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**Court of Appeals**

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ARTHUR P DUECK ET AL

CA 15 103868

vs.

CLIFTON CLUB CO. ET AL

**Judge:**

**Pages Filed: 24**

IN THE COURT OF APPEALS  
EIGHTH JUDICIAL DISTRICT OF OHIO  
CUYAHOGA COUNTY, OHIO

CASE NO.: CA-15-103868  
REGULAR CALENDAR

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ARTHUR P. DUECK, et al.,  
*Plaintiffs-Appellants*

v.

THE CLIFTON CLUB COMPANY, et al.  
*Defendant-Appellee*

On Appeal from the Cuyahoga County Court of Common Pleas,  
Probate Division  
Trial Court No.: 2012 ADV 179424

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**BRIEF OF APPELLEE THE CLIFTON CLUB COMPANY**  
**Oral Argument Requested**

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## ASSIGNMENTS OF ERROR

The Plaintiffs-Appellants present the following Assignments of Error for this Court's review:

(1) Whether the trial court erred by granting the Motion of Defendants Charles Drumm, Trustee, John Pyke Jr., Trustee, Peter A. Kuhn, Trustee, Philip W. Hall, Trustee, and Warren Coleman, Trustee for Summary Judgment relying on Defendants' extrinsic evidence while ignoring Plaintiffs' extrinsic evidence. (11/10/2015 Journal Entry);

(2) Whether the trial court erred by denying the Motion of Plaintiffs Arthur P. Dueck, Todd Gilmore, Nancy Binder, and William R. Keller and Putative Plaintiffs Rhonda Loje and Jeffrey Mansell to Remove the Clifton Park Trustees who sided with one beneficiary against other beneficiaries and failed to provide documents to trust beneficiaries as required by the Trust Code. (08/24/2015 Journal Entry); and,

(3) Whether the trial court erred by denying the Motion of Plaintiffs Arthur P. Dueck, Todd Gilmore, Nancy Binder, and William R. Keller, Putative Plaintiffs Rhonda Loje and Jeffrey Mansell, and Defendant Dennis F. Butler for Attorney Fees. (08/24/2015 Journal Entry and 11/10/2015 Journal Entry.)

## **ISSUES PRESENTED FOR REVIEW**

In Ohio, an action to nullify provisions in a deed or trust sounds in equity and is subject to a ten-year statute of limitations. In this dispute, Plaintiffs instituted an action in 2012 seeking to nullify a deed which was recorded in 1912. Under these facts, is Plaintiffs' cause of action time-barred?

## **I. STATEMENT OF THE CASE**

### **A. Introduction**

This is a declaratory judgment action filed by Arthur P. Dueck, Todd Gilmore, Nancy Binder and William R. Keller, four subplot owners living in the Clifton Park Allotment in Lakewood, Ohio (collectively, “Plaintiffs”). These Plaintiffs seek a declaration that members of Defendant Clifton Club Company (“Clifton Club” or “the Club”) have no right to access a private beach (“Clifton Beach”) located in the allotment unless the member also owns residential property in the allotment.

Plaintiffs’ position in this regard is contrary to the Club’s July 1912 purchase of four sublots in Clifton Park from the allotment owner, the deed to which includes “the right to use in common with other owners of the land... park or park spaces [which includes the disputed beach property]”. Plaintiffs’ position is further defeated by a March 1912 deed of trust drafted by the allotment owners for the same “park or park spaces” to be held by five trustees “for the common use of all the lot owners in the Clifton park allotment” (the “Deed of Trust”). Thus, as a “lot owner,” the Club has the right to “use in common with other owners of the land... [the beach]”.

While the probate court properly rejected Plaintiffs’ attempts to rewrite both the relevant deed and trust documents providing the Club with more than a century of access to the beach, the trial court failed to rule upon that portion of Defendants’

legal argument demonstrating that Plaintiffs' action is time-barred as a matter of law – further supporting the dismissal of this action in its entirety.

