

STATE OF SOUTH CAROLINA )  
 COUNTY OF GREENVILLE )  
 )  
 Bonnie Brae Homeowners )  
 Association, Inc., )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 HOA Community Management, LLC and )  
 Charlene Rice, Jeff Dumpert, )  
 Tim Roach, Janine Wyman, Julie Hrobsky, )  
 Jason Resotka, and Donald Peake, )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
 FOR THE THIRTEENTH JUDICIAL CIRCUIT

CIVIL CASE NO. 2016-CP-23-06406

**NOTICE OF MOTION AND MOTION  
 TO COMPEL DISCOVERY**

**TO: THE ABOVE-NAMED DEFENDANTS:**

YOU WILL PLEASE TAKE NOTICE that the Plaintiff, Bonnie Brae Homeowners’ Association, Inc., by and through its undersigned attorney, respectfully moves this Court for an Order setting a hearing on Plaintiff’s Motion to Compel Discovery at such time and place as is convenient for the Court, and as soon as is practicably possible. At such time and place as is set by the Court, Plaintiff will move this Court for an Order pursuant to Rule 37 of the South Carolina Rules of Civil Procedure (“SCRCP”) compelling Defendants to respond to Plaintiff’s First Requests for Production, a copy of which is attached hereto as **Exhibit A**.

Plaintiff served Defendants with its Plaintiff’s First Requests for Production (“Discovery Requests”) on December 15, 2016 making the responses due no later than January 16, 2017. Counsel for Defendants confirmed receipt of the requests and multiple conversations were had

between counsel for the Plaintiff and counsel for the Defendants regarding the volume of the Discovery Requests and when they would be made available. On or about January 6, 2017 Defendants produced an email containing 185 pages of documents relevant to Plaintiff's Discovery Requests. While relevant, that small amount of production does not come close to satisfying the Discovery sought. Plaintiff has repeatedly asked Defendants for the rest of the Discovery Requests. Defendants have identified the production, which consists of many large boxes containing documents and records of the Bonnie Brae Homeowners Association. As of the date of this filing Defendants refuse to allow Plaintiff access to these boxes and have not responded to any of the Plaintiff's repeated requests made through communication by Plaintiff's counsel.

The responses received so far from Defendants are deficient in that the Requests numbered 3, 5, 7, 8, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, and 25 have not been produced. Nor have Defendants communicated in any meaningful way that these items either exist or do not exist, or that they are a part of anything they wish to claim privilege on. Further, Defendants have identified the existence of many boxes (Plaintiff is not sure of the exact number, but believes it to be at least 10) containing documents and items that are relevant to its requests, yet Defendants refuse to cooperate with Plaintiff to make these documents available for review.

Based on the above, and the applicable law and the South Carolina Rules of Civil Procedure, Plaintiff believes an order should be granted compelling the production according to Plaintiff's Discovery Requests.

#### **Affirmation Pursuant to Rule 11(a), SCRPC**

Counsel for the Plaintiff affirms that, prior to filing this motion, they have communicated with opposing counsel for Defendants, and have attempted in good faith to resolve the matter contained in this motion.

Plaintiff now respectfully does pray and ask this Court to grant an Order pursuant to Rule 37 of the South Carolina Rules of Civil Procedure, compelling Defendants to fully and in a timely manner, respond to the Discovery Requests submitted by the Plaintiff, and also the awarding of costs incident to this motion, and such and other further relief as is deemed appropriate by the Court.

Respectfully submitted,

**The Dodd Law Firm, LLC**

s/Michael B. Dodd  
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Attorney for the Plaintiff  
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Greenville, South Carolina  
March 10, 2017



**EXHIBIT "A"**

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**PLAINTIFF'S FIRST REQUESTS  
 FOR PRODUCTION**

**TO: THE ABOVE-NAMED DEFENDANTS:**

The Plaintiff, pursuant to Rules 26 and 34 of the South Carolina Rules of Civil Procedure, hereby submits to the Defendants, these requests for the production of documents. If an objection is made to a particular request, please state the reason for the objection and set forth in detail the reasons why the answering party cannot produce such documentation. If privilege is claimed, please state with particularity how such documents are covered by privilege, and include a privilege log along with the response. Plaintiff understands that documents of a certain sensitive nature will be a part of its requests, and asks that Defendant and Plaintiff be allowed to come to an agreement over the best way for those documents to be handled and viewed by Plaintiff.

The Plaintiff's requests are as follows:

1. Please produce the articles or restated articles of incorporation and all amendments to them currently in effect.

2. Please produce the Association bylaws or restated bylaws and all amendments to them currently in effect.

3. Please produce any resolutions adopted by the board of directors relating to the characteristics, qualifications, rights, limitations, and obligations of members or any class or category of members.

4. Please produce all minutes of all meetings of members and records of all actions approved by the members for the past three years.

5. Please produce all written communications to members generally within the past three years, including the financial statements furnished for the past three years.

6. Please produce the latest annual financial statements, which may be consolidated or combined statements of the Association, that include a balance sheet as of the end of the fiscal year and statement of operations for that year.

7. Please produce the QuickBooks or other accounting software reports for the monthly and annual accounting statements, including balances for the past three years. Or if the records are prepared by an outside accountant, please produce the monthly and annual accounting statements for the Association.

8. Please produce all accounting records of the Association manual or computerized, records of assets and liabilities, monetary transactions; various journals, ledgers, and supporting documents (such as agreements, checks, invoices, vouchers), which the Association has for the last five years.

9. Please produce a full membership list with names and addresses.
10. Please produce all ARC/ARB applications, approvals, denials, appeals, and board decisions on appeals since 2012.
11. Please produce a list of all violations, appeals, and board decision on appeals.
12. Please produce annual meeting attendance records and meeting minutes and business conducted.
13. Please produce a list of committees and committee members, minutes of committee meetings within the Association.
14. Please produce all insurance policies the Association has.
15. Please produce all weekly, monthly, quarterly, or annual financial reports issued to the board members.
16. Please produce all vendor contracts/agreements including management, pool, landscaping, and any others.
17. Please produce all written communication, including email correspondence, letters, notices, or otherwise that were sent to Association members for the last three years.
18. Please produce all email correspondence to and from HOA Community Management and Association members since 2013.
19. Please produce record of all liens recorded and or released in the last five years.
20. Please produce a ledger or record of all collection accounts with a list of money recovered and the collection fees paid.
21. Please produce a ledger or record of all foreclosure actions filed and if money was ever collected, the amount collected.
22. Please produce a record or ledger of all fees collected for the filing of a lien,



foreclosure, acceptance of service in bankruptcy, and other fees collected on behalf of the Association for the last five years.

23. Please produce all contracts and any amendments to those contracts with vendors, homeowners, management companies, or others.

24. Please produce all policies and procedures regarding fines, collections, liens, records requests and review, and any other policies and procedures used by the Association.

25. Please produce all emails to and from HOA Management Company and any homeowner of the Association in 2013 and in 2016.

Respectfully submitted,

**The Dodd Law Firm, LLC**

s/Michael B. Dodd  
S.C. Bar No. 100599  
Attorney for the Plaintiff  
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864-979-5168  
michael@thedoddlawfirm.com

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Greenville, South Carolina  
December 15, 2016.

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that he has caused the Plaintiff's First Requests for Production in the above-captioned case, to be served on the Defendant, and counsel of record a true and correct copy of these documents via United States Mail, certified receipt requested, first-class, postage-paid, email and/or e-filing.

**The Dodd Law Firm, LLC**

s/Michael B. Dodd  
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December 15, 2016  
 Greenville, South Carolina.