

DECEMBER 6, 2019 | NEWS

Tivoli Homes of Sarasota Prevails in Copyright Infringement Lawsuit against Medallion Homes Gulf Coast

SARASOTA, Fla. — Full-service business law firm Shumaker, Loop & Kendrick, LLP's partners **Duane A. Daiker**, a board certified appellate practice specialist, and **Christopher A. Staine**, a board certified construction attorney, recently won a copyright infringement lawsuit brought against their clients, Tivoli Homes of Sarasota, Inc. and Start to Finish Drafting, LLC.

Medallion Homes Gulf Coast brought an action in federal court against the two companies, seeking damages as a result of alleged copyright infringement arising out of Tivoli Homes of Sarasota's construction of a residence for a Sarasota couple (Medallion Homes Gulf Coast, Inc. v. Tivoli Homes of Sarasota, Inc., et al., D.C. Docket No. 8:14-cv-03117-VMC-JSS and 11th Cir. Ct. App. Case No. 15-15393).

According to the lawsuit, Tivoli Homes of Sarasota and Start to Finish Drafting obtained and used a copyright protected architectural drawing belonging to Medallion Homes Gulf Coast in connection with construction of the residence.

"The victories, both at the trial court and appellate levels, represent full vindication for our clients," said Staine. "We are pleased that both the District Court and the 11th Circuit Court of Appeal meticulously scrutinized the testimony and evidence before them and arrived at what we believed to be the only appropriate and just conclusion – that neither Tivoli Homes of Sarasota nor Start to Finish Drafting committed any wrongdoing."

Based on the strength of the evidence presented during the course of the litigation, Tivoli Homes of Sarasota and Start to Finish Drafting successfully obtained summary judgment in their favor. While noting certain similarities between Medallion Homes Gulf Coast's architectural drawings and the drawings used in connection with the Tivoli Homes of Sarasota's project, the U.S. District Court found that "at the level of

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protected expression, the differences between the designs are so significant that no reasonable fact finder could determine that the works were substantially similar."

On appeal, the United States Court of Appeals for the 11th Circuit unanimously agreed with the District Court's conclusions, affirming the summary judgment in favor of Tivoli Homes of Sarasota and Start to Finish Drafting.

"The 11th Circuit Court's decision helps to further clarify federal law relating to infringement claims for copyrighted housing plans and will serve as guidance for future litigants facing similar issues," said Daiker.

According to the 11th Circuit Court of Appeal in its 9-page *per curiam* opinion, "[t]he numerous and significant differences discussed by the district court indicate that these plans differ where it matters: at the level of protectable elements."

About Shumaker, Loop & Kendrick, LLP

Founded in 1925, Shumaker, Loop & Kendrick, LLP is a full-service law firm with more than 245 lawyers and five offices in Toledo and Columbus, Ohio; Tampa and Sarasota, Fla.; and Charlotte, N.C. Shumaker is a premier provider of quality legal services. Whether it's commitment to clients or work in the community, involvement lies at the core of all of Shumaker's initiatives.

About Duane A. Daiker

Duane A. Daiker is a board certificated appellate practice specialist by the Florida Bar. He represents individual and corporate clients in a variety of appellate matters in all state and federal appellate courts in Florida, including the Florida Supreme Court.

Daiker currently serves as chair of the Appellate Practice Section of The Florida Bar, a 1,700-member organization comprised of Florida lawyers and judges devoted to promoting excellence in appellate practice. He has been involved in the section for over a decade, serving in various leadership roles since 2012. Daiker previously served as chair of the Appellate Law Section of the Hillsborough County Bar Association from 2008-10. He has also served as a member of the Appellate Court Rules Committee since 2012.

Daiker has served as an adjunct professor at St. Petersburg College, teaching classes in law, legal research and legal writing, since 2000. He is certified by the Supreme Court of Florida as an arbitrator and regularly arbitrates attorney fee disputes for The Florida Bar Association.

About Christopher A. Staine

Christopher A. Staine has successfully represented clients in state and federal courts throughout Florida, in addition to private and commercial arbitration proceedings. Staine devotes a significant portion of his practice to construction litigation and counseling, trust and probate litigation and guardianship matters.

As a board certified construction attorney, he represents companies, partnerships and individuals involved in all aspects of the construction process, including owners, developers, general and marine contractors, suppliers, surety companies and construction lenders. In addition to his contributions as a construction attorney, Staine also focuses on matters of probate and trust litigation and has represented fiduciaries such as personal representatives, executors, trustees, guardians, attorneys-in-fact and estate/trust beneficiaries, involving will and trust contests, breach of fiduciary duty, probate fraud, beneficiary and creditor rights and abuse by a Power of Attorney.

Staine is also a frequent speaker on various legal issues and legislative initiatives impacting the construction industry, such as the Florida Construction Lien Law, green building and construction licensing.