

IN THE CHANCERY COURT FOR CUMBERLAND COUNTY, TENNESSEE

LAKE PARK RESORT, INC.)
by its members;)
LONNA O'LEARY,)
BOB & PATTY BELCHER,)
TONY JOHNSON,)
ANNA JACKSON,)
ROBYN PESSON,)
JACOB & AMANDA VOSS,)
SHIRLEY TURNER,)
JONATHON WADE HENDRIX,)
MICHAEL HOLDSAMBECK, and)
ZACH BURGESS,)

Plaintiffs,)

vs.)

No. 2022-CH-2308

LAKE PARK RESORT, INC. directors;)
ROBYN MORGAN RIEL,)
JERRILYN TOMS,)
JENNIFER SPIVEY and)
those signing as DIRECTORS on)
EXHIBIT D.)

Defendants.)

MOTION FOR TEMPORARY RESTRAINING ORDER

Come now the Plaintiffs, by and through counsel, and pursuant to Rule 65 of the Tennessee Rules of Civil Procedure, moves this most Honorable Court to issue a Temporary Restraining Order, and in support thereof would respectfully state:

1. Plaintiff filed a verified complaint for derivative action on October 7, 2022 and an amended complaint for derivative action on October 21, 2022 also verified. Asserting the current corporate board was not duly elected by the membership, was amending

the by-laws, and/or charter of the corporation without authority or vote, was selling assets, specifically timber outside the scope of regular business and without member approval; was not caring for the access roads to the extent mail delivery to houses stopped, refusing access to corporate records where access is allowed by law among other claims.

2. That Defendants, Directors of Lake Park Resort, Inc., answered the original complaint, but not under oath, and have not filed a response to the Amended Complaint served on counsel for Defendants on October 24, 2022.
3. That Defendants are in default as to the Amended Member Derivative Action.
4. That Defendants, through counsel, indicated they would provide basic corporate records such as financial information and minutes in November, 2022, but have not provided any information.
5. That the complaint notwithstanding the Defendants not only continued cutting timber from the property, but have provided no accounting of the proceeds.
6. As shown on Collective Exhibit A, the logging done by Defendants, in and near homes of Plaintiffs, has left the area with debris, unsightly and has further damaged roads.
7. Plaintiffs assert that the timber areas around the property owned by Defendants was left uncut (Collective Exhibit B).
8. Plaintiffs assert Collective Exhibit C is the status of other roads in the community with worse areas existing that could not be accessed by a car.

9. While member's roads are generally unimproved, the board is spending funds to fence off the and otherwise make improvements to the community lake (Exhibit D).
10. Defendants have maintained the roadway around the lake and dam, and installed speed bumps too high for certain cars to cross, sill leaving unpassable roads throughout the community.
11. Plaintiffs assert that the Defendants property is generally used for rental income, generally near the lake, and the lake feature is an amenity for such rentals.
12. Plaintiffs assert funds from the unauthorized timber sales are being used in a self serving manner to improve and maintain the areas of Defendants property and rental businesses to the detriment of the remaining members and owners.
13. Plaintiffs submit that Defendants answers to the complaint, paragraphs 15 and 18, admit the number of Board members was changed without a member vote, and that there was no annual board meeting in October of 2022 to properly elect the Board.
14. Exhibit D to the complaint shows, in paragraph 6, the Board publicly filed amended charter and by-laws that only allows members to nominate a Board member with the Board electing who it desires to serve.
15. Plaintiffs submit these facts alone show a good probability they will be successful in their challenge to this Board's capacity as a proper corporate Board and a likely re-election of Board members.
16. Plaintiffs submit that pending further action of this Court it would be proper for the court to issue a restraining order, restraining the current Board from making further expenditures from the funds of the organization except those absolutely necessary to

meet minimum operating expenditures.

17. Plaintiffs submit it would be proper for the Defendants to be required to submit a monthly accounting of the funds received, funds on hand, and funds expended to monitor expenditure of the corporate assets.
18. That further, any additional timber cutting, if any, be prevented.
19. Plaintiffs assert absent a restraining order, the Plaintiffs and the corporation as a whole, will be irreparably harmed if the corporation's limited resources are not controlled so they can be utilized by and for the membership of the corporation as a whole by a properly elected Board.
20. The Affidavit of Lonna O'Learly is attached hereto in further support hereof.

