

STATE OF NORTH CAROLINA

File No.

12-CvD-18

MONTGOMERY County

In The General Court Of Justice

District Superior Court Division

Name Of Plaintiff

Larry Brown and Dorothy Hodges c/o Aaron L. Bell

Address

300 Pinehurst Avenue

City, State, Zip

Southern Pines, NC 28387

VERSUS

CIVIL SUMMONS

ALIAS AND PLURIES SUMMONS (ASSESS FEE)

G.S. 1A-1, Rules 3, 4

Name Of Defendant(s)

Holiday Shores on Lake Tillery Association, Inc.

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

FILED
2012 JAN 17 P 2:12
MONTGOMERY COUNTY, CSC
BY

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

Holiday Shores on Lake Tillery Association, Inc.
c/o Registered Agent, Arlen W. Cockman
2212 Battleground Avenue
Greensboro, NC 27408

Name And Address Of Defendant 2

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (If None, Address Of Plaintiff)

Aaron L. Bell
Thigpen & Jenkins, LLP
300 Pinehurst Avenue
Southern Pines, NC 28387

Date Issued

1-17-12

Time

2:12

AM
 PM

Signature

Day Hunter

Deputy CSC Assistant CSC Clerk Of Superior Court

ENDORSEMENT (ASSESS FEE)

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

AM
 PM

Signature

Deputy CSC Assistant CSC Clerk Of Superior Court

NOTE TO PARTIES: Many counties have MANDATORY ARBITRATION programs in which most cases where the amount in controversy is \$15,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

STATE OF NORTH CAROLINA
COUNTY OF MONTGOMERY

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
FILE NO. 12-CV-D-18

LARRY BROWN and)
DOROTHY HODGES,)
Plaintiffs)
v.)
HOLIDAY SHORES ON LAKE)
TILLERY ASSOCIATION, INC.,)
Defendant)

COMPLAINT

BR
MONTGOMERY COUNTY OSCC
2012 JAN 17 2:11 PM
FILED

NOW COME the Plaintiffs, Larry Brown and Dorothy Hodges, by and through undersigned counsel, complaining of the Defendant as follows:

1. That the Plaintiffs are citizens and residents of Rowan County, North Carolina;
2. That the Defendant, Holiday Shores on Lake Tillery Association, Inc. (hereinafter "Holiday Shores"), is a non-profit corporation organized and existing under and by virtue of the laws of the State of North Carolina with its registered agent, Arlen W. Cockman, located at 2212 Battleground Avenue, Greensboro, North Carolina 27408;
3. That the Plaintiff, Larry Brown, has been a member of Holiday Shores since March, 1993 and owns, individually and / or jointly, approximately fifty-eight (58) lots within the association;
4. That the Plaintiff, Dorothy Hodges, is a member of Holiday Shores and owns approximately sixty-one (61) lots within the association;
5. That from Holiday Shores' inception until October 9, 2007, annual dues were collected from each association member on a "per member" basis pursuant to its Declaratory Statement of Covenants and Restrictions (hereinafter "Declaration") filed on December 19, 1991 and recorded in Book 252, Page 878 of the Montgomery County Registry;
6. That on April 14, 2007, the Holiday Shores' Board of Directors (hereinafter "BOD") held a meeting in which a proposal by the Finance Committee to amend the Declaration by restructuring the annual membership dues from a "per member" basis to a "per lot" basis was improperly passed to be forwarded to all members of the association;
7. That said April 14, 2007 motion to restructure the annual membership dues had a vote of six (6) affirmative and five (5) against. Out of the six (6) affirmative votes, two (2) votes were improperly cast by proxy whereas BOD members have been required to vote in person since October 22, 1995;

8. That the Declaration may only be amended pursuant to a three-fourths (3/4) vote of the BOD and, more specifically, there must be nine (9) out of twelve (12) affirmative votes AND a thirty (30) day notice by first-class mail to all association members;

9. That the BOD deemed said April 14, 2007 motion as passed contingent upon association members making the final decision; however, giving association members the authority to do so is inconsistent with the Declaration;

10. That the BOD was presented with a proposed Newsletter and an attached ballot dated June 1, 2007 regarding restructuring of the annual membership dues; however, a significantly different Newsletter and ballot dated April 23, 2007 was forwarded to association members prior to being approved by the BOD;

11. That despite improper notice and procedure, members of the association voted fifty-five (55) affirmative and forty-nine (49) against said April 14, 2007 motion during the June 2, 2007 Annual Association Meeting;

12. That on October 9, 2007, the acting President of Holiday Shores improperly filed an amended Declaration which is recorded in Book 602, Page 537 of the Montgomery County Registry;

13. That on October 9, 2007, the acting President of Holiday Shores improperly filed an amended By-Laws which is recorded in Book 602, Page 532 of the Montgomery County Registry;

14. That on December 11, 2008, an amendment to the Declaration was improperly filed and recorded in Book 628, Page 783 of the Montgomery County Registry;

15. That the Honorable Scott C. Etheridge, District Court Judge presiding during the April 15, 2011 term of Civil District Court for Montgomery County, entered an Order declaring the October 9, 2007 Declaration null and void;

