

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

CARILLON COMMUNITY
RESIDENTIAL ASSOCIATION,
INC., and KEN HOFER,

Plaintiffs,

vs.

Case No. 09-CA-1735-16-W

SEMINOLE COUNTY, FLORIDA,
UNIVERSITY OF CENTRAL
FLORIDA, and UNIVERSITY OF
CENTRAL FLORIDA FOUNDATION,
INC.,

Defendants.

**PLAINTIFFS' MOTION FOR DEFAULT JUDGMENT
AGAINST DEFENDANTS UNIVERSITY OF CENTRAL FLORIDA
AND UNIVERSITY OF CENTRAL FLORIDA FOUNDATION, INC.**

Plaintiffs CARILLON COMMUNITY RESIDENTIAL ASSOCIATION, INC., and KEN HOFER (collectively, "Plaintiffs"), by and through their undersigned counsel, hereby move for entry of a default judgment against Defendants University of Central Florida ("UCF") and University of Central Florida Foundation, Inc. ("Foundation"), on Count III of the Plaintiffs' Amended Complaint, and, as grounds therefor, state as follows:

1. On or about July 2, 2009, the Plaintiffs filed an Amended Complaint asserting the following three (3) counts: Count I (Declaratory and Injunctive Relief Pursuant to Section 163.3215, *Florida Statutes*); Count II (Declaratory Judgment – Necessity for Comprehensive Plan Amendment); and Count III (Declaratory Judgment – Violation of the UCF Campus Master Plan). Counts I and II name Defendant Seminole County, whereas Count III names Defendants Seminole County, UCF, and the Foundation.

2. On September 9, 2009, UCF served an "Acceptance of Service" for the Plaintiffs' Amended Complaint, a copy of which is attached hereto as Exhibit "A." The Acceptance of Service provides that UCF "shall have twenty (20) days from the date of this acceptance to file appropriate pleadings," *i.e.*, on or before Tuesday, September 29, 2009.

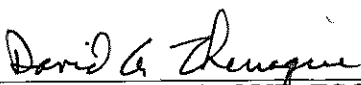
3. On September 15, 2009, the Foundation served an "Acceptance of Service" for the Plaintiffs' Amended Complaint, a copy of which is attached hereto as Exhibit "B." The Acceptance of Service provides that the Foundation "shall have twenty (20) days from the date of this acceptance to serve appropriate pleadings," *i.e.*, on or before Monday, October 5, 2009.

4. Pursuant to Florida Rule of Civil Procedure 1.500(b), a court may enter a default judgment "[w]hen a party against whom affirmative relief is sought has failed to plead or otherwise defend." *See also Geer v. Jacobsen*, 880 So. 2d 717, 720 (Fla. 2d DCA 2004) (holding entry of default judgment was proper where party failed to respond to amended complaint).

5. As of the date of this Motion for Default Judgment, neither UCF nor the Foundation has filed or served an Answer or other appropriate pleading directed to the Plaintiffs' Amended Complaint. Accordingly, the Plaintiffs are entitled to entry of a default judgment against UCF and the Foundation on Count III of the Amended Complaint.

WHEREFORE, Plaintiffs CARILLON COMMUNITY RESIDENTIAL ASSOCIATION, INC., and KEN HOFER move the Court for entry of a default judgment against Defendants University of Central Florida and University of Central Florida Foundation, Inc., on Count III of the Plaintiffs' Amended Complaint, including an award of reasonable attorneys' fees and costs incurred in bringing this Motion.

RESPECTFULLY SUBMITTED this 15th of October 2009.



DAVID A. THERIAQUE, ESQUIRE
Florida Bar No. 0832332
S. BRENT SPAIN, ESQUIRE
Florida Bar No. 0320810
LESLIE E. BRYSON, ESQUIRE
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COUNSEL FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via Telefacsimile and United States Mail to **Robert A. McMillan, Esquire**, Seminole County Attorney's Office, 1101 East First Street, Sanford, Florida 32771, and **Janet M. Courtney, Esquire**, Lowndes, Drosdick, Doster, Kantor & Reed, P.A., P.O. Box 2809, Orlando, Florida 32802-2809, this 15th day of October 2009.



