

Jon M. Philipson
Chair
Joseph Oglesby
Vice Chair
Paul D. Bain
Michael H. Hellman
Laird A. Lile
Jeremy M. Rodgers
Abbey L. Stewart
Linda Stewart



State of Florida
COMMISSION ON ETHICS
P.O. Drawer 15709
Tallahassee, Florida 32317-5709

325 John Knox Road
Building E, Suite 200
Tallahassee, Florida 32303

"A Public Office is a Public Trust"

Kerrie J. Stillman
Executive Director

Steven J. Zuilkowski
*Deputy Executive Director/
General Counsel*

(850) 488-7864 Phone
(850) 488-3077 (FAX)
www.ethics.state.fl.us

MEMORANDUM

TO: Members, Florida Commission on Ethics
FROM: Michael Terry, Staff Attorney
SUBJECT: Attorney Fees Petition, Complaint No. 25-208
DATE: April 9, 2026

Accompanying this memorandum please find a draft Order Dismissing Petition For Attorney's Fees and Costs. The draft is for your use in disposition of the attorney's fees and costs petition filed in Complaint No. 25-208, In re Darrell C. Thompson.

The draft is intended to assist you and to serve as a working document for your use as you consider (at your public meeting on April 24, 2024) whether to dismiss the petition based on the petition, the Commission's proceedings on the underlying complaint, and argument, if any, which you allow to be presented by the Respondent (Darrell C. Thompson) or the Complainant (George E. Smith Jr.). No Commission member has participated in drafting this recommendation or otherwise expressed an opinion on its contents, and you are not bound by my recommendation.

cc (with draft order): Mr. Edward L. Blair, Attorney for Darrell C. Thompson
Mr. George E. Smith Jr.

APR 09 2026

BEFORE THE
STATE OF FLORIDA
COMMISSION ON ETHICS

COMMISSION ON ETHICS

CONFIDENTIAL

In re DARRELL C. THOMPSON,)
)
Respondent.)
_____)

Complaint No. 25-208

Final Order No. XX-XXX

ORDER DISMISSING PETITION
FOR ATTORNEY FEES AND COSTS

On Friday, April 24, 2026, the Commission on Ethics met in public session and considered the petition for attorney fees and costs (hereinafter "the petition") filed by Darrell C. Thompson, (the Respondent in the original ethics complaint proceeding herein and the Petitioner regarding the petition for fees and costs, hereinafter "Thompson")¹ against George E. Smith, Jr. (the Complainant in the original ethics complaint proceeding herein and the Respondent regarding the petition for fees and costs, hereinafter "Smith"), citing Section 112.317(7), Florida Statutes, and Rule 34-5.0291, Florida Administrative Code.

Both Thompson and Smith were provided notice of the place, date, and time of the Commission's public session consideration referenced above.

The Commission voted to dismiss the petition because the facts and grounds alleged in the petition are not sufficient to state a claim for costs and reasonable attorney's fees, based on the following analysis:

1. Section 112.317(7) provides:

¹ Thompson serves as a Supervisor on the Long Lake Ranch CDD.

In any case in which the commission determines that a person has filed a complaint against a public officer or employee with a malicious intent to injure the reputation of such officer or employee by filing the complaint with knowledge that the complaint contains one or more false allegations or with reckless disregard for whether the complaint contains false allegations of fact material to a violation of this part, the complainant shall be liable for costs plus reasonable attorney's fees incurred in the defense of the person complained against, including the costs and reasonable attorney's fees incurred in proving entitlement to and the amount of costs and fees. If the complainant fails to pay such costs and fees voluntarily within 30 days following such finding by the commission, the commission shall forward such information to the Department of Legal Affairs, which shall bring a civil action in a court of competent jurisdiction to recover the amount of such costs and fees awarded by the commission.

2. Commission Rule 34-5.0291, Florida Administrative Code, provides in pertinent part:

(2) The Commission shall make such a determination only upon a petition for costs and attorney's fees filed with the Commission by the public officer or employee complained against within 30 days following a dismissal of the complaint. Such petition shall state with particularity the facts and grounds which would prove entitlement to costs and attorney's fees. Staff shall forward a copy of said petition to the complainant by certified mail, return receipt requested.

(3) If the facts and grounds alleged in the petition are not sufficient to state a claim for costs and reasonable attorney's fees, the Commission shall dismiss the petition after an informal proceeding. . . . [Emphasis supplied.]

3. The statute sets a very high bar for the recovery of fees. Brown v. State, Commission on Ethics, 969 So. 2d 553, 560 (Fla. 1st DCA 2007). The elements of a valid claim for costs and attorney fees under Section 112.317(7) are that the ethics complaint was made with a malicious intent to injure the public official's reputation, that the person filing the complaint knew that the statements made about the official were false or made the statements about the

official with reckless disregard for the truth, and that the statements were material. Brown, at 560. See also Hadeed v. State of Florida, Commission on Ethics, 208 So. 3d 782 (Fla. 1st DCA 2016). Importantly, this standard for recovery is not a "prevailing party" standard. Nor may costs and fees be recovered if false allegations are made in a complaint that are immaterial to an ethics violation. "[T]he statute is narrowly-drawn and allows recovery only in very limited situations[.]" again where there are false allegations—knowingly or recklessly made—that are material to the ethics laws. Hadeed, 208 So. 3d at 785.

