



The Florida State University College of Law 2015 Mock Trial Invitational



Stacy Johnson vs. Harper Valley Neighborhood Association



ACKNOWLEDGEMENTS

The author of this problem would like to thank the following people:

Wayne Hogan, renowned trial lawyer and FSU College of Law alumnus and his wife, Pat Hogan, whose generous support makes this national competition possible.

Dean Don Weidner, who has always been supportive of mock trial.

Carl Baum, my patient and never complaining program assistant, who helped put this packet together. Among other things, he helped find pictures, and provide the footnotes.

The FSU College of Law Mock Trial Team. You will see a lot of the mock trial team members at the event in many different capacities.

The FSU Emergency Management and Homeland Security Program for the picture of their Unmanned Aircraft System, or “DRONE”. The Mission of the Emergency Management and Homeland Security Program is to provide world-class education and research regarding emergency and disaster management. You can find more information about this program online at em.fsu.edu.

All of the mistakes or ridiculous assertions and assumptions in this fictional problem are solely attributable to the author.

MOCK TRIAL STIPULATIONS and GENERAL EXPLANATORY INFORMATION

1. This trial is bifurcated and will be tried on liability only.
2. The Federal Rules of Civil Procedure and the Federal Rules of Evidence apply.
3. Suwannee is a mythical state in a parallel universe. The geography is slightly different from that of Florida.
4. The only statutes you may use are the ones provided in the packet. Suwannee recognizes gay marriage and divorce. Witness roles may be played by either gender, but must be announced by each team to the other team prior to the beginning of a round.
5. The parties have stipulated, and the judge has ruled, that the photographs taken showing the inside of Plaintiff's house are salacious or obscene, and will not be displayed at trial. The photographs show a nude person, from the backside, with another nude person facing towards this person and towards the bedroom window. The persons in the photographs appear to be engaged in sexual acts. Plaintiff claims he/she is not the person depicted from the rear, and Defendant claims this person is the Plaintiff. Neither party claims to know who the other person in the photo is, but both parties have stipulated it is not the Plaintiff's spouse.
6. You may not use case law.
7. The exhibits in the packet are authentic, and if otherwise admissible, may be placed into evidence by any witness with knowledge upon proper foundation.
8. Suwannee is a "pure" comparative negligence state. See, for instance, *Hoffman v. Jones*, 280 So.2d 431 (Fla. 1980), and *Parker v. Montgomery*, 529 So.2d 1145 (Fla. 1st DCA 1988) for an explanation of the concept. The jury instructions and verdict form reflect this.
9. Inevitably, you will find mistakes or things that were just too burdensome to fix. If you see issues, let me know and I will try to work them out.
10. We only have two courtrooms with technology capability. You will be required to use some kind of technology (your choice) in the semi-final or final rounds, **but only in those rounds.**

IN THE CIRCUIT COURT, SECOND JUDICIAL CIRCUIT,
IN AND FOR FOSTER COUNTY, SUWANNEE

STACY JOHNSON,

PLAINTIFF,

vs.

CASE NO. 11-CA- 446

HARPER VALLEY NEIGHBORHOOD ASSOCIATION, INC.

DEFENDANT.

_____ /

COMPLAINT

The Plaintiff, Stacy Johnson, sues Defendant, Harper Valley Neighborhood Association, Inc., and states as follows:

1. This is an action for damages that exceed FIFTEEN THOUSAND (\$15,000) DOLLARS, exclusive of interest and costs.
2. At all times hereinafter mentioned and at the time of the incidents complained of, the Plaintiff, Stacy Johnson, was a resident of Foster County, Suwannee.
3. At all times material, the Defendant, HARPER VALLEY NEIGHBORHOOD ASSOCIATION, INC. (hereinafter referred to as ASSOCIATION), was a Suwannee corporation, authorized and doing business in White Springs located in Foster County, Suwannee. At the time of the incidents complained of, the Defendant provided control and maintenance for the common areas, swales, streets and roads of the property in Harper Valley, Suwannee, owned by the ASSOCIATION'S individual owners. The Defendant was also legally responsible for properly enforcing the ASSOCIATION'S Declaration of Covenants, Conditions, and Restrictions (hereinafter "DECLARATION").
4. A true and correct copy of the ASSOCIATION'S DECLARATION is attached to this Complaint as Plaintiff's Exhibit "A".
5. At the time of the incidents complained of, Plaintiff owned real property and a home located at 123 Lovers' Lane, White Springs, Foster County, Suwannee. This property is located in the

Harper Valley subdivision of White Springs, and was subject to the lawful provisions of the ASSOCIATION'S DECLARATION.

6. The Defendant ASSOCIATION owed a duty of care to the Plaintiff with respect to the control, maintenance, and supervision of the ASSOCIATION'S common areas, roads, streets, and swales, and a duty of care when enforcing the provisions of the DECLARATION. The Defendant ASSOCIATION owed the Plaintiff a duty not to invade Plaintiff's right to privacy or defame Plaintiff while enforcing Defendant's obligations under the DECLARATION.
7. On or about February 14, 2013, Defendant, by and through its agents, servants, and employees, began surreptitiously photographing persons inside Plaintiff's home. Defendant used a drone to fly over Plaintiff's property. This drone was equipped with a camera with a telephoto lens. Defendant used this drone to view inside Plaintiff's home and to photograph persons inside the home. Defendant took numerous photographs of persons inside Plaintiff's home.
8. Defendant photographed the inside of Plaintiff's home and persons inside that home without Plaintiff's knowledge or consent. Had Defendant sought Plaintiff's consent, Plaintiff would have refused.
9. Defendant, by and through its agents, servants, and employees, published the photographs taken on February 14th to numerous persons at an ASSOCIATION board meeting March 1, 2013, without Plaintiff's permission or consent. Defendant later distributed these photographs, or negligently allowed others to do so, without Plaintiff's permission or consent. These photographs have been widely circulated, and continue to circulate without Plaintiff's permission or consent.

COUNT I

INVASION OF PRIVACY

10. The Defendant owed Plaintiff, a private individual, a duty not to engage in tortuous and injurious acts invading Plaintiff's privacy.
11. The Defendant intentionally or negligently breached its duty to the Plaintiff.
12. The Defendant, by and through its agents, servants and employees, engaged in the publicity of private facts or matters, which would be objectionable to a reasonable person of ordinary sensibilities.

13. The Defendant's acts were done in such a manner that the Defendant should reasonably have known would offend the sensibilities of a reasonable person.
14. Defendant's actions were not done as a result of a legitimate public concern.
15. As a result of Defendant's invasion of Plaintiff's privacy, Plaintiff has been damaged and has been held in public ridicule and contempt; was caused to suffer great embarrassment, humiliation, and outrage; was forced to endure questions of friends, family, neighbors and strangers concerning the pictures that were taken by Defendant; was burdened by worry and concern, suffered damage to both reputation and name; and suffered mental anguish, emotional stress and upset, and was otherwise hurt, injured and damaged. Plaintiff believes these damages will continue into the future as a result of a prenuptial agreement that forecloses Plaintiff from spousal support or equitable distribution if Plaintiff is found to have committed adultery during the marriage. Also, the pictures have been widely circulated and continue to circulate due to Defendant's negligence in causing or allowing their distribution.

COUNT II
DEFAMATION

16. The Defendant owed Plaintiff, a private individual, a duty not to engage in tortuous and injurious acts defaming Plaintiff.
17. The Defendant intentionally or negligently breached its duty to Plaintiff.
18. Defendant, by and through its agents, servants and employees, published to third persons pictures of someone resembling Plaintiff, implying Plaintiff committed the crimes of lewd and lascivious behavior, adultery, or other serious sexual misconduct, knowing or having reason to know that the pictures were of someone other than Plaintiff and/or with reckless disregard for the truth and/or with an unreasonable failure to determine whether the pictures were of Plaintiff or someone else, defaming Plaintiff.
19. As the sole and proximate result of Defendant's false and malicious actions and statements, Plaintiff has been damaged and defamed and has been held in public ridicule and contempt; was caused to suffer great embarrassment, humiliation, and outrage; was forced to endure questions of friends, family, neighbors and strangers concerning the subject matter of the defamations; was burdened by worry and concern, suffered damage to both reputation and

name; and suffered mental anguish, emotional stress and upset, and was otherwise hurt, injured and damaged. Plaintiff believes these damages will continue into the future as a result of a prenuptial agreement that forecloses Plaintiff from spousal support or equitable distribution if Plaintiff is found to have committed adultery during the marriage. Also, the pictures have been widely circulated and continue to circulate due to Defendant's negligence in causing or allowing their distribution.

20. As a further sole and proximate result of Defendant's false and malicious acts and statements, Plaintiff was required to obtain medical treatment for physical and emotional injuries, and was otherwise hurt, injured and damaged.

WHEREFORE, the Plaintiff, STACY JOHNSON, demands judgment against the DEFENDANT, ASSOCIATION, for compensatory damages, punitive damages, the costs of this action and such other relief as this court deems just and appropriate.

DEMAND FOR JURY TRIAL

The Plaintiff demands a trial by jury of all of the issues triable by right.

Conti Rehm _____

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IN THE CIRCUIT COURT, SECOND JUDICIAL CIRCUIT,
IN AND FOR FOSTER COUNTY, SUWANNEE

STACY JOHNSON,

PLAINTIFF,

vs.

CASE NO. 11-CA- 446

HARPER VALLEY NEIGHBORHOOD ASSOCIATION, INC.

DEFENDANT.

_____ /

ANSWER, DEMAND FOR JURY TRIAL AND AFFIRMATIVE DEFENSES

COMES NOW Defendant, by and through its undersigned counsel, and hereby answers and otherwise responds to Plaintiff's Complaint as follows:

1. Admitted for jurisdictional purposes only, otherwise, denied.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.
6. Without knowledge.
7. Admitted that Defendant used a drone equipped with a telephoto lens for property inspections. Admitted that Defendant performed a property inspection in the area of Plaintiff's home and curtilage. The remainder of paragraph seven is denied.
8. Denied.
9. Denied.
10. Admitted.
11. Denied.
12. Denied.
13. Denied.
14. Denied.

15. Denied.
16. Admitted.
17. Denied.
18. Denied.
19. Denied.
20. Denied.

AFFIRMATIVE DEFENSES

Defendant asserts the following affirmative defenses:

FIRST AFFIRMATIVE DEFENSE

Plaintiff was and is him/herself negligent and was and is the cause of his/her own injuries due to him/her exposing him/herself in such a manner that he/she was observable from public areas and spaces on February 14, 2013 when the pictures in question were taken.

SECOND AFFIRMATIVE DEFENSE

Any alleged defamatory statements made by Defendants' agent, servants, or employees were true; there was nothing false or inaccurate about Defendant's portrayal.

THIRD AFFIRMATIVE DEFENSE

Plaintiff or her agents authorized and consented to the inspection and photographing February 14, 2013.

FOURTH AFFIRMATIVE DEFENSE

Defendant has a duty to its board to present the results of property inspections within the Harper Valley subdivision. Any communications concerning Plaintiff were the result of privileged communications made in good faith to Association board members who had a corresponding interest or duty in these communications.

FIFTH AFFIRMATIVE DEFENSE

Any circulation of photographs outside the board meeting March 1, 2013 was not authorized by Defendant or any of its servants, agents or employees, and was not caused intentionally or by any negligence on Defendant's part. Any circulation of photographs was caused by a third person or persons, and was caused by an unforeseen, intervening, or superseding cause for which Defendant should not be held liable.

Tor Barnes

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IN THE CIRCUIT COURT, SECOND JUDICIAL CIRCUIT,
IN AND FOR FOSTER COUNTY, SUWANNEE



STACY JOHNSON,
PLAINTIFF,

vs.

CASE NO. 13-CA-446

HARPER VALLEY NEIGHBORHOOD ASSOCIATION,
DEFENDANT.

DEPOSITION OF:

PAT ODOM

TAKEN AT THE INSTANCE:

The Defendant, Harper Valley Neighborhood
Association

DATE:

April 12, 2014

TIME:

Commenced at 9:00 a.m.
Concluded at 12:00 p.m.

LOCATION:

301 South Main Street
White Springs, Suwannee

REPORTED BY:

Veronica Hernandez
Court Reporter, Notary Public

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301 SOUTH MAIN STREET
WHITE SPRINGS, SUWANNEE 32301

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STIPULATIONS

The following deposition of Pat Odom was taken on oral examination, pursuant to notice, for purposes of discovery, and for use as evidence, and for other uses and purposes as may be permitted by the applicable and governing rules. Reading and signing were not waived.

* * *

Thereupon,

PAT ODOM

was called as a witness, having been first duly sworn, was examined and testified as follows:

BY MR. BARNES:

Q. Tell us your name, please.

A. I don't have to talk to you.

Q. Excuse me?

A. I know my rights. I've watched *Law & Order: Special Victims Unit*.

Q. Wait a minute. Who do you think I am?

A. I don't know who you are, but I figure you're from the State Attorney's Office, and I ain't talking. I want a lawyer.

Q. You aren't being prosecuted for anything, you're not charged with anything nor will you be so you aren't entitled to a lawyer.

A. Eddie/Edie told me he/she was going to get me sent to Camp Emachamee.

Q. What's Camp Emachamee?

A. It's an eighteen month juvenile facility. It's out in the middle of nowhere in this creepy pine forest. They make you build your own shelters and you live in the woods. There's terrible lightning storms out there.

Q. That sounds scary.

25 A. You think I'm scared? I'm not a chicken. It's boring. The worst is the huddles.

26 Q. What are the huddles?

27 A. When the counselors think a kid did something wrong, they make everyone huddle together for group
28 therapy. Everybody gets a say so. This can go on forever, even if you didn't do anything or they can't
29 prove you did. I'd rather go to Stop Camp where they're not always yammering away. You just cut down
30 trees for six weeks.

31 Q. Well, I'm what they call a civil lawyer, not a criminal lawyer. The same is true for Ms. Rehm. And
32 everybody has agreed no charges will be filed against you for anything you did concerning the pictures
33 you were selling. So, is everything cool?

34 A. I want it in writing. I don't trust Eddie/Edie.

35 Q. The court reporter is typing it up as we speak. Will you talk to me?

36 A. Nothing I say can or will be used against me in a court of law?

37 Q. No, but you're under oath, and you have to tell the truth. If you say something different when we go
38 to court, it'll look like you lied here or during the trial. Do you understand that?

39 A. Yeah. I'll do it. I'd like to see old Eddie/Edie get his/hers.

40 Q. How old are you, Pat?

41 A. I'm twelve.

42 Q. You're big for your age.

43 A. I've been working out a lot at the gym. I have to stay in shape so I can defend myself from Eddie/Edie.

44 Q. I take it you don't like Eddie/Edie.

45 A. You got it.

46 Q. Why do you feel that way?

47 A. Eddie's/Edie's a dirtbag, a sleezeball, a scumbag. I've told my dad/ma he/she ain't my parent no way.
48 I wish my dad/ma wouldn't neva left, I wish we lived here by ourself. It's wash these dishes, take this

49 trash out, do my homework. Stepdad/Stepma ain't did nuttin for me. ¹ I get nowhere when I try to talk
50 to the old man/old lady about what a pig Eddie/Edie is.

51 Q. Let's talk about the pictures. Where did you get them?

52 A. Out of Eddie's/Edie's dresser—from his/her underwear drawer.

53 Q. Are you sure you didn't get them out of the neighborhood association office?

54 A. Nah. Eddie/Edie doesn't keep his/her underwear there—at least as far as I know. They were hidden
55 under his/her underwear in our house, in his/her dresser under some PLAYBOY/PLAYGIRL magazines. I
56 used to go in there to look through his/her magazines when the folks weren't home, and I found the
57 pictures there not too long after he/she flew that drone over Mr./Ms. Johnson's house.

58 Q. Was this dresser drawer locked?

59 A. It's never been locked. If he/she knew I'd been going in there I'm sure it would've been because after
60 the folks found out about the pictures they lock everything up. I can't even get in their bedroom anymore.

61 Q. How many pictures did you find?

62 A. Five good ones.

63 Q. Were there any pictures just of the Johnson house and yard--no people in the pictures?

64 A. No. Why would Eddie/Edie be interested in those?

65 Q. What did you do with the pictures once you found them?

66 A. The folks have a color copier. I made a bunch of copies, and put the originals back in Eddie's/Edie's
67 drawer.

68 Q. What happened to the copies?

69 A. I gave some away to my friends. Then I realized I could make some spending money. Eddie/Edie always
70 has me on restriction, and he'd/she'd cut off my allowance. So I started selling them around the
71 neighborhood for five bucks apiece.

¹ HITMAN SAMMY SAM, *Step Daddy*, on STEP DADDY (Umvd Labels 2003)

72 Q. How many did you sell?

73 A. Probably about a hundred. I didn't keep count.

74 Q. Who did you sell them to?

75 A. Mainly Harper Valley kids.

76 Q. Who else?

77 A. It wasn't like I was keeping records for the IRS, man. I dunno.

78 Q. When did you stop selling the pictures?

79 A. When Mr./Ms. Johnson caught me.

80 Q. Do you have any more copies of the pictures?

81 A. No, I swear to God I don't. I feel real bad about what I did. Not cause of Eddie/Edie, but cause of

82 Mr./Ms. Johnson. I could tell he/she was real upset, and I know people are giving him/her a hard time. I

83 just wasn't thinking about everything that might happen when I decided to sell the pictures. If I had to do

84 it all over again, I would've told him/her about Eddie/Edie's having the pictures and let him/her take

85 care of it in his/her own way.

86 Q. What did you do with the money you got from selling the pictures?

87 A. Bought weed and beer.

88 Q. Conti, can we stipulate to this record as Exhibit 1 to this deposition?

89 **BY MS. REHM:** (Views document) Sure.

90 (Exhibit No. 1 was marked)

91 Q. Pat, how many times have you been arrested?

92 A. Once, a couple of summers ago.

93 Q. What was that all about?

94 A. There's a school that closed near my home. There was a new school being built, but they hadn't taken
95 everything out of the old school yet. I wanted to see what was inside. I broke a window to get in, and
96 took some band instruments.

97 Q. What did you do with the band instruments?

98 A. I tried to pawn them, but the pawn store owner called the police and I got busted.

99 Q. I'm showing you this document that I just had the Court Reporter mark as Exhibit No. 1. Is this the
100 burglary and theft on this record?

101 A. Yeah. It's the only time I've ever been arrested. The judge told me I was on a train to state prison if I
102 showed back up in front of him.

103 Q. Have you ever been to court for anything else?

104 A. Uh, are you talking about the time Eddie/Edie caned me, and the folks and I had to go to court?

105 Q. This record says "child in need of services, ungovernable". Are we talking about the same thing?

106 A. That's what the judge called it, but that's not what it was. I tried to run away from home. I was tired of
107 Eddie/Edie beating me. Why don't they jail him/her? He/she makes me pull a switch for him/her from a
108 persimmon tree in our back yard, and you should see the welts he/she leaves on me. That tree's just
109 about dead.

110 Q. I think that is about all the questions I have, Pat. Oh, one more. What do you want to be when you
111 grow up?

112 A. A lawyer.

113 Q. I have no further questions.

114 **MS. REHM:** No questions.

115 (Deposition concluded at 12:00 p.m.)

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CERTIFICATE OF OATH

STATE OF SUWANNEE)

COUNTY OF FOSTER)

I, the undersigned authority, certify that said designated witness personally appeared before me and was duly sworn.

WITNESS my hand and official seal this 12th day of April, 2014

s/ Veronica Hernandez

Veronica Hernandez
Court Reporter
1-800-934-9000
(850) 878-3333

CERTIFICATE OF REPORTER

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STATE OF SUWANNEE)
COUNTY OF FOSTER)

I, VERONICA HERNANDEZ, Court Reporter, certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and the foregoing pages number 1 though 8 are a true and correct record of the aforesaid proceedings.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested, in the action.

