

IN THE CIRCUIT COURT OF THE 15TH  
JUDICIAL CIRCUIT, IN AND FOR PALM  
BEACH COUNTY, FLORIDA

CASE NO.

MANFRED BRECKER, Individually,

Plaintiffs,

vs.

DELAIRE COUNTRY CLUB, INC., a not-for-profit  
Florida corporation,

Defendant.

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**COMPLAINT FOR DECLARATORY RELIEF AND APPLICATION  
FOR SUMMARY ORDER TO INSPECT CORPORATE RECORDS**

Plaintiff Manfred Brecker (Mr. Brecker) sues the Defendant, Delaire Country Club, Inc., a Florida corporation (Delaire), and for his cause of action declares and avers as follows:

1. This is an action for declaratory relief and an application for a summary order to inspect records, and costs, including reasonable attorney's fees, pursuant to Fla. Stat., § 617.1604.
2. Venue is proper in Palm Beach County, Florida in that the Defendant's principal office is located in Boca Raton, Palm Beach County, Florida.
3. Manfred Brecker is a citizen and resident of Palm Beach County, Florida, and is over the age of eighteen (18) and otherwise *sui juris*.
4. Delaire is a Florida corporation with its principal place of business in Palm Beach County, does business in Palm Beach County, and otherwise is within the jurisdiction of this Court.
5. Mr. Brecker is a member of Delaire.
6. On May 29, 2017, Mr. Brecker made a request to Delaire relating to certain back up information that would purportedly help support and explain Delaire's financial statements.

The request was specifically relating to the “Property taxes and insurance” line item on Delaire’s financial statements. The 2015 and 2016 financials reflect that Delaire purportedly paid \$302,497.00 for insurance in 2015, and \$314,833.00 for insurance in 2016.

7. Mr. Brecker is concerned that Delaire is overpaying on its insurance and/or made a mistake on its financials.

8. Delaire responded by stating that it is not “under any legal duty to respond to questions posed by any member, especially where, as here, those questions relate to minor details concerning [Delaire’s] operations, taxes, etc.”

9. Mr. Brecker disputes that this request relates to “minor details” as Delaire suggests. If, in fact, Delaire is overpaying on its insurance, that is something that impacts all members of Delaire. Moreover, if Delaire made a mistake on its financials, that too could have a negative impact on the members, including Mr. Brecker, of Delaire.

10. Then, on June 6, 2017, Delaire informed Mr. Brecker that it did not need to respond to him because he was not requesting *records*, and that “[t]here is no legal duty on the corporation to answer member questions.”

11. On June 8, 2017, Mr. Brecker made another request for the documentation purportedly supporting Delaire’s financial statements as it relates to the amounts Delaire purportedly spent on insurance in 2015 and 2016. A copy of the June 8, 2017 correspondence is attached hereto as Exhibit “A.”

12. Delaire did not respond to the request.

13. On July 11, 2017, after the undersigned firm was engaged to assist Mr. Brecker in obtaining this information, the undersigned sent Delaire a request for “[a]ll documents which sufficiently evidence that Delaire was charged and paid \$302,497.00 for insurance in 2015, and

\$314,833.00 in 2016.” A copy of the July 11, 2017 correspondence is attached hereto as Exhibit “B.”

14. Delaire has not responded in any fashion to the July 11, 2017 request.

15. Chapter 617, Florida Statutes governs the relationship between a not-for-profit corporation, such as Delaire, and its members, such as Mr. Brecker.

16. Section 617.1602, Fla. Stat., provides as follows:

Inspection of records by shareholders. –

(1) A shareholder of a corporation is entitled to inspect and copy, during regular business hours at the corporation’s principal office, any of the records of the corporation described in s. 607.1601(5) if the shareholder gives the corporation written notice of his or her demand at least 5 business days before the date on which he or she wishes to inspect and copy.

