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8 Attorneys for Plaintiffs  
9 TONY and DONNA WOOD and TED and CHERI  
10 ALLEGRA

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 COUNTY OF PLACER

13 TONY and DONNA WOOD and TED and  
14 CHERI ALLEGRA,

15 Plaintiffs,

16 v.

17 HIDDEN LAKES ESTATES  
18 HOMEOWNERS ASSOCIATION, BRUCE  
19 YEOMAN, MICHAEL BONNIE, DAVE  
20 STINSON, KAREN SUTHERLAND, SUZIE  
21 MASON, KELLY PETERSON, CATHI  
22 BARRETT, RIVERSIDE MANAGEMENT  
23 & FINANCIAL SERVICES, INC. and DOES  
24 1 through 20, inclusive,

25 Defendants.

Case No. SCV 16896

FIRST AMENDED COMPLAINT

Complaint Filed: April 1, 2004

26 Plaintiffs TONY and DONNA WOOD (the "WOODS") and TED and CHERI ALLEGRA  
27 (the "ALLEGRAS") hereby allege and aver the following complaint against Defendants HIDDEN  
28 LAKES ESTATES HOMEOWNERS ASSOCIATION (the "ASSOCIATION") BRUCE  
YEOMAN ("Mr. YEOMAN"), MICHAEL BONNIE ("Mr. BONNIE"), DAVE STINSON ("Mr.  
STINSON"), KAREN SUTHERLAND ("Ms. SUTHERLAND"), SUZIE MASON ("Ms.  
MASON"), KELLY PETERSON ("Ms. PETERSON"), CATHI BARRETT ("Ms. BARRETT"),  
and RIVERSIDE MANAGEMENT & FINANCIAL SERVICES, INC. ("RIVERSIDE"):

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1           1.     The WOODS are, and have been at all times relevant herein, residents of the  
2 Hidden Lakes Estates subdivision located in Placer County, California (the "Project"), and are  
3 members of the ASSOCIATION.

4           2.     The ALLEGRAS are, and have been at all times relevant herein, residents of the  
5 Project in Placer County, California, and are members of the ASSOCIATION.

6           3.     The ASSOCIATION is a nonprofit mutual benefit corporation duly formed and  
7 existing under the laws of the State of California for the purposes of managing the Project.

8           4.     Messrs. YEOMAN, BONNIE and STINSON are or were at all times relevant  
9 herein, members of the Board of Directors of the ASSOCIATION and are, or were at all times  
10 relevant herein, residents of the Project.

11          5.     Mesdames SUTHERLAND, MASON and PETERSON are, or were at all times  
12 relevant herein, members of the Board of Directors of the ASSOCIATION and are, or were at all  
13 relevant times herein, residents of the Project.

14          6.     Ms. BARRETT is, and was at all times relevant herein, the manager for the  
15 ASSOCIATION and an employee of RIVERSIDE.

16          7.     RIVERSIDE is, and was at all times relevant herein, a corporation duly formed  
17 and existing under the laws of the state of California and the management company charged with  
18 maintaining and managing the common areas of the ASSOCIATION.

19          8.     The WOODS and ALLEGRAS have not made a request for alternative dispute  
20 resolution pursuant to Civil Code section 1354 in this action because the WOODS and  
21 ALLEGRAS seek injunctive relief and damages in excess of the threshold amounts set forth in  
22 Civil Code section 1354.

23          9.     Plaintiffs are ignorant of the true names and capacities, whether individual,  
24 corporate, associate, or otherwise, of the Defendants named herein as DOES 1 through 20,  
25 inclusive, and therefore sues said Defendants by such fictitious names. Plaintiffs will seek leave  
26 to amend this Complaint to show the true names and capacities of said fictitiously named  
27 Defendants when the same have been ascertained.

28          10.    Plaintiffs are informed and believe and thereon allege that each of the Defendants

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1 designated herein as DOES 1 through 20, inclusive, is the agent, employee, officer, director,  
2 partner, stockholder, related corporation, or successor of one or more of the other named  
3 Defendants and is responsible in some manner for the events and happenings herein referred to  
4 and proximately caused the damages to Plaintiffs as hereinafter alleged.

5 11. The Project contains lakes which are situated upon common areas of the  
6 ASSOCIATION. Adjacent to Plaintiffs' properties there is a common area lake approximately  
7 one (1) acre in size (the "Lake").

8 12. The Declaration of Covenants, Conditions and Restrictions ("CC&Rs") for the  
9 ASSOCIATION regarding maintenance of the common areas states as follows:

10 Section 5. Powers and Obligations of the Association.

11 (a) Generally. The Association shall have the  
12 responsibility of owning, managing and maintaining the Common  
13 Area and discharging the other duties and responsibilities imposed  
14 on the Association Governing Documents. In the discharge of such  
15 responsibilities and duties, the Association shall have all of the  
16 powers of a non-profit mutual benefit corporation organized under  
the laws of the State of California in operating the Common Area  
and Common Facilities and otherwise discharging its  
responsibilities hereunder for the benefit of its members, subject  
only to such limitations upon the exercise of such powers as are  
expressly set forth in the Governing Documents.

