

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA

COPPER RIDGE/BRANDON HOMEOWNERS'
ASSOCIATION, INC.;
Plaintiff,

v.

TELISHA CATCHINGS, CARMEN GAY, and KEVIN
JEFFRIES
Defendants/Counter-Plaintiffs,

CASE NO: 22-CA-005776

And

SHAUN GOECKNER, TIMOTHY FURR,
THOMAS HIRTZEL AND CARMEN
MARIA VALDEZ,
Counter-Defendants.

DEFENDANTS/COUNTER-PLAINTIFFS'
RESPONSE IN OPPOSITION TO PLAINTIFF'S MOTION FOR ATTORNEY'S FEES –
ENTITLEMENT REGARDING DEFENDANT/COUNTER-PLAINTIFFS REQUEST
FOR DAMAGES PURSUANT TO SECTION 720.303(5)(b) filed 1/25/2023.

COMES NOW, Defendants/Counter-Plaintiffs, TELISHA CATCHINGS and CARMEN GAY, by and through the undersigned attorney and files this response in opposition to **Plaintiff's Motion for Attorney's Fees-Entitlement Regarding Defendant/Counter-Plaintiffs Request for Damages Pursuant to Section 720.303(5)(b)** filed 1/25/2023 and states as follows:

1. Oral arguments for **Defendants/Counter-Plaintiffs' Request for Damages Pursuant to Section 720.303(5)(b), Fla. Stat.** filed 12/2/2022 was held on January 9, 2023. The Court denied Defendants' motion on January 13, 2023 predominantly on opposing counsel's assertions that all documents were provided to Defendants/Counter-Plaintiffs on June 23, 2022.
2. More specifically, during oral arguments, attorney Greg Grossman, testifying on behalf of the Plaintiff, COPPER RIDGE/BRANDON HOMEOWNERS' ASSOCIATION, INC., stated he had personally "thumbed through the documents" and stated all financial records were present.
3. However, Telisha Catchings, one of the residents that had made the document request, had gone through all the documents and found a substantial list of missing documents including:

- a. Check report from August 2021-December 2022;
 - b. Checks from May 2018-March 2022;
 - c. Outstanding check report from August 2021-December 2022; and
 - d. Petty cash ledgers and petty cash reconciliation forms for the years 2015-2022.
4. Attorney Grossman was informed of the missing documents on September 19, 2022. See Exhibit "A".
 5. Very little additional information was provided.
 6. Additional items still missing from the required official records request are contained in Ms. Catchings' affidavit attached as Exhibit "B".
 7. Attorney Greg Grossman further testified to the Court all the documents were also available on the community's portal referred to as the First Service Residential Connect Portal. The log in information provided by Plaintiffs was the same already in possession by Ms. Catchings. Ms. Catchings also stated in her affidavit there were no additional files on the community's portal.
 8. Defendants/Counter-Plaintiffs' motion for costs pursuant to section 720.303(5)(b), *Fla. Stat.* was predominantly doomed by Attorney Greg Grossman's false testimony during oral arguments.
 9. The Court further ordered Plaintiff provide to Defendants/Counter-Plaintiffs, the names of all property managers services Copper Ridge for the last Five years. The Court ordered this be produced within five days. Plaintiff requested, and Defendants/Counter-Plaintiffs, did not object, to allowing Plaintiff ten days to comply. To date, twenty days later, Plaintiff has still not provided the Court ordered information.
 10. Plaintiff's request for attorney's fees and costs rests on false claims presented to this Court and should not be the basis for an entitlement.

WHEREFORE, Defendants/Counter-Plaintiffs, TELISHA CATCHINGS and CARMEN GAY, respectfully request this Court deny **Plaintiff's Motion for Attorney's Fees-Entitlement Regarding Defendant/Counter-Plaintiffs Request for Damages Pursuant to Section 720.303(5)(b)** filed 1/25/2023.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished via on February 7, 2023 pursuant to *Fla. R. Jud. Admin. 2.516* to Plaintiff's counsel at pleadings@frazierbowles.com; ggrossman@frazierbowles.com; tres@frazierbowles.com.

Respectfully submitted,

/s/George Harder
George Harder, Esquire

HARDER LAW

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EXHIBIT "A"

Harder Law
23110 State Road 54
#157
Lutz, Florida 33549

September 19, 2022

Copper Ridge/Brandon HOA
c/o Frazier Bowles
202 S. Rome Ave., Suite 125
Tampa, FL 33606

Re: Missing Documents from Request Pursuant to F.S. 720.303

Dear Mr. Grossman:

My office has reviewed the records for Copper Ridge/Brandon Homeowner's Association, Inc. that were provided to us on June 23, 2022. There were 3.15 GBs of information contained in twenty-six separate files. The majority of the files were violation notices which are not relevant records under F.S. 720.303.

