

**IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA
CIRCUIT CIVIL DIVISION**

**COPPER RIDGE/BRANDON
HOMEOWNERS' ASSOCIATION, INC.**

Plaintiff,

CASE NO.: 22-CA-005776

v.

DIVISION: I

**TELISHA CATCHINGS and
CARMEN GAY, and
KEVIN JEFFRIES**

Defendants.

ORDER

THIS CAUSE, having come before the Court on March 8, 2023 at 9:00 a.m., upon (i) *Counter-Defendants Amended Motion to Dismiss First Amended Counterclaim and Motion for Sanctions Pursuant to Fla. Stat. 57.105*, and (ii) *Counter-Defendants Motion to Dismiss Counterclaim; Motion to Dismiss or Strike Defendants/Counter-Plaintiff's Request for Damages Pursuant to Section 720.303(5)(b), Fla. Stat., and Motion for More Definite Statement*, and having heard argument of counsel and being otherwise fully advised of the facts and premises upon which said Motions were brought:

IT IS ADJUDGED

I. That the *Counter-Defendants Amended Motion to Dismiss First Amended Counterclaim and Motion for Sanctions Pursuant to Fla. Stat. 57.105*, is GRANTED insofar as the Verified First Amended Counter-Complaint for Breach, Damages and Equitable Relief ("Counter-Complaint") is hereby DISMISSED.

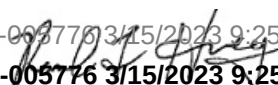
- (a) As members of a not-for-profit corporation, the Counter-Plaintiffs are subject to Fla. Stat. s. 617.01011, *et. seq.* See *Iezzi Family Limited Partnership v. Edgewater Beach Owners Association, Inc.*, 254 So. 3d 584 (Fla. 1st DCA 2018); *Leppert v. Lakebreeze Homeowners Association, Inc.*, 500 So., 2d 250 (Fla. 1st DCA 1986), including the conditions precedent to any derivative claim set forth in Fla. Stat. s. 617.07401.
- (b) The Counter-Complaint has failed to allege compliance with Fla. Stat. s. 617.07401. In particular, the Counter-Complaint has failed to allege with particularity that a demand to obtain action by the board of directors was made more than 90 days before the filing of the Counter-Complaint.

- (c) Further, the Counter-Complaint impermissibly commingled personal claims with derivative claims.

II. The Court reserves as to all other matters which, to wit, include the entitlement of Plaintiff's/Counter-Defendants to sanctions and reasonable attorneys' fees and costs.

DONE AND ORDERED this ____ day of March, 2023, in Hillsborough County, Tampa, Florida.

22-CA-005776 3/15/2023 9:25:29 AM


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THE HON. J. PAUL L. HUEY
CIRCUIT COURT JUDGE

Cc: George Harder, Esq.