

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

Case No.: 2020-CP-07-2433

NEIL A. TURNER and)
TURNER'S MARINA, LLC,)

Plaintiffs,)

vs.)

CARLA JIMENEZ,)
GREG TARBUTTON,)
CHRIS SIBLEY,)
SARINA BENTLEY, KEITH)
MILLER, DANIEL HYDE,)
MICHAEL BOMBARD,)
ROD PHILLIPS,)
BERNARD J. PUPLAVA, and)
the R.V. RESORT AND YACHT)
CLUB OWNERS' ASSOCIATION,)
INC.,)

Defendants.)

SUMMONS

TO THE DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the **Amended Complaint** herein, a copy of which is herewith served upon you, and to serve a copy of your Answer to this Amended Complaint upon Thomas C. Taylor, Esq., at Post Office Box 5550, Hilton Head Island, South Carolina 29938, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the Amended Complaint within the time aforesaid, judgment by default may be rendered against you for the relief demanded in the Amended Complaint.

Law Office of Thomas C. Taylor, LLC

s/ Thomas C. Taylor, Esq.

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Hilton Head Island, SC
March 12, 2021

ATTORNEY FOR PLAINTIFFS NEIL TURNER
AND TURNER'S MARINA, LLC

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)
NEIL A. TURNER and)
TURNER'S MARINA, LLC,)
Plaintiffs,)
vs.)
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R.V. RESORT AND YACHT)
CLUB OWNERS' ASSOCIATION,)
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VERIFIED AMENDED
COMPLAINT FOR DAMAGES
FOR A CIVIL CONSPIRACY,
CONVERSION, AND FOR A
TEMPORARY AND PERMANENT
INJUNCTION

(Jury Trial Requested)

Pursuant to S.C.R. Civ. P. 15, and with the consent of the Defendants, the Plaintiffs above-named (hereinafter referred to as the "Plaintiffs") complaining of the Defendants Carla Jimenez, Greg Tarbutton, Chris Sibley, Sarina Bentley, Keith Miller, Daniel Hyde, Michael Bombard, Rodney Phillips, Bernard J. Puplava and the R.V. Resort And Yacht Club Owners' Association, Inc., (hereinafter sometimes referred to collectively as the "Defendants"), respectfully file this Amended Complaint and allege as follows:

PARTIES AND JURISDICTION

1. That the Plaintiff Neil A. Turner is a resident of Beaufort County, South Carolina and is the President and sole shareholder of Turner's Marina, LLC, a South Carolina limited liability company.

2. That the Plaintiff Turner's Marina, LLC (hereinafter sometimes referred to a "Turner's Marina"), is a limited liability corporation organized and existing under the laws of, and authorized to transact business in, the State of South Carolina, with its principal place of business in Beaufort County, SC.

3. That Plaintiff Neil Turner owns Turner's Marina.

4. That the Defendant R.V. Resort and Yacht Club Owners' Association, Inc. (hereinafter sometimes referred to as the "YCOA,") is not-for-profit corporation, organized and existing as a condominium owner's association pursuant to the laws of the State of South Carolina, with its principal place of business in Beaufort County, in the State of South Carolina. The YCOA is authorized to do business in the State of South Carolina.

5. That each of the individual Defendants are residents of Beaufort County, South Carolina.

6. That if any of the individual Defendants are not residents of Beaufort County, S.C., then they are subject to the jurisdiction and venue of this Court pursuant to S.C. Code Annot. Section 36-2-803.

7. That each of the individual Defendants committed a tortuous act within the State of South Carolina, as is set forth more fully herein below.

8. That this Court has jurisdiction over all the parties under the South Carolina Rules of Civil Procedure, the South Carolina Code Annotated, and the common law.

9. That venue for the cause of action stated herein lies in Beaufort County, South Carolina.

FACTS

10. That the Defendants Carla Jimenez, Greg Tarbutton, Chris Sibley, Sarina Bentley, Keith Miller, Daniel Hyde and Michael Bombard are individuals, and each serves as a member of the board of directors of the Defendant RV Resort & Yacht Club Owners Association.

