

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF WESTCHESTER

-----X  
TURFSCAPES, LLC,

Plaintiff,

-against-

**Notice of Appeal**

THE LANDTEK GROUP, INC., ERICH GOLF, LLC,  
IRVINGTON UNION FREE SCHOOL DISTRICT, and  
HANOVER INSURANCE COMPANY.

Index No.: 62770/2017

Hon. Linda S. Jamieson, J.S.C.

Defendants.

-----X

**COUNSELORS:**

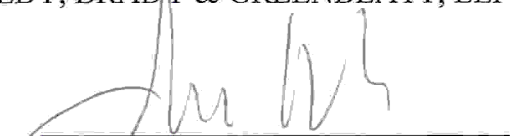
**PLEASE TAKE NOTICE** that co-defendants THE LANDTEK GROUP, INC. and HANOVER INSURANCE COMPANY hereby appeal to the Appellate Division of the Supreme Court of the State of New York, Second Judicial Department from a Judgment of the Supreme Court, Westchester County, signed April 8, 2019 and received by NYSCEF on April 8, 2019 (NYSCEF Doc #182); and, pursuant to CPLR 5501(a)(2), from the underlying Decision and Order of the Supreme Court, Westchester County, dated February 25, 2019 and received by NYSCEF on March 4, 2019 (NYSCEF Doc #154).

Dated: White Plains, New York  
April 9, 2019

Yours, etc.,

WELBY, BRADY & GREENBLATT, LLP

By:



John J. P. Krol

*Attorneys for co-Defendants*

*The LandTek Group, Inc. and*

*Hanover Insurance Company*

11 Martine Avenue, 15th Floor

White Plains, New York 10606

TO:

**VIA First-Class Mail**

Clerk of the Trial Court to the Hon. Linda S. Jamieson, J.S.C.  
Commercial Division  
Supreme Court of the State of New York, County of Westchester  
111 Dr. Martin Luther King, Jr. Boulevard  
White Plains, New York

**VIA NYSCEF and First-Class Mail**

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**VIA First-Class Mail**

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**VIA NYSCEF and First-Class Mail**

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# Supreme Court of the State of New York

## Appellate Division: Second Judicial Department

Informational Statement (Pursuant to 22 NYCRR 1250.3 [a]) - Civil

Case Title: Set forth the title of the case as it appears on the summons, notice of petition or order to show cause by which the matter was or is to be commenced, or as amended.

TURFSCAPES, LLC,  
Plaintiff,

- against -

THE LANDTEK GROUP, INC., ERICH GOLF, LLC, IRVINGTON UNION  
FREE SCHOOL DISTRICT, and HANOVER INSURANCE COMPANY,  
Defendants.

For Court of Original Instance

Date Notice of Appeal Filed

For Appellate Division

### Case Type

- Civil Action  
 CPLR article 75 Arbitration  
 CPLR article 78 Proceeding  
 Special Proceeding Other  
 Habeas Corpus Proceeding

### Filing Type

- Appeal  
 Original Proceedings  
 CPLR Article 78  
 Eminent Domain  
 Labor Law 220 or 220-b  
 Public Officers Law § 36  
 Real Property Tax Law § 1278  
 Transferred Proceeding  
 CPLR Article 78  
 Executive Law § 298  
 CPLR 5704 Review

**Nature of Suit:** Check up to three of the following categories which best reflect the nature of the case.

<input type="checkbox"/> Administrative Review	<input type="checkbox"/> Business Relationships	<input checked="" type="checkbox"/> Commercial	<input checked="" type="checkbox"/> Contracts
<input type="checkbox"/> Declaratory Judgment	<input type="checkbox"/> Domestic Relations	<input type="checkbox"/> Election Law	<input type="checkbox"/> Estate Matters
<input type="checkbox"/> Family Court	<input type="checkbox"/> Mortgage Foreclosure	<input type="checkbox"/> Miscellaneous	<input type="checkbox"/> Prisoner Discipline & Parole
<input type="checkbox"/> Real Property (other than foreclosure)	<input checked="" type="checkbox"/> Statutory	<input type="checkbox"/> Taxation	<input type="checkbox"/> Torts

