

No. 17-

IN THE
Supreme Court of the United States

KELLY J. COSGRIFF AND ANITA COSGRIFF,

Petitioners,

v.

COUNTY OF WINNEBAGO, *et al.*,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether Comity will protect State Officials who, in emails and their actions, conspired to falsely inflate citizens' property tax in retaliation of the citizens' exercise of free speech.

PARTIES TO THE PROCEEDINGS

Petitioners, Kelly J. Cosgriff and Anita Cosgriff, were the appellants in the court below. Respondents, Winnebago County Supervisor of Assessments Thomas J. Walsh, Deputy States Attorney David Kurlinkus, Assistant State's Attorney Charlotte LeClercq, Roscoe Township Attorney Josef Kurlinkus, Kurlinkus Law, LLC, Roscoe Township Assessor Joann Hawes, Roscoe Township Trustee Tom Hawes, and Roscoe Township Deputy Assessor Patricia J. Zintak, were the appellees in the court below.

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PETITION FOR A WRIT OF CERTIORARI

Petitioners, Kelly J. Cosgriff and Anita Cosgriff, respectfully petition this Court for a writ of certiorari to review the judgment of the United States Court of Appeals for the Seventh Circuit in this case.

OPINIONS BELOW

The Opinion of the Seventh Circuit is reported at 876 F.3d 912, and reproduced in the appendix hereto at App. 1a. The opinion of the District Court was entered on January 23, 2017 and reproduced in the appendix hereto. App. 11a.

JURISDICTION

The judgment of the Seventh Circuit was entered on December 1, 2017. App. 1a. The Supreme Court of the United States' jurisdiction is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Amendment I to the United States Constitution: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

Amendment V to the United States Constitution: "No person shall be held to answer for a capital, or otherwise

infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.”

Amendment V to the United States Constitution as applied to State proceedings through The Equal Protection Clause of Amendment XIV to the United States Constitution. The Equal Protection Clause is located at the end of Section 1 of the Fourteenth Amendment: “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

28 U.S.C. § 1254(1): “Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods: (1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree”

42 U.S.C. § 1983: “Every person who, under color of any statute, ordinance, regulation, custom, or usage,

of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia."

Fed.R.Civ.P. 12(b)(6): **"How to Present Defenses.** Every defense to a claim for relief in any pleading must be asserted in the responsive pleading if one is required. But a party may assert the following defenses by motion: ...(6) failure to state a claim upon which relief can be granted..."

INTRODUCTION

On August 8, 2014, Kelly Cosgriff opened his mail. What Kelly Cosgriff found was cause for dismay and alarm. Cosgriff learned that his home received a property tax assessment 47.14% higher than the previous year. 99.17% of the other homes in Cosgriff's township received a decrease. Cosgriff expressed his concern in an email to the Winnebago Deputy State's Attorney, David Kurlinkus. Instead of responding Cosgriff, David Kurlinkus forwarded Cosgriff's email to his son, Josef Kurlinkus¹: with a one-word exclamation: Boom. App. 4a; 14a; 26a.

1. Roscoe Township Attorney

In today's vernacular the word Boom, as it is contextually used here, means: "We got him"; "Boom. We win"; "We showed him"; or "That will shut him up" for it is an exclamation when one is pleased or for one to show off. The "Boom" was part of the intensified program of harassment by State Officials towards the Cosgriffs.

The State Officials targeted the Cosgriffs in retaliation for the Cosgriffs' exercise of their free speech. The Cosgriffs first posted "No Trespass" signs on their property then utilized the internet to exercise their First Amendment rights by urging other citizens within their township to sign a petition on change.org and then creating their own website contesttaxes.com. At the administrative hearing to contest the false assessment, Kelly Cosgriff said to Josef Kurlinkus, "You should have done the right thing" to which Josef Kurlinkus snapped: "You should not have put up the website or signs." App.5a; 15a.

The purpose of Comity is for Federal Courts to respect State's rights to handle state matters rather than to respect and protect rogue State Officials. Is the purpose of Comity to protect a State Prosecutor's self-admitted violation of the Cosgriffs' First Amendment rights? If this decision stands then State Officials will use Comity as a shield to negate State Officials' violations of citizens' constitutional rights.

After placing the website contesttaxes.com on the internet, Deputy States Attorney David Kurlinkus stated in an email to his co-conspirators, "...I know that Mr. Cosgriff has 1st Amendment rights, but the **'no trespass' signs will have consequences...**" App. 40a. (emphasis supplied). At no time did either the District Court or

the Seventh Circuit address Kurlinkus's promise that there would be consequences for the Cosgriffs exercising their First Amendment protected free speech. The State Officials violated Cosgriffs' First Amendment right to freedom of speech and their equal protection making them a class of one. U.S. Const. am. 1. Redress for these wrongs are to be adjudicated in Federal Court rather than in some State Administrative Review Board.

We are not attacking the State Tax System. We are asserting civil rights cause of actions for violating Cosgriffs' First Amendment rights. The Cosgriffs complaint was dismissed on a 12(b)(6) motion. The Cosgriffs' complaint is absent any demand for damages for the Winnebago County's Board of Review decision on Cosgriffs' real estate property tax. Cosgriffs' complaint is for the State Officials retaliation for the exercise of their First Amendment rights and for targeting them and making the Cosgriffs a class of one.

The Cosgriffs are the targets of specific public officials acting in bad faith who conspired to retaliate against them simply because they exercised their right to Free Speech. For this, Comity has no application; it cannot serve as a cloak to protect the bad acts of public officials, particularly when there are no State's interests at issue.

The Seventh Circuit said that we made a distinction without a difference. The Seventh Circuit said that the harm from being targeted was the false assessment and that tax assessment was lowered.² On the contrary,

2. The Cosgriffs' tax assessment was lowered, yet it remained at an inflated rate. It was not a victory. Yet, again, the win/loss at the Winnebago County Board of Review is not at issue.

the State Officials were able to get away with what they did and there was no accountability for their actions of retaliating against the Cosgriffs exercise of their free speech. Comity is defeated in the countenance of an established constitutional right. Is not Free Speech at the core of our Nation's principles?

The Supreme Court has declared: "Official reprisal for protected speech offends the Constitution because it threatens to inhibit exercise of the protected right, and the law is settled that as a general matter the First Amendment prohibits government officials from subjecting an individual to retaliatory actions, including criminal prosecutions, for speaking out. Some official actions adverse to such a speaker might well be unexceptionable if taken on other grounds, but when nonretaliatory grounds are in fact insufficient to provoke the adverse consequences, we have held that retaliation is subject to recovery as the but-for cause of official action offending the Constitution." *Hartman v. Moore*, 547 U.S. 250, 256, 126 S. Ct. 1695, 1701, 164 L. Ed. 2d 441 (2006) (internal citations omitted).

As it stands, those wrongfully targeted Cosgriffs could target another citizen who they do not like. To be able to run rogue with no consequence for bullying the local populous is an attractive bargain for those who have no inhibitions to abuse power.

Cosgriffs case is not one in which we argued that the tax was a simple human error. There is no fear that we are somehow seeking to open the "floodgates of litigation" whenever a taxpayer cries foul. This is not about tax but abuse of power. It is about the existence of unequivocal

admissions in the State Officials emails as to their plan and success in targeting the Cosgriffs by weaponizing a government system, which in this case happens to be the local taxing system for real property. The email admissions are sufficient animus to allow the Cosgriffs to go forward to prove their class of one and violations of their free speech and engage in discovery.

STATEMENT OF THE CASE

The Cosgriffs' home is in Roscoe Township of Winnebago County, Illinois. Initially, the Cosgriffs posted a "No Trespass" sign on their property so as to eliminate unannounced visits to their property. App. 3a; 13a. Subsequently, the Cosgriffs then created a petition on the website change.org encouraging other taxpayers to notify the Roscoe Township Assessor not to trespass on their properties. App. 3a.

On July 16, 2014, Patricia J. Zintak³ emailed Walsh and stated, "Hi Tom, Joann asked that I send this to you. This is what is on the web site 'change.org' about 'No Trespassing.'" App. 21a.

Approximately three weeks later, on August 7, 2014, the Winnebago County Supervisor of Assessments (Tom Walsh) issued "PTAX-228 Notice of Property Assessment" to Cosgriffs' home for which there was a 47.14% assessed valuation increase from the prior year to the current year. This was an increase in full market value from \$357,000 to \$525,000, the highest increase in Roscoe Township in

3. Patricia J. Zintak is a Roscoe Township Deputy Assessor and Clerk of Roscoe Township. Docket 1, P. 3, Par. 11.

2014, a year when 99.17% of properties had their assessed values decreased. App. 3a-4a; 14a; 27a.

