



Laws Sec. 42-46-1 *et seq.*, the purpose of which is to ensure the accountability of elected officials by requiring them to conduct properly-convened meetings in public.

3. As a result of the Defendant's unlawful actions, Plaintiff has suffered and will continue to suffer immediate and irreparable harm, for which there is no adequate remedy at law. Plaintiff has a likelihood of success on the merits in this matter, and Defendant does not have any justifiable countervailing reason for failing to fulfill those duties required of him by the limited authority he has been delegated by laws of the State of Rhode Island. In the absence of having any elected officials to perform duties and acts on their behalf, Plaintiff has a clear legal right to have the Receiver perform those duties and acts himself; and the Financial Stability Act does not provide the Receiver with the discretion to delegate the power of Plaintiff's elected officials to any other person or entity.

#### **Parties and Jurisdiction**

4. Plaintiff Shaunne N. Thomas is a resident of the City of Central Falls, Rhode Island, residing at 37 Emmett Street, Central Falls, Rhode Island, and a registered voter.

5. Defendant Robert G. Flanders, Jr. is the Receiver to the City of Central Falls ("Defendant" or "Receiver"), appointed in February 2011 by the Director of the Department of Revenue, pursuant to R.I. Gen. Laws Sec. 45-9-7, and is sued in his official capacity as such.

6. Jurisdiction over the Complaint for Declaratory Relief is vested in the Superior Court, pursuant to R.I. Gen. Laws § 9-30-1 *et seq.* Jurisdiction over the Petition for Writ of Mandamus is vested in the Superior Court, pursuant to R.I. Gen. Laws § 8-2-16.

## Facts

7. On May 18, 2010, the City Council and Mayor of Central Falls filed a verified petition in Providence County Superior Court for the appointment of a receiver.

8. On June 11, 2010, a major revision to Rhode Island's receivership law was enacted, commonly referred to as the Financial Stability Act. This statute was applied retroactively to the petition for appointment of receiver filed by the City Council and Mayor of Central Falls.

9. On June 17, 2010, the City Council and Mayor of Central Falls withdrew its petition for judicial receivership with prejudice, and the Rhode Island Department of Revenue instituted proceedings to move Central Falls into state receivership pursuant to the terms of the Financial Stability Act.

10. On July 16, 2010, the Director of the Department of Revenue appointed Justice Mark A. Pfeiffer as Receiver for the city. In February, 2011, Judge Pfeiffer was replaced by Justice Robert G. Flanders, Jr.

11. Following the appointment of the Receiver on July 16, 2010, the Mayor of Central Falls was advised by the Receiver that the duties, functions and powers of his office were to be assumed by the Receiver, effectively immediately, essentially rendering the election of Plaintiffs' mayor by the residents of Central Falls null and void, and replacing him with an unelected government official with all of the same duties, responsibilities and powers of that office.

12. Thereafter, the City Council for Central Falls was advised by the Receiver that its duties, functions, and powers were also being assumed by the Receiver, essentially rendering the election of Plaintiffs' city council members by the residents of Central Falls null and void, and

replacing it with an unelected government official with all of the same duties, responsibilities and powers of that body.

13. Pursuant to R.I. Gen. Laws Sec. 45-9-7(c), the receiver shall have “the right to exercise the powers of the elected officials under the general laws, special laws and the city or town charter and ordinances relating to or impacting the fiscal stability of the city or town including, without limitation, school and zoning matters,” while elected officials are reduced to serving in merely an advisory capacity to the receiver. In the event of a conflict between the receiver and advisory officials, the receiver’s decision shall prevail.

14. The Receiver has not performed the duties and functions of the Mayor or the City Council in accordance with the power vested in him by statute, including but not limited to, convening and presiding over public meetings, introducing passage of city ordinances and conducting other public business at those meetings, and redressing the concerns of city residents at those meetings, but rather has unlawfully delegated that power to an appointed “hearing officer” who acts in his stead.

