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

OCT 08 2015

BY 
JESSICA JOANIS, DEPUTY

6 Attorney for Plaintiff, Arrowhead
7 Woods Architectural Committee, Inc.,
8 a California corporation

8 SUPERIOR COURT CALIFORNIA,

9 COUNTY OF SAN BERNARDINO CENTRAL DISTRICT

11 ARROWHEAD WOODS)
12 ARCHITECTURAL COMMITTEE,)
13 INC., a California corporation,)

Case No: CIVDS 1400240

13 Plaintiff,

**MEMORANDUM OF POINTS AND
14 AUTHORITIES IN SUPPORT OF
15 MOTION FOR ATTORNEY'S FEES**

15 v.

16 GEORGE D. HATT, DONNA R. HATT, and)
17 all persons unknown claiming any legal or)
18 equitable right, title, estate, lien or interest in)
19 the property described in the Complaint,)
20 named as DOES 1 to 50, inclusive)

Date: November 10, 2015
Time: 8:30 a.m.
Dept: S-37

20 Defendants.

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INTRODUCTION

1
2 Plaintiff requests a determination that it is the prevailing party and for attorney's fees.
3 Plaintiff requests \$33,990.36 for attorney's fees, (\$2,816.69 for secretarial time and \$31,123.67 for
4 attorney's time). Plaintiff also requests \$1,290.00 in attorney time for filing and appearing on the
5 Motion, approval of costs as set forth in Memorandum of Costs, and \$1,230.00 in expert fees.
6

FACTS

7
8 Plaintiff prevailed on its claim that it had the authority to enforce the Declaration of
9 Restrictions and that its authority to enforce the Declaration of Restrictions had been extended by
10 the Certificate of Amendment. (Exhibits "1" and "2" for trial.) Defendants sought to invalidate
11 Plaintiff's ability and authority to enforce the Declaration of Restrictions. Defendants filed two
12 motions to bifurcate claiming Plaintiff did not exist, both of which were denied. Had Defendants
13 prevailed, Plaintiff's authority to enforce the Declaration of Restrictions could have been
14 eliminated. Plaintiff would not have been able to protect the forest in Arrowhead Woods. Property
15 owners in Arrowhead Woods would have lost tens of millions or hundreds of millions of dollars in
16 value because the neighborhoods would be severely degraded. Property owners' enjoyment of
17 their properties, some of which cost millions of dollars, would be severely degraded because there
18 would be no standards for construction and property maintenance.
19
20

21
22 The Defendants contended, on numerous occasions, "Plaintiff does not exist". Plaintiff was
23 fighting a legal battle for its very existence. Defendants sought to destroy Plaintiff. Plaintiff had no
24 choice but to establish its legal authority. Defendants had publicized the issue through a newspaper
25 article. Defendants had removed a large very visible tree. Once the Defendants had publicized this
26 matter, after having removed a large very visible tree, there was not choice left for Plaintiff but to
27 defend its right to exist.
28

1 Plaintiff requested more information from Defendants about the tree before filing the
2 Complaint, but Defendants failed to provide any. Had Defendants not contested Plaintiff's
3 authority and provided the evidence they provided at trial about the condition of the tree, there
4 might not have been a trial or the attorneys' fees would have been minimal. At trial, Plaintiff
5 reduced damages claimed after Defendants introduced evidence of the trees' condition and size.
6 Plaintiff stipulated to vacate Defendants' default.

7 The Declaration of Restrictions provided for breach of the Declaration, the Plaintiff would
8 have the right to seek damages, injunctive relief, and attorney's fees in any action in which the
9 Plaintiff was the prevailing party. See Article XII(b)(d), Exhibit 1;

10 Article XII(b) provides that: "*The violation or breach of any of the covenants, conditions,*
11 *restrictions or reservations herein contained shall give . . . the Architectural Committee . . . the*
12 *right* to prosecute a proceeding at law or in equity against the person or persons who have violated
13 or are attempting to violate any of the covenants, conditions, restrictions or reservations to prevent
14 or enjoin them from so doing, to cause said violation to be remedied, or to *recover damages for*
15 *said violation.*" (Emphasis added.)

