after an inspection, he said, "Wayne County has not advised of any violations."

Kolb said Canton has a few options going forward: Do nothing, continue trying to resolve the issue with the Percy brothers, write them a ticket and go to 35th District Court or file legal action in Wayne County Circuit Court. It wasn't clear which action might occur.

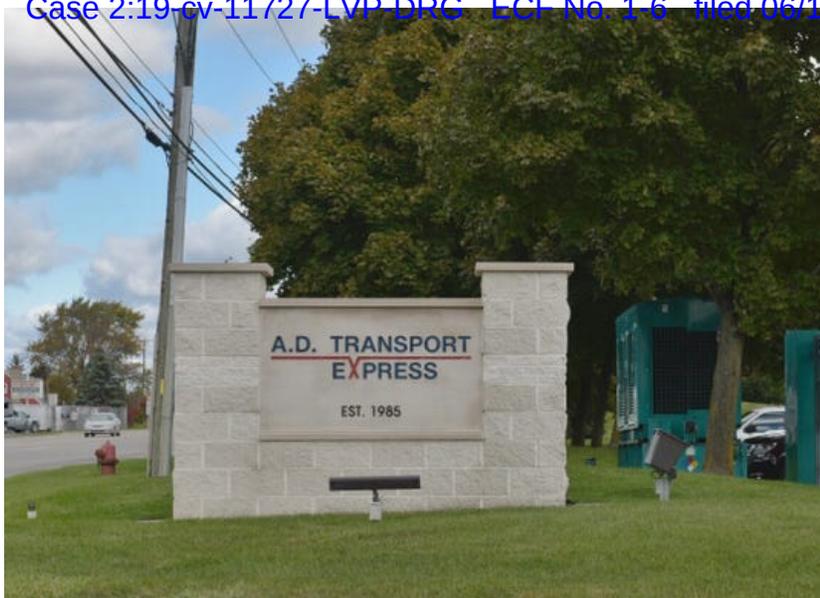
Kolb said Monday that Canton has waited six weeks for a new response from the Percys to see what is their next course of action. She said the Percys are being given two more weeks before Canton decides how to proceed.

Kolb said the situation is multi-pronged:

- The Percys didn't seek a permit to remove the trees. If they had, she said, they likely would have had to post a bond; agree to replace the trees on their property, in a park or elsewhere; or pay into Canton's tree fund. The brothers could have opted for a combination of those options.
- She said Canton requires 40 acres of land for a new farm, but the property in question is only 16 acres. She said it was bought and split off from a bigger, 40-acre site.
- Kolb said the Percys would have to ask for a variance to have a farm and would need a rezoning, because the property is zoned industrial.

Pattwell acknowledged that many Michigan communities have tree removal ordinances.

"They are meant to promote tree-lined streets in neighborhoods and protect old, stately heritage trees. The Percy brothers, and most people, support this as a community goal. But that's not what this case is about," he said. "We are talking here about a parcel of former pasture land surrounded entirely by industrial activity."



**Gary and Matt Percy have cleared land behind their business, A.D. Transport Express, where they are starting a Christmas tree farm, without Canton Township's permission. (Photo: Bill Bresler | hometownlife.com)**

"This case is about misguided overreach. It is unavoidably about whether people who own property are allowed to use it," Pattwell said. "And it is about local government abusing its authority to shake down its residents. We contend the Percy brothers exercised a farming exemption in the local tree removal law to clear the historic pasture behind their business and develop a Christmas tree farm."

Williams disagreed the situation is an overreach by Canton, saying the rules are in place for a reason.

"The reason for this ordinance is so that when developers come to do their projects in our community, there are controls in place to make sure that everybody's best interests in the community are taken into consideration," he said.

Canton officials contend the tree ordinance, in general, has been in effect for years as a way to protect land in the township and to prevent developers from doing what they want without regulatory oversight.

Pattwell said it's worth noting that Canton Township previously owned this land after acquiring it through tax reversion. He said fines Canton says it can impose are more than what the property sold for, calling the amount of fines "unconstitutional and outrageous."

Pattwell said the Canton site isn't the only family company dedicated to Christmas trees. Montgomery Farms, another family company established in 2006, specializes in secondary trees and has operated in Hillsdale and Albion, he said.

Contact Darrell Clem at [dclen@hometownlife.com](mailto:dclen@hometownlife.com). Follow him on Twitter: [@CantonObserver](https://twitter.com/CantonObserver).

Read or Share this story: <https://www.hometownlife.com/story/news/local/canton/2018/10/23/facing-up-450-k-fines-brothers-defy-canton-start-tree-farm/1728522002/>

# **EXHIBIT F**

US · Published October 23

# Michigan brothers face \$450,000 in fines for tree removal on their property

By Louis Casiano | Fox News





### Michigan brothers face up to \$500K fine for tree removal

The Percy brothers had no permit from their Michigan township when they cut down thousands of trees on their own land. Now they face up to \$450,000 in penalties.

Brothers in Michigan are facing nearly \$500,000 in fines for allegedly removing more than 1,400 trees from their 16-acre property without permission, a report on Monday said.

Gary and Matt Percy removed the trees with the intention of creating a Christmas tree farm on the Canton Township plot, their attorney Michael Pattwell told [MLive.com](http://MLive.com). The attorney said that the land was filled with invasive plants.



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"This case is about misguided overreach," Pattwell said. "It is unavoidably about whether people who own property are allowed to use it ... We contend the Percy brothers exercised a farming exemption in the local tree removal law to clear the historic pasture behind their business and develop a Christmas tree farm."

