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Windermere Real Estate Services Company

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

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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.

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26

27 **AND RELATED COUNTERCLAIMS**

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

Hon. Manuel L. Real

COUNTERCLAIMANT
WINDERMERE REAL ESTATE
SERVICES COMPANY'S NOTICE
OF APPLICATIONS AND
APPLICATIONS FOR RIGHT TO
ATTACH ORDERS AND ORDERS
FOR ISSUANCE OF WRITS OF
ATTACHMENT

Date: December 19, 2016

Time: 10:00 a.m.

Courtroom: 8

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

2 **PLEASE TAKE NOTICE** that on December 19, 2016, at 10:00 a.m., or as
3 soon thereafter as the matter may be heard before the Honorable Manuel L. Real of
4 United States District Court, Central District of California located at 312 North
5 Spring Street, Los Angeles, California, Courtroom 8, Defendant and
6 Counterclaimant Windermere Real Estate Services Company (“WSC”) will apply to
7 the Court for issuance of right to attach orders and orders for issuance of writs of
8 attachments against the assets of Counter Defendants Robert L. Bennion, Joseph R.
9 Deville, Bennion & Deville Fine Homes, Inc. and Bennion & Deville Fine Homes
10 SoCal, Inc. (collectively, the “Liable Parties”).

11 The request of WSC for an order is based upon the application, declarations,
12 and memorandum of points and authorities filed and served with this notice and is
13 made under Federal Rules of Civil Procedure 64 and California Code of Civil
14 Procedure section 481.010, *et seq.*

15 **PLEASE TAKE FURTHER NOTICE THAT:**

16 The order will be issued if the Court finds that WSC’s claim is probably valid
17 and the other requirements for issuing the order are established. The hearing is not
18 for the purpose of determining whether the claim is actually valid. The
19 determination of the actual validity of the claim will be made in subsequent
20 proceedings in the action and will not be affected by the decisions at the hearing on
21 the application for the order.

22 The amount to be secured by the attachment is determined pursuant to
23 California Code of Civil Procedure sections 482.110, 483.010, 483.015, and
24 483.020, which statutes are summarized in this notice.

25 If the right to attach order is issued, a writ of attachment will be issued to
26 attach the property described in WSC’s application unless the Court determines that
27 such property is exempt from attachment or that its value clearly exceeds the
28 amount necessary to satisfy the amount to be secured by the attachment. However,

1 additional writs of attachment may be issued to attach other nonexempt property of
2 the Liable Parties on the basis of the right to attach order.

3 If the Liable Parties desire to oppose the issuance of the order, the Liable
4 Parties shall file with the Court and serve on WSC a notice of opposition and
5 supporting affidavit as required by Code of Civil Procedure section 484.060 not
6 later than the time provided by the relevant Federal Rules of Civil Procedure, Local
7 Rules, and/or California Code of Civil Procedure section 481.010, *et seq.*

8 If the Liable Parties claim that the personal property described in the
9 application, or a portion thereof, is exempt from attachment, the Liable Parties shall
10 include that claim in the notice of opposition filed and served pursuant to California
11 Code of Civil Procedure section 484.060 or file and serve a separate claim of
12 exemption with respect to the property as provided in California Code of Civil
13 Procedure section 484.070. If the Liable Parties do not do so, the claim of
14 exemption will be barred in the absence of a showing of a change in circumstances
15 occurring after the expiration of the time for claiming exemptions.

16 The Liable Parties may obtain a determination at the hearing whether real or
17 personal property not described in the application or real property described in the
18 application is exempt from attachment by including the claim in the notice of
19 opposition filed and served pursuant to California Code of Civil Procedure
20 section 484.060 or by filing and serving a separate claim of exemption with respect
21 to the property as provided in California Code of Civil Procedure section 484.070,
22 but the failure to so claim that the property is exempt from attachment will not
23 preclude the Liable Parties from making a claim of exemption with respect to the
24 property at a later time.

25 Either the Liable Parties or their attorney or both of them may be present at
26 the hearing. You may seek the advice of an attorney as to any matter connected
27 with WSC's application. The attorney should be consulted promptly so that the
28 attorney may assist you before the time set for hearing.

1 WSC’s applications are based on this notice, the applications filed
2 concurrently herewith and the declarations attached thereto, the memorandum of
3 points and authorities filed concurrently herewith, the matters of which this Court
4 may be requested to take judicial notice, and upon such other matters, whether
5 written or oral, as may be presented to the Court at or prior to the hearing on this
6 motion.

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8 DATED: November 21, 2016 PEREZ WILSON VAUGHN & FEASBY

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By: /s/ Jeffrey A. Feasby
Jeffrey A. Feasby
Attorneys for
Windermere Real Estate Services Company

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