

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

KIRK BROWN

Plaintiff(s),

Case number: 18-CA-000727 AX

Division:

v.

STEVEN W. VEHMEIER and  
GEORGANN VEHMEIER

Defendant(s)

STEVEN W. VEHMEIER and  
GEORGANN VEHMEIER

Third-Party Plaintiff

v.

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

Third-Party Defendant

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**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 Defendants/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 Defendants/Third-Party Plaintiffs 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. Admitted for jurisdictional purposes only.
10. Admit the gravamen of the Plaintiff's Complaint is that the Defendants/Third-Party Plaintiffs undertook unapproved material alterations to the common elements of the Condominium.
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 as to the language being contained in the operative provision of the Declaration only.
17. Admit as to the language being contained in the operative provision of the Declaration only.
18. Admit as to the language being contained in the operative provision of the Declaration only.
19. 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.
20. Admit the dryer vent installed by the Defendants/Third-Party Plaintiffs was the replacement of existing dryer vent.
21. Admit other units in the Condominium have the same dryer vent installed on the unit as the same dryer vent that is installed on the unit owned by the Defendants/Third-Party Plaintiffs.
22. Admit other units in the Condominium have similar dryer vents installed on their units. Deny the Association has undertaken any action against the Defendants/Third-Party Plaintiffs in regards to the dryer vent installed on their unit.

23. 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**

24. Defendant reincorporates its responses to paragraphs 1-23 as set forth above.
25. Admitted for jurisdictional purposes only.
26. Admitted for jurisdictional purposes only.
27. 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.
28. 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 dryer vent installed by the Defendants/Third-Party Plaintiffs was previously approved by the Association, declaring wiring within the Defendants/Third-Party Plaintiffs unit is not a common element, denying the Defendants/Third-Party Plaintiffs request for attorneys' fees and awarding the Association its attorney's fees and costs against the Defendants/Third-Party Plaintiffs pursuant to Section 718.303, Florida Statutes and the Declaration of Condominium.

**COUNT - II<sup>1</sup>**  
**BREACH OF STATUTORY DUTY**

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<sup>1</sup> The Defendants/Third-Party Plaintiffs have misnumbered the paragraphs of Count II, starting with 27 rather than 29. The Association's response will continue with the chronological numbers to avoid duplication of paragraphs.

29. Defendant reincorporates its responses to paragraphs 1-23 as set forth above.
30. 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.
31. Admit Paragraph 19 of the Plaintiff's Complaint asserts the Defendants/Third-Party Plaintiffs did not obtain the approval of the Association.
32. Admit the approval of the Association for the alteration of the installation of a dryer vent would be an official record of the Association, subject to the limitations period provided in Section 718.111(12)(b), Florida Statutes.
33. Deny the Association has failed to maintain and provide access to the official records of the Association. Deny the Defendants/Third-Party Plaintiffs have been damaged.

WHEREFORE, the Association requests this Court deny the Defendants/Third-Party Plaintiffs request for production of the approval for the dryer vent as the Defendants/Third-Party Plaintiffs have failed to establish any such approval was still required to be maintained by the Association, denying the Defendants/Third-Party Plaintiffs request for attorneys' fees and awarding the Association its attorney's fees and costs against the Defendants/Third-Party Plaintiffs pursuant to Section 718.303, Florida Statutes and the Declaration of Condominium.

#### **AFFIRMATIVE DEFENSES**

1. Defendants/Third-Party Plaintiffs have failed to state a cause of action against the Association upon which relief can be granted, as Defendants/Third-Party Plaintiffs have failed to sufficiently set forth the ultimate facts to show that Defendants/Third-Party Plaintiffs are entitled to the requested relief. Specifically, the Defendants/Third-Party Plaintiffs have failed to assert the

approval of the Association for the dryer vent was a record required to be maintained subject to Section 718.111(12)(b), Florida Statutes. Further, the Defendants/Third-Party Plaintiffs have failed to allege the Association has undertaken action against them regarding the installed dryer vent, that the Association has taken a position that it did not approve the installed dryer vent, that the Association has taken a position that the wiring inside the Defendants/Third-Party Plaintiffs unit is a common element.

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




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*Attorney for THE LANDINGS OF THE  
WITHLACOOCHEE  
CONDOMINIUM ASSOCIATION, INC.*

**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](mailto:John@jrtampalaw.com)) at Redding & Associates, P.A. and Paul Kim, Esquire ([paul@condo-laws.com](mailto:paul@condo-laws.com)) at Glazer & Sachs, P.A. on this 1<sup>st</sup> day of August, 2018.



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UNOFFICIAL  
DOCUMENT