

IN THE CHANCERY COURT FOR CAMPBELL COUNTY, TENNESSEE

AMENDED COMPLAINT

COME NOW the Plaintiffs, and file this Verified Amended Complaint,, and pursuant to Tenn.R.Civ.P. 15.01 & 23.06, superceding and replacing the Complaint previously filed in this action on November 25, 2019, and brings action against Defendants, both in their representative capacities and individually, for multiple causes of action, including but not limited to JUDICIALRELIEF FOR CORPORATE ORGANIZATION, BREACH OF FIDUCIARY DUTY, CONFLICT OF INTEREST, JUDICIAL DISSOLUTION, ULTRA VIRES ACTS, CONSTRUCTIVE TRUST, CIVIL CONSPIRACY, DERIVATIVE ACTION, DECLARATORY RELIEF and based on the following grounds:

I. PARTIES

1. Plaintiffs are owners of real property in Deerfield Resort area (all names and addresses are attached hereto as Exhibit A) and are "Members" of the Deerfield Resort Homeowners Association, Inc.(hereinafter the "Association") pursuant to its corporate charter registered as non-profit corporation with the Tennessee Secretary of State on April 15, 1986 (Attached as Exhibit B). The members seeking relief in this cause exceed fifty (50) in number.
2. Plaintiffs also bring this action derivatively on behalf of the Deerfield Resort Homeowners Association, Inc. pursuant to T.C.A. § 48-56-401 for the benefit of the Association.
3. Defendant Madeline Fields is the widow Paul Fields (deceased of July 3, 2016). She holds herself out as director and officer of the Association. She is also a principal of Fields Development Company, Inc., Fields Real Estate Company, Inc., and other duly authorized and unauthorized entities that have commingled, intertwined, overlapped, and converted funds of the Association. Madeline Fields runs the Association or allowed others to

run the Association as her or their alter ego with no input from the Members. Madeline Fields also operates under the unauthorized fictitious name, Deerfield Resort, Inc. This fictitious named entity is a proprietorship of Madeline Fields, a partnership with the other Defendants or a joint enterprise with the other Defendants. Defendants use this fictitious name entity to, *inter alia*, collect funds from Members through assessments and funnel those funds into for-profit entities owned and controlled by Defendants and spend Members' funds for themselves and the entities they own and control. Madeline Fields is sued herein in her representative capacity as director and officer of the Association, and personally for the improprieties of breach of duty, breach of loyalty and breach of fiduciary duty to the Association. Madeline Fields is also sued individually and in her representative capacity as a principal of any and all entities which have received Members' funds and/or expended funds collected from Members in an inappropriate and illegal manner against the interest of the Association and its Members. Upon information and belief, Madeline Fields has personally benefitted financially from improper and illegal business dealings with the Association, operation of the Association as her Fields

Development Company, Inc. and Fields Real Estate Company, Inc.

Scott Fields has a personal financial interest in entities controlled by the Fields family, including the fictitious entity Deerfield Resort, Inc.

Defendant Scott Fields operates the Deerfield Water Plant and charges fees to owners of real estate in the Deerfield Resort area for water.

Scott Fields is identified as a director and officer of the Association in its current annual report. While being identified as a board member for the Association, Scott Fields allowed a significant regulatory fine from the Tennessee Department of Environment and Conservation (TDEC) for water plant deficiencies committed under his direction and control to be imposed in the name of the Association. Scott Fields was complicit in allowing members' funds to be funneled into for-profit entities owned and controlled by Defendants. Upon information and belief, Scott Fields personally financially benefitted from the inappropriate and illegal handling of funds collected from Members of the Association and conflict of interest transactions with the Association. Scott Fields is sued individually for conversion of Association funds and operating of Association affairs without authorization or oversight in breach of his fiduciary duties to the Association and for conflict interest transactions with the Association.

Scott Fields is sued personally for any activities he performed in the capacity as a partner, member, joint venturer and/or agent of the fictitious entity, Deerfield Resort, Inc., which were detrimental to the Association. Scott Fields is sued in his representative capacity as a principal of Fields Development Company, Inc., and Fields Real Estate Company, Inc. Scott Fields and these various entities in which he has an interest continue to have business dealings with the Association which are illegal, fraudulent, without authorization and blatantly unfair to the Association and its members. Scott Fields is a proper party and has been served in this action.

4. Defendant Paula Fields Lejeune, is the daughter of Madeline Fields. She is the registered agent for PML Innovative Concepts, LLC, Lejeune Homes, LLC and operates out of the office of Madeline Fields, Fields Development Company, Inc., Deerfield Resort, Inc., Fields Real Estate Company, Inc., 1235 Deerfield Way, LaFollette, Tennessee. Upon information and belief, Defendant Marc Lejeune, the husband of Paula Fields Lejeune, is also a member, principal, agent or employee of PML Innovative Concepts, LLC and Lejeune Homes, LLC and these entities are entangled in the web of commingling, overlap, conflict of interest and conspiracy created by these Defendants. Paula Fields Lejeune is a

