

IN THE CIRCUIT COURT OF THE
SIXTEENTH JUDICIAL CIRCUIT IN
AND FOR MONROE COUNTY,
FLORIDA

GENERAL JURISDICTION DIVISION

LISSETTE CUERVO CAREY, in her
Official capacity as Key West City
Commissioner,
Plaintiff,

CASE NO.: _____

vs.

CITY OF KEY WEST, KERI O'BRIEN, in her
official capacity as Key West City Clerk,
JAMES STREBEK and SHERRI HODIES,
in her official capacity as
Supervisor of Elections of Monroe County

Defendants.

_____/

**VERIFIED COMPLAINT FOR ISSUANCE OF INJUNCTION,
DECLARATORY JUDGMENT, AND OTHER RELIEF and
REQUEST FOR EMERGENCY CONSIDERATION**

INTRODUCTION

Plaintiff, LISSETTE CUERVO CAREY ("CAREY"), in her capacity as a Key West City Commissioner, brings this action to stop an unlawful recall by JAMES STREBEK. The remaining Defendants are named in their official capacities for the purpose of the relief requested by the Plaintiff.

This action is for a temporary and permanent injunction to enjoin further proceedings in the effort to recall Commissioner from office as the District 4 Commissioner of the City of Key West. The action also seeks a

declaratory judgment to determine the rights and responsibilities of the parties, including a prompt and speedy determination of the facial validity and legal sufficiency of the recall petition and recall process initiated by Strebek and Take Back pursuant to § 100.361, Florida Statutes (2019), and also an action pursuant to Section 99.097, Florida Statutes (2019) seeking verification of each petition due to fraud and irregularities in connection with the collection of the petitions. Considering the impact of an illegal recall process on Commissioner Carey and the citizens and residents of the City of Key West who elected her to office, Commissioner Carey requests an immediate hearing on her request for a temporary injunction enjoining further recall proceedings until this court determines the validity of the petitions and the recall petition process.

NATURE OF THE CASE, JURISDICTION, AND PARTIES

1. This action is for temporary and permanent injunctive relief to stop an illegal recall in the City of Key West directed against Commissioner Lissette Cuervo Carey.
2. The action also seeks declaratory relief to determine the validity of the recall process.
3. All persons and legal entities whose interests are directly affected by the outcome of this action are named.
4. This court has subject matter jurisdiction of this action pursuant to

Sections 26.012 and 86.011, Florida Statutes (2019).

5. Jurisdiction pursuant to Section 26.012 exists because Commissioner Carey is seeking an injunction to enjoin further proceedings in the effort to recall her from the elected position as Commissioner, District 4, City of Key West.
6. Pursuant to F.S. § 86.011, jurisdiction exists for issuance of a declaratory judgment to determine the rights and responsibilities of the parties, including the legal sufficiency of the petition for recall pursuant to Section 100.361, Florida Statutes.
7. Venue is proper in Monroe County Florida, pursuant to Section 47.011, Florida Statutes (2019), because the cause of action accrued in the City of Key West in Monroe County, Florida.
8. Plaintiff Lissette Cuervo Carey is the elected District 4 Commissioner of the City of Key West and is a resident and elector in the City of Key West, Monroe County, Florida. Her four-year term has not expired, nor is she scheduled for reelection. She brings this action in her capacity as City Commissioner in order to obtain a determination of the parties' rights as they pertain to the validity and legality of the recall petition and recall process, as well as the parties' need for a speedy and expeditious determination of Commissioner Carey's rights as the elected District 4 Commissioner of the City of Key West. As authorized by the Florida Supreme Court in *Thornber v. City of Ft. Walton Beach*, 568 So. 2d 914, 917 n.5 (Fla. 1990), public officials subject to recall have a right to

challenge the validity of the recall at the earliest stages of the recall campaign.

