

**IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT IN AND  
FOR ORANGE COUNTY, FLORIDA**

ERIC FICKLING and  
DONNA FICKLING,

CASE NO.:

Plaintiffs,

vs.

TRAVEL + LEISURE, INC. d/b/a  
WYNDHAM DESTINATIONS, INC. f/k/a  
WYNDHAM VACATION RESORTS, INC.,

Defendant.

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**COMPLAINT**

Plaintiffs, Eric Fickling and Donna Fickling, sue the Defendant, Travel + Leisure, Inc. d/b/a Wyndham Destinations, INC. f/k/a Wyndham Vacation Resorts (“Wyndham”), and state:

**JURISDICTION AND PARTIES**

1. This is an action at law within the jurisdiction of this Court which exceeds \$30,000.00 in damages exclusive of interest, attorney’s fees (if any) and costs.
2. Plaintiff, Eric Fickling, is an individual, *sui juris* and resident of Alabama, who purchased a timeshare in Florida.
3. Plaintiff, Donna Fickling, is an individual, *sui juris* and resident of Alabama, who purchased a timeshare in Florida.
4. Defendant, Wyndham, is a corporation doing business under the laws of the State of Florida with its headquarters and principal place of business located at 6277 Sea Harbor Drive, Orlando, FL 32821.

5. The word “Defendant” or the word “Wyndham” or other names of Defendant’s subsidiaries or brands identified herein, shall automatically include reference to their new Parent Corporation, TRAVEL + LEISURE, INC.
6. Plaintiff purchased a timeshare with Wyndham. Plaintiffs are not in possession of said contract; however, it is believed Defendant is in possession of said contract.

### **GENERAL ALLEGATIONS**

7. To the best of Plaintiffs’ information and belief in March 2017, Defendant hosted a timeshare presentation for the purpose of selling timeshares at Wyndham located in Orlando, Florida. Plaintiffs attended said presentation, which lasted approximately 6 hours.
8. During the presentation, Defendant’s employees/agents made numerous false statements to entice Plaintiffs to purchase a timeshare, including but not limited to:
  - a. Advising on multiple occasions that purchasing a timeshare is a good investment;
  - b. Advising on multiple occasions that a timeshare is easy to sell or rent;
  - c. Advising on multiple occasions that Plaintiffs owned valuable property;
  - d. Advising on multiple occasions that the timeshare will save them money on future room bookings.
  - e. Advising on multiple occasions the timeshare was a “valuable Asset” that Plaintiffs could Will to their children.
9. During the presentation, Defendant was required to provide Plaintiffs with a Public Offering Statement (“POS”), pursuant to Sections 721.55 and 721.551, Florida Statutes. Defendant concealed the POS from Plaintiffs.

10. During the presentation, Defendant did not allow Plaintiffs to review any timeshare purchase transaction documents; nor, did Defendant explain relevant terms of the contract including the successor liability clause.
11. Due to high pressure sales tactics, by the time Plaintiffs signed the timeshare contract they were mentally stressed out and physically worn down.
12. The actual time spent on reviewing and signing the closing documents to purchase the timeshare was approximately 20 minutes.
13. During the time spent signing the closing documents Defendant's representative:  
(a) controlled the documents; (b) hid any portion of the contract it did not want Plaintiffs to see; and (c) would not allow Plaintiffs to review the entire contract/documents prior to signing.
14. Defendant concealed the successor liability provision from Plaintiffs and failed to advise that Plaintiffs were binding their heirs to the contract after their respective deaths.
15. Defendant concealed the true costs (high-interest, fees rising yearly and other costs) stated in the contract.
16. Defendant concealed the limitations and/or restrictions on booking rooms.
17. Plaintiffs only discovered the failure to provide a POS required by Florida law and successor liability on November 1, 2018.
18. Plaintiffs only discovered the failure to advise of successor liability on November 1, 2018.
19. Plaintiffs learned the aforementioned statements (See paragraph #8) were false on November 1, 2018.

20. Plaintiffs only discovered the restrictions on booking rooms on November 1, 2018.

## COUNT 1

### FRAUDULENT MISREPRESENTATION

21. Plaintiffs reallege and incorporate by reference Paragraphs #1-20, above, as if fully set forth below.

22. As a corporation trying to sell Plaintiffs a timeshare interest, Defendant had a duty to provide accurate and truthful information to Plaintiffs.

23. At the timeshare presentation, while in the course and scope of their employment, Defendants' employees/agents intentionally advised Plaintiffs of the following material false statements: (1) Purchasing a timeshare is a good investment; and/or (2) It is easy to sell a timeshare; and/or (3) Plaintiffs were purchasing valuable property they could easily sell/rent/sublet; and/or (4) Purchasing a timeshare will save Plaintiffs money; and/or (5) a timeshare is a "valuable asset" Plaintiffs can Will to the children.

