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IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

CITY OF EAGLE, a municipal corporation  
of the State of Idaho,

Plaintiff,

vs.

EAGLE SENIOR CITIZENS, INC., an Idaho  
nonprofit corporation,

Defendant/Counter-Claimant

vs.

JASON PIERCE, in his official capacity as  
Mayor of the City of Eagle, and in his  
individual capacity, HELEN RUSSELL, in  
her official capacity as member of the Eagle  
City Council, and in her individual capacity,  
JOHN DOES 1-10, unidentified employees  
of the City of Eagle,

Third-Party Defendants.

Case No.: CV01-23-10374

VERIFIED ANSWER, AFFIRMATIVE  
DEFENSES, COUNTER-CLAIMS,  
THIRD PARTY COMPLAINT AND  
DEMAND FOR JURY TRIAL

COMES NOW, Defendant/Counter-Claimant Eagle Senior Citizens, Inc., (hereinafter, “Eagle Seniors,” “Eagle Senior Center,” and “the Nonprofit”), through counsel Brian A. Ertz and Eileen R. Johnson of Ertz Johnson, LLP, and Scott L. Rose of Scott Rose, P.C., and answers City of Eagle’s complaint, affirmatively defends, counterclaims, and complains against third parties as follows:

**ANSWER TO COMPLAINT**

1. Eagle Senior Center, Defendant, denies each and every allegation of the Complaint not specifically admitted to herein.

2. Eagle Senior Center admits Complaint Paragraph Nos. 1, 2, 3, 4, 4(sic), and 5.

3. Eagle Senior Center denies Complaint Paragraph Nos. 8, 9, 10, 16, 17, 18, 21, 23, 24, 26, and 29.

4. Eagle Senior Center admits Complaint Paragraph No. 6 in part and denies it in part; Eagle Senior Center admits Tami Galt made a presentation to the Eagle City Council on August 12, 2021, including a draft budget document and Eagle Senior Center’s Profit and Loss Statements for 2019 and 2020, but denies the presentation was about “the financial viability of ESC;” and therefore denies Complaint Paragraph No. 6.

5. Eagle Senior Center admits Complaint Paragraph No. 6(sic) in part and denies it in part; Eagle Senior Center admits Ms. Galt submitted ESC’s Profit and Loss Statement from October 2019 to September 2020, but denies any inference regarding ESC’s financial viability or inference of a “grim financial picture;” and therefore denies Complaint Paragraph No. 6(sic).

6. Eagle Senior Center admits Complaint Paragraph No. 7 in part and denies it in part; Eagle Senior Center admits net income stated on the Profit and Loss Statement for October 2019

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through September 2020 is negative (-) \$98,857.15. Eagle Senior Center denies Exhibit "A" is a true and correct copy of the January through December 2019 Profit and Loss Statement as it is missing the second page itemizing expenses, total expenses, net ordinary income, and net income, and did not include the draft budget document presented; and therefore denies Complaint Paragraph No. 7.

7. Eagle Senior Center admits Complaint Paragraph No. 11 in part and denies it in part; Eagle Senior Center admits holding Certificate of Deposits on August 12, 2021 but denies all remaining allegations and inferences in Complaint Paragraph No. 11; and therefore denies Complaint Paragraph No. 11.

8. Eagle Senior Center admits Complaint Paragraph No. 12 in part and denies it in part; Eagle Senior Center admits holding seven (7) Certificate of Deposits on August 12, 2021, and denies all remaining allegations and inferences in Complaint Paragraph No. 12; and therefore denies Complaint Paragraph No. 12.

9. Eagle Senior Center admits Complaint Paragraph No. 13 in part and denies it in part; Eagle Senior Center admits holding seven (7) Certificate of Deposits on December 31, 2022, but denies all remaining allegations and inferences in Complaint Paragraph No. 13, in particular because Plaintiff's allegation of value is not defined; and therefore denies Complaint Paragraph No. 13.

10. Eagle Senior Center admits Complaint Paragraph No. 15 in part and denies it in part; Eagle Senior Center admits Ms. Galt presented at the August 12, 2021 Special Meeting, and denies all remaining allegations and inferences in Complaint Paragraph No. 15; specifically admits presenting the profit & loss statements and draft budget document, and denies representing "finances;" and therefore denies Complaint Paragraph No. 15.

11. Eagle Senior Center admits Complaint Paragraph No. 19 in part and denies it in part; Eagle Senior Center admits the City of Eagle asked the Eagle Senior Center to present at their meeting as to operation expenses and Ms. Galt presented the October 2019 through September 2020 Profit & Loss Statement, and draft budget document, denies those documents were “false” and denies all remaining allegations and inferences in Complaint Paragraph No. 19; and therefore denies Complaint Paragraph No. 19.

12. Eagle Senior Center admits Complaint Paragraph No. 20 in part and denies it in part; Eagle Senior Center admits the City of Eagle had no reason to doubt Ms. Galt, but denies the City of Eagle should not have questioned her (and, in fact, did question her), denies she presented Eagle Senior Center’s “financial status” where she presented the October 2019 through September 2020 Profit & Loss Statement, and draft budget document, and denies all remaining allegations and inferences in Complaint Paragraph No. 20; and therefore denies Complaint Paragraph No. 20.

13. Eagle Senior Center admits Complaint Paragraph No. 22 in part and denies it in part; Eagle Senior Center admits the City of Eagle made financial contributions to Eagle Senior Center in the past prior to August 12, 2021, based mainly on the needs of its elderly citizens, and in part on financial Statements provided by the Eagle Senior Center to the City of Eagle; Admits the City of Eagle was justified, in part, in relying on the October 2019 through September 2020 Profit & Loss Statement, and in relying on many other things, including but not limited to the draft budget document, needs of the other non-profits operating in the City, experience of the Mayor and Council Members, services provided by Eagle Senior Center over the previous thirty-plus years, contributions by other municipalities to the Eagle Senior Center, funding activities, and availability and source of monies to appropriate; The Eagle Senior Center denies the

inference in the allegation of Complaint Paragraph No. 22 of any impropriety or falsehood in the October 2019 through September 2020 Profit & Loss Statement, and denies all remaining allegations and inferences in Complaint Paragraph No. 22; and therefore denies Complaint Paragraph No. 22.

14. Eagle Senior Center admits Complaint Paragraph No. 27 in part and denies it in part; Eagle Senior Center admits the City of Eagle provided \$100,000 during Covid from federal funding for fiscal year 2020 - 2021 ("prior appropriation"), and denies the August 12, 2021 Special Meeting had anything to do with the prior appropriation of \$100,000, admits that the August 12, 2021 Special Meeting led to an appropriation of \$50,000 to the Eagle City Center and thereafter applied to and expended on the purposes of the appropriation, i.e., to assist in funding programming for the elderly, and thereby the Eagle Senior Center mutually conferred a benefit on the City of Eagle; Eagle Senior Center denies the City of Eagle conferred a benefit without a mutual returned benefit, because the Eagle Senior Center assisted many elderly; The Eagle Senior Center denies all remaining allegations and inferences in Complaint Paragraph No. 27; and therefore denies Complaint Paragraph No. 27.

15. Eagle Senior Center admits Complaint Paragraph No. 28 in part and denies it in part; Eagle Senior Center admits the City of Eagle provided \$50,000, by four \$12,500 payments after the August 12, 2021 Special Meeting and admits that the August 12, 2021 Special Meeting led to an appropriation of \$50,000, which was received by the Eagle Senior Center; The Eagle Senior Center denies the amount received after the August 12, 2021 Special Meeting was in the amount of \$100,000, and denies all remaining allegations and inferences in Complaint Paragraph No. 27; and therefore denies Complaint Paragraph No. 27.

16. Eagle Senior Center answers Complaint Paragraph Nos. 14 and 25 re-allegation

paragraphs as stated above to the substantive paragraphs.

17. Eagle Senior Center denies the City of Eagle is entitled to costs including attorney's fees; and denies all allegations and inferences in Complaint Paragraph entitled "Attorney Fees."

18. Eagle Senior Center requests a JURY determination on the City of Eagle's Complaint.

19. Eagle Senior Center denies the City of Eagle's Complaint language "VERIFICATION" on Complaint page No. 7, comprises a verification of the facts alleged.

20. Eagle Senior Center denies the City of Eagle's Clerk has the authority or knowledge to attest to the factual or speculative allegations in the Complaint, in particular with reference to the general allegations and fraud elements alleged.

