

**STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
DIVISION OF FLORIDA LAND SALES, CONDOMINIUMS, AND MOBILE HOMES**

IN RE: PETITION FOR BINDING ARBITRATION- HOA RECALL

**Villages of Rio Pinar Community
Association, Inc.,**

Petitioner(s),

v.

Case No.: 2016-03-1948

Homeowners Voting for Recall,

Respondent

James V. Rowell,

Petitioner(s),

v.

Case No.: 2016-03-2689

**Villages of Rio Pinar Community
Association, Inc.,**

Respondent.

**MOTION FOR AMENDMENT TO CERTAIN ERRORS OF FACT IN THE
CORRECTED SUMMARY FINAL ORDER,
MOTION FOR RULING ON THE RECALL COMMITTEE'S EMERGENCY MOTION
AND REQUEST FOR CLARIFICATION,
AND MOTION FOR ATTORNEYS' FEES AND COSTS TO PREVAILING PARTY**

COMES NOW, JAMES V. ROWELL, THE DESIGNEE OF THE COMMITTEE FOR RECALL, and through undersigned counsel, files this Motion for Amendment to Certain Errors of Fact in the *Corrected* Summary Final Order, Motion for Ruling on the Recall Committee's Emergency Motion and Request for Clarification, and Motion for Attorneys' Fees and Costs to Prevailing Party, and in support thereof states as follows:

Notwithstanding that the undisputed facts, when reconciled with the controlling law, clearly establish that the arbitrator's ultimate certification of the recall is correct, there are unresolved collateral rights of the parties, which are dependent on the accuracy of the *Corrected* Summary Final

Order (the “**Final Order**”). The foregoing and public policy demand that the Arbitrator revisit the Final Order and correct certain errors of fact and law that are material to the consolidated petitions, make certain clarifications, and adjust rulings to properly reflect the ends of justice as intended by the Florida Legislature in relation to homeowner recall arbitration.

MOTION FOR AMENDMENT TO CERTAIN ERRORS
IN THE CORRECTED SUMMARY FINAL ORDER

First Error of Fact

1. The date of filing is jurisdictional. *See* Section 720.303(10), Florida Statutes, stating in pertinent part, that if the board does not certify the recall, the board shall file a petition for recall arbitration “within 5 full business days after the [recall] meeting”. *See also*, Rule 61B-80.102(6), Florida Administrative Code, which states: “The time periods contained in Section 720.303(10), F.S., operate in the manner of statutes of limitation and are therefore subject to equitable considerations.” The rule further states, in the same subsection: “The failure of an association to timely file a petition for recall arbitration within the time limits imposed under these rules or Chapter 720, F.S., will result in the certification of the recall and the immediate removal of the board of directors subject to recall”.

2. The meeting to address the recall was held on June 24, 2016, from 10:30 to Noon. The Final Order states that the Association filed its petition in Arb. Case No. 2016-03-1948 (the “**Flawed Petition**”) on July 5, 2016. If that were true, then the Flawed Petition was late-filed, and the Arbitrator should have ordered the certification of the recall at that time. The Arbitrator did not, to the detriment of the homeowners voting for recall.

3. The Association filed the Flawed Petition on June 29, 2016, which is when the Division of Condominiums, Timeshares, and Mobile Homes (the “**Division**”) received the petition at its posted address. The Division stamped the Flawed Petition in error probably for two reasons: (a) because the Association sent the Flawed Petition to the address on the form that the Association used, which is

justifiable error, since the Division had moved and not yet changed the address on the forms on the website, and (b) because even though the Division accepted delivery at its previous address, the Division did not date stamp the Flawed Petition until July 5, 2016, which would make the Flawed Petition late-filed by at least two business days. Notwithstanding the foregoing, it would be error for the Division to waive the statutes and rules; hence, this error in the Final Order merits correction because the error of fact imputes an error of law.

4. But for the Division advising Mr. Rowell that the Association filed the Flawed Petition late, Mr. Rowell would not have, at that juncture in the proceedings, spent funds in demands for records from the board's attorney and the property management company, or initiated preparation of the permitted homeowners for recall petition, and he did.

Second Error of Fact

5. The Final Order also states, at its page 2, first incomplete paragraph, that on July 15, 2016, a case management conference was held on Mr. Rowell's petition, filed on July 11, 2016, Arb. Case No. 2016-03-2889. However, at the case management conference, the Arbitrator addressed both petitions, not just the Rowell petition. Furthermore, the Arbitrator's only rulings were to declare the Flawed Petition deficient and, without requesting evidence of good faith for the deficiencies, to authorize the Association to bring its petition into compliance. *See also*, the July 21, 2016 order, which states, at its footnote 2, that a case management conference was held on both petitions, not just the Rowell petition.

Third Error of Fact

6. At page 2 of the Final Order, first full paragraph, the Final Order states that "On July 21, 2016, the Association was ordered to file an Amended Petition". In fact, the Arbitrator issued the order at the July 15, 2016 case management conference and set the date for filing of the amended order that same day. On July 21, 2016, the Arbitrator memorialized his order of the case management conference. As written, the Final Order gives the impression that the Association received only four days to amend the Flawed Order, when in fact, the Arbitrator granted the Association ten days to

amend and file the order, that is, twice the amount of time that the statute provides for the same initial filing, to the detriment of the homeowners voting for recall. See page 8, first full paragraph of the Final Order.

Fourth Error of Fact

7. At page 2, third full paragraph of the Final Order, the Arbitrator states that “[o]n September 29, 2016, the Association filed the documents required by the September 22, 2016 Order After Case Management Conference”. The Final Order fails to address the fact that the Association late-filed the documents on the 29th, instead of the 26th as required under the September 22, 2016 order. A violation of an order is actionable. Hence, at minimum, if no action is to be taken because excusable neglect was present, the Final Order should clearly set forth the facts and provide a rule on the issue. Failure to do so is evidence of yet another issue that caused Mr. Rowell to spend funds and proceed with discovery in anticipation of filings to resolve the inequities against the homeowners for recall.

