

STATE OF SOUTH CAROLINA
The South Carolina Court of Appeals

APPEAL FROM GREENVILLE COUNTY
The Honorable Robin B. Stilwell, Judge of Circuit Court **Dec 22 2020**

RECEIVED

SC Court of Appeals

Appellate Case No. 2020-000438
Civil Action No. 2019-CP-23-00269

Raymond A. Wedlake, as a Member of
Woodington Homeowners' Association, Inc.,.....Appellant,

v.

Christopher Edwards, Charles Koshis,
Denis Esteve, Michael Keels and William Craigo
in their capacity as Board of Directors of
Woodington Homeowners' Association, Inc.,.....Respondents.

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	
	)	THIRTEENTH JUDICIAL CIRCUIT
Raymond A. Wedlake, individually, and derivatively, on behalf of all Members of the Woodington Homeowners' Association, Inc.	)	Civil Action No.
	)	2017-CP-23-06301
Plaintiff(s)	)	
	)	
vs.	)	ORDER DENYING MOTION TO
	)	DISMISS, AND IN THE ALTERNATIVE
Benjamin Acord, William Craigo, Denis Esteve, and Brian James in their capacity as the current Board of Directors of the Woodington Homeowners' Association, Inc.	)	MOTION TO STRIKE OR FOR A
	)	MORE DEFINITE STATEMENT
	)	
and,	)	
	)	
Association Management Group SC, Inc.,	)	
	)	
Defendants	)	

This matter came before me on January 3, 2018, for a hearing regarding a Motion to Dismiss, or in the Alternative, to Strike or for a More Definite Statement on behalf of Defendants Benjamin Acord, William Craigo, Denis Esteve and Brian James, (the "Board Defendants"). The aforementioned motion was heard following approval by this Court of a settlement between Plaintiff and Defendant Association Management Group SC, Inc. ("AMG"). Upon the Court's approval of the settlement between Plaintiff and AMG, counsel for Plaintiff and AMG entered a stipulation on the record that all claims against the Board Defendants relating to AMG, including all claims relating to or arising out of AMG's contract(s) with Woodington Homeowners' Association, Inc. were dismissed. Such Stipulation did not include Plaintiff's request for the Court to interpret the By-Laws with regard to voting requirements for management contracts and renewals thereof. After hearing oral argument of counsel, and following review of Plaintiff's

Complaint, the Board Defendants' Motion, Board Defendants' Memorandum in Support and related Affidavits and Exhibits, and Plaintiff's Memorandum in Opposition and related Affidavits and Exhibits, I find in favor of Plaintiff, denying Board Defendants' Motion in all respects.

THEREFORE, IT IS ORDERED, that Board Defendants' Motion to Dismiss, and, in the alternative, to Strike or for a More Definite Statement is DENIED. Further, by stipulation of counsel, all claims against the Board Defendants relating to AMG, including all claims relating to or arising out of AMG's contract(s) with Woodington Homeowners' Association, Inc. are dismissed

IT IS SO ORDERED.

Robin B. Stilwell, Circuit Court Judge

Date: _____



Greenville Common Pleas

Case Caption: Raymond A Wedlake , plaintiff, et al vs. Benjamin Acord , defendant,
et al
Case Number: 2017CP2306301
Type: Order/Other

So Ordered

s/ Robin B. Stilwell 2158

Electronically signed on 2018-01-23 10:18:06 page 3 of 3

ADDENDUM 2

The South Carolina Court of Appeals

Raymond A. Wedlake, individually and derivatively, on
behalf of all Members of the Woodington Homeowners'
Association, Inc., Appellant,

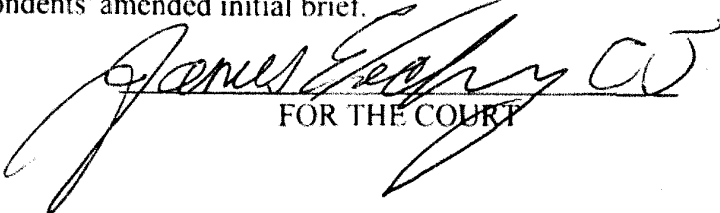
v.

Benjamin Acord, William Craigo, Denis Esteve, and
Brian James in their capacity as the current Board of
Directors of the Woodington Homeowners' Association,
Inc., Respondents.

Appellate Case No. 2018-001209

ORDER

Respondents' motion to dismiss this appeal is denied at this time. Respondents, however, may amend their initial brief to address the issue of mootness within thirty days of the date of this order. If Respondents' serve and file an amended initial brief, Appellant may serve and file an amended reply brief within fifteen days of service of Respondents' amended initial brief.


FOR THE COURT

Columbia, South Carolina

cc:
Grant Henry Gibson, Esquire
Ely Owen Grote, Esquire

FILED

November 8, 2019

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Raymond A. Wedlake, as a Member of
Woodington Homeowners' Association,
Inc.

Plaintiff (*Pro Se*)

v.

Christopher Edwards, Charles Koshis,
Denis Esteve, Michael Keels, and
William Craigo in their capacity as
Board of Directors of Woodington
Homeowners' Association, Inc.,

Defendant(s).

IN THE COURT OF COMMON
PLEAS

Case No. 2019-CP-23-00269

ORDER

ORDER

On October 28, 2019, this Court heard the following motions: (1) Defendants' Motion for Summary Judgment as to Plaintiff's claims; (2) Defendants' Motion for Summary Judgment as to their counterclaim; (3) Defendants' Motion to Extend ADR deadline; and (4) Plaintiff's Motion to Dismiss Defendants' Counterclaim. Having reviewed the record filings, applicable law, and having heard the Parties' arguments as to each Motion, this Court finds and Orders as follows:

1. Defendants' Motion for Summary Judgment as to Plaintiff's claims is **GRANTED**. Defendants are not the proper parties to this lawsuit nor can Plaintiff's suit stand as a matter of law. Article 8 of the South Carolina Non-Profit Corporations Act, specifically S.C. Code Section 33-31-834(a), states that all "directors, trustees, or members of the governing bodies of not-for-profit cooperatives, corporations, associations, and organizations...are immune from suit arising from the conduct of the affairs of these cooperatives, corporations, associations, or organizations. This immunity from suit is

removed when the conduct amounts to willful, wanton, or gross negligence.” Plaintiff asserted at the hearing that Woodington HOA is a not-for-profit corporation. Plaintiff has named individual Board members as Defendants in this lawsuit. Plaintiff has made no allegations of “willful, wanton, or gross negligence” by Defendants. Defendants are immune from suit in accordance with the language of the Act, supporting case law, and the strong public policy of the State of South Carolina which favors limiting individual liability for actions of a corporation. *See, e.g., Smith v. Dockside Ass’n, Inc.*, 2005 WL 7083482, *4 (S.C. Ct. App. Feb. 28, 2005) (“The General Assembly has provided further protection to directors of nonprofit corporations by enacting South Carolina Code section 33-31-834. That section provides that director of nonprofit organizations are immune from suits arising from the conduct of the affairs of the organization unless the directors’ conduct amounts to ‘willful, wanton, or gross negligence.’”). Further, the Board members are not proper parties as the majority have resigned and no longer have authority to provide the requested relief, demonstrating again that the Board members are not the proper party where Plaintiff seeks information from the HOA. Finally, the list of HOA member confidential votes requested by Plaintiff is not something he is entitled to under the Non-Profit Corporations Act. Wherefore, judgment is entered in favor of Defendants on Plaintiff’s claims.

2. Defendants’ Motion for Summary Judgment as to their counterclaim is **DENIED**.
3. Defendants’ Motion to Extend ADR Deadline is **GRANTED**.
4. Plaintiff’s Motion to Dismiss Defendants’ Counterclaim is **DENIED**.

IT IS SO ORDERED.

The Honorable Robin B. Stilwell
South Carolina Circuit Court Judge



Greenville Common Pleas

Case Caption: Raymond A Wedlake vs. Christopher Edwards , defendant, et al
Case Number: 2019CP2300269
Type: Order/Other

So Ordered

s/ Robin B. Stilwell 2158

Electronically signed on 2019-11-25 09:44:34 page 4 of 4

STATE OF SOUTH CAROLINA
COUNTY OF Greenville
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2019CP2300269

Raymond A Wedlake et al
PLAINTIFF(S)

Christopher Edwards et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED** (CHECK REASON): ☐ Rule 12(b), SCRCPP; ☐ Rule 41(a), SCRCPP (Vol. Nonsuit); ☐ Rule 43(k), SCRCPP (Settled);
☐ Other
- ☐ **ACTION STRICKEN** (CHECK REASON): ☐ Rule 40(j), SCRCPP; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (CHECK APPLICABLE BOX):
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

See Ruling below.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

☒ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 02/20/2020 .

Woodington Homeowners Association Inc
Raymond A Wedlake for Raymond A Wedlake
Raymond A Wedlake for Raymond A Wedlake

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

This matter comes before the Court, ostensibly, pursuant to a Motion to Reconsider filed December 26, 2019, by the Plaintiff. Plaintiff asks this Court to reconsider its Order Granting Summary Judgment entered November 26, 2019. Plaintiff's motion is respectfully denied as without merit and not properly before this Court.

Rule 59(e) of the SCRCP provides that a Motion to Alter or Amend "must be served not later than 10 days after receipt of written notice of the entry of the order." The filing of the Motion is untimely as it is significantly outside of the 10 day requirement for filing and service under the rule. Further, Rule 59(g) provides that the moving party must provide a copy of the motion to the Judge within 10 days after the filing of the Motion. There is no affidavit, evidence, or indication that the Judge was served, or provided a copy, by Plaintiff as required under the rule. (To the extent that the Court is mistaken and evidence of service of a written copy exists, this ground will be happily vacated.)

Inasmuch as this Motion is inappropriately filed, the Final Order of this Court bearing upon the subject issue was entered November 26, 2019. That Order stands as unchallenged. The named individuals were, and are, improper Defendants.

Furthermore, to the extent that any party may contend that Plaintiff's Motion for a New Hearing filed November 18, 2019, is still pending, the same is denied.



Greenville Common Pleas

Case Caption: Raymond A Wedlake vs. Christopher Edwards , defendant, et al
Case Number: 2019CP2300269
Type: Order/Electronic Form 4

So Ordered

s/ Robin B. Stilwell 2158

Electronically signed on 2020-02-20 13:16:59 page 3 of 3

EXHIBIT RB.1 - Order Denying Dismissal of Appeal
The South Carolina Court of Appeals

Raymond A. Wedlake, as a Member of Woodington
Homeowners' Association, Inc., Appellant,

v.

Christopher Edwards, Charles Koshis, Denis Esteve,
Michael Keels and William Craigo in their capacity as
Board of Directors of Woodington Homeowners'
Association, Inc., Respondents.

Appellate Case No. 2020-000438

ORDER

Appellant's motion for an order granting default judgment is denied. This court will consider the merits of this appeal after final briefing is complete.

Respondent's motion to dismiss this appeal is denied because Appellant timely filed this appeal from the circuit court's February 20, 2020 order, which denied Appellant's motion to reconsider as untimely and separately denied Appellant's previous motion for a new hearing.



FOR THE COURT

Columbia, South Carolina

cc:
Raymond A. Wedlake
Emily Kate O'Brian, Esquire

FILED
Sep 21 2020

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Raymond A. Wedlake, as a Member of
Woodington Homeowners' Association, Inc.

Plaintiff (*Pro Se*)

vs.

Christopher Edwards, Charles Koshis,
Denis Esteve, Michael Keels, and William Craigo
in their capacity as Board of Directors of
Woodington Homeowners' Association, Inc.

Defendants

)
) **IN THE COURT OF COMMON PLEAS**
)
) **THIRTEENTH JUDICIAL CIRCUIT**

Civil Case No. 2019-CP-23-00269

SUMMONS

(NON-JURY)

ENTERED COMPUTER

FILED-CLERK OF COURT
PAUL A. WICKHAM
JAN 17 2019

2019 JAN 17 PM 2:18

TO THE DEFENDANT(S) ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to appear and defend by answering the Complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your Answer to the Plaintiff, care of: Grant H. Gibson, Esq.; 1200 Woodruff Road, A-3; Greenville, South Carolina, 29607, within thirty (30) days after the service hereof, exclusive of the day of such service; and if you fail to do so, judgment by default will be rendered against you for the relief demanded in the complaint.



Raymond A. Wedlake
Plaintiff, *Pro Se*
703 Creekview Drive
Greenville, SC 29607
864-254-9262
wedlakera@mail.com

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Raymond A. Wedlake, as a Member of
Woodington Homeowners' Association, Inc.

Plaintiff (Pro Se)

vs.

Christopher Edwards, Charles Koshis,
Denis Esteve, Michael Keels, and William Craigo
in their capacity as Board of Directors of
Woodington Homeowners' Association, Inc.

Defendants

)
) **IN THE COURT OF COMMON PLEAS**
)
) **THIRTEENTH JUDICIAL CIRCUIT**

Civil Case No. 2018-CP-23

2019-CP-23-00269

**VERIFIED COMPLAINT FOR
DECLARATORY JUDGMENT
AND INJUNCTIVE RELIEF**

(NON-JURY)

JAN 7 2019
CLERK OF COURT

COMES NOW, Raymond A. Wedlake ("Plaintiff"), appearing *pro se*, and brings this action
for Declaratory Judgment and Injunctive Relief, based upon the allegations below.

PARTIES

1. Plaintiff: Raymond A. Wedlake is, and at all relevant periods has been, a resident of Greenville County.
2. Defendants, Christopher Edwards, Charles Koshis, Denis Esteve, Michael Keels, and William Craigo, have each been and continue to be, residents of Greenville County at all relevant periods.

NATURE OF THE CONTROVERSY

3. As set forth in detail in Plaintiff's Affidavit (Affidavit) and Exhibits, and in the statement of "FACTS" below, Defendants, who currently act as the 2018 Board of Directors (Board) of Woodington Homeowners' Association, Inc. (WHOA), of which Plaintiff is a longtime

Member in good standing (Affidavit), have prohibited Plaintiff from access to WHOA documents, specifically a list of those Members who returned ballots (Documents or List) regarding a substantial increase in dues and a special assessment, and ignored or denied Plaintiff's various requests for copies of the List. Based on information and belief, and based upon the specified arguments below, the "South Carolina Nonprofit Corporation Act of 1994" (NPCA) gives Plaintiff a right to "inspect and copy" such Documents (Exhibit 1), and this Court has the discretion to so permit such inspection and copying, and should do so, pursuant to the NPCA.

4. Specifically, Plaintiff repeatedly requested the List, and not how such Members voted, as related to ballots to assess to Members, including Plaintiff, a substantial increase in dues, and similarly a one-time assessment (Exhibit 2).
5. On December 17, 2018, Defendant Edwards, as President and on behalf of the Board refused such request, stating in part: "... the Board has been unable to find a bylaw or statute that grants Members the right to inspect .." (Exhibit 3).
6. Plaintiff provided Defendants with a statement of "proper purpose", as required for requests of information not specifically listed in the NPCA.
7. Plaintiff is a former two-term member of the Board of WHOA, and a nominated candidate for election to a 2019 WHOA Board, and believes there are other Members that share his platform and ideas (Platform), including a belief that fees increases were improper; Plaintiff believes Defendants oppose Plaintiff's desire for increased transparency, and the desirability of adopting an alternative dispute resolution procedure; Plaintiff also believes

Defendants are deliberately withholding the List, such that Plaintiff does not have information to facilitate a garnering of support to challenge the current Board.

8. In addition, Plaintiff is a "litigant" (Affidavit), as described under Section 33-31-1602(d) of the NPCA, and it is Plaintiff's position that he is therefore entitled to such information, regardless of whether it is specifically listed in the NPCA, and Plaintiff's position was communicated to, but was rejected by, Defendants.
9. The Court, pursuant to NPCA Section 33-31-1602(d) has the authority to, and given the legislative intent of such statute, has discretion to permit such inspection and copying of Documents, which this Court is asked to exercise in favor of Plaintiff.

JURISDICTION AND VENUE

10. This is a matter which involves interpretation of a statute, and thus falls directly under S.C. Code Ann. Title 15, Chapter 53, Section 15-53-10, *et seq.*, as amended, known as the "Uniform Declaratory Judgment Act" (UDJA), which speaks directly to the issue in this case in Code Section 15-53-30, which provides in pertinent part:

SECTION 15-53-30. Determination of questions under deed, will, written contract, statute, municipal ordinance, contract or franchise.

"Any person interested under a deed, will, written contract or other writings constituting a contract or whose rights, status or other legal relations are affected by a statute, municipal ordinance, contract or franchise may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract or franchise and obtain a declaration of rights, status or other legal relations thereunder."

11. Plaintiff is clearly a person "... whose rights, status, or other legal relations are affected by a statute ...", and thus a Declaratory Judgment action is proper to determine a "... question of construction ... under the ... statute ... and obtain a declaration of rights, status or other legal relations thereunder."
12. The UDJA specifically provides that where appropriate the Court may grant additional relief per SC Code § 15-53-120 (2012).
13. This action also requests Injunctive Relief.
14. This Court has jurisdiction of the subject matter of this complaint and personal jurisdiction of the parties.
15. Venue is proper, as all parties and witnesses, if any, are within Greenville County.

FACTS

16. Plaintiff is a Member in good standing of WHOA, and will suffer specific and individualized injury arising from an imminent proposed increase in HOA fees, and thus has standing to bring this action (Affidavit, Exhibit 4).
17. WHOA is a South Carolina Nonprofit Corporation, subject to the NPCA.
18. Plaintiff sought relief from the Board's ignoring or denying a right to "inspect and copy" Documents via filing complaints with the "Department of Consumer Affairs" (DCA) under the May 2018 "HOA Act", but all complaints were effectively ignored by the Board (Affidavit).
19. On October 5, 2018, Plaintiff asked the Board to return ballots to an independent-third party for certification of vote results, or to allow Plaintiff to "inspect and copy" ballots in order to certify vote results, and Plaintiff specified a process to maintain confidentiality of a

Member's vote (Affidavit, Exhibit 2); very specifically, Plaintiff is not asking for a record of how each Member voted, but rather the List, only (Affidavit, Exhibit 5).

20. This October 5, 2018, letter was again brought to the Board's attention with filing of a DCA complaint of November 11, 2018 (Affidavit, Exhibit 6).
21. Plaintiff is a litigant per 2017-CP-23-06301, relating to WHOA governance issues, with Appeal 2018-001209 currently pending (Affidavit), being stated here for the Court's knowledge and understanding to help facilitate applying its discretion as related to NPCA Section 33-31-1602(d).
22. Defendants conviction that Plaintiff may not receive the List, where Plaintiff believes such conviction has an intent to subjugate Plaintiff's candidacy to the 2019 Board and his Platform in opposition to that of Defendants, is simply bad faith, and improper (Affidavit).
23. Plaintiff believes that the proper attitude for Defendants to take is to supply the List as requested, even though not specifically identified as required in the NPCA, if as here, the request has a proper purpose (Affidavit).
24. Defendants make excuse and refuse to provide the List by claiming that all ballot information is confidential, where on October 6, 2018, the Board was informed of a process by which votes of Members are kept confidential (Exhibit 7), but to date no acknowledgment of this process was received (Affidavit).
25. On December 27, 2018, the Board was informed that a listing of voters is commonly made known and is not confidential, as was shown in a report from "Election Trust" – the "Voter Credit List" (Affidavit, Exhibit 5).

26. Plaintiff is a candidate for nomination to a 2019 WHOA Board with his Platform which conflicts with that of recent Boards, and which incorporates “transparency”, improvement of WHOA, proper Board Governance, along with a proposed procedure for alternative dispute resolution, and believes there are other Members that share such ideas, including many who did not vote during the recent balloting (Affidavit).
27. A proposed increase in fees (increasing dues by a factor about 2) was not approved by a majority of WHOA Members (34 votes) in November 9, 2018 balloting by those who actually returned ballots; for both Ballots 1 and 2, a majority of Members did not give approval to Defendants, who decided to go ahead with fees increases regardless of not having approval from a majority of Members (Affidavit).
28. Plaintiff served as a Board member for two-prior terms, and was one of five co-authors of By-Laws Rev 2 (June 15, 2005, Affidavit).
29. Consistent with Plaintiff's Platform, ethics practiced by two Boards on which Plaintiff served would:
- 1) never allow a personally-biased discrimination against any single Member, or group of Members;
 - 2) never condone a lack of communication to Members, and actions/inaction of the Board to remain secret;
 - 3) never withhold information requested by a Member in an attempt, and with intent, to improve WHOA;
- as done by Defendants, based on information and belief (Affidavit).

30. Regarding the November 9, 2018 set of three ballots, Plaintiff has several proper purposes entitling him to the List, which are:
- 1) certify vote counts;
 - 2) since Plaintiff is a nominee for the 2019 Board, identify Members whose beliefs may be similar to Plaintiff's beliefs, including a belief that fees increases were improper;
 - 3) prove to Defendants that non-returned ballots did not indicate, nor imply nor mean, support for the Board's proxy votes "For"; Plaintiff is unable to contact these non-voting Members without knowing the List;
 - 4) show to Defendants that Plaintiff is already a litigant per 2017-CP-23-06301;
 - 5) identify those Members who may support Plaintiff in subsequent, potential actions to improve WHOA, where information from non-voting Members is needed to inform Defendants about true facts of Member desires.
 - 6) gather support for Plaintiff's Platform as a nominee for the 2019 Board (Affidavit).
31. As shown above by facts and exhibits, Plaintiff sent various requests for specific information and for Documents, which have been ignored or refused by Defendants, with no Documents provided (Affidavit).

FOR FIRST CAUSE OF ACTION

DECLARATORY JUDGMENT

32. Plaintiff repeats and re-alleges each and every allegation contained in preceding paragraphs with the same force and effect as if herein fully set forth.
33. Upon information and belief, as of the filing of this suit, Defendants have refused to comply with requests for the List made to them by Plaintiff.

34. Upon information and belief, WHOA and its members will continue to suffer irreparable harm, and also will have no idea about the extent of harm, as Defendants refuse to provide vital Documents to Plaintiff to allow enlightenment of WHOA members.
35. Plaintiff further requests that Defendants be required to turn over to and furnish Plaintiff with Documents to which he is legally entitled, in a manner directed by the Court.

FOR A SECOND CAUSE OF ACTION

INJUNCTIVE RELIEF

36. Plaintiff repeats and re-alleges each and every allegation contained in preceding paragraphs with the same force and effect as if herein fully set forth.
37. In order to assure compliance with an action for Declaratory Judgment, it is essential that the Court recognize that Plaintiff seeks this Court to declare an affirmative Injunction “.. to compel the production of corporate records ..”, specifically the List from November 9, 2018 balloting, as NPCA:

“SECTION 33-31-1602. Inspection of records by members.

(d) This section does not affect:

- (1) the right of a member to inspect records under Section 33-31-720 or, if the member is in litigation with the corporation, to the same extent as any other litigant; or
- (2) the power of a court, independently of this chapter, to compel the production of corporate records for examination.”

since Plaintiff is a litigant per 2017-CP-23-06301, as Appeal 2018-001209.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, Raymond A. Wedlake, appearing *pro se*, prays for judgment for the Plaintiff, as follows:

- A. That the Court find against Defendants and grant Plaintiff's request for a Declaratory Judgment confirming under the NPCA that Plaintiff is entitled to "inspect and copy" requested Documents, specifically the List from November 9, 2018 balloting;
- B. That the Court confirm Plaintiff has a right for access to requested Documents per NPCA Section 33-31-1602(d), and other all sections of NPCA granting such right;
- C. That the Court compel Defendants to permit such inspection and copying of Documents, and to provide the List from ballots of November 9, 2018;
- D. That the Court affirm a Board must act with good faith to provide access to Documents to which Plaintiff is entitled, and to which such right to "inspect and copy" exists;
- E. That the Court recognize Injunctive Relief is appropriate and necessary to carry out the Court's Declaratory Relief;
- F. That this Court award Plaintiff "Nominal Damages" of \$1;

G. That this Court award Plaintiff the reasonable costs and expenses of this action;
and,

H. That this Court grant such other and further relief as this Court deems equitable and just
under the circumstances.

Dated this 17th day of January, 2019.

Respectfully Submitted,



Plaintiff, *Pro Se*

703 Creekview Drive

Greenville, SC 29607

864-254-9262

wedlakera@mail.com

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Raymond A. Wedlake, as a Member of
Woodington Homeowners' Association, Inc.

Plaintiff (*Pro Se*)

vs.

Christopher Edwards, Charles Koshis,
Denis Esteve, Michael Keels, and William Craigo
in their capacity as Board of Directors of
Woodington Homeowners' Association, Inc.

Defendants

)
) **IN THE COURT OF COMMON PLEAS**

)
) **THIRTEENTH JUDICIAL CIRCUIT**

)
) Civil Case No. 2018-CP-23-

)
) **2019-CP-23-** 00269

)
) **VERIFICATION**

)
) (NON-JURY)

FILED-CLERK OF COURT
PAUL B. WICKENHISHER
GREENVILLE, SC

2019 JAN 17 PM 4:18

I, Raymond A. Wedlake, appearing first before the Notary Public, state that I am the Plaintiff
in this matter. I have read the attached Complaint and know or believe the contents and
allegations are true to the best of my knowledge, except for those matters stated which are
alleged on information and belief.

Sworn to before me this

17th day of January, 2019.

Daniel J. Kedy

Notary Public of South Carolina

My Commission expires: 5/30/2024

Raymond A. Wedlake

Raymond A. Wedlake, Plaintiff

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Raymond A. Wedlake, as a Member of
Woodington Homeowners' Association, Inc.

Plaintiff (Pro Se)

vs.

Christopher Edwards, Charles Koshis,
Denis Esteve, Michael Keels, and William Craigo
in their capacity as Board of Directors of
Woodington Homeowners' Association, Inc.

Defendant(s)

Submitted By: Raymond A. Wedlake
Address: 703 Creekview Drive
Greenville, SC 29607

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2019-CP-23-00269

ENTERED COMPLETELY

JAN 17 PM 2:18

SC Bar #: XX
Telephone #: 864-254-9262
Fax #: XX
Other: XX
E-mail: wedlakera@mail.com

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing cases that are NOT E-Filed. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint. This form is NOT required to be filed in E-Filed Cases.

DOCKETING INFORMATION (Check all that apply)

**If Action is Judgment/Settlement do not complete*

- ☐ JURY TRIAL demanded in complaint. ☒ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|---|--|--|--|
| Contracts
☐ Constructions (100)
☐ Debt Collection (110)
☐ General (130)
☐ Breach of Contract (140)
☐ Fraud/Bad Faith (150)
☐ Failure to Deliver/Warranty (160) | Torts - Professional Malpractice
☐ Dental Malpractice (200)
☐ Legal Malpractice (210)
☐ Medical Malpractice (220)
Previous Notice of Intent Case #
20 -NI- -
☐ Notice/ File Med Mal (230)
☐ Other (299) _____ | Torts - Personal Injury
☐ Conversion (310)
☐ Motor Vehicle Accident (320)
☐ Premises Liability (330)
☐ Products Liability (340)
☐ Personal Injury (350)
☐ Wrongful Death (360)
☐ Assault/Battery (370)

☐ Slander/Libel (380)
☐ Other (399) _____ | Real Property
☐ Claim & Delivery (400)
☐ Condemnation (410)
☐ Foreclosure (420)
☐ Mechanic's Lien (430)
☐ Partition (440)
☐ Possession (450)
☐ Building Code Violation (460)

☐ Other (499) _____ |
| ☐ Employment Discrim (170)
☐ Employment (180)
☐ Other (199) _____ | Administrative Law/Relief
☐ Reinstate Drv. License (800)
☐ Judicial Review (810)
☐ Relief (820)
☐ Permanent Injunction (830)
☐ Forfeiture-Petition (840)
☐ Forfeiture-Consent Order (850)
☐ Other (899) _____ | Judgments/Settlements
☐ Death Settlement (700)
☐ Foreign Judgment (710)
☐ Magistrate's Judgment (720)
☐ Minor Settlement (730)
☐ Transcript Judgment (740)
☐ Lis Pendens (750)
☐ Transfer of Structured Settlement Payment Rights Application (760)
☐ Confession of Judgment (770)
☐ Petition for Workers Compensation Settlement Approval (780)
☐ Incapacitated Adult Settlement | Appeals
☐ Arbitration (900)
☐ Magistrate-Civil (910)
☐ Magistrate-Criminal (920)
☐ Municipal (930)
☐ Probate Court (940)
☐ SCDOT (950)
☐ Worker's Comp (960)
☐ Zoning Board (970)
☐ Public Service Comm. (990)
☐ Employment Security Comm (991)
☐ Other (999) _____ |
| Inmate Petitions
☐ PCR (500)
☐ Mandamus (520)
☐ Habeas Corpus (530)
☐ Other (599) _____ | Special/Complex /Other
☐ Environmental (600)
☐ Automobile Arb. (610)
☐ Medical (620)
☐ Pharmaceuticals (630)
☐ Unfair Trade Practices (640)
☐ Out-of State Depositions (650) | | |

- ☒ Other (699) ☐ Motion to Quash Subpoena in an Out-of-County Action (660) (790) _____
 Declaratory Judgment and Injunctive Relief
☐ Sexual Predator (510) ☐ Pre-Suit Discovery (670) ☐ Other (799) _____
☐ Permanent Restraining Order (680)
☐ Interpleader (690)

Submitting Party Signature: Robert A. Smith **Date:** 01/15/19

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

Effective January 1, 2016, Alternative Dispute Resolution (ADR) is mandatory in all counties, pursuant to Supreme Court Order dated November 12, 2015.

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

Pursuant to the ADR Rules, you are required to take the following action(s):

The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.

The initial ADR conference must be held within 300 days after the filing of the action.

Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs.

Cases are exempt from ADR only upon the following grounds:

- a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
- b. Requests for temporary relief;
- c. Appeals
- d. Post Conviction relief matters;
- e. Contempt of Court proceedings;
- f. Forfeiture proceedings brought by governmental entities;
- g. Mortgage foreclosures; and
- h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.

In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.

Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

Please Note: You must comply with the Supreme Court Rules regarding ADR.
Failure to do so may affect your case or may result in sanctions.

EXHIBIT 1 - CHAPTER 31
South Carolina Nonprofit Corporation Act [excerpted to relevant part]

ARTICLE 16
Records and Reports

Subarticle A.
Records

SECTION 33311601. Corporate records.

(a) A corporation shall keep as permanent records minutes of all meetings of its members and board of directors, a record of all actions taken by the members or directors without a meeting, and a record of all actions taken by committees of the board of directors as authorized by Section 3331825(d).

(b) A corporation shall maintain appropriate accounting records.

(c) A corporation or its agent shall maintain a record of its members in a form that permits preparation of a list of the name and address of all members, in alphabetical order by class, showing the number of votes each member is entitled to cast.

(d) A corporation shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time.

(e) A corporation shall keep a copy of the following records at its principal office:

(1) its articles or restated articles of incorporation and all amendments to them currently in effect;

(2) its bylaws or restated bylaws and all amendments to them currently in effect;

(3) resolutions adopted by its board of directors relating to the characteristics, qualifications, rights, limitations, and obligations of members or any class or category of members;

(4) the minutes of all meetings of members and records of all actions approved by the members for the past three years;

(5) all written communications to members generally within the past three years, including the financial statements furnished for the past three years under Section 33311620;

(6) a list of the names and business or home addresses of its current directors and officers; and

(7) its most recent report of each type required to be filed by it with the Secretary of State under this chapter.

HISTORY: 1994 Act No. 384, Section 1.

SECTION 33311602. Inspection of records by members.

(a) Subject to subsection (e) and Section 33311603(c), a member is entitled to inspect and copy, at a reasonable time and location specified by the corporation, any of the records of the corporation described in Section 33311601(e) if the member gives the corporation written notice or a written demand at least five business days before the date on which the member wishes to inspect and copy.

(b) Subject to subsection (e), a member is entitled to inspect and copy, at a reasonable time and reasonable location specified by the corporation, any of the following records of the corporation if the member meets the requirements of subsection (c) and gives the corporation written notice at least five business days before the date on which the member wishes to inspect and copy:

(1) excerpts from any records required to be maintained under Section 33311601(a), to the extent not subject to inspection under Section 33311602(a);

(2) accounting records of the corporation; and

(3) subject to Section 33311605, the membership list.

(c) A member may inspect and copy the records identified in subsection (b) only if:

(1) the member's demand is made in good faith and for a proper purpose;

(2) the member describes with reasonable particularity the purpose and the records the member desires to inspect; and

(3) the records are directly connected with this purpose.

(d) This section does not affect:

(1) the right of a member to inspect records under Section 3331720 or, if the member is in litigation with the corporation, to the same extent as any other litigant; or

(2) the power of a court, independently of this chapter, to compel the production of corporate records for examination.

(e) The articles or bylaws of a religious corporation may limit or abolish the right of a member under this section to inspect and copy any corporate record.

HISTORY: 1994 Act No. 384, Section 1.

SECTION 33311603. Scope of inspection rights.

(a) A member's agent or attorney has the same inspection and copying rights as the member the agent or attorney represents.

(b) The right to copy records under Section 33311602 includes, if reasonable, the right to receive copies made by photographic, xerographic, or other means.

(c) The corporation may impose a reasonable charge, covering the costs of labor and material, for copies of any documents provided to the member. The charge may not exceed the estimated cost of production or reproduction of the records.

(d) The corporation may comply with a member's demand to inspect the record of members under Section 33311602(b)(3) by providing the member with a list of its members that was compiled no earlier than the date of the member's demand.

HISTORY: 1994 Act No. 384, Section 1.

SECTION 33311604. Courtordered inspection.

(a) If a corporation does not allow a member who complies with Section 33311602(a) to inspect and copy any records required by that subsection to be available for inspection, the circuit court in the county where the corporation's principal office in this State, or, if none in this State, its registered office, is located may summarily order inspection and copying of the records demanded at the corporation's expense upon application of the member.

(b) If a corporation does not within a reasonable time allow a member to inspect and copy any other record, the member who complies with Section 33311602(b) and (c) may apply to the circuit court in the county where the corporation's principal office in this State, or if none in this State, its registered office, is located for an order to permit inspection and copying of the records demanded. The court shall dispose of an application under this subsection on an expedited basis.

(c) If the court orders inspection and copying of the records demanded, it also shall order the corporation to pay the member's costs, including reasonable counsel fees, incurred to obtain the order unless the corporation proves that it refused inspection in good faith because it had a reasonable basis for doubt about the right of the member to inspect the records demanded.

(d) If the court orders inspection and copying of the records demanded, it may impose reasonable restrictions on the use or distribution of the records by the demanding member.

HISTORY: 1994 Act No. 384, Section 1.

SECTION 33311605. Limitations on use of membership list.

Without consent of the board, a membership list or any part of a membership list may not be obtained or used by a person for any purpose unrelated to a member's interest as a member. Without limiting the generality of the foregoing, without the consent of the board a membership list or any part of the list may not be:

- (1) used to solicit money or property unless the money or property will be used solely to solicit the votes of the members in an election to be held by the corporation;
- (2) used for any commercial purpose; or
- (3) sold to or purchased by any person.

HISTORY: 1994 Act No. 384, Section 1.

Subarticle B.
Reports

SECTION 33311620. Financial statements for members.

(a) Except as provided in the articles or bylaws of a religious corporation, a corporation upon written demand from a member or the Attorney General shall furnish the demanding party its latest annual financial statements, which may be consolidated or combined statements of the corporation and one or more of its subsidiaries or affiliates, as appropriate, that include a balance sheet as of the end of the fiscal year and statement of operations for that year. If financial statements are prepared for the corporation on the basis of generally accepted accounting principles, the annual financial statements also must be prepared on that basis.

(b) If annual financial statements are reported upon by a public accountant, the accountant's report must accompany them. If not, the statements must be accompanied by the statement of the president or the person responsible for the corporation's financial accounting records:

(1) stating the president's or other person's reasonable belief as to whether the statements were prepared on the basis of generally accepted accounting principles and, if not, describing the basis of preparation; and

(2) describing any respects in which the statements were not prepared on a basis of accounting consistent with the statements prepared for the preceding year.

HISTORY: 1994 Act No. 384, Section 1.

SECTION 33311621. Report of indemnification to members.

If a corporation indemnifies or advances expenses to a director under Section 3331851, 3331852, 3331853, or 3331854 in connection with a proceeding by or in the right of the corporation, the corporation shall report the indemnification or advance in writing to the members with or before the notice of the next meeting of members.

HISTORY: 1994 Act No. 384, Section 1.

EXHIBIT 2 - Ballot Copy Process to Assure Voter Confidentiality

RE: Ballot Procedure

cwedwards2018@gmail.com

atty@ggibsonassociates.com, woodingtonhoa@gmail.com, woodingtonvp@gmail.com

[October 5, 2018]

Dear Mr. Edwards:

This is a very quick, single purpose reply.

The procedure for ballots using "Election Trust" is as follows:

- 1) A ballot is prepared for WHOA Members by the Board
- 2) This ballot is mailed to all Members by the Board
- 3) Directions to return ballots to an agent (such as Election Trust) are included with the ballot

By returning ballots to an independent agent (such as Election Trust) it is assured that:

- 1) a Member's vote remains confidential
- 2) that a certified vote count is produced

Given the sensitivity of balloted question(s), it is imperative that all Members feel free to vote without "the Board knowing my vote", nor any person within WHOA being aware of any individual Member's vote.

If an agent is not used to accept returned ballots, how will confidentiality of individual votes be maintained? If an agent will not be used, I will require copies of all ballots to certify actual voting results.

Please think seriously of using an agent to accept returned ballots, and to produce a certified-vote result!

Cheers wedlakera@mail.com
Support "wilderness" - conserve nature !
Be American - buy "Made in USA" !!
GO ORANGE - Syracuse University ORANGE !!
Stop organized crime. Re-elect no one !

EXHIBIT 3 - "... unable to find a bylaw or statute ..."

From: Chris Edwards <woodingtonhoa@gmail.com>
Date: Mon, 17 Dec 2018 08:25:31
Subject: Re: Magistrates Court - Complaint
To: Ray Wedlake <wedlakera@mail.com>
Cc: Denis Esteve <cndesteve@gmail.com>, Chris Edwards <cwedwards2018@gmail.com>, Chip Koshis <woodingtonvp@gmail.com>

Mr. Wedlake:

Please don't make false accusations about this Board. On July 29th, at 10:24pm, you were provided the minutes from the annual meeting.

Also, please let me know which meeting minutes you are missing, and I'll gladly send those to you. I'm on vacation until the end of the week, but I will send them upon my return. In the future, please request the meeting minutes following the meetings. General requests, prior to the meetings, is not good practice. Requesting records prior to their existence raises the question as to the validity of the request, but we have no problem providing you with the minutes as is required by the Non-profit Act. A specific request for minutes made after the meeting would be proper.

As for the ballots, the Board has been unable to find a bylaw or statute that grants Members the right to inspect ballots. Maintaining the confidentiality of the Ballots is paramount for the Board. Below is the complete text of the Section of the SC Non-profit Act governing a Member's rights to inspection of records...

SECTION 33-31-1602. Inspection of records by members.

(a) Subject to subsection (e) and Section 33-31-1603(c), a member is entitled to inspect and copy, at a reasonable time and location specified by the corporation, any of the records of the corporation described in Section 33-31-1601(e) if the member gives the corporation written notice or a written demand at least five business days before the date on which the member wishes to inspect and copy.

(b) Subject to subsection (e), a member is entitled to inspect and copy, at a reasonable time and reasonable location specified by the corporation, any of the following records of the corporation if the member meets the requirements of subsection (c) and gives the corporation written notice at least five business days before the date on which the member wishes to inspect and copy:

(1) excerpts from any records required to be maintained under Section 33-31-1601(a), to the extent not subject to inspection under Section 33-31-1602(a);

(2) accounting records of the corporation; and

(3) subject to Section 33-31-1605, the membership list.

(c) A member may inspect and copy the records identified in subsection (b) only if:

(1) the member's demand is made in good faith and for a proper purpose;

(2) the member describes with reasonable particularity the purpose and the records the member desires to inspect; and

(3) the records are directly connected with this purpose.

(d) This section does not affect:

(1) the right of a member to inspect records under Section 33-31-720 or, if the member is in litigation with the corporation, to the same extent as any other litigant; or

(2) the power of a court, independently of this chapter, to compel the production of corporate records for examination.

(e) The articles or bylaws of a religious corporation may limit or abolish the right of a member under this section to inspect and copy any corporate record.

HISTORY: 1994 Act No. 384, Section 1.

SECTION 33-31-1603. Scope of inspection rights.

(a) A member's agent or attorney has the same inspection and copying rights as the member the agent or attorney represents.

(b) The right to copy records under Section 33-31-1602 includes, if reasonable, the right to receive copies made by photographic, xerographic, or other means.

(c) The corporation may impose a reasonable charge, covering the costs of labor and material, for copies of any documents provided to the member. The charge may not exceed the estimated cost of production or reproduction of the records.

(d) The corporation may comply with a member's demand to inspect the record of members under Section 33-31-1602(b)(3) by providing the member with a list of its members that was compiled no earlier than the date of the member's demand.

HISTORY: 1994 Act No. 384, Section 1.

Due by Friday, November 9th

BALLOT #2 [Majority Vote Needed to Pass (34 of 66)]

Should Ballot 1 pass, the proposed payment plan shall be utilized to pay the current legal bill of \$33,000 (\$500 per lot) associated with the lawsuit (only up to the appeal) in which the 2017 Board Members were named as Defendants. The proposed payment plan is contingent upon no unanticipated expenses to the Association arising during the term of the payment plan. The proposed payment plan is as follows:

- \$500 per lot becomes immediately due and payable, but the following payment plan will be followed, so long as the funds are available:
 - \$6600 to be paid immediately from cash-on-hand.
 - \$50 increase in 2019 dues. Upon collection, \$6600 will be paid.
 - A one-time assessment of \$100 per lot due 5/1/2019. Upon collection, \$6600 will be paid.
 - \$6600 to be paid from cash-on-hand at the end of 2019.
 - \$50 increase in 2020 dues. Upon collection, \$6600 will be paid.
- Upon each payment of \$6600, each Member, currently in compliance with this plan, shall have their obligation to pay satisfied by \$100.
- Failure to pay at any of these times will result in a lien being placed on the individual's property for the full remaining balance.
- The remaining balance shall be collected at closing for any outstanding balances of this payment plan.

☐ FOR

☐ AGAINST

SIGNATURE OF MEMBER: _____

PRINT NAME OF MEMBER: _____

PROPERTY ADDRESS: _____

DATE: _____

* Pursuant to Article XVII (3): "Ballots of Members not returned by the specified return date shall be voted by the Board. The Board's vote for non-returned ballots shall be clearly specified on ballots at the time they are delivered to Members"*

**** THE BOARD'S VOTE OF "FOR" SHALL BE CAST IN THE EVENT THIS BALLOT IS NOT RETURNED BY FRIDAY, NOVEMBER 9TH****

EXHIBIT 5 - Request for a List of Voting Members; Documents for Minutes, only, were Received

RE: Court Complaint - Potential Filing

cwedwards2018@gmail.com

cndesteven@gmail.com, woodingtonhoa@gmail.com, woodingtonvp@gmail.com

December 27, 2018

Dear Mr. Edwards:

Thank you for a reply of 27 December. Seven files of minutes were received, which is much appreciated. Since no signatures appear, do I presume correctly these represent "approved minutes"?

Unfortunately, neither of your options fulfills my "proper purpose" need for information about who returned ballots. As was explained previously, it is a proper purpose to certify vote results (as would have been done by "Election Trust", but the Board would not use their services).

Please allow me to assure you that my legitimate request for corporate records is not paranoia. I am simply requesting a list of voters in order that I may determine which Members are "similarly situated" with me in a recognition that WHOA is "broken" and "needs to be fixed"! This is clearly a "proper purpose" for this request. I am not seeking to determine **HOW** anyone voted, thus avoiding confidentiality concerns.

A listing of voters is commonly made known; this is reflected in the attached report from Election Trust – note particularly the "Voter Credit List". As you see, names of Members who voted is not kept confidential. We agree that "how a Member voted" should remain confidential. As you know, I proposed a procedure for the Board to supply me with copies of ballots, where confidentiality is maintained, but to date no response was received.

Put simply, it is my view that an HOA member is entitled to a list of those who voted, particularly where the stated purpose is proper, as here. It remains my position that failure of the Board to allow me to certify ballot results, including a "Voter Credit List", will leave me no alternative but to file in Court to obtain this information, and leave it to the Court in its discretion (which it may decide under the Nonprofit Corporation Act), whether or not I am entitled to: "... inspect and copy ..." a list of those who returned ballots.

Please be informed that upon inquiry to Magistrates Court, they balked at accepting this type of action, saying: "What HOA Act?", and suggested they would not accept my case. So, if necessary, I will be filing "Pro Se" in Circuit Court (with the guidance of Mr. Gibson, with whom I always consult on all matters related to the Board).

I do hope that upon review and consideration, you will agree to supply requested ballot information, recognizing there is no confidentiality concern, and thereby avoid the need for me to file in court. Is there any reason why a "Voter Credit List" would not be provided?

Thank you again for a previous reply.

File: < WHOA_FINAL_CERTIFIED_REPORT_09_23_16.pdf >

Cheers wedlakera@mail.com
 Support "wilderness" - conserve nature !
 Be American - buy "Made in USA" !!
 GO ORANGE - Syracuse University ORANGE !!
 Stop organized crime. Re-elect no one !

Election Trust

Main Post Office Box 1902
 Bellevue, WA 98009
 T: 425.452.2704 F: 425.818.1417
www.electiontrust.com

COPY SENT VIA EMAIL

TO: Raymond Wedlake
 703 Creekview Drive
 Greenville, SC 29607

Results Report Certified FINAL

Client: Raymond Wedlake
 Election: WHOA Dissolution Balloting
 Date: 09/23/16
 Signed,



John Bodin
 General Manager

The following reflects Election Trust's Certified Final Result Report for Raymond Wedlake representing the WOODINGTON HOMEOWNERS ASSOCIATION, INC. reflecting the tabulation of seven (7) paper ballots received via the United States Postal Service between September 2 and September 17, 2016, all of which featured the QUESTION: *Being a dues paying member in good standing, do you vote to DISSOLVE "WOODINGTON HOMEOWNERS ASSOCIATION, INC." YES NO*

A. Eligible Members Mailed Paper Ballots:	Total
B. Paper Ballots Returned As Undeliverable:	Unknown
C. Total Paper Ballots Successfully Re-Mailed:	Unknown
D. Total Paper Ballots Presumed Received:	Unknown

Total Paper Ballots Returned:	7
* Total Invalid Paper Ballots Returned:	0
Total Valid Paper Ballots Counted:	7

* Note: See Voter Credit List Below

ANSWER TO QUESTION (see above):	VOTES
YES	4
NO	3

VOTER CREDIT LIST		
Mr. & Mrs. Raymond Wedlake	703 Creekview Drive	Greenville, SC 29607
Mr. & Mrs. James Wiles	203 Kristen Way	Greenville, SC 29607
Ms. Jenice House	201 Kristen Way	Greenville, SC 29607
Mr. & Mrs. Marv Taylor	301 Woodington Drive	Greenville, SC 29607
Mr. & Mrs. Iton Thomas	10 Southfield Drive	Greenville, SC 29607
Mr. & Mrs. Mike Keels	103 Woodside Crossing	Greenville, SC 29607
Mr. & Mrs. Tom DiPressi	102 Woodside Crossing	Greenville, SC 29607

EXHIBIT 6 - Ballot Copy Process for Confidentiality (DCA Complaint) - Copies for Certification

RE: Ballot Procedure - Copies for Certification 100618

cwedwards2018@gmail.com

atty@ggibsonassociates.com, woodingtonhoa@gmail.com, woodingtonvp@gmail.com

[October 6, 2018]

Dear Mr. Edwards:

Thank you for giving me a chance to clarify.

In the event an agent will not be used to accept return of ballots, the proper process for the Board "... to turn [copies of] the individual votes over to [me] ..." would be:

- A) cut (or tear) all returned ballots into two pieces:
 - 1. "Yes" or "No" answer to ballot question(s)
 - 2. Member's signature and printed name
- B) shuffle all pieces into random (and non-corresponding) order
- C) make copies of all pieces 1 and 2
- D) send all copies to me

This process **MAINTAINS CONFIDENTIALITY** of each, individual ballot. The process also assures that I receive desired information - to be able to certify returned ballots.

