

SUPERIOR COURT
OF THE
STATE OF DELAWARE

RICHARD F. STOKES
JUDGE

SUSSEX COUNTY COURTHOUSE
1 THE CIRCLE, SUITE 2
GEORGETOWN, DE 19947
TELEPHONE (302) 856-5264

October 26, 2012

Marie-Louise Caravatti
1405-35th Street, N.W.
Washington, D.C. 20007

Douglas A. Shachtman, Esquire
The Shachtman Law Firm, Suite 302
Wilmington, Delaware 19806

**RE: *Freibott v. Miller, et al., and Caravatti v. Indian Harbor Villas
Condominium Assoc., et al.***
C.A. No. S08C-11-025 RFS

Dear Ms. Caravatti and Mr. Shachtman:

Defendant Diamond Restoration, Inc. (“Diamond”) filed a motion for summary judgment against Plaintiff Marie-Louise Caravatti (“Caravatti”). In light of this Court’s decision denying Caravatti’s motion to add experts because she failed to show good cause for not identifying expert witnesses by December 22, 2010, Diamond’s motion as to negligence is granted.

Diamond also challenges Caravatti’s allegation that Diamond or its employees removed valuable personal items from Unit 4. This issue arose in answers to interrogatories, as noted without objection by Diamond.¹ Diamond identifies this as a claim for conversion and argues that various individuals had access to Caravatti’s unit between February 10, 2007 and May 20, 2007 in Caravatti’s absence. Diamond also asserts that Caravatti has presented no evidence that Diamond removed any of her personal property from Unit 4.

¹Issues not raised in the pleadings but tried by the express or implied consent of the parties shall be treated as if they had been raised in the pleadings. Super.Ct.Civ.R. 15(b).

Conversion is “any distinct act of dominion wrongfully exerted over the property of another, in denial of [the plaintiff’s] right, or inconsistent with it.”²

Caravatti acknowledges that several people had access her unit during her absence. These include among others Beth Ann Van Auken, Rob Ward, employees of Resort Quest, Ron Stavola and Susan White.

Caravatti stated “I don’t know what happened to my keys during that time period when Beth Ann [Van Auken] handed them over to Diamond. I have no idea who got access to my place.”³ She has presented no evidence that Diamond wrongfully exerted dominion over or control of her personal property. No questions of material fact exist as to the conversion of Caravatti’s personal property.

Diamond’s motion for summary judgment is **GRANTED**.

IT IS SO ORDERED.

Very truly yours,

/s/ Richard F. Stokes

Richard F. Stokes

²*Kurod v. SPJS Holdings, L.L.C.*, 971 A.2d 872, 889 (Del.Ch.2009)(quoting *Drug, Inc. v. Hunt*, 168 A. 87, 93 (Del.1933).

³Caravatti Dep. at 70.