

PROBATE COURT OF CUYAHOGA COUNTY
DIVISION OF THE COURT OF COMMON PLEAS
1 LAKESIDE AVE. W.
CLEVELAND, OHIO 44113

ANTHONY J. RUSSO
PRESIDING JUDGE

LAURA J. GALLAGHER
JUDGE

March 12, 2013

JOHN R. HOMOLAK
COURT ADMINISTRATOR

CHARLES T. BROWN
CHIEF MAGISTRATE

DAVID M. MILLS
DIRECTOR OF
GUARDIANSHIP SERVICES

Thomas W. Baker, Esq.
Susan L. Racey, Esq.
Tucker Ellis LLP
925 Euclid Avenue
Cleveland, OH 44115

Re: Arthur P. Dueck, et al. vs. The
Clifton Club Company
Case No. 2012 ADV 0179424

Counselors:

Enclosed please find a copy of the Judgment Entry entered this date as a matter of record.

Sincerely,



Susan Schwarten
Deputy Clerk

/ss

Enclosure

cc: Joseph P. Gibbons, Esq.
Dennis R. Rose, Esq.
Dipali Parikh, Esq.
Ronald H. Isroff, Esq.
Melissa L. Zujkowski, Esq.
✓ Michael G. Polito, Esq.
File

RECEIVED MAR 16 2013

IN THE COURT OF COMMON PLEAS
PROBATE DIVISION
CUYAHOGA COUNTY, OHIO



ARTHUR P. DUECK, et al.,)
)
 Plaintiffs,)
)
 vs.) CASE NO. 2012 ADV 0179424
)
 THE CLIFTON CLUB COMPANY)
)
 Defendants.) JUDGE ANTHONY J. RUSSO
)
) JUDGMENT ENTRY
)

This matter was brought before the Honorable Judge Anthony J. Russo on the **Motion to Dismiss of the Clifton Club Company**, filed August 7, 2012.

The Court finds, upon review of the file in its entirety, that the Motion is not well-taken and should be denied. The Clifton Park Trustees and Clifton Park Allotment subplot owners are necessary parties to this action, however dismissal is unwarranted since Ohio courts have voiced a preference for avoiding the harsh result of dismissing a case, electing instead to order that indispensable parties be joined pursuant to Civ.R. 19(A). *State ex rel. Bush, v. Spurlock*, 42 Ohio St.3d 77, 81 (1989).

The Court further finds that Plaintiffs shall be given sixty (60) days in which to join the Clifton Park Trustees and Clifton Park Allotment subplot owners as necessary parties, and that failure to join these necessary parties will result in dismissal of Plaintiffs' Complaint for Declaratory Judgment.

Therefore, it is **ORDERED, ADJUDGED AND DECREED** that the **Motion to**

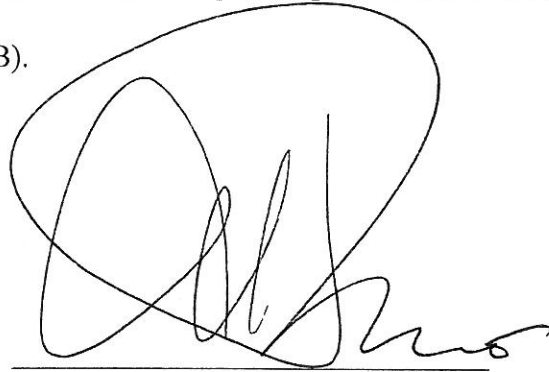


Dismiss of the Clifton Club Company is DENIED.

It is further **ORDERED** that Plaintiffs shall be granted sixty (60) days in which to join the Clifton Park Trustees and Clifton Park Allotment subplot owners as necessary parties to this action and that failure to join these necessary parties will result in dismissal of Plaintiff's Complaint for Declaratory Judgment.

It is further **ORDERED** that the Clerk of Court shall serve upon all parties notice of this judgment and date of entry pursuant to Civ. R. 58(B).

It is so **ORDERED**.

A handwritten signature in black ink, appearing to read 'Anthony J. Russo', is written over a horizontal line. The signature is highly stylized and cursive.

JUDGE ANTHONY J. RUSSO