

1 Wayne S. Marshall, Esq. (SBN 82455)
2 Maria T. Manning, Esq. (SBN 239830)
3 WAYNE S. MARSHALL & ASSOCIATES
4 A PROFESSIONAL CORPORATION
5 16130 Ventura Boulevard, Suite 500
6 Encino, California 91436
7 Telephone: (818) 905-3920
8 Facsimile: (818) 905-3925

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Superior Court of California
County of Riverside

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By Fax

9 Attorneys for Plaintiffs, MICHAEL DUBASSO
10 and JENNY DUBASSO

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE**

MICHAEL DUBASSO and JENNY) Case No. PSC1602890
12 DUBASSO,)
13 Plaintiffs,) FIRST AMENDED COMPLAINT FOR
14 vs.) DAMAGES BASED ON:
15 TRADITION GOLF CLUB, a California) 1. FRAUDULENT CONCEALMENT;
16 corporation; HEIDI RISK, an individual;) 2. NEGLIGENCE;
17 BENNION & DEVILLE FINE HOMES,) 3. BREACH OF FIDUCIARY DUTY
18 INC., a California corporation doing) [BASED ON FRAUD];
19 business as BENNION DEVILLE HOMES;) 4. BREACH OF FIDUCIARY DUTY
20 GENEVIEVE ANN ROBINSON, an) [BASED ON NEGLIGENCE];
21 individual, also known as JENNIE) 5. BREACH OF IMPLIED COVENANTS
22 ROBINSON; LQR RESORT DESERT) OF GOOD FAITH AND FAIR DEALING;
23 REAL ESTATE, INC., a California) AND
24 corporation doing business as) 6. WILFUL FAILURE TO COMPLY WITH
25 CALIFORNIA LIFESTYLE REALTY;) CIVIL CODE §§ 2079.2, 2079.16 and 2079.24
26 KATHLEEN O'KEEFE, an individual;)
27 DOES 1 through 100, inclusive,)
28 Defendants.)

COME NOW the Plaintiffs, MICHAEL DUBASSO and JENNY DUBASSO, and for causes of action against the Defendants, and each of them, allege as follows:

GENERAL ALLEGATIONS

1. The true names and capacities, whether individual, corporate, associate or otherwise

1 of the Defendants, DOES 1 through 100, inclusive, being agents of all parties referred to in the
2 caption above, are unknown to Plaintiffs, who therefore sue said Defendants by such fictitious
3 names. Plaintiffs are informed and believe and thereon allege that each of the Defendants designated
4 herein as a fictitiously named Defendant are, in some manner, responsible for the events and
5 happenings herein referred to, and caused damages to Plaintiffs as herein alleged. When Plaintiffs
6 ascertain the true names and capacities of the Defendants, DOES 1 through 100, inclusive, they will
7 amend this Complaint to set forth the same.

8
9 2. Each of the Defendants named in the caption of this Complaint, which is incorporated
10 herein by this reference, is, and at all times herein mentioned was, the agent, servant and employee
11 of each of the other Defendants, and all of the things alleged to have been done by said Defendants
12 were done in the course and scope of said agency and employment, and each of the Defendants
13 herein ratified each and all of the omissions and acts of the remaining Defendants.

14
15 3. The above Court is the proper court for the trial of this action, in that the hereinafter-
16 described misconduct occurred and/or some or all of the Defendants reside or do business within its
17 boundaries and jurisdiction. This is not a case of 'limited jurisdiction' because the amount in
18 controversy exceeds the sum of Fifty Thousand Dollars (\$50,000.00).

19
20 4. Plaintiffs, MICHAEL DUBASSO and JENNY DUBASSO (collectively "Plaintiffs"
21 or "the DUBASSOS") are, and at all times herein mentioned were, individuals who, at all times
22 relevant hereto, were and are married, and residing and/or doing business within the boundaries and
23 jurisdiction of the above-entitled Court. MICHAEL DUBASSO is, additionally, over the age of
24 sixty-five (65).