The next day, August 8, 2014, Kelly Cosgriff complained about the assessment. App. 26a-33a. In turn, David Kurlinkus forwarded the email to his son, Josef Kurlinkus with the one-word message: “Boom.” App. 4a; 14a; 26a.

On August 25, 2014, Kelly Cosgriff emailed Assistant State’s Attorney Charlotte LeClerc: “According to IDOR Property tax division, there is supposed to be transparency in this assessment process and records public.” App. 37a.

LeClerc forwards Kelly Cosgriff’s email to David Kurlinkus and what follows is a colloquy between LeClerc and David Kurlinkus:

LeClerc to Kurlinkus: “Great...”

Kurlinkus to LeClerc: “Let me guess whose definition of ‘transparency’ wants to use. Make sure you have another meeting to go to half an hour after this one.”

LeClerc to Kurlinkus: “So is the SA’s office also the transparency police??”

Kurlinkus to LeClerc: “I wouldn’t recommend it.”

App. 38a-39a.

On August 13, 2014, Mr. Cosgriff created the new website, contesttaxes.com that contained a petition form. App. 41a.

Reacting to the Cosgriffs' latest website, David Kurlinkus sends a group email to his son Josef Kurlinkus, Thomas J. Walsh, Pat Zintak, Charlotte LeClerc writing: "What do you make of this? I know that Mr. Cosgriff has 1st Amendment rights, **but the 'no trespass' signs will have consequences**, as do the protests on the tax bills of other residents. Roscoe Township has requested a meeting with you and me to discuss possible solutions." App. 40a. (emphasis supplied).

Thomas J. Walsh responded, "I'll be glad to meet as soon as we can. I checked out the website and Mr. Cosgriff seems to be making unfounded allegations. I hope there is something we can do to stop this character assignment [SIC]." App. 40a. On Monday, September 15, 2014, David Kurlinkus emailed his son, Josef Kurlinkus in which he stated: "Maybe our office ought to send him a cease and desist letter regarding the unauthorized practice of law. What do you think about acknowledging? I'm sort of torn." App. 42a.

David Kurlinkus, Josef Kurlinkus, Thomas J. Walsh, Joann Hawes, Thomas Hawes, Pat Zintak agreed to meet at the Roscoe Township office regarding "the Cosgriff Matter" at 10:00 a.m. on September 3, 2014.

On February 20, 2015, the Winnebago County Board of Review conducted a hearing on Cosgriffs' real estate tax assessment. At the February 20, 2015 hearing, Kelly Cosgriff stated to Roscoe Township's attorney, Josef

Kurlinkus: “you should have done the right thing” to which Josef Kurlinkus responded, “you should not have put up the website or signs.” App. 5a; 15a.

Based on Comity, the District Court dismissed Kelly Cosgriff and Anita Cosgriff’s complaint for retaliation, conspiracy and equal protection. The Seventh Circuit affirmed. Neither the Seventh Circuit nor the District Court addressed the State Officials self-admitted violations of the Cosgriffs’ First Amendment freedom of speech. App. 40a.

REASONS FOR GRANTING THE PETITION

In *Mom’s Inc. v. Weber*, 951 F.Supp. 92 (E.D. Va. 1996), a Virginia District court refused to apply comity and *Fair Ass’ment in Real Estate Assoc. v. McNary* 454 U.S. 100 (1981) principles after State and Federal IRS agents obtained a search warrant without probable cause and used excessive force in executing a warrant. The District Court opined, “This is not a case where a plaintiff is challenging a tax assessment that has been levied against him or questioning the state’s tax scheme. Here, the issue is whether or not Plaintiffs’ Fourth and Fourteenth Amendment rights under the United States Constitution have been violated. The Court does not read the cases cited by the State Defendants as usurping authority from the federal district courts when constitutional rights as fundamental as these are at issue.” *Mom’s Inc.*, at 93.

Mom’s is telling as to what should have happened in this case at the 12(b)(6) stage of the litigation: “The parties are both entitled to additional discovery and a chance to present and defend their respective cases.” *Mom’s Inc.*, 951 F.Supp. at 94.

The Plaintiffs in *Mom's* complained that their homes and businesses were unlawfully searched, and the search violated their constitutional rights something separate and apart from the tax investigation against them. The *Mom's* Court opined that tax officials are liable for the intentional or reckless violation of Plaintiffs' constitutional rights. *Mom's Inc.*, 951 F.Supp. at 93-94 (internal citation and quotation omitted).

When the State Agents used Comity as a shield, the District Court ordered: "The Court does not disagree that the ABC Agents must carry out Virginia tax laws, but what is before the Court is an allegation that the ABC Agents obtained the search warrant unlawfully and then conducted searches and seizures improperly. Certainly the State Defendants are not claiming that the Virginia State Tax laws give them a statutory right to use *any* means whatsoever to verify ABC licensees' food to alcohol sales ratios even if it means violating the United States Constitution." *Mom's Inc.*, 951 F.Supp. at 94.

In Cosgriffs' case, the State Officials' bad acts are independent of the mechanism by which taxes are collected.

The Cosgriffs civil rights complaint is to address the retaliation from the cabal of elected officials who, under the color of state law, retaliated against the Cosgriffs for exercising his First Amendment right to Freedom of Speech by posting two websites and "no trespass" signs at his home. The coterie of State Actors retaliated by implementing an intensified program to falsely inflate Kelly and Anita Cosgriffs' real estate property tax on their home and deny them Equal protection under the law.

The Cabal, under the leadership of David Kurlinkus, caused Cosgriffs' home to receive a 47.14% assessed valuation increase from the prior year to the current year. Over 99% of the other Roscoe Township properties had their assessed values decreased. App. 3a-4a; 14a; 27a.

David Kurlinkus stated in writing to the group, "...I know that Mr. Cosgriff has 1st Amendment rights, but the 'no trespass' signs will have consequences..." App. 40a. And, true to David Kurlinkus' word, Cosgriff suffered retaliation. At the February 20, 2015 Winnebago County Review Board hearing, Kelly Cosgriff said to Josef Kurlinkus: "you should have done the right thing" and Josef snapped back; "you should not have put up the website or signs." Indeed, David Kurlinkus boasted of his involvement when he emailed his son, Josef the one-word message: "Boom."

Regardless of the State system in place to contest real estate property tax assessments, Cosgriffs' complaint consists of separate and distinct claims protected under the Civil Rights Act as well as under the First Amendment of our Constitution. U.S. Const. am. 1. The Cosgriffs' Civil Rights lawsuit is not aimed at the Illinois Property Tax Court System. Neither the State of Illinois Property Tax Appeal Board nor the Winnebago County Board of Review are relevant to the violations of the to the Federal Civil Rights claims of retaliation and deprivation of equal protection for the exercise of Free Speech. It is the bad faith conduct of David Kurlinkus and the other Defendants that is at issue. The Cosgriffs' civil rights complaint is independent and stands alone from the Board of Review's assessment of their home. Had the Cosgriffs not contested the assessment, they still have their civil rights claims.

What if the Cosgriffs paid the assessment in 2014 and then later learned of the emails and conduct? Their Civil Rights claims would still exist. Therefore, comity is inapplicable to the Cosgriffs' claims.

The Cosgriffs' distress was proximately caused by the defendants' bad faith actions. Simply put, all property owners have to go through the process of tax reassessment and appeal, but only the Cosgriff's had to do so with a coordinated group of public officials conspiring against them in bad faith.

Comity was not designed to be a shield for State Officials who deliberately retaliate and punish a citizen for engaging in Freedom of Speech. If the Cosgriffs are prevented from litigating their Civil Rights claims for retaliation and equal protection, then the State Officials who remain in power can continue to do such to the Cosgriffs and other citizens under the guise of Comity. This lawsuit will not interfere with any state court proceeding and is not aimed at any state civil proceeding. *See Lynch v. Household Finance Corp.*, 405 U.S. 538 (1972)(Supreme Court held comity inapplicable where the federal lawsuit did not interfere with any state civil proceeding).

Furthermore, while David Kurlinkus was promising "consequences" and writing "Boom" in real time, such was unknown to the Cosgriffs. After the Winnebago Board of Review hearing, Kelly Cosgriff submitted an FOI and received a partial disclosure of the emails in the Spring of 2015. There still remains outstanding FOI requests. As it now stands, the State Officials conduct has left the Cosgriffs' with no redress. The Board of Review's

decision to slightly decrease the falsely inflated tax assessment fails to remedy the Cosgriffs fear of further harm. Furthermore, they move with trepidation in their own home town. Is that fair? Is that Justice? Does Comity allow these State Officials protection on their targeted retaliation against the Cosgriffs because they exercised their right to First Amendment protected Free Speech?

