

IN THE CIRCUIT COURT OF THE FIFTEENTH
JUDICIAL CIRCUIT, IN AND FOR
PALM BEACH COUNTY, FLORIDA

SOUTHWIND LAKES HOMEOWNERS
ASSOCIATION, INC.,

Plaintiff,

v.

O. MICHAEL GRAY,

Defendant.

CASE NO.:

313
8:55A
Date *3/13/11*
Time *8:55A*
ID# *11XXXXNE*
NF1316

AJ

S U M M O N S

STATE OF FLORIDA

To Each Sheriff :

YOU ARE HEREBY COMMANDED to serve this Summons and a copy of the Complaint or Petition in this action on Defendant:

**SERVE: O. MICHAEL GRAY
19522 Hampton Drive
Boca Raton, FL 33434-2844**

WITNESS my hand and the seal of said Court FEB 28 2011

SHARON R. BOCK,
as Clerk of said Court

BY: EDNA SMITH
as Deputy Clerk

Each Defendant is required to serve written defenses to the Petition on:

CHRIS A. DRAPER, ESQUIRE

Plaintiff's attorney, whose address is:

Becker and Poliakoff, P.A.
Bank of America Centre
625 North Flagler Drive-7th Floor
West Palm Beach, FL 33401

**SHARON R. BOCK
Clerk & Comptroller
P.O. Box 4667
West Palm Beach, Florida
33402-4667**

within 20 days after service of this summons on that Defendant, exclusive of the day of service, and to file the original of the defenses with the Clerk of this Court either before service on Plaintiff's attorney or immediately thereafter. If a Defendant fails to do so, a default will be entered against that Defendant for the relief demanded in the Complaint or Petition.

MILITARY STATUS AFFIDAVIT

[] At the time of service, Defendant/subject served was asked if Defendant was in the military service of the United States Government and the reply was that he/she was not.

PROCESS SERVER

STATE OF FLORIDA

SS

COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared _____ to me well known to be the person described in and who executed the foregoing instrument and he/she acknowledged to and before me that the execution thereof was his/her free act and deed for the uses and purposes therein set forth.

WITNESS my hand and official seal this ____ day of _____, 2011.

NOTARY PUBLIC, STATE OF FLORIDA

My Commission Expires:

IMPORTANT

A lawsuit has been filed against you. You have twenty (20) calendar days after this Summons is served on you to file a written response to the attached Complaint in this Court. A phone call will not protect you; your written response, including the above case number and named parties, must be filed if you want the Court to hear your case. If you do not file your response on time you may lose the case, and your wages, money, and property may thereafter be taken without further warning from the Court. There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral or service or a legal aid office (listed in the phone book). If you choose to file a written response yourself, at the same time you file your written response to the Court you must also mail or take a carbon copy or photocopy of your written response to the "Plaintiff/Plaintiff's Attorney" named below.

IMPORTANTE

Usted ha sido demandado legalmente. Tiene veinte (20) dias, contados a partir del recibo de esta notificacion, para contestar la demanda adjunta, por escrito, y presentarla ante este tribunal. Una llamada telefonica no lo protegera; si usted desea que el tribunal considere su defensa, debe presentar su respuesta por escrito, incluyendo el numero del caso y los nombres de las partes interesadas en dicho caso. Si usted no contesta la demanda a tiempo, podria perder el caso y podria ser despojado de sus ingresos y propiedades, o privado de sus derechos, sin previo aviso del tribunal. Existen otros requisitos legales. Si lo desea, puede usted consultar a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a una de las oficinas de asistencia legal que aparecen en la guia telefonica. Si desea responder a la demanda por su cuenta, al mismo tiempo en que presenta su respuesta ante el tribunal, debera usted enviar por correo o entregar una copia de su respuesta a la persona denominada abajo como "Plaintiff/Plaintiff's attorney". (Demandante o Abogado del Demandante).