The following are missing or incomplete documents that are required to be maintained by the Association:

1. There were no documents showing any financial audits have been performed. Has the Association performed a financial audit in the last seven years?
2. Schedule "A", attached below, lists all meeting minutes that were not in the records.
3. Only a very limited number of invoices were included in the records. All other Invoices from 2015-2022 are missing.
 - a) Skywatch 8/14/2015
 - b) NDL 2/18/2015
 - c) NDL 3/24/2015
 - d) NDL 4/15/2015
 - e) NDL 5/18/2015
4. All receipts are missing.
5. Current Roster of all members and their mailing addresses not included.
6. No Bids were included from 5/2021-6/2022.

7. Only Contracts that were included from the last year were First Service Residential and Frazier and Bowles.
8. Petty Cash General Ledger was not included for any years.
9. 2016, 2017, 2018, and 2020 Cash Receipts and Disbursement Reports are missing.
10. 2019-2022 Tax Returns are Missing.
11. From other communications, there appears to be many requests for reimbursement by Shaun Goeckner, but there are no back up documentation showing how much he paid or from what bank account or credit card he paid from. If the Association is paying him back, there should be documentation to support these expenditures.
12. There were also emails regarding “Unleased Fencing” and payments by Thomas Hirtzel. We request any information regarding that transaction.

Irrespective of the penalties imposed under F.S. 720.303(5), it is the goal of my clients to be able to audit the finances and determine if funds have been misappropriated.

Please let me know when the missing documents can be reviewed.

Very truly yours,

George Harder
Attorney at Law
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SCHEDULE "A"

	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>
January	Missing	Missing	Missing	Missing	Missing		Missing	Missing
February	Missing	Missing	Missing	Missing	Missing	Missing	Missing	Missing
March	Missing	Missing	Missing		Missing	Missing	Missing	
April	Missing		Missing	Missing	Missing	Missing	Missing	Missing
May	Missing	Missing	Missing	Missing	Missing	Missing	Missing	Missing
June	Missing	Missing	Missing	Missing	Missing	Missing	Missing	Missing
July	Missing	Missing		Missing		Missing	Missing	N/A
August		Missing			Missing	Missing	Missing	N/A
September		Missing	Missing	Missing	Missing	Missing		N/A
October		Missing	Missing	Missing		Missing	Missing	N/A
November	Missing		Missing	Missing	Missing			N/A
December	Missing	Missing	Missing	Missing	Missing	Missing	Missing	N/A

EXHIBIT "B"

STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

AFFIDAVIT

I, Telisha Catchings, being duly sworn, make the following statements:

1. I am over 18 years of age, of sound mind, and otherwise competent to make this Affidavit. The evidence set out in the foregoing Affidavit is based on my personal knowledge.
2. I am Telisha Catchings, and I submit this Affidavit in support of my claim that the Copperridge/Brandon HOA board has refused to provide all records of the association despite my official records request.
3. On June 23rd, 2022, at 1:00 p.m. I arrived at the office of Frazier and Bowles for a scheduled appointment for a records inspection. The records requested were records required by Florida Statute 720.303. The records were kept in twenty-six files titled Copper_Ridge_Export_1 through Copper_Ridge_Export_27. There was no file provided with the file name Copper_Ridge_Export_16, The 26 files provided totaled 42,376 pages. The majority of the documents provided in these files were violation letters, Architect Review Committee (ARC) requests and ARCs approvals.
4. I reviewed all 26 files provided by Frazier and Bowles page by page during the week of June 23, 2022. I reviewed the files page by page again on January 31, 2023.
5. I was also provided log in information for the community's First Service Residential Connect Portal and was told all official records would be located on that portal.
6. Listed below are the official records of the association missing from the 26 files provided by Frazier and Bowles and also missing from the First Service Residential Connect Portal.
 - a. Contracts were not provided during the period 2017-2022 except the First Service Residential property management contract and Frazier and Bowles attorney contract. The minutes stated that the association entered into contracts with Fieldstone and Brightview which were not provided. The financials show that numerous landscaping, maintenance, and grounds jobs were performed within the last five years and not one contract or bid has been provided within that time frame. All bids for the year prior to the records request June 23rd, 2021- June 23rd, 2022, were not provided. The HOA started to use Fieldstone for monthly maintenance starting on November 1st, 2021. The bids that are required to be kept on file for a year were not provided from the records request of June 23rd, 2022. The bid was not provided via the First Service Residential Connect Portal.
 - b. The May 2019 minutes stated the following: "Tim mentioned that he wanted to be involved with landscaping with George, Tejada. As grounds committee. They will work with Ann Marie, With a maximum allowed expense of \$5,000. Anything over must be approved by the board. Maria made a motion to accept the grounds committee with Ann Marie, Tim & George. Tim second motion. Motion passed." No contracts were made available.

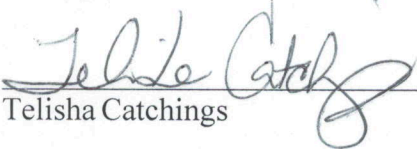
c. The HOA minutes and landscaping minutes are missing for expenditures over \$5,000. The board agreed that anything over \$5,000 would be approved. Since this is board business it should be included in the records of the association. The records inspection via flash drive or the portal failed to produce any invoices, receipts, minutes, contracts for the following expenditures over \$5,000.00.

d. The contracts for the following are missing.

