

IN THE CIRCUIT COURT
OF THE EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR SEMINOLE COUNTY, FLORIDA

ELAINE McCLAIN and DAVID McCLAIN,

Plaintiffs,

Case No. 2013-CA-3382

vs.

NOTICE OF APPEAL

SHELTON J. "SPIKE" LEE,

Defendant.

NOTICE IS GIVEN that Plaintiffs Elaine McClain and David McClain (hereinafter, collectively, "Plaintiffs"), by and through undersigned counsel, appeal to the Fifth District Court of Appeal of Florida the Order of the Circuit Court of the Eighteenth Judicial Circuit, Seminole County, Florida, rendered on July 23, 2014, by which the Court granted Defendant's Motion to Dismiss Plaintiffs' Complaint pursuant to Rule 1.140(b) of the Florida Rules of Civil Procedure. A conformed copy of the Court's Order Dismissing Plaintiffs' Complaint with Prejudice" is attached hereto in accordance with Rule 9.110(d) of the Florida Rules of Appellate Procedure. The Order appealed is a final appealable order. See, e.g., *State Farm Mutual Automobile Insurance Co. v. Open MRI of Orlando, Inc.*, 780 So.2d 339, 341 (Fla. 5th DCA 2001); *Palm AFC Holdings, Inc. v. Minto Communities, Inc.*, 766 So.2d 436 (Fla. 4th DCA 2000).

The Fifth District Court of Appeal has jurisdiction over this matter pursuant to Rule 9.030(b)(1)(A) of the Florida Rules of Appellate Procedure, and this appeal is made in accordance with Rule 9.110 of the Florida Rules of Appellate Procedure.

The undersigned respectfully requests that the Clerk of Courts for Seminole County, Florida, in accordance with the Florida Rules of Appellate Procedure, forward a copy of this Notice, as well as the Record on Appeal, to the Fifth District Court of Appeal of Florida.

Respectfully submitted,

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Attorneys for Plaintiffs.

CERTIFICATE OF SERVICE

I hereby certify that, on August 22nd, 2014, I electronically filed the foregoing Notice of Appeal with Office of the Seminole County Clerk of Courts via the Florida Courts E-filing Portal, which generated and forwarded a Notice of Electronic Filing to attorneys for Defendant identified below:

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ATTACHMENT – July 23, 2014 Order

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT,
IN AND FOR SEMINOLE COUNTY, FLORIDA

ELAINE McCLAIN and DAVID McCLAIN,

Plaintiffs,

v.

SHELTON J. "SPIKE" LEE,

Defendant.

CASE No. 2013-CA-3382

FILED IN OFFICE
MARYANNE MORSE
CLERK OF THE CIRCUIT COURT
14 JUL 23 PM 3:16
SEMINOLE CO. FLA.
CLERK

ORDER DISMISSING PLAINTIFFS' COMPLAINT WITH PREJUDICE

~~THIS~~ **MATTER** came before the Court on the Motion to Dismiss of Defendant Shelton J. "Spike" Lee, dated April 21, 2014 (the "Motion to Dismiss"); the Response in Opposition to Defendant's Motion to Dismiss of Plaintiffs Elaine McClain and David McClain, dated July 14, 2014; and the parties' other memoranda and materials filed in connection with Defendant's Motion to Dismiss. The Court having reviewed the file, heard argument from counsel at the hearing held on July 16, 2014, and being otherwise fully advised in the premises, it is

ORDERED and ADJUDGED that:

1. Defendant's Motion to Dismiss is **GRANTED** as set forth herein;
2. Plaintiffs' Complaint is **DISMISSED WITH PREJUDICE** for the reasons stated in open court during the July 16, 2014 hearing; and
3. The Clerk of the Court is directed to close the file.

DONE and ORDERED in Chambers in Sanford, Florida, this 22 day of July, 2014.


The Honorable Alan A. Dickey
Circuit Judge

CERTIFIED COPY -- MARYANNE MORSE
CLERK OF THE CIRCUIT COURT AND
COMPTROLLER
SEMINOLE COUNTY, FLORIDA

BY  DEPUTY CLERK

August 22, 2014

MARYANNE MORSE, CLERK OF CIRCUIT COURT SEMINOLE COUNTY FL
CLERK'S # 2014081087 BK 8302 Pgs 0262 - 263; (2pgs) E-RECORDED 07/24/2014 02:40:27 PM

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this July, 2014, I furnished a copy of the foregoing via email or U.S. mail to: Plaintiffs' counsel, **Julia G. Young** (julia.young@stricklawfirm.com) and **Robert E. Strick**, STRICK LAW FIRM, PLLC, 1025 West Colonial Drive, Orlando, FL 32804; and Defendant's counsel, **David B. King** (dking@kbzwlaw.com, aprice@kbzwlaw.com and courtfilings@kbzwlaw.com), **Taylor F. Ford** (tford@kbzwlaw.com, aprice@kbzwlaw.com and courtfilings@kbzwlaw.com), KING, BLACKWELL, ZEHNDER & WERMUTH, P.A., P.O. Box 1631, Orlando, FL 32802-1631, **David W. Brown** (dbrown@paulweiss.com), and Joshua S. Rothstein (jrothstein@paulweiss.com), PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP, 1285 Avenue of the Americas, New York, NY 10019-6064.

Debbie Whitehead
Judicial Assistant