

DISTRICT COURT OF ADAMS COUNTY,  
STATE OF COLORADO  
1100 Judicial Center Drive  
Brighton, CO 80601

*Plaintiffs:* **Edie Apke; Barbara Austin; Kathy Blanchard; Georgiana Bohlender**, as a representative of the Bohlender Jerry L and Bohlender Georgina Living Trust; **Paula Boswell; Donna Herrick; Julie Branting**, as a representative of the Julie M Branting Trust; **Carl Brzozowy; Lisa Barlow; Danna Colingham; Fred Cone**, as a representative of the Cone Family Trust; **Elizabeth DeLisa**, as a representative of the Richard A Delisa Living Trust Und. 1/2 Int. and Elizabeth A Delisa Living Trust Und. 1/2 Int.; **Daniel Dougherty**, as a representative of the Daniel and Debra Dougherty Revocable Trust; **Dave Gruthoff**, as a representative of the Gruthoff Family Trust; **Christine Gruthoff**, as a representative of the Gruthoff Family Trust; **John Joyner; Paul King; Shari King; Jennifer Osgood; Dave Osgood; Anitra Rock; Leslie Rock; Chuck Payne; Keith Seabaugh; Owen Schaeffer; Ria Schaeffer; Craig Wuertz; and Charlie Wuertz**; *derivatively* on behalf of **Todd Creek Farms Homeowner's Association**, a Colorado nonprofit corporation;

v.

*Defendants:* **TODD CREEK FARMS HOMEOWNERS' ASSOCIATION**, a Colorado nonprofit corporation; **Jason Pardikes**, in their official capacity as Director of Todd Creek Farms Homeowner's Association; **Wendi Setchfield**, in their official capacity as Director of Todd Creek Farms Homeowner's Association; **Maryjo Montoya**, in their official capacity as Director of Todd Creek Farms Homeowner's Association; **Ben Cooper**, in their official capacity as Director of Todd Creek Farms Homeowner's Association; **Sean Holdren**, in their official capacity as Director of Todd Creek Farms Homeowner's Association.

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▲ COURT USE ONLY ▲

Case Number:

Division:

**FIRST AMENDED VERIFIED SHAREHOLDERS DERIVATIVE COMPLAINT AND JURY DEMAND**

Plaintiffs (“Members” or “Plaintiffs”), derivatively on behalf of Todd Creek Farms Homeowners Association, a Colorado nonprofit corporation, by and through their attorneys, Robinson & Henry, P.C. hereby bring this Verified Shareholders Derivative Complaint and Jury Demand, against Todd Creek Farms Homeowners Association (“TCF HOA,” or the “Association”); Jason Pardikes, in their official capacity as Director of Todd Creek Farms Homeowner’s Association; Wendi Setchfield, in their official capacity as Director of Todd Creek Farms Homeowner’s Association; Maryjo Montoya, in their official capacity as Director of Todd Creek Farms Homeowner’s Association; Ben Cooper, in their official capacity as Director of Todd Creek Farms Homeowner’s Association; Sean Holdren, in their official capacity as Director of Todd Creek Farms Homeowner’s Association; and in support thereof state as follows:

### **PARTIES, JURISDICTION, AND VENUE**

1. Edie Apke is an individual who resides at 15510 Galena St. Brighton, CO 80602 and is a shareholder/member of the TCF HOA. At all times relevant to the allegations forming the basis for the claims contained herein, they were a resident of the State of Colorado and shareholder/member of the TCF HOA.
2. Barbara Austin is an individual who resides at 15320 Fulton St. Brighton, CO 80602 and is a shareholder/member of the TCF HOA. At all times relevant to the allegations forming the basis for the claims contained herein, they were a resident of the State of Colorado and shareholder/member of the TCF HOA.
3. Kathy Blanchard is an individual who resides at 9700 E. 148<sup>th</sup> PL. Brighton, CO 80602 and is a shareholder/member of the TCF HOA. At all times relevant to the allegations forming the basis for the claims contained herein, they were a resident of the State of Colorado and shareholder/member of the TCF HOA.
4. Georgiana Bohlender is an individual and an authorized representative of the Bohlender Jerry Land Bohlender Georgina Living Trust which owns 9151 East 145<sup>th</sup> St.. Brighton, CO 80602 and is a shareholder/member of the TCF HOA. At all times relevant to the allegations forming the basis for the claims contained herein, they were a resident of the State of Colorado and shareholder/member of the TCF HOA.
5. Paula Boswell and Donna Herrick are individuals who reside at 15210 Florence St Brighton, CO 80602 and are shareholder/members of the TCF HOA. At all times relevant to the allegations forming the basis for the claims contained herein, they were residents of the State of Colorado and shareholder/members of the TCF HOA.
6. Julie Branting is an individual and an authorized representative of the Julie M Branting Trust, which owns 14981 Clinton St. Brighton, CO 80602 and is a shareholder/member of the TCF

HOA. At all times relevant to the allegations forming the basis for the claims contained herein, they were a resident of the State of Colorado and shareholder/member of the TCF HOA.

7. Carl Brzozowy and Lisa Barlow are individuals who reside at 14660 Akron St. Brighton, CO 80602 and are shareholder/members of the TCF HOA. At all times relevant to the allegations forming the basis for the claims contained herein, they were residents of the State of Colorado and shareholder/members of the TCF HOA.
8. Danna Colingham is an individual who resides at 9100 E. 159<sup>th</sup> St. Brighton, CO 80602 and is a shareholder/member of the TCF HOA. At all times relevant to the allegations forming the basis for the claims contained herein, they were a resident of the State of Colorado and shareholder/member of the TCF HOA.
9. Fred Cone is an individual and an authorized representative of the Cone Family Trust which owns 15710 Boston St. Brighton, CO 80602 and is a shareholder/member of the TCF HOA. At all times relevant to the allegations forming the basis for the claims contained herein, they were a resident of the State of Colorado and shareholder/member of the TCF HOA.
10. Elizabeth DeLisa is an individual and an authorized representative of the Richard A Delisa Living Trust Und. 1/2 Int. and Elizabeth A Delisa Living Trust Und. 1/2 Int., which owns 15051 Clinton St. Brighton, CO 80602 and is a shareholder/member of the TCF HOA. At all times relevant to the allegations forming the basis for the claims contained herein, they were a resident of the State of Colorado and shareholder/member of the TCF HOA.
11. Daniel Dougherty is an individual and authorized representative of the Daniel and Debra Dougherty Revocable Trust which owns 15795 Akron St. Brighton, CO 80602 and is a shareholder/member of the TCF HOA. At all times relevant to the allegations forming the basis for the claims contained herein, they were a resident of the State of Colorado and shareholder/member of the TCF HOA.
12. Dave Gruthoff and Christine Gruthoff are individuals and authorized representatives of the Gruthoff Family Trust which owns 9457 E. 153<sup>rd</sup> Ave. Brighton, CO 80602 and is a shareholder/member of the TCF HOA. At all times relevant to the allegations forming the basis for the claims contained herein, they were residents of the State of Colorado and shareholder/members of the TCF HOA.
13. John Joyner is an individual who resides at 14610 Akron St. Brighton, CO 80602 and is a shareholder/member of the TCF HOA. At all times relevant to the allegations forming the basis for the claims contained herein, they were a resident of the State of Colorado and shareholder/member of the TCF HOA.
14. Paul King is an individual who resides at 9201 E. 153<sup>rd</sup> Ave. Brighton, CO 80602 and is a shareholder/member of the TCF HOA. At all times relevant to the allegations forming the basis for the claims contained herein, they were a resident of the State of Colorado and shareholder/member of the TCF HOA.
15. Shari King is an individual who resides at 9861 E. 151<sup>st</sup> Place Brighton, CO 80602 and is a

shareholder/member of the TCF HOA. At all times relevant to the allegations forming the basis for the claims contained herein, they were a resident of the State of Colorado and shareholder/member of the TCF HOA.