The Percys' are moving forward to plant 2,500 Christmas trees, and have already planted 1,000.

Township attorney Kristin Kolb said the brothers were told last year they needed a permit to remove the trees.

"(They) never came and got one," Kolb said.

The Township also requires landowners to replace any removed trees before cutting them down.

Kolb said an arborist estimated the number of trees cut down by comparing the land parcel to a nearby property with similar forestry.

"They identified certain plots," Kolb said. "They identified the number or type of trees and did some math to figure out approximately how many trees."

Patwell disputes the method used by the arborist.

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The township has offered to settle the dispute for \$450,000, the report said. The brothers could have received a credit to reduce the fees by paying into the township tree fund and planting new trees, Kolb said.

"The Percy brothers believed they were exercising a state and local exemption for farming when they cleared the land, but city officials arrived on-site and signaled immediately their intention to levy big fines in excess of \$700,000," Pattwell said. "But that's not what this case is about. We are talking here about a parcel of former pasture land surrounded entirely by industrial activity.

Kolb said the brothers have a few options: pay into the tree fund to plant new trees across the township, plant replacement trees or a combination of both.



The advertisement features a man in a dark suit and a woman in a red dress standing together. To their right is the FOX NATION logo, which consists of the word "FOX" in large blue letters with a red horizontal line above and below it, and the word "NATION" in smaller blue letters with a white star in the "O" and a red horizontal line above and below it. Below the logo is the text "Opinion Done Right." in blue. At the bottom of the advertisement are two stacked banners: a blue banner with the text "BECOME A FOUNDER" in white, and a red banner with the text "PRE-ORDER NOW" in white.

**Conversation (4,804)**

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Add a comment...

**777Pilot** ★ Leader · 1 Nov

Libs just trying to get more money for their failed policies....

Reply · Share · Report · 4 Likes ·



**gimeliorgimede** ★ Leader · 31 Oct · Edited

Michigan. So much for property rights. Property rights were sacrosanct by our country's Founding Fathers. They didn't want serfdom, that they escaped in England. I hope these men win in court. None of the state's business what they do with their property so long as it doesn't affect anyone outside of it.

Reply · Share · Report · 4 Likes ·



**UrpoloniusNyet** ★ Leader · 30 Oct

Stasi shield and sword of the township.

Reply · Share · Report ·



**WhatsahmtterU** ★ Leader · 30 Oct

Just a wild guess here mind you. but I'm willing to bet a dollar two ninety-eight forty-five, that the town is run by liberal money grubbing democrats. I used to live in just such a Ludacris Hole, Boulder, Colorado. You have to keep a log of your gaseous excretions there, and pay a carbon tax for each one. I am especially impressed though with the logic of the law that the brothers are confronted by. One option,, plant new trees before removing the old ones. Really??? It presents a bit of a space requirement problem don't you think? Besides,the Brothers are planting new trees. So what's the problem?? Well, there's the \$450,000.00 that the greedy little libs want to get their grubby little hands on for one. and two, Just like in every liberal hole, the problem is that certain folks want to exercise total control over you and your privately held property, that by the way, you pay taxes on. And have a say regarding things that are none of their Business to begin with.

Reply · Share · Report · 10 Likes ·



**John10065488** ★ Leader · 29 Oct



AM I the only one that noticed that you have to replace a tree before you cut one down? Does that even make any sense?

Reply · Share · Report · 18 Likes ·  

**WhatsahmtterU** ★ Leader  John10065488 · 30 Oct 

It does to liberals!!! But yes I did notice. It was the first hint that these poor guys are in fact dealing with Liberals!! And because of that, neither reality, nor logic, have anything to do with anything else.

Reply · Share · Report · 6 Likes ·  

**outhier** ★ Leader · 28 Oct 

Likely not why the ordinance was created just being used by those that had nothing to do with creating it to fill government coffers. Like in Kansas government promised to fund and get a new highway installed tolls would pay for it then it would be made a state highway with no tolls. When paid for the state, not the same that made the promises, found it was a money maker and increased to tolls. So much for government promises.

Reply · Share · Report · 1 Like ·  

**lanzecki** ★ Leader · 28 Oct 

Wait... what? You have to have permission to cut trees on your own property? How does that work, exactly?

Reply · Share · Report · 14 Likes ·  



*This message was deleted.*

**Ovrkill** ★ Leader · 28 Oct 

That's not gonna work.

Reply · Share · Report ·  

**DrErnesto** ★ Leader · 28 Oct 

Don't elect Socialists.

Reply · Share · Report · 20 Likes ·  

**LouDE2018** ★ Leader · 27 Oct 

The question is - since when can a township prevent a property owner from removing trees on their own parcel of land? I

# **EXHIBIT G**

## Michigan brothers face \$450K in fines for removing 1,500 TREES from their property

 [dailymail.co.uk/news/article-6309913/Michigan-brothers-face-450K-fines-removing-1-500-TREES-property.html](https://www.dailymail.co.uk/news/article-6309913/Michigan-brothers-face-450K-fines-removing-1-500-TREES-property.html)

October 24,  
2018

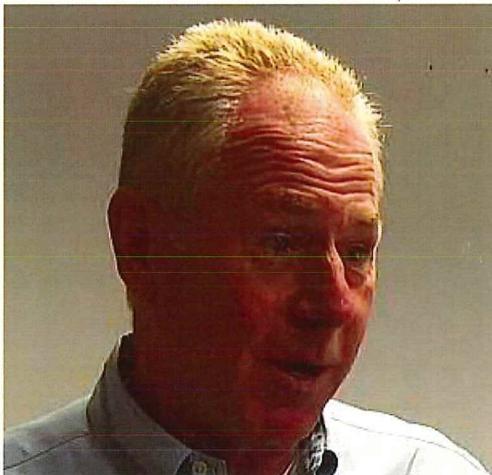
A pair of Michigan brothers may be required to pay a hefty \$450,000 in penalties after they haphazardly chopped down about 1,500 trees without a required permit.