director of Fields Development Company, Inc. and Fields Real Estate Company, Inc. Paula Fields Lejeune is sued personally for any activities she performed in the capacity as a partner, member, joint venturer and/or agent of the fictitious entity, Deerfield Resort, Inc. which were detrimental to the Association. Paula Fields Lejeune was complicit in allowing Members' funds collected under the name "Deerfield Resort" and to be funneled into for-profit entities under the control of Defendants. Paula Fields Lejeune personally financially benefitted from the inappropriate and illegal handling of funds collected from member of the Association. Paula Fields Lejeune is sued individually for conversion of Association funds and operating of Association affairs without authorization or oversight in breach of her fiduciary duties to the Association. Paula Fields a member of Parc Properties LLC stands to financially gain from the establishment of a commercial dock within the Deerfield Community which is being developed by her husband, Marc Lejeune. Paula Fields Lejeune is sued personally and in her representative capacity as a principal of Fields Development Company, Inc., Fields Real Estate Company, Inc., and the fictitious entity Deerfield Resort, Inc. and as a principal or agent of other these and other entities that have business dealings with the Association which were illegal, fraudulent, without authorization and blatantly unfair to

the Association and its Members and in violation of here fiduciary duties to the Association. Upon information and belief, Paula Fields Lejeune and her husband, Defendant Marc Lejeune, have personally financially benefitted from improper and illegal business dealing with the Association and should beheld accountable to the Association in damages. Upon information an belief, Paula Fields Lejeune has personally financially benefitted from conflict ofinterest transactions with the Association and should held personally liable for damages causes by these improper and illegal transactions. Paula Fields Lejeune is a proper party and has been served in this action.

5. Defendant Marc Lejeune is the son-in-law of Madeline Fields and the husband of Defendant Paula Fields Lejeune. Marc Lejeune is the builder of homes, docks and a real estate agent. Upon information and belief, Marc Lejeune is an agent, principal and/ or employee of one or more of the Defendant entities, including fictitious entity, Defendant Deerfield Resort,Inc., as a partnership or joint enterprise with Defendants. Upon information and belief, Defendant Marc Lejeun is also a member, principal, agent or employee of PML Innovative Concepts, LLC and Lejeune Homes, LLC and these entities are entangled in the web of

commingling, overlap, conflict of interest and conspiracy created by these

Defendants.

Marc Lejeune is the managing member of Pare Properties, LLC, which is in the process of developing an area containing multiple housing units with an application pending with the Tennessee Valley Authority for a total of 288 boat slips and the establishment of a commercial marina inside the secure community. Upon information and belief, Defendant Paula Fields Lejeune is also a member of Pare Properties, LLC. This development can potentially create severe security and infrastructure burdens on the members and the Association. This development puts Marc Lejeune in direct conflict of interest with the Association and its members. Marc Lejeune was complicit in allowing Members' funds to be funneled into for-profit entities under owned and controlled by Defendants. Upon information and belief, Marc Lejeune personally financially benefitted from the inappropriate and illegal handling of funds collected from Members of the Association and paid to Defendants. Marc Lejeune is sued individually for conversion of Association funds for the benefit of Defendants and complicity in allowing the conversion of funds collected from Association members to be funneled into for-profit entities owned and controlled by the

Fields family. Marc Lejeune is a proper party and has been served in this action.

Fields Development Company, Inc. is the for-profit corporation, owned and controlled by Defendants into which the funds paid by the Members to "Deerfield Resort" was funneled after it was received by Defendants. Members have no contractual or other obligation to pay money into Fields Development Company, Inc., and the funneling of funds into Fields Development Company, Inc. is an unlawful conversion of Members' funds for the use and benefit of Fields Development Company and Defendants. Fields Development Company, Inc. participated in the conspiracy to perpetuate the fraud of the members. Fields Development Company, Inc. is liable in damages to the Association for all funds collected from Members and converted to its use and benefit. Fields Development Company, Inc. is a proper party to this action and has been properly served.

6. Deerfield Resort, Inc. is a fictitious entity with no assumed name or existence of record with the Tennessee Secretary of State and has no authority to operate as corporate entity in the State of Tennessee that can be determined after diligent search. Upon information and belief, Deerfield Resort, Inc. is an umbrella proprietorship, partnership or joint

venture among the Defendants operated by Madeline Fields , Fields Development Company, Inc. and other Defendants for the purpose, *inter alia*, of receiving large sums money from Members of the Association under the guise of being the Association. Madeline Fields has been served on behalf of Deerfield Resort, Inc., and the fictitious entity Deerfield Resort, Inc. a proper party to this action.

STATEMENT OF FACTS

7. Plaintiffs are owners of property located in the development commonly know as "Deerfield Resort." Deerfield Resort is a real estate development on Norris Lake near LaFollette, Tennessee begun in the mid-1980's by Paul Fields, Madeline Fields and others as identified in corporate filings as the Developers. All Plaintiffs are property current owners and Members of the Association pursuant to its Charter.
8. Deerfield Resort was created to be a private, secure community with all privately owned, managed and maintained common areas, roadways, amenities and certain utilities.
9. The Association was formed to fund, oversee, maintain private roadways and common areas located within the Deerfield Area and support the

health, safety and welfare of the members.