24. Defendants' employees/agents knew the statements (see Paragraph #23) were false at the time the statements were made.

25. Defendant committed fraud when its employees/agents intentionally, knowingly and deliberately provided Plaintiffs with the aforementioned false statements (see Paragraph #23).

26. Defendant knowingly, intentionally and willfully made the material false statements all of which were "benefits and perks" to induce Plaintiffs to purchase the subject timeshare.

27. At the time that Defendant's employees/agents willfully, intentionally and deliberately made the aforementioned statements, it knew the statements were false, as evidenced by *Fla. Stat. Sec. 721.55(j)*, which states that the timeshare representative shall inform a prospective timeshare purchaser that the purchase of a timeshare, ". . . should be based on its value as a vacation experience or for spending leisure time, and **not considered for purposes of acquiring an appreciating investment or with an expectation that the interest may be resold.**" (emphasis added).
28. Defendant further knew these statements were false as evidenced by numerous current timeshare holders complaining about the timeshare not saving money, not being able to sell the timeshare, and the timeshare being a terrible investment.
29. Plaintiffs relied on these materially false statements to make a decision to purchase the subject timeshare.
30. Had Plaintiffs known that the timeshare purchase was a bad investment, she would not have purchased the subject timeshare.
31. Had Plaintiffs known that the timeshare purchase could not be easily resold, she would not have purchased the subject timeshare.
32. Had Plaintiffs known that the timeshare purchase would cost her more money instead of saving them money, she would not have purchased the timeshare.
33. Had Plaintiffs known the timeshare purchase was not valuable property she would not have purchased the timeshare.
34. The false statements made by Defendant resulted in Plaintiffs suffering significant losses and/or damages that continue to accrue including but not limited to:

- (a) Money spent to purchase the timeshare (\$18,000.00 not including interest paid on mortgage and credit card interest)
- (b) Maintenance fees required to be paid yearly (approximately \$800/year)
- (c) A report of bad credit to the credit bureaus for stopping payment on a contract unlawfully obtained.
- (d) The difference between what Plaintiffs would pay for a hotel room per night using their timeshare and what it would have cost them to reserve the same exact room at the same exact hotel online.

35. Plaintiffs suffered and will continue to suffer injury and damages as a direct and proximate result of Defendant's fraudulent misrepresentation, with such damages including but not limited to, the damages listed in paragraph #34 and all subparts.

Wherefore, Plaintiffs, Eric Fickling and Donna Fickling, demand judgment for damages in excess of Thirty Thousand Dollars (\$30,000) against Defendant, Wyndham, costs of this action, prejudgment interest on damages as allowed by law, trial by jury and for such other relief as the Court may deem just and proper.

## **COUNT 2**

### **FRAUDULENT CONCEALMENT OF POS**

36. Plaintiffs reallege and incorporate by reference Paragraphs #1-20, above, as if fully set forth below.

37. As a corporation trying to sell Plaintiffs a timeshare interest, Defendant had a duty to disclose accurate and truthful information to Plaintiff.

38. At the timeshare presentation, Defendant deliberately and intentionally concealed/withheld the POS, required by *Sections 721.07 and/or 721.55, and/or 721.551, Florida Statutes.*

39. Defendant knew that the intentional, willful and deliberate concealment/withholding of the POS from Plaintiff, would prevent the Plaintiffs from reviewing material information that would be used to make a decision to purchase the subject timeshare.

40. Defendant deliberately, willfully, and intentionally withheld the POS as evidenced by numerous current timeshare holders advising they had never received a POS.

41. Defendant committed fraud by deliberately, willfully, and intentionally withholding/concealing the POS from Plaintiffs.

42. Further, Defendant knew they had a duty to disclose and were required to provide the POS to Plaintiffs. The information required to be in the POS was material as evidenced by an entire chapter of Florida Statutes is dedicated to vacation and timeshare plans (Chapter 721, Florida Statutes). Further, *Sections 721.07; 721.55 and 721.551*, specifically address information that is to be put in a POS and given to a potential timeshare purchaser.

