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FILED
SUPERIOR COURT
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT
SEP 08 2008

By Sharon M. DeBono
Deputy

11 **SUPERIOR COURT OF CALIFORNIA**
12 **COUNTY OF SAN BERNARDINO**

13 **ARROWHEAD LAKE ASSOCIATION, a**
14 **California Non-Profit Corporation;**

15 **Plaintiff**

16 v

17 **ARROWHEAD WOODS ARCHITECTURAL**
18 **COMMITTEE, INC., a California Non-Profit**
19 **Corporation; and DOES 1 through 50, inclusive;**

20 **Defendants.**

Case No. CIVSS 808455

By Fax

**FIRST AMENDED COMPLAINT FOR
DECLARATORY RELIEF**

Filed Via Facsimile

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1 Plaintiff ARROWHEAD LAKE ASSOCIATION, a California Non-Profit Corporation,
2 complains and alleges as follows:

3 GENERAL ALLEGATIONS

4 1. Plaintiff ARROWHEAD LAKE ASSOCIATION, a California Non-Profit
5 Corporation (hereinafter referred to as "ALA" or "Plaintiff") is, and at all times mentioned herein
6 was, a California non-profit corporation organized and existing under the laws of the State of
7 California with its principal place of business in the city of Lake Arrowhead, within the County of
8 San Bernardino, State of California.

9 2. Plaintiff is informed and believes, and thereon alleges that Defendant ARROWHEAD
10 WOODS ARCHITECTURAL COMMITTEE, INC., (hereinafter referred to as "AWAC" or
11 "Defendant") is, and at all times mentioned herein was, a California non-profit corporation organized
12 and existing under the laws of the State of California with its principal place of business in the city
13 of Lake Arrowhead, within the County of San Bernardino, State of California.

14 3. The real property which is the subject of this litigation consists of property and
15 easements owned by ALA, including but not limited to the Buffer Zone, Reserve Strip and Reserve
16 Strip Additions around Arrowhead Lake, legally described in Exhibit "A" attached hereto and made
17 a part hereof by this reference (hereinafter the "Subject Property").

18 4. Defendants DOES 1 through 50, inclusive, whether individual, corporate, associate,
19 or otherwise, are fictitious names of Defendants whose true names and capacities, at this time are
20 unknown to Plaintiff. Plaintiff is informed and believes and thereon alleges that at all times herein
21 mentioned each of the Defendants sued herein as a DOE was the agent, servant, and employee of
22 his or her Co- Defendants, and in doing the things hereinafter mentioned was acting in the scope of
23 his or her authority as such agent, servant, and employee, and with the permission and consent of his
24 or her Defendants; and that each of said fictitiously named Defendants, whether an agent,
25 corporation, association, or otherwise, is in some way liable or responsible to the Plaintiff on the
26 facts hereinafter alleged, and caused injuries and damages proximately thereby as hereinafter alleged.
27 At such time as Defendants' true names become known to Plaintiff, Plaintiff will ask leave of the
28 court to amend this Complaint to insert said true names and capacities.

1 5. Defendants DOES 1 through 50, inclusive, whether individual, corporate, associate
 2 or otherwise, are the fictitious names of Defendants whose true names and capacities are, at this
 3 time, unknown to Plaintiff. Plaintiff is informed and believes and thereon alleges that at all times
 4 herein mentioned, each of the Defendants sued herein as a DOES 1 through 50 were in some manner
 5 or fashion, by contract or otherwise, the successors, assigns, joint venturers, co-venturers, partners
 6 or were otherwise involved with Defendants at the Subject Property and that by virtue of such
 7 capacity, assumed the obligations herein owed by Defendants to Plaintiff and are liable and
 8 responsible to Plaintiff on the facts herein alleged for all the damages sought; at such time as
 9 Defendants' true names become known to Plaintiff, Plaintiff will ask leave of the court to amend this
 10 Complaint to insert said true names and capacities.

I.

FIRST CAUSE OF ACTION

FOR DECLARATORY RELIEF

14 6. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 5 above as
 15 though fully set forth at length herein.

16 7. On or about 1990, ALA Quitclaimed to AWAC:

17 "All of the Grantor's right, title and interest in and to all rights of
 18 forfeiture, enforcement and re-entry, whether vested, conditional or
 19 contingent, upon breach of covenants, conditions and restrictions
 20 imposed by the Grantor or its predecessors in interest, all situated in
 21 Township 2 North, Range 3 West, San Bernardino Base and
 22 Meridian, according to the official plates thereof, San Bernardino
 23 County, California."