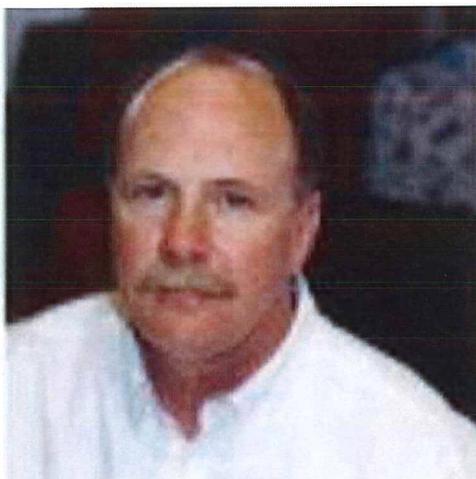
Gary and Matt Percy, who own 16 acres of adjacent land in Canton Township, cut the trees down with the intent of growing their family business.

Their attorney, Michael J. Pattwell, said the brothers planned to create a Christmas tree farm with the empty lot, according to [M Live](#).

However the township ordinance regarding landmark tree replacement requires land owners to have a permit as well as a plan.

Gary (right) and Matt Percy (left) face \$450,000 in fines after they cut down about 1,500 trees on their Canton Township property without a permit



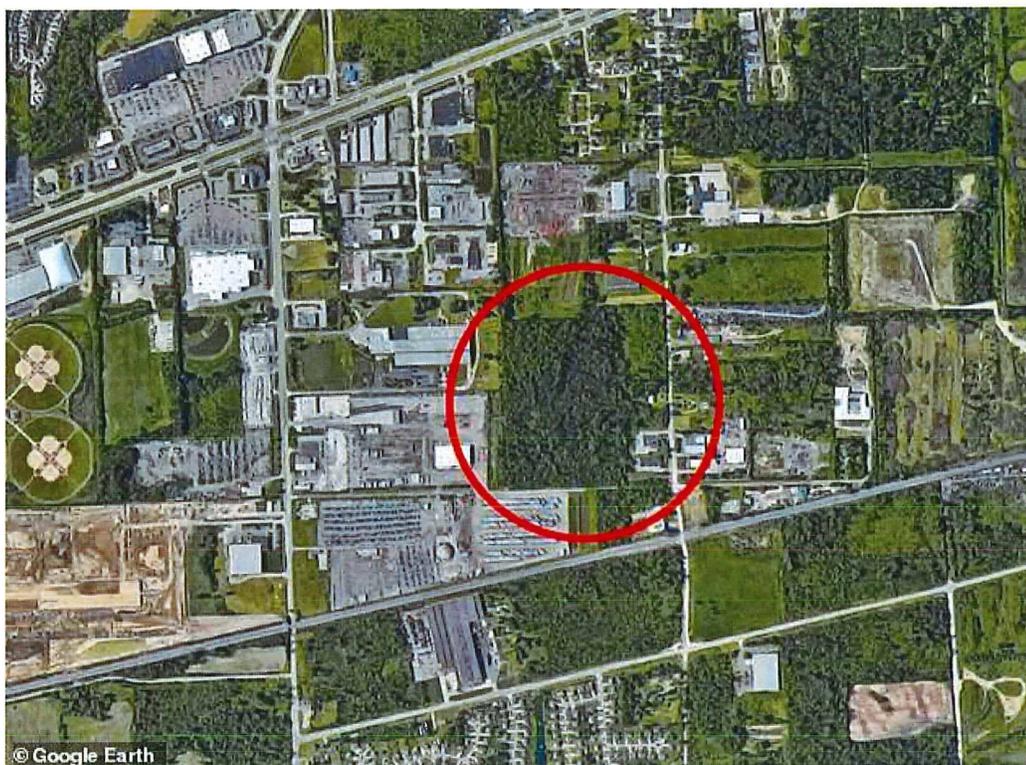


The brothers reportedly planned to create a Christmas tree lot with the space

'Whenever a tree removal permit is issued for the removal of any landmark tree with a (diameter at breast height) of six inches or greater, such trees shall be relocated or replaced by the permit grantee.

'Every landmark/historic tree that is removed shall be replaced by three trees with a minimum caliper of four inches. Such trees will be of the species from section,' the ordinance states.

'Whenever a tree removal permit is issued for the removal of trees, other than landmark/historic trees, with a (diameter at breast height) of six inches or greater (excluding boxelder (*acer negundo*), ash (*fraxinus* spp) and cottonwood (*populus* spp), such trees shall be relocated or replaced by the permit grantee if more than 25 percent of the total inventory of regulated trees is removed.'



The township ordinance requires that land owners have a permit as well as a plan



The Percys are also accused of causing damage to a natural drain and violating wetland regulations



Canton Township said the hefty price the Percys may be required to pay is based solely on its tree removal ordinance

Canton Township Community planner Jeff Goulet said in a statement seen on [WXYZ](#) that the Percys were informed numerous times before they cut the trees down that they would need a permit prior.

He added that the men are also currently accused of causing damage to a natural drain and violating wetland regulations.