25
26 5. Plaintiffs are informed and believe and thereon allege that Defendants, TRADITION
27 GOLF CLUB ("TRADITION") and DOES 1 through 10, inclusive, and each of them, are, and at all
28 times herein mentioned were, corporations, duly organized and existing as such under and by virtue

1 of the laws of the State of California, having their principal places of business, or doing business,
2 within the boundaries and jurisdiction of the above-entitled Court. Defendants, HEIDI RISK
3 (“RISK”) and Does 11 through 20, inclusive, and each of them, are, and at all times herein
4 mentioned were, individuals, residing or doing business within the boundaries and jurisdiction of
5 the above-entitled Court; and that they, and each of them, are, and at all times herein mentioned
6 were, the agents, servants and representatives, including General Managers and Chief Operating
7 Officers, of TRADITION and DOES 1 through 10, inclusive, and each of them, each of whom was
8 authorized to transact business on the others’ behalf, and in doing the things herein alleged were
9 acting within the course and scope of their authority and with the knowledge, consent and permission
10 of each other.

11
12 6. Plaintiffs are informed and believe and thereon allege that Defendants, BENNION
13 & DEVILLE FINE HOMES, INC. (“BENNION”) and Does 21 through 30, inclusive, and each of
14 them, are, and at all times herein mentioned were, corporations, duly organized and existing under
15 and by virtue of the laws of the State of California, having their principal places of business, or doing
16 business, within the boundaries and jurisdiction of the above-entitled Court under the fictitious
17 business name and tradestyle of BENNION DEVILLE HOMES, with respect to which Plaintiffs are
18 informed and believe and thereon allege that said Defendants have complied in all respects with the
19 applicable provisions of the California Business and Professions Code. Plaintiffs are further
20 informed and believe and thereon allege that said Defendants, and each of them, are, and at all times
21 relevant hereto were, real estate brokers duly licensed as such under and by the virtue of the laws of
22 the State of California. Defendants, GENEVIEVE ANN ROBINSON also known as JENNIE
23 ROBINSON (“ROBINSON”) and Does 31 through 40, inclusive, and each of them, are, and at all
24 times herein mentioned were, individuals, residing or doing business within the boundaries and
25 jurisdiction of the above-entitled Court; and that they, and each of them, are, and at all times herein
26 mentioned were, agents, servants and representatives of BENNION and Does 21 through 30,
27 inclusive, and each of them, each of whom was authorized to transact business on the others’ behalf,
28 and in doing the things herein alleged were acting within the course and scope of their authority and

1 with the knowledge, consent and permission of each other.
2

3 7. Plaintiffs are informed and believe and thereon allege that Defendants, LQR RESORT
4 DESERT REAL ESTATE, INC. ("LQR") and Does 41 through 50, inclusive, and each of them, are,
5 and at all times herein mentioned were, corporations, duly organized and existing under and by virtue
6 of the laws of the State of California, having their principal places of business, or doing business,
7 within the boundaries and jurisdiction of the above-entitled Court under the fictitious business name
8 and tradestyle of CALIFORNIA LIFESTYLE REALTY, with respect to which Plaintiffs are
9 informed and believe and thereon allege that said Defendants have complied in all respects with the
10 applicable provisions of the California Business and Professions Code. Plaintiffs are further
11 informed and believe and thereon allege that said Defendants, and each of them, are, and at all times
12 relevant hereto were, real estate brokers duly licensed as such under and by the virtue of the laws of
13 the State of California. Defendants, KATHLEEN O'KEEFE ("O'KEEFE") and Does 51 through
14 60, inclusive, and each of them, are, and at all times herein mentioned were, individuals, residing
15 or doing business within the boundaries and jurisdiction of the above-entitled Court; and that they,
16 and each of them, are, and at all times herein mentioned were, agents, servants and representatives
17 of LQR and Does 41 through 50, inclusive, and each of them, each of whom was authorized to
18 transact business on the others' behalf, and in doing the things herein alleged were acting within the
19 course and scope of their authority and with the knowledge, consent and permission of each other.
20

21 8. Each and all of the Defendants herein participated in, authorized and/or directed the
22 others' misconduct, at all times knew of the unlawful purpose of said misconduct, and negligently
23 or intentionally failed to take or order appropriate action to avoid the harm suffered by Plaintiffs as
24 a result of said misconduct. This Paragraph is by this reference specifically incorporated into and
25 made a part of each and every cause of action alleged herein.
26

27 9. The Defendants, and each of them, knowingly and wilfully conspired and agreed
28 among and between themselves, for their own profit and gain, to induce Plaintiffs to enter into the

1 hereinafter-described Agreement, and each of them, carried out this plan and scheme by, generally,
2 engaging in those acts of misconduct more particularly described in the succeeding said causes of
3 action. Each and all of the Defendants did the things herein alleged to have been done by them in
4 the furtherance of said conspiracy and agreement. This Paragraph is by this reference specifically
5 incorporated into and made a part of each and every cause of action alleged herein.

