

February 26, 2019
204 Cleveland Lane
Rockaway, NJ, 07866

Morris County Superior Court
Chancery Division, General Equity Part
Washington & Court Streets
Morristown, NJ 07960

RE: Paul Kardos vs. Fox Hills at Rockaway Condominium Association, Inc.
Docket No.: MRS-C-102-18
Notice of Motion

Dear Sir or Madam:

I am the *pro se* plaintiff in the above matter. Enclosed herewith please find the original and one (1) copy of:

- Notice of Motion to Dismiss Defendants Counterclaim
- Certification
- Letter Brief
- Proposed Order To Dismiss Defendants Counterclaim

Please forward this to the Honorable Judge Berdote-Byrne.

Thank you for your courtesy and cooperation in this matter.

Very truly yours,



Paul Kardos
973-527-1433
PKardos1@yahoo.com

Copy (via email and USPS regular mail):

George Karousatos, Esq., Attorney for Defendant (g.karousatos@bdlawfirm.com)
Marc Edell, Esq., Attorney for Defendant (medell@edell-law.net)

Paul Kardos
204 Cleveland Lane, Monroe Bldg.
Rockaway, NJ 07866
973-527-1433 cell
Plaintiff *Pro Se*

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| <p>Paul Kardos</p> <p><i>Plaintiff</i></p> <p>v.</p> <p>Fox Hills at Rockaway Condominium Association, Inc.</p> <p><i>Defendant</i></p> | <p>Superior Court of New Jersey Chancery Division Morris County</p> <p>Docket No. MRS-C-102-18</p> <p>Civil Action</p> <p><i>NOTICE OF MOTION TO DISMISS DEFENDANTS COUNTERCLAIM</i></p> |
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Please take notice that at 9 AM on March 15, 2019 or as soon thereafter as may be heard, the undersigned Plaintiff *pro se* Paul Kardos, will apply to the Court at Morris County Superior Court, Morristown, NJ, for issuance of an Order dismissing the Defendants Counterclaim.

Please take further notice that the Plaintiff *pro se* Paul Kardos shall rely on the following documents in support of the Court's granting and signing the proposed Order submitted together with this Notice Of Motion:

- Certification
- Exhibits
- Letter Brief

Date: Feb. 26, 2019

Signature Paul Kardos
Paul Kardos

Paul Kardos
204 Cleveland Lane, Monroe Bldg.
Rockaway, NJ 07866
973-527-1433 mobile
Plaintiff *Pro Se*

| | |
|---|--|
| <p>Paul Kardos</p> <p><i>Plaintiff</i></p> <p>v.</p> <p>Fox Hills at Rockaway Condominium Association, Inc.</p> <p><i>Defendant</i></p> | <p>Superior Court of New Jersey Chancery Division Morris County</p> <p>Docket No. MRS-C-102-18</p> <p>Civil Action</p> <p><i>CERTIFICATION</i></p> |
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I, Paul Kardos, the Plaintiff *pro se*, do hereby say and certify:

1. I am a resident and homeowner at the Fox Hills at Rockaway Condominium Association, Inc. (hereafter "Fox Hills"). I have personal knowledge of the facts as set forth herein and make this *Certification in Support of the Motion To Dismiss Defendants Counterclaim*.
2. On December 6, 2017, regarding the recent election of the president of the Fox Hills Board of Directors (hereafter the "board"), I wrote in an email,

"Does anyone find it odd that the least favorite director is the president? Shouldn't one of the top vote getters be the pres.? Any ideas on how to correct this situation?"
3. On December 13, 2017, Fox Hills filed a complaint against me and two other Fox Hills homeowners (Docket No. C-130-17) for conspiracy to shoot the board president.
4. In the reasoning Transcript for an *Order Dismissing The Complaint* (Docket No. C-130-17) dated 2/15/18 (page 26 line 17-18), the Honorable Judge Robert J. Brennan stated:

"The Court does not find the alleged conspiracy to actually exist".

And on page 27 line 25 of the same transcript:

“The Court finds there’s no continuous and real conspiracy of murder here”.