16. Jennifer Osgood and Dave Osgood are individuals who reside at 9507 East 153<sup>rd</sup> Ave. Brighton, CO 80602 and are shareholder/members of the TCF HOA. At all times relevant to the allegations forming the basis for the claims contained herein, they were residents of the State of Colorado and shareholder/members of the TCF HOA.
17. Anitra Rock, Leslie Rock are individuals who reside at 15220 Fulton St. Brighton, CO 80602 and are shareholder/members of the TCF HOA. At all times relevant to the allegations forming the basis for the claims contained herein, they were residents of the State of Colorado and shareholder/members of the TCF HOA.
18. Chuck Payne is an individual who resides at 9160 E. 155<sup>th</sup> Ave. Brighton, CO 80602 and is a shareholder/member of the TCF HOA. At all times relevant to the allegations forming the basis for the claims contained herein, they were a resident of the State of Colorado and shareholder/member of the TCF HOA.
19. Keith Seabaugh is an individual who resides at 9930 E. 149<sup>th</sup> Ct. Brighton, CO 80602 and is a shareholder/member of the TCF HOA. At all times relevant to the allegations forming the basis for the claims contained herein, they were a resident of the State of Colorado and shareholder/member of the TCF HOA.
20. Owen Schaeffer and Ria Schaeffer are individuals who reside at 15635 Dallas St. Brighton, CO 80602 and are shareholder/members of the TCF HOA. At all times relevant to the allegations forming the basis for the claims contained herein, they were residents of the State of Colorado and shareholder/members of the TCF HOA.
21. Craig Wuertz and Charlie Wuertz are individuals who reside at 14930 Akron St. Brighton, CO 80602 and are shareholder/members of the TCF HOA. At all times relevant to the allegations forming the basis for the claims contained herein, they were residents of the State of Colorado and shareholder/members of the TCF HOA.
22. All plaintiffs bring this suit derivatively, not in their individual capacity.
23. There are either 369 or 370 units which comprise the TCF HOA.
24. The plaintiff shareholder/members are voting members of the TCF HOA who comprise 5.67567567567568% (assuming 370 units) of the voting members of TCF HOA, which is more than the requisite 5% required to bring a derivative action of this nature, in accordance with C.R.S. §§ 7-126-401(1)(a) and/or 7-123-104(2)(a), and C.R.C.P. 23.1.
25. Todd Creek Farms Homeowners' Association ("TCF HOA") is a Colorado nonprofit corporation with its principal place of business at: 11859 Pecos St, Suite 200, Westminster, CO 80234, United States.

26. The TCF HOA's registered agent is Trinity Association Management, located at the same address.
27. On November 15, 2022 Jason Pardikes ("Pardikes") was acting in their official capacity as Director of the Board for TCF HOA. Pardikes resides at 8989 E. 148<sup>th</sup> Circle, Brighton CO 80602.
28. On November 15, 2022 Wendi Setchfield ("Setchfield") was acting in their official capacity as Director of the Board for TCF HOA. Setchfield resides at 9100 E. 148<sup>th</sup> Circle, Brighton CO 80602.
29. On November 15, 2022 Maryjo Montoya ("Montoya") was acting in their official capacity as Director of the Board for TCF HOA. Montoya resides at 9850 E 151<sup>st</sup> Place, Brighton CO 80602.
30. On November 15, 2022 Ben Cooper ("Cooper") was acting in their official capacity as Director of the Board for TCF HOA. Cooper resides at 9189 E. 152<sup>nd</sup> Ave, Brighton CO 80602.
31. On November 15, 2022 Sean Holdren ("Holdren") was acting in their official capacity as Director of the Board for TCF HOA. Holdren resides at 9249 E 152<sup>nd</sup> Ave, Brighton CO 80602.
32. Jurisdiction and venue are proper in this Court pursuant to C.R.C.P. 98(c).

### **GENERAL ALLEGATIONS**

33. Plaintiffs incorporate all the foregoing allegations as though fully set forth herein.
34. C.R.S. § 38-33.3-113, Obligation of Good Faith provides that, "Every contract or duty governed by this article imposes an obligation of good faith in its performance or enforcement."
35. C.R.S. § 38-33.3-114 Remedies to Be Liberally Administered, subsection (2) provides that, "Any right or obligation declared by this article is enforceable by judicial proceeding."
36. C.R.S. § 33-33.3-303 Executive Board Members and Officers – Powers and Duties, et al., subsection (3)(a) provides that:  
"The executive board may not act on behalf of the association to amend the declaration, to terminate the common interest community, *or to elect members of the executive board* or determine the qualifications, powers and duties, *or terms of office of executive board members*, but the executive board may fill vacancies in its membership for the unexpired portion of any term."

(Emphasis Added).

37. C.R.S. § 38-33.3-317 Association Records - Rules – Applicability subsection (1) provides that:
- In addition to any records specifically defined in the association's declaration or bylaws or expressly required by section 38-33.3-209.4 (2), the association *must maintain the following*, all of which shall be deemed to be the sole records of the association for purposes of document retention and production to owners:
- a. *Detailed records of receipts and expenditures affecting the operation and administration of the association;*
  - b. Records of claims for construction defects and amounts received pursuant to settlement of those claims;
  - c. *Minutes of all meetings of its unit owners and executive board, a record of all actions taken by the unit owners or executive board without a meeting, and a record of all actions taken by any committee of the executive board;*
  - d. *Written communications among, and the votes cast by, executive board members that are:*
  - e. *Directly related to an action taken by the board without a meeting pursuant to section 7-128-202, C.R.S.; or*
  - f. *Directly related to an action taken by the board without a meeting pursuant to the association's bylaws;*
  - g. The names of unit owners in a form that permits preparation of a list of the names of all unit owners and the physical mailing addresses at which the association communicates with them, showing the number of votes each unit owner is entitled to vote; except that this paragraph (e) does not apply to a unit, or the owner thereof, if the unit is a time-share unit, as defined in section 38-33-110 (7);
  - h. Its current declaration, covenants, bylaws, articles of incorporation, if it is a corporation, or the corresponding organizational documents if it is another form of entity, rules and regulations, responsible governance policies adopted pursuant to section 38-33.3-209.5, and other policies adopted by the executive board;
  - i. Financial statements as described in section 7-136-106, C.R.S., for the past three years and tax returns of the association for the past seven years, to the extent available;
  - j. A list of the names, electronic mail addresses, and physical mailing addresses of its current executive board members and officers;
  - k. A list of the current amounts of all unique and extraordinary fees, assessments, and expenses that are chargeable by the association in connection with the purchase or sale of a unit and are not paid for through assessments, including transfer fees, record change fees, and the charge for a status letter or statement of assessments due;
  - l. All documents included in the association's annual disclosures made pursuant to section 38-33.3-209.4.
  - m. Its most recent annual report delivered to the secretary of state, if any;
  - n. Financial records sufficiently detailed to enable the association to comply with section 38-33.3-316 (8) concerning statements of unpaid assessments;
  - o. The association's most recent reserve study, if any;
  - p. *Current written contracts to which the association is a party and contracts for work performed for the association within the immediately preceding three years;*

- q. Records of executive board or committee actions to approve or deny any requests for design or architectural approval from unit owners;
  - r. Ballots, proxies, and other records related to voting by unit owners for one year after the election, action, or vote to which they relate;
  - s. Resolutions adopted by its board of directors relating to the characteristics, qualifications, rights, limitations, and obligations of members or any class or category of members; and
  - t. All written communications within the past three years to all unit owners generally as unit owners.  
(Emphasis added).
38. C.R.S. § 38-33.3-317 Association Records - Rules – Applicability, subsection (2)(A) provides, “Subject to subsections (3), (3.5), and (4) of this section, all records maintained by the association *must be available for examination and copying by a unit owner or the owner's authorized agent*. The association may require unit owners to submit a written request, describing with reasonable particularity the records sought, at least ten days prior to inspection or production of the documents and may limit examination and copying times to normal business hours or the next regularly scheduled executive board meeting if the meeting occurs within thirty days after the request. Notwithstanding any provision of the declaration, bylaws, articles, or rules and regulations of the association to the contrary, the association may not condition the production of records upon the statement of a proper purpose.” (Emphasis added).
39. TCF HOA Bylaws, Article 10 Books and Records, Section 10.3 Examination, provides that, Section 10.3 Examination. The books, records and papers of the Association shall at all times, during normal business hours and after at least five days written notice, be subject to inspection and copying by any Member, at their expense, except documents determined by the Board to be confidential pursuant to a written policy or applicable law. Any Owner's request to inspect and copy association records must be made in good faith, for a proper purpose, and describe in reasonable detail what records are requested and why. Requested documents must be relevant to the stated purpose for the request. The Association may charge the actual costs of the copying of the records.
40. C.R.S. § 38-33.3-310 Voting – Proxies, subsection (1)(b)(I)(A) provides in pertinent part, “Votes for contested positions on the executive board shall be taken by secret ballot...”
41. C.R.S. § 7-128-401 General Standards of Conduct for Directors and Officers, subsection (1) provides:  
Each director shall discharge the director's duties as a director, including the director's duties as a member of a committee of the board, and each officer with discretionary authority shall discharge the officer's duties under that authority:
- a. *In good faith;*
  - b. With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and
  - c. *In a manner the director or officer reasonably believes to be in the best interests of*

*the corporation.*  
(Emphasis added).