6
7 **FIRST CAUSE OF ACTION**

8 **(Fraudulent Concealment - Against all Defendants)**

9
10 10. Plaintiffs refer to Paragraphs 1 through 9, inclusive, of the General Allegations herein,
11 and incorporate the same herein by reference as if set forth fully at length at this point.

12
13 11. In or about calendar year 2000, the DUBASSOS purchased a small spa villa at the
14 La Quinta Resort and Spa (the "Resort") as an investment/vacation home. That purchase included
15 a membership at the Resort's "Citrus Club," a golf and tennis club. In the years that followed, the
16 DUBASSOS purchased two more investment/vacation homes at the Resort for family - including
17 their two daughters - and friends to enjoy which were rented out when not in use by family and
18 friends. There were many activities in which to participate at the Resort, and always new people to
19 meet. The DUBASSOS enjoyed all of the privileges that membership at the Citrus Club offered.
20 However, because their spa villas were small, and rented out when not in use by family and friends,
21 they did not feel like "home."

22
23 12. Wanting a larger home in La Quinta where they could retire, in or about 2005 the
24 DUBASSOS began looking for a larger residence. Over the next ten years, they looked at many
25 homes, but none of them met their standards. They wanted a home in a dog-friendly community,
26 where they could, at the same time, have a membership in a club where they could socialize with
27 other members, play golf, enjoy restaurants, spas, yoga and all of the other amenities that might be
28 offered.

1 13. In late 2015, the DUBASSOS intensified their search for a larger home for their two-
2 year-old grandson, over whom they were hoping to, and have since, obtained guardianship. They
3 searched for homes in La Quinta, California, since they loved that area. The DUBASSOS were
4 familiar with the Tradition development, having viewed some listings there in the past. They loved
5 the mountain views, lush landscaping, ponds, restaurants, golf club and the rich history that the
6 Tradition offered.

7
8 14. During November 2015, O'KEEFE showed the DUBASSOS approximately five
9 listings at the Tradition development. Only one of those listings met the DUBASSOS' requirements
10 for their dream retirement home, the property located at and commonly described as 52900 Latrobe
11 Lane in La Quinta, California ("the PROPERTY"). During their first visit to the PROPERTY, the
12 DUBASSOS were introduced to the seller's agent, ROBINSON. Having resided for several years
13 by a hotel, on hotel grounds at the Resort where there were always people around and many activities
14 in which to participate, the DUBASSOS shared their concern with O'KEEFE, that while they loved
15 the Tradition development, and the PROPERTY seemed like the perfect home for them, living in
16 a country club community might be lonely and isolating. O'KEEFE explained that the DUBASSOS
17 should not be concerned, as the social club at the Tradition was amazing, there would be plenty of
18 people around and that the Club had a great social scene. O'KEEFE suggested that the DUBASSOS
19 visit the clubhouse at Tradition in order to see what it had to offer, and meet its general manager,
20 RISK. Plaintiffs are informed and believe and thereon allege that ROBINSON, as O'KEEFE, was
21 at all times aware that the DUBASSOS were intending, in addition to purchasing a property in the
22 development, to become members of the Club, yet at no time did O'KEEFE or ROBINSON explain
23 to the DUBASSOS that they would have to apply for membership to the golf and social club, or
24 undergo a vetting process, or suggest in any way that membership thereat was anything other than
25 automatic upon purchasing the PROPERTY, facts that were within their knowledge.

26
27 15. In accordance with O'KEEFE'S recommendation, the DUBASSOS went to the
28 clubhouse to meet RISK. O'KEEFE explained to RISK that the DUBASSOS were considering

1 purchasing a property in the development, and that they intended, in addition, to become members
2 of the social club and, eventually, the golf club. RISK was very warm and welcoming. She
3 proceeded to give them a tour of the club's facilities, touting the many amenities that came with
4 membership to the Club. JENNY DUBASSO told RISK how excited she was, and how she could
5 not wait to become a member of the Club. Following this meeting, the DUBASSOS returned to the
6 clubhouse two more times, with friends as well as with O'KEEFE, to again tour the club grounds,
7 each time meeting with RISK. At no time during any of these visits did RISK or O'KEEFE ever
8 explain to the DUBASSOS that they would have to apply for membership to the golf and social club,
9 or undergo a vetting process, or suggest in any way that membership thereat was anything other than
10 automatic upon purchasing the PROPERTY, facts that were well within their knowledge.

