

IN THE CIRCUIT COURT OF  
THE 17<sup>TH</sup> JUDICIAL CIRCUIT IN  
AND FOR BROWARD COUNTY  
FLORIDA

POMPANO SENIOR SQUADRON  
FLYING CLUB, INC., a Florida  
corporation,

CASE NO.: CACE 20-005993 (08)

Plaintiff/Counter-Defendant,

v

CARL KENNEDY, individually,

Defendant/Counter-Plaintiff.

**PLAINTIFF/COUNTER-DEFENDANT'S MOTION TO DISMISS  
DEFENDANT/COUNTER-PLAINTIFF'S AMENDED COUNTER-COMPLAINT**

Plaintiff/Counter-Defendant, POMPANO SENIOR SQUADRON FLYING CLUB, INC. ("Club"), a Florida Corporation by and through its undersigned counsel, files this Motion to Dismiss Defendant/Counter-Plaintiff CARL KENNEDY'S ("Kennedy") Amended Counter-complaint and says:

1. On or about December 7, 2020 Kennedy filed a stand-alone Amended Counter-complaint in contradiction to Rule 1.170, Fla.R.Civ.P. While a stand-alone Counter-claim is not a recognized pleading under Florida law and Florida Rules of Civil Procedure, nonetheless, in an abundance of caution, Club files this Motion to Dismiss the Amended Counter-complaint for the following reasons.
2. In the Amended Counter-complaint, Kennedy mentions various causes of action in the thirteen (13) paragraphs of the Counter-complaint as well as in his Wherefore clause.
3. Kennedy seeks reimbursement of money, at least two (2) separate injunctions, and an unfounded request for return of his membership dues.

4. As to the request for injunctions, Kennedy fails to state the elements necessary for an injunction, including but not limited to irreparable harm and a lack of a remedy at law. In fact, Kennedy requests damages and an injunction within the same disjointed pleading.

5. As for his alleged claim for return of his monthly membership dues, Defendant Kennedy in the thirteen (13) paragraphs of his alleged Amended Counter-complaint, does not state any factual basis whatsoever, or legal basis, for said request for relief. According, Defendant Kennedy has failed to state a cause of action for return of his monthly dues and Club cannot formulate an answer to such request.

6. Furthermore, Kennedy's request, as stated within his Amended Counter-complaint, appears to be a derivative action in that Kennedy seems to be seeking relief not particular to himself, but as to all Shareholders of the Club. Kennedy has failed to comply with the requirements of a derivative suit, including, but not limited to, alleging that he has made a demand upon the Club itself to seek the relief Kennedy seeks in his Amended Counter-complaint and that the Club has failed or refused to comply with such request.

7. Despite the fact that Kennedy is pro se, Kennedy is obligated to comply with the Florida Rules of Civil Procedure, as well as all caselaw in the State of Florida in attempting to bring a claim against the Club. Kennedy clearly has failed to do so, has failed to state a cause of action, has failed to properly even file an Amended Counter-complaint, and has made it impossible for Plaintiff Club to file any meaningful answer to his allegations.

WHEREFORE, Club moves this Court for an Order dismissing Kennedy's alleged Amended Counter-complaint for all of the above reasons, an award of court costs and attorney fees, and any further relief that this Court deems just and equitable.

**I HEREBY CERTIFY** that a true and correct copy of the foregoing was sent via eportal this 11th day of January 2021, to Carl L. Kennedy, II, [clktax@aol.com](mailto:clktax@aol.com).

/s/Edward F. Holodak

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