COURT OF CHANCERY
OF THE
STATE OF DELAWARE

SAM GLASSCOCK III
VICE CHANCELLOR

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GEORGETOWN, DELAWARE 19947

Date Submitted: March 12, 2014
Date Decided: May 16, 2014

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Re: *Durham v. Grapetree, LLC*
Civil Action No. 7325-VCG

Dear Counsel and Litigant:

This Letter Opinion is the latest installment of dolorous and protracted litigation among siblings fortunate enough to have inherited resort rental properties from their father and unfortunate enough to therefore be condemned to attempt to cooperate in management of those properties; a task to which they have heretofore proved unequal. Below, I address whether the Plaintiff, Andrew Durham, is entitled to reimbursement for expenses that he, a member of Defendant Grapetree, LLC ("Grapetree" or "the LLC")—the vehicle through which the siblings manage

the properties—incurred, purportedly to benefit the LLC. This Letter Opinion also addresses the Defendant's Motion for Sanctions against Andrew.[1]

A. *Background*

Andrew is one of five siblings who each hold a twenty-percent stake in Grapetree, an informally managed, family-owned Delaware limited liability company. Grapetree operates two vacation rental properties, one in St. Lucia and one in Costa Rica. The St. Lucian property, "Les Chaudieres," is both owned and managed by the LLC. The second villa, "La Paila," is managed, but not owned, by Grapetree. This property was previously owned by a Costa Rican corporation, La Paila de Carrillo Limitada; it was purchased by Andrew in December 2013, during the pendency of this litigation.

Grapetree was formed in the early 2000s; however, no Operating Agreement was adopted at the time of its formation. Rather, the first Operating Agreement was adopted in September 2005 (the "2005 Operating Agreement"). Pursuant to this Agreement, each of the five Durham siblings—Andrew, Davis, Dee, James, and Jeffrey ("Jeff")—was a member of the LLC. This Agreement also espoused a "Limitations on Authority" provision that stated:

> The conduct of the affairs of the Company shall be subject to the following limitations. Unless stated otherwise, a majority vote of three fifths (3/5) of the members will be required to determine major

[1] For clarity, I refer to members of the Durham family by their first names; no disrespect is intended.

> issues, including issues pertaining to making any expenditure exceeding $1,000 or amending the Operating Agreement.[2]

In 2008, the Operating Agreement was amended (the "2008 Operating Agreement"); that Agreement governs here.[3] Pursuant to the 2008 Operating Agreement, Andrew is the sole non-managing member of the LLC. Grapetree contends that Andrew was removed from management because of his "unrelenting pattern of abusive and disruptive conduct."[4] In fact, in November 2005—merely two months after the 2005 Operating Agreement was enacted—Andrew's siblings sent him a letter expressing

> . . . your threats, unfounded allegations and actions have continued to disrupt operations of the company, distracted valuable resources and jeopardized relationships with clients. They have jeopardized income, caused increased expense, and will potentially cause financial harm to the company. They have also jeopardized the reputation of the family and the company in the community. . . .
>
> The [2005] Operating Agreement, recently signed by four out of the five shareholders, lays out the basic procedures for voting and transacting business. All Member shareholders can play a valuable role in managing the operations and improvements of the company. However, this letter is to notify you that if you take any action from this date forward which causes or threatens loss of income; harms ongoing or potential relationships with clients, vendors, other shareholders, or charities; is libelous to the reputation of other shareholders or the company; intentionally fails to respect the approved policies and agreements currently in effect; and/or *causes unusual and/or unnecessary expense(s) of either Grapetree LLC or La Paila De Carrillo Limitada, your input will no longer be sought by the*

[2] 2005 Operating Agmt. at 1.
[3] This Agreement was amended in 2012; thus, the 2008 Operating Agreement, while governing the dispute here, is no longer in effect.
[4] Def.'s Mem. of Law at 3.

> *other Members. Although you would retain your rights as a Member of the LLC, you would no longer be asked to participate in the ongoing management of the LLC.*[5]

Apparently, Andrew did not heed his siblings' warning, and the 2008 Operating Agreement removed him from Grapetree's management.