16 "(d) Any legal or equitable proceeding for the enforcement or to restrain the violation of
17 any provision of this Declaration, the prevailing party shall be entitled to recover such reasonable
18 attorney's fees as the Court shall award from the unsuccessful party or parties."

19 Before the Complaint was filed, Mr. Hatt said that even if he had been told by Plaintiff not
20 to cut down the tree "I would have cut down the tree anyway", he wanted to "let a judge decide who
21 was right" and "Please take me to court – I will enjoy the defense." After the Complaint was filed,
22 his attitude changed. Without filing the Complaint, the evidence is clear that Defendants wouldn't
23 acknowledge Plaintiff's authority to prohibit tree removal and felt they were free to cut down more
24 trees. Since Mr. Hatt had already removed one large tree, it was reasonable and necessary to file for
25 an injunction to prevent him from cutting down more trees.
26

27 Although the Court denied the Plaintiff's request for injunction, the Court did caution Mr.
28 Hatt that if he intended to cut trees in the future, he should take the request to the Plaintiff, as the

1 Plaintiff had authority over those matters. See page 8, lines 24-26 of the Transcript.

2
3 I.

4 **AS PREVAILING PARTY, PLAINTIFF IS ENTITLED TO COST AND**
5 **ATTORNEY'S FEES**

6 Code of Civil Procedure §1032(a)(4) defines a prevailing party as “the party with a net
7 monetary recovery.” Plaintiff had a net monetary recovery, and as such is the prevailing party by
8 statute. It is also provides, “When a party recovers other than monetary relief and in situations other
9 than as specified, the ‘prevailing party’ shall be determined by the court, and under those
10 circumstances, the court, in its discretion, may allow costs or not” . . . Although Plaintiff was the
11 prevailing party by statute and is entitled to costs and attorney’s fees, Plaintiff also prevailed on the
12 most important issue of the action; it established its continued authority to enforce the Declaration
13 of Restrictions. This was the first action filed after the Declaration of Restrictions had been
14 extended. Since the Defendants based their defense on “Plaintiff does not exist”, Plaintiff had to
15 defend its existence. Plaintiff was successful in establishing its authority to enforce the Declaration
16 of Restrictions and establish that the Declaration of Restrictions had been validly renewed.

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19 In *Zamora v. Shell Oil Co.* (1997) 55 Cal.App.4th 204, the Appellate Court discussed a
20 somewhat similar situation. In that decision, a defendant, Western Plastic and Rubber Co.
21 (“Western”) was found liable to 34 plaintiffs. *Zamora* at 206. However, due to credits from prior
22 settlements, plaintiffs did not have a monetary recovery. The trial court found that the plaintiffs
23 were the prevailing party and entitled to costs under §1032. Western appealed and the Appellate
24 Court upheld the trial court’s decision at 213, the Appellate Court cited §1032 which provides:
25 “Except as otherwise expressly provided by statute, a prevailing party is entitled as a matter of right
26 to recover costs in any action or proceeding and ‘prevailing party’ includes the party with a net
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1 monetary recovery.” The Appellate Court also stated that “when a party recovers other than the
2 monetary relief, and in situations other than specified, the ‘prevailing party’ shall be determined by
3 the court”. At trial, the jury found that Western was strictly liable and awarded the homeowners
4 over \$200,000 in damages. *Zamora* at 213. However, Western was able to use credits from prior
5 settlements, and the judgment entered against Western was zero. The Appellate Court stated: “A
6 plaintiff will be considered a prevailing party when the lawsuit yields the *primary relief sought* in
7 the case” (italics added). The court further stated “prevailing on the issue of liability may be
8 deemed sufficient in itself to determine a prevailing party under the broad definition of §1032.”
9
10 The court discussed an earlier case which also found that the plaintiff was the prevailing party even
11 though it did not obtain a monetary settlement.
12