Courts have declined to dismiss actions on the basis of comity, where there is strong federal interests in the outcome of the litigation. Congress enacted the Civil Rights Act precisely to provide a remedy for “abuses of official power” by allowing a cause of action to anyone who can prove that one’s constitutional or federal rights had been denied by any State. See *Owen v. Indep., Mo.*, 445 U.S. 622, 654 (1980)(Where the Supreme Court reversed the Eight Circuit holding that municipalities have no immunity from liability under the Civil Rights Act flowing from constitutional violations, and may not assert good faith of its officers as a defense to liability).

Comity is inapplicable where Plaintiffs can show “specific facts to support an inference of bad faith” and introduce “the specific evidence [to] show that state prosecution ‘was brought in bad faith for purpose of retaliating for or deterring the exercise of constitutionally protected rights.” See *Torres v. Frias*, 68 F. Supp. 2d 935, 939 (N.D. Ill. June 30, 1999)(Where an unsuccessful alderman candidate sought injunctive relief, for the Defendants retaliated for her challenge of the incumbent by initiating vindictive prosecution of city code violations).

In *Fair Assessment In Real Estate Ass’n v. McNary*, 454 U.S. 100 (1981) the plaintiffs complained that new

property was assessed at 33 1/3% of the current market value whereas old property was assessed at 22% of the current market value. Furthermore, the plaintiffs complained those who successfully contested the assessment were targeted for re-assessment. *Id.*, at 106. Such complaints are systemic of the tax administration system. The remedies sought were to address the taxing entity's system. The core of the complaint in *Fair Assessment* was the tax administration system.

Cosgriffs' claims are about Free Speech and Equal Protection Class of One rather than about classes of property like *Fair Assessment*.

We are not seeking to adjust Cosgriff's property assessment nor seeking to enjoin or modify the internal machinations of the Winnebago County Board of Review. Indeed, Cosgriffs' complaint, if successful, does not impact the Board of Review but rather is directed at the those who retaliated against the Cosgriffs for engaging in Free Speech.

To adjudicate Cosgriffs' claims for retaliation and Equal Protection Class of One; it is unnecessary for the District Court to first determine the administration of the Winnebago County Board of Review tax system violated Cosgriffs' constitutional rights. It was not the State of Illinois Property Tax system that violated the Cosgriffs' Constitutional rights.

In *Capra v. Cook County Board of Review*, 733 F.3d 705 (7th Cir. 2013), news reports suggested that State Representative Paul Froehlich offered his constituents reductions in their county property taxes in exchange

for campaign contributions and political support. As a result of the news reports, the Cook County Board of Review reversed previous reductions given to the Plaintiffs. The Seventh Circuit held comity precluded their federal lawsuits. Again, the plaintiffs in *Capra* were challenging the taxing system. Furthermore, in *Capra*, the appearance of impropriety was the plaintiffs possibly obtaining reductions because of a relationship with Rep. Froehlich. There is no impropriety attributable to the Cosgriffs. The Cosgriffs are the victims.

Furthermore, *Capra* is not a blanket of absolute immunity for all State Officials regardless of their conduct. The immunity granted to the Cook County Board of Review in *Capra v. Cook County Bd. Of Review*, 733 F.3d 705 (7th Cir. 2013) was denied to a local Mayor who also served as Local Liquor Commissioner for his official actions did "...not involve acts that are analogous to those performed by judges." *Brunson v. Murray*, 843 F.3d 698, 712 (7th Cir. 2016). In *Brunson*, the Seventh Circuit reversed summary judgment on the Plaintiff's class-of-one equal protection claim and held the Mayor/Local Liquor Commissioner was not entitled to absolute immunity on Plaintiff's due process claim for the refusal to act on the renewal of Plaintiff's liquor license.

The law says a plaintiff can allege an equal protection violation by asserting that state action was motivated solely by a "spiteful effort to 'get' him for reasons wholly unrelated to any legitimate state objective." *Esmail v. Macrane*, 53 F.3d 176, 180 (7th Cir. 1995).

We have sufficiently pled animus and a class of one. *Swanson v. City of Chetek*, 719 F.3d 780 (7th Cir. 2013).

The Seventh Circuit opined in *Swanson* that the Plaintiff sufficiently pled a complaint of a class of one when the Mayor of Chetek did not like the fence his neighbor installed and the harassment included: repeatedly telling the building inspector that he should not have issued a building permit; repeatedly entering the Swanson home without permission; using his Mayoral position to cause the building inspector to block the grant of a fence permit for one day; telling the fence builders the Plaintiff was a drug dealer and would not pay for the work; and causing the City's prosecution of the Plaintiff in municipal court for the construction of the fence in violation of a five-foot setback requirement. *Swanson*, at 782.

Does Comity permit elected officials to single out; target and treat the Cosgriffs' differently for no rational basis? Cosgriffs' complaint has identified specific harassers, provided the motive that was admitted to in writing by one harasser (David Kurlinkus) and a detailed and intensified program that was illegitimate on its face that demonstrate overt hostility. *Swanson*, at 785.

CONCLUSION

For the reasons articulated, the petition for a writ of certiorari to the United States Court of Appeals for the Seventh Circuit should be granted.

Respectfully submitted,

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APPENDIX

APPENDIX A — OPINION OF THE UNITED
STATES COURT OF APPEALS FOR THE
SEVENTH CIRCUIT, DATED DECEMBER 1, 2017

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

No. 17-1396

KELLY J. COSGRIFF AND ANITA COSGRIFF,

Plaintiffs-Appellants,

v.

COUNTY OF WINNEBAGO, *et al.*,

Defendants-Appellees.

September 27, 2017, Argued
December 1, 2017, Decided

Appeal from the United States District Court for the
Northern District of Illinois, Western Division.
No. 16 C 50037 — **Frederick J. Kapala**, *Judge*.

Before WOOD, *Chief Judge*, and FLAUM and KANNE,
Circuit Judges.

KANNE, *Circuit Judge*. A dog bit a Roscoe Township employee on Kelly and Anita Cosgriff's property. After the employee and the township sued the Cosgriffs, the Cosgriffs started a petition campaign encouraging

Appendix A

taxpayers to notify the township that its employees should not trespass on private property.

The Cosgriffs' next property assessment set by the township was significantly higher than their last. The Cosgriffs challenged the increased assessment through a hearing before the Winnebago County Board of Review, the Illinois county in which Roscoe Township is located. The Board ruled in favor of the Cosgriffs and substantially reduced the new assessment.

The Cosgriffs then sued Winnebago County and numerous individual defendants in federal district court. The Cosgriffs principally allege that the defendants acted unconstitutionally when they increased the Cosgriffs' property assessment because the Cosgriffs spoke out against township employees trespassing on private property.

The district court dismissed the Cosgriffs' § 1983 claims, reasoning that comity principles barred federal courts from hearing these federal claims. The court also relinquished supplemental jurisdiction over the remaining state-law claims. The Cosgriffs appealed the dismissal of their federal claims. We affirm.

I. BACKGROUND

We draw the facts from the complaint and presume them to be true for this appeal. *See Bible v. United Student Aid Funds, Inc.*, 799 F.3d 633, 639 (7th Cir. 2015).

Appendix A

Kelly and Anita Cosgriff reside in South Beloit, Illinois, which is part of Roscoe Township in Winnebago County. In 2013, they installed a \$50,000 pool at their home. When two township employees came to the home in April 2014 to reassess its property value after the addition of the pool, one of the Cosgriffs' dogs bit one of the employees. That employee and Roscoe Township sued the Cosgriffs, so the Cosgriffs posted a "No Trespass" sign on their property. They also started a petition drive on the website "change.org" that encouraged other Roscoe Township taxpayers to notify the Roscoe Township Assessor and its employees not to trespass on their own property.

Kelly Cosgriff contacted the Winnebago County Supervisor of Assessments, Thomas Walsh, several times to learn about the property assessment process. Thereafter, Walsh sought the advice of Assistant State's Attorney David Kurlinkus. The Cosgriffs allege that the two men then implemented a strategy to impede the Cosgriffs. In part, Kurlinkus "ghost wrote" a letter in July 2014 from Walsh to Kelly Cosgriff, stating that Kelly needed to direct his inquiries to the Roscoe Township Assessor instead.

Then, on August 7th, 2014, Walsh issued a "PTAX-228 Notice of Property Assessment" to the Cosgriffs for their home. This new assessment reflected a valuation that was 47.14% higher than the previous year, an increase in fair market value from \$357,000 to \$525,000 even though the Cosgriffs added only a \$50,000 pool. It was the highest increase in Roscoe Township in 2014, a year when 99.17%

Appendix A

of properties saw their assessed values reduced from the previous year.

