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**IN THE THIRTEENTH JUDICIAL DISTRICT
DISTRICT COURT OF BUTLER COUNTY, KANSAS
CIVIL DEPARTMENT**

VERN T. PLAMER AND PEGGY PALMER,)
AS TRUSTEES OF THE PALMER FAMILY TRUST;)
NORBERT SUTHER AND SHIRLEY SUTHER, AS)
TRUSTEES OF THE SUTHER FAMILY REVOCABLE TRUST;)
DAWNA K. ELDRINGHOFF; KOLENE J. LUPER, AS TRUSTEE)
OF THE KOLENE JEAN LUPER REVOCABLE TRUST;)
DANIEL J. OHL; JANET S. OHL; TIM W. LARSON;)
HEATHER D. LARSON; TANYA A. NUESSEN;)
LANDON C. RIGGS; ASHLEY RIGGS;)
PAUL W. WILCOX AND JUDY M. WILCOX, AS TRUSTEES OF)
THE WILCOX FAMILY REVOCABLE TRUST)

vs.)

Case No. 2016 CV 299

L.A. KNEBLER ADDITION HOMEOWNERS ASSOCIATION;)
MARY ELLEN NUSZ; H.D. HODGE; JANE E. HEISE;)
THOMAS D. REILING; LOLITA ZERBE; SHIRLEY A STEWART;)
GORDON R. MACPHAIL; MELODY L. GAULT; W.K. SHRIVER;)
ABBY BRYAN; DAVE MATTINGLY; SHARLA KELLER;)
PAUL D. CAUTHRON; ROBERT D. GRIFFITH;)
DEEANN BISAGNO; JANELLE LEDGERWOOD;)
JOZETTE J. PATTERSON; GARY L. THOMAS;)
MICHELE A. RIDDER; ASHLEY SWEATS; TOM FINGER;)
A.J. KIRK; WALTER L. SHARP; CRAIG A. SHARP;)
ANTHONY J. NUESSEN; DENISE L. ROCKERS)

Pursuant to K.S.A. Chapter 60

ANSWER

COMES NOW the Defendants and for their answer to the Petition filed herein, allege and
state that:

1. Defendants deny each and every material allegation, averment or statement contained in said Petition of the Plaintiff, except those allegations and averments as may be hereinafter specifically admitted.

2. Defendants admit paragraph 1 of the Petition filed herein, excepting Daniel J. Ohl and Judy M. Wilcox as Trustee, are deceased.

3. Defendants admit paragraphs 2, 3, 4, 7, 8 and 15 of the Petition filed herein.

4. Defendants deny paragraph 5 of the Petition filed herein. Plaintiffs fail to finish quoting the relevant part of section 20. of the original Protective Covenants. The sentence quoted by Plaintiffs does not end with a period where represented by Plaintiffs, rather the sentence goes on to state as shown in bold type for emphasis as follows:

“....., unless a majority for [sic] the landowners in the addition vote to remove, alter or change said restrictions or covenants in whole or in part, **and such changes and alterations shall be effective as of such date and time as they are recorded in the office of the Register of Deeds of Butler County, Kansas.**”

5. Defendants deny paragraph 6 of the Petition filed herein for the reasons stated herein at paragraph 4 above.

6. Defendants deny paragraph 9 of the Petition filed herein for the reasons stated herein at paragraph 4 above.

7. Defendants deny paragraph 11.a. through 11.x. of the Petition filed herein. Defendants are willing to correct any title issues as needed, but deny Plaintiffs have properly listed correct title in all instances. Furthermore, Defendants contend because this was not a transfer of real property, only one joint tenant was required to sign. However, a sufficient number of spouses to the signors are willing to sign additionally if required.

8. Defendants deny paragraphs 10, 12, 13, 16 and 17 of the Petition filed herein.
9. Defendants are without sufficient knowledge or information to either admit or deny the allegations contained in paragraph 14 of the Petition filed herein and, therefore, deny the same.
10. Defendants deny paragraph 18 of the Petition filed herein, with regard to said Association placing a lien.
11. Defendants deny paragraph 19 of the Petition filed herein. Plaintiffs purchased their properties with notice that the original Protective Covenants and Restrictions could be removed, altered, or changed, without any limitations noted, if a majority of the lot owners approved such.
12. Defendants rely upon and affirmatively allege defenses of laches, waiver, estoppel, accord and satisfaction, failure of consideration, and the applicable statutes of limitations.
13. This case has just been commenced and no discovery has taken place or been conducted. Upon further discovery and investigation additional defenses or counterclaims may be determined and the Defendants reserve the right to further plea or answer.

WHEREFORE, Defendants pray that the Court not grant the relief requested by Plaintiffs and instead accept the will of the majority of the lot owners; that the Defendants have and recover their costs herein; and for such other and further relief as the Court may deem just and equitable.

CAMI R. BAKER & ASSOCIATES, P.A.
Attorneys for Defendants

By 
CAMI R. BAKER, #16147

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Answer was mailed, first class, postage prepaid, this 27th day of October, 2016, addressed to:

John B. Barrett
Attorney at Law
101 W. 1st Ave
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Goddard, KS 67052-0471
Attorneys for Plaintiffs

CAMI R. BAKER & ASSOCIATES, P.A.
Attorneys for Defendants

By



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