

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
IN AND FOR PINELLAS COUNTY, FLORIDA  
CIVIL DIVISION**

ERIC SEIDEL, a Florida resident,

Plaintiff,

v.

Case No.

Division:

DANIEL “DAN” SARACKI, a Florida resident,

Defendant.

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**COMPLAINT**

Eric Seidel (“Plaintiff”), through undersigned counsel, hereby sues Daniel “Dan” Saracki (“Mayor Saracki”), and avers the following:

**ALLEGATIONS COMMON TO ALL COUNTS**

**The Parties, Jurisdiction, and Venue**

1. Plaintiff is a natural person residing in Oldsmar, Pinellas County, Florida. All of the public record requests that are the subject of this action were submitted by, or on behalf of, Plaintiff.

2. Mayor Saracki is a natural person residing in Oldsmar, Pinellas County, Florida. Since April of 2022, Mayor Saracki has served as Mayor for the City of Oldsmar (the “City”). Prior thereto, and since 2015, Mayor Saracki served as an elected City Council Member for the City. Accordingly, Mayor Saracki is, and since 2015 has been, a custodian of public records within the meaning of chapter 119 of the Florida Statutes.

3. Jurisdiction is cognizable before this Court as Plaintiff seeks injunctive, declaratory and mandamus relief pursuant to section 86.011, Florida Statutes, Article V, section 5(b), Fla. Const., and Rule 1.630, Florida Rules of Civil Procedure.

4. Venue is appropriate in this Court because Mayor Saracki resides in Pinellas County, Florida and the violations of the Florida Public Records Act that are the subject of this lawsuit took place in Pinellas County, Florida.

### **The McDonald Litigation**

5. From 2019 to 2022, Plaintiff served as Mayor for the City of Oldsmar.

6. Mayor Saracki was elected Mayor of the City of Oldsmar in the March, 2022 election.

7. In March of 2022, shortly before Mayor Saracki succeeded Plaintiff as Mayor, Plaintiff was named as a defendant in a lawsuit brought by Oldsmar resident David McDonald—a close friend and supporter of Mayor Saracki’s campaign—alleging violations of the Florida Sunshine Law in connection with the City’s passage of an ordinance increasing density allotment in the City’s downtown corridor (the “McDonald Litigation”). Plaintiff and four (4) of the five (5) City Council Members at the time of the allegedly wrongful conduct were named, in their official capacity, as defendants. Mayor Saracki was the only then-Council Member who was not named.

### **The Public Records Request**

8. For more than seven (7) years, Mayor Saracki has served as an elected official in the City. In connection therewith, Mayor Saracki has received significant training regarding the application of ethics and government transparency laws to local government officials.

9. Given his wealth of experience, Mayor Saracki is intimately familiar with his obligations to preserve public records, avoid improper communications against the City’s interests, and to timely produce public records to any citizen who makes request for such records.

10. On or about January 10, 2023, Plaintiff—through counsel—submitted a public records request to the City (the “Public Records Request”) requesting, in relevant part, “all public records, including text messages, received from, sent to, or in the possession of Mayor Dan Saracki, received from or sent to David McDonald.” A true and correct copy of the Public Records Request is attached hereto as **Exhibit A**.

11. The Public Records Request includes a notation that “this request seeks public records located on public and private/personal devices of or used by any custodian of public records. To that end, I request that you provide a copy of this request to all potential custodians of public records responsive to this request, *including but not limited to Mayor Dan Saracki himself[.]*” *See id.*

12. The City provided a copy of Plaintiff’s Public Records Request to Mayor Saracki and asked that he search for and provide to the City all public records responsive to it.

13. On January 17, 2023, Mayor Saracki, through the City, provided some communications between Mr. McDonald and himself responsive to the Public Records Request. Accompanying the responsive communications, the City provided a note from the City Clerk stating (1) Mayor Saracki confirmed with the City that all communications responsive to the Public Records Request were produced, and that (2) the communications produced constitute Mayor Saracki’s “complete response[.]” to the Public Records Request. A true and correct copy of the note from the City Clerk is attached hereto as **Exhibit B**.