4. Section 112.313(6), Florida Statutes, is relevant to the allegations in the original complaint. Section 112.313(6) states:

MISUSE OF PUBLIC POSITION.--No public officer, employee of an agency, or local government attorney shall corruptly use or attempt to use his or her official position or any property or resource which may be within his or her trust, or perform his or her official duties, to secure a special privilege, benefit, or exemption for himself, herself, or others.

Pursuant to Section 112.312(9), Florida Statutes, "corruptly" is defined as

. . . done with a wrongful intent and for the purpose of obtaining, or compensating or receiving compensation for, any benefit resulting from some act or omission of a public servant which is inconsistent with the proper performance of his or her public duties.

Section 112.313(6) prohibits public officials and employees from corruptly using or attempting to use their official positions or property or resources within their trust, and it prohibits them from corruptly performing their official duties, in order to secure a special privilege, benefit, or exemption for themselves or another, it is not enough that a *detriment* to a complainant or another is alleged.

5. The allegations in the complaint (25-208) material to a violation of the Code of Ethics were that Thompson, while serving as a supervisor, violated Section 112.313(6), Florida Statutes, by having numerous conversations with an attorney at the expense of public, and that he was not authorized to do so, as stated on page 2 of the complaint.

6. Thompson, in the Petition, only asserts with the required specificity that one allegation made in the complaint is the focus of the petition. That allegation is that Thompson "spent \$8,510 all on his own." Petition, p. 2. Thompson refers to an expenditure summary that was included with the original complaint to show that others also spent money on attorney's fees during the same time period. Id. at 4. However, the petition does not assert that Thompson did not take actions to incur attorney's fees for the CDD, nor does it contradict that he was not authorized to do so. Thompson does not address the allegation in the complaint that he was told multiple times by the CDD board that he was not authorized to spend money on attorney's fees. Instead, it points to the Commission's order, which states that "it is not clear how a CDD supervisor seeking clarification or advice from the Board Attorney on matters relevant to his public position is inconsistent with the proper performance of his public duties." This is not a finding that Thompson was authorized to spend the money, but a statement that the complaint failed to show that Thompson's alleged conduct was corrupt and, therefore, that the allegation was not sufficiently stated to form the basis of an investigation by the Commission

7. The complaint attempted to establish that Respondent misused his position under Section 112.313(6) and Article II, Section 8(h)(2), Florida Constitution. The material allegations in the complaint relevant to that were that Respondent took at least one official action (consulted the attorney), that the action was corrupt (here, that it cost public funds) and that someone received

a special benefit from that official action (that Respondent received the legal consultations). The amount of money, or that Respondent spent it all on his own, were not material to the decision of whether the Commission's investigatory jurisdiction could be invoked. The allegedly false allegation in the complaint, that Respondent spent \$8,510 "all on his own" is contextual and establishes the extent of the conduct, but is not material.

8. To adequately state a claim under Section 112.317(7) for reasonable fees and costs. The Petition must also allege in a factual, nonconclusory manner, that Smith knew, at the time he filed the complaint, that the statements quoted in the fees petition² were false or that he made them with reckless disregard as to their truth. See Rule 34-5.0291(2), Florida Administrative Code (indicating a petition must state "with particularity the facts and grounds which would prove entitlement to costs and attorney's fees"). The petition does not refute that Thompson individually took actions that incurred attorney's fees for the CDD; in fact, it confirms it. With regard to the amount, the petition and the complaint do not demonstrate that the total expenditure was not \$8510. For these reasons, the petition does not demonstrate that the allegation was false or made with reckless disregard for the truth.

9. The Petition challenges one allegation in the complaint. That allegation was not material to the complaint and was not shown to be false or made with reckless disregard for the truth. Thus, the petition does not state a legally sufficient claim for attorney's fees and costs under Section 112.317(7), Florida Statutes, as described in Brown and Hadeed.

Accordingly, the petition is hereby dismissed.

ORDERED by the State of Florida Commission on Ethics meeting in public session on

² "[Respondent] spent \$8,510 all on his own."

April 24, 2026.

Date Rendered

Jon M. Philipson
Chair, Florida Commission on Ethics

THIS ORDER CONSTITUTES FINAL AGENCY ACTION. ANY PARTY WHO IS ADVERSELY AFFECTED BY THIS ORDER HAS THE RIGHT TO SEEK JUDICIAL REVIEW UNDER SECTION 120.68 AND SECTION 112.3241, FLORIDA STATUTES, BY FILING A NOTICE OF ADMINISTRATIVE APPEAL PURSUANT TO RULE 9.110, FLORIDA RULES OF APPELLATE PROCEDURE, WITH THE CLERK OF THE COMMISSION ON ETHICS, AT EITHER P.O. DRAWER 15709, TALLAHASSEE, FLORIDA 32317-5709, OR 325 JOHN KNOX ROAD, BUILDING E, SUITE 200, TALLAHASSEE, FLORIDA 32303; AND BY FILING A COPY OF THE NOTICE OF APPEAL ATTACHED TO WHICH IS A CONFORMED COPY OF THE ORDER DESIGNATED IN THE NOTICE OF APPEAL ACCOMPANIED BY THE APPLICABLE FILING FEES WITH THE APPROPRIATE DISTRICT COURT OF APPEAL. THE NOTICE OF ADMINISTRATIVE APPEAL MUST BE FILED WITHIN 30 DAYS OF THE DATE THIS ORDER IS RENDERED.

cc: Mr. Edward L. Blair, IV, Attorney for Darrell C. Thompson
Mr. George E. Smith, Jr.