16. That the December 11, 2008 amendment to the Declaration is null and void pursuant to the April 15, 2011 Order;

17. That the Declaration and By-Laws presently filed are inconsistent with one another and the Declaration supersedes in authority over the By-Laws;

18. That Holiday Shores has improperly declared the Plaintiffs as members not in good standing;

19. That on June 3, 2011, Holiday Shores sent a demand letter to Plaintiff, Larry Brown, regarding an inaccurate outstanding balance of Twenty Thousand Four Hundred and Twenty Dollars (\$20,420.00) in annual membership dues;

20. That on June 3, 2011, Holiday Shores sent a demand letter to Plaintiff, Dorothy Hodges, regarding an inaccurate outstanding balance of Twenty-One Thousand Five Hundred Dollars (\$21,500.00) in annual membership dues;

21. That the Plaintiffs will suffer irreparable harm by the Defendant, unless the Court grants an injunction against the improper filings by the Defendant described herein above and all future filings by the Defendant until this matter is resolved; and

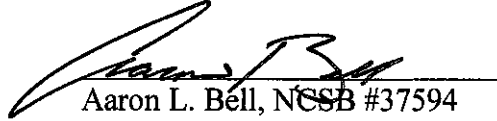
22. That as a result of the foregoing, there is an actual controversy among the Plaintiffs and the Defendant relating to their respective rights and obligations.

WHEREFORE the Plaintiffs pray the Court as follows:

1. That the foregoing verified Complaint be allowed and taken as an affidavit upon which to base all Orders or otherwise of this Court;
2. That the Court declare the Declaration filed on October 9, 2007 and recorded in Book 602, Page 537 with the Montgomery County Registry as null and void;
3. That the Court declare the By-Laws filed on October 9, 2007 and recorded in Book 602, Page 532 with the Montgomery County Registry as null and void;
4. That the Court order the Defendant to revert to its Declaration filed on December 19, 1991 and recorded in Book 252, Page 878 of the Montgomery County Registry;
5. That the Court order the Defendant to revert to its By-Laws filed on June 3, 1989;
6. That the Court enjoin all future filings by the Defendant from the date of this Complaint until this matter is resolved;
7. That the Court stay all collections proceedings filed by the Defendant against either Plaintiff until this matter is resolved;
8. That the costs of this action, including reasonable attorney's fees, be taxed against the Defendant; and
9. For such other and further relief to Plaintiffs as is deemed just and proper.

Respectfully submitted this the 17th day of January, 2012.

THIGPEN & JENKINS, LLP
Attorneys for Plaintiffs

A handwritten signature in black ink, appearing to read "Aaron L. Bell", is written over a horizontal line.

Aaron L. Bell, NCSB #37594
300 Pinehurst Avenue
Southern Pines, North Carolina 28387
Telephone: (910) 693-3741
Facsimile: (910) 693-3746
Email: abell81nc@gmail.com

CERTIFICATE OF SERVICE

Aaron L. Bell hereby certifies that a copy of the COMPLAINT was served upon the following:

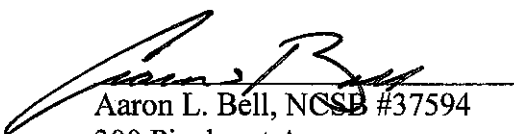
Holiday Shores on Lake Tillery Association, Inc.
c/o Registered Agent, Arlen W. Cockman
2212 Battleground Avenue
Greensboro, NC 27408

in the following manner:

- Hand delivering a copy hereof;
- Fax transmission;
- By Sheriff's Department
- By depositing a copy hereof, postage prepaid, in the United States Mail, in the manner and form as prescribed by the North Carolina Rules of Civil Procedure.

Respectfully submitted this the 17th day of January, 2012.

THIGPEN & JENKINS, LLP
Attorneys for Plaintiffs



Aaron L. Bell, NCSB #37594
300 Pinehurst Avenue
Southern Pines, North Carolina 28387
Telephone: (910) 693-3741
Facsimile: (910) 693-3746
Email: abell81nc@gmail.com

STATE OF NORTH CAROLINA

VERIFICATION

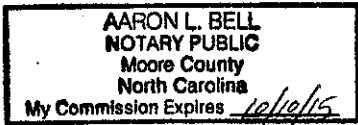
COUNTY OF MOORE

I, the undersigned, being first duly sworn by and before the undersigned notary public, say that I have read the foregoing COMPLAINT and that the allegations alleged therein are true to my own knowledge, except those matters stated therein on information and belief, and as to those matters, I believe them to be true.

[Handwritten Signature]
LARRY BROWN

I certify that the following person personally appeared before me this day and:

- I have personal knowledge of the identity of the principal.
- I have seen satisfactory evidence of the principal's identity, by a current state or federal identification with the principal's photograph in the form of a driver's license.
- A credible witness has sworn to the identity of the principal.



[Handwritten Signature]
Notary Public - Signature

Aaron L. Bell
Notary Public - Printed / Typed Name

January 17, 2012
Date

My Commission Expires: 10/10/2015
*Note to Notary Public: Please check appropriate box.