DATED this 12th day of April, 2014.

s/ Veronica Hernandez

Veronica Hernandez
Court Reporter
1-800-934-9000
(850) 878-3333

IN THE CIRCUIT COURT, SECOND JUDICIAL CIRCUIT,
IN AND FOR FOSTER COUNTY, SUWANNEE



STACY JOHNSON,
PLAINTIFF,

vs.

CASE NO. 13-CA-446

HARPER VALLEY NEIGHBORHOOD ASSOCIATION,
DEFENDANT.

_____ /

DEPOSITION OF:	EDDIE/EDIE MURDSTONE
TAKEN AT THE INSTANCE:	The Plaintiff, Stacy Johnson
DATE:	April 11, 2014
TIME:	Commenced at 9:00 a.m. Concluded at 12:00 p.m.
LOCATION:	301 South Main Street White Springs, Suwannee
REPORTED BY:	Veronica Hernandez Court Reporter, Notary Public

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STIPULATIONS

The following deposition of Eddie/Edie Murdstone was taken on oral examination, pursuant to notice, for purposes of discovery, and for use as evidence, and for other uses and purposes as may be permitted by the applicable and governing rules. Reading and signing were not waived.

* * *

Thereupon,

EDDIE/EDIE MURDSTONE

was called as a witness, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MS. REHM:

Q. Good morning. My name is Conti Rehm, and I represent the Plaintiff in this case. Would you please state your name and spell it for the court reporter.

A. My name is Edward/Edwina Murdstone. That's E-D-W-A-R-D/E-D-W-I-N-A, M-U-R-D-S-T-O-N-E. However, everyone calls me Eddie/Edie. That's E-D-D-I-E/E-D-I-E.

Q. Have you ever had your deposition taken before?

A. Several times.

Q. Do you need me to remind you what the purpose of a deposition is?

A. No. I know I'm under oath today, and I will be under oath in court. I know you're going to ask me a lot of questions that relate to the lawsuit you filed for Stacy Johnson. I know to answer verbally and not nod my head when you ask me a question.

Q. You sound experienced.

A. I attended law school, but never took the bar exam.

Q. Why not?

24 A. I'm sure you'll find out about this anyway, so I might as well tell you. I was arrested during my first
25 year of law school on some baseless misdemeanor charge. That was over ten years ago. I knew I might
26 have trouble getting admitted to the Suwannee State Bar, all because of some bogus charge. I decided I
27 didn't want to go through the hassle of fighting the Suwannee Board of Bar Examiners, so I dropped out
28 of law school and enrolled in film school at Suwannee State University.

29 Q. What was the charge?

30 A. This person claimed he/she saw me peeping through his/her bedroom window while he/she was
31 undressing.

32 Q. Were you convicted?

33 A. No. My lawyer got the charges dropped, and the record expunged.

34 Q. Have you ever been arrested for anything else?

35 A. No.

36 Q. Where do you live?

37 A. 789 Clearview Lane, White Springs, Suwannee.

38 Q. Is that in the Harper Valley subdivision?

39 A. Yes.

40 Q. How long have you lived there?

41 A. Since 1995.

42 Q. Does Harper Valley have a neighborhood association?

43 A. Yes, the Harper Valley Neighborhood Association.

44 Q. Does the Association have a declaration of covenants, conditions and restrictions?

45 A. Yes. I believe I gave the declaration to Mr. Barnes when you made your discovery request.

46 Q. Has this declaration been changed or amended since 1995?

47 A. No.

48 Q. Does the Association have a board of directors?

49 A. Yes.

50 Q. Have you ever served on that Board?

51 A. Yes. I've served on the Board off and on over the years. I'm a director, and have most recently been
52 a director and the President of the Board since June, 2012. All of the directors and officers serve three
53 year terms.

54 Q. What are your duties as a director and as President?

55 A. They are set forth in the bylaws. I anticipated that you might ask that question, so I brought a copy.
56 Would you like to see them?

57 Q. Yes. Madam Court Reporter, would you mark this copy of the bylaws as Exhibit 1 to this deposition?

58 (Exhibit No. 1 was marked.)

59 **BY MS. REHM:**

60 Q. You will admit that, as a board director, you have a statutory fiduciary duty to each association
61 member?

62 A. Would that be pursuant to Suwannee Statute §720.3033(1)(a)?

63 Q. Yes. Are you familiar with that statute?

64 A. Yes, I am. Each director has to certify that he or she has read the association's declaration of
65 covenants, articles of incorporation, bylaws, and current written rules and policies, and that he or she
66 will faithfully discharge his or her fiduciary responsibility to the association's members. I had to file a
67 certification with our association secretary that I had read all of those things. I filed it within the
68 requisite time period—90 days after my election to the board.

69 Q. Do you know Drew Davis and Stacy Johnson?

70 A. Yes. I've known Drew since our days at Suwannee State University. We were both theater majors in
71 undergraduate school. I don't know Stacy other than by sight. Stacy I know more through

72 conversations Drew and I have had since the time he/she bought a residence in the Harper Valley
73 subdivision. Drew and I have kept up with each other through our mutual love of golf.

74 Q. How often do you and Drew talk about Stacy?

75 A. He/she would frequently talk about him/her when we were out on the green. I think Drew just
76 needed someone's shoulder to cry on. However, I haven't spoken to Drew since you filed this lawsuit.
77 He/she moved out of the Harper Valley subdivision and he/she doesn't come over to the Harper Valley
78 country club anymore.

79 Q. What do you mean by Drew needing a shoulder to cry on?

80 A. Drew told me Stacy just used him/her as a deep pocket. Drew didn't think Stacy loved him/her, and
81 thought Stacy would leave him/her if he/she was financially able to do so. Drew said he/she had a
82 prenuptial agreement, but Stacy would probably get half of everything he/she had, plus alimony, unless
83 he could catch him/her cheating on him/her.

84 Q. Did you ever agree to help Drew get evidence that Stacy was unfaithful?

85 A. Absolutely not. Their marital problems were none of my business. Do you think I would tell you
86 what I just did if I was complicit? I was nothing more than a sounding board for Drew. It was simply
87 fortuitous that those pictures I took documented what Drew suspected.

88 Q. Did you tell Drew that you planned on taking pictures of his/her home?

89 A. Yes. I told Drew the board had some concerns about Stacy's dog. Drew told me he/she was too busy
90 to deal with Shirley Thompson's issues, and to do whatever I needed to do. He/she told me he/she
91 would be in San Francisco for a couple of weeks. I told him/her "no problem". I told him/her that I
92 wouldn't even need to go on the property because I could use my personal drone to document
93 whatever was going on in the back yard. He/she said that was fine.

94 Q. Did you ever ask Stacy Johnson if it was okay with him/her?

95 A. No, I figured Drew would do that. However, I did knock on their door before I flew the drone. No
96 one answered. I guess he/she was too busy or didn't hear since we all know now that he/she was home
97 when I came over.

98 Q. Whose idea was it to use a drone to take pictures?

99 A. It was my idea, but it was unanimously approved by the Board. Everyone was afraid of Stacy's dog.
100 Quite a few of the board members had seen Stacy walking the dog in the neighborhood, and several
101 people said Stacy didn't have good control of the dog. People said they'd seen the dog get off the leash
102 and run after other people out walking. Have you ever seen that dog? It must weigh over a hundred
103 pounds, and it has a head and teeth like a crocodile. Shirley Thompson brought a picture to the board
104 meeting. It showed the dog looking at her through a hole in the Davis/Johnson fence.

105 Q. Was there formal board approval to use a drone and take pictures?

106 A. Yes, we do everything by the book. This was all approved at the January 28, 2013 board meeting.

107 Q. Does the board keep minutes?

108 A. Yes, our management company, Genco, records the minutes. I can get them for you if you want.

109 Q. Yes, I would like to have them. Get them to Mr. Barnes, and he'll get them to me. How long have
110 you had this drone?

111 A. A couple of years. I think I bought it in 2012.

112 Q. How does it work?

113 A. Pretty much like a mechanized model aircraft. There are hand held controls. It can be launched by
114 hand and it will fly on a pre-determined pattern before returning to land with still images taken during
115 the flight. My drone is equipped with a digital camera. I had a copy of the property survey so I knew
116 how to program the flight to get the pictures the board requested. My drone can fly on a single charge
117 for twelve minutes with a ceiling of 300 feet.

118 Q. Are you aware of any statutes or regulations that govern use of drones?

119 A. The Federal Aviation Administration is in the process of drafting regulations for unmanned aircraft
120 systems. The only Suwannee statute involving usage of drones is Suwannee Statute § 934.50. It only
121 addresses the use of drones by law enforcement, not private use. I am not aware of any law that
122 prohibits private individuals from the use of a drone, so long as the use occurs in a way that does not
123 endanger persons or property.

124 Q. What day did you fly the drone over the Davis/Johnson property?

125 A. Valentine's Day, 2013. It was during daylight hours because of the need for pictures.

126 Q. How many pictures did you get?

127 A. Probably around twenty. I was trying to get enough to show the dog and the dog run.

128 Q. When did you first look at the pictures?

129 A. Not until the February 25th board meeting. I just uncoupled the drone camera and brought it to the
130 meeting. I downloaded the pictures in front of the board and printed out copies for each board
131 member.

132 Q. What happened when you distributed the pictures?

133 A. Pandemonium. Everyone, including me, was in shock. Someone made a motion that we lock the
134 pictures up until we could talk to a lawyer to see what we needed to do.

135 Q. What happened to the pictures?

136 A. I locked them in the association filing cabinet in our meeting room. I deleted the images from my
137 camera.

138 Q. Who had access to the filing cabinet?

139 A. I had the only key.

140 Q. How did Pat Odom get possession of those pictures?

141 A. Pat is a known burglar and thief. All I can surmise is that he/she took my keys. He/she was probably
142 scouting the association office for money and came across the pictures. He/she certainly did not have

143 authorization to go into that filing cabinet or to take possession of those pictures. You wouldn't believe
144 the number of times I've had to discipline him/her for stealing. He/she is totally ungovernable.

145 Q. Did you know Pat says he/she found those pictures in your dresser drawer?

146 A. He/she is a liar. That's another thing he/she is known for. Ask anyone in our subdivision and they'll
147 tell you the same thing.

148 **MS. REHM:** Those are all the questions I have.

149 **MR. BARNES:** No questions.

150 (Deposition concluded at 12:00 p.m.)

CERTIFICATE OF OATH

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STATE OF SUWANNEE)
COUNTY OF FOSTER)

I, the undersigned authority, certify that said designated witness personally appeared before me and was duly sworn.

WITNESS my hand and official seal this 11th day of April, 2014

s/ Veronica Hernandez

Veronica Hernandez
Court Reporter
1-800-934-9000
(850) 878-3333

CERTIFICATE OF REPORTER

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STATE OF SUWANNEE)
COUNTY OF FOSTER)

I, VERONICA HERNANDEZ, Court Reporter, certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and the foregoing pages number 1 though 10 are a true and correct record of the aforesaid proceedings.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested, in the action.

DATED this 11th day of April, 2014.

s/ Veronica Hernandez

Veronica Hernandez
Court Reporter
1-800-934-9000

IN THE CIRCUIT COURT, SECOND JUDICIAL CIRCUIT,
IN AND FOR FOSTER COUNTY, SUWANNEE



STACY JOHNSON,
PLAINTIFF,

vs.

CASE NO. 13-CA- 446

HARPER VALLEY NEIGHBORHOOD ASSOCIATION,
DEFENDANT.

DEPOSITION OF:

STACY JOHNSON

TAKEN AT THE INSTANCE:

The Defendant, HARPER VALLEY
NEIGHBORHOOD ASSOCIATION

DATE:

April 12, 2014

TIME:

Commenced at 2:00 p.m.
Concluded at 5:00 p.m.

LOCATION:

301 South Main Street
White Springs, Suwannee

REPORTED BY:

Veronica Hernandez
Court Reporter, Notary Public

100% CORRECT STENOTYPE REPORTERS, INC.
301 SOUTH MAIN STREET
WHITE SPRINGS, SUWANNEE 32301

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STIPULATIONS

The following deposition of Stacy Johnson was taken on oral examination, pursuant to notice, for purposes of discovery, and for use as evidence, and for other uses and purposes as may be permitted by the applicable and governing rules. Reading and signing were not waived.

* * *

Thereupon,

STACY JOHNSON

was called as a witness, having been first duly sworn, was examined and testified as follows:

BY MR. BARNES:

Q. Tell us your name, please.

A. My name is Stacy Johnson.

Q. Have you ever had your deposition taken before?

A. No, I haven't.

Q. Let me explain the uses and purposes of a deposition, and how the questioning works. A deposition has several purposes. One is to discover any evidence relevant to the issues in this case, and any evidence that might lead to relevant evidence. The other is for impeachment. You are under oath today, you will be under oath in the courtroom. If you testify differently in court than you do here today, I could use the statements to show that you lied here or at court. There are no objections except for those as to the form of the question, and those that relate to privilege. Even if Ms. Rehm objects to one of my questions, you must answer it unless she tells you not to because she believes it relates to a privileged matter. Of course if she thinks I am harassing or badgering you she could possibly terminate the deposition and we could ask for a ruling from the judge, but there are consequences attached to that for whoever is on the losing end of the argument, so I don't think that is going to happen. Do you have any questions about what I just explained to you?

25 A. No. I am very clear on what happened, and you're not going to get a different version in court than
26 you get today.

27 Q. I hear what you're saying, but you would be surprised how many times I've gone to court and heard
28 people change their stories. People try to explain it away by telling the judge 'but Mr. Barnes didn't ask
29 me that question'. People or their lawyers also seem to think my deposition questions aren't relevant
30 and therefore they don't need to be answered. I like to explain the rules of the game upfront. Which
31 brings me to another point. If I ask you a question, you answer it, then I ask you several times, is there
32 anything else, it's not because I'm trying to badger you. It's what I call explore and exhaust. Again, I
33 don't want you to go to trial, give some new and exciting version of events, and then when I complain
34 about it, you tell the judge I didn't ask you about it at deposition. And if my questions are confusing—
35 sometimes I even confuse myself—ask me to explain or clarify before you answer. So, are we agreed
36 that these are the rules we operate under?

37 A. Yes.

38 Q. Where do you reside at present?

39 A. 123 Lovers' Lane, White Springs, Suwannee 32305.

40 Q. Is that residence in the Harper Valley subdivision of White Springs, Foster County, Suwannee?

41 A. Yes.

42 Q. Who owns that property?

43 A. According to our deed, I am a joint owner with right of survivorship. If my spouse dies, I will be the
44 sole owner.

45 Q. Is your spouse Drew Davis?

46 A. Yes.

47 Q. Are you expecting his/her imminent demise for some reason?

48 A. No, it's just that I'd rather be the merry widow/widower rather than the not so gay divorcee.

49 Q. Are you and your spouse on bad terms?

50 A. I guess you could say that. We've been separated for about a year, and my spouse told me he/she
51 plans on serving me with divorce papers. I'm sure that was no idle threat since he/she thinks he's/she's
52 gotten what he/she wanted.

53 Q. What do you think he/she wants? I'm assuming you think this is connected in some way to this case?

54 **MS. REHM:**

55 Objection to the form of the question. Compound.

56 **BY MR. BARNES:**

57 Okay. I'll break it up. What do you think your spouse wants?

58 A. He/She is a multi-millionaire yet he/she wants to leave me penniless.

59 Q. You've really lost me now. Explain the connection to this case if you can.

60 A. You must not be representing my spouse in the divorce.

61 Q. I try to stay as far away from family law as I can, so take your time and let me know what you think is
62 going on as far as it relates to our case.

63 A. My spouse and I were married shortly before we moved to Harper Valley. Our marriage got rocky a
64 couple of years ago. Then, right before I found out about the neighborhood association spying on my
65 house, my spouse confronted me, claiming I had been having an affair or affairs while he/she was
66 traveling for business. I told him/her I didn't know what he/she was talking about, and he/she whips
67 out pictures which purport to show me engaged in sexual relations in our house, in our bedroom, with
68 some other person. I was stunned. I asked him/her where he/she got those pictures, and he/she told
69 me a kid who lives in our neighborhood came up to him/her as my spouse pulled up in our driveway that
70 day, and offered to sell them to him/her for twenty dollars a picture. I told my spouse that I had no clue
71 who those people were in the pictures. The pictures had clearly been taken from outside our house, but
72 I had no idea how someone got in my bedroom to do the kind of things those people were doing, or

73 even how someone got in my yard to take pictures through my bedroom window. My spouse and I had
74 a long, heated argument.

75 Q. Are these the same pictures your attorney asked us to bring to the depositions you are taking
76 tomorrow?

77 A. I assume so, yes.

78 Q. The fog is lifting. Do you claim someone involved with the neighborhood association took these
79 pictures?

80 A. Yes. I didn't know it at the time, but I found out later.

81 Q. How did you find out?

82 A. I had my spouse describe the kid who sold them to him/her, and I went looking for the kid. I found
83 him/her on a street corner trying to hawk more of them. I grabbed him/her by the shirt collar with one
84 hand, and the pictures he/she had with the other. I was livid. I asked him/her, "Where do you live, and
85 how did you get these pictures? I ought to slap you silly, you little pervert!"¹. I told the kid I wanted to
86 know where he/she lived, and he/she pointed to a house up the street. I marched him/her to that
87 house, and rang the doorbell. Guess who answered? The president of the board of directors for the
88 neighborhood association, Eddie/Edie Murdstone!

89 Q. How did you know or recognize Mr./Ms. Murdstone?

90 A. I've never socialized with him/her, but he/she and my spouse regularly golf together at the Harper
91 Valley Country Club.

92 Q. What happened after Mr./Ms. Murdstone opened the door?

93 A. I asked him/her, does this monster belong to you? He/she just sighed, and said, "I'm Pat's
94 stepparent. Maybe I should get my wife/husband. What's Pat done now?" I told him Pat was selling
95 obscene pictures that my spouse thought depicted me in a compromising situation, and this was going

¹ HOME ALONE 2: LOST IN NEW YORK (20th Century Fox 1992)

96 to cause major marital problems for me. I told Eddie/Edie that that was not me in those pictures, but
97 that was my house in the pictures, and I wanted to know who took those pictures, how they were taken,
98 and I wanted to know right then and there. Eddie/Edie didn't even ask to look at the pictures; he/she
99 immediately seemed to know what I was talking about. He/she turned beet red and looked like he/she
100 was about to have a stroke or explode. He/she looked at Pat, and shouted, and, I quote, "How did you
101 get into that locked drawer, Pat?" Pat laughed, and said, "It's not hard when there is no lock."
102 Eddie/Edie then looked at me and said, "I need to have a heart to heart with Pat. I am so sorry about
103 this, and maybe we should talk about this another time after I've had a chance to sort things out and
104 tempers have cooled." "Yes," I said, "We'll talk and sort things out--through our lawyers!"

105 Q. Did you find out how the pictures were taken?

106 A. Yes. Every neighborhood has a busy body and a troublemaker. Harper Valley is no exception.
107 Shirley Thompson, my next door neighbor, is both. She tells other people she is afraid of my dog, and
108 she is afraid he's going to come on her property and hurt her. I know she's made complaints to the
109 association about my dog digging under the fence. She told them that Killer—that's my dog-- is getting
110 under the fence that separates our property, and he needs to be penned up even though my yard is
111 completely fenced. She also claimed that his digging is causing dirt to run off my property onto hers.
112 But she's not really afraid of Killer. She approached me a few days after I got the pictures while I was
113 out walking Killer. She had a smirk on her face, and said, "I hope the neighborhood association told you
114 to keep your window shades pulled completely down." "What are you talking about," I asked. She told
115 me that Eddie/Edie Murdstone had a drone, and the neighborhood association was using the drone to
116 fly over houses in our neighborhood and take pictures. Then she gave me a sharp look and said, "Some
117 people need to be careful about running round and going wild." I knew what that old harridan was
118 alluding to, so I commented that "No one should know what goes on behind closed doors."² She

² CHARLIE RICH, *Behind Closed Doors*, on BEHIND CLOSED DOORS (Epic Records 1973)

119 chuckled, sidled up to me, and whispered, “Honey, it doesn’t help to close the barn door after the horse
120 has already gotten out!” She was so close I could smell her breath, and she’d had more than a little nip
121 of gin. Then the old biddy winked at me! I walked off in a huff, but not before I told her, “This is just a
122 Peyton Place, and you’re all Harper Valley hypocrites!”³

123 Q. Do you claim that you are not one of the two persons pictured in these photos?

124 A. I am absolutely not one of those persons. I have no idea who either person is.

125 Q. You will agree with me that there is a very strong resemblance between you and one of those people
126 in the pictures.