13 Plaintiff was clearly the prevailing party. Not only did it obtain monetary relief and is the
14 prevailing party under the statute, but it also obtained the “primary relief sought”. It proved it
15 exists, it has the authority to enforce the Declaration of Restrictions, and that the Declarations of
16 Restrictions were extended. As the prevailing party, Plaintiff is entitled to its costs, which includes
17 attorney’s fees under the Declaration of Restrictions. The vast majority of the fees, 90% were
18 expended on the issue of Plaintiff’s right to enforce the Declaration of Restrictions and Plaintiff’s
19 “existence”.
20

21
22 **II.**

23 **PLAINTIFF IS ENTITLED TO ATTORNEY'S FEES PURSUANT**
24 **TO CODE OF CIVIL PROCEDURE SECTION 1033.5**

25 Code of Civil Procedure Section 1033.5(a) 10(a) provides that attorney's fees and costs to be
26 awarded on a noticed motion when authorized by statute under Civil Code Section 1717. In *Stokus*
27 *v. Marsh* (1990) 217 Cal.App.3d 647, 656-57, the court set forth criteria on which to determine
28

1 reasonable attorney's fees and costs.

2 The court said in exercising its sound discretion to award attorney's fees the court should
3 consider the following factors.

- 4 1. The nature of the litigation;
- 5 2. Its difficulty;
- 6 3. The skill required and the skill employed;
- 7 4. The attention given;
- 8 5. The success of the attorney;
- 9 6. The attorney's learning, age, experience;
- 10 7. The intricacies and importance of the litigation;
- 11 8. The labor and necessity for skilled legal training;
- 12 9. The time consumed.

13 These factors are discussed in the Declaration of John G. Wurm.

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17 **III.**

18 **PLAINTIFF OBTAINED THE GREATER RELIEF**

19 Plaintiff seeks attorney's fees under Civil Code §1717 as the prevailing party, as defined in
20 Code of Civil Procedure §1032. §1717(b)(1) provides that Court shall determine who is the party
21 prevailing on the contract. It also provides "The party prevailing on the contract shall be the party
22 who recovered a greater relief in the action on the contract." Plaintiff clearly was the party
23 recovering the greater relief. Most importantly, Plaintiff succeeded in establishing it's authority to
24 enforce the Declaration of Restrictions, including building standards and cutting trees, and that the
25 Declaration of Restrictions had been validly extended. These achievements were vital to Plaintiff.
26 Without them, Plaintiff could have lacked the authority to continue to force the Declaration of
27
28

1 Restrictions for thousands of lots in Arrowhead Woods.

2 Defendants may contend that they are the prevailing party only because the Court declined
3 to issue an injunction. However, Mr. Hatt was admonished by the Court not to cut any more trees
4 without seeking permission from Plaintiff. In *de la Cuesta v. Benham* (2011), 193 Cal.App.4th
5 1287, the Court discussed the issue of prevailing party in a contract under §1717. In *Cuesta*, the
6 Plaintiff recovered part of the damages claimed. The Plaintiff was a landlord and after filing the
7 Complaint, the Defendant moved out of the premises prior to trial. The Defendant asserted that she
8 did not owe the landlord anything because of the condition of the premises. *De la Cuesta* at 1290.
9
10 In this action, the Defendants asserted they didn't owe the Plaintiff anything because the Plaintiff
11 had no authority to enforce the Declaration of Restrictions. Like in *Cuesta*, the Plaintiff made a
12 partial recovery and Plaintiff also achieved its primary goal of establishing the validity of the
13 Declaration of Restrictions, and that they had been validly extended.
14