11
12 16. Following these meetings with RISK, as well as their discussions with O'KEEFE and
13 ROBINSON, the DUBASSOS understood that in the event they were to purchase the PROPERTY,
14 they would automatically become members of the Club. The DUBASSOS were looking forward
15 to dining, working out, playing golf, and becoming part of the community. They were excited at the
16 thought of inviting friends to be house guests, hiking on the beautiful grounds, and taking their dog,
17 Tiger, to the dog-friendly restaurant. They learned about special events held there during the
18 Christmas and Easter holidays, and imagined participating with their grandson, friends and family
19 and new friends at the clubhouse.

20
21 17. The DUBASSOS fell in love with the PROPERTY and the development, and on or
22 about November 20, 2015, made an initial offer to purchase the PROPERTY. BENNION and
23 ROBINSON acted as the real estate broker and agent, respectively, on behalf the seller, and LQR
24 and O'KEEFE acted as the real estate broker and agent, respectively, on behalf of the DUBASSOS.
25 They were eventually able to reach an agreement to purchase the PROPERTY for Two Million
26 Dollars (\$2,000,000.00), and shortly thereafter, escrow opened.

27
28 18. Escrow closed on or about January 28, 2016. Approximately a week later, the

1 DUBASSOS took a check to the clubhouse for their membership and presented it to RISK. To their
2 shock, RISK stated, for the very first time, that it "*didn't work like that,*" that they had to fill out an
3 application, that their membership was subject to a "*vetting process,*" and that membership was "*not*
4 *automatic.*" The DUBASSOS filled out the application, and waited for a response. After weeks of
5 delay, having been advised in the interim that their application had been lost, the DUBASSOS were
6 finally invited to meet with the membership committee. They met for about an hour at the
7 clubhouse, and answered many questions posed by committee members attending. A week or two
8 later, and on or around April 18, 2016, the DUBASSOS received a call from RISK, who, to their
9 shock and disbelief, advised them that they were "*not a fit*" for membership at the Club. When
10 asked for an explanation as to why this was, RISK replied that it was "*confidential,*" and that no
11 further explanation would be forthcoming.

12
13 19. Having already purchased their home, the DUBASSOS were devastated. They felt
14 like pariahs in their own neighborhood. They have since experienced extreme emotional distress as
15 a direct and proximate result of having been rejected from membership to the Club. JENNY
16 DUBASSO became physically ill as a result of being rejected for membership. Her immune system
17 broke down, she started vomiting frequently, experienced flu-like symptoms, laryngitis, heart
18 palpitations, an eye infection, all at the same time. She sought emergency medical treatment and was
19 prescribed medication; she was advised by her doctor that stress was causing her extreme symptoms.
20 After six weeks of extreme symptoms, her doctor gave her a steroid shot, more medication, a B-12
21 shot and a Valium prescription. She is currently taking a prescription antidepressant. The
22 DUBASSOS' marriage has suffered, and both are in constant emotional turmoil. They spent their
23 last savings on their dream house in their dream country club development. Had O'KEEFE,
24 ROBINSON and RISK advised them that they would have to apply for membership to the golf and
25 social club and undergo a vetting process, or suggest in any way that membership thereat was
26 anything other than automatic upon purchasing the PROPERTY, the DUBASSOS would have
27 insisted that their acceptance as members to the Club be a contingency of their purchase of the
28 PROPERTY, and would not, ultimately, have purchased the PROPERTY.

1 20. The DUBASSOS are informed and believe and thereon allege that the market value
2 of the PROPERTY has since declined, and that if they were to re-sell it now, it would be sold at an
3 estimated \$200,000.00 loss.

4
5 21. Defendants, and each of them, had a duty to disclose to Plaintiffs that prospective
6 purchasers would have to apply for membership to the golf and social club, undergo a vetting
7 process, and that membership thereat was not automatic upon purchasing the PROPERTY. By
8 omitting to disclose this information to Plaintiffs, Defendants, and each of them, knew that they
9 would be likely to mislead Plaintiffs, for which they are liable to Plaintiffs for deceit.

