

**IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT  
IN AND FOR ESCAMBIA COUNTY, FLORIDA**

**ESCAMBIA COUNTY,**

**Petitioner,**

**v.**

**Case No. 2022-CA-0141**

**PAM CHILDERS, Clerk of the Circuit Court  
and Comptroller for Escambia County,**

**Respondent.**

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**ORDER DENYING RESPONDENT’S MOTION TO QUASH**

**THIS CAUSE** is before the Court on Respondent’s Motion to Quash Alternative Writ of Mandamus, filed on March 1, 2022. On June 17, 2022, the Court held a hearing on the Motion to Quash. Having reviewed and considered the motion and the subsequent filings of the parties, record, arguments of the parties, and the applicable law, the Court finds as follows:

**Background**

On January 31, 2022, Petitioner (“County”) filed an Amended Complaint for Writ of Mandamus, Including Supporting Memorandum of Law (“Amended Complaint”), pursuant to Florida Rule of Civil Procedure 1.630(b)(3).

On February 8, 2022, this Court issued an Alternative Writ in Mandamus (“Alternative Writ”) pursuant to Rule 1.630(d)(2).

On March 1, 2022, Respondent (“Clerk”) filed the present Motion to Quash, in which the Clerk asserts that the Alternative Writ should be quashed, and the Amended Complaint should be dismissed. Also on March 1, 2022, the Clerk filed a Response to the Alternative Writ.

On April 1, 2022, the County filed an Opposition to the Motion to Quash.

On April 14, 2022, the Clerk filed a Reply to the County’s Opposition.

## **Legal Authority**

### ***Writ of Mandamus***

The essential requirements for issuance of a writ of mandamus are (1) an official duty imposed by law requiring the respondent to perform; (2) a ministerial act; (3) that the respondent refused or failed to perform; (4) and for which the petitioner has a clear legal right to compel performance; (5) and no other adequate remedy. See generally Huffman v. State, 813 So. 2d 10, 11 (Fla. 2000); Romine v. Allen, 262 So. 3d 855, 857 (Fla. 1st DCA 2018); Gawker Media, LLC v. Bollea, 170 So. 3d 125, 131 (Fla. 2d DCA 2015); Moorman v. Hatfield, 958 So. 2d 396, 399 (Fla. 2d DCA 2007); Architectural Sheet Metal, Inc. v. RLI Ins. Co., 936 So. 2d 1181, 1182 (Fla. 5th DCA 2006); Soto v. Bd. of Cnty. Com'rs of Hernando Cnty., 716 So. 2d 863, 864 (Fla. 5th DCA 1998).

“A writ of mandamus is the appropriate remedy for compelling a governmental official to perform a ministerial duty that involves no discretion.” Phillips v. Pritchett Trucking, Inc., 328 So. 3d 380, 382 (Fla. 1st DCA 2021). “A ministerial duty is one that does not involve the exercise of discretion.” Dortch v. Alachua Cnty. Sch. Bd., 330 So. 3d 976, 979 (Fla. 1st DCA 2021).

### ***Motion to Quash***

The same legal standard that applies to a motion to dismiss applies to a motion to quash. See Poole v. City of Port Orange, 33 So. 3d 739, 740 (Fla. 5th DCA 2010); State ex rel. Ware v. City of Miami, 107 So. 2d 385, 387 (Fla. 3d DCA 1958). “[A] trial court is required to treat the factual allegations of the complaint as true and to consider those allegations in the light most favorable to the plaintiffs.” Siegle v. Progressive Consumers Ins. Co., 819 So. 2d 732, 734–35 (Fla. 2002) (quotations omitted). “When a court determines the sufficiency of a complaint

to state a cause of action, it applies the so-called ‘four corners rule’ in the analysis. Under this rule, the court’s review is limited to an examination solely of the complaint and its attachments.”

Santiago v. Mauna Loa Investments, LLC, 189 So. 3d 752, 755 (Fla. 2016).

“[W]hen an alternative writ makes a prima facie case a motion to quash should be denied.” State ex rel. Enby v. Wood, 186 So. 420, 421 (Fla. 1939).

### **Discussion**

In the pleadings and arguments regarding this case the parties have spent a lot of time addressing personal and political disagreements, which from this Court’s disimpassioned analysis, are not germane to resolving the legal issues presented in this case.

At the heart of this controversy is the legal question of whether the County’s local retirement plan is unlawful as to elected officials.

The County asserts that the Clerk has a “clear ministerial duty” to make payments of “County money” to a local retirement plan, which the County asserts was created on January 7, 1997. The County asserts that the “Clerk’s sole function with respect to the County’s retirement plan is to issue checks on behalf of the County to the County’s designated investment company.” The County alleges that the Clerk has stopped making required payments, which affects three members of the Escambia County Board of Commissioners. The County asserts that the plan is legal, and the County relies in part, on section 121.182, Florida Statutes, for that assertion. The County asserts that there “is no legal remedy for the Clerk’s refusal to carry out her duty other than by a writ of mandamus issued by this Court.”

The Court has considered the Amended Complaint and the subsequent filings by the parties. Having considered the factual allegations of the Amended Complaint as true and in the

light most favorable to the County, the Court finds that the County has made a prima facie case for relief.

**Ruling**

Therefore, it is **ORDERED AND ADJUDGED:**

1. The Clerk's Motion to Quash is **DENIED**.
2. The County, should it choose to do so, may file a Reply to the Clerk's Response to the Alternative Writ within 15 days from the date of this Order.

**DONE AND ORDERED** in Fort Walton Beach, Okaloosa County, Florida.

WFS/ceb



eSigned by CIRCUIT JUDGE WILLIAM STONE  
on 07/05/2022 16:49:16 eRsB3Zqx

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