A signature must appear on a returned ballot for it to be counted. A ballot without a signature should be returned to sender for signature. Indeed, if the Board receives returned ballots, after verifying a signature appears, steps A and B should be executed before review of ballots continues, to assure confidentiality of each Member's vote!

Please be informed our By-Laws are specific about the balloting process - see:

Article XVII - Amendments and Voting, Section 3

The "Nonprofit Corporation Act ..." (NPCA) also specifies requirements for ballots which must be followed; see as appended.

Please be informed that Mr. Gibson reviewed and approved the last message before it was sent. So, no - Mr. Gibson (who is unavailable with family matters until later today) does not need to clarify, as well. The process A - D is clear.

Please think seriously about using an agent to accept returned ballots. Plan to provide copies to me, if not! Thank you.

Cheers wedlakera@mail.com
Support "wilderness" - conserve nature !
Be American - buy "Made in USA" !!
GO ORANGE - Syracuse University ORANGE !!
Stop organized crime. Re-elect no one !

EXHIBIT 7 - Process for Copies of Ballots to Remain Confidential

RE: Ballot Procedure - Copies for Certification 100618

cwedwards2018@gmail.com

atty@ggibsonassociates.com, woodingtonhoa@gmail.com, woodingtonvp@gmail.com

[October 6, 2018]

Dear Mr. Edwards:

Thank you for giving me a chance to clarify.

In the event an agent will not be used to accept return of ballots, the proper process for the Board "... to turn [copies of] the individual votes over to [me] ..." would be:

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- C) make copies of all pieces 1 and 2
- D) send all copies to me

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Please be informed our By-Laws are specific about the balloting process- see:

Article XVII - Amendments and Voting, Section 3

The "Nonprofit Corporation Act ..." (NPCA) also specifies requirements for ballots which must be followed; see as appended.

Please be informed that Mr. Gibson reviewed and approved the last message before it was sent. So, no - Mr. Gibson (who is unavailable with family matters until later today) does not need to clarify, as well. The process A - D is clear.

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Cheers wedlakera@mail.com
Support "wilderness" - conserve nature !
Be American - buy "Made in USA" !!
GO ORANGE - Syracuse University ORANGE !!
Stop organized crime. Re-elect no one !

----- **Original Message** -----

Subject: Re: Ballot Procedure

From: Woodington HOA <woodingtonhoa@gmail.com>

Date: Fri, 5 Oct 2018 21:43:22

Cc: cwedwards2018@gmail.com, atty@ggibsonassociates.com, woodingtonvp@gmail.com

To: Ray Wedlake <wedlakera@mail.com>

So let me make sure I'm understanding you, because this is another email that has me confused and perplexed.

As I read the bellow email, you are concerned about the Board maintaining confidentiality of the individual votes, but in the very next sentence you want us to turn the individual votes over to you because you want to make sure we counted them correctly. How is that maintaining confidentiality?

Mr. Gibson will need to clarify this email for us as well.

----- **Appendix** -----

"NPCA"

SECTION 33-31-708. Action by written or electronic ballot.

(a) Unless prohibited or limited by the articles or bylaws, any action that may be taken at any annual, regular, or special meeting of members may be taken without a meeting if the corporation delivers a written or electronic ballot to every member entitled to vote on the matter.

(b) A written or electronic ballot shall:

- (1) set forth each proposed action; and
- (2) provide an opportunity to vote for or against each proposed action.

(c) Approval by written or electronic ballot pursuant to this section is valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

(d) All solicitations for votes by written or electronic ballot shall:

- (1) indicate the number of responses needed to meet the quorum requirements;
- (2) state the percentage of approvals necessary to approve each matter other than election of directors; and
- (3) specify the time by which a ballot must be received by the corporation in order to be counted.

(e) Except as otherwise provided in the articles or bylaws, a written or electronic ballot may not be revoked.

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Raymond A. Wedlake, as a Member of
Woodington Homeowners' Association,
Inc.

Plaintiff (*Pro Se*)

v.

Christopher Edwards, Charles Koshis,
Denis Esteve, Michael Keels, and
William Craigo in their capacity as Board
of Directors of Woodington
Homeowners' Association, Inc.,

Defendant(s).

IN THE COURT OF COMMON PLEAS

Case No. 2019-CP-23-00269

Answer and Affirmative Defenses

COME NOW Defendants Charles Koshis, Denis Esteve, and William Craigo ("Defendants"), by and through their undersigned counsel, and for their Answer and Affirmative Defenses to the Complaint of Plaintiff Raymond A. Wedlake state as follows:

PARTIES

1. Admitted.
2. Admitted.

NATURE OF THE CONTROVERSY

3. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Defendants aver that the exhibits to Plaintiff's Complaint speak for themselves and deny any averments inconsistent with the same. Otherwise, Defendants deny the allegations in this paragraph and demand strict proof thereof.

4. Defendants aver that the exhibits to Plaintiff's Complaint speak for themselves and deny any averments inconsistent with the same. Otherwise, Defendants lack sufficient information or knowledge to either admit or deny the allegations in this paragraph and, therefore, deny the same and demand strict proof thereof.

5. Defendants aver that the exhibits to Plaintiff's Complaint speak for themselves and deny any averments inconsistent with the same. Otherwise, Defendants lack sufficient information or knowledge to either admit or deny the allegations in this paragraph and, therefore, deny the same and demand strict proof thereof.

6. Defendants lack sufficient information or knowledge to either admit or deny the allegations in this paragraph and, therefore, deny the same and demand strict proof thereof.

7. Defendants deny the allegations in this paragraph and demand strict proof thereof.

8. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Defendants deny the allegations in this paragraph and demand strict proof thereof.

9. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Defendants deny the allegations in this paragraph and demand strict proof thereof.

JURISDICTION AND VENUE

10. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Defendants deny the allegations in this paragraph and demand strict proof thereof.

11. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Defendants deny the allegations in this paragraph and demand strict proof thereof.

12. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Defendants deny the allegations in this paragraph and demand strict proof thereof.

13. Defendants admit that Plaintiff's Complaint requests injunctive relief, but deny that Plaintiff is entitled to any relief whatsoever and demand strict proof thereof.

14. Admitted.

15. Admitted.

FACTS

16. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Defendants aver that the exhibits to Plaintiff's Complaint speak for themselves and deny any averments inconsistent with the same. Otherwise, Defendants lack sufficient information or knowledge to either admit or deny the allegations in this paragraph and, therefore, deny the same and demand strict proof thereof.

17. Defendants lack sufficient information or knowledge to either admit or deny the allegations in this paragraph and, therefore, deny the same and demand strict proof thereof.

18. Defendants aver that the exhibits to Plaintiff's Complaint speak for themselves and deny any averments inconsistent with the same. Otherwise, Defendants deny the allegations in this paragraph and demand strict proof thereof.

19. Defendants aver that the exhibits to Plaintiff's Complaint speak for themselves and deny any averments inconsistent with the same. Otherwise, Defendants lack sufficient information or knowledge to either admit or deny the allegations in this paragraph and, therefore, deny the same and demand strict proof thereof.

20. Defendants aver that the exhibits to Plaintiff's Complaint speak for themselves and deny any averments inconsistent with the same. Otherwise, Defendants lack sufficient information or knowledge to either admit or deny the allegations in this paragraph and, therefore, deny the same and demand strict proof thereof.

21. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Defendants aver that the exhibits to Plaintiff's Complaint speak for themselves and deny any averments inconsistent with the same. Otherwise, Defendants lack sufficient information or knowledge to either admit or deny the allegations in this paragraph and, therefore, deny the same and demand strict proof thereof.

22. Defendants deny the allegations in this paragraph and demand strict proof thereof.

23. Defendants aver that the exhibits to Plaintiff's Complaint speak for themselves and deny any averments inconsistent with the same. Otherwise, Defendants deny the allegations in this paragraph and demand strict proof thereof.

24. Defendants aver that the exhibits to Plaintiff's Complaint speak for themselves and deny any averments inconsistent with the same. Otherwise, Defendants lack sufficient information or knowledge to either admit or deny the allegations in this paragraph and, therefore, deny the same and demand strict proof thereof.

25. Defendants aver that the exhibits to Plaintiff's Complaint speak for themselves and deny any averments inconsistent with the same. Otherwise, Defendants lack sufficient information or knowledge to either admit or deny the allegations in this paragraph and, therefore, deny the same and demand strict proof thereof.

26. Defendants aver that the exhibits to Plaintiff's Complaint speak for themselves and deny any averments inconsistent with the same. Otherwise, Defendants lack sufficient information or knowledge to either admit or deny the allegations in this paragraph and, therefore, deny the same and demand strict proof thereof.

27. Defendants aver that the exhibits to Plaintiff's Complaint speak for themselves and deny any averments inconsistent with the same. Otherwise, Defendants deny the allegations in this paragraph and demand strict proof thereof.

28. Defendants lack sufficient information or knowledge to either admit or deny the allegations in this paragraph and, therefore, deny the same and demand strict proof thereof.

29. Defendants aver that the exhibits to Plaintiff's Complaint speak for themselves and deny any averments inconsistent with the same. Otherwise, Defendants lack sufficient information or knowledge to either admit or deny the allegations in this paragraph and, therefore, deny the same and demand strict proof thereof.

30. Defendants aver that the exhibits to Plaintiff's Complaint speak for themselves and deny any averments inconsistent with the same. Otherwise, Defendants deny the allegations in this paragraph and demand strict proof thereof.

31. Defendants aver that the exhibits to Plaintiff's Complaint speak for themselves and deny any averments inconsistent with the same. Otherwise, Defendants deny the allegations in this paragraph and demand strict proof thereof.

FOR A FIRST CAUSE OF ACTION
DECLARATORY JUDGMENT

32. Defendants repeat and re-allege each and every allegation contained in preceding paragraphs with the same force and effect as if herein fully set forth.

33. Defendants deny the allegations in this paragraph and demand strict proof thereof.

34. Defendants deny the allegations in this paragraph and demand strict proof thereof.

35. Defendants admit Plaintiff seeks relief, but deny that Plaintiff is entitled to any relief whatsoever and demand strict proof thereof.

FOR A SECOND CAUSE OF ACTION
INJUNCTIVE RELIEF

36. Defendants repeat and re-allege each and every allegation contained in preceding paragraphs with the same force and effect as if herein fully set forth.

37. Defendants deny the allegations in this paragraph and demand strict proof thereof.

PRAYER FOR RELIEF

Defendants admit that Plaintiff seeks various forms of relief, but deny that Plaintiff is entitled to any relief whatsoever and demand strict proof thereof.

AFFIRMATIVE DEFENSES

1. Plaintiff fails to state a claim upon which relief may be granted.
2. Plaintiff's claims are barred by the doctrines of estoppel, acquiescence, consent, release, unclean hands, laches, and/or waiver.
3. Plaintiff's injuries were the result of an intervening or superseding cause or the acts or omissions of third parties, over which Defendants had no responsibility or control and for which Defendants may not be held liable.
4. Defendants hereby assert the defense of setoff.
5. Plaintiff fails to state a basis for recovering attorneys' fees.

Defendants reserve the right to assert additional claims and defenses as discovery progresses in this case. To the extent that any of the allegations in the Complaint have not been expressly admitted or denied, they are hereby denied.

Respectfully submitted this 18th day of February, 2019.

CAMPBELL TEAGUE LLC

/s/ E. Jordan Teague

George Campbell (SC Bar #77409)
E. Jordan Teague (SC Bar #103032)
16 W. North St.
Greenville, South Carolina 29601
PH: (864) 326-4186
george@campbellteague.com
jordan@campbellteague.com
Attorneys for Defendants
CHARLES KOSHIS, DENIS ESTEVE,
AND WILLIAM CRAIGO

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that a copy of the foregoing document was served upon the following by U.S. Mail:

Raymond A. Wedlake
703 Creekview Drive
Greenville, SC 29607

/s/ E. Jordan Teague

Date: February 18, 2019

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Raymond A. Wedlake, as a Member of
Woodington Homeowners' Association,
Inc.

Plaintiff (*Pro Se*)

v.

Christopher Edwards, Charles Koshis,
Denis Esteve, Michael Keels, and
William Craigo in their capacity as Board
of Directors of Woodington
Homeowners' Association, Inc.,

Defendant(s).

IN THE COURT OF COMMON PLEAS

Case No. 2019-CP-23-00269

Answer and Affirmative Defenses
of
Edwards and Keels

COME NOW Defendants Christopher Edwards, Michael Keels, ("Defendants"), by and through their undersigned counsel, and for their Answer and Affirmative Defenses to the Complaint of Plaintiff Raymond A. Wedlake state as follows:

PARTIES

1. Admitted.
2. Admitted.

NATURE OF THE CONTROVERSY

3. This paragraph contains a legal conclusion to which no response is required. To the extent a response is required, Defendants aver that the exhibits to Plaintiff's Complaint speak for themselves and deny any averments inconsistent with the same. Otherwise, Defendants deny the allegations in this paragraph and demand strict proof thereof.

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1. Plaintiff fails to state a claim upon which relief may be granted.

2. Plaintiff's claims are barred by the doctrines of estoppel, acquiescence, consent, release, unclean hands, laches, and/or waiver.

3. Plaintiff's injuries were the result of an intervening or superseding cause or the acts or omissions of third parties, over which Defendants had no responsibility or control and for which Defendants may not be held liable.

4. Defendants hereby assert the defense of setoff.

5. Plaintiff fails to state a basis for recovering attorneys' fees.

Defendants reserve the right to assert additional claims and defenses as discovery progresses in this case. To the extent that any of the allegations in the Complaint have not been expressly admitted or denied, they are hereby denied.

Respectfully submitted this 4th day of March, 2019.

CAMPBELL TEAGUE LLC

/s/ George Campbell

George Campbell (SC Bar #77409)

E. Jordan Teague (SC Bar #103032)

16 W. North St.
Greenville, South Carolina 29601
PH: (864) 326-4186
george@campbellteague.com
jordan@campbellteague.com
Attorneys for Defendants
CHRISTOPHER EDWARDS AND MICHAEL KEELS

ELECTRONICALLY FILED - 2019 Mar 04 4:55 PM - GREENVILLE - COMMON PLEAS - CASE#2019CP2300269

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that a copy of the foregoing document was served upon the following by U.S. Mail:

Raymond A. Wedlake
703 Creekview Drive
Greenville, SC 29607

/s/ George Campbell

Date: March 4, 2019

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Raymond A. Wedlake, as a Member of
Woodington Homeowners' Association,
Inc.

Plaintiff (*Pro Se*)

v.

Christopher Edwards, Charles Koshis,
Denis Esteve, Michael Keels, and
William Craigo in their capacity as
Board of Directors of Woodington
Homeowners' Association, Inc.,

Defendant(s).

IN THE COURT OF COMMON
PLEAS

Case No. 2019-CP-23-00269

MOTION FOR SUMMARY
JUDGMENT AND TO EXTEND ADR
DEADLINE

COME NOW Defendants, by and through their undersigned counsel, and moves for summary judgment on all claims in accordance with South Carolina Rules of Civil Procedure 56 and requests an extension of ADR deadlines as follows:

1. Plaintiff filed the above captioned lawsuit purporting to seek information from the Woodington HOA Board of Directors. Plaintiff has either already been provided the requested information or is not legally entitled to the requested information, such that Plaintiff is not entitled to any further relief.

2. Even if Plaintiff were entitled to the requested information, Plaintiff named members of the 2018 Board as Defendants rather than the correct entity—the Woodington HOA itself, which actually has access and authority over the requested information. Named Defendants cannot provide the requested relief and are immune from suit.

3. Plaintiff's claims are frivolous and have been filed for the purpose of harassing Defendants. Thus, Defendants are entitled to sanctions from Plaintiff, including but not limited to costs and attorneys' fees expended to defend against this action.

4. This motion is supported by the South Carolina Rules of Civil Procedure, statutes and case law, and such other supporting memoranda, authority, or attachments as are filed or presented before or at the hearing on this motion.

5. Defendants further request that ADR deadlines be suspended and/or pushed back until at least 30 days after a decision on this motion has been issued.

WHEREFORE, Defendants respectfully request judgment in their favor on all claims.

Respectfully submitted this 27th day of September, 2019.

CAMPBELL TEAGUE LLC

/s/: Emily O'Brian

George Campbell (SC Bar #77409)

Emily O'Brian (SC Bar #101824)

E. Jordan Teague (SC Bar #103032)

16 W. North St.

Greenville, South Carolina 29601

Tel: (864) 326-4186

george@campbellteague.com

emily@campbellteague.com

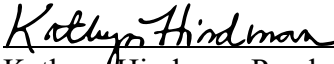
jordan@campbellteague.com

Attorneys for Defendants

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that a copy of the foregoing document was served upon the following by EMAIL and CERTIFIED MAIL.

Raymond A. Wedlake
703 Creekview Drive
Greenville, SC 29607
wedlakera@mail.com


Kathryn Hindman, Paralegal

Date: September 27, 2019

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Raymond A. Wedlake, as a Member of
Woodington Homeowners' Association, Inc.

Plaintiff (Pro Se)

vs.

Christopher Edwards, Charles Koshis,
Denis Esteve, Michael Keels, and William Craigo
in their capacity as Board of Directors of
Woodington Homeowners' Association, Inc.

Defendants

)
) **IN THE COURT OF COMMON PLEAS**

)
) **THIRTEENTH JUDICIAL CIRCUIT**

)
) Civil Case No. 2019-CP-23-00269

)
) **MOTION TO DISMISS**

)
) **DEFENDANTS' COUNTERCLAIM**

)
) **BY PLAINTIFF**

19 OCT 10 PM 5:53
CLERK OF COURT

WLG

TO: Emily O'Brian, Esquire, Attorney for Defendants:

PLEASE TAKE NOTICE that the undersigned as Plaintiff (*Pro Se*) will move for an Order dismissing Defendants' counterclaim (Counterclaim) against Plaintiff, which relates to Defendants in their capacity as Board of Directors (Board) of Woodington Homeowners Association, Inc. (WHOA), pursuant to Rule 12, SCRPC, and other Court rules, as set forth herein. The grounds for dismissal include, but are not limited to the following:

1. **Separate Action Requested** - Plaintiff petitions the Court to order a separate trial for Counterclaim pursuant to Rule 42(b), SCRPC:

“Separate Trials. The court, in furtherance of convenience or to avoid prejudice, or when separate trials will be conducive to expedition and economy, may order a separate trial of any claim, cross-claim, counterclaim ...”

because Counterclaim:

1
ENTERED & CORRECTED

a) is designed and intended to deny “furtherance of convenience” and to bury Plaintiff’s original-simple-Declaratory-Judgment case with misdirection and obfuscation, which merely seeks interpretation of law from the Court,;

b) is designed and intended to induce prejudice;

c) will preclude expedition and economy of Plaintiff’s request asking the Court for simple, Declaratory Judgment, where Plaintiff as a former two-term Board member as part of his quest to correct impropriety in WHOA-Board governance and to assure Board transparency, is seeking requested information to help improve WHOA and to bring benefit to its members (Members), where one important suggestion rejected by Defendants is to amend the By-Laws to require ADR before judicial action may be commenced, which proves Plaintiff’s intent is not focused on “further litigation” as alleged by Defendants;

d) as the Court is aware, Defendants’ request of a jury trial is improper, to be lumped into a case for Declaratory Judgment before a jury, where very likely justice cannot be served since jury members almost certainly will have no knowledge to be able to rule correctly on the interpretation of law as requested from the Court;

e) as stated above, Defendants’ Counterclaim is premature since Plaintiff’s case is not yet scheduled for trial, no ADR has occurred via required mediation, and discovery is not yet complete;

f) is of a nature that it should be considered after the conclusion of trial for Plaintiff’s case;

g) is designed and intended to preclude Plaintiff from simply showing that Plaintiff represents the “silent majority” within WHOA, which leaves Defendants representing only a “vocal minority” of Members – this is an “Un-American” and untenable position for

Defendants to champion, as it is contrary to a “majority rule”-basic tenant of democracy; therefore based on all arguments above and as follows, Counterclaim must be dismissed.

2. Criteria to Bring Counterclaim were not Met – Counterclaim aspects, as brought under the South Carolina Frivolous Civil Proceedings Act (Act), SC Code Title 15, Chapter 36, does not meet the criteria specified by the courts in South Carolina, and, in particular, is premature inasmuch as it precedes any discovery. Plaintiff's complaint (Complaint) of January 17, 2019, spells out a clear and simple proper purpose for Plaintiff's desire to seek a Declaratory Judgment, *i.e.*, to help assure proper Board Governance by Defendants, by seeking a “List” which shows, in fact, a majority of Members did not submit ballots in favor when the Board sought a massive increase in dues and a special assessment. Indeed, a majority did not in fact send in ballots in favor suggests that there is a silent majority which may not be in favor of Board actions.

Importantly, under Section E (4) of the Act, Plaintiff has never been the subject of an action under the Act. Of previous WHOA-Board cases, two have settled and all are directed to the same issue: seeking to assure proper Board Governance, consistent with my serving as a prior two-term member of the Board of Directors. Plaintiff is promoting a platform contrary to that of the Board, one of transparency and a need to amend the By-Laws to mandate ADR; which is a reason for opposition by Defendants to the simple request for statutory interpretation by the Court. Finally, all the requirements of the Act were met by Plaintiff; such as signing the Complaint, which in fact was verified! There is no hostile intent by Plaintiff as shown by the Complaint and Plaintiff's accompanying Affidavits, since Plaintiff engaged in multiple efforts, amicably, to obtain the requested information before being forced to seek declaratory judgment.

It is further clear that Defendants cannot meet their burden of proving by a preponderance of the evidence that Plaintiff has violated the Act. As stated by the SC Court of Appeals in the case of *Clegg v. Lambrecht*, 678 S.E. 2d 260 (S.C. C. App. 2009):

“... the party moving for the imposition of sanctions has the burden to establish grounds for sanctions by a preponderance of the evidence”
(emphasis added) (citing *Rutland v. Holler, Dennis, Corbett, Ormond, Garner (Law Firm)*, 371 S.C. 91, 637 S.E. 2d 316m 319 (Ct. App. 2006).

Indeed, contrary to Plaintiff’s Complaint, Affidavit and Exhibits, Defendants bring forth only unsupported assertions, devoid of evidence. The South Carolina Supreme Court has been loath to uphold a grant of sanctions under the Act where, as here, the Plaintiff submitted evidence in support of his claim.

While acknowledging that in the case of *Hanahan v. Simpson*, 326 S.C. 140, 485 S.E. 2d 903 (SC 1997), the Supreme Court was addressing a situation where Plaintiff had withstood a motion for summary judgment, the court emphasized:

‘Section 15–36–10 of our Frivolous Proceedings Act creates the presumption of a proper purpose if the person initiating litigation “reasonably believes under the facts that his claim may be valid under existing or developing law.” Here, Hanahan clearly submitted evidence supporting her claims.’

Clearly, as previously noted, there is an abundance of evidence supporting Plaintiff’s Declaratory Judgment action. Moreover, actions brought under the The Declaratory Judgment Act are favored; they:

“... should be liberally construed to accomplish its intended purpose of affording a speedy and inexpensive method of deciding legal disputes and of settling legal rights and relationships, without awaiting a violation of the rights or a disturbance of the relationships.” *Graham v. State Farm Mut. Auto. Ins. Co.*, 319 S.C. 69, 71, 459 S.E.2d 844, 845 (1995) (citing *Williams Furniture Corp. v. Southern Coatings & Chemical Co.*, 216 S.C. 1, 6 S.E.2d 576 (1949)); S.C.Code Ann. § 15-53-130 (1977).

3. Rule 12(b)(6), SCRCF, Counterclaim fails to state a claim and fails to state facts sufficient to constitute a cause of action against Plaintiff.

a) Plaintiff's case is a matter which involves interpretation of a statute, and thus falls directly under S.C. Code Ann. Title 15, Chapter 53, Section 15-53-10, *et seq.*, as amended, known as the "Uniform Declaratory Judgment Act", which speaks directly to issues in this case in Code Section 15-53-30, where Counterclaim is unrelated to Declaratory Judgment; therefore, Counterclaim must be dismissed.

b) Pursuant to South Carolina (SC) law, the "South Carolina Nonprofit Corporation Act of 1994" (NPCA), which gives Plaintiff a right to request the Court to construe the NPCA to recognize entitlement to "... inspect and copy...", as Plaintiff is a "litigant" as described under Section 33-31-1602(d) of the NPCA, and it is Plaintiff's position that he is therefore entitled to receive requested information; therefore, Counterclaim must be dismissed.

c) Defendants have joined with Plaintiff in his Declaratory Judgment request to the Court as documented in their Answer which plainly states:

"13. Defendants admit that Plaintiff's Complaint requests injunctive relief, but deny that Plaintiff is entitled to any relief whatsoever ..."

and also:

"35. Defendants admit Plaintiff seeks relief, but deny that Plaintiff is entitled to any relief whatsoever ..."

and have thus waived their right to preclude the Court from construing the NPCA and to provide Declaratory Judgment, which would supply Plaintiff's requested relief; therefore, Counterclaim must be dismissed.

d) Counterclaim is unripe as to Plaintiff, as discussed it is premature; therefore, Counterclaim must be dismissed.

e) Allegations made against Plaintiff are wholly unsubstantiated, where no supporting evidence and no exhibits are provided in support of Defendants' unfounded Counterclaim; therefore, Counterclaim must be dismissed.

4. Plaintiff objects to Counterclaim as irrelevant which is therefore inadmissible pursuant to Rule 402, SCRE, which states: "IRRELEVANT EVIDENCE INADMISSIBLE"; therefore, Counterclaim must be dismissed.

5. Plaintiff objects to Counterclaim as not "reasonably calculated to lead to the discovery of admissible evidence", Rule 26(b)(1), SCRCP; therefore, Counterclaim must be dismissed.

6. Should Counterclaim not be dismissed in entirety, Plaintiff moves pursuant to Rule 12(e), SCRCP, to require Defendants to provide a more definite statement to clarify the relief sought.

7. Should Counterclaim not be dismissed in entirety, Plaintiff moves pursuant to Rule 12(f), SCRCP, that allegations should be stricken, since Counterclaim contain numerous allegations that are immaterial to any possible requested relief and/or asserted causes of action.

REBUTTAL OF SPECIFIC COUNTERCLAIM PARAGRAPHS

Plaintiff questions the genuineness of Defendants' statements as found in Counterclaim, denoted for example: "C1" (for paragraph 1), as follows.

C1. Mr. Wedlake has filed numerous lawsuits in Greenville County, South Carolina, this being the third of five of record as of the date of this pleading.

C2. More specifically, and relevant to this matter, Mr. Wedlake has filed suit against the members of the Woodington HOA Board for 2016, 2017, 2018, and 2019, the above

captioned matter being the one against the 2018 Board members.

8. **Rebuttal:** Only one lawsuit filed against these Defendants is the factual matter of record. One suit is totally unrelated to Defendants and to WHOA, and was settled and “Dismissed with Prejudice”. A suit against 2016 Board was also settled and dismissed. Thus, only two other suits (one a “holdover” which is pending Appeal) exist, where as stated, neither of these two were brought against 2018 Board Defendants.

C3. In the four other lawsuits, Mr. Wedlake was and is represented by counsel, Mr. Grant Gibson. Mr. Gibson conspicuously does not represent Mr. Wedlake in the above captioned matter.

9. **Rebuttal:** Defendants were made aware that Plaintiff's case was being brought *Pro Se*, and specifically informed that no attorneys were required – thus Mr. Gibson does not represent Plaintiff - due to the Declaratory-Judgment nature of the case, where a simple question of interpretation of law was asked of the Court; Defendants were told there was no need to incur any legal fees, and Plaintiff asked them to join with him in seeking resolution of a disputed question of law, and suggested they consider not engaging legal counsel; but, Plaintiff's information, suggestion, and advice were ignored.

C4. Since at least 2016, Mr. Wedlake has engaged in a pattern of harassment toward the Woodington HOA Board, sending numerous letters and emails demanding various documents and compliance with procedural hurdles not required by the Bylaws.

10. **Rebuttal:** Absolutely no pattern of, nor harassment of, any WHOA Board can be claimed as associated with any letters or emails:

a) which contained no demands except in specific instances of violation of the By-Laws or of SC law, sent by Plaintiff;

b) all contacts to Boards have been legitimate WHOA business, or educational forwards of articles from HOA Industry Experts, most of which are based upon WHOA By-Laws, or upon SC laws;

c) legitimate questions and requests for information can in no stretch of any imagination be termed "harassment", nor as "not required" per standards of conduct to which all Boards should adhere;

d) WHOA By-Laws have been recognized by all parties as deficient, as evidenced by several recent Amendments which were proposed by recent Boards, and whether or not questions and requests for information are: "... hurdles not required by the By-Laws", is irrelevant and thus inadmissible pursuant to Rule 402, SCRE.

C5. In particular and with regard to the claims made by Mr. Wedlake in the above captioned matter, Mr. Wedlake first demanded a balloted vote regarding a special assessment of dues. After the vote was conducted and the special assessment passed, Mr. Wedlake has been seeking a list of member votes so that, in his own words, he can "determine which Members are 'similarly situated' with me in recognition that WHOA is 'broken' and 'needs to be fixed!'"

11. Rebuttal: In general:

a) no contacts from Plaintiff to Defendants contain demands, except as stated previously;

b) no recent ballot received approval from a **MAJORITY** of Members, but Defendants proceeded with actions to impose the will of the **MINORITY** upon all Members, which is easily recognized as “Un-American” and unwarranted from a “majority rule” standpoint;

c) Plaintiff does not seek “... member votes ...”, where may it please the Court that Complaint defined the term “List” and showed:

“... specifically a list of those Members who returned ballots (Documents or List) ...

4. Specifically, Plaintiff repeatedly requested the List, and not how such Members voted, as related to ballots to assess to Members, including Plaintiff, a substantial increase in dues, and similarly a one-time assessment (Exhibit 2).

19. On October 5, 2018, Plaintiff asked the Board to return ballots to an independent-third party for certification of vote results ...; very specifically, Plaintiff is not asking for a record of how each Member voted, but rather the List, only (Affidavit, Exhibit 5). ”

d) seeks only a List of those Members who voted;

e) in a letter of September 30, 2019, as directed in a recent Hearing by Judge Kinlaw:

“... and I encourage both sides to engage in meaningful discovery going forward ... which would include taking of any depositions ...”

Plaintiff has begun to “engage in meaningful discovery”, and asked selected Members to voluntarily return a “Statement” in lieu of scheduling, and taking, depositions;

f) Plaintiff has every intent to schedule and take depositions as may be required, to ascertain those Members who are: “... ‘similarly situated’ with me in recognition that WHOA is ‘broken’ and ‘needs to be fixed!’ ...”

g) it is Plaintiff's firm belief that WHOA is broken, due to law-breaking actions and violations of By-Laws by Defendants, and every action done or being taken by Plaintiff is related to a desire to bring improvements to WHOA and to bring benefits to its Members.

C6. Mr. Wedlake, himself and through Mr. Gibson, has further stated that he is seeking the information in order to approach other WHOA Members and garner support for further litigation.

12. **Rebuttal:** In truth, information is sought with a desire to bring improvements to WHOA and to bring benefits to its Members, where citing "for further litigation" is erroneous, as information is sought to support an existing case (2017-CP-23-06301), which is on Appeal (2018-001209).

C7. In his communications with the Board and its members, Mr. Wedlake has threatened the Board in an attempt to force the Board members to do as he wishes.

13. **Rebuttal:** All communications from Plaintiff have been cordial, yet business-like, and all claims by Defendants that Plaintiff "... has threatened ..." them are unsupported, where Plaintiff contends no such evidence exists, and believes such claim to be untrue.

C8. Mr. Wedlake has even gone so far as to mail letters to all members of the HOA demanding certain outcomes to votes.

14. **Rebuttal:** No letter to Members from Plaintiff made any demands as related to recent ballots; such claim by Defendants is unsupported, where Plaintiff contends no such evidence exists, and believes such claim to be untrue.

C9. Despite the Board's continued efforts to respond to requests Mr. Wedlake makes that are justified and/or supported by the Bylaws and law of the State of South Carolina, Mr. Wedlake remains unsatisfied.

15. **Rebuttal:** Defendants in general made, and make, very little effort to respond to Plaintiff's requests, preferring instead to simply ignore Plaintiff, and their inaction/actions also generally attempt to violate and negate Plaintiff's-Member rights and US-Constitutional rights.

C10. Mr. Wedlake has now engaged in a pattern of harassment through the use of the Court system, filing frivolous lawsuits against the Board.

16. **Rebuttal:**

a) There has been no "pattern of harassment", such claim by Defendants is unsupported, where Plaintiff contends no such evidence exists, and believes such claim to be untrue;

b) the Court system has been properly applied as related to Plaintiff's-US-Constitutional rights, where all US citizens have a right to "due process" and to "equal protection of the law";

c) all lawsuits brought have been consistent with such rights, bringing legitimate questions of interpretation of the By-Laws or SC laws, where additionally all cases show merit, as per Complaints, all supported by Affidavit and Exhibits;

d) No lawsuits filed have been frivolous under the "South Carolina Frivolous Civil Proceedings Sanctions Act", SC Code Title 15, Chapter 36, **Section 153610**, (A)(3)(d):

(d) a reasonable attorney in the same circumstances would believe his claim or defense is not frivolous, interposed for delay, or brought for any purpose other than securing proper discovery, joinder of parties, or adjudication of the claim or defense upon which the proceedings are based.

(d1) since relative to each case filed, all reasonable persons would believe Plaintiff's case was not frivolous, nor interposed for delay, and **was brought** for the purpose of securing

proper discovery, and adjudication of legitimate questions of interpretation of the By-Laws or SC law asked from the Court by Plaintiff;

(d2) this Act gives the one and only cause of action found in Counterclaim.

C11. Mr. Wedlake's lawsuit against the 2016 Board resulted in an Order by Judge Simmons against Plaintiff, with the exception of two matters which were stipulated to by the defendants prior to trial. However, Mr. Wedlake has described the Order stating that "obfuscation was used by [defendants'] attorney, which resulted in *confusion in the Judge's mind*," showing a lack of respect for the judicial process (emphasis added).

17. **Rebuttal:** Defendants make a false claim: after mediation, a Settlement Agreement was reached with 2016 Board Defendants, and Plaintiff dismissed this case with prejudice;

a) in a case brought before Judge Simmons (2017-CP-23-06301 as pending Appeal 2018-001209), no "Order ... against Plaintiff" was given, but rather an "Involuntary Nonsuit" was granted, and the case was dismissed;

b) Plaintiff has every respect for the judicial process, where Appeal is an inviolate right and shows absolute respect for the judicial process.

C12. Despite a Court Order against him, Mr. Wedlake has continued to push forward with additional lawsuits against WHOA Board members that are without merit.

18. **Rebuttal:** No such Court Order against Plaintiff exists; additional lawsuits against WHOA Board members all have specific merit, generally based upon violation of By-Laws or SC laws, as found in Complaints as supported by Affidavits and Exhibits.

C13. In the above-captioned matter, Mr. Wedlake seeks information allegedly under the South Carolina Non-Profit Corporations Act. However, the information Mr. Wedlake

seeks—a list of all members who voted in a November 2018 vote by returning their physical ballots—is not required to be maintained or produced under the language of the Act.

19. Rebuttal: Opinion of Defendants is noted;

a) however, the stated legal conclusion is disputed, with Plaintiff bringing legitimate questions of interpretation of law to the Court in his simple-Declaratory-Judgment action;

b) Plaintiff contends the language of the Act mandates a Board to produce such requested information, particularly the “Member list” which is mandated by the Act;

c) the Act also gives discretion to the Court, which the Court may exercise its discretion in favor of Plaintiff

> as a litigant; and

> to simply compel production of requested records;

SC Code Sections 33-31-1602(d)(1) and (d)(2) show:

- “(1) the right of a member to inspect records ... if the member is in litigation with the corporation, to the same extent as any other litigant; or
- (2) the power of a court, independently of this chapter, to compel the production of corporate records for examination.”

C15. Mr. Wedlake’s claims in the above captioned action are baseless and unwarranted under existing law, particularly the South Carolina Non-Profit Corporations Act.

20. Rebuttal: SC law as cited contains language which mandates a ruling in favor of Plaintiff, and thus all claims are firmly based and warranted under existing law.

C16. A reasonable attorney in the same circumstances would believe that, under the facts of this case, Mr. Wedlake’s claim was clearly not warranted under existing law and

that no good faith or reasonable argument exists for an extension, modification, or reversal of existing law.

21. Rebuttal: All reasonable persons and attorneys in these same circumstances would believe that, under the facts of this case, Plaintiff's claim is clear and warranted under existing law; no such argument for any extension, modification, nor reversal of existing law has been made by Plaintiff.

C17. Mr. Wedlake's claims are intended merely to harass or injure the Defendants/Counterclaim Plaintiffs.

22. Rebuttal:

a) No such intentions to harass or injure Defendants can be seen, nor gleaned, from anything brought before the Court;

b) Defendants' claims are unsupported, where Plaintiff contends no such supporting evidence exists, and believes such claim to be untrue;

c) Plaintiff simply seeking the Court, as a matter of law to interpret the NPCA, as supported by Complaint, Affidavits, and Exhibits, which all show efforts by Plaintiff to avoid litigation, where suggestions of negotiation and mediation were rejected by Defendants, show clearly Plaintiff's desires were not "... to harass or injure ...".

C18. A reasonable attorney in the same circumstances would believe that Mr. Wedlake's initiation and continuation of this civil action is merely to harass or injure the Defendants/Counterclaim Plaintiffs or is brought for any purpose other than securing proper adjudication of the claim, causing Defendants/Counterclaim Plaintiffs to incur legal fees to defend against Mr. Wedlake's unwarranted claims.

C20. Sanctions are warranted for Mr. Wedlake's abuse of the Court system in this manner.

25. Rebuttal:

a) Due to no abuse of the Court system, the Court needs to affirm Plaintiff's US-Constitutional rights to "due process" and to "equal protection of the law";

b) as previously discussed in Paragraph 2, in the case of *Clegg v. Lambrecht*, 678 S.E. 2d 260 (S.C. C. App. 2009) no sanctions are warranted nor possible as Defendants' claim is unsupported, where Plaintiff contends no such supporting evidence exists, and believes such claim to be untrue;

C21. As a result of Mr. Wedlake's actions, Defendants/Counterclaim Plaintiffs have suffered damages, including needless legal expenses, mental anguish, and emotional distress.

26. Rebuttal:

a) Defendants suffered no damages as a result of Plaintiff's actions; any such claim is unsupported, where Plaintiff contends no such supporting evidence exists, and believes such claim to be untrue;

b) Defendants must accept responsibility for their own actions, including their decision to incur legal fees in a *Pro Se* case, where a simple-Declaratory-Judgment question of law was brought before the Court;

c) Defendants demonstrated no grounds upon which any claims of "mental anguish" nor "emotional distress" have merit, which leaves such claims as unfounded and unwarranted;

d) in truth, Plaintiff believes Defendants inaction/actions suggest their intent to inflict mental anguish and emotional distress upon Plaintiff.

27. Based on all foregoing arguments, Counterclaim must be dismissed.

THEREFORE, associated with the frivolity and irrelevancies of Counterclaim, where various claims are stated but not supported by evidence nor exhibits, nor explanation, nor rational:

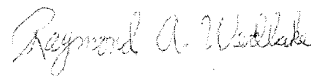
a) Plaintiff requests an award against Defendants to include compensatory damages including but not limited to Court fees, costs, and expenses, punitive damages; and

b) Plaintiff prays for a Court directive/injunction against future frivolous action or actions brought by Defendants in bad faith with the intent to deny Plaintiff's US-Constitutional rights to "due process" and to "equal protection under the law", and brought for the purpose of inducing the Court to ignore Plaintiff's-simple-Declaratory-Judgment question of law as posed to the Court in his Complaint, as supported by Affidavits and Exhibits; and

c) Plaintiff prays for the Court, in the event Counterclaim is not dismissed, to recognize Plaintiff's petition that the Court order a separate trial for Counterclaim pursuant to Rule 42(b), SCRCF.

Dated this 17th day of October, 2019.

Respectfully Submitted,



Raymond A. Wedlake, Plaintiff (*Pro Se*)
703 Creekview Drive
Greenville, SC 29607
864-254-9262 wedlakera@mail.com

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

Raymond A. Wedlake, as a Member of
Woodington Homeowners' Association, Inc.)

Plaintiff (*Pro Se*),)

vs.)

Christopher Edwards, Charles Koshis,
Denis Esteve, Michael Keels, and William Craigo
in their capacity as Board of Directors of
Woodington Homeowners' Association, Inc.)

Defendants.)

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

CASE NO.: 2019-CP-00269

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

19 OCT 18 PM 3:58
FBI WASHINGTON DC 2019

WLG

Plaintiff's Attorney: [<i>Pro Se</i>], Bar No. Address: <u>703 Creekview Drive</u> <u>Greenville, SC 29607</u> Phone: <u>864-254-9262</u> Fax _____ E-mail: <u>wedlakera@mail.com</u> Other: _____		Defendant's Attorney: <u>Emily O'Brian</u> , Bar No. <u>101824</u> Address: <u>Campbell Teague LLC</u> <u>16 W. North Street</u> <u>Greenville, SC 29601</u> Phone: <u>864-326-4186</u> Fax: _____ E-mail: <u>emily@campbellteague.com</u> Other: _____	
☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) ☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) ☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)			
SECTION I: Hearing Information			
Nature of Motion: <u>Dismiss</u>		Court Reporter Needed: ☒ YES / ☐ NO	
Estimated Time Needed: <u>30 min.</u>			
SECTION II: Motion/Order Type			
☒ Written motion attached ☐ Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.			
<u>Raymond A. Wedlake</u> Signature of Attorney for ☒ Plaintiff / ☐ Defendant		<u>October 18, 2019</u> Date submitted	
SECTION III: Motion Fee			
☒ PAID - AMOUNT: \$ <u>25</u> ☐ EXEMPT: (check reason) ☐ Rule to Show Cause in Child or Spousal Support ☐ Domestic Abuse or Abuse and Neglect ☐ Indigent Status ☐ State Agency v. Indigent Party ☐ Sexually Violent Predator Act ☐ Post-Conviction Relief ☐ Motion for Stay in Bankruptcy ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP) ☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ ☐ Other: _____			
JUDGE'S SECTION			
☐ Motion Fee to be paid upon filing of the attached order.		JUDGE CODE _____	

☐ Other: _____	Date: _____
CLERK'S VERIFICATION	
Collected by: <u>WLE</u> Date Filed: <u>10/18/19</u> <u>paid by cash</u>	
☒ MOTION FEE COLLECTED: \$ <u>25.00</u>	
☐ CONTESTED - AMOUNT DUE: \$ _____	

SCCA 233 (11/2003)

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Raymond A. Wedlake, as a Member of
Woodington Homeowners' Association, Inc.

Plaintiff (Pro Se)

vs.

Christopher Edwards, Charles Koshis,
Denis Esteve, Michael Keels, and William Craigo
in their capacity as Board of Directors of
Woodington Homeowners' Association, Inc.

Defendants

)
) **IN THE COURT OF COMMON PLEAS**

)
) **THIRTEENTH JUDICIAL CIRCUIT**

)
) Civil Case No. 2019-CP-23-00269

)
) **MEMORANDUM IN**

)
) **OPPOSITION TO DEFENDANTS'**

)
) **MOTION FOR SUMMARY**

)
) **JUDGMENT AND TO**

)
) **EXTEND ADR DEADLINE**

COMES NOW Raymond A. Wedlake, Plaintiff (*Pro Se*), who disputes and questions the genuineness of Defendants' unsubstantiated claims in their request for summary judgment pursuant to Rule 56, SCRCP, and who also contends there is no known purpose nor reason that the standard-Alternative-Dispute-Resolution-(ADR) deadline should be extended.

STANDARD THAT IS TO BE APPLIED

1. The Supreme Court of South Carolina reviewed the granting of summary judgment in *Bennett, et. al. v. Carter, et. al.*, Appellate Case No. 2016-000065, under the same standard applied by the trial court under Rule 56(c), SCRCP. *Quail Hill, LLC v. Cty. of Richland*, 387 S.C. 223, 235, 692 S.E.2d 499, 505 (2010). The trial court shall grant summary judgment if "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Rule 56(c), SCRCP. "In determining whether any triable issue of fact exists, the evidence and all inferences which can reasonably be drawn

therefrom must be viewed in the light most favorable to the nonmoving party." *Quail Hill, LLC*, 387 S.C. at 235, 692 S.E.2d at 505 (quoting *Pye v. Estate of Fox*, 369 S.C. 555, 563, 633 S.E.2d 505, 509 (2006)). Where, as here, the burden is upon Defendants to show a preponderance of evidence warranting summary judgment; "the non-moving party is only required to submit a mere scintilla of evidence in order to withstand a motion for summary judgment." *Hancock v. Mid-South Mgmt. Co.* 381 S.C. 326, 330, 673 S.E. 2D 801, 803 (2009).

BASIS OF THE CASE

Plaintiff, a former two-term member of the Board of Directors (Board) of Woodington Homeowners' Association, Inc. (WHOA), in seeking to reform improper Board Governance, and in the wake of a massive increase in dues and a special assessment, seeks to determine via a Declaratory Judgment, whether as a member he is entitled to know if other members cast ballots, or not. The issue falls directly under Section 33-31-1602 of the South Carolina (SC) Nonprofit Corporation Act which gives the Court discretion to determine whether information not listed should be provided where a proper purpose is shown.

THERE ARE GENUINE ISSUES OF MATERIAL FACT

2. Each rebuttal below shows there are genuine issues of material fact. Defendants contend that all information requested has been provided, however, per the affidavit of plaintiff filed with the complaint, and a subsequent affidavit of plaintiff on file the following information has not been provided:

- > a list of WHOA members (Members) who voted on November 2018 ballots
(the "List");

- > a schedule of planned Board meetings;
- > confirmation of your commitment to publish agendas 3 days before all scheduled meetings;
- > an explanation of how meeting minutes will be made known to Members;
- > when will a new, official WHOA address be filed with the South Carolina Secretary of State? (the "16 Southfield" address is on longer valid);
- > has the Board created an "Office" file containing a By-Laws "official version", and if so, can it be provided to me? ;
- > who is serving on the Architectural Committee (AC)? ;
- > who is serving on a By-Laws Review Committee (BLRC)? ;
- > what plans does the Board have to fill the recent vacancy on the Board? On what date will the vacancy will be filled? Please provide a timetable for all steps;

where as above is a summary of "Exhibit I" which was filed in the Public Index on July 12, 2019; by reference Plaintiff includes this Affidavit of July 12 in its entirety, which contained "Exhibit I", as well as all other exhibits attached to this Affidavit.

3. Plaintiff disputes that the moving party (Defendants) is entitled to a judgment as a matter of law.

4. Plaintiff cites the proper standard being, per the South Carolina Supreme Court, that evidence and all inferences which can reasonably be drawn therefrom must be viewed in the light most favorable to the non-moving party (Plaintiff).

5. As rebuttals below, several inferences proposed by Defendants are not reasonable as each suggests: "... an issue of fact that is not genuine."

6. Plaintiff specifically gives rebuttal for each numbered paragraph in Defendants' Motion, as denoted below by "M1", for example for Paragraph 1.

M1. Plaintiff filed the above captioned lawsuit purporting to seek information from the Woodington HOA Board of Directors. Plaintiff has either already been provided the requested information or is not legally entitled to the requested information, such that Plaintiff is not entitled to any further relief.

7. **Rebuttal:** Plaintiff has not been provided any information as requested by his Complaint, as supported by Affidavit and Exhibits, nor as requested by a subsequent Affidavit filed July 12, 2019, as supported by Exhibits; Plaintiff notes Defendants' opinion but disputes their legal conclusion, where Plaintiff contends he is legally entitled to requested information, which when provided will satisfy requested relief in full.

M2. Even if Plaintiff were entitled to the requested information, Plaintiff named members of the 2018 Board as Defendants rather than the correct entity—the Woodington HOA itself, which actually has access and authority over the requested information. Named Defendants cannot provide the requested relief and are immune from suit.