**B. History of the Litigation**

On June 6, 2012, Plaintiffs initiated this action by filing a Petition for Declaratory Judgment seeking a declaration that Club members who are not also subplot owners in the Clifton Park allotment should be denied access to Clifton Beach. (See, 06/06/2012 Compl.) On April 25, 2013, Plaintiffs amended their complaint to include other parties with an interest in the dispute, including the Trustees of the Deed of Trust. (04/25/2013 Amended Compl.)

On September 1, 2015, the Trustees filed a motion for summary judgment demonstrating that the Club and, by extension, its members, have a legal right to access the beach based upon the plain language of the Club Deed and the Deed of Trust. The Trustees further demonstrated that, as a matter of well-established trust law, they have the right, responsibility and power to regulate usage of the beach. (09/01/2015, MSJ.)

On November 11, 2015, after full briefing, the probate court granted summary judgment in favor of the Trustees finding that “the plain language of the Trust Deed shows a distinct intention of the Clifton Park Land and Improvement Company to endow the Club, as a lot owner and beneficiary of the Trust Deed, with the right to use Trust property in the Clifton Park allotment in common with all other lot owners within the allotment. This right extends to the use of land reserved



and dedicated for park purposes, including the beach.” (11/10/2015 Judgment Entry, p. 7.)

On December 4, 2015, Plaintiffs initiated the within appeal. (Notice of Appeal.)

## **II. STATEMENT OF THE FACTS**

For the sake of simplicity and to avoid duplication of efforts, the Clifton Club adopts and incorporates the Statement of Facts provided by Appellee Trustees of the Clifton Park Trust in their Brief of Appellee, pp. 4 – 8, as if fully re-written herein.

## **III. LAW AND ARGUMENT**

### **A. Standard of Review**

An appellate court reviews an appeal from summary judgment under a de novo standard of review. *Grafton v. Ohio Edison Co.*, 77 Ohio St.3d 102, 105, 1996-Ohio-336; *Zemcik v. LaPine Truck Sales & Equip. Co.*, 124 Ohio App.3d 581, 585 (8th Dist.1998). In *Zivich v. Mentor Soccer Club*, 82 Ohio St.3d 367, 369-370, 1998-Ohio-389, the Ohio Supreme Court set forth the appropriate test as follows:

Pursuant to Civ.R. 56, summary judgment is appropriate when (1) there is no genuine issue of material fact, (2) the moving party is entitled to judgment as a matter of law, and (3) reasonable minds can come to but one conclusion and that conclusion is adverse to the nonmoving party, said party being entitled to have the evidence construed most strongly in his favor. *Horton v. Harwick Chem. Corp.*, 73 Ohio St.3d 679, 1995-Ohio-286, 653 N.E.2d 1196, paragraph three of the syllabus. The party moving for summary judgment bears the burden of showing that there is no genuine issue of material fact and that it is entitled to judgment as a matter of law. *Dresher v. Burt*, 75 Ohio St.3d 280, 292-293, 1996-Ohio-107, 662 N.E.2d 264.

Once the moving party satisfies its burden, the nonmoving party “may not rest upon the mere allegations or denials of the party’s pleadings, but the party’s response, by affidavit or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial.” Civ.R. 56(E); *Mootispaw v. Eckstein*, 76 Ohio St.3d 383, 385, 1996-Ohio-389. Doubts must be resolved in favor of the nonmoving party. *Murphy v. Reynoldsburg*, 65 Ohio St.3d 356, 358-359, 1992-Ohio-95.

The review of a deed of trust is a matter of law and the language of a written instrument, if unambiguous, speaks for itself. As previously recognized by this Court, “it is an axiom that the court must adhere to the language [of a deed of trust] if the context is clear and unmistakable, and must only resort to extrinsic aid when the language falls short of explaining itself. It is an error of construction to wedge an ambiguity into a written instrument, where in and of itself such situation does not naturally and logically arise, but only appears by injecting an interpretation which the language itself does not warrant. Ambiguity should arise from the language, and not be an element foreign to the context, forced therein for the purpose of straining a meaning which is apparent by the words, phrases, and clauses therein employed.” *Cleveland Window Glass & Door Co. v. National Surety Co.*, 27 Ohio App. 65, 74 (8th Dist.1927) citing *Tillotson & Wolcot Co. v. Scottdale Mach. & Mfg. Co.*, 23 Ohio App 399 (1926).

