

**IN THE SMALL CLAIMS COURT
NORTH REGIONAL COURTHOUSE, BROWARD COUNTY, FLORIDA**

LLOYD DAVID HILL, and
GRAHAM DAVID HILL

Co-Plaintiffs,

vs.

Case No.: CONO 20 010538 (71)

POMPANO SENIOR SQUADRON FLYING CLUB,
DBA – POMPANO BEACH FLYING CLUB,
A Florida corporation,

Defendant.

NOTICE OF PLAINTIFF'S EFFORTS TO AGREE ON ADMISSIONS OF FACTS AND OF DOCUMENTS

Plaintiffs LLOYD DAVID HILL and GRAHAM DAVID HILL, proceeding in Small Claims Court *pro se*, respectfully submit this declaration and supporting exhibits, and say:

OVERVIEW

1. Plaintiffs are aware the Pretrial Conference in this case is scheduled for 1:30 PM on Monday, September 14, 2020.

2. Plaintiffs are also aware that Rule 7.090(b) of the *Florida Small Claims Rules Annotated*, 2020-2021 Edition, describes the purpose of the Pretrial Conference and the matters that shall be considered, including Rule 7.090(b)(3), "the possibility of obtaining admissions of fact and of documents that avoid unnecessary proof."

3. In the hopes of reducing the number of issues in dispute and improving the efficiency of the Pretrial Conference, twelve days prior to the Conference (one week ago, on Wednesday, September 2, 2020), Plaintiff Lloyd Hill sent an email to Counsel for the Defendant and attached a proposed draft for Joint Admissions of Facts and of Documents. See Exhibit 19.

4. There were 48 different admissions of facts and of documents proposed by Plaintiff Lloyd Hill, each narrow and uncomplicated so as to make agreement more likely.
5. Plaintiff Lloyd Hill sent the email to the same address listed on the E-Filing Portal and used by Counsel for Defense in prior correspondence to Plaintiff Lloyd Hill.
6. Plaintiff Lloyd Hill did not receive any "bounce" or other failed delivery message.
7. Despite Plaintiffs' good faith effort to simplify the issues and thereby improve the efficiency of the Pretrial Conference, Defendant has not replied.
8. Because Defendant has not replied in a timely manner so that a joint filing could be timely made, Plaintiffs want the Court to be aware, in advance, of the admissions of facts and of documents that they plan to pursue during the Pretrial Conference.

I HEREBY CERTIFY that a true and correct copy of the foregoing has been submitted electronically to Defendant via the Small Claims Court E-Filing System on the 9th day of September 2020.

/s/ Lloyd D. Hill
LLOYD D. HILL
Plaintiff and Plaintiffs *Pro se* Representative
2728 NE 12th Street
Pompano Beach, FL 33062-3811
LHill@ourhillhouse.com

Exhibit Incorporated into this Notice

19. Email to Counsel for Defendant, September 2, 2020 5:23:58 PM ET with attachment, Proposed Agreements of Facts and of Documents.pdf

Lloyd D. Hill and Graham D. Hill, Plaintiffs

v.

Pompano Senior Squadron Flying Club, Inc., dba Pompano Beach Flying Club, Defendant

EXHIBIT 19

**Email to Counsel for Defendant,
September 2, 2010 5:23:58 PM ET with attachment,
Proposed Agreements of Facts and of Documents.pdf**

From: Lloyd Hill <LHill@ourhillhouse.com>

Subject: Proposed Agreements of Fact and of Documents for Pretrial Conference in CONO 20 010538 (71)

Date: September 2, 2020 at 5:23:58 PM EDT

Attachment: Proposed Agreements of Facts and of Documents.pdf

To: Edward Holodak <Edward@holodakpa.com>

Dear Mr. Holodak,

Our September 14, 2020 pretrial conference may involve agreement on admissions of fact and of documents in the interest of efficiency. Accordingly, I have prepared the attached draft joint submission that would be filed in a timely manner before our pretrial conference.

It is my hope that we can agree to the proposed admissions of facts and documents as described in the attached draft. I believe these admissions cannot reasonably be in dispute. While we may not agree on relevance of a particular admission, objections of relevance can be resolved later.

I have tried to make each admission as simple as possible without compounding facts or making conclusions. Some of the admissions are subordinate to a preceding admission and are therefore interdependent (for example, in order for "3.a." to be agreed, then "3" must also be agreed. However, if "3.a." is not agreed, that does not prevent agreement on "3").

If your client would like to revise any of these admissions, I am willing to discuss revisions. If there are any admissions to which your client will not agree under any circumstances, I will remove them. Finally, if your client would like to propose additional admissions that I have not proffered, please let me know so that I may include or discuss them with you.

I have attached a draft "formatted" PDF of what I would propose to be filed.