10. The Developers in conjunction with buying land, developing the infrastructure, subdividing, building and selling lots and homes in the Deerfield Resort area formed the Association in the customary way for like developments with the rights of the owners and the rights, duties and obligations of the Association set out in its Charter.
11. The Charter sets out individuals purported to be the original officers and directors of the Association. It is unclear how the individuals identified as officers and directors of the Association were appointed to those positions in light of representations made to the Court that there has never been any elections, meetings, minutes, or financial records. It is likewise unclear how the officers and directors appearing on the annual report each year were appointed to those positions absent bylaws, meetings and elections.
12. Madeline Fields is believed to be one of the original Developers as defined in the Charter and Madeline Fields. Madeline Fields and certain other Defendants have been listed as officers and directors on annual reports filed with the Tennessee Secretary of State on behalf of the

Association who are identified as directors and/or officer through out its existence. (See Exhibit_LC_attached hereto). The Developer as

referred to in the Charter, although not specifically defined, is believed to be Fields Development Company, Inc.

13. The Defendants, through Madeline Fields, the purported president and director of the Association, have asserted that the Association is a non-functioning nullity, although it has been duly authorized, remains in good standing and has had an annual report listing its officers and directors since its inception in 1986. (See Response to Application for Court Ordered Inspection, attached hereto as Exhibit D).
14. Madeline Fields has served either as a purported board member or director of the Association from its inception until the present. (See certified filings with the Tennessee Secretary of State attached hereto as Exhibit C).
15. Defendants, through Madeline Fields, state in documents filed with this court that the Association is a nullity because "it has no bylaws, has taken no substantive action, had no annual meetings, no meetings of the board of directors, no meetings of members since its inception." (See Exhibit D, Page 4, II.: "The HOA is a functional nullity.").
16. Defendants and Madeline Fields ignored the statutory responsibility of directors of a corporation to have an initial meeting and enact bylaws and formally organize the non-profit(T.C.A. § 48-52-105), and they

have operated the Association as with no formal organizational structure and as the alter ego of themselves or their for-profit entities since the inception of the Association.

17. With no meetings and no bylaws, the Association has represented to the Tennessee Secretary of State that officers and a board of directors have been properly elected and have been in place and properly function since its inception.
18. The Association has conducted no authorized activities. However, Defendants have conducted extensive business in the name of the Association for their own benefit and enrichment to the detriment of the Association and its Members.
19. The only organizational structure of the Association is its Charter, which provides in pertinent part:

ARTICLE V

Every person or entity who is a record owner of a fee or undivided fee interest in any lot or lots which is subject to covenants of record to assessment by the Association, including contract sellers, shall be a member of the Association.

ARTICLE VI

The Association shall have two classes of voting members:

CLASS A: Class A members shall be all owners, with the exception of the Developers, and shall be entitled to vote for each lot owned. When more than one person holds an interest in a lot, all such persons shall be members. The vote for such lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any lot.

CLASS B: The Class B member(s) shall be the Developer and shall be entitled to three (3) votes for each lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following event, **whichever occurs first:**

- (a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership or,
- (b) **On 12/31/88.**
[emphasis added]

ARTICLE IV

PURPOSE OF POWERS OF THE ASSOCIATION

[T]he specific purposes for which it is formed are to provide for maintenance, preservation and private control of Common areas and Roadways within that certain tract of property as shown on "Exhibit A" attached hereto, which is known as the Deerfield Resort Area

(d) To maintain all roadways in the Deerfield Resort Area, the same roadways, to be maintained by the developer until 12/31/88 or until 75% of the lots have been sold at which time developer will convey title to the roadway to the association

and the association shall assume the responsibility of maintenance of said roadways. It is understood that common areas and roadways shall always remain private and in no way shall be deemed public property.

**CHARTER OF DEERFIELD RESORT HOMEOWNERS'
ASSOCIATION, INC.**

As of 12/31/88, Class B membership in the Association was abolished by the Charter, and all members became Class A members in accordance with their respective ownership interests.

20. No organizational meeting was ever held to appoint officers, adopt bylaws and carry-on business of the corporation as is statutorily required pursuant to T.C.A. § 48-52-105. (See Response to Application for Court Ordered Inspection, attached hereto as Exhibit D, Paragraph D).
21. Statutorily required annual reports were filed every year beginning in 1987, which identified a board that was never duly elected. (See corporate filings attached hereto as Exhibit C).
22. Contrary to the representations made to the Secretary of State, no meeting was ever held to elect a board of directors or officers of the Association and no bylaws were ever adopted. The Association was operated as the alter ego of the Defendants.

23. On about February 9, 2020, Defendant Madeline Fields filed the statutorily required annual report indicating she serves as president and Defendant Paula R. Lejeune is secretary of the Association and there is a duly elected board of directors consisting of ten (10) members, including Defendants Paula Fields Lejeune and Scott Fields.
24. There has never been an organizational meeting, annual meeting, board of director's meeting or any other meeting to elect a board of directors and appoint officers of the Association or bylaws created and maintained by the Association. (See Exhibit Response to Application Exhibit_D, pgs. 3,4; Corporate Disclosures Exhibit E).
25. Without authority of any properly constituted organization, Defendants held real property and conveyed real property in the name of the Association. (See Deeds attached hereto as Collective Exhibits F). Without authority, and while falsely indicating meetings of the Association, Defendants granted variances in the name of the Association. (See Exhibit L attached hereto). Defendants have falsely represented that meetings of the Association were held when they actually were never held.
26. Without authority, Defendants collected dues, which are now being characterized as "maintenance and security fees" by the "Deerfield Resort" and were paid into the for-profit

corporation, Defendant Fields Development Company, Inc.

