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TWENTY-SECOND JUDICIAL DISTRICT COURT
PARISH OF ST. TAMMANY
STATE OF LOUISIANA

ERIC J. LOWE, ET AL. DIVISION "J"
VERSUS
RONALD TRUPP, ET AL. NO: 2009-15391

TRANSCRIPT OF PROCEEDINGS taken before the
Honorable William J. Knight, Judge Presiding,
Twenty-Second Judicial District Court, Parish of St.
Tammany, State of Louisiana, on the 27th day of
August, 2013, in Covington, Louisiana.

APPEARANCES:

FRANK DIVITTORIO, ESQ.
(ON BEHALF OF THE PLAINTIFFS)

WILLIAM MAGEE, ESQ.
(ON BEHALF THE DEFENDANTS)

REPORTED AND TRANSCRIBED BY:

RAMONA C. BOWLIN, CCR
OFFICIAL COURT REPORTER
CERTIFICATE NO. 22011

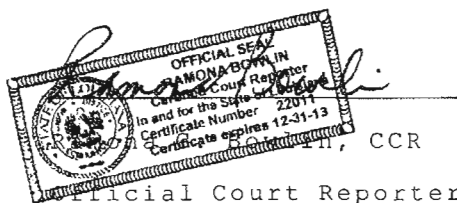


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REPORTER'S CERTIFICATE

This certificate is valid only for a transcript accompanied by my original signature and original required seal on this page.

I, Ramona Bowlin, Official Court Reporter, in and for the State of Louisiana, employed as an official court reporter by the Twenty-Second Judicial Court for the State of Louisiana, as the officer before whom this testimony was taken, do hereby certify that this testimony was reported by me in the stenomask reporting method, was prepared and transcribed by me or under my direction and supervision, and is a true and correct transcript to the best of my ability and understanding, that the transcript has been prepared in compliance with transcript format guidelines required by statute or by rules of the board or by the Supreme Court of Louisiana, and that I am not related to counsel or to the parties herein nor am I otherwise interested in the outcome of this matter.



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Official Court Reporter
Certificate No. 22011

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judgment on the Coker and --

THE COURT:

I knew you were going to ask that. That particular issue, the Court is going to deny the Motion for Summary Judgment. The Court finds that genuine issues of material fact do exist as to that particular issue, because the Court does not have before it sufficient evidence to indicate that that action was taken properly.

MR. MAGEE:

Okay, Judge. I will prepare a judgment.

** (THEREUPON, THE PROCEEDINGS WERE CONCLUDED) **

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articles it has been made abundantly clear that any action which could be taken by the board at a regular or special meeting at which, as a practical matter, you will never in this lifetime have a quorum present, could be expressly ratified or voted upon in writing subsequent to the meeting.

It is clear that the drafter of the documents anticipated the very common problem that you will not, at a homeowner's association meeting, obtain a quorum of the necessary individuals. So the question becomes whether or not express written ratification by two-thirds complies with both the documents as presented and also falls within the confines of Title 12. The Court finds that it does. While 12:233 would require a unanimous written consent in lieu of a member meeting, if shareholder action is required, it does not, when the documents allow for a subsequent written vote, do away with the express will of the parties and the documents which form the homeowner's association.

Therefore, the Court finds that the Motion for Summary Judgment is well-founded and will grant the Motion for Summary Judgment.

MR. MAGEE:

Judge, does that include the summary

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THE COURT:

Let's talk about the Motion for Partial Summary Judgment on the by-laws. One thing that is very clear from the god-awful mess that this association is in -- did I really just say that? Yeah, I did. I tend to be blunt. -- is that almost nothing relative to the original articles of incorporation, the restated articles of incorporation, the amendments thereto to the attempted ratifications of the amendment has been easy. And that has nothing to do with the legal documents; that has everything to do with the fact that there are entrenched positions on both sides of this litigation which I'm not going to be able to resolve -- which is fine. That's not my job. My job is to decide whether or not in this particular instance the recent express ratification by which two-thirds of the members acreage-wise of the development acted in a fashion which allows for the amendments to have been validly passed.

One thing that's very important to the Court in coming to its conclusion about this is the actual language of the original formative documents, as well as all the documents relative to this non-profit organization. Throughout the original by-laws and the original

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PROCEEDINGS

(THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN COURT:)

THE COURT:

The Court previously ruled on basically the identical motion in 2010. The allegations do set forth a claim, whether meritoriously or not, -- that will be another issue for another day -- requesting damages for defamation and intentional infliction of emotional distress. While the burden is steep there, the claim, as stated, I can only consider the four corners of the document. So the Exceptions of No Right/No Cause are denied.