9. Defendant James Strebek is the individual who claims to be the chair of the “recall committee¹” against Commissioner Carey. Strebek is a resident of the City of Key West, Monroe County, Florida.
10. Defendant Keri O’Brien is the City Clerk of the City of Key West whose responsibilities include serving as the City’s official records custodian. The Clerk’s duties extend to receiving and processing recall petitions pursuant to Florida law. She is a resident of Key West, Florida. She is named solely in her official capacity.
11. Defendant Sherri Hodies is the Monroe County Supervisor of Elections with responsibility for supervising and administering the conduct of municipal elections in Key West-Dade County, Florida, including determining whether a recall petition contains the requisite number of verified and valid signatures. She is named solely in her official capacity.

GENERAL ALLEGATIONS

A. The Recall Petition Process was unlawful.

12. Florida law requires the strict enforcement of recall requirements on the part of the Recall Committee, as stated by the Florida Supreme Court

¹ Recall committee is placed in quotations as no proper committee was formed as per Chapter 106 of the Florida Statutes as is required by F.S. § 100.361 (2) (c).

in *Thornber*, 568 So. 2d at 917: “If a recall petition is commenced, the public has an interest—and the city has a responsibility—to ensure that the Recall Committee follows the proper procedures, i.e., that the recall petition is facially correct.”

13. In June 2025, Strebek self-designated himself as “chair” of the Recall Committee to recall Commissioner Carey but did not register any political committee as required by F.S. § 100.361 (2) (c) that specifically states that any recall committee must abide by Chapter 106 of the Florida Statutes.
14. Around the same time, someone started the website, <https://recallkeywest.com/>, seeking the recall of Commissioner Carey. See Exhibit “A”.
15. It is unknown if Strebek or someone else paid for the website as it was created in violation of F.S. § 100.361(2)(c) without a lawfully registered political committee as per Chapter 106 of the Florida Statutes. As such, the public was deprived from knowing who is funding the recall against Commissioner Carey in direct violation of the Florida Statutes.
16. Pursuant to the municipal recall statute, F.S. § 100.361(2)(f), only the chair of the recall committee is authorized to submit the signed petitions to the municipal clerk. As there was no properly registered recall committee pursuant to Chapter 106 of the Florida Statutes, there was no proper designation of a recall committee chair and thus whomever submitted the petitions cannot be considered the chair of the recall committee.

B. The Petition Contains Illegal Grounds for Recall.

17. The petition as circulated is attached as “**Exhibit B**” and incorporated into this Complaint.
18. The verbatim statement of the grounds for recall in the petition are:

Statement of Grounds for Recall

Lisette Carey should be recalled from the office of District IV City Commissioner for committing misfeasance, malfeasance, incompetence, and neglect of duty as a commissioner. Lisette Carey's persistent failures in judgment and responsibility, documented by the final report of the Monroe County Grand Jury, are clear grounds for recall. Jurors reviewed evidence from the State Attorney's Office and the FBI and heard firsthand witness testimony. We agree with the jurors that Carey's actions and inactions evidence incompetence and neglect of her duties, poor decision-making, and inability to serve as Commissioner. We also agree Carey lacks the convictions needed to fulfill her official duties. The Grand Jury recommended Carey resign in the interest of the integrity and betterment of the City. Carey has not challenged the Grand Jury's findings, but has refused to resign. In her official capacity as Commissioner, Carey has distorted facts, misinformed the public, and insulted key community partners, damaging the City's ability to serve its citizens. The public trust is further damaged with each day Carey remains in office. We, Carey's constituents in District IV, find she wrongfully exercises the power of her office. These transgressions establish grounds for Carey to be RECALLED from office.

19. The petition is legally insufficient and contains impermissible reasons for recall. Although the petition contains a few words listed in the statute as grounds for recall, the petition does not explain what specific conduct of Commissioner Carey fits into any of the specific recall grounds. Rather, the petition references a “grand jury report” that was not shown to the voters and makes thinly veiled references that are not specifically tied to any particular action by the Commissioner. As such, Commissioner Carey cannot face a recall for removal from office. As directed by the Florida Supreme Court, “the present legislative scheme protects public officials from being ousted when illegal grounds provide the basis for recall. Since we place enormous value on the regular elective process, this legislative scheme is certainly not unreasonable. Accordingly, public officials should not face removal from the office they were lawfully and properly elected to on a ballot that contains illegal grounds for recall in express violation of the statute.” *Garvin v. Jerome*, 767 So. 2d 1190, 1193 (Fla. 2000).
20. The Third District Court of Appeal held in *Sanchez v. Lopez*, 219 So. 3d 156, 159 (Fla. 3d DCA 2017), that a recall petition containing even one invalid ground for removal renders the entire petition legally insufficient.
21. With respect to the petition, there is NO legally sufficient ground stated for recall that meets the statutory grounds for removal set out in § 100.361(2), Florida Statutes (2019). The petition is legally insufficient.
22. Florida’s municipal recall statute, § 100.361(2)(d), allows only a limited scope of grounds for recall as follows:

