

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

IN THE COURT OF COMMON PLEAS  
NINTH JUDICIAL CIRCUIT  
CASE NO.: 2012-CP-10-8214

COC Corporation, Coast Real Estate, )  
LLC, MARKETEXPLOER.COM, LLC, )  
NYSD, Inc., Michael J. Allan, Dale J. Haefner, )  
Laurine Haefner, David M. Graham, Jr., )  
David W. Olikier, Susan Lynn Klaus, )  
Timothy C. Bickham, Jennifer M. Tesoro, )  
Bryan Stock, Michael T. Casa, )  
Ruby L. Casa, Frances A. Casa, )  
Frank A. Casa, Jean Jones and )  
John C. Butera )

Plaintiffs, )

vs. )

The Bohicket Yacht Club Marina Council of )  
Co-Owners, Inc., Jack Bisceglia, Mark )  
Macpherson, Gilbert Bell, R. Patrick Welch, )  
Theresa Penniger and Bohicket Investors, )  
LLC )

Defendants. )

ORDER

FILED  
2015 JAN 28 AM 4:56  
JULIE J. ARMSTRONG  
CLERK OF COURT  
BY

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MAR 04 2015

SC Court of Appeals

..... This matter came before me for a bench trial on November 17 and 18, 2014. Present at  
the call of the case was Plaintiff Michael Casa, along with his attorney, Frank Cisa. Mr. Cisa  
represented to the court that he was appearing on behalf of all named Plaintiffs, and although not  
named as a Plaintiff, that he was also appearing derivatively on behalf of Defendant The  
Bohicket Yacht Club Council of Co-Owners, Inc. (the "Council"). Also present at the call of the  
case were Ronald L. Richter, Jr. and Scott Mongillo, who appeared as counsel on behalf of all  
named Defendants. Defendants R. Patrick Welch and Gilbert Bell appeared in their individual  
capacities, as well as in a representative capacity for the corporate Defendants.

Over the course of the two day trial, the Court heard testimony and received evidence

from a number of witnesses. The Court also entertained a number of legal arguments from counsel. At the close of the Plaintiffs' case, the Defendants made a number of directed verdict motions which were held in abeyance until the conclusion of the trial. The Defendants renewed their directed verdict motions at the close of all evidence.

Based upon the witness testimony, the evidence, the argument of counsel and the entire record before me, **I HEREBY FIND AND RULE** as follows:

1. Defendants' motion for directed verdict in favor of Defendant Teresa Penniger is granted. It appears from the evidence before the Court that Ms. Penniger was never a member of the board of directors of the Council or, minimally, that she was not a member of the board of directors during the time of the conduct which formed the basis of Plaintiffs' Complaint.

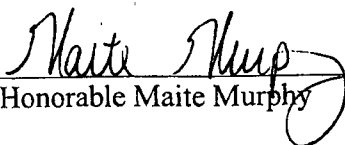
2. I find that the Plaintiffs are not entitled to relief under any of their causes of action, including causes of action alleging a violation of the Master Deed, a violation of the South Carolina Horizontal Property Regime Act, breach of fiduciary duty, declaratory judgment and removal of the directors.

~~3. I further find that although the facts and evidence do not entitle the Plaintiffs to~~  
recovery under any theory advanced, to the extent that a cause of action existed which alleged financial harm to the Plaintiffs, any such claim(s) would have been derivative of the individual Plaintiffs' ownership / membership in the Council such that only the Council would have had standing to bring the cause of action.

4. I further find that the aforementioned defects notwithstanding, even if this action had been styled properly as a derivative suit, the conduct of the Defendants which gives rise to the claims is protected by the business judgment rule. Specifically, I find that with regard to all of the decisions and actions of the Defendants that were called into question by the Plaintiffs, the

Defendants exercised reasonable business judgment such that there can be no liability.

**IT IS SO ORDERED!**

  
The Honorable Maite Murphy

Charleston, South Carolina

January 21, 2015

**JULIE J. ARMSTRONG**  
CLERK OF COURT, C.P. & G.S.  
100 BROAD STREET, SUITE 106  
CHARLESTON, SC 29401-2258  
**RETURN SERVICE REQUESTED**



[www3.charlestoncounty.org](http://www3.charlestoncounty.org)



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858 Lowcountry Blvd.  
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**NOTICE OF ENTRY OF JUDGMENT/ORDER PURSUANT TO RULE 77 SCRPC**

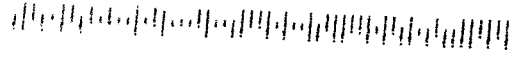
**Order/defnts' mot for directred verdict in favor of defnt**

**CASE NO: 2012CP1008214**

**COC Corporation , plaintiff, et al VS Bohicket Yacht Club Marina Council of Co Owners Inc  
The ,**

This judgment was entered on the 28th day of January, 2015, and a copy mailed first class on Thursday, January 29, 2015, to all counsel of record and/or all parties entitled to receive notice.

You may view and download this document at [www3.charlestoncounty.org](http://www3.charlestoncounty.org).



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The Honorable Jenny Abbott Kitchings  
South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211

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