The brother's attorney, Michael J. Pattwell, told M Live the Percys 'believed they were exercising a state and local exemption for farming when they cleared the land, but city officials arrived on-site and signaled immediately their intention to levy big fines.'

Canton Township said the hefty price the brothers could be required to pay is based solely on its tree removal ordinance.

### Canton Township's statement on brothers' tree removal

'The \$450,000 figure being referred to is not a "fine" or a "penalty." The amount of money proposed in Canton's settlement letter was proposed payment into the Township's tree fund for the removal of trees from the 16-acres parcel. It is based entirely on the standards of Canton's tree removal ordinance, and is required of almost every property owner who removes trees from their property as part of a development project.

The Percys were told twice in writing that a tree removal permit must be obtained prior to any tree removal activity on the site. They never made any application for a tree removal permit.

Had the Percys complied with Canton's tree removal ordinance, a tree survey would have been required, and would have provided the Township with the exact number and the specific types of trees that were removed. However, no survey was submitted, and by the time the Township was allowed on the property to analyze the tree removal, there was nothing left.

All of the trees had been removed and the tree stumps were ground up and gone. As a result, an analysis had to be conducted using the adjacent parcel by a professional arborist using a scientific method recognized in the arboriculture field to come up with a best guess of the number and types of trees that were removed.

After the analysis on the ADT property was complete, Canton's attorney was invited to submit a "settlement" proposal by providing a number that would resolve this dispute without litigation. In correspondence dated September 13, 2018, Canton's attorney laid out the violation, and some possible resolutions. As of Tuesday, October 23, Canton has received no response from their attorney.

Due to the existence of a county-owned drain and Department of Environmental Quality-

regulated wetlands on the Percys' property, the Michigan DEQ, Wayne County and the Wayne County Drain Commissioner's Office have also issued violation notices to Mr. Percy and are requiring remediation on the property that was fully clear cut without permits from any of these agencies.

Mr. Pattwell's statement that the property is a "retired grazing field" is false. Attached are aerial photographs of the property from April and October of last year, showing the property before and after the tree removal.

Finally, in response to the claim that the Percys intend to start a tree farm on the property: This is a change from a prior assertion that they were intending to plant corn on the property.

In either case, such use would not be permitted under the Zoning Ordinance, as the property is zoned Light Industrial, is too small (minimum 40 acres required for agricultural uses) and it is completely surrounded by other industrial uses. Additionally, a commercial tree farm must be licensed by the state.'

Source: WXYZ

# **EXHIBIT H**

## Here's the top five payments to Canton's tree fund in the past decade

Darrell Clem, Hometownlife.com Published 1:07 p.m. ET Oct. 29, 2018



(Photo: LobodaPhoto, Getty Images/iStockphoto)

A \$450,000 settlement offered to two brothers who cleared trees (<https://www.hometownlife.com/story/news/local/canton/2018/10/23/facing-up-450-k-fines-brothers-defy-canton-start-tree-farm/1728522002/>) from their Canton property, without the township's permission, far surpasses any amount developers have paid during the last 10 years.

That's the amount Canton officials say is owed by Gary and Matt Percy for cutting down an estimated 1,500 trees to start a Christmas tree farm behind their business, A.D. Transport Express, Inc., near Belleville and Yost roads.

Hometown Life asked Canton Township to name the top five payments made to Canton's tree fund during the past decade. Officials said the payments came from developers who followed the rules and plunked down money for not replacing all the trees they took down.

- Lombardo Homes shelled out \$174,600 for the Sheldon Estates development on Sheldon, between Cherry Hill and Palmer. The company didn't have enough room on-site to replace all the trees it cut down.
- Redwood Management paid \$80,600 for the Enclave at Brownstone complex near Palmer and Haggerty.
- Danny Veri of Livonia Builders plunked down \$27,900 for trees he couldn't replace at the Northgate apartment complex, under construction on Koppernick, near I-275.
- Presidential Builders paid \$19,200 into the tree fund for the Aspen Ridge development at Saltz and Beck.
- Developers paid \$6,750 for a small residential development on Shenandoah Circle, near Joy and Ridge.

Since Jan. 1, 2008, Canton has issued 107 tree removal permits. Of those, only 17 developers chose not to replace all trees and, instead, to pay at least some money into the tree fund, said Kristin Kolb, the township's corporation counsel. She recalled only two companies that didn't comply with local rules, but later backtracked, got permits and planted trees.

**More:** [New chapter: One of Canton library's first hires ready to turn the page](https://www.hometownlife.com/story/life/community/observer/canton/2018/10/26/canton-librarian-ready-retire-after-38-years/1748699002/) (<https://www.hometownlife.com/story/life/community/observer/canton/2018/10/26/canton-librarian-ready-retire-after-38-years/1748699002/>)

**More:** [In The Band gives young musicians chance to hone tunes](https://www.hometownlife.com/story/life/2018/10/18/parcs-band-song-making-mecca-young-musicians/1572290002/) (<https://www.hometownlife.com/story/life/2018/10/18/parcs-band-song-making-mecca-young-musicians/1572290002/>)

**More:** [Victory Ice Center rebuilds, expands with \\$3 million makeover in Plymouth](https://www.hometownlife.com/story/money/business/2018/10/26/victory-ice-center-gets-3-million-makeover-plymouth/1726029002/) (<https://www.hometownlife.com/story/money/business/2018/10/26/victory-ice-center-gets-3-million-makeover-plymouth/1726029002/>)

Kolb said the vast majority of developers replace all or most of the trees they take down, largely on-site or in places such as public parks. Those who don't typically agree to pay into Canton's tree fund.

