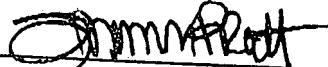


LAW OFFICES OF JOHN G. WÜRM  
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**FILED**  
SUPERIOR COURT  
COUNTY OF SAN BERNARDINO  
SAN BERNARDINO DISTRICT

MAY 28 2015

By   
Deputy

Attorney for Plaintiff, ARROWHEAD  
WOODS ARCHITECTURAL COMMITTEE,  
INC., a California corporation

**SUPERIOR COURT OF CALIFORNIA**

**COUNTY OF SAN BERNARDINO CENTRAL DIVISION**

ARROWHEAD WOODS )  
ARCHITECTURAL COMMITTEE )  
INC., a California corporation, )

Case No: CIVDS 1400240

Plaintiff, )

**DECLARATION OF JOHN G.  
WÜRM IN OPPOSITION TO  
MOTION BIFURCATE TRIAL**

vs. )

Date: ~~April~~ <sup>June</sup> 23, 2015  
Time: 8:30 A.m.  
Dept: S-37

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

Defendants. )

I, JOHN G. WÜRM, declare as follows:

1. I am the attorney of record for Plaintiff. I submit this *Declaration* in opposition to Defendants' motion to bifurcate the trial. I have personal knowledge of the facts declared to herein. If called to testify about the facts contained herein, I can and will truthfully do so.

6-23 SB7

1           2.       The *Complaint* in this matter was filed on January 7, 2014. An *Answer* was filed by  
2 Defendant on or about June 24, 2014. Plaintiff's First Amended Complaint alleges that the  
3 *Corporation Quitclaim Deed* recorded July 8, 2005, grants Plaintiff the authority to prevent  
4 Defendants from cutting down the trees on their property. Plaintiff requests that the court take  
5 judicial notice of the First Amended Complaint. Defendants have requested a jury trial on all  
6 issues.

7           3.       The authority granted to Plaintiff under the *Corporation Quitclaim Deed* does not  
8 expire. If Defendants' motion were granted and even if they prevailed at the bifurcated portion of  
9 the trial, the court would still be required to hear the issues of whether Defendants are prohibited  
10 from cutting down the trees on their property under the *Corporation Quitclaim Deed* and Plaintiff's  
11 damages for the unapproved tree cutting. Even if the proxies expired as Defendants contends, the  
12 Defendants still have to obtain Plaintiff's approval to cut down the trees on their property under the  
13 restrictions in the *Corporation Quitclaim Deed*. Plaintiff would also introduce evidence that it is  
14 the successor to the Architectural Committee referenced in the *Corporation Quitclaim Deed* and has  
15 functioned as such for over 25 years. Plaintiff would also introduce evidence of the damages it  
16 suffered because Plaintiff is cutting down trees.

17           4.       I discussed the motion with Defendants' attorney at my office. He stated that he  
18 didn't want a separate hearing date for the bifurcated portion of the trial. If the motion is granted,  
19 the bifurcated portion of the trial would proceed on June 29, 2015. Presumably, Defendants would  
20 put on their evidence first to attempt to establish that Plaintiff no longer exists. If the Defendants  
21 satisfied their burden of proof, then Plaintiff would introduce evidence to prove its existence.  
22 Defendants have requested a jury trial. Plaintiff is entitled to have the jury hear the evidence of its  
23 existence. The parties would still have to prepare for the entire trial.

24           5.       Defendants' motion is based on their contention that the Plaintiff "no longer exists".  
25 The evidence Plaintiff would introduce to prove its existence would include much of the same  
26 evidence that Plaintiff would introduce to prove the allegations of the First Amended Complaint.  
27 Plaintiff would call an estimated eight to fifteen witnesses to testify to the functioning of Plaintiff in  
28 approving new construction, remodeling, maintenance of property, installation of fencing and

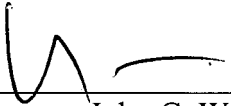
1 boundary line barriers, trimming of tree branches and limbs, maintaining the health of the forest and  
2 preventing persons such as Defendants from cutting down the trees on their property. Additionally,  
3 Plaintiff expects to call witnesses to testify about Plaintiff's functions in approving new  
4 construction, remodeling, maintenance of property, installation of fencing, cutting down and  
5 trimming of trees, and maintaining the health of the forest. These witnesses and the evidence would  
6 be introduced at both portions of the trial.

7 6. Defendants contend that Plaintiff "no longer exists". Defendants have requested a  
8 jury trial. Plaintiff is entitled to have the jury hear the evidence of its existence in the bifurcated  
9 portion of the trial. In order to prove its existence, Plaintiff would introduce much of the same  
10 evidence that would be heard as would be heard in the second phase of the trial.

11 7. Defendants' motion does not contest that they have cut down trees on their property.  
12 Defendants' motion does not seek to bifurcate liability or damages. The only issue is how much in  
13 damages they owe for cutting down trees without obtaining approval as required under the  
14 *Declaration of Restrictions and Corporation Quitclaim Deed*. Since Defendants are requesting a  
15 jury trial, the jury would have to be empanelled to hear the bifurcated issues first, deliberate and  
16 then, even if the proxies are not valid, the rest of the trial on the damages owed under the  
17 *Corporation Quitclaim Deed*. In my experience and from my knowledge of the evidence and  
18 issues, there will be no savings to the court or the parties. This is just an attempt by the Defendants  
19 to delay and confuse the issues because they know they have violated the prohibitions of cutting  
20 down the trees on their property found in the *Corporation Quitclaim Deed*

21 8. I declare under penalty of perjury under the laws of the State of California that the  
22 foregoing is true and correct.

23 Executed this 27<sup>th</sup> day of May, 2015 at Lake Arrowhead, California.

24  
25   
26 \_\_\_\_\_  
27 John G. Wurm  
28

1 **PROOF OF SERVICE**

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

5 On May 27, 2015, I caused to be served the document(s) described as  
6 **DECLARATION OF JOHN G. WURM IN OPPOSITION TO MOTION TO**  
7 **BIFURCATE TRIAL** on the interested party(ies) in this action by placing a true copy thereof  
8 enclosed in a sealed envelope and addressed as follows:

9 Timothy W. Brown  
10 Bullard, Brown & Beal, LLP  
11 3890 11<sup>th</sup> St. Suite 111  
12 Riverside, CA 92501

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

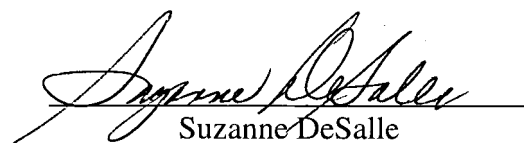
17  **BY U.S. MAIL:** I caused such envelope(s) to be deposited in the mail at Lake  
18 Arrowhead, California, with the postage thereon fully prepaid. I am "readily familiar" with the  
19 firm's practice of collection and processing correspondence for mailing. It is deposited with  
20 U.S. Postal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

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

27  **BY ELECTRONIC TRANSMISSION:** Based on a court order or an agreement of  
28 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 May 27, 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