**B. The Probate Court Properly Dismissed Plaintiffs' Complaint**

For the sake of simplicity and to avoid duplication of efforts, the Clifton Club adopts and incorporates the law and argument provided by Appellee Trustees of the Clifton Park Trust in their Brief of Appellee, pp. 8 – 22, as if fully re-written herein, demonstrating why the probate court correctly granted summary judgment in favor of the Trustees as a matter of law.

**C. In Addition To Its Adjudication On The Merits, The Probate Court Should Also Have Dismissed Plaintiffs' Claims As Untimely**

Plaintiffs petitioned the probate court to declare a portion of the Club Deed “null and void” and to further declare that neither the Club Deed nor the Deed of Trust permits the Trustees to authorize Club members who do not personally own sublots in Clifton Park to utilize the beach. Ohio case law has long held that such a request is an “equitable action” subject to the ten-year statute of limitations provided in R.C. § 2305.14. *Woodworth v. Banning*, 29 Ohio App. 81 (1<sup>st</sup> Dist.1928) (holding petition for the nullification of a deed is subject to a ten-year statute of limitations). Indeed, R.C. § 2305.14’s statute of limitations has been upheld by numerous appellate courts over the years, including this Honorable Court. *Lusardo v. Broadview Savings & Loan Co.*, 8th Dist. Cuyahoga No. 58147, 1991 Ohio App. LEXIS 1073 (June 28, 1991) (recognizing that a claim for equitable remedy is subject to the ten-year statute of limitations provided in R.C. § 2305.14); *Kroeger v. Standard Oil Co. of Ohio, Inc.*, 12th Dist. Clermont Nos. CA 88-11-086 and CA 88-11-087, 1989 Ohio App. LEXIS 3091 (Aug. 7, 1991) (finding that a ten-year statute

of limitations applies to equitable actions in accordance with R.C. § 2305.14); *Timmons v. Timmons*, 4th Dist. Pickaway No. 98-CA-25, 1998 Ohio App. LEXIS 6355 (Dec. 22, 1998) (holding that an equitable claim must be instituted within ten years after the cause of action accrued).

A plain reading of Plaintiffs' Amended Complaint demonstrates that they seek to have the 1912 Deed declared null and void as follows:

26. To the extent that the Clifton Club Deed purports to grant the Club, through its four lots, any access to the Beach that is greater than the access of any owner of a single subplot, the Deed is null and void.

Amended Compl., ¶ 26.

Likewise, in their prayer for relief, Plaintiffs seek an order from the probate court declaring:

That the provisions of the Clifton Club Deed dated July 1, 1912 allowing use of Trust property by Members of the Clifton Club who are not subplot owners (including the Beach) in contradiction to the then-existing Deed of Trust is null and void.

*Id.*, at Prayer, ¶ c.

The Club Deed which Plaintiffs seek to invalidate was recorded on March 27, 1912. Thus, the statute of limitations for a claim to invalidate this Deed expired in 1922. Plaintiffs' Complaint, brought in 2012, is therefore untimely as a matter of law.

To the extent that Plaintiffs attempt to argue that their cause of action did not accrue until sometime within the ten-year statute of limitations, such a claim was already rejected by the probate court. See, 11/10/2015 Journal Entry, p. 3 (finding that it is "undisputed that, since 1912, non-resident members of the Clifton

Club Company have used the beach.”) Simply stated, all Club members (both resident and non-resident) have enjoyed equal access to the beach since the establishment of the Club. Any claim that such access to the beach by non-resident Club members is contrary to the language of the Club Deed raised by Plaintiffs below is untimely.

