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

15 BENNION & DEVILLE FINE
HOMES, INC., a California
16 corporation, BENNION & DEVILLE
FINE HOMES SOCAL, INC., a
17 California corporation, WINDERMERE
SERVICES SOUTHERN
18 CALIFORNIA, INC., a California
corporation,

19 Plaintiffs,

20 v.

21 WINDERMERE REAL ESTATE
22 SERVICES COMPANY, a Washington
corporation; and DOES 1-10

23 Defendant.
24

25 AND RELATED COUNTERCLAIMS
26
27
28

Case No. 5:15-CV-01921-JCG

Hon. Jay C. Gandhi

**DECLARATION OF PAUL S.
DRAYNA IN SUPPORT
DEFENDANT AND
COUNTERCLAIMANT
WINDERMERE REAL ESTATE
SERVICES COMPANY'S MOTION
FOR PARTIAL SUMMARY
JUDGMENT**

Date: March 1, 2018

Time: 10:00 a.m.

Courtroom: 6A

1 I, Paul S. Drayna, declare as follows:

2 1. I am an attorney admitted to practice in all Washington state courts, as
3 well as the United States District Court for the Western District of Washington. The
4 statements in this declaration are based upon my personal knowledge, and if called
5 as a witness, I could testify competently thereto.

6 2. I am General Counsel for Counterclaimant Windermere Real Estate
7 Services Company (“WSC”) in this action and I have served full-time in that
8 position since 2007, after serving as part-time outside General Counsel since 2003.
9 As General Counsel for WSC, I am responsible for overseeing all legal matters for
10 WSC, including but not limited to contract negotiations and litigation. As a part of
11 my duties, I have been involved in the negotiation of various contracts between
12 WSC and Plaintiffs and Counter-Defendants Bennion & Deville Fine Homes, Inc.
13 (“B&D Fine Homes”), Bennion & Deville Fine Homes SoCal, Inc. (“B&D SoCal”),
14 and Windermere Services Southern California, Inc. (“WSSC”) and Counter-
15 Defendants, Robert L. Bennion and Joseph R. Deville. I am the custodian of those
16 and other of WSC’s legal business records. I also have first-hand knowledge
17 regarding the facts underlying the allegations in the Complaint in this action as well
18 as the allegations in WSC’s Counterclaim. I am also familiar with the contracts
19 between and among the various parties, which I maintain for WSC.

20 3. On January 28, 2015, I sent a letter that I drafted in which WSC
21 provided WSSC with notice of termination of the Area Representation Agreement
22 (“ARA”) pursuant to ¶ 4.1 of the ARA. Pursuant to the January 28, 2015 notice, the
23 ARA was set to terminate on July 28, 2015.

24 4. On February 26, 2015, WSC’s attorney sent another letter which,
25 without waiving WSC’s right to terminate the ARA without cause, provided WSSC
26 with WSC’s notice of termination of the ARA with cause pursuant to ¶ 4.2 of the
27 ARA. Pursuant to the February 26, 2015 notice, the ARA was set to terminate on
28 May 27, 2015.


1 5. On March 27, 2015, counsel for B&D Fine Homes and B&D SoCal
2 sent me two letters notifying me of his clients' intent to terminate their respective
3 franchise license agreements. Pursuant to the March 27, 2015 letters, the license
4 agreements for both B&D Fine Homes and B&D SoCal were both set to expire on
5 September 30, 2015.

6 6. After receiving the March 27, 2015 letter, the parties agreed to extend
7 the termination date of the ARA to coincide with the termination of B&D Fine
8 Homes and B&D SoCal's respective license agreements on September 30, 2015.

9 7. On September 30, 2015, the license agreements for B&D SoCal and
10 B&D Fine Homes terminated.

11 8. Since September 30, 2015, neither B&D Fine Homes nor B&D SoCal
12 have been affiliated with WSC in any way.

13 I declare under penalty of perjury under the laws of the United States of
14 America that the forgoing is true and correct, executed this 31st day of January,
15 2018, at Seattle, Washington.



Paul S. Drayna

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