43. Important material information Defendants knowingly, willingly and intentionally withheld/concealed includes but is not limited to the following:

- a. **Section 721.55(1)(b), Florida Statutes-** states that a multistate timeshare public offering statement given to a purchaser must have a cover page that has the following in conspicuous type:

This public offering statement contains important matters to be considered in acquiring an interest in a multisite timeshare plan. . . . The statements contained herein are only summary in nature. A prospective purchaser should refer to all references, accompanying exhibits, contract documents, and sales materials. **The prospective purchaser should not rely upon oral representations as being**

**correct and should refer to this document and accompanying exhibits for correct representations.**

*(Emphasis added).*

- b. **Section 721.55(4)(d), Florida Statutes-** requires an explanation for any priority reservations features that affects a timeshare owner's ability to make reservations on a first come first serve basis and must state the following in conspicuous type:  
"Component sites contained in the multisite timeshare plan. . . are subject to priority reservation features which may affect your ability to obtain a reservation."
- c. **Section 721.55(4)(i), Florida Statutes-** states that if there are restrictions on the sale, transfer or conveyance of a timeshare, a description of the restrictions must be provided to the purchaser **along with the following statement in conspicuous type:** "The sale, lease, or transfer of interests in the multisite timeshare plan is restricted or controlled."
- d. **Section 721.55(j), Florida Statutes-** states that the following statement must be provided to a timeshare purchaser in conspicuous type:

The purchase of an interest in a multisite timeshare plan. . . **should be based upon its value as a vacation experience** or for spending leisure time, **and not considered** for purposes of acquiring an appreciating investment or with an expectation that the interest may be resold.

*(Emphasis added).*

44. Had Plaintiffs received the POS she would have known the risks and dangers associated with a timeshare and would not have purchased the timeshare.

45. Defendant's fraudulent concealment of POS resulted in significant losses and/or damages to Plaintiffs that continue to accrue including but not limited to:

- (a) Money spent to purchase the timeshare (\$18,000 excluding mortgage and credit card interest)
- (b) Maintenance fees required to be paid yearly (approximately \$800 per year)
- (c) A report of bad credit to the credit bureaus for stopping payment on a contract unlawfully obtained.
- (d) The difference between what Plaintiffs would pay for a hotel room per night using their timeshare and what it would have cost them to reserve the same exact room at the same exact hotel online.

46. Plaintiffs suffered and will continue to suffer injury and damages as a direct and proximate result of Defendant's fraudulent concealment of POS, with such damages including but not limited to, the damages listed in paragraph #45 and all subparts.

Wherefore, Plaintiffs, Eric Fickling and Donna Fickling, demand judgment for damages in excess of Thirty Thousand Dollars (\$30,000) against Defendant, Wyndham, costs of this action, prejudgment interest on damages as allowed by law, trial by jury and for such other relief as the Court may deem just and proper.

### **COUNT 3**

#### **FRAUDULENT CONCEALMENT OF SUCCESSOR LIABILITY**

47. Plaintiff reallege and incorporate by reference Paragraphs #1-20, above, as if fully set forth below.
48. As a corporation trying to sell Plaintiffs a timeshare interest, Defendant had a duty to disclose accurate and truthful information to Plaintiffs.
49. During the timeshare presentation, and in the regular course and scope of business, Defendant deliberately, willfully, and intentionally concealed and failed to advise Plaintiffs of the successor liability clause in the subject contract which bound Plaintiff's heirs to the timeshare contract after Plaintiffs' respective deaths.
50. Defendant knew that when they deliberately, willfully, and intentionally concealed the successor liability it prevented Plaintiffs from making an informed decision on whether to purchase the subject timeshare.
51. Defendant committed fraud when they deliberately, willfully and intentionally concealed the successor liability clause from Plaintiffs.
52. Defendant deliberately and intentionally failed to disclose successor liability as evidenced by numerous current timeshare holders stating they were never advised of successor liability.
53. Had Plaintiffs been informed that by signing the purchase contract for the timeshare, their heirs would be bound to the contract, they would not have purchased the timeshare.

54. Defendant's fraudulent concealment of successor liability resulted in significant losses and/or damages to Plaintiffs that continue to accrue including but not limited

to:

- (a) Money spent to purchase the timeshare (\$18,000 excluding mortgage and credit card interest)
- (b) Maintenance fees required to be paid yearly (approximately \$800 per year)
- (c) A report of bad credit to the credit bureaus for stopping payment on a contract unlawfully obtained.
- (d) The difference between what Plaintiffs would pay for a hotel room per night using their timeshare and what it would have cost them to reserve the same exact room at the same exact hotel online.

55. Plaintiffs suffered and will continue to suffer injury and damages as a direct and proximate result of Defendant's fraudulent concealment of successor liability, with such damages including but not limited to, the damages listed in paragraph #54 and all subparts.

Wherefore, Plaintiffs, Eric Fickling and Donna Fickling, demand judgment for damages in excess of Thirty Thousand Dollars (\$30,000) against Defendant, Wyndham, costs of this action, prejudgment interest on damages as allowed by law, trial by jury and for such other relief as the Court may deem just and proper.

Dated: October 25, 2022

/s/ Lori M. Costa  
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