

COURT OF COMMON PLEAS
PROBATE DIVISION
CUYAHOGA COUNTY, OHIO

ARTHUR P. DUECK, et al.)	CASE NO. 2012 ADV 179424
)	
Plaintiffs)	JUDGE ANTHONY J. RUSSO
)	
v.)	
)	
THE CLIFTON CLUB COMPANY, et al.)	<u>TRUSTEES' MOTION TO STRIKE</u>
)	<u>THE OPEN LETTER FILED BY</u>
Defendants)	<u>INTERESTED PARTY DEFENDANT</u>
)	<u>JOHN E. RUPERT</u>
)	

The Trustees of Clifton Park, as Defendants, move the Court for an order striking the *pro se* filing of Interested Party Defendant John E. Rupert on March 9, 2015, which is styled as an Open Letter to Judge Russo, and its enclosures of Letters to Defendant Lot Owners and Members of the Defendant The Clifton Club Company (“Open Letter”).

The Open Letter is not a motion seeking some action on the part of the Court. Rather, it is merely a presentation by Mr. Rupert of argument and “information” for the Court’s general consideration on the merits of the lawsuit. As such, it has no basis under the Ohio Rules of Civil Procedure or any other procedure governing this lawsuit, nor does it provide any grounds for the Court’s consideration of its contents.

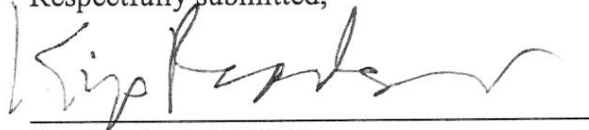
To the extent the Open Letter may be construed as a brief in support of either Plaintiffs’ or Secondary Defendants’ respective motions to remove the current Trustees, it is untimely. The Court’s Order of October 1, 2014 requires a responsive filing by a Secondary Party to be filed within 14 days following the filing to which it responds. Plaintiffs’ motion to remove the current Trustees was filed on October 31, 2014, and Secondary Defendants’ motion

to the same effect was filed on December 12, 2014. The latest filing in opposition to either of these motions was the Trustees' Response to Secondary Parties motion, filed on December 29, 2014. The time for filing briefs in support of either motion has long since passed. Moreover, at six pages, the Open Letter exceeds the two-page limit imposed on Secondary Parties' responsive filings in the Court's Order of October 1, 2014.

Even were it appropriate for the Court to consider Mr. Rupert's submission, his own actions as a Trustee belie the contentions he now offers. Mr. Rupert acknowledges that he approved the use of the beach by Club members for each of his nearly 30 years as a former Trustee. Yet, now that he is no longer a Trustee, he finds such approval by the current Trustees to be improper and grounds for removal of the current Trustees. If the adage "actions speak louder than words" applies, the actions of Mr. Rupert when he was a Trustee from 1969 – 1997 show that his arguments today are squarely contradicted by his own conduct over almost three decades of time.

Accordingly, the Trustees respectfully move the Court to strike the Open Letter filed by Interested Party Defendant John E. Rupert on March 9, 2015.

Respectfully submitted,



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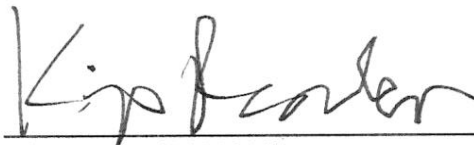
CERTIFICATE OF SERVICE

A copy of the foregoing Trustees' Motion to Strike the Open Letter Filed by Interested Party Defendant John E. Rupert has been filed this 17th day of March, 2015, and served by regular U.S. Mail, upon:

Dennis R. Rose, Esq.
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Reminger & Reminger
1400 Midland Bldg.
101 Prospect Avenue West
Cleveland, OH 44115

Mr. Jack Rupert
18129 West Clifton Road
Lakewood, OH 44107

A handwritten signature in black ink that reads "Kip Reader". The signature is written in a cursive style and is positioned above a horizontal line.

Kip Reader (0021911)
Attorney for Defendant Trustees

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