MOTION FOR RULING ON THE RECALL COMMITTEE’S EMERGENCY MOTION

8. The doctrine of equitable tolling, provides that a late-filed petition should be accepted “when the plaintiff has been misled or lulled into inaction, has in some extraordinary way been prevented from asserting his rights, or has timely asserted his rights mistakenly in the wrong forum,” provided that the opposing party will suffer no prejudice. *Machules v. Department of Administration*, 523 So.2d 1132, at 1134, 1137 (Fla.1988). In *Machules*, the Florida Supreme Court expressly held that this doctrine of equitable tolling applies in administrative proceedings. *Id.*, at 1136–37. The Supreme Court further noted that “[e]quitable tolling is a type of equitable modification which ‘focuses on the plaintiff’s excusable ignorance of the limitations period and on [the] lack of prejudice to the defendant.’” *Id.*, at 1134 (quoting *Cocke v. Merrill Lynch & Co.*, 817 F.2d 1559, 1561 (11th Cir. 1987)).

9. On page 8, first full paragraph, the Final Order provides as the rationale for authorizing amendment to the Flawed Petition that “[b]ecause [the] dispute ultimately involves a recall, the Order

required the Association to file an Amended Petition” using the proper form. This reasoning is flawed and in conflict with the mandates of law. This is so because the controlling laws only provide for concessions under the doctrine of equitable tolling. See Rule 61B-80.102(6), Florida Administrative Code. Moreover, where there is failure by the association to follow the statutes and rules, subsection 1 of the foregoing rule provides that the homeowners filing for recall may do so, and Mr. Rowell timely filed such a petition on the proper form and timely paid the required fee. Therefore, it is irrelevant to this matter that the Association’s Flawed Petition was in the incorrect form, and because the permitted delays significantly prejudiced the homeowners for recall, it was error for the Division to ignore the laws that control its conduct in arbitration proceedings, especially when the Division’s actions jeopardized the rights of homeowners for recall.

10. Next, by stating that Mr. Rowell’s Emergency Motion for Reconsideration is denied because “Amended Petitions routinely are ordered in this forum” is an admission that the Division routinely departs from the mandates of law, without justification or proper protocol. Such actions are prohibited as un-adopted or un-promulgated rules. See Section 120.56, Florida Statutes. The governing statute is clear that the arbitration proceedings must be in accordance with the provisions of Sections 718.112(2)(j) and 718.1255, Florida Statutes, and the rules promulgated thereof. It does not say that the agency can waive statutes and rules without following proper procedure. See Section 120.542, Florida Statutes.

11. But for the Division’s impermissible waiver of rules and statutes in granting the Association excessive time to amend and failing to follow the rules of the doctrine of equitable tolling, Mr. Rowell would not have been forced to expend funds in the development and filing of his Emergency Motion for Reconsideration of Arbitrator’s Verbal Order authorizing amendment to the Flawed Petition and Motion for Dismissal of the [Flawed Petition] and other petitions seeking relief thereof. This is especially significant because the reason for which the Association received the extension of time and the opportunity to amend its petition was that counsel for the association used

the incorrect form for the petition. Because counsel for the association had participated previously in several other homeowner association recall arbitrations, the alleged lack of knowledge is pretextual and, without more, cannot be considered as good faith under the doctrine of equitable tolling. The Arbitrator should necessarily address this issue rather than cavalierly ignoring a party's rights, stating that he did it because that is what the agency does as a matter of course.

12. Notwithstanding the foregoing, and since at this point the agency cannot fix what it broke because timing will not allow it, the Arbitrator should deny the motion for what is true now, mootness, rather than use rationale that places the agency in an admitted violation of law.

MOTION FOR RULING ON THE REQUEST FOR CLARIFICATION

13. It is clear from the pleadings and the evidence before the Arbitrator that in the minds of the majority of the board and of the membership, counsel filing for recall arbitration as association counsel did not represent the association. However, whom counsel alleging to represent the association actually represented was not Mr. Rowell's question. Mr. Rowell's request for clarification was unequivocally seeking the Arbitrator's understanding of representation because the language in the text of the Order Following Case Management was unclear in a manner that is material. Instead of providing clarification, the Arbitrator deferred to a filing by the party whose position was in question in the first instance. This outcome merits correction.

14. But for the lack of clarity in the language of the Order Following Case Management, Mr. Rowell would not have spent funds seeking clarification to the Arbitrator's order.

CONCLUSION IN RELATION TO:

Motion for Amendment to Certain Errors of Fact in the *Corrected* Summary Final Order, Motion for Ruling on the Recall Committee's Emergency Motion and Request for Clarification

The Final Order establishes that Mr. Rowell is the prevailing party in the major issue in this case, that is, the certification of the recall. However, the Final Order should have done more; the Final Order should have declared Mr. Rowell the prevailing party in the issues as set forth in all of the foregoing paragraphs 1 through 14 and provided clarity to same, for the reasons stated therein.

At minimum, the Final Order should bring clarity to the issues in the proceeding rather than cavalierly dismissing the requests of the homeowners for recall, even the requests for updates. This is so because it took months for the Division to act in a case that could have been resolved within the first two weeks of filing had the Division followed the mandates of statutes in relation to these proceedings. Therefore, based on the foregoing, Mr. Rowell respectfully requests that the Division issue a Final Order that clearly and fairly depicts the proceedings by making the foregoing corrections.