The Limitations on Authority provision in the 2008 Operating Agreement was also amended, raising the expenditure cap from $1,000 to $2,000, and adding a third sentence to provide that, "[f]or all routine operational issues[,] the majority vote of (3/5) [sic] of the managing members may make all decisions."[6] Specifically, the amended Limitations on Authority provision provides that:

> The conduct of the affairs of the Company shall be subject to the following limitations. Unless stated otherwise, the majority vote of three fifths (3/5) of the members will be required to determine major issues, including issues pertaining to making any expenditure exceeding $2,000. For all routine operational issues[,] the majority vote of (3/5) [sic] of the managing members may make all decisions.[7]

The intent of the parties in enacting this amendment and, in particular, adding that third sentence, is disputed here.

In practice, the LLC is informally run, and predominately managed by Jeff and Dee Durham, who are actively involved in the day-to-day affairs of the LLC. James, Davis, and Andrew are more passive LLC members. Nevertheless,

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[5] Def.'s Tr. Ex. J (emphasis added).
[6] 2008 Operating Agmt. As described above, there were only four managing members under the 2008 Operating Agreement.
[7] *Id.*

Andrew, a self-employed landscape architect, has made several expenditures over the years to maintain and improve the properties. While he has been reimbursed for some of these expenses, he insists that he is owed outstanding reimbursements in the amount of $28,983.14 plus interest, an amount that Grapetree disputes.

B. *Procedural History*

The procedural history in this matter is robust; I highlight only the most pertinent facts here. On March 14, 2012, Andrew, acting *pro se,* filed a "Direct Action Complaint for Debts Owed to Plaintiff" against Grapetree. On July 23, Andrew moved for leave to file an amended complaint; the Court granted his motion on August 8, 2012. In his Amended Complaint, Andrew alleged both direct and derivative claims. The derivative claims have since been withdrawn; the only remaining claim is Andrew's request for reimbursement.

Based on the language of the 2008 Operating Agreement, the parties briefed Cross-Motions for Summary Judgment. I found the pertinent language of this Agreement ambiguous, and the matter proceeded to trial. A one-day trial was held on February 17, 2014, and the parties submitted written closing statements on March 12, 2014. This is my Post-Trial Letter Opinion, which also includes a ruling on Grapetree's outstanding request for sanctions.

C. *Analysis*

1. Andrew's Reimbursement Request

"Limited liability companies are creatures of contract, and the parties have broad discretion to use an LLC agreement to define the character of the company and the rights and obligations of its members."[8] Both parties agree that the language in the Limitations on Authority provision of the 2008 Operating Agreement governs their dispute here. That language is as follows:

> The conduct of the affairs of the Company shall be subject to the following limitations. Unless stated otherwise, the majority vote of three fifths (3/5) of the members will be required to determine major issues, including issues pertaining to making any expenditure exceeding $2,000. For all routine operational issues[,] the majority vote of (3/5) [sic] of the managing members may make all decisions.[9]

I have already determined that this language, in regard to its application to Andrew's claim for reimbursement, is ambiguous. Consequently, I must resort to extrinsic evidence to determine the parties' intent.[10]

The dispute here centers on the interpretation of the following language: "[f]or all routine operational issues[,] the majority vote of (3/5) [sic] of the managing members may make all decisions."[11] Grapetree maintains that the

[8] *Kuroda v. SPJS Holdings, LLC*, 971 A.2d 872, 880 (Del. Ch. 2009).
[9] 2008 Operating Agmt.
[10] *See, e.g.*, *Minnesota Invco of RSA No. 7, Inc. v. Midwest Wireless Holdings LLC*, 903 A.2d 786, 794 (Del. Ch. 2006) ("[I]f the [contractual] terms are ambiguous, the court may look to extrinsic evidence to determine the intent of the parties.").
[11] 2008 Operating Agmt.

