

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

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STILLWATER LAKES CIVIC :
ASSOCIATION, INC., :
Plaintiff, :

v. :
:

NOREEN GORKA, MICHAEL GLASSIC, :
STILLWATER LAKES CITIZENS, :
AND STILLWATER LAKES COMMUNITY :
ACTIVIST, a Pennsylvania Corporation, :

Civil Action No. 3:08 CV 2264

JURY TRIAL DEMANDED

Defendants. :
:

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**ANSWER OF DEFENDANTS NOREEN GORKA, MICHAEL GLASSIC,
STILLWATER LAKES CITIZENS, AND STILLWATER LAKES
COMMUNITY ACTIVIST, a Pennsylvania Corporation**

Defendants Noreen Gorka, Michael Glassic, Stillwater Lakes Citizens, and Stillwater
Lakes Community Activist, a Pennsylvania Corporation, by the undersigned as attorney, as
and for an Answer to the Complaint of the Plaintiff, respectfully alleges as follows:

1. Defendants are without knowledge or information sufficient to form a belief
as to the truth or falsity of the allegations in this paragraph, and the allegations are, therefore,
denied.

2. Denied. The extent of any claim for ownership of a name is limited to the
corporate name registered with the Pennsylvania Department of State. Defendants deny that
the Plaintiff has any ownership rights to the claimed trade names.

3. Denied. Defendants registered domain names are not similar to the Plaintiff's corporate name. In addition, during the 2006 annual membership of the Plaintiff, Defendant Classic requested that the Board of Directors of the Plaintiff create and maintain a website to keep the residents of the community advised. The Board was not receptive to do such an act. Counsel for the Plaintiff informed the members in attendance at that annual meeting that anyone could go ahead and put together a website. Defendants did so.

4. The Complaint, being in writing, speaks for itself, and to the extent that the Defendants' allegations differ in any respect with that writing, they are specifically denied and strict proof thereof is demanded.

II. JURISDICTION AND VENUE

5. Admit.

6. Admit.

7. Defendants admit that the court has personal jurisdiction over the defendants if the defendants are served properly. Defendants admit that venue is proper in this District since the Defendants reside in this District.

8. Admit.

III. PARTIES

9. Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in this paragraph, and the allegations are, therefore, denied.

10. Denied. Plaintiff is the corporation organized to own the common property of the community known as "Stillwater Lake Estates." The Plaintiff is charged with the

responsibility of operating and maintaining the common facilities of the community together with a sewer company owned by it and the enforcement of the Covenants, Conditions, and Restrictions, as transferred by the Developer to it.

11. Denied. The Plaintiff is governed by a Board of Directors who is charged by the laws of the Commonwealth of Pennsylvania to act on behalf of the property owners within the community in the operation and maintenance of the property of the Plaintiff.

12. Admit.

13. Admit.

14. Admit.

15. Admit.

16. Admit.

17. Denied. Defendants admit that Glassic established the website intending it to be on behalf of the community.

18. Admit.

19. Denied. The fiduciary duty of the Defendant Gorka is to the Association.

The Uniform Planned Community Act, 68 Pa. C. S. Section 5303 reads as follows:

(A) POWERS AND FIDUCIARY STATUS—Except as provided in the declaration, in the bylaws, in subsection (b) or in other provisions of this subpart, the executive board may act in all instances on behalf of the corporation. In the performance of their duties, the officers and members of the executive board shall stand in a fiduciary relation to the association...”

See also the Pennsylvania Nonprofit Corporation Law of 1988 (15 Pa. C.S.A.

sections 5101 et. seq.)which provide that a director of a nonprofit corporation stands in a

“fiduciary” relation to the corporation. The Director is required to perform his or her duties as a

director in good faith and in a manner reasonably believed to be in the best interests of the corporation.

20. Admit.

21. Admit.

IV. ALLEGATIONS IN ALL COUNTS

22. Denied. The extent of any claim for ownership of a name is limited to the corporate name registered with the Pennsylvania Department of State. Defendants deny that the Plaintiff has any ownership rights to the claimed trade names.

23. Admit.

24. Admit.

25. Admit.

26. The original report discussed in this paragraph, being in writing, speaks for itself, and to the extent that the Defendants' allegations differ in any respect with that writing, they are specifically denied and strict proof thereof is demanded.