17 A true and correct copy of the CC&Rs is attached hereto as **Exhibit "A."**

18 13. Since at least 1990, the ASSOCIATION and its Board of Directors, including  
19 Messrs. YEOMAN, BONNIE, SUTHERLAND, MASON, and PETERSON, have been aware  
20 that the Lake was leaking and draining into adjacent properties. The ASSOCIATION and its  
21 Board of Directors intentionally took no action to repair or otherwise seal the Lake.

22 14. On or about May 6, 2002, the WOODS purchased a residence within the Hidden  
23 Lakes Estates located at 7884 Jon Way. Not long after moving in, the WOODS noticed that their  
24 entire back yard was muddy, mushy and moisture saturated regardless of weather conditions. The  
25 saturated conditions led to the inability to use the rear portion of their property to any meaningful  
26 extent from the time they moved to the present.

27 15. Additionally, the saturated conditions caused the loss of the WOODS' rear yard  
28 landscaping, resulting in the WOODS having to replace all landscaping at a substantial cost.

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1           16.     The WOODS' Property sits adjacent to and slightly below the grade of the Lake.  
2 Investigation initiated by the WOODS revealed that the Lake has been continually leaking and  
3 seeping water from the Lake down onto, under and across the WOODS' Property, thus resulting  
4 in the moisture saturated conditions in their rear yard and the destruction of their landscaping.

5           17.     The ALLEGRAS purchased their residence in the Project at 8316 East Hidden  
6 Lakes Drive in or about April 1999.

7           18.     Like the WOODS, the ALLEGRAS noticed muddy, mushy and moisture saturated  
8 conditions in their rear yard shortly after moving in. As a result of the conditions in the back  
9 yard, the ALLEGRAS have been unable to make any meaningful use of their rear yard from the  
10 time they moved in to the present.

11           19.     In or about May 2003 the WOODS retained a hydrologist to determine the source  
12 of the moisture saturation and conditions in their rear yard. Mr. WOODS then discovered  
13 extensive documentation concerning leaks in the Lake when he visited the RIVERSIDE offices.

14           20.     In or about late 2003 the ALLEGRAS retained a geotechnical engineer to  
15 determine the source of the moisture saturation on their property.

16           21.     Both the WOODS and the ALLEGRAS installed water diversion systems and  
17 pumps in an effort to mitigate their damages. However, the systems are unable to keep up with  
18 the significant seepage and flow of water leaking from the Lake over, under and across their  
19 properties.

20           22.     In or about June 2003, the WOODS and the ALLEGRAS attended the Board of  
21 Directors Meeting and made a demand upon the ASSOCIATION to immediately stop all water  
22 leakage from the common area Lake onto their properties. The ASSOCIATION by and through  
23 its Directors acknowledged the fact that the Lake has and continues to leak into the WOODS  
24 property and ALLEGRAS property. Despite knowledge of these facts, the Board Members  
25 deliberately, intentionally and wrongfully refused to take any action to prevent the continuous  
26 damage to the WOODS property and ALLEGRAS property.

27           23.     Subsequently, the WOODS and ALLEGRAS made written demand on the  
28 ASSOCIATION to enjoin the leaking from the Lake. To date, the ASSOCIATION has refused to

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1 stop water leakage from the Lake over, under and across WOODS Property and ALLEGRAS  
2 Property.

3 24. As of March 2004, the Board of Directors confirmed it had done nothing to  
4 address or remediate the leaking of the Lake.

5 **FIRST CAUSE OF ACTION**

6 (Preliminary and Permanent Injunctive Relief - As Against the ASSOCIATION)

7 25. Plaintiffs hereby incorporate each and every allegation contained in Paragraphs 1  
8 through 24 above as though fully set forth herein.

9 26. As a result of the Lake leaking over, under and across their respective properties,  
10 the WOODS and ALLEGRAS are suffering irreparable harm which cannot be readily  
11 compensated in the future by way of monetary damages. Their homes have become  
12 unmarketable and their rear yard unuseable.

13 27. Moreover, the moisture intrusion from the leaking Lake is continuing and the  
14 injury caused thereby is continuing unabated.

15 28. Consequently, the WOODS and ALLEGRAS are entitled to preliminary and  
16 permanent injunctive relief which requires that (a) the ASSOCIATION immediately take all steps  
17 necessary to stop the current leakage of Lake water over, under and across the WOODS and  
18 ALLEGRAS respective properties; and (b) the ASSOCIATION take all steps necessary to insure  
19 that no Lake water leaks over, under and across their respective properties in the future.