(2) A shareholder of a corporation is entitled to inspect and copy, during regular business hours at a reasonable location specified by the corporation, any of the following records of the corporation if the shareholder meets the requirements of subsection (3) and gives the corporation written notice of his or her demand at least 5 business days before the date on which he or she wishes to inspect and copy:

(a) Excerpts from minutes of any meeting of the board of directors, records of any action of a committee of the board of directors while acting in place of the board of directors on behalf of the corporation, minutes of any meeting of the shareholders, and records of action taken by the shareholders or board of directors without a meeting, to the extent not subject to inspection under subsection (1);

(b) Accounting records of the corporation;

(c) The record of shareholders; and

(d) Any other books and records.

(3) A shareholder may inspect and copy the records described in subsection (2) only if:

(a) The shareholder’s demand is made in good faith and for a proper purpose;

- (b) The shareholder describes with reasonable particularity his or her purpose and the records he or she desires to inspect; and
- (c) The records are directly connected with the shareholder's purpose.

17. Section 617.1604, Fla. Stat., provides as follows:

Court-ordered inspection. –

- (1) If a corporation does not, within a reasonable time, allow a member to inspect and copy any record, and the member complies with any prerequisites to inspection and copying imposed by this section, the member may apply to the circuit court in the county where the corporation's principal office, or, if none in this state, its registered office, is located for an order to permit inspection and copying of the records demanded. The court shall dispose of an application under this subsection on an expedited summary basis.
- (2) If the court orders inspection or copying of the records demanded, it shall also order the corporation and the custodian of the particular records demanded to pay the member's costs, including reasonable attorney's fees, reasonably incurred to obtain the order and enforce its right under this section unless the corporation, or the officer, director, or agent, as the case may be, provides that it or he or she refused inspection in good faith because it or he or she had a reasonable basis for doubt about the right of the member to inspect or copy the records demanded.
- (3) If the court orders inspection or copying of the records demanded, it may impose reasonable restrictions on the use or distribution of the records by the demanding member.

18. As a result of the concerns Mr. Brecker expressed to Delaire as described herein, Mr. Brecker's compliance with Chapter 617, Florida Statutes' requirements, and Delaire's refusal to allow Mr. Brecker access to the pertinent records (or even respond with a denial and a reason for the denial), Mr. Brecker is entitled to a court order to permit the inspection and copying of the records demanded.

19. Mr. Brecker properly demanded access to all of the relevant records in good faith and for the proper purpose of investigating their concerns as it relates to the amounts Delaire has purportedly paid in insurance in 2015 and 2016.

20. Mr. Brecker described with reasonable particularity their purpose and the records they desired to inspect.

21. The records demanded are directly connected with Mr. Brecker's purpose, and reasonably related to their interest as a member of Delaire.

WHEREFORE, Mr. Brecker demands judgment against the Defendant Delaire Country Club, Inc. to include but not be limited to the following:

- (A) A declaration that Mr. Brecker is entitled to inspect and copy all of the relevant records sought herein;
- (B) A summary order to inspect and copy all documents which sufficiently evidence that what Delaire was charged and paid in insurance for 2015 and 2016.
- (C) An award of costs, including reasonable attorney's fees, pursuant to Fla. Stat., § 617.1604(2), reasonably incurred to obtain the order and enforce his rights under this section.

Dated this 11<sup>th</sup> day of August, 2017.

Respectfully submitted,

**PADULA BENNARDO LEVINE, LLP**  
Attorneys for Plaintiffs  
3837 NW Boca Raton Blvd., Suite 200  
Boca Raton, Florida 33431  
Telephone No. 561.544.8900  
Facsimile No. 561.544.8999

By: /s/ Stephen J. Padula  
STEPHEN J. PADULA  
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# ***EXHIBIT “A”***

MNFRED BRECKER  
4430 LIVE OAK BLVD  
DELRAY BEACH FL 33445



June 8, 2017

DELAIRE COUNTRY CLUB  
4645 WHITE CEDAR LANE  
DELRAY BEACH FLORIDA 33445

VIA FAX 499-8625

ATTENTION: CURT KARPEL PRESIDENT AND MEMBERS OF THE BOARD

Dear Mr. Karpel,

Consider this correspondence as a final request for the information wanting to inspect, copy or receive the documents as per my e-mail request dated 5/29/2017. (*The insurance authorization amounting to \$302,497 for the year 2015 and \$314,833 for the year 2016 as reported in the financials of both years under the caption of Real Estate taxes and Insurance*)