MOTION FOR ATTORNEYS' FEES AND COSTS TO PREVAILING PARTY

15. The Final Order establishes that Mr. Rowell is the prevailing party in this matter.

16. Each of the parties, in their respective petitions, unequivocally established their request for attorneys' fees and costs to the prevailing party. In addition, therein, the parties expressed their acknowledgement that the Arbitrator would ultimately determine the reasonableness of the fees and costs.

17. Therefore, Mr. Rowell, through his undersigned counsel, files this Motion for Attorneys' Fees and Costs, pursuant to Section 720.311, Florida Statutes and Rule 61B-80.123, Florida Administrative Code.

18. The undersigned is attorney for the committee for recall arbitration; is a member in good standing with The Florida Bar and has practiced law since April 19, 1999. The attorney's curriculum vitae is attached hereto and incorporated herein as Exhibit A.

19. The undersigned attorney currently represents homeowner associations, commercial property owner associations, commercial and residential condominium associations, and timeshare associations, throughout the State of Florida. She has documented dozens of homeowner associations and commercial and residential condominiums, including complex mix use and phase developments; and represented numerous developers and lenders in distressed condominium issues. Most recently, she has worked with timeshare developers to revert the unit weeks back to whole unit condominiums

and assisted two local residential associations in complex negotiations with the relevant jurisdictions to repair major components, such as sewer systems.

20. An affidavit in compliance with Rule 61B-80.123, Florida Administrative Code, is attached hereto and incorporated herein as Exhibit B, setting forth the attorneys' fees and costs in this matter for which reimbursement is sought.

WHEREFORE, James V. Rowell, the Designee of the Committee for Recall, respectfully requests that the Arbitrator consider all of the above and the attachments, make the requested corrections to the Final Order, and grant the requested attorneys' fees and costs as identified in the attached affidavit.

Respectfully submitted,

YOUR TOWNE LAW, P.A.
Attorneys for Respondent



By: _____
NANCY PICO CAMPIGLIA
Florida Bar No. 0164259
1720 South Orange Avenue Suite 302
Orlando, FL 32806
Telephone: (407) 602-7474
Facsimile: (407) 982-2473
Email: ncampiglia@yourtownelaw.net

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to: Barbara Billiot Stage, Esquire, at Law Offices of Stage & Associates, P.A., 7635 Ashley Park Court, Suite 503-T, Orlando, FL 32835, and by facsimile, at 321-445-9412, on this 14th day of October, 2016.



Nancy P. Campiglia

NANCY P. CAMPIGLIA

80 Bonnie Loch Court, Orlando, FL 32806

ncampiglia@yourtownelaw.net

407-602-7474 (o) 305.331.5050 (c)

MEMBERSHIP: The Florida Bar
United States District Courts--Northern, Middle, and Southern Districts of Florida

EDUCATION: **Master of Laws in Real Property Development (LL.M.)** *May 1999*
University of Miami School of Law, Coral Gables, FL

Juris Doctor *May 1998*
St. Thomas University School of Law, Miami, FL

Honors Trial Practice *January 1998*
Pepperdine University School of Law, Malibu, CA

Bachelor of Arts *June 1976*
Florida State University, Tallahassee, FL
Major: Government; Minors: Foreign Languages and Philosophy

HONORS: **Editor-in-Chief**—*St. Thomas Law Review*
Book Awards (Highest Grade in Course): *Appellate Advocacy; Corporations; Real Estate Finance*
Member: Phi Delta Phi International Legal Honor Fraternity
Member: International Moot Court Board; Team Captain, *Jessup International Competition*

LECTURES and PUBLISHED WORKS:

Lecturer International Affairs-Managing the Risk for the Real Estate Licensee, Florida Realtors Convention (2014)
Due Diligence Overview for the Commercial Realtor, CCIM Committee, Florida Realtors Convention (2014)
Protecting Tenants in Foreclosure—Osceola Association of Realtors (2010).
The Appraisal Process auspices of Central Florida Real Estate Council, for the Orlando Regional Realtor Organization—(2009).
Risk Management for Real Estate Licensees and Industry Professionals—(2003-present).
Orlando Regional Realtor Association —(2005 to present).
Women's Council of Realtors—(2007 and 2009).
Numerous Brokerages throughout the State of Florida—(1999 - present).
The Ins and Outs of the DBPR/FREC
National Association of Hispanic Real Estate Professionals (2009).
Central Florida International Alliance (2009).
National Business Institute—Land Use; Condominium & Associations Laws (2007).
Overview-Real Estate License Law-Attorney and Realtor Associations (1999-present).
Johnson v. Davis Update—Attorney and Realtor Associations.
Overview of Real Estate Commission Declaratory Statements for Realtors (2003).

Faculty Florida Real Estate Commission—Continuing Education for Real Estate and Appraisal Instructors (1999-2003).

Faculty Ralph Boyer Real Property and Condominium Institute, University of Miami (2003).
Chief Reviewer Spanish Translation of Principles and Practices Pre-Licensure Text for Real Estate Sales Associates (2006).

Author *In the Dock: A look behind the rising tide of brokerage inspections*; ORLANDO REALTOR® (July-August 2012).
Real Estate License Law: Who Is Protecting the Public? ST. THOMAS LAW REVIEW, 1997 (Designated as a Practice Aid by Florida Jurisprudence, Second Edition (1997-1999) and (2000-2002) (7 FLJUR BROK § 15); reviewed in *Real Estate Law Journal*, Spring 1998, (26 Real Est. L.J. 406).

Reviewer Floyd and Allen, *Real Estate Principles*, 7th Edition.