42. C.R.S. § 7-128-402 Standards of Liabilities for Directors, subsection (1) provides that:  
If so provided in the articles of incorporation, the nonprofit corporation shall eliminate or limit the personal liability of a director to the nonprofit corporation or to its members for monetary damages for breach of fiduciary duty as a director; *except that any such provision shall not eliminate or limit the liability of a director to the nonprofit corporation or to its members for monetary damages for any breach of the director's duty of loyalty to the nonprofit corporation or to its members, acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law*, acts specified in section 7-128-403 or 7-128-501 (2), or any transaction from which the director directly or indirectly derived an improper personal benefit. No such provision shall eliminate or limit the liability of a director to the nonprofit corporation or to its members for monetary damages for any act or omission occurring before the date when such provision becomes effective.  
(Emphasis added).
43. C.R.S. § 7-128-501 Conflicting Interest Transaction, subsection (1) provides that a, ““conflicting interest transaction” means: A contract, transaction, or other financial relationship between a nonprofit corporation and a director of the nonprofit corporation, or between the nonprofit corporation and a party related to a director, or between the nonprofit corporation and an entity in which a director of the nonprofit corporation is a director or officer or has a financial interest.”
44. C.R.S. § 7-128-203 Notice of Meeting – Rights of Residential Members, subsection (3) provides:  
*Notwithstanding subsections (1) and (2) of this section, and notwithstanding any provision of the articles of incorporation or bylaws to the contrary, the following rules and procedures apply to meetings of the board of directors of a residential nonprofit corporation or any committee of the board:*  
(a) (I) (A) *All regular and special meetings* of the residential nonprofit corporation's board of directors or executive committee, or any committee of the board that is authorized to take final action on the board's behalf, *must be open to attendance by all residential members or their representatives*. The board shall make agendas for meetings of the board, and agendas for meetings of committees of the board that are authorized to take final action on the board's behalf, reasonably available for examination in advance by all residential members or their representatives. If there is no formal agenda, residential members or their representatives are nonetheless entitled to a general description of the purpose of the meeting and the subject matter that will be discussed.  
(Emphasis added).
45. TCF HOA Bylaws, Article 4 Meeting of Members, Section 4.1 Annual Meetings, provides, “An annual meeting of the Members shall be held during each of the Association's fiscal years, at such time of the year and date as determined by the



Board. At these meetings, the directors shall be elected by the Members, in accordance with the provisions of these Bylaws. The Members may transact other business as may properly come before them at these meetings. Failure to hold an annual meeting shall not be considered a forfeiture or dissolution of the Association.” *See Exhibit 1*, TCF HOA Bylaws.

46. TCF HOA “Voluntary Director Code of Conduct and Ethics” Section “Directors Should:” subsection (7) provides that [Directors should], “Conduct open, fair, and well-publicized elections.” *See Exhibit 2*, Voluntary Director Code of Conduct and Ethics (“Code of Conduct”).
47. TCF HOA “Voluntary Director Code of Conduct and Ethics” Section “Directors Should:” subsection (1) provides that [Directors should], “Strive at all times to serve the best interests of the Association regardless of their persona interests.” *See Id.*
48. TCF HOA “Voluntary Director Code of Conduct and Ethics” Section “Directors Should:” subsection (6) provides that [Directors should], “Disclose personal or professional relationships with any company or individual who has or is seeking to have a business relationship with the Association.” *See Id.*
49. TCF HOA “Voluntary Director Code of Conduct and Ethics” Section “Directors Should Not:” subsection (1) provides that [Directors should not], “Use their position or decision-making authority for personal gain or to seek advantage over another Owner or non-owner resident.” *See Id.*
50. This Voluntary Director Code of Conduct and Ethics was adopted as a “rule,” “regulation,” and/or “code” by the TCF HOA and signed by Jason Pardikes, in his official capacity as TCF HOA President on January 23, 2020. *See Id.*
51. TCF HOA Bylaws, Article 5 Board, Section 5.2 Qualification, subsection (f) provides, “Once elected or appointed, each director shall attend at least one educational program per year related to the management, operation or law of community associations. The director shall be entitled to reimbursement of any actual or necessary expenses incurred in attending such educational program(s), as long as approved, in advance, by the Board of Directors. Any such expenses shall be treated as a Common Expense. Any director who has failed to attend an educational program as set forth in this provision shall not be qualified to serve on the Board.” *See Exhibit 1*, TCF HOA Bylaws (“Bylaws”).
52. TCF HOA Bylaws, Article 5 Board, Section 5.2 Qualification, subsection (g) provides, “If a director is not qualified to serve on the Board, the director’s position shall be deemed vacant.” *See Id.*
53. TCF HOA Bylaws, Article 5 Board, Section 5.3 Term of Office for Directors, provides, “The term of office of directors shall be three years or until a successor is elected. The terms of the directors shall be staggered.” *See Id.*
54. TCF HOA Bylaws, Article 6, Meetings of Directors, Section 6.5 Location of Meetings and

Open Meetings, provides that, "All meetings of the Board of Directors shall be open to attendance by Members, as provided by applicable Colorado law. All meetings of the Board of Directors shall be held in the Community, by conference call, electronic means or in the Adams County area, unless all directors consent in writing to another location." *See Id.*

55. On December 30, 2022, Tonya Haas-Davidson, a voting member and unit owner of TCF HOA brought an action, case number 2022CV31727, in Adams County District Court as an individual against TCF HOA for alleged violations of CCIOA and TCF HOA Bylaws, among others.
56. She complained that, among other things, the late 2022 election process had been subverted by the current Board and the Directors thereof.
57. On January 30, 2023, 2022CV31727 was ultimately dismissed by the Hon. Teri L. Vasquez for lack of standing by Haas-Davidson because, "Plaintiff's claims are derivative and she has failed to comply with the procedural requirements set forth in C.R.C.P. 23.1 and C.R.S. § 7-126-401, the Court finds she lacks standing to assert her claims as an individual against the Board." *See Exhibit 3*, Order re: Motion to Dismiss.
58. Prior to dismissal, a hearing was held on January 23, 2023, in that matter, whereby Jason Pardikes and Wendi Setchfield, among others, each testified under oath. *See Exhibit 4*, 2022CV31727 01-23-2023 Hearing Transcript.
59. Jason Pardikes ("Pardikes") testified that they were the TCF HOA Board President as of November 14, 2022.
60. Pardikes testified that they were elected to the Board in 2019 and that terms for a Director last three years. *See Id.*, **P8:9-14**.
61. Wendi Setchfield ("Setchfield") was also a Director on the TCF HOA Board as of November 14, 2022. *See Id.*, **P13:16-18**.
62. As of November 14, 2022, Pardikes' term was to end on November 15, 2022.
63. As of November 14, 2022, Setchfield's term was to end on November 15, 2024.
64. On January 23, 2023, Pardikes testified that both he and Setchfield resigned from the Board on November 15, 2022. *See Id.*, **P13:19 -P16:15**.
65. On January 23, 2023, Pardikes testified that upon resigning, the remaining Board Directors reappointed each Pardikes and Setchfield to the others' terms. *Id.*
66. Pardikes testified that this "swap" extended Pardikes' term as a Director to November of 2024, when Setchfield's term was set to end. *See Id.*, **P16:13-15**.
67. The swap left Setchfield's term to end in November 2022 when Pardikes' term would have ended.