IMPORTANT

Des poursuites Judiciaires ont ete entreprises contre vous. Vous avez 20 jours consecutifs a partir de la date de l'assignation de cet'te citation pour desposer une reponse ecrite a la plainte ci-jointe aupres de ce Tribunal. Un simple coup de telephone est insuffisant pour vous proteger; vous etes oblige de deposer votre reponse ecrite, avec mention du numero de dossier ci-dessus et du nom des parties nommees ici, si vous souhaitez que le Tribunal entende votre cause. Si vous ne deposez pas votre reponse ecrite dans le relai requis, vous risquez de perdre la cause ainsi que votre salaire, votre argent, et vos biens peuvent etre saisis par la suite, sans aucun preavis, ulterieur du Tribunal. Il y a d'autres obligations juridiques et vous pouvez requerir les services immediats d'un avocat. Si vous ne connaissez pas d'avocat, vous pourriez telephoner a un service de reference d'avocats ou a un bureau d'assistance juridique (figurant a l'annuaire de telephones). Si vous choisissez de deposer vous-meme une reponse ecrite il vous faudra egalement, en meme temps que cette formalite, faire parvenir ou expedier une copie au carbone ou une photocopie de votre reponse ecrite au "Plaintiff/Plaintiff's Attorney" (Plaignant ou a son avocat) nomme ci-dessous.

IN THE CIRCUIT COURT, FIFTEENTH
JUDICIAL CIRCUIT, IN AND FOR PALM
BEACH COUNTY, FLORIDA

CASE NO.: _____

SOUTHWIND LAKES HOMEOWNERS
ASSOCIATION, INC.,

Date _____ / _____ / _____
Plaintiff
vs. ID# NF1316
O. MICHAEL GRAY

Defendant.

Date _____
Time _____
50 2011CA003066 XXXXME
ID# NF1316

AJ

COPY
RECEIVED FOR FILING
FEB 28 2011

SHARON R. BOCK
CLERK & COMPTROLLER
CIRCUIT CIVIL DIVISION

COMPLAINT

COMES NOW, the Plaintiff, SOUTHWIND LAKES HOMEOWNERS ASSOCIATION, INC., (hereinafter referred to as "ASSOCIATION") and sues the Defendant, O. MICHAEL GRAY, (hereinafter "GRAY") and as grounds therefore would allege and show:

1. That this is a suit for money damages in excess of \$15,000.00, exclusive of interest, costs, and reasonable attorney's fees, for slander and libel; it also seeks injunctive relief to stop GRAY from tortuously interfering with the ASSOCIATION'S advantageous business relationships with its workers, contractors, owners and management company, individually and through the operation of his website.

2. That at all times material herein this cause of action arose in Palm Beach County, Florida.

3. That at all times material hereto; ASSOCIATION was and is operating the Southwind Lakes Homeowners Association pursuant to Chapter 720, Florida Statutes.

4. That at all times material hereto, GRAY was and is sui juris, an owner of a lot within Southwind Lakes and a member of Southwind Lakes Homeowners Association.

5. That at all times material herein; ASSOCIATION has contracts with its various vendors and suppliers, including a contract with its management company, Continental.

6. All conditions precedent to the filing of this lawsuit have occurred.

GENERAL ALLEGATIONS

7. ASSOCIATION re-incorporates the allegations as set forth in paragraphs 1-6 above.

8. ASSOCIATION has a statutory duty to manage the homeowners' association's real and personal property, to collect assessments from the owners and to operate the ASSOCIATION; as a consequent, it has an advantageous business relationship with its members and its vendors, contractors and suppliers.

9. ASSOCIATION has an advantageous business relationship with its management company, The Continental Group, Inc.

10. Continental serves as the ASSOCIATION'S managing agent and has those administrative duties and authority which the professional role and responsibilities of such a position requires.

11. Michael Perkins is on the ASSOCIATION'S Board of Directors and is the President of the ASSOCIATION and has been at all relevant times.

12. Mary White, f/k/a Mary Bruno, is on the ASSOCIATION'S Board of Directors and is the current Treasurer of the ASSOCIATION.

13. Vincent Rizzo is on the ASSOCIATION'S Board of Directors, was the ASSOCIATION'S previous treasurer and is currently its Secretary/Assistant Treasurer.

14. GRAY was and has been consistently harassing the management company, its personnel and GRAY has slandered and libeled the members of the Board and agents of the Association, including Michael Perkins, Mary White and Vincent Rizzo specifically.

15. GRAY has slandered the ASSOCIATION, the Board members and the management company verbally and in writing via emails and through posting on his website so as to (tortuously) interfere with the Board's and Perkins', White's and Rizzo's relationship with and ability to direct the management company.