(See Response Exhibit C, pg. 4).

27. Plaintiffs were given the impression by Defendants that "maintenance and security" fees charged by the fictitious entity, Deerfield Resort, were assessments by the Association and were in fact paid into the Association to meet the obligations of the Association as stated in the Charter.
28. Upon information and belief, Defendants, in the name of the Association, but without authority given to them by the Association or its members, assess yearly dues of \$500 homeowners/condominium owners and \$250 on lot/hangar owners. An exemplar of a bill. from "Deerfield Resort" is attached hereto as Exhibit G.
29. The Deerfield Resort area for which Defendants are collecting dues consists of approximately four hundred (400) homes, one hundred thirty-five (135) condominiums, and three hundred seventy (370) lots/hangers as shown on the map of the Deerfield Resort area attached hereto as Exhibit H.
30. Information received by Plaintiffs from Defendants indicate annual assessments are being received by Defendants in of appromately Two

Hundred, Fifty Thousand Dollars (\$250,000.00) annually. (See Exhibit I - 2018 - Revenues and Expenses of "Deerfield Resort"). Plaintiffs submit that many of the listed expenses are not just and proper expenses of the Association and were collected and spent in support of Defendants and their for-profit entities.

31. The funds assessed by and collected by the fictional entity Deerfield Resort by the Members are actually paid into an account controlled by the for-profit corporation, Fields Development Company, Inc. (See Exhibit D, pg. 4).
32. Neither of Defendants' fictitious entity Deerfield Resort or Fields Development Company, Inc., have authority to bill the Members for "maintenance and security." These annual bills were sent under the guise of being the Deerfield Resort Homeowners Association, Inc. The owners reasonably believed the annual bills they received were sent from the Association.
33. It is an intentional misrepresentation to send bills from "Deerfield Resort" (which is easily assumed to be a shortened version of "Deerfield Resort Homeowners Association, Inc.") and pay the funds into a for-profit corporation controlled by Defendants with no disclosure that the funds

are being funneled into Defendants' for-profit entities. Defendants intended to deceive the Members by sending bills under the name of "Deerfield Resort" and paying the revenues collected into a for-profit corporation for Defendants' benefit. These actions were and continue to be in breach of Defendants' fiduciary duty of operating the Association in the T.C.A. § 48-58-301, intentional misrepresentation and illegal conversion of funds.

34. There is no duly authorized and recorded business entity operating in Tennessee as Deerfield Resort, Inc., although Defendants represented the Deerfield Resort does business as Fields Development Company, Inc. (See Response to Application, Exhibit D, pg. 4).

35. There is no assumed name of Deerfield Resort of record, and the duly authorized entity Fields Development Company, Inc. (which Plaintiffs assume to be the entity "Fields Development, Inc." referred to in Defendants' pleadings) has no assumed name entity listed with the Tennessee Secretary of State under which it operates.

Plaintiffs submit the "Deerfield Resort" as identified on the annual bills received by the owners is a fictional entity, created, owned and controlled by Defendants, individually and collectively, as a

proprietorship, partnership or joint enterprise to, *inter alia*, funnel large sums of money from the Members into Defendants for-profit entity, Fields Development Company, Inc. or other entities owned and controlled by Defendants and to pay salaries and expenses which are not proper expenses of the Association.

36. Upon information and belief, no segregated account(s) were ever established for funds paid by Association Members for assessments by Defendants, and Defendants used funds paid into the fictional entity, Deerfield Resort, at their sole discretion and often for inappropriate purposes.
37. No meeting was ever held to determine the amount of funds to be that should collected from the Members or determine how the funds should be spent.
38. No regular financial reports as required by T.C.A § 48-66-201 were ever provided to Plaintiffs. Some financial information has been provided occasionally upon request, but Plaintiffs have never been given the opportunity to question, dispute or object to the expenditures for which their assessments were paid.
39. Defendant Scott Fields manages and operates the Deerfield Water Plant and bills the owners

under the name "Deerfield Water System." (See Bill attached as Exhibit

D. Scott Fields is also identified as a director and officer of the Association in corporate filings for the Association.

40. Plaintiffs are in possession of documents generated by the Tennessee Department of Environment and Conservation (TDEC) that indicates: 1. The Association owns and operates the Deerfield water plant, and 2. Imposes fines in the name of the Association in lump sum and continuing fines in excess of Thirty Thousand Dollars (\$30,000).

Other than the enforcement action by TDEC, Plaintiffs are unaware of any business relationship between the Association and the water plant or any ownership interest of the Association therein; however, the Association and consequently its Members have received a substantial fine for activities for which they had no knowledge for activities for which they had no control.