Plaintiffs petitioned the probate court to declare that the Clifton Club’s members have no legal right to access Clifton Beach, and that the 1912 Club Deed expressly conveying such rights is null and void. (*See* Amended Complaint, ¶¶ 23-24, 26, Prayer for Relief ¶ c.) The ten-year statute of limitations to challenge or reform the Club Deed, however, has long since passed. For all the foregoing reasons, the probate court should have dismissed Plaintiffs’ claims as untimely as a matter of law.

#### **IV. CONCLUSION**

For all the foregoing reasons, as well as those expressed in the Brief of Appellee Trustees of the Clifton Park Trust, the probate court properly granted summary judgment and dismissed Plaintiffs’ claims in their entirety.

Respectfully submitted,

/s/Holly Marie Wilson

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**CERTIFICATE OF SERVICE**

The foregoing Brief of Appellee The Clifton Club Company was electronically filed this 10<sup>th</sup> day of May 2016 via this Court's electronic filing system. Parties may access the filing through the Court's electronic filing system. Service copies were also made to the following via U.S. or electronic mail this 10<sup>th</sup> day of May 2016:

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| Cynthia Dunn<br>Dale Cuthbertson<br>1106 Forest Rd<br>Lakewood, OH 44107 | Griffith and Nancy Dye<br>17846 Clifton Blvd<br>Lakewood, OH 44107     |
| Hugh and Alana Fagan<br>17831 Lake Rd<br>Lakewood, OH 44107              | Thomas and Donna Feser<br>17853 Lake Rd<br>Lakewood, OH 44107          |
| Daniel and Caroline Flannery<br>18148 Clifton Rd<br>Lakewood, OH 44107   | John Forgetta<br>18121 Clifton Rd<br>Lakewood, OH 44107                |
| Victor and Rose Forgetta<br>17901 Lake Rd<br>Lakewood, OH 44107          | Frank Foti<br>17869 Lake Rd<br>Lakewood, OH 44107                      |
| Grace Frank, Trustee<br>1101 West Forest Rd<br>Lakewood, OH 44107        | Thomas and Mary Ellen Fraser<br>18177 Clifton Rd<br>Lakewood, OH 44107 |
| Billy Frazier<br>17892 Clifton Park Lane<br>Lakewood, OH 44107           | Juanita Dia Frenden<br>17830 Lake Rd<br>Lakewood, OH 44107             |
| Robert and Amy Frost<br>18126 West Clifton Rd<br>Lakewood, OH 44107      | John and Eileen Gallagher<br>17850 Lake Rd<br>Lakewood, OH 44107       |
| Juliane Gillespie<br>1117 Forest Rd<br>Lakewood, OH 44107                | Patrick Gowell<br>18155 Clifton Rd<br>Lakewood, OH 44107               |