#### AFFIRMATIVE DEFENSES

Having fully set forth answers to all allegations contained in the Complaint, Eagle Senior Center sets forth the following by way of Affirmative Defense:

21. Eagle Senior Center incorporates by reference its answers to the allegations in Paragraph Nos. 1 through 20, as first stated above.

22. Plaintiff's Complaint fails to set forth a claim upon which relief can be granted.

23. The City of Eagle's claims are time barred, in part, by the statute of limitations.

24. The City of Eagle's damages, if any, are its own fault.

25. The City of Eagle initiated Eagle Senior Center's request for funding, and solely set forth the information it represented it desired.

26. The City of Eagle voluntarily paid with full knowledge of all information it requested.

27. The City of Eagle, alone, determined its pre-funding parameters, which were vague.

28. The City of Eagle is not entitled to restitution of money based upon the Eagle Senior Center prudently investing in Certificates of Deposit.

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29. Post-funding the City of Eagle arbitrarily developed its funding parameters and requirements.

30. The \$50,000 appropriation, or all amounts actually conferred, was used specifically for the purposes intended.

31. Plaintiff's claims are barred by the doctrine of unclean hands.

32. Plaintiff's claims are barred by the doctrine of Laches.

33. Course of conduct.

34. The City of Eagle is trying to penalize the Eagle Senior Center out of existence.

35. Plaintiff's claims are barred by the doctrine of Estoppel.

36. The Eagle Senior Center funded the construction and renovation of the Eagle Senior and Community Building and any damages must be offset.

37. Plaintiff's claims are barred for its unconscionable conduct.

38. Plaintiff's claims are barred because Plaintiff failed to take advantage of preventative or corrective opportunities or to otherwise avoid harm.

39. Plaintiff's claims are barred in full or in part due to its own carelessness, intentional negligence, and/or bad faith.

40. Plaintiff's position in litigation is contrary to public policy.

41. Plaintiff's claims are barred for failure to join an indispensable party.

42. The City of Eagle knew or should have known at all relevant times the Eagle Senior Center owned Certificates of Deposit.

43. The City of Eagle failed to draft a contract.

44. Fraud was pleaded with neither particularity, nor specifically.

45. Plaintiff claims fail for failure of condition precedent.

46. Plaintiff's claims constitute unlawful retaliation for constitutionally protected activity.
47. Plaintiff's claims should be denied for its negligence, and/or bad faith.
48. Promissory estoppel.
49. Ratification.
50. Res Judicata.
51. Eagle Senior Center acted in good faith.
52. The City of Eagle citizens received more than equivalent value from the efforts of the Eagle Senior Center than the distributed amount.

### **COUNTER-CLAIMS AND THIRD PARTY COMPLAINT**

Comes now, Eagle Senior Citizens, Inc. for its Counterclaims against City of Eagle, and Third-Party Complaint against Jason Pierce, in his official capacity as Mayor of the City of Eagle, and in his individual capacity, and Helen Russell, in her official capacity as City Council Member of the City of Eagle, and in her individual capacity, and John Does 1-10, unidentified employees and/or agents of the City of Eagle, states as follows:

#### **Parties and Jurisdiction**

53. Eagle Senior Citizens, Inc. incorporates all preceding allegations herein by reference as though fully set forth herein.

54. Eagle Senior Citizens, Inc. ("Eagle Seniors," "Eagle Senior Center" and the "Nonprofit") operates as an Idaho nonprofit corporation with its headquarters located at 312 E. State Street in Eagle, Idaho in Ada County until early June 2023. Since early June 2023, Eagle Senior Citizens' headquarters was forced to move to 651 N. Eagle Road – Eagle, Idaho 83616 in Ada County, by the wrongful acts of the City of Eagle and its agents.



55. The City of Eagle is a political subdivision of the State of Idaho located in Ada County.

56. Third-Party Defendant Jason Pierce is a resident of and the Mayor of the City of Eagle. He is sued in his official capacity for equitable relief and in his individual capacity for damages.

57. Third-Party Defendant Helen Russell is a resident of and a member of the City Council of the City of Eagle. She is sued in her official capacity for equitable relief and in her individual capacity for damages.

58. The "John Doe" Third-Party Defendants 1 through 10 are unidentified employees or agents of the City of Eagle who searched, seized, and/or accessed Eagle Senior Center's private and confidential accounts and documents without consent and without a warrant, and those who seized Eagle Senior Center's personal properties and locked Eagle Senior Center out of its facility without consent, without a warrant, without notice, and without warning.

59. This Court has subject matter jurisdiction in this action and the damages herein are alleged to be in excess of \$10,000.00; and the monetary amounts in controversy exceed the minimum jurisdictional amounts of the District Court.

60. Venue is proper in this Court because the events and omissions giving rise to this action occurred in Ada County.

### **GENERAL ALLEGATIONS**

#### **Historical Background**

61. On or about March 18, 1975 Leona House and C.L. "Doc" House, husband and wife, donated the land upon which Eagle City Hall and a new Senior Citizen and Community Building would later be constructed, to the City of Eagle on the understanding and agreement that the site would be put to public-purpose, including as a site for city hall and as a facility to

facilitate and promote the programming of the Eagle Senior Center, then an association of residents of Eagle.

62. In 1976 Eagle community members, volunteers, and philanthropists more formally associated and organized the Eagle Senior Center, an association committed to facilitating a space for Eagle residents to congregate and organize programs to address the issue of isolation that leads to depression, poor health habits, and lack of emotional and health-related support for Eagle senior citizens.

63. In June 1984 the association formally incorporated the Eagle Senior and Community Building Association, Inc., an Idaho nonprofit corporation, to raise and develop resources for the construction of a facility, the proposed Eagle Senior and Community Building.

64. Made possible by the House's generous donation of land, and in partnership with the City of Eagle, the Eagle Senior Center joined in the common effort of many community volunteers and benefactors to complete construction of a new shared facility in which the Nonprofit conducted its programming adjacent to Eagle City Hall.

65. Fundraising brochures were distributed to raise funds soliciting money and work pledges and donations. A target goal of raising \$120,000.00 to complete the project was set. Those who donated \$100.00 or more were made members of the "Golden Eagle Club," their names would be engraved on plaques to be permanently hung at the facility.

66. By May 1987 about \$170,000.00 was raised, including a substantial amount by the private nonprofit, and an agreement was approved to begin construction on the Eagle Senior and Community Building.

67. On August 28, 1987 with the involvement of private Eagle community members, leaders, and volunteers Eagle Senior Citizens, Inc. was incorporated to better organize, develop,

build, and establish programs and facilities to serve Eagle's community of senior citizens.

68. Prior to Eagle Senior Citizens, Inc.'s incorporation, since 1976 and to this day the Nonprofit is known as and does business as "Eagle Senior Center." For not less than 35 years, Eagle Senior Citizens, Inc. has done-business-as "Eagle Senior Center."

69. Construction of the new facility was completed in 1988.

70. Upon completion, the shared building housing Eagle City Hall and the facility operated by Eagle Senior Center was divided into two mailing addresses. City Hall took the common address at 310 E. State Street and the Eagle Senior Center's facility was located at 312 E. State Street.

71. Eagle Senior Center enjoyed the larger of the two sections of the building, which included a commercial kitchen. Each location had been serviced by its own separate utilities. For example, each had its own separate power meter, installed in 1987.

72. Since 1988 the Eagle Senior Center has leased the physical facilities located at 312 E. State Street from the City of Eagle for one dollar (\$1.00) per year.

73. Since 1988 the Eagle Senior Center has been responsible to pay for their own utilities for their use of the premises.

74. The first lease between Eagle City and the Nonprofit included a term of twenty (20) years and was signed by Eagle Mayor Steve Guerber in 1988 (the "1988 Lease").

75. In 2006 Eagle City completed construction of a new city hall facility at a different location. Following City Hall's construction, the City of Eagle turned over the entire building, both the facilities previously enjoyed by Eagle Senior Center and the facilities previously utilized by the City of Eagle, to the Eagle Senior Center tenancy.

76. Eagle Senior Center expanded its use of the facilities to include a renovation and

improvement of the entire building.

77. To support the expanded use, improvements, and renovation of the entire building, Eagle Senior Center utilized its own private funds, established a fundraising steering committee, organized private individual benefactors, solicited donations, grants, and gifts from private individuals, local businesses, government, and also leveraged its existing programming by organizing the enthusiastic and able volunteer support of several Eagle senior citizens who enjoyed the Eagle Senior Center's programming and facility themselves, and who contributed to the renovation by, as one example, volunteering to paint with the supplies and tools donated by the local Home Depot store, among other contributions to the renovation.

