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Windermere Real Estate Services Company
12

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

26 AND RELATED COUNTERCLAIMS
27
28

Case No. 5:15-CV-01921 R (KKx)

Hon. Manuel L. Real

**DECLARATION OF JEFFREY A.
FEASBY IN SUPPORT OF
DEFENDANT AND
COUNTERCLAIMANT'S REPLY
BRIEF IN SUPPORT OF ITS
DAUBERT MOTION IN LIMINE TO
EXCLUDE PLAINTIFFS' EXPERT
PETER WROBEL**

Date: May 15, 2017

Time: 10:00 a.m.

Courtroom: 880

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I, Jeffrey A. Feasby, declare:

1. I am an attorney at law, duly licensed to practice law in the State of California, and am one of the attorneys for defendant Windermere Real Estate Services Company (“WSC”) in the above-captioned matter. I have personal knowledge of the facts set forth in this declaration, and if called upon to testify thereto, would do so competently.

2. As one of the attorneys for WSC, I am intimately familiar with the discovery that has taken place in this case, including the production of documents by all parties and documents received from third parties pursuant to subpoenas. These documents are maintained in my office.

3. Attached hereto as Exhibit 1 is a true and correct copy of excerpts from the transcript of the deposition of Peter D. Wrobel taken on April 5, 2017 in this matter.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration was executed on May 1, 2017.

/s/ Jeffrey A. Feasby
Jeffrey A. Feasby

EXHIBIT 1

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

BENNION & DEVILLE FINE HOMES,)
 INC., a California corporation;)
 BENNION & DEVILLE FINE HOMES)
 SOCAL, INC., a California)
 corporation; WINDERMERE SERVICES) Case No.
 SOUTHERN CALIFORNIA, INC., a) 5:15-CV-01921R(KKx)
 California corporation,)
)
 Plaintiffs,)
)
 vs.)
)
 WINDERMERE REAL ESTATE SERVICES)
 COMPANY, a Washington)
 corporation; and Does 1-10,)
)
 Defendants.)
)

 AND RELATED COUNTERCLAIMS)
 _____)

DEPOSITION OF PETER D. WROBEL
Irvine, California
Wednesday, April 5, 2017
Volume I

Reported by:
Gail E. Kennamer, CSR 4583, CCRR
Job No. 2588458
Pages 1 - 183

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UNITED STATES DISTRICT COURT
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BENNION & DEVILLE FINE HOMES,)
 INC., a California corporation;)
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 California corporation,)
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 Plaintiffs,)
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 vs.)
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 WINDERMERE REAL ESTATE SERVICES)
 COMPANY, a Washington)
 corporation; and Does 1-10,)
)
 Defendants.)
)

AND RELATED COUNTERCLAIMS)
 _____)

Deposition of Peter D. Wrobel, Volume I
taken on behalf of Defendants at 4 Park Plaza, Suite 1230,
Irvine, California, beginning at 11:04 a.m., and ending at
4:08 p.m., Wednesday, April 5, 2017, before
Gail E. Kennamer, CSR 4583, CCRR.

1 APPEARANCES:

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3 For Plaintiffs:

4

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21

22

23 ALSO PRESENT:

24 Neil J. Beaton, CPA

25

1 A. Well, no. I mean, again, you're looking at an
2 arm's length transaction. Presumably, the investor would
3 have necessary capital to do whatever he needs to do, but
4 the expectation would be that the franchise fees would be
5 paid.

6 Q. Other than the research that's reflected in the
7 Mentor Group, did you do any additional research into the
8 real estate industry in developing your opinion of the net
9 value of WSSC?

10 A. No. Other than just discussions I had with
11 Bennion -- Mr. Bennion and Mr. Deville about in general
12 the real estate market in Southern California.

13 Q. Do you remember those discussions with them?

14 A. Yes. That it was houses were continuing to
15 sell, and that housing prices had been increasing.

16 Q. Turning to the opinion regarding the losses and
17 the lease obligations.

18 A. (Indicating.)

19 Okay.

20 Q. On page 3 of your report it says, "It is my
21 understanding that WSC induced WSSC to open two offices in
22 the San Diego area - Encinitas and Little Italy."

23 Do you see that?

24 A. Yes.

25 Q. What is your understanding based on?

1 A. Well, again, discussions I had with counsel and
2 some of the pleadings I looked at, it's my understanding
3 that Windermere had indicated that they would obtain -- I
4 can't remember the proper term for it -- but they would
5 exercise reasonable efforts, something to that effect, to
6 deal with the problem of Windermere Watch. And based upon
7 that, that Bennion & Deville had opened up additional
8 offices, two in particular, Encinitas and San Diego, that
9 it's my understanding that had -- had Mr. Bennion and
10 Mr. Deville been aware that Windermere Watch was not going
11 to be dealt with properly by -- by Windermere itself, that
12 they would not have opened those offices.

13 Q. And you mentioned that you saw that in the
14 pleadings?

15 A. Or discussions. I think there's been some
16 discussion of that in the pleadings and also discussions I
17 had with counsel.

18 Q. Was that in the Complaint that you thought you
19 saw those allegations?

20 A. I don't recall.

21 Q. Do you know whether or not there's any fraud
22 claims in this case?

23 A. (Indicating.)

24 I'm looking at the First Amended Complaint. At least
25 it appears in the First Amended Complaint, there is not --

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I, the undersigned, a Certified Shorthand Reporter of the State of California, do hereby, certify:

That the foregoing proceedings were taken before me at the time and place therein set forth; that any witnesses in the foregoing proceedings, prior to testifying, were placed under oath; that a verbatim record of the proceedings was made by me using machine shorthand which was thereafter transcribed under my direction; further that the foregoing is an accurate transcription thereof.

I further certify that I am neither financially interested in the action nor a relative or employee of any attorney or any of the parties.

IN WITNESS WHEREOF, I have this date subscribed my name.

Dated: April 17, 2017



GAIL E. KENNAMER, CSR 4583, CCRR