127 A. Yes, I will agree with that statement, but it is not me. Everyone has a doppelganger. Anyone can don
128 a wig.

129 Q. What about the tattoo on the left buttock, the one with “Mama” inscribed inside a heart?

130 A. I admit I have a tattoo like that, but it’s a common tattoo, and anyone could pay to have someone
131 tattoo that on his or her posterior. There are also temporary tattoos that can be applied.

132 Q. Why would anyone go to the trouble of doing something like that?

133 A. My spouse. It was a setup. His/her favorite movies-- after the Godfather series of course--are “Body
134 Double”⁴ and “Vertigo”⁵.

135 Q. Please explain.

136 A. As I said, my spouse is a multi-millionaire. He/she certainly had as much access to that house as I did.
137 The photographs show our bedroom. Our marriage had been in rough waters for about a year prior. I
138 begged my spouse to attend counseling with me, but he/she refused. He/she had financial motives to
139 hire persons to do this.

140 Q. What financial motives?

³ JEANNIE C. RILEY, *Harper Valley PTA on HARPER VALLEY PTA* (Plantation Records 1968)

⁴ BODY DOUBLE (Columbia Pictures 1984)

⁵ VERTIGO (Paramount Pictures 1958)

141 A. A lawyer explained all of it to me.

142 Q. Tell me what the lawyer told you.

143 **MS. REHM:** Objection, attorney client privilege. Don't answer that question.

144 **BY MR. BARNES:** Can we go off the record for a minute?

145 (Off the record discussion)

146 **BY MR. BARNES:**

147 Q. Tell me why you personally think your spouse was motivated, as you said, to "set you up."

148 A. I have what Suwannee calls a "long term marriage" because my spouse and I have been married over
149 seventeen years. I have "need" for support. My understanding is that courts primarily look at what
150 they call "need" and "ability to pay" in awarding or denying alimony. I haven't worked since I got
151 married. I have no income other than whatever my spouse doles out. My spouse unquestionably has
152 "ability" to pay alimony because my spouse is a multi-millionaire. Years ago, I signed a prenuptial
153 agreement that forecloses me from any support or assets if I've been unfaithful during the marriage.
154 The prenuptial agreement is totally weighted in my spouse's favor. My understanding is that it would be
155 very difficult to set aside unless it would cause me to go on welfare. I understand that no matter how
156 lopsided or unfair, it cannot be set aside unless I prove fraud, duress, misrepresentation or overreaching
157 that took place at the time I signed. Look, that was twenty years ago, and there is no way I could prove
158 any of that. He'll/she'll get the gold mine; I'll get the shaft.⁶ It all seems horribly unfair, especially since
159 my spouse hiked the Appalachian Trail for years, and I chose to look the other way.

160 Q. Madam Court Reporter, would you please mark this photograph as Defendant's Exhibit 1 to this
161 deposition.

162 (Exhibit No. 1 was marked.)

163 Q. Do you recognize the house in this photograph?

⁶ JERRY REED, *She Got the Goldmine (I Got the Shaft)*, on THE MAN WITH THE GOLDEN THUMB (RCA Records 1982)

164 A. Yes, that is my house, viewed from the back.

165 Q. Does this photograph of your house depict your bedroom?

166 A. Yes, it is the room on the far right of the picture.

167 Q. Do you have any kind of shutters, blind, drapes or other covering for your bedroom window?

168 A. No, my spouse and I liked to see the sun come up, and watch the birds. My spouse is a world famous
169 architect—my spouse designed our home. It is rather unique.

170 Q. Would you agree with me that anyone could look through the windows of your bedroom and see
171 anything that was going on in there?

172 A. Only if they were trespassing on our property. There is an eight foot high privacy fence completely
173 surrounding the back of our home, and it is heavily wooded behind the fence. The fence remains locked
174 at all times.

175 Q. Are you aware that Harper Valley Neighborhood Association has a declaration of covenants that
176 binds all homeowners in Harper Valley?

177 A. Yes, but to be honest, I've never read it. I know that it covers things like architectural design for
178 homes in the neighborhood, paint colors, things like that.

179 Q. Were you, or are you, aware that it allows the neighborhood association to make property
180 inspections upon a two thirds vote of the board of directors?

181 A. That's been pointed out to me by Eddie/Edie Murdstone when I went back to his her house a couple
182 of days after my conversation with Shirley Thompson. Eddie/Edie told me the board sent a letter asking
183 for access to my back yard after Shirley made her complaint about Killer. I told him/her I didn't get any
184 letter. He/she said when they got no response from me, the association decided to use a drone because
185 of the locked fence, and some irrational fears about dog bite, rabies and what have you. But no matter
186 what the association's excuses, I hardly think the declaration authorizes the board to use a drone to take
187 pictures of the inside of my house or to publish those pictures to all and sundry.

188 Q. You agree however, that your residence and the property in your deed are subject to the Harper
189 Valley Neighborhood Association Declaration and Covenants?

190 A. So I've been told.

191 Q. Is that a yes?

192 A. Yes.

193 Q. Did you receive any letters from the neighborhood association asking you to allow them to inspect
194 your property prior to the date the association used the drone?

195 A. No, I did not.

196 Madam Court Reporter, would you please mark this document as Defendant's Exhibit No. 2 to this
197 deposition.

198 (Exhibit No. 2 was marked).

199 I'm showing you a letter addressed to you from the Harper Valley Neighborhood Association. Have you
200 ever seen this letter before?

201 A. No, and if you will notice, it is addressed to Drew Davis or Stacy Johnson. I have never seen this letter
202 before. Maybe my spouse got the letter, but I did not.

203 Q. Do you recall whether you were home February 14, 2013?

204 A. My spouse told me he/she would be out of town, so I decided to spend the day shopping and
205 watching a movie at the mall. I was there from the time the mall opened at 10:00 a.m. until it closed at
206 9:00 p.m.

207 Q. Can anyone verify that?

208 A. Probably not. I went alone. I didn't want to spend Valentine's Day at home by myself, and everyone
209 else I knew had other plans.

210 Q. Do you have any receipts for expenditures made at the mall that day?

211 A. If I'd known I'd need them, I would have kept them. Whatever I purchased that day was paid for in
212 cash. My spouse had cancelled all my credit cards. He/she said I was spending too much. That was one
213 of the things we'd been fighting about—his/her control of the money and my purchases.

214 Q. Let's talk about Killer. What kind of dog is he?

215 A. An American bulldog. He's a rescue dog. Someone abandoned him on the streets, and I adopted him
216 from the shelter.

217 Q. Have you received complaints from the neighbors about your dog?

218 A. Only indirectly from the neighborhood association. Shirley Thompson made the complaint. And
219 there was no necessity to inspect my property. I have a dog run in my back yard, and my dog has never
220 gotten under the fence between my yard and Shirley Thompson's or dug along the fence line. As far as I
221 know, Shirley Thompson is the only person in Harper Valley who's complained about my dog. She has a
222 Scotland terrier. You know how those little ratters like to dig. I feel quite sure that any dirt
223 displacement was caused by her dog.

224 Q. How do you claim you have been damaged by the Neighborhood Association's actions?

225 A. I've already explained about the prenuptial agreement. Are you asking about other damages?

226 Q. Yes.

227 A. After Pat Odom distributed the pictures, I noticed people in the neighborhood avoiding me, laughing
228 at me for nothing, or even pulling their children away if I walked by. Some people I thought were friends
229 don't call or drop by the house anymore. I've been upset about my marriage falling apart. The stress is
230 unbearable, and I've been in counseling since June 2013. My doctor prescribed antidepressants which I
231 am taking.

232 Q. Thank you, Mr./Ms Johnson. I don't have any other questions.

233 **MS. REHM:** No questions.

234 (Deposition concluded at 5:00 p.m.)

CERTIFICATE OF OATH

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STATE OF SUWANNEE)
COUNTY OF FOSTER)

I, the undersigned authority, certify that said designated witness personally appeared before me and was duly sworn.

WITNESS my hand and official seal this 12th day of April, 2014

s/ Veronica Hernandez

Veronica Hernandez
Court Reporter
1-800-934-9000
(850) 878-3333

CERTIFICATE OF REPORTER

STATE OF SUWANNEE)
COUNTY OF FOSTER)

I, VERONICA HERNANDEZ, Court Reporter, certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and the foregoing pages number 1 through 13 are a true and correct record of the aforesaid proceedings.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested, in the action.

DATED this 12th day of April, 2014.

s/ Veronica Hernandez

Veronica Hernandez
Court Reporter
1-800-934-9000
(850) 878-3333

IN THE CIRCUIT COURT, SECOND JUDICIAL CIRCUIT,
IN AND FOR FOSTER COUNTY, SUWANNEE



STACY JOHNSON,
PLAINTIFF,

vs.

CASE NO. 13-CA-446

HARPER VALLEY NEIGHBORHOOD ASSOCIATION,
DEFENDANT.

DEPOSITION OF:

DREW DAVIS

TAKEN AT THE INSTANCE:

The Plaintiff, Stacy Johnson

DATE:

April 11, 2014

TIME:

Commenced at 2:00 p.m.
Concluded at 5:00 p.m.

LOCATION:

301 South Main Street
White Springs, Suwannee

REPORTED BY:

Veronica Hernandez
Court Reporter, Notary Public

100% CORRECT STENOGRAPHY REPORTERS, INC.
301 SOUTH MAIN STREET
WHITE SPRINGS, SUWANNEE 32301

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STIPULATIONS

The following deposition of Drew Davis was taken on oral examination, pursuant to notice, for purposes of discovery, and for use as evidence, and for other uses and purposes as may be permitted by the applicable and governing rules. Reading and signing were not waived.

* * *

Thereupon,

DREW DAVIS

was called as a witness, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MS. REHM:

Q. Good morning. My name is Conti Rehm, and I represent your spouse in this case.

A. Not for long.

Q. What do you mean?

A. You may represent him/her, but he/she won't be my spouse much longer.

Q. We'll talk about that, but I need to ask you some preliminary questions first, and explain some things. Would you please state your name and spell it for the court reporter.

A. My name is Drew, D-R-E-W, Davis, D-A-V-I-S.

Q. Have you ever had your deposition taken before?

A. No.

Q. A deposition allows me to ask you questions that are relevant to the issues in this case, or that may lead to relevant evidence. It may also be used for impeachment purposes if you testify differently in court than you do here today. Also, if you do not understand a question I ask, please have me explain before you answer. Finally, all answers need to be audible because the court reporter needs to type

24 your answers. Do you have any questions about the nature and purpose of depositions before we
25 begin?

26 A. No.

27 Q. What is your current address, Mr./Ms. Davis?

28 A. Right now my work and home address are the same. 456 Builder's Square, White Springs, Suwannee
29 32305.

30 Q. Are you and your spouse separated?

31 A. Yes.

32 Q. What caused the separation?

33 A. Oh, it was a million tiny little things, that when you added them all up, they meant we weren't
34 supposed to be together anymore.¹ We had mainly been fighting about money for about a year or so
35 before we separated. My spouse thinks money grows on trees.

36 Q. Was there any one thing that caused your final separation?

37 A. Yeah. I came home from an out of town trip, and this kid approached me, trying to sell something. I
38 thought this kid was Pat Odom, Eddie/Edie Mudstone's step kid, so I said "What ya got," just trying to be
39 friendly since Eddie/Edie and I are golfing buddies. Eddie/Edie's told me a lot about that kid—how
40 troubled and troubling Pat is. I didn't want to get on the kid's wrong side, especially since he/she
41 obviously knew where I lived. We'd had a lot of burglaries and thefts in Harper Valley recently, and
42 people in our neighborhood think Pat is responsible. I know Eddie/Edie thought so. Anyway, I asked the
43 kid if he/she was selling Girl Scout cookies, kind of joking around. The kid laughed, and said yeah,
44 cookies. So, I put my hand in my pocket, and pulled out a twenty. The kid handed me an envelope, and
45 ran off. I wondered what kind of cookies come in a plain manila envelope, so I went ahead and opened
46 it, and I almost fainted. I felt like I had been stabbed through the heart.

¹ SLEEPLESS IN SEATTLE (TriStar Pictures 1993)

47 Q. What was in the envelope?

48 A. Five pictures of my spouse having sex with a stranger in our house—in our bedroom.

49 Q. How do you know they were pictures of your spouse?

50 A. Are you serious? These were pictures of the person I'd married and lived with for years. They were
51 obviously taken from outside our house, and more specifically, outside our bedroom. Do you think I
52 wouldn't recognize my spouse or my house?

53 Q. I know you say it is your spouse. However, I want you to name each and everything that identified
54 this person as your spouse.

55 A. Geez. You've got to be kidding!

56 Q. I assure you, I'm not. Let me back up a bit. Where were the persons located in the pictures?

57 A. The person I did not recognize was facing towards our bedroom window. My spouse was facing
58 towards this person. And I am sure you already know that both were unclothed. I feel quite sure my
59 spouse has given you these pictures?

60 Q. Yes, I have them. I need for you to name each and every identifying thing about those pictures that
61 indicates one of the two people in the pictures is your spouse.

62 A. This is unnecessary, but okay. As I've said, I've known my spouse for years. Obviously, I've seen my
63 spouse undressed. That person facing away from the camera is my spouse. I recognize the build. I
64 recognize the hair. And most important, I recognize that tattoo on my spouse's left buttock, the one of
65 a heart with the word "Mama" inscribed inside.

66 Q. Are there any other identifiers other than what you just described?

67 A. No, but what more do you need?

68 Q. How long had you and your spouse lived in the house depicted in the pictures we've just been talking
69 about?

70 A. Since 1995. A long time. Of course, I moved out right after the big fight I had with my spouse.

71 Q. What was the fight about?

72 A. Guess! It was about those pictures, and what they indicated. The spouse is always the last to know!

73 Q. When did you have this fight?

74 A. Right after I walked in the front door after I got those pictures from Pat Odom. My spouse came up
75 to embrace me—I'd been traveling for several weeks—and I stiff armed him/her. I said, "I think you
76 want to look at these," and I handed the pictures to him/her. "What is this," my spouse said. Give my
77 spouse some credit, he/she looked genuinely puzzled. Then, the conversation kind of went like this:
78 Me--"Honey, they caught you red-handed!" My spouse--"It wasn't me!" Me—"But they caught you on
79 camera!" My spouse--"It wasn't me!," Me—"They caught you naked!" My spouse—"Baby, no way!"²
80 Finally, my spouse asked where I got the pictures, and I told him/her Pat Odom was hawking them on
81 the street corner. He/she ran out the door. While my spouse was gone, I packed a few things and I left.
82 And I haven't been back.

83 Q. My understanding is that you designed the house at 123 Lover's Lane. Is that correct?

84 A. Yes, I'm an architect.

85 Q. Isn't it rather unusual for a house to have sides that are pretty much all glass?

86 A. I pride myself on being unique. It's what made me so successful. People like their houses to be
87 unique, and that includes me.

88 Q. Weren't you concerned about privacy?

89 A. No, I put up a very tall privacy fence—over eight feet-- that enclosed the whole back side of the
90 house.

91 Q. Do you own an American Bulldog?

92 A. No, that's my spouse's dog.

93 Q. Where did the dog stay prior to the time you left the house?

² SHAGGY, *It Wasn't Me*, on HOT SHOT (MCA 2000)

94 A. I'd built a dog run for it in the back yard. The dog was always in the dog run unless he was inside our
95 house.

96 Q. Did you have this dog run approved by the Harper Valley Neighborhood Association prior to building
97 and installing it on your property?

98 A. No, why should I have done that? As I said, I am an architect and I probably know more about
99 building things than anyone else living in that subdivision.

100 Q. Is it possible that the dog was able to dig out from under the dog run to go under the fence and into
101 Shirley Thompson's yard?

102 A. I seriously doubt it. I poured some concrete under the fence to try to prevent it. In fact, I told
103 Eddie/Edie that when he/she told me Ms. Thompson was making complaints about Killer coming into
104 her yard.

105 Q. When did Eddie/Edie tell you Ms. Thompson had complained?

106 A. I think it was in November, 2012.

107 Q. Did you respond to any of those complaints?

108 A. No. I'm was too busy with work and traveling, and besides, Shirley's just an old busybody with
109 nothing better to do with her life than complain about the smallest things. She probably exaggerated
110 anything Killer may have done. For all I know she told people Killer was digging a hole to China via her
111 backyard.

112 Q. Did you ever get a letter from the Harper Valley Neighborhood Association asking you or Stacy to
113 respond to Ms. Thompson's complaints?

114 A. It's possible. It seems like I may have seen something like that, but I can't be certain. I'm a very busy
115 person, and if it was during November 2012 or after, I was preparing a speech and getting ready to
116 travel to California for a two week architectural convention that took place in February, 2013. In fact, I'd
117 just gotten back from the airport when Pat Odom approached me with those pictures.

118 Q. Where were you February 14th, 2013?

119 A. In San Francisco, at that convention.

120 Q. Did you give anyone from the Harper Valley Neighborhood Association permission to inspect or
121 photograph the property at 123 Lover's Lane?

122 A. Eddie/Edie asked me if he/she could fly a drone over the property and take some pictures. I told
123 him/her that was fine, but I would be in San Francisco for the next few weeks. He told me it was no
124 problem, he/she wouldn't even have to set foot on the property. He/she said he/she could control the
125 drone from the street.

126 Q. Did he/she say why he/she wanted to do that?

127 A. No, and I didn't ask.

128 Q. Did you tell your spouse Eddie/Edie planned to do this?

129 A. No. I didn't think he/she would care, and to be honest, I just forgot.

130 Q. Do you have a prenuptial agreement with your spouse?

131 A. Yes.

132 Q. Does this agreement foreclose your spouse from receiving any kind of alimony or property settlement
133 if your spouse was unfaithful during the marriage?

134 A. Yes. I insisted on that provision being included in a prenuptial agreement.

135 Q. Why?

136 A. I was a trust fund baby, but a lot of my wealth is self-earned. If my spouse can't be faithful—that's
137 not much to ask, is it—then why should he/she share in something I or my parents worked tireless hours
138 and years to acquire? My spouse hasn't worked a lick since he/she said "I do." He/she can have the
139 house. It holds a lot of bad memories for me now. Let him/her sell it and live off the proceeds. But,
140 he/she will be getting anything else over my dead body.

141 Q. How do you know Eddie/Edie Murdstone?

142 A. We've known each other from the time we both attended Suwannee State University. We were both
143 theater majors. We both specialized in makeup, costumes, etcetera. Of course, I went on to graduate
144 school, and became an architect and Eddie/Edie went to film school and has his/her own photography
145 business.

146 Q. Would you say that you and Eddie/Edie are close friends?

147 A. Not really. We're pretty much just golfing buddies.

148 Q. Have you ever had any discussions with Eddie/Edie about the marital problems you were having with
149 your spouse?

150 A. No.

151 **Q. MS. REHM:** Those are all the questions I have.

152 **MR. BARNES:** No questions.

153 (Deposition concluded at 5:00 p.m.)

CERTIFICATE OF OATH

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STATE OF SUWANNEE)
COUNTY OF FOSTER)

I, the undersigned authority, certify that said designated witness personally appeared before me and was duly sworn.

WITNESS my hand and official seal this 11th day of April, 2014

s/ Veronica Hernandez

Veronica Hernandez
Court Reporter
1-800-934-9000
(850) 878-3333

CERTIFICATE OF REPORTER

STATE OF SUWANNEE)
COUNTY OF FOSTER)

I, VERONICA HERNANDEZ, Court Reporter, certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and the foregoing pages number 1 through 10 are a true and correct record of the aforesaid proceedings.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested, in the action.