78. The second lease between the City of Eagle and the Nonprofit included a term of twenty (20) years and was signed by Eagle Mayor Nancy Merrill in 2006 (the "2006 Lease").

#### **Factual Allegations**

79. On or about February 24, 2015 the City of Eagle and Eagle Senior Center entered into the Second Amended Lease Agreement, whereby the Nonprofit leased the Eagle Senior Citizen and Community Center from the City of Eagle for one dollar (\$1.00) per year for a term of thirteen (13) years (the "Second Amended Lease Agreement"), which was signed by Eagle Mayor James D. Reynolds in 2015.

80. As a part of the Second Amended Lease Agreement, Eagle Senior Center is entitled to sublease the premises, and did do so, as a source of revenue in support of its provision of programming and services.

81. As a part of Eagle Senior Center's programming, for years the Nonprofit has provided a transportation service to Eagle senior and disabled residents. Through its contract and relationship with Valley Regional Transit ("VRT"), Eagle Seniors has served seniors and

disabled residents with rides to medical services, to pick up groceries, legal services, visits between seniors still living at home with their spouses in assisted living facilities, to visit extended family and friends, and most other day-to-day transport needs essential to the maintenance of Eagle senior and disabled residents' independent living.

82. On or about June 2020 a member of the City of Eagle City Council invited staff at Eagle Senior Center to give the council a presentation on its programming so that the City of Eagle could determine whether or not to distribute a grant in contribution to ongoing programming for seniors during the COVID-19 epidemic.

83. On or about June 23, 2020 a staff member of Eagle Senior Center gave a presentation to the City of Eagle explaining the essential program services Eagle Senior Center continued to provide to often isolated senior citizens in the Eagle community, demonstrating its operating budget and anticipated budgetary shortfall amidst the COVID-19 disruptions, and expressing the difficulties and uncertainties of providing services amidst the pandemic and shutdowns.

84. The City of Eagle authorized four quarterly payments of \$25,000.00 per quarter to Eagle Senior Center for fiscal year 2020-2021.

85. On or about September 22, 2022 Eagle Senior Citizens, Inc. entered into contract with Valley Regional Transit to provide transportation to Eagle senior and disabled residents for a term effective October 1, 2022 through September 30, 2023.

86. As a part of Eagle Senior Center's programming, in 2014 the Nonprofit entered into an ongoing contract and relationship with CCOA – Aging, Weatherization and Human Services, dba Metro Community Services, dba Metro Meals on Wheels ("Meals on Wheels") for use of the kitchen and dining room facility, along with Eagle Senior Center staff and volunteers, to provide meals to senior citizens in the facility not less than three times per week ("Meals on

Wheels Contract”).

87. The City of Eagle appoints a single member of the City Council to be liaison between the City and Eagle Senior Center.

88. In 2022, the City Council of the City of Eagle appointed council-member Brad Pike to be the liaison between the City and the Nonprofit.

89. On information and belief, at the time unknown to Eagle Senior Center’s board of directors, in early 2022 Eagle Senior Center Board President was experiencing personal, medical, and health issues that rendered her vulnerable and susceptible to the undue influence of others.

90. During the Spring and Summer of 2022, Eagle City Council member Helen Russell, along with Council liaison Brad Pike, began attending Eagle Senior Center’s board meetings and took a special interest in the internal affairs of the Nonprofit.

91. On or about April 2022 council-member Russell requested of a representative of Valley Regional Transit all information regarding the contract between the Nonprofit and VRT, including all performance and reimbursement details, “Anything and everything basically!”

92. That same month, on or about April 2022, members of the City of Eagle, including council-member Russell solicited Tami Galt and Angie Meyer to meet with the City and solicited detailed information about Eagle Senior Center’s operations with Valley Regional Transit. Members of Eagle Senior Center’s board of directors were not present nor invited to the meeting.

93. Upon information and belief, the City of Eagle had multiple meetings with members of Valley Regional Transit in the following months. Council-member Russell was meeting with VRT regarding the Eagle Senior Center’s program on a frequent and regular basis.

94. On or about May 2022 council-member Russell inquired of a representative of Valley Regional Transit regarding contract details and budget concerns between VRT and Eagle Senior Center.

95. On or about June 2022 council-member Russell inquired of a representative of Valley Regional Transit regarding transportation pamphlets available at the Eagle Senior Center's facility.

96. That same month, council-member Russell emailed VRT regarding Eagle Senior Center's and VRT's shared vehicle expenses, seeking to renegotiate the terms of the parties' agreement.

97. In a subsequent communication with VRT in July 2022, council-member Russell complained to a representative of VRT that Eagle Senior Center was maintaining its membership records using paper, and needed a better system.

98. On or about July 13, 2022 council-member Russell attended an Eagle Senior Center board meeting in which she told the board of directors that the accounting methods for the Nonprofit's facility program and its transportation programs needed to be separated and to change.

99. On or about August 2022, without notifying nor otherwise requesting authorization from the Eagle Senior Citizens, Inc. board of directors, council-member Russell directed Eagle Senior Center office manager Tami Galt to provide her with copies of its internal financial statements and contracts with third-parties.

100. On or about August 12, 2022 Council member Russell directly emailed a representative of Valley Regional Transit purporting to act on behalf of the Eagle Senior Center and requesting details regarding the boundaries of service.

101. On or about August 22, 2022 Council member Russell directly emailed a representative of Meals on Wheels, purporting to act on behalf of Eagle Senior Center, requesting private details about the financial relationship, including copies of its contracts, between Eagle Senior Center and Meals on Wheels.

102. On or about September 19, 2022 council member Russell directly emailed a representative of Valley Regional Transit, requesting information regarding the timeframe Eagle Senior Center would receive budget and contract details between the Nonprofit and VRT for the following fiscal year.

103. That same month, on or about September 2022, council-member Russell directed Eagle Senior Center to outsource its own book-keeping and accounting to a bookkeeper, referred to by council-member Russell.

104. On or about September 30, 2022 council-member Russell directed Eagle Senior Center office manager Tami Galt to provide her with username and password information to Eagle Senior Center's private financial accounts, including banking account numbers, routing numbers, and other private and confidential account numbers.

105. On or about October 7, 2022 council-member Russell provided Eagle Senior Center office manager Tami Galt with contact information to a new accountant that council-member Russell had arranged for the Nonprofit.

106. On or about November 1, 2022 the Eagle Senior Center held a special board meeting. Helen Russell presented the Eagle Senior Center board of directors with an overview indicating her own intimate familiarity with the Nonprofit's financial, banking, and accounting information.

107. At that November 1, 2022 board meeting a handout was distributed to the board



entitled "History of Late Payroll Tax Payments: Board Meeting Nov 1, 2022" ostensibly signed by Board President Sandra Appelhans. The handout details allegations concerning late payroll tax payments, the alleged failure of a board member to disclose a staff-member's late payroll tax payments, and an allegation that an attorney reviewed the Nonprofit's governing documents and a member of the board would need to resign or be removed.

108. At the November 1, 2022 board meeting, board member Sylvia Carney resigned from the Nonprofit's board of directors.

109. At the November 16, 2022 Eagle Senior Center board meeting, two separate and discrete sets of November 1, 2022 meeting minutes were presented to the board.

110. The first set of minute notes was taken by Eagle Senior Center board member Sylvia Carney on request of Board Secretary Helen Wright, who typically takes notes and prepares minutes for the Nonprofit but was physically unable to attend the November 1, 2022 meeting. Mrs. Carney and Mrs. Wright reviewed the notes following the meeting and minutes were scribed to present for approval at the November 16, 2022 board meeting.

111. An additional set of minutes was scribed by Angela Meyer and also presented for approval at the November 16, 2022 meeting.

112. On or about December 12, 2022 the City of Eagle, Valley Regional Transit, and Eagle Senior Citizens, Inc. were each served with a notice of tort claim regarding an injury alleged to have been sustained in a van/bus operated by Valley Regional Transit for the Eagle Senior Center toward the end of October 2022.

113. On or about December 22, 2022 Eagle Senior Center had its annual meeting.

114. At the December 22, 2022 annual meeting, a staff member of Eagle Senior Center distributed a letter entitled "A Message to Our Senior Center Members from your President,

Sandra Appelhans” ostensibly written by Board President Sandie Appelhans and delivered to the meeting on her behalf. Sandie Appelhans was unable to attend the December 22, 2022 annual meeting in person.