27. The original report discussed in this paragraph, being in writing, speaks for itself, and to the extent that the Defendants' allegations differ in any respect with that writing, they are specifically denied and strict proof thereof is demanded.

28. Admit that the telephone number is the number used by both Defendants. The Defendant Glassic registered the telephone number on the original report.

29. Denied. Defendant Glassic controls defendants "Stillwater Lakes Citizens (Citizens) and Stillwater Lakes Community Activist (Activist).

30. Denied. Defendant Glassic controls Citizens.

31. Denied. Defendant Glassic offered to permit the Plaintiff to use part of the the Defendant Glassic's website as their own, free of charge.

32. Denied. Defendant Glassic never offered to sell the domain name to the Plaintiff so there could be no rejection as there was no offer. In addition, Defendants denies that the Plaintiff has the exclusive right to the names as they are the not the name of the corporation.

33. Denied. The Complaint is defective in that it does not particularly allege what is deemed to be the inaccurate and critical entries regarding the Plaintiff, the Board of Directors, Management Company, and individual Directors.

34. Admit.

35. Denied. Defendant Glassic updated the registration information to have Activist as the owner of the domain names.

36. Admit.

37. Admit.

38. Denied. The exhibit, being in writing, speaks for itself, and to the extent that the Defendants' allegations differ in any respect with that writing, they are specifically denied and strict proof thereof is demanded.

39. Denied. The exhibit, being in writing, speaks for itself, and to the extent that the Defendants' allegations differ in any respect with that writing, they are specifically denied and strict proof thereof is demanded.

40. Denied. The exhibit, being in writing, speaks for itself, and to the extent that the Defendants' allegations differ in any respect with that writing, they are specifically denied and strict proof thereof is demanded.

41. Denied. This allegation was previously alleged and answered in paragraph 3, supra. Defendants repeat and reiterate the allegations contained therein as if same were more fully set forth at full length herein.

42. Denied. There is no statement on the website indicating that it claims to be the official website of the Plaintiff. The exhibit, being in writing, speaks for itself, and to the extent that the Defendants' allegations differ in any respect with that writing, they are specifically denied and strict proof thereof is demanded.

43. Denied. Defendant Activist owns the sites www.stillwaterlakes.net and www.stillwaterlakes.com.

44. Denied. Defendant Activist operates the sites www.stillwaterlakes.net and www.stillwaterlakes.com.

45. Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in this paragraph, and the allegations are, therefore, denied.

46. Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in this paragraph, and the allegations are, therefore, denied.

47. Denied. The letter, being in writing, speaks for itself, and to the extent that the Defendants' allegations differ in any respect with that writing, they are specifically

denied and strict proof thereof is demanded. In addition, the letter was directed solely to the Defendant Gorka. Furthermore, the letter is not a cease and desist letter.

48. Denied. Defendant Gorka did not and does not operate the websites. The Defendants deny that the website is misleading.

49. Denied. Defendants Gorka and Glassic admit that they received a "Cease and Desist letter dated October 23, 2008. The letter, being in writing, speaks for itself, and to the extent that the Defendants' allegations differ in any respect with that writing, they are specifically denied and strict proof thereof is demanded.

50. Denied. First, the letter of October 23, 2008 was the first "Cease and Desist Letter" directed Defendant Gorka or Glassic. Second, the letter of October 23, 2008 was the first correspondence of Plaintiff directed to the Defendant Glassic relating to the website. Third, changes to the website were made prior to the receipt of the correspondence of October 23, 2008.

51. Denied. There is no statement on the website indicating that it claims to be the official website of the Plaintiff. The exhibit, being in writing, speaks for itself, and to the extent that the Defendants' allegations differ in any respect with that writing, they are specifically denied and strict proof thereof is demanded. The extent of any claim for ownership of a name is limited to the corporate name registered with the Pennsylvania Department of State. Defendants deny that the Plaintiff has any ownership rights to the claimed trade names.

52. Denied. In addition, if there is any confusion, it is due to the Management Company contracted by the Plaintiff who was advertising the Activist's website as the official website of the Plaintiff. Defendants Glassic and Activist have no control nor contract

relationship with Plaintiff's Management Company other than through Plaintiff's contract with the Management Company.

