

COPY

) C.A. NO. 4:12-cv-00165

Defendants.

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Plaintiffs state the following:

1. **Plaintiffs argue that this Court does not lack personal jurisdiction over Defendants because Defendants indeed have continuous and systematic contacts with Texas, which does support a finding of general jurisdiction.¹**

Evidence will show that Woodland Lakes, which is the subject of this action, was formed by and for a Texas Corporation [Exhibit 9]. In 1974, the Annual Registration Report does state National Development Company, Inc. duly incorporated under the laws of Texas, on the 31st day of August, 1956 [Exhibit 10].

Defendant Deborah Clutter did swear in her Affidavit that Woodland Lakes Trusteeship has never operated in Texas [Defendants' Exhibit 1 - #7]. However, the Registration of Fictitious Name "*Woodland Lakes*" filed by National Development Company, Inc. on June 04, 1980 [Exhibit 9A], shows National Development Company does own one hundred percent of what is known as "*Woodland Lakes*" in Sullivan Missouri. On June 18, 1986 (filed July 01, 1986), and October 29, 1987, National Development Company, Inc. is listed on the registration report as being a Texas Corporation [Exhibits 11A & 11B]. On December 08, 1995, the registration report indicates National Development Company, Inc. did update its registered agent to the State of Texas [Exhibit 12], which was the year before Defendant Deborah Clutter alleges the relationship

¹ Defendants, National Development Company, Inc. and Clyde Engle were both served [see docket]. Additionally, Counsel Wallace did appear on behalf of National Development Company, Inc. on March 29th, 2012. When this case was called for hearing, as "*Dave Campbell v. National Development Company, Inc.*" attorneys Wallace and David both stood ready for trial. Neither counsel objected as to representing Mr. Engel or National Development Company. If National Development Company doesn't exist, as Defendants now allege, then Defendants did commit a fraud upon the court by declaring in the Woodland Lakes Amended Trust Indenture that "*National Development Company, Inc., a Texas Corporation*," is the current owner of the Woodland Lakes Development. If National Development Company, Inc. no longer exists, then Woodland Lakes Trusteeship is fraudulently and illegally doing business as National Development Company, Inc.

between National Development Company, Inc. and Woodland Lakes Trusteeship, Inc. was terminated [Defendants' Exhibit 1 - #10].

It is important to note that Woodland Lakes Trusteeship, Inc. was formed July 17, 1986 [Exhibit 13]. The same 1986 Article of Incorporation does state the address of its initial Registered Office in the State of Missouri is to "*Woodland Lakes*" in "*Sullivan, Missouri.*" [Exhibit 13A, Line 3] On October 16, 2009, National Development Company Inc.'s "*Notice of Expiration for a Fictitious Name Registration,*" is addressed to "*Woodland Lakes*" in "*Sullivan, Missouri.*" [Exhibit 9C] Thus, the property **forever** described in the Woodland Lakes Trust Indenture is indeed the same actual real estate claimed by "*Woodland Lakes*" a/k/a National Development Company, Inc., who is a Texas Corporation, and Woodland Lakes Trusteeship Inc., overlapping by a minimum of ten years. In essence, Woodland Lakes Trusteeship, Inc. is currently doing business as National Development Company Inc., by stating National Development Company, Inc. is the owner of Woodland Lakes [Exhibit 17A]. To avoid responsibility Woodland Lakes Trusteeship, Inc. now denies its former declaration [Defendants' Exhibit 1 - #10].

Defendant Deborah Clutter did swear in her Affidavit that Woodland Lakes Trusteeship does not maintain a website [Defendants' Exhibit 1, #9]. Indeed, at the present time, Woodland Lakes Trusteeship, Inc. does have two websites [Exhibits 21A-F]. Both websites were fully functioning when this action was brought.

Defendant Deborah Clutter did swear in her Affidavit that National Development has had no involvement with Woodland Lakes since 1996 [Defendants' Exhibit 1, #10]. However, the assumed name "*Woodland Lakes*" was indeed maintained by National Development Company, Inc. until October 16, 2009 [Exhibit 9C]. If

National Development truly had no involvement with Woodland Lakes since 1996 [Defendants' Exhibit 1 -#10], then the National Development Company, Inc. would not have maintained registration of Woodland Lakes for 13 years after said allegation. Indeed, if Defendant Deborah Clutter's assertion were true, then the 2011 Woodland Lakes Trust Indenture would not declare National Development Company, Inc. as the present owner of Woodland Lakes [Exhibit 17B]. Ms. Clutter did notarize the 2011 Trust Indenture, which does state, "*KNOW ALL MEN BY THESE PRESENTS, that WHEREAS, National Development Company, Inc, a Texas Corporation, is the owner of certain real property located in Washington County, Missouri,*" which is further described as the Woodland Lakes Development [Exhibit 17B]. As evidenced by Ms. Clutter's Affidavit, Woodland Lakes Trusteeship, Inc. did in fact have business involvement with a Texas Corporation. Though Ms. Clutter only admits having had business involvement until 1996, business in Texas was conducted, nonetheless.

Additionally, the Woodland Lakes Trusteeship does currently, actively, operate its business in Texas, via the United States Postal Service [Exhibit 14].