The fund has a balance of about \$650,000 and is used to plant trees and improve local parks and other public areas.

Kolb called it "very rare" that a developer, without permission, clears a large site, as officials say the Percys have done.

Their attorney, Michael J. Pattwell, said the brothers "exercised a farming exemption in the local tree removal law" to clear the site for a Christmas tree

farm. They already have planted about 1,000 of the 2,500 trees they intend to plant, he said.

Canton officials haven't decided a course of action, though the situation could potentially lead to a court battle.

Officials say it wouldn't be the first time the township has had legal battles with the Percy brothers and A.D. Transport Express, Inc.

Canton Municipal Services Director Tim Faas said one court battle in the 1990s ended with the company paying for 200,000 gallons of water that it used inappropriately. Faas said a meter bypass — installed by the township as a backup for water when a company's meter is out of service — was used when it shouldn't have been and resulted in lower water bills. The township realized the situation during an audit.

The amount the company ultimately paid for the water wasn't immediately available.

Faas said the township also prevailed in a lawsuit filed by the company some 13 years ago over site plan details pertaining to an on-site truck washing facility.

And now the tree dispute could very well be headed to court.

"We also are absolutely prepared to take this case into a courtroom," Pattwell has said.

With the new tree dispute, Kolb said the Percys should have come forward with a site plan and to seek permission to remove an estimated 1,500 trees, though Pattwell disputes the number of trees and said much of what was removed was invasive plant species.

"It's very rare that someone clear-cuts a site," Kolb said, adding that most developers try to work trees and other natural features into their projects.

To that end, Canton gives developers some leeway, allowing them either to replace — or pay into the tree fund — only 75 percent of the trees that are taken down. Canton Community Planner Jeff Goulet said some developers use a combination of those options.

"We recognize that some of the trees are going to be lost," Goulet said, adding that Canton's ordinance isn't among the most restrictive in Michigan.

Officials concede that tree-removal rules are rather complicated. Generally, trees that are six inches in diameter when measured two feet up from the ground have to be replaced, though some older, "landmark" trees are much bigger and may have to be replaced with three smaller trees, Kolb said.

Some trees, such as diseased ash trees and certain elm trees, need not be replaced at all. And some trees cost more than others to replace.

To estimate the trees on the Percy property, Canton had arborists examine an adjacent wooded area to arrive at the 1,500-tree number.

Generally, the township relies on tree surveys submitted by developers who have to provide a count and list the types of trees, Kolb said.

"We're trusting that what they are going to be doing is honest," she said, saying Canton has been "very fortunate" that problems have been few.

And the situation with the Percys is one of the biggest, but Pattwell said the site in question "was teeming with invasive plants like phragmites, buckthorn, autumn olive and other scrub brush."

The Percys have other hurdles, too. Kolb said Canton requires 40 acres of land for a new farm, but the property designated for the Christmas tree farm is only 16 acres. Kolb said the Percys would have to ask for a variance to have a farm and would need a rezoning, because the property is zoned industrial.

Pattwell has dismissed Canton's approach as "misguided overreach" by a local government "abusing its authority to shake down its residents."

Goulet said the local tree ordinance evolved after a property owner in the early 1990s removed numerous trees from the site of what would later become Home Depot. Since then, local officials have tried to reign in wholesale tree-cutting, unless trees are mostly replaced.

Canton Township Supervisor Pat Williams has said the rules are in place for a reason.

"The reason for this ordinance is so that when developers come to do their projects in our community, there are controls in place to make sure that everybody's best interests in the community are taken into consideration," he said.

Contact Darrell Clem at [dclm@hometownlife.com](mailto:dclm@hometownlife.com). Follow him on Twitter: @CantonObserver.

Read or Share this story: <https://www.hometownlife.com/story/news/local/canton/2018/10/29/brothers-450-k-tab-canton-tree-fund-would-most-last-decade/1774570002/>

# **EXHIBIT I**

**Pattwell, Michael J.**

---

**From:** Kristin Kolb <kristin.kolb@canton-mi.org>  
**Sent:** Wednesday, October 24, 2018 4:31 PM  
**To:** Pattwell, Michael J.  
**Cc:** Carol Rosati  
**Subject:** RE: Gary & Matt Percy Fine

Unfortunately, this is fairly typical of the types of threatening and harassing communications that not only I, but also Township staff members who have nothing to do with this matter, have been receiving. I'm glad you were copied on Mr. Russ' email, so that you could see directly that I was not exaggerating the tone or tenor of the communications I mentioned in my email yesterday that the Township has seen flooding in over the past 48 hours.

Out of concern for my and my family's safety, I did notify Public Safety of this email last night, and now my family and my home are on the police special enforcement detail (we are Canton residents).

Perhaps this is not what your intentions were; perhaps it was. In either case, as I stated yesterday, this public relations war you have waged against Canton will not change the Township's course. In the meantime, Canton will continue to correct the misinformation you and your associates continue to spread.

Kristin Bricker Kolb  
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Charter Township of Canton  
1150 S. Canton Center Road  
Canton, Michigan 48188  
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[www.canton-mi.org](http://www.canton-mi.org)

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---

**From:** Pattwell, Michael J. [mailto:mpattwell@clarkhill.com]  
**Sent:** Wednesday, October 24, 2018 10:57 AM  
**To:** Brent Russ <brent.e.russ@gmail.com>; Kristin Kolb <kristin.kolb@canton-mi.org>  
**Cc:** dafana@mlive.com  
**Subject:** RE: Gary & Matt Percy Fine

Mr. Russ:

This kind of communication is not warranted, helpful, or productive to the conversation. To use ordinary English, it's simply not okay. Our client has a disagreement with the township over legal issues. Whether you intended to or not, your language here personalizes that conversation in a way that I think makes everyone uncomfortable.