24 (A true and correct copy of the 1990 Quitclaim Deed is attached hereto as **Exhibit "B"** herein "1990
 25 Quitclaim Deed"). The 1990 Quitclaim Deed is ambiguous on its face in that it does not identify the
 26 Covenants, Conditions and Restrictions, does not identify what breach of Covenants, Conditions and
 27 Restrictions the Quitclaim relates to, nor does it identify any particular document upon which any
 28 rights of "forfeiture, enforcement and reentry, whether vested, conditional or contingent, upon
 breach of Covenants, Conditions and Restrictions" that the 1990 Quitclaim Deed is referring to.

///

1 Subsequent to execution of the 1990 Quitclaim Deed and for approximately seventeen (17) years,
2 AWAC has exercised architectural control on residential lots within Arrowhead Woods, and ALA
3 has exercised control over all property and easements owned by ALA located within the Subject
4 Property, including but not limited to the Buffer Zone, Reserve Strip and Reserve Strip Additions
5 around Arrowhead Lake.

6 8. An actual controversy has arisen and now exists between Plaintiff and Defendant
7 concerning their respective rights and duties in that Plaintiff ALA contends that ALA, as the owner
8 of the real property and/or easements within the Subject Property, has a right to control and make
9 decisions with regard to all trees, landscaping, improvements/modifications and/or additions on the
10 Subject Property, whereas AWAC disputes these contentions and contends that ALA (pursuant to
11 the 1990 Quitclaim Deed and/or any other basis) has no right to control and/or make decisions
12 related to trees, landscaping, improvements/modifications and/or additions on the Subject Property
13 without AWAC's authority and approval.

14 9. Plaintiff desires a judicial determination and declaration of the Parties' respective
15 rights, duties and obligations with regard to Subject Property, and specifically that Plaintiff ALA,
16 by and through its Board of Directors, Shoreline Committee and other designated committees, has
17 an absolute and unfettered right to exercise architectural and landscape control and make decisions
18 with regard to all trees, landscaping, improvements/modifications and/or additions on the Subject
19 Property.

20 10. A judicial declaration is necessary and appropriate at this time under the
21 circumstances in order that Plaintiff may ascertain its rights and duties with regard to the Subject
22 Property and avoid financial burdens now being suffered by the current unsettled state of affairs.

23 11. Plaintiff has attempted to informally resolve this dispute with Defendant by
24 requesting that the Parties prepare an agreement to formalize the existing arrangement and conduct
25 between the Parties, with respect to the Subject Property. (True and correct copies of correspondence
26 sent to AWAC's President, Stan Sicvers on February 12, 2007 and August 14, 2007 are attached
27 hereto as Exhibits "C" and "D," respectively.) Unfortunately, AWAC has declined ALA's offer
28 to formalize the arrangement which has been ongoing for approximately seventeen (17) years. (A

1 true and correct copy of correspondence from attorney John G. Wurm, counsel for AWAC dated
2 September 13, 2007, is attached hereto as Exhibit "E".)

3 **WHEREFORE**, Plaintiff prays judgment against Defendants and each of them, as follows:

- 4 1. For a declaration of the Parties' respective rights, duties and obligations with regard
- 5 to Subject Property, and specifically that Plaintiff ALA , by and through its Board of
- 6 Directors, Shoreline Committee and other designated committees, has an absolute
- 7 and unfettered right to exercise architectural and landscape control and make
- 8 decisions with regard to trees, landscaping, improvements/modifications and/or
- 9 additions on the Subject Property.
- 10 2. For costs of suit herein.
- 11 3. For interest thereon at the maximum legal rate.
- 12 4. For such other and further relief as the court may deem just and proper.

14 Dated: September 8, 2008

GURALNICK & GILLILAND LLP

16 By: Wayne Guralnick
 17 Wayne S. Guralnick
 18 Robert J. Gilliland, Jr.
 19 Janet G. Cervantes
 20 Attorneys for Plaintiff Arrowhead Lake
 21 Association

LEGAL DESCRIPTION TO BE ATTACHED AS EXHIBIT "A"

EXHIBIT "A"

EXHIBIT "A"LEGAL DESCRIPTION

ANY AND ALL REAL PROPERTY AND EASEMENTS OWNED BY AND/OR IN THE NAME OF ARROWHEAD LAKE ASSOCIATION THAT IS LOCATED WITHIN TOWNSHIP 2 NORTH, RANGE 3 WEST, SAN BERNARDINO BASE AND MERIDIAN, ACCORDING TO THE OFFICIAL PLATS THEREOF, SAN BERNARDINO COUNTY, CALIFORNIA INCLUDING, BUT NOT LIMITED TO, ALL REAL PROPERTY LOCATED ADJACENT TO OR SURROUNDING LAKE ARROWHEAD, COMMONLY REFERRED TO AS THE BUFFER ZONES, RESERVE STRIPS AND RESERVE STRIP ADDITIONS.