Informational Statement - Civil

Appeal	
Paper Appealed From (Check one only):	If an appeal has been taken from more than one order or judgment by the filing of this notice of appeal, please indicate the below information for each such order or judgment appealed from on a separate sheet of paper.
<input type="checkbox"/> Amended Decree <input type="checkbox"/> Amended Judgement <input type="checkbox"/> Amended Order <input type="checkbox"/> Decision <input type="checkbox"/> Decree	<input type="checkbox"/> Determination <input type="checkbox"/> Finding <input type="checkbox"/> Interlocutory Decree <input type="checkbox"/> Interlocutory Judgment <input type="checkbox"/> Judgment
<input type="checkbox"/> Order <input checked="" type="checkbox"/> Order & Judgment <input type="checkbox"/> Partial Decree <input type="checkbox"/> Resettled Decree <input type="checkbox"/> Resettled Judgment	<input type="checkbox"/> Resettled Order <input type="checkbox"/> Ruling <input type="checkbox"/> Other (specify):
Court: Supreme Court <input checked="" type="checkbox"/>	County: Westchester <input checked="" type="checkbox"/>
Dated: 04/08/2019	Entered: 04/08/2019
Judge (name in full): Hon. Linda S. Jamieson, J.S.C.	Index No.: 62770/2017
Stage: <input type="checkbox"/> Interlocutory <input type="checkbox"/> Final <input checked="" type="checkbox"/> Post-Final	Trial: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If Yes: <input checked="" type="checkbox"/> Jury <input type="checkbox"/> Non-Jury
Prior Unperfected Appeal and Related Case Information	
Are any appeals arising in the same action or proceeding currently pending in the court? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
If Yes, please set forth the Appellate Division Case Number assigned to each such appeal.	
Where appropriate, indicate whether there is any related action or proceeding now in any court of this or any other jurisdiction, and if so, the status of the case:	
Original Proceeding	
Commenced by: <input type="checkbox"/> Order to Show Cause <input type="checkbox"/> Notice of Petition <input type="checkbox"/> Writ of Habeas Corpus	Date Filed:
Statute authorizing commencement of proceeding in the Appellate Division:	
Proceeding Transferred Pursuant to CPLR 7804(g)	
Court: Choose Court	County: Choose County
Judge (name in full):	Order of Transfer Date:
CPLR 5704 Review of Ex Parte Order:	
Court: Choose Court	County: Choose County
Judge (name in full):	Dated:
Description of Appeal, Proceeding or Application and Statement of Issues	
<p>Description: If an appeal, briefly describe the paper appealed from. If the appeal is from an order, specify the relief requested and whether the motion was granted or denied. If an original proceeding commenced in this court or transferred pursuant to CPLR 7804(g), briefly describe the object of proceeding. If an application under CPLR 5704, briefly describe the nature of the ex parte order to be reviewed.</p> <p>Money Judgment entered against co-defendants, THE LANDTEK GROUP, INC. and HANOVER INSURANCE COMPANY, signed April 8, 2019 (NYSCEF Doc #182), implicating NYSCEF Doc ## 166, 167, 179, and 180; and pursuant to CPLR 5501(a) (2), the underlying Decision and Order dated February 25, 2019 (NYSCEF Doc #154) which DENIED the LANDTEK and HANOVER motion (NYSCEF Doc #131 through #153) in its entirety.</p>	

Informational Statement - Civil

Issues: Specify the issues proposed to be raised on the appeal, proceeding, or application for CPLR 5704 review, the grounds for reversal, or modification to be advanced and the specific relief sought on appeal.

Co-defendants and co-appellants, LANDTEK and HANOVER will raise the issue that the jury had no valid line of reasoning, nor permissible inference, on which to base its determination as to quantum. It is the position of LANDTEK and HANOVER that the jury arrived at an arithmetic inconsistency when compared to the weight of the evidence. LANDTEK and HANOVER will raise the issue the verdict sheet (NYSCEF #167) indicates that the jury, in connection with the judgment (NYSCEF Doc #182) did not return a verdict on behalf of TURFSCAPES, LLC and that the March 26, 2019 Extract (NYSCEF Doc #179) does not reflect, and differs significantly from, the initial March 19, 2019 Extract (NYSCEF Doc #166), which was a "true extract of the minutes" and which referenced the verdict sheet.

The verdict sheet (NYSCEF Doc #167) can not and does not support the Judgment entered (NYSCEF Doc #182). Therefore, the Judgment must be vacated.

Consequently, neither LANDTEK nor HANOVER can be deemed responsible to TURFSCAPES (NYSCEF Doc #180). In the alternative, co-defendants and co-appellants LANDTEK and HANOVER seek a new trial.

### Party Information

Instructions: Fill in the name of each party to the action or proceeding, one name per line. If this form is to be filed for an appeal, indicate the status of the party in the court of original instance and his, her, or its status in this court, if any. If this form is to be filed for a proceeding commenced in this court, fill in only the party's name and his, her, or its status in this court.

No.	Party Name	Original Status	Appellate Division Status
1	TURFSCAPES, LLC	Plaintiff <input type="checkbox"/>	Respondent <input type="checkbox"/>
2	THE LANDTEK GROUP, INC.	Defendant <input type="checkbox"/>	Appellant <input type="checkbox"/>
3	ERICH GOLF, LLC	Defendant <input type="checkbox"/>	None <input type="checkbox"/>
4	IRVINGTON UNION FREE SCHOOL DISTRICT	Defendant <input type="checkbox"/>	None <input type="checkbox"/>
5	HANOVER INSURANCE COMPANY	Defendant <input type="checkbox"/>	Appellant <input type="checkbox"/>
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Informational Statement - Civil

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