WHEREFORE, your Plaintiffs move this most Honorable Court to issue a temporary restraining order;

1. Restraining the Defendants from making any expenditure of corporate funds for improvements and limit expenditures to necessary overhead costs, and regularly occurring business expenses.
2. The Court's order require a monthly accounting of income, expenses, and bank balance.
3. That timber cutting, or other activity of the company, be held in abeyance.
4. If a bond is required, the Court require a minimum bond under the circumstances of this case.

THIS IS THE FIRST APPLICATION FOR EXTRAORDINARY RELIEF.

Respectfully submitted this the 8th day of March, 2023.

LAKE PARK RESORT, INC.
by its members;
LONNA O'LEARY
BOB & PATTY BELCHER
TONY JOHNSON
ANNA JACKSON
ROBYN PESSON
JACOB & AMANDA VOSS
SHIRLEY TURNER
JONATHON WADE HENDRIX
MICHAEL HOLDSAMBECK
ZACH BURGESS


BY: C. DOUGLAS FIELDS, ESQ., BPR# 018647

Attorney for Plaintiffs
Fields & Tollett
Association of Attorneys
169 E First Street
Crossville, TN 38555
(931) 456-4541

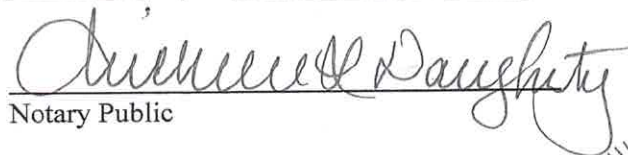

LONNA O'LEARY

VERIFICATION

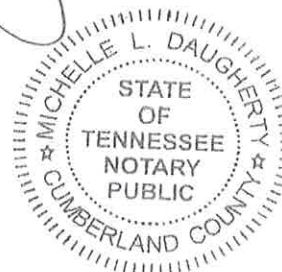
STATE OF TENNESSEE
COUNTY OF CUMBERLAND

Personally appeared before me, the undersigned, a Notary Public within and for said State and County, duly commissioned and qualified, Lonna O'Leary, with whom I am personally acquainted, or proved to me on the basis of satisfactory evidence, and who, upon oath, acknowledged herself to be a Member of Lake Park Resort, Inc., a corporation, the within named Plaintiff, and that she as such Member, and acting on behalf of the other listed members, does swear or affirm that the factual information set out herein is true to the best of her knowledge, information and belief.

Witness my hand and seal at office this 8th day of March 2023.


Notary Public

My Commission Expires: 03/07/26



NOTICE OF HEARING

Please take notice that Plaintiffs foregoing *Motion for Temporary Restraining Order* is set to be heard on Monday, April 24, 2023, beginning at 9:00 o'clock a.m., CST, at the Cumberland County Justice Center.

Please attend and take part such as you deem prudent.



C. DOUGLAS FIELDS, ESQ., BPR# 018647

Attorney for Plaintiffs

Fields & Tollett

Association of Attorneys

169 E First Street

Crossville, TN 38555

(931) 456-4541

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing has been served on the following counsel of record or a *pro se* party in the manner of service indicated below:

✓

By placing the above referenced documents in a prepaid postage envelope via regular mail in the United States Mail Service addressed to:

Matthew J. McClanahan, Esq.

McClanahan & Winston, P.C.

P.O. Box 1110

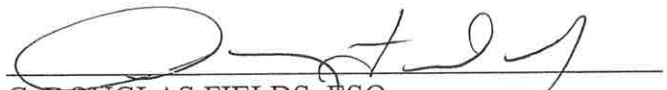
Crossville, TN 38557

✓

By sending the above referenced documents via email to:

Matthew J. McClanahan, Esq. at matt@tennadvocate.com

This the 14th day of March, 2023.



C. DOUGLAS FIELDS, ESQ.

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by its members;)
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EXHIBIT D.)

Defendants.)

AFFIDAVIT OF LONNA O'LEARY

STATE OF TENNESSEE
COUNTY OF CUMBERLAND

Comes the Affiant, Lonna O'Leary, and being duly sworn would depose and state as follows:

1. My name is Lonna O'Leary. I am over the age of eighteen, competent to testify and have personal knowledge of the facts stated herein.
2. I am familiar with the current Board members.
3. I am aware that most Board members do not live in Lake Park Resort, but do own properties there.