DAVID A. THERIAQUE, ESQUIRE

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

CARILLON COMMUNITY
RESIDENTIAL ASSOCIATION,
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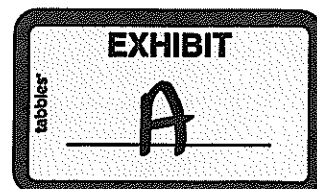
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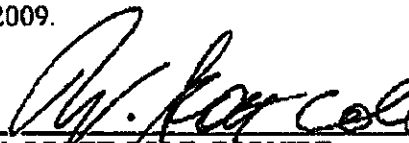
**ACCEPTANCE OF SERVICE BY
DEFENDANT UNIVERSITY OF CENTRAL FLORIDA**

The undersigned counsel for Defendant UNIVERSITY OF CENTRAL FLORIDA hereby
accepts service of process on behalf of Defendant UNIVERSITY OF CENTRAL FLORIDA, and
acknowledges receipt of a copy of the Amended Complaint filed herein, and agrees that the Court
shall have jurisdiction over the parties the same as if Defendant UNIVERSITY OF CENTRAL



FLORIDA had been personally served with process and that Defendant UNIVERSITY OF CENTRAL FLORIDA shall have twenty (20) days from the date of this acceptance to file appropriate pleadings.

DATED this 9th day of September 2009.



W. SCOTT COLE, ESQUIRE
Florida Bar No. 654337
University of Central Florida
4000 Central Florida Boulevard
Millican Hall, Suite 360
Orlando, Florida 32816-0015
Phone: (407) 823-2482
Fax: (407) 823-6155

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished via Telefacsimile and United States Mail to:

David A. Theriaque, Esquire
S. Brent Spain, Esquire
Leslie E. Bryson, Esquire
THERIAQUE VORBECK & SPAIN
433 North Magnolia Drive
Tallahassee, Florida 32308

this 9th day of September 2009.



W. SCOTT COLE, ESQUIRE

IN THE CIRCUIT COURT OF THE EIGHTEENTH
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CARILLON COMMUNITY
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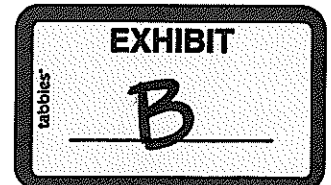
vs.

SEMINOLE COUNTY, FLORIDA,
UNIVERSITY OF CENTRAL FLORIDA
AND UNIVERSITY OF CENTRAL
FLORIDA FOUNDATION, INC.

Defendants.

**ACCEPTANCE OF SERVICE BY DEFENDANT UNIVERSITY OF CENTRAL
FLORIDA FOUNDATION, INC.**

The undersigned counsel for Defendant, UNIVERSITY OF CENTRAL FLORIDA FOUNDATION, INC. hereby accepts service of process on behalf of Defendant, UNIVERSITY OF CENTRAL FLORIDA FOUNDATION, INC., acknowledges receipt of a copy of the Amended Complaint filed herein, and agrees that the Court shall have jurisdiction over the parties the same as though Defendant, UNIVERSITY OF CENTRAL FLORIDA FOUNDATION, INC. had been personally served with process and that Defendant, UNIVERSITY OF CENTRAL FLORIDA FOUNDATION, INC. shall have (20) days from the date of this acceptance to serve appropriate pleadings.



DATED this 15th day of September 2009.



JANET M. COURTNEY, ESQUIRE

Florida Bar No. 0451088

Lowndes, Drosdick, Doster, Kantor & Reed, P.A.

215 North Eola Drive

Post Office Box 2809

Orlando, Florida 32802

Telephone: (407) 843-4600

Facsimile: (407) 843-4444

Attorneys for Defendant, Seminole County,
Florida

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to: **DAVID A. THERIAQUE, ESQUIRE, S. BRENT SPAIN, ESQUIRE,** and **LESLIE E. BRYSON, ESQUIRE** of Theriaque, Vorbeck & Spain, 433 North Magnolia Drive, Tallahassee, Florida 320810 and **ROBERT A. MCMILLAN** and **KATHY FUREY-TRAN,** Seminole County Attorneys Office, 1101 East 1st Street, Sanford, Florida 32771, this 15th day of September, 2009.



JANET M. COURTNEY