8. **Rebuttal:** Plaintiff states that "... the Woodington HOA itself ..." is not a viable entity that is capable to perform any real-world-physical task, and further cites Defendants in their capacity as Board of WHOA as a viable entity that is capable to perform the real-world-physical task of providing requested information; Plaintiff further believes that the Court and all parties are fully aware that Defendants in their capacity represent the responsible, governing body of WHOA that has access and authority over the requested information; Plaintiff further contends that

Defendants'-legal-opinion conclusion of immunity from suit is not applicable to his case where a simple-Declaratory-Judgment question of law was brought to the Court, as contrasted against a Tort or Wrongdoing suit where claimed immunity may possibly be cited as applicable.

M3. Plaintiff's claims are frivolous and have been filed for the purpose of harassing Defendants. Thus, Defendants are entitled to sanctions from Plaintiff, including but not limited to costs and attorneys' fees expended to defend against this action.

9. **Rebuttal:** Plaintiff's claims are legitimate questions of interpretation of law filed for the purpose of bringing improvements to WHOA and benefits to Members;

a) Plaintiff's Complaint, as supported by Affidavits and Exhibits cannot be termed frivolous:

a1) no such evidence of intent to harass exists, and therefore no such evidence can be brought before the Court without extreme misrepresentation of case facts, and other misdirection, obfuscation, and creative but misinformed twisting of truth on the part of Defendants;

a2) Under the "South Carolina Frivolous Civil Proceedings Sanctions Act", SC Code Title 15, Chapter 36, **Section 153610**, (A)(3)(d):

(d) a reasonable attorney in the same circumstances would believe his claim or defense is not frivolous, interposed for delay, or brought for any purpose other than securing proper discovery, joinder of parties, or adjudication of the claim or defense upon which the proceedings are based.

Plaintiff's case is such that all reasonable persons would believe Plaintiff's case was not frivolous, nor interposed for delay, and **was brought** for the purpose of securing proper discovery, and adjudication of legitimate questions of interpretation of the By-Laws or SC law asked from the Court by Plaintiff;

a3) While acknowledging that in the case of *Hanahan v. Simpson*, 326 S.C. 140, 485 S.E. 2d 903 (SC 1997), the Supreme Court was addressing a situation where Plaintiff had withstood a motion for summary judgment, the court emphasized:

'Section 15-36-10 of our Frivolous Proceedings Act creates the presumption of a proper purpose if the person initiating litigation "reasonably believes under the facts that his claim may be valid under existing or developing law." Here, Hanahan clearly submitted evidence supporting her claims.'

There is an abundance of evidence supporting Plaintiff's Declaratory Judgment action.

Moreover, actions brought under the The Declaratory Judgment Act are favored; they:

"... should be liberally construed to accomplish its intended purpose of affording a speedy and inexpensive method of deciding legal disputes and of settling legal rights and relationships, without awaiting a violation of the rights or a disturbance of the relationships." *Graham v. State Farm Mut. Auto. Ins. Co.*, 319 S.C. 69, 71, 459 S.E.2d 844, 845 (1995) (citing *Williams Furniture Corp. v. Southern Coatings & Chemical Co.*, 216 S.C. 1, 6 S.E.2d 576 (1949)); S.C.Code Ann. § 15-53-130 (1977).

b) consequently, Defendants are entitled to no awards for sanctions, nor for costs, nor for attorneys' fees;

c) Defendants were informed and made fully aware the *Pro Se* filing of his case was done with specific intent to save Defendants from a need to engage legal counsel, and to incur attorneys' fees.

M4. This motion is supported by the South Carolina Rules of Civil Procedure, statutes and case law, and such other supporting memoranda, authority, or attachments as are filed or presented before or at the hearing on this motion.

10. **Rebuttal:** Plaintiff will make a request for Continuance at the Hearing in the event that Defendants intend to overwhelm Plaintiff with a bulk of previously-undisclosed documents; further, Defendants will probably bring loads of unsupported claims, which the Court must disregard as “heresy of hearsay”, where all such hearsay also must be recognized as irrelevant, and as such inadmissible per Rule 402, SCRE.

M5. Defendants further request that ADR deadlines be suspended and/or pushed back until at least 30 days after a decision on this motion has been issued.

11. **Rebuttal:** Plaintiff on several previous occasions made request to Defendants to give attention to ADR, which remains a Court imposed requirement before adjudication can proceed, and also tried to arrange for an acceptable Mediator, all of which were ignored by Defendants to date; Plaintiff believes Defendants are fully aware that requests to annul or compromise ADR requirements are unrelated to, have nothing to do with, and are otherwise improper requests to couple with their Motion for Summary Judgment; thus, Plaintiff asks the Court to disregard Defendants' request for modification of ADR requirements.

ADDITIONAL CONSIDERATIONS

12. Plaintiff includes by reference his "Motion for Summary Judgment" which was filed in the Public Index on April 15, 2019, where Plaintiff acknowledges this Motion was denied by a Hearing Judge because of Defendants' claim of need for "ongoing discovery", but contends such denial was inappropriate and improperly ordered, particularly as it relates to Defendants' -active Motion, which seeks Summary Judgment in their favor.

13. Plaintiff includes by reference "Plaintiff's Memorandum Supporting Motion for Summary Judgment" which was filed in the Public Index on July 18, 2019, and asks the Court to seriously consider its contents.

THEREFORE, based upon criteria for granting Summary Judgment, which Defendants have not met, and existence of numerous material facts which have been disputed, Plaintiff prays for denial of Defendants' Motion for Summary Judgment and asks the Court to grant Summary Judgment in favor of Plaintiff.

Dated this 23rd day of October, 2019.

Respectfully Submitted,



Raymond A. Wedlake, Plaintiff (*Pro Se*)
703 Creekview Drive
Greenville, SC 29607
864-254-9262 wedlakera@mail.com

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF GREENVILLE

Case No. 2019-CP-23-00269

Raymond A. Wedlake, as a Member of
Woodington Homeowners' Association,
Inc.

Plaintiff (*Pro Se*)

v.

MEMORANDUM IN SUPPORT OF
MOTION FOR SUMMARY
JUDGMENT

Christopher Edwards, Charles Koshis,
Denis Esteve, Michael Keels, and
William Craigo in their capacity as
Board of Directors of Woodington
Homeowners' Association, Inc.,

Defendant(s).

COME NOW Defendants, by and through their undersigned counsel, and for their
Memorandum in Support of Defendants' Motion for Summary Judgment state as follows:

I. INTRODUCTION

Plaintiff has engaged in a pattern of behavior designed to harass members of the Woodington HOA Board, including filing multiple suits against the Board and its members.¹ Plaintiff is a resident and member of the Woodington HOA, and this particular lawsuit arises out of his request to the 2018 Board to provide "a list of Members who returned ballots" (the "List") in the November 2018 vote. (Pl. Comp. para 3). Conversely, such a List would reveal the names of all homeowners who opted to allow the Board to vote for them by proxy in response to the November 2018 ballot. The Board rightfully refused to reveal this private information about homeowner votes. Plaintiff asserts he is entitled the List, despite the plain language of the law to the contrary.

¹ See e.g., Greenville County case numbers 2017-cp-23-06301 and 2019-cp-23-01501.

Further, Plaintiff's actions in this lawsuit, through both discovery and his correspondence to homeowners regarding the litigation, make clear he is abusing the legal process in order to continue to harass the Defendants and other homeowners in the Woodington community. Defendants respectfully request that this Court recognize Plaintiff's inappropriate tactics, find that this lawsuit has no legal basis, and hold Plaintiff liable for all fees and costs incurred in defending against this frivolous lawsuit and responding to Plaintiff's harassing actions. If left unchecked, Plaintiff will continue to harass Woodington Board members and fellow homeowners, abusing the legal system in the process.

II. ALLEGATIONS BY PLAINTIFF

In his Complaint, Plaintiff alleges that Defendants "have prohibited Plaintiff from access to [Woodington] HOA documents, specifically a list of those Members who returned ballots (Documents or List) regarding a substantial increase in dues and a special assessment, and ignored or denied Plaintiff's various requests for copies of the List." (Pl. Compl. Para. 3). Plaintiff goes on to state, "Plaintiff believes that the proper attitude for Defendants to take is to supply the List as requested, *even though not specifically identified as required in the [South Carolina Non-Profit Corporations Act]*, if as here, the request has a proper purpose." (Pl. Compl. Para. 23). When asked in discovery if his claim of entitlement to the List was solely based on the Act, Plaintiff pointed to no other legal basis for his claim.²

² Plaintiff did assert Defendants had a fiduciary duty as Board members, but he cited to no statutes or case law to show the existence or violation of such duty nor is such a duty (or violation thereof) asserted anywhere in Plaintiff's Complaint. Additionally, Plaintiff asserted other factors such as "moral" and "social" considerations. Again, none of these are legal bases for relief to be adjudicated by this Court. See Pl.'s 7/31/2019 filing, response to RFA 3.

III. ARGUMENT

“Summary judgment is appropriate when there is no genuine issue of material fact such that the moving party must prevail as a matter of law.” *Fleming v. Rose*, 567 S.E.2d 857, 860 (S.C. 2002). “When determining if any triable issues of fact exist, the evidence and all reasonable inferences must be viewed in the light most favorable to the non-moving party.” *Id.* “Summary judgment should be granted when plain, palpable, and undisputable facts exist on which reasonable minds cannot differ.” *NationsBank v. Scott Farm*, 465 S.E.2d 98, 100 (S.C. App. 1995). “In order to resist a motion for summary judgment, the nonmoving party must come forward with specific facts showing genuine issues necessitating trial.” *Id.*

A. Plaintiff is not entitled to his requested relief—being provided “the List”—under the South Carolina Non-Profit Corporations Act.

This case involves a straightforward reading of the South Carolina Non-Profit Corporations Act (the “Act”), in particular Article 16. In contrast to the plain language of the Act, Plaintiff asserts that under the Act he is entitled to the List (i.e. those HOA members who did not return their November 2018 ballots). As a matter of law, no such entitlement exists.

The statute requires a corporation to maintain a very specific list of records, as set out in Section 33-31-1601(e):

- (1) its articles or restated articles of incorporation and all amendments to them currently in effect;
- (2) its bylaws or restated bylaws and all amendments to them currently in effect;
- (3) resolutions adopted by its board of directors relating to the characteristics, qualifications, rights, limitations, and obligations of members or any class or category of members;
- (4) the minutes of all meetings of members and records of all actions approved by the members for the past three years;
- (5) all written communications to members generally within the past three years, including the financial statements furnished for the past three years under Section

33-31-1620;

(6) a list of the names and business or home addresses of its current directors and officers; and

(7) its most recent report of each type required to be filed by it with the Secretary of State under this chapter.

The Act then defines specifically the records members are entitled to inspect and the circumstances of such inspection. Section 33-31-1602(a) permits a member to inspect and copy any of the records set forth in Section 33-31-1601(e), as stated above. Section 33-31-1602(b) then defines additional records that a member is entitled to inspect and copy, namely:

(1) excerpts from any records required to be maintained under Section 33-31-1601(a)³, to the extent not subject to inspection under Section 33-31-1602(a);

(2) accounting records of the corporation; and

(3) subject to Section 33-31-1605, the membership list.

Subsection (c) provides qualifications for when these records may be requested and inspected.⁴ But the analysis for subsection (c) does not come into play unless the records are subject to inspection in the first place.

The two enumerations of records provided above are the only records the Act entitles a member to inspect and copy. Neither Section 33-31-1601(e) nor 1602(b) say anything about a list of members who did not turn in ballots in a vote. Thus, there is clearly no entitlement under the Act to the List Plaintiff has requested. There must be an entitlement to inspect the records before any of the conditions for such inspection are then

³ Section 1601(a) states, “A corporation shall keep as permanent records minutes of all meetings of its members and board of directors, a record of all actions taken by the members or directors without a meeting, and a record of all actions taken by committees of the board of directors as authorized by Section 33-31-825(d).”

⁴ (c) A member may inspect and copy the records identified in subsection (b) only if: (1) the member's demand is made in good faith and for a proper purpose; (2) the member describes with reasonable particularity the purpose and the records the member desires to inspect; and (3) the records are directly connected with this purpose.

analyzed. As the entitlement does not exist, the conditions make no difference in the analysis here.

Plaintiff also asserts that because he is a litigant Section 33-31-1602(d)(1) entitles him to the List. This is a blatant misreading of the Act. Section 33-31-1602(d)(1) states, in relevant part, “This section does not affect the right of a member to inspect records...if the member is in litigation with the corporation, *to the same extent as any other litigant.*” (emphasis added). In other words, Section 33-31-1602(d) does not grant any new entitlements to members but rather preserves rights a member may have for discovery in litigation. Plaintiff did not ask for the List as relevant discovery in litigation, and he cannot bring this current litigation for the sole purpose of seeking the List in litigation. Section 33-31-1602(d) does not provide an independent basis upon which entitlement to records arises. Thus, Plaintiff has no entitlement to the List under this subsection either.

B. Regardless of the merits of Plaintiff’s claim, as a matter of law Plaintiff cannot recover from the named Defendants.

1. Plaintiff cannot sue the Board members individually as they are immune from suit pursuant to S.C. Code Sec. 33-31-834.

Plaintiff brought suit against “Christopher Edwards, Charles Koshis, Denis Esteve, Michael Keels, and William Craigo in their capacity as Board of Directors of Woodington Homeowners’ Association, Inc.” However, the Act specifically protects individual Board members from suit in cases such as this, providing that all “directors, trustees, or members of the governing bodies of not-for-profit cooperatives, corporations, associations, and organizations described in subsection (b) are immune from suit arising from the conduct of the affairs of these cooperatives, corporations, associations, or organizations.” S.C. Code Sec. 33-31-834(a). Subsection (b) specifies that 501(c)(3) organizations, such as the

Woodington HOA, are covered by this provision. Thus, the Board members are immune from suit, and this case must be dismissed.

2. Defendants Edwards, Esteve, Keels, and Craigo are no longer Board members.

Plaintiff sued Defendants “in their capacity as Board of Directors of Woodington Homeowners’ Association, Inc.” (See case caption.) However, four of the five Defendants are no longer on the Board and no longer have access to records of Woodington HOA. Therefore, these individuals are not proper parties to the lawsuit as they no longer have any authority to provide Plaintiff with his requested relief. These individuals—namely Defendants Edwards, Esteve, Keels, and Craigo—should be dismissed from the lawsuit.

C. Plaintiff’s claims are frivolous and sanctions are appropriate.

As evidenced above, Plaintiff knew from the day he filed this lawsuit that he was not entitled to the List under the Act. (Pl. Compl. Para. 23). Nevertheless, he filed this lawsuit, forcing Defendants to spend precious time, effort, and resources to respond. Plaintiff then moved for summary judgment on April 15, 2019, claiming there was no issue of fact, but sent out discovery to Defendant two days later. Defendants were required to respond to Plaintiff’s discovery requests, defend against his later-filed motion to compel, and defend against Plaintiff’s untimely and baseless motion for summary judgment. Both motions by Plaintiff were denied by the Court.

To top it off, with Defendants’ motion for summary judgment pending, Plaintiff abused the discovery process by sending out letters to the Woodington homeowners that: demanded information about confidential votes; misquoted Judge Kinlaw and asserted homeowners were Court-ordered to answer Plaintiff’s requests when they were not; sought to influence witness testimony by giving them a false binary option of how to respond; and

threatened homeowners if they did not respond to his letter. (See Defendants' 10/3/2019 motion and accompanying exhibits.) Homeowners receiving the letters have reported feeling "bullied," "harassed," "threatened," and that Plaintiff's demand for their signature on a document revealing their vote was an invasion of privacy. At this point, homeowners are unwilling to identify themselves in an accompanying affidavit or other public correspondence for fear of being the subject of Plaintiff's next lawsuit or being subject to other abusive and harassing backlash from him. Plaintiff has created a climate of fear in his neighborhood through his improper use of the legal system. Defendants were forced to move for an injunction and/or protective order to prevent Plaintiff from continuing to harass Woodington residents.⁵ This Court must step in to prevent Plaintiff from continuing to abuse the legal system in this manner.

WHEREFORE, Defendants request an Order from this Court:

- GRANTING their Motion for Summary Judgment on Plaintiff's claims and dismissing such claims in their entirety; and
- GRANTING their Motion for Summary Judgment on Defendants' counterclaim and awarding Defendants compensatory damages including but not limited to attorneys' fees, costs, and other expenses incurred in the defense of this lawsuit, punitive damages, a directive/injunction against future frivolous legal actions or actions brought in bad faith by Plaintiff, as well as any and all other relief which this Court deems just, equitable, and proper under the circumstances.

⁵ This motion was heard by Judge Kinlaw on October 21, 2019. Judge Kinlaw continued that motion pending the outcome of this motion. See 10/22/2019 Form 4 Order.

Respectfully submitted this 24th day of October, 2019.

CAMPBELL TEAGUE LLC

/s/: Emily O'Brian

George Campbell (SC Bar #77409)

Emily O'Brian (SC Bar #101824)

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Attorneys for Defendants

Certificate of Service

IT IS HEREBY CERTIFIED that a copy of the foregoing document was served upon the following by Certified Mail and Email:

Raymond A. Wedlake
703 Creekview Drive
Greenville, SC 29607
wedlakera@mail.com

Kathryn Hindman
Paralegal, Campbell Teague

Date: October 24, 2019

)
) **IN THE COURT OF COMMON PLEAS**

)
) **THIRTEENTH JUDICIAL CIRCUIT**

)
)
) Civil Case No. 2019-CP-23-00269

)
)
) **PLAINTIFF'S REPLY TO**

MEMORANDUM IN SUPPORT
OF MOTION FOR
SUMMARY JUDGMENT

Plaintiff (*Pro Se*) and gives his reply to a

“Judgment” (Memo) filed by Defendants
received, due to time limitations this reply gives
Memo items, only.

which misrepresents the fact that all Plaintiff's
ly before the Court for a purpose to bring
iation, Inc. (WHOA), to bring benefits to its
ernance within WHOA, as well as to require
well as South Carolina law, where Defendants
ard of Directors ..." (Board). Plaintiff sought
ch were ignored by Defendants, who also
ion by Defendants regarding violations of By-
to seek judicial action. Further, naked claims

brought by Memo are unsupported and can not and should not be admitted as evidence, and are also irrelevant which makes them inadmissible pursuant to Rule 402, SCRE, which Plaintiff characterizes here by the term: "hearsay".

Plaintiff includes full content by reference from both his "Memorandum in Opposition to Defendants' Motion for Summary Judgment and to Extend ADR Deadline" as well as "Motion to Dismiss Defendants' Counterclaim by Plaintiff", both of which previously addressed legitimate issues and "hearsay" which Defendants bring, again, in their Memo.

1. Specifically in violation of By-Laws, Defendants ignore their duty to fill two remaining vacancies on the Board, which occurred after resignation of three-elected-Board members.
2. Plaintiff questions the genuineness of statements found in Memo, being denoted in bold for example: "M(Introduction)" (for Memo Introduction), as follows.

REBUTTAL OF SPECIFIC MEMO PARAGRAPHS

M(Introduction) Plaintiff has engaged in a pattern of behavior designed to harass members of the Woodington HOA Board, including filing multiple suits against the Board and its members. ... his request to the 2018 Board to provide "a list of Members who returned ballots" (the "List") ... homeowners who opted to allow the Board to vote for them by proxy in response to the November 2018 ballot. ... Plaintiff asserts he is entitled the List, despite the plain language of the law to the contrary. ... Plaintiff's actions in this lawsuit, through both discovery and his correspondence to homeowners regarding the litigation, make clear he is abusing the legal process in order to continue to harass the Defendants and other homeowners in the Woodington community. ... this Court recognize

Plaintiff's inappropriate tactics, ... hold Plaintiff liable for all fees and costs incurred in defending against this frivolous lawsuit ...

3. Rebuttal:

- a) Only one lawsuit filed against these Defendants, with no suits being filed against WHOA Members, is the factual matter of record;
- b) Plaintiff asked the Court to apply its law-given discretion per the "South Carolina Nonprofit Corporation Act of 1994" (NPCA) to compel Defendants to provide the List;
- c) Plaintiff contends that no homeowner opted to allow the Board to vote for them by proxy, and challenges Defendants to show the Court even one-single-signed-authorization-Proxy statement from any Member;
- d) the "... plain language of the law ..." gives the Court law-given discretion to affirm Plaintiff's request for the List, as well as all requested information, under NPCA Sections 33-31-1602(d)(1) and (d)(2), primarily because Plaintiff is a litigant;
- e) No attempt for discovery nor any of Plaintiff's correspondence to homeowners, except with misrepresentation of content and intent, and with a creative stretch of imagination:
 - e1) can be regarded as "... abusing the legal process ...",
 - e2) can be characterized as showing intent to harass Defendants nor any Member;
 - e2) can any reasonable person conclude abuse or harassment, where such conclusion would violate Rule 8(f), SCRCP:
- (f) Construction of Pleadings. All pleadings shall be so construed as to do substantial justice to all parties.

M(ARGUMENT) “Summary judgment is appropriate when there is no genuine issue of material fact ...”

4. **Rebuttal:** Plaintiff has repeatedly shown genuine issues of material fact in his documents included here by reference; Defendants' Argument cites many reasons why Plaintiff, not Defendants, is entitled to Summary Judgment in his favor.

M(Argument B.1.) Regardless of the merits of Plaintiff's claim, as a matter of law Plaintiff cannot recover from the named Defendants. ...

5. Rebuttal:

a) Defendant Charles Koshis as WHOA President holds full responsibility as a governing member of the Board, and has full capability to provide Plaintiff's requested information;

b) Though factually three-named Defendants resigned from the Board, where one-named Defendant did not seek re-election to the 2019 Board, these events happened after the date of Plaintiff's-case filing

c) leave of the Court is required to amend a complaint, which to date has not been sought.

M(Argument C) Plaintiff's claims are frivolous and sanctions are appropriate. ...

6. **Rebuttal:** Proper perspective was given in Plaintiff's-referenced documents which showed the fallacious nature of both claims.

CONCLUSION

- A. Plaintiff prays that the Court recognize all “hearsay” as irrelevant, and thus ignore all such “hearsay” from consideration.
- B. Plaintiff prays that the Court **DENY** Defendants' Motion for Summary Judgment.
- C. Plaintiff prays that the Court **DENY** Defendants' Motion for Summary Judgment on Defendants' counterclaim, specifically **GRANTING** Plaintiff's petition pursuant to Rule 42, SCRPC, that counterclaim must be brought as a separate-jury-trial action.
- D. Plaintiff prays for the Court to award to Plaintiff compensatory damages, including but not limited to costs, and other expenses incurred in rebuttal of their groundless, unsubstantiated, and frivolous-“hearsay”-based claims, including punitive damages, as well as directive/injunction against Defendants to preclude future frivolous legal action, actions, or other “hearsay”-based pleadings brought in bad faith by Defendants, and in addition any and all such other relief which this Court deems just, equitable, and proper under the circumstances.

Dated this 25th day of October, 2019.

Respectfully Submitted,



Raymond A. Wedlake, Plaintiff (*Pro Se*)
703 Creekview Drive
Greenville, SC 29607
864-254-9262 wedlakera@mail.com

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	
	)	THIRTEENTH JUDICIAL CIRCUIT
Raymond A. Wedlake, as a Member of	)	
Woodington Homeowners' Association, Inc.	)	Civil Case No.: 2019-CP-23-00269
	)	
Plaintiff (Pro Se)	)	MOTION FOR A NEW HEARING
	)	
vs.	)	ON DEFENDANTS'
	)	
Christopher Edwards, Charles Koshis,	)	MOTION FOR
Denis Esteve, Michael Keels, and William Craigo	)	
in their capacity as Board of Directors of	)	SUMMARY JUDGMENT
Woodington Homeowners' Association, Inc.	)	
	)	AND TO EXTEND ADR DEADLINE
Defendants	)	

COMES NOW Raymond A. Wedlake, Plaintiff (*Pro Se*), who respectfully requests the Court to consider a New Hearing, recognizing that no Order has been issued by the Honorable Judge Robin B. Stilwell after a Hearing of October 28, 2019. Plaintiff's Motion is based upon the following:

1. In the wake of Defense Counsel (Counsel) learning of inadvertently misleading the Court with the facts, resulting in an erroneous-legal conclusion that Defendants are immune from suit and the granting of Defendants' "Motion for Summary Judgment and to Extend ADR Deadline" (Motion), on October 31, 2019 (Figure 1), Counsel offered a proposal for a new Hearing:

"... If further briefing or a rehearing would be of assistance to Your Honor in making this determination, we would certainly be glad to do that as well."

Plaintiff agrees that a *de novo* hearing must be held.

2. On October 30, 2019 (Figure 2), Plaintiff cited His Honor's granting of Motion, based upon a "wrong party" argument, as contrary to a precedent previously set, where a same "wrong party" claim was dismissed, as ruled by His Honor, himself.
3. In addition, Counsel did not raise the issue that a member of the Board of Directors (Board) constitutes a "wrong party" in any previous pleading prior to the Hearing of October 28, so Plaintiff had no time to prepare to address such issue at the Hearing on October 28.
4. Plaintiff moves the Court pursuant to Rule 56(e), SCRCP, to recognize: "... that there is a genuine issue for trial. ...", and to schedule a New Hearing to fully understand.
5. A Hearing of October 28, 2019, did not speak to ADR deadline, suspension, and/or extension of deadline, so clarification on this is required, since Plaintiff believes by default an ADR-deadline extension was not granted (Figure 3).
6. On October 29, 2019, Plaintiff requested feedback from Counsel within two days about whether or not Counterclaim would be dismissed, but no reply was received (Figure 3).
7. On October 29, 2019, Plaintiff requested feedback from Counsel to: "... confirm items as discussed below ..." (Figure 3), but no feedback was received for any item.
8. On October 29, 2019, it was suggested to Counsel that Plaintiff's discovery would continue (Figure 3), where Counsel has given no rebuttal.
9. On October 30, 2019 (Figure 2), a letter to the Honorable Judge Robin B. Stilwell was titled: "... Apparent Error at Law - Lack of Consistent Judgment ...", as related to a Hearing statement to grant Defendants' Motion.

10. On October 30, 2019 (Figure 2), Plaintiff respectfully suggested that His Honor's granting represented an "Apparent Error at Law".

11. On October 30, 2019 (Figure 2), Plaintiff noted that the "South Carolina Nonprofit Corporation Act of 1994" (NPCA), Section 33-31-834(b) is not applicable to Woodington Homeowners' Association, Inc. (WHOA) with respect to:

'... WHOA is actually more properly categorized as a "Mutual Benefit" -corporation under the "South Carolina Nonprofit Corporation Act" '

where additionally Counsel admits (Figure 1):

"... the HOA is a nonprofit, and we believe the HOA is eligible to file for tax classification under 501(c)(3), (6), or (12), the HOA has not made the requisite tax filings at this point. ..."

which was also clarified on November 1 by Plaintiff (Attachment):

"... Defense Council now concedes Summary Judgment cannot be given based upon 33-31-834(a) "immunity from suit", since WHOA is not a 501(c)(3) organization – 33-31-834(b)(2). ..."

which if true must annul His Honor's granting of Defendants' Motion.

12. On October 30, 2019 (Figure 2), Plaintiff further noted that legislative intent of the NPCA was not to grant immunity in instances where law was violated, since: "... Violation of law equates to all of: willful, wanton, and gross negligence."

13. On October 30, 2019 (Figure 2), Plaintiff stated (emphasis added): "... the [Defendants'] Board's **unlawful denial** that they **must supply ... as mandated by NPCA ... has not provided a list of WHOA Members** to me that was requested!", which by itself is just cause and rationale that His Honor's granting must be annulled.

14. On October 30, 2019 (Figure 4), Plaintiff reiterated his request to Counsel for a “... simple-Yes-or-No ...” answer to the question of: “Will Counterclaim be dismissed?”, but Counsel has not replied.
15. On November 12, 2019 (Figure 5), Plaintiff asked for concurrence from Counsel to: “... agree to submit a Motion to request a new Hearing ...”, and to confirm understanding: ‘... we also agreed that the idea of the Board being “immune” was incorrect?’, but no concurrence nor confirmation was received in reply.
16. On November 13, 2019 (Figure 6), Plaintiff informed Counsel of intent to: “... file a Motion requesting a new Hearing ...”, since Plaintiff did not believe appropriate action was merely to wait for: “... Judge Stilwell to respond ...”, who was most probably waiting for Counsel to submit a proposed Order, but no further comments were received.
17. Plaintiff believes all of Counsel's lack of communication and lack of civility are a violation of the South Carolina Lawyer's Oath (Figure 7) which shows (emphasis added):

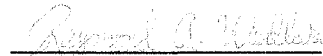
“To opposing parties and their counsel, I pledge **fairness, integrity, and civility**, not only in court, but also in all **written and oral communications**; [and]

I will employ for the purpose of maintaining the causes confided to me only such means as are consistent with **trust and honor** and the principles of professionalism, and will **never seek to mislead** an opposing party, the judge or jury by a false statement of fact or law;”

THEREFORE, for these reasons and such others as may be advanced at any hearing on Plaintiff's Motion, he respectfully prays for the Court to schedule a New Hearing in which Plaintiff will seek an Order **DENYING** Defendants' "Motion for Summary Judgment and to Extend ADR Deadline".

Dated this 18th day of November, 2019.

Respectfully Submitted,



Raymond A. Wedlake, Plaintiff (*Pro Se*)
703 Creekview Drive
Greenville, SC 29607
864-254-9262 wedlakera@mail.com

FIGURE 1 - Counsel's Letter to Judge

Date: Thu, 31 Oct 2019 11:51:48
From: emily@campbellteague.com
To: rstilwellsc@sccourts.org
Cc: Ray Wedlake <wedlakera@mail.com>
Subject: Re: Letter Courtesy-Electronic Copy

Judge Stilwell,

It is my understanding from Mr. Wedlake's letter that he intends to withdraw his concession that Woodington HOA is a nonprofit corporation per SC Code Sec. 33-31-824(b). In the interest of full candor, I have been actively looking into this issue prior to sending over a proposed order, as additional information has come to light post-hearing regarding the HOA's tax classification. In particular, although the HOA is a nonprofit, and we believe the HOA is eligible to file for tax classification under 501(c)(3), (6), or (12), the HOA has not made the requisite tax filings at this point.

However, other cases have discussed immunity under Section 834 as generally for "nonprofits" without referring to the specific Federal Tax Code provisions, and thus, we still believe your ruling is soundly based on both current law and public policy. See, e.g., *Smith v. Dockside Ass'n, Inc.*, 2005 WL 7083482, *4 (S.C. Ct. App. Feb. 28, 2005) ("The General Assembly has provided further protection to directors of nonprofit corporations by enacting South Carolina Code section 33-31-834. That section provides that director of nonprofit organizations are immune from suits arising from the conduct of the affairs of the organization unless the directors' conduct amounts to 'willful, wanton, or gross negligence.'")

Even if Section 834's immunity did not apply, Section 33-31-830(d) provides immunity in this instance. That section states, "A director is not liable to the corporation, a member, or any other person for any action taken or not taken as a director, if the director acted in compliance with this section." The section requires, "A director shall discharge his duties as a director, including his duties as a member of a committee: (1) in good faith; (2) with the care an ordinarily prudent person in a like position would exercise under similar circumstances; and (3) in a manner the director reasonably believes to be in the best interest of the corporation." As there is no evidence of actions by individual board members which would violate this provision, the defendants are entitled to immunity under Section 830. This is what the court held in the *Smith* case cited above, while also referencing Section 834's protections. (A courtesy copy of the case is attached.)

We further maintain that there are ample other grounds for granting our motion for summary judgment—namely: (1) that a list of how members confidentially voted is not something a member is entitled to under the NCPA; and (2) the corporation and not the individual Board members is the proper defendant as it is a corporate duty imposed by the statute and resignation from the Board results in the individuals having no authority to provide the requested relief.

At the end of the day, we want to ensure there is no misapprehension of our arguments given what we have learned, and we want to provide the Court all information needed to support the accurate ruling of granting our motion for summary judgment. Please let us know how you would like to proceed on this matter, and if the grounds for the proposed order need to be revised. If further briefing or a rehearing would be of assistance to Your Honor in making this determination, we would certainly be glad to do that as well.

Best,
Emily

Campbell Teague LLC
Emily O'Brian, Esq.
16 W North St Greenville SC 29601
864.326.0597

FIGURE 1 - Counsel's Letter to Judge

Date: Thu, 31 Oct 2019 11:51:48
From: emily@campbellteague.com
To: rstilwellsc@sccourts.org
Cc: Ray Wedlake <wedlakera@mail.com>
Subject: Re: Letter Courtesy-Electronic Copy

Judge Stilwell,

It is my understanding from Mr. Wedlake's letter that he intends to withdraw his concession that Woodington HOA is a nonprofit corporation per SC Code Sec. 33-31-824(b). In the interest of full candor, I have been actively looking into this issue prior to sending over a proposed order, as additional information has come to light post-hearing regarding the HOA's tax classification. In particular, although the HOA is a nonprofit, and we believe the HOA is eligible to file for tax classification under 501(c)(3), (6), or (12), the HOA has not made the requisite tax filings at this point.

However, other cases have discussed immunity under Section 834 as generally for "nonprofits" without referring to the specific Federal Tax Code provisions, and thus, we still believe your ruling is soundly based on both current law and public policy. See, e.g., *Smith v. Dockside Ass'n, Inc.*, 2005 WL 7083482, *4 (S.C. Ct. App. Feb. 28, 2005) ("The General Assembly has provided further protection to directors of nonprofit corporations by enacting South Carolina Code section 33-31-834. That section provides that director of nonprofit organizations are immune from suits arising from the conduct of the affairs of the organization unless the directors' conduct amounts to 'willful, wanton, or gross negligence.'")

Even if Section 834's immunity did not apply, Section 33-31-830(d) provides immunity in this instance. That section states, "A director is not liable to the corporation, a member, or any other person for any action taken or not taken as a director, if the director acted in compliance with this section." The section requires, "A director shall discharge his duties as a director, including his duties as a member of a committee: (1) in good faith; (2) with the care an ordinarily prudent person in a like position would exercise under similar circumstances; and (3) in a manner the director reasonably believes to be in the best interest of the corporation." As there is no evidence of actions by individual board members which would violate this provision, the defendants are entitled to immunity under Section 830. This is what the court held in the *Smith* case cited above, while also referencing Section 834's protections. (A courtesy copy of the case is attached.)

We further maintain that there are ample other grounds for granting our motion for summary judgment—namely: (1) that a list of how members confidentially voted is not something a member is entitled to under the NCPA; and (2) the corporation and not the individual Board members is the proper defendant as it is a corporate duty imposed by the statute and resignation from the Board results in the individuals having no authority to provide the requested relief.

At the end of the day, we want to ensure there is no misapprehension of our arguments given what we have learned, and we want to provide the Court all information needed to support the accurate ruling of granting our motion for summary judgment. Please let us know how you would like to proceed on this matter, and if the grounds for the proposed order need to be revised. If further briefing or a rehearing would be of assistance to Your Honor in making this determination, we would certainly be glad to do that as well.

Best,
Emily

Campbell Teague LLC
Emily O'Brian, Esq.
16 W North St Greenville SC 29601
864.326.0597

FIGURE 2 - Apparent Error at Law + Lack of Consistent Judgment

703 Creekview Drive
Greenville, SC 29607
October 30, 2019

The Honorable Robin B. Stilwell
Greenville County Courthouse
305 E. North Street Suite 315
Greenville, SC 29601
rstilwellsc@sccourts.org

cc: Ms. Emily O'Brian, Esq.
Campbell Teague LLC
16 W. North Street
Greenville, SC 29601
emily@campbellteague.com

cc: Grant H. Gibson, Esq.
G. Gibson & Associates, LLC
1200 Woodruff Road A-3
Greenville, SC 29607

Subject: RE: Hearing of 10/28 2019-CP-23-00269 - Apparent Error at Law -
Lack of Consistent Judgment - Woodington Homeowners' Association, Inc. (WHOA)

Dear Honorable Judge Stilwell:

Thank you for presiding at a Hearing of October 28, 2019, where Your Honor granted Summary Judgment to Defendants, and denied my Motion to Dismiss Counterclaim. Many comments Your Honor made in this Hearing were truly appreciated.

However, I would respectfully suggest that Your Honor's granting represents an "Apparent Error at Law". Further, my experience shows an apparent lack of consistent judgment is given by various Circuit-Court Judges, including Your Honor.

APPARENT ERROR AT LAW

If I gave incorrect confirmation of status of WHOA as a "non-profit corporation", then I apologize. I believe WHOA is actually more properly categorized as a "Mutual Benefit"-corporation under the "South Carolina Nonprofit Corporation Act" (NPCA). I asked the Board to divulge US-Tax Forms to me, but they will not, to help clarify this critical question of categorization. If WHOA is truly a Mutual-Benefit corporation, then NPCA Section 33-31-834(b), with its statement of "Immunity from suit" is **not** applicable to a Mutual-Benefit corporation. If true, this shows Your Honor's granting was done in error.

Further, I cannot believe the legislative intent of the NPCA as related to 33-31-834(a) intends to exempt a Board as "immune" when a violation of By-Laws, and/or South Carolina Code, applies. In such instances where law was violated, whether explicitly stated in pleadings, or not, a Court can easily recognize: "... This immunity from suit is removed when the conduct amounts to wilful, wanton, or gross negligence. ...". Please note that (per "or") only one of: ... willful, wanton, or gross ... is needed to annul immunity. Regardless of Declaratory Judgment asked from the Court, no immunity from suit is properly given when violation of law is involved, as alleged by my case. Violation of law equates to all of: willful, wanton, and gross negligence.

Therefore for reasons above, I believe granting was done with an "Error at Law".

APPARENT LACK OF CONSISTENT JUDGMENT

Several cases I filed against WHOA Board of Directors (Board) all are similarly captioned; see Exhibit 1. In no instance before the Hearing of October 28 did anyone make claim of a "wrong party being named", or to "you can't sue the Board" because they are "immune from suit", which led to dismissal or annulment of any of my prior cases. As a matter of fact, in a "Hearing to Dismiss" at which Your Honor presided on January 3, 2018, Your Honor denied Defendants' Motion after similar "wrong party" claims were made; see Exhibit 2. Given this precedent as ruled by Your Honor, I understand no rationale for apparent inconsistent judgment as given in the Hearing on October 28.

Your Honor's comments related to possibility for me to file a "Motion for Reconsideration of Order" would be welcomed. Regardless, I may decide to do so, such that the Record is clear for future proceedings related to the Board's unlawful denial that they must supply me with requested information. Particularly, as mandated by NPCA, the Board has not provided a list of WHOA Members to me that was requested!

Sincerely,



Raymond A. Wedlake 864-254-9262

wedlakera@mail.com

EXHIBIT 1 - All cases show similar captions

The Public Index shows: "Woodington Homeowners' Association, Inc.", listed as a co-**Plaintiff** for all cases.

2017CP2306301 (2018-001209 Appeal pending)

Raymond A. Wedlake, individually, and derivatively, on behalf of all Members of the Woodington Homeowners' Association, Inc.

Plaintiff(s)

vs.

Benjamin Acord, William Craigo, Denis Esteve, and Brian James in their capacity as the current Board of Directors of the Woodington Homeowners' Association, Inc.

and,

Association Management Group SC, Inc.,

Defendants

2019CP2300269

Raymond A. Wedlake, as a Member of Woodington Homeowners' Association, Inc.

Plaintiff (*Pro Se*)

vs.

Christopher Edwards, Charles Koshis, Denis Esteve, Michael Keels, and William Craigo in their capacity as Board of Directors of Woodington Homeowners' Association, Inc.

Defendants

2019CP2301501

Raymond A. Wedlake, as a Member of Woodington Homeowners' Association, Inc.

Plaintiff

vs.

Scott Bashor, William Craigo, Christopher Edwards, Denis Esteve, and Charles Koshis, in their capacity as Members of the current Board of Directors of Woodington Homeowners' Association, Inc.

and

Doe Entities 1-10, and John & Jane Does 1-10

Defendants

EXHIBIT 2 - Transcript Excerpts 01/03/18 (emphasis added)

A same: "wrong party" argument, was previously denied by Judge Stilwell

[MR. GROTE:]

[Page 5]

5 Benjamin Accord, William, Craig, Denis Esteve,
6 and Brian James are the current board of directors
7 for the homeowners association. And they've been
8 named as the Defendants and the association
9 management group is the other Defendant. I would
10 classify the **individual Defendants as just the board**
11 **and board members** and that's who I'll be referring
12 to.

[Page 7]

1 MR. GROTE: It's the board members motion to
2 dismiss. And if it please the Court, I'd like to go
3 into that.

[Page 10]

3 THE COURT: Is it a DJ action or is it a
4 non—jury matter?

5 MR. GROTE: They've sought to — what I can tell
6 is two different theories of relief. One is
7 declaratory judgment and two is an injunction.

[Page 29]

4 From a
5 legal perspective, the records request statute, which
6 is cited in our memorandum, says that the relief is
7 against the corporation. **THAT KIND OF CLAIM SHOULD**
8 **BE BROUGHT AGAINST THE CORPORATION NOT THE BOARD OF**
9 **DIRECTORS.** And if he continues to pursue that, it's
10 our position that that **CLAIM NEEDS TO BE BOUGHT**
11 **AGAINST THE CORPORATE NAME RATHER THAN THE INDIVIDUAL**
12 **BOARD MEMBERS** because that's the relief that the
13 statute provides.

[Page 41]

23 THE COURT: All right, thank you, I appreciate
24 it. Okay.

25 The motion to dismiss with respect to the cause

[Page 42]

1 of action against AMG are granted pursuant to
2 consent. **THE REMAINING CAUSES OF ACTION, WITH REGARD**
3 **TO ALL THE OTHER DEFENDANTS ARE RESPECTFULLY DENIED.**

FIGURE 3 - Hearing of 10/28 - Confirmation of Results ?
Proposed Order ? But no Reply

703 Creekview Drive
Greenville, SC 29607
October 29, 2019

Ms. Emily O'Brian, Esq. (via hand delivery)
Campbell Teague LLC
16 W. North Street
Greenville, SC 29601
emily@campbellteague.com

Subject: RE: Hearing of 10/28 2019-CP-23-00269 - Confirmation of Results

Dear Ms. O'Brian:

The Hearing of 10/28 with Judge Stilwell had several outcomes. I would appreciate your input and confirmation on my understanding of such outcomes. Would you be so kind, please, to confirm items as discussed below? I look forward to receiving your feedback.

In your "Motion for Summary Judgment and to Extend ADR Deadline", I understood outcomes being sought were:

- ... summary judgment on all claims ... and requests an extension of ADR deadlines ...
- ... request that ADR deadlines be suspended and/or pushed back ...

In your: "Memorandum in Support of Motion for Summary Judgment", I understood outcomes being sought were:

- GRANTING their Motion for Summary Judgment on Plaintiff's claims and dismissing such claims in their entirety; and
- GRANTING their Motion for Summary Judgment on Defendants' counterclaim and awarding Defendants compensatory damages including but not limited to attorneys' fees ...

My understanding from the Hearing was:

1. your Summary Judgment request as related to my claims was granted, where it was clearly stated: "based upon naming the wrong party" as related to Section 33-31-834(a), "immunity from suit";
2. with no mention of ADR deadlines, suspension, and/or pushed back, this by default was not granted;
3. Summary Judgment relative to Counterclaim was not granted;
4. "frivolous sanctions" were denied;
5. no damages were awarded;
6. my Motion to dismiss Counterclaim was denied.

My notes and recollection are, as stated by the Judge (or words to that effect):

... so long as you keep that dangling chad [Counterclaim] open, it will probably remain open also to Mr. Wedlake's continuing discovery ... you may be better served to drop that [Counterclaim], and dismiss the lawsuit altogether ...

May I expect an answer whether you will be dropping Counterclaim, or not?

If not, then I would understand I am legally obligated to provide an Answer to your Counterclaim, on or before November 27, 2019. I will plan to do so, in the interim proceeding with discovery, unless you may have other thoughts resulting from the Hearing, per suggestions from Judge Stilwell.

Would you please reply with confirmations, and provide your feedback regarding Counterclaim, within 2 business days? I also look forward to receiving a proposed Order.

Thank you.

Sincerely,



Raymond A. Wedlake 864-254-9262

wedlakera@mail.com

FIGURE 4 - No Response to Plaintiff's Question was Given

From: "Ray Wedlake" <wedlakera@mail.com>
To: emily@campbellteague.com
Subject: Re: Courtesy Copy of Letter
Date: Wed, 30 Oct 2019 09:33:10

Dear Ms. O'Brian:

Thank you for your reply.

Please consider answering this simple-Yes-or-No
question:

"Will Counterclaim be dismissed?",

in advance of any substantive response, where I would
appreciate a simple "Yes/No" via return e-mail today.

Thank you once again!

Cheers wedlakera@mail.com
Support "wilderness" - conserve nature !
Be American - buy "Made in USA" !!
GO ORANGE - Syracuse University ORANGE !!
Stop organized crime. Re-elect no one !

ATTACHMENT - Letter: Wedlake to Stilwell, 01 Nov, "RE: ... Apparent Error at Law ..."

703 Creekview Drive
Greenville, SC 29607
November 1, 2019

The Honorable Robin B. Stilwell
Greenville County Courthouse
305 E. North Street Suite 315
Greenville, SC 29601
rstilwellsc@sccourts.org

cc: Ms. Emily O'Brian, Esq.
Campbell Teague LLC
16 W. North Street
Greenville, SC 29601
emily@campbellteague.com

cc: Grant H. Gibson, Esq.
G. Gibson & Associates, LLC
1200 Woodruff Road A-3
Greenville, SC 29607

Subject: RE: Hearing of 10/28 2019-CP-23-00269 - Apparent Error at Law -
Woodington Homeowners' Association, Inc. (WHOA)

Dear Honorable Judge Stilwell:

Thank you for presiding at a Hearing of October 28, 2019, where Your Honor granted Summary Judgment to Defendants, and denied my Motion to Dismiss Counterclaim.

Defense Council now concedes Summary Judgment cannot be given based upon 33-31-834(a) "immunity from suit", since WHOA is not a 501(c)(3) organization – 33-31-834(b)(2). I believe the Court can also easily recognize my case's claim of unlawful conduct as "negligence", which annuls immunity. Such pleading was not made, due only to my case's request for Declaratory Judgment posed to the Court. Defense Counsel further admits that WHOA is **not** currently recognized under US-Tax Code as a 501(c)(3) organization. However, as seen in Figure 1, paragraph 2 (emphasis added):

"A mutual-benefit corporation **can be** non-profit or **not-for-profit** in the United States, but it **cannot obtain** IRS 501(c)(3) **non-profit status** as a charitable organization. ..."

so there would be no purpose for any attempt to file to receive such status.

With the basis for granting Summary Judgment gone, then "other means" to justify Defendants' Motion are improperly sought. Please note that the standard is totally different under the two different statute sections, which also should give rise to reconsideration not only on their Motion for Summary Judgment, but also to my Motion to Dismiss Counterclaim. They cite 33-31-830(a) and (d):

- “(a) A director shall discharge his duties as a director ...
- (1) in good faith;
 - (2) with the care an ordinarily prudent person in a like position would exercise under similar circumstances; and
 - (3) in a manner the director reasonably believes to be in the best interests of the corporation.
- “(d) A director is not liable to the corporation, a member, or any other person for any action taken or not taken as a director, if the director acted in compliance with this section.”

There is no question that an extreme lack of “good faith” exists, 33-31-830(a)(1), since Defendants provided no information I requested as Exhibit I (shown as Figure 2, below) which was attached to: “Affidavit of Plaintiff Raymond A. Wedlake Citing Additional, Requested Information not Provided by Defendants”, filed in the Public Index on July 12, 2019 (titled: “Letter ...”, by the Clerk):

“25. On May 6, 2019, I requested information from Defendants, but they did not respond to my request for simple information, where a reply before May 16, 2019 was requested (Exhibit I);”

which cited particularly, information that was withheld: schedule of Board meetings, agendas, minutes, Committee's membership, and plans/timetable to fill a vacancy!

Similarly, “... care an ordinarily prudent person in a like position would exercise ...”, 33-31-830(a)(2), is definitely lacking. Defendants, with specific intent to deny me any requested information, have shown imprudence, where “no care” as well as no attempts were taken to protect WHOA from resulting disputes, which then led to my case filing. I also believe such inaction/actions by Defendants to withhold all information is a breach of their fiduciary duty; see another filed case: 2019-CP-23-10501.