4. That the Board members' properties are on or near the lake.
5. That the roads to some members' homes are not impassable by car.
6. That my car, as one example, will not pass over the speed bumps on Exhibit E so while that section of road is well maintained, I can not use it.
7. That there are resident's homes I can not drive to due to the condition of the roads.
8. That these conditions do not exist getting to Defendant's properties.
9. That there is debris, branches and tree tops strewn all about the community from logging, but this condition does not exist around Defendants' properties.
10. That the mail service no longer delivers to my house and I must have a box out on the roadway in front of the subdivision.
11. The loggers caused further damage to the roads that was not repaired.
12. I observed the erection of fence posts adjacent to the community lake, while the roads remain unimproved.
13. That some gravel has been placed on some roads, but stops short of the property belonging to Plaintiffs in this cause.
14. Since cutting the timber, wildlife in the area have left diminishing one of the few attractive features of the property.

Further Affiant saith naught.

Lonna O'Leary
LONNA O'LEARY

Sworn to and subscribed before me this 8th day of March, 2023.

Michelle L. Daugherty
Notary Public

My Commission Expires: 03/07/26





EXHIBIT
A









EXHIBIT

B





EXHIBIT



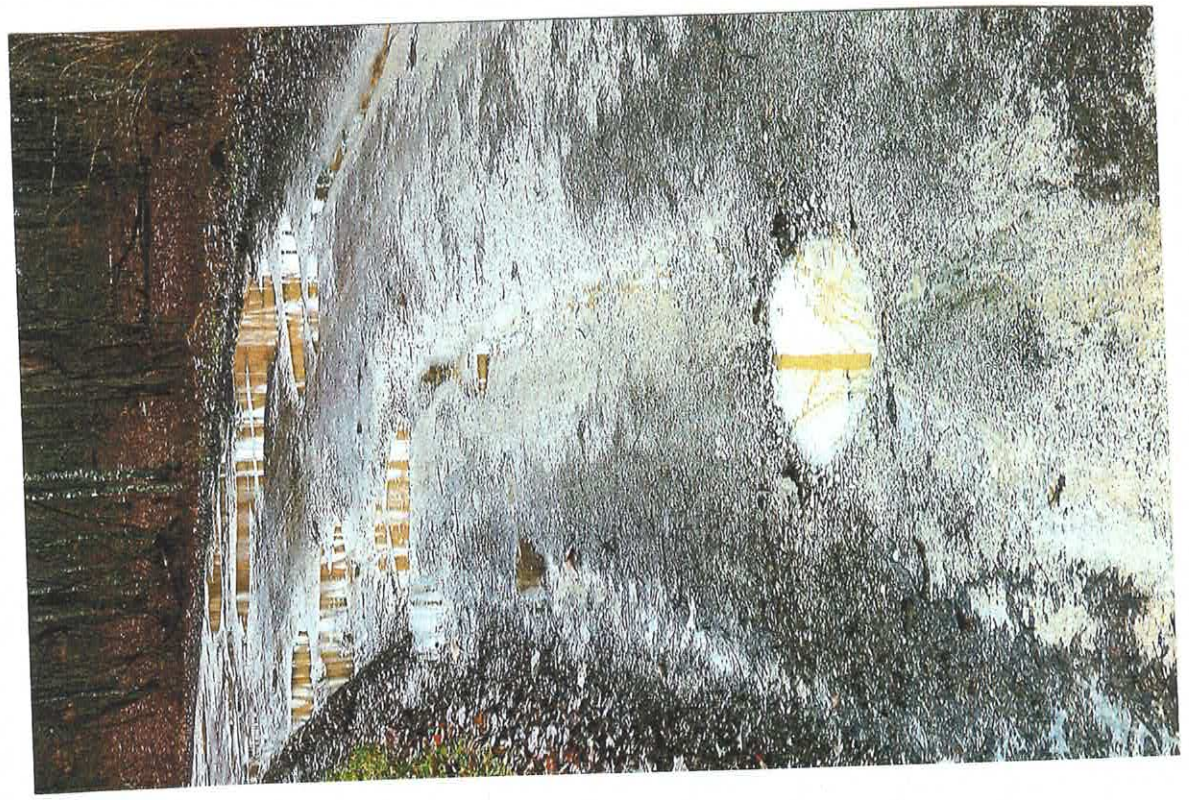







EXHIBIT
D





EXHIBIT
E