(d) Grounds for recall.—The grounds for removal of elected municipal officials shall, for the purposes of this act, be limited to the following and must be contained in the petition:

1. Malfeasance;
2. Misfeasance;
3. Neglect of duty;
4. Drunkenness;
5. Incompetence;
6. Permanent inability to perform official duties; and
7. Conviction of a felony involving moral turpitude.

23. The listed grounds for recall on the petition are not legally valid because they do not clearly delineate any of the prescribed statutory grounds for recall. Even if, *assuming arguendo*, that the recall petition could properly incorporate the grand jury report into the petition², it would still fail as the Grand Jury report does not sufficiently allege with the required specificity that Commissioner Carey committed any of the grounds for a recall.

24. “Malfeasance” is defined as the commission of some act, which is positively unlawful. Black’s Law Dictionary 1109 (rev.4th Ed.1968), as cited in *Bent v. Ballantyne*, 368 So.2d 351 (Fla. 1979). “Misfeasance” is the improper performance of some act that a man may lawfully do. Black’s Law Dictionary, 2nd Edition.

25. The statement of the grounds for recall in the petition fail to comport with Florida law and are therefore invalid. A statement of grounds must

² As a recall petition is limited to 200 words as per the statute, it cannot incorporate a multi-page grand jury report.

be more than just a vague and general allegation of misfeasance, malfeasance, or nonfeasance. The grounds must be more than “beliefs” or “ideas,” but must instead be charges of specific misdeeds that have a direct relationship to the official’s performance of the duties of office. *Richard v. Tomlinson*, 49 So. 2d 798 (Fla. 1951); *Collins v. City of Opa-Locka*, 251 So. 2d 709 (Fla. 3d DCA 1971); *Piver v. Stallman*, 198 So. 2d 859 (Fla. 3d DCA 1967); *Tolar v. Johns*, 147 So. 2d 196 (Fla. 2d DCA 1962); *Hines v. Dozer*, 134 So. 2d 548 (Fla. 3d DCA 1961); *Joyner v. Shuman*, 116 So. 2d 472 (Fla. 2d DCA 1959); *Gordon v. Leathisman*, 450 F.2d 562 (5th Cir. 1971).

26. Since the stated grounds do not present a case for incompetence, neglect of duty, malfeasance or misfeasance pursuant to Florida or federal law, they are legally insufficient to constitute allowable grounds for recall.

C. Signers of the Petition were lied to.

27. Based on the testimony of several individuals that signed the petition, signers were not explicitly informed that they were recalling Commissioner Carey.

28. Attached as **Composite Exhibit “C”** are affidavits of individuals who state they were lied to about the purpose of the petition and the recall effort.

29. If any of the signers were lied to, the entire batch of petitions is suspect.

D. Expedited Consideration Requested.

30. Because this matter involves an election process, Commissioner Carey

is entitled to expedited consideration. The failure to immediately consider this matter will undermine the voters' election of her as Commissioner and further require her to defend against an illegal recall.

31. F.S. § 86.11 provides that in considering "a judgment for declaratory relief," the "court may order a speedy hearing of an action for a declaratory judgment and may advance it on the calendar."

32. Rule 1.610 of the Florida Rules of Civil Procedure provides for issuance of injunctions on an expedited basis.

**COUNT I
DECLARATORY RELIEF AS TO THE LEGAL SUFFICIENCY OF
THE RECALL PETITION**

33. Commissioner Carey incorporates and re-alleges paragraphs 1 – 32 of this Complaint as if set forth herein.

34. This action seeking a declaratory judgment pursuant to § 86.011, Florida Statutes, seeks a declaration of the rights, status, and other equitable or legal relations between the parties.