DATED this 11th day of April, 2014.

s/ Veronica Hernandez

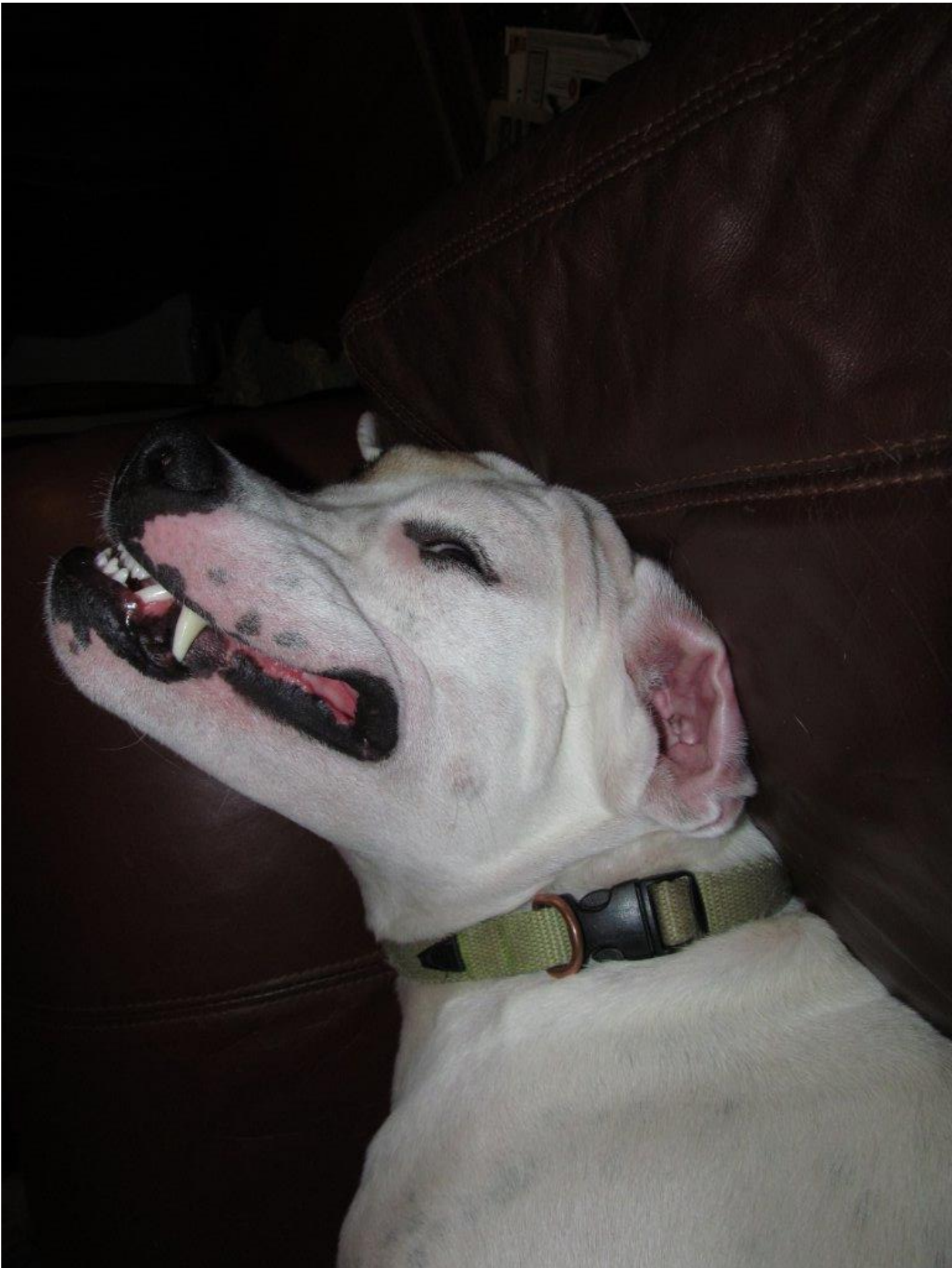
Veronica Hernandez
Court Reporter
1-800-934-9000

EXHIBITS

LIST OF EXHIBITS

- A. DOG LOOKING THROUGH HOLE
- B. DOG SMILING
- C. DOG RECLINED ON SOFA
- D. DOG RUN
- E. FENCE
- F. REAR EXPOSURE OF JOHNSON/DAVIS HOME
- G. CLOSE-UP OF TATOO
- H. PICTURE OF DRONE
- I. ARTICLES OF ASSOCIATION OF HARPER VALLEY HOMEOWNERS ASSOCIATION
- J. BY LAWS FOR THE HARPER VALLEY HOMEOWNERS ASSOCIATION
- K. CONSENT OF MORTGAGEE TO DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS,
AND RESTRICTIONS FOR THE HARPER VALLEY NEIGHBORHOOD ASSOCIATION
- L. HARPER VALLEY HOMEOWNERS ASSOCIATION, BOARD OF DIRECTORS MEETING, MINUTES,
2/25/2013
- M. HARPER VALLEY HOMEOWNERS ASSOCIATION, BOARD OF DIRECTORS MEETING, MINUTES,
1/28/2013
- N. NOTICE OF INSPECTION, DATED 2/1/2013
- O. RESIDENTIAL COVENANTS, CONDITIONS AND RESTRICTIONS
- P. SUWANNEE COURT REPORT, PAT ODOM JUVENILE RECORD
- Q. WARRANTY DEED

















ARTICLES OF ASSOCIATION OF HARPER VALLEY HOMEOWNERS ASSOCIATION

The undersigned, 3 natural persons with legal capacity to contract under the laws of *Suwannee*, adopt the following Articles of Association (“Articles”) for the purpose of organizing an unincorporated nonprofit association under the laws of *Suwannee* at a meeting called for that purpose, and execute at 187 Santino Causeway, White Springs, Suwannee, the following articles of association:

Article 1. NAME

The name of this association and the name by which it will be known is Harper Valley Homeowners Association, referred to in these Articles as the “Association.”

Article 2. NOT FOR PROFIT

The Association is an unincorporated nonprofit association as defined in §617.0505 of the State of Suwannee (the “Law”). The Association is not formed for pecuniary profit. No part of the income or assets of the Association is distributable to or for the benefit of its Members, Directors or Officers, except to the extent permissible under law.

Article 3. DURATION

The duration (term) of the Association is perpetual.

Article 4. PURPOSES

The Association is organized, and shall be operated exclusively for, the following purposes:

A. To enforce the Declaration of Restrictions, Easements and Covenants of Harper Valley (the “Declaration”), consisting of homesites in Foster County, State of *Suwannee*, to be the “Association” referred to in said Declaration, and to assess homeowners in accordance with said Declaration.

B. To exercise all rights and powers conferred on unincorporated nonprofit associations under the Law, including without limiting the generality of the foregoing, to acquire by bequest, devise, gift, purchase, lease or otherwise any property of any sort or nature without limitation as to its amount or value, and to hold, invest, reinvest, manage, use, apply, employ, sell, expend, disburse, lease, mortgage, convey, option, donate or otherwise dispose of such property and the income, principal and proceeds of such property for any of the purposes set forth herein.

C. To do such other things as are incidental to the purposes of the Association or necessary or desirable in order to accomplish them.

Article 5. LIMITATION

No part of the net earnings of the Association shall inure to the benefit of or be distributable to its Members, Directors or Officers, but the Association shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article 4 (“Purposes”) hereof.

Article 6. MEMBERS

The Association shall have Voting Members who shall be selected as provided in the Bylaws and shall have all the rights and privileges of members of the Association. The name and address of each initial Voting Member is as follows:

Name of Voting Member	Address
Kay Adams	2 East 55 th Street
Constanzia Corleone-Rizzi	110 Longfellow Road, Staten Island
Carlo Rizzi	110 Longfellow Road, Staten Island

Article 7. REGISTRATION AND AGENT FOR SERVICE OF PROCESS

The Association shall file the Registration of Unincorporated Association as permitted under the Law and shall specify therein that the street address of the initial registered office of the Association is Genco Olive Oil, 128 Mott Street and the name of its initial registered agent for service of process at that address is Vito Corleone.

Article 8. INITIAL BOARD OF DIRECTORS

The management of the Association shall be vested in a Board of Directors. The number of Directors constituting the initial Board of Directors is 3. The number of Directors may be increased or decreased from time to time in accordance with the Bylaws, but shall never be less than 3. The Voting Members shall elect the Directors at the annual meeting of Voting Members. The Bylaws may provide for ex officio and honorary Directors, and their rights and privileges. The name and address of each initial Director of the Association is as follows:

Name of Director	Address
Johnny Fontane	3801 Las Vegas Boulevard South, Las Vegas
Moe Greene	3801 Las Vegas Boulevard South, Las Vegas
Frederico Corleone	110 Longfellow Road, Staten Island

Article 9. OFFICERS

The Officers of the Association shall consist of a Boss, Underboss, Consigliere, and such other Officers and Assistant Officers as may be provided in the Bylaws. Each Officer shall be elected by the Board of Directors (and may be removed by the Board of Directors) at such time and in such manner as may be prescribed by the Bylaws. The name and address of each initial Officer of the Association is as follows:

Office	Name of Officer	Address
Boss	Vito Corleone	110 Longfellow Road, Staten Island
Underboss	Carmela Corleone	110 Longfellow Road, Staten Island
Consigliere	Tom Hagen	120 Longfellow Road, Staten Island

Article 10. BYLAWS

The Bylaws of the Association are to be made and adopted by the Board of Directors, and may be altered, amended or rescinded by the Board of Directors.

Article 11. AMENDMENT

The Association reserves the right to amend or repeal any provisions contained in these Articles of Incorporation or any amendment to them, and all rights and privileges conferred on the Members, Directors and Officers are subject to this reservation.

Article 12. INDEMNIFICATION

The Association shall indemnify each Officer and Director, including former Officers and Directors, to the full extent permitted by the Law or any other laws of the State of Suwannee that may become applicable to unincorporated nonprofit associations.

In Witness Whereof, the undersigned have signed these Articles of Association on this 15th day of September, 1995.

Johnny Fontane
Johnny Fontane

Moe Greene
Moe Greene

Frederico Corleone
Frederico Corleone

BY LAWS FOR THE HARPER VALLEY HOMEOWNERS ASSOCIATION

ASSOCIATION MEMBERSHIP

Section 1. Members:

All residents of this community association, homeowners association who are 18 years of age or older are eligible to be members of this Corporation. All members of the Corporation may vote for and are eligible to be officers of the Corporation.

Section 2. Annual Homeowner Association Meeting:

The membership shall elect a Homeowner Board of Directors at the annual meeting to be held in the community at a time designated by the President of the Corporation. The membership and Board of Directors shall be notified not less than 15 days before the date of the annual meeting. Notice shall be given by posting the scheduled date, time, and place of the meeting in at least three prominent public locations in the community. The annual meeting shall be open to the public.

Section 3. Regular Homeowner Meetings:

The Homeowner Board of Directors will meet regularly on the 4th Monday of every month. These meetings shall be open to the public and shall be publicly noticed by posting the scheduled date, time and place of the meeting in at least three prominent, public locations in the Community.

Section 4. Special Homeowner Meetings:

Special meetings of the membership may be called by or at the request of the Chair or any three Directors or by a petition of ten percent of the registered members. These meetings shall be public and shall be publicly noticed at least 15 days in advance by posting the date, time, place and purpose of the meeting in at least three prominent, public locations in the community. The members may not address any matter which is not stated in the public notice as the purpose of the meeting.

Section 5. Quorum:

Members of the Homeowner Board of Directors constitute a quorum for the transaction of business at any meeting of the Board. Affirmative votes are required for any action taken by the Board.

Section 6. Homeowner Association Voting and Voting by Proxy:

All members are entitled to vote and shall have the right to do so in person or by an agent authorized by a written proxy executed by the member filed with the Secretary of the Corporation. Such proxy shall be valid only if executed in favor of another member and no proxy shall be valid after the expiration of eleven months from the date of its execution.

Section 7. Order of Business:

The order of business at all meetings of the members shall be as follows:

- A. Roll Call
- B. Proof of Notice of Meeting or Waiver of Notice
- C. Reading and Approval of Minutes of Preceding Meeting
- D. Reports of Directors
- E. Reports of Committees
- F. Unfinished Business
- G. New Business
- H. Election of Directors (if applicable)
- I. Adjournment

BOARD OF DIRECTORS

Section 1. Homeowner Directors:

The number of directors shall be seven. Directors shall be members of the Corporation and shall act on good faith charge of the members of the Corporation.

Section 2. Term of Office:

The term of office for each director shall be for three years from the time of his or her election at the annual meeting until his or her successor has been elected and qualified. All officers are elected by and from the directors for one year terms. To allow for terms to expire each year, initially the directors' terms shall be as follows:

1. Director Three Years Term Expires 1998
2. Director Three Years Term Expires 1998
3. Director Three Years Term Expires 1999
4. Director Three Years Term Expires 1999
5. Director Three Years Term Expires 2000
6. Director Three Years Term Expires 2000
7. Director Three Years Term Expires 2000

The initial seats shall be assigned by drawing straws.

Section 3. Vacancies:

Except as otherwise provided, any vacancies occurring in the Homeowner Board of Directors, whether by resignation or removal, shall be filled by the majority vote of the remaining Directors. In the event of the simultaneous resignation and/or removal of three or more Directors, the membership shall hold new elections to fill those vacant positions on the Board. Those Directors so elected will serve for the remaining portion of the unexpired term.

Section 4. Removal of Directors:

Any Director may be removed by a majority of the members who vote on the issue providing that just cause has been established and whenever, in their judgment, the best interests of the Corporation would be served by doing so.

HOMEOWNER ASSOCIATION AND ELECTION VOTING RULES

Section 1. Homeowner Association or HOA Election Notice:

A notice of vacancies for expired terms of office for Board of Directors and a notice that an election shall be held shall be prepared and posted by the Secretary and shall contain the following:

1. Whether the election is general or special
2. Date of the election
3. Location of the meeting where the election will be held
4. Time of election meeting
5. Seats or office to be filled
6. A statement describing voter qualifications

Section 2. Nominations:

Nominations for Board of Directors shall be open nomination from the floor at the annual membership meeting.

Section 3. Ballots:

Ballots will be on plain white paper with a space for writing in the nominee's name and a blank square for marking a vote next to the nominee's name.

Section 4. Voting Procedures:

Voting procedures are as follows:

1. The Secretary shall check for the member's name on the Master List of members. If the member's name appears on the master membership list, that person is deemed qualified to vote.
2. Qualified voters shall give his/her name to the Secretary and then write it on the blank list or membership roster.
3. Voters shall mark the ballot next to the name of the nominees they wish to vote for, as provided in Section 3: Ballots.
4. Voting will be by secret ballot. Ballots will be marked in pen. After the ballot is marked, the voter will fold it and deposit it in the ballot box.

Section 5. Tallying Procedures:

Before counting the ballots, the Secretary shall check to make sure that the number of member's names signed on the membership roster is equal to the number of ballots in the ballot box. The ballot box shall be opened in public. The ballots shall be tallied by the Secretary or a committee of judges selected from the membership and recorded by the Treasurer.

Section 6. Certifying the Election:

The election shall be certified by the President and Vice-President of the Corporation. Nominees receiving the greatest number of the votes cast shall be considered elected Directors. For example. If two seats are to be filled, the top two vote getters are the newly elected directors. The Secretary shall post a copy of the report of election results in three public places the day after the election results are known. The notice shall include:

1. That the election has been certified by the President or Vice-President,
2. That the final results of the election, and
3. A list of the names of the new Directors.

OFFICERS

Section 1. Selection of Officers:

The Board of Homeowner Directors shall elect from among themselves the following officers; President, Vice-President, Secretary and Treasurer. This shall be the first order of business of the first meeting of the Board of Directors following the elections of Directors at the annual meeting.

Section 2. President:

The President is the principal executive office of the Corporation and shall, in general, supervise and control all of the business and affairs of the Corporation. He/She shall preside at all meetings of the Board of Directors. He/She shall sign contracts or other instruments which the Board of Directors has authorized to be executed.

APPENDIX C

Section 3. Vice-President:

In the absence of the President, or in the event of his/her inability or refusal to act, the Vice-President will perform the duties of the President, and when so acting will have all the powers of and be subject to all the restrictions upon the President.

Section 4. Secretary and Treasurer:

The Secretary shall:

1. Keep a journal of proceedings of the Corporation, record all votes at meetings of the Corporation, and provide for the electronic recording of meetings of the Corporation when possible,
2. Provide for the standardization and maintenance of all forms, books, and records of the Corporation, and
3. Keep the Corporate seal and affix the seal to all contracts and instruments authorized to be executed by the Corporation.

The Treasurer shall:

1. Manage, deposit, and invest all funds of the Corporation as directed by the Board of Directors,
2. Disburse money for all corporate obligations, and
3. Keep regular books or accounts of all corporate financial transactions, and provide for financial reports or audits as directed by the Board of Directors.

CHAPTER FIVE CONTRACTS, CHECKS, DEPOSITS AND FUNDS FINANCES

Section 1. Contracts:

The Board of Directors, at the direction of the membership, may authorize any officer or officers, agent or agents of the Corporation, in addition to the officers so authorized by these Bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances as authorized by the Board of Directors.

Section 2. Checks, Draft Signing Authority:

All checks, drafts, or orders for payment of money, notes or other evidence of indebtedness issued in the name of the Corporation and in such a manner as shall be determined from time to time by the Board of Directors, shall be signed by the Treasurer and shall be countersigned by the President or Vice-President of the Corporation.

Section 3. Deposits:

All funds of the Corporation shall be deposited from time to time to the credit of the Corporation in such banks, trust companies, or other depositories as the Board of Directors may select.

Section 4. Gifts:

The Board of Directors may accept on behalf of the Corporation any contribution, gift, bequest, or device for any special purpose for the Corporation.

Section 5. Grants:

No grant monies from the State, federal or other governmental entity shall be applied for without the majority vote approving such application at a meeting of the members of the Corporation.

Section 6. Dues:

Dues may or may not be assessed by the Board of Directors, but may not exceed five dollars per member per year.

Section 7. Fiscal Year:

The fiscal year of the Corporation shall begin on the first day of July and end on the last day of June the following year.

BOOKS AND RECORDS

The Corporation shall keep correct and complete records of financial transactions and accounts, and shall also keep minutes of the proceedings of its Board of Directors. All books and records of the Corporation may be inspected by any member, or his/her agent or attorney, for any purpose at any reasonable time.

AMENDMENT TO BYLAWS

The bylaws may be amended by an affirmative vote of two-thirds of the members voting at an annual meeting. The text of the proposed amendment must be included in the public notice announcing the time, date and place of the annual meeting.

ADOPTION OF BYLAWS

This is to certify that the above bylaws were adopted by the Board of Directors at a meeting on the 15th day of September, 1995.

Vito Corleone

Don

Tom Hagen

Consigliere

**CONSENT OF MORTGAGEE TO DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS,
AND RESTRICTIONS FOR THE HARPER VALLEY NEIGHBORHOOD ASSOCIATION**

THIS CONSENT AGREEMENT (Consent), made and entered into this 15th day of September, 1995 by Potterville Savings and Loan, hereinafter called Mortgagee.

WHEREAS, the Mortgagee encumbers the real property subject to and described in Exhibit A (the Property) attached to the Declaration of Protective Covenants, Conditions, and Restrictions for Harper Valley Neighborhood Association (the Declaration), to which this Consent is attached; and

WHEREAS, Mortgagee has agreed to consent to the Declaration and the terms and provisions thereof.