20 WHEREFORE, Plaintiffs pray for judgment as set forth below.

21 **SECOND CAUSE OF ACTION**

22 (Breach of CC&Rs - As Against All Defendants)

23 29. Plaintiffs hereby incorporate each and every allegation contained in Paragraphs 1  
24 through 28 above as though fully set forth herein.

25 30. The Defendants' failure to maintain the common areas, including the Lake and to  
26 address or otherwise remediate the leakage of Lake water onto the WOODS and ALLEGRAS  
27 respective properties constitutes a breach of the Board of Directors' and manager's duties under  
28 the CC&Rs.



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1 WHEREFORE, Plaintiffs pray for judgment as set forth below.

2 **FOURTH CAUSE OF ACTION**

3 (Declaratory Judgment - As Against All Defendants)

4 40. Plaintiffs hereby incorporate each and every allegation contained in Paragraphs 1  
5 through 40 above as though fully set forth herein.

6 41. There is an existing continuing dispute between the parties concerning whether the  
7 Defendants owe a duty and obligation to maintain the common areas, including the Lake in such a  
8 manner so that it does not leak onto and cause damage to the respective properties of the WOODS  
9 and the ALLEGRAS.

10 42. Whereas the WOODS and the ALLEGRAS contend that the Defendants have a  
11 duty to maintain the common areas, including the Lake in such a manner as to not cause damage  
12 to the WOODS property and the ALLEGRAS property, the Defendants have taken the position  
13 that they owe no such duty, and the Defendants have taken no steps to address the damage being  
14 caused to the WOODS and the ALLEGRAS respective properties as a result of water flowing  
15 from the Lake.

16 43. The WOODS and the ALLEGRAS are therefore entitled to a declaratory judgment  
17 that the Defendants are required to immediately take all steps necessary to cease the flow of water  
18 from the Lake onto, under and across the WOODS and ALLEGRAS respective properties.

19 WHEREFORE, Plaintiffs pray for judgment as set forth below.

20 **FIFTH CAUSE OF ACTION**

21 (Trespass - As Against All Defendants)

22 44. Plaintiffs hereby incorporate each and every allegation contained in Paragraphs 1  
23 through 43 above as though fully set forth herein.

24 45. The unpermitted and unconsented flow of Lake water onto, under and across the  
25 WOODS and the ALLEGRAS respective properties constitutes a trespass.

26 46. The Defendants have knowingly, intentionally and in bad faith allowed the  
27 trespass to occur.

28 47. As a direct and proximate result of said trespass, the WOODS and the

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1 ALLEGRAS have suffered general, special and consequential damages to be proven at trial.

2 48. Because the trespass was intentional, malicious or done with a reckless disregard  
3 of the consequences, Plaintiffs are entitled to an award of punitive damages in amounts to be  
4 proven at trial.

5 WHEREFORE, Plaintiffs pray for judgment as set forth below.

6 **SIXTH CAUSE OF ACTION**

7 (Nuisance - As Against All Defendants)

8 49. Plaintiffs hereby incorporate each and every allegation contained in Paragraphs 1  
9 through 48 above as though fully set forth herein.

10 50. The water leaking from the Lake onto, under and across the WOODS and  
11 ALLEGRAS respective properties is unpermitted, offensive, harmful and therefore constitutes a  
12 private nuisance.

13 51. As a direct, proximate and foreseeable result of Defendants' maintenance of said  
14 nuisance, the WOODS and ALLEGRAS have suffered general, special and consequential  
15 damages in amounts to be proven at trial.

16 52. Because the maintenance of the nuisance was intentional, malicious or done with a  
17 reckless disregard of the consequences, Plaintiffs are entitled to an award of punitive damages in  
18 amounts to be proven at trial.

19 WHEREFORE, Plaintiffs pray for judgment as set forth below:

20 As to the First Cause of Action:

21 1. For preliminary and permanent injunctive relief requires the  
22 ASSOCIATION to immediately take all steps necessary to stop the leakage of the Lake  
23 water onto, under or over the respective properties of the WOODS and ALLEGRAS; and

24 2. To immediately take all steps necessary to insure that no water leaks from  
25 the Lake in the future onto the respective properties of the WOODS and ALLEGRAS;

26 As to the Third, Fifth and Sixth Causes of Action:

27 1. For an award to general, special and consequential damages in amounts to  
28 be proven at trial.



1                   2.     For an award of punitive damages to be proven at trial.

2                   As to the Fourth Cause of Action:

3                   1.     For a declaratory judgment that the ASSOCIATION is required to  
4 immediately take all steps necessary to maintain the common areas, including the Lake in  
5 a manner that ceases the flow of water from the Lake onto, under or across the respective  
6 properties of the WOODS and the ALLEGRAS.

7                   As to all causes of action:

- 8                   1.     For an award of attorneys fees and costs;  
9                   2.     For any and all other relief which this court may deem appropriate.

10  
11 Dated: May 19, 2004

TRAINOR ROBERTSON

12  
13 By: 

14                   MICHAEL W. THOMAS

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