Additionally, any claim of: “... director reasonably believes to be in the best interests of the corporation ...”, 33-31-830(a)(3), is easily recognized as false. There is no evidence before the Court which shows any Defendant believes it is a best interest of the corporation to deny information to a Member, and thus subject WHOA to ongoing disputes, conflict, and unrest. I reiterate that Defendants ignored “\$1 damages” without punitive damages being sought, but still engaged legal counsel to “fight” against providing simple information to a Member, where my case was specifically brought “*Pro Se*” to encourage Defendants to join with me in resolving disputes. This mindset of seeking to maintain conflict, and to punish a Member who seeks information merely to bring improvement to WHOA, can never be viewed by any sane and impartial person as representing a best interest of the corporation.

Finally, since no Defendant acted in compliance with 33-31-830, then they are liable to me as a Member of WHOA, 33-31-830(d), and should be forced to justify and to show evidence

substantiating all unfounded claims, as related to 33-31-830.

There are no other-legitimate grounds for granting of Summary Judgment. My first letter to Your Honor already covered the “wrong party”-mistaken claim, where please recall in a previous “Motion to Dismiss” Hearing, Your Honor denied such claim. At this time, I object yet again, strenuously to the false statement:

“(1) that a list of how members confidentially voted is not something a member is entitled to under the NCPA”

As cited in prior pleadings, my Complaint filed January 17, 2019 does not ask for “... how members confidentially voted ...”, but shows:

' 4. Specifically, Plaintiff repeatedly requested the List, and not how such Members voted, as related to ballots to assess to Members, including Plaintiff, a substantial increase in dues, and similarly a one-time assessment (Exhibit 2).

25. On December 27, 2018, the Board was informed that a listing of voters is commonly made known and is not confidential, as was shown in a report from “Election Trust” – the “Voter Credit List” (Affidavit, Exhibit 5). '

where referenced exhibits are shown as Figure 3 and Figure 4, below. For Defense counsel to bring this, again, is an attempt to “... mislead ...”, done in violation of the “South Carolina Lawyer's Oath” (Figure 5):

“I will employ for the purpose of maintaining the causes confided to me only such means as are consistent with trust and honor and the principles of professionalism, and will never seek to mislead an opposing party, the judge or jury by a false statement of fact or law;”

Withholding by Defendants of all information I requested reflects their unlawful attempt to deny me the right of “due process” under the US Constitution. As demonstrated, by withholding tax-status information from me, a wrongful claim of immunity from suit was proffered to mislead the Court into granting Summary Judgment. Without knowledge of the truth of the matter, due to information being withheld, I was unable to properly plead this issue before. Censorship of withholding all information is a foul form of unlawful behavior for any Board of any HOA to manifest, being typically done to preclude knowledge of the truth from parties involved in litigation. The Court must recognize information cannot be withheld to aid in enjoining of “due process”!

Particularly I reiterate, as mandated by NPCA, the Board has not provided a list of WHOA Members to me that was requested, as shown attached to my "Affidavit ... Citing Additional, Requested Information", Exhibit C, shown as Figure 6, below! Thus, based on this unlawful behavior alone, Summary Judgment cannot be granted.

Sincerely,



Raymond A. Wedlake 864-254-9262

wedlakera@mail.com

FIGURE 1

https://en.wikipedia.org/wiki/Mutual-benefit_nonprofit_corporation

Mutual-benefit nonprofit corporation
From Wikipedia, the free encyclopedia

A mutual-benefit nonprofit corporation or membership corporation is a type of nonprofit corporation in the US, similar to other mutual benefit organizations found in some of common law nations, chartered by government with a mandate to serve the mutual benefit of its members.

A mutual-benefit corporation can be non-profit or not-for-profit in the United States, but it cannot obtain IRS 501(c)(3) non-profit status as a charitable organization.[1] It is distinct in U.S. law from public-benefit nonprofit corporations, and religious corporations. Mutual benefit corporations must still file tax returns and pay income tax because they are not formed for a purpose that is meant to benefit the general public (unlike public-benefit nonprofit corporations) but rather to provide an association of people with a common benefit. Due to its private purpose, a mutual benefit corporation pays the same taxes as a regular for-profit corporation (C corporation tax rates). However, the IRS still allows for tax exemptions for certain types of mutual-benefit nonprofits (501(c)(6)).

Mutual benefit corporations are formed for common gain purposes such as providing insurance for members (many insurance companies still have "mutual" in their names, though many have since adopted other corporate forms), establishing a community financial institution, managing common property, or promoting the social or economic welfare of member individuals or organizations (for example through trade groups, professional organizations or business districts). Some mutual water companies are organized as mutual benefit corporations; an electric membership corporation is another example.

Mutual benefit corporations have their roots in the benefit societies that sprang up to offer services and solidarity to workers during the Industrial Revolution, though most today do not have any particular connection to labor movements.

FIGURE 2 - "Exhibit I" to Affidavit from Public Index, July 12, 2019

EXHIBIT I - Simple, Requested Information which was not Supplied

May 6, 2019

Woodington Board:

As a Member of WHOA, this request is made for member-related information, much of which was requested from prior Boards, but no information was provided. May I hope the Board will act in a proper, "transparent" manner by supplying the simple, requested information below? Kindly plan to provide your replies before **May 16, 2019**.

Please provide all this information, or supply answers to these questions:

- * a schedule of planned Board meetings
- * confirmation of your commitment to publish agendas 3 days before all scheduled meetings
- * an explanation of how meeting minutes will be made known to Members
- * when will a new, official WHOA address be filed with the South Carolina Secretary of State? (the "16 Southfield" address is on longer valid)
- * has the Board created an "Office" file containing a By-Laws "official version", and if so, can it be provided to me?
- * who is serving on the Architectural Committee (AC)?
- * who is serving on a By-Laws Review Committee (BLRC)?
- * what plans does the Board have to fill the recent vacancy on the Board? On what date will the vacancy will be filled? Please provide a timetable for all steps.

All past Board members should already be aware of these issues:

Open Meetings - I hope that all meetings will be open to Members, as has been explained to the Board via several opinions from HOA Industry Experts.

Minutes & Related - I also hope schedules, agendas, and minutes will be posted at some URL. Is there any reason not to post online, such as in Woodington "Documents" at NextDoor.com?

Committees - Please recall I requested appointment to the AC before the last Annual Meeting. Unresolved questions posed to the 2018 AC were never acted upon by the 2018 AC, nor by the 2018 Board. Is there even one, single WHOA Member who does not think current By-Laws are seriously deficient? A BLRC is an absolute requirement for WHOA!

Vacancy - Please recall the Board has a duty to fill a vacancy. Is it correct understanding the 2018 Board agreed this is a required duty?

Please also inform me about any significant actions which the Board may have in mind. I also request the Board keep me, and all Members, informed about things that "come up", since I suspect others also share a desire to know. Thanks in advance!

Cheers wedlakera@mail.com
Support "wilderness" - conserve nature !
Be American - buy "Made in USA" !!
GO ORANGE - Syracuse University ORANGE !!
Stop organized crime. Re-elect no one !

FIGURE 3 - "Exhibit 2" to Complaint from Public Index, January 17, 2019

EXHIBIT 2 - Ballot Copy Process to Assure Voter Confidentiality

RE: Ballot Procedure

cwedwards2018@gmail.com

atty@ggibsonassociates.com, woodingtonhoa@gmail.com, woodingtonvp@gmail.com

[October 5, 2018]

Dear Mr. Edwards:

This is a very quick, single purpose reply.

The procedure for ballots using "Election Trust" is as follows:

- 1) A ballot is prepared for WHOA Members by the Board
- 2) This ballot is mailed to all Members by the Board
- 3) Directions to return ballots to an agent (such as Election Trust) are included with the ballot

By returning ballots to an independent agent (such as Election Trust) it is assured that:

- 1) a Member's vote remains confidential
- 2) that a certified vote count is produced

Given the sensitivity of balloted question(s), it is imperative that all Members feel free to vote without "the Board knowing my vote", nor any person within WHOA being aware of any individual Member's vote.

If an agent is not used to accept returned ballots, how will confidentiality of individual votes be maintained? If an agent will not be used, I will require copies of all ballots to certify actual voting results.

Please think seriously of using an agent to accept returned ballots, and to produce a certified-vote result!

Cheers wedlakera@mail.com
Support "wilderness" - conserve nature !
Be American - buy "Made in USA" !!
GO ORANGE - Syracuse University ORANGE !!
Stop organized crime. Re-elect no one !

FIGURE 4 - Excerpts from "Exhibit 5" to Complaint from Public Index, January 17, 2019

EXHIBIT 5 - Request for a List of Voting Members; Documents for Minutes, only, were Received

RE: Court Complaint - Potential Filing

cwedwards2018@gmail.com

cndesteve@gmail.com, woodingtonhoa@gmail.com, woodingtonvp@gmail.com

December 27, 2018

Dear Mr. Edwards:

Thank you for a reply of 27 December. ...

A listing of voters is commonly made known; this is reflected in the attached report from Election Trust – note particularly the "Voter Credit List". As you see, names of Members who voted is not kept confidential. We agree that "how a Member voted" should remain confidential. As you know, I proposed a procedure for the Board to supply me with copies of ballots, where confidentiality is maintained, but to date no response was received.

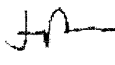
Election Trust Main Post Office Box 1889 Harrisburg, PA 17105 T: 401-462-2704 F: 401-461-1417 www.election-trust.com	Results Report Client: Raymond Wedlake Election: WWOA Dissolution Balloting Date: 09/23/16 Signed: 	
COPY SENT VIA EMAIL		
TO: Raymond Wedlake 703 Creekview Drive Greenville, SC 29607	John Bodin General Manager	
The following reflects Election Trust's Certified Final Result Report for Raymond Wedlake representing the WOODINGTON HOMEOWNERS ASSOCIATION, INC. reflecting the tabulation of seven (7) paper ballots received via the United States Postal Service between September 2 and September 17, 2016, all of which featured the QUESTION: <i>Being a dues paying member in good standing, do you vote to DISSOLVE "WOODINGTON HOMEOWNERS ASSOCIATION, INC."</i> YES NO		
A. Eligible Members Mailed Paper Ballots:	Total Unknown	
B. Paper Ballots Returned As Undeliverable:	Unknown	
C. Total Paper Ballots Successfully Re-Mailed:	Unknown	
D. Total Paper Ballots Presumed Received:	Unknown	
Total Paper Ballots Returned: 7		
* Total Invalid Paper Ballots Returned: 0		
Total Valid Paper Ballots Counted: 7		
* Note: See Voter Credit List Below		
ANSWER TO QUESTION (see above)	VOTES	
YES	4	
NO	3	
VOTER CREDIT LIST		
Mr. & Mrs. Raymond Wedlake	703 Creekview Drive	Greenville, SC 29607
Mr. & Mrs. James Wiles	203 Kristen Way	Greenville, SC 29607
Mrs. Jenice House	201 Kristen Way	Greenville, SC 29607
Mr. & Mrs. Mary Taylor	301 Woodington Drive	Greenville, SC 29607
Mr. & Mrs. Tom Thomas	10 Southfield Drive	Greenville, SC 29607
Mr. & Mrs. Mike Keels	103 Woodside Crossing	Greenville, SC 29607
Mr. & Mrs. Tom DiPresti	102 Woodside Crossing	Greenville, SC 29607

FIGURE 5 - South Carolina Lawyer's Oath

Columbia, South Carolina
October 22, 2003

Lawyer's Oath

I do solemnly swear (or affirm) that:

I am duly qualified, according to the Constitution of this State, to exercise the duties of the office to which I have been appointed, and that I will, to the best of my ability, discharge those duties and will preserve, protect and defend the Constitution of this State and of the United States;

I will maintain the respect and courtesy due to courts of justice, judicial officers, and those who assist them;

To my clients, I pledge faithfulness, competence, diligence, good judgment and prompt communication;

To opposing parties and their counsel, I pledge fairness, integrity, and civility, not only in court, but also in all written and oral communications;

I will not pursue or maintain any suit or proceeding which appears to me to be unjust nor maintain any defenses except those I believe to be honestly debatable under the law of the land, but this obligation shall not prevent me from defending a person charged with a crime;

I will employ for the purpose of maintaining the causes confided to me only such means as are consistent with trust and honor and the principles of professionalism, and will never seek to mislead an opposing party, the judge or jury by a false statement of fact or law;

I will respect and preserve inviolate the confidences of my clients, and will accept no compensation in connection with a client's business except from the client or with the client's knowledge and approval;

I will maintain the dignity of the legal system and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged;

I will assist the defenseless or oppressed by ensuring that justice is available to all citizens and will not delay any person's cause for profit or malice;

[So help me God.]

FIGURE 6 - "Exhibit C" to Affidavit from Public Index, July 12, 2019

EXHIBIT C - Request for an Updated Member List February 15, 2019

Member List Request - New Neighbors on Creekview Drive 021519

cndesteve@gmail.com, cwedwards2018@gmail.com, woodingtonhoa@gmail.com, woodingtonvp@gmail.com

Woodington Board:

Please provide an updated Member list to me. If you are not yet informed, I had occasion to meet new neighbors on Creekview Drive:

Belk Jason & Annagrace 603 Creekview Drive

Thanks in advance!

Cheers wedlakera@mail.com
Support "wilderness" - conserve nature !
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GO ORANGE - Syracuse University ORANGE !!
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FIGURE 5 - No Response to Plaintiff was Given

Motion for Re-Hearing + ADR Compel 111219
emily@campbellteague.com

RE: 2019-CP-23-00269 (Stilwell)

Dear Ms. O'Brian:

Shall we both agree to submit a Motion to request a new Hearing, based upon what I think is a mutually recognized need for a re-hearing (as in fact you proposed to Judge Stilwell many days ago)? Did I understand we also agreed that the idea of the Board being "immune" was incorrect?

As you may be aware, November 13, 2019, marks 300 days from the filing of my case. At any time after tomorrow, unless I hear immediate feedback from you, I will feel free to move for "ADR Compel". Please let me receive your thoughts very soon.

Thank you.

Cheers wedlakera@mail.com
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FIGURE 6 - Counsel was Informed of Intent to Request a New Hearing

From: "Ray Wedlake" <wedlakera@mail.com> [excerpted]

To: emily@campbellteague.com

Subject: Re: Motion for Re-Hearing + ADR Compel

Date: Wed, 13 Nov 2019 12:59:57

Dear Ms. O'Brian:

Thank you for comments. I am unhappy simply to "wait".

OK, so I will probably go ahead and file a Motion requesting a new Hearing. Plus, since you did not comment, I will draft a Motion for "ADR Compel".

Thank you once again.

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

Raymond A. Wedlake, as a Member of
Woodington Homeowners' Association, Inc.)

Plaintiff (*Pro Se*),)

vs.)

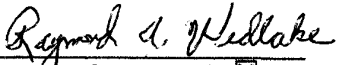
Christopher Edwards, Charles Koshis,
Denis Esteve, Michael Keels, and William Craigo
in their capacity as Board of Directors of
Woodington Homeowners' Association, Inc.)

Defendants.)

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

CASE NO.: 2019-CP-00269

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

Plaintiff's Attorney: <u>[Pro Se], Bar No.</u> Address: <u>703 Creekview Drive</u> <u>Greenville, SC 29607</u> Phone: <u>864-254-9262</u> Fax: _____ E-mail: <u>rsd@kerryjones.com</u> Other: _____	Defendant's Attorney: <u>Emily O'Brian, Bar No. 101824</u> Address: <u>Campbell Teague LLC</u> <u>16 W. North Street</u> <u>Greenville, SC 29601</u> Phone: <u>864-326-4186</u> Fax: _____ E-mail: <u>emily@campbellteague.com</u> Other: _____
☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) ☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) ☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information Nature of Motion: Motion for a New Hearing on Defendants' Motion for Summary Judgment and to Extend ADR Estimated Time Needed: <u>30 min.</u> Court Reporter Needed: ☒ YES ☐ NO	
SECTION II: Motion/Order Type ☒ Written motion attached ☐ Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.  _____ Signature of Attorney for ☒ Plaintiff ☐ Defendant Date submitted <u>November 18, 2019</u>	
SECTION III: Motion Fee ☒ PAID - AMOUNT: \$ <u>25</u> ☐ EXEMPT: (check reason) ☐ Rule to Show Cause in Child or Spousal Support ☐ Domestic Abuse or Abuse and Neglect ☐ Indigent Status ☐ State Agency v. Indigent Party ☐ Sexually Violent Predator Act ☐ Post-Conviction Relief ☐ Motion for Stay in Bankruptcy ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP) ☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ ☐ Other: _____	
JUDGE'S SECTION ☐ Motion Fee to be paid upon filing of the attached order. ☐ Other: _____	JUDGE CODE _____ Date: _____

CLERK'S VERIFICATION

Collected by: DS Date Filed: _____
☒ MOTION FEE COLLECTED: \$ 25.00 #133925
☐ CONTESTED - AMOUNT DUE: \$ _____

SCCA 233 (11/2003)

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Raymond A. Wedlake, as a Member of
Woodington Homeowners' Association, Inc.

Plaintiff (*Pro Se*)

vs.

Christopher Edwards, Charles Koshis,
Denis Esteve, Michael Keels, and William Craigo
in their capacity as Board of Directors of
Woodington Homeowners' Association, Inc.

Defendants

)
) **IN THE COURT OF COMMON PLEAS**

)
) **THIRTEENTH JUDICIAL CIRCUIT**

) Civil Case No.: 2019-CP-23-00269

)
) **MOTION TO COMPEL**

) **ADR MEDIATION**

) **AND REQUESTING**

) **IMPOSITION OF SANCTIONS**
)
)

FILED
CLERK OF COURT
PAID
2019 NOV 18 AM 11:28

COMES NOW Raymond A. Wedlake, Plaintiff (*Pro Se*), who respectfully requests the Court to compel “Alternative Dispute Resolution” (ADR), and to consider sanctions against Defendants, for reasons that follow.

1. Plaintiff moves the Court to compel ADR mediation pursuant Rule 5(e) and (f) of “South Carolina Rules ADR” (SCRADR):

(e) Motion to Defer. A party may file a motion to defer an ADR conference for case specific reasons. ...

(f) Deadline for the ADR Conference in Circuit Court. The ADR conference shall be held on or before three hundred (300) days from the date of the filing of the action. The case shall not be on the circuit court trial roster until a Proof of ADR is filed.

since no “Motion to Defer” has been granted, and 300 days from the date of the filing of the action was observed on November 13, 2019, as Plaintiff informed Defense Counsel (Counsel) on November 12, 2019 (Exhibit 1).

2. Plaintiff moves the Court to consider sanctions pursuant to Rule 10(b), SCRADR:

(b) Sanctions. If any person or entity subject to the ADR Rules violates any provision of the ADR Rules without good cause, the court may, on its own motion or motion by any party, impose upon that party, person or entity, any lawful sanctions, including, but not limited to, the payment of attorney's fees, neutral's fees, and expenses incurred by persons attending the conference; contempt; and any other sanction authorized by Rule 37(b), SCRCP.

due to violation of the deadline date provision, which Plaintiff believes was violated by Counsel with full knowledge of such violation.

3. Defendants had full knowledge of pending-ADR-deadline date as indicated by their September 27, 2019, "Motion for Summary Judgment and to Extend ADR Deadline" as found in the Public Index, where no deadline extension was granted in a Hearing on this Motion.

4. On May 31, 2019, Counsel was informed of a Mediator who was available in June (Exhibit 2).

5. On June 7, 2019, Counsel was asked to explain why mediation should not happen, but no explanation was given (Exhibit 3).

6. On June 25, 2019, Counsel was asked to schedule mediation within two weeks, and also to: "Kindly explain rationale, if negative answers may be forthcoming.", but they did not reply (Exhibit 4).

7. On June 30, 2019, the South Carolina Lawyer's Oath (Exhibit 5) was cited to Counsel, and they were asked to: "... verify Campbell Teague has duties, correspondingly ...", but Counsel did not reply (Exhibit 6).

8. On July 16, 2019, Counsel was informed of a mediation date of August 15, and that mediation was a Court requirement, but Counsel did not reply (Exhibit 7).

9. On August 5, 2019, Counsel was asked to suggest an alternate date for mediation, after rejecting an August 15 date, but they did not reply (Exhibit 8).
10. On August 13, 2019, Counsel was informed of possible-September-mediation dates, but they did not reply (Exhibit 9).
11. On August 14, 2019, Counsel was informed of possible-October-mediation dates, but they did not reply (Exhibit 10).
12. A message from Counsel of May 30, 2019, verified availability and intent to schedule mediation in July and [or] August (Exhibit 11).
13. A message from Counsel of June 6, 2019, verified availability and intent to get mediation scheduled for August or September (Exhibit 11).
14. A message from Counsel of July 1, 2019, verified intent to look at mediation scheduled for August or September (Exhibit 11).
15. Counsel reneged from their stated intent to schedule timely mediation.
16. Denial of mediation was done after Counsel misled Plaintiff (Exhibit 11), which Plaintiff believes is a violation of the South Carolina Lawyer's Oath (Exhibit 5) which shows (emphasis added):

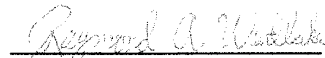
“To opposing parties and their counsel, I pledge **fairness, integrity, and civility**, not only in court, but also in all **written** and oral **communications**; [and]

I will employ for the purpose of maintaining the causes confided to me only such means as are consistent with **trust and honor** and the principles of professionalism, and will **never seek to mislead** an opposing party, the judge or jury by a false statement of fact or law;

THEREFORE, for these reasons and such others as may be advanced at any hearing on this Motion, Plaintiff respectfully prays that ADR Mediation be compelled, and for recognition that sanctions are appropriate to impose against Defendants.

Dated this 15th day of November, 2019.

Respectfully Submitted,



Raymond A. Wedlake, Plaintiff (*Pro Se*)
703 Creekview Drive
Greenville, SC 29607
864-254-9262 wedlakera@mail.com

EXHIBIT 1 - Notice to Counsel of ADR Deadline for November 13, 2019

Motion for Re-Hearing + ADR Compel 111219 [emphasis added]
emily@campbellteague.com

RE: 2019-CP-23-00269 (Stilwell)

Dear Ms. O'Brian:

Shall we both agree to submit a Motion to request a new Hearing, based upon what I think is a mutually recognized need for a re-hearing (as in fact you proposed to Judge Stilwell many days ago)? Did I understand we also agreed that the idea of the Board being "immune" was incorrect?

As you may be aware, **November 13, 2019**, marks 300 days from the filing of my case. At any time after tomorrow, unless I hear immediate feedback from you, I will feel free to move for "ADR Compel". Please let me receive your thoughts very soon.

Thank you.

Cheers wedlakera@mail.com
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EXHIBIT 2 - Mediator L.K. Wood is Available in July

Potential Mediator Larry K. Wood 053119 [emphasis added]
kathi@campbellteague.com
larrywoodlawfirm@gmail.com

RE: 2019-CP-23-00269

Dear Ms. Hindman:

Thank you for comments about potential for mediation.

A moment ago, I spoke with:

Wood, Larry K., Mediator
(864) 675-0045
larrywoodlawfirm@gmail.com
PO Box 778
Mauldin, SC 29662-0778

who is **available**, upon your concurrence, **after June 15, 2019**.
Of course, many details will need to be provided to Mr. Wood
if, for us, he is mutually agreeable as a Mediator.

If we can agree to mediate, I will be asking the Clerk
to defer scheduling on my "Motion for Summary Judgment"
until sometime after mediation. This request would also
need your concurrence.

Thank you once again.

Cheers wedlakera@mail.com
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EXHIBIT 3 - ? Cogent Rationale Why Mediation Should Not Happen ?

Please Provide Rationale for Deferring Mediation 060719 [emphasis added]

kathi@campbellteague.com

george@campbellteague.com, jordan@campbellteague.com

Dear Ms. Hindman:

Thank you for your reply of June 6, 2019, where you
suggest deferring mediation until August or September.

Please be informed that I prefer for mediation to be
run and controlled by a Mediator, not by a set of attorneys.
Have we decided upon Mr. Wood as our mediator? May I request
that attorneys participate in mediation, if at all, as
"silent observers"?

Thus, "everyone's availability" is academic. I sincerely
hope that Defendants will **decide to mediate with me as soon
as possible** ! Being retired, generally I have unrestricted
availability. **Should you have cogent rationale why mediation
should not happen, or cannot happen, within a few weeks would
you make it known, please?**

Thank you once again.

Cheers wedlakera@mail.com
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EXHIBIT 4 - Immediate Mediation Would Be Helpful [excerpted, emphasis added]

Thank You - Immediate Mediation Would Be Helpful 062519

kathi@campbellteague.com

george@campbellteague.com, jordan@campbellteague.com, emily@campbellteague.com

RE: 2019CP2300269

Dear Ms. Hindman:

In another recent case, **mediation happened** before the Court's imposed deadline date, and that **case was settled**. The ADR Coordinator verified recently, that although an "ADR Workflow" is not listed for this case, that notice of required mediation will be sent, on or around the date of October 14, 2019 (lack of the workflow is a problem with the Court's automatic system, as this is a "Pro Se" case).

Settlement would not have resulted without mediation. It would be very **helpful to schedule mediation** with this case, so a settlement might be realized. Please recall that during mediation, the mediator should control, and attorneys should remain "silent observers" ! Additionally, mediation rules do not allow other, third parties, who do not participate in mediation from influencing its outcome after an agreement is reached during mediation meetings.

Please answer at this time:

- 1) Is Larry K. Wood an acceptable mediator?
- 2) **Can mediation be scheduled within the next two weeks?**
(the only required parties are Defendants,
unavailability of counsel is an in valid
reason to delay scheduling mediation)

Kindly explain rationale, if negative answers may be forthcoming. Please plan to supply an overview of rationale before close of business on Friday, June 28, 2019, with full rationale being supplied before Tuesday, July 2, 2019.

Thank you once again!

Cheers wedlakera@mail.com
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EXHIBIT 5 - South Carolina Lawyer's Oath

Columbia, South Carolina
October 22, 2003

Lawyer's Oath

I do solemnly swear (or affirm) that:

I am duly qualified, according to the Constitution of this State, to exercise the duties of the office to which I have been appointed, and that I will, to the best of my ability, discharge those duties and will preserve, protect and defend the Constitution of this State and of the United States;

I will maintain the respect and courtesy due to courts of justice, judicial officers, and those who assist them;

To my clients, I pledge faithfulness, competence, diligence, good judgment and prompt communication;

To opposing parties and their counsel, I pledge fairness, integrity, and civility, not only in court, but also in all written and oral communications;

I will not pursue or maintain any suit or proceeding which appears to me to be unjust nor maintain any defenses except those I believe to be honestly debatable under the law of the land, but this obligation shall not prevent me from defending a person charged with a crime;

I will employ for the purpose of maintaining the causes confided to me only such means as are consistent with trust and honor and the principles of professionalism, and will never seek to mislead an opposing party, the judge or jury by a false statement of fact or law;

I will respect and preserve inviolate the confidences of my clients, and will accept no compensation in connection with a client's business except from the client or with the client's knowledge and approval;

I will maintain the dignity of the legal system and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged;

I will assist the defenseless or oppressed by ensuring that justice is available to all citizens and will not delay any person's cause for profit or malice;

[So help me God.]

EXHIBIT 6 - Lawyer's Oath, plus Other Duties

RE: Please Provide Rationale for Deferring Mediation 063019

kathi@campbellteague.com

george@campbellteague.com, jordan@campbellteague.com, emily@campbellteague.com

RE: 2019CP2300269

Dear Ms. Hindman:

On June 7, 2019 (see "Included Messages", below), I requested answers [emphasis added]:

"... Have we **DECIDED UPON MR. WOOD** as our mediator? ..."

"... Should you have cogent **RATIONALE WHY MEDIATION** should not happen, or **CANNOT HAPPEN**, within a few weeks would you **MAKE IT KNOWN**, please? ..."

Again on June 25 (see: "Original Message", below), I reiterated:

"... 1) Is **LARRY K. WOOD** an **ACCEPTABLE** mediator?

2) Can **MEDIATION BE SCHEDULED** within the **NEXT TWO WEEKS** ?

Kindly **EXPLAIN RATIONALE**, if negative answers may be forthcoming. ...".

It is now July 1 (24 days later), without answers to these questions being given.

An appendix contains the "Lawyer's Oath" (Columbia, South Carolina, October 22, 2003), where my understanding is all practicing law in our state affirm:

"... To opposing parties and their counsel, I pledge fairness, integrity, and civility, not only in court, but also in all written and oral communications; ..."

When civility is lacking, this pledge is violated! At this time, please also verify Campbell Teague has duties, correspondingly:

- a) to acknowledge my efforts and requests to Mediate;
- b) to communicate, and to act in good faith;
- c) to communicate my mediation requests to your clients.

Also recall I made known to you a recent case was settled as a result of a mediated agreement. May I expect your reply with "... full rationale ... before Tuesday, July 2, 2019." ? Thank you.

Cheers wedlakera@mail.com
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EXHIBIT 7 - Mediation as Early as 15 Aug [emphasis added]

Mr. Wood is Available for Mediation as Early as 15 Aug 071619
emily@campbellteague.com
george@campbellteague.com, jordan@campbellteague.com, kathi@campbellteague.com,
larrywoodlawfirm@gmail.com

RE: 2019-CP-23-00269

Dear Ms. O'Brian:

Thank you for confirmation that Mr. Larry Wood is an acceptable Mediator. In brief phone discussion with him, he is available to schedule **mediation on August 15, 2019.**

Please confirm this date is good for mediation.

This request anticipates a future after the July 22 Hearing on my "Motion for Summary Judgment", assuming that the Court may not grant it. If true, we need to continue to prepare for trial, where Campbell Teague should be fully informed that the **Court will require mediation before trial.**

Per Mr. Wood's request, names and addresses are appended.

Thank you for confirmation of mediation on August 15.

Cheers wedlakera@mail.com
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EXHIBIT 8 - ? Suggestion for an Alternate Date for Mediation ?

From: "Ray Wedlake" <wedlakera@mail.com>

To: emily@campbellteague.com

Cc: larrywoodlawfirm@gmail.com, george@campbellteague.com, jordan@campbellteague.com,
kathi@campbellteague.com

Subject: RE: Mr. Wood is Available for Mediation as Early as 15 Aug

Date: Mon, 5 Aug 2019 21:51:12

Dear Ms. O'Brian:

Thank you for a reply to inform Mr. Wood of Aug 15 rejection.

However, you made no suggestion for an alternate date
for mediation? May I ask you, please, to do so?

EXHIBIT 9 - Possible Mediator for September Mediation

Possible Mediator for Your Consideration - McConoughey 081319
kathi@campbellteague.com
contact@mcconougheylawfirm.com, emily@campbellteague.com

RE: 2019-CP-23-00269

Dear Ms. Hindman:

Please recall that Campbell Teague withdrew from a mediation session scheduled for August 15.

Please consider Ms. McConoughey as a possible Mediator. Can we agree, and schedule one of her available dates?

Thank you for a reply.

Cheers wedlakera@mail.com
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----- Forwarded Message -----

From: <contact@mcconougheylawfirm.com>
To: "Ray Wedlake" <wedlakera@mail.com>
Subject: RE: Mediator Needed
Date: Mon, 12 Aug 2019 17:07:13

Mr. Wedlake,

I am available for mediation on the following dates:

September 11
September 19
September 25

Thank you,

Rachel McConoughey

Rachel G. McConoughey, Esq.
McConoughey Law Firm, LLC
505 Pettigru Street
Greenville, SC 29601
P (843) 425-3006
F (843) 872-0545
Contact@McConougheyLawFirm.com

www.McConougheyLawFirm.com

EXHIBIT 10 - Possible Mediator for October Mediation

Possible Mediator for Your Consideration - Hurley 081419
kathi@campbellteague.com
SHurley@TurnerPadget.com, emily@campbellteague.com

RE: 2019-CP-23-00269

Dear Ms. Hindman:

Please recall that Campbell Teague withdrew from a mediation session scheduled for August 15.

Please consider Ms. Hurley as a possible Mediator.
Can we agree, and schedule one of her available dates?

Thank you for a reply.

Cheers wedlakera@mail.com
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----- Forwarded Message -----

From: "Hurley, Sarah D." <SHurley@TurnerPadget.com>
To: Ray Wedlake <wedlakera@mail.com>
Subject: RE: Mediator Needed
Date: Wed, 14 Aug 2019 12:30:40

Mr. Wedlake,

Thank you for contacting me for serving as a mediator in your case. Right now, my calendar is open during the weeks of October 14 and 21. Please let me know if all parties involved are in agreement to hire me as mediator, and if so, we can work on firming up the specific date.

Thank you again for reaching out to me.

Sarah

Sarah Day Hurley

Attorney
PO Box 1509 | Greenville, SC 29602
200 East Broad Street, Suite 250 | Greenville, SC 29601
864-552-4651 | Fax 864-282-5965
shurley@turnerpadget.com
Bio | vCard | Location

EXHIBIT 11 - Replies Related to ADR Mediation (emphasis added)

Summary of Contents:

30 May 2019, Hindman to Wedlake, "Re: ... Interrogatories ... Mediation

6 Jun 2019, Hindman to Wedlake, "RE: Potential Mediator Larry K. Wood "

1 Jul 2019, O'Brian to Wedlake, "RE: Please Provide Rationale for Deferring Mediation "

Date: Thu, 30 May 2019 13:47:50

From: Kathi Hindman <kathi@campbellteague.com>

To: Ray Wedlake <wedlakera@mail.com>

Cc: george@campbellteague.com, Jordan Teague <jordan@campbellteague.com>

Subject: Re: ... Interrogatories ... Mediation

Good afternoon Mr. Wedlake!

I am happy to take the reins on scheduling mediation for this case. Who is the mediator you mentioned in your last email? We also have a couple mediators that may be available, depending on what dates work best for all parties.

Please let me know the name of the mediator you mentioned and what dates you would be available in July and August.

Thank you!

Kathi Hindman
Paralegal
Campbell Teague LLC

Original Message

Date: Thu, 6 Jun 2019 14:24:32

From: Kathi Hindman <kathi@campbellteague.com>

To: Ray Wedlake <wedlakera@mail.com>

Cc: George Campbell <george@campbellteague.com>, Jordan Teague <jordan@campbellteague.com>

Subject: RE: Potential Mediator Larry K. Wood

Good afternoon Mr. Wedlake,

We can work on getting a mediation scheduled for August or September, subject to everyone's availability. Please let me know dates you are available. I will reach out to our clients to get their availability as well.

Thank you,

Kathi Hindman
Paralegal
Campbell Teague LLC

Original Message

Date: Mon, 1 Jul 2019 17:14:54
From: emily@campbellteague.com
To: Ray Wedlake <wedlakera@mail.com>
Cc: George Campbell <george@campbellteague.com>, Jordan Teague
<jordan@campbellteague.com>, Kathi Hindman <kathi@campbellteague.com>
Subject: RE: Please Provide Rationale for Deferring Mediation

Mr. Wedlake,

Attached please find discovery requests to you in this matter.

Our clients are not prepared to mediate at this time, in part given the need for these completed discovery requests. As previously communicated to you, we are glad to look at **dates for mediation in August or September**. Larry Wood is acceptable to us.

Campbell Teague LLC
Emily O'Brian, Esq.
16 W North St Greenville SC 29601
864.326.0597

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

Raymond A. Wedlake, as a Member of
Woodington Homeowners' Association, Inc.)

Plaintiff (*Pro Se*),)

vs.)

Christopher Edwards, Charles Koshis,
Denis Esteve, Michael Keels, and William Craig
in their capacity as Board of Directors of
Woodington Homeowners' Association, Inc.)

Defendants.)

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

CASE NO.: 2019-CP-00269

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

Plaintiff's Attorney: <u>[Pro Se]</u> , Bar No. _____ Address: <u>703 Creekview Drive</u> <u>Greenville, SC 29607</u> Phone: <u>864-254-9262</u> Fax: _____ E-mail: _____ Other: _____		Defendant's Attorney: <u>Emily O'Brian</u> , Bar No. <u>101824</u> Address: <u>Campbell Teague LLC</u> <u>16 W. North Street</u> <u>Greenville, SC 29601</u> Phone: <u>864-326-4186</u> Fax: _____ E-mail: _____ Other: _____	
☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) ☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) ☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)			
SECTION I: Hearing Information Nature of Motion: Motion to Compel ADR Mediation and Requesting Imposition of Sanctions Estimated Time Needed: <u>30 min.</u> Court Reporter Needed: ☒ YES ☐ NO			
SECTION II: Motion/Order Type ☒ Written motion attached ☐ Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.  _____ Signature of Attorney for ☒ Plaintiff / ☐ Defendant November 18, 2019 Date submitted			
SECTION III: Motion Fee ☒ PAID - AMOUNT: \$ <u>25</u> ☐ EXEMPT: (check reason) ☐ Rule to Show Cause in Child or Spousal Support ☐ Domestic Abuse or Abuse and Neglect ☐ Indigent Status ☐ State Agency v. Indigent Party ☐ Sexually Violent Predator Act ☐ Post-Conviction Relief ☐ Motion for Stay in Bankruptcy ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCF) ☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ ☐ Other: _____			
JUDGE'S SECTION ☐ Motion Fee to be paid upon filing of the attached order. ☐ Other: _____		JUDGE CODE _____ Date: _____	

CLERK'S VERIFICATION

Collected by: DN Date Filed: _____
☒ MOTION FEE COLLECTED: \$ 25.00 # 733918 Raymond A. Wedlake
☐ CONTESTED - AMOUNT DUE: \$ _____

SCCA 233 (11/2003)

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	
	)	THIRTEENTH JUDICIAL CIRCUIT
Raymond A. Wedlake, as a Member of	)	
Woodington Homeowners' Association, Inc.	)	Civil Case No. 2019-CP-23-00269
	)	
Plaintiff (<i>Pro Se</i>)	)	MEMORANDUM IN OPPOSITION TO
	)	
vs.	)	MOTION TO REVIVE EMERGENCY
	)	
Christopher Edwards, Charles Koshis,	)	MOTION FOR IMMEDIATE
Denis Esteve, Michael Keels, and William Craigo	)	
in their capacity as Board of Directors of	)	INJUNCTION AND PROTECTIVE
Woodington Homeowners' Association, Inc.	)	
	)	ORDER; MOTION TO QUASH
Defendants	)	

COMES NOW Raymond A. Wedlake, Plaintiff (*Pro Se*), who respectfully submits this
“Memorandum in Opposition ...” to the Court as captioned, stating as follows.

OVERVIEW SUMMARY, BRIEFLY

O1. This case is about continuing efforts by Plaintiff to restore proper Board Governance by the Board of Directors (Board) of the Woodington Homeowners' Association, Inc.(WHOA), specifically to obtain information from its members (Members), associated with following Plaintiff's desire to improve WHOA, and to bring benefits to its Members.

O1a) Plaintiff seeks information about who voted, as well as many other pieces of information which Defendants have withheld from Plaintiff. Plaintiff has asked the Court to use its discretion, since Plaintiff is a litigant, to confirm Plaintiff may know who voted – but **not** how they voted - and to receive other information which is **mandated by law** that a Board must give to a Member upon request;

O1b) Defendants seek to hide the fact that a majority of Members did NOT vote "FOR" by returning Ballot 1 nor Ballot 2 before November 9, 2018, the deadline when they were due;

O1c) Defendants seek to stop proper-discovery inquiry by Plaintiff by having the Court “gag Plaintiff”, and to deny Plaintiff the right to legitimate discovery, where Plaintiff has used proper methodology for discovery, in accordance with Rule 30(a), SCRCF; see the "Notice of Deposition" as attached to Defendants' “Motion to Revive Emergency Motion for Immediate Injunction and Protective Order; Motion to Quash” (Motion) as part of Exhibit A.

O2. Defendants' Motion is premature because:

O2a) Plaintiff previously filed, prior to issuance of an Order, a “Motion for a New Hearing on Defendants' Motion for Summary Judgment and to Extend ADR Deadline” (NewH), so no final order exists;

O2b) Plaintiff’s position is that the case remains open, and Plaintiff’s rights to discovery pursuant to Rule 30(a), SCRCF remain intact unless and until a final judgment is rendered, including any additional-time period for NewH or other Motions related to the current case, as well as Reconsideration or Appeal.

O3. In an October 28, 2019 Hearing on Defendants' “Motion for Summary Judgment and to Extend ADR Deadline”, the Honorable Judge Robin Stilwell suggested to Defendants that they probably remain subject to Plaintiff's continuing discovery requests, and that they may be better served to dismiss the lawsuit altogether, where such suggestion has been ignored with the bringing of Motion.

O4. Plaintiff is not alone; several Members voluntarily returned their written statements, confirming they did not return ballots and did not understand, nor want, the Board to cast votes in their name in favor of November 2018 Ballot 1 nor Ballot 2 (Exhibit 1).

O5. Statements to date suggest Defendants do not represent a majority of Members, which Plaintiff intends to continue to gather and to show, thus proving to the Court that Plaintiff represents the majority opinion.

O6. Defendants want to continue to be able to hide Plaintiff's representation of a majority of Members, thus misleading and denying the truth of the matter from Court; Plaintiff most probably represents the MAJORITY, which will become proven in conjunction with **DENIAL** of Motion.

MORE DETAILED REVIEW OF PRIOR MEMORANDUM IN OPPOSITION

Plaintiff includes by reference his “Memorandum in Opposition ...” filed in the Public Index on October 18, 2019, and elects to reiterate important points from its content, where several were:

A) Plaintiff cannot continue with his quest to improve WHOA, nor to bring improvements to Members, without knowledge of requested information which Defendants have not provided.

B) In violation of law, Defendants have not provided the “membership list” as requested by Plaintiff, where this lawbreaking stands by itself as rationale to annul Defendants' Motion, since the “Nonprofit Corporation Act of 1994” (NPCA) mandates that a membership list must be provided on request:

ARTICLE 16

Records and Reports

Subarticle A.

Records

SECTION 33311602. Inspection of records by members.

(b) Subject to subsection (e), a member is entitled to inspect and copy ...

(3) subject to Section 33311605, the membership list.

C) **Criteria for Seeking Emergency Injunction Not Met.** Defendants have not made any attempt, nor shown any evidence to establish any of three necessary prerequisites: harm, succeed on the merits, and inadequate remedy at law, which would allow granting of an injunction; Plaintiff contends Defendants have failed relative to all three prerequisites.

D) *Peek v. Spartanburg Reg'l Healthcare Sys.*, 367 S.C. at 455, 626 S.E.2d at 36-37; the purpose of an injunction is to preserve the status quo and prevent possible irreparable injury to a party pending litigation. *Id.*; in addition, any “balance the equities” would normally be construed to favor Plaintiff.

E) **Defendants would suffer no harm if the injunction is not granted.**

F) **Defendants have not and cannot show they will likely succeed on the merits of the [ir Counterclaim] litigation.** Factually, in a Hearing of October 28, 2019 seeking Summary Judgment, their “Motion for Frivolous Sanctions” was **DENIED**; this denial suggests no possibility of success for their continued litigation.

G) **An adequate remedy at law is available.** In a similar request for injunction (2019-CP-23-01501) against a Board, recently brought by Plaintiff, Judge Gravely's denial of such request was based upon the fact that some other “remedy at law” is never absent, and can always be sought as an adequate remedy.

H) **Defendants' portrayal of the facts is wholly inaccurate and misleading.** Plaintiff is **NOT** seeking anything confidential about how Members voted.

Plaintiff at this time also petitions the Court to recognize that Defense Council, with full knowledge of their misrepresentation of Plaintiff's case as has been made known to them in prior pleadings, in violation of the South Carolina Lawyer's Oath which shows:

“I will employ for the purpose of maintaining the causes confided to me only such means as are consistent with trust and honor and the principles of professionalism, and will never seek to mislead an opposing party, the judge or jury by a false statement of fact or law;”

continues with bringing false claims with intent to “mislead”, which they have sworn against so doing.

DETAILED, ITEMIZED REBUTTAL OF MOTION PARAGRAPHS

Motion paragraphs as below are denoted, for example: “M1”.

M1. Plaintiff filed this lawsuit seeking a declaratory judgment regarding whether he is legally entitled to the confidential votes of homeowners in the Woodington Homeowners' Association (“HOA”).

1. Rebuttal:

1a) May it please the Court that Plaintiff's Complaint (Complaint) of January 17, 2019, defined the term “List” and showed:

“... specifically a list of those Members who returned ballots (Documents or List) ...

4. Specifically, Plaintiff repeatedly requested the List, and not how such Members voted, as related to ballots to assess to Members, including Plaintiff, a substantial increase in dues, and similarly a one-time assessment (Exhibit 2).

19. On October 5, 2018, Plaintiff asked the Board to return ballots to an independent-third party for certification of vote results ...; very specifically, Plaintiff is not asking for a record of how each Member voted, but rather the List, only (Affidavit, Exhibit 5). ”

where a “Footnote 1” in Motion:

'More specifically, Plaintiff seeks a list of all homeowners in the HOA who opted to allow the Board to vote for them by proxy on a November 2018 ballot (the “List”).'

is stated with intent to mislead, and mistakenly misrepresents the Complaint's-legitimate definition;

1b) Defendants' M1 statement is false because:

1b.1) the Complaint does not seek: “... the confidential votes of homeowners ...”;

1b.2) the legislative intent of the NPCA is clear that Plaintiff is entitled to information requested by the Complaint, as supported by Affidavit and Exhibits, and an additional Affidavit as supported by Exhibits, where Defendants' denial of Plaintiff's requests is unlawful;

1b.3) in particular, Plaintiff's request for a list of Members, which is a mandated provision found in the NPCA, was ignored by Defendants;

1b.4) the additional Affidavit referenced above is dated July 11, 2019, was entered into the Public Index on July 12, with the Clerk electing to title this entry: “Letter/Letter From Raymond A. Wedlake”, where this entry contains all of: letter, certificate of service, the referenced “additional Affidavit”, notarized verification of this Affidavit, and Exhibits A through K; Exhibit I itemizes many informational requests made by Plaintiff which Defendants simply ignored.

M2. On October 3, 2019, Defendants filed an Emergency Motion for Immediate Injunction and Protective Order.

M3. On October 21, 2019, this Court conducted a hearing on said Motion, holding the relief sought in abeyance pending a Motion for Summary Judgment filed by Defendants.

2. Rebuttal: No relief was granted, where the Judge gave no other meaningful comments as to assessment of law related to possibility of injunction.

M4. Defendants' Motion for Summary Judgment was heard and orally granted on October 28, 2019. A final Order granting Defendants Motion for Summary Judgment was granted on November 25, 2019.

3. Rebuttal: Plaintiff was surprised by an Order being issued on November 25:

3a.1) which occurred after Plaintiff's "Motion for a New Hearing on Defendants' Motion for Summary Judgment and to Extend ADR Deadline" (NewH), was entered into the Public Index on November 18, 2019, whose entire contents are included here by reference;

3a.2) with Plaintiff's NewH previously pending, no Order was proper to file, since a Motion for RE-hearing takes precedence and stays the issued Order; indeed, as long as an Order is not final, due to lack of exhaustion of motions and/or final judgment(s) on any appeal(s), any Order must be viewed as in a state of challenge and review;

3a.3) where, Motion is premature since it relies on a ".... final Order granting ...", and further the Honorable Judge Robin B. Stilwell was made aware of Plaintiff's NewH well before issuing his Order, but elected to ignore such notice of a pending motion for a new hearing;

3b) where the Order ignored Plaintiff's showing that an erroneous-legal conclusion

(NewH par.1) led to granting, as supported by NewH par. 10:

'10. On October 30, 2019 (Figure 2), Plaintiff respectfully suggested that His Honor's granting represented an "Apparent Error at Law".'

which was also admitted by Defense Counsel (Counsel) in Figure 1 as attached to NewH:

"... additional information has come to light post-hearing regarding the HOA's tax classification. In particular, although the HOA is a nonprofit, and we believe the HOA is eligible to file for tax classification under 501(c)(3), (6), or (12), the HOA has not made the requisite tax filings at this point."

where NewH par. 11 clarified:

"11. On October 30, 2019 (Figure 2), Plaintiff noted that the "South Carolina Nonprofit Corporation Act of 1994" (NPCA), Section 33-31-834(b) is not applicable to Woodington Homeowners' Association, Inc. (WHOA) with respect to:

'... WHOA is actually more properly categorized as a "Mutual Benefit" -corporation under the "South Carolina Nonprofit Corporation Act" '

which was also clarified on November 1 by Plaintiff (Attachment):

"... Defense Council now concedes Summary Judgment cannot be given based upon 33-31-834(a) "immunity from suit", since WHOA is not a 501(c)(3) organization – 33-31-834(b)(2). ..."

which if true must annul His Honor's granting of Defendants' Motion."