15. As a result, this hearing officer has been vested with some of the same duties, responsibilities and power that only elected officials or a receiver appointed by the Department of Revenue for the State of Rhode Island Director may exercise.

16. For example, at a public meeting of the “State Receiver’s Hearing Officer’s Meeting,” held on December 5, 2011, which the Receiver did not attend, the hearing officer moved to introduce a new parking ordinance for the city restricting winter parking hours.

17. At the next public meeting of the “State Receiver’s Hearing Officer’s Meeting,” held on December 12, 2011, which the Receiver did not attend, the hearing officer moved for the first passage of the new parking ordinance for the city restricting winter parking hours.

18. At the next public meeting of the “State Receiver’s Hearing Officer’s Meeting,” convened on December 19, 2011, which the Receiver did not attend, the hearing officer moved for approval of the new parking ordinance for the city restricting winter parking hours.

19. Neither the Mayor nor the City Council has the authority to appoint a “hearing officer” to perform non-delegable duties and functions, including but not limited to, convening and presiding over public meetings, introducing passage of city ordinances and conducting other public business at those meetings, and redressing the concerns of city residents at those meetings.

20. On or about January 11, 2012, the Rhode Island Affiliate of the American Civil Liberties Union (“RI/ACLU”) contacted the Receiver on behalf of Plaintiff to object to this improper delegation of power to an unelected “hearing officer.”

21. On or about January 30, 2012, the Receiver notified the RI/ACLU that it was within his authority to appoint a “hearing officer” to conduct city business, including but not limited to, convening and presiding over public meetings, conducting public business at those meetings, and redressing the concerns of city residents at those meetings.

22. The Receiver has violated R.I. Gen. Laws Sec. 45-9-7(c) in failing to exercise the receivership power vested solely in him by the Rhode Island legislature to act in the place of elected officials during times of fiscal instability.

23. The Receiver has acted *ultra vires* in appointing a “hearing officer” and delegating to her the duties, functions, and power of the elected Mayor and City Council.

24. The Plaintiff has been denied her right to due process and her right to petition the government for the redress of grievances, as the “hearing officer” is neither their elected official nor is she the receiver duly appointed by the State to act in place of elected officials, pursuant to the Financial Stability Act.

25. In failing to convene and preside over public meetings or take official actions at those public meetings, and instead sending an unelected substitute to whom the State has not delegated the power and authority of elected officials, the Receiver has violated the Open Meetings Act.

**COUNT I**  
**Violation of the Financial Stability Act, R.I. Gen. Laws Sec. 45-9-7(c)**

26. Plaintiff hereby incorporates Paragraphs 1 through 25 as though fully set forth herein.

27. The Receiver has failed to act in accordance with the Financial Stability Act in that:

- A. The Receiver has not performed the duties and functions of the Mayor or the City Council in accordance with the power vested in him by statute, including but not limited to, convening and presiding over public meetings, conducting public business at those meetings, and redressing the concerns of city residents at those meetings;
- B. The Receiver has acted *ultra vires* by appointing a “hearing officer” to perform the duties and functions of the Mayor and the City Council;
- C. The Receiver has unlawfully delegated the power only elected officials or a receiver appointed by the Department of Revenue for the State of Rhode Island may exercise to an appointed “hearing officer” who acts in his stead.

28. By the foregoing acts and omissions, the Defendant has violated Section 45-9-7(c) of the Financial Stability Act.

29. As a result of the Defendant’s unlawful actions, Plaintiff has suffered and will continue to suffer immediate and irreparable harm, for which there is no adequate remedy at law.

WHEREFORE, Plaintiff prays that this Court grant relief as hereinafter set forth.