Please don't mistake what you're doing here as helping anyone. And please understand that several of your points below, coupled with the tone of the communication, could be received as threatening and even warranting an alert to law enforcement.

We appreciate that you have strong feelings on this issue. But this goes too far. Please stop. One of the biggest problems in today's society is that people have forgotten how to disagree without being disagreeable.

Regards,

MJP

**Michael J. Pattwell**

CLARK HILL PLC

517.318.3043 (Direct) | 517.318.3082 (Fax) | 517.897.1087 (Cell)

**From:** Brent Russ [<mailto:brent.e.russ@gmail.com>]

**Sent:** Tuesday, October 23, 2018 5:26 PM

**To:** Kristin Kolb

**Cc:** [dafana@mlive.com](mailto:dafana@mlive.com); Pattwell, Michael J.

**Subject:** Re: Gary & Matt Percy Fine

Kristin,

The basis of my questions is to determine whether or not you are part of a gang of people who claim to have authority over others but possess absolutely zero evidence which supports your claim and establishes your legitimacy. They are the same questions I ask of many delusional people in law enforcement, government, and the legal system to highlight the utter dearth of integrity, honesty, and professionalism you all seem to conduct yourselves with.

Can you please cite where I asked for your legal advice or opinion? All of my questions are regarding facts, evidence, rational and logical thought, basic human morality, and professional ethics. Your *'legal advice'* deflection is the same garbage reply I get from many liawyers when I ask these questions. I've seen it hundreds of times. Most of what liawyers say is a deflection or distraction to the issues that are being raised.

Besides, the very concept of "legal advice" is as laughable as Santa Claus. I mean come on - when five US Supreme Court Justices look at identical facts, laws, and evidence, and they come to a split decision with the other four Justices - it's not like 'the law' is some intrinsic thing anyone can even know. It's just the opinions of people who wear stupid costumes and have such a personal lack of integrity they make others call them "your honor". LOL! Who even acts like that in any other profession? That's how religious cults operate. Imagine if I was consulting a client and I made them call me "your honor" and threatened to lock them in a cage if they disagreed with me? That is the epitome of mental illness and the hallmark of your profession.

So yeah, play your little liawyer games and say it's not a "fine". Make up some new fancy legal term and play your childish semantic games to avoid the moral question of your cults' activity.

It won't surprise me - Fred Rodell, Professor of Law at Yale, explained it all in 'Woe Unto You Lawyers' when he wrote - *"It is this fact more than any other – the fact that lawyers can't or won't tell what they are about in ordinary English – that is responsible for the hopelessness of the non-lawyer in trying to cope with or understand the so-called science of law. For the lawyers' trade is a trade built entirely on words. And so long*

*as the lawyers carefully keep to themselves the key to what those words mean, the only way the average man can find out what is going on is to become a lawyer, or at least to study law, himself. All of which makes it very nice – and very secure – for the lawyers."*

As to your question of who I am - I'm just a rational and sane adult trying to get the lunatics, like you, who are running this asylum, to stop acting like narcissistic, immature, sociopathic little assholes. You're no different than rapists, child molesters, or other weirdo kidnapping predators.

The only logically valid cause of action you will ever have is when you've got (1) a victim and evidence they suffered harm or injury in fact, and (2) the defendant's actions are fairly traceable to said harm/injury. But you already knew that - that is why refused to answer my questions and why you play the little lawyer games. It's who you are as a person.

Good luck with that conduct, Kristin. You better hope there isn't a God out there watching how you treat others - you probably won't like what He'll do to you when you face real justice. But then again - you will certainly deserve it, won't you?

-Brent

P.S. An even better joke:

Q. Why are there no lawyers in Heaven

A. God actually does hate fags.

On Tue, Oct 23, 2018, 13:10 Kristin Kolb <[kristin.kolb@canton-mi.org](mailto:kristin.kolb@canton-mi.org)> wrote:

Mr. Russ-

I do not know who you are, nor the basis for your questions, but I am not authorized to give legal advice or opinions to anyone besides my client, the Charter Township of Canton.

I will say that the Percy brothers have not been fined, nor threatened with a fine, despite Mr. Pattwell couching the matter as such.

Kristin Bricker Kolb  
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**From:** Brent Russ [mailto:[brent.e.russ@gmail.com](mailto:brent.e.russ@gmail.com)]  
**Sent:** Tuesday, October 23, 2018 2:51 PM  
**To:** Kristin Kolb <[kristin.kolb@canton-mi.org](mailto:kristin.kolb@canton-mi.org)>  
**Cc:** [dafana@mlive.com](mailto:dafana@mlive.com); [mpattwell@clarkhill.com](mailto:mpattwell@clarkhill.com)  
**Subject:** Gary & Matt Percy Fine

Dear Kristin Kolb,

In regards to the fine you are attempting to levy against Gary and Matt Percy for failing to obtain a permit for removing trees from their property - I was wondering if you would be honest enough to answer a couple questions for Dana, Michael, and I:

1. What facts and evidence did you rely upon to determine that the Constitution and Codes of Michigan and Canton Township applied to Gary and Matt Percy for the sole reason that they were physically present in Canton Township?
2. Can you provide a lucid and logical explanation of how physically being present somewhere creates a legally binding obligation to a written instrument (such as a code, contract, or constitution, etc.)?
3. If you are arguing that the Constitution, codes, and laws apply but do not have any evidence to support your claim and refuse to answer questions regarding your claim - would it be fair to conclude that you are arguing in bad faith?