68. Not only did this “swap” take place on the same day, Pardikes testified that it happened, “in the same moment.” *See Id.*, **P16:3-6**.
69. Pardikes further testified that this was “done by resolution” and that such resolution “is in writing.” *See Id.*
70. Upon information and belief, no such resolution, or written evidence of this action has ever been produced to the TCF HOA membership for review.
71. Pardikes further testified that approximately 12 meetings were held by the TCF HOA Board of Directors in 2022 alone.
72. No such notice of these meetings were transmitted to the TCF HOA membership, according to Pardikes’ testimony.
73. Setchfield later testified that no in-person meeting was actually held for this “swap,” but that it was in fact a “resolution.” *See Id.*, **P33:19-21 and P34:6-24**.
74. Setchfield further testified that the membership was first notified about this “swap” via her email on December 31, 2022. *See Id.*, **P38:4-8**.
75. Pardikes was not included as a candidate running for the Board, however Setchfield was. *See Id.*, **P38:4-8**.
76. No notice was given to the TCF HOA members regarding the November 15, 2022, swap.
77. The November 15, 2022, “meeting” was not made open to the TCF HOA Members.
78. No one, excluding the TCF HOA Board of Directors, who allegedly attended the meeting was ever given an opportunity to object to the Board Action taken on November 15, 2022.
79. On March 21, 2023, a Demand for Redress (regarding the election “swap”) signed by Plaintiffs and others was hand-delivered to the TCF HOA management company, Trinity Association Management’s office and signed for by an individual working in their suite. *See Exhibit 5*, Demand for Redress.
80. The same Demand for Redress (“Demand”) was also sent via USPS Certified Mail, return receipt requested to Trinity Association Management and was delivered on March 25, 2023. *See Exhibit 5a*, Certified Mail Delivery Confirmations.
81. This Demand was additionally emailed to Trinity Association Management on March 28, 2023.
82. On March 21, 2023, a Request for Records (“Request”), signed by Plaintiffs and others, was hand-delivered to the TCF HOA management company, Trinity Association Management’s office and signed for by an individual working in their suite. *See Exhibit*

## 6, Records Request.

83. The same Request for Records was also sent via USPS Certified Mail, return receipt requested to Trinity Association Management and was delivered on March 25, 2023. *See Exhibit 5a*, Certified Mail Delivery Confirmations.
84. This Request was additionally emailed to Trinity Association Management on March 28, 2023.
85. Method Landscaping Services LLC (“Method”) was a Colorado LLC formed on March 7, 2020, with a registered agent of Michael Ryan Leuthner (“Leuthner”). *See Exhibit 7*, Secretary of State Summary.
86. On or about March 19 and March 20, 2020, a multi-year contract was signed and countersigned by Pardikes in his official capacity as TCF HOA President and a signature purporting to be that of Leuthner (the “Method Contract”).
87. The Method Contract called for a total of \$26,677.05 to be paid to Method in 2020. *See Exhibit 8*, Method Contract.
88. The Method Contract is the sole contract between TCF HOA and Method that has ever been released to the TCF HOA membership, despite multiple requests for further information on the business dealings between Method and TCF HOA dating back as far as 2020.
89. Despite the Method Contract calling for payment of \$26,677.05 in 2020, in actuality, Method was paid approximately \$214,719.55 by the TCF HOA in 2020, according to documentation that was released briefly released then removed by TCF HOA. *See Exhibit 9*, December 2020 Financials.
90. In addition, another \$14,088.53 was paid to Method on April 25, 2021. *See Exhibit 10*, Check Register, P4.
91. Given the lack of transparency by TCF HOA, in the Adams County matter 2022CV21, a subpoena was issued to Method, via its Registered Agent Leuthner, to gather further information that Pardikes and the TCF HOA Board refused to release.
92. On Friday November 4, 2022, Leuthner, through counsel, filed a Motion to Quash or Modify [the above-mentioned] Subpoena and stated therein, “To the best of Leuthner’s knowledge, the name of the former members or managers of Method is/are Jason Pardikes” *See Exhibit 11a*, Leuthner Motion to Quash, P3:8.
93. On Monday November 7, 2022, Leuthner, through counsel, filed a “Corrected Motion to Quash or Modify [the above-mentioned] Subpoena” and stated therein, “Leuthner learned over the weekend that Method was a single member limited liability company and he was the sole member. Thus, it was erroneously stated in his initial Motion filed on November 4 that Jason Pardikes was a member of Methods” *See Exhibit 11b*, Corrected Leuthner Motion to Quash, P3:7.

94. Additionally, Pardikes received two separate payments from TCF HOA in 2021. *See Exhibit 10*, Check Register, P3.
95. The first check, issued to Pardikes was on July 15, 2021, was for \$1,196.14. *See Id.*
96. The second check issued to Pardikes was on November 17, 2021, for \$1,718.13. *See Id.*
97. No explanation for the basis of these payments, despite numerous requests, has ever been given to the TCF HOA membership, including documentation as to their purpose or justification.

**FIRST CLAIM FOR RELIEF**  
(BREACH OF FIDUCIARY DUTY- ELECTION VIOLATIONS)  
(AS TO ALL DEFENDANTS)

98. Plaintiffs incorporate all the foregoing allegations as though fully set forth herein.
99. Furthermore, Plaintiffs incorporate the hearing dated January 23, 2023, in the matter 2022CV31727, **Exhibit 4**.
100. It is axiomatic that owner-members in CCIOA communities should have a say in the leadership of their communities.
101. TCF HOA members have a right to vote for their community leaders, namely the TCF HOA Board of Directors.
102. It is in the best interest of the Association that members are allowed to exercise their right to vote.
103. It is not in the best interest of the Association that Board members subvert the right of the shareholder members of the HOA to vote and elect their Board.
104. Nevertheless, on November 15, 2022, Pardikes and all of the named directors conspired to subvert the TCF HOA membership's rights with a "swap" of Board positions, not for the good of the TCF HOA, but for what was best for Pardikes, and perhaps the other Board Members themselves as well.
105. Pardikes' continued domination of the TCF HOA Board of Directors is *not* in the best interests of the TCF HOA.
106. Even if Pardikes' continued command were in the TCF HOA's best interest, that would be a determination for the TCF HOA membership to make through an election. Not for the Board of Directors, or Pardikes to make unilaterally.

107. The November 15, 2022 “swap” was done for the sole purpose allowing Pardikes to avoid accountability to the TCF HOA community, effectively for an additional two years.
108. While in certain circumstances board appointment of a director, may not violate the letter of the TCF HOA Bylaws, the November 15, 2022 “swap” was different in that it certainly violated the spirit and notions of democracy, duties of loyalty and good-faith corporate governance.
109. The November 15, 2022, “swap” violated C.R.S. § 7-128-401 General Standards of Conduct for Directors and Officers, subsections (1) (a), (b) and/or (c).
110. Upon information and belief, the November 15, 2022 swap violated C.R.S. § 7-128-501 because it was in furtherance of concealing a Conflicting Interest Transaction.
111. The November 15, 2022, “swap” violated C.R.S. § 7-128-402 Standards of Liabilities for Directors, subsection (1) because Defendants *breached their duty of loyalty to the nonprofit corporation and to its members, including acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law*, acts specified in section 7-128-403 or 7-128-501 (2), and/or any transaction from which the director directly or indirectly derived an improper personal benefit.
112. The “swap” was wanton and willful in that it disregarded the rights of the shareholder members of the HOA and disregarded the consequences thereof despite the Board Members’ awareness of the risk.
113. The “swap” was outside of any exercise of “honest business judgment” by the Board.
114. As of November 15, 2022, a Board of Directors election was starting soon.
115. The subsequent TCF HOA election began on December 28, 2022.
116. Pardikes was not on the December 28, 2022, ballot because the “swap” effectively extended their term, according to the TCF HOA and its’ Board at the time, for an additional two years beyond the three-year term limit.
117. There was no need, for the functioning of the TCF HOA, to allow Pardikes and Setchfield to complete this position “swap” in order to extend Pardikes’ term.
118. A “Demand for Redress” (“Demand”) seeking remediation of these election violations was properly served (via hand-delivery), emailed and mailed (via USPS Certified Mail, Return Receipt Requested) upon the TCF HOA management company (Trinity Association Management).
119. Upon information and belief, TCF HOA has actual knowledge of this Demand for Redress.
120. In over six weeks since receipt, the TCF HOA has taken no action regarding the Demand

and therefore the instant action is necessary for the Courts to intervene.

121. Given that four out of five of the directors who participated in the “swap” remain on the TCF HOA board, it’s clear that even the demand letter which Plaintiffs signed and served was done in futility because it asks those who made the “swap” to undo the same.
122. Given that multiple requests for information regarding the “swap” had been made prior to Plaintiffs signed and served Demand to no avail, the Demand was done in futility.
123. Given that Defendants blatantly ignored the formal Demand made by Plaintiffs, it is clear that such demand was made in futility.
124. Given that Jason Pardikes, upon information and belief, has a personal interest in concealing the activities of the TCF HOA Board, it is clear that the formal Demand made by Plaintiffs was made in futility.
125. Given the futility of the Demand, there is no requirement to take further steps to persuade the board.
126. Pardikes and Setchfield’s swap amounts to a breach of fiduciary duty by the TCF HOA Board Defendants and HOA as a whole given that the “swap” was done by all board members given that it was not in the best interest of the HOA nor would any reasonable individual believe it so.
127. The “swap” caused damage to the TCF HOA and it’s voting members.