On August 8th, Kelly Cosgriff emailed Walsh complaining about this assessment. Walsh forwarded the message to David Kurlinkus, who then forwarded it to his son (Josef Kurlinkus, the Roscoe Township Attorney) with the one-word message, “Boom.”

The Cosgriffs filed a property tax assessment complaint with the Winnebago County Board of Review supported by a \$345,000 appraisal of their property. The Board of Review set a hearing on their complaint for February 20, 2015. That day, before the hearing began, Josef Kurlinkus—the township’s attorney—moved to bar the Cosgriffs from presenting their appraisal, citing a rule that prevents taxpayers from presenting evidence when they have excluded a tax assessor from the property. The Cosgriffs had invited Roscoe Township to inspect the property, giving it a 30-day window to do so. The township did not take the Cosgriffs up on that offer.

In a closed-door deliberation on Josef’s motion, Assistant State’s Attorney David Kurlinkus argued in favor of granting the motion to bar the admission of the Cosgriffs’ appraisal. The motion to bar was granted. David Kurlinkus later recused himself after being questioned about his participation in the hearing.

The hearing on the complaint proceeded without the appraisal evidence, but when Roscoe Township Assessor Joann Hawes testified, she was unable to explain how

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she assessed the Cosgriffs' property at \$525,000. At the conclusion of the hearing, Kelly Cosgriff told the township's attorney, Josef Kurlinkus, "You should have done the right thing," to which Josef replied, "You should not have put up the website or signs."

The Winnebago County Board of Review found the value of the Cosgriffs' property to be \$409,000 and reduced the assessment accordingly. They did not appeal the matter further in the state system.

They did, however, bring a suit—now in this court on appeal—in federal district court against (1) Winnebago County; (2) various county and township officials, individually and in their official capacities; and (3) Kurlinkus Law Office, LLC (the law firm of Roscoe Township's attorney, Josef Kurlinkus).

The Cosgriffs proceeded on three federal-law claims as well as some state-law claims. The federal claims alleged that the defendants violated 42 U.S.C. § 1983 by (1) retaliating against the Cosgriffs for exercising their First Amendment rights to free speech (Count I), (2) conspiring to violate the Cosgriffs' Fourteenth Amendment rights to due process (Count II), and (3) violating the Cosgriffs' Fourteenth Amendment rights to equal protection of the law (Count III).

The defendants filed a motion to dismiss the federal claims for failure to state a claim. The district court granted that motion. We review this decision *de novo*, accepting all well-pleaded allegations as true and drawing

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all reasonable inferences in favor of the Cosgriffs. *See Bible*, 799 F.3d at 639. We agree that the Cosgriffs' federal claims should be dismissed.

II. ANALYSIS

Section 1983 prohibits unconstitutional actions by persons acting under the color of state law. Congress “cut a broad swath” when it enacted § 1983, and the statute appears by its terms to give a federal cause of action to state taxpayers. *Fair Assessment in Real Estate Ass’n, Inc. v. McNary*, 454 U.S. 100, 103-04, 102 S. Ct. 177, 70 L. Ed. 2d 271 (1981). But the comity doctrine, which “counsels lower federal courts to resist engagement in certain cases falling within their jurisdiction,” *Levin v. Commerce Energy, Inc.*, 560 U.S. 413, 421, 130 S. Ct. 2323, 176 L. Ed. 2d 1131 (2010), has limited § 1983’s scope.

And cases dealing with state tax systems fall within the comity doctrine’s purview. Before Congress enacted § 1983, the Supreme Court “recognized the important and sensitive nature of state tax systems and the need for federal-court restraint when deciding cases that affect such systems.” *Fair Assessment*, 454 U.S. at 102 (referring to *Dows v. City of Chicago*, 78 U.S. (11 Wall.) 108, 110, 20 L. Ed. 65 (1871)). And then in 1937, Congress provided that “[t]he district courts shall not enjoin, suspend or restrain the assessment, levy or collection of any tax under State law where a plain, speedy and efficient remedy may be had” in state court. 28 U.S.C. § 1341. Together, Congress and the Court embedded “the fundamental principle of comity between federal courts and state governments that

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is essential to ‘Our Federalism,’ particularly in the area of state taxation.” *See Fair Assessment*, 454 U.S. at 103.

So, though § 1983 appears to give a federal cause of action to state taxpayers, the principles of comity nonetheless apply to bar a state taxpayer from bringing a § 1983 suit in federal court. *See id.* at 103-05. This is true even if the taxpayer is seeking to redress the allegedly unconstitutional administration of a state tax system. *See id.* at 105. Taxpayers alleging that their federal rights have been violated by state or local tax practices must seek relief through available state remedies if those remedies are “plain, adequate, and complete.” *Id.* at 116.

We have consistently barred taxpayers from bringing § 1983 suits “challenging the validity or imposition of state and local taxes in federal courts unless the available state remedies for those injuries are not adequate, plain, and complete.” *Capra v. Cook Cty. Bd. of Review*, 733 F.3d 705, 713 (7th Cir. 2013). In *Werch v. City of Berlin*, for example, we agreed that a plaintiff’s § 1983 suit against the city of Berlin, the Board of Review, and several individual city officials was meritless; the plaintiff alleged the city’s tax on his farm equipment denied him equal protection of the law. 673 F.2d 192, 196 (7th Cir. 1982).

And in *Capra*, we affirmed the dismissal of § 1983 suits brought by Illinois taxpayers against the Cook County Board of Review, its three commissioners, its chief deputy commissioner, and its first assistant commissioners. 733 F.3d at 708, 718. The defendants increased the taxpayers’ property taxes by revoking their property tax reductions.

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Allegedly, they revoked the reductions after 2009 news reports claimed that then-Illinois State Representative Paul Froehlich had offered property tax reductions to his constituents in exchange for campaign contributions. *See id.* at 707. The suits alleged that the defendants violated the taxpayers' rights to equal protection of the law, their rights to due process, and their First Amendment rights to freedom of association. *Id.* at 708.

Importantly, we went on in *Capra* to find that Illinois's procedures for appealing property tax assessments are "adequate, plain, and complete." *Id.* at 714-17. "State remedies are 'plain, speedy and efficient' if they provide the taxpayer with a 'full hearing and judicial determination at which she may raise any and all constitutional objections to the tax.'" *Id.* at 714 (citation omitted). In Illinois, taxpayers can appeal a decision of a county Board of Review to the Property Tax Appeal Board or file a tax objection complaint directly with a county court. *See id.* at 714-15. If they select the former, they can appeal that decision to the Illinois state courts. *Id.* Through either route, the taxpayers can be heard by a state court of general jurisdiction, appealing through the state court system to the Supreme Court. *Id.*

The Cosgriffs brought their § 1983 claims in federal court—closely mirroring those three brought by the *Capra* tax-payers—against the County and various individual officials. The Cosgriffs attempt to remove their claims from the purview of comity considerations by arguing that they are not concerned about the tax that was imposed on them, but they are instead concerned about the

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defendants' unconstitutional actions against them. This is a distinction without a difference. If the defendants acted unconstitutionally, they only did so because they increased the Cosgriffs' tax burden by assessing the Cosgriff property to be worth more than it was. More specifically, the defendants allegedly conspired to impose a higher tax on the Cosgriffs without due process as retaliation for the Cosgriffs' exercise of free speech. In doing so, the defendants deprived the Cosgriffs of equal protection of the law. These claims are of the same character, then, as those brought by the *Capra* plaintiffs, and the principles of comity apply to preclude the Cosgriffs' claims from being heard in federal court just as those principles applied to bar the *Capra* plaintiffs' claims from being heard.

Further, before bringing this federal suit, the Cosgriffs utilized their Illinois state remedies by appealing their property tax assessment. If they were still dissatisfied after their property tax assessment was reduced, they could have continued through the state process to obtain further review and raise any and all constitutional objections to the tax. The fact that they did not do so is not dispositive. "The focus is on the *procedural* sufficiency of state remedies, not their substantive outcomes." *Id.* at 714. Thus, consistent with our previous decision in *Capra*, the Cosgriffs cannot bring their tax-related claims in federal court.

III. CONCLUSION

Because the Cosgriffs challenge the administration of a local tax system under § 1983, their claims fall

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outside the scope of the statute, in accordance with *Fair Assessment*. The available state remedies are plain, adequate, and complete.

The Cosgriffs did not appeal the district court's decision to relinquish supplemental jurisdiction over their remaining state-law claims. Accordingly, we AFFIRM the district court's dismissal of the Cosgriffs' federal-law claims and relinquishment of jurisdiction over their state-law claims.