11. Is irrationality a valid cause to extort money from others - or is that fraudulent by its very nature?

12. Was Dr. Fred Rodell, Professor of Law at Yale University, correct when he wrote in 'Woe Unto You Lawyers': *"The purpose of this little inquiry has rather been to show that the whole pseudo-science of The Law, regardless of its results, is a fraud."*

13. Is using a system of fraud to extort money from others ethical? Is it professional? Is it moral? Why or why not?

Thanks for your help!

Regards,

Brent

P.S. To brighten up your day, I've got a great joke us engineers love to share:

Q. Why are lawyers terrible at math? A. Because math is just logic and reason.

*This email message and any attachments are confidential and may be privileged. If you are not the intended recipient, please notify us immediately by reply email and destroy all copies of this message and any attachments. Please do not copy, forward, or disclose the contents to any other person. Thank you.*

# **EXHIBIT J**

**Pattwell, Michael J.**

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**From:** Pattwell, Michael J.  
**Sent:** Wednesday, October 24, 2018 4:41 PM  
**To:** 'Kristin Kolb'  
**Cc:** Bagne, Stephon B.; Smith, Matthew T.; Filipovich, Cynthia M.; Carol Rosati; Campbell, Stephen A.  
**Subject:** RE: Your Clients: Gary and Matt Percy

Ms. Kolb:

In our correspondence dated October 11, 2018, to which Canton did not respond, we advised that the Percy Brothers had authorized us to make a settlement offer subject to Rule 408 of the Michigan Rules of Evidence. We explained, however, that we have been unable to fully evaluate the matter at issue here due to the vagueness contained in Canton's notice of violation and subsequent settlement offer. Specifically, the papers issued by Canton failed to identify whether Canton intends to proceed with a civil or criminal action and the legal basis allowing it to proceed in whatever manner it identifies. In terms of the substantive merits, the two pages of summary data that form the basis of the tree counts are difficult to analyze. We requested confirmation that a recognized scientific basis exists to proceed with the methodology employed and the backup information that formed the basis of the evaluation.

Although Canton has chosen not to provide this basic information, we are nevertheless moving forward (subject to MRE 408) with a settlement offer in the amount of \$25,000.00. Without getting into the numerous legal defenses at play, it cannot be disputed that the health of the property has been significantly improved as a result the activities now in question. Moreover, after consulting with MDEQ, the Percy Brothers made sure that none of the 1,000 Christmas trees were planted in any areas identified as wetland by MDEQ. And, contrary to the statement below, the Percy Brothers do in fact have a MDARD nursery stock license which shows up on MDARD's database.

Regards,

MJP

**Michael J. Pattwell**

CLARK HILL PLC

517.318.3043 (Direct) | 517.318.3082 (Fax) | 517.897.1087 (Cell)

---

**From:** Kristin Kolb [mailto:kristin.kolb@canton-mi.org]  
**Sent:** Tuesday, October 23, 2018 12:10 PM  
**To:** Pattwell, Michael J.  
**Cc:** Bagne, Stephon B.; Smith, Matthew T.; Filipovich, Cynthia M.; Carol Rosati; Campbell, Stephen A.  
**Subject:** Your Clients: Gary and Matt Percy

Mr. Pattwell:

As Canton learned on Channel 7 News last night, your clients have apparently proceeded with the planting of 1,000 Norway spruce trees on the property they previously cleared.

To the extent this is an attempt to remedy their violation, it is not acceptable.

First of all, the trees planted are not of the same type and species as those removed, and therefore, they do not count toward replacement. Secondly, the planted trees do not meet the size requirements for replacement trees as set forth in the Zoning Ordinance. (See Article 5A of the Township Zoning Ordinance.)

The property is zoned GI-General Industrial, and agricultural operations are neither a principal permitted nor a special land use. (See Article 23 of the Township Zoning Ordinance.) Even if the Township Planning Commission were to allow the property (which is completely surrounded by industrial uses) to be rezoned to RA-Rural Agricultural, a minimum 40 acre parcel is required for an agricultural use, which your clients do not have. (See Article 9 of the Township Zoning Ordinance.)

Additionally, the MDEQ has indicated that, due to the existence of the regulated wetlands on the property (see Violation Notice dated June 11, 2018), a permit is required to plant trees. In speaking with Jeremy Richardson at the MDEQ, he is not aware of any permit or other authorization to plant trees in the wetlands. A commercial grower of trees also requires a nursery stock license from the MDARD. A search of the MDARD nursery stock licensing list shows no results for a nursery license for your clients (including for the Montgomery Farms tree farm they claim to own and operate).

Finally, thanks to your taking this to the media instead of engaging in professional negotiations to resolve this matter, Canton Township staff is having to endure threatening and abusive phone calls and emails. My paralegal was the unfortunate recipient of a threatening phone call (aimed at me). To extent you wished for a public outcry against Canton Township, you have succeeded through your mischaracterization of the issue and the dissemination of inaccurate information. To the extent you thought you might influence Canton Township's next steps in this matter, you were wrong.

Unless you finally decide to contact me to discuss this matter, I will assume your clients' response to my September 13<sup>th</sup> letter has been communicated through the media.