### **SECOND CLAIM FOR RELIEF**

(BREACH OF CONTRACT: HOA Governing Documents Including but not limited to:  
BYLAWS/HOA RULES RE: ELECTIONS/Code of Ethics)  
(AS TO ALL DEFENDANTS)

128. Plaintiffs incorporate all the foregoing allegations as though fully set forth herein.
129. Furthermore, Plaintiffs incorporate the hearing dated January 23, 2023, in the matter 2022CV31727, **Exhibit 4**.
130. The TCF HOA is bound by its Bylaws and other HOA rules, as are its directors.
131. These are contractual obligations.
132. The November 15, 2022 “swap” allowing for Pardikes to remain a Director until November 2024 without being elected is a breach of contract.
133. This action was taken by each and every Board Member at the time (named herein as

defendants) and violated multiple TCF HOA Bylaws, Director's Code of Conduct provisions and other governing documents and therefore is a breach of contract.

134. The "swap" was wanton and willful in that it disregarded the rights of the shareholder members of the HOA and disregarded the consequences thereof despite the Board Members' awareness of the risk.
135. The "swap" was outside of any exercise of "honest business judgment."
136. Given that four out of five of the directors who participated in the "swap" remain on the TCF HOA board, it's clear that even the Demand letter which Plaintiffs signed and served were done in futility because it asks those who made the "swap" to undo the same.
137. Given that multiple requests for information regarding the "swap" had been made prior to Plaintiffs signed and served Demand to no avail, the Demand was done in futility.
138. Given that Defendants blatantly ignored the formal Demand made by Plaintiffs, it is clear that such demand was made in futility.
139. Given that Jason Pardikes, upon information and belief, has a personal interest in concealing the activities of the TCF HOA Board, it is clear that the formal Demand made by Plaintiffs was made in futility.
140. Given the futility of the Demand, there is no requirement to take further steps to persuade the board.
141. The 2006 Resolution Of The Todd Creek Farms Homeowners' Association Adopting Policies And Procedures Regarding Board Member Conflicts Of Interest 1. General Duties states that: "All Directors shall exercise their power and duties in good faith and in the best interest of, and with utmost loyalty to the Association. All Directors shall comply with all lawful provisions of the Declaration and the Association's Articles, Bylaws, and Rules and Regulations." See **Exhibit 13** - Resolution re Board Member Conflicts Of Interest.
142. Furthermore, the **Exhibit 2** details "shoulds" and "should nots" of the directors, a document which Pardikes himself signed. "Should" Number 7 specifically states, "conduct open, fair, and well-publicized elections." See **Exhibit 2**.
143. The Defendants violated these provisions of the HOA's governing documents by participating in the November 15, 2022, "swap" which clearly evinces a willful and wanton disregard for the rights of the shareholder members of the HOA (including the Plaintiffs) and the consequences thereof.
144. TCF HOA Bylaws, Section 5.3 Term of Office for Directors states that, "The term of office of directors shall be three years or until a successor is elected. The terms of the directors shall be staggered.



145. The terms limits of the TCF HOA Bylaws apply to each individual in their tenure as a board member, and is not specific to the position held.
146. Therefore, merely swapping positions does not comport with the Bylaw's term limits and as such these extra-legal extensions violated the TCF HOA Bylaws.
147. In fabricating vacancies and participating in the "swap", Defendants effectively extended Defendant Pardikes' term as a director in violation of Section 5.3 of the Bylaws to a five-year term.
148. Per the Bylaws, it is only acceptable to extend the term of a director beyond three years, "until a successor is elected." But there never was an open, honest or fair election with Pardikes on the ballot.
149. Defendants Pardikes, Stetchfield, Montoya, Cooper and Holdren, circumvented the procedures of the Bylaws, intentionally, wantonly and willfully, and in a manner that recklessly disregarded the rights of the HOA shareholder members and the consequences thereof.
150. Under no circumstances could these actions constitute the exercise of honest business judgment.
151. TCF HOA Bylaws, Article 4 Meeting of Members, Section 4.1 Annual Meetings, provides, "An annual meeting of the Members shall be held during each of the Association's fiscal years, at such time of the year and date as determined by the Board. At these meetings, the directors shall be elected by the Members, in accordance with the provisions of these Bylaws.
152. Defendants fabricated vacancies by intentionally resigning so as to avoid the requirements of HOA Bylaws Article 4, Section 4.1 and Article 5, Section 5.3.
153. Defendants had absolutely no need to resign and "swap" other than to serve their own self interest(s) which is a blatant violation of the implied contractual duty of good faith and fair dealing.
154. This conduct was wanton and willful.
155. This conduct was done heedlessly and recklessly without regard to the rights of the HOA shareholder member and/or the consequences thereof.
156. Such conduct was beyond the scope of the duties of the Defendants as directors and was deliberate, in violation of numerous contractual obligations with the TCF HOA and outside of any exercise of "honest business judgment."

157. TCF HOA and its members were damaged as a result of this Board action/breach of contract.

**THIRD CLAIM FOR RELIEF**  
(VIOLATION OF CCIOA: RECORDS REQUEST)  
(AS TO DEFENDANT TCF HOA)

158. Plaintiffs incorporate all the foregoing allegations as though fully set forth herein.
159. Plaintiffs properly served (via hand-delivery), emailed and mailed (via USPS Certified Mail, Return Receipt Requested) to the TCF HOA management company (Trinity Association Management) a detailed request for records, with a valid purpose supplemented therein.
160. TCF HOA was given more than the requisite 10 business days to respond (under CCOIA) which is more than the 5 business days required under the TCF HOA Bylaws.
161. Upon information and belief, TCF HOA has actual knowledge of Plaintiffs' Request for Records.
162. In over six weeks since receipt, the TCF HOA has taken no action regarding the Demand and therefore the instant action is necessary for the Courts to intervene.
163. The release of the records by a Homeowners' Association is a right granted to homeowners under CCIOA.
164. TCF HOA is in violation of CCIOA due to its de facto refusal to release such records.
165. To this day, TCF HOA has withheld documentation and the Plaintiffs do not have access to the requested *and required* documentation under the TCF HOA governing documents and/or CCIOA.
166. Specifically, some but not all of the missing documentation withheld by the HOA and required to be disclosed include:
- a. the 2023 budget and meeting minutes for the December 19, 2022 Annual Meeting/Budget Ratification meeting;
  - b. income and expense monthly statements from March through June, 2022 (there are financial documents shown for those months, but only the balance sheet is included);
  - c. documentation regarding legal services for 2020 – 2023, financial or otherwise;
  - d. documentation pertaining to income tax preparation for 2019, 2020, 2021 and 2022 - Colorado Accounting and Tax Services (costs or contract);
  - e. contracts and documents pertaining to Trinity Management Company for 2021 through 2023;

- f. documents pertaining to Board D&O insurance as well as liability insurance for HOA open spaces;
- g. documentation for 2023 meetings announcements, audited HOA financials or minutes for the year;
- h. accounting reports for 2018 through 2022;
- i. a contract was announced for Altitude Arborist in June 2021 to cut down trees along Yosemite, yet no contract is available
- j. a second contract with Method Landscaping;
- k. various meeting minutes from 2020-2023.

167. Pardikes himself admits that the HOA’s documentation and specifically financial documentation is lacking crucial information in his testimony regarding the 2021 tax returns under oath:

3 I still can't answer it from this -- this statement.  
 4 I can tell you what was written down in the tax returns, but I  
 5 can tell you the tax returns are missing some key components  
 6 of our expenditures. And our biggest expenditures, like trash  
 7 collection, which isn't listed at all.