NOW, THEREFORE, Mortgagee agrees as follows:

Subject to and upon the terms and conditions hereinafter set forth, Mortgagee does hereby consent to the recordation of the Declaration amongst the Public Records of Foster County, Suwannee, and agree to the Property being subject to the terms and provisions of the Declaration. It is expressly understood and agreed, however, that the consent of Mortgagee contained herein shall not be deemed to be effective in any manner or respect whatsoever unless and until: (a) all persons or entities having any interest in all or any portion of the Property, including, but not limited to, any "Owner," "Builder," "Institutional Mortgagee," as said terms are defined in the Declaration, and the holder of any interest in any mortgage, deed of trust or other security instrument affecting all or any portion of the Property, shall have executed, delivered and recorded a consent to the execution, delivery and recordation of the Declaration and shall have executed, delivered and recorded such other documents and instruments as shall be necessary or appropriate to cause all portions of the Property to be subject to the terms and conditions of the Declaration, which terms and conditions shall be superior to the rights of any such Owner, Building or Institutional Mortgagee, or the holder of any interest in any mortgage, deed of trust or other security instrument, (b) all rights of "Developer," as defined in the Declaration, under the Declaration or the Articles of Incorporation and Bylaws of the Corporation, as defined in the Declaration, shall have been assigned to Mortgagee as additional collateral for the indebtedness secured by said Mortgage pursuant to a collateral assignment, in form and substance satisfactory to Mortgagee, and Mortgagee shall be the sole holder, in addition to Developer, of any of such rights, which Collateral Assignment shall have been appropriately recorded and perfected in the appropriate public records. It is further expressly understood and agree that nothing contained herein shall be deemed to constitute a consent by Mortgagee to the conveyance by Developer of any interest in the Property, pursuant to the provisions of Articles 17.09, 17.11, 17.12, 3.01 or otherwise, and that each and all of the portions of the Property not heretofore released from the lien of such Mortgage shall remain subject to the lien of said Mortgage unless and until Mortgagee shall have executed an instrument other than this Consent for the express purpose of releasing a portion of the Property. It is expressly understood and agreed that, notwithstanding anything to the contrary contained in the Declaration, Mortgagee shall not be obligated in any manner whatsoever to release any portion of the Property except upon the express terms and conditions set forth in said Mortgage and in the documents and instruments executed contemporaneously therewith. It is further expressly understood and agreed that, in the event of any conflict between the terms and provisions of this Consent and the terms and provisions of this Consent and the terms and provisions of said Mortgage and such other documents and instruments, the terms and provisions of said Mortgage and other documents and instruments shall control.

IN WITNESS WHEREOF, Mortgagee has caused this instrument to be executed by its duly authorized officers the day and year first above written.

H. F. Potter

Potterville Savings and Loan

HARPER VALLEY HOMEOWNERS ASSOCIATION

BOARD OF DIRECTORS MEETING

FEBRUARY 25, 2013

The meeting was called to order at 7:00 p.m. Members present were: Eddie/Edie Murdstone, Ryan Molohan, Cole West, Chelsea Cramer, Lexie Miller, Eduardo Faria, Meredith Fee, Corey Kirkwood, Kahlil Santiago Finch, Alejandra Berlioz, April Zinober, and Ellen Ryan. Genco Realty represented management.

Ryan Molohan made a motion to approve the minutes of the January 28th, 2013 minutes. The motion was seconded by Cole West and was approved.

The landscaping at the entrance is almost complete.

Eddie/Edie Murdstone informed the Board that he/she used his/her drone to take pictures of the Davis/Johnson property, as authorized by the Board at the January 28th, 2013 meeting. Mr./Ms. Murdstone then distributed pictures to all the Board members.

After discussion and upon a motion by Mr./Ms. Murdstone, the Board unanimously voted to lock the pictures in the Association's filing cabinet until the Board could consult with a lawyer. Mr./Ms. Murdstone stated he/she would delete the pictures from the drone camera.

There being no further business, the meeting adjourned at 8:30 P.M.

Next meeting scheduled for March 25th at 7:00 P.M.

Prepared by Genco Realty & Investment, Inc.
A Suwannee Property Management Company
(850) 666-6666 www.wellmakeyouanofferthatyoucantrefuse

HARPER VALLEY HOMEOWNERS ASSOCIATION

BOARD OF DIRECTORS MEETING

JANUARY 28, 2013

The meeting was called to order at 7:00 p.m. Members present were: Eddie/Edie Murdstone, Ryan Molohan, Cole West, Chelsea Cramer, Lexie Miller, Eduardo Faria, Meredith Fee, Corey Kirkwood, Kahlil Santiago Finch, Alejandra Berlioz, April Zinober, and Ellen Ryan. Genco Realty represented management.

Ryan Molohan made a motion to approve the minutes of the December 8th, 2012 minutes. The motion was seconded by Cole West and was approved.

The financial statements for the period ending December 31, 2012 were reviewed.

The landscaping at the entrance is proceeding.

Harper Valley resident and homeowner Shirley Thompson appeared and spoke at the January 28 meeting concerning alleged non-compliance with Harper Valley Neighborhood Association Residential Covenants, Conditions, and Restriction by residents Drew Davis and Stacy Johnson whose property directly abuts Ms. Thompson's. Ms. Thompson's complaint involves the American Bulldog owned by Drew and Johnson. Ms. Thompson claimed the dog was digging under the fence which divides the two properties, entering Ms. Thompson's property and causing dirt displacement from the Davis/Johnson property to that of Ms. Thompson. Ms. Thompson brought pictures to verify her complaint. Ms. Thompson states she is afraid of the Davis/Johnson dog, known as "Killer", and fears he will get loose in the neighborhood and possibly harm persons, including her.

Cole West noted that Drew Davis and Stacy Johnson were invited to the January 28, 2012 Board meeting to discuss Ms. Thompson's complaint, which was noticed on the meeting agenda mailed to all members. Davis and Johnson did not appear.

Thereafter, a general discussion was held, and the Board voted unanimously to perform a physical inspection of the Davis/Johnson property. After more discussion concerning the possibility that the Davis/Johnson dog was dangerous, and who would "bell the dog", Eddie/Edie Murdstone, Board President, volunteered to use his/her personal drone to perform a flyover and take pictures to avoid the possibility of any board members sustaining injuries. This was approved unanimously, and Eddie/Edie agreed to perform the flyover as soon as possible, consistent with his/her other duties, and to bring the pictures to the next board meeting, currently scheduled for February 25, 2013.

There being no further business, the meeting adjourned at 8:30 P.M.

Next meeting scheduled for February 25th at 7:00 P.M.

Prepared by Genco Realty & Investment, Inc.
A Suwannee Property Management Company
(850) 666-6666 www.wellmakeyouanofferthatyoucantrefuse.com

February 1, 2013

Drew Davis or Stacy Johnson
123 Lover's Lane
White Springs, Suwannee 32305

Dear Mr./Ms. Davis or Johnson:

Please be advised that the Harper Valley Neighborhood Association has received a complaint concerning your dog. The Board voted to perform a property inspection at your place of residence. This letter serves as notice that this inspection will take place on or before the next Board meeting which will take place February 25, 2013.

Please advise as to a convenient time for the inspection. Failure to respond to this letter shall act as your consent to the inspection.

Sincerely,

A handwritten signature in black ink that reads "E. Murdstone". The signature is written in a cursive, flowing style with a large, decorative initial "E".

Eddie/Edie Murdstone
President
Harper Valley Neighborhood Association

1393159
 RECORDS & THE PUBLIC
 RECORDS OFFICE CO. #11
 SEP 21 2 48 PM '95
 DAVE LANG
 CLERK, CIRCUIT COURT
 LEON COUNTY, FLORIDA

RESIDENTIAL COVENANTS, CONDITIONS, AND RESTRICTIONS

This declaration of covenants, conditions, and restrictions is made this 15th day of September, 1995 by Harper Valley Neighborhood Association (the "association"), concerning the residential subdivision known as Harper Valley (the "subdivision").

RECITALS

A. Genco Development Company, a corporation organized and existing under the laws of Suwannee, with a place of business at 1972 Frederico Harbor, White Springs, Suwannee ("developer"), is the owner of real property located in Foster County, Suwannee, which real property is fully described in Exhibit A, attached to this declaration.

B. Developer is in the process of developing and platting the mentioned real property to a residential community and contemplates subdividing the property into 1/4 acre individual, quality, single-family residential lots, and, in addition, contemplates setting aside certain tracts of land for community open space and plans to construct a building for use by the association and residents of the subdivision.

C. Developer desires that the entire subdivision constitute a single residential community with access, use, and rights and obligations toward the ownership, operation, and maintenance of community facilities, open space, and other amenities, and that such properties are also benefited and burdened by the same land-use restrictions and controls.

D. The total development of the subdivision residential community will take several years.

E. The association desires to provide for minimum building restrictions to promote and assure that the subdivision is a quality residential community.

Now, therefore, in consideration of the above, and other valuable consideration, the association by this declaration subjects all of the real property described in Exhibit A to the following covenants, charges, assessments, conditions, and restrictions, subject to the limitations contained in this declaration.

SECTION ONE. BUILDING AND DESIGN COMMITTEE

A. There shall be created a building and design committee which shall be responsible for reviewing the plans for all proposed new construction, additions, or modifications. The committee shall be responsible to ascertain that the plans and subsequent construction meet the minimum building requirements set forth in this declaration. The primary purpose of the committee shall be to assist property owners in achieving compliance with the building restrictions. The committee shall allow the greatest possible latitude and flexibility in the design of homes to be built on the lots in the subdivision and shall not discourage new or innovative design concepts or ideas.

B. The building and design committee shall consist of no less than 3 nor more than 5 members to be selected annually by the board of directors of the association, with the members to be chosen for varying terms so as to achieve staggered terms and continuity of membership of the committee.

C. Any property owner seeking to construct a new home or other appurtenant structure, or to add to or modify any portion of the exterior of an existing home, shall submit the plans to the building and design committee for review. A modification of the home exterior will include decks, hot tubs, patios, pools, and similar alterations. Construction of new structures includes equipment and material housing, dog runs, gazebos, arbors associated with landscaping, and other similar construction.

D. No construction, change, modification, or alteration for which plans are to be submitted to the building and design committee pursuant to paragraph C, immediately above, shall commence until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing by the building and design committee as to the harmony of external design and location in relation to surrounding structures and topography, size, estimates of cost, and such other factors as the building and design committee considers necessary, appropriate, and relevant to maintain property values of nearby properties. If the building and design committee fails to approve or disapprove the design and location plan within 30 days after the plans and specifications have been submitted to it, approval will not be required and full compliance with this section of the declaration will be deemed to have occurred.

E. Without limiting the generality of the factors to be considered by the building and design committee, the following restrictions shall apply:

1. All roofing material shall be limited to either cedar shakes, cedar shingles, earthtone concrete tile, or flat roofs with asphalt material shielded from public view. All roofing material shall be approved by the building and design committee.

2. All driveways and parking bays shall be constructed of concrete, concrete aggregate, or asphalt unless written approval for the use of some other material is given by the building and design committee.

3. Heat pumps, propane tanks, solar devices, chimney flues, hot tub pumps, swimming pools pumps and filtration systems, satellite dishes, and similarly exposed mechanical equipment shall be aesthetically concealed from view on all sides and shall be shielded in such a manner as to minimize noise and safety concerns.

4. Siding shall be of wood, brick, stucco, or combinations of those materials and, in the case of wood, shall be stained or painted in colors approved by the building and design committee in writing.

F. In spite of the above provisions, the building and design committee shall have no affirmative obligation to be certain that all elements of the design comply with the restrictions contained in this declaration, and no member of the building and design committee shall have any liability, responsibility, or obligation, whatever, for any decision or lack of a decision, in the carrying out of duties as a member of the committee. The committee and its members shall have only an advisory function, and the sole responsibility for compliance

with all of the terms of this declaration shall rest with the homeowner. Each homeowner agrees to save, defend, and hold harmless the building and design committee and each of its members on account of any activities of the building and design committee relating to the owner's property or buildings to be constructed on his or her property.

G. The building and design committee, if it observes deviations from or lack of compliance with the provisions and this declaration, shall report those deviations or lack of compliance to the board of directors of the association for appropriate action.

SECTION TWO. RESTRICTIONS

A. The subdivision shall be a single-family residential subdivision and shall be used solely for residential purposes. A "building site" shall consist of one or more residential lots or portions of lots, as required below, as shown on the face of the plat or any modifications or adjustments to it. In spite of the preceding, no lot shall be smaller than the minimum lot size allowed by the governmental authorities charged with regulating lot sizes.

B. No building or structure shall be erected, constructed, maintained, or permitted on such residential lots, except on a "building site" as defined below in this declaration.

C. No building, except a single-family residential building together with detached garage and/or such other accessory buildings as may be permitted by local land use or ordinances, shall be permitted. Such accessory buildings shall not be used for or in connection with multi-family living, and each building site shall be used for no more than one family, together with attendants or domestic servants of that family.

D. Any home constructed on a building site shall have a minimum main floor area of the main structure, exclusive of one-story open porches and garages, of not less than 100 square feet for a one-story dwelling. In the case of a multiple-story or split-level dwelling, the lower or ground floor living level shall be not less than 1500 square feet and the total finished square footage area of the second and/or split level, when added to the minimum 1500 square feet main floor requirement, shall be not less than 2500 square feet.

E. No home shall be constructed on any building site at a cost of less than \$100,000, based on S&P/CASE-SHILLER HOME PRICE INDICES as of 1/1/1995 and shall rise and fall in accordance with that index. If the index should cease to be published, the most nearly comparable index shall be used.

F. No trailer, tent, shack, garage, barn, or other outbuildings shall at any time be used as a residence, temporarily or permanently, on any building site.

G. Any construction commenced on any house as provided in this declaration shall be substantially completed, including, but not limited to, all painting, within 12 months from the date the construction is commenced.

H. No sign of any kind shall be displayed to public view on any building site, except for a sign, limited to one, advertising the property for sale, which sign shall not be larger than 100 square feet.

I. All lot owners shall provide and maintain proper facilities to control storm water run-off onto adjacent properties and to insure that sediments do not enter the natural drainage system.

J. All buildings and improvements shall be constructed in compliance with the pertinent zoning and building codes of White Springs, Foster County, Suwannee, and any and all other governmental entities that have jurisdiction at the time of undertaking the buildings and improvements. No dwelling house, garage, or other accessory building or part of it (exclusive of fences and similar structures) shall be placed nearer to the front lot line or nearer to the side lot line or to the rear lot line than the minimum building setback lines, if any, imposed by any such governmental entity having control, or as shown on the recorded plat of the subdivision, whichever is more restrictive.

K. The height and location of any residence, garage, or accessory building shall be designed and located so as to assist in the preservation of the views of others.

L. All lines or wires for telephone, power, cable television, or otherwise shall be placed underground and no such wires shall be shown on the exterior of any building unless the same shall be underground or in a conduit attached to a building. No television or radio antenna or aerial shall be installed that has a height in excess of 100 feet above ground for the properties described in Exhibit A, attached to this declaration. For this purpose, the ground level shall be determined by using the same ground level as is used for determining the maximum height restriction for houses to be constructed on the property under the then-prevailing zoning and building restrictions. That ground level shall apply whether or no the antenna or aerial is located above the roof line of the residence.

M. No fences shall be constructed except after approval and review by the building and design committee, and all fences shall be designed and constructed so as to be compatible with the neighborhood. Except as provided below, all fences shall be constructed of wooden materials. All fences shall be designed and constructed so as to not constitute a nuisance or offensive effect on other persons residing within the subdivision. Chain-link fences for animal containment purposes, with proper screening from neighbors and public view, may be acceptable on approval of the building and design committee.

N. No noxious, illegal, or offensive use of property shall be carried on any lot, nor shall anything be done on it that may be, or become, an annoyance or nuisance to the neighborhood. No grantee or grantees, under any conveyance, nor purchasers, shall at any time conduct or permit to be conducted on any residential lot any trade or business of any description, either commercial or noncommercial, religious or otherwise, including day schools, nurseries, or church schools, nor shall the premises be used for any other purpose whatever except for the purpose of providing a private, single-family dwelling or residence.

O. No trash, garbage, ashes, or other refuse, junk, vehicles in disrepair, underbrush, or other unsightly growths or objects shall be maintained or allowed on any lot. All fences and buildings shall be kept in a state of repair. All residences, garages, and accessory buildings shall be painted or stained, from time to time, so as to maintain a reasonable state of repair.

P. No boat, boat trailer, house trailer, horse trailer, automobile, recreational vehicle, truck, or other vehicle, or any part of the same shall be stored or permitted to remain on any residential lot unless the same is stored or placed in a garage or fully-enclosed space, except for temporary storage for a period not to exceed 180 consecutive days in duration, with such temporary occurrences not to exist more than 3 times in any one calendar year.

Q. Each property owner shall exercise as much care as is possible to retain natural vegetation, trees, shrubs, and other similar growth. Prior to the removal of any such growth, the plans referred to above shall be submitted to the building and design committee for the committee's review and comments. Such plans shall include the location of all trees that are 5 inches or more in diameter, measured 10 feet above the ground. The design of all structures shall attempt to save such trees, except to the extent that they may become dangerous or hazardous or impede proper drainage of the lot. If any such tree is removed without approval of the building and design committee, the property owner, on order of the board of directors of the association, will replace the tree with a similar tree specified by the building and design committee, or, if replacement is impossible, pay the association \$1000 for each such tree. If the property owner fails to replace the tree or to pay \$1000 to the association within 30 days of the date of the board's order, the \$1000 obligation will become a lien on the land, accruing interest and subject to enforcement under the provisions of this declaration, including fees and costs. Each property owner, within 60 days of the completion of a residence, shall landscape all yards fronting a street, provided, however, that a right to extend the time period for completion of the landscaping may be sought, in writing, and obtained at the sole discretion of the building and design committee in the case of extenuating circumstances.

R. No sand, earth, or sod shall be removed from any Property, nor shall an excavation be allowed to remain open thereon, except as may be necessary during building construction periods or except as may be approved by the Community Association Board. After construction, lawn and landscaping shall be installed and maintained thereafter in an attractive manner.

S. All mailboxes and mailbox holders shall be of a standard design accepted by the building and design committee and adhering to the applicable specifications of the U.S. Postal Service. All mailboxes shall be located as directed by the U.S. Postal Service. Each lot owner shall be responsible for the maintenance and replacement of his or her mailbox so as to keep it in a state of repair at all times.

T. No animals, livestock, or poultry shall be raised, bred, or kept on any lot of the subdivision for commercial purposes. Provided, however, domestic dogs, cats or other household pets may be kept, provided no more than two (2) such pets shall be kept on any Lot without the approval of the Architectural Committee, and provided further that the Owner shall maintain such pets, and pens and structures intended for this use, in a manner which does not create a nuisance to other Owners. No pen, doghouse or other structure intended for an animal shall be constructed or allowed to remain on any Lot unless approved by the Architectural Committee. All pets shall at all times be confined within an approved dog run, confined within the Owner's dwelling, or securely on a leash.

U. In the event an Owner of any Property shall fail to maintain Property and the improvements situated thereon in a manner satisfactory to the Community Association Board, or otherwise fail to comply with this Declaration of Covenants, Conditions and Restrictions, the Community Association, after approval by two-thirds ($\frac{2}{3}$) vote of the Community Association Board shall have the right, through its agents and employees, to enter upon said Property to inspect for noncompliance or to, repair, maintain, and restore the Property and the exterior of the buildings and any other improvements erected thereon. The cost of such inspection or maintenance shall be added to and become part of the assessment to which such Property is subject.

SECTION THREE. COMMUNITY OPEN SPACE AND AMENITIES

A. There shall be created, as shown on the face of the plat of the subdivision, such open space tracts as the developer shall create. Such open-space tracts as well as all open-space easements created or arising out of the subdivision development shall be for the benefit of all properties in the subdivision and shall be developed, paid for, and maintained by the association, as provided in this declaration.

B. On the filing of the final subdivision map for the subdivision, the mentioned open space located in the subdivision shall be conveyed to and accepted by the association.