11. That on June 12, 1981, a Declaration of Condominium entitled “Declaration of Covenants and Restrictions for Outdoor Resorts RV Resort and Yacht Club and Provisions for the RV Resort and Yacht Club Owner’s Association, Inc.” (hereinafter sometimes referred to as the “Covenants”) was executed and subsequently recorded in the Office of the Beaufort County Register of Mesne Conveyances at Book 325, Page 920.

12. That the Covenants are applicable to certain property on Hilton Head Island, South Carolina commonly known as the “Outdoor Resorts Marina,” consisting of approximately 200 individually owned lots and certain common areas and amenities as are more fully described in Deed Book 325 at Page 939 in the Office of the Clerk of Court for Beaufort County (hereinafter sometimes referred to as the “Property”), and the Covenants contain restrictions, easements, affirmative obligations, charges, liens and leases affecting the Property. The individually owned lots are arranged in an oval pattern along roads surrounding recreational facilities including a swimming pool and a tennis court. Adjacent to the oval area are additional recreational facilities and common areas belonging to the YCOA, including roads, a recreational building and swimming pool adjacent to the marina basin, and two tennis courts adjacent to a parking lot. All property owned by the Defendant YCOA is subject to the Covenants. Portions of the recreational facilities are leased to the Plaintiffs, as is set forth below.

13. That the marina described in Article XII, Section 12.5 of the Covenants as an “adjacent but totally separate development,” is now owned by Turner’s Marina, LLC, which is owned by the Plaintiff Neil A. Turner, and consists primarily of a marina basin and docks, rental office, boat launching ramp, marina bath house, fuel dock, marina office, parking spaces with a parking lot, and certain roads. The Covenants also contain and incorporate By-Laws, Rules and Regulations for Owners, a lease of certain portions of the Property, procedures for amendment, and they set forth the rights and obligations of owners and members to enforce the Covenants.

14. That the Declaration of Covenants grants to the Developer and its assigns or successors, at page 8, Paragraph VII, the exclusive right for 99-years, “in the absence of use by the Owner or his registered and approved guest, to rent Lots which are part of the Declaration at scheduled rates promulgated from time to time by the Developer.” The Developer then retains fifty percent (50%) of the gross rental and the Lot owner is paid the other fifty (50%) percent. A true and correct copy of Paragraph VII is attached as Exhibit A.

15. That the Declaration of Covenants specifically provides in Paragraph VII that the rental program is to be administered solely by the Developer:

The Association and Lot Owners recognize and hereby specifically agree to the rights granted to the Developer herein, which rights being exclusive in nature essential to the preservation of the integrity of the overall rental program administered by the Developer. The Association and Owners being cognizant of the need for consistent administration and uniform promotion and maintenance of the Developer’s image as a leader in the recreation vehicle industry, hereby acknowledge that right of the Developer set forth in this Paragraph constitutes the essence of the Developer’s agreement with the Association as set forth in this Declaration....The Association and Owners further recognize that the intention of the this Declaration is to create and maintain a luxury recreation vehicle resort in which there are not permanent or semipermanent structures on Lots and in which the

Lots, in the absence of use by the Owner or his designated and approved guest, are to be made available for rental by the Developer as set forth herein.

(Emphasis added.)

16. That the entity known as Billybob's Marina, Inc., a South Carolina corporation, validly acquired that certain real property and all improvements thereon referred to above as the "Outdoor Resorts Marina," consisting of 1.41 acres, more or less. That in addition, Billybob's Marina, Inc. validly acquired that certain dock extending from the 1.41 acres into and on the marshes and waters of Skull Creek subject to certain permits including OCRM permits numbered 91-3D-324-P, 97-IT-0280P-C, and 2009-1417-1IQ. That in addition, Billybob's Marina, Inc. validly acquired that certain marina and dock extending from the 1.41 acres in to the waters of Blue Heron Creek and that certain harbor located to the east of the 1.41 acres, as is subject to OCRM permits numbered 83-3C-062 and 91-3D-324-P.

17. That in addition, Billybob's Marina, Inc. validly acquired certain tangible personal property located in, on and about the 1.41 acres and certain intangible property, including, without limitation, contract rights and rights under the Covenants, and the internet domain www.hiltonheadharbor.com.

18. That on or about December 21, 2017, Billybob's Marina, Inc., for the consideration of \$4,600,000, conveyed to the Plaintiff Turner's Marina, LLC, all of its right, title, and interest to the afore-described tangible and intangible property. Said conveyance also included the conveyance by Billybob's Marina, Inc. to Turner's Marina, of all of Billybob's Marina, Inc.'s right and interest in all documents recorded in the Office of the Register of Deeds for Beaufort County, South Carolina providing for a right of first refusal as to any lots or parcels located at the Property, subject only to the provision that Billybob's Marina, Inc. retained the right

of repurchase acquired from Property Research Holdings, Inc. by documents including but not limited to those recorded in Deed Book 245 at Page 1052 and Record Book 1843 ap Page 1509, until the latter of two (2) years from the closing of the sale (which occurred December 21, 2017), or the date the seller financing of \$1,150,000.00 is paid off.

19. That Turner's Marina is the valid owner of all currently existing "Declarant Rights" as are set forth in the Covenants and that Turner's Marina is the valid owner of all currently existing recorded rights of first refusal emanating from the Covenants as to any lots or parcels located at the Property.

20. That Turner's Marina is the valid assignee of a Lease dated June 12, 1981, for certain real property located at the RV Resort known as the "Recreational Facilities," which includes among other things, a swimming pool, the parking area where two tennis courts were formerly constructed, decking, a bathhouse, a restaurant space and office space in the Clubhouse complex, including the former "ship's store."

21. That certain easements exist and are of record that burden the real property of Turner's Marina to a limited extent, and that Turner's Marina has the right to control, move and otherwise regulate those easements consistent with its business interests.

22. That since acquiring the property and rights from Billybob's Marina, Inc. on December 21, 2017, the Plaintiffs have attempted in good faith to work with the YCOA to enforce and amend the Covenants to the mutual benefit of both parties.

23. That the Defendant Bernard J. Puplava works as the "Maintenance Manager" for the RV Resort & Yacht Club Owners Association, Inc., and at all times pertinent herein, was also acting as the agent of and for Atlantic Coast Maintenance.

FOR A FIRST CAUSE OF ACTION
(Civil Conspiracy)

24. That in or about March of 2020, at a presently unknown specific time and specific date, the Defendants conspired together to formulate a plan to injure the Plaintiff Neil Turner and his business Turner's Marina, LLC, by instituting a concerted effort to encourage owners of the lots at the RV Resort, who are bound by the Covenants, to ignore and flaunt certain of the Covenants regarding allowed uses of the lots.

25. That at various times and dates since March 2020, the Defendants, in furtherance of and as part of their civil conspiracy to harm and damage Neil Turner's business, undertook the following actions:

- a. That notwithstanding the fact that Turner's Marina has a 99-year lease to the business offices and restaurant portions of the Clubhouse complex, the Defendants have placed and/or allowed Defendant Publava to occupy a portion of the Turner's Marina-leased property to operate his business.
- b. That notwithstanding the fact that Turner's Marina has a 99-year lease to the business offices and restaurant portions of the Clubhouse complex, the Defendants have placed and/or allowed Defendant Bentley to occupy a portion of the Turner's Marina leased property to operate her business.
- c. That notwithstanding the fact that Turner's Marina has a 99-year lease to the business offices and restaurant portions of the Clubhouse complex, the Defendants have allowed a third party to occupy a portion of the Turner's Marina leased property to operate a restaurant and have profited from the third party's operation of same and failed and refused to pay over the proceeds to Turner's Marina.

- d. That these Defendants have repeatedly, in blatant violation of the written Covenants referenced above, advised owners of Lots in the RV Resort that the Covenants as written do not apply to the Owners or their guests.
- e. That these Defendants have repeatedly, in blatant violation of the written Covenants referenced above and in violation of Beaufort County (SC) enacted ordinances, advised owners of Lots in the RV Resort that the Beaufort County ordinances relating to campgrounds as written do not apply to the Owners and/or will not be enforced.

26. That on or about August 29, 2020, in furtherance of and as part of their civil conspiracy to harm and damage Neil Turner's business, the individual Defendants, acting at that time as Directors of the RV Resort, voted to improperly restrict Neil Turner and Turner's Marina from its leasehold land, for which the Plaintiffs have made and continue to make timely lease payments. Such action discriminates against the Plaintiffs in violation of the 99-year lease agreement.

27. That in or about early October 2020, the Defendants, in furtherance of and as part of their civil conspiracy to harm and damage Neil Turner's business, undertook a concerted effort to interfere with and damage the Plaintiff Neil Turner's and Turner's Marina, LLC's Covenant-based resort rental program, which the Covenants clearly state is to be exclusively administered by the original Developer, or its assignee, which is now Turner's Marina, LLC.

28. That in or about October 2020, the Defendants, in furtherance of and as part of their civil conspiracy to harm and damage Neil Turner's business, entered upon his private property after notice and intentionally harassed and interfered with a surveying company's

personnel retained by the Plaintiffs, while performing their work, causing them to abandon the job and costing the Plaintiffs time and money.

29. That at a presently unknown date in late 2020, the Defendants, in furtherance of and as part of their civil conspiracy to harm and damage the Plaintiffs, established, or participated in the creation of, a reservation system whereunder owners of lots were allowed to (and encouraged to) make “private” rentals of their lots for profit and/or for the purpose of allowing vehicles and/or rigs onto the Property, which are specifically prohibited by the Covenants. These “private” rentals and the program for arranging them, are directly damaging the Plaintiffs in an amount to be proven at trial, but is an amount believed to exceed ten million (\$10,000,000.00) dollars.

30. That in early December 2020, the Defendants, in furtherance of and as part of their civil conspiracy to harm and damage the Plaintiff Neil Turner and his business Turner’s Marina, entered upon the private property of Turner’s Marina after a “no trespassing” notice had been given on November 15, 2020, and intentionally damaged a portion of his private property, to wit, a fixed-mounted large wooden swing, and after destroying the swing, converted that private property to their own use.

31. That the Defendants, in early March 2020, and continuing through the date of filing of this Amended Complaint, knew that their actions as alleged above, would damage and intended to damage the Plaintiff Neil Turner and his business Turner’s Marina, LLC. As such, the actions were taken in bad faith.

32. That the Defendants took the aforementioned bad faith actions as part of their civil conspiracy, with the sole goal of causing economic damage to the Plaintiff Neil Turner and

Turner's Marina, LLC by causing a loss of revenue to the Plaintiffs' business operations at the RV Resort, and by interfering with the Plaintiffs' business operations.

33. That when the Defendants took the aforementioned bad faith actions as part of their civil conspiracy, they knew that the Plaintiff Neil Turner and Turner's Marina, LLC were solely entitled to administer and operate the resort rental program, knew the surveying crew was working on the Plaintiffs' property, and knew the personal property they destroyed and converted was on the private property of, and a part of the private real property of, Neil Turner and/or Turner's Marina.

34. That notwithstanding the Defendants' knowledge that the administering and operating of the rental program was the exclusive right and obligation of the Plaintiffs, the Defendants moved forward to execute their civil conspiracy to cause special damage to the Plaintiffs.

35. That a substantial number of lot owners have followed the Defendants' wrongful directions and refused to process their reservations through the Plaintiff's rental reservation program as a direct and proximate result of the Defendants' actions in the civil conspiracy.

36. That the actions of the owners in not using the Plaintiffs' resort reservation system, and instead using a reservation system improperly created by the Defendants, has caused the Plaintiffs special damages in the form of lost revenues, damage to business reputation, and other costs, including attorneys' fees.

37. That on August 29, 2020 the Defendants took a vote to restrict the Plaintiffs from the land in which Turner's Marina holds a valid lease and continues to make on time payments.

The actions of the Defendants violated the lease in its clause to not discriminate against the Plaintiffs in anyway whatsoever.

38. That the actions of the Defendants in destroying and converting the private property of the Plaintiffs, caused the Plaintiffs additional damages.

39. That the actions taken by the Defendants in furtherance of the civil conspiracy had as their object, to ruin or damage the business of the Plaintiffs.

40. That the actions of the Defendants' Jimenez, Tarbutton, Sibley, Bentley, Miller, Hyde, Bombard and Phillips, were intentional, or, were reckless, wilful, wanton, or grossly negligent.

41. That on or about September 26, 2020, the Defendants further conspired to contact the State of South Carolina and caused the State to terminate parking on a State right-of-way, with the intention of further injuring the Plaintiffs' business.