**APPENDIX B — ORDER OF THE UNITED
STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF ILLINOIS, FILED JANUARY 23, 2017**

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

Case No: 16 C 50037

KELLY COSGRIFF, *et al.*,

Plaintiffs,

v.

COUNTY OF WINNEBAGO, *et al.*,

Defendants.

Judge Frederick J. Kapala

ORDER

Defendants' motions to dismiss [44][47][49][52] are granted and plaintiffs' federal claims in Counts I-IV are dismissed. Plaintiffs' motion to voluntarily dismiss Count VI pursuant to Rule 41(a)(1) [71] is granted. The court relinquishes supplemental jurisdiction over plaintiffs' remaining state-law claims. This case is closed.

*Appendix B***STATEMENT**

Plaintiffs, Kelly and Anita Cosgriff, have sued Winnebago County, Roscoe Township Assessor Joann Hawes, Roscoe Township Trustee Tom Hawes, Winnebago County Supervisor of Assessments Thomas J. Walsh, Roscoe Township Deputy Assessor Patricia Zintak, Assistant States Attorneys David Kurlinkus and Charlotte LeClercq, Roscoe Township Attorney Josef Kulinkus, and Kurlinkus Law, LLC, alleging violations of the First and Fourteenth Amendments, intentional infliction of emotional distress, and fraudulent assessment in connection with the assessment of the value of their real estate for property tax purposes. Before the court are various motions to dismiss filed by defendants as well as plaintiff's motion to voluntarily dismiss Count VI. For the reasons that follow, plaintiff's motion to voluntarily dismiss Count VI is granted and defendants' motions to dismiss are also granted.

I. BACKGROUND

The following facts are drawn from the complaint and the exhibits thereto, and are presumed true for the purpose of resolving the instant motions to dismiss. Plaintiffs own a home in Roscoe Township, Winnebago County, Illinois, and obtained a permit for and installed a \$50,000 pool in 2013. On April 8, 2014, Joann Hawes and Roscoe Township employee Deborah Brenner arrived unannounced at plaintiffs' home. When Mrs. Cosgriff asked what was the purpose of their visit, Hawes said they were there to measure the pool. After she got out of

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the car, one of plaintiffs' dogs bit Brenner. Brenner and Winnebago County sued plaintiffs and, concerned with further liability, plaintiffs posted a "no trespassing" sign on their property.

On April 22, 2014, Mr. Cosgriff emailed Walsh and attached a letter expressing concern about the lack of uniform application of property assessments. Walsh sought the counsel of LeClerc with regard to his response to the email and letter. On June 3, 2014, Mr. Cosgriff emailed Walsh again and asked him how property tax was calculated and, in particular, which method was used to assess his home. In a June 5, 2014 email response, Walsh informed Mr. Cosgriff that his request for information from Roscoe Township was refused on advice of its counsel Josef Kurlinkus. Walsh also wrote that "[b]ecause of the excellent quality of the assessments I have not considered it necessary for me to become involved with specifics about how the assessments were arrived at." Mr. Cosgriff sent more emails to Walsh in an attempt to understand how Roscoe Township assessed his property. Meanwhile, Walsh sought David Kurlinkus' instruction and together they implemented a strategy to impede Mr. Cosgriff.

On July 16, 2014, Zintak emailed Walsh about a petition plaintiff initiated on the website change.org encouraging other taxpayers to notify the Roscoe Township Assessor not to trespass on their property. David Kurlinkus ghost wrote a July 21, 2014 letter from Walsh to Mr. Cosgriff, which was reviewed and approved by Walsh, LeClerc, and the Hawes. In that letter, it states that "Roscoe Township's assessments are among the most uniform in the county

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on a year to year basis. Mrs. Hawes is a well-qualified assessor, and the questions you seek answers to should be addressed to her.”

On August 7, 2014, the Winnebago County Supervisor of Assessments issued “PTAX-228 Notice of Property Assessment” to plaintiffs for their home which provided a 47.14% assessed valuation increase from the prior year. This was an increase in full fair market value from \$375,000 to \$525,000, the highest increase in Roscoe Township in 2014, a year when 99.17% of properties had their assessed values decreased. On August 8, 2014, Mr. Cosgriff emailed Walsh complaining of the assessment. The email was forwarded to David Kurlinkus, who forwarded it to his son Josef Kurlinkus with the one-word message: “Boom.”

Plaintiffs’ counsel filed a property tax assessment complaint supported with a \$345,000 appraisal of their property. On February 20, 2015, at the beginning of the hearing before the Winnebago County Board of Review regarding plaintiffs’ property, Josef Kurlinkus presented a motion to bar plaintiffs from presenting evidence pursuant to Rule G.3 of the Rules and Procedures of the Winnebago County Board of Review which prevents a taxpayer from presenting evidence when excluding the assessor from the property. According to the motion, while plaintiffs were represented by counsel, Roscoe Township was denied access to plaintiffs’ property. This motion was brought when in fact plaintiffs had through counsel and in writing invited Roscoe Township to inspect the property on January 26, 2015, and provided a 30-day window for it to do so which Roscoe Township did not utilize. The

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Board of Review had a closed-door deliberation during which David Kurlinkus argued that Rule G.3 had been violated. The motion was granted by the Board of Review.

When Joann Hawes testified at the hearing, she was unable to explain the \$525,000 assessed market value. At the conclusion of the hearing, Mr. Cosgriff said to Josef Kurlinkus, “you should have done the right thing.” To which Josef responded, “you should not have put up the website or signs.” When questioned about his presence and participation in the hearing, David Kurlinkus recused himself on February 20, 2015. During its final deliberations on February 27, 2015, the Board of Review found the value of plaintiff’s property to be \$409,000. Despite his recusal, David Kurlinkus continued to try to convince the Board of Review through Walsh and LeClercq to change its decision before publication of its final decision. The final decision of the Board of Review was not appealed.

II. ANALYSIS

When deciding a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6), a court accepts all of the well-pleaded allegations of the complaint as true and draws all reasonable inferences in favor of the plaintiff. *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). To state a claim under the Federal Rules, a complaint need only contain “a short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). “[D]etailed factual allegations” are not required, but the plaintiff must allege facts that, when “accepted as true . . . state a claim to relief that is plausible on its face.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

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All the defendants argue that plaintiff's federal constitutional claims must be dismissed because this court is obliged to abstain from granting relief based on the principles of comity set forth in *Fair Assessment in Real Estate Ass'n v. McNary*, 454 U.S. 100 (1981), and applied in *Capra v. Cook County Board of Review*, 733 F.3d 705, 712-13 (7th Cir. 2013). The court is in agreement because the Seventh Circuit's decision in *Capra* is on point and controlling.

In *Fair Assessment*, the plaintiffs brought a § 1983 claim seeking damages based on equal protection and due process violations for unequal taxation of real property. 454 U.S. at 105-06. The Supreme Court ruled, based on comity concerns, that § 1983 does not permit federal courts to award damages in state taxation cases when state law provides an adequate remedy. *Id.* at 116. "Such taxpayers must seek protection of their federal rights by state remedies, provided of course that those remedies are plain, adequate, and complete, and may ultimately seek review of the state decisions in this Court." *Id.*

In *Capra*, the Seventh Circuit held that *Fair Assessment* prevented Illinois taxpayers from proceeding in federal court with their § 1983 claims that an increase in their property taxes—due to a revocation of a property tax reduction—violated their rights under the equal protection and due process clauses of the Fourteenth Amendment and constituted retaliation in violation of the First Amendment. *Capra*, 733 F.3d at 708. The Seventh Circuit explained that "*Fair Assessment* has been applied consistently to bar plaintiffs from bringing section 1983

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suits challenging the validity or imposition of state and local taxes in federal courts unless the available state remedies for those injuries are not adequate, plain, and complete.” *Id.* at 713. “State remedies are plain, speedy and efficient if they provide the taxpayer with a full hearing and judicial determination at which she may raise any and all constitutional objections to the tax.” *Id.* at 714. The Seventh Circuit went on to hold that the Illinois procedures for appealing property tax assessment values are adequate, plain, and complete for *Fair Assessment* purposes. *Id.* at 715-16.