Limitations on Authority provision, as amended in 2008, provides the managing members with "total control" over "routine operational issues," which, to Grapetree, "necessarily includes deciding what expenditures of $2,000 or less are reimbursable to Plaintiff as the sole non-managing member."[12] This interpretation seemingly comports with the Durham siblings' efforts to remove Andrew from LLC management, and to rein in what they considered his improper behavior with clients, vendors and other third parties, as well as his allegedly indiscriminate spending.[13] Under Grapetree's understanding of the language of the Agreement, all expenditures greater than zero and less than $2,000 are "routine operation issues," and thus require a majority vote of the managing members. They reason, therefore, that if Andrew can point to no such votes, he is not entitled to any reimbursement.

Grapetree's legal argument is simply incompatible with the course of dealing of the LLC. The record indicates that expenditures under $2,000 were routinely made by various family members absent any vote by the managing members, frequently upon a decision by Jeff or Dee that the expenditure was warranted. In construing an ambiguous provision of the Operating Agreement, absent other evidence, I must look to the course of conduct of the members here to

[12] Def.'s Mem. of Law at 1.
[13] *See, e.g.*, Def.'s Closing Statement at 2-3; *see also* Def.'s Tr. Ex. J.

inform me as to the intent of the contracting parties.[14] I find that the managing members have not consistently voted, or required a vote, to approve Andrew's reimbursement requests. For instance, in January 2008, Andrew tried to pass a "motion," stating, in part:

> Andy is henceforward to make final decisions on all landscap[ing] . . . . In general, Andy will make necessary changes and maintenance during his trips to the houses. Andy is to be given a budget of up to $2000 (without further approval) annually to make minor improvements to the properties. He can request that his be made available in cash prior to trips or available by Company card or account as needed. He may also spend his own funds and get reimbursed within 20 days of presenting receipts. He can request more as necessary through normal Grapetree procedures for approving larger expenditures.
>
> These funds are for purchases only and not for time or travel reimbursement. If trips are required for more involved or emergency projects, Andy shall request special travel and expense reimbursement.[15]

In response, Dee emailed Andrew, explaining that this proposed motion was not effective, in part because, "as a shareholder but not a managing member, your vote

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[14] *See, e.g.*, *AT&T Corp. v. Lillis*, 970 A.2d 166, 172 (Del. 2009) ("It is hornbook law that the contracting parties' course of conduct may be considered as evidence of their intended meaning of an ambiguous contractual term."); *Viking Pump, Inc. v. Liberty Mut. Ins. Co.*, 2007 WL 1207107, at *1 (Del. Ch. Apr. 2, 2007) (finding that the parties' "practical course of dealing reflect[ed] a reasonable reading of the [agreement at issue], and [was] the best evidence of the original intent of the parties"); *In re IBP, Inc. S'holders Litig.*, 789 A.2d 14, 55 (Del. Ch. 2001) ("When . . . the contract is susceptible to more than one reasonable interpretation, the court may consider extrinsic evidence to resolve the ambiguity. . . . Where one of the parties . . . expresses its beliefs to the other side during the negotiation process or in the course of dealing after consummation, such expressions may be probative of the meaning that the parties attached to the contractual language in dispute.").

[15] Pl.'s Tr. Ex. Tab D at 14.

has very little meaning outside of the few instances in the operating agreement where four or five votes are necessary."[16] However, Dee clarified that

> . . . I want you to know that I think I speak for all of us when I say that I fully support you spending up to $2,000 on plants and landscaping for either villa. *You do not need to proffer a motion to get permission to do that. I think we told you long ago to please use your talents on the landscaping.* I have sent an accountant on the island an email asking if he can arrange for a house charge account at the government nursery. I will let you know if he can make this happen.[17]

Additionally, Andrew submitted as trial exhibits an abundance of email conversations among Andrew and his siblings, recounting his attempts over several years to obtain reimbursements from the LLC. While I by no means make an effort to digest all of the complexities surrounding the Durham family infighting, these communications do not demonstrate that the managing members of the LLC consistently voted on whether to approve Andrew's reimbursements under $2,000.[18] These email communications also illustrate that the scope of Andrew's reimbursement requests sometimes (as they do here) extended beyond expenses