EXPERIENCE: **YOUR TOWNE LAW, P.A.**
(Legal) **MANAGING ATTORNEY**, Orlando FL *June 2012-Present*
Practice focuses on general representation of real estate, appraisal and other licensees, including appeals; representation of developers and general real estate transactions; residential and commercial condominium creation; homeowner and property owner association creation; representation of timeshare associations. General Counsel to numerous real estate brokerages throughout Florida. Manage a small practice that includes civil litigation, family, and probate.
Honors & Activities: Member, Circuit Advisory Team of The Attorney's Title Fund (2010-Present).
Client's Choice Award: AVVO (2015)
Top Contributor (2016) AVVO (2016)

KEATING AND SCHLITT, P.A.

OF COUNSEL, Orlando FL

December 2009-June 2012

Practice focuses on general representation of real estate, appraisal and other licensees, including appeals; representation of developers and general real estate transactions; residential and commercial condominium creation; homeowner and property owner association creation; representation of timeshare associations. General Counsel to numerous real estate brokerages throughout Florida.

Honors &: Director, Central Florida Real Estate Council (2008-2009).

Activities: Director, Christian Service Center for Central Florida, Inc. (2009-2010).

Pro Bono Service--Draft Condominium Documents for Habitat for Humanity (2009).

Director, National Association of Hispanic Real Estate Professionals (2009).

Mentor, FAMU Law Students (2010).

Mentor, Valencia Community College Paralegal Program (2010).

AKERMAN SENTERFITT, Attorneys at Law

SHAREHOLDER, Real Estate Practice Group, Orlando, FL

January 2004-November 2009

Practice focuses on residential and commercial condominium creation; homeowner and property owner association creation; representation of timeshare associations; general representation of real estate and appraisal licensees, developers and general real estate transactions and litigation, including appeals. General Counsel to numerous real estate brokerages throughout the state of Florida.

Honors: Invited to Shareholder Status (October, 2006).

Activities: Director, Central Florida Real Estate Council (2008-2009).

President, Christian Service Center for Central Florida, Inc. (2009).

Pro Bono Service--Draft Condominium Documents for Habitat for Humanity (2009).

Advisory Board, National Association of Hispanic Real Estate Professionals (2009).

Mentor, University of Central Florida Legal Studies Program (2007).

Mentor, Valencia Community College Paralegal Program (2006-2007).

DEPARTMENT OF BUSINESS & PROFESSIONAL REGULATION

GENERAL COUNSEL, Tallahassee, FL

May 2003-December 2003

Manage the legal affairs of the Department, including the supervision of over forty attorneys, support staff and outside legal counsel; and all other matters as necessary to ensure effective and efficient operation of the agency. Legal Counsel to the Governor's Task Force on Homeowner Associations.

Honors: Merit Award, Resulting in Pay Increase

September 2003

Activities: Mentor, Tallahassee Community College Paralegal Program.

ACTING DIRECTOR, Division of Real Estate, Orlando, FL

January-May 2003

Oversaw and directed the management of the Division while maintaining oversight of its legal section. Negotiated the re-write and enactment of Chapter 475, Florida Statutes, with the trade organization, Florida Association of Realtors, and the Florida Legislature.

CHIEF ATTORNEY, Division of Real Estate, Orlando, FL

March 2001-May 2003

Provided legal expertise to the Division and the Department, including supervision of 18 attorneys and legal staff, prosecution of real estate, Appraisal, and unlicensed activity before the Florida Real Estate Commission, Florida Real Estate Appraisal Board, Division of Administrative Hearings, and Circuit and Appellate Courts; Rulemaking, and Legislative Analyses. Performed administrative appeals. Restructured work assignments for the Division, resulting in a financial savings of 650%.

Honors: Recipient of Performance Award—Cash Bonus

Activities: Governor's Mentoring Program

DEPUTY CHIEF ATTORNEY, Orlando, FL

September 2000-March 2001

Supervised legal personnel. Performed all duties of Senior Attorney and assisted in rulemaking and legislative processes.

SENIOR ATTORNEY, Orlando, FL

June 1999-September 2000

Prosecuted violations of real estate and appraisal license law, including writing complaints, legal research; argued before Real Estate Commission, Appraisal Board, Division of Administrative Hearings, and District Court of Appeals.

INTERN, Miami, FL February 1999
Assisted Miami Office of the Division of Real Estate in all aspects of real estate regulation.
Provided advice on evidence-gathering for prosecution of alleged breaches of real estate license law.

COHEN, BERKE, BERNSTEIN, BRODIE, KONDELL & LAZLO, PA
INTERN, Miami, FL September 1998-March 1999
Assisted senior partner with real estate issues, including but not limited to, contracts, zoning, platting, condominium association documents, foreclosures, and partition actions.

PUBLIC DEFENDER'S OFFICE, Appellate Division
INTERN, Miami, FL Summer 1997
Researched law and wrote appellate briefs under supervision of Ms. Marti Rothenberg, Assistant Public Defender.

HUMAN RIGHTS INSTITUTE, St. Thomas University
RESEARCH ASSISTANT, Miami, FL August 1995 to December 1998
Assisted Director with immigration issues. Researched and wrote legal memoranda, petitions for asylum, and appellate briefs. Developed pro bono lawyer database.

APPELLATE LITIGATION CLINIC, St. Thomas University School of Law
CERTIFIED LEGAL INTERN, Miami, FL August 1997- May 1998
One of ten students selected from third-year class to conduct appeals for Miami Public Defender's Office.

EXPERIENCE:
(Teaching)

REAL ESTATE & MORTGAGE LEARNING CENTERS
INSTRUCTOR, Kissimmee, FL. 2005-2006
Taught real estate licensing courses.

COLUMBIA COLLEGE, School of Business
ADJUNCT PROFESSOR, Orlando, FL 2000-2003
Taught *Principles of Real Estate Practice and Finance*.