3c) Another legal argument: "wrong party", was faultily applied to conclude granting as supported by NewH, par. 2:

'2. On October 30, 2019 (Figure 2), Plaintiff cited His Honor's granting of Motion, based upon a "wrong party" argument, as contrary to a precedent previously set, where a same "wrong party" claim was dismissed, as ruled by His Honor, himself.'

3d) Summary Judgment cannot be granted, as supported by NewH, par. 4:

'4. Plaintiff moves the Court pursuant to Rule 56(e), SCRC, to recognize: "... that there is a genuine issue for trial. ...", and to schedule a New Hearing to fully understand.'

3e) the Order stated: "... ADR-deadline extension ..." was granted, when no such statement was made in the Hearing, as supported by NewH, par. 5:

"5. A Hearing of October 28, 2019, did not speak to ADR deadline, suspension, and/or extension of deadline, so clarification on this is required, since Plaintiff believes by default an ADR-deadline extension was not granted (Figure 3)."

M5. On November 21, 2019, Defendants were informed by Plaintiff that Plaintiff was serving deposition notices on twelve members of the Woodington Homeowners' Association, accompanied by a subpoena to appear at the deposition, which are attached hereto as Exhibit A.

M6. Plaintiff is clearly circumventing the discovery process by attempting to take the depositions of the HOA members to obtain information the members are not legally obligated to disclose.

4. Rebuttal: Members subpoenaed for deposition are not the clients of Counsel:

4a) Plaintiff believes pursuant to Rule 26, SCRC, he is entitled to seek "discoverable information" from WHOA - his Association – Members, as supported by NewH, par. 8:

"8. On October 29, 2019, it was suggested to Counsel that Plaintiff's discovery would continue (Figure 3), where Counsel has given no rebuttal."

4b) Plaintiff demands evidence substantiating Counsel's vague and ambiguous "circumventing"-false claim which is stated with intent to mislead, where pursuant to Rule 30, SCRC, Members are legally obligated to answer deposition questions.

M7. Plaintiff is continuing to abuse the discovery process in an effort to obtain information. Permitting Plaintiff to engage in such tactics and use the legal system to try to provide legitimacy for his harassing conduct will result in irreparable harm by influencing witness testimony. Further, in a case about whether Plaintiff is entitled to know confidential votes, he cannot use discovery to reveal the substance of those confidential votes. The harm of revealing those votes would also be irreparable.

5. Rebuttal:

5a) Discovery has as its purpose to obtain information;

5b) Plaintiff demands evidence substantiating Counsel's vague and ambiguous “harassing conduct”-false claim which is stated with intent to mislead, where simple and harmless questions as presented in: Exhibit 1 to Defendants' Exhibit A - cannot possibly in any stretch of imagination be construed as designed to influence witness testimony;

5c) Counsel with intent to mislead again misstates: “know confidential votes”, which is not being sought by Plaintiff, and where further no substance of any confidential vote is sought;

5d) Plaintiff demands evidence to substantiate Counsel's vague and ambiguous-false claim, stated with intent to mislead, about: “... harm ... would also be irreparable”, which is unfounded and unsubstantiated, where Plaintiff contends no possibility of harm exists as related to any of his requests for information.

M8. Homeowners have previously reported feeling “bullied,” “harassed,” “threatened” and that Plaintiff’s continuing requests to identify how they voted on a confidential matter is an invasion of privacy. At this point, homeowners are unwilling to testify in a deposition and reveal their confidential votes out of fear of being subject to Plaintiff’s next lawsuit or

being subject to other abusive and harassing backlash from him. Plaintiff has created a climate of fear in his neighborhood through his improper use of the legal system.

6. Rebuttal:

6a) Defendants provide no specifics, nor evidence nor any Affidavit in support of unfounded and unsubstantiated claims regarding the “... reported feeling ...” of any Member, which is brought by Counsel with intent to mislead;

6b) With intent to mislead, Counsel again makes false claim about: “... requests to identify how they voted on a confidential matter is an invasion of privacy”, where Plaintiff demands evidence substantiating such vague and ambiguous claim and contends there is no possibility of any invasion of privacy;

6c) With intent to mislead, Counsel again makes false claim about claims of Member “fear”; suggestion of “... abusive and harassing backlash ...” done or caused by Plaintiff is completely unfounded, and unsubstantiated; Plaintiff demands supporting evidence and Affidavits showing: “... unwilling ... out of fear ...”;

6d) Defendants in their capacity as members of the Board are the responsible party for any “climate of fear” which exists in the neighborhood, as caused by their wrongful attitude which Plaintiff believes is a breach of their fiduciary duty, which has been evidenced by their failure to act with intent to further the best interest for WHOA and to bring benefits to its Members, where this false claim was brought by Counsel with intent to mislead;

6e) Plaintiff's seeking affirmation of US Constitutional Rights for “due process” and for “equal protection of the laws” are both proper uses of the legal system (Exhibit 2);

6f) it is through Defendants' improper use of the legal system, by engaging attorneys to “bring legal wrangling”, instead of seeking to resolve disputed issues within WHOA, that has created the current climate.

6g) without evidence nor Affidavit, all such claims must be recognized as hearsay, and are therefore inadmissible;

M9. This Court must step in and provide protection from such tactics and enjoin Plaintiff's discovery methods.

7. Rebuttal: This Court must step in:

7a) to protect Plaintiff's rights to discovery under Rule 26, SCRCP, particularly to assure protection for discovery by all parties;

7b) to hold Plaintiff's right to discovery as inviolate, pursuant to Rule 26, SCRCP; denial of discovery would be an unwarranted and contrary action.

M10. Additionally, the information that Plaintiff is seeking is irrelevant and thus not within the proper scope of discovery. How these individuals voted does not go to the merits of Defendants' counterclaims.

8. Rebuttal: Plaintiff cites the relevancy of information sought per his Complaint, as supported by Affidavit and Exhibits, as well as an additional Affidavit supported by Exhibits, which is within the “proper scope of discovery” per Rule 26, SCRCP; Plaintiff further contends that denial of Defendants' “Motion for Frivolous Sanctions”-Counterclaim clearly has invalidated any presumed merits; Plaintiff cites again a pending motion: NewH.

M11. Furthermore, as Plaintiff provided no advanced notice for the scheduling of these depositions, counsel for Defendants will be in a date-certain trial in Anderson County on December 3, 2019.

9. Rebuttal: Defendants are represented by a law firm the employs at least five attorneys known to Plaintiff (Campbell, Teague, Brogdon, O'Brian, Cash), plus at least one Paralegal (Hindman), making the fact that one "Counsel" is in trial on December 3 irrelevant; Plaintiff further demands Affidavits from all attorneys showing other commitments on December 3, further noting that since October 29, Counsel ignored Plaintiff's notice that discovery would continue, as supported by NewH, par. 8:

"8. On October 29, 2019, it was suggested to Counsel that Plaintiff's discovery would continue (Figure 3), where Counsel has given no rebuttal."

ADDITIONAL CONSIDERATIONS

10. Defendants' Motion must be denied, as this matter:

10a) is neither ripe, nor appropriate, for an Injunction and Protective Order denying Plaintiff's rights, since Defendants have not shown nor established prerequisites necessary for an injunction to be granted;

10b) shows facts that Defendants have not come close to meeting the criteria to successfully bring their claim for any injunction;

10c) illustrates that any granting of Motion would be a violation of Plaintiff's First Amendment Right to "Freedom of Speech";

10d) intends to curtail Plaintiff's right to communicate with Members, and to engage in "meaningful discovery".

11. Regardless of whether, or not, discovery was commenced:

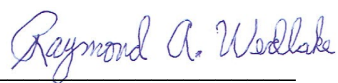
11a) under Rule 26, SCRCF, it would be improper to prohibit Plaintiff from seeking discovery, particularly desired deposition testimony, where quashing Plaintiff's subpoenas would similarly undermine the proven validity of Rule 26, SCRCF, as would staying December-3 depositions;

11b) Plaintiff's rights related to pursuing legitimate Court processes and procedures should be held inviolate, and such rights need to be affirmed;

11c) any such prohibitions granted pursuant to Motion would constitute a violation of Plaintiff's right to due process and equal protection of the laws under the US Constitution (Exhibit 2).

THEREFORE, for all foregoing reasons, Plaintiff prays for this Court to **DENY** Defendants' "Motion to Revive Emergency Motion for Immediate Injunction and Protective Order; Motion to Quash".

Dated this 2nd day of December, 2019.



Raymond A. Wedlake, Plaintiff (*Pro Se*)
703 Creekview Drive
Greenville, SC 29607
wedlakera@mail.com 864-254-9262

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Raymond A. Wedlake, as a Member of
Woodington Homeowners' Association, Inc.

Plaintiff (*Pro Se*)

vs.

Christopher Edwards, Charles Koshis,
Denis Esteve, Michael Keels, and William Craigo
in their capacity as Board of Directors of
Woodington Homeowners' Association, Inc.

Defendants

)
) **IN THE COURT OF COMMON PLEAS**

)
) **THIRTEENTH JUDICIAL CIRCUIT**

) Civil Case No. 2019-CP-23-00269

) **MOTION TO RECONSIDER**

) **ORDER GRANTING**

) **SUMMARY JUDGMENT**

) **AND EXTENDING**

) **ADR DEADLINE**

19 DEC 26 PM 4:09
Paul Wickensimer CDD/SIL/SC

COMES NOW Raymond A. Wedlake, Plaintiff, *Pro Se*, respectfully submitting this
“Motion to Reconsider Order Granting Summary Judgment and Extending ADR Deadline” for
Defendants based upon several errors of law. The “Transcript of Record” from the Hearing of
October 28, 2019 (Transcript) shows many misleading statements made by Defense Counsel
(Counsel), who with full knowledge of their intent to mislead by making false statements,
violated their South Carolina Lawyer's Oath which, in part, says (emphasis added):

I will employ for the purpose of maintaining the causes confided to me
only such means as are consistent with trust and honor and the principles
of professionalism, and **will never seek to mislead** an opposing
party, the judge or jury by **a false statement** of fact or law;

ARGUMENTS

1. It was an error of law for the Judge to enter an Order granting Defendants' motion, based upon a theory presented by Counsel, *i.e.*, that the Board of Directors (Board) of the Woodington Homeowners' Association, Inc. (WHOA) were immune from suit, under South Carolina Code of Laws Section 33-31-834(a). The Board is not immune as clarified under 33-31-834(b)(2).

1a) By reference and in its entirety, Plaintiff includes his "Motion for a New Hearing on Defendants' Motion for Summary Judgment and to Extend ADR Deadline" (Motion), see the Public Index on November 18, 2019, which was filed before the Order was issued. A request for a Hearing with this filing was ignored by the Clerk of Court (Addendum).

1b) No Hearing being scheduled pursuant to Plaintiff's November 18 filing was a surprise to Plaintiff, as it was his understanding that Counsel had previously suggested a New Hearing, where additionally they admitted to errors of law upon which such granting of Summary Judgment was based.

2. Defendants are **not** immune from prosecution, as proposed by Counsel under South Carolina Code Section 33-31-834(a):

2a) see Motion paragraph 1, and Figure 1 as attached to Motion (p. 5, par. 1 as filed in the Public Index), which was made known to the Honorable Judge Robin Stilwell on November 1, 2019 and well before he issued his Order on November 25, 2019, where additionally Motion par. 11 plainly showed (emphasis added):

2a1) 11. On October 30, 2019 (Figure 2), Plaintiff noted that the "South Carolina Nonprofit Corporation Act of 1994" (NPCA), Section **33-31-834(b) is not applicable to Woodington Homeowners' Association, Inc. (WHOA)** with respect to:

'... WHOA is actually more properly categorized as a "Mutual Benefit"-corporation under the "South Carolina Nonprofit Corporation Act" '

where additionally Counsel admits (Figure 1):

"... the HOA is a nonprofit, and we believe the HOA is eligible to file for tax classification under 501(c)(3), (6), or (12), the HOA has not made the requisite tax filings at this point. ..."

which was also clarified on November 1 by Plaintiff (Attachment):

' ... Defense Council now concedes **Summary Judgment cannot be given** based upon 33-31-834(a) "immunity from suit", since **WHOA is not** a 501(c)(3) organization – **33-31-834(b)(2)**. ...'

which if true must annul His Honor's granting of Defendants' Motion. '

2a2) WHOA is eliminated from "immunity" per 33-31-834(a), since 834(b)(2) clarifies 834(a) does **not** apply to WHOA, because WHOA is **not** "... recognized in and exempted from taxation under Federal Income Tax Code Section 501(c)(3), (c)(6), or (c)(12)."; under 33-31-834(b)(2):

(b) Subsection (a) applies to the following:

- (1) electric cooperatives organized under Chapter 49, Title 33;
- (2) not-for-profit corporations, associations, and organizations, as recognized in and exempted from taxation under Federal Income Tax Code Section 501(c)(3), (c)(6), or (c)(12).

2a3) Allegations of: "... willful, wanton conduct or gross negligence ..." were wrongfully ignored as a basis for granting Summary Judgment:

So, what I'm going to do, respectfully, is grant the motion for summary judgment based on the fact that the Defendants are immune from prosecution under 33-31-834. And there's been no allegation of willful, wanton conduct or gross negligence. ... (Transcript p.21, ll. 19-23)

where the “Attachment” to Motion (p. 15, par. 2 as filed in the Public Index), plainly showed (emphasis added):

I believe the Court can also **easily recognize** my case's claim of **unlawful conduct as “negligence”, which annuls immunity**. ... Defense Counsel further admits that WHOA is **not** currently recognized under US-Tax Code as a 501(c)(3) organization. However, as seen in Figure 1, paragraph 2 (emphasis added):

“A mutual-benefit corporation **can be** non-profit or **not-for-profit** in the United States, but it **cannot obtain IRS 501(c)(3) non-profit status** as a charitable organization. ...”

2b) A “wrong party” argument cannot legally apply, since such argument:

2b1) was previously denied by the Honorable Judge Robin Stilwell in a Hearing of January 3, 2018, on a “Motion to Dismiss by Defendants ...” for Case 2017-CP-23-06301; see the Order filed in the Public Index of January 23, 2018, and the motion filed November 6, 2017 which was denied (emphasis added):

These Defendants are **not proper parties** to such claims and Plaintiff has **failed to name proper parties and/or necessary parties** to seek the relief requested.

2b2) was again denied, and other Hearing conjectures were denied, by the South Carolina Court of Appeals on November 8, 2019, Case 2018-001209 (appeal of “06301”, Addendum 2); respondents motion pp. 5-6 showed that several conjectures made in the Hearing of October 28, 2019 are invalid as denied by the COA Order:

... When Appellant initiated this action, the individual Respondents comprised the entire board of directors, and thus possessed the managerial authority of the Association. This action was instituted against Respondents in their capacity as the current Board of Directors of the Association. Notably, Woodington Homeowners’ Association, Inc., the corporate entity itself, was never made a party to this proceeding. Because none of the Respondents are currently serving as directors or officers of the Association, the Respondents no longer individually or

collectively possess the managerial authority of the Association or the decision making capacity of the board of directors for the Association. Likewise, since all of the Respondents are no longer serving as directors or officers, they no longer serve in any corporate capacity. As such, they no longer possess a material interest in the matters alleged by Appellant/Plaintiff, and no longer serve in the capacity in which they were named in this suit (they were named in their capacity as directors).

2b3) was not brought against Plaintiff for other cases with a “same” case caption.

3. The Order stating granting of an extension of ADR deadline was an error of law since it was never presented, *i.e.*, the Transcript shows no mention of granting an extension to ADR deadline. Thus, Plaintiff was denied “due process” of law under the Fourteenth Amendment of the U.S. Constitution, by not being given an opportunity to plead against such extension, since no discussion at the Hearing of October 28, 2019 addressed any aspect of ADR deadline.

4. With knowingly erroneous intent, Counsel once again sought to change from Plaintiff’s- originally-stated definition of “list”

... And [Plaintiff] he's asking for the list, as he describes it, which is a list of homeowners who in a November 2018 ballot, did not return that ballot. (Transcript p. 3, ll. 22-24)

where the proper definition was shown in Plaintiff’s Complaint (Complaint), par. 3, filed on January 17, 2019:

... specifically a list of those Members who returned ballots (Documents or List) ...

5. With knowingly erroneous intent, Counsel makes yet another erroneous claim:

... And has claimed that [Plaintiff] he’s entitled to that [List] under the South Carolina Nonprofit Corporation Act. Nothing in the act entitles him to that. And he’s even acknowledged that in his complaint that nothing in the Nonprofit Corporation Act entitles him to the list. And so for that reason, we move for summary judgment. (Transcript p. 5, ll. 3-9)

where Complaint paragraphs showed:

3. ... based upon the specified arguments below, the “South Carolina Nonprofit Corporation Act of 1994” (NPCA) gives Plaintiff a right to “inspect and copy” such Documents (Exhibit 1), and this Court has the discretion to so permit such inspection and copying, and should do so, pursuant to the NPCA. ;

6. Plaintiff provided Defendants with a statement of “proper purpose”, as required for requests of information not specifically listed in the NPCA. [see also par. 30];

8. In addition, Plaintiff is a “litigant” (Affidavit), as described under Section 33-31-1602(d) of the NPCA, and it is Plaintiff’s position that he is therefore entitled to such information, ...

37. ... essential that the Court recognize that Plaintiff seeks this Court to declare an affirmative Injunction “.. to compel the production of corporate records ..”, specifically the List from November 9, 2018 balloting, as NPCA:

“SECTION 33-31-1602. Inspection of records by members.

(d) This section does not affect:

- (1) the right of a member to inspect records under Section 33-31-720 or, if the member is in litigation with the corporation, to the same extent as any other litigant; or
- (2) the power of a court, independently of this chapter, to compel the production of corporate records for examination.”

since Plaintiff is a litigant per 2017-CP-23-06301, as Appeal 2018-001209.

6. With knowingly erroneous intent, Counsel makes false claim:

... And Plaintiff, quite frankly, wants to know who didn't turn in their ballots and who voted for these assessments. As he states, even in his complaint under his alleged proper purposes in Paragraph 30 in his complaint. (Transcript p. 5, 6; ll. 23-25, 1-2)

where Complaint, par. 30 showed:

30. Regarding the November 9, 2018 set of three ballots, Plaintiff has several proper purposes entitling him to the List, which are:
- 1) certify vote counts;
 - 2) since Plaintiff is a nominee for the 2019 Board, identify Members whose beliefs may be similar to Plaintiff's beliefs, including a belief that fees increases were improper;
 - 3) prove to Defendants that non-returned ballots did not indicate, nor imply nor mean, support for the Board's proxy votes "For"; Plaintiff is unable to contact these non-voting Members without knowing the List;
 - 4) show to Defendants that Plaintiff is already a litigant per 2017-CP-23-06301;
 - 5) identify those Members who may support Plaintiff in subsequent, potential actions to improve WHOA, where information from non-voting Members is needed to inform Defendants about true facts of Member desires.
 - 6) gather support for Plaintiff's Platform as a nominee for the 2019 Board (Affidavit).

7. Counsel confirmed there is a genuine issue, and thus the moving party is **not** entitled to

Summary Judgment:

they're looking as a matter of law whether Mr. Wedlake is entitled to the list under the Nonprofit Corporation Act. (Transcript p. 6, ll. 17-19)

which mandates denial of Summary Judgment pursuant to Rule 56(c), SCRCP (emphasis added):

(c) Motions and Proceedings Thereon. ... The judgment sought shall be rendered ... forthwith if the pleadings ... show that there is **no genuine issue** as to any material fact and that the **moving party is entitled to a judgment as a matter of law**. ...

where contention that the moving party is entitled to a judgment as a matter of law has been disputed as an error of law.

8. With knowingly erroneous intent, Counsel makes false claim:

... As mentioned, in his complaint in Paragraph 23, Mr. Wedlake acknowledges that nothing under the act entitles him to the list or these other documents. (Transcript p. 7, ll. 11-14)

where Complaint par. 23 showed:

23. Plaintiff believes that the proper attitude for Defendants to take is to supply the List as requested, even though not specifically identified as required in the NPCA, if as here, the request has a proper purpose (Affidavit).

9. With knowingly erroneous intent, Counsel continued with their false claim:

... under the law, as a matter of law, that he is not entitled to the relief which he is requested in this lawsuit, that he himself, Mr. Wedlake, knew that he wasn't entitled to this kind of information. (Transcript p. 9, ll. 5-8)

where Plaintiff countered with a statement of a genuine issue which rightfully precludes, and

which mandates, denial of Summary Judgment pursuant to Rule 56(c):

Basically, much of what has been just aired before this court simply is not true. Exaggerations of [S]ituations, utter, total misrepresentation [of] facts. ... However, there were various points made about the Nonprofit Corporation Act, which is the very issue that has been brought to this court [here] where there is a direct dispute of the meaning of the law and [what] it entitles me to have. (Transcript p. 10, ll. 1-3, 11-15)

10. Plaintiff showed a proper-legal basis for his case, which was affirmed by the Court:

... I am just seeking resolution of a question of law, which I believe is an appropriate question to ask the court to interpret disputed aspects of the law.

THE COURT: I don't disagree with that, necessarily. (Transcript p. 15, ll. 3-8)

11. Plaintiff's claim that the Court has law-given discretion, which should have precluded the granting of Summary Judgment, was improperly ignored:

The thing I've cited now in my complaint, as supported by affidavits and exhibits, I believe the court has [law-] given discretion to affirm my request for information. Under the Nonprofit Corporation Act sections 33-31-1602(d) (1) and (d) (2). Primarily, because I am a litigant and I have the same rights, I have the rights according to the law to the same extent as any other litigant. ... (Transcript p. 15-16, ll. 22-25, 1-4)

The Defendants completely ignore item (d) (2) of the NPCA which says:

"The power of the court, independently of this chapter to compel the production of corporate records for examination",

which clearly shows the true: [quote] "legislative intent", [end quote] of the Nonprofit Corporation Act. [And] As spelled out in my verified complaint, it's affidavits and exhibits in support. The legislature inserted a provision in the South Carolina Nonprofit Corporation Act, giving a judge discretion to compel information, even though it may not specifically appear in the Nonprofit Corporation Act as required to be provided. Plaintiff asks the court to consider compelling my requested information in its discretion pursuant to that statute. ... (Transcript p. 16, ll. 10-24)

12. Plaintiff does not believe his request for application of Rule 8(f), SCRCP was acted upon, nor that case law was properly applied, since far more than a "scintilla" of genuine issues were cited:

... The court is asked to recognize Rule 8(f) SCRCP [(f)]:

"Construction of pleadings. All pleadings shall be so construed as to do substantial justice to all parties".

And not to be misled by Defendants opposition [supposition] of improper etiquette. Defendants["] documents show an abundance of genuine issues of material fact. Far more than any scintilla required to withstand summary judgment. (Transcript pp. 17-18, ll. 25, 1-8)

13. NPCA contains no mention of “public policy” in a context as cited by the Court; further, WHOA as a not-for-profit corporation, which is properly categorized as a “Mutual Benefit” corporation under the NPCA, does not seek to make a profit, and thus the concept of protection for Boards as related to: “... churn the wheels of our economy.” does not apply to WHOA so the policy should not have been raised:

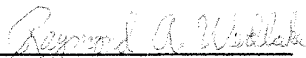
So, appreciate, if you will, the-public policy behind that law. It's good public policy, it really is. And we're all lucky to have it. Because its helps churn the wheels of our economy. (Transcript p. 25, ll. 3-7)

THEREFORE, based upon foregoing reasons as stated herein, and such other reasons as may be advanced at any hearing on Plaintiff's motion, he respectfully prays for the Court to vacate the Order granting Summary Judgment and Extending ADR deadline, and to recognize and correct errors of law upon which Order was based, and thus to issue a new Order

DENYING Defendants' “Motion for Summary Judgment and to Extend ADR Deadline”.

Dated this 26th day of December, 2019.

Respectfully Submitted,


Raymond A. Wedlake, Plaintiff (*Pro Se*)
703 Creekview Drive
Greenville, SC 29607
864-254-9262 wedlakera@mail.com

ADDENDUM

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

Raymond A. Wedlake, as a Member of
Woodington Homeowners' Association, Inc.
Plaintiff (Pro Se),)

vs.)

Christopher Edwards, Charles Koshis,
Dennis Esteve, Michael Keels, and William Craig
in their capacity as Board of Directors of
Woodington Homeowners' Association, Inc.)

Defendants.)

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

CASE NO.: 2019-CP-00269

MOTION AND ORDER INFORMATION FORM AND COVERSHEET

Plaintiff's Attorney: <u>Pro Se</u> , Bar No. _____ Address: <u>703 Creekview Drive</u> <u>Greenville, SC 29607</u> Phone: <u>864-254-9262</u> Fax: _____ E-mail: _____ Other: _____	Defendant's Attorney: <u>Emily O'Brien</u> , Bar No. <u>101824</u> Address: <u>Campbell Teague LLC</u> <u>16 W. North Street</u> <u>Greenville, SC 29601</u> Phone: <u>864-326-4186</u> Fax: _____ E-mail: _____ Other: _____
☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) ☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) ☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information Nature of Motion: Motion for a New Hearing on Defendants' Motion for Summary Judgment and to Extend ADR Estimated Time Needed: <u>30 min.</u> Court Reporter Needed: ☒ YES ☐ NO	
SECTION II: Motion/Order Type ☒ Written motion attached ☐ Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order. <u>Raymond A. Wedlake</u> November 18, 2019 Signature of Attorney for ☒ Plaintiff ☐ Defendant Date submitted	
SECTION III: Motion Fee ☒ PAID - AMOUNT \$ <u>25</u> ☐ EXEMPT: (check reason) ☐ Rule to Show Cause in Child or Spousal Support ☐ Domestic Abuse or Abuse and Neglect ☐ Indigent Status ☐ State Agency v. Indigent Party ☐ Sexually Violent Predator Act ☐ Post-Conviction Relief ☐ Motion for Stay in Bankruptcy ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRPC) ☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ ☐ Other: _____	
JUDGE'S SECTION ☐ Motion Fee to be paid upon filing of the attached order. ☐ Other: _____	JUDGE CODE _____ Date: _____

1

CLERK'S VERIFICATION

Collected by: DS Date Filed: _____
☒ **MOTION FEE COLLECTED: \$** 25.00 **#** 133925
☐ **CONTESTED - AMOUNT DUE \$** _____

SCCA 233 (11/2003)

ADDENDUM 2

The South Carolina Court of Appeals

Raymond A. Wedlake, individually and derivatively, on
behalf of all Members of the Woodington Homeowners'
Association, Inc., Appellant,

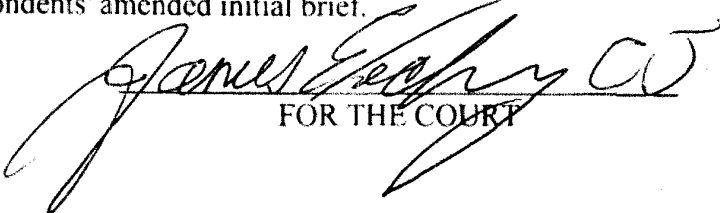
v.

Benjamin Acord, William Craigo, Denis Esteve, and
Brian James in their capacity as the current Board of
Directors of the Woodington Homeowners' Association,
Inc., Respondents.

Appellate Case No. 2018-001209

ORDER

Respondents' motion to dismiss this appeal is denied at this time. Respondents, however, may amend their initial brief to address the issue of mootness within thirty days of the date of this order. If Respondents' serve and file an amended initial brief, Appellant may serve and file an amended reply brief within fifteen days of service of Respondents' amended initial brief.


FOR THE COURT

Columbia, South Carolina

cc:
Grant Henry Gibson, Esquire
Ely Owen Grote, Esquire

FILED

November 8, 2019

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Raymond A. Wedlake

Plaintiff,

vs.

Christopher Edwards, et. al.

Defendant,

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

CASE NO.: 2019-CP-23-00269

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

19 DEC 26 PM 4:09
Paul W. O'Brien, Clerk, 13th Judicial Circuit, SC

Plaintiff's Attorney: <u>Pro Se</u> , Bar No. _____ Address: <u>703 Creekview Drive, Greenville, SC 29607</u> Phone: <u>864-254-9262</u> Fax _____ E-mail: <u>wedlake@gmail.com</u> Other: _____		Defendant's Attorney: <u>Emily O'Brian, Esq.</u> , Bar No. <u>101824</u> Address: <u>16 W. North Street, Greenville, SC 29601</u> Phone: <u>864-326-4186</u> Fax _____ E-mail: <u>emily@campbellleague.com</u> Other: _____	
☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) ☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) ☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)			
SECTION I: Hearing Information			
Nature of Motion: <u>Motion to Reconsider Order Granting Summary Judgment and Extending ADR Deadline</u> Estimated Time Needed: <u>15</u> Court Reporter Needed: ☒ YES ☐ NO			
SECTION II: Motion/Order Type			
☒ Written motion attached ☐ Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order. Signature of Attorney for ☒ Plaintiff ☐ Defendant <u>Raymond A. Wedlake</u> <u>December 26, 2019</u> Date submitted			
SECTION III: Motion Fee			
☒ PAID - AMOUNT: \$ <u>25</u> ☐ EXEMPT: (check reason) ☐ Rule to Show Cause in Child or Spousal Support ☐ Domestic Abuse or Abuse and Neglect ☐ Indigent Status ☐ State Agency v. Indigent Party ☐ Sexually Violent Predator Act ☐ Post-Conviction Relief ☐ Motion for Stay in Bankruptcy ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRPC) ☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ ☐ Other: _____			
JUDGE'S SECTION			
☐ Motion Fee to be paid upon filing of the attached order. ☐ Other: _____		JUDGE CODE _____ Date: _____	
CLERK'S VERIFICATION			
Collected by: <u>SWK</u> Date Filed: <u>12/26/2019</u> ☐ MOTION FEE COLLECTED: \$ _____ ☐ CONTESTED - AMOUNT DUE: \$ _____			

92731

**THE STATE OF SOUTH CAROLINA
In the Court of Appeals**

**APPEAL FROM GREENVILLE COUNTY
Robin B. Stilwell, Circuit Court Judge**

**Civil Action No. 2019-23-00269
Appellate Case No.: 2020-000438**

RECEIVED

MAY 20 2020

SC Court of Appeals

Raymond A. Wedlake, as a Member of the Woodington
Homeowners' Association, Inc.

Appellant,

v.

Christopher Edwards, Charles Koshis, Denis Esteve, Michael
Keels and William Craigo in their capacity as Board of Directors
of Woodington Homeowners' Association, Inc.,

Respondents.

**MOTION TO DISMISS APPEAL
BY RESPONDENTS**

Emily Kate O'Brian, Esquire
16 W. North Street
Greenville, SC 29601
(864) 326-4186
Attorney for Respondents

COME NOW Respondents, by and through their undersigned counsel, and file this Motion to Dismiss for Lack of Jurisdiction pursuant to Rule 240 of the South Carolina Appellate Court Rules. This Motion is based on the following errors: Appellant failed to file a timely notice of appeal; Appellant failed to file a timely post-trial motion to stay the deadline for the appeal; and Appellant's stated issues on appeal and relief sought related solely to the order that Appellant failed to timely appeal.

PROCEDURAL HISTORY

The procedural history of this case is as follows:

- On January 17, 2019, Appellant Wedlake commenced this action filing his Complaint in the Court of Common Pleas for the Thirteenth Judicial Circuit, County of Greenville (Civil Action No. 2019-23-00269).
- On September 27, 2019, Defendants filed a Motion for Summary Judgment ("MSJ").
- A hearing was held on the MSJ in front of The Honorable Robin B. Stilwell on October 28, 2019. All parties were present at the hearing, and Mr. Wedlake was accompanied by attorney Grant Gibson. At the hearing, Judge Stilwell indicated that he would rule in favor of Defendants and grant the MSJ.
- On November 18, 2019, Mr. Wedlake filed a Motion for New Hearing regarding the MSJ. **This is not a proper motion under the rules, and it was not a Rule 59(e) motion in disguise because the judge had not yet entered an MSJ order to be reconsidered.)**
- On November 25, 2019, Judge Stilwell issued an order granting Defendants' MSJ ("MSJ Order") and effectively denying Mr. Wedlake's Motion for New Hearing. **The deadline to file a motion to reconsider the MSJ Order was December 5, 2019. The deadline to appeal the MSJ Order was December 26, 2019.**

- On December 26, 2019, Mr. Wedlake filed a Motion to Reconsider (“MTR”) the MSJ Order. **The MTR was 21 days late, and as such was *not* a timely motion that could have tolled the December 26, 2019 deadline to appeal the MSJ Order.**
- On February 20, 2020, the Court denied the MTR as untimely (“MTR Order”).
- Mr. Wedlake placed his notice of appeal in the mail on March 9, 2020 (“NOA”). The Notice of Appeal purports to appeal the “‘Order Form 4’ (Exhibit 1) of the Honorable Robin B. Stilwell, filed in the Public Index on February 20, 2020, which denied Appellant’s request for a New Hearing,” as well as “the Order of November 25, 2019 which granted Summary Judgment.” **This appeal was filed 2.5 months past the deadline to appeal the MSJ Order. As to the MTR Order, Appellant’s statement of issues and relief sought relate solely to the MSJ Order.**

Mr. Wedlake’s stated issues on appeal are as follows:

1. The Judge erred in misinterpreting the statute with resulting claim that Defendants were immune from suit, which is an error of law.
2. The Judge erred in claiming a "wrong party" was named, which is an error of law in contradiction of statute, and in contradiction of the Judge's own precedent.
3. The Judge erred in granting Summary Judgment which constituted an abuse of discretion when genuine issues of fact existed.
4. The Judge erred in granting Summary Judgment which prohibited Appellant from enjoying "due process" and "equal protection of the laws" by denying adjudication of questions of law as sought with Appellant's-Declaratory-Judgment (DJ) action, which together, represented an abuse of Judicial Discretion.
5. The Judge erred by applying a wrong standard of tort requirements, resulting in subsequent belittlement of Appellant's-DJ action, which is an abuse of discretion and contrary to existing case law.
6. The Judge abused his discretion by accepting without evidentiary support many false claims stated during the Hearing by Defense Counsel.

(R. 225.).

Appellant's Conclusion requests the following relief:

1. Respondents are not immune from suit under the NPCA, where such ruling represented an error of law;
2. Respondents are not a "wrong party" under the NPCA, nor per several other reasons cited, where such ruling represented an error of law;
3. Several genuine issues of fact exist, where to ignore legitimate issues represents abuse of discretion, and Summary Judgment cannot be granted in the face of such issues remaining unresolved;
4. Appellant's US Constitutional guarantees were denied, where rightfully Appellant should enjoy "due process" and "equal protection of the laws" as is the right of, and must be provided to, all US citizens;
5. It is a Court's-proper function to rule upon questions of law, where a precedent of belittlement of Declaratory-Judgment actions must not be allowed to propagate;
6. Counsel's many false claims which were brought to misdirect and obfuscate must not be allowed to influence, nor to negate, judgment based upon law, when particularly Appellant contends that genuine issues of interpretation of law were brought by his action."

(R. 239.)

APPLICABLE COURT RULES

Rule 203 of the South Carolina Appellate Court Rules requires a notice of appeal to be served "on all respondents within thirty (30) days after receipt of written notice of entry of the order or judgment." A *timely* motion to alter or amend the judgment will stay the time period for appeal. SCACR 203; *see also* SCRCP 59(f). Pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure, "A motion to alter or amend the judgment shall be served not later than 10 days after receipt of written notice of the entry of the order." Further, SCRCP 59(g) requires, "A party filing a written motion under this rule shall provide a copy of the motion to the judge within

ten (10) days after the filing of the motion.” The time for serving the notice of appeal under SCACR 203 cannot be extended by the appellate court. SCACR 263(b).

SCACR 208 then governs the initial briefs. SCACR 208(b)(1)(B) requires inclusion of a statement of issues on appeal as follows: “A statement of each of the issues presented for review. The statement shall be concise and direct as to each issue and may be stated in question form. Broad general statements may be disregarded by the appellate court. Ordinarily, no point will be considered which is not set forth in the statement of the issues on appeal.” SCACR 208(b)(1)(F) also requires inclusion of “[a] short conclusion stating the precise relief requested.” These rules must be followed, and SCACR 260(a) provides, “Whenever it appears that an appellant or a petitioner has failed to comply with the requirements of these Rules, the clerk shall issue an order of dismissal, which shall have the same force and effect as an order of the appellate court.”

ARGUMENT

1. THIS COURT LACKS SUBJECT MATTER JURISDICTION BECAUSE APPELLANT DID NOT MEET THE DEADLINE TO APPEAL.

Judge Stilwell issued an order granting Respondents’ Motion for Summary Judgment on November 25, 2019. During the thirty days that followed, Appellant made no attempt to file a notice of appeal. Rule 203(b)(1) of the South Carolina Rules of Appellate Procedure requires notice of an appeal to be served “within thirty (30) days after receipt of written notice of entry of an order or judgment.”

A timely appeal is a clear prerequisite for appellate jurisdiction in South Carolina: “[t]he requirement [for a timely] notice of appeal is jurisdictional, i.e., if a party misses the deadline, the appellate court lacks jurisdiction to consider the appeal and has no authority or discretion to ‘rescue’ the delinquent party by extending or ignoring the deadline for service of the notice.” *Elam v. S.C. Dep’t of Transp.*, 361 S.C. 9, 15, 602 S.E.2d 772, 775 (2004). Here, Appellant disregarded the

deadline for notice of appeal of the MSJ Order by over two months. Thus, any attempt to consider Appellant's untimely appeal would turn a bright line jurisdictional inquiry into a merits inquiry. *Camp v. Camp*, 386 S.C. 571, 574, 689 S.E.2d 634, 636 (2010) (“[T]his Court has no authority to extend or expand the time in which the notice of intent to appeal must be served.”) (citing *Mears v. Mears*, 287 S.C. 168, 169, 337 S.E.2d 206, 207 (1985)). Accordingly, the appeal must be dismissed with prejudice.

2. BECAUSE APPELLANT'S RULE 59(E) MOTION WAS NOT TIMELY FILED, IT WAS INCAPABLE OF STAYING THE TIME TO FILE A NOTICE OF APPEAL.

The time to appeal an order can only be stayed by “a timely motion for judgment n.o.v. (Rule 50, SCRCP), motion to alter or amend the judgment (Rules 52 and 59, SCRCP), or a motion for a new trial (Rule 59, SCRCP)”. SCACR 203(b)(1). All such listed motions are required to be filed within ten days of the entry of the order or judgment.

On December 5, 2019, the ten-day period for Appellant to file a post-judgment motion concluded, and the MSJ Order became final pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure. It was not until December 26, 2019 that Appellant, in utter disregard for the ten-day deadline, filed a Rule 59 Motion to Reconsider. Under South Carolina law, a post-trial motion must be timely to toll the thirty-day period to file a notice of appeal. *Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 15, 602 S.E.2d 772, 775 (2004) (“A *timely* post-trial motion, including a motion to alter or amend the judgment pursuant to Rule 59(e), SCRCP, stays the time for an appeal for all parties until receipt of written notice of entry of the order granting or denying such motion”) (*emphasis added*). Otherwise, the motion has no effect on the deadline to file a notice of appeal because the original judgment is final. *See Ulmer v. Ulmer*, 369 S.C. 486, 490, 632 S.E.2d 858, 861 (2006) (noting a judgment that is not appealed, right or wrong, becomes the law of the case).

Appellant contends he can appeal the MSJ Order under the pretense that the deadline for his appeal runs from the date on which his motion to reconsider was denied. Here, Judge Stilwell appropriately found Appellant's Rule 59(e) motion untimely; therefore, Appellant's MTR was incapable of staying the time to file a notice of appeal. Because the deadline to file the notice of appeal was not stayed by Appellant's MTR, the MSJ Order is final and cannot be appealed without retroactively reversing a final judgment—a drastic measure contrary to precedent. Thus, the appeal must be dismissed with prejudice.

3. APPELLANT'S APPEAL SHOULD BE DISMISSED IN ITS ENTIRETY AS HIS STATED ISSUES ON APPEAL AND RELIEF SOUGHT ALL RELATE SOLELY TO THE MSJ ORDER, WHICH HAS NOT BEEN TIMELY APPEALED.

“[F]ormer Chief Judge Alex Sanders famously wrote, ‘[A]ppellate courts in this state, like well-behaved children, do not speak unless spoken to and do not answer questions they are not asked.’” *Atl. Coast Builders & Contractors, LLC v. Lewis*, 398 S.C. 323, 331 fn 4, 730 S.E.2d 282, 286 (2012), *citing Langley v. Boyter*, 284 S.C. 162, 181, 325 S.E.2d 550, 561 (Ct.App.1984), *quashed on other grounds*, 286 S.C. 85, 332 S.E.2d 100 (1985). His point being that, in South Carolina, appeals must raise the issues to be decided. In the absence of a presented and preserved exception, there is nothing properly before the court for it to decide. *See Evans v. Bruce*, 245 S.C. 42, 44, 138 S.E.2d 643, 643 (1964). Therefore, the South Carolina Appellate Court Rules are specific in what is required in an appellant's initial brief to set forth the issues to be decided. SCACR 208(b)(1)(B) requires inclusion of a “concise and direct [statement] as to each issue” presented for the court's review. SCACR 208(b)(1)(F) also requires inclusion of “[a] short conclusion stating the precise relief requested.”

The only issues that Appellant's brief presents are issues pertaining to the MSJ Order. (R. 225.) As set forth more fully above, the MSJ Order was entered on November 25, 2019, and

neither an appeal nor a motion under Rules 50, 52, or 59 of the South Carolina Rules of Civil Procedure were filed within the requisite time periods afterwards. Therefore, an appeal of the MSJ Order is untimely and this Court does not have jurisdiction to decide the matter. No issues outside of the MSJ Order are raised in Appellant's statement of issues, so there is nothing left before the Court to be decided.

"Ordinarily, no point will be considered which is not set forth in the statement of the issues on appeal." SCACR 208(b)(1)(B). If the issue is not included in the statement of issues on appeal, it is unpreserved for appellate review. *See, e.g., Brown v. Odom*, 425 S.C. 420, 436, 823 S.E.2d 183, 191 (Ct. App. 2019) (citing Rule 208(b)(1)(B) in determining the appellant did not preserve an issue which he failed to include in the statement of issues on appeal); *Allen v. Pinnacle Healthcare Sys., LLC*, 394 S.C. 268, 277, 715 S.E.2d 362, 367 (Ct. App. 2011) (declining to address two of appellants' arguments on their merits where the issues were not included in the sole statement of the issue on appeal); *Burris v. Propst Lumber & Logging, Inc.*, 396 S.C. 85, 96, 719 S.E.2d 695, 701 (Ct. App. 2011) (finding an argument abandoned by appellant on two grounds where it was not listed in the statement of issues on appeal and had no supporting authority cited).

Even read in conjunction with the rest of Appellant's brief, the stated issues on appeal cannot be construed to address any ruling other than the MSJ Order. In fact, Appellant even explicitly states in his brief that "[s]uch appeal is based upon application of statutorily-wrong standards, where a granting of SJ against Appellant was not based upon merits of the case, but rather was based upon other technical-legalistic arguments." (R. 227.) Further, Appellant's requested relief as set forth in his conclusion is also exclusively related to the MSJ Order. (R. 239.) Thus, as the MSJ Order has not been timely appealed and there are no issues presented

before this Court relating to anything other than the MSJ Order, the entirety of Appellant's appeal must be dismissed.

4. WHILE NO *PRO SE* LITIGANT IS EXCUSED FROM APPELLATE DEADLINES AND RULES, APPELLANT CERTAINLY NOT SHOULD BE, GIVEN HIS EXTENSIVE LITIGATION HISTORY IN THE LOWER AND APPELLATE COURTS.

First, no matter who the litigant is, the appellate court does not have jurisdiction to hear a matter where the notice of appeal was not filed within the time frame required by SCACR 203. SCACR 263(b); *see also, Elam v. S.C. Dep't of Transp.*, 602 S.E.2d 772, 775 (noting that the appellate court has “no authority or discretion to ‘rescue’ the delinquent party by extending or ignoring the deadline for service of the notice” of appeal). Nor is the appellate court able to decide issues which are not preserved and presented to it. *See, e.g., Brown v. Odom*, 436, 823 S.E.2d 183, 191 (citing Rule 208(b)(1)(B) in determining the appellant did not preserve an issue which he failed to include in the statement of issues on appeal).

Second, the law in South Carolina is clear that “[a] pro se litigant who knowingly elects to represent himself assumes full responsibility for complying with substantive and procedural requirements of the law. *State v. Burton*, 356 S.C. 259, 265, 589 S.E.2d 6, 9 (2003). “[A] party has a duty to monitor the progress of his case. Lack of familiarity with legal proceedings is unacceptable and the court will not hold a layman to any lesser standard than is applied to an attorney.” *Hill v. Dotts*, 345 S.C. 304, 310, 547 S.E.2d 894, 897 (Ct. App. 2001), citing *Goodson v. Am. Bankers Ins. Co.*, 295 S.C. 400, 403, 368 S.E.2d 687, 689 (Ct.App.1988).

Further, Mr. Wedlake is not a typical *pro se* litigant. He is a serial litigant who has filed at least 6 lawsuits in the Circuit Court and two other appeals—Civil Action Nos. 2017CP2306301, 2017CP2306301, 2018CP2303758, 2018CP2306408, 2019CP2300269, 2019CP2301501 and Appellate Case Nos. 2018-001209 and 2020-000506. In many of these matters, including the first

appeal, Mr. Wedlake has been represented by attorney Grant Gibson of G. Gibson & Associates, LLC. In this particular matter, Mr. Wedlake notes in the case caption that he is *pro se*; however, throughout the litigation, he has been in contact with Mr. Gibson. In fact, Mr. Gibson attended the October 28, 2019 hearing on the MSJ. (R. 179-80.) Therefore, even if it were within this Court's discretion to consider leniency for Mr. Wedlake, there is no justification for Mr. Wedlake's failure to comply with deadlines, presentation of issues for appeal, and preservation requirements.

CONCLUSION

This appeal must be dismissed for lack of jurisdiction as Appellant (1) did not file a notice of appeal within 30 days of the MSJ Order, (2) did not stay his time to file a notice of appeal by filing a timely motion for reconsideration within 10 days of the MSJ Order, and (3) did not present any issues on appeal or relief sought that are unrelated to the MSJ Order. Therefore, this court does not have jurisdiction to review the merits of this appeal, and the appeal should be dismissed in its entirety with prejudice.

CAMPBELL TEAGUE LLC
/s/ Emily Kate O'Brian
Emily Kate O'Brian (SC Bar #101824)
16 W. North St.
Greenville, South Carolina 29601
Tel: (864) 326-4186
emily@campbellteague.com
Attorney for Respondents

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that a copy of the foregoing document was served upon the following individuals on May 18, 2020 via Certified Mail:

Raymond Wedlake
703 Creekview Drive
Greenville, SC 29607

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MAY 20 2020
SC Court of Appeals

May 18, 2020
DATE

/s/ Haden Brogdon
CAMPBELL TEAGUE
Haden Brogdon, Paralegal

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

) COURT OF COMMON PLEAS

) 2019-CP-23-00269

ORIGINAL

RAYMOND A. WEDLAKE)

PLAINTIFF)

vs.)

) TRANSCRIPT OF RECORD

CHRISTOPHER EDWARDS, ET AL)

DEFENDANTS)

October 28, 2019

Greenville, South Carolina

B E F O R E:

THE HONORABLE ROBIN B. STILWELL, Judge.

A P P E A R A N C E S:

RAYMOND A. WEDLAKE, PRO SE

EMILY K O'BRIAN, ESQ.

Attorney for the Defendants

APRIL HERRON

Official Court Reporter

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There were no witnesses.

There were no exhibits.

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Certificate of Reporter 29

1 THE COURT: All right, this is case number
2 2019-CP-23-00269, you have a couple of claims, so
3 I'll be happy to hear from you in whatever order you
4 think is appropriate.

