

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

DALE THEESFELD AND MARYILYN
THEESFELD,

PLAINTIFFS,
VERSUS
WOODSIDE GOLF, LLC, d/b/a THE
RESERVE CLUB AT WOODSIDE
PLANTATION, AND SIDEWOOD
DEVELOPMENT, LLC,

DEFENDANTS.

IN THE COURT OF COMMON PLEAS

SECOND JUDICIAL CIRCUIT

CASE NO.: 2015-CP-02-01605

**AMENDED ANSWER OF DEFENDANTS
WOODSIDE GOLF, LLC AND
SIDEWOOD DEVELOPMENT, LLC
(Jury Trial Demanded)**

COME NOW the Defendants, pursuant to Rule 15(a), South Carolina Rules of Civil Procedure, amending their Answer to the Complaint of the Plaintiffs and respectfully show unto the Court as follows:

FOR A FIRST DEFENSE

1. Plaintiffs' Complaint against these Defendants fails to state a cause of action upon which relief may be granted.

FOR A SECOND DEFENSE

2. The Defendants adopt the allegations contained hereinabove, where relevant, as fully as if repeated herein verbatim.

3. The Defendants deny each and every allegation of the Plaintiffs' Complaint that is not hereinafter specifically and expressly admitted.

4. Upon information and belief, the Defendants admit the allegations of paragraph 1 of the Plaintiffs' Complaint.

FILED 9-10-15

Liz Hadland
C.C.C.P. & G.S.
Vernon C. Davis 12-953
Deputy Clerk

5. The Defendants admit the allegations of paragraphs 2, 3, 4, 5, 6, and 7 of the Plaintiffs' Complaint.

6. Upon information and belief, the Defendants admit the allegations of paragraph 8 of the Plaintiffs' Complaint.

7. The allegations of paragraph 9 of the Plaintiffs' Complaint constitute a legal argument requiring no response from the Defendants.

8. The Defendants lack sufficient information to form a belief as to whether the alleged sales brochure or representation were made and whether the Plaintiffs relied upon said representation in purchasing their home. The Defendants therefore deny the allegations of paragraph 10 of the Plaintiffs' Complaint and demand strict proof thereof.

9. The Defendants lack sufficient information to form a belief with respect to the allegations of paragraph 11 of the Plaintiffs' Complaint and therefore deny said allegations and demand strict proof thereof.

10. Upon information and belief, the Defendants admit as much of paragraph 12 of the Plaintiffs' Complaint as can be construed to allege that the Plaintiffs purchased and occupied their home with knowledge and understanding that their home is near or adjacent to a clubhouse, golf course, golf cart paths, tennis courts, a pool, bocce ball and croquet areas and other recreational and social amenities. The Defendants deny the remaining allegations of paragraph 12.

11. The Defendants lack sufficient information to form a belief with respect to the allegations of paragraphs 13 and 14 of the Plaintiffs' Complaint, and therefore deny such allegations and demand strict proof thereof.

12. The Defendants admit the allegations of paragraphs 15 and 16 of the Plaintiffs' Complaint.

13. Upon information and belief, the Defendants admit the allegations of paragraph 17 of the Plaintiffs' Complaint.

14. The Defendants lacks sufficient information to form a belief as to the frequency or nature of a pickleball paddle strike, and therefore deny the allegations of paragraph 18 of the Plaintiffs' Complaint and demand strict proof thereof.

15. The Defendants admit as much of paragraph 19 of the Plaintiffs' Complaint as can be construed to allege that the subject playing courts were opened in December 2014 and are open from 10:00 a.m. to 10:00 p.m. Tuesday through Sunday. The Defendants deny the remaining allegations of paragraph 19.

16. The Defendants admit as much of paragraph 20 of the Plaintiffs' Complaint as can be construed to allege that the pickleball courts are lit when in use during low light and nighttime operating hours. The Defendants deny the remaining allegations of paragraph 20.

17. The Defendants deny the allegations of paragraph 21 of the Plaintiffs' Complaint.

18. The Defendants admit the allegations of paragraphs 22 of the Plaintiffs' Complaint.

19. The Defendants deny the allegations of paragraphs 23, 24, and 25 of the Plaintiffs' Complaint.

20. The Defendants admit as much of paragraph 26 of the Plaintiffs' Complaint as can be construed to allege that the Club has continued to operate the

pickleball courts and that the Developer has continued to allow the pickleball courts to operate on its property. The Defendants deny the remaining allegations of paragraph 26.