C. Maintenance of the open-space tracts, open-space easements, and/or any amenities located on them shall be at the cost and expense of the lot owners within the subdivision. All of such costs, including, but not limited to, maintenance expenses, insurance, and real property taxes, shall be borne by the individual lot owners who have purchased from the developer, such lot owners to pay their pro rata share based on the ratio of their lots to the total number of lots that have been created by the filing of the final subdivision map. It is the express intent and understanding of the parties that, during the development phase of the subdivision, the lots that have been created in the earlier phases will have the benefit of the open-space tracts, open-space easements, and amenities that exist on them, and should pay for the same, and that the undeveloped property within the subdivision should not bear the burden of such expense.

SECTION FOUR. GENERAL AND SPECIAL ASSESSMENTS FOR ASSOCIATION

A. By acceptance of the deed or other instrument of conveyance for his or her lot within the subdivision, each lot owner shall be deemed to agree to pay to the association annual assessments and special assessments for capital improvements. Such assessments shall be fixed, established, and collected from time to time as provided in this declaration. The annual and special assessments, together with such interest and costs of collection as provided below, shall be a continuing lien on the property affected and shall also be a personal obligation of the owner of the property on the date when the assessment is due. Such personal obligation shall not pass to successors in title to the affected property unless expressly assumed by the successors.

Unless changed by a vote of three-quarters of the lot owners, the annual assessment for any lot in the subdivision shall be that amount last approved by three-quarters of the lot owners.

On the vote of the members of the association in the manner set forth below, the association may levy, in addition to annual assessments, a special assessment or assessments in any calendar year applicable to that year only, for the purpose of defraying in whole or in part the cost of construction or reconstruction or expected repair or replacement of a described capital improvement or capital improvements on the common properties in the subdivision, including fixtures and personal property related to the same.

Any special assessment or change in maximum annual assessment must be approved by the board of directors of the association and have the assent of three-quarters of the votes of the lot owners at a meeting called for that purpose. Written notice of the meeting called for such purpose shall be sent to all members of the association at least 90 days in advance of the date of the meeting, setting forth the purpose of the meeting.

B. It shall be the duty of the association to notify all owners or contract purchasers of lots within the subdivision, whose addresses shall be supplied to the association, by sending written notice to each of the owners within 30 days after the date on which the assessment has been fixed and levied, giving the amount of the charge or assessment for the current year, when the same shall be due, and the amount due for each lot or partial lot owned by each such owner. Failure of the association to levy an assessment or charge for any one year shall not affect the right of the association to issue assessments in future years. Failure to deliver or levy an assessment due to a lack of an address for the owner of any particular lot within the subdivision shall not discharge the obligation of any such owner from paying the assessment, and it shall be the obligation of any such owner to notify the association of the owner's current address.

C. Any general or special assessment levied as set forth in this declaration shall become a lien on the affected real estate as soon as the assessment is due and payable as set forth above. If any owner fails to pay the assessment when due, then the assessment shall bear interest at the maximum legal rate permitted by Suwannee from the date when the assessment is due until it is paid in full.

180 days after the date of any such assessment has been fixed and levied, the assessment, if not paid, shall become delinquent and the payment of both principal and interest may be enforced as in the case of a laborer's lien on the affected real estate. A notice of the assessment may be filed with Luca Brasi, and venue shall be laid in Foster County, Suwannee. It shall be the duty of the board of directors of the association, as provided below, to bring actions to enforce such liens before they expire. The association, in its discretion, may file certificates of nonpayment of assessments with Foster County, Suwannee whenever the assessments are delinquent. For each certificate so filed, or for any lien so filed, the association shall be entitled to collect from the owner or owners of the property described in the certificate or lien a fee of \$1000, which fee is declared to be a lien on the affected real estate, and shall be collectible in the same manner as the original assessment provided for in this declaration.

Any such lien shall continue for a period of 49 years from the date of delinquency and no longer, unless within that time period legal proceedings shall be instituted to collect the assessments, in which event the lien shall continue until the termination of the legal proceedings and the sale of the property under the execution of the judgment establishing the same.

If legal proceedings are commenced to collect any such assessment, or if the services of an attorney are retained by the association in connection with same, the nonpaying owner or owners shall be obligated to pay all costs incurred, plus reasonable attorney fees, which costs and fees shall become a portion of the assessment and may be foreclosed on in the same manner as the assessment as provided above.

D. The assessments levied by the association shall be used exclusively for the purpose of promoting the recreation, health, safety, enjoyment, and welfare of the residents in the subdivision and, in particular, for the improvement and maintenance of property, service, and facilities devoted to the above-stated purpose and related to the use and enjoyment of the common properties and of the homes situated in the subdivision. Without limiting the generality of the above statement of purpose, the assessments shall be applied by the association to the payment of the costs to:

1. Enforce any and all building and land-use restrictions that exist as of the date of this declaration or which may be lawfully imposed on or against any of the property in the subdivision.

2. Maintain the community open-space tracts and amenities and improvements on them as provided in this declaration.

3. Pay expenses to carry out the above, such as attorney fees, manager's fees, expenses of liability, fire, and other insurance, bookkeeping and accounting expenses, and any and all other expenses that may from time to time be deemed necessary to carry out the intent of this declaration by the association.

4. Protect property values in the subdivision by promoting pride in and enthusiasm for it; work for improved transportation, schools, libraries, and recreation facilities within the community in which the subdivision is located; and do all lawful things and tasks that the association, in its discretion, may deem to be in the best interests of the subdivision and the owners of the lots in the subdivision.

SECTION FIVE. MISCELLANEOUS AND GENERAL PROVISIONS

A. Each owner, by purchasing any lot in the subdivision shall automatically become a member of the association and shall be bound by the terms and conditions of this declaration, the articles and bylaws of the association, and such rules and regulations as may be promulgated and adopted by the association under the articles and bylaws.

B. On transfer, conveyance, or sale by any owner of all of his or her or its interest in any subdivision lot, the owner's membership in the association shall cease and terminate.

C. Except as provided in this declaration, the association shall be the sole judge of the qualifications of its membership and of the right to participate in and vote at its meetings.

D. The official address of the association is 13 Clemenza Terrace, White Springs, Suwannee, and shall remain so until changed by the association, at which time the association shall notify each member of the change in address.

E. Each lot owner or lot purchaser, on the purchase of the lot, shall immediately notify the association of the owner's name and address.

F. By written consent of 75% of all of the lot owners, the association may be given such additional powers as may be described by the association, or otherwise modify or amend this declaration in any manner.

G. Prior to the actual organization or incorporation of the association contemplated by the terms of this declaration, developer shall have the right, at its option, to perform the duties and assume the obligations, levy and collect the assessments and charges, and otherwise exercise the powers conferred by this instrument on the association in the same way and in the same manner as though all such powers and duties were given in this instrument to developer directly. Developer shall also have the right to modify, amend, repeal, or change any of the terms of this declaration prior to the actual organization or incorporation of the association.

H. The association shall, at all times, observe all of the laws, regulations, ordinances, and the like of White Springs, Foster County, Suwannee, and of the United States of America, and if, at any time, any of the provisions of this declaration shall be found to be in conflict with them, then such parts of this declaration as are in conflict with those laws, regulations, ordinances, and the like shall become null and void, but no other part of this declaration not in conflict shall be affected.

I. Subject to the limitations set forth in this declaration, association shall have the right to make such reasonable rules and regulations and to provide such means and to employ such agents as will enable it adequately and properly to carry out the provisions of this declaration.

J. This declaration may be terminated, and all of the real property now or later affected may be released from all or any part of the terms and conditions of this declaration, by the owners of 75% of the properties subject to this declaration at any time it is proposed to terminate this declaration, by executing and acknowledging an appropriate written agreement or agreements for that purpose, and filing the same with the office of Luca Brasi, Foster County, Suwannee.

K. All of the provisions of this declaration shall be deemed to be covenants running with the land, and shall be binding on and inure to the benefit of the owners of the properties described in Exhibit A, their heirs, successors, and assigns. All parties claiming by, through, or under them shall be taken to hold, agree, and covenant with such owners, their successors in title, and with each other, to conform to and observe all of the terms and conditions contained in this declaration.

L. Any lot owner, or the association, may maintain any legal proceedings to compel or enforce any of the terms and conditions of this declaration.

M. The initial members of the board of directors of the association shall be Johnny Fontane, Moe Greene, and Frederico Corleone.

The undersigned, acting as the Don of the Genco Development Company has caused this declaration to be executed at White Springs, Suwannee on the date indicated below.

Michael Corleone

September 15, 1995

Attached: Exhibit A


HARPER VALLEY SUBDIVISION

LEGAL DESCRIPTION

Commence at the Southwest corner of the Southeast Quarter of Section 22, Township 1 North, Range 2 East, Leon County Florida, and run thence North 00 degrees 37 minutes East 66.00 feet, thence run West, parallel to the South boundary of said Section 22, a distance of 510.68 feet, thence run North 00 degrees 10 minutes East 1122.77 feet to concrete monument, thence run South 89 degrees 20 minutes 42 seconds East 519.55 feet to a concrete monument, thence run North 88 degrees 00 minutes 58" East 1021.16 feet to an iron pipe, thence run North 00 degrees 54 minutes 58 seconds East 49.02 feet to an iron pipe, thence run North 87 degrees 59 minutes 40 seconds East 354.55 feet to an iron pipe which is the POINT OF BEGINNING. From said POINT OF BEGINNING run North 87 degrees 59 minutes 26 seconds East 1271.78 feet to a concrete monument, thence run South 00 degrees 43 minutes 21 seconds West 49.00 feet, thence South 05 degrees 47 minutes 24 seconds West 26.07 feet to a concrete monument, thence run South 00 degrees 43 minutes 21 seconds West 790.82 feet to a concrete monument, thence run South 00 degrees 22 minutes 09 seconds West 426.10 feet to a concrete monument, thence run North 89 degrees 36 minutes West 1273.96 feet to an iron pipe, thence run North 00 degrees 52 minutes 27 seconds East 1238.45 feet to the POINT OF BEGINNING, containing 36.89 acres, more or less.

THE UNDERSIGNED SURVEYOR HAS NOT BEEN PROVIDED A CURRENT TITLE OPINION OR ABSTRACT OF MATTERS AFFECTING TITLE TO THE SUBJECT PROPERTY. IT IS POSSIBLE THERE ARE DEEDS OF RECORD, UNRECORDED DEEDS, EASEMENTS, OR OTHER INSTRUMENTS WHICH COULD AFFECT THE BOUNDARIES.

I HEREBY CERTIFY THIS LEGAL DESCRIPTION MEETS THE MINIMUM TECHNICAL STANDARDS IN SECTION 472.027, FLORIDA STATUTES (OR RULE CHAPTER 61G17-8 F.A.C.).


DAVID W. HUTCHESON
PROFESSIONAL LAND SURVEYOR
FLORIDA REGISTRATION NO. 5051

NOT A SURVEY

HARPER VALLEY SUBDIVISION
LEGAL DESCRIPTION

CAPITAL
ENGINEERING
CONSULTANTS, INC.

DATE: Aug 29, 95
SCALE: 1" = 40'
SHEET: 1 of 1
JOB NO. 072AA

DWG I.D.: AGLGLDWG
DRAWN BY: N.L.E.
CHECKED BY: D.W.H.
FIELD BOOK: N.A.

Suwannee Court Report

Offender information

Name: ODOM, PAT
Address: 789 CLEARVIEW LANE
WHITE SPRINGS, SUWANNEE
FOSTER COUNTY
Case Number: 372012MM001580A00100
Case Filing Date: 07/23/2012
County: FOSTER
DOB: 09/1992
SSN: XXX-XX-XXXX

Offenses

Offense #1

Case Filing Date: 07/23/2012
Number Counts: 1
Offense Date: 07/14/2012
Arrest Date: 07/16/2012
Court Case Number: 372012CC001580A00100
Court Offense: BURGLARY
Court Statute: 810.02 4
Court Disposition: Status:DISPOSED
Court Disposition Date: 09/28/2012
Court Level/Degree: FELONY

Offense #2

Case Filing Date: 07/23/2012
Number Counts: 1
Offense Date: 07/14/2012
Arrest Date: 07/16/2012
Court Case Number: 372012CC001580A00100
Court Offense: GRAND THEFT
Court Statute: 812.014 2C
Court Disposition: Status:DISPOSED
Court Disposition Date: 09/28/2012
Court Level/Degree: FELONY

Dependency Case

Case Filing Date: 04/01/2014
Court Case Number: 372014DP001580A00100
Court Proceeding: CHILD IN NEED OF SERVICES/UNGOVERNABLE
Court Statute: 984
Court Disposition: ADJUDICATED CHILD IN NEED OF SERVICES/UNGOVERNABLE
Court Disposition Date: 04/04/2014

Warranty Deed

1393159.
RECORDED IN THE PUBLIC
RECORDS OF LEON CO., FLA.
SER 21 2 48 PM '95
DAVE LANG
CLERK OF CIRCUIT COURT
LEON COUNTY, FLORIDA

State of *Suwannee*

County of *Foster*

This indenture, made on 15th day of *September, 1995*, between *Genco Development Company*, of *1972 Frederico Harbor, White Springs, Suwannee*, party of the first part, and

Drew Davis and Stacy Johnson, a married couple,

party of the second part, witness:

That the party of the first part, for and in consideration of the sum of *\$10.00 and other valuable considerations*, to *[him/her]* in hand paid by the party of the second part, the receipt of which is acknowledged, has granted, bargained, and sold to the party of the second part, *[his/her]* heirs, and assigns forever the following described land:

Lot 4, Block "C", Harper Valley, A Subdivision as per map or plat thereof, recorded in Plat Book 11, Page 82, of the Public Records of Foster County, Suwannee.

Subject to Special Assessments and Those accruing hereafter, zoning and other governmental restrictions, plat restrictions and qualifications, public utility easements and restrictive covenants of record, if any.

The party of the first part does fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever.

In witness, the party of the first part has executed this deed on the date first above-written.

Micheal Corleone

[Name of grantor]

Executed in the presence of:

Moe Greene

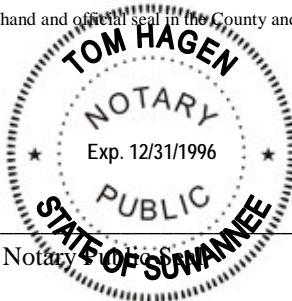
[Name of witness 1]

Frederico Corleone

[Name of witness 2]

I hereby certify that on this day, before me, an officer duly authored to administer oaths and take acknowledgements personally appeared *Micheal Corleone* known to me to be the *Don* of *Genco Development Company*, the corporation whose name the foregoing instrument was executed and that he acknowledged the same for such corporation, freely, voluntarily, under authority duly vested in them by said corporation and that the seal affixed there to is the true corporate seal of said corporation that I relied upon the following form of identification of the above-named person: PERSONALLY KNOWN as identification and that an oath was not taken.

Witness my hand and official seal in the County and State last aforesaid this *15th day of September, 1995*



Notary

Tom Hagen, Esq.

Notary Signature

Tom Hagen

Printed Notary Signature

JURY INSTRUCTIONS

INTRODUCTION

Members of the jury, you have now heard and received all of the evidence in this case. I am now going to tell you about the rules of law that you must use in reaching your verdict. When I finish telling you about the rules of law, the attorneys will present their final arguments and you will then retire to decide your verdict.

It is your duty as jurors to decide the issues, and only those issues, that I submit for your determination by your verdict. In reaching your verdict, you should consider and weigh the evidence, decide the disputed issues of fact, and apply the law on which I shall instruct you to facts as you find them from the evidence.

The evidence in this case consists of the sworn testimony of the witnesses, all exhibits received in evidence and all facts that may be admitted or agreed to by the parties.

In determining the facts, you may draw reasonable inferences from the evidence. You may make deductions and reach conclusions that reason and common sense lead you to draw from the facts shown by the evidence in this case, but you should not speculate on any matters outside the evidence.

GENERAL CONSIDERATIONS

- **CREDIBILITY OF THE WITNESS**

- In determining the believability of any witness and the weight to be given to the testimony of any witness, you may properly consider the demeanor of the witness while testifying; the frankness or lack of frankness of the witness; the intelligence of the witness; any interest the witnesses may have in the outcome of the case; the means and opportunity the witness had to know the facts about which the witness testified; and the reasonableness of the testimony of the witness, considered in the light of all the evidence in the case and in the light of your own experience and common sense.

SUMMARY OF CLAIMS

The claims and defenses in this case are as follows.

Plaintiff has brought two legal claims against Defendant.

The first legal claim is that Defendant intentionally or negligently invaded Plaintiff's privacy by photographing persons inside the Plaintiff's home without Plaintiff's consent. Plaintiff claims that this intrusion upon Plaintiff's solitude or seclusion or private affairs or concerns would be highly offensive to any reasonable person, and

that Plaintiff was harmed by this intrusion. Alternatively, Plaintiff argues that his/her privacy was also invaded by giving publicity to a matter concerning the private life of Plaintiff which would be highly offensive to a reasonable person and which was not of legitimate concern to the public.

Plaintiff's second legal claim is that Defendant intentionally or negligently defamed Plaintiff. Plaintiff claims the photographs imply Plaintiff was engaged in illicit, lewd, adulterous, or other serious sexual misconduct. Plaintiff claims that these implications were not true, and that Plaintiff suffered actual harm to his/her reputation due to Defendant's publication of these photographs.

Defendant denies both of Plaintiff's claims, and has alleged six defenses.

Defendant claims Plaintiff had no expectation of privacy because he/she voluntarily exposed him/herself to public view.

Defendant claims that it is not liable for invasion of privacy because Plaintiff consented to the acts complained of.

Defendant also claims it is not liable for defamation because any implication made by the photographs is true.

Defendant claims it is not liable for defamation because of a qualified privilege. Defendant claims the photographs were published in good faith at a board meeting to discuss whether Plaintiff was violating the Harper Valley Neighborhood Association's Declaration Covenants, Conditions and Restrictions.

Defendant claims that it is not liable for defamation by third parties because Defendant did not authorize third parties to possess the photographs, and had no control over third persons' actions in distributing these photographs.

Defendant claims Plaintiff was himself/herself negligent in exposing himself/herself to public view.

The parties must prove all claims and defenses by the greater weight of the evidence. I will now define some of the terms you will use in deciding this case.

"Greater weight of the evidence" means the more persuasive and convincing force and effect of the entire evidence in the case.

NEGLIGENCE

Both parties claim that the other was negligent and that this negligence was the cause of Plaintiff's injuries, if any.

Negligence is the failure to use reasonable care. Reasonable care is that degree of care which a reasonably careful person would use under like circumstances. Negligence may consist either in doing something that a reasonably careful person would not do under like circumstances or in failing to do something that a reasonably careful person would do under like circumstances.

LEGAL CAUSE

- Legal cause generally:
 - Negligence is a legal cause of injury if it directly and in natural and continuous sequence produces or contributes substantially to producing such injury, so that it can reasonably be said that, but for the negligence, the injury would not have occurred.
- Concurring cause:
 - In order to be regarded as a legal cause of injury negligence need not be the only cause. Negligence may be a legal cause of injury even though it operates in combination with the act of another if the negligence contributes substantially to producing such injury.
- Intervening cause:
 - Negligence may also be a legal cause of injury even though it operates in combination with the act of another occurring after the negligence occurs if such other cause was itself reasonably foreseeable and the negligence contributes substantially to producing such injury or the resulting injury was a reasonably foreseeable consequence of the negligence and the negligence contributes substantially to producing it.

INVASION OF PRIVACY CLAIM

One who invades the right of privacy of another is subject to liability for the resulting harm to the interests of the other. The right of privacy is invaded by satisfying (a) or (b)

- (a) Unreasonable intrusion upon the seclusion of another
 - i. Meaning: One who intentionally intrudes, physically or otherwise, upon the solitude or seclusion of another or his private affairs or concerns, is subject to liability to the other for invasion of his privacy, if the intrusion would be highly offensive to a reasonable person.
- (b) Unreasonable publicity given to the other's private life
 - i. Meaning: One who gives publicity to a matter concerning the private life of another is subject to liability to the other for invasion of his privacy, if the matter publicized is of a kind that would be highly offensive to a reasonable person, and is not of legitimate concern to the public.