Sincerely,

/s/

Lloyd Hill

Plaintiff and Plaintiffs *Pro se* Representative

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Case No.: CONO 20 010538 (71)

POMPANO SENIOR SQUADRON FLYING CLUB,
DBA – POMPANO BEACH FLYING CLUB,
A Florida corporation,

Defendant.

JOINT PRETRIAL ADMISSIONS OF FACT AND OF DOCUMENTS

Plaintiffs LLOYD DAVID HILL and GRAHAM DAVID HILL, proceeding in Small Claims Court *pro se*, and Defendant POMPANO SENIOR SQUADRON FLYING CLUB, respectfully submit this joint statement of agreed admissions of fact and of documents for consideration during pretrial proceedings:

EVIDENCE:

1. Plaintiffs' Complaint Exhibit 1 is Plaintiff Lloyd Hill's application to Defendant's Club, with certain information redacted for privacy.
2. Plaintiffs' Complaint Exhibit 2 is Plaintiff Graham Hill's application to Defendant's Club, with certain information redacted for privacy.
3. Plaintiffs' Complaint Exhibit 3 is page 6, "Attachment 'A'," from Defendant Club's "Operational Rules" revised October 11, 2013.

a. Defendant Club's "Operational Rules" (revised October 11, 2013) were in effect when Plaintiffs made application to Defendant's Club, and remained in effect until on or about May 13, 2020.

4. Plaintiffs' Complaint Exhibit 4 is the substantive portion of Defendant Club's "blog" web page as it existed on May 20, 2020, with the exception of minor (non-material) defects that occurred while electronically preserving this web page.

a. Defendant Club's "blog" web page, Exhibit 4, was visible for a number of years prior to May 20, 2020, including on December 1, 2018.

b. Defendant occasionally updated their Club's "blog" web page prior to May 20, 2020 to reflect the names of Defendant Club's officials.

5. Plaintiffs' Complaint Exhibit 5 is the substantive portion of Defendant's "Club info" web page as it existed on May 20, 2020, with the exception of minor (non-material) defects that occurred while electronically preserving this web page.

a. Defendant's "Club info" web page, Exhibit 5, was visible for a number of years prior to May 20, 2020, including on December 1, 2018.

b. Defendant occasionally updated their "Club info" web page prior to May 20, 2020, to reflect, among other things, the names of Defendant Club's officials.

6. Plaintiffs' Complaint Exhibit 6 is the receipt showing that, on December 1, 2018, Plaintiff Lloyd Hill tendered \$1,700 to Defendant's Treasurer for Club membership for his son, Plaintiff Graham Hill.

7. Plaintiffs' Complaint Exhibit 7 is Plaintiffs' May 29, 2020 email to the Officers of Defendant's Club, which was also sent via Certified Mail and signed by both Plaintiffs, informing Defendant of Plaintiff Graham Hill's withdrawal from Defendant's Club.

a. On June 6, 2020 at 13:00 ET, Defendant signed for and received Plaintiffs' May 29, 2020 Certified Mail, the signed copy of the letter in Plaintiffs' Exhibit 7.

8. Plaintiff's Complaint Exhibit 8 is Plaintiff Lloyd Hill's June 9, 2020 email to Officers of Defendant's Club, which was also sent via Certified Mail, following up on the notice of Plaintiff Graham Hill's withdrawal from Defendant's Club.

a. Plaintiff Lloyd Hill's Certified Mail of June 9, 2020 also returned property of Defendant's Club (the aircraft keys previously issued by Defendant to Plaintiff Graham Hill).

b. Plaintiff Lloyd Hill's Certified Mail of June 9, 2020 completed the return of all Club property in Plaintiffs' possession (aircraft keys).

c. On July 7, 2020 at 15:16 ET, Defendant signed for and received Plaintiffs' June 9, 2020 Certified Mail.

9. Plaintiffs' Complaint Exhibit 9 is Defendant Treasurer's email reply of June 9, 2020 to Plaintiffs' May 29, 2020 email (Plaintiff's Complaint Exhibit 7), copied to all other Defendant's Officers, with certain information redacted for privacy.

10. Plaintiffs' Complaint Exhibit 10 is "Attachment 'A'" of Defendant Club's "Operational Rules" revised May 12, 2020.

a. At some time on or after May 13, 2020, Defendant published on its web site the "Operational Rules" revised May 12, 2020.

11. Plaintiffs' Complaint Exhibit 11 is Plaintiff Lloyd Hill's email of April 9, 2020 to the Board of Directors of Defendant's Club.

12. On May 5, 2020 at or about 18:09 ET, the former Treasurer of Defendant's Club sent an email to a large number of recipients, including all current Board Members of Defendant's Club.

a. Plaintiffs' Complaint Exhibit 12 is the May 5, 2020 email from the former Treasurer of Defendant's Club, with certain information redacted for privacy.