115. At the December 22, 2022 annual meeting Sandie Appelhans was elected President, Stan Ridgeway was elected Vice President and other officers and board members were elected to the Eagle Senior Center board of directors.

116. That same day – on December 22, 2022 – Board President Sandie Appelhans passed this world and was deceased following a prolonged period of ill health.

117. On or about January 3, 2023 following the Board President’s death, Eagle Senior Center had a special board meeting and appointed former councilman and mayor of Eagle Stan Ridgeway President of Eagle Seniors and elected a new vice president.

118. On or about January 24, 2023 the City of Eagle entered into a contract with Valley Regional Transit.

119. On or about January 27, 2023 Valley Regional Transit held a meeting with the executive board of Eagle Senior Citizens, Inc. in which Kelli Badesheim, Executive Director of Valley Regional Transit, stated that Eagle Senior Center was instrumental in establishing the framework for the current operation of senior centers throughout the Treasure Valley and that Eagle Senior Center was a “shining star” in providing services to seniors and people with disabilities.

120. At the meeting, Kelli Badesheim told members of the Eagle Senior Center board of directors that the City of Eagle was a funding partner with VRT and that the City of Eagle did not want Eagle Senior Center to handle transportation.

121. That same day, on or about January 27, 2023 at that same meeting Valley

Regional Transit handed Eagle Senior Center its Notice of Service Agreement Termination, terminating the service agreement between the two dated October 2, 2022—for a term set to expire September 30, 2023—ostensibly without cause, effective January 31, 2023, terminating the contract about eight months early.

122. On or about February 10, 2023 Eagle Senior Center served Valley Regional Transit with a notice of appeal of its termination decision.

123. On or about that same day, February 10, 2023, the Eagle Senior Center board of directors became aware of an agenda item scheduled for the Eagle City Council's February 14, 2023 meeting determining whether or not the City of Eagle would terminate Eagle Senior Center's lease agreement with the City of Eagle three years prior to the term of the lease.

124. On or about February 14, 2023 the City Council took up the agenda item as to whether or not to terminate the lease agreement with Eagle Senior Center and heard overwhelming testimony from seniors and other supporters of Eagle Senior Center, requesting the City maintain its lease agreement for the Nonprofit to continue its use of the facilities to serve seniors and maintain ongoing programs.

125. On or about February 14, 2023 members of the the City Council of the City of Eagle discussed whether or not terminate the Eagle Senior Center's lease of the Eagle Senior Citizen & Community Center. During the course of discussions, members of the City Council and the Mayor made false, disparaging remarks regarding the Eagle Senior Center's financial standing and future ability to provide services to the community. Council voted to terminate the lease.

126. Following Council's action, City Council members and the Mayor reiterated false, misleading, and disparaging remarks regarding Eagle Senior Center to and on local media.

127. On or about February 16, 2023 the City Clerk of the City of Eagle sent Eagle Senior Center a notice of termination of lease, citing a 'no cause' provision, Paragraph 16.2(c) of the parties' Second Amended Lease Agreement, for its termination of the lease with one-hundred twenty (120) days notice.

128. Eagle Senior Center contested and protested the termination of the lease.

129. Following Council's action, the Eagle City Mayor reiterated false, misleading, and disparaging remarks regarding Eagle Senior Center at a public town hall meeting and during 'Coffee with the Mayor' events.

130. Following Council's action, Eagle council-member Helen Russell made multiple false, misleading, and disparaging statements about Eagle Senior Center to local media.

131. The City of Eagle's actions sparked outrage and concern in the Eagle community and among Eagle Senior Center's supporters and membership.

132. The City of Eagle, through its Mayor and members of the city council have repeatedly and publicly declared the City of Eagle's intention to take control of and appropriate Eagle Senior Center's provision of facilities, services, and programming to replace Eagle Senior Center.

133. The City of Eagle acted, and continues to act, to wrongfully appropriate and take control of Eagle Seniors' personal properties, intellectual properties, reputational properties, contractual properties, its provision of programming and services, and its financial resources as its own.

134. On or about April 19, 2023 the City of Eagle, through counsel, sent notice and demand of Eagle Senior Center to return \$100,000.00 worth of donations, *supra*, the City of Eagle had distributed to the Nonprofit during the COVID-19 pandemic.

135. On April 28, 2023 counsel for Eagle Senior Center put counsel for the City of Eagle on notice that Eagle Senior Center was represented by an attorney by telephone.

136. On May 8, 2023 counsel for Eagle Senior Center put counsel for the City of Eagle on notice that Eagle Senior Center was represented by an attorney through written correspondence and invited council for the City to provide evidenciary support and legal authority in support of its demand that the City of Eagle was entitled to a return of \$100,000.00.

137. On or about Wednesday June 7 or Thursday June 8, 2023 the executive director of Meals on Wheels invited Eagle Senior Center President Stan Ridgeway to a June 9, 2023 meeting to discuss the meal services contract between Eagle Senior Center, Meals on Wheels, and the director of Eagle City Parks and Recreation Department in anticipation of Eagle Senior Center's eviction from the Eagle Senior Citizen and Community Center.

138. When the President of Eagle Senior Center arrived to meet with the executive director of Meals on Wheels and the Park Director, the Park Director was absent but counsel for the City of Eagle was present for the meeting.

139. During the June 9, 2023 meeting with Meals on Wheels, counsel for the City of Eagle, in the presence of the executive director of Meals on Wheels, insisted that the City of Eagle owned certain properties, including all tables and chairs and other personal properties actually belonging to Eagle Senior Center, within the building and demanded that Eagle Senior Center not remove the personal properties from the building as it vacated the building.

140. During the June 9, 2023 meeting with Meals on Wheels, counsel for the City of Eagle, in the presence of the executive director of Meals on Wheels, threatened the President of Eagle Senior Center with a lawsuit to enjoin Eagle Senior Center from removing property from the premises.

141. During the June 9, 2023 meeting with Meals on Wheels, counsel for the City of Eagle proffered legal argument to the executive director of Meals on Wheels and Eagle Senior Center purporting that the Meals on Wheels Contract to provide services between Eagle Senior Center and Meals on Wheels was executed between the City of Eagle and Meals on Wheels, not between Eagle Senior Center and Meals on Wheels.

142. Later that day, on Friday June 9, 2023 staff and board members of the Eagle Senior Center attempted to access the Eagle Senior Citizen and Community Center building but the locks to the exterior of the building had been changed. Eagle Senior Center's keys would not work to gain access into the building or into their office space.

143. A sign on the door of the Eagle Senior Citizen and Community Center directed persons to call a phone number, on information and belief the Mayor's telephone number, to request access.

144. Upon information and belief, the locks to the doors of the Eagle Senior Citizen and Community Center were changed by order of the Mayor of the City of Eagle.

145. On June 9, 2023, without notice to Eagle Senior Center's counsel, the City of Eagle filed a declaratory action in Ada County District Court, Case No. CV01-23-09304, seeking judicial declaration of the City of Eagle's ownership of certain personal properties and chattels and procured, *ex parte* and without Eagle Senior Center's actual knowledge, a temporary restraining order prohibiting Eagle Senior Center from removing the chattels and personal property.

146. The City of Eagle's declared reasons proffered and alleged, *ex parte*, for its requested TRO were pretextual, false, and misleading. The suit was vexatious, the suit was initiated to harass, annoy, and intimidate Eagle Senior Center.

147. On information and belief, on or about Monday, June 12, 2023 council-member Helen Russell placed stickers stating “Stays” and “Do Not Remove” on the refrigerator, a plaque on the wall, the pool table, the card tables, the front desk, a piano, and on many other items of personal property within the building.

148. Eagle Senior Center hired a moving contractor to move its belongings from the facility in order to comply with the City of Eagle’s demand that Eagle Senior Center vacate the building.

149. Eagle Senior Center’s moving contractor had planned to complete the move in a single day and showed up to the facility on Monday, June 12, 2023. When the moving contractors arrived the City of Eagle staff and the Mayor of Eagle confronted the movers, called a deputy of the Ada County Sherriff’s Department, and instructed the movers not to move any property from the premises. The movers complied with the order and left the facility.

150. On June 13, 2023 Eagle Senior Center, through counsel, served a Notice of Tort Claim putting the City of Eagle on notice of its claims against the City sounding in tort for which it was aware as of June 13, 2023. Attached hereto as ‘Exhibit A’ is a true and correct copy of the June 13, 2023 Notice of Tort Claim.

151. On or about June 13, 2023, an elderly senior member of Eagle Senior Center, but not its registered agent nor an active member of the board—albeit a former board member—was served with the summons, complaint, and Temporary Restraining Order issued on Case No. CV01-23-09304, while playing pinochle at the building.