Plaintiffs maintain that the comity doctrine of *Fair Assessment* is not applicable to their federal claims because they are not challenging the administration of the Illinois property tax system. It is abundantly clear, however, that when a taxpayer claims that the constitution was violated when his property value was unfairly or improperly assessed for property tax purposes, the *Fair Assessment* comity rule requires this court to abstain from adjudicating those claims. This is true because “any statutory or constitutional claims [beyond objections to assessment values] can be heard by a state court of general jurisdiction and can be appealed through the Illinois court system to the Illinois Supreme Court and the Supreme Court of the United States.” *Id.* at 715-16.¹ In this case,

1. The Seventh Circuit explained that:

Under Illinois law, taxpayers dissatisfied with a decision of a county Board of Review have two options for appeal. They can either appeal to the Property Tax Appeal Board (PTAB), or file a tax objection

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plaintiffs did utilize the remedies available to them and successfully challenged the alleged unconstitutional increase in their property assessment before the Board of Review. That plaintiffs did not afford themselves of any additional state-court remedies is inconsequential because “[t]he focus is on the procedural sufficiency of state remedies, not their substantive outcomes.” *Id.* at 714 (emphasis omitted).

Plaintiffs attempt to distinguish *Fair Assessment* and *Capra*, but fail because they identify only inconsequential differences. For example, plaintiffs argue that there was no conspiracy alleged in *Fair Assessment* and that, unlike the plaintiffs in *Capra*, they are a class of one. These arguments, however, lack any sufficient explanation as to why such distinctions matter. Plaintiffs also cite various passages discussing comity within this court’s opinion in *Fannie Mae v. Hamer*, No. 12 C 50230, 2013 WL 591979,

complaint directly with a county circuit court. If they select the PTAB route, they can appeal the PTAB’s decision directly to Illinois state courts. Although the PTAB is not expressly authorized to consider claims beyond objections to assessment values, we have found no provision in its authorizing statute or regulations precluding it from doing so. And before the PTAB, taxpayers may supplement the record with evidence beyond what was before the Board of Review. Thus, through either the PTAB or the circuit courts, any statutory or constitutional claims can be heard by a state court of general jurisdiction and can be appealed through the Illinois court system to the Illinois Supreme Court and the Supreme Court of the United States.

Capra, 733 F.3d at 714-15 (citations omitted).

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at *3 (N.D. Ill. Feb. 13, 2013), *aff'd sub nom. DeKalb Cty. v. Fed. Hous. Fin. Agency*, 741 F.3d 795 (7th Cir. 2013), but fail to explain how that discussion supports their position in this case. Accordingly, defendants' motions to dismiss are granted as to plaintiffs' federal claims alleged in Counts I-IV.²

Because the court has dismissed plaintiffs' federal claims, the court relinquishes jurisdiction over the remaining state law claims which are dismissed without prejudice to refile in state court. *See Miller v. Herman*, 600 F.3d 726, 738 (7th Cir. 2010) (noting that although "supplemental jurisdiction persists even if all the claims giving rise to original jurisdiction have been dismissed," the general rule is that "when all federal claims are dismissed before trial, the district court should relinquish jurisdiction over pendent state-law claims rather than resolving them on the merits"); *see also* 28 U.S.C. § 1367(c)(3).

III. CONCLUSION

Plaintiff's federal claims in Counts I-IV fall squarely within the comity doctrine articulated in *Fair Assessment* and applied in *Capra*. Therefore, this court will abstain from adjudicating plaintiffs' federal claims. Consequently, defendants' motions to dismiss are granted and Counts I-IV are dismissed. Count VI is dismissed on plaintiffs' motion. The court relinquishes supplemental jurisdiction over plaintiffs' remaining state-law claims.

2. Because this analysis is dispositive of the case, the court need not address the alternative arguments advanced by defendants.

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Date: 1/23/2017

ENTER:

/s/
FREDERICK J. KAPALA
District Judge

APPENDIX C — VARIOUS EMAILS

From: Pat Zintak <pzintak.ciao@roscoetwsp.us>
Sent: Wednesday, July 16, 2014 9:37 AM
To: Thomas J. Walsh
Subject: Change.org
Attachments: Change.docx

Hi Tom,

Joann asked that I send this to you. This is what is on the web site “change.org” about “No Trespassing”.

Patricia J. Zintak
Roscoe Township Deputy Assessor
5792 Elevator Road
Roscoe, Illinois 61073

Phone: 815 623-7323
Fax: 815 623-7343

Email: pzintak.ciao@roscoetwsp.us

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From: Microsoft Exchange
<MicrosoftExchange329e71ec88ae4615bbc
36ab6ce41109e@WinCoIL.us> on behalf of
Pat Zintak <pzintak.ciao@roscoetwsp.us>
Sent: Wednesday, July 16, 2014 9:37 AM
To: Thomas J. Walsh
Subject: Change.org
Attachments: Change.org (48.6 KB)

Sender: pzintak.ciao@roscoetwsp.us
Subject: Change.org
Message-Id: <001301cfa103\$65c88e50\$3159aaf0\$@
ciao@roscoetwp.us>
Recipient: twalsh@wincoil.us

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This petition will be delivered to:

Roscoe Township Assessor and Township Clerk
Roscoe Township Assessor, Winnebago County, IL

To protect yourself and property, please sign this petition notifying the Roscoe Township Assessor NOT TO TRESPASS on your property. Read why this is so important.

1.
 - 1.
 2. Petition by
Kelly & Anita Cosgriff
South Beloit, IL

If you're not a Concerned Roscoe Township Property Tax Payer you should be! Please sign this petition in support.

I am writing you this as a service to the public from what I have learned the hard way. It is worth the read to educate yourself and signature to protect yourself.

Did you know the Roscoe Township Assessor has an "*Implied Power of Entry*" to enter your property for Assessing purposes ***unless*** you clearly post "No Trespassing per (720 ILCS 5/21-3)" and or simply issue a written notice of No Trespass Order by completing the attached petition. The township posts No Trespassing on its property, you should too! If the Township Assessor is not allowed on your property, they are obligated by oath to provide the most accurate fair assessment from the

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street view and or easement's and with this no trespass order may no longer physically enter your property.

Further Note: An Assessor or any other person does not have authority to remain on private land after being asked to leave by the owner or lawful occupant.

1. First, it is their practice to enter your property without any notice of invitation or even trying to schedule a property visit. **While they are on your property, you are liable for anything that may happen to these uninvited people.** They have no concern for your privacy or liability. For example, as in my case, if your dog bites them. The township insurer will go after you and your insurance for expenses. Beyond this, as in my case, they may contact a Personal Injury Lawyer and **file a personal injury suit against you** and or your insurance company for as much as they can get. If they trip or fall, the same applies.
2. Second, don't kid yourself, the most likely primary purpose of an assessors site visit is to determine if they can add assessment value to your property. They are looking for proof of improvements made and will likely increase the assessment and thus taxation. If you want, you can choose to believe the assessor will come to your property try to lower your assessment.
3. Finally, Never let them inside your home. Again, the visit intent is to document improvements to

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justify higher assessments. And remember you're liable if they trip or fall... A simple denial of entry is all you need but if you have not advised them not to trespass, they have known to and will look in your windows.

To:

Roscoe Township Assessor, Winnebago County, IL Roscoe Township Assessor and Township Clerk

This is a formal Do Not Trespass notice per Illinois law (720 ILCS 5/21-3), per any property owner/resident in Roscoe Township who is signing this petition.

You are no longer welcome to enter our property at will for any purpose. Respect our rights to privacy and stay off of our property. We simply will not accept the liability of you entering our property. Implement policies where township...

This is a formal Do Not Trespass notice per Illinois law (720 ILCS 5/21-3), per any property owner/resident in Roscoe Township who is signing this petition.

You are no longer welcome to enter our property at will for any purpose. Respect our rights to privacy and stay off of our property. We simply will not accept the liability of you entering our property. Implement policies where township employees and their insurer cannot file claims/suit on tax paying residents!

Sincerely,
[Your name]

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From: Daivd Kurlinkus
Sent: Friday, August 8, 2014 2:12 PM
To: Josef Kurlinkus
Subject: FW: Additional Bullying tactics of the
Roscoe Township Assessor in retribution
for my complaints and No Trespass
Attachments: Cosgriff 2014 crazy lady assessor Ptax-228
Notice.pdf

Importance: High

Boom.

From: Kelly Cosgriff - CRS, Inc. [mailto:kjc@sourcerubber.com]
Sent: Friday, August 08, 2014 1:15 PM
To: Thomas J. Walsh
Cc: donna@guyerlaw.com; jhawes.assessor@roscoetwsp.us; David Kurlinkus; don@cravenlawoffice.com; anitacos@charter.net
Subject: Additional Bullying tactics of the Roscoe
Township Assessor in retribution for my
complaints and No Trespass
Importance: High

Dear Tom Walsh,

I received your letter understand that you are not the Supervisor of the Assessors and are the Supervisor of Assessments. However, my understanding is that The Winnebago County Supervisor of Assessments is required

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to ensure uniformity of their functions as Township Assessors and again I am asking you to Intervene.