15 The Court in *de la Cuesta* had to decide who was the prevailing party when “ostensibly
16 prevailing party receives only a part of the relief sought. *De la Cuesta* 1293. At 1294, the Court
17 said, “Essentially, the trial court is to attain an overview of the totality of the case, then compare the
18 extent to which each party has won and lost. . . the trial court is to compare the relief awarded on
19 the contract claim . . . and (the parties’) litigation objectives as disclosed by the pleadings, trial
20 briefs, opening statements and similar sources. The prevailing party determination is to be made
21 only upon trial resolution of the contract claims and only by a comparison of the extent to which
22 each party has succeeded and failed to succeed in its contentions.” Using that standard, Plaintiff is
23 clearly the prevailing party, not only did it prevail on the Plaintiff’s damages, most importantly it
24 established that it had the authority to enforce the Declaration of Restrictions and that the extension
25 was valid. At 1295, the Court emphasized that the prevailing party is “the party obtaining a greater
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1 relief a “greater relief” - a comparative term. . . , (the trial court) must identify the party obtaining
2 “a greater relief” by examining the results of the action in relative terms: The general term
3 “greater” includes “larger in size than the others of same kind as well as “principal, of the same
4 kind . . .”. The Court also said that even a party denied relief may “be found to be a prevailing party
5 if it is clear that the party has otherwise achieved its main litigation objective”. In *de la Cuesta*, like
6 in this action, the Defendant asserted that the Defendants did not owe anything to the Plaintiff,
7 Defendant’s claim that the Plaintiff had no authority to enforce the CC&Rs. On the other hand,
8 Plaintiff was awarded damages and established its primary objective; that it had the authority to
9 enforce the CC&Rs and that the extension was valid. Additionally, during the course of the
10 litigation, Plaintiff stopped Defendants from cutting any further trees and Mr. Hatt was advised by
11 the Court not to cut more trees. In *de la Cuesta*, the landlord achieved his goal of obtaining
12 possession of the premises because the tenant vacated the day before trial. In this action, the Court
13 admonished Mr. Hatt that even though an injunction was not issued against him, he should seek
14 permission from Plaintiff before cutting any further trees.
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18 Another action that discussed prevailing party issues was *In re Tobacco Cases I (2013)*, 216
19 Cal.App.4th 570. In that case, just as in this action, the Plaintiff filed for an injunction. The party
20 sought to be enjoined, represented to the Court that it had voluntarily ceased the activity, and that
21 “injunctive relief was unwarranted” and “there was no proof of actual damage”. *Tobacco* at 575. In
22 this action, Mr. Hatt never voluntarily agreed not to cut trees. Instead, he continually asserted that
23 he had the right to cut trees. At 576, the Court said the party seeking attorney’s fees was “the
24 prevailing party since it achieved its main litigation objective of stopping (the activity to be
25 enjoined)”. Even though an injunction was not issued, Plaintiff achieved its “main litigation
26 objective” of establishing its authority to enforce the CC&Rs and that the extension of the
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1 Declaration of Restrictions was valid. Unlike in *Tobacco* cases, Plaintiff in this action did recover
2 damages. At 577, the Court further stated that “the trial court is to compare the relief awarded on
3 the contract claim or claims that the parties demand on those same claims and their litigation
4 objectives as disclosed by the pleadings, trial briefs, opening statements and similar resources. The
5 prevailing party’s determination is to be made only upon final resolution of the contract claims, and
6 only by comparison of the extent to which each party had succeeded and failed to succeed in its
7 contentions. In determining litigation success, the Court should respect the substance rather than
8 the form, and that this extension be guided by equitable consideration. For example, a party who is
9 denied direct relief on a claim may nonetheless be found to be a prevailing party if it is clear that the
10 party has otherwise achieved main litigation objective”. . . The vast majority of Plaintiff’s case
11 involved establishing its authority to enforce the Declaration of Restrictions and the extension.
12 While Plaintiff was seeking more damages than awarded and an injunction, those goals were
13 secondary to Plaintiff’s survival. Plaintiff reduced the amount of damages sought at trial once
14 Defendants introduced evidence of the condition of the tree. Plaintiff’s was successful in stopping
15 Mr. Hatt from cutting down further trees and he was advised to get permission from Plaintiff.

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19 **IV.**

20 **PLAINTIFFS ARE ENTITLED TO ATTORNEY’S FEES**

21 **UNDER PRIVATE ATTORNEY GENERAL**

22 Code of Civil Procedure §1021.5 provides that an attorney’s fees may be awarded when an
23 action “has resulted in enforcement of an important right affecting public interest if: (a) a significant
24 benefit, . . . has been conferred on the general public or a large class of persons, (b) the necessity
25 and financial burden of the private enforcement are such as to make the award appropriate. . .”.