53. 1) Denied. The website's use of the acronym "SLCA" is intended to refer solely to the Plaintiff. The first paragraph of the website of the Defendants Glassic and Activist states "We are a growing group of property owners in the planned community known as Stillwater Lakes Civic Association (SLCA)." Proper rules of grammar dictate that you identify the acronym for the entity it is intended to represent immediately after the initial use of the name intended to be replaced in the future by the acronym. If there is any confusion, the confusion is the Plaintiff's inability to properly read the website.

2) Denied. See the response to 53(1), supra.

3) Denied. See the response to 53(1), supra.

4) Denied. The exhibit, being in writing, speaks for itself, and to the extent that the Defendants' allegations differ in any respect with that writing, they are specifically denied and strict proof thereof is demanded.

5) Denied. The exhibit, being in writing, speaks for itself, and to the extent that the Defendants' allegations differ in any respect with that writing, they are specifically denied and strict proof thereof is demanded.

54. Denied. Defendants Glassic and Activist deny that there was any intent to derive profit as there are no advertisements of third parties on the website. At its maximum, the Defendant Glassic and Activist received one hundred dollars (\$100.00) for an advertisement which was used to defray some of the costs of the hosting of the website.

55. Denied. The extent of any claim for ownership of a name is limited to the corporate name registered with the Pennsylvania Department of State. Defendants deny that the Plaintiff has any ownership rights to the claimed trade names.

56. Denied. It was the Defendants Classic and Activist's intentions to provide a forum for discussions by unit owners within the community relating to the issues that were important to these property owners. The information provided by the Plaintiff to the community were contradicted by some of the facts and the website was utilized in order to permit a free exchange of ideas relating to the issues concerning the community.

57. Denied. The Plaintiff was able to commence the instant action and forward correspondence to the Defendant Classic, so how was there any avoidance of action by the Plaintiff?

58. Denied. As discussed previously, the acronym "SLCA" was utilized on the website rather than continuously writing Stillwater Lakes Civic Association. See the response to 53 (1), supra.

59. Denied. See response to 58, above.

60. Denied. The exhibit, being in writing, speaks for itself, and to the extent that the Defendants' allegations differ in any respect with that writing, they are specifically denied and strict proof thereof is demanded.

61. Denied.

COUNT I
LANHAM ACT-TRADE MARK INFRINGEMENT

62. No response is required because there is no paragraph 62 in the Complaint.

63. Defendants hereby incorporate paragraphs 1 through 61 by reference as if set forth at length.

64. Denied. The Plaintiff's name is the registered corporate name for the entity that is charged with the ownership and operation of the common properties and assets that were transferred to it by the Developer for the benefit of the property owners within the community. Defendants deny that the Plaintiff has any ownership rights to the claimed trade names.

65. Denied. The Plaintiff's name is the registered corporate name for the entity that is charged with the ownership and operation of the common properties and assets that were transferred to it by the Developer for the benefit of the property owners within the community. Defendants deny that the Plaintiff has any ownership rights to the claimed trade names. Furthermore, the Plaintiff did not file the Covenants as they were filed by the Developer of the community.

66. Denied. The community owns the Association as the Plaintiff is the representative of the property owners within the community. The filing of a corporate name for a non-profit corporate purpose does not give rise to any derivatives names as the only name for the Plaintiff is its filed corporate name.

67. Denied. See response to paragraph 3, supra.

68. Denied. Defendants deny that there are any goods and services nor the marketing, advertising, nor sale of any goods and services in commerce on the part of the Plaintiff.

a. Denied. See responses to 51 and 52, supra.

b. Denied. The exhibit, being in writing, speaks for itself, and to the extent that the Defendants' allegations differ in any respect with that writing, they are specifically denied and strict proof thereof is demanded.

c. Denied. See responses to 51, 52, and 53, supra, which are incorporated herein as if set forth at full length.

69. d. Denied. See responses to 51, 52, and 53, supra, which are incorporated herein as if set forth at full length.

70. Denied. See responses to 51, 52, and 53, supra, which are incorporated herein as if set forth at full length.

71. Denied. There is no representation on the website that it is the official website of the Plaintiff. See responses to 51, 52, and 53, supra, which are incorporated herein as if set forth at full length.

72. Denied. See responses to 2 and 64, supra, which are incorporated herein as if set forth at full length.

73. Admit.

74. Denied. There has been no "mark" identified in this complaint prior to this paragraph. Also, there is no allegation in the paragraph as to what the "mark" is designed to represent.