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| Mark and Nancy Graves<br>17889 Lake Rd<br>Lakewood, OH 44107                | Sarah Grotta<br>18188 Clifton Rd<br>Lakewood, OH 44107                       |
| Kenneth and Kathleen Haber<br>17897 Lake Rd<br>Lakewood, OH 44107           | Theodore and Marybeth Harakas<br>17881 Lake Rd<br>Lakewood, OH 44107         |
| Philip Hall, Trustee<br>Marcia Hall<br>1127 Forest Rd<br>Lakewood, OH 44107 | Laurence and Kathryn Heidelberg<br>17852 Clifton Blvd<br>Lakewood, OH 44107  |
| Andrew Henderson<br>Joselyn Tyler<br>1109 Forest Rd<br>Lakewood, OH 44107   | John and Mary Ann Henderson<br>17890 Clifton Park Lane<br>Lakewood, OH 44107 |
| Carol E. Herberger, Trustee<br>17905 Lake Rd<br>Lakewood, OH 44107          | Jerry Hoegner, Trustee<br>18163 Clifton Rd<br>Lakewood, OH 44107             |
| Robert and Joanne Houck<br>1105 Forest Rd<br>Lakewood, OH 44107             | Timothy and Jennifer Jablonski<br>17845 Lake Rd<br>Lakewood, OH 44107        |
| Christopher and Patricia Jammal<br>1133 Forest Rd<br>Lakewood, OH 44107     | Maxwell Bombik<br>18175 Clifton Rd<br>Lakewood, OH 44107                     |
| Ronald and Christine Johnson<br>18123 Clifton Rd<br>Lakewood, OH 44107      | John and Melissa Kappus<br>18143 Clifton Rd<br>Lakewood, OH 44107            |
| Kim and Nora Katzenberger<br>1128 Forest Rd<br>Lakewood, OH 44107           | Kerala LLC<br>17891 Captains Cove<br>Lakewood, OH 44107                      |
| George and Elizabeth Khuri<br>1088 Lake Point Drive<br>Lakewood, OH 44107   | Mary Caye Kilbane<br>18187 Clifton Rd<br>Lakewood, OH 44107                  |
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| Edward Hill and Karen Upton Hill<br>1121 Forest Rd<br>Lakewood, OH 44107                           | Michael and Laura King, Trustees<br>18138 Clifton Rd<br>Lakewood, OH 44107                |
| Daniel and Carolyn Klenkar<br>18115 Clifton Rd<br>Lakewood, OH 44107                               | Donna Kolis<br>17893 Lake Rd<br>Lakewood, OH 44107  |
| Peter Kuhn, Trustee<br>Cathryn Thompson Kuhn<br>1132 Forest Rd<br>Lakewood, OH 44107               | Raymond and Margarita Krncevic<br>18158 Clifton Rd<br>Lakewood, OH 44107                  |
| Gregg and Melissa La Spisa<br>17823 Lake Rd<br>Lakewood, OH 44107                                  | Daniel and Carolyn Lavelle<br>18101 Clifton Rd<br>Lakewood, OH 44107                      |
| Kyle Lawrence<br>1206 West Clifton Blvd<br>Lakewood, OH 44107                                      | Patrick and Karen Lenehans<br>1107 Forest Rd<br>Lakewood, OH 44107                        |
| John and Pauline Lewis<br>17807 Lake Rd<br>Lakewood, OH 44107                                      | Timothy Liston<br>Dawn Griffith Liston<br>1101 Forest Rd<br>Lakewood, OH 44107            |
| Laura Novosel Little, Trustee<br>Richard Little, Trustee<br>18105 Clifton Rd<br>Lakewood, OH 44107 | David and Susan Lorenz<br>17909 Lake Rd<br>Lakewood, OH 44107                             |
| Mark and Pamela Magnotto<br>17874 Lake Rd<br>Lakewood, OH 44107                                    | Cesare Mainardi<br>17844 Lake Rd<br>Lakewood, OH 44107                                    |
| Joel and Laura Jensen<br>17811 Lake Rd<br>Lakewood, OH 44107                                       | Goldie Maxim, Trustee<br>Ernest Maxim Family Trust<br>17805 Lake Rd<br>Lakewood, OH 44107 |
| Robert and Judith Mazarella<br>18186 Clifton Rd<br>Lakewood, OH 44107                              | Laura McBride<br>1115 Forest Rd<br>Lakewood, OH 44107                                     |
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| Timothy and Kathleen McBride<br>17883 Lake Rd<br>Lakewood, OH 44107  | Robert McCabe<br>17840 Lake Rd<br>Lakewood, OH 44107   |
| Nancy McCann<br>17802 Lake Rd<br>Lakewood, OH 44107  | Brendan and Lori McCarthy<br>18184 Clifton Rd<br>Lakewood, OH 44107  |
| Rosalyn McGlynn<br>18096 Clifton Rd<br>Lakewood, OH 44107  | James McGowan<br>Margie Wright McGowan<br>17839 Lake Rd<br>Lakewood, OH 44107  |
| Michael and Laura McMahan<br>17889 Lake Rd<br>Lakewood, OH 44107   | James and Noel McPolin<br>1110 West Forest Rd<br>Lakewood, OH 44107  |
| Robert Rose<br>17856 Lake Rd<br>Lakewood, OH 44107   | Shelley Mellino<br>17824 Lake Rd<br>Lakewood, OH 44107   |
| Estate of Burton McGlynn<br>c/o Michael McGlynn<br>18110 Clifton Rd<br>Lakewood, OH 44107  | Joanne S. Miller<br>18109 Clifton Rd<br>Lakewood, OH 44107   |
| Susan Minnich<br>17834 Lake Rd<br>Lakewood, OH 44107   | Ned Molovich<br>Glenda Molovich<br>1129 Forest Rd<br>Lakewood, OH 44107  |
| Benjamin Whiting, Trustee<br>Melanie Whiting, Trustee<br>Whiting Family Revocable Living Trust<br>18137 Clifton Rd<br>Lakewood, OH 44107 | PNC Bank fka National City Bank,<br>Trustee<br>1900 East Ninth Street, 2d Fl<br>Cleveland, OH 44114                        |
| Stephanie Neider<br>17886 Beach<br>Lakewood, OH 44107  | Charles Norton, Trustee<br>Christie Norton McGraw, Trustee<br>Suzanne Norton Trust<br>1124 Forest Rd<br>Lakewood, OH 44107 |
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| James and Roseanne O'Brien<br>1134 Webb Rd<br>Lakewood, OH 44107                                     | Jill O'Brien, Trustee<br>17809 Lake Rd<br>Lakewood, OH 44107                    |
| Daniel and Claudine Oldfield<br>17906 Lake Rd<br>Lakewood, OH 44107                                  | Alec Pacella<br>1130 Forest Rd<br>Lakewood, OH 44107                            |
| Gregory Pacholski<br>Terri Holliday<br>18131 West Clifton Rd<br>Lakewood, OH 44107                   | Ann Paras<br>17841 Lake Rd<br>Lakewood, OH 44107                                |
| Anthony and Anne Pietromica<br>18185 Clifton Rd<br>Lakewood, OH 44107                                | Michael and Annemarie Polito<br>18156 Clifton Rd<br>Lakewood, OH 44107          |
| Mary Papandreas, Trustee<br>John G. Papandreas Personal Trust<br>17828 Lake Rd<br>Lakewood, OH 44107 | Brian and Maureen Powers<br>17855 Lake Rd<br>Lakewood, OH 44107                 |
| Daniel and Jennifer Raynor<br>18111 Clifton Rd<br>Lakewood, OH 44107                                 | Mark and Jean Reinhold<br>1120 Forest Rd<br>Lakewood, OH 44107                  |
| Bradford and Margaret Richmond<br>1122 Forest Rd<br>Lakewood, OH 44107                               | John S. Pyke, Jr. Trustee<br>Judith Pyke<br>17808 Lake Rd<br>Lakewood, OH 44107 |
| Peter Rose<br>Erika Gadowski<br>17870 Lake Rd<br>Lakewood, OH 44107                                  | Karen Ross<br>18183 Clifton Rd<br>Lakewood, OH 44107                            |
| Michael Rowell<br>Jennifer Rowell<br>17803 Lake Rd<br>Lakewood, OH 44107                             | John E. Rupert<br>18129 West Clifton Rd<br>Lakewood, OH 44107                   |
| Dorcas Russo<br>18165 Clifton Rd<br>Lakewood, OH 44107   | Gregory Sanker<br>Kim Sanker<br>18124 West Clifton Rd<br>Lakewood, OH 44107     |