41. Upon information and belief, Scott Fields and Defendants allowed the substantial fine to be levied in the name of the Association for actions of the water treatment plant owned and controlled by Scott Fields.

42. Allowing such, the Association is in violation of their duty of loyalty to the Association and their obligation to operate in the Association's best interest.

43. Certain tracts of land are held in the name of the Association and certain

tracts of land have been conveyed in the name of the Association over the years. (See Exhibits E - Deeds of conveyance wherein the Association a named Grantor or Grantee). Examination of the Deeds reveals that as recently as Friday, May 15, 2020, Madeline Fields conveyed the community tennis court to Defendant, Fields Development Company, Inc. This tennis court was originally conveyed to the Association by Defendant Fields Development Company, Inc. on December 16, 1991 as a common area. The tennis court has significant value. This transaction should be set aside a fraudulent, ultra vires transaction without consideration or the Association should be awarded damages against Defendants for the value of the tennis courts.

44. Defendants have represented to this court that the Association has taken no substantive action. (See Exhibit D, Pg. 4). It is clear from public records that Defendants have been conducting business in the name of the Association since its inception for their personal benefit and to benefit for-profit entities which they own and control. The Defendants have ran the Association as their alter ego, for the benefit of themselves personally or for the benefit of their multiple and intertwined for-profit enterprises.

45. Defendants maintain a fire pit and allow open burning that endangers the residences and area adjacent to the pit. Pursuant to the Charter, the Association is to promote "health, safety, and welfare of the residents within the described property "(Article IV. Purpose of Powers of

Association). Defendants are allowing and promoting activities that are dangerous and in violation of the responsibilities of the Association by allowing the dangerous use of the fire pit.

46. After having failed to constitute and establish the Association as required by statute and Charter, Defendants continue to issue and record "restrictions" on behalf of the Association with no authority to do so. (See Restrictions attached hereto as cumulative Exhibit K). Specifically, the "Restriction" recorded in Miscellaneous Book 129, Page 79 in the Register of Deeds office for Campbell County, Tennessee on August 13, 2018, states in pertinent part:

[Para.] 22. DEVELOPER CONTROL PERIOD: During the Developer Control Period, which shall be defined as that period of time during which the Developer continues to own any lots or tracts in Deerfield Resort, the Developer shall control the common areas and roads in Deerfield Resort. Upon Conveyance of the last lot or tract in Deerfield Resort, or at such earlier time as the Developer may determine from time to time, in its sole and absolute discretion, the Developer shall convey all and /or portions of the common areas and roads to the Deerfield Resort Property Owners. No property owner shall have a vote on issues of roads and/or common areas until such time as the Developer relinquishes all and/or partial responsibilities for such roads and common areas to Deerfield Property Owners.

This purported "restriction" is in direct contradiction of the Charter and an example of Defendants' oppression of the Members' and disregard for any Association Members' rights.

i. CAUSES OF ACTION

A. Judicial Relief

47. Courts of equity are empowered to order meetings of nonprofit corporations if it is impractical or impossible to call or conduct a meeting of the members T.C. A 48-51-60.
43. No organization or membership meeting has ever been called since the inception of the Association in 1986. The directors are statutorily required to call an organizational meeting, adopt bylaws and perform the other actions necessary to organize a corporation. T.C.A. § 48- 52-105.
44. The organizational meeting was never held, there were no bylaws ever adopted and the director ignored their duty to organize the Association.
45. The Association organizers, alleged directors and alleged officers have operated the Association as a alter ego of themselves for their personal benefit to the exclusion of the members.
46. The Association's alleged directors and alleged officers have failed to and refuse to provide a membership list as required by T.C.A § 48-66-101.
47. Plaintiffs do not have the authority to call a meeting of the membership absent the assistance of the court.

48. These extraordinary conditions make it impractical or impossible to call a organizationalmeeting and a membership meeting to elect a board of directors, appoint officers, generate bylaws and conduct any other business as required for the Association to function in accordance with Tennessee law.
49. Plaintiffs have generated a viable list ofowners/members such that notice of the meeting can be given.
50. Plaintiffs request that the court use its authority pursuant to T.C.A. § 48-51-601 to order a meeting of the membership for the purpose of establishing bylaws, electing directors, electing officers and any purpose deemed appropriate and necessary by the court.

B. Breach of Fiduciary Duty

51. Officers and directors of a nonprofit corporation are held to a standard of good faith to the corporation, to use the care of an ordinarily prudent

person in conducting the affairs of the nonprofit corporation and to act in a manner that the director reasonably believes is in the best interest of the nonprofit corporation in conducting its affairs. T.C.A. § 48-58-301.

52. Defendants Madeline Fields, Scott Fields and Paula Fields Lejeune have been identified on documents filed with the Tennessee Secretary of State as either directors and/or officers of the Association.
53. These Defendants have acquiesced and/or participated in the collection of owner/member funds and payment of those funds into a private, for-profit corporation owned or controlled by these Defendants without authority or notice to the owners/members.
54. These Defendants have made and acquiesced in payments of member funds to themselves, business entities they own/control and others which are not proper expenditures of the Association in breach of their fiduciary duty to the Association and its members.
55. These Defendants should be held personally liable, individually and collectively, for any and all expenditures made for items or services not authorized by the Charter for the benefit of the members of the Association.

