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July 1, 2013

Dennis Rose, Esq.
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200 Public Square, Suite 2800
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RE: Arthur Dueck v. The Clifton Club Company
Cuyahoga County Probate Court No. 2012ADV179424
Our File No.: 1251-73512

Dear Dennis:

Enclosed please find the following filed with the court this date:

- 1) Defendant The Clifton Club Company's Motion to Amend Answer Instanter;
- 2) First Amended Answer of Defendant The Clifton Club Company to Plaintiffs' First Amended Complaint; and,
- 3) Proposed Order.

Very truly yours,

REMINGER CO., LPA

Adam M. Fried

Enclosures
cc (w/enc.):

Harold Reader, Esq.
Thomas Ehrnfelt, Esq.
F. Thomas Vickers, Esq.
Dana Rose, Esq.
Gregory Seeley, Esq.
Leo Spellacy, Esq.
Michael Cohan, Esq.
Gary Vick, Esq.

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

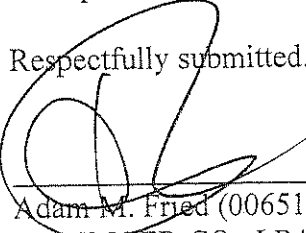
ARTHUR P. DUECK, et al.,)
)
) Plaintiffs,)
)
) v.)
)
) THE CLIFTON CLUB COMPANY, et al.,)
)
) Defendants.)

CASE NO.: 2012ADV179424
JUDGE ANTHONY RUSSO
MOTION TO AMEND
ANSWER OF DEFENDANT THE
CLIFTON CLUB COMPANY TO
PLAINTIFFS' FIRST AMENDED
COMPLAINT INSTANTER

Now comes Defendant The Clifton Club Company, by and through counsel, and hereby requests authority to amend *instanter* Affirmative Defense No.14 of its Answer to the Plaintiffs' First Amended Complaint on the grounds that counsel inadvertently misstated the affirmative defense to imply a lack of blanket control. Instead, it was intended, and therefore must be modified, that that trustees do not have the ability to limit the membership access to the beach to below the number of 250. This Motion to Amend *Instanter* is not being made for the purposes of delay but because justice so requires.

WHEREFORE, Defendant The Clifton Club Company prays that this Court will allow it to amend its Answer to Plaintiff's First Amended Complaint *Instanter*.

Respectfully submitted.



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Attorney for Defendant The Clifton Club Company

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Motion to Amend has been forwarded to the following counsel and to all defendants of record via U.S. regular mail, postage prepaid, this 1st day of July, 2013:

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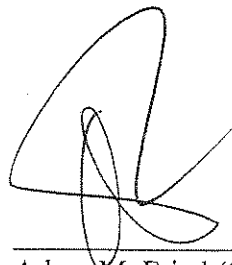
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Adam M. Fried (0036805)

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

ARTHUR P. DUECK, et al.,)	CASE NO.: 2012ADV179424
)	
Plaintiffs,)	JUDGE ANTHONY RUSSO
)	
v.)	<u>FIRST AMENDED ANSWER OF</u>
)	<u>DEFENDANT THE CLIFTON CLUB</u>
THE CLIFTON CLUB COMPANY, et al.,)	<u>COMPANY TO PLAINTIFFS' FIRST</u>
)	<u>AMENDED COMPLAINT</u>
Defendants.)	

Now comes Defendant The Clifton Club Company and for its Answer to Plaintiffs' Complaint states as follows:

1. This answering Defendant denies the allegations set forth in Paragraph 1 on the grounds that Defendant has insufficient information upon which to form a belief as to the truth of the allegations contained herein.
2. This answering Defendant admits the allegations set forth in Paragraph 2.
3. This answering Defendant admits the allegations set forth in Paragraph 3.
4. This answering Defendant denies the allegations contained in Paragraph 4 of Plaintiffs' Complaint on the grounds that Defendant has insufficient information upon which to form a belief as to the truth of the allegations contained therein.
5. This answering Defendant denies the allegations contained in Paragraph 5 of Plaintiffs' Complaint on the grounds that Defendant has insufficient information upon which to form a belief as to the truth of the allegations contained therein.

6. This answering Defendant denies the allegations contained in Paragraph 6 of Plaintiffs' Complaint.

7. This answering Defendant admits the allegations set forth in Paragraph 7.

8. This answering Defendant admits the allegations set forth in Paragraph 8.

9. In response to Paragraph 9, this answering Defendant admits only that the deed issued to The Clifton Club Company authorizes the establishment and use of a social club. Defendant denies the remaining allegations contained in Paragraph 9 of Plaintiffs' Amended Complaint not specifically admitted to herein.

10. This answering Defendant denies the allegations contained in Paragraph 10 of Plaintiffs' Complaint on the grounds that Defendant has insufficient information upon which to form a belief as to the truth of the allegations contained therein.

11. In response to Paragraph 11, this answering Defendant admits only that Cuyahoga County, Ohio is the appropriate venue. Defendant denies the remainder of the allegations contained in Paragraph 11 not specifically admitted to herein.