[16] *Id.* at 33. Although this exchange pre-dates the execution of the 2008 Operating Agreement, it contemplates the parties' expectations going forward under that Agreement, with Andrew as a non-managing member.
[17] *Id.* (emphasis added).
[18] *See, e.g.*, Pl.'s Tr. Ex. Tab L at 338 (indicating that, on March 1, 2012, Jeff wrote to Andrew that "[he] would need approval from a majority to spend any *major* funds" and that approval for "airfare/car/food/tips [was] unlikely," and noting that "a majority already discussed this") (emphasis added); *but see id.* at 358 (indicating that, on February 17, 2012, Jeff wrote to Andrew that "I am assuming the independent book keeper we will be hiring will handle expenses after they are approved by the managing members.").

incurred to benefit the LLC,[19] and that cash-flow problems frequently prevented him from being reimbursed promptly for expenditures that were reimbursable.[20] Nevertheless, despite his siblings' palpable frustration with Andrew, he sometimes received affirmations of the work he did on behalf of the LLC. In fact, on March 28, 2012, just a few weeks after the Complaint was filed in this matter, Jeff wrote to Andrew, explaining:

> I want to thank you for your efforts on the maintenance and repairs of La Paila.
>
> The last few guests have been very happy, and I know that some of the maintenance issues you have been implement[ing] have really helped. They were very[,] very pleased with the staff, and did not report any other problems.
>
> I have also received the bill from Colleen and Mike for that as well. I am juggling these expenses and your reimbursements as well as the usual monthly costs.
>
> In the next week or so, I expect to get a payment schedule to you.[21]

In September 2012, Jeff emailed Andrew, stating that "I have wired Ursula about $2,000 for repairs and items the house may need if you go down [to Les

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[19] *See, e.g., id.* at 370 (indicating that, on March 14, 2010, Dee wrote to Andrew that "[i]t is solely your opinion that the company owes you $8,000. No one ever promised to pay for your airfare for vacations with your girlfriend to visit your father."); *id.* at 368 (indicating that, on April 22, 2010, Dee reiterated, "[a]s cash flow permits you will get reimbursed for maintenance expenditures. You will NOT get reimbursed for court costs nor numerous airfares to visit your father or take vacations.").

[20] *See, e.g.*, *id.* at 359 (indicating that, on February 20, 2012, Jeff wrote to Andrew that "[a]s far as reimbursements go, you will be reimbursed . . . but funds are tight right now . . . waiting for a few rentals to come in. As soon as funds are available . . . we will send a check."); *id.* at 292 (indicating that, on March 7, 2012, Jeff emailed Andrew reiterating, "[a]s I have stated several times [] reimbursements will be made as soon as we have funds. . . . I will let you know as soon as we have funds.").

[21] *Id.* at 289.

Chaudieres.] Any reasonable expenses you incur will be reimbursed to you by Ursula if you provide receipts to her."[22] Jeff emailed Andrew this message despite the fact that, in August 2012, Andrew's siblings had sent him a letter explaining that "[t]he company will not be responsible to reimburse you for any expenditures that are not pre-approved by the Managing Members of Grapetree LLC or of the majority of the Members of La Paila De Carrillo Limitada."[23] At trial, Jeff indicated that prior approval of expenses was not a pre-requisite to reimbursement under the 2008 Operating Agreement.

The evidence presented at trial demonstrates that the Durham siblings do not consistently vote on Andrew's reimbursement requests.[24] James—who testified that he did not recall ever voting on any of Andrew's reimbursement requests—confirmed that Andrew is owed reimbursement from the LLC. Nevertheless, he explained that, although Andrew is to be reimbursed, it has not been resolved which expenses are credible, and which should be reimbursed.