Conflicts of Interest - Pursuant to T.C.A. § 48-58-701 et. seq.

56. Defendants, Madeline Fields, Raymond Scott Fields and Paula Fields Lejeune, and others have controlled the Association since its inception.
57. Defendants have made numerous transactions over the course of years that are not fair/arm's length transactions and for which Defendants have a material financial interest.

The transactions between Defendants, the for-profit entities owned and/or controlled by Defendants and the Association, including but not limited to the depositing large sums of money into Defendants' for-profit entities, are situations which would be reasonably expected to impair the objectivity of the directors' or officers' judgment when participating in the action or the authorization of the transaction.

58. Defendants had a material relationship with each other and the for-profit entities through which the members' funds were collected and expended, and the transaction by these for-profit entities with the Association create a direct conflict of interest with the Defendant Board members of the Association.

59. The collection and expenditure of the Members' improperly collected funds were for the benefit of Defendants and against the best interest of the Association.
60. The transaction in which were in conflict with the interest of the Association were not in the best interest of the Association.
61. Defendants are personally liable for any damages suffered by the Association for losses suffered by the Association for expenditures not properly charged to the Association pursuant to its Charter and without the authorization of the membership pursuant to T.C.A. § 48-58- 701 et seq.

A. Judicial Dissolution - Pursuant to T.C.A. § 48-64-301 et seq.

62. Plaintiffs number more than fifty (50) and make up more than 5% of the voting power of the Association; thus, Plaintiffs have standing to seek judicial dissolution pursuant to T.C.A § 48-64-301(a)(2).
63. Plaintiffs number more than fifty (50) and make up more than 5% of

the voting power of the Association; thus, Plaintiffs have standing to seek judicial dissolution pursuant to T.C.A § 48-64-301(a)(2).

64. A judicial dissolution is available as a remedy if:

(B) The directors or those in control of the corporation have acted, are acting, or will act in a manner that is illegal, oppressive, or fraudulent . . .

65. A judicial dissolution is available as a remedy if:

(B) The directors or those in control of the corporation have acted, are acting, or will act in a manner that is illegal, oppressive, or fraudulent . . .

(D) The corporate assets are being misapplied or wasted .

T.C.A. § 48-64-301(a)(2)(B) & (D).

..

66. Based on the Statement of Facts asserted herein, adopted herein by reference, a judicial dissolution of the Association is required.

67. In an action for judicial dissolution, a court may appoint a receiver or custodian pendente lite

may be appointed to preserve the assets of the corporation and carry on its business during the pendency of the dissolution action. T.C.A. § 48-

64-302 (c).

68. This is an appropriate case for the appointment of a receiver to marshal the Association assets, continue its business and discover the amount of past misappropriation of Association funds.
69. The court should exercise its authority to dissolve or properly organize the corporation pursuant to T.C.A. § 48-64-301(b).

A. Ultra Vires Acts pursuant to T.C.A. § 48-56-104

70. Defendants, failed to cede control of the common areas and roadway as required by the Charter.
71. Rather than work through the Charter and a properly constituted Association, Defendants have prepared and filed as a public record document identified as "Restrictions" which seek to limit the rights of

Members of the Association to the extent that the Association essentially becomes a nullity. (See unauthorized Restricts attached hereto as Exhibit H).

72. Upon information and belief, Defendants have transacted business in the name of the Association, made real estate transfers and granted "variances" in the name of the Association.

An example of "variances" purported have been granted by Association to Robert Newhall when it has been admitted that the Association never had a meeting or generated minutes. (See purported "variances" attached as Exhibit I).

73. Plaintiffs submit that all actions taken by Defendants in the name of the Association and/or represented to be with the authority of the Association were Ultra Vires and Void due to the failure of Defendants to receive authorization to conduct these actions from a duly constituted board of a properly organized Association.
74. Plaintiffs bring this action pursuant to T.C.A § 48-53-104 against the current and former officers and directors of the Association.
75. Plaintiffs challenge the unauthorized actions of the officers, directors, and agents of the Association derivatively on behalf of the Association and individually as members of the Association.
76. Plaintiffs request that all actions taken by Defendants which are against the best interest of

the Association be enjoined and all actions that are without authority be declare void by the Court.

A. Derivative Action

77. Members number in excess of 50 and are entitled to bring a derivative

action on behalf of the Association pursuant to T.C.A. § 48-56-401 and T.R.Civ.P. 53.06.

78. Members have repeatedly requested financial records of the Association to obtain specifics regarding how their monies have been spent and which are required to be kept by a non-profit corporation pursuant to T.C.A. § 48-66-101(a).
79. Members have repeatedly inquired regarding the organizational structure of the Association and received no information.

Notwithstanding the numerous demands for information, the individuals sitting on the current claimed board and the claimed board indicated in the Association's annual report from the time of the creation of the Association, are not independent, the board members have a financial or other interest in the transactions of the Association such that their actions are not independent, and the actions of the persons held out to be the board of directors of the Association are not protected by the business judgment rule.