BARRY UNIVERSITY, Masters Program in Education
ADJUNCT PROFESSOR, Orlando, FL 1999-2000
Taught all core classes, including *Instructional Design* and *Research Methodology* in Human Resource Development and Administration.

NORTHWESTERN DADE ASSOCIATION OF REALTORS
LICENSED REAL ESTATE INSTRUCTOR, Hialeah, FL 1987-1999
Taught *Broker's and Salesperson's License Law* and *Continuing Education*, and the following seminars: *Motivation, Negotiation, Ethics/Professional Responsibility, Human Rights, Listing Property, Selling Real Property, Time Management, Training for Trainers, and Law Updates*.

MIAMI ASSOCIATION OF REALTORS
LICENSED REAL ESTATE INSTRUCTOR, Miami, FL 1989
Taught *Success Series*, National Association of Realtors program.

EXPERIENCE:
(Business)

YOUR TOWNE REALTY, INC.
OWNER/REAL ESTATE BROKER, Miami Lakes, FL 1989-1995
Directed all operations of the company.

Honors: Florida Association of Realtors Designation, 1990
Graduate of Realtor Institute
Miami Association of Realtors, Educator 1990-1993
Northwestern Dade Association of Realtors,
Service in Education 1988-1989
National Society of Independent Fee Appraisers,
Service to the Field 1989-1990
Classic Homes Realty, Inc., *Top Producer of the Year* 1985-1987
Cheetham Realty, Inc., *Rookie of the Year* 1984

Activities: Northwestern Dade Association of Realtors, *Education Committee Chair, Multiple Listing Committee Chair, Orientation Committee Chair, and Professional Standards Committee Member.*

Miami Association of Realtors, *Miami Lakes Realtor Round Table Chair,*
Education Committee Member, and Members' Services Committee Member.

LICENSES/OTHER: **Florida Real Estate Broker** (associates in 1984; broker since July 28, 1986)
 Florida Real Estate Instructor (since January 26, 1987)

LANGUAGES: **Spanish**, *fluent*
 French and **Italian**, *working knowledge.*

REFERENCES AVAILABLE UPON REQUEST.

AFFIDAVIT IN SUPPORT OF MOTION FOR ATTORNEYS' FEES AND COSTS

STATE OF FLORIDA
COUNTY OF ORANGE

BEFORE ME, the undersigned authority, this day personally appeared, **NANCY PICO CAMPIGLIA**, who first being duly sworn, deposes and says:

1. Affiant is over the age of eighteen (18) years, is *sui juris*, and is otherwise competent to swear to the facts in this Affidavit.
2. Affiant has personal knowledge of the facts referenced in this Affidavit.
3. Affiant is an attorney licensed to practice law in the State of Florida, was admitted to the practice of law on April 19, 1999, and has been continuously practicing law, with emphasis in the field of administrative law for seventeen (17) years.
4. Affiant, represented the owners voting for recall, whose designee is James V. Rowell (the "Homeowners for Recall"), in the recall of certain members of the board of the Villages of Rio Pinar Community Association, Inc. in the consolidated matters known as Case No.: 2016-03-1948 and Case No.: 2016-03-2689.
5. Affiant files this Affidavit in support of the motion of Homeowners for Recall for Attorneys' Fees and Costs and certifies that she performed the following activities in execution of her duties thereof in the time periods stated herein pursuant to the attached invoice, bearing number 897, which is incorporated herein by reference.

FURTHER AFFIANT SAYETH NAUGHT




NANCY PICO CAMPIGLIA

The foregoing instrument was sworn and acknowledged before me by NANCY PICO CAMPIGLIA, who is personally known to me or produced, on this 14th day of October, 2016.



Notary Public, State of Florida at Large



Print Name: Mariah Gonzalez
My commission expires: 01/22/18



Invoice # 897
 Date: 10/14/2016
 Due Upon Receipt

Villages of Rio Pinar Community Association

2016-00922
Association Recall

Services

Date	Type	Description	Quantity	Rate	Total
06/20/2016	Service	Prepare cover letter and serve the recall ballots on two officers and the community association management company. Make numerous phone calls to registered agent who was refusing service of the recall.	1.00	\$350.00	\$350.00
06/20/2016	Service	Travel to and attend board meeting addressing recall.	3.00	\$350.00	\$1,050.00
07/08/2016	Service	Review e-mails from Division regarding board filing of petition.	0.20	\$350.00	\$70.00
07/08/2016	Service	Draft and transmit letter of demand for documents to Attorney Stage.	0.50	\$350.00	\$175.00
07/09/2016	Service	Prepare the Owners for Recall Petition for Arbitration and transmit to the Division for filing.	2.00	\$350.00	\$700.00
07/11/2016	Service	Review Petition of Board.	0.50	\$350.00	\$175.00
07/15/2016	Service	Attend Case Management Conference.	1.00	\$350.00	\$350.00
07/21/2016	Service	Review Arbitrator's Case Management Order	0.10	\$350.00	\$35.00
07/22/2016	Service	Prepare and transmit Emergency Motion for reconsideration of order permitting board amendment to its petition.	3.00	\$350.00	\$1,050.00
07/25/2016	Service	Review the board's response in opposition of Emergency Motion. (.20) Review Board's Amended Petition (1.0) Participate on Negotiations with board counsel in relation to board's requests for settlement. (1.)	2.20	\$350.00	\$770.00
07/29/2016	Service	Draft and transmit Answer to the Board's Peititon.	3.00	\$350.00	\$1,050.00
08/10/2016	Service	Draft and transmit first motion for Status Report	0.50	\$350.00	\$175.00
08/17/2016	Service	Draft and Transmit Second Motion for Status Request	0.50	\$350.00	\$175.00
09/07/2016	Service	Review Arbitrator's Notice of Communication and Order Consolidating Cases, Requiring Filing and Setting Case Management Conference.	0.20	\$350.00	\$70.00
09/08/2016	Service	Request rescheduling of case management conference and review order rescheduling same.	0.50	\$350.00	\$175.00