12. This answering Defendant denies the allegations contained in Paragraphs 12, 13, 14, 15 and 16 of Plaintiffs' Complaint due to the extent that each separately numbered paragraph fails to identify the full terms of the deeds at issue and that the deeds at issue speak for themselves. Defendant further denies on the grounds that said deed must be read in conjunction with the grant to The Clifton Club of the right to use common areas as a social club as well as the legal obligations of the grantors and which the grantors reserved to The Clifton Club in a certain lease recorded on July 1, 1902 to The Clifton Club. Defendant denies any further allegations not specifically admitted to herein.

13. This answering Defendant denies the allegations contained in Paragraph 17 of Plaintiffs' Complaint.

14. This answering Defendant denies the allegations contained in Paragraph 18 of Plaintiffs' Complaint.

15. This answering Defendant denies the allegations contained in Paragraph 19 of Plaintiffs' Complaint on the grounds that the allegations therein are a mischaracterization or incomplete statement of the position of the Club.

16. With respect to Paragraph 20, Defendant reincorporates by reference its answers to Paragraphs 1 through 19 of Plaintiffs' Complaint as though fully rewritten herein.

17. This answering Defendant denies the allegations contained in Paragraph 21 of Plaintiffs' Complaint.

18. This answering Defendant denies the allegations contained in Paragraph 22 of Plaintiffs' Complaint on the grounds that Defendant has insufficient information upon which to form a belief as to the truth of the allegations contained therein.

19. This answering Defendant denies the allegations contained in Paragraph 23 of Plaintiffs' Complaint.

20. This answering Defendant denies the allegations contained in Paragraph 24 of Plaintiffs' Complaint.

21. This answering Defendant denies the allegations contained in Paragraph 25 of Plaintiffs' Complaint.

22. This answering Defendant denies the allegations contained in Paragraph 26 of Plaintiffs' Complaint.

23. This answering Defendant denies the allegations contained in Paragraph 27 of Plaintiffs' Complaint on the grounds that this paragraph is a mischaracterization or incomplete statement of the position of the club.

24. This answering Defendant denies the allegations contained in Paragraph 28 of Plaintiffs' Complaint.

25. This answering Defendant denies the allegations contained in Paragraph 29 of Plaintiffs' Complaint.

AFFIRMATIVE DEFENSES

1. Plaintiffs have failed to state a claim upon which relief can be granted.

2. Plaintiffs lack standing.

3. Plaintiffs' claims are barred by the applicable statute of limitations.

4. This Court lacks subject matter jurisdiction to void a deed to real estate.

5. Plaintiffs have failed to join necessary parties.

6. Plaintiffs have voluntarily waived their claim, have knowingly accepted benefits from the Defendant, The Clifton Club, have authorized the use of The Clifton Club non-resident members and The Clifton Club to use the common areas and should be estopped from making their claims herein.

7. The Clifton Club Company is a beneficiary under the Trust and is entitled to protections of the Trustees of the Trust.

8. Plaintiffs and all lot owners and their predecessors were on constructive notice, or in fact had actual notice, before they obtained title within the Clifton Park allotment, that The Clifton Club was operated as a social club, that The Clifton Club membership including persons who were not also residents of Clifton Park, and that said non-resident members were granted access to the beach.

9. Plaintiffs and all subplot owners are subject to the conduct and knowledge of their predecessors.

10. Plaintiffs and/or their predecessor lot owners failed to mitigate damages.

11. Plaintiffs' claims are not ripe for adjudication.

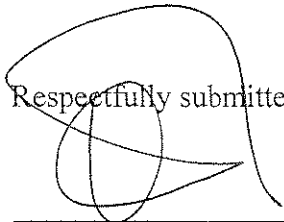
12. Defendant, The Clifton Club Company, has made vast and substantial improvements to its sublots and paid significant monies since at least 1902 for the upkeep, maintenance and development of the common areas including capital improvements made therein and Plaintiffs should not be permitted or entitled to the relief for which they seek without first posting a bond in an amount necessary to reimburse The Clifton Club Company for any loss suffered to The Clifton Club by virtue of Plaintiffs' claims.

13. Plaintiffs' claims fail for being violative of the rule against perpetuities.

14. The Trustees lack power to reduce the number of the Clifton Club Company members who have access to the beach to below 250.

15. Defendant, The Clifton Club Company, was a bona fide purchaser of value.

WHEREFORE, having fully answered, Defendant The Clifton Club Company demands that Plaintiffs' Complaint be dismissed with prejudice with costs to Plaintiffs and for an order of judgment and decree.


Respectfully submitted.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Amended Answer of Defendant, The Clifton Club Company, has been forwarded to the following counsel and to all defendants of record via U.S. regular mail, postage prepaid, this 1 day of July, 2013:

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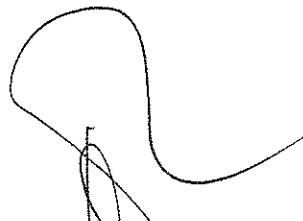
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