

IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS

LAURIE B. FRANKLIN TRUST,)	
LAURIE FRANKLIN, AND)	
DARRELL FRANKLIN)	
<i>Plaintiffs,</i>)	Case No. _____
)	Chapter 60
v.)	
)	
MISSION HILLS COUNTRY CLUB,)	
INC.)	
<i>Defendant.</i>)	

PETITION

Plaintiffs Laurie B. Franklin Trust, Laurie Franklin, and Darrell Franklin (“Plaintiffs”), for their Petition against defendant Mission Hills Country Club, Inc. (“MHCC”), allege as follows:

1. Plaintiff Laurie B. Franklin Trust holds legal title to the real property located at 5345 Mission Woods Road, Mission Woods, Kansas.
2. Plaintiff Darrell Franklin resides at 5345 Mission Woods Road and is a Kansas resident.
3. Plaintiff Laurie Franklin resides at 5345 Mission Woods Road and is a Kansas resident.
4. Defendant Mission Hills Country Club, Inc. (“MHCC”) is a not-for-profit corporation organized under the laws of the state of Kansas. MHCC can be served with process through its registered agent, National Registered Agents, Inc. of KS, 112 SW 7th St., Suite 3C, Topeka, KS 66603.
5. MHCC owns and operates a country club at the address of 5400 Mission Dr., Mission Hills, Kansas.

6. The country club is located in a quiet residential area in which residents reasonably expect peaceful enjoyment of their homes and their property.

7. The amenities of the country club include various tennis courts, some of which have been converted to pickleball courts.

8. The tennis courts are located on the northwest portion of the country club property with residential homes immediately located to the east and west of the tennis courts.

9. To date, MHCC has converted the southernmost outdoor tennis court into four outdoor pickleball courts. This conversion was done without notice being provided to the nearby residents and, upon information and belief, without notice being provided to the City of Mission Hills.

10. Another tennis court located further north on the property and located within a “tennis bubble” is used for pickleball during the “off-season.” Recently and with the return of the warm weather season, the tennis bubble was removed and pickleball play has resumed on the courts located behind the Franklin’s home.

11. As shown below, Darrell and Laurie’s property shares a property line with MHCC and is located immediately to the east of the outdoor tennis court that has been converted to four pickleball courts.



12. The tennis court that is now four pickleball courts is 90 feet from the property line and less than 200 feet from Darrell and Laurie’s home. The court sits on a hill elevated above Darrell and Laurie’s home. As a result, the sound associated with pickleball play travels freely to the property located at 5345 Mission Woods Road.

13. The tranquil and peaceful environment reasonably expected by Darrell and Laurie is severely disrupted when pickleball is regularly played at the four pickleball courts.

14. Playing pickleball on pickleball courts positioned in proximity to residential homes creates a nuisance. Absent appropriate noise abatement efforts, it is recommended that pickleball courts be positioned at least 500 to 600 feet away from residential properties, with a potential need for greater distance in environments like golf courses due to the refraction of the noise. *See Willis,*

Lance, *Why are Pickleball Courts Receiving Complaints from Neighbors* (available at <https://www.acousticalnoise.com/news/>).

15. While both tennis and pickleball are played on a court, pickleball creates a much louder sound and is thus a materially more intrusive activity on the surrounding neighbors to MHCC.

16. Given the smaller size of a pickleball court as compared to a tennis court, the same space now has multiple pickleball matches, which means more players and spectators than a single tennis match in the same space. Where the intended configuration was for a single tennis court and the concomitant number of players and activity, there are now four pickleball courts with up to sixteen players playing at a time.

17. Tennis is played with strung racquets and the ball is covered in fabric. By comparison, pickleball is played with hard paddles and a hard plastic ball. The resulting noise from pickleball is materially and measurably louder, more intrusive, and obnoxious.

18. When the pickleball paddle hits the plastic ball, the impact typically creates a sound in the range of 1,000 and 2,000 Hertz, which is near the most sensitive frequency range of human hearing.

19. The type of sound created by playing of pickleball is a persistent impulsive sound and creates annoyance because it is the type of sound to which humans are sensitive, as such sounds tend to be sounds that alert humans to events occurring to which a response is needed. When the pickleball paddle hits the ball, it creates a popping sound that causes mental false alarms and makes it difficult to relax, concentrate, or sleep soundly. This continual noise can cause stress, fatigue, and anxiety.

20. When pickleball is played on MHCC's courts it is often accompanied by the playing of loud music, excessive drinking of alcohol, and a party/social atmosphere.

21. The additional players and spectators associated with pickleball play have resulted in additional cars, without adequate space for the cars to park. Cars are frequently parked on grass near Darrell and Laurie's home.