152. On June 14, 2023 counsel for Eagle Senior Center made special appearance on behalf of Eagle Senior Center in Case No. CV01-23-09304, as called by the City of Eagle’s expedited hearing request that the Court extend the term of the Temporary Restraining

Order.

153. During the June 14, 2023 hearing the City of Eagle was unable to put on evidence in support of its claim to ownership of many of the items as pled in its complaint and motion. Eagle Senior Center provided receipts proving its ownership of tables and chairs as it was able to access digital receipts remotely, and offered testimony that it would offer the Court proof of ownership of other items as well, but was unable at that time because Eagle Senior Center had been locked-out and intimidated from free access to its office.

154. On June 14, 2023, in Case No. CV01-23-09304, the Court denied the City of Eagle's motion to extend the temporary restraining order and declined to issue a preliminary injunction.

155. On June 14, 2023, during its hearing on Case No. CV01-23-09304, the Court invited counsel for the City of Eagle to amend its complaint to particularize the value in controversy of personal property items for which the City of Eagle sought a declaration establishing the City's ownership.

156. On June 15, 2023 in Case No. CV01-23-09304, the City of Eagle filed its Affidavit of Service with the Court, attesting that an elderly member of Eagle Senior Center—albeit a previous board member—had been served with a copy of the summons, complaint, and Temporary Restraining Order at the Eagle Senior Center building on June 13, 2023. Because the summons and complaint had not been served upon a proper officer of Eagle Senior Center, service was deficient.

157. On Friday—June 16, 2023 the Mayor served Eagle Senior Center with a list of items of personal property that Eagle Senior Center would not be allowed to remove from the Eagle Senior Citizen and Community Center. The Mayor stood watch as Eagle Senior Center



board, staff, and its contract movers removed items from the premises, and designated two other City staff, one from the Public Works Department and the other from the Parks and Recreation Department of the City, to remain on watch as Eagle Senior Center vacated the building.

158. Items of personal property belonging to Eagle Senior Center that the City of Eagle seized included a piano, audio equipment, a billiards table and equipment, two (2) cabinets, playing card tables and equipment, a front desk, and a donation board memorializing Eagle Senior Center donors and benefactors who contributed to the Nonprofit's effort to finance and build its facilities.

159. On June 16, 2023 while vacating the Eagle Senior Citizen and Community Center and collecting property to make the move, the President of Eagle Senior Center reached to remove old pamphlets atop the old piano that Eagle Senior Center had been prohibited from removing, immediately outside of the office manager's office, when a hidden camera fell to the floor.

160. About a half hour after discovering the hidden camera, a staff member of the City of Eagle picked up the camera and mounted it to the wall in the corner of the room.

161. On June 27, 2023 counsel for Eagle Senior Center called counsel for the City of Eagle and inquired whether the City intended to amend its complaint in Case No. CV01-23-09304 as invited by the Court. Counsel for the City of Eagle indicated the City's intention to do so by the end of the week. Counsel for both parties mutually agreed that counsel would agree to waive deficiency of service and abstain from filing an answer or take default until the amended complaint was filed to prevent unnecessary time, costs, and filings to the parties.

162. On June 28, 2023 the City of Eagle filed the instant action.

163. On July 11, 2023 counsel for Eagle Senior Center appeared in Case No. CV01-

23-09304, the declaratory relief action.

164. On July 20, 2023 the City of Eagle voluntarily dismissed Case No. CV01-23-09304, the declaratory relief action.

165. Even before the City of Eagle's wrongful eviction of Eagle Senior Center from the Eagle Senior Citizen and Community Center, the City of Eagle has advertised its own conflicting, confusing, and misleading provision of senior services using Eagle Senior Center's tradenames and intellectual properties, including use of the tradename "Eagle Senior Center," pictures of the Nonprofit's staff to advertise and promote its own provision of programming services on the City of Eagle's website, and uses the Nonprofit's personal property seized at the building, the Nonprofit's membership forms, and other administrative and operational instruments and properties.

166. Upon information and belief, council-member Helen Russell and the City of Eagle, has and continues to solicit new membership using Eagle Senior Center's forms, likenesses, and reputation.

#### **FIRST COUNTERCLAIM**

*Eagle Senior Center against City of Eagle and  
Third Party Defendants Helen Russell, Jason Pierce, and "John Does 1-10"*

(Violation of Civil Rights, 42 U.S.C. § 1983 -  
Unlawful Searches and Seizures without Due Process of Law)

167. Eagle Senior Center incorporates all preceding allegations herein by reference as though fully set forth herein.

168. Eagle Senior Center brings this claim under § 1983 to enjoin the continuing violations of the Fourth and Fourteenth Amendments to the United States Constitution, for a declaration that Plaintiff and Third-Party Defendants' actions have violated the state and federal constitutional rights of Eagle Senior Center, and for damages resulting from the injuries

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sustained by those violations.

169. Eagle Senior Center has a federal constitutional right against unreasonable search and seizure without due process guaranteed by the Fourth Amendment and Fourteenth Amendment of the United States Constitution.

170. Eagle Senior Center has a state constitutional right against unreasonable search and seizure guaranteed by Article I § 17 of the Constitution of the State of Idaho.

171. Eagle Senior Center has a constitutional right to privacy, also including a constitutional right to information privacy.

172. The City of Eagle maintains an ongoing official municipal policy and permanent and well-settled practice of designating, assigning, and appointing city council members as liason to private nonprofits and commissions providing certain public and programming services within the City of Eagle.

173. The City of Eagle's council member liasons oversee the nonprofits and commissions on behalf of the City of Eagle and report back to the city council regarding the operations of the nonprofits and commissions, which informs the City's decisions and excersize of authority.

174. Upon information and belief, the City of Eagle's council member liasons are not, and were not, given any training, education, nor competent advice regarding the rights of persons and private entities with whom the local officials come into contact as the City's liason.

175. The City of Eagle's failure to train, educate, or properly advise council members regarding the rights of persons and private entities in relation to the tasks council members perform did foster an actual, deliberate indifference to the rights of Eagle Senior Center and was a proximate cause of constitutional deprivations and injuries.

176. On or about Winter of 2022 Spring of 2023 council-member Helen Russell, and other City of Eagle employees or agents as yet unidentified, acting on behalf of the City of Eagle and under color of state law, searched, seized, and accessed Eagle Senior Center's private and confidential financial records, accounts, username and password information to private accounts without consent and without warrants despite a lack of probable cause to believe a crime had occurred or was about to occur. Council-member Russell had permission from the Mayor and the City Council authorizing the search. The search and seizure was unreasonable and Eagle Senior Center sustained injuries and damages as a result of the constitutional deprivation.

177. On information and belief, Helen Russell and other as-yet unidentified employees or agents of the City of Eagle acting under color of state law, subsequently and repeatedly accessed and used Eagle Senior Center's private and confidential username and password information to access Eagle Senior Center's private and confidential financial accounts and also searched Eagle Senior Center's private and confidential financial records without consent and without warrants despite a lack of probable cause to believe a crime had occurred or was about to occur. Council-member Russell had permission from the Mayor and City Council to conduct the search. The searches and seizures were unreasonable and Eagle Seniors sustained injuries and damages as a result of the constitutional deprivation.

178. On or about May or June 2023 the City of Eagle installed a hidden video recording device within Eagle Senior Center's premises and monitored Eagle Senior Center's premises and its staff and board's private activities without consent and without warrants despite a lack of probable cause to believe a crime had occurred or was about to occur. The searches were unreasonable and Eagle Seniors sustained injuries and damages as a result of the constitutional deprivation.

179. On information and belief, the hidden camera(s) was installed on the direction of the Mayor of the City of Eagle, Jason Pierce under color of state law.

180. The Mayor of Eagle is the final decision-making authority for the City of Eagle authorized to make decisions and take actions among alternatives on behalf of the City of Eagle, including to direct the installation of the camera(s).

181. On or about June 9, 2023 the City of Eagle, on direction of the Mayor, seized Eagle Senior Center's personal property and prevented free and reasonable access and possession of its building, refusing to allow Eagle Senior Center to take possession of its property without any reasonable notice as to when or if the property would be returned to Eagle Senior Center's possession and without due process. The seizures were unreasonable and Eagle Senior Center sustained injuries and damages as a result of the constitutional deprivation.