**COUNT II**  
**Deprivation of Civil Right to Due Process,**  
**pursuant to Art. I, Sec. 2 of the Rhode Island Constitution**

30. Plaintiff hereby incorporates Paragraphs 1 through 29 as though fully set forth herein.
31. The Receiver has unlawfully violated Plaintiff's right to due process in that:
- A. The Receiver has not performed the duties and functions of the Mayor or the City Council in accordance with the power vested in him by statute, including but not limited to, convening and presiding over public meetings, conducting public business at those meetings, and redressing the concerns of city residents at those meetings;
  - B. The Receiver has acted *ultra vires* by appointing a "hearing officer" to perform the duties and functions of the Mayor and the City Council;
  - C. The Receiver has unlawfully delegated the power only elected officials or a receiver appointed by the Department of Revenue for the State of Rhode Island may exercise to an appointed "hearing officer" who acts in his stead;
  - D. To the extent that the Receiver has allowed an unlawfully appointed party to undertake the non-delegable municipal business of elected officials, the Plaintiff has been denied her right to liberty and property without due process of law.
32. By the foregoing acts and omissions, the Defendant has violated Article I, Section 2 of the Rhode Island Constitution.
33. As a result of the Defendant's unlawful actions, Plaintiff has suffered and will continue to suffer immediate and irreparable harm, for which there is no adequate remedy at law.

WHEREFORE, Plaintiff prays that this Court grant relief as hereinafter set forth.

**COUNT III**  
**Deprivation of Civil Right to Petition Government for Redress of Grievances,**  
**pursuant to Art. I, Sec. 21 of the Rhode Island Constitution**

34. Plaintiff hereby incorporates Paragraphs 1 through 33 as though fully set forth herein.

35. The Receiver has unlawfully violated Plaintiff's right to petition government for redress of grievances in that:

A. The Receiver has not performed the duties and functions of the Mayor or the City Council in accordance with the power vested in him by statute, including but not limited to, convening and presiding over public meetings, conducting public business at those meetings, and redressing the concerns of city residents at those meetings;

B. The Receiver has acted *ultra vires* by appointing a "hearing officer" to perform the duties and functions of the Mayor and the City Council;

C. The Receiver has unlawfully delegated the power only elected officials or a receiver appointed by the Department of Revenue for the State of Rhode Island may exercise to an appointed "hearing officer" who acts in his stead;

D. To the extent that the Receiver has allowed an unlawfully appointed party to undertake the non-delegable municipal business of elected officials, the Plaintiff has been denied her right to petition the government for redress of her grievances.

36. By the foregoing acts and omissions, the Defendant has violated Article I, Section 21 of the Rhode Island Constitution.

37. As a result of the Defendant's unlawful actions, Plaintiff has suffered and will continue to suffer immediate and irreparable harm, for which there is no adequate remedy at law.

WHEREFORE, Plaintiff prays that this Court grant relief as hereinafter set forth.



**COUNT IV**  
**Violation of the Open Meetings Act, R.I. Gen. Laws Sec. 42-46-1 et seq.**

38. Plaintiff hereby incorporates Paragraphs 1 through 37 as though fully set forth herein.

39. The Receiver has unlawfully violated the Open Meetings Act in that:

- A. The Receiver has not performed the duties and functions of the Mayor or the City Council in accordance with the power vested in him by statute, including but not limited to, convening and presiding over public meetings, conducting public business at those meetings, and redressing the concerns of city residents at those meetings;
- B. The Receiver has acted *ultra vires* by appointing a “hearing officer” to perform the duties and functions of the Mayor and the City Council;
- C. The Receiver has unlawfully delegated the power only elected officials or a receiver appointed by the Department of Revenue for the State of Rhode Island may exercise to an appointed “hearing officer” who acts in his stead;
- D. To the extent that the Receiver has designated a “hearing officer” to conduct municipal business, including making motions and taking action at meetings open to the public, such meetings have not been held in accordance with the requirements of the Open Meetings Act.

40. By the foregoing acts and omissions, the Defendant has violated the Open Meetings Act, R.I. Gen. Laws Sec. 42-46-1 *et seq.*

41. As a result of the Defendant’s unlawful actions, Plaintiff has suffered and will continue to suffer immediate and irreparable harm, for which there is no adequate remedy at law.

