

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

IN THE COURT OF COMMON PLEAS
THE FIFTEENTH JUDICIAL CIRCUIT
CASE NO. 2018-CP-26-03173

Frederick E. Brown, et al.,

Plaintiffs,

vs.

Jeffery L. Richardson, et al.,

Defendants.

Myrtle Beach Resort Homeowners'
Association, Inc.,

Nominal Defendant.

ORDER

This case is before the Court on Plaintiffs' Motion for Temporary Corporate Custodian to Operate and Manage Myrtle Beach Resort Homeowners' Association, Inc. ("MBRHOA"). The motion was argued before the Court at the Horry County Courthouse in Conway, South Carolina, on December 12, 2018. Present before the Court was Howell V. Bellamy, III, Esquire for the Plaintiffs, Molly Hughes Cherry, Esquire for the Defendants, and Nicholas J. Rivera, Esquire for the Nominal Defendant. During the hearing, this Court heard testimony from Robert E. Lee, Esquire, corporate counsel for the MBRHOA. For the reasons stated below, the Motion is DENIED as to Plaintiffs' request for a Temporary Custodian and GRANTED as to Plaintiffs' request for equitable relief.

The MBRHOA is comprised of four (4) individual condominium associations within the Myrtle Beach Resort: (1) Myrtle Beach Resort Horizontal Property Regime (“HPR”); (2) Myrtle Beach Resort Ocean Front Spa Horizontal Property Regime (“Ocean Front Spa”); (3) Renaissance Tower Horizontal Property Regime, Inc. (“Renaissance Tower”); and (4) Myrtle Beach Resort Five Seasons Centre Council of Co-Owners, Inc. (“Five Seasons Centre”). Each individual condominium association elects a member from its Board to serve on the Board of Directors for the MBRHOA.

Plaintiffs’ motion was filed before this Court based on the premise that the four (4) directors of the MBRHOA are deadlocked in the management of the corporation’s affairs, the directors and members are unable to break the deadlock, and the corporation is suffering or will suffer irreparable injury unless this Court grants relief. After careful review of the pleadings, the motion, submissions of the parties, arguments of counsel, exhibits, and testimony, it is apparent to the Court that the MBRHOA has an imminently serious problem in that the Board of Directors cannot fulfill their duties to the Members of the MBRHOA. Thus, this Court hereby invokes its equitable powers and appoints Kenneth R. Moss, Esquire¹ as a fifth (5th) Board of Director for the MBRHOA during the pendency of this action with full power and authority to vote and assist the Board in establishing officers to immediately have the power to sign and bind insurance coverage for the Members, as this is the most immediate problem. It is hereby ordered that this must take place within fifteen (15) days of the date of this Order. Furthermore, Mr. Moss is to continue to assist the Board as a fifth (5th) Board of Director with full power and authority to vote to address other immediate problems involving the MBRHOA.

¹ Mr. Moss is an attorney with the law firm of Wright, Worley, Pope, Ekster & Moss located at 628 A Sea Mountain Highway, North Myrtle Beach, 29582.

It is ordered that Mr. Moss is to be paid \$250.00 per hour for his services during the pendency of this action. The MBRHOA shall ensure that Mr. Moss is provided the same insurance coverage that other Board of Directors receive for their service and add him as an additional insured on their policy.²

For the reasons set forth above, IT IS SO ORDERED.

The Honorable William H. Seals, Jr.

December _____, 2018
_____, South Carolina

² For all intents and purposes, Mr. Moss is a director under S.C. Code § 33-31-180.



Horry Common Pleas

Case Caption: Frederick E Brown , plaintiff, et al VS Jeffery L Richardson ,
defendant, et al

Case Number: 2018CP2603173

Type: Order/Other

IT IS SO ORDERED

s/ The Honorable William H. Seals Jr. #2157