35. A bona fide dispute exists between the parties.

36. The dispute concerns whether the recall petition and the recall process describe herein constitute compliance with the mandatory requirements of Florida law.

37. Commissioner Carey is being subjected to an illegal recall process for all the reasons set out in this Complaint.

38. Because the parties in substantial doubt as to the duties and

requirements of law governing this municipal recall, the dispute requires judicial determination of their rights, title, status, and interests. Commissioner Carey is therefore entitled to have her rights validated by the Court.

39. There is an actual, present need for the declaration.
40. A declaratory judgment is in the public interest in order to clarify and set out the rights of the parties concerning this municipal recall effort.
41. Declaratory relief will terminate and afford relief of uncertainty, insecurity, unnecessary expenditures of governmental resources, and controversy concerning the parties' rights as addressed in this Complaint.
42. Commissioner Carey accordingly seeks a declaratory judgment against the defendants stating the following: (1) The recall petition is invalid on its face; (2) the recall petition is invalid as a matter of law; (3) the recall petition is legally insufficient as not proving adequate grounds for a municipal recall; (4) the "Recall Committee's" actions in violation of law render the recall petitions invalid; (5) the invalidity of the recall petitions and the recall process requires that the petitions be rejected and not subjected to verification by the Supervisor of Elections; (6) the Clerk has no duty to transmit the defective petitions to the Supervisor.
43. The defendants should and must be enjoined from furthering the recall petition process and verifying the petitions.
44. Commissioner Carey further requests an award of reasonable attorney's fees and costs incurred in pursuing this action and for all other

allowable relief in accordance with § 86.081, Florida Statutes (2019), and *Lomelo v. City of Sunrise*, 423 So. 2d 974 (Fla. 4th DCA 1983).

WHEREFORE, Commissioner Carey respectfully requests this Honorable Court issue a declaratory ruling stating that the recall was done in violation of F.S. § 100.361 by failing to register a lawful recall committee as per Chapter 106 of the Florida Statutes, misleading voters on the effect of the petition and by failing to properly delineate any action committed by Commissioner Carey that comports to one of the seven statutory grounds for a municipal recall.

COUNT II
TEMPORARY AND PERMANENT INJUNCTIVE RELIEF

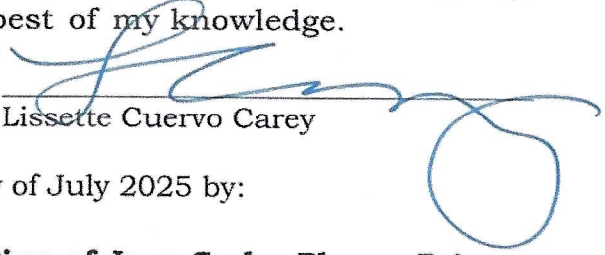
45. Commissioner Carey incorporates and re-alleges paragraphs 1 – 32 of this Complaint as if set forth herein.
46. This is an action for temporary and permanent injunction to require the cessation of the recall petition process that is occurring in violation of law.
47. Injunctive relief is supported by the sworn verification attached to this Complaint.
48. Injunctive relief is necessary to preserve and protect the legitimacy of the election at which the voters in the City of Key West, Commission District 4 elected Commissioner Carey to serve a four-year term that has not expired.
49. Commissioner Carey and the voters of City of Key West Commission District 4 have suffered and will suffer irreparable harm through the further pursuit of the illegal recall process. Allowing the illegal recall to continue will improperly permit the Clerk and the Supervisor of Elections to pursue an illegal recall.
50. Commissioner Carey has a clear legal right to the relief requested.
51. Commissioner Carey has a substantial likelihood of success on the merits of this Complaint.
52. Commissioner Carey has no adequate remedy at law.
53. Issuance of injunctive relief is consistent with the public interest.

54. This Court should order that the recall petitions remain in the custody of the Court to maintain the status quo until final determination of this matter.
55. The Clerk should be prohibited and enjoined from transmitting the petitions to the Supervisor of Elections for verification
56. The Supervisor of Elections should be prohibited from verifying the petitions.
57. Temporary and permanent injunctions should issue as requested to order the cessation of further pursuit of this municipal recall.