80. Members have requested the organization minutes, board minutes, membership meeting minutes and other organization documents statutorily required to be prepared and maintained by a nonprofit corporation pursuant to T.C.A. § 48-66-101(a).
81. Members have requested the Association be properly constituted with

bylaws and properly appointed board members as required by statute.

T.C.A. § 48-52-105.

82. Defendants have failed to and refused to properly constitute the organization of the Association, and members efforts to get the Association properly constituted and functioning have been futile.
83. None of the requested information was forthcoming from the individuals that held themselves out to be officers and directors of the Association.
84. Plaintiffs first became aware that Defendants were paying the "maintenance and security fees" (which were assumed to be the dues of the Members) into Defendants' for-profit corporation with filing of the Response with the Court on March 31, 2020. (See Exhibit D).
85. This was the first time the Members were put on notice that Defendants are taking the position that the Association is a nullity, while operating the Association as an ongoing nonprofit corporation, receiving and conveying property in the name of the Association, spending massive quantities of funds collected from the Members ostensibly in the name of the Association, and notifying the Tennessee Secretary of State that is and always has been a properly organized Association with a functioning board of directors following;
 - a. That an organizational meeting of the Association be held as

required by statute wherein officers and directors are elected and bylaws are adopted pursuant to T.C.A.

§§ 48-66-101(e) & T.C.A. § 48-52-105.

- c. That the Association obtain the names and addresses of all owners paying assessment to the fictitious entity, "Deerfield Resort."

86. The members are requesting, derivatively on behalf of the Association, the That all financial records be provided for all monies paid into "Deerfield Resort" from funds collected from any and all owners of real property located in the Deerfield area from 1985 to the present as required by T.C.A. § 48-66-101(a).

- d. That all financial information showing the accounts to which funds were collected from members/owners, including but not limited to, financial institutions, account numbers, transactions and expenses be provided to the members as a fiduciary duty owed to the members by Defendants individually and/or collectively.
- e. That the Defendants be enjoined from participation in the Association in any capacity pursuant to T.C.A. 48-53-104 (b) based on the thirty-five (35) years of Defendants individually and collectively operating the Association in violation of their

fiduciary duty to the Association, as an alter ego of themselves, admitted commingling of moneys paid by members into Defendants' for-profit entities and other actions detrimental to the best interest of the Association and its members as detailed herein.

- f. That Defendants be enjoined from paying funds collected from members into for-profit entities owned and controlled by Defendants pursuant to T.C.A. 48-53-104(b) and that all funds collected from members be paid into a properly constituted Association, under the control of a properly elected board of directors once the Association has been properly organized.

87. That the Association take action to prohibit the use of a fire pit dangerously close to Members's property.

88. Due to the extreme cost of infrastructure maintenance and security risk to the members, the Association should seek to enjoin the development and operation of a for-profit marina inside the private guarded community. Plaintiffs seek the authorization of this court to seek to enjoin the development of the commercial marina inside the Deerfield community.

A. Constructive Trust

89. Defendants admit that the funds collected from the members is paid into a for-profit entity, Fields Development Company, Inc., which is a for-profit corporation owned and controlled by the individual Defendants. (See Exhibit D, pg. 3-4).
90. Defendants have, since the inception of the Association, been guilty of self-dealing by some or all of the individual purported to be officer and/or directors of the Association.
91. Defendants Madeline Fields, Scott Fields and Paula Fields Lejeune, as fiduciaries of the Association, have the burden of showing that all transactions were fair and in the best interest of the Association.
92. Defendants have abused their position of trust in handling the affairs of the Association and taken positions and entered transactions against the interest of the Association in breach of their duties of loyalty, fair dealing, good faith and reasonably prudent conduct.
93. Defendants actions are in violation of their statutory fiduciary duties owed to the Association pursuant to T.C.A. § 48-51-101.
94. In conjunction with breaching their duties, they benefitted personally

and enriched themselves and/or for-profit entities to which they own and/or control.

95. The funds accumulated by Defendants' for-profit entities were obtained by fraud, misrepresentation and other inequitable means.

96. Equity demands that the court impose a constructive trust on all funds, property or other items of value obtained from the members and not paid for reasonable cost of maintenance of common areas, maintenance of roadways and promotion of the best interest of the Association and its members.

97. Defendants should be deemed constructive trustees for all funds and/or other property wrongfully taken and held to account for all funds and property transactions. Defendants should be required to transfer all improperly taken funds and properties to the Association.

A.Civil Conspiracy

98. Defendants acted in concert to inappropriately collect funds and pay them into a for-profit corporation owned and controlled by Defendants.

Defendants collected and spent these funds at their sole discretion
with no authority or oversight from the members.

99. Defendants acted in concert to mislead the members into the belief that the funds that they paid into Defendants' for-profit entities were being
paid into the Association.

100. Defendants spent funds collected from members in ways not authorized
by the Charter and for the benefit of Defendants.

101. To the extent individual Defendants and/or the entities they controlled acted in concert to perform illegal and improper acts to the detriment of the Association, those Defendants are guilty of civil conspiracy and are liable to the Association for any and all damages
caused by the civil conspiracy.

