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10 *Attorneys for Plaintiffs/Counter-Defendants Bennion & Deville Fine Homes, Inc.,*
11 *Bennion & Deville Fine Homes SoCal, Inc., Windermere Services Southern California,*
12 *Inc., and Counter-Defendants Robert L. Bennion and Joseph R. Deville*

13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**

15 BENNION & DEVILLE FINE) Case No. 5:15-cv-01921-R (KKx)

16 HOMES, INC., a California) *Hon. Manual L. Real*

17 corporation, BENNION & DEVILLE)

18 FINE HOMES SOCAL, INC., a) **DECLARATION OF KEVIN A.**

19 California corporation,) **ADAMS IN SUPPORT OF MOTION**

20 WINDERMERE SERVICES) **TO EXCLUDE THE TESTIMONY**

21 SOUTHERN CALIFORNIA, INC., a) **OF DAVID E. HOLMES BASED ON**

22 California corporation,) **FRE 403, 702 AND DAUBERT**

23)

24) **Plaintiffs,**) Complaint filed: September 17, 2015

25) **v.**) Pretrial Conference: September 19, 2016

26) Trial: May 30, 2017

27 WINDERMERE REAL ESTATE)

28 SERVICES COMPANY, a)

Washington corporation; and DOES)

1-10.)

Defendants.)

_____)

AND RELATED COUNTERCLAIMS)

1 I, Kevin A. Adams, declare as follows:

2 1. I am one of the attorneys of record for Plaintiffs Bennion & Deville Fine
3 Homes, Inc. (“B&D Fine Homes”), Bennion & Deville Fine Homes SoCal, Inc. (“B&D
4 SoCal”), and Windermere Services Southern California, Inc. (“Services SoCal”)
5 (collectively, “Plaintiffs”) in the above-named action. I am a member in good standing of
6 the State Bar of California, and duly admitted to practice law before all of the courts of
7 the State of California, including the United States District Court, Central District of
8 California and the United States Court of Appeals for the Ninth Circuit.

9 2. I make this Declaration in support of Plaintiffs’ Motion to Exclude the
10 Testimony of David E. Holmes.

11 3. On September 16, 2016, Defendant/ Counterclaimant Windermere Real
12 Estate Services Company’s (“WSC”) made their expert witness disclosures which
13 included disclosing the expert report of Mr. Holmes. Attached as Exhibit A is a true and
14 correct copy of WSC’s expert disclosure that relates to Mr. Holmes.

15 4. For the convenience of the Court, I have attached copy of the Area
16 Representation Agreement between WSC and Services SoCal as Exhibit B. The
17 foundation for this document is not in dispute as it has been laid by representatives of
18 Plaintiffs and WSC on numerous occasions. *See e.g.*, Dkt. Nos. 60-1, ¶ 22, 68-2, ¶ 4.

19 I declare under penalty of perjury under the laws of the State of California and the
20 laws of the United States of America that the foregoing is true and correct and that this
21 Declaration was executed this 20th day of March 2017 at Irvine, California.
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23
24 /s/ Kevin A. Adams
25 Kevin A. Adams
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