

**CAUSE NO. 58149**

JIM MADIGAN,	§	IN THE DISTRICT COURT OF
	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	BURNET COUNTY, TEXAS
	§	
WINDERMERE OAKS WATER SUPPLY	§	
CORPORATION,	§	
	§	
<i>Defendant.</i>	§	425 <sup>TH</sup> JUDICIAL DISTRICT
	§	

**DEFENDANT'S VERIFIED ORIGINAL ANSWER**

COMES NOW, Defendant WINDERMERE OAKS WATER SUPPLY CORPORATION and files this its Verified Original Answer and in support thereof would respectfully show the Court the following:

**I.**  
**GENERAL DENIAL**

1. In accordance with Rule 92 of the Texas Rules of Civil Procedure, Defendant generally denies each and every, all and singular, of the allegations contained in Plaintiff's Original Petition, and any subsequent pleadings, and Defendant demands strict proof thereof, reserving the right to amend and plead further herein at a later date.

**II.**  
**SPECIFIC DENIAL OF CONDITIONS PRECEDENT**

2. Defendant specifically denies that all conditions to Plaintiff's right to recovery against Defendant have been performed, have occurred, or have otherwise been excused. Among other things, Plaintiff failed to obtain Defendant's approval or execution of the purported service agreement and never fulfilled the prerequisites for approval of such an agreement, including but not limited to dedication of installed infrastructure to Defendant and regulatory approval from the Public Utility Commission.

**III.**  
**AFFIRMATIVE DEFENSES**

3. Plaintiff's claims are barred, in whole or in part, because Plaintiff failed to satisfy all conditions precedent as set forth above.

4. Defendant is not liable in the capacity in which it is sued because Plaintiff and Defendant were not in privity of contract.

5. Plaintiff lacks standing to sue Defendant for breach of contract because he was not in privity of contract with Defendant.

6. Plaintiff's claims are barred, in whole or in part, by the statute of frauds.

7. Plaintiff's claims are barred, in whole or in part, by its failure to mitigate any alleged damages.

8. Plaintiff's claims are barred, in whole or in part, because of laches and unclean hands because if Defendant proceeded with construction as alleged, he did so without the necessary contractual, regulatory, or court approvals for service from Defendant.

9. Plaintiff's claims are barred, in whole or in part, because Plaintiff's own actions caused or contributed to Plaintiff's alleged injuries.

10. Plaintiff's injuries are barred, in whole or in part, by estoppel.

11. Plaintiff's claims are barred by illegality because the service he contends Defendant should have provided lacks the necessary regulatory approval of the Public Utility Commission.

**IV.**  
**PRAYER**

Defendant respectfully requests that Plaintiff take nothing by its claims and that the Court judgment be rendered against Plaintiff on its claims, award Defendant its costs of court, and award

Defendant such other and further relief, general or specific, at law or in equity, to which it may be justly entitled.

Respectfully submitted,

**GRIFFITH DAVISON, P.C.**

By: /s/ Ryan W. Lione  
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**ATTORNEYS FOR DEFENDANT  
WINDERMERE OAKS WATER SUPPLY  
CORPORATION**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served on all counsel of record pursuant to the Texas Rules of Civil Procedure on May 12, 2025.

/s/ Ryan W. Lione  
Ryan W. Lione

**VERIFICATION**

STATE OF TEXAS

§  
§  
§

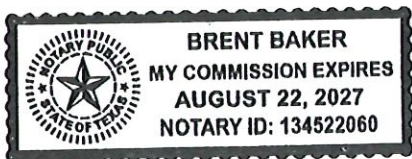
COUNTY OF TRAVIS

Before me, the undersigned Notary Public, on this day personally appeared Patricia Flunker, who, being by me duly sworn on oath deposed and said that she is the President of the Board of Directors of Windermere Oaks Water Supply Corporation; that she is authorized to make this verification on behalf of Windermere Oaks Water Supply Corporation; that she has read paragraphs 2, 3, 4, 5, 6, 8, 10 and 11 of the attached pleading; and that the factual statements contained therein are within her personal knowledge, and are true and correct.



Patricia Flunker

Subscribed and sworn to before me on the 12<sup>th</sup> day of May 2025, to certify which witness my hand and official seal.





Notary Public in and for the State of Texas

Brent Alden Baker

(printed name of notary)

My Commission Expires:

August 22<sup>nd</sup>, 2027

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Ashley Johnson on behalf of Ryan Lione  
Bar No. 24065632  
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Envelope ID: 100698913  
Filing Code Description: Answer/Response  
Filing Description: Defendant's Verified Original Answer  
Status as of 5/12/2025 10:20 AM CST

Associated Case Party: JIM MADIGAN

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