10
11 22. Plaintiffs are informed and believe and thereon allege that Defendants, and each of
12 them, knowingly, intentionally and fraudulently omitted to disclose to, and thereby conceal from,
13 Plaintiffs, prior to their purchase of the PROPERTY, that prospective purchasers would have to
14 apply for membership to the golf and social club and undergo a vetting process, and that
15 membership thereat was not automatic upon purchasing a property in the development.

16
17 23. Defendants did the things hereinabove alleged with the intent to defraud and deceive
18 the DUBASSOS, and with the further intent to induce the DUBASSOS to purchase the PROPERTY.

19
20 24. Prior to, and at the time it purchased the PROPERTY, the DUBASSOS were ignorant
21 of the foregoing facts concealed by Defendants. In reliance on Defendants, the DUBASSOS were
22 induced to and did in fact purchase the PROPERTY. Had the DUBASSOS known the actual facts,
23 they either would not have taken such action, or, they would have at least made acceptance as
24 members to the Club a contingency of their purchase of the PROPERTY. The DUBASSOS
25 justifiably relied on Defendants, and each of them.

26
27 25. As a direct and proximate result of Defendants' foregoing misconduct, the
28 DUBASSOS have suffered damages in an amount equal to the sum of (a) Two Hundred Thousand

1 Dollars (\$200,000.00), said sum representing the estimated diminution in value of the PROPERTY
2 since the DUBASSOS purchased it, (b) the diminution in value of the PROPERTY to Plaintiffs,
3 without a Club membership, in an amount to be shown according to proof at the time of trial, (c)
4 damages for emotional distress and mental suffering in an amount to be shown according to proof
5 at the time of trial, and (d) such further sum or sums as will be shown according to proof at the time
6 of trial.

7
8 26. The Defendants, and each of them, knew or should have known that their conduct
9 was directed to a senior citizen, to wit, MICHAEL DUBASSO. Defendants' conduct caused
10 MICHAEL DUBASSO to suffer a substantial loss of property set aside for retirement, or for personal
11 or family care or maintenance. Additionally, MICHAEL DUBASSO is substantially more
12 vulnerable than other members of the public to Defendants' conduct because of his age, and actually
13 suffered substantial physical, emotional or economic damage resulting from Defendants' conduct,
14 by reason of which the trier of fact may, pursuant to Civil Code Section 3345(b), impose a fine, civil
15 penalty or other penalty or other remedy in an amount up to three times greater than authorized by
16 statute, or, alternatively, up to three times greater than the amount the trier of fact would impose in
17 the absence of that affirmative finding.

18
19 27. In doing the acts herein alleged, Defendants acted despicably, with oppression, fraud
20 and malice, and the DUBASSOS are therefore entitled to recover exemplary and punitive damages
21 in an amount sufficient to set an example and to punish and deter Defendants from further engaging
22 in such acts.

23
24 **SECOND CAUSE OF ACTION**
25 **(Negligence - Against LQR, O'KEEFE, BENNION,**
26 **ROBINSON and Does 21 through 60)**
27

28 28. Plaintiffs refer to Paragraphs 1 through 9, inclusive, of the General Allegations herein,

1 and Paragraphs 11 through 27, inclusive, of the First Cause of Action herein, and incorporate the
2 same herein by reference as if set forth fully at length at this point.

3
4 29. At all times relevant hereto, Defendants, and each of them, owed a duty to the
5 DUBASSOS to use such skill, prudence, and diligence as other members of their profession
6 commonly possess and exercise. Defendants breached that duty by negligently and carelessly
7 omitting to disclose to the DUBASSOS that they would have to apply for membership to the golf
8 and social club and undergo a vetting process, and that membership thereat was not automatic upon
9 purchasing the PROPERTY.

10
11 30. As a direct and proximate result of Defendants' foregoing misconduct, the
12 DUBASSOS have suffered those damages more particularly described in Paragraphs 25 and 26
13 hereinabove.

14
15 **THIRD CAUSE OF ACTION**

16 **(Negligence - Against TRADITION, RISK and Does 1 through 20)**

17
18 31. Plaintiffs refer to Paragraphs 1 through 9, inclusive, of the General Allegations herein,
19 Paragraphs 11 through 27, inclusive, of the First Cause of Action herein, and Paragraphs 29 and 30
20 of the Second Cause of Action herein, and incorporate the same herein by reference as if set forth
21 fully at length at this point.