PRIVACY

General Principle

- (1) One who invades the right of privacy of another is subject to liability for the resulting harm to the interests of the other.
- (2) To recover damages for invasion of privacy, Plaintiff must prove by the greater weight of the evidence that Defendant violated his/her right of privacy by
 - (a) unreasonable intrusion upon the seclusion of Plaintiff or
 - (b) unreasonable publicity given to the Plaintiff's private life

Unreasonable intrusion upon the seclusion of the other's life

One who intentionally intrudes, physically or otherwise, upon the solitude or seclusion of another or his private affairs or concerns, is subject to liability to the other for invasion of his privacy, if the intrusion would be highly offensive to a reasonable person. This form of invasion of privacy does not depend on any publicity given to the person whose interest is invaded or as to his private concerns or affairs. It consists solely of an intentional interference with his/her interest in solitude or seclusion, either as to his/her person or to his/her private affairs or concerns, of a kind that would be highly offensive to a reasonable person.

Publicity Given to Private Life

The Defendant would also be liable to Plaintiff for invasion of privacy if Defendant gave publicity to a matter concerning the private life of Plaintiff if the matter publicized is of a kind that (a) would be highly offensive to a reasonable person, and (b) is not of legitimate concern to the public.

Damages

One who has established a cause of action for invasion of his privacy is entitled to recover damages for

- (a) the harm to his interest in privacy resulting from the invasion;
- (b) his mental distress proved to have been suffered if it is of a kind that normally results from such an invasion; and
- (c) special damage of which the invasion is a legal cause.

Verdict on Invasion of Privacy Claim

If the greater weight of the evidence does not support Plaintiff's claim for invasion of privacy, your verdict on this claim should be for Defendant.

However, if the greater weight of the evidence supports Plaintiff's claim for invasion of privacy, your verdict should be for Plaintiff and against Defendant.

DEFAMATION CLAIM

To create liability for defamation there must be: a false and defamatory statement concerning another; an unprivileged publication to a third party; fault amounting at least to negligence on the part of the publisher; and either actionability of the statement irrespective of special harm or the existence of special harm caused by the publication.

A communication is defamatory if it tends so to harm the reputation of another as to lower him in the estimation of the community or to deter third persons from associating or dealing with him. A defamatory communication may consist of a statement of fact.

The meaning of a communication is that which the recipient correctly, or mistakenly but reasonably understands that it was intended to express.

A defamatory communication is made concerning the person to whom its recipient correctly, or mistakenly but reasonably, understands that it was intended to refer.

One who publishes a slander that imputes serious sexual misconduct to another is subject to liability to the other without proof of special harm.

Publication of defamatory matter is its communication intentionally or by a negligent act to one other than the person defamed. One who intentionally and unreasonably fails to remove defamatory matter that he knows to be exhibited on land or chattels in his possession or under his control is subject to liability for its continued publication.

One who publishes a defamatory statement of fact is not subject to liability for defamation if the statement is true.

DEFAMATION

Elements Stated

To recover damages for defamation, Plaintiff must prove by the greater weight of evidence That Defendant did the following:

- (a) Made a false and defamatory statement concerning Plaintiff;
- (b) Made an unprivileged publication to a third party;
- (c) Made the false and defamatory statement either intentionally or negligently; and
- (d) That there is was actionability of the statement irrespective of special harm or the existence of special harm caused by the publication.

Defamatory Communication Defined

A communication is defamatory if it tends so to harm the reputation of Plaintiff as to lower him/her in the estimation of the community or to deter third persons from associating or

dealing with him/her. A communication to be defamatory need not tend to prejudice the Plaintiff in the eyes of everyone in the community or of all his or her associates, nor even in the eyes of a majority of them. It is enough that the communication would tend to prejudice him or her in the eyes of a substantial and respectable minority of them, and that it is made to one or more of them or in a manner that makes it proper to assume that it will reach them. On the other hand, it is not enough that the communication would be derogatory in the view of a single individual or a very small group of persons, if the group is not large enough to constitute a substantial minority. If the communication is defamatory only in the eyes of a minority group, it must be shown that it has reached one or more person of that group.

Meaning of the Communication

The meaning of a communication is that which the recipient correctly, or mistakenly but reasonably understands that it was intended to express.

Applicability of Defamatory Communication to Plaintiff

A defamatory communication is made concerning the person to whom its recipient correctly, or mistakenly but reasonably, understands that it was intended to refer.

Statements of Fact

A defamatory communication may consist of a statement of fact.

True Statements

- (1) One who publishes a defamatory statement of fact is not subject to liability for defamation if the statement is true.

Slanderous Imputations of Sexual Misconduct

One who publishes a slander that imputes serious sexual misconduct to another is subject to liability to the other without proof of special harm.

What Constitutes Publication

- (1) Publication of defamatory matter is its communication intentionally or by a negligent act to one other than the person defamed.
- (2) One who intentionally and unreasonably fails to remove defamatory matter that he knows to be exhibited on land or chattels in his possession or under his control is subject to liability for its continued publication.

Damages

One who is liable for a defamatory communication is liable for the proved, actual harm caused to the reputation of the person defamed.

Verdict on Defamation Claim

If the greater weight of the evidence does not support Plaintiff's claim for defamation, your verdict on this claim should be for the Defendant.

However, if the greater weight of the evidence supports Plaintiff's claim for defamation, your verdict on this claim should be for Plaintiff against Defendant.

DEFENSE CLAIMS/ISSUES

CONSENT; DEFAMATION AND INVASION OF PRIVACY COUNTS

If Plaintiff effectively consented to conduct by Defendant intended to invade Plaintiff's interests, Plaintiff cannot recover in an action of tort for the conduct or for harm resulting from it. Consent is willingness in fact for conduct to occur. It may be manifested by action or inaction and need not be communicated to the actor. If words or conduct are reasonably understood by another to be intended as consent, they constitute apparent consent and are as effective as consent in fact.

To be effective, consent must be: by the Plaintiff if he/she has the capacity to consent or by a person empowered to consent for him/her, and to the particular conduct, or to substantially the same conduct. Conditional consent or consent restricted as to time, area or in other respects is effective only within the limits of the condition or restriction. If the Defendant exceeded the consent, it is not effective for the excess. Upon termination of consent, its effectiveness is terminated, except as it may have become irrevocable by contract or otherwise, or except as its terms may include, expressly or by implication, a privilege to continue to act.

Defendant must prove this claim by the greater weight of the evidence for it to be a defense to either of Plaintiff's claims.

TRUTH; DEFAMATION COUNT

Truth is a defense to a claim for defamation. Plaintiff carries the burden and must show by the greater weight of the evidence that the defamatory statements were not true.

TRUTH; PRIVACY COUNT

Truth is not a defense to a claim of invasion of privacy.

QUALIFIED PRIVILEGE AS TO THE COUNT OF DEFAMATION

Defendant, who would otherwise would be liable for a tort, is not liable if Defendant acted in pursuance of and within the limits of a privilege of Defendant's own or of a privilege of another that was properly delegated to Defendant. An otherwise defamatory statement is not actionable if the speaker or publisher had a legal privilege to make the defamatory statement. A communication, although it contains criminating matter, is privileged, when made in good faith upon any subject in which the party communicating has an interest, or in reference to

which he has a right or duty, if made to a person having a corresponding interest, right or duty, and made upon an occasion to properly serve such right, interest, or duty, and in a manner and under circumstance fairly warranted by the occasion and the duty, right, or interest, and not so made as to unnecessarily or unduly injure another or to show express malice. The elements essential to the finding of a conditionally privileged publication are: (1) good faith, (2) an interest to be upheld, (3) a statement limited in its scope to this purpose, (4) a proper occasion (5) publication in a proper manner.

Defendant must prove this defense by the greater weight of the evidence for it to be a defense to the Plaintiff's claim for defamation.

SUPERSEDING CAUSE; DEFAMATION COUNT

Defendant is not liable for defamation if you find that a superseding cause is the act of an independent agency which destroyed the causal connection between the Defendant's negligence and the injury or harm. To be a superseding cause the independent act must be the immediate and sole cause of the injury or harm. The intervening cause must be one that so completely supersedes the operation of defendant's negligence that you find that the superseding event caused the injury or harm with defendant's negligence contributing to it in any material way. In that case liability will not be established because Defendant's negligence is not a proximate cause of the injury or harm.

However, Defendant would not be relieved from liability for its negligence by the intervention of acts of third persons, if those acts were reasonably foreseeable. That is, the causal connection is not broken if the intervening cause is one that might, in the natural and ordinary course of things, be anticipated as not entirely improbable. Where the intervention of third parties is reasonably foreseeable, then there still may be a causal connection between the Defendant's negligence and the injury or harm. The fact that there were intervening causes that were foreseeable or that were normal incidents of the risk created does not relieve the Defendant of liability.

Defendant must prove this claim by the greater weight of the evidence for it to be a defense to Plaintiff's claim for defamation.

COMPARATIVE NEGLIGENCE

Defendant claims Plaintiff is him/herself negligent in whole or in part for his/her injuries due to his/her exposing him/herself to public view. If the greater weight of the evidence shows that the Plaintiff and the Defendant were both negligent, and that the negligence of each contributed as a legal cause to the Plaintiff's injuries, you should determine what percentage of the total negligence was attributable to both parties.

MOCK TRIAL STIPULATIONS and GENERAL EXPLANATORY INFORMATION

1. This trial is bifurcated and will be tried on liability only.
2. The Federal Rules of Civil Procedure and the Federal Rules of Evidence apply.
3. Suwannee is a mythical state in a parallel universe. The geography is slightly different from that of Florida.
4. The only statutes you may use are the ones provided in the packet. Suwannee recognizes gay marriage and divorce. Witness roles may be played by either gender, but must be announced by each team to the other team prior to the beginning of a round.
5. The parties have stipulated, and the judge has ruled, that the photographs taken showing the inside of Plaintiff's house are salacious or obscene, and will not be displayed at trial. The photographs show a nude person, from the backside, with another nude person facing towards this person and towards the bedroom window. The persons in the photographs appear to be engaged in sexual acts. Plaintiff claims he/she is not the person depicted from the rear, and Defendant claims this person is the Plaintiff. Neither party claims to know who the other person in the photo is, but both parties have stipulated it is not the Plaintiff's spouse.
6. You may not use case law.
7. The exhibits in the packet are authentic, and if otherwise admissible, may be placed into evidence by any witness with knowledge upon proper foundation.
8. Suwannee is a "pure" comparative negligence state. See, for instance, *Hoffman v. Jones*, 280 So.2d 431 (Fla. 1980), and *Parker v. Montgomery*, 529 So.2d 1145 (Fla. 1st DCA 1988) for an explanation of the concept. The jury instructions and verdict form reflect this.
9. Inevitably, you will find mistakes or things that were just too burdensome to fix. If you see issues, let me know and I will try to work them out.
10. We only have two courtrooms with technology capability. You will be required to use some kind of technology (your choice) in the semi-final or final rounds, **but only in those rounds.**

IN THE CIRCUIT COURT, SECOND JUDICIAL CIRCUIT,
IN AND FOR FOSTER COUNTY, SUWANNEE

STACY JOHNSON,

PLAINTIFF,

vs.

CASE NO. 13-CA- 446

HARPER VALLEY NEIGHBORHOOD ASSOCIATION,

DEFENDANT.

VERDICT

COUNT I
INVASION OF PRIVACY

WE, THE JURY, answer the questions submitted to us on the **INVASION OF PRIVACY** count as follows:

1. Did Plaintiff have a reasonable expectation of privacy in the area which is depicted by the photographs?

YES _____

NO _____

If your answer to question 1 is YES, then answer question 2. If you answered NO, stop here, answer no further questions as to Count I, and proceed to the questions as to Count II.

2. Did the Defendant intentionally or negligently intrude in the area photographed?

YES _____

NO _____

If your answer to question 2 is YES, then answer question 3. If you answered NO, stop here, answer no further questions as to Count I, and proceed to the questions as to Count II.

3. Would Defendant's intrusion be highly offensive to a reasonable person?

YES _____

NO _____

If your answer to question 3 is YES, then answer question 4. If you answered NO, stop here, answer no further questions as to Count I, and proceed to the questions as to Count II.

4. Was Defendant's conduct a factor in causing harm to Plaintiff?

YES _____

NO _____

If the answer to Question 4 was YES, then answer question 5. If your answer is NO, stop here, answer no further questions as to Count I, and proceed to the questions as to Count II.

5. Was there negligence on the part of the Plaintiff which was a legal cause of the Plaintiff's damages?

YES _____

NO _____

If the answer to question 5 is YES, then you will be required to apportion the fault between the parties as set forth in question 6.

6. State the percentage of any fault which was a legal cause of the damages claimed by Plaintiff.

HARPER VALLEY NEIGHBORHOOD ASSOCIATION, DEFENDANT _____%

STACY JOHNSON, PLAINTIFF _____%

COUNT II
DEFAMATION

WE, THE JURY, answer the questions submitted to us on the **DEFAMATION** count as follows:

8. Did Defendant publish photographs implying Plaintiff was engaged in serious sexual misconduct to unprivileged persons?

YES _____ NO _____

If your answer to question 8 is YES, then answer question 9. If you answered NO, stop here and tell the bailiff.

9. When Defendant published the photographs, did Defendant intend to harm Plaintiff's reputation or publish the photographs with little care for the consequences?

YES _____ NO _____

If your answer is YES, then answer question 10. If your answer is NO, stop here and tell the bailiff.

10. Did persons who were not privileged to see the photographs reasonably believe they harmed Plaintiff's reputation?

If your answer is YES, then answer question 11. If your answer is NO, stop here and tell the bailiff.

11. Did the photographs imply something false?

YES _____ NO _____

If your answer is YES, then answer question 12. If your answer is NO, stop here and tell the bailiff.

12. If the answer to question 11 is YES, then you will be required to apportion the fault between the parties as set forth in question 13.

13. State the percentage of any fault which was a legal cause of the damages claimed by Plaintiff.

HARPER VALLEY NEIGHBORHOOD ASSOCIATION, DEFENDANT _____%

STACY JOHNSON, PLAINTIFF _____%

So say we all, this _____ day of March, 2015.

Foreperson

INDIVIDUAL JUDGE SCORE SHEET

Courtroom _____

Team # _____
Plaintiff

vs.

Team # _____
Defense

_____ Round One (Day One)	Time _____	Date _____
_____ Round Two (Day One)	Time _____	Date _____
_____ Semi-Final Round (Day Two)	Time _____	Date _____
_____ Final Round (Day Two)	Time _____	Date _____

Points for Plaintiff		Points for Defense
	Motions in Limine (5 points max each)	
	Opening (20 points max each)	
	Direct of Plaintiff Witness #1 (15 points max)	XXXXXX
XXXXXX	Cross of Plaintiff Witness #1 (15 points max)	
	Direct of Plaintiff Witness #2 (15 points max)	XXXXXX
XXXXXX	Cross of Plaintiff Witness #2 (15 points max)	
XXXXXX	Direct of Defense Witness #1 (15 points max)	
	Cross of Defense Witness #1 (15 points max)	XXXXXX
XXXXXX	Direct of Defense Witness #2 (15 points max)	
	Cross of Defense Witness #2 (15 points max)	XXXXXX
	Closing (20 points max each)	
	TOTAL POINTS	
	(MUST NOT EXCEED 105 POINTS EACH SIDE)	

PLEASE CIRCLE THE WINNING TEAM (TIES ARE NOT PERMITTED)
CIRCLE ONLY THE TEAM WITH THE HIGHEST SCORE:

Plaintiff

Defense

<p>For Official Use Only:</p> <p>Plaintiff(s) Score _____</p> <p>Defense Score _____</p> <p>Winning Team _____</p> <p>Checked By:</p> <p>_____</p> <p>Please Print and Sign Name</p>

Please Print Name of Scoring Judge

Signature of Scoring Judge

Important Dates:

Requests for fact pattern clarification due: February 13, 2015

Competition dates: March 20-22, 2015

©The competition fact pattern is copyrighted by Ruth Stone and may not be used for purposes other than its intended use without the express written consent of Ruth Stone.

All questions and correspondence should be addressed to:

Ruth Stone
Florida State College of Law
Advocacy Center, Suite A010
425 West Jefferson Street
Tallahassee, Florida 32306-1601
Telephone: (850) 644-9928
Fax: (850) 644-0879
rstone@law.fsu.edu

GENERAL INFORMATION

The purpose of this competition is to provide law students with the opportunity to develop their trial advocacy skills. Accordingly, the merits of the Plaintiff's or Defendant's case is not at issue. Each competition round is not decided on the merits of a team's case, but on the quality of the team's advocacy.

Requests for Clarification

Any requests for clarification of the rules or fact pattern must be made in writing and received by Ruth Stone via email at rstone@law.fsu.edu no later than 5:00 pm (EST) on February 13, 2015.

RULE VIOLATION AND FILING OF COMPLAINTS

A competitor or coach who violates any of the rules governing the Florida State University College of Law Mock Trial Competition may be subject to penalty or disqualification. If a team seeks to file a complaint under the rules, the team's coach should immediately notify the

competition round coordinator. The coordinator will review the complaint and make a ruling, which shall be binding for that round of competition. The coordinator's rulings will be governed by the rules of the competition.

LAW SCHOOL AND STUDENT ELIGIBILITY

Each team shall be comprised of four law students. Each school's selection method of its trial team(s) is left to their discretion.

REGISTRATION PROCEDURES

Student and Coach Registration

Each school must submit the names of the participating students and coach(es) for each team. Each team must complete the registration form and return it to Ruth Stone no later than February 13, 2015. To be registered for the competition, each school must submit a complete mailing address and graduation date for each student participating on the team.

Student Substitution Policy

The substitution of team members will not be permitted after February 13, 2015, except in the case of personal emergencies. Requests for substitution must be made in writing to Ruth Stone explaining the reason substitution is necessary.

COACHES

At least one coach must accompany each team to the competition. Only team coaches are permitted to attend the coaches' meeting. If a coach is unable to attend, he or she must notify Ruth Stone or the competition coordinator. Only then may a student be permitted to attend the meeting in the coach's absence.

COMPETITION FORMAT

This is a trial skills competition. There is no written motion or trial brief writing component. Each team will consist of four law students. Two students will be advocates and two students will play the witnesses for their side each round. Every student on the team must advocate for one side. No dedicated witnesses will be permitted. Advocates and witnesses may change their roles from round to round, but roles must remain consistent throughout each individual trial.

Division of Responsibility

Each of the two team members must conduct at least one direct examination and one cross-examination. Only one team member may examine or cross-examine any one witness. The team member examining or cross-examining such witness is responsible for objecting to opposing counsel's questioning of that witness. One team member shall make the opening statement and the other team member shall make the closing argument.

Qualifying Rounds

Each team will compete in three qualifying rounds. The top four teams from the qualifying rounds will advance to a single elimination semifinal round. The top two teams from the semifinal round will advance to a single elimination final round.

Team Pairings in Qualifying Rounds

Pairing of teams in the qualifying rounds will be at random and conducted during the coaches' meeting prior to the first round. Each team will present both Plaintiff and Defense in the qualifying rounds. No two teams shall compete against each other more than once in the qualifying rounds.

Team Rankings in All Other Rounds

In the semifinal round, the first-ranked team will meet the fourth-ranked team, and the second-ranked team will meet the third ranked team.

The ranking of teams to determine the semifinalists and finalists will be determined by the following factors, respectively:

1. Win/loss record
2. Number of winning votes
3. Number of total points awarded to the team

Each succeeding criterion above will be used only if the prior criterion does not fully rank the teams, and will be used only to break ties created by the use of the prior criterion.

If paired semifinal teams have met in previous rounds they will each represent different sides than in the previous meeting.

THE TRIAL

The competition involves the trial of a civil lawsuit. The trial judge previously ruled that the case would be bifurcated, and the case being tried in the competition is the first phase of the case-the liability phase. Only evidence relevant to the liability issue will be received. There are no pending third-party claims.

The Federal Rules of Evidence (FRE) and Federal Rules of Civil Procedure (FRCP) are the applicable rules of evidence and procedure. Only these rules shall be permitted for use in motions and argument during the trial.