26
27
28 In this action, Plaintiff succeeded in conferring a significant benefit to the Arrowhead

1 Woods community, consisting of thousands of residential lots, of the continued enforcement of the
2 Declaration of Restrictions. This preserved tens of millions or perhaps hundreds of millions of
3 dollars of property value. The Defendants sought to destroy Plaintiff's existence and its ability to
4 enforce the Declaration of Restrictions, which could have resulted in devaluing the Arrowhead
5 Woods community by tens of millions or hundreds of millions of dollars. A large class of persons
6 was benefited; thousands of property owners in Arrowhead Woods. The necessity and financial
7 burden of private enforcement is such to make an award appropriate. Plaintiff's only source of
8 income, as testified to by Stacey Lippert, is fees from property owners who comply with the
9 Declaration of Restrictions and submit plans to Plaintiff. Without any relief from the financial
10 burden of private enforcement, Plaintiff would not be able to enforce the Declaration of
11 Restrictions, which could result in devaluation of millions of dollars of property value in Arrowhead
12 Woods. In *Harbor v. Deukmejian* (1987) 43 Cal.3d 1078, 1103, a party seeking attorney's fees
13 under the "private attorney general" doctrine is considered to be a "successful party" if "the impact
14 of (the litigation) is to vindicate the principal on which they have brought this action," (i.e. Plaintiff
15 has the authority to enforce the Declaration of Restrictions and the Declaration of Restrictions were
16 validly extended. The principal on which Plaintiff brought this action; its authority to enforce the
17 Declaration of Restrictions has been wholly vindicated.

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22 In *Coalition for L.A. County Planning Etc. v. Board of Supervisors* (1977), 76 Cal.App.3d
23 241, 244, attorney's fees were awarded under the private attorney general theory in a land use case.
24 The Court said that the "substantial benefit theory" is used when "A litigant whose action has been
25 responsible for conferring on a group substantial non-pecuniary benefits may similarly be awarded
26 his attorney's fees." The Court also said that "attorney's fees could be awarded if the litigation (1)
27 be one in which the Court's equitable powers come into play, (2) be commenced, maintained as a
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1 representative action (citation omitted), and (3) result in a disposition that confers substantial
2 benefits, either pecuniary or non-pecuniary on the persons represented.” Plaintiff represented
3 thousands of property owners in Arrowhead Woods. Plaintiff filed this action on behalf of the
4 property owners in Arrowhead Woods. The Court’s equitable powers come into play when the
5 Court found that the Declaration of Restrictions had been extended and Plaintiff was entitled to
6 enforce them. The thousands of property owners in Arrowhead Woods on whose behalf Plaintiff
7 filed this action received substantial benefits because their property values had been preserved and
8 protected.
9

10
11 In *Maria P. v. Riles (1987)*, 43 Cal.3d 1281, 1285, the Court found that under the private
12 attorney general doctrine, Plaintiff was entitled to attorney’s fees even when it only obtained a
13 preliminary injunction because the Defendant’s conduct was stopped for years. In this action,
14 Plaintiffs have been successful in preventing Mr. Hatt from cutting further trees and Mr. Hatt was
15 admonished to seek permission from Plaintiff if he wanted to cut further trees.
16

17 V.

18 **THE REQUEST FOR DAMAGES AND INJUNCTION WAS REASONABLE**

19 Plaintiff had a decades old policy of assessing damages established by an arborist’s
20 value of the tree. This had been validated at a previous trial and appealed. Appellant decisions
21 have approved of this methodology. *Roney v. Costa (2012)* 210 Cal.4th 746, 750-51. This method
22 of establishing damages has been used by Plaintiff in 10-15 previous litigation matters and in 35 to
23 50 non-litigation matters. Defendants’ letter indicated that they did not acknowledge Plaintiff’s
24 authority and felt free to cut down any trees, for an injunction was necessary.
25

26 The Declaration of Restrictions (Exhibit 1) allows monetary and injunctive relief. Plaintiff
27 is charged to enforce the Declaration of Restrictions. It was reasonable for Plaintiff to seek
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1 damages under its long standing policy and an injunction based on Defendants' attitude.