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| Frank and Jennifer Schwelik<br>18164 Clifton Rd<br>Lakewood, OH 44107                 | Stephen and Cheryl Schwind<br>1119 Forest Rd<br>Lakewood, OH 44107                  |
| Joyce Senney<br>17849 Lake Rd<br>Lakewood, OH 44107                                   | Donald Shultzaberger<br>Robert Paraska<br>17896 Captains Cove<br>Lakewood, OH 44107 |
| Robert Smitley<br>Joel Toth<br>18107 Clifton Rd<br>Lakewood, OH 44107                 | Edward Spellman<br>17854 Lake Rd<br>Lakewood, OH 44107                              |
| Ryan and Lisa Spicer<br>1108 West Forest Rd<br>Lakewood, OH 44107                     | Joseph Starck<br>Rebecca Starck<br>17873 Lake Rd<br>Lakewood, OH 44107              |
| Donald and Karen Strang<br>17820 Lake Rd<br>Lakewood, OH 44107                        | Robert and Julie Szabo<br>18161 Clifton Road<br>Lakewood, OH 44107                  |
| Nancy Tanis<br>1082 Lake Point Drive<br>Lakewood, OH 44107                            | Richard and Gail Tanner<br>18153 Clifton Rd<br>Lakewood, OH 44107                   |
| Charles Telliard<br>Laurel Telliard<br>17878 Lake Rd<br>Lakewood, OH 44107            | Jason and Holly Therrien<br>17825 Lake Rd<br>Lakewood, OH 44107                     |
| Robert and Diane Thomas<br>17907 Lake Rd<br>Lakewood, OH 44107                        | William Todia<br>17882 Lake Rd<br>Lakewood, OH 44107                                |
| Eleanor Truett, Trustee<br>Irrevocable Trust B<br>17880 Lake Rd<br>Lakewood, OH 44107 | Thomas and Linda Turner<br>1102 Forest Rd<br>Lakewood, OH 44107                     |
| Mark and Mary Twohig<br>17826 Lake Rd<br>Lakewood, OH 44107                           | Ernest and Trisha Vargo<br>17877 Lake Rd<br>Lakewood, OH 44107                      |