In 1986 and in 1987, the Annual Registration Reports for National Development Company, Inc. shows National Development Company, Inc. being a Texas Corporation with the assumed name of "*Woodland Lakes.*" [Exhibits 9 & 11A-B] Both assumed names, "*Woodland Lakes,*" and "*Woodland Lakes Trusteeship, Inc.,*" pertain to the exact same piece of real estate, as described in the current Trust Indenture [Exhibit 17B].

From 1974 until 1982, R.L. Erkenbeck (who is listed on the 2011 Woodland Lakes Trust Indenture as being the current Trustee for Woodland Lakes), is listed as being a Texas resident, and the Vice President of National Development Company, Inc.

[Exhibit 15]. In 1986, R.L. Erkenbeck, the Vice President of National Development Company, Inc., did move from Texas to Missouri [Exhibit 11A]. In 1987, R.L. Erkenbeck was still the Vice President of National Development Company, Inc., a Texas Corporation, and was still at the Missouri address [Exhibit 11B].

In 1990, which was ten years after the name "*Woodland Lakes*" was assumed by National Development Company, Inc., National Development Company, Inc. did register the name, "*National Development Company of Texas, Inc.*" [Exhibit 16] This was also four years after the Woodland Lakes Trusteeship was incorporated [Exhibit 13A]. National Development Company of Texas, Inc., is owned exclusively by National Development Company, Inc. [Exhibits 17B & 9A]

It is unclear as to why Woodland Lakes Trusteeship, Inc., was formed as a not-for-profit organization when National Development Company, Inc. did form "*Woodland Lakes*" as being for profit. The fact that Woodland Lakes Trusteeship Inc.'s 1986 Articles of Incorporation states the purposes for which the corporation is organized is "*To own property, to buy and sell property, to rent or lease property, to contract with others, to engage in activities for the furtherance of Woodland Lakes Trusteeship, and all other legal powers permitted General Not for Profit Corporations,*" does indicate said corporation was indeed formed exclusively to profit [Exhibit 13]. It is apparent Woodland Lakes Trusteeship, Inc.'s declarations are fabricated, for the furtherance of Woodland Lakes Trusteeship, Inc.

Upon inception, until the present time, Woodland Lakes Trusteeship, Inc. has been directly related, created and supported by a Texas corporation. Without the sole connection to Texas, Woodland Lakes Trusteeship, Inc., would not exist. Without a

shadow of a doubt, Defendants, indeed, have personal contacts with the State of Texas, as evidenced by Defendants' signatures on the Amended Trust Indenture [Exhibit 17A].

2. **Plaintiffs would have had an opportunity to prepare for the Motion-to-Discard hearing, and would have easily met their burden of establishing personal jurisdiction had Plaintiffs not been deceived by Defendants' counsel by not providing a copy of Defendants' argumentative pleading, which did form the basis for Defendants' Motion to Discard.**

Had Plaintiffs received a copy of Defendants' argument, Plaintiffs would have submitted the attached evidence for court on March 29th. Counsel Wallace, a sworn officer of the court, did take drastic and illegal measures in order to gain victory in this matter. During the March 29th hearing, Plaintiff Dave Campbell did mention that Defendants had given no authorities or basis for their Motion to Discard. Unbeknownst to Plaintiffs, Defendants' argument for their Motion to Discard was contained in *"Defendants' Opposition To Plaintiffs' Leave of Court to Amend Petition."* When the Court asked if everyone had received copies of filings, Mr. Wallace did not indicate he'd sent Plaintiffs an opposition two days prior, nor did he verify Plaintiffs' receipt of a copy of the offensive pleading.

By declaring in the Woodland Lakes current "Amended Trust Indenture" that the development of Woodland Lakes is owned by a Texas Corporation, Defendants have personally availed themselves of the benefits and protections of Texas' laws. The corporation which Defendants declares formed and owns Woodland Lakes was organized under the laws of Texas. Therefore, Defendants should *"reasonably anticipate being hauled into court"* here. World-Wide Volkswagen, 444 U.S. 286, 296 (1980). As shown by the attached evidence, this Court has general and specific jurisdiction over Defendants. There is ancillary jurisdiction over each Defendant who is unrelated to

National Development Company, Inc. and Woodland Lakes Trusteeship, Inc.

(1) Woodland Lakes Trusteeship, Inc. and National Development Company, Inc. did purposefully avail themselves of the benefits and protections of the State of Texas by establishing 'minimum contacts' with Texas; and (2) the exercise of jurisdiction over each defendant does not offend 'traditional notions of fair play and substantial justice.' Latshaw, 167 F. 3d at 211. (1) It would not be burdensome for Defendants to defend this action in Texas because Defendants have hired a Texas attorney and with today's advanced technology, can easily appear in this case via telephone and video conferencing; (2) Defendants have declared the development they represent is owned by a Texas corporation; therefore, Texas is a forum state in which to hear this case; (3) Texas is the most convenient and effective venue in which to hear this case.

As of April of 2012, Defendants have continued to do business with the State of Texas, via the United States Postal Service [Exhibit 14] and an interactive business website [Exhibit 21A-F].