2 In *Nahrstedt v. Lakeside Village Condominium Association* (1994) 8 Cal.4th 361, 368, the
3 Supreme Court said that: "Courts enforce the covenants, conditions and restrictions contained in
4 the recorded declaration of a common interest development unless unreasonable." The Court
5 further stated as follows:
6

7 "Because a stable and predictable living environment is crucial to the success of
8 condominiums and other common interest residential developments, and because recorded use
9 restrictions are a primary means of insuring the stability and predictability, the Legislature in
10 section 1354 has afforded such restrictions a presumption of validity and has required challengers
11 that they demonstrate the restriction's unreasonableness by the deferential standard applicable to
12 equitable servitudes. Under this standard established by the legislature, enforcement of a restriction
13 does not depend upon the conduct of a particular condominium owner. Rather, the restriction must
14 be uniformly enforced in the condominium development to which it was intended to apply unless
15 the plaintiff owner can show that the burdens it imposes on affected property so substantially
16 outweigh the benefits of the restriction that it shall not be enforced against any owner."
18

19 At 372, the Court stated: "Use restrictions are an inherent part of any common interest
20 development and are crucial to the stable, plain environment of any shared ownership arrangement.
21 . . . anyone who buys a unit in a common interest development with knowledge of its owner's
22 association discretionary power accepts the risk that the power may be used in a way that benefits
23 the community for harms the individual. Generally, courts will uphold decisions made by the
24 governing board of an owner's association as long as they represent good faith efforts to further the
25 purposes of the common interest development, are consistent with developments governing
26 documents, and comply with public policy. Thus, subordination of individual property rights to the
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1 collective judgment of the owner's association together with the restrictions on the use of real
2 property compromise the chief attributes of owning property in a common interest development."
3 (Emphasis added.)

4
5 In *Clark v. Rancho* (1989) 216 Cal.App.3d 606, 620, the plaintiff, a homeowner, "had the
6 burden of stating a prima facie case entitling him to relief. (Citation omitted.) To prevail, he had to
7 convince a trier of fact the wide latitude ordinarily accorded administrative and quasi-public
8 administrative bodies in their decision making had been exceeded". The Association's authority
9 was derived from CC&Rs, just like Plaintiff's authority in this action. The Court further stated:
10 "Where the subject agency or association is in the business of land use planning, the rules are well
11 established: It is a settled rule of law that homeowners associations must exercise their authority to
12 approve or disapprove an individual homeowner's construction or improvement plans in conformity
13 with the declaration of covenants and restrictions, and in good faith."

14
15 In *Dolan-King v. Rancho Santa Fe Association* (2000) 81 Cal.App.4th 965, 973-74, the court
16 discussed "the rule of judicial deference to community association board decision making is set out
17 by the California Supreme Court (in *Nahrstedt*)." The Association's authority was derived from
18 CC&Rs, just like Plaintiff's authority in this action. At 975, the court stated: "the California
19 Supreme Court has made it clear that restrictions on the use of property contained in covenants
20 recorded with a County Recorder are presumed to be reasonable and will be enforced uniformly
21 against all residents of the common interest development unless the restriction is arbitrary, imposes
22 burdens on the land it effects, and substantially outweighs the restriction of benefits to the
23 development's residents or violates a fundamental public policy." (Citation omitted.) "Such
24 deference to the originating covenants, conditions and restrictions protects the general expectation
25 of condominium owners that restrictions in place at the time they purchased their units will be
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1 enforceable.” (Citations omitted.) “Restrictions are evaluated for reasonableness in light of the
2 restriction’s effect on the project as a whole, not from the perspective of the individual owner”
3 (citation omitted). Accordingly, courts do not conduct a case by case analysis of the restrictions to
4 determine the effect on an individual owner; we must consider the reasonableness of the restrictions
5 by looking at the goals and concerns of the entire development.”