Wherefore, Commissioner Carey respectfully requests that this Honorable Court enjoin the recall process for failure to follow the lawful procedure as set forth in F.S. § 100.361. That the Court enjoin the certification of the petitions and prevent the City Clerk from furthering the recall process.

VERIFICATION

Under penalty of perjury, I declare that I have read the foregoing, and the facts alleged are true to the best of my knowledge.


Lissette Cuervo Carey

Respectfully submitted this 30th day of July 2025 by:

Law Firm of Juan-Carlos Planas, P.A.

9100 S Dadeland Blvd.,

Suite 1500,

Miami, Florida 33156

(850) 980-6542

Email: jcplanas@planaslawfirm.com

By: s./ J.C. Planas

Juan-Carlos Planas, Esq.

Fla. Bar No.: 156167

EXHIBIT “A”

RECALL KEY WEST**IT'S TIME TO RECALL COMMISSIONER
CAREY****LISSETTE CAREY SHOULD BE RECALLED FROM THE
OFFICE OF DISTRICT IV CITY COMMISSIONER**

for committing **misfeasance, malfeasance, incompetence, and neglect of duty as a commissioner.**

Lissette Carey's **persistent failures in judgment and responsibility**, documented by the final report of the Monroe County Grand Jury, are clear grounds for recall. Jurors reviewed evidence from the State Attorney's Office and the FBI and heard firsthand witness testimony. We agree with the jurors that Carey's actions and inactions evidence **incompetence and neglect of her duties, poor decision-making, and inability to serve as Commissioner.** We also agree Carey lacks the convictions needed to fulfill her official duties. The Grand Jury recommended Carey resign in the interest of the integrity and betterment of the City. Carey has not challenged the

Grand Jury's findings, but has refused to resign. In her official capacity as Commissioner, **Carey has distorted facts, misinformed the public, and insulted key community partners**, damaging the City's ability to serve its citizens.

The public trust is further damaged with each day Carey remains in office.

We, Carey's constituents in District IV, find she wrongfully exercises the power of her office. These transgressions establish grounds for Carey to be **RECALLED** from office.

We hope you will participate in our recall effort. Please provide information below so that we may contact you to collect your signature, utilize your help, or support your run for office.

Name:

Phone

Email

Are you a registered voter in Key West?

☐

YES, DISTRICT 4, LISSETTE CAREY IS MY COMMISSIONER

☐

YES, I'M A REGISTERED KEY WEST VOTER FROM ANOTHER DISTRICT

☐

NO, I'M NOT A REGISTERED KEY WEST VOTER

Do you think a recall is appropriate for (check all that apply):

☐

LISSETTE CAREY, CITY COMMISSIONER, DISTRICT 4

☐

NO, I DO NOT THINK A RECALL IS APPROPRIATE.

Would you (check all that apply):

☐

SIGN A RECALL PETITION

☐

CHAIR A RECALL COMMITTEE

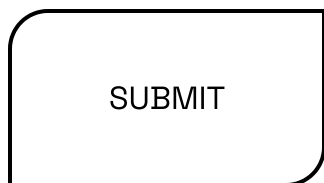
☐

CIRCULATE PETITIONS FOR RECALL AND COLLECT SIGNATUREES

☐

RUN FOR OFFICE

Any Comments?



RECALL KEY WEST

Made with [Squarespace](#)

EXHIBIT “B”

**MUNICIPAL RECALL PETITION OF LISSETTE CAREY, CITY COMMISSIONER DISTRICT IV, KEY WEST -
Filed pursuant to Florida Statutes 100.361 and City Charter 6.06**

- All information on this form, including your signature, becomes a public record upon receipt by the Supervisor of Elections.
- Electors of the district making charges contained in the statement of grounds for recall, as well as those signing the recall petition, shall be designated as the recall committee seeking recall of the elected official. Aaron Strebeck shall be designated as chair of the committee, and shall act for the committee.
- If all requested information on this form is not completed, the form will not be valid.
- Only registered voters of District IV, City of Key West, are eligible to sign this petition.