I am beside myself; Yesterday I received the PTAX-228 Notice of Property Assessment and Joann Hawes has increased my assessment by 47.14% over last year's value. She is completely out of control and abusing her power of office and simply a bully with no respect for property owner's rights or liability. She has raised our assessed value from \$357,000 (which was already over-assessed) to \$525,000 because we added a pool? There is absolutely no question that she is abusing her power and out of line and there is no data to support her assessment value increase.

My pool is no larger than her pool and she assess her entire property at \$174,000 and apparently has the nerve and unchecked authority of adding \$168,000 to my assessment because I added a pool? This is 3 times what it cost me to build! This is absolutely nuts, she is crazy and you will be complicit in supporting her if you do not intervene. She will say that because I did not let her back on my property she had to make assumptions leading her to this value as she threatened to do and I explained to her that she had already been to my property last December and taken her pictures of my pool and that I could not afford the liability for her to enter my property again in light of the law suit and claim the township and township employee have made with their respective lawyers. I provided her once again with the full permit which detailed all dimensions and had illustrations of all work done.

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I am again formally complaining to you as next highest authority to the lack of uniformity in her assessments and the clear and deliberate attempts she is making to bully us. It is clear to us that this is because we have complained about her and started making property owners aware of her operating methods and as of today, 25 additional township residents have formally No Trespassed her office from their properties (Attached)

To: Roscoe Township Assessor, Winnebago County, IL,
Roscoe Township Assessor and Township Clerk

This is a formal Do Not Trespass notice per Illinois law (720 ILCS 5/21-3), per any property owner/resident in Roscoe Township who is signing this petition.

You are no longer welcome to enter our property at will for any purpose. Respect our rights to privacy and stay off of our property. We simply will not accept the liability of you entering our property.

Implement policies where township employees and their insurer cannot file claims/suit on tax paying residents!

Sincerely,

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Roscoe Township Property Owner Name	Address	City	State	Zip Code	Country	Date Signed on Change.org
Kelly Cosgriff	14889 Jason Lane	South Beloit	Illinois		United States	7/2/2014
Jim Michelsen	14893 Dereck Dr	South Beloit	Illinois	61080	United States	7/13/2014
Edward Kletecka	7782 Cannellwood Dr	So. Beloit	Illinois	61080	United States	7/15/2014
Tammy Schindler	14348 White School Rd	South Beloit	Illinois	61080	United States	7/20/2014
Rudy Colwell	7692 Shane Ln	South Beloit	Illinois	61080	United States	7/21/2014
Tom Ptacin	11751 Bend River	Roscoe	Illinois	61073	United States	7/21/2014
Michael Wojtas	14921 Jason Ln	South Beloit	Illinois	61080	United States	7/21/2014

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Roscoe Township Property Owner Name	Address	City	State	Zip Code	Country	Date Signed on Change.org
Gary Waszkowiak	14987 Jason Ln	South Beloit	Illinois	61080	United States	7/23/2014
Stephen Wright	7418 TIMBER RIDGE RD	Roscoe	Illinois	61073	United States	7/24/2014
Chad Soderberg	15170 Northview Trl	South Beloit	Illinois	61080	United States	7/24/2014
Ronald Barch	8750 Grandview Dr	Roscoe	Illinois	61073	United States	7/24/2014
Steve Schreier		Roscoe	Illinois	61073	United States	7/24/2014
David Fausel	5067 Charissas Pl	Roscoe	Illinois	61073	United States	7/25/2014
Belva Wright	13397 Promontory Trl	roscoe	Illinois	61073	United States	7/25/2014

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Roscoe Township Property Owner Name	Address	City	State	Zip Code	Country	Date Signed on Change.org
David Sobojinski	11286 Jasmine Dr	Roscoe	Illinois	61073	United States	7/25/2014
Scott Kitzman	7432 Timber Ridge	Roscoe	Illinois	61073	United States	7/26/2014
Terri Michelsen	14893 Dereck Dr	South Beloit	Illinois	61080	United States	7/29/2014
Matt Warneke	7979 Canterbury Ridge Dr	South Beloit	Illinois	61080	United States	7/29/2014
Doug Stitt	15177 Northview Trl	South Beloit	Illinois	61080	United States	7/29/2014
Michele Ranard	10729 Meadowstreet	Roscoe	Illinois	61073	United States	7/30/2014
Scott Markley	14635 Hunters Way	South Beloit	Illinois	61080	United States	7/30/2014

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Roscoe Township Property Owner Name	Address	City	State	Zip Code	Country	Date Signed on Change.org
Mike Bjerke	11248 Walton Dr	Roscoe	Illinois	61073	United States	7/30/2014
Eugene Rudnicki	7308 Cody	South Beloit	Illinois	61080	United States	7/30/2014
John Gallick	14892 Jason Ln	South Beloit	Illinois	61080	United States	8/1/2014
Dianny Dobojski	11286 Jasmine Dr	Roscoe	Illinois	61073	United States	8/1/2014

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I hope that we all can get ahead of this craziness and will be doing my best to contact the media to bring this madness and abuse of power to light.

Thanks,

Kelly J. Cosgriff

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From: Thomas J. Walsh [mailto:TWalsh@WinCoIL.us]
Sent: Friday, June 27, 2014 8:47 AM
To: Kelly Cosgriff - CRS, Inc.
Subject: RE: Questions that I would appreciate your response to

Good Morning Kelly,

I looked through the IDOR publication you sent me. I noticed the cover contains a sub-title which begins with the words "a general guide". There are 102 counties in Illinois and, I believe, over 1,000 township assessors. I don't believe the document was intended to explain what is found in every township assessor's office in the state. I found several web sites and a phone number near the front of that publication. I think you should call that phone number for an explanation of exactly what the authors meant by the wording you cited, and how it applies to your situation. Since the publication was created by the Illinois Department of Revenue they should be able to provide the best explanation.

I hope this advice helps you finds the answers you are seeking. Feel free to contact me again if you think I can be of further assistance.

Thomas J. Walsh
Supervisor of Assessments
Winnebago County
Room 301 County Administration Building
404 Elm Street
Rockford, IL 61101
815-319-4468, twalsh@wincoil.us

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From: Kelly Crosgriff - CRS, Inc. [mailto:kjc@sourcerubber.com]
Sent: Monday, June 23, 2014 1:08 PM
To: Thomas J. Walsh
Subject: Questions that I would appreciate your response to

Dear Tom,

It is great that you feel Roscoe Township assessments are some of the best and most accurate. I have not contested otherwise and am simply trying to understand my own assessment and how it is calculated so I can evaluate it for fairness. I sat with you and you could not help me decipher my property card. You told me to ask the Roscoe Township Assessor and I did. It seems to be required by the state property tax system? Why is this big secret?

Please answer these questions:

1. Am I citing an incorrect document from the Illinois Department of Revenue that I sent you previously? That states "The property report card shows the property's assessed value and how that assessed value was calculated."

Is what I am asking for out of the norm or out of line? Whom should I contact at the IDOR to help get my questions answered professionally instead of getting stonewalled?

Thanks,
Kelly J. Cosgriff

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From: Charlotte LeClercq [mailto:CLeClercq@WinCoIL.us]
Sent: Monday, August 25, 2014 1:31 PM
To: Kelly Cosgriff - CRS, Inc.
Subject: RE: Email to State's Attorney

Mr. Cosgriff,

I would certainly be willing to meet with you; however, it appears from your email that your reference to transparency and public records that your issues fall under the Freedom of Information Act. If that is the case, then you would need to bring those issues to the attention of the Public Access Counselor in the Illinois Attorney General's Office. The State's Attorney's Office does not enforce the Freedom of Information Act. If, on the other hand, you believe the Township Assessor is violating or has violated a state statute, then the State's Attorney's Office may be able to help you. However, I would be looking for some direction from you and/or the IDOR as to what statute the Assessor's Office is violating. Without more definitive information, I'm not sure that a meeting would be very productive. I have done some independent research and have not come up with a violation of state statute, but I am not a Property Tax Code expert, by any means.

Thank you,
Charlotte

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From: Kelly Cosgriff - CRS, Inc. [mailto:kjc@sourcerubber.com]
Sent: Monday, August 25, 2014 10:50 AM
To: Charlotte LeClerc
Cc: Margie Mullins
Subject: RE: Email to State's Attorney

Dear Charlotte,

Can we meet this Thursday to discuss this? According to IDOR Property tax division, there is supposed to be transparency in this assessment process and records public.

Thanks,
Kelly J. Cosgriff

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From: David Kurlinkus
Sent: Monday, August 25, 2014 1:15 PM
To: Charlotte LeClercq
Subject: RE: Email to State's Attorney

I wouldn't recommend it.

