

IN THE CIRCUIT COURT OF THE FIFTH
JUDICIAL CIRCUIT IN AND FOR LAKE
COUNTY, FLORIDA

KINGS RIDGE COMMUNITY
ASSOCIATION, INC ; et. al ,

Plaintiffs,

CASE NO : 2005-CA-2718
Class Representation

vs

LENNAR LAND PARTNERS; et al.,

Defendants.

RECEIVED

JUN 04 2008

Per 2785-1 PAD
cc: via e-mail
clients & RWA

**ORDER DENYING DEFENDANTS' MOTION TO DISQUALIFY
PLAINTIFFS' COUNSEL FROM SERVING AS CLASS COUNSEL**

THIS CAUSE came before the Court on Defendants', Land Source Holding Company, LLC f/k/a Lennar Land Partners, Lennar Homes, Inc., Lennar Land Partners Sub, Inc., LNR Land Partners Sub Inc., Kings Ridge LLC, E Bing Hacker, Mortgage Advisors, Inc., and Frank Surface, Motion to Disqualify Plaintiffs' Counsel from Serving as Class Counsel. A hearing was held in the matter on May, 30 2008. The Court has read Defendants' motion and memorandum in support, considered the argument presented at hearing, reviewed the file, consulted the relevant authority and has otherwise been fully advised

In a previous Order Granting Plaintiffs' Motion For Class Certification, this Court ordered, as a preventative measure, Plaintiffs' counsel to secure waivers from all class members regarding a potential conflict due to counsel's representation of Sentry Management, the property management company at the time of the transaction which forms the basis of the suit. In the order, the Court made clear that should Plaintiffs' counsel be unable to secure the necessary waivers, further hearings

would be held regarding whether or not a conflict actually exists that would preclude Plaintiffs' counsel from representation. Plaintiffs' counsel was unable to obtain waivers from all class members, therefore a hearing regarding the conflict was held. The Court finds that Defendants have been unable to meet their burden in establishing a conflict exists, therefore the Motion to Disqualify must be denied.

Florida Rules of Professional Conduct 1.7(a) states that a lawyer shall not represent a client if:

- (1) the representation of 1 client will be directly adverse to another client; or
- (2) there is a substantial risk that the representation of one or more clients will be materially limited by the lawyers responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.

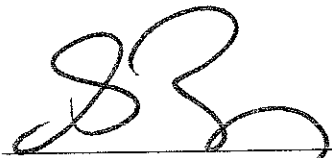
At hearing, Defendants presented no substantial or competent evidence to support the supposition that Plaintiffs' counsels representation of class members would be directly adverse to their representation of Sentry Management or that a substantial risk exists that representation of class members would be materially limited by their responsibilities to Sentry Management. At hearing, Defendants suggested that Sentry Management may have been aware of the transfer before it took place and may have failed to notify class members of the transfer, thereby violating a fiduciary duty. Yet, Defendants presented no substantial evidence regarding the nature of the relationship between class members and Sentry, or regarding how a duty, if one existed, was violated by Sentry.¹ At this juncture, all the Court is aware of is the fact that Sentry Management did not have any ownership interest in the property in question and did not participate in the transfer in a meaningful way

¹The main piece of evidence offered by Defendant, is a letter written by Plaintiffs' counsel as part of the retention agreement between counsel and nine individuals who would later become class representatives discussing the possibility a conflict might exist. Given the gravity of the desired remedy, the Court does not find language in a retention agreement discussing the mere possibility of a conflict to be competent, substantial evidence

Furthermore, if Defendants' had knowledge that Sentry Management was, or could be, liable for some violation of a duty owed to the class members they could have joined them as a party, which they have not done. Taking all of the above into account, the Court finds that Defendants have not met their burden in establishing a conflict exists under Rule 1.7(a).²

ORDERED AND ADJUDGED that Defendants' Motion to Disqualify Plaintiffs' Counsel from Serving as Class Counsel is DENIED.

DONE AND ORDERED in chambers at Tavares, Lake County, Florida this 3 day of JUNE, 2008.



Don F. Briggs, Circuit Judge

²As a practical matter, the class members who were either unable to be contacted, or simply refused to sign the waiver will not be prejudiced by the Court's failure to grant the motion to disqualify because the waivers were simply preventative in nature. At the time the waivers were required by the Court, the actual issue of conflict had never been reached.

Certificate of Service

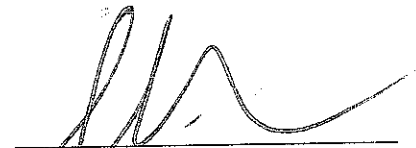
I hereby certify that a true and correct copy of the foregoing Order and any attachments have been sent via U.S. Mail this 3 day of June, 2008 to the following:

Phil A. D'Aniello, Esq.
FASSETT, ANTHONY & TAYLOR, P.A.
1325 W. Colonial Dr.
Orlando, FL 32804

Charles Cacciabeve, Esq.
Michael P. Sampson, Esq.
CARLTON FIELDS, P.A.
500 CNL Center
450 S. Orange Ave, Suite 500
Orlando, FL 32801

Philip S. Smith, Esq.
MCLIN & BURNSSED, P.A.
P.O. Box 491357
Leesburg, FL 34749

Don H. Lester, Esq.
LESTER & MITCHELL, P.A.
1035 LaSalle Street
Jacksonville, FL 32207



Judicial Assistant/ Clerk