

Gary Wm. Moylen, Esq.
N.J. Attorney ID. No. 017861978
90 Maple Avenue
Morristown, New Jersey 07960
(973) 539-1303
Attorneys for Defendant Paul Kardos

**FOX HILLS AT ROCKAWAY
CONDOMINIUM ASSOCIATION, INC.**

Plaintiff,

vs.

**BARBARA APPLEBAUM, PAUL
KARDOS AND ALAN ROTHSTEIN**

Defendants.

SUPERIOR COURT OF NEW JERSEY-
CHANCERY DIVISION - MORRIS COUNTY

CIVIL ACTION

Docket No. C-130-17

**ANSWER AND COUNTERCLAIM
OF DEFENDANT PAUL KARDOS**

DEFENDANT PAUL KARDOS, residing in the Borough of Rockaway, County of Morris and State of New Jersey, by way of answer to the Plaintiff's Complaint, states as follows:

1. This Defendant admits the allegations set forth in Paragraph 1 of the Complaint.
2. This Defendant admits the allegations set forth in Paragraph 2 of the Complaint.
3. This Defendant admits the allegations set forth in Paragraph 3 of the Complaint.
4. This Defendant denies the allegations set forth in Paragraph 4 of the Complaint.
5. This Defendant denies the allegations set forth in Paragraph 5 of the Complaint.
6. This Defendant denies the allegations set forth in Paragraph 6 of the Complaint.
7. This Defendant denies the allegations set forth in Paragraph 7 of the Complaint.
8. This Defendant denies the allegations set forth in Paragraph 8 of the Complaint.
9. This Defendant denies the allegations set forth in Paragraph 9 of the Complaint.

INJUNCTIVE RELIEF AS TO THE OWNERS

10. This Defendant neither admits nor denies the allegations of Paragraph 10 of the Complaint, and leaves the Plaintiff to its proofs.

11. This Defendant neither admits nor denies the allegations of Paragraph 11 of the Complaint, and leaves the Plaintiff to its proofs.

12. This Defendant neither admits nor denies the allegations of Paragraph 12 of the Complaint, and leaves the Plaintiff to its proofs.

13. This Defendant neither admits nor denies the allegations of Paragraph 13 of the Complaint, and leaves the Plaintiff to its proofs.

WHEREFORE, Defendant Paul Kardos demands judgment against Plaintiff as follows:

- (a) Dismissing the Verified Complaint with prejudice;
- (b) Awarding this Defendant counsel fees for the costs of opposing this frivolous Verified Complaint;
- (c) For such other relief as the Court deems equitable and just.

FIRST AFFIRMATIVE DEFENSE

The Plaintiff lacks standing to bring this matter.

SECOND AFFIRMATIVE DEFENSE

The Verified Complaint fails to state a cause of action upon which relief can be granted.

THIRD AFFIRMATIVE DEFENSE

This action fails to include an indispensable party.

FOURTH AFFIRMATIVE DEFENSE

The Verified Complaint fails to state any facts necessary for the Court to grant injunctive relief.

FIFTH AFFIRMATIVE DEFENSE

The within lawsuit constitutes frivolous litigation in violation of R. 1:4-8 and N.J.S.A.2A:15-59.1.

COUNTERCLAIM
FIRST COUNT

Defendant- Plaintiff on the Counterclaim Paul Kardos, by way of Counterclaim against the Plaintiff Fox Hill, states as follows:

14. Paul Kardos is an individual who, at all pertinent times, was an owner in fee in a real estate condominium known as "Fox Hills at Rockaway Condominium Association, Inc." (hereinafter known as "Fox Hills") located in Rockaway, New Jersey.

15. Due to his ownership of a condominium in the Fox Hill project, Paul Kardos is automatically a member of the Fox Hill Condominium Association, and as such, he has standing to assert the rights and claims set forth in this Counterclaim.

16. Fox Hills has utilized the assets of the condominium association to pay the legal fees of counsel who has prepared and filed the within Verified Complaint and Order to Show cause, and which represents Fox Hills in the within litigation.