The answers' that I received up to this writing have been evasive, stone walled and unresponsive. Replies such as the Liz Shaw forwarded memo signed by you dated 6/2/2017 stating:

*"Neither I nor the club is under any legal duty to respond to questions posed by any member, especially where ,as here, those questions relate to minor details concerning the Club's operation, taxes, etc." To be finalized with: "As it is my prerogative to decline responding, this will be the end of my communication with you on this subject.*

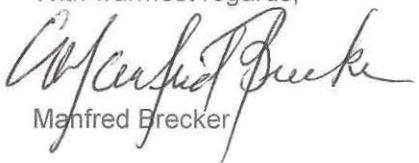
My reply to that memo was than answered by Mr. Krivok, under the caption [jk@dslaw.net](mailto:jk@dslaw.net), with more of the same mistaken info. Therefore, I have taken the liberty to supply copies of several statutes in order to save time, including the Krivok misinformation with this text that will elucidate my petition.

It is my most sincere desire that you will do your best to accommodate me toward my basic rights, stated in 607.1602 underlined in yellow, 607.1620 same underlining and finally 617.1604 same give. I have faith, after a thorough review of the enclosed material you will reconsider your harsh attitude which will eliminate the rebirth of another trip to the small claims court or having to go to the District court.

Hoping you accept my remarks within the spirit they have been written,



With warmest regards,

  
Manfred Brecker



**617.1604 Court-ordered inspection.—**

(1) If a corporation does not, within a reasonable time, allow a member to inspect and copy any record, and the member complies with any prerequisites to inspection and copying imposed by this section, the member may apply to the circuit court in the county where the corporation's principal office, or, if none in this state, its registered office, is located for an order to permit inspection and copying of the records demanded. The court shall dispose of an application under this subsection on an expedited summary basis.

(2) If the court orders inspection or copying of the records demanded, it shall also order the corporation and the custodian of the particular records demanded to pay the member's costs, including reasonable attorney's fees, reasonably incurred to obtain the order and enforce its rights under this section unless the corporation, or the officer, director, or agent, as the case may be, provides that it or he or she refused inspection in good faith because it or he or she had a reasonable basis for doubt about the right of the member to inspect or copy the records demanded.

(3) If the court orders inspection or copying of the records demanded, it may impose reasonable restrictions on the use or distribution of the records by the demanding member.

**History.**—s. 72, ch. 93-281; s. 5, ch. 97-93; s. 102, ch. 97-102.

# ***EXHIBIT “B”***



July 11, 2017

**VIA EMAIL (jk@dkslaw.net)**

James N. Krivok, Esquire  
Dicker, Krivok & Stoloff, P.A.  
1818 Australian Avenue South, Suite 400  
West Palm Beach, Florida 33409

***Re: Manfred Brecker of Delaire Country Club, Inc.***

Dear Mr. Krivok:

As you know, this law firm represents Manfred Brecker. We have discussed in the past with you the issue of Mr. Brecker's right to access certain documents relating to Delaire's financial statements. I understand that Mr. Brecker has requested access to the documents on May 29, 2017 and again on June 8, 2017; however, as of today's date, he has not received the documents or the right to inspect the documents. As a result of not receiving the requested documents, Mr. Brecker has retained our law firm to compel Delaire's compliance with the relevant Florida Statutes relating to Mr. Brecker's right to access to the documents. If Delaire refuses to provide Mr. Brecker with the following requested documents, Mr. Brecker will have no choice but to file a lawsuit.

Specifically, Mr. Brecker is requesting the following documents:

- (1) All documents which sufficiently evidence that Delaire was charged and paid \$302,497.00 for insurance in 2015, and \$314,833.00 in 2016.

Mr. Brecker has legitimate concerns that Delaire has made mistakes (or at worse, made misrepresentations) on its financial statements. Conversely, even if the financial statements are correct, Mr. Brecker has concerns over the amount of money Delaire is spending on insurance.

