

April 21, 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
Reply Brief (#2)

Dear Sir or Madam:

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

- Brief In Reply To Defendants Opposition To Motion For Leave To Amend Complaint

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

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SUPERIOR COURT
APR 22 A 8:50
MORRIS COUNTY
CHANCERY DIVISION

Copies: George Karousatos, Esq., Attorney for Defendant (g.karousatos@bdlawfirm.com) &
regular USPS mail
Marc Edell, Esq., Attorney for Defendant (medell@edell-law.net),

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

Paul Kardos <i>Plaintiff</i> v. Fox Hills at Rockaway Condominium Association, Inc. <i>Defendant</i>	Superior Court of New Jersey Chancery Division Morris County Docket No. MRS-C-102-18 Civil Action <i>BRIEF IN REPLY TO DEFENDANTS OPPOSITION TO PLAINTIFF'S MOTION FOR LEAVE TO AMEND COMPLAINT</i>
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Honorable Maritza Berdote Byrne
Morris County Superior Court
Washington & Court Streets
Morristown, NJ 07960

Dear Judge Berdote Byrne,

I am the Plaintiff *pro se* in the above matter. Please accept this *Brief in Reply to Defendants Opposition to Plaintiff's Motion for Leave to Amend Complaint* (hereinafter this "Reply Brief") in accordance with N.J. Court Rules R. 1:6-5.

BACKGROUND

I, the Plaintiff, filed a Complaint against the Defendant, Fox Hills at Rockaway Condominium Association, Inc. (hereinafter "Fox Hills" or "Defendant"), on September 20, 2018. Count One of this Complaint is for a violation of the New Jersey Constitution's guarantee to freedom of speech. Count Two is for violations of the Condominium Act requirement for open meetings (binding decisions were made by Fox Hills at secret meetings).

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The proposed Amended Complaint adds additional secret meeting violations to Count Two. These additional violations occurred after the original Complaint of September 20, 2018.

DEFENDANTS POINT I

- a) In Defendants Point I (a), Defendant argues that “the amendment will nonetheless fail” because one of the additional violations is “trivial.” Condominium Act Title 46 Chapter 8B Section 13 (a) requires open meetings where binding decision are to be made. There is no exception for “trivial” decisions. Since “[a] corporation’s directors can act only as a body, lawfully assembled.” *Worley v. Dunkle*, 2 N.J. Super. 161, 62 (1948), in order to become legal and relieve itself of burdensome trivial decision making, the Defendant should consider letting its agent, the Community Manager, make the trivial decisions. Inclusion of the additional statute violations in the Complaint provides to the Court evidence of the Defendants willful and systemic disdain for the law. Even after becoming aware of their violations when the Complaint was filed, Fox Hills continued to violate the law by making binding decisions at secret meetings.
- b) In Defendants Point I (b), the Defendant argues that the motion should be denied because I, the Plaintiff, entered a settlement agreement consenting to not assert further claims on prior violations by the Defendant. Since each of the new cited meeting violations of the proposed amendment occurred after the effective date of the *Settlement And Release Agreement* (effective 4/25/18), there is no violation of this agreement.

DEFENDANTS POINT II

In Defendants Point II, Defendant argues that the Plaintiff is asserting petty grievances only to harass the Defendant. I am surprised that the Defendant considers my objection to the decision, illegally made, to spend \$110,000 as petty (see the proposed amended Complaint at 18.04 – 18.06). The Defendants willful disdain for the law is again evident.

The Defendant also objects to additional discovery requests and yet has been woefully deficient in complying with initial discovery requirements. On November 19, 2018, I sent a discovery request to James Passantino, Esq., the attorney representing Fox Hills at the time. The discovery request had 20 items. Thus far, the responses to the 20 items are:

<u>Items</u>	<u>Response</u>
1-2	to be provided if applicable [nothing received]
3	see minutes dated 11.14.17 [which I don't have]
4-19	no answer will be provided
20	to be provided [who knows when]

The Defendants objection to starting over with discovery is disingenuous as it has yet to furnish even a single item or satisfactory response.

DEFENDANTS POINT III

In Defendants Point III, in the first two paragraphs Defendant argues that the Plaintiff violated the equitable doctrine of unclean hands by failing to provide all the reasons why the request to post the flyer referred to in Count One was denied. Two things should be noted: 1) it is improper to demand that the Plaintiff list the affirmative defenses of the Defendant, and 2) this has nothing to do with Count Two (secret meetings), which is the subject of the Motion for Leave of the Court to Amend the Complaint.

In the final paragraph of Defendants Point III, the Defendant argues that the settlement agreement precludes Plaintiffs ability to distribute the flyer. Regarding the *Settlement and Release Agreement* for Docket C-130-17 with effective date 4/25/18;

1. My understanding of the agreement is that discussion of the litigation of Docket C-130-17 is not prohibited.
2. In an email to Marc Edell, dated May 16, 2018, my attorney stated, “[t]he Settlement Agreement does not prohibit discussions about the allegations made in

the Verified Complaint or the other issues he raises such as the cost to the Association in terms of legal fees.”

3. At the Fox Hills quarterly meeting of July 9, 2018, Marc Edell, Esq., discussed the litigation of Docket C-130-17 for 38 minutes, thus confirming that discussion of the subject litigation was not prohibited.
4. Even if there was a clause in the settlement agreement prohibiting discussion of the subject litigation, such a clause would be incompatible with the law and public policy of New Jersey and would be unenforceable.

Again, Defendants Point III has nothing to do with Complaint Count Two (secret meetings), which is the subject of the Motion for Leave of the Court to Amend the Complaint.

CONCLUSION

For the foregoing reasons, the Court should grant the Plaintiff Motion for Leave of the Court to Amend the Complaint.

Date: April 21, 2019 By Paul Kardos
Paul Kardos

CERTIFICATION OF SERVICE (R. 1:5-3)

I certify that on April 21, 2019, I mailed (via regular USPS mail) a copy of this *Reply Brief* to the following Attorney for Defendant, Fox Hills at Rockaway Condominium Association, Inc.:

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

Date: April 21, 2019

Paul Kardos
Paul Kardos