I. Operation of A Sham/Alter Ego Corporation

101. Defendants sent bills to the members, collected fees and paid the monies collected into a for-profit corporation owned and controlled by Defendants.

102. Defendants operate the Association with no oversight or input from the members.

103. Defendants collect funds with no authority to do so from the Members and no contractual obligation for Members to pay money into Defendants' for-profit entities.
104. Defendants use the Association as an alter ego of themselves by commingling funds ostensibly paid for "maintenance and security" into a Defendants' wholly owned and controlled for-profit entities and pay Members' funds for items not authorized by the Charter.
105. Defendants have used the same office for the Association and themselves and their other business entities.
106. Defendants have used the same employees as the Association, and upon information and belief, have inappropriately paid themselves or employees with Members' funds.
107. Defendants have used the Association as a conduit for their for profit operations.
108. Defendants have manipulated the assets and liabilities of the Association to their own benefit.
109. Defendants have used the Association as a subterfuge for illegal and improper activities.
110. Defendants have transferred to the Association obligations of themselves and other entities.
111. Defendants have failed to maintain arms relationships with the Association when conducting business with the Association.

112. Defendants have commingled funds collected from the members with their own funds and funds of for-profit entities owned and controlled by Defendants.
113. Thus, Defendants have been operating the Association as an alter-ego of themselves as a sham corporation.
114. Defendants are not entitled to the protection from personal liability afforded to officers and directors of a duly functioning nonprofit corporation, and Defendants should be held personally liable for any damages suffered by the Association as a result of their inappropriate actions.

J. Declaratory Judgment, pursuant to T.C.A. § 29-14-101, et seq.

115. All Parties hereto are persons within the meaning of T.C.A. § 29-14-101.
116. A justiciable controversy exists between these Parties.
117. The court should declare the respective rights and obligations of the Parties regarding the issues presented in this action pursuant to T.C.A. § 29-14-101, et seq.

WHEREFORE, PREMISES CONSIDERED, PLAINTIFF RESPECTFULLY REQUEST:

1. Service issue to Defendants through their counsel, Preston A. Hawkins, Esq., Lewis, Thomason, King, Krieg & Waldrop, P.C., P.O. Box 2425, Knoxville, TN 37901, pursuant to T.R.Civ. P. 5.02.
2. That Defendants respond to this Amended Complaint pursuant to T.R.Civ.P. 15.01, lest a default judgment be entered against them individually and collectively.
3. That upon hearing of this case, the court order a meeting of the membership with the purpose of enacting bylaws, conduct elections and conduct all business necessary to properly organize the Association pursuant to T.C.A. § 48-51-601.
4. That upon hearing of this cause, the court award damages against Defendants personally for all funds wrongfully taken and losses incurred as result of Defendants' breaches of their fiduciary duties to the Association and conversion of Member funds for their use and benefit.
5. That upon hearing of this cause, Defendants be held personally liable for any and all damages suffered by the Association as a result of transactions made with Association funds or property which were in conflict with the interests of the Association.

6. That upon hearing of this cause, the court dissolve the Association or find alternatives to dissolution for the proper carrying on of the corporate entity pursuant to T.C.A. § 48-64- 301(b) if deemed appropriate by the Court.
7. That the Court declare all actions by Defendants without the authority of the Association be deemed *ultra vires*, void pursuant to T.C.A. § 48-56-401 and enjoin all further *ultra vires* activities by Defendants.
8. That on behalf of the Association, and derivatively due to the failure of the officers and directors of the Association to properly act, the court order that all actions that should have been done by the Association and requested by Plaintiffs derivatively be granted by the court.
9. That the Court award Plaintiffs reasonable attorney fees pursuant to T.C.A. § 49-56-401(t).
10. That the court impose a constructive trusts on all funds wrongfully misappropriated by Defendants and require all wrongfully taken funds to be deposited into the account of a properly constituted Association.
11. That due to their egregious and improper handling of Association funds and affairs in the past, that all Defendants be enjoined from serving as officers and/or directors of the Association;

12. That pursuant to T.C.A. § 48-64-302(c) the court appoint a duly qualified receiver to marshal all the assets of the Association, determine the funds that were wrongfully paid into Defendants' for-profit entities, paid wrongfully to Defendants and/or paid for expenses not authorized by the Charter of the Association. The receiver should be required to report their findings back to the court.
13. That all Defendants be held jointly and severally liable for all damages suffered by the Association and its members as a result of Defendants acting in concert to wrongfully convert and spend the Members' funds without authority.
14. That Defendants be required to provide a complete accounting of all funds received by them personally, collectively and/or through any entity from monies paid by Members or monies received under the name "Deerfield Resort." Furthermore, Defendants be required to provide a full accounting of all expenditures made on behalf of "Deerfield Resort" to any person or entity and provide an accounting of all monies asserted by Defendants to have been paid for proper expenses allowable by the Charter.
15. That the court declare the respective rights and obligations of the Parties pursuant to T.C.A. § 29-14-101 -The Tennessee Declaratory Judgment Act.
16. That the court grant such other, further and general relief as it may deem

Plaintiffs entitled and the Deerfield Homeowners Association, Inc.
should be granted derivatively.

Respectfully submitted this 22 day of May, 2020.


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