21. The Defendants deny the allegations of paragraph 27 and 28 of the Plaintiffs' Complaint.

22. Paragraph 29 of the Plaintiffs' Complaint requires no response from the Defendants.

23. The Defendants deny the allegations of paragraphs 30, 31, 32, and 33 of the Plaintiffs' Complaint.

FOR A THIRD DEFENSE (Assumption of Risk)

24. The Defendants adopt the allegations contained hereinabove, where relevant, as fully as if repeated herein verbatim.

25. Further and affirmatively responding to the Plaintiff's Complaint, the Defendants would allege and assert, on information and belief, the Plaintiffs knew and appreciated the risks and dangers of the course of conduct engaged, to wit; purchasing and occupying their home with knowledge and understanding that their home was located near or adjacent to a clubhouse, golf course, golf cart paths, multiple tennis courts, a pool, bocce ball and croquet areas and other recreational and social amenities owned and operated by the Defendants for the benefit and enjoyment of residents, members, and guests; on the date in question and did proceed in disregard of said risks of injury and did thereby assume the risk of injury. The Plaintiffs are therefore barred from recovery.

FOR A FOURTH DEFENSE

26. The Defendants adopt the allegations contained hereinabove, where relevant, as fully as if repeated herein verbatim.

27. The Defendants allege that an award of punitive damages would constitute an impermissible and excessive fine under the Eighth Amendment of the Constitution of the United States, and such damages would further be a violation of the Due Process and Equal Protection Clauses of the Fifth and Fourteenth Amendments, respectively, of the United States Constitution, as well as the applicable corresponding sections of the Constitution of the State of South Carolina, Article 1, § 3.

28. The Plaintiffs' claim for punitive damages violates the Defendants' right to access to the Courts guaranteed by the Seventh and Fourteenth Amendments because the threat of an award of unlimited punitive damages interferes with the Defendants' exercise of that right.

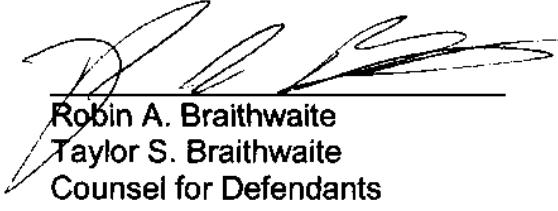
29. The Plaintiffs' claim for punitive damages violates the Due Process and Equal Protection Clauses of the Fourteenth Amendment for the following reasons:

- a. the standard or test for determining the requisite mental state of the Defendants for imposition of punitive damages is void for vagueness; and
- b. insofar as punitive damages are not measured against actual injury to the Plaintiffs and are left wholly to the discretion of the jury, there is no objective standard that limits the amount of such damages that may be awarded, and the amount of punitive damage that may be awarded

is indeterminate at the time of the Defendants' alleged conduct.

WHEREFORE, having fully answered, the Defendants pray that they be discharged without costs.

BRAITHWAITE LAW FIRM

By: 

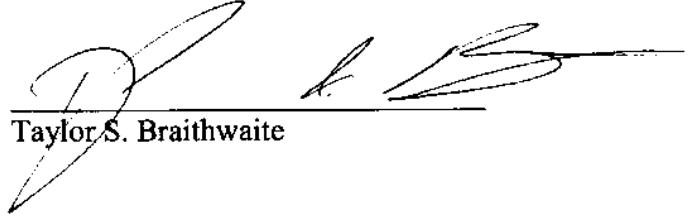
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September 9, 2015
Aiken, South Carolina

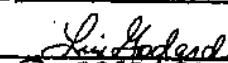
CERTIFICATE OF SERVICE

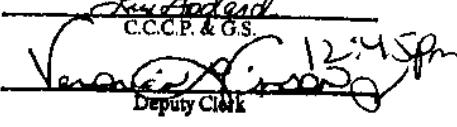
I HEREBY CERTIFY that a true copy of the foregoing **AMENDED ANSWER**, were forwarded to all counsel of record listed below by depositing a copy of same in the United States Mail with proper postage affixed thereto this 9th day of September, 2015:

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Taylor S. Braithwaite

FILED 9.10.15


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Venecia S. Sims
Deputy Clerk

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September 9, 2015

The Honorable Elizabeth C. Godard
Aiken County Clerk of Court
Post Office Box 586
Aiken, South Carolina 29802

RE: Dale Theesfeld and Marilyn Theesfeld v. Woodside Golf, LLC, d/b/a The Reserve
Club at Woodside Plantation, and Sidewood Development, LLC
Case No.: 2015-CP-02-01605

Dear Ms. Godard:

Enclosed please find the original and one copy of the Defendants' Amended Answer for filing in the above captioned case. Please return a filed copy to me in the envelope provided. Should you have any questions in regard thereto, please feel free to give me a call.

With best regards, I remain

Very truly yours,


Taylor S. Braithwaite

TSB