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 6 HERMINE MURRA

FILED
 SUPERIOR COURT OF CALIFORNIA
 COUNTY OF SAN BERNARDINO
 SAN BERNARDINO DISTRICT

JAN 19 2017

BY Scott Love
 SCOTT LOVE, DEPUTY

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 9 FOR THE COUNTY OF SAN BERNARDINO

By Fax

10 ARROWHEAD WOODS)
 11 ARCHITECTURAL COMMITTEE, INC., a)
 12 California corporation,)
 13 Plaintiff)
 14 vs.)
 15 HERMINE MURRA,)
 16 Defendant)

Case No.: CIVDS 1405048

**LOCAL RULE 415 DECLARATION RE
 MOTION IN LIMINE TO EXCLUDE ALL
 EVIDENCE RELATED TO AUTHORITY
 OF ARROWHEAD WOODS
 ARCHITECTURAL COMMITTEE, INC.
 TO ENFORCE RESTRICTIONS.**

Trial: January 30, 2017
 Time: 10:00 a.m.
 Dept.: ~~87~~ 26

23 **DECLARATION OF ROBERT G. BERKE**

24 Pursuant to San Bernardino Superior Court Local Rule 415 governing Motions In
 25 Limine, I, ROBERT G. BERKE, hereby declare and say:

26 1. I am an attorney at law duly admitted to practice before all the courts of the
 27 State of California and the attorney of record herein for defendant Hermine Murra.
 28

1 2. I have filed in conjunction with this Declaration a Motion in Limine that
 2 provides a clear identification of the specific matter alleged to be inadmissible and prejudicial.
 3 To wit, on January 16, 2017, opposing counsel John Wurm emailed to me a "MOTION IN
 4 LIMINE RE STATUTE OF LIMITATIONS AND LACHES FOR CHALLENGING
 5 EXTENSION OF DECLARATION OF RESTRICTIONS, APPLICABILITY OF
 6 CORPORATION QUIT CLAIM DEED AND WAIVER." He has since indicated he will file
 7 the document on the day of the Trial Ready Conference, January 26, 2017. The Motion
 8 examines the following issues: "1. Has the Declaration of Restrictions been extended? 2. Has
 9 the time in which Defendants have to challenge the Declaration of Restrictions passed and their
 10 challenge barred by the Statute of Limitations in Code of Civil Procedure Section 343? 3. Is
 11 Defendants' challenge barred by Laches? 4. Are the CC&R Renewal Ballots valid? 5. Is
 12 Plaintiff the successor Architectural Committee to the Architectural Committee established in
 13 the Declaration of Restrictions? 6. Is Defendants' property subject to the Corporation Quitclaim
 14 Deed? 7. Is Plaintiff the successor Architectural Committee to the Architectural Committee
 15 designated in the Corporation Quitclaim Deed?" The Motion in Limine I filed today seeks to
 16 exclude all evidence related to the Declaration of Restrictions and extension thereof on the
 17 grounds that such evidence will only serve to mislead a jury since Plaintiff did not comply with
 18 the clear and explicit textual requirements of the Declaration of Restrictions and made
 19 misrepresentations in the Certification of Amendment which it recorded to extend the
 20 Declaration of Restrictions.

21 3. After receipt of the email, my office contacted Mr. Wurm to discuss the subject,
 22 and he did not evince an interest in stipulating that such matter will not be mentioned or
 23 displayed in the presence of the jury unless and until it is admitted in evidence.


24 4. The specific prejudice that will be suffered by Defendant if the Motion is not
 25 granted consists, *inter alia*, in the fact that no document related to the extension of the
 26 Declaration of Restrictions was signed and acknowledged by the owners of record so as to
 27 entitle it to be recorded. This fact alone frustrates the clear and explicit intent of the original
 28 Declarant and demonstrates the misleading and dangerously prejudicial nature of Plaintiff's

1 alleged evidence. Additionally, the original grantor in the Grant Deed governing Tract 53
 2 reserved all rights with respect to trees, and for improvements, buildings and/or the location or
 3 construction of buildings or improvements on the tract. Therefore, Plaintiff has no authority to
 4 enforce any such restrictions over Tract 53. Defendant will suffer prejudice if Plaintiff is
 5 allowed to persuade the jury, in violation of California's "Best Evidence" rule (Evidence Code
 6 Section 1521) that the documents provide authority for which there is no legal basis. Because
 7 the documents are insufficient as a matter of law to prove a prima facie case, Defendant will
 8 suffer prejudice if they are submitted to the jury to be tried as a matter of fact.

9 I declare under penalty of perjury under the laws of the State of California that the
 10 foregoing is true and correct.

11 DATED: January 18, 2017

BERKE LAW OFFICES

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 13 By: 
 14 ROBERT G. BERKE
 15 Attorney for Defendant,
 16 Hermine Murra.

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PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, California. I am over the age of 18 and not a party to the within action; My business address is: 7236 Owensmouth Avenue, Suite D, Canoga Park, CA 91303.

On January 18, 2017 I served the foregoing document described as:

LOCAL RULE 415 DECLARATION RE MOTION IN LIMINE TO EXCLUDE ALL EVIDENCE RELATED TO AUTHORITY OF ARROWHEAD WOODS ARCHITECTURAL COMMITTEE, INC. TO ENFORCE RESTRICTIONS.

on the interested parties in this action by:

(BY MAIL) I placed a true copy thereof enclosed in a sealed envelope addressed and caused such envelope with postage thereon fully prepaid to be placed in the United States Mail and/or Federal Express and/or Express Mail at Los Angeles, CA addressed as follows:

LAW OFFICES OF JOHN G. WÜRM
P.O. Box 1875, Lake Arrowhead, CA 92352

(BY EMAIL) I also caused an electronic copy of the foregoing document to the address at the following e-mail address which was obtained from correspondence received from the addressee:

(BY PERSONAL SERVICE) I caused such document to be delivered by hand to the addressee.

(BY FAX) I caused a copy of such document to be faxed to the offices of the addressees at the following Fax Numbers:

(State) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

(Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed this 18th day of January 2017 at Los Angeles, California.



Carlo Brooks

RECEIVED
JAN 19 2016
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO