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Via U.S. Mail and E-Mail

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**Re: Paul R. Brezinski et al. v. Seven Lakes West Landowners Association, Inc.
Case No. 21CVS745
Defendants' Discovery Responses**

Counselors:

We have reviewed *Defendant's Responses to Plaintiffs First Set of Requests for Admissions, Interrogatories, and Request for Production of Documents to Defendant* ("Discovery Responses"). The Discovery Responses to *Plaintiffs First Set of Interrogatories, Requests for Production of Documents, and Requests for Admission Propounded to Seven Lakes West Landowners Association, Inc.* ("Discovery Requests") are evasive and do not provide basic information that our clients are entitled to receive in order to adequately prepare for trial. These deficiencies are set out with particularity below.

General Deficiencies

Attorney-Client Privilege

Defendant's Discovery Responses contain a myriad of privilege-based objections, including but not limited to, interrogatories, 1, 8, 10, 16, and document requests 2, 5-8, 13, 14, 16, and 22. These objections are improper and/or insufficient.

First, Defendant has asserted the affirmative defense of justified reliance on counsel's advice regarding some or all of the issues of this matter. (*See Answer, Aff. Defense 12*) Thus, Defendant has placed its reasonable beliefs and reliance upon counsel's advice into contention. Fairness requires Plaintiffs to be able to inquire into the basis of such contention. Therefore, please produce all documents supporting the defense within **five (5) days** of the date of this letter.

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Second, Rule 26(a)(5) requires privilege-based objections to be made with specificity and accompanied by a privilege log or other description sufficient to evaluate the claim of privilege. Defendant's objections provide neither specificity nor a privilege log and are so opaque that they do not disclose whether documents or information are being withheld on the basis of the asserted privilege. Further, certain documents have been redacted under the guise of attorney-client privilege; however, the redaction are such that one cannot remotely evaluate the assertion of privilege.

Please produce an adequate privilege within **five (5) days** of the date of this letter. The privilege log should provide sufficient information such that the assertion of privilege can be properly evaluated. Please include redacted materials on the privilege log to the extent that the redactions conceal the basis of privilege.

Reliance on Rule 33(c)

Defendant answers Interrogatories, 1, 4-7 9, 11, 14, and 16 by making blanket referral to Defendant's entire document production, presumably pursuant to Rule 33(c), without identifying the specific documents by name, category, or bates range. Defendant's general reference to its entire document production is an impermissibly use of Rule 33(c) that seeks to avoid Defendant's obligation to provide a substantive response to each interrogatory.

Rule 33(c) requires that reference to business records specify the records from which the answer may be derived, and further requires that "specification shall be in sufficient detail to permit the interrogating party to locate and to identify, as readily as can the party served, the records from which the answer may be ascertained." Further, Plaintiff's Discovery Requests specifically requested that for each interrogatory response in which Defendant made reference to its business records, Defendant was to identify the location of the referenced documents by bates range. (*See* Discovery Requests Pg. 5, ¶ 23.) Accordingly, within **five (5) days** of the date of this letter, please supplement Defendant's Discovery Responses to provide a bates range for each interrogatory answered pursuant to Rule 33(c).

Verification

Within **five (5) days** of the date of this letter, please have one or more individuals verify the interrogatories as required under the Rules of Civil Procedure.

Interrogatories

Interrogatory 1

Please supplement and withdraw objections. Defendant objects based on overbreadth, ambiguity, and vagueness; however, Defendant fails to provide the reasoning for said objection as required by Rule 33(a). Therefore, Plaintiffs cannot evaluate Defendant's basis for the objection. Furthermore, although Defendant identifies certain individuals as potentially having knowledge or information, Defendant's answer fails to provide any substance of the knowledge or information possessed for each person identified therein.

Interrogatory 6

Please supplement and provide the person(s) or entities(s) in possession of this information pursuant to Interrogatory No. 1.

Interrogatories, 9, 10 14.

Defendant's objections based on the term "Developer" or "third party Developer" is not made in good faith and appears to be an effort to further delay this matter. Contrary to Defendant's contention, Plaintiffs' Discovery Requests define Developer on page 5, paragraph 11. Further, Developer was defined in the identical manner in the Complaint, and Defendant had no problem denying the allegation that "a substantial number of Developers voted" in the 2021 Board Election (Compl., ¶ 78). Accordingly, please withdraw this objection.

Defendant further objects on the ground that responding to Interrogatory No. 10 would require an "exhaustive title search" to presumably establish whether a Developer, as that term is defined under the Association's own governing documents, has the right to vote in Association elections. This suggests that the Association currently has no idea whether a Developer can or cannot vote in its own elections. If that is the case, please state as much in your answer.

Further, the interrogatory does not ask for Defendant—or its counsel—to engage in any title search. Rather, in accordance with Rules 26 and 33, Plaintiffs request that, to the extent Defendant contends some or all Developers have voting rights, Defendant explain why it believes that to be the case. If Defendant does not contend that a Developer has voting rights, please state as much in your answer. If Defendant believes that a Developer does have voting rights, please explain that contention by, among other things, identifying the documents upon which it has formed such an opinion.

Please withdraw your objections and supplement these interrogatories within **five (5) days** of the date of this letter.

Request for Production of Documents

Document Request 12

Defendant's response to this request is deficient in that, at a minimum, defendant has failed to produce any of the following:

- Spreadsheets generated by CAS or Defendant during the 2021 Board Election;
- Documents used during the election process to determine the good standing of a Members, including but not limited to, dues paid/amount for each Lot;

- Envelopes for the ballots cast in the 2021 Board Election—if the envelopes were not maintained, please confirm the same.

As you know, these documents are critical to the issues at hand in this lawsuit and Defendant has been aware of the obligation to produce these documents for well over two months. Please produce these documents within **five (5) days** of the date of this letter. Additionally, please conduct a second sweep for any other documents that fall within the scope of the request but were not produced via Defendant’s initial production.

Document Request 17

Defendant’s objection based on the term “Developer” or “third party Developer” is not made in good faith and appears to be an effort to further delay this matter. Contrary to Defendant’s contention, Plaintiffs’ Discovery Requests define Developer on page 5, paragraph 11. Further, “Developer” was defined in the identical manner in the Complaint and Defendant had no problem denying the allegation that “a substantial number of Developers voted” in the 2021 Board Election (Compl., ¶ 78).

Defendant further objects on the ground of unreasonable burden; however, Defendant fails to provide any information that suggests what type of burden Defendant’s would incur by producing the information as required by Rule 34(b). Defendant’s conclusory assertion is improper as it forestalls any effort of Plaintiffs to determine whether the objection could meet the threshold for undue burden under applicable law.

Please withdraw your objections and produce responsive documents within **five (5) days** of the date of this letter.

Document Request 18

Defendant’s objection based on the term “Developer” or “third party Developer” is not made in good faith and appears to be an effort to further delay this matter. Contrary to Defendant’s contention, Plaintiffs’ Discovery Requests define Developer on page 5, paragraph 11. Further, “Developer” was defined in the identical manner in the Complaint and Defendant had no problem denying the allegation that “a substantial number of Developers voted” in the 2021 Board Election (Compl., ¶ 78).

Defendant further objects on the grounds that the request would require an “exhaustive title search” to presumably establish whether a Developer, as that term is defined under the Associations own governing documents, has the right to vote in Association elections. That is not the case.

The request does not ask for Defendant—or its counsel—to engage in any title search. Rather, in accordance with Rules 26 and 34, Plaintiffs request that Defendants produce documents in Defendant’s possession, care, custody, or control that would support Developer voting rights. If

any such documents exist, please withdraw your objections and produce responsive documents within **five (5) days** of the date of this letter. If Defendant has no such no documents, in its possession, care, custody, or control, please state as much in your response.

Thank you for your attention to this matter.

Regards,

A handwritten signature in blue ink, appearing to read "Jackson D. Wicker". The signature is fluid and cursive, with the first name "Jackson" being the most prominent part.

Jackson D. Wicker