

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT  
*July Term 2012*

**THOMAS H. STEVENS** and **THOMAS WAYNICK**,  
Appellants,

v.

**MATHEW N. PEEBLES** and **JENNIFER A. PEEBLES**, **HARRY DENWOOD** and **LAURA B. DENWOOD**, **ROBERT P. MACKENZIE**, **ROBERT ALESSI** and **DIANA ALESSI**, **CHRISTOPHER ECOTT**, **EDWARD A. GILLEN** and **MICHELLE M. GILLEN**, as Trustee of the GILLEN FAMILY TRUST, **JOHN BOALS** and **KARLA BOALS**, **JAMES HORN**, **FEDERAL NATIONAL MORTGAGE ASSOC.**, **ANNE C. FOLEY**, **DENNIS PORCELLI** and **MAY PORCELLI**, **CHARLES LADD** and **DEBBIE LADD**, **MARY R. BECKLEY**, Trustee of the MR. BECKLEY TRUST, **RUTH M. OLSEN**, Trustee of the RUTH M. OLSEN LIVING REVOCABLE TRUST, **WALTER BOEHM** and **R. GINENNE BOEHM**, **U.S. BANK NA ASSOC.**, **KENNETH** and **DONNA TEIXEIRA**, **CRAIG SWANSON**, **KENNETH F. MAXWELL** and **CAROL E. MAXWELL**, **KATHLEEN R. CENTEN**, as Trustee under Revocable Trust Agreement, **WILLIAM M. PROSCHEL** and **DOROTHY H. PROSCHEL**, **WESLEY L. RODSTROM** and **JANET S. RODSTROM**,  
Appellees.

No. 4D11-2173

[November 28, 2012]

PER CURIAM.

The appellants, unit owners in a boating community homeowners' association, challenged the alleged improper allocation and assignment of dock space by the association. The facts underlying this case were outlined in *Stevens v. Tarpon Bay Moorings Homeowners Ass'n*, 15 So. 3d 753, 754 (Fla. 4th DCA 2009) (*Stevens I*). There, this court reversed a judgment in favor of appellants and ruled that the action against the association must be dismissed for failure to join certain individual unit owners as indispensable parties. Here, after the individual unit owners were joined, the trial court dismissed the lawsuit against them, finding that it was filed after the five-year statute of limitations period for injunctive relief had run. See § 95.11(2)(b), Fla. Stat. (2009). We have considered the arguments presented on appeal and affirm without

discussion, except to point out that our earlier decision did not reach the statute of limitations issue as to the individual unit owners as would-be defendants. Although the court in *Stevens I* noted that “[w]e perceive no practical barrier to joining all the owners if the dock space is to be reallocated,” it was not the intention of the court to pre-determine the validity of any of the individual defendants’ potential legal defenses. 15 So. 3d at 755. The court was simply not presented with that question.

Accordingly, the summary judgment in favor of the individual defendants is affirmed.

*Affirmed.*

POLEN, STEVENSON, JJ., and BONAVITA, AUGUST, Associate Judge, concur.

\* \* \*

Appeal from the Circuit Court for the Nineteenth Judicial Circuit, St. Lucie County; Dan L. Vaughn, Judge; L.T. Case No. 03-296 CA.

Patrick Dervishi and Guy M. Shir of Kahan, Shir, P.L., Boca Raton, for appellants.

David B. Earle of Ross Earle & Bonan, P.A., Stuart, for appellees.

***Not final until disposition of timely filed motion for rehearing.***