

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT
IN AND FOR CHARLOTTE COUNTY, FLORIDA
CIVIL DIVISION

**NATHAN BENDERSON and BENDERSON
DEVELOPMENT COMPANY, LLC., a New York
limited liability company, and KINGS GATE HOMES,
LLC, a Florida limited liability company,**

Plaintiffs,

v.

CASE NO: ~~2010~~ - _____

**THEODORE SNYDER, MAGDA STELZL, and
KINGS GATE RESIDENTS GROUP, INC.,
a Florida non profit corporation,**

Defendants.

COMPLAINT

COME NOW, Plaintiffs, Nathan Benderson, an individual, Benderson Development Company, LLC, a New York limited liability company, and Kings Gate Homes, LLC, a Florida limited liability company (collectively referred as the "Plaintiffs") sues Defendants, Theodore Snyder, Magda Stelzl, and Kings Gate Residents Group, Inc., a Florida non profit corporation, and allege as follows:

ALLEGATIONS COMMON TO ALL COUNTS

1. Plaintiff, Nathan Benderson, (hereafter, "Benderson") is a resident of the State of Florida.
2. Plaintiff, Benderson Development Company LLC (hereafter, "Benderson Development") is a New York limited liability company duly authorized to do business in the State of Florida. Plaintiff, Kings Gate Homes, LLC (hereinafter, "Kings Gate

Homes”), is a Florida limited liability company duly authorized to do business in the State of Florida.

3. Pursuant to the provisions of F.S. 57.011, contemporaneously with the filing of this action counsel for Benderson Development has deposited \$100.00 with the Clerk of the Circuit Court to constitute the cost bond required by said statute.

4. Defendant, Theodore Snyder (hereafter, “Snyder”) is a resident of the state of Florida and resides in Charlotte County, Florida. Defendant, Magda Stelzl (hereinafter, “Stelzl”), is a resident of the state of Florida and resides in Charlotte County, Florida.

5. Defendant, Kings Gate Residents Group, Inc., (hereafter “KGRG”) is a not for profit corporation organized and existing pursuant to applicable Florida law, having its principal place of business in Charlotte County, Florida.

6. At all times material hereto Snyder was the president and agent of KGRG. KGRG is a named Defendant in this action both because the statements of its president and agent Snyder may be imputed to it and because others as yet unidentified members of KGRG may have also made defamatory statements as noted below. The status of Snyder as president of KGRG does not shield him from personal liability for his own torts.

7. Benderson Development and Kings Gate Homes developed, constructed and owns and operates a “55 Adult Resort Living” complex situated in Charlotte County Florida called Kings Gate. Although not currently the managing member of Benderson Development, Benderson remains active in managing the affairs of Benderson Development and has been and continues to be an important spokesman for Benderson Development and related Benderson entities.

8. Kings Gate is a retirement housing facility that includes, inter alia, approximately 973 homes sites, and currently has approximately 575 residents. Benderson Development and Kings Gate, through advertising and based upon the reputation of Benderson and Benderson Development, draw actual and prospective customers and purchasers at Kings Gate from around the country. Benderson and Benderson Development remain active in promoting and seeking additional sales of all Benderson various communities', projects and properties, including Kings Gate.

9. Benderson and Benderson Development have over the course of many years of operation of various projects and properties in over forty states, including many projects in Florida and the Southwest Florida area, successfully striven to establish and maintain an impeccable reputation as providing honest and reputable services and products to the general public. In addition, Benderson and Benderson Development have successfully striven to establish and maintain in impeccable reputation as good corporate and business citizens, being heavily engaged in community and charitable institutions and initiatives. The reputation for providing honest and reputable services and products are crucial to the continued commercial success of Benderson Development and the personal reputation of Benderson in the business community and community at large including, but without limitation, the Southwest Florida area.

10. On or about April 5, 2010 Snyder and other members of KGRG conducted a "community meeting" for the purpose of publicly conveying their supposed grievance with Benderson and Benderson Communities with respect to community fees. The "community meeting" was attended both by members of KGRG and members of the general public. A reporter from the Charlotte Sun also attended that "community

meeting” and filed and published an article reciting some of the statements made by Snyder and others as yet unidentified KGRG members.