5. Exhibit C¹ is a copy of the *Notice* dated February 16, 2018 that I observed was posted on a bulletin board in my building at Fox Hills (Monroe building). I also observed this *Notice* in a stand on a table just inside the front door of the Fox Hills clubhouse.
6. On April 18, 2018, I, Paul Kardos, signed a *Settlement and Release Agreement* for the litigation of Docket No. C-130-17.
7. Paragraph C. 1. of said *Settlement and Release Agreement* states:

“Not later than April 27, 2018, the Association shall pay in the form of an instrument payable to Gary Wm. Moylan, council for the Owner, the sum of \$1,500 (the “Settlement Sum”).
8. Paragraph C.5. of said *Settlement and Release Agreement* states:

“The Agreement does not release: (1) claims arising out of the failure of any Party to perform in conformity with the terms of the Agreement; and (2) any future disputes between Owner and/or the Association with respect to their condominium/owner relationship.”
9. Exhibit D is a copy of a notice dated May 10, 2018 issued by the Fox Hills board of directors.
10. Exhibit B is a copy of the flyer I dropped off at the Fox Hills clubhouse in the early morning of May 17, 2018.
11. On Thursday May 17, 2018, at 10:22 AM, I received a phone message from Fox Hills agent (Community Manager) Lynn Meekins stating,

“regarding your flyer for Friday folders, the board has decided not to post that, unfortunately you are attacking the board and calling them liars and that’s not acceptable to be posted.”

An audio recording of this message, made from my cell phone voice mail, was emailed to Fox Hills attorney James Passantino, Esq. on January 28, 2019.

12. *Minutes of Homeowners Association Second Quarterly Meeting July 9, 2018 @ 7:00 PM*

state:

“Marc Z. Edell, Esq.:

- Discussed lawsuit involving 3 homeowners, settlements, and attorney’s fees
- Discussed and answered questions from homeowners”

13. I recently listened to an audio recording of this quarterly meeting of July 9, 2018. At 30 sec into his part of the meeting, Mr. Edell said,

“I’m here today to talk about, finally to talk about the Fox Hills vs. Kardos, Rothstein and Applegate case, Applebaum.”

and 20 minutes later,

“Mr. Rothstein has been a dissident homeowner forever”

and 5 minutes after that,

“Mr. Kardos called me a liar, he never met me, when I recommended to the board that they not comment any further on the litigation...”

Pursuant to R.1:4-4 (c), I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Date: Feb. 26, 2019

Signature Paul Kardos
Paul Kardos

¹ Exhibits B and C here are the same as Exhibits B and C of the Complaint of Docket No.C-102-18. Exhibit A is not used here.

The opinions of the author do not necessarily reflect the opinions of the Board. However, in accordance with the First Amendment (Freedom of Speech) this document is being distributed

The litigation (Fox Hills vs. Applebaum, Kardos & Rothstein) started with a lie and now ends with a lie.

Starting Lie:

Paragraph 4 in the Verified Complaint:

"During the course of that communication, the Owners conspired to "shoot" a recently elected member of the Board; currently the Board's president, Ms. Gloria Stahl. Paul Kardos assembled the Owners, along with others who he believed might be willing to participate in his conspiracy, and to participate in the actual shooting."

This is pure fantasy. In my mind it is akin to deliberate perjury. But I was unable to claim defamation due to a legal principle called *Litigation Immunity*. Deliberate lies are allowed in legal pleadings.

I would like to know who wrote this lie. I would like to know who on the board, besides secretary Cohen who signed for it, acquiesced to this lie. If any board member objected to this lie, I'd like to know who it was. They should be commended for knowing it's wrong to falsely accuse someone of a crime.

Ending lie:

The board posted a notice dated May 10, 2018 stating:

"We have been advised by Council that the Agreements preclude the Board from providing any additional information regarding this matter".

According to my attorney the contents of the Settlement Agreement are confidential, BUT anything else about the litigation can be discussed!!! The board statement is another lie.