75. Denied. Defendants deny that any "consumers" would be viewing the Defendants' website since there is no product or service being sold. The only user interested in the website would be a property owner within the community.

76. Denied. See responses to 51, 52, and 53, which are incorporated herein as if set forth at full length.

77. Denied. The only similarity is the use of the words "Stillwater Lakes." The Plaintiff does not own the exclusive right to the words "Stillwater Lakes." Defendants also repeat the responses contained within 51, 52, and 53, which are incorporated herein as if set forth at full length.

78. Denied. Defendants deny that there is any distinctive name of Stillwater Lakes. There is no exclusivity even within the local geographical area since there are two Stillwater Lake communities currently existing at the time of the instant pleading and the name is actually used to identify a lake within Monroe County.

79. Denied. Plaintiff did not advertise the corporate name anywhere in the world. Defendants admit that real estate agencies and builders may have advertised for the sale of their properties within the community but the Plaintiff does not own, operate, or control the companies which are doing the real estate construction, marketing, advertising, and/or sales. Plaintiff is solely the corporation organized to own the common property of the community known as "Stillwater Lake Estates." Plaintiff is also charged with the responsibility of operating and maintaining the common facilities of the community together with a sewer company owned by it and the enforcement of the Covenants, Conditions, and Restrictions, as transferred by the Developer to it.

80. Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in this paragraph, and the allegations are, therefore, denied.

81. Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in this paragraph, and the allegations are, therefore, denied.

82. Denied. See response to 56, which is incorporated herein as if set forth at full length.

83. Denied. First, there are no “consumers.” See response to 75, supra, which is incorporated herein as if set forth at full length. Second, Plaintiff does not own the name “stillwaterlakes” as the only name of the Plaintiff is the corporate name by which the Plaintiff owns the common properties and facilities for the benefit of the property owners within the community. Defendants submit that the property owners within the community own the corporate name as they are the entities in control of the operation of the Plaintiff through the annual membership meetings and votes.

84. Denied. See responses to 82 and 83, supra, which are incorporated herein as if set forth at full length.

85. Denied. See responses to 51, 52, and 53, supra, which are incorporated herein as if set forth at full length.

86. Denied.

a. Denied. Defendants deny use of the corporate name of the Plaintiff.

b. Denied. See responses to 51, 52, and 53, supra, which are incorporated herein as if set forth at full length.

c. Denied. See response to 54, which is incorporated herein as if set forth at full length.

d. Denied. See response to 57, supra, which is incorporated herein as if set forth at full length.

e. Denied. See responses to 51, 52, and 53, supra, which are incorporated herein as if set forth at full length.

87. Denied.

88. Denied. Plaintiff has no trade names. Defendants did not use any names of the Plaintiff.

89. Denied. The only Defendant currently operating the websites is the Defendant Activist. No Defendant is utilizing Plaintiff's corporate name, if that is the "corporate name" referred to in the complaint paragraph.

90. The allegations contained in this Paragraph in the Complaint constitute conclusions of law to which no response is required.

WHEREFORE, Defendants Gorka, Glassic, Citizens, and Activist hereby request that the Court issue the following relief:

- a. Dismiss the complaint in its entirety against all defendants;
- b. Award the Defendants all costs, including attorneys' fees;
- c. Award the Defendants such other and further relief as the Court deems just and proper.

COUNT II-CYBER SQUATTING

91. Paragraphs 1 through 90 are hereinafter incorporated by reference as if set forth at length.

92. Denied. Defendant Glassic admits that he registered the domain names alleged in the Complaint.

93. Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in this paragraph, and the allegations are, therefore, denied. Defendants do not understand the use of the word “trafficked” as set forth in the Complaint so Defendants are unable to properly frame a response to this allegation.

94. Denied. Defendants deny any bad intent in establishing the websites nor in their maintenance. See response to 56, supra, which is hereinafter incorporated by reference as if set forth at length.

95. Denied. See response to 93 as to the use of the word “trafficked” in the Complaint. See response to 94 as to the purpose of establishing and maintaining the websites. Responses 93 and 94 are hereinafter incorporated by reference as if set forth at length. Defendants deny that Plaintiff has any goodwill in its name.