14. Since that time, Mayor Saracki has not amended, modified, or in any way supplemented his response to the Public Records Request.

**Deposition of Mayor Saracki and the Discovery of Deleted Public Records**

15. Shortly after Mayor Saracki responded to the Public Records Request, Mr. McDonald noticed Mayor Saracki for a deposition scheduled for April 20, 2023, as part of the McDonald Litigation.

16. During Mayor Saracki's deposition, Mr. McDonald's counsel questioned Mayor Saracki regarding several communications between himself and Mr. McDonald, which communications were marked as exhibits to Mayor Saracki's deposition.

17. Much to Plaintiff's surprise, one of the communications Mr. McDonald used as an exhibit during Mayor Saracki's deposition was a text message in which Mayor Saracki sent Mr. McDonald a photograph of a slide from a training video on Florida's Public Records Act. A true and correct copy of the communication as attached as an exhibit to Mayor Saracki's deposition is attached hereto as **Exhibit C**. The content of the photograph Mayor Saracki sent includes reference to the section of Florida's Public Records Act that Mr. McDonald has since utilized as his basis for suing the City (as well as all of the City Council Members except Mayor Saracki) in the McDonald Litigation, with the comment "See the words out of town." *See id.*

18. Upon information and belief, this communication occurred in October of 2022, after Mayor Saracki became Mayor of the City.

19. After reviewing the communications Mayor Saracki produced pursuant to the Public Records Request, Plaintiff discovered that Mayor Saracki had deleted from the text messages he produced in response to the Public Records Request the photograph he sent to Mr. McDonald before producing the communication to Plaintiff. A true and correct copy of the

communication as produced pursuant to the Public Records Request is attached hereto as **Exhibit D**.

20. Mayor Saracki has never produced in response to the Public Records Request the full, original version of his communication with Mr. McDonald, here attached Exhibit C.

21. Instead, he produced only the altered version, here attached as Exhibit D.

22. Perhaps more disturbing than Mayor Saracki's deletion and alteration of public records, was the confirmation that Mayor Saracki has been providing Mr. McDonald advice and strategy for Mr. McDonald's lawsuit against the City *while sitting as the City's Mayor*.

23. On May 8, 2023, Plaintiff—through counsel—served Mayor Saracki with a pre-suit notice pursuant to Chapter 119, Florida Statutes, specifically identifying the public records violations Plaintiff already discovered, and demanding Mayor Saracki submit his electronic devices to a forensic inspection to ensure Mayor Saracki produced in response to the Public Records Request all public records residing thereon, which Mayor Saracki altered or attempted to delete, or has otherwise withheld. A true and correct copy of the pre-suit notice is attached hereto as **Exhibit E**.

24. The pre-suit notice also contains a directive that, to the extent Mayor Saracki somehow did not understand the Public Records Request to be directed at him, the pre-suit notice (which included the Public Records Request as an attachment) constitutes service of the Public Records Request directly on Mayor Saracki.

25. To date, Mayor Saracki has not amended, modified, or in any way supplemented his response to the Public Records Request.

26. On May 23, 2023, Mayor Saracki, through counsel, denied Plaintiff's request that Mayor Saracki submit to a forensic inspection despite that he never produced to Plaintiff at least one public record requested and known to exist.

27. Given Mayor Saracki's clear violation of the Florida Public Records Act by altering, deleting and/or willfully concealing public records, as well as the damning nature of the public records he deleted—which show Mayor Saracki in cahoots with the plaintiff in litigation against the City he took an oath to represent and protect—immediate assistance from the Court is now absolutely necessary.

28. Mayor Saracki is a custodian of public records responsive to the Public Records Request.

29. The Public Records Request was made in accordance with Chapter 119, Florida Statutes.

30. Mayor Saracki had an obligation to fully respond to the Public Records Request.

31. Upon information and belief, the City fulfilled its obligations under Chapter 119, Florida Statutes, by providing to Plaintiff all public records Mayor Saracki provided to the City pursuant to the Public Records Request; it is Mayor Saracki personally who deleted and/or withheld responsive public records.