From: Charlotte LeClercq
Sent: Monday, August 25, 2014 1:15 PM
To: David Kurlinkus
Subject: RE: Email to State's Attorney

So is the SA's office also the transparency police??

From: David Kurlinkus
Sent: Monday, August 25, 2014 1:14 PM
To: Charlotte LeClercq
Subject: RE: Email to State's Attorney

Let me guess whose definition of "transparency" he wants to use. Make sure you have another meeting to go to half an hour after this one.

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From: Charlotte LeClercq
Sent: Monday, August 25, 2014 11:05 AM
To: David Kurlinkus
Subject: FW: Email to State's Attorney

Great...

From: Kelly Cosgriff - CRS, Inc. [mailto:kjc@sourcerubber.com]
Sent: Monday, August 25, 2014 10:50 AM
To: Charlotte LeClercq
Cc: Margie Mullins
Subject: RE: Email to State's Attorney

Dear Charlotte,

Can we meet this Thursday to discuss this? According to IDOR Property tax division, there is supposed to be transparency in this assessment process and records public.

Thanks,
Kelly J. Cosgriff

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From: Thomas J. Walsh <TWalsh@WinCoIL.us>
Sent: Tuesday, August 26, 2014 2:27 PM
To: David Kurlinkus
Subject: RE: new web site....

I'll be glad to meet as soon as we can. I checked out the website and Mr. Cosgriff seems to be making unfounded allegations. I hope there is something we can do to stop this character assignation.

From: David Kurlinkus <DKurlinkus@WinCoIL.us>
Sent: Tuesday, August 26, 2014 2:21 PM
To: Thomas J. Walsh
Cc: pzintak.ciao@roscoetwsp.us; Charlotte LeClercq; Josef Kurlinkus
Subject: FW: new web site....

What do you make of this? I know that Mr. Cosgriff has 1st Amendment rights, but the "no trespass" signs will have consequences, as do the protests on the tax bills of other residents. Roscoe Township has requested a meeting with you and me to discuss possible solutions.

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From: Pat Zintak [mailto:pzintak.ciao@
roscoetwsp.us]
Sent: Tuesday, August 26, 2014 1:06 PM
To: 'Josef Kurlinkus'
Cc: Thomas J. Walsh; David Kurlinkus
Subject: new web site....

I believe this is Mr. Cosgriff.... Any ideas?

<http://www.contesttaxes.com>

Patricia J. Zintak
Roscoe Township Deputy Assessor
5792 Elevator Road
Roscoe, Illinois 61073

Phone: 815 623-7323
Fax 815 623-7343

email: pzintak.ciao@roscoetwsp.us

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From: David Kurlinkus
Sent: Monday, September 15, 2104 2:09 PM
To: Josef Kurlinkus
Subject: FW: No Trespass list updated for your records
Attachments: Change org signatures no trespassing
Roscoe Township Assessor 9-15-2014.xlsx

Importance: High

Maybe our office ought to send him a cease and desist letter regarding the unauthorized practice of law. What do you think about acknowledging? I'm sort of torn.

From: Pat Zintak [mailto:pzintak.ciao@roscoetwsp.us]
Sent: Monday, September 15, 2014 1:08 PM
To: 'Josef Kurlinkus'
Cc: 'Joann Hawes'; David Kurlinkus; Thomas J. Walsh
Subject: FW: No Trespass list updated for your records.
Importance: High

Joe,

So... you know how we are treating this situation. We (the Assessor's Office) have not sent any letters yet to any of the property owners who have signed on to this web site (change.org) due to the fact they are NOT properly filing a "no trespass" order. As complaints come in, we will do a "formal letter".. receive a proper response from the

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property owner. However, at this time, I do not feel I even have to “acknowledge” his email... it’s not a FOIA... he is requested I do something for him.....

Do you think I need to acknowledge this email as he requested?

Please advise...

Patricia J. Zintak
Roscoe Township Deputy Assessor
5792 Elevator Road
Roscoe, Illinois 61073

Phone: 815 623-7323
Fax 815 623-7343

email: pzintak.ciao@roscoetwsp.us

From: Kelly Cosgriff - CRS, Inc. [mailto:kjc@sourcerubber.com]
Sent: Monday, September 15, 2014 11:34 AM
To: Pat Zintak; Joann Hawes
Subject: No Trespass list updated for your records
Importance: High

Dear Pat Zintak and Joann Hawes,

Please see the additions to the Roscoe Township property owners who are no trespassing you from their properties, highlighted in yellow. Pat, please acknowledge receipt of this updated file.

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To: Roscoe Township Assessor, Winnebago County, IL,
Roscoe Township Assessor and Township Clerk

This is a formal Do Not Trespass notice per Illinois law (720 ILCS 5/21-3), per any property owner/resident in Roscoe Township who is signing this petition.

You are no longer welcome to enter our property at will for any purpose. Respect our rights to privacy and stay off of our property. We simply will not accept the liability of you entering our property.

Implement policies where township employees and their insurer cannot file claims/suit on tax paying residents!

Sincerely,

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Roscoe Township Property Owner Name	Address	City	State	Zip Code	Country	Date Signed on Change.org
Kelly Cosgriff	14889 Jason Lane	South Beloit	Illinois		United States	7/2/2014
Jim Michelsen	14893 Dereck Dr	South Beloit	Illinois	61080	United States	7/13/2014
Edward Kletecka	7782 Cannellwood Dr	So. Beloit	Illinois	61080	United States	7/15/2014
Tammy Schindler	14348 White School Rd	South Beloit	Illinois	61080	United States	7/20/2014
Rudy Colwell	7692 Shane Ln	South Beloit	Illinois	61080	United States	7/21/2014
Tom Ptacin	11751 Bend River	Roscoe	Illinois	61073	United States	7/21/2014
Michael Wojtas	14921 Jason Ln	South Beloit	Illinois	61080	United States	7/21/2014
Gary Waszkowiak	14987 Jason Ln	South Beloit	Illinois	61080	United States	7/23/2014

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Roscoe Township Property Owner Name	Address	City	State	Zip Code	Country	Date Signed on Change.org
Stephen Wright	7418 TIMBER RIDGE RD	Roscoe	Illinois	61073	United States	7/24/2014
Chad Soderberg	15170 Northview Trl	South Beloit	Illinois	61080	United States	7/24/2014
Ronald Barch	8750 Grandview Dr	Roscoe	Illinois	61073	United States	7/24/2014
Steve Schreier		Roscoe	Illinois	61073	United States	7/24/2014
David Fausel	5067 Charissas Pl	Roscoe	Illinois	61073	United States	7/25/2014
Belva Wright	13397 Promontory Trl	roscoe	Illinois	61073	United States	7/25/2014
David Sobjinski	11286 Jasmine Dr	Roscoe	Illinois	61073	United States	7/25/2014
Scott Kitzman	7432 Timber Ridge	Roscoe	Illinois	61073	United States	7/26/2014

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Roscoe Township Property Owner Name	Address	City	State	Zip Code	Country	Date Signed on Change.org
Terri Michelsen	14893 Dereck Dr	South Beloit	Illinois	61080	United States	7/29/2014
Matt Warneke	7979 Canterbury Ridge Dr	South Beloit	Illinois	61080	United States	7/29/2014
Doug Stitt	15177 Northview Trl	South Beloit	Illinois	61080	United States	7/29/2014
Michele Ranard	10729 Meadowstreet	Roscoe	Illinois	61073	United States	7/30/2014
Scott Markley	14635 Hunters Way	South Beloit	Illinois	61080	United States	7/30/2014
Mike Bjerke	11248 Walton Dr	Roscoe	Illinois	61073	United States	7/30/2014
Eugene Rudnicki	7308 Cody	South Beloit	Illinois	61080	United States	7/30/2014
John Gallick	14892 Jason Ln	South Beloit	Illinois	61080	United States	8/1/2014

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Roscoe Township Property Owner Name	Address	City	State	Zip Code	Country	Date Signed on Change.org
Dianny Sobjinski	11286 Jasmine Dr	Roscoe	Illinois	61073	United States	8/1/2014
Burdette Brick	12894 Menominee Trail	Roscoe	IL	61073	USA	08/23/2014 11:29am
Gregory Zawiziak	7910 Hidden Creek Ln.	Roscoe	IL	61073	USA	08/24/2014 11:26am
Richard Terasaki	7477 Timber Ridge Rd	Roscoe	IL	61073	United States	08/25/2014 05:43am
Alan Terrell	13078 white school rd	roscoe	Il	61073	usa	08/25/2014 11:01am

Thanks,
 Kelly J. Cosgriff
 CELL: 847.809.2984