22. Steadily, the number of people utilizing the courts has increased, with a corresponding increase in noise and interference with Plaintiffs' comfort, as well as the use and enjoyment of their property. Although not present twenty-four hours a day, seven days a week, pickleball is played from morning until late at night and outside seasonally and results in a continuous and repetitive nuisance.

23. Weather permitting, MHCC's courts are utilized for pickleball play beginning as early as 6 a.m., and continuing past 11 p.m.

24. Pickleball play disrupts Laurie and Darrell's sleep, even awakening them in the morning when play commences at 6 a.m.

25. Additionally, lights are often left on at the courts and shine into the homes that surround the courts, including Darrell and Laurie's home.

26. The use of the tennis courts as pickleball courts substantially interferes with Darrell and Laurie's comfortable use and enjoyment of their property and home. Instead of being able to enjoy a quiet evening in their backyard, they are now subject to the repetitive sounds of pickleball, loud music, and frequently vulgar and offensive language.

27. Laurie and Darrell have always enjoyed spending time in their yard, including gardening, entertaining guests on their patio, and watching their pets and wildlife from Adirondack

chairs by the property line with MHCC. However, due to the nuisance from pickleball play, they no longer entertain on the patio, the Adirondack chairs have been removed, as it is no longer enjoyable to sit in them and relax, and Laurie wears noise cancelling headphones while doing yard work.

28. The sound from the pickleball play is so loud, constant, and intrusive that it can be heard inside the home located at 5345 Mission Woods Road. Laurie frequently uses a white noise application on her phone to block the constant disruption and disturbance that comes from the use of the courts for playing of pickleball.

29. Darrell and Laurie no longer open their windows on a temperate day, as the sound emanating from the pickleball courts is so intrusive that it completely disrupts their enjoyment of their home.

30. The use of MHCC's four pickleball courts substantially and unreasonably interferes with the use and enjoyment of 5345 Mission Woods Road.

31. Upon information and belief, MHCC intends to convert additional tennis courts into pickleball courts and/or build additional pickleball courts.

32. Laurie has provided repeated notice to MHCC and the City of Mission Hills regarding the intrusion and disruption caused by the tennis court being used as pickleball courts.

33. MHCC was further made aware of the intrusion caused by the pickleball courts in conjunction with a City of Mission Hills Architectural Review Board meeting that occurred on August 17, 2021.

34. During the Architectural Review Board meeting, which was also attended by Cory Conklin, General Manager/COO of MHCC, Laurie, Darrell, and other neighbors gave statements

regarding the substantial intrusion and disruption caused by the existing pickleball courts. The pickleball on the pickleball courts at MHCC has continued since that time.

35. MHCC knows that the pickleball courts interfere with the use and enjoyment of the surrounding residential properties. Furthermore, MHCC has a duty not to interfere with its neighbor's use and enjoyment of their property.

36. Despite MHCC being aware of the intrusion, MHCC has and continues to permit the tennis court to be used as four pickleball courts. MHCC's conduct has breached its duties to its neighbors, including Plaintiffs, and MHCC has failed to act with reasonable care.

37. By continuing to utilize the tennis court as four pickleball courts, MHCC is engaging in willful, wanton, and intentional conduct knowing that it is injuring Plaintiffs.

38. The nuisance created by the playing of pickleball has and continues to substantially interfere with the use and enjoyment of the property located at 5345 Mission Woods Road.

39. The nuisance created by the pickleball courts also harms the value of the property located at 5345 Mission Woods Road, thereby damaging Plaintiffs.

40. Plaintiffs Laurie and Darrell Franklin have also experienced annoyance, discomfort, inconvenience, and overall emotional distress, including stress, sleep disruption, and anxiety, resulting from the nuisance created by MHCC and that will continue unless MHCC is enjoined from permitting pickleball.

41. Plaintiffs lack an adequate remedy at law.

WHEREFORE, Plaintiffs pray that judgment be entered against Mission Hills Country Club, Inc., that a temporary and permanent injunction be entered against Mission Hills Country Club, Inc. that enjoins the playing of pickleball at the converted courts, that a permanent injunction

be entered that enjoins Mission Hills Country Club, Inc. from constructing additional pickleball courts or playing pickleball within 600 feet of the bordering property line with 5345 Mission Woods Road and requires any pickleball court construction to include appropriate sound remediation steps, that Plaintiffs be awarded damages caused by the nuisance to the extent they can be determined, that Plaintiff be awarded costs incurred herein, and for such other and further relief as the Court deems just and proper.

JURY TRIAL DEMAND

Plaintiffs demand a jury trial on all issues triable by jury.

Dated: May 10, 2022

Respectfully submitted,

GM LAW PC

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