Mr. Brecker stands by ready to inspect and copy (if necessary) the records at a reasonable time and place anytime on or before July 25, 2017. However, at the very least, the aforementioned records need to be made available for Mr. Brecker's inspection and copying by July 25, 2017.

James N. Krivok, Esquire

July 11, 2017

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Delaire's refusal to allow Mr. Brecker access to the aforementioned records, as it is required to pursuant to Chapter 617, Florida Statutes, will result in Mr. Brecker filing a lawsuit and seeking all of his attorneys' fees and costs in connection therewith.

Regards,



STEPHEN J. PADULA  
For the Firm

SJP/ljh

cc: Manny Brecker

IN THE CIRCUIT COURT OF THE 15TH  
JUDICIAL CIRCUIT, IN AND FOR PALM  
BEACH COUNTY, FLORIDA

CASE NO.  
JUDGE

MANFRED BRECKER, Individually,

Plaintiff,

vs.

DELAIRE COUNTRY CLUB, INC., a  
not-for-profit Florida corporation,

Defendant.

**SUMMONS**

THE STATE OF FLORIDA:  
To Each Sheriff/Certified Process Server of the State:

**YOU ARE COMMANDED** to serve this summons and a copy of the Complaint in this action on

Defendant:

**By serving:** **DELAIRE COUNTRY CLUB, INC.**  
By Serving Its Registered Agent:

Trent Squire  
4645 White Cedar Lane  
Delray Beach, FL 33445

Each Defendant is required to serve written defenses to the complaint or petition on: **STEPHEN J. PADULA, ESQUIRE, PADULA BENNARDO LEVINE, LLP, 3837 NW BOCA RATON BLVD., SUITE 200, BOCA RATON, FLORIDA 33431**, within twenty (20) days after service of this summons on that Defendant, exclusive of the date of service, and to file the original of the defenses with the Clerk of this Court either before service on Plaintiff's attorney or immediately thereafter. If a Defendant fails to do so, a default will be entered against that Defendant for the relief demanded in the complaint or petition.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

**SHARON R. BOCK**  
As Clerk o& Comptroller

By: \_\_\_\_\_  
As Deputy Clerk

In accordance with the Americans with Disabilities Act of 1990, persons needing a special accommodation to participate in this proceeding should contact the Court ADA Coordinator no later than seven (7) days prior to the proceedings. Telephone 1-800-955-8771, for assistance.

**IMPORTANTE**

Usted ha sido demandado legalmente. Tiene veinte (20) dias, contados a partir del recibo de esta notificacion, para contestar la demanda adjunta, por escrito, y presentarla ante este tribunal. Una llamada telefonica no lo protegera; si usted desea que el tribunal considere su defensa, debe presentar su respuesta por escrito, incluyendo el numero del caso y los nombres de las partes, interesadas en dicho caso. Si usted no contesta la demanda a tiempo, pudiese perder el caso y podria ser despojado de sus ingresos y propiedades, o privado de sus derechos,sin previo aviso del tribunal. existen otros requisitos legales. Si lo desea, puede usted consultar a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a una de las oficinas de asistencia legal que aparecen en la quia telefonica.

Si desea responder a la demanda por su cuenta, al mismo tiempo en que presenta su respuesta ante el tribunal, deberá usted enviar por correo o entregar una copia de su respuesta a la persona denominada abajo como “Plaintiff/Plaintiff’s Attorney.” (Demandante o Abogado del Demanadante).

**IMPORTANT**

Des poursuites judiciaires ont été entreprises contre vous. Vous avez 20 jours consécutifs à partir de la date de l’assignation de cette citation pour déposer une réponse écrite à la plainte ci-jointe auprès de ce Tribunal. Un simple coup de téléphone est insuffisant pour vous protéger; vous êtes obligé de déposer votre réponse écrite, avec mention du numéro de dossier ci-dessus et du nom des parties nommées ici, si vous souhaitez que le Tribunal entende votre cause. Si vous ne déposez pas votre réponse écrite dans le délai requis, vous risquez de perdre la cause ainsi que votre salaire, votre argent, et vos biens peuvent être saisis par la suite, sans aucun préavis ultérieur du Tribunal. Il y a d’autres obligations juridiques et vous pouvez requérir les services immédiats d’un avocat. Si vous ne connaissez pas d’avocat, vous pourriez téléphoner à un service de référence d’avocats ou à un bureau d’assistance juridique (figurant à l’annuaire de téléphones).