182. On or about June 12, 2023 the City of Eagle, by order of the Mayor, seized Eagle Senior Center's personal property refusing and preventing Eagle Senior Center's possession and use of its property without any reasonable notice as to when or if the property would be returned to Eagle Senior Center's possession and without due process of law. The seizure was unreasonable and Eagle Senior Center sustained injuries and damages as a result of the constitutional deprivation..

183. On or about June 16, 2023 despite its own petition with the Ada County District Court for a temporary restraining order and/or preliminary injunction having expired and despite an extension having been denied by the Court, the City of Eagle, on the direction of its Mayor, seized Eagle Senior Center's personal property refusing and preventing Eagle Senior Center's possession and free use of its property without any reasonable notice as to when or if the property would be returned to Eagle Senior Center's possession and without due process of

law. The seizures were unreasonable and Eagle Senior Center sustained injuries and damages as a result of the constitutional deprivation.

184. The challenged actions of the City of Eagle and Third-Party Defendants occurred under color of state law and violate the freedom from unreasonable searches and seizures and guarantee of due process of the Fourth Amendment and Fourteenth Amendment of the United States Constitution. Eagle Senior Center is entitled to a judgment declaring the aforementioned actions and inactions unconstitutional.

185. Under 42 U.S.C. § 1983, Eagle Senior Center is entitled to injunctive and prospective relief prohibiting the City of Eagle from violating their rights, privileges, or immunities under federal law, in particular by conducting illegal searches, by accessing private and confidential accounts and information without consent, without a warrant, and unlawfully procured, by seizing items of personal property without prior notice, and by failing to provide receipts and instructions for retrieval of items of personal property that are seized.

186. Under 42 U.S.C. § 1983, Eagle Senior Center is entitled to damages caused by the unreasonable searches and seizures of their personal and information properties and for their loss of privacy in an amount to be determined at trial.

187. Eagle Senior Center has a state constitutional right to remedy as guaranteed by Article I § 18 of the Constitution of the State of Idaho.

**SECOND COUNTERCLAIM**  
*Eagle Senior Center against City of Eagle*

(Breach of Contract – Second Amended Lease Agreement)

188. Eagle Senior Center incorporates all preceding allegations herein by reference as though set forth herein.

189. On February 24, 2015 the parties entered into the Second Amended Lease

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Agreement, whereby the Nonprofit leased the Eagle Senior Citizen and Community Center from the City of Eagle for one dollar (\$1.00) per year for annual periods of October 1 to September 30 for a term of thirteen (13) years.

190. Idaho law created a duty and covenant of quiet enjoyment between parties to a tenancy lease agreement. Eagle Senior Center had a right to the peaceful possession and quiet enjoyment of the Eagle Senior Citizen and Community Center free from unreasonable interferences.

191. Idaho law created a duty and covenant of good faith and fair dealing between parties to a contract that is made a material term of each contract.

192. The Idaho Supreme Court has set forth a clear and strong public policy disfavoring resort to self-help that seek physical advantage in the resolution of property disputes. See *Weitz v. Green*, 148 Idaho 851, 864, 230 P.3d 743, 756 (2010).

193. Pursuant to I.C. § 48-608(1), the Idaho Legislature set forth public policy prohibiting unfair methods, acts, and practices in contracting parties' performance on contract.

194. The conduct of and omission by the City of Eagle and its agents constitutes a breach of the terms and duties imposed on the parties under their contract.

195. The City of Eagle breached the contract by interfering with, preventing, and denying Eagle Senior Center's free use and quiet enjoyment of the premises and by forcing the Eagle Senior Center to vacate the premises prior to the expiration of the term of the contract.

196. While Eagle Senior Center was absent from the premises, on or about Friday June 9, 2023, the City of Eagle without notice to Eagle Senior Center, or its consent, entered said premises and removed Eagle Senior Center of its possession, free use, and quiet enjoyment of the premises by changing the locks, exerting dominion and control over entry and over Eagle Senior

Center's personal properties, fixtures, furniture, and chattels. This judicially disfavored resort to self-help breached the contract.

197. The intentional, deliberate, and willful acts and omissions of the City of Eagle, including its wrongful and inequitable termination of the contract and its resorts to self-help constitutes a breach of the City of Eagle's duties of good faith and fair dealing and violates public policy.

198. Eagle Senior Center has been proximately damaged by the City of Eagle's breaches, and is entitled to actual damages plus consequential damages, in amounts to be proven at trial, and costs and disbursements.

**THIRD COUNTERCLAIM**  
*Eagle Senior Center against City of Eagle*

(Declaratory Relief – Contract –Eagle Seniors/City of Eagle)

199. Eagle Senior Center incorporates all preceding allegations herein by reference as though fully set forth herein.

200. Pursuant to I.C. §§ 10-1201 & 1203 and I.C. § 48-608(1), Eagle Senior Center seeks a judicial determination declaring Paragraph 16.2(c) of the parties' Second Amended Lease Agreement unconscionable, inequitable, violating public policy and declaring that the provision renders the remainder of the contract meaningless, in particular in light of the prior existing Nonprofit's contribution to and investment in the Eagle Senior Citizen and Community Center building.

**FOURTH COUNTERCLAIM**  
*Eagle Senior Center against City of Eagle*

(Declaratory Relief – Ownership of Personal Properties)

201. Eagle Senior Center incorporates all preceding allegations herein by reference

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as though fully set forth herein.

202. After the Ada County District Court, Case No. CV01-23-09304, declined to issue an extension to its *ex parte* TRO or a preliminary injunction prohibiting Eagle Senior Center from possession of contested personal properties and chattles, the City of Eagle again resorted to self-help.

203. Despite counsel coming to mutual agreement to resolve the outstanding dispute through Case No. CV01-23-09304, once physical advantage, possession, and dominion over contested personal properties and chattels was secured through its own resort to self-help, the City of Eagle abandoned its claims by voluntary dismissal of Case No. CV01-23-09304 and now retains wrongful possession of Eagle Senior Center's personal property.

204. Pursuant to Idaho Code § 10-1201, Eagle Senior Center seeks a judicial determination and the judgment of this Court declaring Eagle Senior Center's ownership of properties the City of Eagle has wrongfully seized and to this day continues to wrongfully possesses, namely:

- a. a piano,
- b. audio equipment,
- c. a billiards table and equipment,
- d. two (2) cabinets,
- e. playing card tables and equipment,
- f. a front desk,
- g. a wooden cash box; and
- h. a donation board memorializing Eagle Senior Center donors and benefactors, who contributed to the Nonprofit's effort to finance and build its facilities.

205. Eagle Senior Center is entitled to attorney's fees and costs.

**FIFTH COUNTERCLAIM**

*Eagle Senior Center against City of Eagle and  
Third Party Defendants Helen Russell, Jason Pierce, and "John Does 1-10"*

(Idaho Consumer Protection Act;  
Title 48, Chapter 6 - Idaho Code)

206. Eagle Senior Center incorporates all preceding allegations herein by reference as though fully set forth herein.

207. Plaintiff and Third Party Defendants' aforesaid methods, acts, and practices were unfair and deceptive acts of trade or commerce.

208. Plaintiff and Third Party Defendants' aforesaid methods, acts, and practices constitute unconscionable trade or commerce in violation of I.C. § 48-603C.

209. Plaintiff and Third Party Defendants knowingly, or with reason to know, took advantage of Eagle Senior Center, which was reasonably unable to protect its interest pursuant to I.C. § 48-603C(2)(a).

210. The City of Eagle knowingly, or with reason to know, induced Eagle Senior Center into a transaction that was excessively one-sided in favor of the City of Eagle.

211. Plaintiff and Third Party Defendants passed off services as those of another.

212. Plaintiff and Third Party Defendants' caused likelihood of confusion or of misunderstanding as to the source, sponsorship, approval of another.

213. Plaintiff and Third Party Defendants caused the likelihood of confusion or of misunderstanding as to affiliation, connection, or association with another.

214. Plaintiff and Third Party Defendants disparaged the services of Eagle Senior Center by false and misleading representation of fact.

215. Plaintiff and Third Party Defendants are not a regulated lender as that term is

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defined in Section 28-41-301, Idaho Code.

216. Eagle Senior Center has suffered ascertainable loss of money or property as a result of the aforesaid methods, acts, and practices.

217. Under Idaho Code 48-608(1), Eagle Senior Center is entitled to declaratory, injunctive and prospective relief prohibiting the City of Eagle and Third Party Defendants from the use or employment of methods, acts, or practices declared unlawful under the Idaho Consumer Protection Act.