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| Paul and Christina Venizelos<br>17864 Lake Rd<br>Lakewood, OH 44107                                       | Terryl and Susan Walker<br>18152 Clifton Rd<br>Lakewood, OH 44107  |
| Clinton Weddell<br>Tara Kerivan<br>1116 Forest Rd<br>Lakewood, OH 44107                                   | Jeffrey and Erica Williams<br>17843 Lake Rd<br>Lakewood, OH 44107  |
| Kent and Lorysa Winterhalter<br>18091 Clifton Rd<br>Lakewood, OH 44107                                    | Daniel and Amy Witzigreuter<br>17827 Lake Rd<br>Lakewood, OH 44107 |
| Nicolas Young<br>1100 Forest Rd<br>Lakewood, OH 44107   | Rebecca Bugac Zak<br>1102-1/2 Forest Rd<br>Lakewood, OH 44107      |
| Chad Zumkehr<br>Mary Ellen Zumkehr<br>17876 Lake Rd<br>Lakewood, OH 44107                                 | Louis Binder<br>18171 Clifton Rd<br>Lakewood, OH 44107             |
| Francis Keller<br>18173 Clifton Rd<br>Lakewood, OH 44107  | Wynne Morley<br>1104 Forest Rd<br>Lakewood, OH 44107               |
| Eugene Drust, Trustee<br>Nora Drust, Trustee<br>Drust Family Trust<br>17801 Lake Rd<br>Lakewood, OH 44107 | Jill Gilmore<br>17829 Lake Rd<br>Lakewood, OH 44107                |
| Charles Drumm, Trustee<br>Catherine Drumm<br>17895 Lake Rd<br>Lakewood, OH 44107                          | Paul Fox<br>18139 West Clifton Rd<br>Lakewood, OH 44107            |
| Karen Wilson<br>18180 Clifton Rd<br>Lakewood, OH 44107  |  |

/s/ Holly Marie Wilson  
Holly Marie Wilson (0074291)  
One of the Attorneys for Defendant-  
Appellee The Clifton Club Company