**Exhibit 4, P22, Lines 3-7**

- 168. Given that four out of five of the directors who participated in the “swap” and had long ignored shareholder members’ requests for such records chose not to release all of the Records to date remain on the TCF HOA board, it’s clear that even the Demand and Request for Records letters which Plaintiffs signed and served were done in futility.
- 169. Given that multiple requests for full disclosure of documents under CCIOA and the HOA governing documents have been made prior to it’s clear that even the demand letters which Plaintiffs signed and served were done in futility.
- 170. Given that Defendants blatantly ignored the formal request made by Plaintiffs, it is clear that such demand was made in futility.
- 171. Given that Jason Pardikes, upon information and belief, has a personal interest in concealing the documents requested, it is clear that the formal demand made by Plaintiffs was made in futility.
- 172. Given the futility of the demand, there was no requirement to take further steps to attempt to force release of the documents.
- 173. TCF HOA and its members were damaged as a result of this action/inaction.

**FOURTH CLAIM FOR RELIEF**

(BREACH OF CONTRACT: BYLAWS VIOLATION - RECORDS REQUEST)  
 (AS TO DEFENDANT TCF HOA)

174. Plaintiffs incorporate all the foregoing allegations as though fully set forth herein.

175. Plaintiffs followed the requirements of the TCF HOA Bylaws in requesting certain documents and records.
176. Upon information and belief, TCF HOA has actual knowledge of Plaintiffs' Request for Records.
177. In over six weeks since receipt, the TCF HOA has taken no action regarding the Demand and therefore the instant action is necessary for the Courts to intervene.
178. The release of the records by the TCF HOA is a right granted to homeowners under the TCF HOA Bylaws.
179. TCF HOA is in violation of the TCF HOA Bylaws due to its de facto refusal to release such records.
180. To this day, TCF HOA has withheld documentation and the Plaintiffs do not have access to the requested and required documentation under the TCF HOA governing documents and/or CCIOA.
181. Specifically, some but not all of the missing documentation withheld by the HOA and required to be disclosed include:
  - a. the 2023 budget and meeting minutes for the December 19, 2022 Annual Meeting/Budget Ratification meeting;
  - b. income and expense monthly statements from March through June, 2022 (there are financial documents shown for those months, but only the balance sheet is included);
  - c. documentation regarding legal services for 2020 – 2023, financial or otherwise;
  - d. documentation pertaining to income tax preparation for 2019, 2020, 2021 and 2022 - Colorado Accounting and Tax Services (costs or contract);
  - e. contracts and documents pertaining to Trinity Management Company for 2021 through 2023;
  - f. documents pertaining to Board D&O insurance as well as liability insurance for HOA open spaces;
  - g. documentation for 2023 meetings announcements, audited HOA financials or minutes for the year;
  - h. accounting reports for 2018 through 2022;
  - i. a contract was announced for Altitude Arborist in June 2021 to cut down trees along Yosemite, yet no contract is available
  - j. a second contract with Method Landscaping.
  - k. various meeting minutes from 2020-2023.
182. Pardikes himself admits that the HOA's documentation and specifically financial documentation is lacking crucial information in his testimony regarding the 2021 tax returns under oath:
  - 3 I still can't answer it from this -- this statement.
  - 4 I can tell you what was written down in the tax returns, but I

5 can tell you the tax returns are missing some key components  
6 of our expenditures. And our biggest expenditures, like trash  
7 collection, which isn't listed at all.

**Exhibit 4, P22, Lines 3-7**

183. Given that four out of five of the directors who participated in the “swap” and had long ignored shareholder members’ requests for such records chose not to release all of the Records to date remain on the TCF HOA board, it’s clear that even the Demand and Request for Records letters which Plaintiffs signed and served were done in futility. Given that multiple requests for full disclosure of documents under CCIOA and the HOA governing documents have been made prior to it’s clear that even the demand letters which Plaintiffs signed and served were done in futility.
184. Given that Defendants blatantly ignored the formal request made by Plaintiffs, it is clear that such demand was made in futility.
185. Given that Jason Pardikes, upon information and belief, has a personal interest in concealing the documents requested, it is clear that the formal demand made by Plaintiffs was made in futility.
186. Given the futility of the demand, there is no requirement to take further steps to attempt to release the documents.
187. TCF HOA and its members were damaged as a result of this action/inaction.

**FIFTH CLAIM FOR RELIEF**

(BREACH OF CONTRACT: QUALIFICATIONS VIOLATIONS)  
(AS TO DEFENDANT TCF HOA)

188. Plaintiffs incorporate all the foregoing allegations as though fully set forth herein.
189. Upon information and belief, none of the TCF HOA Board of Directors, as of November 2022, had taken the requisite continuing education classes required under the TCF HOA Bylaws Section 5.2(f).
190. Therefore, none of the Board of Directors as of November 15, 2022, were qualified to serve as Directors, and their positions were *all vacant* at that time per TCF HOA Bylaws Section 5.2(g).
191. Therefore, their “swap” re-appointment of Pardikes and Setchfield was void due to lack of authority.
192. Acting as directors of the TCF HOA board was done in violation of the TCF HOA Bylaws.
193. A new election must be held given their lack of qualification to serve as Directors.
194. In the interim, this Court should appoint a trustee to oversee a new election, or in the

alternative, the Court should oversee such election itself.

195. TCF HOA and its members were damaged as a result of this inaction.

**SIXTH CLAIM FOR RELIEF**

(BREACH OF FIDUCIARY DUTIES: METHOD CONTRACT/PAYMENTS)  
(AS TO DEFENDANTS TCF HOA AND PARDIKES)

196. Plaintiffs incorporate all the foregoing allegations as though fully set forth herein.
197. Pardikes has repeatedly, publicly denied any connection to Michael Ryan Leuthner “Leuthner” outside of the “Method Contract.”
198. Pardikes has and/or had a relationship other than from the “Method Contract” with Leuthner despite these denials.
199. There are multiple Facebook posts wherein Pardikes and Leuthner interact, unrelated to the Method Contract, in a social manner despite related denials. *See Exhibit 12* – Pardikes Leuthner Facebook Interactions.
200. In **Exhibit 11a**, filed Friday afternoon November 4, 2022, Leuthner claimed that Pardikes was the sole member/manager of Method Landscaping Services LLC.
201. In **Exhibit 11b**, filed the following Monday November 7, 2022, Leuthner claimed that, “over the weekend” he learned that he [Leuthner] was actually the sole member/manager of Method Landscaping Services LLC, not Pardikes, despite the company earning over \$200,000 in 2020 alone.
202. Upon information and belief, Pardikes has heretofore undisclosed connections to Method and/or Leuthner.
203. Pardikes’ undisclosed connection to Method and/or Luethner is a violation of his fiduciary duties.
204. No documentation has ever been provided as to why additional monies beyond those enumerated in the Method Contract were paid to Method and/or how they were accounted for in the TCF HOA budget.
205. **Exhibit 9** page 2 (highlighted), an unaudited spreadsheet of HOA financial figures distributed by the HOA depicts “Grounds Maintenance” payments of \$224,549.35 in 2020 despite the **Exhibit 8** Method Contract *for grounds maintenance* only calling for payment of \$26,677.05.
206. No explanation for this discrepancy has ever been provided, nor has any additional contract between Method and the HOA been provided to the shareholder members.

207. Pardikes' and the TCF HOA's lack of disclosure and/or handling of the finances, the contracts with Method and bids for landscaping is a violation of fiduciary duty.
208. Pardikes received two separate payments from TCF HOA in 2021. *See Exhibit 10*, Check Register, P3. The first check, issued to Pardikes was on July 15, 2021, for \$1,196.14. *See Id.* The second check issued to Pardikes was on November 17, 2021, for \$1,718.13. *See Id.*
209. Upon information and belief these transactions violate Pardikes' fiduciary duties to the HOA.
210. All of this conduct was wanton and willful.
211. This conduct was done heedlessly and recklessly without regard to the rights of the HOA shareholder member and/or the consequences thereof.
212. Such conduct was beyond the scope of the duties of the Defendants as directors and was deliberate, in violation of numerous contractual obligations with the TCF HOA and outside of any exercise of "honest business judgment."
213. TCF HOA and its members were damaged as a result of these actions.

**SEVENTH CLAIM FOR RELIEF**

(BREACH OF CONTRACT, GOVERNING DOCUMENTS: METHOD  
CONTRACT/PAYMENTS)  
(AS TO DEFENDANTS TCF HOA AND PARDIKES)

214. Plaintiffs incorporate all the foregoing allegations as though fully set forth herein.
215. Pardikes has repeatedly, publicly denied any connection to Michael Ryan Leuthner "Leuthner" outside of the "Method Contract."
216. Pardikes has and/or had a relationship other than from the "Method Contract" with Leuthner despite these denials.
217. In **Exhibit 11a**, filed Friday afternoon, Leuthner claimed that Pardikes was the sole member/manager of Method Landscaping Services LLC.
218. In **Exhibit 11b**, filed the following Monday, Leuthner claimed that "over the weekend" he learned that he [Leuthner] was actually the sole member/manager of Method Landscaping Services LLC, not Pardikes, despite the company earning over \$200,000 in 2020 alone.
219. Upon information and belief, Pardikes has heretofore undisclosed connections to Method and/or Leuthner.

