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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

OCT 21 2016
C. Martinez

u/su
JEW
OCT 24 2016

Attorneys for Defendants BENNION & DEVILLE FINE HOMES, INC. dba BENNION
DEVILLE HOMES and GENEVIEVE ANN ROBINSON aka JENNIE ROBINSON

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE**

MICHAEL DUBASSO and JENNY
DUBASSO,

Plaintiffs,

vs.

TRADITION GOLF CLUB, a California
corporation; HEIDI RISK, an individual;
BENNION & DEVILLE FINE HOMES, INC.,
a California corporation doing business as
BENNION DEVILLE HOMES; GENEVIEVE
ANN ROBINSON, an individual, also known
as JENNIE ROBINSON; LQR RESORT
DESERT REAL ESTATE, INC., a California
corporation doing business as CALIFORNIA
LIFESTYLE REALTY; KATHLEEN
O'KEEFE, an individual; and DOES 1 through
100, inclusive,

Defendants.

CASE NO.: PSC 1602890

**NOTICE OF DEMURRER AND
DEMURRER OF DEFENDANTS
BENNION & DEVILLE FINE HOMES,
INC. dba BENNION DEVILLE HOMES
and GENEVIEVE ANN ROBINSON aka
JENNIE ROBINSON TO PLAINTIFFS'
FIRST AMENDED COMPLAINT**

**DATE: November 30, 2016
TIME: 8:30 a.m.
JUDGE: Hon. David M. Chapman
DEPT.: PS2**

Complaint Filed: 6/15/2016
Trial Date: Not Yet Assigned

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Via Email

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 PLEASE TAKE NOTICE that on November 30, 2016, at 8:30 a.m., or as soon
3 thereafter as the matter may be heard in Department PS2 of the above-referenced Court, located
4 at 3255 E. Tahquitz Canyon Way, Palm Springs, California, Defendants BENNION &
5 DEVILLE FINE HOMES, INC. dba BENNION DEVILLE HOMES and GENEVIEVE ANN
6 ROBINSON aka JENNIE ROBINSON (hereinafter "MOVING PARTIES"), will move the
7 Court to sustain its Demurer to Plaintiffs' First Amended Complaint filed in the above-entitled
8 action on or about August 31, 2016.

9 This motion will be brought pursuant to California Code of Civil Procedure §430.30,
10 430.10(e) and 430.50, on the basis that the First, Second and Seventh Causes of Action for
11 Fraud fails to state facts sufficient to constitute a cause of action as against MOVING PARTIES.

12 This Demurrer is based upon this Notice of Demurrer and Demurrer to Plaintiffs' First
13 Amended Complaint, Memorandum of Points and Authorities, the Request for Judicial Notice and
14 any documentary evidence lodged with the Court, all filed and served concurrently herewith, the
15 papers and pleadings on file in this action, and upon such oral and documentary evidence and
16 argument which may be presented at the hearing in this matter.

17 This motion will be brought pursuant to California Code of Civil Procedure §§430.30,
18 430.10(e) and 430.50, on the basis that the First, Second and Seventh Causes of Action fail to
19 state facts sufficient to constitute a cause of action as against Defendants BENNION &
20 DEVILLE FINE HOMES INC. dba BENNION DEVILLE HOMES and GENEVIEVE ANN
21 ROBINSON aka JENNIE ROBINSON, (hereinafter collectively referred to as "MOVING
22 PARTIES").

23 This Demurrer is based upon this Notice of Demurrer and Demurrer to PLAINTIFFS'
24 First Amended Complaint, Memorandum of Points and Authorities in support thereof, Declaration
25 of Alison J. Barry, Esq. Request for Judicial Notice, all documents filed and served concurrently
26 herewith, the papers and pleadings on file in this action, and upon such oral and documentary
27 evidence and argument which may be presented at the hearing in this matter.

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1 **DEMURRER TO COMPLAINT**

2 MOVING PARTIES hereby demur to PLAINTIFFS' First Amended Complaint filed in
3 the above-entitled action on or about August 31, 2016 as follows:

4 **Demurrer to First Cause of Action**

5 1. Pursuant to California Code of Civil Procedure §430.10(e), the First Cause of
6 Action for "Fraudulent Concealment" fails to state facts sufficient to constitute a cause of action
7 against these MOVING PARTIES.

8 **Demurrer to Second Cause of Action**

9 2. Pursuant to California Code of Civil Procedure §430.10(e), the Second Cause of
10 Action for "Negligence" fails to state facts sufficient to constitute a cause of action as against
11 these MOVING PARTIES.

12 **Demurrer to Seventh Cause of Action**

13 3. Pursuant to California Code of Civil Procedure §430.10(e), the Seventh Cause of
14 Action for "Willful Failure to Comply with Civil Code §2079.2, 2079.16 and §2079.24" fails to
15 state facts sufficient to constitute a cause of action as against these MOVING PARTIES.

16
17 Tentative Rulings for each law & motion matter will be posted on the Internet by 3:00
18 p.m. on the court day immediately before the hearing. If you do not have Internet access or if
19 you experience difficulty with the posted tentative rulings, you may obtain the tentative ruling by
20 calling (760) 904-5722.

21 Any party that intends to present oral argument at the hearing is required to notify the
22 court and all opposing parties by 4:30 p.m. on the court day prior to the hearing of the party's
23 intention to appear. To request oral argument, not later than 4:30 p.m. on the court day before the

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1 hearing you must (1) call the judicial secretary at (760) 904-5722 and (2) inform all other parties.
2 If no request for oral argument is made by 4:30 p.m., the tentative ruling will become the final
3 ruling on the matter effective the date of the hearing. Unless otherwise noted, the prevailing
4 party is to give notice of the ruling.

5
6
7 DATED: October 20, 2016

SUNDERLAND | McCUTCHAN, LLP

8
9
10 By: 

11 Robert J. Sunderland, Esq.

12 Alison J. Barry, Esq.

13 Attorneys for Defendants BENNION &
14 DEVILLE FINE HOMES, INC. dba BENNION
15 DEVILLE HOMES and GENEVIEVE ANN
16 ROBINSON aka JENNIE ROBINSON
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