09/14/2016	Service	Review filing from board in response to order of arbitrator.	0.50	\$350.00	\$175.00
09/16/2016	Service	Prepare and file Filing of Documents for Impeachment at Case Management Conference	1.50	\$350.00	\$525.00
09/21/2016	Service	Attend Case Management Conference	1.00	\$350.00	\$350.00
09/22/2016	Service	Draft and transmit request for clarification of Order Following Case Management Conference and review the board's response. (.50) Review filing from Board resulting from Case Management Conference Order (.10)	0.60	\$350.00	\$210.00
09/29/2016	Service	Review Order Following Case Management Conference	0.20	\$350.00	\$70.00
09/29/2016	Service	Examine second filing of board resulting from case management conference.	0.20	\$350.00	\$70.00
09/30/2016	Service	Review Summary Final Order from Arbitrator. Request Correction of same to reflect the proper parties being recalled. Review the Corrected Summary final Order.	0.50	\$350.00	\$175.00
10/14/2016	Service	Draft and transmit Motion for Amendment to Certain Errors of Fact in the Corrected Summary Final Order, Motion for Ruling on the Recall Committee's Emergency Motion and Request for Clarification, and Motion for Attorneys' Fees and Costs to Prevailing Party	2.00	\$350.00	\$700.00
				Services Subtotal	\$8,645.00

Expenses

Date	Type	Description	Quantity	Rate	Total
07/09/2016	Expense	Shipping package via FedEx.to DBPR--39.75 Filing Fee for Petition \$200.00	1.00	\$239.75	\$239.75
07/13/2016	Expense	FedEx Postage for sending package to DBPR.	1.00	\$22.23	\$22.23
07/22/2016	Expense	Package sent to attorney Barbara Stage via Priority Mail.	1.00	\$6.45	\$6.45
07/25/2016	Expense	Personal Service of Ballots and letter to registered agent.	1.00	\$245.45	\$245.45
07/29/2016	Expense	FedEx Postage for sending Answer w/ packet to DBPR.	1.00	\$21.75	\$21.75
07/29/2016	Expense	Priority USPS Mail Postage for sending Answer w/ Packet to Barbara Stage.	1.00	\$6.45	\$6.45
09/16/2016	Expense	Impeachment Doc filing to Barbara B. Stage via Priority US Mail.	1.00	\$6.45	\$6.45
				Expenses Subtotal	\$548.53
				Subtotal	\$9,193.53
				Total	\$9,193.53

Detailed Statement of Account

Current Invoice

Invoice Number	Due On	Amount Due	Payments Received	Balance Due
897	10/14/2016	\$9,193.53	\$0.00	\$9,193.53
			Outstanding Balance	\$9,193.53
			Total Amount Outstanding	\$9,193.53

Please make all amounts payable to: Your Towne Law, P.A.
1720 S. Orange Avenue, Suite 302
Orlando, Florida 32806

Payment is due upon receipt.

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Protection for Business


1315

YOUR TOWNE LAW PA 06-12

OPERATING ACCOUNT
5465 LAKE JESSAMINE DR.
ORLANDO, FL 32839-2829

DATE July 9, 2016 63-215/631

PAY TO THE ORDER OF DBPL Div of Condominiums, Timeshore & Mobile Homes Assn Sec \$ 200^{NO/KK}

TWO HUNDRED AND NO/KK DOLLARS  Security Features Included. Learn on Back.



ACH RT 061000104

[Handwritten Signature]

MP

FOR



0-117

Transaction Summary				
Tran Date	Post Date	Reference Number	Description of Transaction or Credit	Amount
07/10	07/10	0541019JGMJ8YZYAH	FEDEX 783548792449 MEMPHIS TN	\$39.75

2016 T	
T	\$
T	\$
T	\$

Interest Charge Calculation

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FedEx® Tracking

783548792449

Ship date:

Sat 7/09/2016

ORLANDO, FL US

**Delivered**

Signed for by: K.RITE

Actual delivery:

Mon 7/11/2016 10:26 am

TALLAHASSEE, FL US

Travel History

Date/Time	Activity	Location
7/11/2016 - Monday		
10:26 am	Delivered	TALLAHASSEE, FL
8:31 am	On FedEx vehicle for delivery	TALLAHASSEE, FL
7:06 am	At local FedEx facility	TALLAHASSEE, FL
1:50 am	At destination sort facility	TALLAHASSEE, FL
7/10/2016 - Sunday		
3:30 pm	Departed FedEx location	MEMPHIS, TN
11:37 am	Arrived at FedEx location	MEMPHIS, TN
7/09/2016 - Saturday		
3:51 pm	Left FedEx origin facility	ORLANDO, FL
2:14 pm	Picked up	ORLANDO, FL
2:05 pm	Picked up	ORLANDO, FL
	Tendered at FedEx Office	
1:13 pm	Shipment information sent to FedEx	

Shipment Facts

Tracking number	783548792449	Service	FedEx Priority Overnight
Weight	0.5 lbs / 0.23 kgs	Signature services	Direct signature required
Delivered To	Mailroom	Total pieces	1
Total shipment weight	0.5 lbs / 0.23 kgs	Terms	Shipper
Packaging	FedEx Envelope	Special handling section	Deliver Weekday, Direct Signature Required



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Shipment Receipt

MATTER: Rio Pinar

2016-00922

Address Information

Ship to:

Attention: Brandie Norton
DBPR, Division of ARB.
2601 Blair Stone Road,
Building B,
4th Floor
TALLAHASSEE, FL
32399
US
4076027474

Ship from:

Nancy Campiglia
Nancy Campiglia
1720 S Orange Ave suite 302

Orlando, FL
32806
US
4076027474

Shipment Information:

Tracking no.: 776734815999

Ship date: 07/13/2016

Estimated shipping charges: 22.23

Package Information

Pricing option: FedEx Standard Rate
Service type: Priority Overnight
Package type: FedEx Envelope
Number of packages: 1
Total weight: 0.50 LBS
Declared Value: 0.00 USD
Special Services:
Pickup/Drop-off: Drop off package at FedEx location

Billing Information:

Bill transportation to: My Account - 516-516
Your reference: Resort and Suites
P.O. no.:
Invoice no.:
Department no.:

Sam's Card

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Click-N-Ship® Label Record

USPS TRACKING # / Insurance Number:

9405 8036 9930 0282 3255 63

Trans. #:	379864810	Priority Mail® Postage:	\$6.45
Print Date:	07/22/2016	Insurance Fee	\$0.00
Ship Date:	07/22/2016	Total	\$6.45
Expected			
Delivery Date:	07/23/2016		
Insured Value:	\$50.00		

From: NANCY CAMPIGLIA
YOUR TOWNE LAW, P.A.
1720 S ORANGE AVE
STE 302
ORLANDO FL 32806-2967

To: BARBARA B STAGE
7635 ASHLEY PARK CT
STE 503T
ORLANDO FL 32835-6100

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2016-00922

MATTER: Villages of Rio Pinar



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YOUR TOWNE LAW PA 06-...

OPERATING ACCOUNT
5465 LAKE JESSAMINE DR.
ORLANDO, FL 32839-2829

EZShieldSM Check Fraud
Protection for Business


1320

DATE 07/26/10 63-215/631

Thunderbird Express, Inc.

\$ 245^{45/xx}

PAY TO THE ORDER OF
Two Hundred Forty-Five and 45/xx

DOLLARS  Security Features
Included.
Details on Back.



FOR INVOICE # 79271-0100

ACH RT 061000104

[Handwritten Signature]

MP



Shipment Receipt

Matter: Rio Pinar

Ⓝ Answer w/ package to DBPR

Address Information

Ship to:

Attn: Arbitrator Lang
DBPR, Division of FL
Condominiums
2601 Blair Stone Road,
Building B,
4th Floor
TALLAHASSEE, FL
32399
US
4076027474

Ship from:

Nancy Campiglia
Nancy Campiglia
1720 S Orange Ave suite 302
Orlando, FL
32806
US
4076027474

Shipment Information:

Tracking no.: 776879688574
Ship date: 07/29/2016
Estimated shipping charges: 21.75

Package Information

Pricing option: FedEx Standard Rate
Service type: Standard Overnight
Package type: FedEx Envelope
Number of packages: 1
Total weight: 0.30 LBS
Declared Value: 0.00 USD
Special Services:
Pickup/Drop-off: Drop off package at FedEx location



Billing Information:

Bill transportation to: My Account - 516-516
Your reference: Rio Pinar
P.O. no.:
Invoice no.:
Department no.:

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Click-N-Ship® Label Record

USPS TRACKING # / Insurance Number:
9405 8036 9930 0285 6610 19

Trans. #:	380406398	Priority Mail® Postage:	\$6.45
Print Date:	07/29/2016	Insurance Fee	\$0.00
Ship Date:	07/29/2016	Total	\$6.45
Expected			
Delivery Date:	07/30/2016		
Insured Value:	\$50.00		

From: NANCY CAMPIGLIA
 YOUR TOWNE LAW, P.A.
 1720 S ORANGE AVE
 STE 302
 ORLANDO FL 32806-2967

To: BARBARA B STAGE
 STAGE & ASSOCIATES, P.A.
 7635 ASHLEY PARK CT
 STE 503T
 ORLANDO FL 32835-6100

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Matter: Rio Pinar

(N) Answer w/ package to Barbara Stage



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2014-00922

Click-N-Ship® Label Record

**USPS TRACKING # / Insurance Number:
9405 8036 9930 0310 1912 69**

Trans. #:	384358791	Priority Mail® Postage:	\$6.45
Print Date:	09/16/2016	Insurance Fee	\$0.00
Ship Date:	09/16/2016	Total	\$6.45
Expected			
Delivery Date:	09/17/2016		
Insured Value:	\$50.00		

From: NANCY CAMPIGLIA
YOUR TOWNE LAW, P.A.
1720 S ORANGE AVE
STE 302
ORLANDO FL 32806-2967

To: BARBARA B STAGE
LAW OFFICES OF STAGE & ASSOCIATES, P.A.
7635 ASHLEY PARK CT
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MATTER: Rio Pinar: Impeachment Docs to Stage



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From: Nancy Campiglia
To: ["Barbara Billiot Stage Esq."](#)
Subject: RE: Recall Resolution
Date: Monday, July 25, 2016 5:06:33 PM
Attachments: [image007.png](#)

Barbara

I am still not sure what you are offering. I need to know what to present to my clients if you want to resolve this issue. Are you saying that your client is going to take no further action so that the Division can certify the recall?

As you correctly stated below, the Recall Committee cannot make decisions for the board. The board has no choice but to follow the controlling documents, which call for an annual meeting and an election to be held in conjunction with the annual meeting. Neither the Recall Committee nor the resulting board can keep the board the same for a year. Neither has the power.

Only two board members received enough votes for the recall. Three cannot be the replacements, only two directors are being replaced.

