



June 28, 2007

Dear Owners:

On June 19th, there was a hearing to consider the defendants motion to consolidate law suits for discovery and trial. The defendants (those being sued) are facing three lawsuits:

1. Case 2207-CP-10-612. The Bristol Condominiums Property Owners Association vs. the Brittlebank Condominiums, LLC, The Beach Company, et al (subcontractors as named in the suit) to remedy construction defects related to the common and limited common areas of The Bristol.
2. Case 2007-CP-10-610: Janice L. Landry, John M. Jordan, David W. Warner, Raymond G. Johnson, Charles Edward DeRose (in their individual capacity and as duly elected members of the Board of the Bristol Condominium Property Owners Association) and Steven L. Hyatt and Harold B. Campbell in their individual capacity and collectively with the other named Plaintiffs as class representatives of all owners and residents of the condominium units in the Bristol Condominiums vs. Brittlebank Condominiums, LLC, The Beach Co., et al (sub-contractors as named in the suit) to remedy construction defects/damage suffered by the individual owners to the interiors of their units.
3. Case 2005-CP-10-3029: Kenneth Hanger, Morton Ellison, Patricia Ellison, Butler Derrick in their individual capacity and as class representatives of all owners and residents vs. The Beach Co., et al (sub-contractors named in the suit) to remedy construction defects/damage suffered by the individual owners to the interiors of their units.

A copy of an Order of Consolidation in the Bristol law suits is attached. The Landry and Hanger cases (#2 & #3) are consolidated for both discovery and trial and, as mentioned above, are about damages to the interior of the units ONLY. The Bristol POA case (#1) is about damages to the building, common area, limited common area, reserves and these types of problems. This suit is consolidated with the others (case #2 and case #3) for discovery purposes ONLY.

The gist of all of this is that when a person is subpoenaed to give a deposition regarding the Bristol project, the deposition will be taken one time and will be applicable to all three cases rather than subjecting anyone called to give three separate depositions on the same project. This obviously saves everyone – the Plaintiffs, the Defendants and the Court time and money.

This type of order is common in these situations and was expected by our attorney. The order has not changed anything to do with how our case is being conducted. At this point in time, no depositions have been taken in any of the cases.

Please don't hesitate to contact us if you have any questions. We hope to see you all at the fireworks party on the 3rd!

*The Bristol Property Owners Association Board of Directors
Jan Landry, President; Johnny Jordan, Vice President; David Warner, Secretary
Charles DeRose and Ray Johnson*

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
C.A. NO.: 2005-CP-10-3029

KENNETH HANGER; MORTON)
ELLISON and PATRICIA ELLISON, and)
BUTLER DERRICK, individually and)
derivatively as acting on behalf of THE)
BRISTOL CONDOMINIUMS)
HOMEBOWNERS ASSOCIATION,)

Plaintiffs,)

~~ORDER~~ ORDER OF CONSOLIDATION

-versus-

BRITTLEBANK CONDOMINIUMS, LLC)
THE BEACH COMPANY, FSP)
DEVELOPMENT, LLC., GULF STREAM)
CONSTRUCTION COMPANY, INC.,)
NILES BOLTON ASSOCIATES, INC.,)
ANDERSEN WINDOWS, INC., BUCK)
LUMBER & BUILDING SUPPLY, INC.,)
FERST PLASTERING, INC., and)
SUPERIOR SURFACES OF)
CHARLESTON, INC.,)

Defendants.)

BY _____
JULIE J. ARFFELONG
CLERK OF COURT
2007 JUN 19 AM 10:50

FILED

This matter came before the Court on June 19, 2007, on Defendant, Brittlebank Condominiums, LLC, the Beach Company, and FSP Development, LLC ("Brittlebank") Motion to Consolidate, (for discovery purposes and for trial) this matter with the matter designated and known as *Jancie L. Landry, et al. vs. Brittlebank Condominiums LLC et al.*, designated as C.A. NO.: 2007-CP-10-607, pursuant to Rule 42, of the *SCRCP*. The Hanger and Landry matters both seek class action status and damages arising from the same alleged act or omission by the Defendants.

In addition, a third action is pending before this Court designated as *The Bristol*

-1- (31)

Condominiums Property Owners Association v. Brittlebank Condominiums, LLC, et al., designated as C.A. No.: 2007-CP-10-612. The Bristol POA suit seeks to recover damages for alleged losses incurred by the property owners association. The motion seeks to have the Bristol POA suit consolidated for discovery purposes only – at this time.

The two class action matters arise out of the same transaction and occurrence. Specifically, they seek to recover damages associated with the construction of the Bristol condominium project and losses to personal property within the units. They seek to recover for damages associated with component parts of the building which is allegedly owned by the units, as opposed to the homeowner association. The POA matter also arises out of the construction of the Bristol Condominiums. In short, all three actions arise out of the same transaction and occurrence and enjoy identical issues of fact and law. The POA matter is slightly different and has differences which, at least at this point, make consolidation for trial inappropriate. The two matters seeking class action status, however, should be consolidated for trial and discovery. The POA matter should also be consolidated for discovery purposes only at this time.

"[C]onsolidation may be ordered whenever actions involving a common question of law or fact are pending before the court." *Ellis v. Oliver*, 415 S.E.2d 400, 401 (S.C. 1992); *see also Creighton v. Coligny Plaza Ltd.*, 512 S.E.2d 510, 522 (S.C. Ct. App. 1998), *reh'g denied*, (1999); *Keels v. Pierce*, 433 S.E.2d 902 (S.C. Ct. App. 1993). Rule 42 (a) of the South Carolina Rules of Civil Procedure addresses consolidation and specifically states:

When actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all matters in issue in the action; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.

AO/Brittlebank/Hanger
Consent Order of Consolidation

SCRCP 42 (a). In these actions, it is undisputed that the issues law and the questions of fact presented in these cases are identical. Accordingly, under South Carolina Law, the Hanger and Landry cases should be consolidated for trial and discovery. The Bristol POA matter should be consolidated for purposes of discovery only at this time.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED, that the Hanger and Landry cases are consolidated for trial and discovery and the Bristol POA matter for discovery only. One civil action number be designated as the operative number for purposes of filings for the Hanger and Landry cases and that shall be the Landry matter number (2007-CP-10-607). The Bristol POA civil action number shall remain proper for raising issues which arise in that matter.

DP
with a joint caption reflecting all parties and both case numbers,

AND IT IS SO ORDERED!



The Honorable Daniel F. Pieper
Circuit Court Judge

June 19, 2007

Charleston, South Carolina

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK, C.P., G.S. & F.C.
By [Signature]
DEPUTY CLERK