7 Under the policy of California, reasonable decisions by an Architectural Committee must be
8 enforced. Since the Declaration of Restrictions allowed monetary and injunctive relief, it was
9 reasonable for Plaintiff to seek damages according to its long standing policy and an injunction
10 since Mr. Hatt never indicated he would comply with the Declaration of Restrictions. Therefore the
11 attorney’s fees incurred by Plaintiff were reasonable.

13 **VI.**

14 **CONCLUSION**

15 By statute, Plaintiff is the prevailing party. Plaintiff also achieved its primary objective; to
16 continue its existence and authority to enforce the Declaration of Restrictions. Plaintiff had to fight
17 to survive. Defendants wanted to destroy Plaintiff and devalue the property values in Arrowhead
18 Woods by hundreds of millions of dollars. Plaintiff should be awarded \$33,990.36 in attorney's
19 fees, \$1,230.00 in expert costs, and \$1,441.00 pursuant to Memorandum of Statutory Costs. That is
20 a small amount of money to protect hundreds of millions of dollars in property values and to
21 preserve Plaintiff's existence.

24 If Plaintiff had not filed the Complaint, Mr. Hatt would have never acknowledged Plaintiff's
25 authority and would have been free to cut down more trees as he said he could do.

26 90% of the attorney’s fees were expended on the issues of Plaintiff’s authority to enforce the
27 Declaration of Restrictions, the validity of the extension of the Declaration of Restrictions and
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1 Plaintiff's existence. If Defendants had only litigated the amount of damages, the attorney's fees
2 would have been minimal. The attorney's fees were reasonable expenses to establish Plaintiff's
3 authority to enforce the Declaration of Restrictions and prove it existed. If Defendants had not
4 sought to invalidate Plaintiff's existence and right to enforce the Declaration of Restrictions, this
5 action never would have gone to trial. Plaintiff had to fight to survive. The attorney's fees
6 requested are a small amount for Plaintiff's successful battle to survive.
7

8 Plaintiff achieved its three primary goals in the litigation; (1) providing it existed, (2)
9 establishing its authority to enforce the Declaration of Restrictions and (3) the validity of the
10 extension. Mr. Hatt was stopped from cutting any more trees and advised by the Court to get
11 permission from Plaintiff before cutting more trees. Thousands of property owners in Arrowhead
12 Woods have benefited significantly by Plaintiff's victory. Plaintiff's victory included protections
13 for building standards such as color, design, house size, exterior maintenance, and building
14 materials, as well as forest protection.
15
16

17 DATED: October 6, 2015

THE LAW OFFICES OF JOHN G. WURM

18
19 By:



20 JOHN G. WURM
21 Attorneys for Plaintiff Arrowhead
22 Woods Architectural Committee, Inc.
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PROOF OF SERVICE

I am employed in the County of San Bernardino, State of California. I am over the age of 18 and not a party to the within action. My business address is Post Office Box 1875, Lake Arrowhead, California, 92352.

On October 7, 2015, I caused to be served the document(s) described as **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR ATTORNEY'S FEES** on the interested party(ies) in this action by placing a true copy thereof enclosed in a sealed envelope and addressed as follows:

Timothy W. Brown
Bullard, Brown & Beal, LLP
3890 11th St. Suite 111
Riverside, CA 92501

BY FACSIMILE: I transmitted by facsimile machine, to the fax number indicated below, a true and correct copy of the document described above to counsel indicated below. The foregoing document was transmitted by facsimile transmission and the transmission was reported as completed and without error.

BY U.S. MAIL: I caused such envelope(s) to be deposited in the mail at Lake Arrowhead, California, with the postage thereon fully prepaid. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of the party(ies) served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in affidavit.

BY PERSONAL SERVICE: I caused a true copy of said document(s) to be hand-delivered to the addressee(s) via a person who is not a party to this action or a California registered process server. If required, said registered process server's original proof of personal service will be filed with the court immediately upon its receipt.

BY ELECTRONIC TRANSMISSION: Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the persons at the electronic notification addresses listed.

STATE: I declare under penalty of perjury that the foregoing is true and correct and this document was executed on October 7, 2015, at Lake Arrowhead, California.

FEDERAL: I declare that I am employed in the office of a member of the bar of the Court at whose direction the service was made.


Suzanne DeSalle