EXHIBIT "B"

RECORDING REGISTERED BY

William J. Brunick, Esq.

AND WHEN RECORDED MAIL TO

Arrowhead Woods Architectural Committee, Inc.
Post Office Box 1119
Lake Arrowhead, CA 92352

RECORDED IN OFFICIAL RECORD:

1990 AUG 31 PM 12:10

SAN BERNARDINO CO., CALIF.

MAIL TAX STATEMENTS TO

Arrowhead Woods Architectural Committee, Inc.
Post Office Box 1119
Lake Arrowhead, CA 92352

FREE	TAXES	SPCR	CHRG
52			
5 SHY	\$ _ _ DTI		6 _ _
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90-349482

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Corporation Quitclaim Deed

CA1. NO. NN00576
TO 1070 CA (1-86)

THIS FORM FURNISHED BY TICOR TITLE INSURERS

The undersigned grantor(s) declare(s):

Documentary transfer tax is \$ none

() computed on full value of property conveyed, or

() computed on full value less value of liens and encumbrances remaining at time of sale.

(x) Unincorporated area: () City of _____, and

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,
ARROWHEAD LAKE ASSOCIATION,

a corporation organized under the laws of the State of California,

hereby REMISES, RELEASES AND QUITCLAIMS to

ARROWHEAD WOODS ARCHITECTURAL COMMITTEE, INC., a corporation,

the following described real property in the
County of **San Bernardino**

, State of California:

See Exhibit "A" which is attached to and incorporated in this instrument.

In Witness Whereof, said corporation has caused its corporation name and seal to be affixed hereto and this instrument to be executed by its _____ President and _____ Secretary thereunto duly authorized.

Dated: July 11, 1990

STATE OF CALIFORNIA }
COUNTY OF San Bernardino } SS.

On July 4, 1990 before
me, the undersigned, a Notary Public in and for said

ARROWHEAD LAKE ASSOCIATION

90-349182

EXHIBIT "A"

ALL OF THE GRANTOR'S RIGHT, TITLE AND INTEREST IN AND TO ALL RIGHTS OF FORFEITURE, ENFORCEMENT AND RE-ENTRY, WHETHER VESTED, CONDITIONAL OR CONTINGENT, UPON BREACH OF COVENANTS, CONDITIONS AND RESTRICTIONS IMPOSED BY THE GRANTOR OR ITS PREDECESSORS IN INTEREST, ALL SITUATED IN TOWNSHIP 2 NORTH, RANGE 3 WEST, SAN BERNARDINO BASE AND MERIDIAN, ACCORDING TO THE OFFICIAL PLATS THEREOF, SAN BERNARDINO COUNTY, CALIFORNIA. -

EXHIBIT "C"

February 12, 2007

Mr. Stan Sievers, President
Arrowhead Woods Architectural Committee
P. O. Box 2026
Lake Arrowhead, CA 92352

Dear Stan,


As you may be aware, the question of Architectural Control on Arrowhead Lake Association property has recently been an issue with respect to improvements that ALA members wish to make on the Reserve Strip and Reserve Strip Additions around the lake. The issue has also arisen relative to improvements that the ALA wished to make on its property.

Our respective staffs have located documents wherein the Arrowhead Lake Association has:

- Assigned its rights to appoint or elect members to the Architectural Committee of the Lake Arrowhead Property Owners Association in 1976; and
- Quitclaimed its rights to enforce CC&Rs within Arrowhead Woods to AWAC in 1990.

In practice, your organization has exercised architectural control on residential property and our Shoreline Committee has exercised similar control over ALA's non-residential property for well over 15 years. The Arrowhead Lake Association is interested in formalizing this allocation of responsibility and would welcome discussions between our respective Boards with the goal of creating an agreement that would accomplish that end. If this is consistent with the direction that AWAC would like to pursue, please let me know and I will schedule a meeting for our respective Executive Committees to initiate formal discussions. I can be reached at 909-336-1535 or you may contact John Rutledge, our General Manager, at 909-337-2595 x 111. Thank you.