220. There are multiple Facebook posts wherein Pardikes and Leuthner interact, unrelated to the Method Contract, in a social manner despite related denials. *See Exhibit 12 – Pardikes Leuthner Facebook Interactions.*
221. Pardikes’ undisclosed connection to Method and/or Leuthner is a violation of his contractual duties with the TCF HOA.
222. No documentation has ever been provided as to why additional monies beyond those enumerated in the Method Contract were paid to Method and/or how they were accounted for in the TCF HOA budget.
223. **Exhibit 9**, page 2 (highlighted), an unaudited spreadsheet of HOA financial figures distributed by the HOA depicts “Grounds Maintenance” payments of \$224,549.35 in 2020 despite the **Exhibit 8** Method Contract *for grounds maintenance* only calling for payment of \$26,677.05.
224. No explanation for this discrepancy has ever been provided, nor has any additional contract between Method and the HOA been provided to the shareholder members.
225. Pardikes’ and the TCF HOA’s lack of disclosures, handling, and/or Pardikes’ undisclosed connections to Method/Leuthner is a violation of multiple requirements under the TCF HOA bylaws, Code of Conduct and/or other governing documents. *See Exhibit 2.*
226. The 2006 Resolution Of The Todd Creek Farms Homeowners' Association Adopting Policies And Procedures Regarding Board Member Conflicts Of Interest 1. General Duties states that: “All Directors shall exercise their power and duties in good faith and in the best interest of, and with utmost loyalty to the Association. All Directors shall comply with all lawful provisions of the Declaration and the Association's Articles, Bylaws, and Rules and Regulations.” *See Exhibit 13 - Resolution re Board Member Conflicts Of Interest.*
227. Furthermore, the **Exhibit 2** details “shoulds” and “should nots” of the directors, a document which Pardikes himself signed. “Should” Number 6 specifically states, “Disclose personal or professional relationships with any company or individual who has or is seeking to have a business relationship with the Association.” *See Exhibit 2.*
228. No such disclosure was ever made by Pardikes regarding Leuthner.
229. Pardikes received two separate payments from TCF HOA in 2021. *See Exhibit 10*, Check Register, P3. The first check, issued to Pardikes was on July 15, 2021, was for \$1,196.14. *See Id.* The second check issued to Pardikes was on November 17, 2021, for \$1,718.13. *See Id.*
230. Upon information and belief these transactions violate Pardikes’ contractual duties with the HOA.



231. All of this conduct was wanton and willful.
232. This conduct was done needlessly and recklessly without regard to the rights of the HOA shareholder member and/or the consequences thereof.
233. Such conduct was beyond the scope of the duties of the Defendants as directors and was deliberate, in violation of numerous contractual obligations with the TCF HOA and outside of any exercise of “honest business judgment.”
234. TCF HOA and its members were damaged as a result of these actions.

**EIGHTH CLAIM FOR RELIEF**

(VIOLATIONS OF C.R.S. TITLE 7 & VIOLATION OF CCIOA: METHOD CONTRACT)  
(AS TO DEFENDANTS TCF HOA AND PARDIKES)

235. Plaintiffs incorporate all the foregoing allegations as though fully set forth herein.
236. Pardikes has repeatedly, publicly denied any connection to Michael Ryan Leuthner “Leuthner” outside of the “Method Contract.”
237. Pardikes has and/or had a relationship other than from the “Method Contract” with Leuthner despite these denials.
238. In **Exhibit 11a**, filed Friday afternoon, Leuthner claimed that Pardikes was the sole member/manager of Method Landscaping Services LLC.
239. In **Exhibit 11b**, filed the following Monday, Leuthner claimed that “over the weekend” he learned that he [Leuthner] was actually the sole member/manager of Method Landscaping Services LLC, not Pardikes, despite the company earning over \$200,000 in 2020 alone.
240. Upon information and belief, Pardikes has heretofore undisclosed connections to Method and/or Leuthner.
241. There are multiple Facebook posts wherein Pardikes and Leuthner interact, unrelated to the Method Contract, in a social manner despite related denials. *See Exhibit 12* – Pardikes Leuthner Facebook Interactions.
242. Pardikes’ undisclosed connection to Method and/or Leuthner is a violation of his statutory duties under C.R.S. Title 7 and/or CCIOA.
243. Upon information and belief, there were a series of *conflicting interest transactions* in violation of various statutes under C.R.S. Title 7, including C.R.S. § 7-128-501, regarding payments to Method.
244. No documentation has ever been provided as to why additional monies beyond those

enumerated in the Method Contract were paid to Method and/or how they were accounted for in the TCF HOA budget.

245. **Exhibit 9**, page 2 (highlighted) an unaudited spreadsheet of HOA financial figures distributed by the HOA depicts “Grounds Maintenance” payments of \$224,549.35 in 2020 despite the **Exhibit 8** Method Contract *for grounds maintenance* only calling for payment of \$26,677.05.
246. No explanation for this discrepancy has ever been provided, nor has any additional contract between Method and the HOA been provided to the shareholder members.
247. Pardikes’ and the TCF HOA’s lack of disclosures, handling and/or Pardikes’ undisclosed connections to Method/Leuthner are in violation of multiple requirements under under C.R.S. Title 7 and/or CCIOA.
248. Pardikes’ and the TCF HOA’s lack of disclosures, handling, and/or Pardikes’ undisclosed connections to Method/Leuthner is a violation of multiple statutory duties under C.R.S. Title 7 and/or CCIOA including C.R.S. §§ 38-33.3-113;
249. Pardikes received two separate payments from TCF HOA in 2021. *See* Exhibit 10, Check Register, P3. The first check, issued to Pardikes was on July 15, 2021, was for \$1,196.14. *See Id.* The second check issued to Pardikes was on November 17, 2021, for \$1,718.13. *See Id.*
250. Upon information and belief these transactions violate Pardikes’ duties to the HOA.
251. This conduct was wanton and willful.
252. This conduct was done needlessly and recklessly without regard to the rights of the HOA shareholder member and/or the consequences thereof.
253. Such conduct was beyond the scope of the duties of the Defendants as directors and was deliberate, in violation of numerous contractual obligations with the TCF HOA and outside of any exercise of “honest business judgment.”
254. TCF HOA and its members were damaged as a result of these actions.

### **RELIEF SOUGHT**


255. Plaintiffs ask the Court to enter judgment in their favor, derivatively against Defendants finding and/or Ordering:
  - a. The November 15, 2022 “swap” was a violation of the TCF Board members’ fiduciary duties.

- b. The November 15, 2022 “swap” was a violation of TCF HOA Bylaws, Code of Conduct and/or other HOA governing documents.
- c. The November 15, 2022 “swap” is void.
- d. The TCF HOA violated the records requirements of CCIOA by failing to produce required records.
- e. The TCF HOA violated the records requirements of its Bylaws by failing to produce required records.
- f. The TCF HOA Board of Directors (in whole or in part) as of November 15, 2022, were not qualified to be Directors per the Bylaws and therefore their actions on that date are null and void. Furthermore, that all director seats of directors who are not qualified are vacant.
- g. An interim election to be held presently.
- h. Pardikes and the TCF HOA violated their fiduciary duties regarding the Method Contract.
- i. Pardikes and the TCF HOA violated CCIOA regarding the Method Contract.
- j. Pardikes and the TCF HOA violated C.R.S. Title 7 statues regarding the Method Contract.
- k. Award of Plaintiffs Attorneys’ fees and costs as permitted by the law;
- l. Any such other relief as the Court deems just and proper.

Plaintiff demands a jury for all claims so triable.

Respectfully submitted this 20<sup>th</sup> day of June 2023.

**ROBINSON & HENRY, P.C.**

By:   
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720-531-9124  
*Attorneys for Plaintiffs*

## VERIFICATION

I declare under penalty of perjury under the laws of the State of Colorado that the allegations contained within the foregoing Verified Complaint are true and correct to the best of my knowledge, information and belief.