5 MS. O'BRIAN: Good morning, Your Honor, my name
6 is Emily O'Brian, I represent the Defendants in this
7 matter and we're the ones that brought the motion for
8 summary judgment.

9 THE COURT: Good morning.

10 MS. O'BRIAN: The Plaintiff is not entitled to
11 the information he is requested in this case --

12 MR. WEDLAKE: Your Honor, if I may, I have a
13 interested party that came with me today. May he sit
14 at the table? I called your office and was told to
15 ask you here in court.

16 THE COURT: Yes, sir, you want to sit up here?

17 UNIDENTIFIED MAN: If that's all right with you,
18 Your Honor.

19 THE COURT: I don't have an issue with that. I
20 presume you went through security and they scanned
21 you for guns and knives and other weapons right?

22 UNIDENTIFIED MAN: Is that all right with you?

23 MS. O'BRIAN: Yes, Your Honor, we just ask to
24 clarify whether is now represented by counsel or if
25 he is still pro se.

1 UNIDENTIFIED MAN: He is still pro se.

2 THE COURT: Yes, sir. I think he introduced you
3 as a interested party. And your name, sir?

4 UNIDENTIFIED MAN: I have represented
5 Mr. Wedlake in the past on several matters. And it's
6 a case that has relevance to other issues that I'm
7 working with him--

8 THE COURT: Sure --

9 UNIDENTIFIED MAN: -- regarding owner
10 association.

11 THE COURT: Sure. And if you would just state
12 your name for the record, please.

13 UNIDENTIFIED MAN: Grant Gibson, Your Honor.

14 THE COURT: Okay, Mr. Gibson, good, thank you.

15 MR. GIBSON: Thank you, Your Honor.

16 THE COURT: Okay, Ms. O'Brian, I'll be happy to
17 hear from.

18 MS. O'BRIAN: Yes, Your Honor. As I was saying,
19 Your Honor, this is a motion for summary judgment
20 that was filed by the Defendants in this action.
21 It's a declaratory judgment action brought by
22 Mr. Wedlake. And he's asking for the list, as he
23 describes it, which is a list of homeowners who in a
24 November 2018 ballot, did not return that ballot.
25 And so, he's looking for the names of those

1 individuals that did not turn in their ballots in
2 that November 2018 voting.

3 And has claimed that he's entitled to that under
4 the South Carolina Nonprofit Corporation Act.
5 Nothing in the act entitles him to that. And he's
6 even acknowledged that in his complaint that nothing
7 in the Nonprofit Corporation Act entitles him to the
8 list. And so for that reason, we move for summary
9 judgment.

10 To give a little bit more detail for, Your
11 Honor, again as background, in November of 2018 there
12 was a ballot that was sent out to all members of the
13 Woodington HOA. It was regarding certain fees and
14 assessments. Particularly, legal fees and
15 assessments related to another lawsuit with
16 Mr. Wedlake. He has filed multiple lawsuits against
17 board members of the HOA. The HOA bylaws, and as
18 clearly stated on the ballot, state that if a
19 homeowner does not return their ballot, they're
20 authorizing the board to vote as their proxy.

21 In this case, the board voted for the resolution
22 to pass for the fees to be assessed to the
23 homeowners. And Plaintiff, quite frankly, wants to
24 know who didn't turn in their ballots and who voted
25 for these assessments. As he states, even in his

1 complaint under his alleged proper purposes in
2 Paragraph 30 in his complaint. Your Honor, he's
3 seeking that information under the Nonprofit
4 Corporation Act. And as we set forth in our motion,
5 nothing under the act entitles Mr. Wedlake to this
6 list that he's seeking.

7 The Nonprofit Corporation Act goes through very
8 specific lists of what corporations are required to
9 maintain. And then what members of those
10 corporations, those nonprofit corporations, are
11 entitled to inspect or copy. Nothing in what is
12 enumerated under the act provides Mr. Wedlake with an
13 entitlement to the list. And we've stepped through
14 each and every provision of that act in our
15 memorandum.

16 And, Your Honor, regardless of the merits,
17 they're looking as a matter of law whether
18 Mr. Wedlake is entitled to the list under the
19 Nonprofit Corporation Act. Which, again, we maintain
20 he's not. Regardless of that, the board members are
21 immune from suit under the Nonprofit Corporation Act.
22 So, for that reason alone, the suit cannot stand.

23 Further, as a practical matter, all but one of
24 the named Defendants are no longer on the board for
25 the Woodington HOA, and they have no authority to

1 produce the information Mr. Wedlake has requested.
2 And so, the very least, Your Honor, those should be
3 dismissed from this lawsuit as they're no longer
4 involved.

5 As Your Honor will see in looking at our
6 memorandum as well, we've also moved for summary
7 judgment on our counterclaims. We brought
8 counterclaims under the Frivolous Claims Act for
9 actions by Mr. Wedlake in bringing this lawsuit, and
10 then through his continued actions through the
11 discovery process. As mentioned, in his compliant in
12 Paragraph 23, Mr. Wedlake acknowledges that nothing
13 under the act entitles him to the list or these other
14 documents.

15 Mr. Wedlake still brought the lawsuit. He then
16 moved for summary judgment. Two days after moving
17 for summary judgment and claiming that as a matter of
18 law that he was entitled to relief, he provided
19 discovery that we then had to answer. He moved to
20 compel discovery when he did not like the responses
21 that we gave him. We were forced to respond to the
22 motion to compel discovery, as well as the
23 outstanding motion for summary judgment that he had
24 at the same time as the discovery requests were
25 pending.

1 Then in the meantime, while this motion for
2 summary judgment has been pending, Your Honor,
3 Mr. Wedlake has abused the discovery process. He
4 sent out letters to the homeowners of the Woodington
5 HOA asking for confidential information about their
6 votes. He used Judge Kinlaw's words from a prior
7 hearing, misquoted them and asserted that homeowners
8 were court ordered to answer Plaintiff's requests.
9 He sought to influence witness testimony by giving
10 them two options of verifications or affidavits to
11 fill out and return. And these were false binary
12 that he gave them options that they returned their
13 ballot or they did not return their ballot in the
14 November 2018 election and did not intend for the
15 board to vote as their proxy.

16 He did not give them the option of they didn't
17 turn in their ballot and they intended for the board
18 to vote in their proxy. Among other options that may
19 also be out there. So, he sought to influence
20 witness testimony in that manner and he threatened
21 homeowners if they did not respond to his letter. He
22 then sent out a second letter after a hearing was
23 scheduled for our motion for injunction to prevent
24 him from abusing the discovery process and using
25 court authority in that manner. He sent out another

1 letter, again, using false authority of the court in
2 Judge Kinlaw's words to try to influence homeowners
3 to respond and to give him this information.

4 So, Your Honor, due to the fact that it's clear
5 under the law, as a matter of law, that he is not
6 entitled to the relief which he is requested in this
7 lawsuit, that he himself, Mr. Wedlake, knew that he
8 wasn't entitled to this kind of information. Still
9 brought the lawsuit and then has tried to sue the
10 discovery process to try to get information he wants.
11 Even when he's not entitled to it. And to abuse and
12 to threaten homeowners in a way through this process.
13 We would ask for summary judgment both against
14 Mr. Wedlake on his claims that he's brought against
15 the Defendants in this matter as well as summary
16 judgment on your own counterclaims against
17 Mr. Wedlake.

18 THE COURT: Okay, thank you very much. I
19 appreciate it.

20 MS. O'BRIAN: Yes, Your Honor.

21 THE COURT: Mr. Wedlake, I'll be happy to hear
22 from you, sir.

23 MR. WEDLAKE: Your Honor, as I said in a hearing
24 with Judge Kinlaw, you know, there's very creative
25 misrepresentation of the truth of the matter here.

1 Basically, much of what has been just aired before
2 this court simply is not true. Exaggerations of
3 situations, utter, total misrepresentation facts.
4 But I have prepared some comments of my rebuttable
5 then of their memorandum in support of motion for
6 summary judgment, which I refer to as a memo in the
7 comments that follow. And I don't intend to try to
8 answer verbally all of the stuff that was just put in
9 front of you because I think a lot of it is really
10 irrelevant to this hearing.

11 However, there were various points made about
12 the Nonprofit Corporation Act, which is the very
13 issue that has been brought to this court here where
14 there is a direct dispute of the meaning of the law
15 and it entitles me to have. Now, I understand that
16 the Defendants apply a different standard for what
17 they find proper and acceptable as social norms and
18 etiquette. But I find their perspective relative to
19 law and relative to correct interpretation of law is
20 lacking. The Defendants request for summary judgment
21 may be appropriate to bring to a, quote, school of
22 dance and etiquette, end quote.

23 However, for all reasons as follows, I petition
24 this court to act, indeed, as a court of law and not
25 as a school of dance and etiquette. And therefore,

1 petitions this court to recognize summary judgment
2 for Defendants must be denied.

3 THE COURT: Okay. Let me ask you a couple of
4 questions.

5 First of all, Ms. O'Brian, you said y'all have a
6 counterclaim for a frivolous lawsuit?

7 MS. O'BRIAN: Yes, sir, Your Honor.

8 THE COURT: Did you file an amended answer and
9 counterclaim?

10 MS. O'BRIAN: Yes, sir, Your Honor, we did. We
11 filed a motion to amend our answer and add the
12 counterclaims.

13 THE COURT: Yes, ma'am.

14 MS. O'BRIAN: Because through the discovery
15 process it became clear that not only did he know
16 that there wasn't a basis for this but he was abusing
17 the legal process to gain other information.

18 THE COURT: Okay. So, let's see, that was ruled
19 on on July 26th; is that correct? And you added that
20 counterclaim?

21 MS. O'BRIAN: That's -- I believe it was a
22 little bit later than that, Your Honor.

23 THE COURT: Okay.

24 MS. O'BRIAN: I believe it was about a month
25 ago. I apologize, I don't have that date in front of

1 me.

2 THE COURT: That's all right, I'm just trying to
3 find it.

4 MR. WEDLAKE: There again, Your Honor, a
5 statement has been made abusing the legal process. I
6 absolutely disagree and dispute such statement. May
7 I continue then, Your Honor?

8 THE COURT: Sure, yes, sir. Absolutely, go
9 ahead.

10 MR. WEDLAKE: Contrary to the Defendants
11 misstatements, all Plaintiffs actions and claims to
12 date were brought legitimately before the court for
13 the purposes to bring improvements to Woodington
14 Homeowners Association, which I will refer to as
15 WHOA. To bring benefits to its members to restore
16 proper governments by the board of directors within
17 WHOA. And to require Defendants to act in compliance
18 with bylaws, as well as South Carolina law.
19 Specifically, in violation of the bylaws, the
20 Defendants ignore their duty to fill two remaining
21 vacancies on the board. As you might glean, Your
22 Honor, I am still trying to improve board governments
23 for the benefit of WHOA members.

24 THE COURT: Mr. Wedlake, let me ask you this,
25 why have you sued the individuals as opposed to the

1 homeowners association?

2 MR. WEDLAKE: I am a member of the association,
3 Your Honor, and I have no intent to cause damage to
4 the members of the association is why the individual
5 board members have been cited.

6 THE COURT: Okay, tell me your legal basis for
7 suing the individuals. What's their individual
8 liability? If they're members of the board of
9 directors of a incorporated entity, how is it that
10 they individually are liable? Particularly, inasmuch
11 as they're no longer members of the board of
12 directors.

13 MR. WEDLAKE: I'll address that later. Several
14 have resigned from the board but the Defendant Koshis
15 still represents the board entity. Now, the simple
16 facts of the matter are the members of the board of
17 the homeowners association are the governing body and
18 they should be held to standards. And particularly,
19 as I've just cited here, when they violate the bylaws
20 and also South Carolina law, that gives me a legal
21 claim against them, in my opinion. Did that answer
22 your question then?

23 THE COURT: It did, Mr. Wedlake. It told me
24 that you don't really have a legal basis for
25 including the individuals. You offered an opinion

1 but you didn't offer me any legal basis.

2 MR. WEDLAKE: They are the governing body of the
3 association and are responsible for actions taken by
4 the association. Am, I mistaken on that count, Your
5 Honor?

6 THE COURT: Well, let's just say hypothetically
7 that you went to the gas station and you bought gas
8 from Exxon. And you found out that that gas wasn't
9 pure and it caused harm to your engine. Could you
10 then sue the members to the board of Exxon
11 corporation? Or would you bring that suit against
12 Exxon?

13 MR. WEDLAKE: I guess I'm not following the
14 analogy.

15 THE COURT: Well, I'm sorry you're not. I
16 suspect you're being obtuse in that regard. The
17 question is, under what theory of law are you allowed
18 to sue the members of the board of directors of the
19 homeowners association?

20 MR. WEDLAKE: Again, Your Honor, this action is
21 a simple declaratory judgment action seeking a
22 resolution of a question of law. I specifically
23 stated in my compliant that only nominal damages,
24 which to me means one dollar in damages--

25 THE COURT: I saw that, yes, sir.

1 MR. WEDLAKE: -- were being sought. So really,
2 Your Honor, nobody has -- is being sued in that
3 respect. I am not seeking punitive damages. I am
4 just seeking resolution of a question of law, which I
5 believe is an appropriate question to ask the court
6 to interpret disputed aspects of the law.

7 THE COURT: I don't disagree with that,
8 necessarily. But the question, again, is if you're
9 going to bring a declaratory judgment action,
10 shouldn't you be required under the law to bring it
11 against the appropriate Defendant? Which is the
12 homeowner association itself?

13 MR. WEDLAKE: I don't believe, again, as a
14 member of the association that it is my desire to
15 cite the association as the responsible entity and
16 bring damage to the members of the association. I
17 think it is proper and fitting to cite those who are
18 responsible for the improper action.

19 THE COURT: Okay. All right. Good enough. All
20 right, Mr. Wedlake, do you have anything additional
21 you'd like to tell me, sir?

22 MR. WEDLAKE: The thing I've cited now in my
23 complaint, as supported by affidavits and exhibits, I
24 believe the court has given discretion to affirm my
25 request for information. Under the Nonprofit

1 Corporation Act sections 33-31-1602(d)(1) and (d)(2).
2 Primarily, because I am a litigant and I have the
3 same rights, I have the rights according to the law
4 to the same extent as any other litigant. I believe
5 the Defendants mistakenly interpret Section D
6 statement. This section does not effect with the
7 presumption that the word Grant should be substituted
8 for the word Effect. Where I dispute this
9 presumption.

10 The Defendants completely ignore item (d)(2) of
11 the act which says, The power of the court,
12 independently of this chapter to compel the
13 production of corporate records for examination,
14 which clearly shows the true, quote, legislative
15 intent, end quote, of the Nonprofit Corporation Act.

16 And as spelled out in my verified complaint,
17 it's affidavits and exhibits in support. The
18 legislature inserted a provision in the South
19 Carolina Nonprofit Corporation Act, giving a judge
20 discretion to compel information, even though it may
21 not specifically appear in the Nonprofit Corporation
22 Act as required to be provided. Plaintiff asks the
23 court to consider compelling my requested information
24 in its discretion pursuant to that statute. Very
25 simply, indeed a reason to have a court weigh in.

1 What started out as multiple simple requests for
2 information, led to my request for declaratory
3 judgment, a very simple matter of law for a judge to
4 decide. However, the Defendants desire to fight has
5 led to unnecessary conflict in my appearance here
6 today. That quote, The court's favored declaratory
7 judgment actions, end quote, is an established legal
8 precedent. Benefits will accrue to Plaintiff as to
9 WHOA and to the Defendants if they are prohibited
10 from withholding information that would aide in
11 bringing improvements to WHOA and benefits to its
12 members.

13 ~ If the merits of my case are ignored, all boards
14 will feel empowered to withhold all information,
15 which will cause a festering of unrest and
16 disagreement within WHOA, with no resulting benefits
17 to any parties. Naked claims brought by memo may be
18 considered hearsay, as they are unsupported and also
19 irrelevant, which makes them inadmissible pursuant to
20 Rule 402 SCRCP.

21 Plaintiff contends that no homeowner opted to
22 allow the board to vote for them by proxy. And
23 challenges the Defendants to show the court even one
24 single sign, authorization, proxy statement from any
25 member. The court is asked to recognize Rule 8(f)

1 SCRCF(f) .

2 Construction of pleadings. All pleadings shall
3 be so construed as to do substantial justice to all
4 parties. And not to be misled by Defendants
5 opposition of improper etiquette. Defendants
6 documents show an abundance of genuine issues of
7 material fact. Far more than any scintilla required
8 to withstand summary judgment.

9 Defendants request for summary judgment is
10 premature to date, no mediation and limited
11 discovery. A prior case was recently settled as a
12 result of mediation. For it to be pushed further
13 into the future upon Defendants request should be
14 denied. Defense counsel ignored my attempts to get
15 mediation early, resisting my desire for mediation to
16 lead to settlement. Once again, Defendant Charles
17 Koshis, has full capability to provide Plaintiff's
18 requested information.

19 Transparency exhibited by a board is important,
20 which was denied to WHOA members by Defendants.
21 Withheld publishing their meetings schedule,
22 communicated no meeting agendas. Nor were minutes
23 made available for several recent meetings where such
24 malpractice continued after election of 2019 board.

25 THE COURT: Mr. Wedlake, are you reading from a

1 document?

2 MR. WEDLAKE: These are my prepared statements
3 that I brought to bring to this court today, Your
4 Honor.

5 THE COURT: Would like to just admit that as a
6 Court's Exhibit as opposed to reading it into the
7 record? I can certainly read it.

8 MR. WEDLAKE: I am done. However, before I
9 enter my conclusion, would you allow Mr. Gibson to
10 comment?

11 THE COURT: No, sir. Not unless Mr. Gibson is
12 the attorney of record.

13 MR. WEDLAKE: All right.

14 THE COURT: And no offense to Mr. Gibson. As a
15 personal matter, I would love to hear from him. But
16 I think it's inappropriate under the circumstances --

17 MR. WEDLAKE: Very good, sir.

18 THE COURT: -- from a legal perspective.

19 MR. WEDLAKE: And in conclusion, Plaintiff prays
20 that the Court recognize all hearsay as irrelevant
21 and to ignore it. And ask to deny the Defendants
22 motion for summary judgment. And I ask the Court if
23 there may be questions or further discussions as
24 related to his memorandum in opposition. May be
25 desired and as you're aware, several documents have

1 been filed in the court.

2 THE COURT: Let me ask you a question, is this a
3 not for profit corporation as contemplated under the
4 law?

5 MR. WEDLAKE: Yes, it is.

6 THE COURT: Okay. Good enough. Thank you,
7 Mr. Wedlake, I appreciate it, sir.

8 Ms. O'Brian, is there anything you'd like to
9 tell me?

10 MS. O'BRIAN: Nothing further, Your Honor.
11 Unless you have any specific questions, I'm certainly
12 glad to answer.

13 THE COURT: No. You know, I am --

14 Mr. Wedlake, in listening to you, you know, you
15 make several very meritorious and valid propositions
16 of law. Some of which are relevant to what we're
17 doing here today and some of which are not. But at a
18 threshold, in the institution of this suit, I don't
19 think you named the appropriate defendants. And I'll
20 read from Section 33-31-834.

21 All directors, trustees or members of the
22 governing body for not for profit cooperative
23 corporations of associations and organizations, are
24 immune from suit arising from the conduct of the
25 affairs of these cooperatives, corporations,

1 associations or organizations. This immunity from
2 suit is removed when the conduct amounts to willful,
3 wanton or gross negligence.

4 Now, in your compliant, and I've read your
5 compliant, I don't see allegations of willful, wanton
6 or gross negligence in this case that applies to the
7 individuals named as defendants in this case. Also,
8 the conduct that you describe, clearly is not
9 willful, wanton or gross negligence. The conduct
10 that you described is a disagreement with respect to
11 the interpretation of the statutory law governing the
12 board of directors of a not for profit corporation.
13 You know, whether or not you would have standing to
14 sue or you would have a judicable cause of action
15 against the homeowners association, is a question for
16 another day. But I think ab initio, you are not
17 allowed to sue the board of directors individually
18 under the enumerated or articulated causes of action.

19 So, what I'm going to do, respectfully, is grant
20 the motion for summary judgment based on the fact
21 that the Defendants are immune from prosecution under
22 33-31-834. And there's been no allegation of
23 willful, wanton conduct or gross negligence. With
24 respect to the frivolous sanctions lawsuit, I'm going
25 to deny that motion. If you want to pursue that

1 cause of action or you want to pursue that with the
2 court, then you can ask for, I think, appropriately
3 under that statutory provision it would be a question
4 for the court, not for a jury. And you can proceed
5 in a evidentiary hearing or in a motion before the
6 court.

7 But I will tell you, and I don't know what else
8 is outstanding between all these respective parties,
9 so long as you keep that dangling chad opened, you
10 probably remain, also, subject to Mr. Wedlake's
11 continuing discovery requests. So, you may be better
12 served to just drop that and dismiss the lawsuit all
13 together and walk away. Now, that's entirely up to
14 you and I'm not giving you advice because, obviously,
15 I'm not much of a lawyer because I failed and had to
16 get government work. But you might consider that,
17 okay.

18 So, Ms. O'Brian, if you'd send me a proposed
19 order. If you would send it in Word format, via
20 email, copy Mr. Wedlake on that as well so he can
21 look at it before I have the opportunity execute it.

22 MS. O'BRIAN: Yes, sir, Your Honor.

23 THE COURT: Yes, sir, Mr. Wedlake.

24 MR. WEDLAKE: If I may, Your Honor, is it not
25 customary for them to submit to me their proposed

1 order so that we might agree on the content of the
2 order?

3 THE COURT: That's what I just asked her to do.
4 Under the rules it's appropriate that you see a copy
5 of it. Now, that can be contemporaneous with them
6 sending it to me. And I'll wait until you had the
7 opportunity to look at it. And you can make comments
8 as well on that order. Ultimately, there need not be
9 an agreement. Ultimately, it's going to be my order.
10 And if y'all do have a disagreement about the
11 verbiage in the order, then y'all can send me an
12 email and say, hey, I don't like this and I don't
13 like this. I don't think that's what you said, I
14 think you actually said this. And I'll amend it as
15 appropriate. And I'll adjudicated that -- any
16 dispute that may arise with respect to the order as
17 well. But I definitely will not sign it until you've
18 had the opportunity to look at it and comment on it,
19 okay.

20 MR. WEDLAKE: So, historically, that did not
21 happen in the past because Campbell/Teague had taken
22 the approach that I had no standing to review or
23 comment on the order. So, thank you, Your Honor.

24 THE COURT: Okay. Yes, sir.

25 MR. WEDLAKE: That we will agree on the contents

1 of the order.

2 THE COURT: Yes, sir.

3 MR. WEDLAKE: But I'd like to just be clear,
4 Your Honor, the declaratory judgment nature of my
5 case, just to interpret the law, has that gone by the
6 boards then with your judgment?

7 THE COURT: Yes, sir. And the reason is because
8 simply because it's characterized as a declaratory
9 judgment action, doesn't effect who may be named as
10 an appropriate party in the lawsuit. So, even if
11 it's a declaratory judgment action. If it's a
12 misappropriation action. If it's a -- if it's
13 shareholders derivative suit. In any of those
14 actions you still need to name the proper party.
15 Once you name the proper party, then you may be in a
16 position to adjudicate the underlining issues.

17 But again, under 33-31-834, those directors are
18 immune. And there is a very, very strong historical
19 public policy in favor of that proposition of law.
20 And it's a public policy that adheres to the benefit
21 of all of us collectively. Because what's the
22 benefit of forming a corporation or an association if
23 you can't enjoy the privileges of that association?
24 Which are, in large measure, immunity from liability
25 from a lawsuit. If that is stripped away, just

1 because the nature of the lawsuit and nothing more,
2 then there's really no benefit to forming those
3 corporations in the first place. So, appreciate, if
4 you will, the public policy behind that law. It's
5 good public policy, it really is. And we're all
6 lucky to have it. Because it helps churn the wheels
7 of our economy. All right. Thank you, sir, I
8 appreciate it.

9 MS. O'BRIAN: Your Honor, may I ask one
10 clarification question --

11 THE COURT: Sure.

12 MS. O'BRIAN: -- as I anticipate this could
13 become an issue. When we were just talking about
14 sending in a proposed order, you said that it was
15 okay for us to send it to you at the same time as
16 Mr. Wedlake as long as he is copied.

17 THE COURT: That's right.

18 MS. O'BRIAN: We do not have to reach an
19 agreement before it is sent to you?

20 THE COURT: No, ma'am. And what will happen is
21 you just tell me -- you have him in the cc line, so
22 by copy of this email, I copied Mr. Wedlake.

23 And, Mr. Wedlake, what I'll do is I'll just sit
24 on it for a couple of days. I would like for you to
25 acknowledge receipt and say I'd like two days, three

1 days, four days to review this order before you
2 execute. Okay? So, I'll know what I'm waiting for.
3 And I'll know what my timing is, okay.

4 MS. O'BRIAN: Thank you for that clarification,
5 Your Honor.

6 THE COURT: Yes, ma'am. Okay.

7 All right, good luck to y'all.

8 MR. WEDLAKE: Now, Your Honor, I'm not familiar
9 with the court reporter today but I would like to
10 request a transcript.

11 THE COURT: Okay.

12 MR. WEDLAKE: And there is another motion that I
13 had put in for dismissal of their counterclaims,
14 which was the subject of this hearing today.

15 THE COURT: Okay. And that was for the
16 frivolous sanctions, correct?

17 MR. GIBSON: Yes.

18 THE COURT: Okay. And I read that and what I've
19 done is I know that they made a motion for summary
20 judgment to have that granted, you had a motion to
21 have it dismissed. I'm going to deny both of those.
22 And that can be the subject of a subsequent hearing
23 or a lawsuit. But you heard me, Mr. Wedlake, suggest
24 that, perhaps, the Defendants should withdraw that in
25 any event. So there won't be any additional issues

1 related to this. But again, that's all within their
2 discretion.

3 MR. WEDLAKE: Now, am I confused, Your Honor, my
4 motion is to dismiss their counterclaim so that you
5 said you have covered it by that suggestion you just
6 aired?

7 THE COURT: I covered it by denying, it. Okay.
8 I've read your memorandum. I've heard your arguments
9 herefore this morning. I understand what the issues
10 are one to the other. I don't think that we're in a
11 position at this point, that I am armed with all of
12 the information to make a determination as to whether
13 fees and costs should be awarded for a frivolous
14 proceeding. I also don't think that I am armed with
15 the appropriate information to determine whether it
16 should be dismissed. I do know that as a consequence
17 of having filed the case inappropriately, there would
18 be some evidence to support that it was a frivolous
19 proceeding. However, based on that and that alone, I
20 don't think any court would grant frivolous -- grant
21 a frivolous lawsuit on that basis. There would have
22 to be more. But in any event, I think it's a
23 outstanding issue and I'm not prepared to grant that
24 summarily this morning. Okay.

25 MR. WEDLAKE: Yes. Now, just to be clear, for

1 the record though, Your Honor, in my notion to
2 dismiss counterclaims, I petitioned the court to
3 apply Rule 40 to an order a separate trial, that
4 their counterclaims will be renamed.

5 THE COURT: Well, in that, as a practical
6 matter, is what would happen. Now, just like I was
7 telling Ms. O'Brian, I don't think there's a right to
8 a jury trial. And generally speaking, under the
9 Frivolous Sanctions Act there is not a trial on the
10 merits. Generally, there's a hearing and/or motion.
11 Y'all have to work that out if and when that ever
12 happens. Okay. And you'll have to talk to the judge
13 who is hearing it. I presume it would probably be
14 put on a non-jury trial docket. And y'all would come
15 before the court and it would proceed in whatever
16 fashion you collectively agree on and the judge
17 agrees on as well. That remains to be seen. Okay.

18 Good luck to you. Y'all have a great day. And
19 a great week.

20 MR. GIBSON: Thank you, Your Honor.

21 (WHEREUPON, the proceedings were concluded.)
22
23
24
25

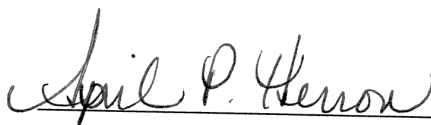
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

I, APRIL P. HERRON, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Greenville County, South Carolina, on the 28th day of October, 2019.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

December 12, 2019



APRIL P. HERRON, Court Reporter

EXHIBIT 2 - “**Board of Directors**” as a Legitimate Party to a Judicial Action is a Proven Fact

*BROWN v. **BOARD OF DIRECTORS OF ROSE TREE MEDIA SCHOOL DISTRICT***
(December 30, 2019) , United States District Court, E.D. Pennsylvania. Civil Action No. 19-836.

*JOHNSON v. **BOARD OF DIRECTORS OF FOREST LAKES MASTER ASSOCIATION***
(December 27, 2019) , Court of Appeals of Kansas. No. 120,145.

*MATTER OF PETTUS v. **BOARD OF DIRECTORS*** (December 17, 2019)
Court of Appeals of New York. App. Div. No. M-883, Motion No. 2019-628.

*BARNARD v. TIAA **BOARD OF DIRECTORS*** (December 13, 2019)
United States District Court, S.D. New York. No. 19-CV-1074 (RA).

BOARD OF DIRECTORS OF THE MOTION PICTURE INDUSTRY PENSION PLAN
v. TRIO ENTERTAINMENT SERVICES GROUP, LLC (December 12, 2019)
United States District Court, C.D. California, Western Division. Case No. 2:19-cv-05494-JFW-Ex.

*HNY CLUB SUITES OWNERS ASSN. INC. EX REL. **BOARD OF DIRECTORS***
v. VASSOS (December 9, 2019)
Supreme Court, New York County. Docket No. 850086/2019, Motion Seq. No. 001.

BOARD OF DIRECTORS OF THE MOTION PICTURE INDUSTRY PENSION PLAN
v. MICHAEL GLATZE, LLC (October 31, 2019)
United States District Court, C.D. California. Case No. CV 19-5881 FMO (KSx).

*HNY CLUB SUITES OWNERS ASSN. INC. EX REL. **BOARD OF DIRECTORS** v. MPAMBANI*
(October 28, 2019) ,
Supreme Court, New York County. Docket No. 850137/2018, Motion Seq.No. 001.

*HNY CLUB SUITES OWNERS ASSN. INC. EX REL. **BOARD OF DIRECTORS** v. FERRER*
(October 28, 2019) , Supreme Court, New York County. Docket No. 850084/2019,
Motion Seq. No. 001.

*PETTUS v. **BOARD OF DIRECTORS, OWNERS 800 GRAND CONCOURSE*** (September 26,
2019) , Supreme Court, Appellate Term, First Department. Motion No. 570581/19.

*GUION v. BONNER HOMELESS TRANSITIONS **BOARD OF DIRECTORS*** (September 18,
2019) , United States District Court, D. Idaho. Case No. 2:18-cv-00186-DCN.

*COTTON v. MILWAUKEE AREA TECHNICAL COLLEGE DISTRICT **BOARD OF***
DIRECTORS (March 8, 2019) , United States Court of Appeals, Seventh Circuit. No. 18-2258.

M.P. EX REL. PETERS v. BOARD OF DIRECTORS OF RAYTOWN CONSOLIDATED SCHOOL DISTRICT NO. 2 (February 21, 2019)
United States District Court, W.D. Missouri, Western Division. No. 4:18-CV-0816-DGK.

BOARD OF DIRECTORS OF WINDSOR OWNERS CORP. v. PLATT (July 10, 2018)
Supreme Court, New York County. Docket No. 155985/2014.

SAD 3 ED. ASS'N v. RSU 3 BD OF DIRECTORS (March 1, 2018)
Supreme Judicial Court of Maine. Docket: Ken-17-75.

BOARD OF DIRECTORS OF WINDSOR OWNERS CORP. v. PLATT (February 2, 2018)
Supreme Court, New York County. Docket No. 155985/14.

RINDAHL v. AVERA MEDICAL GROUP BOARD OF DIRECTORS & ADMINISTRATORS
(November 14, 2017)
United States District Court, D. South Dakota, Southern Division. No. 4:17-CV-04104-RAL.

McCALISTER v. TENNESSEE VALLEY AUTHORITY BOARD OF DIRECTORS
(February 24, 2017) , United States District Court, N.D. Alabama, Northwestern Division.
Case No. 3:14-cv-01569-HGD.

THE BOARD OF DIRECTORS OF RUPPERT YORKVILLE TOWERS CONDOMINIUM v. HAYDEN (February 21, 2017) , Appellate Division of the Supreme Court of New York, First Department. Motion No. M-305, Index No. 153652/15.

BUSTER v. COMPENSATION COMMITTEE OF THE BOARD OF DIRECTORS OF MECHANICS BANK (June 2, 2016)
United States District Court, N.D. California. No. C 16-01146 WHA.

WELENC v. BOARD OF DIRECTORS OF POLISH AND SLAVIC FEDERAL CREDIT UNION
(March 11, 2016) , Appellate Division of the Supreme Court of New York, Second Department.
Index No. 12933/13, Motion No. 2015-10708, M107951.

DUSMAN v. BOARD OF DIRECTORS OF CHAMBERSBURG AREA SCHOOL DIST.
(March 1, 2016) , Supreme Court of Pennsylvania. Nos. 665, 666 MAL (2015).

U.S. v. BOARD OF DIRECTORS OF TRUCKEE-CARSON IRRIGATION DISTRICT
(January 25, 2016) , United States District Court, D. Nevada. No. 3:95-CV-00757-HDM.

BD. OF DIRECTORS OF ROUGH RIDERS v. SIGNATURE (December 20, 2013)
United States District Court, E.D. New York. No. CV 13-565(LDW)(ETB).

BOARD OF DIRECTORS OF CAMERON GROVE CONDOMINIUM II, ET AL.
v. STATE OF MARYLAND COMM'N ON HUMAN RIGHTS (August 20, 2012)
Court of Appeals of Maryland. Pet. Docket No. 163.

LANEY v. HOSPITAL BOARD OF DIRECTORS OF LEE COUNTY (December 14, 2010)
United States District Court, M.D. Florida, Fort Myers Division.
Case No. 2:09-cv-678-FtM-29SPC.

BOARD OF DIRECTORS OF TRUCKEE-CARSON IRRIGATION DISTRICT *v. U.S.*
(November 29, 2010) , Supreme Court of United States. No. 10-396.

GREEN v. BOARD OF DIRECTORS OF PARK CLIFF UNIT OWNERS ASS'N (May 25, 2006)
Court of Appeals of Georgia. No. A06A0365.

LaSALLE NAT. TRUST v. BOARD OF DIRECTORS OF 1100 LAKE SHORE DRIVE CONDOMINIUM (March 20, 1997) , Appellate Court of Illinois, First District, Fourth Division. No. 1-95-4064.

SHAFFER v. BOARD OF SCHOOL DIRECTORS, ETC. (December 13, 1982)
United States Court of Appeals, Third Circuit. No. 81-2880.

MILLIKAN v. BOARD OF DIRECTORS (May 22, 1978)
The Court of Appeals of Washington, Division One. No. 5097-1.

BARNES v. BD. OF DIRECTORS, MT. ANTHONY U. H. SCH. DIST. (July 8, 1976)
United States District Court, D. Vermont. Civ. A. No. 74-237.

TRUDELL v. BOARD OF DIRECTORS OF HAZELMERE SCHOOL DIST. 60 (June 21, 1972)
Supreme Court of Washington, En Banc. No. 42421.

HARE v. BOARD OF DIRECTORS, ETC. (October 15, 1957) ,
Supreme Court of Iowa. No. 49243.

Source: www.leagle.com/leaglesearch?page=....&exact=board of directors

EXHIBIT RB.1 - Order Denying Dismissal of Appeal
The South Carolina Court of Appeals

Raymond A. Wedlake, as a Member of Woodington
Homeowners' Association, Inc., Appellant,

v.

Christopher Edwards, Charles Koshis, Denis Esteve,
Michael Keels and William Craigo in their capacity as
Board of Directors of Woodington Homeowners'
Association, Inc., Respondents.

Appellate Case No. 2020-000438

ORDER

Appellant's motion for an order granting default judgment is denied. This court will consider the merits of this appeal after final briefing is complete.

Respondent's motion to dismiss this appeal is denied because Appellant timely filed this appeal from the circuit court's February 20, 2020 order, which denied Appellant's motion to reconsider as untimely and separately denied Appellant's previous motion for a new hearing.



FOR THE COURT

Columbia, South Carolina

cc:

Raymond A. Wedlake
Emily Kate O'Brian, Esquire

FILED
Sep 21 2020

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Raymond A. Wedlake, as a Member of
Woodington Homeowners' Association, Inc.

Plaintiff (Pro Se)

vs.

Christopher Edwards, Charles Koshis,
Denis Esteve, Michael Keels, and William Craigo
in their capacity as Board of Directors of
Woodington Homeowners' Association, Inc.

Defendants

)
) **IN THE COURT OF COMMON PLEAS**

)
) **THIRTEENTH JUDICIAL CIRCUIT**

)
) Civil Case No. 2018-CP-23-00269

)
) **AFFIDAVIT OF PLAINTIFF**

)
) **RAYMOND A. WEDLAKE**

)
) **IN SUPPORT OF**

)
) **VERIFIED COMPLAINT**

ENTERED COMPUTER

AFFIDAVIT OF RAYMOND A. WEDLAKE

Raymond A. Wedlake, personally appearing before me, being duly sworn, deposes and
says, under penalty of perjury, that:

1. I am over 18 years of age and am competent to make this Affidavit;
2. The information set forth below is based upon my personal knowledge, unless otherwise
specified as being based upon information and belief;
3. This Affidavit is being brought before this Court in support of my Complaint against
Defendants;
4. I am a long-time resident of Greenville, South Carolina and have lived in the same
community for over 19 years;
5. Defendants currently act as the 2018 Board of Directors (Board) of Woodington
Homeowners' Association, Inc. (WHOA), of which I am a longtime Member in good
standing;

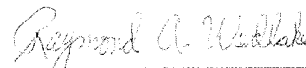
6. Defendants have prohibited me from access to WHOA documents, specifically a list of those Members who returned a set of three ballots from November 9, 2018 balloting (Documents or List), regarding a substantial increase in dues and a special assessment, and ignored or denied Plaintiff's various requests for copies of the List;
7. On December 17, 2018, Defendant Edwards, as President and on behalf of the Board refused my request for the List, stating in part: “.. the Board has been unable to find a bylaw or statute that grants Members the right to inspect ..” (Exhibit 3);
8. Based on information and belief, the “South Carolina Nonprofit Corporation Act of 1994” (NPCA, Exhibit 1) gives me a right to “inspect and copy” such Documents;
9. I believe there are other WHOA Members that share my platform and ideas (Platform), including a belief that fees increases were improper;
10. I believe Defendants are deliberately withholding the List, such that I do not have information to facilitate a garnering of support to challenge the current Board;
11. In addition, I am a “litigant”, as described under Section 33-31-1602(d) of the NPCA, and it is my position that I am therefore entitled to such information, regardless of whether it is specifically listed in the NPCA, and my position was communicated to, but was rejected by, Defendants;
12. I will suffer specific and individualized injury arising from an imminent proposed increase in HOA fees (Exhibit 4);
13. I sought relief from the Board's ignoring or denying a right to “inspect and copy” Documents via filing complaints with the “Department of Consumer Affairs” (DCA) under the May 2018 “HOA Act”, but all complaints were effectively ignored by the Board;

14. On October 5, 2018, I asked the Board to return ballots to an independent-third party for certification of vote results, or to allow me to “inspect and copy” ballots in order to certify vote results, and I specified a process to maintain confidentiality of a Member's vote (Exhibit 2); very specifically, I am not asking for a record of how each Member voted, but rather the List, only (Exhibit 5);
15. This October 5, 2018, letter was again brought to the Board's attention with filing of a DCA complaint of November 11, 2018 (Exhibit 6);
16. I am a litigant per 2017-CP-23-06301, relating to WHOA governance issues, with Appeal 2018-001209 currently pending;
17. Defendants conviction that I may not receive the List, where I believe such conviction has an intent to subjugate my candidacy to the 2019 Board and my Platform in opposition to that of Defendants, is simply bad faith, and improper;
18. I believe that the proper attitude for Defendants to take is to supply the List as requested, even though not specifically identified as required in the NPCA, if as here, the request has a proper purpose;
19. Defendants make excuse and refuse to provide the List by claiming that all ballot information is confidential, where on October 6, 2018, the Board was informed of a process by which votes of Members are kept confidential (Exhibit 7), but to date no acknowledgment of this process was received;
20. On December 27, 2018, the Board was informed that a listing of voters is commonly made known and is not confidential, as was shown in a report from “Election Trust” – the “Voter Credit List” (Exhibit 5);

21. I am a candidate for nomination to a 2019 WHOA Board with my Platform which conflicts with that of recent Boards, and which incorporates “transparency”, improvement of WHOA, proper Board Governance, along with a proposed procedure for alternative dispute resolution, and believe there are other Members that share such ideas, including many who did not vote during the recent balloting;
22. A proposed increase in fees (increasing dues by a factor about 2) was not approved by a majority of WHOA Members (34 votes) in November 9, 2018 balloting by those who actually returned ballots; for both Ballots 1 and 2, a majority of Members did not give approval to Defendants, who decided to go ahead with fees increases regardless of not having approval from a majority of Members;
23. I served as a Board member for two-prior terms, and was one of five co-authors of By-Laws Rev 2 (June 15, 2005);
24. Consistent with my Platform, ethics practiced by two Boards on which I served would:
- 1) never allow a personally-biased discrimination against any single Member, or group of Members;
 - 2) never condone a lack of communication to Members, and actions/inaction of the Board to remain secret;
 - 3) never withhold information requested by a Member in an attempt, and with intent, to improve WHOA;
- as done by Defendants, based on information and belief.
25. Regarding the November 9, 2018 set of three ballots, I have several proper purposes entitling me to the List, which are:

- 1) certify vote counts;
 - 2) since I am a nominee for the 2019 Board, identify Members whose beliefs may be similar to my beliefs, including a belief that fees increases were improper;
 - 3) prove to Defendants that non-returned ballots did not indicate, nor imply nor mean, support for the Board's proxy votes "For"; I am unable to contact these non-voting Members without knowing the List;
 - 4) show to Defendants that I am already a litigant per 2017-CP-23-06301;
 - 5) identify those Members who may support me in subsequent, potential actions to improve WHOA, where information from non-voting Members is needed to inform Defendants about true facts of Member desires;
 - 6) gather support for my Platform as a nominee for the 2019 Board;
26. I sent various requests for specific information and for Documents, which have been ignored or refused by Defendants, with no Documents provided.

Dated this 17th day of January, 2019.



Plaintiff, *Pro Se*
703 Creekview Drive
Greenville, SC 29607
864-254-9262
wedlakera@mail.com

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Raymond A. Wedlake, as a Member of
Woodington Homeowners' Association, Inc.

Plaintiff (Pro Se)

vs.

Christopher Edwards, Charles Koshis,
Denis Esteve, Michael Keels, and William Craigo
in their capacity as Board of Directors of
Woodington Homeowners' Association, Inc.

Defendants

)
) **IN THE COURT OF COMMON PLEAS**

)
) **THIRTEENTH JUDICIAL CIRCUIT**

)
) Civil Case No. 2018-CP-23-**2019-CP-23-**

)
) **VERIFICATION**

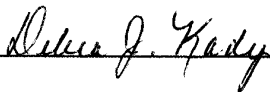
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CLERK OF COURT
P. J. WICKENS
GREENVILLE, SC

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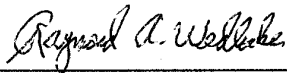
I, Raymond A. Wedlake, appearing first before the Notary Public, state that I am the Plaintiff
in this matter. I have read the attached Affidavit and know or believe the contents and
allegations are true to the best of my knowledge, except for those matters stated which are
alleged on information and belief.

Sworn to before me this

17th day of January, 2019.



Notary Public of South Carolina



Raymond A. Wedlake, Plaintiff

My Commission expires: 5/30/2024

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Raymond A. Wedlake, as a Member of
Woodington Homeowners' Association, Inc.

Plaintiff (*Pro Se*)

vs.

Christopher Edwards, Charles Koshis,
Denis Esteve, Michael Keels, and William Craigo
in their capacity as Board of Directors of
Woodington Homeowners' Association, Inc.

Defendants

)
) **IN THE COURT OF COMMON PLEAS**

)
) **THIRTEENTH JUDICIAL CIRCUIT**

)
) Civil Case No. 2019-CP-23-00269

)
) **AFFIDAVIT IN SUPPORT OF**

)
) **MEMORANDUM IN OPPOSITION**

)
) **TO DEFENDANTS' MOTION FOR**

)
) **SUMMARY JUDGMENT AND TO**

)
) **EXTEND ADR DEADLINE**

AFFIDAVIT OF RAYMOND A. WEDLAKE

Raymond A. Wedlake, personally appearing before me, being duly sworn, deposes and
says, under penalty of perjury, that:

1. I am over 18 years of age and am competent to make this Affidavit;
2. The information set forth below is based upon my personal knowledge, unless otherwise
specified as being based upon information and belief;
3. This Affidavit is being brought before this Court in support of my "Memorandum in
Opposition to Defendants' Motion for Summary Judgment and to Extend ADR Deadline";
4. I am a long-time resident of Greenville, South Carolina and have lived in the same
community for over 19 years;
5. Every effort was made by me to avoid bringing an action to Court, amicably requesting
information several times, without any information being provided;

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Paul W. Kinsinger, CDD, CLU, SO

6. At the time of Complaint filing on January 17, 2019, Defendants acted as the 2018 Board of Directors (Board) of Woodington Homeowners' Association, Inc. (WHOA), of which I am a longtime member (Member) in good standing;

7. I am not aware of any known purpose nor reason that the standard-Alternative-Dispute-Resolution-(ADR) deadline should be extended;

8. I cited many instances of genuine issues of material fact in my "Memorandum in Opposition to Defendants' Motion for Summary Judgment and to Extend ADR Deadline";

9. As of this date, Defendants have not provided to me any of requested information:

- > a list of WHOA members (Members) who voted on November 2018 ballots (the "List");
- > a schedule of planned Board meetings;
- > confirmation of your commitment to publish agendas 3 days before all scheduled meetings;
- > an explanation of how meeting minutes will be made known to Members;
- > when will a new, official WHOA address be filed with the South Carolina Secretary of State? (the "16 Southfield" address is on longer valid);
- > has the Board created an "Office" file containing a By-Laws "official version", and if so, can it be provided to me? ;
- > who is serving on the Architectural Committee (AC)? ;
- > who is serving on a By-Laws Review Committee (BLRC)? ;

> what plans does the Board have to fill the recent vacancy on the Board? On what date will the vacancy will be filled? Please provide a timetable for all steps;

where as above is a summary of "Exhibit I" which was filed in the Public Index on July 12, 2019;

10. I dispute that the moving party (Defendants) is entitled to a judgment as a matter of law;

11. I dispute Defendants' legal conclusion that I am not legally entitled to information which I requested from Defendants;

12. I dispute Defendants' legal conclusion that I am not entitled to relief;

13. A Court ruling compelling Defendants to provide requested information will effectively satisfy my desired relief;

14. I cite the proper standard being, per the South Carolina Supreme Court, that evidence and all inferences which can reasonably be drawn therefrom must be viewed in the light most favorable to the non-moving party (myself);

15. Several inferences proposed by Defendants are not reasonable as each suggests: "... an issue of fact that is not genuine", based on on information and belief;

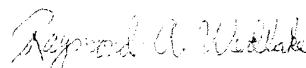
16. I believe all facts presented by me are genuine.