96. Denied. Defendants deny any registration of any website under the name “Stillwater Lakes Civic Association” as alleged in the Complaint. Defendant denies that Plaintiff has any ownership in the names “stillwater lakes.”

a. Denied. The Plaintiff’s name is particular to this corporate entity. The name “Stillwater Lake” is common to this geographical region. See response to 78, hereinafter incorporated by reference as if set forth at length. Moreover, Defendants contend that the name “Stillwater Lake” has usage throughout the United States.

b. Denied. There are no “consumers” as there are no goods or services being sold by either the Plaintiff or the Defendants. There is no confusion on the website

of the Defendants, and the responses to 51, 52, and 53, supra, are hereinafter incorporated by reference as if set forth at length.

c. Denied. See response to 32, supra, which is hereinafter incorporated by reference as if set forth at length.

d. Denied. The exhibit, being in writing, speaks for itself, and to the extent that the Defendants' allegations differ in any respect with that writing, they are specifically denied and strict proof thereof is demanded. In addition, see response to 57, supra, which is hereinafter incorporated by reference as if set forth at length.

e. Denied. See responses to 51, 52, and 53, supra, which are hereinafter incorporated by reference as if set forth at length.

97. The allegations contained in this Paragraph in the Complaint constitute conclusions of law to which no response is required.

WHEREFORE, Defendants Gorka, Glassic, Citizens, and Activist hereby request that the Court issue the following relief:

- a. Dismiss the complaint in its entirety against all defendants;
- b. Award the Defendants all costs, including attorneys' fees;
- c. Award the Defendants such other and further relief as the Court deems

just and proper.

COUNT III-STATUTORY ANTI-DILUTION OF TRADE NAME

98. Paragraphs 1-97 above are hereinafter incorporated by reference as if set forth at length.

99. Denied. See response to 2, supra, which is hereinafter incorporated by reference as if set forth at length.

100. Denied. Plaintiff is the corporation organized to own the common property of the community known as “Stillwater Lake Estates.” The Plaintiff is charged with the responsibility of operating and maintaining the common facilities of the community together with a sewer company owned by it and the enforcement of the Covenants, Conditions, and Restrictions, as transferred by the Developer to it. Defendants deny that there is any trade name affiliated with the Plaintiff and/or any derivative owned by the Plaintiff.

101. Denied. Defendants deny that Plaintiff has a trade name. Defendants deny that Plaintiff’s name is famous and recognizable. Defendant contends that even the political personnel within the county are confused between the Plaintiff and another Stillwater Lakes community situated in Monroe County, Pennsylvania.

102. Denied. Plaintiff does not have any goods or services that it sells or provides to the public. Plaintiff is the corporation organized to own the common property of the community known as “Stillwater Lake Estates.” The Plaintiff is charged with the responsibility of operating and maintaining the common facilities of the community together with a sewer company owned by it and the enforcement of the Covenants, Conditions, and Restrictions, as transferred by the Developer to it. Plaintiff entering into contractual relationships with vendors relates to its obligation to provide for the common good of the community, not for any personal reason on behalf of the Plaintiff as an entity separate and apart from its obligations and purposes for which it was organized and established and received the transfer of Declarant Rights from the original Developer.

103. Denied. Upon information and belief, Plaintiff does not conduct any commercial activity. Rather, the only activities undertaken by the Plaintiff relate to the functions and obligations set forth in response 102, which is hereinafter incorporated by reference as if set forth at length.

104. Denied. The exhibit, being in writing, speaks for itself, and to the extent that the Defendants' allegations differ in any respect with that writing, they are specifically denied and strict proof thereof is demanded.

105. Denied.

106. Denied. Defendants deny that they sold advertising space to vendors.

107. Denied. Defendants deny that Plaintiff has any trade names. See also the responses to 51, 52, and 53, which are hereinafter incorporated by reference as if set forth at length.

108. The allegations contained in this Paragraph in the Complaint constitute conclusions of law to which no response is required.

109. Denied. Defendants contend that Plaintiff's name is one of many planned communities being marketed by real estate companies and builders within the media in Pennsylvania, New York, and New Jersey. Defendants further submit that the Plaintiff did not engage, promote, design, purchase, or engage in any advertising, marketing, sales or other solicitation to the general public within Pennsylvania, New York, and/or New Jersey, relating to the sale of any goods or services or concerning the real property within the community of "Stillwater Lake Estates."

110. Denied. See response to 2, supra, which is hereinafter incorporated by reference as if set forth at length.

111. Denied. Defendants specifically deny that Plaintiffs have engaged in any advertisement or publication of its services for sale to the public as consumers.