Si vous choisissez de déposer vous-même une réponse écrite, il vous faudra également, en même temps que cette formalité, faire parvenir ou expédier une copie au carbone ou une photocopie de votre réponse écrite au “Plaintiff/Plaintiff’s Attorney” (Plaignant ou à son avocat) nommé ci-dessous.

**FORM 1.997. CIVIL COVER SHEET**

The civil cover sheet and the information contained in it neither replace nor supplement the filing and service of pleadings or other documents as required by law. This form must be filed by the plaintiff or petitioner for the use of the Clerk of Court for the purpose of reporting judicial workload data pursuant to section 25.075, Florida Statutes. (See instructions for completion.)

**I. CASE STYLE**

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT,  
IN AND FOR PALM BEACH COUNTY, FLORIDA

Case No.: \_\_\_\_\_  
Judge: \_\_\_\_\_

Manfred Brecker

Plaintiff

vs.

Delaire Country Club Inc

Defendant

**II. TYPE OF CASE**

- Condominium
- Contracts and indebtedness
- Eminent domain
- Auto negligence
- Negligence – other
  - Business governance
  - Business torts
  - Environmental/Toxic tort
  - Third party indemnification
  - Construction defect
  - Mass tort
  - Negligent security
  - Nursing home negligence
  - Premises liability – commercial
  - Premises liability – residential
- Products liability
- Real Property/Mortgage foreclosure
  - Commercial foreclosure \$0 - \$50,000
  - Commercial foreclosure \$50,001 - \$249,999
  - Commercial foreclosure \$250,000 or more
  - Homestead residential foreclosure \$0 – 50,000
  - Homestead residential foreclosure \$50,001 - \$249,999
  - Homestead residential foreclosure \$250,000 or more
  - Non-homestead residential foreclosure \$0 - \$50,000
  - Non-homestead residential foreclosure \$50,001 - \$249,999

- Non-homestead residential foreclosure  
\$250,00 or more
- Other real property actions \$0 - \$50,000
- Other real property actions \$50,001 - \$249,999
- Other real property actions \$250,000 or more
- Professional malpractice
  - Malpractice – business
  - Malpractice – medical
  - Malpractice – other professional
- Other
  - Antitrust/Trade Regulation
  - Business Transaction
  - Circuit Civil - Not Applicable
  - Constitutional challenge-statute or ordinance
  - Constitutional challenge-proposed amendment
  - Corporate Trusts
  - Discrimination-employment or other
  - Insurance claims
  - Intellectual property
  - Libel/Slander
  - Shareholder derivative action
  - Securities litigation
  - Trade secrets
  - Trust litigation

**COMPLEX BUSINESS COURT**

This action is appropriate for assignment to Complex Business Court as delineated and mandated by the Administrative Order. Yes  No

**III. REMEDIES SOUGHT** (check all that apply):

- Monetary;
- Non-monetary declaratory or injunctive relief;
- Punitive

**IV. NUMBER OF CAUSES OF ACTION:** ( )  
(Specify)

1

**V. IS THIS CASE A CLASS ACTION LAWSUIT?**

- Yes
- No

**VI. HAS NOTICE OF ANY KNOWN RELATED CASE BEEN FILED?**

- No
- Yes – If “yes” list all related cases by name, case number and court:

**VII. IS JURY TRIAL DEMANDED IN COMPLAINT?**

- Yes
- No

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I CERTIFY that the information I have provided in this cover sheet is accurate to the best of my knowledge and belief, and that I have read and will comply with the requirements of Florida Rule of Judicial Administration 2.425.

Signature s/ Stephen J Padula      FL Bar No.: 182362  
Attorney or party

(Bar number, if attorney)

Stephen J Padula      08/11/2017  
(Type or print name)

Date