Lisette Carey should be recalled from the office of District IV City Commissioner for committing **misfeasance, malfeasance, incompetence, and neglect of duty as a commissioner.**

Lisette Carey's **persistent failures in judgment and responsibility**, documented by the final report of the Monroe County Grand Jury, are clear grounds for recall. Jurors reviewed evidence from the State Attorney's Office and the FBI and heard firsthand witness testimony. We agree with the jurors that Carey's actions and inactions evidence **incompetence and neglect of her duties, poor decision-making, and inability to serve as Commissioner.** We also agree Carey lacks the convictions needed to fulfill her official duties. The Grand Jury recommended Carey resign in the interest of the integrity and betterment of the City. Carey has not challenged the Grand Jury's findings, but has refused to resign. In her official capacity as Commissioner, **Carey has distorted facts, misinformed the public, and insulted key community partners**, damaging the City's ability to serve its citizens.

The public trust is further damaged with each day Carey remains in office.

We, Carey's constituents in District IV, find she wrongfully exercises the power of her office. These transgressions establish grounds for Carey to be **RECALLED** from office.

Voter Information:

Your name PRINT: _____

Address PRINT: _____

City: **Key West** State: **Florida** County: **Monroe** Key West Zip Code: _____

Voter Registration No: _____ OR Date of Birth: ____ / ____ / ____

Your signature: _____ Date: _____

OATH OF WITNESS CIRCULATOR

I, (print name) _____ address _____ hereby swear and affirm that I personally witnessed the signature on the forgoing petition on the date it was signed and that each signature is the genuine signature of the person, and that the signer had an opportunity to read the full text of this proposed recall petition and any defense (if filed). Under oath, I hereby swear and certify the truthfulness, and the correctness of this statement as set forth herein under penalty of perjury under the laws of the State of Florida on this date _____, 2025.

FURTHER AFFIANT CIRCULATOR SAYETH NAUGHT

Signature of Circulator

Print Name of Circulator

STATE OF FLORIDA – MONROE COUNTY – CITY OF KEY WEST

EXHIBIT “C”

IN THE CIRCUIT COURT OF THE
SIXTEENTH JUDICIAL CIRCUIT IN
AND FOR MONROE COUNTY,
FLORIDA

GENERAL JURISDICTION DIVISION

LISSETTE CUERVO CAREY

CASE NO.: _____

Plaintiffs

vs.

CITY OF KEY WEST, et. al.

Defendants.

AFFIDAVIT OF ASHLEY HENRIOUEZ

STATE OF FLORIDA)

) SS:

COUNTY OF MONROE)

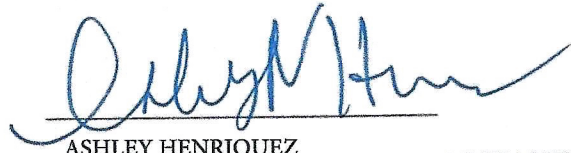
Ashley N Henriquez being duly sworn, according to law, state
that I have personal knowledge of the following:

1. My name is Ashley N Henriquez and I reside
at 2607 Flagler Ave.
2. On July 6 2025, I was approached by petition gathers who
were seeking my signature for what I later found out was the recall of
Commissioner Lissette Cuervo Carey.
3. I was NOT explicitly told that the petition was to recall Commissioner
Carey and I was not offered sufficient time to read the petition. Instead, I

was told the petition was to voice disapproval of an action that the Commission took which I opposed.

4. Had I known that the petition was to recall Commissioner Lissette Cuervo Carey, I would NOT have signed it.

FURTHER AFFIANT SAYETH NOT



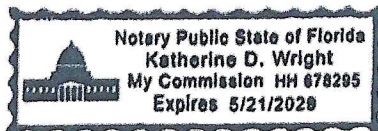
ASHLEY HENRIQUEZ, AFFIANT

STATE OF FLORIDA
COUNTY OF MONROE

SWORN TO AND SUBSCRIBED before me this 30 day of
July, 2025, by Ashley N. Henriquez, who is personally
known produced identification to me and who did take an oath.



(SEAL)



Notary Public, State of Florida

My Commission Expires: