

City of Tontitown

CITIZEN CORRESPONDENCE

Date: October 29, 2025

To: Tontitown City Council

Cc: Rhonda Ardemagni, Clerk-Treasurer

From: Mick Wagner, Citizen

Subject: Request for Council Review – Mayor Russell’s Misrepresentation of AML Defense Fund Costs in 72CV-25-26

Preamble

Mayor Russell,

History reminds us that when a falsehood is repeated loudly and often enough, people may begin to mistake it for the truth. Unfortunately, your repeated public statements regarding the illegal-exaction lawsuit appear to follow that pattern. The purpose of this correspondence is to set forth the verifiable record—drawn from court documents, audit findings, and public meeting transcripts—so that the citizens of Tontitown and this Council may distinguish fact from fiction. The following summary is not opinion; it is based entirely on official records and proceedings.

1. Court Findings

In *Wagner v. City of Tontitown and Angela Russell*, Case No. 72CV-25-26, the Washington County Circuit Court found that Mayor Russell violated Article 12, Section 5 of the Arkansas Constitution by expending \$15,079.95 in public funds for private legal representation by the Richard Mays Law Firm. The Court permanently enjoined her from similar expenditures and ordered her personally to pay \$1,500 in attorney’s fees within ten (10) days.

2. Representation and Costs

The Mayor’s repeated public claim that she “saved the City thousands” is inaccurate. The City incurred no post-filing legal fees under the Arkansas Municipal League’s Municipal Legal Defense Program (MLDP). The MLDP provides legal counsel to member cities at no continuing charge beyond a one-time \$3,000 cost deposit, which Tontitown remitted when the case was tendered. No hourly billing, settlement costs, or additional charges were paid by the City. Her statement that her plea avoided further expense is therefore materially misleading.

3. Admission of Unilateral Action

In the September 2, 2025 City Council meeting (archived on the City’s YouTube channel), Mayor Russell admitted that she did not consult the City Attorney or the City Council before authorizing payment of public funds for her own legal expenses—an ultra vires act under Arkansas law. The

Court's injunction confirms this misconduct.

4. Audit and Prosecutor Referral

The 2023–2024 Legislative Audit of the City of Tontitown identified the same unauthorized payment to the Mays Law Firm and formally referred the matter to the Washington County Prosecuting Attorney's Office for review. That review remains underway as of this date. The audit finding and referral substantiate that the issue extends beyond a civil settlement and remains under prosecutorial scrutiny for potential violations of municipal finance law.

5. Clarification of Settlement Process

Mayor Russell has publicly represented that I pleaded to settle the case. That statement is false. In truth, settlement discussions began only after my attorney, Joey McCutchen, contacted the AML's assigned defense counsel in July 2025 to request that a trial date be set. After that request, AML counsel reopened dialogue. For several months, my attorney and opposing counsel exchanged emails and calls seeking to negotiate softened language describing the Mayor's actions. When those efforts failed, Mr. McCutchen advised the AML attorney that we would proceed to trial and amend the complaint to add that the Mayor had acted *ultra vires*—as she had already admitted during the September 2, 2025 Council meeting, as captured on the City's YouTube channel. Only then did the defendants agree to the final order exactly as drafted by my attorney, without revisions favorable to the Mayor. The record therefore shows that the City's plea resulted from the Mayor's own admissions and the AML's intervention, not from any request by me to settle.

6. Recommendations

- Demand reimbursement from Mayor Russell for the \$3,000 MLDP cost deposit paid by the City on her behalf.
- Direct the Clerk-Treasurer to credit any repayment to the General Fund as restitution consistent with the audit's findings and ongoing referral.

Although I signed a limited release in settling Case 72CV-25-26, any Tontitown citizen retains standing under Article 16, Section 13 of the Arkansas Constitution to pursue recovery of interest owed to taxpayers for the period in which public funds were diverted to the Mayor's personal use.

Full transparency requires that the court order, audit excerpt, and related correspondence be included in the next Council packet so residents may review the complete record.

Respectfully submitted,

Mick Wagner

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Attachments:

- A. Circuit Court Order and Settlement Agreement (Case No. 72CV-25-26)
- B. Excerpt – 2023–2024 Legislative Audit (Referral to Prosecutor's Office)
- C. Citizen Email to Mayor Russell, dated October 3, 2025

Prepared for public record inclusion and council packet transparency.