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*Attorneys for Defendant Alan Rothstein*

FOX HILLS AT ROCKAWAY  
CONDOMINIUM ASSOCIATION, INC.

Plaintiff,

v.

BARBARA APPELBAUM, PAUL  
KARDOS, and ALAN ROTHSTEIN,

Defendants.

SUPERIOR COURT OF NEW JERSEY,  
CHANCERY DIVISION: MORRIS COUNTY

DOCKET NO.: MRS-C-130-17

Civil Action

**CERTIFICATION OF  
ROBYN ANN VALLE, ESQ.  
IN SUPPORT OF  
MOTION FOR SANCTIONS**

I, **ROBYN ANN VALLE**, of full age, do hereby certify:

1. I am an attorney at law of the State of New Jersey and the sole owner of Robyn Ann Valle, P.C., attorneys for co-defendant Barbara Appelbaum in this action. I submit this Certification in support of defendant Alan Rothstein's motion, pursuant to Rule 1:4-8 and N.J.S.A. 2A:15-59.1, for an award of reasonable attorneys' fees and costs against the law firm of Ansell Grimm & Aaron, P.C., and its client, Fox Hills at Rockaway Condominium Association, Inc. (the "Association"), for filing and pursuing a frivolous Verified Complaint and Order to Show Cause.

2. On February 6, 2018, nine days prior to the return date of the Order to Show Cause and Motions to Dismiss, I sent an email, a true and complete copy of which is annexed hereto as **Exhibit A**, on behalf of the three defendants in this matter, to the Association's counsel, David J. Byrne, Esq., with a copy to co-defendants' counsel. In that email, I expressed to Mr. Byrne my

understanding that the Association's Board did not pass a resolution authorizing him to file the present lawsuit and asked him to either: (1) confirm that my understanding was correct; or (2) immediately send me a copy of the Board resolution authorizing the lawsuit.

3. Mr. Byrne never responded to my email and has never produced a copy of a Board resolution or other written document authorizing his law firm to file this lawsuit.

4. On February 12, 2018, I sent to the Honorable Robert J. Brennan, P.J. Ch., a supplemental letter in opposition to the Association's Order to Show Cause, in which I explained that I had sent my February 6, 2018 email and Mr. Byrne's failure to respond. My supplemental letter thus argued that the Court should deny the Order to Show Cause also because the lawsuit filed by Mr. Byrne was unauthorized under Billig v. Buckingham Towers Condominium Association I, Inc., 287 N.J. Super. 551, 564-65 (App. Div. 1996). Annexed hereto as **Exhibit B** is a true and correct copy of the February 12, 2018 Supplemental Letter to the Court.

I hereby 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.

Dated: March 1, 2018

  
ROBYN ANN VALLE

# **EXHIBIT A**

## Michael Saffer

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**From:** robyn <robyn@rvallelaw.com>  
**Sent:** Tuesday, February 06, 2018 12:30 PM  
**To:** djb@ansellgrimm.com  
**Cc:** Michael Saffer; Gary Moylen  
**Subject:** Fox Hills v Applebaum

Hello David, it is my understanding that there is no Board resolution authorizing the above matter. Kindly confirm by the end of day today whether that is the case. If it is not the case, kindly immediately forward me a copy of the resolution. Thank you. Robyn

Robyn Ann Valle, Esq.  
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12 Second Avenue  
Denville, NJ 07834  
Tel. 973.586.9100  
Fax 973.586.9860

# **EXHIBIT B**

# Robyn Ann Valle PC

ATTORNEY AT LAW  
member of NJ & NY Bar

Via Federal Express

February 12, 2018

Hon. Robert J. Brennan  
Chancery Division, General Equity Part  
Morris County Superior Court  
Washington & Court Sts.  
Morristown, NJ 07963-0910

Re: Fox Hills at Rockaway Condominium Association v. Applebaum  
Docket No. MRS-C-130-17  
Supplement to Opposition to Plaintiff's Request for Entry of Restraints

Dear Judge Brennan:

I represent Barbara Applebaum. It has come to my attention that the above litigation may not have been instituted pursuant to a resolution passed by the Board of Fox Hills at Rockaway Condominium Association. On February 6, 2018, I sent an email to attorney David J. Byrne of Ansell Grimm & Aaron requesting clarification, and, further, requesting a copy of the Board resolution if one had been passed. To date, I have not received a response, leading to the conclusion that the institution of this suit is ultra vires. I hereby request that Your Honor consider the within letter as a supplement to Ms. Applebaum's opposition to plaintiff's request for injunctive relief.

It is well settled law that prior to a board instituting litigation, it must collectively authorize the suit, unless there exists an established, uniform procedure for the action. Billig v. Buckingham Towers Condo Ass'n, 287 N.J. Super. 551, 565 (App. Div. 1996).

In words equally applicable here, Judge Pressler explained:

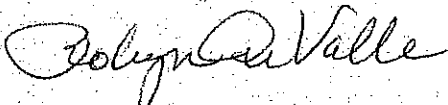
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Litigation ought to be a last resort, not a first one. It is expensive, it is burdensome, and when it involves a claim against a unit owner, it may well be counter-productive to the harmony and commonality required for successful community living. Clearly, before the unit owners can be burdened with the financial onus and other burdens of litigation, they must be assured that their elected board has made reasonable efforts otherwise to resolve the dispute, that the members of the board, with as full a briefing as possible, have made a collective decision, and that the decision is properly memorialized. Nothing less is required of both public and private corporations.

[Id. at 564.]

Clearly, the within suit against Ms. Applebaum and her codefendants was not instituted pursuant to "a detailed, predetermined, uniformly applied protocol" as required by Billig. Id. at 565. Therefore, a Board resolution authorizing the suit was required. Absent such a resolution, the request for injunctive relief was filed without the legal authority of the Board and should be denied.

Respectfully submitted,



Robyn Ann Valle

C: Ms. Barbara Applebaum (via email)  
David J. Byrne, Esq., Attorney for Plaintiff (via Federal Express)  
Michael A. Saffer, Esq., Attorney for Alan Rothstein ([msaffer@lawfirm.ms](mailto:msaffer@lawfirm.ms))  
Gary W. Moylen, Esq., Attorney for Paul Kardos ([gmoylen@comcast.net](mailto:gmoylen@comcast.net))