At trial, therefore, it became clear that, regardless of how the 2008 Operating Agreement—now superseded—was meant to operate, the managing members did not consistently vote pursuant to that Agreement to approve or reject expenditures

[22] *Id.* at 291. As litigation progressed in this matter, however, Jeff sent an email addressed to an accountant in St. Lucia stating: "Do not, under any circumstances, provide ANY additional funds to Andy. The owners will review his expenses when he returns." *Id.* at 313.
[23] Pl.'s Tr. Ex. Tab D at 32 (emphasis omitted).
[24] At trial, Dee explained that she and Jeff often communicate with James when majority approval of the managing members is required. However, at trial, James testified that he did not recall ever voting on whether to approve any of Andrew's reimbursement requests.

of the non-managing member under $2,000, and that Andrew was at times encouraged to make expenditures up to $2,000 without seeking authorization. Based on that course of conduct, I find that Andrew is entitled to reimbursement for all expenditures under $2,000 made on behalf of the LLC. It was clear from the testimony at trial that other members of the LLC agree that Andrew is entitled to some reimbursement. The remaining task, therefore, is to identify reimbursable expenses.

According to his Amended Complaint and other submissions, included in Andrew's reimbursement request are expenses related to property inspection; maintenance of and improvements to the properties, including supplies; landscaping and minor contracting; phone calls; "[visits to] the properties for inspection, deliveries of supplies, staff training;" legal expenses; and a personal loan to his brother Davis.[25] In total, Andrew seeks $28,983.14 plus interest. The Defendant concedes that Andrew is owed $1,504.90—the amount that has purportedly been approved by the managing members—but disputes the remainder.

Although, at trial, Andrew presented this Court with a binder of exhibits, including the documentation that he contends supports his reimbursement request, he did not testify as to these expenses, or even aver under oath the accuracy of the

[25] *See, e.g.*, Am. Compl. ¶¶ 34-35, 67; Pl.'s Tr. Ex. Tab H at 134 (invoicing the "[l]oan to Davis, based on Grapetree amounts owed him").

documentation. Ordinarily, I would conclude that the Plaintiff had not met his burden to authenticate the documentation and thus support his claims. Here, however, the Plaintiff is representing himself *pro se*, and although "self-representation is not a blank check for defect,"[26] this Court has the discretion to "exhibit some degree of leniency toward a *pro se* litigant, in order to see that his case is fully and fairly heard."[27] Although this leniency is typically applied towards deficiencies in the filings of *pro se* litigants, I find that the application of leniency here is appropriate for the limited purpose of permitting authentication, if appropriate, of the Plaintiff's exhibits, to allow the matter to be determined on its merits.[28] Therefore, I will reopen the record for the limited purpose of allowing the Plaintiff to attempt to authenticate the exhibits he contends support his request for

[26] *Kelly v. Fuqi Int'l, Inc.*, 2013 WL 135666, at *6 (Del. Ch. Jan. 2, 2013) (internal quotation marks omitted) ("The Court of Chancery is a court of equity, which at its core, deals in concepts of fairness. Consequently, there is a great deal that I, and my peers on the Court, will undertake to ensure that every plaintiff gets a chance to be heard. For example, pro se pleadings may be judged by a 'less stringent standard' than those filed by an attorney, and Delaware courts have the discretion to 'look to the underlying substance of a pro se litigant's filings rather than rejecting filings for formal defects. . . .'") (citation omitted).

[27] *Jackson v. Unemployment Ins. Appeal Bd.*, 1986 WL 11546, at *2 (Del. Super. Sept. 24, 1986); *see also Quinones v. Access Labor*, 2008 WL 2410170, at *5 n.25 (Del. Super. Mar. 18, 2008); *Sloan v. Segal*, 2008 WL 81513, at *7 (Del. Ch. Jan. 3, 2008) ("An analysis of the leniency granted to pro se litigants in other situations suggests that Delaware courts, at their discretion, look to the underlying substance of a pro se litigant's filings rather than rejecting filings for formal defects and hold those pro se filings to 'a somewhat less stringent technical standard' than those drafted by lawyers.") (citation omitted).