218. Under Idaho Code 48-608(1), Eagle Senior Center is entitled to declaratory, injunctive and prospective relief ordering paragraph 16.2(c) of the parties' Second Amended Lease Agreement void and reinstating Eagle Senior Center's tenancy.

219. Under Idaho Code 48-608(1), Eagle Senior Center is entitled to damages caused by the City of Eagle and Third Party Defendants' use or employment of a method, act, or practice prohibited by the Idaho Consumer Protection Act in an amount to be determined at trial.

220. Under Idaho Code 48-608(1), Eagle Senior Center is entitled to the Court's grant of leave to amend to request an award of punitive damages.

221. Under Idaho Code 48-608(5), Eagle Senior Center is entitled reasonable attorney's fees and costs.

#### **SIXTH COUNTERCLAIM**

##### *Eagle Senior Center against City of Eagle*

(Intentional Interference with a Prospective Economic Advantage)

222. Eagle Senior Center incorporates all preceding allegations herein by reference as though fully set forth herein.

223. Eagle Senior Center had a valid economic expectancy.

224. The City of Eagle knew of the economic expectancy.

225. The City of Eagle intentionally induced termination of the expectancy.

226. The interference was wrongful by some measure beyond the fact of the interference itself.

227. As a Result of the City of Eagle's intentional interference, Eagle Senior Center's expectancy has been disrupted and Eagle Senior Center has been damaged in an amount to be determined at trial.

**SEVENTH COUNTERCLAIM**  
*Eagle Senior Center against City of Eagle*

(Conversion – Personal Property)

228. Eagle Senior Center incorporates all preceding allegations herein by reference as though fully set forth herein.

229. The City of Eagle wrongfully gained dominion over the personal and confidential business and financial records and accounts of Eagle Senior Center.

230. The City of Eagle wrongfully gained dominion over a piano, desk, bookshelf, cabinets, and other office supplies and chattels rightfully belonging to Eagle Senior Center.

231. The City of Eagle wrongfully gained dominion over Eagle Senior Center's tradename, pictures and advertising materials, administrative forms and instruments, membership lists, and other administrative and operational assets and materials.

232. The personal and confidential business and financial records, accounts, tradename, pictures and advertising materials, office supplies and furniture, administrative forms and instruments, membership lists, and other administrative and operational assets are personal property.

233. As a result of the City of Eagle's conversion, the Eagle Senior Center has sustained injury and damages in an amount to be proven at trial.

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**EIGHTH COUNTERCLAIM**  
*Eagle Senior Center against City of Eagle*

(Unjust Enrichment)

234. Eagle Senior Center incorporates all preceding allegations herein by reference as though fully set forth herein.

235. There was a benefit conferred upon the City of Eagle by Eagle Senior Center, namely the Eagle Senior Center raised and paid for the construction, renovation, improvement, maintenance, and repair of the Eagle Senior and Community Building.

236. There was a benefit conferred upon the City of Eagle by Eagle Senior Center, namely the value of personal properties retained by the City of Eagle.

237. The City of Eagle appreciated and continues to appreciate such benefit.

238. It would be inequitable for the City of Eagles to accept the benefits without payment of value of the benefit in an amount to be determined at trial.

**PRAYER FOR RELIEF**

WHEREFORE, Eagle Senior Center prays for the following relief and remedies:

1. The Complaint be dismissed with prejudice;
2. Plaintiff take nothing by way of its Complaint;
3. Grant leave to amend Eagle Senior Center's Counter-claims and Third-Party Complaint to allow the inclusion or exclusion of claims sounding in tort upon the City of Eagle's approval or denial of claims noticed and once ripe for review;
4. Grant leave to amend to include punitive damages as allowed by law;
5. Issue declaratory judgement as follows:

- a. The City of Eagle and Third Party Defendants' complained of actions violate Eagle Senior Center's Fourth Amendment and Fourteenth Amendment federal constitutional rights to be free from unreasonable search and seizure without due process of law under the United States Constitution and violate its Article I § 17 rights to be free of unreasonable search and seizure without due process of law under the Constitution of the State of Idaho;
  - b. Paragraph 16.2(c) of the City of Eagle and Eagle Senior Center's Second Amended Lease Agreement is unconscionable, inequitable, violates public policy and is unenforceable and void and that Eagle Senior Center's eviction from the Eagle Senior Citizen and Community Center was wrongful;
  - c. A piano, audio equipment, billiards table and equipment, two (2) cabinets, playing card table and equipment, a front desk, a wooden cash box, and a donation board seized and held by the City of Eagle are owned by and exclusively belong to the Eagle Senior Center; and
  - d. That the City of Eagle and Third Party Defendants' methods, acts, and practices were unfair and deceptive, unconscionable, in violation of the Idaho Consumer Protection Act, and that Paragraph 16.2(c) of the parties' Second Amended Lease Agreement is void, unenforceable, and that the Eagle Senior Center's eviction from the Eagle Senior Citizen and Community Center was wrongful;
6. Grant an injunction requiring the City of Eagle to immediately return all seized property to Eagle Senior Center, prohibiting Defendant City of Eagle and Third Party Defendants from searching or accessing Eagle Senior Center's private business records or other private properties without the actual consent of its board of directors,

a warrant, or by court order, and reinstating the tenancy and Eagle Senior Center's right to possession of the Eagle Senior Citizen and Community Center as described by remaining valid provisions of the Second Amended Lease Agreement;

7. Grant a permanent injunction:

- a. Prohibiting the City of Eagle and Third-Party Defendants from interfering with Eagle Senior Center's right be free from unreasonable search and seizure without due process of law; and
- b. Prohibits the City of Eagle and Third Party Defendants from business and commercial methods, acts, and practices that are unfair or deceptive or unconscionable in violation of the Idaho Consumer Protection Act;

8. Issue a money judgement in favor of Eagle Senior Center and against Third-Party Defendant Pierce, Third-Party Defendant Russell, and Third-Party "John Doe" defendants in amounts to be determined at trial to be necessary to compensate Eagle Senior Center for the damages caused by the violations and deprivations of its constitutional rights;

9. Issue a money judgement in favor of the Eagle Senior Center and against the City of Eagle and Third Party Defendants in amounts determined at trial to be necessary to compensate Eagle Senior Center for the damages caused by the City of Eagle's breach of the Second Amended Lease Agreement, by their violation of the Idaho Consumer Protection Act, by their intentional interference with a prospective economic advantage, by the City's conversion of personal property belonging to Eagle Senior Center, and by the unjust enrichment of the City of Eagle;

10. Award Eagle Senior Center the costs of this action and reasonable attorney's fees as allowed by I.C. § 12-117, I.C. § 48-608, 42 U.S.C. § 1983, the Private Attorney General Doctrine, and as otherwise allowed by law and pursuant to I.R.C.P. Rule 54; and
11. All such other and further relief as the Court deems to be just and equitable.

**DEMAND FOR JURY TRIAL**

The Defendant/Counter-Claimant Eagle Senior Citizens, Inc. hereby demands trial by a jury composed of no less than twelve (12) persons on all issues so triable, pursuant to Article 1, Section 7, of the Idaho Constitution and Rule 38, Idaho Rules of Civil Procedure.

DATED this 27 day of July 2023.

ERTZ JOHNSON LLP

By: \_\_\_\_\_

Brian A. Ertz (ISB# 9960)

Attorney for Defendant/Counter-Claimant

VERIFIED ANSWER, COUNTER-CLAIMS, AFFIRMATIVE DEFENSES,  
THIRD-PARTY COMPLAINT, AND DEMAND FOR JURY TRIAL



VERIFICATION

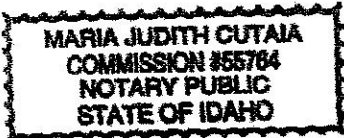
STATE OF IDAHO )  
  )  
  ) SS.  
County of Ada      )

I Stan Ridgeway, Eagle Senior Center President, being first duly sworn under oath, depose and declare:

- 1. That I am the President of Defendant/Counterclaimant/Third-Party Plaintiff in this matter and therefore I have sufficient personal and firsthand knowledge of the facts to sign this Answer, Affirmative Defenses, Counterclaims, and Third-Party Complaint;
- 2. That I read the foregoing pleading and know the contents thereof; That I made this Pleading, signed this Pleading, and filed this Pleading on my personal knowledge;
- 3. To the best of my knowledge, I have set forth facts as I believe are admissible in evidence;
- 4. That I am of sound mind and memory; That I possess perceptual ability; That I have very good memory of the circumstances factually alleged in this Pleading; That I am capable of relating the factual information I experienced alleged in this Pleading; That I am capable of understanding and complying, and do understand and have complied with this oath and affirmation under the penalty of perjury; I recognize my duty to tell the truth; and I am competent to testify to the matters stated herein;
- 5. That the facts contained therein I believe are true and correct to the best of my knowledge.

