

IN THE COURT OF THE FIFTH JUDICIAL CIRCUIT
IN AND FOR MARION COUNTY, FLORIDA
CIVIL DIVISION

KIRK BROWN

Plaintiff(s),

Case number: 18-CA-000726 AX
Division:

v.

JOSEPH RENDA

Defendant(s)

JOSEPH RENDA

Third-Party Plaintiff

v.

THE LANDINGS OF THE WITHLACOOCHEE
CONDOMINIUM ASSOCIATION, INC., a
Florida corporation

Third-Party Defendant

_____ /

ANSWER AND AFFIRMATIVE DEFENSES

COMES NOW the Defendant THE LANDINGS OF THE WITHLACOOCHEE
CONDOMINIUM ASSOCIATION, INC., by and through its undersigned counsel, and serves
upon the Defendant/Third-Party Plaintiff its Answer to the Third-Party Complaint and Supporting
Memorandum of Law, and states as follows:

PRELIMINARY STATEMENT

1. Admit.

2. The Association neither admits nor denies any of the allegations set forth in the Plaintiff's Complaint against the Defendant/Third-Party Plaintiff as the Association is not a named party in the Plaintiff's Complaint.

JURISDICTION AND VENUE

3. Admit for jurisdictional purposes only.
4. Admit for jurisdictional purposes only.
5. Admitted for jurisdictional purposes only.
6. Admit.
7. Admit.
8. Admitted for jurisdictional purposes only.

GENERAL ALLEGATIONS

9. Admit the gravamen of the Plaintiff's Complaint is that the Defendant/Third-Party Plaintiff failed to obtain the approval of the Association for improvements to his condominium unit.
10. The Association is without knowledge as to the renovations the Defendant/Third-Party Plaintiff desired to undertake.
11. Admit as to the language being contained in the operative provision of the Declaration only.
12. Admit as to the language being contained in the operative provision of the Declaration only.
13. Admit as to the language being contained in the operative provision of the Declaration only.
14. Admit as to the language being contained in the operative provision of the Declaration only.

15. Admit as to the language being contained in the operative provision of the Declaration only.
16. Admit the quotation from Cohn v. The Grand Condo. Ass'n, Inc., 62 So.3d 1120 (Fla. 2011) is contained within the opinion of the Florida Supreme Court.
17. Admit the Association approved the floor coverings for the Defendant/Third-Party Plaintiff's unit as being in compliance with the Association's Rules and Regulations.
18. Admit as to the Association's approval. Without knowledge as to whether or not the Defendant/Third-Party Plaintiff completed the renovations to his unit.
19. Admit the language cited by the Defendants/Third-Party Plaintiffs is contained within Section 718.303, Florida Statutes. Deny that the Association is liable for any attorney's fees to the Defendants/Third-Party Plaintiffs.

COUNT - I
DECLARATORY RELIEF

20. Defendant reincorporates its responses to paragraphs 1-19 as set forth above.
21. Admitted for jurisdictional purposes only.
22. Admitted for jurisdictional purposes only.
23. Admit the Association approved the Defendant/Third-Party Plaintiff's floor coverings for his unit renovation in accordance with the Association's Rules and Regulations. Without knowledge as to any other renovations to the unit.
24. Admit as to the language being contained in the operative provision of the Declaration only. Deny the Association has a mandatory obligation to enforce and adhere to the terms of the Declaration.

25. Admit the Plaintiff's Complaint alleges the Defendants/Third-Party Plaintiff carried out an unapproved alteration to the common elements of the Condominium. Deny the Association breached its duties under the Declaration.

WHEREFORE, the Association requests entry of a final judgment from this Court declaring the floor coverings installed by the Defendant/Third-Party Plaintiff was previously approved by the Association, denying the Defendant/Third-Party Plaintiff's request for attorneys' fees and awarding the Association its attorney's fees and costs against the Defendant/Third-Party Plaintiff pursuant to Section 718.303, Florida Statutes and the Declaration of Condominium.

COUNT - II
BREACH OF STATUTORY DUTY

26. Defendant reincorporates its responses to paragraphs 1-19 as set forth above.
27. Admit the Florida Condominium Act, and more specifically Section 718.111(12), Florida Statutes, places an obligation on the Association to maintain certain documents as official records of the Association.
28. Admit Paragraph 28 of the Plaintiff's Complaint asserts the Defendant/Third-Party Plaintiff did not obtain the approval of the Association.
29. Admit the approval of the Association for the alteration of the installation of the floor coverings would be an official record of the Association, subject to the limitations period provided in Section 718.111(12)(b), Florida Statutes.
30. Deny the Association has failed to maintain and provide access to the official records of the Association. Deny the Defendant/Third-Party Plaintiff has been damaged.

WHEREFORE, the Association requests this Court deny the Defendant/Third-Party Plaintiff's request declaring the Affidavit as the official approval for the floor covering as the

Defendant/Third-Party Plaintiff has failed to establish any such approval was required to be maintained by the Association, denying the Defendant/Third-Party Plaintiff's request for attorneys' fees and awarding the Association its attorney's fees and costs against the Defendant/Third-Party Plaintiff pursuant to Section 718.303, Florida Statutes and the Declaration of Condominium.

AFFIRMATIVE DEFENSES

1. Defendant/Third-Party Plaintiff has failed to state a cause of action against the Association upon which relief can be granted, as Defendant/Third-Party Plaintiff has failed to sufficiently set forth the ultimate facts to show that Defendant/Third-Party Plaintiff is entitled to the requested relief. Specifically, the Defendant/Third-Party Plaintiff has failed to assert the approval of the Association for the floor covering was a record required to be maintained subject to Section 718.111(12)(b), Florida Statutes. Further, the Defendant/Third-Party Plaintiff has failed to allege the Association has undertaken action against them regarding the installed floor covering and that the Association has taken a position that it did not approve the installed floor covering.

2. The Association reserves the right to supplement and amend its affirmative defenses upon completion of discovery in this matter.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been provided electronically via the ePortal to: John N. Redding, Esquire (John@jrtampalaw.com) at Redding & Associates, P.A. and Paul Kim, Esquire (paul@condo-laws.com) at Glazer & Sachs, P.A. on this 5th day of August, 2018.



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