13. On May 8, 2020 at or about 10:46 ET, the former Treasurer of Defendant's Club sent another email to a large number of recipients, including all current Board Members of Defendant's Club.

a. Plaintiffs' Complaint Exhibit 13 is the May 8, 2020 email from the former Treasurer of Defendant's Club, with certain information redacted for privacy.

14. Plaintiffs' Complaint Exhibit 14 is Plaintiff Lloyd Hill's email reply of June 10, 2020 to Defendant Treasurer's June 9, 2020 email (Plaintiff's Complaint Exhibit 9), copied to all Defendant's Officers, with certain information redacted for privacy.

15. Plaintiffs' Complaint Exhibit 15 is Defendant President's email of May 12, 2020 to Plaintiff Lloyd Hill, copied to Defendant's Vice-President, Treasurer, a Board Member, a member-at-large, and the Defendant's Chief Pilot.

16. On June 22, 1970, the Secretary of State for Florida recorded the Articles of Incorporation for Defendant's Club.

a. Plaintiffs' Exhibit 16 contains Defendant Club's complete Articles of Incorporation as recorded on June 22, 1970.

b. Defendant Club's Articles of Incorporation, as recorded with the Secretary of State for Florida on June 22, 1970, are the only Articles ever filed by Defendant's Club.

c. Defendant Club's Articles of Incorporation are binding upon Defendant's conduct.

17. Defendant Club's check #5995 included in Plaintiff's Exhibit 17 is a portion of a bank statement that Defendant's current Treasurer made available, and encouraged those present to take a copy, at Defendant's Club meeting on March 11, 2020, with certain information redacted for privacy.

18. Plaintiff's Complaint Exhibit 18 is Robert Lockyer's email of February 11, 2020 sent to, among many others, all current Board Members of Defendant's Club, with certain information redacted for privacy.

FACT-RELATED:

19. From November 30, 2018 until approximately May 15, 2020:

- a. The link to Defendant's By-Laws on Defendant's web site was not functional.
- b. Defendant's By-Laws were not published where the public could review them.
- c. One or more members informed Defendant that its By-Laws were not published where the public could review them.

20. Defendant's Club approved Plaintiff Lloyd Hill's application (Plaintiffs' Complaint Exhibit 1) on or about December 1, 2018.

21. Defendant's Club approved Plaintiff Graham Hill's application (Plaintiffs' Complaint Exhibit 2) on or about December 1, 2018.

22. From December 1, 2018, until Plaintiff Graham Hill's withdrawal from Defendant's Club on May 29, 2020, Plaintiff Lloyd Hill consistently and timely paid Plaintiff Graham Hill's membership application deposit, and invoices for monthly dues and hourly flight time.

23. From December 1, 2018 until June 9, 2020, Defendant's Club agreed to, never deviated from, and never challenged Plaintiff Lloyd Hill being the sole agent and representative for Plaintiff Graham Hill with regard to all operational, administrative, and financial matters.

24. Defendant's Club is regulated by federal and state laws including, but not limited to, Florida Statutes Chapter 617, Corporations Not-For-Profit.

25. The By-Laws for Defendant's Club must be fully consistent and compliant with – and not in conflict with – federal and state laws, including Florida Statutes Chapter 617.

26. Defendant's Club must operate in compliance with – and not in conflict with – its Articles of Incorporation.

27. The By-Laws for Defendant's Club must be fully consistent and compliant with – and not in conflict with – its Articles of Incorporation.

28. Defendant's Club Operational Rules and all other policies must be fully consistent and compliant with – and not in conflict with – its Articles of Incorporation, By-Laws, and federal and state laws, including Florida Statutes Chapter 617.

29. Any provision of Defendant's Club By-Laws or Operational Rules, or all other policies for Defendant's Club, that conflicts with Defendant's Articles of Incorporation is without lawful effect and cannot be enforced.

30. Any provision of Defendant's Club Articles of Incorporation, By-Laws, Operational Rules, or all other documents and policies for Defendant's Club that conflicts with the statutes of the

United States of America and/or State of Florida, including Florida Statutes Chapter 617, is without lawful effect and cannot be enforced.

WHEREFORE the Plaintiffs and Defendant believe these admissions of facts and of documents will help narrow the issues in dispute and therefore pray for an order from this Court accepting them as facts and documents that are not in dispute.

WE HEREBY CERTIFY that a true and correct copy of the foregoing has been submitted electronically to the case docket via the Small Claims Court E-Filing System on the ____ day of September 2020.

/s/ Lloyd D. Hill
LLOYD D HILL
Plaintiff and Plaintiffs *Pro se* Representative
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Pompano Beach, FL 33062-3811
LHill@ourhillhouse.com

/s/ Edward F. Holodak
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