11. During the course of the “community meeting” Snyder and others as yet unidentified members of KGRG made various defamatory and slanderous statements directly impugning the honesty and business practices of Benderson and Benderson Development. Specifically, but without limitation, Snyder and others as yet unidentified members of KGRG assert that Benderson and Benderson Development have been “unfairly” raising mandatory community fees and have been “cheating” the homeowners association out of nearly \$250,000.00 annually. A true copy of the Charlotte Sun article published on April 7, 2010 entitled “Kings Gate residents debate action to fight developer” is attached hereto as Exhibit “A” and incorporated herein by reference as though fully set forth at length herein.

12. All conditions precedent to the bringing of this action and all counts asserted herein have been performed or have occurred, or have been waived or excused.

COUNT I

13. This is a cause of action by Benderson, Benderson Development and Kings Gate Homes against Snyder and KGRG for defamation by means of slanderous statements seeking damages in excess of fifteen thousand dollars (\$15,000.00) exclusive of interest, costs and attorneys fees.

14. The allegations made and contained in paragraphs 1 through 12 of this Complaint are hereby realleged as though fully set forth at length herein.

15. On or about April 5, 2010 Snyder and others as yet unidentified members of KRRG orally published false and defamatory statements as stated above to the

attendees of the "community meeting", the reporter attending that meeting, and thus the general public. A copy of the newspaper article is attached hereto as Exhibit A.

16. The statements made by Snyder and the as yet others unidentified members of KGRG were known by them to be false at the time they were made or were made with reckless disregard to their truth or falsity, and were made without any claim of justification or privilege.

17. Benderson is a private person, and with respect to the law of defamation is not a public figure or limited public figure.

18. As a result of the publication by Snyder and others as yet unidentified members of KGRG of the defamatory statements, Benderson, Benderson Development and Kings Gate Homes have been held up to public ridicule, hatred, ignominy, humiliation, and the reputations, both personal and professional, of Benderson, Benderson Development and Kings Gate Homes have been damaged and prejudiced by the statements of Snyder and others as yet unidentified members of KGRG, which statements were defamatory per se. The statements were defamatory per se because they directly and without innuendo impute to Plaintiffs conduct, characteristics or conditions incompatible with the proper exercise of their lawful business, trade and profession. The defamatory statements have therefore damaged the ability of Benderson, Benderson Development and Kings Gate Homes to conduct their business and professions.

19. As a direct and proximate result of the defamatory statements of Snyder and others as yet unidentified members of KGRG, Benderson, Benderson Development and Kings Gate Homes have suffered damages in an amount in excess of fifteen thousand dollars (\$15,000.00). The damages suffered by Benderson, Benderson Development and

Kings Gate Homes include, but are not limited to: direct and indirect pecuniary loss; damages for injury to reputation, and; damages for prejudice to standing in the community.

WHEREFORE, Plaintiffs, Nathan Benderson, Benderson Development Company, LLC, and Kings Gate Homes, LLC demand judgment for damages against Defendants, Theodore Snyder and Kings Gate Residents Group, Inc., for damages in excess of fifteen thousand dollars (\$15,000.00) plus costs as herein expended and incurred, and for such other further relief as this Court may deem just, appropriate and proper.

COUNT II

20. This is a cause of action by Benderson Development and Kings Gate Homes against Snyder and KGRG for trade libel seeking damages in excess of fifteen thousand dollars (\$15,000.00) exclusive of interest, costs and attorneys fees.

21. The allegations made and contained in paragraphs 1 through 12, 15, 16 and 18 of this Complaint are hereby realleged as though fully set forth at length herein.

22. Snyder and KGRG have committed trade libel as to Benderson Development and Kings Gate Homes in that Snyder and as yet unidentified members of KGRG have made statements that are false, have been published or communicated to third persons where the publisher of those statements knew or reasonably should have known that the publication of those false statements would likely result in inducing others not to deal with Benderson Development and Kings Gate Homes, and the publication of those false statements has or threatens to play a material and substantial part in inducing others not to deal with Benderson Development and Kings Gate Homes.

23. As a result of the trade libel by Snyder and others as yet unidentified members of KGRG, Benderson Development and Kings Gate Homes has suffered damages, general and special, in excess of fifteen thousand dollars (\$15,000.00). The special damages suffered by Benderson Development and Kings Gate Homes as a direct and proximate result of the trade libel include, but are not limited to: direct and indirect pecuniary loss; damages for injury to reputation, and; damages for prejudice to standing in the community.