22
23 32. At all times relevant hereto, Defendants, and each of them, owed a duty to disclose
24 to the DUBASSOS, and not conceal from them, that they would have to apply for membership to
25 the golf and social club and undergo a vetting process, and that membership thereat was not
26 automatic upon purchasing the PROPERTY. Defendants breached that duty by negligently and
27 carelessly omitting to disclose to the DUBASSOS, and concealing from them, that they would have
28 to apply for membership to the golf and social club and undergo a vetting process, and that

1 membership thereat was not automatic upon purchasing the PROPERTY.
2

3 33. As a direct and proximate result of Defendants' foregoing misconduct, the
4 DUBASSOS have suffered those damages more particularly described in Paragraphs 25 and 26
5 hereinabove.
6

7 **FOURTH CAUSE OF ACTION**
8 **(Breach of Fiduciary Duty - [Based on Fraud] - Against**
9 **LQR, O'KEEFE and DOES 41 through 60, Inclusive)**
10

11 34. Plaintiffs refer to Paragraphs 1 through 9, inclusive, of the General Allegations herein,
12 Paragraphs 11 through 27, inclusive, of the First Cause of Action herein, Paragraphs 29 and 30 of
13 the Second Cause of Action herein, and Paragraphs 32 and 33 of the Third Cause of Action herein,
14 and incorporate the same herein by reference as if set forth fully at length at this point.
15

16 35. LQR and O'KEEFE were, at all times relevant hereto, in a fiduciary relationship with
17 the DUBASSOS in matters pertaining to the DUBASSOS' purchase of the PROPERTY, as a result
18 of which they, and each of them, were required to act in complete good faith toward the
19 DUBASSOS, In doing the things herein alleged, each of which was done deliberately, intentionally
20 and fraudulently, Defendants breached their fiduciary duties to the DUBASSOS.
21

22 36. As a direct and proximate result of Defendants' foregoing misconduct, the
23 DUBASSOS have suffered those damages more particularly described in Paragraphs 25 and 26
24 hereinabove.
25

26 37. In doing the acts herein alleged, Defendants acted despicably, with oppression, fraud
27 and malice, and the DUBASSOS are therefore entitled to recover exemplary and punitive damages
28 in an amount sufficient to set an example and to punish and deter Defendants from further engaging

1 in such acts.

2
3 **FIFTH CAUSE OF ACTION**

4 **(Breach of Fiduciary Duty - [Based on Negligence] - Against**
5 **LQR, O'KEEFE and DOES 41 through 60, Inclusive)**

6
7 38. Plaintiffs refer to Paragraphs 1 through 9, inclusive, of the General Allegations herein,
8 Paragraphs 11 through 27, inclusive, of the First Cause of Action herein, Paragraphs 29 and 30 of
9 the Second Cause of Action herein, Paragraphs 32 and 33 of the Third Cause of Action herein, and
10 Paragraphs 35, 36 and 37 of the Fourth Cause of Action herein, and incorporate the same herein by
11 reference as if set forth fully at length at this point.

12
13 39. LQR and O'KEEFE were, at all times relevant hereto, in a fiduciary relationship with
14 the DUBASSOS in matters pertaining to the DUBASSOS' purchase of the PROPERTY, as a result
15 of which they, and each of them, were required to act in complete good faith toward the
16 DUBASSOS. In doing the things herein alleged, each of which was done negligently, Defendants
17 breached their fiduciary duties to the DUBASSOS.

18
19 40. As a direct and proximate result of Defendants' foregoing misconduct, the
20 DUBASSOS has suffered those damages more particularly described in Paragraphs 25 and 26
21 hereinabove.

22
23 **SIXTH CAUSE OF ACTION**

24 **(Breach of Implied Covenants of Good Faith and Fair Dealing**
25 **- Against LQR, O'KEEFE and DOES 41 through 60, Inclusive)**

26
27 41. Plaintiffs refer to Paragraphs 1 through 9, inclusive, of the General Allegations herein,
28 Paragraphs 11 through 27, inclusive, of the First Cause of Action herein, Paragraphs 29 and 30 of

1 the Second Cause of Action herein, Paragraphs 32 and 33 of the Third Cause of Action herein,
2 Paragraphs 35, 36 and 37 of the Fourth Cause of Action herein, and Paragraphs 39 and 40 of the
3 Fifth Cause of Action herein, and incorporate the same herein by reference as if set forth fully at
4 length at this point.