Defendants have conceded that the Woodland Lakes Trusteeship does maintain a website, by saying, "*...this website is maintained by ... the Woodland Lakes Property Owners [sic] Association.*" From 1988 until 1997, Woodland Lakes Trusteeship, Inc.'s Annual Registration Reports states that the character of affairs which the corporation is conducting is "*Property Owners Association.*" [Exhibit 18A-J] The current Annual Registration Report form no longer asks for a statement of the character of affairs which the corporation is conducting [Exhibit 20].

It is clearly evident that Woodland Lakes Trusteeship, Inc. does, and has for years, maintained an interactive website. Interactive is defined as "*of or pertaining to a*

two-way system of communications." The Woodland Lakes Trusteeship's website, which former and currently-running Trustee Bob Murphy does declare, "*The Trustee's [sic] have authorized me to re-create this site,*" does encourage communication by the website viewer. WoodlandLakes.net's opening page does state, "*you can reach us at the above number or fax. We are looking forward to hearing from you. You can also contact us at our e-mail address.*" [Exhibit 21C] The email address listed at WoodlandLakes.net does belong to the Woodland Lakes Trusteeship [Exhibit 20]. Exhibit 19 evidences Mr. Robert Murphy was indeed a Woodland Lakes Trustee for the years 2005, 2006 and 2007 [Exhibit 19A-C].

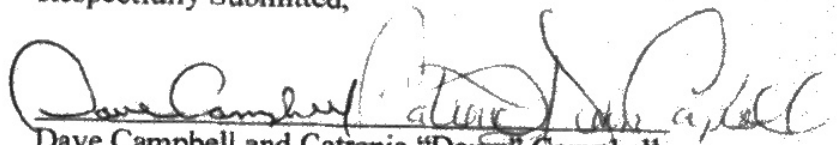
Woodland Lakes Trusteeship, Inc. is soliciting new business via its website, which states, "*If you are not familiar with us and your first contact with us is online: We would be pleased to hear from you! Please let us know what your needs and questions are, we will be more than happy to help. Please give us a call.*" WoodlandLakes.net does also contain a "For Sale" link which states, "*List your lots for sale here for free. Although we are not a Realtor, we allow owners to post their property for sale ... on this site for free. To list your lot here, send your lot information to Bob (<- click here).*" [Exhibit E-F]

In order to truly be classified as a "*passive website,*" there would be no response to any website viewers. On the contrary, the Woodland Lakes Trusteeship has aggressively encouraged contact from website viewers of WoodlandLakes.net. It is rather hard to believe the trusteeship is refusing to answer their telephone when it rings, or open mail and email when it is received. It would be difficult to ignore a fax.

3. Conclusion.

Counsel Wallace has take advantage of and prejudiced pro se litigants by maliciously & intentionally filing an argument he intended Plaintiffs would never see. Counsel Wallace did certify to have mailed Defendants' response on the 27th of March, which means that even had Counsel Wallace done as he certifies to have done, Plaintiffs still would not have received Counsel Wallace's argument, in order to prepare for the hearing. Counsel Wallace did rely on the argument contained in his un-served pleading in order to have this case dismissed, fraudulently. Counsel Wallace concealed his argument from Plaintiffs, thus committing fraud upon the Court, because Counsel Wallace knew Plaintiffs could easily show Defendants have strong ties to the State of Texas.²

Respectfully Submitted,



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² "Fraud upon the court" has been defined by the 7th Circuit Court of Appeals to "embrace that species of fraud which does, or attempts to, defile the court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery can not perform in the usual manner its impartial task of adjudging cases that are presented for adjudication." *Kenner v. C.I.R.*, 387 F.3d 689 (1968); 7 Moore's Federal Practice, 2d ed., p. 512, ¶ 60.23. The 7th Circuit further stated "a decision produced by fraud upon the court is not in essence a decision at all, and never becomes final."

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of: **PLAINTIFFS' REPLY TO "DEFENDANTS' REPOSE TO PLAINTIFFS' MOTION FOR LEAVE OF COURT TO AMEND PETITION,"** has been served upon the opposing party by enclosing a copy of the same in a sealed envelope and mailing via the United States Postal Service's Priority Mail, on April 28th, 2012, with Label No.: 0307 0020 0005 2495

4951. 4975. bc

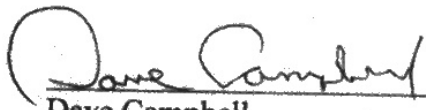
Defendants:

Woodland Lakes Trusteeship, Inc., National Development Company, Inc., Clyde W. Engle, Francis Oscar Darian, Jr., Lawrence Deis, Craig Kinmann, Arthur Hurlburt, Russell Richards, Deborah Clutter, Patricia Edgar, Crystal Kallansrud, Simone Hatton, Linda Wade, Larry Anderson and Thomas Leon Colyott.

ATTORNEY OF RECORD:

Woodland Lakes Trusteeship, Inc., et al
ATTN: Casey T. Wallace
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1221 McKinney Street, Suite 2100
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Signed and served this 28th day of April, 2012


Dave Campbell


Dawn Campbell