32. All conditions precedent to filing this action have occurred, been satisfied, or have been otherwise deemed waived.

33. Plaintiff has retained the undersigned law firm to represent him in this matter and is obligated to pay said law firm its reasonable attorneys' fees and costs in connection therewith.

34. Plaintiff hereby requests the Court invoke the accelerated hearing procedures required by section 119.11, Florida Statutes, for all matters pertaining to this action.

**COUNT I**  
**VIOLATION OF PUBLIC RECORDS ACT**  
**(Declaratory Relief)**

35. Plaintiff incorporates the allegations of paragraphs 1 through 34 as if fully set forth herein.

36. This is an action for declaratory relief for violations of the Florida Public Records Act, Chapter 119, Florida Statutes.

37. Section 119.07(2)(b), Florida Statutes, provides that custodians of public records are required to take protective measures to ensure that public devices stored on their private devices are protected from unauthorized access, manipulation, alteration, destruction, or deletion.

38. Likewise, pursuant to section 119.07(1)(a), Florida Statutes, all custodians of public records are required to produce or allow the inspection of all public records in their possession within a reasonable time of a request therefore.

39. As alleged above, Mayor Saracki has altered, deleted, or has otherwise failed to produce and allow inspection of, certain public records responsive to the Public Records Request, including but not limited to, portions of the communication attached hereto as Exhibit C.

40. Upon information and belief, Mayor Saracki has taken the position that he has not violated the Florida Public Records Act by altering, deleting, or otherwise refusing inspection of, public records.

41. Accordingly, there is a bona fide, actual, present and practical need for the declaration sought by this action as the declaration will determine the respective rights and obligations of the parties.

42. The declaration sought will deal with a present, ascertained, or ascertainable state of facts and present controversy as to the state of facts set forth herein.

43. The rights of Plaintiff and the obligations of Mayor Saracki are dependent upon the facts alleged herein and the law applicable to those facts.

44. Plaintiff and Mayor Saracki have an actual, present, adverse and antagonistic interest in the subject matter of this action, either in law or in fact, all of which are before the Court in this action.

45. The relief sought by this action is not merely the giving of legal advice by the course or the answers to questions propounded from curiosity.

WHEREFORE, Plaintiff requests entry of final judgment declaring: (a) the rights, duties and obligations of the parties, (b) that Mayor Saracki violated his obligations under Chapter 119, Florida Statutes, by altering, deleting or otherwise refusing to produce all public records responsive to the Public Records Request within a reasonable time, (c) that Plaintiff be awarded the reasonable attorneys' fees and costs he incurred as a result of bringing this lawsuit, and (d) such further relief as the Court deems appropriate under the circumstances.

**COUNT II**  
**VIOLATION OF PUBLIC RECORDS ACT**  
**(Injunctive Relief)**

46. Plaintiff incorporates the allegations of paragraphs 1 through 34 as if fully set forth herein.

47. This is an action for injunctive relief under Rule 1.610, Florida Rules of Civil Procedures, and Chapter 119, Florida Statutes.

48. After claiming that he produced all public records responsive to the Public Records Request, Plaintiff discovered that Mayor Saracki had in fact deleted, or otherwise withheld certain public records responsive thereto, including but not limited to, the communications attached hereto as Exhibit C.



49. Upon information and belief, Mayor Saracki has taken the position that he has fully complied with Chapter 119, Florida Statutes, despite having either deleted or willfully withheld public records responsive to the Public Records Request.

50. Given Mayor Saracki's apparent position, his refusal to submit to a forensic inspection, and his refusal to supplement or modify his prior response to the Public Records Request, it is reasonable to conclude that Mayor Saracki has deleted or has willfully withheld additional public records responsive to the Public Records Request, particularly in light of the critical (and potentially incriminating) information contained in the public records that are known to have been deleted.

51. It is in the public interest that this Court enter an injunction requiring Mayor Saracki to produce all public records in his possession, including those which he has previously altered, withheld or deleted, to promote the proper preservation of public records and to protect the taxpayers of the City from improper communications detrimental to the City by their elected Mayor.