17. I specifically gave rebuttal for each numbered paragraph in Defendants' Motion, as found in my Memorandum in Opposition;

18. My Complaint which was filed in the Public Index on January 17, 2019, is supported by Affidavit and Exhibits, as well as an additional Affidavit filed July 12, 2019, which is also supported by exhibits; both of which show a proper purpose with the goal of improving Board governance and improving WHOA and bringing benefits to its Members;

19. Named Defendant Charles Koshis is a correct entity who can provide requested information, as he is a still-active Board member, and has access and authority over the requested information;
20. I disagree that Defendants are immune from a Declaratory-Judgment suit under any existing law;
21. I believe my claims of entitlement to receive requested information are legitimate questions of interpretation of law posed to the Court, and thus are not frivolous;
22. To date, no evidence, Affidavits, nor exhibits to support Defendants' claims of harassment were brought before the Court;
23. To date, no evidence, Affidavits, nor exhibits to support Defendants' claims of a frivolous suit were brought before the Court;
24. An abundance of evidence is filed in the Public Index which supports Plaintiff's-Declaratory-Judgment action;
25. My case was specifically filed as *Pro Se*, where Defendants were informed this was being done to encourage them to join with me in seeking resolution of a disputed issue of law, such that there was no need for them to incur legal fees, but Defendants ignored my encouragement;
26. I will request a Continuance at the Hearing in the event that Defendants intend to overwhelm me with a bulk of previously-undisclosed documents;
27. Hearsay is inadmissible evidence, and per Rule 402, SCRE, must be ignored by the Court;
28. Pushing back of a Court-required mediation date will delay resolution of disputed issues;
29. I ask the Court to disregard Defendants' request for modification of ADR requirements;
30. My Motion for Summary Judgment was entered in the Public Index on April 15, 2019;

31. Defendants' claim of need for "ongoing discovery" led to denial of my Motion for Summary Judgment;
32. Denial of my Motion for Summary Judgment was an inappropriate conclusion, since no amount of discovery can change the simple-Declaratory-Judgment nature of my case, where a question of interpretation of law was posed to the Court, based on information and belief;
33. My "Memorandum Supporting Motion for Summary Judgment" was filed in the Public Index on July 18, 2019, and I ask the Court to seriously consider its contents;
34. Defendants have not met criteria to be granted Summary Judgment, based on information and belief;
35. There are numerous-genuinely-disputed-material facts as cited in my Memorandum in Opposition;
36. I ask the Court to **DENY** Defendants' Motion for Summary Judgment, and to grant Summary Judgment in my favor.
- Dated this 23rd day of October, 2019.



Raymond A. Wedlake, Plaintiff, *Pro Se*
703 Creekview Drive
Greenville, SC 29607
864-254-9262 wedlakera@mail.com

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Raymond A. Wedlake, as a Member of
Woodington Homeowners' Association, Inc.

Plaintiff (Pro Se)

vs.

Christopher Edwards, Charles Koshis,
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Defendants

IN THE COURT OF COMMON PLEAS

THIRTEENTH JUDICIAL CIRCUIT

Civil Case No. 2019-CP-23-00269

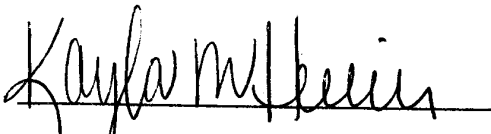
VERIFICATION

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Paul McKenna 000 900 L SC

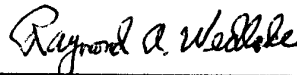
I, Raymond A. Wedlake, appearing first before the Notary Public, state that I am the Plaintiff in this matter. I have read the attached Affidavit and know or believe the contents and allegations are true to the best of my knowledge, except for those matters stated which are alleged on information and belief.

Sworn to before me this

23rd day of October, 2019.



Notary Public of South Carolina



Raymond A. Wedlake, Plaintiff, *Pro Se*

My Commission expires: Sep 9, 2021

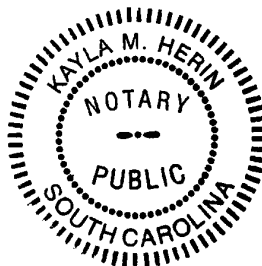


FIGURE 2 - Apparent Error at Law + Lack of Consistent Judgment

703 Creekview Drive
Greenville, SC 29607
October 30, 2019

The Honorable Robin B. Stilwell
Greenville County Courthouse
305 E. North Street Suite 315
Greenville, SC 29601
rstilwellsc@sccourts.org

cc: Ms. Emily O'Brian, Esq.
Campbell Teague LLC
16 W. North Street
Greenville, SC 29601
emily@campbellteague.com

cc: Grant H. Gibson, Esq.
G. Gibson & Associates, LLC
1200 Woodruff Road A-3
Greenville, SC 29607

Subject: RE: Hearing of 10/28 2019-CP-23-00269 - Apparent Error at Law -
Lack of Consistent Judgment - Woodington Homeowners' Association, Inc. (WHOA)

Dear Honorable Judge Stilwell:

Thank you for presiding at a Hearing of October 28, 2019, where Your Honor granted Summary Judgment to Defendants, and denied my Motion to Dismiss Counterclaim. Many comments Your Honor made in this Hearing were truly appreciated.

However, I would respectfully suggest that Your Honor's granting represents an "Apparent Error at Law". Further, my experience shows an apparent lack of consistent judgment is given by various Circuit-Court Judges, including Your Honor.

APPARENT ERROR AT LAW

If I gave incorrect confirmation of status of WHOA as a "non-profit corporation", then I apologize. I believe WHOA is actually more properly categorized as a "Mutual Benefit"-corporation under the "South Carolina Nonprofit Corporation Act" (NPCA). I asked the Board to divulge US-Tax Forms to me, but they will not, to help clarify this critical question of categorization. If WHOA is truly a Mutual-Benefit corporation, then NPCA Section 33-31-834(b), with its statement of "Immunity from suit" is **not** applicable to a Mutual-Benefit corporation. If true, this shows Your Honor's granting was done in error.

Further, I cannot believe the legislative intent of the NPCA as related to 33-31-834(a) intends to exempt a Board as “immune” when a violation of By-Laws, and/or South Carolina Code, applies. In such instances where law was violated, whether explicitly stated in pleadings, or not, a Court can easily recognize: “... This immunity from suit is removed when the conduct amounts to wilful, wanton, or gross negligence. ...”. Please note that (per “or”) only one of: ... willful, wanton, or gross ... is needed to annul immunity. Regardless of Declaratory Judgment asked from the Court, no immunity from suit is properly given when violation of law is involved, as alleged by my case. Violation of law equates to all of: willful, wanton, and gross negligence.

Therefore for reasons above, I believe granting was done with an “Error at Law”.

APPARENT LACK OF CONSISTENT JUDGMENT

Several cases I filed against WHOA Board of Directors (Board) all are similarly captioned; see Exhibit 1. In no instance before the Hearing of October 28 did anyone make claim of a “wrong party being named”, or to “you can't sue the Board” because they are “immune from suit”, which led to dismissal or annulment of any of my prior cases. As a matter of fact, in a “Hearing to Dismiss” at which Your Honor presided on January 3, 2018, Your Honor denied Defendants' Motion after similar “wrong party” claims were made; see Exhibit 2. Given this precedent as ruled by Your Honor, I understand no rationale for apparent inconsistent judgment as given in the Hearing on October 28.

Your Honor's comments related to possibility for me to file a “Motion for Reconsideration of Order” would be welcomed. Regardless, I may decide to do so, such that the Record is clear for future proceedings related to the Board's unlawful denial that they must supply me with requested information. Particularly, as mandated by NPCA, the Board has not provided a list of WHOA Members to me that was requested!

Sincerely,



Raymond A. Wedlake 864-254-9262
wedlakera@mail.com

EXHIBIT 1 - All cases show similar captions

The Public Index shows: “Woodington Homeowners' Association, Inc.”, listed as a co-**Plaintiff** for all cases.

2017CP2306301 (2018-001209 Appeal pending)

Raymond A. Wedlake, individually, and derivatively, on behalf of all Members of the Woodington Homeowners' Association, Inc.

Plaintiff(s)

vs.

Benjamin Acord, William Craigo, Denis Esteve, and Brian James in their capacity as the current Board of Directors of the Woodington Homeowners' Association, Inc.

and,

Association Management Group SC, Inc.,

Defendants

2019CP2300269

Raymond A. Wedlake, as a Member of Woodington Homeowners' Association, Inc.

Plaintiff (*Pro Se*)

vs.

Christopher Edwards, Charles Koshis, Denis Esteve, Michael Keels, and William Craigo in their capacity as Board of Directors of Woodington Homeowners' Association, Inc.

Defendants

2019CP2301501

Raymond A. Wedlake, as a Member of Woodington Homeowners' Association, Inc.

Plaintiff

vs.

Scott Bashor, William Craigo, Christopher Edwards, Denis Esteve, and Charles Koshis, in their capacity as Members of the current Board of Directors of Woodington Homeowners' Association, Inc.

and

Doe Entities 1-10, and John & Jane Does 1-10

Defendants

EXHIBIT 2 - Transcript Excerpts 01/03/18 (emphasis added)

A same: “wrong party” argument, was previously denied by Judge Stilwell

[MR. GROTE:]

[Page 5]

5 Benjamin Accord, William, Craigo, Denis Esteve,
6 and Brian James are the current board of directors
7 for the homeowners association. And they've been
8 named as the Defendants and the association
9 management group is the other Defendant. I would
10 classify the **individual Defendants as just the board**
11 **and board members** and that's who I'll be referring
12 to.

[Page 7]

1 MR. GROTE: It's the board members motion to
2 dismiss. And if it please the Court, I'd like to go
3 into that.

[Page 10]

3 THE COURT: Is it a DJ action or is it a
4 non—jury matter?

5 MR. GROTE: They've sought to ——— what I can tell
6 is two different theories of relief. One is
7 declaratory judgment and two is an injunction.

[Page 29]

4 From a
5 legal perspective, the records request statute, which
6 is cited in our memorandum, says that the relief is
7 against the corporation. **THAT KIND OF CLAIM SHOULD**
8 **BE BROUGHT AGAINST THE CORPORATION NOT THE BOARD OF**
9 **DIRECTORS.** And if he continues to pursue that, it's
10 our position that that **CLAIM NEEDS TO BE BOUGHT**
11 **AGAINST THE CORPORATE NAME RATHER THAN THE INDIVIDUAL**
12 **BOARD MEMBERS** because that's the relief that the
13 statute provides.

[Page 41]

23 THE COURT: All right, thank you, I appreciate
24 it. Okay.

25 The motion to dismiss with respect to the cause

[Page 42]

1 of action against AMG are granted pursuant to
2 consent. **THE REMAINING CAUSES OF ACTION, WITH REGARD**
3 **TO ALL THE OTHER DEFENDANTS ARE RESPECTFULLY DENIED.**

FIGURE 1 - Counsel's Letter to Judge

Date: Thu, 31 Oct 2019 11:51:48
From: emily@campbellteague.com
To: rstilwellsc@sccourts.org
Cc: Ray Wedlake <wedlakera@mail.com>
Subject: Re: Letter Courtesy-Electronic Copy

Judge Stilwell,

It is my understanding from Mr. Wedlake's letter that he intends to withdraw his concession that Woodington HOA is a nonprofit corporation per SC Code Sec. 33-31-824(b). In the interest of full candor, I have been actively looking into this issue prior to sending over a proposed order, as additional information has come to light post-hearing regarding the HOA's tax classification. In particular, although the HOA is a nonprofit, and we believe the HOA is eligible to file for tax classification under 501(c)(3), (6), or (12), the HOA has not made the requisite tax filings at this point.

However, other cases have discussed immunity under Section 834 as generally for "nonprofits" without referring to the specific Federal Tax Code provisions, and thus, we still believe your ruling is soundly based on both current law and public policy. See, e.g., *Smith v. Dockside Ass'n, Inc.*, 2005 WL 7083482, *4 (S.C. Ct. App. Feb. 28, 2005) ("The General Assembly has provided further protection to directors of nonprofit corporations by enacting South Carolina Code section 33-31-834. That section provides that director of nonprofit organizations are immune from suits arising from the conduct of the affairs of the organization unless the directors' conduct amounts to 'willful, wanton, or gross negligence.'")

Even if Section 834's immunity did not apply, Section 33-31-830(d) provides immunity in this instance. That section states, "A director is not liable to the corporation, a member, or any other person for any action taken or not taken as a director, if the director acted in compliance with this section." The section requires, "A director shall discharge his duties as a director, including his duties as a member of a committee: (1) in good faith; (2) with the care an ordinarily prudent person in a like position would exercise under similar circumstances; and (3) in a manner the director reasonably believes to be in the best interest of the corporation." As there is no evidence of actions by individual board members which would violate this provision, the defendants are entitled to immunity under Section 830. This is what the court held in the *Smith* case cited above, while also referencing Section 834's protections. (A courtesy copy of the case is attached.)

We further maintain that there are ample other grounds for granting our motion for summary judgment—namely: (1) that a list of how members confidentially voted is not something a member is entitled to under the NCPA; and (2) the corporation and not the individual Board members is the proper defendant as it is a corporate duty imposed by the statute and resignation from the Board results in the individuals having no authority to provide the requested relief.

At the end of the day, we want to ensure there is no misapprehension of our arguments given what we have learned, and we want to provide the Court all information needed to support the accurate ruling of granting our motion for summary judgment. Please let us know how you would like to proceed on this matter, and if the grounds for the proposed order need to be revised. If further briefing or a rehearing would be of assistance to Your Honor in making this determination, we would certainly be glad to do that as well.

Best,
Emily

Campbell Teague LLC
Emily O'Brian, Esq.
16 W North St Greenville SC 29601
864.326.0597

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Raymond A. Wedlake, as a Member of
Woodington Homeowners' Association, Inc.

Plaintiff (Pro Se)

vs.

Christopher Edwards, Charles Koshis,
Denis Esteve, Michael Keels, and William Craigo
in their capacity as Board of Directors of
Woodington Homeowners' Association, Inc.

Defendants

)
) **IN THE COURT OF COMMON PLEAS**

)
) **THIRTEENTH JUDICIAL CIRCUIT**

) Civil Case No.: 2019-CP-23-00269

) **AFFIDAVIT IN SUPPORT OF**

) **MOTION TO COMPEL**

) **ADR MEDIATION**

) **AND REQUESTING**

) **IMPOSITION OF SANCTIONS**

2019 NOV 18 AM 11:28
CLERK OF COURT
JUDICIAL CIRCUIT
CLERK OF COURT

Affidavit of Plaintiff: Raymond A. Wedlake, in Support of Motion

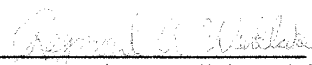
Raymond A. Wedlake, personally appearing before me, being duly sworn, deposes and
says, under penalty of perjury, that:

1. I am over 18 years of age and am competent to make this Affidavit;
2. The information set forth below is based upon my personal knowledge, unless otherwise
specified as being based upon information and belief;
3. This Affidavit is being brought before this Court in support of "Motion to Compel ADR
Mediation and Requesting Imposition of Sanctions";
4. I am a long-time resident of Greenville, South Carolina and have lived in the same
community for over 20 years;

5. I am a longtime member in good standing of Woodington Homeowners' Association, Inc.;
6. My Motion asked the Court to compel ADR mediation pursuant Rule 5(e) and (f) of "South Carolina Rules ADR" (SCRADR), since no "Motion to Defer" has been granted, and 300 days from the date of the filing of the action was observed on November 13, 2019;
7. I informed Defense Counsel (Counsel) of this ADR deadline date on November 12, 2019 (Exhibit 1);
8. My Motion moved the Court to consider sanctions pursuant to Rule 10(b), SCRADR, due to violation of the deadline date provision, based on information and belief;
9. I think the deadline date was violated by Counsel with full knowledge of such violation, based on information and belief;
10. Defendants had full knowledge of pending-ADR-deadline date, based on information and belief, as indicated by their September 27, 2019, "Motion for Summary Judgment and to Extend ADR Deadline" as found in the Public Index;
11. On May 31, 2019, I informed Counsel of a Mediator who was available in June (Exhibit 2);
12. On June 7, 2019, I asked Counsel to explain why mediation should not happen, but no explanation was given (Exhibit 3);
13. On June 25, 2019, I asked Council to schedule mediation within two weeks, and also to: "Kindly explain rationale, if negative answers may be forthcoming.", but they did not reply (Exhibit 4);

14. On June 30, 2019, I cited the South Carolina Lawyer's Oath (Exhibit 5) to Counsel, and they were asked to: "... verify Campbell Teague has duties, correspondingly ...", but Counsel did not reply (Exhibit 6);
15. On July 16, 2019, I informed Counsel of a mediation date of August 15, and that mediation was a Court requirement, but Counsel did not reply (Exhibit 7);
16. On August 5, 2019, I asked Counsel to suggest an alternate date for mediation, after they rejected an August 15 date, but they did not reply (Exhibit 8);
17. On August 13, 2019, I informed Counsel of possible-September-mediation dates, but they did not reply (Exhibit 9);
18. On August 14, 2019, I informed Counsel of possible-October-mediation dates, but they did not reply (Exhibit 10);
19. Three messages from Counsel dated: May 30, June 6, and Jul 1, 2019, verified availability and intent to schedule mediation;
20. Counsel did not schedule timely mediation;
21. Denial of mediation was done after Counsel misled me (Exhibit 11), based on information and belief, which is a violation of the South Carolina Lawyer's Oath (Exhibit 5).

Dated this 15th day of November, 2019.


Raymond A. Wedlake, Plaintiff (*Pro Se*)
703 Creekview Drive
Greenville, SC 29607
864-254-9262 wedlakera@mail.com

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Raymond A. Wedlake, as a Member of
Woodington Homeowners' Association, Inc.

Plaintiff (Pro Se)

vs.

Christopher Edwards, Charles Koshis,
Denis Esteve, Michael Keels, and William Craigo
in their capacity as Board of Directors of
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Defendants

)
) **IN THE COURT OF COMMON PLEAS**

)
) **THIRTEENTH JUDICIAL CIRCUIT**

)
) Civil Case No. 2019-CP-23-00269

)
) **VERIFICATION**

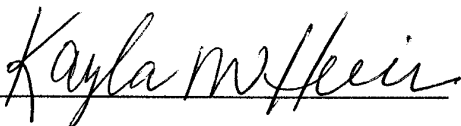
FILED-CLERK OF COURT
KAYLA M. HERIN
RECEIVED 11:28 AM
NOV 18 2019

2019 NOV 18 AM 11:28

I, Raymond A. Wedlake, appearing first before the Notary Public, state that I am the Plaintiff
in this matter. I have read the attached Affidavit and know or believe the contents and
allegations are true to the best of my knowledge, except for those matters stated which are
alleged on information and belief.

Sworn to before me this

15th day of November, 2019.

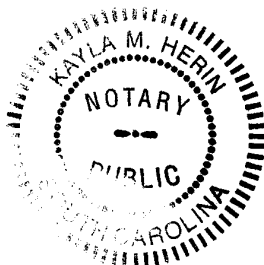


Notary Public of South Carolina



Raymond A. Wedlake, Plaintiff

My Commission expires: Sep 9, 2021



STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Raymond A. Wedlake, as a Member of
Woodington Homeowners' Association, Inc.

Plaintiff (Pro Se)

vs.

Christopher Edwards, Charles Koshis,
Denis Esteve, Michael Keels, and William Craig
in their capacity as Board of Directors of
Woodington Homeowners' Association, Inc.

Defendants

)
) **IN THE COURT OF COMMON PLEAS**

) **THIRTEENTH JUDICIAL CIRCUIT**

) Civil Case No. 2019-CP-23-00269

) **AFFIDAVIT OF PLAINTIFF**

) **RAYMOND A. WEDLAKE**

) **CITING ADDITIONAL,**

) **REQUESTED INFORMATION NOT**

) **PROVIDED BY DEFENDANTS**
)

Raymond A. Wedlake, personally appearing before me, being duly sworn, deposes and
says, under penalty of perjury, that:

1. I am over 18 years of age and am competent to make this Affidavit;
2. The information set forth below is based upon my personal knowledge, unless otherwise
specified as being based upon information and belief;
3. This Affidavit is being brought before this Court to cite additional-requested information that
Defendants have not supplied;
4. I am a long-time resident of Greenville, South Carolina and have lived in the same
community for over 19 years;
5. I am a longtime member in good standing of Woodington Homeowners' Association, Inc.
(WHOA);
6. Defendants previously acted as the 2018 Board of Directors (Board) of WHOA, and all but
Defendant Keels continued to the 2019 Board as elected at the last Annual Meeting;

7. Defendant Edwards resigned from the Board on April 15, 2019, and Defendants Craig and Esteve resigned from the Board in June, 2019 (Exhibit A);
8. On December 27, 2018, I requested information about "... a list of voters ..." for WHOA members (Members) who voted in November 9, 2018 balloting, but Defendants did not provide such list (Exhibit B);
9. On February 15, 2019, I requested a current list of Members, which Defendants must provide upon request as mandated by the "South Carolina Nonprofit Corporation Act of 1994" (NPCA), but Defendants made no reply (Exhibit C);
10. On February 28, 2019, I requested information "... for a timed-agenda ..." for a Special Meeting planned for March 11, 2019, but Defendants provided no information (Exhibit D);
11. On March 9, 2019, I requested results pertaining to the ballot of February 22, 2019, but Defendants provided no information (Exhibit E);
12. On April 6, 2019, I requested from Defendants information about a "Board Error – Notice of Late Fee: (Exhibit F) and also asked Defendants:
 - a) to comply with the By-Laws;
 - b) to take corrective action as specified per our By-Laws, Article XI; and,
 - c) Please plan to correct this error on the part of the Board **before April 16, 2019**;
13. Defendant Edwards replied erroneously on April 6, 2019 (Exhibit G) to my request of April 6, 2019 (Exhibit F);
14. Defendant Edwards' reply of April 6, 2019 was erroneous because as received by me, a dues-invoice-line item showed: "2019 Woodington HOA Dues \$200.00" (Exhibits F & G) ;

15. Defendant Edwards' reply of April 6, 2019 was erroneous because as received by me, a dues-invoice-line item did **not** show: "2019 Woodington HOA Dues \$250.00" (Exhibit F);
16. Defendants made no claims that negate my good-standing-Member status, and therefore I must still be recognized as a Member in good standing, based on information and belief (Exhibit F);
17. Defendants made no claims that negate my good-standing-Member status, and they have not complied with By-Laws, Article XI, based on information and belief (Exhibit F);
18. Defendants made no claims that negate my good-standing-Member status, since they took no corrective action as I requested, based on information and belief (Exhibit F);
19. Defendants made no claims that negate my good-standing-Member status, since they have not indicated any plan to correct their error, based on information and belief (Exhibit F);
20. Defendants have not acknowledged my notice to them to address that I am: "... aggrieved by any disciplinary action by the Board of Directors [and] may appeal to the membership at a special meeting ..." (Exhibit F);
21. Defendants have not scheduled a Special Meeting to address nor facilitate my appeal (Exhibit F);
22. On April 8, 2019, I requested that Defendants: "... show good faith and comply with By-Laws requirements ..." (Exhibit G);
23. On April 8, 2019, I informed Defendants: "... what was conveyed to the Board as contained in my "Board Error" notice was clearly not understood ...", but no explanation from Defendants, nor clarification nor understanding has been received since that time(Exhibit G);

24. On April 25, 2019, I requested feedback from Defendants for two questions: "...What gives a Board an option to elect to ignore Member contacts? Upon what proper-governance basis can a Board take your position? ...", but no feedback has been received (Exhibit H);
25. On May 6, 2019, I requested information from Defendants, but they did not respond to my request for simple information, where a reply before May 16, 2019 was requested (Exhibit I);
26. On May 6, 2019, I requested Defendants to provide me with a schedule of planned Board meetings, but no schedule was provided (Exhibit I);
27. On May 6, 2019, I requested Defendants to provide me with confirmation of their commitment to publish [meeting] agendas 3 days before all scheduled meetings, but no confirmation was provided (Exhibit I);
28. On May 6, 2019, I requested Defendants to provide me with an explanation of how meeting minutes will be made known to Members, but no explanation was provided (Exhibit I);
29. On May 6, 2019, I requested Defendants to tell me when a new, official WHOA address would be filed with the South Carolina Secretary of State, but no feedback was received(Exhibit I);
30. On May 6, 2019, I requested Defendants to divulge if they created an "Office" file containing a By-Laws Revision 4 "official version", and if so, could it be provided to me, but they will not divulge if a Rev 4 exists (Exhibit I);
31. On May 6, 2019, I requested Defendants to tell me who is serving on the Architectural Committee (AC), but no feedback was received (Exhibit I);
32. On May 6, 2019, I requested Defendants to tell me who is serving on a By-Laws Review Committee (BLRC), but no feedback was received (Exhibit I);

33. On May 6, 2019, I requested Defendants tell me if there is even one, single WHOA Member who does not think current By-Laws are seriously deficient, and suggested to them that a BLRC is an absolute requirement for WHOA, but no feedback was received (Exhibit I);
34. On May 6, 2019, I requested Defendants to please recall they have a duty to fill a vacancy on the Board, but no feedback was received (Exhibit I);
35. On May 6, 2019, I requested Defendants to verify it is a correct understanding that the 2018 Board agreed filling a vacancy is a required duty, but no feedback was received (Exhibit I);
36. On May 6, 2019, I requested Defendants to provide me with what plans they had to fill the recent vacancy on the Board, but on plans were provided (Exhibit I);
37. On May 6, 2019, I asked Defendants to give a date on which the Board vacancy would be filled, but no feedback was received (Exhibit I);
38. On May 6, 2019, I asked Defendants to please provide a timetable for all steps related to filling the Board vacancy, but no timetable was provided (Exhibit I);
39. On May 6, 2019, I conveyed to Defendants my hope that schedules, agendas, and minutes would be posted at some URL, but no feedback was received and no posting was done (Exhibit I);
40. On May 6, 2019, I requested Defendants inform me about any significant actions which they may have in mind, but no information was received (Exhibit I);
41. On May 6, 2019, I requested Defendants to keep me, and all Members, informed about things that “come up”, but effectively no information was received (Exhibit I);

42. On July 6, 2019, I requested that Defendants: "... Please provide an e-mail address for Ted Decker, as he was appointed a new Board member ...", but no e-mail address was provided (Exhibit J);
43. On July 6, 2019, I requested that Defendants: "... Kindly also confirm e-mail contact addresses for other Board members ...", but no contact addresses to date have been confirmed (Exhibit J);
44. On July 6, I requested from Defendants: '... May I hope the Board desires to be "transparent", and to communicate more effectively with Members? ...', but no comments to date have been received (Exhibit J);
45. On July 7, 2019, I requested that Defendants: "... Kindly plan to provide to me your plan to fill 2 remaining Board vacancies ...", but no plan was provided to date (Exhibit K).
46. Pertinent text of February 22, 2019, Ballot 1 is documented as contained in "Exhibit 1-July" of Exhibit J.

Dated this 11th day of July, 2019



Plaintiff, *Pro Se*
703 Creekview Drive
Greenville, SC 29607
864-254-9262
wedlakera@mail.com

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Raymond A. Wedlake, as a Member of
Woodington Homeowners' Association, Inc.

Plaintiff (*Pro Se*)

vs.

Christopher Edwards, Charles Koshis,
Denis Esteve, Michael Keels, and William Craigo
in their capacity as Board of Directors of
Woodington Homeowners' Association, Inc.

Defendants

)
) **IN THE COURT OF COMMON PLEAS**
)
) **THIRTEENTH JUDICIAL CIRCUIT**

Civil Case No. 2019-CP-23-00269

VERIFICATION

I, Raymond A. Wedlake, appearing first before the Notary Public, state that I am the Plaintiff in this matter. I have read the attached Affidavit and know or believe the contents and allegations are true to the best of my knowledge, except for those matters stated which are alleged on information and belief.

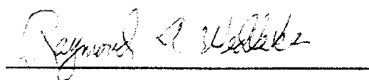
Sworn to before me this

11th day of ^{Feb}January, 2019
₂₀₁₉



Notary Public of South Carolina

My Commission expires: 5-22-24



Raymond A. Wedlake, Plaintiff

EXHIBIT A - Resignation of Christopher Edwards April 15, 2019 [excerpted]

Woodington Homeowner's Association, Inc.
1754 Woodruff Rd - Number 209
Greenville, SC 29607

April 13, 2019

Woodington Homeowner's Association, Inc.
Greenville, SC

Dear Homeowner,

Also, as you may already know, my family and I made the decision to sell our house and move from the Woodington community, so I am resigning from the Board upon the sale of my home on 4/15. The email listed below will still be the contact email for the Association. ...

Thank you for your support!

Sincerely,

Chris W. Edwards, President
Woodington Homeowner's Association, Inc.
woodinghoa@gmail.com

EXHIBIT A - Resignations of Craigo and Esteve June 2019 [excerpted]

Woodington Homeowner's Association, Inc
1754 Woodruff Road Number 209
Greenville, SC 29607

July 1, 2019

Dear Homeowner,

This letter is to advise you that as of June 1st, Denis Esteve and as of June 25th, Jody Craigo have resigned from their duties within the Woodington Homeowners Association. ...

We thank you for your support !

Sincerely,

Chip Koshis, President
Woodington Homeowner's Association, Inc.
woodinghoa@gmail.com

EXHIBIT B - Request for "... a list of voters ..."

RE: Court Complaint – Potential Filing

cwedwards2018@gmail.com

cndesteve@gmail.com, woodingtonhoa@gmail.com, woodingtonvp@gmail.com

December 27, 2018

Dear Mr. Edwards:

Thank you for a reply of 27 December. Seven files of minutes were received, which is much appreciated. Since no signatures appear, do I presume correctly these represent "approved minutes"?

Unfortunately, neither of your options fulfills my "proper purpose" need for information about who returned ballots. As was explained previously, it is a proper purpose to certify vote results (as would have been done by "Election Trust", but the Board would not use their services).

Please allow me to assure you that my legitimate request for corporate records is not paranoia. I am simply requesting a list of voters in order that I may determine which Members are "similarly situated" with me in a recognition that WHOA is "broken" and "needs to be fixed"! This is clearly a "proper purpose" for this request. I am not seeking to determine HOW anyone voted, thus avoiding confidentiality concerns.

A listing of voters is commonly made known; this is reflected in the attached report from Election Trust – note particularly the "Voter Credit List". As you see, names of Members who voted is not kept confidential. We agree that "how a Member voted" should remain confidential. As you know, I proposed a procedure for the Board to supply me with copies of ballots, where confidentiality is maintained, but to date no response was received.

Put simply, it is my view that an HOA member is entitled to a list of those who voted, particularly where the stated purpose is proper, as here. It remains my position that failure of the Board to allow me to certify ballot results, including a "Voter Credit List", will leave me no alternative but to file in Court to obtain this information, and leave it to the Court in its discretion (which it may decide under the Nonprofit Corporation Act), whether or not I am entitled to: "... inspect and copy ..." a list of those who returned ballots.

Please be informed that upon inquiry to Magistrates Court, they balked at accepting this type of action, saying: "What HOA Act?", and suggested they would not accept my case. So, if necessary, I will be filing "Pro Se" in Circuit Court (with the guidance of Mr. Gibson, with whom I always consult on all matters related to the Board).

I do hope that upon review and consideration, you will agree to supply requested ballot information, recognizing there is no confidentiality concern, and thereby avoid the need for me to file in court. Is there any reason why a "Voter Credit List" would not be provided?

Thank you again for a previous reply.

File: < WHOA_FINAL_CERTIFIED_REPORT_09_23_16.pdf > [shown below]

Cheers wedlakera@mail.com
Support "wilderness" - conserve nature !
Be American - buy "Made in USA" !!
GO ORANGE - Syracuse University ORANGE !!
Stop organized crime. Re-elect no one !

Election Trust

Main Post Office Box 1902
Bellingham, WA 98209
T: 425.462.2704 F: 425.818.1417
www.electiontrust.com

COPY SENT VIA EMAIL

TO: Raymond Wedlake
703 Creekview Drive
Greenville, SC 29607

Results Report Certified FINAL

Client: Raymond Wedlake
Election: WHOA Dissolution Balloting
Date: 09/23/16
Signed,



John Bodin
General Manager

The following reflects Election Trust's Certified Final Result Report for Raymond Wedlake representing the WOODINGTON HOMEOWNERS ASSOCIATION, INC. reflecting the tabulation of seven (7) paper ballots received via the United States Postal Service between September 2 and September 17, 2016, all of which featured the QUESTION: *Being a dues paying member in good standing, do you vote to DISSOLVE "WOODINGTON HOMEOWNERS ASSOCIATION, INC." YES NO*

	Total
A. Eligible Members Mailed Paper Ballots:	Unknown
B. Paper Ballots Returned As Undeliverable:	Unknown
C. Total Paper Ballots Successfully Re-Mailed:	Unknown
D. Total Paper Ballots Presumed Received:	Unknown

Total Paper Ballots Returned:	7
* Total Invalid Paper Ballots Returned:	0
Total Valid Paper Ballots Counted:	7

* Note: See Voter Credit List Below

ANSWER TO QUESTION (see above):	VOTES
YES	4
NO	3

VOTER CREDIT LIST

Mr. & Mrs. Raymond Wedlake	703 Creekview Drive	Greenville, SC 29607
Mr. & Mrs. James Wiles	203 Kristen Way	Greenville, SC 29607
Ms. Jenice House	201 Kristen Way	Greenville, SC 29607
Mr. & Mrs. Marv Taylor	301 Woodington Drive	Greenville, SC 29607
Mr. & Mrs. Iton Thomas	10 Southfield Drive	Greenville, SC 29607
Mr. & Mrs. Mike Keels	103 Woodside Crossing	Greenville, SC 29607
Mr. & Mrs. Tom DiPressi	102 Woodside Crossing	Greenville, SC 29607

EXHIBIT C - Request for an Updated Member List February 15, 2019

Member List Request - New Neighbors on Creekview Drive 021519

cndesteve@gmail.com, cwedwards2018@gmail.com, woodingtonhoa@gmail.com, woodingtonvp@gmail.com

Woodington Board:

Please provide an updated Member list to me. If you are not yet informed, I had occasion to meet new neighbors on Creekview Drive:

Belk Jason & Annagrace 603 Creekview Drive

Thanks in advance!

Cheers wedlakera@mail.com
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EXHIBIT D - Request for a Timed-Agenda

Special Meeting March 11, 2019 022819

cndesteve@gmail.com, cwedwards2018@gmail.com, woodingtonhoa@gmail.com, woodingtonvp@gmail.com

Woodington Board:

Please reply immediately to inform me about why a Special Meeting was scheduled for March 11, 2019.

Additionally, please be so kind as to supply a timed-meeting agenda before March 8, 2019.

Thank you.

Cheers wedlakera@mail.com
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EXHIBIT E - Request for Results of Ballot of February 22, 2019

Results from Ballot of 22 Feb 2019 030919

cndesteve@gmail.com, cwedwards2018@gmail.com, woodingtonhoa@gmail.com, woodingtonvp@gmail.com

Woodington Board:

Thank you for a letter informing me of cancellation of the March 11, 2019, Special Meeting, which was received on March 9, 2019.

Since there will be no meeting, please convey to me results from the ballot which had a return date of February 22, 2019. Kindly provide this information:

- 1) Number of ballots returned
- 2) Number of Member votes "For"
- 3) Number of Member votes "Against"
- 4) Number of Board proxy votes "For"
- 5) A list of those Members who voted

Kindly provide this requested information **before March 15, 2019**.

Thank you.

Cheers wedlakera@mail.com
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EXHIBIT F - Board Error: 2019 Woodington HOA Dues \$200.00

cndesteve@gmail.com, cwedwards2018@gmail.com, woodingtonhoa@gmail.com, woodingtonvp@gmail.com

Bcc: atty@ggibsonassociates.com

Subject: Board Error - Notice of Late Fee

April 6, 2019

Woodington Board:

Thank you for posted mail received on April 3, 2019, with a notice of a "late fee"-disciplinary action taken by the Board. Please correct this error on the part of the Board. Contrary to this later notice, a "BILL TO Woodington Homeowner ... FOR 2019 Dues" specifically showed:

2019 Woodington HOA Dues	\$200.00 ;
<u>NOT:</u>	
2019 Woodington HOA Dues	\$250.00

as this April 3 notice, where \$200 was paid before March 1, 2019. How then, can I be sent a notice informing me about assessment of an additional \$65, which includes a \$15 "late fee"? Furthermore, I have a written statement of February 11, 2019, from the Board which says:

"The Board made the decision to suspend all payments
while we further access all matters affecting the Association."

so seemingly, a **changed dues amount** does not apply. Did I not receive notice that this decision was changed?

This conduct by the Board grieves me. Since I have been "... aggrieved by any disciplinary action by the Board ...", the Board needs to take corrective action as specified per our By-Laws, Article XI, as appended.

Thank you for accepting this notice to the Board, and for acting as required by our By-Laws. Please plan to correct this error on the part of the Board **before April 16, 2019.**

Cheers wedlakera@mail.com
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APPENDIX

BY-LAWS OF WOODINGTON HOMEOWNERS ASSOCIATION, INC.
Revision 3 15 August 2012 - Articles 1 thru 20

ARTICLE XI - MEMBERS

Section 1: An active membership is one in which the holder thereof has purchased a residence in Woodington Subdivision and is current in all dues, including annual and special assessments.

Section 4: Any Member aggrieved by any disciplinary action by the Board of Directors may appeal to the membership at a special meeting called for such purpose upon a minimum of ten (10) days notice to the Members and at such meeting, a majority of the Members present in person shall be controlling.

EXHIBIT G - Request that Defendants: "... show good faith and comply with By-Laws requirements ..."

RE: Board Error - Notice of Late Fee

cwedwards2018@gmail.com

cndesteve@gmail.com, woodingtonhoa@gmail.com, woodingtonvp@gmail.com

April 8, 2019

Dear Mr. Edwards:

Thank you for your reply of April 6, 2019. However, what was conveyed to the Board as contained in my "Board Error" notice was clearly not understood.

The seeming fact that the Board intends to assess "additional dues", regardless of my recently filed lawsuit, is another example of breach of your fiduciary duty as a Board. As was shown in my notice to the Board, what I received stated:

"2019 Woodington HOA Dues \$200.00".

Indeed, **NO** Member of WHOA should make payment on any such "additional dues nor assessment" at this time. Please be informed that Mr. Gibson will soon complete motions related to our "Breach ..." case filing. Hopefully it will become clear that any additional assessments are immaterial and an impertinent action by the Board, to needlessly try to collect more money from Members.

Your reply also contains untrue statements and makes false claims:

1. "... increase was voted on by the community ..."; no, no increase was approved by a majority of Member votes. Less than 34 Members returned ballots which voted "For" the increase. It was the Board's fallacious claim that ballots passed, based on Board proxy votes "For", only, that was claimed to comprise an "approved" vote

2. "... That budget showed the temporary dues increases and the payments due to the law firm. ..."; no, not per a sheet I was given at the last Annual Meeting. The sheet given out (attached) did not show 2019 budget amounts; it showed (unlike a column labeled 2018 budget): "Year 2019 Projected Cost". For me, this did not convey a 2019 budget amount, nor did this sheet show: "temporary dues increases", nor did it show: "payments due to the law firm" (it showed a line item for one "Temporary dues Increase", and another line item for "Legal Fees"). Further, **NO PAYMENTS** are legitimately due to the McCabe law firm – all of which was previously discussed, and where corresponding rationale is completely known to the Board

3. "... a breach of our fiduciary duty to act in your best interest and not that of the entire community ..."; no, no reasonable person would honestly claim that assessing additional financial liability upon Members is an action by a Board that represents a best interest of the entire community. That is, any special assessment or increased fees cannot be viewed as in the best interest of any HOA unless they apply to needed capital improvements, such as fixing a roof on some HOA building or upgrading/maintaining a pool. Unless such increase provides some tangible **HOA BENEFIT**, it cannot possibly represent a best interest.

4. "... we would notify you prior to any further payments ..."; no, the Board would not sign an agreement where I requested at least 10-days notice. If your "notify you" claim is truly the

case, then why not sign an agreement to that effect? Thus, it is seriously doubtful that this "talk-the-talk claim" would be verified by any actual "walk-the-walk action". The Board's "lip service" regarding "notify you" cannot be taken as reliable, since the Board would not sign an agreement. The Board's lip service can certainly NOT be construed as a binding commitment to provide notice! Without a signed agreement, this disputed issue remains justiciable in Court.

5. "... You chose to file a lawsuit."; no, the Board was fully informed that no lawsuit would be filed if an agreement (as 4.) was signed. So, it was the Board who chose to force me to file a lawsuit to protect myself, and to protect all WHOA Members from additional financial liability which the Board is improperly, and impertinently, asking Members to pay. A final judgment from my Appeal is needed BEFORE this course of action is pursued by the 2019 Board!

I contacted the Board asking for proper, required action per the By-Laws. I hope you will show good faith and comply with By-Laws requirements. No, I should not - and shall not - contact your attorney.

Thank you again for your reply.
File: <year2019-projected-cost(claimed-budget).pdf >

Cheers wedlakera@mail.com
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Original Message

Subject: Re: Board Error - Notice of Late Fee
From: Chris Edwards <cwedwards2018@gmail.com>
Date: Sat, 6 Apr 2019 15:04:29
Cc: cndestev@gmail.com, woodingtonhoa@gmail.com, woodingtonvp@gmail.com

You are incorrect. You received a notice that showed that you, like all other homeowners, owed \$250. You made a payment of \$200. That leaves you with an unpaid balance of \$50. Per the by-laws, you (and all other homeowners with an unpaid balance) were assessed a late fee. Remember, there are no classes of membership, so no homeowner gets special treatment or differing treatment.

The increase was voted on by the community. Additionally, the 2019 budget was approved at the annual meeting. That budget showed the temporary dues increases and the payments due to the law firm. You were at both meetings. Did you forget or are you choosing to ignore? Do you not understand that it would be a breach of our fiduciary duty to act in your best interest and not that of the entire community?

We told you that we would notify you prior to any further payments. You chose to file a lawsuit.

You should contact my attorney.

Chris

EXHIBIT H - Two questions: "... elect to ignore ..." and "... what proper-governance basis ..."

woodingtonvp@gmail.com

bashor@bellsouth.net, cndesteve@gmail.com, craigow@bellsouth.net

Subject: RE: Member Communication to the Board

April 25, 2019

Dear Mr. Koshis:

Thank you for your reply of April 24, 2019, where you suggest that: "... All correspondence ... to our lawyer ...". A Board must accept correspondence from Members; I understand no other rationale. Your suggestion seems improper to me, and represents another breach of a Board's fiduciary duty! I feel very sorry the Board still displays such a severe attitude problem.

The Board must abide by the By-Laws, which lists several Board duties. However, as the Board is fully aware, our By-Laws are seriously deficient, are a root cause of "unrest" within WHOA, and against everyone's better judgment towards an intent to "fix a problem" a By-Laws Review Committee has never been appointed for several years, as I have continuously requested! May I hope the Board does not intend to claim the Secretary does not have a duty to correspond with Members? As recognized by all legitimate-prior Boards, it has long been true this duty comes under: "... The Secretary shall perform such other duties as required by the Board."

No Board may legitimately suggest that a Member may not :

- > ask questions of the Board
- > send comments to the Board
- > forward articles from HOA Industry Experts which seek to educate the Board
- > bring operational or governance issues to the Board's attention

In my mind, a Board should gladly receive all contacts from Members. If the Board contends otherwise, please clarify your position by replying with rationale explaining why all listed above, or any other issues, do not come under a Board's fiduciary duty – I would very much like to hear and to understand. What gives a Board an option to elect to ignore Member contacts? Upon what proper-governance basis can a Board take your position?

May I hope that the Board will immediately intend to adopt a "transparent"-good-faith attitude towards every Member of WHOA? Thank you.

Cheers wedlakera@mail.com
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EXHIBIT I - Simple, Requested Information which was not Supplied

May 6, 2019

Woodington Board:

As a Member of WHOA, this request is made for member-related information, much of which was requested from prior Boards, but no information was provided. May I hope the Board will act in a proper, "transparent" manner by supplying the simple, requested information below? Kindly plan to provide your replies **before May 16, 2019**.

Please provide all this information, or supply answers to these questions:

- * a schedule of planned Board meetings
- * confirmation of your commitment to publish agendas 3 days before all scheduled meetings
- * an explanation of how meeting minutes will be made known to Members
- * when will a new, official WHOA address be filed with the South Carolina Secretary of State? (the "16 Southfield" address is on longer valid)
- * has the Board created an "Office" file containing a By-Laws "official version", and if so, can it be provided to me?
- * who is serving on the Architectural Committee (AC)?
- * who is serving on a By-Laws Review Committee (BLRC)?
- * what plans does the Board have to fill the recent vacancy on the Board? On what date will the vacancy will be filled? Please provide a timetable for all steps.

All past Board members should already be aware of these issues:

- Open Meetings - I hope that all meetings will be open to Members, as has been explained to the Board via several opinions from HOA Industry Experts.
- Minutes & Related - I also hope schedules, agendas, and minutes will be posted at some URL. Is there any reason not to post online, such as in Woodington "Documents" at NextDoor.com?
- Committees - Please recall I requested appointment to the AC before the last Annual Meeting. Unresolved questions posed to the 2018 AC were never acted upon by the 2018 AC, nor by the 2018 Board. Is there even one, single WHOA Member who does not think current By-Laws are seriously deficient? A BLRC is an absolute requirement for WHOA!
- Vacancy - Please recall the Board has a duty to fill a vacancy. Is it correct

understanding the 2018 Board agreed this is a required duty?

Please also inform me about any significant actions which the Board may have in mind. I also request the Board keep me, and all Members, informed about things that "come up", since I suspect others also share a desire to know. Thanks in advance!

Cheers wedlakera@mail.com
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EXHIBIT J - Request for an Appointed Board Member's E-mail Address, etc.

Mr. Charles Koshis
104 Woodside Crossing
Greenville, SC 29607

703 Creekview Drive
Greenville, SC 29607
July 6, 2019
(all via Priority Mail)

Mr. Scott Bashor
105 Woodside Crossing
Greenville, SC 29607

Mr. Edward Decker
8 Southfield Drive
Greenville, SC 29607

Subject: Board Letter of July 1, 2019 to
Woodington Homeowners' Association, Inc. (WHOA) Members

July 6, 2019

Woodington Board:

Thank you for the letter to WHOA members (Members) dated July 1, which I received on July 3, 2019. This letter declared resignations of Mr. Esteve and Mr. Craig from the Board, and announced the appointment of Mr. Decker to the Board. Please accept feedback per this letter, as below.

False statements and claims appear in your letter:

“The passage of the recently filed amendment that was voted on and approved by the Homeowners in March supports the required number of Directors at 3.”

No such amendment was approved by Homeowners in **March**, nor at any other time! A ballot with a return date of February 22, 2019 (Exhibit 1-July), most probably did not receive approval from 75% (minimum required for By-Laws amendment) of voting-WHOA Members, but the Board will not disclose this information, as I previously requested. Please disclose to me how many Members voted to approve this ballot.

Most probably, as was done with ballots in 2018, the Board acted as Proxy to vote for Members who did not return ballots, breaching the Board's Fiduciary Duty to all Members, by voting “FOR” on the February ballot. As found in the “South Carolina Nonprofit Corporation Act of 1994” (Section 33-31-140), per the definition for “approval by the members”, the February ballot probably:

- did **NOT** PASS ;
- WAS **NOT** APPROVED BY 75% OF MEMBERS ! ;

yet the Board claims “passage” ?

Wedlake to Board

July 6, 2019

1

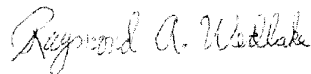
Further, whether or not the February amendment passed, this does not negate the By-Laws-required filling of vacancies caused by resignation (Exhibit 2-July). Once again the Board is willfully **VIOLATING** the By-Laws! **FIVE** Board members **WERE ELECTED** to the 2019 Board, thus leaving two current vacancies. I now formally **MAKE DEMAND** that the Board **FILL these two vacancies!**

Please be reminded as 'Exhibit 3-July' sent to the Board on April 19, 2019: "I am an eligible Member, and am willing to serve on the Board." Additionally, prior to July 1, 2019, the Board did not declare an open vacancy on the Board to Members, nor solicit other Members to serve on the Board. My understanding was this intent was part of an agreement made in January 2019: "3. The Board acknowledges and agrees ... Boards have a duty to fill any vacancy ..." (Exhibit 4-July). Kindly also recall the Judge's comments at the trial of April 20, 2018: "... Board **MUST ACT IN COMPLIANCE WITH THE BYLAWS.** ... that **CERTAINLY INCLUDES** the criteria and the time frames for **FILLING OF VACANCIES ...**" (Exhibit 5-July)

Please provide an e-mail address for Ted Decker, as he was appointed a new Board member. Kindly also confirm e-mail contact addresses for other Board members. May I hope the Board desires to be "transparent", and to communicate more effectively with Members?

Thank you.

