

**IN THE CHANCERY COURT FOR SEVIER COUNTY, TENNESSEE**  
**AT SEVIERVILLE**

SHIELDS MOUNTAIN PROPERTY       )  
OWNERS ASSOCIATION, INC.,       )  
JONATHAN BOURNE, and            )  
TERRIE HALL,                       )  
    Plaintiffs,                    )

vs.                                    )

No. 08-3-078  
**CLASS ACTION**

JAMES BEELER                       )  
    Defendant,                     )  
    As Representative Property    )  
    Owner in Shields Mountain    )  
    Estates                         )

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**ORDER CERTIFYING CLASS**

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This matter was heard on the 16<sup>th</sup> day of April, 2009 upon the Plaintiffs' Motion for Certification of a Defendant Class pursuant to Rule 23 of the Tennessee Rules of Civil Procedure. Upon consideration of the nature of the claim, the applicable procedural rules under Rule 23, the Plaintiffs steps to determine through available public records addresses and to provide notice by certified mail to all property owners and lienholders in the Shields Mountain Estates subdivision of the request for certification of a class, it appears that the prerequisites to a class action pursuant to Rules 23.01 and 23.02(1)(a)(b) of the Tennessee Rules of Civil Procedure have been met and that proceeding, at this time, as a class action is appropriate under Rule 23.03(1) of the Tennessee Rules of Civil Procedure. Accordingly, this action should be allowed to proceed against the named Defendant, individually and as representative of the Defendant class of persons or entities with ownership interests in real property situated within the Shields Mountain Estates subdivision within Sevier County, Tennessee. It is, therefore,

ORDERED AND DECREED as follows:

(1) This cause of action shall be allowed to proceed as a class action pursuant to Rule 23 of the Tennessee Rules of Civil Procedure, with the Defendant class consisting of all property owners and other parties of interest in real property situated within the Shields Mountain Estates subdivision within Sevier County, Tennessee by virtue of mortgages or trust deeds, being the same property subject to those certain "Shields Mountain Estates Protective Covenants & Restrictions" of record in Misc. Book 45, Page 67 in the Register's Office of Sevier County, Tennessee;

(2) Pursuant to Rule 23.04 of the Tennessee Rules of Civil Procedure, the Court does hereby appoint Attorney Charles Sexton, a member of good standing of the Sevier County Bar, to serve as *Attorney Ad Litem* for and on behalf of the Defendant class. The *Attorney Ad Litem* shall undertake any investigation, file any pleadings and undertake any discovery he deems appropriate in this matter and he shall report to the Court at the hearing of this cause for and on behalf of the Defendant class. His fees shall be chargeable as costs;

(3) To those persons or entities the Plaintiffs attempted to previously serve by certified mail (with a copy of the Complaint and Notice pursuant to the previous Orders of this Court), but which attempt failed due to bad addresses or other causes, the Plaintiffs shall attempt to determine alternative addresses and again attempt certified mailing, which shall include another copy of the Complaint and Notice, *along with* the contents to be provided to the other class members as described in paragraph four (4) below;

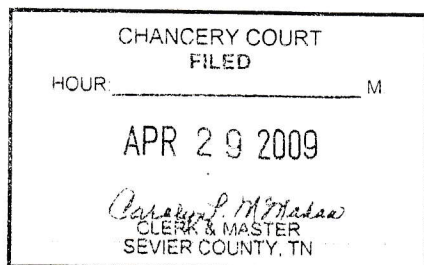
(4) To those persons or entities in the class from which the Plaintiffs have received returned receipts or "unclaimed" or "refused" notices from the United States Postal Service (or it otherwise appearing they received actual or presumed notice upon consideration of Rule 4 of the Tennessee Rules of Civil Procedure), the Plaintiffs shall undertake a subsequent mailing, by regular U.S. Mail, to include the following contents:


- a) A copy of this Order;
- b) notice of the hearing date;
- c) a description of the general nature of the proceedings, including the requested relief of the Plaintiffs;
- d) the name, address and telephone number of the *Attorney Ad Litem*;
- e) and the name, address and telephone number of the attorney for the Plaintiffs;

(5) In addition to the foregoing, the Plaintiffs shall cause to be placed in a newspaper of general circulation for Sevier County, Tennessee for four (4) consecutive weeks, a notice containing substantially the same information as set forth in paragraph four (4) above;

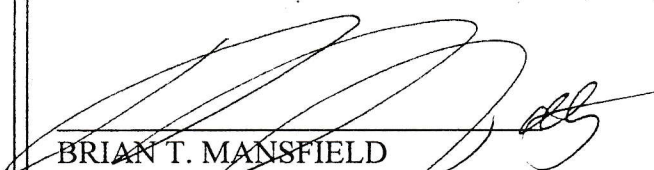
(6) All other matters are reserved, including further Orders as the Court may deem appropriate in the conduct of this action pursuant to Rule 23.04 of the Tennessee Rules of Civil Procedure.

ENTER this 29 day of April, 2009.



  
TELFORD E. BORGETY, JR., Chancellor

APPROVED FOR ENTRY:



BRIAN T. MANSFIELD  
Attorney for the Plaintiffs  
164 North Henderson Avenue, Suite A  
Sevierville, TN 37862  
(865) 428-7892

**CERTIFICATE OF SERVICE**

I do hereby certify that a true and exact copy of the above and foregoing has been served upon James Beeler, 2729 Mountain Boulevard, Sevierville, Tennessee 37876 and to the *Attorney Ad Litem*, Charles S. Sexton, Law offices of Wallace & Sexton, 111 Commerce Street Sevierville, Tennessee 37862, via first class U.S. Mail.

On this the \_\_\_\_ day of April, 2009.



BRIAN T. MANSFIELD