Students may argue based upon the comments or advisory notes to the Federal Rules of Evidence. Motions for a judgment as a matter of law are permitted. No written pretrial motions shall be permitted, solely oral pretrial motions.

Identity of Teams

During the competition, there shall be strict anonymity by the following method: each participating team shall be assigned a letter or number and shall be identified to the judges only in that manner. At no time shall any team member allude to the name of their school or their opponent's school. Each participant must adhere to this rule. A violation or a report of a violation may result in penalty of the offending party's school.

Trial Structure

The trial will proceed as follows:

- Opening statements for Plaintiff followed by Defendant
- Plaintiff's case-in-chief
 - Plaintiff's direct of Plaintiff's witness #1
 - Defendant's cross of witness
 - Plaintiff's redirect of witness
 - Similar for Plaintiff's witness #2
- Defendant's case-in-chief
 - Defendant's direct of Defendant's witness #1
 - Plaintiff's cross of witness
 - Defendant's redirect of witness
 - Similar for Defendant's witness #2
- Closing argument
 - Plaintiff's closing
 - Defendant's closing
 - Plaintiff's rebuttal closing

Each side is limited to two live witnesses whom they may call in any order.

- Plaintiff must call:
 - Stacy Johnson
 - Pat Odom

- Defendant must call:
 - Eddie/Edie Murdstone
 - Drew Davis

The trial has six (6) advocacy opportunities for each team: (1) opening statement; direct/redirect examinations (2); cross-examinations (2); and (1) closing argument. Each member of a team must handle three of the six opportunities. Opening statement and closing argument may not be presented by the same person. Each team member must conduct a direct and cross examination.

Please note that coaches and team members may not communicate during the trial round. Except for the final round, the courtrooms will be off-limits to all team members, coaches, friends, and family members who are not associated with either team competing, unless their team has already been eliminated from the competition.

Timing of the Trial

- Each team will have 80 minutes to complete their case.
- The time limit will be strictly enforced, although it is not necessary that all time allotted be used.
- There will be no time limits for specific aspects of the trial.
- Time on cross-examination is charged against the team conducting the cross-examination.
- Time will be stopped for objections and responses to objections.
- Performance at trial will be evaluated by a panel of judges and/or attorneys, one of whom will preside over the trial as Judge, making rulings as necessary, and the remainder (up to three) of whom will act as the jury.

Facts Outside the Record

Advocates must confine the questions and witnesses must confine their answers to the facts provided in the fact pattern and inferences which may reasonably be drawn therefrom (“the Record”), and any matters judicially noticeable under Rule 201 of the Federal Rules of Evidence. An “inference” is not any fact that a party might wish to be true; rather, it is a fact that is likely to be true, given the other facts in the case.

No objection may be made to the effect that that the opposing team is going outside the Record. Instead, instances of a party going outside the record may be addressed by means of impeachment of the offending witness or by contradiction using another witness or document.

When true, witnesses must admit, if asked, that the “facts” they have testified to are not in their deposition or otherwise in the record. Witnesses may not qualify this response in any misleading way by saying, for example, that they were not asked about the fact at deposition, or that the facts were contained in some other portion of the deposition, which was omitted from the record. The answer from the witness who is asked to admit the material was not in the deposition must be that the questioner is correct; to wit, “Yes, I did not say that in my deposition.” All judges will be instructed as to the significance of this form of impeachment, and will take into account

unfair additions to the record (i.e., inferences which may not reasonably be drawn from the record) in scoring that witness's team.

Witnesses

Any witness may be played by a person of either gender. Before the opening statement, each team should notify the other team of the gender of each witness they intend to call.

Assume that all witnesses have seen the exhibits and depositions. Witnesses know only the facts contained in the background information, exhibits, and depositions.

All depositions are signed and sworn. The same attorney conducting direct examination of a witness shall also conduct any redirect examination.

The only lawyer who may object during witness testimony is the lawyer who will be examining that witness.

Witnesses may not be recalled. Witnesses will not be sequestered except constructively.

JURY INSTRUCTIONS

The instructions provided in the fact pattern are the only instructions that will be given. The instructions are the only statements of the applicable substantive law. Instructions may not be eliminated or modified. No additional instructions may be tendered or will be given.

EXHIBITS

The use of demonstrative evidence is limited to that which is provided in the fact pattern, but participants may enlarge any diagram, statement, exhibit, or portion of the fact pattern if it is identical to the item enlarged, or if any changes provide no advantage to the party intending to use it.

Subject to rulings of the court, counsel and witnesses may draw or make simple charts or drawings in court for the purpose of illustrating testimony or argument. These materials may not be written or drawn in advance of the segment during which they are being used.

No demonstrative evidence, including charts or drawings, may reflect facts outside the record. Participants must clear all demonstrative evidence with the competition coordinator, as applicable, at the coaches' meeting preceding the competition.

All exhibits are stipulated as authentic and genuine for purposes of trial.

SCORING CRITERIA

Performances at trial will be evaluated by a panel of at least three judges and/or attorneys, one of whom will preside as the trial judge, with the others sitting as jurors. The trial judge will rule on any objections or motions for judgment as a matter of law.

Each member of the jury may award up to 105 points in each trial for each party.

If at the end of the trial, an evaluator awards the same number of points to both the plaintiff and the defendant, the evaluator will award one additional point to either the plaintiff or the defendant for effectiveness of objections and/or overall case presentation in order to break the tie.

Evaluators have been instructed not to score teams on the merits of the case.

The following criteria for scoring trial performances are set forth to assist both judges and student advocates. Evaluators are not limited to these criteria and may consider other aspects of strategy, technique, and so forth, which they view as important.

OPENING STATEMENT

Did Counsel:

1. Generally confine statement to an outline of the evidence that would be presented?
2. Clearly present counsel's theory of the case?
3. Persuasively present counsel's theory of the case?
4. Personalize self and client?
5. Allow opposing attorney to make argument during opening statement?
6. Make unnecessary objections?

EXAMINATION OF WITNESSES

Did counsel:

1. Ask questions that generated minimal valid objections?
2. Make/fail to make objections with tactical or substantial merit?
3. Respond appropriately to objections?
4. Know the rules of evidence and express that knowledge clearly?
5. Develop rapport with the witness?
6. Maintain appropriate general attitude and demeanor?
7. Address the court and others appropriately?
8. Demonstrate awareness of ethical considerations?

Did Direct-Examiner:

1. Use leading questions unnecessarily?
2. Develop testimony in an interesting and coherent fashion?
3. Follow up on witness' answers?
4. Present the witness in the most favorable light?

Did Cross-Examiner:

1. Appropriately use leading questions?
2. Control witness?
3. Follow up on answers and elicit helpful testimony?
4. Use impeachment opportunities?

CLOSING ARGUMENT

Did Counsel:

1. Present a cohesive theory of the case, pulling all the positive arguments together?
2. Deal effectively with the weakness(es) in his or her own case?
3. Make an argument that was persuasive?
4. Have an effective style of presentation?
5. Utilize the law effectively in the argument?
6. Inappropriately interrupt the argument of the opposing counsel?
7. Properly confine rebuttal to rebuttal matters?
8. Effectively counter the opponent's speech in rebuttal?

Competition Match Time

Each round will have a bailiff keeping time. If a bailiff is unavailable to keep time for rounds, one or more judges in each match should be instructed to keep time according to the timekeeping rules. Teams may keep track of time used for their own purposes. They may not, however, report their time used or that of an opposing team to the bailiff or judge for any purpose. Moreover, time use improperly reported by any team may not be considered or used by a bailiff or judge for any purpose.

In the event that the match judge or judges declare the time remaining as less than the team requires for closing or other parts of the trial, the coach or team member (whoever records the time discrepancy) should immediately consult with the Competition Coordinator during the break, who should then evaluate the circumstances and decide the amount of time remaining. Neither the team coach nor the team member should discuss the discrepancy with the match judge. Should the team be unable to consult with the Competition Coordinator before completion of the trial and the team requires additional time to complete the trial, the team may elect to complete the trial beyond the time allotted. When the trial is complete, the time will be evaluated

by the Competition Coordinator. The team will lose one point for every five minutes-or fraction thereof-of time in excess of its allotment.

Viewing of Score Sheets by Teams

Each team will receive their score sheets after the conclusion of the competition, and will receive them by e-mail.

**Stipulations
and
Clarifications**

Stone, Ruth

From: Stone, Ruth
Sent: Tuesday, February 17, 2015 2:59 PM
To: Hon. Thomas P. Franczyk (tfrancy@nycourts.gov); Horton, Thomas J (Thomas.Horton@usd.edu); jlester@faulkner.edu; Jennifer L. Reiber (JReiber@fcsf.edu); 'crose@law.stetson.edu'; dobsonm@nsu.law.nova.edu; Katherine McCabe (kmccabe@law.fordham.edu); Kayce M. Seifert (kmseifert1@gmail.com); blstrial@brooklaw.edu; wmnationaltrial@gmail.com
Subject: drone questions

The drone did have zoom capability. The drone took approximately one picture per minute as it flew. Eddie/Edie could not see what the drone could see, and alleges he/she only saw the pictures at the same time everyone else on the board saw them. Eddie/Edie manipulated the drone from his/her line of sight from the street fronting the house, making sure the drone flew over the fenced area in the back of Plaintiff's property. No one will be allowed to argue that Eddie/Edie did not fly the drone in the manner I described because the pictures could not be taken in this manner. This is all the information I am giving you about drones. I will tell you that I talked to a local attorney who is a drone expert, Steve Hogan, and he told me the FAA takes the position (this is not a regulation) that any commercial flight has to receive a waiver from the FAA, and this would qualify as a commercial flight (Homeowner's Association) according to the FAA, and they've only granted 28 waivers to date. Again, you can't argue FAA regulations or policy other than what is in the packet.

Ruth Stone

Wayne and Pat Hogan Professor of Trial Practice
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The Charleston team would appreciate clarification of the following details:

1. When did Eddie approach Drew about flying the drone over the Davis/Johnson property? Did this take place before or after the January 28, 2013 Association meeting, and/or around the same date the letter was sent requesting permission to investigate (Feb. 1)?

Some date after the board meeting, if you believe either Eddie or Drew.

2. On which specific dates in February 2013 did Drew leave for and return from his conference in San Francisco?

Already answered.

3. Did Pat acquire the pictures before or after the February 25, 2013 Association meeting?

Do the math, and according to which witnesses you believe.

4. Did the confrontation between Shirley and Stacy regarding the pictures (the conversation where Shirley tells Stacy it's too late to close the barn door) take place before or after the February 25, 2013 Association meeting?

Afterwards.

Clarification Questions

1. Can the plaintiff or defense drop any claims or affirmative defense pre-trial, e.g. may the plaintiff not pursue the defamation claim and pursue only the invasion of privacy?

You try your case as you like, but you must announce to the judge and other team during housekeeping, prior to motions in limine.

2. Will Drew Davis' gender be constructively constrained based on Stacy Johnson's gender (e.g. if Stacy is portrayed by a female and Drew is portrayed by a male, is Drew constructively a female for the purposes of that round)?

Suwannee has gay marriage and divorce so play it however you decide, but be fair to the other team. Let them know prior to the start of the round what gender the person is for purposes of that round. I hope this makes sense. It should also be announced to the judge during housekeeping.

3. The complaints refer to the Association meeting on the 1st, but the minutes say that the meeting occurred on the 25th, and the By-laws (unchanged since their adoption) says the regularly scheduled meeting is on the 4th of each month. What is the correct date for the meetings in this case?

Sorry about that. The meetings take place on the 4th Monday of each month, barring some holiday.

4. The jury instructions and the jury verdict forms present some conflicts, such as the verdict form question 2 says: "did the defendant intentionally or negligently intrude in the area photographed?" But nowhere in the jury instructions does it say that the plaintiff can prove invasion of privacy by negligence. Which set of instructions should we use for closing arguments?

I will answer this question by the close of business on Monday.

Thank you

FSU Mock Trial Competition Questions

1. Are written Notices of Appearance allowed?
Yes, if you think it will help the scorers remember your competitors' names, I see no harm.
2. Are the exhibits originals or duplicates for purposes of Best Evidence Rule?
Duplicates.
3. Can teams use technology in earlier rounds?
No.
4. Do we have to bring lap tops in order to comply with technology?
Matt Mortimer will answer this question.
5. Will Elmo's be available to use in earlier rounds?
No.
6. What kind of technology is available in the courtroom?
Matt Mortimer will answer this question.
7. Can we take judicial notice of FAA regulations?
No. Only use what is provided in the packet.
8. Can exhibits be introduced on cross-exam?
This will be up to your presiding judge.
9. Can either side use photos in opening?
Ask the adverse team members, and they don't agree, ask the judge.
10. Is it stipulated that the photo of the tattoo was taking from the drone?
Yes. The judge, who is a bit of a prude, only allowed the use of a cropped version, but it was taken by the drone.
11. Can Plaintiff dismiss any of the claims?
It is up to the teams as to how to try their case. This is meant to be a learning exercise.
12. Was the "tattoo" photo shown at the board meeting?
Yes, all of the photos were distributed to all board members who attended the meeting.
13. Was Stacy showed the "tattoo" photo at her deposition?
No, but he/she admitted in his/her deposition that the drone captured a photo of a tattoo similar to the one on his/her left buttock.
14. Is the size of the "tattoo" photo original or cropped?
Cropped.
15. Is there a qualified privilege for invasion of privacy?
The Defendant raised it as an affirmative defense.

16. Are exhibits pre-marked?
They should be, but if they weren't assigned letters, I'll get Carl to add them and send you the list.
17. Under the claims for invasion of privacy, can it be proven either intentionally or negligently?
18. Are there any restrictions on the number of exhibits that can be blown up?
No.
19. Are there any size-limits on the exhibits that can be blown up?
No.
20. Will the teams going to the semi-finals be briefed on the courtroom technology and have an opportunity to practice with it beforehand?
Yes, Matt Mortimer does this on the morning before the first round.
21. For the semi-final rounds will there be somebody from FSU to assist in operating the technology equipment?
Matt will answer this question, but I am pretty sure the answer is "yes".
22. How are the witnesses to be addressed, first name or Mr./Mrs.?
You can assume that anywhere north of Orlando, you better use formal terms.
23. How long has the fence been in the backyard?
As long as the dog has been there.
24. How long has the plaintiff owned her dog, Killer?
Two years prior to the drone photographs.
25. Will the rooms have easels and podiums in them?
Podiums. Easels tend to disappear around here.
26. Can podiums be moved or are they permanently in place?
They are permanently in place though they can swivel. Moving them would cause great damage.
27. Did Drew put concrete under the entire length of the dog-run fence?
Yes, but not under all of the fence that surrounds the back yard.

1. Who took the picture of the dog?

Stacy took the pictures of the dog on the couch. Stacy and Drew can authenticate those pictures.

2. What date was the picture of the dog taken?

Prior to the pictures taken by the drone.

3. Is the picture of just the fence in the backyard taken from the yard or taken from Shirley Thompson's property?

The picture of the dog run and the fence were taken by the drone.

4. Were the photos that are exhibits taken by the drone?

All except those of the dog taken inside the house and peeping beneath the fence, and the one picture of Plaintiff's house from the back. Plaintiff and Drew can authenticate these pictures except for the one of the dog peeping beneath the fence.

5. When were the photos of the house taken?

The picture of the back of the house was taken prior to February 14th, either by the Plaintiff or by Drew.

6. Does the photograph of the dog run show the entire dog run?

Yes.

7. Is Shirley Thompson's property fenced in as well?

No.

8. What is the date that Pat gave the photos to Drew?

February 28.

9. Can you please provide a copy of the survey that Eddie used to plan the drone path? If not, how are teams instructed to handle demonstrative issues that would rely on interpretation?

10. Does the board pay Eddie? How much?

This is an unpaid position.

11. What happened to the other photos that were taken from the drone?

The judge has them, and they are under seal. The parties may appeal the ruling that the photographs are inadmissible.

12. Did the drone have zoom capability?

13. Does the drone take a pre-programmed number of photos over the course of twelve minutes or did Eddie have to program the number of photos it would take?

14. Did the Drone have the capability for Eddie to see the photos as they were being taken?

15. What date did Drew go out of town? What date did he return?

Drew went out of town February 13, and came back February 27.

16. When shown the photo of the tattoo, does Stacey have to admit that it is her tattoo?

No. Just that this tattoo is similar to Stacy's, and located in the same place on Stacy's body.

17. When Stacey went to the mall was the dog inside or outside of the house?

Inside the house.

18. Is Pat's conviction considered a "juvenile adjudication" in this jurisdiction?

Yes, and remember the Federal rules of evidence and procedure apply.

19. Is Pat really supposed to be 12 years old? His rap sheet says that he's 22, which makes way more sense...

Yes, Pat was 12 on the date of the deposition. How dare you say this doesn't make sense! I've tried many cases with juvenile witnesses. In Florida you do have to have a prior court order to bring a child to deposition or court, but that only applies to family law cases. This is Suwannee, and this isn't a family law case.

20. As of the date of trial, have either Stacey or Drew filed for divorce?

No. Stacy is still receiving support from Drew, and Drew is hoping for collateral estoppel.

21. Is the Defense allowed to argue comparative negligence? It's on the verdict forms, but doesn't that just go to damages – and it's a bifurcated trial... If so, is it really supposed to also apply to defamation?

I highly suggest you argue comparative negligence. The amount of damages is left for jury decision in another case if the Defendant is found liable.

Is the photo of the dog in the hole a photo of Killer peering through a hole in the fence between Shirley Thompson's yard and the plaintiff's property?

Plaintiff and Defendant may have contradictory views on that, especially comparing all three dog pictures.

2. Is it the same photo Shirley presented to the board?

Yes.

3. Is Shirley considered to be an unavailable witness under FRE 804?

No.

4. Who took the photos of the dog on the couch?

Plaintiff.

5. Should we assume it is the same dog as in the photo of the dog in the hole?

No.

6. Was Pat Odom born in 2002?

If there is a mistake on the rap sheet, assume that Pat was 12 at the time of the deposition.

7. How was Pat Odom's 2012 charge adjudicated?

He was adjudicated guilty.

8. On what date did Drew confront Stacey with the photos?

The day Drew came back from San Francisco.

9. What happened to the 15 or so other photos that were supposedly taken of the plaintiff's property?

The judge has them under seal. The Defendant may appeal on this issue, among others, if found liable.

10. On what date did Drew leave for San Francisco and when did he return?

Drew left February 13 and returned on the 27th.

11. On what date did Stacey confront Pat and speak to Eddie Murdstone?

February 27.

12. On what date did Stacey run into Shirley Thompson on the street?

On some indeterminate time after the drone flew over the property.

13. On what date did she return and speak to Murdstone?

At some time after encounter with Shirley Thompson and before this lawsuit was filed.

14. Is Genco under a business duty to record the meeting minutes accurately and timely?

Yes.

15. Who are the 2013 Harper Valley Association Board members?

They were all present at the board meetings where you have the minutes.

16. Does the "members present" notation on the meeting minutes mean board members, association members or both?

Board members.

17. Paragraph 9 of the complaint references a board meeting of March 1 2013, Should it be February 25th?

Yes.

19. Since the Invasion of Privacy cause of action has two possible bases, (unreasonable intrusion OR unreasonable publicity) should the verdict sheet not include questions like:

Q: (#4 maybe): Did the defendant give unreasonable publicity to the to the plaintiff's private life?

Q: If so, was it of a kind that would be highly offensive to a reasonable person and is not of legitimate concern to the public?

Already answered, and I am not changing the verdict form.

20: Are any exhibits deemed admissible by stipulation?

Not unless the other team agrees. You should be able to lay a foundation for each of the exhibits.

21. Since Stacy has not been employed for the duration of her marriage, what has she done besides shop and spend her husband's money? For example, does she belong to any boards, charitable organizations, anything useful and productive?

No other information available, and I took out the part in the complaint alleging he/she lost time from work.

22. Also, in view of the above, did she mean to allege in her complaint (paragraph 19), that she was caused to lose time from work?

See answer to #21.