WHEREFORE, Plaintiff prays that this Court grant relief as hereinafter set forth.

**COUNT V**  
**Injunctive Relief**

42. Plaintiff hereby incorporates Paragraphs 1 through 41 as though fully set forth herein.
43. Plaintiff has a reasonable likelihood of success on the merits in this action.
44. Plaintiff has suffered immediate and irreparable harm as a consequence of the Receiver's actions.
45. Plaintiff has no adequate remedy at law other than injunctive relief.
46. The balancing of equities requires that the requested relief be granted.
47. The Plaintiff is otherwise entitled to mandatory injunctive relief.

WHEREFORE, Plaintiff prays that this Court grant relief as hereinafter set forth.

**COUNT VI**  
**Writ of Mandamus**

48. Plaintiff hereby incorporates Paragraphs 1 through 47 as though fully set forth herein.
49. In accordance with his appointment by the Director of the Department of Revenue, the Receiver has a clear legal duty to undertake the duties, functions and responsibilities vested in him by the State of Rhode Island under the Financial Stability Act.
50. In accordance with his acceptance of the appointment of Receiver, the Receiver does not have the discretion to either refuse to undertake these duties, functions and responsibilities, nor does he have the discretion to delegate that power to a hearing officer.
51. To the extent that the Receiver has the discretion to appoint various persons to assist him in conducting municipal business, it is an abuse of discretion to appoint a "hearing officer" to undertake those duties, functions and responsibilities that only an elected official can perform.
52. Plaintiff has an incontrovertible legal right to the relief requested, particularly given the essential abrogation of the last local election in favor of the appointment of a Receiver.

53. Plaintiff has no other plain and adequate remedy at law, warranting this Court's issuance of a writ of mandamus.

WHEREFORE, Plaintiff prays that this Court grant relief as hereinafter set forth.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays that this Honorable Court:

1. Declare that the Receiver has failed to perform the duties and functions of the Mayor or the City Council for Central Falls in accordance with the power vested in him by the Financial Stability Act;
2. Declare that the Receiver has acted *ultra vires* by appointing a "hearing officer" to perform the duties and functions of the Mayor and the City Council for Central Falls, in violation of the Financial Stability Act;
3. Declare that the Receiver has unlawfully delegated the power only the Mayor and the City Council for Central Falls, or its duly appointed Receiver, may exercise, in violation of the Financial Stability Act;
4. Declare that the act of appointing a "hearing officer" to perform the duties of the Receiver that could otherwise only be exercised by the Mayor or the City Council for Central Falls is a violation of the Financial Stability Act;
5. Declare that the act of appointing a "hearing officer" to perform the duties of the Receiver that could otherwise only be exercised by the Mayor or the City Council of Central Falls is unconstitutional and in derogation of Article I, Section 2 of the Rhode Island Constitution in that it denies Plaintiff's right to due process;

6. Declare that the act of appointing a “hearing officer” to perform the duties of the Receiver that could otherwise only be exercised by the Mayor or the City Council of Central Falls is unconstitutional and in derogation of Article I, Section 21 of the Rhode Island Constitution in that it denies Plaintiff the right to petition her government for the redress of grievances;
7. Declare that the act of appointing a “hearing officer” to perform the duties of the Receiver that could otherwise only be exercised by the Mayor or the City Council of Central Falls is a violation of the Open Meetings Act, R.I. Gen. Laws Sec. 42-46-1 *et seq.*;
8. Enjoin the Defendant from delegating duties that may only otherwise be exercised by the Mayor or City Council of Central Falls;
9. Issue a Writ of Mandamus directing the Defendant to undertake performance of the duties, functions and responsibilities that may only otherwise be exercised by the Mayor or City Council of Central Falls;
10. Award Plaintiff her costs and attorneys’ fees;
11. Award such other relief as the Court deems just and proper.

**Jury Demand**

Plaintiff hereby demands a jury trial on all issues so triable by right to a jury.

Plaintiff,  
By her attorney,

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