Sincerely,



Raymond A. Wedlake 864-254-9262
wedlakera@mail.com

EXHIBIT 1-July - Ballot of February 22, 2019 [excerpted]

Due by Friday, February 22nd

BALLOT - [75% of Members Needed to Pass (50 of 66)]

The following Amendment to the By-Laws shall be immediately adopted and incorporated into the current By-Laws (underlined language is new language and struck language is to be removed):

Article V Board of Director, Selection, and Term of Office

- | Section 1 - Number: The association shall be governed by a Board of Directors, ~~normally five (5) in number~~ having a minimum of three (3) Directors and a maximum of five (5) Directors, each of whom shall serve until his or her successor is elected and shall qualify as provided in these By-Laws. No more than (1) representative of any single distinct membership may serve as a director of the Association at one time.
- | Section 2 — Selection and Term of Office: Annually, the membership shall ~~normally~~ elect a minimum of three (3) and a maximum of five (5) directors from the membership for the term of one (1) year.... (Remainder of Article V remains unchanged)

Article V- Nomination and Election of Directors

- | Section 1 — Nomination: Nomination for the election to the Board of Directors shall be made by the current Board of Directors. At least ~~90~~ thirty (30) days prior to the annual meeting, the current Board of Directors will request volunteers to fill expected vacancies on the Board. If applicable, a notice will be sent to the membership advising them of open positions and asking for volunteers to fill the positions. An election slate for members of the Board of Directors will be prepared to include incumbent members who are seeking re-election and new candidates.... (Remainder of Section 1 remains unchanged)
- | Section 2 — Election: Election to the Board shall be by secret written ballot. At such election, the Members or their proxies may cast one vote for each ~~vacancy~~ seat on the Board, with the maximum number of votes being five (5). A ballot containing more than five votes shall be null and void. The ~~three~~ persons receiving the largest number of votes shall be elected. In the event the person with the 4th highest number of votes receives a majority vote from those members or their proxies casting ballots, that person shall be elected to the Board. In the event the person with the 5th highest number of votes receives a majority vote from those Members or their proxies casting ballots, that person shall be elected to the Board. Cumulative voting is not permitted.

EXHIBIT 2-July - By-Laws Rev 3 [excerpted]

ARTICLE V - BOARD OF DIRECTORS, SELECTION, AND TERM OF OFFICE

Section 3 - REMOVAL: ... In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

ARTICLE VIII - POWERS AND DUTIES OF BOARD OF DIRECTORS

Section 2 - DUTIES: It shall be the duty of the Board of Directors to:

f. Fill any vacancy in the membership of the Board of Directors to serve until the next annual meeting of active Members at which time a permanent director will be elected by a simple majority vote of the membership.

EXHIBIT 3-July - RE: Board Letter to Members 04/13 [excerpted]

RE: Board Letter to Members 04/13
cndesteve@gmail.com, woodingtonhoa@gmail.com, woodingtonvp@gmail.com

April 19, 2019

Woodington Board:

Thank you for a letter to Members dated April 13, which I received on April 17, 2019. Please accept feedback per this letter, as below.

To reiterate from a previous message, and in view of the President's resignation from the Board, I asked the Board to declare to all Members a vacancy on the Board, and to seek to fill this vacancy. I am an eligible Member, and am willing to serve on the Board. Please **inform me about a timetable** for the Board's intent to **fill this vacancy**. Kindly also plan to **provide this information before April 23, 2019**.

Cheers wedlakera@mail.com

Wedlake to Board

July 6, 2019

4

EXHIBIT 4-July - Proposed Board Resolutions

REVISED PROPOSED BOARD RESOLUTIONS
OF
WOODINGTON HOMEOWNERS' ASSOCIATION, INC.

NOW, THEREFORE, IT IS:

RESOLVED THAT:

3. The Board acknowledges and agrees that pursuant to the By-Laws in effect, and unless and until such By-Laws are amended to the contrary, WHOA Boards have a duty to fill any vacancy of less than the number (5 Directors per the current By-Laws Revision 3) of Directors required in the By-Laws, and must make reasonable efforts to do so, which reasonable efforts shall include:
 1. Informing all Members promptly and in writing after any event which results in less than the number of Directors required in the By-Laws, about any such opening on the Board, and request eligible Members to come forward to fill any such vacancy;
 2. Filling any vacancy with an eligible Member who is willing to serve by appointment within a 20-calendar-day period after any event which results in less than the required number of Directors, OR,
 3. Calling a Special Meeting for the purpose of filling a vacancy within a 20-day-time period, in the event no eligible Member comes forward to serve, in which event the person receiving the highest number of votes shall be appointed to fill such vacancy;
- b. While it is recognized that an officer may fill more than one officer's position, no vacancy on the Board shall be filled by appointing one Director to serve in two Director's roles; and,
- c. shall permit WHOA Members only to serve on the Board.

EXHIBIT 5-July - Judge Confirms Duty to Fill Vacancies

Transcript of Trial, April 20, 2018, p. 97 [emphasis added]

- " 2 In looking at the stipulated issues for trial, and I think
3 this has already been established, but the Court will issue an
4 Order stating that the Board **MUST ACT IN COMPLIANCE WITH THE**
5 **BYLAWS.** ...
6 ... that **CERTAINLY INCLUDES** the criteria and the time
7 frames for **FILLING OF VACANCIES** on the Board ... "

EXHIBIT K - Request for: "... your plan to fill 2 remaining Board vacancies ..."

RE: Board Letter of July 1, 2019 070719

bashor@bellsouth.net, woodingtonhoa@gmail.com, woodingtonvp@gmail.com

Woodington Board:

Please accept this courtesy e-mail; see the appendix [Exhibit J]. Kindly plan to provide to me your plan to fill 2 remaining Board vacancies before July 12, 2019. Thank you.

Cheers wedlakera@mail.com
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Department
of the
Treasury

Internal
Revenue
Service

Publication 557

(Rev. January 2020)

Cat. No. 46573C

Tax-Exempt Status for Your Organization



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Organization Reference Chart

Section of 1986 Code	Description of organization	General nature of activities	Application Form ¹	Annual return required to be filed	Contributions allowable
501(c)(1)	Corporations Organized under Act of Congress (including Federal Credit Unions)	Instrumentalities of the United States	No Form	None	Yes, if made for exclusively public purposes
501(c)(2)	Title Holding Corporation For Exempt Organization	Holding title to property of an exempt organization and distributing net income to it	1024	990 ² or 990-EZ ⁹	No ³
501(c)(3)	Religious, Educational, Charitable, Scientific, Literary, Testing for Public Safety, to Foster National or International Amateur Sports Competition, or Prevention of Cruelty to Children or Animals Organizations	Activities of nature implied by description of class of organization	1023 ¹⁶ , 1023-EZ 990 ² or 990-EZ ⁹ , or 990-PF		Yes, generally
501(c)(4)	Civic Leagues, Social Welfare Organizations; and Local Associations of Employees	Promotion of community welfare; charitable, educational, or recreational	Must provide notice on Form 8976; may also submit Form 1024-A	990 ² or 990-EZ ⁹	No, generally ^{3, 4}
501(c)(5)	Labor, Agricultural, and Horticultural Organizations	Educational or instructive, the purpose being to improve conditions of work, and to improve products and/or efficiency	1024	990 ² or 990-EZ ¹	No ³
501(c)(6)	Business Leagues, Chambers of Commerce, Real Estate Boards, etc.	Improvement of business conditions of one or more lines of business	1024	990 ² or 990-EZ ⁹	No ³
501(c)(7)	Social and Recreational Clubs	Pleasure, recreation, social activities	1024	990 ² or 990-EZ ⁹	No ³
501(c)(8)	Fraternal Beneficiary Societies and Associations	Providing for payment of life, sickness, accident or other benefits to members within a lodge system	1024	990 ² or 990-EZ ⁹	Yes, if for certain Sec. 501(c)(3) purposes
501(c)(9)	Voluntary Employees Beneficiary Associations	Employee association providing for payment of life, sickness, accident, or other benefits to members	1024	990 ² or 990-EZ ⁹	No ³
501(c)(10)	Domestic Fraternal Societies and Associations	Earnings devoted to charitable, fraternal, and other specified purposes within a domestic lodge system. No benefits to members	1024	990 ² or 990-EZ ⁹	Yes, if for certain Sec. 501(c)(3) purposes
501(c)(11)	Teachers' Retirement Fund Associations	Teachers' association for payment of retirement benefits	Letter ⁷	990 ² or 990-EZ ⁹	No ³
501(c)(12)	Benevolent Life Insurance Associations, Mutual Ditch or Irrigation Companies, Mutual or Cooperative Telephone Companies, and Like Organizations	Activities of a mutual or cooperative nature	1024	990 ² or 990-EZ ⁹	No ³
501(c)(13)	Cemetery Companies	Burials and incidental activities	1024	990 ² or 990-EZ ⁹	Yes, generally
501(c)(14)	State-Chartered Credit Unions, Mutual Reserve Funds	Loans to members	Letter ⁷	990 ² or 990-EZ ⁹	No ³
501(c)(15)	Mutual Insurance Companies or Associations	Providing insurance to members substantially at cost	1024	990 ² or 990-EZ ⁹	No ³
501(c)(16)	Cooperative Organizations to Finance Crop Operations	Financing crop operations in conjunction with activities of a marketing or purchasing association	Form 1120-C, Letter ⁷	990 ² or 990-EZ ⁹	No ³
501(c)(17)	Supplemental Unemployment Benefit Trusts	Provides for payment of supplemental unemployment compensation benefits	1024	990 ² or 990-EZ ⁹	No ³
501(c)(18)	Employee Funded Pension Trust (created before June 25, 1959)	Payment of benefits under a pension plan funded by employees	Letter ⁷	990 ² or 990-EZ ⁹	No ³
501(c)(19)	Post or Organization of Past or Present Members of the Armed Forces	Activities implied by nature of organization	1024	990 ² or 990-EZ ⁹	No, generally ⁸
501(c)(21)	Black Lung Benefit Trusts	Funded by coal mine operators to satisfy their liability for disability or death due to black lung diseases	Letter ⁷	990-BL	No ⁵

Section of 1986 Code	Description of organization	General nature of activities	Application Form ¹	Annual return required to be filed	Contributions allowable
501(c)(22)	Withdrawal Liability Payment Fund	To provide funds to meet the liability of employers withdrawing from a multi-employer pension fund	Letter ⁷	990 ² or 990-EZ ⁹	No ⁶
501(c)(23)	Veterans' Organization (created before 1880)	To provide insurance and other benefits to veterans	Letter ⁷	990 ² or 990-EZ ⁹	No, generally ⁸
501(c)(25)	Title Holding Corporations or Trusts with Multiple Parent Corporations	Holding title and paying over income from real property to 35 or fewer parents or beneficiaries	1024	990 ² or 990-EZ ⁹	No
501(c)(26)	State-Sponsored Organization Providing Health Coverage for High-Risk Individuals	Provides health care coverage to high-risk individuals	Letter ⁷	990 ² or 990-EZ ⁹	No
501(c)(27)	State-Sponsored Workers' Compensation Reinsurance Organization	Reimburses members for losses under workers' compensation acts	Letter ⁷	990 ² or 990-EZ ⁹	No
501(c)(28)	National Railroad Retirement Investment Trust	Manages and invests the assets of the Railroad Retirement Account	No Form	990 ¹²	No ¹²
501(c)(29)	CO-OP health insurance issuers	A qualified health insurance issuer which has received a loan or grant under the CO-OP program	Letter and Form 8718 ¹⁵	990 ²	No ¹⁴
501(d)	Religious and Apostolic Associations	Regular business activities; Communal religious community	No Form	1065 ¹⁰	No ³
501(e)	Cooperative Hospital Service Organizations	Performs cooperative services for hospitals	1023	990 ² or 990-EZ ⁹	Yes
501(f)	Cooperative Service Organizations of Operating Educational Organizations	Performs collective investment services for educational organizations	1023	990 ² or 990-EZ ⁹	Yes
501(k)	Child Care Organizations	Provides care for children	1023	990 ² or 990-EZ ⁹	Yes
501(n)	Charitable Risk Pools	Pools certain insurance risks of sec. 501(c)(3) organizations	1023	990 ² or 990-EZ ⁹	Yes
501(q)	Credit Counseling Organization	Credit counseling services	1023	990 ¹³	No
521(a)	Farmers' Cooperative Associations	Cooperative marketing and purchasing for agricultural procedures	1028	1120-C	No
527	Political organizations	A party, committee, fund, association, etc., that directly or indirectly accepts contributions or makes expenditures for political campaigns	8871	1120-POL ¹¹ 990 ² or 990-EZ ⁸	No

¹ Most 501(c) organizations, other than those described in sections 501(c)(3) (exceptions apply), (9), and (17), may, but are not required to, submit an application for recognition of tax exempt status from the IRS. These organizations may self-declare their tax exempt status by operating within the requirements of the applicable code section and filing the required annual returns or notices.

² For exceptions to the filing requirement, see chapter 2 and the form instructions. Note: For annual tax periods beginning after 2006, most tax-exempt organizations, other than churches, are required to file an annual Form 990, 990-EZ, or 990-PF with the IRS or to submit an annual electronic notice, Form 990-N (*e-Postcard*), to the IRS. Tax-exempt organizations failing to file an annual return or submit an annual notice as required for 3 consecutive years will automatically lose their tax-exempt status. See form instructions as to which 990 series, and other series, forms, after the Taxpayer First Act, are required to be filed electronically.

³ An organization exempt under a subsection of section 501 other than 501(c)(3) can establish a charitable fund, contributions to which are deductible. Such a fund must itself meet the requirements of section 501(c)(3) and the related notice requirements of section 508(a).

⁴ Contributions to volunteer fire companies and similar organizations are deductible, but only if made for exclusively public purposes.

⁵ Deductible as a business expense to the extent allowed by section 192.

⁶ Deductible as a business expense to the extent allowed by section 194A.

⁷ Application is by letter to the address shown on Form 8718. A copy of the organizing document should be attached and the letter should be signed by an officer.

⁸ Contributions to these organizations are deductible only if 90% or more of the organization's members are war veterans.

⁹ For limits on the use of Form 990-EZ, see chapter 2 and the general instructions for Form 990-EZ (or Form 990).

¹⁰ Although the organization files a partnership return, all distributions are deemed dividends. The members aren't entitled to **pass through** treatment of the organization's income or expenses.

¹¹ Form 1120-POL is required only if the organization has taxable income as defined in section 527(c).

¹² Only required to annually file so much of the Form 990 that relates to the names and addresses of the officers, directors, trustees, and key employees, and their titles, compensation, and hours devoted to their positions (Part VII of Form 990), and to complete Item I in the Heading of Form 990 to confirm its tax-exempt status under section 501(c)(28).

¹³ See section 501(q) if the organization provides credit counseling services and seeks recognition of exemption under section 501(c)(4). Use Form 1024-A if applying for recognition under section 501(c)(4).

¹⁴ See section 501(c)(29) for details.

¹⁵ See Rev. Proc. 2015-17, sec. 4.01, 2015-7 I.R.B. 599, for details.

¹⁶ As of January 31, 2020, Forms 1023 will be required to be filed electronically. See Rev. Proc. 2020-5, as amended by Rev. Proc. 2020-8, and [irs.gov](https://www.irs.gov), for instructions and more information.

92517
92518

STATE OF SOUTH CAROLINA
The South Carolina Court of Appeals

Appeal from Greenville County
in the Court of Common Pleas for the 13th Judicial Circuit

RECEIVED

The Honorable Judge Robin B. Stilwell

MAR 25 2020

SC Court of Appeals

Appellate Case No. 2020-000438
Civil Action No. 2019-CP-23-00269

Raymond A. Wedlake, as a Member of Woodington Homeowners' Association, Inc., Appellant,
v.

Christopher Edwards, Charles Koshis, Denis Esteve, Michael Keels and William Craigo in their
capacity as Board of Directors of Woodington Homeowners' Association, Inc., Respondents.

NOTICE OF APPEAL

Raymond A. Wedlake serves this notice of appeal on Counsel for Respondents pursuant to Rule 203, SCACR, within thirty (30) days after receipt of written notice of entry of the "Order Form 4" (Exhibit 1) of the Honorable Robin B. Stilwell, filed in the Public Index on February 20, 2020, which denied Appellant's request for a New Hearing. Appellant's request was filed prior to an Order of November 25, 2019 (Exhibit 7), which granted Summary Judgment for Respondents. Therefore, Appellant also appeals the Order of November 25, 2019 which granted Summary Judgment. An "Affidavit in Support ..." (Exhibit 2) is also served.

Raymond A. Wedlake

Dated this 9th day of March, 2020.

Raymond A. Wedlake, Appellant (*Pro Se*)
wedlakera@mail.com 864-254-9262
703 Creekview Drive, Greenville, SC 29607

Amended with reference to Exhibit 7, March 24, 2020.

Other Counsel of Record:

Emily O'Brian, Esq. (SC Bar # 101824)

emily@campbellteague.com 864-326-4186

Campbell Teague LLC, 16 W. North Street, Greenville, South Carolina 29601

Attorney for Respondents

STATE OF SOUTH CAROLINA
COUNTY OF Greenville
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2019CP2300269

Raymond A Wedlake et al
PLAINTIFF(S)

Christopher Edwards et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED** (CHECK REASON): ☐ Rule 12(b), SCRCPP; ☐ Rule 41(a), SCRCPP (Vol. Nonsuit); ☐ Rule 43(k), SCRCPP (Settled);
☐ Other
- ☐ **ACTION STRICKEN** (CHECK REASON): ☐ Rule 40(j), SCRCPP; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (CHECK APPLICABLE BOX):
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

See Ruling below.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

☒ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 02/20/2020 .

Woodington Homeowners Association Inc
Raymond A Wedlake for Raymond A Wedlake
Raymond A Wedlake for Raymond A Wedlake

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

This matter comes before the Court, ostensibly, pursuant to a Motion to Reconsider filed December 26, 2019, by the Plaintiff. Plaintiff asks this Court to reconsider its Order Granting Summary Judgment entered November 26, 2019. Plaintiff's motion is respectfully denied as without merit and not properly before this Court.

Rule 59(e) of the SCRCP provides that a Motion to Alter or Amend "must be served not later than 10 days after receipt of written notice of the entry of the order." The filing of the Motion is untimely as it is significantly outside of the 10 day requirement for filing and service under the rule. Further, Rule 59(g) provides that the moving party must provide a copy of the motion to the Judge within 10 days after the filing of the Motion. There is no affidavit, evidence, or indication that the Judge was served, or provided a copy, by Plaintiff as required under the rule. (To the extent that the Court is mistaken and evidence of service of a written copy exists, this ground will be happily vacated.)

Inasmuch as this Motion is inappropriately filed, the Final Order of this Court bearing upon the subject issue was entered November 26, 2019. That Order stands as unchallenged. The named individuals were, and are, improper Defendants.

Furthermore, to the extent that any party may contend that Plaintiff's Motion for a New Hearing filed November 18, 2019, is still pending, the same is denied.



Greenville Common Pleas

Case Caption: Raymond A Wedlake vs. Christopher Edwards , defendant, et al
Case Number: 2019CP2300269
Type: Order/Electronic Form 4

So Ordered

s/ Robin B. Stilwell 2158

Electronically signed on 2020-02-20 13:16:59 page 3 of 3

RECEIVED

MAR 12 2020

EXHIBIT 2

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA	)	
	)	
COUNTY OF GREENVILLE	)	IN THE COURT OF COMMON PLEAS
	)	
Raymond A. Wedlake, as a Member of	)	THIRTEENTH JUDICIAL CIRCUIT
Woodington Homeowners' Association, Inc.	)	
	)	Civil Case No.: 2019-CP-23-00269
Plaintiff (<i>Pro Se</i>)	)	
	)	AFFIDAVIT IN SUPPORT
vs.	)	
	)	OF
Christopher Edwards, Charles Koshis,	)	
Denis Esteve, Michael Keels, and William Craigo	)	NOTICE OF APPEAL
in their capacity as Board of Directors of	)	
Woodington Homeowners' Association, Inc.	)	
	)	
Defendants	)	

Affidavit of Raymond A. Wedlake

COMES NOW Raymond A. Wedlake, Plaintiff (*Pro Se*), and brings this Affidavit in Support of his "Notice of Appeal" regarding denial of my "Motion for a New Hearing on Defendants' Motion for Summary Judgment ..." (PMO), which is found in the Public Index as filed on November 18, 2019; as below, references to PMO are denoted by "PMO[par.#]".

1. PMO of November 18, 2019 came well before an order (Order, Exhibit 1) which denied PMO, by the Honorable Judge Robin B. Stilwell; but, PMO was not acted upon by the Court until its denial per Order of February 20, 2020.
2. I act as a *Pro Se* party, where my understanding is that the filing of PMO tolled the 30-day period in which to appeal an order which granted Summary Judgment, until after Order denying PMO was filed on February 20, 2020.

3. Contrary to Order, PMO did **not** come to trial **nor** a hearing before the court, where Order denied PMO without giving me a chance to plead its contents before the court.
4. Order cites no lawful grounds, nor cites any rationale, to explain why PMO was denied.
5. On November 19, 2019, I informed the Law Clerk for Judge Stilwell (Exhibit 3), with cc to His Honor, of PMO and questioned whether action on a proposed Order should be deferred until after a hearing for PMO, but no reply was received before an Order granting Summary Judgment was issued on November 25, 2019.
6. On November 24, 2019, I asked the Law Clerk for Judge Stilwell (Exhibit 4), with cc to His Honor, to acknowledge receipt of two e-mails, and requested verification of their awareness of PMO, but no meaningful reply was received.
7. On November 25, 2019, the Law Clerk for Judge Stilwell stated: “We received your emails.”, verifying awareness by the Judge of PMO, but yet an Order which granted Summary Judgment was issued that same day, and I never received further feedback regarding why PMO was not scheduled for a hearing.
8. Per PMO1, on October 31, 2019 (Figure 1) Defense Counsel (Counsel) admitted that an erroneous-legal conclusion was used: that Defendants are immune from suit, in the granting of Defendants' “Motion for Summary Judgment ...” (Motion).
9. Per PMO2, on October 30, 2019 (Figure 2), I cited His Honor's granting of Motion, based upon a “wrong party” argument, as contrary to a precedent previously set, where a same “wrong party” claim was dismissed, as ruled by His Honor, himself, in an Order of January 23, 2018, as related to Civil Action 2017-CP-23-06301 (Exhibit 5).

10. On November 8, 2019, the South Carolina Court of Appeals as related to Appeal 2018-001209, denied a “Motion to Dismiss ...” which brought a similar “wrong party” argument as it related to individuals who comprise the Board of Directors (Exhibit 6).
11. Per PMO9, on October 30, 2019 (Figure 2), a letter to the Honorable Judge Robin B. Stilwell was titled: “... Apparent Error at Law - Lack of Consistent Judgment ...”, and informed His Honor of errors of law that were used to grant Summary Judgment as stated in the Hearing of October 28, 2019.
12. Per PMO11, on October 30, 2019 (Figure 2), I noted that the “South Carolina Nonprofit Corporation Act of 1994” (NPCA), Section 33-31-834(b) does not allow the legal conclusion of “immunity from suit” to be applied as a rationale for granting Summary Judgment.

Dated this 9th day of March, 2020.

Respectfully Submitted,



Raymond A. Wedlake, Plaintiff (*Pro Se*)
703 Creekview Drive
Greenville, SC 29607
864-254-9262 wedlakera@mail.com

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Raymond A. Wedlake, as a Member of
Woodington Homeowners' Association, Inc.

Plaintiff (*Pro Se*)

vs.

Christopher Edwards, Charles Koshis,
Denis Esteve, Michael Keels, and William Craigo
in their capacity as Board of Directors of
Woodington Homeowners' Association, Inc.

Defendants

)
) **IN THE COURT OF COMMON PLEAS**

)
) **THIRTEENTH JUDICIAL CIRCUIT**

)
) Civil Case No. 2019-CP-23-00269

)
) **VERIFICATION**

RECEIVED

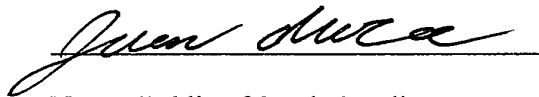
MAR 12 2020

S.C. SUPREME COURT

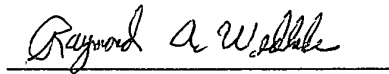
I, Raymond A. Wedlake, appearing first before the Notary Public, state that I am the Plaintiff
in this matter. I have read the attached Affidavit and know or believe the contents and
allegations are true to the best of my knowledge, except for those matters stated which are
alleged on information and belief.

Sworn to before me this

9th day of March, 2020.



Notary Public of South Carolina



Raymond A. Wedlake, Plaintiff

My Commission expires: 07/09/2029



FIGURE 1 - Counsel's Letter to Judge

Date: Thu, 31 Oct 2019 11:51:48
From: emily@campbellteague.com
To: rstilwellsc@sccourts.org
Cc: Ray Wedlake <wedlakera@mail.com>
Subject: Re: Letter Courtesy-Electronic Copy

Judge Stilwell,

It is my understanding from Mr. Wedlake's letter that he intends to withdraw his concession that Woodington HOA is a nonprofit corporation per SC Code Sec. 33-31-824(b). In the interest of full candor, I have been actively looking into this issue prior to sending over a proposed order, as additional information has come to light post-hearing regarding the HOA's tax classification. In particular, although the HOA is a nonprofit, and we believe the HOA is eligible to file for tax classification under 501(c)(3), (6), or (12), the HOA has not made the requisite tax filings at this point.

However, other cases have discussed immunity under Section 834 as generally for "nonprofits" without referring to the specific Federal Tax Code provisions, and thus, we still believe your ruling is soundly based on both current law and public policy. See, e.g., *Smith v. Dockside Ass'n, Inc.*, 2005 WL 7083482, *4 (S.C. Ct. App. Feb. 28, 2005) ("The General Assembly has provided further protection to directors of nonprofit corporations by enacting South Carolina Code section 33-31-834. That section provides that director of nonprofit organizations are immune from suits arising from the conduct of the affairs of the organization unless the directors' conduct amounts to 'willful, wanton, or gross negligence.'")

Even if Section 834's immunity did not apply, Section 33-31-830(d) provides immunity in this instance. That section states, "A director is not liable to the corporation, a member, or any other person for any action taken or not taken as a director, if the director acted in compliance with this section." The section requires, "A director shall discharge his duties as a director, including his duties as a member of a committee: (1) in good faith; (2) with the care an ordinarily prudent person in a like position would exercise under similar circumstances; and (3) in a manner the director reasonably believes to be in the best interest of the corporation." As there is no evidence of actions by individual board members which would violate this provision, the defendants are entitled to immunity under Section 830. This is what the court held in the *Smith* case cited above, while also referencing Section 834's protections. (A courtesy copy of the case is attached.)

We further maintain that there are ample other grounds for granting our motion for summary judgment—namely: (1) that a list of how members confidentially voted is not something a member is entitled to under the NCPA; and (2) the corporation and not the individual Board members is the proper defendant as it is a corporate duty imposed by the statute and resignation from the Board results in the individuals having no authority to provide the requested relief.

At the end of the day, we want to ensure there is no misapprehension of our arguments given what we have learned, and we want to provide the Court all information needed to support the accurate ruling of granting our motion for summary judgment. Please let us know how you would like to proceed on this matter, and if the grounds for the proposed order need to be revised. If further briefing or a rehearing would be of assistance to Your Honor in making this determination, we would certainly be glad to do that as well.

Best,
Emily

Campbell Teague LLC
Emily O'Brian, Esq.
16 W North St Greenville SC 29601
864.326.0597

FIGURE 1 - Counsel's Letter to Judge

Date: Thu, 31 Oct 2019 11:51:48
From: emily@campbellteague.com
To: rstilwellsc@sccourts.org
Cc: Ray Wedlake <wedlakera@mail.com>
Subject: Re: Letter Courtesy-Electronic Copy

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However, other cases have discussed immunity under Section 834 as generally for "nonprofits" without referring to the specific Federal Tax Code provisions, and thus, we still believe your ruling is soundly based on both current law and public policy. See, e.g., *Smith v. Dockside Ass'n, Inc.*, 2005 WL 7083482, *4 (S.C. Ct. App. Feb. 28, 2005) ("The General Assembly has provided further protection to directors of nonprofit corporations by enacting South Carolina Code section 33-31-834. That section provides that director of nonprofit organizations are immune from suits arising from the conduct of the affairs of the organization unless the directors' conduct amounts to 'willful, wanton, or gross negligence.'")

Even if Section 834's immunity did not apply, Section 33-31-830(d) provides immunity in this instance. That section states, "A director is not liable to the corporation, a member, or any other person for any action taken or not taken as a director, if the director acted in compliance with this section." The section requires, "A director shall discharge his duties as a director, including his duties as a member of a committee: (1) in good faith; (2) with the care an ordinarily prudent person in a like position would exercise under similar circumstances; and (3) in a manner the director reasonably believes to be in the best interest of the corporation." As there is no evidence of actions by individual board members which would violate this provision, the defendants are entitled to immunity under Section 830. This is what the court held in the *Smith* case cited above, while also referencing Section 834's protections. (A courtesy copy of the case is attached.)

We further maintain that there are ample other grounds for granting our motion for summary judgment—namely: (1) that a list of how members confidentially voted is not something a member is entitled to under the NCPA; and (2) the corporation and not the individual Board members is the proper defendant as it is a corporate duty imposed by the statute and resignation from the Board results in the individuals having no authority to provide the requested relief.

At the end of the day, we want to ensure there is no misapprehension of our arguments given what we have learned, and we want to provide the Court all information needed to support the accurate ruling of granting our motion for summary judgment. Please let us know how you would like to proceed on this matter, and if the grounds for the proposed order need to be revised. If further briefing or a rehearing would be of assistance to Your Honor in making this determination, we would certainly be glad to do that as well.

Best,
Emily

Campbell Teague LLC
Emily O'Brian, Esq.
16 W North St Greenville SC 29601
864.326.0597

FIGURE 2 - Apparent Error at Law + Lack of Consistent Judgment

703 Creekview Drive
Greenville, SC 29607
October 30, 2019

The Honorable Robin B. Stilwell
Greenville County Courthouse
305 E. North Street Suite 315
Greenville, SC 29601
rstilwellsc@sccourts.org

cc: Ms. Emily O'Brian, Esq.
Campbell Teague LLC
16 W. North Street
Greenville, SC 29601
emily@campbellteague.com

cc: Grant H. Gibson, Esq.
G. Gibson & Associates, LLC
1200 Woodruff Road A-3
Greenville, SC 29607

Subject: RE: Hearing of 10/28 2019-CP-23-00269 - Apparent Error at Law -
Lack of Consistent Judgment - Woodington Homeowners' Association, Inc. (WHOA)

Dear Honorable Judge Stilwell:

Thank you for presiding at a Hearing of October 28, 2019, where Your Honor granted Summary Judgment to Defendants, and denied my Motion to Dismiss Counterclaim. Many comments Your Honor made in this Hearing were truly appreciated.

However, I would respectfully suggest that Your Honor's granting represents an "Apparent Error at Law". Further, my experience shows an apparent lack of consistent judgment is given by various Circuit-Court Judges, including Your Honor.

APPARENT ERROR AT LAW

If I gave incorrect confirmation of status of WHOA as a "non-profit corporation", then I apologize. I believe WHOA is actually more properly categorized as a "Mutual Benefit"-corporation under the "South Carolina Nonprofit Corporation Act" (NPCA). I asked the Board to divulge US-Tax Forms to me, but they will not, to help clarify this critical question of categorization. If WHOA is truly a Mutual-Benefit corporation, then NPCA Section 33-31-834(b), with its statement of "Immunity from suit" is **not** applicable to a Mutual-Benefit corporation. If true, this shows Your Honor's granting was done in error.

Further, I cannot believe the legislative intent of the NPCA as related to 33-31-834(a) intends to exempt a Board as "immune" when a violation of By-Laws, and/or South Carolina Code, applies. In such instances where law was violated, whether explicitly stated in pleadings, or not, a Court can easily recognize: "... This immunity from suit is removed when the conduct amounts to wilful, wanton, or gross negligence. ...". Please note that (per "or") only one of: ... willful, wanton, or gross ... is needed to annul immunity. Regardless of Declaratory Judgment asked from the Court, no immunity from suit is properly given when violation of law is involved, as alleged by my case. Violation of law equates to all of: willful, wanton, and gross negligence.

Therefore for reasons above, I believe granting was done with an "Error at Law".

APPARENT LACK OF CONSISTENT JUDGMENT

Several cases I filed against WHOA Board of Directors (Board) all are similarly captioned; see Exhibit 1. In no instance before the Hearing of October 28 did anyone make claim of a "wrong party being named", or to "you can't sue the Board" because they are "immune from suit", which led to dismissal or annulment of any of my prior cases. As a matter of fact, in a "Hearing to Dismiss" at which Your Honor presided on January 3, 2018, Your Honor denied Defendants' Motion after similar "wrong party" claims were made; see Exhibit 2. Given this precedent as ruled by Your Honor, I understand no rationale for apparent inconsistent judgment as given in the Hearing on October 28.

Your Honor's comments related to possibility for me to file a "Motion for Reconsideration of Order" would be welcomed. Regardless, I may decide to do so, such that the Record is clear for future proceedings related to the Board's unlawful denial that they must supply me with requested information. Particularly, as mandated by NPCA, the Board has not provided a list of WHOA Members to me that was requested!

Sincerely,



Raymond A. Wedlake 864-254-9262

wedlakera@mail.com

EXHIBIT 1 - All cases show similar captions

The Public Index shows: "Woodington Homeowners' Association, Inc.", listed as a co-**Plaintiff** for all cases.

2017CP2306301 (2018-001209 Appeal pending)

Raymond A. Wedlake, individually, and derivatively, on behalf of all Members of the Woodington Homeowners' Association, Inc.

Plaintiff(s)

vs.

Benjamin Acord, William Craigo, Denis Esteve, and Brian James in their capacity as the current Board of Directors of the Woodington Homeowners' Association, Inc.

and,

Association Management Group SC, Inc.,

Defendants

2019CP2300269

Raymond A. Wedlake, as a Member of Woodington Homeowners' Association, Inc.

Plaintiff (*Pro Se*)

vs.

Christopher Edwards, Charles Koshis, Denis Esteve, Michael Keels, and William Craigo in their capacity as Board of Directors of Woodington Homeowners' Association, Inc.

Defendants

2019CP2301501

Raymond A. Wedlake, as a Member of Woodington Homeowners' Association, Inc.

Plaintiff

vs.

Scott Bashor, William Craigo, Christopher Edwards, Denis Esteve, and Charles Koshis, in their capacity as Members of the current Board of Directors of Woodington Homeowners' Association, Inc.

and

Doe Entities 1-10, and John & Jane Does 1-10

Defendants

EXHIBIT 2 - Transcript Excerpts 01/03/18 (emphasis added)

A same: "wrong party" argument, was previously denied by Judge Stilwell

[MR. GROTE:]

[Page 5]

5 Benjamin Accord, William, Craig, Denis Esteve,
6 and Brian James are the current board of directors
7 for the homeowners association. And they've been
8 named as the Defendants and the association
9 management group is the other Defendant. I would
10 classify the **individual Defendants as just the board**
11 **and board members** and that's who I'll be referring
12 to.

[Page 7]

1 MR. GROTE: It's the board members motion to
2 dismiss. And if it please the Court, I'd like to go
3 into that.

[Page 10]

3 THE COURT: Is it a DJ action or is it a
4 non—jury matter?

5 MR. GROTE: They've sought to — what I can tell
6 is two different theories of relief. One is
7 declaratory judgment and two is an injunction.

[Page 29]

4 From a
5 legal perspective, the records request statute, which
6 is cited in our memorandum, says that the relief is
7 against the corporation. **THAT KIND OF CLAIM SHOULD**
8 **BE BROUGHT AGAINST THE CORPORATION NOT THE BOARD OF**
9 **DIRECTORS.** And if he continues to pursue that, it's
10 our position that that **CLAIM NEEDS TO BE BOUGHT**
11 **AGAINST THE CORPORATE NAME RATHER THAN THE INDIVIDUAL**
12 **BOARD MEMBERS** because that's the relief that the
13 statute provides.

[Page 41]

23 THE COURT: All right, thank you, I appreciate
24 it. Okay.

25 The motion to dismiss with respect to the cause

[Page 42]

1 of action against AMG are granted pursuant to
2 consent. **THE REMAINING CAUSES OF ACTION, WITH REGARD**
3 **TO ALL THE OTHER DEFENDANTS ARE RESPECTFULLY DENIED.**

EXHIBIT 3

RECEIVED

MAR 12 2020

S.C. SUPREME COURT

RE: Order from 10/28/19 - Proposed on 11/19/19 112419
rstilwellllc@sccourts.org
emily@campbellteague.com, rstilwell@sccourts.org

RE: 2019-CP-23-00269

Dear Ms. Fayall:

Please acknowledge that two e-mails from me, as "Included Messages", below were received.

I had hoped to receive replies with your comments. Please verify you are aware that two Motions:

- 1) Motion for a New Hearing ...
- 2) Motion to Compel ADR Mediation ...

are currently pending. Thank you.

Cheers wedlakera@mail.com
Support "wilderness" - conserve nature !
Be American - buy "Made in USA" !!
GO ORANGE - Syracuse University ORANGE !!
Stop organized crime. Re-elect no one !

----- Included Messages -----

From: "Ray Wedlake" <wedlakera@mail.com>
To: "Stilwell, Robin B. Law Clerk (Kamairi Fayall)" <rstilwellllc@sccourts.org>
Cc: emily@campbellteague.com
Subject: RE: Order from 10/28/19 - Proposed on 11/19/19
Date: Tue, 19 Nov 2019 22:05:49

Dear Law Clerk:

Please be informed that my "Motion/New Hearing" was posted in the Pubic Index, including scanned documents, on "11/18/2019-09:39". As your note queried Ms. O'Brian, my Motion was brought since no Order exists from the Hearing on October 28, 2019.

Would you be so kind, please, to inform me if my understanding is incorrect relative to that the "Proposed Order" from Ms. O'Brian should not receive attention, nor be acted upon, until my Motion is heard?

Thank you.

Cheers wedlakera@mail.com
Support "wilderness" - conserve nature !
Be American - buy "Made in USA" !!
GO ORANGE - Syracuse University ORANGE !!
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----- Original Message -----

Sent: Tuesday, November 19, 2019 at 2:42 PM
RE: Order from 10/28/19 - Proposed on 11/19/19 - ADR Compel 112019
rstilwelllc@sccourts.org
emily@campbellteague.com

Dear Ms. Fayall:

Please be informed that my "Motion to Compel ADR Mediation ..." was posted in the Pubic Index, including scanned documents, on "11/18/2019-15:50", and is scheduled to be heard on January 14, 2020 at 10:30 before the Honorable Judge Gravely.

My comments on this topic are found in paragraph 5 of my "Motion for a New Hearing ...", and also in paragraph 4, item 2, of "Figure 3" that was attached to my Motion.

Thank you.

Cheers wedlakera@mail.com
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GO ORANGE - Syracuse University ORANGE !!
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RECEIVED

MAR 12 2020

EXHIBIT 4

S.C. SUPREME COURT

From: "Ray Wedlake" <wedlakera@mail.com>
To: "Stilwell, Robin B. Law Clerk (Kamairi Fayall)" <rstilwellc@sccourts.org>
Cc: "emily@campbellteague.com" <emily@campbellteague.com>, rstilwell@sccourts.org
Bcc: atty@ggibsonassociates.com
Subject: RE: Order from 10/28/19 - Proposed on 11/19/19
Date: Mon, 25 Nov 2019 13:11:09

Dear Ms. Fayall:

Thank you for confirming my prior e-mails were received. So, you were aware of my pending "Motion for a New Hearing ...".

How then did the Honorable Judge Robin B. Stilwell apparently ignore my Motion, and issue a proposed Order submitted on 19 Nov by Ms. O'Brian, this morning at 10:23? In court, he gave me his word this would not happen, without giving me a chance to review and comment. Such review and comments were contained in my "Motion for a New Hearing...". It seems they were not considered?

Please have the Judge verify no procedural slip-up occurred. If it was his intent to issue the Order, I will be bringing appropriate-counter measures.

Thank you.

Cheers wedlakera@mail.com
Support "wilderness" - conserve nature !
Be American - buy "Made in USA" !!
GO ORANGE - Syracuse University ORANGE !!
Stop organized crime. Re-elect no one !

----- Original Message -----

Sent: Monday, November 25, 2019 at 9:50 AM
From: "Stilwell, Robin B. Law Clerk (Kamairi Fayall)" <rstilwellc@sccourts.org>
To: "Ray Wedlake" <wedlakera@mail.com>
Cc: "emily@campbellteague.com" <emily@campbellteague.com>
Subject: RE: Order from 10/28/19 - Proposed on 11/19/19

Good morning,

We received your emails.

Kind regards,

Kamairi Fayall

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	
	)	THIRTEENTH JUDICIAL CIRCUIT
Raymond A. Wedlake, individually, and derivatively, on behalf of all Members of the Woodington Homeowners' Association, Inc.	)	Civil Action No.
	)	2017-CP-23-06301
Plaintiff(s)	)	
	)	
vs.	)	ORDER DENYING MOTION TO
	)	DISMISS, AND IN THE ALTERNATIVE
Benjamin Acord, William Craigo, Denis Esteve, and Brian James in their capacity as the current Board of Directors of the Woodington Homeowners' Association, Inc.	)	MOTION TO STRIKE OR FOR A
	)	MORE DEFINITE STATEMENT
	)	
and,	)	
	)	
Association Management Group SC, Inc.,	)	
	)	
Defendants	)	

This matter came before me on January 3, 2018, for a hearing regarding a Motion to Dismiss, or in the Alternative, to Strike or for a More Definite Statement on behalf of Defendants Benjamin Acord, William Craigo, Denis Esteve and Brian James, (the "Board Defendants"). The aforementioned motion was heard following approval by this Court of a settlement between Plaintiff and Defendant Association Management Group SC, Inc. ("AMG"). Upon the Court's approval of the settlement between Plaintiff and AMG, counsel for Plaintiff and AMG entered a stipulation on the record that all claims against the Board Defendants relating to AMG, including all claims relating to or arising out of AMG's contract(s) with Woodington Homeowners' Association, Inc. were dismissed. Such Stipulation did not include Plaintiff's request for the Court to interpret the By-Laws with regard to voting requirements for management contracts and renewals thereof. After hearing oral argument of counsel, and following review of Plaintiff's

Complaint, the Board Defendants' Motion, Board Defendants' Memorandum in Support and related Affidavits and Exhibits, and Plaintiff's Memorandum in Opposition and related Affidavits and Exhibits, I find in favor of Plaintiff, denying Board Defendants' Motion in all respects.

THEREFORE, IT IS ORDERED, that Board Defendants' Motion to Dismiss, and, in the alternative, to Strike or for a More Definite Statement is DENIED. Further, by stipulation of counsel, all claims against the Board Defendants relating to AMG, including all claims relating to or arising out of AMG's contract(s) with Woodington Homeowners' Association, Inc. are dismissed

IT IS SO ORDERED.

Robin B. Stilwell, Circuit Court Judge

Date: _____



Greenville Common Pleas

Case Caption: Raymond A Wedlake , plaintiff, et al vs. Benjamin Acord , defendant,
et al
Case Number: 2017CP2306301
Type: Order/Other

So Ordered

s/ Robin B. Stilwell 2158

Electronically signed on 2018-01-23 10:18:06 page 3 of 3

ADDENDUM 2

The South Carolina Court of Appeals

Raymond A. Wedlake, individually and derivatively, on
behalf of all Members of the Woodington Homeowners'
Association, Inc., Appellant,

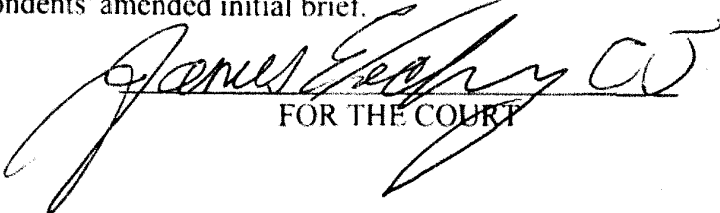
v.

Benjamin Acord, William Craigo, Denis Esteve, and
Brian James in their capacity as the current Board of
Directors of the Woodington Homeowners' Association,
Inc., Respondents.

Appellate Case No. 2018-001209

ORDER

Respondents' motion to dismiss this appeal is denied at this time. Respondents, however, may amend their initial brief to address the issue of mootness within thirty days of the date of this order. If Respondents' serve and file an amended initial brief, Appellant may serve and file an amended reply brief within fifteen days of service of Respondents' amended initial brief.


FOR THE COURT

Columbia, South Carolina

cc:
Grant Henry Gibson, Esquire
Ely Owen Grote, Esquire

FILED

November 8, 2019

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Raymond A. Wedlake, as a Member of
Woodington Homeowners' Association,
Inc.

Plaintiff (*Pro Se*)

v.

Christopher Edwards, Charles Koshis,
Denis Esteve, Michael Keels, and
William Craigo in their capacity as
Board of Directors of Woodington
Homeowners' Association, Inc.,

Defendant(s).

IN THE COURT OF COMMON
PLEAS

Case No. 2019-CP-23-00269

ORDER

ORDER

On October 28, 2019, this Court heard the following motions: (1) Defendants' Motion for Summary Judgment as to Plaintiff's claims; (2) Defendants' Motion for Summary Judgment as to their counterclaim; (3) Defendants' Motion to Extend ADR deadline; and (4) Plaintiff's Motion to Dismiss Defendants' Counterclaim. Having reviewed the record filings, applicable law, and having heard the Parties' arguments as to each Motion, this Court finds and Orders as follows:

1. Defendants' Motion for Summary Judgment as to Plaintiff's claims is **GRANTED**. Defendants are not the proper parties to this lawsuit nor can Plaintiff's suit stand as a matter of law. Article 8 of the South Carolina Non-Profit Corporations Act, specifically S.C. Code Section 33-31-834(a), states that all "directors, trustees, or members of the governing bodies of not-for-profit cooperatives, corporations, associations, and organizations...are immune from suit arising from the conduct of the affairs of these cooperatives, corporations, associations, or organizations. This immunity from suit is

removed when the conduct amounts to willful, wanton, or gross negligence.” Plaintiff asserted at the hearing that Woodington HOA is a not-for-profit corporation. Plaintiff has named individual Board members as Defendants in this lawsuit. Plaintiff has made no allegations of “willful, wanton, or gross negligence” by Defendants. Defendants are immune from suit in accordance with the language of the Act, supporting case law, and the strong public policy of the State of South Carolina which favors limiting individual liability for actions of a corporation. *See, e.g., Smith v. Dockside Ass’n, Inc.*, 2005 WL 7083482, *4 (S.C. Ct. App. Feb. 28, 2005) (“The General Assembly has provided further protection to directors of nonprofit corporations by enacting South Carolina Code section 33-31-834. That section provides that director of nonprofit organizations are immune from suits arising from the conduct of the affairs of the organization unless the directors’ conduct amounts to ‘willful, wanton, or gross negligence.’”). Further, the Board members are not proper parties as the majority have resigned and no longer have authority to provide the requested relief, demonstrating again that the Board members are not the proper party where Plaintiff seeks information from the HOA. Finally, the list of HOA member confidential votes requested by Plaintiff is not something he is entitled to under the Non-Profit Corporations Act. Wherefore, judgment is entered in favor of Defendants on Plaintiff’s claims.

2. Defendants’ Motion for Summary Judgment as to their counterclaim is **DENIED**.
3. Defendants’ Motion to Extend ADR Deadline is **GRANTED**.
4. Plaintiff’s Motion to Dismiss Defendants’ Counterclaim is **DENIED**.

IT IS SO ORDERED.

The Honorable Robin B. Stilwell
South Carolina Circuit Court Judge



Greenville Common Pleas

Case Caption: Raymond A Wedlake vs. Christopher Edwards , defendant, et al
Case Number: 2019CP2300269
Type: Order/Other

So Ordered

s/ Robin B. Stilwell 2158

Electronically signed on 2019-11-25 09:44:34 page 4 of 4

Certificate of Appellant

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

December 23, 2020

RECEIVED
Dec 22 2020
SC Court of Appeals



Raymond A. Wedlake
703 Creekview Drive
Greenville, SC 29607
Tel: (864) 254-9262
wedlakera@mail.com

Appellant (Pro Se)