Questions:

The following questions have nothing to do with settlement agreements and should be able to be answered by the board:

1. What lessons were learned from this frivolous litigation?
2. What was the total cost of the litigation to homeowners?
3. Why is David J. Byrne, Esq. no longer the association's attorney?
4. Was any attorney or settlement money paid for by insurance?
5. Was any settlement money paid for by David J. Byrne, Esq.?
6. Did the attorney encourage the Board to pursue this lawsuit, or did the Board convince him?
7. Attorneys do not come cheap. Would any of the board members contribute toward attorney costs of the defendants? How about \$500 per director?
8. Do you think the board owes an apology to the defendants for the frivolous litigation and the false report filed with the police department?
9. Do you think the board owes an apology to the homeowners of Fox Hills?

Paul Kardos

5/13/18



Notice

Update on Association's Complaint Against 3 Homeowners

February 16, 2018

Yesterday, Judge Robert J Brennan rejected the Association's attempt to subject the 3 homeowners to restraints. He also granted motions to dismiss for 2 of the 3 homeowners.

While the Board is disappointed in these rulings, it stands by its decision to file this Complaint, as an attempt to discourage future instances of cyber-harassment and bullying in our community.

The language used in the chain of emails by the 3 homeowners included the language, "shoot her" and "if I could get away with it, I'd buy a gun and pull the trigger." According to one of the 3 homeowners, Judge Brennan did acknowledge that this language was inappropriate, well out-of-bounds and terribly in bad taste.

The Board agrees with the Judge, especially in light of Wednesday's mass shooting in Florida... the latest in a rash of shootings in recent years.

We realize that this complaint will result in an extra legal cost for the Association. The Board believes this legal cost represent a necessary price to pay for pro-actively trying to protect all homeowners from harassment and fear. We should keep in mind that this extra legal cost is a direct result of the irresponsible behavior of the 3 homeowners.

Your Board of Directors



May 10th, 2018



The Board of Directors is pleased to report that the outstanding lawsuit involving certain homeowners has been resolved by Confidential Settlement and Release Agreements ("Agreements").

We have been advised by Counsel that the Agreements preclude the Board from providing any additional information regarding this matter. Thank you.

Your Board of Directors

February 26, 2019
204 Cleveland Lane
Rockaway, NJ 07866

Honorable Maritza Berdote-Byrne
Chancery Division, General Equity Part
Morris County Superior Court
Washington & Court Streets
Morristown, NJ 07960

RE: Paul Kardos vs. Fox Hills at Rockaway Condominium Association, Inc.
Docket No.: MRS-C-102-18
Letter Brief in Support of Plaintiff's Motion to Dismiss Defendants Counterclaim
Hearing Date – Friday March 15, 2019 at 9:00 am

Dear Judge Berdote-Byrne:

I am the *pro se* plaintiff in the above matter. Please accept this *Letter Brief in Support of Plaintiff's Motion to Dismiss Defendants Counterclaim*. (hereafter this "Letter Brief").

STATEMENT OF FACTS

The pertinent facts used in this *Letter Brief* are listed in the 13 paragraphs of the accompanying *Certification in Support of the Motion To Dismiss Defendants Counterclaim* (hereafter the *Cert.*), and paragraph 2 of the *Counterclaim*, which accurately repeats section.4, Mutual Release of the Association and Owner, of the *Settlement And Release Agreement* (hereafter the "Settlement Agreement")

LEGAL ARGUMENT

I. SETTLEMENT AGREEMENT

- 1) Nowhere in the *Settlement Agreement*, not in the text quoted in paragraph 2 of the *Counterclaim*, nor in any other part of the agreement does it prohibit the Association (Fox Hills) or the Owner (Paul Kardos) from discussing, commenting on, or talking

about the litigation of Docket No. C-130-17 (hereafter the “litigation”), other than the confidentiality of the *Settlement Agreement* which was later deleted.