- November 2016 – September 2021 Monthly Maintenance Fees (No Contract Provided)
- August 6, 2019 - Replacement of Irrigation pump that is tripping the overload \$6,334.48
- August 28, 2019- Remove flush Cut (75) pine trees \$6,077.00
- December 20, 2019 Install 400 yards of mulch \$18,000.00
- December 20, 2019 Landscape Enhancements \$7,884.00
- December 20, 2019 Oak Ridge Signs (Budgets) \$6,733.00
- December 20, 2019 Oak Grove & Highland Signs \$8,208.00
- January 9, 2020 Installed lights in right side of entrance \$10,384.94
- January 17, 2020 Landscape Enhancements \$11,832.79
- January 17, 2020 Copper Canyon Entry East \$13,510.00
- February 26, 2020 E. Lumsden Rd. Entry (L-09) \$13,570.00
- February 26, 2020 Newbourne Way Entry (L-10) \$7,927.00
- March 27, 2020 Copper Ridge Hardwood Elevations \$10,440.00
- April 23, 2020 HDU Sandblasted Signs \$12,840.33
- April 28, 2020 Amethyst Way Entry \$7,505.00
- April 28, 2020 Mulrennan Rd Monuments \$9,872.00
- May 19, 2020 Filter Add Filter to Pump \$5,515.69
- May 28, 2020 HDU Sandblasted Signs \$12,840.83
- July 20, 2020 Landscape lights entrance \$7,310.85
- November 6, 2020 Paining of border walls \$45,040.00
- January 28, 2021 Prune Hardwood trees \$6,200.00
- January 28, 2021 9 tree removals, large limb removal \$6,060.00
- February 25, 2021 Install 400 yards of mulch \$18,000.00

7. Further missing official records include the notice to homeowners of the amendment to the bylaws that was recorded in March of 2022.
8. The AP Check reports are missing from August 2021-December 2022. Copies of checks are missing for the following dates May 2018-March 2022. The outstanding check report is missing from August 2021-December 2022.
9. All invoices and receipts are missing.
10. All petty cash ledgers and petty cash reconciliation forms are missing from the years of 2015-2022 from the official records inspections. (A former employee from First Service Residential confirmed that a petty cash ledger exists for the Copperridge/Brandon HOA.) (Members of the HOA board also mentioned a discretionary spending fund for anything under \$1,000.) Official records from the discretionary spending fund were not provided with the official records request.
11. A landscaping committee was established in May of 2019 at the suggestion of Timothy Furr. All landscaping committee minutes are missing.
12. The original records request on June 23rd, 2022, did not provide the minutes for January, February and June of 2022.
13. The January 2021 minutes are missing the HOA secretary labeled these minutes as January 2021, but they are really January 2020. Minutes for February, March April and June of 2021 are missing. July 2021 and August 2021 minutes are missing. When minutes are missing there is a document in its place that states NO MEETING HELD which leads me to believe that these minutes for 2021 should exist.
14. The minutes for February, March, April, May and June of 2020 are missing. The HOA secretary labeled the June meeting as June 2020 this is false these minutes are the June 2021 minutes, June 2020 minutes are missing, July, August, September, October, and December minutes are missing. The meeting labeled 10/30/2020 are not the minutes for October 30, 2020, these are the minutes for November 2020. There are no documents for these months stating no meeting held. When minutes are missing there is a document in its place that states NO MEETING HELD which leads me to believe that these minutes for 2020 should exist.
15. March, April, June, August, November, and December 2019 meeting minutes are missing. No documents were supplied stating a meeting was held or had been cancelled. January, May, July, and September 2019 minutes do not have the year on them so there is no way to determine if these are the correct minutes for these dates.
16. The January, July and December 2018 minutes are missing. The HOA secretary labeled these minutes as July 2018 minutes, but the actual minutes are the June minutes. The July 2018 minutes are missing.
17. The February, April, and June 2017 minutes are missing. These minutes are not available for review as they are labeled as minutes not approved. The HOA secretary labeled the October 2017 minutes as only October the year was not included. These October minutes are the same exact minutes as the minutes labeled October for the year 2018. Since the HOA secretary has not put the year on numerous minutes it is hard to determine where the October 2017 minutes are missing or if the October 2018 minutes are missing.

18. February, September, December 2016 minutes are missing. The December 2016 minutes are missing and labeled as not approved. No document stating no meeting held on these dates.
19. I have reviewed all the files via flash drive provided by the HOA board during the month of June 2022 and once again on January 30, 2023. I have reviewed all files available on the Connect portal on January 29, 2023. After reviewing the inspection records page by page three separate times, I can confidently swear that all the records of the association were not provided.


Telisha Catchings

Sworn to before me this 7th day of February, 2023

 [NAME]