5
6 42. Defendants impliedly covenanted that they would deal fairly and act in good faith
7 with the DUBASSOS in each and every aspect of their purchase of the PROPERTY, and that they
8 would do nothing to impair the rights and privileges of the DUBASSOS in connection therewith.
9 As the DUBASSOS' agents and brokers, Defendants impliedly covenanted, in particular, that they
10 would diligently exercise reasonable skill and care in the performance of their duties, deal honestly,
11 fairly and in good faith with the DUBASSOS and disclose all facts known to them materially
12 affecting the value or desirability of the PROPERTY that were not known to, or within the diligent
13 attention and observation of the DUBASSOS. In doing the acts herein alleged, each of which was
14 done deliberately, intentionally and fraudulently, Defendants, and each of them, breached these
15 implied covenants.

16
17 43. As a direct and proximate result of Defendants' foregoing misconduct, the
18 DUBASSOS have suffered those damages more particularly described in Paragraphs 25 and 26
19 hereinabove.

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21 44. In doing the acts herein alleged, Defendants, and each of them, acted despicably, with
22 oppression, fraud and malice, and the DUBASSOS are therefore entitled to recover exemplary and
23 punitive damages in an amount sufficient to punish and deter Defendants from further engaging in
24 such acts.

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SEVENTH CAUSE OF ACTION
(Wilful Failure to Comply with Civil Code §§ 2079.2, 2079.16 and 2079.24
- Against BENNION, ROBINSON, LQR, O'KEEFE,
and DOES 21 through 60, Inclusive)

45. Plaintiffs refer to Paragraphs 1 through 9, inclusive, of the General Allegations herein, Paragraphs 11 through 27, inclusive, of the First Cause of Action herein, Paragraphs 29 and 30 of the Second Cause of Action herein, Paragraphs 32 and 33 of the Third Cause of Action herein, Paragraphs 35, 36 and 37 of the Fourth Cause of Action herein, Paragraphs 39 and 40 of the Fifth Cause of Action herein, and Paragraphs 42, 43 and 44 of the Sixth Cause of Action herein, and incorporate the same herein by reference as if set forth fully at length at this point. by negligently and carelessly omitting to disclose to the DUBASSOS, and concealing from them, that they would have

46. By omitting to disclose to the DUBASSOS, and concealing from them, that they would have to apply for membership to the golf and social club and undergo a vetting process, and that membership thereat was not automatic upon purchasing the PROPERTY, Defendants, and each of them, wilfully failed to comply with Civil Code §§ 2079.2, 2079.16 and 2079.24.

47. As a direct and proximate result of Defendants' foregoing misconduct, the DUBASSOS have suffered those damages more particularly described in Paragraphs 25 and 26 hereinabove.

WHEREFORE, Plaintiffs pray for judgment against the Defendants, and each of them, as follows:

ON ALL CAUSES OF ACTION:

1. For damages in an amount equal to the sum of (a) Two Hundred Thousand Dollars (\$200,000.00), said sum representing the estimated diminution in value of the PROPERTY since

1 the DUBASSOS purchased it, (b) the diminution in value of the PROPERTY to Plaintiffs, without
2 Club membership, in an amount to be shown according to proof at the time of trial, and (c) such
3 further sum or sums as will be shown according to proof at the time of trial, and that said damages,
4 for MICHAEL DUBASSO, be trebled pursuant to Civil Code Section 3345(b);

5 2. For damages for emotional distress and mental suffering in an amount to be shown
6 according to proof at the time of trial;

7 3. For a fine, civil penalty or other remedy according to proof, pursuant to Civil Code
8 § 3345(b);

9 ON THE FIRST, FOURTH AND SIXTH CAUSES OF ACTION:

10 4. For exemplary and punitive damages in an amount sufficient to set an example and
11 to punish and deter Defendants from further engaging in such acts of misconduct; and

12 ON ALL CAUSES OF ACTION:

13 5. For costs of suit incurred herein; and

14 6. For such other and further relief as the Court deems just and proper.

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16 Dated: August 31, 2016

WAYNE S. MARSHALL & ASSOCIATES
A PROFESSIONAL CORPORATION

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20 By :



WAYNE S. MARSHALL, Attorneys for
Plaintiffs, MICHAEL DUBASSO and
JENNY DUBASSO