- 2) Indeed, at the *Homeowners Association Second Quarterly Meeting* of July 9, 2018 (hereafter the “Quarterly meeting”), Marc Edell, Esq., attorney representing Fox Hills, did discuss, comment on and talk about the litigation. See paragraphs 12 and 13 of the *Cert.*
- 3) Note the sentence under **Ending lie** of Cert. Exhibit B, “According to my attorney the contents of the Settlement Agreement are confidential, BUT anything else about the litigation can be discussed!!!”
- 4) The Fox Hills board of directors and their attorney felt free to criticize the defendants of the litigation in Cert. exhibit C (“We should keep in mind that this extra legal cost is a direct result of the irresponsible behavior of the 3 homeowners” and in Cert. paragraph 13 (“Mr. Rothstein has been a dissident homeowner forever”), but does not allow accurate criticism of themselves.
- 5) The Fox Hills board of directors notice of May 10, 2018 (Exhibit D) states, “Agreements preclude the board from providing any additional information.”
- 6) From Cert. paragraph 13 we see that Mr. Edell gave good advice to the board; he “recommended” that they not comment any further on the litigation. He did not say “the Agreements preclude the board from providing any additional information.” All definitions of “preclude” say it means “to make impossible,” far different than a “recommendation.” Someone on the board reworted Mr. Edell’s good advice and created a lie.
- 7) The Plaintiffs flyer of 5/13/18 (Exhibit B) arose from the lie in the board of directors notice of May 10, 2018 (Exhibit D) and Count One of the Complaint arose from the

board refusal to post the Plaintiffs flyer of 5/13/18. Since both of these dates are beyond the effective date of the *Settlement Agreement*, the *Settlement Agreement* has not been breached.

II. LAW

- 8) “Because a settlement agreement between parties to a lawsuit is a contract...”
Thompson v. City of Atlantic City, 190 N.J. 359 (2007).
- 9) “No court will enforce or entertain construction of contract in manner incompatible with laws or public policies of state.” *Sheridan v. Sheridan*, 247 N.J. 552, 553 (1990).
- 10) Since freedom of speech is embedded in the N.J. Constitution, it is public policy and law.
- 11) Even if there was a clause in the *Settlement Agreement* prohibiting discussing, commenting on, or talking about the litigation, such a clause would be incompatible with the law and public policy of New Jersey and thus would be unenforceable.

CONCLUSION

For the foregoing reasons, the Court should dismiss the defendant’s Counterclaim with prejudice for failure to state a claim which relief can be granted.

Date:

By 
Paul Kardos

Paul Kardos
204 Cleveland Lane, Monroe Bldg.
Rockaway, NJ 07866
973-527-1433 cell
Plaintiff *Pro Se*

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|---|---|
| <p>Paul Kardos</p> <p><i>Plaintiff</i></p> <p>v.</p> <p>Fox Hills at Rockaway Condominium Association, Inc.</p> <p><i>Defendant</i></p> | <p>Superior Court of New Jersey Chancery Division Morris County</p> <p>Docket No. MRS-C-102-18</p> <p>Civil Action</p> <p><i>ORDER TO DISMISS DEFENDANTS COUNTERCLAIM</i></p> |
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THIS matter coming before the Court on application by Paul Kardos, Plaintiff *pro se*, and
the Court having reviewed the moving papers and good cause having been shown,

IT IS ON this _____ day of March 2019

ORDERED that the Counterclaim filed by the defendant, Fox Hills at Rockaway
Condominium Association, Inc., is hereby dismissed with prejudice; and

IT IS further ordered that a copy of this Order shall be served on all council of record
within seven (7) days of its receipt by the Plaintiff.

Maritza Berdote-Byrne, J.S.C.

This motion was:

____ Opposed

____ Unopposed

CERTIFICATION OF SERVICE

I certify that on February 26, 2019, I sent a copy of the Notice of Motion, Certification, Letter Brief and proposed Form of Order to the following by regular mail (USPS).

George Karousatos, Esq.
Biancamano & DiStefano, P.C.
10 Parsonage Road, Suite 300
Edison, NJ 08837

Marc Z. Edell, Esq
107 Fawnridge Drive,
Long Valley, NJ 07653

Feb. 26, 2019

Date:

Paul Kardos

Paul Kardos