FOR A SECOND CAUSE OF ACTION
(Conversion)

42. That all allegations of Paragraphs 1-41 above are incorporated herein by reference as if same were fully restated verbatim.

43. That the Defendants' actions as alleged above, wrongfully converted the swing owned by the Plaintiffs, into the Defendants' possession and control.

44. That the Plaintiffs never consented to the conversion of the swing.

45. That the Defendants' actions damaged the Plaintiffs in an amount of the property converted, which will be proven at trial, plus interest from the date of conversion.

FOR A THIRD CAUSE OF ACTION
(Preliminary and Permanent Injunction)

46. That all allegations of Paragraphs 1-45 above are incorporated herein by reference as if same were fully restated verbatim.

47. That the civil conspiracy set forth above, is, on information and belief, ongoing and represents an immediate danger of continuing irreparable harm to the Plaintiffs and their business and property.

48. That the Defendants should be enjoined, temporarily and permanently, from interfering with the Plaintiffs' resort rental reservation system, from entering upon the Plaintiffs' private property and from damaging or converting the Plaintiffs' personal property.

49. That the Plaintiffs will suffer irreparable harm if an injunction is not granted as they will likely succeed on the merits of the litigation, yet by the time of a final hearing or trial, further damages will likely have been done for which there will be no adequate remedy at law.

50. Under these circumstances and pursuant to South Carolina Rule of Civil Procedure 65, the Plaintiffs are entitled to and request a preliminary and permanent injunction in order to prevent irreparable harm to their property and to preserve the status quo during the pendency of the litigation. Specifically, the conduct described above entitles the Plaintiffs to a preliminary and permanent injunction immediately enjoining the Defendants from further interfering with the Plaintiffs resort rental system, from trespassing upon the Plaintiffs' private property and from destroying or converting further of the Plaintiffs' personal property.

WHEREFORE, the Plaintiffs Neil A. Turner and Turner's Marina, LLC, pray that this Honorable Court inquire into the matters set forth herein, and that the Plaintiffs be awarded special damages (to include recovery for lost profits and damage to Turner's Marina LLC's business reputation) from the Defendants jointly and severally, in an amount to be proven at trial, for the civil conspiracy alleged, and for additional damages jointly and severally for the conversion of the Plaintiffs' personal property. Further, the Plaintiffs request the Court enter a preliminary and permanent injunction barring the Defendants from interfering with the Plaintiffs' resort reservation system, from trespassing on the Plaintiffs' private property, and from further converting or damaging the Plaintiffs' personal property. Further, the Plaintiffs request this Court award the Plaintiffs punitive damages and their attorney fees, and for such other and further relief as the Court deems appropriate and necessary.

Law Office of Thomas C. Taylor, LLC

s/ Thomas C. Taylor, Esq.

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ATTORNEY FOR PLAINTIFFS NEIL TURNER
AND TURNER'S MARINA, LLC

Plaintiffs request trial by a jury

s/ Thomas C. Taylor, Esq.

Thomas C. Taylor

Hilton Head Island, South Carolina
March 12, 2021

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

COUNTY OF BEAUFORT)

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NEIL A. TURNER and)
TURNER'S MARINA, LLC,)

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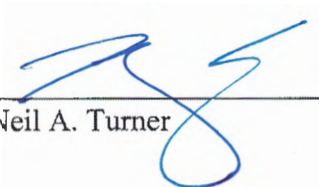
vs.)

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ROD PHILLIPS,)
BERNARD J. PUPLAVA, and the)
R.V. RESORT AND YACHT)
CLUB OWNERS' ASSOCIATION,)
INC.)

VERIFICATION

Defendants.)
_____)

PERSONALLY APPEARED before me the undersigned Neil A. Turner, who, being first duly sworn, states that he has read the foregoing Amended Complaint and that all the allegations therein are known by him to be true, except for those allegations made on information and belief, and as to those, he believes them to be true.



 Neil A. Turner

Sworn to before me this

11 day of March, 2021.

Notary Public of South Carolina

My commission expires: 2/13/2029

PRISCILLA FORD
 Notary Public, State of South Carolina
 My Commission Expires 2/13/2029