112. Denied. See responses to 78 and 101, supra, which are hereinafter incorporated by reference as if set forth at length.

113. Denied. Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in this paragraph, and the allegations are, therefore, denied. Defendants also deny that the Defendants have misappropriated Plaintiff's name.

114. Denied. Defendants deny that Plaintiff has any trade name. See the response to 2, supra, which is hereinafter incorporated by reference as if set forth at length.

115. Denied. See responses to 51, 52, and 53, supra, which are hereinafter incorporated by reference as if set forth at length.

116. Denied. Defendants have not interfered with any business relationships of Plaintiff. Plaintiff lacks standing to represent its members if they have personal claims that the Defendants have interfered with the personal claims of the non-parties to this lawsuit. Defendants repeat responses to 51, 52, and 53, supra, which are hereinafter incorporated by reference as if set forth at length.

117. Denied. Defendant Glassic did utilize the full corporate name of Plaintiff initially on the website. The Defendant removed the full corporate name of Plaintiff from the website on October 18th due to the board of Directors passing a resolution to allow their counsel

to protect their corporate name. Defendants did not use the full name of the Plaintiff on the websites subsequent to that date. The website as an exhibit, being in writing, speaks for itself, and to the extent that the Defendants' allegations differ in any respect with that writing, they are specifically denied and strict proof thereof is demanded.

118. Denied. Defendants have not used Plaintiff's corporate name on the website other than to identify the purposes of the website. See response 51, 52, and 53, supra, which are hereinafter incorporated by reference as if set forth at length.

119. Denied. Defendants deny that the Plaintiff provides any services other than those referred to and set forth in the response to 10, supra, which is hereinafter incorporated by reference as if set forth at length. In addition, Defendants repeat the response to 118, supra, which is hereinafter incorporated by reference as if set forth at length.

120. Denied. Defendants repeat responses to 118 and 119, supra, which are hereinafter incorporated by reference as if set forth at length.

121. Denied. Plaintiff has not expended any corporate funds for advertisement or promotion of the corporate name. The only funds collected by the Plaintiff are those funds required to be collected for the operation and maintenance of common properties and sewer owned by the Plaintiff with the responsibilities set forth in response 10, supra, which is hereinafter incorporated by reference as if set forth at length.

122. Denied. Defendants have not received any economic benefit from the operation and maintenance of the website. Defendants deny that the Plaintiff expended any efforts other than those established by its articles of incorporation and by the laws of the Commonwealth of Pennsylvania as a non-profit corporation charged with the duties and

responsibilities set forth in response 10, supra, which is hereinafter incorporated by reference as if set forth at length.

123. Denied.

WHEREFORE, Defendants Gorka, Classic, Citizens, and Activist hereby request that the Court issue the following relief:

- a. Dismiss the complaint in its entirety against all defendants;
- b. Award the Defendants all costs, including attorneys' fees;
- c. Award the Defendants such other and further relief as the Court deems

just and proper.

COUNT IV-ANTI-DILUTION
MISAPPROPRIATION OF CORPORATE NAME

124. Paragraphs 1 through 123 are hereinafter incorporated by reference as if set forth at length.

125. Admit.

126. Admitted in part and denied in part. Defendants admit that the Plaintiff is the only party authorized to use corporate name set forth in the Complaint within the Commonwealth of Pennsylvania. Plaintiff cannot prevent another corporation from registering the same name in a different state so Defendants deny the allegation to the extent that it seeks to expand Plaintiff's rights to the corporate name outside the geographic limits of the Commonwealth.

127. Denied. Defendants deny that the Plaintiff controls the use of the words "Stillwater Lakes." See responses to 96 and 101, supra, which are hereinafter incorporated by reference as if set forth at length.

128. Denied. The only trade of the Plaintiff is that of the operation of the community Stillwater Lake Estates. Plaintiff uses the name on its community signs, community newspaper, mailings, invoices, and letters, including collection activities engaged through the property management for the collection of fees, sewer charges, assessments, fines, and/or penalties. The only name utilized on these printed items is that of the corporate name of the Plaintiff.

129. Denied. See responses to 96 and 101, *supra*, which are hereinafter incorporated by reference as if set forth at length.

130. Denied. See responses to 51, 52, and 53, *supra*, which are hereinafter incorporated by reference as if set forth at length.