<p>DocuSigned by:    <small>21B1B5BBA59E4D4...</small>            Edie Apke</p>	<p>Brighton</p> <hr/> <p>City</p>	<p>CO</p> <hr/> <p>State</p>	<p>6/16/2023</p> <hr/> <p>Executed on</p>
<p>DocuSigned by:    <small>17125E4114E8486...</small>            Barbara Austin</p>	<p>Brighton</p> <hr/> <p>City</p>	<p>CO</p> <hr/> <p>State</p>	<p>6/16/2023</p> <hr/> <p>Executed on</p>
<p>DocuSigned by:    <small>75065AE7313349F...</small>            Kathy Blanchard</p>	<p>Brighton</p> <hr/> <p>City</p>	<p>CO</p> <hr/> <p>State</p>	<p>6/16/2023</p> <hr/> <p>Executed on</p>
<p>DocuSigned by:    <small>4543B9F5A05D467...</small>            Georgina Bohlender            Bohlender Jerry L and Bohlender Georgina            Living Trust</p>	<p>Brighton</p> <hr/> <p>City</p>	<p>CO</p> <hr/> <p>State</p>	<p>6/16/2023</p> <hr/> <p>Executed on</p>
<p>DocuSigned by:    <small>14D006B6B3734EB...</small>            Paula Boswell</p>	<p>Brighton</p> <hr/> <p>City</p>	<p>CO</p> <hr/> <p>State</p>	<p>6/16/2023</p> <hr/> <p>Executed on</p>
<p>DocuSigned by:    <small>CD3B634BB9A8430...</small>            Donna Herrick</p>	<p>Brighton</p> <hr/> <p>City</p>	<p>CO</p> <hr/> <p>State</p>	<p>6/16/2023</p> <hr/> <p>Executed on</p>
<p>DocuSigned by:    <small>C271A0E7DFEC45F...</small>            Julie Branting            Julie M Branting Trust</p>	<p>Brighton</p> <hr/> <p>City</p>	<p>CO</p> <hr/> <p>State</p>	<p>6/16/2023</p> <hr/> <p>Executed on</p>
<p>DocuSigned by:    <small>11833D9ADA81475...</small>            Carl Brzozowy</p>	<p>Brighton</p> <hr/> <p>City</p>	<p>CO</p> <hr/> <p>State</p>	<p>6/16/2023</p> <hr/> <p>Executed on</p>
<p>DocuSigned by:    <small>309972536DD1479...</small>            Lisa Barlow</p>	<p>Brighton</p> <hr/> <p>City</p>	<p>CO</p> <hr/> <p>State</p>	<p>6/16/2023</p> <hr/> <p>Executed on</p>
<p>DocuSigned by:    <small>C25B71B9A34A4C8...</small>            Danna Colingham</p>	<p>Brighton</p> <hr/> <p>City</p>	<p>CO</p> <hr/> <p>State</p>	<p>6/16/2023</p> <hr/> <p>Executed on</p>

## VERIFICATION

I declare under penalty of perjury under the laws of the State of Colorado that the allegations contained within the foregoing Verified Complaint are true and correct to the best of my knowledge, information and belief.

<p>DocuSigned by:    <small>F02A235102BA498...</small>  <b>Fred Cone</b>            Cone Family Trust</p>	<p>Brighton  <hr/>           City</p>	<p>CO  <hr/>           State</p>	<p>6/16/2023  <hr/>           Executed on</p>
<p>DocuSigned by:    <small>CE8851A9C030437...</small>  <b>Elizabeth DeLisa</b>            Richard A Delisa Living Trust Und. 1/2 Int. and            Elizabeth A Delisa Living Trust Und. 1/2 Int.</p>	<p>Brighton  <hr/>           City</p>	<p>CO  <hr/>           State</p>	<p>6/16/2023  <hr/>           Executed on</p>
<p>DocuSigned by:    <small>16F83A280CF44D...</small>  <b>Daniel Dougherty</b>            Daniel and Debra Dougherty Revocable Trust</p>	<p>Brighton  <hr/>           City</p>	<p>CO  <hr/>           State</p>	<p>6/16/2023  <hr/>           Executed on</p>
<p>DocuSigned by:    <small>0242410EBB0C4E9...</small></p> <p>DocuSigned by:    <small>229F00B7A81A42...</small>  <b>Christine Gruthoff</b></p> <p><b>Dave Gruthoff and Christine Gruthoff</b>            Gruthoff Family Trust</p>	<p>Brighton  <hr/>           City</p>	<p>CO  <hr/>           State</p>	<p>6/16/2023  <hr/>           Executed on</p>
<p>DocuSigned by:    <small>4CFE4480160441B...</small>  <b>John Joyner</b></p>	<p>Brighton  <hr/>           City</p>	<p>CO  <hr/>           State</p>	<p>6/16/2023  <hr/>           Executed on</p>
<p>DocuSigned by:    <small>C92E1727B491411...</small>  <b>Paul King</b></p>	<p>Brighton  <hr/>           City</p>	<p>CO  <hr/>           State</p>	<p>6/16/2023  <hr/>           Executed on</p>
<p>DocuSigned by:    <small>0E04EAE3668E404...</small>  <b>Shari King</b></p>	<p>Brighton  <hr/>           City</p>	<p>CO  <hr/>           State</p>	<p>6/16/2023  <hr/>           Executed on</p>
<p>DocuSigned by:    <small>26E12FB8706B4D2...</small>  <b>Jennifer Osgood</b></p>	<p>Brighton  <hr/>           City</p>	<p>CO  <hr/>           State</p>	<p>6/16/2023  <hr/>           Executed on</p>
<p>DocuSigned by:    <small>26E12FB8706B4D2...</small>  <b>Dave Osgood</b></p>	<p>Brighton  <hr/>           City</p>	<p>CO  <hr/>           State</p>	<p>6/16/2023  <hr/>           Executed on</p>
<p>DocuSigned by:    <small>05E09A001F04B1...</small>  <b>Anitra Rock</b></p>	<p>Brighton  <hr/>           City</p>	<p>CO  <hr/>           State</p>	<p>6/16/2023  <hr/>           Executed on</p>

## VERIFICATION

I declare under penalty of perjury under the laws of the State of Colorado that the allegations contained within the foregoing Verified Complaint are true and correct to the best of my knowledge, information and belief.

<p>DocuSigned by:    <small>C5E00A8801F04B1...</small>            Leslie Rock</p>	<p>Brighton</p> <hr/> <p>City</p>	<p>CO</p> <hr/> <p>State</p>	<p>6/16/2023</p> <hr/> <p>Executed on</p>
<p>DocuSigned by:    <small>0E04EAE3658E494...</small>            Chuck Payne</p>	<p>Brighton</p> <hr/> <p>City</p>	<p>CO</p> <hr/> <p>State</p>	<p>6/17/2023</p> <hr/> <p>Executed on</p>
<p>DocuSigned by:    <small>D7BEEBDF26F4BE...</small>            Keith Seabaugh</p>	<p>Brighton</p> <hr/> <p>City</p>	<p>CO</p> <hr/> <p>State</p>	<p>6/16/2023</p> <hr/> <p>Executed on</p>
<p>DocuSigned by:    <small>7FB125F3DDF142F...</small>            Owen Schaeffer</p>	<p>Brighton</p> <hr/> <p>City</p>	<p>CO</p> <hr/> <p>State</p>	<p>6/16/2023</p> <hr/> <p>Executed on</p>
<p>DocuSigned by:    <small>7FB125F3DDF142F...</small>            Ria Schaeffer</p>	<p>Brighton</p> <hr/> <p>City</p>	<p>CO</p> <hr/> <p>State</p>	<p>6/16/2023</p> <hr/> <p>Executed on</p>
<p>DocuSigned by:    <small>6765FA63C00D437...</small>            Craig Wuertz</p>	<p>Brighton</p> <hr/> <p>City</p>	<p>CO</p> <hr/> <p>State</p>	<p>6/16/2023</p> <hr/> <p>Executed on</p>
<p>DocuSigned by:    <small>17125E4114E8480...</small>            Charlie Wuertz</p>	<p>Brighton</p> <hr/> <p>City</p>	<p>CO</p> <hr/> <p>State</p>	<p>6/16/2023</p> <hr/> <p>Executed on</p>

Signed: Derivatively and on behalf of Todd Creek Farms Homeowner's Association.

Respectfully submitted,

**ROBINSON & HENRY, P.C.**

/s/ Peter L. Towsky  
 Peter L. Towsky, #55556  
 Attorneys for Plaintiffs