Stan Ridgeway  
By: Stan Ridgeway  
President, Eagle Senior Center

SUBSCRIBED AND FIRST SWORN to tell the truth by stating to Stan Ridgeway, the President of the Eagle Senior Center "You do solemnly swear (or affirm) that the testimony you shall give in the matter in issue shall be the truth, the whole truth, and nothing but the truth" under oath and before me, a notary public pursuant to I.C. § 9-1401, a person authorized to administer oaths, and in accordance with I.C. § 51-109(3); and the President of the Eagle Senior Center, Stan Ridgeway, who took the oath or affirmation responded affirmatively declaring he will testify truthfully, and after administering the oath in a form calculated to awaken his conscience and impress upon his mind the duty to testify truthfully he did so respond affirmatively this 27<sup>th</sup> day of July, 2023.



Maria Judith Cutaja  
NOTARY PUBLIC for Idaho  
Residing at Boise, Idaho  
My Commission expires: 8/7/25

P.O. Box 665  
Boise, ID 83701

Brian A. Ertz  
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380 S 4<sup>th</sup> Street, Ste. 104  
Boise, Idaho 83702  
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tel:  
208.918.1663

## **NOTICE OF TORT CLAIM**

*SERVED BY FAX, AND CERTIFIED U.S. MAIL*

June 13, 2023

Tracy Osborn, City Clerk  
City of Eagle  
660 E. Civic Lane  
P.O. Box 1520  
Eagle, Idaho 83616  
Fax: 208-939-6827  
Certified Mail No. 7021 2720 0001 8367 3773

**TAKE NOTICE** that a claim is hereby presented by Eagle Senior Citizens, Inc. (hereinafter, "Eagle Senior Citizens"), under the Idaho Tort Claims Act, against the City of Eagle, and against John and Jane Does 1-10, whose identities are unknown, as City of Eagle employees and individually.

Pursuant to Idaho Code § 6-907, Eagle Senior Citizens gives notice to the City of Eagle (hereinafter "City") as follows:

### **Conduct and Circumstances Which Brought About the Injury or Damage**

Events and circumstances leading up to and including the investigation, decision to pursue, and conduct and circumstances involving the City's unlawful seizure and unlawful search of Eagle Senior Citizens' private financial records, and misappropriation of the trade secrets (I.C. §§ 48-801 to 807), its subsequent unauthorized disclosures of Eagle Senior Citizens' private financial records, and its retaliation against Eagle Senior Citizens for standing on its rights under the First, Fourth and Fifth Amendments to the United States Constitution and related state constitutional protections. See, for example, April 19, 2023 correspondence from the City to Eagle Senior Citizens which includes private financial documents unlawfully seized, searched, and misappropriated by the City.

The City is liable to Eagle Senior Citizens for the City's intentional breach of the lease agreement for the premises located at 312 E. State Street in Eagle, Idaho; its breach of the covenant of good faith and fair dealing in its termination of the premises lease agreement; its tortious/intentional/negligent acts of interference with a contract; its intentional interference with a prospective economic relationship; and its tortious interference with prospective contractual relations by its decision to terminate the premises lease agreement between the City and Eagle Senior Citizens, its wrongful pronouncement of the reason for doing so, and its interference with

**EXHIBIT A**

and effort to deny and destroy the contractual relationship between Eagle Senior Citizens and the local Meals on Wheels affiliate, among others.

The City is liable to Eagle Senior Citizens for the City's conversion, unlawful seizure of Eagle Senior Citizens' personal property on or about June 12, 2023, and wrongful taking of personal property when the City's agents locked-out/changed the locks to the facility on or about June 9, 2023, preventing Eagle Senior Citizens' access to the Eagle Senior Center prior to the expiration of Eagle Senior Citizens' lease which limited Eagle Senior Citizens' ability to enjoy its personal property from June 9, 2023 until the current time. By its unlawful actions, the City has declared personal property belonging to Eagle Senior Citizens to belong to the City of Eagle and has prevented Eagle Senior Citizens from moving/enjoying dominion over said property, which constitutes an unlawful conversion, seizure, and taking of Eagle Senior Citizens' personal property. The City's conduct also constitutes unfair and outrageous business practices in violation of the Idaho Consumer Protection Act.

The City is also liable to Eagle Senior Citizens for the City's unlawful conversion, seizure, and taking of Eagle Senior Citizens' tradename and other intellectual and reputational properties, which Eagle Senior Citizens has spent years developing - as reflected by its posting on <https://www.cityofeagle.org/2037/Eagle-Senior-Center> and as announced by and posted to the City's website on or about February 17, 2023.

The City is also liable to Eagle Senior Citizens for defamation and libel where the City knowingly and wrongfully declared and announced that its decision to terminate the lease of the Eagle Senior Center building to Eagle Senior Citizens was for safety and financial concerns, and when the City publicly and privately pronounced that Eagle Senior Citizens misled the City.

The City's conduct and circumstances violate Eagle Senior Citizens' state and federal rights to Due Process and Equal Protection, and its rights to be free of unlawful search and seizure and its rights against unlawful taking. In sum, Eagle Senior Citizens hereby puts the City on notice that Eagle Senior Citizens reserves its rights to initiate and pursue claims sounding in negligence and breach of contract, and for the City's violation of of Eagle Senior Citizens' rights protected by state statutes and federal law (§1983).

#### **Description of the Injury or Damage**

Breach of contract, defamation, disparagement, and denigration including but not limited to reputational damages, actual damages, presumed damages, defamation damages, and punitive damages, including but not limited to and costs and fees to defend and uphold Eagle Senior Citizens' reputation and civil rights under the law.

#### **The Date(s) the Injuries Occurred**

Arising on or about February 16 and 17, 2023:

Eagle Senior Citizens' injuries caused by the City's breach of Eagle Senior Citizens' lease agreement for the premises located at 312 E. State Street in Eagle, Idaho.

Eagle Senior Citizens' injuries caused by the City's unlawful conversion, seizure, and taking of Eagle Senior Citizens' tradename and other intellectual and reputational properties, as described above.

Arising on or about April 19, 2023:

Eagle Senior Citizens' injuries caused by the City's misappropriation, and improper and unlawful search and seizure of Eagle Senior Citizens' private financial records, as described above.

Arising on or about June 9, 2023:

Eagle Senior Citizens' injuries caused by the City's unlawful lock-out of Eagle Senior Citizens from the premises located at 312 E. State Street in Eagle, Idaho, whereby the City breached the parties' contract, and which constituted the City's unlawful seizure, taking, and conversion of Eagle Senior Citizens' personal property, and unfair and outrageous business practices, as described above.

Arising on or about June 12, 2023:

Eagle Senior Citizens' injuries caused by the City's conversion of Eagle Senior Citizens' personal property, as described above.

**Names of all Persons Involved, If Known**

The persons known/believed to be involved include but are not limited to Jason Pierce, Helen Russell, Stan Ridgeway, Tracy Osborn, and unknown employees of City of Eagle.

**The Amount of Damages Claimed**

The dollar amount of damages incurred by Eagle Senior Citizens is not presently fixed and liquidated, and therefore Eagle Senior Citizens claims damages in the amount of not less than One Million Dollars (\$1,000,000.00).

**Actual Residence at Present and for Six Months Prior to the Claim Arising**

Eagle Senior Citizens' actual residence at present and for more than six months prior to the claim arising is: 312 E. State Street, Eagle, Idaho 83616, Ada County, State of Idaho.

**Punitive Damages**

Eagle Senior Citizens reserves the right to seek punitive damages in excess of the present-day cap.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 27th day of July, 2023, the within and foregoing was iCourt, addressed as follows:

Victor Villegas  
Mitchell D. Coats  
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 Facsimile  
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 iCourt 'EFileAndServe'

/s/Brian A. Ertz  
Brian A. Ertz  
*Attorney for Defendant/Counter-Claimant*

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VERIFIED ANSWER, COUNTER-CLAIMS, AFFIRMATIVE DEFENSES,  
THIRD-PARTY COMPLAINT, AND DEMAND FOR JURY TRIAL

Dated: June 13, 2023

ERTZ JOHNSON LLP  
  
\_\_\_\_\_  
Brian A. Ertz  
Attorney at Law

cc: Client