

## ESSAY QUESTION NO. 9

### Answer this question in Answer Booklet No. 9

Paul Plaintiff, a property owner in Happy Acres, a subdivision consisting of 125 lots, has sued the Happy Acres Homeowners' Association (HAHA) seeking enforcement of a particular covenant. HAHA has asked you for advice on joining all of the property owners in the subdivision under Civil Rule 19. The facts are as follows.

In 1999, when Plaintiff purchased his lot, the Subdivision was subject to a recorded "Declaration of Protective Covenants" which contained a clause expressly prohibiting property owners from keeping llamas or reindeer within the subdivision. In 2000, after only ten of the lots had sold, the developer recorded an instrument purporting to revoke the prior covenants and enacting new covenants, one of which stated:

Commonly accepted household pets such as dogs, cats, birds and horses are allowed, as long as they are maintained in reasonable numbers and not for commercial purposes. No other animals are allowed in the subdivision.

All of the remaining lots were later sold.

Plaintiff became aware of the new covenants six months ago when he learned that Larry Lam, a recent lot purchaser, owned five llamas and was keeping them on the property as pets. Plaintiff complained to HAHA but HAHA refused to take any action based on its belief that the 2000 covenants governed and that llamas were permissible as "commonly accepted household pets."

Plaintiff filed a lawsuit in state court, naming HAHA as the sole defendant, seeking an order directing HAHA to require removal of the llamas. Plaintiff asserts that the new covenants were not legally promulgated and that the prior covenants prohibiting llamas still govern. Additionally, he argues that even under the new covenants, llamas are not permitted because they are not a "commonly accepted household pet."

Relying on Civil Rule 19, HAHA wants to join as defendants Larry Lam and the remaining 123 property owners as "Persons Needed for Just Adjudication."

- 1) Discuss the purpose of Rule 19, the procedural steps HAHA can take to make this joinder request, and the remedy or remedies HAHA might seek.

- 2) Discuss the relevant facts and legal standards the court should apply in determining whether Larry Lam and the remaining 123 property owners should be joined under Civil Rule 19(a).
- 3) Assume for purposes of this question the court concludes that Larry and the remaining 123 property owners should be joined under Civil Rule 19(a) but that it is not feasible to join five of the property owners (none of whom is Larry) who purchased after the new covenants were passed. Discuss whether the five absent owners are indispensable parties under Rule 19(b).