[28] *See Zhai v. Stein*, 2012 WL 1409358, at *6 (Del. Super. Jan. 6, 2012) ("[T]his Court will hold a *pro se* plaintiff's complaint to a 'somewhat less stringent technical standard' than a complaint prepared by an attorney. The same rules, however, still apply to a *pro se* Plaintiff; this Court will accommodate them only to the extent that the substantive rights of the opposing party are not affected.") (citation omitted).

reimbursement. To be clear, I am not reassigning the burden of proof to show reimbursable expenses, which remains with the Plaintiff.

Because Grapetree and certain of its managing members have conceded that Andrew is owed at least some reimbursement for expenses he incurred on behalf of the LLC, which ostensibly includes certain reimbursements that have not yet been approved by the managing members, I must determine what claimed expenses benefit the LLC. At this juncture, however, as discussed above, there is insufficient evidence in the record to make that determination. Thus, I request that the parties submit additional memoranda as to the specific expenses for which reimbursement is requested, together with affidavits in support of documentation, as appropriate. If any party believes that the affidavits referred to above constitute new evidence subject to cross-examination, that party should seek leave to reopen the trial record for that limited purpose only.

While I cannot further resolve the issue at present, the following findings are consistent with the 2008 Operating Agreement as clarified by the course of conduct of the parties, and should guide the parties going forward:

1) Andrew is entitled to seek reimbursements for expenses under $2,000 that he incurred to benefit the LLC within the three years before filing his Complaint;

he is not entitled to reimbursement for claims older than three years, which are barred by analogy to the statute of limitations.[29]

2) Andrew is not entitled to expenses related to the litigation of this matter, such as the costs of traveling to court, filing documents, and responding to discovery. He is likewise not entitled to expenses incurred while litigating in the Court of Common Pleas, nor will this Court order that the LLC pay the expenses he incurred while litigating the 220 Action that preceded this matter.[30]

3) While Andrew may submit records of travel expenses for trips taken to St. Lucia and Costa Rica *specifically on behalf of the LLC*, if any, he is not entitled to reimbursement for personal trips to these villas, even if, once there, he made improvements to the property. Partaking in maintenance while on vacation does not transform vacation travel into an expense incurred for the benefit of the LLC. That is not to say, however, that expenditures for necessary supplies to facilitate maintenance and improvement projects while on vacation are not reimbursable.

[29] The parties do not dispute that, pursuant to the 2008 Operating Agreement, a vote is required if a member or managing member requests reimbursement for expenses over $2,000. *See* 2008 Operating Agmt. ("Unless stated otherwise, the majority vote of three fifths (3/5) of the members will be required to determine major issues, including issues pertaining to making any expenditure exceeding $2,000.").

[30] It seems that certain fees incurred by Andrew while litigating the 220 Action, which preceded this matter and which was settled out of court, have been paid or promised. However, "Delaware, like many other states, does not grant attorneys' fees to self-represented litigants." *Adams v. Calvarese Farms Maint. Corp., Inc.*, 2010 WL 3944961, at *24 (Del. Ch. Sept. 17, 2010); *see also Clark v. D.O.W. Fin. Corp.*, 2000 WL 973092, at *7 (Del. Super. May 26, 2000) ("[T]here is no Delaware precedent for granting a *pro se* litigant attorney's fees.").

4) Andrew's personal loan to his brother Davis is not an expense that provided any benefit to the LLC, and is not reimbursable here.

5) To the extent Andrew unilaterally decided to purchase artwork for the property, nothing in the parties' course of dealing indicates that such an expenditure was contemplated by the members of the LLC. Any such artwork remains the personal property of Andrew; he may remove it, but he cannot compel the LLC to purchase it.

2. Grapetree's Request for Sanctions

The remaining issue before me is Grapetree's request that I impose sanctions against Andrew. Grapetree's accompanying brief cites numerous emails from Andrew to counsel containing insults, expletives, derogatory commentary, and, most egregious, personal attacks. In order not to compound the injury that Andrew has caused, I will forgo setting out the text of those attacks here. Counsel also notes that Andrew surreptitiously viewed the LLC's billing records, which "reflect[ed] confidential, privileged communications relating to the litigation," and alleges that he used motions for sanctions of his own as a tactical maneuver to coerce settlement.[31] As a result, Grapetree asks that I forfeit Andrew's claim to reimbursement.