52. Mayor Saracki has no discretion to refuse to produce the public records requested and should be ordered to immediately produce such records.

53. To the extent such records have, in fact, been deleted, Mayor Saracki should be ordered to submit to a forensic inspection to determine which additional public records responsive to the Public Records Request were deleted by Mayor Saracki, and the contents thereof.

54. Plaintiff has no adequate remedy at law because, among other things, the Public Records Act does not allow claims for money damages by litigants such as Plaintiff. For the same reason, money damages are not sufficient to compensate Plaintiff for the improper conduct of the Mayor Saracki.

55. Further, given the injurious nature of the public records Mayor Saracki appears to have been engaging in and then deleting—both on the City’s taxpayers and the defendants in the McDonald Litigation, including Plaintiff—immediate and prompt judicial action is now required to prevent Mayor Saracki from causing irreparable harm.

WHEREFORE, Plaintiff requests the Court hold an accelerated hearing in this matter pursuant to section 119.11, Florida Statutes, and enter an injunction: (a) directing that Mayor Saracki immediately produce the native, original version of all public records responsive to the Public Records Request, (b) directing that Mayor Saracki immediately submit to a forensic examination of his electronic devices and email accounts to locate all public records responsive to the Public Records Request, including those altered, deleted or wrongfully, withheld, (c) directing that Mayor Saracki refrain from any further activities that would violate Chapter 119, Florida Statutes, and that he take all necessary actions to preserve and safeguard the public records still in his possession, custody and control, (d) awarding Plaintiff the attorneys’ fees and costs he reasonably incurred in bringing this lawsuit, and (e) for such further relief as the Court deems just and appropriate under the circumstances.

**COUNT III**  
**VIOLATION OF PUBLIC RECORDS ACT**  
**(Mandamus)**

56. Plaintiff incorporates the allegations of paragraphs 1 through 34 and 48 through 51, as if fully set forth herein.

57. This is an action for writ of mandamus pursuant to Chapter 119, Florida Statutes.

58. Plaintiff has a clear and certain legal right to the requested public records sought in the Public Records Request under Art. I, § 24 of the Florida Constitution and Chapter 119, Florida Statutes.

59. Mayor Saracki has a duty to take protective measures to ensure that public records stored on their private devices are protected from unauthorized access, manipulation, alteration, destruction, or deletion, and to produce all public records within a reasonable time, under Chapter 119, Florida Statutes.

60. Mayor Saracki's duty is ministerial, and Mayor Saracki has no discretion to delete public records or otherwise refuse to produce same.

61. Nevertheless, Mayor Saracki has either altered, deleted or has willfully withheld public records responsive to Plaintiff's Public Records Request, including but not limited to, the communications attached hereto as Exhibit C.

62. Mayor Saracki has likewise denied that such conduct constitutes a violation of his ministerial duties and has refused to produce the deleted and/or withheld public records that are known to exist.

63. Plaintiff will be left without an adequate remedy at law absent the Court's issuance of the requested writ of mandamus.

64. An order directing Mayor Saracki show cause as to why such relief should not be granted is appropriate and warranted under the circumstances.

WHEREFORE, Plaintiff requests the Court hold an accelerated hearing in this matter pursuant to section 119.11, Florida Statutes, and immediately issue an alternative writ of mandamus, ordering Mayor Saracki show cause as to why a writ of mandamus should not be issued, thereafter: (a) directing that Mayor Saracki immediately produce the native, original version of all public records responsive to the Public Records Request, (b) directing that Mayor Saracki immediately submit to a forensic examination of his electronic devices and email accounts to locate all public records responsive to the Public Records Request, including those altered,

deleted or wrongfully, withheld, (c) awarding Plaintiff the attorneys' fees and costs he reasonably incurred in bringing this lawsuit, and (d) for such further relief as the Court deems just and appropriate under the circumstances.

Dated: August 30, 2023

*/s/ Ethan J. Loeb*

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