WHEREFORE, Plaintiff, Benderson Development Company, LLC, and Kings Gate Homes LLC, demands judgment for damages against Defendants, Theodore Snyder and Kings Gate Residents Group, Inc., for damages in excess of fifteen thousand dollars (\$15,000.00) plus costs as herein expended and incurred, and for such other further relief as this Court may deem just, appropriate and proper.

COUNT III

24. This is a cause of action by Benderson Development and Kings Gate Homes against Snyder and KGRG for intentional interference with prospective advantageous business relationships seeking damages in excess of fifteen thousand dollars (\$15,000.00) exclusive of interest, costs and attorneys fees.

25. The allegations made and contained in paragraphs 1 through 12, 15, 16 and 18 of this Complaint are hereby realleged as though fully set forth at length herein.

26. Benderson Development and Kings Gate Homes had actual and prospective advantageous business relationships with actual and prospective customers of Kings Gate and other Benderson Development communities and properties, said

prospective advantageous business relationships being reliant in large part on the reputation of Benderson Development.

27. The actions and statements of Snyder and others as yet unidentified members of KGRG were and constitute intentional and unjustified interference by the Defendants, and have resulted in damages in excess of fifteen thousand dollars (\$15,000.00) by reason of breaches of those actual and prospective advantageous business relationships.

WHEREFORE, Plaintiff, Benderson Development Company, LLC and Kings Gate Homes, LLC demands judgment for damages against Defendants, Theodore Snyder and Kings Gate Residents Group, Inc., for damages in excess of fifteen thousand dollars (\$15,000.00) plus costs as herein expended and incurred, and for such other further relief as this Court may deem just, appropriate and proper.

COUNT IV

28. This is a cause of action by Benderson, Benderson Development and Kings Gate Homes against Stezl for defamation by means of libelous statements seeking damages in excess of fifteen thousand dollars (\$15,000.00) exclusive of interest, costs and attorneys fees.

29. The allegations made and contained in paragraphs 1 through 12 of this Complaint are hereby realleged as though fully set forth at length herein.

30. On or about March 8, 2010 Stezl orally published false and defamatory statements wherein she stated that "Benderson is cut from the same cloth as Adolf." Adolf is presumed to refer to "Adolf Hitler" in a written media and thus to the general public. Attached hereto is a copy of the written communication as Exhibit B.

31. The statements made by Stezl were known by them to be false at the time made or were made with reckless disregard to their truth or falsity, and were made without any claim of justification or privilege.

32. Benderson is a private person, and with respect to the law of defamation is not a public figure or limited public figure.

33. As a result of the publication by Stezl, Benderson, Benderson Development and Kings Gate Homes have been held up to public ridicule, hatred, ignominy, humiliation, and the reputations, both personal and professional, of Benderson, Benderson Development and Kings Gate Homes have been damaged and prejudiced by the statements of Stezl, which statements were defamatory per se. The statement was defamatory per se because they directly and without innuendo impute to Plaintiffs conduct, characteristics or conditions incompatible with the proper exercise of their lawful business, trade and profession. The defamatory statement has therefore damaged the ability of Benderson, Benderson Development and Kings Gate Homes to conduct their business and professions.

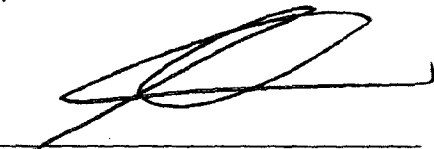
34. As a direct and proximate result of the defamatory statement of Stezl, Benderson, Benderson Development and Kings Gate Homes have suffered damages in an amount in excess of fifteen thousand dollars (\$15,000.00). The damages suffered by Benderson, Benderson Development and Kings Gate Homes include, but are not limited to: direct and indirect pecuniary loss; damages for injury to reputation, and; damages for prejudice to standing in the community.

WHEREFORE, Plaintiffs, Nathan Benderson, Benderson Development Company, LLC, and Kings Gate Homes, LLC demand judgment for damages against Defendant,

Magda Stelzl, for damages in excess of fifteen thousand dollars (\$15,000.00) plus costs as herein expended and incurred, and for such other further relief as this Court may deem just, appropriate and proper.

Respectfully submitted,

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By: 
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