

IN THE CIRCUIT COURT OF THE 17th JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

POMPANO SENIOR SQUADRON FLYING CLUB, INC.
(aka POMPANO BEACH FLYING CLUB)

Plaintiff/Counter-Defendant,

and

CARL L. KENNEDY, II

Defendant/Counter-Plaintiff.

Case No.: CACE 20-005993
Division (8)

DEFENDANT'S MOTION FOR JUDGMENT ON THE PLEADINGS

Defendant, Carl L. Kennedy, II, by his undersigned counsel, pursuant to Fla. R. Civ. P. 1.140, hereby respectfully represents as follows:

1. Plaintiff in this matter has filed a Complaint seeking "an accounting" from Defendant (Count I of Plaintiff's Complaint).
2. Defendant filed an Answer and Affirmative Defenses to the Complaint, including that Plaintiff had failed to state a cause of action upon which relief can be granted by the Court. Plaintiff filed a Reply to Defendant's Answer.
3. The pleadings in connection with Plaintiff's Complaint are closed at this time.
4. "A motion for judgment on the pleadings, Rule 1.140(c), Florida Rules of Civil Procedure, is appropriate where the complaint fails to state a cause of action. It is similar to a motion to dismiss and raises only questions of law arising out of the pleadings." *Shay v. First Fed. of Miami, Inc.*, 429 So.2d 64, 66 (Fla. 3d DCA 1983).
5. Count I of Plaintiff's Complaint is legally insufficient and fails to state a cause of action for which relief can be granted by the Court.
6. Pursuant to Fla.R.C.P. 1.110(b), Plaintiff's Complaint must make a demand for judgment for the relief Plaintiff deems itself entitled.
7. Count I of Plaintiff's Complaint fails to specify the "accounting" which they seek. An accounting of "revenues"? An accounting of "expenses"? An accounting of

“accounts receivables”? An accounting of “profit and losses”? Each of these financial categories can be accounted for differently.

8. In accordance with Fla.R.C.P 1.120(f), time and place are material allegations in stating a cause of action.

9. Count I of Plaintiff’s Complaint also fails to specify any time period for which an accounting is sought. The Complaint fails to provide a “start date” and “end date” for the “accounting” they seek.

10. Judgment should be entered in favor of Defendant with respect to Count I of Plaintiff’s Complaint due to Plaintiff’s failure to state a cause of action in seeking an accounting without specifying the “accounting” which they seek, and the time period for which the accounting is sought.

WHEREFORE, Defendant, Carl L. Kennedy, II, hereby respectfully requests that judgment be entered in favor of Defendant as a matter of a law with respect to Count I of Plaintiff’s Complaint, and that he be awarded all other relief consistent with this Motion that this Court deems just and proper under the facts and circumstances of this matter.

I hereby certify that I sent a copy of the foregoing via the e-portal to Edward Holodak, Esquire at pleadings@holodakpa.com, on the 24th day of June, 2021.

Respectfully submitted,

/s/ Wendy A. Hausmann
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