

# TIME STUDY CASE

Record Time Spent by Judge or Magistrate  
IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

FILED <sup>k</sup>

NATIONAL DEVELOPMENT  
CO., INC.,

Plaintiff,

vs.

TRUSTEESHIP OF WOODLAND LAKES  
and JAMES R. CLUTTER, Trustee,  
WILBERT MEYER, Trustee, and  
WILLIAM W. KING, Trustee,

Defendants.

APR 25 1986

EYVON MENDENHALL  
U. S. DISTRICT COURT  
E. DISTRICT OF MO.

Cause No.

86-0852-C-3

## COMPLAINT

### COUNT I - INJUNCTIVE RELIEF

Comes now plaintiff National Development Co., Inc.,  
(hereinafter "NDC"), and for its cause of action states as  
follows:

1. Plaintiff NDC is a corporation duly organized and existing under the laws of the State of Texas and having its principal place of business in the State of Texas.
2. Defendant Trusteeship of Woodland Lakes is a legal entity and has the right to be sued, in accordance with an Amended Trust Indenture and Restrictive Covenants and Conditions Pertaining to a Subdivision of Land in Washington Co., Missouri.
3. Defendants James R. Clutter, Wilbert Meyer and William W. King are trustees of Woodland Lakes and reside in Washington Co., Missouri.
4. That there is complete diversity of citizenship of plaintiff and defendants herein, giving this Court jurisdiction pursuant to 28 USC §1332.



5. Plaintiff NDC is a land development company and owns, in fee simple, a substantial amount of ground in Woodland Lakes Subdivision, located in Washington Co., Missouri. Plaintiff NDC sells lots and offers for sale lots in the subdivision to prospective purchasers.

6. Defendants have illegally and unlawfully commenced a practice of harassing new property owners or purchasers of property under a contract for a deed by threatening to refuse said new owners access to Woodland Lakes Development and the full use and enjoyment of the development, all of which conduct is damaging to plaintiff NDC in that it will lose existing contracts or will not be able to offer for sale and permit inspection of lots to prospective purchasers.

7. Defendants have levied an annual assessment on each lot owner, including plaintiff NDC, for the unsold platted lots for prior years, and defendants are attempting to levy an assessment for the year 1986, although under the Amended Trust Indenture, attached hereto as Exhibit 1 and incorporated by reference herein, said assessment is not to be levied until November 15, pursuant to Article II, paragraph 1(A). That defendants' conduct, as aforesaid, is damaging to plaintiff NDC in that it will lose existing contracts or will not be able to offer for sale at an attractive price to prospective customers because of the additional expense created by the assessment.

8. Defendants attempted to enact certain amendments to the Amended Trust Indenture, referred to herein as Exhibit 1, on



September 3, 1985 and on April 12, 1986. Said purported amendments for September 3, 1985 are set forth in the attached Exhibit 2, and incorporated by reference herein. The purported April 12, 1986 amendments, on information and belief, are set forth in the attached Agenda, Property Owners Meeting, April 12, 1986, marked Exhibit 3. That all of the purported amendments to the Amended Trust Indenture are illegal, void, and of no force or effect because they were illegally and invalidly enacted in that a quorum was not present for the meeting, in violation of the Amended Trust Indenture. That plaintiff NDC is suffering damages as a result of the defendants' attempts to enforce the purported illegal amendment of September 3, 1985 and April 12, 1986.

9. Defendants have caused and are continuing to cause irreparable injury to plaintiff NDC by their conduct set forth above.

10. Defendants' acts as aforesaid are continuing and were and are being perpetrated willfully and with malice to plaintiff NDC. All the defendants' acts as aforesaid are, and will continue to be, unless enjoined and restrained by this Court, damaging and otherwise injurious to plaintiff NDC and its business.

11. Plaintiff NDC has no adequate remedy at law by reason of the foregoing and unless defendants are enjoined and restrained from the conduct set forth in paragraphs 6, 7 and 8, supra, plaintiff NDC will suffer irreparable injury.

12. Defendants are contending plaintiff NDC owes an assessment of approximately \$100,000.00, which plaintiff NDC denies and states the entire amount has been paid, or the value thereof.



in services, materials and cash advances made by plaintiff NDC, for the benefit of Woodland Lakes, so the amount in controversy in this lawsuit is in the approximate amount of \$100,000.00.

WHEREFORE, plaintiff NDC prays that the Court enter Orders, judgment and decrees as follows:

A. Granting a temporary restraining order restraining defendants from harassing and annoying new property owners or purchasers of property under a contract for a deed by threatening to refuse said new owners access to the Woodland Lakes Subdivision.

B. Granting a permanent injunction to the same effect.

C. Granting a temporary restraining order restraining defendants from levying assessments before November 15 of any given year.

D. Granting a permanent injunction to the same effect.

E. Granting a temporary restraining order restraining defendants from attempting to enforce the purported amendments to the Amended Trust Indenture dated September 3, 1985 and April 12, 1986.

F. Granting a permanent injunction to the same effect.

G. For plaintiff NDC's attorney's fees and costs herein, and for such other orders as may seem just to the Court.

#### COUNT II - DECLARATORY JUDGMENT

Comes now plaintiff National Development Co., Inc. (hereinafter "NDC"), and for Count II of its complaint states as follows:

1. Plaintiff NDC incorporates herein paragraphs 1 through 5



of Count I herein as if fully set forth in Count II herein.

2. On or about September 3, 1985 defendants attempted to enact certain amendments to the Amended Trust Indenture, referred to herein as Exhibit 1. Said purported amendments of September 5, 1985 are set forth in the attached Exhibit 2 and incorporated by reference herein.

3. On or about April 12, 1986 defendants attempted to enact certain amendments to the Amended Trust Indenture, referred to herein as Exhibit 1. Said purported amendments, on information and belief, are set forth in the attached Agenda, Property Owners Meeting, April 12, 1986, marked Exhibit 3.

4. The purported amendments of September 3, 1985 and April 12, 1986 are illegal, invalid and void because they were illegally and invalidly enacted in that a quorum was not present at the meetings and land owners were prohibited from voting on said amendments, all in violation of the Amended Trust Indenture.

5. Plaintiff NDC is suffering and will continue to suffer damages as a result of the defendants' attempts to enforce the invalid and illegal amendments of September 3, 1985 and April 12, 1986.

WHEREFORE, plaintiff NDC prays for a judgment declaring the purported amendments of September 3, 1985 and April 12, 1986, are illegal, invalid and void and that the defendants, their agents, employers, assigns and successors be restrained from enforcing said purported amendments.



Copies of the foregoing mailed this 25<sup>th</sup> day of April, 1986, to:

J. H. Mueller  
Joseph H. Mueller, No. 17652  
Moser, Marsalek, Carpenter,  
Cleary, Jaeckel & Keaney  
Attorneys for Plaintiff  
314 N. Broadway, Suite 360  
St. Louis, Missouri 63102  
421-5364



IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

AFFIDAVIT

Roy L. Bullion, being duly sworn on his oath, states that he is vice-president of National Development Co., Inc., that he is familiar with, and has investigated, the matters set forth in the above complaint, and that the matters that are set forth are true as he verily believes.

Roy L. Bullion  
Roy L. Bullion  
Vice-President

Subscribed and sworn to before me this 15th day of  
April, 1986.

Pamela S. Granda  
Notary Public

My Commission expires:

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PAMELA S. GRANDA  
NOTARY PUBLIC, STATE OF MISSOURI  
MY COMMISSION EXPIRES SEPT. 26, 1987  
ST. LOUIS COUNTY



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