17. The Verified Complaint filed in this matter is frivolous on its face, and consists of nothing more than frivolous litigation which, among other things, improperly asserts the rights of a third person not made a party to this action, fails to join an indispensable party, fails to

articulate the grounds necessary for the issuance of injunctive relief, and which fails to even properly state a cause of action upon which relief can be granted.

18. Even if somehow one could discern a viable cause of action in this matter, Fox Hills is not the proper party to asserts those rights, and in fact is improperly representing the rights of an individual, Gloria Stahl, in this action.

19. The Plaintiff's payment of counsel fees in this matter constitutes a waste of the Association's funds in favor of one member of the Association, and discriminates against other members of the Association, in violation of Fox Hill's fiduciary duties and its responsibilities created by the Master Deed and by the law of the State of New Jersey.

WHEREFORE, Paul Kardos demands Judgment against Fox Hills:

- A. Adjudging that Fox Hills has violated its fiduciary duties to represent the interests of all members of the Association equally and fairly;
- B. Adjudging that Fox Hills has improperly wasted the assets of the Association in paying the counsel fees in this matter;
- C. Enjoining and forbidding Fox Hills from using any more funds of the Association to pay counsel fees in this action;
- D. Directing and ordering Fox Hills to collect from Gloria Stahl all counsel fees paid to date in this matter to further her interests;
- E. Ordering and directing Fox Hills to pay the counsel fees of Paul Kardos in defending this matter, and
- F. For such other relief as the Court deems equitable and just.

SECOND COUNT

20. Paul Kardos repeats and reiterates the allegations of the First Count of the Counterclaim as if the same were set forth at length herein.

21. Fox Hills through its counsel has falsely accused Paul Kardos, among others, of a crime of conspiracy to commit murder.

23. The aforesaid allegations are false, and were known to be false at the time they were made and are libelous per se.


24. The aforesaid false allegations were made with a malicious intent to damage the good reputation of Paul Kardos, and to hold him in contempt as a criminal.

25. These false allegations have caused economic and non-economic damages to Paul Kardos.

WHEREFORE, Paul Kardos demands judgment for defamation against Fox Hill for:

- A. Nominal damages;
- B. Compensatory Damages;
- C. Punitive Damages;
- D. Counsel fees and costs of suit and
- E. Such other and further relief as the Court deems equitable and just.

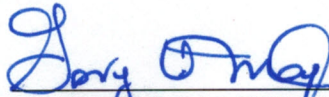
Dated: January 18, 2018


GARY W.M. MOYLEN, ESQ.
Attorney for Defendant Paul Kardos

CERTIFICATION PURSUANT TO R.4:5-1

It is hereby stated that the matter in controversy is not the subject of any other action pending in any Court or of a pending arbitration proceeding to the best of my knowledge or belief. No other action or arbitration proceeding is contemplated. Further, other than the parties set forth in this pleading, I know of no other parties that should be joined in the above action. In addition, I recognize the continuing obligation of each party to file and serve on all parties and the Court an amended Certification if there is a change in the facts stated in this original certification.

Dated: January 18, 2018



GARY WM. MOYLEN, ESQ.
Attorney for Defendant Paul Kardos

CERTIFICATION PURSUANT TO R.1:38-7(c) AND R. 4:5-1(b)(3)

I hereby certify that confidential personal identifiers have been redacted from documents now submitted to the Court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

Dated: January 18, 2018

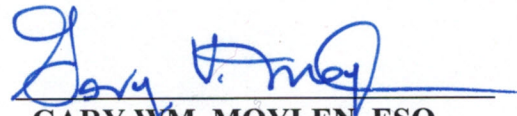


GARY WM. MOYLEN, ESQ.
Attorney for Defendant Paul Kardos

DESIGNATION OF TRIAL COUNSEL

Pursuant to R.4:25-4, Gary Wm. Moylen, Esq., is hereby designated as trial counsel for Defendant Paul Kardos in the within matter.

Dated: January 18, 2018


GARY WM. MOYLEN, ESQ.
Attorney for Defendant Paul Kardos