

FILED
02-11-2025
Clerk of Circuit Court
Manitowoc County, WI
2025CV000015

STATE OF WISCONSIN
MANITOWOC COUNTY
CIRCUIT COURT

MANITOWOC TIMESHARE
MANAGEMENT, LLC

Plaintiff,

v.

FOX HILLS OWNERS
ASSOCIATION, INC.

Defendant and Third-Party Plaintiff,

v.

FH RESORT
LIMITED PARTNERSHIP

Third-Party Defendant.

Case No. 25 CV 15
Class Code: 30301

**PLAINTIFF'S ANSWER TO DEFENDANT'S COUNTERCLAIM AND
AFFIRMATIVE DEFENSES**

Plaintiff, Manitowoc Timeshare Management, LLC ("MTM"), by its attorneys, Menn Law Firm, Ltd., hereby submits the following Answer to Defendant, Fox Hills Owners Association, Inc., ("FHOA") Counterclaim, filed January 22, 2025 ("Counterclaim"):

COUNTERCLAIM

1. As to Paragraph 1 of the Counterclaim, admit to the extent the Association has statutory authority to act, but denies to the extent the Association is acting appropriately in bringing its counterclaim.

BACKGROUND

2. As to Paragraph 2 of the Counterclaim, admit.

3. As to Paragraph 3 of the Counterclaim, deny.

4. As to Paragraph 4 of the Counterclaim, admit.

**FIRST CAUSE OF ACTION -
BREACH OF MANAGEMENT AGREEMENT**

5. As to Paragraph 5 of the Counterclaim, no response is required.

6. As to Paragraph 6 of the Counterclaim, admits that the document speaks for itself and otherwise denies to the extent what is stated mischaracterizes the actual language of the referenced agreement.

7. As to Paragraph 7 of the Counterclaim, admit.

8. As to Paragraph 8 of the Counterclaim, admit but affirmatively states that it was under no obligation to do so, and the Association was aware of this fact and never challenged it.

9. As to Paragraph 9 of the Counterclaim, deny.

10. As to Paragraph 10 of the Counterclaim, deny.

11. As to Paragraph 11 of the Counterclaim, deny.

AFFIRMATIVE DEFENSES

As and for affirmative defenses, this answering Plaintiff alleges and shows to the Court as follows:

1. That on information and belief, the Defendant may have failed to mitigate their damages.

2. That on information and belief, the damages and losses, if any, sustained by the Defendant were the result of an intervening/superseding cause.

3. Subject to continuing investigation and discovery, this Plaintiff alleges each and every affirmative defense set forth in Sections 802.02(3) and 802.06(2), Wis. Stats.

4. That on information and belief the Defendant may have failed to join proper parties pursuant to §803.03, Wis. Stats.

5. The Counterclaim may be barred by the doctrine of laches, waiver, unclean hands, and/or estoppel.

6. The Counterclaim fails to state a claim upon which relief can be granted.

7. This answering Plaintiff reserves the right to allege further affirmative defenses as discovery progresses.

WHEREFORE, Plaintiff, Manitowoc Timeshare Management, LLC demand judgment as follows:

- A. For dismissal of Defendant's Counterclaim;
- B. For Plaintiff's costs, disbursements and attorney fees;
- C. For such other and further relief as the court deems just and equitable.

Dated this 11th day of February, 2025.

MENN LAW FIRM, LTD.
Attorneys for the Plaintiff

By: Electrically signed by William P. McKinley
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