In relation to 12.3 of the bylaws, we are just belaboring the point. Even the arbitrator advanced my argument at the emergency case management conference. The articles only require that the initial board be 3 members. After that, it can be up to 9 member, at the discretion of the board. No amendment is necessary to the bylaws to effectuate the increase in number. Arbitrator Lang was clear on that. Hence, two attorneys, the arbitrator and me, disagree with you and whoever issued the other opinion.

As to the fax, the computer from which I was working remotely uses the fax address as in the document. I have not had issues before. I will check with my provider. Regardless, I e-mailed the document to you. You will note that what I did earlier was to forward the prior e-mail and also faxed it from my office computer. You did say this morning that your Outlook was not working. That may explain why you did not receive the motion. Moreover, I have sent it numerous times, first the original, then the amended, and then as part of the response in objection to your motion for continuance, by mail on Friday, and then again by e-mail today.

Last, there was an election in November 2015. If you are saying that the directors were appointed and , therefore, there was not election, well that is not what the statute anticipates. Even appointments are considered an election subject to challenges. There were no challenges to the November election. Hence, the composition of the board is 7 until the next election and any challenges that may result thereof.

What do you want me to offer to my client as you seek to bring resolution to the recall?

Nancy P. Campiglia



1720 South Orange Avenue Suite 302
Orlando, Florida 32806
407-602-7474 Office
407-982-2473 Direct
ncampiglia@yourtownelaw.net

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From: Barbara Billiot Stage Esq. [mailto:barbara.stage@stagelaw.com]
Sent: Monday, July 25, 2016 4:32 PM
To: 'Nancy Campiglia' <ncampiglia@yourtownelaw.net>
Subject: RE: Recall Resolution

Nancy,

There was no election in November. I just read your emergency motion, which I did not get until a little while ago. (The fax number was correct but instead of having "@rcfax.com" it was sent to "@rcf.com") I see the same commentary in there; however, there was no election in November, thus nothing to challenge.

Section 12.3 specifically requires the board of directors to adopt and record an amendment to the bylaws to change the number of board members. This is why we have the two opinions stating there are two board members and one vacancy. If my clients don't challenge the recall further, DBPR can certify the recall and the top three would fill those spots.

My clients would like to see a new board work together for a year before another election is conducted to straighten out the issues caused by former board members in building trust within the community, but that is the decision of a new board as I have told my client, the HOA. I'm not sure what other issues there may be as spending has been kept to a minimal.

Barbara

From: Nancy Campiglia [mailto:ncampiglia@yourtownelaw.net]

Sent: Monday, July 25, 2016 2:39 PM

To: 'Barbara Billiot Stage Esq.' <barbara.stage@stagelaw.com>

Subject: RE: Recall Resolution

Barbara

Thank you for the offer of settlement below. So that I can properly present the offer to my client, please clarify the following:

QUESTIONS FROM ME:

You state: What the two remaining board members are suggesting is to step down and let your top three, who received the most number of votes, take over the association provided they have at least one year to straighten out the issues.

Question: When you say that the two board members will step down, do you mean certify the recall or resign?

Question: If the recall is certified, the two board members with the most votes would be the replacements automatically, not three. Under what authority would you suggest that my client put the three top vote getters on the board when there are only two directors recalled?

Question: Who gets a year to straighten out issues?

Question: What are the issues to be straightened out?

ANSWER TO YOUR QUESTION:

Q. You ask whether I agree with the 3 versus 7 board members without an amendment to the bylaws.

A. No, I do not agree. Neither did the arbitrator at the emergency telephone conference. The law also does not agree with you because there were no challenges to the November 30, 2015 election until you provided your opinion in May of this year, one day shy of six months after the election. Section 720.306(9)(a), Florida Statutes, states in pertinent part: "Any challenge to the election process must be commenced within sixty days after the election results are announced."

CONCERNS:

In relation to the concerns as to persons that you refer to as former board members in the last paragraph of your communication, the membership opted not to recall them. If the owners are not worried about it, then I do not see why it is an issue for your client.

RECOMMENDATION:

As soon as I receive clarification to the above, I will be happy present your offer to my client. However, my recommendation is that the two board members either resign and withdraw the petition, which will make the recall moot, or certify the recall.

I look forward to hearing from you.

Nancy

Nancy P. Campiglia



1720 South Orange Avenue Suite 302
Orlando, Florida 32806
407-602-7474 Office
407-982-2473 Direct
ncampiglia@yourtownelaw.net

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From: Barbara Billiot Stage Esq. [<mailto:barbara.stage@stagelaw.com>]
Sent: Monday, July 25, 2016 11:58 AM
To: 'Nancy Campiglia' <ncampiglia@yourtownelaw.net>
Subject: Recall Resolution

Nancy,

I have been researching the issue with the three (3) versus seven (7) board members extensively and have determined there was never an amendment to increase the number of board members, as required by Section 12.3 of the Bylaws. I was wondering if you are in agreement.

My client, through the two board members, have stated the meeting minutes of the July 29, 2013 meeting were altered and no vote was ever taken to increase the number of board members; otherwise, they would have recorded an amendment. The association has addressed altered meeting minutes in the past. What the two remaining board members are suggesting is to step down and let your top three, who received the most number of votes, take over the association provided they have at least one year to straighten out the issues. I checked the bylaws and an annual meeting is only required "at least once per calendar year."

Their concerns are with certain former board members and their activities in using a drone to record minors at the pool and owners in their yards, as well as committing the association to contracts without the rest of the board being informed and given the opportunity to vote. This was the reason for their scheduling a new election and letting the whole community vote for an entire new board.

Barbara

Barbara Billiot Stage, Esq.



7635 Ashley Park Court
Suite 503-T
Orlando, FL 32835
Phone: 321.299.9412
Fax: 321.445.9857
www.stagelaw.com

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