[31] Def.'s Request for Sanctions Against Pl. at 10, 19-20. Although Andrew seemed to think that the threat of sanctions would encourage Grapetree to settle, I find that he also believed that

"The Court does not condone, accept, or permit the use of profanity, acrimony, derisive gibes, or sarcasm with respect to any communication related to any matter, proceeding, writing, meeting, etc."[32] I find that Andrew's communications with Grapetree's counsel contain exactly the sort of inappropriate and unscrupulous attacks not tolerated by this Court,[33] which, "like all Delaware courts, expects civility among parties, even when such parties are *pro se* or self-represented."[34] I must, however, view the appropriate sanction, if any, in light of the litigation as a whole.

Unfortunately, the conduct of the members of this family LLC must be disappointing to those for whom the adjective "familial" retains a positive connotation. It is unfortunate indeed that this litigation, at which little monetarily is at stake, has been so actively, even viciously, litigated. It is indeed ironic that the sole assets of the LLC arose from a testamentary gift from the Durham siblings' father, which itself was, presumably, an act of familial love.

I admonish Andrew to refrain from such behavior in the future, and, as we move forward to the next stage of proceedings, to conduct himself before this

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Grapetree's counsel engaged in sanctionable behavior, and was not solely filing these motions as a tactic to compel settlement.

[32] *Laub v. Danberg*, 2009 WL 1152167, at *4 (Del. Super. Mar. 4, 2009), *aff'd*, 979 A.2d 1111 (Del. 2009) (internal quotation marks omitted).

[33] *See, e.g.*, *id.*; *see also Kelly v. Fuqi Int'l, Inc.*, 2013 WL 135666, at *6 (Del. Ch. Jan. 2, 2013) ("This Court does not condone ad hominem attacks.").

[34] *Adams v. Calvarese Farms Maint. Corp., Inc.*, 2010 WL 3944961, at *21 (Del. Ch. Sept. 17, 2010) (internal quotation marks omitted).

Court and when interacting with Grapetree's counsel and its managing members in a civil manner.[35] However, the incivility has not been committed solely by the Plaintiff here. This litigation has proved as ugly as the vacation properties, illustrated by numerous photographs submitted in evidence, are beautiful. For that reason, I do not adopt the draconian penalty suggested by the LLC, noting that equity rejects incivility but abhors a forfeiture. If Andrew's conduct should recur, however, Grapetree may renew its Motion, and I will not hesitate to impose sanctions as I find appropriate.

IV. CONCLUSION

For the foregoing reasons, I find it appropriate to request additional submissions on the specific reimbursements sought by Andrew, followed by a brief additional hearing if appropriate. Andrew should file a memorandum explaining the expenses he incurred and how they benefited Grapetree, as well as the documentation to support these requests accompanied by appropriate affidavits, within 20 days. Counsel for Grapetree shall respond within 20 days of the opening memorandum, and Andrew, if he so chooses, shall file a reply no later than 14 days thereafter.

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[35] *See, e.g.*, *Laub*, 2009 WL 1152167, at *4 (finding that "Petitioner's use of insulting language to describe Defendants' counsel was uncalled for, and will not be tolerated," and "admonish[ing] Petitioner to conduct himself in matters before the Court with civility and restraint"); *see also Adams*, 2010 WL 3944961, at *21 ("I consider Adams's outbursts and instances of hyperbole to be inappropriate and disrespectful of the litigants and this Court. Therefore, I admonish her to avoid them in the future and to exhibit greater self-control in her efforts to press her arguments in this or any other court.").

To the extent the foregoing requires an Order to take effect, IT IS SO ORDERED.

Sincerely,

/s/ Sam Glasscock III
Sam Glasscock III