Kristin Bricker Kolb  
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# **EXHIBIT K**

**Pattwell, Michael J.**

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**From:** Kristin Kolb <kristin.kolb@canton-mi.org>  
**Sent:** Thursday, December 27, 2018 1:00 PM  
**To:** Pattwell, Michael J.; King, Ronald A.; Bagne, Stephon B.  
**Cc:** Carol Rosati; Anne McClorey McLaughlin  
**Subject:** RE: AD Transport--Fire/Building Inspection  
**Attachments:** MSD\_Map Ad Transport Business on Dec 19, 2018\_12272018.pdf

I spoke with Inspector Hamilton this morning, she will contact Matt Percy to schedule the follow-up inspection. She will specifically be expecting the "bunk house" to have all evidence of use as such to have been removed, as well as copies of the reports for the sprinkler systems and fire alarm testing.

I spoke with the Building Official about the lack of certificates of occupancy for any of the buildings. He has requested someone from AD Transport come to see him within 10 business days (on or before January 14, 2019), to discuss a plan for bringing the properties into compliance with the Building Code. Otherwise, a notice of violation and/or appearance ticket will issue. I've attached a map with the four buildings highlighted that are lacking certificates of occupancy. The address are 5601 Belleville (two separate buildings); 5699 Belleville Road; and 45050 Yost Road.

Thank you for your attention to these matters.

Kristin Bricker Kolb  
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**From:** Pattwell, Michael J. [mailto:mpattwell@clarkhill.com]  
**Sent:** Wednesday, December 26, 2018 5:36 PM  
**To:** King, Ronald A. <rking@clarkhill.com>; Kristin Kolb <kristin.kolb@canton-mi.org>; Bagne, Stephon B. <sbagne@clarkhill.com>  
**Cc:** Carol Rosati <crosati@rsjalaw.com>; Anne McClorey McLaughlin <amclaughlin@rsjalaw.com>  
**Subject:** RE: AD Transport--Fire/Building Inspection

Kristin:

I've spoken with Matt Percy. The list provided by the Fire Inspector has been completed. It may be most efficient if the Fire Inspector (without counsel) reaches out directly to Matt Percy. He was enjoying the holidays with his family but is now expecting her call and will make himself available to provide access.

Regards,

MJP

**Michael J. Pattwell**

CLARK HILL PLC

517.318.3043 (Direct) | 517.318.3082 (Fax) | 517.897.1087 (Cell)

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**From:** King, Ronald A.  
**Sent:** Wednesday, December 26, 2018 3:55 PM  
**To:** Kristin Kolb; Pattwell, Michael J.; Bagne, Stephon B.  
**Cc:** Carol Rosati; Anne McClorey McLaughlin  
**Subject:** RE: AD Transport--Fire/Building Inspection

Kristen – Thank you for reaching out. I am not sure of the availability of everybody copied on this email over the Holidays. However, in the interim, please do not take any action without consulting me. I am in the office this week or otherwise available by cell (517-449-2860). I will confirm where we stand as soon as possible.

Ron

**Ronald A. King**

CLARK HILL PLC

517.318.3015 (Direct) | 517.318.3068 (Fax) | 517.449.2860 (Cell)

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**From:** Kristin Kolb [<mailto:kristin.kolb@canton-mi.org>]  
**Sent:** Wednesday, December 26, 2018 3:49 PM  
**To:** King, Ronald A.; Pattwell, Michael J.; Bagne, Stephon B.  
**Cc:** Carol Rosati; Anne McClorey McLaughlin  
**Subject:** AD Transport--Fire/Building Inspection

Gentlemen:

The purpose of this email is to inquire as to whether you are representing Gary and Matthew Percy in their capacity as owners of A.D. Transport and/or 5601, Inc. or any other entity that owns the property on which A.D. Transport operates in Canton Township.

One of the Township's fire inspectors came to see me last week, asking about conducting the follow-up to her fire safety inspection from October 23, 2018, at which time she noted some significant fire and building code violations. Among other things, she noted one of the buildings had been converted into sleeping quarters without permits or inspections, the use of extension cords to provide power, failing to illuminate emergency exits, and so on. Upon investigating the sleeping quarters, she was unable to locate certificates of occupancy for any of the buildings used by A.D. Transport.

If in fact you do represent A.D. Transport, the Township is requesting permission for the fire marshal and the building official to have access to the properties to conduct thorough inspections. Given Mr. Pattwell's overly narrow interpretation of MRPC 4.2, I advised staff not to return to the property until I have had the opportunity to consult with you.

Please advise if the inspectors will be permitted to inspect the A.D. Transport property/-ies, or if an administrative search warrant will be necessary.

Kristin Bricker Kolb  
Corporation Counsel

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# WARNING NOTICE OF ORDINANCE VIOLATION

**CANTON DEPARTMENT OF PUBLIC SAFETY**  
1150 S Canton Center Road • Canton, MI 48188  
734-394-5335

**NAME:** AD TRANSPORT

**ADDRESS:** 5601 BELLVILLE UNIT #1

**TIME/DATE:** 5-30-19

**VIOLATION(S):** NO CERTIFICATE OF OCCUPANCY FOR BUILDINGS: 5601 BELLVILLE UNIT #1, UNIT #2 AND 4505D YOST

**COMPLIANCE DATE:** 6-10-19 **CASE #** \_\_\_\_\_

The listed violations must be corrected by the compliance date. Non-compliance may result in court action.

- Upon conviction, defendant may be subject to penalties of not more than \$500.00 and/or 90 days in jail.
- Upon conviction, defendant may be subject to minimum of \$200.00 fine (or \$400.00 fine for second offense) and/or other penalties.

If you have any questions or concerns please contact the listed Ordinance Inspector at your earliest convenience.

**ORDINANCE INSPECTOR:** MARK HOOK

**PHONE NUMBER:** 734-394-5180