131. Denied. See responses to 51, 52, and 53, *supra*, which are hereinafter incorporated by reference as if set forth at length.

132. Denied. See responses to 51, 52, and 53, *supra*, which are hereinafter incorporated by reference as if set forth at length.

133. Denied. Defendants deny that the Defendants are “using” Plaintiff’s corporate name.

134. Denied. Defendant denies that the Plaintiff has been harmed unless Plaintiff deems commentary concerning the operation of the community through the forum on the Defendant Activist’s websites to be harmful to the Plaintiff. Defendant also denies that the website is illegal as the Defendants have complied with the requirements of the organization establishing the identity of the website and the requirements of the hosting entity for the hosting of the website on the server.

WHEREFORE, Defendants Gorka, Glassic, Citizens, and Activist hereby request that the Court issue the following relief:

- a. Dismiss the complaint in its entirety against all defendants;
- b. Award the Defendants all costs, including attorneys' fees;
- c. Award the Defendants such other and further relief as the Court deems

just and proper.

COUNT V-UNFAIR COMPETITION

135. Paragraphs 1-134 above are hereinafter incorporated by reference as if set forth at length.

136. Denied. See response 2, supra, which is hereinafter incorporated by reference as if set forth at length.

137. Denied. Defendants deny that Plaintiff has any positive reputation nor goodwill in its corporate name. Defendants deny that there is no commercial value in Plaintiff's name as it is a non-profit corporation established for the benefit of the property owners within the community. If there is any income received by the Plaintiff in excess of the sums required on an annual basis, the Plaintiff is obligated to reserve a certain portion of the sum and then credit the excess sums to the property owners as a reduction of the maintenance for the subsequent year. The Plaintiff cannot receive any personal profit nor can any member of the Board of Directors receive any personal profit from the activities of the Plaintiff corporation.

138. Denied. Defendants deny that they have received any economic benefit from the operation of the website. Defendants Glassic and Activist deny that they have established nor maintained the website to derive any personal gain. Rather, it was the

Defendants Classic and Activist's intents to provide a forum for discussions by unit owners within the community relating to the issues that are important to these property owners. The information provided by the Plaintiff to the community was contradicted by some of the facts and the website was utilized in order to permit a free exchange of ideas relating to the issues concerning the community.

139. Denied. There is no competition between the Plaintiff and the Defendants. There is no contest as there is no good or service being sold or offered by the Plaintiff to the public. The only rights and powers of the Plaintiff are those as set forth in the response set forth in 10, supra, which is hereinafter incorporated by reference as if set forth at length.

140. Denied. Defendants deny that they have used Plaintiff's corporate name. Defendants deny that Plaintiff has any trademark or service mark in its corporate name. Defendants deny that Plaintiff has any trademark or service mark in the words "Stillwater Lakes" or "SCLA."

141. The allegations contained in this Paragraph in the Complaint constitute conclusions of law to which no response is required.

142. Denied. See the responses to 51, 52, and 53, supra, which are hereinafter incorporated by reference as if set forth at length.

143. Denied. Defendants deny that they have deceived the public in the business marketplace as there is no intended distribution of the website beyond the property owners of the community. It was the Defendants Classic and Activist's intents to provide a forum for discussions by unit owners within the community relating to the issues that are important to these property owners. The information provided by the Plaintiff to the community was

contradicted by some of the facts and the website was utilized in order to permit a free exchange of ideas relating to the issues concerning the community. Defendants specifically deny that there was any damage to the Plaintiff's business reputation and goodwill and strict proof will be required on these elements at the time of trial.

144. Denied. The Defendants repeat responses 51, 52, and 53, supra, which are hereinafter incorporated by reference as if set forth at length. There is no deception of the method of operation of the community by Plaintiff other than the free exchange of comments made on the website on the forum maintained on the website. Defendants' goal was to enlighten the property owners within the Stillwater Lakes community as to the activities of the Plaintiff which is questionable and which is not fully explained to the property owners of the community by the Plaintiff, if any explanation at all is provided to these owners by the Plaintiff.

145. Denied.

146. The allegations contained in this Paragraph in the Complaint constitute conclusions of law to which no response is required.

147. Denied. Defendants deny that the Plaintiff has been damaged. Defendants deny that the Plaintiff has been damaged by the activities of the Defendants.

