

DEC 15 2025

IN THE CIRCUIT COURT OF DREW COUNTY, ARKANSAS
CIVIL DIVISION

AM 1/2/3/4/5/6/7/8/9/10/11/12 PM (12)

BKB, LLC,
An Arkansas Limited Liability Company

Plaintiff,

v.

Case No. CV-25-292

JMG INVESTMENTS, INC.,
An Arkansas Corporation

Defendant.

COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF

Plaintiff BKB, LLC ("BKB") for its Complaint against Defendant JMG Investments, Inc.

("JMG") states as follows:

Parties, Jurisdiction, and Venue

1. BKB is an Arkansas limited liability company in good standing, with its principal business related to ownership and operation of the commercial property located at 509 Highway 425 North, Monticello, Arkansas (the "BKB Property"). BKB has owned the BKB Property and its surrounding paved parking areas for more than a decade.

2. JMG is an Arkansas for-profit corporation in good standing, which owns the parcel immediately adjacent and generally north and/or west of the BKB Property along Highway 425 in Monticello, Arkansas, identified in the Drew County records as Parcel 703-03534-001-C (the "JMG Property"). On information and belief, JMG may be served through its registered agent, Jordan Mitchell Gathings ("Gathings"), at 562 Highway 425 South, Monticello, Arkansas 71655.

3. This Court has subject matter jurisdiction pursuant to Amendment 80 of the Arkansas Constitution and Ark. Code Ann. § 16-13-201, because this action seeks damages and injunctive relief concerning real property located in Drew County.

4. Venue is proper in Drew County under Ark. Code Ann. § 16-50-101 et seq., because the causes of action arose in Drew County and concern injury to and interference with real property located in Drew County.

Factual Allegations

5. The BKB Property is improved with a commercial building commonly known as the Mazzio's restaurant and an associated paved parking lot. The parcel is identified by Drew County as Parcel 703-03534-002-C and is located at 509 Highway 425 North, Monticello, Arkansas.

6. The JMG Property is a vacant commercial parcel adjoining the BKB Property along their mutual boundary at or near the north and/or west edges of the BKB Property and has a situs description of "HWY 425 N OF MAZZIO'S," according to Drew County tax and mapping records.

7. For decades, surface water resulting from ordinary rainfall has drained according to the natural lay and grade of the land across and between the BKB and JMG parcels without artificial impediment or re-engineering by BKB. BKB has not altered the topography in any manner that has increased, concentrated, or diverted surface water toward the JMG Property. In fact, the small concrete curb running along the circumference of the parking lot has slowed the natural flow of surface water benefiting the JMG Property.

8. In or about September–October 2025, JMG (through its principal owner, Gathings) demanded that BKB fund or substantially contribute to a new engineered drainage system on or adjacent to the BKB Property to divert ordinary surface water that historically has flowed across the properties. The proposed system, including retaining walls, a diversion box, subsurface piping, and a concrete low-water crossing, would have required a substantial payment by BKB.

9. BKB declined to pay for JMG's proposed system because Arkansas law does not impose a duty on an upper or neighboring landowner to re-engineer its property or install new drainage systems to benefit an adjacent landowner in the absence of alteration or concentration of surface water flow. BKB nevertheless communicated its willingness to be a good neighbor and to consider reasonable measures that did not impose an inordinate and unnecessary expense.

10. After BKB declined to fund JMG's proposed system, JMG began constructing a wall or barrier directly along the boundary between the BKB and JMG parcels. The wall currently stands approximately two feet in height, and construction has been ongoing. On information and belief, JMG intends to continue and/or raise or extend this barrier, though the full scope is unknown.



11. The wall has already blocked the historic and natural path of surface water, which now pools and accumulates on the BKB Property. The pooling water is damaging BKB's paved

parking lot, undermining subgrade and asphalt integrity, and threatens imminent flooding of the commercial building during moderate to heavy rainfall events.

12. JMG undertook construction of the barrier with actual notice that impounding surface water on the BKB Property would cause damage. BKB advised JMG that erecting a barrier to repel water in a manner that unnecessarily harms neighboring property is unlawful under Arkansas law. Despite this, JMG persisted.

13. JMG's barrier unlawfully obstructs the natural and historical flow of surface water, causes and will continue to cause property damage to BKB, and poses a substantial risk of irreparable harm—including loss of use of the premises, structural and pavement failures, business interruption, and safety hazards—if not promptly enjoined.

Claims for Relief

Count I – Private Nuisance

14. BKB incorporates paragraphs 1–13.

15. By constructing and maintaining a wall that obstructs the historical flow of surface water and forces water to accumulate on the BKB Property, JMG has created a condition that unreasonably interferes with BKB's use and enjoyment of its land.

16. The nuisance has caused and will continue to cause harm to BKB's real property, fixtures, and improvements, including but not limited to pavement deterioration, subgrade compromise, increased maintenance costs, and risk of flooding and interior damage to the commercial building.

17. BKB is entitled to an award of damages in an amount to be proven at trial and to injunctive relief abating the nuisance.