Regards,


Jack Cooperman, Board President
ARROWHEAD LAKE ASSOCIATION
A California Non-Profit Organization

Cc: John Rutledge, General Manager

EXHIBIT "D"

GURALNICK & GILLILAND, LLP

ATTORNEYS AT LAW

ATTORNEYS SERVING
COMMUNITY ASSOCIATIONS74-399 HIGHWAY 111, SUITE M
PALM DESERT, CALIFORNIA 92260
TELEPHONE: (760) 340-1515
FACSIMILE: (760) 568-3053
E-MAIL: WAYNEG@GGHOALAW.COM

PLEASE REFER TO FILE: 04-126.3

August 14, 2007

SENT VIA FACSIMILE AND U.S. MAIL
(909) 336-1016

Arrowhead Woods Architectural Committee, Inc.
Attn: Mr. Stan Sievers, President
P. O. Box 2026
Lake Arrowhead, CA 92352

Re: **Confirming Architectural Control on Arrowhead Lake Association Property**

Dear Mr. Sievers:

As you may be aware, this office is corporate counsel for Arrowhead Lake Association ("ALA"). In this regard, we have been asked to follow up on ALA's letter to you dated February 12, 2007 (copy enclosed) to which we are respectfully requesting a response as soon as possible.

Specifically, ALA desires to confirm the custom and practice of over 15 years, to-wit, that ALA, by and through its Shoreline Committee, exercises architectural control over ALA's nonresidential property. ALA recognizes Arrowhead Woods Architectural Committee's ("AWAC") authority and jurisdiction over architectural control on all residential property within Arrowhead Woods and supports AWAC in those endeavors. However, it is an ALA priority to formalize this allocation of responsibility and, as such, has requested our assistance in preparing the documentation related to same.

Please contact me as soon as possible, but no later than September 14, 2007 so I may inform ALA's Board of Directors as to AWAC's decision on this matter. Thereafter, I will either prepare an agreement for AWAC's consideration or, if you do not wish to formalize the arrangement between the respective organizations, I will so advise the ALA Board of Directors of their other options.

Sincerely,

GURALNICK & GILLILAND, LLP

/s/ Wayne Guralnick

Wayne Guralnick

/la

cc: Arrowhead Lake Association, Board of Directors

Enclosures

S:\04.126\Letters\0.07201.wpd

EXHIBIT "E"

FACSIMILE

From

THE LAW OFFICES OF JOHN G. WURM
POST OFFICE BOX 1875
LAKE ARROWHEAD, CA 92352
TELEPHONE: (909) 337-2557

Date: September 13, 2007

TO: GURALNICK & GILLILAND, LLP

ATTN: Wayne Guralnick

FAX # SENT TO: 760.568.3053

RE: Your letter dated August 14, 2007
Reference File No. 04-126.3

TOTAL NO. OF PAGES SENT: One (1)

Dear Mr. Guralnick:

Arrowhead Woods Architectural Committee has referred your letter of August 14, 2007 to me for a response. My client informed me that it does not wish to enter into an agreement such as the one described in your letter. If ALA wishes to convey any other communications on this subject, please contact me. Thank you for your cooperation.

Cordially,

John G. Wurm

JGW/rj
cc: client

PERSON SENDING FAX  R. JAMES - ON BEHALF OF ATTORNEY JOHN G. WURM

PROOF OF SERVICE
C.C.P. § 1013a(3)

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)

I am employed in the County of Riverside, State of California. I am over the age of 18 and not a party to the within action; my business address is 74-399 Highway 111, Suite M, Palm Desert, California 92260.

On September 8, 2008, I served the foregoing document(s), described as: **Plaintiff's First Amended Complaint** on the interested parties in this action

By placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list.

By placing the original a true copy thereof enclosed in sealed envelopes addressed as follows:

BY MAIL:

As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Palm Desert, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

BY PERSONAL SERVICE. I delivered such envelope by hand to the offices of the addressee.

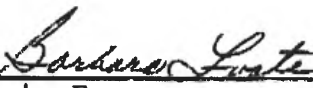
BY FACSIMILE. By use of facsimile machine telephone number (760) 568-3053, I served a copy of the above documents on the following interested parties by transmitting by facsimile machine to the following: See attached Service List

The facsimile machine I used complied with California *Rules of Court*, rule 2004 and no error was reported by the machine. Pursuant to California *Rules of Court*, rule 2006(d), I caused the machine to print a transmission record of the transmission.

(State) I declare under penalty of perjury under the laws of the State of California that the above 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 on September 8, 2008 at Palm Desert, California.



Barbara Foote

1 Arrowhead Lake Association v. Arrowhead Woods Architectural Committee
San Bernardino Superior Court Case No. CIVSS 808455

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SERVICE LIST

5 Robert J. Gilliland, Esq.
6 Guralnick & Gilliland
74-399 Highway 111, Ste. M
6 Palm Desert, CA 92260
7 Attorneys for Plaintiff
8 Arrowhead Lake Association
(760) 340-1515
(760) 568-3053 FAX

9 John G. Wurm, Esq.
10 Law Offices of John G. Wurm
P.O. Box 1875
11 Lake Arrowhead, CA 92352
Attorneys for Defendant
12 Arrowhead Woods Architectural Committee
(909) 337-2557
(909) 336-3697 FAX

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