WHEREFORE, Defendants Gorka, Glassic, Citizens, and Activist hereby request that the Court issue the following relief:

- a. Dismiss the complaint in its entirety against all defendants;
- b. Award the Defendants all costs, including attorneys' fees;

c. Award the Defendants such other and further relief as the Court deems just and proper.

COUNT VI-COMMON LAW TRADE MARK INFRINGEMENT

148. Paragraphs 1-147 above are hereinafter incorporated by reference as if set forth at length.

149. Denied. See response to 2 and 66, supra, which are hereinafter incorporated by reference as if set forth at length.

150. Denied. Defendants admit that the Plaintiff is the only party authorized to use the corporate name set forth in the Complaint within the Commonwealth of Pennsylvania. Plaintiff cannot prevent another corporation from registering the same name in a different state so Defendants deny the allegation to the extent that it seeks to expand Plaintiff's rights to the corporate name outside the geographic limits of the Commonwealth.

151. Denied. Defendants deny that their use of the words "Stillwater Lakes" in the websites causes any confusion amongst any potential consumers and purchasers. Defendants deny there is any exclusive right to the words "Stillwater Lakes." See responses to 78 and 101, supra, which are hereinafter incorporated by reference as if set forth at length.

152. Denied. Defendants repeat the responses to 78 and 101, supra, which are hereinafter incorporated by reference as if set forth at length.

153. Denied. Defendants have not used Plaintiff's corporate name. Plaintiff does not own nor control the use of the words "Stillwater Lakes." Defendants repeat the responses to 78 and 101, supra, which are hereinafter incorporated by reference as if set forth at length. Defendants deny that the activities of the website have infringed on any claimed

trade name of the Plaintiff nor has the maintenance or operation of the websites caused the Plaintiff to sustain any damages.

154. Denied. Defendants repeat responses to 51, 52, and 53, supra, which are hereinafter incorporated by reference as if set forth at length.

155. Denied. Defendants deny that the Plaintiff has any trade name. Defendants deny that the activities of the Plaintiff create or protect any trade name. Defendants repeat the responses to 3 and 10, supra, which are hereinafter incorporated by reference as if set forth at length.

156. Denied. Defendants deny that there has been any infringement upon any trade name of the Plaintiff. Defendants deny that the Plaintiff has any trade name. Defendants admit that the Plaintiff has a corporate name which is protected within the Commonwealth of Pennsylvania so that another entity cannot incorporate utilizing the exact same name. Defendants deny that the Plaintiff has any rights to any trade mark in the words “Stillwater Lakes” or “SCLA” and repeat the responses to 78, 101, 102, and 109, supra, which are hereinafter incorporated by reference as if set forth at length.

157. Denied. Defendants contend that Plaintiff has not been damaged. Defendants further submit that if the Plaintiff has been damaged, the damages were not a result of the Defendants’ actions.

WHEREFORE, Defendants Gorka, Glassic, Citizens, and Activist hereby request that the Court issue the following relief:

- a. Dismiss the complaint in its entirety against all defendants;
- b. Award the Defendants all costs, including attorneys’ fees;

c. Award the Defendants such other and further relief as the Court deems just and proper.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

158. The Complaint fails to state a claim for which relief can be granted on any of the Counts set forth in the Complaint.

Dated: June 2, 2009

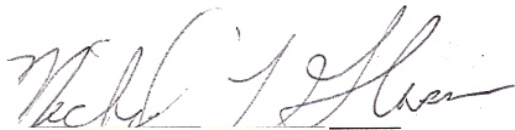
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Electronically Transmitted

VERIFICATION

I, Michael Glassic, do hereby verify that the statements set forth in the Answer to the

Complaint of the Plaintiff are true and correct. The undersigned understands that false statements made herein are made subject to the penalties of 18 Pa. C. S. 4904 relating to unsworn falsifications to authorities.

Dated: June 2, 2009

A handwritten signature in cursive script, appearing to read "Michael Glassic", written over a horizontal line.

MICHAEL GLASSIC

CERTIFICATE OF SERVICE

It is certified that I have on the 2nd day of June, 2009, I served a copy of the Defendants's Answer to Complaint of Plaintiff upon the following by electronically filing the same with the court through electronic means:

Nicholas Charles Haros
nharos@eastpennlaw.com

as attorney for the Plaintiff.

Dated: June 2, 2009

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