Count II – Trespass

18. BKB incorporates paragraphs 1–17.

19. JMG’s construction of the barrier intentionally and foreseeably causes the unlawful entry and continued presence of surface water onto and upon the BKB Property in a manner it would not otherwise occur but for the barrier.

20. Such forced accumulation and impoundment of water constitutes a trespass resulting in actual and continuing damage to BKB’s property. BKB is entitled to compensatory damages and injunctive relief.

Count III – Negligence

21. BKB incorporates paragraphs 1–20.

22. JMG owed BKB a duty to exercise ordinary care in undertaking measures to deal with surface water so as not to unnecessarily injure BKB’s property beyond what is fairly necessary to protect JMG’s own property.

23. JMG breached that duty by erecting a barrier directly on the boundary that blocks natural drainage and causes water to pool and damage the BKB Property, despite actual notice and reasonable alternatives.

24. As a proximate result, BKB has suffered and will continue to suffer property damage, diminution in value, remediation costs, and imminent risk of flood-related loss. BKB is entitled to compensatory damages in an amount to be proven at trial.

Count IV – Declaratory and Injunctive Relief (Ark. R. Civ. P. 65)

25. BKB incorporates paragraphs 1–24.

26. A present, justiciable controversy exists regarding JMG's right to maintain any structure, wall, berm, or similar impediment along the parties' boundary that obstructs the historical and natural flow of surface water and causes water to impound on the BKB Property.

27. BKB is likely to succeed on the merits because Arkansas law permits a landowner to protect itself from surface water only to the extent it does not unnecessarily injure its neighbor, and JMG's barrier exceeds what is fairly necessary and inflicts ongoing harm.

28. BKB faces irreparable harm absent immediate injunctive relief, including the threat of flooding of the commercial building, undermining of paved surfaces and subgrade, loss of business use, and safety hazards that cannot be fully remedied by money damages after the fact.

29. The balance of equities and hardships favors BKB because removing or modifying the barrier to prevent impoundment will prevent ongoing damage and restore the status quo ante, while JMG remains free to employ reasonable drainage measures that do not harm its neighbor.

30. Granting injunctive relief serves the public interest by preventing avoidable property damage, preserving commerce and public safety, and encouraging reasonable, lawful management of surface water consistent with Arkansas law.

31. BKB seeks a temporary restraining order, preliminary injunction, and permanent injunction: (a) prohibiting JMG from constructing, maintaining, or elevating any wall, berm, or barrier that obstructs the historical and natural flow of surface water from or across the BKB Property; (b) requiring JMG to remove, notch, open, or otherwise modify the existing barrier as necessary to restore historic drainage patterns and prevent impoundment on the BKB Property; and (c) enjoining JMG from undertaking any future drainage measures that unnecessarily damage BKB's property.

Damages

32. As a direct and proximate result of JMG's conduct, BKB has sustained and will continue to sustain damages, including but not limited to: loss and damage to pavement and subgrade; costs to investigate, mitigate, and repair; loss of use and business interruption risks; engineering and consulting expenses; and other consequential damages in an amount to be proven at trial.

33. JMG's conduct was intentional, willful, and in conscious disregard of BKB's rights after notice, supporting an award of punitive damages to deter similar conduct.

Prayer for Relief

34. BKB respectfully requests that the Court enter judgment in its favor and against JMG as follows:

- a) Awarding compensatory damages in an amount to be determined at trial;
- b) Awarding punitive damages in an amount sufficient to punish and deter;
- c) Issuing a temporary restraining order, followed by a preliminary and permanent injunction: (i) prohibiting JMG from constructing, maintaining, or elevating any barrier that obstructs the historical and natural flow of surface water and causes impoundment on the BKB Property; (ii) requiring JMG to immediately remove, notch, open, or otherwise modify the existing wall to restore historic drainage and prevent pooling; and (iii) prohibiting JMG from implementing drainage measures that unnecessarily damage BKB's property;
- d) Declaring the parties' rights and obligations with respect to surface water management along their boundary consistent with Arkansas law;
- e) Awarding pre- and post-judgment interest as allowed by law;

- f) Awarding BKB its costs of suit and such other and further relief as the Court deems just and proper.

Respectfully Submitted,

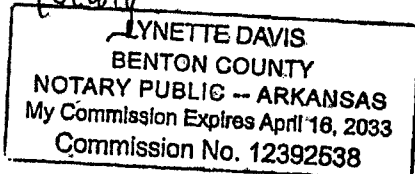
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Verification and Rule 65 Certification

Pursuant to Ark. R. Civ. P. 65, BKB, LLC states that the factual allegations herein are true and correct to the best of its knowledge, information, and belief, formed after reasonable inquiry; that immediate and irreparable injury will result to BKB before JMG can be heard in opposition absent a temporary restraining order; and that the injunctive relief sought is necessary to preserve the status quo and prevent continuing harm. BKB is prepared to post bond in an amount the Court deems proper.

Lynette Davis
Notary



Brian Moore

Brian Moore,
Managing Member
BKB, LLC