16. GRAY has slandered the ASSOCIATION, the Board members and the management company verbally and in writing via emails and through posting on his website so as to (tortuously) interfere with the Board's and Perkins', White's and Rizzo's relationship with the owners of lots within the ASSOCIATION so as to cause homeowners within Southwind Lakes to believe that the Board and management company are mismanaging their funds; that Michael Perkins, the president, is embezzling funds and using ASSOCIATION funds for paying his own personal debts and obligations; that Mary White has committed fraud against the ASSOCIATION and that Vincent Rizzo is also involved in the alleged mismanagement and fraud.

17. GRAY has slandered and libeled Perkins by claiming that he is in collusion with the ASSOCIATION'S vendors and receiving kickbacks.

18. GRAY has slandered and libeled White by claiming that she is lying to the member owners about the ASSOCIATION'S ability to collect past due assessments from the owners.

19. GRAY has slandered and libeled Rizzo by claiming that he is lying to the member owners about the ASSOCIATION'S ability to collect past due assessments from the owners.

20. GRAY has slandered and libeled Perkins, White and Rizzo by claiming that they are lying to the members about the actual financial condition of the ASSOCIATION.

21. GRAY made and makes these slanderous and libelous statements in an attempt to cause havoc within the ASSOCIATION; to disrupt it from being able to carry out its statutory duties; to create problems between the Board and Continental and to create problems between the Board and the owners.

22. GRAY knew at the time he made his slanderous and libelous statements that they were false or he made them with reckless disregard for their falsity.

23. GRAY posts his libelous statements on a website he runs and publishes these libelous statements to the other owners within Southwind Lakes and to the public at large. GRAY also allows others to publish libelous and defamatory statements about the ASSOCIATION, the Board members and the management company on his website and thus, re-publishes these statements to the owners and the public.

24. ASSOCIATION, Continental and the individual Board members, Perkins, White and Rizzo, are suffering great harm in that they are being prevented from operating the property as they should be and are required to; management personnel and Board members are being ignored by the owners as a result of the slander and libel by GRAY; the owners are refusing to pay their assessments and are believing that the Board is mismanaging their funds and committing fraud; the individual Board members reputations

are being sullied and they are being ostracized by their neighbors and fellow members/homeowners.

25. GRAY is tortuously interfering with the ASSOCIATION'S advantageous business relationship with Continental and with the ASSOCIATION'S other owners.

26. Additionally, the slanderous statements and libelous postings on GRAY'S website have had a substantial and greatly detrimental effect on the ability of other homeowners to sell their homes in the Association.

27. Prospective purchasers are turning away from Southwind Lakes and going elsewhere to purchase homes as a direct result of the libelous statements contained and published on GRAY'S website.

28. The lack of purchasers is causing property values to continue to decrease and is damaging all of the other owners of lots in Southwind Lakes.

29. ASSOCIATION, as a result of GRAY'S actions, has had to retain the law Firm of Becker & Poliakoff, P.A., to file and prosecute this action and is entitled to recover from GRAY its reasonable attorney's fees, costs, expert fees and other expenses incurred upon prevailing pursuant to Chapter 720 and Section 57.041, Florida Statutes.

WHEREFORE, Plaintiff, SOUTHWIND LAKES HOMEOWNERS ASSOCIATION, INC., requests that this Court grant the following relief:

- A. Take jurisdiction of these parties and the subject matter hereof; and
- B. Determine the amount of damages which have been incurred by the Plaintiff ASSOCIATION, its Management Company Continental and its Board Members, including Michael Perkins, Mary White and Vincent Rizzo, as a result of O. MICHAEL GRAY'S slander,

CASE NO: _____

libel and tortuous interference with business relationships, and enter judgment against GRAY in those amount plus pre-judgment interest; and

C. Award ASSOCIATION its reasonable attorney's fees, costs, expert fees and other expenses incurred by it as a result of having to bring this action pursuant to Chapter 720 and Chapter 57.041, Florida Statutes; and

D. Order GRAY to cease interfering with the ASSOCIATION, its Management and its Board members; and

E. Order GRAY to cease posting, allowing others to post or re-publishing slanderous and libelous statements on his website; and

F. Grant any and all other relief the Court may deem just and proper.

DEMAND FOR TRIAL BY JURY

Plaintiff, SOUTHWIND LAKES HOMEOWNERS ASSOCIATION, INC., demands trial by jury for all issues so triable

BECKER & POLIAKOFF, P.A.
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Facsimile: (561) 832-8987
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By: _____

Chris Draper, Esquire
Florida Bar No. 838640